

GST – Reverse charge mechanism (RCM)

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Background :

The concept of Reverse Charge Mechanism was introduced in erstwhile Service Tax laws. Generally, tax is payable by the person who provides services but under Reverse Charge Mechanism the liability to pay tax has shifted to recipient of services.

The concept of Reverse Charge Mechanism is incorporated under GST, but in GST regime Government has notified not only supply of certain services but also supply of certain goods under RCM. The objective of Reverse Charge Mechanism is to widen the scope of levy of tax on unorganized sectors and give exemption to specific class of supplier of goods/services and import of services.

Therefore, under Reverse Charge Mechanism the liability to pay tax is fixed on the recipient of supply of goods or services instead of the supplier or provider in respect of certain categories of goods or services or both under Section 9(3) or Section 9(4) of the CGST Act, 2017 and under sub-section (3) or sub-section (4) of Section 5 of the IGST Act, 2017

Statutory provision of reverse charge mechanism :

“Reverse charge” means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of Section 9, or under sub-section (3) or sub-section (4) of Section 5 of the Integrated Goods and Services Tax Act.

Note : Whenever a registered person procures supplies from an unregistered supplier, he needs to pay GST on reverse charge basis. However, supplies where the aggregate value of such supplies of goods or services or both received by a registered person from any or all the unregistered suppliers is less than five thousand rupees in a day are exempted vide Notification No. 8/2017-C.T. (Rate), dated 28-6-2017.

Government of India had **barred** applicability of this subsection 9(4) of CGST Act & 5(4) of IGST Act 2017

GST Registration under Reverse charge mechanism :

As per Section 24 of the CGST Act, 2017, a person who is required to pay tax under reverse charge has to compulsorily register under GST irrespective of the threshold limit of registration and threshold limit of Rs. 20 lakhs/Rs. 40 lakhs (Rs. 10 lakhs for special category States) but special category States threshold exemption is increased to Rs. 20 lakhs, as per CGST is not applicable to the Reverse Charge Mechanism

Invoicing under Reverse charge mechanism :

Under reverse charge, the buyer or recipient of goods or services or both has to issue invoice or payment voucher on received of goods or services or both from the supplier as may be the case.

In terms of sub-section (3) of Section 31(3)(f) of the CGST Act, 2017 and read with clause (f) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of Section 9 of the CGST Act, shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both; and as per clause (g) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of Section 9 shall issue a **payment voucher** at the time of making payment to the supplier.

The second proviso to Rule 46 provides that where an invoice is required to be issued under Section 31(3) (f) of the CGST Act, a registered person may issue a consolidated invoice at the

end of a month for supplies covered under Section 9(4), the aggregate value of such supplies exceeds rupees five thousand in a day from any or all the supplies.

Input Tax Credit under RCM :

A supplier cannot take Input Tax Credit of GST paid on goods or services used to make supplies on which the recipient is liable to pay tax under reverse charge.

The recipient can avail Input Tax Credit of GST amount that is paid under reverse charge on receipt of goods or services by him.

GST paid on goods or services under reverse charge mechanism is available as ITC to the registered person provided that such goods or services are used or will be used for business or furtherance of business.

The ITC is availed by recipient cannot be used towards payment of output tax on goods or services, the payment of tax under reverse charge only on cash.

Time of supply for Goods under reverse charge :

As per Section 12(3) of the CGST Act, 2017 in case of supplies of goods in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely :-

(a) date of receipt of goods; or

(b) date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or

(c) the date immediately following 30 days from the date of issue of invoice or any other document, or similar other document thereof by the supplier :

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b) or clause (c), the time of supply shall be the date of entry in the books of account of the recipient of supply.

Time of supply for Services under Reverse Charge:

As per Section 13(3) of the CGST Act, 2017 in case of supplies for Services in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely :-

(a) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or

(b) the date immediately following 60 days from the date of issue of invoice or any other documents, similar other document thereof by the supplier :

Provided, where it is not possible to determine time of supply by using above methods under clause (a) and clause (b), the time of supply shall be the date of entry in the books of account of the recipient of supply.

Compliances in respect of supplies under Reverse Charge Mechanism :

(1) As per Section 31 of the CGST Act, 2017 read with Rule 46 of the CGST Rules, 2017, every tax invoice has to mention whether the tax in respect of supply in the invoice is payable on reverse charge. Similarly, this also needs to be mentioned in receipt voucher as well as refund voucher, if tax is payable on reverse charge.

(2) Maintenance of accounts by registered persons: Every registered person is required to keep and maintain records of all supplies attracting payment of tax on reverse charge.

(3) Any amount payable under reverse charge shall be paid by debiting the electronic cash ledger. In other words, reverse charge liability cannot be discharged by using input tax credit. However, after discharging reverse charge liability, credit of the same can be taken by the recipient, if he is otherwise eligible.

(4) Invoice level information in respect of all supplies attracting reverse charge, rate wise, are to be furnished separately in column 4B of GSTR-1.

(5) Advance paid for reverse charge supplies is also leviable to GST. The person making advance payment has to pay tax on reverse charge basis.

i) Chart on Section 9(3) of CGST Act 2017 :

Sub Section 9(3)	Reverse charge	Service Provider	Service Receiver
1	<p>GTA Services :</p> <p>Supply of Services by a Goods Transport Agency (GTA) who has not paid central tax @ 6% in respect of transportation of goods by road to – (a) any factory registered under or governed by the Factories Act, 1948; or</p> <p>(b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or</p> <p>(c) any cooperative society established by or under any law; or</p> <p>(d) any person registered under CGST/ IGST/SGST/or UTGST Act; or</p> <p>(e) anybody corporate established, by or under any law; or</p> <p>(f) any partnership firm whether registered or not under any law including association of persons; or</p> <p>(g) any casual taxable person; located in the taxable territory.</p> <p>“Provided that nothing contained in this entry shall apply to services provided by a goods transport agency, by way of</p>	Goods Transport Agency (GTA)	<p>(a) any factory registered under or governed by the Factories Act, 1948; or</p> <p>(b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or</p> <p>(c) any cooperative society established by or under any law;</p> <p>(d) any person registered under CGST/IGST/ SGST/UTGST Act; or</p> <p>(e) anybody corporate established, by or under any law; or</p> <p>(f) any partnership firm whether registered or not under any law including association of persons; or</p> <p>(g) any casual taxable person located in the taxable territory.</p>

	<p>transport of goods in a goods carriage by road, to, –</p> <p>(a) a Department or Establishment of the Central Government or State Government or Union territory; or</p> <p>(b) local authority; or</p> <p>(c) Governmental agencies, which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under Section 51 and not for making a taxable supply of goods or services.”</p>		
2	<p>Legal Services</p> <p>Services provide by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly. Explanation. –</p> <p>‘Legal service’ means any service provided in relation to advice, consultancy or assistance in any manner and includes representational services before any Court, Tribunal or Authority.</p>	<p>An individual advocate including a senior advocate or firm of advocates.</p>	<p>Any business entity located in the taxable territory.</p>
3	<p>Arbitral Services</p> <p>Services supplied by an arbitral Tribunal to a business entity.</p>	<p>An arbitral Tribunal</p>	<p>Any business entity located in the taxable territory</p>

4	<p>Sponsorship Services</p> <p>Service provided by way of Sponsorship Service to anybody corporate or partnership firm.</p>	Any person	Anybody corporate or partnership firm located in the taxable territory
5A	<p>Government Services :</p> <p>Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding the following :</p> <p>(A) renting of immovable property service, and</p> <p>(B) services specified below :-</p> <p>(i) services by the Department of posts by way of speed post, life insurance, express parcel post and agency services provided to a person other than Central Government, State Government or Union territory or local authority;</p> <p>(ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>(iii) transport of goods or passengers.</p> <p>the Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under the Central Goods and Services Tax Act, 2017 (with effect from 25-1-2018).</p>	Central Government, State Government, Union territory or Local Authority	Any Business Entity located in the taxable territory.

5B	Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Any Person	Promoters
5C	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.	Any Person	
6	Services by the Director: Services supplied by a director of a company or a body corporate to the said company or the body corporate.	A director of a company or a body corporate	A company or a body corporate located in the taxable territory
7	Insurance Agent Service : Services provided by an insurance agent to person carrying on insurance business.	An Insurance Agent	Any person carrying on insurance business, located in the taxable territory.

8	<p>Recovery Agent Service :</p> <p>Services provided by a recovery agent to a banking company or a financial institution or a non-banking financial company.</p>	A Recovery Agent	Banking company or financial institution or a non-banking financial company, located in the taxable territory.
9	<p>Copyright Service :</p> <p>Supply of Services by a music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of Section 13 of the Copyright Act, 1957 relating to original dramatic, musical or artistic works to a music company, producer or the like.</p>	Music Composer, photographer, artist, or the like.	The Music company, producer or the like, located in the taxable territory.
9A	<p>Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of subsection (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a publisher. (Sl.9 & 9A changes carried vide Notification No.22/2019-C.T (Rate) dated 30.09.2019 with effect from 1st October,2019</p>	Author	<p>Publisher located in the taxable territory:- Provided that nothing contained in this entry shall apply where:-</p> <p>(i) the author has taken registration under the Central Goods and Services Tax Act,2017 (12 of 2017), and filed a declaration , in form at annexure I, within the time limit prescribed therein, with the jurisdictional CGST or SGST commissioner, as the case may be, that he exercises the option to pay central tax on the service specified in column (2), under forward charge in accordance with Section 9 (1) of the Central</p>

			<p>Goods and Service Tax Act, 2017 under forward charge, and to comply with all the provisions of Central Goods and Service Tax Act, 2017 (12 of 2017) as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option;</p> <p>(ii) the author makes a declaration, as prescribed in Annexure II on the invoice issued by him in Form GST Inv-I to the publisher. ”;</p>
10	<p>Reserve Bank Services :</p> <p>Supply of services by the members of Overseeing Committee to (Reserve Bank of India Effective from 13-10-2017)</p>	<p>Members of Overseeing Committee constituted by the Reserve Bank of India.</p>	<p>Reserve bank of India</p>
11	<p>Services by DSAs :</p> <p>Services supplied by individual Direct Selling Agents (DSAs) other than a body corporate partnership or limited liability partnership firm to bank or non-banking financial company (NBFCs) Effective from 27-7-2018).</p>	<p>Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm.</p>	<p>A banking company or a non-banking financial company, located in the taxable territory</p>
12	<p>Services provided by Business Facilitator (BF) to a banking company.</p>	<p>Business facilitator (BF)</p>	<p>A banking company, located in the taxable territory.</p>

13	<p>Services provided by an agent of Business Correspondent (BC) to Business Correspondent (BC).</p>	An agent of Business Correspondent (BC).	A business correspondent, located in the taxable territory.
14	<p>Security Services (services provided by way of supply of security personnel) provided to a registered person :</p> <p>Provided that nothing contained in the entry shall apply to,- (i)(a) a Department or Establishment of the Central Government or State Government or Union territory; or (b) local authority; or (c) Government agencies; which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under Section 51 of the said Act and not for making a taxable supply of goods or services; or (ii) a registered person paying tax under Section 10 of the said Act. Sl. No. 12 to 14 vide Notification No. 29/2018-C.T. (Rate) dated 31-12-2018 w.e.f. 1-1- 2019)</p>	Any person other than a body corporate.	A registered person, located in the “taxable territory.”
15	<p>Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate. Notification No.29/2019-Central Tax (Rate), dated 31.12.2019.</p>	Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging central tax at the rate of 6% to the service recipient.	Any body corporate located in the taxable territory”.

16	Services of lending securities of Securities under Lending scheme, 1997 (Scheme). Securities and Exchange Board of India (SEBI), as amended. Sl.16 changes have carried vide Notification No.22/2019-C.T (Rate) dated 30.09.2019	Lender i.e. a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the scheme of SEBI.	Borrower i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI).
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ii) Chart on Section 5(3) of IGST Act 2017

Sub Section 5(3)	Reverse charge	Service Provider	Service Receiver
1	Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient.	Any person located in a non-taxable territory.	Any person located in the taxable territory other than non-taxable online recipient.
2	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.	A person located in a non-taxable territory.	Importer, as defined in Sec 2(26) of the Customs Act,1962, located in the taxable territory

Thank You

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