
CHARTMASTER's

GST TOTAL BOOK

On

**Goods and Services Tax
(Group 1 – Paper 3 - Section B)**

For

CA Intermediate Nov 24/May 25

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CHARTMASTER'S GST Total Book

On Indirect Tax Laws

For CA Intermediate

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Laws stated in this book is amended upto 20th March, 2024

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CHARTMASTER'S GST

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1. GST in India - An Introduction

What is Tax?

Tax is a compulsory financial charge imposed upon a taxpayer

- under an act/law by the government
- in order to fund various public expenditures and fulfil the developmental needs like infrastructure, health care, education, security, military, defence etc.

Types of Taxes

Taxes are broadly classified into **direct taxes** and **indirect taxes**.

Let us understand the difference between Direct Taxes and Indirect taxes

Direct taxes	Indirect taxes
A direct tax is charge, which is imposed directly on the taxpayer and paid directly to the Government by the persons on whom it is imposed. The burden of this tax cannot be shifted by the taxpayer to someone else.	Indirect taxes are imposed on goods and services and its incidence is borne by the consumers who ultimately consume the product or the service. It is also called consumption taxes.
A significant direct tax imposed in India is income tax .	Significant Indirect taxes in India are GST & Customs .
Direct taxes are progressive in nature. Rich pays more taxes compared to poor. Example: Income tax is higher for higher income groups and lower for lower income groups.	Indirect taxes are regressive in nature because they equally impact the rich or poor. Example: GST paid on food in restaurant is same whether a person is rich or poor.

Features of Indirect Taxes

- (i) **An important source of revenue for government:** Indirect taxes are a major source of tax revenue for governments worldwide and continues to grow as more countries move to consumption-based tax regimes.
- (ii) **Tax on commodities and services:** It is levied on commodities at the time of sale or import/export thereof. Hence, it is also known as commodity taxation. It is also levied on provision of services.
- (iii) **Shifting of burden:** There is a clear shifting of tax burden in respect of indirect taxes. For example, GST paid by the supplier of the goods is recovered from the buyer at the time of sale.
- (iv) **No perception of direct pinch:** Since, value of indirect taxes is generally inbuilt in the price of the commodity, most of the time the tax payer pays the same without actually knowing that he is paying tax to the Government. Thus, tax payer does not perceive a direct pinch while paying indirect taxes.
- (v) **Promotes social welfare:** High taxes are imposed on the consumption of harmful products (also known as 'sin goods') such as alcoholic products, tobacco products etc. This not only checks their consumption but also enables the State to collect substantial revenue.
- (vi) **Regressive in nature:** Generally, the indirect taxes are regressive in nature. The rich and the poor have to pay the same rate of indirect taxes.

What is GST – Goods and Services Tax?

As per Article 366: Definitions of Goods and Services Tax

Clause 12A: Goods and services tax means

- any tax on supply of goods, or services or both
- except taxes on the supply of the alcoholic liquor for human consumption.

Author: Alcoholic liquor for human consumption is a major source of revenue for the states & hence all the states disagreed to subsume it into GST and so the government in order to ensure smooth transition into GST, agreed to keep alcoholic liquor for human consumption out of the ambit of GST.

Why is GST Introduced? i.e., Deficiencies in the erstwhile indirect tax regime

1. Cascading effect of tax is one of the vital ill of existing Indirect Tax.

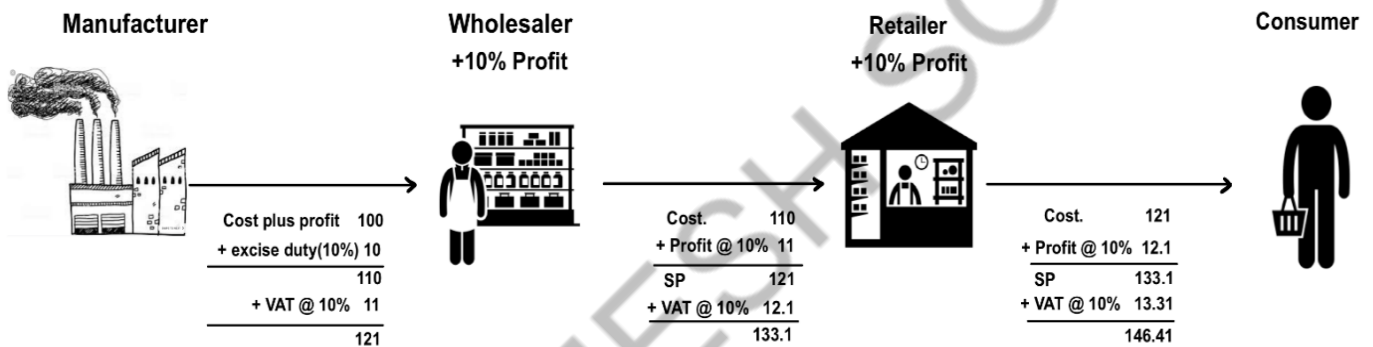
It means, a tax that is levied on a good at each stage of the production process up to the point of being sold to the final consumer. It is also known as tax on tax.

2. Double taxation on certain transactions.

Certain transactions were subject to double taxation and were taxed as both goods and services, since under the earlier regime, distinction between goods and services was often blurred.

3. No CENVAT (Central excise duty) credit after manufacturing stage to a dealer.

In the earlier regime, a manufacturer of dutiable goods charge excise duty and value added tax on intra-state sale of goods or central sales tax (CST) on inter-state sale of goods. VAT or CST is levied inclusive of excise duty.



4. Several taxes were not subsumed.

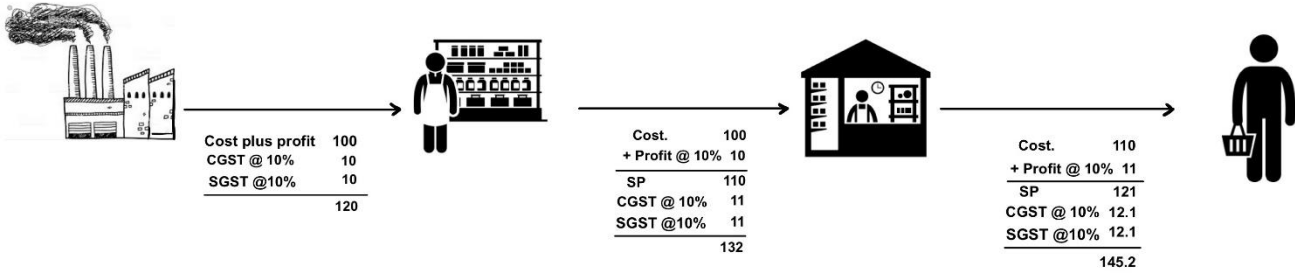
There were several taxes in the States, such as, Luxury Tax, Entertainment Tax, etc. which were not subsumed in the VAT. Hence for a single transaction, multiple taxes in multiple forms were required to be paid.

5. CST was another source of distortion in terms of its cascading nature.

Being an origin-based tax, CST was also against one of the basic principles of consumption taxes that tax should accrue to the jurisdiction where consumption takes place.

Various features of GST are as under:

- 1. GST is a tax:** Since it's a tax, as per article 265 it can be levied only under the authority of law.
- 2. It's a tax on supply of goods or services or both:** Whenever goods or services or both are supplied GST shall be levied. The word supply is very important here.
- 3. GST is a consumption tax:** Consumption tax means the tax is ultimately borne by the consumers, not by suppliers. Suppliers are collection agents acting on behalf of government.
- 4. GST is a destination-based tax (DBT):** If Destination principle is followed, India will tax imports and not exports, On the other hand, as per Origin principle we will tax Exports and not imports.
- 5. GST is a Value added tax: VAT as a model is adopted in GST:** VAT refers to a staged collection process. It refers to a system where taxes paid at an earlier stage are allowed as a credit to a taxable person, which he uses to set off against his output tax liability.



Pre and Post GST Scenario

Tax	Goods/ Service	Taxable Event	Taxable person	Tax charged	Tax levied by
Pre GST					
Excise	Goods	Manufactured	Manufacturer	Central Excise duty	CG
VAT	Goods	Sales – Intrastate	Trader/Dealer	Value added tax	SG
CST	Goods	Sales – Interstate	Trader/Dealer	Central Sales tax	SG
Service tax	Services	Provisioning of service	Service provider	Service tax	CG
Post GST					
GST	Goods/ Services	Supply	Taxable person	Goods and Services tax	CG + SG

Note: CG: Central government, SG: State government

Dual Model of GST

India has adopted dual model of GST which is imposed concurrently by the centre and the state i.e., both centre and state will impose tax on a transaction simultaneously. GST to be levied by centre will be called CGST & that to be levied by states (incl. states with legislature) will be called SGST. GST to be levied by UTs to be called UTGST (UTs without legislature).

Note: India has adopted its GST model from **Canada**.

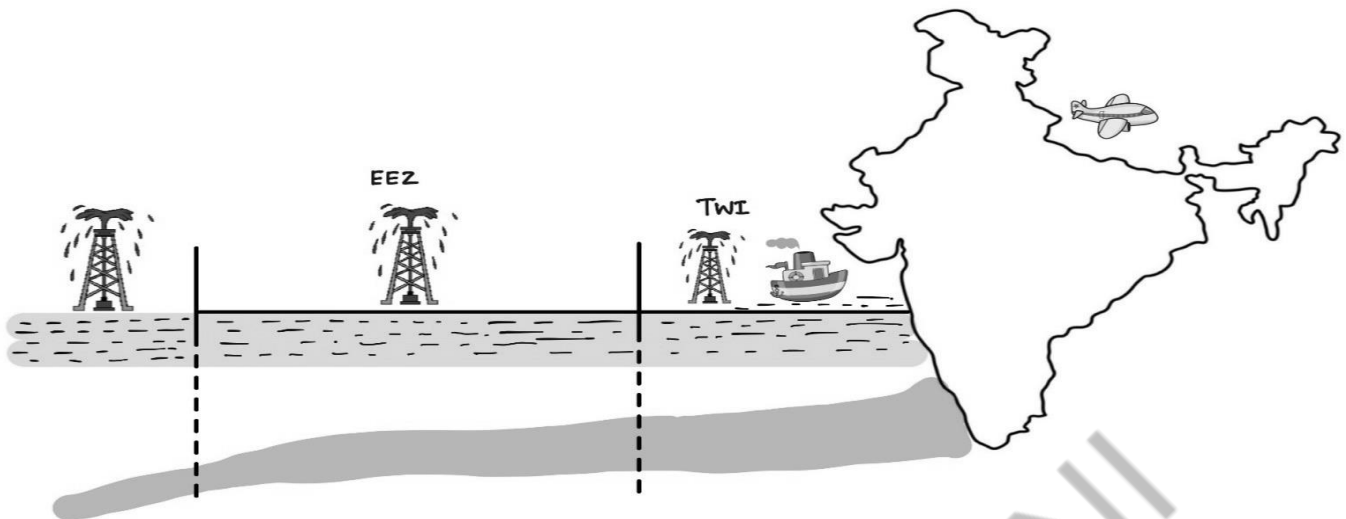
Nature of supply and types of GST charged on different types of trade and Commerce

India: Section 2(56) of CGST act

India means

- the **territory of India** as referred to in article 1 of the Constitution,
- its **territorial waters**,
- **seabed and sub-soil** underlying such waters,
- **continental shelf**,
- **exclusive economic zone** or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976), and
- the **air space** above its territory and territorial waters

India



State: Section 2(103) of CGST act

State includes a Union territory with Legislature

Union territory: Section 2(114) of CGST act

Union territory means the territory of—

- (a) the Andaman and Nicobar Islands;
- (b) Lakshadweep;
- (c) Dadra and Nagar Haveli and Daman and Diu;
- (d) Ladakh
- (e) Chandigarh; and
- (f) other territory.

Explanation - Each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union territory;

Intrastate Supply: Where the Location of supplier and place of supply is within the same state/union territory **it is treated as intrastate supply.**

Interstate Supply: Where the Location of supplier and place of supply are in

- (i) Two different states,
- (ii) Two different Union Territories,
- (iii) A State and a Union territory

it is treated as interstate trade.

In case of Intrastate supply within state/UT: we always charge CGST & SGST/CGST & UTGST.

In case of Interstate supply: we always charge IGST (i.e., CGST & SGST integrated together).

Taxes Subsumed into GST

Central taxes subsumed

1. Central Excise duty
2. Service tax
3. CVD & Special CVD (Countervailing duty) levied under Customs
4. Central Sales Tax
5. Central surcharges & Cesses in so far as they relate to supply of goods & services

State taxes subsumed

1. Entertainment Tax (except those levied by local bodies)
2. Tax on lottery, betting and gambling
3. Entry Tax (All Forms) & Purchase Tax
4. VAT/ Sales tax
5. Luxury tax
6. Taxes on advertisements
7. State surcharges and cesses in so far as they relate to supply of goods & services

Taxes not subsumed into GST

1. Basic custom duty
2. Property tax and stamp duty
3. Electricity duty
4. Excise duty on Alcoholic liquor for Human consumption
5. Excise duty on petrol, diesel etc.
6. Entertainment tax charged by local bodies (municipality)

Note: In case of tobacco and tobacco products, the centre alone would have the power to levy excise duty in addition to GST. The levy of excise duty is only in manufacturing stage; GST is leviable on the amount (inclusive of excise duty)

Various Taxes on Goods/Services (Summary)

Goods/Services	SED	CED	VAT/CST	GST
Alcoholic Liquor for Human Consumption	Yes		Yes	
High Speed Diesel, Crude Petroleum, Motor Spirit, Aviation turbine fuel, Natural Gas (HPMAN)		Yes	Yes	
Tobacco and tobacco products		Yes		Yes
Opium, Indian hemp and other narcotic drugs and narcotics	Yes			Yes
Other Goods/Services				Yes

SED: State excise duty **CED:** Central excise duty

Principles while subsuming the various taxes

The following principles were kept in mind while subsuming the taxes:

- (i) **Taxes or levies to be subsumed should be primarily in the nature of indirect taxes**, either on the supply of goods or on the supply of services.
- (ii) **Taxes or levies to be subsumed should be part of the transaction chain** which commences with import/ manufacture/ production of goods or provision of services at one end and the consumption of goods and services at the other.
- (iii) **The subsuming of taxes should result in free flow of tax credit in intra and inter-State levels.**
The taxes, levies and fees that were not specifically related to supply of goods & services would not be subsumed under GST.
- (iv) **Revenue fairness for both the Union and the States** individually would need to be attempted.

Benefits of GST

Benefits to economy

- **Creation of Unified national market:** GST aims to make India a common market with common tax rates and procedures & remove the economic barriers thus paving the way for an integrated economy at the national level.
- **Boost to 'Make in India' initiative:** GST will give a major boost to the 'Make in India' initiative of the Government of India by making goods and services produced in India competitive in the national as well as international market.

- **Enhanced investment and employment:** The subsuming of major Central and State taxes in GST, complete and comprehensive setoff of input tax on goods and services and phasing out of Central Sales Tax (CST) reduces the cost of locally manufactured goods and services and increases the competitiveness of Indian goods and services in the international market and thus, gives boost to investments and Indian exports. With a boost in exports and manufacturing activity, more employment is generated and GDP is increased.

Simplified tax structure

- **Ease of doing business:** Simpler tax regime with fewer exemptions along with reduction in multiplicity of taxes under GST has led to simplification and uniformity. The uniformity in laws, procedures and tax rates across the country makes doing business easier.
- **Certainty in tax administration:** Common system of classification of goods and services ensures certainty in tax administration across India.

Easy tax compliance

- **Automated procedures with greater use of Information technology:** There are simplified and automated procedures for various processes such as registration, returns, refunds, tax payments.
- **Reduction in compliance costs:** The compliance cost is lesser under GST as multiple record-keeping for a variety of taxes is not needed, therefore, there is lesser investment of resources and manpower in maintaining records.

Advantages for trade and industry

- **Benefits to industry:** GST has given more relief to trade and industry through a more comprehensive and wider coverage of input tax set-off and service tax set-off, subsuming of several Central and State taxes in the GST and phasing out of CST. The transparent and complete chain of set-offs which results in widening of tax base and better tax compliance also leads to lowering of tax burden on an average dealer in trade and industry.
- **Mitigation of ill effects of cascading:** By subsuming most of the Central & State taxes into a single tax and by allowing a set-off of prior-stage taxes for the transactions across the entire value chain, it would mitigate the ill effects of cascading, improve competitiveness and improve liquidity of the businesses.
- **Benefits to small traders and entrepreneurs:** GST has increased the threshold for GST registration for small businesses. Further, single registration is needed in one State. Small businesses have also been provided the additional benefit of composition scheme. With the creation of a seamless national market across the country, small enterprises have an opportunity to expand their national footprint with minimal investment.

Genesis of GST (History from origin)

GST is a path breaking indirect tax reform which will create a common national market. GST has subsumed multiple indirect taxes like excise duty, service tax, VAT, CST, luxury tax, entertainment tax, entry tax, etc.

Year	Events
1954	France was the first country to implement GST. At present about 160 countries have adopted GST.
2000	The then Prime Minister mooted the concept of GST and set up a committee to design a Goods and Services Tax (GST) model for the country.
2004	Kelkar Task force strongly recommended fully integrated GST on national basis.
2006-07	Union FM, P. Chidambaram, while presenting the Budget, announced that GST would be introduced from April 1, 2010
19.12.14	The Constitution (122nd Amendment) Bill, 2014 introduced in the Lok Sabha
06.05.15	The Lok Sabha passed the Constitution (122nd Amendment) Bill, 2014
2016	The Rajya Sabha passed the Bill on August 03, 2016 .

Year	Events
	<ul style="list-style-type: none"> Subsequent to ratification of the Bill by more than 50% of the States, the Constitution (122nd Amendment) Bill, 2014 received the assent of the President on 08.09.16 & It became the Constitution (101st Amendment) Act, 2016, which paved the way of GST in India
March 17	On 27th March, 2017, the Central GST legislations introduced – CGST Bill, 2017, IGST bill 2017, UTGST bill 2017, (GST compensation to states) bill, 2017 in Lok Sabha & On 29th March, 2017 , Lok Sabha passed these bills.
12.04.17	President’s assent was given and bills were enacted.
01.07.17	GST rolled out in India.
08.07.17	GST law was made applicable to the state of Jammu and Kashmir

Constitutional Provisions

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

The Constitution of India is the supreme law of India. It contains 448 Articles and 12 Schedules

Power to levy and collect taxes whether, direct or indirect emerges from the Constitution of India. In case any tax law, be it an act, rule, notification or order is not in conformity with the Constitution, it is called ultra vires the Constitution and is illegal and void.

Thus, a study of the basic provisions of the Constitution is essential for understanding the genesis of the various taxes being imposed in India.

Article 265: No tax to be levied without authority of Law

Article 265 of the Constitution of India prohibits arbitrary collection of tax.

It states that **“no tax shall be levied or collected except by authority of law”**.

Article 245: Power to make laws by Parliament and by state legislature

This Article empowers

- **Parliament** may make laws for the whole or any part of the **territory of India**, and
- **The legislature of a State** may make laws for the whole or any part of the **State”**

Article 246: Distribution of Power to make Law

It gives the **respective authority to Union and State Governments for levying tax.**

Seventh Schedule to Article 246: Divides the legislative powers into the following three lists:

Union list – List I Parliament (CG)		State list – List II (State legislature)		Concurrent list - List III	
Entry no.	Items (1 to 97)	E No.	Items (1 to 66)	E No.	Items (1 to 47)
82	Taxes on income other than agricultural income	46	Taxes on agricultural Income	1	Criminal law
83	Custom duty	51	SED on AL for HC, opium, Indian hemp and other narcotics drugs	44	Stamp duties
84	Duties of excise on HPMAN and Tobacco and Tobacco products	54	Taxes on the sale or purchase of goods (Value added tax)		
92A	Central sales tax	62	Tax on luxuries, including taxes on entertainments, amusements, betting and gambling.		
97	Any other matters not enumerated in List II/III				

Article 254 of the constitution deals with the effect of inconsistency between the law of parliament and law of state legislature. Article 254 deals with the supremacy of the laws made by Parliament.

AL for HC: Alcoholic Liquor for Human Consumption

HPMAN: High speed diesel; **P**etroleum crude; **M**otor spirit (petrol); **A**viation turbine fuel; **N**atural gas.

Constitutional Amendment

Introduction of the GST required amendment in the Constitution so as to enable integration of the central excise duty, additional duties of customs, State VAT and certain State specific taxes and service tax into a comprehensive Goods and Services Tax and to empower both Centre and the States to levy and collect it. Consequently, Constitution (101st Amendment Act), 2016 (hereinafter referred to as CAA) was passed.

Significant provisions of Constitution (101st Amendment) Act, 2016

- Concurrent powers on Parliament and State Legislatures to make laws governing taxes on goods and services.
- Levy of IGST on inter-State transactions of goods and services to be levied and collected by the Central Government and apportioned between the Union and the States in the manner provided by Parliament by Law as per the recommendation of the GST Council.
- Principles for determining the place of supply and when a supply takes place in the course of inter-State trade or commerce shall be formulated by the Parliament, by law.
- GST will be levied on all supply of goods and services except alcoholic liquor for human consumption.
- On the following products GST shall not be levied, till a date to be notified on the recommendations of the GST Council:
 - High Speed Diesel
 - Petroleum Crude
 - Motor Spirit (commonly known as Petrol)
 - Aviation Turbine Fuel
 - Natural Gas
- The Union Government shall retain the power to levy duties of excise on the aforesaid products besides tobacco and tobacco products manufactured or produced in India.
- Article 279A of the Constitution empowers the President to constitute a joint forum of the Centre and States namely, Goods & Services Tax Council (GST Council).
- The provisions relating to GST Council came into force on 12th September, 2016. President constituted the GST Council on 15th September, 2016.
- The Union Finance Minister is the Chairman of this Council and Ministers in charge of Finance/Taxation or any other Minister nominated by each of the States & UTs with Legislatures are its members. Besides, the Union Minister of State in charge of Revenue or Finance is also its member. The function of the Council is to make recommendations to the Union and the States on important issues like tax rates, exemptions, threshold limits, dispute resolution etc.

Significant amendments made by Constitution Amendment Act are discussed below in detail:

Article 246A: Special provisions with respect to GST

(1)	<p>Notwithstanding anything contained in Articles 246 and 254,</p> <ul style="list-style-type: none"> ➤ Parliament, and, ➤ subject to clause (2), the Legislature of every State, ➤ have power to make laws with respect to GST imposed by the Union or by such State.
	<p><u>Author's comments</u></p> <p>This article overrides article 246 and 254, Article 246 distributes power between the parliament & state legislature and 254 deals with situation when there is inconsistency between the law of parliament and law of state legislature, where it says law by parliament shall prevail. Article 246A provides concurrent power to CG & SG to levy GST.</p>
(2)	<p>Parliament has exclusive power to make laws with respect to GST where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.</p>
	<p><u>Author's comments:</u></p>

Parliament to make law regarding interstate supply and state will have no power in case of interstate trade.
<p>Explanation: The provisions of this article, shall, in respect of GST referred to in clause (5) of article 279A, take effect from the date recommended by the GST Council</p> <p>Author's comments Provisions in respect of petroleum crude, high speed diesel, motor spirit (also known as petrol), natural gas, aviation turbine fuel shall apply from the date recommended by GST council.</p>

Article 269A: Levy and collection of GST on inter-State supply

(1)	<p>GST on supplies in the course of inter-State trade or commerce (IGST)</p> <ul style="list-style-type: none"> ➤ shall be levied & collected by the government of India (CG) & ➤ such tax shall be apportioned between the Union & the States ➤ in the manner provided by Parliament by law on the recommendations of the GST Council.
	<p>Explanation: for the purpose of this clause, Supply of goods, or of services or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-state trade or commerce</p>

Author's comments:

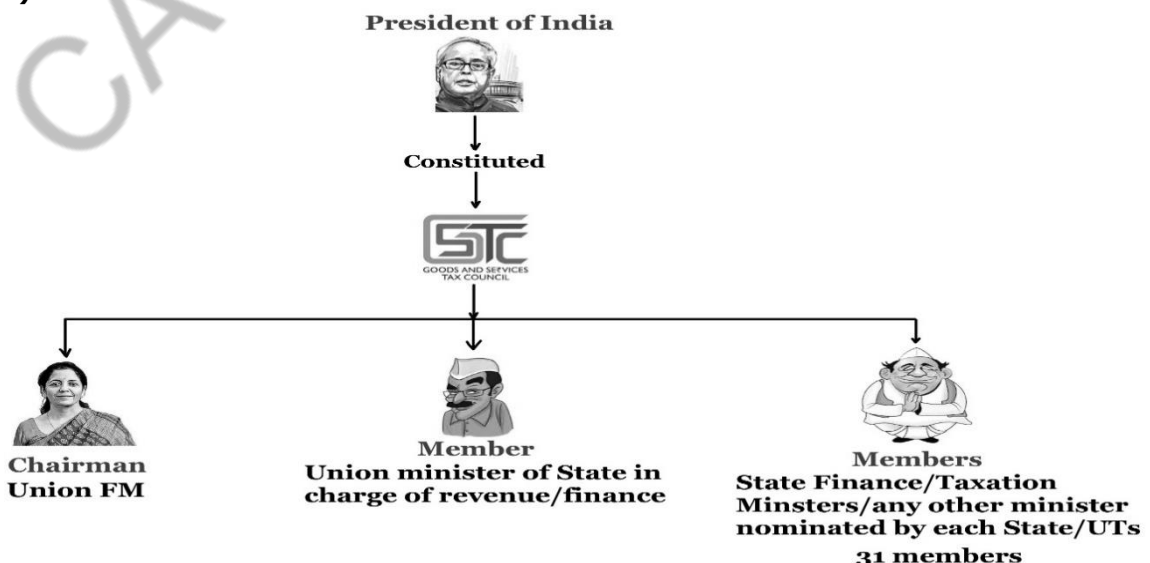
- IGST shall be levied by CG and apportioned between union and state.
- The principles for determining the place of supply are in section 10, 11, 12 and 13 of the IGST act and the principles for determining the nature of supply i.e., Intra state or inter-state shall be as per section 7 and 8 of the IGST act.

GST (Compensation to states) act 2017

A GST Compensation Cess at specified rate has been imposed under the GST (Compensation to States) Cess Act, 2017 on the specified luxury items or demerit goods, like pan masala, tobacco, aerated waters, motor cars etc., computed on value of taxable supply. Compensation Cess is leviable on intra-State supplies & inter-State supplies with a view to provide for compensation to the States for the loss of revenue arising on account of implementation of the GST. Initially, GST compensation cess was levied for a period of 5 years upto 30th June, 2022. However, its levy and collection has been extended till 31st March, 2026.

Article 279A: GST Council-Constitutional body

Section 2(36): Council means the GST Council established under article 279A of the Constitution.



(1) Article 279A of the Constitution empowers the President to constitute a joint forum of the Centre and States namely, Goods & Services Tax Council (GST Council).

- (2) The joint forum of the Centre & States namely, GST Council.
- The provisions relating to GST Council came into force on 12th September, 2016.
 - President constituted the GST Council on 15th September, 2016.
- (3) **Members of the GST council-total 33 members**
- The Union Finance Minister - **Chairman**
 - The Union Minister of State in charge of Revenue or Finance- **Member**
 - Ministers in charge of Finance/Taxation **or** any other Minister nominated by each of the States & UTs with Legislatures - **Members**.
- (4) **The function of the Council is to make recommendations to the Union & the States on important issues like:**
- The taxes, cesses and surcharges which may be subsumed in the GST;
 - The Goods and services subjected to/ exempted from GST
 - Model GST laws, principles of levy, apportionment of GST levied on Inter-State supplies & the principles that govern the place of supply;
 - Threshold limit of turnover below which no GST shall be charged on goods/services
 - Rates of GST,
 - Special rates for specified period to raise additional resources during any natural calamity or disaster
 - Special provisions with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and
 - The date on which GST be levied on petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel, etc.
- (5) One half of the total number of members of the GST Council shall constitute the quorum at its meetings.
- (6) Every decision of the GST Council is taken by a majority of not less than **three-fourths** of the weighted votes of the **members present and voting**.
- ✓ Vote of the Centre has a weightage of **one-third (i.e., 33.33%)** of total votes cast and
 - ✓ Votes of all the State governments (31) taken together have a weightage of **two-thirds (i.e., 66.67%)** of the total votes cast, in that meeting.

Common Portal

- GST Portal – **www.gst.gov.in** – is a website managed by Goods and Services Tax Network.
- GSTN is a not-for Profit Company incorporated under provisions of Sec 8 of Companies Act, 2013
- IT has been set by the Government to establish a uniform interface for the tax payer and a common & shared IT infrastructure between the Centre and States.
- The GST portal is accessible over Internet (by taxpayers and their CAs/Tax Advocates etc.) and Intranet by Tax Officials etc.
- The functions of the GSTN include**
 - facilitating registration;
 - forwarding the returns to Central and State authorities;
 - computation and settlement of IGST;
 - matching of tax payment details with banking network;
 - providing various MIS reports to the CG and the SGs based on the taxpayer return information;
 - providing analysis of taxpayers' profile.
- The portal is one single common portal for all GST related services like obtaining registration, paying tax, filing of returns, etc.
- GSTN provides three front end services to the taxpayers namely registration, payment and return through GST Common Portal.
- The Common GST Electronic Portal for furnishing electronic way bill is www.ewaybillgst.gov.in [managed by the National Informatics Centre, Ministry of Electronics & Information Technology, Govt of India].
- Further, Invoice Registration Portal (IRP) is the website for uploading/reporting of e-invoices. It is managed by the National Informatics Centre, Ministry of Electronics & Information Technology.
- The Common GST Electronic Portal for preparation of the invoice in terms of rule 48(4), namely:
 - www.einvoice1.gst.gov.in; www.einvoice2.gst.gov.in; www.einvoice3.gst.gov.in;
 - www.einvoice4.gst.gov.in; www.einvoice5.gst.gov.in; www.einvoice6.gst.gov.in;
 - www.einvoice7.gst.gov.in; www.einvoice8.gst.gov.in; www.einvoice9.gst.gov.in;
 - www.einvoice10.gst.gov.in;

GST Suvidha Providers (GSPs)/ Application Service Providers (ASPs)

- GSTN has selected certain Information Technology, Information Technology enabled Services and financial technology companies, to be called GST Suvidha Providers (GSPs).
- GSPs develop applications to be used by taxpayers for interacting with the GSTN.
- GSP develops applications having features like return filing, reconciliation of purchase register data with auto populated data for acceptance/rejection/modification, dashboards for taxpayers for quick monitoring of GST compliance activities.
- They customize products that address the needs of different segment of users.
- GSPs may take the help of ASPs who act as a link between taxpayers and GSPs.
- Hence, we can say that GSPs will act as link between taxpayer and GSTN portal, and ASP will act as link between taxpayer and GSPs.

GST Laws: Act and Rules

Particulars	ACT			
	CGST	IGST	SGST	UTGST
Act	CGST Act, 2017	IGST Act, 2017	SGST Act, 2017	UTGST Act, 2017
Applicability	On intra-state supply	On inter-state supply	On intra-state supply	On intra-state supply
No of Acts	1 CGST act	1 IGST act	31 SGST acts	1
No of Sections	1 to 174	1 to 25	1 to 174	1 to 26
	Rules			
Rule	CGST rules, 2017	IGST rules, 2017	State wise rules.	NA
No of rules	1 to 162	1 to 3	1 to 162	NA

1. GST in India - An Introduction – Q & A

Basics

1.

Explain the salient features of indirect taxes.

(ICAI Study Material)

Answer:

- (i) **An important source of revenue:** Indirect taxes are a major source of tax revenues for Governments worldwide and continue to grow as more countries move to consumption-oriented tax regimes. In India, indirect taxes contribute more than 50% of the total tax revenues of Central and State Governments.
- (ii) **Tax on commodities and services:** It is levied on commodities at the time of manufacture or purchase or sale or import/export thereof. Hence, it is also known as commodity taxation. It is also levied on provision of services.
- (iii) **Shifting of burden:** There is a clear shifting of tax burden in respect of indirect taxes. For example, GST paid by the supplier of the goods is recovered from the buyer by including the tax in the cost of the commodity.
- (iv) **No perception of direct pinch:** Since, value of indirect taxes is generally inbuilt in the price of the commodity, most of the time the tax payer pays the same without actually knowing that he is paying tax to the Government. Thus, tax payer does not perceive a direct pinch while paying indirect taxes.
- (v) **Inflationary:** Tax imposed on commodities and services causes an all-round price spiral. In other words, indirect taxation directly affects the prices of commodities and services and leads to inflationary trend.
- (vi) **Wider tax base:** Unlike direct taxes, the indirect taxes have a wide tax base. Majority of the products or services are subject to indirect taxes with low thresholds.
- (vii) **Promotes social welfare:** High taxes are imposed on the consumption of harmful products (also known as 'sin goods') such as alcoholic products, tobacco products etc. This not only checks their consumption but also enables the State to collect substantial revenue.
- (viii) **Regressive in nature:** Generally, the indirect taxes are regressive in nature. The rich and the poor have to pay the same rate of indirect taxes on certain commodities of mass consumption. This may further increase the income disparities between the rich and the poor.

2.

Which of the existing taxes are proposed to be subsumed under GST? or

List any four State levies, which are subsumed in GST.

(ICAI Study Material) & (CA INTER MOCK TEST PAPER-18) (CA Inter May 18-similar)

Answer:

The GST would replace the following taxes:

(i) Taxes currently levied by the Centre:

- (a) Central Excise duty & Additional Excise Duties
- (b) Central Sales Tax
- (c) Excise Duty under Medicinal & Toilet Preparation Act
- (d) Additional Duties of Customs (commonly known as CVD)
- (e) Special CVD
- (f) Service Tax
- (g) Central Surcharges and Cesses so far as they relate to supply of goods and services

(ii) State taxes that would be subsumed under the GST are:

- (a) State VAT
- (b) Luxury Tax
- (c) Entry Tax (all forms)
- (d) Entertainment and Amusement Tax (except when levied by the local bodies)
- (e) Taxes on advertisements
- (f) Purchase Tax

- (g) Taxes on lotteries, betting and gambling
- (h) State Surcharges and cesses so far as they relate to supply of goods and services

3.

List the taxes, which are not subsumed in GST

Answer:

- (a) Basic Customs Tax
- (b) Property tax and stamp duty
- (c) Electricity duty
- (d) Excise duty on alcohol
- (e) Excise duty on petrol, diesel etc.
- (f) Entertainment tax charged by local bodies (municipality).

4.

GST is a destination-based tax on consumption of goods or services or both. Discuss the validity of the statement.

(ICAI study material)

Answer:

The given statement is valid. GST is a destination-based tax on consumption of goods or services or both. GST is known as destination-based tax since the tax would accrue to the taxing authority which has jurisdiction over the place of consumption which is also termed as place of supply.

For example, if A in Delhi produces the goods and sells the goods to B in Haryana. In this case, the tax would accrue to the State of Haryana and not to the State of Delhi. On the other hand, under pre-GST regime, origin-based taxation was prevailing in such cases.

Under origin-based taxation, the tax used to accrue to the State from where the transaction originated. In the given case, under origin-based taxation, the central sales tax would have been levied by Centre and collected by the State of Delhi and not by the State of Haryana.

5.

Under Goods and Services Tax (GST), only value addition is taxed and burden of tax is to be borne by the final consumer. Examine the validity of the statement.

(ICAI study material)

Answer:

The statement is correct. Goods and Services Tax is a destination-based tax on consumption of goods and services. It is levied at all stages right from manufacture up to final consumption with credit of taxes paid at previous stages available as setoff. Resultantly, only value addition is taxed and burden of tax is to be borne by the final consumer.

6.

What are the benefits which the Country will accrue from GST? or

“The new GST regime is a boom for all”. Comment on the rationale of GST in the light of the above statement. Or

(CBIC FAQ) & (ICAI study material)

Answers:

Benefits to economy

- **Creation of Unified national market:** GST aims to make India a common market with common tax rates and procedures & remove the economic barriers thus paving the way for an integrated economy at the national level.
- **Boost to 'Make in India' initiative:** GST will give a major boost to the 'Make in India' initiative of the Government of India by making goods and services produced in India competitive in the national as well as international market.
- **Enhanced investment and employment:** The subsuming of major Central and State taxes in GST, complete and comprehensive setoff of input tax on goods and services and phasing out of Central Sales Tax (CST) reduces the cost of locally manufactured goods and services and increases the competitiveness of Indian goods and services in the international market and thus, gives boost to

investments and Indian exports. With a boost in exports and manufacturing activity, more employment is generated and GDP is increased.

Simplified tax structure

- **Ease of doing business:** Simpler tax regime with fewer exemptions along with reduction in multiplicity of taxes under GST has led to simplification and uniformity. The uniformity in laws, procedures and tax rates across the country makes doing business easier.
- **Certainty in tax administration:** Common system of classification of goods and services ensures certainty in tax administration across India.

Easy tax compliance

- **Automated procedures with greater use of IT:** There are simplified and automated procedures for various processes such as registration, returns, refunds, tax payments.
- **Reduction in compliance costs:** The compliance cost is lesser under GST as multiple record-keeping for a variety of taxes is not needed, therefore, there is lesser investment of resources and manpower in maintaining records.

Advantages for trade and industry

- **Benefits to industry:** GST has given more relief to trade and industry through a more comprehensive and wider coverage of input tax set-off and service tax set-off, subsuming of several Central and State taxes in the GST and phasing out of CST. The transparent and complete chain of set-offs which results in widening of tax base and better tax compliance also leads to lowering of tax burden on an average dealer in trade and industry.
- **Mitigation of ill effects of cascading:** By subsuming most of the Central & State taxes into a single tax and by allowing a set-off of prior-stage taxes for the transactions across the entire value chain, it would mitigate the ill effects of cascading, improve competitiveness and improve liquidity of the businesses.
- **Benefits to small traders and entrepreneurs:** GST has increased the threshold for GST registration for small businesses. Further, single registration is needed in one State. Small businesses have also been provided the additional benefit of composition scheme. With the creation of a seamless national market across the country, small enterprises have an opportunity to expand their national footprint with minimal investment.

7. Which are the commodities which have been kept outside the purview of GST? Examine the status of taxation of such commodities after introduction of GST?

(CBIC FAQ) & (ICAI study material)

Answer:

Article 366(12A) of the Constitution as amended by 101st Constitutional Amendment Act, 2016 defines the Goods and Services tax (GST) as a tax on supply of goods or services or both, except supply of alcoholic liquor for human consumption. Therefore, alcohol for human consumption is kept out of GST by way of definition of GST in the Constitution. Five petroleum products viz. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel have temporarily been kept out of the purview of GST; GST Council shall decide the date from which they shall be included in GST. The erstwhile taxation system (CST/VAT & central excise) still continues in respect of the said commodities.

8. What type of GST is proposed to be implemented? Why is Dual GST required? Or A dual GST has been implemented in India. Elaborate.

(CBIC FAQ) & (ICAI study material)

Answer:

A dual GST has been implemented in India with the Centre and States simultaneously levying it on a common tax base. The GST levied by the Centre on intra-State supply of goods and / or services is called the Central GST (CGST) and that levied by the States/ Union territory is called the State GST (SGST)/ Union GST (UTGST). Similarly, Integrated GST (IGST) is levied and administered by Centre on every inter-State supply of goods and/or services.

India is a federal country where both the Centre and the States have been assigned the powers to levy and collect taxes through appropriate legislation. Both the levels of Government have distinct responsibilities to perform according to the division of powers prescribed in the Constitution for which they need to raise resources. A dual GST, therefore, keeps with the Constitutional requirement of fiscal federalism.

- 9.**
Discuss the leviability of GST or otherwise on the following:
(a) Alcoholic liquor for human consumption
(b) Petroleum crude, diesel, petrol, ATF and natural gas
(c) Tobacco
(d) Opium, Indian hemp and other narcotic drugs and narcotics
- (ICAI study material)**

Answer:

- (a) Alcoholic liquor for human consumption:** is outside the realm of GST. The manufacture/production of alcoholic liquor continues to be subjected to State excise duty and inter-State/intra-State sale of the same is subject to CST/VAT respectively.
- (b) Petroleum crude, diesel, petrol, ATF and natural gas:** As regards petroleum crude, diesel, petrol, ATF and natural gas are concerned, they are not presently leviable to GST. GST will be levied on these products from a date to be notified on the recommendations of the GST Council. Till such date, central excise duty continues to be levied on manufacture/production of petroleum crude, diesel, petrol, ATF and natural gas and inter-State/intra-State sale of the same is subject to CST/ VAT respectively.
- (c) Tobacco:** Tobacco is within the purview of GST, i.e., GST is leviable on tobacco. However, Union Government has also retained the power to levy excise duties on tobacco and tobacco products manufactured in India. Resultantly, tobacco is subject to GST as well as central excise duty.
- (d) Opium, Indian hemp and other narcotic drugs and narcotics:** Opium, Indian hemp and other narcotic drugs and narcotics are within the purview of GST, i.e., GST is leviable on them. However, State Governments have also retained the power to levy excise duties on such products manufactured in India. Resultantly, Opium, Indian hemp and other narcotic drugs and narcotics are subject to GST as well as State excise duties.

Constitutional Provisions

- 10.**
Why was the Constitution of India amended recently in the context of GST? or
Why was the need to amend the Constitution of India before introducing the GST?
- (ICAI study material)**

Answer:

Earlier, the fiscal powers between the Centre and the States are clearly demarcated in the Constitution with almost no overlap between the respective domains. The Centre has the powers to levy tax on the manufacture of goods (except alcoholic liquor for human consumption, opium, narcotics etc.) while the States have the powers to levy tax on the sale of goods. In the case of inter-State sales, the Centre has the power to levy a tax (the Central Sales Tax) but, the tax is collected and retained entirely by the States. As for services, it is the Centre alone that is empowered to levy service tax.

Introduction of the GST required amendments in the Constitution so as to simultaneously empower the Centre and the States to levy and collect this tax. The Constitution of India has been amended by the Constitution (one hundred and first amendments) Act, 2016 for this purpose. Article 246A of the Constitution empowers the Centre and the States to levy and collect the GST.

- 11.**
Discuss Article 246A which grants the power to make laws with respect to Goods and Services Tax.
- (ICAI Study material)**

Answer:

Article 246A stipulates that Parliament, and, the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.

Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

However, in respect to petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel, the aforesaid provisions shall apply from the date to be notified by the Government on the recommendations by the GST Council.

12.

Discuss Article 269A pertaining to levy and collection of GST on inter-State supply.

(ICAI Study material)

Answer:

Article 269A of the Constitution stipulates that Goods and Services Tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

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

Parliament is empowered to formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

GST Council

13.

What would be the role of GST Council? Or

“The GST Council stands as the backbone of the whole GST law.” What is the role of GST Council under GST? Or

Enumerate any five matters on which the GST council may make recommendation under Article 279A of the constitution of India.

(Author Recommendation)

Answer:

A GST Council would be constituted comprising the Union Finance Minister (who will be the Chairman of the Council), the Minister of State (Revenue) and the State Finance/Taxation Ministers to make recommendations to the Union and the States on

- the taxes, cesses and surcharges levied by the Centre, the States and the local bodies which may be subsumed under GST;
- the goods and services that may be subjected to or exempted from the GST;
- the date on which the GST shall be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel;
- model GST laws, principles of levy, apportionment of IGST;
- the threshold limit of turnover below which the goods and services may be exempted from GST;
- the rates including floor rates with bands of GST;
- any special rate or rates for a specified period to raise additional resources during any natural calamity or disaster;
- special provision with respect to the North-East States, J&K, Himachal Pradesh and Uttarakhand; and
- any other matter relating to the GST, as the Council may decide.

14.

List the special category States as prescribed in Article 279A of the Constitution of India.

(ICAI Study Material)

Answer:

There are 11 Special Category States, namely, States of Himachal Pradesh, Uttarakhand, Mizoram, Manipur, Meghalaya, Arunachal Pradesh, Assam, Nagaland, Sikkim, Tripura and Jammu & Kashmir.

15.

What is GSTN and its role in the GST regime? Or Discuss any two functions of GSTN or Discuss the need and functions of the common GST portal.

(ICAI Study Material) & (CA Inter MTP)

Answer:

GSTN stands for Goods and Services Tax Network (GSTN). It is not-for Profit Company incorporated under provisions of Sec 8 of Companies Act, 2013. GSTN has been set up to cater to the needs of GST. GSTN has made up site/ portal which have been notified as common GST electronic portal.

Thus, GSTN has provided IT infrastructure under GST law. GST portal developed by it is used by Central Government as well as by the State Governments. GST portal is referred as 'common portal'. This portal is the taxpayer interface with the Government.

GSTN is providing facilities to taxpayers as well as Government. Following are some important functions which are performed by GSTN

- (i) Facilitation of registration (as under GST, registration is online);
- (ii) Payment of GST (Challan for GST payment is created online);
- (iii) Returns filing (as under GST, all returns are online);
- (iv) Maintenance of ledgers of taxpayers (e-liability, e-credit and e-cash ledger for each registered taxpayer);
- (v) Running the matching engine for matching, reversal and reclaim of input tax credit (presently, it has been deferred);
- (vi) Providing analysis of tax payers' profile (based on such analysis, cases will be selected for scrutiny/ audit);
- (vii) Sharing of information in taxpayers returns with Centre and State Governments / tax authorities;
- (viii) providing various MIS reports to the Central and the State Governments based on the tax payer return information;
- (ix) Computation and settlement of IGST (transfer of funds in between Central Tax Account, State Tax Accounts and Integrated Tax Account);

1. GST in India – An Introduction - MCQ

Basics

1. The functions of Goods and Services Network (GSTN) include:

- (a) facilitating registration
- (b) forwarding the returns to Central and State authorities
- (c) computation and settlement of IGST
- (d) All of the above

2. Tobacco products are subject to:

- (a) Excise duty
- (b) Excise duty plus GST
- (c) Only GST
- (d) VAT

3. India has adopted its GST model from

- (a) US
- (b) UK
- (c) Europe
- (d) Canada

4. Which is known as the GST common portal?

- (a) www.cbic.gov.in
- (b) www.gstn.gov.in
- (c) www.gst.gov.in
- (d) all of the above

5. Which one of the following is/are correct?

- (a) Direct Taxes are regressive in nature; Indirect Taxes are progressive in nature.
- (b) Direct Taxes are progressive in nature; Indirect Taxes are regressive in nature.
- (c) Direct Taxes are progressive in nature; Indirect Taxes are progressive in nature.
- (d) Direct Taxes are regressive in nature; Indirect Taxes are regressive in nature.

6. Which of the following is not a feature of GST?

- (a) GST is a destination-based tax.
- (b) GST is a Value Added Tax.
- (c) GST is an Origin based tax.
- (d) None of the above.

7. India has adopted _____ of GST.

- (a) National Model.
- (b) Australian Model.
- (c) Dual Model.
- (d) None of the above.

8. The First Country to implement GST was

- (a) Canada.

- (b) India.
- (c) Australia.
- (d) France.

Taxes subsumed & not subsumed into GST

9. Which of the following taxes have not been subsumed in GST?

- (a) Entertainment Tax (except those levied by local bodies)
- (b) Entertainment tax charged by local bodies.
- (c) Both of the above.
- (d) None of the above.

10. Which of the following taxes have been subsumed in GST?

- (a) Central Sales Tax
- (b) Central Excise Duty
- (c) VAT
- (d) All of the above

11. Various taxes have been subsumed in GST to make one nation one tax one market for consumers. Out of the following, determine which taxes have been subsumed in GST.

- (i) Basic customs duty levied under Customs Act, 1962
 - (ii) Taxes on lotteries
 - (iii) Entertainment Tax (levied by local bodies)
- (a) (ii)
 - (b) (ii) and (iii)
 - (c) (iii)
 - (d) (i), (ii) and (iii)

Constitutional Provisions

12. List-I of the Constitution contains matters in respect of which _____ has the exclusive right to make laws.

- (a) Central Government
- (b) State Government
- (c) Both Centre and State Governments
- (d) None of the above

13. According to Article 366(12A), GST means any tax on supply of goods or services or both except for taxes on the supply of:

- (a) Alcoholic liquor for human consumption
- (b) Tobacco & Tobacco products
- (c) Petroleum Crude, High Speed Diesel, Motor Spirit, Natural Gas and Aviation Turbine Fuel

(d) All of the above

14. _____ of the Constitution provides that no tax shall be levied or collected except by authority of law?

- (a) Article 254
- (b) Article 245
- (c) Article 265
- (d) Article 256

Article 279A – GST Council

15. Which article of the Constitution outlines the composition & function of GST Council

- (a) 270
- (b) 279A
- (c) 246A
- (d) 269A

16. Provisions related to GST Council came into force with effect from

- (a) 17th July, 2017.
- (b) 12th September, 2016.
- (c) 15th September, 2016.
- (d) None of the above.

17. President constituted the GST Council on:

- (a) 17th July, 2017.
- (b) 12th September, 2016.
- (c) 15th September, 2016.
- (d) None of the above.

18. GST Council consist of ___no of members.

- (a) 33
- (b) 34
- (c) 37
- (d) None of the above.

19. Which of the following is not the correct option?

- (a) Centre has a weightage of one-third of total votes cast and State government together have a weightage of two-thirds of the total votes cast.
- (b) Centre has a weightage of two-third of total votes cast and State government together have a weightage of one-thirds of the total votes cast.
- (c) Centre has a weightage of half of total votes cast and State govt together have a weightage of half of the total votes cast.
- (d) Both (b) & (c).

20. On Petroleum Crude, High Speed Diesel, Motor Spirit, Natural Gas & Aviation Turbine Fuel:

- (a) GST will not be levied at all
- (b) GST will be levied from a date to be notified on the recommendations of the GST Council
- (c) GST is levied, but exempted by notification in public interest.
- (d) None of the above

21. Choose the correct from the following with respect to Special Category States.

- (a) Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Andhra Pradesh and Uttarakhand
- (b) Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Telangana, Himachal Pradesh and Uttarakhand
- (c) Arunachal Pradesh, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand
- (d) Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand.

GSP/ASPs

22. Which of the following is/are correct?

- (a) GSPs will act as link between taxpayer and GSTN Portal and ASP will act as link between taxpayer and GSPs.
- (b) ASPs will act as link between taxpayer and GSTN Portal and GSP will act as link between taxpayer and GSPs.
- (c) GSPs will act as link between ASP and taxpayer and ASP will act as link between taxpayer and GSPs.
- (d) GSPs will act as link between taxpayer and GSTN Portal and ASP will act as link between GSTN Portal and GSPs.

Miscellaneous

23. Which of the following statement is/are incorrect:

- 1. **Manufacture/production of alcoholic liquor for human consumption is subject to State excise duty and inter-State/intra-State sale of the same is subject to GST respectively.**
- 2. **Central excise duty is levied on manufacture/production of petroleum crude, diesel, petrol, ATF and natural gas and inter-State/intra-State sale of**

the same is subject to CST/ VAT respectively.

3. Union Govt retains the power to levy Central excise duties on tobacco and tobacco products manufactured in India. Tobacco is subject to GST as well as central excise duty.

24. Which of the following statements is incorrect?

- (a) Alcoholic liquor for human consumption is outside the realm of GST
- (b) Manufacture/ production of alcoholic liquor is subject to State excise duty.
- (c) Inter-State/intra-State sale of the alcohol is subject to CST/ VAT respectively.
- (d) Alcoholic liquor for human consumption is subject to GST.

25. Presently, _____ is leviable on _____ of petroleum and diesel.

- (i) **GST; supply**
 - (ii) **Central excise duty; manufacture/production**
 - (iii) **Central sales tax; inter-State sale**
 - (iv) **Value Added Tax; intra-State sale**
 - (v) **State excise duty; manufacture**
- Choose the most appropriate answer:**
- (a) (ii), (iii) and (iv)
 - (b) (i)
 - (c) (i) and (ii)
 - (d) (i) and (v)

4. Opium, Indian hemp and other narcotic drugs and narcotics are subject to VAT/CST as well as State excise duties.

- (a) (1), (2) & (3)
- (b) (1) & (4)
- (c) (1), (2), (3) & (4)
- (d), (3) & (4)

26. _____ is leviable on _____ of Tobacco

- (i) **GST; supply**
 - (ii) **Central excise duty; manufacture**
 - (iii) **Central sales tax; inter-State sale**
 - (iv) **Value Added Tax; intra-State sale**
 - (v) **State excise duty; manufacture**
- Choose the most appropriate answer:**
- (a) (ii), (iii) and (iv)
 - (b) (i)
 - (c) (i) and (ii)
 - (d) (i) and (iv)

27. _____ is leviable on _____ of opium and Indian hemp.

- (i) **GST; supply**
 - (ii) **Central excise duty; manufacture**
 - (iii) **Central sales tax; inter-State sale**
 - (iv) **Value Added Tax; intra-State sale**
 - (v) **State excise duty; manufacture**
- Choose the most appropriate answer:**
- (a) (ii), (iii) and (iv)
 - (b) (i)
 - (c) (i) and (v)
 - (d) (i) and (ii)

Answers:

Qs	Ans	Reason
1.	d	Functions of GSTN include Facilitating Registration, Providing MIS report, Computation & settlement of IGST, matching of tax payment details with banking network, forwarding returns to central & state authorities, providing analysis of taxpayer's profile.
2.	b	Both Central excise duty and GST are levied on Tobacco products.
3.	d	India has adopted the GST model from Canada.
4.	c	The following are the common portals: www.gst.gov.in, ewaybillgst.gov.in, einvoice1-10.gst.gov.in.
5.	b	Direct taxes are progressive in nature, as the rich pay more taxes compared to the poor. Indirect taxes are regressive in nature because they equally impact the rich and poor.
6.	c	Features of GST: It's a tax on supply of goods or service, it is a consumption tax, it is a destination-based tax , it is value added tax. GST is not origin-based tax.
7.	c	India has adopted the Dual model of GST which is imposed concurrently by the centre & the state.
8.	d	France was the first country to implement GST.
9.	b	Taxes not subsumed under GST: Basic custom duty, Entertainment tax levied by local bodies, property tax & stamp duty, electricity duty.
10.	d	Following are the taxes subsumed into GST. Central taxes subsumed - Central Excise duty, Service Tax, Central sales tax, CVD & Special CVD, Surcharges & cesses. State taxes subsumed – State surcharges & cesses, Tax on lottery, betting, gambling, entry tax, purchase tax, VAT & sales tax, Luxury tax.

Qs	Ans	Reason
		Since Central Sales Tax, Central Excise duty, VAT are subsumed, answer is D.
11.	a	(i) Basic customs duty: Not subsumed into GST (ii) Taxes on lotteries: Subsumed into GST (iii) Entertainment Tax (levied by local bodies): Not subsumed into GST.
12.	a	Seventh Schedule to Article 246 divides legislative powers into List I - Union List, List II- State List, List III- Concurrent List, Matters enumerated in List I, the CG has the exclusive power to make law.
13.	a	According to Article 366(12A) , GST means any tax on supply of goods or services or both except Alcoholic Liquor for human consumption.
14.	c	Article 265 of the constitution provides that no tax shall be levied or collected except by authority of law.
15.	b	Article 279A of the constitution provides the outline of the composition and functions of the GST Council.
16.	b	GST Council came into force on 12th September, 2016
17.	c	The President constituted the GST Council on 15th September, 2016.
18.	a	Members of the GST Council consist of 33 members including 2 union members and 31 State finance ministers/ministers nominated by state.
19.	d	The Question is asking Which is not the correct option. (b) & (c) are not the correct option, hence answer is (d).
20.	b	GST on Petroleum crude, High speed diesel, Motor spirit, Natural gas and Aviation Turbine Fuel shall be levied from a date to be notified on the recommendations of GST Council.
21.	d	Special Category States are with respect to the states of Arunachal Pradesh, Assam, Jammu & Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand.
22.	a	GSPs will act as link between taxpayer and GSTN Portal and ASP will act as link between taxpayer and GSPs.
23.	b	Correct Sentences are stated below 1. Manufacture/production of alcoholic liquor for human consumption is subject to State excise duty and inter-State/intra-State sale of the same is subject to CST/VAT respectively. 2. Central excise duty is levied on manufacture/production of petroleum crude, diesel, petrol, ATF and natural gas and inter-State/intra-State sale of the same is subject to CST/ VAT respectively. 3. Union Govt retains the power to levy Central excise duties on tobacco and tobacco products manufactured in India. Resultantly, tobacco is subject to GST as well as central excise duty. 4. Opium, Indian hemp and other narcotic drugs and narcotics are subject to GST as well as State excise duties.
24.	d	(a) Alcoholic liquor for human consumption is outside the realm of GST – correct, GST is not leviable on alcoholic liquor for human consumption. (b) Manufacture/ production of alcoholic liquor is subject to State excise duty - correct (c) Inter-State/intra-State sale of the alcohol is subject to CST/ VAT respectively - correct (d) Alcoholic liquor for human consumption is subject to GST - Incorrect.
25.	a	(i) GST; supply – Not leviable (ii) Central excise duty; manufacture/production - leviable (iii) Central sales tax; inter-State sale - leviable (iv) Value Added Tax; intra-State sale - leviable (v) State excise duty; manufacture – Not leviable.
26.	c	On manufacturing of tobacco, Central Excise duty is levied and on sale, GST is levied.
27.	c	On manufacturing of Opium, state excise duty is levied and on sale, GST is levied.

2. Supply

Introduction

- A taxable event is any transaction or occurrence that results in a tax being imposed.
- Various taxable events that existed under the previous law were manufacture, sale, rendering of service, etc. have been done away with and now the taxable event under GST is supply.
- Taxable event under GST law is supply of goods or services or both. Hence no supply no GST.

Goods: Section 2(52):

Goods means every kind of movable property

- **Other than** money and Securities
- **But includes**
 - actionable claim,
 - growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.

Movable property

Movable property shall mean property of every description, except immovable property

Immovable property

Immovable property shall include

- land,
- benefits to arise out of land, and
- things attached to the earth, or
- permanently fastened to anything attached to the earth;

Author's comment:

Immovable property hence means

- **Land**
- **Benefits to arise out of land:** TDR (Transfer of Development Right), Rights to ways, the right to catch away fish, right to collect dues from a fair or market on a land.
- **Things attached to the earth:** Things rooted in the earth like trees, or embedded in the earth like Buildings, walls flats, cement factory, etc.
- **Things permanently fastened to anything attached to the earth:** Telecommunication towers, lift, etc.

Money: Section 2(75):

Money means

- the 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
- any other instrument recognised by the RBI
- when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination
- **but shall not include any currency that is held for its numismatic value;**

Securities

"Securities" include shares, scrips, stocks, bonds, debentures, marketable securities, etc

Actionable claim (Section 3 of The Transfer of Property Act, 1882)**Actionable claim means a claim**

- **to any debt, other than a debt secured** by mortgage of immoveable property or by hypothecation or pledge of moveable property,
- **or to any beneficial interest in moveable property not in the possession**, either actual or constructive, of the claimant,
- **which the Civil Courts recognize as affording grounds for relief**,
- whether such debt or beneficial interest be existent, accruing, conditional or contingent.

Examples of Actionable claims are:

- **Lottery, Betting, gambling:** Right to claim the prize or the amount.
- **Claim for arrears of rent:** Right to receive rent
- **Claim for the money due under insurance policy:** Right to receive policy amount

Services: [Section 2(102)]**Services means anything**

- **other than** goods, money and securities
- **but includes:**
 - activities relating to the use of money **or**
 - its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a **separate consideration** is charged.

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

Author's comment:

1. **Services means anything other than goods**, hence we can say that immovable property is not goods but it will fall within the preview of services as per section 2(102) & hence we can say that any transaction in immovable property can be termed as a service.
2. **Activities relating to use of Money:** Even if money is not service but activities relating to use of money is a service, for example lending money and receiving interest.
3. **Examples for Conversion:**
 - Giving cash to bank and getting DD/traveller's cheque for which bank charges a service charge
 - Converting Dollar to INR for which bank charges conversion charges
 - Getting Rs 2000 converted in Rs 10 notes for which bank charges fees.
4. **Securities are neither goods nor services** but if stock broker charges a commission/ brokerages charges/ portfolio maintenance charges/Investment management fees/demat charges those will be services.

Section 7: Scope of Supply

Section 7(1): For the purposes of this Act, the expression "supply" **includes**—

Section 7(1)(a):**All forms of supply of goods or services or both such as:**

- **Sale** (transfer of property in goods from one person to another person for a consideration)
- **Transfer** (where ownership may not be transferred but the right in the goods is transferred)
- **Barter** (the exchange of goods/services for other goods/services, without the use of money)
- **Exchange** (It is kind of Barter but money is also involved)
- **Licence** (When one person gives right to other person to use IPR, software licenses, etc)
- **Rental** (Periodical payment for use of another's property)
- **Lease** (A lease is an agreement whereby the lessor conveys to the lessee in return for a payment or series of payments the right to use an asset for an agreed period of time)

- **Disposal** (Disposal is a term generally used for selling of old scrap/second hand items)
 - ❖ made or agreed to be made
 - ❖ for a **consideration** by a person
 - ❖ In the **course or furtherance of business**

Author's comment:**The important things for a transaction to fall in the definition of supply are:**

1. A form of supply – Example: Sale, transfer, barter, exchange, etc.
2. For a Consideration
3. In the Course or furtherance of business.

Explain will the following transactions constitute supply.

Sl. No.	Particulars	Form of supply	Supply - Yes/No?
1	Ram a dealer sold laptop worth Rs 1 lakh & issued invoice in favour of Mr. Shyam	Sale	Yes
2	Audi sold a car to Mr Ram for Rs 25 Lakhs & Ram gave his old Car plus Rs 15 lakhs.	Exchange	Yes
3	Mohan deals in electronics sold a laptop to Mr Ram for Rs 25000, and Mr Ram gave his wife's Diamond ring.	Barter	Yes
4	Ram Provides accounts classes to Raghav and in return Raghav gives Ram his Gold ring.	Barter	Yes
5	Ram a manufacturer produces shirts, at the year - end he disposed off all the remaining waste in his factory for Rs 50000	Disposal	Yes
6	Ram is a dealer of new phones. He supplied for Rs 20,000 to Mr. B along with exchange of an old phone and the price of the new phone without exchange is Rs 24,000.	Exchange	Yes
7	Ram, a developer of IT software and holder of licence thereon. License to use software was given to different clients for Rs 20 lakhs	License	Yes
8	Ram owns a residential building in a commercial locality. Large vacant land in the backyard is given on rent of Rs 1,80,000 per month to a parking contractor.	Renting	Yes
9	Goods sent for a demonstration on returnable basis.	Transfer	No
10	Mr. A is the owner of Xerox machine. He transferred the right to operate the Xerox machine to Mr. B for a consideration of Rs 10,000 per month for four months	Renting / leasing	Yes

Business [Section 2(17)]**Business** includes –

As stated in GST act	Author's comment
(a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit.	<p>Trade: Action of buying and selling goods/services</p> <p>Commerce: Buying & selling activity on a large scale.</p> <p>Profession: Profession refers to a career with training and qualification. Example: CA, doctor.</p> <p>Vocation: Job that requires set of skills acquired through training. Example: Plumbing, electrician, mechanic, etc. (skill based). It can also be an innate ability. Example: a poet (talent).</p> <p>Wager: Formal term for bet. Example: Betting, gambling, lottery.</p> <p>Pecuniary benefit: monetary benefit</p>
(b) any activity or transaction in connection with or incidental or ancillary to (a) above;	<p>In relation to/Incidental activities</p> <p>Example: Disposal of garbage, sale of scrap, sale of old machineries, sale of old newspaper, etc.</p>

As stated in GST act		Author's comment
(c)	any activity or transaction in the nature of (a) above, whether or not there is volume, frequency, continuity or regularity of such transaction;	Volume, frequency, continuity or regularity are irrelevant.
(d)	supply or acquisition of goods including capital assets and services in connection with commencement or closure of business;	Acquisition of goods/CG for commencement of business is also business activity, or sale of goods/CGs on closure also considered as 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, as the case may be;	When Club receives, membership fees, any other consideration from members, even such transactions shall be considered as business.
(f)	admission, for a consideration, of persons to any premises; and	Entry fees for entry into business premises also considered as business
(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;	A Practicing CS accepting the post of a director in a company, due to his expert knowledge is for the furtherance of his trade or professions and hence a business activity.
(h)	activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and	Supply of license to operate a race club, betting or activities by way of totalizator.
(i)	any activity or transaction undertaken by the CG/SG/any LA in which they are engaged as public authorities.	Government activities are also considered as business; however, they are not supply. Refer: section 7(2) of supply definition.

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.

Resultantly, 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'.

Examples:

1. Ram buys a car for his personal use and after a year sells it to a car dealer. Sale of car by Ram to car dealer is not a supply under CGST Act because said supply is not made by Ram in the course or furtherance of business
2. Reena sold her old gold bangles and earrings to 'Aabhushan Jewellers'. Sale of old gold jewellery by an individual to a jeweler will not constitute supply as the same cannot be said to be in the course or furtherance of business of the individual

Section 7(1)(aa):

The activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.

Explanation. – For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;”.

Section 7(1)(b):

Importation of services,

- For a **consideration**
- Whether or not in the course or furtherance of **business** and

Author's comments:**Points to be observed while applying this provision**

- It should be importation of services, not goods (for goods GST is levied & collected under customs)
- Import for a consideration
- Import may or may not be for in the course or furtherance of business.

Examples:**1. Ramesh & Co. received legal services from Lakshman in Malaysia for \$ 1000**

Answer: Transaction covered under 7(1)(b), it is supply and GST leviable. Business entity to pay GST under RCM.

2. Ramesh wanted to construct his house and has taken interior designer service for his residential house from China for Yen 10000.

Answer: Transaction covered under 7(1)(b), it is supply. However, GST is exempt on such transactions.

3. Ramesh wants to study abroad and receives some admission consultancy services from London based consultants for 1000 pounds

Answer: Transaction covered under 7(1)(b), it is supply. However, GST is exempt on such transactions.

4. Ram in India imported free services from Google and Facebook, without any consideration. Is it supply subject to GST?

Answer: These are not considered as supply and hence not attract GST. GST will be levied only when services are provided with consideration.

Section 7(1)(c): Deemed supply (Supply without consideration)

The activities specified in **Schedule I**

- made or agreed to be made
- without a consideration.

Activities specified in Schedule I

As per Schedule I, in the following four cases, supplies made without consideration will be treated as supply under section 7 of the CGST Act:

1. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
2. Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business:
Provided that gifts 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.
3. 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.
4. Import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

Let us now analyse them one by one:

1. Permanent Transfer/Disposal of Business Assets (PTDOBA) where ITC has been availed on such assets:

Business asset means goods held for sale or used for the purpose of business

Conditions to be satisfied to qualify as supply

1. There must be disposal or transfer of business assets

2. Transfer must be on permanent basis.
3. Input tax credit has been availed on **such** assets.

Hence Permanent transfer or disposal will not cover the following assets

1. Business assets on which ITC is blocked under GST.
2. Business assets though eligible for ITC, ITC has not been availed by the registered person.

Examples:

1. Ram a trader in clothes permanently transfers stock of Rs 1 lakh to a trust free of cost.
2. A coaching institute donated its projector to charity (ITC was taken on the projector).
3. Ramesh has an electronic shop, transfer a TV to his home (ITC was taken on the TV).

Let us understand some examples:

Taxable person	Inward	ITC	Outward	Relevant section	Consequence
Trader of mobile	Mobile	Availed	Sale of mobile	7(1)(a) – Supply	GST Payable on transaction value
Trader of mobile	Mobile	Availed	Gifted mobile	7(1)(c) – Para a - Supply PTOBA	GST payable
Trader of mobile	Capital goods (Machine)	Availed	Sold after 1 year	7(1)(a) – Supply	GST payable
Trader of mobile	Capital goods (Car)	Blocked	Gifted	Not supply since not covered under any section	GST not payable
Manufacturer of shoes	Raw material (leather)	Availed	Sold shoes	7(1)(a) – Supply	GST Payable on transaction value.
Manufacturer of shoes	Raw material (leather)	Availed	Gifted shoes	Not supply, but ITC proportionately to be calculated and Disallowed – Section 17(5)	ITC not allowed

2. Supply of goods, services or both between related person/distinct persons as specified in section 25, when made in the course or furtherance of business:

Exception: Gifts not exceeding Rs 50000 in value in a FY by an employer to an employee shall not be treated as supply of goods or services or both.

Related persons [Explanation to Section 15]:

For the purposes of this Act, -

- (a) Persons shall be deemed to be "related persons" if -
 - (i) Such persons are **officers or directors** of one another's businesses;
 - (ii) Such persons are legally recognised **partners** in business;
 - (iii) Such persons are **employer and employee**;
 - (iv) Any third person directly/indirectly owns/controls/holds at least **25% of voting stock/ shares** of both of them;
 - (v) One of them directly or indirectly **controls** the other; (Holding-Subsidiary)
 - (vi) Both of them are directly or indirectly **controlled by a third person**; (subsidiaries of 1 holding co.)
 - (vii) Together they directly or indirectly **control a third person**; or
 - (viii) They are members of the same **family**;
- (b) The term "person" also includes legal persons;

- (c) Persons who are associated in the business of one another in that one is the **sole agent or sole distributor or sole concessionaire** (trading rights), howsoever described, of the other, shall be deemed to be related.

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.

Examples on Gift:

Gift to	Whether supply or not?
1. Employee Rs 45,000	No, it is not supply since within limit of Rs 50000
2. Employee Rs 55,000	Yes, it is supply since it crosses the limit of Rs 50000, accordingly Value of supply Rs 55000 and GST applicable on Rs 55000
3. Other (RP) Rs 5,000	Yes, it is supply, no monetary limit applicable

Distinct persons (as specified in section 25)

Separate registration makes distinct person: A person who has obtained or is required to obtain more than one registration, whether in one state/UT or more than one state/UT shall, in respect of each such registration, be treated as distinct person for the purpose of this act.

Examples:

- Ram has an electronics shop registered in Bangalore (Karnataka) and another electronic shop in Mangalore (Karnataka) and he has obtained separate registration for both the shops. Ram shall be treated as distinct person in respect of both registrations.
- Ram, a Chartered Accountant, has a registered head office in Karnataka. He has also obtained registration in Delhi in respect of his newly opened branch office. Ram shall be treated as distinct persons in respect of registrations in Karnataka and Delhi.
- Stock transfer:** Ram Fabrics transfers 100 shirts from his factory located in Karnataka to his retail showroom in Tamil Nadu. The factory and retail showroom of Ram Fabrics are registered in the States where they are located. Although no consideration is charged, supply of goods from factory to retail showroom constitutes supply, since both are distinct person.

Establishment in another state is a separate person:

Where a person has 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 establishments shall be treated as establishments of distinct persons for the purpose of this act.

Example: Ram has electronics shop registered in Bangalore (Karnataka) and a liquor shop in Tamil Nadu. Since supply of alcoholic liquor for human consumption is a non-taxable supply i.e., exempt supply, Ram is not required to obtain registration in the state of Tamil Nadu. In such a situation the electronic shop and liquor shop shall be treated as establishment of distinct person.

Clarification on Interstate movement of various modes of conveyance, carrying goods or passengers or for repairs & maintenance between distinct persons

Issue: Whether inter-state movement of various modes of conveyance, carrying goods or passengers or for repairs and maintenance, between distinct persons as specified in section 25(4) of the CGST act, 2017, [except for further supply of the same conveyance is leviable to IGST]?

The issue of 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 Trains, Buses, Trucks, Tankers, Trailers, Vessels, Containers, Aircrafts,

(a) carrying goods or passengers or both; or

(b) for repairs and maintenance, [except in cases where such movement is for further supply of the same conveyance] was discussed in GST Council's meeting held on 11th June, 2017 and the Council

recommended that such inter-state movement shall be treated 'neither as a supply of goods or supply of service' and therefore not be leviable to IGST.

In view of above, it is hereby clarified that the inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the CGST Act, 2017, may not be treated as supply and consequently IGST will not be payable on such supply.

However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance.

Crux:

- 1. Inter-state movement of conveyances carrying goods/passengers/both in conveyance:** shall be treated 'neither as a supply of goods nor as a supply of service' & therefore not be leviable to IGST.
- 2. On Repairs and maintenance or work done:** applicable CGST/SGST/IGST, as the case may be, shall be leviable
- 3. If movement is for further supply of conveyance:** Treated as supply and IGST leviable.
- 4.** Same clarification also applicable in case of interstate movement of rigs, tools & spares and all goods on wheels (like cranes).

3. Principal to Agent supply or vice-versa**Supply of goods**

- a. by a principal to his agent**, where the agent undertakes to supply such goods on behalf of the principal is considered as supply.
- b. by an agent to his principal**, where the agent undertakes to receive such goods on behalf of the principal is considered as supply.

Circular explaining scope of Principal-agent relationship in the context of Schedule I of the CGST Act (Circular No. 57/31/2018-GST dated 04.09.18)

The key ingredient for determining relationship under GST would be whether the invoice for the further supply of goods on behalf of the principal is being issued by the agent or not. 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 entry. However, it may be noted that in cases where the invoice is issued by the agent to the customer in the name of the principal, such agent shall not fall within the ambit of Schedule I of the CGST Act.

Similarly, where the goods being procured by the agent on behalf of the principal are invoiced in the name of the agent then further provision of the said goods by the agent to the principal would be covered by the said entry. In other words, the crucial point is whether or not the agent has the authority to pass or receive the title of the goods on behalf of the principal.

Crux:

The true test to determine whether GST will be applicable on such transaction will be to find out who issues invoice?

- 1. If the Invoice for further supply is being issues by the agent in his name**, then any transfer of goods from principal to the agent will fall within the scope of schedule I, and he would be required to take compulsory registration under section 24 provided principal is a taxable person.
- 2. If the Invoice is issued by the agent in the name of the principal**, such agent will not fall within the scope of schedule I, he will be required to take a registration under section 22(1) only when he crosses 20 lakhs.

Let us discuss some scenarios:

- Mr. A appoints Mr. B to procure certain goods from the market. Mr. B identifies various suppliers who can provide the goods as desired by Mr. A, and asks the supplier (Mr. C) to send the goods and issue the invoice directly to Mr. A.

In this scenario, Mr. B is only acting as the procurement agent, and has in no way involved himself in the supply or receipt of the goods. Hence, in accordance with the provisions of this Act, Mr. B is not an agent of Mr. A for supply of goods in terms of Schedule I.

- M/s XYZ, a banking company, appoints Mr. B (auctioneer) to auction certain goods. The auctioneer arranges for the auction and identifies the potential bidders. The highest bid is accepted and the goods are sold to the highest bidder by M/s XYZ. The invoice for the supply of the goods is issued by M/s XYZ to the successful bidder.

In this scenario, the auctioneer is merely providing the auctioneering services with no role played in the supply of the goods. Even in this scenario, Mr. B is not an agent of M/s XYZ for the supply of goods in terms of Schedule I.

- Mr. A, an artist, appoints M/s B (auctioneer) to auction his painting. M/s B arranges for the auction and identifies the potential bidders. The highest bid is accepted and the painting is sold to the highest bidder. The invoice for the supply of the painting is issued by M/s B on the behalf of Mr. A but in his own name and the painting is delivered to the successful bidder.

In this scenario, M/s B is not merely providing auctioneering services, but is also supplying the painting on behalf of Mr. A to the bidder, and has the authority to transfer the title of the painting on behalf of Mr. A. This scenario is covered under Schedule I.

A similar situation can exist in case of supply of goods as well where the C&F agent or commission agent takes possession of the goods from the principal and issues the invoice in his own name. In such cases, the C&F/commission agent is an agent of the principal for the supply of goods in terms of Schedule I. The disclosure or non-disclosure of the name of the principal is immaterial in such situations.

4. Import of services by a person from a related person or from his establishments located outside India, without consideration, in the course or furtherance of business

Examples:

- Ram Ltd located in India, holds 51% of shares of Shyam Ltd, a USA company. Shyam Ltd provides Business Auxiliary Services to Ram Ltd., will be treated as supply.
- Ram Ltd. of Mumbai imports business support services from its head office located in USA. The head office has rendered such services free of cost to its branch office. Services received by Ram Ltd. will qualify as supply even though the head office has not charged anything from it.
- Ram, a proprietor registered in Karnataka, has sought architect services from his son located in London, with respect to their new home constructed house in Karnataka. Although services have been received by Ram is without any consideration from his son - a related person, still it will not qualify as supply since the same has not been received in course or furtherance of business.
- Ram, a proprietor registered in Karnataka, has sought legal services with respect to his business, from his brother who is well settled in London. Services have been received by Ram without any consideration will not qualify as supply since brother since independent is not a related person here. Even though it has been received in course or furtherance of business.

Section 7(1A): Activities or transactions to be treated as supply of goods/supply of services

Where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II;

Schedule II is as follows:

1. Transfer

- any transfer of the title in goods is **a supply of goods**;

- (b) any transfer of right in goods/of undivided share in goods without the transfer of title thereof, is a **supply of services**;
- (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**.

Undivided share in goods

Ram and Shyam are co-owner of a JCB machine. Which they give on rent. Shyam sells his share in goods to another person Lakshman. This is also known as transfer of undivided share in goods. In this scenario only, the undivided share is transferred to Lakshman and not the title in goods and hence it is supply of service. However, if both Ram and Shyam transfer the share to Lakshman, it will involve transfer of title also and hence will be termed as Supply of goods.

Example:

- (a) Audi sold a car to Ram for Rs 50 lakhs – **Supply of goods**
- (b) Ram supplied a machine to Shyam on hire purchase basis (i.e., possession given immediately but title to be transferred on payment of last instalment) – **Supply of goods**

2. Land and Building

- (a) any lease, tenancy, easement, licence to occupy land – **Supply of Services**
- (b) any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly- **Supply of Services**

Circular on Issue related to taxability of 'tenancy rights' under GST

Issue:

- Whether Transfer of tenancy rights to a new tenant against consideration would attract GST although stamp duty & registration charges have been levied on such transfer?**
- Whether services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium would be liable to GST?**

Clarification:

- the activity of transfer of 'tenancy rights' is squarely covered under the scope of supply and taxable per-se.
- Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable. However, renting of residential dwelling for use as a residence to **an unregistered person** is exempt.
- Hence, grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both (to an unregistered person) is exempt.
- As regards services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is liable to GST.

3. Treatment or Process

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

Example: Varnishing chairs and tables, Heat treatment on glass, printing logo on tees, etc.

Circular No. 34/8/2018-GST dated 01.03.18

Whether rethreading of tyres is a supply of goods or services?

Activity	Supply of Goods or Service
Supplier buys old tyres, does the re-treading and supplies re-treaded tyres.	Supply of re-treaded tyres, where the old tyres belong to the supplier of re-treaded tyres, is a supply of goods.
Supplier only does re-threading on old tyres for customers, using rubber and other material.	Pre-dominant element is process of re-treading which is a supply of service. Rubber used for re-treading is an ancillary supply.

Whether activity of bus body building, is a supply of goods or services?

Activity	Supply of Goods or Service
If the Bus body building entity build a bus by working on the chassis that is owned by him & supplies bus.	Supply of goods
Only building the body of the bus on the chassis provided by a customer and charging fabrication charges (material also used during fabrication)	Fabrication of body on chassis is the principal supply, and it is Supply of service.

**4. Transfer of Business Assets**

(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, such transfer or disposal is **a supply of goods by the person;**

Crux:

- **Permanent transfer of business asset with consideration** – supply of goods
- **Permanent transfer of business asset without consideration (ITC availed)** – Supply of goods.
- **Permanent transfer of business asset without consideration (ITC not availed)** – Not supply, no GST.

Examples:

1. Ram sold his office laptop for Rs 50000 – Supply of goods
2. Ram a wholesaler of medicines distributed medicines free of cost – supply of goods
3. Ram purchased a car for business and sold it for 5 lakhs after a year – supply of goods

(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,
- the usage or making available of such goods **is a supply of services;**

Crux: Temporary transfer/use of business assets for non-business purpose: supply of services

Examples:

M/s Ram Ltd. provided car to one of its directors for his personal purposes and charged Rs 30,000 per month. It is supply of service and the same is taxable under GST.

(c) **where any person ceases to be a taxable person,**

- 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) Business is transferred as a going concern to another person; or

- (ii) Business is carried on by a personal representative who is deemed to be a taxable person.

Examples:

1. Ram-Shyam & Co a partnership firm decided to dissolve the partnership firm. Goods left in stock taken over by the partners. Taking over of goods by partners will be considered as a supply of goods. Since, business is not continued further by the partners.
2. Ram is in the business of running a restaurant. It intends to sell its business as a going concern to Shyam. It would not be required to pay GST on such sale of its business.

5. Supply of Services**(a) Renting of immovable property**

Author: Land and building has already been covered under para 2, hence we can say the intention of law under this para is to cover all other immovable property like telecommunication towers, furniture which is attached in a building, etc.

(b) Construction of complex, building, civil structure, etc.

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.

(c) Temporary transfer or permitting use or enjoyment of any intellectual property right**Author's comments:**

1. IPR means Patents, trademarks, copy rights, etc.
2. Permanent transfer is supply of goods.

(d) Development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of IT software**(e) Agreeing to obligation**

- to refrain from an act, or
- to tolerate an act or situation, or
- to do an act

Author's comments:

1. **Refrain:** stop oneself from doing something.
2. **Tolerate:** allow the existence, occurrence, or practice of (something that one dislikes or disagrees with) without interference.

Examples:

Refrain: Non-compete agreements, non-disclosure agreements

Tolerate: late fees, cancellation charges, bank charges, etc.

(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.**6. Composite supplies- Supply of Services**

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

- (a) **works contract** as defined in section 2(119); and
- (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.

Section 2(119): Works contract services

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

Section 7(2): Notwithstanding anything contained in sub-section (1),

- (a) Activities or transactions specified in Schedule III or
 (b) Such activities or transactions undertaken by the **CG, SG, 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
- shall be treated neither as a supply of goods nor a supply of services.

Notification

- (1) Services by way of any activity in relation to a function entrusted to a Panchayat under article 243G of the Constitution or to a Municipality under article 243W of the Constitution.
 (2) Services by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name it is called.

Clarification on GST applicable with respect to licenses and privileges other than alcoholic liquor license granted by government

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.

Crux: Supply of service by way of grant of Alcoholic liquor license by the SG is out of scope of supply, any other services by government by way of grant of mining right, natural resources against fees or royalty are taxable under GST.

Schedule III: Activities/transactions shall be treated as neither supply of goods nor supply of services**1. Services by an employee to the employer in the course of or in relation to his employment**

Clarification on Perquisites provided by employer to the employees as per contractual agreement [Circular No. 172/04/2022-GST dt. 06.07.22]

Issue: Whether various perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are liable for GST?

Clarification:

- Any perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are in lieu of the services provided by employee to the employer in relation to his employment.
- Perquisites provided by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST when the same are provided in terms of the contract between the employer and employee.

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

Court includes: District court, high court and Supreme Court.

Author: Here Tribunal means the one established under any law, However, an Arbitral tribunal is a private tribunal constituted by parties for settlement of any dispute between themselves, services of Arbitral tribunal are subject to GST.

3. Services by Government officials (name given by author for simplicity)

(a) Functions performed by the

- Members of Parliament, Members of State Legislature,
- Members of Panchayats, Members of Municipalities and Members of other local authorities;

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

Example: President of India, Vice President of India, Prime Minister of India, Chief Justice of India, Speaker of the Lok Sabha, Chief Election Commissioner, Comptroller and Auditor General of India, Chairman of Union Public Service Commission, Attorney General of India, in that capacity.

(c) Duties performed by

- any person as a chairperson or a member or a director
- in a body established by the CG/SG/LA and who is not deemed as an employee before the commencement of this clause.

Example: Chairman of Telecom regulatory authority of India (TRAI), Members and directors of finance commission who are not employees.

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

5. Sale of land and, subject to clause (b) of para 5 of schedule II, sale of building

Particulars	Supply of Goods or Service	GST Liability
Sale of Land	Neither supply of goods nor service – Schedule III	No GST
Sale of building – Entire consideration received after issuance of completion certificate or first occupancy (whichever is earlier)	Neither supply of goods nor service – Schedule III	NO GST
Sale of building – where part or full consideration received before issuance of completion certificate or first occupancy (whichever is earlier)	Supply of service (schedule II- Para 5(b))	Liable to GST – Supply of service

Clarifications regarding applicability of GST on sale of land after levelling, laying down of drainage lines etc. [Circular No. 177/09/2022 GST dated 03.08.2022]

Issue: Whether GST is applicable on sale of land after levelling, laying down of drainage lines etc.

Clarification:

- Land may be sold either as it is or after some development such as levelling, laying down of drainage lines, water lines, electricity lines, etc.
- Sale of such developed land is also sale of land and is covered by Sr. No. 5 of Schedule III of the CGST Act, 2017 and accordingly does not attract GST.
- However, it may be noted that any service provided for development of land, like levelling, laying of drainage lines (as may be received by developers) shall attract GST at applicable rate for such services.

6. Actionable claims, other than specified actionable claims.

"Specified actionable claim" means the actionable claim involved in or by way of—

- (i) betting;**
- (ii) casinos;**
- (iii) gambling;**
- (iv) horse racing;**
- (v) lottery; or**
- (vi) online money gaming;'**

Crux: Although actionable claims are goods but supply of only specified actionable claims viz. betting, casinos, gambling, horse racing, lottery or online money gaming: GST shall be levied.

Note: Schedule III has two more entries - Entry 7 and 8. These entries are covered at CA Final Level.

Section 7(3):

Subject to sub-sections (1), (1A) and (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.

Section 8 - Tax liability on Composite & Mixed Supply

Composite supply [Section 2(30)]

Composite supply means a supply made by a taxable person to a recipient and:

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

Illustration: 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;

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

- The perception of the consumer or the service recipient (expectation of consumer).
- Majority of service providers in a particular area of business provide similar bundle of services.
- The nature of the various services in a bundle of services will also help in determining whether the services are bundled in the ordinary course of business. If the nature of services is such that one of the services is the main service and the other services combined with such service are in the nature of incidental or ancillary services which help in better enjoyment of a main service.
- **Other illustrative indicators, not determinative but indicative of bundling of services in the ordinary course of business are:**
 - The elements are normally advertised as a package.
 - The different elements are not available separately.
 - The different elements are integral to one overall supply. If one or more is removed, the nature of the supply would be affected.

Section 8(a): Composite supply

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**

Mixed supply Section 2(74)

Mixed supply means

- **two or more individual supplies** of goods or services, or any combination thereof,

- **made in conjunction** with each other by a taxable person
- **for a single price** where such supply does not constitute a composite supply.

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;

Section 8(b): Mixed Supply

A mixed supply comprising of

- two or more supplies
- shall be treated as supply of that particular supply which attracts highest rate of tax.

Classify whether the following are composite supply or mixed supply

SN	Supply	Are they naturally bundled	Is there a principal supply	Composite or Mixed supply?	Treated as supply of?
1	Air transport along with meal on board. The meal is included in the ticket.	Yes	Yes	CS	Principal supply
2	Hotel-stay along with complimentary breakfast.	Yes	Yes	CS	Principal supply
3	Gift package consisting of sweets, chocolates, candles, perfume, and crackers.	No	No	MS	That supply attracting highest rate
4	Buying a new bike along with insurance and free maintenance service for a year.	Yes	Yes	CS	Principal supply
5	Hotel facility along with free laundry service and airport pickup included in the hotel package.	Yes	Yes	CS	Principal supply
6	Cosmetic package with Hair oil, lotion, cream, comb, shampoo, and face wash.	No	No	MS	That supply attracting highest rate
7	Buying a laptop along with laptop bag for Rs 40,000	Yes	Yes	CS	Principal supply
8	Buying a computer and a printer together for Rs 50,000	No	No	MS	That supply attracting highest rate
9	Booking a trip with make my trip for Rs 20,000, services provided travel, guide, hotel and food.	Yes	Yes	CS	Principal supply
10	Buying a TV with free installation and getting one-year free warranty	Yes	Yes	CS	Principal supply

Circulars

Clarification on supply of food or beverages in cinema hall

Issue: whether supply of food and beverages at cinema halls is taxable as restaurant service which attract GST at the rate of 5% or not

Clarification:

- **If food & beverages at cinema halls are supplied independently:** taxable as restaurant service.
- **If sale of cinema ticket (i.e. Cinema exhibition service) and supply of food & beverage are clubbed & satisfying the test of composite supply:** then rate of principal supply i.e. exhibition of cinema will apply.

Clarification on servicing of cars involving both supply of goods (spare parts) & services (labour)

Issue: Servicing of cars involving both supply of goods (spare parts) & services (labour), where the value of goods and services are shown separately, to be treated under GST?

Clarification:

- (i) supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as:
 - (a) the food or beverages are supplied by way of or as part of a service, and
 - (b) supplied independent of the cinema exhibition service.
- (ii) where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

Clarification on taxability of printing contracts [circular no. 11/11/2017-GST dt. 20.10.17]

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 or supply of services.

Clarification: Supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc. printed with logo, design, name, address or other contents supplied by the recipient of such printed goods, are composite supplies and the question, whether such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply.

Activity	Supply of Goods or Service
In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer,	Supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service.
In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. by the printer using its physical inputs including paper to print the design, logo etc. (supplied by the recipient of goods).	Predominant supply is supply of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods

Other Circulars**Clarification on taxability of shares held in a subsidiary company by holding company**

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

Clarification: Securities held by the holding company in the subsidiary company are neither goods nor services. Further, purchase or sale of shares/securities, in itself is neither a supply of goods nor a supply of services. For a transaction/activity to be treated as supply of services, there must be a supply u/s 7. It cannot be said that a service is being provided by the holding company to the subsidiary company unless there is a supply of services by the holding company to the subsidiary company in accordance with section 7.

Crux: The activity of holding of shares of subsidiary co. by the holding co. per se cannot be treated as a supply of services by a holding co. to the said subsidiary co. and cannot be taxed.

Clarification on various doubts related to treatment of sales promotion schemes under GST [Circular No. 92/11/2019-GST dated 07.03.2019]

Taxability of two schemes has been clarified as under:

A. Free samples and gifts:

- It is a common practice among certain sections of trade & industry, such as, pharmaceutical companies which often provide drug samples to their stockists, dealers, medical practitioners, etc. without charging any consideration.
- As per section 7(1)(a) of the CGST Act, the expression "supply" includes all forms of supply of goods 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.
- Therefore, the goods or services or both which are supplied free of cost (without any consideration) shall not be treated as "supply" under GST (except in case of activities mentioned in Schedule I of the CGST Act).
- Accordingly, it is clarified that samples which are supplied free of cost, without any consideration, do not qualify as "supply" under GST, except where the activity falls within the ambit of Schedule I of the CGST Act.
- Further, section 17(5)(h) of the said Act provides that ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. Thus, it is clarified that input tax credit shall not be available to the supplier on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration. However, where the activity of distribution of gifts or free samples falls within the scope of „supply“ on account of the provisions contained in Schedule I of the said Act, the supplier would be eligible to avail of the ITC. (To be discussed in Input tax credit chapter)

B. Buy one get one free offer: Example, "buy one soap and get one soap free"/ "Get one tooth brush free along with the purchase of tooth paste".

As per section 7(1)(a), the goods/services which are supplied free of cost (without any consideration) shall not be treated as "supply" under GST (except in case of activities mentioned in Schedule I of the CGST Act).

- It may appear at first glance that in case of offers like "Buy One, Get One Free", one item is being "supplied free of cost" without any consideration.
- In fact, it is not an individual supply of free goods, but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.
- Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the CGST Act.
- It is also clarified that ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers. (To be discussed in Input tax credit chapter)

Circular: 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.

Representations have been received seeking clarification

- whether GST is applicable on donations or gifts received from individual donors by charitable organisations involved in advancement of religion, spirituality or yoga
- which is acknowledged by them by placing name plates in the name of the individual donor.

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 (generosity) and is not aimed at giving publicity to the donor in such manner that it would be

an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation).

There is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration.

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

- (i) "Good wishes from Mr. Rajesh" printed underneath a digital blackboard donated by Mr. Rajesh to a charitable Yoga institution.
- (ii) "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.

In each of these examples, it may be noticed that there is no reference or mention of any business activity of the donor which otherwise would have got advertised. Thus, where all the three conditions are satisfied namely

- the gift or donation is made to a charitable organization,
- the payment has the character of gift or donation and
- the purpose is philanthropic (i.e., it leads to no commercial gain) and not advertisement,
- **GST is not leviable.**

Crux:

- 1. If three tests satisfied** (donation is made to a charitable organisation, payment has character of donation and Purpose is philanthropic i.e. no commercial gain) – **Activity will not fall within scope of supply hence no GST.**
- 2. All other cases** – Where the name plate is basically for promoting business of donor – **Activity will fall in supply and GST is leviable.**

GST applicability on liquidated damages, compensation and penalty arising out of breach of contract or other provisions of law [Circular No. 178/10/2022-GST dated 03.08.22]

Applicability of GST on payments in the nature of liquidated damage, compensation, penalty, cancellation charges, late payment surcharge etc. arising out of breach of contract or otherwise and scope of the entry at para 5 (e) of Schedule II of CGST Act in this context has been examined in the following paragraphs.

"Agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act" has been specifically declared to be a supply of service in para 5(e) of Schedule II of CGST Act if the same constitutes a "supply" within the meaning of the Act. The said expression has following three limbs: -

a. Agreeing to the obligation to refrain from an act-

Examples of activities that would be covered by this part of the expression would include

- **Non-compete agreements**, where one party agrees not to compete with the other party in a product, service or geographical area against a consideration paid by the other party.
- **a builder refraining from constructing more than a certain number of floors, even though permitted** to do so by the municipal authorities, against a compensation paid by the neighbouring housing project, which wants to protect its sunlight, or
- **An industrial unit refraining from manufacturing activity during certain hours** against an agreed compensation paid by a neighbouring school, which wants to avoid noise during those hours.

b. Agreeing to the obligation to tolerate an act or a situation-

Some Examples would include activities such as

- a shopkeeper allowing a hawker to operate from the common pavement in front of his shop against a monthly payment by the hawker, or
- An RWA tolerating the use of loud speakers for early morning prayers by a school located in the colony subject to the school paying an agreed sum to the RWA as compensation.

c. Agreeing to the obligation to do an act-

This would include the case

- Where an industrial unit agrees to install equipment for zero emission or discharge at the behest of the RWA of a neighbouring residential complex against a consideration paid by such RWA, even though the emission/discharge from the industrial unit was within permissible limits and there was no legal obligation upon the individual unit to do so.

The description "agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act" was intended to cover services such as described above. However, over the years doubts have persisted regarding various transactions being classified under the said description.

Some of the important examples of such cases are Service Tax/GST demands on –

- Liquidated damages paid for breach of contract;
- Compensation given to previous allottees of coal blocks for cancellation of their licenses pursuant to Supreme Court Order;
- Cheque dishonor fine/penalty charged by a power distribution company from the customers;
- Penalty paid by a mining company to State Government for unaccounted stock of river bed material;
- Bond amount recovered from an employee leaving the employment before the agreed period;
- Late payment charges collected by any service provider for late payment of bills;
- Fixed charges collected by a power generating company from State Electricity Boards (SEBs) or by SEBs/DISCOMs from individual customer for supply of electricity;
- Cancellation charges recovered by railways for cancellation of tickets, etc.

Above three activities must comply with the following conditions:

1. There must be an expressed or implied agreement or contract must exist

Above three activities must be under an "agreement" or a "contract" (whether express or implied) to fall within the ambit of para 5(e) of Schedule II. In other words, one of the parties to such agreement/contract (the first party) must be under a contractual obligation to either (a) refrain or (b) tolerate or (c) do.

2. Consideration must flow in return to this contract/agreement

Further some "consideration" must flow in return from the other party to this contract/agreement (the second party) to the first party for such (a) refraining or (b) tolerating or (c) doing.

Taxability of these transactions is discussed in greater detail in the following paragraphs.

Liquidated Damages

It is argued that performance is the essence of a contract. Liquidated damages cannot be said to be a consideration received for tolerating the breach or non-performance of contract. They are rather payments for not tolerating the breach of contract. Payment of liquidated damages is stipulated in a contract to ensure performance and to deter non-performance, unsatisfactory performance or delayed performance.

The liquidated damages or penalty are not the desired outcome of the contract. By accepting the liquidated damages, the party aggrieved by breach of contract cannot be said to have permitted or tolerated the deviation or non-fulfilment of the promise by the other party. Where the amount paid as 'liquidated damages' is an amount paid only to compensate for injury, loss or damage suffered by the aggrieved party due to breach of the contract and there is no agreement, express or implied, by the aggrieved party receiving the liquidated damages, to refrain from or tolerate an act or to do anything for the party paying the liquidated damages, in such cases liquidated damages are merely a flow of money from the party who causes breach of the contract to the party who suffers loss or damage due to such breach. Such payments do not constitute consideration for a supply and are not taxable.

Examples of such cases are:

- (1) damages resulting from damage to property, negligence, piracy, unauthorized use of trade name, copyright,
- (2) penalty stipulated in a contract for delayed construction of houses,

Cheque dishonour fine / penalty

The supplier wants payment to be received on time and does not want cheque to be dishonoured. There is never an implied or express offer or willingness on part of the supplier that he would tolerate deposit of an

invalid, fake or unworthy instrument of payment against consideration in the form of cheque dishonour fine or penalty.

The fine or penalty that the supplier or a banker imposes, for dishonour of a cheque, is a penalty imposed not for tolerating the act or situation but a fine, or penalty imposed for not tolerating, penalizing and thereby deterring and discouraging such an act or situation. Therefore, cheque dishonour fine or penalty is not a consideration for any service and not taxable.

Penalty imposed for violation of laws

Laws are not framed for tolerating their violation. They stipulate penalty not for tolerating violation but for not tolerating, penalizing and deterring such violations. There is no agreement between the Government and the violator specifying that violation would be allowed or permitted against payment of fine or penalty. There cannot be such an agreement as violation of law is never a lawful object or consideration.

In short, fines and penalty chargeable by Government or a local authority imposed for violation of a statute, bye-laws, rules or regulations are not leviable to tax.

Forfeiture of salary or payment of bond amount in the event of the employee leaving the employment before the minimum agreed period

The said amounts are recovered by the employer not as a consideration for tolerating the act of such premature quitting of employment but as penalties for dissuading the non-serious employees from taking up employment and to discourage and deter such a situation.

Further, the employee does not get anything in return from the employer against payment of such amounts. Therefore, such amounts recovered by the employer are not taxable as consideration for the service of agreeing to tolerate an act or a situation.

Late payment surcharge or fee

It is ancillary to and naturally bundled with the principal supply such as of electricity, water, telecommunication, cooking gas, insurance etc. it should be assessed at the same rate as the principal supply.

Fixed charges for power

Minimum fixed charges remain the same whether electricity is consumed or not or it is scheduled/consumed below the contracted or available capacity or a minimum threshold and that does not mean that minimum fixed charge or part of it is a charge for tolerating the act of not scheduling or consuming the minimum the contracted or available capacity or a minimum threshold.

Both the components of the price, the minimum fixed charges/capacity charges and the variable/energy charges are charged for sale of electricity and are thus not taxable as electricity is exempt from GST.

Cancellation charges

The facilitation service of allowing cancellation against payment of cancellation charges is also a natural part of a bundle. It is invariably supplied by all suppliers of passenger transportation service as naturally bundled and in conjunction with the principal supply of transportation in the ordinary course of business.

Therefore, facilitation supply of allowing cancellation of an intended supply against payment of cancellation fee or retention or forfeiture of a part or whole of the consideration or security deposit in such cases should be assessed as the principal supply.

For example, cancellation charges of railway tickets for a class would attract GST at the same rate as applicable to the class of travel (i.e., 5% GST on first class or air-conditioned coach ticket and nil for other classes such as second sleeper class). Same is the case for air travel.

CruX: Schedule II: Para 5(e) considers: Agreeing to the obligation to refrain from an act, to tolerate an act or a situation or to do an act as a supply of service.

To be considered as supply of service under Para 5(e), above three activities must comply with the following conditions:

- There must be an expressed or implied agreement or contract to refrain, tolerate or to do an act.
- Consideration must flow in return to this contract/agreement.

2. Supply - Q & A

Basics

1.
What is the taxable event under GST? Or
Meghraj & Co. wishes to commence the business of supplying ready-made garments within Punjab and in the neighbouring States of Delhi and Haryana. Kindly state as to what is the taxable event under GST and leviability of CGST, SGST/UTGST and IGST on the same?

(ICAI study material)

Answer:

Taxable event under GST is supply of goods or services or both. CGST and SGST/ UTGST will be levied on intra-State supplies. IGST will be levied on inter-State supplies.

Section 7(1)(b): Import of services with/without consideration

2.
Examine whether the activity of import of service in the following independent cases would amount to supply under section 7 of the CGST Act, 2017?

- (i) **Miss Shriniti Kaushik received vastu consultancy services for her residence located at Bandra, Mumbai from Mr. Racheal of Sydney (Australia). The amount paid for the said service is 5,000 Australian dollars.**
- (ii) **Miss Shriniti Kaushik received interior decoration services for her residence located at Bandra, Mumbai from her brother, Mr. Varun residing in Sydney (Australia) [wholly dependent on Miss Shriniti]. Further, Miss Shriniti did not pay any consideration for the said service.**
- (iii) **Will your answer change if in the above case, if Miss Shriniti has taken interior decoration services with regard to her business premises and not her residence?**

Note: Any specific exemption by way of notification needs to be ignored.

(ICAI study material) & (RTP CA INTER-NOV 2018)

Answer:

- (i) Supply, under section 7 of the CGST Act, 2017, inter alia,
 - includes import of services for a consideration
 - even if it is not in the course or furtherance of business.
 Thus, although the import of service for consideration by Miss. Shriniti Kaushik is not in course or furtherance of business [as the interior decoration services have been availed in respect of residence], it would amount to supply.
- (ii) Schedule I of CGST Act, inter alia, stipulates that import of services from a related person located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business. Explanation to section 15, inter alia, provides that persons shall be deemed to be "related persons" if they are members of the same family. Further, as per section 2(49) of the CGST Act, 2017, 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.**In the given case,** Miss Shriniti Kaushik has received interior decoration services from her brother. In view of section 2(49)(ii) above, Miss Shriniti and her brother shall be considered to be related as Miss Shriniti's brother is wholly dependent on her.
However, Miss Shriniti has taken interior decoration services for her residence and not in course or furtherance of business. Consequently, services provided by Miss Shriniti's brother to her would not be treated as supply under section 7 read with Schedule I of the CGST Act.
- (iii) **In the above case,** if Miss Shriniti has taken interior decoration services with regard to her business premises, services provided by Miss Shriniti's brother to her would be treated as supply under section 7 read with Schedule I I, as the same are provided in course or furtherance of business.

3. Mrs. Pragati received legal advice for her personal problems & paid 1,000 pounds as a legal fee to Miss Unnati of U.K. (London). Explain whether the above activity of import of service would amount to supply under section 7 of the CGST Act, 2017?
If in above case both of them are real sisters & no consideration is paid, then will it change your answer? Further in the above case both of them are real sisters & Mrs. Pragati receives legal advice for her business & she didn't pay any consideration then what will be your answer?

(CA INTER MTP - AUG 2018)

Answer:**Answers to each given situation is as follows:****1) Import of legal service for consideration of 1,000 pound:**

Importation of service for consideration is supply whether or not in the course or furtherance of business [section 7(1) (b) of CGST Act]. Thus, even if Mrs Pragati has received such service for his personal purpose, import will qualify as supply as it is being made for consideration.

2) Import of legal service without consideration:**(a) Import of legal service in personal matter**

Import of any service without consideration amounts to supply in terms of Section 7(1) (c) read with Schedule I (Para 4) **only if following conditions are fulfilled:**

1. Import is in course or furtherance of business;
2. Import is from related person or own establishment outside India

Import of legal service will not amount to supply as such import it not in course or furtherance of business (as such advice is for personal matter)

(b) Import of legal service in business matter

Import of service is for **business matter**, then such import **without consideration** would amount to supply if it is from **related person or his other establishment** outside India.

Import from real sister is not import from 'related person'. GST law has defined related person to include members of same family. Sister is considered as family member if she is wholly or mainly dependent upon the person. In given question, it seems Mrs Unnati in UK is quite independent and no way dependent upon Mrs Pragati and therefore, Mrs Pragati and Mrs. Unnati are not 'related person' under GST law.

Since import of service without consideration is not from related person or other establishment outside India, it will not amount to supply under GST law.

4. Examine whether the following activities would amount to "supply" under GST law?
- (i) **Glory Ltd. is engaged in manufacturing and selling of cosmetic products. Seva Trust, a charitable organisation, approached Glory Ltd. to provide financial assistance for its charitable activities. Glory Ltd. donated a sum of Rs. 2 lakhs to Seva Trust with a condition that Seva Trust will place a hoarding at the entrance of the trust premises displaying picture of products sold by Glory Ltd.**
 - (ii) **Mr. Swamy of Chennai is working as a manager with ABC Bank. He consulted M/s. Jacobs and Company of London and took its advice for buying a residential house in Mumbai and paid them consultancy fee of 200 UK Pound for this import of service.**

(CA Inter May 22)

Answer:

- (i) An activity qualifies as supply under GST only if it is for a consideration and is in course/furtherance of business. Donations received by the charitable organizations are treated as consideration only when there's an obligation on part of the recipient of the donation to do anything.
Since in the given case, the display of products sold by the donor – Glory Ltd. - in charitable organisation's premises aims at advertising/promotion of its business, it is supply for consideration in course/furtherance of business and thus, qualifies as supply under GST law.
- (ii) Supply includes importation of services, for a consideration whether or not in the course/furtherance of business. Thus, in the given case, the import of services by Mr. Swamy amounts to supply although it is not in course/furtherance of business.

Section 7(1)(c): Activities/transactions specified in Schedule I

5.
Examine whether the following activities would be treated as supply under GST law?
Wesco Ltd, a registered person in Ahmedabad (Gujarat) having head office located in Singapore, received management consultancy services free of cost from its head office.
(CA Inter Nov 23 -2 Marks)

Answer:

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

Hence, services received by Wesco Ltd. qualify as supply even though such services have been provided free of cost by the head office.

6.
With reference to provisions of the CGST Act, 2017 discuss in brief, when "Importation of services" is to be considered as supply and when it is not to be considered as supply.
(CA Inter Nov 20)

Answer:

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

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

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

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

7.
Damodar Private Ltd., registered in Delhi, has transferred some goods to its branch, registered in West Bengal, so that the goods can be sold from the branch. The goods have been transferred without any consideration. The company believes that the transaction undertaken by it does not qualify as supply as no consideration is involved. Ascertain whether the transfer of goods by Damodar Private Ltd. to its branch office qualifies as supply.
(ICAI study material)

Answer:

As per Schedule I of the CGST Act, supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business, is deemed as supply even if made without consideration.

In the given case, since the Damodar Private Ltd. and its branch located in another State are distinct persons, supply of goods between them qualifies as supply.

8.
Prithvi Associates is engaged in supply of taxable goods. It enquires from its tax advisor as to whether any activity can be treated as supply even if made without consideration in accordance with the provisions of the CGST Act. Enumerate such activities, if any.
(ICAI study material)

Answer:

Section 7 stipulates that the supply should be for a consideration and should be in the course or furtherance of business. However, Schedule I of the CGST Act enumerates the cases where an activity is treated as supply, even if the same is without consideration. These are as follows:

- (i) Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
- (ii) Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business.

However, gifts 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.

- (iii) Supply of goods –
- 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.
- (iv) Import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

9.

Answer the following questions:

- (a) **Sudama Associates, a registered supplier, disposes the computers owned by the business without consideration and it has not claimed input tax credit on such computers. Examine whether the disposal of computers by Sudama Associates qualifies as deemed supply under Schedule I of the CGST Act.**
- (b) **Prithvi Enterprises appoints Champak to procure certain goods from the market. Champak identifies various suppliers who can provide the goods as desired by Prithvi Enterprises, and asks a supplier – Satya Manufacturers to send the goods and issue the invoice directly to Prithvi Enterprises. You are required to determine whether Champak can be considered as an agent of Prithvi Enterprises in terms of Schedule I of the CGST Act.**

(ICAI study material)

Answer:

- (a) **As per section 7(1)(c) read with Schedule I of the CGST Act,** permanent transfer or disposal of business assets is treated as supply even though the same is made without consideration. However, this provision would apply only if input tax credit has been availed on such assets. Therefore, the disposal of computers by Sudama Associates is not a supply as the input tax credit has not been availed on the same.
- (b) **As per section 7(1)(c) read with Schedule I of the CGST Act,** supply of goods by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal qualifies as supply even if the same is made without consideration. Further, Circular clarifies that principal-agent relationship falls within the ambit of the Schedule I only where the goods being procured by the agent on behalf of the principal are invoiced in the name of the agent. In that case, further provision of the said goods by the agent to the principal without consideration, would be covered in Schedule I and thus would qualify as supply.
- In the given case,** Champak is only acting as the procurement agent, and has in no way involved himself in the supply or receipt of the goods. The invoice is being issued in the name of Prithvi Enterprises and not Champak. Hence, Champak is not an agent of Prithvi Enterprises for the supply of goods in terms of Schedule I of the CGST Act.

10.

Gagan Engineering Pvt. Ltd., registered in Haryana, is engaged in providing maintenance and repair services for heavy steel machinery. For carrying out the repair work, Gagan Engineering Pvt. Ltd. sends its container trucks equipped with items like repair equipments, consumables, tools, parts etc. from Haryana workshop to its own repairing centres (registered under GST law) located in other States across India where the clients' machinery are being brought and are being repaired.

Discuss the levability of GST on the inter-State movement of trucks from the workshop of Gagan Engineering Pvt. Ltd. in Haryana to its own repairing centres located in other States across India.

(ICAI study material)

Answer:

As per section 25(4), a person who has obtained 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'.

Schedule I to the CGST Act specifies situations where activities are to be treated as supply even if made without consideration. Supply of goods and/or services between 'distinct persons' as specified in

section 25, when made in the course or furtherance of business is one such activity included in Schedule I under para 2.

However, in view of the GST Council's recommendation, it has been clarified that the inter-State movement of various modes of conveyance between 'distinct persons' as specified in section 25(4), not involving further supply of such conveyance, including trucks carrying goods or passengers or both; or for repairs and maintenance, may be treated 'neither as a supply of goods nor supply of service' and therefore, will not be leviable to IGST [Circular No. 1/1/2017 IGST dated 07.07.2017].

Thus, in the given case, inter-State movement of trucks from the workshop of Gagan Engineering Pvt. Ltd. located in Haryana to its repair centres located in other States is 'neither a supply of goods nor supply of service'.

11.

Examine whether the following activities would amount to supply under section 7 of CGST Act:

- (a) Sulekha Manufacturers have a factory in Delhi and a depot in Mumbai. Both these establishments are registered in respective States. Finished goods are sent from factory in Delhi to the Mumbai depot without consideration so that the same can be sold.**
- (b) Raman is an architect in Chennai. His brother who is settled in London is a well-known lawyer. Raman has taken legal advice from him free of cost with regard to his family dispute.**
- (c) Would your answer be different if in the above case, Raman has taken advice in respect of his business unit in Chennai?**

(ICAI study material)

Answer:

- (a) Schedule I of CGST Act, inter alia,** stipulates that supply of goods or services or both between related persons or between distinct persons as specified in section 25, is supply even without consideration provided it is made in the course or furtherance of business. Further, where a person who has obtained or is required to obtain registration in a State in respect of an establishment, has an establishment in another State, then such establishments shall be treated as establishments of distinct persons [Section 25 of the CGST Act].

In view of the same, factory and depot of Sulekha Manufacturers are establishments of two distinct persons. Therefore, supply of goods from Delhi factory of Sulekha Manufacturers to Mumbai Depot without consideration, but in course/furtherance of business, is supply under section 7 of the CGST Act.

- (b) Schedule I of CGST Act, inter alia,** stipulates that import of services from a related person located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business. Explanation to section 15, inter alia, provides that persons shall be deemed to be "related persons" if they are members of the same family. Further, as per section 2(49) of the CGST Act, 2017, 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.

In the given case, Raman has received free of cost legal services from his brother. However, in view of section 2(49)(ii) above, Raman and his brother cannot be considered to be related as Raman's brother is a well-known lawyer and is not wholly/mainly dependent on Raman. Further, Raman has taken legal advice from him in personal matter and not in course or furtherance of business. Consequently, services provided by Raman's brother to him would not be treated as supply under section 7 of the CGST Act read with Schedule I.

- (c) In the above case,** if Raman has taken advice with regard to his business unit, services provided by Raman's brother to him would still not be treated as supply under section 7 of the CGST Act read with Schedule I as although the same are provided in course or furtherance of business, such services have not been received from a related person.

12.

Sahab Sales, an air-conditioner dealer in Janakpuri, Delhi, needs 4 air-conditioners for his newly constructed house in Safdarjung Enclave. Therefore, he transfers 4 air - conditioners [on which ITC has already been availed by it] from its stock, for the said purpose. Examine whether the said activity amounts to supply under section 7 of the CGST Act, 2017.

Further, a Janakpuri resident, Aakash, approached Sahab Sales. He sold an air- conditioner to Sahab Sales for Rs. 5,000. Aakash had bought the said air-conditioner six months before, for his residence. Does sale of the air conditioner by Aakash to Sahab Sales amount to supply under section 7 of the CGST Act, 2017

(CA INTER RTP - 2018)

Answer:

Section 7 defines the scope of 'supply'. In general, supply covers those transactions where goods or services or both are supplied for consideration in course of or furtherance of business (Section 7(1) (a)). Besides that, scope of supply has been extended to cover certain specified transactions which are undertaken even without any consideration (Section 7(1) (c) read with Schedule I). One such transaction without consideration is where business assets on which ITC has been availed are transferred or disposed off permanently.

In view of said provisions, the answer to given situations are as follows:

- (a) **Permanent transfer of air-conditioner (trading stock which is his business asset on which he has availed ITC):** permanent transfer of air conditioners by Sahab Sales from its stock for personal use at its residence, though without consideration, would amount to supply.
- (b) **Sale by Aakash (non-business entity) of his second-hand air-conditioner:** Such sale will not qualify as supply under section 7 of the CGST Act, 2017 as although it is made for a consideration, but it's not in the course or furtherance of business.

Section 7(1A): Activities shall be Supply of goods or Supply of services

13.

Happy Constructions Ltd., a registered builder under GST in Bengaluru, Karnataka has got permission to build five floors from the Municipal Projects for one of its projects at Suraj Nagar. Aditya Constructions, a neighbouring housing project approached Happy Constructions Limited to discuss regarding blockage of sun light issue arising out of construction of five floors and asked it to build only three floors for which Rs. 20 lakh was offered as compensation. Happy Constructions Limited agreed to the offer. It may be noted that Aditya Constructions is not ready to pay any further amount to Happy Constructions Ltd. in addition to the amount already agreed.

Briefly explain with correct legal provision whether the above amount received as compensation is liable to GST or not? And if considered as taxable, then calculate the total GST payable by Happy Constructions Ltd. Assume the applicable rate of CGST and SGST is 9% each. Also state the conditions to be complied with.

(CA Inter RTP May 24)

Answer:

Agreeing to obligation to refrain from an act, or to tolerate an act or situation, or to do an act has been specifically declared to be a supply of service vide para 5(e) of Schedule II of the CGST Act, 2017 if the same constitutes a supply as per the CGST Act, 2017.

In the given case, Happy Constructions Limited has agreed to build only three floors, even though it is permitted to construct five floors by the Municipal Authorities, for a compensation of Rs. 20 lakh. This results in supply of service.

The conditions to be complied with for the above supply will be

- (a) There must be an expressed or implied agreement or contract must exist.
- (b) Consideration must flow in return to this contract/ agreement.

Since Aditya Constructions is not ready to pay any further amount to Happy Constructions Limited in addition to the amount already agreed, the amount received Rs. 20 lakh shall be treated as inclusive of GST and the GST payable will be Rs. 20,00,000 x 9/118 = Rs. 1,52,542.37 or Rs. 1,52,542 (rounded off) as CGST and SGST each.

14.

R-TECH Consultancy, registered in Bangalore, supplies technical consultancy services to its clients. It has been providing technical services to Tata Ltd., Bangalore since past two years. Consideration is settled by Tata Ltd. assignment wise. Tata Ltd. paid Rs 66 lakh to R-TECH Consultancy on 10th September, 20XX on R-TECH consultancy agreeing to not provide similar technical services to any other business entity in India or abroad for a period of 8 years. R-TECH Consultancy is of the view that Rs 66 lakh is not chargeable to GST.

You are required to examine whether the view taken by R-TECH Consultancy is valid in law. Calculate GST liability of R-TECH Consultancy, if any. The technical services provided by R-TECH consultancy are otherwise chargeable to GST at the rate of 18%. It may be noted that Tata Ltd. is not ready to pay any further amount to R-TECH Consultancy in addition to the amount already agreed.

Answer:

The view taken by R-TECH Consultancy is not valid in law. The scope of supply is defined by section 7(1) of CGST Act, 2017. As per section 7(1)(a), it will be considered as supply since it is in the course or furtherance of business. Further paragraph 5(e) of Schedule II provides that agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act is treated as supply of service.

Thus, any consideration received for agreeing to the obligation to refrain from an act, is subject to GST. Consideration received for non-compete agreement is deemed as consideration for supply of services. Consideration of Rs 66 lakh received on the promise of R-TECH consultancy of not providing similar services to any other person, is consideration for supply which is chargeable to GST.

Since GST is not separately collected, it will be assumed that it is included in Rs 66 lakh. Rule 35 of CGST Rules, 2017 provides that where the value of supply is inclusive of GST, the tax amount is determined in the following manner:

Tax amount = (Value inclusive of taxes x GST rate in %) [IGST or CGST, SGST/UTGST] / (100 + sum of GST rates in %)

Consequently, value of taxable supply will be Rs 55,93,220 (i.e., Rs 66,00,000 x 100/118). GST liability on Rs 55,93,220 will be calculated as follows-

Particulars	Rs
Taxable value of supply	55,93,220
Add: CGST @ 9% of Rs 55,93,220	5,03,390
SGST @ 9% of Rs 55,93,220	5,03,390
Total GST liability	10,06,780

15.

Mr. Happy has a huge residential property located at a prime location in Mumbai, Maharashtra. He has let out the 1st and 2nd floor to Mr. Peace for residential purposes in April. Mr. Peace surrenders his tenancy rights to Mr. Serene for a tenancy premium of Rs. 10,00,000 on 1st June. Mr. Serene has also paid the applicable stamp duty and registration charges on transfer of tenancy rights. Moreover, Mr. Serene has agreed to pay a monthly rent of Rs. 1,00,000 to Mr. Happy from June. Determine the taxability of the transaction(s) involved in the given case, for the month of June.

(ICAI study material)

Answer:

CBIC Circular clarifies that the activity of transfer of tenancy right against consideration [i.e., tenancy premium] is squarely covered under supply of service liable to GST. It is a form of lease or renting of property and such activity is specifically declared to be a service in Schedule II i.e., any lease, tenancy, easement, licence to occupy land is a supply of services.

Although stamp duty and registration charges have been levied on such transfer of tenancy rights, it shall be still subject to GST. Merely because a transaction/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' and from payment of GST.

The transfer of tenancy rights cannot be treated as sale of land/ building in Schedule III. Thus, it is not a non-supply under GST and consequently, a consideration for the said activity shall attract levy of GST.

Services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is liable to GST. Hence, in the given case, the tenancy premium of Rs. 10,00,000 received by Mr. Peace for surrendering his tenancy rights to Mr. Serene is liable to GST. The circular further clarifies that since renting of residential dwelling for use as a residence is exempt [Entry 12 of Notification No. 12/2017 CT (R) dated 28.06.201732], grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both is exempt. Consequently, monthly rent Rs. 1,00,000 received by Mr. Happy from Mr. Serene is exempt.

16.

Whether goods supplied on hire purchase basis will be treated as supply of goods or supply of services? Give reason.

(ICAI study material)

Answer:

Supply of goods on hire purchase shall be treated as supply of goods as there is transfer of title, although at a future date.

17.

Transfer of title and/or possession is necessary for a transaction to constitute supply of goods. Examine.

(ICAI study material)

Answer:

Title as well as possession both has to be transferred for a transaction to be considered as a supply of goods. In case title is not transferred, the transaction would be treated as supply of service in terms of Schedule II (1) (b) of the CGST Act. In some cases, possession may be transferred immediately but title may be transferred at a future date like in case of sale on approval basis or hire purchase arrangement. Such transactions will also be termed as supply of goods.

18.

State whether the following supplies would be treated as supply of goods or supply of services as per Schedule II of the CGST Act:

- (a) Renting of immovable property**
- (b) Goods forming part of business assets are transferred or disposed of by/under directions of person carrying on the business.**
- (c) Transfer of right in goods without transfer of title in goods.**
- (d) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date.**
- (e) Temporary transfer or permitting use or enjoyment of any intellectual property right.**
- (f) Any treatment or process which is applied to another person's goods.**
- (g) Transfer of title in goods.**

(ICAI study material)

Answer:

- (a) Supply of services
- (b) Supply of goods
- (c) Supply of services
- (d) Supply of goods
- (e) Supply of services
- (f) Supply of services
- (g) Supply of goods

Section 7(2)(a): Activities or transactions specified in Schedule III

19.

List any 5 (Five) activities/transactions specified under Schedule III of the CGST Act, 2017 which shall be neither treated as supply of goods nor as supply of services. Detailed explanations is not required.

(CA Inter May 23-5 marks)

Answer:

Activities or transactions which shall be treated neither as a supply of goods nor a supply of services are as under:-

- (1) Services by an employee to the employer in the course of or in relation to his employment
- (2) Services by any court or Tribunal established under any law for the time being in force.
- (3) Functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities.
- (4) Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity.
- (5) 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.
- (6) Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
- (7) Sale of land and, subject to paragraph 5(b) of Schedule II, sale of building. (i.e. in case, where entire consideration for sale of building received after issuance of completion certificate or after its first occupation, whichever is earlier).
- (8) Actionable claims, other than **specified actionable claims**.

"Specified actionable claim" means the actionable claim involved in or by way of—

- (i) betting;
- (ii) casinos;
- (iii) gambling;
- (iv) horse racing;
- (v) lottery; or
- (vi) online money gaming;

20.

Determine whether GST is payable in each of the following independent transactions:

Dhruv Developers sold a plot of land in Greater Noida after levelling, laying down of drainage lines, water lines and electricity lines.

(CA Inter May 23 RTP)

Answer:

GST is not payable by Dhruv Developers on sale of plot of land. Circular clarifies applicability of GST on sale of land after levelling, laying down of drainage lines etc. As per Para 5 of Schedule III of the CGST Act, 2017, 'sale of land' is neither a supply of goods nor a supply of services. Therefore, the sale of land does not attract GST. Land may be sold either as it is or after some development such as levelling, laying down of drainage lines, water lines, electricity lines, etc. It is clarified that sale of such developed land is also sale of land and is covered by Para 5 of Schedule III and accordingly, does not attract GST.

21.

Angad Private Ltd. is engaged in the business of distribution of construction material. As an incentive, Angad Private Ltd. pays an amount of Rs. 75,000 to its employees upon achieving a specified sales target. The incentive is part of the salary of the employees and applicable tax is deducted at source as per relevant income tax provisions. Angad Private Ltd. is of the view that GST is not leviable on such incentive paid to the employees. Whether the view taken by Angad Private Ltd. is correct?

(ICAI study material)

Answer:

Yes, Angad Private Ltd.'s view is correct. In terms of section 7(2) read with Schedule III of the CGST Act, services by an employee to employer in the course of or in relation to his employment shall not be treated as supply under GST. Further, the amount paid as incentive by Angad Private Ltd. is not in the nature of gift, and thus, is not covered under Schedule I of the CGST Act. In fact, in the given case, the incentive is part of the salary and is directly linked to the sales target. Therefore, the services provided by the employees in return of the incentive given to them shall not be treated as a "supply".

In the light of above discussion, GST is not leviable on the incentive paid by Angad Private Ltd. to employees.

Section 7(2)(b)

22.

Sarvanna & Sons wishes to start supplying liquor in the State of Tamil Nadu. Therefore, it applies for license for selling liquor to the Tamil Nadu Government for it has charged specified fee from it. Examine whether the grant of alcoholic liquor license by the Tamil Nadu Government to Sarvanna & Sons qualifies as supply.

*(ICAI study material)***Answer:**

Services by way of grant of alcoholic liquor license by the State Governments have been notified to be treated neither as a supply of goods nor as a supply of service. Such licence is granted against consideration in the form of licence fee or application fee or by whatever name it is called. This special dispensation is applicable 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 is not applicable/has no precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable.

Thus, in the given case, the grant of alcoholic liquor license by the Tamil Nadu Government to Sarvanna & Sons is neither a supply of goods nor a supply of service.

Section 8: Tax liability on composite and mixed supplies

23.

Composite supply is treated as supply of that particular goods or services which attracts the highest rate of tax. Examine the validity of the statement.

*(ICAI study material)***Answer:**

The statement is not correct. Composite supply is treated as supply of the principal supply. It is the mixed supply that is treated as supply of that particular goods or services which attracts the highest rate of tax.

24.

Mrs. Kajal, a registered supplier of Jaipur (Rajasthan) & also engaged in event management services, has made the following supplies in the month of January:

- (i) Supply of a laptop along with the laptop bag to a customer of Mumbai for Rs. 55,000 (exclusive of GST).
- (ii) Supply of 10,000 kits (at Rs. 50 each) amounting to Rs. 5,00,000 (exclusive of GST) to Ram Fancy Store in Kota (Rajasthan). Each kit consists of 1 hair oil, 1 beauty soap and 1 hair comb.
- (iii) 100 kits are given as free gift to Jaipur customers (all unrelated) on the occasion of Mrs. Kajal's birthday. Each kit consists of 1 hair oil and 1 beauty soap. Cost of each kit is Rs. 35. Input tax credit has not been taken on the goods contained in the kit.
- (iv) Event management services provided free of cost to her brother (wholly dependent on her) for his son's marriage function in Indore (Madhya Pradesh). Cost of providing said services is Rs. 80,000.
- (v) 1,400 chairs and 100 coolers hired out to Function Garden, Ajmer (Rajasthan) for Rs. 3,30,000 (exclusive of GST) including cost of transporting the chairs and coolers from Mrs. Kajal's godown at Jaipur to Function Garden, Ajmer. Since Mrs. Kajal is not a GTA, transportation services provided by her are exempt vide Notification No. 12/2017 CT (R) dated 28.06.2017.

Assume rates of GST to be as under: -

S. No.	Particulars	Rate of GST
1	Laptop	18%
2	Laptop bag	28%
3	Hair oil	18%
4	Beauty soap	28%
5	Hair comb	12%
6	Event management service	5%

S. No.	Particulars	Rate of GST
7	Service of renting of chairs and coolers	12%
8	Transportation service	5%

From the above information, examine each of the above supplies made by Mrs. Kajal for the month of January and determine the rate of GST applicable on the same.

(ICAI study material)

Answer:

S. No.	Particulars	Rate of GST
(i)	Supply of laptop bag along with laptop to Mumbai customer [Being naturally bundled, supply of laptop bag along with the laptop is a composite supply which is treated as the supply of the principal supply [viz. laptop] in terms of section 8(a). Accordingly, rate of principal supply, i.e., laptop will be charged.]	18%
(ii)	Supply of kits to Ram Fancy Store [It is a mixed supply and is treated as supply of that particular supply which attracts highest tax rate [viz. beauty soap] in terms of section 8(b).]	28%
(iii)	Free gifts to customers [Cannot be considered as supply under section 7 read with Schedule I as the gifts are given to unrelated customers without consideration.]	Nil
(iv)	Event management services provided free of cost to her brother for his son's marriage shall be considered as supply as the services are being provided to a related person. Since it is an individual supply, it will be taxed at the rate applicable on said service.	5%
(v)	Chairs and coolers hired out to Function Garden [Transportation services provided by Mrs. Kajal are exempt. However, since chairs and coolers are hired out along with their transportation, it is a case of composite supply wherein the principal supply is hiring out of chairs and coolers. Accordingly, transportation service will also be taxed at the rate applicable for renting of chairs and coolers*]	12%

Note: As per section 2(30) of the CGST Act, 2017, composite supply means a supply made by a taxable person to a recipient consisting of two or more taxable supplies. Since in point (v), service of hiring out of chairs & coolers is taxable while transportation service is exempt, it is possible to take a view that this is not a case of composite supply. In that case, the two services will be treated as independent services and taxed accordingly.

25.

Brishti Ltd. is manufacturer of cosmetic products: (1) Hair oil (GST Rate - 18%), (2) Sun screen cream (GST Rate- 28%), (3) Shampoo (GST rate - 28%), and (4) Hair comb (GST Rate - 12%). The said products are supplied in a single package and the Price per package is Rs. 500 (exclusive of taxes). 20,000 packages were supplied by the company to its dealer. Determine the nature of supply and its tax liability.

(CMA INTER - MTP DEC 2018 -5 MARKS)

Answer:

The treatment would be as follows:

Nature of Combination Supply: Each of the goods in the package has individual identity and can be supplied separately but are deliberately supplied conjointly for a single consolidated price. Hence, the supply would constitute a mixed supply.	Mixed supply
Treatment under GST: Highest tax rate applicable As per section 8(b) of the CGST Act, tax rates applicable in case of mixed supply would be the rate of tax attributable to that one supply (goods, or services) which suffers the highest rate of tax from amongst the supplies forming part of the mixed supply. Therefore, entire package will be chargeable to 28% GST.	28% GST
Value of Supply: Value of taxable supply per package	500
No. of packages	20,000

Total Value	1,00,00,000
GST Liability @ 28%	<u>28,00,000</u>

26.

“Diligent Force” a professional training institute gets its training material of “Aptitude Quotient” printed from “Durga printing House” a printing press. The content of the material is provided by the Diligent Force who owns the usage rights of the same while the physical inputs including paper used for printing belong to the Durga Printing House.

Ascertain whether supply of training material by the Durga Printing House constitutes supply of goods or supply of services.

(RTP Nov 19)

Answer:

CBIC Circular has clarified that supply of books printed with contents supplied by the recipient of such printed goods, is composite supply and the question, 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.

In the case of printing of books where content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore, such supplies would constitute supply of service.

Thus, in view of the above-mentioned provisions, the supply of training material by the Durga Printing House would constitute supply of services.

27.

Determine whether the following supplies amount to composite supplies:

- i. **A hotel provides 4 days-3 nights’ package wherein the facility of breakfast and dinner is provided along with the room accommodation.**
- ii. **A toothpaste company has offered the scheme of free soap along with the toothpaste.**

(ICAI study material)

Answer:

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

In view of the same,

- i. since, supply of breakfast and dinner with the accommodation in the hotel are naturally bundled, said supplies qualify as ‘composite supply’.
- ii. since supply of soap along with the toothpaste are not naturally bundled, said supplies do not qualify as ‘composite supply’.

28.

Dumdum Electronics has sold the following electronic items to Akbar Retail Store.

- (i) **Refrigerator (500 litres) taxable @ 18%**
- (ii) **Stabilizer for refrigerator taxable @ 12%**
- (iii) **LED television (42 inches) taxable @ 12%**
- (iv) **Split air conditioner (2 Tons) taxable @ 28%**
- (v) **Stabilizer for air conditioner taxable @12%**

Dumdum Electronics has issued a single invoice, indicating price of each of the above items separately in the same. Akbar Retail Store has given a single cheque of Rs. 1,00,000/- for all the items as a composite discounted price. State the type of supply and the tax rate applicable in this case.

(ICAI Study Material)

Answer:

In the given case, the items supplied by Dumdum Electronics are not naturally bundled in the ordinary course of business. Therefore, such supply is not a composite supply. Further, although Akbar Retail Store

has paid a composite discounted price for these goods, Dumdum Electronics has not charged a single price for the said supply. Therefore, said supply is also not a mixed supply.

Supply of these goods is, therefore, supply of individual items which are taxable at the respective rates applicable to them.

29.

Manikaran, a registered supplier of Delhi, has supplied 20,000 packages at Rs. 30 each to Mukhija Gift Shop in Punjab. Each package consists of 2 chocolates, 2 fruit juice bottles and a packet of toy balloons. Determine the rate(s) of GST applicable in the given case assuming the rates of GST to be as under:

Goods/services supplied	GST rate
Chocolates	18%
Fruit juice bottles	12%
Toy balloons	5%

(ICAI study material)

Answer:

As per section 2(74) of the CGST Act, 2017, mixed supply means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

Supply of a package containing chocolates, fruit juice bottles and a packet of toy balloons is a mixed supply as each of these items can be supplied separately and is not dependent on any other. Further, as per section 8(b) of the CGST Act, 2017, the mixed supply is treated as a supply of that particular supply which attracts the highest rate of tax. Thus, in the given case, supply of packages is treated as supply of chocolates [since it attracts the highest rate of tax] and the rate of GST applicable on the package of Rs. 6,00,000 (20,000 × Rs. 30) is 18%.

Miscellaneous

30.

Examine whether the following activities would be treated as supply under GST law?

Mr. Sonu from Chandigarh purchased a water cooler from Malhotra Bros. of Hoshiarpur for Rs.25,000 to donate it to a temple situated in Hoshiarpur. Mr. Sonu directed Malhotra Bros. to engrave the words on the water cooler- "Donated by Mr. Sonu from Chandigarh" and dispatch the water cooler directly to the temple.

(CA Inter Nov 23 -2 Marks)

Answer:

Donations received by the charitable organisations are treated as consideration only if there exists, quid pro quo, i.e., there is an obligation on part of recipient of the donation or gift to do anything (supply a service).

Since the name of the donor, Mr. Sonu is displayed in temple as an expression of gratitude and public recognition of his act of philanthropy and is not aimed at advertising or promotion of his business, hence, donation of water cooler by Mr. Sonu to temple is without quid pro quo and is, thus, not a supply under GST law.

However, supply of water cooler by Malhotra Bros. to Mr. Sonu is supply as it is made for consideration in course or furtherance of business.

31.

Examine the implications of GST on supply of food and beverages at cinema halls.

(CA Inter RTP May 24)

Answer:

Eating joint is a wide term which includes refreshment or eating stalls/ kiosks/ counters or restaurant at a cinema also.

The cinema operator:

(i) may run these refreshment/eating stalls/kiosks/counters/ restaurant themselves

or

(ii) they may give it on contract to a third party.

The customer may like to avail the services supplied by these refreshment/snack counters or choose not to avail these services. Further, the cinema operator can also install vending machines, or supply any other recreational service such as through coin-operated machines etc. which a customer may or may not avail.

It is hereby clarified vide Circular No. 201/13/2023 GST dated 01.08.2023 that:

- (i) supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as:
 - (a) the food or beverages are supplied by way of or as part of a service, and
 - (b) supplied independent of the cinema exhibition service.
- (ii) where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

32.

PTL Pvt. Ltd. is a retail store of merchandise located in 25 States/UTs in the country. For the purpose of clearance of stock of merchandise and to attract consumers, PTL Pvt. Ltd. launched scheme of "Buy One Get One Free" for the same type of merchandise, for instance, one shirt to be given free with purchase of one shirt. Determine how the taxability of the goods supplied under "Buy One Get One Free" scheme is determined.

(ICAI study material)

Answer:

As per section 7(1)(a), the goods or services which are supplied free of cost (without any consideration) are not treated as "supply" except in case of activities mentioned in Schedule I of the CGST Act. Under "Buy One Get One Free" scheme, it may appear at first glance that in case of offers like "Buy One, Get One Free", one item is being "supplied free of cost" without any consideration. However, it is not an individual supply of free goods, but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.

Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined accordingly.

33.

The temple of ancestral deity of Mr. Aman goel and his family is located at Beri, Haryana. The temple is run by a charitable organisation registered under section 12AB of the Income Tax Act, 1961. The family has got unshakeable faith in their ancestral deity. Mr. Aman is a big entrepreneur having flourishing business of tiles in Gurugram. Upon the birth of their first child, he donated Rs 10 lakh to the said temple for construction of a sitting hall in the temple. On the main door of the sitting hall, a name plate was placed stating "Donated by Mr. Aman Goel upon birth of his first child".

You are required to examine the leviability of GST on the donation received from Mr. Aman Goel?

(CA Inter RTP – May 20)

Answer:

It has been clarified vide Circular No. 116/35/2019 GST dated 11.10.2019 that when the name of the donor is displayed in the religious institution premises, by placing a name plate or similar such acknowledgement, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation). There is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration.

In the given case, there is no reference or mention of any business activity of the donor which otherwise would have got advertised. Thus, since the gift or donation is made to a charitable organization, the payment has the character of gift or donation and the purpose is philanthropic (i.e., it leads to no commercial gain) and not advertisement, hence GST is not leviable.

2. Supply - MCQ

Goods & services

1. Goods as per section 2(52) includes:
 - (i) Actionable claims
 - (ii) Growing crops attached to the land agreed to be severed before supply.
 - (iii) Money
 - (iv) Securities
 - (a) (i) and (iii)
 - (b) (iii) and (iv)
 - (c) (i) and (ii)
 - (d) (ii) and (iii)

2. Which of the following is not considered as 'goods' under the CGST Act, 2017?
 - (i) Ten-paisa coin having sale value of Rs. 100.
 - (ii) Shares of unlisted company
 - (iii) Lottery tickets
 - (a) (i)
 - (b) (ii)
 - (c) (ii) and (iii)
 - (d) (i), (ii) and (iii)

3. Ram a stock broker charges some service charges or service fees or documentation fees or broking charges or such like fees or charges are charged in relation to transactions in securities, the same would be a consideration for provision of service. Will such brokerage/service fees be service and chargeable to GST?
 - (a) Yes
 - (b) No

4. Which one of the following is/are correct?
 - (a) Currency held for its numismatic value falls under Goods.
 - (b) Currency held for its numismatic value doesn't fall under Goods.
 - (c) Money shall include currency held for its numismatic value.
 - (d) Both a & c

5. Activities related to the use of money or its conversion by cash or any other mode by charging a separate consideration is Services?
 - (a) False.
 - (b) True.

Section 7(1)(c): Activities/transactions specified in Schedule I

6. Determine which of the following independent cases will be deemed as supply even if made without consideration in terms of Schedule I of the CGST Act, 2017?
 - (i) AB & Associates transfers stock of goods from its Mumbai branch to Kolkata depot for sale of such goods at the depot.
 - (ii) Mr. Raghuveer, a dealer of air-conditioners permanently transfers the motor vehicle free of cost. ITC on said motor vehicle was blocked and therefore, was not availed.
 - (iii) Mrs. Riddhi, an employee of Sun Ltd., received gift from her employer on the occasion of Diwali worth Rs. 21,000.
 - (a) (i)
 - (b) (ii)
 - (c) (iii)
 - (d) Both (i) and (ii)

7. _____ specifies the activities to be treated as supply even if made without consideration.
 - (a) Schedule I of CGST Act
 - (b) Schedule II of CGST Act
 - (c) Schedule III of CGST Act
 - (d) All of the above

8. Which of the following transactions does not qualify as supply under GST law?
 - (a) Disposal of car without consideration and where the supplier has not claimed ITC on such car.
 - (b) When a principal makes supplies to his agent who is also registered under GST and is situated within the same State and the invoice for further supply is issued by the agent in his name.
 - (c) When the Head Office makes a supply of services to its own branch outside the State.
 - (d) When a person imports services without consideration for the purposes of his business from his elder son living outside India.

9. Mr. James Bond is a registered person under GST in the State of Maharashtra who sells footwear to his customers locally within the same State. He has been appointed as an agent by M/s. Toto Shoes Ltd., a company

registered under GST in the State of Karnataka. During a financial year, M/s. Toto Shoes Ltd., sends taxable goods worth Rs 5.00 crore from its Bengaluru store to Mr. James Bond who sells such goods for Rs 5.00 crore by raising invoices using the GSTIN of M/s. Toto Shoes Ltd. Mr. James Bond receives a commission of Rs 60.00 lakh from M/s. Toto Shoes (P) Ltd., during the said financial year.

Compute the value of supply of Toto Shoes (P) Ltd. and Mr. James Bond for the FY.

- (a) M/s. Toto Shoes (P) Ltd.: Nil and James Bond: Rs 5.6 crore
- (b) M/s. Toto Shoes (P) Ltd.: Rs 5 crore and James Bond: Rs 5.6 crore
- (c) M/s. Toto Shoes (P) Ltd.: Rs 5 crore and James Bond: Rs 60 lakh
- (d) None of the above

10. Which of the following is not a supply under the CGST Act, 2017?

- (a) Goods supplied free of cost by X & Sons to its agent for further supply to customers at Rs. 5,000.
- (b) Importation of accounting services (for business purposes) free of cost from a dependent father residing in the US.
- (c) An expensive watch gifted to an employee for Rs. 50,000.
- (d) A machinery disposed off free of cost on which input tax credit has been availed.

11. Which of the following services received, in the course or furtherance of business, without consideration amount to supply?

- (i) Import of services by a person in India from his son well-settled in USA
- (ii) Import of services by a person in India from his brother well-settled in Germany
- (iii) Import of services by a person in India from his brother (wholly dependent on such person in India) in France
- (iv) Import of services by a person in India from his daughter (wholly dependent on such person in India) in Russia

- (a) i, iii and iv
- (b) ii, iii and iv
- (c) ii and iii
- (d) i and ii

12. Mr. Venkat hired a professional firm based in UK to receive the legal consultancy services for his family dispute. The services received by Mr. Venkat _____ in case such services are received by Mr. Venkat

(I) free of cost; or

(II) for a consideration of US\$ 1,000.

- (a) (I) amount to supply; (II) amount to supply
- (b) (I) do not amount to supply; (II) amount to supply
- (c) (I) amount to supply; (II) do not amount to supply
- (d) (I) do not amount to supply; (II) do not amount to supply

13. Which of the following statements is true under GST law?

- (a) Grand-parents are never considered as related persons to their grand-son/grand-daughter
- (b) Grand-parents are always considered as related persons to their grand-son/grand-daughter
- (c) Grand-parents are considered as related persons to their grand-son/grand-daughter only if they are wholly dependent on their grand-son/grand-daughter
- (d) Grand-parents are considered as related persons to their grand-son/grand-daughter only if they are not dependent on their grand-son/grand-daughter.

Section 7(1A): Activities shall be Supply of goods or Supply of services

14. Which of the following activities/ transactions qualify as supply of goods?

- (a) Dhruvtara Electronics supplies washing machines to its customers.
- (b) Bigbang Steels Ltd. supplies a machinery on rent to Jigayasa Manufacturers.
- (c) Larsen Technicians given by Deendayal Automobiles on job work basis. retreads the tyres
- (d) Vigyaan Technologies develops a customized software for a business school.

15. Assuming that all the activities given below are undertaken for a consideration, state which of the following is not a supply of service?

- (a) Renting of commercial office complex

- (b) An employee agreeing to not work for the competitor organization after leaving the current employment
- (c) Repairing of mobile phone
- (d) Provision of services by an employee to the employer in the course of employment

16. Which of the following activities is a supply of services?

- (a) Transfer of right in goods/ undivided share in goods without transfer of title in goods
- (b) Transfer of title in goods
- (c) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date.
- (d) All of the above

Section 7(2)(a): Activities or transactions specified in Schedule III

17. Which of the following activities shall be treated neither as supply of goods nor supply of services?

- (i) Permanent transfer of business assets where input tax credit has been availed on such assets
 - (ii) Temporary transfer of intellectual property right
 - (iii) Transportation of the deceased
 - (iv) Services by an employee to the employer in the course of employment
- (a) (i) & (iii)
 - (b) (ii) & (iv)
 - (c) (i) & (ii)
 - (d) (iii) & (iv)

18. Which of the following activities are considered neither as supply of goods nor supply of services?

- (a) Inter- State movement of trucks between distinct persons for repairs and maintenance.
- (b) Grant of mining rights by the Governments to businesses.
- (c) Services provided by an employer to the employee.
- (d) Lottery.

19. Which of the following activities is outside the scope of supply & not taxable under GST?

- (a) Services by an employee to the employer in the course of or in relation to his employment
- (b) Services of funeral
- (c) Actionable claims, other than specified

actionable claims.

- (d) All of the above

Section 8: Tax liability on composite and mixed supplies

20. Which of the following supplies are naturally bundled?

- (a) Rent deed executed for renting of two different floors of a building-one for residential and another for commercial purpose to same person
- (b) Pack of watch, tie and belt
- (c) Package of canned food such as burger, chocolates, sweets, cake etc.
- (d) None of the above

21. A ____ supply comprising of two or more supplies shall be treated as the supply of that particular supply that attracts the highest rate of tax.

- (a) Composite
- (b) Mixed
- (c) Both (a) and (b)
- (d) None of the above

22. There is a difference in taxability of goods forming part of composite supply and mixed supply. Here are a few examples from which you need to identify which is correct example of composite supply and mixed supply.

- (i) Mr. A buys a car and purchases the warranty and maintenance of the car by paying a nominal amount. Car, warranty and maintenance here are a mixed supply.
- (ii) Mr. A buys a car and purchases the warranty and maintenance of the car by paying a nominal amount. Car, warranty and maintenance here are a composite supply.
- (iii) Mrs. A buys a microwave oven and some utensils for use in the microwave oven. Both microwave ovens and utensils are sold at a single price. Microwave oven and its utensils here are a mixed supply.
- (iv) Mrs. A buys chocolates, juices and biscuits from a shop. All items have different prices. Chocolates, juices and biscuits are a mixed supply.

The correct examples of composite and mixed supply are: -

- (a) i, iv

- (b) ii, iii
 (c) ii, iii, iv
 (d) None of the above

(d) None of the above

23. M/s. Vishu Megamart, operating a store located and registered in Rajasthan, has come out with big discount offers at the time of Diwali on various gift items. In order to attract more customers, it has decided to supply a gift pack containing 5 packets of Haldiram's Namkeen (200 grams each) taxable @ 12%, 1 packet of Roasted Smoked Almonds (100 gram) taxable @ 18%, 1 packet of Bournville Chocolate (50 mg) taxable @ 28% and 1 bottle of Real Fresh Juice (1 litre) taxable @ 18% in a single basket for a single price of Rs. 1,000/-. State the type of supply and the tax rate applicable on the same.

- (a) Composite supply; Tax rate of the principal item, i.e., Namkeen @18%
 (b) Composite supply; Highest tax rate out of all items, i.e., 28% applicable to chocolates
 (c) Mixed supply; Tax rate of principal item, i.e., Namkeen @18%
 (d) Mixed supply; Highest tax rate out of all items, i.e., 28% applicable to chocolates

24. What are the factors differentiating composite supply & mixed supply?

- (a) Nature of bundling i.e., artificial or natural
 (b) Existence of principal supply
 (c) Both of the above

25. Booking of Air Tickets with meal on board during travel will be taxed as & at the rate of?

- (a) Composite supply & principal supply
 (b) Mixed supply & principal supply
 (c) Composite supply & highest rate
 (d) Any of the above

26. Jaskaran supplies gift packages at Rs. 30 each to its customers. Each package consists of 2 chocolates, 2 fruit juice bottles and a packet of toy balloons. Rates of GST applicable on chocolates, fruit juice bottles and toy balloons are 18%, 12% and 5% respectively. Jaskaran is liable to pay GST @ _____.

- (a) 18%, 12% and 5% separately on value of supply of chocolates, fruit juice bottles and toy balloons respectively
 (b) 18% on the price charged for the gift package
 (c) 12% on the price charged for the gift package
 (d) 5% on the price charged for the gift package

27. Under GST Act a supply of assortment of sweets, chocolates and firecrackers packed in a gift hamper is

- (a) Joint supply
 (b) Composite supply
 (c) Mixed supply
 (d) Assorted supply

Answers:

Qs	Ans	Reason
1.	c	<p>Goods means every kind of movable property</p> <ul style="list-style-type: none"> Other than money and Securities <p>But includes</p> <ul style="list-style-type: none"> 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. <p>From the above definition it is clear that money and securities are not goods.</p>
2.	b	<p>Goods means every kind of movable property</p> <ul style="list-style-type: none"> Other than money and Securities But includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply. <p>Money means</p> <ul style="list-style-type: none"> the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveler cheque, money order, postal or electronic remittance

Qs	Ans	Reason
		<p>or any other instrument recognised by the RBI when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination</p> <ul style="list-style-type: none"> • but shall not include any currency that is held for its numismatic value; <p>Applying the above definition:</p> <p>(i) Ten-paisa coin having sale value of Rs. 100: Currency held for numismatic value is not money and hence goods.</p> <p>(ii) Shares of unlisted company: Shares are securities and hence not goods.</p> <p>(iii) Lottery tickets: They are actionable claims and hence goods.</p>
3.	a	Securities are neither goods nor services but explanation to definition of services provides that "services" includes facilitating or arranging transactions in securities. Hence, if a stock broker charges a commission/brokerage charges/portfolio maintenance charges /investment management fees/demat charges those fall under services and chargeable to GST.
4.	a	<p>Goods means every kind of movable property Other than money and Securities</p> <p>Money means</p> <ul style="list-style-type: none"> • the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveler cheque, money order, postal or electronic remittance or any other instrument recognised by the RBI when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination • but shall not include any currency that is held for its numismatic value; <p>Since money does not include any currency that is held for its numismatic value, Currency held for its numismatic value shall fall under goods.</p>
5.	b	Services means anything other than goods, money and securities but includes activities related to the use of money or its conversion by cash or any other mode for which a separate consideration is charged.
6.	a	<p>(i) AB & Associates transfers stock of goods from its Mumbai branch to Kolkata depot for sale of such goods at the depot: Supply between distinct person is a supply as per schedule I.</p> <p>(ii) Mr. Raghuvver, a dealer of air-conditioners permanently transfers the motor vehicle free of cost. ITC on said motor vehicle was blocked and therefore, was not availed: Since ITC is blocked & hence not availed, it is not a supply as per Para I schedule I.</p> <p>(iii) Mrs. Riddhi, an employee of Sun Ltd., received gift from her employer on the occasion of Diwali worth Rs. 21,000: Gift to employee up to Rs. 50,000 per annum per employee is not a supply as per schedule I.</p>
7.	a	As per Section 7(1)(c), activities specified in Schedule I made without a consideration shall be treated as deemed supply.
8.	a	Section 7(1)(C), Schedule I Para I, Permanent transfer or disposal of business assets where ITC has been availed on such assets qualifies as supply. Since the supplier has not claimed ITC on such car, it does not qualify as supply.
9.	c	Section 7: Since the invoice for further supply of goods by James Bond is in the GSTN of Toto Shoes Ltd, the sales made by James bond shall be included in the turnover of Toto Shoes Ltd. Further, the commission earned by James Bond shall be included his turnover. Hence, the VOS of Toto Shoes Ltd = Rs 5 Crore since invoice was raised in his name & The turnover of James Bond shall be the commission earned = Rs 60 lakhs.
10.	c	Gifts not exceeding Rs. 50,000 in value in a FY by an employer to an employee shall not be treated as supply of goods or services or both. Therefore, there will be no GST Liability.
11.	a	<p>Schedule I, Para 4.</p> <p>Import of services by a person from a related person or from his establishments located outside India, without consideration, in the course or furtherance of business</p> <p>Related party definition under GST included family</p> <p>Section 2(49): Family means, –</p> <p>(i) the spouse and children of the person, and</p>

Qs	Ans	Reason
		<p>(ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.</p> <p>Applying the above:</p> <p>(i) Import of services by a person in India from his son well-settled in USA: Son is a related person, hence it's a supply.</p> <p>(ii) Import of services by a person in India from his brother well-settled in Germany: Brother well-settled in Germany is not a related person, hence it is not a supply.</p> <p>(iii) Import of services by a person in India from his brother (wholly dependent on such person in India) in France: Dependent brother is a related person, hence it's a supply.</p> <p>(iv) Import of services by a person in India from his daughter (wholly dependent on such person in India) in Russia: Daughter is a related person, hence supply.</p>
12.	b	<p>(I) Importation of service free of cost does not amount to supply under schedule I para 4;</p> <p>(II) Importation of service for a consideration amounts to supply under section 7(1)(b).</p>
13.	c	<p>Schedule I, Para 4.</p> <p>Related party definition under GST included family</p> <p>Section 2(49): Family means, –</p> <p>(i) the spouse and children of the person, and</p> <p>(ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.</p> <p>Hence Grand-parents are considered as related persons to their grand-son/grand-daughter only if they are wholly dependent on their grand-son/grand-daughter</p>
14.	a	<p>(a) Dhruv Tara Electronics supplies washing machines to its customers - Supply of goods</p> <p>(b) Bigbang Steels Ltd. supplies a machinery on rent to Jigayasa Manufacturers – Renting i.e. giving right to use is a supply of service.</p> <p>(c) Larsen Technicians given by Deendayal Automobiles on job work basis. retreads the tyres – Job work is a supply of service.</p> <p>(d) Vigyaan Technologies develops a customized software for a business school – Customising software is a supply of Service.</p>
15.	d	<p>(a) Renting of commercial office complex: as per Schedule II para 2, letting out of building including a commercial, industrial or residential complex is a supply of service.</p> <p>(b) An employee agreeing to not work for the competitor organization after leaving the current employment: as per para 5(e) of schedule II, not to do/refrain from doing something is a supply of service.</p> <p>(c) Repairing of mobile phone: as per para 5(e) of schedule II, to do an act is a supply of service.</p> <p>(d) Provision of services by an employee to the employer in the course of employment: As per schedule III, It's neither supply of goods nor supply of service.</p>
16.	a	As per Schedule II any transfer of right in goods/of undivided share in goods without transfer of title thereof, is a supply of services.
17.	d	<p>(i) Permanent transfer of business assets where ITC has been availed on such assets: It's a supply, Supply of goods</p> <p>(ii) Temporary transfer of intellectual property right: It's a supply, Supply of service.</p> <p>(iii) Transportation of the deceased: Section 7(2)(a) read with schedule III: neither as supply of goods nor supply of services.</p> <p>(iv) Services by an employee to the employer in the course of employment: Section 7(2)(a) read with schedule III: neither as supply of goods nor supply of services.</p>
18.	a	<p>(a) Inter- State movement of trucks between distinct persons for repairs and maintenance – it is considered as neither supply of goods nor supply of service as per circular.</p> <p>(b) Grant of mining rights by the Governments to businesses – activity will be considered as a supply.</p> <p>(c) Services provided by an employer to the employee – activity will be considered as supply.</p> <p>(d) Lottery: activity of selling lottery is a supply.</p>

Qs	Ans	Reason
19.	d	Schedule III specifies activities or transaction that shall be treated as neither supply of goods nor supply of services
20.	d	None of the above are naturally bundled , Naturally bundled are normally advertised as a package, different elements are not available separately and different elements are integral to one overall supply.
21.	b	Mixed supply means two or more individual supplies of goods or services, made in conjunction with each other for a single price. It shall be treated as supply of that particular supply which attracts the highest rate of tax.
22.	b	(i) Mr. A buys a car and purchases the warranty and maintenance of the car by paying a nominal amount. Car, warranty and maintenance here are a mixed supply – it's a composite supply. (ii) Mr. A buys a car and purchases the warranty and maintenance of the car by paying a nominal amount. Car, warranty and maintenance here are a composite supply – True, it's a composite supply. (iii) Mrs. A buys a microwave oven and some utensils for use in the microwave oven. Both microwave ovens and utensils are sold at a single price. Microwave oven and its utensils here are a mixed supply – It's a mixed supply individual supplies are supplied for a since supplied for a single price. (iv) Mrs. A buys chocolates, juices and biscuits from a shop. All items have different prices. Chocolates, juices and biscuits are a mixed supply – Its neither mixed nor composite.
23.	d	Section 8: It is a mixed supply; It shall be treated as supply of that particular supply which attracts the highest rate of tax.
24.	c	Composite supply comprises two or more taxable supplies, naturally bundled and supplied in conjunction, one of which is a principal supply.
25.	a	It is a composite supply and taxable at the rate of principal supply.
26.	b	It is a mixed supply. Mixed supply means two or more individual supplies of goods or services, made in conjunction with each other for a single price. It shall be treated as supply of that particular supply which attracts the highest rate of tax.
27.	c	It is a mixed supply. Mixed supply means two or more individual supplies of goods or services, made in conjunction with each other for a single price. It shall be treated as supply of that particular supply which attracts the highest rate of tax.