



## The Institute of Chartered Accountants of India GST & Indirect Taxes Committee

### GOODS & SERVICES TAX UPDATE - 222

#### 1. Clarification regarding place of supply of goods to unregistered persons

As per clause (ca) of section 10(1) of the IGST Act, 2017, where the supply of goods is made to a person other than a registered person, the place of supply shall, notwithstanding anything contrary contained in clause (a) or clause (c), be the location as per the address of the said person recorded in the invoice issued in respect of the said supply and the location of the supplier where the address of the said person is not recorded in the invoice.

The said provision has been inserted with effect from 01.10.2023, as a non-obstante provision overriding the provisions under Section 10(1)(a) or 10(1)(c) of IGST Act. Further, an explanation has also been added to the said clause to clarify that recording the name of the State of the said person shall be deemed to be the recording of the address of the said person.

**Issue:** Place of supply of goods (particularly being supplied through e-commerce platform) to unregistered persons where billing address is different from the address of delivery of goods

S. No.	Issue	Clarification
1.	Mr. A (unregistered person) located in X State places an order on an e-commerce platform for supply of a mobile phone, which is to be delivered at an address located in Y State. Mr. A, while placing the order on the e-commerce platform, provides the billing address located in X state. In such a scenario, what would be the place of supply of the said supply of mobile phone, whether the State pertaining to the billing address i.e. State X or the State	It has been clarified that in such cases involving supply of goods to an unregistered person, where the address of delivery of goods recorded on the invoice is different from the billing address of the said unregistered person on the invoice, the place of supply of goods in accordance with the provisions of clause (ca) of sub-section (1) of section 10 of IGST Act, shall be the address of delivery of goods recorded on the invoice i.e. State Y in the present case where the delivery address is located. Also, in such cases involving supply of goods to an unregistered person, where

	<p>pertaining to the delivery address i.e. State Y?</p>	<p>the billing address and delivery address are different, the supplier may record the delivery address as the address of the recipient on the invoice for the purpose of determination of place of supply of the said supply of goods.</p>
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**[Circular No. 209/3/2024- GST dated 26.06.2024](#)**

**2. Clarification on valuation of supply of import of services by a related person where recipient is eligible to full input tax credit**

As per second proviso to rule 28(1) of CGST Rules, in cases involving supply of goods or services or both between the distinct or related persons where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the said goods or services.

The second proviso to rule 28(1) of CGST Rules, is applicable in all the cases involving supply of goods or services or both between the distinct persons as well as the related persons, in cases where full ITC is available to the recipient. Accordingly, the clarification issued vide [Circular No. 199/11/2023-GST dated 17.07.2023](#), is equally applicable in respect of import of services between related persons.

In case of import of services by a registered person in India from a related person located outside India, the tax is required to be paid by the registered person in India under reverse charge mechanism. In such cases, the registered person in India is required to issue self-invoice under section 31(3)(f) of CGST Act and pay tax on reverse charge basis.

In view of the above, it is clarified that in cases where the foreign affiliate is providing certain services to the related domestic entity, and where full input tax credit is available to the said related domestic entity, the value of such supply of services declared in the invoice by the said related domestic entity may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules. Further, in cases where full input tax credit is available to the recipient, if the invoice is not issued by the related domestic entity with respect to any service provided by the foreign affiliate to it, the value of such services may be deemed to be declared as Nil and may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules.

**[Circular No.210/4/2024-GST dated 26.06.2024](#)**

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