

TEST 4: REVERSE CHARGE

Illustration 1

What does the payment of Tax under reverse charge mean?

Solution

As per section 2(98) of CGST act 2017 reverse charge means the liability to pay tax by the recipient of supply of goods or service or both instead of the supplier of such goods or service or both under section 9(3) or section 9(4) of CGST act or under section 5(3) or section 5(4) of the integrated goods and Service Tax Act.

Illustration 2

What is the difference between reverse charge u/s 9(3) and U/S 9(4)?

Solution

Section 9(3)	Section 9(4)
applicable in case of supply of goods or service or both notified by the government on Recommendation of Council	applicable in case of supply of taxable goods or service or both by an unregistered supplier to registered person
does not matter whether the supplier is registered or not	only where supplier is an unregistered person
Example: tax in respect of service of advocate a well buy a business entity is payable on reverse charge basis hair the liability to pay GST shall be upon the business entity	Example: MS Usha Auto Parts Trading Company is unregistered supplier Who Sold tools to Ms xyz Private Limited Being registered person hair the liability to pay GST shall be upon XYZ Private Limited
Note: if the goods or services are not listed or the recipient not notified then reverse charge under this section does not apply	Note: this has been suspended till 30 September 2020 via N/n- CT 22-2019

Illustration 3

Whether reverse charge is applicable in case supply is exempted or non-taxable?

Solution

No, if supply itself is accept or non-taxable there cannot be any tax there on and if there is no tax there cannot be any Tax under reverse charge reverse charge calculate tax that would have been table by the supplier if there was no reverse charge

Illustration 4

What is the effect of reverse charge on input tax credit?

Solution

As regards the recipient who pay tax on reverse charge basis Tax so paid will be available as credit subject to Section 16 and 17.

As regards the supplier whose tax is paid by the recipient value of such supply will be treated as exempt supply of the supplier and supplier is not eligible for ITC under section 17.

For Example: an advocate has provided legal service to you Mr Shreya Private Limited worth 100000 and GST @ 18% 18000 is levied on this service the liability to discharge the GST of 18000 shall be upon MS Shreya Private Limited and the credit of tax so paid would be available as credit to MS Shreya Private Limited being the recipient.

for the supplier it shall be treated as an exempt supply and non-eligible for ITC under section 17.

Illustration 5

From the following information determine the person liable to pay goods and service tax both supplier and recipient are located in India -

- 1) Mr Pankaj is agent of life insurance company the insurance company pays Commission including tax 600000 to him Mr Pankaj claims that no GST is leviable on services provided by him as his value of taxable service does not exceed 20 lacks.
- 2) xyz Limited availed services of Vimal goods transport agency for transportation of goods by road from factory located in New Delhi to its Jaipur depot and freight of 100000.
- 3) P N Gadgil Limited paid 50 lacs for sponsorship of Miss India beauty pageant for sponsorship services.
- 4) legal services provided by vhb and Co-partnership firm of New Delhi to Tata Motors Limited Mumbai 70 00 000.
- 5) Service provided by a director of a company not in capacity of employee to the company 10 lakh.
- 6) Infrastructural support services provided by government to a business entity 14 lakh. Renting of immovable property services provided by government to you can register business entity 18 lakh.

Solution

The provisions applicable are as per section 9 (3) of CGST act and 5(3) of IGST act the government via notification 17/2017 CT and notification number 14/2017 of IGST act,

- 1) In this case life insurance company will be liable to pay GST on reverse charge basis hence GST liability shall be 600000 i.e on the value of commission Mr Pankaj claim that his turnover does not exceed 20 lacs has no relevant bearing because under reverse charge there should limit is not available

- 2) Do if GTA page tax 12% with ITC- in such case normal charge is applicable and GTA is liable to pay tax if GTA pay tax @ 5% without benefits of ITC- then reverse charge shall be applicable and GST shall be paid by XYZ Limited since it is liable to pay freight for transportation of goods
- 3) In this case sponsorship services are received by Ranka Jewellers Limited hence it will be liable to pay goods and Service Tax under reverse charge mechanism
- 4) In this case goods and service tax shall be paid by Tata Motors Limited as the liability to pay tax is on the business entity under reverse charge mechanism
- 5) in case of any service provided by director of company or body corporate to company the goods and Service Tax is payable by company or body corporate
- 6) Any service provided by government or local authority to business entity in a taxable territory the goods and Service Tax is payable by Business entity
- 7) Any service by way of renting of immovable property provided by government or local authority to unregistered business entity then goods and Service Tax is payable by government.