



# THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

GST & INDIRECT TAXES COMMITTEE

## Webinar on GST Implications in Works Contracts

Date: 19<sup>th</sup> June 2024

By CA Ashwarya Agarwal

B.Com(H), FCA, CS, LL.B





## RATE OF TAX

2

12%

- Earth Work > 75% of the value of contract – CG / SG
- Govt. Construction, Single Residential, Low Cost Housing, etc - upto 18.07.2022

18%

- All other Works contract



# EXEMPTIONS

3

## Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017

10. Services provided by way of **pure labour contracts** of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works **pertaining to the beneficiary-led individual house construction or enhancement** under the Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana.

11. Services by way of **pure labour contracts** of construction, erection, commissioning, or installation of original works **pertaining to a single residential unit** otherwise than as a part of a residential complex.



# PLACE OF SUPPLY

4





# PLACE OF SUPPLY

5

## INTER-STATE SUPPLY [Section 7(3)]

Subject to the provisions of section 12, supply of services, where the **location of the supplier** and the **place of supply** are in—

- (a) two different States;
- (b) two different Union territories; or
- (c) a State and a Union territory,

shall be treated as a supply of services in the course of inter-State trade or commerce.



# PLACE OF SUPPLY

6

## INTRA-STATE SUPPLY [Section 8(2)]

Subject to the provisions of section 12, 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.



# Location of Supplier & Recipient in INDIA

7

## Section 12(2)

The place of supply of services, except the services specified in sub-sections (3) to (14),—

- (a) made to a registered person shall be the location of such person;
- (b) made to any person other than a registered person shall be,—
  - (i) the location of the recipient where the address on record exists; and
  - (ii) the location of the supplier of services in other cases.



# Location of Supplier & Recipient in INDIA

8

## Section 12(3)

(3) The place of supply of services,—

(a) directly **in relation to an immovable property**, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work; or

.....

(d) any services ancillary to the services referred to in clauses (a),.....,

shall be the **location at which the immovable property** or boat or vessel, as the case may be, is located or intended to be located:

Provided that if the location of the immovable property or boat or vessel is located or intended to be located **outside India**, the **place of supply shall be the location of the recipient**.





# PLACE OF SUPPLY

9

	Location of Supplier	Location of Recipient	Location of Immovable Property	Place of Supply	Tax
1	Odisha	Odisha	Odisha	Odisha	CGST + SGST
2	Odisha	Jharkhand	Jharkhand	Jharkhand	IGST
3	Odisha	Jharkhand	Odisha	Odisha	CGST + SGST
4	Odisha	Odisha	Jharkhand	Jharkhand	IGST
5	Odisha	Jharkhand	West Bengal	West Bengal	IGST
6	Odisha	West Bengal	Bangladesh	West Bengal	IGST



# Location of Supplier Or Recipient outside INDIA

10

## Section 13(4)

The place of supply of services supplied **directly in relation to an immovable property**, including services supplied in this regard by experts and estate agents, supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called, grant of rights to use immovable property, services for carrying out or co-ordination of construction work, including that of architects or interior decorators, **shall be the place where the immovable property is located** or intended to be located.



# PLACE OF SUPPLY

11

	Location of Supplier	Location of Recipient	Location of Immovable Property	Place of Supply	Tax
1	India	Bangladesh	Bangladesh	Bangladesh	Export
2	Bangladesh	India	Bangladesh	Bangladesh	-
3	India	India	Bangladesh	India	GST



# INPUT TAX CREDIT

12

## **BLOCKED CREDITS** [Section 17(5)]

Notwithstanding anything contained in sub-section (1) of section 16 and subsection (1) of section 18, input tax credit shall not be available in respect of the following, namely:-

(c) **works contract services** when supplied for construction of an immovable property (**other than plant and machinery**) except where it is an input service **for further supply of works contract service**;

(d) goods or services or both received by a taxable person for construction of an immovable property (**other than plant or machinery**) **on his own account** including when such goods or services or both are used in the course or furtherance of business.



# INPUT TAX CREDIT

13

**Explanation.**—For the purposes of clauses (c) and (d), the expression “construction” includes re-construction, renovation, additions or alterations or repairs, **to the extent of capitalisation**, to the said immovable property;

“**plant and machinery**” means apparatus, equipment, and machinery **fixed to earth** by **foundation or structural support** that are used for making outward supply of goods or services or both and **includes such foundation and structural supports** but excludes-

- (i) land, building or any other civil structures;
- (ii) telecommunication towers; and
- (iii) pipelines laid outside the factory premises.



# INPUT TAX CREDIT

14







# INPUT TAX CREDIT

15





# REFUND

16

## Section 2(6) of the IGST Act

“export of services” means the supply of any service when,—

- (i) the supplier of service is located in India;
- (ii) the recipient of service is located outside India;
- (iii) the place of supply of service is outside India;
- (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India; and
- (v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;





# REFUND

17

## Zero rated supply [Section 16]

- (1) “zero rated supply” means any of the following supplies of goods or services or both, namely:—
- (a) export of goods or services or both; or
  - (b) supply of goods or services or both for authorised operations to a Special Economic Zone developer or a Special Economic Zone unit.
- (2) **Subject to the provisions of sub-section (5) of section 17** of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.

- Export can be done **With Payment** / **Without Payment** of tax



# Thank You

Name CA Ashwarya Agarwal

Email [ashwarya@rpallp.com](mailto:ashwarya@rpallp.com)

Mobile 8018043801 / 9776047001



[www.youtube.com/@caashwarya](http://www.youtube.com/@caashwarya)



[www.linkedin.com/in/ashwarya-agarwal-138ab178](http://www.linkedin.com/in/ashwarya-agarwal-138ab178)