



THE CHAMBER OF TAX CONSULTANTS

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INDIRECT TAX STUDY CIRCLE MEETING ON 14th March, 2019

Jai hind College, A. V. Room, 4th Floor, A Road,

Churchgate, Mumbai - 400 020

Adv. Suyog Nawal

ZADN & Associates,

Chartered Accountants

CROSS CHARGE, INPUT SERVICE DISTRIBUTOR & INTERMEDIARY SERVICES

1. **MIX Ltd.** is into manufacture of bakery products. The product mix of **MIX Ltd.** includes sale of breads and bread items as maximum out of total sales. Other items include Cakes, pastries, etc. **MIX Ltd.** Commissary facilities are in 3 states viz. Maharashtra, Gujarat and Karnataka and have obtained GST registration respectively. The financial details are as under:

(Amount in INR)

Particulars	MH (HO)		GJ		KAR	
	Value	Percentage	Value	Percentage	Value	Percentage
Exempt Supply	5,00,000	20%	15,00,000	60%	15,00,000	75%
Taxable Supply	20,00,000	80%	10,00,000	40%	5,00,000	25%
Total Supply	25,00,000	-	25,00,000	-	20,00,000	-
Input Tax Credit (Common)	10,00,000	-	5,00,000	-	1,00,000	-

The below table presents the spread of expenses:

(Amount in INR)

Nature of Expenses	Nature	MH (HO)
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<u>Common Expenses -</u>		
Consultancy fees	Service	50,000
Purchase of stationery	Goods	80,000
Insurance premium	Service	30,000
Director Sitting fees	Service	1,00,000
Purchase of laptops	Capital Goods	40,000
Audit Committee fees	Service	20,000
Rent – Head Office	Service	80,000
Total		4,00,000

- Q.1. What should be the best policy for the company; Whether it should opt for ISD or Cross charge or both?
- Q.2. MIX Ltd. imports a high-quality ingredient (taxable) which is exclusively used in manufacture of bread & bread items. The ingredients are imported in Mumbai and further distributed to its other locations? Which shall be commercially most viable option for MIX Ltd.?
- Q.3. What HSN shall MIX Ltd. classify while cross-charging its cost to other states?
- Q.4. Whether recovery of cost of goods, eg. Laptops, should be treated as sale of goods?
- Q.5. Whether employee cost of HO should be factored while determining the value of cross-charge, if any?
- Q.6. An assumption can be made in this case study that there are no taxable outward supplies. Ideally, commissaries are not required to be registered. However, by virtue of Section 24 of CGST Act they have registered themselves. Whether the method or policy adopted above will undergo a change?

2. LIFE Ltd. is in the business of general insurance and has offices in **26 states**. The relevant details are as under:

Functions Performed	ALL STATES	MH	DEL	WB	TN	KAR
On boarding of customers	NO	YES	YES	YES	YES	YES
Document Validation	NO	YES	YES	NO	NO	NO

Policy Issuance	NO	YES	YES	YES	YES	NO
Receipt of premium	YES	ALL STATES				
Claim settlements	NO	YES	NO	NO	NO	NO
Legal Team	NO	YES	NO	NO	NO	NO
Technical team	NO	NO	NO	NO	NO	YES
Payment to Brokers / Agents	NO	YES	NO	NO	NO	NO
Purchase of Fixed assets	NO	YES	NO	NO	NO	NO

Sales Mix:

Maharashtra	10%
Other States (assumed - 90% / 25)	3.60

Q.1. What will you advise to the following states from compliance perspective?

- Maharashtra – Cross-charge or ISD?
- Delhi – Cross-charge or ISD?
- West Bengal – only Cross-charge?
- Tamil Nadu – Only ISD?
- Karnataka – only ISD?

3. **(1) Central Agencies**, is an authorised agent of **Singapore Ltd** and is situated in India. Singapore Ltd. is the supplier based in Singapore engaged in supplying goods to **Dubai Ltd.**, a company based in Dubai. The supplies from Singapore Ltd. to Dubai Ltd. are done through the Central Agencies.

(2) Dubai Ltd. further supplies the said goods to **Tamil Nadu Ltd.** in India. Tamil Nadu Ltd., being their sole selling agents for India, imports the goods and store the same in customs bonded warehouse. Later, as and when a buyer is identified, the goods are sold by transferring the documents of title in goods to the buyer in India.

Please discuss the facts to determine the implication in the hands of Central Agencies in (1) and Tamil Nadu Ltd. in (2) above.

4. **Stay Ltd.** is in the business of providing guest house facility through **4 states**. All the contracts with vendors, customers are entered into by H.O, branches are involved in day to day activities. The guest houses are

exclusively available to the group companies at concessional rate of Rs.1, 200 per day per room.

Particulars	H.O.	Branch 1	Branch 2	Branch 3
A. Sales	25,00,000	1,00,000	2,50,000	1,50,000
Regular Tariffs (Per day per room)	3,000	2,500	2,200	1,800
Expenses:				
House- keeping	4,00,000	1,50,000	3,00,000	2,00,000
Security Services	1,00,000	80,000	70,000	50,000
Consumables	20,000	12,000	7,000	14,000
Salaries	3,00,000	68,000	43,000	56,000
B. Total of expenses	8,20,000	3,10,000	4,20,000	3,20,000
C = A - B	Positive	Negative	Negative	Negative

Q.1. What would be the most appropriate policy; cross charge or ISD?

Q.2. Whether the gross loss of the branches has any bearing on the cross-charge or ISD structure? Or in case of loss situation at branches, cross-charge / ISD from HO is not required?

5. **Soft Ware Ltd. (SWL)** is registered in Pune which is subsidiary of **US Soft Ltd. (USSL)** from USA. They are engaged in providing design services to USSL or customers of USSL. SWL appoints professionals who are spread across the nation and under work from home policy. All contracts / engagements are managed centrally from Pune. Employees who are spread across the nation are paid salaries and reimbursement of costs as per company policy. SWL is registered only in the state of Maharashtra.

Q.1. Whether registration is required in other states as well?

Q.2. Whether cross-charge or ISD? Please advise the most appropriate method.

6. **Mr. Beans** is engaged by **Entertainment Ltd.** for providing business consultancy services them. On special request of the company Mr. Beans arranges for transportation facility by appointing a third party to cater to the needs of the company.

Q.1. Whether Mr. Beans qualify as 'pure agent' or 'intermediary services'.

Q.2. Whether concept of 'pure agent' is subset of 'intermediary services'?

7. **Retail Ltd.** is registered in 5 states having HO in MH and branches in GOA, GJ, KAR and RAJ. The KAR branch pays hotel expenses of the director (from MH) visiting KAR for legal matters wherein the contracting party is HO-MH.

Q.1. Whether KAR can be considered as intermediary?

Q.2. What is the most appropriate method; cross-charge or ISD?