

**V'Smart
Academy**

GOODS & SERVICES TAX

CA INTER | CMA INTER | CS EXECUTIVE

GST

Module - 1

**Think GST....!
Think Vishal Sir...!**



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Ashish Mehta



Central Goods and Services Tax Act, 2017

Chapter 1

Introduction of GST 1

Chapter 2

Charge of Tax & Application of CGST & IGST Laws 31

Chapter 3

Concept of Supply 34

Chapter 4

Reverse Charge Mechanism 95

Chapter 5

Composition Scheme 119

Chapter 6

Value of Supply 141

Chapter 1

Basic Concept of Indirect Taxes

1

	History of Indirect Taxes	2
	Constitution of India	5
	Indirect Tax Structure in india before 1st July 2017	7
	Taxes to be subsumed in GST	8
	Dual GST Model introduced in India	9
	Inter State and Intra State Supply	12
	Corresponding Amendment in Article 246	13
	Special Cases	14
	Recommendation of GST Council	16
	Genesis/History of GST in India	17
	GST Seamless Flow of Credit	20
	Concept & Principles of GST	21
	Manner of Utilization of IGST	24
	Features of Indirect Taxes	25
	Tax Hierarchy and Body of GST Law	26

Chapter 2

Levy of Tax & Application of CGST & IGST Laws

31

Sec 9	Levy & Collection of CGST	33
Sec 7	Inter State Supply	34
Sec 8	Intra State Supply	34

Chapter 3

Concept of Supply

37

Sec 2	Important definition	38
	Special Discussion on Taxable Supply	47
Sec 7	Meaning and Scope of Supply	45
	Business	58
	Schedule I	62
	Schedule II	73
	Schedule III	82
Sec 8	Composite and Mixed Supply	88
	CBIC Clarifications	92

Chapter 4

Reverse Charge Mechanism 95

Sec 9(3)	Reverse Charge under notified cases.	98
	N/n 4/2017 - Notified Goods	98
	N/n 13/2017- Notified Services	98
Sec 9(4)	Reverse Charge from unregistered to registered	114
Sec 9(5)	Liability of ECO	115

Chapter 5

Composition Scheme 119

Sec 10	Composition Levy	124
Rule 3	Intimation of composition Scheme	134
Rule 4	Effective date of Composition Scheme	134
Rule 5	Conditions & Restrictions	135
Rule 6	Validity of Composition Scheme	136
Rule 7	Rate of Tax of Composition Scheme	124

Chapter 6

Value of Supply 141

Sec 15	Value of Taxable Supply	142
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Extra Supporting Material Demo videos, Digital Books & PDFs

Questionnaire



Questioner Discussion



Questioner Digital Smart Book



MCQ PDF

Amendments



Amendment Discussion



Amendment PDF

Correction pages if any



Correction Pages

GST Chapter Wise Revision



Chapterwise Chart Revision Discssion Video

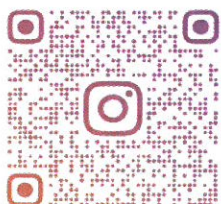


Wall Chart Marathon Revision

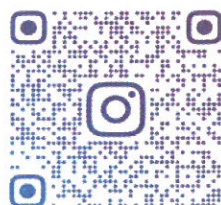


Chapterwise Chart Revision Smart Book

Instagram Channel



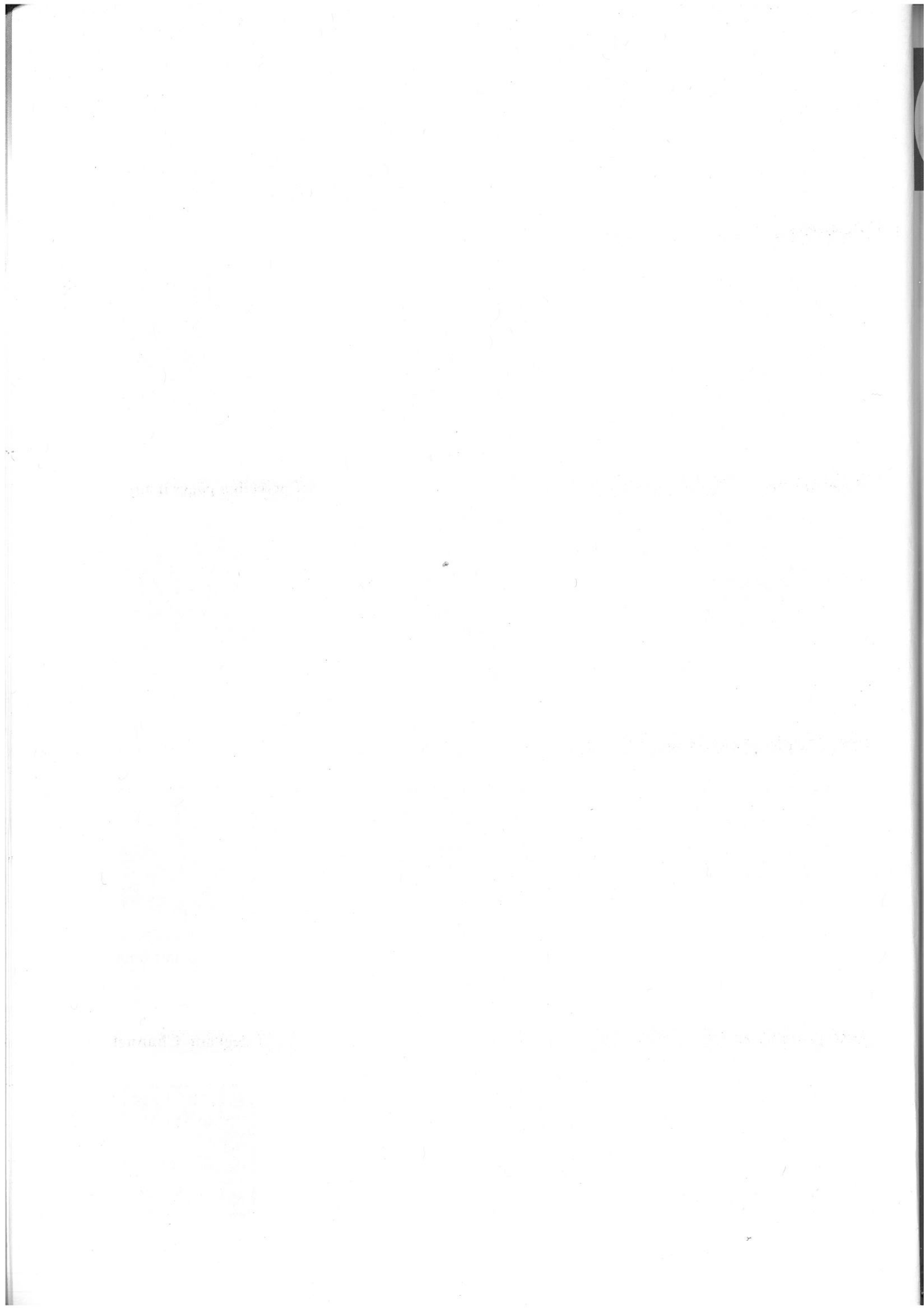
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Telegram Channel







CHAPTER 1

Basic Concepts of Indirect Taxes and Constitutional Levy of GST

TABLE OF CONTENT

1. Basic Concept of Indirect Taxes

- ☞ the concept of tax and the objective for its levy
- ☞ the concept of direct and indirect tax and the differences between the two
- ☞ the Constitutional provisions pertaining to levy of taxes
- ☞ what are the principal indirect taxes
- ☞ as to how the indirect taxes are administered in the country.

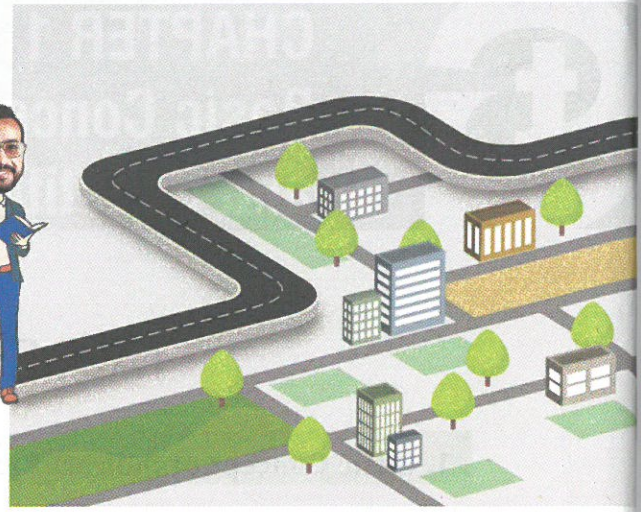
2. Basic Concept of GST

- ☞ Meaning of GST
- ☞ Constitutional authority for GST
- ☞ Input Tax Credit under GST
- ☞ Benefits of GST
- ☞ FAQ and MCQ



Sir... What is a tax?

1. The term "Tax" is derived from latin word "Taxo"
2. It is mandatory financial burden impose on individual or legal entity.
3. It is nothing but the money that people have to pay to the Government, which is used to provide public services.



Sir... What is need of Taxes?

In any Welfare State, it is the prime responsibility of the Government to fulfill the increasing developmental needs of the country and its people by way of public expenditure.

Money raised by taxation to carry out many functions such as :

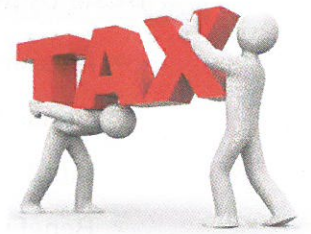
- ⇒ Infrastructure
- ⇒ Education
- ⇒ Health
- ⇒ Military
- ⇒ Defense and other socio-economic objectives of the Government

Sir... what type of taxes leviable in India?

Taxes are broadly classified into direct and indirect taxes.

Direct Taxes

Indirect Taxes



History of Indirect Taxes :

Example 1 :- Mr. Viru a merchant of food grain. He want to do business in the kingdom of King Gabbarsing. He has brought 1000 bags from his village for business of costing ₹1,00,000. He has given 100 bags to king Gabbarsing as gift for having permission to do business in his kingdom. He started his business in the kingdom of Gabbarsing. What the price he will charge to customer? If he want to earn profit of 10% over cost?





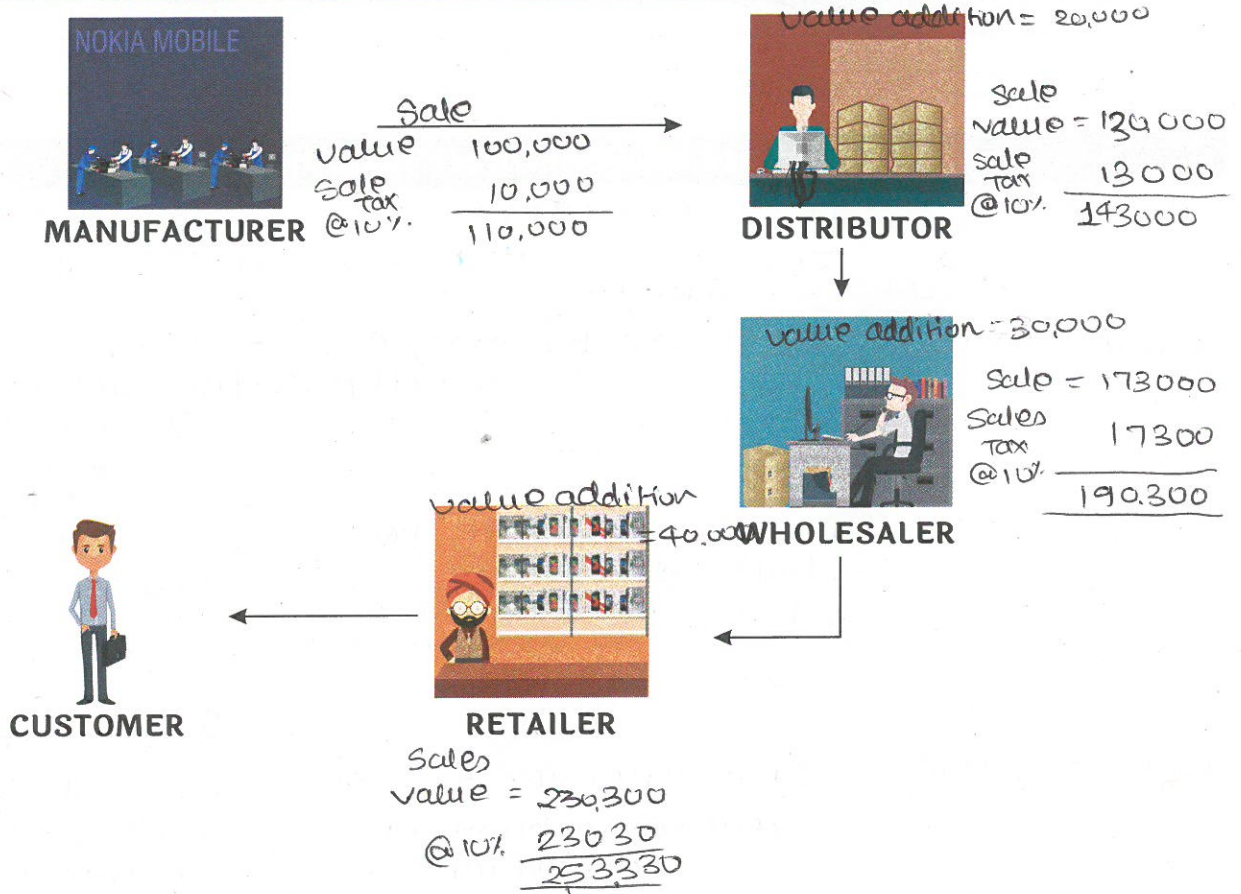
Sir... How Indirect Tax Charged in Current Scenario?

Beta, Try to understand it with the help of following example :



Example 2 : Mr. A sold the goods to Mr. 'B' for ₹ 1,00,000. Sale Tax is payable on such goods @ 10% Determine the total price charge by Mr. A to Mr. B.

Tax on Multiple Stages

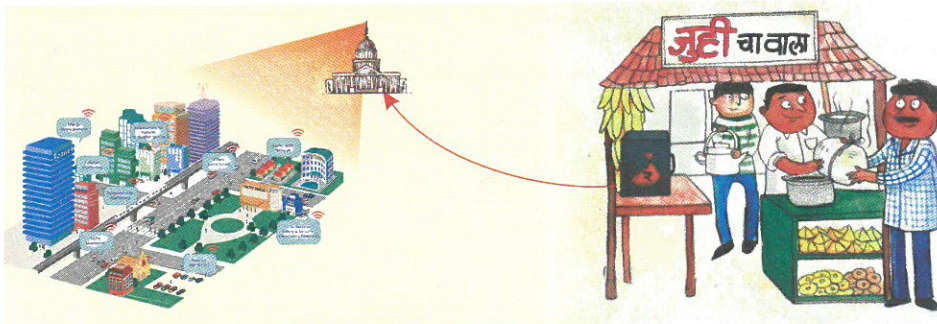


Difference between Direct Tax & Indirect Tax



Sir... what is the difference between Direct & Indirect Tax?

Beta, Try to understand it following example :



P1: Mr. A a manufacturer of tooth paste. He has done only single sale in F.Y. 18-19 of ₹20,00,000 he has incurred a following expenses to run the business in the financial year,

Particulars	Amount (₹)
Salaries & Wages A/c	2,00,000
Electricity Charges A/c	1,00,000
Printing & Stationery A/c	1,50,000
Other Expenses A/c	3,50,000
Bank Charges A/c	1,00,000

Mr. A is also liable to pay tax on sale @ 10%. Calculate Direct and Indirect Taxes

Difference between Direct Tax & Indirect Tax

Particular	Direct Tax	Indirect Tax
1] Levied on	It is on income earning activities	It is on goods or services
2] Burden of Tax.	It's borne by person directly	It is transferable from one person to another person & ultimate burden is of consumer
3] Nature	Progressive nature i.e. high <u>rate of taxes</u> for people with higher Income	It's regressive nature as all the consumer equally bear the burden irrespective of their ability to pay.
4] when it is paid	It is after the Income reaches in hands of Tax payer.	It's paid before goods & services reached the tax-payer
5] Collection	Tax collection is difficult as it is on Yearly basis	Tax collection is relatively easier & collected at the time of sales on purchase of goods and services
6] Example	Income Tax, Wealth Tax	GST, VAT, etc

Federal Structure in India



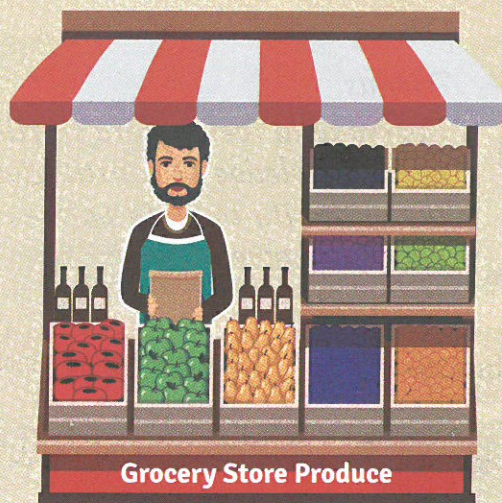
Central Tax



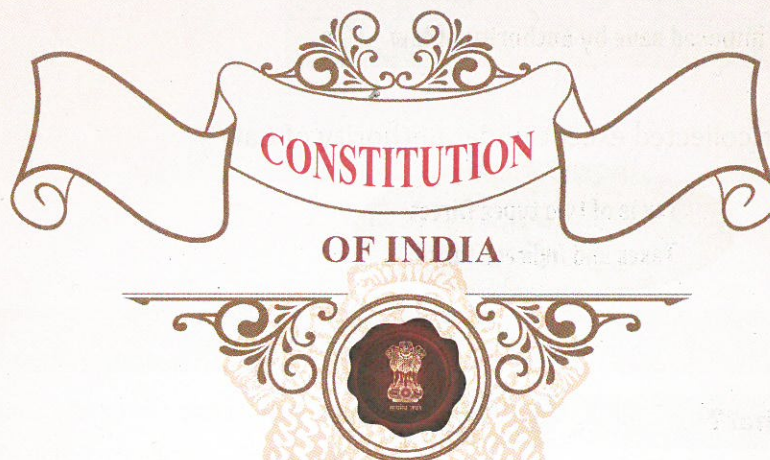
State Tax



Corporation Tax



Constitutional Provisions



Indian Constitution is largest written constitution of the world. It is supreme law of country from which all other law emanates. It is the foundation, on which the entire legislative and judicial system is structured. All the enactments should have it's source in the Constitution of India.

India has a three-tier federal structure, comprising the Union Government, the State Governments and the Local Government. The power to levy taxes and duties is distributed among the three tiers of Governments, in accordance with the provisions of the Indian Constitution.

Two important dates in Indian History:

15th August 1947 Independence Day The date on which India achieved independence

26th January 1950 Republic Day The date on which the Constitution of India came into force as the governing document of India.



Friends,

I personally feel, before starting discussion on various law under Indirect Taxes, we must have knowledge of constitutional authority of such laws. Constitution of India contains the authority to make various legislations for the levy and collection of any tax in India which are given below:

Article 265

Taxes not to be imposed save by authority of law

Article 245

Extent of laws made by Parliament and by the Legislatures of States

Article 246

Subject-matter of laws made by Parliament and by the Legislatures of States

So friends, let's have discussion on each article in detailed.

Article 265: Taxes not to be imposed save by authority of law

"No tax shall be levied or collected except under authority of Law"

Tax is of two types Direct Taxes and Indirect Taxes.



Sir What?

If you read article 265 carefully, then it said for levy of any tax 'Authority of law' is needed...

Sir, who can make the laws in India?

Good question... Authority to make laws in India is given under Article 245 as below



Article 245: Extent of laws made by Parliament and by the Legislatures of States

It empowers the parliament to make Law for whole or any part of the territory of India, and the legislature of a state may make the Laws for the whole or any part of the state.

India is federal, not a unitary state. Laws are enacted by the union parliament as well as state legislature. The allocation of subject between the union & state is spelt out by Article 246 of the constitution through the schedule VII.

The allocation of subject between the union & state is spelt out by Article 246 of the constitution of India.

GST



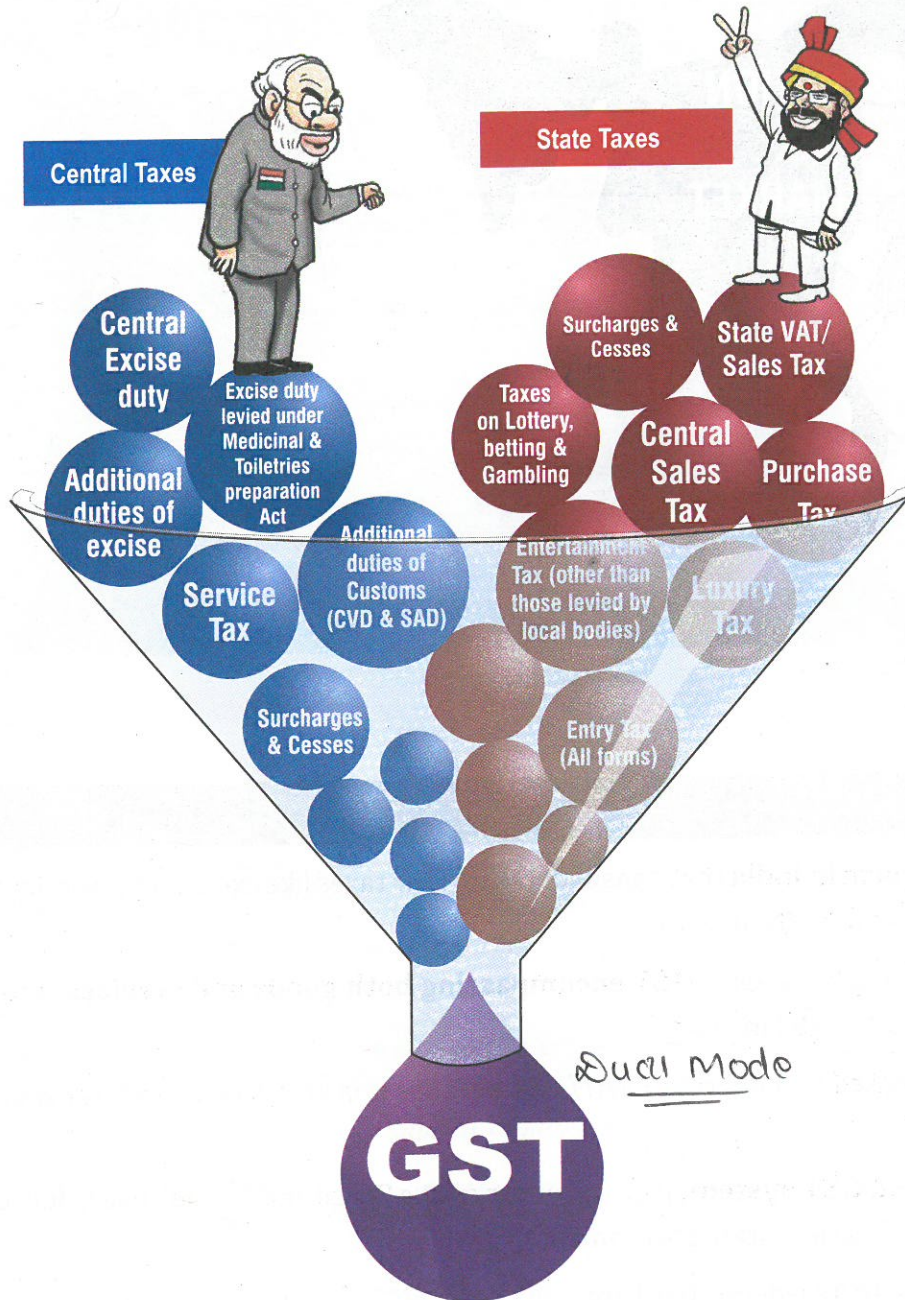
Introduction of GST:

- ⇒ GST is a **significant indirect tax reform in India** that consolidates various taxes like excise duty, service tax, VAT, CST, luxury tax, entertainment tax, and entry tax.
- ⇒ GST and VAT are often used interchangeably, with **GST encompassing both goods and services**. France was the first country to implement VAT/GST in 1954.
- ⇒ **Over 160 countries have implemented** some form of VAT/GST because it is an effective and transparent way to generate revenue.
- ⇒ While **many countries have a unified GST system**, federal countries like Brazil and Canada use a dual GST system, with taxes levied by both federal and state governments.
- ⇒ India adopted a **dual GST model** due to its federal structure.
- ⇒ The idea of GST in India was initiated in 2000, and it gained momentum in 2014 when the Constitution (122nd Amendment) Bill, 2014 was tabled in Parliament.
- ⇒ The Lok Sabha passed the Bill in 2015, and the Rajya Sabha in 2016. After ratification by more than 50% of the states, it became the Constitution (101st Amendment) Act, 2016, paving the way for the introduction of GST in India.

Taxes to be subsumed in GST

In the GST Regime, the major indirect taxes have been subsumed in the ambit of GST.

The present concept of manufacture or sale of goods or rendering of services are no longer applicable since the tax is now levied on "Supply of Goods and/or services"



Learn

Central Taxes

- Central Excise duty
- Additional duties of excise
- Excise duty levied under Medicinal & Toiletries preparation Act
- Additional duties of Customs (ACD)
- Service Tax
- Surcharges & Cesses

Learn

State Taxes

- State VAT/Sales Tax
- Central Sales Tax
- Purchase Tax
- Entertainment Tax (other than those levied by local bodies)
- Luxury Tax
- Entry Tax (All forms)
- Taxes on lottery, betting & gambling
- Surcharges & Cesses

Intra State
CGST (50%)
SGST (50%)

Inter State
(100%)



Taxes not subsumed under GST

1. Property Tax & Stamp Duty

2. Electricity Duty

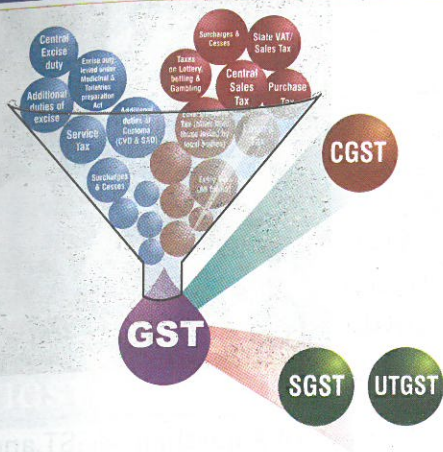
3. Excise Duty on Alcohol

4. Basic Custom Duty

5. Excise Duty on Petrol Diesel

(2 marks)

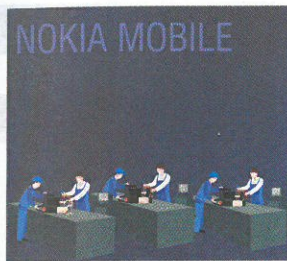
Dual GST Model Introduced in India



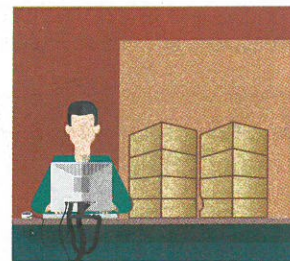
- ⇒ India has adopted a **Dual GST model** in view of the federal structure of the country.
- ⇒ Centre and States simultaneously levy GST on taxable supply of goods &/or services which, takes place within a State or Union Territory.
- ⇒ Inter-State supplies of taxable goods and/or services will be subject to IGST & Intra-State supplies will be subjected to CGST & SGST/UTGST.
- ⇒ IGST will approximately be a sum total of CGST and SGST/UTGST.
- ⇒ Import of goods &/or services will be treated as inter-state supply u/s 7 of IGST, 2017.

Tax Structure in GST Model

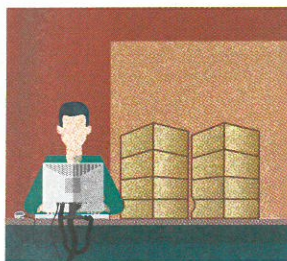
Taxes on Goods



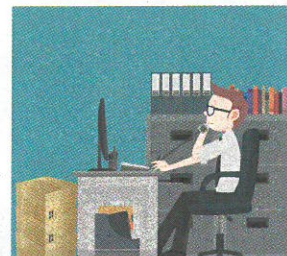
MANUFACTURER



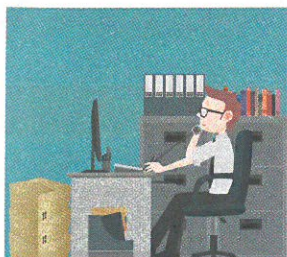
DISTRIBUTOR



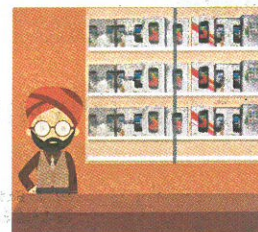
DISTRIBUTOR



WHOLESALER



WHOLESALER



RETAILER



RETAILER

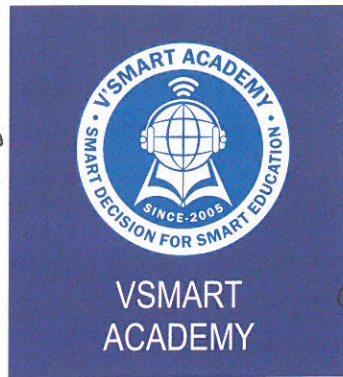


CUSTOMER

Taxes on Services



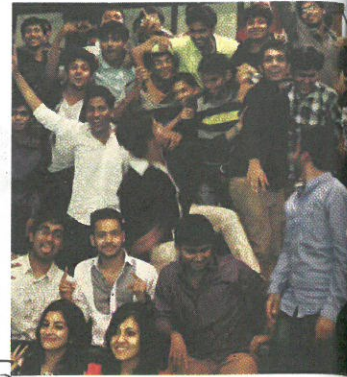
services →



service →

value
100,000
CGST 9000
SGST 9000

118,000

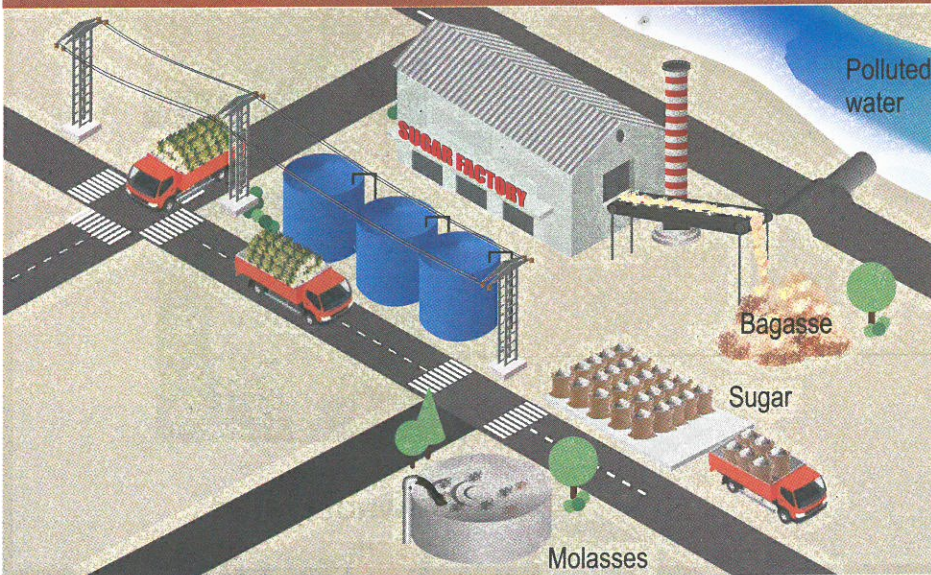


P 2 : Mr. Suresh of Rajasthan supplied goods/services for ₹ 20,000 to Mr. Ramesh of Rajasthan. SGST and CGST rate on supply of goods and services is 9% each. Find the following :

- Total price charged by Mr. C
- Who is liable to pay GST?

GST STRUCTURE IN INDIA FOR VARIOUS BUSINESSES

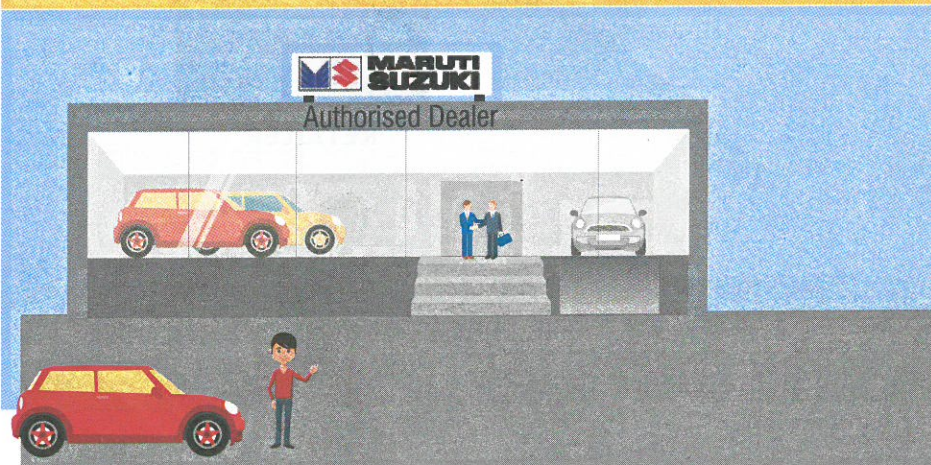
MANUFACTURING AND SALE OF GOODS



value = 100,000
9% CGST 9000
9% SGST 9000

118000

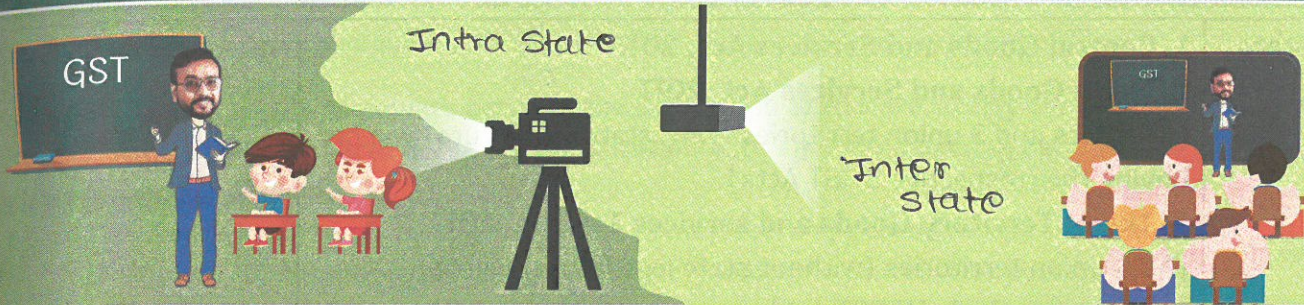
SALE OF GOODS WITHIN STATE



value 150000
9% CGST 13500
9% SGST 13500

177000

SERVICE TAX

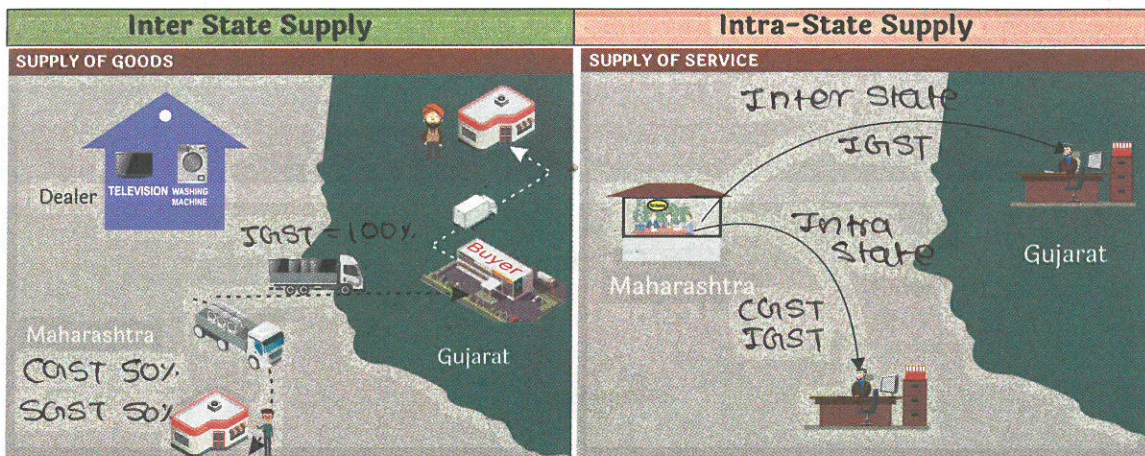


IGST.. UNIQUE FEATURES IN INDIAN GST MODULE

No other country has the concept of IGST which facilitates seamless flow of input tax credit for all supplies flowing in and around the territory of India.

Inter-State supplies of taxable goods and/or services will be subject to Integrated Goods and Services Tax (IGST).

IGST will approximately be a sum total of CGST and SGST/UTGST and will be levied by Centre on all inter-State supplies.



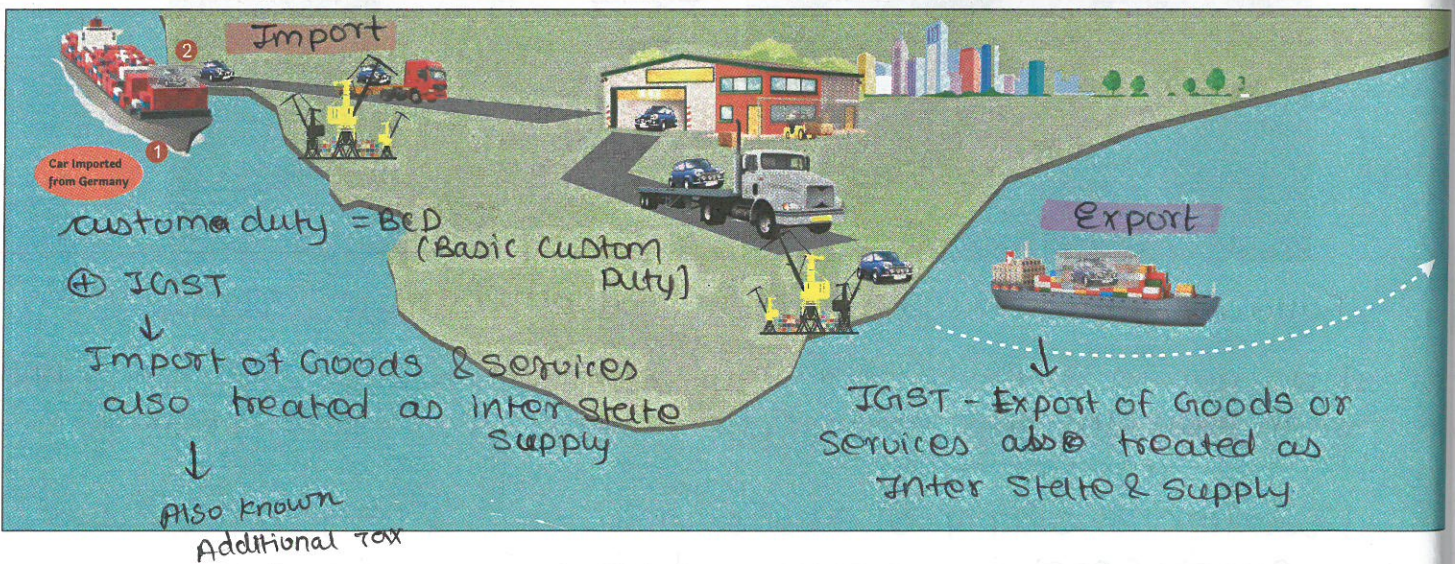
Following are the transaction called as Inter-State Supply.

- 1] Location of Supplier of Goods (LOS) and Place of Supply (POS) or in two different states (i.e. supply from one state to another state)
- 2] Location of supply of goods or services (LOS) and place of supply (POS) are in state and UT (or vice versa)
- 3] Location of Supplier of good and services (LOS) and Place of Supply (POS) are different U.T
- 4] Import of Goods & services
- 5] Export of Goods & services

INTER STATE & INTRA STATE SUPPLY

<p>Intra State Supply</p>	<p>1. Central Goods and Services Act, 2017 2. State Goods and Services Act, 2017 [28 states and 3 union territories (with state legislature) will be having their respective SGST Acts] 3. Union Territory Goods and services Tax Act, 2017 [All 5 Union territories (without state legislature) will be governed by single UTGST Act] Author's Note: CGST & SGST/UTGST would be levied jointly by Central & State. The CGST & SGST/UTGST Rate is 50:50% of GST Rate notified on the recommendation of GST Concept</p>	<p>It is levying CGST It is levying SGST OR It is levying UTGST</p>
<p>Inter State Supply</p>	<p>Integrated Goods and Services Tax Act, 2017 Author's Note: An IGST would be levied and collected by the Centre on inter-state supply of Goods and services. IGST will be a sum total of CGST and SGST/UTGST</p>	<p>It is levying IGST</p>

Import & Export Of Goods or Services also Treated as Inter-State Supply



CONSTITUTIONAL AMENDMENTS FOR GST



Sir... why does introduction of GST require a Constitutional Amendment?

Currently, the fiscal powers between the Centre and States are clearly demarcated in list I, list II & list III of article 246 the constitution with almost no overlap between the respective domains.

The Centre has powers to levy tax on the manufacture of goods (except alcoholic liquor for human consumption, opium narcotics etc.) while the States have powers to levy tax on the sale of goods.

In the case of inter-state sales, the centre has power to levy tax (the central sales tax) but, the tax is collected and retained entirely by the states.

As for services, it is Centre alone that is empowered to levy Service Tax.

Introduction of the GST required amendments in the Constitution so as to simultaneously empower the Centre and the States to levy and collect this tax. The constitution of India has been amended by the constitution (101st amendment) Act, 2016 for this purpose.

Article 246A of the constitution empowers the Centre and the states to levy and the collect the GST.



UB

ARTICLE 246A : SPECIAL PROVISION WITH RESPECT TO GOODS & SERVICES TAX

- (1) Notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.
- (2) Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

Explanation The provisions of this article, shall, in respect of goods and services tax referred to in clause (5), of article 279A, take effect from the date recommended by the Goods and Services Tax Council.

Author Comment: Article 279(A)(5) covers following 5 goods-

- ⇒ Petroleum crude, This goods are subject to old taxes, Excise, VAT, CST
- ⇒ High Speed diesel, motor spirit (commonly known as petrol)
- ⇒ Natural gas and aviation turbine fuel, Alcohol

↓
Central Sales Tax.

Under GST, above 5 goods are called as **NON-Taxable Supply**.
GST on these will be applicable from such date as will be recommended by GST council in future.

ARTICLE 269A : LEVY AND COLLECTION OF GOODS AND SERVICES TAX IN COURSE OF INTER-STATE TRADE OR COMMERCE.

(1) Goods and services tax

IGST

- ⇒ on supplies in the course of inter-State trade or commerce
- ⇒ shall be levied and collected by the Government of India and
- ⇒ such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

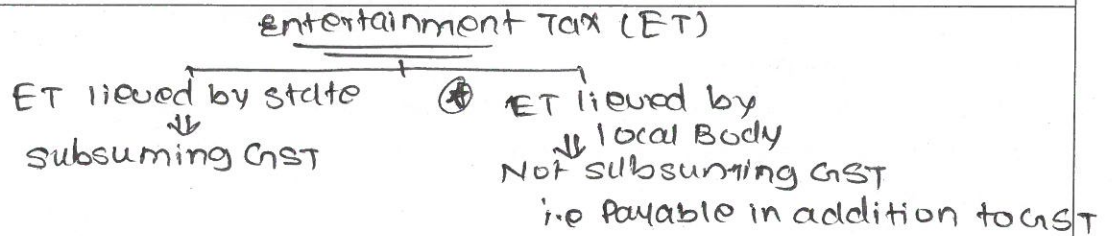
Explanation.- For the purposes of this clause, supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.

- (2) The amount apportioned to a State under clause (1) shall not form part of the Consolidated Fund of India.

Petroleum crude, diesel, petrol, ATF and natural gas:

- At present, Petroleum crude, diesel, petrol, ATF and natural gas are not leviable to GST.
- GST will be levied on these products from a date to be notified on the recommendations of the GST Council.
- But, there is a levy of:-
 - Central excise duty on manufacture/production of petroleum crude, diesel, petrol, ATF and natural gas &
 - CST/VAT on inter-State/intra-State sale of the same respectively.

Entertainment Tax



P5:- ^{16 and 17} Inox Ltd. is running cinema theater in Pune. Pune Municipal corporation have charged entertainment tax 2% on ticket value. Inox Ltd. have sold ticket of ₹1,50,000 in a month of April 20XX. Calculate taxes leviable on entertainment services. [GST rate 18%] (Intra)

Real Estate

Real estate sector has been kept out of ambit of GST, i.e. GST will not be levied on sale/purchase of immovable property

~~Imp~~ (short Note)

Goods & Services Tax Council (GST Council):-

Article 279A of the Constitution:- It empowers the President to constitute a joint forum of the Centre and States namely, **GST Council**. The provisions relating to GST Council came into force on 12th Sep, 2016. President constituted the GST Council on 15th Sep, 2016.

Constitution:- The GST Council shall consist of the following members, namely:-

- (a) The Union Finance Minister is the Chairman;
- (b) The Union Minister of State in charge of Revenue or Finance is the Member;
- (c) The Minister in charge of Finance or Taxation or any other Minister nominated by each State Government are the Members.

The Members of the GST Council referred to clause (c) above shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide.

Decision:-

- by a majority $\geq 3/4$ th of weighted votes of members present & voting.
- weightage of centre = $1/3$ rd of total votes cast and for all SGs = together of $2/3$ rd of total votes cast, in that meeting.

RECOMMENDATION OF GST COUNCIL

(4) The Goods and Services Tax Council shall make recommendations to the Union and the States on—

- (a) Taxes to be subsumed in GST
- (b) Exemption in GST
- (c) model Goods and Services Tax Laws, principles of levy, apportionment of Goods and Services Tax levied on supplies in the course of inter-State trade or commerce under article 269A and the principles that govern the place of supply; *BCD ← Exemption 20L | 10L | 40L → Special category*
- (d) the threshold limit of turnover below which goods and services may be exempted from goods and services tax; *fy — Threshold limit
Upto 20 lakh — Invoice
Above 20 lakh — Tax Invoice*
- (e) the rates including floor rates with bands of goods and services tax;
- (f) any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;
- (g) special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and
- (h) any other matter relating to the goods and services tax, as the Council may decide. *(HUMAN SJ)*

SPECIAL CATEGORY OF STATE

Goods and Services Network (GSTN)

- ➔ Common GST Electronic Portal – www.gst.gov.in – is a website managed by GSTN.
- ➔ It was set to establish a uniform interface for the tax payer and a common and shared IT infrastructure between the Centre and States.
- ➔ It is one single common portal for all GST related services.
- ➔ It acts as a clearing house to verify claims & informs the respective governments to transfer funds.
- ➔ It is accessible over internet by taxpayers & their CAs/ tax advocates and over intranet by Tax Officials, etc.
- ➔ It provides linkage to all State/ UT Commercial Tax Departments, Central Tax authorities, Taxpayers, Banks and other stakeholders.
- ➔ The Common GST Electronic Portal for furnishing electronic way bill is www.ewaybillgst.gov.in and for uploading/reporting of e-invoices is Invoice Registration portal.

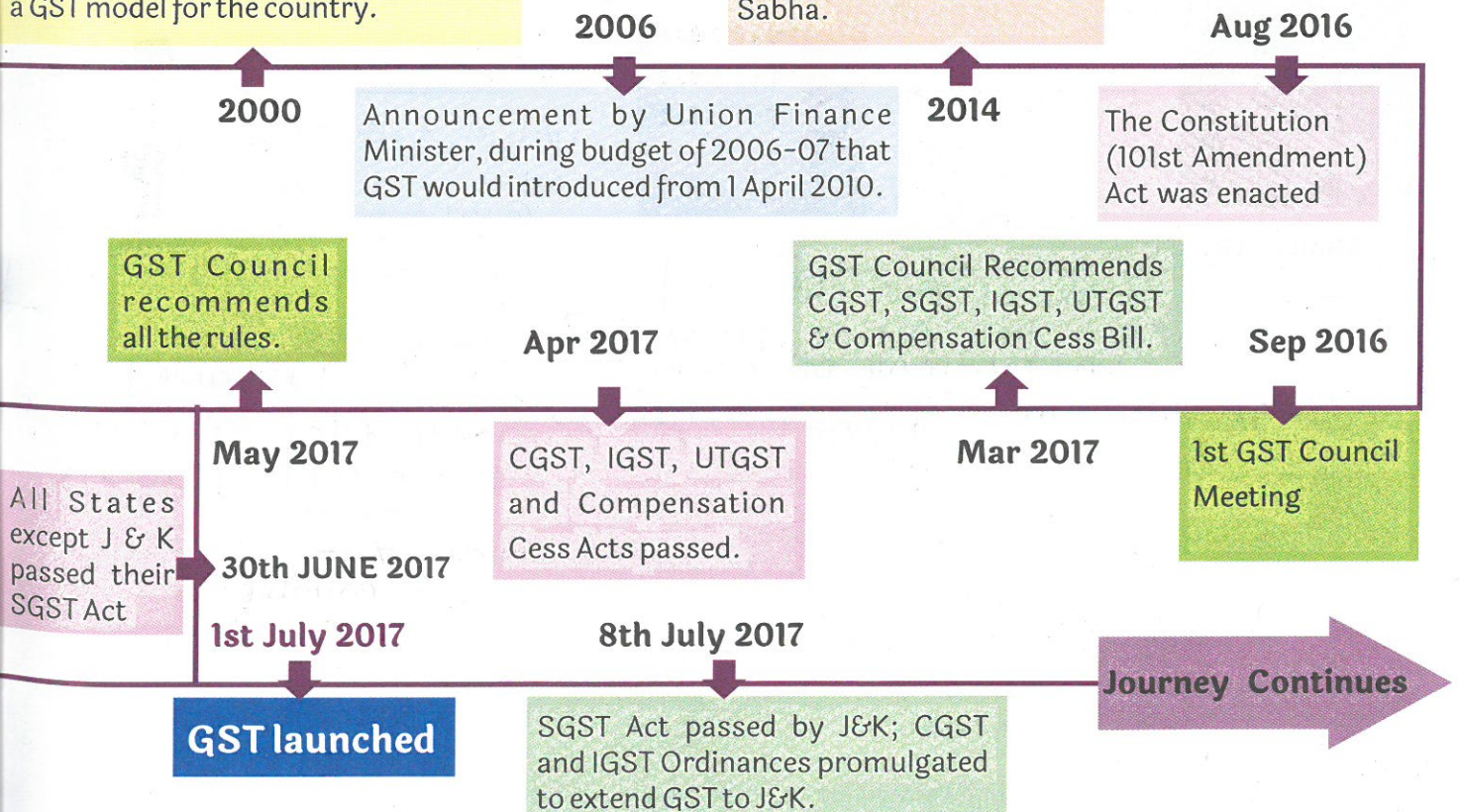
Genesis/ History of GST in India:-

GST was 1st introduced in France in 1954. India adopted GST model from Canada and Brazil and it is applicable to whole of India including J&K.

Year 2000	PM introduced concept of GST & a committee was set up to design GST model for India.
Year 2003	CG formed a task force under <u>Vijay Kelkar</u> .
Year 2004	Kelkar Task Force recommended the need of a <u>fully integrated</u> GST on <u>national basis</u> .
28-02-2006	Union FM announced that GST would be introduced from <u>1st April, 2010</u> .
March 2011	The Constitution (115 th Amendment) Bill, 2011 was introduced in Lok Sabha to give concurrent taxing powers to Union & States but this was subsequently lapsed.
19-12-2014	Constitutional (122 nd Amendment) Bill, 2014 introduced in Lok Sabha by NDA government on 19th Dec, 2014. <u>This bill was passed on 6th May, 2015 by Lok Sabha and on 3rd Aug, 2016 by Rajya Sabha (with some changes).</u>
08-09-2016	The <u>Constitutional (122nd Amendment) Bill, 2014</u> became The Constitution (101 st Amendment) Act, 2016 after bill was adopted after ratification by <u>more than 50% of the States</u> which received final assent of the President on 8 th Sept, 2016.
12-04-2017	Central GST Legislations- CGST Bill, 2017, IGST Bill, 2017, UTGST Bill, 2017, GST (Compensation to states) Bill, 2017 received assent of President and Bills were enacted. The enactment of the central acts was followed by the enactment of the States GST laws by various State Legislatures.
01-07-2017	Implementation of GST across India. GST is all set to roll out & became applicable from <u>1st July, 2017</u> .
08-07-2017	It became applicable to J & K.

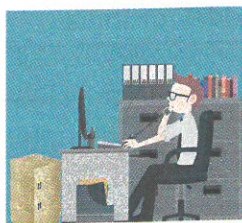
In the year 2000, the then Prime Minister introduced the concept of GST and set up a committee to design a GST model for the country.

The Constitution (122nd Amendment) Bill was introduced in the Lok Sabha.

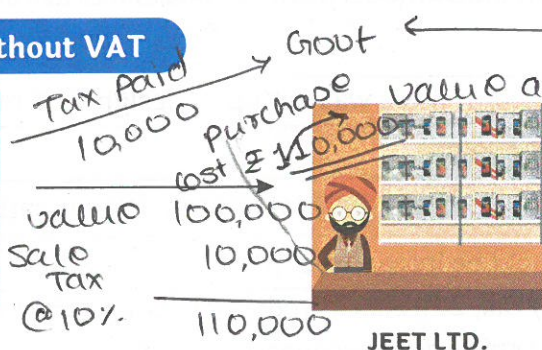


CONCEPT OF VALUE ADDED TAX (VAT)

Transaction without VAT



SHAILA LTD.



value	160,000
sale Tax @10%	16,000
	<u>176,000</u>



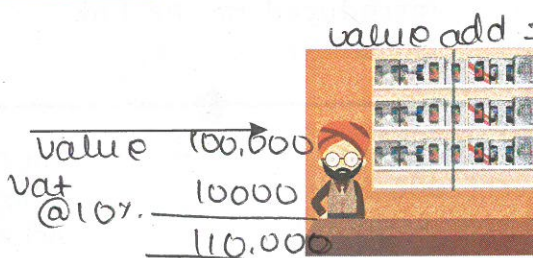
CUSTOMER

The Price difference between Jeet Ltd and customer after considering transⁿ with is ₹ 11000 (10,000 + 10,000)

Transaction with VAT



SHAILA LTD.



value	= 150,000
vat @10%	15,000
	<u>165,000</u>



CUSTOMER

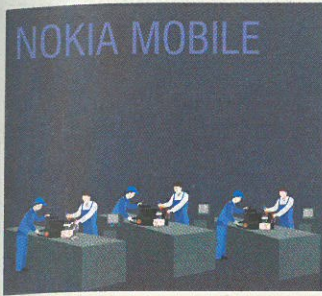
In A/c of Jeet Ltd
 Purchase A/c Dr 100,000
 VAT credit A/c Dr 10,000

The Price difference to Supplier - 1,10,000

Statement of Net VAT Payable

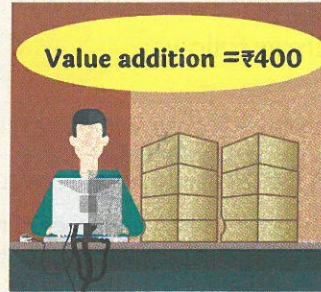
output Tax	15,000
(- credit of Input)	(10,000)
Net VAT Payable	<u>5,000</u>

VALUE ADDED TAX AT MULTIPLE STAGES



MANUFACTURER

Value = 1000
 vat @ 10% = 100
1100
 Tax 100 out



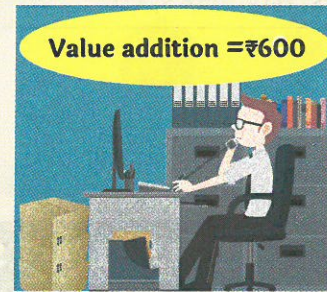
DISTRIBUTOR

Value addition = ₹400

value = 1400
 vat @ 10% = 140
1540

Statement of VAT
 Output Tax 140
 less: ITC (100)
Net vat payable 40

Output Tax: Tax payable on sale of goods.
Input Tax: Tax paid on purchases of goods.



WHOLESALER

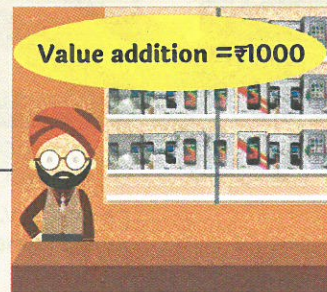
Value addition = ₹600

value = 2000
 vat @ 10% = 200
2200

Statement of VAT
 Output Tax 200
 less: ITC 140
Net vat payable 60



CUSTOMER



RETAILER

Value addition = ₹1000

value = 3000
 vat @ 10% = 300
3300

Statement of VAT
 Output Tax 300
 less: ITC 200
Net vat payable 100

100 tax.
 Price 3000
 VAT @ 10% = 300
2700

DEFICIENCIES IN EXISTING VALUE ADDED TAXATION

★ Read

Deficiencies in the erstwhile value added taxation have led to GST in India as a cure for ills of erstwhile indirect tax reform. Such deficiencies are as follows:-

Double taxation	Earlier some items were treated both as goods and Services that led to double taxation.
No set-off	CENVAT & State level VAT were value added taxes but cross credit of those were not possible as CENVAT was central levy & the other one was a State levy.
Cascading of taxes	CENVAT did not include value addition chain in distributive trade after the stage of production & in the state level VAT also, CENVAT load on goods was not removed.
Several taxes not subsumed in VAT	For a single transaction, multiple taxes in multiple forms were required to be paid as taxes like Luxury Tax, Entertainment Tax, etc. <i>Cenvat credit is not available and leads to cascading effect</i>
Non-integration of VAT & Service Tax	VAT on goods was not integrated with service tax at the state level. So, the cascading effect of service tax was not removed.
Cascading nature of CST	CST was non-vatable and an origin based tax which had cascading effect.
High Compliance Cost	Large number of taxes created high compliance cost for the taxpayers in form of more returns, payments, etc.

GST SEAMLESS FLOW OF CREDIT

Credit system after introduction of GST

MANUFACTURER

Supplier

(Intra) Invoice - Goods value 100,000
 CGST @9% 9000
 SGST @9% 9000
118000

Manufacturer

Input service value = 50,000
 CGST 9% 4500
 SGST 9% 4500
9900

Service Provider

Buyer Place

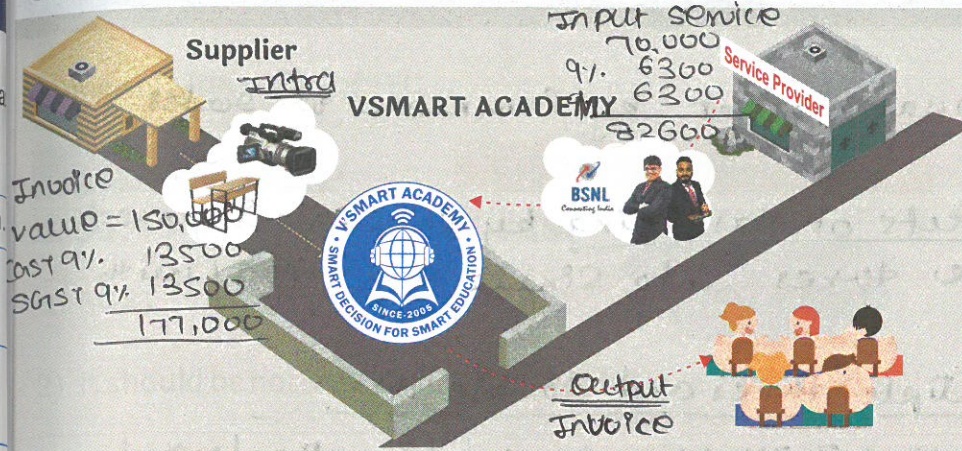
Sale value 300,000
 CGST 9% 27000
 SGST 9% 27000
354000

In context of GST

★ Statement of Net GST Payable

Particulars	CGST	SGST
output Tax	27000	27000
<u>Less ITC</u>		
Inputs	(9000)	(9000)
Input	(4500)	(4500)
Net payable	13500	13500

COMBINATION OF EXCISE & SERVICE TAX CREDIT FOR SERVICE PROVIDER



Invoice
value = 150,000
CST 9% 13500
SGST 9% 13500
177,000

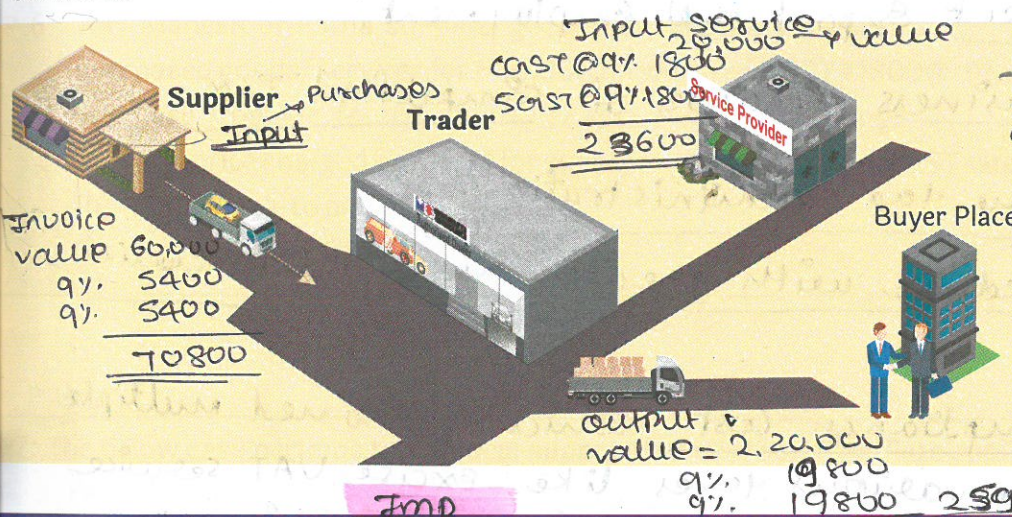
Input Service
70,000
9% 6300
6300
82600

Calculation of NET GST Payable

Particulars	CST	SGST
output tax	18000	18000
(-) ITC Inputs	(13500)	(13500)
Input service	(4500)	(4500)
Net	NIL	NIL
<u>ITC(I)</u>	1800	1800

value 250,000
CST 9% 18000
SGST 9% 18000
236000

TRADER



Invoice
value 60000
9% 5400
9% 5400
70800

Input Service
20,000 value
CST @ 9% 1800
SGST @ 9% 1800
23600

Statement of NET GST Payable

Particulars	CST	SGST
output tax	19800	19800
- ITC Inputs	(5400)	(5400)
Input service	1800	1800
Net GST Payable	12600	12600

output value = 2, 20,000
9% 19800
9% 19800
259800

CONCEPT & PRINCIPAL OF GST

- GST is based on destination based Tax.
- GST is broad base value added Tax.
- GST is technically paid by supplier but it is actually borne by consumers.
- GST is collected at multiple stages of production and distribution of goods and service in which taxes paid on inputs are allowed as set-off against taxes payable on outputs.
- GST is tax on consumption of product from business sources and not on personal activities.
- under GST, Input Tax credit is provided throughout the value chain.

BENEFITS OF GST

- 1) Creation of unified national market by Common tax rates and procedures.
- 2) Mitigation of ill effects of cascading by subsuming most of Central and State taxes into single tax (GST) with ITC.
- 3) Elimination of multiple taxes and double taxes.
- 4) Boost to "Make in India" initiative by making Goods and services produce in India competitive in the national as well as international market.
- 5) Boost to investment Export and Employment.
- 6) Ease of doing business because of simplified Tax structure.
- 7) Certainty in the tax administration.
- 8) Automated procedure with greater use of Information technology.
- 9) Reduction in compliance cost which removed multiple record keeping in various taxes like, Excise, VAT service Tax etc. Thus lesser manpower in maintaining the record.
- 10) Benefit to small trader and entrepreneur

CREDIT SYSTEM IN DUAL MODEL OF GST

Manner of Utilization of ITC

INWARD SUPPLY

1. CGST



OUTWARD SUPPLY

CGST

No Cross Credit
of CGST & SGST

2. SGST



SGST

2) It should be noted that CGST cannot be used against SGST/UGST or vice-versa

- 9/10/2018 (3M)
- P 6 :** Mr. Mahesh of Patna supplied goods/services for ₹ 24,000 to Mr. Amitabh of Patna. Mr. Mahesh purchased goods/services for ₹ 20,000 on which of CGST ₹ 1800 @ 9% and SGST ₹ 1800 @ 9% is paid on purchase from Mr. Mutthuswami of Patna. Find the following:
- Total price charged by Mr. M for supply of goods/services if GST rate is 18%
 - who is liable to pay GST
 - Net liability of GST

page 9

P7: The below case pertains to the local supply of goods/services. Rate applicable for CGST and SGST @ 9% respectively.

Supply of goods/services by Mr. A to Mr. B the value of which is Rs. 10,000.

I) Calculate the total price charged by Mr. A from Mr. B. Also state the amount of credit availed by Mr. B.

II) Assuming there is a value addition @ 20% on the supply of goods/services by Mr. B to Mr. C.

Calculate the price charged by Mr. B. 12000.

III) On the basis of the working for the above two questions compute ^{Net} the CGST and SGST payable by Mr. B to the Government.

IV) Prepare statement of revenue earned by Central and State Government.

MANNER OF UTILIZATION OF IGST

IGST is unique feature in Indian GST Model. It is levied for seamless flow of credit between states.

Accounts would be settled periodically between the Centre and State to ensure that SGST portion of IGST transferred to the destination State where the goods or services are eventually consumed.

It is open tax for credit utilization against the payment CGST or SGST. Also credit of CGST or SGST can be utilized for payment of IGST

Manner of Utilization of ITC

INWARD SUPPLY	OUTWARD SUPPLY		
1. IGST	First IGST	Any CGST	Any SGST
2. CGST	First CGST	Second IGST	
3. SGST	First SGST	Second IGST	

Note:- Sec 49A as per CGST Amendment Act, Detailed discussion in Chapter Payment of tax

1) SGST can be used to pay IGST only when credit of CGST is not available for payment of IGST.
2) It should be noted that CGST cannot be used against SGST/UGST or vice-versa

P 8: Mr. Santa of Jalandhar supplied goods/services for ₹20,000 to Mr. Gajani of Hyderabad, SGST and CGST rate on supply of goods and services is 9% each. IGST rate is 18%. Find the following:

- Total price charged by Mr. Santa
- who is liable to pay GST?

P 9: Mr. Chandul of Surat supplied goods/services for ₹35,000 to Mr. Kamlesh of Ahmedabad. Mr. Chandul purchased goods/services for ₹20,000 on which of IGST ³⁶⁰⁰ @ 18% is paid and purchase from Mr. Shah of Maharashtra. SGST and CGST rate on supply of goods and services is 9% each. Find the following:

- Total price charged by Mr. Chandul for supply of goods/services if GST Rate is 18%
- Who is liable to pay GST?
- Net liability of GST.

P 10: The below case pertains to inter-state supply of goods/services. Rate applicable for IGST @ 18%, CGST & SGST @ 9% respectively.

- Supply of goods/services by Mr. X of Maharashtra to Mr. A of the same state the value of which is ₹10,000. Calculate the total price charged by Mr. X. Also state the amount of credit availed by Mr. A.
- Assuming there is value addition @ 20% calculate the total price charged for supply of goods/service by Mr. A of Maharashtra to Mr. B of Karnataka. ¹²⁰⁰⁰
- On the basis of working of the above two questions compute IGST payable to the Government by Mr. A.
- Assuming a further value addition @ 20% on supply of goods/services by Mr. B of Karnataka to Mr. C of the same state, calculate the total price charged by Mr. B. ¹⁴⁴⁰⁰
- As per the working above compute GST payable to the Government by Mr. B.

The manner of utilization of balance in electronic credit ledger

P 11:- M/s Alfa Ltd. of Maharashtra purchases goods at intra-state as well as inter-state level and supplies such goods to various dealers at intra-state as well as inter-state level. The details of balance in its electronic credit ledger and electronic liability register are as follows:

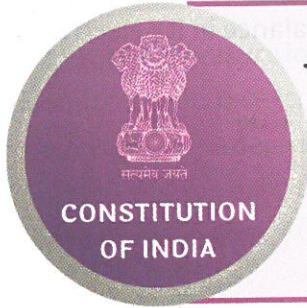
Electronic Credit Ledger <i>ITC</i>		Electronic Liability Register <i>output tax</i>	
Particulars	Amount	Particulars	Amount
IGST	50000	IGST	20000
CGST	25000	CGST	25000
SGST	25000	SGST	25000

Calculate the amount of ^{Net GST} duty payable by M/s Alfa Ltd.

Features of Indirect Taxes

(i)	An important & major source of revenue	In India, indirect taxes contribute > 50% of the total tax revenues of Central and State Governments.
(ii)	Tax on commodities and services	It is levied on commodities at the <u>time of supply, manufacture or purchase or sale or import/export thereof</u> . Hence, it is also known as commodity taxation. It is also levied on provision of services.
(iii)	Shifting of burden	GST which is paid by the seller of the goods is recovered from the buyer by <u>including</u> the tax in the cost of the commodity.
(iv)	No perception of direct pinch	Since, value of indirect taxes is generally inbuilt in the price of the commodity, most of the time the tax payer pays the same without actually knowing that he is paying tax to the Government.
(v)	Inflationary	Tax imposed causes an all-round price spiral. In other words, indirect taxation <u>directly affects the prices of commodities and services and leads to inflationary trend.</u>
(vi)	Wider tax base	Majority of the products or services are subject to indirect taxes with low thresholds.
(vii)	Promotes social welfare	High taxes are imposed on the consumption of harmful products/ ^{Alcohol} sin goods such as alcoholic products, tobacco products, etc. This not only checks their consumption but also enables the State to collect substantial revenue.
(viii)	Regressive in nature	The rich and the poor have to pay the same rate of indirect taxes on certain commodities of mass consumption. This may further increase the income disparities between the rich and the poor.

TAX HIERARCHY AND BODY OF GST LAW



- It is a supreme law of India
- All acts emanate from constitution of India



- It is passed by parliament (@central] legislature of state (@state]



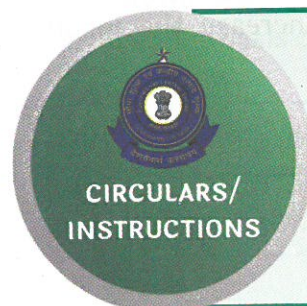
- Cn/SGR has power to issue Rules
- It's issued for proper implementation of law.



- CBIC has power to issue Regulation.
 (Note: An arrow points from 'central Board of indirect Taxes & customs' to 'CBIC' in the text above.)
- It is issued for proper Administration of law

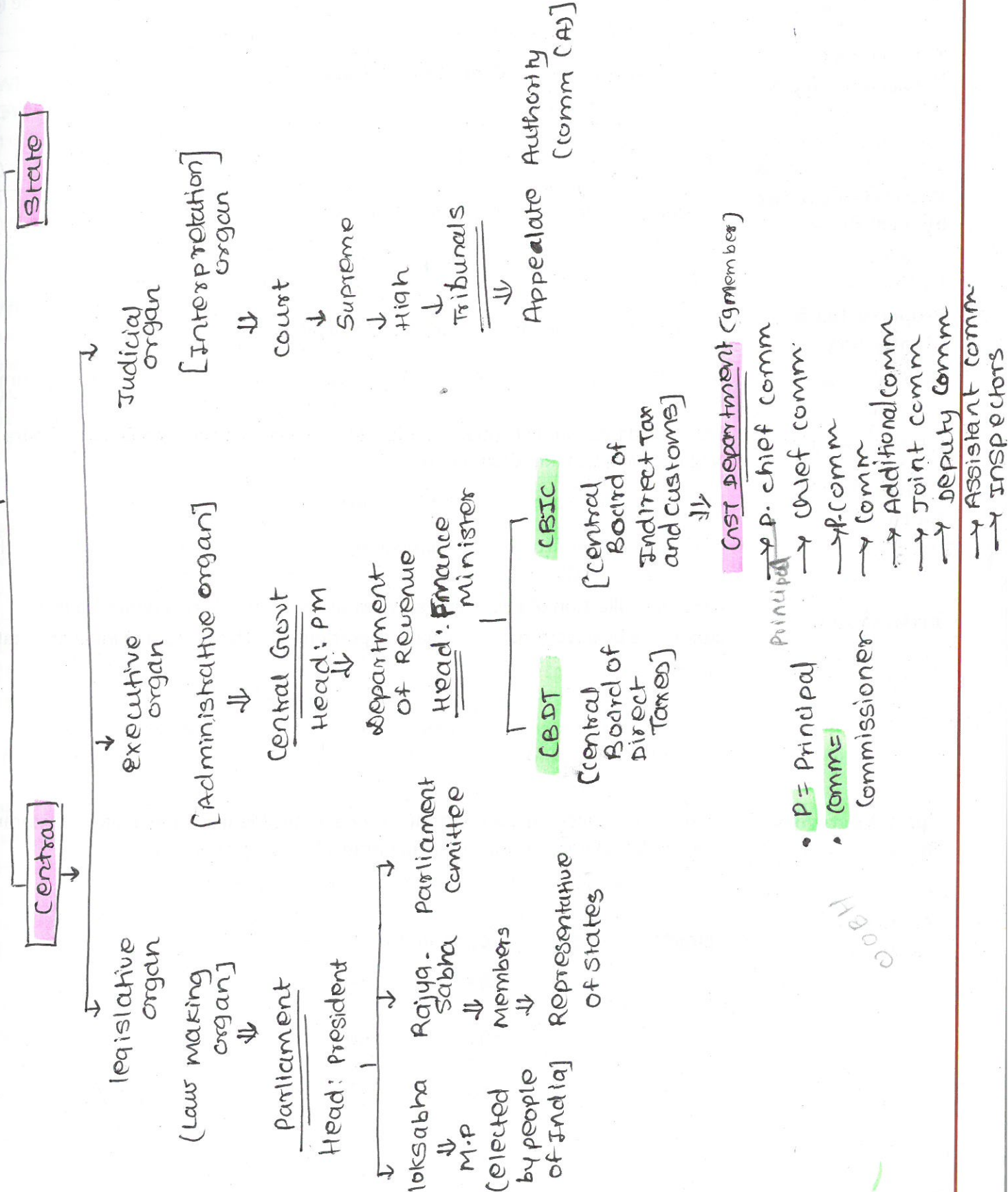


- It is issued by Cn/SGR
- It's related to exemptions or procedure.



- It is issued by CBIC.
- object of circular is to bring uniformity in law in case of ambiguity. It is also called as direction or instructions of CBIC for department.

Administration in India



Important Points to be Remember :-

Particulars	Treatment												
Alcohol	Alcoholic liquor for human consumption is outside GST. State Excise Duty & VAT/CST is payable												
Electricity	Outside GST												
Petroleum product	Crude, Petrol, diesel, natural gas and aviation turbine fuel on GST shall not be levied till date to be notified on the recommendation of the GST Council												
Tobacco and Tobacco products	Liable to GST as well as Central Excise Duty												
Opium, Indian Hemp and other Narcotic Drugs and Narcotics:	Liable to GST as well as State excise duties.												
Entertainment Tax by local Body	Outside GST, (It is taxable in addition to GST)												
Entertainment Tax by State Body	Subsumed in GST												
Property Tax & Stamp Duty	Outside GST. These taxes are separately payable												
SGST Act, 2017	On 28 States + 3 UT having own state legislature (Delhi + Pudduchery + Jammu & Kashmir)												
UTGST Act, 2017	5 UT (Andaman and Nicobar Islands, Lakshadweep, Daman and Diu and Dadra and Nagar haveli, Ladakh, Chandigarh)												
Constitutional Amendment	101 st Amendment is made for introduction of GST												
Article 246A	Concurrent power to both parliament and State Legislatures is given to make laws with respect to GST												
Article 269A	Levy and collection of goods and services tax in course of inter-state trade or commerce by government of India & apportionment the tax to the union and state												
Article 279A	Members :- a) the Union Finance Minister..... Chairperson; b) the Union Minister of State of Revenue or Finance Member; c) the Minister of Finance or Taxation or any other Minister nominated by each State Government..... Members.												
Special Category State	Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand;												
Cross Utilization	CGST cannot be used against SGST/UGST or vice-versa												
Manner of Utilization	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr style="background-color: #2980b9; color: white;"> <th style="width: 50%;">INWARD SUPPLY</th> <th colspan="2" style="width: 50%;">OUTWARD SUPPLY</th> </tr> </thead> <tbody> <tr> <td>1. IGST</td> <td style="text-align: center;">First IGST</td> <td style="text-align: center;">Any CGST Any SGST</td> </tr> <tr> <td>2. CGST</td> <td style="text-align: center;">First CGST</td> <td style="text-align: center;">Second IGST</td> </tr> <tr> <td>3. SGST</td> <td style="text-align: center;">First SGST</td> <td style="text-align: center;">Second IGST</td> </tr> </tbody> </table>	INWARD SUPPLY	OUTWARD SUPPLY		1. IGST	First IGST	Any CGST Any SGST	2. CGST	First CGST	Second IGST	3. SGST	First SGST	Second IGST
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2. CGST	First CGST	Second IGST											
3. SGST	First SGST	Second IGST											

Questioner for GST basics (IPC)-MCQ

Q1:- What kind of tax can be transferred from one person to another?

- (a) Direct tax
- (b) Indirect tax
- (c) Both of the above
- (d) None of the above

Ans:- (b) Indirect tax

Q2:- What are the taxes levied on an intra-state supply?

- (a) CGST
- (b) SGST
- (c) CGST & SGST
- (d) IGST

Ans:- (c) CGST & SGST

Q3:- Which of the following would attract levy of CGST & SGST?

- (a) Inter-state supplies
- (b) Intra-state supplies
- (c) Any of the above
- (d) None of the above

Ans:- (b) Intra-state supplies

Q4:- Who will notify the rate of tax to be levied under CGST?

- (a) Central government suo moto
- (b) State government suo moto
- (c) GST council suo moto
- (d) Central government as per recommendations of the GST council

Ans:- (d) Central government as per recommendations of the GST council

Q5:- What is the difference between a direct & an indirect tax?

- (a) Charge of levy
- (b) Nature of transfer
- (c) Different collection pattern of tax
- (d) All of the above

Ans:- (d) All of the above

Q6:- Which of the following constitutional amendment governs GST act?

- (a) 101 st amendment,
- (b) 122 nd amendment,
- (c) 152 nd amendment
- (d) 140 th amendment,

Ans:- (a) 101 st amendment

Q7:- What kinds of taxes are subsumed under GST?

- (a) Central excise duty
- (b) State VAT/Sales Tax
- (c) Central Sales Tax
- (d) Service Tax
- (e) All of the above

Ans:- (e) All of the above

Q8:- GST is levied on which of the following?

- (a) Sale of goods
- (b) Manufacture of goods
- (c) Provision of services
- (d) Supply of goods/ services

Ans:- (d) Supply of goods/ services

Q9:- When did the GST act come into force?

- (a) Year 2015
- (b) Year 2016
- (c) Year 2017
- (d) None of the above

Ans:- (c) Year 2017

Q10:- Which of the taxes are out of purview of GST?

- (a) Property tax & stamp duty
- (b) Additional duties of Custom (CVD & SAD)
- (c) Excise duty on Alcohol
- (d) Entertainment tax by local body
- (e) Only (a) (c) & (d)

Ans:- (e) Only (a) (c) & (d)

Q11:- What kind of tax is GST called as..?

- (a) Consumption based tax
- (b) Movement based tax
- (c) Destination based tax
- (d) None of the above

Ans:- (c) Destination based tax

Q12:- Which of the following good will not be covered under the GST act?

- (a) Cooking gas
- (b) Liquor
- (c) Petrol

(d) All of the above

Ans:- (b&c) liquor & Petrol

Q13:- Which of the following is the main motive of the government behind the introduction of the Goods & Service tax act?

- (a) To bring uniformity of taxes in the country
- (b) To increase the government revenue
- (c) To replace all indirect taxes
- (d) All of the above

Ans:- (d) All of the above

Q14:- What is Integrated Goods and Services Tax?

- (a) Tax imposed on import or export of goods and services
- (b) Tax imposed on value additions to exports
- (c) Tax imposed on interstate trade
- (d) Tax on international trade

Ans:- (a&c)

Q15:- Which of the following supplies will be classified as Inter-state supply?

- (a) Supply within same state
- (b) Supply within same union territory
- (c) Supply between two different states/ union territory
- (d) None of the above

Ans:- (c) Supply between two different states/ union territory

Q16:- From the following who will be the members of the GST Council?

1. Union Finance Minister
 2. Union Minister of State in charge of Revenue or Finance
 3. Chief Ministers of States
- (a) 1 & 3
 - (b) 1 & 2
 - (c) 2 & 3
 - (d) All of the above

Ans:- (b) 1 & 2

Q17:- Who amongst the following will be considered as the chairman of GST Council ?

- (a) Union Minister of State

- (b) Union Finance Minister
- (c) Minister of state revenue
- (d) Chief Minister of state

Ans:- (b) Union Finance Minister

Q18:- Which of the following functions are performed by Goods & Service Network (GSTN)?

- (a) Facilitating registration
- (b) Computation & settlement of IGST
- (c) Matching of tax payment details with banking network
- (d) All of the above

Ans:- (d) All of the above

Q19:- What does dual GST concept mean?

- (a) Charging CGST & IGST
- (b) Charging SGST & IGST
- (c) Charging both CGST & SGST
- (d) None of the above

Ans:- (c) Charging both CGST & SGST

Q20:- ITC of CGST can be utilised for payment of

- (a) Only CGST
- (b) Only SGST
- (c) 1st CGST & then IGST
- (d) 1st SGST & then IGST

Ans:- (c) 1st CGST & then IGST

Q21:- ITC of SGST can be utilised for payment of

- (a) Only CGST
- (b) Only SGST
- (c) 1st CGST & then IGST
- (d) 1st SGST & then IGST

Ans:- (d) 1st SGST & then IGST

Q22:- ITC of IGST can be utilised for payment of

- (a) Only CGST
- (b) Only SGST
- (c) Only CGST & SGST
- (d) 1st IGST 2nd CGST & SGST in any order any manner

Ans:- (d) 1st IGST 2nd CGST & SGST in any order any manner



CHAPTER - 2

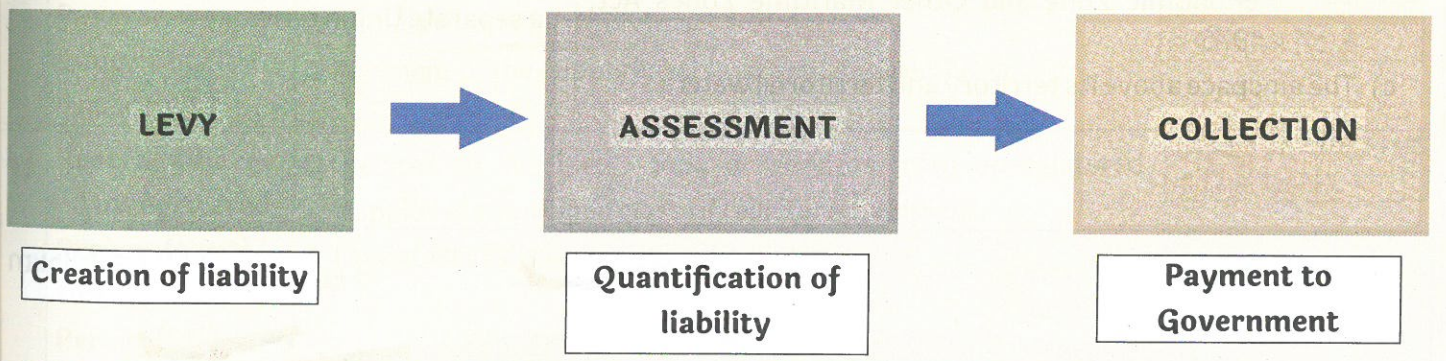
CHARGE OF TAX & APPLICATION OF CGST & IGST LAWS

INDEX

Central Goods and Service Tax Act, 2017	
Sec 9	Levy & collection of CGST

Integrated Goods & Service Tax Act, 2017	
Sec 5	Levy & collection of IGST
Sec 7	Inter State supply
Sec 8	Intra State supply

Three Stages of Tax Collection



Sir What is a Taxable event In a Law?

A taxable event in the law is the event, happening of which triggers applicability of provisions of the law. For e.g. under Income Tax Act, taxable event is earning of income. Thus, earning of income is the trigger and once a person earns any income, he is covered by the provisions of Income Tax Act.

In GST taxable event is supply of goods or services.



Sec 1 : Title, Extent & Commencement

(1)	Title	This Act may be called the <u>Central Goods and Services Tax Act, 2017.</u>
(2)	Extent	It extends to the whole of India <u>(include Jandic)</u>
(3)	Commencement	It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint (This Act is applicable from 1st July 2017)

SEC 2 (56) "INDIA"

Means

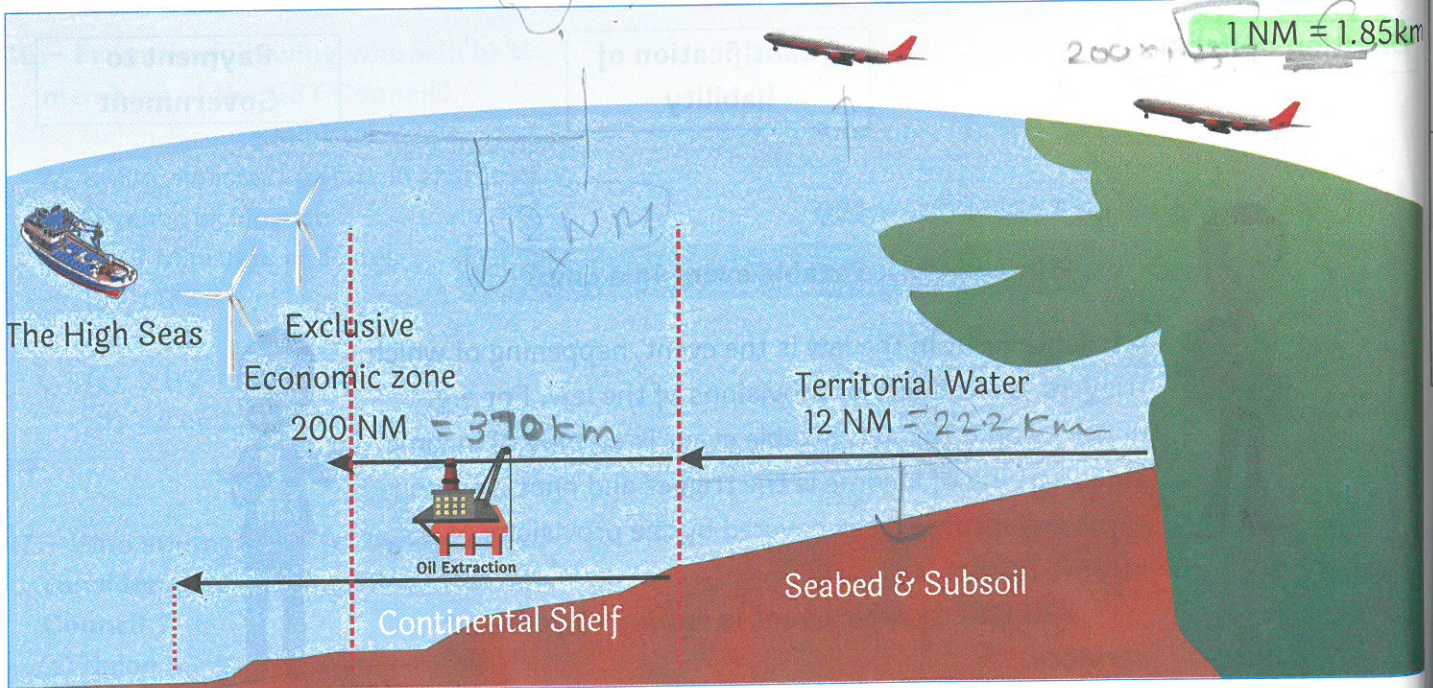
- a) Territory of India as referred to in article 1 of Constitution (The territory of the Union of India viz., state and the union territories.)
- b) Its
 - ➔ Territorial Water, ➔ seabed and
 - ➔ sub-soil underlying such waters,
 - ➔ continental shelf,
 - ➔ exclusive economic zone or
 - ➔ any other maritime zone as defined in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976
- c) The air space above its territory and territorial waters

SEC 2(114) "UNION TERRITORY"

Means

- the territory of -
- (a) the Andaman and Nicobar Islands
 - (b) Lakshadweep
 - (c) **Daman and Diu and Dadra and Nagar haveli**
 - (d) **Ladakh**
 - (e) Chandigarh
 - (f) and Other territory

Explanation - For the purposes of this Act, each of the territories specified in clauses (a) to (f) shall be considered to be a separate Union territory



LEVY & COLLECTION OF CGST & IGST

[SECTION 9 OF THE CGST ACT & SECTION 5 OF THE IGST ACT]

1) **Levy of CGST**

1/5

- CGST is applicable to **all intra-State supplies of goods or services, except for alcoholic liquor for human consumption.**
- The tax is collected and paid by the **taxable person**, following the prescribed manner.
- The **value for CGST levy** is based on the transaction **value under Section 15** of the CGST Act, which is discussed in detail in another chapter.

2) **Items with Deferred CGST/IGST Levy**

- ~~Max Rate of CGST is 20%.~~
- CGST/IGST on the supply of certain items such as petroleum crude, high-speed diesel, motor spirit (petrol), natural gas, and aviation turbine fuel has not been levied yet.
- The levy will be implemented based on notifications from the Government and recommendations from the Council.

Analysis

	(Supply) GST	(Production) Excise Duty	(Sale)	
			VAT	CST
1. Alcoholic Liquor for Human Consumption	NO	YES (State)	Y	N
2. Petroleum crude, High speed Diesel, Motor spirit (Petrol), Natural gas, Aviation Turbine fuel	NO	YES (Central)	Y	Y
3. Tobacco & Tobacco products	YES	Central Ex	N	N
4. Opium, Indian hemp and other narcotic drugs and narcotics:	YES	State Ex	N	N
5. All Others Goods	YES	N	N	N

3) **Reverse Charge under notified cases**

17

- Applies to specified goods or services.
- Recipient of the supply is liable to pay tax directly.

Separately discussed in Chapter No. 4

4) **Reverse Charge - UnRegistered Person (URP) to Registered Person (RP)**

- Relates to specified goods or services from unregistered suppliers to specified class of registered recipient.
- Tax liability falls on registered recipients.

Separately discussed in Chapter No. 4

5) **CGST liability of E-commerce operator**

- The Govt. notified certain supplies on the recommendation of the Council, the tax on **intra-State supplies** of which shall be paid by the **ECO** if such services are supplied through it.
- All the provisions of GST Acts shall apply to ECO as if he is the supplier liable for paying the tax for the supply of such services.

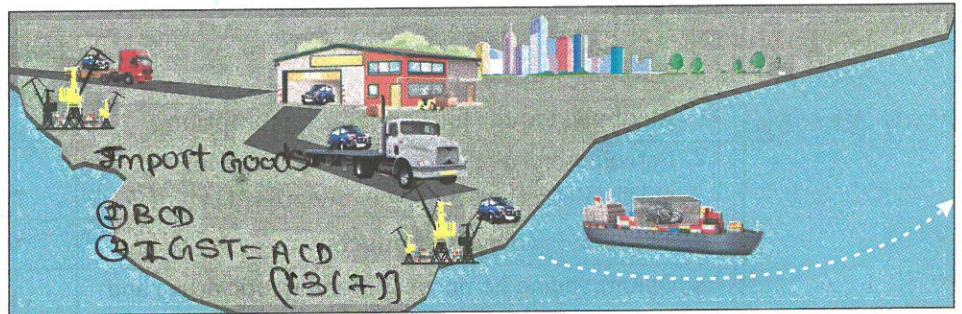
CGST → Sec 9
IGST → Sec 5
Value of Taxable Supply - Sec 15

LEVY & COLLECTION OF IGST

1) **Levy of IGST for Inter-State Supplies**
 For **inter-State supplies of goods and/or services**, **Integrated Goods and Service Tax (IGST)** is imposed based on the transaction value under **Section 15** of the CGST Act.
 ⇒ IGST is the **sum of CGST and SGST/UTGST**, and the **maximum rate can be 40%**.

2) **GST on Imported Goods:**
Not Imp for exams
Do not study on last day okay!

⇒ All imports are treated as **inter-State supplies**, and IGST is levied on imported goods in addition to applicable customs duties.
 ⇒ The **integrated tax on imported goods** follows the provisions of the **Customs Tariff Act, 1975**, and is collected when customs duties are levied under the Customs Act, 1962 [**IGST = ACD 3(7)**].
 ⇒ This tax is in addition to the **Basic Customs Duty (BCD)** imposed as per the Customs Tariff Act.
 ⇒ Certain luxury and demerit goods may also be subject to GST compensation cess under the Goods and Services Tax (Compensation to States) Cess Act, 2017 [**IGST (cess) = ACD 3(9)**].



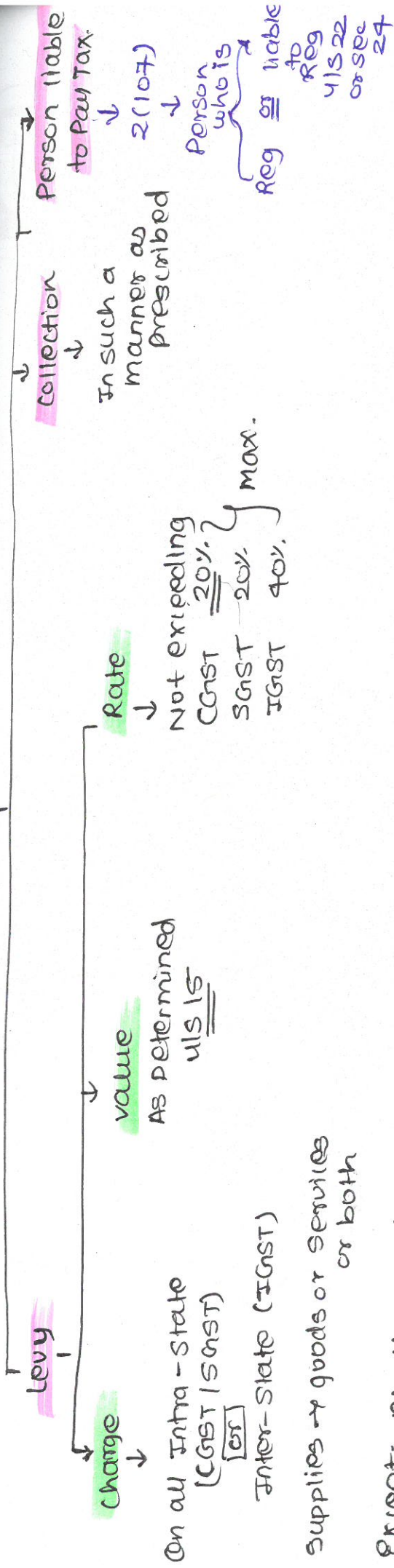
Inter & Intra State Supply

3) **Intra State Supply**
 As a general rule, where the **location of the supplier** and the place of supply of goods or services are **in the same State/Union territory**, it is treated as **intra-State supply** of goods or services respectively.

4) **Inter State Supply**
 where the **location of the supplier** and the **place of supply** of goods or services are in
 (i) **two different States** or
 (ii) **two different Union Territories** or
 (iii) **a State and a Union territory**,
 it is treated as **inter-State supply** of goods or services respectively.

Note: Details discussion of Inter State and Intra State Supply is covered in chapter Place of Supply

Sec 9(1) / Charging section



Except: At liquor for Human consumption

9(2) on following goods GST is not payable till recommendation, is recovered from GST council.

- ① Petroleum crude
- ② High Speed diesel
- ③ Motor Spirit
- ④ Natural gas
- ⑤ Aviation Turbine fuel

Non-Taxable and Exemptions Both are different.



CHAPTER - 3

CONCEPT OF SUPPLY

INDEX

CGST Act, 2017	
Sec 2	Important definitions

2(52) : Goods	2(31) : Consideration	2(84) : Person	2(108) : Taxable Supply
2(102) : Services	2(17) : Business	2(105) : Supplier	2(78) : Non-Taxable Supply
		2(93) : Recipient	2(47) : Exempt Supply
			2(107) : Taxable Person
			2(98) : Reverse Charge
			2(45) : E-Commerce Operator

CGST Act, 2017	
Sec 7	Meaning of Supply
Sec 8	Composite & Mixed Supply

Important Definitions

* In case, even if trust sale the GST is ~~not~~ available.

Sec 2 DT and IPT to exemptions different notes hat

2(84) "Person" - includes



(a) An Individual



(b) A Hindu undivided family



(c) A Company



(d) A Firm Partnership



(e) A limited Liability Partnership



(f) An association of persons or a body of individuals, whether incorporated or not, in India or outside India



(g) Any corporation established by or under any Central Act, State Act or Provincial Act or a Govt. company as defined in clause (45) of section 2 of the Companies Act, 2013



(h) any body corporate incorporated by or under the laws of a country outside India ↓ CMA 2013/14



(i) A co-operative society registered under any law relating to co-operative societies



(j) A local authority



(k) Central Government or a State Government



(l) Society as defined under the Societies Registration Act, 1860



(m) Trust



(n) Every artificial juridical person, not falling within any of the above
 → Even a trust,

25

Distinct Persons Deemed distinct Person (DDP)

Distinct Persons specified under section 25: Before we go through the statutory provisions of 'distinct persons', let us first have an overview of the registration provisions

State-Wise Registration under GST:

Under GST law, a supplier must obtain registration separately for each State/Union Territory where they make taxable supplies if their aggregate turnover exceeds the prescribed threshold limit.

Registration is not required for states where only non-taxable/exempt supplies are made.

Single Registration in a State/UT:

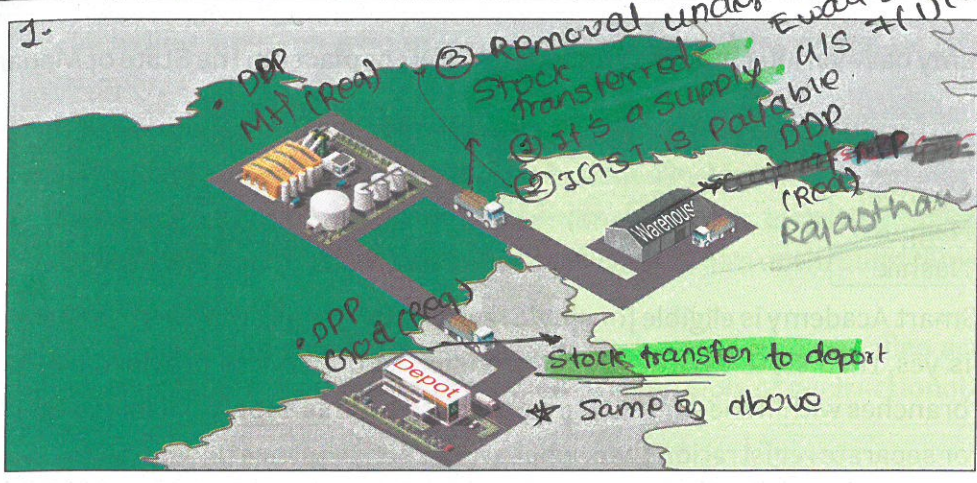
Normally, a supplier is required to obtain a single registration for a State/UT.

However, if they have multiple places of business within a State/UT, they have the option to obtain a single registration covering all those places of business, or they may choose to obtain separate registrations for specific places of business within that State/UT.

Sec 25(4) Distinct Persons with Separate Registrations:

Establishments with separate registrations, whether within the same State/UT or different States/UTs, are treated as distinct persons for GST purposes.

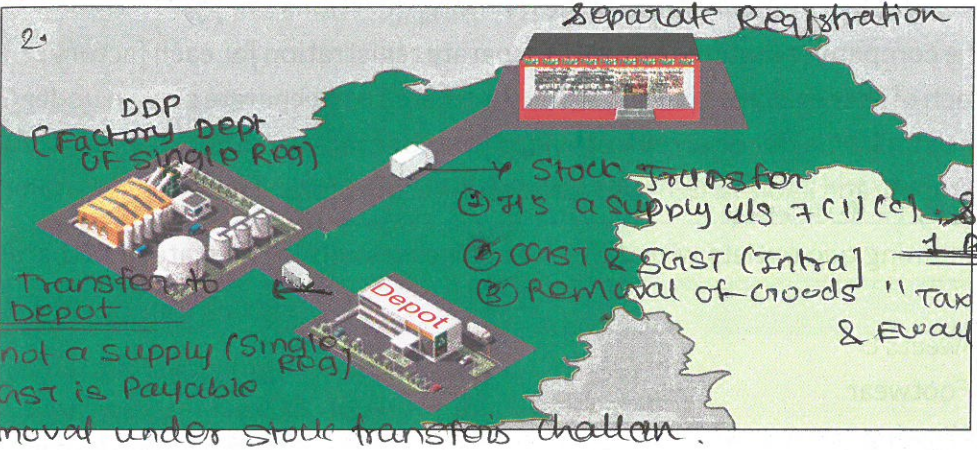
Notes :- This distinction affects various aspects of GST compliance, including invoicing, tax liability, and input tax credit.



Your notes
 Rule

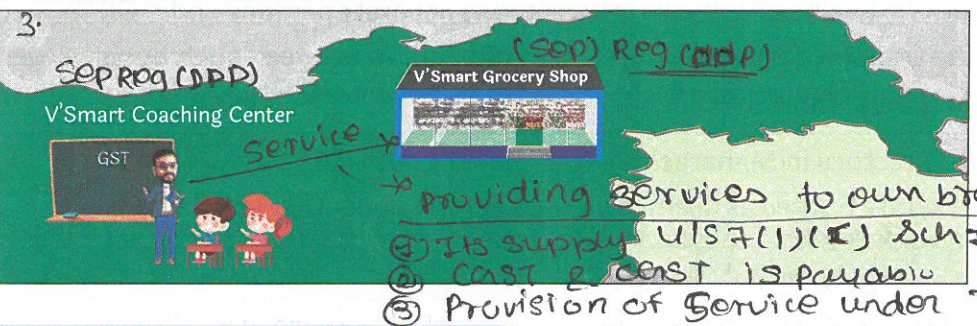
④ E-way Bill is only for Goods & not for Services (ex-3)

Single/ Multiple Registration



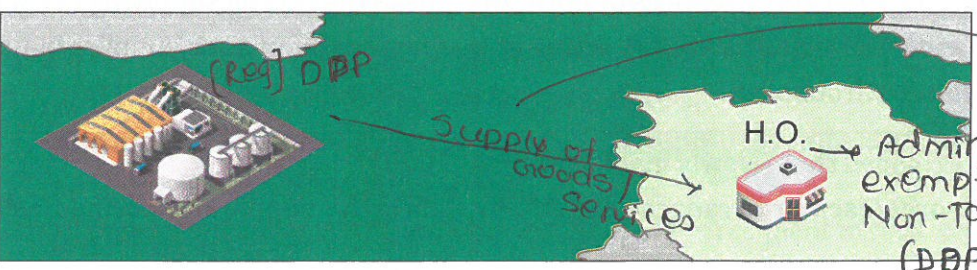
- ① It's not a supply (single Reg)
- ② No GST is payable
- ③ Removal under stock transfer challan

Separate Establishment



Establishment in Different State

25(5) Where a person who obtained or is required to obtain registration in a State or Union territory in respect of an establishment, **has an establishment in another State or Union territory,** then such establishment shall be treated as establishment of distinct persons for the purposes of this Act.



But just an establishment

Stock transfer of goods or service to un-Reg
 ① It's supply u/s 7(1)(c) para 2
 ② GST is payable
 ③ Tax Invoice & In case of goods also E-way bill required

P1 :- V'Smart Academy have various branches located in different places in the State of Maharashtra as follows:-

Head Office	Pune
Branch 1	Mumbai
Branch 2	Nagpur
Branch 3	Nashik

- ① Req Requirement
- ② 25(4) supply
- ③ 7(1)(c) → Sch I para. 2

- i) State whether V'Smart Academy is eligible for single registration for all branches in a State.
- ii) If answer to (i) is yes, then state whether goods transferred or services provided by Pune head office to various branches within the same state would be treated as supply & liable to GST?
- iii) Is Vsmart opts for separate registration then, what are the consequence under GST?

P2 :- There are three factories of Samsung Pvt. Ltd. under the same PAN which are located in Maharashtra, Delhi & Madhya Pradesh. Answer the following questions briefly:-

- a) Whether the company is required to obtain separate registration for each factory? ^{25, yes}
- b) Whether each of the registered factory would be treated as a separate person under GST? ²⁵⁽⁴⁾
- c) Whether the stock transfer or service provided from one factory to another factory would be treated as supply and liable to GST? Also state the nature of transaction? ^{105, GST}

P3 :- Haldiram is running two outlets with different businesses within the state of Maharashtra as under:-

- 1) Haldiram Sweets &
- 2) Haldiram Footwear

Answer the following questions:-

- ¹⁰⁵ a) Whether Haldiram can obtain separate registration under GST for each outlet?
- ¹⁰⁵ b) Whether the two business verticals are treated as separate persons under GST?
- ¹⁰⁵ c) Whether the transfer of goods or provision of services between such business verticals is treated as supply & liable to GST?

P4 :- XYZ Ltd. have a factory in Maharashtra (registered under GST) and an unregistered office in Delhi. Whether the two are treated as deemed distinct person under GST? Explain.

^{25(S)} ^{DDP} ~~Agar Register ho ya unregistered ho then it will be DDP~~

2(107) Taxable Person as to avoid scam of ITC

means a person who is registered or liable to be registered under section 22 or section 24

2(94) Registered person

"Registered person" **means** a person -

- ➔ who is registered under section 25
- ➔ but **does not include** a person having a **Unique Identity Number**

2(105) Supplier

"Supplier" in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and **shall include an agent** acting as such on behalf of such supplier in relation to the goods or services or both supplied.

Proviso inserted:- Provided that (Newly inserted by F.A. 2023)

- ➔ a person who organises or arranges, directly or indirectly, supply of specified actionable claims,

⊃ including a person who owns, operates or manages digital or electronic platform for such supply,
 shall be deemed to be a supplier of such actionable claims,
 ⊃ whether such actionable claims are supplied by him or through him and
 ⊃ whether consideration in money or money's worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and
all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims.

2(102)A Specified actionable claim ★ (Refer pg: no 84)
 means the actionable claim involved in or by way of—
 (I) betting (ii) casinos (iii) gambling (iv) horse racing (v) lottery or (vi) online money gaming.

2(80A) Online gaming
 means offering of a game on the internet or an electronic network and includes online money gaming.

2(80B) Online money gaming
 means online gaming in which including
 ⊃ players pay or deposit money or money's worth,
 ⊃ virtual digital assets,
 ⊃ in the expectation of winning money or money's worth, including virtual digital assets,
 ⊃ in any event including game, scheme, competition or any other activity or process,
 ⊃ whether or not its outcome or performance is based on skill, chance or both and
 ⊃ whether the same is permissible or otherwise under any other law for the time being in force.

2(117A) Virtual digital asset
 shall have the same meaning as assigned to it in clause (47A) of section 2 of the Income-tax Act, 1961.
(★ U-Tmp)

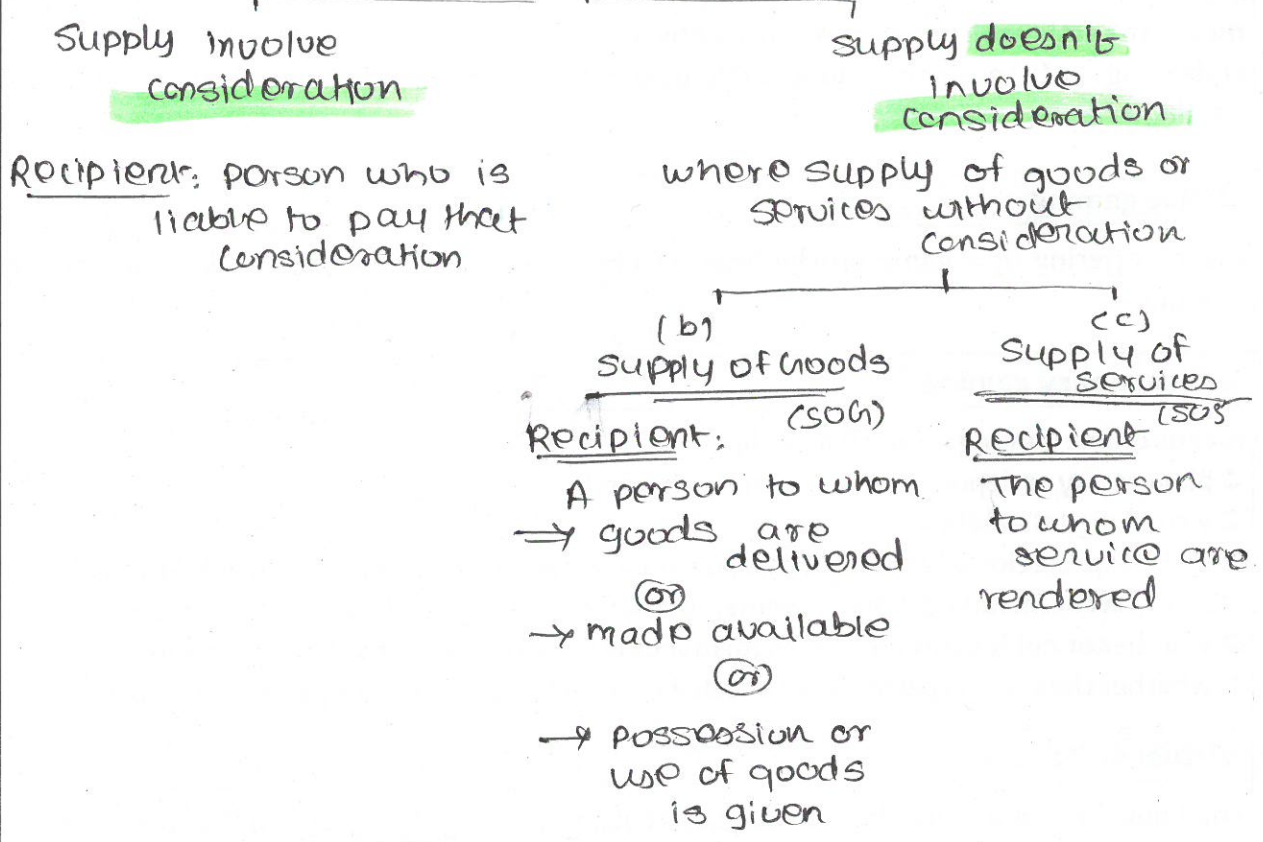
2(93) Recipient
 "recipient" of supply of goods or services or both,
means—
 (a) Where a consideration is payable for the **supply of goods or services** or both,
 ⊃ the **person who is liable to pay that consideration**
 (b) Where no consideration is payable for the **supply of goods**,
 ⊃ the **person to whom the goods are delivered or made available**
 ⊃ or to whom **possession or use of the goods is given or made available; and**
 (c) Where no consideration is payable for the **supply of a service**,
 ⊃ the **person to whom the service is rendered**,
and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and
shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied

P5:- XYZ Ltd., a manufacturer of goods, supplied goods of value ₹ 20,00,000 to Mr. B. Who is the supplier in the given case? XYZ

P6:- XYZ Ltd., a manufacturer of goods, supplied goods of value ₹ 20,00,000 to Mr. B. Who is the supplier in the given case?

CHART

Sec 2(93) recipient



Recipient also includes agent acting on the behalf of recipient

P7:- Mr. A, from Nagpur, is a consignment agent of Coca-Cola Ltd. as he undertakes to supply Coca-Cola beverage on behalf of Coca-Cola Ltd. Accordingly, Mr. A supplied goods worth ₹ 20,00,000 to Mr. C on behalf of Coca-Cola Ltd. Who is the supplier in this transaction under the GST Act? Explain.

*SUPPLIER includes agent Hence given case
Supplier is consignment agent*

P8:- V'Smart Academy have given training in GST to Mr. Aakash who is an Article in a CA Firm, AB & Associates.

The invoice for this service is in the name of AB & Associates who also paid the consideration for the same. Who is the recipient in the given case? Explain

P 9:- Samsung Ltd. transferred the stock from factory F1 (Maharashtra) to factory F2 (Gujarat) without any consideration. Accordingly, the goods are delivered to factory F2. Who is the recipient in the given case? Explain.

2(108) Taxable Supply

means a supply of goods or services or both which is leviable to tax under this Act

2(78) Non-Taxable Supply

means a supply of goods or services or both which is not leviable to tax under this Act (i.e. CGST Act) or under the Integrated Goods and Services Tax Act *Eg: Alcohol & Petroleum & products*

2(47) Exempt Supply

means a supply of any goods or services or both

⇒ which attracts **nil rate of tax** or

⇒ which may be **wholly exempt from tax** under section 11, or under section 6 of the integrated Goods and Services Tax Act, and

includes non-taxable supply

Sec 16 Zero- Rate Supply

means any of the following supplies of goods or services or both, namely:--

a) **Export** of goods or services or both; or

b) supply of goods or services or both to a **Special Economic Zone developer** or a **Special Economic Zone unit**.

Supply

HSN ① vegetable → Nil

② Mobile → 18% (chargeable supply)

③ Handmade
Kolkapur Chappals → 12% (Govt by Notification
Exempt]

④ Zero Rate supply → Special for Public Int

Supply

Taxable supply

→ SOG / SOS which is liable to GST

Chargeable supply

→ SOG / SOS is subject to payment of GST @ applicable rate

Zero Rate supply

→ SOG / SOS which is chargeable to GST but Govt have given special incentive in case of export by making rate "Zero"

Nil rate supply

→ SOG / SOS which subject to Nil Rate in GST tariff

Exempt supply

→ SOG / SOS which is chargeable to GST @ 5% / 12% / 18% / 28% but to promote social-economic objectives Govt has temporarily exempted such supply.

Non-Taxable supply

→ SOG / SOS which is not leviable to GST

- Ex: ① Petroleum Product
② At liquor for H-C

AS per sec 2 (4F): For GST purpose Exempt supply

includes Nil rate, wholly exempt & Non-Tax supply

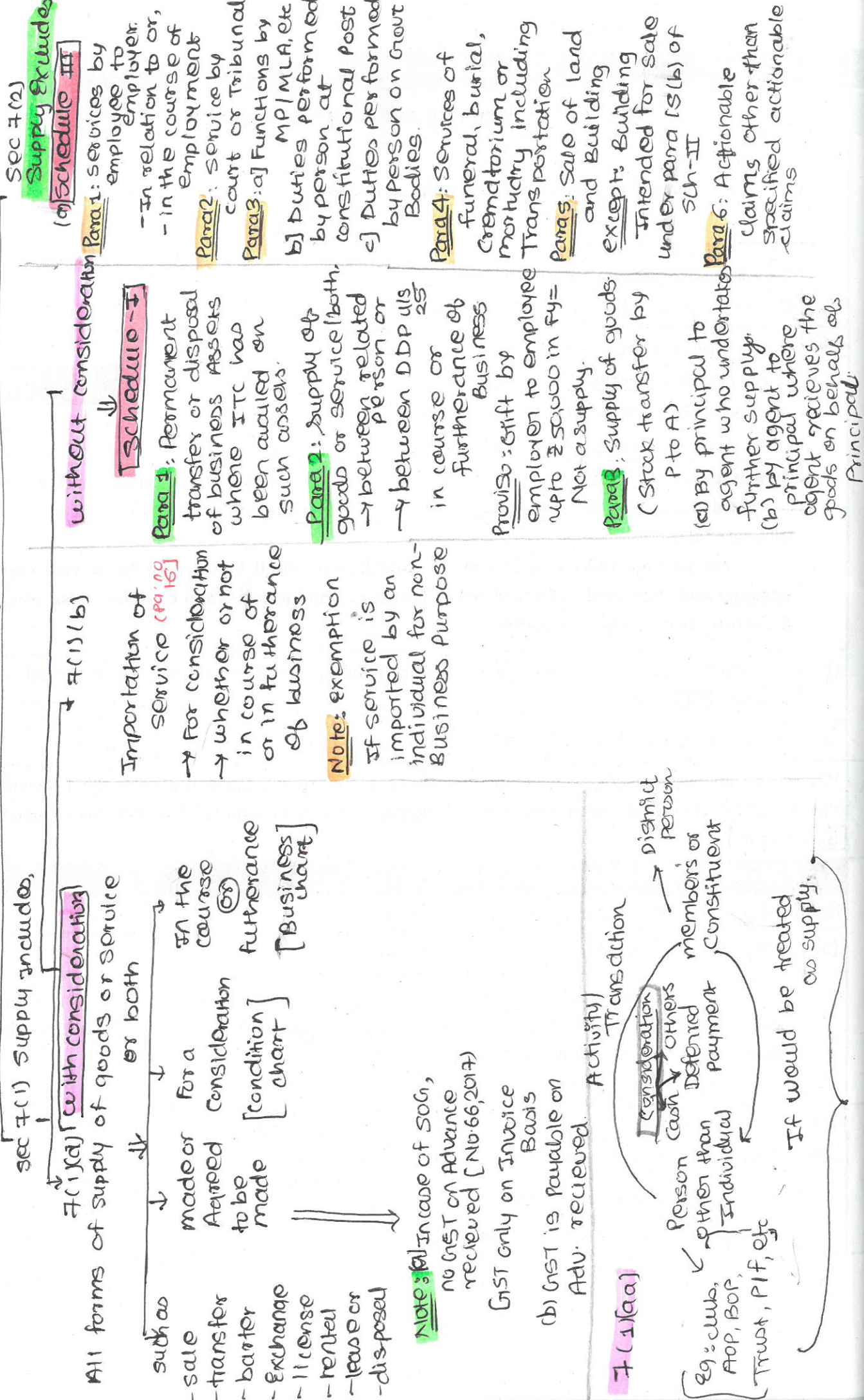
Nil rate, Exempt supply, Non-Tax supply

Taxable event - Supply

Section 7 - Meaning and scope of supply

1	Supply includes -
(a)	<p><u>All forms of supply of goods and/ or services or both</u> such as</p> <ul style="list-style-type: none"> ➤ sale transfer, barter, exchange, licence, rental, lease or disposal ➤ made or agreed to be made ➤ for a consideration by a person ➤ in the course or furtherance of business.
(aa)	<p>The activities or transactions,</p> <ul style="list-style-type: none"> ➤ by a person, <u>other than</u> an individual, ➤ to its members or constituents or vice-versa, <p style="text-align: center;">for cash, deferred payment or other valuable consideration.</p> <div style="text-align: right; border: 1px solid black; padding: 2px; width: fit-content; margin: 5px auto;"> Newly Inserted by F.A. 2021 </div> <p>Explanation:- For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority,</p> <p style="text-align: center;">the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another</p>
(b)	<p>Importation of services, for a <u>consideration</u>, whether or not in the course or furtherance of business and</p>
(c)	<p>The activities specified in <u>Schedule I</u>, made or agreed to be made without a consideration.</p>
1A	<p>Where certain activities or transaction constitute a supply in accordance with the provisions of subsection(1), they shall be treated either as supply of goods or supply of services as referred to in <u>Schedule II.</u></p>
2	Activities not treated as supply and not liable to GST
	Notwithstanding anything contained in sub-section(1)
(a)	activities or transactions specified in Schedule III or
(b)	<p>such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as <u>public authorities</u>, as may be notified by the Government on the recommendations of the Council,</p> <p style="text-align: center;">Shall be treated neither as a supply of goods nor a supply of services.</p>
3	Subject to sub-sections (1), (1A) & (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as
(a)	A supply of goods and not as a supply of services or
(b)	A supply of services and not as a supply of goods.

CHART Sec 7 Supply



Sec 7(2) Supply Excludes

Schedule III

Para 1: services by employee to employer.

- in relation to or, - in the course of employment

Para 2: Service by court or Tribunal

Para 3: a) Functions by MP/MLA, etc

- b) Duties performed by person at constitutional post
- c) Duties performed by person on Govt Bodies.

Para 4: Services of funeral, burial, crematorium or mortuary including transportation

Para 5: Sale of land and Building except Building intended for sale under para 1S(b) of Sch-II

Para 6: Actionable claims other than specified actionable claims

Note: Para 3 is applicable only in case where agent issues his own invoice.

Para 4: Import of service from, related person or → own establishment or India for business

Sec 7(1A) where certain activities or transactions constitute a supply in accordance with sec 7(1), they shall be treated either as a SOG or SOS as referred to in Schedule-II

Para-1

Transfer of goods

- SOG
 - Transfer of Title of Goods
 - Transfer of Title on future date
- SOS
 - Transfer of Rights or undivided Shares

Para-2

Land & Building

- SOS
 - Lease-land, tenancy, easement, license.
- lease letting out any building

Note: Sale of land or building not treated as supply para-5 of Sch-III

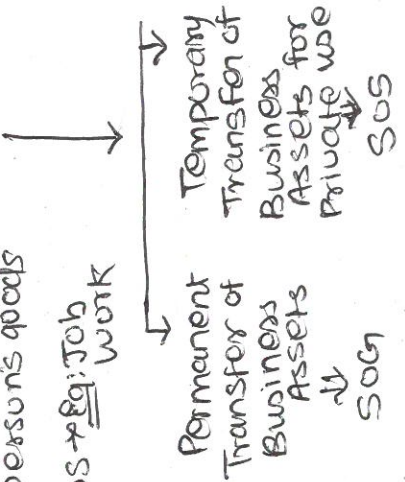
Para-3

Treatment/Processes on another person's goods

SOS → Eg: Job work

Para-4

Transfer of Business Assets



*C1 If a person ceases to be taxable person

Goods in a Asset = Deemed Supply

[Note: as per author's opinion it is Classifiable as SOG]

Exceptions:

- Business transferred as going concern to another person
- Business carried on by personal representatives (Taxable person)

Activity Not Treated supply

Circulars

- Inter Intra State Movements of conveyance bet. PDP
- Inter Intra State of rigs, tools Spare parts, etc
- Cost of Petroleum for oil exploration
- Agreeing to refrain, tolerate or to do an act which is not an Independent Contract (It's merely event Occurred during the course of performance)

7(2)(b)

- Notified activities of Govt Not treated as Supply
- Activity of Panchayat (A2346) or Municipality (A243w)
 - Alcohol liquor licensed by S.G

08/12/2018

Taxable Event Supply

Section 7:- Meaning & Scope of Supply

Sec 7(1) Supply Includes

For Consideration

- (a) **All Forms of Supply for Consideration in Business:** Supply Includes
- ⇒ all forms of supply of goods or services (e.g., sale, transfer, barter, exchange, license, rental, lease, or disposal)
 - ⇒ made or agreed to be made
 - ⇒ for a consideration by a person
 - ⇒ in the course or furtherance of business.

Definition of Goods and Service under GST

As per Sec 7 supply includes three events

- ⇒ Wholly supply of Goods
- ⇒ Wholly supply of services
- ⇒ Supply of both (Goods and services)



Sir What is the Supply of Goods?

Beta, to understand the supply of goods, we have to first understand definition of goods given under CGST Act.



Sec 2(52): Goods

"Every Kind of Movable Property": Refers to all types of movable items that can be physically transported from one place to another. *immovable per gst nahi aati*

Excludes "Money" and "Securities": Does not include transaction in currency (conversion of currency or deposit or withdrawal of money from bank etc.) or securities like stocks and bonds derivatives etc as defined in SCRA.

Goods specifically Includes *lottery, winning, gambling, Betting.*

"Actionable Claim": Encompasses legal claims or rights (on unsecured Debts) that can be pursued in a court of law (**For Eg.** Right to arrears rent, Insurance claim, etc.)¹

"Growing Crops" and "Grass": Comprises crops that are actively growing on the land and natural vegetation like grass are affixed to or part of the land but are intended to be removed before supply or as part of a supply contract.



Sir What is the Supply of Service?

Beta, to understand the supply of Service, we have to first understand definition of Service given under CGST Act.



Sec 2(102): Services

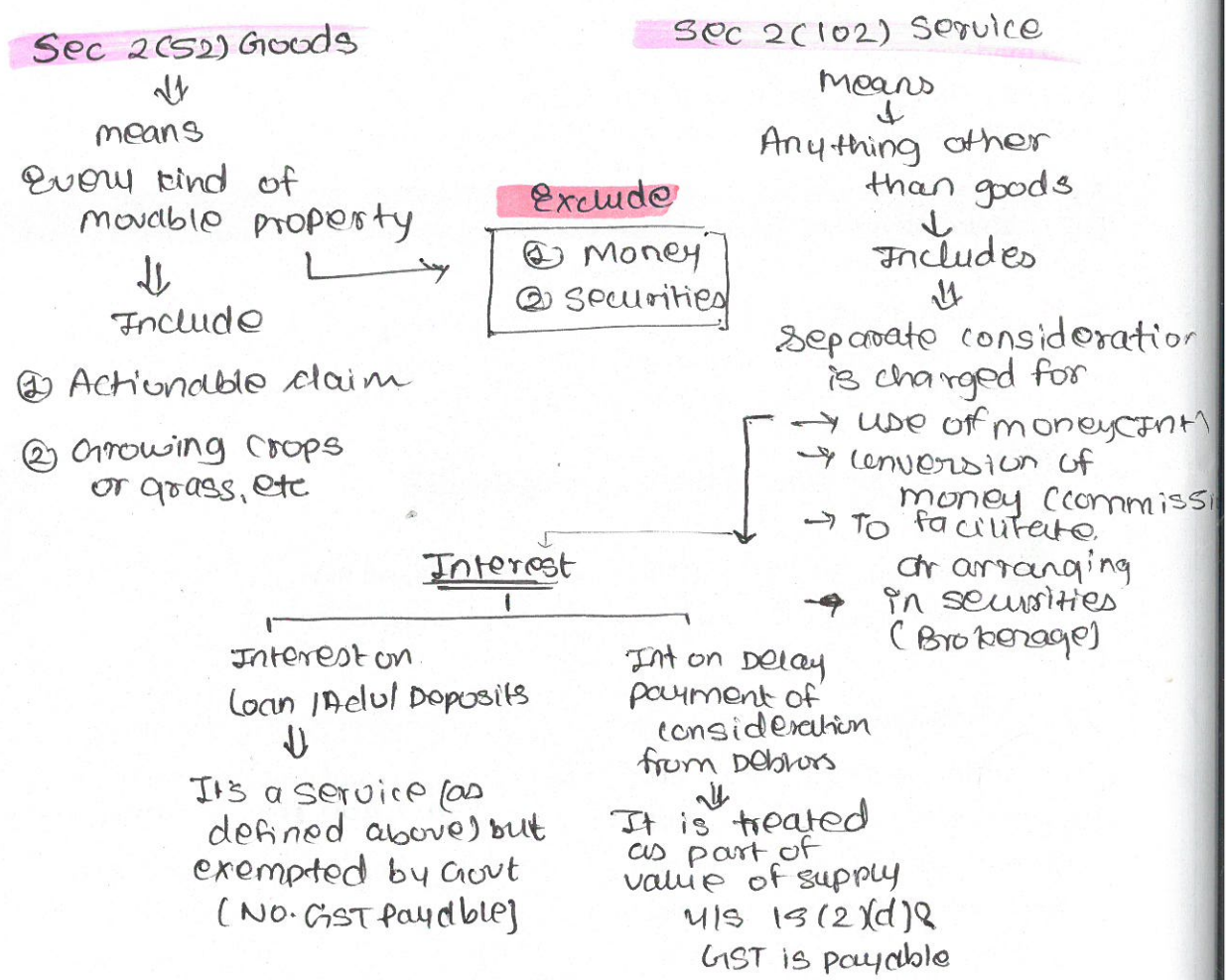
"Anything Other Than Goods, Money, and Securities": Encompasses all activities and transactions that are not categorized as goods, money, or securities.

Services specifically Includes

Activities Relating to Money Use or Conversion: Incorporates services that involve use of money or the handling or conversion of money from one form, currency, or denomination to another (provided a separate consideration is charged for such activities.)

Securities Transactions: The definition is further clarified to explicitly state that "services" cover facilitating or arranging transactions in securities. This includes services (eg. brokerage charges portfolio management) related to buying and selling securities in financial markets.

Excludes "Goods," "Money," and "Securities": Does not cover tangible items (goods) currency (money), or financial instruments like stocks and bonds (securities).



Meaning of Money

the Indian legal tender of any foreign currency cheque, promissory note, bill of exchange
 letter of credit, draft, pay order, traveller cheque money order, postal or electronic remittance
 any other instrument recognised by the RBI

but shall not include any currency that is held for its numismatic value. | old copper coin & gold coins
 [Numismatic means "collection and study of money (and coins in particular).]

Financial transactions

Financial Services by Banks and Institutions:

Banks and financial institutions offer a range of financial services, including lending, borrowing and investment activities, often using various financial instruments.

(B)
 Note: Bitcoin not treated as money and not ratified by RBI

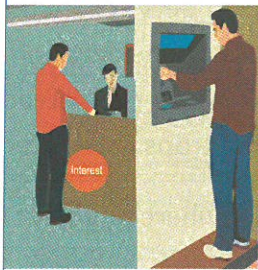
Exclusion of Money and Securities:

The definitions of 'goods' and 'services' explicitly exclude money and securities from their scope.

Instruments Included in Money :

- ⇒ The definition of 'money' encompasses instruments like cheques, drafts, pay orders, promissory notes, letters of credit, etc.
- ⇒ Transactions solely involving these instruments fall outside the definition of a service.

Analysis :-



Activity in Money (non taxable)

1. Deposit or Withdrawal of Money from Bank
2. Borrowing or repayment of loan.

Activity in Relation to Money (taxable)

3. Interest on loans or deposits
4. Processing fees

2 Service

Activity for conversion of Money (taxable)

Commission for Conversion of Rupees in to Coins = Service

Commission for Conversion of Currency eg. Dolloar to Rupees → Service

Definition of 'Securities':

- ⇒ The term 'securities' aligns with its definition in the Securities Contracts (Regulation) Act, 1956 (SCRA). Eg. Shares, Bond, Debentures, derivative, etc.

Issue :- Whether the activity of holding shares by a holding company of the subsidiary company will be treated as a supply of service or not and whether the same will attract GST or not.

Clarification :-

Securities Not Goods or Services: 'shares,' are neither classified as goods nor services.

Purchase/Sale of Shares Not Supply:

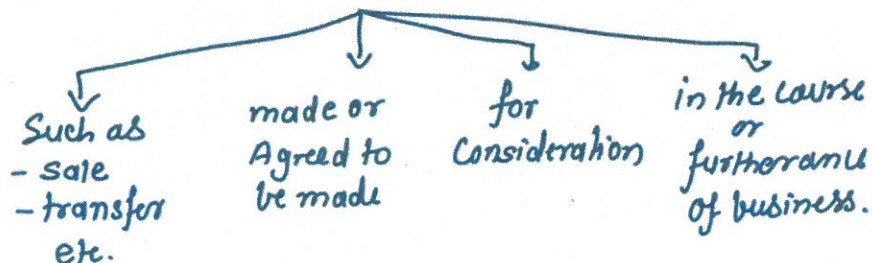
- ⇒ The purchase or sale of shares or securities, in isolation, does not constitute a SOG or SOS *exclusively → only securities'*
- ⇒ To qualify as a supply of services, it should be covered under Section 7 of the CGST Act.

No Inherent Service in Holding Shares:

- ⇒ Holding shares of a subsidiary company by a holding company, by itself, does not constitute the provision of services.
- ⇒ Consequently, the act of a holding company (holding shares of a subsidiary company cannot be regarded as a supply of services) from the holding company to the subsidiary company and is not subject to GST.

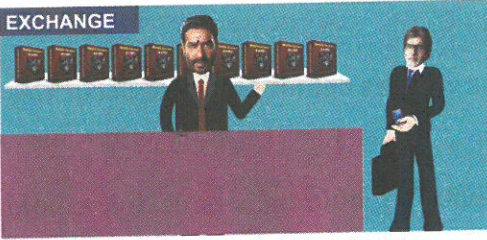
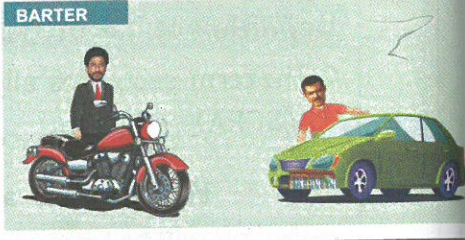
Sec 7(1)(a): Basic conditions for Supply

It includes all forms of SOG/SOS or Both



(B) A. Various forms of supply:-

Various forms of supply contemplated in sec 7(1)(a) are explained as below:-

Sr.No.	Form of supply	Explanation
1	<u>Sale</u>	Transfer of <u>ownership</u> of and title to property from one person to another for a price.
2	<u>Transfer</u>	Transfer of possession or control <u>from one person to another.</u> eg. (MP) <i>Here purchase</i>
3	<u>Barter</u>	To exchange goods or services for other <u>goods or services</u> instead of using money. Here, activity constitutes supply as well as consideration. Example: Suppose carpenter builds <u>fence</u> for a <u>farmer</u> , Instead of paying money for services, farmer can compensate with <u>crops</u> and <u>foodstuffs</u>
4	<u>Exchange</u>	An act of giving or taking one thing for another where payment is partly in goods and partly in money.  
5	<u>Licence</u>	A permission granted by competent authority to engage in a business or occupation or in an activity otherwise <u>unlawful</u> .
6	<u>Lease</u>	To make a legal agreement by which money is paid in order to use land, a building, a vehicle, or a piece of equipment for an agreed period of time.
7	<u>Rental</u>	An arrangement to rent something, or the amount of money that you pay to rent something.
8	<u>Disposal</u>	The sale, pledge, giving away, use, consumption or any other disposition of a thing.

P10:- S Bank executed the following transactions in F.Y. 20XX-XY. Calculate the GST liability, if the rate of GST applicable is 18% (i.e., 9% each CGST & SGST). Also, assume all the transactions to be intra-state.

S.No.	Transactions	₹ in lakhs
1.	Term loan given <i>exempt (money)</i>	200
2.	Interest earned on term loan <i>if service not exempted</i>	25
3.	Interest earned on <u>OD/CC</u> → <i>Advance cash</i>	40
4.	Interest earned on Credit Card	10 ✓
5.	Bank charges on various activities undertaken	10 ✓
6.	Commission earned on conversion of foreign currency	5 ✓
7.	Sale of government bond <i>exempt</i>	100

2000 SHIRT
 → 4000 M
 → 1000 M

21

P 11:- XYZ Ltd. is manufacturing shirts. It has purchased fabric of 5000 meters for ₹ 10 lakhs. XYZ Ltd. manufactured 2000 shirts by using 4000 meters of fabric. 1000 meters of fabric is still lying in the stock. The company found that 500 meters of fabric is in excess and decided to sell it to Mr. B in the form of waste generated in manufacturing process called as 'Chindi'.

Determine the GST liability of XYZ Ltd. on the basis of following information:-

- a) 1500 shirts are sold @ ₹ 2000 per shirt & applicable rate of GST is 18%.
- b) Waste chindi sold for ₹ 2,00,000 & applicable rate of GST is 5%.
- c) 500 meters of fabric is sold for ₹ 300 per meter & applicable rate of GST is 5%.
- d) 300 shirts are transferred to another registered branch located in different state. Such stock transfer is valued at ₹ 2 000 per shirt and applicable GST rate is 18%.
- e) 100 shirts are transferred to another branch within the same state which is not separately registered under GST.

GSTR-1 statement of outward supply

26

P 12:- Mr. A sold his building for ₹ 80L to Mr. B. For such sale, he had appointed a broker Mr. C to whom brokerage of ₹ 2,00,000 was paid. Determine the GST liability of Mr. A & Mr. C, if any.

Meaning of supply made or agreed to be made:-

- **Made:** Goods are already delivered or Service is already provided & Payment is received after that.
- **Agreed to be made:**
 - (i) There is an agreement for supply and
 - (ii) An advance has been received against the supply.

GST Liability on Advanced Amount Received

Eventhough as per the term "Agreed to be made" GST is leviable on advance received by supplier of goods or services but following are the amendments made by government by notification in official gazette

Notification No. 66/2017

Supply of Goods	GST is payable only on Invoice basis Author Note : Payment of GST on Advance basis is suspended [N/N 66/2017] <i>Aaj bhi yeh notification lagu hai</i>	Detailed discussion in Chapter Time of Supply
Supply of Service	GST is payable on <u>advance</u> or <u>Invoice</u> whichever is <u>earlier</u>	

Supply of Goods

26

P 13 : Mr. Suresh of Rajasthan supplied goods and issue the invoice in the month of December, 20XX for ₹ 20,000 to Mr. Ramesh of Rajasthan. Mr Suresh has received advance of ₹ 10,000 in the month of Sept. 20XX. SGST and CGST rate on supply of goods is 9% each. IGST rate is 18%. Determine when GST is payable.

Supply of Services

P14 : Mr. Gajana of Rajasthan supplied Services and issue the invoice in the month of December, 20XX for ₹ 20,000 to Mr. Birju of Rajasthan. Mr Gajanan has received advance of ₹10,000 in the month of Sept. 20XX. SGST and CGST rate on supply of Services is 9% each. IGST rate is 18%. Determine when GST is payable.

Meaning of Consideration:-

(a) Payment for Supply: "Consideration" includes any payment made or to be made, whether in money or otherwise in connection with, in response to, or as an inducement for the supply of goods or services,

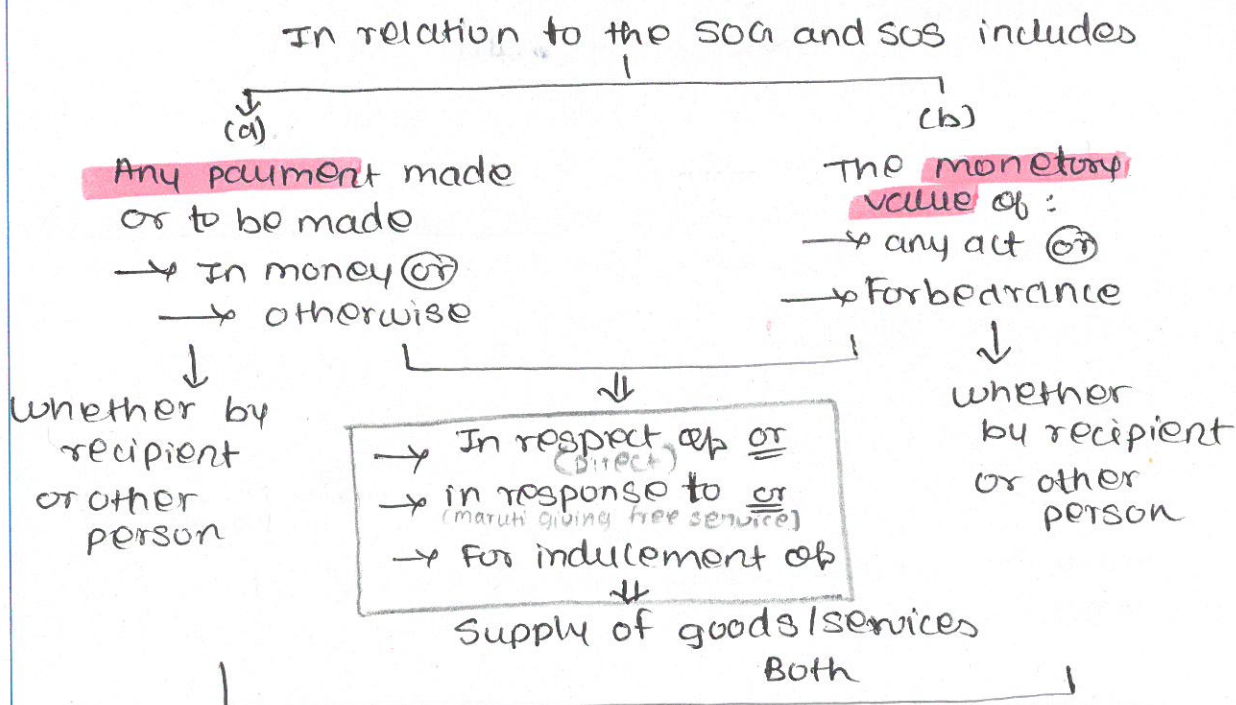
(b) Monetary Value of Actions: "Consideration" also covers the monetary value of any act or forbearance related to, in response to, or as an inducement for the supply of goods or services.

Payment by :- whether made by the recipient or any other person.

Exclusion from consideration:- However, it does not include

- ⇒ **subsidies** provided by the Central Government or a State Government.
- ⇒ **A deposit** provided concerning the supply of goods or services is not considered as payment for such supply unless the supplier utilizes the deposit as consideration for the specified supply.

Sec 2(31) Consideration



Shall not includes.

a] subsidy by SG/CGA (only Govt subsidiary) exclude hgi

b] Deposits for payment of Supply.

↳ unless. → the supplier applies the deposits as a consideration for said supply unless (Advised)

Inducement means to give something to a person so that he will do something else in return

Illustration 1 : A restaurateur offered 'free' meals to drivers of buses carrying passengers as an inducement to bring potential customers to his business premise. Since the meals were not given to drivers of empty buses, there is a direct link between the act of bringing passengers to the food outlet and the provision of the free meals. The consideration here is the free meals provided.

Free Supply (i.e. without Consideration) is not subject to levy of GST

Free supply of goods or Services are not subject to GST unless it is specifically covered in Schedule I or Sec 7 e.g. " Access to free TV channels, Tourism information free of charge, Large number of governmental activities for citizens.

Clarifications :- "Supply for Consideration"

Donations received by charitable institutions from individual donors, without quid pro quo [Circular No. 116/35/2019]

offer + acceptance (contract) must be there

Donations to charitable organizations are considered consideration only when there is an obligation (quid pro quo) for the recipient to provide a service in return.

Recipients of Donations: Institutions like religious organizations, charitable groups, schools, hospitals, orphanages, and old age homes often receive financial help or support in the form of donations or gifts.

Gratitude Expression: Recipient institutions often acknowledge donors by placing nameplates or similar acknowledgments on their premises as a gesture of gratitude and public recognition for philanthropic acts.] Imp

No Supply of Service: When donor names are displayed in a manner that expresses gratitude and recognition without promoting the donor's business, it doesn't constitute a supply of service, and there is no GST liability on the payment made.

If name is displayed with intention to promote donor's business then its a supply. IF Adv - GST

Example: Bhushan donated a blackboard to Yoganisht Sansthan – a charitable yoga institution. Yoganisht Sansthan printed underneath the blackboard so donated - "Good wishes from Mr. Bhushan.

Art works sent by artists to galleries for exhibition is not a supply as no consideration flows from the gallery to the artists [Circular No. 22/22/2017]

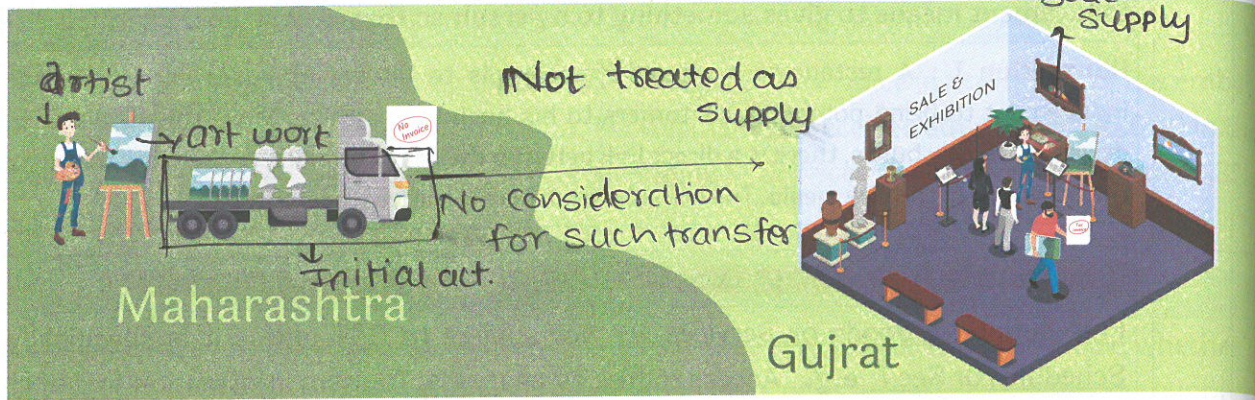
Artist-Gallery Relationship:

- ⇒ Artists provide their artwork to galleries for exhibition, but no consideration is exchanged between the gallery and the artist during this stage.
- ⇒ This initial act of sending art to the gallery for exhibition does not constitute a supply.

Actual Supply Occurs When Buyer Selects:

- ⇒ The actual supply occurs only when a buyer chooses a specific artwork from the gallery's exhibition.
- ⇒ At the time of this selection and sale, GST becomes applicable and must be paid.

Har Transfer Supply nhi hota hai



CBIC Clarification and Press Release (supply without consideration) 7(1)(a)

Issue	Clarification
Equipment and instruments sent to manufactures factory for repairs and calibration within India on a returnable basis	It is not a supply as removal of goods without consideration. <u>It is sufficient to issue a challan for movement of goods without supply.</u>
Spare part freely Supplied to replace during warranty period.	It is not supply as removal of spares without consideration. <u>GST is not chargeable</u>
free food supplied in anna kshetras run by religious institutions.	GST is not chargeable as food is supplied without considrarion
Sale of <u>Prasadam</u> by religious places i.e. (like temples, mosques, churches, gurudwaras, dargahs, etc.)	GST is not chargeable as supply of prasadam or like not in the course of furtherance of <u>business. 2(17)</u>
Free distribution of goods by a charitable institution	It is not a supply under GST GST is not chargeable

P15:- Mr. A supplied advertising services to V'Smart Academy for which V'Smart Academy paid the following:-

- a) Payment in cash ₹20,000,
- b) Payment by cheque ₹30,000,
- c) Payment by DD ₹30,000 &
- d) Transfer of BOE ₹ 20,000.

} covered in the definition of money

State the amount that shall be considered as consideration for the supply of said service under GST? Made of consideration → In money.

P16:- An architect has provided architectural services to Kumar Properties who is a builder. For the supply of this service, architect has retained one flat in the building of Kumar Properties. Whether this transaction is treated as supply of service under GST?

P17:- Kumar Properties have launched a commercial project in the name of 'Kumar prestige point' in Pune. Under this project, it is constructing 3rd & 4th floor in a building. But the prestige point society raised an objection against such construction. So, Kumar Properties supplied the services of painting & repairing of existing property to the society & in return, the society has withdrawn its objection. State whether the painting & repairing of existing building without any charges is liable to GST?

P18:- ABC fertilizers Ltd. is manufacturing a fertilizer to be used in agriculture by many farmers. It has declared the price at ₹ 100 per packet of 1kg. Government has also announced to give subsidy of 30% on sale of fertilizers by its manufacturer. Company sold 1000 packets of fertilizer to many farmers for which the consideration is received in cash ₹ 70,000 and ₹ 30,000 is also received from government as a subsidy.

a) Compute the taxable value & GST payable thereon by ABC fertilizers Ltd., if applicable GST rate is 18%?

b) Would your answer differ, if subsidy is received from a charitable trust instead of Government? Give reason for the same.

P19:- ABC Ltd. is a manufacturer of readymade Garments. It had started its factory in the year 20XX-XY. The company removed its first consignment of 10,000 shirts as a donation to Balaji Trust. Explain whether the given transaction would be treated as supply & liable to GST?

No consideration is involved.



Supply must be in the course or furtherance of business.
 Sir what do you mean by Business?



Normally every supply is liable to GST only if it is made in the course or furtherance of business. (subject to certain exceptions)

Let's understand the term business under CGST Act.

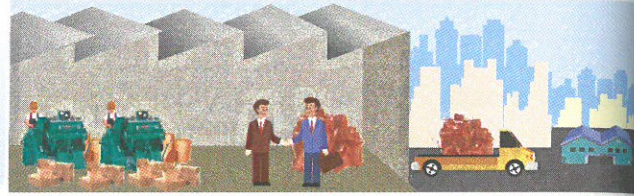
Sec 2(17) Business includes

(a) **Diverse Activities:** Encompasses a wide range of activities such as trade, commerce, manufacture, profession, vocation, adventure, wager, or any similar activity, regardless of whether it is conducted for profit motive. *or not*
Betting for horse races.

(b) **Related Activities:** any activity or transaction in connection with or incidental or ancillary to sub-clause (a)

Examples :

- i) Sale of old furniture or scrap by a trader of mobile shop.
- ii) Sale of old machinery by manufacturer.



(c) **Nature of Activities:** any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction

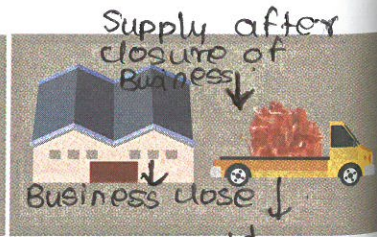
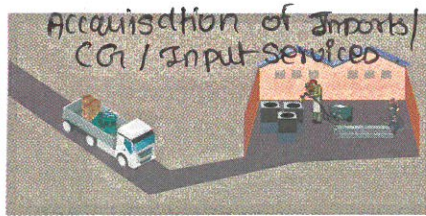
Examples : Even occasional transactions are also subject to GST e.g. Trader of computer also providing consultancy for "how to set up Computer Shop" to his friend for consideration.



① Supply
 ↓
 Import / CGI / Services
 ↓
 After closure of Business
 ↓
 Acquisition
 ↓
 I / CGI / IS
 ↓
 Before commencement of business

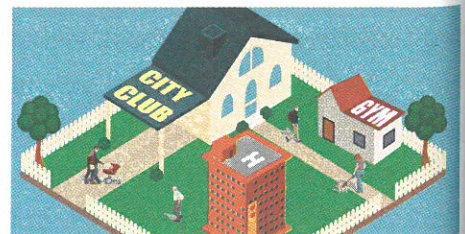
(d) **Goods and Services for Commencement or Closure:** supply or acquisition of goods including capital goods and services in connection with commencement or closure of business

Examples : If covers purchase of capital asset or material before commencement of business or sale of stock or fixed asset at the closure of business.



(e) **Club or Association Services:** provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members

Examples : Facilities or benefits provided by club etc. are
 i) Sports facilities like swimming pool, table tennis, cricket etc.
 ii) Restaurant facility
 iii) banquet hall or open ground
 iv) Accommodation facility (rooms)
 v) Library
 vi) Conference room etc.



* Even though tax is also not evade & services are provided.

Ticket charges

(f) **Admission for a Fee:** admission, for a consideration, of persons to any premises

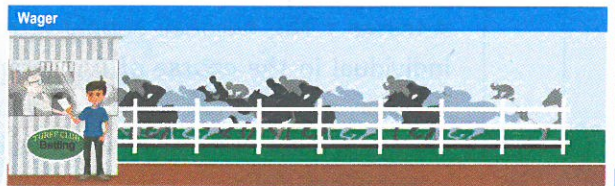
Examples : Entry tickets to amusement park, diwali mela, cinema theater etc.

(g) **Services by Office Holders:** services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation

Examples : i) An advocate get appointed as member of the Arbitration Tribunal.
ii) CA in practice provides CFO or independent director services, he would be covered

(h) **Activities of Race Clubs:** Activities of a race club including by way of totalisator or a licence to book maker or activities of a licensed book maker in such club and

Totalisator : A device showing the number and amount of bets staked on a race, to facilitate the division of the total among those backing the winner.



Author's Note :- Thus it seems that, all activities related to race club are now covered under definition of Business



(i) **Government Activities:** any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities

Notes : This clause makes it clear that even the supplies of goods or services or both undertaken by the Central Government, a State Government or any local authority shall also get covered in the definition of business.

Sec 2(17) Business

OFU

- General Business Activity
- (a) Trade, commerce, manufactured, profession, vocation, wages or any other similar activities with **Profit motive or not**.
 - (b) Connected, incidental or ancillary activities of clause (a)
 - (c) Activities in the nature of clause (a) even though not in a frequency or volume
 - (d) supply of goods (CG) / service after closure of business or acquisition of goods (CG) / service before commencement of business

- Special Activities
- (e) Club } Facilities
AOP }
Society }
BOI } **Consideration** → Members
 - (f) Admission fee to any premises
 - (g) services as an office holders
 - (h) Activities of Race club.
 - (i) All services of Government / Local Authority.

Supply to be in course of business of supplier and not of recipient

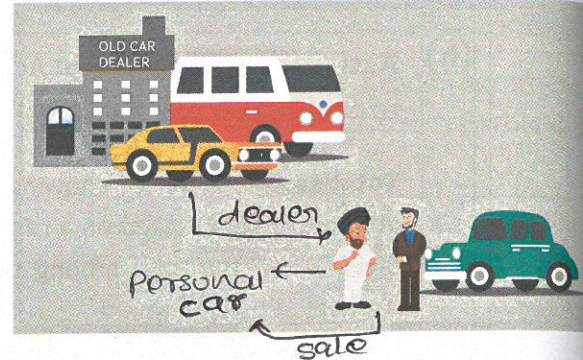
The term 'supply' is from the point of view of person who is supplying and not person who receiving the supply. Thus, if supplier is not in the business of supplying the goods or services, GST is not applicable

Really, even otherwise, GST cannot apply as the individual selling his old goods is not in the course of business (as selling of old goods is not the business of an individual).

Personal Supplies - Activity not treated as in course or furtherance of business

Question : An individual buys a car for personal use and after a year sells it to a car dealer. Will the transaction be a supply in terms of CGST/SGST Act? Give reasons for the answer.

Answer : No, because supply is not made by the individual in the course of furtherance of business. Further, no input tax credit was admissible on such car at the time of its acquisition as it was meant for non-business use.



P20:- PQR Ltd., a manufacturer of Garments, sold its old machinery for ₹2,00,000 to Mr. X. Is this transaction a business activity under GST? Yes, clause (b) of sec 2(17)

P21:- Mr. A is a trader who is dealing in sale & purchase of computers. Mr. B wants to start the same business and hence, he obtains consultancy from Mr. A regarding the same. Is it true that Mr. A has conducted a business activity by giving such consultancy to Mr. B? Give reason for the same. Yes, clause (c) of sec 2(17)

P22:- KY Ltd. purchased various goods & machineries to set up a factory. These purchases were made before the commencement of factory. State whether the purchases of goods including capital goods are done in the course of business? Yes, clause (d) of sec 2(17)

P23:- XYZ Ltd. had closed its factory in the year 20XX. Some machines, furniture & stock remained unsold in the factory at the time of its closure. After 2 years, he got one buyer to purchase machinery, furniture and stock that remained unsold before. XYZ Ltd. is seeking your advice whether this sale after 2 years of closure of factory will be treated as business activity or not, even though the main business is already closed? Yes, clause (d) of sec 2(17)

P24:- At the prestige point, a group of students have formed a Prestige Point Students Association for the welfare of students. This association made 1000 members. It is providing various facilities & services like drinking water, study centres, food, PG, etc. only to its members. This association is charging subscription fees of ₹100 for every member and minimum charges for various facilities. Whether the services provided by association to its members is treated as business for the levy of GST?

P25:- Prestige Point Student Association arranged a dance event and called Shahrukh Khan to perform in this event. Entry fee charged was ₹1000 per person to attend this event. Is this treated as business under GST? Clause (f) of sec 2(17)

P26:- State Government is providing various public services like public hospitals, road maintenance, cleaning etc., & they are charging some amount to public for the same. State whether the State Government is treated as a person under GST Act & also state whether it is doing business by providing public services? Yes, Govt is a person & their activities as public authority is a business.

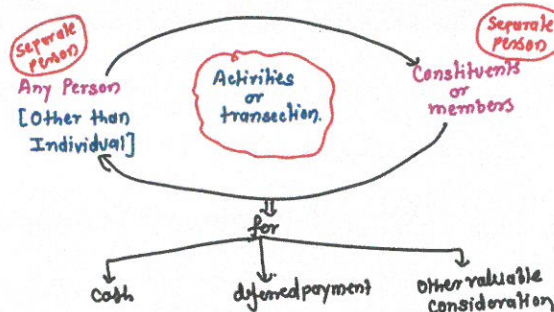
7(1)

ACTIVITIES/TRANSACTIONS BETWEEN A PERSON, OTHER THAN AN INDIVIDUAL, AND ITS MEMBERS/ CONSTITUENTS FOR CONSIDERATION

supply includes)

(aa) **Activities or Transactions with Members or Constituents:** Encompasses activities or transactions, by a person (other than an individual), with its members or constituents or vice-versa, involving cash, deferred payment, or other valuable consideration.

It clarifies that such persons and their members or constituents are considered separate entities.



Examples:-

- 1) Resident Welfare Association (RWA) of Sanskriti Society supplies air-conditioners to its members at a concessional price. *It's a supply u/s sec 7(1)(a)*
- 2) A Resident Welfare Association collects maintenance charges from its members for services provided.

Here, in both the aforesaid examples, it shall be deemed that the Resident Welfare Association (RWA) and its members are two separate persons and it shall be deemed that the supply has taken

place from Resident Welfare Association (RWA) to its members.

SEC 7(1)(b)

IMPORTATION OF SERVICES FOR CONSIDERATION WHETHER OR NOT IN COURSE OR FURTHERANCE OF BUSINESS

(b) Supply includes "Import of Service" for consideration whether or not in the course or furtherance of business.

Notes :-

- 1) Import of service is taxable only if it is for consideration
- 2) Free import service is not liable to GST unless, mentioned in **para 4 of Schedule I**
- 3) Even if service is imported for the purpose other than business, it would be treated as supply but if import of service by and ^{only} individual in relation to any purpose other than commerce, industry or any other business or profession than it cover under exemption **SI. No. 10 of IGST Act** exemption Notification No. 9/2017.
- 4) Also, in case of import of service RCM is applicable.

Non-business like liq

Reverse charge Mechanism

Example:- Mr. A, a proprietor, has received the architect services for his personal residence from an architect located in New York at an agreed consideration of \$5,000. Whether it would be treated as supply & liable to GST?

Answer:-

Supply :- The import of services by Mr. A is supply under **section 7(1)(b)** though it is not in course or furtherance of business.

Liability of GST:- Service is exempt.

7(1) ACTIVITIES WITHOUT CONSIDERATION - DEEMED SUPPLY

(c) It provides that supply includes the activities specified in **Schedule I**, made or agreed to be made without a consideration.

SCHEDULE - I

Para 1 **Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.**

Permanent transfer or disposal of business assets

Liabilities	(₹)	Assets	(₹)	ITC taken	Remark
		land & building		No	It's an Immovable Property and No GST is payable
		Plant & machinery		Yes	(a) If sold for consideration - Supply u/s 7(1)(a) and GST Payable irrespective of fact that ITC is taken/not (b) If transfer or disposed without consideration (free) • If ITC is taken → Treated as supply u/s 7(1)(c) • If ITC is not treated as supply & not GST is payable
		Furniture & fixtures			
		Vehicles (car)		No (not Allowed)	(a) If sold for consideration supply u/s 7(1)(a) and GST Payable irrespective of fact that ITC is taken or (b) If transfer or disposed w/ consideration, not treated as supply, then No ITC is taken
		Closing stock → RM → FG → WIP		Yes	Answer same above plant & machinery.

Important Notes :-

⇒ There must be a disposal or transfer of **business assets**.

Business Asset includes, current and non-current, short-term and long-term, operating and capitalized, as well as tangible and intangible assets.

⇒ Transfer/disposal must be **permanent**, and

⇒ **ITC** must have been availed on such business assets.

So, permanent transfer/disposal of following business assets, without consideration, will not be covered within this para and thus will not be deemed as supply:

- (i) Business assets on which **ITC is blocked/not available under GST** → ex: cars
(ii) Business assets though **eligible for ITC**, ITC has not been availed by the registered person.

Example 1 : Vsmart Pvt. Ltd. had purchase new projectors. The existing old projectors are donated to Trust on which ITC was taken at the time of purchase. Whether it treated as supply and liable to GST? **Yes**, under Para(1) Schedule(1), Sec 7(1)(c)

Example 2 : Vsmart Pvt. Ltd. purchased a car for Business use and after 2 years transferred car for personal consumption to use at home. No **ITC is taken** on car. Will the transaction be a supply in terms of GST Act? **No**. Para(1) schedule(1) is not applicable as no **ITC is taken**

P27 : Vsmart Pvt. Ltd. had purchase new projectors. The existing old projectors are donated to Trust on which ITC was taken at the time of purchase. Whether it treated as supply and liable to GST?

P28 : Vsmart Pvt. Ltd. had permanently transfer existing Television for personal use of directors on which ITC was taken at the time of purchase. Whether it treated as supply and liable to GST?

P29 : Vsmart Pvt. Ltd. purchased a car for Business use and after 2 years transferred car for personal consumption to use at home. No ITC is taken on car. Will the transaction be a supply in terms of GST Act?

P30 : Bata Ltd. being a trader in foot wear permanently transfers 50% of its stock to Charitable Trust free of cost. ITC is taken on foot ware. Will the transaction be a supply in terms of GST Act?

Para II Supply of goods or services or both

⇒ between **related persons** or

⇒ between **distinct person** as specified in section 25, DDP when made in the course or furtherance of business.

If Gift exceed 50,000 i.e 90,000 then on Total 90,000 GST will be applicable

Proviso Provided that **gift not exceeding ₹50,000** in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

Let us understand the terms Related Persons and Distinct persons.

1) Related persons:

A person who is **(under influence of another person)** is called a related person like members of the same family or subsidiaries of a group company etc.

Explanation to Sec 15

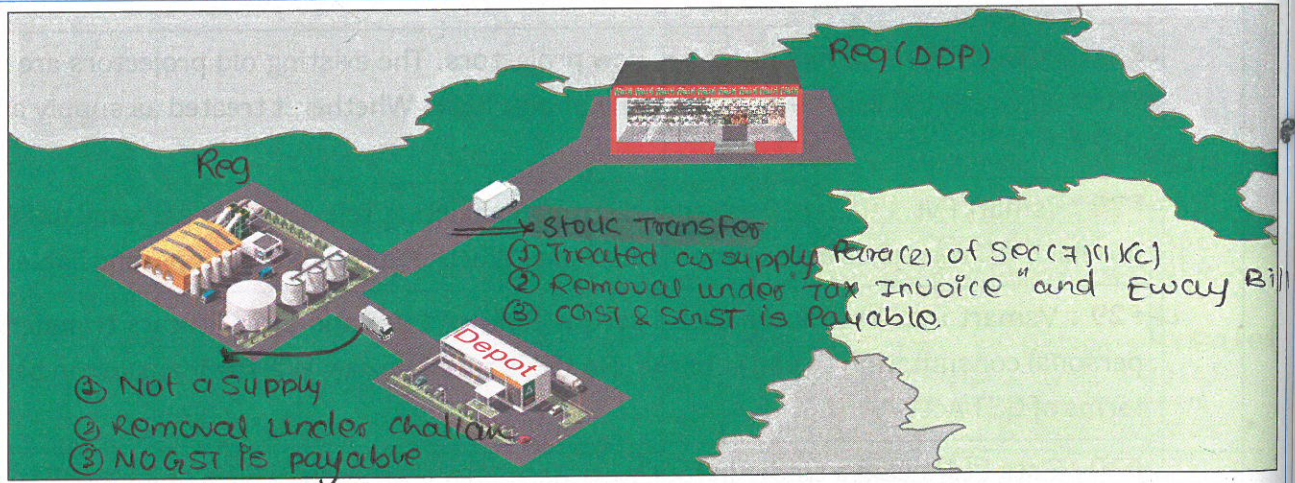
Persons including legal person are deemed as related persons if

- Such persons are officers/directors of one another's business
- Such persons are legally recognised partners
- Such persons are employer & employee
- A third person controls/ owns/ holds (directly/ indirectly) 25% voting stock/shares of both of them *Supplier & recipient*
- One of them controls (directly/indirectly) the other
- A third person controls (directly/indirectly) both of them
- Such persons together control (directly/indirectly) a third person
- Such persons are members of the same family
- One of them is the sole agent/sole distributor/sole concessionaire of the other

Holding & subsidiary

Imp Family [Section 2(49)]: "Family" means, - *Even though independent it will be related (spouse & children) in course of business (free gift)*

- (i) the spouse and children of the person, and *independent (business)*
- (ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.



Common Business Practice - Transfer of Goods and Services:

- It is a common business practice to transfer goods or services among different units of the same legal entity.
- Examples include distributing factory-manufactured samples to branches, transferring goods from factory to depot/showroom, and providing services between branches of the same entity.

Classification as Supply under GST:

- Under GST, these intra-entity transfers, even if conducted (without consideration) qualify as supplies when:
 - (i) They involve different locations of the same legal entity with separate GST registrations (distinct persons).
 - (ii) They involve establishments of distinct persons. *in other states*

Treatment as Self-Supplies:

These transactions are termed as self-supplies and are subject to GST, even if no amount is charged, as long as they meet the criteria mentioned above.

Analysis :-

Supplier of goods			
Factory in Pune	Depot in Gujarat	Stock transfer from Pune to Gujarat	Stock transfer between DDP - GST will attract
Factory in Pune	Showroom in Goa	Stock transfer from Pune to Goa	Stock transfer between DDP - GST will attract
Supply of Service			
Head Office in Pune	Branch office in Haryana	Head office supply services to branch office	supply of service between DDP - GST will attract

Gifts by employer to employee

Proviso to Para 2 of Schedule I - Employee Gifts: The proviso states that gifts of a value up to ₹ 50,000 in a financial year given by an employer to an employee are not treated as supply of goods or services under GST.

Treatment of Gifts above ₹ 50,000 in Value: Gifts exceeding ₹ 50,000 in value, even if without consideration, are treated as supply subject to GST when given in the course or furtherance of business & entire value is taxable. (Total Amt Par GST lagoga)

Notes : Definition of 'Gift' in GST Law: The GST law does not provide a specific definition for the term 'gift.'

In common language, a gift is typically given without any expectation of consideration, is voluntary, occasional, and cannot be demanded as a right by the recipient. The recipient also cannot legally demand a gift through a court of law.

P31 :- V Smart Academy distributed gifts to its employees in Diwali as follows:-

Employees	Gifts	Value (₹)
A	Bike	₹ 40,000 <i>N</i>
B	Car	₹ 3,00,000 <i>N</i>
C	Jewellery	₹ 80,000 <i>Y</i>
D	Cash	₹ 70,000 <i>No. Money</i>
E	Flat for Residence Use	₹ 90,000 <i>Yes</i>

State which of the above distribution of gifts to the employees are liable to be taxed under GST & accordingly, compute the taxable value & GST payable thereon by the employer.

(Assume all the above transactions are intra-state & the applicable GST rate is 18%)

only applicable to SGT and not for SCS

Para III Supply of goods -

(Stock transfer)

- (a) Supply of goods by a principal to his agent, without consideration, where the agent undertakes to supply such goods on behalf of the principal is considered as supply.
- (b) supply of goods by an agent to his principal, without consideration, where the agent undertakes to receive such goods on behalf of the principal is considered as supply.

Important Definitions

Sec 2(88) Principal means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both

Sec 2(5) Agent means a person including a

- > factor,
- > broker,
- > commission agent,
- > arhatia, APMC
- > del credere agent,
- > an auctioneer or
- > any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another.

Challan -
Returned Invoice
↓
Stock Transfer
Consignor
↓
Consignee

Important Note:- Only supply of goods and not supply of services is covered here.

Thus, the supply of services between the principal and the agent and vice versa would require "consideration" to be present so as to be considered as supply and thus, making it liable to GST.

Diagram 1

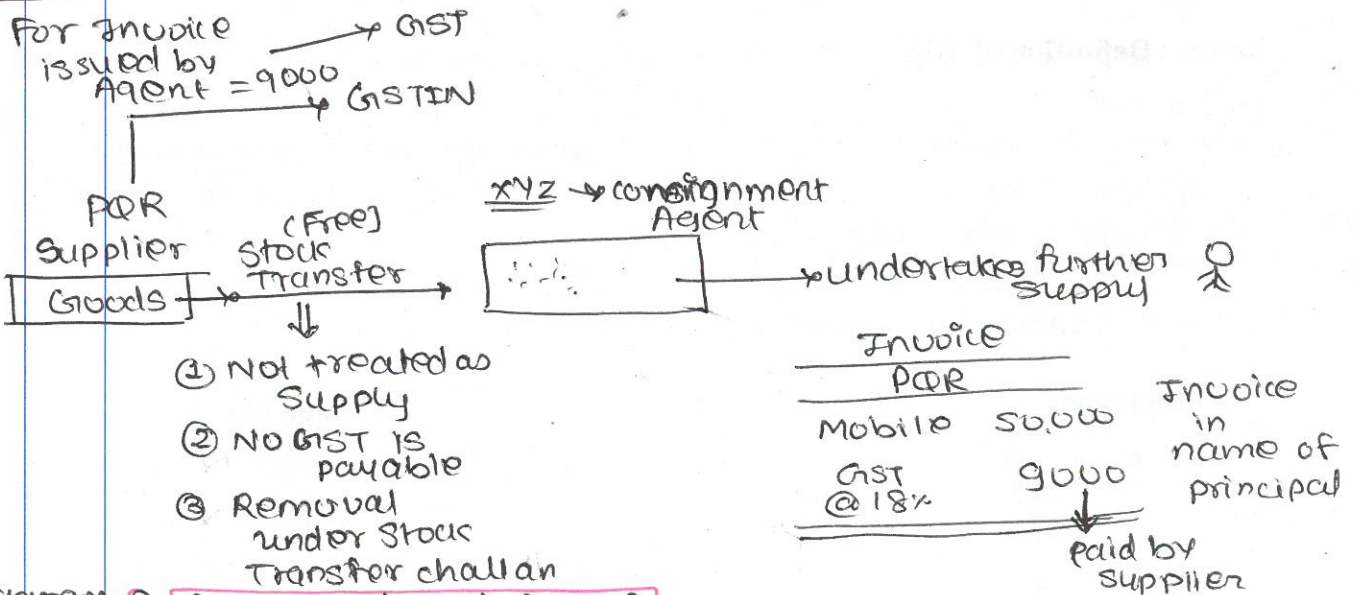
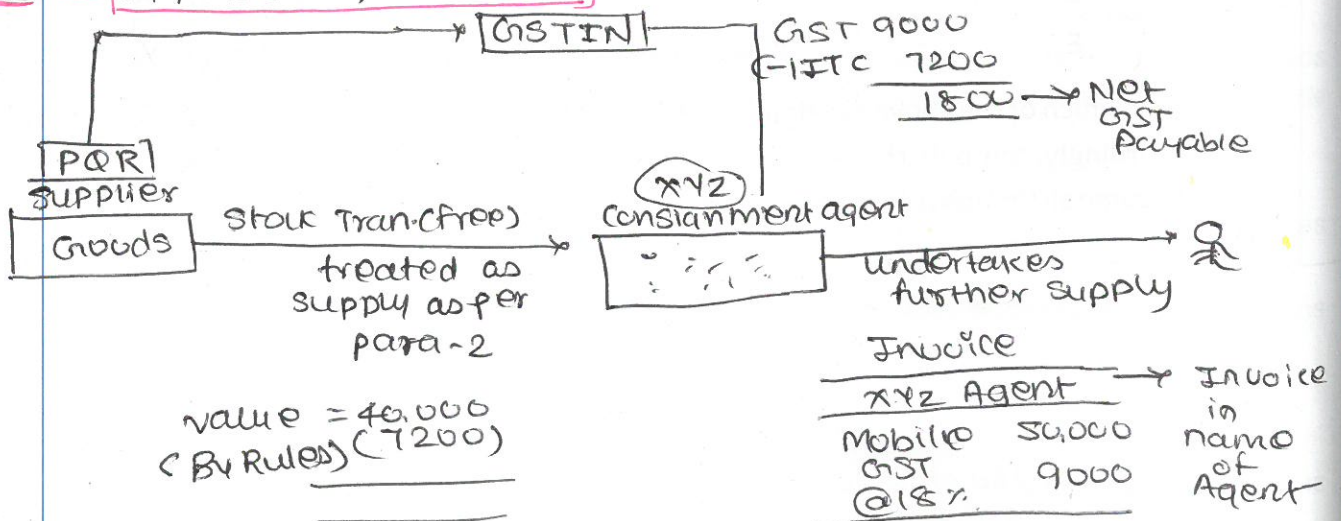


Diagram 2: Applicability of Para 3



In order to fall under this para, the deciding factor is whether the invoice for the further supply of goods on behalf of the principal is being issued by the agent in whose name?

1. If Goods are supplied on behalf of principal by the agent:- [Circular No. 57/31/2018]

1. If invoice issued by agent in his own name:-	Transaction is covered in para 3.
2. If invoice issued by agent in name of Principal:-	Transaction is NOT covered in para 3.

Goods procured on behalf of principal by the agent:- No treated as supply

If Goods procured by agent are invoiced in the name of agent:- then further provision of the said goods by agent to principal would be covered by Para 3.

Where the goods being procured by the agent on behalf of the principal are invoiced in the name of the principal then further provision of the said goods by agent to principal would not be covered by Para 3.

Example 1:- Amit appoints Raju to procure certain goods from the market. Raju identifies various suppliers who can provide the goods as desired by Amit and asks the supplier (Bunty) to send the goods and issue the invoice directly to Amit.

Non-Application of Para 3 of Schedule I:

- According to the provisions of the GST Act, Raju is not considered an agent of Amit for the supply of goods under Para 3 of Schedule I.
- This is because Raju's role is limited to that of a procurement agent, and he does not participate in the supply process. *He is not issuing his own invoice.*

Example 2:- Hanimani Bank, a banking company, appoints Rohit (auctioneer) to auction certain goods. The auctioneer arranges for the auction and identifies the potential bidders.

Auctioneer's Role in Goods Sale:

- The highest bid is accepted, and Hanimani Bank sells the goods to the highest bidder.

(Selling Agent)
(Buying Agent)

Stock Transfer
Supply

⇒ Hanimani Bank issues the invoice for the goods supply to the successful bidder.

Auctioneer's Role Limited to Services:

⇒ The auctioneer's role is strictly limited to providing auctioneering services.

⇒ Rohit, the auctioneer, does not play a role in the supply of goods.

Non-Application of Para 3 of Schedule I: In this scenario, Rohit is not considered an agent of Hanimani Bank for the supply of goods under Para 3 of Schedule I, as the auctioneer's involvement is solely in providing services, not in the supply of goods. *Also, not issuing his own invoice.*

Example 3:- Tushar, an artist, appoints Dheeraj (auctioneer) to auction his painting. Dheeraj arranges for the auction and identifies the potential bidders. The highest bid is accepted and the painting is sold to the highest bidder.

Invoice Issued by Gambhir on Behalf of Tushar:

⇒ Dheeraj issues the invoice for the painting supply in his own name but on behalf of Tushar. *Dheeraj (Agent)*

⇒ The painting is delivered to the successful bidder.

Role of Dheeraj:

⇒ Dheeraj is not solely providing auctioneering services in this scenario.

⇒ He is also actively involved in the supply of the painting on behalf of Tushar and possesses the authority to transfer the title of the painting.

Application of Para 3 of Schedule I: This situation falls under the purview of Para 3 of Schedule I, as Dheeraj, in his capacity as an auctioneer, is acting as an agent for the supply of goods (the painting) on behalf of Tushar. *So, supply of painting from Tushar to Dheeraj (Stock transfer) for auction is treated as supply and liable to GST.*

Example 4:- A C & F agent or commission agent takes possession of the goods from the principal and issues the invoice in his own name.

C&M Commission Agent as Agent of Principal:

⇒ The C&F commission agent is considered an agent of the principal for the supply of goods as per Para 3 of Schedule I under GST.

⇒ Whether or not the name of the principal is disclosed does not impact this classification.

Example 5:- Guru sells agricultural produce by utilizing the services of Charu who is a commission agent as per the Agricultural Produce Marketing Committee Act (APMC Act) of the State. Charu identifies the buyers and sells the agricultural produce on behalf of Guru for which he charges a commission from Guru.

Definition of Commission Agent under APMC Act: A commission agent under the APMC Act is a person who buys or sells agricultural produce on behalf of a principal or facilitates buying and selling of such produce on behalf of a principal, receiving a commission as remuneration based on the transaction amount.

Classification of Kavi as an Agent under GST:

⇒ If Charu, the commission agent, issues the invoice to the buyer, he falls under the category of an agent covered under Para 3 of Schedule I. *Charu*

⇒ However, when Guru directly issues the invoice to the buyer, Charu, the commission agent, does not qualify as an agent covered under Para 3 of Schedule I in that scenario.

2. Clarification of issues pertaining to Del-credere agent (DCA):-

- ⇒ DCA is a selling agent who is engaged by a principal to assist in supply of goods or services by contacting potential buyers on behalf of the principal.
- ⇒ The factor that differentiates a DCA from other agents is that the **DCA guarantees the payment to the supplier.**
- ⇒ The commission paid to the DCA may be relatively higher than that paid to a normal agent.
- ⇒ To guarantee timely payment to the supplier, the DCA can resort to various methods including extending short-term transaction-based loans to the buyer or paying the supplier himself and recovering the amount from the buyer with some interest at a later date. This loan is to be repaid by the buyer along with an interest to the DCA at a rate mutually agreed between DCA and buyer.

Circular No. 73/47/2018 GST has clarified the following issues in this regard:-

Sr. No.	Issue	Clarification				
1	Whether a DCA falls under the ambit of agent under Para 3 of Schedule I?	<p>As per Circular No. 57/31/2018 GST (discussed above), whether or not the DCA will fall under the ambit of Para 3 of Schedule I depends on:-</p> <table border="1"> <tr> <td>where the invoice for supply of goods is issued by the supplier to the customer, either himself or through DCA (i.e. Invoice is in name of Principal):-</td> <td>the DCA does not fall under the ambit of agent. Para-3 is not applicable.</td> </tr> <tr> <td>where the invoice for supply of goods is issued by the DCA in his own name:-</td> <td>the DCA would fall under the ambit of agent. Under Para-3</td> </tr> </table>	where the invoice for supply of goods is issued by the supplier to the customer, either himself or through DCA (i.e. Invoice is in name of Principal):-	the DCA does not fall under the ambit of agent. Para-3 is not applicable.	where the invoice for supply of goods is issued by the DCA in his own name:-	the DCA would fall under the ambit of agent. Under Para-3
where the invoice for supply of goods is issued by the supplier to the customer, either himself or through DCA (i.e. Invoice is in name of Principal):-	the DCA does not fall under the ambit of agent. Para-3 is not applicable.					
where the invoice for supply of goods is issued by the DCA in his own name:-	the DCA would fall under the ambit of agent. Under Para-3					
2	Whether the temporary short-term transaction based loan extended by the DCA to the recipient (buyer), for which interest is charged by the DCA, is to be included in the value of goods being supplied by the supplier (principal) where DCA is not an agent under Para 3 of Schedule I?	<p>In such a scenario, following activities are taking place:-</p> <ul style="list-style-type: none"> i) Supply of goods from supplier (principal) to recipient ii) Supply of agency services from DCA to the supplier &/or the recipient iii) Supply of extension of loan services by the DCA to the recipient. <p>It is clarified that in cases where the DCA is not an agent under Para 3 of Schedule I, the temporary short-term transaction-based loan being provided by DCA to the buyer is a supply of service by the DCA to the recipient on Principal-to-Principal basis and is an independent supply.</p> <p>Therefore, the interest being charged by the <u>DCA</u> would not form part of the value of supply of goods supplied (to the buyer) by the supplier. It is also exempted → Int on loan</p>				
3	Where DCA is an agent under Para 3 of Schedule I and makes payment to the principal on behalf of the buyer	<p>⇒ In such a scenario following activities are taking place:-</p> <ul style="list-style-type: none"> i) Supply of goods by the supplier (principal) to the DCA; ii) Further supply of goods by the DCA to the recipient; iii) Supply of agency services by the DCA to the supplier or the recipient or both; iv) Extension of credit by the DCA to the recipient. 				

and charges interest to the buyer for delayed payment along with the value of goods being supplied, whether the interest will form a part of the value of supply of goods also or not?

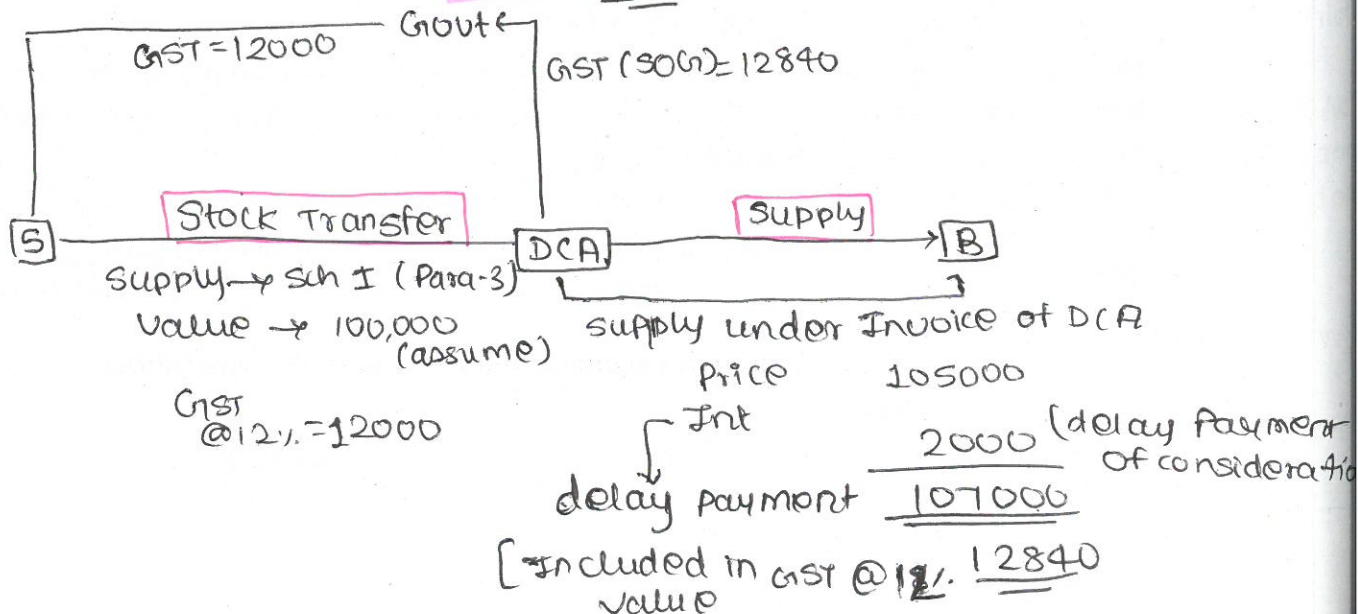
- It is clarified that, where the DCA is an agent under Para 3 of Schedule I, the temporary short-term transaction-based credit being provided by DCA to the buyer **no longer** retains its character of **an independent supply** and is subsumed in the supply of the goods by the DCA to the recipient.
- It is emphasised that the activity of **extension of credit** by the DCA to the recipient would **not be considered as** a separate supply as it is in the context of the supply of goods made by the DCA to the recipient.
- It is further clarified that the value of the **interest** charged for such credit would be **required to be included in the value of** supply of goods by DCA to the recipient as per section 15(2)(d).

P 32:- XYZ Ltd. is a manufacturer of mobile phones in Nagpur (Maharashtra) & also registered under GST in Maharashtra. It is selling its products directly from its own depot & also through various distributors & consignment agents. Company manufactured 5000 units of mobiles in the month of April & provides the following information:-

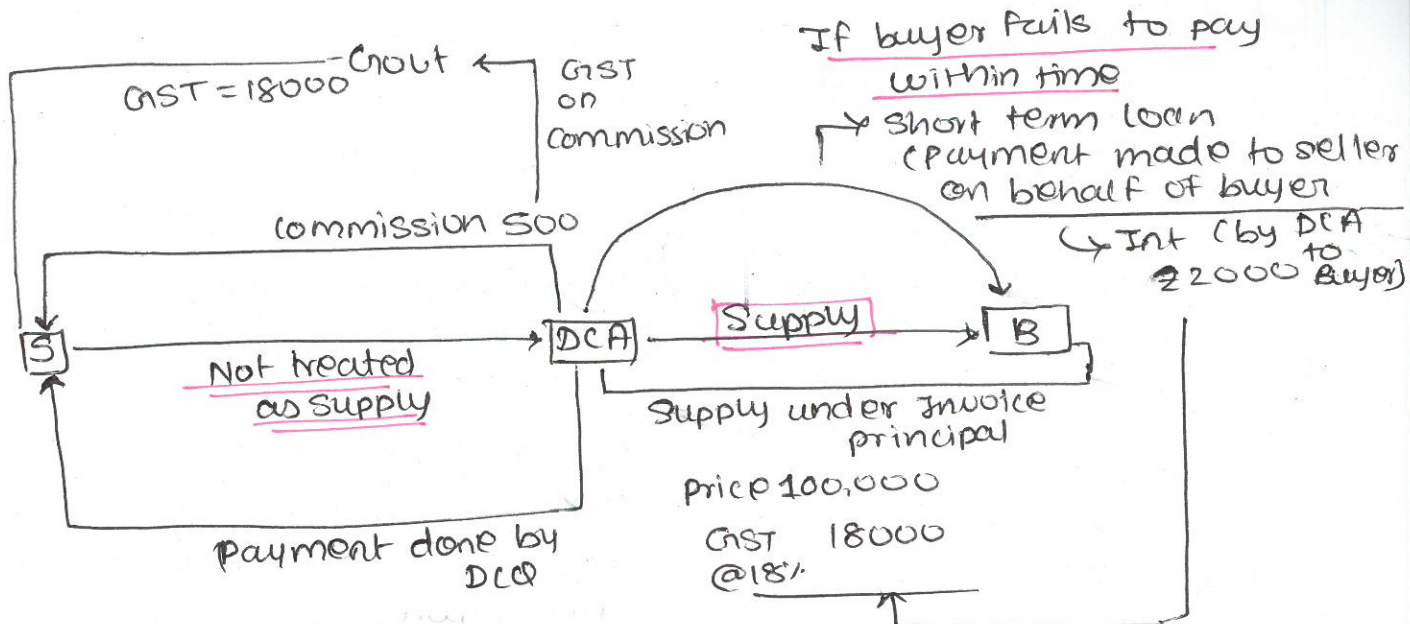
1	1000 mobiles are directly sold from its ^{Factory} depot to various customers for ₹ 3000 each (intra-state). for such sale, goods are transferred to _{Depot}
2	1000 mobiles are sold to distributor A of Delhi at ₹ 2800 each. _{later}
3	500 mobiles are sent to a consignment agent of Gujarat for further sale. The open market value for each mobile is ₹ 3000. Note that the agent is issuing invoice in his own name. _(Para 3)
4	300 mobiles are transferred to its own depot in Nagpur which is not separately registered under GST for further sale. _{DDP NO}
5	1000 mobiles are transferred to its <u>warehouse</u> in Rajasthan for storage. The open market value for each mobile is ₹ 3000. _{para - 2}

Determine the taxable value & GST liability of XYZ Ltd. for April, if the applicable rate of GST is 18%.

DCA Example: 2



DCA Example 1



- Whether this Int is treated as part of value u/s 15(2)(d)?

→ Int is for Short term loan Transactions and Not for delay payment of consideration → NOT to be added } exempt

Free Import service → NO GST

Para IV Importation of services : Without consideration

Import of services by a person from a related person or from his establishments located outside India, without consideration, in the course or furtherance of business shall be treated as "supply".

Example 1:- Raju Associates received legal consultancy services from its head office located in Singapore. The head office has rendered such consultancy services free of cost to its branch office.

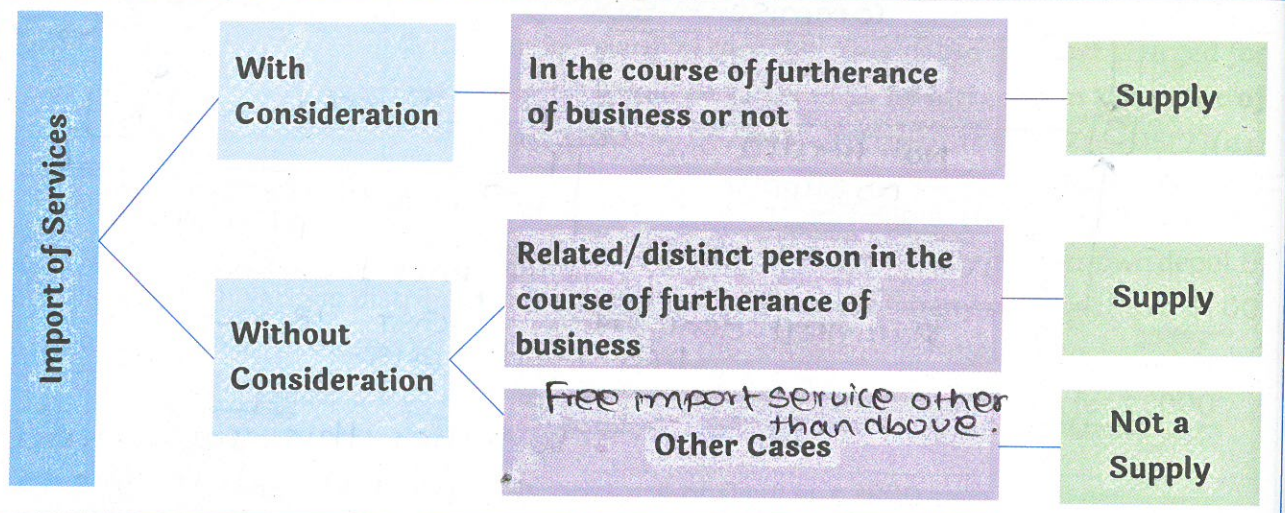
Related Persons - Raju Associates and Head Office:

- ⇒ Raju Associates and their head office are considered related persons under GST.
- ⇒ Services received by Raju Associates from the head office qualify as a supply even if no consideration is charged by the head office.

Example 2:-Champak, a proprietor registered in Mumbai, has sought architect services from his son located in London, with respect to his newly constructed house in Mumbai.

Services Received Without Consideration by Champak (Son - a Related Person): Services received by Champak from his son (a related person) without consideration do not qualify as a supply because they are not received in the course or furtherance of business.

Exception: Architect Services for Office in Mumbai: If Champak receives architect services without consideration from his son for his office in Mumbai, it is considered a supply because it is received in the course of business.



Clarification on Sales promotion schemes with reference to Schedule I

Sales Promotion Schemes and GST:

- Businesses commonly use sales promotion schemes to boost sales or encourage product/service use.
- Section 7(1)(a) of the CGST Act specifies that goods or services supplied without consideration are not treated as "supply," except for activities listed in Schedule I.

Examination of Sales Promotion Schemes:

- Sales promotion schemes like providing drug samples to stockists or "Buy One, Get One Free" offers have been examined in this context.
- The treatment of these schemes under GST is determined based on whether they fall under Schedule I activities or not.

Free Samples and Gifts under GST: [Circular 92/11/2019 GST]

Free samples provided without consideration do not constitute a "supply" under GST, unless they are listed as activities in Schedule I.

"Buy One, Get One Free" Offer:

- Offers like "Buy One, Get One Free" are not individual supplies of free goods but involve multiple supplies where a single price is charged for the entire supply.
- Taxability of such offers depends on whether they are composite supplies or mixed supplies, and the tax rate is determined accordingly.

P 33:- Mr. VB has taken architectural service from Mr. John (USA). State with reason whether the following independent transactions are treated as supply under GST & liable to tax.

- Mr. John is a related person to whom a consideration of \$10,000 is paid for the service by Mr. VB.
- Mr. John is an unrelated person to whom a consideration of \$10,000 is paid for the service by Mr. VB but the service is taken for personal purpose. *exempted*
- Mr. John is an unrelated person who provided the service without any consideration.
- Mr. John is a related person who provided the service without any consideration. *In course*

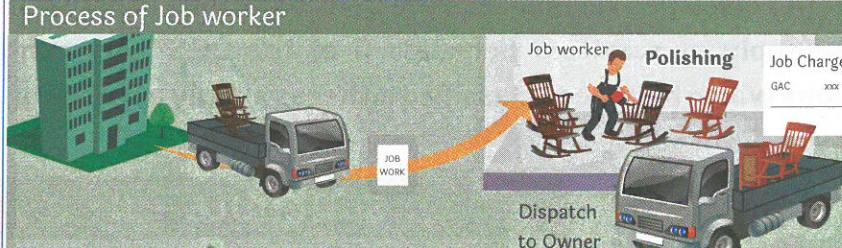
Sec
7
(1A)

ACTIVITIES/TRANSACTIONS TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

Section 7(1A) classifies certain activities/ transactions constituting supply, either as supply of goods or supply of services. Schedule II of the CGST Act contains the list of activities or transactions which have been classified either as supply of goods or supply of service.

SCHEDULE - II

Para no.	Activity / Transaction	Type	Nature of supply	
1	Transfer of goods	a	Any transfer of title in goods Example:- Shivaji sells ready-made garments to its customers.	Supply of Goods
		b	Any transfer of right in goods/ undivided share in goods without transfer of title thereof. <i>(Rent basis pr diya)</i> Example:- Genius Equipments Ltd. gives a machinery on rent to Suhaasi Manufacturers.	Supply of Services
		c	Any transfer of title in goods under any agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed eg. <u>hire purchase</u> Examples:- 1) Dhruva Capitals supplied goods on hire purchase basis to customers. 2) Optima Manufacturers supplies toys to retailers on 'sale or return basis'.	Supply of Goods

2	Land and Building	<p>a Any lease, tenancy, <u>easement</u>, licence to occupy land. Example:- Lease agreement for land. → <i>lease contract</i></p> <p>b Any lease or letting out of building including a commercial, industrial or residential complex for business or commerce, wholly or partly. Example:- A shop let out in a busy market area.</p> <p>Note:- Sale of land or building is not treated as supply as per para 5 of Schedule III</p>	Supply of Services
3 <i>JMP</i>	Treatment or Process (Mostly called as jobwork service)	<p>a Any treatment or process which is applied to another person's goods eg. Job work Example:- XYZ Tools sent their tools to Mercury for heat treatment to harden them. The heat treatment done by Mercury is a supply of services.</p> <p>Process of Job worker</p> 	Supply of Services
4	Transfer of Business Assets	<p>a Permanent Transfer of Business Asset:- Goods forming part of business assets are <u>transferred or disposed off</u> by /under directions of person carrying on the business so as to <u>no longer form part of those assets.</u> (A-10-63)</p> <p>b Temporary Transfer of Business Asset:- Goods held/used for business are put to <u>private use</u> or are made available to any person for use for <u>any purpose other than business</u>, by/ under directions of person carrying on the business Example: A director using car provided by the company for personal travels.</p> <p>c Person Ceases to be a taxable person:- Goods forming part of assets of any business carried on by a person <u>who ceases to be a taxable person</u>, <u>shall be deemed to be supplied by him</u>, in the course or furtherance of his business, immediately before <u>he ceases to be a taxable person.</u> Example: Mr. X, a trader, is winding up his business & applying for deregistration. Any goods left in stock or in asset shall be deemed to be supplied by him and GST shall be payable. Exception:- ⤴ Business is transferred as a <u>going concern</u> to another person ⤴ Business is carried on by a <u>personal representative</u> who is deemed to be a taxable person. Comment:- In this case, it is immaterial that the registered person has taken the credit of such goods lying in stock at the time of its purchase or not.</p>	Supply of Goods

car modifications
 ↳ If treated
 goods - 28% GST
 service - 18% GST

Registration is canceled
 If cancellation of registration
 whole Assets per GST
 Denda hoga is there is
 ITC or not.
 • even though the
 Assets are not sold

P 34:- V'Smart Academy transferred 2 Televisions out of its business assets on which ITC is taken to its students as follows:-

- Supply para - 1 of Sch - I SOG*
- Permanently transferred 1 Television to student A for his personal use. *SOG*
 - Temporarily transferred another Television to Student B for his personal use. *SOG*

Determine whether the above transactions would be treated as supply under GST & also classify such transactions as supply of goods or supply of services.

P 35:- V'Smart Academy Pvt. Ltd. is a professional coaching institute which is supplying training & coaching services. The directors of the company declared the business to be closed and to get de-registered under GST as it ceases to be a taxable person. Following are the goods forming part of its business assets at the time of closure of business:-

S.No.	Assets	Value (₹ in Lakhs)
1	Land & Building <i>Immovable</i>	80
2	Furniture <i>Mov ✓</i>	40
3	Camera & Television <i>Mov ✓</i>	20
4	Benches ✓	10
5	Other movable goods ✓	15

- Determine whether the GST is payable under the given situation, if the business is not transferred as a going concern to another person. If yes, compute the taxable value on which GST shall be paid.
- What will be your answer, if business is continued by another person or a representative of V'Smart Academy pvt. Ltd.

5

Activities always treated as supply of services

a Renting of immovable property *Includes Roads, Dams, Mobile Towers*

Supply of Services

b **Construction of complex, building, civil structure, etc.**

Supply of Services

Construction of a complex, building, civil structure or a part thereof, including a **complex or building intended for sale to a buyer, wholly or partly,**

- except** *[In following cases it would not be treated as supply]*
- where the **entire consideration** has been received after issuance of completion certificate, where required, by the competent authority or
 - after its first occupation, **whichever is earlier.**

Comments:-

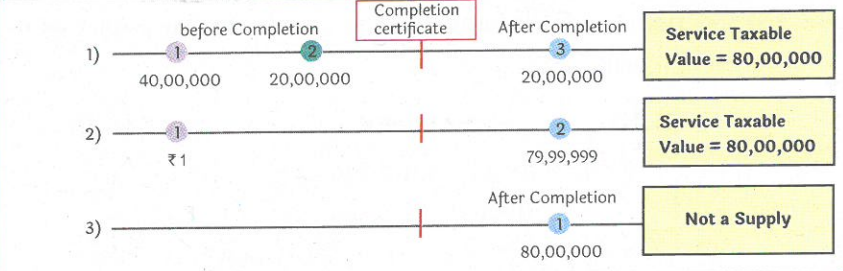
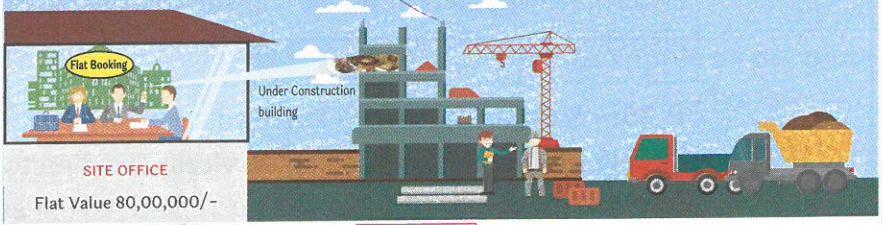
- The term **construction** includes additions, alterations, replacements, or remodeling of any existing civil structure.
- The expression **competent authority** means *Municipal Corporation*
 - the Government or any authority authorised to issue completion certificate under any law for the time being in force and
 - in case of non-requirement of such certificate from such authority- from persons like an architect, chartered engineer, a licensed surveyor.

- ① Ready / Direct sale of Land & Building
↓
Not treated as supply
- ② Builder constructs & ready for sale
↓
Then agreement to sell
↓
Supply of service

When Building is wholly complete, Municipal Corp issues a certificate..

3. If entire consideration is received after issuance of completion certificate or after its first occupation, whichever is earlier, then it is not a supply at all [Sec 7(2) read with Schedule III [Entry 5]]

Construction of Service intended for sale before completion



39

P36:- Kumar Builders has launched a residential house scheme of 100 flats in the month of April.

Give answer to the following independent cases:-

- Mr. A booked a flat in this scheme for ₹ 80,00,000. The 1st instalment of ₹ 20,00,000 is paid at the time of booking itself and the remaining instalments are paid as per the stages of completion of construction. Determine whether the Kumar Builders is liable to charge GST to Mr. A & also mention the taxable value in the given case.
- Will your answer differ, if only Rs 1 is paid as 1st instalment & entire remaining amount of ₹ 79,99,999 is paid after the issuance of completion certificate? Explain.
- Kumar Builders sold 50 flats before the issuance of completion certificate and remaining 50 flats after the issuance of completion certificate. The value of each flat is ₹ 70,00,000. Calculate the GST payable by Kumar Builders, if the applicable rate of GST is 5%.

P37:- Virat Builders has launched a scheme of commercial complex to be named as Kumar Prestige Point. It has committed to complete the scheme within 2 years from the date of booking. Mr. Rahul booked one shop in this Scheme for ₹ 60,00,000. The builder has not completed the scheme within the committed time. Instead, it started giving occupancy to the customers before the issuance of completion certificate. Analyse the given situation with regard to its taxability under the provisions of GST law & give answer to the following situations:-

- Mr. Rahul received occupancy of his shop on 01.05.20XX whereas the completion certificate is received from the Municipal Corporation on 15.05.20XX.
- If entire consideration of ₹ 60,00,000 is paid by Mr. Rahul on 10.05.20XX, is he is liable to pay GST? *Hints Consideration is received after 1st occupancy i.e 10/05/20XX*

ie Royalty charge for IPR

c **Temporary transfer** or **permitting use or enjoyment** of any intellectual property right (IPR) **Supply of Services**

Comments:-
 1. IPR are movable property so covered in definition of goods.
 2. IPR includes Copyright, Patents, Trademarks, Designs, Any other similar right to an intangible property.

d Development, design, programming, customisation, adaptation, upgradation, enhancement, **implementation of IT software.** **Supply of Services**

Comments:- Ready Software
 1. Sale of pre-packed/canned/ Shrink-Wrapped software = **Supply of goods**
 2. License to use prepacked/canned/ Shrink-Wrapped Software = **Supply of Service** (Humare Hisab se Banya Jarah)
 3. Customized Software- Pre-dominant nature is supply of service = **Supply of Service**

9600
12.60%

31 **P 38:-** Infotech Ltd. is a software company which is provided the following information:- Assume all trans are intra-state

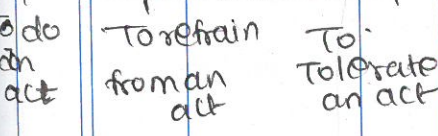
S.No.	Particulars	₹ in Lakhs
1	Sale of pre-packed software	80
2	Developing & designing of software for various clients	40
3	Enhancement, adaptation & upgradation of existing software of clients	20
4	License given to use pre-packed software	10

Answer the following questions:-
 1) Classify each of the above transactions as either supply of service or supply of goods.
 2) Compute the GST Liability, if applicable GST rate on software supplied as goods is 12% and on software supplied as services is 18%.

Agreeing to obligation

e Agreeing to obligation to **refrain** from an act, or to **tolerate** an act or situation, or to **do an act.** (refer circular given below) **Supply of Services**

Comment:-
 1. **Obligation to refrain from an act:** Means any act, which binds a person, of not to do or not doing a particular thing in a particular manner in a given circumstances.
 2. **Obligation to tolerate an act or a situation:** Means to accept the occurrence or existence of an act or a particular thing, which is imposed by a condition or circumstances, in a contract, agreement or any other document which is legally enforceable by law.
 3. **Obligation to do an Act:** Means to perform or to do something, necessarily prescribed in an agreement, contract or any other document which is required under any law for the time being in force.



f **Transfer of right to use any goods** for any purpose (whether or not for specified period) for cash, deferred payment or other valuable consideration. **Supply of Services**

6

Composite Supplies

Contract of Goods & Services

a.

Works contract as defined in sec 2(119);

Definition u/s 2(119):- Works Contract means

- ⇒ a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning
- ⇒ of any **immovable property**
- ⇒ wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.

Labour + Material = Works Contract



Labour + Material = Works Contract (Erection/installation)



Comments:-

1. Under GST regime work contract only in relation to immovable property is covered and no concept of works contract exist in relation to movable goods.
2. Works Contract of immovable property = Supply of Service Entry 6(a) of Schedule II.
3. Labour + Material Contract on movable goods = processing of goods = supply of service (Entry 3 of Schedule II).

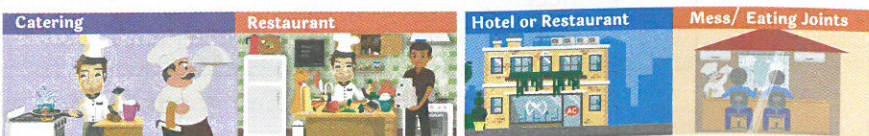
P 39:- Mr. Akshay has entered into a contract with Amit Builders to do electrical fittings. This contract includes supply of electrical materials for ₹ 90,00,00 & supply of labour for ₹ 30,00,000. The profit margin in this contract is ₹ 30,00,000 & the total project cost is ₹ 1,50,00,000. Give answer to the following:-

- a) State the nature of contract for the levy of GST & also classify the same under Schedule II. *If sum of value of ₹ 1.5 Cr is charged to Builder*
- b) Can Mr. Akshay pay GST for providing goods & services separately?

b.

Supply of Goods for Human Consumption: (Restaurant, catering, mess, eating joints etc.)

- ⇒ This clause covers the supply of goods, including food or any other article for human consumption or any drink (excluding alcoholic liquor for human consumption).
- ⇒ The supply can be made in various ways, including as part of a service (e.g. Restaurant, catering, mess, eating joints etc.), and can be for cash, deferred payment, or other valuable consideration.



Supply of Services

Supply of Services

CBIC Clarification

Supply of food or beverages in cinema hall [Circular No. 201/13/2023]

Issue:- Whether supply of food or beverages in cinema hall is taxable as restaurant service

Facts:-

Cinema Halls Included: Eating joints encompass refreshment or eating stalls, kiosks, counters, or restaurants within cinema halls.

Service Providers: Cinema operators may run these facilities themselves or contract them to third parties, and customers can choose to avail these services or not.

Clarification:- Supply of food or beverages in a cinema hall is taxable as "restaurant service" as long as it's provided as part of a service and is separate from the cinema exhibition service.

Bundled Supply: If cinema tickets and food/beverages are bundled and qualify as a composite supply, the GST rate applicable to cinema exhibition service (the principal supply) will be applied.

(B) Applicability on liquidated damages, compensation and penalty arising out of breach of contract or other provisions of law [Circular No. 178/10/2022]

Agreement to Refrain, Tolerate, or Do an Act: Under GST, agreeing to refrain from an act, tolerate an act or situation, or do an act is considered a supply of service, as per para 5(e) of Schedule II.

Conditions for Taxability: To qualify as a taxable supply under para 5(e) of Schedule II, certain conditions must be met:

- There must be an expressed or implied agreement or contract.
- Consideration must flow in return for this contract.
- Such an arrangement can be an independent contract or part of another contract.

Check Dishonour
 ↓
 Liabto for 18000
 ↓
 It was agreed earlier
 ↓
 GST Payable
 NOT agreed earlier
 ↓
 NO SUPPLY
 NO GST

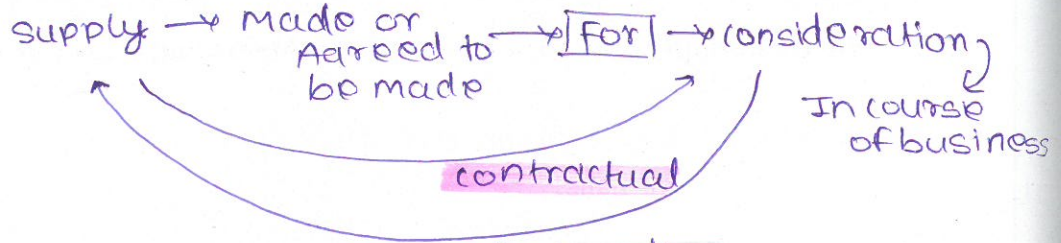
(A)	Liquidated Damages	Liquidated damages in contracts are not taxable as they are not considered consideration for tolerating a breach; they are payments to deter non-performance. <u>(It was not agreed earlier)</u>
(B)	Cheque Dishonor Fine/Penalty:	These fines or penalties are not considered consideration for any service and are not taxable.
(C)	Penalties for Violation of Laws	Penalties imposed for violation of laws, such as traffic violations or pollution norms, are not taxable.
(D)	Forfeiture of Salary or Bond Amount	Amounts recovered for forfeiture of salary or bond in employment contracts are not taxable as they discourage non-serious employees.
(E)	Late Payment Surcharge or Fee:	Late payment charges, when part of a principal supply, are not taxable; they are assessed at the same rate as the principal supply.
(F)	Fixed Charges for Power:	Fixed charges for power are not taxable, as they are for the sale of electricity, which is exempt from GST.
(G)	Cancellation Charges:	Charges for cancellation in the case of passenger transportation services are assessed as the principal supply, as they are naturally bundled with it.

Exceptions: Forfeiture of earnest money in certain cases, such as an immovable property agreement breach or non-serious bidder penalties, is not taxable as it represents a mere flow of money without consideration for another supply.

Service → Anything other than goods

Active Passive

Sec 7(1)(a)



Schedule II
Para 5(c)

→ Agreeing to an obligation

Reciprocity

To refrain from an Act To Tolerate an act or situations or to do an act

Supply of service

When Treated as SOS

- consideration must flow from other Party
- There is an express or implied promise from supplier for above 3 activities in return of money
(It cannot be assumed)
- It must be independent arrangement or activities

When not treated as SOS

- ⇒ If payment merely an event in the course of performance of the agreement &
- ⇒ It doesn't represent the object.

Taxability of 'tenancy rights' under GST [Circular No. 44/2018 CT]

Facts of Case:- The Pagadi system is a unique property tenancy arrangement prevalent in certain Indian states. In this system:

Tenant's Rights: The tenant acquires tenancy rights to a property by paying a tenancy premium, known as "pagadi."

Landlord's Ownership: Although the landlord remains the legal owner of the property, possession and occupancy rights are granted to the tenant.

Periodic Rent: The tenant pays periodic rent to the landlord for as long as they occupy the property.

Tenancy Transfer: Typically, the tenant has the option to transfer or sell their tenancy rights to another individual. However, this transfer usually involves sharing a percentage of the proceeds with the property owner, as agreed upon in their tenancy agreement. *↳ Tenancy Premium*

Vacation Premium: In some cases, the landlord may pay the tenant a prevailing tenancy premium to vacate the property, allowing them to regain possession.

Observation & Legal aspects:-

Lease or Renting of Property: This activity falls under the definition of a service as per Schedule II. Any lease, tenancy, easement, or license to occupy land is treated as a supply of services under GST.

Stamp Duty and Registration Charges: The imposition of stamp duty and registration charges does not exempt such transactions from GST.

Not a Sale of Land/Building: Transfer of tenancy rights is not considered a sale of land or building under GST, and it is subject to GST.

Clarification:- Transfer of tenancy rights against tenancy premium is considered a supply of service liable to GST.

Exemptions: Renting a residential dwelling for use as a residence by an unregistered person or a registered sole proprietor for personal use is exempt.

However, services provided by an outgoing tenant for surrendering tenancy rights against a portion of the tenancy premium are taxable under GST. *↳ will be discussed in exemption chapter.*

NON-SUPPLIES UNDER GST

Sec 7(2) (a) It outlines that activities or transactions mentioned in **Schedule III** are **not considered** as supplies of goods or services, essentially creating a **"Negative list"** for taxation under GST. Our discussion under this heading will revolve around the following:

1. Non-supplies listed in **Schedule III**
2. Non-supplies notified vide **notification**
3. Non-supplies clarified by **way of circular**

NON-SUPPLIES listed in Schedule III

Activities or transactions which shall be treated neither as a supply of goods nor a supply of services

Para 1 **Services by an employee to the employer in the course of or in relation to his employment**

• prerequisite → contract part → GST nhi ayega
 • prerequisite → free above → GST ayega
 50,000

Special Cases:-

- 1) **Casual Worker:-** Services provided by casual worker to employer who gives wage on daily basis to the worker are services provided by the worker in the course of employment.
- 2) **Service by Director:-** Sanjeevani is a director in Nilgiri Ltd. receiving remuneration which is declared as salaries in the books of the company and subject to TDS under section 192 of the Income-tax Act, 1961. In this case, services provided by Sanjeevani to Nilgiri Ltd. are in course of her employment with the company.
 Sanjeevani, an independent director in Nilgiri Ltd., receives a sitting fee of ₹ 12,000. Since as per the Companies Act, 2013, independent director should not have been an employee of the company, services provided by Sanjeevani to Nilgiri Ltd. are not in course of employment.
- 3) **Non Compete fees:-** Any amount paid by employer to employee for not joining a competing business is paid for providing the service of forbearance to act and cannot be considered for providing services in the course of employment.

⑧

So it is treated as separate contract & GST is payable

Clarification on Perquisites by employer to employee [Circular. No. 172/04/2022]

Employee Services and GST Scope: Services provided by an employee to the employer, in the course of their employment, fall outside the scope of GST.

Non-taxable Employer-to-Employee Supply:

- Any supply from the employer to the employee, as per their **contractual agreement**, is **not subject to GST**.
- Perquisites provided by the employer to the employee in terms of contractual agreement entered into between the employer and the employee will not be subjected to GST.

Exclusion of Certain ITCs: The GST's input tax credit (ITC) scheme excludes ITC claims for club memberships and health/fitness center expenses. (Detail discussion under ITC)

GST Exemption for Free Services to Employees: If the employer offers services such as club memberships, health and fitness facilities, or housing to employees at no charge, and this is part of the employment contract (C2C), it is not subject to GST.

Taxability of Service provided by employee

Consideration is

- salary
- wages
- pension
- gratuity
- bonus (cash)
- incentive, etc.

If is in the course of or in relation to employment
 ⇒ Not a supply & Not GST

Perquisites

Prerequisite

Eg: free catering, free cab, free guest house, etc.

↓
 If given by employer in terms of employment contract

↓
 Para-1 of Schedule III is applicable and not treated as supply

Prerequisite or gift gives by employer to employee not as per terms of contract

↓
 Para-2 of Sch I is applicable & If value of such gift / prerequisites exceeds ₹ 50,000 in F.Y then treated as supply & liable to GST

P 40:- Mr. Sarang is an employee of V'Smart Academy providing his services in the course of his employment since last 5 years. He is receiving a salary of ₹ 20,000 p.m.

Answer the following questions:-

- a) Whether such salary is liable to GST?
- b) Will your answer differ, if Mr. Sarang is appointed on casual basis with ^{daily} wages?
- c) V'Smart Academy offered ₹ 500000 to Mr. Sarang for not joining any other Academy for minimum period of 10 years as he is the best employee & V'Smart do not want to lose him. State whether the amount of ₹ 500000 paid by V'Smart Academy is liable to GST.

P 41:- Mr. A is appointed as an employee in Infotech Ltd., a BPO. His monthly salary is ₹ 2,00,000. As per the terms of employment, if Mr. A is terminated by the company from his service before the agreed period of 3 years, then the company will pay him salary for 3 months as a compensation for pre-mature termination of contract. The company terminated Mr. A after 18 months of joining and paid compensation of ₹ 60,00,000 to him. Whether this compensation paid is treated as supply under GST & liable to tax? Give reason.
~~Yes its~~ No, it is related to employment & not treated as supply.

Para 2 Services by any court or Tribunal established under any law for the time being in force.

Explanation - The term "Court" includes District Court, High Court and Supreme Court

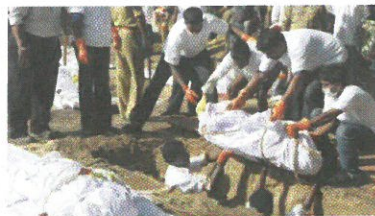
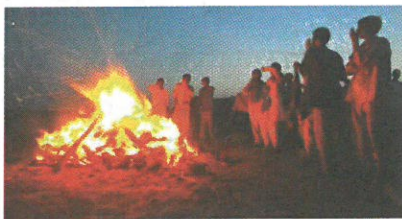
Para 3 a) Functions performed by the Members of Parliament, ^(MP) Members of State Legislature, ^(MLA) Members of Panchayats, Members of Municipalities and Members of other local authorities.

b) Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity.

Example:- Duties performed by President of India, Vice President of India, Prime Minister of India, Chief Justice of India, Speaker of the Lok Sabha, Chief Election Commissioner, .1, Chairman of Union Public Service Commission, Attorney General of India, in that capacity.

c) Duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.

Para 4 Services of funeral, burial, crematorium or mortuary including transportation of the deceased.



Para 5 Sale of land and, subject to paragraph 5(b) of Schedule II, sale of building, (i.e. in case, where entire consideration for sale of building received after issuance of completion certificate or after its first occupation, whichever is earlier).

Sale of Developed Land: (Circular no: 177/09/2022)

- Land can be sold either in its undeveloped state or after development activities like levelling, installing drainage lines, water lines, and electricity lines.
- The sale of such developed land is still considered a sale of land and is exempt from GST. *Not treated as supply*

Tax on Land Development Services: Services provided for land development, such as levelling or laying drainage lines (when received by developers), are subject to GST at the applicable rate for such services.

Land and Building

Sale of land and Building
↓
Para 5 of sch-3
It is not treated as supply & No GST is Payable

Lease, Renting, Licensing, of Land & Building
↓
Treated as supply of services
↓
As per para sch II

Construction of Building Intended for sale ~~where~~ As per para - 5B of Sch-II
↓

It would treated as supply of services & GST is Payable

[Kuch hi specified AC per GST aega]

Para 6 Actionable claims, other than specified actionable claims *lottery*

Amended by CGST Amendment Act 2023

Note :- Exclusion of Actionable Claims:

- Schedule III excludes actionable claims, except specified actionable claims, from the definition of supply.

Examples of non taxable actionable Claims: Right to recover insurance money, Claims for arrears of rent, Bills of exchange, Promissory notes, Right to the benefit of a contract, and etc.

- This means that specified actionable claims i.e. betting, casinos, gambling, horse racing, lottery or, online money gaming are taxable.

Sec 7(2) **NON-SUPPLIES NOTIFIED VIDE NOTIFICATION**

(b) Government is empowered to **notify** the activities/ transactions
 → undertaken by the CG, a SG or any **local authority**
 → in which they are engaged as **public authorities**
as the activities/transactions which shall be treated neither as supply of goods nor as supply of services.
 Till now, following two activities/transactions have been notified under said clause:

(i) **Activity in relation to Panchayat/Municipality functions: [N/N. 14/2017]**

Services by way of any activity in relation to a function entrusted to a Panchayat under article 243G of the Constitution or to a Municipality under article 243W of the Constitution are treated neither as a supply of goods nor as a supply of service

(ii) **Grant of alcoholic liquor licence: [N/N. 25/2019]**

MLA → Services related to the grant of alcoholic liquor licenses by State Governments are neither considered as the supply of goods nor services;
 → These licenses are granted against fees, but this exemption applies only to liquor licenses and does not set a precedent for other licenses or privileges subject to GST;
 → Services provided by the Government to businesses, including the grant of licenses, mining rights, and use of natural resources like spectrum, are taxable under GST, with businesses required to pay tax under reverse charge.

Schedule III - 6 Points

- ① Employer और Employee का झगडा हुआ।
- ② दोनों court में गये।
- ③ झगडा solve करने के लिए MP/MLA की सिफारीश ली।
- ④ उन्होंने कहा ये court constitutional post है हम कुछे नहीं कर सकते।
- ⑤ court decision आने के पहले दोनों चल बसे।
- ⑥ पता चला झगडा Land & Building का था।
- ⑦ wo land & Building lottery / betting में जिता था।

NON-SUPPLIES CLARIFIED BY WAY OF CIRCULAR

CBIC has clarified that following activities/ transactions are non-supplies:

1) Inter-State movement of various modes of conveyance [Circular No. 1/1/2017]

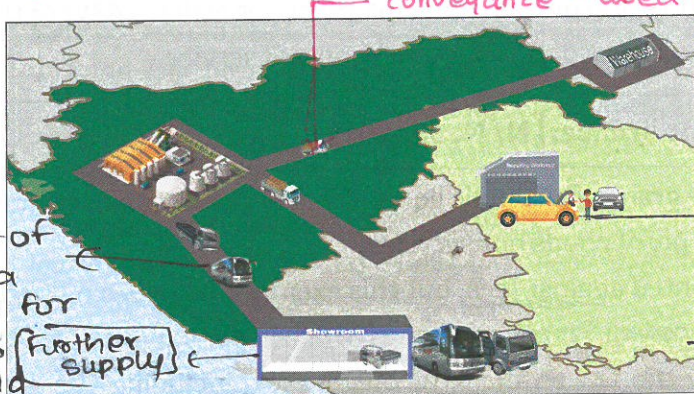
Inter-State movement of various modes of conveyance, between distinct persons including Trains, Buses, Trucks, Tankers, Trailers, Vessels, Containers, Aircrafts,

(a) carrying goods or passengers or both; or

(b) for repairs and maintenance,

shall be treated 'neither as a supply of goods or supply of service' and therefore not be leviable to IGST.

Exception:- in cases where such movement is for further supply of the same conveyance



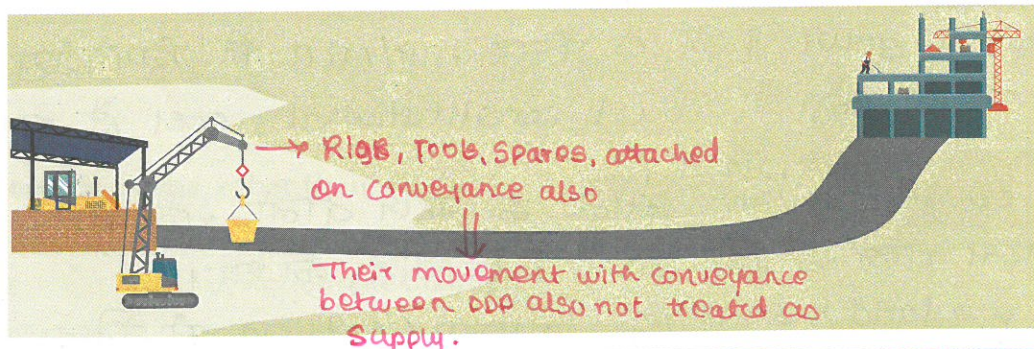
conveyance used for transportation of goods or passenger
 → It is not treated as supply and No GST is payable on conveyance.

② movement of conveyance for repairs to DDP
 → No GST is payable on conveyance
 → Repair service by DDP → It is a supply of service & GST is payable.

Inter-State movement of rigs, tools and spares, and all goods on wheels [like cranes] [Circular No. 21/21/2017]

Above circular shall mutatis mutandis apply to inter-State movement of rigs, tools and spares, and all goods on wheels [like cranes], [except in cases where movement of such goods is for further supply of the same goods],

such inter-State movement shall be treated 'neither as a supply of goods or supply of service,' and consequently no IGST would be applicable on such movements.



→ Rigs, Tools, Spares, attached on conveyance also

↓
 Their movement with conveyance between DDP also not treated as Supply.

③ If movement of conveyance as a finished goods for further supply to DDP then it would be treated as Supply 2) Q GST is payable

COMPOSITE & MIXED SUPPLY

Introduction

GST Applicable on Goods and Services	<ul style="list-style-type: none"> ⇒ GST is levied on goods, services, or both at specified rates. ⇒ Classification of a supply as either goods or services, along with the applicable category, is crucial for determining the GST rate.
Challenges in Supply Classification	<ul style="list-style-type: none"> ⇒ Some supplies <u>involve a combination of</u> goods, services, or both, making classification and tax rate determination complex. ⇒ Each component within such supplies may attract a different tax rate, posing a challenge.
Identification of Composite and Mixed Supplies:	<ul style="list-style-type: none"> ⇒ To address this, GST law recognizes two categories: <u>composite supplies</u> and <u>mixed supplies</u>. ⇒ Clarity in tax treatment is provided for such supplies.
Determining 'Naturally Bundled' Supplies:	<ul style="list-style-type: none"> ⇒ Whether supplies are 'composite' or 'mixed' depends on whether they are naturally bundled in the ordinary course of business. ⇒ The concept of 'naturally bundled' supplies derives from the definition of 'composite supply.'

Sec 8 : Composite and Mixed Supply

The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:

a)	Classification of Composite Supply	comprising <u>two or more supplies</u> , one of which is a principal supply, shall be treated as a supply of such principal supply.
★	Meaning of composite supply Goods + services ↳ movable	<ul style="list-style-type: none"> ➤ A composite supply is provided by a taxable person to a recipient. ➤ It involves <u>two or more taxable supplies</u> of goods, services, or both, or any combination. ➤ These supplies are <u>naturally bundled and ordinarily provided</u> together in the course of business. ➤ One of these supplies is designated as the "<u>principal supply</u>." <div style="border: 1px solid red; padding: 5px; margin-top: 10px;"> <p>Note:- Natural Bundling in Composite Supply:</p> <ul style="list-style-type: none"> ☞ In a composite supply, goods, services, or both are bundled together due to inherent requirements. ☞ The components in a composite supply are interdependent, with one being the "principal supply." </div>
	Meaning of Principal supply	<ul style="list-style-type: none"> ➤ The principal supply in a composite supply refers to the supply of goods or services that forms the <u>primary and most significant part of that composite supply</u>. ➤ Any other supply included in the composite supply is considered ancillary and is linked to the principal supply.



Indicators for Naturally Bundled Services:

No straight jacket formula can be laid down to determine whether a service is naturally bundled in the ordinary course of business. Each case has to be individually examined in the backdrop of several factors some of which are outlined below

Consumer Perception: If a significant number of consumers expect services to be provided as a package, it's naturally bundled. **e.g.** Breakfast with hotel room booking,

Industry Practice: When most service providers in a specific field offer similar bundled services. **e.g.** (i) Television Set with warranty and servicing (ii) Printer with Scanner

Nature of Services: If one service is primary, and others are incidental, enhancing the main service, it's bundled. **e.g.** (i) Stay in a Hotel with Free Laundering (ii) Mobile with Charger

Additional Indicators: Not determinative but indicative:

- Single price regardless of usage.
- Common advertising of elements as a package.
- Elements not sold separately.
- Elements integral to the overall supply; removing any affects the nature of supply.

Case studies of Composite Supply

1 Hotel Conference Package
Scenario: A 5-star hotel is booked for a conference with multiple services included.
Services Provided: Accommodation, breakfast, tea/coffee during the conference, fitness room access, conference room availability, business center.
Challenge: Different services attract different tax rates under GST.
Solution: Identify the principal service, in this case, "convention service," to determine the applicable tax rate for the entire package.
Outcome: The entire package is treated as a composite supply with the principal service being "convention service," ensuring correct taxation.

2 Composite Supply by Shirt Manufacturers
Scenario: Poshak Manufacturers contracts with Cheeku Ltd. to supply readymade shirts in designer boxes, including packing, transport, and insurance during transit.
Nature of Supply: This is a composite supply consisting of various elements - supply of goods (shirts), packing materials, transport, and insurance.
Principal Supply: The principal supply in this case is the "supply of goods" (readymade shirts) as it forms the primary purpose of the transaction.
Tax Treatment: The entire supply is treated as a composite supply of goods, where the supply of shirts is the principal supply.
Outcome: This classification ensures that the correct tax rate is applied to the entire composite supply, aligning with the principal supply.

	<p>3 Television Set with Warranty and Maintenance Scenario: A consumer purchases a television set, and along with it, receives a mandatory warranty and a maintenance contract. Nature of Supply: This constitutes a composite supply with multiple elements - supply of the television set, warranty, and maintenance services. Principal Supply: The principal supply in this scenario is the "supply of the television set" since it is the primary product or service that the consumer is acquiring. Tax Treatment: The entire supply is categorized as a composite supply, with the supply of the television set being the principal supply. Outcome: <u>By considering the TV as the principal supply, the applicable tax rate is determined based on the television set. The warranty and maintenance services are treated as ancillary to the principal supply.</u></p> <p>4 Travel Ticket (Mumbai to Delhi) with Additional Services Scenario: A traveler purchases a ticket for a journey from Mumbai to Delhi, and the ticket includes several additional services such as in-flight food service, free insurance coverage, and access to the airport lounge. Nature of Supply: This transaction represents a composite supply as it involves multiple elements - the transportation service, in-flight food, insurance, and lounge access. Principal Supply: In this case, the "transportation of the passenger" is the principal supply since it is the primary service being provided. Tax Treatment: The entire supply is categorized as a composite supply, with the transportation service being considered the principal supply. Outcome: <u>The applicable tax rate is determined based on the transportation service from Mumbai to Delhi. The in-flight food service, free insurance, and lounge access are considered ancillary services included as part of the composite supply.</u></p>
<p>Determining Tax Liability on Composite Supply</p>	<p>When dealing with a composite supply consisting of multiple elements, one of which is the principal supply, the tax liability is determined as follows:</p> <p>Identify Principal Supply: First, it's crucial to <u>identify the principal supply</u> among all the components of the composite supply. The principal supply is the primary service or good that defines the nature of the entire transaction.</p> <p>Taxation of Composite Supply: Once the principal supply is identified, the entire composite supply, including both the <u>principal supply and ancillary supply(ies)</u>, is treated as the supply of the principal supply.</p> <p>Tax Rate Application: The applicable <u>GST rate</u> for the composite supply is determined based on the nature of the principal supply. The entire value of the composite supply is classified under the category of the principal supply.</p> <p>Value for Tax: The GST is levied at the rate applicable to the principal supply on the total value of the composite supply.</p> <p>Example:- TechTrends Computers supplies a laptop (worth ₹ 52,000) along with a laptop bag (worth ₹ 3,000) to a customer for ₹ 55,000. This combination is considered a naturally bundled composite supply, with the laptop being the principal supply. Assuming an 18% tax rate on laptops and 28% on laptop bags, TechTrends Computers will charge 18% GST on the entire value of ₹ 55,000, treating the laptop as the principal supply.</p>

Mixed Supply

Bundled (G+G), (G+S), (S+S)

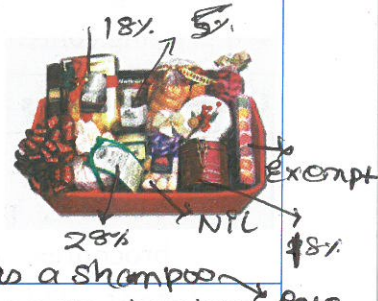
b) **Classification of Mixed Supply** comprising two or more supplies shall be treated as a supply of that particular supply which **attracts the highest rate of tax.**

Meaning of Mixed supply

Meaning: Mixed supply involves a taxable person offering two or more individual supplies of goods or services, or a combination of both.

Single Price: These supplies are provided together for a single price, but they do not qualify as a composite supply.

Independent Supplies: Unlike composite supplies, the individual components of mixed supplies are independent and not naturally bundled.



Case studies of Mixed Supply

1) **Supply Contents:** A package includes canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks, and fruit juices.

Independence of Items: Each item in the package can be supplied separately and is not dependent on any other.

Single Price: When these items are supplied together for a single price, it constitutes a mixed supply.

Separate Supply: If these items are supplied individually or separate prices are charged for each, it does not qualify as a mixed supply.

2) A shopkeeper selling storage water bottles along with refrigerator for a single price. Bottles and the refrigerator can easily be priced and sold independently and are not naturally bundled. So, such supplies are mixed supplies.

3) A house is given on rent through a single rent deed - one floor of which is to be used as residence and the other for housing a printing press, at a lump sum rent amount. Such renting for two different purposes is not naturally bundled in the ordinary course of business. Said supplies are mixed supply.

Determining Mixed Supply

Exclusion of Composite Supply: First, it should be determined that the supply is not a composite supply. A mixed supply can only exist if it's not a composite supply.

Supplies Not Naturally Bundled: If the components of the supply are not naturally bundled in the ordinary course of business, it may indicate a mixed supply.

Single Consideration: If a single consideration is charged for the entire supply of different components after ruling out composite supply, it qualifies as a mixed supply.



Highest Tax Rate: Mixed supplies are then classified based on whether they involve goods or services and are taxed at the **highest** applicable rate.

Example :- Ratan Enterprises supplies 10,000 kits, each priced at 50, totaling 5,00,000, to Ram General Store. These kits include face cream, face tissue packet, and nail paint. Since these items have different tax rates (18% for face cream, 28% for face tissue packet, and 12% for nail paint), the highest tax rate (28%) is applied to the entire kit value of ₹ 5,00,000.

CBIC Clarifications

Clarification on taxability of printing contracts [Circular No. 11/11/2017]

- ⇒ Supplies like books, pamphlets, brochures, etc., printed with recipient's content are composite.
- ⇒ Nature (goods or services) depends on the principal supply.
- ⇒ If printing content is principal, it's a supply of service.

Cases	Situations	Clarification	
1	In the case of printing of books, pamphlets, brochures, annual reports, and the like	<ul style="list-style-type: none"> ⇒ For books, pamphlets, etc., where content is from recipient and physical inputs are from printer, printing service is principal. ⇒ It constitutes a supply of service. 	
2	In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. printed with design, logo etc	<ul style="list-style-type: none"> ⇒ Printed envelopes, boxes, etc., using recipient's design, logo, with printer's physical inputs, have <u>goods as the predominant supply</u>. ⇒ Printing of content is ancillary, making it a supply of goods. 	

1) Food supplied to the patients [Circular No. 32/6/2018]

- ⇒ Food for in-patients, as per doctor/nutritionist advice, is part of a composite supply of healthcare.
- ⇒ Not separately taxable.

Example: A patient admitted to a hospital receives meals as part of their treatment plan, prescribed by the doctor. This food is considered a composite supply of healthcare and is not separately taxable.

2) Other Hospital Food Supplies: [Circular No. 32/6/2018]

Food supplied by a hospital to non-admitted patients, attendants, or visitors is taxable.

Example: A hospital cafeteria serves food to visitors, non-admitted patients, or attendants. This food is taxable because it's not part of a healthcare treatment plan.

3) Activity of bus body building [Circular No. 34/8/2018]

- ⇒ Bus body building involves a supply of goods and services.
- ⇒ Classification (goods or service) depends on the principal supply, determined case by case.

Example: A company specializes in bus body building. In some cases, they primarily provide the service of customizing the bus interior for a client (the principal supply is service). In other cases, they mainly supply ready-made bus bodies (the principal supply is goods). The tax classification depends on which aspect is dominant in each specific transaction.

4) Retreading of tyres [Circular No. 34/8/2018]

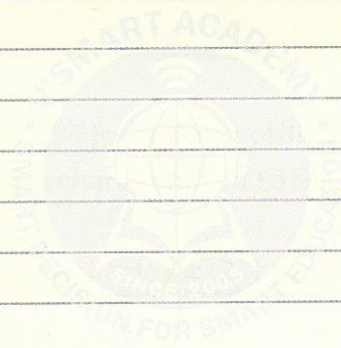
- ⇒ In retreading, the dominant element is the service of retreading.
- ⇒ Rubber used is ancillary.
- ⇒ Supply of retreaded tyres with old tyres owned by the supplier is a supply of goods.

Example: A tire retreading service offers to refurbish old, worn-out tires by replacing the tread with new material. The primary service here is the retreading process, making it a supply of service. However, if the retreader owns the old tires and then sells the refurbished tires, it's a supply of goods because the dominant element is the sale of the retreaded tires.

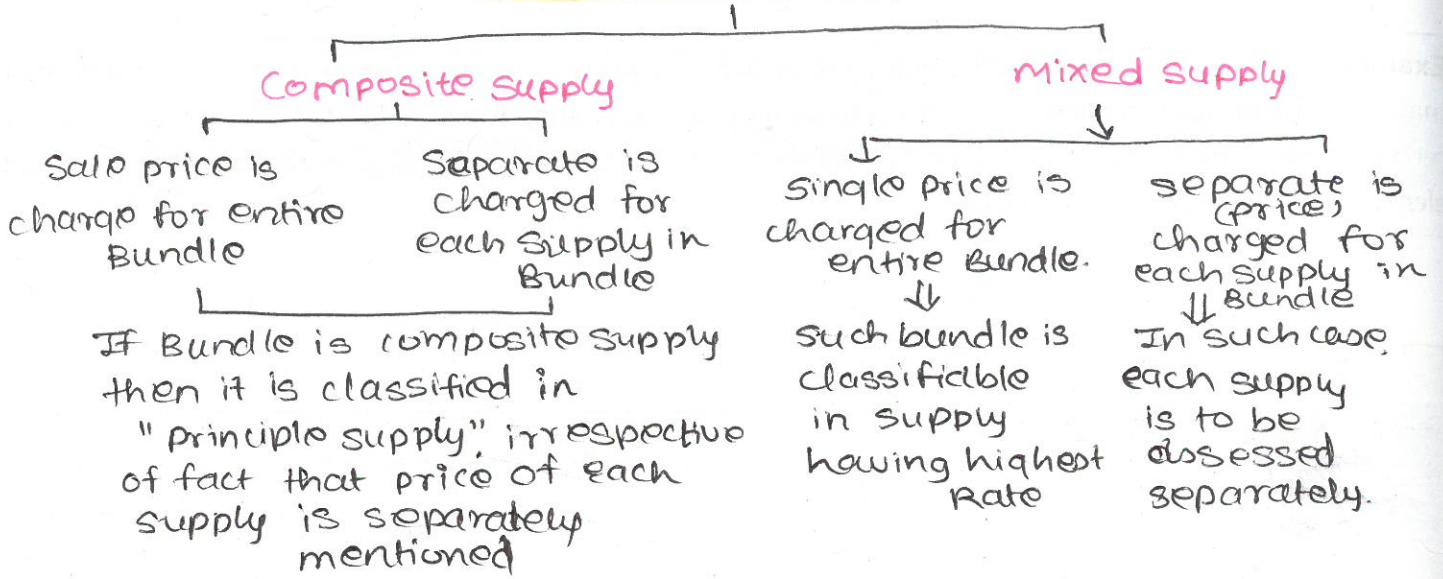


Your

Note:-



Classification Principle



CHAPTER - 4

REVERSE CHARGE & ECO

INDEX

Sr.No.	Title
1	Introduction
2	Relevant Definition
3	Comparison between Normal charge and Reverse Charge
4	Section 9(3) of CGST Act/ Section 5(3) of IGST Act:- RCM in notified cases
5	Section 9(4) of CGST Act/ Section 5(4) of IGST Act:- RCM for supply of specified categories of goods &/or services by an unregistered supplier to specified class of registered persons
6	Section 9(5) of CGST Act/ Section 5(5) of IGST Act:- Tax payable by ECO on notified services

Introduction

Reverse Charge Mechanism Defined:

- ➔ Reverse charge means the recipient pays GST for certain notified supplies.
- ➔ Normally, the supplier is liable, but reverse charge shifts it to the recipient.

Shift in Liability and Compliance:

- ➔ Under reverse charge, the recipient becomes liable for GST payment and compliance tasks like registration, tax deposit, and return filing.
- ➔ This shifting applies to specific categories of supply designated by the Government on GST Council's recommendation

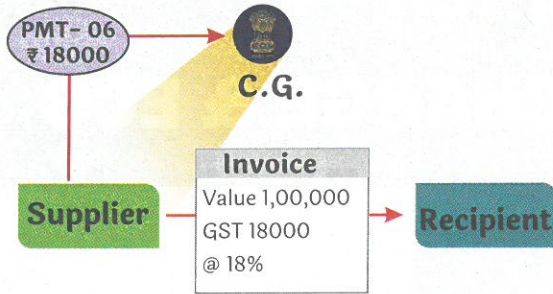
Case-2
Notified
Supplier
(Un Reg)

Sec 2(98) : Reverse Charge

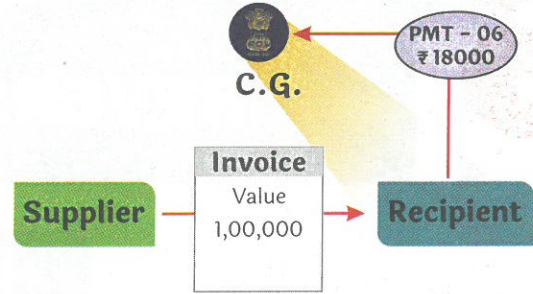
means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under section 9(3) or 9(4), or under section 5(3) or 5(4) of the Integrated Goods and Services Tax Act.

Reverse Charge IGST

Normal Charge



Reverse Charge



Assessment	Supplier has to assess the tax & transfer it to Recipient	Recipient has to assess the tax and Supplier will not charge GST in invoice.
Payment to C.G.	Supplier is liable to make payment to Govt.	Recipient is liable to make payment to Govt.
Registration	Supplier has to register under GST	Recipient has to register under GST <i>u/s 24</i>
Due date of Payment	Monthly [In some cases quarterly]	Monthly [In some cases quarterly]
Time of Supply	Goods- Sec 12(2) of CGST Act Service - Sec 13(2) of CGST Act	Goods- Sec 12(3) of CGST Act Service - Sec 13(3) of CGST Act
Mode of Payment	by using - Electronic credit ledger <i>ITC Balance</i> - Electronic Cash ledger <i>Cash</i>	By using electronic cash ledger <i>only cash used</i> (Recipient cannot use his electronic credit ledger for payment of GST on such supply, but after payment of GST under RCM, he can take input tax credit as per the provision of ITC.) <i>But after payment under RCM he can take ITC</i>

Analysis:-

- ➔ There is **no reverse charge** in case of exempted/nil rated supply as no tax is payable on such supplies & reverse charge calculates tax that would have been payable by the supplier, if there was no reverse charge.
- ➔ **All provisions apply to recipient under RCM:-** For payment of tax, recipient under RCM is deemed to be person liable to pay tax. He is liable to take registration, file return and issue tax invoices, raise payment vouchers, etc. Thus, compliance burden is shifted to recipient
- ➔ **Payment of tax in cash & eligible for credit after payment:-** Tax is payable by recipient under reverse charge in cash only [i.e. credit cannot be used to pay it] & tax so paid is eligible for ITC.

Reverse Charge Scenarios in GST Law:

1.	First Scenario (Section 9(3) CGST/SGST, Section 5(3) IGST Act): <ul style="list-style-type: none"> ➔ Applies to specified goods or services. ➔ Recipient of the supply is liable to pay tax directly.
2.	Second Scenario (Section 9(4) CGST Act, Section 5(4) IGST Act): <ul style="list-style-type: none"> ➔ Relates to <u>specified goods or services from unregistered suppliers to specified class</u> of registered recipient. ➔ Tax liability falls on registered recipients.

Payment under reverse charge

For this tax under RCM ITC cannot be utilised

GST = 18000 Payable under RCM
 ↓
 If is Payable only in cash

GSTIN Portal Chkout.

(Notified under RCM)

Mr. A Supplier

Inward Supply Invoice
 value 50,000
 GST @ 9% 9,000

Outward Supply Invoice
 value 100,000
 GST @ 18% 18,000

Mr. B Recipient

Inward Supply Invoice
 value 200,000
 GST @ 18% 36,000

Outward supply
 e-credit ledger
 OP Bal 5000
 ITC (RCM) 18000

If recipient un-reg them u/s 24 compulsory Reg is required

No ITC to Supplier

Normal Bill value 100,000

Supplier (un-Reg)

Self Tax Invoice

Mr. B → GSTR - 3B

Calculation of GST liability
 output tax → 36,000
 less: OP Bal 5,000

ITC (RCM) 18,000

Net tax liability 13,000

∴ Payment of Tax under RCM 18,000

Total GST Payable (₹-cash ledger) 36,000

Goods and services notified under reverse charge mechanism under section 9(3) of the CGST Act/ section 5(3) of the IGST Act are as follows:

Liability under RCM for Supply of Goods (N/N 4/2017 Central Tax(Rate)) (Not relevant for exam)			
S.No.	Description of supply of Goods	Supplier of goods	Recipient of supply (Liable to Pay Tax)
1.	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2.	Bidi Wrapper leaves (tendu)	Agriculturist	Any registered person
3.	Tobacco leaves	Agriculturist	Any registered person
4.	Silk yarn	Manufacturer	Any registered person
4.A	Raw cotton	Agriculturist	Any registered person
5.	Supply of lottery.	SG, UT or any local authority	Lottery distributor or selling agent.
6.	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	Central Government [excluding Ministry of Railways (Indian Railways)], State Government, Union territory or a local Authority	Any registered person
7.	Private Sector Lending certificate	Any registered person	Any registered person

★ IMP

Supply of services taxable under reverse charge under section 9(3) of the CGST Act, i.e. the services where tax is payable by the recipient:

1. Goods Transport Agency (GTA) Services

GST Rates for GTA Services

RCM applicable
 ⇒ 5% Tax Rate (2.5% CGST + 2.5% SGST/UTGST or 5% IGST): When GTA doesn't claim Input Tax Credit (ITC) on goods or services used for providing GTA services.
Note:- However, under this case, recipient can take the ITC of such 5% tax paid by him.
 ⇒ 12% Tax Rate (6% CGST + 6% SGST/UTGST or 12% IGST): When GTA opts to pay GST at this rate and avails ITC on goods or services used for GTA services.

(Forward charge is App.)

Reverse Charge

Nature of Service: Transportation of goods by road
 Supplier of service: GTA
 Recipient of service: Notified persons located in taxable territory (list is given later)
Note:- RCM will apply only if, GTA doesn't claim ITC on goods or services used for providing GTA services & opt for 5% tax rate.

Goods Transport Agency (GTA) :- means any person who provides service in relation to transport of goods by road AND issues Consignment Note (also called 'bilty'), by whatever name called.

Notified Recipient located in taxable territory who is liable to pay freight

- (a) Factories under the Factories Act, 1948
- (b) Societies under Societies Registration Act, 1860, or other applicable laws
- (c) Co-operative societies established by or under any law
- (d) Persons registered under CGST Act, IGST Act, SGST Act, or UTGST Act
- (e) Body corporates established by or under any law
- (f) Partnership firms, registered or not, including LLP & Association of persons
- (g) Casual taxable persons

unregistered to Has to Registered 30 days

Non applicability of RCM

- 1) RCM doesn't apply when GTA transports goods for:
 - ⇒ Central/State/Union territory Government departments/establishments
 - ⇒ Local authorities
 - ⇒ Governmental agencies registered for tax deduction under section 51, not for taxable supplies)

This service by GTA is exempt and RCM is applicable

TDS

AOP

If GTA is For FC Then Applicable Rate is 12%. He can avail the ITC

- 2) **RCM shall not apply (i.e. Forward charge is applicable) if:-**
- i) GTA is registered under CGST Act &
 - ii) exercised option to pay tax on services of GTA under forward charge &
 - iii) GTA has issued a tax invoice to recipient charging CGST at the applicable rates and has made a declaration on such invoice.

Note:- Once exercised the option, GTA has to pay tax in future years until it shifts to Reverse charge Mechanism by filing declaration under forward charge

- 3) **Based on interpretation & clarification:**
- a) If such a consignment note is not issued by the transporter, the supplier will not come within the ambit of GTA. *eg: small truck owner / auto carriage*
 - b) Individual truck/tempo operators who do not issue any consignment note are not covered within the meaning of the term GTA.

(P. no) 40

P1:- ABC Ltd. is the manufacturer of various goods. Company wants to deliver the goods to their various customers and for such purpose, ABC Ltd availed a service from GTA. ^{supp} GTA has issued a freight note of ₹ 20,000 in the name of ABC Ltd. Determine who is liable to pay tax on transportation service & also explain whether ABC Ltd. can take ITC of such service. *Note: ABC is registered person*

(P. no) 40

P2:- Mr. A who is a registered person under GST in Maharashtra. He has sold the goods to Mr. B in Gujarat on Ex-factory or Ex-shop basis. Mr. B appointed a GTA of Maharashtra for transportation of goods from Maharashtra to Gujarat. GTA has issued the freight note in the name of Mr. B. Explain

- a) Who is liable to pay GST if Mr. B is registered under GST
- b) Nature of supply for levy of GST

Would your answer differ, if Mr. B is not a registered person?

Exemption

Exemption is available for Services provided by a GTA to an unregistered person, including an unregistered CTP, **other than notified recipients**

This exemption is applicable for both option 12%/5%

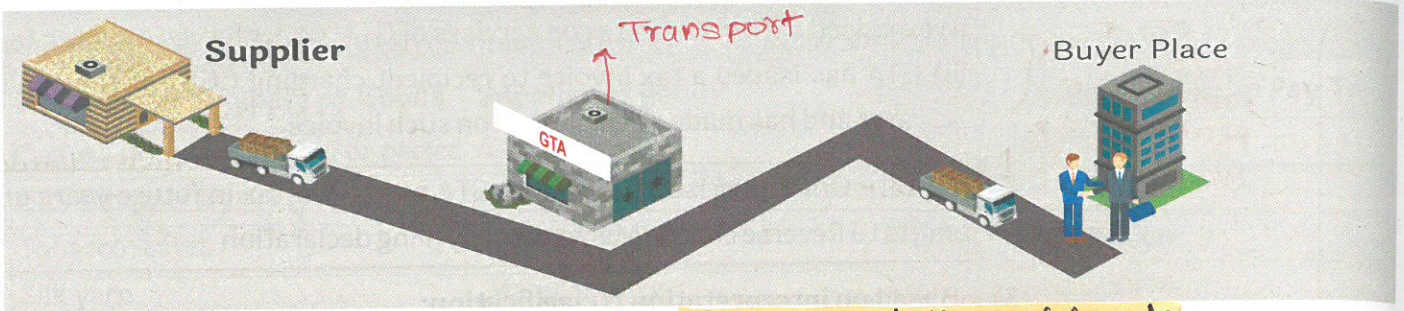
Note:-

- 1) If recipient is individual or HUF or any other unregistered person & not following under notified categories, then exemption is available. (i.e. no GST is payable under FC or RCM)
- 2) Notified recipient **includes** Factories, Societies, Co-operative societies, registered Person under GST, Body corporates, PF, AOP, CTP

Year 1999 Service tax started

- 1) → Govt Notified that Transport by Road (GTA) → service tax will levied. But, further due to strikes service tax took back
- 2) service tax again introduced but against recipient not on supplier

GTA Service



GTA Service (Transportation of Goods By Road)

option 1
If GTA opt to pay Tax under Forward charge

- Take Reg under GST
- Pay GST @ 12%
- Issue Tax Invoice with declaration of Forward charge.
- Use ITC of their I/CG/IS

Note:

Exemption is available "if GTA service is provided to un-registered person other than Notified Person".

If GTA service is supplied to any **registered** person under GST

RCM is applicable & recipient is liable to pay tax.

Note: If Reg person is Govt / LA / Govt agencies & registered only for TDS, then services exempted & RCM is not applicable.

option 2
If GTA doesn't opt to pay Tax under Forward charge

RCM is applicable
(Default Assumption)

GST payable by recipient @ 5%
Subject to following conditions

If GTA service is supplied to **unregistered** person

- If unregistered person is **Notified** person i.e.
- ① Factory
 - ② Society
 - ③ Co-society
 - ④ Body corporates
 - ⑤ P.F / LLP / AOP
 - ⑥ Casual Taxable person (CTP)

RCM is applicable

Such notified person liable to pay Tax @ 5%

Need to take compulsory Reg u/s 24

In case of other **un-registered** person eg: Individual / HUF, Individual etc.

This service is exempted by Govt.
~~S.No 24A of 11th~~
~~12/2017~~
And No Tax is payable under RCM and FC

2. Legal Services

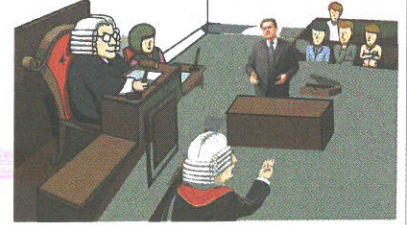
[Taxable Territory = India]

Reverse Charge

Nature of service: Supply of legal services, both direct and indirect. Representation By Senior Advocate

Supplier of Service: Individual advocate, including senior advocate, or firms of advocates.

Recipient of Service (Liable to pay tax): Business entity located in the taxable territory.



Definitions

1) Legal Service:

Includes
 ⇒ Encompasses advice, consultancy, or assistance in any branch of law.

⇒ Includes representational services before any court, tribunal, or authority.

~~Used Nizam~~ → Senior Advocate.

2) "Senior advocate: If the Supreme Court or a High Court is of opinion that by virtue of his ability [standing at the Bar or special knowledge or experience in law] he is deserving of such distinction.

3) "Business Entity" means any person carrying out business.

Analysis Imp

RCM if all the following conditions are fulfilled

Forward Charge, if any of the cond's of RCM are not fulfilled

1) Only if legal services supplied by advocate

All other services supplied by Advocate

2) Services must be supplied by Individual Advocate/Senior Advocate / firm of Advocate

Legal services supplied by
 ➤ Advocate company
 ➤ CA/CS/CMA or other consultant

3) Service is supplied to business entity

Service is supplied to other than business entity (Exemptions) subjected to,

4) Recipient (B.E.) is located in taxable territory

If recipient is located in non-taxable territory

Exemption

Exemption is available to legal service (no FC & RCM) if

a) supplied to B.E. having aggregate turnover not exceeding the threshold in P.F.Y.

b) Supplied to non-B.E., CG/SG/LA etc.

Detail discussion in Exemption chapter

Q. no 71

P3:- V Smart Academy has taken legal service from individual advocate Mr. A of ₹ 1,00,000. Specify who is liable to pay GST in this case. Would your answer differ if,

a) Legal service is taken from partnership firm of advocates.

b) Legal service is taken from Advocate company.

c) V Smart Academy is located in Dubai

Q. no 42
 Hw

P4:- Devdas & Associates, a partnership firm of advocates providing various services as follows.

1) Legal service to Kalidas Ltd. ₹1,00,000 RCM

2) Representational service in a court to V smart Academy ₹2,00,000 RCM

3) Advice on divorce as per law to Mr. Akash ₹50,000 Exempt

4) Renting of immovable property ₹4,00,000 FC

5) Actuary Service to Insurance co. ₹3,00,000 FC

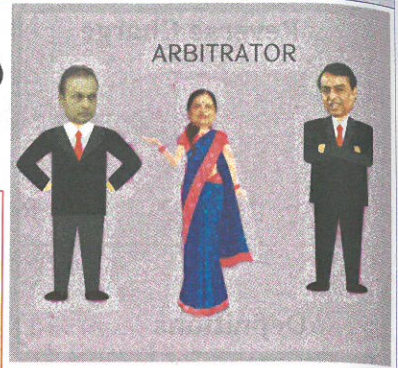
Determine the GST liability of Devdas & Associates, if GST rate is 18%.

3. Arbitral Tribunal Services

Reverse Charge

Nature of service: any Service
Supplier of Service: Arbitral Tribunal (Arbitrator)
Recipient of Service (Liable to pay tax): Business entity located in taxable territory

Note:- Arbitral Tribunal is a private tribunal constituted by parties in disputes where one or more person (Arbitrator) are referred by the parties to resolve the dispute in themselves and by who's decision they agreed to bound



Exemption

Exemption is available to Arbitral Tribunal (no FC & RCM) if
a) supplied to B.E. having threshold in P.F.Y.
b) Supplied to non-B.E., CG/SG/LA etc.

Detail discussion
in Exemption
chapter

Q5:- Mohandas Ltd. & Lakhandas Ltd. are the builders who entered into a joint venture for construction of residential house for a particular project. They have appointed Mr. Vishal Bhattad as a arbitrator to resolve any dispute which may cause in their business. Mr. Vishal Bhattad as an arbitrator gave service to Mohandas Ltd. State who is liable to pay GST?

Hint: RCM is applicable & Mohandas is liable to pay GST

4. Sponsorship Services

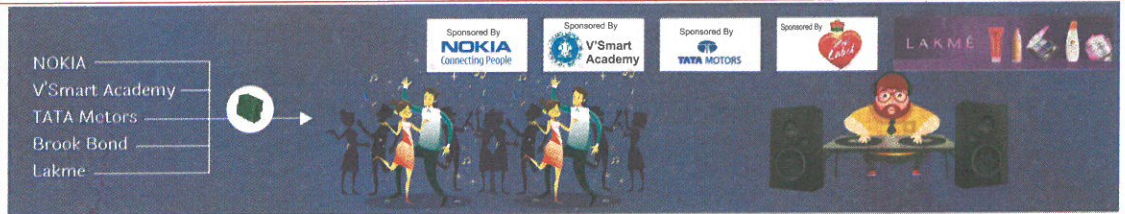
Reverse Charge

Nature of service: Supply of sponsorship services.

Supplier of Service: Any Person.

Recipient of Service (Liable to pay tax): Any body corporate or partnership firm located in the taxable territory Recipient

Note:- Recipient is the person who sponsors an event i.e. who pays the other person)



Analysis

RCM if all the following conditions are fulfilled

Forward Charge, if any of the cond's of RCM are not fulfilled

1) It is applicable only for sponsorship service	Advertising/ Marketing services
2) Supplier - Any person	-
3) Recipient - RCM is applicable only if recipient is <u>body corporate / P.F.</u>	If recipient is any person other than body corporate/P.F.(e.g.Individual/HUF/Trust etc.
4) Recipient - Body corporate or P.F. must be <u>located in taxable territory</u>	If Recipient located in non taxable territory

Special Discussion

Note:- RCM is applicable on sponsorship and not on advertisement service

In sponsorship, an entity pays money to be aligned with, and promoted through, a particular event (usually) by being a sponsor, the firm gets publicity as the event gets publicity, and also gets time and space (and profile) at the actual event.

Example

Vsmart Academy Pvt. Ltd. makes a payment to XYZ trust to fund XYZ's Dandiya event in Navratri. XYZ trust places a sign in the booth displaying the Vsmart Academy Pvt. Ltd.'s name and slogan, "Smart Decision for Smart education," which is an established part of the company's identity.

Determination of Taxability for Sponsorship Services

S.No.	Supplier of Services	Recipient of Services	Forward / Reverse Charge	Who will pay tax to govt.
1	XYZ. Ltd. in India	PQR Ltd. in India	RCM	PQR (Recipient)
2	Mr. X [Individual]	ZQ [partnership firm in India]	RCM	ZQ
3	XYZ Ltd.	Mr. X [Individual]	FC	XYZ Ltd
4	XYZ Ltd	ABC Ltd. [USA]	FC	XYZ Ltd

(Export)
(subject to zero rate)

5. Government Services

Reverse Charge	<p>Nature of service: All services provided by government entities to business entities are subject to GST, except certain services mention below</p> <p>Supplier of Service: CG,SG,UT or LA</p> <p>Recipient of Service (Liable to pay tax): Business entity located in the taxable territory.</p>	
Non applicability of RCM:	<p>If the following services are provided by Govt. or LA then F.C. is applicable, if taxable</p> <ol style="list-style-type: none"> 1) Renting of immovable property. (Subject to entry 5A) 2) Services by the Department of Posts and the Ministry of Railways (Indian Railways); 3) Services related to aircraft or vessel, whether within or outside port or airport premises. 4) Transport of goods or passengers. 	
Exemption	<p>Exemption is available to Government service (no FC & RCM) if</p> <ol style="list-style-type: none"> a) supplied to B.E. having aggregate turnover not exceeding the threshold in P.F.Y. b) Value of supply is ₹5,000 or less. 	<p>Detail discussion in Exemption chapter</p>

5A. Renting of immovable property by Govt. or LA

Reverse Charge	<p>Nature of service: Service by way of renting of immovable property</p> <p>Supplier of Service: Central Government [excluding the Ministry of Railways (Indian Railways)], State-Government, Union territory or local Authority</p> <p>Recipient of Service (Liable to pay tax): Any registered person under GST</p>
Analysis on the basis of combine reading of entry 5 & 5A	<ol style="list-style-type: none"> a) If renting of immovable property to Un-registered person - F.C. is applicable as per above entry 5 & Govt. or LA is liable to pay tax b) If renting of immovable property to Registered person -RCM is applicable as per entry 5A & Registered person is liable to pay tax

Note: The provisions of reverse charge notification applies to the Central Government, State Government, Parliament, State Legislature, **Courts and Tribunals.**

Supply of service by Govt / LA [Entry 5 and 5A]

Para I (Entry 5)

All other services [other than services covered in Part II & III]

Supplied to Business Entity in taxable territory

RCM is applicable and a business entity in taxable territory is liable to pay tax.

Para II [Exception to Entry 5]

Following services Supplied by Govt/LA

- 1) Dept of Post and Indian Railway
- 2) Services in relation to vessels or aircraft within or outside the port or airport
- 3) Transport of goods or passenger

Forward charge is applicable & Govt or L.A is liable to pay tax

Renting of Immovable (S/5A)

Indian Railway

FC is applicable Irrespective of fact that recipient is register or not

If service is supplied to Registered Person
RCM is applicable & Registered person is liable to pay Tax

Other Govt Dept or LA

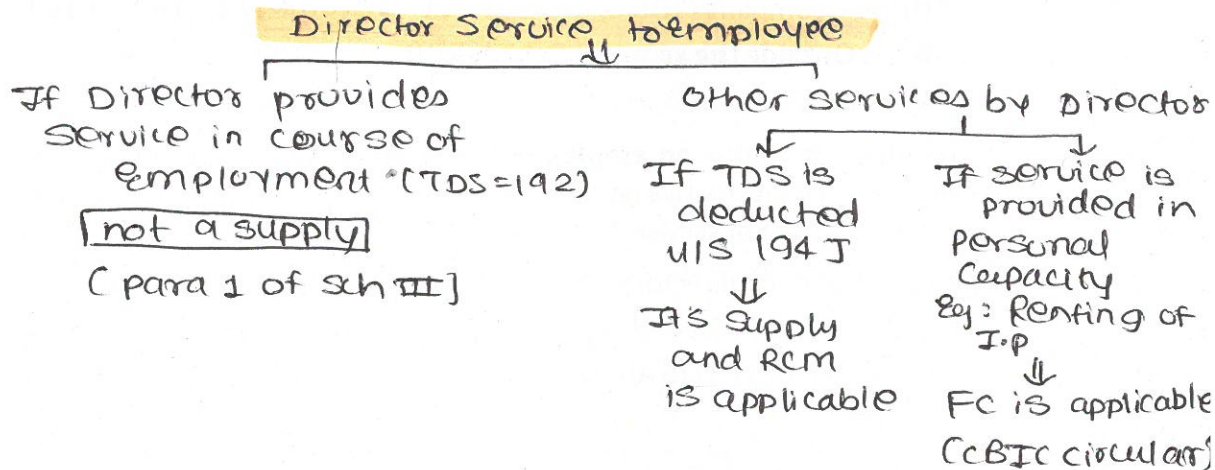
Entry 5

If service is supplied to Unregistered Person (Business Entity)
Forward charge is applicable & Govt/LA is liable to pay tax

5AA Renting of Residential Dwelling (RRD)

Reverse Charge	<p>Nature of service: Service by way of renting of Residential Dwelling</p> <p>Supplier of Service: Any Person</p> <p>Recipient of Service (Liable to pay tax): Any Registered Person (RP) under GST</p> <p>Note:- A "Residential Dwelling" is a place or property designed and used primarily for people to live in, such as a house, apartment, or other type of housing unit.</p>
Non-applicability of RCM	<p>Following services are subject to forward charge</p> <p>a) Renting of commercial building or complex to any person.</p> <p>b) RRD for commercial or office use to Unregistered person</p>
Exemptions	<p>Exemption is available to RRD (no FC & RCM)</p> <p>a) RRD for residential use to Unregistered person</p> <p>b) RRD to registered person (individual) who is using in his personal capacity & not for business.</p>

Detail discussion in Exemption chapter



6 Services by Director

Reverse Charge

Nature of service: Any service supplied by a director of a company/ body corporate Except salary

Supplier of Service: Director of a company or a body corporate

Recipient of Service (Liable to pay tax): Company or a body corporate located in the taxable territory.



Note:-

- Whole time/ Managing/ Executive director:- are employees of the company.
- **Independent Director:-** one of the condition for being Independent director is the director should not have been an employee of the company.
- **Non-Executive/ part time director** - Can't be called as employee of Company. Hence sitting fees, commission is taxable.

Jmp

Clarification on Director's remuneration (Circular no. 140/10/2020)

1 Remuneration paid by companies to the independent or those directors who are **not the employees** of the said company (TDS U/s 194J):- *of Income Tax Act, 1961*

- It is **Outside the scope of Schedule III** of the CGST Act & therefore **taxable**.
- The recipient of said services i.e. the Company is liable to discharge applicable GST on it under RCM.

2 The director who is **an employee** in the company, irrespective of name & designation, examine whether all the activities performed by the director are in the course of employer-employee relation (i.e. a "contract of service") or is there any element of "contract for service":-

i.	The part of director's remunerations that is declared as Salaries in books of company & subjected to TDS under Section 192 of IT Act:-	Covered under the scope of Schedule III of the CGST Act and salaries paid to company directors will not attract GST as the same is not taxable.
ii.	Director's remuneration that is declared separately other than salaries in the Company's accounts and subjected to TDS under Section 194J of the IT Act as Fees for professional or Technical Services:-	To be treated as consideration for providing the services which are outside the scope of Schedule III of the CGST Act. Therefore, the recipient of the said services i.e. the Company is liable to discharge the applicable GST Under RCM.

P 6:- Mumtaz Ltd. a body corporate having 3 directors. All the 3 directors providing various services are as follows.

- a) Mr. A a whole time director getting monthly salary of ₹2,00,000 for his service (TDS u/s 192)
- b) Mr. B a non executive director getting sitting fees of ₹50,000 (TDS u/s 194J)
- c) Mr. C a non executive director getting commission from co. of ₹2,00,000 for sales promotion. Determine who is liable to pay tax in above cases. (TDS u/s 194J)

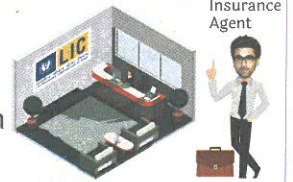
Clarification on services supplied by director in his personal capacity (Circular no. 201/13/2023)

Issue: Whether services supplied by director of a company in his personal capacity such as renting of immovable property to the company or body corporate are taxable under RCM?

Clarification:

- It is clarified that services supplied by a director of a company or body corporate to the company or body corporate in his private or personal capacity such as services supplied by way of renting of immovable property are not **taxable under RCM**.
- However, if services supplied by him as or in the capacity of director of that company or body corporate shall be **taxable under RCM**

7 Insurance Agent



Reverse Charge

Nature of service: Any service as an insurance agent
Supplier of Service: An Insurance Agent
Recipient of Service (Liable to pay tax): Any person carrying on insurance business, located in the taxable territory (LIC or GIC).

Note:- Definition of "Insurance Agent" (Insurance Act, 1938):

- > An "Insurance Agent" is licensed under Section 42.
- > They receive compensation (like commission).
- > This compensation is for activities like soliciting insurance, including renewals and revivals.

Electronic commerce operator.

Non- Applicability of RCM

Many insurance companies who are selling their policies through ECO not being licensed as Insurance agent u/s 42 of Insurance Act, for them **reverse charge shall not be applicable.** *and liable to GST under FC*

Analysis

RCM if all the following conditions are fulfilled	Forward Charge, if any of the cond's of RCM are not fulfilled
1) Only service supplied by Insurance Agent to Insurance Company	Other suppliers like actuary etc. supplies services to Insurance company
2) Insurance Agent is licensed under Insurance Act.	Insurance Agent is not licensed under Insurance Act

P 7:- (1) Mr. Shridhar is a LIC Agent as well as actuary. He has provided following services to the Insurance co. Determine who is liable to pay tax. *RISK ASSessor*

a) Insurance auxiliary service as a insurance agent for which commission is charged of ₹2,00,000 *RCM*

b) Actuary service for valuation of stock, for which fees is charged of ₹1,00,000 *FC*

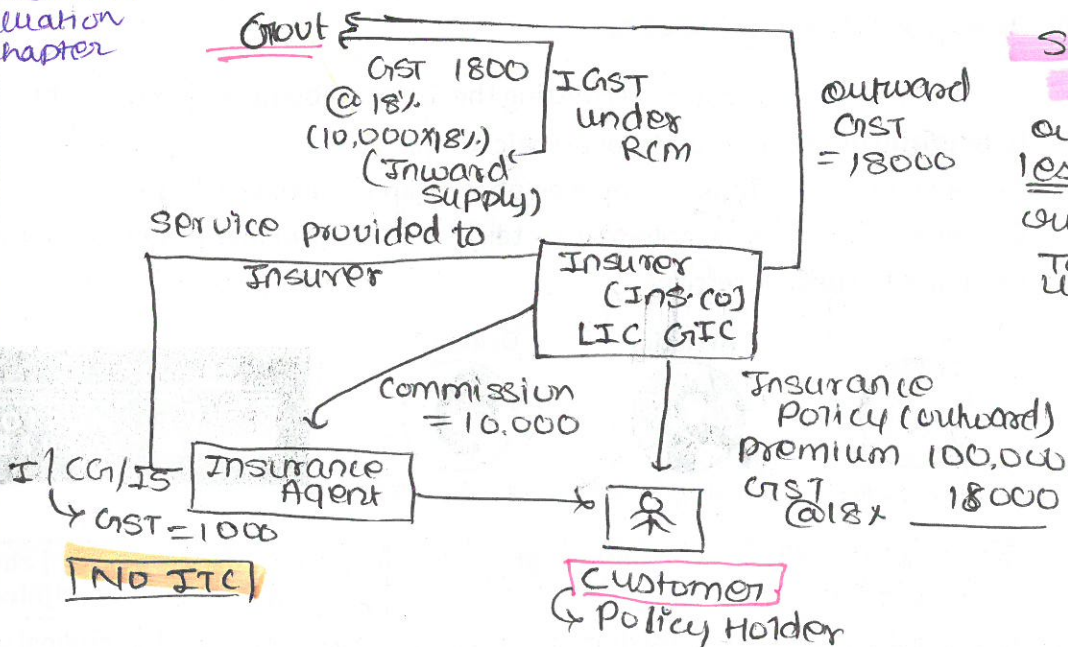
(2) What would be the value for payment of GST by insurance co. if in above case, Company has deducted 10% TDS on commission of insurance agent Mr. Shridhar. *v = 2 lakh - RCM*

v = Gross value as per Sec 15

v = 1 lakh FC

*↓
Detail discussion in valuation chapter*

Insurance Agent and Insurance



Statement of Ins. Co for GST Payable

Outward Tax	18000
less ITC	1800
Outward Tax	16200
Tax Under RCM	1800
	18000

8 Recovery Agent

Reverse Charge

Non-Banking
Financial
Corporation

Nature of service: Service supplied as Recovery Agent

Supplier of Service: A Recovery Agent

Recipient of Service (Liable to pay tax): A banking company or a financial institution or a NBFC, located in the taxable territory

Under RCM
Bank/FI/
NBFC This
Entities will
pay the Tax



Imp: Exam

9 Copyright services for Music, Art etc.

Reverse Charge

Nature of service: Transfer/ permitting the use or enjoyment of a copyright relating to **original** dramatic, musical or artistic works

Supplier of Service: Music composer, photographer, artist or the like

Recipient of Service (Liable to pay tax): Music company, producer or the like, located in the taxable territory

Musical



Lyrics of Song

Artistic



Painting by Painter

Dramatic



Acting by Actor



Analysis

RCM if all the following conditions are fulfilled

- 1) Copyright relating to original dramatic, artistic or musical work
- 2) Supplier-music composer, photographer or artist
- 3) recipient should be music company, producer or like
- 4) Music company or producer in taxable territory

Forward Charge, if any of the cond's of RCM are not fulfilled

- | |
|---|
| If it is not related to original work |
| Any other Supplier |
| Any other recipient |
| If they are located in in non taxable territory |

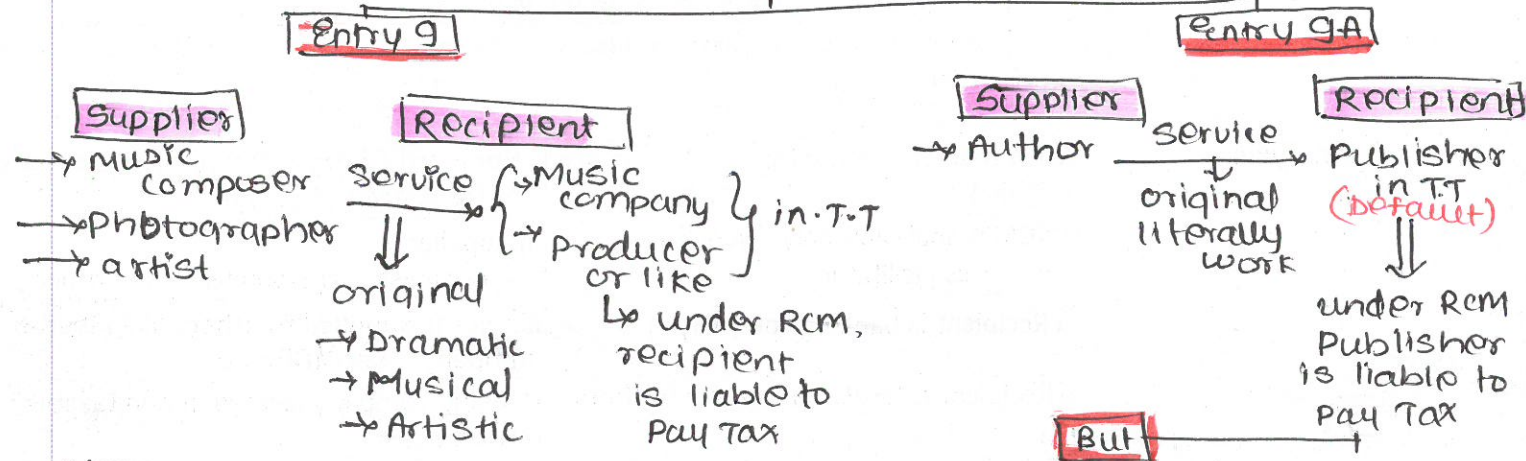
9A Copyright service by Author

Reverse Charge	Nature of service: Transfer/ permitting the use or enjoyment of a copyright relating to original literary works Supplier of Service: Author Recipient of Service (Liable to pay tax): Publisher located in the taxable territory
Non-Applicability of RCM	Reverse charge is not applicable in following cases i.e. Author will pay tax under forward charge:- (i) He has taken registration under the CGST Act & Filed a declaration, in the prescribed form, that he exercises the option ➤ to pay CGST on the said service under forward charge in accordance with section 9(1) & ➤ to comply with all the provisions as they apply to a person liable for paying the tax in relation to the supply of any goods and/or services and ➤ that he shall not withdraw the said option within a period of 1 year from the date of exercising such option. (ii) He makes a declaration on the invoice issued by him in prescribed form to the publisher. Note:- Thus, where the author is registered, and he make a declaration to pay the tax to proper officer then publisher is not required to pay tax & Author will pay tax under forward charge.

Analysis	RCM if all the following conditions are fulfilled	Forward Charge, if any of the cond's of RCM are not fulfilled
	1) Copyright relating to original literary work	If not related to original literary work
2) Service is supplied by author	service is supplied by other person	
3) Recipient is publisher	Recipient is other person	
4) Recipient is located in TT	If recipient is located in non TT	

P8:- Mr. Chetan Bhagat written a book 'Two-States' and gave publication right to 'Snow White Company.' a publication Company. Determine who is liable to pay tax on royalty received by Mr. Chetan Bhagat on transfer of intellectual property. Can Mr. Chetan Bhagat pay tax under forward charge, Explain?

Copyright Service



Note:- In this case NO option of Forward charge.

- Supplier can shift the liability under FC subject to following conditions:
 - Author has taken reg. in GST
 - He has filed declaration to commission for payment of tax under FC.
 - Compliance of all provision of Act
 - Not reversing the option within period of one year.
 - He will also make declaration in Invoice.

10 Services by the members of Overseeing Committee

Reverse Charge	Nature of service: Any Service Supplier of Service: Members of <u>Overseeing Committee</u> constituted by RBI Recipient of Service (Liable to pay tax): RBI Note:- Overseeing Committee formed by RBI which aimed to get resolution of all types of due loans would harm customers as well as banks
-----------------------	---

11 Service Provided by Direct Selling Agents (DSAs)

Reverse Charge	Nature of service: Service supplied as a DSA Supplier of Service: Individual Direct Selling Agents (DSAs) <u>other than</u> a body corporate, partnership or LLP firm Recipient of Service (Liable to pay tax): A banking Company or a NBFC, located in the taxable territory (TT) (FI is not covered)
-----------------------	--

Bank loan customer person
A person appointed by bank (Agent) are known as DSA

Analysis	RCM if all the following conditions are fulfilled	Forward Charge, if any of the cond's of RCM are not fulfilled
	1) RCM is applicable only if services is supplied by Individual DSA	If service is supplied by body corporate, partnership or LLP Firm
	2) Recipient is banking or NBFC	If recipient is Financial institution or any other person
	3) Recipient is located in TT *	If recipient is located in non- TT

12 Services provided by Business Facilitator

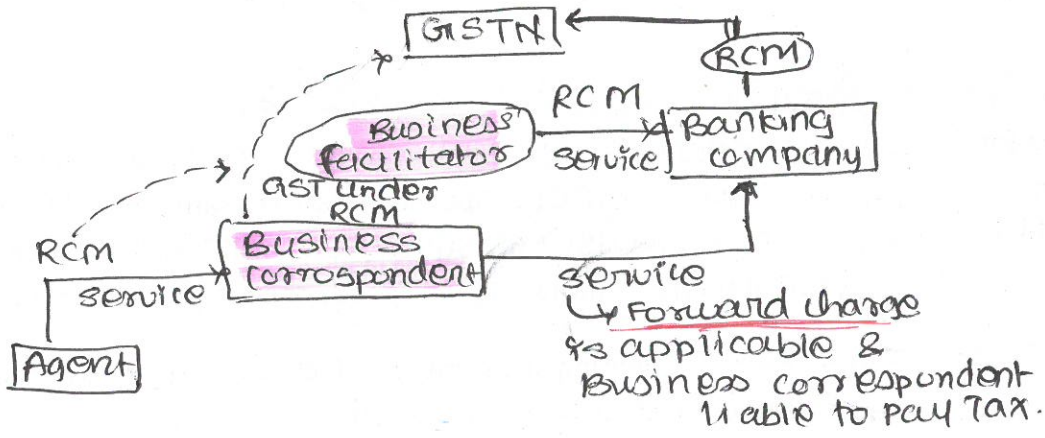
Reverse Charge	Nature of service: Any Service Supplier of Service: <u>Business facilitator</u> Recipient of Service (Liable to pay tax): <u>only bank</u> A banking company located in the TT Note: "Business facilitator or <u>business correspondent</u> " means an intermediary appointed under the business facilitator model or the business correspondent model by a banking company or an insurance company under the guidelines issued by the RBI;" Comment: Services by Business facilitator is covered under RCM here and not Business correspondent.
-----------------------	--

campaign run by banks to facilitate bank A/c, FD to various people issued by RBI

Analysis	RCM if all the following conditions are fulfilled	Forward Charge, if any of the cond's of RCM are not fulfilled
	1) RCM is applicable only if supplier is Business facilitator	If supplier is Business correspondent or other
	2) Recipient is banking company only	service is supplied to others like Insurance company, FI or NBFC etc.
	3) Recipient is located in taxable territory	Banking company located in non taxable territory

13 Service provided by Agent of Business Correspondent *Corporate level*

Reverse Charge	Nature of service: Any Service as an agent Supplier of Service: An agent of business correspondent Recipient of Service (Liable to pay tax): A business correspondent located in the taxable territory. Comment: Services by an agent of business correspondent is covered under RCM here and not agent of business facilitator
-----------------------	---



14 Security services

Reverse Charge

Nature of service: Supply of security personnel

Supplier of Service: Any person other than a body corporate

Recipient of Service (Liable to pay tax): A registered person located in the TT

Note:- Service must be supply of security personnel:- The entry cover the security service provided by way of supply of security personnel. So, it covers only supply of man power (man or women) for security purpose, such as supply of security man at society/offices/ commercial spaces/ bungalows/ bouncers/ bodyguard, etc.

Non-Applicability of RCM

- In following cases F.C. is applicable, *if security services supplied to,*
- Central/State/Union territory Government departments/establishments
 - ☉ Local authorities
 - ☉ Governmental agencies
 registered for tax deduction under section 51, not for taxable supplies
 - Imp* a registered person paying tax u/s 10 of the CGST Act i.e. composition scheme.
 - Dog sniffer, Investigation Service, Background check, CCTV security/IT enabled equipment security
 - Service is provided by body corporate
(v) service provided to unregistered

Analysis

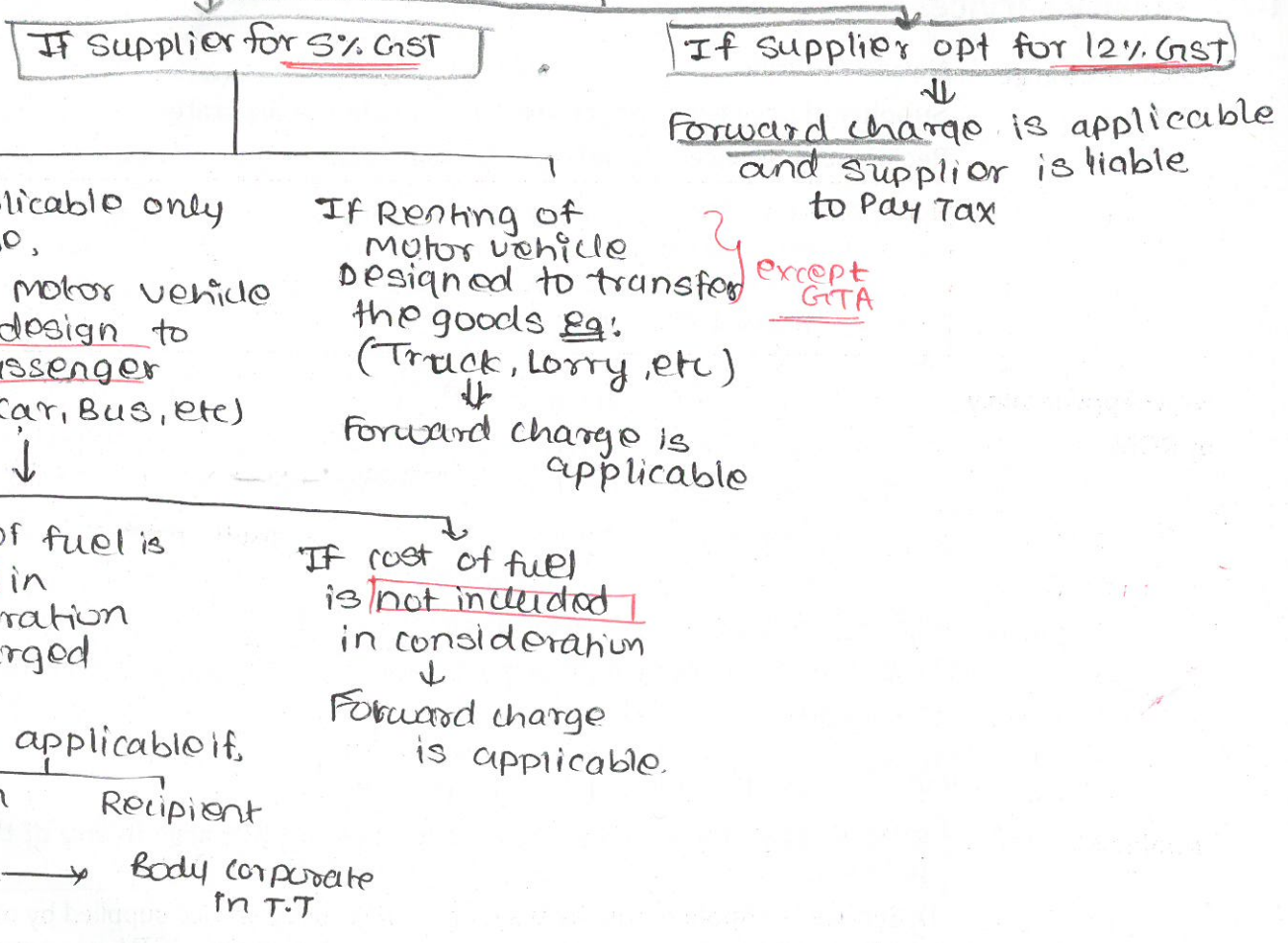
RCM if all the following conditions are fulfilled	Forward Charge in any of the cond's of RCM not fulfilled
1) Service is supplied only by way of supply of security personal	If security service supplied by other ways e.g. dog sniffer, CCTV investigation etc.
2) Supplier is any person other than body corporate	If Supplier is body Corporate
3) Recipient is registered person under GST	If recipient is ➤ Unregistered Person or ➤ Registered Person but CG, SG LA and etc. registered only for TDS ➤ Registered person u/s 10

15. Renting of Motor Vehicle

GST Rates for Renting of motor vehicle Services	<p>(RCM) ⇒ 5% (2.5% CGST+2.5% SGST/UTGST or 5% IGST): When supplier of services has taken <u>only the limited ITC</u> (of input services in the same line of business) or (FC) ⇒ 12% Tax Rate (6% CGST + 6% SGST/UTGST or 12% IGST): When supply opts to pay GST at this rate and avails ITC on goods or services used for such services.</p>
Reverse Charge	<p>Nature of service: Renting of <u>any motor vehicle</u> designed to <u>carry passengers</u> where the cost of fuel is included in the consideration person transport</p> <p>Supplier of Service: Any person, other than a body corporate (who doesn't issue an invoice charging CGST @6% & SGST @6% to service recipient)</p> <p>Recipient of Service (Liable to pay tax): Any <u>body corporate</u> located in the taxable territory</p> <div style="border: 1px solid red; padding: 5px; margin-top: 10px;"> <p>Note:- RCM shall be applicable only if all the below given conditions are satisfied:-</p> <ol style="list-style-type: none"> Supplier is not a body corporate Supplier does not issue invoice charging GST @12% Service Recipient is a body corporate located in the taxable territory. </div>



Renting for motor vehicle



ble:
 = supplier is B.c than Fc is applicable

Note: If recipient is other than BC then Fc is applicable

Clarification

Situations in which corporate recipients are liable to pay GST on renting of motor vehicles designed to carry passengers under RCM [Circular No. 177/09/2022]:

Issue: The question which arose for consideration is whether RCM is applicable on:

- a) Service of renting of motor vehicle designed to carry passengers or → *renting*
- b) Service of transportation of passengers. → *meter, cab*

Discussion:

There is a clear distinction between the two services which is as under:

A. The two services fall under two different headings in the Tariff.

B. (i) Services of renting of motor vehicles designed to carry passengers covers:

- renting of motor vehicle → *Rent given for particular period (Temporary)*
- for transport of passengers
- for a period of time
- where the renter defines how and when the vehicles will be operated, determining schedules, routes and other operational considerations.

(ii) 'Passenger transport services' covers passenger transport services over pre-determined routes on pre-determined schedules.

Imp Clarification:

- a) **RCM would apply** on renting of vehicles if the body corporate use in the manner as it likes subject to agreement with the person providing vehicle on rent.
- b) **RCM would not apply** on transportation of passengers if body corporate avails said service for specific journeys or voyages and does not take vehicle on rent for any period of time.

16. Lending of securities

Reverse Charge

Nature of service: Lending of securities

Supplier of Service: Lender i.e., a person who deposits securities registered in his name/in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under Scheme of SEBI

Recipient of Service (Liable to pay tax): Borrower i.e., a person who borrows the securities under the Scheme through an approved intermediary of SEBI

• Supplier → Register tax invoice (Lender) & Recipient and liable for GST

All above services are also notified for reverse charge under IGST Act (N/No. 10/2017). In addition to them, following service is also notified under IGST:-

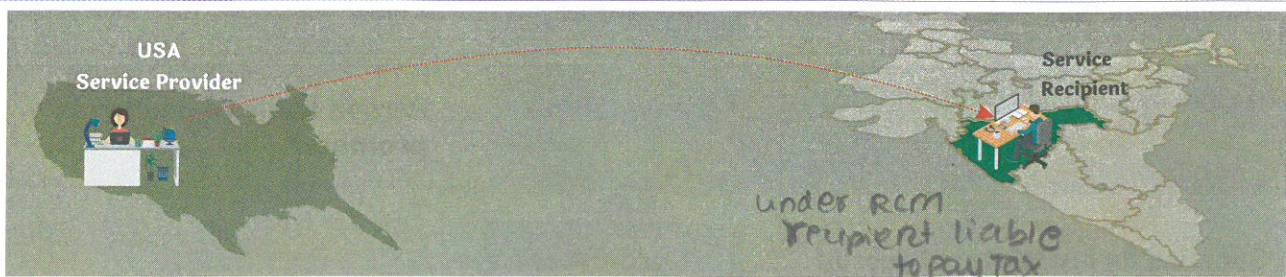
17. Import of services

Reverse Charge

Nature of service: Any service supplied

Supplier of Service: Any person located in a non-taxable territory *pls India*

Recipient of Service (Liable to pay tax): Any person (Importer), located in the taxable territory other than Non-Taxable Online Recipient (NTOR)



Category (B)

Legal Provision (Sec 9(4)) ← Sec 9(4)

Sec 9(4) (CGST) Reverse Charge - when supply of goods or services by unregistered person to registered person

The central tax in respect of the

supply of specified category of goods or services or both by a supplier, who is not registered,

to

a specified class of registered person

shall be paid by such person on reverse charge basis as the recipient of such supply of goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

N/N 07/2019 CT(R) dt 29/03/2019

1 value of inputs and input services purchased from registered supplier is less than 80%

Person liable to pay tax is promoter

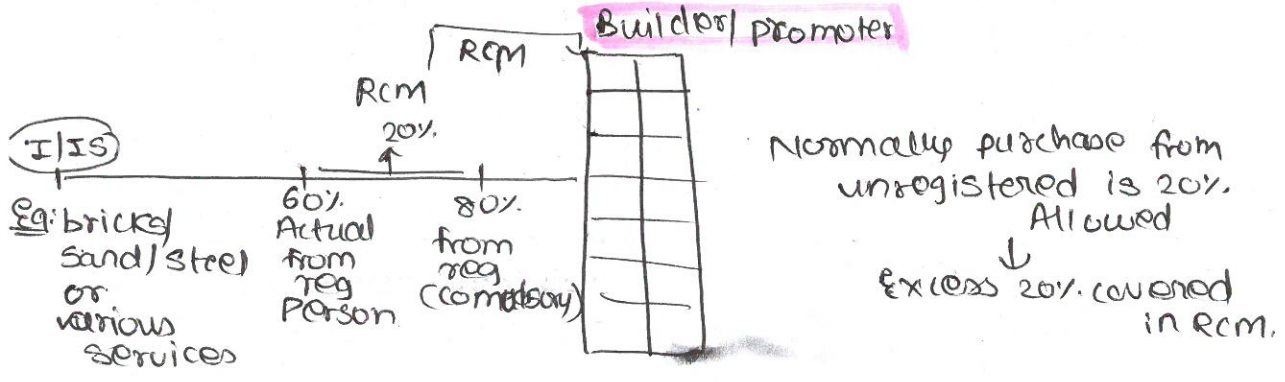
By

Purchase from unregistered person

To

promoter

Note:- Reverse Charge is applicable only to the extent of shortfall to make it 80%



2 In case of Cement

Person liable to pay tax is promoter

By

Supplied by unregistered person

To

promoter (Builder)

↓
on short flow to 80%

3 In case of Capital Goods

Person liable to pay tax is promoter

By

Supplied by unregistered person

To

promoter

Tax payable by ECO on notified services u/s 9(5) of CGST Act/ 5(5) of IGST Act

What is ECO?

- As per Sec 2(45) of the CGST Act, ECO means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.
- It displays products as well as services that are actually supplied by some other person to the consumer, on their electronic portal.
- On placing the order for a particular product/ service, the actual supplier supplies the selected product/ service to the consumer. The price/ consideration for the product/ service is collected by the ECO from the consumer and is passed on to the actual supplier after the deduction of commission by the ECO.

Liability of ECO

Sec 9(5)
only services notified in this sec

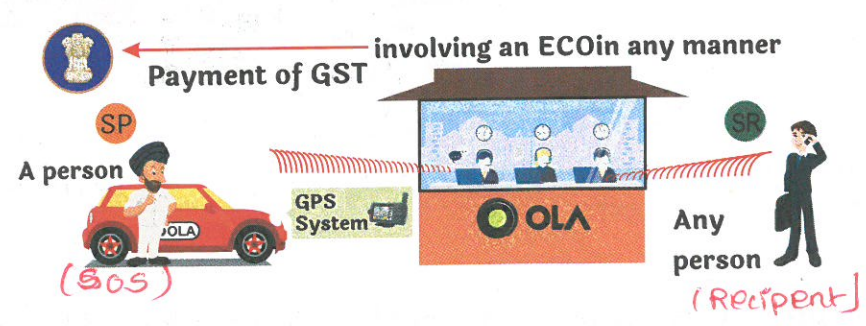
- The Govt. notified certain supplies ^{of services.} on the recommendation of the Council, the tax on intra-State supplies ^{Inter State} of which shall be paid by the ECO if such services are supplied through it.
- All the provisions of GST Acts shall apply to ECO as if he is the supplier liable for paying the tax for the supply of such services.

1.	If ECO does not have a physical presence in the TT	Person representing such ECO for any purpose in the taxable territory shall be liable to pay tax
2.	If ECO does not have a physical presence and also, does not have a representative in the TT	ECO shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

Notified ECO (N/n 17/2017) **Following are the services which are supplied through ECO:**

- i) **Transportation of Passengers by Cab etc.:-**
- a) Services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motorcycle, **any other motor vehicle except omnibus.**
 - b) **Services by way of transportation of passengers by an omnibus except where the person supplying such service through electronic commerce operator is a company.** *In case of omnibus where service is provided through ECO then ECO will pay the tax but if supplier is a company then such supply (omnibus operator) is liable to pay tax*

E-Commerce Operator

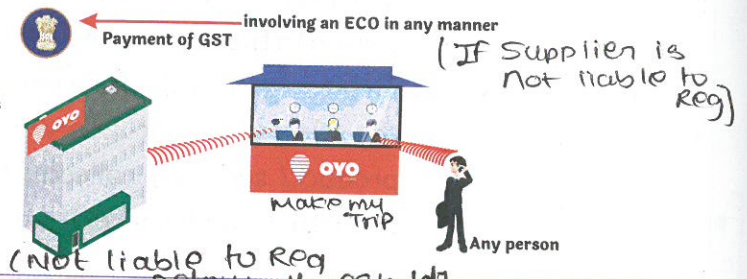


ii) **Renting of Accommodation by unregistered Hotels:-**

Services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes.

Exception (ie ECO is not liable):- Where the person supplying such service through electronic commerce operator is liable for registration u/s 22(1) of the CGST Act

Adar supplier GST liable to Reg. hai to Tax ECO nhi denge. In such case Tax is payable by Holdr.



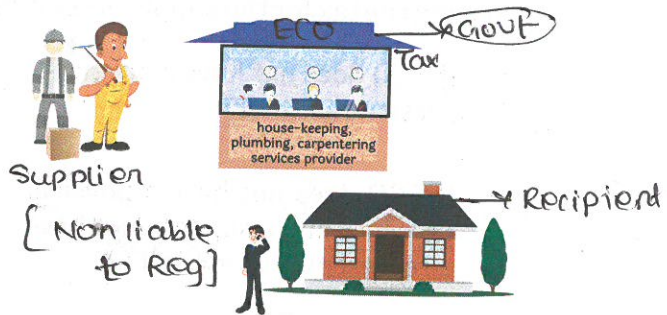
iii) **Service by Unregistered Plumber, Housekeeper etc :**

Services by way of housekeeping, such as plumbing, carpentering etc. Supplied through ECO

Exception (i.e. ECO is not liable):- Where the person supplying such service through electronic commerce operator is liable for registration u/s 22(1) of the CGST Act

Eg: urban carpenter

Note: If Supplier is liable to Reg then Supplier will pay the Tax and Not ECO

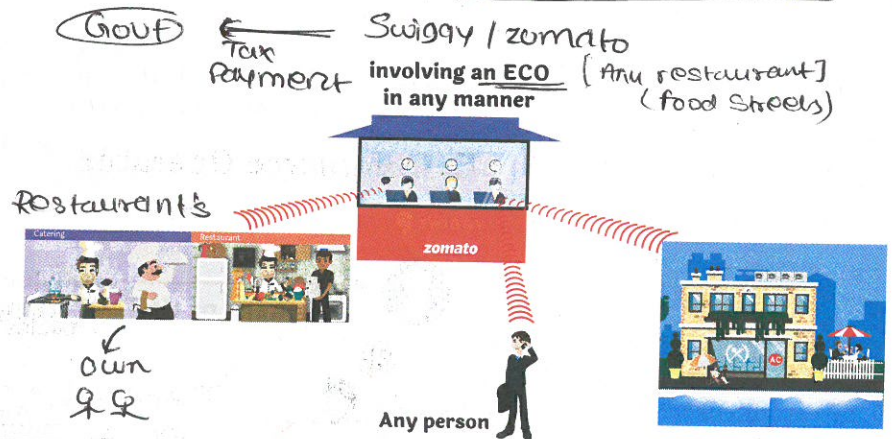


iv) **Restaurant Service**

Supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.

Explanation:

Specified premises means premises providing hotel accommodation service having declared tariff of any unit of accommodation (equals to or above ₹ 7500 per unit per day.)



Author's note:- All above provisions are for CGST but for IGST- the similar provisions are given u/s 5 of IGST Act, 2017 for inter-state supply instead of intra-state supply.

Sec 9(5) Eco

Entry (A) and (d)

(a) Passenger Transport Service by Cab or any motor vehicle

Any motor vehicle
↓
Whenever service is supplied through Eco then Eco is liable to pay tax irrespective of the fact that supplier is liable for Reg or not

Omnibus
↓
If supplier is other company

(d) Restaurant service other than specified premises

Whenever service is supplied through Eco then Eco is liable to pay tax Irrespective of facts.
↓
That supplier is liable for Reg. or Not

If supplier is a company
↓
Supplier is liable to pay tax

Entry (b) and (c)

(b) Accommodation in Hotel, etc (Booking Return)
(c) Housekeeping by way of Plumbing etc

If Supplier is liable to Registration in GST
↓
Eco is not liable to pay tax. In this case, Supplier will pay tax under FC.

If supplier is not liable for Registration in GST
↓
Eco u/s 9(5) is liable to pay tax for the supply made through Eco

Exceptions:

If restaurant is in specified premises (i.e. room, rent, ~~restaurant~~ 1500 or more) then Supplier (restaurant) will pay tax.

- ① Truck construction site pe ja rha hai → GTA
- ② साधने Labour rent kiye huie bus baithe the → Renting of Motor vehicles.
- ③ Truck Accident Ho gaya → legal service / Arbitrator aur legal case
- ④ waha saare News waale aah gaye aur unko Sponsorship mili. → Sponsorship service
- ⑤ Case bahot bada ho gaya aur Govt. bhi involve Ho gayi → Government service
- ⑥ construction company ka Director Ghar baitha the → Residential Dwelling
usko company ke urgent → Director to company.
Bulaya
- ⑦ Truck aur Labour ka Insurance aur → Insurance company
- ⑧ Truck finance ke Bank se liya the → (1) Recovery Agent
(2) DSA (Director Selling Agent)
(3) B.F (Business facilitator)
(4) Agent B.C (Business correspondant)
- ⑨ Accident ko site police security aa gai → Security service
- ⑩ Jo log accident affect huie unko India ke bahar se Help mila → Import Service
- ⑪ Isseh event ke movie's Banai gai aur Books likhi gai. → Copyrights services.



CHAPTER - 5

COMPOSITION SCHEME

INDEX

CGST Act, 2017 Sec-10	
10(1)	Eligibility for Composition Levy
10(2)	Other Conditions for eligibility
10(2A)	Eligibility for Composition Levy for supply of service (Newly Inserted)
10(3)	Composition Levy will lapse once Aggregate Turnover exceeds the specified limits of 1.5 Crore/75 lakhs/50 lakhs
10(4)	Composition tax liability shall not be collected from recipient No ITC admissible to composition supplier
10(5)	Penalty in case of Contravention

CGST Rules, 2017	
Rule 3	Intimation of Composition Levy
Rule 4	Effective date of Composition Levy
Rule 5	Conditions and Restriction for availing Composition Scheme
Rule 6	Validity of Composition Levy

Introduction

Composition Scheme Overview:	<ul style="list-style-type: none">⇒ Designed for small taxpayers with turnover below a prescribed limit.⇒ Aims to simplify taxation and reduce compliance costs
Simplified Taxation:	<ul style="list-style-type: none">⇒ Composition scheme eliminates the need to classify goods or services for GST rates.⇒ No tax invoice issuance; instead, use a Bill of Supply.⇒ Quarterly payment of tax based on prescribed percentage of turnover.⇒ No input tax credit available to composition scheme suppliers.⇒ Annual return filing required.
Eligibility:	<ul style="list-style-type: none">⇒ Small taxpayers with aggregate turnover up to ₹1.5 crore in the preceding financial year.⇒ Exclusively service providers (other than restaurant services) are not eligible u/s 10(1) & 10(2).
Extension to Service Providers:	<ul style="list-style-type: none">⇒ Introduced a scheme for service providers with turnover up to ₹50 lakh.⇒ Tax rate of 6% of turnover (CGST + SGST/UTGST).⇒ Mixed suppliers with predominantly service-based businesses can also get benefit.
Tax Rates:	<ul style="list-style-type: none">⇒ Suppliers including manufacturer of goods can pay tax at 1% of turnover (CGST + SGST/UTGST).⇒ Restaurant service providers (non-alcoholic) can pay tax at 5% of turnover (CGST + SGST/UTGST).

Important Definitions:-

Section 2(6) Aggregate Turnover	<p>means the aggregate value of (outward)</p> <ul style="list-style-type: none"> ⇒ all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), ⇒ exempt supplies (wholly exempt + nil rate + non taxable supply) ⇒ exports of goods or services or both and (Zero Rate) ⇒ inter-State supplies <p>of persons having the same Permanent Account Number, to be computed on all India basis but <u>excludes</u> central tax, State tax, Union territory tax, integrated tax and cess</p> <p style="text-align: center;"> CGST SGST UTGST IGST </p>
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P1: XYZ Ltd is a manufacturing company located in Bangalore. During the F.Y. 20XX-XY total value of supplies including inward supplies taxed under reverse charge basis are as follows:

- i) Intra state supplies of goods chargeable to Nil rate of GST - ₹15,00,000 (+)
- ii) Intra state supplies made under forward charge - ₹88,50,000 (including GST@18%) $\frac{8850000 \times 100}{118}$
- iii) Intra state supplies of goods exempted under section 11 of CGST act - ₹9,00,000 (+)
- iv) Inward supplies of goods on which tax is payable under RCM - ₹5,00,000 x
- v) Inter-State supply to various buyers ₹16,80,000 (including IGST @ 12%) $\frac{1680000 \times 100}{112}$
- vi) Inter-State supply to own establishment under same PAN ₹11,20,000 (including IGST @ 12%)

Calculate aggregate turnover. = **calculation of Agg Tlo**

Particulars	Value	Remarks
① Nil Rate supply	1500,000	Agg Tlo includes exempt supply which includes Nil Rate supply
② supply under forward charge ($\frac{8850000 \times 100}{118}$)	7500,000	Agg Tlo includes taxable supply excluding GST
③ Exempt supply	900,000	Agg Tlo includes exempt supply
④ Inward supply	Nil	Agg Tlo doesn't include Inward supplies subject to RCM
⑤ Supply to various Buyer ($\frac{1680000 \times 100}{112}$)	1500,000	Agg Tlo includes taxable supply excluding GST.
⑥ Intra state supply to DDP ($\frac{1120000 \times 100}{112}$) Agg Tlo		Agg Tlo includes inter state supply on own establishment
	1,24,00,000	

P2: M/s X Ltd. being a manufacturer of Audio Systems has three factories in Maharashtra, Delhi, Gujarat, and two service Center in Jodhpur and Karnataka.

Place	Turnover in ₹ (including Taxes @ 18%)
Maharashtra	5,90,000
Delhi	9,44,000
Gujarat	10,62,000
Jodhpur	3,54,000
Karnataka	2,36,000

Calculate aggregate turnover.

$$\text{Agg Tlo} = \frac{31,86,000 \times 100}{118} = 27,00,000$$

Note: While calculating Agg Tlo we have to take Tlo of all branches on all India basis

P3: Mr. Jolly LLB an Advocate has supplied following goods and services in F.Y. 18-19

- i) Intra state supplies of legal services to business entity - ₹15,00,000
- FC ii) Renting of immovable property - ₹5,00,000
- FC iii) Trading of Goods - ₹9,00,000

Agg T10 = 15 + 5 + 9 = 29 lakh
Imp Note: Intra State supply of legal service to business entity by individual Adv is under RCM & business entity is liable to pay tax. But its outward taxable supply of Mr. Jolly LLB an advocate hence its included in Agg T10 of Jolly LLB.

Calculate aggregate turnover.

Section 2(112) - "Turnover in State" or "Turnover in Union Territory"

"turnover in State" or "turnover in Union territory" means the aggregate value of

- ⊖ all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and
- ⊖ exempt supplies made within a State or Union territory by a taxable person,
- ⊖ exports of goods or services or both and
- ⊖ inter-State supplies of goods or services or both made from the State or Union territory by the said taxable person

but excludes central tax, State tax, Union territory tax, integrated tax & cess.

Note:- Turnover is same as aggregate turnover, but only state wise :- The expression 'turnover in a state' (or UT) is exactly same with the definition of 'aggregate turnover' but for the fact that 'turnover in state' is restricted to the turnover of a taxable person, as opposed to aggregate turnover which is PAN based (i.e. aggregate of turnover of all person registered with same PAN) as discussed above in sec 2(6) of CGST Act.

Section 2(108): Taxable Supply

means a supply of goods or services or both which is **leviable to tax** under this Act. (i.e. under CGST Act).

Section 2(78): Non-Taxable Supply

means a supply of goods or services or both which is **not leviable to tax** under this Act (i.e. CGST Act) or under the Integrated Goods and Services Tax Act
 Eg: petroleum & Alcohol

Section 2(47): Exempt Supply

means a supply of any goods or services or both

- ⊖ which attracts nil rate of tax or
- ⊖ which may be wholly exempt from tax under section 11, or under section 6 of the integrated Goods and Services Tax Act, and
- ⊖ includes non-taxable supply

Section 2(72): Manufacture

means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term "manufacturer" shall be construed accordingly.

irrespective of fact that recipient is paying tax.

② Composition dealer ko registration karna padta hai ky?
 → (D) is requires registration

Very Small Dealer



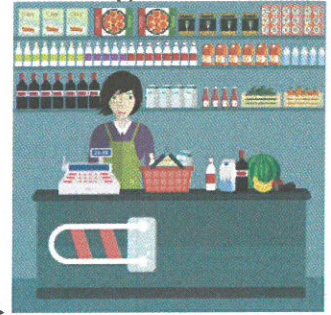
Aggregate Turnover
10 L/20 L/40 L

Small Dealer



Aggregate Turnover
1.5 Cr./75 L/50 L

Big Dealer



Threshold

Composition

Normal

Assessee	Mfg	Trader	SP	Mfg	Trader	SP	For all
	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>				

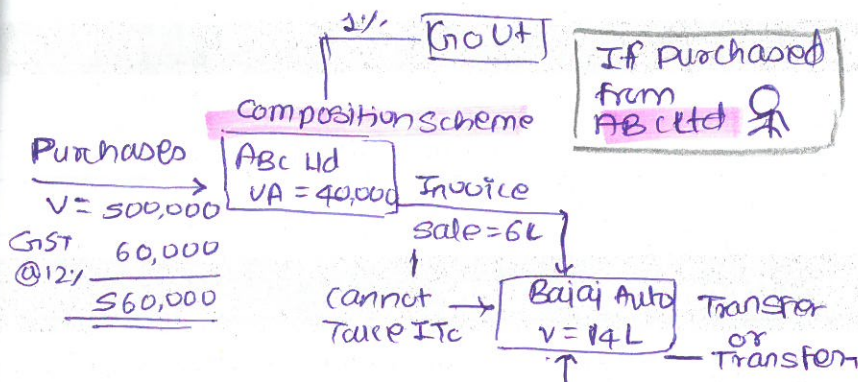
Tax benefits	No need to pay Tax till threshold	Tax Payable @ small %	Tax payable @ Normal Rate 18%/5%/12%/28%
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procedure benefit			
Registration	No need to Register	Registration Required	Req. Required
GST Invoice	Normal Invoice	"Bills of supply"	"Tax Invoice"
GST Records	NOT required	Need to maintained but at limited extent	All GST records
ITC	No ITC	No ITC	ITC allowed
GST Return	No need to file GST R-1	GST Return (GSTR-4) Monthly and Payment informed (CMP-08) on quarterly	Monthly / Quarterly (GSTR-1 / GSTR-3B) return

Threshold and Composition limit

Particulars	2017-18	18-19	19-20	20-21	21-22	22-23
Agg. T/o	No Business T/O=0	₹80L	₹200L	₹1	₹150L	₹180L
less: threshold		(20L)	-	-	-	-
Taxable person		60L	200	₹1	150L	180L
T/O under composition Scheme		60L	150L	-	150L	150L
GST under composition scheme i.e. 1%		60,000	1.5L	-	1.5L	1.5L
T/o under normal scheme		-	50L	₹1	-	30L
GST payable under Normal Scheme @ 12%		-	6L	0.12	-	36,000

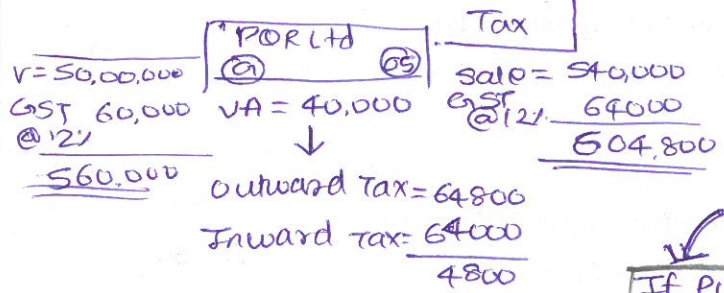
$600,000 \times 1\% = 6000^6$



If Purchased from **ABC Ltd**

Conclude: If Buyer is R/P and under normal scheme then he will not prefer to buy C/Ls from composition Dealer.

Thus, we can say that composition scheme is most beneficial in case where dominant transaction of supplier are B2C



If Purchased from **POR Ltd**

In given case Bajaj Auto will prefer to buy C/Ls from **POR Ltd**

Types of Composition Scheme under GST:-

Section 10 stipulates 2 types of composition schemes:-

1. Composition scheme provided u/s 10(1) & 10(2)	Composition scheme for Goods
2. Composition scheme provided u/s 10(2A)	Composition scheme for Services

Section 10 - Composition Levy

Sec 10(1):- Eligibility criteria for composition Levy

A **registered person**, whose **aggregate turnover** in the **preceding financial year** did not exceed **₹1.5Cr.** ^{optional} **may opt to pay tax under composition levy.**

Exception:- In case of Special category State following limit is applicable:-

Special category of State	Threshold limit of composition levy
> Arunachal Pradesh > Manipur > Meghalaya > Mizoram > Nagaland > Sikkim > Tripura > Uttarakhand	75 Lakh
> Assam > Himachal Pradesh > Jammu & Kashmir	1.5 Cr.

Important Comment:-

- Please note that the **scheme is optional** i.e. one may not pay tax under the composition scheme even if he is otherwise eligible to do so.
- The tax payable u/s 10 is in lieu of tax payable u/s 9(1). Therefore, he is relieved of his tax liability as a normal taxpayer. (This insertion was just clarificatory in nature).

Notified Rate of GST under 10(1) scheme

Sr. No	Categories of registered person	CGST Rate	SGST/UTGST Rate	Total Rate	Basis of Calculation
1	Manufacturers (SOA)	0.5%	0.5%	1%	Turnover in State or UT (Taxable Supply exempt, Nil Rate)
2	Suppliers making supplies referred to in Clause (b) of para 6 of schedule II Example - Restaurant, Catering, Mess or any other service contract where goods as food or drink is supplied for human consumption	2.50%	2.50%	5%	Turnover in State or UT (TS; exempt, Nil Rate)
3	Other Suppliers (Traders) (SOA)	0.50%	0.50%	1%	Turnover of taxable supplies of goods & services in State or UT (TS)

Example :- Taxpayer 'Bholaram' is a trader (who has opted for composition levy for goods) of both taxable and exempted goods (goods exempted by way of a notification).

It has one retail showroom - A1 in Punjab & another retail showroom - A2 in Rajasthan, both selling taxable as well as exempted goods. Total turnover (including taxable and exempted goods) of the two showrooms in last FY was ₹115 lakh (₹85 lakh + ₹30 lakh).

Turnover of showrooms A1 and A2 in the first quarter of current financial year is ₹35 lakh [A1 - ₹15 lakh (₹5 lakh from sale of taxable goods & ₹10 lakh from sale of exempted goods) and A2 - ₹20 lakh (₹10 lakh from sale of taxable goods & ₹10 lakh from sale of exempted goods)]. Compute the amount payable under composition levy under section 10(1) & 10(2) of the CGST Act, 2017 by 'Bholaram'.

Answer:-

Retail Showroom	Location	Turnover in previous FY	Taxable turnover in 1st Qtr of this FY	Total tax @ 1%
A1	Punjab	₹85L	₹5L	₹5,000
A2	Rajasthan	₹30L	₹10L	₹10,000
		₹115L	₹15L	₹15,000

Sec 10(3) - Threshold of composition levy in CFY

The option availed of by a registered person under sub-section (1) shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section (1). (i.e. ₹1.5 Cr./₹75L)

Diagram 1:-

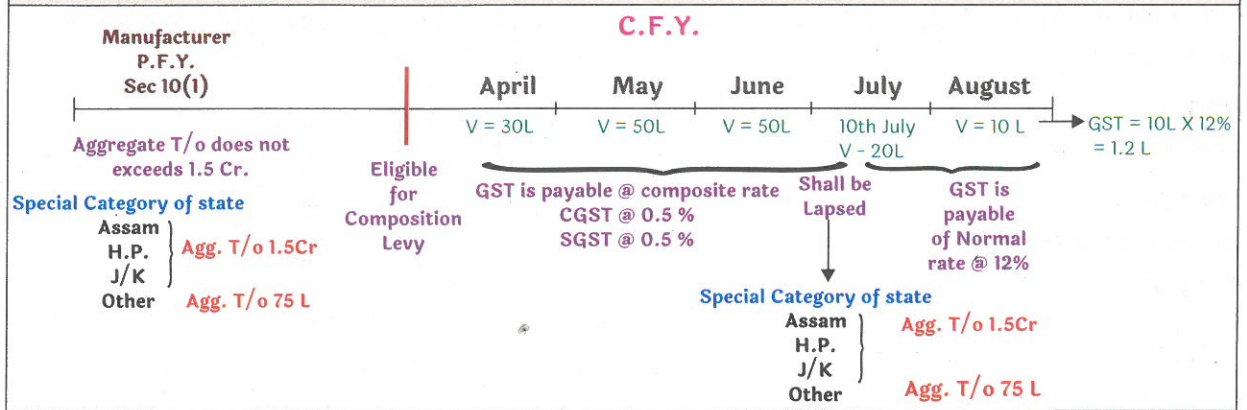
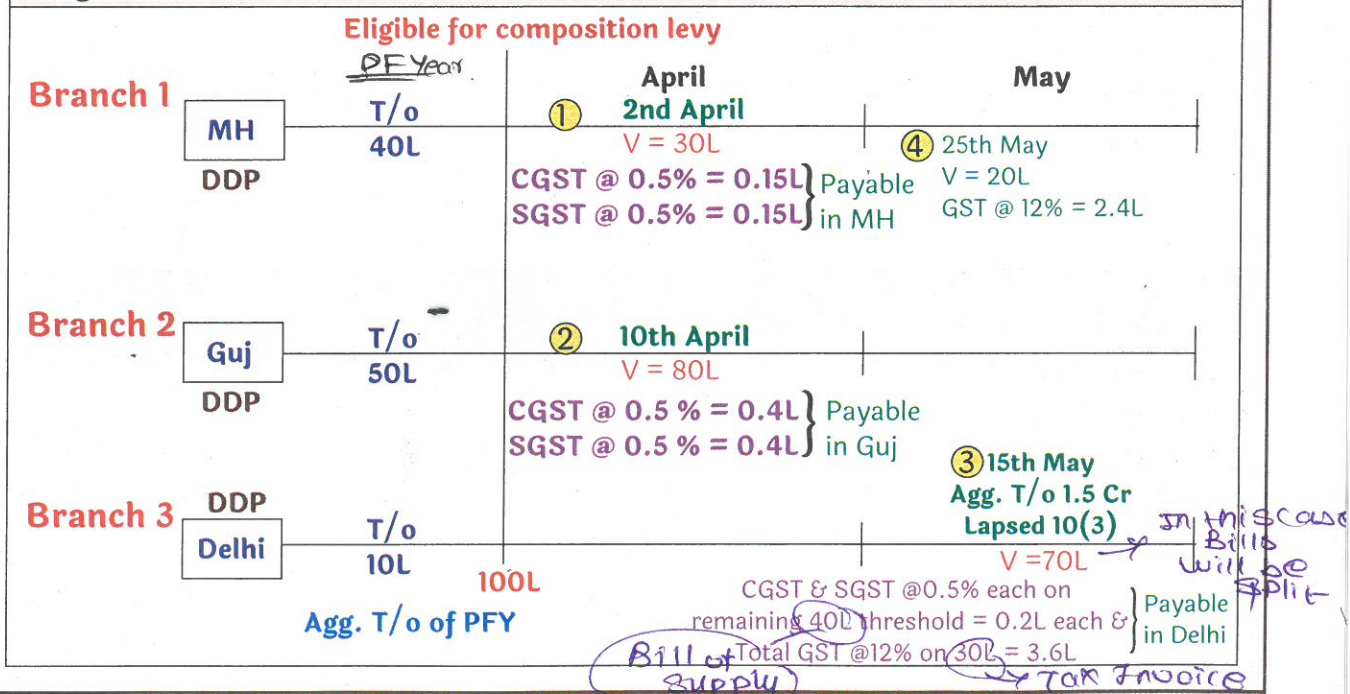
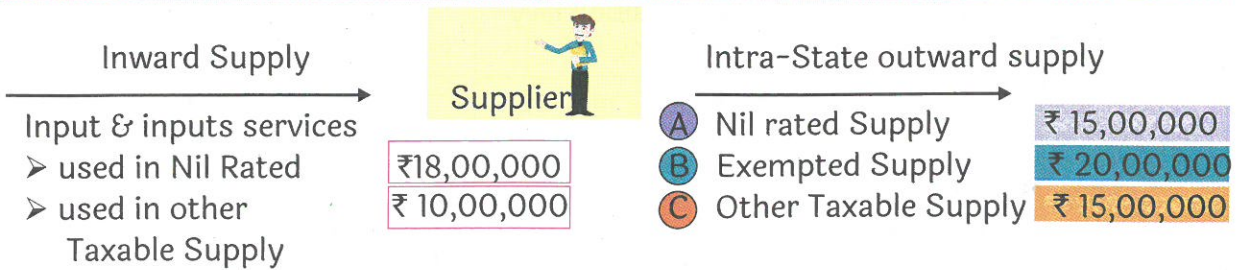


Diagram 2:-



Calculation of GST liability without composition levy

Example 1 : If supplier does not opt for composition



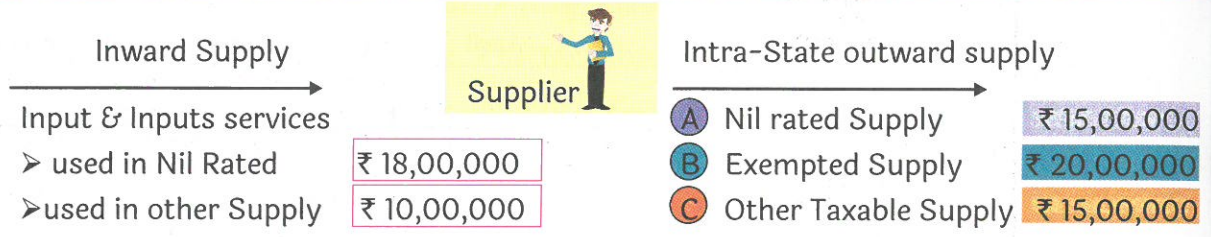
Calculate net tax payable. If Input & output rate of GST is 12%

Answer:-

Particulars	Value of supply (₹)	GST (₹)
1) Outward Supply		
➤ Nil Rated supply	15,00,000	-
➤ Exempted supply	20,00,000	-
➤ Other Taxable Supply	15,00,000	1,80,000
2) ITC		
➤ Nil Rated supply	18,00,000	-
➤ Other taxable supply	10,00,000	(1,20,000)
Therefore Net Tax Payable= 60,000		

Calculation of GST liability under composition levy for manufacturer & Trader

Example 2 : If supplier opt for composition



Calculate net tax payable. If Input Tax rate of GST is 12% & Composite Rate is 1%

Answer:-

Particulars	Manufacturer (₹)	Trader (₹)
➤ Nil Rated Supply	15,00,000	-
➤ Exempted Supply	20,00,000	-
➤ Other Taxable	15,00,000	15,00,000
Turnover	50,00,000	15,00,000
GST @ 1%	50,000	15,000

Note: Composition scheme is not available to Inter state supply & non-taxable supply

Full GST is payable under Reverse Charge by Composition Dealer

Example 3:- GST is payable at normal rate under RCM even if the taxable person is opting for composition scheme



Calculate net tax payable. If Input Tax rate of GST is 18% & Composite Rate is 1%

Answer:-

Particulars	CGST (₹)	SGST (₹)
Tax Payable under composition levy on outward supply @ 0.5 %	12,500	12,500
Tax Payable under RCM @ 18%	1,62,000	1,62,000
Total	1,74,500	1,74,500

Note : Inward supplies taxable under RCM are taxed at normal rates only & credit of such GST is not available for payment of tax under composition scheme

Proviso to Sec 10(2) : Scheme applies to all registered persons with same PAN

All registered persons having the same Permanent Account Number (PAN) have to opt for composition scheme u/s 10(1). If any of them opts for normal scheme, then all such other persons also become ineligible for composition scheme.

How to Compute Aggregate Turnover for determining eligibility of composition scheme if person having his one of the establishment in special categories of state?

Ans:- One may have a doubt in case where a person who has business established in one of the special category states and other states, say in Manipur and Maharashtra, what would be the Aggregate Turnover threshold for composition levy. Whether it would be ₹ 75L or ₹ 150L? In such cases, harmonious interpretation shall be done to ensure that both the conditions are satisfied. Therefore, in such cases the Aggregate Turnover threshold limit will be ₹ 75L.

P4: Mohan enterprises has registered business verticals in Maharashtra and Delhi, its aggregate turnover of Maharashtra business vertical is ₹ 50 L and Delhi business vertical is ₹ 10 L in PFY. It wishes to pay tax under composition levy in Maharashtra while under normal levy in Delhi.

- a) You are required to advice Mohan enterprises whether it can do so?
- b) What will be your answer in above case, if one registered unit of Mohan enterprises is located in Maharashtra and another registered unit is located in Assam.

2nd proviso to sec 10(1): Marginal Service

Composition Scheme for Goods u/s 10(1) and Marginal Supply of Services:

- ⇒ Composition scheme u/s 10(1) primarily covers supply of goods by manufacture or trader and restaurant services.
- ⇒ Some businesses may have minor involvement in other services.
- ⇒ The second proviso to section 10(1) allows for marginal supply of services along with goods and/or restaurant services.
- ⇒ This marginal limit for supply of services is available in addition to restaurant services.

Specified Value for Marginal Supply:

The specified value should not exceed either

- ⇒ 10% of the turnover in a State/ UT in the preceding financial year or
- ⇒ ₹ 5 lakh,

whichever is higher.

Example 1:-

Turnover in the state/UT in the preceding FY (in ₹)	10% of such turnover (in ₹)	5 Lakh Rupees	Maximum amount of services which may be supplied by the manufacturer/trader during the current FY (in ₹)
10,00,000	1,00,000	5,00,000	5,00,000
20,00,000	2,00,000	5,00,000	5,00,000
60,00,000	6,00,000	5,00,000	6,00,000

Example 2:- Mohit is engaged in supply of goods. His turnover in preceding FY is ₹ 60 lakh. Since his aggregate turnover in the preceding FY does not exceed ₹ 1.5 crore, he is eligible for composition scheme for goods in current FY. Further, in current FY, he can supply services [other than restaurant services] upto a value of not exceeding:

- (a) 10% of ₹ 60 lakh, i.e. ₹ 6 lakh or
(b) ₹ 5 lakh,

whichever is higher.

Thus, he can supply services upto a value of ₹ 6 lakh in current FY. If the value of services supplied exceeds ₹ 6 lakh, he becomes ineligible for the composition scheme for goods and has to opt out of the same.

Marginal Services

Explanation

For the purposes of second proviso, the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or **discount shall not be taken into account** for determining the value of turnover in a State or Union territory." (Detailed discussion at the end of this chapter)

ST

P5 :- M/s Colgate Pvt. Ltd., a manufacturer, having the only registered place of business in the state of Maharashtra. Determine the eligibility to opt for composition scheme and also compute tax liability of M/s Colgate Pvt. Ltd. on the basis of following information assuming that total value of service provided by the company in Preceding Financial Year (PFY) is within the allowed limit of section 10(1) except interest and restaurant service:-

Sr.No.	Particulars	PFY 20XX-YY (₹ in lakhs)	1st Qtr. 20YY-ZZ (₹ in lakhs)
1	Value of taxable supply of goods	80	25
2	Value of exempt supply of goods	30	7
3	Value of taxable supply of service	5	1
4	Value of exempt supply of Service	3	0.5
5	Value of restaurant & catering services	10	1.5
6	Interest on loan/advances /deposits	4	1.2

Calculate GST payable under composition scheme for 1st quarter of Current Financial Year (CFY) 20YY-ZZ.

SB

P6: Mr. X is eligible under composition scheme in CFY XX-YY. Following details are given for CFY.

- a) Intra state Supply (Taxable) ₹25,00,000
b) Intra state Supply (Wholly Exempt) ₹10,00,000
c) Mr. X has taken legal service (Inward Supply) from individual advocate for ₹5,00,000 (applicable GST @ 18%)

Whether Mr. X is eligible for composition levy? *Yes, Already given in problem*
If yes, then calculate tax liability of current FY XX-YY if Mr. X is trader.

*Legal
Income of
Trader
2% of 75
Under PCM
is not
available*

SB

P7: PQR Ltd. is eligible for composition scheme on the basis of aggregate turnover in PFY XX-YY. If furnishes the following information for FY YY-ZZ:

Factory	Location	Amount (₹)
1	Intra-State supply of goods A	40,00,000
2	Intra-state supply of goods B (Nil Rate)	20,00,000
3	Intra- State supply of goods C (Wholly Exempted)	10,00,000

- (i) Calculate GST liability under composition scheme if PQR Ltd. is a manufacturer.
(ii) In above case, would your answer differ if PQR Ltd. is a trader

<p>Composition Levy under Sec 10(2A)</p>	<p>Sec 10(2A) : Eligibility Criteria and Condition for those who are not eligible for composition Scheme under Sec 10 (1) [predominantly for supplier of service]</p> <p>A registered person, not eligible to opt to pay tax under sub-section (1) and sub-section (2), whose aggregate turnover in the preceding financial year did not exceed ₹50 lakh, may opt to pay tax under composition levy.</p> <p>Proviso to section 10(2A):- All registered persons having the same Permanent Account Number (PAN) have to opt for composition scheme u/s 10(2A). If any of them opts for normal scheme, then all such other persons also become ineligible for composition scheme.</p> <p>Note:- In case of special category of state, same threshold limit of composition levy u/s 10(2A) is applicable</p>
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<p>Notified Rate of GST u/s 10(2A)</p>	<p>6% (CGST 3% and SGST 3%) of the turnover in State or turnover in Union territory</p>
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<p>Sec 10(3) - Threshold of composition levy in CFY</p> <p>Eligible Person u/s 10(2A) Scheme - (1) Service Provider exclusively providing services (2) Trader or manufacturer or service provider who is not eligible for u/s 10(1) i.e. Service is predominant more than marginal limit</p>	<p>The option availed of by a registered person under Sub-section (2A) shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified Sub-section (2A) (i.e. ₹50 lakh)</p> <p>Diagram 1:-</p>
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Conditions for Composition Levy

<p>Sec 10(2): Person opting for composition levy u/s 10(1)</p>	<p>Sec 10(2A): Person opting for composition levy u/s 10(2A)</p>
<p>1) He is not engaged in the supply of Services unless allowed u/s 10(1)</p> <p>Note:- Following services are allowed u/s 10(1) along with SOG</p> <ul style="list-style-type: none"> a) Restaurant or catering etc. b) Marginal supply of services c) Interest on loan or advances on deposits 	<p>Not Applicable</p>

P8 : Finolex Ltd (MH branch), sells electrical cables, motor and wire & also undertakes repair of switches, motor sets .The Aggregate Turnover during preceding financial 2024-25 year from supply of goods & services was ₹ 70 lakhs. The T/O of 1st Quarter of C.F.Y. 2024-25 for supply of goods is ₹ 30 lakhs and repairing service 15 lakhs.

Whether Finolex Ltd., is eligible for composition scheme & supply of services in C.F.Y. Advice.

<p>P9: Mr. Amar is running a consultancy firm & also a readymade garment showroom which are registered under same PAN. Turnover of the showroom is ₹55L & receipt of consultancy firm is ₹15L in PFY</p> <p>a) Whether Mr. Amar is eligible for composition scheme u/s 10 of CGST Act</p> <p>b) Is there any difference if Mr. Amar wants to opt for composition scheme only for showroom.</p> <p>c) If instead of consulting agency, Mr. Amar is running a Restaurant, whether he is eligible for composition?</p>	
<p>2) He is not engaged in making any supply of goods or services which are not leviable to tax under CGST Act</p> <p>Note:- Person who is engaged in supply of alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor-spirit, natural gas & aviation turbine fuel, can't opt for composition scheme for any of his other GST supplies.</p>	<p>He is not engaged in making any supply of goods or services which are not leviable to tax under CGST Act</p> <p>Note: Restriction only on Non-Taxable supply and not on exempt or Nil Rate supply.</p>
<p>P10: Mr. Jay is dealer who is selling taxable goods, exempted goods and non-taxable goods (i.e. Liquor). His turnover in the current financial year is ₹35 lakhs, ₹10 lakhs, ₹15 lakhs goods which are leviable to GST exempted and non-taxable respectively. Whether Mr. Jay is eligible for composition Scheme (Assume Agg. T/O of P.F.Y. less than 1.5 Cr.)? No, Hint (10(2))</p> <p>P11: Surya Ltd. is engaged in restaurant services by providing restaurant food & wines. Whether Surya Ltd. is liable for composition scheme if aggregate turnover of Surya Ltd. is ₹80L in preceding financial year? No, 10(2) → condition (2)</p>	
<p>3) He is not engaged in making any inter-State outward supplies of goods or services</p> <p>Note:-</p> <ul style="list-style-type: none"> Stock transfers to own branches outside the state is also not allowed as it is also a ^{inter-state} supply as per the GST law. However, there is no restriction on ^{inter-state} inward supplies. export → outward supply → inter state 	<p>He is not engaged in making any inter-State outward supplies of goods or services</p>
<p>P12: Mr. C of Maharashtra is a retailer dealing with cell phones. He supplies goods to the person located in Maharashtra and Goa. Aggregate turnover in the preceding financial year is ₹45 lakhs. Mr. C wants to opt for composition scheme in the current financial year.</p> <p>P13: Mr. Sugam is a manufacturer, having 2 factories in Punjab and Haryana. He supplies goods from Punjab to Haryana in their own factories. Whether Mr. Sugam is liable for composition scheme. No, → 10(2) Inter-State outward supply</p> <p>P14: VB Ltd. had made inter-state inward supply of goods of ₹30,00,000 in CFY and make only intra-state outward supply. Whether VB Ltd. is eligible for composition scheme? Restriction only inter State outward supply and not inter state inward supply</p>	
<p>4) He is not engaged in making any supply of goods or services through an ECO who is required to collect tax at source u/s 52</p> <p>Note:- Now the restriction is only on services, that means composition dealer can make supply of goods through such ECO</p>	<p>He is not engaged in making any supply of goods or services through an ECO who is required to collect tax at source u/s 52</p>

P15 : Mufti is a trader who sells his ready-made clothes online on Amazon India (an Electronic Commerce Operator). He received an order for ₹14,00,000 in the previous year. Mufti also supplied goods from there out lets. Aggregate turnover of the Company in the previous year was ₹21,00,000. Mufti is eligible for composition scheme.

5) **He is not manufacturer of goods notified by Govt. on the recommendations of Council which are as follows**

Notified goods by List learn karo

- Ice cream & other edible ice, whether or not containing cocoa
- Pan Masala
- Aerated Water
- All goods, i.e. Tobacco and manufactured tobacco substitutes
- Fly ash bricks; Fly ash aggregates; Fly ash blocks
- Bricks of fossil meals or similar siliceous earths
- Building bricks
- Earthen or roofing tiles

He is not a manufacturer of notified goods (mentioned below) or supplier of such services as may be notified by Govt. on recommendation of Council.

Notified goods

- Ice cream & other edible ice, whether or not containing cocoa
- Pan Masala
- Aerated Water → cold drink / mineral water
- All goods, i.e. Tobacco and manufactured tobacco substitutes

These items are not notified for restrictions u/s 10(2A) therefore we can say that a manufacturer item can opt for CL if all conditions of 10(2A) are fulfilled

Note:- The restriction is only for "manufacturers of notified goods". So, a person who is only trading in such goods will still be allowed to opt for composition scheme.

P16: Mr. Spiderman is a trader engaged in supply of Ice-cream during XX-XY. His total value of supplies was ₹90 L in PFY XX-XY.

- a) Whether Mr. Spiderman is eligible for composition scheme? *Yes, CL available, restriction only on manufacturer and not on trader*
- b) Would your answer differ, if Mr. Spiderman is a manufacturer of Ice-Cream. *Not eligible for CL*

6) **He is neither a casual taxable person (CTP) nor a non-resident taxable person (NRTP)**

He is neither a casual taxable person (CTP) nor a non-resident taxable person (NRTP) *Detail Discussion Later*

P17: Mr A. is an artist. Trade Fair is organised by Bombay Exhibition in Mumbai. Mr. A wants to display & sell his paintings in Trade Fair. His turnover in Trade Fair is ₹15 lakhs. *No. BCOZ, MTA is CTP*
Whether Mr. A is eligible to opt for Composition scheme

Important Note: Above Conditions are applicable only in C.F.Y. & not in P.F.Y

Common Conditions for Composition Levy u/s 10(1) & 10(2A)

Sec 10(4) : Cannot collect the Tax as well as no ITC is available

A taxable person to whom the provisions of section 10(1) or 10(2A) apply,

- shall not collect any tax from the recipient on supplies made by him
- shall not be entitled to any credit of input tax.

Comment :- Composition taxpayers u/s 10(1) or 10(2A) shall not collect composition tax from their customers i.e. they have to pay tax from their own pocket and therefore cannot collect any amount in the name of tax from its customers. Because of this reason, they cannot issue a tax invoice and have to issue a Bill of supply instead.

Sec 10(5) : Recovery and Penalty

If the proper officer has reasons to believe that a taxable person has paid tax u/s 10(1)/(2A) despite not being eligible, then such person shall be liable to:-

- pay tax payable by him under any other provisions of CGST Act & penalty.

The provisions of sec 73 / sec 74 shall, mutatis mutandis, apply for determination of tax & penalty

(Explanation to sec-10)

While computing the threshold limit of ₹ 1.5 crore/ ₹ 75 lakh / ₹ 50 lakh, inclusions in and exclusions from 'aggregate turnover' are as follows:

Includes	Excludes
<p>Value of all outward supplies</p> <ul style="list-style-type: none">⇒ Taxable supplies⇒ Exempt supplies⇒ Exports*⇒ Inter-State supplies* <p>of persons having the same PAN be computed on all India basis.</p> <p>These also includes</p>	<ul style="list-style-type: none">⇒ CGST/ SGST/ UTGST/ IGST/ Cess⇒ Value of inward supplies on which tax is payable under reverse charge.⇒ <u>Interest or Discount (value of exempt supply of service) on loans or advances and deposits</u> (detailed discussion at the end of this chapter) <p>↳ This exclusion of <u>INT/Discount</u> only for C/L</p>

Value of supplies made by registered person from 1st April of a FY up to the date when he becomes liable for registration under CGST Act

(i.e. T/O during thresholds for registration i.e. 10 lakhs / 40L / 20L included)

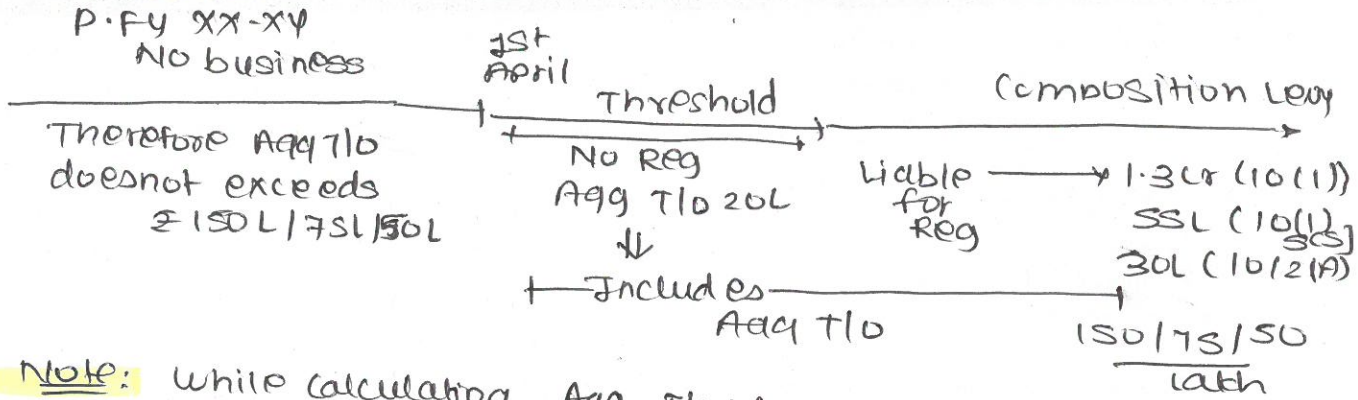
***Note:** The value of exports and inter-State supplies are relevant only while determining the aggregate turnover of the preceding FY. These values are not relevant for determining the aggregate turnover of the current FY in which the composition supplier has opted for composition levy as he is not permitted to make inter-State supplies and exports in the said FY.

While computing the Turnover in a State/UT to pay tax under composition levy, inclusions and exclusions are as follows:

Includes	Excludes
<ul style="list-style-type: none">⇒ All taxable supplies and exempt supplies made within the State/UT <p>(While computing turnover in a State/UT of a supplier, other than manufacturer and restaurant service provider, eligible for composition levy for goods [eg-trader], the exempt supplies will not be taken into consideration)</p>	<ul style="list-style-type: none">⇒ CGST/ SGST/ UTGST/ IGST/ Cess⇒ Value of inward supplies on which tax is payable under reverse charge.⇒ <u>Value of supplies from the first day of April of a FY up to the date when such person becomes liable for registration under CGST Act</u> (T/O of threshold exclude)⇒ <u>Interest or Discount (value of exempt service) on loan advances and deposits</u> (detailed discussion at the end of this chapter)

Aggregate turnover in context of C.L

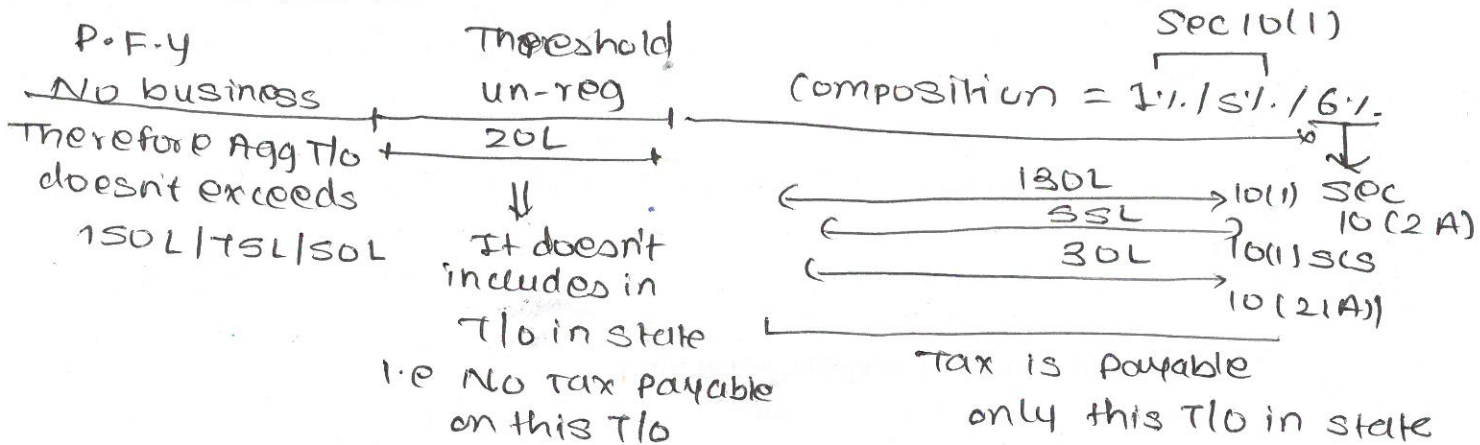
Diagram 1:



Note: While calculating Agg Tlo of PFY or CFY excludes Interest or discount on loan / Advances / Deposits
Discount: cheque discount / bills of exchange, discount etc.
Early deduction of Jnt

Turnover in state in context of C.L

Diagram 2



Note: While computing Tlo in state or UT excludes Jnt discount on loan / Advances / Deposits.

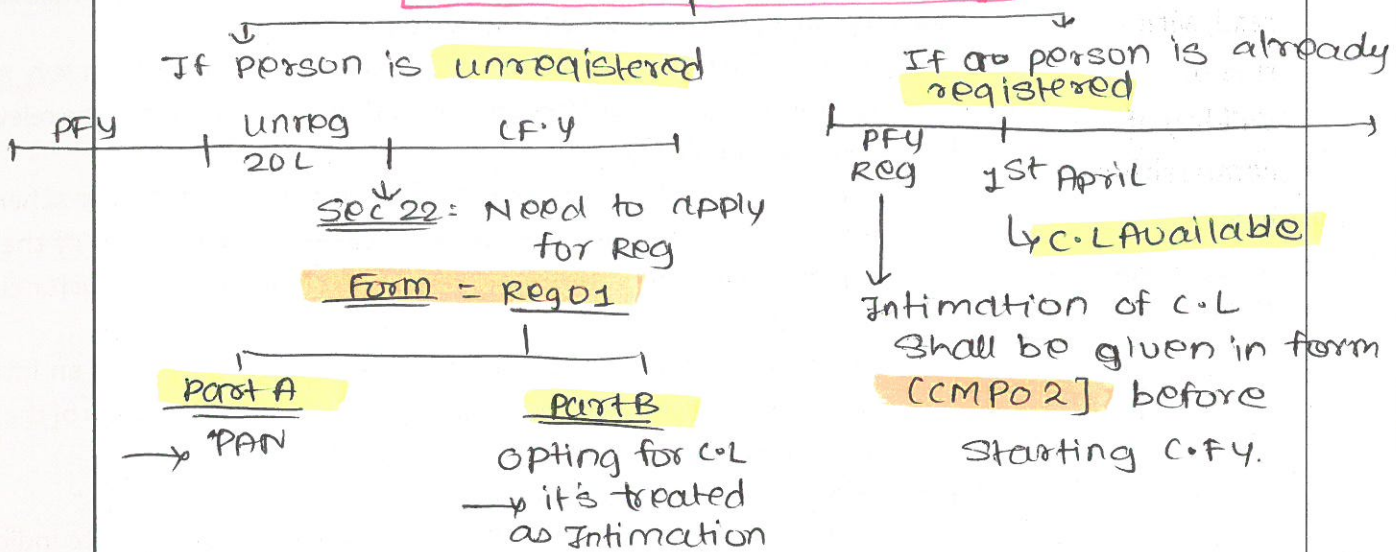
Answers to some Important questions:-

1	<p>'Aggregate turnover' and 'turnover' / 'turnover of taxable supplies' are relevant for what u/s 10?</p> <p>⇒ Aggregate t/o' of preceding FY is relevant for determining eligibility to avail composition scheme. But, the tax is to be paid by applying applicable rates on the 'turnover' / 'turnover of taxable supplies' in a particular tax period.</p>
2	<p>Whether the sec 10(2) and 10(2A) conditions are to be satisfied for P.F.Y. or for C.F.Y. unless otherwise specified in law?</p> <p>⇒ They are to be satisfied in C.F.Y. only.</p>
3	<p>Whether GST is payable at normal rate under RCM if the taxable person is opting for composition scheme?</p> <p>⇒ Section begins with a non-obstante clause i.e. it overrides other provisions of the act but is subject to Sec 9(3)/(4).</p> <p>⇒ This means that the benefit of a flat rate of tax is only on outward supplies and not on inward supplies liable to reverse charge.</p> <p>⇒ Inward supplies taxable under RCM are taxed at normal rates only.</p>

CGST RULES, 2017:-

Rules	Description									
<p>Rule 3 & 4:-</p> <p>Intimation of Composition levy</p> <p>Draw Chart</p>	<p>Intimation by person applying for registration:-</p> <ul style="list-style-type: none"> ⇒ Any person who is not registered and applies for registration may give an option to pay tax under composition levy in Part B of the registration form, viz., Form GST REG-01. ⇒ The same shall be considered as an intimation to pay tax under composition levy. ⇒ Such intimation shall be considered only after the grant of registration to the applicant. ⇒ The option to pay tax under composition levy shall be effective from the date from which registration is effective. <p>Intimation by a registered person:-</p> <ul style="list-style-type: none"> ⇒ A registered person who opts to pay tax under composition levy scheme shall electronically file an intimation in Form GST CMP-02 on the GST Common Portal [www.gst.gov.in] prior to the commencement of F.Y. for which said option is exercised. ⇒ He shall also furnish statement in Form GST ITC-3 as per rule 44(4) within 60 days from the commencement of the relevant F.Y. for details of ITC relating to inputs lying in stock, inputs contained in semi-finished/ finished goods [Discussed in detail in ITC chapter]. ⇒ Any intimation in respect of any place of business in a State/UT shall be deemed to be an intimation in respect of all other places of business registered on the same PAN. ⇒ The option to pay tax under composition levy shall be effective from the beginning of the F.Y. <p>Summary:-</p> <table border="1"> <thead> <tr> <th>Category of persons</th> <th>When to opt for composition</th> <th>Scheme is effective from</th> </tr> </thead> <tbody> <tr> <td>Person applying for new registration</td> <td>at the time of applying for registration (any time of the F.Y.)</td> <td>date from which registration is effective.</td> </tr> <tr> <td>A registered person</td> <td>Prior to the beginning of F.Y.</td> <td>the beginning of said F.Y.</td> </tr> </tbody> </table>	Category of persons	When to opt for composition	Scheme is effective from	Person applying for new registration	at the time of applying for registration (any time of the F.Y.)	date from which registration is effective.	A registered person	Prior to the beginning of F.Y.	the beginning of said F.Y.
Category of persons	When to opt for composition	Scheme is effective from								
Person applying for new registration	at the time of applying for registration (any time of the F.Y.)	date from which registration is effective.								
A registered person	Prior to the beginning of F.Y.	the beginning of said F.Y.								

Intimation for opting C.L



Repetition of words under Rule 5 which we have seen u/s 10

Rule 5:- Conditions and restrictions for composition levy

- ⇒ **Person Not Engaged in Manufacture of Notified Goods:** Person was not engaged in manufacture of goods notified u/s 10(2)(e) **during the P.F.Y.** (as discussed in Sec 10(2)(e)).
- ⇒ **Tax on Inward Supplies under RCM:** He shall pay tax u/s 9(3)/9(4) on inward supply of goods &/or services taxable under RCM (at normal tax rates applicable & not at composition rates).
- ⇒ **Not a CTP or NRTP:** He is neither a CTP nor a NRTP.
- ⇒ **Mention on Bill of Supply and Notice/ Signboard:**
 - He shall mention the words "**composition taxable person, not eligible to collect tax on supplies**" at the top of the bill of supply issued by him &
 - He shall mention the words "**composition taxable person**" on every notice or signboard displayed at a prominent place at his principal place of business and at every additional place or places of business.
- ⇒ **Reverse Charge on Goods in Stock:** Further, where the goods held in stock by him are liable to be taxed under reverse charge u/s 9(4) (i.e. not purchased from registered person), the tax thereon has been paid under reverse charge u/s 9(4).

From
2 marks
& question

Sec 10(3)
read with
rule 6:
Validity of
composition
levy
(Circular.No.
77/51/2018)

- I **Withdrawal from the composition scheme by a taxpayer who ceases to satisfy any of the prescribed conditions:-**
- **Validity:** The option exercised to pay tax under composition levy shall remain valid so long as he **satisfies all the conditions** mentioned in the relevant section and rules (as discussed above).
 - **Transition to Regular Scheme:** Tax to be paid under regular scheme u/s 9(1) from the day the registered person **ceases to satisfy any** of the conditions prescribed for composition levy & thereafter issue tax invoice for every taxable supply made.
 - **Intimation for Withdrawal:** Further, he is required to file an intimation for withdrawal from the scheme in prescribed form within 7 days of the occurrence of such event.
 - **Effective Date of Withdrawal:**
 - The effective date of withdrawal is determined by the date indicated in the intimation.
 - The indicated date cannot be earlier than the start of the financial year in which the intimation is filed.

- II **Withdrawal from the composition scheme by a taxpayer who intends to withdraw from the said scheme: (voluntary withdraw)**
- **Application for withdrawal:-** The registered person who intends to withdraw from the scheme shall file an application in prescribed form before the date of such withdrawal.
 - **Effective Date of withdrawal:-**
 - Such withdrawal from scheme shall be effective from the date indicated by him in his application.
 - But, it should not be prior to the commencement of the F.Y. in which such application for withdrawal is being filed.
- Denial of option to pay tax under the composition scheme by tax authorities:-**
- **Issue of SCN:** Where the proper officer has reasons to believe that the registered person:-
 - was not eligible to pay tax under composition scheme or
 - has contravened the provisions of the CGST Act or provisions of this Chapter he may issue a show cause notice (SCN) to such person.
 - **Passing of order :** Upon receipt of reply to SCN, he shall pass an order either accepting the reply, or denying the option to pay tax under composition scheme from:-
 - the date of the option or
 - the date of the event concerning such contravention.
 - **Effective date of such denial:-** In case of denial of option to pay tax under composition levy by the tax authorities, the effective date of such denial shall be from a date, including any retrospective date, as may be determined by tax authorities. But, such effective date shall not be prior to date of contravention of provisions of CGST Act/ Rules.
 - **Furnishing of statement:** In each of the above cases, such person may furnish a statement in prescribed form containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn/denied, within a period of 30 days from the date from which the option is withdrawn/ or from the date of the order denying composition scheme.

Optional
(Not in
Exam)

Other Rules applicable to a composition supplier:-

Rules	Description
Registration	
11(1)(b)	A person can register himself to pay tax either u/s 10 or u/s 9 for all his registrations under same PAN. He cannot opt to pay tax for some registrations u/s 10 and for some u/s 9 at the same time. <i>Regular scheme → GSTR-1 अगले महीने की 11 तारीख</i>
Return:- (detailed discussion in return chapter)	
62(1)(i)	All composition taxpayers shall file a statement in FORM GST CMP-08 on a quarterly basis <i>CMP-08 → 20th तारीख</i> ↳ till 18th of the month following the quarter. <i>Composition → Quarterly and अगले महीने की 11 तारीख</i>
62(1)(ii)	All composition taxpayers shall file a Return (annual basis) in FORM GSTR-4 till <i>CMP-08</i> ↳ 30th day of the month of April following the end of such financial year.
Annual Return:-	
Rule 80	The annual return for a composition taxpayer has to be furnished in FORM GSTR-9A .

Regarding applicability of composition scheme to a registered person supplying services upto a limit

Clarification – It is clarified that the value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account –

- (i) for determining the eligibility for composition scheme under second proviso to section 10(1);
- (ii) in computing aggregate turnover in order to determine eligibility for composition scheme.

PFY		C.FY		C.L Lapsed
① Aqg Tlo (for deciding eligibility of C-L)	xx	SOA SOB	↓	Aqg Tlo upto xxx
<u>less</u> Int on Discount (xx)	xx	Tlo in State (for Payment of GST)		(150L/75L 50L)
		<u>less</u> Int / discount (xx)		<u>less</u> Int on Discount (xxx)
② Tlo in State (for calculating marginal of service)	xx	Tlo in state (1% / 5% / 6%)		xxx
<u>less</u> Interest / Discount (xx)				
Tlo in State	xx			

- Note:**
- ① Int / Discount on received (Income) given on loan / Advances / Deposits is exempt supply.
 - ② Normally, exempt supply is included in Aggregate Tlo as well as Tlo in State, But for C.L such exempt supply i.e. Int / Discount is excluded

Implication of Interest or Discounting on loan/Adv./Deposits [Applicable for 10(1) & 10(2A)]

Situation	Example								
Agg. T/O of P.F.Y. [for deciding eligibility of composition levy]	<p>Aggregate T/O of XYZ Ltd. in P.F.Y. is ₹152 Lakhs which includes interest on Loan/Adv./Deposits ₹ 3 lakhs. Whether composition levy is available in C.F.Y?</p> <p>Ans :- Agg.T/O : 152L - 3L = 149 L Hence, XYZ Ltd. is eligible for composition Levy.</p> <p>Note :- As per explanation 1 to sec 10, Agg. T/O shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.</p>								
Agg. T/O of C.F.Y. [for deciding withdrawal of composition Levy in C.F.Y.]	<p>XYZ Ltd. has opted composition levy in C.F.Y. [as T/O of P.F.Y. is less than 150L/75L/50L]. Till September of C.F.Y. Agg. T/O of XYZ Ltd. is ₹155 Lakhs which includes ₹10 lakhs for interest on loan /adv./deposits, state whether composition levy of XYZ Ltd. has lapsed in month of September or still it can pay tax under composition Levy?</p> <p>Ans:- Agg. T/O : ₹155 L - ₹10 L = ₹145Lakhs Hence, XYZ Ltd. can still continue composition levy upto 5 lakhs after September.</p> <p>Note :- As per explanation 1 to sec 10, Agg. T/O shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.</p>								
T/O in State/UT [for calculation of composition Tax 1%, 5%, 6% under composition levy]	<p>Manufacturer PQR Ltd. has opted for composition levy in C.F.Y. Its T/O of state in Maharashtra in 1st quarter (April-June) includes</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">a) Taxable supply of goods</td> <td style="text-align: right;">₹20 Lakhs</td> </tr> <tr> <td>b) Taxable supply of service</td> <td style="text-align: right;">₹2 Lakhs</td> </tr> <tr> <td>c) Exempt supply of service</td> <td style="text-align: right;">₹1 Lakh</td> </tr> <tr> <td>d) Interest on Loan/Adv./Deposit</td> <td style="text-align: right;">₹0.5 Lakhs</td> </tr> </table> <p>Calculate GST payable in 1st Quarter under composition levy.</p> <p>Note :- Whatever service provided in 1st quarter is within marginal limit as per proviso 2.</p> <p>Ans:- GST payable = 1% [₹20L+₹2L+₹1L] = ₹ 0.23 lakhs</p> <p>Note:- Interest is excluded while calculating tax.</p> <p>Note :- As per explanation 2 to sec 10, T/O in state/UT shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.</p>	a) Taxable supply of goods	₹20 Lakhs	b) Taxable supply of service	₹2 Lakhs	c) Exempt supply of service	₹1 Lakh	d) Interest on Loan/Adv./Deposit	₹0.5 Lakhs
a) Taxable supply of goods	₹20 Lakhs								
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d) Interest on Loan/Adv./Deposit	₹0.5 Lakhs								
T/O in State/UT of P.F.Y for calculation of marginal limit of service under proviso 2 to 10(1) i.e. 10% of T/O in state/UT ₹ 5 lakhs	<p>ABC Ltd. has turnover in state of Maharashtra in P.F.Y. is ₹80 lakhs. Turnover includes ₹ 7 lakhs for interest on loan/Adv./deposits. Whether ABC Ltd. is eligible for Composition Levy in C.F.Y. ? Also, what is the amount of marginal limit of service available in C.F.Y?</p> <p>Ans:- 1) Agg. T/O = ₹80 Lakhs - ₹7 lakhs = ₹73 lakhs [which is T/O in state also as there is only 1 branch] ABC Ltd. is eligible for composition levy in C.F.Y.</p> <p>2) Marginal limit of service allowed is higher of (₹73L X 10%) or ₹ 5Lakhs = ₹ 7.3 Lakhs</p> <p>Note :- As per Explanation to 2nd proviso to sec 10(1), for the purposes of second proviso, the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account for determining the value of turnover in a State or Union territory.</p>								

For calculation of Marginal limit of service in C.F.Y [i.e. 10% of T/O in state/UT of P.F.Y. or 5 lakhs, Whichever is higher]

Continuing the above Example of ABC Ltd. where marginal limit of C.F.Y for Supply of service = ₹7.3 lakhs

In C.F.Y., till September, ABC Ltd. made supply of goods of ₹75 lakhs and supply of service ₹9 lakhs (includes interest ₹2 lakhs)

Whether Composition Levy stands withdrawn in C.F.Y. or it will be continued?

Ans :- 1) Agg. T/O till Sep = ₹75L + (₹9L - ₹2L) = ₹82 Lakhs

2) Use of marginal limit of service = ₹9L - ₹2L = ₹7 Lakhs

Therefore ABC Ltd. can still continue the composition Levy.

Note :- As per CBIC order No. 2/2019, value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account for determining the eligibility for composition scheme under second proviso to section 10(1);

Page No.

For
Date
Page No.



CHAPTER - 6

VALUE OF SUPPLY

TABLE OF CONTENT

Section	Description
Sec 15	Value of Taxable Supply

Introduction

on basis of value

Ad-Valorem Basis in GST: In GST, tax is payable on ad-valorem basis, meaning a percentage of the value of the supply of goods or services.

Importance of determination of value: It's crucial to know how to determine the value for tax payment, thus provisions for 'value of supply' helps to compute the CGST and SGST/UTGST (intra-State supply) and IGST (inter-State supply).

CGST Act's Section 15: Section 15 of the CGST Act, read with Rules - Determination of Value of Supply under the CGST Rules, 2017, lays out the provisions to determine the value of various supplies to different individuals.

Regular Normal Trade Value: In most regular trade scenarios, the invoice value or transaction value is the taxable amount, as defined under section 15(1).

Determining Value with Rules: If the value cannot ascertainable under section 15(1) and for certain specific transactions, value is determined using Determination of Value of Supply of CGST Rules.

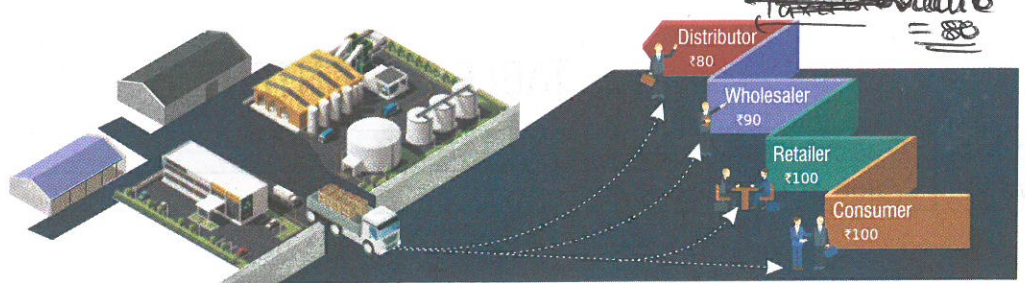
Sec 15 :- Value Of Supply (VOS)

Sub
Sec

1. Sec 15(1) Transaction Value (T.V.)

The VOS of goods or services or both shall be the **Transaction Value (T.V.)**, which is the price actually paid or payable for the said supply of goods or services or both where

- ⇒ Not related party:- the supplier and the recipient of the supply are not related &
- ⇒ Sole consideration:- the price is the sole consideration for the supply. *Transaction*



P1:- Mr. A has sold the goods for ₹20,000 to Mr. B & also sold some goods to Mr. C for price ₹22,000. GST department wants to collect tax on transaction made with Mr. B on ₹22,000. Whether action taken by GST department is correct as per Law?

P2:- ABC Ltd. selling goods 'A' to various buyers. Determine GST liability & taxable value on the following data.

- Goods sold to Mr. Akshay ₹10,000
- Goods sold to Mr. Rahul ₹20,000 &
- Goods sold to Mr. Surya ₹18,000

Same goods are sold to all customers, an applicable GST rate goods 'A' is 12%.

Whatever price is given is exclusive of GST

2. Sec 15(2) Inclusion in Transaction Value

The value of supply shall include

(a) Taxes other than GST, if charged separately by the supplier

Any taxes, duties, cesses, fees and charges levied under any law for the time being in force

except the GST & GST Cess, if charged separately by the supplier, are includible in the value of supply.

Tobacco & Tobacco Products

Invoice	
Basic Price	100,000
Ex. Duty@30%	30,000
Total	130,000
GST@28%	36,400
	130,000

(Sec 15(2)(d))

Invoice	
Basic Rent	1,00,000
Municipal Taxes	10,000
Total	1,10,000
GST@18%	19,800

P3:- Admission to Inox Theatre is ₹90 per ticket for a Hindi Movie plus entertainment tax (by local body) ₹10% on such movie. In the month of November, Inox Theatre sold 2000 tickets for Hindi Movie. Find the value of taxable supply of service & GST Payable. Applicable rate of GST is 18%.

Clarification on TCS [Circular No. 76/50/2018]

- ⇒ TCS is an interim levy and doesn't possess the character of tax.
- ⇒ It's merely a method for tax collection.
- ⇒ It is **clarified that for determining the value of supply under GST, tax collected at source (TCS) under the Income Tax Act, 1961 isn't included.**

(b) Payments made to third parties by the recipient on behalf of the supplier in relation to the supply

Arny
Amount paid by the recipient to third parties will be added to the value under this clause only when,

- ⇒ Supplier is under contractual liability to make payment to such third parties,
- ⇒ the said payment is in relation to such supply &
- ⇒ it is not included in the price actually paid or payable for the goods &/or services

Note:- A supplier might incur expenses to provide goods/services. Typically, these costs are included in the price charged to the customer. However, if the customer directly pays some of these costs to third parties, and it's not on the supplier's bill, it still counts as part of the supply value.

47 P4:- Isha Time Gallery has been appointed as an authorized center of Sony electronics, On sales of worth ₹20,00,000 electronic items. Sony electronics is liable to pay commission @ 10 % on such sale i.e. ₹2,00,000 but such selling commission to be paid by Sony electronics has been paid by Isha Time Gallery for the month of August. Determine the taxable value of supply made by Sony Electronics.

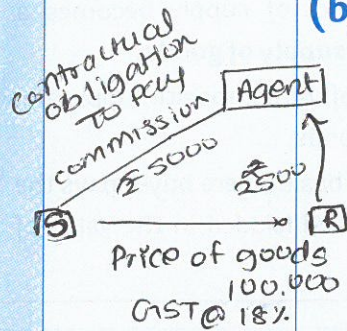
49 P5:- Mr. A has sold the goods to Mr. B for ₹1,50,000. The obligation of transportation of goods at Mr. B's destination is taken by Mr A. For some reason Mr. A could not provide transportation arrangement hence Mr. B has paid transportation fees ₹2000 separately. What should be the value of supply of goods sold by Mr. A to Mr. B. Would your answer differ if Mr. A sold the goods on ex. Shop basis (obligation of transportation is on recipient)

(c) Incidental expenses

- ⇒ incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and
 - ⇒ **any amount charged for anything done** by the supplier in respect of the supply of goods or services or both
- at the time of, or before delivery of goods or supply of services**

Examples of additional recoveries by supplier

- ⇒ Commission paid to agent and recovered from recipient.
- ⇒ Packing if charged by the supplier to the recipient.
- ⇒ Inspection or certification charges if incurred before/at the time of supply and billed to the recipient of supply.



Incidental Exp
→ For delivery of goods or for supply of services
(At time of supply)

⇒ Installation and testing charges at the recipient's site will also be added, being an amount charged for something done by the supplier in respect of the supply, at the time of making the supply.

⇒ Weighment charges, loading charges, designing charges etc. incurred before/at the time of supply will be added to the value, if billed to the recipient of supply.

⇒ **Outward freight, transit insurance:-**

Draw
Chart

➤ Where the supplier agrees to deliver the goods at the buyer's premises and arranges for transport and insurance, the contract of supply becomes a **composite supply, the principal supply being the supply of goods.**

➤ Therefore, these expenses become part of the value of the composite supply and GST is payable at rate as applicable for the relevant goods.

➤ However, if the contract for supply is on ex-factory basis where buyer pays the outward freight and insurance, the same will not be included in the value of supply of goods.

~~Q6~~ **P6:-** Mr X goes to haldiram outlet and buys dryfruit worth ₹2000 . Mr X ask for the special packing for which ₹500 is charged by Haldiram outlet. Determine the taxable value.

~~Q7~~ **P7:-** A company appoints an agent to procure order of goods from buyer. Agent procures an order @ ₹100. Now Seller company ask the buyer to pay only to supplier @ ₹98 only and pay ₹2 directly to the agent. Determine taxable value.

~~Q8~~ **P8:-** Joshi and Associates a CMA firm from Maharashtra is providing Cost Auditing Service to their client XYZ Pvt. Ltd. located in Karnataka. Fee being ₹2,00,000. The travelling expense of ₹10,000 is borne by Joshi and Associates on behalf of XYZ Pvt. Ltd. Determine taxable value. Supplier - Joshi
Supplier charge extra

(d) Interest or late fee or penalty for delayed payment of any consideration for any supply

P9:- Mr. X has supplied goods to Mr. Y on credit of 30 days worth ₹20 Lakhs. The contract provides that interest will be charged for delayed in making tax. Mr. Y has delayed the payment for 2 months and have paid the interest of ₹30,000 in addition to value of supply. Determine taxable value.

P10:- Reliance telecommunication provides internet service to Mr. Y at a monthly charge of ₹500. The last date for payment of the same is on the 5th of the following month. Late fee of ₹100 is charged, if the bill is not made within the due date. Determine taxable value

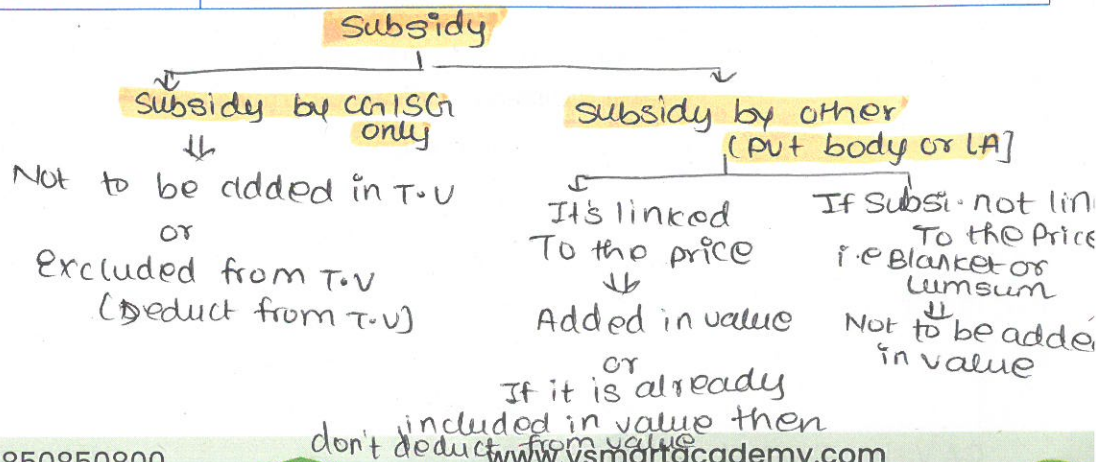
TOS & GST liability for the Interest or late fee or penalty

TOS	The date when such amount is received by the supplier.
VOS & tax rate	VOS will include <u>base price</u> & also the <u>charges for delay in payment</u> . Further, same rate of tax as applicable on the main SOG or SOS are applicable on such charges as well.
GST liability on Interest (GST = 18%)	Default Assumption 1 : Interest amount is inclusive of GST because buyer is not going to pay GST separately while paying Interest (Ref above Example) GST = 20 * 18/118 = 3.05 & it is payable in the month of March Assumption 2 : Interest amount is exclusive of GST GST = 20 * 18% = 3.60 & it is payable in the month of March.
GST Liability on late fee or penalty	It is assume to be exclusive of GST

(e) Subsidies linked with price



Meaning	Subsidy is a sum of money given to keep the price of a service or commodity low.
Inclusion in VOS	Subsidies <u>directly linked to the price</u> of goods/services are added to the value.
Exclusion in VOS (i.e. not to be added in value)	1) <u>Blanket</u> (lumpsum) subsidy/donation. 2) Subsidy given by the <u>CG or SG</u> . Note:- Subsidy received from CG or SG is excluded, however subsidy received from Pvt. body or Local authority should be included in VOS



Incentive paid by MeitY to acquiring banks for promotion of RuPay Debit Cards and low value BHIM-UPI [Circular No. 190/02/2023]

<p>Incentive Scheme</p>	<p>Under the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM- UPI transactions, <u>Ministry of Electronics and Information Technology (MeitY)</u> pays the acquiring banks an incentive based on transaction value up to ₹ 2000.</p>
<p>Clarification</p>	<p>⇒ It is not a consideration paid by the CG for any service by the acquiring bank to the Government. ⇒ <u>It is clarified that incentives paid by MeitY to acquiring banks for RuPay Debit Cards and low-value BHIM-UPI transactions are subsidies and not taxable.</u></p>

50 **P11:-** Mr. X is a supplier of registers and stationery. He is getting a subsidy of ₹10 per register from charitable trust for their supply to poor students. Mr. X has charged ₹30 per register to students. Determine Taxable Value.

50 **P12:-** Vsmart Academy is a training institute, collected fees of ₹20 lakhs in the month of April. Academy also got a subsidy of ₹5 lakhs to setup coaching classes in backward region from a private enterprises which is not link with the fees charged to per student. Determine Taxable Value.

P13:- Sale of urea by the manufacturer at the recommended price by the Government (i.e. at cheaper price) to make urea at a cheaper price of ₹1000 per packet. The supplier is paid the subsidy directly by the Government of ₹500. Determine Taxable Value.

3. Exclusion of discounts from value

(a) ^{cash, trade, qty or day} Discounts given before or at the time of supply and shown in the tax invoice

Notes:-

- It can be discounts that are offered for making the payment at the time of supply itself.
- Such discounts are thus, recorded in the invoice and thus, GST is charged on the gross value less discount duly recorded in the invoice.

P14:- A Ltd a registered company is providing services to B Ltd for development of a commercial property. The cost of service is ₹20,00,000. A Ltd is giving a 5% discount to B Ltd. The same has been separately reflected in the invoice before the providing the service. Determine taxable value.

(b) Post supply discounts

The discounts that are given after supply is made are allowed as a deduction from the VOS if the following two conditions are satisfied:

- Discount is in terms of an agreement that existed at the time of supply and can be worked out invoice-wise; and
- Proportionate input tax credit is reversed by the recipient

Notes:- The buyer would have availed input tax credit of GST payable on the gross value specified in the invoice. Thus, when a credit note is issued to him by the supplier for the discount, the buyer will reverse the proportionate credit; consequent to which, the supplier's output tax liability will be reduced by the same amount.

If any of the above conditions are not satisfied, the GST liability of supplier cannot be reduced.

P15:- Mr. A purchases an Air Conditioner from Mr. B for ₹20000 on credit on July 1, 20XX. On August 1, 20XX, Mr. A gives discount of ₹5000 to Mr. B and Mr. B makes payment of ₹15000. What would be your answer if,

- Discount is agreed at the time of supply.
- Discount is not agreed at the time of supply.

Allowability of certain specific types of discounts offered by the suppliers [Circular No. 92/11/2019]

Title	Description	Example	Remark
Staggered Discounts (Diff)	Discount rate increases with an increase in purchase volume.	10% off above 5,000/-, 20% above 10,000/-, etc.	Excluded to determine the value of supply.
Periodic / year ending discounts / volume discounts	Discounts offered based on volume purchased in a time frame, not shown on invoice but passed on by the supplier through credit notes.	Extra 1% off for 10,000 pieces/year, 2% off for 15,000 pieces/year.	Excluded to determine supply value, if they satisfy parameters under 15(3) including ITC reversal

	Secondary Discounts	Discounts given after the supply is over and not known at the time of supply also not agreed	M/s A re-values biscuits from 10/- to 9/- per packet and issues a credit note.	Not excluded to determine supply value as condition of sec 15(3)(b) are not fulfilled.
Note: Financial or commercial credit notes can be issued even if the conditions in section 15(3)(b) aren't met. Such credit notes neither include GST nor have impact on value of supply for GST purposes.				
No Claim Bonus (NCB) by Insurance Company [Circular No. 186/18/2022]				
	Issue	Whether 'No Claim Bonus' (NCB) under specific conditions offered by the insurance company can be counted as a discount for determining the value of insurance service supplied.		
	Clarification	Based on sec 15(3)(a), the VOS shall not include discounts given before or during the supply if recorded in the invoice. Thus, NCB is an allowable deduction for calculating the insurance service value (i.e. Net Premium value).		

Explanation to sec 15 (Definition of Related Person)

- For the purposes of this Act,-
- (a) persons shall be deemed to be "related persons" if**
- (i) such persons are officers or directors of one another's businesses
 - (ii) such persons are legally recognised partners in business
 - (iii) such persons are employer and employee
 - (iv) any person directly or indirectly owns, controls or holds twenty-five per cent or more of the outstanding voting stock or shares of both of them
 - (v) one of them directly or indirectly controls the other
 - (vi) both of them are directly or indirectly controlled by a third person
 - (vii) together they directly or indirectly control a third person
 - (viii) they are members of the same family
- (b) the term "person" also includes legal persons**
- (c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described of the other, shall be deemed to be related.**

④ Consignment Agent - Invoice

⊗ Registration cancel

Non-competition Clause → 10yr

* After plotting GST is not paid on hand