

Supply under GST

The section numbers referred to in the chapter pertain to the CGST Act, unless otherwise specified.

Logic – No Supply, No GST

Important Definitions:

1) Goods [Sec. 2(52) of CGST Act]:

- 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.

2) Services [Section 2(102) of CGST Act]:

- 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.

3) Business [Section 2(17) of CGST Act]: Includes:

- (a) Any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
- (b) Any activity or transaction in connection with or incidental or ancillary to (a) above;
- (c) Any activity or transaction in the nature of (a) above, whether or not there is volume, frequency, continuity or regularity of such transaction;
- (d) Supply or acquisition of goods including Capital Assets and Services in connection with commencement or closure of business;
- (e) Provision by a Club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members, as the case may be;
- (f) Admission, for a consideration, of persons to any premises; and
- (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;
- (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.
- (i) Any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities.

4) Consideration [Section 2(31) of CGST Act]:

- Any payment made or to be made, whether in money or otherwise, for the supply of goods or services or both, whether by the recipient or by any other person, but shall not include any subsidy given by the Central Government or a State Government,
- the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government.
- However, a deposit given shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply.

5) Person [Section 2(84) of CGST Act]:

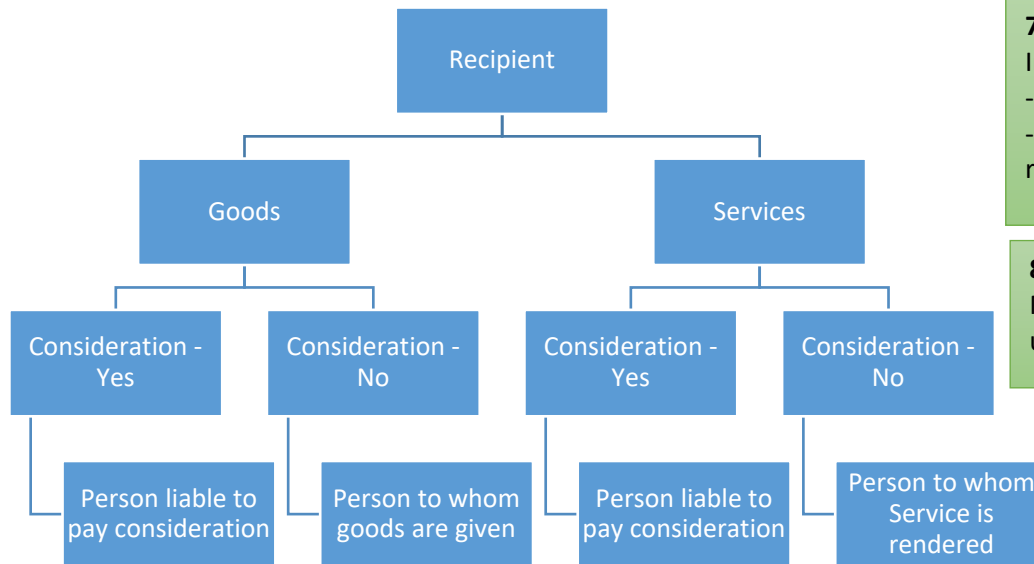
Includes:

- An individual - A HUF - A company - A firm
- A Limited Liability Partnership
- An association of persons or a body of individuals, whether incorporated or not, in India or outside India
- Any corporation established by/under any Central, State or Provincial Act or Government company as defined in section 2(45) of Companies Act, 2013
- Any body corporate incorporated by or under the laws of a country outside India
- A co-operative society registered under any law relating to cooperative societies
- A local authority - Central Government/State Government
- Society as defined under the Societies Registration Act, 1860 - Trust
- Every artificial juridical person, not falling above

6) Recipient [Section 2(93) of CGST Act]:

Recipient of supply of goods and/or services means:

- where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration,
- where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available, and
- where no consideration is payable for the supply of a service, the person to whom the service is rendered, and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an Agent acting as such on behalf of the recipient in relation to the goods or services or both supplied.



7) Supplier [Section 2(105) of CGST Act]:
 In relation to any goods or services or both, shall mean:
 - The person supplying the said goods or services or both and
 - Shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied.

8) Taxable supply [Section 2(108) of CGST Act]:
 Means a supply of goods and/or services which is chargeable to tax under CGST Act

9) Non-taxable supply [Section 2(78) of CGST Act]:
 Means a supply of goods or services or both which is not leviable to tax under CGST Act or under IGST Act.

10) Exempt supply [Section 2(47) of CGST Act]:
 Means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax and includes non-taxable supply

11) Agent [Section 2(5) of CGST Act]:
 Means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another.

12) Principal [Section 2(88) of CGST Act]:
 Means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both.

13) Manufacture [Section 2(72) of CGST Act]:
 Means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term "manufacturer" shall be construed accordingly.

14) Money [Section 2(75) of CGST Act]:
 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 Reserve Bank of India but shall not include any currency that is held for its numismatic value.

15) Family [Section 2(49) of the CGST Act]:

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.

Let us study the following:

Section 7	Meaning and scope of supply
Section 8	Taxability of composite and mixed supplies
Schedule I	Activities to be treated as supply even if made without consideration
Schedule II	Activities or transactions to be treated as supply of goods or as supply of services
Schedule III	Activities or transactions which shall be treated neither as supply of goods nor as supply of services.

Concept of Supply (Section 7 of CGST Act): Meaning & Scope of Supply**Section Particulars****Supply Includes -**

Section 7(1)(a); 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

Section 7(1)(aa); **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

Section 7(1)(c); the activities specified in Schedule I, made or agreed to be made without a consideration.

Section 7(1A); 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.

Notwithstanding anything contained in sub-section (1),

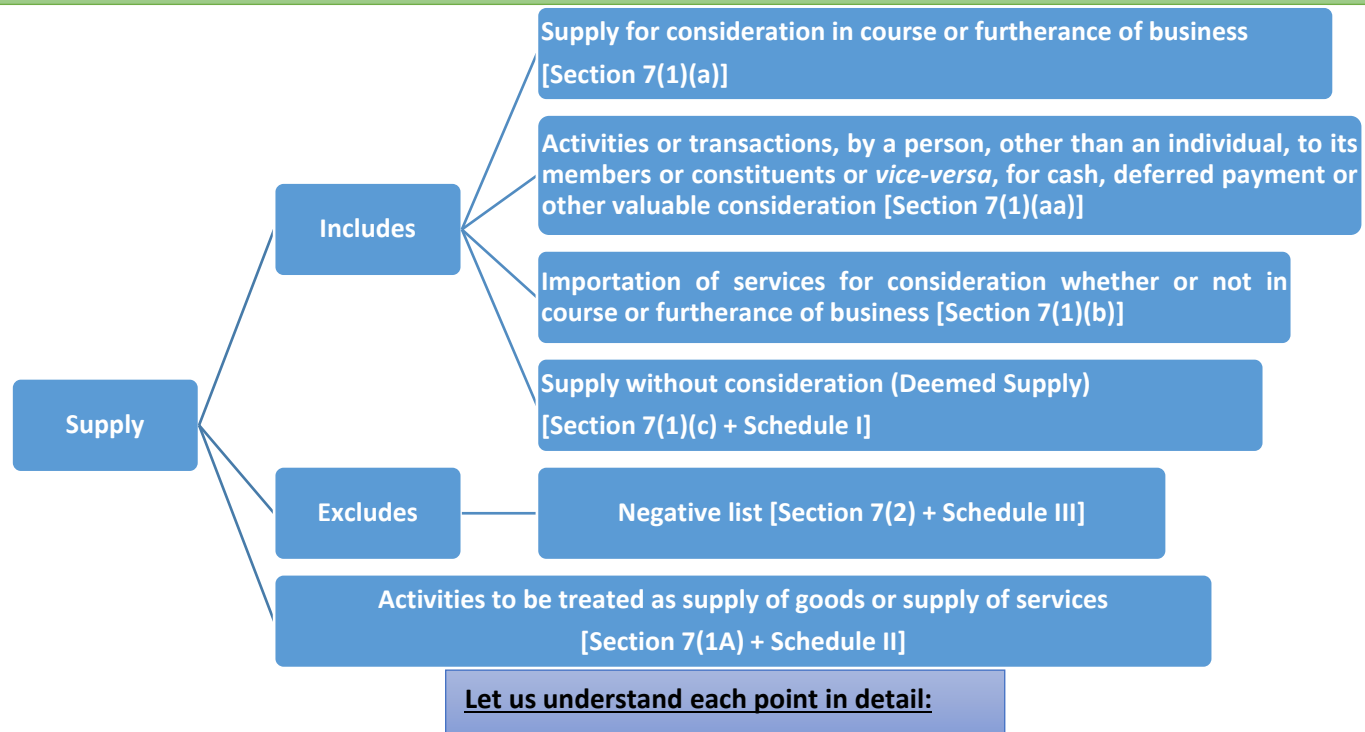
Section 7(2)(a); Activities or transactions specific in schedule III; or

Section 7(2)(b); Such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council shall be treated neither as a supply of goods nor a supply of services.

Section 7(3); Subject to sub-sections (1), (1A) & (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as —

- (a) a supply of goods and not as a supply of services; or**
- (b) A supply of services and not as a supply of goods**

Note: Provisions of scope of supply under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.



Section 7(1)(a) (Supply of Goods or Service + Consideration + In course of Business):

A. Various forms of supply contemplated in section 7(1)(a) are sale, transfer, barter, exchange, licence, rental, lease or disposal. These forms of supply are only illustrative and not exhaustive. However, none of these terms have been defined under the Act.

Example:

- 1) A shopkeeper sells a pen for ₹ 100 to the buyer. After the sale, the pen belongs to the buyer and shopkeeper does not have any right on the pen. This is a transaction of sale.
- 2) A company transfers goods from its factory to the depot for sale purposes. This is 'transfer' of goods where the sale has not yet taken place.
- 3) When a new car worth ₹ 5,00,000 is purchased in exchange of an old car alongwith the monetary consideration of ₹ 4,00,000 paid for the said purchase.
- 4) A doctor got his hair cut from a barber and provides him medical consultancy in return. In this transaction, the doctor provided the medical consultancy services to the barber for which consideration was in the form of hair cutting services provided by the barber. Similarly, the barber provided hair cutting services to the doctor for which consideration was in the form of medical consultancy services provided by the doctor. The above transaction shall be treated as a "barter" transaction both from the point of view of "doctor" as well as "barber".

B. As mentioned earlier, one of the parameters to qualify as a supply of goods and/or services is that a supply is made for a **consideration**.

The term consideration is defined under section 2(31).

Let us examine the existence of consideration in the following scenarios:

1. Donations received by charitable institutions from individual donors, without *quid pro quo* (something for something)

An important feature of consideration is *quid pro quo* [something for something].

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).

Generally, institutions such as religious institutions, charitable organisations, schools, hospitals, orphanages, old age homes etc. receive financial help or any other support in the form of donation or gift from the individual donors. In order to express the gratitude towards such help/support, the recipient institutions place a name plate or similar such acknowledgement in their premises.

When the name of the donor is displayed in recipient institution's premises, in such a manner, 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). In other words, 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: -

Example:

1) Bhushan donated a blackboard to Yoganisht Sansthan – a charitable yoga institution. Yoganisht Sansthan printed underneath the blackboard so donated - “Good wishes from Mr. Bhushan”

2) Smt. Durga Devi donated some money to a temple in the memory of her late father. The Temple Trust constructed a room in the temple complex from such donation and wrote “Donated by Smt. Durga Devi in the memory of her father” on the door floor of the room.

In above 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, GST is not leviable where the following three cumulative conditions are satisfied namely:

- Gift or donation is made to a charitable organization
- Payment has the character of gift or donation
- Purpose is philanthropic (i.e., it leads to no commercial gain) and not advertisement.

2. Art works sent by artists to galleries for exhibition is not a supply as no consideration flows from the gallery to the artists.

Artists give their work of art to galleries where it is exhibited for supply. However, no consideration flows from the gallery to the artist when the art works are sent to the gallery for exhibition and therefore, the same is not a supply.

It is only when a buyer selects a particular art work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply.

Provisions indicates that the art work for supply on approval basis can be moved from the place of business of the registered person (artist) to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of actual supply of art work.

It is also clarified that the supplies of the art work from one State to another State will be inter-State supplies and attract IGST in terms of section 5 of the IGST Act.

C. Another parameter to qualify as supply of goods and/or services is that a **supply is made in course or furtherance of business**. This parameter has been explained in the following paras:

Some of the examples of supply made/not made 'in the course or furtherance of business' are as follows:

- 1) Rishabh buys a car for his personal use and after a year sells it to a car dealer. Sale of car by Rishabh to car dealer is not a supply under CGST Act because said supply is not made by Rishabh in the course or furtherance of business
- 2) Manikarnika sold her old gold bangles and earrings to 'Aabhushan Jewellers'. Sale of old gold jewellery by an individual to a jeweller will not constitute supply as the same cannot be said to be in the course or furtherance of business of the individual.
The view taken in above two examples is based on the view taken in the Departmental FAQs/ press release. Since 'business' includes vocation, therefore sale of goods or service as a vocation is also a supply under GST.
- 3) Sundaram Acharya, a famous actor, paints some paintings and sells them. The consideration from such sale is to be donated to a Charitable Trust – 'Kind Human'. The sale of paintings by the actor qualifies as supply.
- 4) A Resident Welfare Association provides the service of depositing the electricity bills of the residents in lieu of some nominal charges. Provision of service by a club or association or society to its members is treated as supply as this is included in the definition of 'business'.
- 5) Services by way of admission to circus, cinema halls, amusement parks including theme parks, water parks, etc. are considered as supply as these are services by way of admission of persons to any premises for a consideration.
- 6) Royal Turf Race Club is engaged in facilitating the wagering (betting) transactions on horses placed through totalisator. For providing the service of facilitating wagering transactions, Royal Turf Race Club gets commission which is deducted and retained by the club from the total bet value. Said services amount to supply as the activities of a race club are included in business.

Section 7(1)(aa):

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.
Purpose is to clarify that for the purpose of this clause, the person and its members/ constituents shall be deemed to be two separate persons and the supply of activities/ transactions *inter se* shall be deemed to take place from one person to another.

Example: Resident Welfare Association (RWA) of Sanskriti Society supplies air-conditioners to its members at a concessional price.
Example: A Resident Welfare Association collects maintenance charges from its members for services provided. Here, in both the aforesaid examples, it shall be deemed that the Resident Welfare Association (RWA) and its members are two separate persons and it shall be deemed that the supply has taken place from Resident Welfare Association (RWA) to its members.

Clarification

JV being an unincorporated temporary association constituted for the limited purpose of carrying out a specified project within a time frame, a comprehensive examination of the various JV agreements (at times, there could be number of *inter se* agreements between members of the JV) holds the key to understanding of the taxation of transactions involving taxable services between the JV and its members or inter-se between the members of a JV.

Thus, whether a cash call is merely a transaction in money and hence not in the nature of consideration for taxable service, would depend on the terms of the Joint Venture Agreement, which may vary from case to case.

'Cash calls' are raised by an operating member of the joint venture on other members in proportion to their participating interests in the joint venture (unincorporated) to meet the expenditure on the operations to be carried out as per the approved work programme and budget. Let us understand the taxability of cash calls with the help of following examples:

Example: There are 4 members in the JV including the operating member and each one contributes ₹ 100 as part of their share. A total amount of ₹ 400 is collected. The operating member purchases machinery for ₹400 for the JV to be used in oil production. In above case, cash calls will not be subject to GST since the operating member is not carrying out an activity for another for consideration.

Here, the money paid for purchase of machinery is merely in the nature of capital contribution and is therefore a transaction in money.

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

In above case, the operating member uses its own machinery and is therefore providing 'service' within the scope of 'supply' because here operating member is recovering the cost appropriated towards machinery & services from other JV members in their participating interest ratio [Circular No. 35/9/2018 GST dated 05.03.2018].

Section 7(1)(b): Importation of services for a consideration whether or not in the course or furtherance of business (only exception to the condition of supply being made in course or furtherance of business)

Example: Ramaiyaa, a proprietor, has received the architect services for his house from an architect located in New York at an agreed consideration of \$ 5,000. The import of services by Ramaiyaa is supply under section 7(1)(b) though it is not in course or furtherance of business.

Section 7(1)(c): Activities without Consideration – Deemed Supply – Schedule I – Para 1 to Para 4

1) Para 1 to Schedule I

Permanent transfer or disposal of Business Assets where input tax credit has been availed on such assets.

Example:

- 1) Dhruv gives old laptops being used in his business to his friend free of cost. This will qualify as supply provided input tax credit has been availed by Dhruv on such laptops.
- 2) A dealer of air-conditioners permanently transfers the motor vehicle free of cost. ITC on said motor vehicle is blocked. The transaction will not constitute a supply as the condition of availment of ITC on the business asset transferred is not fulfilled.

Note: This clause is wide enough to cover transfer of business assets from holding to subsidiary company for nil consideration.

2) Para 2 to Schedule I

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.*

Meaning of Related Persons (Explanation to Section 15):

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

Under GST law various categories of related persons have been specified:

Persons including legal person are deemed as related persons if:

- Such persons are officers/directors of one another's business
- Such persons are legally recognised partners
- Such persons are employer & employee
- A third person controls/ owns/ holds(directly/indirectly) $\geq 25\%$ voting stock/shares of both of them (Example: Ms. Priya holds 30% shares of ABC Ltd. and 35% shares of XYZ Ltd. ABC Ltd. and XYZ Ltd. are related)
- One of them controls the other (directly/indirectly) (Example: Q Ltd. has a deciding role in corporate policy, operations management and quality control of R Ltd. It can be said that Q Ltd. controls R Ltd. Thus, Q Ltd. and R Ltd. are related)
- A third person control (directly/indirectly) both of them
- Such persons together control (directly/indirectly) a third person
- Such persons are members of the same family
- One of them is the sole agent/sole distributor/sole concessionaire of the other.

Meaning of Distinct Persons (Section 25 of CGST Act, 2017):

Let us first have an overview of the registration provisions for better understanding of the concept of distinct persons.

Under GST law, a supplier is required to obtain State-wise registration. He has to obtain registration in every State/UT from where he makes a taxable supply provided his aggregate turnover exceeds a specified threshold limit. Thus, he is not required to obtain registration from a State/UT from where he makes a non-taxable supply. Since registration in GST is PAN based, once a supplier is liable to register, he has to obtain registration in each of the States/UTs in which he operates [and makes a taxable supply] under the same PAN. Further, he is normally required to obtain single registration in a State/UT. However, where he has multiple places of business in a State/UT, he has the option either to get a single registration for said State/UT or to get separate registrations for each place of business in such State/UT.

Now, let us understand the concept of distinct persons in simple terms:

The establishments of a person with separate registrations whether within the same State/UT or in different States/UTs are considered as distinct persons. Where a person having one registered establishment in a State/UT has another establishment in a different State/UT [not necessarily registered], these establishments are considered as establishments of distinct persons.

Section 25(4):

Statutory provisions relating to 'distinct persons' are contained in sub-sections (4) and (5) of section 25. They have been discussed as follows: A person who has obtained/is required to obtain more than one registration, whether in one State/Union territory or more than one State/Union territory shall, in respect of each such registration, be treated as distinct persons.

Example: Mohan, a Chartered Accountant, has a registered head office in Delhi. He has also obtained registration in the State of West Bengal in respect of his newly opened branch office. Mohan shall be treated as distinct persons in respect of registrations in West Bengal and Delhi.

Section 25(5):

Further, where a person who 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.

Example: Rishabh Enterprises, a registered supplier, owns an air-conditioned restaurant in Virar, Maharashtra. It has opened a liquor shop in Raipur, Uttarakhand for trading of alcoholic liquor for human consumption. Since supply of alcoholic liquor for human consumption in Uttarakhand is a non-taxable supply, Rishabh Enterprises is not required to obtain registration with respect to the same in Uttarakhand. In this case, air-conditioned restaurant in Maharashtra and liquor shop [though unregistered] in Uttarakhand shall be treated as establishments of distinct persons. Supply by Maharashtra restaurant to Uttarakhand shop, in course or furtherance of business even without consideration will qualify as supply.

Stock transfers or branch transfers qualify as supply:

It is a common practice in business that one branch supplies services to another branch of same entity without consideration. Similarly, goods are transferred among different units of same entity free of cost, for instance, distribution of samples manufactured in a factory to different branches or transfer of goods from factory to depot/showroom for sale therefrom, from one warehouse to another warehouse, from one branch to another branch where the demand of the goods is higher. These transactions are termed as self-supplies. Under GST, these transactions undertaken, even without consideration, will also qualify as supply, provided the transfer of goods or services is between:

- (i) different locations (with separate GST registrations) of same legal entity as these are transactions between distinct persons, or
- (ii) establishments of distinct persons.

Example: Raghubir Fabrics transfers 1000 shirts from his factory located in Lucknow to his retail showroom in Delhi so that the same can be sold from there. The factory and retail showroom of Raghubir 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.

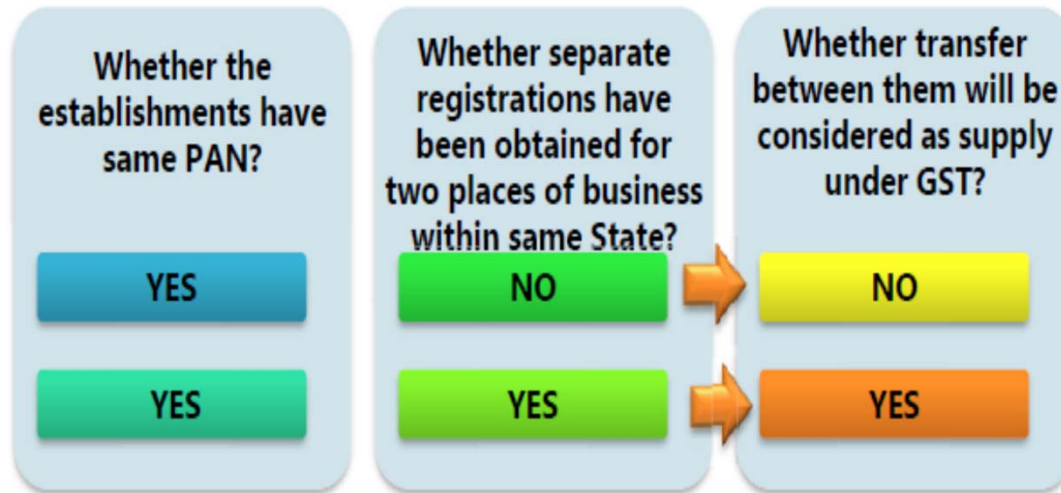
However, transfer between two units of a legal entity under single registration (apparently within same State) will not be considered as supply. This can be understood with the help of the following:

Example: Raghubir Fabrics transfers 1000 shirts from his factory located in Lucknow to his retail showroom in Kanpur so that the same can be sold from there.

It has taken one registration in the State of Uttar Pradesh declaring Lucknow factory as its principal place of business and Kanpur showroom as its additional place of business.

Since no consideration is charged, supply of goods from factory to retail showroom in same State under single registration does not constitute supply.

However, in the above example, if Raghubir Fabrics obtains separate registrations for Lucknow factory and Kanpur showroom, stock transfer between the Lucknow factory and Kanpur showroom will constitute supply.



Employer – Employee:
Supply of goods or services or both between an employer and employee is not supply

In terms of the definition of related person given above, employer and employee are related persons. However, services provided by an employee to the employer in the course of or in relation to his employment are not treated as supply [Schedule III of CGST Act (discussed subsequently in this chapter)].

Proviso to Para 2 of Schedule I:

Gifts not exceeding ₹ 50000 in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both. However, gifts of value more than ₹ 50,000 made without consideration are supply and are subject to GST, when made in the course or furtherance of business.

Perquisites by Employer to Employee:

As already discussed, that the services by an employee to the employer in the course of or in relation to his employment is outside the scope of GST (neither supply of goods or supply of services). It follows therefrom that payment made 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. Ministry of Finance has clarified in a *Press Release on 10.07.2017* that if services such as membership of a club, health and fitness centre etc. are provided free of charge to all the employees by the employer, the same will not be subjected to GST. The same would hold true for free housing to the employees, when the same is provided in terms of the contract between the employer and employee and is part and parcel of the cost-to company.

Circular No. 172/04/2022 GST dated 06.07.2022:

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.

Circular No. 47/21/2018 GST dated 08.06.2018:

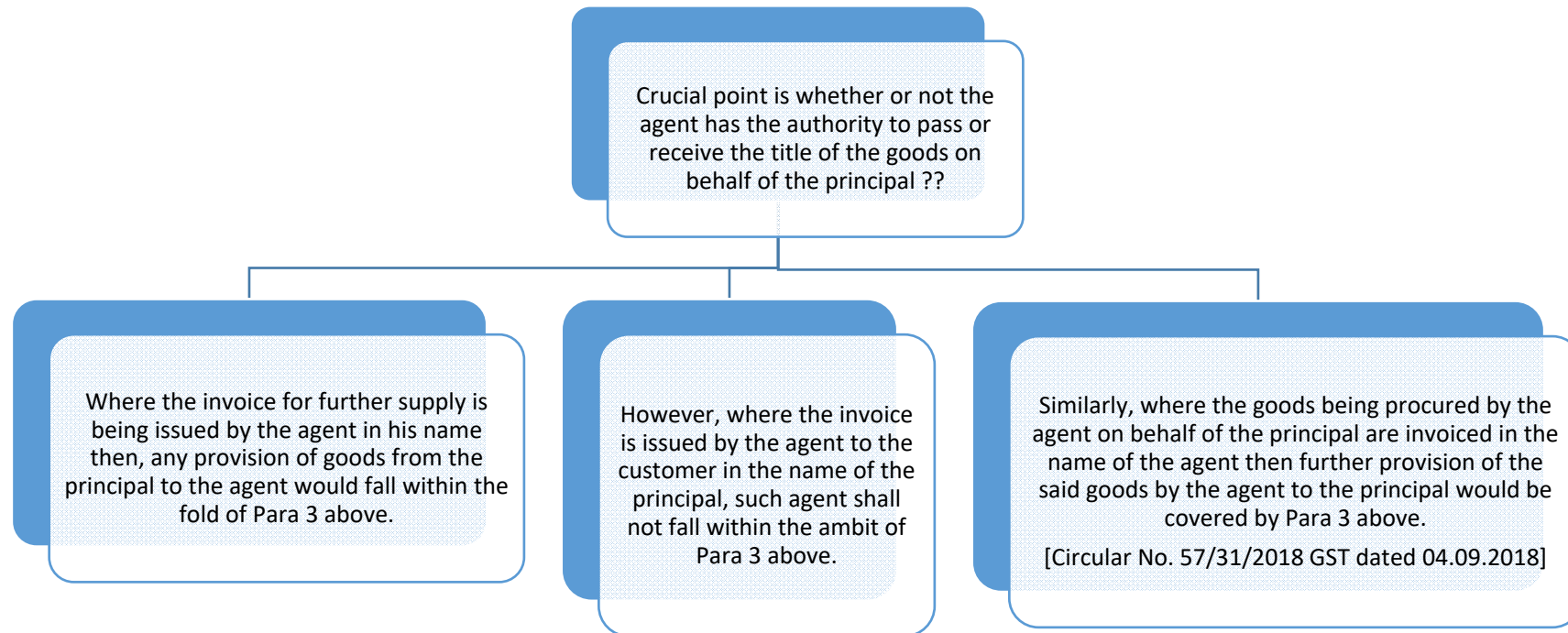
Moulds and dies owned by Original Equipment Manufacturers (OEM) that are sent free of cost (FOC) to a component manufacturer, in course or furtherance of business, do not constitute supply since they are not related persons or distinct persons and there is no consideration involved.

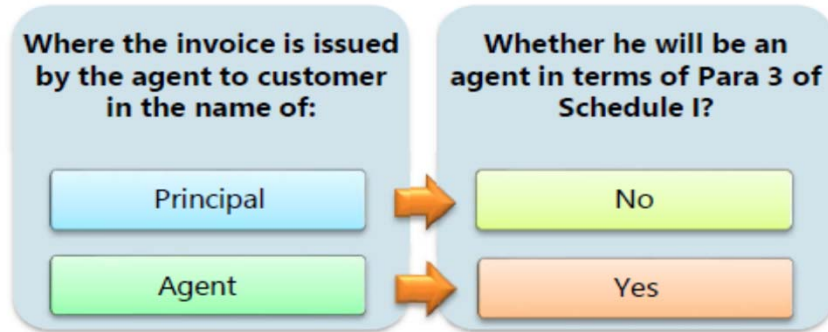
3) Para 3 to Schedule I

Supply of goods —

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

In order to determine whether a particular principal-agent relationship falls within the ambit of the Para 3 of Schedule I as discussed above or not, the deciding factor is whether the invoice for the further supply of goods on behalf of the principal is being issued by the agent or not?





Examples:

1) Anmol appoints Bholu to procure certain goods from the market. Bholu identifies various suppliers who can provide the goods as desired by Anmol, and asks the supplier (Golu) to send the goods and issue the invoice directly to Anmol. In this scenario, Bholu 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, Bholu is not an agent of Anmol for supply of goods in terms of Para 3 of Schedule I.

2) Manimani Bank, a banking company, appoints Mandaar (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 Manimani Bank. The invoice for the supply of the goods is issued by Manimani Bank 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, Mandaar is not an agent of Manimani Bank for the supply of goods in terms of Para 3 of Schedule I.

3) Gautam, an artist, appoints Gambhir (auctioneer) to auction his painting. Gambhir 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 Gambhir on the behalf of Gautam but in his own name and the painting is delivered to the successful bidder. In this scenario, Gambhir is not merely providing auctioneering services, but is also supplying the painting on behalf of Gautam to the bidder, and has the authority to transfer the title of the painting on behalf of Gautam. This scenario is covered under Para 3 of Schedule I.

4) A 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 Para 3 of Schedule I. The disclosure or non-disclosure of the name of the principal is immaterial in such situations.

5) Ravi sells agricultural produce by utilizing the services of Kavi who is a commission agent as per the Agricultural Produce Marketing Committee Act (APMC Act) of the State. Kavi identifies the buyers and sells the agricultural produce on behalf of Ravi for which he charges a commission from Ravi. As per the APMC Act, the commission agent is a person who buys or sells the agricultural produce on behalf of his principal, or facilitates buying and selling of agricultural produce on behalf of his principal and receives, by way of remuneration, a commission or percentage upon the amount involved in such transaction. In cases where the invoice is issued by Kavi to the buyer, the former is an agent covered under Para 3 of Schedule I. However, in cases where the invoice is issued directly by Ravi to the buyer, the commission agent (Kavi) doesn't fall under the category of agent covered under Para 3.

Note: Issues relating to Del Credere Agent is discussed in further chapters.

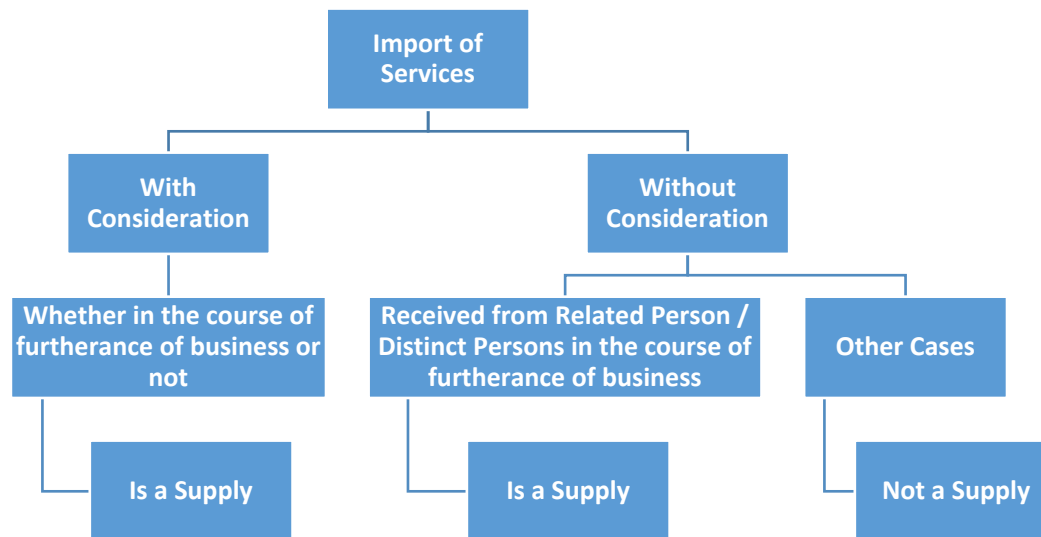
4) Para 4 to Schedule I: Importation of Services

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**, shall be treated as Supply.

Example:

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

2) Chakmak, a proprietor registered in Delhi, has sought architect services from his son located in US, with respect to his newly constructed house in Delhi. Although services have been received by Chakmak without consideration from his son - a related person, yet it will not qualify as supply since the same has not been received in course or furtherance of business. However, if in the above case, Chakmak receives architect services without consideration from his son with respect to his office in Delhi, the same shall be treated as supply because the same have been received in the course of business.



In the preceding paras, we have discussed the provisions of Schedule-I which enumerates the cases where an activity is treated as supply even though it is undertaken free of cost. Let us now examine whether the items given free of cost in case of some of the sales promotion schemes qualify as supply or not.

Clarification on Sales promotion schemes:

A number of sales promotion schemes are commonly employed by the businesses to increase sales volume or to encourage the use or trial of a product or service so that new customers get attracted towards their products. For instance, certain sections of trade and industry, such as, pharmaceutical companies often provide drug samples to their stockists, dealers, medical practitioners, etc., or sometimes, companies announce offers like 'Buy One, Get One free' - buy one soap and get one soap free or get one tooth brush free along with the purchase of tooth paste. As we have already seen that as per section 7(1)(a), the goods or services which are supplied free of cost (without any consideration) shall not be treated as "supply" except in case of activities mentioned in Schedule I of the CGST Act. In view of the same, few sales promotion schemes have been examined as under:

Free Samples & Gifts:

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.

Buy one get one free offer:

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 accordingly – Concept of composite and mixed supply has been discussed subsequently in this chapter. [Circular 92/11/2019 GST dated 07.03.2019]

Section 7(1A): Activities or Transactions to be treated as Supply of Goods or Services (Schedule II)

Section 7(1A) classifies certain activities/ transactions constituting supply, either as supply of goods or supply of services. Schedule II to the CGST Act contains the list of activities or transactions which have been classified either as supply of goods or supply of service. This helps in mitigating the ambiguities which existed in earlier laws.

Example: Under earlier tax regime, the restaurants used to charge both service tax and VAT on the value of food served. This is so because both sale of goods and provision of service were involved and therefore taxable event under both the Statutes i.e., respective VAT law and service tax law got triggered.

Under GST, the supply by a restaurant is treated as composite supply [concept of composite supply is discussed subsequently in this chapter] since food and service is naturally bundled in ordinary course of business. Further, para 6(b) of Schedule II [refer table below] specifically provides that such composite supply shall be treated as supply of service. Hence, the entire value of invoice shall be treated as value of service and leviable to GST accordingly.

Para No.	Activity/ Transaction	Type	Nature of Supply
1.	Transfer	<p>(a) Any transfer of title in goods. Example: Shivaji sells ready-made garments to its customers.</p> <p>(b) Any transfer of <u>right</u> in goods/ undivided share in goods without transfer of title thereof. Example: Genius Equipments Ltd. gives a machinery on rent to Suhaasi Manufacturers.</p> <p>(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. (i.e. Possession is given now itself) Example: Dhruva Capitals supplied goods on hire purchase basis to customers. Example: Optima Manufacturers supplies toys to retailers on 'sale or return basis'.</p>	<p>Supply of Goods</p> <p>Supply of Services</p> <p>Supply of Goods</p>
2.	Land and Building	<p>Any lease, tenancy, easement, licence to occupy land. Example: Lease agreement for land.</p> <p>Any lease or letting out of building including a commercial, industrial or residential complex for business or commerce, wholly or partly. Example: A shop let out in a busy market area.</p>	Supply of Services
3.	Treatment or Process	<p>Any treatment or process which is applied to another person's goods Example: Damani Dying House dyes the clothes given by Shubham Textiles Ltd. on job work basis.</p>	Supply of Services
4.	Transfer of Business Assets	<p>Goods forming part of business assets are transferred or disposed of by/under directions of person carrying on the business so as no longer to form part of those assets.</p>	Supply of Goods

Supply of Services

Goods held/used for business are put to private use or are made available to any person for use for any purpose other than business, by/ under directions of person carrying on the business.

Example: Company giving Car to its directors for personal use

Example: A person manufacturing and selling wooden furniture takes one chair manufactured by him for use at his house.

Goods forming part of assets of any business carried on by a person who ceases to be a taxable person, 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.

Example: Arun, a trader, is winding up his business. Any goods left in stock shall be deemed to be supplied by him.

Exceptions:

- Business is transferred as a going concern to another person.
- Business is carried on by a personal representative who is deemed to be a taxable person.

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

Supply of Services

Example: Renting of a commercial complex.

Example: Renting of precincts of a religious place.

Example: Renting of property to an educational institution.

Example: Permitting use of immovable property for placing vending/dispensing machines.

Taxability of Tenancy Rights under GST

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.

The transfer of tenancy rights cannot be treated as Sale of land/building in Para 5 of Schedule III. Thus, it is not a negative list activity and consequently, a consideration for the said activity shall attract levy of GST.

Thus, transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable. Further, 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** [Circular No.44/18/2018 CGST dated 02.05.2018].

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

Supply of Services

Construction of a complex, building, civil structure or a part there of, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.

Example: Rathi Builders has constructed individual residential units for agreed consideration of ₹ 1.2 crore per unit. ₹ 90 lakh per unit were received before issuance of completion certificate by the competent authority and balance after completion. It is a Taxable Supply of Services

The term **construction** includes additions, alterations, replacements, or remodeling of any existing civil structure.

The expression **competent authority** means the Government or any authority authorised to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely:

- (i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972; or
- (ii) a chartered engineer registered with the Institution of Engineers (India); or
- (iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority.

(c) Temporary transfer or permitting use or enjoyment of any intellectual property right

Example: Temporary transfer of patent.

(d) Development, design, programming, Customisation, adaptation, upgradation, enhancement, implementation of IT software.

Example: Suvidha Solutions develops an accounting software for a business firm.

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

Example: Cable operator - Sakharam has entered into an agreement with Cable operator - Aatmaram that Sakharam will not provide cable connections in the specified areas where Aatmaram is providing the connections. Non-compete agreements constitute supply of service.

Example: Late delivery charges recovered from supplier for non-fulfilment of contract within stipulated time, if already agreed.

Example: Security deposit forfeited in the event of cancellation of tour package by the customer.

Circular No. 178/10/2022 GST dated 03.08.2022: Clarification regarding GST applicability on liquidated damages, compensation and penalty arising out of breach of contract or other provisions of law:

Such charges/fine/etc shall be considered as Supply only if:

- Consideration must flow from other party in return,
- Express/Implied Promise should be there
- There should be an Independent Arrangement

It won't be considered as a Supply, if:

- It is merely an event in the course of performance
- It doesn't represent the object

Circular No. 186/18/2022 GST dated 27.12.2022: Clarification regarding No Claim Bonus (NCB) in case of Insurance: It was clarified that there is no supply provided by the insured to the insurance company in form of agreeing to the obligation to refrain from the act of lodging insurance claim during the previous year(s) and NCB cannot be considered as a consideration for any supply provided by the insured to the insurance company.

Therefore,

- 1) Liquidated Damages, if already agreed for Breach of Contract – Will be a supply
- 2) Fine/Penalty for Cheque Dishonour – Not a Supply
- 3) Penalty imposed for Violation of Laws - Not a Supply
- 4) Forfeiture of Salary or Payment of Bond amount in the event of employee leaving the employment before minimum agreed period, if not agreed earlier: Not a Supply

- 5) Late Payment Surcharge or Fee – Will be a Supply if agreed earlier
- 6) Fixed Minimum Charges for Power – Is considered as Sale of Electricity & since Electricity is exempt from GST & thus not taxable.
- 7) Cancellation charges (Example: Reserved Tickets of Railways, Hotel Bookings etc) – Will be a Supply as generally agreed earlier.
- 8) Forfeiture of Earnest Money by a Seller ie Penalty for discouraging non-serious buyers – Not a Supply

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

Example: Machinery given on hire.

6.

Following Composite Supplies:

Supply of Services

(a) Works contract

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 2(119)].

(b) Restaurant & Outdoor Catering Services

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

Non Supplies under GST – Schedule III & Section 7(2)

Our discussion under this heading will revolve around the following:

- A. Non-supplies listed in Schedule III
- B. Non-supplies notified vide notification
- C. Non-supplies clarified by way of clarification

A. NON-SUPPLIES LISTED IN SCHEDULE III

Para No. Activities or transactions which shall be treated neither as a supply of goods nor a supply of services

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

Example: Amounts received by an employee from the employer on premature termination of contract of employment are treatable as amounts paid in relation to services provided by the employee to the employer in the course of employment.

Example: Services provided by casual worker to employer who gives wages on daily basis to the worker are services provided by the worker in the course of employment.

Example: Casual workers employed by a construction contractor for execution of a building contract for him are services in the course of employment. Similarly, casual workers employed by a security services agency for provision of security services to a client are also services in the course of employment. **Only services that are provided by the employee to the employer in the course of employment are outside the realm of supply. However, services provided outside the ambit of employment for a consideration would qualify as supply.**

Example: Services provided on contract basis by a person to another i.e. principal-to-principal basis are not services provided in the course of employment.

Example: Any amount paid by employer to employee for not joining a competing business is paid for providing the service of forbearance to act and cannot be considered for providing services in the course of employment.

Example: Amount paid by Company to its Director & TDS on the same is deducted u/s 192 of Income Tax Act, 1961, this will be covered in Schedule III

Example: Amount paid by Company to its Director & TDS on the same is deducted u/s 194J of Income Tax Act, 1961, this will not be covered in Schedule III

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

Explanation – The term "**Court**" includes District Court, High Court and Supreme Court.

Leviability of GST on amounts/fees charged by Consumer Disputes Redressal Commission

In order to provide inexpensive, speedy and summary redressal of consumer disputes, quasi-judicial bodies are set up in each District and State and at the National level, called the District Forums, the State Consumer Disputes Redressal Commissions and the National Consumer Disputes Redressal Commission respectively. Consumer Disputes Redressal Commissions (National/ State/ District) may not be tribunals literally as they may not have been set up directly under Article 323B of the Constitution. However, they are clothed with the characteristics of a Tribunal.

Consequently, fee paid by litigants while registering complaints to said Commissions are not leviable to GST. Any penalty in cash imposed by or amount paid to these Commissions will also not attract GST [Circular No. 32/06/2018 GST dated 12.02.2018].

3.(a) Functions performed by the Members of Parliament, Members of States Legislature, Members of Municipalities and Members of other local authorities.

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

Example: Duties performed by President of India, Vice President of India, Prime Minister of India, Chief Justice of India, Speaker of the Lok Sabha, Chief Election Commissioner, 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 Members 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.

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

5. Sale of land and, subject to paragraph 5(b) of Schedule II, Sale of building.

Clarification regarding 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.

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. **[Circular No. 177/09/2022 GST dated 03.08.2022]**

6. Actionable claims, other than lottery, betting and gambling.

'Actionable claims' are specifically included in the definition of goods under section 2(52)

However, this para of Schedule III specifically excludes actionable claims, other than lottery, betting and gambling from the ambit of definition of supply.

Co-joint reading of said provisions implies that **only lottery, betting and gambling are treated as supply. All other actionable claims are outside the ambit of definition of supply.**

Some of the other examples of actionable claims are: Right to recover insurance money, claim for arrears of rent, claims for future rents (if these can be assigned), unsecured loans, unsecured debentures, bills of exchange, promissory notes, bank guarantee, Fixed Deposit Receipt, right to the benefit of a contract, etc.

7. 'Out and out supplies' (i.e. merchant trading): Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.

Example: Vivekanand purchased goods from USA and sold it to George in Canada without bringing the goods in India. This transaction is neither supply of goods nor supply of services.

8. Not Applicable for CA Inter:

(a) Supply of warehoused goods to any person before clearance for home consumption.

Example: Radheyshyam imported some goods in India but kept the goods in custom bonded warehouse without clearing it for home consumption. In the meantime, Radheyshyam sold these goods to Sitaram while they were in warehouse. This transaction between Radheyshyam and Sitaram is neither supply of goods nor supply of services.

(b) Supply of goods by the consignee to any other person, by endorsement of document of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.

Example: Prason of India imported some goods from Japan. While the goods were in high seas, Prason sold the goods to Jinesh in India by way of endorsement of documents of title of goods. This transaction between Prason and Jinesh is neither supply of goods nor supply of services.

B. NON-SUPPLIES NOTIFIED VIDE NOTIFICATION (Section 7(2)(b))

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

(i) Activity in relation to Panchayat/Municipality functions:

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

(ii) Grant of Alcoholic Liquor Licence: Services by way of grant of alcoholic liquor licence by the State Governments are 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.

Hence, this 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.

It may be noted that 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. (Will study later - Tax is required to be paid by the business entities on such services under reverse charge)

C. NON-SUPPLIES CLARIFIED BY WAY OF CLARIFICATION

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

(i) Inter-State movement of various modes of conveyance

Inter-State movement of various modes of conveyance, between distinct persons including-

- Trains, • Buses, • Trucks, • Tankers, • Trailers, • Vessels, • Containers, • Aircrafts,

(a) carrying goods or passengers or both; or

(b) for repairs and maintenance,

[except in cases where such movement is for further supply of the same conveyance] shall be treated 'neither as a supply of goods or supply of service' and therefore not be leviable to IGST.

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

(ii) Inter-State movement of rigs, tools and spares, and all goods on wheels [like cranes]

Above circular shall *mutatis mutandis* apply to inter- State movement of rigs, tools and spares, and all goods on wheels [like cranes], [except in cases where movement of such goods is for further supply of the same goods], such inter-State movement shall be treated 'neither as a supply of goods or supply of service,' and consequently no IGST would be applicable on such movements.

In this context, it is also reiterated that applicable CGST/SGST/IGST, as the case maybe, is leviable on repairs and maintenance done for such goods.

In the preceding paras, we have discussed, how to determine whether a given activity or transaction constitutes a supply. Once an activity or transaction qualifies as supply, one needs to determine whether the same is leviable to GST or not. Though the provisions relating to levy and collection of GST have been discussed at length in Chapter– Charge of GST, a brief idea of the same is provided hereunder.

Supply Leviable to GST

For a supply to attract GST, primarily 2 additional conditions need to be satisfied:

- (i) Supply must be made by a taxable person and
- (ii) Supply must be a taxable supply.

(i) A supply to attract GST should be made by a taxable person:

Meaning of taxable person: A “taxable person” is a person who is registered or liable to be registered under section 22 or section 24.

Hence, even an unregistered person who is liable to be registered is a taxable person.

Similarly, a person not liable to be registered, but has taken voluntary registration and got himself registered is also a taxable person.

(ii) Taxable supply:

Taxable supply has been broadly defined and means any supply of goods or services or both which, is leviable to tax under the GST Law.

Exemptions may be provided to the specified goods or services or to a specified category of persons/entities making supply.

COMPOSITE AND MIXED SUPPLIES [SECTION 8]:**Composite Supplies:****Composite supply means:**

- A supply made by a taxable person to a recipient &
- **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 [Section 2(30) of the CGST Act].**

Principal supply means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary. [Section 2(90) of CGST Act]

How to determine the tax liability on composite supplies?

A **composite supply** comprising of two or more supplies, one of which is a principal supply, shall be treated as a **supply of such principal supply.**

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

Whether the services are bundled in the ordinary course of business, would depend upon the **normal or frequent practices followed in the area of business** to which services relate. **No straight jacket formula can be laid down to determine whether a service is naturally bundled in the ordinary course of business.**

For instance, in case of **servicing of cars involving supply of both goods (spare parts) and services (labour) where the value of goods and services are shown separately**, CBIC has clarified that the goods and services would be liable to tax at the rates as applicable to such goods and services separately. [Circular No. 47/21/2018 GST dated 08.06.2018] ie [Treated as individual supply]

Example: Poshak Manufacturers entered into a contract with Cheeku Ltd for supply of readymade shirts packed in designer boxes at Cheeku Ltd's outlet. Further, Poshak Manufacturers would also get them insured during transit. In this case, supply of goods, packing materials, transport & insurance is a composite supply wherein supply of goods is principal supply.

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

Example: A travel ticket from Mumbai to Delhi may include service of food being served on board, free insurance, and the use of airport lounge. In this case, the transportation of passenger, constitutes the pre-dominant element of the composite supply, and is treated as the principal supply and all other supplies are ancillary.

Example: Mobile Phone with Battery

Example: Rati Computers supplies laptop (worth ₹ 52,000) alongwith laptop bag (worth ₹ 3,000) to a customer for ₹ 55,000. Being naturally bundled, supply of laptop bag along with the laptop is composite supply which is treated as the supply of the principal supply [viz. laptop]. Assuming that the rate of tax applicable on laptop is 18% and on laptop bag is 28%, in the given case, rate of principal supply, i.e. laptop @ 18% will be charged on the entire value of ₹ 55,000.

Supplies given in the below mentioned table are the composite supplies. CBIC has clarified as to what constitutes the principal supply in the given composite supplies:

Activity/ transaction	Principal supply
Supply of printed 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 printed goods. [Circular No. 11/11/2017 GST dated 20.10.2017]	In the case of <u>printing of books, pamphlets, brochures, annual reports, and the like</u> , 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 .

	<p>In case of supply of <u>printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc.</u> 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.</p>
<p>Food supplied to Patients</p>	<p>Food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of health care and not separately taxable. Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable</p>
<p>Activity of bus body building</p> <p>[Circular No. 34/8/2018-GST dated 01.03.2018].</p>	<p>By default, Supply of Service is treated as Principal Supply. In the case of bus body building, there is supply of goods and services. Thus, classification of this composite supply, as goods or service would depend on which supply is the principal supply which may be determined on the basis of facts and circumstances of each case.</p>
<p>Retreading of Tyres</p> <p>(Retread tyres are revamped tyres on which the worn out tread (the part of the tire that makes contact with the surface of the road) is replaced</p>	<p>Pre-dominant element is process of retreading which is a Supply of Service. Rubber used for retreading is an ancillary supply. Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods [Circular No. 34/8/2018-GST dated</p>

Mixed Supplies:

- **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**.
- The individual supplies are independent of each other and are not naturally bundled.**

How to determine the tax liability on mixed supplies?

A **mixed supply** comprising of two or more supplies shall be treated as supply of that particular **supply that attracts highest rate of tax**.

Example:

A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juices when supplied for a single price is a mixed supply. 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.

Example:

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

Example:

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

Example:

Sringaar Enterprises supplies 10,000 kits (at ₹ 50 each) amounting to ₹ 5,00,000 to Raghav General Store. Each kit consists of 1 face cream, 1 face tissue packet and 1 nail paint. It is a mixed supply and is treated as supply of that particular supply which attracts highest tax rate. Assuming that the rate of tax applicable on face cream is 18%, on face tissue packet is 28% and on nail paint is 12%, in the given case, highest tax rate [viz. face tissue packet] @ 28% will be charged on the entire value of ₹ 5,00,000.

Example:

In case of servicing of cars involving supply of both goods (spare parts) and services (labour) where the value of goods and services are shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately.