

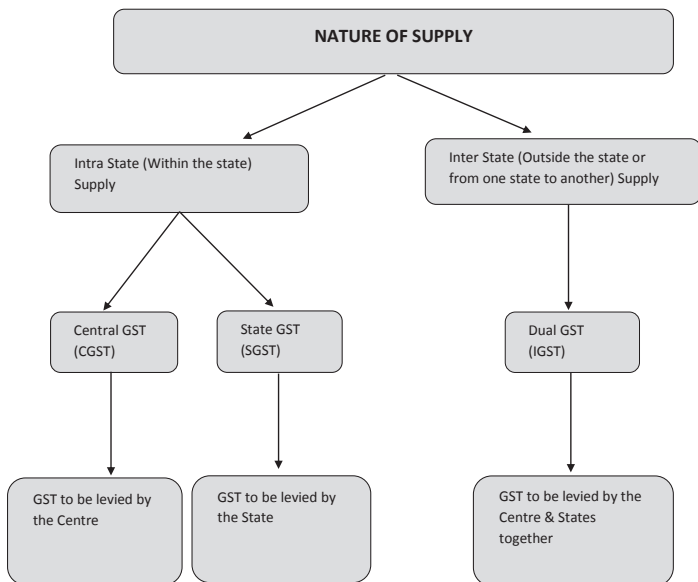
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Nature of Supply

2.1 RELEVANCE OF NATURE OF SUPPLY IN GST

Goods and Services Tax commonly known as GST is an indirect tax which is levied on manufacture, sale and consumption of goods and services. GST is a destination-based tax or consumption tax which means that it is levied at the place where goods and services are consumed rather than the place where they get manufactured or from where they are supplied.

The nature of supply means to determine whether a supply is inter-State or intra-State. It helps us to levy the tax that needs to be paid be it IGST or CGST+SGST.



2.2 IMPORTANCE OF DETERMINING NATURE OF SUPPLY

Following are the reasons due to which the determination of Nature of Supply having huge importance:

- ◆ Wrong classification of supply between interstate (i.e. between two different states) or intra state and *vice versa* may lead to distress for the taxpayer as per IGST Act and CGST Act.
- ◆ If taxes have been paid due to wrong classification, then the taxpayer have to pay the correct tax again & seeking refund for wrong tax. It will have huge impact on working capital.
- ◆ Also, correct determination of nature of supply will help us in knowing the incidence of tax, as if place of supply is determined as a place outside India then tax will not have to be paid on that transaction.

It is very difficult for taxpayers to identify the category transactions of (i.e. Inter or Intra state). So, for knowing the correct transaction the taxpayer must have to understand the concept of nature of supply which helps to determine which type of GST is to be paid, whether IGST, CGST or SGST and how the dealers have to account for Input Tax Credit on inward supplies and outward supplies.

Kindly note: -

- ◆ Intra-state transactions are transactions which are occurring within the state.
- ◆ Inter-state transactions are transactions which are occurring from one state to another.

Nature of supply helps in determining the components of taxes which can be understood with the below diagram: -

IGST
(Integrated Tax)

IGST is applicable on interstate and import transactions and tax collected is shared between Centre and State Govt.

CGST
(Central GST)

CGST is applicable on supplies within state and tax collected is shared to Centre Govt. only.

SGST
(State GST)

SGST is applicable on supplies within state and tax collected is shared to state Govt. only.

UTGST (Union
territory GST)

UTGST is applicable on supplies within union territory state and tax collected is shared to union territory Govt. only.

2.3 DETERMINATION OF NATURE OF SUPPLY

In Integrated Goods and Services Tax (IGST) Act, 2017 Chapter IV deals with the determination of nature of supply, under which there are three Situations as follows: -

- a. Inter-State Supply
- b. Intra-State Supply
- c. Supply in Territorial Waters.

2.4 DETERMINATION OF SUPPLY AS INTER-STATE SUPPLY UNDER SECTION 7 OF IGST ACT

In the following cases, the supply shall be treated as inter-state supply

2.4.1 Considering the rules of Place of Supply, supply of goods shall be treated as inter-state supply, where the location of the supplier and the place of supply are in-

(a) two different States;

- ◆ *Example* - Mr. Vijay from Delhi supplies 10 TV sets to Mr. Sanjay in Haryana. In this transaction, it will be Inter-State transactions the location of supplier and the place of supply are in two different states. Hence, IGST will be charged.

(b) two different Union territories; or

- ◆ *Example* - Mr. Vanish supplies laptop from Daman & Diu to Miss Avanti in Chandigarh. We can see that here transactions held in two different union territories so this transaction will be Inter-State transaction. Hence, IGST will be charged.

(c) a State and a Union territory, (from one State to a UT or vice versa)

- ◆ *Example* - Mr. Ravi supplies goods from Goa to Mr. Mayank in Daman and Diu. In this case transaction held in one state to another union territory so this transaction will be Inter-State transaction. Hence, IGST will be charged.

2.4.2 Supply of goods imported into the territory of India, till they cross the customs frontiers of India, shall be treated to be a supply of goods in the course of inter-State trade or Commerce.

2.4.3 Considering the rules of place of supply, supply of services shall be treated as inter-state supply, where the location of the supplier and the place of supply are in-

(a) two different States;

- ◆ *Example* - Mr. A from Gujarat provides consultancy services to Mr. B in Mumbai. In this transaction, it will be Inter-State transaction as the location of supplier and the place of supply are in two different states. Hence, IGST will be charged.

(b) two different Union territories; or

- ◆ *Example* - Mr. Anorak provides CA classes from Lakshadweep to Mr. Basu in Chandigarh. In this transaction, it will be Inter-State transaction as the location of supplier and the place of supply are in two different union territories. Hence, IGST will be charged.

(c) *a State and a Union territory,*

- ◆ *Example* - Mr. Ram provides CA classes from UP to Mr. Rotan in Daman and Diu. In this transaction, it will be Inter-State transaction as the location of supplier and the place of supply are in a state and union territory. Hence, IGST will be charged.

2.4.4 Supply of services imported into the territory of India shall be treated to be a supply of services in the course of inter-State trade or commerce.

- ◆ *Example* - Ms. Malika imports Software Services from London for her i.e. in India. As per section 7 of IGST Act, if any transactions held of import then it attracts IGST tax liability and also in this case Ms. Malika doing transaction of import.

2.4.5 Supply of goods or services or both shall be treated as inter-state supply in the following cases:

(a) *When the supplier is located in India and the place of supply is outside India (export);*

- ◆ *Example* - Mr. Ajay from Delhi exports Ayurvedic medicines to Mr. Tom in U.K. As per section 7 of IGST Act, if any transactions held of export then it attracts IGST tax liability and also in this case Mr. Ajay doing transactions of export.

(b) *Supply to or by a Special Economic Zone developer or a Special Economic Zone unit; or (export)*

- ◆ *Example* - Taxable person (non-SEZ) located in Dwarka Delhi supplying goods to a SEZ unit located in Laxminagar Delhi is a supply in the course of inter-State trade or commerce. Even though both are located in Delhi itself, still due to this clause it will be treated as IGST transaction.
- ◆ *Example* - SEZ unit in Mumbai supplying services to another SEZ unit in Mumbai is a supply in the course of inter-State trade or commerce.
- ◆ *Example* - Export of goods by a SEZ unit to a customer in Italy is a supply in the course of inter-State trade or commerce.

(c) *Supply in the taxable territory, not being an intra-State supply and not covered elsewhere in this section, shall be treated to be a supply of goods or services or both in the course inter-state supply.*

Explanation to sub-clause (c) please note this clause is a residuary clause, be which if a transaction cannot be covered. Elsewhere, it will be covered automatically as IGST transaction.

Points to be noted (for location of Supplier/Recipient)

Sl. No.	Case	Location of Supplier/Recipient of service
1	Where a supply is made/received at a place of business for which the registration is obtained.	Such place of business.
2	Where a supply is made/received at a place other than the place of business for which registration has been obtained (a fixed establishment).	Such fixed establishment.
3	Where supply is made/received at more than one place.	Such place which is more directly related with the supply.
4	In other cases	Residence of Supplier/Recipient.

*For further explanation, Kindly refer **Point 2.9***

2.5 DETERMINATION OF SUPPLY AS INTRA STATE SUPPLY UNDER SECTION 8 OF IGST ACT

If, the location of the supplier & the place of supply of goods or services are in the same state or union territory then it is considered as an Intra-State supply.

2.5.1 Supply of goods where the location of the supplier and the place of supply of goods are in the same State or same Union territory shall be treated as intra-State supply:

- ◆ *Example* - Mr. Ram provides tuition classes from Dwarka, Delhi to Mr. Hari in Laxminagar, Delhi. In this transaction, it will be Intra-State transaction as the location of supplier and the place of supply are in same state. Since, CGST & SGST will be charged.
- ◆ *Example* - Mr. Sanjeev provides IELTS classes from Pune to Mr. Rajeev in Pune itself. In this case, transaction occurring within a state. Since, CGST & SGST will be levied.

Provided that the following supply of goods shall not be treated as intra-State supply, namely:

- (i) *Supply of goods to or by a Special Economic Zone developer or a Special Economic Zone unit;*
- (ii) *Goods imported into the territory of India till they cross the customs frontiers of India; or*
- (iii) *Supplies made to a tourist referred to in section 15.*

2.5.2 Supply of services where the location of the supplier and the place of supply of services are in the same State or same Union territory shall be treated as intra-State supply:

Provided that the intra-state supply of services shall not include supply of services to or by a Special Economic Zone developer or a Special Economic Zone unit.

2.6 DETERMINATION OF SUPPLY AS TERRITORIAL WATERS SUPPLY UNDER SECTION 9

If the location of the supplier or the place of supply is in territorial waters, then it should be considered as supply in territorial waters.

Ignoring all the provisions of the act,

- (a) *where the location of the supplier is in the territorial waters, the location of such supplier; or*
- (b) *where the place of supply is in the territorial waters, the place of supply,*

shall be deemed to be in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

- ◆ *Example - Repair services are provided by a company in Delhi on ship moved off the coast i.e. an area of land that is next to the sea of Kochi for a shipping company from U.K, the place of supply of the repairs services will not be the waters but Kochi itself.*
- ◆ *Example - Indian Oil has on offshore (seaward) on the field off coast (seaboard) of Mumbai. Supplies from such oil field would be deemed to be supplies from the State of Maharashtra.*

PLACE OF SUPPLY

2.7 MEANING OF PLACE OF SUPPLY

Place of Supply defines whether the transaction will be classified as intra-state (within the state) or inter-state (outside the state) which further determines what taxes are to be charged i.e. IGST or CGST & SGST.

In other words, **Place of supply** means the place where a supply of goods or services is made & where the GST may be charged or paid.

2.8 PILLARS FOR DETERMINING THE TAX CATEGORY OF GOODS & SERVICES

- ◆ There are two pillars for determining the tax category in GST:-
 - **Location of supplier**
 - &
 - **Place of Supply**

For example

If Location of Supplier = Place of Supply → CGST + SGST

If Location of Supplier ≠ Place of Supply → IGST

2.9 DETERMINATION OF LOCATION OF SUPPLIER/RECIPIENT

- ◆ The registered (principal) place of business from where the supply is being made.
- ◆ **Example** - *X Ltd. Delhi a registered company provides services to Y Ltd., Mumbai a registered company.*
In this above case, the Location of Supplier is registered place of business i.e. Delhi and Location of Recipient is registered place of business i.e. Mumbai.
- ◆ The place i.e. fixed establishment other than a place of business (mentioned in point 1) from where the supply is being made.
- ◆ **Example** - *A service provider in the business of renting of immovable property services has his registered office at Bangalore and the property for rent along with an office is located in Chennai.*

In this case, the registered office will be the principal place of business and the property in Chennai along with the office will be regarded as a fixed establishment of the service provider.