Clarification on issue of inter-state transfer of aircraft engines, parts and accessories for use by their own airlines? [Circular No. 16/16/2017 GST dated 15.11.2017]

Clarification:-

- There shall be of levy of GST in case of transfer of Engine, Parts & accessories
- → On purchase of engines, parts & accessories by way of interstate stock transfers between distinct persons ITC available. However, No ITC if above goods used for consumption to provide transport services

Supply of Goods or Services by Employer to Employee

By virtue of aforesaid definition of related person, employer and employee are related persons. Also as per para 2 of Schedule I supply of goods or services between related person without consideration shall be treated as deemed supply.

Gift by employer to employee

Schedule I provides that gifts 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.

However, gifts of value more than ₹50.000 made without consideration are subject to GST. when made in the course or furtherance of business.

However, services provided by an employee to the employer in the course of or in relation to his employment shall not be treated as supply of services [Schedule III (discussed in subsequent paras)]



Tutorial Notes

The term 'gift' has not been defined in the GST law. In common parlance, gift is made without consideration, is voluntary in nature and is made occasionally. It cannot be demanded as a matter of right by the employee and the employee cannot move a court of law for obtaining a gift.

As already mentioned that the services by an employee to the employer in the course of or in relation to his employment is outside the scope of GST (neighber supply of goods or supply of services).

Alcon Consulting Engineering (I) Pvt. Ltd. [2019 (30) G.S.T.L. 678 (A.A.R - GST)]

Facts:-Where employees have incurred office expenses on behalf of company - not Supply Held: - Where employees have incurred office expenses on behalf of company and same are reimbursed by the company, then, amount reimbursed by company to employee later on would not amount to consideration for supplies received. Hence, no GST can be levied.

Example: VSmart Pvt. Ltd. on occasion of Independence Day distributes gift hamper to its employee worth ₹3,00,000. Does it qualify as supply? Would your answer be different if gifts of ₹42,000 have been given to employee?





Supply of goods -3. by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal **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 means a person including a Sec 2(5) Agent **⇒** 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. Analysis :-Selling agents are also treated as related person. Therefore as already Selling agent is discussed, supplies of goods or services both, between them would related person be taxable, but specific entry in Para 3 will prevail over general entry in para 2 Covers only supply of Only supply of goods is covered, supply of goods between principal and agent without consideration is also supply. However, supply of service goods, not services is not covered in Schedule I and thus, it is taxable only if it is made for consideration Registration As per section 24(vii), person who make taxable supply of good or services or both on behalf of other taxable person whether as an agent or otherwise, are required to take compulsory registration irrespective of turnover limit. thus, for compulsory registration of agent: a) supply must be taxable supply and b) principal must be a taxable person As per explanation 1 to sec 22 Aggregate turnover to include all

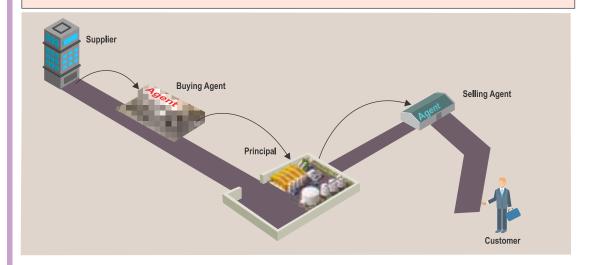
Scope of Applicability of para 3 -

Threshold

Para 3 of Schedule I is explained by CBIC in circular no. 57/31/2018 and this has been discussed on the next page

made on behalf of all his principals.

supplies made by the taxable person, whether on his own account or



Scope of Principal-agent relationship in the context of Schedule I of the CGST Act regarding. (Circular No. 57/31/2018-GST dt 04/09/2018)

Legal Provision

As per para 3 of Schedule I

Supply of goods—

- (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or
- (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

As per 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.

Also As per Sec 24(vii) Compulsory registration is required for person who make taxable supply of goods or services on the behalf of other taxable person whether as an agent or Otherwise.

Scope of Applicability:

Important Points:

- 1.all the activities between the principal and the agent and vice versa do not fall within the scope of the said entry.
- 2.the element identified in the definition of "agent", i.e., "supply or receipt of goods on behalf of the principal" has been retained in this para 3.
- 3. It may be noted that the crucial factor is how to determine whether the agent is wearing the representative hat and is supplying or receiving goods on behalf of the principal.

Applicability of para 3

1	Su	pply of goods by Principle to Agent			
	а	Where the invoice for further supply is being issued by the agent in his name		then, any provision of goods from the principal to the agent would fall within the fold of the said para	
		Facts	Whether su principal ac	pply between ent?	Agent's Registration?
		1) Mr. A, an artist, appoints M/s B (auctioneer) to auction his painting. Mr. B arranges auction and identifies potential bidders. Invoice for painting is issued by M/s. B (on behalf of Mr. A) but in own name (Mr. B's name)	auctioneerin is also supply behalf of Mr has authority of painting o	erely providing g services, but ying painting on . A to bidder & y to transfer title n behalf of A. It by Schedule-	disclosure of the name of
		Other Examples of Entry 3 - C& F agent or commission agent taking possession of goods principal and issuing invoice in his name, falling in Entry 3			
	b	where the invoice is issued by to the customer in the name principal		_	ent shall not fall within the dule I of the CGST Act





		Facts	Whether sup	pply between ent?	Agent's Registration ?
		M/S XYZ Bank appoints Mr. B (Auctioneer) to auction certain goods. Mr. B arranges auction and identifies potential bidders. Goods are invoiced to highest bidder by M/s. XYZ Bank	providing at services w played in the goods. Hence an agent of	uctioneering ith no role supply of the e, Mr. B is not M/s XYZ for of goods in	Mr. B is not liable to take compulsory registration u/s 24 (vii). Registration required if turnover exceeds threshold limit of registration
2	Su	pply of goods by Agent to	Principal		
	а	where the goods being proc agent on behalf of the princ invoiced in the name of the	ipal are		provision of the said goods t to the principal would be said para
	b	where the goods being procured by the agent on behalf of the principal are invoiced in the name of the principal		by the agen	provision of the said goods t to the principal would not by said para
		Facts	Whether supprincipal age		Agent's Registration ?
	procure certain goods. Mr. procurem B identifies supplier and has in no asks the supplier (Mr. C) himself ir to send the goods and receipt of issue the invoice directly Hence, M to Mr. A agent of M		Mr. B is onliprocurement has in no whimself in the receipt of the Hence, Mr. agent of Mr. A goods as per (Entry 3)	agent, and ay involved e supply or the goods. B isnot an for supply of	Mr. B is not liable to take compulsory registration u/s 24(vii). Registration required if turnover exceeds threshold limit of registration.

Special Case Study:

Facts	Whether supply between principal agent?	Agent's Registration ?
Mr. A sells agricultural produce by utilizing services of Mr. B who is a commission agent. Mr. B identifies the buyer and sells the agricultural produce on behalf of Mr. A for which charges a commission as well as agricultural produce, both are exempt from tax	covered in Entry 3 and B is providing commission-services. If invoice is issued by Mr B to buyer, Mr B is covered by Schedule I (Entry 3).	registration u/s 23. Even if B falls in Entry 3, since principal is not a taxable person and supply of

Scope of principal and agent relationship under Schedule I of CGST Act, 2017 in the context of del-credere agent (Circular no 73/47/2018 dt 5/11/2018)

Q1- Who is a DCA i.e. del-credere agent?

Ans:-ADCA 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.

Q2- Differentiation factors between DCA and other agents?

The factor that differentiates a DCA from other agents is that the DCA guarantees the payment to the supplier. In such scenarios where the buyer fails to make payment to the principal by the due date, DCA makes the payment to the principal on behalf of the buyer (effectively providing an insurance against default by the buyer), and for this reason the commission paid to the DCA may be relatively higher than that paid to a normal agent.

In order 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

2011100	etween DCA and buyer.					
SI. No	Issue	Clarification				
1.	Whether the temporary short-term transaction based loan extended by the DCA to the recipient (buyer), and interest is charged by the DCA, is to be included in the value of goods being supplied by the supplier (principal) Possible Scenarios in the given situation: 1. Supply of goods from supplier (principal) to recipient; 2. Supply of agency services from DCA to the supplier or the recipient or both; 3. Supply of extension of loan services by the DCA to the recipient	Whether stock transfer by principal to agent is a supply? where the invoice is issued by the agent to the customer in the name of the principal. Then such agent shall not fall within the ambit of Schedule I para 3 of the CGST Act & stock transfer not liable to GST. Whether interest charges is included in the value of supply of goods by principal? 1. The temporary short-term transaction based loan being provided by DCA to the buyer is a supply of service 2. The DCA to the recipient on Principal to Principal basis and is an independent supply. 3. It should not be included in value of supply of goods by principle (supplier) Whether interest charges is taxable in the hands of DCA? 4. Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount has been exempted.				



Students



Where DCA makes payment to the 2. principal on behalf of the buyer 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?

Possible Scenarios in the given situation :-

- 1. Supply of goods by the supplier (principal) to the DCA;
- 2. Further supply of goods by the DCA to the recipient;
- 3. Supply of agency services by the DCA to the supplier or the recipient or

4. Extension of credit by the DCA to the

recipient

Whether stock transfer by principal to agent is a supply?

Where the invoice for further supply is being issued by the agent in his name then, any provision of goods from the principal to the agent would fall within the fold of the para 3 and stock transfer is liable to GST.

Whether interest charges is included in the value of supply of goods by DCA?

the value of the interest charged for such credit included in the value of supply of goods as per sec 15(2)(d) of the CGSTAct.

Import of Service without consideration 4.

Import of services by a taxable person

- from a related person outside India or
- from any of his other establishments outside India. in the course or furtherance of business.

(related person)

Example John Ltd, USA is the holding company of VB Ltd., India. VB Ltd. imports Business Consultancy Service from John Ltd. in September, 2017 in the course of furtherance of

> The aforesaid importation of services shall fall within the ambit of term "supply" and VB Itd. shall be liable to pay integrated tax under IGST Act, 2017.

Example (other establishment

ABC Associate received legal consultancy services from its head office located in Malaysia. The head office has rendered such services free of cost to its branch office. Since ABC Associates and the branch office are related persons, services received by ABC Associates will qualify as supply even though the head office has not charged anything from it.

Analysis

Sec 7(1)(b)	Schedule I - Entry 4
Import of services ⊃ for a consideration ⊃ whether or not in the course or furtherance of business	Import of services by a taxable person from a related person outside India or from any of his other establishments outside India, in the course or furtherance of business.

Lets try to understand Taxability of import of service with the help of Chart





SCHEDULE- II [Sec 7(1A)]

Activities or Transactions to be treated as Supply of Goods or Supply of Services

Sec 7 is amended by Central GST (Amendment) Act, 2018

	Section 7 - Meaning and scope of supply				
1 Supply includes -		includes -			
	(a)	All forms of supply of goods and/ or services or both such as 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.			
(b) Importation of services, for a consideration whether or not if or furtherance of business and		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.				

IMPORTANCE OF SCHEDULE II

Schedule II plays an important role in the bifurcation of specific activities. Point to be noted here is that even though activities such as sale, transfer, barter, exchange, license, rental, lease or disposal have been stated in Section 7 (1) (a) Schedule II provides an insight on whether the same should be classified under the category of supply of goods or supply of services.

SCHEDULE- II [Sec 7(1A)]

Activities or Transactions to be treated as Supply of Goods or Supply of Services 1. Transfer

(b)

(a) Any transfer of the *title in goods* is a supply of goods.

Supply of Goods

Example 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.

It already covered under Sec 7(1)(a). Here, it is repeated just to classify as a supply of goods.

(c) Any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed, is a supply of goods.

Example Furniture House supplied furniture to Mr. Ramesh in an agreement to receive payments in 6 instalments. This amounts supply of goods, because the title of the furniture will pass on to Mr. Ramesh on completing the payment of 6 instalments.

Tutorial Notes

- Typically, it will cover 'hire purchases transaction' and installment purchase transaction'
- ⇒Entire consideration for such transaction shall constitute supply of goods.

Supply of Service

Any transfer of right in goods or

of undivided share in goods

without the transfer of title therefore, is a supply of services.

Example Mr. A shall transfers right to use of a JCB Machine for a period of two months for an agreed consideration to Mr. B in August, 2017.

> The foregoing transfer of JCB Machine without transfer of title in JCB Machine shall be treated as a supply of service.

Example Mr. X and Mr. Y are joint-owner/coowner of a movable property. Mr. X sells his share in movable property (goods) to another person.

It would be treated as transfer of undivided shares in goods.

SALE













2. Land and building

Supply of Service

(a) Any lease, tenancy, easement, licence to occupy *land* is a supply of services

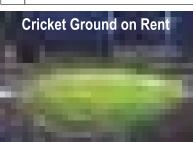
Mr. Suresh lets out land on lease to Furniture House. The letting out of land on lease is considered as supply of services.

Basically, it covers Lease, tanancy, easement, license to occupy land.

(b) Any lease or letting out of the building including

- a commercial.
 - industrial or
 - residential complex

for business or commerce, either wholly or partly, is a supply of service.







3. Treatment of process

Supply of Service

(a) Any *treatment or process* which is applied to another person's **goods** is a supply of services.

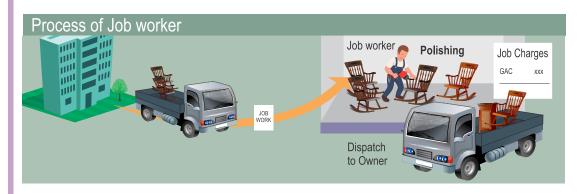
Example 1

XYZ Tools sent their tools to Mercury for heat treatment to harden them. The heat treatment done by Mercury is a supply of services.

Tutorial Notes

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A careful perusal of this entry reveals that any job-work carried out by a job-worker on another person's goods shall be treated as a supply of services. Further, it shall be immaterial, whether the job-work is be carried out by a job-worker with or without any material.



4. Transfer of business assets **Supply of Goods** (a) where goods forming part of the assets of a **business** are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person An insurance company disposes its used computer for ₹ 500 (its book value is more than ₹ 500) by giving it to a charitable organisation. The disposal of the computer is a supply of goods and subject to GST. GST registered retailer is in the business Example 2 of supplying mineral water. His family is consuming 100 bottles of mineral water regularly every month. The disposal of the mineral water for his family's consumption

Example 3

Star Furniture Enterprise, a sole proprietor, is in the business of selling furniture. Its owner took a set of furniture to furnish his bedroom permanently. The transfer of the furniture by the owner, whether or not for a consideration, is a supply of goods and subject to GST

is a supply of goods and subject to GST.

Supply of Service

(b)

where,

- ⇒ by or under the direction of a person carrying on a business,
- goods held or used for the purposes of the business

are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business,

whether or not for a consideration, the usage or making available of such goods is a supply of services

Example 1 Ramesh Enterprise is a supplier of tents for its business. The company lends a few tents to its manager for his son's wedding. The private usage of the tents by the manager (with or without a consideration) is deemed as a supply of services by the company to him.

Example 2 Suresh Enterprise, a sole proprietor, is in the business of selling furniture. Its owner took a set of furniture to furnish his house's Vishal temporarily for 3 months. The personal use of the furniture by the owner, whether or not for a consideration, is deemed as a supply of services by the company to him.

omitted by F.A. 2020 Restrospectively w.e.f. 01.07.2017 to remove ambiguity in the scope of the term supply]

Students

Notes





where any **person ceases to be a taxable person**, (c) any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, **unless**— (i) the business is transferred as a going concern to another person; or (ii) the business is carried on by a personal representative who is deemed to be a taxable person. Example 1 ABC a registered person under GST, acquires a noodle machine from Sim Enterprise who is not registered under GST on 2.1.2018. After the machine has been used for more than 2 years, ABC ceases to be a taxable person and de-registers on 28.1.2020. The noodle machine held on hand by ABC at the time of its cessation as a taxable person is deemed as a supply by him. A, a trader, is winding up his business because of his ill health. At the time of de-Example 2 registration he has goods in stock valued ₹ 2,00,000. Any goods left in stock shall be deemed to be supplied by him and GST shall be payable. In this case it is immaterial, whether registered person has taken the credit of such goods



Analysis:-

Asset position at the time of Ceases to be taxable person

Tutorial Notes lying in stock at the time of its purchased.

Particulars	GST Liability	Remark
Input in Stock	Yes	Alan road Dula 44 in ITC chapter
Capital Assets	Yes	Also read Rule 44 in ITC chapter

Comparative analysis

Schedule I - Entry 1	Schedule II - Entry 4(a)
Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.	where goods forming part of the assets of a business are ⊃ transferred or disposed of ⊃ by or under the directions of the person carrying on the business ⊃ so as no longer to form part of those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person

Example	Activity	GST Liability
Disposal of Printing machine installed (ITC availed) to some charitable organization for free	Transfer of goods forming part of business assets (without consideration)	Sec 7 read with Schedule I (Entry 1) Supply Sec 7(1A) read with Schedule II (Para 4(a)) Supply of Goods
Motor Vehicles used in factory (ITC not availed - not allowed as per Sec 17) Sale for ₹ 50,000	Transfer of goods forming part of business assets (for consideration)	Sec 7(1A) read with Schedule II (Para 4(a)) Supply of Goods
Motor Vehicles used in factory (ITC not availed- being blocked as per Sec 17) Disposal to some charitable organization for free	Transfer of goods forming part of business assets (without consideration)	Sec 7 read with Schedule I Not supply at all, Hence applicability of Sec 7(1)(a) does not arise

5. Supply of services

The following shall be treated as supply of service, namely:—

renting of immovable property.

Tutorial Notes

- 1. Immovable property includes land, building for anything permanently fastened attached to earth.
- 2. Lease, tenancy or letting out of the land and building is already covered in entry 2 of Schedule II. In this entry it seems that government want cover renting of other immovable property (like allowing erection of communication tower, permitting use of immovable property for placing vending/ dispensing machine, renting of land or building for entertainment, renting of wall for Advertising purpose.)
- (b) 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 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.

Explanation For the purposes of this clause—

- (1) the expression "competent authority" means 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 any of the following, namely:—
 - (i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972; or
 - (ii) a chartered engineer registered with the Institution of Engineers (India); or
 - (iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority;
- (2) the expression "construction" includes additions, alterations, replacements or remodelling of any existing civil structure.

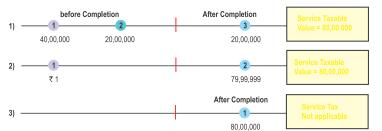


This entry includes following activities

- 1. Construction contract where only labour is involved and material is provided by client.
- Services supplied by builder or developers for construction of building where advances (consideration) received before completion certificate or first occupancy











Analysis

Taxability of transactions

Situation	Supply of Goods
Entire consideration is received after Issuance of completion certificate, where require by competent authority after its first occupation whichever is earlier	Not a supply at all Such supply shall be considered as neither as supply of goods nor as supply of services [Sec 7(2) read with Schedule III [Entry 5)]
Entire consideration or any part of consideration is received before issuance of completion certificate, where require by competent authority, after its first occupation whichever is earlier	Supply of Service [Sec 7(1A) read with Schedule II (Para 5(b))]

Example: Mehta builder has entered into agreement to sale a flat (carpet area 1500 sq ft) to customer. The additional information is as follows:

- (a) Price of flat (including apportioned value of cost of land): ₹ 42,00,000 (includes Prime Location charges namely charges for getting Garden view ₹ 1,25,000.
- (b) Charges for providing space for covered parking: ₹ 1,25,000. The builder received part payment before construction was completed and balance amount was received after obtaining completion certificate from the Corporation. Find the GST liability (CGST 6% and SGST 6%)? Would your answer differ if entire amount is paid after completion Certificate.

Temporary transfer or permitting the use or enjoyment of any intellectual property right



Tutorial Notes

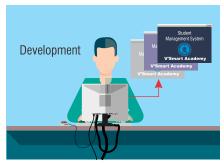
Intellectual property right in common trade parlance includes the following:

- Copyright Patents > Trademarks > **Designs**
 - > Any other similar right to an intangible property
- 2) IPR normally treated as movable property i.e. goods hence following analysis you must have to keep in mind

Supply of Goods	Supply of Service
Sale /permanent transfer of IPR shall be treated as supply of goods under sec 7(1A) read with Schedule II (Para 5(c))	Temporary transfer or permitting the use or enjoyment of any intellectual property right shall be treated as supply of service under Sec 7(1A) read with Schedule II(Para 5(c))]

(d) Development, design, programming, customization, adaptation, upgradation, 1 **P** enhancement, implementation

of information technology software"





Customized Software

- 1) If is tailor made software made as per requirement of customer.
- 2) These contract involved
 - provision of service &
 - transfer of property in goods [HDD/CD]
- 3) Pre-dominant nature of transaction is supply of service

Supply of Service

Pre-packed / canned / Shrink-Wrapped Software

1) There software treated as goods when put on any media [Tata Consultancy Service 2002]

Sale of Pre-packed software

Supply of goods

Software

Supply of Service

License to use prepacked

Example: M/s Blue Cat Ltd. provides the following relating to information technology software. Compute the value of taxable service and GST liability (Rate of CGST 9% and SGST9%)?

- (a) Development and Design of information technology software: ₹15 lakhs
- (b) Sale of pre-packaged software, which is put on media: ₹52 lakhs.
- (c) Licence fees for use of pre-pack software ₹ 10,00,000





(e) Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act.

After referring to the aforementioned definition the said clause can be broken in to three parts which read as follows:

(i) **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.

For example: Non-compete fees for not doing a particular business or not to practice a particular profession.

(ii) 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.

For Example:

- a) Penalty on early termination of rental or lease agreement.
- b) Prepayment charges on early payment of loan installment.
- c) Demurrage charges paid to the port authorities for not clearing the goods within a specified period of time.
- (iii) 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.

For Example: Non compete Agreements

By virtue of a non-compete agreements, one party agrees, for a consideration, not to compete with one other in any specified manner. Such action on the part of one person is an activity for consideration and will be covered by declared services.

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

Comparative analysis

Schedule II - Entry 1 (b)	Schedule II - Entry 5(f)
any transfer of right in goods or of undivided share in goods without the transfer of title thereof, is a supply of services	Transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration is a supply of service

6. Composite supply

The following composite supplies shall be treated as a supply of services, namely:

works contract as defined in clause (119) of section 2; and (a)

Sec 2 (119) "works contract": Already discussed Tutorial Notes

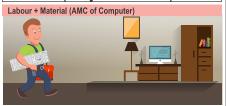
Works Contract of immovable property =Supply of Service Entry 6(a) Schedule II







Labour + Material Contract on movable goods = processing of goods = supply of service (Entry 3 Schedule II)







Labour + Material (Assembly of movable machine)



- Restaurant, Catering Services etc. (b) 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.







7. Supply of Goods

The following shall be treated as supply of goods, namely

Supply of goods by any unincorporated association or body of persons to a member

thereof for cash, deferred payment or other valuable consideration.			
Activity		Treatment under GST	
(a) Supply of Goods by unincorporated AOP/BOI to its members		Supply of Goods [Sec 7(1A) read with Scheule II (Para7)]	
(b)	Supply of Services by unincorporated AOP/BOI to its members	Para 7 is not applicable However, it shall still be applicable as 'Supply of services' Definition of 'supply' is wide to cover 'supply of services' also. This activity has been specifically included in the definition of 'business'	

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SCHEDULE- III [Sec 7] - Activity not treated as supply

Activities or Transactions Which shall be treated neither as a supply of goods nor a supply of Services

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

Analysis - Departmental Clarification

Provision Of Service By An Employee To Employer - Not a supply

i) Service provided in the course of employment

Services that are provided by the employee to the employer in the course of employment are outside the ambit of supply.

Amounts received by an employee from employer on premature termination of contract of employment - Not supply, as it arises in course of employment:

Such amounts paid by the employer to the employee for premature termination of a contract of employment are treatable as amounts paid in relation to services provided by the employee to the employer in the course of employment. Hence, amounts so paid would not be chargeable to GST.

- ii) Service provided not in the course of employment
 - a) Services provided outside ambit of employment for a consideration would be a service.

For example, if an employee provides his services on contract basis to an associate company of the employer, then this would be treated as provision of supply.

- b) Non-compete fees Taxable: However, any amount paid for not joining a competing business would be taxable, as it is paid for providing the service of for bearance to act.
- iii) Status of services provided by casual workers or contract labour:

lf	Then
	These are services provided by the worker in the course of employment, to the worker. Hence not included in supply.

iv) Director remuneration:

Category of Director	GST Liability	
Independent director	It is supply, GST is payable	
Whole time director	Employee of the company, hence no GST covered in Schedule III	

v) Perquisites are not liable to GST: Services by an employee to the employer in the course of or in relation to his employment is outside the scope of GST (neither supply of goods or supply of services).

Hence, supply 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.

Que :- Mr. Rajnikant is GST analyst in Vsmart Academy Pvt. Ltd., his salary as per employment contract is as under: Particular **Amount** Salary 10,00,000 2,40,000 Residential accommodation Traveling allowances 1,50,000 13,90,000 **Total CTC** At the time of Diwali Vsmart Academy Pvt. Ltd given a car to Mr. Rajnikant worth ₹ 6,00,000 which is in addition to his CTC, but not covered in employment contract. Discuss the GST applicability Answer:-Services by any court or Tribunal established under any law for the time being in force. 2 Explanation For the purposes of paragraph 2, the term "court" includes District Court, High Court and Supreme Court. Tutorial Notes Arbitral Tribunal is not a tribunal established any law for the time being in force. Arbitral tribunal is a private tribunal constituted by the parties for the settlement of mutual dispute. therefore, its services are subject to GST The functions performed by the Members of Parliament, Members of State Legislature, 3 (a) Members of Panchayats, Members of Municipalities and Members of other local authorities The duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity Example Diplomats, Governors of the States, C&AG of India, Attorney General of India (AGI) etc. The 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. 1. Finance Commission is a body established by President of India (under Article 280 of Example Constitution of India). Chairman/Mamber/Directors (who are not employees) of these bodies shall be out of GST. 2. Telecom Regulatory Authority of India (TRAI) is also a body established by CG. Chairman/Member/Directors (Who are not employees) of these bodies shall be out of 4 Services of funeral, burial, crematorium or mortuary including transportation of the deceased.

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Students Notes	5	Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building
	6	Actionable claims, other than lottery, betting and gambling.
SM NOLE 200° RET WEEL 200° NAME OF THE PARTY	7	Supply of goods from a place a non-taxable territory to a another place in the non-taxable territory without such goods entering in India
	8	Supply of warehoused goods to any person before clearance for home consumption Explanation For the purposes of paragraph 8, the expression "warehoused goods" shall have the same meaning as assigned to it in the Customs Act, 1962.(52 of 1962)
		b) Supply of goods by the consignee to any other person, by endorsement of document of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption

COMPOSITE & MIXED SUPPLY

Introduction

As we look in market today, we notice that very often, two or more goods or a combination of goods and services, are supplied together. This could be due to either of the following reasons:

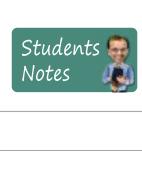
- ⇒ A sales strategy to attract more customers
- The nature or type of goods or services, which requires them to be bundled or supplied together

GST is payable on individual goods or services or both at the notified rates. The application of rates poses no problem if the supply is of individual goods or individual services, which is clearly identifiable and such goods or services are subject to a particular rate of tax.

Under the GST law, supplies which are bundled with two or more supplies of goods or services or combination of goods and services are classified, with distinct characteristics, as Composite supply or Mixed supply. This is a new concept introduced in GST which will cover supplies made together whether the supplies are related or not.

Need of Classification of Bundle supplies

- □ In many cases, the transactions that fall within the scope of GST may consist of more than one element. These elements may be a mix of goods, or services, or both.
- Sometimes these elements, if suppled separately, may have different GST liabilities depending upon the rates.
 - applicability of time of supply and place of supply provisions.
- To avoid disputes about whether the supplier is making a single supply with one liability, or multiple supplies with different liabilities, it has to be determined whether the supply is one of goods, or of services, or it is a supply constituted of both goods and services (composite supplies/mixed supplies).



8.		k liability on a composite or a mixed supply shall be determined in the following r, namely:
	(a)	a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and
	(b)	a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

Definition, Concept and Classification of Composite supply

Definition

Composite Supply as per Sec 2 (30): means a supply made by a taxable person to a recipient consisting of

- two or more taxable supplies of goods or services or both or any combination thereof
- which are naturally bundled and
- supplied in conjunction with each other in ordinary course of business one of which is a principal supply



Illustration.—(Goods + Service) Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;

Definition:

Sec 2(90) "principal supply" means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;

Concept

How to determine whether the supply are naturally bundled in the ordinary course of business?

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

- 1. Large number of recipient reasonablely expect such supply to the provide as a package Example: (i) Breakfast with hotel room booking,
- 2. Majority of Supplier in a particular area or business provide such supply in bundle

Example: (i) Television Set with warranty and servicing

- (ii) Printer with Scanner
- 3. Nature of various supply of goods or services in a bundle

Example: (i) Stay in a Hotel with Laundering Free

- (ii) Mobile with Charger
- 4. Elements are normally advertised as a package

Example: (i) Dosa pan with wooden spoon

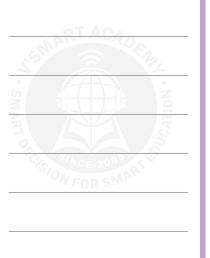
5. The different elements are integral to one overall supply. If one or more is removed. the nature of the supply would be affected.

Example : (i) Spects with glass and frame

Classification

As we have seen as per Sec 8 Clause (a) Composite Supply shall be treated as a supply of such principal supply.

Example: When a consumer buys a television set and he also gets warranty and a maintenance contract with the TV, this supply is a composite supply. In this example, supply of TV is the principal supply, warranty and maintenance services are ancillary.



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Definition, Concept and Classification of Mixed supply

Definition

Mixed Supply as per Sec 2 (74): means

- Two or more individual supplies of goods or services or any combination thereof
- **○** Made in conjunction with each other by a taxable person for a single price
- Where such supply does not constitute a composite supply



Illustration.— A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately

Concept

How to determine if a particular supply is a mixed supply?

In order to identify if the particular supply is a mixed supply, the first requisite is to rule out that the supply is a composite supply.

A supply can be a mixed supply only if it is not a composite supply. As a corollary it can be said that if the transaction consists of supplies not naturally bundled in the ordinary course of business then it would be a mixed supply.

Classification

As we have seen as per Sec 8 Clause (b) Mixed Supply shall be treated as a supply of that particular supply that attracts highest rate of tax

Example: A Shopkeeper selling storage water bottles along with refrigerator. Bottles and the refrigerator can easily be priced and sold independently and are not naturally bundled. So, such supplies are mixed supplies.

Analysis

Combination of Supplies

Goods + Goods

Service + Service

Goods + Service

CA Vishal Bhattad

Classification of Supply (Goods + Goods)- Examples

Situations	Classification	Composite or Mixed Supply	Applicable Rate
Supply of Latop with Bag and Power Cable	Laptop Rate 18%	Composite Supply	18% rate is applicable
A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juices when supplied for a single price is a mixed supply. All can be sold separately.	Aerated waters, containing added sugar or other sweetening matter or flavoured is taxed at 28% with 12% Compensation Cess. Dry Fruits is taxed at the rate of 12%. Cake is taxed at the rate of 18%.		Aerated drinks will be treated as principal supply. Hence rate of aerated drinks will be considered i.e. 28%
Consider a kit which contains a tie, a watch, a wallet, and a pen, as a combo, for Rs. 4,500. Tie, watch, wallet, and pen are bundled as a kit. The supply of a tie does not naturally necessitate the supply of other elements (watch, wallet, pen) and vice versa. The kit is supplied for a single price.	Watch is taxed at 28%. Wallet is taxed at 28%. Pens are taxed at the rate of 12%.	Mixed Supply	Hence rate applicable will be 28%

Classification of Supply (Service + Service)- Examples

Situations	Classification	Composite or Mixed Supply	Applicable Rate
A 5-star hotel in Mumbai provides a 4 days/3 nights package, with breakfast. This is a composite supply as the package of accommodation facilities and breakfast is natural combination in the ordinary course of business for a hotel.	Supply of food/drinks in 5-star hotel is taxed at the rate of 28%. Accomodation in a 5 star hotel where rate is Rs 5000 and above per night is taxed at the rate of 18%.	Composite Supply	In this case, the hotel accommodation is the principal supply, and breakfast is ancillary to the hotel accommodation. Hence applicable rate is 18%
A 5-star hotel in Mumbai provides a 4 day/3 nights package with the breakfast and one day Mumbai Darshan. The inclusion of Mumbai Darshan in this package is not a natural requisite to accommodation in the hotel.	Accomodation in a 5-star hotel where rate is Rs 7500 and above is taxed at the rate of 28%. Supply of services of Tour Operator is taxed at 5%. The rate applicable will be 28%. (The hotel would hire an operator for sight seeing purpose)	Mixed Supply	Higest rate 28% is applicable

Classification of Supply (Goods + Service)- Examples

Situations	Classification	Composite or Mixed Supply	Applicable Rate
Mr C buys a car from a car dealer. The contract for the purchase of the car is inclusive of its delivery. In this case, the principal supply is the goods (the car) and the incidental supply is the services (its delivery).	Transportation of Goods is taxed at the rate of 5%. Motor Cars are taxed at the rate of 28%.	Composite Supply	Hence rate applicable will be 28%
A car repair workshop supplies both repair services and car batteries to its customers. When it charges a customer for supply of repair services and a car battery at a single inclusive price.	Batteries are taxed at the rate of 28%. Service of Repair (others) is at 18%.	Mixed Supply	Hence it will be taxed at 28%



Important Clarification

Supply of Goods

Clarification on certain issues related to Banking & Financial Services via Circulars

Issue

Whether Priority Sector Lending Certificates (PSLCs) are outside the purview of GST and therefore not taxable? [Circular no. 34/8/2018 dt 01/03/2018]

Clarification:

Levy: as per Circular no. 34/8/2018 dt 01/03/2018 & RBI FAQ on PSLC

- ⇒ PSLC is in nature of goods
- ⇒ It is akin to freely tradable duty scrips
- ⇒ It is treated as supply of goods
- ⇒ Liable to GST as there is no exemption.

Rate: As regard to applicable rate on PSLC (Circular no 46/2018 – GST dt 06/06/2018)

Further clarification as regard to applicability of GST rate on PSLCs and REC's and other similar scrip was issued via Certificates like REC's , PSLCs are classified under heading 4907 & will accordingly attract GST @ 12 % .

Payment: As per N/N 11/2018 – CT (R) dt 28.05.2018 on such supply of PSLC tax shall be paid under reverse charge & here person liable to pay tax shall be the recipient

Issue:

whether IGST or CGST/ SGST is payable for trading of PSLC by the banks on e-Kuber portal of RBI (Circular No. 93/12/2019-GST dt 8/3/ 2019)

Clarification:

SI.No.	Period	Who is liable to pay	GST Rate	Circular No.
1.	1.7.1017 to 27.5.2018	Seller bank on forward charge	12%	62/36/2018- GST, dt 12.9.2018
2.	From 28.5.2018	Buyer bank under reverse charge	12%	11/2018 CT ®,dt 28.5.2018

Notes:

- **1.** Nature of supply of PSLC between banks may be treated as a supply of goods in the course of inter-State trade or commerce.
- 2. IGST shall be payable on the supply of PSLC traded over e-Kuber portal of RBI for both periods above
- 3. where the bank liable to pay GST has already paid CGST/SGST or CGST/UTGST as the case may be, such banks for payment already made, shall not be required to pay IGST towards such supply

Supply of Service

Clarification regarding leviability of GST on taxable services provided by the members of the JV to the JV and vice versa and inters se between the members of the JV. [Circular No. 35/09/2018 GST dated 05.03.2018]

Issue 2:- Whether GST is to be levied on taxable services provided by the members of the JV to the JV and vice versa and inter se between the members of the JV

Clarifications: As per Circular no 35/2018 dt 05.03.2018

- ⇒ Whether cash call in JV is taxable or not depends on the facts & circumstances of each case
- Normally cash call in JV is transaction in money & hence not treated as supply of goods or services

Let's analyse the taxability in details :-

- a) Cash Calls as a Capital Contribution: Cash call, sometimes, could be in the nature of Capital Contributions made by members to raise the funds for JV and would be consideration *merely 'a transaction in money'*, hence, *will not be taxable under GST*, as it not in nature of consideration.
- b) Cash Calls by way of advance towards supplies: Cash call, sometime, could be in the nature of advance payment made by members towards taxable services received from JV, hence will be taxable under GST.

Example:- JV which receives cash call from its members may in return agree to do something of direct benefits either to member or on behest of a member to a third party, such as granting of right, reserving production capacity or providing an option on furture supples. Some may attract GST.

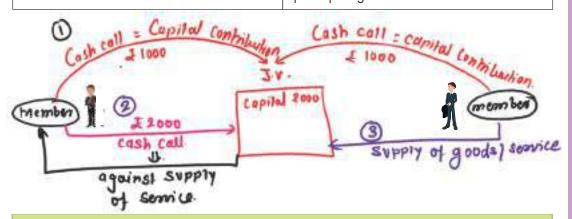
c) **Supply from member to JV :-** Further, taxable services received by JV from a member or a third party against payments made by JV out of amount collected through cash call, is in the nature of consideration and hence, attracts GST

Ilustration A: There are 4 members in the JV including the operating member and each one contributes ₹ 100 as part of their share. A total amount of ₹ 400 is collected. The operating member purchases machinery for ₹ 400 for the JV to be used in oil production.

Illustration B: There are 4 members in the JV including the operating member and each one contributes ₹ 100 as part of their share. A total amount of ₹ 400 is collected. The operating member thereafter uses its own machine and performs exploration and production activities on behalf of the JV.

In this situation it will not be the subject matter of 'GST' for the reason that the operating member is not carrying out an activity for another for consideration. In Illustration A, the money paid for purchase of machinery is merely in the nature of capital contribution and is therefore a transaction in money.

In this situation the operating member uses its own machinery and is therefore providing 'service' within the scope of supply of CGST Act. This is because in this scenario, the operating member is recovering the cost appropriated towards machinery and services from the other JV members in their participating interest ratio



Issue related to taxability of 'tenancy rights' under GST Circular no 44/2018 – CT dt 02/05/2018

Facts: The transfer of tenancy rights against tenancy premium which is also known as "pagadi system" is prevalent in some States. In this system the tenant acquires, tenancy rights in the property against payment of tenancy premium(pagadi). The landlord may be owner of the property but the possession of the same lies with the tenant. The tenant pays periodic rent to the landlord as long as he occupies the property.

The tenant also usually has the option to sell the tenancy right of the said property and in such a case has to share a percentage of the proceed with owner of land, as laid down in their tenancy agreement.

Also, the landlord pays to tenant the prevailing tenancy premium to get the property vacated. Such properties in Maharashtra are governed by Maharashtra Rent Control Act, 1999.



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Issue:

- (I) Whether transfer of tenancy rights to an incoming tenant, consideration for which is in form of tenancy premium, shall attract GST when stamp duty and registration charges is levied on the said premium?
- (ii) Further, in case of transfer of tenancy rights, a part of the consideration for such transfer accrues to the outgoing tenant, whether such supplies will also attract GST?

Objection by Industry: The stamp duty and registration charges is levied on such transfers of tenancy rights, and such transaction thus should not be subjected to GST

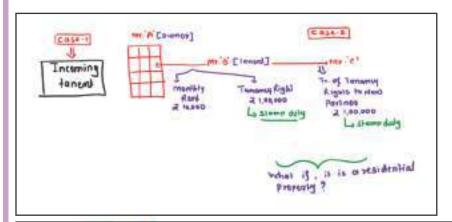
Legal Provision:- As per section 9(1) of the CGST Act there shall be levied central tax on the intra-State supplies of services.

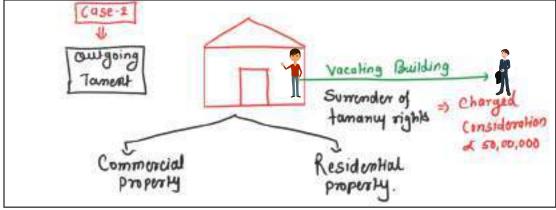
As per para 2 of Schedule II any lease, tenancy, easement, licence to occupy land is classified under supply of service.

Also renting of residential dwelling for use as a residence is exempt as per SI. No. 12 of **notification No. 12/2017-Central Tax(Rate)**.

Observations: Merely because a transaction or a supply involves execution of documents which may require registration and payment of registration fee and stamp duty, would not preclude them from the scope of supply of goods and services and from payment of GST.

The transfer of tenancy rights cannot be treated as sale of land or building declared as neither a supply of goods nor of services in para 5 of Schedule III to CGSTAct, 2017. Thus a consideration for the said activity shall attract levy of GST.





Clarification

Cases	Situations	Clarifications	Examples
	Transfer of tenancy rights to an incoming tenant, consideration for which is in form of tenancy premium	Taxable	A is the owner of a property. B takes this property from A on rent. B pays ₹10,000 monthly to A as rent. In addition, B has paid ₹1,00,000 to A to get a right partly in A's property. This ₹ 1,00,000 is called Tenancy Premium and liable to GST

2	Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium	Taxable	A is the owner of a property. B takes this property from A on rent. B pays ₹10,000 monthly to A as rent. In addition, B has paid ₹1,00,000 to A to get a right partly in A's property.B has further transfer rights to C for premium. Such premium also Taxable.
3	Transfer of tenancy rights to a new tenant against consideration for residential property in the form of tenancy premium	Exempt	X is the owner of a residential property. Y takes this property from X on rent. Y pays ₹10,000 monthly to X as rent for residence. Before the end of the agreement, Y pays ₹1,00,000 to X, so that Y get rights to stay in the property. This ₹1,00,000 is also called Tenancy premium. This will be exempt as the amount of tenancy premium paid is for residential purpose.
4	Services provided by outgoing tenant (by way of vacating the building) by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium Note:- If it is related to vacating residential dwelling then such tenancy premium will be exempt.	Taxable	X is the owner of a property. Y takes this property from X on rent. Y pays ₹10,000 monthly to X. Before the end of the agreement, X pays ₹1,00,000 to Y, so that Y vacants the property. This ₹1,00,000 is also called Tenancy premium and liable to GST. Here X is paying Y so that Y surrenders his right to stay in the property.

Important points need to be understood :-

- 1) Transfer of tenancy rights is not similar to sale of land and building as covered under Schedule III. Hence, it is liable to GST eventhough stamp duty is paid.
- 2) Transfer of tenancy right in relation to residential dwelling for use of residence (including tenancy premium is paid to vacate the building) is exempt.



Students



Schedule III

Clarification on certain issues regarding GST applicability on fees, penalty etc paid to Consumer Disputes Redressal Commission [Circular No. 32/06/2018 GST dated 12.02.2018]

⇒ Is GST leviable on the fee/amount charged in the following situations/cases: –

A customer pays fees while registering complaints | Consumer Disputes Redressal to Consumer Disputes Redressal Commission Commissions (National/ State/ District) may office and its subordinate offices.

Penalty charged by Consumer Disputes Redressal Commission in cash when it is required

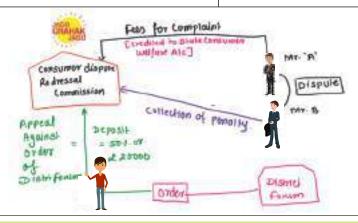
When a person files an appeal to Consumers Disputes Redressal Commission against order of District Forum, amount equal to 50% of total amount imposed by the District Forum or ₹ 25000/- whichever is less, is required to be paid

not be tribunals literally as they may not have been set up directly under Article 323B of the Constitution.

However, they are clothed with the characteristics of a tribunal

In view of the aforesaid, it is hereby clarified that fee paid by litigants in the Consumer Disputes Redressal Commissions are not leviable to GST.

Any penalty imposed by or amount paid to these Commissions will also not attract GST.



Circular No. 32/06/2018 - GST, dt 12/2/2018 [F.No. 354/17/2018 - TRU Petrolium - Recovery of contract cost by a oil exploration contracts viz. 'Cost petrolium -Not supply to GOI']

Question :- As per the production sharing contract (PSC) between the Government and the exploration & production contractors in case of a commercial discovery of petroleum, the contractors are untitled to recover from the sale proceeds all expenses incurred in exploration, development, production and payment of royalty. Portion of the value of petroleum which the contractor is entitled to take in a year for recovery of these contract costs is called "Cost petroleum" chargeable to GST?

Answer:-

Cost Petroleum: In case of commercial discovery of petroleum, under production sharing contracts (PSC) between Governmental and oil exploration & production contractors are entitled to recover from sale proceeds all expenses incurred in exploration, development, production and payment of royalty. Portion of the value of petroleum which contractor is entitled to take in a year for recovery of contract costs is called "Cost petroleum"

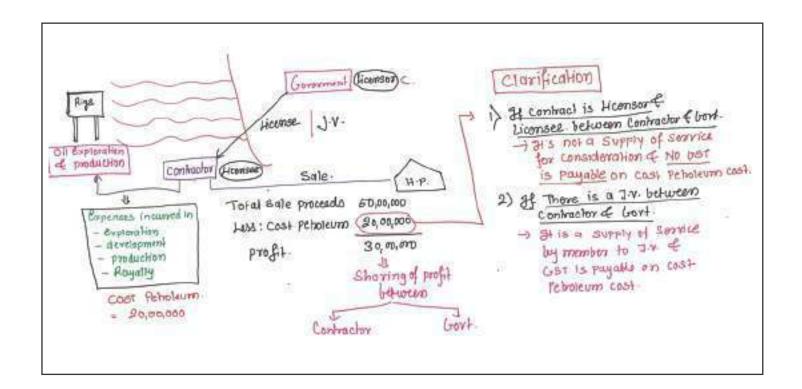
Share in cost petroleum in self-service by contractors :- No GST on cost petroleum : Relationship of oil exploration and production contractors with Government is not that of partner but that of licensor/lessor and licensee/lessee.

Having acquired right to explore, exploit and sell petroleum in lieu of royalty and a share in profit petroleum, contractors carry out exploration and production of petroleum for themselves and not as a service to Government.

The oil exploration and production contractors conduct all petroleum operations at their

sole risk, cost and expenses. Hence, cost petroleum is not a consideration for service to Govt. and thus not taxable per se.

Cost Petroleum may be basis for valuing services by member of JV to JV: But, cost petroleum may be an indication of value of mining/exploration services provided by operating member to joint venture, in a situation where the operating member is found to be supplying service to the oil exploration and production joint venture.





Composite & Mixed Supply

Circular No. 11/11/2017 GST dated 20.10.2017 Clarification on taxability of printing contracts

Issue:

Whether supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc., printed with design, logo, name, address or other contents supplied by the recipient of such supplies, would constitute supply of goods falling under Chapter 48 or 49 of the First Schedule to the Customs Tariff Act, 1975 or supply of services falling under heading 9989 of the scheme of classification of services annexed to Notification No. 11/2017CT(R)?

Clarification

Whether such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply.

Principal supply has been defined in section 2(90) of the CGST Act as supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

Cases	Situations	Facts	Clarification on Classification of supply
1	In the case of printing of books, pamphlets, brochures, annual reports, and the like News PAPER MAGAZINE	where original content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer,	Classification: Supply of Service Reason: supply of printing on the content supplied by the recipient of supply(another person) is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services Note: Eventhough printer is using his physical inputs including paper used for printing, but main supply is job work on the content of another's Person.
2	In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. falling under Chapter 48 or 49, printed with design, logo etc	If supplied by the recipient of goods but made using physical inputs including paper belonging to the printer,	Classification: Supply of Goods Predominant supply is that of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods such supplies would constitute supply of goods falling under respective headings of Chapter 48 or 49 of the Customs Tariff.

Clarification on levy of GST on printing - [Circular no. 27/01/2018 dt 04/01/2018]

Cases	Situations	Clarification on Classification of supply		
1	The books are printed/ published/ sold on procuring copyright from the author or his legal heir. [e.g. White Tiger Procures copyright from Ruskin Bond] The supply of books shall be treated as supply of goods as long as the			
2	The books are printed/ published/ sold against a specific brand name. [e.g. Manorama Year Book] supplier owns the books and has the legal rights to sell those books on his own			
3	The books are printed/ published/ sold on paying copyright fees to a foreign publisher for publishing Indian edition (same language) of foreign books. [e.g. Penguin (India) Ltd. pays fees to Routledge (London)] The books are printed/ published/ sold on paying copyright fees to a foreign publisher for publishing Indian language edition (translated). [e.g. Ananda Publishers Ltd. pays fees to Penguin (NY)]			
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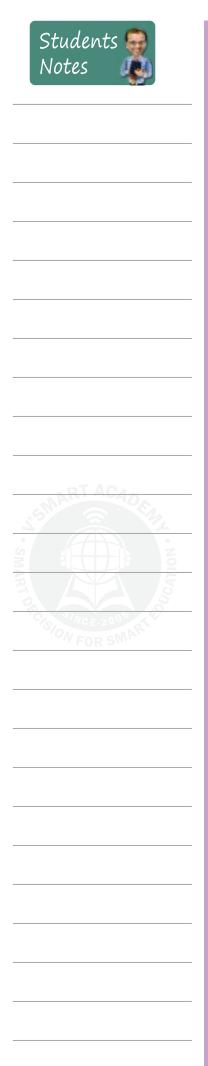
Clarifications regarding GST in respect of certain services [Circular No. 34/08/2018 GST dated 01.03.2018]

Issue	Clarification	
i) Whether activity of bus body building, is a supply of goods or services?	services both.	
ii) Whether retreading of tyres is a supply of goods or services?	Principle: The primary question that should be asked is what the essential nature of the composite supply is and which element of the supply imparts that essential nature to the composite supply. Value may be one of the guiding factors in this determination, but not the sole factor.	
	Classification for Jobworker: In retreading of tyres, which is a composite supply, the pre-dominant element is the process of retreading which is a supply of service. Rubber used for retreading is an ancillary supply. Classification for Supplier: Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods (retreaded tyres under heading 4012 of the Customs Tariff attracting GST @ 28%)	



Students

Notes



Clarification regarding applicability of GST on the superior kerosene oil [SKO] retained for the manufacture of Linear Alkyl Benzene [LAB]

Issue: Whether GST is applicable on the superior kerosene oil [SKO] retained for the manufacture of Linear Alkyl Benzene [LAB]? [Circular No. 12/12/2017 GST dated 26.10.2017]

Facts: LAB manufacturers have stated that they receive superior Kerosene oil (SKO) from, a refinery, say, Indian Oil Corporation (IOC). They extract n- Paraffin from SKO and return back the remaining of SKO to the refinery.

In this context, the issue has arisen as to whether in this transaction GST would be levied on SKO sent by IOC for extracting n-paraffin or only on the n-paraffin quantity extracted by the LAB manufactures. Further, doubt have also been raised as to whether the return of remaining Kerosene by LAB manufactures would separately attract GST in such transaction.

Clarification:-

- **GST** will be payable by the refinery i.e. IOC **on the value of net quantity** of superior kerosene oil (SKO) retained (i.e., 15% to 17%) for the manufacture of Linear Alkyl Benzene (LAB).
- The refinery (IOC) would be liable to pay GST on such returned quantity of SKO, when the same is supplied by it to any other person.

Clarification regarding applicability of GST on the petroleum gases retained for the manufacture of petrochemical and chemical products. [Circular No.53/2018 GST dt 09/08/2018]

Facts:- Manufacturers of other petrochemical and chemical products for issue of clarification on applicability of GST on petroleum gases, which are supplied by oil refineries to them on a continuous basis through dedicated pipelines, while a portion of the raw material is retained by these manufacturers (recipient of supply), and the remaining quantity is returned to the oil refineries.

In this regard, an issue has arisen as to whether in this transaction GST would be leviable

- on the whole quantity of the principal raw materials supplied by the oil refinery or
- on the net quantity retained by the manufacturers of petrochemical and chemical products.

Clarification:- The provisions as stated in Circular 12/12/2017 – GST dt 26.10.2017 shall mutatis mutandis apply in the above case also i.e

- ➡ GST will be payable by the refinery only on the net quantity of petroleum gases retained by the recipient manufacturer for the manufacture of petrochemical and chemical products
- Refinery would be liable to pay GST on such returned quantity of petroleum gases, when the same is supplied by it to any other person

Clarification on Servicing of cars involving both supply of Goods & services (Circular no. 47/21/2018 dt 08/06/2018)

Issue:-

How is servicing of cars involving both supply of goods (spare parts) and services (labour), where the value of goods and services are shown separately, to be treated under GST?

Clarification:-

- The taxability of supply would have to be determined on a case to case basis looking at the facts and circumstances of each case.
- ➡ Where a supply involves supply of both goods and services and the value of such goods and services supplied are shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately.