

Refund for GST Payment under Incorrect Head

Prior to Offsetting against Liabilities

## Refund of GST paid under Incorrect Head – Prior to Offsetting against Liabilities.



Supplied Goods for Rs 6 L + 1,08,000 IGST



Liable to pay

Erroneously Paid

IGST – Rs 1.08 L

CG, SG – Rs 54 K each



Incorrect Amount paid is **“NOT OFFSET”** in GSTR 3B.



Can Taxpayer **avail Refund of GST** paid under Incorrect Head / Wrong Head?

**Prior to** Offsetting such amount in GSTR 3B.



## Refund of GST paid under Incorrect Head – Prior to Offsetting against Liabilities.



Net GST Liability

SGST – Rs 50,000

CGST – Rs 50,000

Interest us/ 50 payable

SGST – Rs 3,000

CGST – Rs 3,000

Late Fees payable

SGST – Rs 1,000

CGST – Rs 1,000



**Erroneously** paid entire amount of Tax, Interest, Late Fees under **“TAX HEAD”**

SGST – Rs 54,000

CGST – Rs 54,000



What is the possible solution?



Refund for GST Payment under Incorrect Head

After Offsetting against Liabilities

## Refund of GST paid under Incorrect Head – After Offsetting against Liabilities.



Architect (Mrs A) is  
Registered in Maharashtra

Supplied Services in relation to Immovable Property to



Recipient (Mr. B) is  
Registered in Maharashtra

Immovable Property constructed at



Immovable Property is in  
Delhi State



Wrongly paid **CGST & SGST**

As per **Section 12 (3)** of IGST Act 2017

Supplier filed GSTR 3B



POS shall be "LOCATION OF  
IMMOVABLE PROPERTY"

Incorrect Amount is **ALREADY OFFSET"**  
in GSTR 3B.

POS – **DELHI**  
Supplier shall charge **IGST**

PMT – 09 can be filed only  
**prior to offsetting**  
GST Liabilities

PMT – 09 can be filed once  
Liability is offset **through**  
**GSTR 3B or DRC 03**



What is the Possible  
solution?

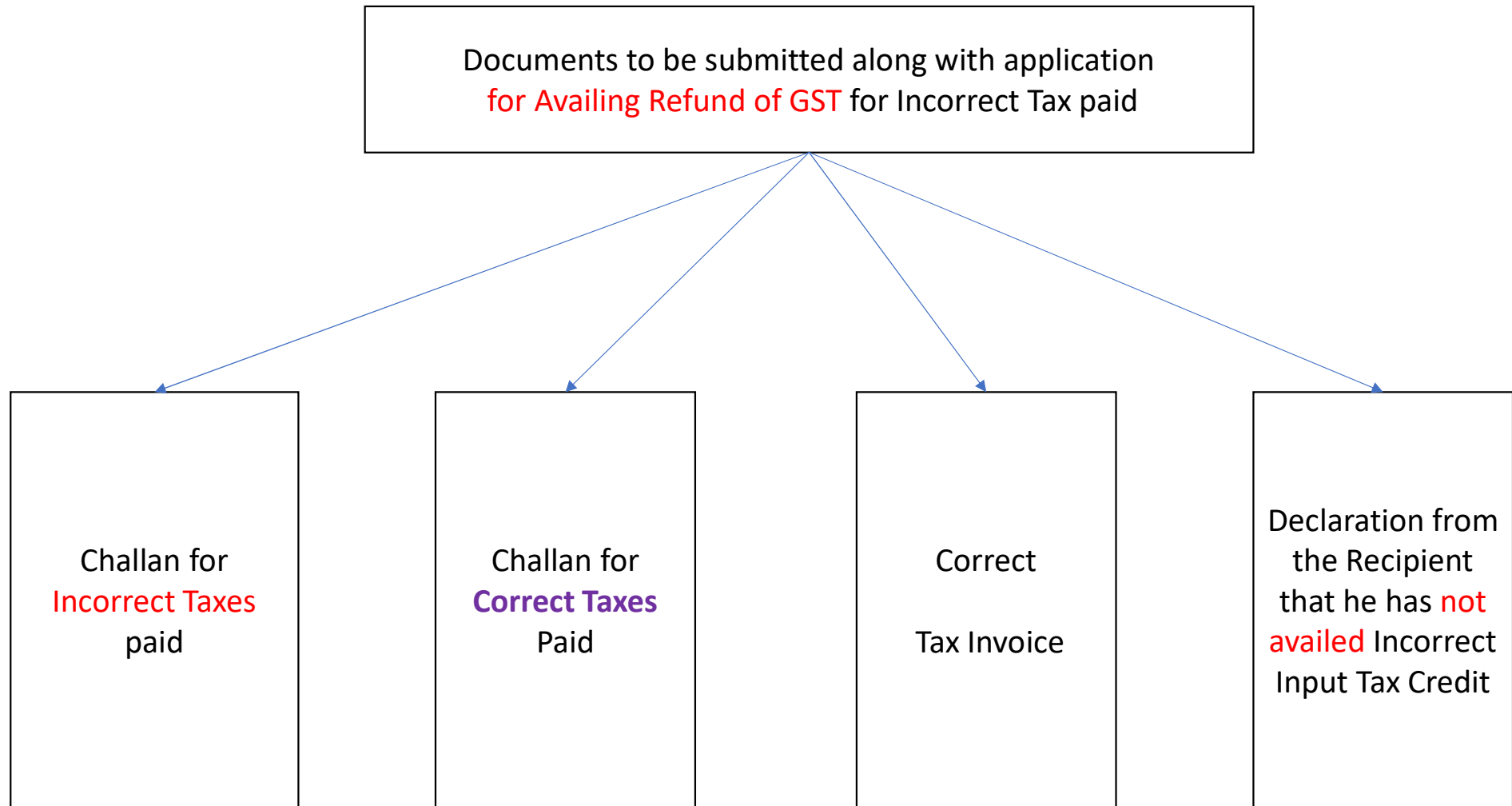


Taxpayer

Shall be required to pay Correct Tax again  
ie IGST

Can Claimed **Refund** of Incorrect GST Paid

Refund of GST paid under Incorrect Head – After Offsetting against Liabilities.



## Refund of GST paid under Incorrect Head.



In-Correct Taxes  
(GST) Paid

**Prior** to filing GSTR 3B or DRC 03

Ie **Prior** to Offsetting GST Liabilities

File PMT 09

Transfer Amount from Incorrect Head  
to Correct Head

**After** filing GSTR 3B or DRC 03

Ie **After** Offsetting GST Liabilities

Pay GST again under Correct Head

File Refund Application and Claim  
Refund of GST paid under Incorrect  
Head



Refund of Excess Balance in Electronic Cash Ledger

## Refund of Excess Balance in Electronic Cash Ledger.



GST on Outward Supplies

Rs 12,000

Input Tax Credit

Rs 1,800

Net GST payable

Rs 10,200



Paid / Deposited GST of

Rs 10,800

Excess GST Paid

Rs 600



**GSTR 1**  
Filing GST Return



Returns are **"YET TO BE FILED"**



How can Taxpayer avail Refund of excess  
GST Paid of Rs 600?

Refund of Excess Payment of GST.

Refund of Consideration + GST to the Recipient.

**Before** the Services are Provided to the Recipient.

## Case Study: – Refund of Advances Collected from the Recipients (Services not yet provided to the Recipient).

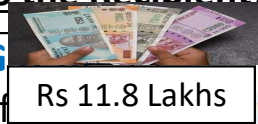


G GST – Rs 1.8 L

Collected Advances on  
“SERVICES” of Rs 10 L + 18%  
GST during April 2021

Services to be  
provided during  
July 2021

Supplier paid GST  
Rs 1.8 L while filing  
GSTR 3B of April 2021



Rs 11.8 Lakhs



Recipient (R.D. or U.R.D.)



Rs 11.8 Lakhs

Refunded Rs 10 L + 18 %  
GST ie Rs 11.8 Lakhs to the  
Recipient

Recipient cancelled  
Service Order and  
demanded refund

During June 2021  
Prior to Receipt of  
Services



Recipient (R.D. or U.R.D.)



Rs 11.8 Lakhs

Had already deposited GST of  
Rs 1.8 Lakhs to govt while filing  
GSTR 3B of April 2021

Still Supplier refunded  
Rs 11.8 Lakhs to the Recipient



Recipient (R.D. or U.R.D.)



Supplier

Shall suffer loss of GST Paid of  
Rs 1.8 Lakhs?

## Reply to Case Study:

As per **Section 31 (3) (e)**  
**read with Rule 51** of CGST  
Rules 2017

If Supplier is refunding  
advances collected **along**  
**with GST then**

Supplier is required to issue



Rs 11.8 Lakhs



Recipient **(R.D. or U.R.D.)**



Supplier

On the basis of  
such **Refund**  
**Vouchers**

Supplier have an  
Option to claim

**Refund of GST**  
paid of **Rs 1.8**  
**Lakhs** from the  
Govt

Under the Head

Excess Payment of  
GST



GST – Rs 1.8 L

Refund of Consideration + GST to the Recipient.

**After** the Services are Provided to the Recipient.

## Case Study: – Refund of Advances Collected from the Recipients (Services not already provided to the Recipient).



Supplied “TEACHING SERVICES” in April 2021 for Rs 50,000 + 18% GST

Supplier paid GST of Rs 9,000 while filing GSTR 3B of April 2021

50 K + 18% GST



Were Not Satisfied with Teaching Services

Hence Demanded Refund of Rs 50,000 + 18% GST in June 2021

50 K + 18% GST



Had already deposited GST of Rs 9,000 to govt while filing GSTR 3B of April 2021

Still Supplier refunded Rs 50,000 + 18% GST to the Recipient



Which Document









Is required to issue for

Refund against Services Provided

As Refund is provided to the Recipient “AFTER THE RECEIPT OF SERVICES”



## Reply to Case Study:

As per <b>Section 34</b> of CGST Act 2017		If Supplier is refunding advances collected <b>along with GST</b>		After the <b>Services</b> are <b>provided</b> then		Supplier is required to issue				
 Supplier		During June 2021		Outward GST Liability <b>Say</b>		GST reduction on account of Credit Note		Net GST paid		
GST - Rs 21,000				Rs 30,000		(Rs 9,000)		Rs 21,000		
 Supplier		During June 2021		Outward GST Liability <b>Say</b>		GST reduction on account of Credit Note		Claim Refund of GST paid of Rs 9,000 under		 Rs 9,000 
				Rs NIL		(Rs 9,000)		Excess Payment of GST  Taxpayer <b>may carry forward and adjust</b> against subsequent months liability		

Rule 89 (5) of CGST Rules 2017

Refund of GST due to "INVERTED DUTY STRUCTURE"

## Refund of GST under **"Inverted Duty Structure."**



Reg Person



Textile Business



GST Rate on **Inputs** – 18%

Say ITC – Rs 1,80,000



GST Rate on **O/w supply** – 5%

Say GST Liability – Rs 50,000

GST Rate on **Inputs** is **Higher**  
than GST Rate on **Outputs**

Such cases are known as  
**Inverted Duty Structure**

Reg Person **may avail refund**  
**of Rs 1,30,000** under Inverted  
Duty Structure

ITC – Rs 1,80,000



## Case Study: 1



Reg Person



GST Rate on **Inputs** – 18%

Say ITC – Rs 2,00,000

Say ITC – Rs 2,00,000



GST Rate on **C.G.** – 28%

Say ITC – Rs 25,00,000

Say ITC – Rs 25,00,000



GST Rate on **O/w supply** – 5%

Say GST Liability – Rs 50,000

Say GST Liability – Rs 50,000



Calculate Eligible Refund from Electronic Credit Ledger under  
**Inverted Duty Structure?**

## Solution

Under Inverted Duty Structure, Taxpayer can claim refund of only

INPUTS

Refund of Capital Goods is  
**“NOT ALLOWED”**

Eligible Refund shall be

Less

Refund –  
**Rs 1,50,000**

Input Tax Credit for Capital Goods is to be **“CARRIED FORWARD”** and **utilized in subsequent month**

## Case Study: 2



GST Rate on **Inputs** – 18%

GST Rate on **Services** – 18%

GST Rate on **O/w supply** – 5%

Reg Person

Textile Bus

Sav ITC – Rs 2,00,000

Sav ITC – Rs 5,00,000

Sav GST Liability – Rs 75,000

ITC – Rs 2,00,000

ITC – Rs 5,00,000

GST Liability – Rs 75,000



Calculate Eligible Refund from Electronic Credit Ledger under  
**Inverted Duty Structure?**

### Solution

Under Inverted Duty Structure, Taxpayer can claim refund of only

**INPUTS**

Refund of Services is  
**“NOT ALLOWED”**

Eligible Refund shall be

Less

Refund –  
**Rs 1,25,000**



In case of  
**VKC Footsteps India Pvt Ltd V/s Union of India**  
held that

Under Inverted Duty Structure, Registered Person may avail refund of GST on **Input Services too**

Registered Person **“MAY CLAIM REFUND”** of Rs 6,25,000 (75,000 – 2,00,000 - 5,00,000)

However GST Officer **may not grant refund** and it may lead to Pro-Longed Litigation



Services which are **directly linked** with product manufactured or sold or output services provided

Services which are **“COMMON”** and **NOT linked** with product manufactured or sold or output services provided

Refund of GST paid on such Services  
**“MUST BE ALLOWED”**  
under Inverted Duty Structure

Refund of GST paid on such Services  
**“SHOULD NOT BE ALLOWED”**  
under Inverted Duty Structure



### Case Study: 3



Reg Person



GST Rate on **Inputs** – 28%



Say ITC – Rs 5,00,000



E Exempt NIL Rated Non GST Non Taxable  
**NO GST ON OUTWARD SUPPLY**



Calculate Eligible Refund under **Inverted Duty Structure?**

### Solution

As per Section 17 (1) , 17 (2) and read with Rule 42 of CGST Rules 2017

If Outward Supply is

Taxpayer is **“NOT ELIGIBLE”** to avail Input Tax Credit

Ineligible

Since Input Tax Credit is **“NOT ADMISSIBLE”**

Reg Person **“CANNOT CLAIM REFUND”**

## Case Study: 4



Reg Person



GST Rate on **Inputs** – 12%

Say ITC – Rs 4,00,000



GST Rate on **O/w supply** – 12%

Say GST Liability – Rs 3,00,000

GST Rate on Input and Output is **Uniform**



Calculate Eligible Refund under **Inverted Duty Structure?**

## Solution

Reg Person may avail Refund under **Inverted Duty Structure** if

GST Rate on Inputs is **“HIGHER”** than GST Rate on Output

In the given case

Hence Registered Person **“CANNOT CLAIM REFUND”** of **GST Paid of Rs 1 Lakh**

Registered Person **“SHALL CARRY FORWARD”** Refund of Rs 1 Lakh and adjust against future GST Liabilities if any



## Case Study: 5



GST Rate **O/w supply – 12%**



GST on Input – 5%



GST on Input – 12%



GST Rate on **Services.–18%**



Reg Person

GST Liability – Rs 3,00,000

ITC – Rs 2,00,000

ITC – Rs 3,00,000

Say ITC – Rs 5,00,000



Whether Registered Person may avail refund of GST under Inverted Duty Structure?

GST Rate on Input Services **is higher** than GST Rate on Outward Supply

GST Rate on Inputs is **uniform or lesser** than GST Rate on Outward Supply

## Solution

As per Section 54 read with Rule 89, **Pre-Condition** for GST Refund under Inverted Duty Structure is

GST Rate **on “INPUTS”**

Is higher than GST Rate on Output

In the given case

Hence Registered Person **“CANNOT CLAIM REFUND”** under Inverted Duty Structure

Registered Person **“SHALL CARRY FORWARD”** GST Refund and adjust against future GST Liabilities if any

## Case Study: 6



Reg Person



GST Rate ~~O/w supply~~ – 5%

GST Rate **O/w supply** – 5%

GST Liability – Rs 2,00,000

GST Liability – Rs 3,00,000



GST on Input – 12%

GST on Input – 12%

ITC – Rs 7,00,000

ITC – Rs 7,00,000



JOB WORK

GST Rate on **Services** – 18%

GST Rate **Services** – 18%

Say ITC – Rs 5,00,000

Say ITC – Rs 5,00,000



Calculate Eligible GST Refund under Inverted Duty Structure?

## Solution

In the Given case, GST Rate on Inputs **(12%)** is higher than GST Rate on Output **(5%)**

Hence R.P. **shall be eligible** to avail GST Refund under Inverted Duty Structure.

Say R.P. takes advantage **of Gujarat High Court Judgement**, Eligible GST Refund shall be

Less

Eligible GST Refund shall be **Rs 9,00,000**

## Summary

Condition for Refund under  
**Inverted Duty Structure**

GST Rate on **"INPUT"** is

Is higher than

GST Rate on **"OUTPUT"**

If GST Rate on Input is **lower or equal** to GST Rate on Output then R.P. **cannot claim** GST Refund under ITC

It is immaterial that GST Rate on input Services is higher than GST Rate of Output.

Registered Person

**May Avail** Refund of  
GST paid on **"INPUTS"**

**"Cannot Avail"** Refund  
of GST paid on  
**"Capital Goods"**

**"Cannot Avail" Refund**  
of GST paid on  
**"Input Services"**

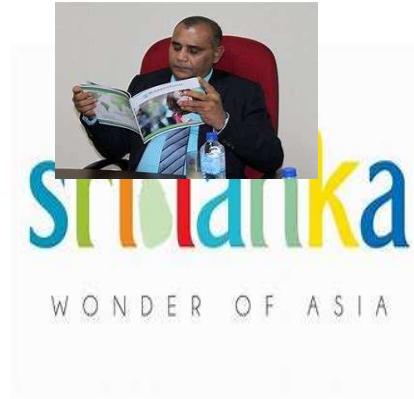
However R.P. may avail refund  
of Input Services on basis of  
**Gujarat H.C. Judgement**

Registered Person **cannot avail refund** of GST if outward supply is exempted, nil rated, non taxable, NON GST

Registered Person **cannot avail refund** if GST Rate on Inputs **is equal** to GST Rate on Output

Entry No 59 of GST Exemption Notification No 12/2017.  
Services by a “Foreign Diplomatic Mission” located in India.

Entry No 59 of GST Exemption Notification No 12/2017 - Services by a “Foreign Diplomatic Mission” located in India.

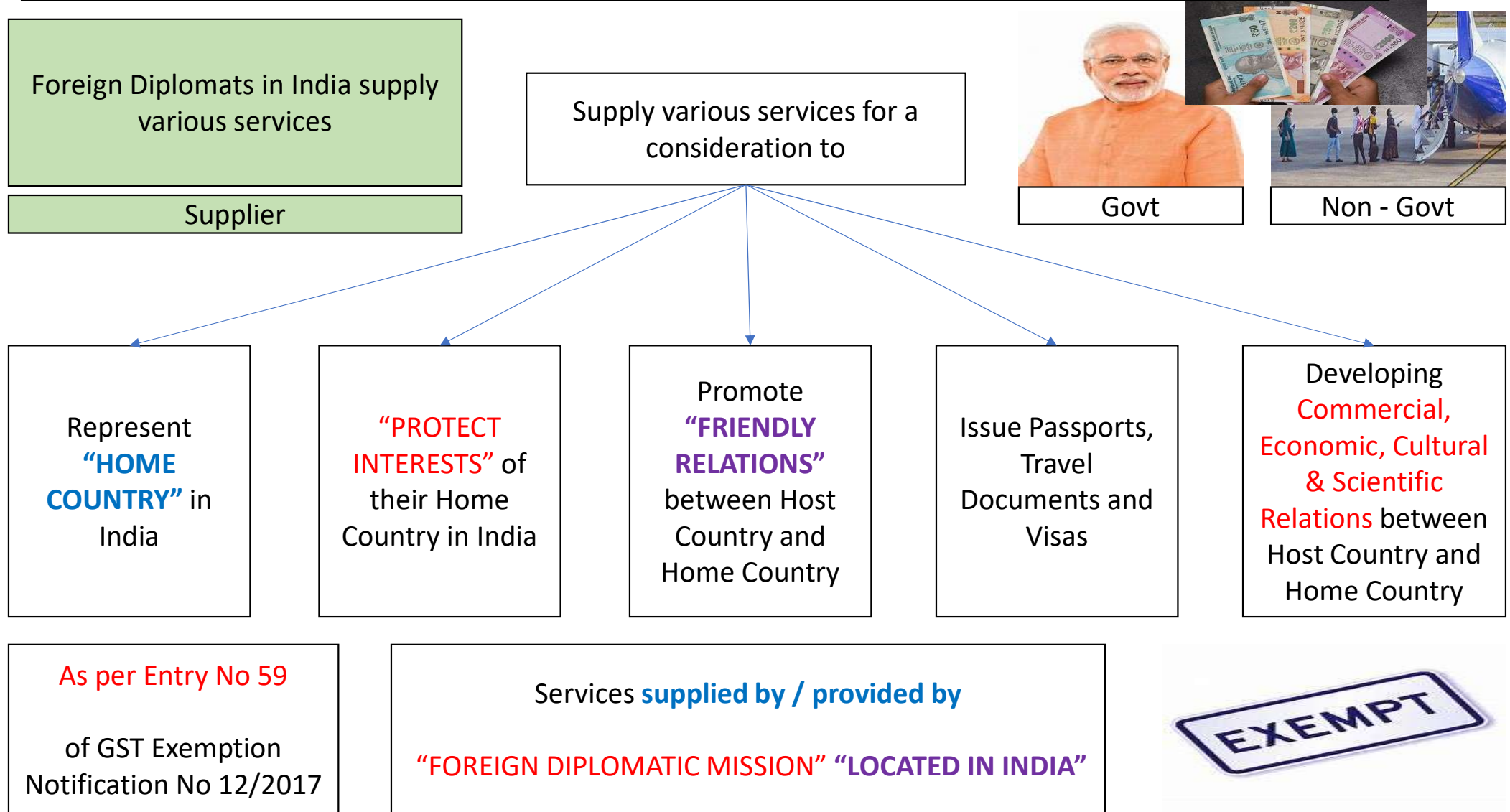


Host Country Keep offices of  
Foreign Diplomats in India



**FOREIGN EMBASSY  
IN INDIA**

**Entry No 59 of GST Exemption Notification No 12/2017 - Services by a "Foreign Diplomatic Mission" located in India.**





## Case Study: 1



Foreign Diplomats **“RECEIVES”** various services



Whether such Foreign Diplomats shall be liable to pay GST to the Supplier for

**“RECEIPT OF SUCH SERVICES”?**



Renting of Commercial Property



SOFTWARE SERVICES



Professional Services & Consulting



SECURITY

Entry No 59 restricts exemption for **“SERVICES PROVIDED BY”** Foreign Diplomatic Mission

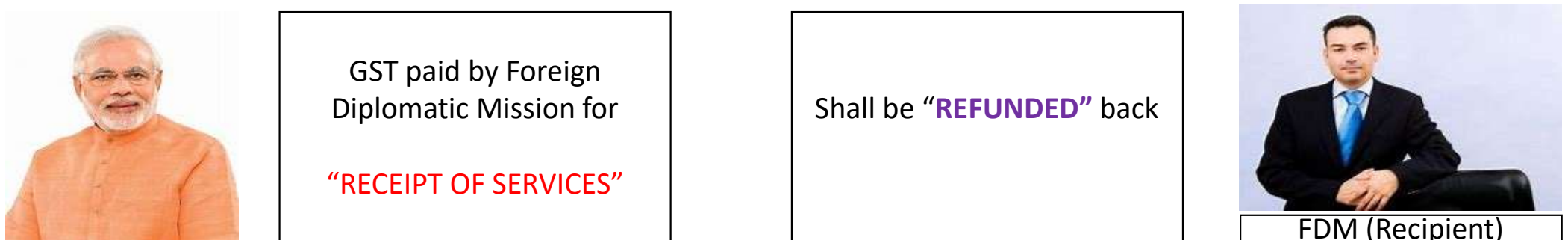
Exemption is **“NOT AVAILABLE”** for **“RECEIPT OF SERVICES”** by Foreign Diplomatic Mission

Hence Supplier **“SHALL BE LIABLE”** to charge, collect and pay GST **from Foreign Diplomatic Mission.**

Services **"PROVIDED TO"** "Foreign Diplomatic Mission" located in India.



Why Foreign Diplomatic Mission **shall be subjected to GST** for Receipt of Services?







Regular Taxpayers

GST NUMBER



Foreign Diplomatic Mission

UIN – Unique Identification Number



Foreign Diplomatic Mission

Shall get registered in GST Act & obtain  
“UIN – UNIQUE IDENTIFICATION NUMBER”

**Avail GST Refund** for GST paid  
on Receipt of Services

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Sep 11th, 2021

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Sep 13th, 2021



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