

# Course on GST

(CE GST course: Place of Supply )

## Related Rulings

Intermediary	Toshniwal Brothers (Karnataka)	Promotional and Marketing services for a foreign company is intermediary.
	Five Star Shipping (Maharashtra)	Collecting the market intelligence information is also is intermediary.
	Vserve Global (Maharashtra)	Back office services for foreign client is is intermediary.
	Global Reach (West Bengal)(AAR & AAAR)	Selling the courses for the foreign university.
Section 13(3) of IGST Act	Sigoma Imaging Technologies	Clicking of the pics of the goods provided by the clients of the recipient will not be export (PoS = India).
	Cliantha Research Private limited	Conducting medical tests on drug provided by the clients of the recipient will not be export (PoS = India).

# Place of Supply in GST

# Section 10 of IGST Act

Section 10 (Goods domestic)

Section 11 (Goods other than domestic)

Section 12 Services (Domestic)

Section 13 Services (other than domestic)

# Section 10 of IGST Act: (a) Movement is required

(a) where the supply involves movement of goods,

- whether by the **supplier** or **the recipient** or by **any other person**,
- the place of supply of such goods shall be the
- **location of the goods**
- at the time at which the **movement of goods terminates**
- for **delivery to the recipient**,

# Section 10 of IGST Act: (b) Bill to ship to

(b) where the goods are delivered by the supplier to

- **a recipient or any other person**
- on the **direction of a third person**,
- whether acting as an agent or otherwise,
- before or during movement of goods,



# Section 10 of IGST Act: (b) Bill to ship to

either by way of transfer of documents of title to the goods or otherwise,

- it shall be **deemed that the said third person has received the goods** and the **place of supply of such goods shall be the principal place of business of such person;**



# Section 10 of IGST Act: (c)

(c) where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient;

# Section 10 of IGST Act: (d)

(d) where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly;

Judicial Precedents:

Sanghvi Movers Ltd.(AAR Maharashtra): Where a tyre mounted and crawler cranes from one office to another office is only for maintenance, it will not be a supply. (Refer circular 1/1/2017 of IGST)

# Section 10 of IGST Act: (e)

(e) where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board.



# Section 11 of IGST Act

# PoS of goods imported in to, or exported from India

The place of supply of goods,—

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

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

# Section 12 of IGST Act



# PoS of domestic services

Section 12(3): Immovable property related

Section 12(4): Personalized services

Section 12(5): Training & performance apprai.

Section 12(6): Admission to an event

Section 12(7): Organization of Event

Section 12(8): Transportation of Goods

Section 12(9): Passenger transportation

Section 12(10): On board a conveyance

Section 12(11): Telecommunication Sr

Section 12(12): Banking, financial Sr.

Section 12(13): Insurance Service

Section 12(14): Adv to CG,SG,SB,LA

# PoS of goods imported in to, or exported from India

The place of supply of goods,—

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

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

# Section 12 of IGST Act

# Section 12(2): General Rule

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

(a) made to a registered person shall be the **location of such person**;

(a) made to any person other than a registered person shall be,—

**(i) the location of the recipient where the address on record exists**; and

**(i) the location of the supplier of services in other cases.**

# Location of recipient: Section 2(14)

“location of the recipient of services” means,—

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



# Section 12(3): Supplies related to immovable property

Place of supply in following cases shall be the location at which the **immovable property or boat or vessel**, as the case may be, is **located or intended to be located**.

(a) directly in relation to an immovable property,

- including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents,
- any service provided by way of grant of rights to use immovable property
- or for carrying out or co-ordination of construction work

# Section 12(3): Supplies related to immovable property

Place of supply in following cases shall be the location at which **the immovable property or boat or vessel**, as the case may be, is **located or intended to be located**.

(b) by way of

- lodging accommodation by a hotel,
- inn, guest house, home stay, club or campsite, by whatever name called,
- and including a house boat or any other vessel; or

# Section 12(3): Supplies related to immovable property

Place of supply in following cases shall be the location at which **the immovable property or boat or vessel**, as the case may be, is **located or intended to be located**.

(c) by way of

- accommodation in any immovable property for
  - ✧ organizing any marriage or reception or matters related thereto,
  - ✧ official, social, cultural, religious or business function
  - ✧ including services provided in relation to such function at such property; or

# Section 12(3): Supplies related to immovable property

Place of supply in following cases shall be the location at which the **immovable property or boat or vessel**, as the case may be, is **located or intended to be located**.

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

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

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



# Section 12(4): Personalized services

The place of supply of

- restaurant and catering services,
- personal grooming,
- Fitness,
- beauty treatment,
- health service including cosmetic and plastic surgery

shall be the location **where the services are actually performed.**

# Section 12(5): Training & performance appraisal

The place of supply of services in relation to training and performance appraisal to,—

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

(b) a person other than a registered person, shall be the location where the services are actually performed



# Section 12(6): Admission to an event

The place of supply of services provided by way of

- admission to a
- cultural, artistic, sporting, scientific, educational, entertainment event or amusement park or any other place
- and services ancillary thereto,

shall be the place where the **event is actually held** or **where the park or such other place is located.**

# Section 12(7): Training & performance appraisal

The place of supply of services provided by way of,—

(a) organization of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of services in relation to a conference, fair, exhibition, celebration or similar events; or

(b) services ancillary to organization of any of the events or services referred to in clause (a),

- or assigning of sponsorship to such events,—

(i) to a **registered person**, shall be the **location of such person**;

(ii) to a person other than a registered person, shall be the place where the **event is actually held** and

- if the event is held **outside India**, the place of supply shall be the **location of the recipient**.

# Section 12(7): Training & performance appraisal

Explanation.—Where the event is held in

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

# Section 12(8):Transportation of Goods

The place of supply of services by way of transportation of goods, including by mail or courier to,—

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

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

*"Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods."*



# Section 12(9):Transportation of Passengers

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

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

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

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

# Section 12(10): Supply on board a conveyance

The place of supply of services on board a conveyance,

- including a vessel, an aircraft, a train or a motor vehicle,
- shall be the location of the **first scheduled point of departure** of that conveyance for the journey



# Section 12(11): Telecommunication services

The place of supply of telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person shall,—

(a) in case of services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna, be the location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services;

(b) in case of mobile connection for telecommunication and internet services provided on post-paid basis, be the location of billing address of the recipient of services on the record of the supplier of services;

# Section 12(11): Telecommunication services

(c) in cases where mobile connection for telecommunication, internet service and direct to home television services are provided on pre-payment basis through a voucher or any other means,—

(i) through a selling agent or a re-seller or a distributor of subscriber identity module card or re-charge voucher, be the address of the selling agent or re-seller or distributor as per the record of the supplier at the time of supply; or

(ii) by any person to the final subscriber, be the location where such prepayment is received or such vouchers are sold;

# Section 12(11): Telecommunication services

(d) in other cases, be the address of the recipient as per the records of the supplier of services and where such address is not available, the place of supply shall be location of the supplier of services:

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

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

# Section 12(11):Telecommunication services

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



# Section 12(12): Banking & Financial services

The place of supply of

- banking and other financial services,
- including stock broking services to any person shall be the

**location of the recipient** of services on the records of the supplier of services:

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

# Section 12(13): Insurance services

The place of supply of insurance services shall,—

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

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



# Section 12(14): Advertisement services to the Govt.

The place of supply of

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

## *Section 13 of IGST Act*

Place of supply of services where location of supplier or location of recipient is outside India.

# Section 13(2): General Rule

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.**

# Section 13(3):where physical presence is req.

(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 repairs or treatment or process without being put to any other use in India, than that which is required for such repairs;

(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.



# Section 13(4): Supplies related to immovable property

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.

# Section 13(5): Admission/ Organization to/of an event

The place of supply of services supplied by way of admission to, or organization 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 organization, shall be the place where the event is actually held.



# Section 13(6):When supply at more than one location

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.

# Section 13(7):When supply at more than one state/UT

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.

# Section 13(8): Where LoS will be the PoS

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.

# Important legal pronouncements on intermediary

**1. Five Star Shipping AAAR Maharashtra:** Where the applicant had entered into consultancy agreement with foreign ship owner (FSO) for supply of Marine Consultancy Services (MCS) and appellant was actually facilitating the supply of main services i.e chartering of vessels by FSO to their clients i.e charterers. It was held that they are acting as an intermediary.

**2. Global reach education services (P) Ltd.(AAAR West Bengal):** The appellant promotes the courses of foreign university in India, finds prospective suitable students to undertake courses, and in accordance with the university procedures and requirements recruits and assists in recruitment of suitable students. Held that it is an intermediary service.

# Meaning of Intermediary: Section 2(13) of IGST Act

*“intermediary” means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account;*



# Important legal pronouncements on intermediary

**3. Mrs Vishakhar Prashant Bhve (AAR Maharashtra);** The Applicant is carrying on trading business in laboratory Equipments / Instruments and other related activity such as servicing, repair and maintenance of laboratory equipment's/ Instruements. It provides services to its principals at Germany by way of procuring purchase orders from the parties in India. Held that he is an intermediary.

**4. Travel Network India (P) Ltd. (AAR Maharashtra) :** The applicant is wholly - owned subsidiary of Sabre Asia Pacific Pte. Ltd. , A leading provider of travel solutions and services across the Globe. Sabre GLOB Inc. , an affiliate of Sabre APAC and Sabre India , has developed a global distribution system. The task of Indian entity was to identify the subscribers to that service. It was held that they are also an intermeiary.

# Important legal pronouncements on intermediary

**5. Toshniwal Brothers(SR) (P) Ltd. (AAR Karnataka)** ; The applicant was engaged in the business of promotion and marketing and after sale support services for scientific instruments for overseas supplier. The applicant was receiving a commission for this activity. The overseas supplier kept the right to accept or reject the contract, but it should inform the decisive reason to applicant. Held that these services are of intermediary nature.

**6. Vserve Global (P) Ltd. (AAR Maharashtra)**: The applicant was providing the back office support services to overseas companies engaged in trading of chemicals and other products in international trade. Held that it is an intermediary services and PoS is in India.

# Section 13(8): Where LoS will be the PoS

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;
- (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;
- (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.

# Section 13(9): Transportation of Goods

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.**



# Section 13(10):Transportation of passenger

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.



# Section 13(11): Services on board a conveyance

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

# Section 13(12):OIDAR Services

The place of supply of OIDAR 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.

# Section 13(13): Right to Govt. to prescribe

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.