

CHAPTER - 3

CONCEPT OF SUPPLY

CGST Act, 2017				
Sec 2	Important definitions			
2(52)	Goods	2(108)	Taxable Supply	
2(102)	Services	2(78)	Non-Taxable Supply	
2(31)	Consideration	2(47)	Exempt Supply	
2(17)	Business	2(107)	Taxable Person	
2(84)	Person	2(20)	Casual Taxable Person	
2(105)	Supplier	2(77)	Non-Resident Taxable person	
2(93)	Recipient	2(94)	Registered Person	
		2(45)	E-Commerce Operator	

CGST Act, 2017		
Sec 7	Meaning of Supply	
	Schedule - I	
	Schedule - II	
	Schedule - III	
Sec 8	Composite & Mixed Supply	

Important Definitions

Sec 2(84) "Person" - includes



(a) An Individual



(b) A hindu undivided family



(c) A Company





(e) A limited Liability Partnership



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



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



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



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





(k) Central Government or a State Government



(I) Society as defined under the Societies Registration Act,



(m) Trust



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

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Sec 2(107) "Taxable person" - includes

"Taxable person" means a person who is registered or liable to be registered u/s22 or section 24

Sec 2(94) "Registered person" - includes

- "Registered person" means a person -
- who is registered under section 25
- ⇒ but does not include a person having a Unique Identity Number

Sec 2 (105) "Supplier"

"Supplier" means in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied

Sec 2 (93) "Recipient"

"recipient" of supply of goods or services or both, means—

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

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

Sec 2(17) "Business" includes-

General Activities

- any trade, commerce, manufacture, (a)
 - profession, vocation,
 - Sadventure.
 - wager or
 - any other similar activity,

whether or not it is for a pecuniary benefit (it means intention to earn the profit is not a criterion in determining the states of business.)

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

Examples:

- i)Sale of old furniture or scrap by a trader of mobile shop.
- ii) Sale of old machinery by manufacturer.
- (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction
- **Examples:** Even occasional transactions are also subject to GST e.g. Trader of computer also providing consultancy for "how to set up Computer Shop" to his friend for consideration.
- (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business

Examples: If covers purchase of capital asset or material before commencement of business or sale of stock or fixed asset at the closure of business.

Special Activities

(e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members

Examples: Facilities or benefits provided by club etc. are i)Sports facilities like swimming pool, table tennis, cricket etc.

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

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

(g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade. profession or vocation

Examples: i) An advocate get appointed as member of the Arbitration Tribunal.

(h) services provided activities of a race club including by way of totalisator or a licence to book maker or activities of a licensed book maker in such club: and Newly Inserted by

Totalisator: A device showing the number and amount of bets staked on a race, to facilitate the division of the total among those backing the winner.

any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities

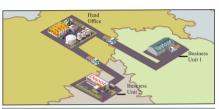
Notes: This clause makes it clear that even the supplies of goods or services or both undertaken by the Central Government, a State Government or any local authority shall also get covered in the definition of business.

Concept of Deemed Distinct Persons: Sec 25 CGST Act

- 25 (4) A person who has obtained or is Establishment in Different State required to obtain more than one registration. 25 (5) Where a person who obtained or is

 - shall.

in respect of each such registration, be treated as distinct persons for the purposes of this Act.



In the given pictorial image of the Business unit 1 & 2 obtains separate registration then such units will be treated as 'Deemed distinct person' & any stock transfers amongst them will be covered ambit of supply.



In the given pictorial image, If the business unit has obtained a single registration for all its units located in same state then it will be treated as 'single Person'



The given pictorial image is of separate Business Units in a same State under same PAN. Taxable person at his option can taken a separate registration for each such units, In such a case, they will be treated as claimed distinct person & supply among then will be liable GST.

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whether in one State or Union territory required to obtain registration in a State or Union territory in respect of an establishment, The more than one State or Union territory has an establishment in another State or Union territory, then such establishment shall be treated as establishment of distinct persons for the purposes of this Act.



In the given pictorial image as the business unit located in different state and such establishment is to be treated as distinct person.

Establishment in another country **Explanation to Sec 8 of IGST Act**



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

For the purpose of IGST Act where a person has establishment in India and any other establishment outside India.

Then such establishment shall be treated as establishment of distinct person

Concept of "Casual Taxable person" (CTP) and "Non-Resident Taxable Person" (NRTP)

Casual Taxable Person (CTP) [Section 2(20)]: means a person who occasionally undertakes transactions

- ⊃involving supply of goods or services or both
- ⇒in the course or furtherance of business.
- whether as principal, agent or in any other capacity.
- ⇒in a State/UT where he has no fixed place of business

Non-Resident Taxable Person (NRTP) [Section 2(77)]: means any person who occasionally undertakes transactions

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





	2	
	Casual Taxable Person (CTP) - Sec 2(20)	Non-Resident Taxable Person (NRTP)- Sec 2(77)
Registration provisions	 Compulsory registration u/Sec 24 of CGSTAct Registration before commencement of business and with advance payment of tax Normal Registration Application : GST REG-01 PAN based GST Registration granted 	 Compulsory registration u/Sec 24 of CGSTAct Registration before commencement of business and with advance payment of tax Separate simplified Registration Application: GST REG-09 GST Registration granted without PAN
Threshold Exemption	Not available	Not available
Composition Scheme	⊃ It is not available to Casual taxable person	It is not available to Non-Resident taxable person
Return provisions	Normal Monthly Returns: GSTR-1, GSTR-2 and GSTR-3 However, Annual Return is not required to be filed	 ⇒ Separate Simplified Return: GSTR-5 ⇒ Also, Annual Return is not required to be filed
ITC provisions	Can claim ITC of all inward supplies (be it domestic/imported inputs, capital goods or input services)	Can claim ITC only in respect of goods - imported by him [All other credits blocked for him- Sec 17(5) of CGST]

Important Comment

- 1) CTP or NRTP will apply for Registration at least 5 days prior to commencement of business
- 2) Advance deposit of tax at the time of Submitting the registration application.
- 3) Registration is valid for 90 days (further extension for 90 days)

GST

Taxable event - Supply

Section 7 - Meaning and scope of supply

Supply includes -

- All forms of supply of goods and/or services or both such as (a)
 - ⇒ sale transfer, barter, exchange, licence, rental, lease or disposal
 - made or agreed to be made
- of for a consideration by a person
- in the course or furtherance of business.
- Importation of services, for a consideration whether or not in the course or furtherance of business and
- (c) The activities specified in Schedule I, made or agreed to be made without a consideration.
- Where certain activities or transaction constitute a supply in accordance with the provisions of subsection (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.
- Activities not treated as supply and not liable to GST

Notwithstanding anything contained in sub-section(1)

- (a) activities or transactions specified in Schedule III or
- 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.

As per N/N 14/2017 - Central Tax (Rate)

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 constitution shall be treated neither as a supply of goods nor a supply of service.

Newly Inserted by N/N 25/2019 CT (R) 30/09/02019

Service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name called by the State Government in which they are engaged as public authorities, shall neither be treated as a supply of goods nor a supply of service."

Clarification on GST on License fee charged by states for grant of liquor licenses to vendor [Circular No. 121/40/2019 GST dated 11.10.2019]

It has clarified that the above special dispensation applies only to supply of service by way of grant of liquor licenses by the State Governments as an agreement between the Centre and States and has no applicability or precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable.

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.

- 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.

Definition of Goods and Service under GST

Sec 2(52): Goods

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

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

Sec 2(102): Services

Means	anything other than goods, money and securities
But includes	activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another from currency or denomination for which a separate consideration is charged.
Explanation	For removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities.

Meaning of Money	Meaning of Securities
the Indian legal tender of any foreign currency	Shares, Scripts, stocks, bonds,
cheque, promissory note, bill of exchange	debentures, debenture stock or other
⇒ letter of credit	marketable securities of a company
araft, pay order, traveller cheque	continuation options, futures, swaps,
noney order, postal or electronic remittance or	forward agreements, etc.
any other instrument recognised by the Reserve Bank of India	security receipt,
when use as a consideration to settle an obligation or exchange	units of mutual fund
with Indian legal tender of another denomination	any certificate or instrument in case of
that is held for its numismatic	asset/debt-securitisation; government
value.	securities;
	rights or interest in securities

Supply of Both (Goods and Services)

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

Normally it includes following types of contract

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

Sec 2(119): Works contract → Buildina. → Construction. → Fabrication. of any immovable property → Completion. → Erection, → Installation. wherein transfer of property in goods → Fitting Out. (whether as goods or in some other → Improvement, form) is involved in the execution of such → Modification, → Repair, contract → Maintenance. → Renovation. → Alteration or Commissioning

Catering, restaurant etc.

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

Supply made or agreed to be made

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

GST Liability on Advanced Amount Received

Eventhough as per the term "Agreed to be made" GST is leviable on advance received by supplier of goods or services but following are the amendments made by government by notification in official gazette

Notification No. 66/2017 dated 15th Nov..2017

Supply of Goods	Author Note: Payment of GST on Advance basis is suspended [N/N 66/2017]	
Supply of Service	GST is payable on advance or Invoice whichever is earlier	Time of Supply

Supply of Goods

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

Supply of Services

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

Supply made or agreed to be made for consideration

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

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

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

Meaning of Term inducement of

Inducement means to gives something to a person so that he will do something else in return

Illustration 1: A restaurateur offered 'free' meals to drivers of buses carrying passengers as an inducement to bring potential customers to his business premise. Since the meals were not given to drivers of empty buses, there is a direct link between the act of bringing passengers to the food outlet and the provision of the free meals. The consideration here is the free meals provided.

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

CBIC Clarification and Press Release (supply without consideration)

Issue	Clarification	
Equipment and instruments sent to manufactures factory for repairs and calibration within India on a returnable basis	It is not a supply as removal of goods without consideration. It is sufficient to issue a challan for movement of goods without supply.	
Spare part freely Supplied to replace during warranty period.	It is not supply as removal of spares without consideration. GST is not chargeable	
free food supplied in anna kshetras run by religious institutions.	GST is not chargeable as food is supplied without considrarion	
Sale of Prasadam by religious places i.e. (like temples, mosques, churches, gurudwaras, dargahs, etc.)	GST is not chargeable as supply of prasadam or like not in the course of furtherance of business.	
Free distribution of goods by a charitable institution	It is not a supply under GST. GST is not chargeable	

"Supply for Consideration"

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

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

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

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

IN THE COURSE OF FURTHERANCE OF BUSINESS

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

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

Furtherance of business: Every business person use to think how to develop his business or carruing out new activities. Such activities called as furtherance of business.

Activity not treated as in course or furtherance of business

Question: An individual buys a car for personal use and after a year sells it to a car dealer. Will the transaction be a supply in terms of CGST/SGST Act? Give reasons for the answer. (FAQ -CBEC Q.10. Ch.4)

Answer: No, because supply is not made by the individual in the course of furtherance of business. Further, no input tax credit was admissible on such car at the time of its acquisition as it was meant for non-business use







Sec 7(1)(b) IMPORT OF SERVICE

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



Tutorial Notes

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

but if import of service by and individual in relation to any purpose other than commerce, Industry or any other business or profession than it cover under exemption SI. No. 10 of IGST Act exemption Notification No. 9/2017 IT (R)(Detailed discussion in the Exemption Chapter Module 3).

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

Import of Service in the course of furtherance of business

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

Import of Service not in the course of furtherance of business

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

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

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

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

SCHEDULE- I [Sec 7]

Activities to be treated as supply even if made without consideration

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



Tutorial Notes

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

Permanent transfer or disposal of business assets

Liabilities	(₹)	Assets	(₹)		ITC taken	Remark
		land & building		-		
		Plant & machinery		-		
		Furniture & fixtures		-		
		Vehicles		<u></u>		
		Closing stock		<u></u>		

Example 1: Vsmart Pvt, Ltd. had purchase new projectors. The existing old projectors are donated to Trust on which ITC was taken at the time of purchase. Whether it treated as supply and liable to GST?

Example 2: Vsmart Pvt. Ltd. had permanently transfer existing Television for personal use of directors on which ITC was taken at the time of purchase. Whether it treated as supply and liable to GST?

Example 3: Vsmart Pvt. Ltd. purchased a car for Business use and after 2 years transferred car for personal consumption to use at home. No ITC is taken on car. Will the transaction be a supply in terms of GSTAct?

Example 4: Bata Ltd, being a trader in foot wear permanently transfers 50% of its stock to Charitable Trust free of cost, ITC is taken on foot ware. Will the transaction be a supply in terms of GST Act?

Supply of goods or services or both

- between related persons or
- between distinct person as specified in section 25,

when made in the course or furtherance of business.

Proviso

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

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

- such persons are officers or directors of one another's business
- such persons are legally recognized partners in business
- such person are employer and employee
- an person directly or indirectly owns, controls or holds twenty-five per cent or more of the outstanding voting stock or shares of both of them
- one of them directly or indirectly controls the other
- both of them are directly or indirectly controlled by a third person
- (vii) together they directly or indirectly control a third person
- (viii) they are members of the same family

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

Distinct person as specified in section 25



		Supplier of goods				
		Factory in Pune	in	Stock tr. from Pune to Gujarat	DDP	
		Factory in Pune	Show- room in Goa	Stock tr. from Pune to Goa	DDP	
		Supply of Service				

		H.O. supply	DDP
in Pune	office in	services to	
	Haryana	branch office	

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

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

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

Clarification:-

Inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the said Act, not involving further supply of such conveyance, including i.Trains, ii. Buses, iii. Trucks, iv. Tankers, v. Trailers, vi. Vessels, vii. Containers, viii. Aircrafts



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

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



S.No	Situations	Facts	Clarification & Taxability
	Interstate movement of rigs, tools and spares, and all goods on wheels like cranes	distinct person	shall be Treated neither as supply of goods or services & no IGST to be levied

Supply of Goods or Services by Employer to Employee

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

Gift by employer to employee

Schedule I provides that gifts not exceeding ₹ 50,000 in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

However, gifts of value more than ₹50,000 made without consideration are subject to GST, when made in the course or furtherance of business.

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

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

Facts: - Where employees have incurred office expenses on behalf of company - not Supply

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

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

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

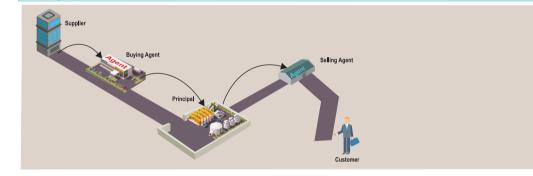
Important Definitions				
Sec 2(88) Principal	means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both			
Sec 2(5) Agent	means a person including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another.			



Tutorial Notes

Point which merit consideration, in this regard, are as follows:

- ⇒ Only supply of goods is covered here
- ⇒ Supply of goods between principal and agent without consideration is also supply.



Scope of Applicability of para 3 -

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

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

Legal Provision

Scope of Applicability:

Important Points:

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

Applicability of para 3

principal

1 Supply of goods by Principle to Agent						
	а	Where the invoice for further being issued by the agent in			then, any provision of goods from the principal to the agent would fall within the fold of the said para	
		Facts	Whether sup	oply between ent?	Agent's Registration ?	
		1) Mr. A, an artist, appoints M/s B (auctioneer) to auction his painting. Mr. B arranges auction and identifies potential bidders. Invoice for painting is issued by M/s. B (on behalf of Mr. A) but in own name (Mr. B's name)	B is not merely providing auctioneering services, but is also supplying painting on behalf of Mr. A to bidder & has authority to transfer title of painting on behalf of A. It is covered by Schedule-I(Entry3)		Mr. B is liable to compulsory registration u/s 24 (vii). The disclosure or non-disclosure of the name of the principal is immaterial in such situation	
Other Examples of Entry 3 - C& F agent or commission goods principal and issuing invoice in his name, falling in E						
				ı		
	b where the invoice is issued by the ager to the customer in the name of the			Then such agent shall not fall within the ambit of Schedule I of		

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the CGST Act

		Facts	Whether supp		Agent's Registration ?
		M/S XYZ Bank appoints Mr. B (Auctioneer) to auction certain goods. Mr. B arranges auction and identifies potential bidders. Goods are invoiced to highest bidder by M/s. XYZ Bank	auctioneering s role played in t goods. Hence, agent of M/s XV	nerely providing services with no he supply of the Mr. B is not an /Z for the supply ns of Schedule -I	Mr. B is not liable to take compulsory registration u/s 24 (vii). Registration required if turnover exceeds threshold limit of registration
2	Su	pply of goods by Agent to			
	а	where the goods being procured by the agent on behalf of the principal are invoiced in the name of the agent			rovision of the said goods to the principal would be aid para
	where the goods being procured by the agent on behalf of the principal are invoiced in the name of the principal		by the agent t	en further provision of the said goods the agent to the principal would not covered by said para	
		Facts	Whether sup		Agent's Registration ?
		Mr. A appoints Mr. B to procure certain goods. Mr. B identifies supplier and asks the supplier (Mr. C) to send the goods and issue the invoice directly to Mr. A	procurement a no way involve supply or recei Hence, Mr. B is	Iy acting as gent, and has in ed himself in the pt of the goods. snot an agent of of goods as per ry 3)	Mr. B is not liable to take compulsory registration u/s 24(vii). Registration required if turnover exceeds threshold limit of registration.
		Special Case Study:			
		Facts	Whether sup		Agent's Registra
		Mr. A sells agricultural	If invoice is is	sued directly by	Since commission is

produce by utilizing services | Mr. A to buyer, agent (B) is not | exempt, agent is exempt

agent. Mr. B identifies the providing commission- Even if B falls in Entry 3,

Schedule I (Entry 3).

services.

behalf of Mr. A for which buyer, Mr B is covered by

covered in Entry 3 and B is from registration u/s 23.

If invoice is issued by Mr B to taxable person and supply

24 (vii)

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

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

Ans:-ADCA is a selling agent who is engaged by a principal to assist in supply of goods or services by contacting potential buyers on behalf of the principal.

Q2- Differentiation factors between DCA and other agents?

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

In order to guarantee timely payment to the supplier, the DCA can resort to various methods including extending short-term transaction-based loans to the buyer or paying the supplier himself and recovering the amount from the buyer with some interest at a later date.

This loan is to be repaid by the buyer along with an interest to the DCA at a rate mutually agreed between DCA and buyer.

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

of Mr. B who is a commission

buyer and sells the

agricultural produce on

charges a commission as

well as agricultural produce.

both are exempt from tax

since principal is not a

of agriculture produce is

exempt (not taxable),

hence, agent need not be

registered compulsorily u/s