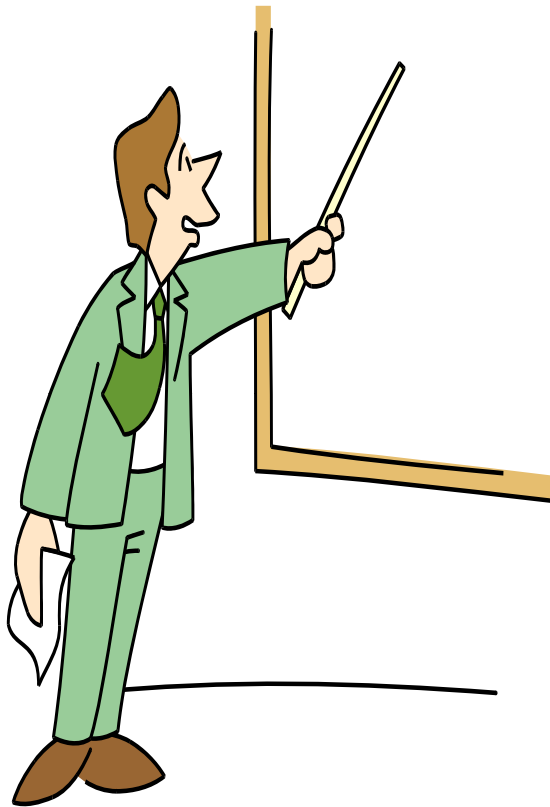


# 5 Days **GST GYANSATRA** Series -2 (Sectoral GST)



**“GST FOR TRANSPORT, LOGISTICS &  
WAREHOUSING”**

**ORGANIZED JOINTLY BY  
Pune Branch of WIRC of ICAI**

**PRESENTED BY**



**RAJIV LUTHIA**

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

# TRANSPORT OF GOODS BY ROAD – Para 2(ze) of notification 9/2017-IG

- “**Goods transport agency**” means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called.



## ❖ **Hon'ble Bangalore CESTAT in the case of Bharathi Soap Works Vs CCE, Guntur (2008) 9 STR 80**

- Non issuance of consignment note by transporter is violation of law on the part of GTA.
- It does not absolve recipient of service from it's liability to pay Service Tax.

# RATE OF TAX

- Notification 20/2017- CGST (Rate) dated 22<sup>nd</sup> August, 2017 provides **option** to GTA to discharge liability as follow --- **upto 18<sup>th</sup> July, 2022**

Particulars	Input credit available to GTA	Rate of Tax	RCM/FORWARD CHARGE
GTA to Notified Person	NO	5%	<b>RCM</b>
GTA to Non – Notified Person	NO	NIL	Exempted
<b>GTA to any person</b>	<b>YES</b>	<b>12%</b>	<b>Forward Charge <u>thenceforth</u> on all supply</b>

GTA service supplied to notified person as stated in Notification 13/2017-CT (Rate) (RCM Notification).....liability of GST to be discharged under RCM at rate of 5%



## Rate of Tax : Not 11/2017- CGST (Rate)....w.e.f. 18<sup>th</sup> July, 2022

Chapter Heading	Particulars	Rate	Remarks
Heading 9965 (Goods Transport Service)	<p>iii) Services of goods transport agency (GTA) in relation to transportation of goods <b><u>(including used household goods for personal use) supplied by a GTA where</u></b></p> <p><b><u>(a)</u></b> GTA does not exercise the option to itself pay GST on the services supplied by it</p>	5%	The credit of input tax charged on goods and services used in supplying the service has not been taken.

## Rate of Tax : Not 11/2017- CGST (Rate)....w.e.f. 18<sup>th</sup> July, 2022

Chapter Heading	Particulars	Rate	Remarks
Heading 9965 (Goods Transport Service)	iii) Services of goods transport agency (GTA) in relation to transportation of goods <b><u>(including used household goods for personal use) supplied by a GTA where</u></b>  <b><u>(b) GTA exercises the option to itself pay GST on services supplied by it.</u></b>	5%  Or  12%	In respect of supplies on which GTA pays tax at the rate of 5%, GTA shall not take credit of input tax charged on goods and services used in supplying the service.  NIL

**Rate of Tax : Not 11/2017- CGST (Rate)....w.e.f. 18<sup>th</sup> July, 2022**

- The option by GTA to itself pay GST on services supplied by it during a Financial Year shall be exercised by making a declaration in **Annexure V** **on or before the 15th March of the preceeding Financial Year**
  - Provided that the option for the Financial Year 2022-2023 shall be exercised **on or before the 16th August, 2022**



# RATE OF TAX

- Notification 3/2022- CGST (Rate) dated 13<sup>th</sup> July, 2022 provides **option** to GTA as follow --- **w.e.f. 18<sup>th</sup> July, 2022**

Particulars	Input credit available to GTA	Rate of Tax	RCM/FORWARD CHARGE
GTA does not exercise option to Pay Tax itself	NO	5%	RCM
GTA exercise option to pay tax itself	NO	5%	Forward charge
<b>GTA exercise option to pay tax itself</b>	<b>YES</b>	<b>12%</b>	<b>Forward charge</b>

# ISSUE 1

- ABC Ltd (GTA) is engaged in business of Transportation of goods by Road.
- It has exercised option to pay Tax under forward charge and wants to avail the ITC, therefore It is charging 12% GST to it's client.
- XYZ LTD is one of the major client of ABC Ltd, who is engaged in supply of Exempted goods. XYZ LTD is insisting the ABC Ltd to charge GST at rate of 5% under forward charge?
- Can ABC Ltd charge GST at rate of 5% under forward charge to XYZ Ltd and continue to charge GST @12% to client with benefit of ITC?

# ANALYSIS 1

- Rate Notification 11/2017-CT (Rate) ..Entry no. 9...
- Explanation (iv) :

*Wherever a rate has been prescribed in this notification is subject to the condition that credit of ITC charged on goods or services used in supplying the service has not been taken, it shall mean that,-*

- (a) *credit of ITC charged on goods or services used **exclusively in supplying such service has not been taken**; and*
- (b) *credit of ITC charged on goods or services **used partly for supplying such service and partly for effecting other supplies** eligible for input tax credits, **is reversed** as if supply of such service is an exempt supply and attracts provisions of sub-section (2) of section 17 of the CGST Act, 2017 and the rules made thereunder.*

# ANALYSIS 1

- Notification 03/2022–CT (Rate) dated 13<sup>th</sup> July, 2022, GTA allowed to opt for payment of tax under forward charge @5% without ITC or @12% with ITC
- Explanation to entry 9 (iii)(b)
  - GTA can provide services by charging both rate i.e. @5% or @12% under forward charge in same FY to different customers..... provided ITC attributed to supply under rate of 5% is reversed and common ITC is proportionately reversed.

# Exemption. Not No. 12/2017(CG).Entry 21

- Services provided by a **goods transport agency**, by way of transport in a goods carriage of,
  - agricultural produce;
  - goods, where gross amount charged for the transportation of goods on a consignment transported in a single carriage does not exceed Rs. 1,500/ ----- **Omitted w.e.f. 18<sup>th</sup> July, 2022**
  - goods, where gross amount charged for transportation of all such goods for a single consignee does not exceed Rs. 750/----- **Omitted w.e.f. 18<sup>th</sup> July, 2022**
  - milk, salt and food grain including flour, pulses and rice;
  - organic manure;
  - newspaper or magazines registered with the Registrar of Newspapers;
  - relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or
  - defence or military equipments;

# Exemption

- Services by way of giving on hire
  - to a goods transport agency, a means of transportation of goods. (Entry 23 of Notification 9/2017-IGST)

## Place of supply of goods transport service...Section 12(8)

Services by way of Transportation of goods including mail or courier

Supplied to a **registered person**

**Location of such person**

Supplied to a **unregistered person**

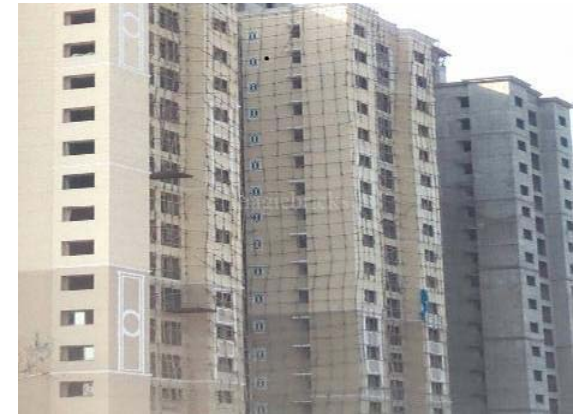
**Location at which such goods are handed over for their transportation**

- Provided that where the transportation of goods is to a place outside India, the POS shall be the **place of destination of such goods**. --- Proviso inserted w.e.f. 1<sup>st</sup> Feb, 2019
- The above proviso is proposed to be omitted vide Finance Act, 2023 and will come in force from date to be notified.
- **IGST LIABILITY EVEN WHEN SERVICE PROVIDER AND RECEIVER LOCATED IN SAME STATE**

## Issue-2



Supplies Water



- M/S. A.V.M Water supplier enters into a contract with MARATHON BUILDER PVT LTD to supply water for their site at Mumbai? They raise invoice for Rs. 10,000/- with narration “ transport charges for water”
- Whether A.V.M need to pay GST on the above transaction?
- What if A.V.M water supplier was given contract for filling water from “well” which was owned by MARATHON and deliver the same at various construction sites of MARATHON ?



## Analysis 2

- AVM is not required to pay GST on transaction for supply of water.
- Water attract NIL rate of Tax – Entry 99 of Notification 2/2017-CT
- If AVM enters into contract of **“Transportation of Water”**, then Marathon Builder needs to pay tax under RCM **or** AVM needs to pay tax under Forward charge
- **There is no exemption for Transportation of water**
- **Terms of contract & intention of parties will play a crucial role in determining levy of tax on this transaction**

## Issue - 3

- M/S. XYZ Ltd of Mumbai, not registered under GST since their entire turnover of goods is fully exempted under GST.
- They avails GTA Service of PQR TRANSPORTER of Ahmedabad for pick up raw material from their supplier “A” of AHMEDABAD & deliver the same to job worker “B” also located at Baroda at a freight of Rs. 10,000/-
- Whether GST is applicable on freight of Rs. 10,000/- paid by XYZ Ltd?
- Transporter has opted not to pay tax under Forward charge. Who is liable to pay ?
- Whether CGST & SGST or IGST liability?

# Analysis - 3

- CGST section 24.....Notwithstanding anything contained in section 22(1) , Person required to pay GST under RCM has to obtain **registration mandatorily**.
- Finance Act, 2023 has amended section 23 (with retrospective effect from 1st July, 2017) with non-obstante clause to read as “Notwithstanding anything to the contrary contained in sub section (1) of section 22 or section 24”.
- **Will this amendment help XYZ Ltd from non payment of GST under RCM?**
- **POS** for this is GUJRAT in view of Section 12(8) of IGST Act .
- Location of supplier PQR is Gujarat.

# Analysis - 3

- This GTA Transaction will be **intra state supply** -section 8(1)
- Tax is payable under RCM as per notification 13/2017- CG.
- **West Bengal AAR in case of M/s Joint Plant Committee (2018 TIOL 07 AAR GST)**,....person required to obtain registration even if exclusively providing exempted services but liable to make payment under RCM u/s 9(3).
- **Similar view SONKA PUBLICATIONS (INDIA) P. LTD. (2018) TIOL 30, DELHI DT 6<sup>TH</sup> APRIL,2018.**
- XYZ LTD liable to pay GST in GURAT– CGST and SGST after obtaining GST number in Gujrat, where he is no place of business....How to obtain GST registration in Gujrat?????
- **Entry 21A of notification 12/2017-CT (rate) exemption for service provided by GTA to unregistered person. whether applicable???**

## Issue 4

- ABC TRANSPORTER purchased a vehicle in April, 2022 for Rs. 10,00,000/- & paid GST on same Rs.2,80,000/-. The GST on services provided by ABC was discharged under RCM by clients.
- ABC opted to pay GST @12% on forward charge on all transaction of GTA Service w.e.f. 18<sup>th</sup> July,2022 in view of notification 3/2022-CT (rate) dated 13<sup>th</sup> July,2022.
- ABC TRANSPORTER Seeks your advice whether They are entitled to claim credit of GST paid Rs. 2,80,000/-?

# Analysis 4

- Till 17<sup>th</sup> July,2022, ABC has opted not to pay GST, since it was paid under RCM by clients @ 5%
- From 18<sup>th</sup> July,2022, ABC TRANSPORTER opted to pay GST under forward charge @12% with claim of ITC
- There is specific provision **u/s 18(1) (c)** applicable to **“COMPOSITE DEALER”** for taking ITC on capital goods once he opt to pay under normal scheme
- In such case, ITC on CG to be reduced by prescribe percentage (5% for quarter)
- Similar, section 18(1) (d) - Exempted supply become taxable..... ITC is available on CG after reducing percentage point
- No such specific provision for GTA scenario i.e. from RCM to Forward Charge.
- **DEBATBLE???** But Good case to argue that ABC is eligible to take ITC

# ISSUE - 5



Transporter – RAJ LOGISTICS  
**(UNREGISTERED)**



GTA Service to **Notified person**  
on which Tax is paid under RCM  
– Rs. 40,00,000/- turn over



Transport Household goods of Mr. A  
**(unregistered)** – Turnover Rs. 20,000/-

## Issue -5

- Clients of M/S. RAJ LOGISTICS were paying GST under RCM on transport service under notification 10/2017-IGST **except Mr. A** who availed one time service for shifting his residence.
- Do Raj Logistics need to get itself registered?
- What is rate of GST applicable on GTA service provided to Mr. A?



# Analysis -5-Notification 12/2017-CT (Rate)

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
21A	Heading 9965 or Heading 9967	<p>Services provided by a goods transport agency <b><i>to an unregistered person, including an unregistered casual taxable person, other than the following recipients</i></b>, namely:</p> <p>(a) any factory registered under or governed by the Factories Act, 1948(63 of 1948); or</p> <p>(b) any Society registered under the <u>Societies Registration Act, 1860 (21 of 1860)</u> or under any other law for the time being in force in any part of India; or</p> <p>(c) any Co-operative Society established by or under any law for the time being in force; or</p> <p>(d) any body corporate established, by or under any law for the time being in force; or</p> <p>(e) any partnership firm whether registered or not under any law including association of persons;</p> <p>(f) any casual taxable person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act.</p>	NIL	NIL

# Analysis -5

- CGST Sec 2 (6) ....“**Aggregate turnover**” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess
- **Notification 5/2017-CT, dated 19<sup>th</sup> June,2017** notifies category of person for section 23 & provided exemption to person from obtaining registration, if total tax on his supply is liable to be paid by the recipient under RCM
- In case of supply of service to Mr. A, GST is not required to be discharge by recipient under notification 11/2017-CT (Reverse charge Notification)
- GTA services of Raj Logistics provided to an unregistered person is exempt vide Entry 21A of Notification 12/2017 – CT (Rate) dated 28<sup>th</sup> June, 2017 w.e.f. 13<sup>th</sup> October, 2017.
- **Raj Logistics not required to obtain GST registration**

# **TRANSPORTATION OF GOODS BY VESSEL**

March 31, 2023

CA RAJIV LUTHIA

# Transport of Goods by Vessel Not. 11/2017

Chapter Heading	Particulars	Rate	Remarks
Heading 9965 (Goods Transport Service)	(ii) Transport of goods in a vessel	5%	Provided that credit of input tax charged on goods (other than on ships, vessels including bulk carriers and tankers) used in supplying the service has not been taken <i>Explanation: This condition will not apply where the supplier of service is located in non-taxable territory.</i>

# Exemption

## Services by way of transportation by rail or a vessel from one place in India to another of the following goods –

- (a) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;
- (b) defence or military equipment's;
- (c) newspaper or magazines registered with the Registrar of Newspapers;
- (d) railway equipment's or materials----omitted w.e.f. 18<sup>th</sup> July, 2022
- (e) agricultural produce;
- (f) milk, salt and food grain including flours, pulses and rice; and
- (g) organic manure.

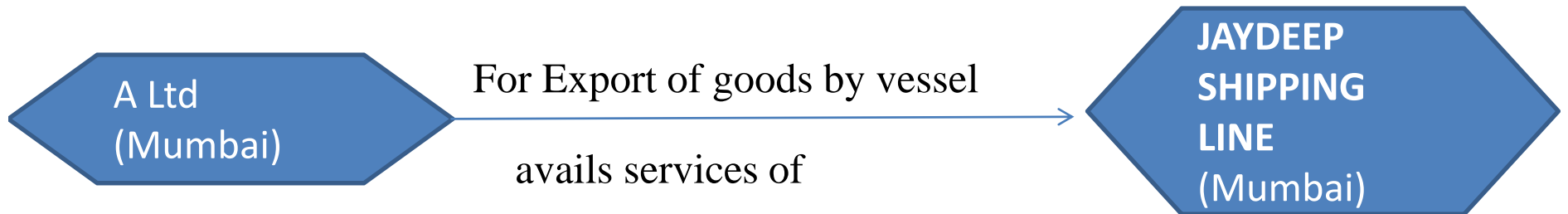
(Entry 21 of Notification 9/2017-IGST)

# Exemption

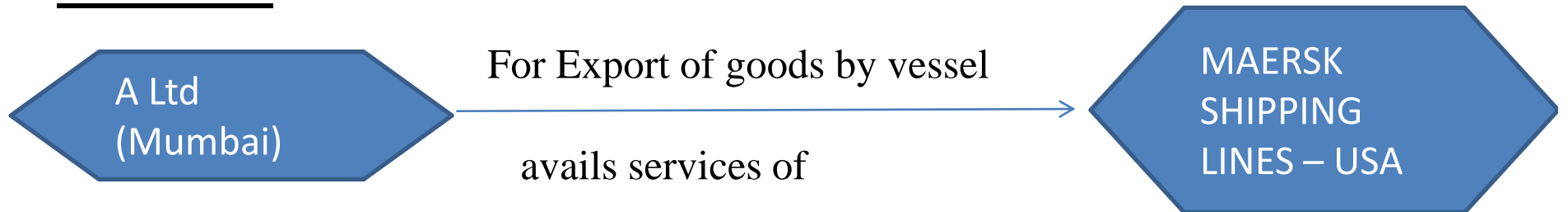
- Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India (exemption vide notification number 12/2017-CT (Rate) valid up to 30<sup>th</sup> September,2022)

# ISSUE 6

## Scenario 1



## Scenario 2



**Determine POS and applicability of GST on above scenarios**

# POS of Transportation of Goods by Vessel

A Ltd of Mumbai – Indian Exporter

Avails service of Transportation of goods by Vessel

## Scenario 1

Jaydeep Shipping Lines – of  
Mumbai Indian Shipping Company

Jaydeep shipping will pay tax @ 5% w.e.f.  
1<sup>st</sup> October, 2022 under Forward charge

No GST till 30<sup>th</sup> September, 2022  
notification 2/2018-CT dated 25<sup>th</sup>  
January, 2018... Exemption till 30<sup>th</sup> Sept,  
2022

## Scenario 2

Maersk Shipping lines – USA  
located in non taxable territory.

POS as per section 13(9) of IGST is  
outside India-DESTINATION OF GOODS

- Not Import of service- section 2(11) of IGST
- Territorial jurisdiction..... MOHIT Mineral ????



# Issue - 7



Maersk Shipping Lines - Singapore



KICM LLC - USA

Pays Freight



Delivers goods



Imports raw material on  
**CIF Basis**



Whether Freight paid to Maersk shipping line is liable to GST? Who has to Pay GST & on what value?

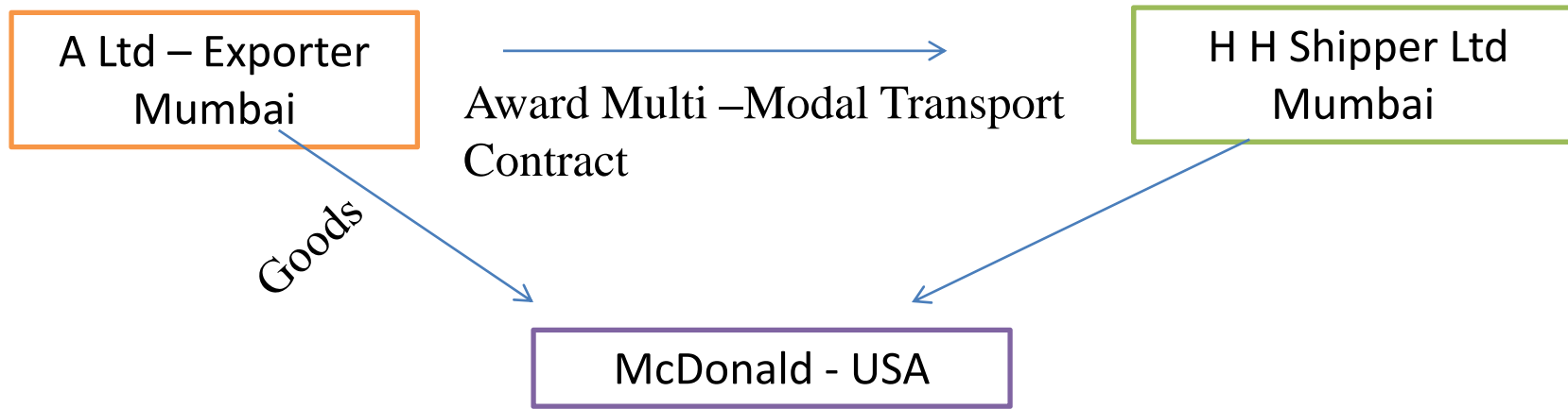
# Analysis 7

- Entry 10 of Notification 9/2017- IGST, provides exemption for service received from Service provider located in non taxable territory by a person located in a non taxable territory **except** service by way of transport of goods by vessel from a place outside India upto customs station of clearance in India, received by person specified in this entry
- In view of section 5(3) of IGST, Charge is created on certain supply notified by government
- Entry 10 of notification 10/2017- IGST makes importer liable to pay Tax under reverse charge mechanism (RCM) for above transaction

# Analysis 7

- Section 7(5) of IGST – It is Inter state Transaction
- Thus, Reliance Ltd would require to pay IGST @ 5% on Reverse charge basis
- If value not known, 10% of CIF value will be deemed value of taxable service as per Notification 8/2017-IGST
- Gujarat HC, in case of **Mohit Minerals**, held that Entry 10 of the Notification No. 10/2017 imposing liability to pay GST on ocean freight in case of Cost Insurance-Freight ('CIF') imports, under reverse charge on importer as unconstitutional and ultra-vires the IGST Act.
- The same is affirmed by Hon'ble Supreme court...GST to be paid by recipient of service under RCM...levy on service is in violation of principle of composite supply.

# Issue - 8



- As per Contract, H.H Shipper has to pick the Goods from A Ltd Warehouse located at Bhiwandi & the Deliver goods to USA- McDonald Warehouse
- Multi-Modal Contract is for Lumpsum price of Rs. 20,00,000/-
- Whether GST is applicable on it? Whether it is Composite supply or Mixed Supply?
- What if H H Shipper enters into 2 separate contract for Road transport & vessel transports

# Analysis 8

- **“composite supply”** means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply - Section 2(30)
- **“mixed supply”** means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply – Section 2(72)

# Analysis 8

- Multi – Modal Transportation involve
  - Transportation of goods by Road,
  - Transportation of goods by vessel
  - Loading & unloading of goods
  - Warehousing services etc.
- Multi- Modal Transportation involve more than one supply for a single price.
- But It is naturally bundled & supplied in conjunction with each other in ordinary course of business.
- Thus, one can argue that Multi – Modal Transport of goods is “**composite supply**”.

# Analysis 8

- Principle supply will be Transportation of Goods by vessel.
- As per section 8 of CGST, the levy will be as applicable on principle supply
- Out bound transport is exempt vide notification 2/2018-CG dated 25<sup>th</sup> January, 2018 up to 30<sup>th</sup> September,2022
- “H H Shipper” require to pay GST @ 5% under category Transportation of goods by Vessel till 24<sup>th</sup> January, 2018

# Analysis 8

- *Government vide notification 13/2018-CT (RATE) dated 26<sup>th</sup> July, 2018 has inserted a new entry w.e.f 27<sup>th</sup> July, 2018 where by Rate for Multimodal Transportation of goods is 12%.*
- *Multimodal transportation means carriage of goods by at least two different modes of transport from the place of acceptance of goods to the place of delivery of goods by a multimodal transporter*
- “Mode of transport” means carriage of goods by road, air, rail, inland waterways or sea
- “Multimodal transporter” means a person who,-
  - (A) enters into a contract under which he undertakes to perform multimodal transportation against freight; and
  - (B) acts as principal, and not as an agent either of the consignor, or consignee or of the carrier participating in the multimodal transportation and who assumes responsibility for the performance of the said contract.

**No exemption after 27<sup>th</sup> July,2018...exemption was only for transport by vessel**



# Issue 9

- JAY SHIPPING LINES, provides service of Transportation of Goods through Vessel to Indian Exporter ACC LTD.
- It raise Invoice as follow
  - Freight Charges – Rs. 25,000/-
  - THC – Rs. 5,000/-
  - Documentation Charges – Rs. 2,500/-
  - Other Sundry Expense – Rs. 2,000/-
- What will be the rate of GST on above Transaction. Whether it is a composite supply of service or Mixed supply?

# Analysis 9

- Whether this will be considered as “composite Supply”. ????
- Mixed supply???? ...single price???
- Principal supply will be Transportation of goods by Vessel
- GST will be paid @ 5% on all the item of Invoice till 24<sup>th</sup> January, 2018
- Notification 2/2018-Ct (rate) dated 25<sup>th</sup> January,2018 exempts service by way of transportation of goods by vessel from custom station of clearance in india to place outside india
- Industry follows practice of splitting invoice and pay tax on THC etc. under forward charge

# Issue 10

- R K KAYANI SHIPPING books 100 Sq feet space on vessel of MMK SHIPPING LINES for Rs. 1,000 per sq feet
- MMK SHIPPING LINES Levies GST @ 5% under category Transportation of goods by vessel.
- R K KAYANI SHIPPING sells the booking space as follows
  - Client A – Rs. 1,400 per sq. feet
  - Client B – Rs. 1,100 per sq. Feet
  - Client C – Rs. 900 per sq. feet
- Whether R K KAYANI SHIPPING needs to discharge Tax under category “Support Service in transport” which attracts Tax @ 18% or under “Transportation of goods by Vessel” which attracts Tax @ 5%?

- MMK SHIPPING LINES provides vessel for transportation of goods and issues bill of lading
- R K Kayani raises invoice for facilitating the transportation and issues freight invoice
- There is no requirement to be a shipping line or owner of vessel to provide the services of transportation
- There is no question of providing support services by R K Kayani as they are simply providing transportation services. R K Kayani should be eligible to levy GST @5%

# Issue 11

- M/S JG LTD of Bhiwandi are in business of Storage & warehousing services
- They have taken warehouse located in Bhiwandi on rental basis from XYZ LTD of mumbai.
- They rendered the warehousing services to GSFC LTD. registered for GST in Gujarat for their goods.
- They levied CGST & SGST on warehousing charges in view of section 12(3)
- The GFSC seeks your advise?

# Analysis 11

- Section 12(3) of IGST, place of supply of service directly in relation to immovable property .....  
Shall be the location of immovable property
- In instant case, activity of storage is carried out through immovable property & not in relation to an immovable property.
- Hence, Section 12(2), will be applicable & IGST will be charged

# **TRANSPORATION OF GOODS BY AIR**

March 31, 2023

CA RAJIV LUTHIA

# Exemption – Entry 20

- Services by way of transportation of goods by an aircraft from a place outside India upto the customs station of clearance in India.
- Services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India (exemption valid upto 30<sup>th</sup> September, 2022)..... *W.e.f. 25<sup>th</sup> January, 2018*



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



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