

## **Treading the GST Path – XI**

### **A criss cross study.**

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1.0 The charging section for CGST / SGST is section 7 of the model CGST / SGST Acts, according to which, there shall be levied a tax called CGST/ SGST on all intra state supplies of goods and / or services. While the term “supply” is dealt with in Section 3 of the Act there is no clue in these Acts as to what would constitute intra state supply, for which we have to refer to Section 3A of the model IGST Act. As per Section 3 of the model IGST Act, if the place of supply of goods and services and the location of the supplier are in different States, it would be an inter state supply and as per Section 3 A of the IGST Act, if the place of supply of goods and services and the location of the supplier are in the same State, it would be an intra state supply. The provisions for determination of place of supply of goods and place of supply of services are also contained in Sections 5 and 6 of the model IGST Act, respectively. The model CGST / SGST Acts do not contain any provision as to determination of place of supply of goods / services.

1.1 It would be better, if the CGST / SGST Act specifically refer to the provisions of Section 3 A, 5 and 6 of the IGST Act and makes them applicable to CGST / SGST Acts also. For example, as per Section 2 (2) of the model IGST Act, the words and expressions used in this Act and not defined in this Act shall have the meanings assigned to it in the CGST Act. A similar provision may be enacted in CGST /SGST Acts also, to make the definitions in the IGST Act applicable to CGST / SGST. This can avoid lot of disputes.

1.2 Section 132 of the model CGST / SGST Acts deals with the rule making powers of the respective Governments. As per clause (ii) of sub section (2) of Section 132, such rules can be made for providing determination of place of supply of goods and / or services. When the IGST Act contains detailed provisions for determination of place of supply of goods and services the same can be adopted for CGST / SGST also, instead of leaving it to the rule making powers of the executive, to bring in uniformity.

2.0 As per Section 27 of the model IGST Act, the provisions of the CGST Act relating to registration, valuation, time of supply of goods, time of supply of services, change in rate of tax in respect of supply of services, exemption from payment of tax, input tax credit and utilization thereof, accounts and records, payment, return, audit, assessment, adjudication, demands, refunds, interest, recovery of tax, offences and penalties, inspection, search and seizure, prosecution and power to arrest, appeals, review, advance ruling and compounding shall apply for IGST also.

3.0 Compared to the rule making powers available to the respective Governments under section 132 of the model CGST / SGST Acts, the rule making powers under the IGST Act, under Section 28 of the model IGST Act is very limited. For ready reference the said Section 28 is reproduced below.

*Section 28 (1) The Central Government may, on the recommendation of the Council, by notification, make rules for carrying out the purposes of this Act.*

*(2) In particular and without prejudice to the generality of the foregoing power, such rules may*

*(i) provide for settlement of cases in accordance with Chapter VIIA of this Act;*

*(ii) provide for all or any of the matters which under any provision of this Act are required to be prescribed or to be provided for by rules.*

3.1 Reading Section 27 of the IGST Act, the rules framed under the CGST Act in respect of matters dealt with thereunder can be applied for IGST purposes also. But a general provision in the IGST Act that all rules framed under the CGST Act would mutatis mutandis apply for IGST also, would be better.

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