

# Input Service Distributor

**Kedia Dhandharia & Co.**

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## Key Points to be Covered

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Whether ISD mechanism becomes mandatory as per new provision?

Differences between third party services and internally generated services ?

What kind of services received are required to be routed through ISD ?

Discussion on advance ruling of Columbia Asia Hospital Private limited and Cummins India Ltd.

What should be the proposed manner of distribution of credit?

Whether ISD is required to make tax payment under RCM ?

## Mandatory Registration of ISD

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As per **Section 24 (viii)**, Input Service Distributor is required to obtain compulsory registration, regardless of whether or not separately registered under the GST Act.

### Key changes in the Finance Act 2024 dated 15.02.2024 vide Notification No.16/2024-central Tax

#### Erstwhile Definition as per Section 2(61)

- “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;

#### New Definition as per section 2(61)

- “Input Service Distributor” means an office of the supplier of goods or services or both which receives tax invoices towards the receipt of input services, **including invoices in respect of services liable to tax under sub-section (3) or sub-section (4) of section 9, for or on behalf of distinct persons referred to in section 25, and liable to distribute the input tax credit** in respect of such invoices in the manner provided in section 20

## Amendment in Section 20-Manner of distribution of credit by ISD

Erstwhile Provision	New Provision
(1)The Input Service Distributor shall distribute the credit of central tax as central tax or integrated tax and integrated tax as integrated tax or central tax, <b>by way of issue of a document containing the amount of input tax credit</b> being distributed in such manner as may be prescribed.	(1) Any office of the supplier of goods or services or both which receives tax invoices towards the receipt of input services, including invoices in respect of services liable to tax under sub-section (3) or sub-section (4) of <b>section 9, for or on behalf of distinct persons referred to in section 25, shall be required to be registered</b> as Input Service Distributor under clause (viii) of section 24 and shall distribute the input tax credit in respect of such invoices.
(2) The Input Service Distributor <b>may</b> distribute the credit subject to the following conditions, namely:– a) ..... b) ..... c) ..... d) ..... e) .....	(2) The Input Service Distributor <b>shall</b> distribute the credit of central tax or integrated tax charged on invoices received by him, including the credit of central or integrated tax in respect of services subject to levy of tax under sub-section (3) or sub-section (4) of section 9 paid by a distinct person registered in the same State as the said Input Service Distributor, in such manner, within such time and subject to such restrictions and conditions as may be prescribed.
	(3) The credit of central tax shall be distributed as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit, in such manner as may be prescribed

## Analysis of Circular No.199/11/2023-GST Dated 17<sup>th</sup> July 2023

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- Clarification on taxability of services provided by an office of an organization in one State to the office of that organization in another State, both being distinct persons.

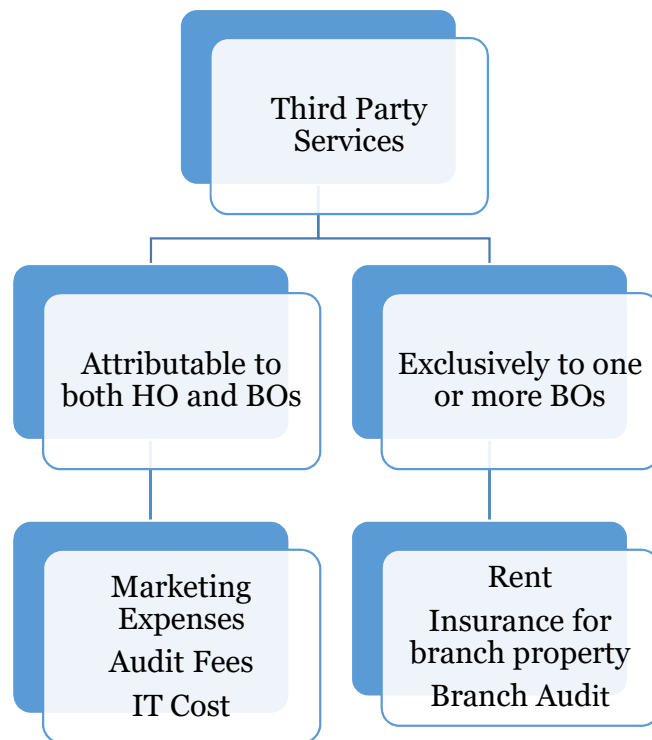
**For Third party service-** HO shall distribute ITC through ISD in respect of such common input services as per Section 20 of CGST Act 2017 read with rule 39 of CGST rules 2017.

**For Internally generated service-** In this case cross charge will be applicable and HO shall issue Invoices on the basis of value determined under rule 28 30 or 31.

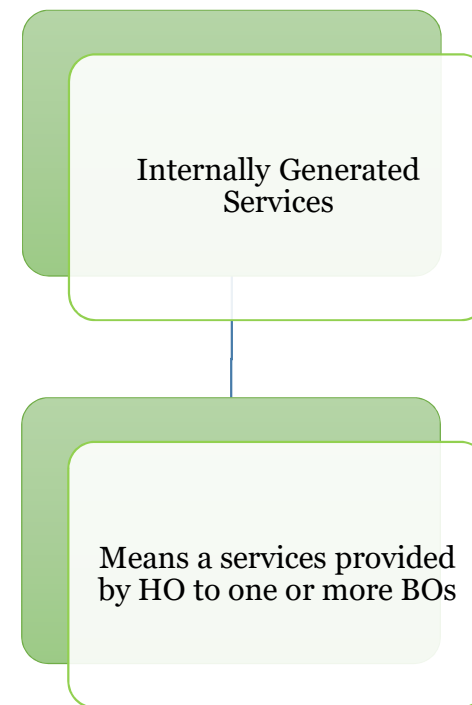
# Third party services and Internally Generated Services

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## Input Service Distributor



## Cross Charge



## Decoding Covered and Non-Covered Expenses under ISD

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Nature of expense	ISD or no ISD
HO Rent	X
Expenses exclusively for HO	X
Advertising	ISD
Royalty	ISD
IT software procurement	ISD
Import of Service(under RCM) for other offices	ISD
Business consultancy (identifiable to other offices)	ISD
Business consultancy ( strategic but identifiable)	ISD
Business consultancy (strategic like M&A)	X
Central Audit/Branch audit	ISD
Tax return filling and other compliance related expenses (consumed by other branch)	ISD
Banking charges ( identifiable to other offices)	ISD
Insurance for branch property	ISD
CSR expenses	X
Subscription where branch are also direct beneficiaries	ISD

## **Advance Ruling of M/s Columbia Asia Hospital Pvt Ltd.**

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Karnataka AAAR in Re: Columbia Asia Hospitals Pvt Ltd [2018-VIL-30-AAAR] held that there are three core functions for a head office, viz. strategy role, coordination role and control and policy role. In addition to these core functions, HO also has a service provider role. In this role, HO provides those services that business units require, such as ICT systems and training systems. HO handles activities like accounting, payment of salaries, income tax deductions, provident fund deductions, legal support, shared knowledge base which benefit all their offices across the country. The execution of above mentioned activities by the HO which is for the benefit of all their units is in the nature of a service by the HO. As such there is a supply of service by the HO to the other distinct units of the company.



## **Advance Ruling of M/s Cummins India Ltd.**

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- (i) Whether availment of common input supplies on behalf of other unit/units registered as distinct person and further allocation of the cost incurred for same to such other units qualifies as supply and attracts levy of GST?

Yes, availment of common input supplies from the third-party service vendors/suppliers on behalf of the branch offices/units, registered as distinct persons, will qualify as supply of services in accordance with the provision of Section 7(1)(a) of the CGST Act, 2017. However, the cost of the said common input services availed on behest of branch offices/units and allocated to the Branch Offices / Units by the Head Office will not attract the levy of GST as the said costs have been incurred by the Head Office in the capacity of a pure agent of the branch offices/units, and as such, the said cost incurred by the Head Office shall be excluded from the value of supply of the facilitation services.

## Rule 39 - Procedure for distribution of input tax credit by ISD

$$\text{Credit distributable to state} = \frac{\text{T.O. of state during relevant period}}{\text{Aggregate T.O. during relevant period}} \times \text{Total Amount of Credit to be distributed}$$

### Important terminology-

#### Relevant period

- If turnover existed in the previous financial year → relevant period shall be previous financial year.
- If no turnover existed in the previous financial year → relevant period shall be **the last available quarter**.

#### Turnover

- **Turnover = Total turnover - duties/taxes under:**
- Entry 84 (List I) – Excise duty on tobacco & other goods (excluding alcohol, opium, narcotics)
- Entry 92A (List I) – Tax on inter-state sale/purchase of goods (except newspapers)
- Entry 51 (List II) – Excise duty on alcohol, opium, narcotics & countervailing duties
- Entry 54 (List II) – Tax on sales or purchases of goods (except newspapers), subject to Entry 92A

## Manner of Distribution of credit to recipient

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Particulars	Input Credit head	Distribution head
<b>Recipient and ISD are in the Same State</b>	IGST	IGST
	CGST	CGST
	SGST/UTGST	SGST/UTGST
<b>Recipient and ISD are in the different State</b>	IGST	IGST
	CGST	IGST
	SGST/UTGST	IGST

## Mandatory Conditions for distribution of ITC

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Credit attributable to	Distributable to
<b>Specific recipient</b>	Credit shall be distributed to specific recipient
<b>More than one recipient</b>	Distribution on a pro rata basis according to the recipient's turnover in a State/UT during the relevant period in proportion to the total turnover to whom such credit attributable of all operational recipients.
<b>All recipient</b>	Distribution on a pro rata basis according to the recipient's turnover in a State/UT during the relevant period in proportion to the total turnover of all operational recipients.

## Other points to be considered for distribution of ITC

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The distributed credit amount to the recipient cannot exceed the available credit amount.

ITC available for month shall be distributed in the same month.

ISD shall issue an invoice that clearly indicate it is solely for the distribution of credit.

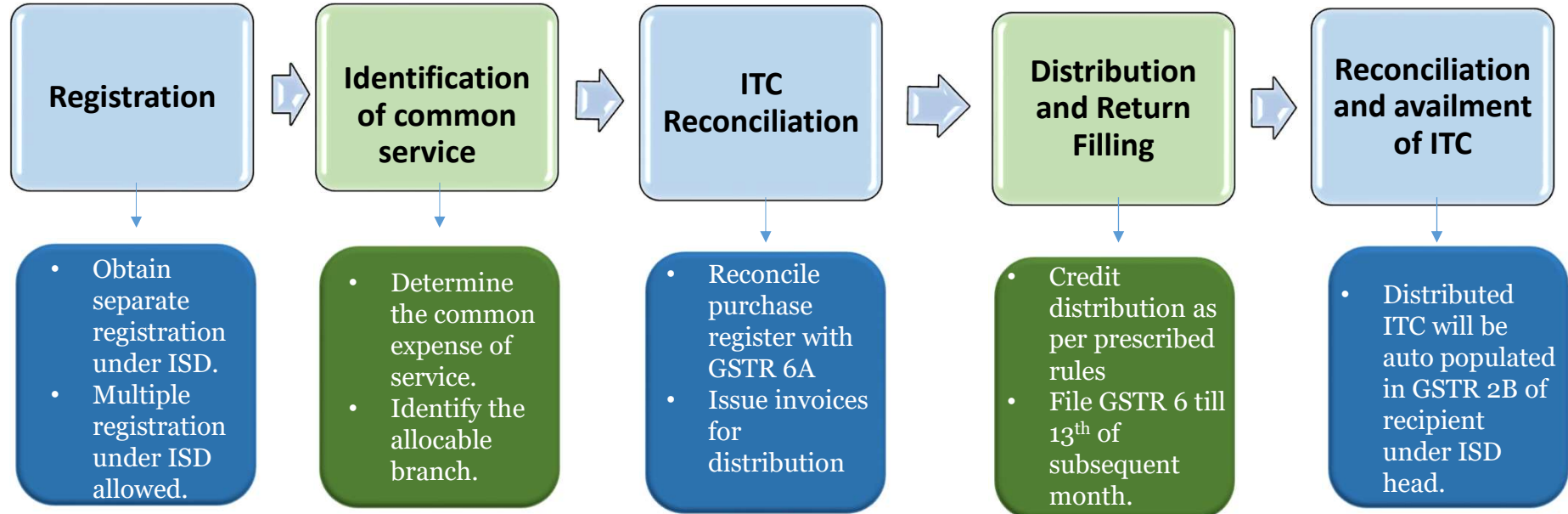
If the already distributed credit is reduced, a credit note is required to be issued.

The reduction in ITC from a supplier's credit note is apportioned based on the original invoices.

Credit is to be distributed only to operational units.

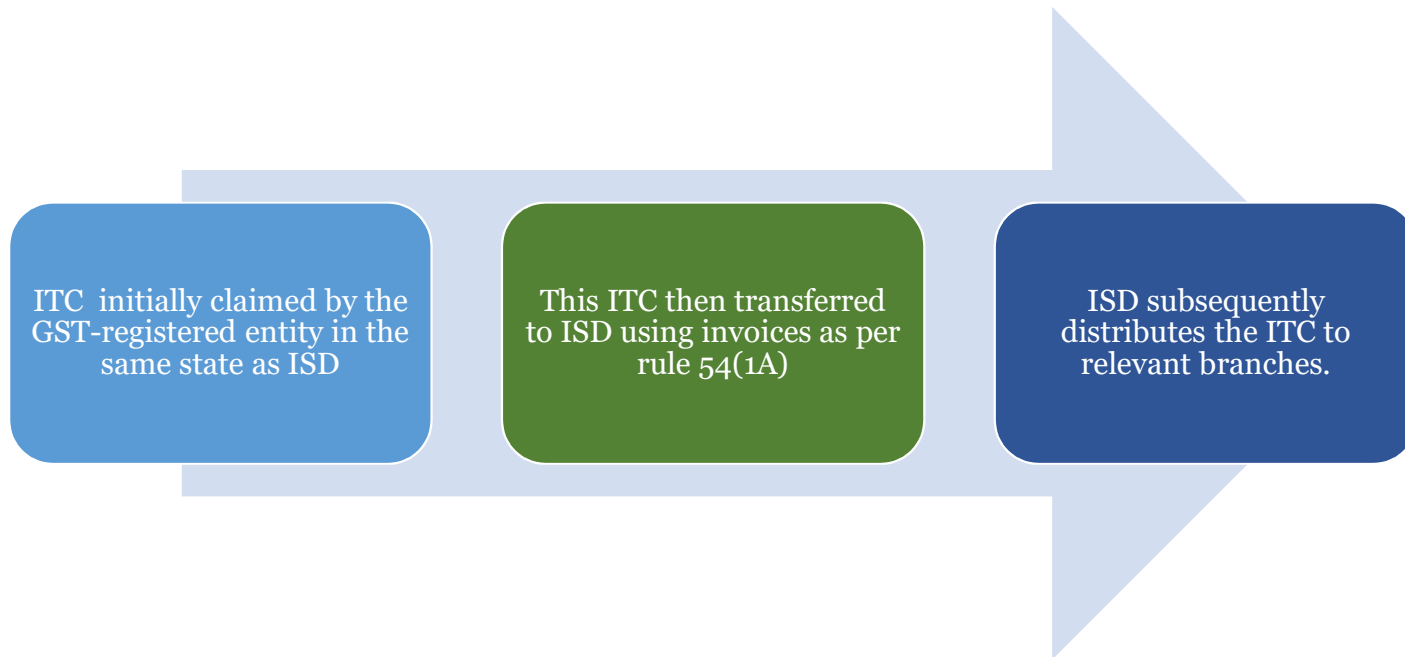
## Compliance process under ISD

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## Process for Reverse Charge ITC under ISD

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# Thank you

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