

17 April 2019

**ADVISORY MEMO ON THE CHANGE TO SECTION 12(8) OF THE INTEGRATED GOODS
AND SERVICES TAX ACT, 2017**

The present communication is in relation the amendment to Section 12(8) of the Integrated Goods and Services Tax Act, 2017 ('IGST Act') made with effect from 1 February 2019 by way of insertion of a proviso and its impact on EICI members. The entire amended provision is reproduced below:

Quote

12. Place of supply of services where location of supplier and recipient is in India.

(1) The provisions of this section shall apply to determine the place of supply of services where the location of supplier of services and the location of the recipient of services is in India.

...

(8) 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.

Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods.

...

Unquote

Prior to the above amendment, in case of express services provided by a GST registered courier company to a GST registered customer exporting goods outside India, the place of supply u/s 12(8) of the IGST Act was the location of such registered Indian exporter.

In consultation with our advisors and other external stakeholders, the insertion of the proviso will have the following impact:

- a) The proviso specifically changes the place of supply for transportation services (including courier services) in relation to goods exported outside India to the place of the destination of the goods.



For e.g., For a courier company registered in Maharashtra transporting goods of an Indian registered exporter (located in Maharashtra) through courier to London, the place of supply shall be outside India (i.e. 97 Other Territory).

- b) Section 7(5)(a) of the IGST Act provides that when the supplier of goods or services or both is located in India and the place of supply is outside India, the transaction shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce. Accordingly, IGST shall be applicable.
- c) The reporting of such courier transactions, both in the invoice issued to the customer and in the GST returns should be with place of supply as – "97 - Other Territory"

We understand that the input tax credit of the IGST so charged should not be restricted merely on the ground that the place of supply is 97 - Other Territory. Based on the interactions that EICI has had with the GSTN, they have been appraised of the above understanding.

We shall keep you posted on any further updates that we receive on this matter.