



CHAPTER - 3

REVERSE CHARGE AND ECO

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Basics

SNC 03.01.00

What does the payment of tax under reverse charge mean?

Answer – As per section 2(98) of CGST Act, 2017, “reverse charge” means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sec 9(3) or sec 9(4) of CGST Act or under sec 5(3) or sec 5(4) of the Integrated Goods and Services Tax Act.

SNC 03.02.00

What are the different types of supplies which are liable to tax under reverse charge mechanism?

Answer – As per Section 9 of the CGST Act, 2017 there are two types of supplies which are liable to tax under reverse charge mechanism which are:-

1. Specified categories of supply of goods or services or both as notified by government on recommendation of the council as per sec 9(3).
2. Supply of taxable goods or services or both by a specified category of goods or services or both by a supplier, who is not registered, to a specified class of registered person as per sec 9(4).

SNC 03.03.00

What is the difference between reverse charge u/s 9(3) and u/s 9(4)?

Answer

Section 9(3)	Section 9(4)
Applicable in case of supply of goods or services or both, notified by the Government on recommendation of council	Applicable in case of supply of specified category goods or services or both by an unregistered supplier to a specified cases of registered person
Does not matter whether the supplier is registered or not	Only where supplier is an unregistered person

Example: Tax in respect of services of advocate availed by a business entity is payable on reverse charge basis. Here the liability to pay GST shall be upon the Business entity.

Example: M/s Usha Ltd. trading co. is an unregistered supplier who sold cement to M/s XYZ pvt ltd being a registered person and promoter. Here the liability to pay GST shall be upon XYZ pvt ltd.

SNC 03.04.00

Whether Reverse Charge is applicable in case supply is exempted or non-taxable?

Answer:- No, If supply itself is exempt or non-taxable there cannot be any tax thereon and if there is no tax, there cannot be any tax under reverse charge. Reverse charge calculates tax that would have been payable by the supplier, if there was no reverse charge.

SNC 03.05.00

What is the effect of reverse charge on input tax credit?

Answer:- As regards the recipient who pays tax on reverse charge basis, tax so paid would be available as credit subject to section 16 & 17.

As regards the supplier whose tax is paid by the recipient, value of such supply will be treated as 'exempt supply' of the Supplier & Supplier is not eligible for ITC u/s 17.

For example: An Advocate has provided legal services to M/s Shreya pvt ltd worth ₹ 1,00,000 & GST @ 18% i.e ₹ 18,000 is levied on this service. The liability to discharge the GST of ₹ 18,000 shall be upon M/s Shreya pvt ltd & the credit of tax so paid would be available as credit to M/s Shreya pvt ltd being the recipient.

For the supplier it shall be treated as an exempt supply & not eligible for ITC u/s 17.

SNC 03.06.00

Is reverse charge applicable on payment of advance?

Answer:- Reverse charge is applicable when there is a supply,

For supply of goods under reverse charge as per sec 12(3) the time of supply is date

of payment if it's before receipt of goods &

in case of supply of service under reverse charge the time of supply shall be determined as per sec 13(3) i.e. date of payment made (Detailed discussion u/s 12(3) & Sec 13(3)).

Hence, Reverse charge is applicable at the time of advance even though actual supply is yet to take place.

Rule 52 provides for the *issuance of a Payment Voucher* in cases where tax is to be paid on reverse charge basis.

SNC 03.07.00

State answers to the following as in accordance with the provisions of GST pertaining to Reverse Charge:

(i) What are implications to supplier if recipient refuses to pay tax on reverse charge?

(ii) In case supplier has paid GST, is recipient discharged from the liability to pay tax on reverse charge?

(iii) Is GST wrongly paid by supplier available as Input Tax Credit (ITC) to recipient?

Answer:-

(i) As per sec 9(3) & 9(4) reverse charge is applicable & liability to pay tax is on recipient & hence there is no recourse back to the supplier (i.e. it should not be demanded from supplier) in case of default by recipient to discharge reverse charge liability. Action by Department is only against recipient.

(ii) **No**, As per sec 9(3), even if supplier has somehow paid tax the reverse charge tax liability must be discharged by the recipient. The recipient must not claim credit of tax paid by supplier & supplier can however claim for refund of tax.

(iii) **No**, As per sec 9(3) of CGST Act, ITC is not available on supplier invoice to recipient. Recipient has to pay tax under RCM & take ITC. However supplier can claim refund of tax erroneously paid.

Reverse Charge for notified SOG & SOS u/s 9(3) of CGST & Sec 5(3) of IGST

GTA services

SNC 03.08.00

ABC cooperative housing society availed the transport services of Sharma Transports Pvt Ltd for transport of goods by road on a consignment agreement. Determine the tax implication as per GST

Answer:- As per section 9(3) of CGST Act read with relevant notification. Supply of Services by a goods transport agency (GTA) in respect of transportation of goods by road to-

Any co-operative society established by or under any law;

The liability to pay GST shall lie upon the recipient of service as per reverse charge mechanism. Thus in the given case ABC cooperative housing society shall pay the GST. If GTA has opted to pay GST @ 5% only then reverse charge will be applicable

SNC 03.09.00

PMC being a local authority registered under Central Goods and Service Tax Act, 2017 only for the purpose of deducting tax u/s 51 and not engaged in making any taxable supply of goods or services. PMC availed the transport service of RV Transport Company for transportation of goods in a goods carriage by road. Determine the tax implications as per GST Act.

Answer:- As per section 9(3) of CGST Act, 2017 read with relevant notification, Supply of service by a goods transport agency (GTA) in respect of transportation of goods by road to- "any person registered under GST Act" **then person liable to pay tax is recipient of services as per provision of Act.**

Provided that nothing contained in this entry shall apply to services provided by a goods transport agency, by way of transport of goods in a goods carriage by road to-

"local authority which has taken registration under the CGST Act, 2017 only for the purpose of deducting tax u/s 51 and not for making a taxable supply of goods or services"

Generally the liability to pay GST in case of service provided by GTA to notified registered person shall lie on the recipient of service as per reverse charge mechanism (if GTA opt for 5%).

But in the given case, PMC being a local authority even though registered under CGST Act, not liable to pay tax on service provided by GTA under reverse charge mechanism as per N/N 29/2018 CT (R) dt. 31/12/2018

Note:- Given service is subject to exemption (refer Exemption chapter). Hence GTA is also not liable to pay tax under forward charge.

SNC 03.10.00

XYZ Ltd., New Delhi, manufactures biscuits under the brand name 'Tastypicks'. Biscuits are supplied to wholesalers and distributors located across India on FOR basis from the warehouse of the company located at New Delhi.

The company uses multiple modes of transport for supplying the biscuits to its customers spread across the country. The transportation cost is shown as a line item in the invoice and is billed to the customers with a mark-up of 2% on total amount of freight paid (inclusive of taxes).

Flour used for the production process is procured from vendors located in Madhya Pradesh on ex-factory basis. The company engages goods transport agencies (GTA) to transport the flour from the factories of the vendors to its factory located in New Delhi.

The company has provided the following data relating to transportation of biscuits and flour in the month of April 20XX:

S.No.	Particular	Amount
1	For sales within the NCR region (₹ 20,00,000) The company arranged a local mini-van belonging to an individual and paid him	₹ 54,000.
2	For sales to locations in distant States (₹ 1,78,00,000), the company booked the goods by Indian Railways and paid rail freight	₹ 3,17,000.

3	For sales to locations in neighboring States (₹ 55,00,000), the company booked the goods by road carriers (GTAs) and paid road freight [Out of the total sales to neighboring States, goods worth ₹ 10,00,000 were booked through a GTA which paid tax @ 12%. Freight of ₹ 73,000 was paid to such GTA.]	₹ 3,73,000
	For purchase of flour from Madhya Pradesh (₹ 25,00,000), the company booked the goods by a GTA and paid road freight	₹ 55,000.
	For purchase of butter from Punjab (₹ 15,00,000), the company booked the goods by a GTA and paid road freight	₹ 35,000.
	For local purchase of baking powder, the company booked the goods by a GTA in a single carriage and paid road freight	₹ 1,500
	For transferring the biscuits (open market value - ₹ 4,00,000) to one of its sister concern in Rajasthan, the company booked the goods by a GTA and paid road freight	₹ 40,000.

(i) Based on the particulars given above, compute the GST payable on the amount paid for transportation by XYZ Ltd. when it avails the services of different transporters.

(ii) Compute the GST charged on transportation cost billed by the company to its customers.

Note:- Assume the rate of GST on transportation of goods and biscuits to be 5% and 12% respectively [except where any other rate is specified in the question].

[RTP Nov 18]

Answer:-

Particulars	Freight (₹)	GST Payable	Reason
Transportation of biscuits in a local mini van belonging to an individual	54,000	Nil	Only the transportation of goods by road by a GTA is liable to GST. Therefore, transportation of goods by road otherwise than by a GTA is exempt from GST
Transportation of biscuits by Indian Railways	3,17,000	15,850	-

Transportation of biscuits by GTA	3,00,000	15,000	GST is payable by XYZ Ltd. under reverse charge in terms of section 5(3) of the IGST Act, 2017
Transportation of biscuits by GTA @ 12%	73,000	8,760	When the GTA pays tax @ 12%, tax is payable by the GTA under forward charge and not by the recipient under reverse charge
Transportation of flour by GTA	55,000	Nil	Services provided by GTA by way of transport (in a goods carriage) of, inter alia, flour are exempted from GST
Transportation of flour by GTA	55,000	Nil	Services provided by GTA by way of transport (in a goods carriage) of, inter alia, flour are exempted from GST
Transportation of butter by GTA	35,000	1,750	Though services provided by GTA by way of transport of milk is exempt from GST, road transport of butter will not be exempted as butter is milk product and not milk.
			GST is payable by XYZ Ltd. under reverse charge in terms of section 5(3) of the IGST Act, 2017
Transportation of baking powder by GTA	1500	Nil	Services provided by a GTA by way of transport in a goods carriage of goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed ₹ 1,500, are exempt from GST
Transportation of biscuits by GTA to sister concern	40,000	2,000	GST is payable by XYZ Ltd. under reverse charge in terms of section 5(3) of the IGST Act, 2017
Total tax payable by XYZ Ltd. on availing services of different transporters		43,360	-

ii) Computation of GST charged on transportation cost billed by XYZ Ltd. to its customers

Legal Provision :- As per sec 8(a) read with sec 2(30) of CGST act 2017, The tax liability on a composite supply shall be treated as a supply of such principal supply as per sec 2(90) of CGST Act.

Since XYZ Ltd. is supplying biscuits on FOR basis, the service of transportation of biscuits gets bundled with the supply of biscuits. Thus, the supply of biscuits and transportation service is a composite supply, chargeable to tax at the rate applicable to the principal supply (biscuits) i.e., 12%

Note:- All the above answer read with reference to the Notification no. 12/017 CT (R) & 9/2017 IT (R) dated 28.06.2017. & Notification No. 10/2017 IT (R) dated 28.06.2017

Particulars	Freight paid (₹) [A]	GST Paid on freight (₹) [B]	Freight billed (With mark-up @ 2% on [A] + [B]) [C]	GST Charged @ 12 % [D]
Transportation of biscuits in a local minivan belonging to an individual	54,000		55,080	6,610
Transportation of biscuits by Indian Railways	3,17,000	15,850	3,39,507	40,741
Transportation of biscuits by GTA	3,00,000	15,000	3,21,300	38,556
Transportation of biscuits by GTA @ 12 %	73,000	8,760	83,395	10,007
Total tax charged by XYZ Ltd. On transportation cost billed to the customers*				95,914

***Note:** It has been assumed that there is no mark-up on transportation cost billed to sister concern (non-customer).

Services by Advocate

SNC 03.11.00

Vakil & Vakil, a firm of lawyers rendered legal advice to B & Co., an architect, and MNO Ltd, an advertising agency during October, 20XX. Both B & Co. and MNO Ltd. are not entitled for threshold exemption in the said financial year. Who is liable to pay GST in this case?

Will your answer be different if B & Co. and MNO Ltd. sought legal advice from Mr. A, a lawyer?

Answer:-

1) As per section 9(3) of CGST Act, 2017 read with relevant notification, In case of services supplied by an individual advocate including a senior advocate by way of legal services, to a business entity. The liability to pay GST shall be upon the recipient.

In the given case, as the services are provided by firm of lawyers Vakil&Vakil to MNO Ltd and B & Co. a business entity thus the liability to pay GST shall be upon MNO Ltd and B & Co.

2) The answer will not change even in case where B & Co. and MNO Ltd seek legal advice from an individual lawyer.

Sponsorship services

SNC 03.12.00

Manini Private Limited agrees to sponsor a sports event organized by Pink City Club in Jaipur. Manini Private Limited has paid an amount of ₹ 50,00,000 for such sponsorship of the sports event. Consequently, said event was named after the brand name of Manini Private Limited. Examine who is the person liable to pay tax in the given case. [ICAI Material]

Answer: Notification no 13/2017 CT (R) dated 28.06.2017 as amended, provides that sponsorship services provided by any person to a body corporate or partnership firm located in the taxable territory, shall be liable to GST under reverse charge in the hands of recipient.

In the present case, Pink City Club is the supplier of sponsorship services which is receiving the consideration in the form of sponsorship fee of ₹ 5,00,000 from Manini Private Limited, against the provision of sponsorship service.

Since the recipient of sponsorship services- Manini Private Limited is a body corporate, the tax on said services is payable by the recipient -Manini Private Limited, under reverse charge.

Services by director of company

SNC 03.13.00

Darpan Singhania is a director in Narayan Limited. The company paid him the sitting fee amounting to ₹ 25,000, for the month of January. Further, salary was paid to Darpan Singhania amounting to ₹ 1.5 lakh for the month of January on which TDS was also deducted as per applicable provisions under Income-tax law.

Tapasya & Associates, in which Darpan Singhania is a partner, supplied certain professional services to Narayan Limited in the month of January for an amount of ₹ 2 lakh. Discuss the person liable to pay tax in each of the supplies involved in the given case. [ICAI Material]

Answer: Sitting fee paid to director – As per reverse charge notification, tax on services supplied by a director of a company/ body corporate to the said company/ body corporate, located in the taxable territory, is payable under reverse charge.

Hence, in the present case, the sitting fee amounting to ₹ 25,000, payable to Darpan Singhania by Narayan Limited, is liable to GST under reverse charge and thus, recipient of service - Narayan Limited – is liable to pay GST on the same.

Salary paid to director – As per Circular No.140/10/2020 GST dated 10.06.2020, the part of director's remuneration which is declared as salary in the books of a company and subjected to TDS under section 192 of the Income-tax Act, are not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment in terms of Schedule III.

Therefore, in the given case, the salary received by Darpan Singhania of ₹ 1.5 lakh is not liable to GST.

Services provided by Tapasya & Associates – Tapasya & Associates have rendered certain professional services to Narayan Limited. The fact that Darpan Singhanian is a partner in Tapasya & Associates and a director in Narayan Limited does not have any impact on the taxability of the professional services supplied by Tapasya & Associates to Narayan Limited.

The professional services provided by Tapasya & Associates to Narayan Limited are liable to GST under forward charge and thus, supplier - Tapasya & Associates – is liable to pay GST on the same.

Services by recovery agent

SNC 03.14.00

Yes Bank located in Nagpur, appointed Mr Mahesh as a recovery agent for collecting outstanding balance amount of loan from one of its customer. Mr Mahesh provided service to Yes Bank for which it charged a fee. Determine the tax implications as per GST Act.

Answer: As per section 9(3) of CGST Act, read with Notification No. 13/2017 Central tax (Rate) and Notification No.10/2017 IGST Act Services supplied by a recovery agent to a banking company in such a case reverse charge shall be applicable. Thus the liability to pay GST shall be upon the recipient.

In the given case Yes Bank shall be liable to pay GST for services provided by Mr Mahesh as a recovery agent.

Combine Que on entry 9 and 9A

SNC 03.15.00

State the person liable to pay tax under GST in the following independent cases where recipient is located in the taxable territory:

- (a) Supply of service by an author to a Publisher
- (b) Supply of service by an author who has taken registration under CGST Act & filed a declaration to Publisher
- (c) Supply of service by a music composer, a photographer, artist or the like to a

music company, producer etc.

d) Would your answer differ in case music Composer, Photographer, Artist file a declaration to Music company producer or the like located in taxable territory

Answer:- Legal Provision-

- i) Supply of services by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to dramatic, musical or artistic works by music composer, photographer, artist to a Music company, producer or the like, located in the taxable territory then person liable to pay tax is a music company, producer or the like, located in the taxable territory
- ii) Supply of services by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary work to a publisher in the taxable territory then person liable to pay tax is a publisher, located in the taxable territory

Conclusion –

- a) As nothing has been specified in the given case whether the author is registered or not. As per under section 9(3) of CGST Act. in such case service would fall under the ambit of reverse charge & publisher will be liable to pay tax being the recipient of such service.
- b) Nothing contained in this notification shall apply if the author is registered under CGST Act & GST is payable under forward charge if he filed a declaration that,
 - ❖ he exercises the option to pay central tax on the service under forward charge and
 - ❖ comply with all the provisions as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both and
 - ❖ he shall not withdraw the said option within a period of 1 year from the date of exercising such option;in prescribed form.

The given case would Not fall under the ambit of As per Sec 9(3)

read with relevant notification & hence forward charge will apply for such service. Thus, the author being the service provider will be liable to pay GST on such service.

c) GST on service provided or agreed to be provided by a music composer, a photographer, artist or the like to a music company, producer etc., located in taxable territory is payable under reverse charge. Recipient will be liable to pay tax under reverse charge as per entry no. 9 of N/N 13/2017 CT(R).

d) No, answer will be same as above given in point (c)

Copyright Services

SNC 03.16.00

Chetan Bhagat (unregistered) a renowned writer and author of 2 States transferred the copyright of his published book 2 States to Balaji Publications for a consideration. Examine the tax implications as per GST Act?

Answer:- As per section 9(3) of CGST Act read with relevant notification, Services supplied by an author by way of transfer or permitting the use or enjoyment of a copyright covered under sec 13(1)(a) of the Copyright Act, 1957 relating to original literary works to a publisher, located in the Taxable territory reverse charge shall be applicable.

Thus in the given case the liability to pay GST shall be upon Balaji Publications as it is the recipient of service.

Nothing contained in this notification shall apply if the author is registered under CGST Act & GST is payable under forward charge if he filed a declaration that,

- ❖ he exercises the option to pay central tax on the service under forward charge and
 - ❖ comply with all the provisions as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both and
 - ❖ he shall not withdraw the said option within a period of 1 year from the date of exercising such option;
- in prescribed form.

Services supplied by Individual Direct Selling Agents

SNC 03.17.00

Mr. Vishal want a loan ₹ 10,00,000 & taken a service of individual Mr. Rudra who is a Direct Selling agent of HDFC bank & bank pay the commission to Mr. Rudra 2% of loan granted to Mr. Vishal for giving a customer to the bank. Calculate the amount of GST payable if GST @18% & who is liable to pay GST?

Answer:- As per sec 9(3) of CGST Act, In the case of services provided by an individual Direct Selling Agent (DSA) other than body corporate, partnership or limited liability partnership firm to any banking company or non-banking financial company, located in a taxable territory, the liability to pay GST shall be upon recipient i.e. reverse charge is applicable.

In a given case the HDFC bank to whom service is render shall be liable to pay tax.

$$\begin{aligned}\text{Calculation of GST payable} &= ₹10,00,000 \times 2\% \times 18\% \\ &= ₹3,600\end{aligned}$$

Security services

SNC 03.18.00

The Professionals Security-Pune, a firm of security agency providing services by way of supply of security personnel to following categories of persons:

- i. XYZ Pvt. Ltd., (company registered under CGST Act, 2017), valuing ₹ 10 lakhs
- ii. Sindh Co-operative Credit Society, Mumbai which is not registered under CGST Act, 2017, worth ₹ 8 lakhs
- iii. Department of Central Government located at Bangalore which has taken registration under CGST Act, 2017 only for the purpose of deducting tax u/s 51 and not for making any taxable supply of goods or services, valuing ₹ 12 lakhs
- iv. Pune Municipal Corporation registered under CGST Act, 2017 for the purpose of making taxable supply of goods or services. The value of service provided was ₹ 4 lakhs.
- iv. Mr. Altaf, from Gujarat (registered under section 10 of CGST Act, 2017) of ₹ 2 lakhs

v. Service provided to Star Industries Ltd., USA, value being ₹ 7 lakhs.

Determine the taxable value as well as tax liability of The Professionals Security-Pune assuming CGST @ 9% or SGST @ 9% and IGST @ 18%.

Answer:-

Category of Person	Taxability	Taxable value(₹)	Reason
XYZ Pvt. Ltd. (Registered)	Reverse Charge	-	As per N/N 29/2018; any person other than body corporate providing security service to registered person, then registered person located in taxable territory shall be liable to pay tax on such service
Sindh Co-op. Credit Society, Mumbai (Un-registered)	Forward Charge	8lakhs	Reverse charge will be applicable only if service recipient is Registered person and Sindh Co-op. Credit Society, Mumbai is not registered under CGST Act. Hence The Professionals Security-Pune will be liable to pay tax on such service
Department of Central Government, Bangalore (reg. only for deducting TDS)	Forward Charge	12 lakhs	This entry covered in the exception part of N/N 29/2018 And hence tax liability will be on The Professionals Security-Pune under forward charge
Municipal Corporation (registered & making taxable supply)	Reverse Charge	-	RCM will apply if establishment or department of CG or SG or local authority registered under CGST Act for making taxable supply of goods or services

Mr. Altaf, Gujarat (registered u/s 10)	Forward Charge	2 Lakhs	This entry covered in the exception part of N/N 29/2018 and hence tax liability will be on The Professionals Security-Pune under forward charge
Star Industries Ltd., USA	Forward Charge	2 Lakhs	RCM will apply only if service provided to registered person located in taxable territory. As Star Industries located in USA which falls outside the taxable territory, The Professionals Security-Pune will be liable to pay tax on such service
Total		29 Lakhs	

Tax liability of The Professionals Security - Pune will be as follows:-

S. NO	Particulars	₹ in lakhs	CGST @ 9%	SGST @ 9%	IGST @ 18%
1	Intra-State Supply	8	72,000	72,000	
2	Intra-State Supply	14	-	-	2,52,000
3	Export	7	-	-	1,26,000
	Total Tax liability		72,000	72,000	3,78,000

* **Note:-** If The Professionals Security - Pune satisfies the conditions laid down in section 16 of IGST Act, 2017, then they can avail the benefit of zero-rated supply in case of export service provided to Star Industries Ltd. USA

Services provided by way of renting of any motor vehicle

SNC 03.19.00

Amco India Ltd. a trader engaged in supply of goods & services at the intra state level. Its aggregate turnover for the PFY was ₹ 12.75 lakhs. In CFY upto the month of September 2019 the aggregate turnover of outward supply of Amco Ltd. was ₹ 10.35 lakhs.

Amco Ltd. does not get itself registered under GST as the threshold limit

does not cross the limit of ₹ 20 lakhs.

In the meanwhile, it has availed the service by way of renting of motor vehicle from Mr. Poonawala for the total consideration of ₹ 1.5 lakhs on 5th October 2019 (including cost of fuel).

Mr. Poonawala opted for paying tax @ 5% (i.e. 2.5% CGST & 2.5% SGST) and avail input tax credit of input service received from supplier who is also engaged in same line of business. Examine the tax liability in this case and the person who is liable to pay such tax.

Would your answer differ, if such service by way of renting of motor vehicle was provided by Mr. Poonawala to Mr. Ayush instead of Amco India Ltd.?

Answer: Legal Provision -

1) As per section 9(3) of CGST Act, 2017 read with relevant notification, In case of service provided by Renting of any motor vehicles, designed to carry passengers,

(where the cost of fuel is included in the consideration charged from the service recipient), by any person other than body corporate (paying tax @ 2.5% CGST & 2.5% SGST, with limited ITC), to a body corporate (located in TT), the liability to pay tax shall be upon recipient (i.e. Body corporate located in TT)."

Also, as per section 24 of CGST Act, any person who is required to pay tax under reverse charge shall be liable for compulsory registration even though the aggregate turnover is below the threshold limit.

Conclusion - Thus, in the above given case Amco Ltd. shall be liable to get register under GST & pay tax on ₹ 1.5 lakhs at the rate as may be specified under reverse charge. Also Amco Ltd. need to apply for registration as per sec 24

2) However, if such service was provided to any person other than a body corporate say Mr. Ayush in the above case, then the provision of above said notification will not apply and such service would fall under forward charge and Mr. Poonawala will be liable for payment of tax at the rate of 2.5% CGST & 2.5% SGST.

Sec.9(4) RCM

Value of inputs and input services purchased from registered supplier is less than 80%

SNC 03.20.00

M/s Goyal Ganga the promoter and builder registered under GST started new project "Royal House". Total cost of project is 300 crores for that promoter purchase following input and input services during the financial year 2018-19 as follow.

Particulars	Amount
Input other than cement purchases from ABC Pvt. Ltd. (exclusive of GST)	2.52 Lakhs
Input purchases from Mr. Anil (an unregistered supplier)	1.2 Lakhs
Input services received from M/s Subhash & Co. (an unregistered supplier)	0.48 Lakhs
Total Inward Supply	4.20 Lakhs

Determine the amount of GST and the person liable to pay GST assuming that all the transactions are intra-state and taxable at the rate of 18% (CGST 9% & SGST 9%).

Answer: - As per section 9(4) of CGST Act and section 5(4) of IGST Act, read with relevant notification that the registered person shall in respect of supply of goods or services received from an unregistered supplier to the extent of **shortfall up to 80% of total purchases of financial year before completion certificate or first occupation** of the inward supplies from registered supplier shall pay tax on reverse charge basis as recipient of such goods.

Promoter has to pay GST under sec 9(4) of the CGST Act, at the rate applicable on all such inward supplies.

In the given case, the total inward supplies of input or input services of M/s Goyal Ganga was ₹ 4.2 lakhs out of which inward supply of ₹ 2.52 lakhs only from

registered supplier which amounts to a 60 % of total purchases of financial year.

Therefore, there is a shortfall of 20% (i.e. 80%-60%) which amounts to ₹ 84,000 (3,36,000 - 2,52,000) and the promoter is liable to pay GST @ 18 % on ₹ 84,000.

So, M/s Goyal Ganga shall pay -

CGST = ₹ 7560/- (₹ 84000 * 9%)

SGST = ₹ 7560/- (₹ 84000 * 9%)

Cement supplied to unregistered person to promotor

SNC 03.21.00

Mr. Raj a promote start a building construction project on in new Mumbai for that he purchases cement from various supplier

Supplier	Amount
Mr. Kunal (unregistered)	1,20,000
Mr. Veer (registered)	2,23,000
ABC Ltd (registered)	4,500
Mr. Ishit (unregistered)	2,500

Total purchases of input and input services including cement during the financial year from registered supplier is 88%.

Calculate the amount of GST payable by Mr. Raj in reverse charge?

Answer:- Legal provision:- As per section 9(4) of CGST Act and section 5(4) of IGST Act, read with relevant notification that the registered person shall in respect of supply of cement received from an unregistered supplier shall pay tax on reverse charge basis as recipient of such goods.

In the given case the liability to pay GST shall be upon promoter as he receives cement from unregistered person under GST.

Where cement is received from an unregistered person, the promoter shall pay tax on supply of such cement u/s 9(4) of CGST Act, at the rate applicable, at present which is 28% (CGST 14% & SGST 14%).

So, the promoter shall pay -

Supplier	Amount	GST Amount
Mr. Kunal (unregistered)	1,20,000	33,600
Mr. Ishit (unregistered)	2,500	700
Total		34,300

Note:- If Cement is purchase from unregistered person than condition of 80% does not apply and promoter is liable to pay tax under RCM irrespective of amount of cement purchase from unregistered person

Sec. 9(5) ECO

SNC 03.22.00

Does tax liability u/s 9(5) come within reverse charge? Can any person other than the supplier or recipient be liable to pay tax under GST?

Answer:- No, definition of reverse charge given in section 2(98) refers only to section 9(3) and section 9(4). Tax payment by ecommerce operator in case of specified services under section 9(5) would not be a case of reverse charge because the ecommerce operator facilitates the supply through the digital network and collects payment from recipient and passes it on to supplier.

Ecommerce Operator is not a supplier / recipient but he is liable to pay tax u/s 9(5) for notified cases.

SNC 03.23.00

Mr. X, a Delhi resident, submits a cab request to Speed Cabs for travelling from Delhi to Gurgaon. Speed Cabs is a mobile application owned and managed by Smart Cab Technologies Ltd. located in India.

The application facilitates a potential customer to connect with persons providing cab service under the brand name of Speed Cabs. After Mr. X pays the cab charges using his debit card, he gets details of the driver, Mr. Y and the cab's registration number.

With reference to the Goods & service tax act, discuss who is liable to pay GST in this case. Will your answer be different, if Smart Cab Technologies Ltd. is located in New York and does not have a representative in India?

Answer:-

1) As per section 9(5) of CGST Act and 5(5) of IGST Act, the Government via relevant notification has notified services the tax on such supplies shall be paid by electronic commerce operator if such services are supplied through it. Services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, and motorcycle is one such service among the notified category.

In the given case above the liability to pay GST shall be upon Smart Cab technologies Ltd located in India.

2) In 2nd case if Smart Cab technologies Ltd located in New York i.e. a non-taxable territory and also does not have a representative in India then he shall appoint a person in the taxable territory i.e. India for the purpose of paying tax and such person shall be liable to pay tax.

SNC 03.24.00

A hotel owner provided accommodation in Haryana, through an electronic commerce operator Cool Trips. The hotel owner is not liable to get registered as per the provisions of section 22(1) of the CGST Act. Who is the person liable to pay GST in this case?

Would your answer be different if the Electronic Commerce Operator Cool Trips does not have a physical presence in India? (ICAI Study Material)

Answer:- Government may notify [on recommendations of the GST Council] specific categories of services the tax on intra state or Inter State supplies of which shall be paid through the electronic commerce operator if such services are supplied through it.

As per sec 9(5) Services by way of providing accommodation in hotels through electronic commerce operator are specified service for the said purpose. (N/N 17/2017 CT)

Thus, person liable to pay GST in this case is the Electronic Commerce Operator Cool Trips. All the provisions of the GST law shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of

such services.

Cool Trips does not have a physical presence in India, person liable to pay tax is the person representing the Electronic Commerce Operator -Cool Trips for any purpose in India

Combine questions on Sec.9(3) RCM

SNC 03.25.00

State person liable to pay GST in the following independent cases provided recipient is located in the taxable territory:

(a) Services provided by an arbitral tribunal to any business entity.

(b) Sponsorship services provided by a company to an individual.

(c) Renting of immovable property service provided by the Central Government to a business entity. (Registered under GST)

Answer:-

a) Since GST on services provided or agreed to be provided by an arbitral tribunal to any business entity located in the taxable territory is payable under reverse charge, in the given case, GST is payable by the recipient - business entity.

(b) GST on sponsorship services provided by any person to anybody corporate or partnership firm located in the taxable territory is payable under reverse charge. Since in the given case, services have been provided to an individual, reverse charge provisions will not be attracted. GST is payable under forward charge by the supplier - company.

(c) GST on services provided or agreed to be provided by the Central Government, State Government, Union Territory, or local authority to any registered person located in the taxable territory is payable under reverse charge. Therefore, in the given case, reverse charge provisions will be attracted. GST is payable under reverse charge by the recipient as per entry No 5 A of N/N 3/2018 - CT (Rate)

From the following information determine the person liable to pay Goods & Service tax if both Supplier and Recipient are located in India -

- 1) Mr. Atul is an agent of Life Insurance Co. The insurance company pays commission (excluding tax) ₹ 6 Lakh to him. Mr. Atul claims that no GST is leviable on services provided by him as his value of taxable service does not exceed ₹ 20 lakhs.
- 2) XYZ Ltd. availed services of Vimal Goods transport agency for transportation of goods by road from factory located in New Delhi to its Jaipur depot and paid freight of ₹1,00,000.
- 3) Infra structural support services provided by Government to a business entity: ₹ 14 Lakh
- 4) Renting of immovable property services provided by Government to unregistered business entity: ₹ 18 Lakh

Answer:- The provisions applicable are as per section 9(3) of CGST Act and 5(3) of IGST Act, the Government via notification 17/2017 CT and Notification No. 14/2017 of IGST Act.

1. In this case Life Insurance Company will be liable to pay GST on reverse charge basis. Hence, GST liability shall be ₹. 6,00,000 i.e., on the value of commission. Mr. Atul's claim that his turnover does not exceeds ₹. 20 Lakhs has no relevance here, because under reverse charge threshold limit is not available.

2. **If GTA pays tax @ 12% with ITC:** In such case normal charge is applicable and GTA is liable to pay tax

If GTA pays tax @ 5% without benefit of ITC:- Then reverse charge shall be applicable and GST shall be paid by XYZ Ltd. since it is liable to pay freight for transportation of goods.

3. Any service provided by Government or local authority to business entity in a taxable territory the goods & service tax is payable by business entity.

4. Any service by way of renting of immovable property provided by Government or local authority to unregistered business entity then goods & service tax is payable by Government

