

# MASTER CLASS ON GST



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**WESTERN INDIA REGIONAL**  
**COUNCIL OF ICSI**

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**AN INVESTMENT IN KNOWLEDGE PAYS THE BEST RETURN**

15th February, 2017

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## COVERAGE

- **TIME OF SUPPLY**
- **PLACE OF SUPPLY**



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# TIME OF SUPPLY

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## **Time of Supply of Goods**

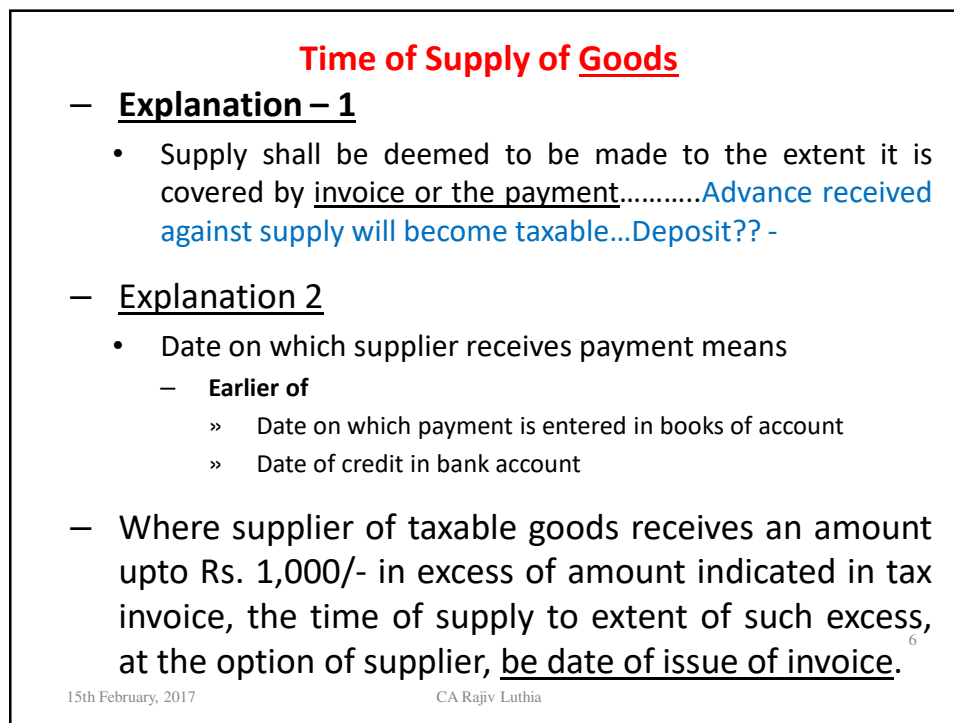
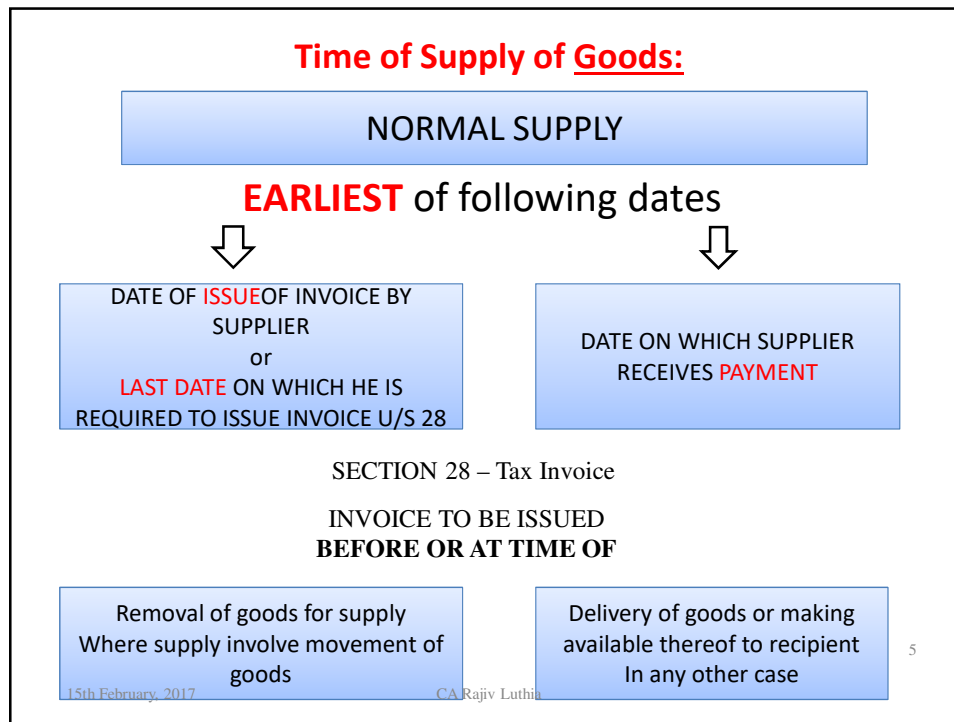
- Section 12....**Liability to pay** CGST/SGST on **goods shall arise at the time of supply.**
- Section 2(104)... **“time of supply of goods”** shall have the meaning as assigned to it in section 12.

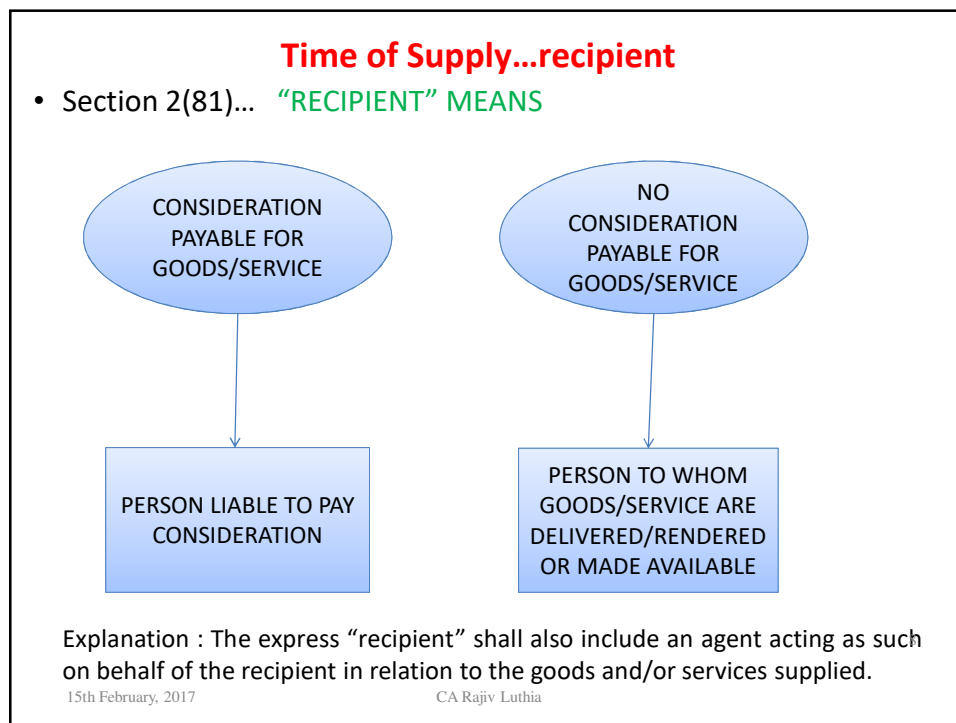
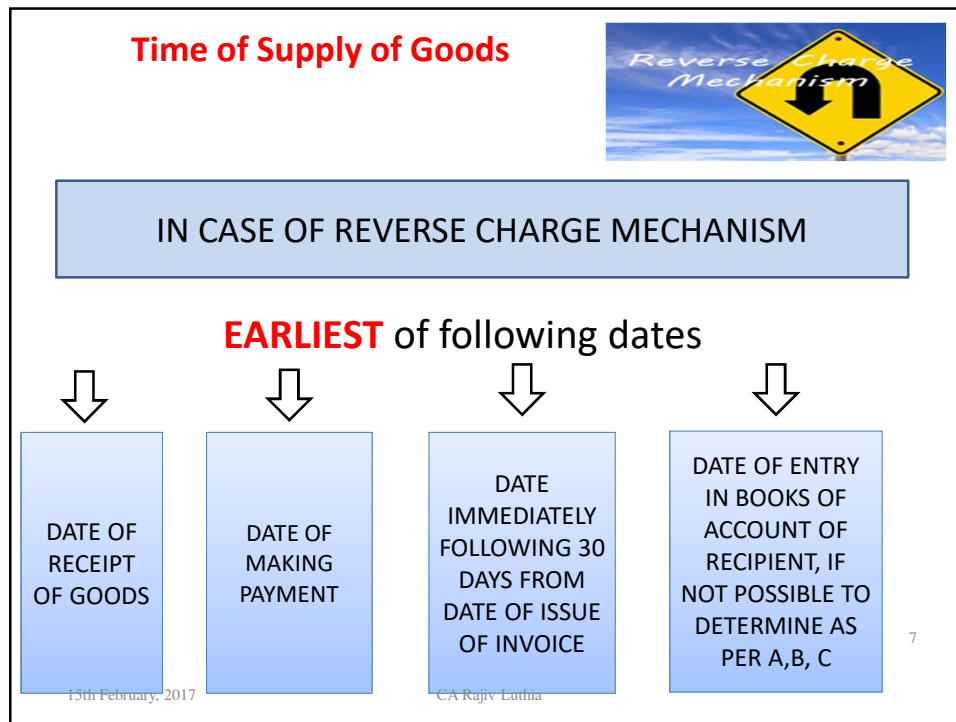


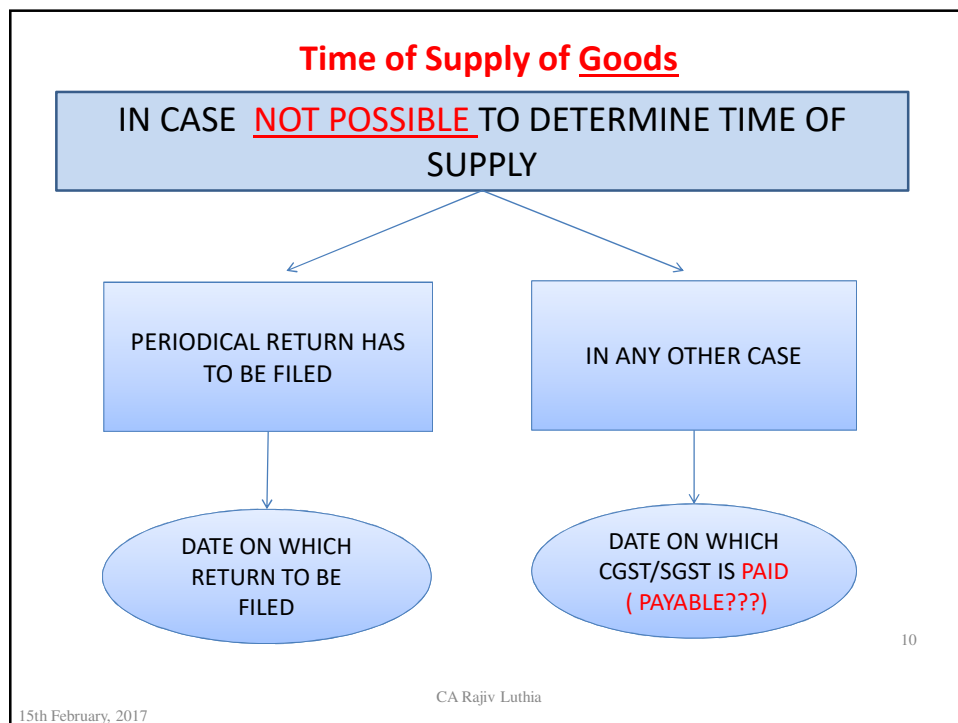
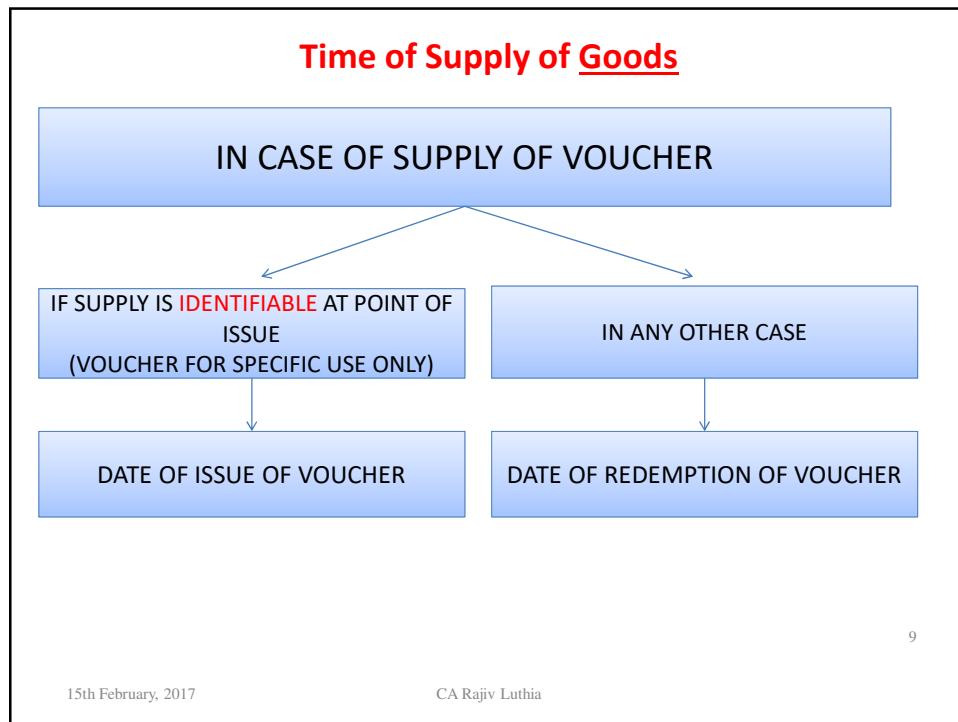
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### **Time of Supply of Service**

- Section 13....**Liability to pay CGST/SGST on Service shall arise at the time of supply.**
- Section 2(105)... **“time of supply of service”** shall have the meaning as assigned to it in section 13.



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### **Time of Supply of Service:**

NORMAL SUPPLY

**EARLIEST** of following dates



LAST DATE ON WHICH ON WHICH HE IS REQUIRED TO ISSUE INVOICE

DATE OF **ISSUE** OF INVOICE

DATE ON WHICH SUPPLIER RECEIVES **PAYMENT**

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## Time of Supply of Service

### – Explanation – 1

- Supply shall be deemed to be made to the extent it is covered by invoice or the payment..... Advance received against supply will become taxable...Deposit?? -

### – Explanation 2

- Date on which supplier receives payment means
  - **Earlier of**
    - » Date on which payment is entered in books of account
    - » Date of credit in bank account

- Where supplier of taxable service receives an amount upto Rs. 1,000/- in excess of amount indicated in tax invoice, the time of supply to extent of such excess, at the option of supplier, be date of issue of invoice.<sup>13</sup>

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## Time of Supply of Service



### IN CASE OF REVERSE CHARGE MECHANISM

**EARLIEST** of following dates



DATE ON WHICH  
PAYMENT  
MADE



DATE IMMEDIATELY  
FOLLOWING 60 DAYS  
FROM DATE OF  
ISSUE OF INVOICE



DATE OF ENTRY IN  
BOOKS OF ACCOUNT OF  
RECIPIENT, IF NOT  
POSSIBLE TO  
DETERMINE THROUGH  
A & B

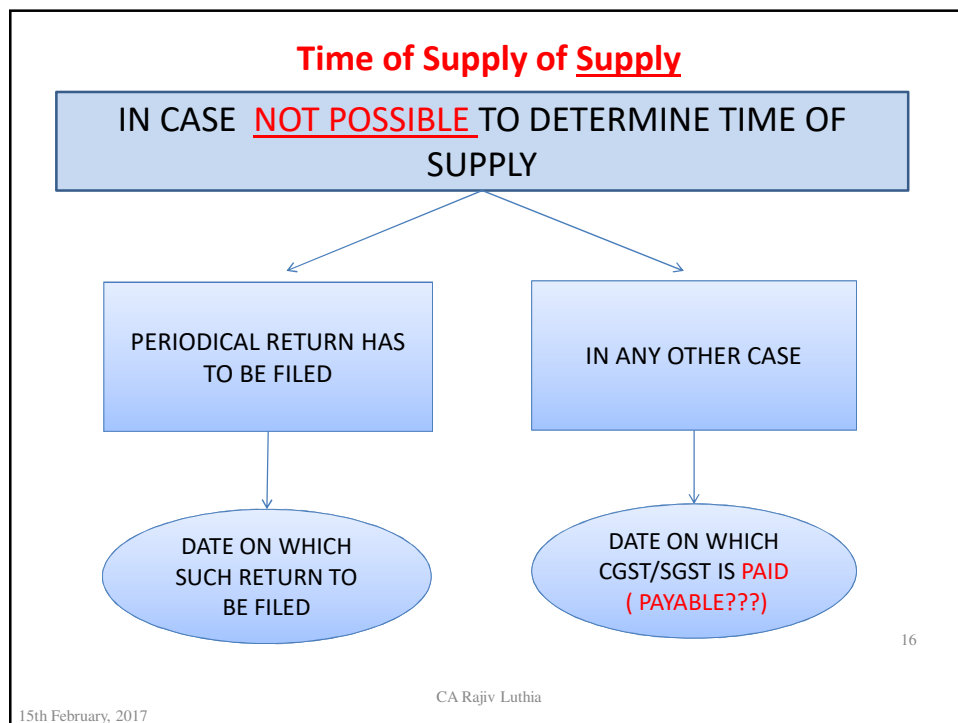
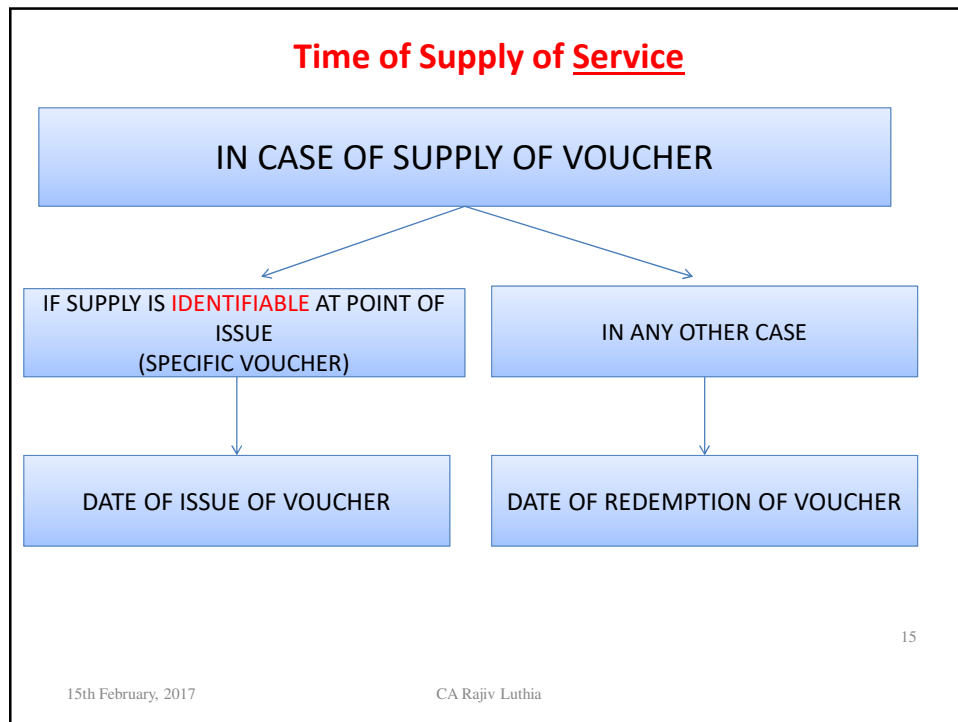
In case of Associated Enterprises, if supplier located outside India, Time of supply shall be **earliest** of Following

- Date of Entry in books of Recipient  
or
- Date of payment

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### Time of Supply when Change in Rate of Tax

- Section 14...Determination of time of supply when there is a **change in rate of tax** in respect of **goods/service**

Supply of Goods/service	Issuance of Invoice	Receipt of payment	Time of supply
Before	After	After	Earliest of invoice or date of receipt
Before	Before	After	Date of invoice
Before	After	Before	Date of receipt of payment
After	Before	After	Date of receipt of payment
After	Before	Before	Earliest of invoice or receipt
After	After	Before	Date of invoice

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## PLACE OF SUPPLY

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### Place of supply

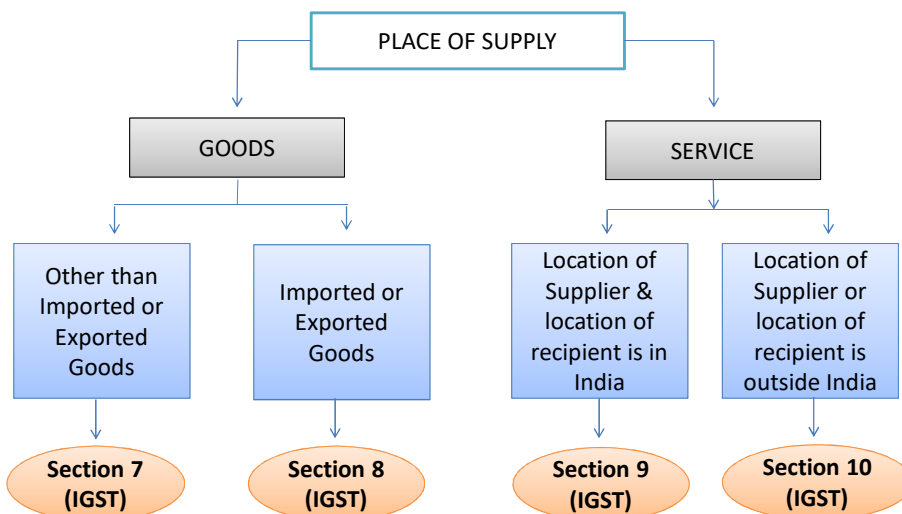
- Section 8 of CGST/SGST Act.... Levy of GST on all **intra-state supplies**.
- Section 5 of IGST Act....Levy of GST on all **Inter-State supplies**.
- Section 3 of IGST Act....Principles for determining supply of goods/services in the course of inter-state trade of commerce
- Section 4 of IGST Act....Principles for determining supply of goods/services in the course of intra-state trade of commerce

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### PLACE OF SUPPLY



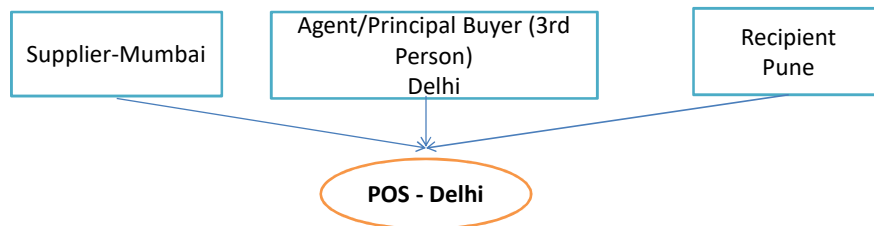
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### POS of goods, other than Imported or exported goods

- “POS” is location of goods at the time at which the movement of goods terminates for delivery to the recipient where supply involves movement of goods. **[7(2)]**
- Delivery of goods by supplier to recipient/any other person on direction of third person, **before or during movement of goods**, POS is **principal place of business of such third person**. **[7(3)]**



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### POS of goods, other than Imported or exported goods

- POS is location of goods at the time of delivery to the recipient where supply does not involve movement of goods **[7(4)]**
- Where goods are assembled/installed at site, POS is place of such installation/assembly **[7(5)]**...**Assembly of plant, lift etc.**
- In case of goods supplied on board a conveyance, POS is location at which such **goods are taken on board**. **[7(6)]**
- POS cannot be determined as above, CG shall prescribe the manner

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### Place of supply of Imported or Exported Goods

- Goods imported into India – POS shall be location of Importer
- Goods Exported from India – POS shall be location outside India

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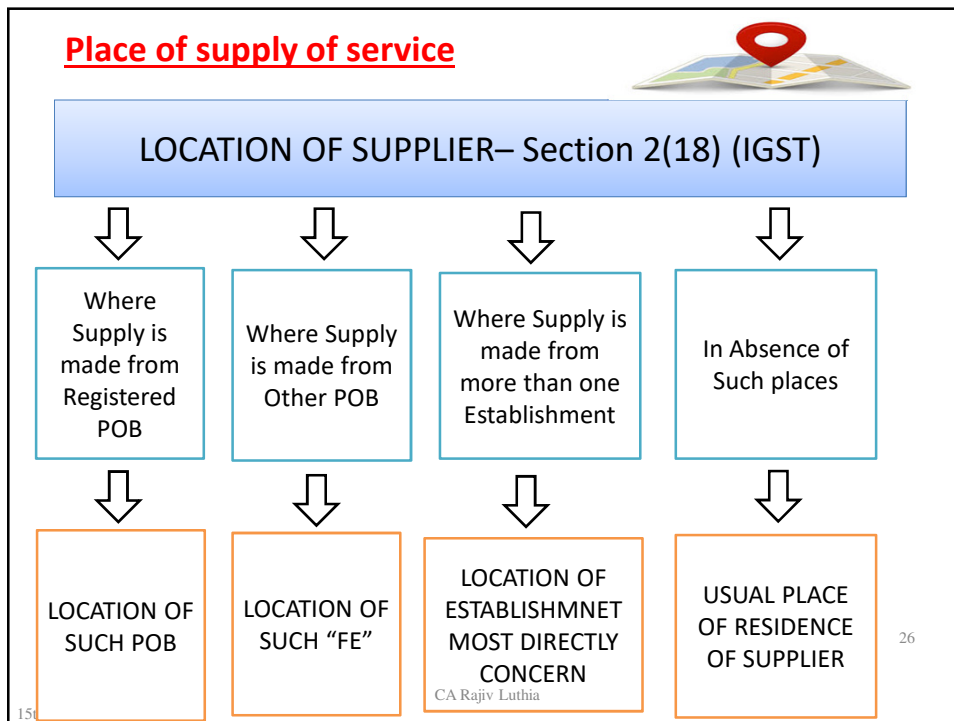
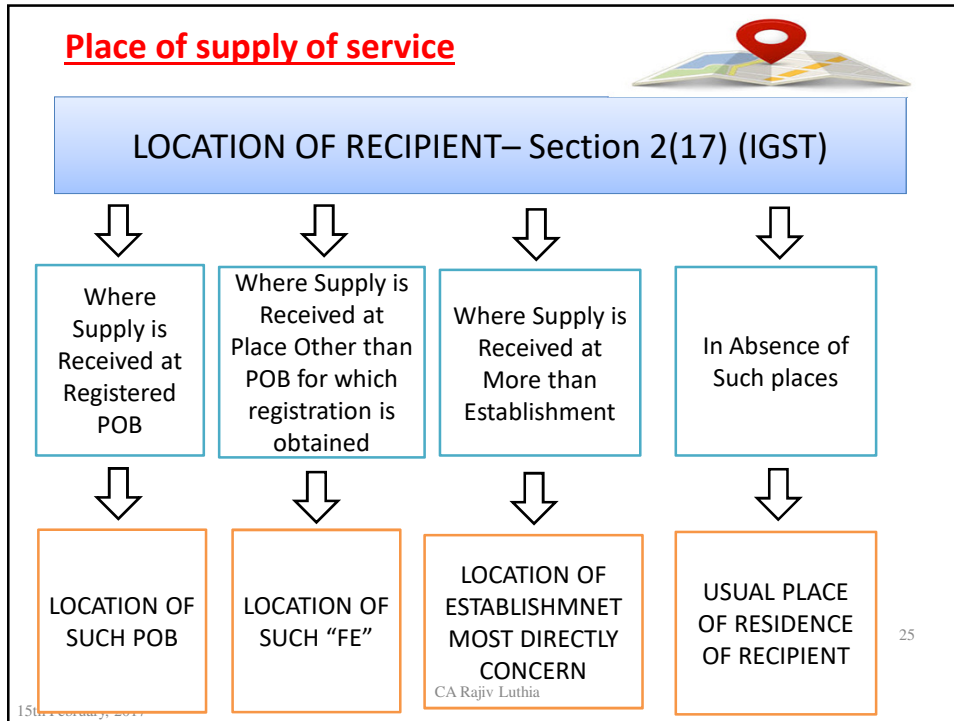
### Place of supply of services (section 9 of IGST Act)

- POS of services (other than specified services) made to a **registered person** is **location of such person. [9(2)]**
- POS of services (other than specified services) made to a **unregistered person** is **[9(3)]**
  - **Location of recipient** where address on record exists; and
  - **Location of supplier** in other cases
- Section 2(3) of CGST/SGST Act... “address on record” means the address of the recipient as available in the records of the supplier”

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### Place of supply of services...Location of recipient

- Section 2(47) ..... “fixed establishment” means a place (other than the POB) which is characterized by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to received and use services for its own needs.
- Section 2(74)/2(22) [defined twice]... “place of business” includes
  - A place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, provided or receives goods and/or services;
  - A place where a taxable person maintains his books of account;
  - A place where a taxable person is engaged in business through an agent, by whatever name called.

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### Place of supply of Immovable property related services

- POS is location/intended location of immovable property/boat/vessel in respect of following services [9(4)]
  - Services directly in relation to 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.
  - Lodging accommodation by a hotel, inn, guest house, homestay, club or campsite, including houseboat or any other vessel...????

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### Place of supply of Immovable property related services

- Accommodation in immovable property for organizing marriage or reception or related matters, official, social, cultural, religious or business function including related services **Ancillary services** to above services
- Where **immovable property/boat/vessel** is **located in more than 1 state**, supply is treated as made in each of the States in proportion to the value of services collected or determined in term of contract or on other reasonable basis in absence of contract.....**Can the immovable property be located in more than 1 State?**
- Location of Immovable property/boat/vessel is outside India or intended to be outside India , POS shall be location of recipient.....Indian Builder constructing property at Dubai which is sold to Indian citizen, POS is India

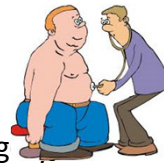
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### Place of supply of performance based services

- POS is **place of actual performance** for following services **[9(5)]**
  - Restaurant & catering services (??????);
  - Personal grooming
  - Fitness
  - Beauty treatment
  - Health service including cosmetic and plastic surg
- Personal presence of service receiver not required as existed in PPSR???
- Advice through tele-conferencing, video-conferencing etc....Place of performance?



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### Place of supply of training services

- POS for services in relation to training and performance appraisal [9(6)]
  - When supplied to **registered person**, **location of such person**;
  - When supplied to **unregistered person**, location where services are **actually performed**
- Training through tele-conferencing, video-conferencing etc....Place of performance?
- Online training....Place of performance?
- Dictionary meaning....the action or process of performing a task or function



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### Place of supply of services of admission to events

- POS for services by way of admission, including ancillary services, to **[(9(7))]**
    - a cultural, artistic, sporting, scientific, educational, or entertainment event; or
    - amusement park; or
    - any other place
- is where the **event is actually held** or where the **park or other place is located**.



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**Place of supply of services event related services**

- POS for services by way of **[9(8)]**
  - Organization of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of service in relation to a conference, fair, exhibition, celebration or similar events; or
  - Services ancillary to organization of any of the above events or services, or assigning of sponsorship of any of the above events
  - ✓ if supplied to a **registered person**, **location** of such person;
  - ✓ if supplied to **unregistered person**, place where **event is actually held**
  - If Event held outside India, Place of Supply shall be location of the recipient

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**Place of supply of services event related services**

- Where **event is held in more than 1 state** and a consolidated amount is charged, POS is taken as being in each of the States in proportion to the value of services so provided in each State as ascertained from the terms of contract or on other reasonable basis in absence of contract.



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### Place of supply of goods transport service

- POS of services by way of transportation of goods including mail or courier **[6(9)]**
  - ✓ if supplied to a **registered person**, **location** of such person;
  - ✓ if supplied to **unregistered person**, **location** at which such **goods are handed over** for their transportation



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### Place of supply of passenger transport service

- POS of passenger transportation services **[6(10)]**
  - ✓ if supplied to a **registered person**, **location** of such person;
  - ✓ if supplied to **unregistered person**, **place** where the passenger **embarks** on the conveyance for a continuous journey



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### Place of supply of passenger transport service

- Where the right to passage is given for future use and point of embarkation is not known at the time of issue of right to passage, POS
  - If supplied to a **registered person** is **location of such person**.
  - If supplied to an **unregistered person**
    - **Location of recipient** where address on record exists; and
    - **Location of supplier** in other cases
- Return journey is treated as a separate journey even if the right to passage for onward and return journey is issued at the same time.

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### Place of supply of services on board a conveyance

- POS of services on board a conveyance such as vessel, aircraft, train or motor vehicle is location of the **first scheduled point of departure** of the conveyance for the journey. **[9(11)]**
- Section 2(32) of CGST/SGST Act... “conveyance” includes a vessel, aircraft and a vehicle.



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### Place of supply of telecommunication services

- POS of telecommunication service including data transfer, broadcasting, cable & DTH television services **[9(12)]**
  - In case of services by fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna, **the location** where such telecommunication line, leased circuit, cable connection or dish antenna is **installed**
  - In case of **mobile connection** on post-paid basis, the location of **billing address** of recipient of service on record of the supplier



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### Place of supply of telecommunication services

- In case of **mobile connection service** on pre-payment through a voucher or any means,
  - Through selling agent or re-seller or a distributor of SIM card or recharge voucher, POS shall be address of Selling agent or re-seller or distributor as per record of supplier
  - By any person to final subscriber shall be location where such pre-payment is received or such voucher are sold.
- If such pre-paid service is availed or recharge is made through **internet banking or other electronic mode** of payment, POS would be the **location of recipient** of service on record of the supplier



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### Place of supply of telecommunication services

- Where **leased circuit is installed in more than 1 state** and a consolidated amount is charged, POS is taken as being in each of the States in proportion to the value of services so provided in each State as ascertained from the terms of contract or on other reasonable basis in absence of contract.
- In case not covered in B & C, POS shall be
  - Address of recipient as per records of the supplier of the service
  - Where address of recipient is not available, POS shall be location of supplier of service.

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### Place of supply of banking services

- POS of banking and other financial service including stock broking services to any person is **location of recipient** of service on the records of supplier **[9(13)]**
- If location of recipient is not on records of supplier, POS shall be location of supplier



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**Place of supply of insurance service**

- POS of insurance services **[9(14)]**
  - ✓ if supplied to a **registered person**, **location** of such person;
  - ✓ if supplied to **unregistered person**, **location of recipient** of service on the records of supplier.



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**Place of supply of advertisement service to govt.**

- POS of advertisement services to the CG/SG, a statutory body or a local authority meant for identifiable states, shall be taken as located in each of such States and the value of such supplies specific to each State shall be in proportion to amount attributable to service provided by way of dissemination in the respective States as determined in terms of contract and in absence, on reasonable basis. **[9(15)]**

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<b>Comparison between PPS &amp; POS</b>			
PPSR	Particulars	POS	Comments
Rule 3	General Rule	9 (2) & 9(3)	At par ✓ Location of recipient if address available ✓ otherwise location of supplier
Rule 4	Performance based	9 (5)	Restaurant???? Personal presence of recipient not required
Rule 5	Immovable property	9 (4)	✓ Only direct services covered under PPSR... ✓ All ancillary services also covered under POS
Rule 6	Events	9 (7) & 9 (8)	Common rule under PPSR for admission to events & organization of events
Rule 7	Services provided at more than 1 location	NIL	No such separate rule under POS

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<b>Comparison between PPS &amp; POS</b>			
PPSR	Particulars	POS	Comments
Rule 8	SP & SR both in taxable territory	NIL	No such separate rule under POS
Rule 9 (a)	Banking Services	9(13)	Under POS, Stock broker also covered
Rule 9 (b)	Online Information	9 (12)	✓ Location of service provider under PPSR ✓ billing address of recipient for internet services under POS
Rule 9 (c)	Intermediary	NIL	No such separate rule under POS
9 (d)	Hiring of means of transportation upto 1 month	NIL	No such separate rule under POS

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**Comparison between PPS & POS**

PPSR	Particulars	POS	Comments
Rule 10	Goods Transport	9 (9)	<ul style="list-style-type: none"> <li>✓ PPSR-Destination of goods</li> <li>✓ POS-location of recipient</li> <li>✓ Mail &amp; courier excluded under PPSR now covered under POS</li> </ul>
Rule 11	Passenger Transport	9 (10)	<ul style="list-style-type: none"> <li>✓ PPSR-Place of embarkation</li> <li>✓ POS-location of registered recipient</li> </ul>
Rule 12	Services on board a conveyance	9 (11)	At par i.e. 1 <sup>st</sup> scheduled point of departure
Rule 13	Power to make rules	NIL	No such separate rule under POS
Rule 14	Order of application of Rules	NIL	No such separate rule under POS

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**Comparison between PPS & POS**

PPSR	Particulars	POS	Comments
NIL	Training or performance appraisal	9 (6)	No separate rule under PPSR
NIL	Insurance	9 (14)	No separate rule under PPSR
NIL	Advertisement to CG/SG/ SB/LA	9 (15)	No separate rule under PPSR

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### Place of supply of services (section 10 of IGST Act)

- Section 10 – Applies only where location of supplier of service or location of recipient of service is outside India
- POS of services (other than specified services) shall be location of recipient of service. [10(2)]
- In case the location of the recipient of service is not available in ordinary course of business, POS shall be location of Supplier of service.

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### Place of supply of performance based services

Nature of Services	Place of Supply	Types of Services
Performance based service	Place of performance	<ul style="list-style-type: none"> <li>• Services provided in respect of goods that are required to be made physically available: e.g. Repair, Reconditioning or any other work on goods, courier service, cargo handling service</li> <li>• When provided from a remote location by way of electronic means, the place of provision shall be where goods are situated at the time of supply of service</li> <li>• Shall not apply in case service provided for goods that are temporarily imported into India for repairs, reconditioning or reengineering for re export without being use in India</li> </ul>

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### Place of supply of performance based services

Nature of Services	Place of Supply	Types of Services
Performance based service	Place of performance	<ul style="list-style-type: none"> <li>Services supplied to individual, either represented as recipient of service or person acting on behalf of recipient, which required physical presence of receiver, represented either as the service receiver or a person acting on behalf of the receiver</li> <li>Services like cosmetic or plastic surgery, classroom teaching etc.</li> </ul>
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### Place of supply of property related services

Nature of Services	Place of Supply	Types of Services
Related to immovable property	Place where the immovable property is located or intended to be located	<ul style="list-style-type: none"> <li>Applies only to services supplied directly in relation to Immovable property, including service supplied by expert &amp; estate agent, supply of hotel accommodation by hotel, inn, guest house, club, or campsite, grant of right to use immovable property, service for carrying out co-ordination of construction work, including architects or Interior decorators</li> <li>This <u>would not</u> include services that have only an indirect bearing on an immovable property. E.g.: Services of an agent who arranges finance for the purchase of property, advice on property prices, tax consultant services on capital gains.</li> </ul>
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### Place of supply of services of admission to events

Nature of Services	Place of Supply	Types of Services
Related to events	The place where the event is actually held	<ul style="list-style-type: none"> <li>Services supplied by way of admission to, or organization of, a cultural, artistic, sporting, scientific, educational, or entertainment event, or a celebration, conference, fair, exhibition, or similar events, and of services ancillary to such admission shall be the place where the event is held</li> <li>Provision of sound engineering for an artistic event which is a prerequisite for staging of that event would be considered as a service ancillary to its organization</li> </ul>

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### Place of Supply - More than 1 location



Nature of Services	place of Supply	Types of Services
Services supplied from more than one location	The location in the taxable territory where the <b>greatest portion</b> of the service is provided	<ul style="list-style-type: none"> <li>Any service referred to in section 3, 4, or 5 is provided at more than one location, including a location in the taxable territory</li> </ul>

- Thus, if An Indian firm provides a 'technical inspection and certification service' to an overseas firm and testing is carried out in Maharashtra (20%), Kerala (25%), and an international location ,Colombo (55%)
- Notwithstanding the fact that the greatest proportion of service is outside the taxable territory, the place of Supply will be the place in the taxable territory where the greatest proportion of service is provided, in this case Kerala.

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### Place of supply – More than 1 state

Nature of Services	Determination of place of Supply	Types of Services
Services supplied from more than one State	On Proportion Basis	<ul style="list-style-type: none"> <li>Value shall be proportioned to each state in terms of contract or agreement or on reasonable basis as may be prescribed.</li> </ul>

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### PLACE OF SUPPLY OF SPECIFIED SERVICE

Nature of Services	Place of Supply	Types of Services
Specified services	Location of Supplier of service	<ul style="list-style-type: none"> <li>Services provided by a banking company, or a financial institution, or a non-banking financial company, to account holders;</li> <li>Intermediary services;</li> <li>Service consisting of hiring of means of transport, other than aircraft and vessels except yachts, up to a period of one month</li> </ul>

**Section 2(13)** - “Intermediary” means a broker, an agent or any other person, by whatever name called, who arranges or facilitates a supply of goods/service (herein after called “ main Service between two or more persons, but does not include a person who supplies the main service or goods on his account

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### PLACE OF SUPPLY OF SERVICE

Nature of Services	Supply of service	Types of Services
Goods transport services other than by way of mail or courier	Place of destination of goods	<ul style="list-style-type: none"> <li>The place of supply of services of transportation of goods shall be the place of destination of goods</li> </ul>
Passenger transportation services	Place where the passenger embarks on the conveyance for a continuous journey	
Services provided on board a conveyance	the first scheduled point of departure of that conveyance for the journey	<ul style="list-style-type: none"> <li>Services Supplied on board a conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board</li> <li>E.g.: A video game is provided as on board during Kolkata- Delhi leg of a Bangkok-Kolkata- Delhi flight. The place of supply will be Bangkok and hence not liable to tax</li> </ul>

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### PLACE OF SUPPLY OF SPECIFIED SERVICE

Nature of services	Supply of service	Condition
Online information & database access or retrieval service	Location of recipient of service	<ul style="list-style-type: none"> <li>Location deemed to be in taxable territory if any 2 following condition satisfied</li> <li>Location of address presented by recipient of service via internet is in taxable territory</li> <li>Billing address of recipient of service is in taxable territory</li> <li>IP address of device used by recipient is in taxable territory</li> <li>Bank account of recipient used for payment is in taxable territory</li> <li>SIM card used by recipient of service is in taxable territory</li> <li>Location of fixed land line through which service received is in taxable territory</li> </ul>

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WITH KNOWLEDGE..... WE KNOW THE WORDS,  
BUT WITH EXPERIENCE..... WE KNOW THE MEANING



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