

Chapter 2 - Supply under GST

TP: 1 Taxable Event

Question: 1

[ICAI Mat]

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

Solution:

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

TP: 4 Supply under section 7(1)

Question: 2

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

Solution:

As per Section 7(1)(b), the term 'supply' includes import of services for a consideration whether or not in the course of furtherance of business. Thus, legal advice received by Ms. Pragati for her personal services for a consideration will be covered under the ambit of supply.

In case Pragati and Unnati are real sisters & no consideration is paid: As per Section 7(1)(c) read with Schedule I, Import of services by person from a related person or from any of his other establishments outside India, in the course or furtherance of business will be treated as supply.

In this case though Pragati and Unnati are related person (since they are members of the same family), legal service received will not be covered under the ambit of supply, since the said service are not received are not received by her in course of furtherance of business.

In case Mrs. Pragati receives legal advice from her sister for her business without consideration, since it is in course or furtherance of business, it will be covered under the ambit of supply as per Section 7(1)(c) read with Schedule 1 of CGST Act, 2017.

Question: 3

[ICAI Mat] [MTP Jan 2025]

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

- (1) Hitkari Charitable Trust, a trust engaged in providing medical relief free of cost, donates books and stationery to children living in slum area.
- (2) Karishma Manufacturers have a factory in Jaipur and a depot in Delhi. Both these establishments are registered in respective States. Finished goods are sent from the factory to the depot without consideration so that the same can be sold.

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(3) Manan is an Electronic Commerce Operator in Delhi. His father, who is settled in London is a well-known lawyer. Manan has taken legal consultancy from him free of cost with regard to his family dispute. Would your answer be different if in the above case, Manan has taken advice in respect of his business unit in Delhi?

Solution:

(1) Section 7 of the CGST Act, provides that supply must be made for a consideration except the activities specified in Schedule I and in course or furtherance of business. Since, both these elements are missing, donation of books and stationery to children living in slum area would not amount to supply under Section 7 of the CGST Act.

(2) Schedule I of CGST Act, provides that supply of goods or services or both between related persons or between distinct persons as specified in Section 25, is supply even without consideration provided it is made in the course or furtherance of business.

According to Section 25(5) of the CGST Act, 2017, where a person who has obtained or is required to obtain registration in a State in respect of an establishment, has an establishment in another State, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.

In view of the same, factory and depot of Karishma Manufacturers are establishments of two distinct persons. Therefore, supply of goods from factory to depot without consideration, but in course of or in furtherance of business, is supply under Section 7 of the CGST Act.

(3) Schedule 1 of CGST Act, provides that import of services by person from a related person located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business. In the given case, Manan has received legal consultancy from his father (who is not dependent on him and therefore, no related person as per explaining to section 15) free of cost in a personal matter and not in course or furtherance of business. Hence, services provided by Manan's father to him would not be treated as supply under Section 7 of the CGST Act. In the above case, if Manan has taken advice with regard to his business unit, services provided by Manan's father to him would still not be treated as supply under Section 7 of the CGST Act as the same are not provided by related person though provided in course or furtherance of business.

Question: 4

[ICAI Mat]

Damodar Private Ltd., registered in Delhi, is planning to transfer some goods to its branch, registered in West Bengal, without any consideration, so that the goods can be sold from that branch. The company believes that the transaction that will be undertaken by it would not qualify as supply as no consideration is involved. Ascertain whether the transfer of goods by Damodar Private Ltd. to its branch office would qualify as supply.

Solution:

As per Para 2 of Schedule I read with section 7(1)(c), supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business, is deemed as supply even if made without consideration. In the given case, since the Damodar Private Ltd. and its branch located in another State are distinct persons, supply of goods between them would qualify as supply.

Question: 5

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

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

Solution:

Section 7 of the CGST Act, 2017 stipulates that in order to qualify as supply:

- (a) Supply should be of goods and/or services.
- (b) Supply should be made for a consideration.
- (c) Supply should be made in the course or furtherance of business.

Further, Schedule I of the CGST Act, 2017 illustrates the activities to be treated as supply even if made without consideration. One such activity is permanent transfer or disposal of business assets where input tax credit has been availed on such assets, i.e. said activity is to be treated as supply even if made without consideration. In view of said provisions, permanent transfer of air conditioners by Sahab Sales from its stock for personal use at its residence, though without consideration, would amount to supply. However, sale of air-conditioner by Aakash to Sahab Sales will not qualify as supply under section 7 of the CGST Act, 2017 as although it is made for a consideration, but it's not in the course or furtherance of business.

Question: 6

[ICAI Mat] [MTP May 2025] [Paper May 2025]

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

Solution:

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

- (i) Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
- (ii) Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business. However, gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.
- (iii) Supply of goods —
 - (a) By a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or
 - (b) By an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.
- (iv) Import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

Question: 7

[ICAI Mat] [MTP May 2025]

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

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

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

Solution:

(i) Supply, under section 7 of the CGST Act, 2017, inter alia, includes import of services for a consideration even if it is not in the course or furtherance of business.

Thus, although the import of service for consideration by Miss. Shriniti Kaushik is not in course or furtherance of business [as the interior decoration services have been availed in respect of residence], it would amount to supply.

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

(a) the spouse and children of the person, and

(b) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.

In the given case, Miss Shriniti Kaushik has received interior decoration services from her brother. In view of section 2(49)(ii) above, Miss Shriniti and her brother shall be considered to be related as Miss Shriniti's brother is wholly dependent on her. However, Miss Shriniti has taken interior decoration services for her residence and not in course or furtherance of business. Consequently, services provided by Miss Shriniti's brother to her would not be treated as supply under section 7 read with Schedule I of the CGST Act.

(iii) In the above case, if Miss Shriniti has taken interior decoration services with regard to her business premises, services provided by Miss Shriniti's brother to her would be treated as supply under section 7 of the CGST Act read with Schedule I of the CGST Act, 2017.

Question: 8

[Paper May 2022]

Examine whether the following activities would amount to "supply" under GST law?

(i) Glory Ltd. is engaged in the manufacturing and selling of cosmetic products. Seva Trust, a charitable organisation, approached Glory Ltd. to provide financial assistance for its charitable activities. Glory Ltd. donated a sum of ₹2 lakh to Seva Trust with a condition that Seva Trust will place a hoarding at the entrance of the trust premises displaying picture of products sold by Glory Ltd.

(ii) Mr. Swamy of Chennai is working as a manager with ABC Bank. He consulted M/s. Jacobs and Company of London and took its advice for buying a residential house in Mumbai and paid them consultancy fee of 200 UK Pound for this import of service.

Solution:

(i) An activity qualifies as supply under GST only if it is for consideration and is in course/furtherance of business. Donations received by the charitable organizations are treated as consideration only when there's an obligation on part of the recipient of the donation to do anything.

Since in the given case, the display of products sold by the donor - Glory Ltd. - in charitable organization's premises aims at advertising/promotion of its business, it is supply for consideration in course/furtherance of business and thus, qualifies as supply under GST law.

(ii) Supply includes importation of services, for a consideration whether or not in the course / furtherance of business. Thus, in the given case, the import of services by Mr. Swamy amounts to supply although it is not in course/furtherance of business.

Question: 9

[Paper Nov 2023]

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

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

(ii) Wesco Ltd, a registered person in Ahmedabad (Gujarat) having head office located in Singapore, received management consultancy services free of cost from its head office.

Solution:

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

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

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

(ii) As per schedule I, in case of import of services by a person from a related person or from his establishments located outside India, without consideration, in the course or furtherance of business shall be treated as "supply". Hence, services received by Wesco Ltd. qualify as supply even though such services have been provided free of cost by the head office.

Question: 10

[MTP Nov 2019] [ICAI Mat]

Examine whether the following activities would amount to supply under section 7 read with Schedule I:

(a) Raman is an architect in Chennai. His brother who is settled in London is a well-known lawyer. Raman has taken legal advice from him free of cost with regard to his family dispute.

(b) Would your answer be different if in the above case, Raman has taken advice in respect of his business unit in Chennai?

Solution:

(a) Para 4 of Schedule I read with section 7(1)(c), inter alia, stipulates that import of services by a taxable person from a related person located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business. Explanation to section 15, inter alia, provides that persons shall be deemed to be "related persons" if they are members of the same family.

Further, as per section 2(49), family means, - (i) The spouse and children of the person, and (ii) The parents, grandparents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.

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

(b) In the above case, if Raman has taken advice with regard to his business unit, services provided by Raman's brother to him would still not be treated as supply under section 7 read with Schedule I since, although the same are provided in course or furtherance of business but are provided without consideration and such services have not been received from a related person.

Question: 11**[ICAI Mat]**

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

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

Solution:

As per section 25(4), a person who has obtained more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as 'distinct persons'. As per para 2 of Schedule I r.w.s. 7(1)(c) of the CGST Act, 2017, supply of goods and/or services between 'distinct persons', when made in the course or furtherance of business is treated as supply even made without consideration. However, as per CBIC circular, the inter-State movement of various modes of conveyance including, inter alia, trucks, carrying goods or passengers or both or for repairs and maintenance, between 'distinct persons' as specified in section 25(4), not involving further supply of such conveyance, may be treated 'neither as a supply of goods nor supply of service' and therefore, will not be leviable to IGST.

Applicable CGST/SGST/IGST, however, shall be leviable on repairs and maintenance done for such conveyance. Thus, in the given case, inter-State movement of trucks from the workshop of Gagan Engineering Pvt. Ltd. located in Haryana to its repair centres located in other States is 'neither a supply of goods nor supply of service'.

Question: 12**[MTP May 2020]**

Explain the services provided by way of tolerating non-performance of a contract and its chargeability under the provisions of the CGST Act, 2017.

Solution:

Non-performance of a contract is the failure to fulfill the obligations under a contract. It is generally one of the conditions stipulated in any contract for supply of goods/services.

The agreement entered into between the parties stipulates that both the service provider and service recipient abide by the terms and conditions of the contract. In case any of the parties breach the contract for any reason including non-performance of the contract, then such person is liable to pay damages in the form of fines or penalty to the other party.

Tolerating non-performance of a contract in lieu of damages or fines is a supply in terms of section 7 of the CGST Act, 2017 as it is made for a consideration by a person in the course or furtherance of business.

Further, tolerating non-performance of a contract is treated as a supply of service in terms of section 7 read with Schedule II of CGST Act, 2017.

However, in case of supplies to Government, non-performance of contract by the supplier of service for which consideration in the form of fines or liquidated damages is payable is exempt from GST.

TP: 5 Supply under section 7(1A)**Question: 13****[ICAI Mat]**

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

Solution:

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

Question: 14

[ICAI Mat]

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

- (a) Temporary transfer or permitting use or enjoyment of any intellectual property right.
- (b) Any treatment or process which is applied to another person's goods.
- (c) Transfer of title in goods.
- (d) Renting of Immovable Property
- (e) Transfer of right in goods without transfer of title in goods.
- (f) Works Contract Services
- (g) Sale of personal car to dealer.
- (h) Goods forming part of business assets are transferred or disposed of by/ under directions of person carrying on the business so as no longer to form part of those assets.
- (i) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date upon payment of full consideration as agreed.

Solution:

(a) Supply of services (b) Supply of services (c) Supply of goods (d) Supply of services (e) Supply of services (f) Supply of services (g) As per section 7(1)(a), it cannot be considered to be a supply (h) Supply of goods (i) Supply of goods

Question: 15

Discuss with reference to the provisions of GST, whether the under mentioned transactions constitute consideration for service.

- (i) Fines and penalties imposed against violation of law.
- (ii) X provides services to Y. However, Y's debtor makes payment to X on the instructions of Y.
- (iii) Grant given to a researcher to carry out research of his/her choice.

Solution:

As per section 2 (31), "consideration" in relation to the supply of goods/ services includes-

- (a) Any payment made whether in money or otherwise in respect of the supply of goods / services, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government.
- (b) The monetary value of any act or forbearance in respect of the supply of goods /services whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government. Provided that a deposit given in respect of the supply of goods / services shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply.
- (i) Fines and penalties imposed against violation of law shall not be considered as consideration of service as there is no supply of service in case of violation of law.

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- (ii) As per the above definition payment made by any other person on behalf of other shall constitute consideration for service.
- (iii) Grant given to a researcher to carry out research of his/her choice shall not be treated as consideration for service.

Question: 16

[RTP May 2024]

Happy Constructions Ltd., a registered builder under GST in Bengaluru, Karnataka has got permission to build five floors from the Municipal Projects for one of its projects at Suraj Nagar. Aditya Constructions, a neighbouring housing project approached Happy Constructions Limited to discuss regarding blockage of sun light issue arising out of construction of five floors and asked it to build only three floors for which ₹ 20 lakh was offered as compensation. Happy Constructions Limited agreed to the offer. It may be noted that Aditya Constructions is not ready to pay any further amount to Happy Constructions Ltd. in addition to the amount already agreed. Briefly explain with correct legal provision whether the above amount received as compensation is liable to GST or not? And if considered as taxable, then calculate the total GST payable by Happy Constructions Ltd. Assume the applicable rate of CGST and SGST is 9% each. Also state the conditions to be complied with.

Solution:

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

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

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

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

TP: 7 Non-Supplies [Section 7(2)]

Question: 17

[ICAI Mat]

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

Solution:

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

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

Question: 18

Mr. X has received a sum of ₹ 5,00,000 from his employer on premature termination of his contract of employment. Mr. X needs your advice as to whether such receipts are liable to GST.

Solution:

No, Mr. X need not pay any tax on such amount. Amounts paid by the employer to the employee for premature termination of a contract of employment are treated as amounts paid in relation to services provided by the employee to the employer in the course of employment. Hence, amounts so paid would not be chargeable to GST.

TP: 8 Composite and mixed supply [Section 8]

Question: 19

From the following information determine the nature of supply and tax liability.

XYZ Ltd., a manufacturer of cosmetic products supplied a package consisting of hair oil (GST Rate 18%), sunscreen cream (GST Rate 28%), and shampoo (GST Rate 28%) and hair comb (GST Rate 12%). The price per package is 500 (exclusive of taxes), 10,000 packages were supplied by the company to its dealers. Determine the nature of supply and its tax liability.

Solution:

This supply would be regarded as mixed supply, since in this case each of the goods in the package has individual identity and can be supplied separately, but are deliberately supplied conjointly for a single consolidated price. The tax rates applicable in case of mixed supply would be the rate of tax attributable to that one supply (goods, or services) which suffers the highest rate of tax from amongst the supplies forming part of the mixed supply. Therefore, the package will be chargeable to 28% GST.

The tax liability will be arrived as under:

Value of taxable supply per package	₹500
No. of packages	10,000
Total Taxable Value of Supply	₹50,00,000
Applicable GST Rate	28%
Total Tax liability	14,00,000

Question: 20

[ICAI Mat]

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

Solution:

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

Question: 21

Determine whether the following supplies amount to composite supplies:

- (a) A hotel provides 4 days-3 nights package wherein the facility of breakfast and dinner is provided along with the room accommodation.
 (b) A toothpaste company has offered the scheme of free soap along with the toothpaste.

Solution:

Under composite supply, two or more taxable supplies of goods or services or both, or any combination thereof, are naturally bundled and supplied in conjunction with each other, in the ordinary course of business, one of which is a principal supply [Section 2(30) of the CGST Act]. In view of the same,

(a) since, supply of breakfast and dinner with the accommodation in the hotel are naturally bundled, said supplies qualify as 'composite supply'.

(b) since, supply of soap along with the toothpaste are not naturally bundled, said supplies do not qualify as 'composite supply'.

Question: 22**[ICAI Mat]**

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

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

Solution:

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

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

Question: 23

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

Solution:

As per section 7(1)(a), the goods or services which are supplied free of cost (without any consideration) are not treated as "supply" except in case of activities mentioned in Schedule I of the CGST Act. Under "Buy One Get One Free" scheme, it may appear at first glance that in case of offers like "Buy One, Get One Free", one item is being

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"supplied free of cost" without any consideration. However, it is not an individual supply of free goods, but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one. Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined accordingly.

Question: 24

[RTP May 2024]

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

Solution:

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

- (i) May run these refreshment/eating stalls/kiosks/counters/ restaurant themselves, or
- (ii) They may give it on contract to a third party.

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

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

(i) Supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as:

- (a) The food or beverages are supplied by way of or as part of a service, and
- (b) Supplied independent of the cinema exhibition service.

(ii) Where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

Question: 25

[ICAI Mat]

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

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

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

Solution:

In the given case, the items supplied by Dumdum Electronics are not naturally bundled in the ordinary course of business. Therefore, such a supply is not a composite supply. Further, although Akbar Retail Store has paid a composite discounted price for these goods, Dumdum Electronics has not charged a single price for the said supply. Therefore, said supply is also not a mixed supply.

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

