Reverse Charge Mechanism under GST

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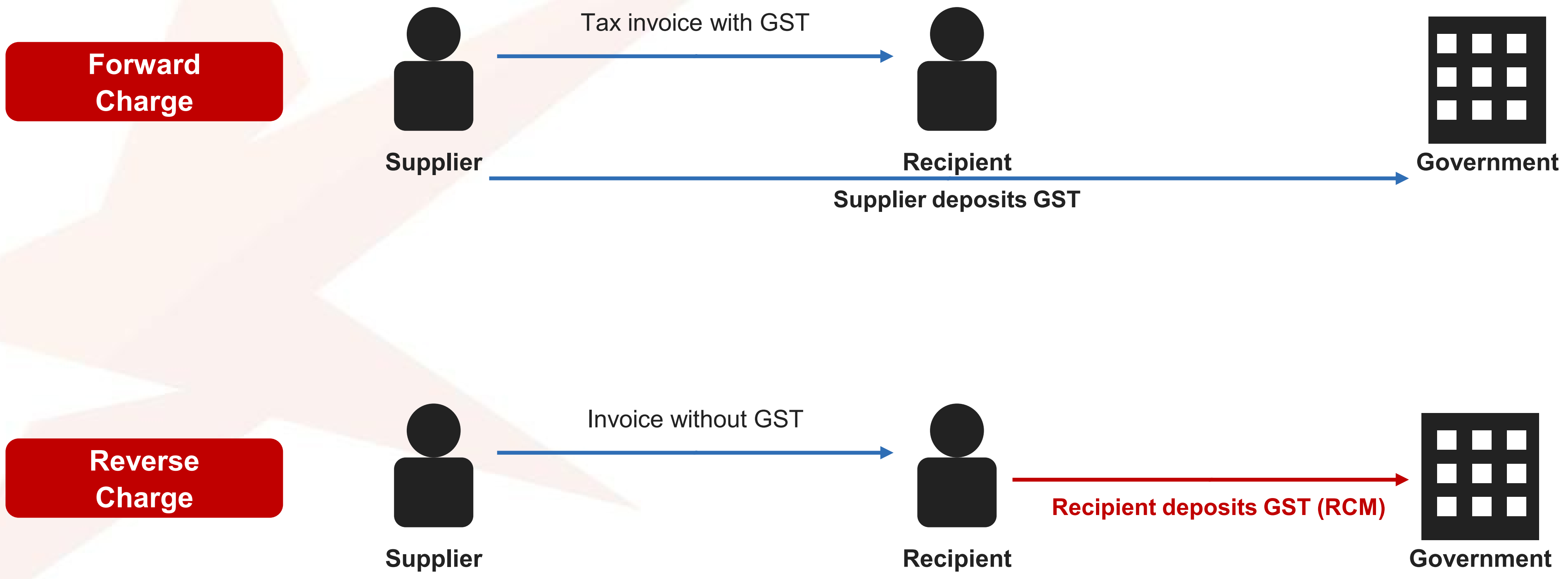
dhruva

A Ryan LLC Affiliate

Reverse Charge Mechanism (RCM)

RCM is a mechanism under the GST law whereby the liability to pay tax is shifted from the supplier of goods or services to the recipient of such goods or services, in respect of notified supplies.



**** The recipient is treated as the person liable to pay tax and is required to comply with all procedural requirements***

Charging Provisions – Section 9(3), 9(4) & 9(5)

Section 9(3) / 5(3)
Notified supplies

Notified goods & services where the **recipient** pays GST.

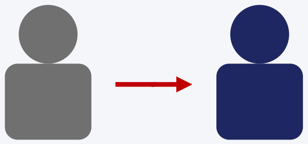
Notification No. 13/2017-CT(R) & 10/2017-IT(R)

- Goods Transport Agency (GTA) services
- Services supplied by an arbitral tribunal
- Central / State / UT Govt. or local authority services
- Insurance agent services to an insurance company
- Security services by a non-body corporate
- Renting of motor vehicles by specified suppliers
- Legal services by an advocate / firm of advocates
- Sponsorship services
- Services provided by a director to a company
- Recovery agent services to banks / FIs / NBFCs
- Transfer / use of copyright by author, artist, etc.
- Import of services from a person outside India

Charging Provisions – Section 9(3), 9(4) & 9(5)

Section 9(4) / 5(4)

Unregistered → registered



Notified supplies from an **unregistered** supplier to a **registered** recipient.

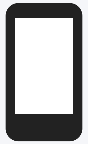
Only applicable in the case of:

1. *Shortfall in the prescribed minimum procurement requirement for construction projects*
2. *Procurement of cement (limit removed w.e.f. 01.10.2019)*
3. *Capital goods for construction projects*

(all w.e.f. 01.04.2019).

Section 9(5)

Via e-commerce operator



Notified services through an ECO – the **ECO** pays tax as if the supplier.

e.g., passenger transport, accommodation, restaurant, housekeeping, local delivery.

Compliances

Registration

No threshold

exemption under Sec 24(iii)

- Compulsory registration if liable under RCM
- Pure RCM-supplier exempt from registration

Payment of Tax (TOS)

18% p.a.

interest on delayed cash payment (Sec 50)

- Services: earlier of payment or 60 days from supplier's invoice (Self invoice in case of unregistered)
- Goods: earlier of receipt, payment or 30 days from supplier's invoice
- Payable only in cash via electronic cash ledger

ITC

30 Nov

following FY or GSTR-9 - last date (Sec 16(4))

- Available only after cash tax payment
- Valid document must be held under Sec 16(2)
- For supplies from unregistered suppliers: the relevant FY for Sec 16(4) is the year the self-invoice is issued – Circular 211/5/2024-GST

(interest and penalty applies, but ITC is not denied on that ground).

Documents

30 days

to raise a self-invoice (Rule 47A w.e.f. 01.11.2024)

- Self-invoice for supplies received from unregistered suppliers
- Payment voucher at time of payment (Sec 31(3)(g))
- Self-invoice / supplier invoice = ITC proof

Circular 211/5/2024-GST: interest applies on delayed RCM tax, but ITC is not denied on that ground alone.

Recent Developments – 1

GTA — Forward Charge
Notif. 03/2022-CT(R)

18 Jul 2022

- 5% (no ITC) or 12% (with ITC) via Annexure V
- FCM continues unless reverted – Notif. 06/2023-CT(R)
- FCM with ITC rate changed from 12% to 18% (Notif. 15/2025-CT(R) w.e.f. 22.09.2025)

Sponsorship Services
Notif. 07/2025-CT(R)

16 Jan 2025

- Body corporate sponsor → moved to forward charge
- Non-body corporate sponsor to body corporate and partnership firm→ still under RCM

Renting — Commercial Property
Notif. 09/2024-CT(R)

10 Oct 2024

- By Unregistered → To registered recipient now under RCM

Metal Scrap
Notif. 06/2024-CT(R)

10 Oct 2024

- Unregistered → registered supply brought under RCM

E-Commerce operator (ECO)
Notif. 17/2017-CT(R)

Sec 9(5)

- Expanded to passenger transport by any motor vehicle and introduced non-company omnibus transport (Notif. 16/2023-CT(R) w.e.f. 20.10.2023)
- Brought unregistered local delivery services under 9(5) (Notif. 16/2023-CT(R) w.e.f. 20.10.2023)

Intermediary Services

Finance Act 2026

- Sec 13(8)(b) IGST Act (supplier-location rule) omitted
- Place of supply now — recipient's location

Directors' Remuneration (Personal Guarantee)

Employee test

- Circular 204/16/2023-GST: treated as a supply (Sch. I)
- No consideration flowing as mandated by RBI Circular No. RBI/2021-22/12 → value may be NIL (Rule 28)

Recent Developments – 2

CIF vs. FOB Imports – Ocean Freight

Notif. No. 13/2023- IT (R) dated 26.09.2023 w.e.f. 01.10.2023 (Omission of entry no 10)

CIF Imports

Freight arranged by exporter

Foreign exporter **Importer**

✓ **Before Omission : RCM payable under Entry no 10 (read down by SC in Mohit Minerals)**

✓ **After Omission : No RCM on ocean freight**

Mohit Minerals (SC, 19.05.2022): importer already pays IGST on the CIF value; a separate RCM levy on freight was read down.

FOB Imports

Freight arranged by importer

Foreign supplier **Importer**

X **Before Omission : RCM on ocean freight apply**

After Omission : RCM on ocean freight ?

Importer contracts the foreign shipping line and is the recipient of the freight service – IGST under RCM attracted before omission.

Discussion: *Mohit Minerals read down Entry 10 of Notif. 10/2017-IT(R) & Entry 9(ii) of Notif. 8/2017-IT(R) as ultra vires for CIF; the ratio is anchored to CIF (composite supply) and does not automatically extend to FOB, where the importer independently procures freight. However several High Courts held no reverse charge on freight even on FOB imports.*

Key Interpretational Issues – 1

Registration for exempt / non-taxable recipients

Must a person making only exempt / non-taxable supplies register just to pay RCM?

Exempt-only recipient ? **Register?**

Open issue

Same-month RCM credit

Can ITC be availed in the same period in which the RCM is paid?

Pay RCM (cash) ? **ITC same month?**

Timing / cash-flow issue

Import from foreign affiliates (Entry 4 of Schedule I)

RCM on intra-group services received from a foreign affiliate.

Foreign affiliate → **Indian entity**

Value = NIL where full ITC

Cir. 210/2024 · Metal One (Del HC) · Alstom (Kar HC)

Key Interpretational Issues – 2

Import vs. export – disparity

An intra-establishment transaction is an import, yet a similar one is not an export.

✓ **Import – taxable (Entry 4 of Schedule I)**

✗ **Export – not zero-rated (Section 2(6)(v) of IGST Act)**

Definitional asymmetry

ECO delivery – GTA or not?

Do last-mile delivery services engaged by an ECO qualify as GTA?

ECO → **Delivery partner** → **Customer** ✗

Held: courier, not GTA

Flipkart – WB AAAR: courier, not GTA, Writ filed by Flipkart before HC

Security vs. manpower

Security by a non-body corporate (RCM) vs general manpower supply (FCM).

Security → RCM

Manpower → FCM

Defining scope correctly in the contract critical to avoid ambiguity and litigation

Key Interpretational Issues – 3

‘Registered’ – State or PAN-India?

Is the recipient’s registration tested State-wise or across the PAN?

State-wise ? **PAN-India**

Scope of ‘registered person’

Document for ITC

Supplier’s invoice or the recipient’s self-invoice?

Supplier’s invoice ? **Self-invoice**

Sec 31(3)(f) · Rule 47A · Cir. 211/2024

ITC when RCM paid late

Is ITC available where RCM is discharged after the time limit?

- *Time limit of 16(4)*
- *Time limit of TOS and self invoicing*

RCM paid late ? **ITC allowed?**

Cir. 211/5/2024 – FY = self-invoice year

Questions?

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