Place of Supply ← IGST Act 2017
Chapter-4

Date

1. Introduction -

1. GST is a destination based tax. i.e tax is levied where goods/Services are Consumed, not Where they are produced.
2. Importance of place of Supply -
   - It determines whether Supply is Intra-State (CGST + SGST/UTGST) Or Inter State (IGST)
   - Wrong classification (Intra vs Inter) → Correct tax will still be payable + refund of Wrong tax claimed (no Interest), but Compliance burden).
3. Goods vs. Services:
   - Goods (tangible) → easy to identify Consumption place.
   - Services (Intangible) → difficult due to:
     - Mode of delivery changes (offline/online, billing address changes, etc)
     - provider/receiver may not be at fixed place.
     - Benefit may flow to multiple states (eg. highway, broadcasting, ads).
     - Services are ~~evr~~ evolving (telecom, DTH, OTT, etc)
4. proxies used for determining POS of Services:
   - location of Supplier
   - location of recipient
   - place of performance
   - place of Consumption
   - person/place where benefit actually flows.
   - proxy giving most appropriate result is applied.

5. B2B vs B2C difference
   - B2B (Business to Business) - POS → location of recipient (Since ITC available, tax is pass-through).
   - B2C (Business to Consumer) - POS → place where Consumed (final tax revenue).

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6. Relevant provisions in IGST Act:
Sec 10 - pos of Goods (domestic)
Sec 12 - pos of Services (domestic)
Sec (11 & 13) deal with Imports / exports & ~~Internal~~ International transactions.

7. Continuous Journey Sec 2(3).
- Means a Journey for which Single / multiple tickets / Invoices Issued at same time, and ~~han~~ Involves no Stope over.
- Stope over means a place where a passenger dis-embarks to transfer or break journey.

8. Conveyance 2(34) - Includes any vessel, aircraft, and vehicle.

9. Fixed Establishment (Sec 2(7)) - A place (other than reg. place of business) with sufficient degree of permanence and adequate human & technical resources to provide / receive Services.

10. Location of Recipient of Services 2(14)
Shall be determined as -
(a) Where Supply is received at a registered place of business → that place.
(b) If received at a fixed establishment elsewhere → that place
(c) If received at multiple establishments → establishment most directly concerned.
(d) If none → usual place of residence of recipient.

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11. Location of Supplier of Services 2(15)
Shall be determined as -
(a) where supply is made from registered POB → that place.
(b) If from a fixed establishment elsewhere → that place.
(c) If made from multiple establishments → establishment most directly Concerned.
(d) If none → usual place of residence of Supplier.

12. place of Business (2(85) - Includes
(a) place from where business is Ordinarily Carried On (Warehouse, godown etc).
(b) place where books of account are maintained.
(c) place where business is Carried Out through agent.

13. Recipient (2(93) - • person liable to pay Consideration for Supply.
• Where no Consideration
→ Goods - person to Whom goods are delivered.
→ Services - person to Whom Service is rendered.
• Includes agent acting on behalf of recipient.

14. Supplier 2(105) • person Supplying goods/ Services (Including agent).
• Deeming fiction - In Case of Supply of actionable claims via digital/ Online platform (like, lottery, gaming) platform Operator is deemed to be the Supplier.

Sec 9 – Supply in Territorial waters → Where the location of the supplier or the POS is in the territorial waters, such location shall be deemed to be in the coastal state or union Territory where the nearest point of the base line is located – Jis state ke pass POS wahi (Intra)

Sec 10 – POS of goods (Domestic Transactions)

Imp (a) Where Supply Involves movement of goods
If Supply Involves movement of goods, whether by the Supplier, recipient, or by any other person.
POS = location Where movement of goods terminates for delivery to recipient.
Ownership transfer [illegible] §31 & 2(6) Relevant [illegible]
final delivery place [illegible]

Imp (b) Where goods delivered by Supplier to Recipient (on direction of 3rd person) [illegible] Bill to – Ship to [illegible] Case
If goods are delivered by Supplier to a recipient (or any other person) on direction to 3rd person.
- It shall be deemed that Such 3rd person has received the goods and
- POS = principal place of business of Such 3rd person.

[illegible] person [illegible] Recipient [illegible]

(c) Where Supply does not Involve movement of goods –
If Supply does not Involve movement of goods, → POS = location of Such goods ~~at~~ at the time of delivery to recipient.
POS [illegible] Goods delivered [illegible] Physically [illegible]

(d) Where goods are assembled or Installed at site
If goods are assembled / Installed at site, POS = place of Such Installation / assembly.

10(1)(ca) – Supply to unregistered person
If buyer is unregistered →
POS = Address recorded in Invoice
If no address – POS = location of Supplier
(Even writing only state name is enough)

Supply through ECO = Address of delivery recorded in Invoice
if add of recipient does not exist - location of Supplier.

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(e) Where goods are Supplied on board a Conveyance (vessel/aircraft/train/motor Vehicle)
- If goods are Supplied on board a Conveyance, pos = location at Which such goods are taken On board.

10(2) → Where the POS of goods Cannot be determined under Section 10(1)(a) to (e).
- It shall be determined in such manner as may be prescribed.

Sec 12(2) - General Rule
- B2B (Registered Recipient) - POS = location of such reg. person
- B2C (UnReg. recipient) = pos =
(a) Address on record of recipient, and
(b) If no address on record → location of Supplier of Services.

Note - Applies Only when Service not Covered by any Specific Sub Section (3-14).

Imp
Sec 12(3) : Services related to Immovable property
Covers Services :
a) directly in relation to Immovable property (architect, engineer, Interior, decorator, Surveyor, estate, agent etc)
b) grant of rights to use Immovable property,
c) lodging/accommodation (hotel, Inn, Guest house, Home stay, houseboat, vessel etc)
d) accomodation in Immovable property for marriage, offical, Social, Cultural, religious or business function,
e) Services ancillary (a-d)

property location	place of Supply
In India	location of that property (boat/vessel)
O/S India	location of recipient

if property in mutiple states → value Split as per Contract/rule.

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Section 12(8) Transportation of Goods (Including Mail)

	POS
Registered person	location of Recipient of Service
unregistered person	location where goods handed Over for transport.

Sec 12(9) Passenger Transportation

	POS
Reg.	location of recipient
un reg.	place where passenger embarks On Conveyance for Continuous Journey

* If right to passage given for future use & boarding point not known → apply general rule (12(2)
~~Each~~ each Journey (onward & return) treated Separatlely.

Sec 12(10) Services On Board a Conveyance.
eg. Meal Service in train/ aircraft.
vessel, Aircraft, Train, motor vehicle → pos → first Scheduled point of departure of the Conveyance

Sec 12(11) Telecommunication Services

	POS
fixed line, leased Circuits, Cable, dish ~~ant~~ antenna →	locatation where Installed
post-paid mobile / Interent →	Billing add of recipient (as per Supplier records)
pre paid via agent / reseller →	Add of agent / reseller
pre paid sold directly to Subscriber →	place where payment received or Voucher sold
Online recharge / Internet banking →	Recipient location on Supplier records
leased Circuit in multiple states →	~~Apport~~ Apportion value per Contract / Rule basis.

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Sec 12(12) Banking & financial / stock Broking Services
POS = Recipient's location as per Supplier records.
If not available → Supplier's location.

Sec 12(13) Insurance Services

	POS
Reg person	location of Recipient
un-Reg person	" " " as per Insurer's records.

Sec 12(14) Advertisement Services to Government
If advertisement given to Central / state / Govt, statutory body or local authority and relates to multiple states / UT's →
POS = each such state / UT in proportion to value of services attributable to dissemination in that state (as per contract or prescribed basis).