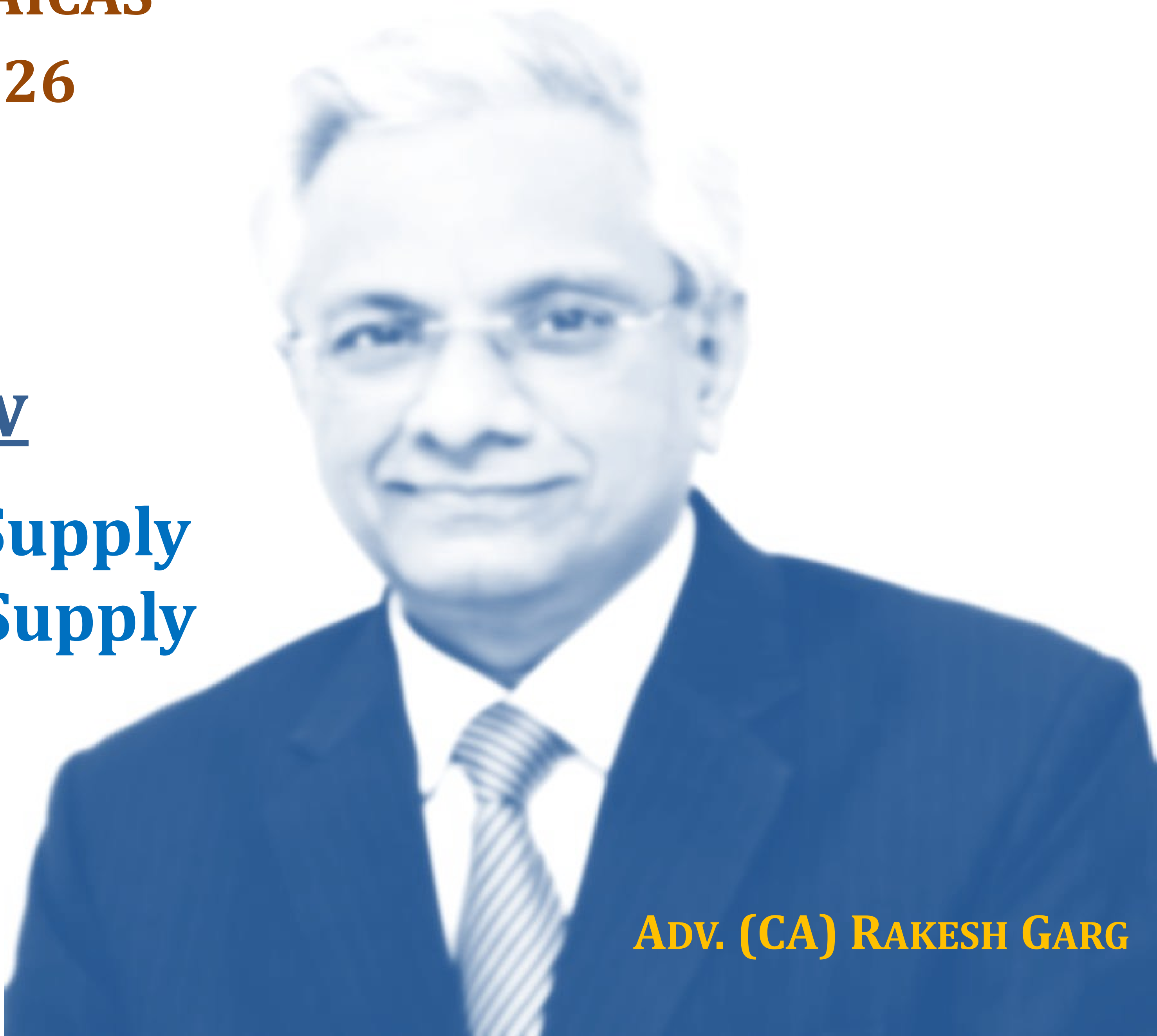
WELCOME AICAS

04 JULY 2026

GST Law

Time of Supply
Place of Supply



ADV. (CA) RAKESH GARG

Refund on Zero rated supply of services - *CONTENTS*

	and Supreme Court Rulings	
VII.	**Time of Supply – Issues** - When Tax is paid against Invoices and not at the time of receipt of Advance for Services - Continuous Supply Contracts - Interest implications due to timing mismatches - Departmental Notices & Critical defense Arguments - Important related Circulars, Notifications, AARs, High Court and Supreme Court Rulings	09:30-10:00
VIII.	**Place of Supply (POS)** - Difference between POS and Address for Delivery - Difference between Section 10(1)(a) - Physical movement of Goods and 10(1)(c) – No Physical movement of Goods of IGST Act - Specific Case Studies of POS for: • Travel Industry • Hotel & Hospitality • Transportation Industry • Real Estate and its allied Services (including Renting) • Training Services • SAAS & IT Industry • Exhibitions, Events, Conferences (Physical / Online / Hybrid) • OIDAR - Important related Circulars, Notifications, AARs, High Court and Supreme Court Rulings	10:00-10:45

TIME OF SUPPLY

Time of supply

Time of supply – Significance

- **Sec 12(1) & 13(1):** Liability to pay tax on goods/services shall arise at the time of supply, as per the sec 12/13
- Time of supply is different in goods vs. services
- It is different - forward charge vs. reverse charge
- It is, generally, advance or invoice (in terms of S.31), w.e.i., earlier
- *Non-compliance costs only interest, and may be penalty*

Advance vs. Invoice → Exceptions

- ***N. No. 66/2017–CT dated 15th of Nov. 2017 =***

  Supply of goods - *other than* (i) composition tax payers and (ii) suppliers of actionable claims

Time of Supply and Continuous Supply

- Section 12 and 13 of the Act do not make distinction between single supply and continuous supply
- However, these two sections mainly depends upon two factors:
  - Issuance of Invoice, and
  - Receipt of payment
- Invoice related provisions are contained in sec 31
  - 31(4) – Supply of goods
  - 31(5) – Supply of Services

Continuous vs. Single Supply - Goods

TOS - Supply of Goods – S. 12 - Date of invoice or its due date

- **Single supply of goods - 31(1)**
  - Before or at the time of Removal of goods
- **Continuous supply of goods - 2(32)**
  - Supply of goods → continuously or on recurrent basis, under a contract → whether or not by means of a wire, cable, pipeline etc → for which supplier invoices on a regular or periodic basis
- **Time of issuance of invoice [Sec 31(4)]**
  - *Where successive statements of accounts or successive payments are involved* → Invoice shall be issued before or at the time each such statement is issued or, each such payment is received

Continuous vs. Supply in Lots - Goods

(1) Continuous supply of goods Vs. (2) Supply of goods in lots

- A bulk purchase order of 10,000 metric tons of steel, delivered in 5 separate railway rakes over a fortnight → supply in lots
- First is generally regular supply; Second is a single supply
- **Difference in invoicing:**
  - In (1) → Sec 31(4) – Successive statement / payment
  - In (2) → Sec 31(1) – On removal of goods
- **Claim of ITC:**
  - In (1) → ITC allowed based upon receipt + invoice
  - In (2) → ITC can be taken on last receipt

Continuous vs. Single Supply - Services

Continuous supply of Service – 2(33):

Continuous supply of service is defined to mean supply of services continuously or on recurrent basis, under a contract, for a period exceeding 3 months with periodic payment obligations. → Concurrent audit of Bank – Continuous Supply - recurrent basis

Time of Supply - Continuous supply of Service – S. 31(5):

	Circumstances	Time of issue of Invoice
1	Where due date of payment is **ascertainable** from the contract	On or before the due date of payment
2	Where due date of payment is **not ascertainable** from the contract	Before or at the time when the supplier of service receives payment
3	Where **payment is linked to completion of an event**	On or before the date of completion of that event

Time of Supply - Litigation Area

- Goods are supplied in lots from March 2026 to Dec. 2026; Time of supply is removal → Invoice is raised for entire supply in March 26 → → ITC may be claimed on last supply → How to claim in Dec. 2026 → OR If full supply could not be made, how to raise credit notes
- A company entered in two contracts: (1) Supply of goods (2) Supply of services : The department treats them as single works contract and demands interest on mobilization advance relatable to goods ??
- Debit note for escalation; value not determined at the time of removal →TOS ? ? *[Steel Authority vs CCE (2019)(SC)]*
- Can ITC be claimed if <u>services</u> are supplied in lots; and entire payment is made in advance → Time of receipt of services ?? – Sec 16(2)(b)
- Delay in payment of RCM – After limitation in sec 16(4) – How to regularize - Circular No. 211/05/2024-GST dated 26 June 2024

Time of Supply – Dispute with Tenant

	Circumstances	TOS (Continuous supply)
1	During lease period: Landlords gives notice to tenant for eviction; Tenant does not vacate;	
-	Landlord **continues** raising invoice	Due date is ascertainable – TOS is Due date of payment
-	Landlord **stops** raising invoice	Date of payment, if any
2	After 3 months of expiry, Landlord files suit for eviction, settled, say, after 3 years; Rent not paid in between → The Court orders	No tax during that period
-	Pay rent @ 90% of original rent + Interest for delay @12%	Of Rent: Date of receipt * Of Intt.: 13(6)-Receipt date
-	Pay damages of 5L [lump-sum] - Not taxable [LD]	
*	*However, Bai Mamubai Trust vs. Suchitra-2019 (9) TMI 929 (Bom HC) - Mesne Profit (after quit notice and filing of suit) – Not Taxable*	

PLACE OF SUPPLY (POS)

General

Relevance of Place of supply

- POS determines whether the supply is ‘inter-state’ or ‘intra-state’
- POS not only decides that it is ‘inter-state’ supply → It also determines the ‘exact State’ of POS
- POS is one of crucial factor to determine whether any supply is export/ import or not
- *Non-compliance → Sec 19 of IGST vs. Sec 77 of CGST [for output tax] [No provision for ITC mistakenly taken – Not possible now]*
- ITC may be claimed only if Registration of the Claimant and POS are in same state → If POS is Delhi, one can’t claim ITC in Haryana
- *No provision for the Recipient of Goods for incorrect POS*

Inter-State vs. Intra-State Supply

Supply of Goods/Service u/s 7/8 of IGST

Inter-State

Where 'location of supplier' and the 'place of supply' are → in different States (or) different UT (or) a state and UT

Intra-State

Where 'location of supplier' and the 'place of supply' are → in the same State/ UT.

Place of supply vs. Address of delivery

- POS is defined from sec 10 to 14 of the IGST Act; Address of delivery is defined u/s 2(2) of the CGST Act
- "**Address of delivery**" (AOD) → Address of the recipient of goods/services indicated on the tax invoice issued by a registered person for delivery of such goods/services
- One more term Sec 2(4) - "**Address on record**" → Address of the recipient as available in the records of the supplier
- The term AOD has not been used in the CGST Act. In CGST Rules, it is used in Rule 46 (Tax Invoice) Rule 53 (Revised Tax Invoice)
- POS and AOD may be same or different
- POS determines whether the supply is inter-state or intra-state

PLACE OF SUPPLY (POS)

Goods

Place of supply – Sec 10(1)(a) vs. 10(1)(c)

	Circumstances	Place of Supply (POS)
Sec. 10(1) (a)	Supply **involves movement of goods**, whether - • by the supplier, or • by the recipient, or • by any other person	Location of goods at the time at which movement of goods terminates for delivery to the recipient
Sec. 10(1) (c)	Supply **does not involve movement of goods**, whether by supplier or recipient	Location of such goods at the time of the delivery to the recipient
Sec. 10(1) (ca) – *w.e.f. 1.10.23*	Supply of goods is made to an unregistered person → Notwith-standing anything contrary contained in clause (a) or (c)	Location as per the address of the said URD person recorded in the invoice, if so recorded; otherwise, Location of the supplier

Place of supply – Sec 10(1)(a)

Confusions of Sec 10(1)(a)

- M/s ABC of Haryana places order upon M/s MNO of Delhi to deliver furniture to the registered branch office in Delhi → Movement of goods from Delhi to Delhi → Invoice upon HAR→ ITC to ABC at HAR? → can be converted as Bill-to-ship-to supply u/s 10(1)(b)
- M/s ABC of UP places order upon M/s MNO of Delhi to deliver study table to the director residence in Delhi to be used for working at home → Movement of goods from Delhi to Delhi → Invoice upon UP → ITC to ABC at UP ??
- *Please note that for entire sec 10 [except (1)(ca)], registration status of a person is immaterial.*
- Place of delivery to transporter-Immaterial -Toyota Kirloskar (Kar.HC)

Place of supply – Sec 10(1)(a)

Counter sale or Ex-works supply (w.e.f. 01.10.2023

- Depends upon the address of the Recipient / Purchaser
- A CA firm files the return of Gurugram Tax Payer → Whether inter or intra → If inter-state, whether threshold limit will exhaust *[N. No. 10/2017-IT, dated 13.10.2017]*

Place of supply – Sec 10(1)(a) vs. 10(1)(c)

Illustration of Sec 10(1)(c)

- Mr. X of Delhi has taken on rent a generator from M/s ABC of UP in April 2017. In Oct 2017, X purchases the Generator from ABC → No movement in supply of generator from ABC
- A manufacture of goods (Auto parts) MNO asks the job-worker to develop a mould → supply the mould to MNO for Rs.10 lacs → retains the mould in his place itself for manufacture of goods → No movement in supply of mould from job-worker
- ABC of Delhi, having dry fruits stored in warehouse, at Haryana, sells these dry fruits to PQR Delhi, who also stores goods in the same godown → the ownership is transferred to PQR by transfer of delivery notes → No movement of goods

PLACE OF SUPPLY (POS)

Services - Travel Industry

POS – Travel Industry

Sec 12(9) and 13(10) of IGST Act

S. 12(9): The place of supply of passenger transportation service to,—

(a) A registered person → Location of such person;

(b) A person other than a registered person, → place where the **passenger embarks** on conveyance for a continuous journey:

- If the point of embarkation is not known at the time of issue of right to passage (open ticket) → POS to be decided as per sec 12(2).
- *Expln*.––Return journey to be treated as a separate journey, even if ticket for onward & return journey is issued at the same time.

S. 13(10): POS of passenger transportation services → Place where passenger embarks on the conveyance for a continuous journey.

POS – Travel Industry – Indian Travel

	Circumstances	Sec	POS
1	AI (DLI) books ticket from Delhi-Mumbai-Delhi to M/s ABC (DLI) - Registered	Sec 12(8)	DLI-MUM →POS-Delhi =C+S MUM-DLI →POS-Delhi =C+S
2	AI (DLI) books ticket from Delhi-Mumbai-Delhi to AG (DLI) - URD	Sec 12(8)	DLI-MUM →POS-DLI =C+S MUM-DLI →POS-MUM =IGST
3	AI (DLI) books ticket from Delhi-Mumbai-Delhi to Meck (USA)	Sec 13(10)	DLI-MUM →POS-DLI =C+S MUM-DLI →POS-MUM =IGST

POS – Airlines – Foreign Travel

	Circumstances	Sec	POS
1	ABC Airlines (DLI) books ticket from Delhi-London-Delhi to VJ (DLI)	S. 12(8)	DLI-LON → POS: DLI =Tax LON-DLI → POS: LON=Tax [Location of VJ is DLI; Not an Export]
2	ABC Airlines (DLI) books ticket from London-Delhi-London to JJ (Lon)	S. 13(10)	LON-DLI → POS: LON=Exp DLI-LON → POS: Ind =Tax
3	BA Airlines (Lon) books ticket from London-Delhi-London to DJ (Lon)	No Provi-sion	LON-DLI → No Supply DLI-LON → POS: Ind =Tax?
4	BA Airlines (Lon) books ticket from Delhi-London-Delhi to BG (DLI)	S. 13(10)	DLI-LON → POS: Ind =Tax? LON-DLI → POS: LON=No tax

POS – Travel Agents

Interesting Questions

- Trading of services: *Can one person buys and sells the services?*

  For example, an entity (say, an aggregator) buys the renting rights of 100 rooms from a hotel and 100 air tickets of DLI-MUM sector from Indigo at lump-sum price → and sells at its own rates → may be at profit or loss → Its books of accounts, it shows purchase and sale (instead of commission)

- In such case, where the aggregator charges full value of service:
  - Can an agent act as principal or not?
  - Whether the POS of service provider be (i) of the agent [sec 12(2)] or (ii) respective service?

[Press Release (ID:170186 dated 23 Aug. 2017) – Newspapers Ads]

POS – Tour Operator

A. POS (Operator):

- 12(2) → Location of Recipient
- 13(3)(b) → Place of performance (supply to individual)

B. POS (Intermediary for Commission):

- 12(2) or 13(2) → Location of Recipient

C. POS (Intermediary – Purchase and Sale):

- Same as A

PLACE OF SUPPLY (POS)

Services - Real Estate

POS – Real Estate – Immovable Property (IP)

Including services supplied by experts and estate agents, supply of accommodation by a hotel, inn, guest house, club or campsite, grant of rights to use IP, services for carrying out or co-ordination of construction work, including that of architects or interior decorators

POS – Sec 12(3) of IGST Act:

- POS → Location of I.P.
- Where I.P. is located outside India → Location of Recipient
- Where I.P. is located in multiple States → Proportionate

POS – Sec 13(3) of IGST Act:

- POS →Location of I.P.
- Where I.P. is located in multiple States → Proportionate

POS – Real Estate – Immovable Property (IP)

Registration in the state of IP – Not required:

GST@GoI @askGST_GoI · Nov 3, 2017

FAQ on Immovable Property

Question: I am a resident of Delhi having no business in Delhi or elsewhere but I have a commercial property in NOIDA on which I receive a rent of Rs. 25 lakhs. Where should I take registration and what tax should I pay ?

Answer: As you do not have a place of business or a fixed establishment in UP (State where the your commercial property is located) you have to take registration in Delhi (State of your usual place of residence) and pay IGST.

Question: I am a resident of Delhi having no business in Delhi or elsewhere but I have commercial property in NOIDA, GURGAON AND JAIPUR respectively. I am receiving rent of Rs. 10 lac from each of the property. Where should I take registration and what tax should I pay ?

Answer: As you do not have a place of business or a fixed establishment in UP, Haryana and Rajasthan (States where the your commercial property is located) you have to take registration in Delhi (State of your usual place of residence) and pay IGST.

54 134 238

Rule 4 of the IGST Rules → Proportionate

PLACE OF SUPPLY (POS)

Services –

Organisation of Events

POS – Organisation of Event in India

Nature of service		POS
(i) Organization of a cultural, artistic, sporting, scientific, educational or entertainment event, including ….. - supply of service in relation to conference, fair, exhibition, or similar events, or (ii) services ancillary to organization of any of the above events or services, or (iii) assigning of sponsorship of any of the above events to -		
(A)	A registered person	Location of such person
(B.1)	Unregistered person; and event is held **in India**	Location where event is actually held
(B.2)	Unregistered person & event is held **outside India**	Location of recipient

Event is held in more than one State and consolidated amount is received → To be determined as per agreement proportionately; and in its absence, by applying the generally accepted accounting principles. [Rule 5]

POS – Organisation of Event in India

POS – Sec 13(5) and 13(7) of IGST Act:

The POS of services supplied by way of -

- admission to, or
- organisation 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 or organisation,

→ **shall be the place where the event is actually held**.

If Event is held in more than one State - Proportionately

POS – Organisation of Event in India - Case Studies

	Case	POS	Nature of GST
1	PQR, Delhi (URD) appoints Event Manager, Mumbai, to organize an event for launching their new product in Delhi	Delhi (Location of event)	IGST (from Mumbai)
2	Mr. Jain, Delhi appoints MNO, Delhi to organise the marriage event of his daughter at Gurgaon Resorts	Haryana (Location of event)	IGST (from Delhi)
3	Mr. Gupta, Delhi appoints MNO, Haryana to organise the marriage event of his daughter at Maldives Resorts	Delhi (Location of Recipient)	IGST (from Haryana)
4	ABC, Delhi (URD) appoints Event Mgr., Mumbai, to organize an event for launch of new product in Delhi, Mumbai, Nepal *[If ABC is registered, then POS for all three events will be Delhi]*	For Delhi and Mumbai -Location of event For Nepal – Delhi (Location of R)	- Proportionate, - C+S for Mumbai - IGST for Delhi - IGST for Nepal

POS – Organisation of Event in India – Case Study-2-1

Export Asso., Mumbai awards a contract to **ABC Ltd.,** Delhi in March 26 to hold Gold Expo in Mumbai for 3 days from 24 to 26 Dec. 26.

ABC is not registered in Maharashtra. Booking starts in April 26

ABC has to take registration in Mumbai – Casual registration of 90+90 days will not work

	Case	POS	Nature of GST
1	Advance from corporate participants [In the absence of Mum Registration, raise invoice from DLI, later cross charge by Mumbai upon DLI] [Output Service]	P O Recipient -12(2)	CGST + MGST / IGST
2	Hotel booking in Mumbai (Input Service)	Mum.-12(3)	CGST + MGST
3	Interior designers, Sound (Input Service)	Mum. -12(6)	CGST + MGST
4	Advertisers (Input Service)	Mum.-12(2)	CGST + MGST

POS – Organisation of Event in India – Case Study-2-2

	Case	POS	Nature of GST
5	Kolkata based Actress [Input Ser.]	Mumbai	IGST
6	Sponsors – A Firm located in Mumbai [Input Ser.]	Mumbai -12(7) [Ancillary Ser.]	CGST + MGST (RCM)
7	French Security service for safety of Jewellery (Input Service)	Mumbai	CGST + MGST (on RCM)
8	Admission/Entry Tickets (Output)	Mumbai -12(6)	CGST + MGST
9	Fee received from Export Asso. (Output)	Mumbai -12(7)	CGST + MGST
10	Receipts from advertisement in print media, event venue, hoardings, etc will belong to Export Association	P O Recipient - - Generally 12(7) [Ancillary Ser.]	CGST + MGST / IGST
11	10% Revenue sharing by Asso with ABC	No Tax – Contract must	

PLACE OF SUPPLY (POS)

Services –

Training & Appraisal

POS – Training & Appraisal Services

Nature of service - Training and performance appraisal		POS
Both Parties are in India (Sec 12)		
(A)	A registered person	Location of such person
(B)	Unregistered person	Place of performance

Nature of service - Training and performance appraisal	POS
One Party Outside in India (Sec 13)	
13(3)b)	Location where services are actually performed (person specific)
13(5)	Place of Event
13(6)- If Training is partly India, and Partly outside = POS - India	

POS – Training Services in India - Case Studies

	Case	POS	Nature of GST
1	A Chartered Accountant takes satellite class in Delhi for CA students (unregistered) across India	Delhi - Location of event	C+S from Delhi
2	Mr. VG of Delhi to provide training to Employee of ABC Ltd. of Jaipur for filing GST Return through satellite class	Jaipur	IGST (from Delhi)
3	SR Pvt. Ltd. of Delhi (registered) appoints YZ Appraisal Co. of Haryana to give appraisal of the performance of senior employees	Delhi - Location of Recipient	IGST (from Haryana)

POS – Training – Sec 13 – Case Study – 1-A

- MNC Inc, USA engages Mr. SK, Mumbai to give motivational classes to its 30 employees (10 from India and 20 from Singapore).
- Half of the training took place in India & remaining half in Singapore.
- The consideration is lump sum fee of $15,000 ($500 per participant).
- Tour, travel and accommodation will be arranged by MNC itself.

- Sec 13(5) ; or since training requires presence of individuals, POS may be decided as per 13(3)(b): Both are at Mumbai.
- Even if half of the training takes place outside India, **POS will remain India** by virtue of sec 13(6) of the IGST Act.
- Thus, Mr. SK, Mumbai will pay CGST + SGST on the transaction.

POS – Training – Sec 13 – Case Study – 1-B

Changing the facts from 1-A slide

- Half of the training took place in USA and remaining half in Singapore.

- Since training requires presence of individuals, POS shall be decided as per sec 13(5) [or 13(3)(b)], which is at Mumbai.
- Since entire training takes place outside India, sec 13(6) of the IGST Act is not applicable
- **POS is outside India**
- Thus, It will be considered as export, subject to other conditions.

POS – Training – Sec 13 – Case Study – 1-C

Changing the facts from 1-A slide

- Participants (same: 10 from India; 20 from Singapore)
- Half of training took place in India & remaining half in Singapore (same)
- **Entire cost is borne by participants.**

- For Indian Participants → POS as per sec 12(5) → POS is Mumbai (may be half training in in Singapore)
- For Foreign Participants → POS as per sec 13(5) → Since half of training is in India, Sec 13(6) is applicable → POS is Mumbai

POS – OIDAR Conditions – Sec 13(12)

POS is Location of Recipient → Person is deemed to be located in India If any two of followings are in India Then, -

(a) Location of address presented by the recipient through internet;

(b) Card by which recipient of services settles payment has been issued;

(c) Billing address of the recipient of services;

(d) Internet protocol address of the device used by recipient of services;

(e) Bank of recipient, in which account used for payment is maintained;

(f) Country code of the subscriber identity module card used by the recipient of services;

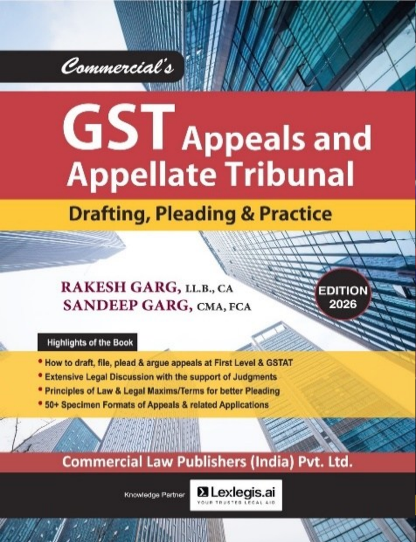
(g) Location of the fixed land line through which the service is received by the recipient.

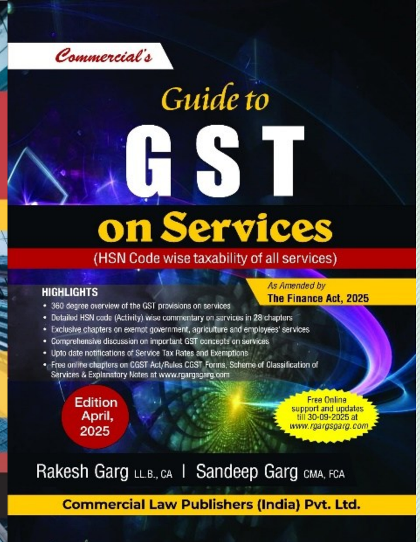
POS – Online Training – Case Study

- Online (Virtual) Classes to students globally
- Fixed place of establishment and GST registration at Gurugram
- 100 participants from India; 200 Students outside India

To be considered as OIDAR service:

- **For Indian Participants** → No specific provision for POS → POS as per sec 12(2) → Since address is on record → C+S or IGST accordingly
- **For Foreign Participants** → POS as per sec 13(12) →
  - If two conditions are in India → then POS is India; otherwise outside India





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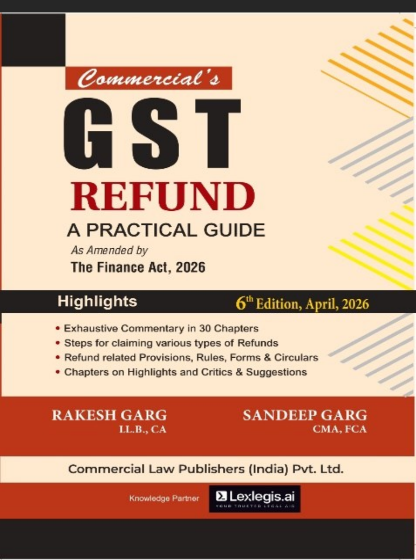

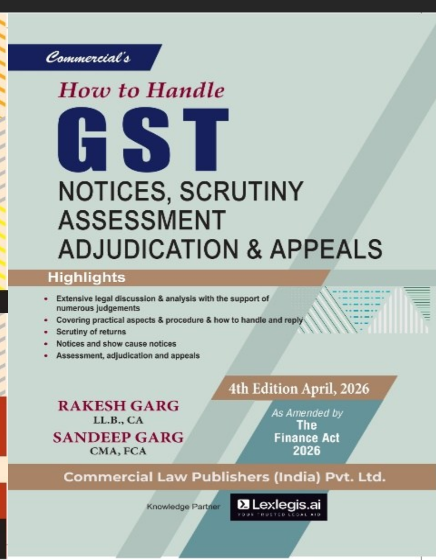

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