



# PLACE OF SUPPLY



*The section numbers referred to in the Chapter pertain to IGST Act, unless otherwise specified.*

## LEARNING OUTCOMES

After studying this Chapter, you will be able to–

- ❑ **explain the provisions relating to determination of place of supply of goods, both in case of domestic as well as cross-border transactions and analyse the same to determine the place of supply in a given situation**
- ❑ **explain the provisions relating to determination of place of supply of services, both in case of domestic as well as cross-border transactions and analyse the same to determine the place of supply in a given situation**



## 1. INTRODUCTION

**GST is a destination-based consumption tax, i.e. the tax is levied on the consumption of supply at the destination thereof or at the point of consumption of such supply. The 'place of supply' denotes the place where the supply is consumed. Thus, place of supply determines the jurisdiction where the tax revenue should reach.**

**SGST of  
Supply  
Place  
IGST  
CGST**

**Goods, usually being tangible do not pose any significant problems for determination of their place of consumption. Services, usually being intangible pose problems w.r.t determination of place of supply mainly due to following factors:**

- ❑ **The manner of delivery of a service could be altered easily.**

**For example, telecom service could change from post-paid to pre-paid or billing address of the customer could be changed, repair or maintenance of software could be changed from onsite to online; banking services earlier required customer to go to the bank, now the customer can avail service from anywhere.**



- ❑ **Service provider, service receiver and the service provided may not be ascertainable or may easily be suppressed as nothing tangible moves and there would hardly be any trail.**



- ❑ **For supplying a service, a fixed location of service provider is not mandatory and even the service recipient may receive service while on the move. The location of billing could be changed overnight.**

- Sometime the same element may flow to more than one location, for example, construction or other services in respect of a railway line, a national highway or a bridge on a river which originate in one State and end in the other State.



Similarly, a copyright for distribution and exhibition of film could be assigned for many states in a single transaction or an advertisement or a programme is broadcasted across the country at the same time.



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



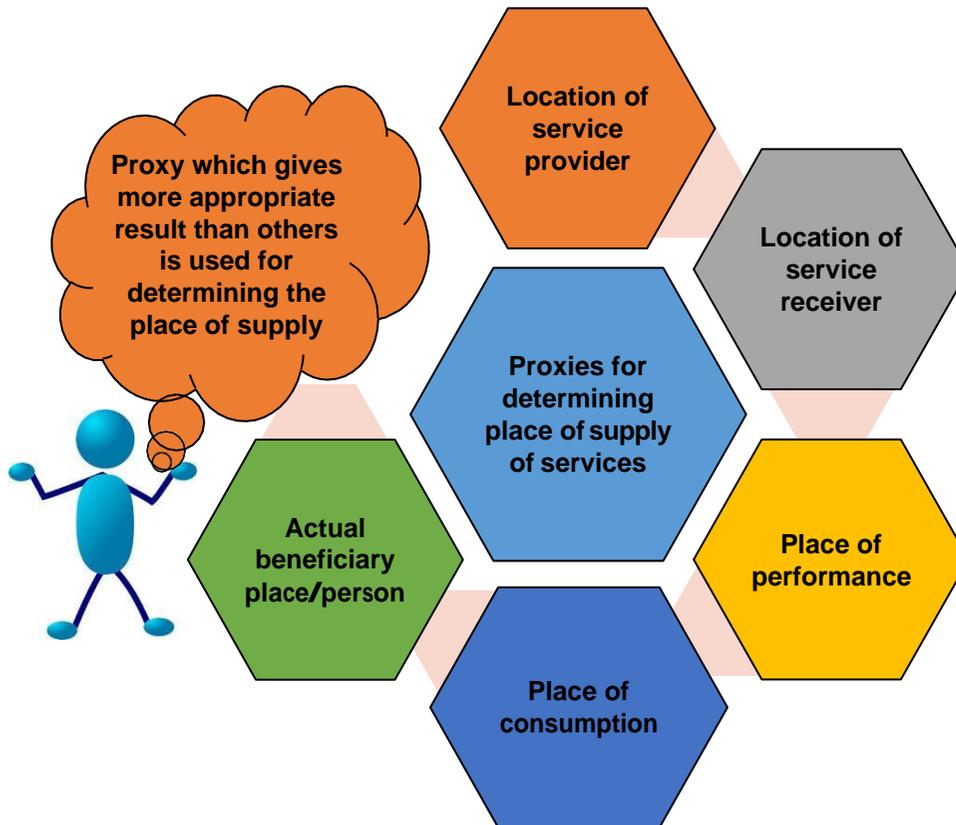
The card issued by New Delhi metro could be used by a person located in Noida, or New Delhi or Faridabad, without the New Delhi metro being able to distinguish the location or journeys at the time of receipt of payment.

- Services are continuously evolving and thus, continue to pose newer challenges. For example, 15-20 years back no one could have thought of DTH, online information, online banking, online booking of tickets, internet, mobile telecommunication etc.

Considering the difficulties in determining the actual place of consumption of services, the various elements involved in a service transaction are used as proxies for determining the place of consumption or place of supply of such services. A proxy which gives more appropriate result than others for determining the place of supply, could be used for determining the place of supply. The various elements used for determining the place of supply of a service are:

- (a) location of service provider
- (b) location of service receiver
- (c) place where the activity takes place/ place of performance

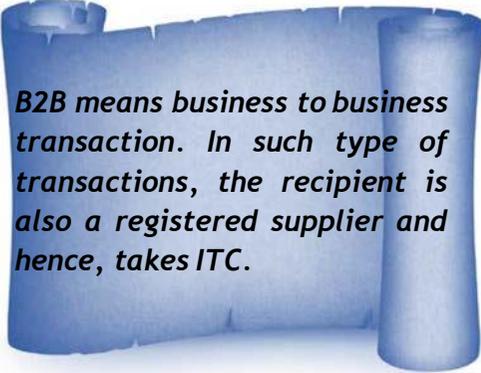
- (d) place where the service is consumed
- (e) place/person to which/whom actual benefit flows



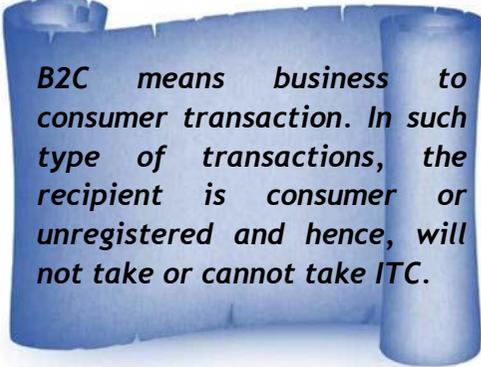
### Separate rules for determining place of supply in respect of B2B and B2C transactions

**In respect of B2B (business to business) transactions, the supply is made by a registered person to another registered person and the taxes paid are taken as credit by the recipient, so such transactions are just pass through. GST collected on B2B supplies effectively create a liability for the Government and an asset for the recipient of such supplies in as much as the recipient is entitled to use the input tax credit (ITC) for payment of future taxes. For B2B transactions, the location of recipient takes care in almost all situations as further credit is to be taken by recipient. The recipient usually further supplies to another customer.**

The supply is consumed only when a B2B transaction is further converted into B2C (business to consumer) transaction. In respect of B2C transactions, the supply is made to an unregistered person who consumes the same and the taxes paid actually reach the Government.



*B2B means business to business transaction. In such type of transactions, the recipient is also a registered supplier and hence, takes ITC.*



*B2C means business to consumer transaction. In such type of transactions, the recipient is consumer or unregistered and hence, will not take or cannot take ITC.*

### Provisions for determination of place of supply in GST law

**Basis the above guiding principles, Chapter V of the IGST Act [Sections 10 to 13] prescribes the provisions relating to place of supply of goods and services in domestic as well as cross-border transactions. The provisions prescribe both general and specific rules to determine place of supply of goods and services in various circumstances.**

**The determination of 'place of supply' and the 'location of the supplier' is essential to ascertain the nature of supply, i.e. whether a supply is intra-State or inter-State. In other words, these two factors are required to determine whether a supply is subject to SGST/UTGST plus CGST in a given State/ Union territory or else would attract IGST if it is an inter-State supply.**

**If an inter-State transaction is wrongly treated as intra-State or *vice-versa* and tax paid accordingly, the correct tax will need to be paid and refund claimed for tax wrongly paid. Though no interest is levied in such a case, procedural requirements increase and working capital gets blocked where the amount involved is huge. Hence, determining correct place of supply is of paramount importance**



## 2. RELEVANT DEFINITIONS



- **Continuous journey** means a journey for which a single or more than one ticket or invoice is issued at the same time, either by a single supplier of service or through an agent acting on behalf of more than one supplier of service, and which involves no stopover between any of the legs of the journey for which one or more separate tickets or invoices are issued.

**Explanation.**—For the purposes of this clause, the term “stopover” means a place where a passenger can disembark either to transfer to another conveyance or break his journey for a certain period in order to resume it at a later point of time [Section 2(3)].

The term conveyance has been defined in section 2(34) of the CGST Act to include a vessel, an aircraft and a vehicle.

- **Export of goods** with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India [Section 2(5)].

This definition is similar to the definition of ‘export’ given under Customs Act, 1962.

- **Export of services** means the supply of any service when
  - (a) the supplier of service is located in India,
  - (b) the recipient of service is located outside India,
  - (c) the place of supply of service is outside India,
  - (d) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India; and
  - (e) the supplier of service and recipient of service are not merely establishments of a distinct person in accordance with explanation 1 of section 8 [Section 2(6)].

As per Explanation 1 to Section 8, the following are treated as establishments of distinct persons:

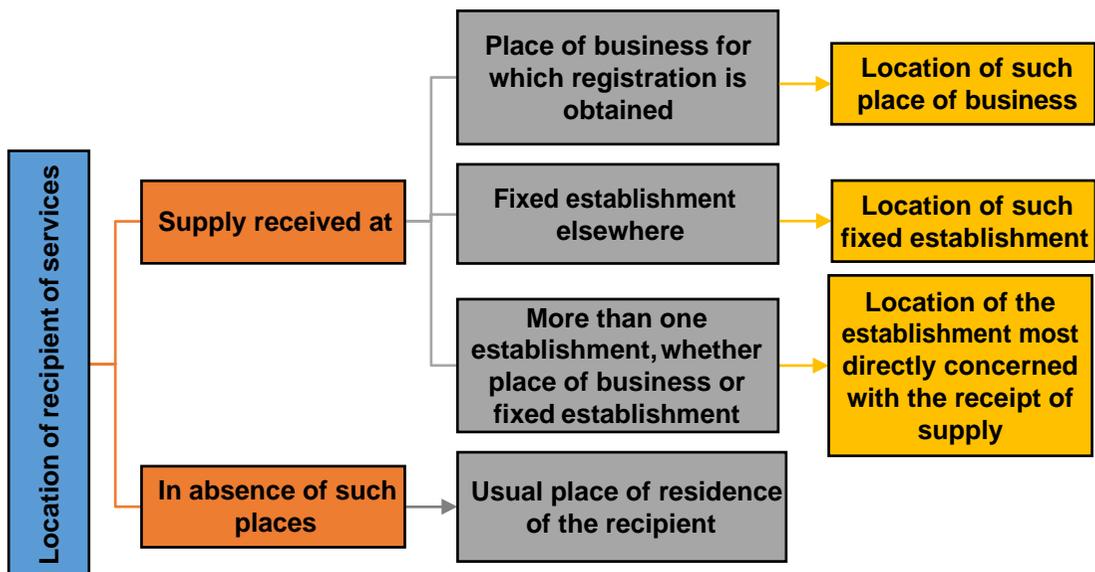
- **an establishment in India and any other establishment outside India;**
  - **an establishment in a State or Union territory and any other establishment outside that State or Union territory; or**
  - **an establishment in a State or Union territory and any other establishment being a registered within that State or Union territory**
- ❑ **Fixed establishment** means a place other than the place of business which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs [Section 2(7)].
- ❑ **Import of goods** with its grammatical variations and cognate expressions, means bringing goods into India from a place outside India [Section 2(10)].  
**This definition is again similar to the definition of ‘import’ under the Customs Act, 1962.**
- In *Kiran Spinning Mills v. CC 1999 (113) ELT 753 (SC 3 member bench)*, it has been held that import is completed only when goods cross the customs barrier.**
- In *Garden Silk Mills Ltd. UOI 1999 AIR SCW 4150 (SC 3 member bench)*, it has been held that import of goods in India commences when they enter into territorial waters but continues and is completed when the goods become part of the mass of goods within the country.**
- ❑ **Import of services** means the supply of any service, where
- (a) **the supplier of service is located outside India,**
  - (b) **the recipient of service is located in India, and**
  - (c) **the place of supply of service is in India [Section 2(11)].**
- ❑ **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 [Section 2(13)].
- ❑ **Location of the recipient of services** means:
- (a) **where a supply is received at a place of business for which 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, that is to say, 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 2(14)].

The definition of 'fixed establishment' for this purpose has been discussed above. The definition of 'place of business' is discussed later.



*The above definition relates only to services. The term 'location of recipient of goods' has not been defined in the Act.*



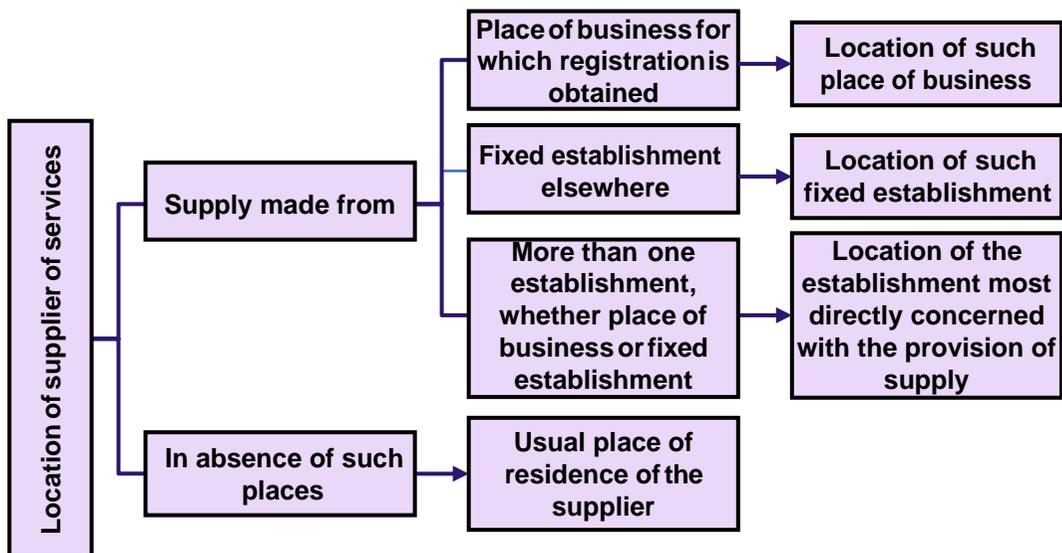
□ **Location of the supplier of services means:**

- (a) where a supply is made from a place of business for which registration has been obtained, the location of such place of business;

- (b) where a supply is made from a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere, the location of such fixed establishment;
- (c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and
- (d) in absence of such places, the location of the usual place of residence of the supplier [Section 2(15)].



*The above definition relates only to services. The term 'location of supplier of goods' has not been defined in the Act.*



- **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 essentially automated and involving minimal human intervention and 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 [Section 2(17)].



□ **Place of business includes**

- (a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or
- (b) a place where a taxable person maintains his books of account; or
- (c) a place where a taxable person is engaged in business through an agent, by whatever name called;



*This is an inclusive definition and is applicable for both goods and services.*

- **Supply shall have the same meaning as assigned to it in section 7 of the Central Goods and Services Tax Act [Section 2(21)].**
- **Recipient of supply of goods or services or both, means—**
  - where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;
  - where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and

- where no consideration is payable for the supply of a service, the person to whom the service is rendered,
  - and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied [Section 2(93) of the CGST Act].
- **Supplier in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied [Section 2(105) of the CGST Act].**
- **Words and expressions used and not defined in the IGST Act but defined in the after supplies Central Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act shall have the same meaning as assigned to them in those Acts [Section 2(24)].**



### 3. PLACE OF SUPPLY OF GOODS OTHER THAN SUPPLY OF GOODS IMPORTED INTO, OR EXPORTED FROM INDIA [SECTION 10]

 <b>STATUTORY PROVISIONS</b>		
<b>Section 10</b>	<i>Place of supply of goods other than supply of goods imported into, or exported from India</i>	
<b>Sub-section</b>	<b>Clause</b>	<b>Particulars</b>
<b>(1)</b>	<i>The place of supply of goods, other than supply of goods imported into, or exported from India, shall be as under,—</i>	
	<b>(a)</b>	<i>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;</i>

	(b)	<i>where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person;</i>
	(c)	<i>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;</i>
	(d)	<i>where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly;</i>
	(e)	<i>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.</i>
(2)	<i>Where the place of supply of goods cannot be determined, the place of supply shall be determined in such manner as may be prescribed.</i>	



## ANALYSIS

Section 10 prescribes the provisions for determining the place of supply of goods in domestic transactions, i.e. within India. **Sub-section (1) of section 10 sets out five rules to provide the place of supply of goods in the following specific situations:**

- ❖ **Supply involving movement of goods**
- ❖ **Goods delivered on 'bill to ship to' model**
- ❖ **Supply not involving movement of goods**
- ❖ **Goods assembled/installed at site**
- ❖ **Goods supplied on board a conveyance**

**Each of the above situation is discussed below. For residual cases, sub-section (2) of section 10 provides that where the place of supply of goods cannot be determined, the Government may prescribe the manner to ascertain the same.**

It must be kept in mind that the provisions of section 10 discussed hereunder are all in relation to domestic supply of goods.

**(i) Supply involving movement of goods [Section 10(1)(a)]**

In case of supply involving movement of goods, the place of supply is the location of the goods at the time when the movement of goods terminates (ends) for delivery to the recipient.

**The 'location of the goods' is a question of fact to be ascertained by observing the journey that the goods so supplied make from their origin (from supplier) to termination (with the recipient). This movement, however, can be undertaken by the supplier or recipient or even any other person (like transporter) after having disclosed the destination of the movement of goods.**

**It is important to understand that this provision does not apply in cases where there is no movement of goods. Also, the provision does not link itself to transfer of property in goods but to the movement of the goods.**



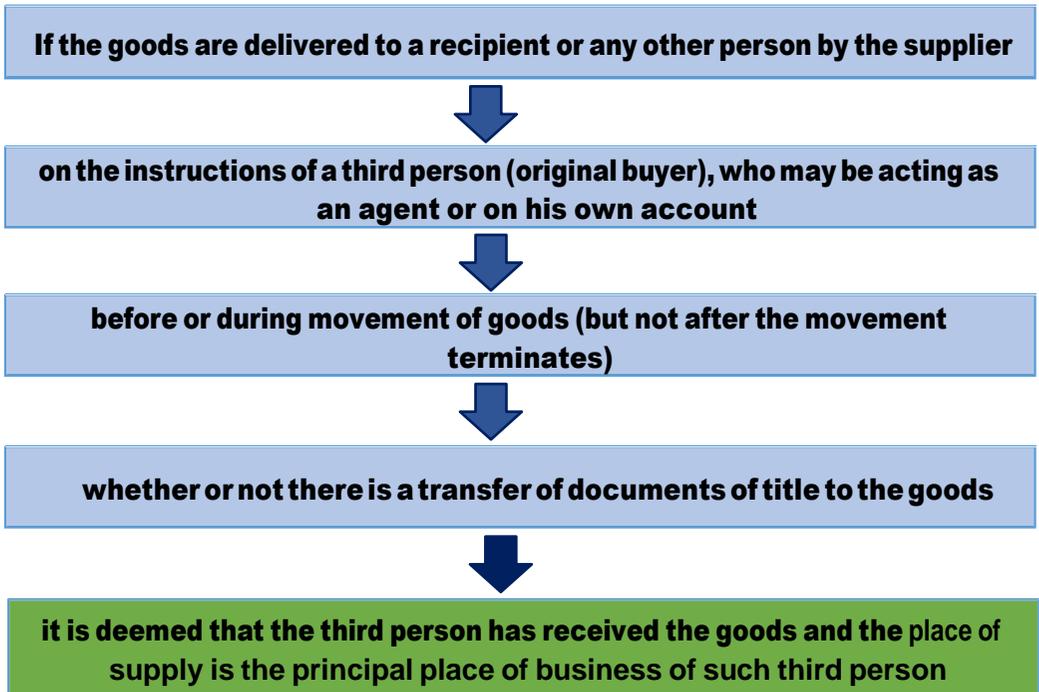
**(1) MA Pvt. Ltd. of Nasik, Maharashtra sells 10 refrigerators to MB Pvt. Ltd. of Pune, Maharashtra for delivery at place of business of MB Pvt. Ltd. in Pune. The place of supply is Pune in Maharashtra.**

**(2) MA Pvt. Ltd. of Nasik, Maharashtra sells 20 refrigerators to MC Pvt. Ltd. of Ahmedabad, Gujarat for delivery at place of business of MC Pvt. Ltd. in Ahmedabad. The place of supply is Ahmedabad.**

**(ii) Supply involving movement of goods where goods are delivered to recipient on the instruction of third person – 'Bill to Ship to' Supply [Section 10(1)(b)]**

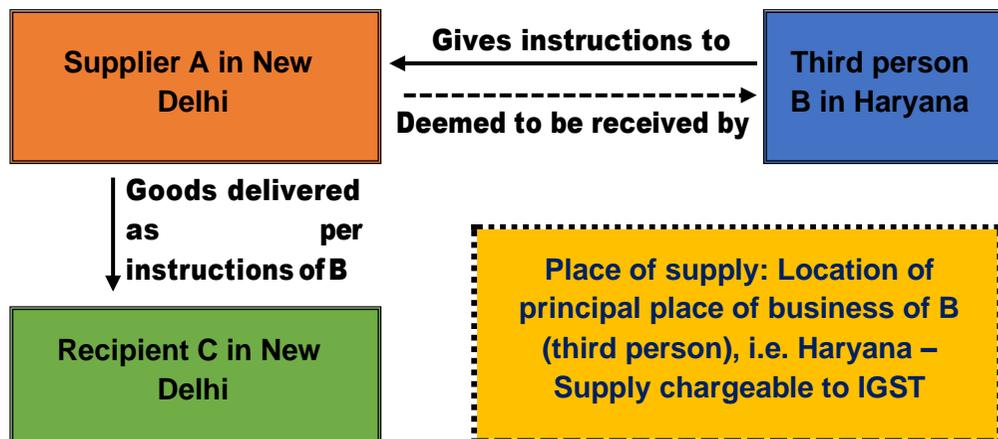
**Clause (b) of section 10(1) lays down the provisions to determine the place of supply in cases where there is a tripartite arrangement of supply, commonly known as 'bill to ship to' transactions or where there is a sale of goods in transit by the original buyer/ agents.**

As per section 10(1)(b),



**In simple words,** where goods are delivered by the supplier to the recipient at the instruction of a third person, the place of supply is the principal place of business of such third person and not of the actual recipient.

**It is important to identify the two supplies involved in this transaction– by supplier to third person and by third person to recipient. This provision deals only with the first limb of supply, i.e. supply by supplier to third person.**



Even though section 2(93) of CGST Act defines recipient, *inter alia*, as the 'payer of the consideration'; in this provision, recipient' is the one who actually collects the goods and the third person is the one who enjoys privity with the supplier to be able to direct him to deliver the goods and also usually makes payment to the supplier.



(3) X & Co. (a supplier registered in Uttar Pradesh having principal place of business at Noida) asks Y & Co. of Ahmedabad, Gujarat to deliver 50 washing machines to its buyer Z & Co. at Jaipur, Rajasthan. In this case, two supplies are involved, one between X & Co. and Z & Co. and other between Y & Co. and X & Co.

While the former supply is covered under clause (a) of section 10(1), the latter one, i.e. between Y & Co. and X & Co. is covered under clause (b) of section 10(1). Accordingly, in this case, the place of supply of goods is not the location of delivery of such goods (Jaipur) but the principal place of business of third person, i.e. principal place of business of X & Co. located at Noida.

### (iii) Supply not involving movement of goods [Section 10(1)(c)]

If the supply does not involve movement of goods, the place of supply is the location of goods at the time of delivery to the recipient.



(4) MA Pvt. Ltd. (New Delhi) has leased his machine (cost ` 8,00,000) to MB Pvt. Ltd. (Noida, Uttar Pradesh) for production of goods on a monthly rent of ` 40,000. After 14 months MB Pvt. Ltd. requested MA Pvt. Ltd. to sell the machine to it for ` 4,00,000, which is agreed to by MA Pvt. Ltd. In this case, there will be no movement of goods and the same will be sold on as is where is basis. Thus, the location of the machine at the time of such sale will be the place of supply, i.e. Noida.

(5) XZ Ltd. (Mumbai, Maharashtra) opens a new branch office at Gurugram, Haryana. It purchases a building for office from KTS Builders (Gurugram). It also enters into a separate contract with KTS Builders for purchase of pre-installed office furniture and fixtures in the building.



Though there will be no GST liability on purchase of building (as sale of building is covered under Schedule III to CGST Act), office furniture and fixtures will be liable to GST. Since there is no movement of office furniture and fixtures, the place of supply of such goods is their location at the time of delivery to the recipient (XZ Ltd.), i.e. Gurugram.

**(iv) Supply involving installation or assembly of goods [Section 10(1)(d)]**

If the supply involves goods which are to be installed or assembled at site, the place of supply is the place of such installation or assembly.



(6) **MA Pvt. Ltd. (New Delhi) purchases a machine from MB Pvt. Ltd. (New Delhi) for being installed in its factory at Noida, Uttar Pradesh. The place of supply is the site at which the machine is installed, i.e. Noida.**



(7) **Pure Refineries (Mumbai, Maharashtra) gives a contract to PQ Ltd. (Ranchi, Jharkhand) to supply a machine which is required to be assembled in a power plant in its refinery located in Kutch, Gujarat. The place of supply is the site of assembly of machine, i.e. Kutch even though Pure refineries is located in Maharashtra.**

**(v) Goods supplied on board a conveyance [section 10(1)(e)]**

When goods are sold supplied during a journey on board a conveyance, it becomes difficult to determine the place of supply of goods – whether it is the location from where the journey originates or whether it is the destination or whether it is any of the locations covered by the conveyance during the journey. Therefore, section 10(1)(e) specifically provides for determination of place of supply of goods supplied on board a conveyance.

Examples of goods supplied on board a conveyance can be books and miscellaneous items supplied by the hawkers in train etc.

Section 10(1)(e) lays down that place of supply of goods supplied on a board a conveyance like aircraft, train, vessel, motor vehicle is the location where such goods have been taken on board.



Place of supply of goods supplied on board a conveyance is determined under this provision even if the supply has been made by any of the passenger on board the conveyance and not by the carrier of the conveyance.



(8) **Mr. X (New Delhi) boards the New Delhi-Kota train at New Delhi. He sells the goods taken on board by him (at New Delhi), in the train, at Jaipur during the journey. The place of supply of goods is the location at which the goods are taken on board, i.e. New Delhi and not Jaipur where they have been sold.**



#### 4. PLACE OF SUPPLY OF GOODS IMPORTED INTO, OR EXPORTED FROM INDIA [SECTION 11]



### STATUTORY PROVISIONS

Section 11	<i>Place of supply of goods imported into, or exported from India</i>	
	Clause	Particulars
	<i>The place of supply of goods,—</i>	
	(a)	<i>imported into India shall be the location of the importer;</i>
	(b)	<i>exported from India shall be the location outside India.</i>



### ANALYSIS

**Section 11 deals with the determination of place of supply in cases involving import and export of goods<sup>1</sup>.**

It must be kept in mind that the provisions of section 11 discussed hereunder are all in relation to cross border supply of goods.

#### (i) Import of goods [Section 11(a)]

**The import of goods has been defined in section 2(10) of the IGST Act as bringing goods into India from a place outside India. All imports are deemed as inter-State supplies and accordingly IGST is levied in addition to the applicable custom duties.**



<sup>1</sup> The terms import and export of goods have been explained in detail in Chapter-14 : Import and Export under GST in Module-3 of this Study Material.

If the goods have been imported in India, the place of supply of goods is the place where the importer is located.



(9) MC Pvt. Ltd. imports electric kettles from China for its Kitchen Store in Noida, Uttar Pradesh. MC Pvt. Ltd. is registered in Uttar Pradesh. The place of supply is Noida.

## (ii) Export of goods [Section 11(b)]

Section 2(5) defines export of goods to mean taking goods out of India to a place outside India.

Under the GST Law, export of goods has been treated as:

- inter-State supply
- zero rated supply (i.e. the goods exported are relieved of GST levied upon them either at the input stage or at the final product stage.)

The place of supply in case of export of goods is the place where they have been exported, i.e. the destination outside India.



(10) MR Pvt. Ltd. (New Delhi) exports spices from New Delhi to London, UK. The place of supply is London.



## 5. PLACE OF SUPPLY OF SERVICES WHERE LOCATION OF SUPPLIER OF SERVICE AND THE LOCATION OF THE RECIPIENT OF SERVICE IS IN INDIA [SECTION 12]



### STATUTORY PROVISIONS

<i>Section 12</i>	<i>Place of supply of services where location of supplier of service and the location of the recipient of service is in India</i>	
<i>Sub-section</i>	<i>Clause</i>	<i>Particulars</i>
(1)		<i>The provisions of this section shall apply to determine the place of supply of services where the location of supplier of services and the location of the recipient of services is in India.</i>

<b>(2)</b>	<i>The place of supply of services, except the services specified in sub-sections (3) to (14),—</i>	
	<i>(a)</i>	<i>made to a registered person shall be the location of such person;</i>
	<i>(b)</i>	<i>made to any person other than a registered person shall be,—</i>
	<i>(i)</i>	<i>the location of the recipient where the address on record exists; and</i>
	<i>(ii)</i>	<i>the location of the supplier of services in other cases.</i>
<b>(3)</b>	<i>The place of supply of services,—</i>	
	<i>(a)</i>	<i>directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work; or</i>
	<i>(b)</i>	<i>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</i>
	<i>(c)</i>	<i>by way of accommodation in any immovable property for organising any marriage or reception or matters related thereto, official, social, cultural, religious or business function including services provided in relation to such function at such property; or</i>
	<i>(d)</i>	<i>any services ancillary to the services referred to in clauses (a), (b) and (c),</i>
	<i>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:</i>	
	<i>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.</i>	

	<i>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.</i>		
(4)	<i>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.</i>		
(5)	<i>The place of supply of services in relation to training and performance appraisal to</i>		
	(a)	<i>a registered person, shall be the location of such person;</i>	
	(b)	<i>a person other than a registered person, shall be the location where the services are actually performed.</i>	
(6)	<i>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.</i>		
(7)	<i>The place of supply of services provided by way of,—</i>		
	(a)	<i>organisation of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of services in relation to a conference, fair, exhibition, celebration or similar events; or</i>	
	(b)	<i>services ancillary to organisation of any of the events or services referred to in clause (a), or assigning of sponsorship to such events,—</i>	
		(i)	<i>to a registered person, shall be the location of such person;</i>
		(ii)	<i>to a person other than a registered person, shall be the place where the event is actually held and if the</i>

			<p>event is held outside India, the place of supply shall be the location of the recipient.</p> <p><i>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.</i></p>
(8)		<p>The place of supply of services by way of transportation of goods, including by mail or courier to,—</p> <p>(a) a registered person, shall be the location of such person;</p> <p>(b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation.</p> <p><i>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.</i></p>	
(9)		<p>The place of supply of passenger transportation service to,—</p> <p>(a) a registered person, shall be the location of such person;</p> <p>(b) a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey:</p> <p><i>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).</i></p> <p><i>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.</i></p>	
(10)		<p>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</p>	

	<i>of the first scheduled point of departure of that conveyance for the journey.</i>	
<b>(11)</b>	<i>The place of supply of telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person shall,—</i>	
	(a)	<i>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;</i>
	(b)	<i>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;</i>
	(c)	<i>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>
	(i)	<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</i>
	(ii)	<i>by any person to the final subscriber, be the location where such pre- payment is received or such vouchers are sold;</i>
	(d)	<i>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:</i>
	<i>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:</i>	
<i>Provided further that if such pre-paid service is availed or the recharge</i>		

	<p><i>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.</i></p>				
	<p><i>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.</i></p>				
(12)	<p><i>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:</i></p> <p><i>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.</i></p>				
(13)	<p><i>The place of supply of insurance services shall,—</i></p> <table border="1" data-bbox="540 993 1311 1186"> <tr> <td data-bbox="540 993 540 1051">(a)</td> <td data-bbox="546 993 1311 1051"><i>to a registered person, be the location of such person;</i></td> </tr> <tr> <td data-bbox="540 1058 540 1116">(b)</td> <td data-bbox="546 1058 1311 1186"><i>to a person other than a registered person, be the location of the recipient of services on the records of the supplier of services.</i></td> </tr> </table>	(a)	<i>to a registered person, be the location of such person;</i>	(b)	<i>to a person other than a registered person, be the location of the recipient of services on the records of the supplier of services.</i>
(a)	<i>to a registered person, be the location of such person;</i>				
(b)	<i>to a person other than a registered person, be the location of the recipient of services on the records of the supplier of services.</i>				
(14)	<p><i>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.</i></p>				



## ANALYSIS

**Section 12 contains the provisions for determining the place of supply of services where both the ‘location of supplier of services’ and the ‘location of recipient of services’ are in India. If either of the two persons (supplier or recipient) is outside India, the place of supply is determined by section 13.**

**Section 12 lays down a general rule to determine the place of supply of services as well as few other rules to determine place of supply of certain specific services. Thus, place of supply is determined as per general rule in respect of services other than the ones covered by the specific rules.**

**It is also important to note that in many cases, the section provides different places of supply for a service supplied to registered and unregistered persons.**

**It must be kept in mind that the provisions of section 12 discussed hereunder are all in relation to domestic supply of services.**

### (i) General Rule [Section 12(2)]

**The rule is applicable only if the supply of service does not fall in any of the specific cases provided under section 12.**

**The rule provides that the place of supply of services made to a registered person is the location of the person receiving the services. Since the supplier has the GSTIN of the person receiving the service, the location of such GSTIN is the place of supply.**

**However, if the services is supplied to an unregistered person, the place of supply is:**

- a) **the location of such unregistered person, if the address of the unregistered person is available in the records of the supplier**
- b) **the location of the supplier of services in other cases**

**The provision can be summarized as under:**

Nature of Supply	Place of Supply	
	Recipient is registered	Recipient is unregistered
Supply of services	Location of	a) If the address of the

other than the ones specified in sub-sections (3) to (14) of section 12	recipient	<p>unregistered person is available in the records of the supplier, the location of such unregistered person.</p> <p><b>b) In other cases, the location of the supplier of services</b></p>
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★ *The default presumption for place of supply in respect of registered recipients (B2B supply of services) is the location of such person. Since the recipient is registered, address of recipient is always there and the same can be taken as proxy for place of supply.*

★ *The default presumption for place of supply in respect of unregistered recipients (B2C supply of services) is also the location of recipient. However, in many cases, the address of recipient is not available; in such cases, location of the supplier of services is taken as proxy for place of supply.*



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

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

**(ii) Services in relation to an immovable property or lodging accommodation in a hotel/boat/vessel etc. [Section 12(3)]**

**Section 12(3) covers supplies of services which are in relation to an immovable property, lodging accommodation in a hotel or a boat or a vessel or accommodation in any immovable property for organizing social, business functions etc. Such services are classified in following major categories:**

- (a) **Services provided directly in relation to an immovable property including those by**
- architect,
  - interior decorator,
  - surveyor,
  - engineer and other related experts,
  - estate agent
- (b) **Service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work**
- (c) **Services provided by way of lodging accommodation by a**
- hotel
  - inn
  - guest house
  - homestay
  - club
  - campsite
  - house boat
  - vessel
- (d) **Services provided by way of accommodation in an immovable property for organizing**
- any marriage/reception or matters related thereto,
  - official, social, cultural, religious or business functions
  - including services provided in relation to such function at such property
- (e) **Services ancillary to the above-mentioned services**

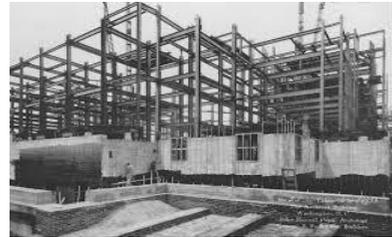
In all above cases, location of the immovable property or the boat or the vessel or where such immovable property or the boat or the vessel is intended to be located, is the place of supply.

For example, if the services have been supplied for an immovable property which is yet to be constructed/developed (e.g. archi plan of a building), the place where such immovable property is intended to be located is the place of supply.

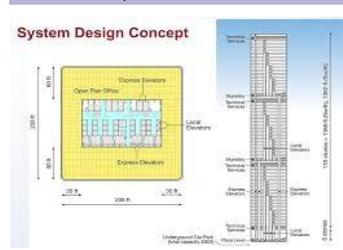
If the immovable property/boat/vessel is located outside India, the location of recipient of the services is the place of supply.



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



(14) Shah and Shah, an architectural firm at Kolkata, has been hired by MKF Builders of Mumbai to draw up a plan for



a high rise building to be constructed by them in Ahmedabad, Gujarat. The place of supply is the place where the immovable property is intended to be located, i.e. Ahmedabad.

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

(16) Mr. X, a consulting engineer based in Mumbai, Maharashtra renders professional services in respect of an immovable property of Mr. Y (Bangalore) located in Australia. Since the immovable property is located outside India, the place of supply of service is the location of recipient, i.e. Bangalore and not the place where the immovable property is located (Australia).

The provision can be summarized as under:

Nature of Supply	Location of immovable property/ boat/ vessel	Place of Supply
Supply of services relating to immovable property or lodging accommodation in a hotel/boat/vessel or accommodation in an immovable property for social/business/religious/cultural functions	In India	Location of such immovable property/ boat/ vessel
	Outside India	Location of the recipient

**Immovable property/Boat/Vessel located in more than one State/Union territory**

Sometimes the immovable property may extend to more than one location, for example, a railway line, a national highway or a bridge on a river may originate in one State and end in the other State or a house boat stay may traverse more than one State.

In such cases, i.e. where the immovable property or boat or vessel is located in more than one State/Union territory, the service is deemed to have been supplied in each of the respective States/Union territories, in proportion to the value for the services determined in terms of the contract or agreement entered into in this regard.



**Manner of determining proportionate value of service in the absence of a contract or agreement**

In the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of services supplied in different States/Union territories (where the immovable property or boat or vessel is located) is computed in accordance with rule 4 of IGST Rules as under:

S. No.	Type of service in relation to immovable property	Factor which determines the proportionate value of service supplied in different States/Union territories
(a)	<b>Service provided by way of lodging accommodation by hotel, inn, guest house etc. and its ancillary services (other than the cases where such property is a single property located in 2 or more contiguous States/ Union territories or both)</b>	<b>Number of nights stayed in such property</b> <i>Refer Example 17</i>
(b)	<ul style="list-style-type: none"> <li>• <b>All other services provided in relation to immovable property including services by way of accommodation in any immovable property for organising any marriage or reception etc. and in cases of supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called where such property is a single property located in 2 or more contiguous States or/and Union territories</b></li> <li>• <b>Services ancillary to services mentioned above</b></li> </ul>	<b>Area of the immovable property lying in each State/ Union territories</b> <i>Refer Example 18</i>
(c)	<b>Services by way of lodging accommodation by a house boat or vessel and its ancillary services</b>	<b>Time spent by the boat or vessel in each such State/ Union territories, to be determined on the basis of declaration made by the service provider</b> <i>Refer Example 19</i>



**Example 17 - Lodging accommodation by hotel/inn/guest house etc. and ancillary services excluding the property located in 2 or more contiguous States/ Union territories or both**

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



**Example 18 - Other services provided in relation to immovable property**

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



**Example 19 - Lodging accommodation by a house boat or vessel and its ancillary services**

**A company C provides the service of 24 hours accommodation in a houseboat, which will transit both in Kerala and Karnataka in as much as the guests board the house boat in Kerala and stay there for 22 hours but it also moves into Karnataka for 2 hours (as declared by the service provider). The place of supply of this service is in the States of Kerala and Karnataka. The service**



shall be deemed to have been provided in the ratio of 22:2 or 11:1 (simplified) in the states of Kerala and Karnataka, respectively. The value of these services shall be accordingly apportioned between the States.

**(iii) Restaurant and catering service, personal grooming, fitness, beauty and health services [Section 12(4)]**

The place of supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery is the location where such services are actually performed.



**(20) Mr. A, a businessman from Pune dines in a restaurant at Mumbai while on a business trip. The place of supply of restaurant service is the location where such service is performed, i.e. Mumbai.**

**(21) Mr. Timmy Ferreira, a makeup artist at Kolkata, goes to Jaipur, Rajasthan for doing the makeup of Ms. Simran Kapoor, a Bollywood actress based in Mumbai. The place of supply is the location where such service is performed, i.e. Jaipur.**

**(iv) Training and performance appraisal services [Section 12(5)]**

**The place of supply of services in relation to training and performance appraisal depends upon whether the supply is B2B or B2C.**

**In B2B supply, i.e. where the recipient of service is a registered person, the place of supply is the location of such person.**



**However, in case of B2C supply, i.e. where the recipient of service is unregistered, the place of supply is the place where the service is actually performed.**



**(22) DEO Consultants (Kolkata) impart GST training to accounts and finance personnel of Sun Cements Ltd., Guwahati, Assam (registered office) at the company's Kolkata office which is also registered under GST. Since the contract is entered with Guwahati office, and it being a registered recipient, the place of supply is the location of the registered person, i.e. Guwahati.**

**(23) Mr. Suresh (unregistered person based in Noida) signs up with Excellent Linguistics (New Delhi) for training on English speaking at their New Delhi Centre. Since the recipient is unregistered, the place of supply is the location where services are provided, i.e. New Delhi.**

**(v) Services by way of admission to events/amusement park/other places [Section 12(6)]**

**The place of supply of following services-**

**(i) services provided by way of admission to following types of events:**

**Cultural**



**Sporting**



**Educational  
Scientific**



Artistic



Entertainment



- (ii) **services provided by way of admission to amusement park or any other place**
- (iii) **services ancillary to the above-mentioned services**

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



**(24) Mr. A, a resident of Ghaziabad, Uttar Pradesh, buys a ticket for a circus organized at Gurugram, Haryana by a circus company based in New Delhi. The place of supply is the location where the circus is held, i.e. Gurugram.**

**(25) Mr. B of New Delhi buys a ticket for an amusement park located in Noida, Uttar Pradesh. The place of the supply is the location where the park is located, i.e. Noida.**

#### **(vi) Organisation of events [Section 12(7)]**

**For supplies related to organization of events or assigning sponsorship to such events, the place of supply depends on whether the supply is made to a registered person or an unregistered person.**

When such service is provided to a registered person, the place of supply is location of recipient.

When it is provided to an unregistered person, the place of supply is the location where the event is actually held and if the event is held outside India, the place of supply is the location of recipient.

**The event can be a cultural, artistic, sporting, scientific, educational or entertainment event. It can also be a conference, fair, exhibition, celebration or other similar event.**

**Place of supply of services ancillary to organisation of such type of events or assigning of sponsorship to such events is also determined under sub-section (7) of section 12, i.e. in the manner described above. The provision can be summarized as under:**

Nature of Supply	Place of Supply	
	Recipient is registered	Recipient is unregistered
Organisation of events or services ancillary to the same or assigning of sponsorship to such events	Location of recipient	Location where the event is held
Organisation of events outside India		Location of recipient



(26) **Mega Events, an event management company at New Delhi, organizes an award function for Shah Diamond Merchants of Ahmedabad (registered in Gujarat), at Mumbai. Since the recipient is a registered person, the place of supply is the location of the recipient, i.e. Ahmedabad.**

(27) **Mega Events, an event management company at New Delhi, organizes an award function for Shah Diamond Merchants of Ahmedabad (registered in Gujarat), in Mauritius. Since the recipient is a registered person, the place of supply is the location of the recipient, i.e. Ahmedabad.**

(28) **Grand Wedding Planners (Chennai) is hired by Mr. Ramesh (unregistered person based in Hyderabad) to plan and organise his wedding at New Delhi. The recipient being an unregistered person, the place of supply is the location where the event is held, i.e. New Delhi.**

(29) **Grand Wedding Planners (Chennai) is hired by Mr. Ramesh (unregistered person based in Hyderabad) to plan and organise his wedding in Seychelles. The recipient being an unregistered person and the event held outside India, the place of supply is the location of the recipient, i.e. Hyderabad and not the location where the event is held, i.e. Seychelles.**

#### **Event held in more than one State/Union territory**

**If the event is held in more than one State/Union territory and a consolidated amount is charged for services relating to such event, the place of supply of such services is deemed to be in each of the respective States/Union territories in proportion to the value for services determined in terms of the contract or agreement entered into in this regard.**

The above provision is applicable only when the recipient is unregistered, as for a registered recipient, the place of supply is the location of such recipient.

### **Manner of determining proportionate value of service in the absence of a contract or agreement**

**In the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of services made in different States/Union territories (where the event is held) is computed in accordance with rule 5 of IGST Rules by the application of generally accepted accounting principles.**



**(30) An event management company E has to organize some promotional events in States S1 and S2 for a recipient R**

**(unregistered). 3 events are to be organized in S1 and 2 in S2. They charge a consolidated amount of ₹ 10,00,000 from R. The place of supply of this**

**service is in both the States S1 and S2. Say the proportion arrived at by the application of generally accepted accounting principles is 3:2. The service shall be deemed to have been provided in the ratio 3:2 in S1 and S2 respectively. The value of services provided will thus be apportioned as ₹ 6,00,000/- in S1 and ₹ 4,00,000/- in S2.**



### **(vii) Transportation of goods including mail or courier [Section 12(8)]**

**The place of supply of services by way of transportation of goods, including by mail or courier, etc. provided to a registered person, is the location of such person.**

**However, where such services are provided to an unregistered person, the place of supply is the location at which such goods are handed over for their transportation.**

**If the goods are transported outside India, the destination of such goods is the place of supply.**





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

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

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

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

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

(36) M/s JKL Pvt. Ltd. is a registered company in Chennai. It ships goods to its customer in London, United Kingdom through M/s Strong Logistics, a shipping company. The goods being transported outside India, the place of supply is the location of destination of such goods, i.e. London, (UK).

(viii) Passenger transportation service [Section 12(9)]

Nature of Supply	Place of Supply	
	Recipient is registered	Recipient is unregistered
Passenger transportation	Location of	Location where the

	the recipient	passenger embarks on the conveyance for a continuous journey [See definition]
Issue of right to passage for future use-point of boarding not known at the time of issue of right		<p>a) If the address of the unregistered person is available in the records of the supplier, the location of such unregistered person.</p> <p>b) In other cases, the location of the supplier of services</p>

*The return journey is treated as a separate journey, even if the tickets for onward and return journey are issued at the same time.*



**(37) Mr. Amar (registered person in New Delhi) travels from Mumbai to Bangalore in Airjet flight. Mr. Amar has bought the tickets for the journey from Airjet's office registered in New Delhi.**

**The place of supply is the location of recipient, i.e. New Delhi.**

**(38) Mr. C (unregistered person in Chennai) has come to Delhi on a vacation. He buys pre-paid Delhi Metro Card from Delhi Metro (New Delhi) for hassle free commute in the National Capital Region. Recipient being unregistered person, the place of supply is the address of Mr. C, i.e. Chennai. If address of Mr. C is not available with the Delhi Metro, the place of supply will be the location of the supplier of services, i.e. New Delhi.**

**(39) Mr. Shyam, an unregistered person, based in Gurugram, Haryana books a two-way air journey ticket from New Delhi to Mumbai on 5<sup>th</sup> December. He leaves New Delhi on 10<sup>th</sup> December in a late-night flight and lands in Mumbai the next day. He leaves Mumbai on 14<sup>th</sup> December in a morning flight and lands in New Delhi the same day.**

**The return journey is treated as a separate journey, even if the tickets for onward and return journey are issued at the same time. Thus, being an unregistered person, the place of supply for the outward and return journeys**

are the locations where the unregistered person embarks on the conveyance for the continuous journey, i.e. New Delhi and Mumbai respectively.



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

(40) An airline may issue seasonal tickets, containing say 10 voucher which could be used for travel between any two locations in the country.

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

(ix) Service supplied on board a conveyance [Section 12(10)]

Nature of Supply	Place of Supply
Service supplied on board a conveyance*	Location of the first scheduled point of departure of that conveyance for the journey

\* Note - Conveyance includes a vessel, an aircraft, a train or a motor vehicle.

You may recollect that the proxy for place of supply of goods on board a conveyance is the location at which the goods are taken on board. Services being intangible, the same proxy cannot be used for determining the place of supply for services supplied on board a conveyance. Therefore, for services, the proxy is the location of the first scheduled point of departure of that conveyance for the journey

However, for determining the place of supply of both goods and services supplied on board a conveyance, no distinction is made between registered and unregistered recipients.

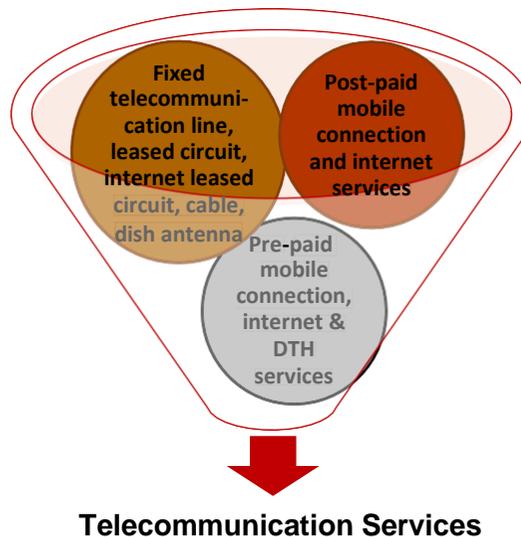


(42) Mr. X is travelling from Delhi to Mumbai in an Airjet flight. He desires to watch an English movie during the journey by making the necessary payment. The place of supply of such service of showing 'movie on demand' is the first scheduled point of departure of the conveyance for the journey, i.e. Delhi.

**(x) Telecommunication service [Section 12(11)]**

**Telecommunication services include the services of telephone, data transfer (internet), cable, DTH (Direct to home) services, etc. Section 12(11) classifies the telecommunication services into 3 categories for the purpose of determining the place of supply as under:**

- ❑ **Services provided using a fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna**
- ❑ **Post-paid mobile connection and post-paid internet services**
- ❑ **Pre-paid mobile connection and pre-paid internet and DTH services**



**The place of supply of the various types of telecommunication services is tabulated as under:**

Nature of Supply	Place of Supply	Recipient
<input type="checkbox"/> Fixed telecommunication line <input type="checkbox"/> Leased circuits <input type="checkbox"/> Internet leased circuit <input type="checkbox"/> Cable or dish antenna	Location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services	<b>ANY PERSON</b>
<b>Post-paid mobile connection and internet services</b>	<ul style="list-style-type: none"> <li>• Location of billing address of the recipient of services in the records of the supplier of services</li> <li>• Location of the supplier of services, if the address is not available</li> </ul>	
<b>Pre-paid mobile connection, internet services and DTH services (recharge coupon, vouchers, net pack etc.)</b>		
<b>Services provided through a</b> <input type="checkbox"/> selling agent <input type="checkbox"/> re-seller <input type="checkbox"/> distributor of subscriber identity module card or recharge voucher	<b>Address of the selling agent/ re-seller/ distributor at the time of supply</b>	
<b>Services provided by any person to final subscriber</b>	<b>Location where such pre-payment is received or such vouchers are sold</b>	
<b>Pre-paid services, the payment for which is made through internet banking/other electronic mode of payment</b>	<b>Location of the recipient of services in the records of the supplier of services</b>	

<b>Other cases</b>	<ul style="list-style-type: none"> <li>• <b>The address of the recipient as per the records of the supplier of services</b></li> <li>• <b>Location of the supplier of services, if the address is not available</b></li> </ul>	
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(43) **Mr. X (Kolkata) gets a landline phone installed at his home from Skybel Ltd. The place of supply is the location where the telecommunication line is installed, i.e. Kolkata.**

(44) **Mr. Y (Mumbai) gets a DTH installed at his home from RT Ltd. The place of supply is the location where the DTH is installed, i.e. Mumbai.**

(45) **Mr. D (Mumbai) takes a post-paid mobile connection in Mumbai from Skybel Ltd and gives his residence address at Mumbai as the address for billing with supplier. The place of supply is the location of billing address of the recipient, i.e. Mumbai.**

(46) **Mr. E (New Delhi) gets his post-paid mobile bill (billing address New Delhi) paid online from Goa. The place of supply is the location of the billing address of the recipient, i.e. New Delhi.**

(47) **Mr. C (Pune) purchases a pre-paid card from a selling agent in Mumbai. The place of supply is the address of the selling agent or re-seller, i.e. Mumbai.**

(48) **Mr. F (Puducherry) gets a pre-paid mobile recharged from a grocery shop in Chennai. The place of supply is the location where such pre-payment is received, i.e. Chennai.**

**Leased circuit is installed in more than one State/Union territory**

**If the leased circuit is installed in more than one State/Union territory and a consolidated amount is charged for supply of services, the place of supply is deemed to be in each of the respective States/Union territories in proportion to the value for services determined in terms of the contract or agreement entered into in this regard.**

### Manner of determining proportionate value of service in the absence of a contract or agreement

**In the absence of a contract or agreement between the supplier and recipient of services, the value of services supplied in different States/Union territories (where the leased circuit is installed) is determined in accordance with rule 6 of the IGST Rules in proportion to the number of points lying in each such State/ Union territory.**

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

- (i) **In the case of a circuit between two points or places, the starting point or place of the circuit and the end point or place of the circuit will invariably constitute two points – Refer Example 49**
- (ii) **Any intermediate point or place in the circuit will also constitute a point provided that the benefit of the leased circuit is also available at that intermediate point – Refer Example 50 & 51**



#### **Example 49 – Circuit between two points or places**

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



#### **Example 50 – Intermediate point or place in the circuit**

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



#### **Example 51 – Intermediate point or place in the circuit**

**A company T installs a leased circuit between the Kolkata, Patna and Guwahati offices of a company C. There are 3 points in this circuit in Kolkata,**

**Patna and Guwahati. One point each of this circuit is, therefore, in West Bengal, Bihar and Assam. The place of supply of this service is in the States of West Bengal, Bihar and Assam. The service shall be deemed to have been provided in the ratio of 1:1:1 in the States of West Bengal, Bihar and Assam, respectively.**

**(xi) Financial and stock broking services [Section 12(12)]**



**The place of supply of banking and other financial services, including stock broking services to any person is the location of the**



**recipient of services in the records of the supplier of services. However, if the location of recipient of services is not available in the records of the supplier, the place of supply is the location of the supplier of services.**



**(52) Mr. A (Chennai) buys shares from a broker in BSE (Mumbai). The place of supply is the location of the recipient of services in the records of the supplier, i.e. Chennai.**

**(53) Mr. B (New Delhi) withdraws money from Best Bank's ATM in Amritsar. Mr. B has crossed his limit of free ATM withdrawals. The place of supply is the location of the recipient of services in the records of the supplier, i.e. New Delhi.**

**(54) Mr. C from Varanasi, Uttar Pradesh, visits a bank registered in New Delhi for getting a demand draft made. Mr. C does not have any account with the said bank. Therefore, since the location of recipient is not available in the records of the supplier, the place of supply is the location of the supplier of services, i.e. New Delhi.**

**(xii) Insurance services [Section 12(13)]**

**The place of supply of insurance services is the location of recipient when provided to a registered recipient.**

**If such services are provided to a person other than a registered person, the place of supply is the location of the recipient of services in the records of the supplier of services.**



**(55) Mr. A, CEO of XY Ltd., Mumbai (a company registered in Maharashtra) buys insurance cover for the inventory stored in**

company's factory located at Mumbai, from Excellent Insurers, Chennai (registered in Tamil Nadu). The place of supply is the location of the registered recipient, i.e. Mumbai.

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

(xiii) Advertisement service to the Government [Section 12(14)]

Nature of Supply	Place of Supply
Advertisement service to the Central Government/ State Government/ Statutory body/ Local authority meant for the State/Union territory identified in contract or agreement	Each of such States/ Union territories where the advertisement is broadcasted/ run / played/ disseminated.

The value of such supplies specific to each State/Union territory is in proportion to the amount attributable to the services provided by way of dissemination in the respective States/Union territories determined in terms of the contract or agreement entered into in this regard.

Manner of determining proportionate value of service in the absence of a contract or agreement

In the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of advertisement services attributable to different States/Union territories (where the advertisement is broadcasted/ run /played/disseminated) is computed in accordance with rule 3 of IGST Rules as under:

Sl. No.	Type of advertisement	Value of service attributable to dissemination in different States/Union territories where the advertisement is broadcasted/ run /played/disseminated
1.	Advertisements in newspapers and publications	Amount payable for publishing an advertisement in all the editions of a newspaper or publication, which are published in each State/Union territory <i>Refer Example 57</i>

2.	<b>Advertisements through printed material like pamphlets, leaflets, diaries, calendars, T-shirts, etc.</b>	<b>Amount payable for the distribution of a specific number of such material in each State/Union territory</b> <i>Refer Example 58</i>
3.	<b>Advertisements in hoardings (other than those on trains)</b>	<b>Amount payable for the hoardings located in each State/ Union territory</b> <i>Refer Example 59</i>
4.	<b>Advertisements on trains</b>	<b>Amount attributable to each State/Union territory calculated in the ratio of length of the railway track in each of such State/Union territory, for that train</b> <i>Refer Example 60</i>
5.	<b>Advertisements on the back of utility bills of oil and gas companies, etc.</b>	<b>Amount payable to each State/Union territory for the advertisements on bills pertaining to consumers having billing addresses in each of such State/Union territory</b>
6.	<b>Advertisements on railway tickets</b>	<b>Amount attributable to each State/Union territory calculated in the ratio of number of Railway Stations in each of such State/Union territory</b> <i>Refer Example 61</i>
7.	<b>Advertisements on radio stations</b>	<b>Amount payable to such radio station, which by virtue of its name is part of each State/Union territory</b> <i>Refer Example 62</i>
8.	<b>Advertisement on television channels</b>	<b>Amount attributable to each State/Union territory calculated basis the viewership of such channel in each of such State/ Union territory which shall be derived as under:</b> <b>(a) Viewership can be ascertained from the channel viewership figures published by the Broadcast Audience Research Council.</b> <b>(b) Figures for the last week of a given</b>

		<p>quarter is used for calculating viewership for the succeeding quarter.</p> <p>(c) <b>Where the channel viewership figures relate to a region comprising of more than one State/Union territory, the viewership figures for a State/ Union territory of that region, is calculated in ratio of the populations of that State/Union territory, as determined in the latest Census.</b></p> <p>(d) <b>The ratio of the viewership figures for each State or Union territory so calculated, when applied to the amount payable for the service, shall represent the portion of the value attributable to the dissemination in that State or Union territory</b></p> <p><i>Refer Example 63</i></p>
<b>9.</b>	<b>Advertisements in cinema halls</b>	<p><b>Amount payable to a cinema hall or screens in a multiplex in each State/ Union territory.</b></p> <p><i>Refer Example 64</i></p>
<b>10.</b>	<p><b>Advertisements on internet</b></p> <p><b>It is deemed that such service is provided all over India.</b></p>	<p><b>Amount attributable to each State/Union territory calculated basis the internet subscribers in each of such State/ Union territory which shall be derived in the following manner:</b></p> <p>(a) <b>Internet subscribers can be ascertained from the internet subscriber figures published by the Telecom Regulatory Authority of India (TRAI).</b></p> <p>(b) <b>Figures for the last quarter of a given financial year will be used for calculating the number of internet subscribers for the succeeding financial year.</b></p> <p>(c) <b>Where the internet subscriber figures relate to a region comprising of more than one State/Union territory, the</b></p>

		<p><b>subscriber figures for a State/Union territory of that region shall be calculated in the ratio of the populations of that State/Union territory, as determined in the latest census.</b></p> <p><b>(d) The ratio of the subscriber figures for each State or Union territory so calculated, when applied to the amount payable for the service, shall represent the portion of the value attributable to the dissemination in that State or Union territory</b></p> <p><i>Refer Example 65</i></p>
11.	<b>Advertisements through SMS</b>	<p><b>Amount attributable to each State/Union territory calculated on the basis of the telecom subscribers in each of such State/Union territory.</b></p> <p><b>(a) Telecom subscribers in a telecom circle can be ascertained from the telecom subscribers figures published by the TRAI. Figures for a given quarter will be used for calculating the subscribers for the succeeding quarter.</b></p> <p><b>(b) Where such figures relate to a telecom circle comprising of more than one State/Union territory, the subscriber figures for that State/Union territory shall be calculated in the ratio of the populations of that State/Union territory, as determined in the latest census.</b></p> <p><i>Refer Examples 66-69</i></p>



### Example 57 - Advertisements in newspapers and publications

ABC is a government agency which deals with the all the advertisement and publicity of the Government. It has various wings dealing with various types of publicity. In furtherance thereof, it issues release orders to various agencies and entities.

These agencies and entities thereafter provide the service and then issue invoices to ABC indicating the amount to be paid by them. ABC issues a release order to a newspaper for an advertisement on 'Beti bachao beti padhao', to be published in the newspaper DEF (whose head office is in Delhi) for the editions of Delhi, Pune, Mumbai, Lucknow and



Jaipur. The release order will have details of the newspaper like the periodicity, language, size of the advertisement and the amount to be paid to such a newspaper.

The place of supply of this service shall be in the Union territory of Delhi, and the States of Maharashtra, Uttar Pradesh and Rajasthan. The amounts payable to the Pune and Mumbai editions would constitute the proportion of value for the State of Maharashtra which is attributable to the dissemination in Maharashtra. Likewise, the amount payable to the Delhi, Lucknow and Jaipur editions would constitute the proportion of value attributable to the dissemination in the Union territory of Delhi and States of Uttar Pradesh and Rajasthan respectively. DEF should issue separate State-wise and Union territory-wise invoices based on the editions.



### Example 58 - Advertisements through printed material like pamphlets, leaflets, diaries, calendars, T-shirts, etc.

As a part of the campaign 'Swachh Bharat', ABC has engaged a company GH for printing of 1,00,000 pamphlets (at a total cost of ` 1,00,000) to be distributed in the States of Haryana, Uttar Pradesh and Rajasthan. In such a case, ABC should ascertain the breakup of the pamphlets to be distributed in each of the three States, i.e. Haryana, Uttar Pradesh and Rajasthan, from the Ministry or department concerned at the time of giving the print order. Let us assume that this breakup is 20,000, 50,000 and 30,000 respectively. This breakup should be indicated in the print order.



The place of supply of this service is in Haryana, Uttar Pradesh and Rajasthan. The ratio of this breakup, i.e. 2:5:3 will form the basis of value attributable to the dissemination in each of the three States. Separate invoices will have to be issued State-wise by GH to ABC indicating the value pertaining to that State, i.e. ` 20,000 - Haryana, ` 50,000 - Uttar Pradesh and ` 30,000 - Rajasthan.



Example 59 - Advertisements in hoardings (other than those on trains)

ABC as part of the campaign 'Saakshar Bharat' has engaged a firm IJ for putting up hoardings near the Airports in the 4 metros, i.e. Delhi, Mumbai, Chennai and Kolkata. The release order issued by ABC to IJ will have the city-wise, location-wise breakup of the amount payable for such hoardings.



The place of supply of this service is in the Union territory of Delhi and the States of Maharashtra, Tamil Nadu and West Bengal. In such a case, the amount actually paid to IJ for the hoardings in each of the 4 metros will constitute the value attributable to the dissemination in the Union territory of Delhi and the States of Maharashtra, Tamil Nadu and West Bengal respectively. Separate invoices will have to be issued State-wise and Union territory-wise by IJ to ABC indicating the value pertaining to that State or Union territory.



Example 60 - Advertisements on trains

ABC places an order on KL for advertisements to be placed on a train with regard to the 'Janani Suraksha Yojana'. The length of a track in a State will vary from train to train. Thus, for advertisements to be placed on the Hazrat Nizamuddin Vasco Da Gama Goa Express which runs through Delhi, Haryana, Uttar Pradesh, Madhya Pradesh, Maharashtra, Karnataka and Goa, KL may ascertain the total length of the track from Hazrat Nizamuddin to Vasco Da Gama as well as the length of the track in each of these States and Union territory from the website [www.indianrail.gov.in](http://www.indianrail.gov.in).



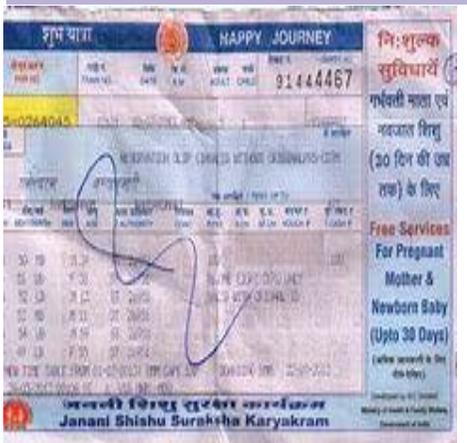
The place of supply of this service is in the Union territory of Delhi and States of Haryana, Uttar Pradesh, Madhya Pradesh, Maharashtra Karnataka and Goa. The value of the supply in each of these States and Union territory attributable to the dissemination in these States will be in the ratio of the length of the track in each of these States and Union territory. If this ratio works out to say 0.5:0.5:2:2:3:3:1, and the amount to be paid to KL is ` 1,20,000, then KL will have to calculate the State-wise and Union territory-wise breakup of the value of the service, which will be in the ratio of the length of the track in each State and Union territory.

In the given example, the State-wise and Union territory-wise breakup works out to Delhi (` 5,000), Haryana (` 5,000), Uttar Pradesh (` 20,000), Madhya Pradesh (` 20,000), Maharashtra (` 30,000), Karnataka (` 30,000) and Goa (` 10,000). Separate invoices will have to be issued State-wise and Union territory-wise by KL to ABC indicating the value pertaining to that State or Union territory.



#### Example 61 - Advertisements on railway tickets

ABC has issued a release order to MN for display of advertisements relating to the 'Ujjwala' scheme on the railway tickets that are sold from all the Stations in the States of Madhya Pradesh and Chattisgarh.



The place of supply of this service is in Madhya Pradesh and Chattisgarh. The value of advertisement service attributable to these two States will be in the ratio of the number of railway stations in each State as ascertained from the Railways or from the website [www.indianrail.gov.in](http://www.indianrail.gov.in).

Let us assume that this ratio is 713:251 and the total bill is ` 9,640. The breakup of the amount between Madhya Pradesh and Chattisgarh in this ratio of 713:251 works out to ` 7,130 and ` 2,510 respectively. Separate invoices will have to be issued State-wise by MN to ABC indicating the value pertaining to that State.



### Example 62 - Advertisements on radio stations

For an advertisement on 'Pradhan Mantri Ujjwala Yojana', to be broadcast on a FM radio station

OP, for the radio stations of OP Kolkata, OP Bhubaneswar, OP Patna, OP Ranchi and OP Delhi, the release order issued by ABC will show the breakup of the amount which is to be paid to each of these radio stations.



The place of supply of this service is in West Bengal, Odisha, Bihar, Jharkhand and Delhi. The place of supply of OP Delhi is in Delhi even though the studio may be physically located in another State. Separate invoices will have to be issued State-wise and Union territory-wise by MN to ABC based on the value pertaining to each State or Union territory.



### Example 63 - Advertisement on television channels

ABC issues a release order with QR channel for telecasting an advertisement relating to the 'Pradhan Mantri Kaushal Vikas Yojana' in the month of November, 2017. In the first phase, this will be telecast in the Union territory of Delhi, States of Uttar Pradesh, Uttarakhand, Bihar and Jharkhand.



The place of supply of this service is in Delhi, Uttar Pradesh, Uttarakhand, Bihar and Jharkhand. In order to calculate the value of supply attributable to Delhi, Uttar Pradesh, Uttarakhand, Bihar and Jharkhand, QR has to proceed as under —

I. QR will ascertain the viewership figures for their channel in the last week of September 2017 from the Broadcast Audience Research Council. Let us assume it is 1,00,000 for Delhi and 2,00,000 for the region comprising of Uttar Pradesh and Uttarakhand and 1,00,000 for the region comprising of Bihar and Jharkhand.

II. Since the Broadcast Audience Research Council clubs Uttar Pradesh and Uttarakhand into one region and Bihar and Jharkhand into another region, QR will ascertain the population figures for Uttar Pradesh, Uttarakhand, Bihar and Jharkhand from the latest census.

III. By applying the ratio of the populations of Uttar Pradesh and Uttarakhand, as so ascertained, to the Broadcast Audience Research Council viewership figures for their channel for this region, the viewership figures for Uttar Pradesh and Uttarakhand can be calculated. Let us assume that the ratio of the populations of Uttar Pradesh and Uttarakhand works out to 9:1. When this ratio is applied to the viewership figures of 2,00,000 for this region, the viewership figures for Uttar Pradesh and Uttarakhand work out to 1,80,000 and 20,000 respectively.

IV. In a similar manner, the breakup of the viewership figures for Bihar and Jharkhand can be calculated. Let us assume that the ratio of populations is 4:1 and when this is applied to the viewership figure of 1,00,000 for this region, the viewership figure for Bihar and Jharkhand works out to 80,000 and 20,000 respectively.

V. The viewership figure for each State works out to Delhi (1,00,000), Uttar Pradesh (1,80,000), Uttarakhand (20,000), Bihar (80,000) and Jharkhand (20,000). The ratio is thus 10:18:2:8:2 or 5:9:1:4:1 (simplification).

VI. This ratio has to be applied when indicating the breakup of the amount pertaining to each State. Thus, if the total amount payable to QR by ABC is ₹ 20,00,000, the State-wise breakup is ₹ 5,00,000 (Delhi), ₹ 9,00,000 (Uttar Pradesh) ₹ 1,00,000 (Uttarakhand), ₹ 4,00,000 (Bihar) and ₹ 1,00,000 (Jharkhand). Separate invoices will have to be issued State-wise and Union territory-wise by QR to ABC indicating the value pertaining to that State or Union territory.



#### Example 64 - Advertisements in cinema halls

ABC commissions ST for an advertisement on 'Pradhan Mantri Awas Yojana' to be displayed in the cinema halls in Chennai and Hyderabad. The place of supply of this service is in the States of Tamil Nadu and Telangana. The amount actually paid to the cinema hall or screens in a multiplex, in Tamil Nadu and Telangana as the case may be, is the value of advertisement service in Tamil Nadu and Telangana respectively.

Separate invoices will have to be issued State-wise and Union territory-wise by ST to ABC indicating the value pertaining to that State.





#### Example 65 - Advertisements on internet

**ABC issues a release order to WX for a campaign over internet regarding linking Aadhaar with one's bank account and mobile number. WX runs this campaign over certain websites. In order to ascertain the State-wise breakup of the value of this service which is to be reflected in the invoice issued by WX to ABC, WX has to first refer to the Telecom Regulatory Authority of India figures for quarter ending March, 2017, as indicated on their website [www.trai.gov.in](http://www.trai.gov.in). These figures show the service area wise internet subscribers. There are 22 service areas. Some relate to individual States some to two or more States and some to part of one State and another complete State. Some of these areas are metropolitan areas.**



**In order to calculate the State-wise breakup, first the State-wise breakup of the number of internet subscribers is arrived at. (In case figures of internet subscribers of one or more States are clubbed, the subscribers in each State is to be arrived at by applying the ratio of the respective populations of these States as per the latest census.). Once the actual number of subscribers for each State has been determined, the second step for WX involves calculating the State-wise ratio of internet subscribers. Let us assume that this works out to 8:1:2..... and so on for Andhra Pradesh, Arunachal Pradesh, Assam... and so on. The third step for WX will be to apply these ratios to the total amount payable to WX so as to arrive at the value attributable to each State. Separate invoices will have to be issued State-wise and Union territory-wise by WX to ABC indicating the value pertaining to that State or Union territory.**



#### Advertisements through SMS

**(66) In the case of the telecom circle of Assam, the amount attributed to the telecom circle of Assam is the value of advertisement service in Assam.**

**(67) The telecom circle of North East covers the States of Arunachal Pradesh, Meghalaya, Mizoram, Nagaland, Manipur and Tripura. The ratio of populations of each of these States in the latest census will have to be determined and this ratio applied to the total number of subscribers for this telecom circle so as to arrive at the State-wise figures of telecom subscribers. Separate invoices**



**will have to be issued State-wise by the service provider to ABC indicating the value pertaining to that State.**

**(68) ABC commissions UV to send short messaging service to voters asking them to exercise their franchise in elections to be held in Maharashtra and Goa. The place of supply of this service is in Maharashtra and Goa. The telecom circle of Maharashtra consists of the area of the State of Maharashtra (excluding the areas covered by Mumbai which forms another circle) and the State of Goa. When calculating the number of subscribers pertaining to Maharashtra and Goa, UV has to -**

- I. obtain the subscriber figures for Maharashtra circle and Mumbai circle and add them to obtain a combined figure of subscribers;**
- II. obtain the figures of the population of Maharashtra and Goa from the latest census and derive the ratio of these two populations;**
- III. this ratio will then have to be applied to the combined figure of subscribers so as to arrive at the separate figures of subscribers pertaining to Maharashtra and Goa;**
- IV. the ratio of these subscribers when applied to the amount payable for the short messaging service in Maharashtra circle and Mumbai circle, will give breakup of the amount pertaining to Maharashtra and Goa. Separate invoices will have to be issued State-wise by UV to ABC indicating the value pertaining to that State.**

**(69) The telecom circle of Andhra Pradesh consists of the areas of the States of Andhra Pradesh, Telangana and Yanam, an area of the Union territory of Puducherry. The subscribers attributable to Telangana and Yanam will have to be excluded when calculating the subscribers pertaining to Andhra Pradesh.**



## 6. PLACE OF SUPPLY OF SERVICES WHERE LOCATION OF SUPPLIER OR LOCATION OF RECIPIENT IS OUTSIDE INDIA [SECTION 13]



### STATUTORY PROVISIONS

<b>Section 13</b>	<i>Place of supply of services where location of supplier or location of recipient is outside India</i>	
<b>Sub-section</b>	<b>Clause</b>	<b>Particulars</b>
(1)	<i>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.</i>	
(2)	<i>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:</i>	
	<i>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.</i>	
(3)	<i>The place of supply of the following services shall be the location where the services are actually performed, namely:—</i>	
	(a)	<i>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:</i>
	<i>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:</i>	
	<i>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</i>	

		<i>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.</i>
	(b)	<i>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.</i>
(4)	<i>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.</i>	
(5)	<i>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.</i>	
(6)	<i>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.</i>	
(7)	<i>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</i>	

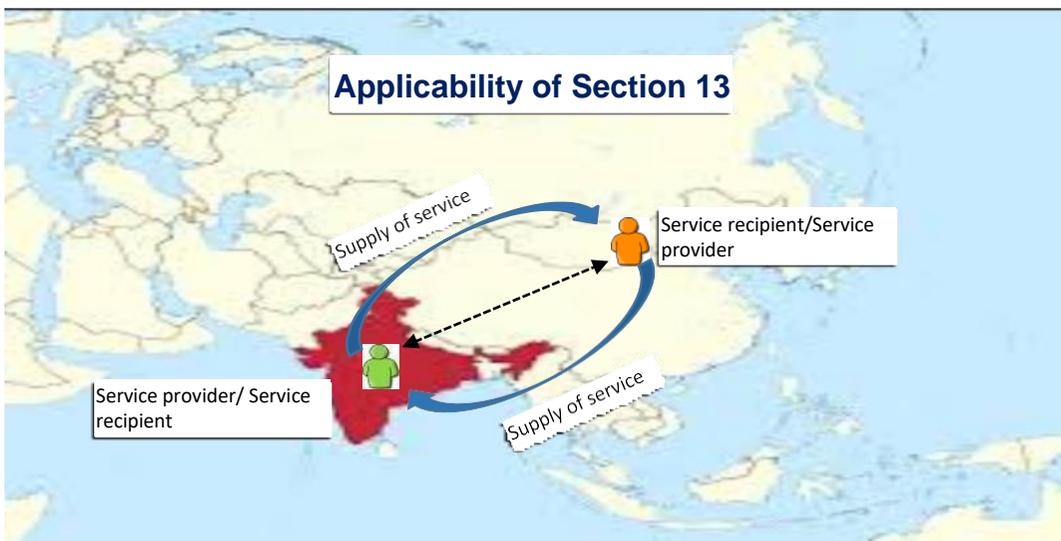
	<i>this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.</i>	
<b>(8)</b>	<i>The place of supply of the following services shall be the location of the supplier of services, namely:—</i>	
	<i>(a)</i>	<i>services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders;</i>
	<i>(b)</i>	<i>intermediary services;</i>
	<i>(c)</i>	<i>services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month.</i>
	<i>Explanation.—For the purposes of this sub-section, the expression,—</i>	
	<i>(a)</i>	<i>“account” means an account bearing interest to the depositor, and includes a non-resident external account and a non-resident ordinary account;</i>
	<i>(b)</i>	<i>“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;</i>
	<i>(c)</i>	<i>“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;</i>
	<i>(d)</i>	<i>“non-banking financial company” means,—</i>
	<i>(i)</i>	<i>a financial institution which is a company;</i>
<i>(ii)</i>	<i>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</i>	
<i>(iii)</i>	<i>such other non-banking institution or class of such institutions, as the Reserve Bank of India</i>	

			may, with the previous approval of the Central Government and by notification in the Official Gazette, specify.
(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.		
(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.		
(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.		
(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)	<i>the country code of the subscriber identity module card used by the recipient of services is of taxable territory;</i>
	(g)	<i>the location of the fixed land line through which the service is received by the recipient is in the taxable territory.</i>
(13)	<i>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.</i>	



## ANALYSIS



**Section 13 provides for determination of place of supply of services in cases where either the location of the supplier of services or the recipient of services is outside India. Thus, this section provides the place of supply in relation to international or cross-border supply of services. Place of supply of a service is one of the factors which determines as to whether a service can be termed as import or export of service.**

**Similar to section 12, section 13 also lays down a general rule to determine the place of supply of services as well as few other rules to determine place of supply of certain specific services. Thus, place of supply is determined as per general rule in respect of services other than the ones covered by the specific rules.**

**Further, sub-section (13) of section 13 empowers the Central Government to notify services or circumstances for which the place of supply will be the place of effective use and enjoyment of service so as to prevent double taxation/non-taxation of the supply of a service.**

It must be kept in mind that the provisions of section 13 discussed hereunder are all in relation to cross border supply of services.

**(i) General Rule [Section 13(2)]**

**The rule is applicable only if the supply of service does not fall in any of the specific cases provided in section 13.**

**The rule provides that the place of supply of services is the location of the recipient of services.**

**However, if the location of the recipient of services is not available in the ordinary course of business, the place of supply is the location of the supplier of services.**

**The provision can be summarized as under:**

Nature of Supply	Place of Supply	
	Location of recipient is available	Location of recipient is not available
Supply of services other than the ones specified in sub-sections (3) to (13) of section 13	Location of the recipient of services	Location of the supplier of services

**The principal exceptions to the above general rule relating to place of supply of cross border services are:**

- Performance-based services**
- Services directly in relation to immovable property**
- Admission to and/or organization of events, celebrations etc.**
- Services supplied by a banking company, financial institution, non-banking financial company (NBFS) to account holders**
- Intermediary services**

- Hiring of means of transport other than aircrafts and vessels except yachts, up to a period of one month**
- Transportation of goods, other than by way of mail or courier**
- Passenger transportation services**
- Services on board a conveyance during the course of a passenger transport operation**
- Online information and database access or retrieval services**

The place of supply of each of the above exceptions is discussed below.

**(ii) Performance based services [Section 13(3)]**

Nature of Supply		Place of Supply
<p><b>(i)</b> <b>Services requiring physical presence of goods on which the services are to be performed</b></p> 	<p><b>Location where the service is actually performed</b></p>	
<p><b>Exceptions: Services supplied in respect of goods, that are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs/treatment/process, without being put to any other use in India</b></p>		<ul style="list-style-type: none"> <li><input type="checkbox"/> <b>Location of the recipient</b></li> <li><input type="checkbox"/> <b>Location of the supplier, if location of recipient is not available</b></li> </ul>
<p><b>Services supplied in respect of goods, that are provided from a remote location by electronic means</b></p> 	<p><b>Location where goods are situated at the time of supply of services</b></p>	

(ii)	<b>Services supplied to an individual, which require the physical presence of the recipient</b>	<b>Location where the service is actually performed</b>
(iii)	<b>Services at (i) and (ii) above supplied at more than one location including a location in the taxable territory</b> 	<b>Location in the taxable territory</b>
(iv)	<b>Services at (i) and (ii) supplied in more than one State/Union territory</b>	<b>Each of State /Union territory</b>

*In case of cutting and polishing activity on unpolished diamonds which are temporarily imported into India and are not put to any use in India, the place of supply would be determined as per the provisions contained in section 13(2) - Circular No. 103/22/2019 GST dated 28.06.2019.*



**(70) MX Pvt. Ltd. (New Delhi) imports a machine from Germany for being installed in its factory at New Delhi. To install such machine, MX Pvt. Ltd. takes the service of an engineer who comes to India from Germany for this specific installation. The place of supply of installation service, which requires the physical presence of machinery, is the location where the service is actually performed, i.e. New Delhi.**

**(71) A mobile company located in United States of America (USA) takes services of a software company located in Bangalore for installation of a software in its mobiles in USA. The Indian software company provides its services through electronic means from its office in India. The place of supply is the location where goods (mobile phones) are situated at the time of supply of service, i.e. USA.**

**(72) ABC Ltd., Hyderabad has exported a machine to a company in Indonesia. The machine stops functioning and is thus, imported by ABC Ltd. for free repairs**

**in terms of the sale contract. The machine is exported after repairs without being put to any use in India. The place of supply of repair service is the location of the recipient, i.e. Indonesia.**

**(73) QR Pvt. Ltd. imports raw diamonds from a diamond merchant in Belgium for the purpose of cutting, polishing and finishing the same. After the work is completed, the finished diamonds are exported to the diamond merchant in Belgium. The place of supply of the services undertaken by QR Pvt. Ltd. is the location of the recipient, i.e. Belgium.**

**(74) Mr. X, a hair stylist registered in New Delhi, travels to Singapore to provide his services to Ms. Y, a resident of Singapore. The place of supply is the location where the services are actually performed, i.e. Singapore.**

**(75) PQR Consultants, New Delhi, bags a contract for doing a market research for a vehicle manufacturing company based in South Korea, in respect of its upcoming model of a car. The research is to be carried out in five countries including New Delhi in India. Since the services are supplied at more than one location including a location in the taxable territory, the place of supply is the location in the taxable territory, i.e. New Delhi.**

**Value of supply of service supplied in more than one State/Union territory**

**The value of services supplied**

- (i) in respect of goods requiring physical presence of such goods; and**
- (ii) to an individual requiring his physical presence**

**in each State or Union territory - where the service is performed - (when such services are supplied in more than one State/union territory) is in proportion to the value for services determined in terms of the contract or agreement entered into in this regard.**

**Manner of determining proportionate value of service in the absence of a contract or agreement**

**In the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of services supplied in different States/Union territories (where the service is performed) is computed in accordance with rule 7 of IGST Rules in the following manner:**

S. No.	Cases	Manner of computing the proportionate value of service
(i)	Services supplied on the same goods	Equally dividing the value of service in each of the States/ Union territory where the service is performed <i>Refer Example 76</i>
(ii)	Services supplied on different goods	Considering the ratio of the invoice value of goods in each States/ Union territory, on which service is performed, as the ratio of the value of the service performed in each State/Union territory <i>Refer Example 77</i>
(iii)	Services supplied to individuals	Applying generally accepted accounting principles. <i>Refer Example 78</i>



#### Example 76 - Services supplied on the same goods

A company C which is located in Kolkata is providing the services of testing of a dredging machine and the testing service on the machine is carried out in Orissa and Andhra Pradesh. The place of supply is in Orissa and Andhra Pradesh and the value of the service in Orissa and Andhra Pradesh will be ascertained by dividing the value of the service equally between these two States.



#### Example 77 – Services supplied on different goods

A company C which is located in Delhi is providing the service of servicing of two cars belonging to Mr. X. One car is of manufacturer J and is located in Delhi and is serviced by its Delhi workshop. The other car is of manufacturer A and is located in Gurugram and is serviced by its Gurugram workshop. The value of service attributable to the Union territory of Delhi and the State of Haryana respectively shall be calculated by applying the ratio of the invoice value of car J and the invoice value of car A, to the total value of the service.



### Example 78 – Services supplied to individuals

**A makeup artist M has to provide make up services to an actor A. A is shooting some scenes in Mumbai and some scenes in Goa. M provides the makeup services in Mumbai and Goa. The services are provided in Maharashtra and Goa and the value of the service in Maharashtra and Goa will be ascertained by applying the generally accepted accounting principles.**

### (iii) Services in relation to immovable property [Section 13(4)]

Nature of Supply	Place of Supply
<p><b>Services supplied directly in relation to an immovable property like</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> <b>Services of experts and estate agents</b></li> <li><input type="checkbox"/> <b>Accommodation by a hotel, inn, guest house, club or campsite</b></li> <li><input type="checkbox"/> <b>Grant of rights to use immovable property</b></li> <li><input type="checkbox"/> <b>Construction and related services</b></li> <li><input type="checkbox"/> <b>Services of architects or interior decorators</b></li> </ul>	<p><b>Location of immovable property</b></p>
<p><b>Above services supplied at more than one location, including a location in the taxable territory</b></p>	
<p><b>Above services supplied in more than one State/Union territory</b></p>	<p><b>Each of State/Union territory</b></p>



**(79) Mr. C, an architect (New Delhi), provides professional services to Mr. Z of New York in relation to his immovable property located in Pune. The place of supply is the location of immovable property, i.e. Pune.**

**(80) Mr. C, an architect (New Delhi), enters into a contract with Mr. Z of New York to provide professional services in respect of immovable properties of Mr. Z located in Pune and New York. Since the immovable properties are located in more than one location including a location in the taxable territory, the place of supply is the location in the taxable territory, i.e. Pune.**

#### **Value of supply of service supplied in more than one State/Union territory**

**The value of services supplied directly in relation to an immovable property in each State or Union territory – where the service is supplied - (when such services are supplied in more than one State/union territory) is in proportion to the value for services determined in terms of the contract or agreement entered into in this regard.**

#### **Manner of determining proportionate value of service in the absence of a contract or agreement**

**In the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of services supplied in different States/Union territories (where the service is supplied) is computed in accordance with rule 8 of IGST Rules.**

**Rule 8 lays down that in the absence of any such contract or agreement, the value is determined by applying the provisions of rule 4 of the said rules, *mutatis mutandis*.**

**Thus, the provisions for determining the proportionate value of services provided directly in relation to an immovable property under section 12(3) [both the supplier and the recipient are located in India] are applicable for determining the proportionate value of services directly provided in relation to an immovable property under section 13(4) [either the supplier or the recipient is located outside India] as well. [Rule 4 prescribing the provisions for determining the proportionate value of services provided directly in relation to an immovable property under section 12(3) is discussed at page nos. 5.28 – 5.29.]**

- (iv) **Services by way of admission to and/or organization of events or celebrations etc. [Section 13(5)]**

Nature of Supply	Place of Supply
<p><b>Services supplied by way of admission to or organisation of following:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Cultural, artistic, sporting, scientific, educational, entertainment events</li> </ul>  <ul style="list-style-type: none"> <li><input type="checkbox"/> Celebration, conference, fair, exhibition</li> <li><input type="checkbox"/> Similar events</li> </ul>	<p><b>Place where the event is actually held</b></p>
<p><b>Services ancillary to such admission or organization of event</b></p>	
<p><b>Above services supplied at more than one location, including a location in the taxable territory</b></p>	<p><b>Location in the taxable territory</b></p>
<p><b>Above services supplied in more than one State/Union territory</b></p>	<p><b>Each of State/Union territory</b></p>



(81) **A circus team from Russia organizes a circus in New Delhi. The place of supply is the location where the event is actually held, i.e. New Delhi.**

(82) **An event management company registered in New Delhi organises an art exhibition displaying works of an international painter based in Dubai. The exhibition is organised in 3 countries including New Delhi in India. Since the service is supplied at more than one location including a location in the taxable territory, the place of supply is the location in the taxable territory, i.e. New Delhi.**



### Value of supply of service supplied in more than one State/Union territory

**The value of services supplied by way of admission to or organisation of an event in each State or Union territory – where the service is supplied - (when such services are supplied in more than one State/union territory) is in proportion to the value for services determined in terms of the contract or agreement entered into in this regard.**

### Manner of determining proportionate value of service in the absence of a contract or agreement

**In the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of services supplied in different States/Union territories (where the service is supplied) is computed in accordance with rule 9 of IGSTRules.**

**Rule 9 lays down that in the absence of any such contract or agreement, the value is determined by applying the provisions of rule 5 of the said rules, *mutatis mutandis*.**

**Thus, the provisions for determining the proportionate value of services supplied by way of organization of an event under section 12(7) [both the supplier and the recipient are located in India] are applicable for determining the proportionate value of services supplied by way of admission to or organization of an event under section 13(5) [either the supplier or the recipient is located outside India] as well. [Rule 5 prescribing the provisions for determining the proportionate value of services supplied by way of organization of an event under section 12(7) is discussed at page no. 5.35.]**

### (v) Banking and financial services, Intermediary services and Hiring of means of transport [Section 13(8)]

Nature of Supply	Place of Supply
<b>Services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders</b> [See definition of these terms in Explanation to sub-section (8) of section 13]	<b>Location of the supplier of services</b>
<b>Intermediary</b> [See definition] <b>services</b>	

**Services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, upto a period of 1 month**



(83) Mr. C, a non-resident, has an NRE account with Varanasi Bank (registered in Uttar Pradesh) in India. The place of supply of banking services provided by the Varanasi Bank to Mr. C, a non-resident customer, is the location of the supplier of service, i.e. Varanasi.

(84) XYZ & Sons, Kolkata, is an agent who facilitates supply of goods between foreign customers and Indian sellers. The place of supply is the location of the supplier of services, i.e. Kolkata.

(85) Mr. D, an unregistered person based in New Delhi hires a yacht from a company based in London, UK for 20 days. The place of supply is the location of the supplier of services, i.e. London.

(vi) Transportation services [Sub-sections (9) (10) and (11) of section 13]

Nature of Supply	Place of Supply
Transportation of goods, other than by way of mail or courier	Destination of such goods
Passenger transportation services	Place where the passenger embarks on the conveyance for a continuous journey [See definition]
Services provided on board a conveyance during passenger transportation including services intended to be wholly or substantially consumed while on board	First scheduled point of departure of that conveyance for the journey



(86) A shipping line, registered in Mumbai, Maharashtra transports a shipment of flowers from Mumbai to Paris, for an event management company based in Paris. The place of supply of services by the shipping line is the location of destination of goods transported, i.e. Paris.

(87) Mr. A, a foreign tourist, has booked a ticket for New Delhi-Sri Lanka flight from an airlines registered in New Delhi for a continuous journey without any stopover. The place of supply of services by airlines is the place where the passenger embarks on the conveyance for a continuous journey, i.e. New Delhi.

(vii) **Online information and database access or retrieval services (OIDAR) [Section 13(12)]**

The place of supply of OIDAR [See definition] is the location of the recipient of services.

It is difficult to determine the location of the recipient in case of OIDAR as such recipients normally access the services online and are not required to disclose their location.

The explanation to sub-section (12) lays down 7 conditions. On satisfying any 2 non-contradictory conditions out of such seven conditions, the service recipient is deemed to be located in the taxable territory, i.e. India.

The seven conditions are:

- (a) the recipient gives an Indian address through internet;
- (b) the payment is settled by an Indian credit card/debit card/other card;
- (c) the recipient has an Indian billing address;
- (d) the computer/other device used by the recipient has an Indian IP address;
- (e) the recipient uses an Indian bank account for payment;
- (f) the country code of the subscriber identity module card used by the recipient of services is of India;
- (g) the recipient receives the service through an Indian fixed land line.



**(viii) Notified services [Section 13(13)]**

*In order to prevent double taxation or non-taxation of supply of any service, section 13(13) empowers the Government to notify any service for which the place of supply shall be the place of effective use and enjoyment of service.*

*The following services have been notified in this regard:*

**(1) Research and development services related to pharmaceutical sector**

*The following research and development services related to pharmaceutical sector [as specified in columns (2) and (3) from Sl. No. 1 to 10 of the table given below] when supplied by a person located in taxable territory to a person located in the non-taxable territory, have been notified as the services for which the place of supply shall be the place of effective use and enjoyment of a service as specified in the corresponding entry in column (4) of the table given below:*

<i>Sl. No.</i>	<i>Nature of supply</i>	<i>General description of supply</i>	<i>Place of supply</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>
<i>1.</i>	<i>Integrated discovery and development</i>	<i>This process involves discovery and development of molecules by pharmaceutical sector for medicinal use. The steps include designing of compound, evaluation of the drug metabolism, biological activity, manufacture of target compounds, stability study and long-term toxicology impact.</i>	<i>When research and development services related to pharmaceutical sector as specified in columns (2) and (3) from Sl. No. 1 to 10 of this table are supplied by a person located in taxable territory to a</i>
<i>2.</i>	<i>Integrated development</i>		<i>person located in taxable territory to a</i>
<i>3.</i>	<i>Evaluation of the efficacy of new chemical/</i>	<i>This is in vivo research (i.e. within the animal) and involves development of</i>	

	<i>biological entities in animal models of disease</i>	<i>customized animal model diseases and administration of novel chemical in doses to animals to evaluate the gene and protein expression in response to disease. In nutshell, this process tries to discover if a novel chemical entity that can reduce or modify the severity of diseases. The novel chemical is supplied by the service recipient located in non-taxable territory.</i>	<p><i>person located in the non-taxable territory, the place of supply shall be the location of the recipient of services subject to fulfillment of the following conditions:-</i></p> <p><i>(i) Supply of services from the taxable territory is provided as per a contract between the service provider located in taxable territory and service recipient located in non-taxable territory.</i></p> <p><i>(ii) Such supply of services fulfills all other conditions</i></p>
4.	<i>Evaluation of biological activity of novel chemical/ biological entities in in-vitro assays</i>	<i>This is in vitro research (i.e. outside the animal). An assay is first developed and then the novel chemical is supplied by the service recipient located in non-taxable territory and is evaluated in the assay under optimized conditions.</i>	
5.	<i>Drug metabolism and pharmacokinetics of new chemical entities</i>	<i>This process involves investigation whether a new compound synthesized by supplier can be developed as new drug to treat human diseases in respect of solubility, stability in body fluids, stability in liver tissue and its toxic effect on body tissues. Promising compounds are further evaluated in animal experiments using rat and mice.</i>	

6.	<b>Safety Assessment/ Toxicology</b>	<i>Safety assessment involves evaluation of new chemical entities in laboratory research animal models to support filing of investigational new drug and new drug application. Toxicology team analyses the potential toxicity of a drug to enable fast and effective drug development.</i>	<i>in the definition of export of services, except the condition that place of supply is outside India.</i>
7.	<b>Stability Studies</b>	<i>Stability studies are conducted to support formulation, development, safety and efficacy of a new drug. It is also done to ascertain the quality and shelf life of the drug in their intended packaging configuration.</i>	
8.	<b>Bio-equivalence and Bioavailability Studies</b>	<i>Bio-equivalence is a term in pharmacokinetics used to assess the expected in vivo biological equivalence of two proprietary preparations of a drug. If two products are said to be bioequivalent it means that they would be expected to be, for all intents and purposes, the same. Bioavailability is a measurement of the rate and extent to which a therapeutically active chemical is absorbed from a drug product into the</i>	

		<i>systemic circulation and becomes available at the site of action.</i>	
9.	<i>Clinical trials</i>	<i>The drugs that are developed for human consumption would undergo human testing to confirm its utility and safety before being registered for marketing. The clinical trials help in collection of information related to drugs profile in human body such as absorption, distribution, metabolism, excretion and interaction. It allows choice of safe dosage</i>	
10.	<i>Bio analytical studies</i>	<i>Bio analysis is a sub-discipline of analytical chemistry covering the quantitative measurement of drugs and their metabolites, and biological molecules in unnatural locations or concentrations and macromolecules, proteins, DNA, large molecule drugs and metabolites in biological systems.</i>	

(2) B2B maintenance, repair and overhaul services of aircrafts or aircraft engines/components/parts

Description of services or circumstances	Place of supply
Supply of maintenance, repair or overhaul service in respect of aircrafts, aircraft engines and other aircraft components or parts supplied to a person for use in the course or furtherance of business	The place of supply of services shall be the location of the recipient of service



## 7. CLARIFICATIONS ON PLACE OF SUPPLY

### (1) Place of supply of satellite launch services

*Circular No. 2/1/2017 IGST dated 27.09.2017* has clarified that place of supply of satellite launch services supplied by ANTRIX Corporation Limited, a wholly owned Government of India Company, to international customers would be outside India in terms of section 13(9) and such supply which meets the requirements of section 2(6), will constitute export of service and shall be zero rated in accordance with section 16.<sup>1</sup>

Where satellite launch service is provided to a person located in India, the place of supply of satellite launch service would be governed by section 12(8) and would be taxable under CGST Act, UTGST Act or IGST Act, as the case may be.

### (2) Place of supply in respect of various cargo handling services provided by ports to clients

The port authorities provide various services to its clients in relation to cargo handling. Some of such services are in respect of arrival of wagons at port, haulage of wagons inside port area up-to place of unloading, siding of wagons inside the port, unloading of wagons, movement of unloaded cargo to plot and staking hereof, movement of unloaded cargo to berth, shipment/loading on vessel etc.

*Circular No. 103/22/2019 GST dated 28.06.2019* has clarified that such services are ancillary to or related to cargo handling services and are not related to immovable property. Accordingly, the place of supply of such services will be determined as per the provisions contained in section

<sup>1</sup> Concepts of export of service under section 2(6) and zero rated supply under section 16 have been discussed in Chapter 14: Import and Export under GST of Module 3 of this Study Material.

12(2) or section 13(2), as the case may be, depending upon the terms of the contract between the supplier and recipient of such services.

(3) Place of supply in case of software/ design services related to Electronics Semi-conductor and Design Manufacturing (ESDM) industry

A number of companies that are part of the growing Electronics Semiconductor and Design Manufacturing (ESDM) industry in India are engaged in the process of developing software and designing integrated circuits electronically for customers located overseas. The customer electronically provides Indian development and design companies with design requirements and Intellectual Property blocks (“IP blocks”, reusable units of software logic and design layouts that can be combined to form newer designs). Based on these, the Indian company digitally integrates the various IP blocks to develop the software and the silicon or hardware design. These designs are communicated abroad (in industry standard electronic formats) either to the customer or (on behest of the customer) a manufacturing facility for the manufacture of hardware based on such designs.

In addition, the software developed is also integrated upon or customized to this hardware. On some occasions, samples of such prototype hardware are then provided back to the Indian development and design companies to test and validate the software and design that has been developed to ensure that it is error free.

The question arose whether provision of hardware prototypes and samples and testing thereon lends these services the character of performance-based services in respect of “goods required to be made physically available by the recipient to the provider”.

It is observed that in contracts where service provider is involved in a composite supply of software development and design for integrated circuits electronically, testing of software on sample prototype hardware is often an ancillary supply, whereas, chip design/software development is the principal supply of the service provider. The service provider is not involved in software testing alone as a separate service. The testing of software/design is aimed at improving the quality of software/design and is an ancillary activity. The entire activity needs to be viewed as one supply and accordingly treated for the purposes of taxation. Artificial vivisection of the contract of a composite supply is not provided in law. These cases are fact based and each case should be examined for the

*nature of supply contracted.*

*Therefore, Circular No. 118/37/2019 GST dated 11.10.2019 clarified that the place of supply of software/design by supplier located in taxable territory to service recipient located in non-taxable territory by using sample prototype hardware / test kits in a composite supply, where such testing is an ancillary supply, is the location of the service recipient as per section 13(2). Provisions of section 13(3)(a) do not apply separately for determining the place of supply for ancillary supply in such cases.*

## LET US RECAPITULATE

### A. Place of supply of goods other than import and export [Section 10]

S. No.	Nature of Supply	Place of Supply
1.	Where the supply involves the movement of goods, whether by the supplier or the recipient or by any other person	Location of the goods at the time at which, the movement of goods terminates for delivery to the recipient
2.	Where the goods are delivered to the recipient or any person on the direction of the third person by way of transfer of title or otherwise	Principal place of business of such third person
3.	Where there is no movement of goods either by supplier or recipient	Location of such goods at the time of delivery to the recipient
4.	Where goods are assembled or installed at site	Place where the goods are assembled or installed
5.	Where the goods are supplied on-board a conveyance like a vessel, aircraft, train or motor vehicle	Place where such goods are taken on-board the conveyance
6.	Where the place of supply of goods cannot be determined in terms of the above provisions	To be determined in the prescribed manner

**B. Place of supply of goods imported into, or exported from India [Section 11]**

S. No.	Nature of Supply of Goods	Place of Supply
1.	Import	Location of importer
2.	Export	Location outside India

**C. Place of supply of services where location of supplier AND recipient is in India [Section 12]**

- (i) In respect of the following 12 categories of services, the place of supply is determined with reference to a proxy; rest of the services are governed by the default provision.

S. No.	Nature of Service	Place of Supply
1.	<p><b>Immovable property related-services including accommodation in hotel/boat/vessel</b></p> <p><b>If the immovable property or boat or vessel is located in more than one State</b></p>	<p><input type="checkbox"/> <b>Location at which the immovable property or boat or vessel is located or intended to be located</b></p> <p><input type="checkbox"/> <b>If located outside India: Location of the recipient</b></p> <p><b>Each such State in proportion to the value of services provided in each State – Refer point (ii) below</b></p>
2.	<b>Restaurant and catering services, personal grooming, fitness, beauty treatment and health service</b>	<b>Location where the services are actually performed</b>
3.	<b>Training and performance appraisal</b>	<p><input type="checkbox"/> <b>B2B: Location of such registered person</b></p> <p><input type="checkbox"/> <b>B2C: Location where the services are actually performed</b></p>

4.	<b>Admission to an event or amusement park</b>	<b>Place where the event is actually held or where the park or the other place is located</b>
5.	<b>Organisation of an event including ancillary services and assigning of sponsorship to such events</b>	<input type="checkbox"/> <b>B2B: Location of such registered person</b> <input type="checkbox"/> <b>B2C: Location where the event is actually held</b> <ul style="list-style-type: none"> <li>• <b>If the event is held outside India: Location of the recipient</b></li> </ul>
	<b>If the event is held in more than one State (in cases of unregistered recipient)</b>	<b>Each such State in proportion to the value of services provided in each State – Refer point (iii) below</b>
6.	<b>Transportation of goods, including mails or courier</b>	<input type="checkbox"/> <b>B2B: Location of such registered person</b> <input type="checkbox"/> <b>B2C: Location at which such goods are handed over for their transportation</b> <input type="checkbox"/> <b>If the goods are transported outside India: Location of the destination of goods</b>
7.	<b>Passenger transportation</b>	<input type="checkbox"/> <b>B2B: Location of such registered person</b> <input type="checkbox"/> <b>B2C: Place where the passenger embarks on the conveyance for a continuous journey</b>
8.	<b>Services on board a conveyance</b>	<b>Location of the first scheduled point of departure of that conveyance for the journey</b>
9.	<b>Banking and other financial services including stock broking</b>	<input type="checkbox"/> <b>Location of the recipient of services in the records of the supplier</b> <input type="checkbox"/> <b>Location of the supplier of</b>

		services if the location of the recipient of services is not available
10.	Insurance services	<input type="checkbox"/> B2B: Location of such registered person <input type="checkbox"/> B2C: Location of the recipient of services in the records of the supplier
11.	Advertisement services to the Government	<input type="checkbox"/> Each of States/Union territory where the advertisement is broadcasted/displayed/run/diss eminated <input type="checkbox"/> Proportionate value in case of multiple States – Refer point (iv) below
12.	Telecommunication services	<input type="checkbox"/> Services involving fixed line, leased and internet leased circuits, dish antenna etc: Location of such fixed equipment <input type="checkbox"/> Post-paid mobile/ internet services: Location of billing address of the recipient and if the same is not available, location of supplier <input type="checkbox"/> Pre-paid mobile/ internet/DTH services provided: <ul style="list-style-type: none"> <li>• Through selling agent/re-seller/distributor: Address of such selling agent/re-seller/distributor in the records of supplier at the time of supply</li> <li>• By any person to final subscriber: Location where</li> </ul>

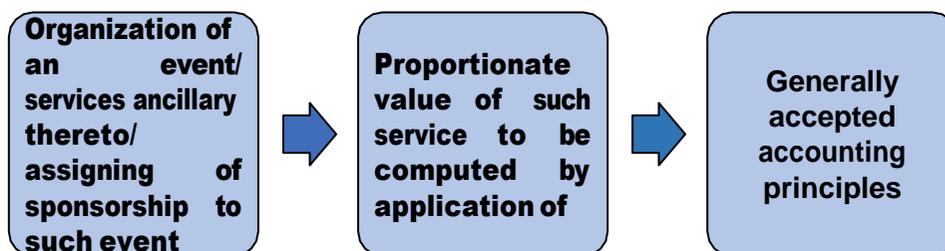
		<p><b>pre-payment is received or place of sale of vouchers</b></p> <ul style="list-style-type: none"> <li>• <b>When payment made through electronic mode - Location of recipient in records of supplier</b></li> <li>□ <b>Other cases: Address of the recipient in the records of the supplier and if the same is not available, location of supplier</b></li> </ul>
	<b>If the leased circuit is installed in more than one State</b>	<b>Each such State in proportion to the value of services provided in each State – Refer point (v) below</b>

- (ii) **Manner of determining proportionate value of immovable property related service attributable to different States/Union territories – where the immovable property/boat/vessel is located - in the absence of a contract or agreement in this regard**

<b>S. No.</b>	<b>Type of service in relation to immovable property</b>	<b>Factor determining the proportionate value of service</b>
<b>(a)</b>	<b>Service provided by way of lodging accommodation by hotel/inn/guest house etc. and its ancillary services (other than the cases where such property is a single property located in 2 or more contiguous States/ Union territories or both)</b>	<b>Number of nights stayed in such property</b>
<b>(b)</b>	<b>All other services provided in relation to immovable property including organising any marriage or reception etc., accommodation in a single property located in 2 or more contiguous States or/and</b>	<b>Area of the immovable property lying in each State/ Union territories</b>

	<b>Union territories, services ancillary to such services</b>	
<b>(c)</b>	<b>Services by way of lodging accommodation by a house boat or vessel and its ancillary services</b>	<b>Time spent by the boat or vessel in each such State/ Union territories, to be determined on the basis of declaration made by the service provider</b>

- (iii) **Manner of determining proportionate value of service relating to organization of event, attributable to different States/Union territories – where the event is held - in the absence of a contract or agreement in this regard**



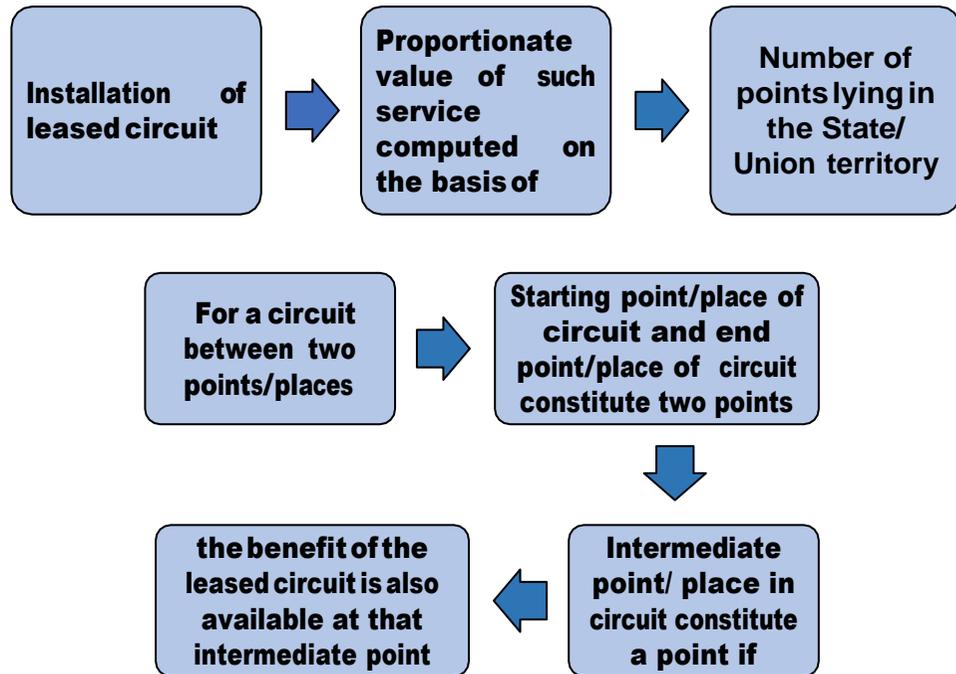
- (iv) **Manner of determining proportionate value of advertisement service attributable to different States/Union territories – where the advertisement is broadcasted/ run /played/disseminated - in the absence of a contract or agreement in this regard**

<b>Sl. No.</b>	<b>Type of advertisement</b>	<b>Proportionate value of service</b>
<b>1.</b>	<b>Advertisements in newspapers and publications</b>	<b>Amount payable for publishing an advertisement in all the editions of a newspaper or publication, which are published in each State/Union territory</b>
<b>2.</b>	<b>Advertisements through printed material like pamphlets,</b>	<b>Amount payable for the distribution of a specific number of such material in each State/Union territory</b>

	<b>leaflets, diaries, calendars, T-shirts, etc.</b>	
<b>3.</b>	<b>Advertisements in hoardings (other than those on trains)</b>	<b>Amount payable for the hoardings located in each State/Union territory</b>
<b>4.</b>	<b>Advertisements on trains</b>	<b>Amount attributable to each State/Union territory calculated in the ratio of length of the railway track in each of such State/Union territory, for that train</b>
<b>5.</b>	<b>Advertisements on the back of utility bills of oil and gas companies, etc.</b>	<b>Amount payable to each State/Union territory for the advertisements on bills pertaining to consumers having billing addresses in each of such State/Union territory</b>
<b>6.</b>	<b>Advertisements on railway tickets</b>	<b>Amount attributable to each State/Union territory calculated in the ratio of number of Railway Stations in each of such State/Union territory</b>
<b>7.</b>	<b>Advertisements on radio stations</b>	<b>Amount payable to such radio station, which by virtue of its name is part of each State/Union territory</b>
<b>8.</b>	<b>Advertisement on television channels</b>	<b>Amount attributable to each State/Union territory calculated on the basis of the viewership of such channel in each of such State/ Union territory.</b> <b>Viewership figures for the last week of a given quarter as published by BARC can be used for calculating viewership for the</b>

		<p>succeeding quarter. Figures pertaining to more than one State/Union territory are apportioned in ratio of the populations of those States/Union territories, as per the latest Census.</p>
9.	<p><b>Advertisements in cinema halls</b></p>	<p>Amount payable to a cinema hall or screens in a multiplex in each State/ Union territory.</p>
10.	<p><b>Advertisements on internet</b> It is deemed that such service is provided all over India.</p>	<p>Amount attributable to each State/Union territory calculated on the basis of the internet subscribers in each of such State/ Union territory.</p> <p>Internet subscriber figures for the last quarter of a given financial year as published by TRAI can be used for calculating the subscribers for the succeeding financial year. Figures pertaining to more than one State/Union territory are apportioned in the ratio of the populations of those States/Union territories, as per the latest census.</p>
11.	<p><b>Advertisements through SMS</b></p>	<p>Amount attributable to each State/Union territory calculated on the basis of the telecom subscribers in each of such State/ Union territory.</p> <p>Telecom subscribers figures in a telecom circle for a given quarter as published by TRAI can be used for calculating the subscribers for the succeeding quarter. Figures pertaining to a telecom circle comprising of more than one State/Union territory are apportioned in the ratio of the populations of those States/Union territories, as per the latest census.</p>

- (v) **Manner of determining proportionate value of service relating to installation of a leased circuit, attributable to different States/Union territories – where the circuit is installed - in the absence of a contract or agreement in this regard**



- (vi) **For the rest of the services other than those specified above, the default provision has been prescribed as under:**

Default rule for the services other than the 12 specified services		
S. No.	Description of Supply	Place of Supply
1.	<b>B2B</b>	<b>Location of such registered person</b>
2.	<b>B2C</b>	<input type="checkbox"/> <b>Where the address on record exists: Location of the recipient</b> <input type="checkbox"/> <b>Other cases: Location of the supplier of services</b>

**D. Place of supply of services where location of supplier OR location of recipient is outside India [Section 13]**

- (i) In respect of the following categories of services, the place of supply is determined with reference to a proxy; rest of the services are governed by the default provision.**

S. No.	Nature of Service	Place of Supply
1.	Services supplied in respect of goods which are required to be made physically available	Location where the services are actually performed
	Services supplied in respect of goods but from a remote location by way of electronic means	Location where the goods are situated at the time of supply of services
	<i>Above provisions are not applicable in case of goods that are temporarily imported into India for repairs/treatment/any process and exported after such repairs/treatment/any process without being put to any other use in India</i>	
2.	Services which require the physical presence of the recipient or the person acting on his behalf with the supplier of services	Location where the services are actually performed
3.	Service supplied directly in relation to an immovable property including accommodation in hotel, boat, vessel	Place where the immovable property is located or intended to be located
4.	Admission to or organisation of an event	Place where the event is actually held
<p><b>If the above services are supplied at more than one location, i.e.</b></p> <p><b>(i) Goods &amp; individual related</b></p> <p><b>(ii) Immovable property-related</b></p>		

<b>(iii) Event related</b>		
<b>At more than one location, including a location in the taxable territory</b>		<b>Location in the taxable territory</b>
<b>In more than one State</b>		<b>Each such State in proportion to the value of services provided in each State – Refer point (ii) below</b>
<b>5.</b>	<b>Services supplied by a banking company, or a financial institution, or a NBFC to account holders</b>	<b>Location of the supplier of services</b>
	<b>Intermediary services</b>	
	<b>Services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month</b>	
<b>6.</b>	<b>Transportation of goods, other than by way of mail or courier</b>	<b>Place of destination of such goods</b>
<b>7.</b>	<b>Passenger transportation</b>	<b>Place where the passenger embarks on the conveyance for a continuous journey</b>
<b>8.</b>	<b>Services provided on-board a conveyance</b>	<b>First scheduled point of departure of that conveyance for the journey</b>
<b>9.</b>	<b>Online information and database access or retrieval services</b>	<b>Location of recipient of service</b>

- (ii) **Manner of determining proportionate value of service relating to (1) goods & individual (2) immovable property (3) admission to/organization of event attributable to different State/Union**

**territories– where such services are supplied -in the absence of a contract or agreement in this regard**

S. No.	Cases	Manner of computing the proportionate value of service
1.	<b>Services relating to goods &amp; individual</b>	
	<b>(a) Services supplied on the same goods</b>	<b>Equally dividing the value of service in each of the States/ Union territory where the service is performed</b>
	<b>(b) Services supplied on different goods</b>	<b>Considering the ratio of the invoice value of goods in each States/ Union territory, on which service is performed, as the ratio of the value of the service performed in each State/Union territory</b>
	<b>(c) Services supplied to individuals</b>	<b>Applying generally accepted accounting principles.</b>
2.	<b>Services directly relating to immovable property</b>	<b>In the same manner as is applicable for determining the proportionate value of services provided in relation to an immovable property under section 12(3)</b>
3.	<b>Services relating to admission to/organization of event</b>	<b>In the same manner as is applicable for determining the proportionate value of services provided in relation to organization of an event under section 12(7)</b>

**(iii) For the rest of the services other than those specified above, a default provision has been prescribed as under:**

**Default rule for the cross-border supply of services other than nine specified services**

S. No.	Description of supply	Place of Supply
1.	Any	<input type="checkbox"/> Location of the recipient of service <input type="checkbox"/> Location of the supplier of service, if location of recipient is not available in the ordinary course of business

(iv) *Place of supply of services notified under section 13(13)*

S. No.	Services notified	Place of supply
1.	Specified research and development services related to pharmaceutical sector supplied by a person located in taxable territory to a person located in the non-taxable territory	Location of recipient of services subject to fulfillment of specified conditions
2.	B2B maintenance, repair or overhaul services of aircrafts, aircraft engines/components/parts	Location of recipient of service

## TEST YOUR KNOWLEDGE

1. In case of a domestic supply, what is the place of supply where goods are removed?
2. What will be the place of supply if the goods are delivered by the supplier to a person on the direction of a third person?
3. What is the place of supply where the goods or services are supplied on board a conveyance, such as a vessel, an aircraft, a train or a motor vehicle?
4. The place of supply in relation to immovable property is the location of immovable property. Suppose a road is constructed from Delhi to Mumbai covering multiple states.

What will be the place of supply of construction services?

5. *What would be the place of supply of services provided by an event management company for organizing a sporting event for a Sports Federation which is held in multiple States?*
6. *What is the place of supply of services by way of transportation of goods, including mail or courier when the both the supplier and the recipient of the services are located in India?*
7. *What will be the place of supply of passenger transportation service, if a person travels from Mumbai to Delhi and back to Mumbai?*
8. *What is the place of supply for mobile connection? Can it be the location of supplier?*
9. *A person from Mumbai goes to Kullu-Manali and takes some services from ICICI Bank in Manali.  
What is the place of supply?*
10. *An unregistered person from Gurugram travels by Air India flight from Mumbai to Delhi and gets his travel insurance done in Mumbai.  
What is the place of supply of insurance services?*
11. *XY Ltd. (registered in Rajasthan) received legal services from an attorney in UK (unrelated person) in relation to registration of a trademark in UK. A consideration of £ 8,000 was paid by the company to the attorney in UK.  
Determine the place of supply for the service and suggest if XY Ltd. is required to pay tax under reverse charge on this transaction.*
12. *Damani Industries has recruited Super Events Pvt. Ltd., an event management company of Gujarat, for organising the grand party for the launch of its new product at Bangalore. Damani Industries is registered in Mumbai. Determine the place of supply of the services provided by Super Events Pvt. Ltd. to Damani Industries.  
Will your answer be different if the product launch party is organised at Dubai?*
13. *Priyank Sales of Pune, Maharashtra enters into an agreement to sell goods to Bisht Enterprises of Bareilly, Uttar Pradesh. While the goods were being packed in Pune godown of Priyank Sales, Bisht got an order from Sahil Pvt. Ltd. of Shimoga, Karnataka for the said goods. Bisht Enterprises agreed to supply the said goods to Sahil Pvt. Ltd. and asked Priyank Sales to deliver the goods to Sahil Pvt. Ltd. at Shimoga.*

*You are required to determine the place of supply(ies) in the above situation.*

14. *Musicera Pvt. Ltd. owned by Nitish Daani - a famous classical singer - wishes to organise a 'Nitish Daani Music Concert' in Gurugram (Haryana). Musicera Pvt. Ltd. (registered in Ludhiana, Punjab) enters into a contract with an event management company, Supriya (P) Ltd. (registered in Delhi) for organising the said music concert at an agreed consideration of ` 10,00,000. Supriya (P) Ltd. books the lawns of Hotel Dumdum, Gurugram (registered in Haryana) for holding the music concert, for a lump sum consideration of ` 4,00,000. Musicera Pvt. Ltd. fixes the entry fee to the music concert at ` 5,000. 400 tickets for 'Nitish Daani Music Concert' are sold.*

*You are required to determine the CGST and SGST or IGST liability, as the case may be, in respect of the supply(ies) involved in the given scenario.*

*Will your answer be different if the price per ticket is fixed at ` 450?*

*Note: Rate of CGST and SGST is 9% each and IGST is 18%. All the amounts given above are exclusive of taxes, wherever applicable.*

15. *RST Inc., a corn chips manufacturing company based in USA, intends to launch its products in India. However, the company wishes to know the taste and sensibilities of Indians before launching its products in India. For this purpose, RST Inc. has approached ABC Consultants, Mumbai, (Maharashtra) to carry out a survey in India to enable it to make changes, if any, in its products to suit Indian taste.*

*The survey is to be solely based on the oral replies of the surveyees; they will not be provided any sample by RST Inc. to taste. ABC Consultants will be paid in convertible foreign exchange for the assignment.*

*With reference to the provisions of GST law, determine the place of supply of the service. Also, explain whether the said supply will amount to export of service?*

16. *ABC Pvt. Ltd., New Delhi, provides support services to foreign customers in relation to procuring goods from India. The company identifies the prospective vendor, reviews product quality and pricing and then shares the vendor details with the foreign customer.*

*The foreign customer then directly places purchase order on the Indian vendor for purchase of the specified goods. ABC Pvt. Ltd. charges its foreign customer cost plus 10% mark up for services provided by it.*

The company has charged US \$ 1,00,000 (exclusive of GST) to its foreign customer for the services provided by it. With reference to the provisions of GST law, examine whether the said supply will amount to export of service?

17. Mr. Murthy, an unregistered person and a resident of Pune, Maharashtra hires the services of Sun Ltd. an event management company registered in Delhi, for organising of the new product launch in Bengaluru, Karnataka.
- (i) Determine the place of supply of services provided by Sun Ltd.
  - (ii) What would be your answer if the product launch takes place in Bangkok?
  - (iii) What would be your answer if Mr. Murthy is a registered person and product launch takes place in-
    - (a) Bengaluru
    - (b) Bangkok?

18. Mr. Mahendra Goyal, an interior decorator provides professional services to Mr. Harish Jain in relation to two of his immovable properties.

Determine the place of supply in the transactions below as per provisions of GST law in the following independent situations:

Case	Location of Mr. Mahendra Goyal	Location of Mr. Harish Jain	Property situated at
I	Delhi	Maharashtra	New York (USA)
II	Delhi	New York	Paris (France)

Explain the relevant provisions of law to support your conclusions.

19. Asha Enterprises, supplier of sewing machines, is located in Kota (Rajasthan) and registered for purpose of GST in the said State. It receives an order from Deep Traders, located in Jalandhar (Punjab) and registered for the purpose of GST in the said State. The order is for the supply of 100 sewing machines with an instruction to ship the sewing machines to Jyoti Sons, located in Patiala (Punjab) and registered in the said State for purpose of GST. Jyoti Sons is a customer of Deep Traders. Sewing machines are being shipped in a lorry by Asha Enterprises.

Briefly explain the following:

- (a) the place of supply;

- (b) *the nature of supply:- whether inter-State or intra-State and*
- (c) *whether CGST/SGST or IGST would be applicable in this case.*
20. *Determine the place of supply for the following independent cases:*
- (i) *Grand Gala Events, an event management company at Kolkata, organises two award functions for Narayan Jewellers of Chennai (Registered in Chennai, Tamil Nadu) at New Delhi and at Singapore.*
- (ii) *Perfect Planners (Bengaluru, Karnataka) is hired by Dr. Kelvin (unregistered person based in Kochi, Kerala) to plan and organise his son's wedding at Mumbai, Maharashtra.*
- Will your answer be different if the wedding is to take place in Malaysia?*

## ANSWERS

1. **As per section 10(1)(a), the place of supply of goods is the location of the goods at the time at which the movement of goods terminates for delivery to the recipient.**
2. **As per section 10(1)(b), it would be deemed that the third person has received the goods and the place of supply of such goods will be the principal place of business of such person.**
3. **As per section 10(1)(e), in respect of goods, the place of supply is the location at which such goods are taken on board.**

**However, in respect of services, the place of supply is the location of the first scheduled point of departure of that conveyance for the journey in terms of sections 12(10) and 13(11).**

4. **Where the immovable property is located in more than one State, the supply of service is treated as made in each of the States 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 reasonable basis as may be prescribed in this behalf [Explanation to section 12(3) for domestic supplies].**

**In the absence of a contract or agreement between the supplier and recipient of services in this regard, the proportionate value of services supplied in different States/Union territories (where the immovable property is located) is computed on the basis of the area of the immovable property lying in each State/ Union territories [Rule 4 of the IGST Rules].**

5. **In case of an event, if the recipient of service is registered, the place of supply of services for organizing the event is the location of such person. However, if the recipient is not registered, the place of supply is the place where event is held.**

**Since the event is being held in multiple states and a consolidated amount is charged for such services, the place of supply will be deemed to be in each State in proportion to the value for services determined in terms of the contract or agreement entered into in this regard [Explanation to section 12(7)].**

**In the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of services made in each State (where the event is held) will be computed in accordance with rule 5 of the IGST Rules by the application of generally accepted accounting principles.**

6. **If the recipient is registered, the location of such person is the place of supply. However, if the recipient is not registered, the place of supply is the place where the goods are handed over for transportation. Further, if the goods are transported outside India, the destination of such goods is the place of supply [Section 12(8)].**
7. **If the person is registered, the place of supply will be the location of recipient. If the person is not registered, the place of supply for the forward journey from Mumbai to Delhi will be Mumbai, the place where he embarks [Section 12(9)].**

**However, for the return journey, the place of supply will be Delhi as the return journey has to be treated as separate journey [Explanation to section 12(9)].**

8. **The location of supplier of mobile services cannot be the place of supply as the mobile companies are providing services in multiple states and many of these services are inter-state. The consumption principle will be broken if the location of supplier is taken as place of supply and all the revenue may go to a few states where the suppliers are located.**

**The place of supply for mobile connection would depend on whether the connection is on postpaid or prepaid basis. In case of postpaid connections, the place of supply is the location of billing address of the recipient of service.**

**In case of pre-paid connections, the place of supply is the place where payment for such connection is received or such pre-paid vouchers are sold. However, if the recharge is done through internet/e-payment, the location of recipient of service on record will be taken as the place of supply.**

9. **If the service is not linked to the account of person, place of supply will be Kullu, i.e. the location of the supplier of services. However, if the service is linked to the account of the person, the place of supply will be Mumbai, the location of recipient on the records of the supplier.**
10. **When insurance service is provided to an unregistered person, the location of the recipient of services on the records of the supplier of insurance services is the place of supply. So Gurugram is the place of supply [Section 12(13)].**
11. **In the given case, the service provider is outside India, and the service recipient is in India. Thus, the place of supply will be determined on the basis of the provisions of section 13. Since the given service does not get covered under any of the specific provisions of section 13, the place of supply thereof will be governed by the general rule, i.e. place of supply of services will be the location of the recipient of service, which in this case is Rajasthan (India).**

**Further, the given case is import of service in terms of section 2(11) as the supplier of service is located outside India, the recipient of service is located in India and the place of supply of service is in India. Since the services are imported for a consideration from an unrelated person, the same tantamounts to supply in terms of section 7(1)(b) of CGST Act and are liable to GST.**

**As per reverse charge Notification No. 10/2017 IT(R) dated 28.06.2017, if a service is supplied by a person located in a non-taxable territory to a person located in the taxable territory, other than non-taxable online recipient, the tax is payable by the recipient of service under reverse charge.**

**Therefore, XY Ltd. will pay GST under reverse charge on £ 8000 paid by it to the attorney in UK.**

12. **Section 12(7)(a)(i) stipulates that when service by way of organization of an event is provided to a registered person, place of supply is the location of recipient.**

**Since, in the given case, the product launch party at Bangalore is organized for Damani Industries (registered in Mumbai), place of supply is the location of Damani Industries, i.e. Mumbai, Maharashtra.**

**In case the product launch party is organised at Dubai, the answer will remain the same, i.e. the place of supply is the location of recipient (Damani Industries)– Mumbai, Maharashtra.**

13. **The supply between Priyank Sales (Pune) and Bisht Enterprises (Bareilly) is a bill to ship to supply where the goods are delivered by the supplier [Priyank Sales] to a recipient [Sahil Pvt. Ltd. (Shimoga)] or any other person on the direction of a third person [Bisht Enterprises]. The place of supply in case of domestic bill to ship to supply of goods is determined in terms of section 10(1)(b).**

**As per section 10(1)(b), where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person.**

**Thus, in the given case, it is deemed that the Bisht Enterprises has received the goods and the place of supply of such goods is the principal place of business of Bisht Enterprises. Accordingly, the place of supply between Priyank Sales (Pune) and Bisht Enterprises (Bareilly) will be Bareilly, Uttar Pradesh.**

**This situation involves another supply between Bisht Enterprises (Bareilly) and Sahil Pvt. Ltd. (Shimoga). The place of supply in this case will be determined in terms of section 10(1)(a).**

**Section 10(1)(a) stipulates that 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.**

**Thus, the place of supply in second case is the location of the goods at the time when the movement of goods terminates for delivery to the recipient (Sahil Pvt. Ltd.), i.e. Shimoga, Karnataka.**

14. **In the given situation, three supplies are involved:**
- (i) Services provided by Musicera Pvt. Ltd. to audiences by way of admission to music concert.**
  - (ii) Services provided by Supriya (P) Ltd. to Musicera Pvt. Ltd. by way of organising the music concert.**
  - (iii) Services provided by Hotel Dumdum to Supriya (P) Ltd. by way of accommodation in the Hotel lawns for organising the music concert.**

**The CGST and SGST or IGST liability in respect of each of the above supplies is determined as under:**

- (i) **As per the provisions of section 12(6), the place of supply of services provided by way of admission to, *inter alia*, a cultural event shall be the place where the event is actually held.**

**Therefore, the place of supply of services supplied by Musicera Pvt. Ltd. (Ludhiana, Punjab) to audiences by way of admission to the music concert is the location of the Hotel Dumdum, i.e. Gurugram, Haryana.**

**Since the location of the supplier (Ludhiana, Punjab) and the place of supply (Gurugram, Haryana) are in different States, IGST will be leviable. Therefore, IGST leviable will be computed as follows:**

**Consideration for supply (400 tickets @ ` 5,000 per ticket) = ` 20,00,000**

**IGST @ 18% on value of supply = ` 20,00,000 x 18% = ` 3,60,000.**

- (ii) **Section 12(7)(a)(i) stipulates that the place of supply of services provided by way of organization of, *inter alia*, a cultural event to a registered person is the location of such person.**

**Therefore, the place of supply of services supplied by Supriya (P) Ltd. (Delhi) to Musicera Pvt. Ltd. (Ludhiana, Punjab) by way of organising the music concert is the location of the recipient, i.e. Ludhiana (Punjab).**

**Since the location of the supplier (Delhi) and the place of supply (Ludhiana, Punjab) are in different States, IGST will be leviable. Therefore, IGST leviable will be computed as follows:**

**Consideration for supply = ` 10,00,000**

**IGST @ 18% on value of supply = ` 10,00,000 x 18% = ` 1,80,000**

- (iii) **As per the provisions of section 12(3)(c) of the IGST Act, 2017, the place of supply of services, by way of accommodation in any immovable property for organizing, *inter alia*, any cultural function shall be the location at which the immovable property is located.**

**Therefore, the place of supply of services supplied by Hotel Dumdum (Gurugram, Haryana) to Supriya (P) Ltd. (Delhi) by way of accommodation in Hotel lawns for organising the music concert shall be the location of the Hotel Dumdum, i.e. Gurugram, Haryana.**

**Since the location of the supplier (Gurugram, Haryana) and the place of supply (Gurugram, Haryana) are in the same State, CGST and SGST will**

be leviable. Therefore, CGST and SGST leviable will be computed as follows:

**Consideration for supply** = ` 4,00,000

**CGST@9% on value of supply** = ` 4,00,000 x 9% = ` 36,000

**SGST@9% on value of supply** = ` 4,00,000 x 9% = ` 36,000

If the price for the entry ticket is fixed at ` 450, answer will change in respect of supply of service provided by way of admission to music concert, as mentioned in point (i) above. There will be no IGST liability if the consideration for the ticket is ` 450 as the inter-State services by way of right to admission to, *inter alia*, musical performance are exempt from IGST vide Notification No. 9/2017 IT (R) dated 28.06.2017, if the consideration for right to admission to the event is not more than ` 500 per person. However, there will be no change in the answer in respect of supplies mentioned in point (ii) and (iii) above.

15. As per section 13(2), in case where the location of the supplier of services or the location of the recipient of services is outside India, 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. Sub-sections (3) to (13) provide the mechanism to determine the place of supply in certain specific situations.

The given case does not fall under any of such specific situations and thus, the place of supply in this case will be determined under sub-section (2) of section 13. Thus, the place of supply of services in this case is the location of recipient of services, i.e. USA.

As per section 2(6), export of services means the supply of any service when,—

- (a) the supplier of service is located in India;
- (b) the recipient of service is located outside India;
- (c) the place of supply of service is outside India;
- (d) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India; and
- (e) 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.

Since all the above five conditions are fulfilled in the given case, the same will be considered as an export of service.

16. **Section 2(13) defines “intermediary” to mean 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.**

In this case, since ABC Pvt. Ltd. is arranging or facilitating supply of goods between the foreign customer and the Indian vendor, the said services can be classified as intermediary services.

If the location of the supplier of services or the location of the recipient of service is outside India, the place of supply is determined in terms of section 13. Since, in the given case, the recipient of supply is located outside India, the provisions of supply of intermediary services will be determined in terms of section 13.

As per section 13(8)(b), the place of supply in case of intermediary services is the location of the supplier, i.e. the location of ABC Pvt. Ltd. which is New Delhi.

As per section 2(6) of the IGST Act, 2017, export of services means the supply of any service when,—

- (a) the supplier of service is located in India;
- (b) the recipient of service is located outside India;
- (c) the place of supply of service is outside India;
- (d) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India; and
- (e) 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.

Since, in the given case, place of supply is in India, this transaction does not tantamount to export of service.

17. (i) As per section 12(7)(a)(ii), when service by way of organization of an event is provided to an unregistered person, the place of supply is the location where the event is actually held and if the event is held outside

**India, the place of supply is the location of recipient.**

**Since, in the given case, the service recipient [Mr. Murthy] is unregistered and event is held in India, place of supply is the location where the event is actually held, i.e. Bengaluru, Karnataka. The location of the supplier and the location of the recipient is irrelevant in this case.**

- (ii) However, if product launch takes place outside India [Bangkok], the place of supply will be the location of recipient, i.e. Pune, Maharashtra.**
- (iii) When service by way of organization of an event is provided to a registered person, place of supply is the location of recipient vide section 12(7)(a)(i).**

**Therefore, if Mr. Murthy is a registered person, then in both the cases, i.e. either when product launch takes place in Bengaluru or Bangkok, the place of supply will be the location of recipient, i.e. Pune, Maharashtra.**

#### **18. Case I**

**As per section 12(3), where both the service provider and the service recipient are located in India, the place of supply of services directly in relation to an immovable property, including services provided by interior decorators is the location of the immovable property. However, if the immovable property is located outside India, the place of supply is the location of the recipient.**

**Since in the given case, both the service provider (Mr. Mahendra Goyal) and the service recipient (Mr. Harish Jain) are located in India and the immovable property is located outside India (New York), the place of supply will be the location of recipient, i.e. Maharashtra.**

#### **Case II**

**As per section 13(4), where either the service provider or the service recipient is located outside India, the place of supply of services directly in relation to an immovable property including services of interior decorators is the location of the immovable property.**

**Since in the given case, service provider (Mr. Mahendra Goyal) is located in India and service recipient (Mr. Harish Jain) is located outside India (New York), the place of supply will be the location of immovable property, i.e. Paris (France).**

19. **The supply between Asha Enterprises (Kota, Rajasthan) and Deep Traders (Jalandhar, Punjab) is a bill to ship to supply where the goods are delivered by the supplier [Asha Enterprises] to a recipient [Jyoti Sons (Patiala, Punjab)] on the direction of a third person [Deep Traders].**

**In case of such supply, it is deemed that the said third person has received the goods and the place of supply of such goods is the principal place of business of such person [Section 10(1)(b)]. Thus, the place of supply between Asha Enterprises (Rajasthan) and Deep Traders (Punjab) will be Jalandhar, Punjab.**

**Since the location of supplier and the place of supply are in two different States, the supply is an inter-State supply in terms of section 7, liable to IGST.**

**This situation involves another supply between Deep Traders (Jalandhar, Punjab) and Jyoti Sons (Patiala, Punjab). In this case, since the supply involves movement of goods, place of supply will be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient, i.e. Patiala, Punjab [Section 10(1)(a)].**

**Since the location of supplier and the place of supply are in the same State, the supply is an intra-State supply in terms of section 8, liable to CGST and SGST.**

20. (i) **When service by way of organization of an event is provided to a registered person, place of supply is the location of recipient in terms of section 12(7)(a)(i).**

**Since, in the given case, the award functions at New Delhi and Singapore are organized for Narayan Jewellers (registered in Chennai), place of supply in both the cases is the location of Narayan Jewellers, i.e. Chennai, Tamil Nadu.**

- (ii) **As per section 12(7)(a)(ii), when service by way of organization of an event is provided to an unregistered person, the place of supply is the location where the event is actually held and if the event is held outside India, the place of supply is the location of recipient.**

**Since, in the given case, the service recipient [Dr. Kelvin] is unregistered and event is held in India, place of supply is the location where the event is actually held, i.e. Mumbai, Maharashtra.**

**However, if the wedding is to take place outside India [Malaysia], the place of supply is the location of recipient, i.e. Kochi, Kerala.**

*Examples/Illustrations/Questions and Answers, as the case may be, given in the Chapter are based on the position of GST law existing as on 31.10.2020.*