

# CHAPTER 8: IGST Act, 2017 (Place of Supply)



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<b>Export of Service</b>	<b>Circular No. 202/14/2023):-</b> When exporters of services are paid export proceeds in INR from Special Rupee Vostro Accounts of correspondent bank(s) of partner trading country, opened by AD banks, it fulfils conditions of section 2(6)(iv) of IGST Act (i.e. payment received in CFE or INR if allowed by RBI.	<b>Export of Goods</b>	<b>"Import of Goods" 2(10)</b>	<b>Import of Service 2(11):</b> means the supply of any service, where-
1) Location of supplier is in India 2) Location of Recipient as outside India 3) Place of Supply outside India. 4) <b>Amount Received in CFE or ₹ if allowed by RBI</b> 5) Supplier & recipient are not DDP		⇒ Goods are taken to a place outside India. <b>Note:-</b> No such condition of receipt of CFE, only requirement is that goods are taken out of India.	: means bringing goods into India from a place outside India	(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

Supply	SEC 7 - Inter -State Supply & Levy of IGST		SEC 8 - Intra-State Supply	SEC 9 : Supply in Territorial Water	
	Inter State within India	Import	Supply outside India	Notwithstanding anything contained in this Act,	
Supply of Goods	<b>Sec 7(1): LOS &amp; POS</b> ⇒ Two different States ⇒ State & UT ⇒ UT to UT <b>Comments :</b> Place of supply shall be determined as per Sec 10	<b>Sec 7(2) Imported into territory of India till it cross custom frontiers</b> <b>Comments :</b> 1) Import goods means bringing into India from a place outside India. 2) IGST = ACD 3(7)    3) <b>Value</b> - As per provisions of Customs act 4) <b>POS = Sec 11</b> = location & importer <b>Exception:-</b> IGST on import of goods being supply of online money gaming shall be levied & collected u/s 5(1) of IGST Act & not Sec 12 of customs act.	<b>Sec 7(5)</b> Supply of <b>goods or services</b> or both, a) when the supplier is located in India and the place of supply is outside India b) to or by a <b>SEZ developer</b> or a <b>SEZ unit</b> or c) In the taxable territory, not being an intra-State supply and not covered elsewhere in this section shall be treated in the course of inter-State trade or commerce.	<b>SOG:- where the LOS &amp; POS</b> ⇒ the same State or ⇒ same Union territory  <b>SOS:- where the LOS &amp; POS</b> ⇒ the same State or ⇒ same Union territory	a Where the location of the supplier is in the territorial waters, b Where the place of supply is in the territorial waters, LOS (for clause (a) & POS (for clause(b)) shall be deemed to be in the coastal State or Union territory where the <b>nearest point of the appropriate baseline is located.</b>
Supply of Service	<b>Sec 7(3) LOS &amp; POS</b> - Two different States - State & UT - UT to UT <b>Comments :</b> 1) Location of supplier of service is defined u/s 2(15) 2) <b>Place of Supply</b> Shall be determined as per Sec 12.	<b>Sec 7(4) : Supply of Service imported into territory of India.</b> <b>Comment :</b> 1) As per Sec 2(11) import of service where, i) Supplier of service located outside India. ii) Recipient located in India iii) Place of supply in India 2) <b>Place of supply</b> shall be determined as per Sec 13 3) If supplier in non-taxable territory & recipient in taxable territory then IGST is payable under <b>reverse charge</b> , except <b>OIDAR service to NTOR</b> 4) Valuation as per Sec 15 of <b>CGST Act</b> .			



## POS for supply of Goods

### Sec 10 :- Place of Supply of Goods other than imported or export goods

S.No.	Nature of Supply	Parties Involved	Place of Supply
a)	Involves Movement of Goods	Movement by ⇨ Supplier ⇨ Recipient or ⇨ Any other person (transporter)	POS = Location of the goods when the movement of goods terminates for delivery to the recipient
b)	Bill-to-Ship-to Sale	⇨ Supplier ⇨ Recipient (Shipping address) ⇨ Third Person (Billing Address)	POS = Principal place of Business of third person, on whose direction goods are supplied to recipient
c)	Does not involve Movement of Goods	⇨ Supplier ⇨ Recipient	POS = Location of goods at the time of delivery to the recipient
ca)	Supply of goods to URP (overrides sec 10(1)(a)/(c)) (Does not override sec 10(1)(b)) supply through ECO = address of delivery recorded in invoice	⇨ Supplier (registered) ⇨ Recipient (unregistered)	POS= a) If address of recipient exist - address recorded in invoice b) If address of recipient does not exist - location of supplier
d)	Installation and Assembly of Goods at Site	⇨ Supplier ⇨ Recipient	POS = Place of such Installation or assembly of Goods
e)	Goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle	⇨ Supplier ⇨ Recipient	POS = Location at which goods are taken on board.

**Note :** Where the place of supply of goods cannot be determined, the POS shall be determined as per the prescribed Sec 10(2)

### Sec 11 - Place of Supply Imported Goods or Export Goods

Nature of Supply	Place of Supply
Import of Goods into India	Location of the Importer
Export of Goods from India	Location outside India

### POS of Services

#### Sec 12 (1) - Pos where LOS and LOR of Services in India

Sec	Description of Service	Place of Supply		
		Supply to unregistered person (B2C)	Supply to RP (B2B)	
12(2)	General rule for all services except covered in 12(3) to 12(14)	(i) If Address of R exists on record POS = LOR (ii) If Address on recipient does not exists on record POS = LOS	Location of such registered recipient	
12(5)	Training and performance appraisal	POS = Location where the service is actually performed.		
12(7)	Organisation of events including ancillary services, sponsorship	POS = Place where event is actually held. <b>Note:-</b> If event is held outside India POS = LOR		
Rule 5 prescribed for supply of services attributable to different States or UT, of Sec 12(7)				
		<b>In case of service</b>		<b>Basis of apportionment</b>
	Services are supplied to a person other than a RP, the event is held in India in more than one ST/UT and a consolidated amount is charged absence of any contract or agreement for separately collecting	Shall be determined by application of the GAAP		
12(8)	Transportation of goods, mail or courier	POS = Location at which goods are handed over for transportation <b>Note:-</b> Transportation outside India POS = Rule 12(2)		
12(9)	Passenger transport service	POS = Place where passenger embarks on the conveyance for a continuous journey <b>Note:-</b> Right to passage for future use where point of embarkment is not known, POS = Section 12(2)		
12(13)	Insurance service	POS = LOR on record of insurance company		
12(3)	Service directly related to immovable property including agents, experts, lodging in hotels, inn, accommodation for functions & ancillary services	POS = Location at which immovable property or boat or vessel is located <b>But if IP is located outside India , POS = LOR</b>		

Rule 4:- The supply of services attributable to different States or Union territories, under section 12(3)	
In case of service	Basis of apportionment & Value of services
(i) By way of lodging accommodation by a hotel, inn, guest house, club or campsite, and services ancillary to such services (except cover in (ii))	number of nights stayed in such property
(ii) a single property located in two or more contiguous States or Union territories or both, and services ancillary to such services	area of the immovable property lying in each State or Union territory
(ii) In all other services in relation to immovable property including any immovable property for organising any marriage or reception etc.	
(iii) lodging accommodation by a house boat or any other vessel and services ancillary to such services	time spent by the boat or vessel in each such State or Union territory,
12(4) Restaurant catering, personal grooming fitness, beauty treatment, health services including plastic surgery	POS = Location where service is actually performed
12(6) Admission to events or amusement park & ancillary Services	POS = Where the event is actually held Where park or other place is located
12(10) Service on board a conveyance	POS = Location of first schedule point of departure of that conveyance for the journey
12(11) Supply of telecom services including data transfer, broadcast, cable or DTH	
(a) Fixed lease or cable line	POS = Place where such fixed line is installed
(b) Postpaid mobile, internet, DTH	a) If address of R exists = LOR b) If address of R does not exist = LOS
(c) Prepaid mobile, internet, DTH	a) Selling through agent = address of agent if on record otherwise LOS b) Direct to final subscriber = Place where voucher is sold
(d) In all other cases	a) If address of R exist = LOR b) If address does not exist = LOS
Proviso - Prepaid - electronic payment	POS = LOR in record of supplier

Rule 6 is prescribed supply of services attributable to different ST/UT , under sub section (11) of section 12 of the said Act,	
In case of service	Basis of apportionment
the leased circuit is installed in more than one ST/UT and a consolidated amount is charged, In the absence of any contract or agreement for separately collecting Liability on Intermediary	in proportion to the number of points lying in the ST or UT
12(12) Banking & Financial Sector including stock broking	a) If address of R exist = LOR b) If address of R does not exist = LOS
12(14) Advertisement services to Govt. or Local authority Rule 3 (refer from Study mat)	POS shall be determined for each State or UT where advertisement is broadcasted / Run/Played

### Sec 13 (1) - POS where LOS or LOR of services is outside India

Sec	Condition	Place of Supply
13(2)	All services other than covered in 13 (3) to 13(13) default Rule (General Rule)	POS= Location of recipient Note:- If LOR of service is not available , POS = LOS
13(3)	Supply on services on - Goods physically made available by recipient or - Individual physically present	POS = Place of Performance SOG = Proviso 1 : remote service through E-mean POS = Location of goods Proviso 2 : Goods temporarily imported for repairs etc & re-exported w/o use POS = LOR [13(2)]

### The supply of service attributable to different States or Union Territory read with 13(7) of the IGST Act.

Rule No.	In case of service	Basis of apportionment
Rule 7 applicable to Provision of Sec 13(3)	services supplied on the same goods,	by equally dividing the value of the service where the service is performed;
	in the case of services supplied on different goods,	by taking the ratio of the invoice value of goods , as the ratio of the value of the service performed in each State or Union territory;
	in the case of services supplied to individuals,	by applying the GAAP
13(4)	Supply of service directly on immovable property (includes experts renting, architect, interior design etc.)	POS = Place where the immovable property is located or intended to be located
Rule No.		Basis of apportionment
Rule 8 applicable to Provision of Sec 13(4), (In Multiple State)		by applying the provisions of rule 4, mutatis mutandis.
13(5)	Admission/Organisation to events including ancillary services	POS = Place where event is actually held
Rule No.		Basis of apportionment
Rule 9 applicable to Provision of Sec 13(5), (In Multiple State)		by applying the provisions of rule 5, mutatis mutandis.

13(6)	SOS u/s 13(3), (4),(5) in multiple taxable territory	POS = Taxable territory [Entire value is taxable]
13(7)	SOS u/s 13(3),(4),(5) more than 1 ST/UT	Rule 7 / Rule 8 / Rule 9
13(8)	Supply by banks/FI/NBFC to A/c holders - Intermediary services -Hiring all means of transport including Yatch upto 1 Month other than vessel or Aircraft	POS = Location of supplier (Refer material for detailed discussion)
<del>13(9)</del>	<del>Transportation of goods other than mail or courier</del>	<del>POS = Place of destination of goods</del>
	Cir. No. 203/15/2023:-POS of transportation of goods, including through mail & courier will be determined u/s 13(2) & not u/s 13(3)	
13(10)	Passenger transport service	POS = Place where passenger embarks on conveyance for a continuous journey
13(11)	On board supply of services	POS = The first scheduled point of departure of that conveyance for the journey
13(12)	OIDAR Service	POS = LOR
13(13) C.G has Notified services under this	(I) Supply of research & development services related to pharmaceutical sector by person located in TT to a person located in NTT	POS = LOR
	(ii) Repair & maintenance to air craft	POS = LOR
	(iii) Repair , Maintainance to ship & Vessel	

### Sec 14 :- OIDAR

**Sec 2(17) Online information and database access or retrieval (OIDAR) 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: Advertising on the internet ,Providing cloud services Provision of e-books, movie, music, software and other intangibles via telecommunication networks or internet, Providing data or information, retrievable or otherwise, to any person, in electronic form through a computer network, Online supplies of digital content (movies, television shows, music, etc.), Digital data storage and Online gaming

**Sec 2(16) "Non-taxable online recipient"(NTOR)**  
means any unregistered person receiving OIDAR services located in taxable territory.  
**Explanation:** Unregistered person includes a person registered u/s 24(vi) solely for TDS u/s 51.

Supplier of Service	Service recipient	Taxability	Who is Liable ?	
Located in non Taxable Territory	NTOR	yes	<b>Liability on Service Provider</b>	
			When SP in NTT is represented by a person for any purpose in taxable territory	such representative liable for paying tax
			If the SP in NTT does not have a physical presence or a representative in the taxable territory	may appoint a person for Payment of Tax
Located in non-Taxable Territory	Other than non-assesse online recipient	yes	Service Recipient(RCM is applicable)	

### Sec 16 : ZERO RATED SUPPLY

1. "zero rated supply" means

(a) Export of goods or services or both; or

(b) SOG &/or SOS for authorised operations to SEZ developer/ SEZ unit.

2. ITC may be availed for making ZRS, notwithstanding that such supply may be an exempt supply. (except block credit)

3. (1) RP making ZRS is eligible to claim refund of unutilised ITC on supply, without paying IGST, under bond/ LUT, u/s 54 of CGST Act.

Proviso:-If RP does not realise sale proceeds of ZRS of goods, he is liable to deposit refund received + interest u/s 50 of CGST Act within 30 days after expiry of time limit given under FEMA, 1999.

(2) Govt. may notify-

i) class of persons to make ZRS by paying IGST & claim refund of tax paid;

ii) class of goods or services to be exported by paying IGST & supplier may claim refund of tax paid.

Applicable for Nov 25 Exam

4) The Govt, with Council's recommendation and conditions, can issue a notification to specify:

1. Class of people can pay IGST on ZRS and claim a refund u/s 54.

2. Class of goods/services can be zero-rated for which Supplier can pay IGST and claim a refund

5) No refund of unused ITC or IGST on ZRS of goods will be allowed if the goods are subject to export duty, despite the rules in Sec 16(3) & (4).

POS of goods to URPs u/s 10(1)(ca) (Circular No. 209/3/2024)

⇒ If goods sold through e-commerce platforms to URP & billing address is different from the delivery address on the invoice, **POS is where the goods are delivered.**

⇒ The supplier can use the delivery address on the invoice to determine the POS.

POS applicable for custodial services provided by banks to FPIs (Circular No.220/14/2024):

⇒ Custodial services provided by banks or FI to FPIs should **not be considered** services to the 'account holder' u/s 13(8)(a) of the IGST Act.

⇒ Thus, POS for these services should be determined **under default rule in section 13(2).**