

Input Service Distributor (ISD)

INTRODUCTION

ISD as a concept always existed under Service Tax regime and the same has been carried forward under GST. The purpose of ISD was to enable the location which is incurring expenses to avail and distribute the credit.

DEFINITION

The statutory definition of “Input Service Distributor” which is provided under section 2(61) of the Central Goods and Services Tax, Act 2017 (“CGST Act”) reads as under:

“Input Service Distributor” means an office of the supplier of goods or services or both which receives tax invoices issued under section 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office.

From the above definition, following inferences can be drawn-

1. It is an office of supplier of goods or services or both.
2. ISD shall deal with only input services and not with goods including capital goods.
3. ISD shall receive tax invoices for taxable supplies and distribute the tax charged on such invoice to appropriate supplier having the same Permanent Account Number (PAN).
4. ISD must issue an appropriate document to distribute the ITC.

REGISTRATION

Section 24 of the CGST Act (read with rule 8 of CGST Rules, 2017), requires an office of the supplier which intends to act as Input Service Distributor (ISD), to separately obtain registration as ISD. In other words, a registration number of an establishment as an ISD is different from the registration number of such establishment under section 22 of the Act.

An ISD is compulsorily required to obtain a separate registration as an ISD even though it may be separately registered. There is no threshold limit for registration for an ISD. The other location may be registered separately. Since the invoice related to service for other location are received by ISD the corresponding credit should be transferred to such location (having separate registration) as the output service are provided there.

MANNER OF DISTRIBUTION OF ITC (SECTION 20 OF CGST ACT AND RULE 39 OF CGST RULES, 2017)

Conditions

1. The credit can be distributed to recipient with documents having particulars as prescribed under the law.
2. The credit distributed shall not exceed the total credit available for distribution.
Note: In case of excess distribution of credit to one or more recipients, such excess amount shall be recovered from such recipients along with Interest.
3. ISD shall distribute the credit available for distribution in the same month and details of such distribution shall be furnished in Form GSTR-6.

Formula

The credit other than credit pertaining to specific recipient that qualifies for distribution is to be computed using the formula given in Rule 39(1)(d) which is given below:

$$C1 = (t1 / T) \times C$$

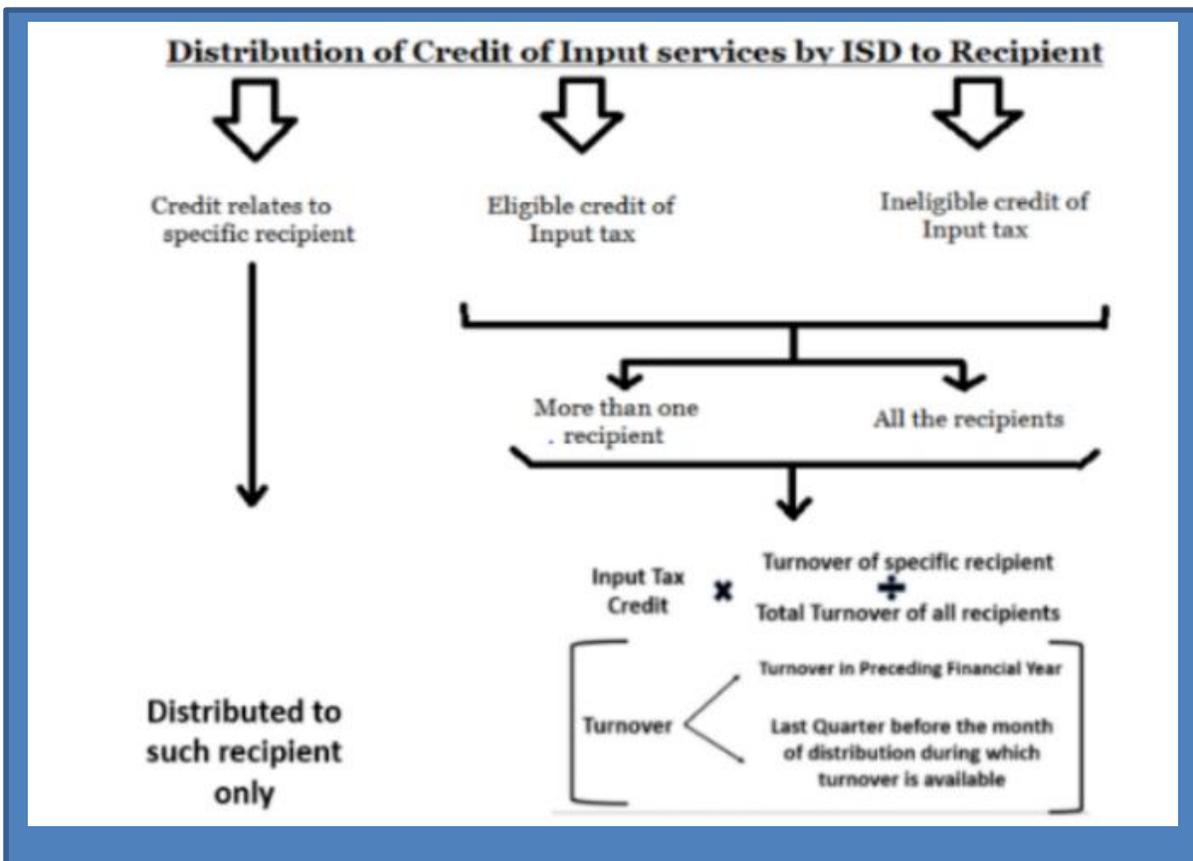
C = amount of total credit to be distributed.

t1 = turnover of recipient R1 during relevant period.

T = the aggregate of the turnover, during the relevant period, of all recipients to whom the input service is attributable.

Explanations for the purpose of Calculations

For the purpose of computing “**Turnover**”, the turnover of goods “**not taxable**” under this Act shall also be **included**. However, while computing such turnover, the amount of any **duty** or **taxes** shall be **excluded**.



Distribution of Taxes

Credit available with ISD	Recipient unit is located in same state as that of ISD	Recipient unit is located in different state than that of ISD
Central Tax	CGST	IGST
State Tax	SGST	IGST
Integrated Tax	IGST	IGST
UT Tax	UTGST	IGST

Cross Charge

EVOLUTION OF CONCEPT OF CROSS CHARGE

ISD is a concept used **for 'distribution' of ITC** to one or more supplying units, whereas cross charge is used where there is supply by one person to another i.e. HO providing support to branches or facilitating and co-ordinating for other services like, audit, consultancy, negotiation for the entire office for such services etc. and that should be cross charged and not the fees charged by other vendors.

As per schedule 1 of CGST Act, any supply between different GST registrations having the same PAN (distinct persons) shall be treated as "supply" even when made without consideration.

The said provision reads as follows:

Schedule 1: ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION 1...

2... Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business

Further, section 25 of the CGST Act states that "A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act." Further section 25(5) of the Act states that "Where a person who has obtained or is required

to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.”

It is the combined reading of Schedule 1 and the concept of distinct persons that gives rise to the need to cross charge. Thus, based on the provisions as stated above, any supplies between different **GST registrations** of the same entity shall be termed as a supply and shall attract GST. In line with the said provisions, every supply between distinct persons result in cross charge between such entities. Such supply shall be undertaken by issue of appropriate documents. Further, the receiver of the supply shall be entitled to GST credit subject to conditions.

Cross charging can be understood in better manner with help of below mentioned example-

XYZ Limited has Head office in Maharashtra, following centralized billing and payment mechanism. XYZ Limited has 2 registrations at Delhi and Karnataka. HO has availed certain audit services on payment of IGST. However, such audit services shall be used at both the locations i.e. Delhi and Karnataka. Thus, when the HO charges for the said audit services to respective locations, it shall be required to supply under an appropriate invoice and cross charge the value for co-ordinating of audit services accordingly.

VALUATION UNDER CROSS CHARGE

As per the section 15 of CGST Act, value of supply, in case of distinct person, shall be determined as per **Rule 28** of CGST Rules which prescribes the methods to determine the value.

Rule 28 of CGST Rules reads as under-

The value of the supply of goods or services or both between distinct persons as specified in sub-section (4) and (5) of section 25 or where the supplier and recipient are related, other than where the supply is made through an agent, shall-

- a) Open market value of such supply
- b) Value of supply of like kind or quality
- c) 110% of cost of acquisition of such goods or cost of provision of such services or value shall be determined using reasonable means consistent with the principles and the general provisions of section 15.

CROSS CHARGE ON EMPLOYEE COST

This matter came up for discussion in the case of **M/s. Columbia Asia Hospitals Pvt. Limited** before the Karnataka Appellate Authority for Advance Ruling (AAAR). The appellant explained that the employment relationship between the employee and the employer exists with the legal entity as a whole and is not confined to the registered location where the employee is based. Further, the appellant explained that in terms of Entry I of Schedule III of the Act, *services by an employee to the employer in the course or in relation to his employment shall not be treated as supply of service*. Hence, there is no transaction of supply of service between the corporate office and other offices.

The AAAR ruled that the employer-employee relationship is to be viewed separately for each registered location of the business entity (reaffirming the decision of the AAR and without clearly explaining why the employee relationship with the employer is not at an entity level) and in so far as the other units are benefiting from the services of the employees located at the corporate office, there is a supply of service from the corporate office to other offices. Therefore, the transaction (or a deemed transaction between the offices) is covered under supply and chargeable to GST.

Going by the above decision, the cross-charge of common employee costs from the head office to other offices as the head office cannot retain or absorb all the common employee costs at its end.

CONCLUSION

Input Service Distributor is merely a facility given to the dealers, especially for those who have multi-state presence but a centralized procurement unit. In such case, combination of ISD and Cross Charge Mechanism will enable the dealer to efficiently use the ITC credits in respect of procurements happening at various places.

An ISD is required to file the return on 13th of the next month, hence he will be required to undertake the reconciliation of ITC in respect of inward supplies between 11th to 13th. Unless, ISD files its return, other units will not be able to get the ITC.

Hence, it's advisable in respect of services received from outside, the best mechanism is ISD and cross charge will be separate for providing or facilitating those supplies. There has to be supply from one distinct person to another to resort to cross charge.

ISD is applicable only in respect of input services. Therefore, business entities dealing in goods, may prefer to shift from centralized to decentralized model, in respect of services also, and in that case, concept of ISD may not be really useful them, except for distribution of common credits.

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