



ISD Vs Cross Charge: Export-Import Provisions

National Conference on GST by ICAI

Hosted by Gurgaon Branch of NIRC of ICAI

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Presented By : CA. Naveen Garg
Partner-DMRN & Associates 9911-283-111

Understanding Input Service Distributor (ISD)

Section 2(61) "Input Service Distributor" means **an office** of the supplier of goods or services or both **which receives tax invoices** towards the receipt of input services, including invoices in respect of services liable to tax u/s 9(3), 9(4) of this Act or u/s 5(3), 5(4) of the IGST Act, **for or on behalf of distinct persons referred to in section 25**, and liable to distribute the ITC in respect of such invoices in the manner provided in section 20;

Key Amendment: Substituted vide THE FINANCE ACT, 2024 dated 15-02-2024 w.e.f. 01-04-2025. This amendment broadens the scope of ISD to include services under RCM. Before 01-04-2025, it was read as:

"(61) "Input Service Distributor" means an office of the supplier of goods or services or both which receives tax invoices issued under section 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office;"

[1] Inserted vide SECTION 121 of THE FINANCE ACT, 2025 dated 29-03-2025 w.e.f. 01-04-2025.

Section 5(3) of the IGST Act, 2017

Not. No. 10/2017 – IT (Rate)

G.S.R. 685(E). -In exercise of the powers conferred by [sub-section \(3\) of section 5](#) of the [Integrated Goods and Services Tax Act, 2017 \(13 of 2017\)](#), the Central Government on the recommendations of the Council hereby notifies that on categories of supply of services mentioned in column (2) of the Table below, supplied by a person as specified in column (3) of the said Table, the whole of integrated tax leviable under [section 5](#) of the said [Integrated Goods and Services Tax Act](#), shall be paid on reverse charge basis by the recipient of the such services as specified in column (4) of the said Table:-

Table

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
(1)	(2)	(3)	(4)
1	Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient.	Any person located in a non-taxable territory	Any person located in the taxable territory other than non-taxable online recipient.

DISTINCT PERSON

Section 2(50) of the CGST Act defines “fixed establishment” as a place (other than the registered place of business) which is characterized 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.

Section 22(1) provides that every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees

As per Section 25(4) of the CGST Act, a person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.

Further, Section 25(5) provides that where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.

MATRIX

ITC Pertaining to	Place of Business (Office)		Remarks
	Receipt of Invoice	Consumption (within same office)	
Input Services	Yes	Yes	ISD is not required. Common costs incurred to render further supply to distinct persons to be cross-charged
	Yes	No	ISD is mandatory to distribute the ITC from 01/04/2025.
Input (i.e. Goods)	Yes	Yes	ISD provision applies only in case of Input Services. Therefore, cross-charged.
	Yes	No	

Section 20 of CGST Act: Manner of Credit Distribution

(1) Any office of the supplier of goods or services or both which receives tax invoices towards the receipt of input services, including invoices in respect of services liable to tax u/s 9(3), 9(4) of this Act or u/s 5(3), 5(4) of the IGST Act, for or on behalf of distinct persons referred to in section 25, **SHALL** BE required to be registered as Input Service Distributor under clause (viii) of section 24 and shall distribute the input tax credit in respect of such invoices.

This section mandates ISD registration for entities receiving common input service invoices on behalf of distinct persons, ensuring proper ITC distribution. The inclusion of RCM services under Section 9(3)/(4) of CGST Act and Section 5(3)/(4) of IGST Act further expands the scope of services whose ITC can be distributed by an ISD.

Section 20 of CGST Act: Manner of Credit Distribution

(2) The Input Service Distributor shall distribute the credit of central tax or integrated tax charged on invoices received by him, including the credit of central or integrated tax in respect of services subject to levy of tax under sub-section (3) or sub-section (4) of Section 9 [of the Act or under sub-section (3) or sub-section (4) of Section 5 of Integrated Goods and Services Tax Act, 2017 (13 of 2017)] paid by a distinct person registered in the same state as the said Input Service Distributor, in such manner, within such time and subject to such restrictions and conditions as may be prescribed.

(3) The credit of central tax shall be distributed as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit, in such manner as may be prescribed.

Earlier Provisions of ISD under Section 20 of CGST Act

20 (1) The Input Service Distributor **shall** distribute the credit of central tax as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit being distributed in such manner as may be prescribed.

20(2) The Input Service Distributor **may** distribute the credit subject to the following conditions, namely:—

- (a) the credit can be distributed to the recipients of credit against a document containing such details as may be prescribed;
- (b) the amount of the credit distributed shall not exceed the amount of credit available for distribution;
- (c) the credit of tax paid on input services attributable to a recipient of credit shall be distributed only to that recipient;
- (d) the credit of tax paid on input services attributable to more than one recipient of credit shall be distributed amongst such recipients to whom the input service is attributable and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period;
- (e) the credit of tax paid on input services attributable to all recipients of credit shall be distributed amongst such recipients and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all recipients and which are operational in the current year, during the said relevant period.

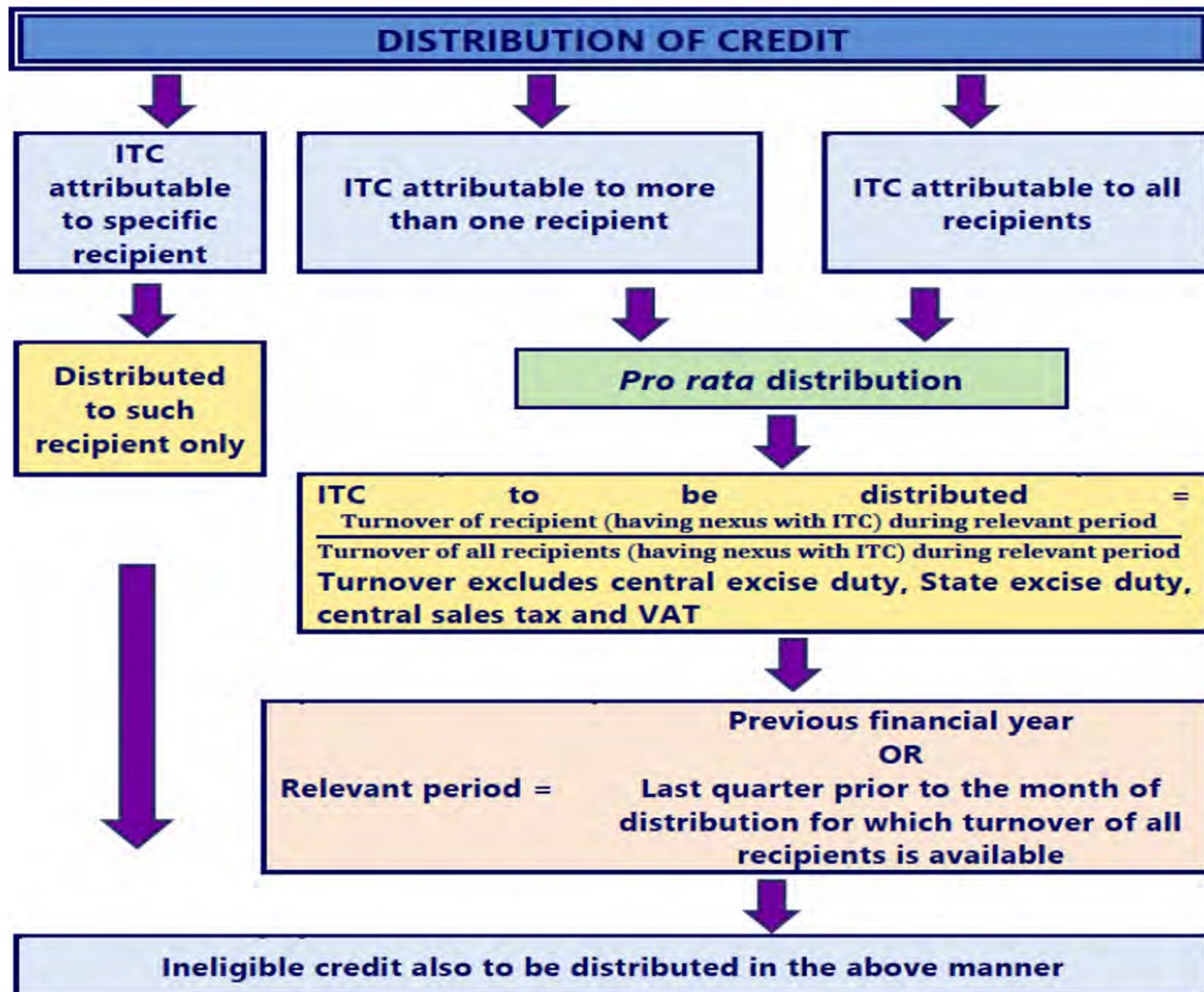
Rule 39 ISD: Conditions for Distribution

- (1) An Input Service Distributor shall distribute input tax credit in the manner and subject to the following conditions, namely: –
- (a) the input tax credit available for distribution in a month shall be distributed in the same month and the details thereof shall be furnished in FORM GSTR-6 in accordance with the provisions of Chapter VIII of these rules;
 - (b) the amount of the credit distributed shall not exceed the amount of credit available for distribution;
 - (c) the credit of tax paid on input services attributable to a recipient of credit shall be distributed only to that recipient;

Rule 39 ISD: Conditions for Distribution

(d) the credit of tax paid on input services attributable to **more than one recipient** of credit shall be distributed amongst such recipients to whom the input service is attributable and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period;

(e) the credit of tax paid on input services attributable to **all recipients** of credit shall be distributed amongst such recipients and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all recipients and which are operational in the current year, during the said relevant period;



Rule 39(f) ISD: Distribution Formula

The input tax credit that is required to be distributed in accordance with the provisions of clause (d) and (e) to one of the recipients "R1", whether registered or not, from amongst the total of all the recipients to whom input tax credit is attributable, **including the recipients who are engaged in making exempt supply, or are otherwise not registered** for any reason, shall be the amount, "C1", to be calculated by applying the following formula –

$$C_1 = (t_1/T) \times C$$

Where:

- **C:** Amount of credit to be distributed.
- **t1:** Turnover, as referred to in clause (d) and (e), of person R1 during the relevant period, and
- **T:** Aggregate of the turnover, during the relevant period, of all recipients to whom the input service is attributable in accordance with the provisions of clause (d) and (e);

Rule 39 ISD: Conditions for Distribution

(g) the Input Service Distributor shall, in accordance with the provisions of clause (d) and (e), separately distribute the amount of ineligible input tax credit (ineligible under the provisions of sub-section (5) of section 17 or otherwise) and the amount of eligible input tax credit;

(h) the input tax credit on account of central tax, State tax, Union territory tax and integrated tax shall be distributed separately in accordance with the provisions of clause (d) and (e);

(i) the input tax credit on account of integrated tax shall be distributed as input tax credit of integrated tax to every recipient;

(j) the input tax credit on account of central tax and State tax or Union territory tax shall—

- (i) in respect of a recipient located in the same State or Union territory in which the Input Service Distributor is located, be distributed as input tax credit of central tax and State tax or Union territory tax respectively;
- (ii) in respect of a recipient located in a State or Union territory other than that of the Input Service Distributor, be distributed as integrated tax and the amount to be so distributed shall be equal to the aggregate of the amount of input tax credit of central tax and State tax or Union territory tax that qualifies for distribution to such recipient as referred to in clause (d) and (e);

Rule 39 ISD: Conditions for Distribution

(k) the Input Service Distributor shall issue an Input Service Distributor invoice, as provided in sub-rule (1) of rule 54, clearly indicating in such invoice that it is issued only for distribution of input tax credit;

(l) the Input Service Distributor shall issue an Input Service Distributor credit note, as provided in sub-rule (1) of rule 54, for reduction of credit in case the input tax credit already distributed gets reduced for any reason;

(m) any additional amount of input tax credit on account of **issuance of a debit note** to an Input Service Distributor by the supplier shall be distributed in the manner and subject to the conditions specified in clauses (a) to (j) and the amount attributable to any recipient shall be calculated in the manner provided in clause (f) and such credit shall be distributed in the month in which the debit note is included in the return in FORM GSTR-6;

(n) any input tax credit required to be reduced on account of **issuance of a credit note** to the Input Service Distributor by the supplier shall be **apportioned to each recipient in the same ratio** in which the input tax credit contained in the original invoice was distributed in terms of clause (f), and the amount so apportioned shall be-

(i) **reduced from the amount to be distributed** in the month in which the credit note is included in the return in FORM GSTR-6; or

(ii) **added to the output tax liability** of the recipient where the amount so apportioned is in the negative by virtue of the amount of credit under distribution being less than the amount to be adjusted.

Rule 39 ISD

(1A) For the distribution of credit in respect of input services, attributable to one or more distinct persons, subject to levy of tax under sub-section (3) or (4) of section 9, a registered person, having the same PAN and State code as an Input Service Distributor, may issue an invoice or, as the case may be, a credit or debit note as per the provisions of sub-rule(1A) of rule 54 to transfer the credit of such common input services to the Input Service Distributor, and such credit shall be distributed by the said Input Service Distributor in the manner as provided in sub-rule (1).

(2) If the amount of input tax credit distributed by an Input Service Distributor is reduced later on for any other reason for any of the recipients, including that it was distributed to a wrong recipient by the Input Service Distributor, the process specified in clause (n)] of sub-rule (1) shall apply, mutatis mutandis, for reduction of credit.

(3) Subject to sub-rule (2), the Input Service Distributor shall, on the basis of the Input Service Distributor credit note specified in clause (l)] of sub-rule (1), issue an Input Service Distributor invoice to the recipient entitled to such credit and include the Input Service Distributor credit note and the Input Service Distributor invoice in the return in **FORM GSTR-6** for the month in which such credit note and invoice was issued.

Rule 39 ISD: Explanation

For the purpose of this rule, -

(i) the term “relevant period” shall be –

(a) if the recipients of credit have turnover in their States/UT in the FY preceding the year during which credit is to be distributed, the said financial year; or

(b) if some or all recipients of the credit do not have any turnover in their States/UT in the FY preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed; (Issue-New Setup)

(ii) the expression “recipient of credit” means the supplier of goods or services or both having the same Permanent Account Number as that of the Input Service Distributor;

(iii) the term “turnover”, in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied under entries 84 and 92A of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule.

Distribution of ITC : Illustration

Input Tax Credit:

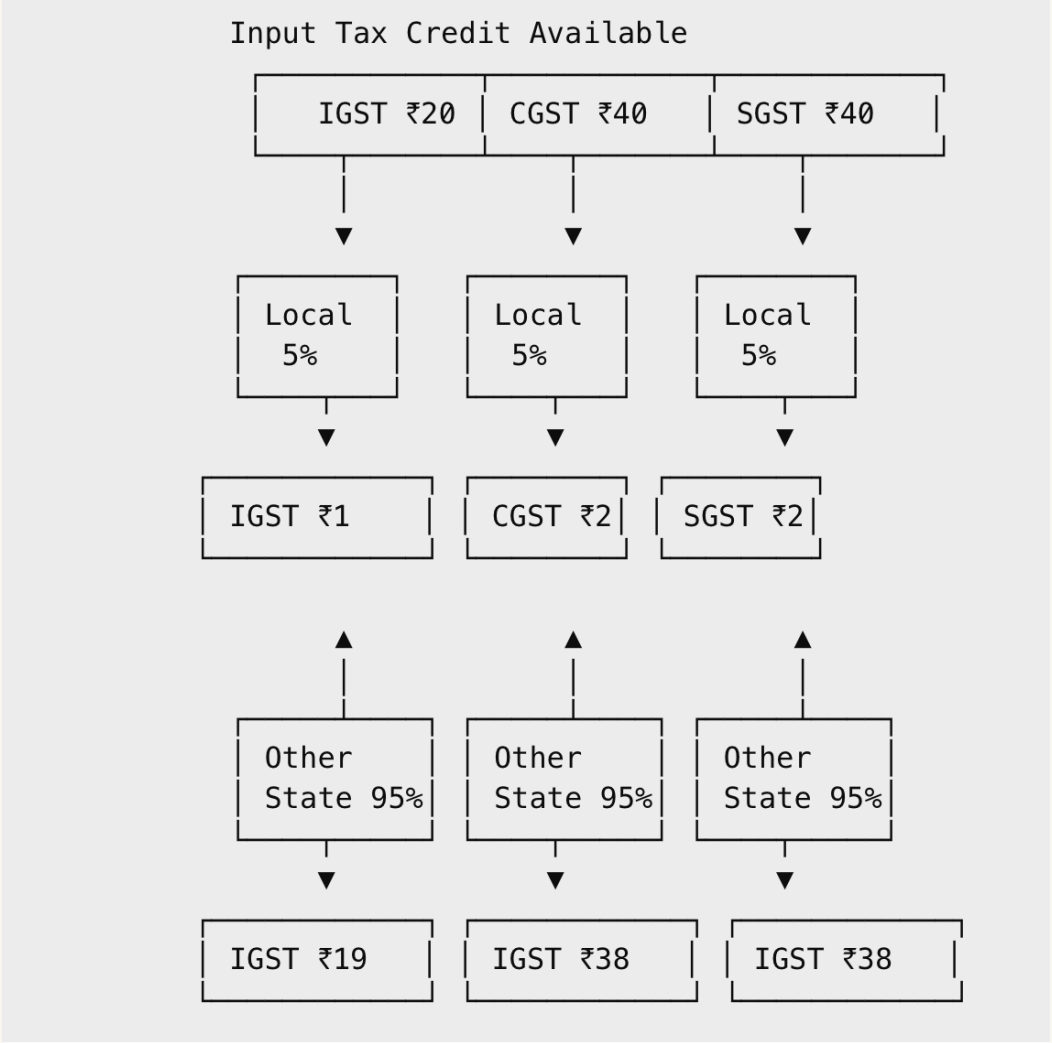
IGST – Rs. 20
CGST – Rs. 40
SGST – Rs. 40

Distribute:

Local – 5%
Other State – 95%

Amount of Distribution:

	Local	Other State
IGST	Rs. 1	Rs. 19 + 38 + 38
CGST	Rs. 2	Nil
SGST	Rs. 2	Nil



Rule 54 : Tax Invoice in Special Cases

Invoice by ISD to Distinct Person

(1)) An Input Service Distributor invoice or, as the case may be, an Input Service Distributor credit note issued by an Input Service Distributor shall contain the following details:-

- (a) name, address and Goods and Services Tax Identification Number of the Input Service Distributor;
- (b) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters hyphen or dash and slash symbolised as- “-”, “/” respectively, and any combination thereof, unique for a financial year;
- (c) date of its issue;
- (d) name, address and Goods and Services Tax Identification Number of the recipient to whom the credit is distributed;
- (e) amount of the credit distributed; and
- (f) signature or digital signature of the Input Service Distributor or his authorised representative

ISD Invoice in
case of
Distribution in
the Same State

ISD INVOICE [Rule 54(1)]		
<div>XYZ</div>		<div>XYZ INDIA PVT.LTD. -ISD</div> <div>JMD Megapolis, Sector 48, Sohna Road, Gurugram</div> <div>GSTIN : 06AAACX2222D1ZX</div> <div>ISD Number</div>
<div>Name: XYZ India Private Limited</div> <div>Address: JMD Megapolis, Sector 48, Sohna Road, Gurugram</div> <div>GSTIN: 06AAACX2222D2ZM</div> <div>ISD Invoice No.: INV-ISD-000005</div> <div>ISD Invoice Date: 30-06-2025</div> <div>ITC Type: Eligible</div>		
Sl No.	Particulars	Total Value
1	Amount of Credit Distributed - IGST	14,903.67
2	Amount of Credit Distributed - CGST	1,70,100.80
3	Amount of Credit Distributed - SGST	1,70,100.80
Grand Total >>>		3,55,105.27
<div>Amount in Words</div> <div>Three Lac Fifty Five Thousand One hundred Five Rupees Two Seven Paise</div>		
I / We hereby certify that the particulars given above are true and correct for the distribution of credit		
For XYZ India Private Limited		
Authorised Signatory		E.&.O.E.

ISD Invoice in
case of
Distribution in
the Different
State

ISD INVOICE [Rule 54(1)]		
XYZ		XYZ INDIA PVT.LTD. JMD Megapolis, Sector 48, Sohna Road, Gurugram GSTIN : 06AAACX2222D1ZX
Name: XYZ India Private Limited		
Address: CP, New Delhi		
GSTIN: 07AAACX2222D2ZM		
ISD Invoice No.: INV-ISD-000005		
ISD Invoice Date: 30-06-2025		
ITC Type: Eligible		
Sl No.	Particulars	Total Value
1	Amount of Credit Distributed - IGST	3,55,105.27
Grand Total >>>		3,55,105.27
Amount in Words Three Lac Fifty Five Thousand One hundred Five Rupees Two Seven Paise		
I / We hereby certify that the particulars given above are true and correct for the distribution of credit		
For XYZ India Private Limited		
Authorised Signatory		E.&.O.E.

Rule 54(1A) : Tax Invoice in Special Cases

Invoice by Normal GST Registration to ISD for RCM Invoices

- (a) A registered person, having the same PAN and State code as an Input Service Distributor, may issue an invoice or, as the case may be, a credit or debit note to transfer the credit of common input services to the Input Service Distributor, which shall contain the following details:-
- (i) name, address and Goods and Services Tax Identification Number of the registered person having the same PAN and same State code as the Input Service Distributor;
 - (ii) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;
 - (iii) date of its issue;
 - (iv) Goods and Services Tax Identification Number of supplier of common service and original invoice number whose credit is sought to be transferred to the Input Service Distributor;
 - (v) name, address and Goods and Services Tax Identification Number of the Input Service Distributor;
 - (vi) taxable value, rate and amount of the credit to be transferred; and
 - (vii) signature or digital signature of the registered person or his authorised representative.

Invoice in case
of transfer of
RCM credit in
the Same State


INVOICE [Rule 54(1A)]		
<div>XYZ</div>		<div>XYZ INDIA PVT.LTD. District Centre, Saket, New Delhi - 110017 GSTIN : 07AAACX2222D1ZY</div>
<div>Name: XYZ India Private Limited Address: District Centre, Saket, New Delhi - 110017 GSTIN: 07AAACX2222D2ZA</div>		<div>QR Code</div>
<div>IRN:</div>		
<div>Invoice No.: RCM-ISD-000001 Invoice Date: 30-06-2025</div>		
Sl No.	Particulars	Amount
1	<div>Transfer of Common Input Tax Credit (RCM) to ISD GST Number</div> <div>Invoice Number of Supplier: IND\$2503 GSTIN of Supplier: Unregistered Nature of Payment: Import of Services</div> <div>Taxable Value CGST @ 9% SGST @ 9%</div>	<div>6,32,475.18</div> <div>6,32,475.18 56,922.77 56,922.77</div>
Grand Total >>>		7,46,320.71
<div>Amount in Words Seven Lac fourty six thousand three hundred and twenty rupees seven one paise</div>		
<div>SAC: 998599</div>		
<div>I / We hereby certify that the particulars given above are true and correct for the distribution of credit</div>		
<div>For XYZ India Private Limited</div>		
Authorised Signatory		E.&.O.E.

Invoice in case
of transfer of
RCM credit in
the Different
State

Invoice in case of transfer of RCM credit in the Different State

INVOICE [Rule 54(1A)]		
<div>XYZ</div>		<div>XYZ INDIA PVT.LTD.</div> <div>District Centre, Saket, New Delhi - 110017</div> <div>GSTIN : 07AAACX2222D1ZY</div>
<div>Name: XYZ India Private Limited</div> <div>Address:</div> <div>JMD Megapolis, Sector 48, Gurugram</div> <div>GSTIN: 06AAACX2222D2ZA</div>		<div>QR Code</div>
<div>IRN:</div>		
<div>Invoice No.: RCM-ISD-000001</div> <div>Invoice Date: 30-06-2025</div>		
Sl No.	Particulars	Amount
1	<div>Transfer of Common Input Tax Credit (RCM) to ISD GST Number</div> <div>Invoice Number of Supplier: IND\$2503</div> <div>GSTIN of Supplier: Unregistered</div> <div>Nature of Payment Import of Services</div>	6,32,475.18
	<div>Taxable Value</div> <div>IGST @ 18%</div>	<div>6,32,475.18</div> <div>1,13,845.53</div>
Grand Total >>>		7,46,320.71
<div>Amount in Words</div> <div>Seven Lac fourty six thousand three hundred and twenty rupees seven one paise</div>		
<div>SAC: 998599</div>		
<div>I / We hereby certify that the particulars given above are true and correct for the distribution of credit</div>		
<div>For XYZ India Private Limited</div> <div>Authorised Signatory</div>		
		E.&.O.E.

GSTR-6A



Goods and Services Tax

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GSTR6A - Details of supplies auto-drafted from GSTR-1/1A

GSTIN -

Legal Name -

Trade Name -

FY

PRIVATE LIMITED

PRIVATE LIMITED

Return Period -

Input tax credit received for distribution

Debit / Credit notes (including amendments thereof) received during current tax period

Amendments to Input tax credit received for distribution

Amendments to Credit/Debit Notes received during current tax period

BACK

Input tax credit received for distribution			
Supplier/ECO details	Supplier/ECO name	GSTR-1/IFF/GSTR-1A/GSTR-5 Filing Status	GSTR-1/IFF/GSTR-1A/GSTR-5 Filing Period
	... LIMITED	YES	
	... ENTERPRISES	YES	
	... LIMITED	YES	
	... PRIVATE LIMITED	YES	
	... LIMITED	YES	

<<

1

2

3

4

5

6

7

...

28

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Dashboard > Returns > GSTR6A > B2B

B2B Invoice Summary											
Uploaded by Supplier/ECO											
Invoice No.	Invoice Date	Place Of Supply	Total Invoice Value (₹)	Total Taxable Value (₹)	Integrated Tax (₹)	Central Tax (₹)	State/UT tax (₹)	CESS (₹)	Source	IRN	IRN date
	28-06-2025	Haryana	26,078.00	22,100.00	0.00	1,989.00	1,989.00	0.00			

GSTR-6 - Invoice Details

 To Add / View Details in a Particular Table Please Click in the Respective Table.

3 - Input tax credit received for distribution

Count of records	639
• Validated records	639
• Validated with error	0
• To be validated	0

6A - Amendment of information furnished in earlier returns in Table 3

Count of records	0
• Validated records	0
• Validated with error	0
• To be validated	0

6B - Credit Notes/Debit Notes received

Count of records	8
• Validated records	8
• Validated with error	0
• To be validated	0

6C - Amendment of Credit Notes/Debit Notes received

Count of records	0
• Validated records	0
• Validated with error	0
• To be validated	0

GSTR-6 - ITC Distribution

4 - Total ITC available and Eligible ITC/Ineligible ITC distributed

Total ITC available	Total Eligible ITC
₹1,38,03,656.96	₹1,38,03,656.96
Total Ineligible ITC	
₹0.00	

5, 8 - Distribution of input tax credit (ISD Invoices & ISD Credit notes)

Count of records	5
• Validated records	5
• Validated with error	0
• To be validated	0

9 - Redistribution of ITC distributed in earlier returns

Count of records	0
• Validated records	0
• Validated with error	0
• To be validated	0

Processed Records

Supplier's GSTIN	No. of invoices
	2
	2
	5
	2
	5

B2B Invoice Summary



Uploaded by Supplier Uploaded by Receiver

Processed Records

Invoice no.	Invoice date	Invoice value (₹)	Taxable value (₹)	Integrated tax (₹)	Central tax (₹)	State/UT tax (₹)	CESS (₹)	Actions
-----	18/06/2025	3,260.99	3,105.70	155.29	0.00	0.00	0.00	
	10/06/2025	8,638.98	8,227.60	411.38	0.00	0.00	0.00	
	27/05/2025	4,218.01	4,017.15	200.86	0.00	0.00	0.00	
-----↑	23/06/2025	2,450.02	2,333.35	116.67	0.00	0.00	0.00	
	04/05/2025	5,539.00	5,275.24	263.76	0.00	0.00	0.00	

i Total ITC available for distribution shall be auto updated based on the inward supplies reported in table no. 3 and 6 except where Place of Supply(PoS) lies in Supplier's State in case of inter-State supplies. ITC taken back through issue of ISD credit note(s) will also be added to the total credit available for distribution. ✕

Description	Integrated tax (₹)	Central tax (₹)	State/UT tax (₹)	Cess (₹)
a. Total ITC available for distribution	1,22,52,304.80	7,75,676.08	7,75,676.08	0.00
b. Amount of eligible ITC	1,37,37,805.30	32,925.83	32,925.83	0.00
c. Amount of ineligible ITC	0.00	0.00	0.00	0.00

Distributed credit reconciliation table

Description	Amount of ITC distributed including negative amounts in table 4A	Utilization of ITC for distribution			
		Integrated tax (₹)	Central tax (₹)	State/UT tax (₹)	Cess (₹)
1	2	3	4	5	6
Integrated tax (₹)	1,37,37,805.30	1,22,52,304.80	7,42,750.25	7,42,750.25	
Central tax (₹)	32,925.83	0.00	32,925.83		
State / UT tax (₹)	32,925.83	0.00		32,925.83	
Cess (₹)	0.00				0.00
Total	1,38,03,656.96	1,22,52,304.80	7,75,676.08	7,75,676.08	0.00

Processed Records

Recipient details	Document type	No. of documents
	ISD Invoice	1
	ISD Invoice	1
	ISD Invoice	1
	ISD Invoice	1
	ISD Invoice	1

Pending Records (These will be added after validation)

Recipient details	Document type	No. of documents
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Input Service Distribution - Summary

Uploaded by Taxpayer



ADD DOCUMENT

Processed Records

Document no.	Document date	Credit note no.	Credit note date	Document Type	Integrated tax (₹)	Central tax (₹)	State/UT tax (₹)	Cess (₹)	Actions
GGN-ISD-00000012	30/06/2025	-	-	REGISTER	62,871.01	0.00	0.00	0.00	<div></div>

BACK

S.No.	Type of Expense	ISD / Cross Charge	Reason
1.	Bank Charges	ISD / Cross Charge (depending upon the facts)	<p>If banking services are always controlled from HO and the limits of the transactions are covered from HO, then the such expenses can be allocated to other registrations through cross charge mechanism.</p> <p>Where banking services are used simultaneously at the HO and the branches with simultaneous control from HO, then credit may be distributed through ISD as the expense is then related to the specific locations.</p>

S.No.	Type of Expense	ISD / Cross Charge	Reason
2.	Manpower Supply Services	ISD / Cross Charge (depending upon the facts)	<p><u>Manpower services received at HO:</u> Manpower services received at HO through manpower supply agencies. Such manpower is not on the roles of company (also known as “off-role staff”). Such off-role staff provide services in various functions (say finance, sales or marketing) to the HO and accordingly, the input services are first consumed at HO to further make supplies to other registrations. Manpower supply expense for such manpower may be allocated to other registrations by way of cross charge.</p> <p><u>Manpower services received at Branches:</u> Such staff provide services to the respective locations who hire the services of manpower agencies and accordingly, such manpower expense may be allocated to the respective units by way of an ISD.</p>

S.No.	Type of Expense	ISD / Cross Charge	Reason
3.	Audit Services	ISD / Cross Charge (depending upon the facts)	<p>Where audit involves verification of records only at HO and the records of branches are checked merely for the verification of records at the HO, then such expenses can be allocated through cross charge.</p> <p>However, where the audit services involve a full audit procedure for the stocks at the branches, the records at the branches and other compliance procedures at the branches (say in Statutory Audit), then credit can be distributed through ISD mechanism.</p>

S.No.	Type of Expense	ISD / Cross Charge	Reason
4.	Legal Services	ISD	<p>If legal services pertain to a specific location, e.g., litigation services for tax demand on a single unit, credit would be distributed through ISD mechanism.</p> <p>It would however be relevant to note that an ISD cannot pay tax under RCM. Legal services currently attract tax under RCM and accordingly, ISD registration may not be able to pay GST on such services. Therefore, where the legal services are attributable to a particular unit, the invoice can directly be raised on the respective unit who can pay tax under RCM and take credit directly.</p> <p>Where services are received by HO and used by HO to advise the various offices on legal aspects, e.g., retainership fees paid to advocate for consultancy, credit pertaining to such legal services can be transferred to other registrations through ISD. In this case, payment of tax would be done by any registration of the company in the same state as the ISD and then such registration would raise an invoice on ISD (rule 54(1A))</p>

S.No.	Type of Expense	ISD / Cross Charge	Reason
5.	Housekeeping / repair & maintenance for HO	Cross Charge	These services are directly related to the HO and are therefore, in the nature of the HO receiving the services to make further supplies to other registrations. The expenses can be allocated by way of cross charge.
6.	Recruitment Services / Pre-employment Compliances / Labour Compliances / Employee Training for the entire company	ISD / Cross Charge (depending upon the facts)	<p>If the HO undertakes the recruitment and training procedure for the whole business and thereafter the employees are assigned to the specific locations, the expenses can be allocated by way of cross charge.</p> <p>In case, recruitment services are received by each branch independently and only the invoice is raised on the HO, credit can be distributed through ISD mechanism.</p>

Sr. No.	Type of Expense	ISD / Cross Charge	Reason
7.	Travel agent services for employee based at HO	Cross Charge	Agency expenses for booking tickets and accommodation for employees based in the HO is directly related to the HO. The input services are first consumed at the HO and thereafter , used by the HO to further make supplies to other registrations. The related expenses can be allocated by way of cross charge.
8.	Event Management Services	Cross Charge	Companies generally organizes event for promotion of their brand. It is in the nature of the HO providing the service of usage of brand to various registrations, and the promotion & advertisement is input for HO. HO can allocate such expenses by way of a cross charge to respective locations

Sr. No.	Type of Expense	ISD / Cross Charge	Reason
9.	Telecommunication and Internet Services	ISD / Cross Charge (depending on the facts)	<p>If such telecommunication or internet facility is specific to HO, the same is in nature of services used for further supply of services to respective locations and accordingly, such expenses can be allocated through cross charge mechanism.</p> <p>In case the internet services are used at branches and are only billed to the HO, then credit can be distributed through the ISD mechanism.</p>
10.	IT Services	Cross Charge	<p><u>Expenses for IT software operated and controlled by the HO:</u> Where the software license and agreement is with the HO, the HO can be said to allow the other registrations the use of a software owned and operated by the HO. Therefore, such expenses can be allocated by way of cross charge mechanism.</p>

S.No.	Type of Expense	ISD / Cross Charge	Reason
11.	Insurance	ISD / Cross Charge (depending upon the facts)	In case the insurance is in respect of stock lying with the various registrations, credit may be distributed through ISD, but in case a policy is taken say for a machine installed at the HO, the expense can be allocated through cross charge.
12.	Security for the HO	Cross Charge	The input services are first consumed at HO and thereafter, used by the HO to further make supplies to other registrations. These expenses can accordingly be allocated by way of cross charge.
13.	Custom House Agent (CHA) services	ISD	CHA services may be received for clearance of import consignment which are to be received by respective locations. Accordingly, the credit is in relation to specific registration making the supply and can be distributed through ISD mechanism.

Circular No. 199/11/2023

Dated July 17, 2023

Clarification regarding taxability of services provided by an office of an organisation in one State to the office of that organisation in another State, both being distinct persons.

Requirement of Clarification

1. Various representations have been received seeking clarification on the taxability of activities performed by an office of an organisation in one State to the office of that organisation in another State, which are regarded as distinct persons under section 25 of Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the CGST Act'). The issues raised in the said representations have been examined and to ensure uniformity in the implementation of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act hereby clarifies the issue in succeeding paras.
2. Let us consider a business entity which has Head Office (HO) located in State-1 and a branch offices (BOs) located in other States. The HO procures some input services e.g. security service for the entire organisation from a security agency (third party). HO also provides some other services on their own to branch offices (internally generated services).

ISSUE 1: (Cross Charge Invoice Raised by HO instead of ISD)

Whether HO can avail the input tax credit (hereinafter referred to as 'ITC') in respect of common input services procured from a third party but attributable to both HO and BOs or exclusively to one or more BOs, issue tax invoices under section 31 to the said BOs for the said input services and the BOs can then avail the ITC for the same or whether is it mandatory for the HO to follow the Input Service Distributor (hereinafter referred to as 'ISD') mechanism for distribution of ITC in respect of common input services procured by them from a third party but attributable to both HO and BOs or exclusively to one or more BOs

Clarification

It is clarified that in respect of common input services procured by the HO from a third party but attributable to both HO and BOs or exclusively to one or more BOs, **HO has an option to distribute** ITC in respect of such common input services by following ISD mechanism laid down in Section 20 of CGST Act read with rule 39 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as 'the CGST Rules'). However, **as per the present provisions of the CGST Act and CGST Rules, it is not mandatory for the HO to distribute such input tax credit by ISD mechanism.** HO can also issue tax invoices under section 31 of CGST Act to the concerned BOs in respect of common input services procured from a third party by HO but attributable to the said BOs and the BOs can then avail ITC on the same subject to the provisions of section 16 and 17 of CGST Act. In case, the HO distributes or wishes to distribute ITC to BOs in respect of such common input services through the ISD mechanism as per the provisions of section 20 of CGST Act read with rule 39 of the CGST Rules, HO is required to get itself registered mandatorily as an ISD in accordance with Section 24(viii) of the CGST Act. Further, such distribution of the ITC in respect a common input services procured from a third party can be made by the HO to a BO through ISD mechanism only if the said input services are attributable to the said BO or have actually been provided to the said BO. Similarly, the HO can issue tax invoices under section 31 of CGST Act to the concerned BOs, in respect of any input services, procured by HO from a third party for on or behalf of a BO, only if the said services have actually been provided to the concerned BOs.

ISSUE 2: (Value of Cross Charge if Full ITC- Including Internally Generated Services)

In respect of internally generated services, there may be cases where HO is providing certain services to the BOs for which full input tax credit is available to the concerned BOs. However, HO may not be issuing tax invoice to the concerned BOs with respect to such services, or the HO may not be including the cost of a particular component such as salary cost of employees involved in providing said services while issuing tax invoice to BOs for the services provided by HO to BOs. Whether the HO is mandatorily required to issue invoice to BOs under section 31 of CGST Act for such internally generated services, and/ or whether the cost of all components including salary cost of HO employees involved in providing the said services has to be included in the computation of value of services provided by HO to BOs when full input tax credit is available to the concerned BOs

Clarification

The value of supply of services made by a registered person to a distinct person needs to be determined as per rule 28 of CGST Rules, read with sub-section (4) of section 15 of CGST Act. As per clause (a) of rule 28, the value of supply of goods or services or both between distinct persons shall be the open market value of such supply. The second proviso to rule 28 of CGST Rules provides that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services.

Accordingly, in respect of supply of services by HO to BOs, the value of the said supply of services declared in the invoice by HO shall be deemed to be open market value of such services, if the recipient BO is eligible for full input tax credit. Accordingly, in cases where full input tax credit is available to a BO, the value declared on the invoice by HO to the said BO in respect of a supply of services shall be deemed to be the open market value of such services, irrespective of the fact whether cost of any particular component of such services, like employee cost etc., has been included or not in the value of the services in the invoice.

Further, in such cases where full input tax credit is available to the recipient, if HO has not issued a tax invoice to the BO in respect of any particular services being rendered by HO to the said BO, the value of such services may be deemed to be declared as Nil by HO to BO, and may be deemed as open market value in terms of second proviso to rule 28 of CGST Rules.

ISSUE 3: Value of Cross Charge if No Full ITC for Internally Generated Services

In respect of internally generated services provided by the HO to BOs, in cases where full input tax credit is not available to the concerned BOs, whether the cost of salary of employees of the HO involved in providing said services to the BOs, is mandatorily required to be included while computing the taxable value of the said supply of services provided by HO to BOs.

Clarification

In respect of internally generated services provided by the HO to BOs, the cost of salary of employees of the HO, involved in providing the said services to the BOs, is not mandatorily required to be included while computing the taxable value of the supply of such services, even in cases where full input tax credit is not available to the concerned BO.

Export and Import Provisions under GST: A Comprehensive Overview

This presentation provides a detailed analysis of the export and import provisions under India's Goods and Services Tax (GST) regime, with a particular focus on the Integrated Goods and Services Tax (IGST) Act, 2017. We will delve into key definitions, specific notifications, and the crucial aspects of place of supply for both goods and services.



Circular No. 210/4/2024

Dated June 26, 2024

Clarification on valuation of supply of import of services by a related person where recipient is eligible to full input tax credit—Reg.

As per S.No. 4 of Schedule I of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act'), import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business, is to be treated as supply even if made without consideration.

Circular No. 210/4/2024

Requirement of Circular

Representations have been received from trade and industry stating that demands are being raised by some of the field formations against the registered persons seeking tax on reverse charge basis in respect of certain activities undertaken by their related persons based outside India, by considering the said activities as import of services by the registered person in India, based on an expansive interpretation of the deeming fiction in S.No. 4 of Schedule I of CGST Act, though no consideration is involved in the said activities and the same are not considered as supplies by the said related person in India. It has been represented that the same treatment, which is being given to domestic related parties/ distinct persons as per clarification provided by Circular No. 199/11/2023-GST dated 17.07.2023, may also be provided in cases where a foreign entity is providing service to its related party located in India, in cases where full ITC is available to the said recipient located in India

Circular No. 210/4/2024

Discussion on Rule 28 in Circular

3.1 In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby clarifies the issues as under:

3.2 Rule 28 of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the 'CGST Rules') is reproduced as below:

Rule 28 of the CGST Rules, 2017

Rule 28. Value of supply of goods or services or both between distinct or related persons, other than through an agent. –

- (1) The value of the supply of goods or services or both between distinct persons as specified in sub-section (4) and (5) of section 25 or where the supplier and recipient are related, other than where the supply is made through an agent, shall-
 - (a) be the open market value of such supply;
 - (b) if the open market value is not available, be the value of supply of goods or services of like kind and quality;
 - (c) if the value is not determinable under clause (a) or (b), be the value as determined by the application of rule 30 or rule 31, in that order:

Provided that where the goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to ninety percent of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person:

Provided further that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services.

Circular No. 210/4/2024-Interpretation of Rule 28

3.3 As per second proviso to rule 28(1) of CGST Rules, in cases involving supply of goods or services or both between the distinct or related persons where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the said goods or services.

3.4 It may be noted that vide Circular No. 199/11/2023-GST dated 17.07.2023, clarification has been issued regarding taxability of services provided by an office of an organisation in one State to the office of that organisation in another State, both being distinct persons. It has been clarified in the said circular that as per the second proviso to rule 28(1) of CGST Rules, in respect of supply of services by Head Office(HO) to Branch Offices(BO) of an organisation, the value of the said supply of services declared in the invoice by HO shall be deemed to be open market value of such services, if the recipient BO is eligible for full input tax credit. It has also been clarified vide the said circular that in cases where full input tax credit is available to the recipient, if HO has not issued a tax invoice to the BO in respect of any particular services being rendered by HO to the said BO, the value of such services may be deemed to be declared as Nil by HO to BO, and may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules.

Circular No. 210/4/2024

Domestic to Import of Services

3.5 The second proviso to Rule 28 (1) of CGST Rules, is applicable in all the cases involving supply of goods or services or both between the distinct persons as well as the related persons, in cases where full ITC is available to the recipient. Accordingly, it is evident that the clarification which has been issued vide **Circular No. 199/11/2023-GST** dated 17.07.2023 in respect of supplies of services between distinct persons in cases where full ITC is available to the recipient, is equally applicable in respect of **import of services** between related persons.

3.6 In case of import of services by a registered person in India from a related person located outside India, the tax is required to be paid by the registered person in India under reverse charge mechanism. **In such cases, the registered person in India is required to issue self-invoice under Section 31(3)(f) of CGST Act and pay tax on reverse charge basis.**

Circular No. 210/4/2024

Conclusion of Circular

3.7 In view of the above, it is clarified that in cases where the foreign affiliate is providing certain services to the related domestic entity, and where full input tax credit is available to the said related domestic entity, the value of such supply of services declared in the invoice by the said related domestic entity may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules. Further, in cases where full input tax credit is available to the recipient, if the invoice is not issued by the related domestic entity with respect to any service provided by the foreign affiliate to it, the value of such services may be deemed to be declared as Nil, and may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules

METAL ONE CORPORATION INDIA PVT LTD

Judgement delivered by the HON'BLE HIGH COURT OF DELHI AT NEW DELHI on 22.10.2024

Issue:

GST not paid on import of Services received from their Overseas company under Reverse Charge Mechanism for the period July-17 to March-23 should not be demanded, recovered from them u/s 73(1) of the CGST Act, 2017 (as amended) read with the relevant provisions of Section 20 of IGST Act, 2017 (as amended).

Company have entered into individual employment agreements with the employees of Metal One Corporation Japan, its parent entity, who then also became employees of the writ petitioner

METAL ONE CORPORATION INDIA PVT LTD

Judgement delivered by the HON'BLE HIGH COURT OF DELHI AT NEW DELHI on
22.10.2024

HC View:

It is averred that the Supreme Court in CCE & Service Tax vs. Northern Operating Systems (P) Ltd.⁴ had held that transactions in which an overseas entity had seconded employees to an Indian entity and then charged the employees' salaries borne by the Indian company in the form of reimbursement, the same would qualify as manpower supply by the overseas group company to the Indian subsidiary. It is this decision which appears to have triggered the respondents into action and the various SCNs coming to be consequently issued.

METAL ONE CORPORATION INDIA PVT LTD

Departmental Submission:

That as per provisions of Section 25 of CGST Act, 2017 read with Section 20 of IGST Act, 2017 and Rule 28 of the CGST Rules, 2017, the value of the services in the facts of the present case shall be the open market value of the supply. Further, as the service under consideration is the supply of seconded employee and supply of such seconded employee is common global practice between overseas group company and related party based in India; and for valuation of such services rendered by overseas group company, total consideration given to the "employee" working on temporary deputation in India shall be considered. Therefore, the transaction value of supply of manpower service to the Petitioner shall be the total of consideration actually paid or payable by the Petitioner including the expenses incurred in foreign currency (salary paid by Overseas Group Company in Japan and charged from the Petitioner) as well as in Indian Rupees (salary paid to expats in India in INR).

That the Petitioner, itself admitted, in para 9 of the present petition, that the seconded employees in dispute were employees of its parent overseas company. These seconded employees were hired for a short span of time by the Petitioner and subsequently repatriated to its parent overseas company. Therefore, it is pertinent to say that a relationship of employer-employee is not established between the Petitioner and the seconded employees. The Petitioner has availed the services, which fall under the definition of supply and subsequently, falls under the ambit of Import of Service as well. The said fact is also collaborated with the contract of Employment between the Petitioner and seconded employee, submitted by the Petitioner during the investigation.

METAL ONE CORPORATION INDIA PVT LTD

Hearing by HC:

“Rule 28 – Value of supply of goods or services or both between distinct or related persons, other than through an agent

The value of the supply of goods or services or both between distinct persons as specified in sub-section (4) and (5) of section 25 or where the supplier and recipient are related, other than where the supply is made through an agent, shall-

be the open market value of such supply;

if the open market value is not available, be the value of supply of goods or services of like kind and quality;

if the value is not determinable under clause (a) or (b), be the value as determined by the application of rule 30 or rule 31, in that order

PROVIDED that where the goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to ninety percent of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person:

PROVIDED FURTHER that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services.”

METAL ONE CORPORATION INDIA PVT LTD

Noting by HC: In view below position as taken by the Department itself, it was submission that the impugned notices would not sustain: Petitioner

Mr. Gulati laid emphasis on the Second Proviso to Rule 28 and which prescribes that where the recipient is eligible for full input tax credit, the value as declared in an invoice would be deemed to be the open market value of goods and services. It was, thus, submitted that even if it were assumed that the secondment entailed an import of services, the only tax liability which could arise would be the one which would be governed by the Second Proviso.

Our attention was also drawn to para 3.7 of the Circular No.210/4/2024-GST and which reads as follows:

In view of the above, it is clarified that in cases where the foreign affiliate is providing certain services to the related domestic entity, and where full input tax credit is available to the said related domestic entity, the value of such supply of services declared in the invoice by the said related domestic entity may be deemed as open market value in terms of second proviso to rule 28 (1) of CGST Rules. Further, in cases where full input tax credit is available to the recipient, if the invoice is not issued by the related domestic entity with respect to any service provided by the foreign affiliate to it, the value of such services may be deemed to be declared as Nil, and may be deemed as open market value in terms of second proviso to rule 28 (1) of CGST Rules.”

METAL ONE CORPORATION INDIA PVT LTD

Basis of HC Verdict:

However, and as was noticed by us in our order of 03 October 2024, it is Circular No. 210/4/2024-GST6 of the CBIC which seeks to place all disputes beyond contestation. We had in our previous order taken note of the clarification rendered in Para 3.7 and which stands extracted hereinabove. As per Para 3.7 of that Circular, the CBIC clarifies that **where no invoice is raised by the related domestic entity** in respect of services rendered by its foreign affiliate, the value of such services would be “deemed” to have been declared as “Nil” and that “Nil” value liable to be treated as the market value for the purposes of the Second Proviso to Rule 28.

Undisputedly, although payments, as asserted in the counter affidavit, were made, no invoices came to be raised by the writ petitioners entities in connection with the services provided by their related foreign. It is in the aforesaid backdrop that learned counsels had drawn our attention to the prescriptions contained in Para 3.7 of the Circular. It would perhaps be impossible for any of the respondents to assert that once the value of such services were to be treated or accepted to be “Nil”, no further tax implication under the Act would arise.

METAL ONE CORPORATION INDIA PVT LTD

HC Validity of Circular 210:

While the correctness of the position as advocated in terms of that Circular may be questioned on the ground of whether it would be consistent with the statutory provisions or may be viewed as being contentious or contrary to the intent of the Second Proviso to Rule 28 itself, we are today constrained to proceed further on the basis thereof. We so observe since it may possibly be asserted that the Circular is founded on the tenuous thread of parties choosing to either generate an invoice or simply avoiding to do so. However, in the present matters, it is not for this Court to be boggled by or question the wisdom of the CBIC as the Circular in any case binds the respondents.

METAL ONE CORPORATION INDIA PVT LTD

Finding by HC:

In the facts of the present writ petitions, **it is conceded that no invoices were generated**. In view of the above and in light of the explicit terms of the Circular, **the value of the service rendered would have to be treated as “Nil”**. This would lead one to the inescapable conclusion of no perceivable or plausible tax liability possibly being created. Consequently, we are of the considered opinion that the proceedings initiated in terms of the impugned SCNs“ and their continuance would be futile and impractical. The impugned SCNs are essentially rendered impotent and would serve no practical purpose.

In view of the above, we allow the instant writ petitions and quash the impugned SCNs dated 29 September 2023 [W.P.(C) 14945/2023], 28 September 2023 [W.P.(C) 2039/2024], 27 September 2023 [W.P.(C) 4834/2024], 28 September 2023 [W.P.(C) 4979/2024] and 31 May 2024 [W.P.(C) 9801/2024] to the extent as clarified in Para 19 below. We further quash the consequential impugned Orders-in- Original dated 29 December 2023 in W.P.(C) 4834/2024 and 30 December 2023 in W.P.(C) 4979/2024 for reasons aforenoted.

SONY INDIA DECISION – SELF INVOICE ISSUE

Insofar as W.P.(C) 4834/2024 is concerned, we note that a final Order-in-Original came to be passed on 29 December 2023. The petitioner, Sony India Private Limited, had of its own violation and undisputedly, discharged the tax liability proceeding on the basis of Rule 28 and a perceived obligation to pay tax under the Act. The Order-in-Original however imposes a liability of interest and penalty upon that writ petitioner by invoking Section 15 along with Section 73(9). It is also undisputed before us that Sony India Private Limited had not only paid the tax but had also taken credit on a reverse charge basis.

In our considered opinion, once the position to govern all assesseees pan-India came to be clarified by the CBIC, the continuation of penalty proceedings or for that matter the imposition of interest would not sustain. In light of the stand taken by the CBIC, the petitioner, Sony India Private Limited, would have stood absolved of all tax liabilities and implications flowing from the Act.

Export & Import of Goods : General Definition

Section 2(5) of the IGST Act, 2017

“export of goods” with its grammatical variation and cognate expressions, meaning taking goods out of India to a place outside India.

Section 2(10) of the IGST Act, 2017

“import of goods” with its grammatical variations and cognate expressions, means bringing goods into India from a place outside India;



Place of Supply of Goods

Section 11. - Place of supply of goods imported into, or exported from India.

11. The place of supply of goods, –

(a) imported into India shall be the location of the importer;

(b) exported from India shall be the location outside India.

Export of Services: General Definition

Section 2(6) of the IGST Act, 2017

“export of services” means the supply of any service when, -

- (i) the supplier of service is located in India;*
- (ii) the recipient of service is located outside India;|*
- (iii) the place of supply of service is outside India;*
- (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange 1[or in Indian rupees wherever permitted by the Reserve Bank of India]; and*
- (v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;*

Import of Services: General Definition

Section 2(11) of the IGST Act, 2017

“import of services” means the supply of any service where, -

(i) the supplier of service is located outside India;

(ii) the recipient of service is located in India;|

(iii) the place of supply of service is in India;

Place of Supply of Services

Section 13. - Place of supply of services where **location of supplier** or **location of recipient is outside India**.

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

(2) The place of supply of services except the services specified in sub-sections (3) to (13) shall be the location of the recipient of services:

Provided that where the location of the recipient of services is not available in the ordinary course of business, the place of supply shall be the location of the supplier of services.

Place of Supply of Services

13.(3) The place of supply of the following services shall be the location where the services are actually performed, namely:-

- (a) services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services:

Provided that when such services are provided from a remote location by way of electronic means, the place of supply shall be the location where goods are situated at the time of supply of services:

Provided further that nothing contained in this clause shall apply in the case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India, other than that which is required for such repairs or treatment or process;

- (b) services supplied to an individual, represented either as the recipient of services or a person acting on behalf of the recipient, which require the physical presence of the recipient or the person acting on his behalf, with the supplier for the supply of services.

Place of Supply of Services

13.(4) The place of supply of services supplied directly in relation to an immovable property, including services supplied in this regard by experts and estate agents, supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called, grant of rights to use immovable property, services for carrying out or co-ordination of construction work, including that of architects or interior decorators, shall be the place where the immovable property is located or intended to be located.

13.(5) The place of supply of services supplied by way of admission to, or organisation of a cultural, artistic, sporting, scientific, educational or entertainment event, or a celebration, conference, fair, exhibition or similar events, and of services ancillary to such admission or organisation, shall be the place where the event is actually held.

Place of Supply of Services

13.(6) Where any services referred to in sub-section (3) or sub-section (4) or sub-section (5) is supplied at more than one location, including a location in the taxable territory, its place of supply shall be the location in the taxable territory.

13.(7) Where the services referred to in sub-section (3) or sub-section (4) or sub-section (5) are supplied in more than one State or Union territory, the place of supply of such services shall be taken as being in each of the respective States or Union territories and the value of such supplies specific to each State or Union territory shall be 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.

Place of Supply of Services

- 13.(8) The place of supply of the following services shall be the **location of the supplier of services**, namely:–
- (a) services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders;
 - (b) intermediary services;
 - (c) services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, **up to a period of one month.**

Explanation: For the purposes of this sub-section, the expression,–

- (a) “account” means an account bearing interest to the depositor, and includes a non-resident external account and a non-resident ordinary account;
- (b) “banking company” shall have the same meaning as assigned to it under clause (a) of section 45A of the Reserve Bank of India Act, 1934; (2 of 1934.)
- (c) “financial institution” shall have the same meaning as assigned to it in clause (c) of section 45-I of the Reserve Bank of India Act, 1934; (2 of 1934.)
- (d) “non-banking financial company” means,—
 - (i) a financial institution which is a company;
 - (ii) a non-banking institution which is a company and which has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner, or lending in any manner; or
 - (iii) such other non-banking institution or class of such institutions, as the Reserve Bank of India may, with the previous approval of the Central Government and by notification in the Official Gazette, specify.

Place of Supply of Services

13.(9) **Omitted vide THE FINANCE ACT, 2023** dated 31-03-2023 w.e.f. 01-10-2023 before it was read as,

(9) The place of supply of services of transportation of goods, other than by way of mail or courier, shall be the place of destination of such goods.

Place of Supply of Services

13.(10) The place of supply in respect of passenger transportation services shall be the place where the **passenger embarks on the conveyance** for a continuous journey.

13.(11) The place of supply of services provided on board a conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board, shall be the **first scheduled point of departure of that conveyance** for the journey.

Online Information and Database Access or Retrieval Services (OIDAR)

Section 2(17) of the IGST Act, 2017

“online information and database access or retrieval services” means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply impossible to ensure in the absence of information technology and includes electronic services such as,—

- (i) advertising on the internet;
- (ii) providing cloud services;
- (iii) provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;
- (iv) providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;
- (v) online supplies of digital content (movies, television shows, music and the like);
- (vi) digital data storage; and
- (vii) online gaming, excluding the online money gaming as defined in clause (80B) of section 2 of the Central Goods and Services Tax Act, 2017 (12 of 2017.);

Place of Supply of Services - OIDAR

13.(12) The place of supply of online information and database access or retrieval services shall be the **location of the recipient of services.**

Explanation. - For the purposes of this sub-section, person receiving such services shall be **deemed to be located in the taxable territory**, if **any two** of the following non-contradictory conditions are satisfied, namely:—

- (a) the location of **address presented by the recipient of services** through internet is in the taxable territory;
- (b) the **credit card or debit card** or store value card or charge card or smart card or any other card by which the recipient of services settles payment has been issued in the taxable territory;
- (c) the **billing address of the recipient** of services is in the taxable territory;
- (d) the **internet protocol address** of the device used by the recipient of services is in the taxable territory;
- (e) the **bank of the recipient** of services in which the account used for payment is maintained is in the taxable territory;
- (f) the **country code of the subscriber identity module card** used by the recipient of services is of taxable territory;
- (g) the **location of the fixed land line** through which the service is received by the recipient is in the taxable territory.

Place of Supply of Services

13.(13) In order to prevent double taxation or non-taxation of the supply of a service, or for the uniform application of rules, the Government shall have the power to notify any description of services or circumstances in which the place of supply shall be the place of effective use and enjoyment of a service.

Merchant Export

Section 11 – Power to grant exemption from tax. Or Section 6 of the IGST Act, 2017

- (1) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by notification, exempt generally, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification.*
- (2) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by special order in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.*
- (3) The Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.*

Explanation. - For the purposes of this section, where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely, the registered person supplying such goods or services or both shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both.

Merchant Export

Notification No. 40/2017 – Central Tax (Rate), dated Oct 23. 2017

G.S.R. 1320 (E).- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as “the said Act”), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the intra-State supply of taxable goods (hereafter in this notification referred to as “the said goods”) by a registered supplier to a registered recipient for export, from so much of the central tax leviable thereon under section 9 of the said Act, as is in excess of the amount calculated at the rate of 0.05 per cent., subject to fulfilment of the following conditions, namely: -

Notification No. 41/2017 – Integrated Tax (Rate), dated Oct 23. 2017

G.S.R.1321(E).- In exercise of the powers conferred by sub-section (1) of section 6 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), (hereafter in this notification referred to as “the said Act”), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the inter-State supply of taxable goods (hereafter in this notification referred to as “the said goods”) by a registered supplier to a registered recipient for export, from so much of the integrated tax leviable thereon under section 5 of the Integrated Good and Services Tax Act, 2017 (13 of 2017), as is in excess of the amount calculated at the rate of 0.1 per cent., subject to fulfilment of the following conditions, namely: -

Not No. 40/2017 – CT(Rate) / Not. No. 41/2017 – IT(Rate) - Conditions

- (i) the registered supplier shall supply the goods to the registered recipient on a tax invoice;
- (ii) the registered recipient shall export the said goods within a period of ninety days from the date of issue of a tax invoice by the registered supplier;
- (iii) the registered recipient shall indicate the Goods and Services Tax Identification Number of the registered supplier and the tax invoice number issued by the registered supplier in respect of the said goods in the shipping bill or bill of export, as the case may be;
- (iv) the registered recipient shall be registered with an Export Promotion Council or a Commodity Board recognised by the Department of Commerce;
- (v) the registered recipient shall place an order on registered supplier for procuring goods at concessional rate and a copy of the same shall also be provided to the jurisdictional tax officer of the registered supplier;

Not No. 40/2017 – CT(Rate) / Not. No. 41/2017 – IT(Rate) – Conditions.....contd

(vi) the registered recipient shall move the said goods from place of registered supplier –

- (a) directly to the Port, Inland Container Depot, Airport or Land Customs Station from where the said goods are to be exported; or*
- (b) directly to a registered warehouse from where the said goods shall be move to the Port, Inland Container Depot, Airport or Land Customs Station from where the said goods are to be exported;*

(vii) if the registered recipient intends to aggregate supplies from multiple registered suppliers and then export, the goods from each registered supplier shall move to a registered warehouse and after aggregation, the registered recipient shall move goods to the Port, Inland Container Depot, Airport or Land Customs Station from where they shall be exported;

(viii) in case of situation referred to in condition (vii), the registered recipient shall endorse receipt of goods on the tax invoice and also obtain acknowledgement of receipt of goods in the registered warehouse from the warehouse operator and the endorsed tax invoice and the acknowledgment of the warehouse operator shall be provided to the registered supplier as well as to the jurisdictional tax officer of such supplier; and

Not No. 40/2017 – CT(Rate) / Not. No. 41/2017 – IT(Rate) –

Conditions.....contd.

(ix) when goods have been exported, the registered recipient shall provide copy of shipping bill or bill of export containing details of Goods and Services Tax Identification Number (GSTIN) and tax invoice of the registered supplier along with proof of export general manifest or export report having been filed to the registered supplier as well as jurisdictional tax officer of such supplier.

(2) The registered supplier **shall not be eligible** for the above mentioned exemption if the registered recipient fails to export the said goods within a period of ninety days from the date of issue of tax invoice.

Circular No. 42/2017 - CUSTOMS

(2) The GST council in its 22nd meeting has also approved the GST rate of 0.1% for supplies to merchant exporter and Notification No. 41/2017 – Integrated Tax (Rate), Notification No. 40/2017 – CGST (Rate) and Notification No. 40/2017 – UTGST (Rate), all dated 23rd October, 2017 have been issued to that effect. The said benefit is subjected to the conditions mentioned in aforementioned notifications. The merchant exporter are advised to take following precautions to avail the benefit of the scheme:

- (i) The Name and GSTIN of the Registered Supplier should be provided against each item in the Third Party details column of shipping bill. The GST invoice details of the registered supplier of each item should be declared in the ARE Certificate and Date Columns in the shipping bill format. Necessary changes have already been done in ICES application. The third party details would be printed in the shipping bill copies for fulfillment of notification conditions.*
- (ii) Further in case of export consignment containing multiple supplies by the registered supplier, the registered recipient (merchant exporter) need to provide details of all registered suppliers and corresponding invoices against each item in the shipping bills.*

Circular No. 42/2017 – CUSTOMS....contd

(iii) For the purpose of above mentioned notifications, concerning supply to registered recipient at concessional GST, registered principal place of business or registered additional place of business shall be deemed to be a “registered warehouse”.

(iv) Registered recipients (Merchant Exporter) may, if required, exclude commercially sensitive information while providing copies of Shipping Bills to registered suppliers.

High Sea Sales

High Sea Sales [HSS] is a common trade practice whereby the original importer of goods sells the subject goods to a third person before the goods are entered for custom clearance.

HSS in general understanding is a sale where the importer sells the goods to another buyer **after the goods are loaded on a carrier** such as ship, aircraft in exporter's country while the goods are yet on high seas or in the air or sale of the goods after their dispatch from the port/airport of export and **before their arrival at the destination** port/airport.

There is no bar on the same goods being sold more than once on high seas. The same consignment of goods in transit can be sold multiple times **before such goods cross custom frontier and enter into the territory of India.**

High Sea Sales

In the case of HSS, the end HSS buyer would be treated as an importer. He clears the goods from customs on payment of applicable import duties. Further, if there is any end user-based exemptions in respect of the goods, then such end HSS buyer who uses such goods, for specified purposes can claim such exemptions/concessional tax benefits when he presents the bill of entry for home consumption at customs.

For example, the goods imported by EOUs or SEZs are normally exempted from the payment of BCD and IGST on the import of goods. Where the HSS seller purchases the goods from outside India and enters into an HSS contract with an EOU or SEZ when such goods are in the transit, such EOU or SEZ would not be required to pay BCD and IGST when it files the bill of entry for home consumption.

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Whether GST Applicable on High Sea Sales?

Schedule III - ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES

8(b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.]¹

[1] Inserted vide Central Goods and Services Tax (Amendment) Act, 2018 w.e.f 01-02-2019, deemed to be inserted w.e.f. 1.7.2017 vide Finance Act, 2023 (subject to the conditions that, No refund shall be made of all the tax which has been collected)

ITC Reversal on High Sea Sales?

Section 17(3) The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

Explanation: For the purposes of this sub-section, the expression “value of exempt supply” shall not include the value of activities or transactions specified in Schedule III,

except, -

- (i) the value of activities or transactions specified in paragraph 5 of the said Schedule; and*
- (ii) the value of such activities or transactions as may be prescribed in respect of clause (a) of paragraph 8 of the said Schedule.*

Merchant Trade

Merchant Trade transaction is a transaction which involves shipment of goods from one foreign country to another foreign country involving an Indian Trader. Such transactions are basically procurement and/or supply under 'Bill to-Ship-to' arrangement. A 'person/consignor' in India, without physically importing the goods into India, procures goods from a supplier outside India and supplies the same goods to another 'person/consignee' outside India. The commencement of merchanting trade would be the date of shipment/export leg receipt or import leg payment, whichever is first. The completion date would be the date of shipment / export leg receipt or import leg payment, whichever is the last.

Exempt Supplies	Zero Rated Supplies
<i>exempt supply” means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11 of CGST Act or under section 6 of the IGST Act, and includes non-taxable supply</i>	<i>“zero-rated supply” shall have the meaning assigned to it in section 16</i>
<i>No tax on the outward exempted supplies, however, the input supplies used for making exempt supplies to be taxed</i>	<i>No tax on the outward supplies; Input supplies also to be tax free</i>
<i>Credit of input tax needs to be reversed, if taken; No ITC on the exempted supplies</i>	<i>Credit of input tax may be availed for making zero-rated supplies, even if such supply is an exempt supply ITC allowed on zero rated supplies</i>
<i>Value of exempt supplies, for apportionment of ITC, shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.</i>	<i>Value of zero rated supplies shall be added along with the taxable supplies for apportionment of ITC</i>
<i>Any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under the CGST or IGST Act shall not be liable to registration</i>	<i>A person exclusively making zero rated supplies may have to register as refunds of unutilised ITC or integrated tax paid shall have to be claimed</i>
<i>A registered person supplying exempted goods or services or both shall issue, instead of a tax invoice, a bill of supply</i>	<i>Normal tax invoice shall be issued</i>

Deemed Export: Definition

Section 2(39). “*deemed exports*” means such supplies of goods as may be notified under section 147.

Section 147. –

The Government may, on the recommendations of the Council, notify certain supplies of goods as deemed exports, where goods supplied do not leave India, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange, if such goods are manufactured in India.

Deemed Export: Notified Supplies:

Not. No. 48/2017 – CT, dated Oct 18, 2017

S.No.	Description of Supply
(1)	(2)
	Supply of goods by a registered person against Advance Authorisation
1.	<p>Provided that goods so supplied, when exports have already been made after availing input tax credit on inputs used in manufacture of such exports, shall be used in manufacture and supply of taxable goods (other than nil rated or fully exempted goods) and a certificate to this effect from a chartered accountant is submitted to the jurisdictional commissioner of GST or any other officer authorised by him within 6 months of such supply,;</p> <p>Provided further that no such certificate shall be required if input tax credit has not been availed on inputs used in manufacture of export goods.</p>
2.	Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation
3.	Supply of goods by a registered person to Export Oriented Unit
4.	Supply of gold by a bank or Public Sector Undertaking specified in the notification No. 50/2017-Customs, dated the 30th June, 2017 (as amended) against Advance Authorisation.

Deemed Export: Explanation (Not. No. 48/2017)

(1)

Advance Authorisation

An authorisation issued by the Directorate General of Foreign Trade (DGFT) under Chapter 4 of the Foreign Trade Policy (2015-20) for import or domestic procurement of inputs for physical export.

This scheme aims to allow duty-free import of inputs required for manufacturing export products.

(2)

Export Promotion Capital Goods (EPCG) Authorisation

An authorisation issued by the DGFT under Chapter 5 of the Foreign Trade Policy (2015-20) for import of capital goods for physical exports.

The objective is to promote exports by enabling exporters to upgrade their production facilities.

(3)

Export Oriented Unit (EOU)

Means an Export Oriented Unit or Electronic Hardware Technology Park Units or Software Technology Park Units, or Bio-Technology Park Units approved in accordance with the provisions of Chapter 6 of the Foreign Trade Policy (2015-20).

Thank You!