

Place of Supply – Goods/Services

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GST Synopsis

• LEVY

- Supply = Taxable Event (Sch I & III)
- Goods/Services/Both = Taxable Object
- Place of Supply = Nature of Levy (C,S,I)
- Exemption

• Assessment

- Who is liable to Pay = FCM, RCM, Special
- Time of supply = When you become liable to pay
- Classification = At what rate you pay (Sch II, Rate Schedule)
- Valuation = On what value you pay

• Compliance

- ITC = Credit on what, when and how much
- Records = Invoice, Debit Note, Credit Note, Delivery Challan
- Payment>Returns = Periodical/Annual



Agenda for Discussion

Place of Supply Goods – Sec 10

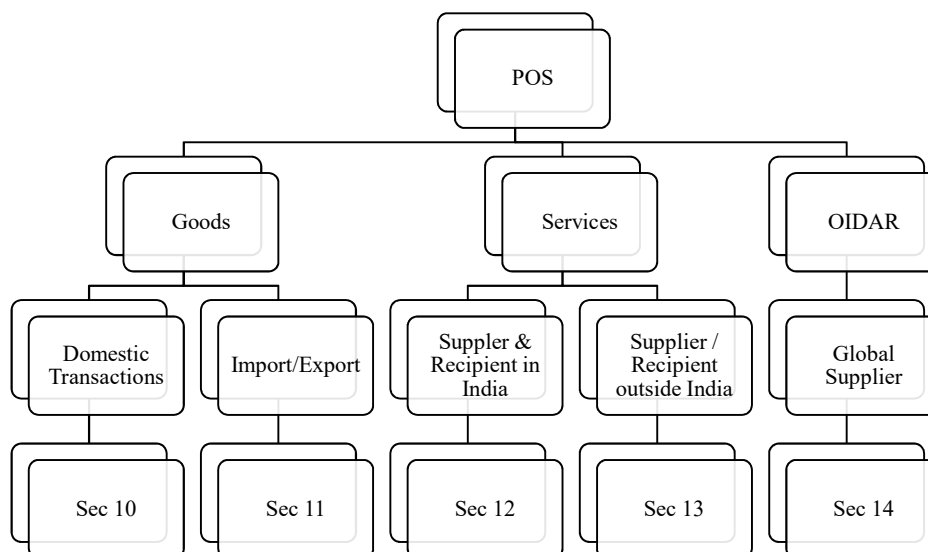
Place of Supply Goods – Sec 11

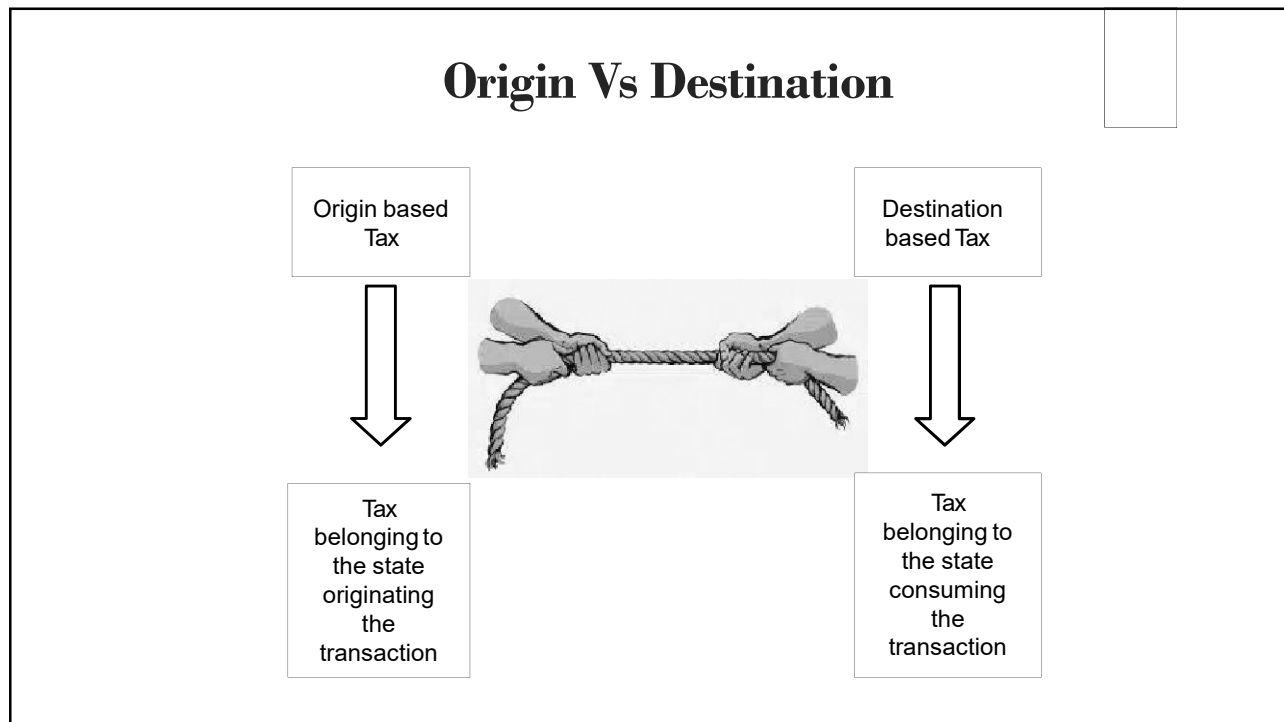
Place of Supply Services – Sec 12

Place of Supply Services – Sec 13



POS IGST ACT



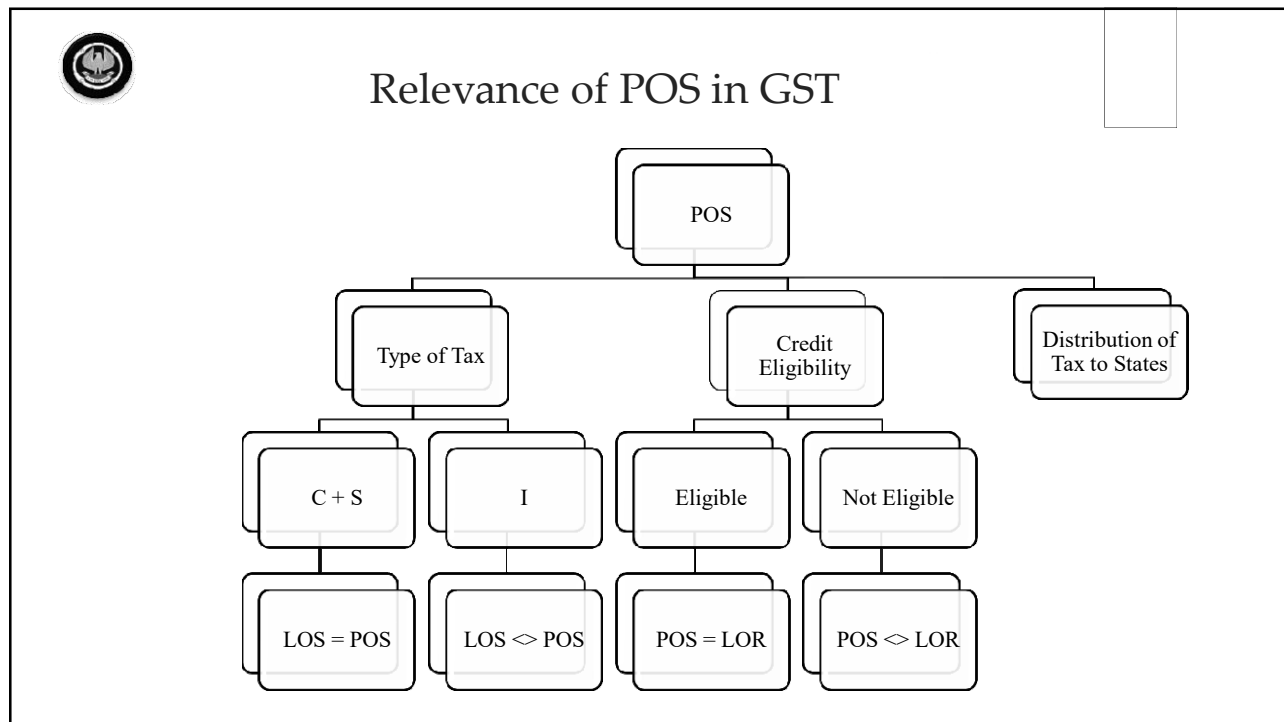


Issues – Consumption based Tax

- A Person residing in Mumbai may buy a ticket on the internet from a service provider outside India for a journey from Delhi to London
- A person buys a packet of toffee for an outstation trip. He opens the packet in the middle of the journey and consumes some of the toffee's there

Relevance of Place of Supply

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Error in Place of Supply (IGST paid as C + S or ...)

- **Section 77 (1) : Refund of Wrongly paid Tax**
 - A registered person who has paid the C+S / C+UT
 - but which is subsequently held to be an IGST,
 - shall be refunded the amount of taxes so paid
 - in such manner and subject to such conditions as may be prescribed.
- **Section 77 (2) : No Interest**
 - A registered person who has paid IGST
 - but which is subsequently held to be an intra-State supply,
 - shall NOT be required to pay any interest on the amount C+S payable.



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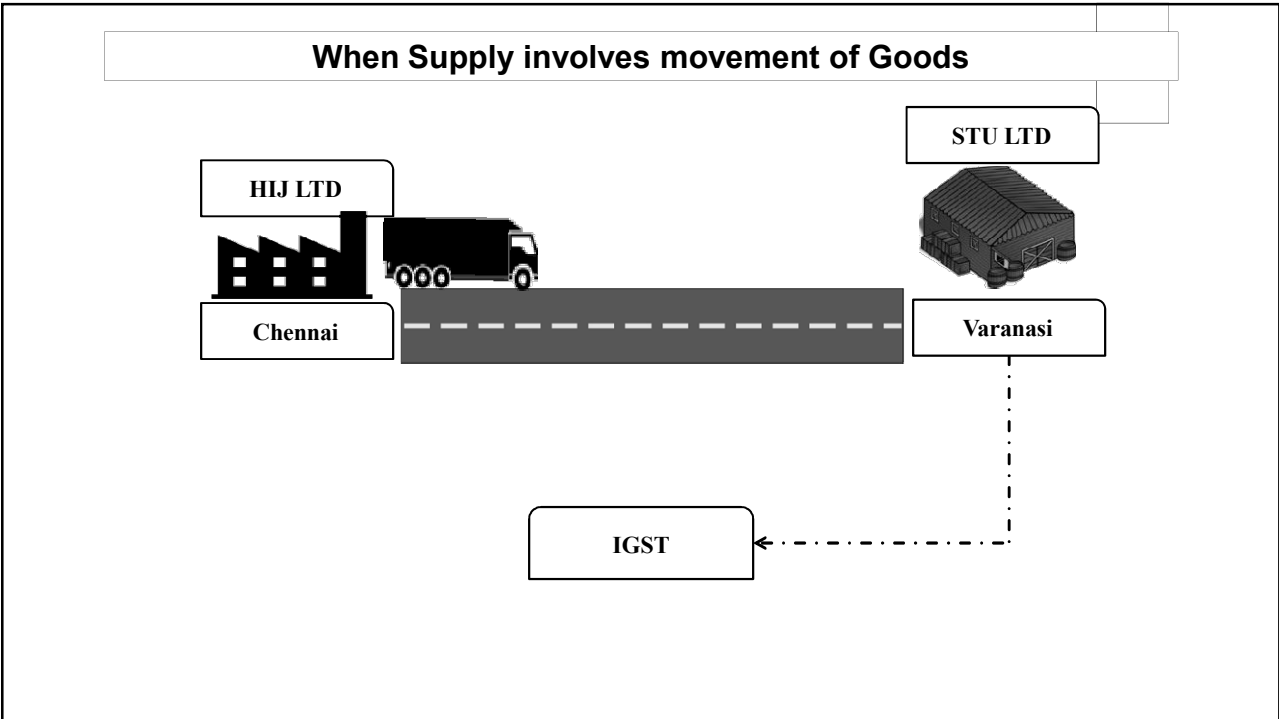
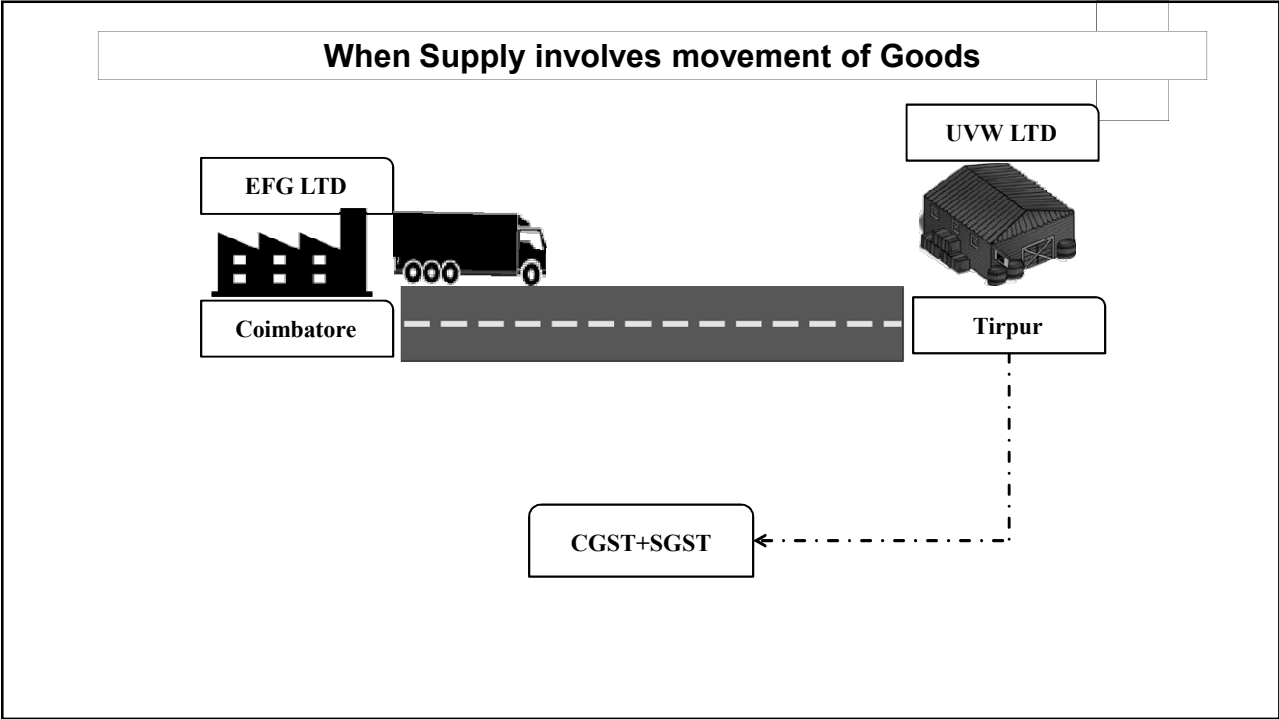
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POS of Goods Domestic Transactions Sec 10 – IGST Act

Place of Supply(POS) of GOODS (Sec 10 – IGST)

Section 10(1)(a)
Supply involves
movement of Goods

Location of goods
at the time at
which movement
terminates for
delivery to
recipient



Place of Supply(POS) of GOODS (Sec 10 – IGST)

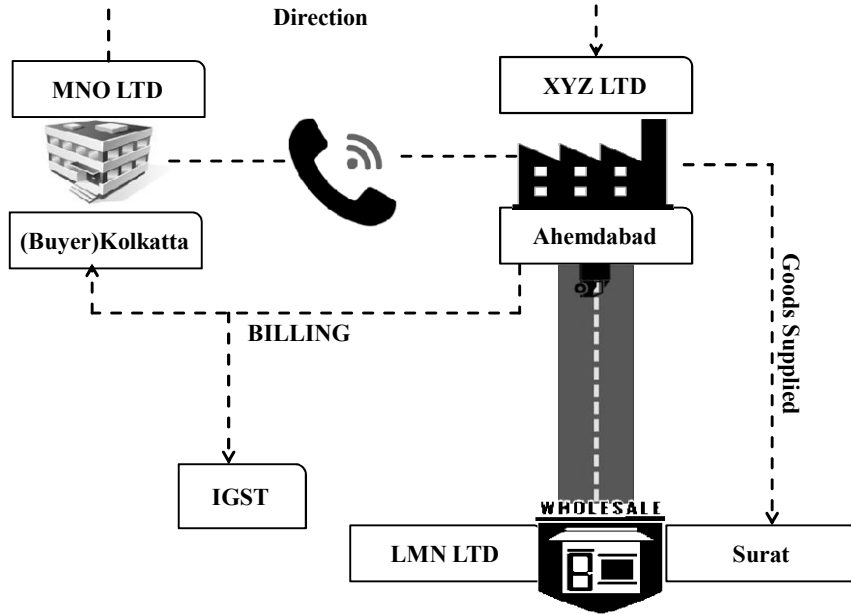
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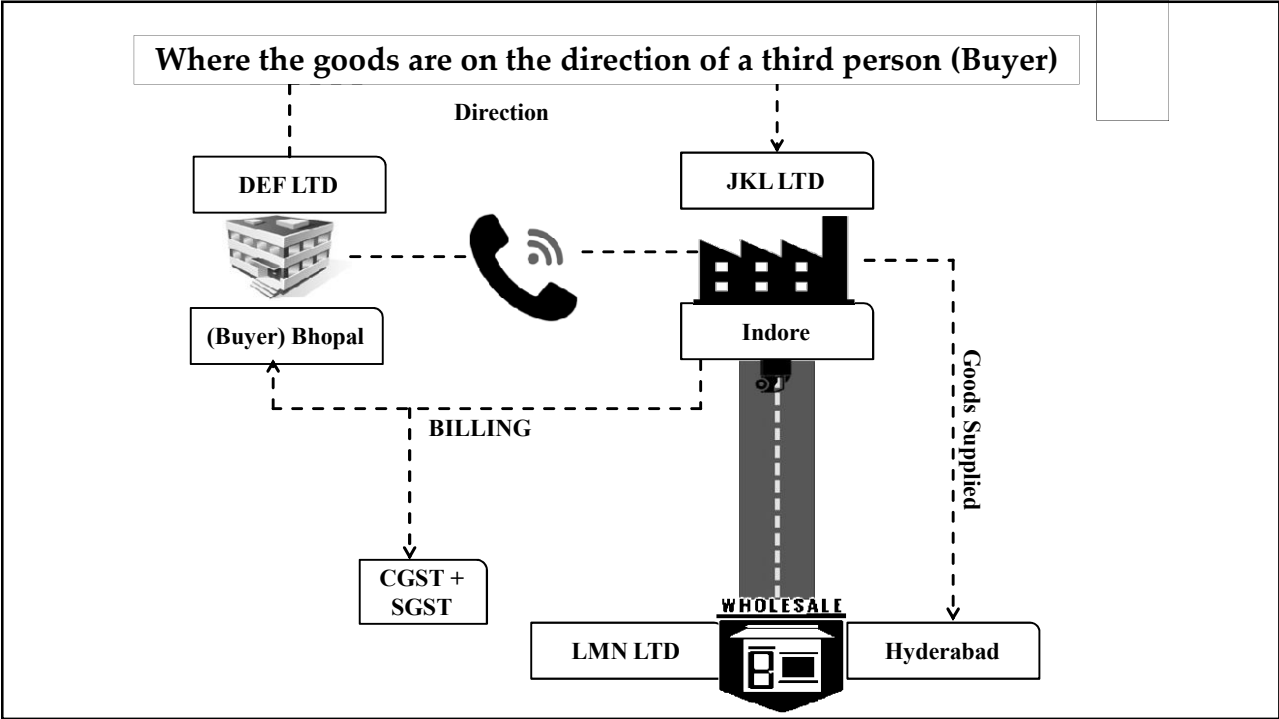
Section 10(1)(b)
Goods supplied on direction of the third person(buyer)

Location of goods at the time at which movement terminates for delivery to recipient

Principal Place of Business of the third person (i.e., address in Registration Certificate)

Where the goods are on the direction of a third person (Buyer)





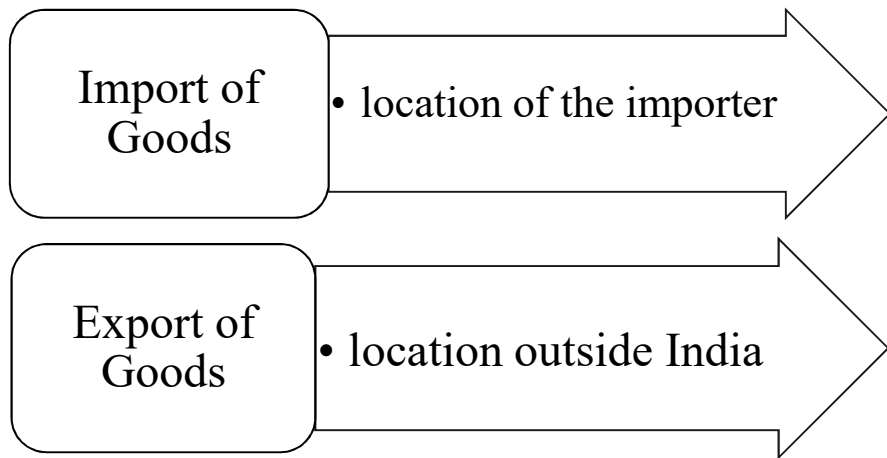
Place of Supply(POS) of GOODS (Sec 10 – IGST)

<u>Section 10(1)(a)</u>	<u>Section 10(1)(b)</u>	<u>Section 10(1)(c)</u>	<u>Section 10(1)(d)</u>	<u>Section 10(1)(e)</u>
Supply involves movement of Goods	Goods supplied on direction of the third person	Supply does not involve movement of Goods	Goods are assembled or installed at site	Goods supplied on board a conveyance e.g. vessel, aircraft, train, vehicle etc.
Location of goods at the time at which movement terminates for delivery to recipient	Principal Place of Business of the third person (i.e., address in Registration Certificate)	Location of goods at the time of delivery to the recipient	Place of installation or assembly	Location at which such goods are taken on board



POS of Goods International Transactions Sec 11 – IGST Act

Place of Supply(POS) of GOODS imported into India or Exported from India (Sec 11 – IGST)





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POS of Services

Sec 12 & 13 – IGST Act

Domestic
Transactions

SEC 12 >>>LOS & LOR IN INDIA



2(15) :Location of the supplier of services

where a supply is made from a place of business for which the registration has been obtained,

- **the location of such place of business;**

where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere),

- **the location of such fixed establishment;**

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**

All others

- in absence of such places, the **location of the usual place of residence of the supplier;**



2(7) :Fixed Establishment

- “fixed establishment” means a place (other than the registered place of business) which is characterised by
 - ✓ a sufficient degree of permanence and
 - ✓ suitable structure in terms of human and technical resources to supply services, or
 - ✓ to receive and use services for its own needs



2 (14): Location of the recipient of services

Where a supply is received at a place of business for which the registration has been obtained,

- **The location of such place of business;**

Where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere),

- **The location of such fixed establishment;**

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**

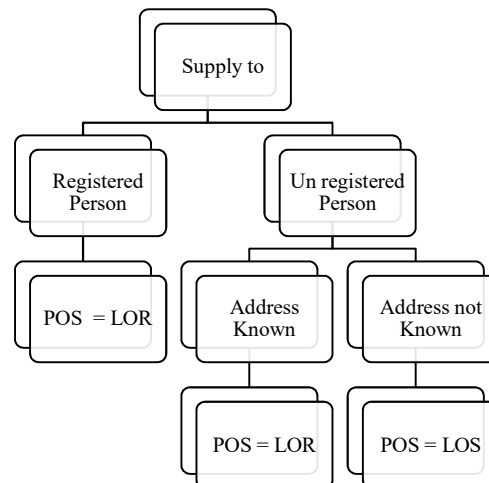
In absence of such places

- **The location of the usual place of residence of the recipient**



12(2) : General Rule for Services

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





12(3) : Location of the immovable property

Particulars	Place of Supply
Supply of services in relation to immovable property including architects, interior decorators, surveyors, engineers & other related experts or estate agents, any service provided by way of grant of right to use immovable property for carrying out or co-ordination of construction work [Section 12(3)]	Location of immovable property. 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 location of the recipient
Supply of Service by way of Lodging Accommodation by a Hotel, Inn, Guest House, Home Stay, Club or campsite including Houseboat or any other vessel	
Supply of Service by way of Accommodation in any immovable property for organizing any marriage or reception or any social function	
Any services ancillary to the services to clause (a),(b),(c)	



Notes for Property

If the location of the immovable property or boat or vessel is located or intended to be located outside India,

POS = LOR

Where the immovable property or boat or vessel is located in more than one State or Union territory,

- ✓ the supply is 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



12(4) : Performance based Service

Location where the services are actually performed

1. restaurant and catering services,
2. personal grooming,
3. fitness,
4. beauty treatment,
5. health service including cosmetic and plastic surgery.

POS = Place of Performance



12(5) : Training and Performance Appraisal

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

POS = Place of Performance



12(6) : Event Based – Entry / Admission

- Where the event is actually held or where the park or such other place is located, in the case of
 - **admission to:-**
 - a cultural, artistic, sporting, scientific, educational, entertainment event or
 - amusement park or any other place and services ancillary thereto.

POS= Place where event held



12(7) : Event Based – Conducting / Organising

- The place of supply of services provided by way of,—
 - a) **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
 - b) **services ancillary to organisation** of any of the events or services referred to in clause (a), or assigning of sponsorship to such events,
 - i. to a registered person, ***shall be the location of the recipient***;
 - ii. to a person other than a registered person, shall be the ***place where the event*** is actually held and
 - iii. if the event is held outside India, the place of supply shall be the ***location of the recipient***.



12(7) : 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.



12(8) : Goods Transportation Service

- The place of supply of services by way of transportation of goods, including by mail or courier to,
 - a) a registered person, shall be
the location of such person;

POS = LOR

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

POS= location of handover of goods

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

Circular 184, Above proviso to be omitted vide Fin Bill 2023



12(9) : Passenger Transportation Service

- The place of supply of passenger transportation service to,—
 - a) a registered person, shall be the **location of such person; POS = LOR**
 - b) a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey:

POS= Place of Embarkment of the passenger.

Provided 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 u/s 12(2). Season Tickets

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.



12(10) : Supply of Services on Board a Conveyance

If any service is provided on board a conveyance including

- A vessel,
- An aircraft,
- A train or
- A motor vehicle

POS = **First scheduled point** of departure of that conveyance for the journey.

Eg:- Train depart from Delhi to Bombay. The food is loaded in train at Delhi. The food is supplied to the passenger at different stations. As per this section the place of supply will be the first schedule point i.e. Delhi



12(11) : Telecommunication Services

S.No	Services	Place of supply of services
(11)(a))	Fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna	Telecomm. Line/ leased circuit/ cable connection/ dish antenna – installed
(11)(b))	Post paid mobile connection for telecommunication and internet services	Address of recipient on record of the supplier
(11)(c)	Pre paid mobile connection and DTH on pre-payment basis	- <i>through a selling agent</i> or a re-seller or a distributor of subscriber identity module card or re-charge voucher - the address of the selling agent or re-seller or distributor as per the record of the supplier - by <i>any person</i> to the final subscriber - location where such prepayment is received or such vouchers are sold
(11)(d))	In any other case	- the address of the recipient as per the records of the supplier of services - where such address is not available, the location of the supplier of services



Additional Points to Note : Telecom

S.No	Services	Place of supply of services
	Provided that, if such pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment,	- the location of the recipient of services on the record of the supplier of services.
<p>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</p> <ul style="list-style-type: none"> • 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 		



12(12) : Banking Services

- **Banking** and other financial services,
- including **Stock broking** services to any person
 - The POS is the location of the recipient of services on the records of the supplier of services.

POS=LOR

- If Location of recipient of services is not available on records location of supplier, the POS shall be LOS

POS = LOS



POS : Other Services

S.No	Services	Place of supply of services
(13)	Supply of insurance services	<ul style="list-style-type: none"> - to a registered person, be the location of such person - to a person other than a registered person, the location of the recipient of services on record of the supplier.
(14)	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	<ul style="list-style-type: none"> - each of such States or Union territories - 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 - in the absence of such contract or agreement, on such other basis as may be prescribed

Export & Import

SEC 13: PLACE OF SUPPLY OF SERVICES WHERE

LOCATION OF SUPPLIER OR LOCATION OF RECIPIENT IS OUTSIDE INDIA



Import / Export of Service

2(11) : **“import of services”** means the supply of any service, where–

- i. the supplier of service is located outside India;
- ii. the recipient of service is located in India; and
- iii. *the place of supply of service is in India;*

2(6): **“export of services”** means the supply of any service when,-

- i. the supplier of service is located in India;
- ii. the recipient of service is located outside India;
- iii. *the place of supply of service is outside India;*
- iv. the payment for such service has been received by the supplier of service in convertible foreign exchange; and
- v. the supplier of service & the recipient of service are NOT merely establishments of a distinct person in accordance with Explanation 1 in Sec 8;



13(2) : General Rule – POS Services - International

- Place of supply of services except the services specified in sub-sections (3) to (13) shall be the **location of the recipient of services**

POS = LOR

- 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.

POS = LOS



13(3) : Service on Goods made physically available

POS = Location where the services are actually performed:

- 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:



Exceptions to Sec 13(3)

- 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
- nothing contained in this clause shall apply in respect of goods which are **temporarily imported** into India **for repairs** and are exported after repairs without being put to any other use in India, than that which is required for such repairs; then **ref 13(2)**



13(3) : Services to Individual

If 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.

POS = location where the services are actually performed



13(4) : Services in Relation to Immovable Property

Similar to 12(3)

POS = Location of Immovable property

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



13(5) : Event based

Similar to 12(6&7)

POS = Place where event is actually held

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



13(6) : Multi Country provision

- 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

POS = Location in the taxable territory



13(7) : Service supplied more than one State or Union territory

- Where the services referred to in sub-section (3) (4) (5) are supplied in more than one State or Union territory, then
- POS = value of such supplies specific to **each State / UT** shall be in **proportion to the value for services separately** collected or determined as per contract
- in the absence of such contract or agreement, on such other basis as may be prescribed.



13(8) : Banking and others ~12(12)

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

Intermediary services of the Sec 13(8) is unconstitutional & also ultra vires the GST Act
 Contrary view held by other Honourable Judge. Final Decision to be with the Chief Justice of Bom HC
Bom (HC) – Dharmendra M Jani 2021 – TIOL-1297-HC Mum GST



Transportations Services

- 13 (9) POS= **Destination of Goods**
 - The place of supply of services of transportation of goods, other than by way of mail or courier, shall be the place of destination of such goods.

Proposed to be deleted as per 49th GST Council Meeting Recommendations
- 13 (10) POS = Where Passenger Embarks
 - The place of supply in respect of passenger transportation services shall be the place where the passenger embarks on the conveyance for a continuous journey.
- 13 (11) POS = First Scheduled Point
 - 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.



13(13) : For certain notified services

- The Central Government shall have the power to notify any description of service or circumstances in which the **place of supply shall be the place of effective use and enjoyment of a service**.

IGST Notification 04/2019

- **Supply of research and development services related to pharmaceutical sector :**

POS = the location of the recipient of services subject to fulfillment of the following conditions:-

- (i) Supply of services from the taxable territory are provided as per a contract between the service provider located in taxable territory and service recipient located in non-taxable territory.
- (ii) Such supply of services fulfills all other conditions in the definition of export of services, except sub-clause (iii) provided at clause (6) of Section 2 of Integrated Goods and Services Tax Act, 2017 (13 of 2017).



13(12) : OIDAR

- **POS= Location of Recipient**
- The 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.
- The conditions are –
 - The **location** of address presented by the recipient is in the taxable territory.
 - The credit / debit / charge card etc by which the recipient of services settles payment has been **issued** in the taxable territory;
 - The **billing** address of the recipient of services is in the taxable territory.
 - The **IP address** of the device used by the recipient of services is in the taxable territory.
 - The **bank** of the recipient of services used for payment is in the taxable territory.
 - The country code of the **SIM** card used by the recipient is of taxable territory.
 - The location of the **fixed land** line of recipient is in the taxable territory.

Thank You

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