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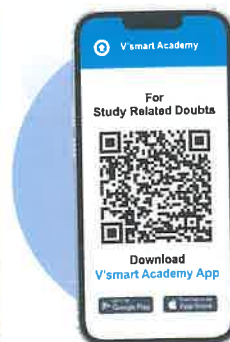
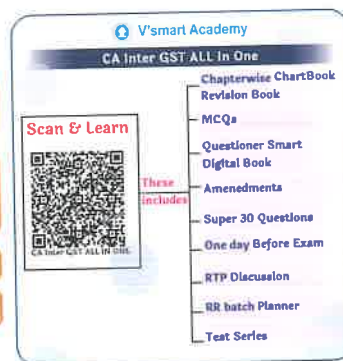


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Letter of Thanks

My Dear Students,

With all my great feelings, I dedicate this book to you. Thanks for all your feedbacks for appreciating my teaching over last 19 years, and for continuously supporting me to do my best in Indirect Taxation. Your valuable suggestions made me to design this book 100% "student-friendly" & "study-friendly". Here, I am going to share some of my memories, how did I arrive to design this book in an interactive format? and how your feedbacks helped me in doing things better & better in Indirect Taxation? I think, this is the best way to acknowledge you.

In my course of teaching, I remember many of you came to me and discussed your enormous fear about IDT subject and how you feel about this subject -"very theoretical, very boring, very difficult to remember"etc.. I agree, this is very lengthy & theoretical subject, but it is not as boring as you think. In my opinion, this is one of the most interesting subjects in CA studies if one starts visualizing the concepts and connecting them with real life examples.

However, you made me to think how can I make my classes more interactive & interesting? Your incredible feedbacks and advance multimedia technology helped me to set the highest standard in interactive teaching. I am overwhelmed with all your responses that you liked this new way of teaching using multimedia effects, animations, and graphics. Many of you said that these special effects are super helpful to visualize and recalling the concepts. This advance teaching made the concepts very interactive, interesting, and easy to understand. This was very nice feedback from you.

GST represents a major tax reform in the field of Indirect Taxation touting it as a games changer, GST will put India on path of a system that will be transparent, simple and keeps tabs on corruption as stated by honorable PM Modi.

Keeping in mind the new law I have prepared the notes in a manner that avoids legal jargons so that the concepts are easy to understand and are explained in a crisp format. The book contains a lot of pictorial presentations along with examples in order to provide clarity for each concept. I have added all my imaginations in this book in the form of cartoons, flow charts and picto-graphical presentations to explain the concepts in most simplest form. The left page of the book provides pictorial illustrations of the concept and right page of the book provides its theory. The multicolour design in this book makes the book attractive and interesting to read. The "Student Notes" section in this book provides useful space to take quick notes for second read. Overall book is very comprehensive and detailed in its content, but yet fun to read without losing your interest.

As a teacher, I am trying my best to provide the notes in a clutter-free format so that this subject becomes easy to interpret and comprehend. I find my success in you. My objective is to create yours interest in this subject and I am sure that once you become interested **SUCCESS** is yours!!!

I am excited to provide this book to you as one of my best efforts to create your interest in GST

I strongly believe in "Learn with Fun" and so do you. Wish you all the best for your study. If you have any question or doubt regarding any concepts, feel free to contact me on V'smart App & my what's app 098508 50800 and I will try my best to respond to you ASAP. Thanks.

With Best Regards

CA Vishal Bhattad

(Your Teacher, Mentor, and Friend)





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14. The fourteenth part of the document is a list of the people who are responsible for maintaining the next steps. These people are listed in the order in which they are responsible.

15. The fifteenth part of the document is a list of the people who are responsible for reviewing the next steps. These people are listed in the order in which they are responsible.





CHAPTER 1

Basic Concepts of Indirect Taxes and Constitutional Levy of GST

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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?





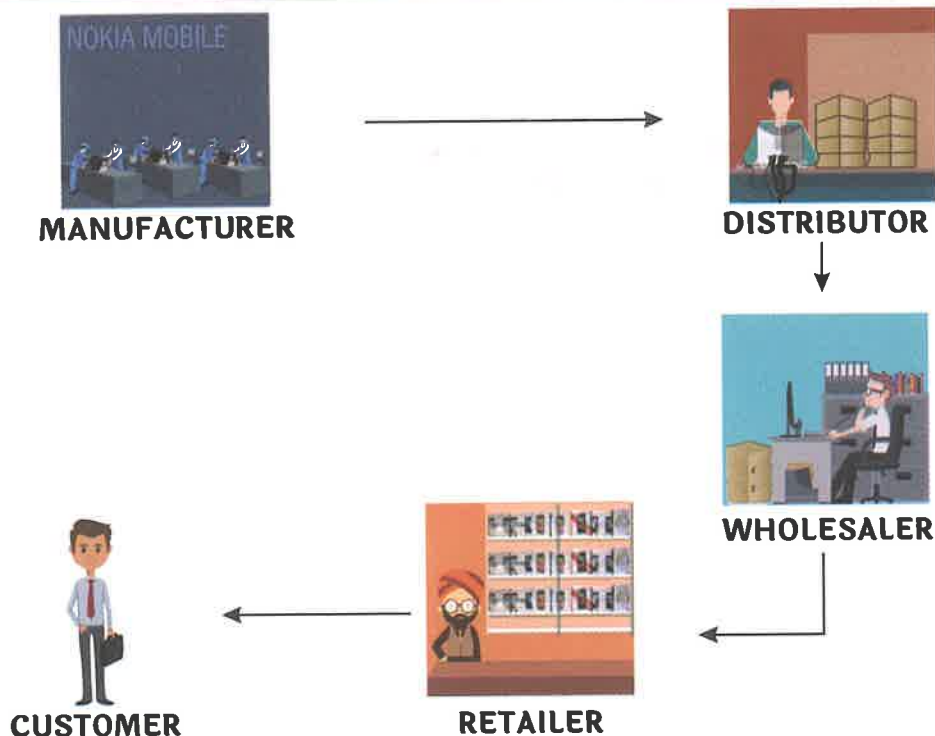
Sir... How Indirect Tax Charged in Current Scenario?

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



Constitutional Provisions

CONSTITUTION OF INDIA

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

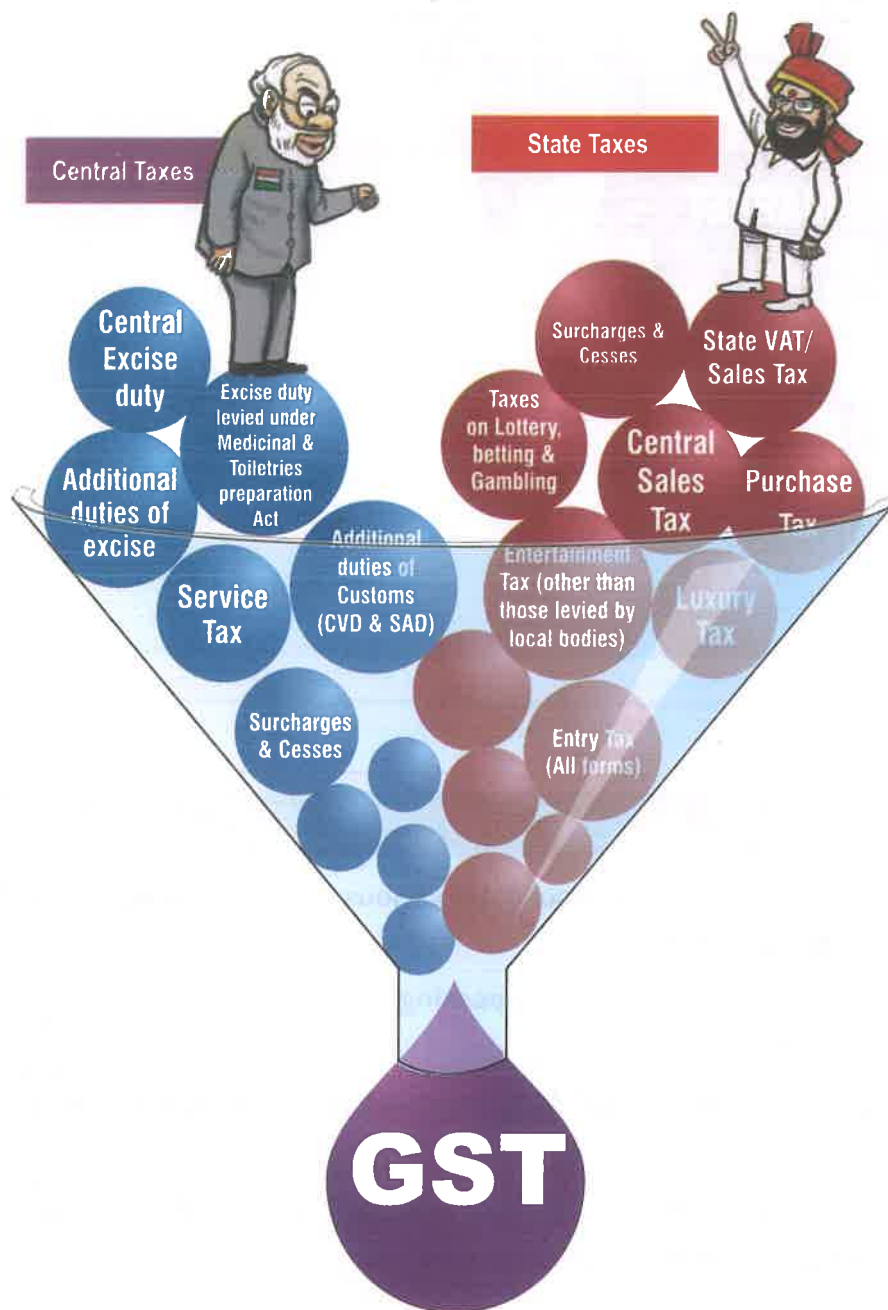


Introduction of GST:

- 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.

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'



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

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

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



- ⇒ 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



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



SALE OF GOODS WITHIN STATE



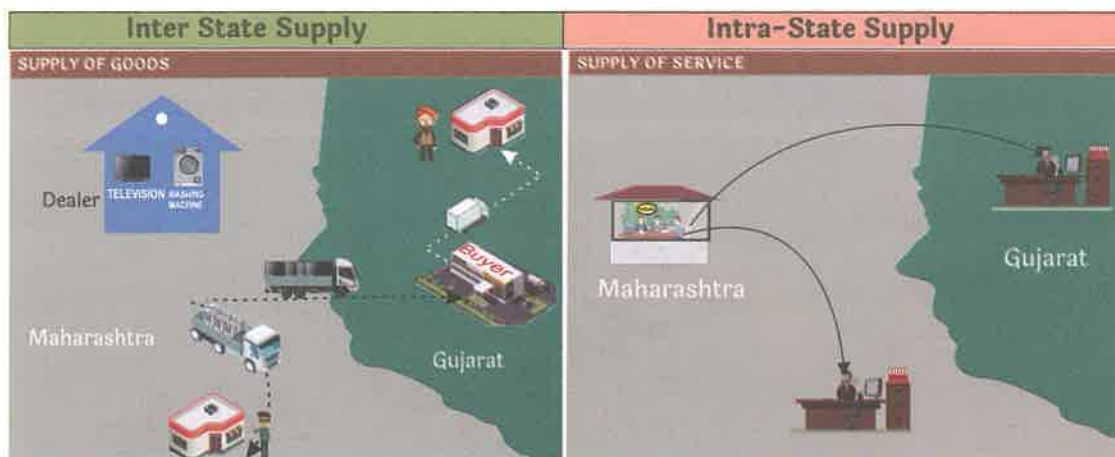


IGST.. UNIQUE FEATURES IN INDIAN GST MODULE

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).

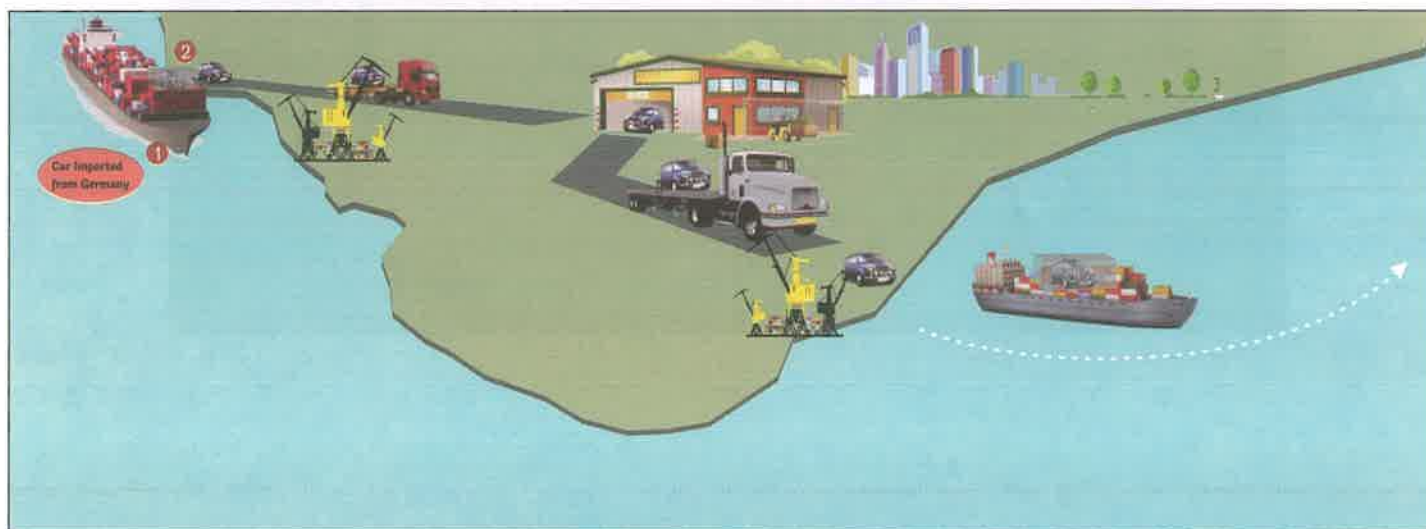
IGST will approximately be a sum total of CGST and SGST/UTGST and will be levied by Centre on all inter-State supplies.



INTER STATE & INTRA STATE SUPPLY

Intra State Supply	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	It is levying CGST It is levying SGST OR It is levying UTGST
Inter State Supply	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	It is levying IGST

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



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.

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,
- ➔ High Speed diesel, motor spirit (commonly known as petrol)
- ➔ Natural gas and aviation turbine fuel.

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**

- ➔ 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.

ARTICLE 366 : DEFINITIONS OF GST, SERVICE & STATE

(12A) "Goods and services tax"	means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption.
(26A) Services :	"Services" means anything other than goods.
(26B) State :	"State" with reference to articles 246A, 268, 269, 269A and article 279A includes a Union Territory with legislature.

Author's Notes:-

- ⇒ Article 366(12):- Goods includes all materials, commodities, and articles.
- ⇒ State & UT having their Legislature = 28 States + Delhi + Puducherry + Jammu & Kashmir and
- ⇒ Union Territories = 5 UTs (Andaman and Nicobar Islands, Lakshadweep, Daman and Diu and Dadra and Nagar haveli, **Ladakh**, Chandigarh).

GST – A tax on goods and services :-

Draw Chart

TOBACCO & TOBACCO PRODUCT	<ul style="list-style-type: none"> ⇒ Tobacco is within the purview of GST, i.e. GST is leviable on tobacco. ⇒ However, Union Government has also retained the power to levy excise duties on tobacco and tobacco products manufactured in India. ⇒ Resultantly, tobacco is subject to GST as well as central excise duty.
--------------------------------------	--



WHOLESALE



RETAILER

P3:- Vazir Sultan Ltd. a company manufacturing of cigarette sold the goods to B. Ltd for ₹ 2,00,000. B Ltd. further sold the goods to C Ltd for ₹ 3,00,000. Calculate excise & net GST liability of Vazire Sultan Ltd. & B Ltd. if -

- Excise rate on cigarette is 20%
- GST Rate on cigarette is 28% [Supply is Intra-State]

Alcohol & its raw material	Alcoholic liquor for human consumption (366(12A))	<ul style="list-style-type: none"> ⇒ It is outside the realm of GST. ⇒ The manufacture/production of alcoholic liquor continues to be subjected to State excise duty and inter-State/intra-State sale of the same is subject to CST/VAT respectively.
	ENA or Spirit (Raw Material) (Sec 9 of CGSTAct)	<ul style="list-style-type: none"> ⇒ Un-denatured Extra Neutral Alcohol(ENA) or rectified spirit used for manufacture of alcoholic liquor, for human consumption. ⇒ It is outside the realm of GST.

Inserted by F.A. 2024

P4:- Mr. Vijay Mallya engaged in supply of liquor & also provides Airlines services. Calculate tax liability from following into

- Supply of liquor for month of April- ₹ 20,00,000 [Excise rate 12% & VAT rate 12.5%]
- Supply of airlines services - ₹ 30,00,000 (GST Rate 18%)

Opium, Indian hemp and other narcotic drugs and narcotics:	<ul style="list-style-type: none"> ⇒ Opium, Indian hemp and other narcotic drugs and narcotics are within the purview of GST, i.e. GST is leviable on them. ⇒ However, State Governments have also retained the power to levy excise duties on such products manufactured in India. ⇒ Resultantly, Opium, Indian hemp and other narcotic drugs and narcotics are subject to GST as well as State excise duties.
Petroleum crude, diesel, petrol, ATF and natural gas:	<ul style="list-style-type: none"> ⇒ 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:- <ul style="list-style-type: none"> ➤ 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:- 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%]

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
--------------------	--

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;
 - (d) the threshold limit of turnover below which goods and services may be exempted from goods and services tax;
 - (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.

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.

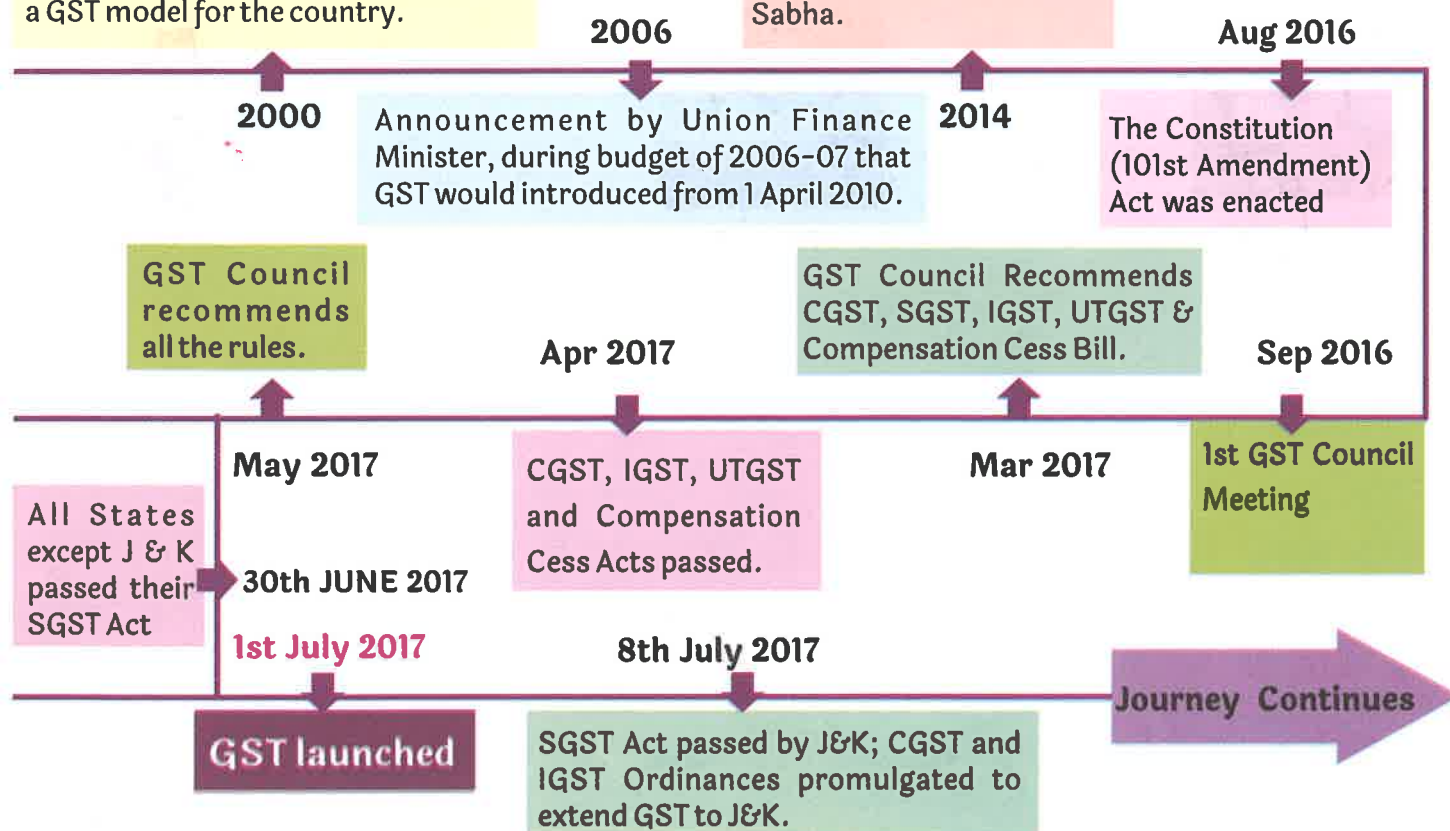
Genesis/ History of GST in India:-

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 Vijay Kelkar.
Year 2004	Kelkar Task Force recommended the need of a fully integrated GST on national basis.
28-02-2006	Union FM announced that GST would be introduced from 1 st April, 2010.
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. This bill was passed on 6th May, 2015 by Lok Sabha and on 3 rd Aug, 2016 by Rajya Sabha (with some changes).
08-09-2016	The Constitutional (122 nd Amendment) Bill, 2014 became The Constitution (101 st Amendment) Act, 2016 after bill was adopted after ratification by more than 50% of the States 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 1 st July, 2017.
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.



Transaction without VAT



SHAILA LTD.



JEET LTD.



CUSTOMER

Transaction with VAT



SHAILA LTD.



JEET LTD.



CUSTOMER



MANUFACTURER



DISTRIBUTOR



WHOLESALER



RETAILER



CUSTOMER

Output Tax: Tax payable on sale of goods.

Input Tax: Tax paid on purchases of goods.

DEFICIENCIES IN EXISTING VALUE ADDED TAXATION

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.
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.

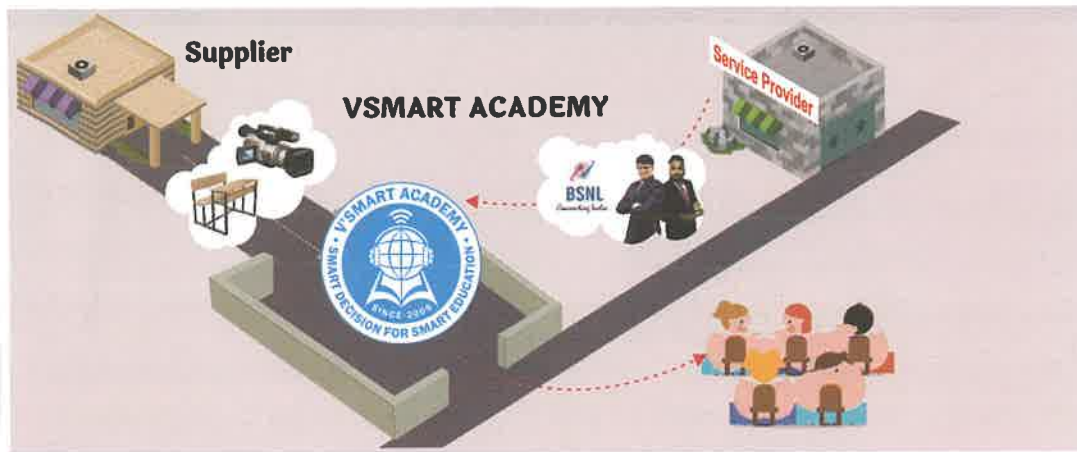
GST SEAMLESS FLOW OF CREDIT

Credit system after introduction of GST

MANUFACTURER



COMBINATION OF EXCISE & SERVICE TAX CREDIT FOR SERVICE PROVIDER



TRADER



CONCEPT & PRINCIPAL OF GST

BENEFITS OF GST

Manner of Utilization of ITC

INWARD SUPPLY

OUTWARD SUPPLY

1. CGST → CGST

2. SGST → SGST

No Cross Credit
of CGST & SGST

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

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

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.

- Calculate the total price charged by Mr. A from Mr. B. Also state the amount of credit availed by Mr. B.
- 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.
- On the basis of the working for the above two questions compute the CGST and SGST payable by Mr. B to the Government.
- Prepare statement of revenue earned by Central and State Government.

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 is 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. Chandulal of Surat supplied goods/services for ₹35,000 to Mr. Kamlesh of Ahmedabad. Mr. Chandulal purchased goods/services for ₹20,000 on which of IGST ₹1800 @ 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. Chandulal 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 Rs. 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/services by Mr. A of Maharashtra to Mr. B of Karnataka.
- 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.
- As per the working above compute GST payable to the Government by Mr. B.

The manner of utilization of balance in electronic credit ledger

P11:- 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

Particulars	Amount
IGST	50000
CGST	25000
SGST	25000

Electronic Liability Register

Particulars	Amount
IGST	20000
CGST	25000
SGST	25000

Calculate the amount of 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 time of supply, manufacture or purchase or sale or import/export thereof. 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 including 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 directly affects the prices of commodities and services and leads to inflationary trend.
(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/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



CONSTITUTION
OF INDIA



ACT



CENTRAL GOVERNMENT
RULES



REGULATION

CENTRAL GOVERNMENT
NOTIFICATION



CIRCULARS/
INSTRUCTIONS

Important Points to be Remember :-

Particulars	Treatment																
Alcohol	➔ Alcoholic liquor for human consumption is outside GST. State Excise Duty & VAT/CST is payable ➔ Un-denatured Extra Neutral Alcohol(ENA) or rectified spirit used for manufacture of alcoholic liquor, for human consumption.																
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 Concil																
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><tr><th>INWARD SUPPLY</th><th colspan="3">OUTWARD SUPPLY</th></tr><tr><td>1. IGST</td><td>First IGST</td><td>Any CGST</td><td>Any SGST</td></tr><tr><td>2. CGST</td><td>First CGST</td><td>Second IGST</td><td></td></tr><tr><td>3. SGST</td><td>First SGST</td><td>Second IGST</td><td></td></tr></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	
INWARD SUPPLY	OUTWARD SUPPLY																
1. IGST	First IGST	Any CGST	Any SGST														
2. CGST	First CGST	Second IGST															
3. SGST	First SGST	Second IGST															

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	33

Integrated Goods & Service Tax Act, 2017		
Sec 5	Levy & collection of IGST	33
Sec 7	Inter State supply	35
Sec 8	Intra State supply	35

Three Stages of Tax Collection

LEVY

ASSESSMENT

COLLECTION

Creation of liability

Quantification of liability

Payment to Government



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 Central Goods and Services Tax Act, 2017. |
| (2) | Extent
It extends to the whole of India |
| (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

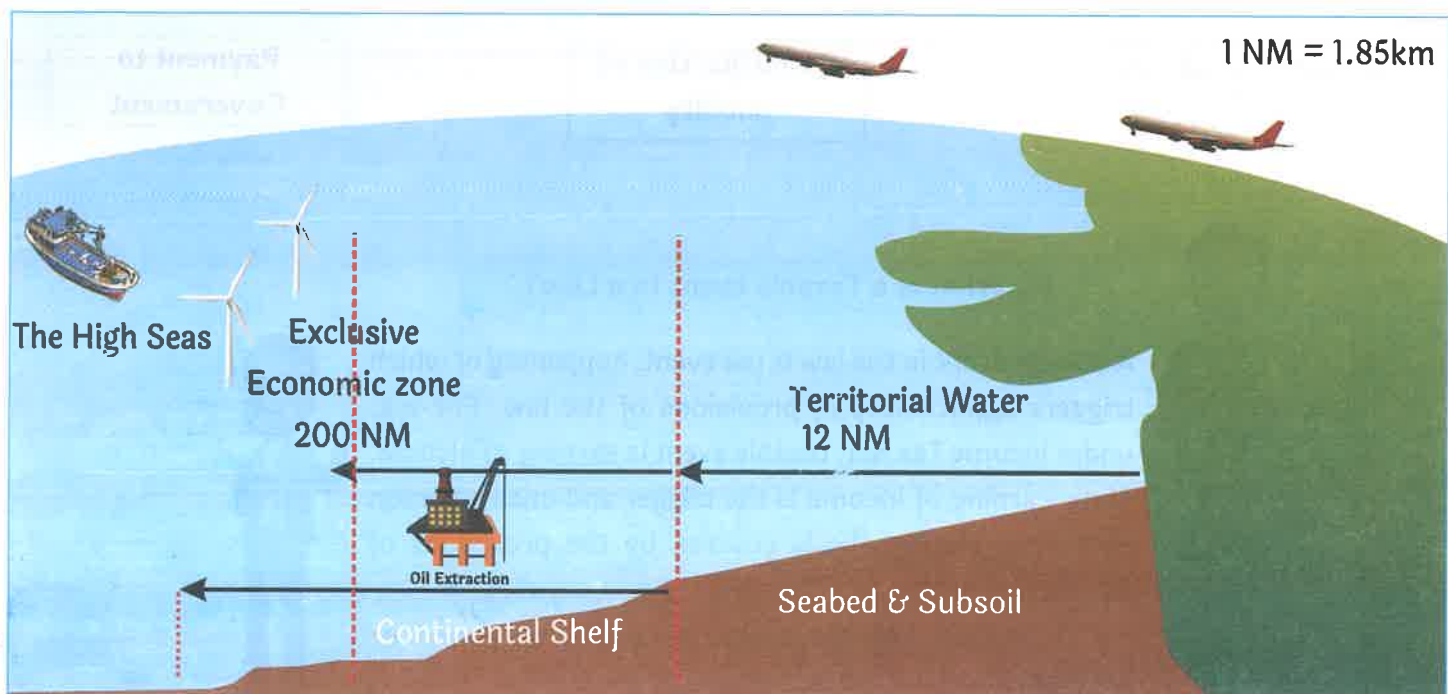
- Territory of India as referred to in article 1 of Constitution (The territory of the Union of India viz., state and the union territories.)
- Its
 - ➔ Territorial Water, ➔ seabed and
 - ➔ sub-soil underlying such waters,
 - ➔ continental shelf,
 - ➔ exclusive economic zone or
 - ➔ any other maritime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

SEC 2(114) "UNION TERRITORY"

Means

- the territory of -
- the Andaman and Nicobar Islands
 - Lakshadweep
 - Daman and Diu and Dadra and Nagar haveli**
 - Ladakh**
 - Chandigarh
 - 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



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

1)	Levy of CGST	<div>Sec 9(1) of CGST Act, 2017:-</div> <div><div>Levy:-CGST is applicable to all intra-State supplies of goods or services, except for alcoholic liquor for human consumption and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption. <div>Inserted by F.A. 2024</div></div><div>Value:- on the value determined under section 15 and</div><div>Rate:- at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and</div><div>Collected:- in such manner as may be prescribed and</div><div>Payment:- shall be paid by the taxable person.</div></div>																																								
2)	Rates of CGST	<div><div>The rates for CGST are determined by the Govt. on the recommendations of the GST Council.</div><div>The maximum rate of CGST can be 20%.</div><div><div>Notified Rate by GST Council</div><table><tr><td>CGST Rate</td><td>0%</td><td>0.125%</td><td>1.5%</td><td>2.5%</td><td>6%</td><td>9%</td><td>14%</td></tr><tr><td>SGST Rate</td><td>0%</td><td>0.125%</td><td>1.5%</td><td>2.5%</td><td>6%</td><td>9%</td><td>14%</td></tr><tr><td>Total</td><td>0%</td><td>0.25%</td><td>3%</td><td>5%</td><td>12%</td><td>18%</td><td>28%</td></tr></table></div></div>	CGST Rate	0%	0.125%	1.5%	2.5%	6%	9%	14%	SGST Rate	0%	0.125%	1.5%	2.5%	6%	9%	14%	Total	0%	0.25%	3%	5%	12%	18%	28%																
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3)	Items with Deferred CGST/IGST Levy	<div>Sec 9(2) of CGST & Sec 5(2) of IGST Act, 2017:-</div> <div><div>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.</div><div>The levy will be implemented based on notifications from the Government and recommendations from the Council.</div></div> <div>Analysis</div> <table><tr><th></th><th>(Supply) GST</th><th>(Production) Excise Duty</th><th colspan="2">(Sale)</th></tr><tr><th></th><th></th><th></th><th>VAT</th><th>CST</th></tr><tr><td>1. Alcoholic Liquor for Human Consumption</td><td></td><td></td><td></td><td></td></tr><tr><td>2. Un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption</td><td></td><td></td><td></td><td></td></tr><tr><td>3. Petroleum crude, High speed Diesel, Motor spirit (Petrol), Natural gas, Aviation Turbine fuel</td><td></td><td></td><td></td><td></td></tr><tr><td>4. Tobacco & Tobacco products</td><td></td><td></td><td></td><td></td></tr><tr><td>5. Opium, Indian hemp and other narcotic drugs and narcotics:</td><td></td><td></td><td></td><td></td></tr><tr><td>6. All Others Goods</td><td></td><td></td><td></td><td></td></tr></table>		(Supply) GST	(Production) Excise Duty	(Sale)					VAT	CST	1. Alcoholic Liquor for Human Consumption					2. Un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption					3. Petroleum crude, High speed Diesel, Motor spirit (Petrol), Natural gas, Aviation Turbine fuel					4. Tobacco & Tobacco products					5. Opium, Indian hemp and other narcotic drugs and narcotics:					6. All Others Goods				
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4)	Reverse Charge under notified cases	<div><div>Applies to specified goods or services.</div><div>Recipient of the supply is liable to pay tax directly.</div></div> <div>Separately discussed in Chapter No. 4</div>																																								

5)	Reverse Charge - UnRegistered Person (URP) to Registered Person (RP)	<ul style="list-style-type: none"> 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
6)	CGST liability of E-commerce operator	<ul style="list-style-type: none"> 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. 	

LEVY & COLLECTION OF IGST

1)	Levy of IGST for Inter-State Supplies Inserted by F.A. 2024	<ul style="list-style-type: none"> For inter-State supplies of goods and/or services, except for alcoholic liquor for human consumption and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption. Integrated Goods and Services Tax (IGST) is imposed based on the transaction value u/s 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:	<ul style="list-style-type: none"> 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 [GST (cess) = ACD 3(9)].



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		



Chapter 3

CONCEPT OF SUPPLY

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Sec

2(84)

“Person” – includes



(a) An Individual



(c) A Company



(e) A limited Liability Partnership



(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



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



(k) Central Government or a State Government



(m) Trust



(b) A hindu undivided family



(d) A Firm



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



(h) any body corporate incorporated by or under the laws of a country outside India



(j) A local authority



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



(n) Every artificial juridical person, not falling within any of the above

25

Distinct Persons

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:

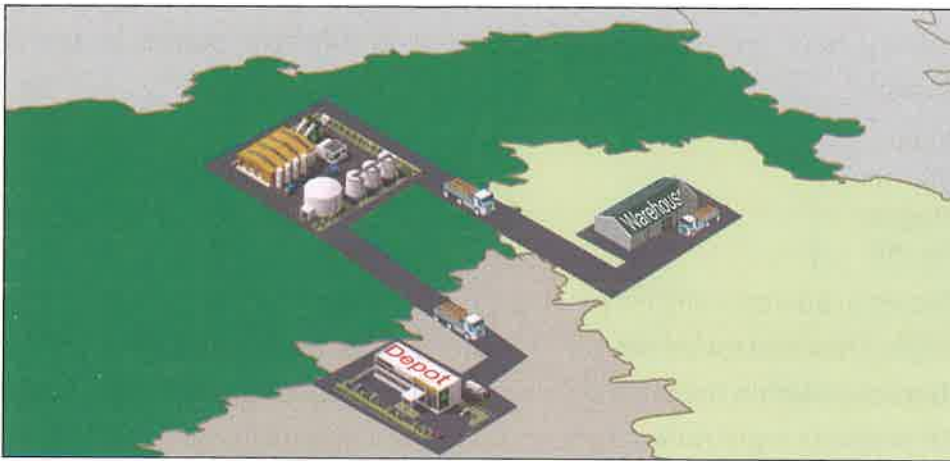
⇒ Normally, a supplier is required to obtain a single registration for a State/UT.

⇒ 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.



Single/ Multiple Registration



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.



Refer Questionnaire: CCP 02.01.01.00 - (5)

Your
notes



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

- State whether V'Smart Academy is eligible for single registration for all branches in a State.
- 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?
- 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:-

- Whether the company is required to obtain separate registration for each factory?
- Whether each of the registered factory would be treated as a separate person under GST?
- 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?

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

- Haldiram Sweets &
- Haldiram Footwear

Answer the following questions:-

- Whether Haldiram can obtain separate registration under GST for each outlet?
- Whether the two business verticals are treated as separate persons under GST?
- 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.

2(107) Taxable Person

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

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(102A) Specified actionable claim

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.

2(93) Recipient

of supply of goods or services or both **means-**

Situation		Recipient
a)	where a consideration is payable for SOG or SOS or both,	A the person who is liable to pay that consideration,
b)	where no consideration is payable for the SOG,	➤ 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 SOS,	the person to whom the service is rendered,

Special Reference:- any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply

shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied.

Refer Questionnaire: CCP 02.01.01.00 - (4)

P 5:- XYZ Ltd., a manufacturer of goods, supplied goods of value ₹ 20,00,000 to Mr. B. Who is the supplier in the given case?

P 6:- 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

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.

P 8:- 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

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 **for authorised operations** to a **Special Economic Zone developer** or a **Special Economic Zone unit**.

Section 7 – Meaning and scope of supply

1	Supply includes -
(a)	All forms of supply of goods and/ or services or both such as <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)	The activities or transactions, <ul style="list-style-type: none"> ⇒ by a person, other than an individual, ⇒ to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration. <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>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)	Importation of services , for a consideration whether or not in the course or furtherance of business and
(c)	The activities specified in Schedule I, made or agreed to be made without a consideration.
1A	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 Schedule II.
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)	such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, <p>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

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.

Refer Questionnaire:
CCP 02.03.03.00

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



Means	every kind of movable property
Other than	money and securities
But includes	actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply

Analysis:-

"Every Kind of Movable Property": Refers to all types of movable items that can be physically transported from one place to another.

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

"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.)

"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.

Refer Questionnaire: CCP 02.01.01.00 - (2)

Sec 2(102): Services

Means anything other than goods, money and securities

But includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another from currency or denomination for which a separate consideration is charged.

Explanation For removal of doubts, it is hereby clarified that the expression 'services' includes facilitating or arranging transactions in securities.

Analysis:- "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).

Refer Questionnaire: CCP 02.01.01.00 - (3)

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.

[**Numismatic** means 'collection and study of money (and coins in particular).

Special Discussion for Banking & FI

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.

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

Activity for conversion of Money (taxable)

- | |
|---|
| Commission for Conversion of Rupees in to Coins |
| Commission for Conversion of Currency eg. Dolloar to Rupees |

Definition of 'Securities':

- ⇒ The term 'securities' aligns with its definition in the Securities Contracts (Regulation) Act, 1956 (SCRA).

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
- ⇒ To qualify as a supply of services, it should be covered under Section 7 of the CGST Act.

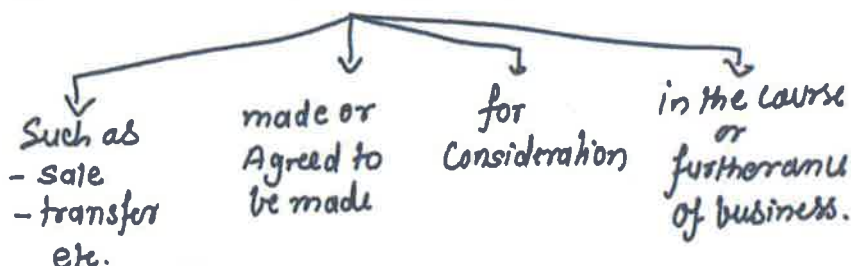
No Inherent Service in Holding Shares:

- ⇒ 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.

Concept of Supply



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

It includes all forms of SOG/SOS or Both



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	Sale	Transfer of ownership of and title to property from one person to another for a price.
2	Transfer	Transfer of possession or control from one person to another.
3	Barter	To exchange goods or services for other goods or services instead of using money. Here, activity constitutes supply as well as consideration. Example: Suppose carpenter builds fence for a farmer, Instead of paying money for services, farmer can compensate with crops and foodstuffs
4	Exchange	An act of giving or taking one thing for another where payment is partly in goods and partly in money.
Refer Questionnaire: CCP 02.02.02.00		 
5	Licence	A permission granted by competent authority to engage in a business or occupation or in an activity otherwise unlawful.
6	Lease	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	Rental	An arrangement to rent something, or the amount of money that you pay to rent something.
8	Disposal	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	200
2.	Interest earned on term loan	25
3.	Interest earned on OD/CC	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	100

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:-

- 1500 shirts are sold @ ₹2000 per shirt & applicable rate of GST is 18%.
- Waste chindi sold for ₹2,00,000 & applicable rate of GST is 5%.
- 500 meters of fabric is sold for ₹300 per meter & applicable rate of GST is 5%.
- 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%.
- 100 shirts are transferred to another branch within the same state which is not separately registered under GST.

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:**
 - There is an agreement for supply or
 - 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]	Detailed discussion in Chapter Time of Supply
Supply of Service	GST is payable on advance or Invoice whichever is earlier	

Supply of Goods

P13 : 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.

Refer Questionnaire: CCP 02.01.01.00 - (7)

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.

Refer Questionnaire: CCP 02.03.04.00

Clarifications :- "Supply for Consideration"

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

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.

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.

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.

Refer Questionnaire: CCP 02.03.05.00 (IMP) & CCP 02.03.06.00 (IMP)

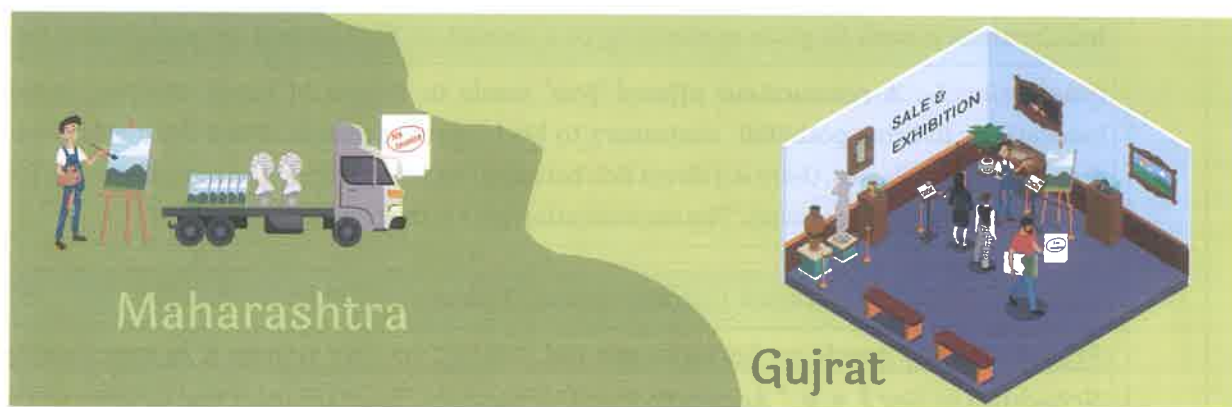
Art works sent by artists to galleries for exhibition is not a supply as no consideration flows from the gallery to the artists [Circular No. 22/22/2017]

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.



CBIC Clarification and Press Release (supply without consideration)

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. It is sufficient to issue a challan for movement of goods without supply.
Spare part freely Supplied to replace during warranty period.	It is not supply as removal of spares without consideration. GST is not chargeable
free food supplied in anna kshetras run by religious institutions.	GST is not chargeable as food is supplied without considrarion
Sale of Prasadam 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 business.
Free distribution of goods by a charitable institution	It is not a supply under GST GST is not chargeable

P 15:- 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.

State the amount that shall be considered as consideration for the supply of said service under GST?

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?

P19A:- Moti Singh, owner of Singh Publishing House, Ghaziabad, U.P., donated some money to Anand Charitable Trust in the memory of his late father. The Trust constructed 2 room in the school run by it from such donation and wrote 'Donated by Moti Singh in the memory of his father' & 'Donated by Singh Publishing House, Ghaziabad, U.P.' on the door 1st & 2nd room. Examine whether the money donated by Moti Singh is leviable to GST.



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:** ➔ any trade, commerce, manufacture, ➔ profession, vocation, ➔ adventure, ➔ wager (a place of bet) or ➔ any other similar activity, **whether or not it is for a pecuniary benefit** (it means intention to earn the profit is not a criterion in determining the states of business.)

- (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.



- (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.



- (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.

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 is receiving the supply. Thus, if supplier is not in the business of supplying the goods or services, GST is not applicable

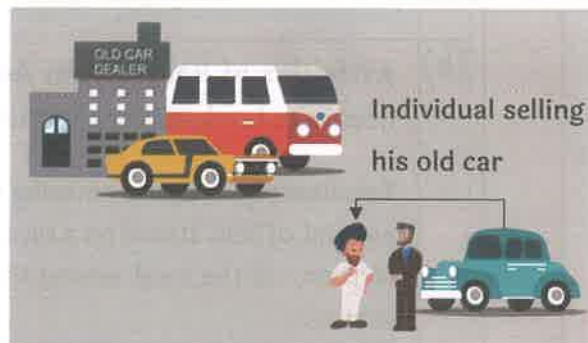
Really, even otherwise, GST cannot apply as the individual selling his old goods is not in the course of business (as selling of old goods is not the business of an individual).

Let's discuss with following example:-

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?

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.

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?

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?

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?

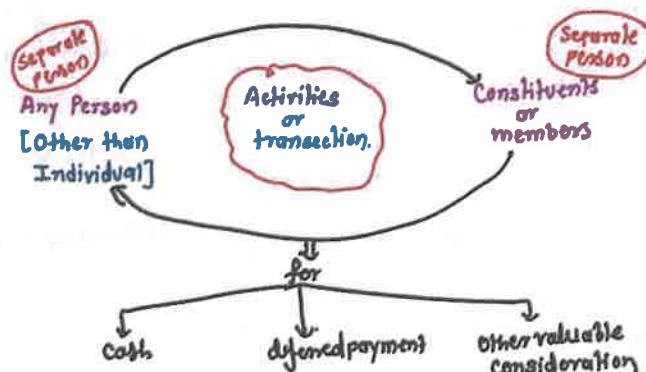
P25:- Prestige Point Student Association arranged a dance event and called Shahrukh Khan to perform in this event. Entry fee charged was ₹ 1000 per person to attend this event. Is this treated as business under GST?

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?

7(1)

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

- (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.
- 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.

Refer Questionnaire: CCP 02.04.07.00

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
Note:- but if import of service by and individual in relation to any purpose other than commerce, Industry or any other business or profession than it cover under exemption Sl. No. 10 of IGST Act exemption Notification No. 9/2017.
- 4) Also, in case of import of service RCM is applicable.

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.

Refer Questionnaire: CCP 02.05.08.00

Permanent transfer or disposal of business assets

Liabilities	(₹)	Assets	(₹)	ITC taken	Remark
		land & building		→	
		Plant & machinery		→	
		Furniture & fixtures		→	
		Vehicles		→	
		Closing stock		→	

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.

(ii) Business assets though eligible for ITC, ITC has not been availed by the registered person.

Refer Questionnaire: CCP 02.05.09.00 & CCP 02.05.10.00 (IMP)

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?

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?

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,**
when made in the course or furtherance of business.

Refer Questionnaire :
CCP 02.05.11.00
& CCP 02.05.12.00

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.

Refer Questionnaire: CCP 02.05.13.00

Let us understand the terms Related Persons and Distinct persons.

1) Related persons:

It is defined in Explanation to Sec 15 (normally 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.)

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

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

Family [Section 2(49)]: "Family" means,-

- (i) the spouse and children of the person, and
- (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.

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 in para II.

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
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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.

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
B	Car	₹ 3,00,000
C	Jewellery	₹ 80,000
D	Cash	₹ 70,000
E	Flat for Residence Use	₹ 90,000

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%)

Para Supply of goods -**III**

- (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,
- 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.

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.

Acting merely as an agent v/s Agent actively involved in further supply

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 (i.e. stock transfer between principal to agent, treated as supply).
2. If invoice issued by agent in name of Principal	Transaction is NOT covered in para 3. (i.e. stock transfer between principal to agent, not treated as supply).

Goods procured on behalf of principal by the agent:-

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.

Refer Questionnaire: CCP 02.05.15.00 & CCP 02.05.16.00 (IMP)

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.

➔ 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.

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.

➔ 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.

Example 4:- A C & M 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.

➔ 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><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.</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.</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.	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.
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.					
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.					
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 recipientii) DCA merely an agent & not actively involved in supply.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 DCA would not form part of the value of supply of goods supplied (to the buyer) by the supplier.</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) DCA actively involved in supply.;iv) Extension of credit by the DCA to the recipient. <p>➤ It is clarified that, where the DCA is an agent under Para 3 of</p>				

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?

Refer Questionnaire:
CCP 02.05.17.00 (IMP)

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 depot to various customers for ₹ 3000 each (intra-state).
2	1000 mobiles are sold to distributor A of Delhi at ₹ 2800 each.
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.
4	300 mobiles are transferred to its own depot in Nagpur which is not separately registered under GST for further sale.
5	1000 mobiles are transferred to its warehouse in Rajasthan for storage. The open market value for each mobile is ₹ 3000.

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

Para IV Importation of services :

IV

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.

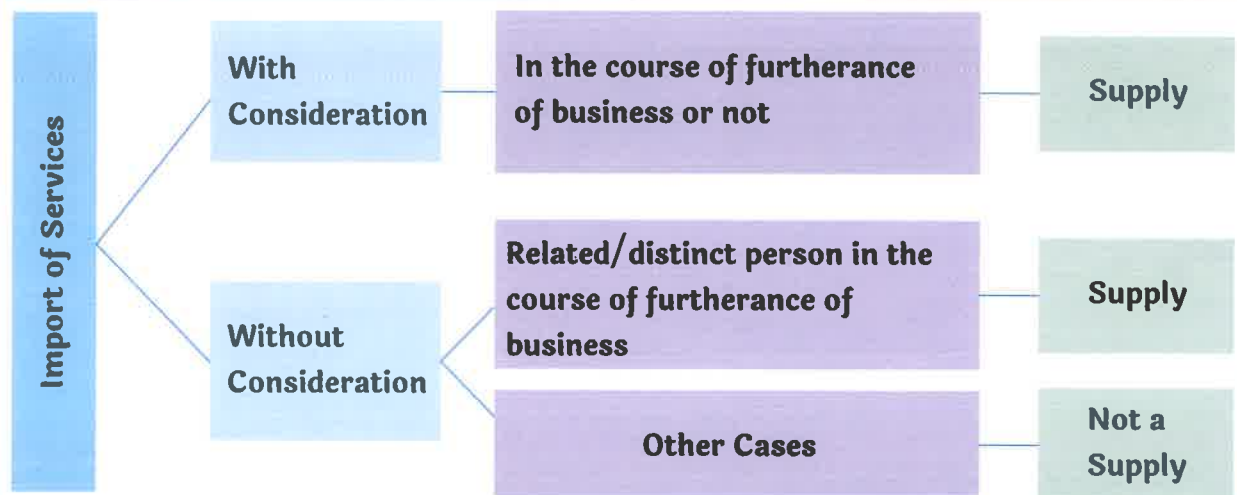
Related Persons - Raju Associates and Head Office:

- ⇒ 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.

Refer Questionnaire: CCP 02.06.18.00 (IMP), CCP 02.06.19.00 (IMP) & CCP 02.06.20.00

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.

Refer Questionnaire: CCP 02.05.08.00

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.
- 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.

**Sec
7
(1A)**

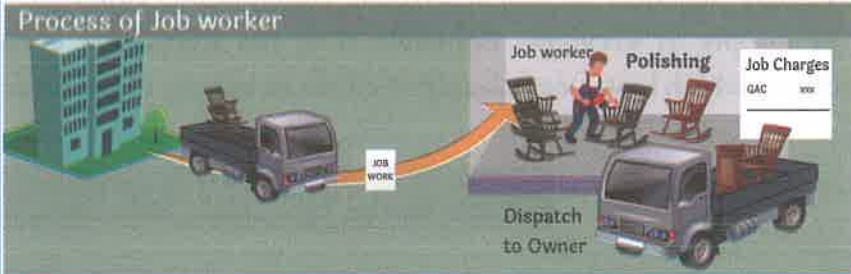
ACTIVITIES/TRANSACTIONS TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

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. 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. hire purchase 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

**Refer Questionnaire:
CCP 02.08.25.00**

2	Land and Building	a	Any lease, tenancy, easement, licence to occupy land. Example:- Lease agreement for land.	Supply of Services
		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.	Supply of Services
		Note:- Sale of land or building is not treated as supply as per para 5 of Schedule III		
3	Treatment or Process (Mostly called as jobwork service)	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. 	Supply of Services
4	Transfer of Business Assets	a	Permanent Transfer of Business Asset:- Goods forming part of business assets are transferred or disposed off by /under directions of person carrying on the business so as to no longer form part of those assets.	Supply of Goods
		b	Temporary Transfer of Business Asset:- Goods held/used for business are put to private use or are made available to any person for use for any purpose other than business, by/ under directions of person carrying on the business Example: A director using car provided by the company for personal travels.	Supply of Services
		c	Person Ceases to be a taxable person:- Goods forming part of assets of any business carried on by a person who ceases to be a taxable person, <u>shall be deemed to be supplied by him,</u> in the course or furtherance of his business, immediately before he ceases to be a taxable person. 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 going concern to another person ➔ Business is carried on by a personal representative 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.	Supply of Goods

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

- a) Permanently transferred 1 Television to student A for his personal use.
- b) Temporarily transferred another Television to Student B for his personal use.

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	80
2	Furniture	40
3	Camera & Television	20
4	Benches	10
5	Other movable goods	15

- a) 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.
- b) What will be your answer, if business is continued by another person or a representative of V'Smart Academy pvt. Ltd.

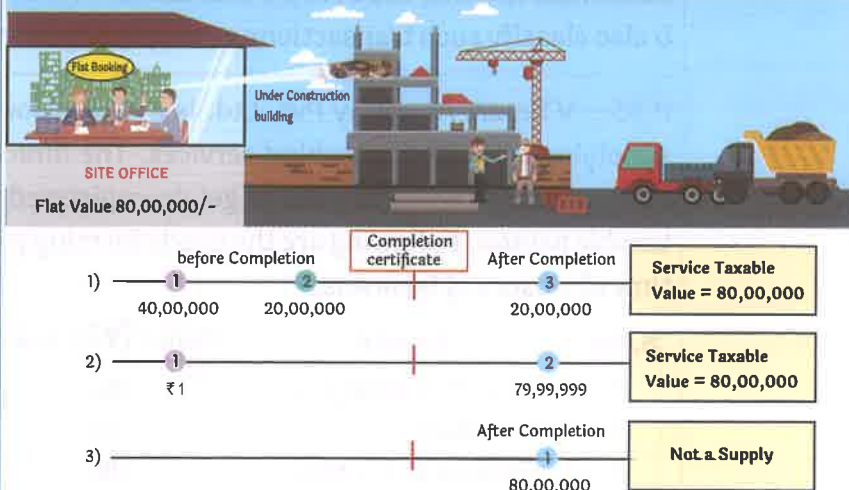
5

Activities always treated as supply of services

a	Renting of immovable property	Supply of Services
b	<p>Construction of complex, building, civil structure, etc.</p> <p>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</p> <ul style="list-style-type: none"> ➤ 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. <p>Comments:-</p> <ol style="list-style-type: none"> 1. The term construction includes additions, alterations, replacements, or remodeling of any existing civil structure. 2. The expression competent authority means <ul style="list-style-type: none"> ➤ 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. 	Supply of Services

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



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 liable to pay GST?

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:-

1. Sale of pre-packed/canned/ Shrink-Wrapped software = **Supply of goods**
2. License to use prepacked/canned/ Shrink-Wrapped Software = **Supply of Service**
3. Customized Software- Pre-dominant nature is supply of service = **Supply of Service**

Refer Questionnaire:
CCP 02.08.27.00

P 38:- Infotech Ltd. is a software company which is provided the following information:-

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%.

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	<p>a. Works contract as defined in sec 2(119);</p> <p>Definition u/s 2(119):- Works Contract means</p> <ul style="list-style-type: none"> ➤ 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. <div data-bbox="550 481 1417 672"> </div> <p>Comments:-</p> <ol style="list-style-type: none"> 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>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:-</p> <ol style="list-style-type: none"> a) State the nature of contract for the levy of GST & also classify the same under Schedule II. b) Can Mr. Akshay pay GST for providing goods & services separately? 	Supply of Services
		<p>b Supply of Goods for Human Consumption: (Restaurant, catering, mess, eating joints etc.)</p> <ul style="list-style-type: none"> ➤ 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. <div data-bbox="550 1892 1417 2042"> </div>	Supply of Services

Refer Questionnaire: CCP 02.08.26.00

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.

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.

If the payment is merely an event in the course of the performance of an agreement and it does not represent the 'object', as such, of the contract then it cannot be considered 'consideration' & nor treated as supply.

(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.
(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.

Note: 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.

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.

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.



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

Lets discuss the following, whether service is supplied in thee course of employment? Special Cases:-

- 1) **Casual Worker:-** Services provided by casual worker to employer who gives wage son daily basis to the worker are services provided by the worker in the course of employment.[Not Taxable]
- 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.[Not Taxable]
 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.[Taxable]
- 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.[Taxable]

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 (contractual agreement of 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.

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.

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:-

- Whether such salary is liable to GST?
- Will your answer differ, if Mr. Sarang is appointed on casual basis with delay wages?
- 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.

Clarification on the taxability of ESOP/ESPP/RSU provided by a company to its employees through its overseas holding company [Cir. No.213/07/2024]

Facts:-

- Indian companies offer Employee Stock Option Plan (ESOP)/Employee Stock Purchase Plan (ESPP)/Restricted Stock Unit (RSU) options of their foreign holding company to its employees as per the employment contract.
- Upon employees exercising these options, the foreign holding company directly allots shares to the employees, and the cost is reimbursed by the Indian subsidiary to the foreign holding company.

Issue:- Whether these transactions should be considered as import of financial services and thus be liable for GST under RCM?

Clarification:-

- ESOP/ESPP/RSU is a part of employees remuneration as per their contract & thus, it is not a supply as per para 1 of Schedule III
- Securities/shares are neither goods nor services under the GST law & thus, its sale or

purchase is not a supply.

- Thus, the reimbursement from the Indian subsidiary to the foreign holding company, when done on a cost-to-cost basis, is not subject to GST.
- However, if any additional fee, markup, commission, etc is charged by foreign holding company from the domestic subsidiary for such issuance, it will be considered as a supply of services of facilitating the transaction in securities and GST will be levied on the additional amount (being import of services) under reverse charge.

Case Study:- ABC Tech Pvt. Ltd., an Indian subsidiary of Global Tech Inc., a US-based company, offers its employees ESOPs as part of their compensation package. When an employee decides to exercise their stock options, Global Tech Inc. directly transfers the shares to the employee. ABC Tech Pvt. Ltd. reimburses Global Tech Inc. for the cost of these shares on a cost-to-cost basis.

Are ESOP/ESPP/RSU transactions considered as supply of goods or services under GST?

Hint:- No, ESOP/ESPP/RSU transactions are not considered as supply of goods or services under GST. Securities/shares are neither goods nor services as per the definitions in the GST Act.

**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, Members of State Legislature, 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.



**Refer
Questionnaire:
CCP 02.07.22.00
- (i)**

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).

Refer Questionnaire: CCP 02.07.22.00 - (ii) & (iii)

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.

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.

Refer Questionnaire: CCP 02.07.23.00 (IMP)

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

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.

Para 7 & 8 Not applicable for Inter level

Para 9 Apportionment of co-insurance premium:

Activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured in coinsurance agreements, subject to the condition that the lead insurer pays the CGST, SGST, UGST & IGST on the entire amount of premium paid by the insured.

Refer Questionnaire:
CCP 02.07.21.00
(IMP)

Newly Inserted
F.A. 2024

P42: Ronn Pharma Pvt. Ltd. from Mumbai (Ronn Pharma - insured) requires comprehensive insurance coverage for its operations. To mitigate risks effectively, it opts for a co-insurance agreement in Mumbai where multiple insurers share the risk i.e. one lead insurer & one or more co-insurers.

Agreement Details:

1. Lead Insurer: Safe Ltd. (60% share) who is liable to pay GST on entire premium.
2. Co-Insurer: Secure Ltd. (40% share).
3. Total Premium: ₹1,00,00,000 paid by Ronn Pharma to Safe Ltd who issued invoice for entire premium & GST.
4. Safe Ltd. retains ₹60,00,000 & Secure Ltd. receives ₹40,00,000 from Safe Ltd. as per agreement.

Discuss the tax implications (gross basis) & person liable to pay the tax.

Para 10 Services by insurer to the reinsurer:

Services by insurer to the reinsurer for which ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer, subject to the condition that the CGST, SGST, UGST & IGST is paid by the reinsurer on the gross reinsurance premium payable by the insurer to the reinsurer, inclusive of the said ceding commission or the reinsurance commission.

P43: Ronn Pharma Pvt. Ltd. (Ronn Pharma-insured) has a comprehensive insurance policy with Safe Ltd (insurer). To manage its risk exposure, Safe Ltd. decides to reinsure part of risk with Secure Re Ltd. (reinsurer), a reinsurance co.

Reinsurance Agreement Details:

1. Gross Reinsurance Premium: ₹50,00,000
2. Ceding Commission allowed by reinsurer: ₹5,00,000
3. Net Reinsurance Premium Paid to reinsurer: ₹45,00,000 (after deducting ceding commission)

Discuss the tax implications (gross basis) & person liable to pay the tax.

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]**

Refer
Questionnaire:
CCP 02.07.24.00

- 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.
- Therefore services provided by the Government to businesses, including the grant of other licenses, mining rights, and use of natural resources like spectrum, are taxable under GST, with businesses required to pay tax under reverse charge.

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

Author note:- This circular is also applicable to Intra state movement between DDP

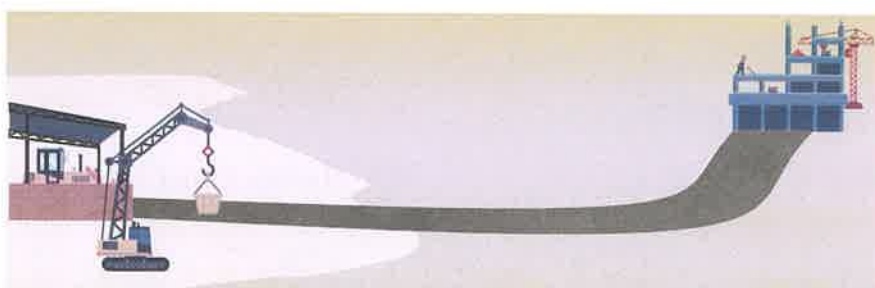


Refer Questionnaire: CCP 02.05.14.00 (IMP)

2) **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.




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 involve a combination of goods, services, or both (called as bundle supply), 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 (bundle supply), GST law recognizes two categories: composite supplies and mixed supplies. ➤ 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 two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply.
	Meaning of composite supply	<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>."
	Refer Questionnaire: CCP 02.09.29.00 & CCP 02.09.30.00	
		
		Note:- Natural Bundling in Composite Supply: <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."
	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.



- | | |
|---|---|
| 3 | <p>Television Set with Warranty and Maintenance</p> <p>Scenario: A consumer purchases a television set, and along with it, receives a mandatory warranty and a maintenance contract.</p> <p>Nature of Supply: This constitutes a composite supply with multiple elements - supply of the television set, warranty, and maintenance services.</p> <p>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.</p> <p>Tax Treatment: The entire supply is categorized as a composite supply, with the supply of the television set being the principal supply.</p> <p>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> |
| 4 | <p>Travel Ticket (Mumbai to Delhi) with Additional Services</p> <p>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.</p> <p>Nature of Supply: This transaction represents a composite supply as it involves multiple elements-the transportation service, in-flight food, insurance, and lounge access.</p> <p>Principal Supply: In this case, the "transportation of the passenger" is the principal supply since it is the primary service being provided.</p> <p>Tax Treatment: The entire supply is categorized as a composite supply, with the transportation service being considered the principal supply.</p> <p>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> |

Mixed Supply

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	<p>Meaning : Mixed supply involves a taxable person offering two or more individual supplies of goods or services, or a combination of both.</p> <p>Single Price: These supplies are provided together for a single price, but they do not qualify as a composite supply.</p>
	Refer Questionnaire: CCP 02.09.31.00	<p>Independent Supplies: Unlike composite supplies, the individual components of mixed supplies are independent and not naturally bundled.</p>
	Case studies of Mixed Supply	<div data-bbox="1305 342 1560 517"></div> <p>1) Supply Contents: A package includes canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks, and fruit juices.</p> <p>Independence of Items: Each item in the package can be supplied separately and is not dependent on any other.</p> <p>Single Price: <u>When these items are supplied together for a single price, it constitutes a mixed supply.</u></p> <p>Separate Supply: If these items are supplied individually or separate prices are charged for each, it does not qualify as a mixed supply.</p> <p>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.</p> <p>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.</p>
	Determining Mixed Supply	<p>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.</p> <p>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.</p> <p>Single Consideration or price: If a single consideration is charged for the entire supply of different components after ruling out composite supply, it qualifies as a mixed supply.</p> <p>Highest Tax Rate: Mixed supplies are then classified based on whether they involve goods or services and are taxed at the highest applicable rate.</p> <p>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.</p>
	Refer Questionnaire: CCP 02.09.33.00	

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 goods as the predominant supply. ⇒ 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.

Refer Questionnaire for General Questions: CCP 02.01.01.00 - (1) & (6), CCP 02.08.28.00 & 02.09.32.00



CHAPTER - 4

REVERSE CHARGE & ECO

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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 shift applies to **specific categories of supply** designated by the Government on GST Council's recommendation.

Definitions:-

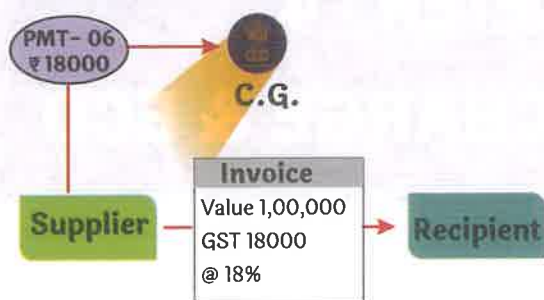
Sec 2(98) : Reverse Charge

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.

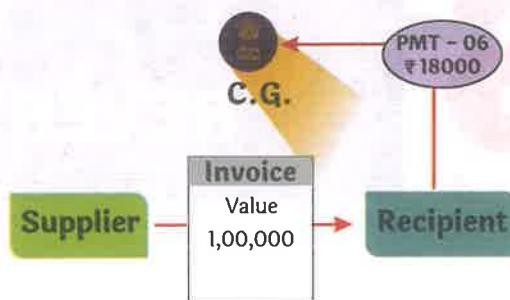
Sec 2(93) : Recipient

Already seen in chapter 2 Concept of Supply

Normal Charge



Reverse Charge



Assessment	Supplier has to assess the tax & transfer it to Recipient	Recipient has to assess the tax
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 compulsorily u/s 24.
Due date of Payment	Monthly	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 - Electronic Cash ledger	By using electronic cash ledger only (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.)

Imp Note :- There is no forward or reverse charge in case of exempted/ nil rated supply as no tax is payable on such supplies

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

Legal Provision

Sec 9(3) : Reverse Charge under notified cases	<p>The Government may, on the recommendations of the Council,</p> <ul style="list-style-type: none"> by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both <p>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.</p>
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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

RCM Notified Services

N/N 13/2017-CT (Rate)
N/N 4/2017-UTT (Rate)
N/N 4/2017-IT (Rate)

Dated 28th June, 2017

Important Explanations

Recipient for GTA	The person who pays or is liable to pay freight for the transportation of goods by road (GTA) in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notifications.
Body Corporate	has the same meaning as assigned to it in section 2(11) of the Companies Act, 2013.
Limited Liability Partnership (LLP)	A "LLP" formed and registered under the provisions of the Limited Liability Partnership Act, 2008 shall also be considered as a partnership firm or a firm.
Special Explanation for Scope of Govt.	Provisions of this notification, in so far as they apply to the Central Government and State Governments, shall also apply to the Parliament, State Legislatures, Courts and Tribunals.

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	<p>⇒ 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 & liability under RCM.</p> <p>Note:- However, under this case, recipient under RCM can take the ITC of such 5% tax paid by him.</p> <p>⇒ 12% Tax Rate (6% CGST + 6% SGST/UTGST or 12% IGST): When GTA opts to pay GST [under forward charge] at this rate and avails ITC on goods or services used for GTA services.</p>
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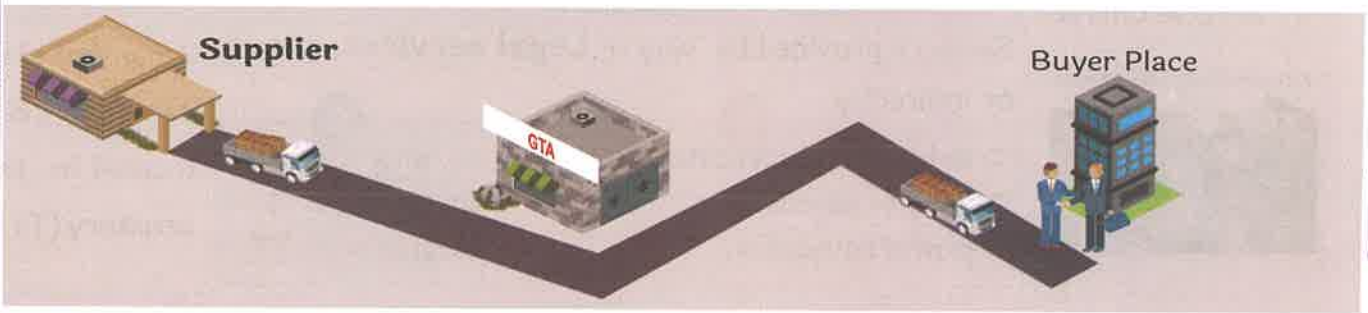
Reverse Charge	Services	100 % Liability
	<p>Supply of Services in relation to transportation of goods by road</p> <div style="display: flex; align-items: center; justify-content: center;"> <div style="text-align: center;"> <p>By</p> <p>Goods Transport Agency</p>  </div> <div style="text-align: center;"> <p>To</p> <p>Notified Person</p> </div> </div>	Notified Person

Notified Recipient located in taxable territory who is liable to pay freight	<p>(a) Factories under the Factories Act.</p> <p>(b) Societies under Societies Registration Act.</p> <p>(c) Co-operative societies established by or under any law</p> <p>(d) Persons registered under GST Act</p> <p>(e) Body corporates established by or under any law</p> <p>(f) Partnership firms, registered or not, including LLP & Association of persons</p> <p>(g) Casual taxable persons</p>
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Definition	Goods Transport Agency (GTA) :- <u>means</u> any person who provides service in relation to transport of goods by road AND issues Consignment Note (also called 'bilty'), by whatever name called.
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Non applicability of RCM	<p>1) RCM doesn't apply when GTA transports goods for:</p> <ul style="list-style-type: none"> ⇒ Central/ State/ Union territory Government departments/ establishments ⇒ Local authorities ⇒ Governmental agencies <p>registered for tax deduction under section 51, not for taxable supplies)</p> <p>2) RCM shall not apply (i.e. Forward charge is applicable) if:-</p> <ul style="list-style-type: none"> 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. <p>Note:- Once exercised the option, GTA has to pay tax in future years until it shifts to Reverse charge Mechanism by filing declaration</p>
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	<p>3) Based on interpretation & clarification:</p> <p>a) If such a consignment note is not issued by the transporter, the supplier will not come within the ambit of GTA.</p> <p>b) Individual truck/tempo operators who do not issue any consignment note are not covered within the meaning of the term GTA.</p> <p>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. 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.</p> <p>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</p> <p>a) Who is liable to pay GST if Mr. B is registered under GST</p> <p>b) Nature of supply for levy of GST</p> <p>Would your answer differ, if Mr. B is not a registered person?</p>
Exemption	<p>Exemption is available for Services provided by a GTA to an unregistered person, including an unregistered CTP, other than notified recipients</p> <p>Note:-</p> <p>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)</p> <p>2) Notified recipient includes Factories, Societies, Co-operative societies, registered Person under GST, Body corporates, PF, AOP, CTP</p>
Option of conversion from F.C. to RCM	<p>Conditions for GST rate to be applied [N/No. 06/2023]:- Once GTA exercises the option to itself pay GST on the services supplied by it under forward charge during a Financial Year will be continued unless the GTA files a declaration for RCM in the 4th Qtr. of P.F.Y.</p>



2. Legal Services

Reverse Charge

Representation By Senior Advocate



Services

Services provided by way of **Legal services**, directly or indirectly

By

- an individual advocate including
- a senior advocate or
- firm of advocates

To

to any business entity (B.E.) located in the TT

100 % Liability

Any business entity (B.E.) located in taxable territory (TT).

Definitions

1) Legal Service:

- Encompasses advice, consultancy, or assistance in any branch of law.
- Includes **representational services** before any court, tribunal, or authority.

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

RCM if all the following conditions are fulfilled

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

1)

2)

3)

4)

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

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

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

- 1) Legal service to Kalidas Ltd. ₹1,00,000
- 2) Representational service in a court to V smart Academy ₹2,00,000
- 3) Advice on divorce as per law to Mr. Akash ₹50,000
- 4) Renting of immovable property ₹4,00,000
- 5) Actuary Service to Insurance co. ₹3,00,000

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

3. Arbitral Tribunal Services

Reverse Charge



Services

100 % Liability

In respect of services provided to agreed to be provided

By

Arbitral Tribunal

To

Business entity (B.E.)

Business entity (B.E.) in Taxable territory (TT) is liable

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/SQ/LA etc.

Detail discussion in Exemption chapter

P5:- 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?

4. Sponsorship Services

Reverse Charge	Services	100 % Liability
	In relation to Sponsorship Service <div> <div>By</div> <div>Any person</div> </div> <div> <div>To</div> <div>Any body corporate or partnership firm located in TT</div> </div>	Body Corporate or partnership firm in taxable territory is liable
	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)	
	2)	
	3)	
	4)	
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		
2	Mr. X [Individual]	ZQ [partnership firm in India]		
3	XYZ Ltd.	Mr. X [Individual]		
4	XYZ Ltd	ABC Ltd. [USA]		

5. Government Services

Reverse Charge	Services	100 % Liability
	Any Service By ⇒ Central Govt. (CG) ⇒ State Govt. (SG) ⇒ Union Territory (UT) ⇒ Local authority (LA)	To Business entity (B.E.) in taxable territory (TT) Business entity in Taxable territory (TT) is liable
Non applicability of RCM:	If the following services are provided by Govt. or LA then F.C. is applicable, if taxable 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	Exemption is available to Government service (no FC & RCM) if 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.	Detail discussion in Exemption chapter

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

Reverse Charge	Services	100 % Liability
	Services supplied by way of Renting of Immovable Property By CG, SG, UT & LA [excluding the Ministry of Railways (Indian Railways)],	To Any Registered Person (RP) under CGST Act Any registered person (RP) in taxable territory (TT)
Definition [Explanation]	"Renting of immovable property" means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property.	
Analysis on the basis of combine reading of entry 5 & 5A	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**.

5AA Renting of Residential Dwelling (RRD)

Reverse Charge	Services	100 % Liability
	<p>Services supplied by way of Renting of residential dwelling</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="border: 1px solid black; padding: 5px; text-align: center;"> By Any person </div> <div style="border: 1px solid black; padding: 5px; text-align: center;"> To a registered person </div> </div>	<p>Any registered person</p>
Non-applicability of RCM	<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> <p>Following services are subject to forward charge</p> <ul style="list-style-type: none"> a) Renting of commercial building or complex to any person. b) RRD for commercial or office use to Unregistered person 	
Exemptions	<p>Exemption is available to RRD (no FC & RCM)</p> <ul style="list-style-type: none"> a) RRD for residential use to Unregistered person b) RRD to registered person(individual)who is using in his personal capacity & not for business. 	

Detail discussion in Exemption chapter

6 Services by Director

Reverse Charge	Services	100 % Liability
	Services supplied <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="border: 1px solid black; padding: 5px; text-align: center;"> By Director of a Company or Body Corporate </div> <div style="border: 1px solid black; padding: 5px; text-align: center;"> To Said Company or Body Corporate </div> </div>	Company or Body Corporate is liable
	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.	

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 where TDS is deducted u/s 194J:- ➤ 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.

- Mr. A a whole time director getting monthly salary of ₹ 2,00,000 for his service
 - Mr. B a non executive director getting sitting fees of ₹ 50,000
 - 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.

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



Insurance Agent

Services

Services supplied

By

Insurance Agent

To

Any person carrying insurance business (Insurance Companies)

100 % Liability

Any person carrying any insurance business located in taxable territory (TT)
e.g. 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.

Non- Applicability of RCM

Many insurance companies (online website) 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.

Analysis

RCM if all the following conditions are fulfilled

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

1)

2)

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.

- a) Insurance auxiliary service as a insurance agent for which commission is charged of ₹2,00,000
- b) Actuary service for valuation of stock, for which fees is charged of ₹1,00,000

(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.

8 Recovery Agent

Reverse Charge	Services	100 % Liability
	Services supplied <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="border: 1px solid pink; padding: 5px; text-align: center;"> By Recovery Agent </div> <div style="border: 1px solid blue; padding: 5px; text-align: center;"> To a Banking company or a Financial Institution or NBFC </div> </div>	Banking company or financial Institution or NBFC located in taxable territory




9 Copyright services for Music, Art etc.

Reverse Charge	Services	100 % Liability
	Supply of services by way of transfer or permitting the use or enjoyment of a copyright covered u/s 13(1)(a) of the Copyright Act, 1957 relating to original, dramatic, musical or artistic works <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="border: 1px solid pink; padding: 5px; text-align: center;"> By Music Composer, photographer, artist </div> <div style="border: 1px solid blue; padding: 5px; text-align: center;"> To A Music company, producer or the like, located in the TT </div> </div> <div style="display: flex; justify-content: space-around; align-items: center; margin-top: 10px;"> <div style="text-align: center;"> Musical Lyrics of Song </div> <div style="text-align: center;"> Artistic Painting by Painter </div> <div style="text-align: center;"> Dramatic Acting by Actor </div> </div>	A music company, producer or the like, located in the taxable territory



Analysis	RCM if all the following conditions are fulfilled	Forward Charge, if any of the cond's of RCM are not fulfilled
	1)	
	2)	
	3)	
	4)	

9A Copyright service by Author

Reverse Charge	Services	100 % Liability
	<p>Supply of services by way of</p> <ul style="list-style-type: none"> ⇒ transfer or ⇒ permitting the use or enjoyment of a copyright ⇒ covered u/s 13(1)(a) of the Copyright Act, 1957 ⇒ relating to original literary works <p>By An Author To A Publisher located in the TT</p>	<p>A Publisher located in the taxable territory</p> <p>Literary</p>  <p>Books by Author</p>
Option to pay under F.C.	<p>Reverse charge is not applicable in following cases i.e. Author will pay tax under forward charge:-</p> <p>(i) He has taken registration under the CGST Act & Filed a declaration, in the prescribed form, that he exercises the option</p> <ul style="list-style-type: none"> ➤ 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. <p>(ii) He makes a declaration on the invoice issued by him in prescribed form to the publisher.</p> <p>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.</p>	
Analysis	RCM if all the following conditions are fulfilled	Forward Charge, if any of the cond's of RCM are not fulfilled
	1)	
	2)	
	3)	
	4)	

P 8:- 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?

10 Services by the members of Overseeing Committee

Reverse Charge	Services	100 % Liability
	Supply of Services <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="border: 1px solid black; padding: 5px; text-align: center;"> By Members of Overseeing committee </div> <div style="border: 1px solid black; padding: 5px; text-align: center;"> To Reserve Bank of India (RBI) </div> </div>	Reserve Bank of India (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	Services	100 % Liability
	Services supplied <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="border: 1px solid black; padding: 5px; text-align: center;"> By Individual Direct Selling Agents (DSAs) other than ⇒ a body corporate, ⇒ partnership or ⇒ LLP </div> <div style="border: 1px solid black; padding: 5px; text-align: center;"> To A banking company or a NBFC, located in the taxable territory. </div> </div>	A banking company or NBFC, located in the taxable territory.
Analysis	RCM if all the following conditions are fulfilled	Forward Charge, if any of the cond's of RCM are not fulfilled
	1)	
	2)	
	3)	

12 Services provided by Business Facilitator

Reverse Charge	Services	100 % Liability
	Services supplied <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="border: 1px solid black; padding: 5px; text-align: center;"> By Business Facilitator </div> <div style="border: 1px solid black; padding: 5px; text-align: center;"> To A banking company located in the taxable territory. </div> </div>	A banking company located in the taxable territory.
Note:- "Business facilitator or business correspondent" 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.		
Analysis	RCM if all the following conditions are fulfilled	Forward Charge, if any of the cond's of RCM are not fulfilled
	1)	
	2)	
	3)	

13 Service provided by Agent of Business Correspondent

Reverse Charge	Services	100 % Liability
	Services supplied <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;"> By An agent of Business Correspondent (BC) </div> <div style="text-align: center;"> To A business correspondent, located in the TT </div> </div>	A business correspondent, located in the TT
	Comment: Services by an agent of business correspondent is covered under RCM here and not agent of business facilitator	

14 Security services

Reverse Charge	Services	100 % Liability
	Services provided by way of supply of security personnel provided <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;"> By any person other than a body corporate </div> <div style="text-align: center;"> To a Registered person (RP) </div> </div>	A registered person (RP), located in the taxable territory (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	Based on Proviso	In following cases F.C. is applicable, if security services are supplied to i) Central/ State/ UT Government departments / establishments ↳ Local authorities ↳ Governmental agencies registered for tax deduction u/s 51, not for taxable supplies ii) a RP paying tax u/s 10 of the CGST Act i.e. composition scheme.
	Based on interpretation	i) Dog sniffer, Investigation Service, Background check, CCTV security/IT enabled equipment security ii) Service is provided by body corporate iii) Service is supplied to unregistered person

Analysis	RCM if all the following conditions are fulfilled		Forward Charge in any of the cond's of RCM not fulfilled	
	1)			
	2)			
	3)			

15. Renting of Motor Vehicle

GST Rates for Renting of motor vehicle Services	<p>⇒5% (2.5% CGST+2.5% SGST/UTGST or 5% IGST): When supplier of services has taken only the limited ITC (of input services in the same line of business) or</p> <p>⇒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	Services		100 % Liability
	provided by way of		Any body corporate located in the taxable territory (TT).
	<p>⇒ renting of any motor vehicle</p> <p>⇒ designed to carry passengers</p> <p>where the cost of fuel is included in the consideration charged from the service recipient,</p>		
<div>By</div> <div>Any person other than a body corporate, (Not opting for 12% GST)</div>		<div>To</div> <div>Anybody corporate located in the TT.</div>	
<p>Note:- RCM shall be applicable only if all the below given conditions are satisfied:-</p> <p>a. Supplier is not a body corporate</p> <p>b. Supplier does not issue invoice charging GST @12%</p> <p>c. Service Recipient is a body corporate located in the taxable territory.</p>			

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
- b) Service of transportation of passengers.

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.

Services of renting of motor vehicles designed to carry passengers covers	Passenger transport services covers
<ul style="list-style-type: none"> - renting of motor vehicle - 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. 	passenger transport services over pre-determined routes on pre-determined schedules.

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

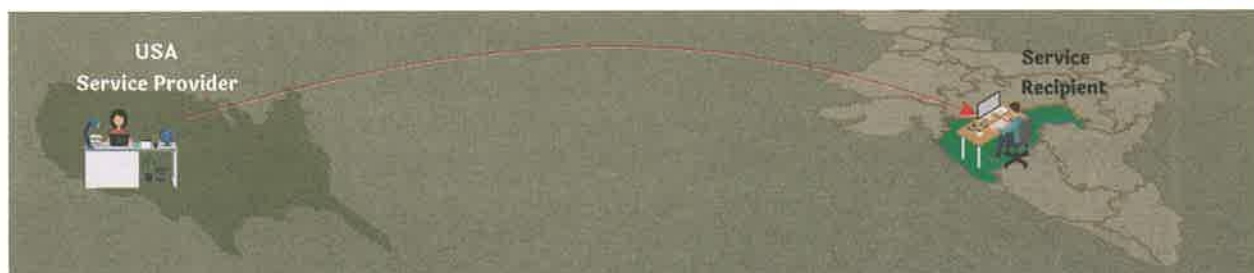
Reverse Charge

Services	100 % Liability
<p>Services of lending of securities under Securities Lending Scheme, 1997 of SEBI</p> <p style="text-align: center;">By To</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%; border: 1px solid #FFDAB9; padding: 5px;"> <p>Lender (i.e. a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI)</p> </div> <div style="width: 45%; border: 1px solid #ADD8E6; padding: 5px;"> <p>Borrower (i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI).</p> </div> </div>	<p>Borrower i.e. a person who borrows the securities</p>

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	Services	100 % Liability
	Any service supplied <div> <div>By</div> <div>Any person from a non taxable territory</div> </div> <div> <div>To</div> <div>Any person other than NTOR</div> </div>	Any person located in taxable territory
Non-applicability of RCM	OIDAR services supplied by a person located in NTT to NTOR Note:- “Non-taxable online recipient” means any unregistered person receiving online information and database access or retrieval services located in taxable territory. Comment:- OIDAR services received by an unregistered person (NTOR) will be taxed under forward charge. RCM is not applicable as such person is NTOR.	Detailed Discussion in IGST Act



GST in real Estate & RCM under Sec 9(4)

Legal Provision

Sec 9(4) (CGST) RCM – when supply of goods or services by URP to RP

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.

Notified Goods or services u/s 9(4)

N/ N 07/2019 CT(R) dt 29/03/2019

Reverse Charge

Services

100 % Liability

value of inputs and input services purchased from registered supplier is less than 80%

By

Purchase from URP

To

promoter

Person liable to pay tax is promoter

Note:- Reverse Charge is applicable only to the extent of shortfall to make it 80%

Services

100 % Liability

In case of Cement

By

Supplied by URP

To

promoter

Person liable to pay tax is promoter

Services

100 % Liability

In case of Capital Goods

By

Supplied by URP

To

promoter

Person liable to pay tax is promoter

Analysis

Construction of Affordable Houses

- GST rate: 1%.
- Without Input Tax Credit (ITC).
- Criteria: House size 60 sqm in metros or 90 sqm in non-metros, value ₹45 lakh.

Construction of Houses (Other than Affordable) and Commercial Apartments

- GST rate: 5%.
- Without ITC.
- Conditions: Commercial apartments' carpet area 15% of total apartment area.

Conditions for Above Tax Rates

- 80% of inputs and input services (excluding specific items) must be purchased from registered suppliers.

Tax payable by ECO on notified services u/s 9(5) of CGST Act/ 5(5) of IGST Act

What is ECO?	<ul style="list-style-type: none"> ➤ 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	<ul style="list-style-type: none"> ➤ 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. 				
Liability to pay tax if ECO does not have presence in Taxable Territory(TT)	<table> <tr> <td>1. If ECO does not have a physical presence in the TT</td><td>Person representing such ECO for any purpose in the taxable territory shall be liable to pay tax</td></tr> <tr> <td>2. If ECO does not have a physical presence and also, does not have a representative in the TT</td><td>ECO shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.</td></tr> </table>	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.
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)	<p>Following are the services which are supplied through ECO:</p> <p>i) Transportation of Passengers by Cab etc.:-</p> <p>a) Services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motorcycle, any other motor vehicle except omnibus.</p> <p>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.</p>
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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

iii) **Service by Unregistered Plumber, Housekeeper etc :**

Services by way of housekeeping, such as plumbing, carpentering etc.

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

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.



CHAPTER - 5

COMPOSITION SCHEME

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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).

Refer Questionnaire: CCP 04.01.01.00

Important Definitions:-

Section 2(6)

Aggregate Turnover

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),

➤ **exempt supplies** (wholly exempt + nil rate + non taxable supply)

➤ **exports** of goods or services or both and

➤ **inter-State supplies**

of persons having the same Permanent Account Number, to be computed on **all India basis**

but **excludes** central tax, State tax, Union territory tax, integrated tax and cess

Refer Questionnaire: CCP 04.03.03.00 & CCP 04.03.04.00 (IMP)

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%)

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

v) Inter-State supply to various buyers ₹16,80,000 (including IGST @ 12%)

vi) Inter-State supply to own establishment under same PAN ₹11,20,000 (including IGST @ 12%)

Calculate aggregate turnover.

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.

	<p>P3 : Mr. Jolly LLB an Advocate has supplied following goods and services in F.Y. 18-19</p> <p>i) Intra state supplies of legal services to business entity - ₹15,00,000</p> <p>ii) Renting of immovable property - ₹5,00,000</p> <p>iii) Trading of Goods - ₹9,00,000</p> <p>Calculate aggregate turnover.</p>
Section 2(112) - “Turnover in State” or “Turnover in Union Territory”	<p>“turnover in State” or “turnover in Union territory” means the aggregate value of</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) 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 <p>but excludes central tax, State tax, Union territory tax, integrated tax & cess.</p> <p>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.</p>
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
Section 2(47) : Exempt Supply	<p>means a supply of any goods or services or both</p> <ul style="list-style-type: none"> ⊕ 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.

Very Small Dealer



Small Dealer



Big Dealer



Aggregate
Turnover
10 L/20 L/40 L

Aggregate
Turnover
1.5 Cr./75 L/50 L

Threshold

Composition

Normal

Assessee

Mfg	Trader	SP

Mfg	Trader	SP

Tax benefits

procedure benefit

Registration

GST Invoice

GST Records

ITC

GST Return

Threshold and Composition limit

Particulars	2017-18	18-19	19-20	20-21	21-22	22-23
Agg. T/o	No Business	₹80L	₹200L	₹1	₹150L	₹180L
less: threshold						
Taxable						
T/O under composition Scheme						
GST under composition scheme i.e. 1%						
T/o under normal scheme						
GST payable under Normal Scheme @ 12%						

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.** 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

Refer
Questionnaire:
CCP 04.02.02.00

Sr. No	Categories of registered person	CGST Rate	SGST/UTGST Rate	Total Rate	Basis of Calculation
1	Manufacturers	0.5%	0.5%	1%	Turnover in State or UT
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
3	Other Suppliers (Traders)	0.50%	0.50%	1%	Turnover of taxable supplies of goods & services in State or UT

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:-

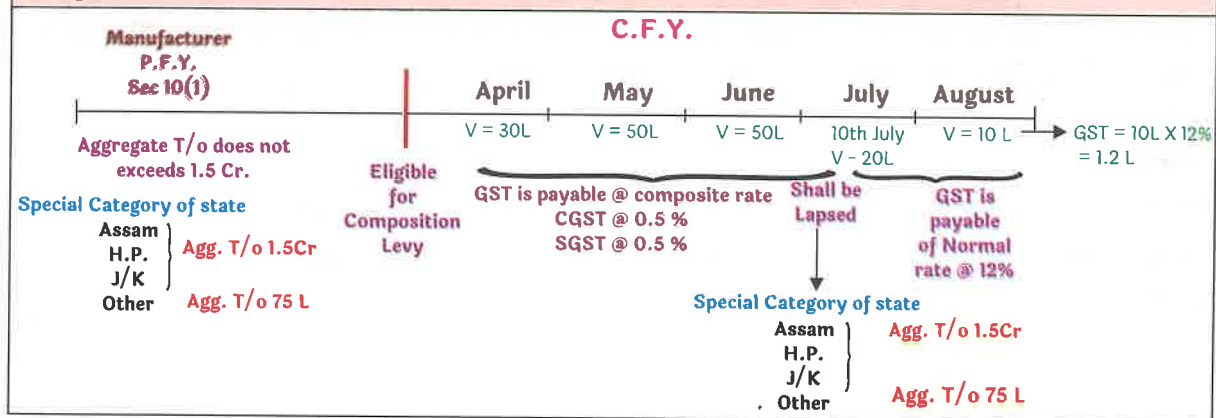
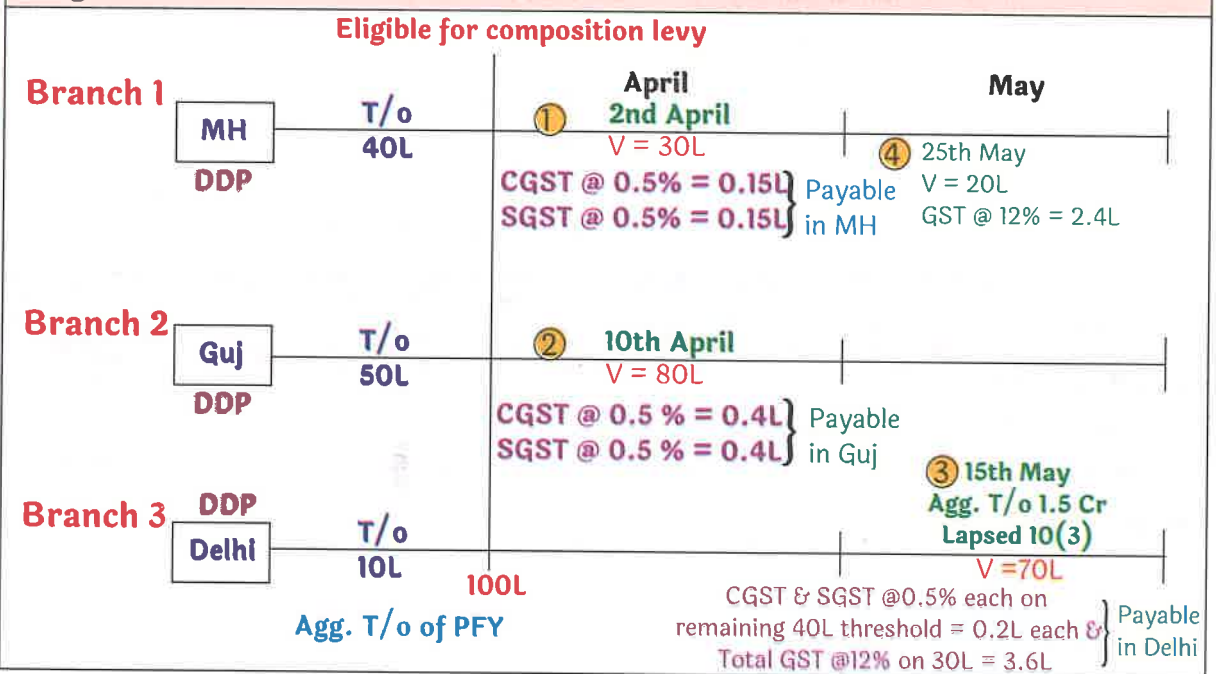
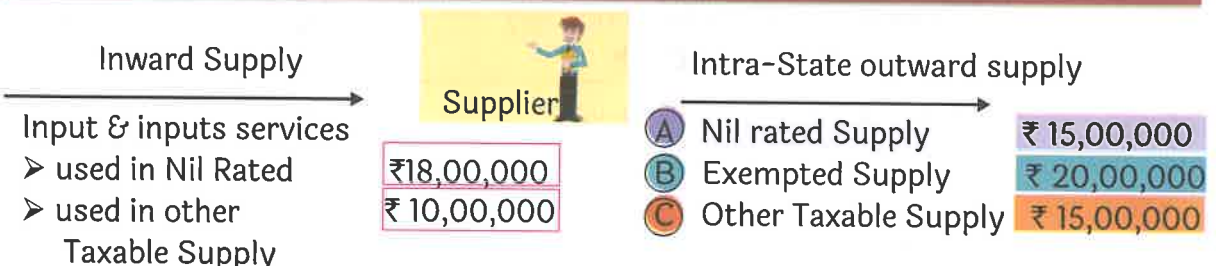


Diagram 2:-



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

Inward Supply

Input & Inputs services

➤ used in Nil Rated ₹ 18,00,000

➤ used in other Supply ₹ 10,00,000

Supplier

Intra-State outward supply

Ⓐ Nil rated Supply ₹ 15,00,000

Ⓑ Exempted Supply ₹ 20,00,000

Ⓒ Other Taxable Supply ₹ 15,00,000

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

Inward Supply

➤ Legal Service from individual Advocate 18,00,000

Supplier

Intra-State outward supply

Other Taxable Supply ₹ 25,00,000

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.																
Refer Questionnaire: CCP 04.04.11.00 (IMP)	<div>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.</div>																
	<div>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.</div>																
2nd proviso to sec 10(1): Marginal Service Refer Questionnaire: CCP 04.04.06.00 (IMP), CCP 04.04.07.00 & CCP 04.04.12.00 (IMP)	<div>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.</div> <div>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.</div> <div>Example 1:-<table><tr><th>Turnover in the state/UT in the preceding FY (in ₹)</th><th>10% of such turnover (in ₹)</th><th>5 Lakh Rupees</th><th>Maximum amount of services which may be supplied by the manufacturer/trader during the current FY (in ₹)</th></tr><tr><td>10,00,000</td><td>1,00,000</td><td>5,00,000</td><td>5,00,000</td></tr><tr><td>20,00,000</td><td>2,00,000</td><td>5,00,000</td><td>5,00,000</td></tr><tr><td>60,00,000</td><td>6,00,000</td><td>5,00,000</td><td>6,00,000</td></tr></table></div>	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
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.

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)

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.

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%)

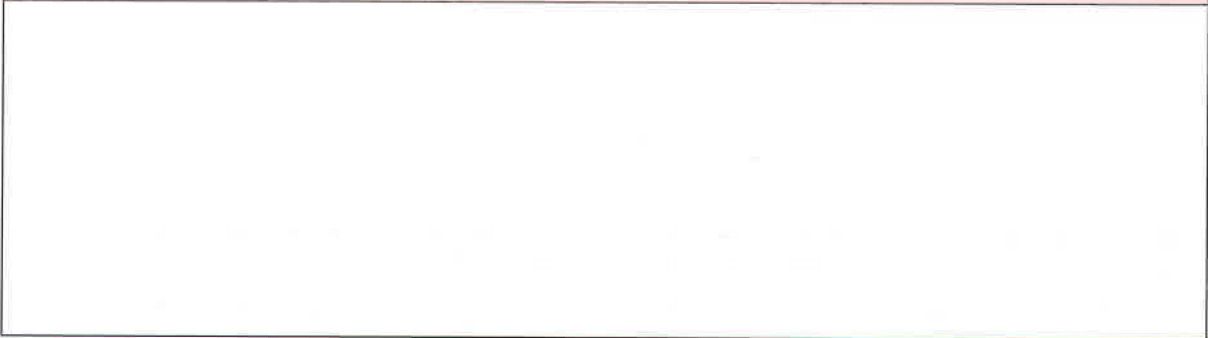
Whether Mr. X is eligible for composition levy?

If yes, then calculate tax liability of current FY XX-YY if Mr. X is trader.

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

Composition Levy under Sec 10(2A)	<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>
Notified Rate of GST u/s 10(2A)	6% (CGST 3% and SGST 3%) of the turnover in State or turnover in Union territory
Sec 10(3) - Threshold of composition levy in CFY	<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 <u>a financial year</u> exceeds the limit specified Sub-section (2A) (i.e. ₹50 lakh)</p> <p>Diagram 1:-</p> 

Refer Questionnaire: CCP 04.05.14.00 (IMP), CCP 04.05.15.00, CCP 04.05.16.00 (IMP), CCP 04.05.17.00

Conditions for Composition Levy

Sec 10(2): Person opting for composition levy u/s 10(1)	Sec 10(2A): Person opting for composition levy u/s 10(2A)
<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 style="text-align: center; border: 1px solid black; padding: 10px;">Not Applicable</p>
<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. 26-27 for supply of goods is ₹ 30 lakhs and repairing service 15 lakhs.</p> <p>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

a) Whether Mr. Amar is eligible for composition scheme u/s 10 of CGST Act

b) Is there any difference if Mr. Amar wants to opt for composition scheme only for showroom.

c) If instead of consulting agency, Mr. Amar is running a Restaurant, whether he is eligible for composition?

2) **He is not engaged in making any supply of goods or services which are not leviable to tax under CGST Act**

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.

He is not engaged in making any supply of goods or services which are not leviable to tax under CGST Act

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.)?

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?

3) **He is not engaged in making any inter-State outward supplies of goods or services**

Note:-

- ➔ Stock transfers to own branches outside the state is also not allowed as it is also a supply as per the GST law.
- ➔ However, there is no restriction on inter-state inward supplies.

He is not engaged in making any inter-State outward supplies of goods or services

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.

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.

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?

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**

Note:- Now the restriction is only on services, that means composition dealer can make supply of goods through such ECO

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

Omitted by
F.A. 2022

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.

<p>5) He is not manufacturer of goods notified by Govt. on the recommendations of Council which are as follows</p> <p>Notified goods by</p> <ul style="list-style-type: none"> ➔ 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 <p>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.</p>	<p>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.</p> <p>Notified goods</p> <ul style="list-style-type: none"> ➔ Ice cream & other edible ice, whether or not containing cocoa ➔ Pan Masala ➔ Aerated Water ➔ All goods, i.e. Tobacco and manufactured tobacco substitutes
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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.

- Whether Mr. Spiderman is eligible for composition scheme?
- Would your answer differ, if Mr. Spiderman is a manufacturer of Ice-Cream.

<p>6) He is neither a casual taxable person (CTP) nor a non-resident taxable person (N RTP)</p> <p>Refer Questionnaire: CCP 04.04.08.00 (IMP), CCP 04.04.09.00 & CCP 04.04.10.00</p>	<p>He is neither a casual taxable person (CTP) nor a non-resident taxable person (N RTP)</p> <p>Refer Questionnaire: CCP 04.05.13.00</p>
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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. 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.

Refer Questionnaire: CCP 04.08.23.00

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

Refer Questionnaire: CCP 04.07.20.00

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
Value of all outward supplies ➤ Taxable supplies ➤ Exempt supplies ➤ Exports* ➤ Inter-State supplies* of persons having the same PAN be computed on all India basis. These also includes	➤ 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)
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	

*** 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
➤ All taxable supplies and exempt supplies made within the State/UT (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)	➤ 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> ➤ <u>Interest or Discount (value of exempt service) on loan advances and deposits</u> (detailed discussion at the end of this chapter)

Answers to some Important questions:-

- 1 **'Aggregate turnover' and 'turnover' / 'turnover of taxable supplies' are relevant for what u/s 10?**
 ➔ 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.
- 2 **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?**
 ➔ They are to be satisfied in C.F.Y. only.
- 3 **Whether GST is payable at normal rate under RCM if the taxable person is opting for composition scheme?**
 ➔ Section begins with a non-obstante clause i.e. it overrides other provisions of the act but is subject to Sec 9(3)/(4).
 ➔ 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.
 ➔ Inward supplies taxable under RCM are taxed at normal rates only.
- 4 **Who is liable to pay tax if a composition dealer supplies services covered u/s 9(5) through an ECO?**
 If a composition dealer supplies services covered u/s 9(5), then sec 10 overrides that sec and hence, tax shall be **paid by composition dealer** at applicable rates for composition scheme. ECO is not liable to pay tax u/s 9(5) in such case.

CGST RULES, 2017:-

Rules	Description									
<div>Rule 3 & 4:- Intimation of Composition levy</div> <div><div>Draw Chart</div></div>	<div>Intimation by person applying for registration:-<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.</div> <div>Intimation by a registered person:-<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.</div> <div>Summary:-<table><tr><th>Category of persons</th><th>When to opt for composition</th><th>Scheme is effective from</th></tr><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></table></div>	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.								

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)).

Comment:- Only Sec 10(2)(e) is to be fulfilled for both C.F.Y & P.F.Y

➤ **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).

**Sec 10(3)
read with
rule 6:
Validity of
composition
levy**

(Circular.No.
77/51/2018)

Refer Questionnaire:
CCP 04.08.22.00
(IMP)

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:-

- **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.

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.
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 ➔ till 18th of the month following the quarter.
62(1)(ii)	All composition taxpayers shall file a Return (annual basis) in FORM GSTR-4 till ➔ 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 .
Refer Questionnaire: CCP 04.08.21.00	

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.

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 : $152L - 3L = 149L$</p> <p>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 : $₹155L - ₹10L = ₹145L$</p> <p>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> <ul style="list-style-type: none"> 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 <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 = $1\% [₹20L + ₹2L + ₹1L] = ₹0.23 \text{ lakhs}$</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>
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 = $₹80 \text{ Lakhs} - ₹7 \text{ lakhs} = ₹73 \text{ lakhs}$ [which is T/O in state also as there is only 1 branch]</p> <p>ABC Ltd. is eligible for composition levy in C.F.Y.</p> <p>2) Marginal limit of service allowed is higher of ($₹73L \times 10\%$) 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);

Refer Questionnaire for Questions on Combined Provisions:

CCP 04.04.05.00, CCP 04.06.18.00 (IMP), CCP 04.06.19.00, CCP 04.08.24.00



CHAPTER - 6

VALUE OF SUPPLY

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Introduction

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)

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.



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.

- a) Goods sold to Mr. Akshay ₹10,000
- b) Goods sold to Mr. Rahul ₹20,000 &
- c) Goods sold to Mr. Surya ₹18,000

Same goods are sold to all customers, an applicable GST rate goods 'A' is 12%.

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.

Refer Question from
our Questionnaire:
CCP 05.01.01.00

Tobacco & Tobacco Products



Invoice

Basic Price
Ex. Duty@30%
Total
GST@28%

Refer Questionnaire: CCP 05.01.02.00



Invoice

Basic Rent
Municipal Taxes
Total
GST@18%

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

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

Refer Questionnaire: CCP 05.01.03.00

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.

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.

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.

Refer Question from our Questionnaire: CCP 05.01.04.00 & CCP 05.01.05.00 (IMP)

- 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:-**



- 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.

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.

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.

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.

(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 base price & also the charges for delay in payment. 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 generally assumed 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) Blanket (lumpsum) subsidy/donation. 2) Subsidy given by the CG or SG. Note:- Subsidy received from CG or SG is excluded, however subsidy received from Pvt. body or Local authority should be included in VOS

Refer Question from
our Questionnaire:

CCP 05.01.08.00 &
CCP 05.01.09.00

Incentive paid by MeitY to acquiring banks for promotion of RuPay Debit Cards and low value BHIM-UPI [Circular No. 190/02/2023]

Incentive Scheme

Under the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM- UPI transactions, Ministry of Electronics and Information Technology (MeitY) pays the acquiring banks an incentive based on transaction value up to ₹2000.

Clarification

- ☛ It is not a consideration paid by the CG for any service by the acquiring bank to the Government.
- ☛ 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.

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.

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) 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	Discount rate increases with an increase in purchase volume.	10% off above 5,000/-, 20% off 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

Refer Question from our Questionnaire: CCP 05.02.10.00 & CCP 05.02.11.00 (IMP)

		Secondary Discounts	Discounts given after the supply is over and not known at the time of supply	M/s A re-values biscuits from 10/- to 9/- per packet and issues a credit note.	Not excluded to determine supply value as conditions of sec 15(3)(b) are not fulfilled.
		Note: Financial or commercial credit notes can be issued even if the conditions in sec 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. <u>Thus, NCB is an allowable deduction</u> for calculating the insurance service's 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.			
	Refer Questionnaire: CCP 05.03.12.00				
	Refer Questionnaire for Combined Provisions: CCP 05.01.07.00, CCP 05.04.13.00, CCP 05.04.14.00, CCP 05.04.15.00 (IMP), CCP 05.04.16.00 (IMP), CCP 05.04.17.00 (IMP), CCP 05.04.18.00, CCP 05.04.19.00 (IMP), CCP 05.04.20.00 (IMP) & CCP 05.04.21.00				



CHAPTER 7

TIME OF SUPPLY

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Introduction

- ⇒ GST is payable on supply of goods or services that consists of elements that can be **separated in time, like purchase order / agreement, despatch (of goods), delivery (of goods)** or provision or performance of service, entry in the records, payment, and entry of the payment in the records or deposit in the bank.
- ⇒ So, at what point of time, the GST becomes payable?
 - Provisions relating to time of supply indicates the point in time when the liability to pay tax arises which essentially fix the tax collection event to the earliest possible time.
- ⇒ Though the liability to pay tax arises at the time of supply (TOS), the same can be paid to the Government **by the due date** prescribed with reference to the said 'time of supply'.
- ⇒ The CGST Act provides separate provisions for time of supply for goods and services vide sections 12 and 13.
- ⇒ Section 14 provides for the method of determining the time of supply in case there is a change in the rate of tax on supply of goods or services.

Refer Questionnaire: CCP 06.01.01.00

Important definitions :-

Sec 2(12) "Associated Enterprises"

shall have the same meaning as assigned to it in section 92A of the Income-tax Act, 1961

Note:- An associated enterprise is an entity that has direct or indirect participation, potentially through intermediaries, in the management, control, or capital of another enterprise.

Sec 2(66) "Invoice or Tax Invoice"

means the tax invoice referred to in section 31

Sec 2(118) "Voucher"

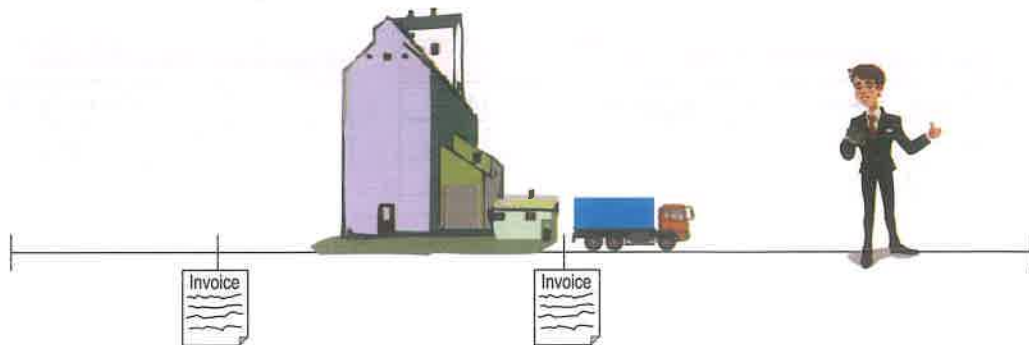
A voucher is an instrument accepted as (part) consideration for specified goods or services, with details and usage terms outlined on it or related documents.

Invoice for SOG Under GST

Invoice is main criteria for deciding Time of Supply. Hence before going ahead first try to understand when the invoice is to be issued by supplier of goods.

Normal Case (Sec 31)

A RP supplying taxable goods shall **issue the Invoice**, before or at the time of
 (a) **removal of goods** for supply to the recipient, **where the supply involves movement of goods**; or
 (b) **delivery of goods or making available** thereof to the recipient, **in any other case**



Continuous SOG (Sec 31(4))

Where **successive statements** of accounts or **successive payments** are involved, the invoice shall be issued before or at the time
 ➤ each such statement is issued or,
 ➤ each such payment is received.

Example:- Mr. A supplying A4-sized bundles of paper to an Advocate's Office. Mr. A submit the account of total supplies made during the 2-month period on the 25th of alternate month.

The invoice shall be issued before or at the time of issue of the statements of account or receipt of payments. Since, the given instance is a case of continuous supply of goods, tax invoice has to be issued latest by the time of submitting the statement every time.

Sub
Sec

Sec 12 :- Time Of Supply (TOS) for SOG

1. Determination of TOS

It provides for the determination of TOS in the following situations:

- Supply of goods under **forward charge**.
- Supply of goods under **reverse charge**.
- Supply of **vouchers** that can be used to pay for goods.
- **Residual** cases.
- Addition to value of supply of goods by way of **interest** or late fee or penalty for delayed payment.

2. TOS of goods under forward charge

TOS is the **earlier of** the following dates:

- **Date of issue of invoice** by the supplier or
the **last date** on which the invoice ought to have been issued in terms of section 31, to the extent the invoice covers the SOG ; or
- **Date of receipt of payment** by the supplier, to the extent the payment covers the SOG

Refer Questionnaire: CCP 06.02.05.00

N/N. 66/2017: No tax payable at the time of receipt of advance for SOG**Provisions of Notification**

All Registered Person (RP) under forward charge are **not required to pay GST at the time of receipt** in relation to SOG.

Note:-

1) Thus, entire GST shall become payable only when the invoice for the supply of such goods is issued or ought to have been issued & no GST is payable on advance payment received.

2) This notification is also applicable to situations of Sec 14

Non-Applicability of notification

1) **Composite supplier** he has to pay, in lieu of tax payable by him, and amount calculated at the prescribed rate applied on his turnover in the State/UT for quarter.

2) **For supply of services** i.e. in case of SOS, GST is payable on advance receipt or invoice, whichever is earlier.

3) **RP making supply of specified actionable claims.** (e.g. betting, casinos, gambling, horse racing, lottery or online money gaming)

TOS of specified actionable claims

N/N 66/2017 is not applicable to specified actionable (treated as SOG), the TOS for specified actionable claims such as online money gaming etc. would be determine as per normal provision of sec 12(2) i.e. earlier of:-

- the date of issue of invoice or
- the last date to issue invoice or
- the date on which supplier receives the payment.

Refer Questionnaire:
CCP 06.02.03.00,
CCP 06.02.04.00
(IMP),
CCP 06.07.20.00-
(i)

Explanation**Meaning of "Date of receipt of payment"**

Recorded Date: The date on which payment is logged in the entity's (supplier's) books of A/C.

Bank Credit Date: The date on which payment is credited to the entity's bank account.

Whichever is earlier.**"Significance of to the extent the invoice or payment covers the SOG"**

⇒ When only part consideration is paid or a partial invoice is issued, the time of supply doesn't cover the full amount.

⇒ Supply is recognized to the extent covered by the invoice or part advance payment.

⇒ **Provision not relevant for SOG :-** For goods (excluding composition supplier), tax is levied based on the invoice issuance date or its due date, regardless of any advance or part payments made prior (Except specified actionable claim).

Example:- A Ltd. agrees to supply B Ltd. 100 kg of raw material but only delivers and invoices for 80 kg. The recognized supply in the invoice is only for the 80 kg. Time of supply rules apply to this 80 kg, not the initial 100 kg agreement.

Proviso**Excess payment upto ₹ 1000: Option of taking invoice date as TOS**

⇒ For a payment of up to ₹ 1,000 received in excess of the value of the invoice, the supplier can choose to take the date of invoice (mostly in next invoice) issued with respect to such excess amount as the time of supply of goods for such excess value.

⇒ **Provision not relevant for SOG :-** Since GST on supply of goods is payable only on the basis of issuance of invoice, this provision is practically irrelevant for supply of goods.

Example :-

Assessee	Date of removal of goods	Date of Invoice	Last Date of Invoice	Date of receipt of Payment		Date of TOS (read with N/N 66/2017)	Remark
				Book entry	Credit in Bank		
ABC Ltd.	15/6/XX	12/6/XX	15/6/XX	1/8/XX	1/8/XX		
A. Ltd.	15/6/XX	15/6/XX	15/6/XX	21/9/XX	21/9/XX		
MR. A	15/7/XX	20/7/XX	15/7/XX	21/9/XX	21/9/XX		
MNL AOP	1/5/XX	1/5/XX	1/5/XX	10/4/XX	13/4/XX		
AB HUF	19/6/XX	19/6/XX	19/6/XX	21/6/XX	21/6/XX		
				2/7/XX	2/7/XX		
XYZ Ltd.	19/6/XX	2/7/XX	19/6/XX	21/5/XX	19/5/XX		
				2/8/XX	2/8/XX		

TOS of goods under Reverse Charge**Time of supply of goods under reverse charge [Sec 12(3)]**

The TOS of goods on which GST is payable on reverse charge basis under Sec 9(3) & 9(4) of the CGST Act, shall be determined earliest of the following dates:

- Goods Receipt Date:** The date on which the **goods are received**.
- Payment Recording Date:** Either when the **payment is recorded** in the recipient's books of account or when it's debited in his bank account, **whichever is earlier**.
- 31st day from Invoice Date :** **The day immediately after 30 days** from the supplier's invoice issue date or its equivalent documents



Proviso:- If the above methods fail to determine the TOS, then the TOS becomes the date when the **goods are entered into the recipient's books of A/C**.

Note:- The relief under N/N 66/ 2017, not paying GST at the time of receipt of advance is available only in case of SOG, the tax on which is payable under forward charge.

In case of reverse charge, GST is payable at the time of payment, if payment is recorded/made before receipt of goods (advance payment).

Example : Where reverse charge is applicable as per section 9(3) & 9(4) of CGST act

Date of receipt of goods	Date of issue of Invoice by supplier	31st day after invoice	Date of		TOS	Comments
			Payment in books of recipient	Payment debited in bank a/c		
22.10.20XX	20.10.20XX		23.10.20XX	25.10.20XX		
22.10.20XX	15.10.20XX		17.10.20XX	18.10.20XX		
22.10.20XX	15.10.20XX		20.10.20XX	18.10.20XX		
22.10.20XX	10.10.20XX		23.11.20XX	25.11.20XX		



Refer Questionnaire:
CCP 06.03.06.00
(IMP) & CCP
06.03.07.00

TOS for Vouchers
(for meaning of voucher refer Definition)

The TOS of vouchers exchangeable for goods is-

Identifiable Voucher:- Date of issue of the voucher, if the supply that it covers is identifiable at that point, or

Non- Identifiable Voucher:- Date of redemption of the voucher in other cases.

Scenario	Discreption	Type of voucher	TOS	
Food Coupons	A Ltd. sells food coupons to B Ltd. which are given to employees. These coupons can be redeemed for various food items at participating outlets.	Identifiable Supply: No	When the employee redeems it for chosen food / provision items.	
Food Coupons	For every large pizza purchase during Christmas week from Perfect Pizza, ₹20 voucher is offered, redeemable for a small pizza till 5th Jan.	Identifiable Supply: Yes	Date of issue of the voucher.	

Refer Questionnaire:
CCP06.08.23.00

CH 7
Time of Supply

5) TOS of goods in residual cases

If the situation is not covered by any of the provisions discussed above, the TOS is fixed under section 12(5), in the following manner:

- **Due date** for filing of the periodical **return**, or
- In any other case, date on which **GST is paid**.

Example:- Investigation reveals clandestine removal of goods by a supplier who is not registered under GST. The evidence is in the form of noting, often undated, and some corroborative material. The supplier voluntarily pays tax during the investigation, to close the case. The TOS will be the date on which the tax is paid, as being unregistered, the supplier is not required to file periodical returns.

Refer Questionnaire:
CCP06.10.26.00

Invoice for SOS Under GST

Invoice is main criteria for deciding Time of Supply. Hence before going ahead first try to understand when the invoice is to be issued by supplier of services.

Normal Case
(Sec 31(2))

As per Sec 31(2), a registered person supplying taxable services shall **issue the Invoice, before or after the provision of service**
but not beyond 30 days (in case of banks or financial institution within 45 days) from the date of supply of service

Sec 13 :- Time Of Supply (TOS) for SOS

Sub
Sec

1. Determination of TOS

It provides for the determination of TOS in the following situations:

- Supply of services under **forward charge**.
- Supply of services under **reverse charge**.
- Supply of **vouchers** that can be used to pay for services.
- **Residual** cases.
- Addition to value of supply of services by way of **interest** or late fee or penalty for delayed payment.

2. TOS of services under forward charge

Refer
Questionnaire:
CCP06.04.08.00

Refer
Questionnaire:
CCP06.04.14.00

The time of SOS shall be the earliest of the following dates, namely

- a. if the invoice is issued within the period prescribed under section 31 **the date of issue of invoice by the supplier, or the date of receipt of payment, (to the extent the invoice or payment covers the SOS) whichever is earlier**
- b. if the invoice is not issued within the period prescribed under section 31 **the date of provision of service, (i.e. supplier or completion of service) or the date of receipt of payment, (to the extent payment covers the SOS) whichever is earlier**
- c. in a case where the provisions of clause (a) or clause (b) do not apply **the date on which the recipient shows the receipt of services in his books of account,**

Refer
Questionnaire:
CCP 06.04.09.00,
CCP 06.04.10.00,
CCP 06.04.11.00,
CCP 06.04.12.00,
CCP06.04.13.00

Assessee	Date of provision of service	Date of Invoice	Date of receipt of Payment		Date of TOS	Remark
			Book entry	Credit in Bank		
ABC Ltd.	15/6/XX	12/6/XX	1/8/XX	1/8/XX		
A. Ltd.	15/6/XX	15/6/XX	21/9/XX	21/9/XX		
MR. A	15/7/XX	20/8/XX	21/9/XX	21/9/XX		
MNL AOP	1/5/XX	1/5/XX	10/4/XX	13/4/XX		
AB HUF	19/6/XX	19/6/XX	11/6/XX	11/6/XX		
			2/7/XX	2/7/XX		
XYZ Ltd.	19/6/XX	21/7/XX	21/5/XX	19/5/XX		
			2/8/XX	2/8/XX		

Explanation

Meaning of "Date of receipt of payment"

Recorded Date: The date on which payment is logged in the entity's (supplier's books of A/C.

Bank Credit Date: The date on which payment is credited to the entity's bank account.

Whichever is earlier.

Significance of "to the extent the invoice or payment covers the SOS"

⇒ When only part consideration is paid or a partial invoice is issued, the TOS doesn't cover the full amount.

⇒ Supply is recognized to the extent covered by the invoice or part advance payment.

Proviso**Excess payment upto ₹ 1000: Option of taking invoice date as TOS**

For excess payments up to ₹1,000 over the invoice value, the supplier has the option to consider the invoice (i.e. next invoice) date related to the excess amount as the time of SOS

Notes:-

Implication: For such advances up to ₹1,000 associated with services, GST isn't due at the receipt of the advance. Instead, GST becomes payable (TOS) when the invoice (i.e. next invoice) is issued.

Rationale Behind the Provision: This arrangement allows suppliers to postpone tax payment on small excess amounts, which are common in scenarios like monthly bills, such as telephone or electricity, customers might pay amounts slightly more than the billed amount.

Ease of Transaction: The provision eliminates the cumbersome process of paying GST on small advances and adjusting them later, especially considering the need to issue a 'Receipt Voucher' under GST for service advances.

Example:- A telephone company receives ₹ 5000 against an invoice of ₹4800. The excess amount of ₹200 can be adjusted against the next invoice. The company has the option to take the date of the next invoice as the time of supply of service in relation to the amount of ₹200 received in excess against the earlier invoice.

**Refer
Questionnaire:
CCP 06.05.15.00**

3. TOS of services under Reverse Charge**Time of supply of services under reverse charge [Sec 13(3)]**

The TOS of services on which GST is payable on reverse charge basis u/s 9(3) & 9(4), shall be determined **earliest** of the following date:

a) Payment Recording Date:

- ➔ Either when the **payment is recorded** in the recipient's books of account or
- ➔ when it's debited in the bank account, **whichever is earlier**.



- b) 61th day from Invoice Date :** **The day immediately after 60 days** from the supplier's invoice issue date or its equivalent documents **by the supplier, in cases where invoice is required to be issued by the supplier; or.**

**Newly inserted
by F.A. 2024**

- c) the date of issue of invoice by the recipient, in cases where invoice is to be issued by the recipient:**

If the above methods fail to determine the TOS, then the TOS becomes the date when the **services are entered into the recipient's books of A/C.**

Example:- TOS in Case of RCM

S. No	Date of provision of Service	Date of issue of invoice by supplier	61th day from suppliers invoice	Date of Receipt of Payment		TOS	Comments
				In books of supplier	Debit in Bank a/c		
1	01.10.20XX	01.10.20XX	01.12.20XX	03.10.20XX	04.10.20XX		
2	01.08.20XX	01.08.20XX	01.10.20XX	21.10.20XX	20.10.20XX		

**Refer
Questionnaire:
CCP 06.06.16.00,
CCP 06.06.17.00
(IMP),
CCP 06.06.18.00,
CCP 06.07.20.00 -
(ii)**

Associated Enterprises (for meaning ref. Def.)	<p>Proviso 2 to sec 13(3): In case of supply by associated enterprises, where the supplier of service is located outside India, the TOS shall be</p> <ul style="list-style-type: none"> ⇒ the <u>date of entry in the books of account</u> of the recipient of supply or ⇒ the <u>date of payment</u>, <p>whichever is earlier</p> <p>Case : Sane & Sane Ltd is located in India and holding 51% of the shares of Parker Ltd., a USA based Company. Parker Ltd. provides Business Auxiliary services to Sane & Sane Ltd.</p> <table border="1" data-bbox="462 459 1540 672"> <thead> <tr> <th>Agreed Consideration</th><th>US \$1,00,000</th></tr> </thead> <tbody> <tr> <td>Date on which services are provided by Parker Ltd.</td><td>16.09.20XX</td></tr> <tr> <td>Date on which invoice is sent by Parker Ltd</td><td>19.09.20XX</td></tr> <tr> <td>Date of debit in the books of account of Sane & Sane Ltd</td><td>30.09.20XX</td></tr> <tr> <td>Date on which payment is made by Sane & Sane Ltd</td><td>23.12.20XX</td></tr> </tbody> </table> <p>Hint : Time of supply shall be as on 30.09.20XX as per proviso to Sec 13(3) of CGST Act</p>	Agreed Consideration	US \$1,00,000	Date on which services are provided by Parker Ltd.	16.09.20XX	Date on which invoice is sent by Parker Ltd	19.09.20XX	Date of debit in the books of account of Sane & Sane Ltd	30.09.20XX	Date on which payment is made by Sane & Sane Ltd	23.12.20XX
Agreed Consideration	US \$1,00,000										
Date on which services are provided by Parker Ltd.	16.09.20XX										
Date on which invoice is sent by Parker Ltd	19.09.20XX										
Date of debit in the books of account of Sane & Sane Ltd	30.09.20XX										
Date on which payment is made by Sane & Sane Ltd	23.12.20XX										
<p>4) TOS for Vouchers (for meaning of voucher refer Definition)</p> <p>Refer Questionnaire: CCP 06.08.24.00</p>	<p>The TOS of vouchers exchangeable for services is-</p> <p>Identifiable Voucher:- Date of <u>issue of the voucher</u>, if the supply that it covers is identifiable at that point, or</p> <p>Non- Identifiable Voucher:- <u>Date of redemption</u> of the voucher in other cases.</p> <p>Example:- A Ltd., offering hospitality services, partners with B Ltd. to market its hotel rooms through discount coupons/vouchers. Since the supply linked to the voucher is identifiable, the TOS for the voucher is its date of issue.</p>										
<p>5) TOS of services in residual cases</p> <p>Refer Questionnaire: CCP 06.09.25.00</p>	<p>If the situation is not covered by any of the provisions discussed above, the TOS is fixed under section 13(5), in the following manner:</p> <ul style="list-style-type: none"> ⇒ Due date for filing of the periodical return, or ⇒ In any other case, date on which GST is paid. 										
<p>6) Interest/late fee etc.</p>	<p>The TOS to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.</p>										
<p>Refer Questionnaire for Question on Combined Provisions: CCP 06.01.02.00, CCP 06.07.19.00 (IMP), CCP 06.07.21.00, CCP 06.07.22.00</p>											

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 AIR 49 Narwar Saini	 AIR 49 Anshu Agarwal	 AIR 49 Narwar Saini	 AIR 49 Anshu Agarwal	 AIR 49 Narwar Saini	 AIR 49 Anshu Agarwal	 AIR 50 Anshu Agarwal

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 AIR 8 Dhruv Singh	 AIR 9 Divin J. Mathew	 AIR 14 Shubham Mittal	 AIR 15 Ankit Kaur	 AIR 17 Anshu Vistal Jais	 AIR 22 Vanshi Masrani	 AIR 23 Tanya Gupta	 AIR 27 Gautam Mittal	 AIR 29 Yash Jain
 AIR 32 Kartik Mittal	 AIR 36 Bhumi Kundra	 AIR 39 Siddharth Nahar	 AIR 39 Himanshi	 AIR 39 Hritik Anuja	 AIR 40 Surabhi Lalge	 AIR 41 Anav Jain	 AIR 42 Vignesh R	 AIR 42 Vivek L. Panchal
 AIR 42 Krishna M. Nimodya	 AIR 42 Tanup Agarwal	 AIR 46 Manish Agarwal	 AIR 46 Nishtha Saluja	 AIR 47 Priyanshi	 AIR 47 Priyanshi	 AIR 47 Priyanshi	 AIR 47 Priyanshi	 AIR 47 Priyanshi

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