

# GST NEWSLETTER

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**GST Newsletter:  
Compiled And Edited By**

INCORP INDIRECT TAX DIVISION

COMPILED BY

ARTICLE - CA URMI MEHTA  
CASE LAWS - CA DHANESH NANDU  
NOTIFICATIONS - SHIVANGI PANDEY

EDITED BY

CA PRASANNA KS

# ARTICLE

## Input Service Distributor Under GST

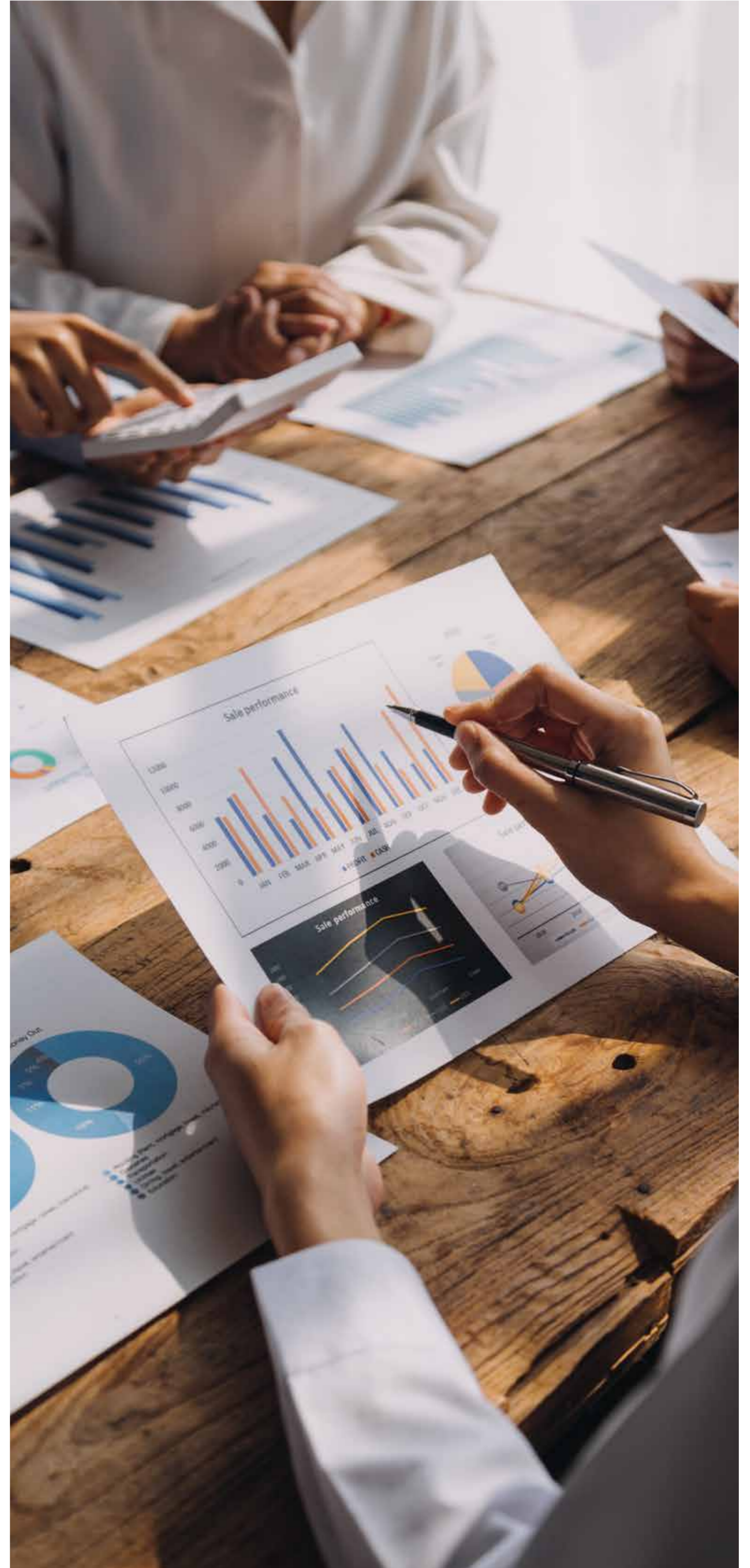
### Introduction

The Goods and Services Tax (GST) is a destination-based consumption tax that was introduced in India in 2017. One of the critical features of GST is the availability of Input Tax Credit (ITC), which allows businesses to offset the tax paid on inputs against their output tax liability. To streamline the distribution of ITC within a business group, the concept of an Input Service Distributor (ISD) was introduced.

In this article we will look at the concept of Input Service Distributor under GST Law

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## ✔ Who Is Input Service Distributor?

The concept of Input Service Distributor is aimed at businesses operating with multiple branches or units. It acts as a facilitator for the distribution of input tax credit among these branches or units.

As per Section 2(61) of the CGST Act, 2017, "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.

In other words, the ISD receives invoices or bills containing the details of input services which are distributed to the respective branches or units, where the ITC is utilized to offset their output tax liability.

The primary objective of the ISD is to streamline the process of availing and distributing input tax credits, ensuring equitable distribution among different units of a business. This mechanism prevents the accumulation of ITC at a central level while enabling the utilization of credit at the branch level.

## ✔ Who Is Eligible To Be An Input Service Distributor?

The companies may have their head office at one place and units at other places which may be registered separately. The Head Office would be procuring certain services which would be for common utilization of all units across the country. The bills for such expenses would be raised at the Head Office. Since the common expenditure is meant for the business of all units, the credit of such input services in respect of such common invoices should be apportioned between all the consuming units. The ISD mechanism enables such proportionate distribution of credit of input services amongst all the consuming units.

Thus, the taxpayer who avails such common services may register as an Input Service Distributor. To transfer this common credit, a company is mandatorily required to take separate registration under the category of Input Service Distributor. This registration is an additional process after an input service distributor in the GST register as a regular taxpayer. The application for registration under ISD is made in **FORM GST REG-1**. There is no threshold limit for registration for an ISD. The registration process involves providing details such as name, PAN, address, and authorized signatory information. Upon successful registration, the entity will be assigned a unique ISD registration number. It is important to note that an ISD registration is distinct from the regular GST registration.



## ✔ What Is The Manner For Distribution Of The Credit?

After registration, an ISD must adhere to the operational framework for the purposes of distributing the input tax credit. The ISD who receives invoices for the input services availed from various service providers, consolidates the invoices received and determines the total amount of ITC available for distribution. ISD shall not accept any invoices in which tax is paid under reverse charge mechanism. It means that if they want to take input service under RCM, the entity will have to take normal GST registration. While consolidating the invoices, ITC attributable to a particular recipient shall be allocated to such entity only even if the entity is unregistered or is making exempt supplies. In other words, the credit of tax paid on input services attributable to a particular recipient of credit shall be distributed to that recipient only.

Further, where the credit of tax on input services is attributable to more than one recipient or to all recipients then the same shall be distributed among those recipients or amongst all such recipients on the pro rata basis of the turnover in a State/Union territory of such recipients, during the relevant period, to the aggregate of the turnover of such recipients and which are operational in the current year, during the said relevant period.

The relevant period is defined under the explanation provided in section 20 of the CGST Act. The meaning of "relevant period" is as under:

the "relevant period" shall be -

- (i) if the recipients of credit have turnover in their States or Union territories in the financial year preceding the year during which credit is to be distributed, the said financial year; or
- (ii) if some or all recipients of the credit do not have any turnover in their States or Union territories in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed.

In other words, where all the recipients have turnover in the previous financial year then the relevant period means the previous financial year. And where some or all recipients do not have any turnover in the previous financial year then the relevant period means the last quarter for which turnover for all the recipients is available.

## ✔ What Are The Restrictions For Distribution Of Credit Under ISD?

The following are instances where ISD under GST is not allowed to distribute the input tax credit:

- Where the Input Tax Credit is paid for input.

- Where the Input Tax Credit is paid for Capital Goods.
- Where the Input Tax Credit is availed under reverse charge mechanism.

### ✔ What Are The Compliances To Be Adhered To?

After taking the registration under ISD, the following are the compliances to be adhered to by an ISD:

- Once the input tax credits are allocated, the ISD issues an ISD invoice, as prescribed in rule 54(1) of the CGST Rules, 2017. It must be clearly indicated on the invoice that such an invoice is issued only for distribution of input tax credit. The input tax credit available for distribution in a month shall be distributed in the same month.
- The ISD is required to furnish such details in FORM GSTR-6 which is filed by 13th of the following month. Additionally, an ISD shall separately distribute both the amount of ineligible and eligible input tax credit in the return filed.
- An ISD is not required to file Form GSTR-9 annually.

### ✔ How To Distribute The ITC Among The Recipients?

The ITC on account of central tax, state tax and integrated tax shall be distributed separately on an ISD invoice. The manner of distribution is dependent on the location of the recipient and the distributor i.e., ISD. The manner of the distribution is as described in the table below:

- When the distributor and the recipient are in the **same state**:

Type Of GST	To Be Distributed
Credit Of CGST	As CGST
Credit Of SGST/UTGST	As SGST/UTGST
Credit Of IGST	As IGST

- When the distributor and the recipient are in the **different state**:

Type Of GST	To Be Distributed
Credit of CGST/SGST/UTGST	As IGST
Credit of IGST	As IGST

## Conclusion

To sum it all, the Input Service Distributor (ISD) mechanism is a method for streamlining the distribution of Input Tax Credit (ITC) within a business group. By streamlining the allocation of credits and ensuring transparency, the ISD framework promotes efficient tax management, compliance, and cost optimization. As businesses continue to adapt to the GST regime, leveraging the benefits of an ISD can contribute to enhancing operational efficiency and achieving seamless coordination among various branches or units.

## CASE LAWS

# Applicant Is Eligible To Take Full Credit Of GST Charged In The Tax Invoice Issued By The Supplier, Even If A Commercial/financial Credit Note Is Issued Later - AAR - Andhra Pradesh.

M/s. Vedmutha Electricals India Private Ltd - GST AAR - Andhra Pradesh - Order No. 05/AP/GST/2023 dated 26-05-2023

### Facts Of The Case

The applicant M/s. Vedmutha Electricals India Private Ltd. is engaged in the business of supply of various electronic items. It purchases goods from one of the suppliers, M/s. Gold Medal Electricals Private limited. Based on the transactions, the supplier gives him turnover discounts, Quantity discount etc. All the discounts are in the form of after-sales discounts. A financial credit note is issued for such discounts by the supplier without GST. The supplier does not reduce its output tax liability in respect to these notes as GST provisions don't permit exclusion of post-supply discounts from transaction value.

They sought an advance ruling regarding their eligibility to claim full GST credit for tax invoices issued by their supplier. The query specifically pertained to situations where a commercial or financial credit note was later issued by the supplier for a partial amount of the invoice, despite the GST already being paid to the government and whether to reverse such availed input tax credit proportionately to the extent of the financial or commercial notes issued by the supplier.


### Provision Of The Law

The Authority observed that the provisions of section 15(3)(b) of the Central Goods and Services Tax (CGST Act) can only be applicable if there was a prior agreement and a link established between the relevant invoices and the discounts provided.

In this case, no such correlation was found between the credit notes issued by the supplier and the applicant, except for mentioning the scheme and the goods for which the credit notes were given. As a result, the benefit of reducing the value of the discount from the transaction value, as per the provisions of section 15(3)(b), was not allowed. Therefore, the contention of the applicant was deemed correct.

However, any discount given after the supply, and which is allowed as a reduction in the price shall be excluded from the value of the supply if certain conditions are met.

Further, circular 92/11/2019-GST clarified that secondary discounts shall not be excluded from value of



supply as such discounts are not known at the time of supply and the conditions laid down in section 15 of CGST act are not satisfied.

## Ruling

The Learned Authority held that:

The post-supply discount received by the applicant from the supplier did not impact on the transaction value between the two parties. Therefore, the applicant was eligible to take full credit of the GST charged in the tax invoice and was not required to reverse the Input Tax Credit (ITC) to the extent of the financial or commercial credit notes issued by the supplier.

The AAR further ruled that the availability of input tax credit in the hands of the recipient should not be blocked due to post-supply discounts.

The AAR also noted that financial credit note shall not be used as a conduit to transfer input tax credit fraudulently by raising an invoice for higher value to transfer ITC and then reducing the transaction value through financial credit note whereas the ITC transferred is left unaltered.


## CASE LAWS - 2

# Person Appointed As GPA Holder In India To Be Considered As Service Provider, Liable To Pay GST - Karnataka AAR


M/s. NAGABHUSHANA NARAYANA, (through Prabhavathi, GPA Holder) – GST AAR - Karnataka – Order No. KAR ADRG 17/2023, dated 13-04-2023

## Facts Of The Case

The applicant being a non-resident, owns an immovable property in India, the same is rented out to the tenants. The applicant has given the GPA to his mother for inducting tenant, to create tenancy and to execute necessary deeds or documents either registering before the Jurisdictional sub-registrar and to receive all profits, rents, lease advance money, advance security deposit amount from the existing tenant and from the prospective tenant and to take care all necessary action regarding tenancy of the said scheduled property. Also, the income from the property, including the rent, are received and retained by the GPA holder.







The Applicant submitted that he is being the owner and supplier of renting of immovable property service, the location of the supplier is outside India as he resides outside India and, he doesn't have any fixed establishment in India; the service being provided by him

becomes import of service as it satisfies the requirement. Further, the responsibility to pay tax is on the service recipient under reverse charge mechanism and thus he is neither liable for registration under GST nor liable to pay the tax.

## Provision Of The Law

The KAAR observed the facts and stated that “the activity of leasing or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services in terms of entry 2(b) of Schedule II to Section 7 of CGST Act, 2017.”

Further in terms of Section 2(105) of CGST Act, 2017 “supplier’ in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied”. Thus, the GPA holder i.e., the mother of applicant in this case is the supplier of service of leasing of the building for commercial purposes.

## Ruling

The Learned KAAR held that:

In the instant case the supply amounts to intra-state supply in terms of section 8(2) of the IGST Act, 2017, since the location of immovable property and location of supplier i.e., GPA holder being a taxable person are both in the State of Karnataka. The GPA holder would be liable to pay CGST and KGST on the taxable value.

# NOTIFICATIONS AND CIRCULARS FOR THE MONTH OF JUNE 2023

✓ Central Tax Notification. - [Click here](#)

Sl. No	Subject	Notifications/Circulars No. Date of Issue
1.	Extension of due date for filing of return in FORM GSTR-3B for the month of May 2023 for the persons registered in the districts of Kutch, Jamnagar, Morbi, Patan and Banaskantha in the state of Gujarat up to 30th June 2023.	17/2023-Central Tax Dated: 27-06-2023
2.	Seeks to extend the due date for furnishing FORM GSTR-7 for April and May 2023 for registered persons whose principal place of business is in the State of Manipur.	16/2023-Central Tax Dated: 19-06-2023
3.	Seeks to extend the due date for furnishing FORM GSTR-3B for April and May 2023 for registered persons whose principal place of business is in the State of Manipur.	15/2023-Central Tax Dated: 19-06-2023
4.	Seeks to extend the due date for furnishing FORM GSTR-1 for April and May 2023 for registered persons whose principal place of business is in the State of Manipur.	14/2023-Central Tax Dated: 19-06-2023

# DUE DATES OF GST FOR THE MONTH OF JULY 2023

## JULY

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5	6	7	8
9	GSTR-7, GSTR-8	* GSTR-1		* GSTR-1, * GSTR-5/GSTR-6 * IFF (Optional)		
	10	11	12	13	14	15
16		CMP-08		* GSTR-3B GSTR-5A		* GSTR-3B (G-1)
	17	18	19	20	21	22
23	* GSTR-3B (G-2)				GSTR-11	
	24	25	26	27	28	29
30	31					

## 2023

- \* Monthly return for taxpayers with Annual Turnover more than 1.5 Crore or Taxpayer who has opted Monthly return option
- \* Monthly return for taxpayers with Annual Turnover up to 1.5 Crore or Taxpayer who has opted Quarterly return option (October 2022- December 2022).
- \* Quarterly returns, with Annual Turnover less than Rs. 5 Crores and opted for quarterly return monthly payment option (QRMP).
- \* Monthly return for taxpayers with Annual Turnover of up to or more than INR 5cr in Previous FY, Monthly Filing – December 2022
- \* As per POB, QRMP scheme with Annual Turnover of up to INR 5cr



# CONTACT US

## Mumbai Address

B-1602, ONE BKC,  
Mumbai - 400051

## Bangalore Address

No.8, 3rd Floor,  
VK COMMERCE, 3rd Main  
Rajajinagar 6th Block,  
Opp. IT Park, Bangalore - 560010

 +91 77380 66622

 [info@incorpadvisory.in](mailto:info@incorpadvisory.in)

 [www.incorpadvisory.in](http://www.incorpadvisory.in)

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