

Goods & Service Tax (GST)

A Metamorphic Reform



Topic

- Reverse Charge Mechanism &
- Exemptions under GST

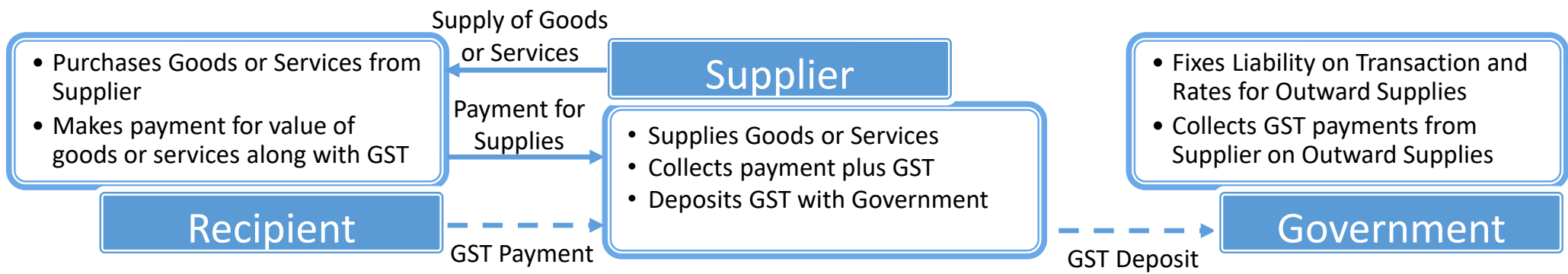


Presented by
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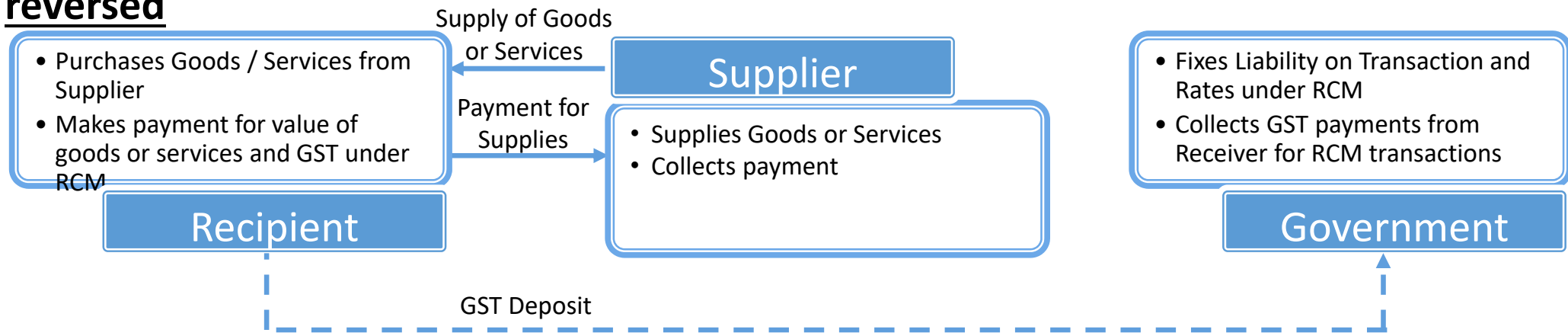
For - J B Nagar Study Circle Meeting

RCM?

Normal Scenario - Liability to pay GST is on Supplier



RCM - Liability to pay GST is shifted on recipient from supplier i.e. chargeability gets reversed



RCM is a concept introduced to increase tax revenues, wider coverage and compliances for unorganized sectors

RCM?

- Reverse Charge is defined under section 2 (98) of CGST Act

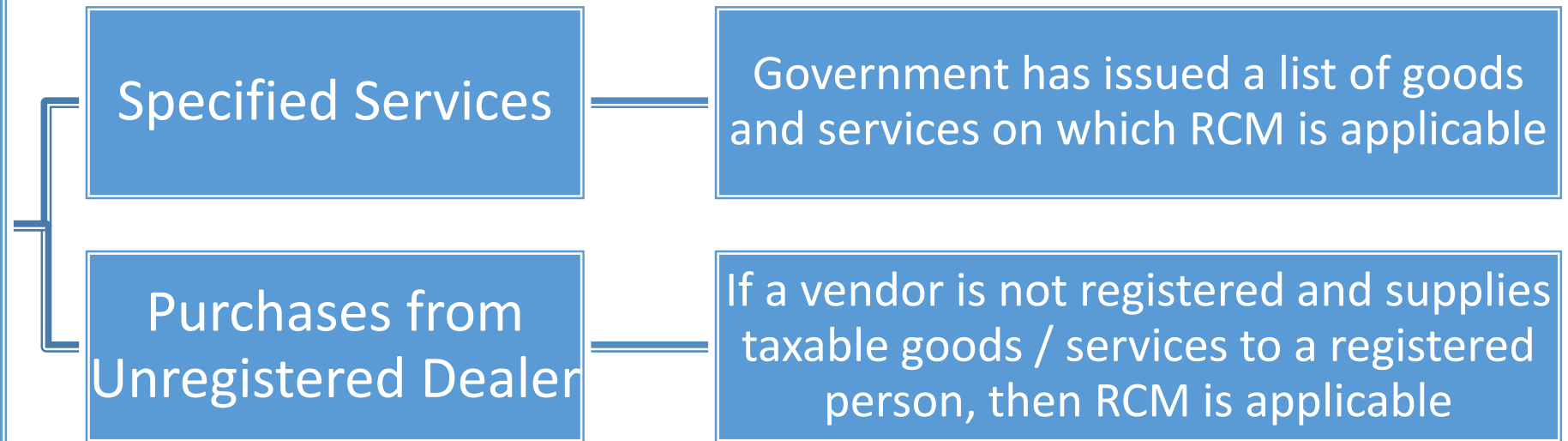
“reverse charge” means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both

- under sub-section (3) or sub-section (4) of section 9, or
- under sub-section (3) or subsection (4) of section 5 of the Integrated Goods and Services Tax Act

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- **Section 9 (3) of CGST Act** - The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.
 - **Section 9 (4) of CGST Act** -The central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

Applicability of RCM

Applicability of RCM



RCM - Specified List of Goods

Sr. No.	Description of Goods	Supplier of Goods	Recipient of Supply
1	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2	Bidi wrapper leaves (tendu)	Agriculturist	Any registered person
3	Tobacco Leaves	Agriculturist	Any registered person
4	Silk Yarn	Any person who manufactures silk yarn from raw silk worm cocoons for supply of silk yarn	Any registered person
5	Supply of Lottery	State Govt., Union Territory or Local Authority Lottery Distributer or Selling Agent	Lottery Distributer or Selling Agent

Notification No. 4 /2017 – Central Tax (Rate) dated 28 June, 2017

RCM - Specified List of Services -CGST/(IGST)

Sr. No.	Service	Provider of service	Recipient of Service
1 (2)	Transportation of goods by road	Goods Transport Agency (GTA) who has not Paid central tax at the rate of 6%	(a) any factory registered under or governed by the Factories Act, 1948; (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; (c) any co-operative society established by or under any law; (d) any person registered under CGST/SGST/UTGST Act; (e) any body corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons including Limited Liability Partnership. (g) Casual taxable person
2 (3)	Representational services before any court, tribunal or authority, directly or indirectly, or by way of legal services	An individual advocate or firm of advocates	Any business entity.
3 (4)	Services by an arbitral tribunal	An arbitral tribunal	Any business entity.
4 (5)	Sponsorship services	Any person	Anybody corporate or partnership firm.

RCM - Specified List of Services -CGST/(IGST)

Sr. No.	Service	Provider of service	Recipient of Service
5 (6)	Government Services excluding- (1) renting of immovable property, and (2) services specified below (i) Department of Posts by way of speed post, express parcel post, life insurance, and agency services (ii) services in relation to an aircraft or a vessel , inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers	Government or local authority	Any business entity
6 (7)	Services of Director	A director of a company or a body corporate	A company or a body corporate.
7 (8)	Services by Insurance Agent	An insurance agent	Any person carrying on insurance Business
8 (9)	Services of Recovery Agent	A recovery agent	Banking company or financial institution or non- banking financial company

RCM - Specified List of Services -CGST/(IGST)

Sr. No.	Service	Provider of service	Recipient of Service
9 (11)	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 literary, dramatic, musical or artistic works	Author or music composer, photographer, artist, or the like	Publisher, music company, producer or the like, located in the taxable territory

Notification No. 13 /2017 – Central Tax (Rate) dated 28 June, 2017

(Notification No. 10 /2017 – Integrated Tax (Rate) dated 28 June, 2017)

RCM - Specified List of Services - IGST

Sr. No.	Service	Provider of service	Recipient of Service
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
10	Services 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 non-taxable territory	Importer, as defined in clause (26) of section 2 of the Customs Act, 1962(52 of 1962), located in the taxable territory.

Notification No. 10 /2017 – Integrated Tax (Rate) dated 28 June, 2017

RCM – Purchases from Unregistered

- If unregistered person is selling taxable goods or providing any taxable services to the registered person , then the liability to pay tax shifts on the registered person i.e. the recipient of goods/services (Section 9 (4) of CGST Act)
- No reverse charge would be applicable in case of Exempt Supply
- If aggregate amount of intrastate purchase of goods or services availed does not exceed INR 5000 per day from unregistered persons then no liability arises under reverse charge mechanism (Notification No. 8/2017 – Central Tax (Rate) dated 28 June, 2017)

RCM - Time of Supply

TIME OF SUPPLY – Goods / Services – Reverse Charge Mechanism



Earliest of following:

- Date of receipt of goods; or
- Date of payment; or
- Date immediately following 30 days from the date of invoice issued by supplier

When cannot be determined by above, date of debit in the books of account

Time of
Supply of
goods
(RCM)



Earliest of following

- Date of payment; or
- Date immediately following 60 days from the date of invoice issued by supplier;

When cannot be determined by above- date of debit in the books of account

- In case of Service received from Associated Enterprises

- Earlier of date of entry in books of account or date of payment

Time of
Supply of
services
(RCM)

Date of payment to be shall be earlier of date on which the –

i) Recipient entered the payment in his books or ii) Payment is debited from his bank account

RCM - Time of Supply

TIME OF SUPPLY – Goods / Services – Reverse Charge Mechanism

(A) Determine the Time of Supply in the below mentioned case of supply of goods:-

1. Date of Receipt of Goods: 14th Oct
2. Date of Payment: 19th Dec
3. Date of Invoice: 1st Nov
4. Date of entry in Books: 18th Oct

(B) Determine the Time of Supply in the below mentioned case of supply of services:-

1. Date of Payment: 10th August
2. Date of Invoice: 21st July
3. Date of entry in Books: 1st August

RCM – Purchases from Unregistered

Sr. No.	Details of Expenses	Nature of Expenses	Our Views
1	Staff Welfare Expenses	Tea Coffee Expenses / snacks / food expenses / birthday cake / uniform charges	<p>Reimbursement Claimed by Staff should be subjected to GST. However, currently no clarity is provided on the same.</p> <p>Further Schedule I to CGST Act provides that gifts not exceeding INR 50,000 in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.</p>
2	Mobile / Telephone Expenses	Mobile / Telephone reimbursement to Staff	<p>In such cases, GST would be charged by Telecom Service Provider. If the same is in the name of Company, Company would be eligible to Claim ITC. Further, if the same is part of Salary reimbursements, then in that scenario also the same would not be subjected to GST.</p> <p>Further, telecom operators would be registered under GST, so even in case of pure reimbursement to employee, it can always be stated that purchases are registered dealer. Further, it would be advisable not to claim ITC if the invoice is not in the name of the Company.</p>
3	Other Conveyance	Local Conveyance expenses reimbursement to staff	Expenses such as Auto Fare and Metered Cabs are not subject to GST in current Scenario. (Please refer to Entry 72 of Service Tax Exemptions to be continued in GST as decided by GST Council dated 19 May 2017)

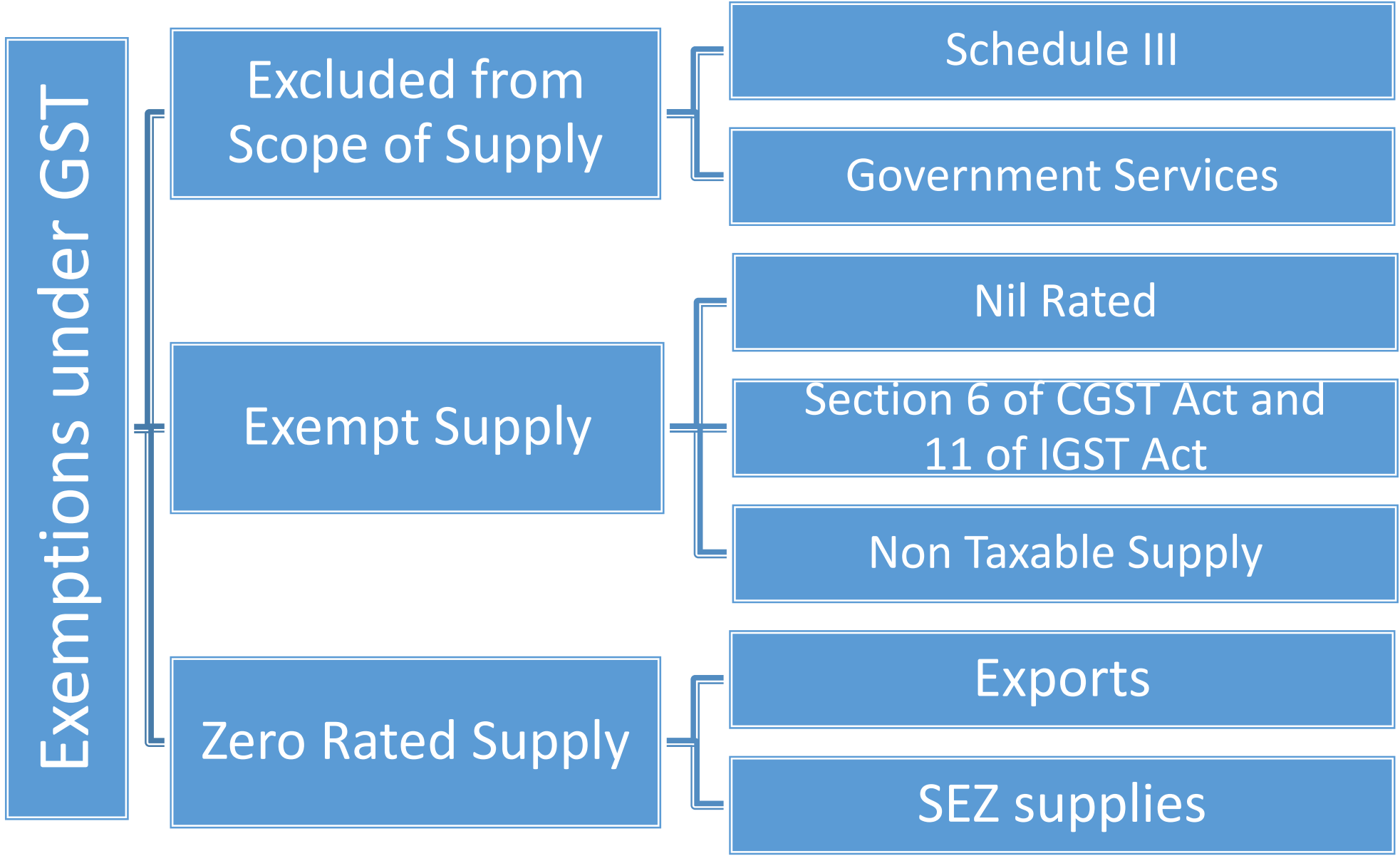
RCM – Purchases from Unregistered

Sr. No.	Details of Expenses	Nature of Expenses	Comments
4	Motor Vehicle Expenses	Toll/ Parking/ Fuel Expenses	Expenses such as Fuel is not covered under GST and hence, would not be subjected to GST. Also, expenses such as Toll charges is also exempted under GST. Further, Parking charges by Municipal Corporation would be exempt as specified under Entry 34 to Service Tax Exemptions to be continued in GST as decided by GST Council dated 19 May 2017. Any other types of charges would be subject to GST including parking charges by other than Municipal Corporation.
5	Office Expenses	Gift items / Office Expenses / Pooja Expenses / Loading & Unloading Expenses / Books newspaper Expenses / Cutlery items purchase	In case of purchases from unregistered dealer, the same would be subjected to GST under reverse charge mechanism. However, expenses such as newspaper or certain pooja expenses are exempt from GST and would not be liable to GST.
6	Repairs & Maintenance	Office small repairs works	Subject to GST. If purchased from unregistered dealer, the liability to pay GST would be on the Company under reverse charge mechanism

RCM – Purchases from Unregistered

Sr. No.	Details of Expenses	Nature of Expenses	Comments
7	Printing & Stationery	Franking/Notary/stamp paper & other stationery	<p>Stamp paper and Notary are not subjected to GST. Invoice for franking would be raised in name of Company.</p> <p>Other stationery expenses - would be subjected to GST under Reverse Charge if the same is purchased from unregistered dealer</p>
8	Courier charges	Urgent Courier Cash Payment	<p>In case Courier agency is Registered Dealer and invoice is in the name of Company, ITC would be available to Company.</p> <p>In case Courier agency is not registered, purchase from unregistered dealer is subjected to GST and the company would be liable to pay under Reverse Charge Mechanism.</p>
9	Rates & Taxes	Revenue Stamp/TDS return filling expense	<p>Revenue Stamp would not be subjected to GST.</p> <p>In case other expenses is from Registered Dealer and invoice is in the name of Company, ITC would be available to Company.</p> <p>In case other expenses is from not registered dealer, purchase from such unregistered dealer is subjected to GST and the company would be liable to pay under Reverse Charge Mechanism.</p>

Exemptions under GST



Exemptions under GST

Excluded from Scope of Supply (Section 7 (2) (a) of CGST Act)

Schedule III of CGST Act - ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES

- Services by an employee to the employer in the course of or in relation to his employment
- Services by any court or Tribunal established under any law for the time being in force
- (a) the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities
- (b) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or
- (c) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause
- Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
- Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building
- Actionable claims, other than lottery, betting and gambling

Exemptions under GST

Excluded from Scope of Supply

- Government Services (Section 7(2) (b))
 - Such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council

Exemptions under GST

Exempt Supply

- Section 2 (47) of CGST Act
 - “exempt supply” means supply
 - of any goods or services or both which attracts nil rate of tax or
 - which may be wholly exempt from tax under section 11, or
 - under section 6 of the Integrated Goods and Services Tax Act, and
 - includes non-taxable supply

- Section 2 (78) of CGST Act
 - “**non-taxable supply**” means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act

Exemptions under GST

Exempt Supply

- Section 11 of CGST Act and Section 6 of IGST Act –
 - (1) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by notification, exempt generally, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification
 - (2) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by special order in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.
 - (3) The Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an *Explanation* in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such *Explanation* shall have effect as if it had always been the part of the first such notification or order, as the case may be.

Explanation.—For the purposes of this section, where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely, the registered person supplying such goods or services or both shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both

Exemptions under GST

Zero Rated Supply

- Section 16 of IGST Act –
- (1) “zero rated supply” means any of the following supplies of goods or services or both, namely:—
 - (a) export of goods or services or both; or
 - (b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.
- (2) Subject to the provisions of sub-section (5) of section 17 of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply
- (3) A registered person making zero rated supply shall be eligible to claim refund under either of the following options, namely:—
 - (a) he may supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilised input tax credit; or
 - (b) he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder



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