



GST in India

The inevitable



GST in India

Supply, Place & Time of Supply



LEVY

- **Supply of goods or service**
- **Supply is for a consideration [except Schedule I supplies]**
- **Supply is made in the course or furtherance of business**
- **Supply takes place in India**
- **Supply is a taxable supply**
- **Supply is by a taxable person**



SUPPLY...

- **“Supply” includes...**
- **(a) All forms of supply of goods and/or services such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business,**
- **(b) Importation of services, for a consideration whether or not in the course or furtherance of business**
- **(c) a supply specified in Schedule I, made or agreed to be made without a consideration.**



GOODS & SERVICES

- **'Goods'** means every kind of movable property other than actionable claim and money but includes securities, growing crops, grass and things attached to, or forming part of land which are agreed to be severed before supply or under the contract of supply
- *Explanation: For the purpose of this clause, the term movable property shall not include any intangible property*
- **Services'** means anything other than goods
- *Explanation: Services include intangible property and actionable claim but does not include money*



GOODS...

- Supply of goods means the transfer of both the title and possession of, or control over, the goods, namely:
- Transfer of title as well as possession - In a simple sale, title as well as possession is transferred, such as across - the counter sale of a drug or a garment
- Transfer of possession but not title - In a case of sale on approval basis or hire-purchase, possession of goods is transferred, under a clear contemplation of transfer of title at a later date
- Possession of goods is transferred but title is retained - When goods are let out on hire or lease, it would be a supply of services



SERVICES...

- Anything which is not a supply of goods but is done for a consideration (including, if so done, the granting, assignment or surrender of any right) is a supply of service
- Supply of immovable property is not under GST but commercial exploitation of the same (ex. renting) is a supply of service.



CONSIDERATION

- **‘Consideration’ is different from ‘profit’**
- **“Advances” is a consideration but “deposits” are not**
- **‘Nexus’ between the supply and the consideration**
- **‘Reciprocity’**



FURTHERANCE OF BIZ

- Unless a transaction is in the course or furtherance of business, it will not be liable to GST
- The scope is vast and expansive
- Occasional supplies, even if for a consideration, may not be subject to GST
- For example, when a household makes a one-time sale of some paintings, if it is not in the business of selling paintings, the sale will not be a supply for GST purposes. But a painter, who sells his paintings on a regular basis, even if infrequently, will be liable to pay GST since he is in the business of selling paintings



TYPES OF SUPPLY

- **Taxable supply**

- A. **Mixed / Composite**
- B. **Intra-State / Inter-State**
- C. **Inward / Outward**

- **Exempt supply**

- **Zero-rated supply**



TIME OF SUPPLY

- The liability to pay GST arise only when supply is made
- The TOS fixes the point when the liability has to be discharged
- The TOS differs for supply of goods and supply of services



TOS - GOODS

- Time of supply of goods could be the earliest of the following:
 - A. Where the goods are required to be removed, the date on which the goods are removed by the supplier for supply to the recipient,
 - B. Where the goods are not required to be removed, the date on which the goods are made available to the recipient,
 - C. Date on which the supplier issues the invoice with respect to such supply; or
 - D. Date on which the recipient shows the receipt of the goods in his books



TOS - GOODS

- **B. Where the goods are made available but not removed;**
 - 1. the goods are not physically capable of being removed
 - 2. supplied in assembled or installed form
 - 3. are supplied by the supplier to his agent or his principal
- **For supplies on reverse charge, TOS shall be the earliest of:**
 - A. the date of the receipt of goods
 - B. the date on which the payment is made
 - C. the date of receipt of invoice
 - D. the date of debit in the books of accounts



TOS - GOODS

- Continuous Supply of Goods

- A. Where successive statements of accounts or successive payments are involved, TOS shall be the date of expiry of the period to which such successive statements / payments relate
- B. If there are no successive statements of account, the date of issue of the invoice (or any other document) or the date of receipt of payment, whichever is earlier

- Supply on Approval Basis / Sales Return***

If the goods (being sent or taken on approval or sale or return or similar terms) are removed before it is known whether a supply will take place or not, the time of supply shall be at the time when it becomes known that the supply has taken place or six months from the date of removal, whichever is earlier



TOS - SERVICES

- **Time of supply of services shall be the earliest of:**
 - A. Where the invoice is issued within the prescribed period, the date of issue of invoice / receipt of payment, whichever is earlier
 - B. Where the invoice is not issued within the prescribed period, the date of completion of the provision of service / receipt of payment, whichever is earlier
 - C. In all other cases, the date on which the recipient shows the receipt of services in his books of account



TOS - SERVICES

- **Continuous Supply of Services**

- A. where the due date of payment is ascertainable from the contract, the date on which the payment is liable to be made by the recipient of service, whether or not any invoice has been issued or any payment has been received by the supplier of service
- B. Where the due date of payment is not ascertainable from the contract, each such time when the supplier of service receives the payment, or issues an invoice, whichever is earlier
- C. Where the payment is linked to the completion of an event, the time of completion of that event

- **Where the tax is payable on reverse charge basis, TOS shall be the earliest of :**

- 1. Date of receipt of services, or
- 2. Date on which the payment is made, or
- 3. Date of receipt of invoice, or
- 4. Date of debit in the books of accounts



TOS - MISC*

A. VOUCHERS:

- the date of issue of voucher, if the supply is identifiable at that point; or
- the date of redemption of voucher, in all other cases

B. OTHER SITUATIONS :

- in a case where a periodical return has to be filed, be the date on which such return is to be filed
- in any other case, be the date on which the tax is paid

C. Addition in the value of supply (interest, late fee or penalty - Date on which the supplier receives such addition in value.

* FOR BOTH GOODS & SERVICES



PLACE OF SUPPLY

- **POS decides where the supply has been made**
- **POS decides which GST (CGST/SGST/IGST) has to be paid**
- **POS differs for supply of goods and supply of services**



POS - GOODS

- A. Where the supply involves movement of goods – the terminal point for delivery**
- B. Where the goods are delivered to a recipient on the directions of a third person - the principal place of business of the third person**
- C. Where the supply does not involve movement of goods - the location of such goods at the time of the delivery to the recipient**
- D. Where the goods are assembled or installed at site - the place of such installation or assembly**
- E. Where the goods are supplied on board a conveyance (vessel / aircraft / train /motor vehicle) – where such goods were taken on board**

***** Imports - Location of Importer / Export - Location outside India**



POS - SERVICES *

GENERAL

- 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 :—**
 - 1. The location of the recipient where the address on record exists; and**
 - 2. The location of the supplier of services in other cases.**

* When the supplier & recipient are in India



POS - SERVICES */**

POS shall be location of Immovable Property (IP)

- A. Directly in relation to such IP (architects, engineers, interior decorators, etc)
- B. Right to use the IP (renting, parking, etc)
- C. Lodging in such IP (hotels, inns, guest house, house boat, etc)
- D. Events hosted in such IP (marriage, meetings, reception, etc)
- E. Any service ancillary to the above

**** If IP is located outside India POS is location of recipient**

* When the supplier & recipient both are in India

** When either of them are outside India



POS - SERVICES *

SERVICE	POS
Admission to events / parks	Place of event / park
Restaurants / Catering , Beauty treatment, health care (plastic / cosmetic surgery), fitness, grooming	Place of performance
Training / Appraisal	Reg : Location of Reg person Ors : Place of performance
Organising events / ancillaries / assigning of sponsorship to the event	To Reg : Location of Reg person To Ors : Place of performance Outside India: Location of Recipient
Transportation of goods (mail, courier, etc)	Reg : Location of Reg person Ors : Place where goods are handed over
Transport of passenger	Reg : Location of Reg person Ors : Place of embarkation

* When the supplier & recipient are in India



POS - SERVICES *

SERVICE	POS
On board a conveyance	Place of scheduled departure
Telecommunication / DTH	As per Sec 12 (11) of IGST Act
Banking / Financial / Stock broking	Location of Recipient as per supplier records If unavailable, location of supplier
Insurance	To Reg : Location of Reg person To Ors : Location of Recipient as per supplier records
Advertisement to Govt	As per contract

* When the supplier & recipient are in India



POS - SERVICES **

GENERAL

- A. Location of the Recipient**
- B. If location of recipient not available, location of the Supplier**

** When either the supplier / recipient are outside India



POS - SERVICES **

SERVICE	POS
On board a conveyance	Place of scheduled departure
OLI	Location of Recipient / Special provisions
Banking / Financial / NBFC	Location of the Supplier
Hiring of transport excluding aircraft / vessel	Location of the Supplier
Services to Govt	As per contract

** When either the supplier / recipient are outside India



POS - SERVICES *

SERVICE	POS
Requiring physical presence (except temporary import for repairs)	Place of performance
If done from remote location, on the above	Location of the goods at the TOS
Service to Individuals	Place of performance
Intermediary	Location of the Supplier
Admission / Organising of events / ancillaries / assigning of sponsorship to the event	Place of event
Transportation of goods (except mail / courier)	Destination of goods
Transport of passenger	Place of embarkation

* When either the supplier / recipient are outside India



“There is a place and time for everything”

– an old proverb

www.swamyassociates.com

chennai . coimbatore . madurai . bengaluru . hyderabad . ahmedabad . pune . delhi