

# Chapter 2 Supply under GST

## Question Bank

(Chapter No. is according to the ICAI Study Material)

Q1.	<p>Examine whether the following activities would amount to supply under section 7 of the CGST Act:</p> <ol style="list-style-type: none"> <li>(1) Hari Charitable Trust, a trust engaged in providing medical relief free of cost, donates books and stationery to children living in slum area.</li> <li>(2) Lalit Manufacturers have a factory in Udaipur and a depot in Lucknow. Both these establishments are registered in respective states. Finished goods are sent from the factory to the depot without consideration so that the same can be sold.</li> <li>(3) Dhruv is an Electronic Commerce Operator in Mumbai. His son who is settled in Canada is a well known lawyer. Dhruv has taken legal consultancy from him free of cost with regard to his family dispute. Would your answer be different if in the above case, Dhruv has taken legal advice in respect of his business unit in Mumbai?</li> </ol>
	<ol style="list-style-type: none"> <li>(1) Section 7 of the CGST Act, provides that supply must be made for a consideration except the activities specified in Schedule I and in course or furtherance of business. Since, both these elements are missing, donation of books and stationery to children living in slum area would not amount to supply under Section 7 of the CGST Act.</li> <li>(2) Schedule I of CGST Act, provides that supply of goods or services or both between related persons or between distinct persons as specified in Section 25, is supply even without consideration provided it is made in the course or furtherance of business. According to Section 25(5) of the CGST Act, 2017, where a person who has obtained or is required to obtain registration in a State in respect of an establishment, has an establishment in another State, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act. In view of the same, factory and depot of Lalit Manufacturers are establishments of distinct persons. Therefore, supply of goods from factory to depot without consideration, but in course of or in furtherance of business, is supply under Section 7 of the CGST Act.</li> <li>(3) Schedule I of CGST Act, provides that import of services by person from a related person located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business. In the given case, Dhruv has received legal consultancy from his son free of cost in a personal matter and not in the course or furtherance of business. Hence, services provided by Dhruv's son to him would not be treated as supply under Section 7 of the CGST Act. If in the above case, Dhruv has taken advice with regard to his business unit, services provided by Dhruv's son to him would be treated as supply under Section 7 of the CGST Act as the same are provided in course or furtherance of business though received from a related person.</li> </ol>
Q2.	<p>Explain the composite supply and mixed supply.</p> <p>A trader launches a package sales for marriage containing double bed, refrigerator, washing machine, wooden wardrobe at a single rate. He is issuing invoice showing value of each goods separately. Whether this is case of mixed supply or composite supply. Explain.</p>

	<p>Composite supply comprises of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.</p> <p>Mixed supply means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.</p> <p>Items such as double bed, refrigerator, washing machine and wooden wardrobe are not naturally bundled and also the invoice for the supply shows separate values for each item i.e., the package is not supplied for a single price.</p> <p>Therefore, supply of such items as a package will neither constitute a composite supply nor a mixed supply. Thus, the various items of the package will be treated as being supplied individually.</p> <p><b>Note:</b> The question specifies that the various items are supplied at a 'single rate'. The "single rate" expression is construed as single rate of tax in the above answer. Further, the "single rate" may also be construed as single price as given in the below mentioned answer.</p> <p>Items such as double bed, refrigerator, washing machine and wooden wardrobe are not naturally bundled. Therefore, supply of such items as a package will not constitute composite supply. Further, a single price has been charged for the package.</p> <p>Consequently, supply of such items as a package will be treated as mixed supply.</p>
Q3.	<p>The temple of ancestral deity of Mr. Nikhil kansal and his family is located at Mathura, Uttar Pradesh. The temple is run by a charitable organisation registered under section 12AA of the Income Tax Act, 1961. The family has got unshakeable faith in their ancestral deity. Mr. Nikhil is a big entrepreneur having flourishing business of tiles in Delhi. Upon the birth of their first child, he donated Rs 8 lakh to the said temple for construction of a sitting hall in the temple. On the main door of the sitting hall, a name plate was placed stating "Donated by Mr. Nikhil kansal upon birth of his first child".</p> <p>You are required to examine the leviability of GST on the donation received from Mr. Nikhil kansal?</p> <p>It has been clarified vide Circular No. 116/35/2019 GST dated 11.10.2019 that when the name of the donor is displayed in the religious institution premises, by placing a name plate or similar such acknowledgement, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation). There is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration.</p> <p>In the given case, there is no reference or mention of any business activity of the donor which otherwise would have got advertised. Thus, since the gift or donation is made to a charitable organization, the payment has the character of gift or donation and the purpose is philanthropic (i.e., it leads to no commercial gain) and not advertisement, hence GST is not leviable.</p>
Q4.	<p>Career point, a coaching institute, gets its books printed from Mamta Printing Press. The content of the books is provided by Career point who owns the usage rights of the same while the physical inputs including paper used for printing belong to the Mamta Printing Press.</p> <p>Ascertain whether supply of books by Mamta Printing Press constitutes supply of goods or supply of services.</p>

It has been clarified vide Circular No. 11/11/2017 GST dated 20.10.2017 that in the case of printing of books, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service.

In the given case, the content of the books is provided by Career point who owns the usage rights of the same while the physical inputs including paper used for printing belong to the Mamta Printing Press. Therefore, in view of the above mentioned provision, the supply of books by Mamta Printing Press will constitute supply of service.

Q5.

From the following information, determine the nature of supply and tax liability.

Fiama Ltd. a manufacturer of cosmetic products supplied a package consisting of hair oil (GST Rate - 18%), sun screen cream (GST Rate - 28%), shampoo (GST Rate - 28%) and hair comb (GST Rate - 12%). The price per package is Rs 400 (exclusive of taxes). 7,000 packages were supplied by the company to its dealers. Determine the nature of supply and its tax liability.

This supply would be regarded as mixed supply, since in this case each of the goods in the package have individual identity and can be supplied separately, but are deliberately supplied jointly for a single consolidated price. The tax rates applicable in case of mixed supply would be the rate of tax attributable to that one supply (goods, or services) which suffers the highest rate of tax from amongst the supplies forming part of the mixed supply.

Therefore, the package will be chargeable to 28% GST.

The tax liability will be arrived as under:

Value of taxable supply per package	Rs 400
No. of packages	7,000
Total Taxable Value of supply	Rs 28,00,000
Applicable GST Rate	28%
<b>Total Tax liability</b>	<b>Rs 7,84,000</b>

Q6.

With reference to provisions of the CGST Act, 2017 discuss in brief, when "Importation of services" is to be considered as supply and when it is not to be considered as supply.

Importation of services for a consideration whether or not in the course or furtherance of business is to be considered as supply.

Importation of services by a person without consideration is deemed as supply provided the following two conditions are satisfied:-

- (a) such import is from related person or from his establishments located outside India, and
- (b) such import is in the course or furtherance of business.

In case any or both of the above two conditions is/are not satisfied, the import of services without consideration shall not be deemed as supply.

Q7.

Examine whether the following amounts to supply.

- (1) Ahana Ltd. was amalgamated with Happy Ltd. On account of amalgamation, Mr. Anant a shareholder received 8,000 shares of Happy Ltd. in exchange of 4000 shares of Ahana Ltd.
- (2) Ajanta Ltd., an NBFC transfers bad loans (unsecured) to Finance Advisors Ltd.

	<p>(1) No. Transaction in securities is neither supply of goods nor services. Securities are excluded from the definition of both goods as well as services. Hence, such transaction will not qualify as supply.</p> <p>(2) No. Actionable claims are covered in definition of goods. However, Schedule III excludes actionable claims other than lottery, gambling and betting from the scope of supply. Transfer of unsecured loans, therefore, would not amount to supply.</p>
Q8.	<p>Sudama Associates, a registered supplier, disposes of the computers owned by the business without consideration and it has not claimed input tax credit on such computers. Examine whether the disposal of computers by Sudama Associates qualifies as deemed supply under Schedule I.</p> <p>As per section 7(1)(c) read with Schedule I, permanent transfer or disposal of business assets is treated as supply even though the same is made without consideration. However, this provision would apply only if input tax credit has been availed on such assets. Therefore, the disposal of computers by Sudama Associates is not a supply as the input tax credit has not been availed on the same.</p>
Q9.	<p>Vijay Sales, an air-conditioner dealer in Punjabi Bagh, Delhi, needs 4 air-conditioners for his newly constructed house in Safdarjung Enclave. Therefore, he transfers 4 air conditioners [on which ITC has already been availed by it] from its stock, for the said purpose. Examine whether the said activity amounts to supply under section 7 of the CGST Act, 2017.</p> <p>Further, a Punjabi Bagh resident, Aakash, approached Vijay Sales. He sold an air conditioner to Vijay Sales for Rs 5,000. Aakash had bought the said air-conditioner six months before, for his residence. Does sale of the air conditioner by Aakash to Vijay Sales amount to supply under section 7 of the CGST Act, 2017?</p> <p>Section 7 of the CGST Act, 2017 stipulates that in order to qualify as supply:</p> <ol style="list-style-type: none"> <li>Supply should be of goods and/or services.</li> <li>Supply should be made for consideration.</li> <li>Supply should be made in the course or furtherance of business.</li> </ol> <p>Further, Schedule I of the CGST Act, 2017 illustrates the activities to be treated as supply even if made without consideration. One such activity is permanent transfer or disposal of business assets where input tax credit has been availed on such assets, i.e. said activity is to be treated as supply even if made without consideration. In view of said provisions, permanent transfer of air conditioners by Vijay Sales from its stock for personal use at its residence, though without consideration, would amount to supply.</p> <p>However, sale of air-conditioner by Aakash to Vijay Sales will not qualify as supply under section 7 of the CGST Act, 2017 as although it is made for a consideration, it is not in the course or furtherance of business.</p>
Q10.	<p>Mr. Tarun is a registered supplier of goods in Dehradun. Since, the same kind of goods are not available in the area of Mr. Tarun, he appointed Mr. Nitish to procure goods on his behalf from Osho Pvt Ltd. based on specifications given by him and send it to him. The invoice for such goods is issued by Osho Pvt Ltd. in the name of Mr. Tarun.</p> <p>(i) Whether supply of goods by Mr. Nitish to Mr. Tarun will be considered as supply under GST?</p> <p>(ii) What will your answer, if the invoice for such goods is issued by Osho Pvt Ltd. in the name of Mr. Nitish?</p> <p>As per Section 7(1)(c) read with Para 3 of Schedule I of CGST Act, 2017, Supply of goods by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal will be considered as supply even if made without consideration.</p> <p>As per CBIC clarification, where the goods being procured by the agent on behalf of the principal are invoiced in the name of the agent, then the supply will be covered by Para 3 of Schedule I of CGST Act, 2017.</p>

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In the given case, Mr. Nitish procures goods on behalf of Mr. Tarun but the invoice is issued in the name of principal i.e Mr. Tarun. Therefore, Mr. Nitish will not be considered as agent for the purpose of Para 3 of Schedule I of CGST Act, 2017.

- (i) Supply of goods by Mr. Nitish to Mr. Tarun will not be considered as supply under GST.
  - (ii) If the invoice is issued in the name of Mr. Nitish, he will be considered as agent for the purpose of Para 3 of Schedule I of CGST Act, 2017 and supply of goods by Mr. Nitish to Mr. Tarun will be considered as supply under GST.
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