



commission or tribunal, by whatever name called, under the provisions of the Acts stated above.

- (b) filing of any appeal, reply or application or furnishing of any report, document, return, statement or such other record, by whatever name called, under the provisions of the Acts stated above.

Thus, by virtue of this notification, even if the Order (**GST ASMT-13**) u/s 62(1) is passed, If the return is filed by 30th Jun., 2020, the said assessment order shall be deemed to have been withdrawn.

However, it is always suggested not to ignore any Notices received from the department and to always atleast reply to the Notices where the directions given in the Notice could not be complied. Thus, if any Notice u/s 46 of CGST Act, 2017 has been served to us during this period of Lockdown, it is highly suggested to atleast file a reply stating that we intend to avail the benefit of Notifications 31/2020, 32/2020 and 35/2020 and we intend to file it as per the said date. This would prevent any further action from the side of Department and even if it does, it would greatly help us in defending our case.

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Reverse Charge Mechanism under GST

- CA Vinay Gandhi Billapati

A historic tax reform, Goods and Services Tax (GST) was introduced in India by the President of India conducting a joint session of both houses of Parliament in the Parliament Central Hall at stroke of 12 AM of 01st July 2017. This is the fourth time a midnight session of parliament is organised. This is the first of its kind to introduce a tax reform. This is not only an indirect tax reform but a tax reform which brings in transparency, reduces the cascading effect of taxes, subsumes various taxes levied by centre and state and which marks democratic federalism. Idea initiated in the year 2000 took a long, fruitful discussions among economists and legal advisors which led to Constitution 101st amendment Act 2016 and ultimately transformed into GST law as we see today. One can see various transformations among businessmen, among administrators and among law makers to understand, implement, update and educate the countrymen and stakeholders about GST law and procedures.

One of the most talked about topic under service tax and forwarded to the GST regime is 'Reverse Charge Mechanism', more commonly called as 'RCM'. In this article, I tried to discuss some Reverse Charge provisions as existent in different countries and updated list of Goods and Services attracting reverse charge as updated till 30.04.2020.

The concept of 'Reverse Charge Mechanism' (Hereinafter called as 'RCM') is not new to indirect taxes. The concept is introduced in EU VAT way back in 1993. Let us now see some provisions of Reverse Charge in various countries.

RCM in EU VAT

The EU created the concept of Reverse Charging VAT in order to simplify trade within the Single Market. The Reverse Charge moves the responsibility for the reporting of a VAT transaction from the seller to the buyer



of a good or service. This reduces the requirement for sellers to register for VAT in the country where the supply is made.

When a transaction is subject to Reverse Charge, the recipient of the goods or services reports both their purchase (input VAT) and the supplier's sale (output VAT) in their VAT return. These two declarations offset each other from a cash payment point of view, but the authorities have full visibility of the transactions.

RCM in Australian GST

Reverse charge is required on some offshore purchases, even though you are the purchaser and even if the sale would not normally be subject to GST. You may also choose to pay GST for purchases, even though you are the purchaser.

Things (other than goods and real property) may be subject to GST when your Australian business purchases them and they are:

- done outside Australia or
- made through a business carried on by a seller outside Australia.

In these circumstances you are liable to pay the GST, even though you are the purchaser and even if the seller would not be required to pay GST on the sale.

RCM in New Zealand GST

The Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 amended the Goods and Services Tax Act 1985 (the GST Act) to introduce a 'reverse charge' mechanism to tax certain imports of services.

From 1 January 2005 GST-registered recipients of supplies of imported services are required to add GST to the price of the services and include the tax in the normal GST return and pay it to Inland Revenue if:

- the services would be subject to GST if supplied in New Zealand; and
- the recipient makes more than a minimal level of exempt or other non-taxable supplies.

RCM in Singapore

The Minister for Finance announced in Budget 2018 that GST would be applied on imported services in the context of business-to-business ("B2B") transactions by way of a reverse charge mechanism with effect from 1 Jan 2020

Under the reverse charge mechanism, when a supplier who belongs outside Singapore makes a B2B supply of services to a GST-registered person who belongs in Singapore, the GST-registered recipient would be required to account for GST on the value of his imported services as if he were the supplier, to the extent the imported services fall within the scope of reverse charge. The GST-registered recipient would be allowed to claim the corresponding GST as his input tax, subject to the normal input tax recovery rules.

To level the GST treatment for services procured from overseas and those procured locally so as to achieve parity in GST treatment for all services consumed in Singapore, the reverse charge mechanism will be implemented on 1 Jan 2020 with the intent of taxing imported services.

RCM in UK VAT

The VAT domestic reverse charge procedure is an anti-fraud measure designed to counter criminal attacks on the UK VAT system by means of sophisticated fraud.



The reverse charge only applies to supplies where:

- those supplies are specified supplies of goods or services as set out in section 3
- your customer is registered or liable to be registered for UK VAT
- your customer is buying the goods or services for a business purpose

It's the responsibility of the customer, rather than the supplier, to account to HMRC for VAT on supplies of the specified goods or services.

RCM in India

Concept of Reverse Charge mechanism was not new under GST. It was in existence since service tax regime and also in some state VAT laws in a different form such as 'Purchase tax' for certain goods. GST introduced 2 different types of RCM i.e. Sec 9(3) and 9(4) of CGST Act 2017. Concept of RCM in India is more towards targeting big players in the industry instead of catching many small players and also favouring some professionals.

Section 2 (98) of the Central Goods and Services Tax Act 2017 defines reverse charge as follows:-

“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;

Section 9(3) of Central Goods and Service Tax Act 2017 is reproduced here for ready reference.

9(3) 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.

Similar Provision in Integrated Goods and Service Tax Act 2017 reads as under:-

5(3) 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.

In simple words, 9(3) of CGST Act 2017 or 5(3) of IGST Act 2017 gives power to Government to notify certain supplies of Goods or Services or both whose recipient needs to pay tax instead of supplier.

Exercising the powers confined in above sections, Government issued following notifications so far notifying certain supplies which are liable to reverse charge.

- a. 04-2017-Central Tax (Rate),dt. 28-06-2017
- b. 13-2017-Central Tax (Rate) ,dt. 28-06-2017
- c. 22-2017-Central Tax (Rate) ,dt. 22-08-2017
- d. 33-2017-Central Tax (Rate) ,dt. 13-10-2017
- e. 36-2017-Central Tax (Rate) ,dt. 13-10-2017
- f. 43-2017-Central Tax (Rate) ,dt. 14-11-2017



- g. 03-2018 - Central Tax (Rate),dt. 25-01-2018
- h. 11-2018 - Central Tax (Rate),dt. 28-05-2018
- i. 15-2018 - Central Tax (Rate),dt. 26-07-2018
- j. 29-2018 - Central Tax (Rate),dt. 31-12-2018
- k. 05-2019 - Central Tax (Rate),dt. 29-03-2019
- l. 22-2019 - Central Tax (Rate),dt. 30-09-2019
- m. 29-2019 - Central Tax (Rate),dt. 31-12-2019

Supplies of Goods attracting Reverse Charge as of date are tabulated below.

Nature of Supply	Supplier	Recipient	Remarks
Cashew nuts, not shelled or peeled	Agriculturist	Any registered person	wef 01.07.2017 vide Notification No. 04/2017 – CT(R) dt 28.06.2017
Bidi wrapper leaves (tendu)	Agriculturist	Any registered person	
Tobacco leaves	Agriculturist	Any registered person	
Silk yarn	Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn	Any registered person	
Supply of Lottery	State Government, Union Territory or any local authority	Lottery distributor or selling agent.	
Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	Central Government, State Government, Union territory or a local authority	Any registered person	wef 13.10.2017 vide Notification no. 36/2017 – CT(R) dt 13.10.2017
Raw Cotton	Agriculturist	Any registered Person	wef 15.11.2017 vide Notification no. 43/2017-CT(R) dt 14.11.2017
Priority Sector Lending Certificate	Any registered Person	Any registered Person	wef 28.05.2018 vide Notification no. 11/2018-CT(R) dt 28.05.2018



Services attracting reverse charge are tabulated below:-

S.No.	Nature of Service	Supplier	Recipient
1	<p>Supply of Services by a goods transport agency (GTA) in respect of transportation of goods by road to-</p> <p>(a) any registered factory; or (b) any registered society; or (c) any co-operative society; or (d) any person registered under the GST; or (e) any body corporate; or (f) any partnership firm including association of persons; or (g) any casual taxable person.</p> <p>Provided that nothing contained in this entry shall apply to services provided by a GTA, by way of 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 (b) local authority; or (c) Governmental agencies, which has taken registration GST only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services</p>	<p>Goods Transport Agency (GTA) who has not paid central tax at the rate of 6%</p>	<p>(a) Any registered factory; or (b) any registered society; or (c) any co-operative society; or (d) any person registered under GST; or (e) any body corporate; or (f) any partnership firm including association of persons; or (g) any casual taxable person; located in the taxable territory.</p>
2	<p>Services supplied by an individual advocate including a senior advocate</p>	<p>An individual advocate including a</p>	<p>Any business entity located in the taxable territory</p>



	by way of representational services before any court, tribunal or authority, directly or indirectly, to any business entity located in the taxable territory	senior advocate or firm of advocates.	
3	Services supplied by an arbitral tribunal to a business entity.	An arbitral tribunal	Any business entity located in the taxable territory.
4	Services provided by way of sponsorship to any body corporate or partnership firm.	Any person	Any body corporate or partnership firm located in the taxable territory
5	Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding, - (1) renting of immovable property, and (2) services specified below- (i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority; (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.	Central Government, State Government, Union territory or local authority	Any business entity located in the taxable territory.
Entry 5A added vide Notification No. 3/2018- Central Tax (Rate) dt 25.01.2018			
5A	Services supplied by the Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person	Central Government, State Government, Union territory or	Any person registered under the Central Goods And Services Tax Act, 2017



	registered under the Central Goods and Services Tax Act, 2017	Local authority	
Entries 5B & 5C added wef 01.04.2019 vide Notification no. 05/2019 – CT(R) dt 29.03.2019			
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	Promoter
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	Promoter
6	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	The company or a body corporate located in the taxable territory.
7	Services supplied by an insurance agent to any person carrying on insurance business.	An insurance agent	Any person carrying on insurance business, located in the taxable territory.
8	Services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company.	recovery agent	A banking company or a financial institution or a non-banking financial company, located in the taxable territory.
9	Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright	Author or music composer, photographer, artist, or the like	Publisher, music company, producer or the like, located in the taxable territory.



	relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like.		
Entry 9 substituted and 9A added wef 30.09.2019 vide Notification No. 22/2019- Central Tax (Rate) dt 30.09.2019			
9	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.	Music composer, photographer, artist, or the like	Music company, producer or the like, located in the taxable territory
9A	Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright relating to original literary works to a publisher	Author	Publisher located in the taxable territory Provided that nothing contained in this entry shall apply where, - (i) the author has taken GST registration and filed a declaration, in the 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 CGST Act, 2017 under forward charge, and to comply



			with all the provisions of CGST Act 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 (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
Entry 10 added wef 13.10.2017 vide Notification No. 33/2017 – CT(R) dt 13.10.2017			
10	Supply of services by the members of Overseeing Committee to Reserve Bank of India	Members of Overseeing Committee constituted by the Reserve Bank of India	Reserve Bank of India
Entry 11 added wef 27.07.2018 vide Notification no. 15/2018 – CT(R) dt 26.07.2018			
11	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)	Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm.	A banking company or a non-banking financial company, located in the taxable territory
Entry 12, 13 & 14 added wef 01.01.2019 vide Notification no. 29/2018 – CT(R) dt 31.12.2018			
12	Services provided by business facilitator (BF) to a banking company	Business facilitator (BF)	A banking company, located in the taxable territory



13	Services provided by an agent of business correspondent (BC) to business correspondent (BC).	An agent of business correspondent (BC)	A business correspondent, located in the taxable territory
14	Security services (services provided by way of supply of security personnel) provided to a registered person	Any person other than a body corporate	A registered person, located in the taxable territory
Entries 15 & 16 added Wef 01.10.2019 vide Notification no 22/2019 – CT(R) dt 30.09.2019			
15	Services provided by way of renting of a motor vehicle provided to a body corporate	Any person other than a body corporate, paying central tax at the rate of 2.5% on renting of motor vehicles with input tax credit only of input service in the same line of business	Any body corporate located in the taxable territory
Entry 15 substituted vide Notification No. 29/2019- Central Tax (Rate) dt 31.12.2019			
15	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.	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	Any body corporate located in the taxable territory



		the rate of 6 % to the service recipient	
16	Services of lending of securities under Securities Lending Scheme, 1997 (“Scheme”) of Securities and Exchange Board of India (“SEBI”), as amended.	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

Section 9(4) of Central Goods and Services Tax Act 2017 is another type of Reverse Charge wherein the registered person needs to pay GST on supplies of goods/servicers/both received from unregistered persons.

The above provision is a new one added by the final draft GST law released in March 2017 just before placing the bill before Lok Sabha. This provision saw many exemptions and amendments since its introduction. Following summarises the amendments/changes to Section 9(4).

- ∅ Notification No. 8/2017 – CT(R) dt 28.06.2017 exempted suppliers from Sec. 9(4) if the aggregate amount of inward supplies from unregistered persons is upto Rs. 5,000 per day.
- ∅ Notification No. 8/2017 – CT(R) dt 28.06.2017 exempted all registered persons from section 9(4) till 31.03.2018, further extended upto 30.06.2018 vide Notification no. 10/2018 – CT(R) dated 23.03.2018, further extended upto 30.09.2018 vide Notification no. 12/2018 – CT(R) dated 29.06.2018 and further extended upto 30.09.2019 vide Notification no. 22/2018 – CT(R) dated 06.08.2018

Section 9(4) amended by the CGST (Amendment) Act 2018 to make it applicable only to notified supplies purchased from unregistered persons rather than all supplies from unregistered persons. The Provisions before and after amendment are tabulated below.



Provision before Amendment	Provision after Amendment
<p>9(4) 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.</p>	<p>9(4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of 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 such supply of goods or services or both.</p>
<p>5(4) The integrated 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.</p>	<p>5(4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of 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 such supply of goods or services or both.</p>

Conclusion

Tax paid under reverse charge is again available as input tax credit to the person paying the tax. Therefore, reverse charge is never a cost except in cases covered under section 17(5) of Central Goods and Services Tax Act 2017. The main problem is that tax under reverse charge has to be paid in cash and input tax credit cannot be used to discharge the liability under reverse charge. This creates problems with the cash flow and may lead to blockage of working capital in many cases. Hence, the reverse charge provisions are to be carefully understood and complied with so that there is no breach of law and also no additional cost to the registered person.