

# GST

**GOODS & SERVICE TAX**

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**ONE NATION ONE TAX**

# GOODS & SERVICES TAX

PLACE OF SUPPLY  
IN CASE OF SERVICES

BY  
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# DISCLAIMER

- 1) **This presentation is purely based on**
  - (a) **the CGST Act and IGST Act passed by the Parliament recently,**
  - (b) **FAQ released on 31<sup>st</sup> March 2017, &**
  - (c) **Draft Rules.**
  
- 2) **This presentation is prepared for the purpose of Refresher Course on GST organised by WICASA for the reference of the participants. The information contained herein is meant for general purpose and is not exhaustive and accordingly will not constitute any kind of professional advice or services. By using any part of this presentation, the user accepts that the author, presenter or any organisation with which he/she may be associated shall be liable to the user for any decision made or reliance placed on this presentation.**



# Why Place of Supply ?

# TAXABLE EVENT IN GST IS SUPPLY

Sale, transfer, *barter*, exchange, license, rental, lease or disposal

made for a **consideration** (with a few exception)

**SUPPLY**  
to include

made **in furtherance of business** (with few exception)

Importation of service, whether or not for a consideration /in course of furtherance of business is a supply

## Scope of 'taxable event' expanded

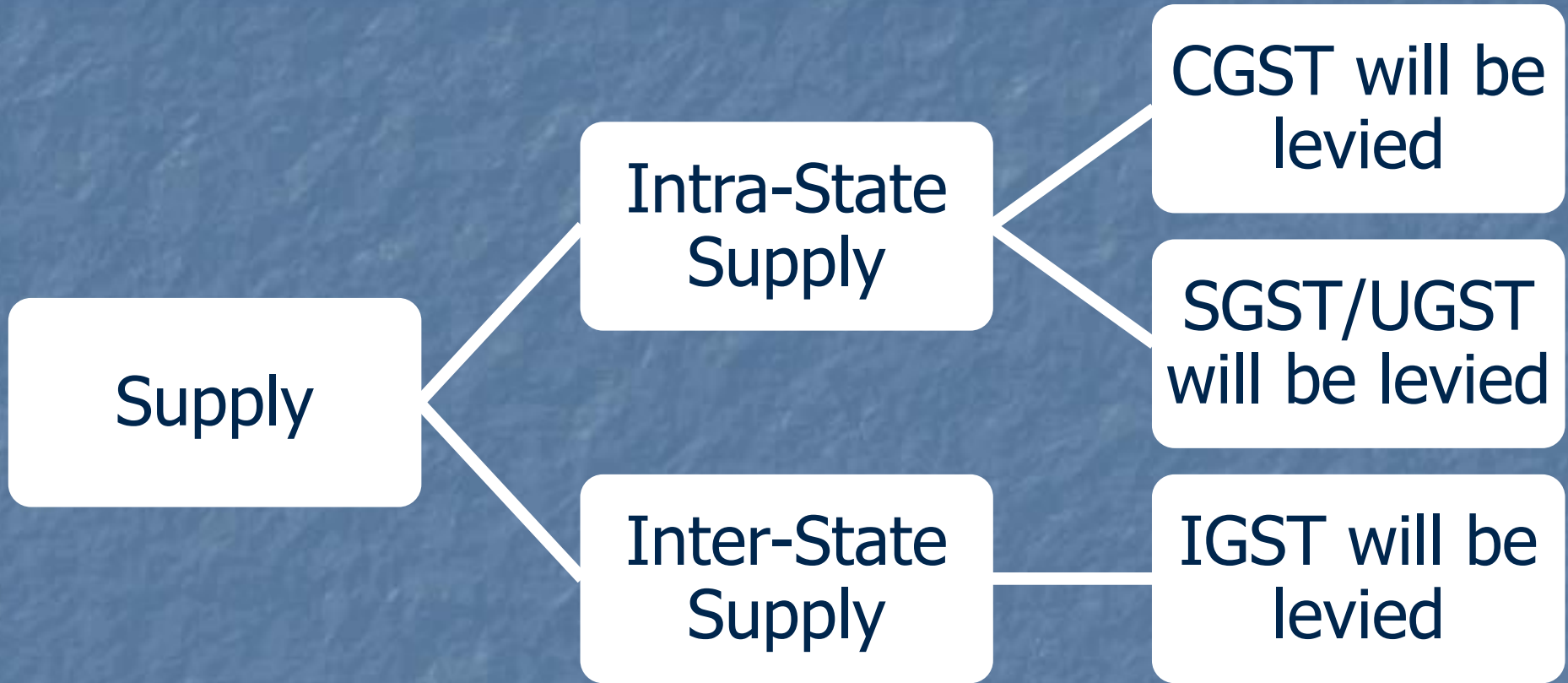
Supply includes.....

- 
- Goods and services even if supplied without consideration for furtherance of business.
  - Business Assets put to non-business use, even without consideration.
  - Barter/exchange transaction.
  - Branch transfer.

# Inter state GST VS Intra state GST

- 122<sup>nd</sup> Constitutional Amendment Bill (“Amendment Bill”) gave way for the introduction of GST. As per Article 286 (of Amendment Bill), no law of a state shall impose a tax on supply of goods or of services or both where such supply takes place:
  - *outside the state, or*
  - *in the course of import of the goods or services or both into, or export of the goods or services or both out of, the territory of India.*
- It has also been specified in Article 246A (of Amendment Bill) that Parliament has exclusive power to make laws with respect to GST where the supply of goods, or of services, or both takes place in the course of interstate trade or commerce.
  - Accordingly, tax under the GST laws would be imposed in the following manner :
    - *Intra-state supplies: Centre shall impose CGST and the respective state/union territories shall impose SGST/ UGST; and*
    - *Inter-state supplies: Centre shall impose IGST.*

# Why Place of Supply (POS) ??





# Why accurate determination of Place of Supply is important ??

- ❖ Wrong classification of supply between interstate or intra-state and vice-versa may lead to hardship to the taxpayer as per section 19 of IGST Act and section 70 of CGST Act.
- ❖ Where wrong taxes have been paid on the basis of the wrong classification, refund will have to be claimed by the taxpayer.
- ❖ The taxpayer will have to pay the correct tax **along with interest** for delay on the basis of revised/correct classification.
- ❖ Also, correct determination of place of supply will help us in knowing the incidence of tax. As if place of supply is determined as a place outside India, then tax will not have to be paid on that transaction.

**PLACE OF SUPPLY**

**IN CASE OF**

**SERVICES**



# Determining “Place of Supply” of Services

- Determining the place of supply of service is difficult in comparison to the place of supply of goods, as services are intangible.
- Rules for determining place of supply of service are very important to bring uniformity.
- The principle of *“destination based consumption tax”* is a guiding factor for determining the place of supply of services under various circumstance. Thus the place of supply would be in most cases fixed at the place where the services are destined (not easy to do so).

# Determining “Place of Supply” of Services

Section 12 & 13 of the IGST Act provides the rules for determining “Place of Supply” of services.

Section 12 provide Rules for determining “Place of Supply” of services where **Both** Locations of  
Supplier of Service &  
Recipient of Service .  
are in **INDIA**

Section 13 provide Rules for determining “Place of Supply” of services where  
Location of either of  
Supplier of Service **OR**  
Recipient of Service .  
is outside **INDIA**

# “Place of Supply” of Services (Section 12 of the IGST Act)

–“Special Rules” - for determining place of supply of services specified in sub-sections (3) to (14) of Section 12 ;

&

–“General Rule” - for determining place of supply of all remaining services [contained in sub section (2) of section 12]

# POS of Services (Section 12 of the IGST Act)

## Special Rules

Section of IGST Act	Situation	Place of Supply
12(3)	In relation to immovable property accommodation at hotel, for social, religious function etc. or services ancillary to it	Location at which the immovable property or boat or vessel is located or intended to be located, and if located outside India, location of service recipient.
	<b>Example</b> :- (1) A in Delhi wants to construct a building at Jaipur. He hires an engineer based at Kolkata. POS in this case would be Jaipur as immovable property is intended to be located in Jaipur.	
	<b>Example</b> :- (2) S registered in Jaipur. She goes to Kolkata and stays in a hotel at Kolkata. She also charges for use facility of Beauty treatment at hotel. POS would be Kolkata for accommodation service by hotel and beauty treatment as it is an ancillary service to be accommodation.	

# POS of Services (Section 12 of the IGST Act)

## Special Rules

Section of IGST Act	Situation	Place of Supply
12(4)	Restaurant and catering services, personal grooming, fitness, beauty treatment, health service.	Where the services are actually performed.
12(5)	Services in relation to training and performance appraisal	If recipient is registered than location of such person, otherwise where the service actually performed.
	<b>Example</b> :- A located at Delhi provides training at Kolkata to employees of M Ltd., which is registered at Mumbai. POS will be Mumbai. If M Ltd., is not a registered than POS will be Kolkata.	

# POS of Services (Section 12 of the IGST Act)

## Special Rules

Section of IGST Act	Situation	Place of Supply
12(6)	Services provided by way of admission to a cultural artistic, sporting, scientific, educational, or entertainment event or amusement park or ancillary service.	Where the event is actually held OR Where the park or such other place is located.



# POS of Services (Section 12 of the IGST Act)

## Special Rules

Section of IGST Act	Situation	Place of Supply
12(7)	Service provided by way of-  a) Organization of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of service in relation to a conference fair, exhibition, celebration or similar or events, or	If recipient is registered than location of such person, otherwise location where the event is actually held. If the event is held outside India, the place of supply shall be the location of the recipient.
	b) Service ancillary to organization of any of the above events or services, or assigning of sponsorship of any of the above events.	

# POS of Services (Section 12 of the IGST Act)

## Special Rules

Section of IGST Act	Situation	Place of Supply
	<p><b>Example</b> :- (1) K organizing a cultural event at Mumbai. He is registered in Kolkata. D is a registered person in Delhi, provides his services at Mumbai. POS would be Kolkata. However if K is not registered than POS would be Mumbai.</p>	
	<p><b>Example</b> :- (2) A who is resident in Mumbai hires B who is resident of Jaipur to provide services for organizing an event at USA. POS would be Mumbai.</p>	
12(8)	Services by way of transportation of goods, including by mail or courier	If recipient is registered than location of such person, otherwise location at which such goods are handed over for their transportation.
	<p><b>Example</b> :- D is registered person in Delhi. He sends some goods from transportation from Kolkata to Mumbai. POS would be Delhi. However if D is not registered person than POS would be Kolkata</p>	

# POS of Services (Section 12 of the IGST Act)

## Special Rules

Section of IGST Act	Situation	Place of Supply
12(9)	Passenger transportation service.	<p>If recipient is registered than location of such person, otherwise place where the passenger embarks on the conveyance for a continuous journey.</p> <p>Return Journey shall be treated as a separate journey.</p>
	<p><b><u>Example 1)</u></b>:-Journey from Mumbai-Delhi-London-Delhi: POS Delhi</p> <p><b><u>Example 2)</u></b>:-Journey from London-Mumbai-London : POS London</p> <p><b><u>Example 3)</u></b>:-A books two tickets. 1<sup>st</sup> is Mumbai-Delhi and 2<sup>nd</sup> is Delhi-Mumbai for Return. In this case for 1<sup>st</sup> case POS is Mumbai and for 2<sup>nd</sup> Delhi. (all these example treated as unregistered).</p>	

# POS of Services (Section 12 of the IGST Act)

## Special Rules

Section of IGST Act	Situation	Place of Supply
12(10)	Service on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle	Location of the first scheduled point of departure of that conveyance for the journey.
	<b>Example:</b> Anil has received internet services on board a flight from Delhi to London	Delhi (first departure point of the journey)
	<b>Example:</b> Flight from Delhi to US has a scheduled stopover at Dubai and Ajay has received the spa services after the Dubai stopover	Delhi (in our view even in case of stop over journey the first scheduled point would be Delhi location from where the journey is started)

# POS of Services (Section 12 of the IGST Act)

## Special Rules

Section of IGST Act	Situation	Place of Supply
12(11)a	Telecommunication services including data transfer, broadcasting cable and direct to home television services	Where the fixed telecommunication line is installed for receipt of service
	<b>Example</b> : A Limited registered at Mumbai provides a dish antenna at house of B in Jaipur. POS would be Jaipur.	
12(11)b	Mobile connection for telecommunication and internet services provided on post-paid basis	Location of Billing address of the recipient of service of the supplier of service.
12(11)c	Mobile connection for telecommunication and internet services provided on pre payment through a voucher	Location where such pre payment is received or vouchers are sold

# POS of Services (Section 12 of the IGST Act)

## Special Rules

Section of IGST Act	Situation	Place of Supply
12(11)d	Mobile connection for telecommunication and internet services provided on pre payment through electronic mode or internet banking.	Location of the recipient of service on record of the supplier of service
12(12)	Banking and other Financial services including stock broking services	Location of the recipient of services on the records of the supplier of services. If not, the location of the supplier of services.
	<b>Example</b> : D in Delhi has a bank account with SBI. The address on record available with bank is in Kolkata. POS is Kolkata.	

# POS of Services (Section 12 of the IGST Act)

## Special Rules

Section of IGST Act	Situation	Place of Supply
12(13)	Insurance Services	If recipient is registered than location of such person, otherwise location of the recipient of services on the records of the supplier of services.
	<b>Example</b> : A is person located at Jaipur and taken an insurance policy from a company based in Mumbai. If A is registered then POS would be Jaipur. Otherwise location of the recipient of services on the records of the supplier of services.	

# POS of Services (Section 12 of the IGST Act)

## Special Rules

Section of IGST Act	Situation	Place of Supply
12(14)	Advertisement services to Central Government, a state government, a statutory body or a local authority	Located in each of such states and the value of such supplies specific to each state shall be in proportion to amount attributable to service provided by way of dissemination in the respective states.
	<b><u>Example</u></b> : A Ltd., located and registered in Mumbai has been appointed as an Advertisement Agency by Government of Rajasthan for Advertisement of Make in India in the entire state of Rajasthan. POS would be Rajasthan.	



# POS of Services (Section 12 of the IGST Act)

## General Rule

Section of IGST Act	Situation	Place of Supply
12(2)	Cases other than Covered in sub section (3) to (14) above.	<p>If recipient is a registered person then the POS would be the location of the recipient of service.</p> <p>If recipient is not a registered person &amp; address of recipient exists on record then POS would be the location of the recipient.</p> <p>However in case the address of the recipient does not exists on record, then POS would be the Location of supplier.</p>
	<p><b><u>Example</u></b> : A located in Gujrat receives services at Gujrat from B located in Rajasthan. A is a registered person in Gujrat. In this case POS will be Gujrat.</p>	

# **“Place of Supply” of Services (Section 13 of the IGST Act)**

## **Where either of the Recipient or Supplier of Services is Outside INDIA**

–“Special Rules” - for determining place of supply of services specified in sub-sections (3) to (13) of Section 13 ;

&

–“General Rule” - for determining place of supply of all remaining services [contained in sub section (2) of section 13]

# POS of Services (Section 13 of the IGST Act)

## Special Rules

Section of IGST Act	Situation	Place of Supply
13(3)(a)	Services supplied in respect of goods that are required to be made physically available by the recipient of service to the supplier of service, or to a person acting on behalf of the supplier of service in order to provide the service.	Location where the services actually performed
	<b>Remarks:</b> The basic requirements of a service to be covered under this rule is that the goods temporarily come into the physical possession or control of the service provider and without this happening, the service cannot be rendered. Thus the service involves movable objects or things than can be touched, felt or possessed.	
	<b>Example</b> :- A sends the goods to B for repairing of the said goods. The goods are again handed over to A by B after repairing. The POS would be where the service are performed by B.	

# POS of Services (Section 13 of the IGST Act)

## Special Rules

Section of IGST Act	Situation	Place of Supply
Proviso to 13 (3)(a)	When such services are provided from a remote location by way of electronic means.	Location where goods are situated at the time of supply of service.
	This clause shall not apply in the case of a service supplied in respect of goods that are temporarily imported into India for exported after repairs without being put to any use in India; other	
13(3)(b)	Services supplied to an individual, represented either as the recipient of services or a person acting on behalf of the recipient which require the physical presence of the recipient or the person acting on his behalf, with the supplier for the supply of services.	POS would be the location where the services are actually performed.

# POS of Services (Section 13 of the IGST Act)

## Special Rules

Section of IGST Act	Situation	Place of Supply
13(4)	Services supplied in relation to an immovable property, including services supplied in this regard by exports and estate agents, supply of hotel accommodation by a hotel, inn guest house, club or campsite, by whatever name called, grant of rights to use immovable property, services for carrying out or co-ordination of construction work, including architects or interior decorators.	Place where the immovable property is located or intended to be located.

# POS of Services (Section 13 of the IGST Act)

## Special Rules

Section of IGST Act	Situation	Place of Supply
13(5)	Services supplied by way of admission to, or organization of, a cultural, artistic, sporting, scientific, education, or entertainment event. Or a celebration, conference, fair, exhibition, or similar event , and services ancillary to such admission or organization.	POS shall be the place where the event is actually held.
	<b>Example:</b> A comes from USA and attends a conference at Mumbai. POS would be Mumbai.	

# POS of Services (Section 13 of the IGST Act)

## Special Rules

Section of IGST Act	Situation	Place of Supply
13(6)	Where services referred in above 13(3), 13(4), 13(5) is supplied at more than one location, including a location in the taxable territory.	Location in the taxable territory where the greatest proportion of the service is provided
13(7)	Where services referred in above 13(3), 13(4), 13(5) is supplied at more than one state.	POS of such services shall be taken as being in each of the states in proportion to the value of services so provided in each state.

# POS of Services (Section 13 of the IGST Act)

## Special Rules

Section of IGST Act	Situation	Place of Supply
13(8)	(a) Services supplied by a banking company, or a financial institution, or a non-banking financial company, to a account holders; (b) intermediary services; (c) services consisting of hiring of means of transport, including yachts but excluding aircraft and vessels, up to a period of one month.	POS shall be the location of the supplier of services .
	<b>Example:</b> A located in India gives intermediary service to B located in USA. A would be location of supplier of service i.e. location of A, India.	



# POS of Services (Section 13 of the IGST Act)

## Special Rules

Section of IGST Act	Situation	Place of Supply
13(9)	Services of transportation of goods, other than by way of mail or courier.	POS would be destination of the goods.
	<b>Example:</b> A sends some goods through transport from India to USA. POS would be USA.	
13(10)	Passenger transportation service.	Where the passenger embarks on the conveyance for a continuous journey.
	<b>Example:</b> A resident of USA goes to UK from India. He embarks from India. POS would be India.	

# POS of Services (Section 13 of the IGST Act)

## Special Rules

Section of IGST Act	Situation	Place of Supply
13(11)	Service provided on board a conveyance during the course of a passenger transport operation, intended to be consumed while on board.	First scheduled point of departure of that conveyance for the journey.
13(12)	Online information and database access or retrieval services.	Location of recipient of service.
13(13)	In order to prevent double or non-taxation of the supply of a service, or	
	For the uniform application of rules, the Government shall have the power to notify any description of services or circumstances in which the place of supply shall be the place of effective use and enjoyment of a service.	

## Place of supply (specified services)

Where Location of BOTH Recipient & Supplier are in India

In relation to immovable  
Property including architect,  
interior decorator, estate agent

Lodging, accommodation by a hotel,  
Inn, guest house

Accommodation in any immovable  
property for organizing marriage etc.

Any service incidental to above

Location of immovable property or boat  
Or vessel is located or intended to be  
Located.

If located in more than one state, in each  
State in proportion to value of services correlated  
as per the agreement or reasonable basis

## Place of supply (specified services)

Where Location of BOTH Recipient & Supplier are in India

Restaurant, Catering service,  
Personal grooming, fitness,  
beauty parlours

Location where the service  
are actually performed

Service in relation to  
training & performance  
appraisal

\* Organizing of a cultural,  
artistic, sporting, scientific,  
educational or entertainment  
Event, conference, fair exhibition  
Etc.

\* Service in relation to above

\* To a registered person –  
Location of registered person

\*To an unregistered person –  
Location where the service/ event are  
Actually performed / held.

## Place of supply (specified services)

Where Location of BOTH Recipient & Supplier are in India

Admission to cultural, artistic,  
Sporting, scientific event,  
Amusement park

Place where event is actually  
Held, park is situated

Service of transportation of  
Goods including by mail  
or courier

\* To a registered person –  
Location of registered person  
  
\*To an unregistered person –  
Location at which goods are handed  
for transportation

Passenger transportation

\* To a registered person –  
Location of registered person  
  
\*In other case–  
Place where the passenger embarks for  
A continuous journey

# Place of supply ( specified services)

Where Location of BOTH Recipient & Supplier are in India

Supply of service on board of  
A conveyance

1<sup>st</sup> Schedule point of  
departure

Telecommunication service by  
fixed telecommunication line

Where the telecommunication  
Line, leased circuit etc. is  
Installed for receipt of service

In case of mobile communication  
Internet - Pre paid

Location of billing address  
of the recipient

In case of mobile communication  
Internet - Post paid

\*Location where such pre payment is received  
\*If recharge is made through internet banking or  
Electronic mode, the location of the recipient of  
service on record of supplier

# Place of supply (specified services)

Where Location of BOTH Recipient & Supplier are in India

Banking and other financial Services, stock broking

- \* Location of the recipient available on record of supplier
- \*If service not linked to a/c of recipient, the location of the supplier

Insurance services

- \* To a registered person – Location of such person
- \*To an unregistered person – Location of the recipient on record of supplier

Advertisement to a govt./ local authority for identifiable state

Location in each such state

# Place of supply (other than specified services)

## SERVICE

### To a registered person

- Location of service receiver

### To a non registered person

- \*Location of the service receiver available on the records of service provider or
- \*Location of the service provider

Where Location of BOTH Recipient & Supplier is in India



## Place of supply (specified services)

Where Location of Either of Recipient or Supplier is out of India

services supplied in respect of goods required to be made physically available to the supplier of services, or to a person acting on behalf of the supplier

services supplied to an individual, represented either as the recipient of services or a person acting on behalf of the recipient, which require the physical presence of the recipient or the person acting on his behalf.

Location where the service are actually performed

## Place of supply (specified services)

Where Location of Either of Recipient or Supplier is out of India

In relation to immovable Property including architect, interior decorator, estate agent

Lodging, accommodation by a hotel, Inn, guest house

Location of immovable property or boat Or vessel is located or intended to be Located.

## Place of supply (specified services)

Where Location of Either of Recipient or Supplier is out of India

\* Organizing of a cultural, artistic, sporting, scientific, educational or entertainment Event, conference, fair exhibition  
Etc.

- Service in relation to and Ancillary to above

Place where the event is actually held.

## Place of supply (specified services)

Where Location of Either of Recipient or Supplier is out of India

Where any services referred to in sub-section (3) or sub-section (4) or sub-Section (5) is supplied at more than one location, including a location in the taxable territory

The location in the taxable territory

Where any services referred to in sub-section (3) or sub-section (4) or sub-Section (5) is supplied at more than one State or Union territory.

in proportion to the value for services separately collected or determined in terms of the contract or agreement or, in the absence of such contract or agreement, on such other basis as may be prescribed.

## Place of supply (specified services)

Where Location of Either of Recipient or Supplier is out of India

services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders;

intermediary services

services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month

The location of the Supplier of services

## Place of supply (specified services)

Where Location of Either of Recipient or Supplier is out of India

Service of transportation of Goods otherwise than by mail or courier

The Place of Destination of Goods

Passenger transportation

Place where the passenger embarks on conveyance for A continuous journey

## Place of supply (specified services)

Where Location of Either of Recipient or Supplier is out of India

Supply of service on board of  
A conveyance

1<sup>st</sup> Schedule point of Departure

Online information and  
database access to retrieval  
services

Location of person receiving  
such services

## Place of supply (other than specified services)

### SERVICE

- Normally
- Location of recipient of Services

If location of recipient of services is not available, the location of Supplier of Services

Where Location of Either of Recipient or Supplier is out of India



Thank U

Believe  
in  
Yourself