

## **Treading the GST Path – IX**

### **Impact on Transportation & Logistics industry**

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1.0 Transport and Logistics Industry is significant for the economic development of our country. It comprises of the transportation by road, rail, water and air. A comparative study of the present exposure of this industry to service tax and the scenario as per model CGST / SGST Acts is attempted in this article.

#### **2.0 Current scenario.**

##### **Transport of goods by road.**

2.1 Services by way of transportation of goods by road, except the services of a goods transport agency or a courier agency is in negative list. Service tax is payable on services provided by GTA, after 70 % abatement, mostly under reverse charge. In order to avail the abatement, no cenvat credit should have been availed in respect of inputs, capital goods and input services used for providing the service. The issue as to what sort of services would be covered in the negative list and what services would constitute the services of GTA is being widely disputed. Even prior to the negative list regime also, such disputes were widely prevalent, as only GTA services are taxable and not transportation. For transportation of household goods, the abatement is 60 %.

##### **Transport of goods by rail.**

2.2 Service tax is payable. Abatement of 60 % is admissible for transport of goods in containers by rail by any person other than Indian railways and in all other cases, the abatement is 70%. Cenvat credit availment is prohibited only for inputs and capital goods and cenvat credit for input service is admissible.

##### **Transport of goods by Ocean & Air.**

2.3 Until 01.06.2016, transportation of goods by an aircraft or vessel, from a place outside India upto the customs clearance station in India was in the negative list. But this negative list entry has been omitted with effect from 01.06.2016. But notification 25/2012 ST Dt. 20.06.2012 provides for exemption in such cases, for transportation by aircraft. But transport by ocean, from outside Indian Port to an Indian port has become taxable from 01.06.2016. An abatement of 70% is admissible for transport of goods by a vessel. Cenvat credit availment is prohibited only for inputs and capital goods and cenvat credit for input service is admissible.

2.4 For outward transportation from an Indian port / airport to a foreign destination, no service tax is payable as the place of provision of such services, as per Rule 10 of the Place of Provision of Service Rules, 2012 would be the destination of such goods, which is outside the taxable territory.

### 3.0 GST Scenario.

3.1 Appropriate GST is leviable on all intra-state / inter-state supplies of services. Section 6 of the model IGST Act deals with determination of place of supply of services. As per sub section (9) thereunder, place of supply of services of transportation of goods shall be determined as below.

**Section 6 (9) :** *The place of supply of services by way of transportation of goods, including by mail or courier to,*

*(a) a registered person, shall be the location of such person;*

*(b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation.*

3.2 It may be observed from the above that the place of supply of services by way of transportation of goods, provided to a registered person shall be the location of the service recipient and in case of such services provided to an unregistered person, the place of supply of such services would be the location at which the goods are handed over for their transportation. The effect of this provision in different circumstances vis-à-vis as to how such circumstances are dealt with now under service tax, are tabulated below.

S.No.	Situation	Treatment under GST	Current treatment under Service Tax
1	An Indian customer engaging a shipping company for transport of goods from outside India to India (Import freight).	If the Indian Customer is registered under GST, place of supply of service would be the location of service recipient and appropriate GST is payable. If the Indian customer is not registered under GST, the place of	Taxable from 01.06.2016

		supply of service would be the place where the goods are handed over for transportation, i.e outside India. So no GST payable	
2	An Indian customer engaging an airlines for transport of goods from outside India to India (Import freight)	<p>If the Indian Customer is registered under GST, place of supply of service would be the location of service recipient and appropriate GST is payable.</p> <p>If the Indian customer is not registered under GST, the place of supply of service would be the place where the goods are handed over for transportation, i.e outside India. So no GST payable</p>	Exempted as per S.No.53 of Notification 25/2012 ST Dt. 20.06.2012
3	A foreign customer engaging an Indian shipping company for transport of goods from outside India to India (Import freight)	As the foreign customer is not registered under GST, the place of supply of service would be the place where the goods are handed over for transportation, i.e outside India. So no GST payable	Taxable from 01.06.2016
4	A foreign customer engaging an airlines for transport of goods from outside India to India (Import freight)	As the foreign customer is not registered under GST, the place of supply of service would be the place where the goods are handed over for	Exempted as per S.No. 53 of Notification 25/2012 ST Dt. 20.06.2012.

		transportation, i.e outside India. So no GST payable.	
5	An Indian customer engaging a shipping company / airlines for transport of goods from India to outside India (Export freight).	<p>If the Indian Customer is registered under GST, place of supply of service would be the location of service recipient and appropriate GST is payable.</p> <p>If the Indian customer is not registered under GST, the place of supply of service would be the place where the goods are handed over for transportation, i.e India. So GST payable.</p>	Not taxable as Place of provision of service is destination of goods, which is outside India. Rule 10 of PPS Rules, 2012.
6	A foreign customer engaging a shipping company / airlines for transport of goods from India to outside India (Export freight).	As the foreign customer would not be registered under GST, the place of supply of service would be the place where the goods are handed over for transportation, i.e India. So GST payable.	Not taxable as Place of provision of service is destination of goods, which is outside India. Rule 10 of PPS Rules, 2012.

4.0 It may be observed from the above that there are significant changes with regard to applicability of GST for ocean / air transport involving exports and imports. The Export freight, which is not taxable currently appears to attract GST under GST regime. Even in case of import freight, there are significant changes.

Whether these changes are intentional?

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