8. COMPOSITION LEVY [SECTION 10 OF THE CGST ACT]

<table>
<thead>
<tr>
<th>Statutory Provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Section 10</strong></td>
</tr>
<tr>
<td><strong>Composition levy</strong></td>
</tr>
<tr>
<td><strong>Sub-section</strong></td>
</tr>
<tr>
<td><strong>(1)</strong></td>
</tr>
<tr>
<td></td>
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<tr>
<td></td>
</tr>
<tr>
<td><strong>(2)</strong></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Supplies referred to in clause (b) of paragraph 6 of Schedule II</td>
</tr>
<tr>
<td>---------------------------------------------------------------</td>
</tr>
<tr>
<td>(b) he is not engaged in making any supply of goods which are not leviable to tax under this Act</td>
</tr>
<tr>
<td>(c) he is not engaged in making any inter-State outward supplies of goods</td>
</tr>
<tr>
<td>(d) he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; and</td>
</tr>
<tr>
<td>(e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council</td>
</tr>
</tbody>
</table>

Provided that where more than one registered persons are having the same Permanent Account Number (issued under the Income-tax Act, 1961), the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.

(3) The option availed of by a registered person under sub-section (1) shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section (1).

(4) A taxable person to whom the provisions of sub-section (1) apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.

(5) If the proper officer has reasons to believe that a taxable person has paid tax under sub-section (1) despite not being eligible, such person shall, in addition to any tax that may be payable by him under any other provisions of this Act, be liable to a penalty and the provisions of section 73 or section 74 shall, mutatis mutandis, apply for determination of tax and penalty.
ANALYSIS

Overview of the Scheme

The objective of composition scheme is to bring simplicity and to reduce the compliance cost for the small taxpayers. Small taxpayers with an aggregate turnover in a preceding financial year up to ₹ 75 lakh shall be eligible for composition levy.

Suppliers opting for composition levy need not worry about the classification of their goods or services or both, the rate of GST applicable on the same, etc. They are not required to raise any tax invoice, but simply need to issue a Bill of Supply [Discussed in detail in Chapter-10: Tax Invoice, Credit and Debit Notes] wherein no tax will be charged from the recipient.

At the end of a quarter, the registered person opting for composition levy would pay a certain specified percentage of his turnover of the quarter as tax, without availing the benefit of input tax credit.

Registered persons making inter-State supplies or making supplies through e-commerce operators who are required to collect tax at source shall not be eligible for composition scheme. The provisions relating to composition levy are contained in section 10 of CGST Act, 2017 and Chapter-II [Composition Rules] of Central Goods and Services Tax (CGST) Rules, 2017. The said rules have been incorporated at the relevant places.
**Turnover limit for Composition Levy [Section 10(1)]**

Section 10 of the CGST Act provides the turnover limit of ₹ 50 lakh for composition levy. However, proviso to section 10(1) empowers the Government to increase the said limit of ₹ 50 lakh upto ₹ 1 crore, on the recommendation of the Council.

In view of said power of the Government to increase the turnover limit for Composition Levy as granted by proviso to section 10(1), the turnover limit for Composition Levy for CGST and SGST purposes for all eligible registered persons has been increased from ₹ 50 lakh to ₹ 75 lakh vide Notification No. 8/2017 CT dated 27.06.2017.

However, the said notification further stipulates that the turnover limit for composition levy shall be ₹ 50 lakh in respect of 9 of the Special Category States namely:

<table>
<thead>
<tr>
<th>Special Category States</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arunachal Pradesh</td>
</tr>
<tr>
<td>Mizoram</td>
</tr>
<tr>
<td>Assam</td>
</tr>
<tr>
<td>Nagaland</td>
</tr>
<tr>
<td>Manipur</td>
</tr>
<tr>
<td>Sikkim</td>
</tr>
<tr>
<td>Meghalaya</td>
</tr>
<tr>
<td>Tripura</td>
</tr>
<tr>
<td>Himachal Pradesh</td>
</tr>
</tbody>
</table>

*In case of Uttarakhand and Jammu and Kashmir, the turnover limit will be ₹ 75 lakh.*
A dealer ‘X’ has two offices in Delhi. In order to determine whether ‘X’ is eligible to avail benefit of the composition scheme, turnover of both the offices would be taken into account and if the same does not exceed ₹ 75 lakh, X can opt to avail the composition levy scheme (subject to fulfilment of other prescribed conditions).

Who can opt for the composition levy scheme? [Section 10(1) read with rule 7]

A registered person, whose aggregate turnover in the preceding FY does not exceed ₹ 75 lakh, **may opt to pay an amount calculated at the prescribed rates** [mentioned in table below] during the current FY, in lieu of the tax payable by him.

<table>
<thead>
<tr>
<th>S No.</th>
<th>Category of registered persons</th>
<th>Rate of tax*</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Manufacturers, other than manufacturers of such goods as may be notified by the Government, i.e. ice cream, pan masala and tobacco.</td>
<td>1 %</td>
</tr>
</tbody>
</table>

While computing the threshold limit of ₹ 75 lakh, inclusions in and exclusions from ‘aggregate turnover’ are as follows:

**Includes**
- Value of all outward supplies
  - Taxable supplies
  - Exempt supplies
  - Exports
  - Inter-State supplies of persons having the same PAN be computed on all India basis.

**Excludes**
- CGST
- SGST
- UTGST
- IGST
- Cess
- Value of inward supplies on which tax is payable under reverse charge.
Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II [i.e. supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink]  

Any other supplier eligible for composition levy under section 10 of CGST Act and Chapter-II [Composition Rules] of Central Goods and Services Tax (CGST) Rules, 2017  

*These are composition rates specified under rule 7 of the CGST Rules, 2017. An equivalent amount of SGST is also payable.*

**Intimation of opting for composition levy [Rules 3 & 4]**

(i) **Intimation by person applying for registration:** Any person who is not registered and applies for registration may give an option to pay tax under composition levy in Part B of the registration form, viz., FORM GST REG-01. The same shall be considered as an intimation to pay tax under Composition Levy. Such intimation shall be considered only after the grant of registration to the applicant and his option to pay tax under composition levy shall be effective from the date from which registration is effective.

(ii) **Intimation by a registered person:** A registered person who opts to pay tax under composition levy scheme shall electronically file an intimation in prescribed form on the Common Portal [www.gst.gov.in], prior to the commencement of the FY for which said option is exercised.

He shall also furnish the statement in prescribed form in accordance with the provisions of rule 44(4) of CGST Rules, 2017 [Discussed in detail in Chapter 8 – Input Tax Credit] within 60 days from the commencement of the relevant FY. Any intimation in respect of any place of business in a State/UT shall be deemed to be an intimation in respect of all other places of business registered on the same PAN.

**Details of stock to be furnished:** Any person who files such intimation shall furnish the details of:
stock, including the inward supply of goods received from unregistered persons,

- held by him on the day preceding the date from which he opts for composition levy,

- electronically, in prescribed form, on the common portal,

- within a period of 90 days

- from the date on which the option for composition levy is exercised or within such further period as may be extended by the Commissioner in this behalf.

The option to pay tax under composition levy shall be effective from the beginning of the FY.

**Conditions and restrictions for composition levy [Rule 5]**

Person opting for composition levy has to comply with the following conditions:

- he is neither a casual taxable person nor a non-resident taxable person [Concept of casual taxable person and non-resident taxable person has been discussed in detail in Chapter 9: Registration].

- the goods held in stock by him have not been purchased from an unregistered supplier and where purchased, he pays the tax under reverse charge under section 9(4).

- he shall pay tax under section 9(3)/9(4) (reverse charge) on inward supply of goods or services or both.

- he was not engaged in the manufacture of goods as notified under section 10(2)(e), during the preceding FY. The following goods have been hereby notified vide Notification No. 8/2017 CT dated 27.06.2017:

<table>
<thead>
<tr>
<th>Tariff item, subheading, heading or Chapter*</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2105 00 00</td>
<td>Ice cream and other edible ice, whether or</td>
</tr>
</tbody>
</table>
CHARGE OF GST

<table>
<thead>
<tr>
<th>2106 90 20</th>
<th>not containing cocoa</th>
</tr>
</thead>
<tbody>
<tr>
<td>24</td>
<td>Pan masala</td>
</tr>
<tr>
<td>24</td>
<td>All goods, i.e. Tobacco and manufactured tobacco substitutes</td>
</tr>
</tbody>
</table>

*as specified in the First Schedule to the Customs Tariff Act, 1975*

- he shall mention the words “composition taxable person, not eligible to collect tax on supplies” at the top of the bill of supply issued by him; and
- he shall mention the words “composition taxable person” on every notice or signboard displayed at a prominent place at his principal place of business and at every additional place or places of business.

**Who are not eligible to opt for composition scheme? [Section 10(2)]**

- Supplier of services other than supplier of food articles.
- Supplier of goods which are not taxable under the CGST Act/SGST Act/UTGST Act.
- Supplier of inter-State outward supplies of goods ⭐
- Person supplying goods through an electronic commerce operator
- Manufacturer of icecream, panmasala and tobacco

There is no restriction on Composition Supplier to procure goods from inter-State suppliers.

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ABC Industries, a manufacturer in Mumbai, is engaged in supply of goods in Mumbai as well as Chennai (i.e. inter-State supply of goods). Here, ABC Industries cannot enter into the composition scheme as it is effecting inter-State supply of goods i.e. Chennai.

**Validity of composition levy [Section 10(3) read with rule 6]**

- The option exercised by a registered person to pay amount under composition levy shall remain valid so long as he satisfies all the conditions mentioned in the said section and these rules.
- The option to pay tax under composition scheme lapses from the day on which his aggregate turnover during the FY exceeds the specified limit (₹ 75 lakh/₹ 50 lakh).
- Such person is required to pay normal tax under section 9(1) from the day he ceases to satisfy any of the conditions prescribed for composition levy. He shall issue tax invoice for every taxable supply made thereafter.
- Further, he is required to file an intimation for withdrawal from the scheme in prescribed form within 7 days of the occurrence of such event.
- However, such person shall be allowed to avail the input tax credit in respect of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him and on capital goods held by him on the date of withdrawal and furnish a statement, within 30 days of withdrawal of the option, containing the details of such stock held in prescribed form on the common portal.

A person availing composition scheme during a financial year crosses the turnover of ₹ 75 lakh on 9th of December. The option availed shall lapse from the day on which his aggregate turnover during the financial year exceeds ₹ 75 lakh, i.e. on 9th December in this case.

**Composition scheme to be adopted uniformly by all the registered persons having the same PAN [Proviso to section 10(2)]**

All registered persons having the same Permanent Account Number (PAN) have to opt for composition scheme. If one such registered person opts for normal scheme, others become ineligible for composition scheme.
A dealer ‘X’ has two offices in Delhi and is eligible for composition levy. If ‘X’ opts for the composition scheme, both the offices would pay taxes under composition scheme and abide by all the conditions as may be prescribed for the composition scheme.

### Composition scheme supplier cannot collect tax [Section 10(4)]

Taxable person opting for the composition scheme shall not collect tax from the recipient on supplies made by him. It implies that a composition scheme supplier cannot issue a tax invoice.

### Composition scheme supplier cannot enter into credit chain [Section 10(4)]

Taxable person opting for the composition scheme is not entitled to any credit of input tax.

### Imposition of penalty in case of irregular availment of the composition scheme [Section 10(5) read with rule 6(4) and 6(5)]

If a taxable person has paid tax under the composition scheme though he was not eligible for the scheme, the person would be liable to penalty and the provisions of section 73 or 74 of the CGST Act shall be applicable for determination of tax and penalty.

Further, where the proper officer has reasons to believe that the registered person was not eligible to pay tax under composition levy or has contravened the provisions of the Act/provisions of this Chapter, he may issue a show cause notice to such person in prescribed form.

Upon receipt of the reply to such show cause notice from the registered person in prescribed form, the proper officer shall issue an order in prescribed form within 30 days of the receipt of such reply, either accepting the reply, or denying the option to pay tax under composition levy from the date of the option or from the date of the event concerning such contravention, as the case may be.

### Example explaining the computation of amount payable under composition levy by the person eligible for such scheme

Taxpayer ‘A’ is a manufacturer having one unit – A1 in UP and another unit – A2 in MP. Total turnover of two units in last FY was ₹ 55 lakh (₹ 25 lakh + ₹ 30 lakh).
Total turnover of two units in the second quarter of this financial year was ₹ 15 lakh (₹ 5 lakh + ₹ 10 lakh).

<table>
<thead>
<tr>
<th>Unit</th>
<th>Location</th>
<th>Turnover in previous FY</th>
<th>Turnover in 2nd quarter of this FY</th>
<th>Total tax (@2%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1</td>
<td>U.P.</td>
<td>₹ 25 lakh</td>
<td>₹ 5 lakh</td>
<td>₹ 10,000</td>
</tr>
<tr>
<td>A2</td>
<td>M.P.</td>
<td>₹ 30 lakh</td>
<td>₹ 10 lakh</td>
<td>₹ 20,000</td>
</tr>
<tr>
<td>Aggregate turnover</td>
<td>₹ 55 lakh</td>
<td>₹ 15 lakh</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

9. **EXTENT AND COMMENCEMENT OF IGST [SECTION 1 OF IGST ACT]**

*Integrated Goods and Services Tax Act, 2017* extends to the whole of India. The term ‘India’ has already been defined in preceding paras. IGST is levied on the inter-State supply of goods or services or both.

*It is pertinent to note that the IGST Act applies to the State of Jammu and Kashmir also.*

10. **LEVY & COLLECTION OF IGST [SECTION 5 OF THE IGST ACT]**

**STATUTORY PROVISIONS**

<table>
<thead>
<tr>
<th>Section 5</th>
<th>Levy and Collection of Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sub-section</strong></td>
<td><strong>Particulars</strong></td>
</tr>
<tr>
<td>(1)</td>
<td>Subject to the provisions of sub-section (2), there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both; except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of</td>
</tr>
</tbody>
</table>
the Central Goods and Services Tax Act and at such rates, not exceeding forty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

Provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962.

(2) The integrated tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

(3) The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

(4) The integrated tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

(5) The Government may, on the recommendations of the Council, by notification, specify categories of services, the tax on inter-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator.
commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services.

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax.

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

ANALYSIS

A tax called the Integrated Goods and Services Tax (IGST) shall be levied on all inter-State supplies of goods or services or both. The tax shall be collected in such manner as may be prescribed and shall be paid by the taxable person. However, inter-State supply of alcoholic liquor for human consumption is outside the purview of IGST.

Value for levy: Transaction value under section 15 of the CGST Act

Rates of IGST: IGST is approximately the sum total of CGST and SGST/UTGST. Maximum rate of IGST will be 40%.

\[
IGST \text{ rate} = CGST \text{ rate} + SGST \text{ rate (more or less)}
\]

However, IGST on supply of the following items has not been levied immediately. It shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council:

- petroleum crude
- high speed diesel
motor spirit (commonly known as petrol)

natural gas and

aviation turbine fuel

Goods imported into India: All imports are deemed as inter-State supplies and accordingly IGST shall be levied on imported goods in addition to the applicable custom duties.

The integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under the Customs Act, 1962.

The integrated tax on goods shall be in addition to the applicable Basic Customs Duty (BCD) which is levied as per the Customs Tariff Act. In addition, GST compensation cess, may also be leviable on certain luxury and demerit goods under the Goods and Services Tax (Compensation to States) Cess Act, 2017.

Reverse charge - Tax payable by recipient of supply of goods or services or both: IGST shall be paid by the recipient of goods or services or both, on reverse charge basis, in the following cases:

Supply of goods or services or both, notified by the Government on the recommendations of the GST Council.

Supply of taxable goods or services or both by an unregistered supplier to a registered person.
All the provisions of the IGST Act shall apply to the recipient in the aforesaid cases as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

**List of services taxable under reverse charge, i.e. the services where tax is payable by the recipient:** *Notification No. 10/2017 IT (R) dated 28.06.2017* has notified specified categories of supply of services wherein whole of the IGST shall be paid on reverse charge basis by the recipient of services. All the services which have been notified for reverse charge purposes under CGST Act (as given in para 7 of this Chapter) have also been notified for reverse charge under IGST Act. Further, following two services are additionally included for IGST purposes:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Category of supply of service</th>
<th>Supplier of service</th>
<th>Recipient of Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient.</td>
<td>Any person located in a non-taxable territory</td>
<td>Any person located in the taxable territory other than non-taxable online recipient.</td>
</tr>
<tr>
<td>2.</td>
<td>Services supplied by a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India</td>
<td>A person located in nontaxable territory</td>
<td>Importer, as defined in section 2(26) of the Customs Act, 1962, located in the taxable territory.</td>
</tr>
</tbody>
</table>
they are cleared for home consumption, includes any owner, beneficial owner or any person holding himself out to be the importer [Section 2(26) of the Customs Act, 1962].

<table>
<thead>
<tr>
<th>Electronic Commerce Operator (ECO)</th>
</tr>
</thead>
</table>
| The Government may notify specific categories of services the tax on inter-State supplies of which shall be paid by the **electronic commerce operator (ECO)** if such services are supplied through it. Such services shall be notified on the recommendations of the GST Council.

- **Notification No. 14/2017 IT (R) dated 28.06.2017** as amended has notified the following categories of services **supplied through ECO** for this purpose –

  (a) services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle;

  (b) services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under section 20(v) of the IGST Act read with section 22(1) of the CGST Act.

  (iii) services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under sub-
section (1) of section 22 of the said Central Goods and Services Tax Act

The definitions of the terms radio-taxi, motorcab, maxicab and motor car have already been incorporated in earlier paras.

All the provisions of the IGST Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services.

It is important to highlight that the above provision shall apply only in case of supply of services.

**IGST Rates prescribed for various goods:** Broadly, six rates of IGST have been notified for goods, viz., 5%, 12%, 18%, 28%, 3% and 0.25%\(^1\).

**IGST Rates prescribed for various services:** Broadly, four rates of IGST have been notified for services, viz., 5%, 12%, 18% and 28%. CGST Rates for

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\(^1\) Students may refer the CBEC website for the complete Schedule of IGST Rates for goods for knowledge purposes.
services have already been discussed in earlier paras. IGST rates for such services can be computed on the basis of the same.

For certain specified goods and services, nil rate of IGST has been notified.

## OIDAR Services [Section 14 of the IGST Act]

### STATUTORY PROVISIONS

<table>
<thead>
<tr>
<th>Section 14</th>
<th>Special provision for payment of tax by a supplier of online information and database access or retrieval services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-section</td>
<td>Particulars</td>
</tr>
</tbody>
</table>
| (1)        | On supply of online information and database access or retrieval services by any person located in a non-taxable territory and received by a non-taxable online recipient, the supplier of services located in a non-taxable territory shall be the person liable for paying integrated tax on such supply of services. Provided that in the case of supply of online information and database access or retrieval services by any person located in a non-taxable territory and received by a non-taxable online recipient, an intermediary located in the non-taxable territory, who arranges or facilitates the supply of such services, shall be deemed to be the recipient of such services from the supplier of services in non-taxable territory and supplying such services to the non-taxable online recipient except when such intermediary satisfies the following conditions, namely :-

(a) the invoice or customer's bill or receipt issued or made available by such intermediary taking part in the supply clearly identifies the service in question and its supplier in non-taxable territory;

(b) the intermediary involved in the supply does not authorise the charge to the customer or take part in its charge which is that the intermediary neither collects or processes payment in any
manner nor is responsible for the payment between the non-taxable online recipient and the supplier of such services;

(c) the intermediary involved in the supply does not authorise delivery; and

(d) the general terms and conditions of the supply are not set by the intermediary involved in the supply but by the supplier of services.

(2) The supplier of online information and database access or retrieval services referred to in sub-section (1) shall, for payment of integrated tax, take a single registration under the Simplified Registration Scheme to be notified by the Government.

Provided that any person located in the taxable territory representing such supplier for any purpose in the taxable territory shall get registered and pay integrated tax on behalf of the supplier:

Provided further that if such supplier does not have a physical presence or does not have a representative for any purpose in the taxable territory, he may appoint a person in the taxable territory for the purpose of paying integrated tax and such person shall be liable for payment of such tax.

**ANALYSIS**

Online Information Database Access and Retrieval services (OIDAR) is a category of services provided through the medium of internet and received by the recipient online without having any physical interface with the supplier of such services.

Download of an e-book online for a payment would amount to receipt of OIDAR services by the consumer.

Section 2(17) of the IGST Act defines OIDAR as services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated involving minimal human intervention.

These include electronic services such as:

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(i) Advertising on the internet
(ii) Providing cloud services
(iii) Provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet
(iv) Providing data or information, retrievable or otherwise, to any person in electronic form through a computer network
(v) Online supplies of digital content (movies, television shows, music and the like)
(vi) Digital data storage
(vii) Online gaming.

The above definition makes it apparent that in order to determine whether a particular service is an OIDAR service, the following tests need to be applied:

Thus, a service qualifies as OIDAR services if above two conditions have been satisfied. The inclusive part of the definition are only indicative and not exhaustive.

Examples of what could be or could not be OIDAR services

<table>
<thead>
<tr>
<th>Service</th>
<th>Whether condition ‘A’ is fulfilled?</th>
<th>Whether condition ‘B’ is fulfilled?</th>
<th>Whether it is OIDAR service or not?</th>
</tr>
</thead>
<tbody>
<tr>
<td>PDF document manually emailed by</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
</tr>
</tbody>
</table>

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### Indicative List of OIDAR Services

1. **Website supply, web-hosting, distance maintenance of programmes and equipment**
   - Website hosting and webpage hosting
   - Automated, online and distance maintenance of programmes
Remote systems administration
Online data warehousing where specific data is stored and retrieved electronically
Online supply of on-demand disc space

2. Supply of software and updating thereof
- Accessing or downloading software (including procurement/accountancy programmes and anti-virus software) plus updates
- Software to block banner adverts, otherwise known as Banner blockers
- Download drivers, such as software that interfaces computers with peripheral equipment (such as printers)
- Online automated installation of filters on websites
- Online automated installation of firewalls

3. Supply of images, text and information and making available of databases
- Accessing or downloading desktop themes
- Accessing or downloading photographic or pictorial images or screensavers
- The digitised content of books and other electronic publications
- Subscription to online newspapers and journals
- Weblogs and website statistics
- Online news, traffic information and weather reports
- Online information generated automatically by software from specific data input by the customer, such as legal and financial data, (in particular, data such as continually updated stock market data, in real time)
- The provision of advertising space including banner ads on a website/web page
- Use of search engines and Internet directories

4. Supply of music, films and games, including games of chance and gambling games, and of political, cultural, artistic, sporting, scientific and entertainment broadcasts and events
- Accessing or downloading of music on to computers and mobile phones
Accessing or downloading of jingles, excerpts, ringtones, or other sounds
Accessing or downloading of films
Downloading of games on to computers and mobile phones
Accessing automated online games which are dependent on the Internet or other similar electronic networks, where players are geographically remote from one another

(i) Why OIDAR requires a treatment different from other services?
OIDAR services can be provided online from a remote location outside the taxable territory. A similar service provided by an Indian Service Provider, from within the taxable territory, to recipients in India are taxable. Further, such services received by a registered entity in India from a location outside the taxable territory are also taxable under reverse charge.

The overseas suppliers of such services would have an unfair tax advantage if the services provided by them had been left out of the tax net. At the same time, since the service provider is located overseas and may not be having a presence in India, the compliance verification mechanism become difficult. In view of the same, that the Government has come out with a simplified scheme of registration for such service providers located outside India [Discussed in Chapter 9 – Registration].

(ii) How would OIDAR services be taxable under GST?
For any supply to be taxable under GST, the place of supply should be in India. In case, both the supplier of OIDAR Service and the recipient of such service is in India, the place of supply would be the location of the recipient of service [Section 12 of the IGST Act*].

Further, where the supplier of OIDAR service is located outside India and the recipient is located in India, the place of supply would be India and the transaction would be amenable to tax [Section 13(12) of the IGST Act*].

*Provisions relating to place of supply have been discussed in detail in Chapter 5 – Place of Supply.
(ii) **Special provision for payment of tax by a supplier of OIDAR services located outside India [Section 14 of the IGST Act]**

In cases where the supplier of OIDAR service is located outside India and the recipient is a business entity (registered person) located in India, the reverse charge mechanism would get triggered and the recipient in India (registered entity under GST) will be liable to pay GST and undertake necessary compliances.

On the other hand where the supplier is located outside India and the recipient in India is an individual consumer, the place of supply would be India and the transaction is amenable to levy of GST. However, the problem arises as to how to collect such tax?

It would be impractical to ask the individual in India to register and undertake the necessary compliances under GST for a one off purchase on the internet. Consequently, special provisions for payment of tax by a supplier of OIDAR services in such cases has been stipulated under section 14 of the IGST Act which have been described as under:

(A) **Who is the person liable to pay tax in respect of OIDAR services received by a non-taxable online recipient [Section 14(1) of the IGST Act]**

On supply of OIDAR services by any person located in a non-taxable territory and received by a non-taxable online recipient, the supplier of services located in a non-taxable territory shall be the person liable for paying integrated tax on such supply of services.

**Non-taxable online recipient** means any Government, local authority, governmental authority, an individual or any other person not registered and receiving OIDAR services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.

However, if an intermediary located outside India arranges or facilitates supply of such service to a non-taxable online recipient in India, the intermediary would be deemed to be the supplier of the said service, except when the intermediary satisfies the following conditions:

- The invoice or customer’s bill or receipt issued by such intermediary taking part in the supply clearly identifies the service in question and its supplier in non-taxable territory.
The intermediary involved in the supply does not authorise the charge to the customer or take part in its charge. This means that the intermediary neither collects or processes payment in any manner nor is responsible for the payment between the non-taxable online recipient and the supplier of such services.

The intermediary involved in the supply does not authorise delivery.

The general terms and conditions of the supply are not set by the intermediary involved in the supply but by the supplier of services.

(B) How would the supplier of OIDAR services located outside India comply with the responsibilities entrusted under GST? [Section 14(2) of the IGST Act read with rule 14 of the CGST Rules, 2017]

The supplier (or intermediary) of OIDAR services shall, for payment of integrated tax, take a single registration under the Simplified Registration Scheme in prescribed form. Special provisions relating to registration of supplier of OIDAR services are discussed in Chapter 9 – Registration.

In case there is a person in the taxable territory (India) representing such overseas supplier in the taxable territory for any purpose, such person (representative in India) shall get registered and pay integrated tax on behalf of the supplier.

In case the overseas supplier neither has a physical presence nor has a representative for any purpose in the taxable territory, he may appoint a person in the taxable territory for the purpose of paying integrated tax and such person shall be liable for payment of such tax.

10. IMPORT OF GOODS/SERVICES [SECTION 2(10) AND 2(11) OF THE IGST ACT]

<table>
<thead>
<tr>
<th>STATUTORY PROVISIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Section 2</strong></td>
</tr>
<tr>
<td><strong>Sub-section</strong></td>
</tr>
</tbody>
</table>

(10) import of goods with its grammatical variations and cognate expressions, means bringing goods into India from a place outside India

(11) import of services means the supply of any service, where—
(i) the supplier of service is located outside India;
(ii) the recipient of service is located in India; and
(iii) the place of supply of service is in India

ANALYSIS

- Article 269A of the Constitution mandates that the supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce for levy of integrated tax.

- Accordingly, section 7 of the IGST Act stipulates that import of goods/services into the territory of India shall be treated as supply of goods/services in the course of inter-State trade or commerce. Resultantly, import of goods or services will be treated as deemed inter-State supplies and would be subject to integrated tax.

- While IGST on import of services would be leviable under the IGST Act, the levy of the IGST on import of goods would be levied under the Customs Act, 1962 read with the Custom Tariff Act, 1975. We shall now elaborate the provisions relating to import of goods and import of services in detail:

A. Import of goods
   - The import of goods has been defined in the IGST Act as bringing goods into India from a place outside India. All import of goods shall be deemed as inter-State supplies and accordingly integrated tax shall be levied in addition to the applicable custom duties.
Charging section 5 of the IGST Act provides that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of the Customs Tariff Act, 1975.

Such tax shall be levied at the point when customs duties are levied on the said goods under the Customs Act, 1962. Further, tax will be levied on the value as determined under the Customs Tariff Act, 1975.

The integrated tax on goods shall be in addition to the applicable Basic Customs Duty (BCD) which is levied as per the Customs Tariff Act. In addition, GST compensation cess, may also be leviable on certain luxury and demerit goods under the Goods and Services Tax (Compensation to States) Cess Act, 2017.

The Customs Tariff Act, 1975 has accordingly been amended to provide for levy of integrated tax and the compensation cess on imported goods. Accordingly, goods which are imported into India shall, in addition to the basic customs duty, be liable to integrated tax at such rate as is leviable under the IGST Act on a similar article on its supply in India.

Further, the value of the goods for the purpose of levying integrated tax shall be, assessable value plus basic customs duty levied under the Customs Act and any other duty chargeable on the said goods under any law for the time being in force as an addition to, and in the same manner as, a duty of customs.

The value of the imported article for the purpose of levying cess shall be, assessable value plus basic customs duty levied under the Act, and any sum chargeable on the goods under any law for the time being, in force as an addition to, and in the
same manner as, a duty of customs. The integrated tax paid shall not be added to the value for the purpose of calculating cess.

Suppose the assessable value of an article imported into India is ₹100/-. Basic Customs Duty is 10% *ad valorem*. Integrated tax rate is 18%.

The taxes will be calculated as under:

- **Assessable Value** = ₹100/-
- **Basic Customs Duty (BCD)** = ₹10/-
- **Value for the purpose of levying integrated tax** = ₹100/- + ₹10/- = ₹110/-
- **Integrated Tax** = 18% of ₹110/- = ₹19.80
- **Total taxes** = ₹29.80

Further, in case the goods are also leviable to cess under the Goods and Services Tax (Compensation to States) Cess Act, 2017, the same will be collected on the value taken for levying integrated tax. Thus, in the above example, in case the cess is leviable, the same would be levied on ₹110/-.

**Integrated tax on warehoused goods:**

The Customs Act, 1962 provides for removal of goods from a customs station to a warehouse without payment of duty. The said Act has been amended to include ‘warehouse’ in the definition of “customs area” in order to ensure that an importer would not be required to pay the integrated tax at the time of removal of goods from a customs station to a warehouse.

*The provisions relating to leviability of IGST on imported goods have been discussed in detail in Chapter 2 – Types of Duties of Part-II: Customs and FTP.*

**B. Import of services**

IGST Act defines import of services as supply of any service where the supplier is located outside India, the recipient is located in India, and the place of supply of service is in India.
The concept discussed above has been explained by way of following examples:

<table>
<thead>
<tr>
<th>Location of Supplier</th>
<th>Location of Recipient</th>
<th>Place of Supply</th>
<th>Whether qualifies as import of services?</th>
</tr>
</thead>
<tbody>
<tr>
<td>London</td>
<td>Delhi</td>
<td>Delhi</td>
<td>Yes</td>
</tr>
</tbody>
</table>
Thus, only where the location of supplier is outside India but the location of recipient and the place of supply* is in India, it shall qualify as import of services.

* The place of supply in cases wherein the location of the supplier of services or the recipient of services is outside India is determined under section 13 of the IGST Act which provides the place of supply in relation to international or cross-border supply of services. Location of supplier of services and location of recipient of services have been defined under sections 2(15) and 2(14) of the IGST Act. These provisions have been discussed in detail in Chapter 5 – Place of Supply.

Significance of consideration and business test in taxability of importation of services

As per the provisions contained in section 7(1)(b) of the CGST Act, import of services for a consideration whether or not in the course or furtherance of business, shall be considered as a supply. Thus, in general, imports of services without consideration shall not be considered as
supply. However, business test is not required to be fulfilled for import of service to be considered as supply.

Furthermore, in view of the provisions contained in Schedule I of the CGST Act, the import of services by a taxable person from a related person or from a distinct person or from his establishment located outside India, as defined in section 25 of the CGST Act, in the course or furtherance of business shall be treated as supply even if it is made without any consideration.

A conjoint reading of aforesaid provisions with the provisions of section 14 of the IGST Act, as discussed in the preceding paras, import of free services from Google and Facebook by all of us, without any consideration, is not considered as supply. Import (Downloading) of a song for consideration for personal use would be a service, even though the same are not in the course or furtherance of business. Import of some services by an Indian branch from their parent company, in the course or furtherance of business, even if without consideration, will be a supply.

Thus, import of services can be considered as supply based on whether there is consideration or not and whether the service is supplied in the course or furtherance of business. The same has been explained in the table below:

<table>
<thead>
<tr>
<th>Nature of Service</th>
<th>Consideration</th>
<th>Business Test</th>
</tr>
</thead>
<tbody>
<tr>
<td>Import of services</td>
<td>Necessarily Required</td>
<td>Not required</td>
</tr>
<tr>
<td>Import of services by a taxable person from a related</td>
<td>Not required</td>
<td>Necessarily Required</td>
</tr>
<tr>
<td>person or from a distinct person or from his establishment located outside India</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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### Section 2 Definitions

**Sub-section** | **Particulars**
--- | ---
(5) | export of goods with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India

(6) | 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; 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.

### ANALYSIS

- Section 7(5) of the IGST Act stipulates that supply of goods or services or both when the supplier is located in India and the place of supply is outside India shall be treated as supply of goods/services in the course of inter-State trade or commerce.
Thus, location of recipient is not material to qualify as supply in the course of inter-State trade or commerce. However, in order to qualify as export of goods and/or services, such supplies of goods and/or services need to satisfy some additional conditions which have been elaborated in the succeeding paras.

Export of goods/services are treated as ‘zero rated supply’ i.e. the goods or services exported shall be relieved of GST levied upon them either at the input stage or at the final product stage. This will make Indian exports competitive in the international market. **Provisions relating to zero rated supplies are discussed in detail in Chapter 4 – Exemptions from GST.**

Provisions relating to export of goods and export of services have been explained in detail as follows:

**A. Export of goods**

IGST Act defines export of goods as taking goods out of India to a place outside India. **Impact of GST on exports of goods has been discussed in detail in Part-II: Customs & FTP.** The broad features of the same have been discussed hereunder:

- The procedures relating to export have been simplified so as to do away with the paper work and intervention of the Department at various stages of export.

- The salient features of the scheme of export under GST regime are as follows:
  - The goods and services can be exported either on payment of IGST which can be claimed as refund after the goods have been exported, or under bond or Letter of Undertaking (LUT) without payment of IGST.
  - In case of goods and services exported under bond or LUT, the exporter can claim refund of accumulated ITC on account of export.
  - In case of export of goods, the shipping bill is the only document required to be filed with the customs for making exports. Requirement of filing the ARE 1/ARE 2 has been done away with.
✓ The supplies made for export are to be made under self-sealing and self-certification without any intervention of the departmental officer.

✓ The shipping bill filed with the customs is treated as an application for refund of IGST and shall be deemed to have been filed after submission of export general manifest and furnishing of a valid return in Form GSTR-3 by the applicant.

✓ The Duty credit scrips under the export incentive schemes of FTP (for example, MEIS and SEIS) can be utilised only for payment of customs duties or additional duties of customs, on items not covered by GST, at the time of import. The scrips cannot be utilized for payment of integrated tax and compensation cess. Similarly, scrips cannot be used for payment of CGST, SGST or IGST for domestic procurements.

✓ Benefit of exemption under Advance Authorization scheme, EPCG scheme and duty credit scrips such as MEIS and SEIS shall be restricted only to Basic Customs Duty, Safeguard Duty, Transitional Product Specific Safeguard Duty and Anti-dumping Duty in respect of goods leviable to IGST.

B. Export of services

✓ As per section 7 of the IGST Act, supply of services when the supplier of service is located in India and the place of supply of service is outside India is a supply of services in the course of inter-State trade or commerce.

✓ In order to qualify as an export of service, apart from the above two conditions, following additional conditions need to be satisfied as per the definition of export of services provided under section 2(6) of the IGST Act:

✓ Recipient of service is located outside India.

✓ Payment for such service has been received by the supplier of service in convertible foreign exchange.
✓ Supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8 [discussed earlier in this Chapter]

Let us understand it with the help of an example. In the following example, Raman of Delhi has supplied services to John of USA.

The services provided by Raman to John will qualify as export of services if **All** the following conditions have been fulfilled:

In the given example, supplier of service – Raman – is located in India, recipient of service – John – is located outside India and the place of supply of service is USA. Payment for services provided by Raman has
been received in convertible FOREX and Raman and John are not merely establishments of a distinct person as per explanation to section 8 of IGST. Since all the conditions mentioned in section 2(6) of the OGST Act have been satisfied, such services qualify as export of services.

LET US RECAPITULATE

1. Extent & Commencement of CGST Act/ SGST Act/ UTGST Act/ IGST Act

<table>
<thead>
<tr>
<th>Applicability</th>
<th>CGST</th>
<th>SGST</th>
<th>UTGST</th>
<th>IGST</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Intra-State supply</td>
<td>Inter-State supply</td>
<td></td>
<td></td>
</tr>
<tr>
<td>States of India</td>
<td>✔</td>
<td>✔</td>
<td></td>
<td>✔</td>
</tr>
<tr>
<td>Union Territories with</td>
<td>✔</td>
<td>✔</td>
<td></td>
<td>✔</td>
</tr>
<tr>
<td>State Legislature</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Union Territories without State</td>
<td>✔</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Legislature</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2. Levy and collection of CGST/IGST

<table>
<thead>
<tr>
<th>Particulars</th>
<th>CGST</th>
<th>IGST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Levied on</td>
<td>Intra-State supplies of goods/services/both</td>
<td>Inter-State supplies of goods/services/both</td>
</tr>
<tr>
<td>Collected and paid by</td>
<td>Taxable person</td>
<td></td>
</tr>
<tr>
<td>Supply outside purview of tax</td>
<td>Alcoholic liquor for human consumption</td>
<td></td>
</tr>
<tr>
<td>Value for levy</td>
<td>Transaction value under section 15 of the CGST Act</td>
<td></td>
</tr>
<tr>
<td>Rates</td>
<td>Rates as notified by</td>
<td>IGST rate = CGST rate + SGST</td>
</tr>
</tbody>
</table>
Government.  
**Maximum rate of CGST will be 20%.**

**Maximum rate of IGST will be 40%.**

### Supplies on which tax to be levied w.e.f. a notified date
- petroleum crude
- high speed diesel
- motor spirit (commonly known as petrol)
- natural gas and
- aviation turbine fuel

### Tax payable under reverse charge
- Supply of goods or services or both, notified by the Government on the recommendations of the GST Council.
- Supply of taxable goods or services or both by an unregistered supplier to a registered person

### Tax payable by the electronic commerce operator

<table>
<thead>
<tr>
<th>Condition</th>
<th>Person liable to pay tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>If the ECO is located in taxable territory</td>
<td>Person liable to pay tax is the ECO</td>
</tr>
<tr>
<td>If the ECO does not have physical presence in the taxable territory</td>
<td>Person liable to pay tax is the person representing the ECO</td>
</tr>
<tr>
<td>If the ECO has neither the physical presence nor any representative in the taxable territory</td>
<td>Person liable to pay tax is the person appointed by the ECO for the purpose of paying the tax</td>
</tr>
</tbody>
</table>

### Goods imported into India
- No CGST and SGST/UTGST payable.
- IGST shall be levied and collected on import of goods as per the section 3 of the...
3. **Composition levy [Section 10]**

**Composition levy**

- An option for specified categories of small taxpayers to pay GST at a very low rate on the basis of turnover.

**Advantages**

- Low rate of tax
- Hassle-free simple procedures for such taxpayers
- Simple calculation of tax based on turnover
- A very simple quarterly return

### Composition Rates

<table>
<thead>
<tr>
<th>Category of registered persons</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manufacturer</td>
<td>2 %</td>
</tr>
<tr>
<td>Supplier of food</td>
<td>5 %</td>
</tr>
<tr>
<td>Traders</td>
<td>1 %</td>
</tr>
</tbody>
</table>

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### Composition levy

#### Conditions
- **Aggregate Turnover (AT)** ≤ ₹ 75 lakh during the FY. In Special Category States, AT ≤ ₹ 50 lakh except Uttarakhand & J&K (≤ ₹ 75 lakh)
- Tax is not collected from recipient of supply
- Input tax credit is not availed
- Composition Scheme if availed shall include all registered persons having same PAN

#### Non-eligible supplies
- Supplier of services other than supplier of food articles
- Supplier of goods which are not taxable under the CGST Act/SGST Act/UTGST Act
- Supplier of inter-State outward supplies of goods
- Person supplying goods through an electronic commerce operator
- Manufacturer of certain goods as may be notified by the Government

#### Conditions and restrictions
- He is neither a casual taxable person nor a non-resident taxable person
- Stock has not been purchased from an unregistered supplier, where purchased tax paid under reverse charge
- He shall pay tax under section 9(3)/9(4) (reverse charge) on inward supplies
- He is not engaged in manufacturer of notified goods

Words “Composition taxable person, not eligible to collect tax on supplies” is mentioned at the top of the bill of supply

Words “composition taxable person” displayed at prominent places

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<table>
<thead>
<tr>
<th>Category of persons</th>
<th>How to exercise option</th>
<th>Effective date of composition levy</th>
</tr>
</thead>
<tbody>
<tr>
<td>New registration under GST</td>
<td>Intimation in the registration form</td>
<td>From the effective date of registration</td>
</tr>
<tr>
<td>Registered person opting for composition levy</td>
<td>Intimation in prescribed form</td>
<td>Beginning of the financial year</td>
</tr>
</tbody>
</table>
TEST YOUR KNOWLEDGE

1. State person liable to pay GST in the following independent cases provided recipient is located in the taxable territory:
   (a) Services provided by an arbitral tribunal to any business entity.
   (b) Sponsorship services provided by a company to an individual.
   (c) Renting of immovable property service provided by the Central Government to a business entity.

2. Can any person other than the supplier or recipient be liable to pay tax under GST?

3. A person availing composition scheme in Haryana during a financial year crosses the turnover of ₹ 75 lakh during the course of the year i.e. he crosses the turnover of ₹ 75 lakh in December? Will he be allowed to pay tax under composition scheme for the remainder of the year, i.e. till 31st March?

4. A hotel owner provided accommodation in Haryana, through an electronic commerce operator – Cool Trips. The hotel owner is not liable to get registered as per the provisions of section 22(1) of the CGST Act.

   Who is the person liable to pay GST in this case?
   Would your answer be different if the Electronic Commerce Operator Cool Trips does not have a physical presence in India?

5. Determine whether the supplier in the following cases are eligible for composition levy provided their turnover in preceding year does not exceed ₹ 75 lakh:

   (i) Mohan is engaged in providing legal services in Rajasthan and is registered in the same State.

   (ii) Sugam Manufacturers has registered offices in Punjab and Haryana and supplies goods in neighbouring States.

6. Mohan Enterprises has two registered business verticals in Delhi. Its aggregate turnover for the preceding year for both the business verticals was ₹ 70 lakh. It wishes to pay tax under composition levy for one of the vertical in the current year while under normal levy for other vertical. You are required to advice Mohan Enterprises whether he can do so?
ANSWERS/HINTS

1. (a) Since GST on services provided or agreed to be provided by an arbitral tribunal to any business entity located in the taxable territory is payable under reverse charge, in the given case, GST is payable by the recipient - business entity.

(b) GST on sponsorship services provided by any person to any body corporate or partnership firm located in the taxable territory is payable under reverse charge. Since in the given case, services have been provided to an individual, reverse charge provisions will not be attracted. GST is payable under forward charge by the supplier – company.

(c) GST on services provided or agreed to be provided by the Central Government, State Government, Union Territory, or local authority to any business entity located in the taxable territory is payable under reverse charge. However, renting of immovable property service is an exception to it. Therefore, in the given case, reverse charge provisions will not be attracted. GST is payable under forward charge by the supplier – Central Government.

2. Yes, the Government can specify categories of services the tax on which shall be paid by the Electronic Commerce Operator, if such services are supplied through it and all the provisions of the GST law shall apply to such electronic commerce operator as if he is the person liable to pay tax in relation to supply of such services.

For this purpose, services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle and services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration, supplied through ECO have been notified.

3. No. The option to pay tax under composition scheme lapses from the day on which the aggregate turnover of the person availing composition scheme during the financial year exceeds the specified limit (₹ 75 lakh). He is required to file an intimation for withdrawal from the scheme in prescribed form within 7 days from the day on which the threshold limit has been crossed.

4. Government may notify [on the recommendations of the GST Council] specific categories of services the tax on intra-State supplies of which shall
be paid by the electronic commerce operator if such services are supplied through it. Services by way of providing accommodation in hotels through electronic commerce operator is a specified service for said purpose.

Thus, person liable to pay GST in this case is the Electronic Commerce Operator Cool Trips. All the provisions of the GST law shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services.

Cool Trips does not have a physical presence in India, person liable to pay tax is the person representing the Electronic Commerce Operator -Cool Trips for any purpose in India.

5. (i) A supplier of services engaged in the supplies other than the supplies referred to in clause (b) of paragraph 6 of Schedule II of CGST Act i.e. supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink, is not eligible for composition levy. Since Mohan provides legal services, he is not eligible for composition scheme.

(ii) Since supplier of inter-State outward supplies of goods is not eligible for composition levy, Sugam Manufacturers is not eligible for composition levy.

16. A registered person with an aggregate turnover in a preceding financial year up to ₹ 75 lakh is eligible for composition levy in Delhi. Since the aggregate turnover of Mohan Enterprises does not exceed ₹ 75 lakh, it is eligible for composition levy in the current year.

However, all registered persons having the same Permanent Account Number (PAN) have to opt for composition scheme. If one such registered person opts for normal scheme, others become ineligible for composition scheme. Thus, Mohan Enterprises either have to opt for composition levy for both the verticals or under normal levy for both the verticals.