

Topic: Meaning and Scope of Supply-Part 8

Class: B.Com (Hons) Semester VI

Subject: Goods and Services Tax (GST)

Unit: 1

Paper: CC-13

Place of supply in respect of service

**Place of supply of service where location of supplier or location of recipient is outside India
(Cross Border Transaction) [Section 13(1)]:**

International transactions where both the recipient and the provider of service are outside India are not covered under GST in India. International transaction where either of the service recipient or the service provider is outside India, place of service will be determined as per the principles laid down in section 13 of IGST, Act

Section 13 defines the place of supply of service in the following manner

A. General Principle Section 13 (2)

B. Specific situations [section (3) to (13)]

- A. General principle [Section 13(2)]: As per section 13(2) the location of the recipient of services shall be the place of services. If the location of the recipient of service is not available in the ordinary -course of business, the place of supply shall be the location of the supplier of services.

Example: A chartered accountant provides service to his counterpart in China under section 13 of the IGST act place of supply shall be China being the location of the recipient of service.

Example: Mr. Tondon of Sri Lanka is a singer. He provided his service in XLRI Jamshedpur (Jharkhand), the place of supply will be XLRI Jamshedpur.

Example: Ramakant company a CA consultancy firm of Delhi provided its consultancy services to a person outside India, whose location is not known the place of service shall be India being the location of the supplier of service.

Specific Situation: The general provisions do not given all across border service. Some of the specific service has been covered under section 13(3) to 13(12). Further, the central government has been empowered under section (13) to notify services or circumstance for which the place of supply will be the place of effective use and enjoyment of service so as to prevent double taxation/non taxation of the supply of a service.

Performed Based Service [Section 13(3)]:

- a. Service in respect of goods that are required to be made physically available [section 13(3)a):- Service supplied in respect of goods which are required to be made physically available by the recipient of service to supplier of service or to a person acting on behalf of the supplier of services in order to provide the services. The place of supply of service shall be the location in where the service are actually performed but if the service are performed from a remote location through electronics means, the place of supply shall be the place where the goods are situated.

Exception: - As amended by IGST (amendment) act 2018, w.e.f.1.2.2019 vide notification no. 01/2019 integrated tax dated 29.1.2019] IGST act 2017 is not applicable, if goods are to be temporary imported into India for repair or any other treatment or process and are exported after repair or any other treatment or process without being put to any other use in India in such case section 13(2) of IGST act 2017 will apply.

Example: Mr. Sharma an exporter of Sri Lanka hires a service provider in India XYZ Ltd to perform quality check on all its goods exported to Delhi after clearance from the custom authorities. The goods will be supplied by its custom clearing consultancy ABC Ltd to perform quality check. In this case place of supply for service provided by both XYZ Ltd and ABC Ltd to Mr. Sharma will be Delhi.

Example: X Ltd of Haryana has exported a machine to a company in London. The machine stop functioning and thus imported by X Ltd for free repairs in terms to sell contract. The machine is exported after repairs. The place of supply of repair service is the recipient i.e. London.

Example: A Software company is situated in Germany takes service of a software company situated in Bangalore to service its software in USA. The Indian software company provides its service through electronic means from its office in India. The place of supply is the location where goods are situated at the time of supply of service i.e. Germany.

Service in relation to immovable property [section 13(4)]: The place of supply of service supplied directly in relation to an immovable property including service supplied in this regard by experts and estate agent supply of accommodation by a hotel inn, given house club or campsite by whatever name called grant of rights to use immovable property, service for carrying out or coordination of construction work, including that if architects or interior decorators, shall be the place where the immovable property is located or intended to be located.

Example: Mr. Suraj Kumar of New Delhi is a famous architect who provides service across the world. Mr Santosh Kumar of South Africa hire Mr. Suraj Kumar for consulting his house located in South Africa. Here the place of supply of such architectural shall be South Africa.

Mr. Arun Kumar is a non-resident Indian and has several properties in different part of country. He has appointed Mr. Tarun to give the properties on lease on his behalf and also collect rent from the said properties. In this case place of supply will be the location such immovable property.

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