



# CHAPTER - 4

## REVERSE CHARGE & ECO

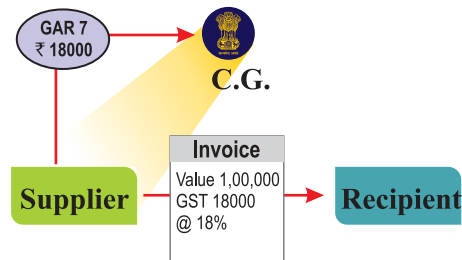
### CGST Act, 2017

Sec 9(3)	Reverse Charge in notified cases	Sec 9(4)	Reverse Charge in case of supply by Unregistered to Registered	Sec 9(5)	Electronic Commerce Operator
----------	----------------------------------	----------	--	----------	------------------------------

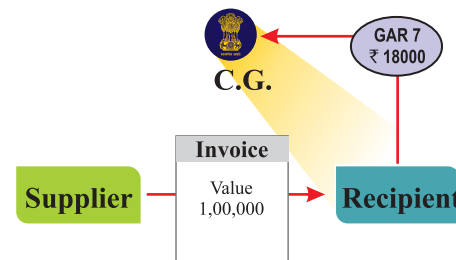
### Sec 2(98) : Reverse Charge

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 section 9(3) or 9(4), or under section 5(3) or 5(4) of the Integrated Goods and Services Tax Act.

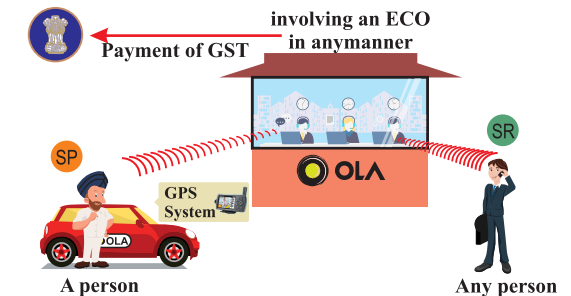
### Forward Charge



### Reverse Charge



### Payment by ECO



<b>Assessment</b>	Supplier has to assess the tax & transfer to Recipient	Recipient has to assess the tax and Supplier will not charge GST in invoice.	Supplier and Recipient both does not assess the liability. ECO will assess the liability like supplier
<b>Payment to C.G.</b>	Supplier is liable to make payment to Govt.	Recipient is liable to make payment to Govt.	ECO is liable to make payment to Govt.
<b>Registration</b>	Supplier has to register under GST	Recipient has to register under GST	ECO has to register under GST
<b>Due date of Payment</b>	Monthly [In some cases quarterly]	Monthly [In some cases quarterly]	Monthly [In some cases quarterly]
<b>Time of Supply</b>	Goods- Sec 12(2) of CGST Service - Sec 13(2) of CGST	Goods- Sec 12(3) of CGST Service - Sec 13(3) of CGST	Goods- Sec 12(2) of CGST Service - Sec 13(2) of CGST
<b>Mode of Payment</b>	by using - Electronic credit ledger - Electronic Cash ledger	By using electronic cash ledger Recipient cannot use his electronic credit ledger for payment of GST on such supply, but after payment of GST under RCM, he can take input tax credit as per the provision of ITC.	by using - Electronic credit ledger - Electronic Cash ledger

# CGST Act, 2017

## Sec 9 : Levy and Collection of CGST

### (1) Levy of CGST

Subject to the provisions of sub-section (2), there shall be levied a tax called the **central goods and services tax**

- ➔ on all **intra-State** supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption,
- ➔ on the **value** determined under section 15 and
- ➔ at such **rates, not exceeding twenty per cent.**, as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

### (2) Goods out of the scope of CGST

The **central tax** on the supply of  
 ➔ petroleum crude, ➔ high speed diesel,  
 ➔ motor spirit (commonly known as petrol), ➔ natural gas and  
 ➔ aviation turbine fuel  
**shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.**

### (3) Reverse Charge under notified cases

The Government may, on the recommendations of the Council,  
 ➔ by notification, specify categories of supply of goods or services or both,  
 ➔ the tax on which shall be **paid on reverse charge basis by the recipient of such goods or services or both** and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

### (4) Reverse Charge - when supply of goods or services by unregistered person to registered person

The central tax in respect of the

supply of specified category of goods or services or both by a supplier, who is not registered,

to

a specified class of registered person

**shall be paid by such person on reverse charge basis as the recipient** of such supply of goods or services or both and

all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

## CGST liability of E-commerce operator

- (5) The Government may, on the recommendations of the Council,
- ➔ by notification, **specify categories of services**
  - ➔ the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and
  - ➔ all the provisions of this Act 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:

Proviso	Provided that where an electronic commerce operator does not have a physical presence in the taxable territory,	➔ any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax
Proviso	Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory,	➔ such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

### Definition

**Sec 2(45) : E Commerce Operator** - means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce

### Analysis :-

**No reverse charge in case of exempted/nil rated supply** : If supply itself is exempt, there cannot be any tax thereon and if there is not tax, there cannot be any tax under charge. reverse charge calculates tax that would have been payable by the supplier, if there was no reverse charge.

**Person liable to pay tax is recipient** : In notified cases, the system of reverse charge would apply and GST would be payable by the recipient of supply.

**All provisions apply to recipient under RCM** :- For payment of tax, reverse charge person is deemed to be person liable to pay tax. He is liable to take registration, file return and issue tax invoices, raise payment vouchers, etc. Thus, compliance burden is shifted to recipient. for recipient liable to reverse charge tax, time of supply of goods and service is given u/s 12(3) and 13 (3).

**Payment of tax in cash & eligible for credit after payment** :- Tax is payable by recipient under reverse charge in cash [i.e. credit cannot be used to pay it] . Secondly, tax so paid is eligible for input tax credit, as per law.

### Cases of Reverse Charge

CGST shall be paid by the recipient of goods or services or both, on reverse charge basis, in the following cases :

- ➔ Supply of goods or services or both, notified by the Government on the recommendations of the GST Council. (Sec 9(3))
- ➔ Supply of taxable goods or services or both by an unregistered supplier to a registered person. (Sec 9(4))

All the provisions of the CGST Act shall apply to the recipient in the aforesaid cases as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.


<b>RCM Notified Services</b>	<b>N/N 13/2017-CT (Rate)</b>	<b>N/N 4/2017-IT (Rate)</b>
------------------------------	------------------------------	-----------------------------

**Just for Reading as it is not made applicable by ICAI**

<b>Liability under RCM for Supply of Goods</b> (N/N 4/2017 Central Tax(Rate)) dated 28 June 17				
S. No.	Tariff item, sub-heading, heading or Chapter	Description of supply of Goods	Supplier of goods	Recipient of supply (Liable to Pay Tax)
(1)	(2)	(3)	(4)	(5)
1.	0801	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2.	1404 90 10	Bidi Wrapper leaves (tendu)	Agriculturist	Any registered person
3.	2401	Tobacco leaves	Agriculturist	Any registered person
4.	5004 to 5006	Silk yarn	Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn	Any registered person
4.A	5201	Raw cotton	Agriculturist	Any registered person (Newly inserted by N/n 43/2017- CT Rate & N/N45/2017-IT Rate)
5.	-	Supply of lottery.	State Government, Union Territory or any local authority	<b>Lottery distributor or selling agent.</b> <i>Explanation.-</i> For the purposes of this entry, lottery distributor or selling agent has the same meaning as assigned to it in clause (c) of Rule 2 of the Lotteries (Regulation) Rules, 2010, made under the provision of sub section 1 of section 11 of the Lotteries (Regulations) Act, 1998 (17 of 1998).
6.	Any Chapter	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	Central Government, State Govt., Union territory or a local authority	Any registered person (Newly inserted by N/n 37/2017)
7.	Any Chapter	<b>PSLC (Private Sector Lending certificate)</b>	Any registered person	Any registered person (Newly inserted by N/n 11/2018)

<b>Services</b>	<b>100% liability</b>
-----------------	-----------------------

### 1 Supply of Services in relation to transportation of goods by road

By	To	Person Mentioned in (a) to (g) i.e.
<p>Goods Transport Agency who has not paid central tax at the rate of 6% (CGST 6% &amp; SGST 6%) (inserted by N/N 22-2017 C.T. (Rate))</p>  <p><b>Goods Transport Agency (GTA)</b> Defined in para 2(ze) of N/N 12/2017 means any person who provides service in relation to transport of goods by road AND issues Consignment Note, by whatever name called.</p>	<p>Where a <b>person liable to pay freight</b> is</p> <ol style="list-style-type: none"> <li><b>Any factory</b> registered under or governed by factories Act, 1948</li> <li><b>Any society registered</b> under Societies Registration Act, 1860 or under any other law for time being in force in any part of India</li> <li>Any <b>co-operative society</b> established by or under any;</li> <li><b>Any person registered under CGST Act, under IGST Act, under SGST Act or UTGST Act</b></li> <li><b>Any body corporate</b> established, by or under any law; or</li> <li><b>Any partnership firm</b> (Including LLP) whether registered or not under any law including <b>association of persons</b></li> <li>Any <b>Casual Taxable Person</b></li> </ol>	<ul style="list-style-type: none"> <li>◆ factory</li> <li>◆ Society registered</li> <li>◆ co-operative Societ</li> <li>◆ Any person registered under CGST Act, under IGST Act, under SGST Act or UTGST Act</li> <li>◆ Body Corporate</li> <li>◆ Partnership Firm or AOP</li> <li>◆ Casual Taxable Person</li> <li>◆ Located in taxable territory</li> </ul>
<p>"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, -</p> <p>(a) a Department or Establishment of the Central Government or State Government or Union territory; or</p> <p>(b) local authority; or (c) Governmental agencies,</p> <p>Which has taken registration under the Central Goods and Services Tax Act, 2017 only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services. (N/N 29/20180CT (R) dt 31/12/2018)</p>		

### Exemption - N/N 12/2017 CT (Rate) + N/N 9/2017 - IT (Rate)

<b>SI.No. 21A</b> of notification	<b>Service provided by GTA to an unregistered person</b> (Heading 9965 or 9967)
<p><b>SI.No. 21A (of notification) Service provided by GTA to an unregistered person (Heading 9965 or 9967)</b> Exemption is available for Services provided by a <b>goods transport agency to an unregistered person, including an unregistered casual taxable person, other than the following recipients, namely:-</b></p> <ol style="list-style-type: none"> <li>any <b>factory</b></li> <li>any <b>Society</b></li> <li>any <b>Co-operative Society</b></li> <li>any <b>body corporate</b></li> <li>any <b>partnership firm</b> whether registered or not under any law including AOP</li> <li>any <b>casual taxable person</b> registered under the GST Act.</li> </ol>	

### Analysis :-

**Goods Transport Agency (GTA) :-** Defined in para 2(ze) of N/N 12/2017 means any person who provides service in relation to transport of goods by road AND issues Consignment Note (also called 'bilty'), by whatever name called.

### CBIC Clarification :

- ➡ If such a consignment note is not issued by the transporter, the supplier will not come within the ambit of GTA.
- ➡ *Individual truck/tempo operators who do not issue any consignment note are not covered within the meaning of the term GTA - Supply of transportation service by them stands exempted under N/N 12/2017*

### N/N 11/2017 - CT (rate ) - applicable rate

Services of GTA in relation to transportation of goods (including used household goods for personal use)	CGST	SGST	IGST
GTA service with ITC	6%	6%	12%
GTA service without ITC	2.5%	2.5%	5%



## 2 Service Supplied

By	To	Person liable to pay tax :
"Services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly.	to any business entity located in the taxable territory	Any business entity located in the taxable territory.

**Explanation.- "legal service"** means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority."

1) **"Senior advocate"** [para 2(zzd)N/N 12/2017] has the meaning assigned to it in section 16 of the Advocates Act, 1961".

As per Section 16 of the Advocates Act, 1961 an advocate may, with his consent, be designated as senior advocate if the Supreme Court or a High Court is of opinion that by virtue of his ability 1[standing at the Bar or special knowledge or experience in law] he is deserving of such distinction.

2) **"Advocate"** [para 2(b)N/N 12/2017] shall have same meaning as assigned to it u/s 2(1)(a) of Advocates Act, 1961.

3) **"Business Entirety"** [para 2(n)N/N 12/2017] means any person carrying out business.

4) **"LLP"** [explanation (e)N/N 22/2017 C.T. (Rate) ] A "Limited Liability Partnership" formed and registered under the provisions of the Limited Liability Partnership Act, 2008 shall also be considered as a partnership firm or a firm.

### Clarification on levy of GST on legal services - [Circular no. 27/01/2018 dt 04/01/2018]

#### Issue

Whether legal services other than representational services provided by an individual advocate or a senior advocate to a business entity are liable for GST under reverse charge mechanism?

#### Clarification

Yes. In case of legal services including representational services provided by an advocate including a senior advocate to a business entity, GST is required to be paid by the recipient of the service under reverse charge mechanism, i.e. the business entity.

#### Representation By Senior Advocate

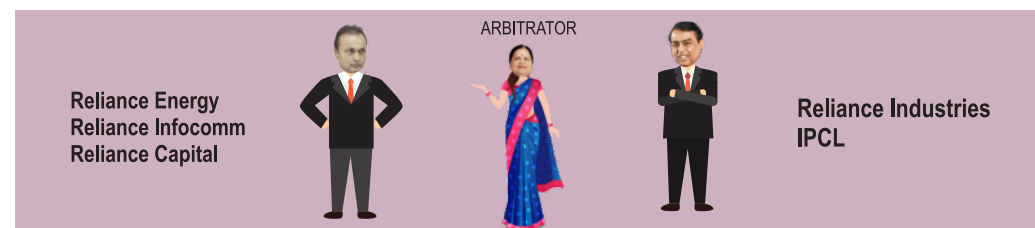


## 3 In respect of services provided to agreed to be provided

By	To	Person liable to pay tax :
Arbitral Tribunal	Business entity in taxable territory	Business entity in Taxable territory is liable

#### Note :

- 1) Arbitral Tribunal is a private tribunal constituted by parties in disputes where one or more person (Arbitrator) are referred by the parties to resolve the dispute in themselves and by who's decision they agreed to bound
- 2) Definition of SERVICE as given u/s 65-B (44) excludes fees taken in any court or tribunal established under any law. That exclusion will not cover fees paid to ARBITRAL TRIBUNAL.



## 4 In relation to Sponsorship Service

By	To	Person liable to pay tax :
Any person	Any body corporate or partnership firm located in taxable territory	Body Corporate or partnership firm in taxable territory is liable



### RCM is applicable on sponsorship and not on advertisement service:-

In sponsorship, an entity pays money to be aligned with, and promoted through, a particular event (usually by being a sponsors, the firm gets publicity as the event gets publicity, and also gets time and space (and profile) at the actual event.

**For example,** A Vsmart Academy Pvt. Ltd. makes a payment to XYZ trust to fund XYZ's Dandiya event in Navratri. XYZ trust places a sign in the booth displaying the Vsmart Academy Pvt. Ltd. name and slogan, "Smart Decision for Smart education," which is an established part of the company's identify.

## 5 Services supplied by

- By**
- Central Govt.
  - State Govt.
  - Union Territory
  - Local authority

except

- (a) Renting of immovable property, and
- (b) (i) Services by the department of post by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government State Government or Union Territory or local authority.
- (ii) Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport
- (iii) Transport of goods or passengers

**To**

Business entity in taxable territory

**Person liable to pay tax : Business entity in Taxable territory is liable**

**In following cases government or local authority is liable**

- (a) **renting of immovable property, and**
- (b)
  - (i) Services by the department of post by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government State Government or Union Territory or local authority.
  - (ii) Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport
  - (iii) Transport of goods or passengers

## 5A Services supplied by

- By**
- Central Govt.
  - State Govt.
  - Union Territory
  - Local authority
- by way of Renting of immovable property,

**To**

Any registered person under CGST Act read with clause (v) of Section 20 of IGST Act, 2017

**Person liable to pay tax : Any registered person in taxable territory**

**Explanation :-** "renting of immovable property" means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property.'

(N/N 15/2018 - CT (Rate) dt 26/06/2018)

**New Category under reverse charge for services added as follows:- (N/N 5/2019 -CT dt 29/03/2019 ) and (N/N 05/2019 -IT(R) dt 29/03/2019)**

**5B Services supplied by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project .**

**Person liable to pay tax is promoter**

**By**

Any Person

**To**

Promoter

**5C Long term lease of land (30 years or more) against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project**

**Person liable to pay tax is promoter**

**By**

Any Person

**To**

Promoter

### Explanation:-

- (a) The term **"apartment"** shall have the same meaning as assigned to it in clause (e) under section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2017).
- (b) the term **"promoter"** shall have the same meaning as assigned to it in clause (zk) under section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2017).
- (c) the term **"project"** shall mean a Real Estate Project (REP) or a Residential Real Estate Project (RREP);
- (d) "the term **"Real Estate Project (REP)"** shall have the same meaning as assigned to it in in clause (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016).
- (e) The term **"Residential Real Estate Project (RREP)"** shall mean a REP in which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the REP.
- (f) **"floor space index (FSI)"** shall mean the ratio of a building's total floor area (gross floor area) to the size of the piece of land upon which it is built. "

### 6 Services supplied

By	To	Person liable to pay tax :
Director of a Company or Body Corporate	Said Company or Body Corporate	Company or Body Corporate is liable

Note 1

Director	Company	Whole time/ Managing/ Executive director - Employee of the Company Non-Executive/part time director - Can't be called as employee of Company. Hence sitting fees, commission is taxable.
----------	---------	--



### 7 Service Supplied by

By	To	Person liable to pay tax :
Insurance Agent	Any person carrying insurance business	Any person carrying any insurance business located in taxable territory e.g. LIC or GIC



Insurance Agent has now been defined via N/N 13/2017 -CT(Rate) dt 25/1/2018 i.e. **'Insurance Agent' shall have the same meaning assigned to it in sec 2(10) of Insurance Act 1938.**

**"Insurance Agent"** means an insurance agent licensed under section 42 who receives or agrees to receive payment by way of commission or other remuneration in consideration of his soliciting or procuring insurance business [including business relating to the continuance, renewal or revival of policies of insurance.]

**Comment :-** Many insurance companies who are selling their policies through ECO operator not being licensed as Insurance agent under sec 42 of Insurance Act, for them reverse charge shall not be applicable.

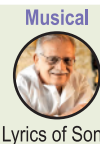
### 8 Service Supplied by

By	To	Person liable to pay tax :
Recovery Agent	<ul style="list-style-type: none"> <li>➔ a Banking company or</li> <li>➔ a Financial Institution or</li> <li>➔ NBFC</li> </ul>	Banking company or financial Institution or Non- banking financial Institutions located in taxable territory



### 9 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, dramatic, musical or artistic works

By	To	Person liable to pay tax :
An Author, Music Composer, photographer, artist (Covered by Separate entry in 9A)	A Music company, producer or the like, located in the taxable territory	<p>Person liable to pay tax : A</p> <p><del>Publisher</del> music company, producer or the like, located in the taxable territory</p>



Lyrics of Song



Painting by Painter



Acting by Actor



### 9A 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 works

By	To	Person liable to pay tax :
An Author	A Publisher located in the taxable territory	<p>Person liable to pay tax : A</p> <p>Publisher located in the taxable territory</p>



Books by Author



**Conditions:- (Reverse charge is not applicable in following cases)**

Provided that nothing contained in this entry shall apply where, -

- (i) the **author has taken registration ,and filed a declaration**, within the time limit with the jurisdictional GST commissioner that
- ➔ he exercises the option to pay central tax on the service under forward charge and
  - ➔ to 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
  - ➔ that he shall not withdraw the said option within a period of 1 year from the date of exercising such option;
- (ii) the author makes a declaration, on the **invoice issued by him in Form GST Inv-I** to the publisher.

**Note:-** Thus, where the author is registered and he make a declaration to pay the tax to proper officer then publisher is not required to pay tax & Author will pay tax under forward charge.

**10 Supply of Services****By**

Members of Overseeing committee

**To**

Reserve Bank of India (RBI)

**Person liable to pay tax :**  
Reserve Bank of India (RBI)

**Note :** Overseeing Committee formed by RBI which aimed to vet resolution of all types of dud loans would harm customers as well as banks

**11 Services supplied****By**

**Individual Direct Selling Agents (DSAs)** other than a body corporate, partnership or limited liability partnership firm.

**To**

A banking company or a non-banking financial company, located in the taxable territory.

**Person liable to pay tax :** A banking company or a non-banking financial company, located in the taxable territory.

**New Category under reverse charge for services added as follows:- (N/N 29/2018 -CT(R) dt 31/12/2018)****12 Services supplied****By**

Business Facilitator

**To**

A banking company located in the taxable territory.

**Person liable to pay tax :** A banking company located in the taxable territory.

**Note-**

**"(2o) "business facilitator or business correspondent" means an intermediary appointed under the business facilitator model or the business correspondent model by a banking company or an insurance company under the guidelines issued by the Reserve Bank of India;"**

**Just For Knowledge:-**

**1. Types of services supplied by Business Facilitators** - Business Facilitators provide various services which includes:-

- a) Identification of borrowers and fitment of activities
- b) Collection and preliminary processing of loan applications including verification of primary information/data
- c) creating awareness about saving and other products and education and advice on managing money and debt counselling
- d) processing and submission of application of banks
- e) promotion and nurturing Self-Help Groups/Joint Liability groups
- f) Post-sanction monitoring
- g) Monitoring and handholding of Self-Help Groups/Joint Liability Groups/Credit Groups/ Other, and
- h) Follow up for recovery

**2. The bank pays to business facilitation in form of commission for providing such services, so as per amendment bank are liable for payment of GST as receiver of service on commission paid by them**

**13 Services supplied****By**

An agent of Business Correspondent (BC)

**To**

A business correspondent, located in the taxable territory

**Person liable to pay tax :** A business correspondent, located in the taxable territory

**Analysis:-**

- 1. Business correspondent** - Are appointed by bank after conducting thorough due diligence Business correspondents can be NGOs/MFIs set-up under Societies/Trust Acts, Societies registered under Mutually Aided Co-operative Societies Acts or the Cooperative Societies Acts of States, registered NBFCs not accepting public deposits and post officers
  2. Business correspondent supplies all types of services which are provided by business facilitator and in addition they are also engaged into providing small value credit and recovery of the same.
  3. The bank pays them in the form of commission or fees for providing such services. These business correspondent have also appointed their agents and paying them commission or fees
- As per the amendment, business correspondents will be liable for the payment of GST as receivers of services on commission paid by the business correspondents to their agent.

**14 Security Services****By**

**Security services** (services provided by way of supply of security personnel) provided **by any person other than a body corporate**

**To**

a registered person

**A registered person**, located in the taxable territory

**Provided that nothing contained in this entry shall apply to, (Exceptions) -**

- (I) (a) a Department or Establishment of the Central Government or State Government or Union territory; or
- (b) local authority; or
- (c) Governmental agencies; which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 of the said Act and not for making a taxable supply of goods or services; or
- (ii) a registered person paying tax under section 10 of the said Act.

**Comment :-**

- (I) Service must be supply of security personnel** - The entry cover the security service which is provided by way of supply of security personnel. Therefore it cover only supply of man power for security purpose, such as supply of security man at society/offices/ commercial spaces/bunglows/bouncers/bodyguard, etc. Hence there must be supply of man or women for security.
- (ii) Following security service are not cover under RCM :-**
  - a) Dog sniffer b) Investigation Service c) Background check d) CCTV security/IT enable equipment security
- (iii) if the services are provided by body corporate, those will continue to be liable under forward charge**
- (iv) Body corporate** as define in section 2(11) of company Act, 2013
- Example:-** Company, Public Company, One person company, foreign company
- (v) Body corporate** does not include an individual, HUF, A firm (including LLP), AOP or BOI, cooperative society, society.
- (vi) Service must be received by Registered person other than specified.**

<b>15</b>	Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient,	<b>Person liable to pay tax : Any body corporate located in the taxable territory.</b>
<b>By</b>	<b>To</b>	
<b>Any person other than a body corporate,</b> (who supplies the service to a body corporate and does not issue an invoice charging CGST at the rate of 6 % and SGST 6% to the service recipient)	<b>Anybody corporate located in the taxable territory.</b>	

#### Clarification on Reverse Charge Mechanism (RCM) on renting of motor vehicles (circular no. 130/2019-GST)

Suppliers of service by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient have an option to pay GST either at

- ⇒ 5% with limited ITC (of input services in the same line of business) or
- ⇒ 12% with full ITC.

#### Clarifications in the circular:

- when any service is placed under RCM, the supplier shall not charge any tax from the service recipient.
- where the supplier of the service charges GST @ 12% from the service recipient, the service recipient shall not be liable to pay GST under RCM; and,
  - where the supplier of the service does not charge GST @ 12% from the service recipient, the service recipient shall be liable to pay GST under RCM

#### RCM shall be applicable only if all the below given conditions are satisfied:

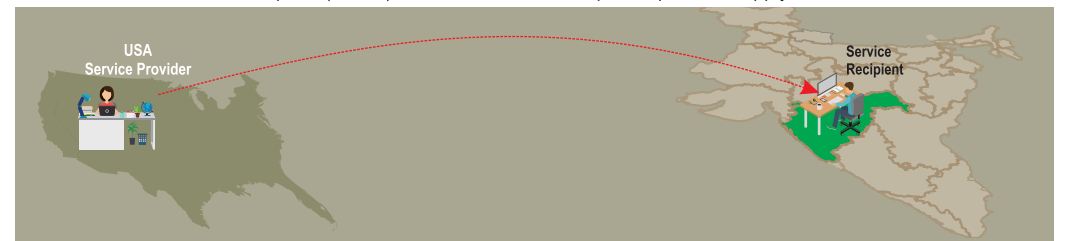
- Supplier is not a body corporate
- Supplier does not issue invoice charging GST @12%
- Service Recipient is a body corporate located in the taxable territory.

<b>16</b>	Services of <b>lending of securities</b> under Securities Lending Scheme, 1997 of SEBI <small>Newly Inserted by N/N 22/2019 CT-(R) dt 30/09/2019</small>	<b>Person liable to pay tax : Borrower i.e. a person who borrows the securities</b>
<b>By</b>	<b>To</b>	
<b>Lender</b> ( i.e. a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI)	<b>Borrower</b> ( i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI).	

<b>RCM Notified Services (Notified in IGST)</b>	<b>N/N 10/2017-IGST (Rate)</b>	<b>Dated 28th June, 2017</b>
---	--------------------------------	------------------------------

<b>17</b>	<b>Any service supplied</b>	<b>Person liable to pay tax : Any person located in taxable territory</b>
<b>By</b>	<b>To</b>	
Any person from a non taxable territory	Any person other than non taxable online recipient (NTOR)	
<b>Note 1</b> When any service provided by a person in non taxable territory to a person in a taxable territory then it amounts to import of services (Inter-State Supply) and subject to IGST		

Note : Non taxable online recipient (NTOR) is discussed in the chapter of place of supply under IGST Act, 2017



#### Analysis :-

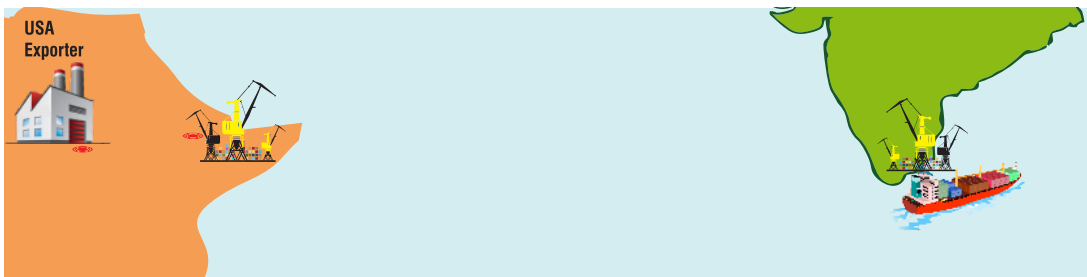
**NTOR** - recipient of OIDAR services fulfilling following conditions

- He is located in India
- He is either Govt. /Local Authority/Governemntal Authority or individual or any other unregistered person
- He is receiving OIDAR services for non-business /non commercial purposes

Supplier (Overseas)	Nature of Service	Recipient (Indian)	GST levy	Liability under RCM
<b>Architect</b>	<b>Architecture</b>	Vsmart Academy Pvt. Ltd.	Yes (Import of service - IGST levy)	Vsmart Academy Pvt. Ptd.
<b>Architect</b>	<b>Architecture</b>	Mr.A (Household entity- not carrying on business)	Exempt	----
<b>Netflix</b>	<b>OIDAR</b>	Mr.A (Householdentity- not carrying on business)	Yes	<b>Netflix</b> [RCM not applicable when OIDAR Service is Provided to NTOR]
<b>Netflix</b>	<b>OIDAR</b>	Vsmart Academy Pvt. Ltd.	Yes	<b>Vsmart Academy Pvt. Ltd.</b> [RCM is applicable when OIDAR Service is Provided to persons other than NTOR]



<b>18</b> In respect of services provided or agreed to be provided by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India	
<b>By</b> Person located in non-taxable territory	<b>To</b> Importer
<b>Person liable to pay tax :</b> Importer as defined in clause (26) of Section 2 of the Customs Act, 1962 located in the taxable territory	



## Legal Provision

### Sec 9(4) (CGST) Reverse Charge - when supply of goods or services by unregistered person to registered person

The central tax in respect of the

supply of specified category of goods or services or both by a supplier, who is not registered,

to

a specified class of registered person

*shall be paid by such person on reverse charge basis as the recipient of such supply of goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.*

### N/N 07/2019 CT(R) dt 29/03/2019

<b>1</b> value of inputs and input services purchased from registered supplier is less than 80%	
<b>By</b> Purchase from unregistered person	<b>To</b> promoter
<b>Person liable to pay tax is promoter</b>	

Newly Inserted N/N 07/2019-CT (R) dt 29/03/2019 & N/N 7/2019-IT(R) dt29/03/2019

**Note:-** Reverse Charge is applicable only to the extent of shortfall to make it 80%

<b>2</b> In case of Cement	
<b>By</b> Supplied by unregistered person	<b>To</b> promoter
<b>Person liable to pay tax is promoter</b>	

Newly Inserted N/N 07/2019-CT (R) dt 29/03/2019 & N/N 7/2019-IT(R) dt29/03/2019

<div>3</div> <div>In case of Capital Goods</div> <div>Newly Inserted N/N 07/2019-CT (R) dt 29/03/2019 &amp; N/N 7/2019-IT(R) dt 29/03/2019</div> <div>Person liable to pay tax is promoter</div>	
<div>By</div> <div>Supplied by unregistered person</div> <div>To</div> <div>promoter</div>	

**Note :** Above reverse charge is applicable in a case

- Promotor is opting for 1% or 5% scheme of N/N 11/2017
- Promoter has to pay GST under section 9(4) of the CGST Act, at the rate of 18% on all such inward supplies (to the extent short of 80% of the inward supplies from registered supplier).
- Where cement is received from an unregistered person, the promoter shall pay tax on supply of such cement on, under section 9(4) of the CGST Act, at the applicable rate which is 28% (CGST 14% + SGST 14%) at present.
- Moreover, GST on capital goods shall be paid by the promoter on reverse charge basis, under section 9(4) of the CGST Act at the applicable rates.

## Electronic Commerce Operators

**Introduction :** Electronic Commerce Operators (ECO) display products as well as services which are actually supplied by some other person to the consumer, on their electronic portal. The consumers buy such goods/services through these portals. On placing the order for a particular product/ service, the actual supplier supplies the selected product/ service to the consumer. The price/ consideration for the product/ service is collected by the ECO from the consumer and passed on to the actual supplier after the deduction of commission by the ECO.

## Legal Provision

### Sec 9 (5) - CGST liability of E-commerce operator

The Government may, on the recommendations of the Council,

- ➡ by notification, specify categories of services
- ➡ the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and
- ➡ all the provisions of this Act 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:

<b>Proviso</b>	Provided that where an electronic commerce operator does not have a physical presence in the taxable territory,	any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax
<b>Proviso</b>	Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory,	such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

## Definition

**Sec 2(45) : E Commerce Operator** - means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce

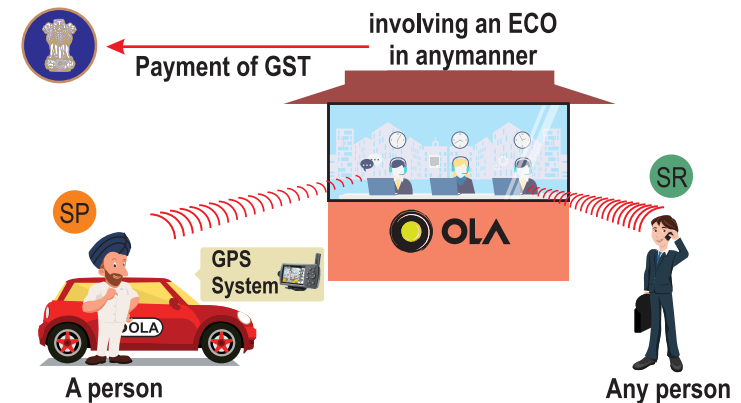
**Notified ECO** N/N 17/2017 - CT (Rate)- 28th June, 2017

It has notified the following categories of services supplied through ECO for this purpose -

(a) **Transportation of Passengers by Cab etc.:**

Services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle.

### E-Commerce Operator

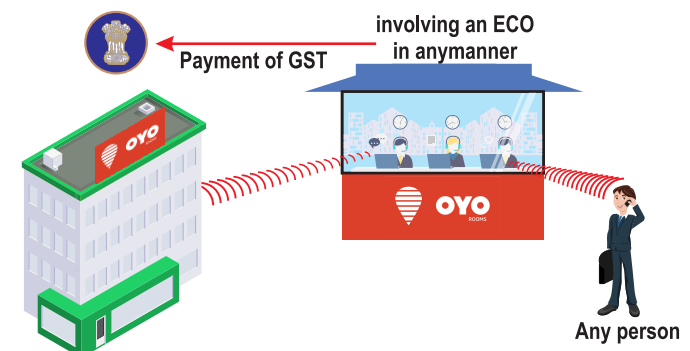


(b) **Renting of Accommodation by unregistered Hotels :**

Services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes,

*except where the person supplying such service through electronic commerce operator is liable for registration under section 22(1) of the CGST Act.*

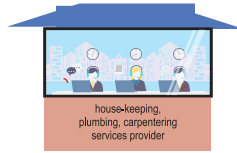
### E-Commerce Operator



(c) **Service by Unregistered Plumber, Housekeeper etc :**

services by way of house-keeping, such as plumbing, carpentering etc,

except where the person supplying such service through electronic commerce operator is liable for registration under sub-section (1) of section 22 of the said Central Goods and Services Tax Act. (Inserted by N/N 23/2017)



## Important Clarification

### Clarification on levy of gst on Director's remuneration (circular no. 140/10/20202-gst dated 10/6/2020)

Category of Director / Director's remuneration	GST Applicability (Clarification)
Remuneration paid by companies to the independent or those directors who are not the employees of the said company (TDS U/s 194J)	It is Outside the scope of Schedule III of the CGST Act. Therefore taxable → The recipient of the said services i.e. the Company is liable to discharge the applicable GST on it on reverse charge basis (RCM).
The director who is an employee in the company and remunerations are declared as Salaries in the books of a company and subjected to TDS under Section 192 of the IT Act (TDS U/S 192)	Covered under the scope of Schedule III of the CGST Act and salaries paid to company directors will not attract GST →
Director's remuneration which is declared separately other than salaries in the Company's accounts and subjected to TDS under Section 194J of the IT Act as Fees for professional or Technical Services (TDS U/s 194J)	To be treated as consideration for providing the services which are outside the scope of Schedule III of the CGST Act. → Therefore, the recipient of the said services i.e. the Company is liable to discharge the applicable GST on reverse charge basis (RCM).