

## REVERSE CHARGEMECHANISM IN INDIAN GOODS AND SERVICES TAX

(A CONCEPTUAL STUDY )

Dr.S.V.N.M.Sastry, Asst. Professor, Department of Commerce, Koneru Lakshmaiah Education Foundation (KLEF), Deemed to be University, Vaddeswaram, Green fields, Guntur, India.

Dr.A.V.N.Murty, Professor, Department of Commerce, Koneru Lakshmaiah Education Foundation (KLEF), Deemed to be University, Vaddeswaram, Green fields, Guntur, India.

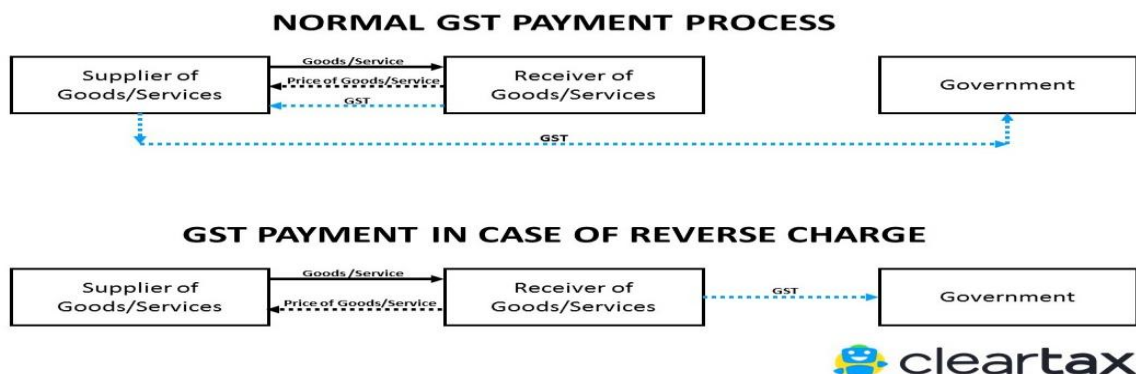
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**Abstract:**For the government of every nation in the world, including India, taxes are the main source of income. The government collects taxes to cover a variety of costs and obligations, such as managing public administration, conducting public welfare programmes, and maintaining public security. Direct taxes and indirect taxes are the two categories of taxes that the nation imposes. In contrast to indirect taxes, where the tax burden is transferred to the final consumer, direct taxes require the tax payer to bear the tax burden themselves. Even when compared to the revenue from direct taxes, the GST is one of the indirect taxes that generates significant cash for the government in our nation. Here are two types of charges under the Goods and Services Tax law. In the event of a forward charge, the supplier of the goods and services is responsible for paying GST, but under reverse charge, the recipient of the goods or services, or both, is responsible for paying GST. The goal of implementing this reverse charge is to collect tax from a variety of unorganised sectors, such as agricultural suppliers of goods like unpeeled or unshelled cashew nuts, tobacco leaves and raw cotton, as well as imported services, road transportation services, etc., so that the governments' tax revenue will naturally increase by increasing tax compliance.

**Keywords:** goods, services, GST, reverse charge.

1. **Introduction:** In general, the seller of goods and/or services is responsible for paying GST (an indirect tax) to the government. However, in cases of reverse charge, the recipient of certain products and services is responsible for paying GST to the government. Therefore, reverse charge indicates that the beneficiary of such goods and or services, rather than the provider of such goods and or services, is responsible for paying GST to the government. The following are the three situations where GST mechanism will be used. (i) When merchandise is given to a registered dealer by an unregistered seller. In this situation, the unregistered dealer is responsible for paying GST to the government. The self-invoicing is required of the registered buyer. However, in the case of interstate supplies, the buyer is required to pay the IGST rather than the CGST and SGST as in the case of goods made within a specific state or union territory with a legislature. If the value of intrastate supplies made by an unregistered dealer to a registered dealer exceeds Rs. 5,000 per day, GST on those supply is applicable. (ii) If services are supplied by an ecommerce operator to its guests, also it's the liability of

similar ecommerce driver to pay GST to the Government of course by collecting the same from the guests since the GST is an circular duty. The Government has notified specific orders of services where the duty on intra state inventories have to be paid by the E Commerce driver if similar services are inventories through it. These include- Services by way of transportation of passengers by a radio hack, motor hack, minicab and motor cycle, Services by way of furnishing accommodation in hospices, auberges, guest houses, clubs etc except where the person supplying similar service through e commerce operator is liable for enrolment under GST act and the Services by way of cleaning similar as plumbing, carpentering etc except where the person supplying similar service through e commerce driver is liable for enrolment under GST act. (iii) If certain goods and or services are notified by the Central Board of Excise and Customs(CBEC), the liability to pay GST casts on the philanthropist of similar goods and or services rather of the supplier. The following are the list of some of the goods and services as notified by the CBEC from time to time. (a) List of goods as notified by the CBEC includes Cashew nuts (not shelled hulled), bidi wrapper leaves, tobacco leaves, force of lottery, silk/ yarn etc, and (b) List of goods as notified by the CBEC includes Goods transportation services handed by a goods transportation agency to a plant, society, body commercial, any person registered under GST, casual taxable person etc., services handed by an advocate and or an arbitrary bench to any business reality within the taxable home, services handed by way of backing to a body commercial or a cooperation establishment, services handed by the central/ State government or original authority to a business reality banning renting of irremovable property, services handed by the department of post, services in relation to aircraft or vessel, transport of goods or passengers, services handed by a director of a company/ body commercial to the said company/ body commercial, services handed by an insurance agent to any person carrying on similar business( Insurance Business), services handed by an author, music musician, shooter, artist or the suchlike by way of transfer or permitting the use of brand relating to original erudite, dramatic, musical or cultural workshop to publisher, company, etc.,The following diagram helps to clarify this scenario.



Source: <https://cleartax.in/s/reverse-charge-gst>

2. **Research Methodology:** The paper is based on the descriptive study.

Sources of data: The researcher has collected a secondary data mobilized from various academic books on GST, published research articles, and the relevant websites.

3. **Discussion:** This involves the applicability of reverse charge mechanism in various situations as under:

- (i) **Applicability of Reverse Charge Mechanism to Real Estate Sector:** As per the decision taken by the GST council in its 34th meeting the project developers and constructors of apartments have to procure at least 80% of inputs and input services (excluding capital goods, TDR/JDA, FSI, long term lease premium) from a registered person. On shortfall of purchases from 80% the builder has to pay GST @18% on Reverse Charge basis. If the cement is purchased from an unregistered person, GST shall be paid @28% on reverse charge and if capital goods purchased from unregistered person, the GST has to be paid on reverse charge at applicable rates as provided in Section 9(4) the CGST Act, 2017.
- (ii) **Input Tax under Reverse Charge Mechanism:** Input tax credit will be available only to the registered person who is purchased the goods from an unregistered person that too such goods are purchased for business or for furtherance of the business. It is clarified through notification by the CBEC that reverse charge will not be applicable even if an unregistered person has supplied the goods to a registered person neither for business nor for the furtherance of business. For instance if an individual sold his old silver ornaments to a silver merchant then reverse charge will not be applicable because selling of silver ornaments is not the business of the individual. But if a silver ornament manufacturer sold the manufactured ornaments to a silver merchant then GST has to be paid on reverse charge basis at applicable rate by the silver merchant.
- (iii) **Determination of time of supply of goods chargeable to duty under reverse charge medium:** In GST law the liability to pay GST will arise grounded on the time of force hence time of force has to be determined. In case of force of goods chargeable to duty under reverse charge system, the time of force is the foremost of the following three- (i) Date of damage of goods, (ii) date of payment, or (iii) 30 days from the date of issue of tab by the supplier. For any reason, if it isn't possible to determine the below 3 dates, also the date supply of goods is recorded in the books of the philanthropist has to be considered as time of force of goods.
- (iv) **Determination of time of supply of services chargeable to duty under reverse charge medium:** In case of force of goods chargeable to duty under reverse charge system, the time of force is the foremost of the following two- (i) Date of payment or (ii) date incontinently after 60 days from the date of issue of tab by the supplier. For any reason, if it isn't possible to determine the below 2 dates, also the date of supply of services is recorded in the books of the philanthropist has to be considered as the time of force of goods.

- (v) Registration is obligatory for the philanthropist of goods or services under reverse charge medium As specified in Sec. 22 of the CGST Act, 2017, it's obligatory for every provider of goods or services to register under GST law if the periodic development exceeds Rupees twenty lakh in a fiscal time. Of course in case of suppliers in the eleven special order countries like Assam, Arunachal Pradesh, Manipur, Sikkim, and Tripura etc., it's obligatory to get registered indeed if their periodic development has crossed Rupees ten lakh in a fiscal time. still these threshold limits won't be applicable to a person liable to pay GST under reverse charge mediumie.,enrolment is obligatory for similar person indeed though his development in a fiscal time doesn't cross the below limits of Rupees twenty lakhs or ten lakh.
4. **Conclusion:** The reverse charge system is applicable under the three circumstances viz., (i) when the goods or services supplied by an unregistered dealer to a registered dealer, (ii) in case of suppliers of notified goods and services, and (iii) supplies made by e-commerce operator. However, it is advisable to procure the goods and or services from a registered person only to avoid the compliance with complex reverse charge mechanisms if it is inevitable and a daily procurement is needed, then it is advisable to ensure that the values of daily procurement should be lower than Rs.5,000 so that the recipients can get full exemption. The GST paid under reverse charge system can be claimed as an input tax credit. Since the reverse charge has to be paid through cash(it cannot be paid by using the existing input tax credit), the amount so paid can be utilized as input tax credit.

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