



# CHAPTER - 3

## CONCEPT OF SUPPLY

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## Important Definitions

### Person, Supplier & Recipient

#### Sec 2(84) "Person" - includes



(a) An Individual



(b) A hindu undivided family



(c) A Company



(d) A Firm



(e) A limited Liability Partnership



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



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



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



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



(j) A local authority



(k) Central Government or a State Government



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



(m) Trust



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

### Deemed Distinct Persons : Sec 25 CGST Act

- 25 (4)** A person who has obtained or is required to obtain more than one registration.
- ➔ whether in one State or Union territory or
  - ➔ more than one State or Union territory shall,
- in respect of each such registration, be treated as distinct persons for the purposes of this Act.



### 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.



### Establishment in another country - Explanation to Sec 8 of IGST Act

Establishment in non-taxable Territory

One person	Another Person
SBI Ltd [Bank]	Branch [Branch of Bank]

For the purpose of IGST Act where a person has establishment in India and any other establishment outside India. Then such establishment shall be treated as establishment of distinct person





### Sec 2(107) "Taxable person" - includes

"Taxable person" means a person who is registered or liable to be registered u/s 22 or section 24

### Sec 2(94) "Registered person" - includes

"Registered person" means a person -

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

### Sec 2(20) "Casual taxable person" - includes

"Casual taxable person" means a person who occasionally undertakes transactions -

- ➔ involving supply of goods or services or both
- ➔ in the course or furtherance of business
- ➔ whether as principal, agent or in any other capacity
- ➔ in a State or a Union territory where he has no fixed place of business



### Sec 2(77) "Non-Resident taxable person" - includes

"Non-resident taxable person" means a person who occasionally undertakes transactions -

- ➔ involving supply of goods or services or both
- ➔ whether as principal or agent or in any other capacity
- ➔ but who has no fixed place of business or residence in India.





**Sec 2 (105) “Supplier”**

“Supplier” means 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

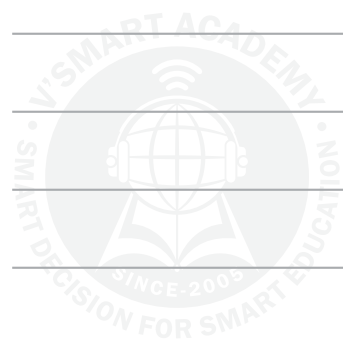
**Sec 2 (93) “Recipient”**

“recipient” of supply of goods or services or both, means—

- (a) Where a consideration is payable for the supply of goods or services or both, the **person who is liable to pay that consideration;**
- (b) Where no consideration is payable for the supply of goods, **the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and**
- (c) Where no consideration is payable for the supply of a service, **the person to whom the service is rendered, and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply** and

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

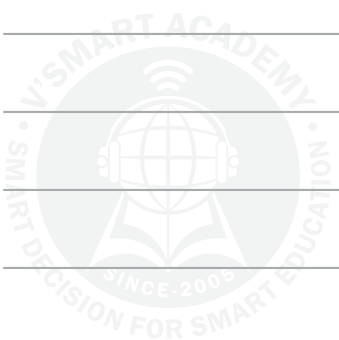
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### Other Important Definition

<b>2(108) : Taxable Supply</b>	<b>means</b> a supply of goods or services or both which is leviable to tax under this Act
<b>2(78) : Non-Taxable Supply</b>	<b>means</b> 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
<b>2(47) : Exempt Supply</b>	<b>means</b> a supply of any goods or services or both ➔ which attracts <b>nil rate of tax</b> or ➔ which may be <b>wholly exempt from tax</b> under section 11, or under section 6 of the integrated Goods and Services Tax Act, and <b>includes non-taxable supply</b>





## Taxable event - Supply

Sir What is a Supply?

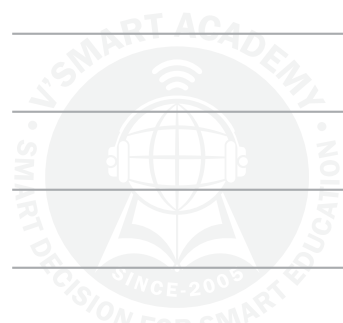
**Levy of tax:** Every supply of goods or services will be liable to tax. The tax would depend upon the nature of supply, viz.,

- ⇒ inter-State supplies will be liable to IGST and
- ⇒ intra-State supplies will be liable to CGST and SGST (UTGST).

Let's try to understand meaning of supply under Sec 7 of CGST Act.

### Section 7 - Meaning and scope of supply

1	Supply includes -
(a)	All forms of <b>supply of goods and/or services or both</b> such as <ul style="list-style-type: none"> <li>⇒ sale transfer, barter, exchange, licence, rental, lease or disposal</li> <li>⇒ made or agreed to be made</li> <li>⇒ for a consideration by a person</li> <li>⇒ <b>in the course or furtherance of business.</b></li> </ul>
(b)	<b>Importation of services</b> , for a consideration <i>whether or not in the course or furtherance of business</i> <b>and</b>
(c)	The activities specified in Schedule I, made or agreed to be made without a consideration.
1A	<i>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.</i>
2	<b>Activities not treated as supply and not liable to GST</b>
	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><b>Shall be treated neither as a supply of goods nor a supply of services.</b></p> <p><b>As per N/N 14/2017 - Central Tax (Rate)</b></p> <p>Services by way of any activity in relation to a function entrusted to a Panchayat under article 243G of the Constitution or <b>to a Municipality under article 243W of constitution</b> shall be treated neither as a supply of goods nor a supply of service.</p> <p><b>Newly Inserted by N/N 20/2019 CT (R) 20/09/2019</b></p> <p>Service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name called <b>by the State Government</b> in which they are engaged as public authorities, shall neither be treated as a supply of goods nor a supply of service."</p> <p><b>Circular No. 121/40/2019 GST dated 11.10.2019</b></p> <p>It has clarified that the above special dispensation applies only to supply of service by way of grant of liquor licenses by the State Governments as an agreement between the Centre and States and has no applicability or precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable.</p> <p>services provided by the Government to business entities including by way of grant of privileges, licences, mining rights, natural resources such as spectrum etc. against payment of consideration in the form of fee, royalty etc. are taxable under GST. Tax is required to be paid by the business entities on such services under reverse charge.</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.







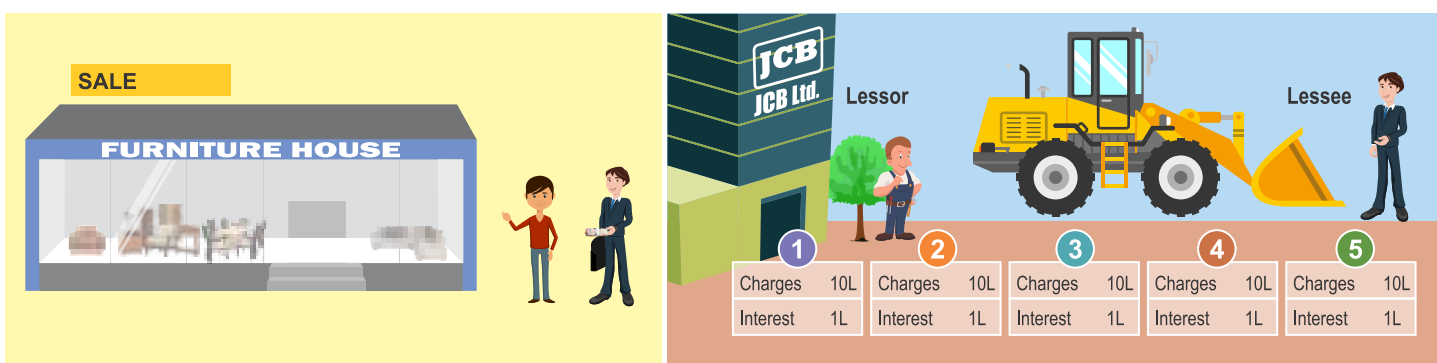
## Supply: Generic Meaning The word 'supply' should be understood as follows:

- It should involve delivery of goods and / or services to another person.
- Transfer of property in goods from the supplier to recipient is not necessary

**Sale and Transfer** : Earlier, VAT is levied by the State on the sale of goods which has been defined under most State VAT laws as transfer of property for consideration. Under the CGST Act, although sale has been treated as a form of supply leviable to GST, the definition of 'sale' has not been provided.

Further, the term 'transfer' which has also been included as a form of supply is also not defined.

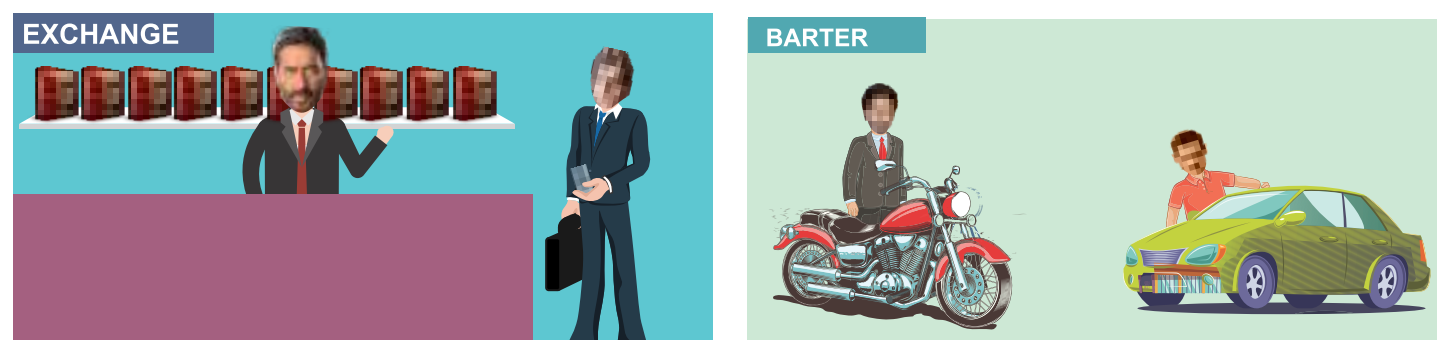
Hence for "Sale" or "Transfer" we should take a general meaning i.e. transfer of ownership of goods for consideration and also includes hire purchase transactions



**Barter and Exchange** : While barter may deal with a transaction which only includes an exchange of goods/services, exchange may cover a situation where the goods are partly paid for in goods and partly in money.

By making a specific inclusion in the definition of supply, all barter and exchanges would be leviable to GST.

*Buying a new car in exchange of old car*



**Licence, Lease, Rental etc.** : Licenses, leases and rentals of goods are presently treated as services where the goods are transferred without effective possession and control and treated as sales where the goods are transferred with effective possession and control. Under the GST regime, such licenses, leases and rentals of goods with or without transfer of right to use would be covered under the supply of service as per Schedule II to the CGST Act.

**Disposal** : Disposal normally considered as selling of assets when the organization is about to close down and various assets are required to be disposed of. Such transactions will also be considered as supply of liable to tax under GST Law.

## Just For Knowledge :-

		Goods	Service
1	<b>Sale</b>	Furniture House sold furniture to Mr. Ganesh. This will be treated as supply of goods, because on sale, the title of the furniture is transferred to Mr. Ganesh.	The term 'Sale' is normally used for goods. For service it can be considered as provision of service. For eg Mr X is providing GST consultation to his client. This is a provision of service by Mr. X to his clients.
2	<b>Transfer</b>	<ol style="list-style-type: none"> <li>Transfer between branches, between factory and warehouse, factory premise to depot.</li> <li>vishal buys a dump truck for ₹125,000 under a hire purchase agreement with a bank. The ownership of the truck is caveat by the bank until the company makes full payment of the hire purchase loan amount. This hire purchase transaction is a supply of goods and subject to GST</li> </ol>	A wedding planner hires the services of a pendal or shamiana contractor wherein the supply of furniture (goods) by the contractor, the title of which remains with him is used by the wedding planner for a short duration, is a supply of service and liable to GST.
3	<b>Barter</b>	1) Mr. A trades his motorcycle with Mr B's second hand car without cash exchange between the two parties	A CMA providing consultancy service and in return an Architect designing the house of the CMA
4	<b>Exchange</b>	1) Where a new phone is supplied for ₹ 24000 along with an exchange of an old phone and if the price of the new phone without exchange is ₹ 24000 the open market value is ₹ 24000	As per the understanding of the term 'Exchange' one service cannot be exchanged for another as providing of service requires requisite skill which is developed over a period of time and hence exchange is not applicable for service
5	<b>Disposal</b>	1. Sale of Machinery after the completion of its life as a scrap sale	

### Normally following transactions are related to supply of service

<b>Licence</b>	Mr. Shaw a developer of information technology software and holder of licence thereon. License to use software was given to different clients : ₹ 18 ; hence, Mr. Shaw is liable to pay GST whether he transfer such right permanently or temporarily as the case may be.
<b>Rental</b>	Mr. Ranjit owns a residential building in a prime commercial locality. Large vacant land in the backyard is given on rent of ₹ 1,80,000 per month to a parking contractor, Mr. Prakash who has set up a parking facility on the said land. It is a taxable supply of service and hence, Mr. Ranjit is liable to pay GST.
<b>Lease</b>	M/s DCB Bank Ltd., given an asset under financial lease to M/s Gili Ltd. Repayment of financial lease made by the customer to the bank ₹ 80 lakhs which includes a principal amount of ₹ 50 lakh. Financial leases shall be taxed as supply of services. M/s DCB Bank Ltd., is liable to pay GST





## 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

<b>Means</b>	every kind of movable property
<b>Other than</b>	money and securities
<b>But includes</b>	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

	Examples
Transaction in Money	1. Deposit or withdrawal of Money from Bank 2. Borrowing or repayment of loan 3. Conversion of Currency 4. Conversion of Rupees in to Coin
Securities	Transaction of Securities does not attract GST example sale or purchase of Stock, Shares, Derivatives etc.
Actionable claim	i) Transfer of unsecured debts (promissory note) ii) Right to participate in the draw to be held in a lottery. iii) Right to arrears rent is actionable claim iv) Insurance claim



### Tutorial Notes

**Actionable claims:** under the GST laws, actionable claims would be reckoned as goods. But Actionable claim, other than lottery, betting and gambling **will not be treated as supply** of goods or services by virtue of Schedule III (Activities or transactions which shall be treated neither as a supply of goods nor a supply of services). Hence, Lottery/Betting/Gambling is taxable and other actionable claim is not taxable



Sir What is the Supply of Service?

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



Students  
Notes



## Sec 2(102): Services

<b>Means</b>	anything other than goods, money and securities
<b>But includes</b>	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.
<b>Explanation</b>	<i>For removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities.</i>



### Tutorial Notes

The word "anything" could be read as "everything". i.e. services means everything that is not goods, and is not specifically excluded (such as money, securities, transactions specified in schedule III, etc.)

Schedule II of the CGST Act list down matters which shall be regarded as a supply of goods, or supply of services. The GST law empowers the Government to require treatment of supply of notified goods as supply of services, and vice versa.

**Impact of the above explanation :** - By adding an explanation to the definition, now its rectified that service charges or service fees or documentation fees or broking charges, charged in transaction in securities will be chargeable under GST.

## Activity in relation to Security

**Issue:-** whether the supply of securities under Securities Lending Scheme, 1997 ("Scheme") by the lender is taxable under GST. (Circular No. 119/38/2019-GST dated 11/10/2019)

**Fact:-** Under the Scheme, lender of securities lends to a borrower through an approved intermediary to a borrower under an agreement for a specified period with the condition that the borrower will return equivalent securities of the same type or class at the end of the specified period along with the corporate benefits accruing on the securities borrowed.

### Clarification:-

1. It has been clarified that **lending of securities is not a transaction** in securities as it **does not entail disposal of securities. It is facilitating or arranging transactions in securities**
2. *the activity of lending of securities would be treated as supply of services by the lender. Thus, GST is required to be discharged by the lender on the fee charged in respect of lending of securities.*

### Activity relating to use or conversion of Money

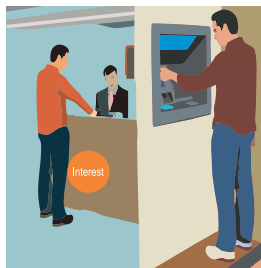
Though money is not service, but activities relating to use of money (Ex : Lending) and activities relating to conversion of money (Ex: Demand Draft making, money changing) will constitute 'Service'. Thus such transaction will attract GST.

#### Activity in Money

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

#### Activity in Relation to Money

3. Interest on loans or deposits	It is a Supply of Service (separate consideration in relation to use of money)
4. Processing fees	It is a Supply of Service (separate consideration in relation to use of money)



Conversion of Currency	Transaction in Money
Commission	It is a Supply of Service (separate consideration in relation to conversion of money)



Conversion of Rupees in to Coins	Transaction in Money
Commission	It is a Supply of Service (separate consideration in relation to conversion of money)



Meaning of Money	Meaning of Securities
<ul style="list-style-type: none"> <li>the Indian legal tender of any foreign currency</li> <li>cheque, promissory note, bill of exchange</li> <li>letter of credit</li> <li>draft, pay order, traveller cheque</li> <li>money order, postal or electronic remittance or</li> <li>any other instrument recognised by the Reserve Bank of India when use as a consideration to settle an obligation or exchange with Indian legal tender of another denomination</li> <li>but shall not include any currency that is held for its numismatic value.</li> </ul> <p>[<b>Numismatic</b> means "collection and study of money (and coins in particular). For example, a coin in force in ancient times and having denomination of a rupee shall not be regarded as 'money', as it is not held as a rupee, but, for its numismatic value.]</p>	<ul style="list-style-type: none"> <li>Shares, Scripts, stocks, bonds, debentures, debenture stock or other marketable securities of a company</li> <li>derivative, options, futures, swaps, forward agreements, etc.</li> <li>security receipt,</li> <li>units of mutual fund</li> <li>any certificate or instrument in case of asset/debt-securitisation; government securities;</li> <li>rights or interest in securities</li> </ul>



Sir why supply of "both" used in Sec 7?

Beta, sometime in a single contract supplier provides goods and services both. It is also liable to GST (but classification is to be done as per Schedule II)



### Supply of Both (Goods and Services)

All form of supply of BOTH (Goods & services) made or agreed to be made for consideration by a person in the course or furtherance of business

Normally it includes following types of contract

- 1) Works contract
- 2) Catering, restaurant etc.

### Sec 2(119) : Works contract

→ Building,  
 → Construction,  
 → Fabrication,  
 → Completion,  
 → Erection,  
 → Installation,  
 → Fitting Out,  
 → Improvement,  
 → Modification,  
 → Repair,  
 → Maintenance,  
 → Renovation,  
 → Alteration or Commissioning

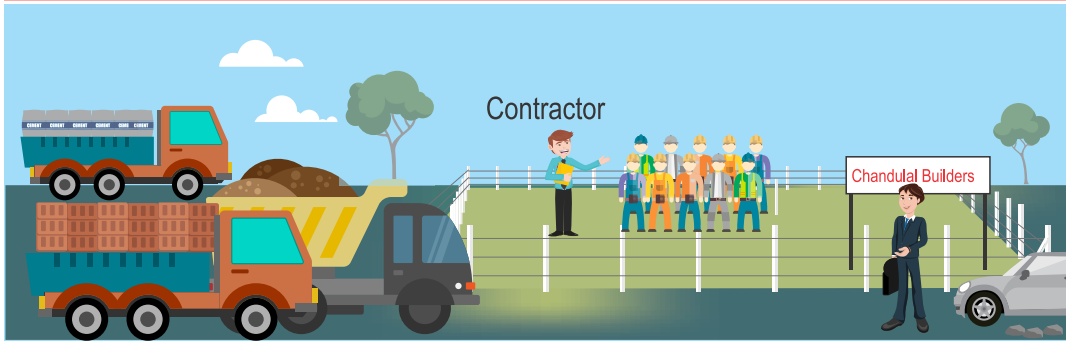
of any **immovable property**



wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract



## Labour + Material = Works Contract



## Labour + Material = Works Contract



### Catering, restaurant etc.

Supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.



### Tutorial Notes

Even though under Section 7(1)(a) 'Supply' includes the word 'both' i.e. supply of goods and supply of services. It is necessary to classified under one heading of either 'Supply of Goods' or 'Supply of Service' even there is a combination of goods and services as various provisions under the GST Act are separately applicable to supply of goods and supply of services.

Going further from this understanding it should be noted that Schedule II (to be discussed later) and Section 8 pertaining to tax liability on 'Composite' and 'Mixed' Supply, should be read along with Section 7(1)(a) to classify whether the activity is supply of goods or supply of Services. Section 8 helps us to identify whether or not a supply is naturally bundled (Composite supply) or not (Mixed Supply).





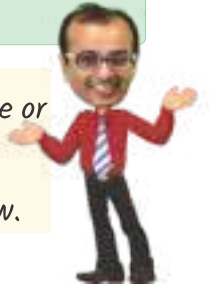
## Supply made or agreed to be made



Sir, if I received any advance against supply of goods or services, whether I need to pay GST on that ?

Beta, as per sec 7(1)(a) supply includes sale, transfer etc. made or agreed to be made for consideration in the course of business.

Hence advance receipt also liable to GST as explain below.



No	Particulars	Explanation	Examples of Goods	Examples of Services
1	Made	Goods are already delivered or Service is already provided to the recipient & Payment is received after that	Mr A a trader who is in the business of selling electronic items has made the delivery of a TV to the customer location	Mr X who is a CMA has provided the service of Statutory Cost Audit for his client XYZ pvt ltd
2	Agreed to be Made	This is split up in two parts namely : (i) There is an agreement for supply of goods or provision of service (ii) An advance has been received against the supply of goods or provision of service	Mr M a trader in imitation jewellery has taken an advance from his customer Miss Y to be supplied at a later date	Mr B an Architect has entered into a contract with Mr C, his client, to design Mr C's house

## 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 dated 15th Nov., 2017**

<b>Supply of Goods</b>	GST is payable only on Invoice basis <b>Author Note :</b> Payment of GST on Advance basis is suspended [N/N 66/2017]	Detailed discussion in Chapter Time of Supply
<b>Supply of Service</b>	GST is payable on advance or Invoice whichever is earlier	

## Supply of Goods

**Example 1 :** Mr. Suresh of Rajasthan supplied goods and issue the invoice in the month of December, 2020 for ₹ 20,000 to Mr. Ramesh of Rajasthan. Mr Suresh has received advance of ₹ 10,000 in the month of Sept. 2020. SGST and CGST rate on supply of goods is 9% each. IGST rate is 18%. Determine when GST is payable.





## Supply of Services

**Example 2 :** Mr. Gajana of Rajasthan supplied Services and issue the invoice in the month of December, 2020 for ₹ 20,000 to Mr. Birju of Rajasthan. Mr Gajanan has received advance of ₹ 10,000 in the month of Sept. 2020. SGST and CGST rate on supply of Services is 9% each. IGST rate is 18%. Determine when GST is payable.

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Notes



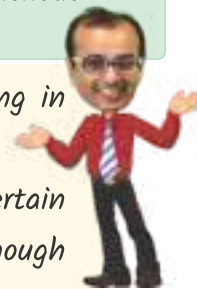
## Supply for Consideration



Sir, whether GST is payable if any supply is made without consideration?

Beta, GST is business Tax and there should be something in return against supply for taxability of GST.

Hence consideration is necessary for supply. There are certain exceptions in Schedule I where supply is taxable event though consideration is not received.

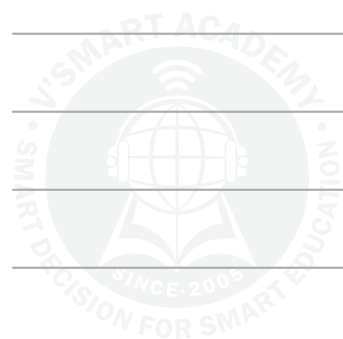


## Supply made or agreed to be made for consideration

**As per section 2(31) of CGST act : Consideration** in relation to the supply of goods or services or both includes

- |    |   |
|----|---|
| a) | Any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government; |
| b) | The monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:                          |

*PROVIDED that a deposit, given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies the deposit as consideration for the said supply;*





### Consideration includes

<b>Monetary</b>	<p>As per sec 2(75) of CGST act defined “money” means the</p> <ul style="list-style-type: none"> <li>➔ Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or</li> <li>➔ any other instrument recognised by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination</li> <li>➔ but shall not include any currency that is held for its numismatic value.</li> </ul>
<b>Non Monetary</b>	Supply of goods and services in return for provision of service
<b>To do an Act or forbearance</b>	The monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services,

#### Meaning of Term inducement of

**Inducement means to gives 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.

**Illustration 2 :** A football player is offered a branded car as an inducement for him to join the club. In this case, the car offered is the consideration that induces the player to join the club to provide his football skills. There is a direct link between the act of joining the club and the provision of the car.

### Supply without Consideration is not subject to levy of GST

<b>Supply without Consideration</b>	<p>Free supply of goods or Services are not subject to GST unless it is specifically covered in Schedule I or Sec 7.</p> <ul style="list-style-type: none"> <li>→ Access to free TV channels</li> <li>→ Tourism information free of charge.</li> <li>→ Large number of governmental activities for citizens.</li> </ul>
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### TREATMENT OF DEPOSITS

**Deposit shall not be treated as consideration unless it is appropriated by the supplier towards supply of goods and/ or services.**

**Illustration 1 :** MTNL telecom service provider, receives security deposits from subscriber in connection with supply of telecom services. This Security deposit is refundable. This security deposit is not consideration for supply of service and hence, shall not be taxable. However, if in future, if it is adjusted towards value of services supplied, then this security deposit shall be treated as consideration.





## CBIC Clarification and Press Release (supply without consideration)

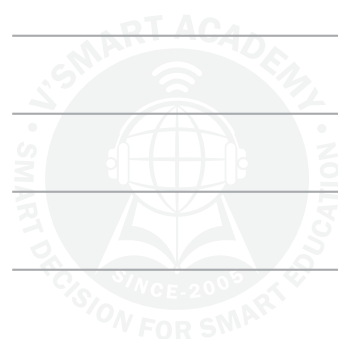
Issue	Clarification
Equipment and instruments sent to manufactures factory for repairs and calibration within India on a returnable basis	It is not a supply as removal of goods without consideration. It is sufficient to issue a challan for movement of goods without supply.
Spare part freely Supplied 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

### Payment made by any other person

**Example 1 :** M/s Xevior Ltd., being an authorized dealer of the Maruti Udyog Ltd., rendered services to buyer of car, but payment is made to authorized dealer as a reimbursement by the Maruti Udyog Ltd. Company. Whether such reimbursement is treated as consideration to M/s Xevior Ltd ?

**Example 2 :** M/s Finolex Ltd. agreed to sell its business to M/s Kisan Agro Ltd., for a consideration of ₹ 50,00,000. M/s Finolex Ltd. further agrees that it will not conduct same or similar business for a period of 10 years, for which M/s Kisan Agro Ltd., paid ₹ 20,00,000. Determine the consideration involved and GST payable if rate is 18%?

**Example 3 :** ABC Fertilizers Ltd. had made a contract to supply fertilizers to D Ltd. as per the terms of the contract D Ltd. has to give ₹ 3,00,000 deposit for taking exclusive distributorship rights. Also government is providing 30% subsidy on sale of fertilizers. Determine the consideration payable and GST liability @18% if goods are sold for ₹ 30,00,000 with D Ltd. without considering the subsidy?





## “Supply for Consideration”

*Supply must be carried out for consideration. The contractual relationship must be there for the concept of supply for consideration. Wherein supplier supplying the goods and services to the recipient in exchange of consideration.*

*The supply made without such a relationship i.e. without the express or implied contractual reciprocity of a consideration would not be a ‘supply for consideration’.*

*Donations to a charitable organisation are not consideration as charitable organisation is not obligated to provide something in return*

**e.g.** display or advertise the name of donor in a specified manner which give neither commercial gain nor advertisement

**Clarification on Levy of GST on the service of display of name or placing of name plates of the donor in the premises of charitable organisations receiving donation or gifts from individual donors (Circular No. 116/35/2019-GST dated 11/10/2019)**

**Issue:-** whether GST is leviable on the service of display of name or placing of name plates of the donor in the premises of charitable organisations receiving donation or gifts from individual donors.

**Clarification:-**

- Individual donors provide financial help or any other support in the form of donation or gift to institutions such as religious institutions, charitable organisations, schools, hospitals, orphanages, old age homes etc.
- The recipient institutions place a name plate or similar such acknowledgement in their premises to express the gratitude.
- When the name of the donor is displayed in recipient institution premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy
- It is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business,
- then it can be said that there is no supply of service for a consideration (in the form of donation).
- There is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (supply a service).
- Therefore, there is no GST liability on such consideration.

**Some examples of cases where there would be no taxable supply are as follows:-**

- “Good wishes from Mr. Rajesh” printed underneath a digital blackboard donated by Mr. Rajesh to a charitable Yoga institution.
- “Donated by Smt. Malati Devi in the memory of her father” written on the door or floor of a room or any part of a temple complex which was constructed from such donation.

**2) GST shall not be leviable if 3 conditions are satisfied which are:**

- gift or donation is made to a charitable organization
- the payment has the character of gift or donation
- the purpose is neither commercial gain nor advertisement

**Example :-** By referring the above circular if donation is given for advertisement purpose. What would be your answer?

**Answer:-**





## Business



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 what the term business means under CGST Act*



### Sec 2(17) "Business" includes-

- (a) ➔ any trade, commerce, manufacture,  
➔ adventure,  
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.)
- ➔ profession, vocation,  
➔ wager (a place of bet)

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

#### Examples :

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

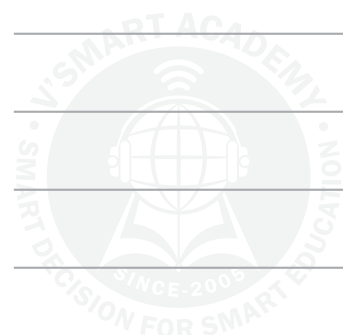
### Sale of Scrap



- (c) 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.

### Consultancy on Computer Shop

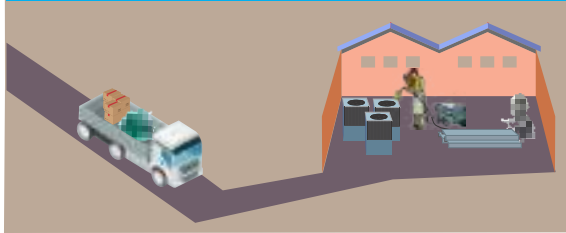




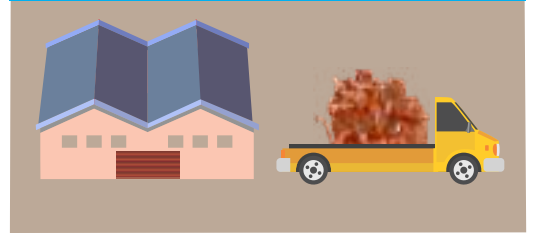
- (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business

**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.

#### Commencement of business



#### Closure of business



- (e) 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.

#### Services by Club



- (f) admission, for a consideration, of persons to any premises

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

- (g) 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

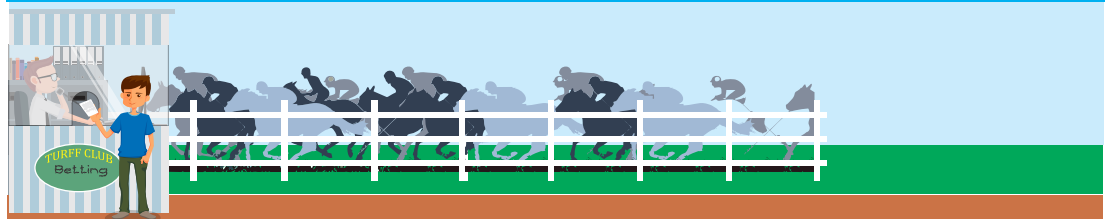
**Examples :** i) An advocate get appointed as member of the Arbitration Tribunal.  
ii) CA in practice provides CFO or independent director services, he would be covered

- (h) **Activities** of 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

#### Wager



- (i) 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.



## Important Points

### Whether Government activities subject to GST ?

Section 2(17)(l) of CGST Act states that 'business' includes any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities.

Thus, excluding sovereign activities of State, all activities of State, all activities of Government is 'business'.

However, some of their activities as public authority

➔ will be specifically excluded from scope of GST by issuing notification under Section section 7(2)(b) of CGST Act on recommendation of GST Council. Also, some activities are exempted by government.

➔ **Thus, unless specifically excluded by a exemption, notification, their activities will be liable to GST**

### Discussion at Advanced Level

#### Broad definition of 'Business'

GST is essentially a tax only on commercial transactions. Hence, only those supplies that are in the course or furtherance of business qualify as supply under GST. Hence, any supplies made by an individual in his personal capacity do not come under the ambit of GST unless they fall within the definition of business as defined in the Act.

Sale of goods or service even as a vocation is a supply under GST. Therefore, even if a famous politician paints painting for charity and sells the painting even as a one-time occurrence, the sale would constitute supply.

The definition of 'Business' is inclusive definition, following points emerge from the definition of 'business'

**Profit motive irrelevant** - Profit motive is immaterial.

**Occasional transactions are subject to GST** - Business normally implies something done on regular basis.

However, since business includes 'Adventure' or "vocation" thus transactions undertaken on casual/irregular are covered.

*For example uploading self-made videos against payment from website is covered.*

**Incidental or ancillary activities taxable** - Incidental or ancillary business is also covered.

**For example**, sale of used car, sale of scrap, sale of old machinery, sale of old furniture etc. is subject to GST, though normally the taxable person may not be in business of selling cars, furniture or machinery..







## IN THE COURSE OF FURTHERANCE OF BUSINESS

Supply of goods or services must be in the course of or furtherance of business. If any supply not in the course of or in furtherance of business even though for consideration then it shall not be treated as supply as per Sec 7(1)(a)

**Comment** Thus, In the course or furtherance of business includes all such activities which are being carried out by any person during the course of running of business and also further the interest of business.

**Furtherance of business** : Every business person use to think how to develop his business or carrying out new activities which is called as furtherance 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

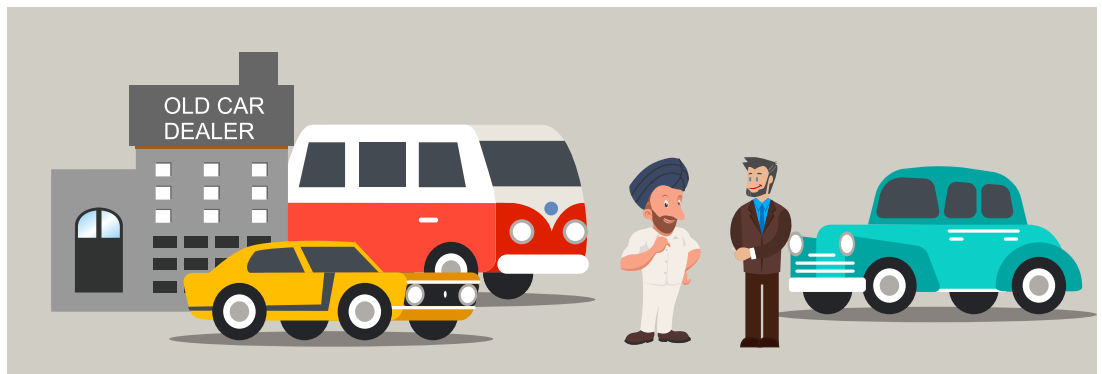
Really, even otherwise, GST cannot apply as the individual selling his old goods is not it is in the course of business (as selling of old goods is not the business of an individual).

### Lets try to understand above discussing with following examples

#### 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. (FAQ - CBEC Q.10, Ch.4)

**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.



#### Test yourself

#### Sale of old Jewellery









## IMPORT OF SERVICE

**As per Sec 7(1)(b) Supply includes “Import of Service” for consideration whether or not in the course or furtherance of business.**



### Tutorial Notes

1. If services are imported without consideration then the same shall not fall within the scope of the term “Supply”. (except the circumstances as provided in Schedule I)
2. The scope of importation of service in this sub-section is very wide as such supply even if received in personal capacity and not in the course or furtherance of business shall also get covered in this sub-section

**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 IT (R) (Detailed discussion in the Exemption Chapter Module 3).

The aforesaid situation can be understood better with the help of following examples.

### Import of Service in the course of furtherance of business

**Example 1 :** Super Cars Ltd. Pune imported navigation design services from a vendor in Singapore for a consideration of SGD (Singapore Dollars) 20,000. Now, Super Cars Ltd is liable pay IGST on the above mentioned import of service on reverse charge.

### Import of Service not in the course of furtherance of business

**Example 1 :** Mr. Happy (an unregistered person) plans to pursue his higher education in UK. He receives career consultancy services from a UK based consultant for ₹ 1, 20,000. Does it qualify as a supply?

**Answer :** Yes. Importation of services for a consideration whether or not in the course or furtherance of business is covered under supply. Hence, in the above case it will be treated as supply.

But Mr. Happy is not liable to pay GST as it is covered under Exemption as per Sl. NO.10 of IGST Act, Exemption Notification No. 9/2017 IT (R)

Particular	Import of Goods	Import of Services
<b>Whether it is covered under supply as per sec 7 of CGST Act</b>	Yes, as per sec 7(1) Import with or without consideration is cover.	Yes, as per sec 7(1)(b) Import for consideration is cover & as per sec 7(1)(c) and Para 4 of schedule 1
<b>Nature of Supply</b>	Inter state supply as per Sec 7 of IGST Act,	Inter state supply as per Sec 7 of IGST Act,
<b>GST valuation</b>	as per custom provision (generally ACD 3(7) & 3(9))	as per sec 15 of CGST Act
<b>Person liable to pay tax</b>	Importer	Receipient
<b>Time of GST payment</b>	As Per Custom provision (generally at the time of clearance)	As per sec 13 of CGST Act



## SCHEDULE- I [Sec 7]

### Activities to be treated as supply even if made without consideration

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



#### Tutorial Notes

1. Entry 1 of Schedule I is applicable only in case where business asset is disposed of after availing input tax credit. However if no ITC is availed on such business asset then no GST is payable on its disposal or transfer.
2. It also implies that the goods should be transferred without any intention or requirement of having to receive the goods back.

Students  
Notes



#### Permanent transfer or disposal of business assets

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

**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. 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?

**Example 3 :** 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?

**Example 4 :** 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?





2. **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.

Proviso

**Provided that gift not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.**

**Related Person (as per explanation to Sec 15) of CGST Act**

**(i) such persons are officers or directors of one another's business**

**Examples :** VSmart Pvt. Ltd. and VSmart Publication Ltd. having common director Mr. Vishal Bhattad. VSmart Pvt. Ltd. and VSmart Publication Ltd. are treated as related person.

**(ii) such persons are legally recognised partners in business**

**Examples :** VSmart Pvt. Ltd. and VSmart Publication Ltd. have running partnership firm jointly VSmart Study Center. VSmart Pvt. Ltd. and VSmart Publication Ltd. are treated as related person.

**(iii) such person are employer and employee**

**Examples :** Impact of employer-employee relationship is discussed later.

**(iv) an 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**

**Examples :** If Mr. X owns 25% shares in X Ltd. and 30% shares in Y Ltd., then, both the companies X Ltd. and Y Ltd. are related.

**(v) one of them directly or indirectly controls the other**

**Examples :** If X Ltd. owns 51% shares in Y Ltd., then, both the companies X Ltd. and Y Ltd. are related. If Y Ltd. holds 70% shares in Z Ltd., then X and Z are also related and Y and Z are also related.

**(vi) both of them are directly or indirectly controlled by a third person**

**Examples :** If X Ltd. owns 51% shares in Y Ltd and 70% shares in Z Ltd. then, Y and Z are also related.

**(vii) together they directly or indirectly control a third person;**

**Examples :** If X Ltd. owns 50% shares in Y Ltd and Z owns balance 50% shares in Y Ltd., then, X and Z are related by virtue of this clause.

**(viii) they are members of the same family**

**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.

**Explanation 1 :** The term "person" also includes legal persons.

**Explanation 2 :** Sole distributors are deemed to be related : Persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.





### Distinct person as specified in section 25



### Stock transfers or branch transfers are taxable

In view of aforesaid discussion, transactions between different locations (with separate GST registrations) of same legal entity (eg., stock transfers or branch transfers) will qualify as 'supply'.

#### Q. : Are self-supplies taxable under GST?

**Ans.** Inter-state self-supplies such as stock transfers, branch transfers or consignment sales shall be taxable under IGST even though such transactions may not involve payment of consideration.

Every supplier is liable to register under the GST law in the State or Union territory from where he makes a taxable supply of goods or services or both in terms of Section 22 of GST Law. However, intra-state self-supplies are taxable subject to opting for separate registration of establishment in same State

### Analysis :-

Supplier of goods			
Factory in Pune	Depot in Gujrat	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

**Columbia Asia Hospital Pvt. Ltd. [2019 (20) G.S>T.L. 763 (App. A.A.R. - GST)]**  
**Employees of Corporate -HO performing accounting, other administrative and IT system maintenance for separately registered branches of same entity - Supply liable to GST**

**Facts :** Employees employed at Corporate Office were performing accounting, other administrative and IT system maintenance for the units located in other states i.e. distinct person. Whether such activities would be services provided by HO to branches?

**Held:-** The employees have employee- employer relationship only in such Corporate office and since other offices are distinct person, corporate office employees have no employer-employee relationship with other offices is a supply as per Entry 2 of Schedule -I (Even if without consideration). value is determined u/s 15 including all costs i.e. employees cost also.





## Circular No 1/1/2017- IGST Act, Dated 7/7/2017

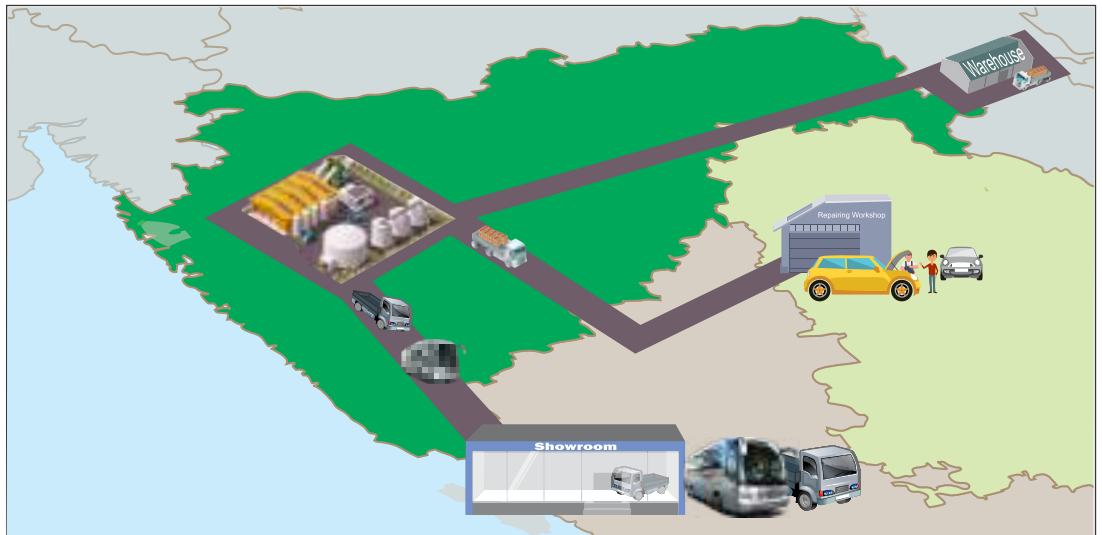
Clarification on Inter-state movement of various modes of conveyance, carrying goods or passengers or for repairs and maintenance

**Issue:** Whether inter-state movement of various modes of conveyance carrying goods or passengers or both, or for repairs and maintenance, between distinct persons as specified in section 25(4) of the CGST Act [except in cases where such movement is for further supply of the same conveyance], is leviable to IGST?

**Clarification:-**

Inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the said Act, not involving further supply of such conveyance, including

i. Trains, ii. Buses, iii. Trucks, iv. Tankers, v. Trailers, vi. Vessels, vii. Containers, viii. Aircrafts



S.No.	Situations	Facts	Clarification/Taxability
1	Interstate movement of conveyances Carrying Goods or passenger or both	Between deemed distinct person u/s 25(4)	shall be Treated neither as supply of goods or services & no IGST to be levied
2	Interstate movement of conveyances for Repairs & Maintenance	Between deemed distinct person u/s 25(4)	1) <b>Tax liability on interstate movement on conveyance :-</b> shall be treated neither as supply of goods or services & no IGST to be levied 2) <b>Tax Liability on repairs &amp; maintenance service supplied by DDP:-</b> On repairs & maintenance charges done for such conveyances GST shall be payable
3	Interstate movement of conveyances for its further supply	Between deemed distinct person u/s 25(4)	Treated as supply of goods or services & IGST to be levied

Clarification on Inter-state movement of rigs, tools and spares, and all goods on wheels [like cranes]- [Circular no. 21/21/2017 dt 22/11/2017]



S.No	Situations	Facts	Clarification & Taxability
1	Interstate movement of rigs, tools and spares, and all goods on wheels like cranes	Between deemed distinct person u/s 25(4)	shall be Treated neither as supply of goods or services & no IGST to be levied

