CHAPTER

10 Place of Supply

PART A

WHAT IS MEANT BY PLACE OF SUPPLY

Question 218: What is destination based taxation?

Answer : Destination based taxation is a system wherein revenue from tax relating to goods or services accrues to the jurisdiction where they are being ultimately consumed. It is also called consumption tax.

For Example, If A in Gujarat produces the goods and sells the goods to B in Rajasthan, then in such case revenue should go to the State of Rajasthan and not to the State of Gujarat. This is destination based taxation.

Question 219: Give an example, how Destination based taxation is being followed in the current taxation system?

Answer : In India, we primarily follow destination based taxation for export of goods and services outside the country and Import of goods and Services into the country, that is, taxes are levied on Import of goods and services from outside the country while on the other hand, export of goods and services to other countries from India are Zero Rated i.e. taxed at zero rate.

Question 220: What is place of supply?

Answer : GST is destination based taxation or consumption based taxation. By Destination based tax we mean that the revenue accrues to the place where the goods or services are consumed. Therefore, place of supply in destination based taxation is nothing but the place where the goods or services are consumed.

Question 221: How is the place where goods or services are consumed i.e. place of supply determined?

Answer : For determination of place of Supply, first and foremost requirement is to determine whether supply is Business to Business Supply or Business to Consumer Supply. Once the nature of supply is determined, thereafter place of supply is determined with the help of general or specific rule of place of supply.

The general rules determine the place of supply with respect to the location of the recipient of the goods or services. The specific rule determines the place of supply with respect to specific rules applicable to the situation.

Question 222: What is Business to Business Supply and Business to Consumer Supply?

Answer : The consumption pattern for any goods or services follows a route. It can be

- (B2B) Business-to-Business supplies. These are those supplies wherein both the supplier and the receiver of those supplies are business. These supplies are used by the business in the course or furtherance of their business.
- (B2C): Under these supplies, one of the parties to the supplies i.e. supplier is regarded as a 'Business' and the other *i.e.* recipient is the 'final consumer'.

Sl. No.	*Particulars*	*B2B Supplies*	*B2C Supplies*
1.	Whether Tax paid earlier should form part of Cost of Goods or Services or both	Tax paid should be fully creditable in the hands of businesses.	No Credit is allowed to final consumer therefore tax forms part of the cost of the goods or services or both.
2.	Reason for Accrual of Revenue	Revenue accrues to the Jurisdiction of Recipient for the sole purpose of facilitating a seamless flow of Input Tax Credit to the person making further supply of the goods or services or both acquired in B2B supply.	Final Revenue accrues to the Jurisdiction of Recipient as goods or services or both would not be used for making any further supply.

Question 223: What do provisions for place of supply determine and why it has to be ascertained correctly?

Answer : Provisions for Place of Supply determine place where the goods or services have been consumed/supplied. Place of supply as determined would then have the right of accrual of revenue. Thus, if in the supply of services from Gujarat to Rajasthan, it is determined that place of supply is Rajasthan, revenue would then go/belong to Rajasthan. Thus it would be imperative for the taxpayer to determine correct place of supply, otherwise penal consequences may be invited for incorrect classification of place of supply.

Case Study:

A from Gujarat supplies services to B in Rajasthan. A mentions the place of supply in the Invoice as Rajasthan and as it would be an Inter State Supply, thus levies IGST on the Invoice. This would mean that State of Gujarat does not get any revenue from the said transaction, and entire revenue is transferred to Rajasthan *via* IGST.

Now if the proper officer assessing the registered person in the State of Gujarat holds that it was a transaction in the nature of within State supply. Therefore, CGST/SGST should have been levied and not IGST. This would lead to re-deposit of tax as CGST/SGST and claim to be filed for refund of tax paid earlier. It may also entail penal consequences for the tax payer.

Thus, determination of place of supply would have to be done very carefully and any error could prove costly for the registered person.

Question 224: How does flow of credit take place between Business to Business Supplies and Business to Consumer Supplies?

Answer : A who is registered person in Maharashtra has supplied goods to B, who happens to be registered person in Rajasthan. B subsequently supplied the goods to C in Delhi, who is a consumer.

(1) A in Maharashtra supplies goods to B in Rajasthan.

(*a*) **Implications for B**: It is a Business to Business supply, therefore B would get credit of the entire taxes paid by him and it would not be added to the cost of supplies.

(*b*) **Implications for Rajasthan:** Rajasthan would be the State where goods would not be finally consumed but would be used as an intermediary in the course of the supply chain.

Since in the **Destination Based Taxation**, revenue goes/belongs to the place of consumption, revenue in the transaction between A and B would go to Rajasthan. Therefore, Rajasthan would be able to give the credit of the taxes to B in the given transaction.

However, if it had been **Origin-Based Taxation**, revenue would have belonged to Maharashtra and Rajasthan would not have been able to provide credit to B.

(*c*) **Will Rajasthan retain the revenue?:** The supply by A to B is a B2B supply and B has used the goods to further supply it to C. Entire taxes paid by B would be allowed as credit to B by Rajasthan and revenue on supply between B and C would go/belong to Delhi. Therefore, Rajasthan will not be left with any revenue in this instance.

(2) Supply of Goods by B in Rajasthan to C in Delhi:

(*a*) **Implications for C:** It would be a Business to Consumer Supply *i.e.* B2C. Goods would not be used in the course or furtherance of business by C. The tax therefore, would form part of the cost of the product and no Input credit would be allowed to C.

(*b*) **Implications for Delhi:** Delhi would be the place in this transaction where goods would be finally consumed by C and would not be used as an intermediary in the supply chain. Therefore, no input credit would be allowed by Delhi.

(*c*) **Will Delhi retain the Revenue:** The supply in question is a B2C supply. Revenue in the given transaction would go to Delhi and as no input credit would be allowed by Delhi, final revenue in the entire supply chain between A, B and C would be retained by Delhi.

(3) C in Delhi consumes the goods for his personal use.

Summary:

In the entire transaction, between A, B and C and between Maharashtra, Rajasthan and Delhi, implication of revenue for each of the States would be as follows:

(*a*) **Maharashtra:** No Revenue would accrue to Maharashtra as it is the origin State and under destination based taxation, no revenue is retained by the State from where the transaction originates.

(*b*) **Rajasthan:** Revenue accrues to Rajasthan in the transaction between A and B but as the supply is a B2B supply, it would work as an intermediary and allow credit of the entire taxes paid to B.

(*c*) **Delhi:** The supply of goods by B to C is a Business to Consumer supply and C has procured the goods for final consumption and not for further supply. Therefore, entire revenue in the supply chain accrues to Delhi.