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THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Setup by an Act of Parliament)

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Chairman Desk

CA Rajendra Phadke
Chairman,
ICAI - Navi Mumbai (WIRC)



Dear Esteemed Members and Students,

The month of March has been both dynamic and enriching for our Branch, reflecting our continued commitment towards professional excellence, knowledge enhancement, and inclusive growth. As the regulatory landscape evolves with the introduction of the New Income Tax framework, all members are encouraged to adopt a proactive and inclusive approach in understanding and implementing these changes, with a shift towards a more advisory-driven role.

During the month, we successfully organised a range of impactful programmes including the International Women's Day celebration aligned with the WIRC theme "Rise, Lead, Transform - Beyond Boundaries" (with the broader international theme of "Give and Gain"), along with insightful sessions on Artificial Intelligence (Level 1), Bank Branch Audit, Capital Market Strategies, and Investment Planning, all of which received an encouraging response. The Students' Annual Fest, graced by our esteemed past Chairmen, was a proud moment showcasing the vibrancy of our student community, along with the Articleship

Placement Drive which provided meaningful opportunities to aspiring professionals. In line with our commitment to continuous learning, Sunday programmes are being organised especially for members in industry to facilitate knowledge sharing without disrupting professional schedules. Building on this momentum, the Branch will be conducting focused sessions on the New Income Tax Act, New Labour Laws, AI Level 2, and DISA, aimed at equipping members with future-ready skills.

I strongly encourage all members to extend their wholehearted support and give a positive response to the Membership Drive, as a stronger and more connected fraternity will enable us to create greater professional value and collective growth.

Further, we are fully committed to putting our best efforts towards acquiring dedicated premises for the Navi Mumbai Branch. In this regard, I appeal to all members to actively contribute by sharing or suggesting suitable plots in Navi Mumbai in the range of approximately 12,000 to 15,000 sq. ft., which



will be a significant step towards building a permanent and vibrant hub for our professional activities.

As an important development, the ICAI Accounting Standards Board has announced phased applicability of the Guidance Note on Financial Statements of Non-Corporate Entities & LLPs. The same will be applicable from FY 2025-26 for entities having turnover exceeding ₹5 crore and from FY 2026-27 for all entities. The Branch will be organising a dedicated programme on this important update to ensure members are well prepared for its implementation.

With Warm Regards,
CA Rajendra Phadke
Chairman,
Navi Mumbai Branch of WIRC of ICAI



**THE ONLY PERSON YOU ARE
DESTINED TO BECOME IS THE
PERSON YOU DECIDE TO BE.**



- Ralph Waldo Emerson

Intermediary Services - Litigation Hotspot under GST and way ahead

Contributed By: • CA Santosh Dhumal

Background - Intermediary Services and Taxation

The concept of intermediary services was first introduced under the Service Tax regime through the Place of Provision of Services Rules, 2012. An intermediary was defined as a broker, agent, or any other person who arranges or facilitates the provision of a service between two or more persons, without providing the main service on his own account. Under this regime, the place of provision for intermediary services was deemed to be the location of the service provider, resulting in such services being taxed in India even when provided to foreign clients.

With the introduction of GST, the definition of intermediary has been retained under Section 2(13) of the IGST Act, 2017, with similar principles continuing for determination of place of supply under Section 13(8)(b). Consequently, intermediary services are still deemed to be supplied at the location of the supplier, thereby restricting their qualification as export of services. This deeming fiction has led to significant litigation, particularly in cases involving outsourcing, back-office support, and marketing services provided to overseas entities. The evolution of jurisprudence in this

area reflects the ongoing tension between statutory provisions and the fundamental principle of destination-based taxation under GST.

Interpretational issues: -

Intermediary services have consistently been a subject of interpretational challenges under indirect tax laws in India. With the growing prominence of cross-border transactions and service-based economies, determining the taxability of such services has become increasingly critical. The classification of a service as an "intermediary" directly impacts its place of supply, and consequently, its taxability, often leading to denial of export benefits. This article aims to simplify the concept of intermediary services and analyse their taxation framework under both the erstwhile Service Tax regime and the current GST law.

However, before going the to the litigation part of the discussion, let's quickly recap with from Fundamentals of Intermediary services.

Fundamentals of Intermediary Services

Sec 2(13) of the IGST act defines the Intermediary services as "intermediary" means a broker, an agent or any other person, by whatever name called, who arranges or

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facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account.

While dealing with the Concept of Intermediary Circular No. 159/15/2021-GST provides the essential requirements

a) Minimum Three Parties Requirement Circular No. 159/15/2021-GST clarifies that an intermediary arrangement must involve at least three parties—two parties engaged in the main supply and one party facilitating such supply. Hence, a transaction involving only two parties cannot be treated as an intermediary service.

b) Existence of Two Distinct Supplies:- There must be two separate supplies: the main supply between principal parties and an ancillary supply of facilitation by the intermediary. The intermediary only arranges or facilitates and does not provide the main supply on his own account.

c) Role as Agent or Broker: - An intermediary must act in the nature of an agent, broker, or similar person. The role is supportive and facilitative, indicating that the person is not the primary supplier but only assists in executing the main transaction.

d) Exclusion for Supply on Own Account: - The definition specifically excludes persons supplying goods or services on a principal-to-principal basis. If a person provides the main supply, wholly or partly, on his own account, he cannot be classified as an intermediary.

e) Sub-Contracting Not Covered: - Sub-contracting is outside the scope of intermediary services. A sub-contractor who actually performs the main service, whether fully or partially, is treated as a supplier of the main service and not merely a facilitator.

This circular gives more clarity, while characterising the “Nature of service” and addition to it, further reference can be drawn from Circular No. 230/24/2024-GST dated 10 Sep 2024, highlights the principle,

The agency provides comprehensive advertising services on its own account, including procurement of media space, the arrangement constitutes two independent principal-to-principal supplies. The agency is not merely facilitating but providing the main service itself. And If the agency merely facilitates between foreign client and media owner, and the contract is directly between them, the agency acts as an intermediary.

It is also important to refer the Circular No. 232/26/2024-GST dated 10 Sep 2024, issued in the context of “Data hosting service” highlights

Data hosting providers deliver services on their own account, which includes managing infrastructure, operations, and maintenance independently. They neither arrange nor facilitate services between cloud providers and end users, and typically have no interaction with end users. Accordingly, such services are rendered on a principal-to-principal basis and do not qualify as intermediary services.

Therefore, The classification of intermediary depends on the actual role performed in a transaction. If a person provides services on his own account, he is not an intermediary. However, where the role is limited to facilitating between two parties, intermediary provisions apply.

Provisions related to Place of supply and exemption from GST.

As the GST is consumption base tax, and hence in a situation where supplier and recipient both are in the taxable territory, it is classified on the basis location of recipient of service and according get taxed either “intra-state” or “inter-state”.

However, “consumption base tax” principle takes the “U” turn in the situation where either supplier or recipient’s location not in India, in such case place of supply depends on the location of the supplier of intermediary services. (Ref. Sec 13(8) of IGST Act)

Exemption from the GST, Entry 12AA of Notification No. 9/2017-Integrated Tax (Rate) dated 28/06/2017 as amended, provide exemption for Services provided by an intermediary when location of both supplier and recipient of goods is outside the taxable territory, subject to the condition that, Following documents shall be maintained for a minimum duration of five years:

- 1) Copy of Bill of Lading
- 2) Copy of executed contract between Supplier/Seller and Receiver/Buyer of goods
- 3) Copy of commission debit note raised by an

intermediary service provider in taxable territory from service recipient located in non-taxable territory

- 4) Copy of certificate of origin issued by service recipient located in non-taxable territory
- 5) Declaration letter from an intermediary service provider in taxable territory on company letter head confirming that commission debit note raised relates to contract when both supplier and receiver of goods are outside the taxable territory”.

Litigation hotspot

Though the circulars provide clarity on the interpretation, still, matter is not free from the litigations. Specially the cases of refund claimed in the case of services, challenges faced by the taxpayers for classification of services as other services vs Intermediary services.

In most cases, services were classified as “intermediary services” and the benefit of Export of service, was denied, but the courts has differentiated the Intermediary service from other service, allowed the refund.

In GENPACT INDIA Versus Union of India (CWP-6048-2021) by Punjab & Haryana High Court, it was observed that,

29. As per definition of "intermediary" under Section 2(13) of the IGST Act the following three conditions must be satisfied for a person to qualify as an "intermediary";-

First, the relationship between the parties must be that of a principal-agency relationship. Second, the person must be involved in arrangement or facilitation of provisions of the

service provided to the principal by a 3rd party. Third, the person must not actually perform the main service intended to be received by the service recipient itself. Scope of an “intermediary” is to mediate between two parties i.e. the principal service provider (the 3rd party) and the beneficiary (the agents principal) who receives the main service and expressly excludes any person who provides such main service “on his own account”.

30. A bare perusal of the recitals and relevant clauses of the MSA reproduced hereinabove do not in any manner indicate that petitioner is acting as an “intermediary” so as to fall within the scope and ambit of the definition of “intermediary” under Section 2(13) of the IGST Act. Such clauses cannot also be interpreted to conclude that the petitioner has facilitated the services. The said clauses are in relation to the modalities of how the actual work would be carried out and do not in any manner establish that the petitioner was required to arrange/facilitate a 3rd party to render the main service which has actually been rendered by the petitioner.

The Hon’ble Division Bench of the Delhi High Court in M/s Ernst and Young Ltd. v. Commr., CGST - 2023 SCC OnLine Del 1764, held as under:-

23. It is apparent that the Adjudicating Authority has interpreted the last limb of the definition of 'intermediary' under Section 2(13) of the IGST Act as controlling the definition of the term. We are unable to agree with this interpretation. The limb of Section 2(13) of the IGST Act reads as "but does not include a person who supplies such goods or services or

both or securities on his own account" but this does not control the definition of the term 'intermediary'; it merely restricts the main definition. The opening lines of Section 2(13) of the IGST Act expressly provides that an intermediary means a broker, agent or any other person who "arranges or facilitates supply of goods or services or both or securities between two or more persons". The last line of the definition merely clarifies that the definition is not to be read in an expansive manner and would not include a person who supplies goods, services or securities on his own account. There may be services, which may entail outsourcing some constituent part to a third party. But that would not be construed as intermediary services, if the service provider provides services to the recipient on his own account as opposed to merely putting the third party directly in touch with the service recipient and arranging for the supply of goods or services

24. Thus, even if it is accepted that the petitioner has rendered services on behalf of a third party, the same would not result in the petitioner falling within the definition of 'intermediary' under Section 2(13) of the IGST Act as it is the actual supplier of the professional services and has not arranged or facilitated the supply from any third party.

In Ohmi Industries Asia (P) Ltd. v. Commr. (CGST) - 2023 SCC OnLine Del 2029, reiterating the view held in Ernst & Young, and held that, the market research services directly to OHMI, (Japan). Cannot be treated as Intermediary services.

In Boks Business Services (P) Ltd. v. Commr. (CGST) - 2023 SCC OnLine Del 5312, Delhi High Court held as under:-

10. It is clear from the aforesaid terms, that the petitioner is not an intermediary, inasmuch, as the petitioner is neither facilitating the provision of services by a third entity nor acting as a middleman for procuring such services for its affiliate. The petitioner is, in fact, contracted to provide the services, and is the principal service provider in the context of the services provided by it - book keeping, payrolls, and accounts through the use of cloud technology.

11. In case of intermediary services, there are three entities - one providing the principal service, one receiving the principal service, and an intermediary who acts as an agent or a broker for facilitating or arranging such services for the service recipient.'

In Nokia Solutions And Networks India Private Limited Versus The Principal Commissioner Of Central Tax (WP NO. 14827 OF 2022) Karnataka High Court observed that,

(xi) In the instant case, none of the aforesaid criteria / requirement (CBIC Circular No.159/15/2021-GST dated 21.09.2021) is fulfilled by the petitioner who provides services to its overseas entity on its own account and consequently, the services provided by the petitioner clearly cannot be construed or treated as intermediary services as wrongly held by respondents 2 and 5 in the impugned orders, which deserve to be set aside. In other words, the material on record clearly establishes that

the activities of the petitioner is of software development and support as well as project management which are rendered by the petitioner on its own account and cannot be considered as intermediary services since the same are not services of arranging or segregating any other supply.

Similar view was also taken in case of

a) Amazon Development Centre India Pvt Ltd Vs Additional Commissioner Of Central Tax (WP NO. 13007 OF 2024) by Karnataka High Court

b) Columbia Sportswear India Sourcing Pvt Ltd Vs Union of India (WP NO. 13007 OF 2024) by Karnataka High Court

c) Infodesk India Pvt Ltd Vs Union of India (SCA NO. 13176 of 2025) by Gujarat High Court.

d) Excellence4u Research Services Pvt Ltd vs Assistant Commissioner Of Commercial Taxes (WP no 34642 OF 2025) by Karnataka High Court.

Interestingly, constitutional validity of provision related to place of Supply of Service of Intermediary service (Sec 13(8)(b) of IGST Act 2017) was challenged before the Bombay High Court in Dharmendra M. Jani v. Union of India initially resulted in a split verdict [2021 (87) GSTL 117 (Bom.)]. The matter was referred to a third judge, who ultimately upheld the provision in Dharmendra M. Jani v. Union of India [2023 (72) GSTL 201 (Bom.)]

Way Ahead for “Intermediary Service”.

To end the controversy, the 56th GST Council Meeting recommended a major change in the treatment of intermediary services: the place of supply will now be determined by the recipient’s location, not the supplier’s. This decision directly addresses concerns raised in the Bombay High Court’s Dharmendra Jani case and will have significant implications for exporters and cross-border transactions.

This recommendation now stands implemented through clause 141 of the Finance Bill, 2026, which proposes the omission of section 13(8)(b) and enacted through Sec 157 of Finance Act 2026.

Post amendment (Omission) to the section 13(8) (b) of IGST act, will have two impacts,

- a) In case of Indian Taxpayer providing the “Intermediary Service”. Will qualify the “export of service” provided rest of the conditions are fulfilled as per sec 2(6) of IGST Act 2017.
- b) In case of Indian Taxpayer receiving the “Intermediary Service” from overseas supplier, will be treated as “import of service” and GST will get attracted under RCM.

Conclusion.

The issue of intermediary services under GST has seen continuous disputes due to unclear interpretation. Courts have clarified that a service will qualify as “intermediary” only when a person merely facilitates between two parties, and not when services are provided on own account.

In many cases, taxpayers were wrongly denied export benefits, especially in outsourcing and IT support services. However, judicial rulings have supported taxpayers where services were independently rendered and not facilitative in nature.

The recent amendment removing Section 13(8) (b) is a major relief. Now, place of supply will depend on the recipient’s location, making such services eligible for export benefits if conditions are satisfied.

Going ahead, businesses should clearly draft agreements and maintain proper documents to prove that services are provided on principal-to-principal basis. This will help avoid disputes and ensure smooth GST compliance.

Overall, the change brings clarity, reduces litigation, and supports growth of service exports from India.

Foreign Assets Disclosure Current Law vs FAST-DS 2026 (Finance Bill 2026)

Contributed By: • CA Sameer Gavali

Existing Position under the Black Money Act, 2015

Under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, non-disclosure of foreign income or foreign assets attracts stringent tax, penalty and prosecution consequences, especially for resident taxpayers. The Act provides for tax at 30% on undisclosed foreign income/assets, without allowing any deductions, along with a penalty up to 300% of such tax, i.e. 90% of the tax. Further, a separate penalty of ₹10 lakh per year per undisclosed foreign asset is leviable for failure to disclose in the return of income.

From a prosecution perspective, Sections 49 and 50 prescribe rigorous imprisonment up to 7 years along with fine in cases of wilful non-disclosure or failure to furnish return/report foreign assets. The law is particularly stringent as it does not recognise ignorance as a defence and has no limitation period, thereby exposing taxpayers to perpetual risk.

FAST-DS 2026 (Finance Bill 2026 Proposal)

The Finance Bill, 2026 introduces a one-time voluntary disclosure mechanism titled Foreign Assets of Small Taxpayers – Disclosure Scheme, 2026 (FAST-DS 2026) to address genuine non-compliance cases. The scheme is intended for

small taxpayers including individuals, NRIs, professionals and employees who have failed to disclose foreign income or assets in earlier returns.

Coverage:

- Undisclosed foreign income or assets not reported in earlier ITRs
- Foreign assets acquired from disclosed income but not reported in Schedule FA
- Assets such as foreign bank accounts, shares, ESOPs, etc.

Monetary thresholds (as per Finance Bill & FAQs):

- Up to ₹1 crore – Undisclosed foreign income/assets eligible for declaration
- Up to ₹5 crore – Assets acquired from explained sources but not reported

Exclusions:

- Proceeds of crime
- Cases where assessment under the Black Money Act is already completed

Ongoing / pending proceedings:

- The scheme provides that once a valid declaration is made, the disclosed matter attains finality, and pending assessment proceedings to that extent are settled / not pursued further (as reflected in scheme framework under Finance Bill provisions).

Tax & Penalty Implications (Residents vs Non-Residents) Under the BM Act, 2015

Particulars	Resident Individuals	Non-Residents
Applicability of Black Money Act	Fully applicable	Applicable if asset acquired during residency
Tax on undisclosed foreign income/asset	30%	30% (if covered under Act)
Penalty	Up to 300% of tax + ₹10 lakh per asset	Similar where applicable
Prosecution	Up to 7 years imprisonment	Applicable only if covered under Act provisions

The FAST-DS 2026 scheme represents a strategic compliance window for taxpayers exposed under the Black Money Act. Given the disproportionately high penal exposure under existing law, the scheme provides a certain exit route, especially for cases involving Schedule FA omissions, ESOPs, or legacy foreign holdings.

Tax & Penalty Under FAST-DS 2026:

- Undisclosed assets/income: Tax @30% + penalty equal to tax (effectively 60%)
- Explained but unreported assets: Fixed compliance fee (e.g., ₹1 lakh)

Thus, the scheme provides a significantly moderated penalty regime compared to the Black Money Act exposure.

Immunity & Relief under FAST-DS 2026

A key feature is that upon valid disclosure and payment, the taxpayer is granted:

- Immunity from penalty under the Black Money Act
- Complete immunity from prosecution for matters disclosed
- Finality of assessment with respect to disclosed assets/income

EVENT HIGHLIGHTS



Galaxy A23 5G



Galaxy A23 5G



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EVENT HIGHLIGHTS



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WICASA Chairperson Desk

CA Pragya Jain
Chairperson,
WICASA - Navi Mumbai (WIRC)



Dear Students,

The transition from a student to a professional is one of the most defining moments in the journey of a Chartered Accountant. For those who have successfully navigated the challenges of the January 2026 CA Intermediate attempt, the horizon now beckons with the promise of practical training. To facilitate this crucial step, the WICASA Navi Mumbai Branch (WIRC) recently organized a comprehensive Articleship Placement Drive, designed to bridge the gap between aspiring talent and prestigious firms. The drive, held at our branch office in Vashi, served as a vibrant platform for students to interact directly with various CA firms. The atmosphere was charged with ambition as students presented their credentials to recruiters. Unlike traditional job hunts, this initiative allowed candidates to:

Showcase Versatility: Students presented their academic achievements alongside their diverse interests and soft skills.

Gain Interview Exposure: For many, this was their first encounter with formal professional interviews, providing invaluable experience in articulating their technical knowledge.

Explore Firm Specializations: From statutory audit and GST compliance to emerging fields like Alternative Investment Funds (AIFs) and Sustainability Reporting, students gained insights into different career paths.

On Saturday, 28th March 2026, the WICASA Navi Mumbai Branch of WIRC-ICAI successfully hosted its flagship cultural event, Yugantar 2026, at the Navi Mumbai Sports Association (NMSA), Vashi. Centered around the powerful theme "Embrace the Unstoppable Spirit - दूसरा युग, दूसरा समय," the evening provided a much-needed platform for the student community to come together and celebrate the vibrancy of our fraternity. Creativity of a CA student knows no bounds. Moving beyond the world of balance sheets and tax audits, the floor of the NMSA was transformed into a stage for artistic brilliance. The "Unstoppable Spirit" of the participants was on full display through:

Musical Brilliance: Captivating solo and group singing performances and soulful instrumental sets.

Dramatic Flair: Impactful drama and skits that brilliantly portrayed the unique nuances and humorous side of the CA journey.

The success of Yugantar 2026 served as a reminder that the journey of a CA student is defined by more than just academic rigor; it is defined by the resilience and passion we carry within us. This celebration was a testament to the fact that when we balance our hard work with our passions, we truly become unstoppable.

Warm Regards,
CA Pragya Jain
Chairperson,
Navi Mumbai WICASA



"SUCCESS IS NOT JUST ABOUT THE DESTINATION; IT IS ABOUT THE COURAGE TO KEEP MOVING AND THE SPIRIT TO SHINE EVEN WHEN THE PATH IS STEEP."



Credits & Acknowledgments

We extend our heartfelt thanks to all contributors, writers, and volunteers who made this edition possible. The success of this newsletter lies in the collective efforts of dedicated professionals who shared their insights, time, and creativity.

This newsletter has been prepared and edited by CA Hemanshu Pandya & CA Jugal Solanki



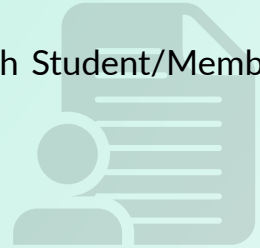
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