

# PLACE OF SUPPLY

CHAPTER

08

## 8.1 Introduction

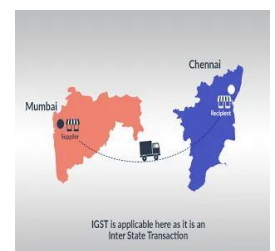
GST is understood as a 'destination based consumption tax' where in the tax is collected by the person in manufacturing-state but the tax ultimately travels to the state, where the goods or services are actually consumed. The kind of tax to be charged on the supply, determines that which state will receive the tax as its revenue.

Place of supply is important to determine the kind of tax that is to be applied. When the location of supplier and the place of supply are in two different States, then it will be an Inter-State supply and IGST applies. And when they are in the same State, then it will be an Intra-State supply and CGST-SGST applies.

## 8.2 Chapter IV : Determination of Nature of Supply

### SEC. 7 : INTER STATE SUPPLY

- (1) Subject to the provisions of section 10, supply of goods, where the location of the supplier and the place of supply are in –
- two different States;
  - two different Union territories; or
  - a State and a Union territory,
- shall be treated as a supply of goods in the course of inter-State trade or commerce.
- (3) Subject to the provisions of section 12, supply of services, where the location of the supplier and the place of supply are in –
- two different States;
  - two different Union territories; or
  - a State and a Union territory,
- shall be treated as a supply of services in the course of inter-State trade or commerce.
- (5) Supply of goods or services or both, –



in the taxable territory, not being an intra-State supply and not covered elsewhere in this section, shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce.

### SEC. 8 : INTRA STATE SUPPLY

- (1) Subject to the provisions of section 10, supply of goods where the location of the supplier and the place of supply of goods are in the same State or same Union territory shall be treated as intra-State supply.
- (2) Subject to the provisions of section 12, supply of services where the location of the supplier and the place of supply of services are in the same State or same Union territory shall be treated as intra-State supply.

**Explanation 1 :** For the purposes of this Act, where a person has, –

- (ii) an establishment in a State or Union territory and any other establishment outside that State or Union territory; or
- (iii) an establishment in a State or Union territory and any other establishment registered within that State or Union territory

then, such establishments shall be treated as establishments of distinct persons.

**Explanation 2:** A person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory.

### SEC. 9 : SUPPLIES IN TERRITORIAL WATERS

Notwithstanding anything contained in this Act, –

- (a) where the location of the supplier is in the territorial waters, the location of such supplier; or
- (b) where the place of supply is in the territorial waters, the place of supply,

shall, for the purposes of this Act, be deemed to be in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

## 8.3 Chapter V : Place of Supply of Goods or Services or Both

**Illustration 1:** Explain the significance of the place of supply of goods and services under GST.

**Answer:** The basic principle of GST is that it should effectively tax the consumption of such supplies at the destination thereof or as the case may be at the point of consumption. So, place of supply provision determines the place i.e. taxable jurisdiction where the tax should reach. The place of supply determines whether a transaction is intra-state or inter-state. In other words, the place of Supply of goods or services is required to determine whether a supply is subject to SGST plus CGST in a given State or union territory or else would attract IGST if it is an inter-state supply.

### PLACE OF SUPPLY OF GOODS

#### SECTION 10 OF IGST ACT, 2017

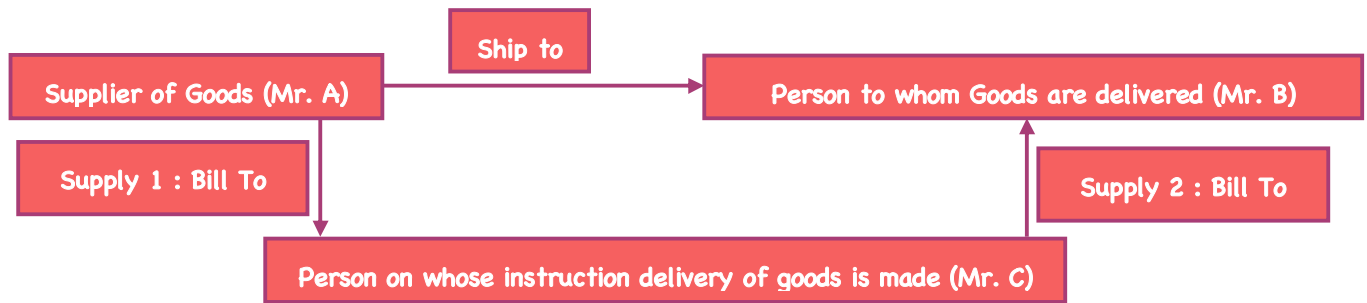
- (1) The place of supply of goods, other than supply of goods imported into, or exported from India, shall be as under,
  - (a) where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient;

- (b) where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such (third) person;
- (c) where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient;
- (ca) where the supply of goods is made to a person other than a registered person, the place of supply shall, notwithstanding anything contrary contained in clause (a) or clause (c), be the location as per the address of the said person recorded in the invoice issued in respect of the said supply and the location of the supplier where the address of the said person is not recorded in the invoice.
- Explanation.— For the purposes of this clause, recording of the name of the State of the said person in the invoice shall be deemed to be the recording of the address of the said person;
- (d) where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly;
- (e) where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board.
- (2) Where the place of supply of goods cannot be determined, the place of supply shall be determined in such manner as may be prescribed.

**Illustration 2 : Section 10(1)(a) – Supply involves movement of goods**

Particulars	Supplier's factory from where goods are removed	Termination of movement for delivery	Place of supply	Tax Payable
Movement of goods by the supplier (goods dispatched by supplier) [Section 10(1)(a) read with 2(96)(a) of CGST Act]	Rajasthan	Assam	Assam	IGST payable at Rajasthan
	Rajasthan	Rajasthan	Rajasthan	CGST / R-SGST payable at Rajasthan
Movement of goods by the recipient (goods collected by recipient) [Section 10(1)(a) read with 2(96)(b) of CGST Act]	M.P.	Goa	Goa	IGST payable at M.P.
	M.P.	M.P.	M.P.	CGST / MP-SGST payable at M.P.

**Illustration 3 : Section 10(1)(b) – Supply involves movement of goods, and delivered to a person on the instruction of a third person**



**Supply 1 :** Supply from the supplier of goods (Mr. A) to the person to whom the goods are delivered (Mr. B) on the instruction of a third person (Mr. C) – Place of supply shall be the principal place of business of the person on whose instruction goods are delivered (Mr. C) to the receiver of goods (Mr. B) as per Sec. 10(1)(b).

#### [Illustration On Supply 1]

Case	Location of Supplier – Mr. A	Place of delivery of goods – Office of Mr. B	Principal place of Mr. C who instructed delivery to Mr. B	Place of supply for Mr. A	Type of tax payable by Mr. A
1.	Gujarat	Gujarat	Maharashtra	Maharashtra	IGST at Gujarat
2.	Gujarat	Maharashtra	Gujarat	Gujarat	CGST + Gujarat GST at Gujarat
3.	Gujarat	Karnataka	Karnataka	Karnataka	IGST at Gujarat
4.	Gujarat	Madhya Pradesh	Rajasthan	Rajasthan	IGST at Gujarat

**Supply 2 :** Deemed supply of goods by the person on whose instruction (Mr. C) the goods were delivered by the original supplier (Mr. A) to the receiver of goods (Mr. B) – Place of supply shall be the location of goods at the time when the movement of goods terminates for delivery to recipient (Mr. B) as per Sec. 10(1)(a).

#### [Illustration On Supply 2]

Case	Location of Supplier – Mr. A	Place of delivery of goods – Office of Mr. B	Principal place of Mr. C who instructed delivery to Mr. B	Place of supply for Mr. C	Type of tax payable by Mr. C
1.	Gujarat	Gujarat	Maharashtra	Gujarat	IGST at Maharashtra
2.	Gujarat	Maharashtra	Maharashtra	Maharashtra	CGST + MH GST

3.	Gujarat	Karnataka	Karnataka	Karnataka	CGST + Kar GST
4.	Gujarat	Madhya Pradesh	Rajasthan	Madhya Pradesh	IGST at Rajasthan

**Illustration 4 : Section 10(1)(c) – Supply does not involve movement of goods**

Particulars	Location of Supplier	Location of Recipient	Location of Goods	Place of Supply	Tax Payable
Sale of pre-installed DG Set	Delhi	Uttar Pradesh	Uttar Pradesh	Uttar Pradesh	IGST payable at Delhi
Manufacture of moulds by job worker (supplier), sold to the Principal, but retained in job worker's premises	Tamil Nadu	Kerala	Tamil Nadu	Tamil Nadu	CGST + TN GST at Tamil Nadu

**Illustration 4A : Section 10(1)(ca) – Supply made to unregistered person**

Case	Location of Supplier	Location of Recipient (as recorded on Invoice)	Delivery of Goods	Place of Supply	Tax Payable
1	Delhi	Uttar Pradesh	Delhi	Uttar Pradesh	IGST payable at Delhi
2	Delhi	Not Available	Delhi	Delhi	CGST + Delhi GST

**Illustration 5 : Section 10(1)(d) – Supply of goods assembled/ installed at site**

Particulars	Location of Supplier	Registered office of Recipient	Installation/ Assembly Site	Place of Supply	Tax Payable
Installation of weigh bridge	Delhi	Uttar Pradesh	Uttar Pradesh	Uttar Pradesh	IGST payable at Delhi
Servers supplied and installed at the office of a marketing firm	Karnataka	Goa	Karnataka	Karnataka	CGST + Kar GST payable at Karnataka
Supply of work stations	Gujarat	Gujarat	Kerala	Kerala	IGST payable at Gujarat

**Illustration 6 : Section 10(1)(e) – Place of supply of goods supplied on board a conveyance**

Maurya (New Delhi) boards the New Delhi-Kota train at New Delhi. He sells the goods taken on board by him (at New Delhi), in the train, at Jaipur during the journey.

The place of supply of goods is the location at which the goods are taken on board, i.e. New Delhi and not Jaipur where they have been sold.

## 8.4 Place of Supply of Services

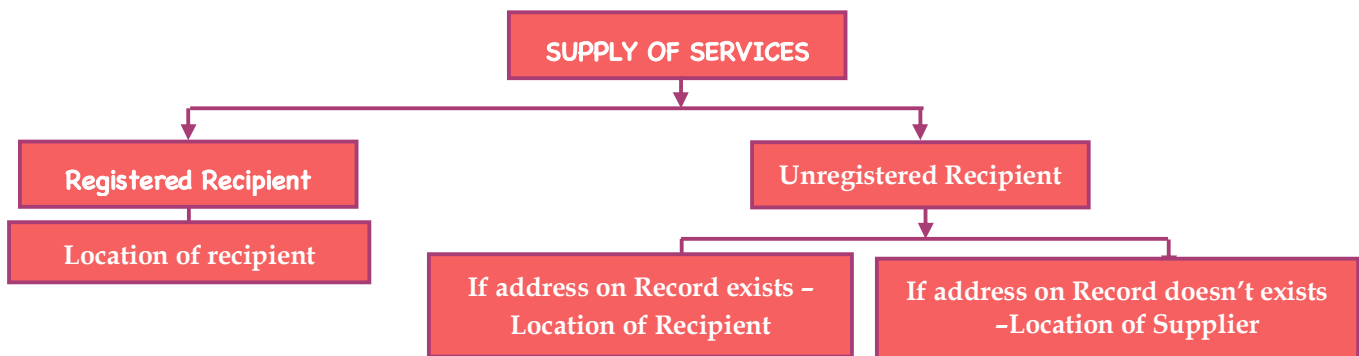
### SECTION 12 OF IGST ACT, 2017

(1) The provisions of this section shall apply to determine the place of supply of services where the location of supplier of services and the location of the recipient of services is in India.

#### General Provision :

(2) The place of supply of services, except the services specified in sub-sections (3) to (14),-

- (a) made to a registered person shall be the location of such person;
- (b) made to any person other than a registered person shall be, -
  - (i) the location of the recipient where the address on record exists; and
  - (ii) the location of the supplier of services in other cases.



#### Notes :

1. As per Sec. 2(14), IGST, **"location of the recipient of services"** means, -
  - (a) where a supply is received at a place of business for which the registration has been obtained, the location of such place of business;
  - (b) where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;
  - (c) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and
  - (d) in absence of such places, the location of the usual place of residence of the recipient;
2. **"Fixed establishment"** means a place (other than the registered place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services or to receive and use services for its own needs;
3. Sec. 2(15), IGST, **"location of the supplier of services"** means, -

- (a) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;
- (b) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;
- (c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and
- (d) in absence of such places, the location of the usual place of residence of the supplier;

**Illustration 7 :** A business has its headquarters in India, and branches in London, Dubai, Singapore and New York. Its business establishment is in India.

**Illustration 8 :** An overseas business house sets up offices with staff in India to provide services to Indian customers. Its fixed establishment is in India.

**Illustration 9 :** A company with a business establishment abroad buys a property in India which it leases to a tenant. The property by itself does not create a fixed establishment. If the company sets up an office in India to carry on its business by managing the property, this will create a fixed establishment in India.

**Illustration 10 :** A company is incorporated in India, but provides its services entirely from its branch in Singapore. The location of this service provider is Singapore, being the place where the establishment most directly concerned with the supply is located.

**Illustration 11 :** Mr. Aryabhata (a Chartered Accountant registered in New Delhi) makes a supply of service to his client Champak Pvt. Ltd. of Noida, Uttar Pradesh (registered in Uttar Pradesh). In this case, since the supply is made to a registered person, the place of supply is the location of the registered recipient, i.e. Noida.

**Illustration 12 :** Mr. Heeralal, a Chartered Accountant in Gurugram, Haryana, (registered in Haryana) provides consultancy services to his client Mr. Pannalal who is a resident of New Delhi but is not registered under GST. If the address of Mr. Pannalal is available in the records of Mr. Heeralal, location of Mr. Pannalal, i.e. New Delhi will be the place of supply, else the location of Mr. Heeralal, which is Gurugram, will be the place of supply.

### Specific Provisions :

**(3)** The place of supply of services,

- (a) **directly in relation to an immovable property**, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work; or
- (b) by way of **lodging accommodation by a hotel**, inn, guest house, home stay, club or campsite, by whatever name called, and including a house boat or any other vessel; or



(c) by way of **accommodation in any immovable property** for organising any marriage or reception or matters related thereto, official, social, cultural, religious or business function including services provided in relation to such function at such property; or



(d) **any services ancillary** to the services referred to in clauses (a), (b) and (c),

shall be the location at which the immovable property or boat or vessel, as the case may be, is located or intended to be located;

However, if the location of the immovable property or boat or vessel is located or intended to be located outside India, the place of supply shall be the location of the recipient.

**Illustration 13** : Sunami Builders (Mumbai) is constructing a factory building for Skylab Pvt. Ltd. (Kolkata), in New Delhi. The place of supply is the location of immovable property, i.e. New Delhi.

**Illustration 14** : Shah and Shah, an architectural firm at Kolkata, has been hired by Maurya Builders of Mumbai to draw up a plan for a high rise building to be constructed by them in Ahmedabad, Gujarat. The place of supply is the place where the immovable property is intended to be located, i.e. Ahmedabad.

**Illustration 15** : Kautilya, a Chartered Accountant, (New Delhi) travels to Mumbai for business and stays in a hotel there. The place of supply of accommodation service is the place where the hotel is located, i.e. Mumbai.

**Illustration 16** : M/s Mangal Architects (registered in Rajasthan) provides architect services to Mr. Pankaj for his office located at Mumbai, the Place of Supply of the service will be Mumbai.

**Illustration 17** : An Interior Decorator based in Mumbai provides his service to an Indian Hotel Chain (which has business establishment in New Delhi) for its newly acquired property in Dubai. If Sec. 12(3) were to be applied, the place of supply would be the location of the property i.e. Dubai (outside the taxable territory). However, by application of proviso to the Sec. 12(3), since both the provider and the receiver are located in taxable territory, the place of supply would be the location of the service receiver i.e. New Delhi. Place of Supply being in the taxable territory, the service would be taxable in India.

**Where immovable property/boat/vessel are located in more than one State or Union territory** : Where the immovable property or boat or vessel is located in more than one State or Union territory, the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

**Manner of determining proportionate value of service in the absence of a contract or agreement (Rule 4 of IGST Rules, 2017)**

In the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of services supplied in different States/Union territories (where the immovable property or boat or vessel is located) is computed as under:

S.	Type of service in relation to immovable property	Factor which determines the proportionate
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No.		value of service supplied in different States/Union territories
(i)	Service provided by way of lodging accommodation by <b>hotel</b> , inn, guest house etc. and its ancillary services	Number of <b>nights stayed</b> in such property (Refer Example 1)
(ii)	Services by way of lodging accommodation by a <b>house boat or vessel</b> and its ancillary services.	<b>Time spent</b> by the boat or vessel in each such State/Union Territories, to be determined on the basis of declaration made by the service provider (Refer Example 2)
(iii)	<ul style="list-style-type: none"> <li>• <b>All other services</b> provided in relation to immovable property</li> <li>• Services ancillary to services mentioned above.</li> </ul>	<b>Area</b> of the immovable property lying in each State/Union Territories (Refer Example 3)

#### **Example 1 – Lodging accommodation by hotel/inn/guest house etc. and ancillary services**

A hotel chain X charges a consolidated sum of Rs. 30,000/- for stay in its two establishments in Delhi and Agra, where the stay in Delhi is for 2 nights and the stay in Agra is for 1 night. The place of supply in this case is both in the Union territory of Delhi and in the State of Uttar Pradesh and the service shall be deemed to have been provided in the Union territory of Delhi and in the State of Uttar Pradesh in the ratio 2:1 respectively. The value of services provided will thus be apportioned as Rs. 20,000/- in the Union territory of Delhi and Rs. 10,000/- in the State of Uttar Pradesh.

#### **Example 2 – Lodging accommodation by a house boat or vessel and its ancillary services**

A company C provides the service of 24 hours accommodation in a houseboat, which is situated both in Kerala and Karnataka in as much as the guests board the house boat in Kerala and stay there for 22 hours but it also moves into Karnataka for 2 hours (as declared by the service provider). The place of supply of this service is in the States of Kerala and Karnataka. The service shall be deemed to have been provided in the ratio of 22:2 or 11:1 (simplified) in the states of Kerala and Karnataka, respectively. The value of the service shall be accordingly apportioned between the States.

#### **Example 3 – Other services provided in relation to immovable property**

There is a piece of land of area 20,000 square feet which is partly in State S1 say 12,000 square feet and partly in State S2, say 8000 square feet. Site preparation work has been entrusted to T. The ratio of land in the two states works out to 12:8 or 3:2 (simplified). The place of supply is in both S1 and S2. The service shall be deemed to have been provided in the ratio of 12:8 or 3:2 (simplified) in the States S1 and S2 respectively. The value of the service shall be accordingly apportioned between the States.

**Illustration 18 :** GOYO Rooms, based in Mumbai, takes reservation for accommodation in its hotels across India from ABC airlines, based in New Delhi, for overnight stay of its crew members. The place of accommodation services shall be the location of the hotel where the crew members have stayed. In case, the agreement between GOYO rooms and ABC airlines is per night per room basis, then the value of

service separately collected for each hotel shall be treated as the value of service for the respective state. In case, the agreement between GOYO rooms and ABC airlines is on a lump sum basis for a month then the place of supply shall be determined as prescribed in rules.

- (4) The place of supply of **restaurant and catering services, personal grooming**, fitness, beauty treatment, health service including cosmetic and plastic surgery shall be the location where the services are actually performed.



**Illustration 19** : Mr. A, resident of Mumbai, goes to Kolkata for plastic surgery then the place of supply will be the place where the plastic surgery services are rendered i.e. Kolkata.

**Illustration 20** : M/s XYZ TOURS LTD. Based in Mumbai, enters in to a contract with M/s ABC Chain of Restaurants (registered in Delhi) to provide breakfast to its customers in ABC Restaurant, Mumbai. The place of supply will be the place where the services are rendered i.e. Mumbai & M/s ABC Restaurant will charge CGST and SGST.

- (5) The place of supply of services in relation to **training and performance appraisal** to,
- a registered person, shall be the location of such person;
  - a person other than a registered person, shall be the location where the services are actually performed.

**Illustration 21** : Mind Parichay, a training institution registered in Rajasthan, organises a Soft Skill development session in Delhi. The place of supply for following participants will be :

- XYZ Ltd. Registered in Mumbai – Mumbai, IGST will be levied by Mind Parichay.
- PQR Ltd. Registered in Rajasthan – Rajasthan, CGST + SGST will be levied by Mind Parichay.
- Mr. A, Resident of Rajasthan (not registered) – Delhi, IGST will be levied by Mind Parichay.

- (6) The place of supply of services provided by **way of admission** to a cultural, artistic, sporting, scientific, educational, entertainment **event or amusement park** or any other place and **services ancillary thereto**, shall be the place where the event is actually held or where the park or such other place is located.

**Illustration 22** : Book My Match Limited, a company registered in Delhi providing online ticketing services for admission to various events, sells online tickets for Kabaddi-Pro-League tournament to be held across India, then the place of supply of services for admission to each kabaddi match shall be the location where the match is actually played.

- (7) The place of supply of services provided by way of, –

- organisation** of a cultural, artistic, sporting, scientific, educational or entertainment event **including supply of services in relation** to a conference, fair, exhibition, celebration or similar events; or
- services ancillary** to organisation of any of the events or services referred to in clause (a), **or assigning of sponsorship** to such events, –
  - to a registered person, shall be the location of such person;



- (ii) to a person other than a registered person, shall be the place where the event is actually held and if the event is held outside India, the place of supply shall be the location of the recipient.

**Explanation :** Where the event is held in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such event, the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

**Manner of determining proportionate value of service in the absence of a contract or agreement (Rule 5 of IGST Rules, 2017)**

In the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of services made in different States/Union territories (where the event is held) is determined by the application of **generally accepted accounting principles**.

**Example :** An event management company E has to organize some promotional events in States S1 and S2 for a recipient R (unregistered). 3 events are to be organized in S1 and 2 in S2. They charge a consolidated amount of Rs. 10,00,000 from R. The place of supply of this service is in both the States S1 and S2. Say the proportion arrived at by the application of generally accepted accounting principles is 3:2. The service shall be deemed to have been provided in the ratio 3:2 in S1 and S2 respectively. The value of services provided will thus be apportioned as Rs. 6,00,000/- in S1 and Rs. 4,00,000/- in S2.

**Illustration 23 : What is a service ancillary to organisation or admission to an event ?**

Provision of sound engineering for an artistic event is a pre-requisite for staging of that event and should be regarded as a service ancillary to its organisation. A service of hiring a specific equipment to enjoy the event at the venue (against a charge that is not included in the price of entry ticket) is an example of a service that is ancillary to admission.

**Illustration 24 :** An Indian fashion design firm, registered in Maharashtra, hosts a show at Singapore. The firm receives the services of an event organizer of Delhi. The place of supply of this service is the location of recipient, i.e. Maharashtra. However, the Place of supply for the service provided in relation to right to entry to the event would be Singapore.

**Illustration 25 :** Mr. Murthy, an unregistered person and a resident of Pune, hires the services of M/s Sun Ltd. an event management company registered in Delhi, for organising of the new product launch in Bengaluru.

- (i) Determine the place of supply of services provided by M/s Sun Ltd.
- (ii) What would your answer be in case the product launch takes place in Bangkok?
- (iii) What would your answer be in case Mr. Murthy is a registered person and product launches take place in Bengaluru and Bangkok?

[CA Final May 2018, 5 Marks]

**Solution :** As per section 12(7) of IGST act, 2017 (as both recipient and supplier are in India), the place of supply of services provided by way of assigning of sponsorship to such events place of supply shall be as follows –

- (i) if recipient of service is an unregistered person and event is held in India, then, place of supply = Place where event is actually held i.e. Bengaluru.
- (ii) if recipient of service is an unregistered person and event is held outside India, then, place of supply is location of the recipient i.e. Pune.
- (iii) if recipient of service is a registered person, then, place of supply = location of such person = Pune (in both the cases viz. whether product launch takes place in Bengaluru and Bangkok).

**(8)** The place of supply of services by way of **transportation of goods**, including by mail or courier to,

- (a) a registered person, shall be the location of such person;
- (b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation.

~~However, where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods.~~



**Illustration 26 :** M/s Sukhiram Pvt. Ltd. is a registered company in New Delhi. It sends its courier to Pune through M/s Brue Air Courier Service. The recipient being registered person, the place of supply is the location of recipient, i.e. New Delhi.

**Illustration 27 :** Mr. Bindisaar, an unregistered person, of New Delhi sends a courier to his brother in Amritsar, Punjab. The recipient being unregistered person, the place of supply is the location where goods are handed over for their transportation, i.e. New Delhi.

**Illustration 28 :** Pinelaps Pvt. Ltd., a Goods Transportation Agency based in Kanpur, Uttar Pradesh, is hired by Hezal Enterprises (registered supplier in Kanpur) to transport its consignment of goods to a buyer in New Delhi. The recipient being registered, the place of supply is the location of recipient, i.e. Kanpur.

**Illustration 29 :** Sukhwinder Transports Pvt. Ltd., a Goods Transportation Agency based in Noida, Uttar Pradesh, is hired by Chhaya Trade Links (registered supplier in New Delhi) to transport its consignment of goods to a buyer in Kanpur, Uttar Pradesh. The recipient being registered, the place of supply is the location of recipient, i.e. New Delhi.

**Illustration 30 :** Mr. Srikant, a manager in a Bank, is transferred from Bareilly, Uttar Pradesh to Bhopal, Madhya Pradesh. Mr. Srikant's family is stationed in Kanpur, Uttar Pradesh. He hires Goel Carriers of Lucknow, Uttar Pradesh (registered in Uttar Pradesh), to transport his household goods from Kanpur to Bhopal. The recipient being unregistered person, the place of supply is the location where goods are handed over for their transportation, i.e. Kanpur.

**(9)** The place of supply of **passenger transportation service** to, –

- (a) a registered person, shall be the location of such person;

(b) a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey:



However, where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined in accordance with the provisions of sub-section (2).

**Explanation :** For the purposes of this sub-section, the return journey shall be treated as a separate journey, even if the right to passage for onward and return journey is issued at the same time.

**Illustration 31 :** If Mr. Rohit, a registered taxable person based in Udaipur, purchases air ticket from Flights Ltd., an airline company based in Kolkata, for travel from Mumbai to USA via Dubai, then the place of supply of passenger transportation shall be Udaipur. If Mr. Rohit is not a registered person then the place of supply of passenger transportation shall be Mumbai.

**Illustration 32 :** Mr. Shyam, an unregistered person, based in Gurugram, Haryana books a two-way air journey ticket from New Delhi to Mumbai on 5th December. He leaves New Delhi on 10th December in a late-night flight and lands in Mumbai the next day. He leaves Mumbai on 14th December in a morning flight and lands in New Delhi the same day. The return journey is treated as a separate journey, even if the tickets for onward and return journey are issued at the same time. Thus, being an unregistered person, the place of supply for the outward and return journeys are the locations where the unregistered person embarks on the conveyance for the continuous journey, i.e. New Delhi and Mumbai respectively.

**Examples of issue of right to passage for future use—point of boarding not known at the time of issue of right**

**Illustration 33 :** An airline may issue seasonal tickets, containing say 10 vouchers which could be used for travel between any two locations in the country.

**Illustration 34 :** The card issued by New Delhi metro could be used by a person located in Noida, or New Delhi or Faridabad, without the New Delhi metro being able to distinguish the location or journeys at the time of receipt of payment.

**Illustration 35 :** M/s Kingsize Airlines has issued a ticket/pass to Mr. Saxena, the winner of annual lucky draw, for travelling to anywhere in India. Determine the place of supply in this case.

**Answer :** As per section 12(9) of the IGST Act, 2017, the place of supply of passenger transportation service to a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey. In the above case, the place of embarkation will not be available at the time of issue of invoice as the right to passage is for future use. Accordingly, place of supply cannot be the place of embarkation.

The proviso to section 12(9) provides that where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined in accordance with the provisions of 12(2). Thus, in such cases, the default rule shall apply i.e., the place of supply of services made to any person other than a registered person shall be the location of the recipient where the address on record exists and the location of the supplier of services in other cases.

**(10)** The place of supply of **services on board a conveyance**, including a vessel, an aircraft, a train or a motor vehicle, shall be the location of the first scheduled point of departure of that conveyance for the journey.

**Illustration 36** : Grand Cruise Ltd., a Cruise Ship running from Mumbai to Kanyakumari to Mumbai, provides on-board entertainment services to its passengers, then the place of supply of such on-board entertainment services shall be Mumbai (first scheduled point of departure).

**(11)** The place of supply of **telecommunication services** including data transfer, broadcasting, cable and direct to home television services to any person shall, –

- (a) in case of services by way of **fixed telecommunication line**, leased circuits, internet leased circuit, cable or dish antenna, be the location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services;
- (b) in case of **mobile connection** for telecommunication and internet services provided **on post-paid basis**, be the location of billing address of the recipient of services on the record of the supplier of services;
- (c) in cases where **mobile connection** for telecommunication, internet service and direct to home television services are provided **on pre-payment basis** through a voucher or any other means, –
  - (i) **through a selling agent** or a re-seller or a distributor of subscriber identity module (SIM) card or recharge voucher, be the address of the selling agent or re-seller or distributor as per the record of the supplier at the time of supply; or
  - (ii) **by any person** to the final subscriber, be the location where such prepayment is received or such vouchers are sold;
- (d) **in other cases**, be the address of the recipient as per the records of the supplier of services and where such address is not available, the place of supply shall be location of the supplier of services;



However, where the address of the recipient as per the records of the supplier of services is not available, the place of supply shall be location of the supplier of services:

Further, if such pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment, the location of the recipient of services on the record of the supplier of services shall be the place of supply of such services.

**Illustration 37** : Mr. Samudragupta (Kolkata) gets a landline phone installed at his home in Kolkata from Skybel Ltd. The place of supply is the location where the telecommunication line is installed, i.e. Kolkata.

**Illustration 38** : Mr. Mangal, resident of Udaipur purchases dish antenna from Mata sky, a company providing DTH cable services based in Mumbai, then the place of supply of DTH services shall be the location where the dish antenna is installed (i.e. Udaipur).

**Illustration 39** : Mr. Mangal, resident of Udaipur, takes postpaid mobile connection services from Vodafone Limited, a company based in New Delhi, then, the place of supply of services in relation to the

postpaid mobile connection shall be the billing address of Mr. Mangal as per the records of Vodafone Limited, regardless of where Mr. Mangal utilises the mobile services.

**Illustration 40 :** If Mr. Mangal, a resident of Udaipur has a prepaid mobile collection from Airtel Limited and while travelling to Mumbai, he purchases a recharge coupon from a local distributor (i.e. Mumbai), then the place of supply of such services would be the location of the local distributor (i.e. Mumbai).

**Where leased circuit is installed in more than one State/Union territory :** Where the leased circuit is installed in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such circuit, the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

**Manner of determining proportionate value of service in the absence of a contract or agreement (Rule 6 of IGST Rules, 2017)**

In the absence of a contract or agreement between the supplier and recipient of services, the value of services supplied in different States/Union territories (where the leased circuit is installed) is determined in proportion to the number of points lying in each such State/ Union territory.

The number of points in a circuit is determined in the following manner-

- (i) In the case of a circuit between two points or places, the starting point or place of the circuit and the end point or place of the circuit will invariably constitute two points – Refer Example 1.
- (ii) Any intermediate point or place in the circuit will also constitute a point provided that the benefit of the leased circuit is also available at that intermediate point – Refer Example 2 & 3.

**Example 1 - Circuit between two points or places** - A company T installs a leased circuit between the Delhi and Mumbai offices of a company C. The starting point of this circuit is in Delhi and the end point of the circuit is in Mumbai. Hence, one point of this circuit is in Delhi and another in Maharashtra. The place of supply of this service is in the Union territory of Delhi and the State of Maharashtra. The service shall be deemed to have been provided in the ratio of 1:1 in the Union territory of Delhi and the State of Maharashtra, respectively.

**Example 2 - Intermediate point or place in the circuit** - A company T installs a leased circuit between the Chennai, Bengaluru and Mysuru offices of a company C. The starting point of this circuit is in Chennai and the end point of the circuit is in Mysuru. The circuit also connects Bengaluru. Hence, one point of this circuit is in Tamil Nadu and two points in Karnataka. The place of supply of this service is in the States of Tamil Nadu and Karnataka. The service shall be deemed to have been provided in the ratio of 1:2 in the States of Tamil Nadu and Karnataka, respectively.

**Example 3 - Intermediate point or place in the circuit** - A company T installs a leased circuit between the Kolkata, Patna and Guwahati offices of a company C. There are 3 points in this circuit in Kolkata, Patna and Guwahati. One point each of this circuit is, therefore, in West Bengal, Bihar and Assam. The place of supply of this service is in the States of West Bengal, Bihar and Assam. The service shall be deemed to have been provided in the ratio of 1:1:1 in the States of West Bengal, Bihar and Assam, respectively.

**Illustration 41 :** Mangal Softwares Ltd., a company based in Mumbai procures services of leased circuit lines for its branches in Mumbai and Bangalore and Chennai from Pathway limited, a company based in

New Delhi, then the place of supply of service of leased circuit lines shall be proportionately at each branch where the installation is done. In case, Mangal Softwares Ltd. pays a lump sum amount for the latest circuit lines services of all branches, then the apportionment between states shall be done on reasonable basis as may be prescribed in this regard.

**(12)** The place of supply of **banking and other financial services**, including stock broking services to any person shall be the location of the recipient of services on the records of the supplier of services.

However, if the location of recipient of services is not on the records of the supplier, the place of supply shall be the location of the supplier of services.



**Illustration 42** : Mr. Pankaj, a resident of Udaipur, opens a bank account in Mumbai with Bank Ltd., and submits his residence address in Mumbai, then, the place of supply of banking services shall be Mumbai.

**Illustration 43** : Mr. Rohit goes to bank in Goa not having any account with the bank to take a demand draft, the place of supply shall location of the supplier i.e. bank in Goa issuing the demand draft, because, the location of Mr. Rohit (i.e. recipient of services) is not on the records of the Bank.

**Illustration 44** : A person in Goa buys shares from a broker in Delhi on NSE (in Mumbai). The place of supply shall be the location of the recipient of services on the records of the supplier of services. So, Goa shall be the place of supply.

**(13)** The place of supply of **insurance services** shall, –

- (a) to a registered person, be the location of such person;
- (b) to a person other than a registered person, be the location of the recipient of services on the records of the supplier of services.



**Illustration 45** : Mr. Shantaram, CEO of Shaurya Ltd., Mumbai (a company registered in Maharashtra) buys insurance cover for the inventory stored in company's factory located at Mumbai, from Excellent Insurers, Chennai (registered in Tamil Nadu). The place of supply is the location of the registered recipient, i.e. Mumbai.

**Illustration 46** : Ms. Barbie (unregistered resident of Kolkata) goes to her native place Patna, Bihar and buys a medical insurance policy for her parents there from Safe Insurers, Patna (registered in Bihar). The place of supply is the location of the recipient of services in the records of the supplier, i.e. Patna.

**(14)** The place of supply of **advertisement** services to the Central Government, a State Government, a statutory body or a local authority meant for the States or Union territories identified in the contract or agreement shall be taken as being in each of such States or Union territories and the value of such supplies specific to each State or Union territory **shall be in proportion** to the amount attributable to services provided by way of dissemination in the respective States or Union territories as may be determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.