

INTRODUCTION TO GST

PLACE OF SUPPLY AND TIME OF SUPPLY-PART 1

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Welcome once again in our new topic under GST that is place of supply and time of supply.



Over view of Place of Supply & Time of Supply

Friends, these two concepts/topics under GST are very important to understand the total concept of GST. As I told you that GST is a consumption-based tax, so, where the consumption has taken place, revenue will go to that state. So, from each state's point of view, place of supply is equally important. And if there is any ambiguity in determining their place of supply, definitely litigation will start. And similarly, in case of time of supply, if your timing of supply is wrongly determined, is not at par with the provisions of the Act, litigation will start and you will get notices and have to pay fine and penalties. So, in each and every business transaction, place of supply means consumption of goods or services and time, we need to understand thoroughly. Otherwise, we will land in trouble.

So, in this session, we will deeply/ in detail, discuss about place of supply and time of supply. Because there are so many transactions in business community, where receiver and buyer are at different locations and consumption of goods or services take place somewhere else.

So generally, in transactions where buyer and supplier come into picture, we think of things like, where is the buyer, and if supply is there or consumption is there. But in actual business scenario, the situation is different. For example, if A from Delhi place an order to B in Bombay for certain material to be supplied in Calcutta to C. So, here A place an order to B of Bombay for some goods to be supplied to C in Calcutta. And actual consumption is in Calcutta. So, here though supplier is in Delhi and buyer is in Bombay, but actual consumption is in Calcutta. So, place of supply is Calcutta. And revenue of GST should go to Western Bengal government.

How it will happen? How we will do such transaction in business? And how we deal it in GST, we will study in this topic, in this session. So, friends, very interesting subject and I would say it is the backbone of GST. Once you understand this concept of place of supply and time of supply, you have done a lot under GST.

IGST ACT, 2017

Sec-10/01-43

What is place of supply (POS) concept under GST?

Place of supply (POS) means a place where goods or service or both made available to recipient.

In other words POS means a place where goods or services or both finally consumed by a person or end user.

It's important to know the POS as GST is destination based consumption tax. So revenue shall go to a place or state where goods or services or both finally consumed.

So, friends, section 10 of IGST Act, 2017 deals thoroughly with place of supply. This concept and its relevant provisions are applicable in CGST also. Because I told you that CGST and SGST's are the taxes applicable on intra-state sales. So, in intra-state sales place of supply is within the state only so there is no question, there is no confusion, there is no doubt. Then in intra-state sale supplier is there, consumer is there, consumption of goods is in the same state; so, CGST, SGST is applicable. But cases may be there where seller is in one state, buyer is in other state and consumption took place in some other state. So, all such type of transactions is explained beautifully under section 10 of IGST Act, because if the consumption place is different from the place of buyer, definitely IGST will come into picture. So, we will go through each and every provision of section 10 of IGST Act to understand what is the concept of place of supply, especially in case of inter-state transactions.

So, friends, section 10 starts with what is place of supply concept. Under GST if we read section 10, the crux is, place of supply means a place where goods or services both made available to recipient. It is a very simple concept. Where recipient is there, where material is supplied to consumer that is a place of supply under IGST inter-state transactions. I told you in my previous slides that when a consigner from Ludhiana (Punjab) sends bicycles of worth rupees 1 lakh to Mumbai in Maharashtra, the consumption took place in Maharashtra. It is an interstate transaction. IGST was applicable. But because consumption has taken place in Maharashtra, so, revenue of this transaction will be going to Maharashtra not to Punjab as it used to happen under VAT regime. So, revenue of this transaction will be going to Maharashtra not to Punjab as it was happened in VAT regime. So, in VAT it was the revenue of Punjab government because it was originating state.

But in GST because it is destination-based consumption tax now revenue is of Maharashtra. This section also says place of supply means place where goods or services both made available to recipient. That is a place of supply. Or in other words, we can say place where goods or services are both finally consumed by a person or the consumer. That is a place of supply.

So, as already mentioned, it is important to know place of supply, only then you can determine where the tax will be paid and where the tax will be going for the revenue purposes to the government. Only then you can determine where the tax will be paid and where the tax will be going for a revenue purposes to the government. It's a destination-based consumption tax, so revenue will go to place where goods or services both are finally consumed. So, revenue will go to place where goods or services both are finally consumed. So, keep this thing in mind that GST is a consumption-based tax, so wherever goods or services have been consumed by a consumer, revenue should ultimately go to that particular state. So, wherever goods or services have been consumed by a consumer, revenue should ultimately go to that particular state. Receiver may be sitting somewhere else. How the revenue will be shifted to place of consumption that we will see in our following slides.

What will be the place of supply of goods, when goods are moved either by supplier or recipient?

Place of supply of goods either moved by supplier or recipient is where **delivery took place** or **movement terminates** or **goods finally consumed**.

For example:

ABC Electronics Pvt. Ltd., a company based in Mumbai, Maharashtra, sells electronic components to XYZ Gadgets Ltd., located in Bengaluru, Karnataka. ABC Electronics is responsible for the transportation of the goods.

Place of Supply

Since, ABC Electronics is moving the goods, the place of supply would be Bengaluru, Karnataka, where the movement terminates.

So IGST is applicable.

Otherwise it can be treated as counter/retail sale and CGST & SGST may be applicable.

So, here the question is what will be place of supply of goods when goods are moved either by supplier or recipient. Means, it happens in business so many times.

Based upon the term and condition of a purchase order, sometimes supplier is supposed to supply goods and deliver at consumers end, and sometimes it happens when consumer take delivery of goods from the place of supplier. So, in both the transactions, we have to understand where the place of supply is. So, there may be cases, there are cases when consumer reaches to supplier's premises and take the delivery from there itself and transport the goods from supplier's premises to its own warehouse or its own premises; and sometimes it happens, when supplier and purchaser have contract in such a way that supplier is responsible to deliver the goods at consumers end. So, both way contract can be and rates are decided accordingly, and GST also take these transactions in its own way. And here place of supply of goods either moved by supplier or recipient is where delivery took place.

So here law says if supplier has taken responsibility of dispatching the goods up to the consumer end, then delivery is taken place at consumer end. And if consumer has taken delivery at supplier's end, then delivery is taken place at supplier's end. Or here he is mentioning movement terminates for the goods or goods finally consumed. So, either way it can happen. Well, it is a confusing statement for beginners like you. That what we should conclude finally.

So, let us understand it with an example. It says ABC Electronics Limited, a company in Mumbai, sells electronic components to XYZ in Bangalore. And as per contract, ABC responsible for transportation of goods to Bangalore. So, here delivery is given by supplier to XYZ in Bangalore. So, it is an interstate transaction. IGST will be levied and place of supply

shall be Bangalore, Karnataka. So, revenue should go to the Karnataka government. So, since ABC Electronics is moving goods, the place of supply would be Bangalore and where the movement terminates. Very simple. Otherwise, it can be treated as counter sale. So, in this situation, if XYZ approach ABC in Mumbai itself and if it takes delivery in Mumbai itself from ABC, though bill is raised by ABC in favour of XYZ, Bengaluru; But because XYZ has taken delivery in Maharashtra itself, in Mumbai itself, it can be treated as counter sale at ABC premises. So, department may say (Maharashtra government), because place of supply took place in Maharashtra itself, so department may say it is CGST and SGST case. Because if this is the case, then revenue will be of Maharashtra government. Because delivery has been given by ABC in Maharashtra itself to XYZ. Though material is consumed at Bangalore only, in Karnataka only. So, if it is a case of counter sale, when material is delivered by ABC to XYZ in Maharashtra, but consumption is taken place at Karnataka, it is somewhere against the spirit of law, that is, against the spirit of GST, that is, it is consumption-based tax. So, to my mind, in such a type of cases, government should come out with appropriate clarification because otherwise there will be a dispute between Karnataka and Maharashtra for goods which were consumed in Karnataka, delivered in Maharashtra, though ITC was available to XYZ. But in such cases, Karnataka government may deny credit to XYZ for ITC.

So, this is a grey area I would say and government should take appropriate clarification on this. However, in this case when responsibilities of ABC to deliver goods to Bangalore, it is inter-state sale, IGST is applicable and revenue will go to Karnataka government. So, this is a place of supply.

We must understand that things, how transaction has taken place. Majority of transactions take place like this only, but there are some cases where supplier fixes the rate without transportation and supplier book the goods in transportation freight on payment basis. So, when freight is on payment basis, it means freight is to be paid by consumer. But still it is the IGST case and IGST will be levied and revenue will be to the respective states only where goods are consumed. So, purchase order has to be drafted very carefully under GST. There should not be any ambiguity. There should be clear cut instruction and terms decided which party has what role to play.

What will be the place of supply of goods, if goods are supplied to a recipient on the direction of any other person?

If goods are supplied by a supplier on the direction of any other person, it shall be deemed that any other person has received the goods, though goods have been received by some other person/recipient.

For example:

ABC Ltd. Delhi placed an order with XYZ Ltd Mumbai to deliver goods to NEWs Ltd Ahmedabad. XYZ Ltd delivered the goods at Ahmedabad and submit the invoice at Delhi for payments.

In this case, its IGST sale and POS is Delhi not Ahmedabad.

Friends, another question comes, what will be the place of supply if goods are supplied to recipient on the direction of any other person?

This was the case which I mentioned earlier, that a party in Delhi placed an order to a party in Bombay, B party, for a delivery of goods to C in Calcutta. What law says? Law says if goods are supplied by supplier on the direction of any other person; Means 'supplier is' A in Delhi, 'direction of other person' that is B in Bombay, it shall be deemed that any other person has received goods, though goods have been received by some other person or recipient. Meaning thereby, in such type of transactions, though material is delivered to C, but it will be deemed that recipient that is B in Bombay has received the goods for payment purposes, for tax of GST purposes. Though goods is delivered to C in Calcutta, but because it was on the instruction of B from Bombay, so, once the goods are delivered to C in Calcutta, it is deemed that goods have been received by B because B gave the directions to A for such delivery.

Let us take example again. ABC from Delhi plays an order XYZ in Mumbai. A person in Delhi, ABC, plays an order to Mumbai party to deliver goods to NEW Ahmedabad. XYZ deliver the goods at Ahmedabad on the direction of party ABC and submit the invoice to Delhi for payment; but obvious; because ABC gave instruction to XYZ in Mumbai for delivery to Ahmedabad. So, ABC will raise invoice to XYZ in Mumbai for such goods. In this case, IGST sale is there and place of supply is Delhi, not Ahmedabad. Friends, such type of transactions create confusion sometimes. So, first transaction between A to B, means from ABC Limited Delhi to Mumbai, place of supply is Delhi because order received from Delhi; and B and party in Delhi will release the payment to party Mumbai for goods supplied to Ahmedabad.

It has another aspect also. That when Ahmedabad party received the goods on behalf of party in Delhi. It means either party in Delhi is related party with Ahmedabad party or they have some relations; Or they may be having independent party and ABC supplying regularly goods to Ahmedabad party by procuring it from upper market. So, one transaction between Delhi to Bombay is over now and Delhi party has paid amount to Bombay party for delivery of the goods to Ahmedabad party. Now, further in second leg of this transaction, Delhi party will also raise bill to Ahmedabad party for the goods received by Ahmedabad party from Mumbai. And IGST will be charged again. And Ahmedabad party will pay to the ABC Delhi party. This way this complete transaction will be completed and ultimately GST will be transferred to Ahmedabad.

IGST ACT, 2017Sec-(10)(1c)/4-43

What will be the place of supply of goods if there is no movement of goods?

The location of the goods or where such goods are physically located/placed shall be the place of supply.

For Example:

EAST India New Delhi raised a work order to supply and installed a SS silos of specific dimensions at its Pune site to Osho & Associates in Raigarh (Maharashtra). Osho & Associates brought tools and silos in semi-fabricated position to site and installed the said silos in specified time. Osho sent its invoice to East India Delhi and charged CGST & SGST in invoice as POS in this case is Maharashtra and it's Intra-state supply.

Next, sometimes it happens; What will be the place to supply of your goods if there is no movement of goods? We have seen the example where there was a movement of goods. Goods were transferred from one place to another place. But now the situation is goods have been fabricated, commissioned, manufactured at the place of consumer itself. Means the supplier has moved its tool and tackles to the location, to the site of a consumer, and install the goods at the premises of the consumer.

How place of supply will be defined; because ultimately based on place of supply GST will be paid. So, it says, 'the location of goods or where such goods are physically located/placed shall be the place of supply.' So, goods have been installed, commissioned, supplied, manufactured at the site of consumer itself. So, it means the place where consumer is located, place of supply is that place. Here there is no movement of goods. Here there is no movement of goods, supplier

took his all tool and tackles, all raw material or all components to consumer's site, assemble the components there at site itself and provided that particular machine or whatever it is to consumer to the satisfaction of that fellow. So, this is place of supply where consumer is located and accordingly tax will be charged.

Let us take example for this case also, East India New Delhi, a party named New Delhi, raise a work order to supply of and install of SS silo. Silo are some big cylinders, you can say, (in which we store the material) of specific dimensions at its Pune site. So, East India having one site at Pune; Means they are having some manufacturing activity at Pune. Though this company is in Delhi, but they have site in Pune. And this party raised order to Osho and Associates, Raigarh Maharashtra. So, Raigad is again in Maharashtra, Pune is also in Maharashtra, but the party who has given the order is in Delhi. So, Osho Associates brought tools and Silo in semi-fabricated position to site of party i.e. Pune; installed the set silos in specified time. i.e. within the time framework they executed their order. Osho sends its envoys to East India, Delhi. Because Osho is the party who is delivering the goods, who is executing the work. It is in Maharashtra. Pune is also in Maharashtra. So, East India is located in Delhi which is a different state; and charge CGST, SGST. As per the normal rule of GST that Osho is in Raigarh, Maharashtra and East India is in Delhi. It is inter-state transaction and IGST is levied. But, here the consumption of the plant which is erected, consumption of the goods delivered by OSHO to East India is in Maharashtra itself. So, place of supply is Maharashtra. That's why this party OSHO charged CGST and SGST in their bill and not IGST. It's an intra-state sale. So, friends we have to identify the transactions in line with provisions of GST law. So, GST says under section 10 in such type of transactions IGST is not levied. Place of supply is Maharashtra so CGST and SGST should be levied because consumption took place in Maharashtra itself. Delhi party has just given an order on paper that's all. Goods finally delivered in Maharashtra only.

This is important. Because otherwise what will happen? Goods consumed by Pune party that is East India in Maharashtra. But if you are raising IGST and sending revenue to Delhi government, it is against the spirit of the law of consumption-based tax. So, it is destination-based consumption tax and goods consumed in Maharashtra itself. The service provider, though is in Delhi, service provider is in Maharashtra, service receiver is in Delhi, but because goods are there within the state of Maharashtra, CGST and SGST will be applicable and tax will be paid accordingly.

What is the place of supply if goods are supplied to an unregistered person?

Place of supply shall be the address of the recipient or unregistered person as mentioned in invoice. Otherwise the place of supplier as mentioned in the invoice shall be the place of supply.

For example:

ABC Ltd, a registered supplier in Gujarat, India, sells goods to Mr Ram, an unregistered person, located in Maharashtra, India. The invoice issued by ABC Ltd mentions the address of Mr Ram in Maharashtra.

In this case, the place of supply will be the address of Mr Ram in Maharashtra as mentioned in the invoice. Therefore, IGST will be charged as per the applicable tax rates.

Further, what will happen if place of supply-in case of unlisted person? In B2B transactions, we consider the place of recipient as a place of supply in B2B where both parties are having GST number. In our previous example, Pune party was having GST number, Delhi party was having GST number, Osho who was supplying goods, executing the work, having GST number. All were GST registered people. So that was the B2B transaction. Here in this case, we are talking about when goods are supplied to unregistered person, means to any customer, any third party who doesn't have any GST number. So, law says that, "Place of supply shall be the address of the recipient." Whenever you are buying any goods in the open market, supplier asks you your address. Especially in costly items. For example, gold, car, AC, even mobile, like this. They ask your address.

So, law says, if it is a transaction between B to C, from a registered person to an unregistered person, place of supply shall be address of the recipient, means address given by the consumer, that will be treated as place of supply. So, means if consumer has come to your shop from interstate sale, from different state and has given the address of different state, it should be treated as interstate sale. But in my first example, I told you, if it is a counter sale, then it is going against the spirit of the law. Moving further, it says, shall be address of the recipient or "unregistered person as mentioned in invoice." So, if address of unregistered person is available, fine. Otherwise, it will be a counter sale and place of supply will be where the delivery is given.

So, in case of unregistered person, it happens that we generally treat counter sale. But if there is a proper address of the consumer, we take transaction that way. So, having another example,

ABC Limited, a registered party in Gujarat, sells goods to Mr. Ram, unregistered person, from Maharashtra. The invoice issued by the supplier, having address of Ram of Maharashtra. Place of supply will be address of Ram, but obviously, but friends, there may be some issue on this transaction that Gujarat authorities may raise a question that in this case, if goods are delivered to Ram in Maharashtra, then it's okay, it can be IGST.

But if delivery is taken by Ram in Gujarat, then again question comes, if it is a counter sale.

IGST ACT, 2017	Sec-(10)(1d)/6-43
What will be the place of supply of goods if said goods are assembled or installed at site?	The place of supply shall be the location where goods are assembled/fabricated or installed.

So, similar question comes again, as I discussed earlier also. A goods are assembled or installed at site. Very simple. Place of supply shall be the location where goods have been fabricated or installed.

IGST ACT, 2017	Sec-(10)(1e)/7-43
What will be the place of supply of goods if goods are delivered at any vehicle, train, aero-plane or vessel?	<p>In such cases place of supply shall be the location where goods are taken on board.</p> <p>For example: Mr. Sharma took a flight at 6.50 am from Mohali (Punjab) for Mumbai office. Ticket fare was of Rs. 6000/-.</p> <p><i>Mr Sharma purchased two T-shirts for Rs. 1500/- all inclusive on board when aero-plan was crossing Rajasthan. In this case POS shall be Punjab when said T-shirts were taken on board. So CGST/SGST shall be applicable.</i></p>

Friends, as I told you that in today's business scenario, there are number of transactions and there is huge complexity in the transactions itself. We have so many transactions, different type of transactions, different type of models and it makes business complex and so is the case with GST.

So, here we have another question, and it says, what will be the place of supply of goods if goods are delivered at vehicle, train or aeroplane or vessel? Means, whenever we are travelling through Shatabdi or Rajdhani, we got food item there in train itself. Whenever you are travelling by air, we are getting some snacks or food items to eat. So what will be the supply? The place of supply? My flight from Delhi to Chennai started in the morning around 9 o'clock and when I was crossing Maharashtra, they served me food. So, how the place of supply will be decided, to whom this tax should go, because the food supplied by crew members or by the operator of the flight is also subject to GST. Similarly, dinner, lunch or breakfast served in trains, if I am coming from Delhi to Bombay in Rajdhani and food is served in Rajasthan, what should be the place of supply as far as GST is concerned? So, in such type of supplies, because I told you that in business, GST has plugged each and every transaction of business. Wherever you have consideration, you are supposed to pay GST. And GST has not spared any transaction. May be of food, may be of water, whatever services you are getting are subject to GST provided if there are some exemptions to them.

So, friends in this case what law says? It says in such cases place of supply shall be location where goods are taken on board. So, where goods are taken on board means what? means if flight start its journey from Delhi and this food was taken on board at Delhi, the supply should be place, place of supply should be Delhi. And in case of Rajdhani, if food is taken on board at Delhi, the place of supply should be in Delhi, maybe there are chances That food is taken on board in Kota in Rajasthan. If that is the case, then place of supply should be Kota Rajasthan. So, accordingly CGST, SGST or IGST as the case may be will be taken into consideration.

So, here example is Mr. Sharma took a flight at 6.50 am from Mohali, Punjab to Mumbai. Ticket fare is 6000 rupees. Mr. Sharma purchased two t-shirts of rupees 1500 all-inclusive on board when aeroplane was crossing Rajasthan. I have purchased some merchandise when I was in aeroplane from crew members because it was on available on sale. So, I purchased two t-shirts in aeroplane. So, what will be the place of supply because I on board on Mohali, Punjab and going to Maharashtra, Mumbai. In case of place of supply shall be Punjab when T-shirts were taken on board. So, I board on flight in Mohali, Punjab. Goods are also taken at Mohali. So, CGST, SGST will be applicable as it is intra-state supply because recipient, Mr. Sharma, was there in Mohali and goods were taken on board in Mohali. So, tax will go to Punjab government, not to Maharashtra government, not to Rajasthan government when I purchased the item from these crew members.