



# Chapter 3

## CONCEPT OF SUPPLY

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## Important Definitions

Sec

2(84)

"Person" - includes

(B)



(a) An Individual



(b) A Hindu undivided family



(c) A Company



(d) A Firm (Partnership firm)



(e) A limited Liability Partnership



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



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



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



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



(j) A local authority



(k) Central Government or a State Government



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



(m) Trust



(n) Every artificial juridical person, falling within any of the above

25

**Distinct Persons** [Deemed Distinct Person = DDP]

**Distinct Persons specified under section 25:** Before we go through the statutory provision 'distinct persons', let us first have an overview of the registration provisions

**State-Wise Registration under GST:**

➤ Under GST law, a supplier must obtain registration separately for each State/Union Territory where they make taxable supplies if their aggregate turnover exceeds the prescribed threshold limit.

➤ Registration is not required for states where only non-taxable/exempt supplies are made.

**Single Registration in a State/UT:**

➤ Normally, a supplier is required to obtain a single registration for a State/UT.

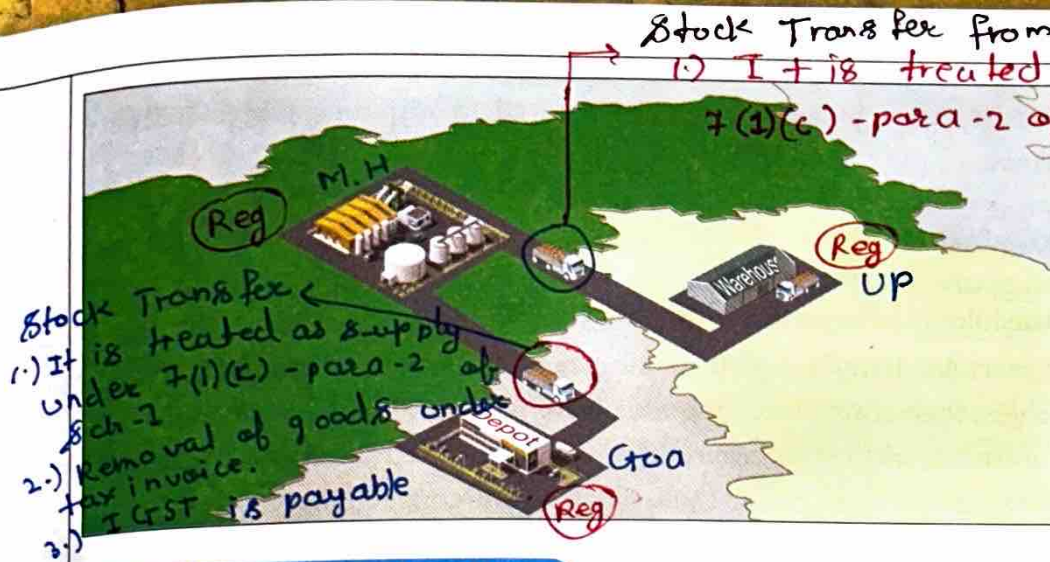
➤ However, if they have multiple places of business within a State/UT, they have the option to obtain a single registration covering all those places of business, or they may choose to obtain separate registrations for specific places of business within that State/UT.

\*\*  
\*\*

**Sec 25(4) Distinct Persons with Separate Registrations :**

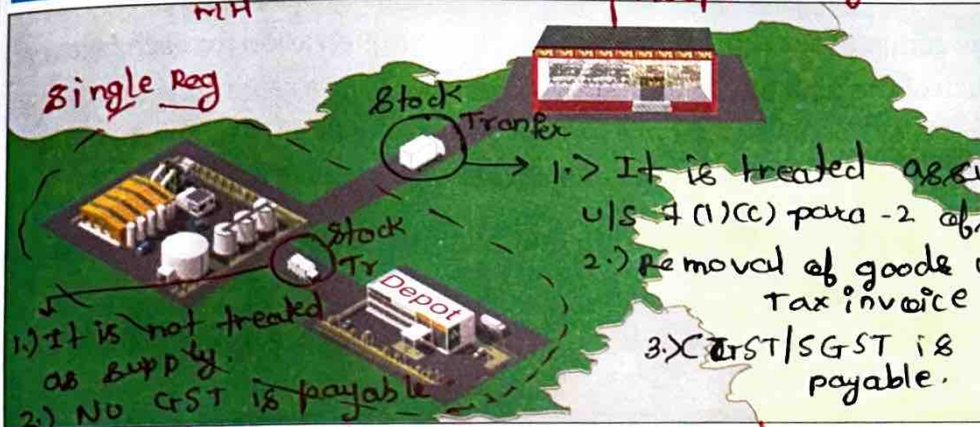
**Establishments with separate registrations, whether within the same State/UT or different States/UTs, are treated as distinct persons for GST purposes.**

**Notes :-** This distinction affects various aspects of GST compliance, including Invoicing, tax liability, input tax credit.



Notes  
 1) It is treated as supply under 7(1)(c) - para-2 of Sch-I  
 2) Removal of goods under tax invoice  
 3) IGST is payable

**Single/ Multiple Registration**

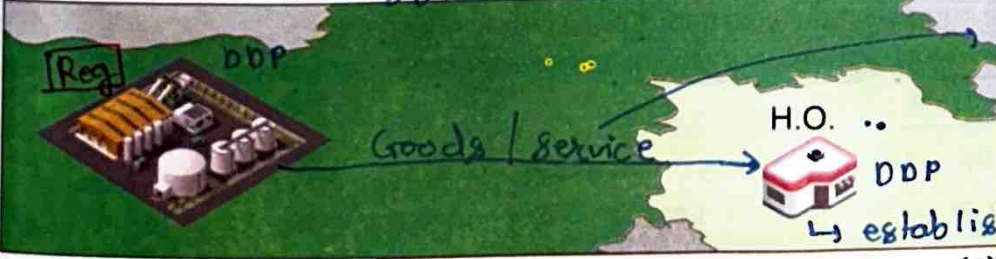


**Separate Establishment**



**Establishment in Different State**

**25(5)** Where a person who obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishment shall be treated as establishment of distinct persons for the purposes of this Act.



1) It is treated as supply u/s 7(1)(c) para-2 of Sch-I  
 2) Supply under Tax Invoice  
 3) IGST is payable (Not Reg)

Refer Questionnaire: CCP 02.01.01.00 - (5)

**P1 :-** V'Smart Academy have various branches located in different places in the State Maharashtra as follows:-

Head Office	Pune
Branch 1	Mumbai
Branch 2	Nagpur
Branch 3	Nashik

- State whether V'Smart Academy is eligible for single registration for all branches in a State.
- If answer to (i) is yes, then state whether goods transferred or services provided by Pune office to various branches within the same state would be treated as supply & liable to GST?
- Is Vsmart opts for separate registration then, what are the consequence under GST?

**P2 :-** There are three factories of Samsung Pvt. Ltd. under the same PAN which are located Maharashtra, Delhi & Madhya Pradesh. Answer the following questions briefly:-

- Whether the company is required to obtain separate registration for each factory?
- Whether each of the registered factory would be treated as a separate person under GST?
- Whether the stock transfer or service provided from one factory to another factory would be treated as supply and liable to GST? Also state the nature of transaction?

**P3:-** Haldiram is running two outlets with different businesses within the state of Maharashtra as under:-

- Haldiram Sweets &
- Haldiram Footwear

Answer the following questions:-

- Whether Haldiram can obtain separate registration under GST for each outlet?
- Whether the two business verticals are treated as separate persons under GST?
- Whether the transfer of goods or provision of services between such business verticals treated as supply & liable to GST?

**P4:-** XYZ Ltd. have a factory in Maharashtra (registered under GST) and an unregistered office in Delhi. Whether the two are treated as deemed distinct person under GST? Explain.

**2(107) Taxable Person**

means a person who is registered or liable to be registered under section 22 or section 25 (5) *compulsory registration*

**2(94) Registered person**

'Registered person' means a person -

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

**2(105) Supplier**

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.

**Proviso inserted:-** Provided that (Newly inserted by F.A. 2023)

- ⇒ a person who organises or arranges, directly or indirectly, supply of specified actions claims,

including a person who owns, operates or manages digital or electronic platform for such supply,  
 shall be deemed to be a supplier of such actionable claims,  
 whether such actionable claims are supplied by him or through him and  
 whether consideration in money or money's worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and  
 all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims.

**2(102A) Specified actionable claim**  
 means the actionable claim involved in or by way of—  
 (i) betting (ii) casinos (iii) gambling (iv) horse racing (v) lottery or (vi) online money gaming.

**2(80A) Online gaming** → read  
 means offering of a game on the internet or an electronic network and includes online money gaming.

**2(80B) Online money gaming** just read  
 means online gaming in which including  
 players pay or deposit money or money's worth,  
 virtual digital assets, eg. Bitcoin.  
 in the expectation of winning money or money's worth, including virtual digital assets,  
 in any event including game, scheme, competition or any other activity or process,  
 whether or not its outcome or performance is based on skill, chance or both and  
 whether the same is permissible or otherwise under any other law for the time being in force.

**2(117A) Virtual digital asset**  
 shall have the same meaning as assigned to it in clause (47A) of section 2 of the Income-tax Act, 1961.

**2(93) Recipient**  
 of supply of goods or services or both means-

Situation	Recipient
a) where a consideration is payable for SOG or SOS or both,	A the person who is liable to pay that consideration,
b) where no consideration is payable for the SOG,	> 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 SOS,	the person to whom the service is rendered,

**Special Reference:-** any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply  
 shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied.

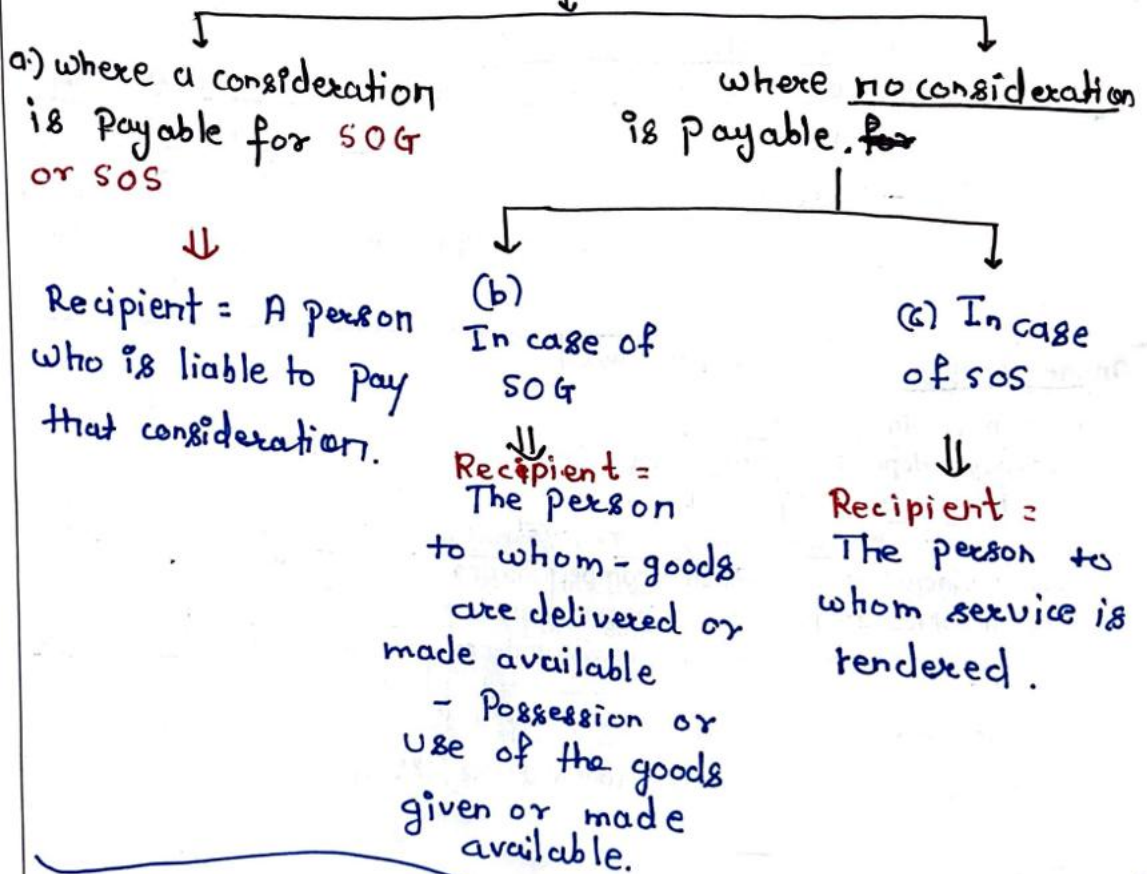
Refer Questionnaire: CCP 02.01.01.00 - (4)

P 5:- XYZ Ltd., a manufacturer of goods, supplied goods of value ₹ 20,00,000 to Mr. B. Who is the supplier in the given case? ⇒ XYZ Ltd

P 6:- XYZ Ltd., a manufacturer of goods, supplied goods of value ₹ 20,00,000 to Mr. B. Who is the supplier in the given case? ⇒ Mr B  
recipient

### CHART

Sec 2(3) : Recipient means



Special reference: any reference to a person to whom a supply is made shall be construed as a reference to the recipient of supply.

shall includes - Agent acting on the behalf of recipient

**P7:-** Mr. A, from Nagpur, is a consignment agent of Coca-Cola Ltd. as he undertakes to supply Coca-Cola beverage on behalf of Coca-Cola Ltd. Accordingly, Mr. A supplied goods worth ₹ 20,00,000 to Mr. C on behalf of Coca-Cola Ltd. Who is the supplier in this transaction under the GST Act? Explain. *Supplier includes his agent. ∴ Mr A is a supplier.*

**P 8:-** V'Smart Academy have given training in GST to Mr. Aakash who is an Article in a CA Firm, AB & Associates.

The invoice for this service is in the name of AB & Associates who also paid the consideration for the same. Who is the recipient in the given case? Explain *Recipient ⇒ AB and Associates*

**P 9:-** Samsung Ltd. transferred the stock from factory F1 (Maharashtra) to factory F2 (Gujarat) without any consideration. Accordingly, the goods are delivered to factory F2. Who is the recipient in the given case? Explain. *No consideration hence recipient is factory F2 to whom goods are delivered*

**2(108) Taxable Supply**  
means a supply of goods or services or both which is leviable to tax under this Act

**2(78) Non-Taxable Supply**  
means a supply of goods or services or both which is not leviable to tax under this Act (i.e. CGST Act) or under the Integrated Goods and Services Tax Act

**2(47) Exempt Supply**  
means a supply of any goods or services or both  
 ⇒ which attracts nil rate of tax or  
 ⇒ which may be wholly exempt from tax under section 11, or under section 6 of the integrated Goods and Services Tax Act, and  
includes non-taxable supply

**Sec 16 Zero-Rate Supply**  
means any of the following supplies of goods or services or both, namely:--  
 a) Export of goods or services or both; or  
 b) supply of goods or services or both for authorised operations to a Special Economic Zone developer or a Special Economic Zone unit.

# Supply

Sec 2 (108) = Taxable Supply

means - A supply of goods or services or both which is leviable to tax under the act.

Sec 2 (78): Non-Taxable Supply

means - SOG/SOS which is not leviable to tax under the Act.

Eg 1-> 5 Petroleum Products  
2-> 2 Alcoholic Products.

Chargeable Supply

Means SOG/SOS on which GST is actually payable. It does not includes exempt or nil rated or zero rate supply

Zero rate supply

Zero rate supply is a taxable supply but GST is payable at zero rate specially in case of export (export incentive)

Exempt supply

Exempt supply is a taxable supply but GST is exempted by Govt to promote socio-economic object

Nil rate supply

Nil rate supply is a taxable supply but applicable rate in GST tariff is Nil.

①

②

③

For GST purpose u/s 2(47) they are treated as Exempt supply

## Section 7 - Meaning and scope of supply

Supply includes -

- 1 (a) All forms of supply of goods and/ or services or both such as
- ⊃ sale transfer, barter, exchange, licence, rental, lease or disposal
  - ⊃ made or agreed to be made
  - ⊃ for a consideration by a person
  - ⊃ in the course or furtherance of business.

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

**Explanation:-** For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority,

the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another

- (b) Importation of services, for a consideration whether or not in the course or furtherance of business and
- (c) The activities specified in Schedule I, made or agreed to be made without a consideration.

1A Where certain activities or transaction constitute a supply in accordance with the provisions of subsection(1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II. (Classify SOG and SOS)

2 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
- (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.

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.



Para 4: Services of funeral, burial, crematorium or mortuary including transportation.

Para 5: Sale of Land and Building Except Building intended for sale under para 5(b) of Sch-II

Para 6: Actionable claim other than specified actionable claim.

**72(b)** Notified activities of Govt not treated as supply.

a. Activity of Panchayat [A 243G] or Municipality [A 243W]  
 b. Al. Liquor licenses by S.G.

Para 3: Supply of goods (Stock Trf by P to Agent or vice versa)

(a) by Principal to agent who undertakes further supply.

(b) By an agent to principal where agent receives the goods on the behalf of principal.

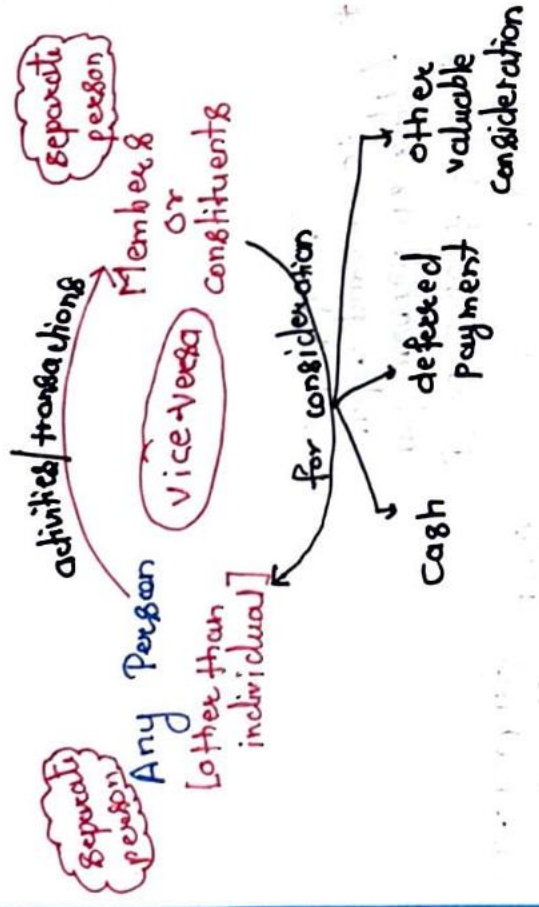
Note: Para 3 is applicable only in a case where goods agent issues his own Invoice.

Para 4: Import of service from ⇒ related Person or ⇒ own establishment outside India for business.

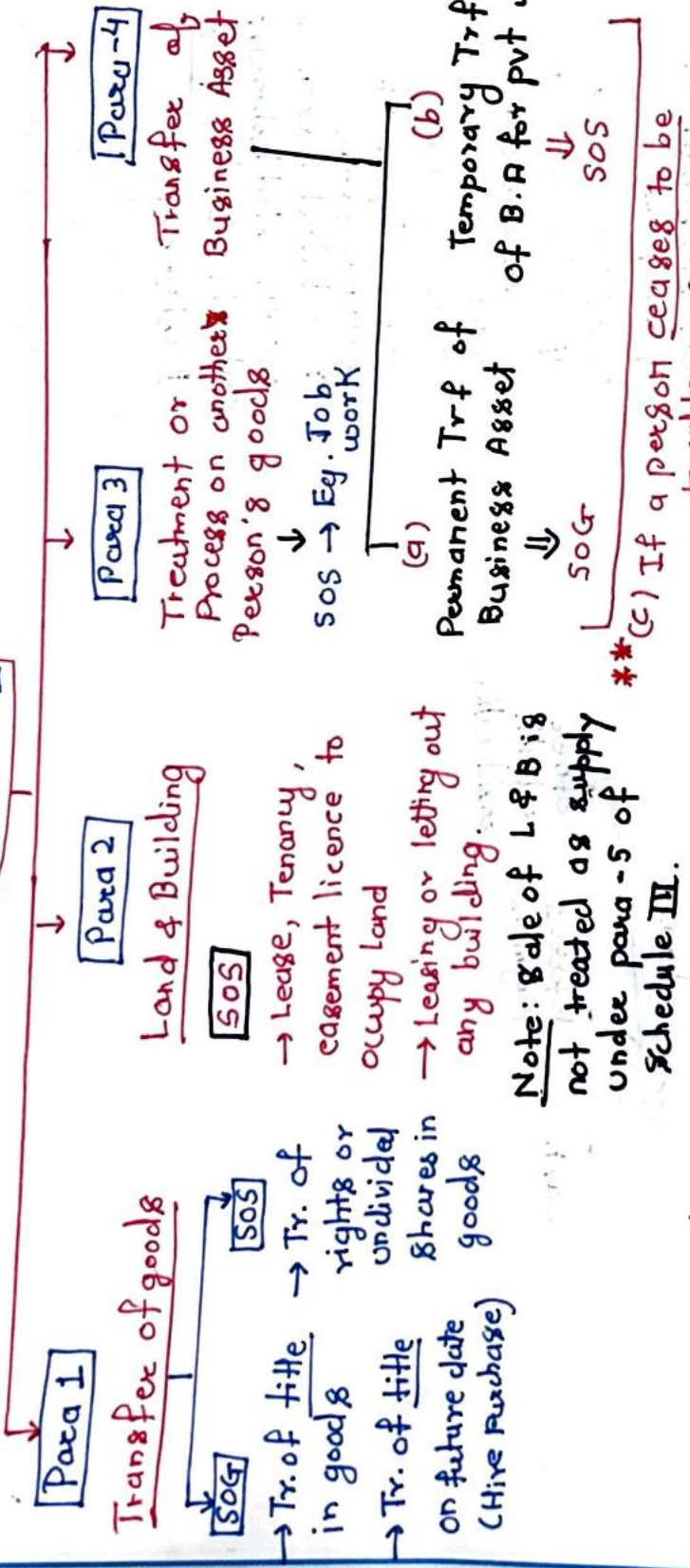
Note: Normally free import service is not taxable unless covered in Para 4.

goods = I GST (i.e ACD) is payable under customs Tariff Act.

7(1)(a): Activities or transactions bet<sup>n</sup> person (other than individual) & its members



**Sec 7(A):** Where certain activities or transaction constitute a supply in accordance with sec 7(1), they shall be treated either SOG or SOS as referred in Schedule II



Goods in a Asset = deemed supply  
**Note:**  
 Exceptions: 1) Business transferred as a going concern to another person  
 2) Business carried on personal representative (T.P)

Circulars → activities not treated as supply

- 1) Inter state / Intra state movement of conveyance between DDP.
- 2) Inter state / Intra state movement of conveyance bet' DDP with rigs, tds, spare parts etc.
- 3) Cost petroleum for oil exploration.
- 3) Agreeing to refrain, tolerate or to do an act which is not an Independent contract.

It is merely event occurred during the course of performance

Para 5

All following activities are treated as SOS

- (a) Renting of Immovable Property - SOS
- (b) construction of Building intended for sale to Buyer But if entire consideration is received after completion certificate (or) 1<sup>st</sup> occupation whichever is earlier
- (c) Temporary Transfer of IPR [Intellectual Property Right]
- (d) Development, Designing, programming etc. of IT Software.
- Pre-packed (ready) Software = SOG
  - Customised software = SOS
  - License on Software = SOS
- (e) Agreeing to an obligation for to be
- to refrain
  - to tolerate
  - to do an act
- (f) right to use goods for cash, deferred payment or other valuable consideration.

Para 6

(a) Works Contract = SOS  
[Supply of service + Goods on Immovable property]

(b) Restaurant, Catering mess, eating joints or any other services in which food or drink is supplied = SOS

## Section 7:- Meaning & Scope of Supply

### Supply Includes

#### For Consideration

- (a) **All Forms of Supply for Consideration in Business:** Supply Includes
- all forms of supply of goods or services (e.g., sale, transfer, barter, exchange, license, rental, lease, or disposal)
  - made or agreed to be made
  - for a consideration by a person
  - in the course or furtherance of business.

Refer Questionnaire:  
CCP 02.03.03.00

### Definition of Goods and Service under GST

As per Sec 7 supply includes three events

- Wholly supply of Goods
- Wholly supply of services
- Supply of both (Goods and services)



**Sir What is the Supply of Goods?**

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



### Sec 2(52): Goods



**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

#### Analysis:-

**"Every Kind of Movable Property":** Refers to all types of movable items that can be physically transported from one place to another.

**Excludes "Money" and "Securities":** Does not include transaction in currency (conversion of currency or deposit or withdrawal of money from bank etc.) or securities like stocks and bonds derivatives etc as defined in SCRA. (Securities Contract Regulat<sup>n</sup> Act)

#### Goods specifically Includes

**"Actionable Claim":** Encompasses legal claims or rights (on unsecured Debts) that can be pursued in a court of law (For Eg. Right to arrears rent, Insurance claim, etc.)

**"Growing Crops" and "Grass":** Comprises crops that are actively growing on the land and natural vegetation like grass are affixed to or part of the land but are intended to be removed before supply or as part of a supply contract.

Refer Questionnaire: CCP 02.01.01.00 - (2)

**Sec 2(102): Services**

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

**Analysis:- "Anything Other Than Goods, Money, and Securities":** Encompasses activities and transactions that are not categorized as goods, money, or securities.

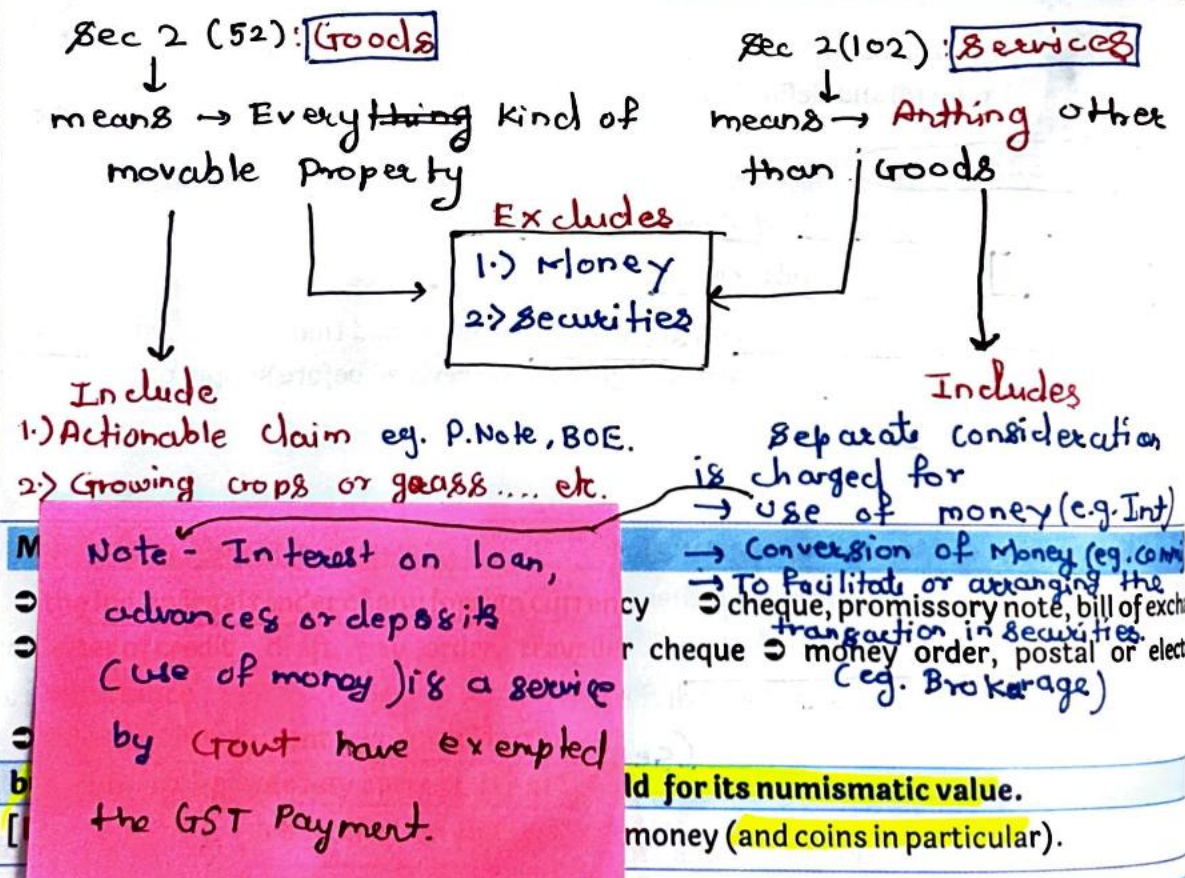
**Services specifically Includes**

**Activities Relating to Money Use or Conversion:** Incorporates services that involve use of money or the handling or conversion of money from one form, currency, or denomination to another, provided a separate consideration is charged for such activities.

**Securities Transactions:** The definition is further clarified to explicitly state that "services" cover facilitating or arranging transactions in securities. This includes services (eg. broker charges, portfolio management) related to buying and selling securities in financial markets.

**Excludes "Goods," "Money," and "Securities":** Does not cover tangible items (goods), currency (money), or financial instruments like stocks and bonds (securities).

Refer Questionnaire: CCP 02.01.01.00



**Special Discussion for Banking**

**Financial Services by Banks and Institutions:**

Banks and financial institutions offer a range of financial services, including lending, borrowing, and investment activities, often using various financial instruments.

### Exclusion of Money and Securities:

The definitions of 'goods' and 'services' explicitly exclude money and securities from their scope.

### Instruments Included in Money :

- ⇒ The definition of 'money' encompasses instruments like cheques, drafts, pay orders, promissory notes, letters of credit, etc.
- ⇒ Transactions solely involving these instruments fall outside the definition of a service.

### Analysis :-



#### Activity in Money (non taxable)

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

#### Activity in Relation to Money (taxable)

3. Interest on loans or deposits ⇒ Exempted
4. Processing fees = Taxable

#### Activity for conversion of Money (taxable)

- Commission for Conversion of Rupees in to Coins
- Commission for Conversion of Currency eg. Dollar to Rupees

### Definition of 'Securities':

⇒ The term 'securities' aligns with its definition in the Securities Contracts (Regulation) Act, 1956 (SCRA).

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

### Clarification :-

Securities Not Goods or Services: 'shares,' are neither classified as goods nor services.

Purchase/ Sale of Shares Not Supply:

- ⇒ The purchase or sale of shares or securities, in isolation, does not constitute a SOG or SOS
- ⇒ To qualify as a supply of services, it should be covered under Section 7 of the CGST Act.

No Inherent Service in Holding Shares:

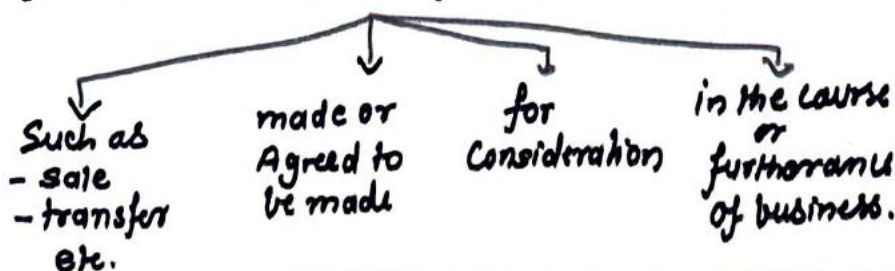
⇒ Holding shares of a subsidiary company by a holding company, by itself, does not constitute the provision of services.

⇒ Consequently, the act of a holding company holding shares of a subsidiary company cannot be regarded as a supply of services from the holding company to the subsidiary company and is not subject to GST.

### Concept of Supply

**Sec 7(1)(a): Basic conditions for Supply**



It includes all forms of SOG/SOS or Both



No need to learn  
 (B)  
 (DFO)

**A. Various forms of supply:-**

Various forms of supply contemplated in sec 7(1)(a) are explained as below:-

Sr.No.	Form of supply	Explanation
1	<u>Sale</u>	Transfer of ownership of and title to property from one person to another for a price.
2	<u>Transfer</u>	Transfer of possession or control from one person to another. <i>eg. Hire purchase</i>
3	<u>Barter</u>	To exchange goods or services for other goods or services instead of money. Here, activity constitutes supply as well as consideration. <b>Example:</b> Suppose carpenter builds fence for a farmer, Instead of money for services, farmer can compensate with crops and foodstuffs
4	<u>Exchange</u>	An act of giving or taking one thing for another where payment is partly in goods and partly in money.
<div style="border: 1px solid black; padding: 5px; width: fit-content;">                     Refer Questionnaire: CCP 02.02.02.00                 </div>		 
5	<u>Licence</u>	A permission granted by competent authority to engage in a business occupation or in an activity otherwise unlawful.
6	<u>Lease</u>	To make a legal agreement by which money is paid in order to use building, a vehicle, or a piece of equipment for an agreed period of time.
7	<u>Rental</u>	An arrangement to rent something, or the amount of money that has to be paid to rent something.
8	<u>Disposal</u>	The sale, pledge, giving away, use, consumption or any other disposition of a thing.

**P10:-** S Bank executed the following transactions in F.Y. 20XX-XY. Calculate the GST liability if the rate of GST applicable is 18% (i.e., 9% each CGST & SGST). Also, assume all transactions to be intra-state.

S.No.	Transactions	₹ in lakhs
1.	Team loan given	200
2.	Interest earned on term loan	25
3.	Interest earned on OD/CC	40
4.	Interest earned on Credit Card	10
5.	Bank charges on various activities undertaken	10
6.	Commission earned on conversion of foreign currency	5
7.	Sale of government bond	100

*Handwritten notes:*  
 1. No GST  
 2. Exempt  
 3. Exempt  
 4. GST  
 5. Yes  
 6. ✓  
 7. security x

**P 11:-** XYZ Ltd. is manufacturing shirts. It has purchased fabric of 5000 meters for ₹10 lakhs. XYZ Ltd. manufactured 2000 shirts by using 4000 meters of fabric. 1000 meters of fabric is still lying in the stock. The company found that 500 meters of fabric is in excess and decided to sell it to Mr. B in the form of waste generated in manufacturing process called as 'Chindi'. Determine the <sup>outward</sup> GST liability of XYZ Ltd. on the basis of following information:-

- a) 1500 shirts are sold @ ₹2000 per shirt & applicable rate of GST is 18%. (Intra)
- b) Waste chindi sold for ₹2,00,000 & applicable rate of GST is 5%. (Intra)
- c) 500 meters of fabric is sold for ₹300 per meter & applicable rate of GST is 5%. (Intra)
- d) 300 shirts are transferred to another registered branch located in different state. Such stock transfer is valued at ₹2 000 per shirt and applicable GST rate is 18%. (Inter)
- e) 100 shirts are transferred to another branch within the same state which is not separately registered under GST. (Intra)

**P 12:-** Mr. A sold his building for ₹80L to Mr. B. For such sale, he had appointed a broker Mr. C to whom brokerage of ₹ 2,00,000 was paid. Determine the GST liability of Mr. A & Mr. C, if any.

**Meaning of supply made or agreed to be made:-**

- > **Made:** Goods are already delivered or Service is already provided & Payment is received after that.
- > **Agreed to be made:**
  - (i) There is an agreement for supply as and
  - (ii) An advance has been received against the supply.

GST R-1 → statement of outward supply 11th of next month  
 GST R-3B → Return form 20th of next month

**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 → Imp.

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

**Supply of Goods**

**P13 :** Mr. Suresh of Rajasthan <sup>SGT</sup> supplied goods and issue the invoice in the month of December, 20XX for ₹20,000 to Mr. Ramesh of Rajasthan. Mr Suresh has received advance of ₹10,000 in the month of Sept. 20XX. SGST and CGST rate on supply of goods is 9% each. IGST rate is 18%. Determine when GST is payable.

## Supply of Services

**P14 :** Mr. Gajanan of Rajasthan supplied Services and issue the invoice in the month of December, 20XX for ₹ 20,000 to Mr. Birju of Rajasthan. Mr Gajanan has received advance of ₹ 10,000 in the month of Sept. 20XX. SGST and CGST rate on supply of Services is 9%. IGST rate is 18%. Determine when GST is payable.

### Meaning of Consideration:-

- (a) **Payment for Supply:** "Consideration" includes any payment made or to be made, whether in money or otherwise, in connection with, in response to, or as an inducement for the supply of goods or services,
- (b) **Monetary Value of Actions:** "Consideration" also covers the monetary value of any forbearance related to, in response to, or as an inducement for the supply of goods or services.

**Payment by :-** whether made by the recipient or any other person.

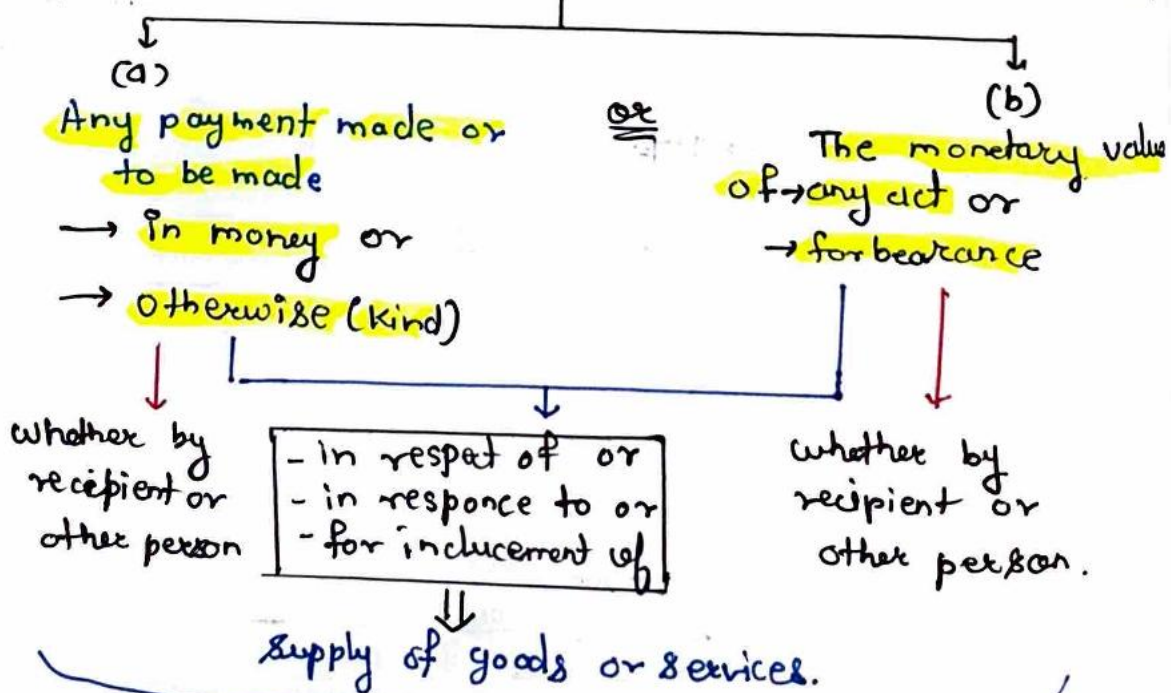
**Exclusion from consideration:-** However, it does not include

- ⇒ **subsidies** provided by the Central Government or a State Government.
- ⇒ **A deposit** provided concerning the supply of goods or services is not considered as payment for such supply unless the supplier utilizes the deposit as consideration for the specified supply.

Refer Questionnaire: CCP 02.01.01.00-

### sec 2 (31): Consideration

In relation to supply of goods or services includes



**Inducement means to give 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.

**Free Supply (i.e. without Consideration) is not subject to levy of GST**

Free supply of goods or Services are not subject to GST unless it is specifically covered in Schedule I or Sec 7 e.g. " Access to free TV channels, Tourism information free of charge, Large number of governmental activities for citizens.

Refer Questionnaire: CCP 02.03.04.00

**Clarifications :- "Supply for Consideration"**

Donations received by charitable institutions from individual donors, without quid pro quo [ Circular No. 116/35/2019]

Donations to charitable organizations are considered consideration only when there is an obligation (quid pro quo) for the recipient to provide a service in return.

**Recipients of Donations:** Institutions like religious organizations, charitable groups, schools, hospitals, orphanages, and old age homes often receive financial help or support in the form of donations or gifts.

**Gratitude Expression:** Recipient institutions often acknowledge donors by placing nameplates or similar acknowledgments on their premises as a gesture of gratitude and public recognition for philanthropic acts.

**No Supply of Service:** When donor names are displayed in a manner that expresses gratitude and recognition without promoting the donor's business, it doesn't constitute a supply of service, and there is no GST liability on the payment made. *Imp note:- If display of name on name plate is with an intention to advertise business of donor then it is a supply*

**Example:** Bhushan donated a blackboard to Yoganisht Sansthan - a charitable yoga institution. Yoganisht Sansthan printed underneath the blackboard so donated - 'Good wishes from Mr. Bhushan.'

Refer Questionnaire: CCP 02.03.05.00 (IMP) & CCP 02.03.06.00 (IMP)

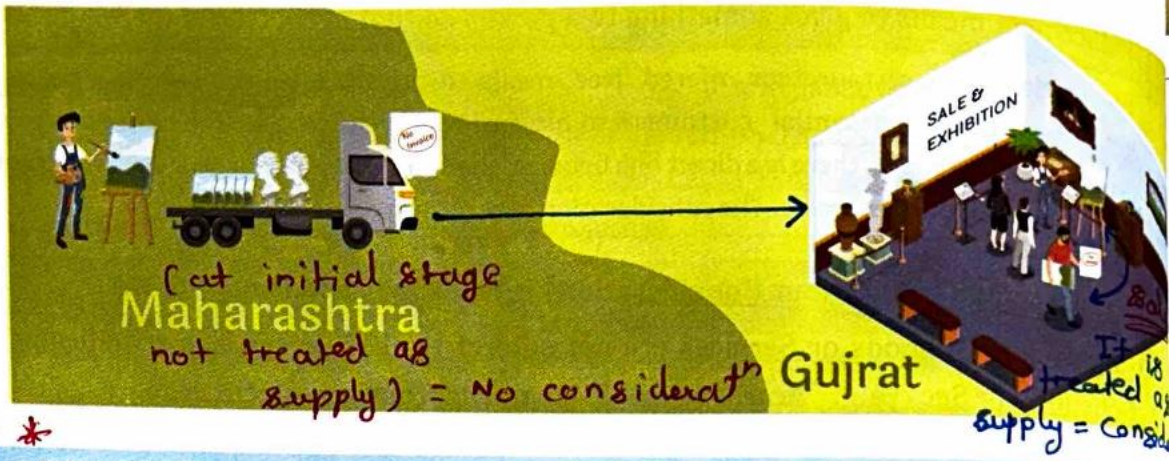
**Art works sent by artists to galleries for exhibition is not a supply as no consideration flows from the gallery to the artists [Circular No. 22/22/2017]**

**Artist-Gallery Relationship:**

- ⇒ Artists provide their artwork to galleries for exhibition, but no consideration is exchanged between the gallery and the artist during this stage.
- ⇒ This initial act of sending art to the gallery for exhibition does not constitute a supply.

**Actual Supply Occurs When Buyer Selects:**

- ⇒ The actual supply occurs only when a buyer chooses a specific artwork from the gallery's exhibition.
- ⇒ At the time of this selection and sale, GST becomes applicable and must be paid.



\* \* \*

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 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 consideration
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 further business.
Free distribution of goods by a charitable institution	It is not a supply under GST GST is not chargeable

\* \* \*

CBIC clarification

**P 15:-** Mr. A supplied advertising services to V'Smart Academy for which V'Smart Academy paid the following:-

- Payment in cash ₹20,000,
- Payment by cheque ₹30,000,
- Payment by DD ₹30,000 &
- Transfer of BOE ₹ 20,000.

} Money

State the amount that shall be considered as consideration for the supply of said service under GST?

Total consideration = 100,000

**P16:-** An architect has provided architectural services to Kumar Properties who is a builder. For the supply of this service, architect has retained one flat in the building of Kumar Properties. Whether this transaction is treated as supply of service under GST?

**P17:-** Kumar Properties have launched a commercial project in the name of 'Kumar prestige point' in Pune. Under this project, it is constructing 3rd & 4th floor in a building. But the prestige point society raised an objection against such construction. So, Kumar Properties supplied the services of painting & repairing of existing property to the society & in return, the society has withdrawn its objection. State whether the painting & repairing of existing building without any charges is liable to GST?

**P18:-** ABC fertilizers Ltd. is manufacturing a fertilizer to be used in agriculture by many farmers. It has declared the price at ₹100 per packet of 1kg. Government has also announced to give subsidy of 30% on sale of fertilizers by its manufacturer. Company sold 1000 packets of fertilizer to many farmers for which the consideration is received in cash ₹70,000 and ₹30,000 is also received from government as a subsidy.

- Compute the taxable value & GST payable thereon by ABC fertilizers Ltd., if applicable GST rate is 18%?
- Would your answer differ, if subsidy is received from a charitable trust instead of Government? Give reason for the same.

**P19:-** ABC Ltd. is a manufacturer of readymade Garments. It had started its factory in the year 20XX-XY. The company removed its first consignment of 10,000 shirts as a donation to Balaji Trust. Explain whether the given transaction would be treated as supply & liable to GST?

**P19A:-** Moti Singh, owner of Singh Publishing House, Ghaziabad, U.P., donated some money to Anand Charitable Trust in the memory of his late father. The Trust constructed 2 room in the school run by it from such donation and wrote 'Donated by Moti Singh in the memory of his father' & 'Donated by Singh Publishing House, Ghaziabad, U.P.' on the door 1st & 2nd room. Examine whether the money donated by Moti Singh is leviable to GST.

**Supply must be in the course or furtherance of business.**  
**Sir what do you mean by Business?**



Normally every supply is liable to GST only if it is made in the course or furtherance of business. (subject to certain exceptions)

**Let's understand the term business under CGST Act.**

**Sec 2(17) Business includes**

(a) **Diverse Activities:** ⇒ any trade, commerce, manufacture, ⇒ profession, vocation, ⇒ adventure, ⇒ wager (a place of bet) or ⇒ any other similar activity, whether or not it is for a pecuniary benefit (it means intention to earn the profit is criterion in determining the states of business.)

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

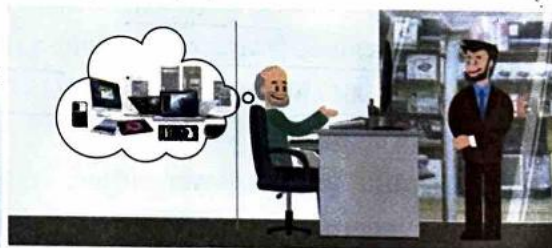
**Examples :**

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



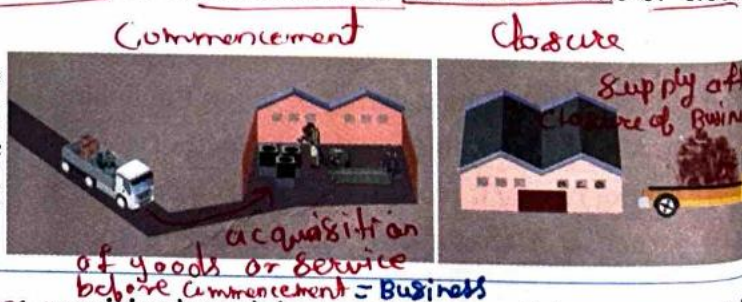
(c) **Nature of Activities:** any activity or transaction in the nature of sub-clause (a), where or not there is volume, frequency, continuity or regularity of such transaction

**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.



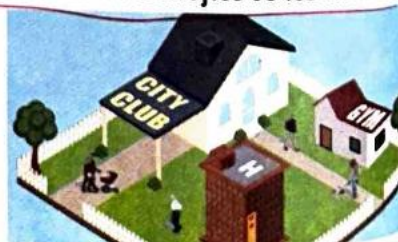
(d) **Goods and Services for Commencement or Closure:** supply or acquisition of goods including capital goods and services in connection with commencement or closure of business


**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.



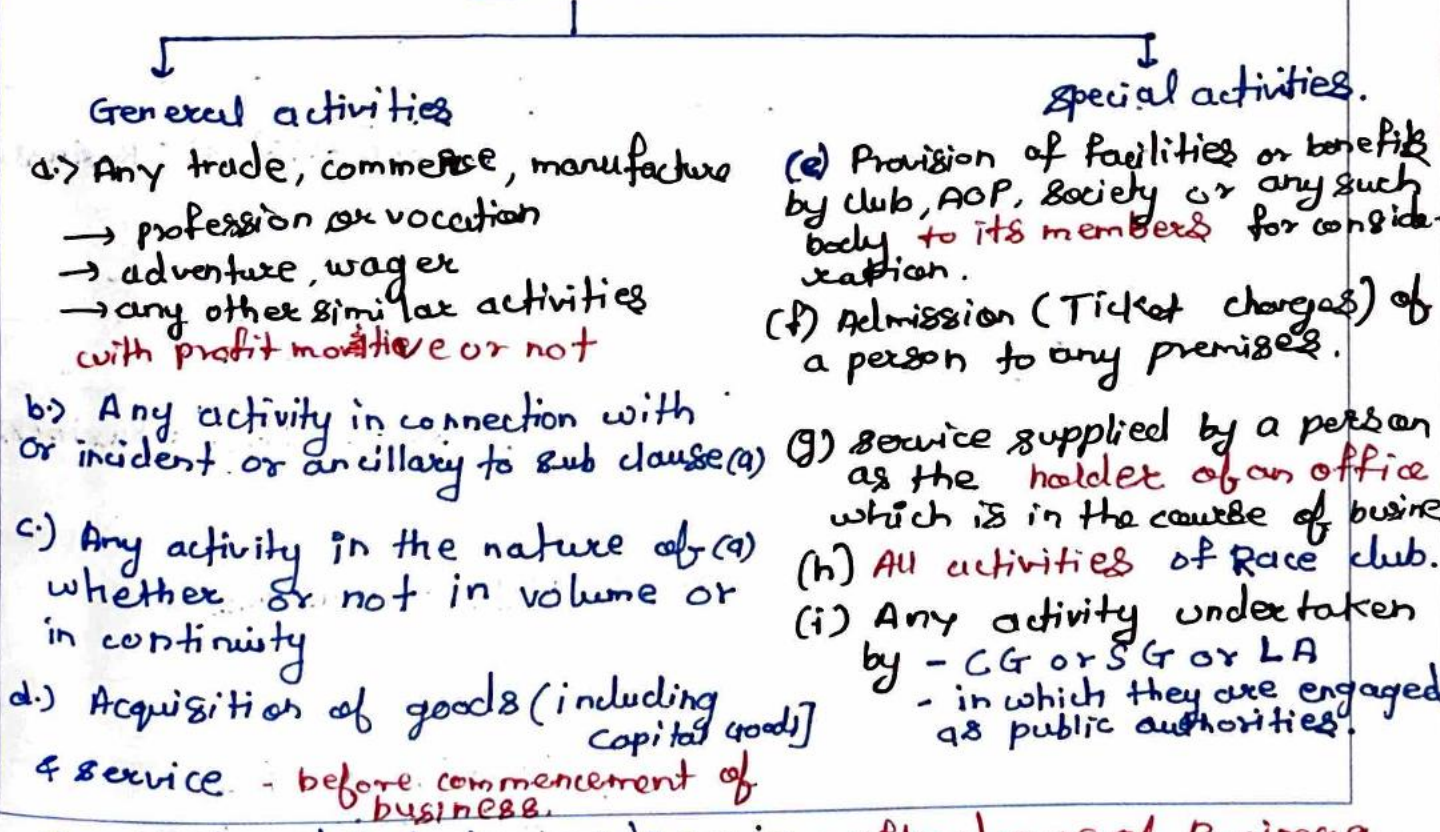
(e) **Club or Association Services:** provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members

**Examples :** Facilities or benefits provided by club etc. are  
 i) Sports facilities like swimming pool, table tennis, cricket etc. ii) Restaurant facility iii) banquet hall or open ground iv) Accommodation facility (rooms) v) Library vi) Conference room etc.



- ticket charges
- (f) **Admission for a Fee:** admission, for a consideration, of persons to any premises  
**Examples :** Entry tickets to amusement park, diwali mela, cinema theater etc.
  - (g) **Services by Office Holders:** services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation  
**Examples :** i) An advocate get appointed as member of the Arbitration Tribunal.  
 ii) CA in practice provides CFO or independent director services, he would be covered
  - (h) **Activities of Race Clubs:** 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 betting  
**Totalisator :** A device showing the number and amount of bets staked on a race, to facilitate the division of the total among those backing the winner.  

  - Author's Note :-** Thus it seems that, all activities related to race club are now covered under definition of Business
  - (i) **Government Activities:** 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.

Sec 2(17): Business



Supply of goods (including C.G) & service - after closure of Business.

**Supply to be in course of business of supplier and not of recipient**

The term 'supply' is from the point of view of person who is supplying and not person receiving the supply. Thus, if supplier is not in the business of supplying the goods or services, GST is not applicable.

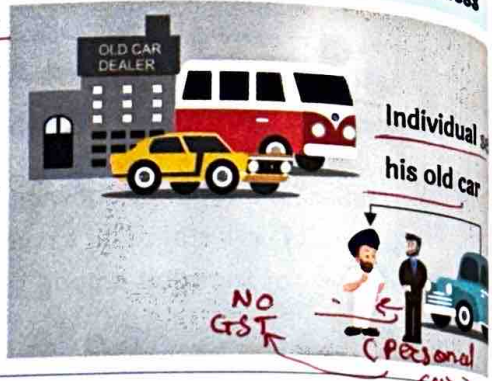
Really, even otherwise, GST cannot apply as the individual selling his old goods is not in the course of business (as selling of old goods is not the business of an individual).

Let's discuss with following example:-

**Personal Supplies - 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.

**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.



**P20:-** PQR Ltd., a manufacturer of Garments, sold its old machinery for ₹ 2,00,000 to Mr. X. Is this transaction a business activity under GST? *old machinery = Goods & in the course of business [sec 2(17)(b)]*

*Sec 2(17)(c) Business Activity*

**P21:-** Mr. A is a trader who is dealing in sale & purchase of computers. Mr. B wants to start the same business and hence, he obtains consultancy from Mr. A regarding the same. Is it true that Mr. A has conducted a business activity by giving such consultancy to Mr. B? Give reason for the same.

**P22:-** KY Ltd. purchased various goods & machineries to set up a factory. These purchases were made before the commencement of factory. State whether the purchases of goods including capital goods are done in the course of business? *sec 2(17)(d) => Business*

**P23:-** XYZ Ltd. had closed its factory in the year 20XX. Some machines, furniture & stock remained unsold in the factory at the time of its closure. After 2 years, he got one buyer who purchased machinery, furniture and stock that remained unsold before. XYZ Ltd. is seeking advice whether this sale after 2 years of closure of factory will be treated as business activity or not, even though the main business is already closed? *sec 2(17)(d) = Business ✓*

**P24:-** At the Prestige Point, a group of students have formed a Prestige Point Student Association for the welfare of students. This association made 1000 members. It provides various facilities & services like drinking water, study centres, food, PG, etc. only to its members. This association is charging subscription fees of ₹ 100 for every member. Minimum charges for various facilities. Whether the services provided by association to its members is treated as business for the levy of GST? *sec 2(17)(e) = Business*

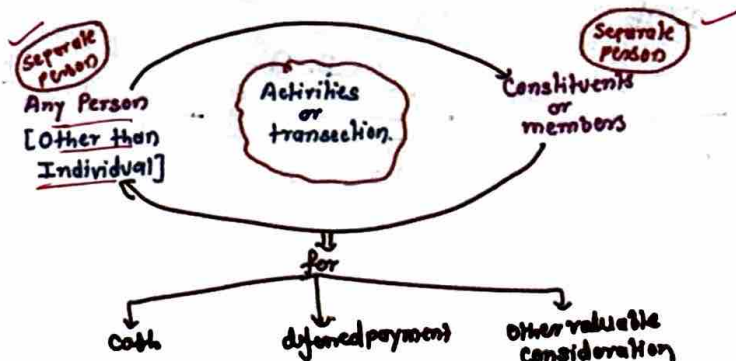
**P25:-** Prestige Point Student Association arranged a dance event and called Shahrukh Khan to perform in this event. Entry fee charged was ₹ 1000 per person to attend this event. Is this treated as business under GST? *sec 2(17)(f) => Business ✓*

**P26:-** State Government is providing various public services like public hospitals, roads, maintenance, cleaning etc., & they are charging some amount to public for the same. Whether the State Government is treated as a person under GST Act & also state whether it is doing business by providing public services? *State govt = Person*

*sec 2(17)(i) = Business*

## ACTIVITIES/TRANSACTIONS BETWEEN A PERSON, OTHER THAN AN INDIVIDUAL, AND ITS MEMBERS/ CONSTITUENTS FOR CONSIDERATION

- (aa) Activities or Transactions with Members or Constituents: Encompasses activities or transactions, by a person (other than an individual), with its members or constituents or vice-versa, involving cash, deferred payment, or other valuable consideration. It clarifies that such persons and their members or constituents are considered separate entities.



### Examples:-

- 1) Resident Welfare Association (RWA) of Sanskriti Society supplies air-conditioners to its members at a concessional price.
  - 2) 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. ∴ GST लगेगा

Refer Questionnaire: CCP 02.04.07.00

## IMPORTATION OF SERVICES FOR CONSIDERATION WHETHER OR NOT IN COURSE OR FURTHERANCE OF BUSINESS

- (b) Supply includes "Import of Service" for consideration whether or not in the course or furtherance of business.

### Notes:-

- 1) Import of service is taxable only if it is for consideration
  - 2) Free import service is not liable to GST unless, mentioned in para 4 of Schedule I
  - 3) Even if service is imported for the purpose other than business, it would be treated as supply
- Note:-** but if import of service by and individual in relation to any purpose other than commerce, industry or any other business or profession than it cover under exemption Sl. No. 10 of IGST Act exemption Notification No. 9/2017.
- 4) Also, in case of import of service RCM is applicable.

(Reverse charge Mechanism)

**Example:-** Mr. A, a proprietor, has received the architect services for his personal residence from an architect located in New York at an agreed consideration of \$ 5,000. Whether it would be treated as supply & liable to GST?

**Answer:-**

**Supply :-** The import of services by Mr. A is supply under section 7(1)(b) though it is not in course or furtherance of business.

**Liability of GST:-** Service is exempt.

# 7(1) ACTIVITIES WITHOUT CONSIDERATION - DEEMED SUPPLY

(c) It provides that supply includes the activities specified in **Schedule I**, made or agreed to be made without a consideration.

Imp

## SCHEDULE - I

B. A

ITC

**Para 1** Permanent transfer or disposal of business assets where input tax credit has been taken on such assets. Refer Questionnaire: CCP 02.05.20

### Permanent transfer or disposal of business assets

Liabilities	(₹)	Assets	(₹)	ITC taken	Remarks
		land & building		No	Permanent of transfer of Land & Building. No GST (Immovable Property)
		Plant & machinery (Movable)		Yes	a.) Sold for consideration = It's a supply u/s 7(1)(a) b.) Permanent Tr. without consideration - It's a supply u/s 7(1)(c)
		Furniture & fixtures (Movable)		Yes	a.) Sold for consideration = It's a supply u/s 7(1)(a) b.) For same as above
		Vehicles (Seating capacity less than 13)		No	1.) Sold for consideration It's a supply u/s 7(1)(a) & GST is payable irrespective of the fact that ITC is taken or not. 2.) permanent Tr without consideration. It is not treated as supply u/s 7(1)(c) Sch I - para 1 because no ITC is taken.
		Closing stock → RM → semi-finished goods → Finished goods		ITC taken	

1.) If sold for consideration It is a supply u/s 7(1)(a)  
2.) Permanent Tr without consideration (eg. gift, sample) → It is treated as supply u/s 7(1)(c) - para 1 - Sch I

**Important Notes :-**

There must be a disposal or transfer of business assets.

**Business Asset includes, current and non-current, short-term and long-term, operating and capitalized, as well as tangible and intangible assets.**

- Transfer/disposal must be permanent, and
- ITC must have been availed on such business assets.

So, permanent transfer/disposal of following business assets, without consideration, will not be covered within this para and thus will not be deemed as supply:

- (i) Business assets on which ITC is blocked/not available under GST.
- (ii) Business assets though eligible for ITC, ITC has not been availed by the registered person.

Refer Questionnaire: CCP 02.05.09.00 & CCP 02.05.10.00 (IMP)

**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. purchased a car for Business use and after 2 years transferred car for personal consumption to use at home. No ITC is taken on car. Will the transaction be a supply in terms of GST Act?

**P27:** 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?

**P28 :** 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?

**P29 :** Vsmart Pvt. Ltd. purchased a car for Business use and after 2 years transferred car for personal consumption to use at home. No ITC is taken on car. Will the transaction be a supply in terms of GST Act? NO → ITC is not taken

**P30 :** 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? Yes → supply Under para-1 of sch I

**Para II** Supply of goods or services or both [without consideration]  
 between related persons or  
 between distinct person as specified in section 25, when made in the course or furtherance of business.  
*distinct Person (DPP) separate Branch under same PAN.*

Refer Questionnaire :  
 CCP 02.05.11.00  
 & CCP 02.05.12.00

**Proviso** Provided that gift 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.  
*Related Person → separate person having different PAN but related (as follows): per Employee*

Refer Questionnaire: CCP 02.05.13.00

Let us understand the terms Related Persons and Distinct persons.

1) **Related persons:** → No need to learn Def<sup>n</sup>

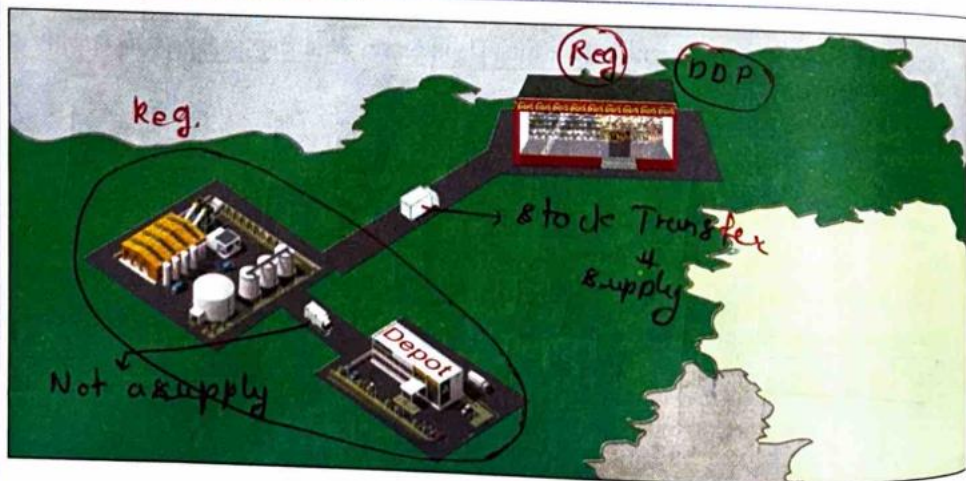
It is defined in Explanation to Sec 15 (normally a person who is under influence of another person related person like members of the same family or subsidiaries of a group company etc.)

**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 → Learn
- A third person controls/ owns/ holds (directly/ indirectly) 25% voting stock of both of them (Supplier & Recipient)
- One of them controls (directly/indirectly) the other [eg. holding & subsidiaries co.]
- A third person controls (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

\* \* **Family [Section 2(49)]:** "Family" means,-

- (i) the spouse and children of the person, and
- (ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or dependent on the said person.



**Common Business Practice - Transfer of Goods and Services:**

- It is a common business practice to transfer goods or services among different units of same legal entity.
- Examples include distributing factory-manufactured samples to branches, transfer goods from factory to depot/showroom, and providing services between branches of same entity.

**Classification as Supply under GST:**

- Under GST, these intra-entity transfers, even if conducted without consideration, qualify as supplies when:

- (i) They involve different locations of the same legal entity with separate GST registrations (distinct persons).
- (ii) They involve establishments of distinct persons.

**Treatment as Self-Supplies:**

These transactions are termed as self-supplies and are subject to GST, even if no amount is charged, as long as they meet the criteria mentioned in para II.

Analysis :-

**Supplier of goods**

Factory in Pune	Depot in Gujarat	Stock transfer from Pune to Gujarat	Stock transfer between DDP - GST will attract
Factory in Pune	Showroom in Goa	Stock transfer from Pune to Goa	Stock transfer between DDP - GST will attract

**Supply of Service**

Head Office in Pune	Branch office in Haryana	Head office supply services to branch office	supply of service between DDP - GST will attract
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**Gifts by employer to employee**

**Proviso to Para 2 of Schedule I - Employee Gifts:** The proviso states that gifts of a value up to ₹ 50,000 in a financial year given by an employer to an employee are not treated as supply of goods or services under GST.

**Treatment of Gifts above ₹ 50,000 in Value:** Gifts exceeding ₹ 50,000 in value, even if without consideration, are treated as supply subject to GST when given in the course or furtherance of business & entire value is taxable.

**Notes : Definition of 'Gift' in GST Law:** The GST law does not provide a specific definition for the term 'gift.'

In common language, a gift is typically given without any expectation of consideration, is voluntary, occasional, and cannot be demanded as a right by the recipient. The recipient also cannot legally demand a gift through a court of law.

**P31 :-** V Smart Academy distributed gifts to its employees in Diwali as follows:-

Employees	Gifts	Value (₹)	
A	Bike	₹ 40,000	Not a supply as value < 50,000
B	Car	₹ 3,00,000	Supply
C	Jewellery	₹ 80,000	Supply
D	Cash	₹ 70,000	No GST.
E	Flat for Residence Use (deemed Rent)	₹ 90,000	GST supply

State which of the above distribution of gifts to the employees are liable to be taxed under GST & accordingly, compute the taxable value & GST payable thereon by the employer. (Assume all the above transactions are intra-state & the applicable GST rate is 18%)

[Applicability of para - 3 only in a case

Para III

Supply of goods -

where agent issues his own invoice] (Stock transfer to Agent)

Selling Agent

(a) Supply of goods by a principal to his agent, without consideration, where the agent undertakes to supply such goods on behalf of the principal is considered as supply.

buying agent

(b) supply of goods by an agent to his principal, without consideration, where the agent undertakes to receive such goods on behalf of the principal is considered as supply.

only read

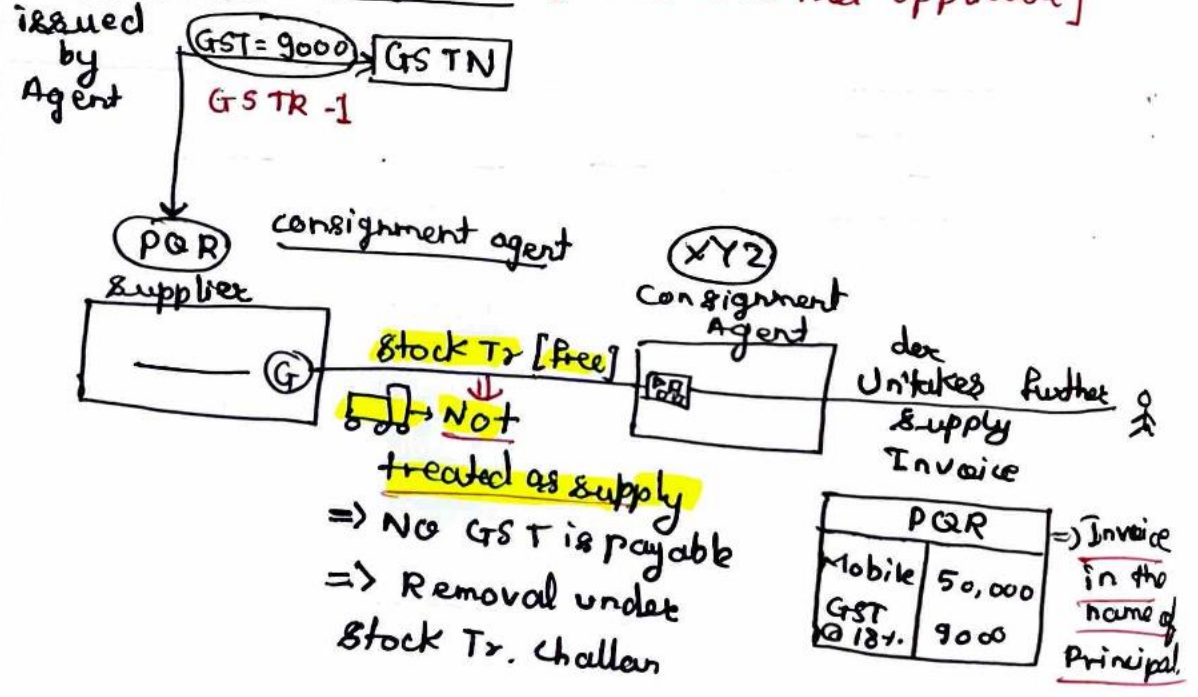
Important Definitions

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, > art  
 > del credere agent, > an auctioneer or > any other mercantile agent  
 whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another.

**Important Note:-** Only supply of goods and not supply of services is covered here. Thus, the supply of services between the principal and the agent and vice versa would require "consideration" to be present so as to be considered as supply and thus, making it liable to GST.

for Invoice issued by Agent Diagram-1 [para - 3 is not applicable]

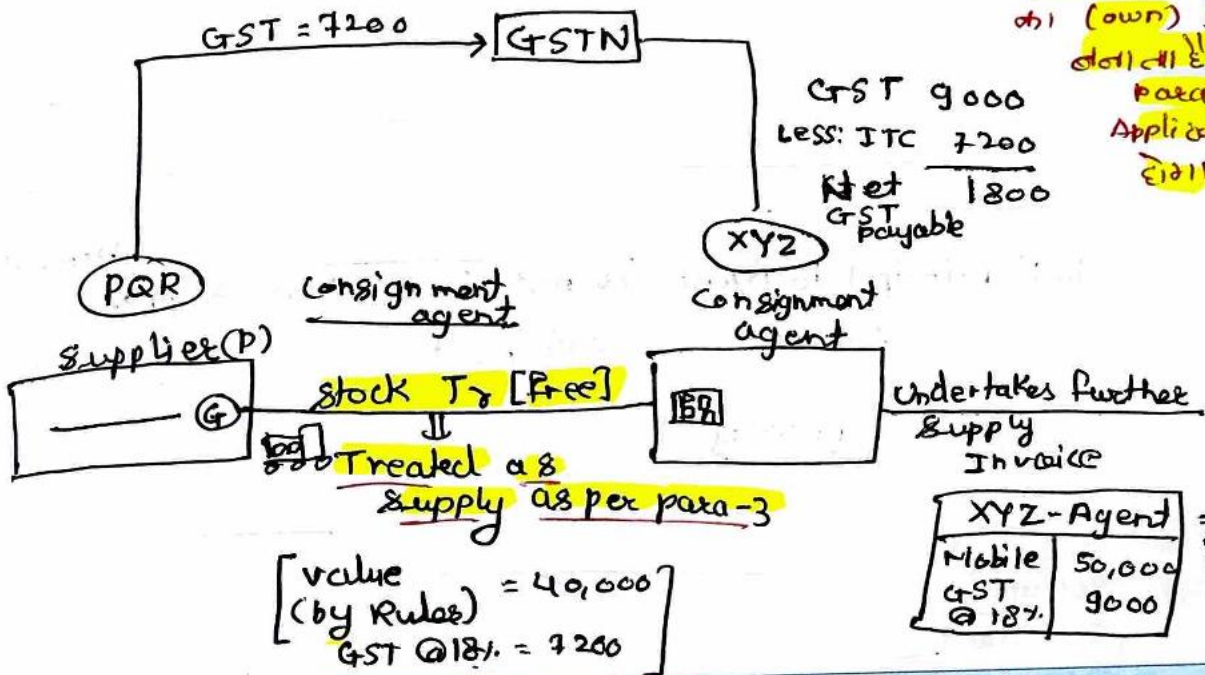


DPQ => Chap: 02 supply Q.13

## Diagram - 2 : Applicability of para-3

Agent 31.12.2014

his (own) invoice  
 GSTN  
 Para-3  
 Applicable  
 GST



CH 3 Concept of Supply

### Acting merely as an agent v/s Agent actively involved in further supply

In order to fall under this para, the deciding factor is whether the invoice for the further supply of goods on behalf of the principal is being issued by the agent in whose name?

1. If Goods are supplied on behalf of principal by the agent:- [Circular No. 57/31/2018]

Selling Agent

1. If invoice issued by agent in his own name	Transaction is covered in para 3 (i.e. stock transfer between principal to agent, treated as supply).
2. If invoice issued by agent in name of Principal	Transaction is NOT covered in para 3. (i.e. stock transfer between principal to agent, not treated as supply).

Buying agent

Goods procured on behalf of principal by the agent:-

If Goods procured by agent are invoiced in the name of agent:-	then further provision of the said goods by agent to principal would be covered by Para 3.
Where the goods being procured by the agent on behalf of the principal are invoiced in the name of the principal	then further provision of the said goods by agent to principal would not be covered by Para 3.

Example 1:- Amit appoints Raju to procure certain goods from the market. Raju identifies various suppliers who can provide the goods as desired by Amit and asks the supplier (Bunty) to send the goods and issue the invoice directly to Amit.

Non-Application of Para 3 of Schedule I:

- According to the provisions of the GST Act, Raju is not considered an agent of Amit for the supply of goods under Para 3 of Schedule I.
- This is because Raju's role is limited to that of a procurement agent, and he does not participate in the supply process.

Example 2:- Hanimani Bank, a banking company, appoints Rohit (auctioneer) to auction certain goods. The auctioneer arranges for the auction and identifies the potential bidders.

Auctioneer's Role in Goods Sale:  
 The highest bid is accepted, and Hanimani Bank sells the goods to the highest bidder.

⇒ Hanimani Bank issues the invoice for the goods supply to the successful bidder.

### Auctioneer's Role Limited to Services:

- ⇒ The auctioneer's role is strictly limited to providing auctioneering services.
- ⇒ Rohit, the auctioneer, does not play a role in the supply of goods.

**Non-Application of Para 3 of Schedule I:** In this scenario, Rohit is not considered an agent of Hanimani Bank for the supply of goods under Para 3 of Schedule I, as the auctioneer's involvement is solely in providing services, not in the supply of goods. Hence transaction between principal and agent is not treated as supply.

**Example 3:** - Tushar, an artist, appoints Dheeraj (auctioneer) to auction his painting. Dheeraj arranges for the auction and identifies the potential bidders. The highest bid is accepted and the painting is sold to the highest bidder.

### Invoice Issued by Dheeraj on Behalf of Tushar:

- ⇒ Dheeraj issues the invoice for the painting supply in his own name but on behalf of Tushar.
- ⇒ The painting is delivered to the successful bidder.

### Role of Dheeraj:

- ⇒ Dheeraj is not solely providing auctioneering services in this scenario.
- ⇒ He is also actively involved in the supply of the painting on behalf of Tushar and possesses the authority to transfer the title of the painting.

**Application of Para 3 of Schedule I:** This situation falls under the purview of Para 3 of Schedule I, as Dheeraj, in his capacity as an auctioneer, is acting as an agent for the supply of goods (the painting) on behalf of Tushar. Hence transaction between principal and agent is treated as supply.

**Example 4:** - A C & M agent or commission agent takes possession of the goods from the principal and issues the invoice in his own name. Agent

### C&M Commission Agent as Agent of Principal:

- ⇒ The C&F commission agent is considered an agent of the principal for the supply of goods per Para 3 of Schedule I under GST.
- ⇒ Whether or not the name of the principal is disclosed does not impact this classification.

**Example 5:** - <sup>(P)</sup> Guru sells agricultural produce by utilizing the services of Charu who is a commission agent as per the Agricultural Produce Marketing Committee Act (APMC Act) of the State. Charu identifies the buyers and sells the agricultural produce on behalf of Guru, which he charges a commission from Guru. Agent

**Definition of Commission Agent under APMC Act:** A commission agent under the APMC Act is a person who buys or sells agricultural produce on behalf of a principal or facilitates the buying and selling of such produce on behalf of a principal, receiving a commission as remuneration based on the transaction amount.

### Classification of Charu as an Agent under GST:

- ⇒ If Charu, the commission agent, issues the invoice to the buyer, he falls under the category of an agent covered under Para 3 of Schedule I.
- ⇒ However, when Guru directly issues the invoice to the buyer, Charu, the commission agent, does not qualify as an agent covered under Para 3 of Schedule I in that scenario.

**2. Clarification of issues pertaining to Del-credere agent (DCA):-**

*Pending*

- DCA 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.
- The factor that differentiates a DCA from other agents is that the **DCA guarantees the payment to the supplier.**
- The commission paid to the DCA may be relatively higher than that paid to a normal agent.
- 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.

**Circular No. 73/47/2018 GST has clarified the following issues in this regard:-**

Sr. No.	Issue	Clarification				
1	Whether a DCA falls under the ambit of agent under Para 3 of Schedule I?	<p>As per Circular No. 57/31/2018 GST (discussed above), whether or not the DCA will fall under the ambit of Para 3 of Schedule I depends on:-</p> <table border="1"> <tr> <td>where the invoice for supply of goods is issued by the supplier to the customer, either himself or through DCA (i.e. Invoice is in name of Principal):-</td> <td>the DCA does not fall under the ambit of agent.</td> </tr> <tr> <td>where the invoice for supply of goods is issued by the DCA in his own name:-</td> <td>the DCA would fall under the ambit of agent.</td> </tr> </table>	where the invoice for supply of goods is issued by the supplier to the customer, either himself or through DCA (i.e. Invoice is in name of Principal):-	the DCA does not fall under the ambit of agent.	where the invoice for supply of goods is issued by the DCA in his own name:-	the DCA would fall under the ambit of agent.
where the invoice for supply of goods is issued by the supplier to the customer, either himself or through DCA (i.e. Invoice is in name of Principal):-	the DCA does not fall under the ambit of agent.					
where the invoice for supply of goods is issued by the DCA in his own name:-	the DCA would fall under the ambit of agent.					
2	Whether the temporary short-term transaction based loan extended by the DCA to the recipient (buyer), for which interest is charged by the DCA, is to be included in the value of goods being supplied by the supplier (principal) where DCA is not an agent under Para 3 of Schedule I?	<p><b>In such a scenario, following activities are taking place:-</b></p> <ul style="list-style-type: none"> <li>i) Supply of goods from supplier (principal) to recipient</li> <li>ii) DCA merely an agent &amp; not actively involved in supply.</li> <li>iii) Supply of extension of loan services by the DCA to the recipient.</li> </ul> <p>It is clarified that in cases where the DCA is not an agent under Para 3 of Schedule I, the temporary short-term transaction-based loan being provided by DCA to the buyer <b>is a supply of service</b> by the DCA to the recipient on <b>Principal-to-Principal basis and is an independent supply.</b></p> <p>Therefore, the <b>interest</b> being charged by the DCA would not form part of the value of supply of goods supplied (to the buyer) by the supplier.</p>				
3	Where DCA is an agent under Para 3 of Schedule I and makes payment to the principal on behalf of the buyer	<p><b>In such a scenario following activities are taking place:-</b></p> <ul style="list-style-type: none"> <li>i) Supply of goods by the supplier (principal) to the DCA;</li> <li>ii) Further supply of goods by the DCA to the recipient;</li> <li>iii) DCA actively involved in supply.;</li> <li>iv) Extension of credit by the DCA to the recipient.</li> </ul> <p>➤ It is clarified that, where the DCA is an agent under Para 3 of</p>				

and charges interest to the buyer for delayed payment along with the value of goods being supplied, whether the interest will form a part of the value of supply of goods also or not?

Refer Questionnaire:  
CCP 02.05.17.00 (IMP)

- Schedule 1, the temporary short-term transaction credit being provided by DCA to the buyer no longer retains character of an independent supply and is subsumed in supply of the goods by the DCA to the recipient.
- ⇒ It is emphasised that the activity of extension of credit by DCA to the recipient would not be considered as a separate supply as it is in the context of the supply of goods made by DCA to the recipient.
  - ⇒ It is further clarified that the value of the interest charge on such credit would be required to be included in the value of supply of goods by DCA to the recipient as per section 15(2)(d).

**P 32:-** XYZ Ltd. is a manufacturer of mobile phones in Nagpur (Maharashtra) & registered under GST in Maharashtra. It is selling its products directly from its own depot also through various distributors & consignment agents. Company manufactured 1000 units of mobiles in the month of April & provides the following information:-

1	1000 mobiles are directly sold from its depot to various customers for ₹ 3000 each (intra-state). ✓ 7(1)(a) - factory CGST SGST
2	1000 mobiles are sold to distributor A of Delhi at ₹ 2800 each. 4(1)(a) CGST
3	500 mobiles are sent to a consignment agent of Gujarat for further sale. The open market value for each mobile is ₹ 3000. Note that the agent is issuing invoice in own name. 7(1)(c) para-3 - IGST
4	300 mobiles are transferred to its own depot in Nagpur which is not separately registered under GST for further sale. 7(1)(c) para-3 - IGST
5	1000 mobiles are transferred to its warehouse in Rajasthan for storage. The market value for each mobile is ₹ 3000. IGST

Determine the taxable value & GST liability of XYZ Ltd. for April, if the applicable rate of GST is 18%.

### Para IV Importation of services :

#### Import of services by a person

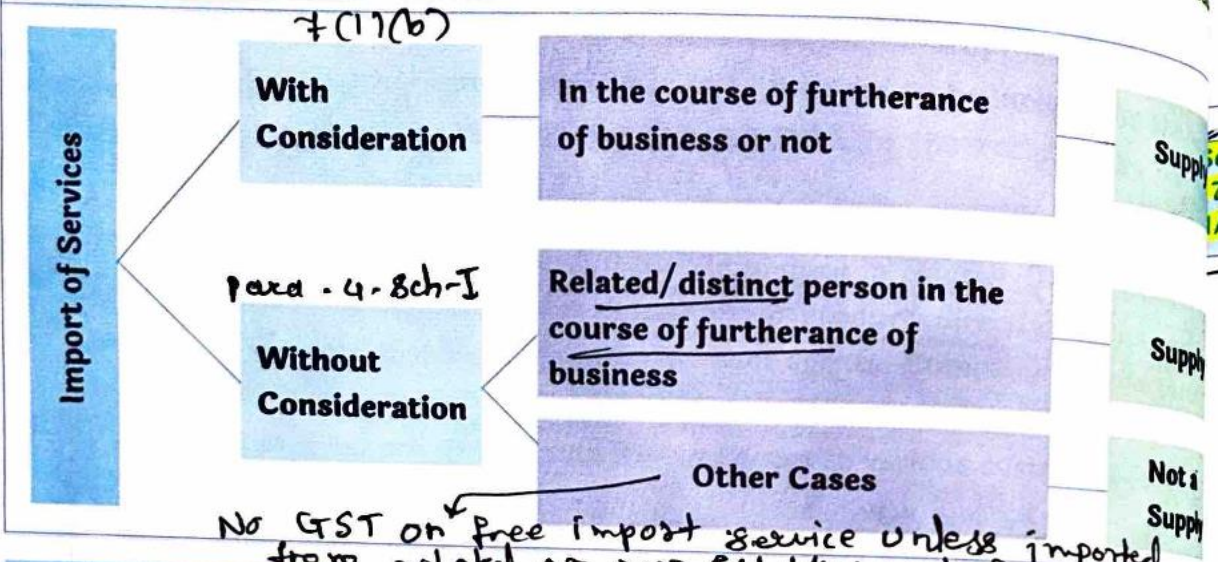
- ⇒ from a related person or from his establishments located outside India,
- ⇒ without consideration, in the course or furtherance of business  
shall be treated as "supply".

**Example 1:-** Raju Associates received legal consultancy services from its head office located in Singapore. The head office has rendered such consultancy services free of cost to its branch office.

#### Related Persons - Raju Associates and Head Office:

- ⇒ Raju Associates and their head office are considered related persons under GST.
- ⇒ Services received by Raju Associates from the head office qualify as a supply even if no consideration is charged by the head office.

**Example 2:-** Champak, a proprietor registered in Mumbai, has sought architect services from his son located in London, with respect to his newly constructed house in Mumbai. **Services Received Without Consideration by Champak (Son - a Related Person):** Services received by Champak from his son (a related person) without consideration do not qualify as supply because they are not received in the course or furtherance of business.  
**Exception: Architect Services for Office in Mumbai:** If Champak receives architect services without consideration from his son for his office in Mumbai, it is considered a supply because it is received in the course of business.



**Clarification on Sales promotion schemes with reference to Schedule I**

**Sales Promotion Schemes and GST:**

- Businesses commonly use sales promotion schemes to boost sales or encourage product/service use.
- Section 7(1)(a) of the CGST Act specifies that goods or services supplied without consideration are not treated as "supply," except for activities listed in Schedule I.

**Examination of Sales Promotion Schemes:** [Detailed discussion in the chapter value of supply]

- Sales promotion schemes like providing drug samples to stockists or "Buy One, Get Free" offers have been examined in this context.
- The treatment of these schemes under GST is determined based on whether they fall under Schedule I activities or not.

Refer Questionnaire: CCP 02.06.18.00 (IMP), CCP 02.06.19.00 (IMP) & CCP 02.06.20.00

**Free Samples and Gifts under GST: [Circular 92/11/2019 GST]**  
 Free samples provided without consideration do not constitute a "supply" under GST, unless they are listed as activities in Schedule I.

**"Buy One, Get One Free" Offer:**

- Offers like "Buy One, Get One Free" are not individual supplies of free goods but involve multiple supplies where a single price is charged for the entire supply.
- Taxability of such offers depends on whether they are composite supplies or mixed supplies and the tax rate is determined accordingly.

Refer Questionnaire: CCP 02.05.08

P 33:- Mr. VB has taken architectural service from Mr. John (USA). State with reason whether the following independent transactions are treated as supply under GST & liable to tax.

- a) Mr. John is a related person to whom a consideration of \$10,000 is paid for the service by Mr. VB. *7(1)(b) ch. 1(1) 24 gd Import ch 2 consideration of 7(1)(b)*
- b) Mr. John is an unrelated person to whom a consideration of \$10,000 is paid for the service by Mr. VB but the service is taken for personal purpose. *7(1)(b) but exempt*
- c) Mr. John is an unrelated person who provided the service without any consideration. *Free import*
- d) Mr. John is a related person who provided the service without any consideration. *In the course of Business Service of supply of ED 31/1/24*

No supply

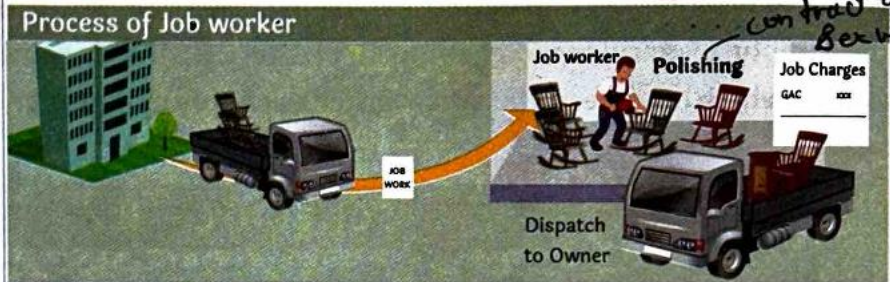
**ACTIVITIES/TRANSACTIONS TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES**

Section 7(1A) classifies certain activities/ transactions constituting supply, either as supply of goods or supply of services. Schedule II of the CGST Act contains the list of activities or transactions which have been classified either as supply of goods or supply of service.

**SCHEDULE - II**

Para no.	Activity / Transaction	Type	Nature of supply
7	<u>Transfer of goods</u>	a Any transfer of <u>title</u> in goods <i>ownership</i> <b>Example:-</b> Shivaji sells ready-made garments to its customers.	<u>Supply of Goods</u>
		b Any transfer of <u>right</u> in goods/ <u>undivided share</u> in goods without transfer of <u>title</u> thereof. <b>Example:-</b> Genius Equipments Ltd. gives a machinery on rent to Suhaasi Manufacturers.	<u>Supply of Services</u>
		c Any transfer of <u>title</u> in goods under any agreement which stipulates that <u>property</u> in goods shall pass at a <u>future</u> date upon payment of <u>full consideration</u> as agreed eg. hire purchase <b>Examples:-</b> 1) Dhruva Capitals supplied goods on hire purchase basis to customers. 2) Optima Manufacturers supplies toys to retailers on 'sale or return basis'.	<u>Supply of Goods</u>

Refer Questionnaire: CCP 02.08.25.00

2	<b>Land and Building</b>	<p><i>Long term rent</i></p> <p>a Any <u>lease, tenancy, easement, licence to occupy land</u>.  <b>Example:-</b> Lease agreement for land.</p> <p>b Any <u>lease or letting out of building</u> including a commercial, industrial or residential complex for business or commerce, wholly or partly.  <b>Example:-</b> A shop let out in a busy market area.</p> <p><b>Note:-</b> Sale of land or building is not treated as supply as per para 5 of Schedule III</p>	Supply Service
3	<b>Treatment or Process (Mostly called as jobwork service)</b>	<p>a Any treatment or process which is applied to another person's goods <u>eg. Job work</u></p> <p><b>Example:-</b> XYZ Tools sent their tools to Mercury for heat treatment to harden them. The heat treatment done by Mercury is a supply of services.</p> <p><b>Process of Job worker</b></p> 	Supply Service
4	<b>Transfer of Business Assets</b>	<p>a <b>Permanent Transfer of Business Asset:-</b> Goods forming part of business assets are transferred or disposed off by / under directions of person carrying on the business so as to no longer form part of those assets.</p> <p>b <b>Temporary Transfer of Business Asset:-</b> 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  <b>Example:</b> A director using car provided by the company for personal travels.</p> <p>c <b>Person Ceases to be a taxable person:-</b> <i>de-registration</i> Goods forming part of assets of any business carried on by a person <i>movable</i> 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.  <b>Example:</b> Mr. X, a trader, is winding up his business &amp; applying for deregistration. Any goods left in stock or in asset shall be deemed to be supplied by him and GST shall be payable.  <b>Exception:-</b>          ⇒ Business is transferred as a <u>going concern</u> to another person          ⇒ Business is carried on by a <u>personal representative</u> who is deemed to be a taxable person.  <b>Comment:-</b> In this case, it is immaterial that the registered person has taken the credit of such goods lying in stock at the time of its purchase or not.</p>	Supply Goods

**P 34:-** V'Smart Academy transferred 2 Televisions out of its business assets on which ITC is taken to its students as follows:-

- a) Permanently transferred 1 Television to student A for his personal use. *Para 4 of Sch-II SO G*
- b) Temporarily transferred another Television to Student B for his personal use. *SO S*

Determine whether the above transactions would be treated as supply under GST & also classify such transactions as supply of goods or supply of services.

**P 35:-** V'Smart Academy Pvt. Ltd. is a professional coaching institute which is supplying training & coaching services. The directors of the company declared the business to be closed and to get de-registered under GST as it ceases to be a taxable person. Following are the goods forming part of its business assets at the time of closure of business:-

S.No.	Assets	Value (₹ in Lakhs)
1	Land & Building	80 ✗
2	Furniture	40 ✓
3	Camera & Television	20 ✓
4	Benches	10 ✓
5	Other movable goods	15 ✓

- a) Determine whether the GST is payable under the given situation, if the business is not transferred as a going concern to another person. If yes, compute the taxable value on which GST shall be paid.
- b) What will be your answer, if business is continued by another person or a representative of V'Smart Academy pvt. Ltd.

5 Activities always treated as supply of services

a Renting of immovable property Supply of Services

b Construction of complex, building, civil structure, etc. Supply of Services

Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, *by (Advance Booking)*  
**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.**

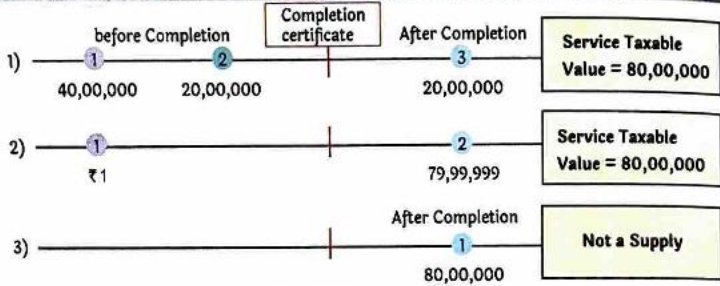
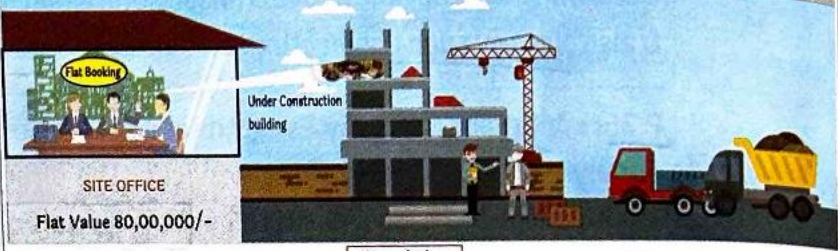
**Comments:-**

1. The term construction includes additions, alterations, replacements, or remodeling of any existing civil structure.
2. The expression competent authority means *Municipal Authority*
  - > 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 persons like an architect, chartered engineer, a licensed surveyor.

Recd

3. If entire consideration is received after issuance of completion certificate or after its first occupation, whichever is earlier, then it is not a supply at all [Sec 7(2) read with Schedule III [Entry 5]]

### Construction of Service intended for sale before completion



**P36:-** Kumar Builders has launched a residential house scheme of 100 flats in the month of April.

Give answer to the following independent cases:-

- Mr. A booked a flat in this scheme for ₹ 80,00,000. The 1st instalment of ₹ 20,00,000 is paid at the time of booking itself and the remaining instalments are paid as per the stages of completion of construction. Determine whether the Kumar Builders is liable to charge GST to Mr. A & also mention the taxable value in the given case.
- Will your answer differ, if only Rs 1 is paid as 1st instalment & the remaining amount of ₹ 79,99,999 is paid after the issuance of completion certificate? Explain.
- Kumar Builders sold 50 flats before the issuance of completion certificate and remaining 50 flats after the issuance of completion certificate. The value of each flat is ₹ 70,00,000. Calculate the GST payable by Kumar Builders, if the applicable rate of GST is 5%.

HW

**P37:-** Virat Builders has launched a scheme of commercial complex named as Kumar Prestige Point. It has committed to complete the scheme within 2 years from the date of booking. Mr. Rahul booked one shop in this Scheme for ₹ 60,00,000. The builder has not completed the scheme within the committed time. Instead, it started giving occupancy to the customer before the issuance of completion certificate. Analyse the given situation with regard to its taxability under the provisions of GST law & give answer to the following situations:-

- Mr. Rahul received occupancy of his shop on 01.05.20XX while the completion certificate is received from the Municipal Corporation on 15.05.20XX.
- If entire consideration of ₹ 60,00,000 is paid by Mr. Rahul on 10.05.20XX, is he liable to pay GST?

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

**Comments:-**

1. IPR are movable property so covered in definition of goods.
2. IPR includes Copyright, Patents, Trademarks, Designs, Any other similar right to an intangible property.

d Development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of IT software. Supply of Services

**Comments:-**

1. Sale of pre-packed/canned/ Shrink-Wrapped software = Supply of goods *ready*
2. License to use prepacked/canned/ Shrink-Wrapped Software = Supply of Service
3. Customized Software- Pre-dominant nature is supply of service = Supply of Service

**P 38:-** Infotech Ltd. is a software company which is provided the following information:-

S.No.	Particulars	₹ in Lakhs
1	Sale of pre-packed software ✓ <i>504</i>	80
2	Developing & designing of software for various clients ✓	40
3	Enhancement, adaptation & upgradation of existing software of clients ✓	20
4	License given to use pre-packed software	10

*504*  
*5*

**Answer the following questions:-**

- 1) Classify each of the above transactions as either supply of service or supply of goods.
- 2) Compute the GST Liability, if applicable GST rate on software supplied as goods is 12% and on software supplied as services is 18%.

e Agreeing to obligation to refrain from an act, or to tolerate an act or situation, or to do an act. (refer circular given below) Supply of Services

**Comment:-**

1. Obligation to refrain from an act: Means any act, which binds a person, of not to do or not doing a particular thing in a particular manner in a given circumstances.
2. Obligation to tolerate an act or a situation: Means to accept the occurrence or existence of an act or a particular thing, which is imposed by a condition or circumstances, in a contract, agreement or any other document which is legally enforceable by law.
3. Obligation to do an Act: Means to perform or to do something, necessarily prescribed in an agreement, contract or any other document which is required under any law for the time being in force.

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. Supply of Services

Refer Questionnaire:  
CCP 02.08.27.00

6 Composite Supplies

Contract of goods + services on immovable property

goods की सेवा service की सेवा

a. Works contract as defined in sec 2(119);

**Definition u/s 2(119):- 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.

Labour + Material = Works Contract



Labour + Material = Works Contract (Erection/Installation)



**Comments:-**

1. Under GST regime work contract only in relation to immovable property is covered and no concept of works contract exist in relation to movable goods.
2. Works Contract of immovable property = Supply of Service Entry 6(a) of Schedule II.
3. Labour + Material Contract on movable goods = processing of goods = supply of service (Entry 3 of Schedule II).

**P 39:-** Mr. Akshay has entered into a contract with Amit Builders electrical fittings. This contract includes supply of electrical material 90,00,00 & supply of labour for ₹ 30,00,000. The profit margin in contract is ₹ 30,00,000 & the total project cost is ₹ 1,50,00,000 answer to the following:-

- a) State the nature of contract for the levy of GST & also class same under Schedule II.
- b) Can Mr. Akshay pay GST for providing goods & services separately

b. Supply of Goods for Human Consumption: (Restaurant, catering, mess, eating joints etc.)

- This clause covers the supply of goods, including food or any other article for human consumption or any drink (excluding alcoholic liquor for human consumption).
- The supply can be made in various ways, including as part of a service (e.g. Restaurant, catering, mess, eating joints etc.), and can be for cash, deferred payment, or other valuable consideration.

Catering



Restaurant



Hotel or Restaurant



Mess/ Eating Joints



**Supply of food or beverages in cinema hall [Circular No. 201/13/2023]**

**Issue:- Whether supply of food or beverages in cinema hall is taxable as restaurant service**

**Facts:-** Eating joints encompass refreshment or eating stalls, kiosks, counters, or restaurants within cinema halls.

**Service Providers:** Cinema operators may run these facilities themselves or contract them to third parties, and customers can choose to avail these services or not.

**Clarification:-** Supply of food or beverages in a cinema hall is taxable as "restaurant service" as long as it's provided as part of a service and is separate from the (cinema exhibition service.) → Ticket

**Bundled Supply:** If cinema tickets and food/beverages are bundled and qualify as a composite supply, the GST rate applicable to cinema exhibition service (the principal supply) will be applied.

**Applicability on liquidated damages, compensation and penalty arising out of breach of contract or other provisions of law [Circular No. 178/10/2022]**

**Agreement to Refrain, Tolerate, or Do an Act:** Under GST, agreeing to refrain from an act, tolerate an act or situation, or do an act is considered a supply of service, as per para 5(e) of Schedule II.

**Conditions for Taxability:** To qualify as a taxable supply under para 5(e) of Schedule II, certain conditions must be met:

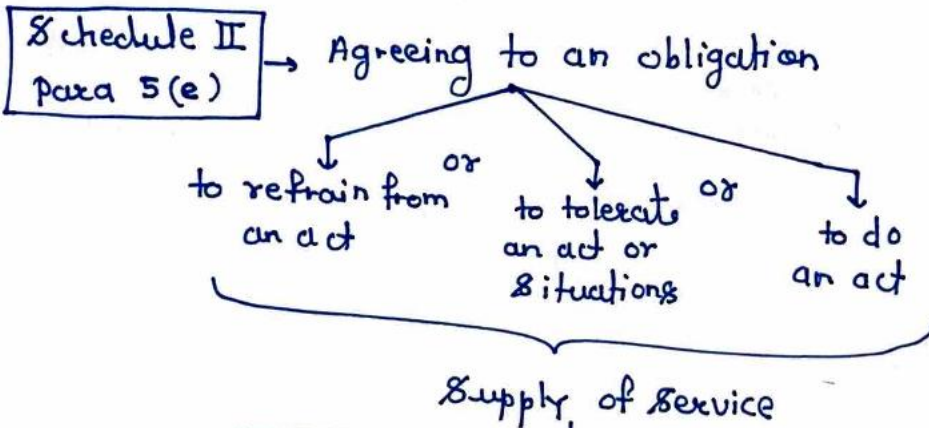
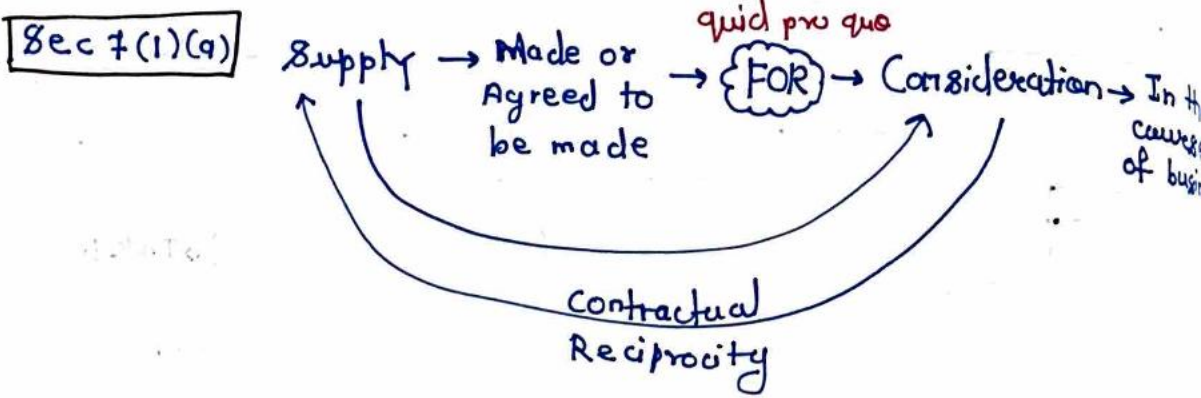
- ⇒ There must be an expressed or implied agreement or contract.
- ⇒ Consideration must flow in return for this contract.
- ⇒ Such an arrangement can be an independent contract or part of another contract.

If the payment is merely an event in the course of the performance of an agreement and it does not represent the 'object', as such, of the contract then it cannot be considered 'consideration' & not treated as supply.

(A) <b>Liquidated Damages</b>	Liquidated damages in contracts are not taxable as they are not considered consideration for tolerating a breach; they are payments to deter non-performance. <i>(If it was not earlier)</i>
(B) <b>Cheque Dishonor Fine/Penalty:</b>	These fines or penalties are not considered consideration for any service and are not taxable.
(C) <b>Penalties for Violation of Laws</b>	Penalties imposed for violation of laws, such as traffic violations or pollution norms, are not taxable.
(D) <b>Forfeiture of Salary or Bond Amount</b>	Amounts recovered for forfeiture of salary or bond in employment contracts are not taxable as they discourage non-serious employees.
(E) <b>Late Payment Surcharge or Fee:</b>	Late payment charges, when part of a principal supply, are not taxable; they are assessed at the same rate as the principal supply.
(F) <b>Fixed Charges for Power:</b>	Fixed charges for power are not taxable, as they are for the sale of electricity, which is exempt from GST.
(G) <b>Cancellation Charges:</b>	Charges for cancellation in the case of passenger transportation services are assessed as the principal supply, as they are naturally bundled with it.

**Note:** Forfeiture of earnest money in certain cases, such as an immovable property agreement breach or non-serious bidder penalties, is not taxable as it represents a mere flow of money without consideration for another supply.

**Service** → anything other than goods  
 active      passive



**When treated as SOS**

- Consideration must flow from other party
- There is an **express or implied promise** from supplier for above 3 situations activities in return of money → it cannot be assumed.
- **it must be Independent arrangement or activities**

**When not treated as SOS**

- If payment **merely on Event** in the course of performance of the agreement
- If does not & represent **the object**.

# Taxability of 'tenancy rights' under GST [Circular No. 44/2018 CT ]

**Facts of Case:-** The Pagadi system is a unique property tenancy arrangement prevalent in certain Indian states. In this system:

**Tenant's Rights:** The tenant acquires tenancy rights to a property by paying a tenancy premium, known as "pagadi." ↳ for further sub-letting eg. 20L

**Landlord's Ownership:** Although the landlord remains the legal owner of the property, possession and occupancy rights are granted to the tenant. eg. ₹ 500,000

**Periodic Rent:** The tenant pays periodic rent to the landlord for as long as they occupy the property.

**Tenancy Transfer:** Typically, the tenant has the option to transfer or sell their tenancy rights to another individual. However, this transfer usually involves sharing a percentage of the proceeds with the property owner, as agreed upon in their tenancy agreement.

**Vacation Premium:** In some cases, the landlord may pay the tenant a prevailing tenancy premium to vacate the property, allowing them to regain possession.

**Observation & Legal aspects:-**

**Lease or Renting of Property:** This activity falls under the definition of a service as per Schedule II. Any lease, tenancy, easement, or license to occupy land is treated as a supply of services under GST.

**Stamp Duty and Registration Charges:** The imposition of stamp duty and registration charges does not exempt such transactions from GST.

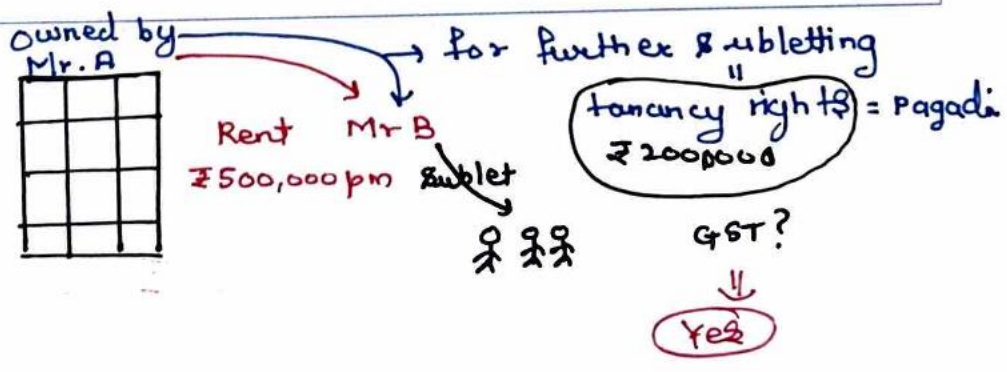
**Not a Sale of Land/Building:** Transfer of tenancy rights is not considered a sale of land or building under GST, and it is subject to GST.

**v.v. imp Clarification:-** [Transfer of tenancy rights against tenancy premium is considered a supply of service liable to GST.] → **highlight**

**Exemptions:** Renting a residential dwelling for use as a residence by an unregistered person or a registered sole proprietor for personal use is exempt.

[However, services provided by an outgoing tenant for surrendering tenancy rights against a portion of the tenancy premium are taxable under GST.] → **highlight**

Khali karene ki  
dahi diya



## NON-SUPPLIES UNDER GST

- Sec 7(2)** (a) It outlines that activities or transactions mentioned in Schedule III are not considered supplies of goods or services, essentially creating a "Negative list" for taxation under GST. Our discussion under this heading will revolve around the following:
1. Non-supplies listed in Schedule III
  2. Non-supplies notified vide notification
  3. Non-supplies clarified by way of circular

### NON-SUPPLIES listed in Schedule III

Activities or transactions which shall be treated neither as a supply of goods nor a supply of services

**Para 1** Services by an employee to the employer in the course of or in relation to employment

Lets discuss the following, whether service is supplied in the course of employment? Special Cases:-

- 1) **Casual Worker**:- Services provided by casual worker to employer who gives wage on daily basis to the worker are services provided by the worker in the course of employment. [Not Taxable]
- 2) **Service by Director**:- Sanjeevani is a director in Nilgiri Ltd. receiving remuneration which is declared as salaries in the books of the company and subject to TDS under section 192 of the Income-tax Act, 1961. In this case, services provided by Sanjeevani to Nilgiri Ltd. are in course of her employment with the company. [Not Taxable]  
 Sanjeevani, an independent director in Nilgiri Ltd., receives a sitting fee of ₹12,000. Since as per the Companies Act, 2013, independent director should not be an employee of the company, services provided by Sanjeevani to Nilgiri Ltd. are not in course of employment. [Taxable]
- 3) **Non Compete fees**:- Any amount paid by employer to employee for not joining competing business is paid for providing the service of forbearance to act and can be considered for providing services in the course of employment. [Taxable]

other than salary Tax  
 11/2/2011  
 10/15/18  
 10/7/2011

#### Clarification on Perquisites by employer to employee [Circular. No. 172/04/2012-CT]

**Employee Services and GST Scope:** Services provided by an employee to the employer in the course of their employment (contractual agreement of employment), fall outside the scope of GST.

#### Non-taxable Employer-to-Employee Supply:

- ⇒ Any supply from the employer to the employee, as per their contractual agreement, is not subject to GST.
- ⇒ 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.

**Exclusion of Certain ITCs:** The GST's input tax credit (ITC) scheme excludes ITC for club memberships and health/fitness center expenses.

**GST Exemption for Free Services to Employees:** If the employer offers services such as club memberships, health and fitness facilities, or housing to employees at no charge and this is part of the employment contract (C2C), it is not subject to GST.

Taxability of service provided by employees to Employer

- ↓  
 Consideration is  
 → Salary  
 → wages  
 → Pension  
 → Gratuity  
 → Bonus  
 → Incentive etc

It is in the course of or in relation to employment and not a supply under para 1 of Sch-III

↓  
 Perquisites

Perquisite like free catering, Free cab, free guest-house to Employee

↓  
 If given by ER in terms of Employment contract  
 ↓  
 Para 1 of Sch-III is applicable and not treated as supply.

Perquisite or gift given by ER to EE

not as per terms of contract.

↓  
 As per para 2 of Sch-I is applicable & if value of such gift or perquisite exceeds ₹ 50,000 in F.Y then it is treated as supply and liable to GST.

CH 3 Concept of Supply & ST.

How

**P40:-** Mr. Sarang is an employee of V'Smart Academy providing his services in the course of his employment since last 5 years. He is receiving a salary of ₹20,000 p.m.

Answer the following questions:-

- Whether such salary is liable to GST? **No**
- Will your answer differ, if Mr. Sarang is appointed on casual basis with <sup>daily</sup> wages? **No**
- V'Smart Academy offered ₹ 500000 to Mr. Sarang for not joining any other Academy for minimum period of 10 years as he is the best employee & V'Smart do not want to lose him. State whether the amount of ₹500000 paid by V'Smart Academy is liable to GST. **Yes**

**P41:-** Mr. A is appointed as an employee in Infotech Ltd., a BPO. His monthly salary is ₹ 2,00,000. As per the terms of employment, if Mr. A is terminated by the company from his service before the agreed period of 3 years, then the company will pay him salary for 3 months as a compensation for pre-mature termination of contract. The company terminated Mr. A after 18 months of joining and paid compensation of ₹ 60,00,000 to him. Whether this compensation paid is treated as supply under GST & liable to tax? Give reason.

**Clarification on the taxability of ESOP/ESPP/RSU provided by a company to its employees through its overseas holding company [Cir. No.213/07/2024]**

Facts:-

- Indian companies offer Employee Stock Option Plan (ESOP)/Employee Stock Purchase Plan (ESPP) / Restricted Stock Unit (RSU) options of their foreign holding company to its employees as per the employment contract.
- Upon employees exercising these options, the foreign holding company directly allots shares to the employees, and the cost is reimbursed by the Indian subsidiary to the foreign holding company.

**Issue:-** Whether these transactions should be considered as import of financial services and thus be liable for GST under RCM?

**Clarification:-**

- ESOP/ESPP/RSU is a part of employees remuneration as per their contract & thus, it is nota supply as per para 1 of Schedule III
- Securities/shares are neither goods nor services under the GST law & thus, it sale or

purchase is not a supply.

- Thus, the reimbursement from the Indian subsidiary to the foreign holding company when done on a cost-to-cost basis, is not subject to GST.
- However, if any additional fee, markup, commission, etc is charged by foreign holding company from the domestic subsidiary for such issuance, it will be considered as supply of services of facilitating the transaction in securities and GST will be levied on the additional amount (being import of services) under reverse charge.

**Case Study:-** ABC Tech Pvt. Ltd., an Indian subsidiary of Global Tech Inc., a US-based company, offers its employees ESOPs as part of their compensation package. When an employee decides to exercise their stock options, Global Tech Inc. directly transfers shares to the employee. ABC Tech Pvt. Ltd. reimburses Global Tech Inc. for the cost of these shares on a cost-to-cost basis.

Are ESOP/ESPP/RSU transactions considered as supply of goods or services under GST?

**Hint:-** No, ESOP/ESPP/RSU transactions are not considered as supply of goods or services under GST. Securities/shares are neither goods nor services as per definitions in the GST Act.

**Para 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.

**Para 3 a)** Functions performed by the <sup>MP</sup>Members of Parliament, <sup>MLA</sup>Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities.

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

**Example:-** Duties performed by President of India, Vice President of India, Minister of India, Chief Justice of India, Speaker of the Lok Sabha, Chief Election Commissioner, Chairman of Union Public Service Commission, Attorney General of India, in that capacity.

**c)** Duties performed by any person as a Chairperson or a Member or a Director in any body established by the Central Government or a State Government or local authority who is not deemed as an employee before the commencement of this clause.

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



Refer Questionnaire CCP 02.07 - (i)

**Para 5** Sale of land and, subject to paragraph 5(b) of Schedule II, sale of building, (i.e. in case, where entire consideration for sale of building received after issuance of completion certificate or after its first occupation, whichever is earlier).

Refer Questionnaire: CCP 02.07.22.00 - (ii) & (iii)

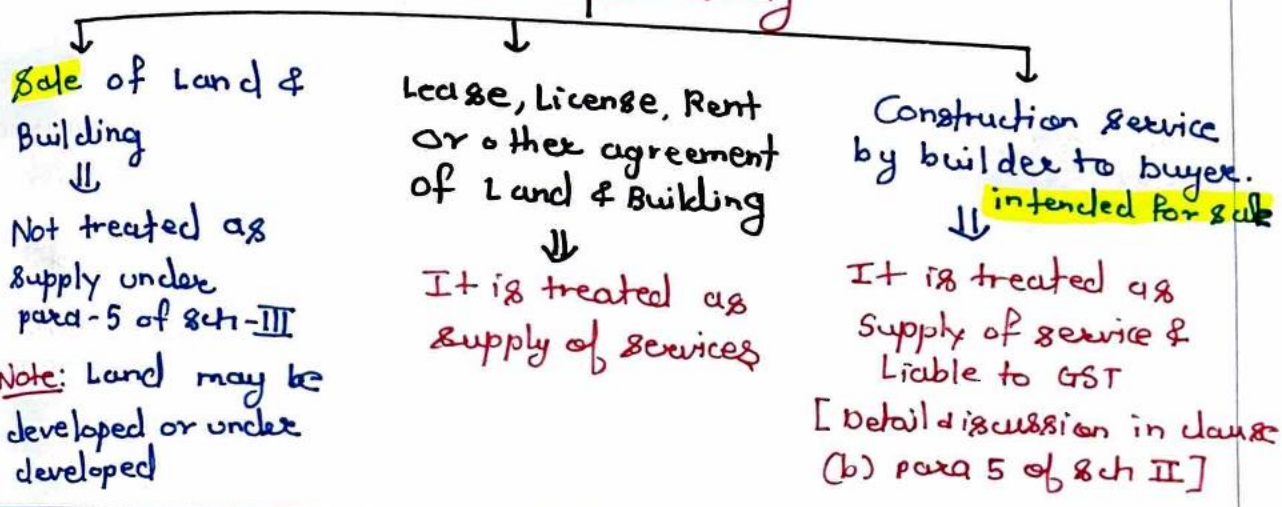
**Sale of Developed Land: (Circular no: 177/09/2022)**

- Land can be sold either in its undeveloped state or after development activities like levelling, installing drainage lines, water lines, and electricity lines.
- The sale of such developed land is still considered a sale of land and is exempt from GST.

**Tax on Land Development Services:** Services provided for land development, such as levelling or laying drainage lines (when received by developers), are subject to GST at the applicable rate for such services.

Refer Questionnaire: CCP 02.07.23.00 (IMP)

Immovable Property



**Para 6** Actionable claims, other than specified actionable claims

**Note :- Exclusion of Actionable Claims:**

- Schedule III excludes actionable claims, except specified actionable claims, from the definition of supply.

**Examples of non taxable actionable Claims:** Right to recover insurance money, Claims for arrears of rent, Bills of exchange, Promissory notes, Right to the benefit of a contract, and etc.

- This means that specified actionable claims i.e. betting, casinos, gambling, horse racing, lottery or, online money gaming are taxable.

Refer Questionnaire: CCP 02.07.21.00 (IMP)

**Para 7 & 8** Not applicable for Inter level

**Para 9** Apportionment of co-insurance premium: [Applicable for Jan Nov 25 exam]

Activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured in coinsurance agreements, subject to the condition that the lead insurer pays the CGST, SGST, UGST & IGST on the entire amount of premium paid by the insured.

Newly Inserted F.A. 2024

**P42:** Ronn Pharma Pvt. Ltd. from Mumbai (Ronn Pharma - insured) comprehensive insurance coverage for its operations. To mitigate risks effectively, Ronn Pharma enters into a co-insurance agreement in Mumbai where multiple insurers share the risk i.e. lead insurer & one or more co-insurers.

Agreement Details:

1. Lead Insurer: Safe Ltd. (60% share) who is liable to pay GST on entire premium.
2. Co-Insurer: Secure Ltd. (40% share).
3. Total Premium: ₹1,00,00,000 paid by Ronn Pharma to Safe Ltd who issued invoice on entire premium & GST.
4. Safe Ltd. retains ₹60,00,000 & Secure Ltd. receives ₹40,00,000 from Safe Ltd. as per agreement.

Discuss the tax implications (gross basis) & person liable to pay the tax.

**Para 10** Services by insurer to the reinsurer:

Services by insurer to the reinsurer for which ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer, subject to the condition that the CGST, SGST, UGST & IGST is paid by the reinsurer on the gross reinsurance premium payable by the insurer to the reinsurer inclusive of the said ceding commission or the reinsurance commission.

**P43:** Ronn Pharma Pvt. Ltd. (Ronn Pharma-insured) has a comprehensive insurance policy with Safe Ltd (insurer). To manage its risk exposure, Safe Ltd. decides to reinsure part of risk with Secure Re Ltd. (reinsurer), a reinsurance co.

Reinsurance Agreement Details:

1. Gross Reinsurance Premium: ₹50,00,000
2. Ceding Commission allowed by reinsurer: ₹5,00,000
3. Net Reinsurance Premium Paid to reinsurer: ₹45,00,000 (after deducting ceding commission)

Discuss the tax implications (gross basis) & person liable to pay the tax.

**Sec 7(2)**

## NON-SUPPLIES NOTIFIED VIDE NOTIFICATION

(b) Government is empowered to notify the activities/ transactions

↳ undertaken by the CG, a SG 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 two activities/transactions have been notified under said clause:

(i) Activity in relation to Panchayat/Municipality functions: [N/N. 14/2017]

Services by way of any activity in relation to a function entrusted to

↳ a Panchayat under article 243G of the Constitution or

↳ to a Municipality under article 243W of the Constitution are

treated neither as a supply of goods nor as a supply of service

\*\*\* Imp

**Grant of alcoholic liquor licence: [N/N. 25/2019]**

Refer Questionnaire: CCP 02.07.24.00

- (ii) Services related to the grant of alcoholic liquor licenses by State Governments are neither considered as the supply of goods nor services.
- These licenses are granted against fees, but this exemption applies only to liquor licenses and does not set a precedent for other licenses or privileges subject to GST.
- Therefore services provided by the Government to businesses, including the grant of other licenses, mining rights, and use of natural resources like spectrum, are taxable under GST, with businesses required to pay tax under reverse charge.

**NON-SUPPLIES CLARIFIED BY WAY OF CIRCULAR**

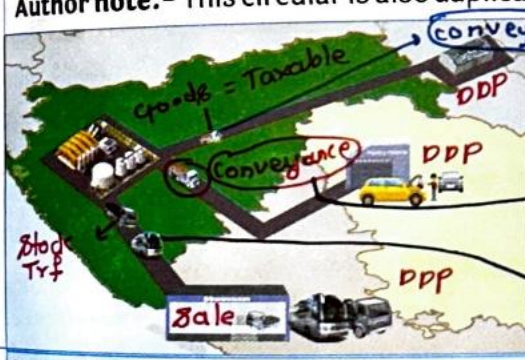
CBIC has clarified that following activities/ transactions are non-supplies:

**Inter-State movement of various modes of conveyance [Circular No. 1/1/2017]**

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, shall be treated 'neither as a supply of goods or supply of service' and therefore not be leviable to IGST.

**Exception:-** in cases where such movement is for further supply of the same conveyance

**Author note:-** This circular is also applicable to Intra state movement between DDP



Inter/ Intra state movement of conveyance bet<sup>n</sup> DDP is not treated as supply.

Repairs or maintenance by DDP.

1-> movement of conveyance for repairs to DDP = No GST on conveyance.

2-> Repair service by DDP on conveyance = Taxable

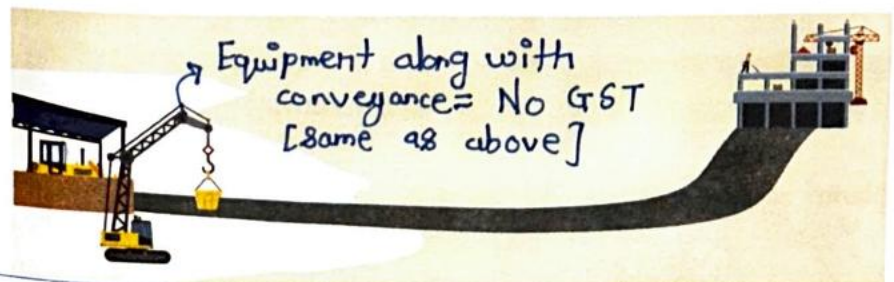
In case movement of F.G [Truck, Buses etc] to DDP for further sale = Taxable.

Refer Questionnaire: CCP 02.05.14.00 (IMP)

**Inter-State movement of rigs, tools and spares, and all goods on wheels [like cranes] [Circular No. 21/21/2017]**

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.



# COMPOSITE & MIXED SUPPLY

## Introduction

GST Applicable on Goods and Services	<ul style="list-style-type: none"> <li>➤ GST is levied on goods, services, or both at specified rates.</li> <li>➤ Classification of a supply as either goods or services, along with the applicable category, is crucial for determining the GST rate.</li> </ul>
Challenges in Supply Classification	<ul style="list-style-type: none"> <li>➤ Some supplies involve a combination of goods, services, or both (called as bundle supply), making classification and tax rate determination complex.</li> <li>➤ Each component within such supplies may attract a different tax rate, posing a challenge.</li> </ul>
Identification of Composite and Mixed Supplies:	<ul style="list-style-type: none"> <li>➤ To address this (bundle supply), GST law recognizes two categories: composite supplies and mixed supplies.</li> <li>➤ Clarity in tax treatment is provided for such supplies.</li> </ul>
Determining 'Naturally Bundled' Supplies:	<ul style="list-style-type: none"> <li>➤ Whether supplies are 'composite' or 'mixed' depends on whether they are naturally bundled in the ordinary course of business.</li> <li>➤ The concept of 'naturally bundled' supplies derives from the definition of 'composite supply.'</li> </ul>

## Sec 8: Composite and Mixed Supply

The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:

a) Classification of Composite Supply	comprising <u>two or more supplies</u> , one of which is a <u>principal supply</u> , shall be <u>treated as a supply of such principal supply</u> .
<p>✳ Meaning of composite supply</p> <p>Refer Questionnaire: CCP 02.09.29.00 &amp; CCP 02.09.30.00</p>	<ul style="list-style-type: none"> <li>➤ A composite supply is provided by a taxable person to a recipient.</li> <li>➤ It involves <u>two or more taxable supplies</u> of goods, services, or both, or any combination.</li> <li>➤ These supplies are <u>naturally bundled and ordinarily provided together in the course of business</u>.</li> <li>➤ One of these supplies is designated as the "<u>principal supply</u>."</li> </ul>
	<p><b>Note:- Natural Bundling in Composite Supply:</b></p> <ul style="list-style-type: none"> <li>➤ In a composite supply, goods, services, or both are <u>bundled together due to inherent requirements</u>.</li> <li>➤ The components in a composite supply are interdependent, with one being the "<u>principal supply</u>."</li> </ul>
<p>Meaning of Principal supply</p> <p>↓</p> <p>at Pre dominant</p>	<ul style="list-style-type: none"> <li>➤ The principal supply in a composite supply refers to the <u>supply of goods or services that forms the primary and most significant part of that composite supply</u>.</li> <li>➤ Any other supply included in the composite supply is considered ancillary and is linked to the principal supply.</li> </ul>



**Indicators for Naturally Bundled Services:**

*only Read*

No straight jacket formula can be laid down to determine whether a supply is naturally bundled in the ordinary course of business. Each case has to be individually examined in the backdrop of several factors some of which are outlined below

Consumer Perception: If a significant number of consumers expect services to be provided as a package, it's naturally bundled. e.g. Breakfast with hotel room booking,

Industry Practice: When most service providers in a specific field offer bundled services. e.g (i) Television Set with warranty and servicing (ii) Washing Machine with Scanner

Nature of Services: If one service is primary, and others are incidental, the main service, it's bundled. e.g. (i) Stay in a Hotel with Free Laundry (ii) Mobile with Charger

Additional Indicators: Not determinative but indicative:

- Single price regardless of usage.
- Common advertising of elements as a package.
- Elements not sold separately.
- Elements integral to the overall supply; removing any affects the overall supply.

**Case studies of Composite Supply**

**1 Hotel Conference Package**

Scenario: A 5-star hotel is booked for a conference with multiple services included.

Services Provided: Accommodation, breakfast, tea/coffee during conference, fitness room access, conference room availability, etc. center.

Challenge: Different services attract different tax rates under GST.

Solution: Identify the principal service, in this case, "convention services" and determine the applicable tax rate for the entire package.

Outcome: The entire package is treated as a composite supply with the principal service being "convention service," ensuring correct tax treatment.

**2 Composite Supply by Shirt Manufacturers**

Scenario: Poshak Manufacturers contracts with Cheeku Ltd. to supply readymade shirts in designer boxes, including packing, transportation and insurance during transit.

Nature of Supply: This is a composite supply consisting of multiple elements - supply of goods (shirts), packing materials, transportation and insurance.

Principal Supply: The principal supply in this case is the "supply of goods" (readymade shirts) as it forms the primary purpose of the transaction.

Tax Treatment: The entire supply is treated as a composite supply where the supply of shirts is the principal supply.

Outcome: This classification ensures that the correct tax rate is applied to the entire composite supply, aligning with the principal supply.

**3 Television Set with Warranty and Maintenance**

**Scenario:** A consumer purchases a television set, and along with it, receives a mandatory warranty and a maintenance contract.

**Nature of Supply:** This constitutes a composite supply with multiple elements - supply of the television set, warranty, and maintenance services.

**Principal Supply:** The principal supply in this scenario is the "supply of the television set" since it is the primary product or service that the consumer is acquiring.

**Tax Treatment:** The entire supply is categorized as a composite supply, with the supply of the television set being the principal supply.

**Outcome:** By considering the TV as the principal supply, the applicable tax rate is determined based on the television set. The warranty and maintenance services are treated as ancillary to the principal supply.

**4 Travel Ticket (Mumbai to Delhi) with Additional Services**

**Scenario:** A traveler purchases a ticket for a journey from Mumbai to Delhi, and the ticket includes several additional services such as in-flight food service, free insurance coverage, and access to the airport lounge.

**Nature of Supply:** This transaction represents a composite supply as it involves multiple elements—the transportation service, in-flight food, insurance, and lounge access.

**Principal Supply:** In this case, the "transportation of the passenger" is the principal supply since it is the primary service being provided.

**Tax Treatment:** The entire supply is categorized as a composite supply, with the transportation service being considered the principal supply.

**Outcome:** The applicable tax rate is determined based on the transportation service from Mumbai to Delhi. The in-flight food service, free insurance, and lounge access are considered ancillary services included as part of the composite supply.

## Mixed Supply

b)	<b>Classification of Mixed Supply</b>	comprising two or more supplies shall be treated as a supply of that part of supply which attracts the highest rate of tax.
	<b>Meaning of Mixed supply</b>	<p>Meaning : Mixed supply involves a taxable person offering two or more supplies of goods or services, or a combination of both.</p> <p><b>Single Price:</b> These supplies are provided together for a single price, but they do not qualify as a composite supply.</p>
	<b>Refer Questionnaire: CCP 02.09.31.00</b>	<p><b>Independent Supplies:</b> Unlike composite supplies, the individual components of mixed supplies are independent and not naturally bundled.</p> <p><i>classification as a shampoo @ 28% i.e. at highest rate will be applicable</i></p>
	<b>Case studies of Mixed Supply</b>	<p>1) <b>Supply Contents:</b> A package includes canned foods, cakes, dry fruits, aerated drinks, and fruit juices.</p> <p><b>Independence of Items:</b> Each item in the package can be separately and is not dependent on any other.</p> <p><b>Single Price:</b> When these items are supplied together for a single price constitutes a mixed supply.</p> <p><b>Separate Supply:</b> If these items are supplied individually or separate prices are charged for each, it does not qualify as a mixed supply.</p> <p>2) A shopkeeper selling storage water bottles along with refrigerator at single price. Bottles and the refrigerator can easily be priced and sold independently and are not naturally bundled. So, such supplies are mixed supplies.</p> <p>3) A house is given on rent through a single rent deed - one floor of which can be used as residence and the other for housing a printing press, at a single sum rent amount. Such renting for two different purposes is not naturally bundled in the ordinary course of business. Said supplies are mixed supplies.</p>
	<b>Determining Mixed Supply</b>	<p><b>Exclusion of Composite Supply:</b> First, it should be determined that the supply is not a composite supply. A mixed supply can only exist if it is not a composite supply.</p> <p><b>Supplies Not Naturally Bundled:</b> If the components of the supply are not naturally bundled in the ordinary course of business, it may indicate a mixed supply.</p> <p><b>Single Consideration or price:</b> If a single consideration is charged for the entire supply of different components after ruling out composite supply, it qualifies as a mixed supply.</p> <p><b>Highest Tax Rate:</b> Mixed supplies are then classified based on whether they involve goods or services and are taxed at the highest applicable rate.</p> <p><b>Example :-</b> Ratan Enterprises supplies 10,000 kits, each priced at ₹ 50, to Ram General Store. These kits include face cream, face tissue packets, and nail paint. Since these items have different tax rates (18% for face cream, 28% for tissue packet, and 12% for nail paint), the highest tax rate (28%) is applied to the kit value of ₹ 5,00,000.</p>

Refer Questionnaire: CCP 02.09.31.00

# CBIC Clarifications

## Clarification on taxability of printing contracts [Circular No. 11/11/2017]

- Supplies like books, pamphlets, brochures, etc., printed with recipient's content are composite.
- Nature (goods or services) depends on the principal supply.
- If printing content is principal, it's a supply of service.

Cases	Situations	Clarification
1	In the case of printing of books, pamphlets, brochures, annual reports, and the like	<ul style="list-style-type: none"> <li>For books, pamphlets, etc., where content is from recipient and physical inputs are from printer, printing service is principal.</li> <li>It constitutes a supply of service.</li> </ul>
2	In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. printed with design, logo etc	<ul style="list-style-type: none"> <li>Printed envelopes, boxes, etc., using recipient's design, logo, with printer's physical inputs, have goods as the predominant supply.</li> <li>Printing of content is ancillary, making it a supply of goods.</li> </ul>



## 1) Food supplied to the patients [Circular No. 32/6/2018]

- Food for in-patients, as per doctor/nutritionist advice, is part of a composite supply of healthcare.
- Not separately taxable. *principal supply is Health Care.*

**Example:** A patient admitted to a hospital receives meals as part of their treatment plan, prescribed by the doctor. This food is considered a composite supply of healthcare and is not separately taxable.

## 2) Other Hospital Food Supplies: [Circular No. 32/6/2018]

Food supplied by a hospital to non-admitted patients, attendants, or visitors is taxable.

**Example:** A hospital cafeteria serves food to visitors, non-admitted patients, or attendants. This food is taxable because it's not part of a healthcare treatment plan.

## 3) Activity of bus body building [Circular No. 34/8/2018] X

- Bus body building involves a supply of goods and services.
- Classification (goods or service) depends on the principal supply, determined case by case.

**Example:** A company specializes in bus body building. In some cases, they primarily provide the service of customizing the bus interior for a client (the principal supply is service). In other cases, they mainly supply ready-made bus bodies (the principal supply is goods). The tax classification depends on which aspect is dominant in each specific transaction.

## 4) Retreading of tyres [Circular No. 34/8/2018]

- In retreading, the dominant element is the service of retreading. *Job work*
- Rubber used is ancillary.
- Supply of retreaded tyres with old tyres owned by the supplier is a supply of goods.

**Example:** A tire retreading service offers to refurbish old, worn-out tires by replacing the tread material. The primary service here is the retreading process, making it a supply of service. However, if the retreader owns the old tires and then sells the refurbished tires, it's a supply of goods because the dominant element is the sale of the retreaded tires.

Refer Questionnaire for General Questions: CCP 02.01.01.00 - (1) & (6), CCP 02.08.28.00 & 02.09.00

