ALL ABOUT LEVY AND COLLECTION

INTRODUCTION

In this article we will cover the charging section i.e Section 9 of CGST Act and Section 5 of IGST Act. The charging section is the most important section in any law. Under GST the tax is liable to be paid on the taxable supply of Goods or Services. There are two types of Charges i.e Forward Charge and other is Reverse Charge Mechanism (RCM). Article 265 gives the power to impose and collect tax except by the authority of any law.

Forward Charge: - Under GST law, generally supplier (seller of goods or services or both) collects tax from recipient (buyer/ customer of goods or service or both) and pay to the Government (net of ITC) (but ultimately GST is borne by end customer or consumer that is why it is called indirect tax) this mechanism is known as forward charge.

Reverse Charge Mechanism: - GST law has imposed responsibility on recipient of goods or services or both to pay GST by himself directly to the Government not by supplier so this mechanism is known as reverse charge or also referred as reverse charge mechanism (RCM).

Section 9 (1) of CGST Act

Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 (Value of Supply) and at such rates, **not exceeding twenty percent**, as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and **shall be paid by the taxable person**.

Section 9 (2) of CGST Act

The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with

effect from such date as may be notified by the Government on the recommendations of the Council.

Section 9 (3) of CGST Act

The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

Reverse Charge for Services			
S.No.	**Category of Supply of Services**	**Supplier of Service**	**Recipient of Service**
1.	Supply of Services by a goods transport agency	Goods Transport Agency (GTA)	(a) Any factory (b) Any society (c) Any co-operative society

			(d) Any person registered under GST (e) Any body corporate (f) Any partnership firm (g) Any casual Taxable person **Located in Taxable Territory**
2.	Services supplied by an individual advocate including a senior advocate by way of legal service directly or indirectly.	An individual advocate including a senior advocate or firm of	Any business entity located in the taxable territory.

		advocates.	
3.	Services supplied by an arbitral tribunal to a business entity.	An arbitral tribunal.	Any business entity located in the taxable territory.
4.	Services provided by way of sponsorship to any body corporate or partnership firm.	Any Person	Any body corporate or partnership firm located In the taxable territory.
5.	Services supplied by the Central Govt (CG), State Govt (SG), Union Territory (UT) or a Local Authority (LA) to a business entity **excluding**, 1. Renting of immovable property, and 2. Services specified below – • Services by	Central Govt, State Govt, Union Territory, or Local Authority	Any business entity located in the **taxable territory**.

	the department of posts by way of speed post, express parcel post, life insurance and agency services provided to a person other than CG, SG, or UT or LA; • Services in relation to aircraft or a vessel, inside or outside the precincts of a port or an airport; • Transport of goods or passengers.		
5A.	Services supplied by the Central Govt.,	Central Govt., State Govt.,	Any person registered

	State Govt., Union Territory or local authority by way of renting of immovable property to a person registered under the CGST Act, 2017	Union Territory or Local Authority	under the CGST Act, 2017
5B.	Services supplied by any person by way of transfer of development rights or floor space index for construction of a project by a promoter.	Any Person	Promoter
5C.	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development	Any Person	Promoter

	charges or by any other name) and/or periodic rent for construction of a project by a promoter.		
6.	Services supplied by a director of a company or a body corporate to the said company or the body corporate.	A director of a company or a body corporate.	The company or a body corporate located in the taxable territory.
7.	Services supplied by an insurance agent to any person carrying on insurance business.	An insurance agent	Any person carrying on insurance business, located in the taxable territory.
8.	Services supplied by a recovery agent to a banking company or a financial institution or a non banking financial company.	A recovery agent.	A banking company or a financial institution or a NBFC, located in the taxable territory.

9.	Supply of services by a music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section of (1) of section 13 of the Copyright Act, 1957 relating to original dramatic, musical or artistic works to a music company, producer or the like.	Music composer, photographer, artist, or the like.	Music company, producer or the like located in the taxable territory.
9A.	Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the	Author	Publisher located in the taxable territory. Provided that nothing contained in the entry shall apply.

	Copyright Act, 1957 relating to original literary works to a publisher.		
10.	Supply of services by the members of Overseeing Committee to Reserve Bank of India	Members of Overseeing Committee constituted by the Reserve Bank of India	Reserve Bank of India
11.	Services supplied by individual Direct Selling Agents other than a body corporate, partnership or limited liability partnership firm to bank or non-banking financial company.	Individual Direct Selling Agents other than a Body Corporate, partnership or limited liability partnership firm.	A Banking Company or a non-banking financial company, located in the taxable territory.
12.	Services provided by business facilitator to a banking company.	Business Facilitator	A Banking Company, located in the taxable territory.
13.	Services provided by	An agent of	A business

	an agent of business correspondent to business correspondent.	business correspondent.	correspondent, located in the taxable territory.
14.	Security services (services provided by way of supply of security personnel) provided to a registered person. Provided that nothing contained in this entry shall apply to, - i. (a) A Department or Establishment of Central Govt., or State Govt., or Union Territory; or (b) Local Authority, or (c) Govt. Agencies;	Any person other than a body corporate.	A Registered person, located in the taxable territory.

	Which has **taken registration only for the purpose of deducting tax** under section 51 and **not for making taxable supply of goods or services**, or (ii) **A Registered Person paying tax under section 10 (Composition Taxable Person) of the said Act.**		
15.	Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel Is included in the consideration charged from the	Any person, other than a body corporate who supplies the service to a body corporate and does not issue	Any body corporate located in the taxable territory.

	service recipient, provided to body corporate.	an invoice charging central tax at the rate of 6% to the service recipient.	
16.	Services of lending of securities under Securities Lending Scheme, 1997 (“Scheme”) of SEBI as amended.	Lender i.e a person who deposits the securities registered in his name or in the name of any other person duly authorized on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI.	Borrower i.e a person who borrows the securities under the Scheme through an approved intermediary of SEBI.

Section 9 (4) of CGST Act

The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.

1. Supply of such Goods and services or both other than services by way of grant of development rights, long term lease of land (against upfront payment in form of premium, salami, development charges etc) or FSI which constitute the shortfall from the minimum value of goods or services or both **required to be purchased by a promoter for construction of project**, in a financial year (**or part of the financial year till the date of issuance of**

completion certificate or first occupation, whichever is earlier.)

2. **Cement falling in chapter heading 2523** in the first schedule to the customs tariff act, 1975 which constitute the shortfall from the minimum value of goods or services or both **required to be purchased by a promoter for construction of project**, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier)
3. Capital goods falling under any chapter in the first schedule to the customs tariff act, 1975 supplied to a **promoter for construction of a project** on which tax is payable or paid at the rate prescribed

Section 9 (5) of CGST Act

The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

1. **Passenger Transport Service: -** Services by way transportation of passengers by a radio – taxi, motorcab, maxicab and motorcycle.
2. **Accommodation Service: -** Services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying through e-commerce operator is liable for registration under Section (1) of Section 22 of CGST Act, 2017.

3. **Housekeeping Service: -** Services by way of housekeeping, such as plumbing, carpentering etc, except where the person supplying such service through e-commerce operator.
4. **Restaurant Service (Cloud Kitchen): -** Supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises (Tariff above Rs 7500/- per day)

- ✓ Restaurant is supplying services through e-commerce operator only; he is not required to get registered under GST. In case, he is already registered, he may continue with such registration or get them de-registered under GST.
- ✓ 'Restaurant service' and goods or services other than restaurant service sold by a restaurant to a customer under the same order be billed differently AS Invoice for non – restaurant services shall be issued by respective supplier only.

Section 5 (1) of IGST Act

Subject to the provisions of sub-section (2), there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both,

except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the Central Goods and Services Tax Act and at such rates, not exceeding forty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person:

Provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962.

Section 5 (2) of IGST Act

The integrated tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

Section 5 (3) of IGST Act

The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

S. No.	Category of Service	Supplier of Service	Recipient of Service
1.	Any service supplied by any person who is located in a non – taxable territory to any person (other than non – taxable online recipient)	Any Person located in non – taxable territory	Any Person located in Taxable Territory.

Section 5 (4) of IGST Act

The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified

categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.

S.No	Category of Services	Supplier of Service	Recipient of Service
10.	Services supplied by a person located in non – taxable territory by way of transportation of goods by vessel from a place outside India up to the customs stations of clearance in India.	A Person located in non – taxable territory.	Importer, as defined in clause (26) of Section 2 of the customs Act, 1962 located in taxable territory.

Section 5 (5) of IGST Act

The Government may, on the recommendations of the Council, by notification, specify categories of services,

the tax on inter-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

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