

Inter Supply under GST



Telegram

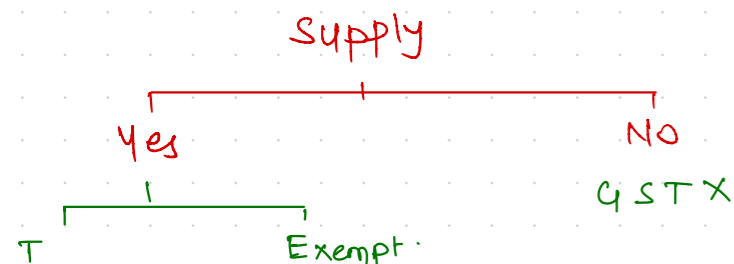
For Final – CA CMA Final Tax – CA Amit Mahajan
Generic – Tax Notes and Guidance – CA Amit Mahajan



Supply under GST

Overview of the chapter

- 1] Sec 7 → Meaning & scope of supply.
- 2] Sec 8 → Mixed & composite supply



Topics covered under this chapter.

- 1] Sec 7(1)(a)
Sec 7(1)(aa)
Sec 7(1)(b)
Sec 7(1)(c) + schedule I.
- 2] Sec 7(1A) + schedule II.
- 3] Sec 7(2) + schedule III → Negative list
- 4] Sec 8 → Mixed & Composite supply.
- 5] Circular.

Note

- 1) Supply is a taxable event.
- 2) In this chapter we will not discuss anything about applicability of GST but we will discuss only about whether it a supply or not.

* Important Defⁿ *

1] Goods

Every Movable Property

Includes

↳ Actionable claims (unsecured debt, loan, betting, gambling)

Excludes

↳ Money in circulation
↳ security.

2] Services means:

- Anything other than Goods/Money/Security.
- Conversion of money from one form/currency to another form/currency for a consideration including use of money.
- consideration charged to facilitate or arrange the transactions in securities.

* Section 7(1)(a) *

Meaning of supply:

1] BEST LDR

B → Barter, E → Exchange, S → Sale, T → Transfer.

L → Lease, L → Lic, D → Disposal, R → Rental.

2] consideration ✓

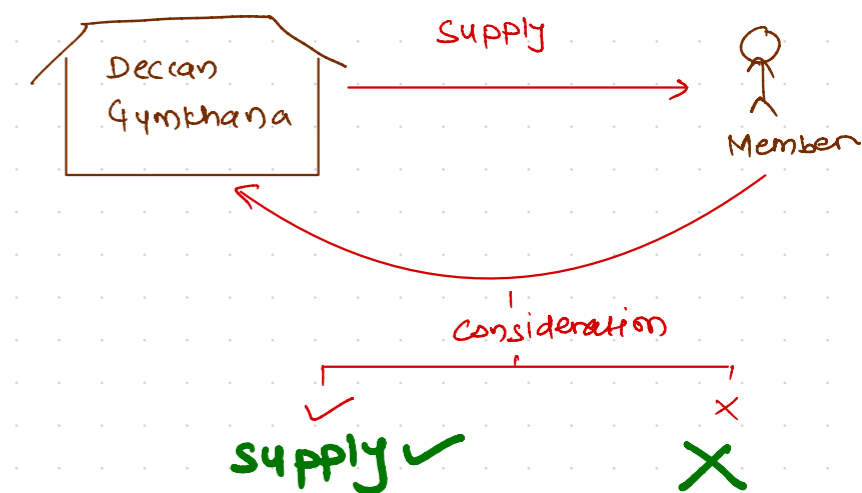
3] In the course or furtherance of business.

Legal Provision

Supply includes all forms of goods or services or both such as barter, exchange, sale, transfer, lease, license, disposal, rentals made or agreed to be made for a consideration by a person in the course or furtherance of business.

* Sec 7(1)(aa) *

Supply by un-incorporated body to member.

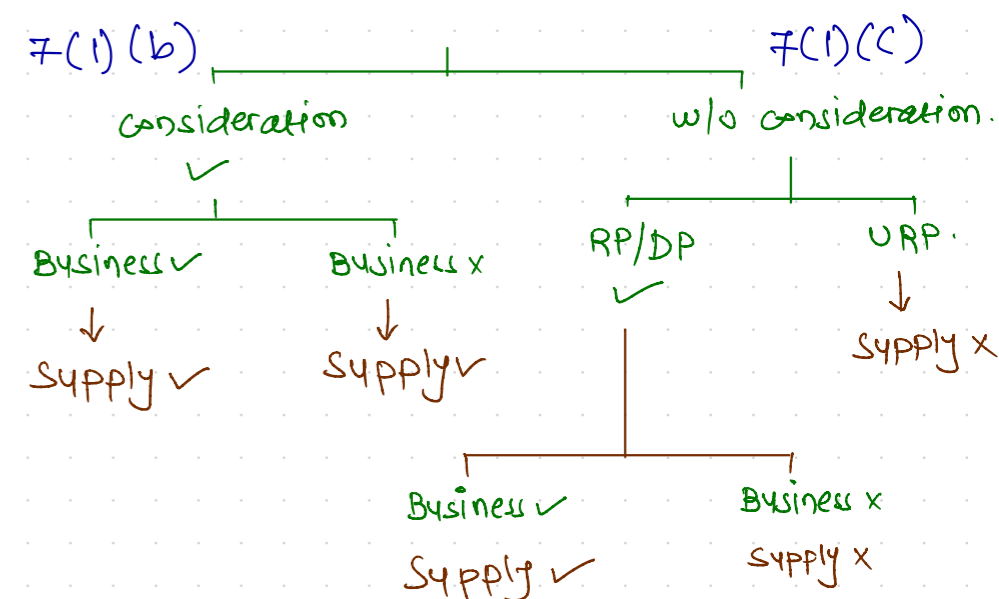


Legal provision

Supply includes the activities/transactions, by a person, other than an individual, to its members for consideration.

* Section 7(1)(b) *

Importation of service.



Example 1: Mrs. Rashi received legal advice for her personal problems & she paid 1000 pounds as legal fees to Ms. Kirti of US (friend) → Supply ✓

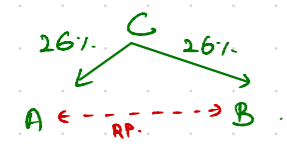
Example 2: What will be your answer if both of them are real sisters & Mrs. Rashi receives legal advice for her business & she did not pay any consideration.

Legal provision

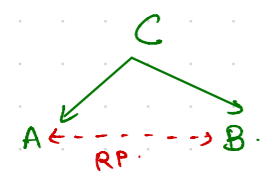
Supply includes import of services made for a consideration whether or not in the course or furtherance of business.

*** Defⁿ of Related Party ***

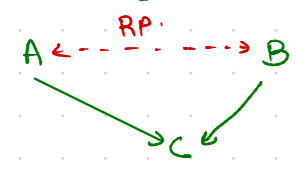
- 1] Such persons are directors of one another's business.
- 2] Such persons are legally recognized partners.
- 3] Such persons are employer & employee.
- 4] 3rd person controls/owns/holds directly/indirectly $\geq 25\%$ of voting rights.



- 5] One of them controls the other. A \longrightarrow B.
- 6] 3rd person controls both of them.



- 7] Such persons together control the 3rd person.



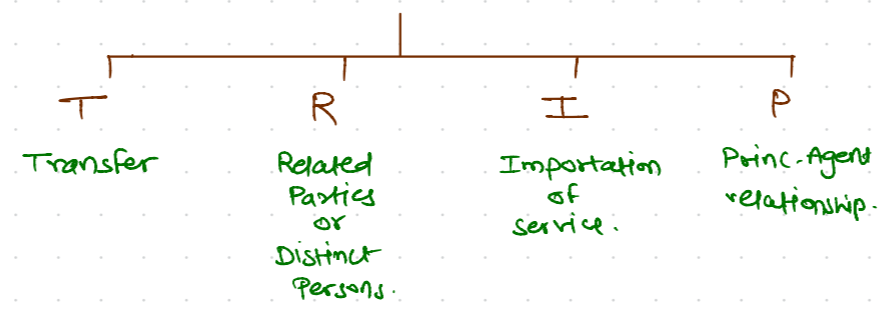
***] Such persons are members of the same family**

Meaning of family

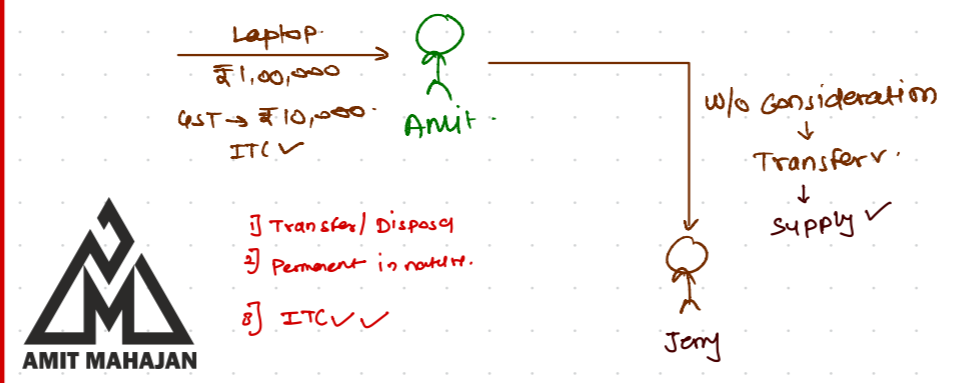
- spouse / children \rightarrow Dependence \checkmark / X
- Parents / Grand / Brother / Sister \rightarrow Dependent \checkmark / Parents

*** SECTION 7(i)(c) read with Schedule I ***

supply without consideration



I] Transfer



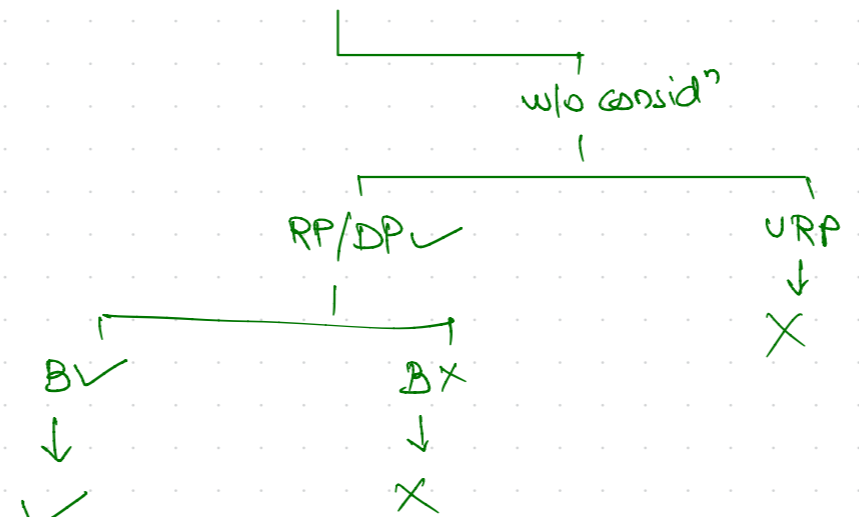
conditions to consider transfer w/o consideration as deemed supply

- I] Transfer / Disposal \checkmark
- II] Permanent
- III] ITC should be available \checkmark

No deemed supply
 I] IF ITC is not availed.
 II] IF ITC is blocked.

III] Importation of service

Already discussed.

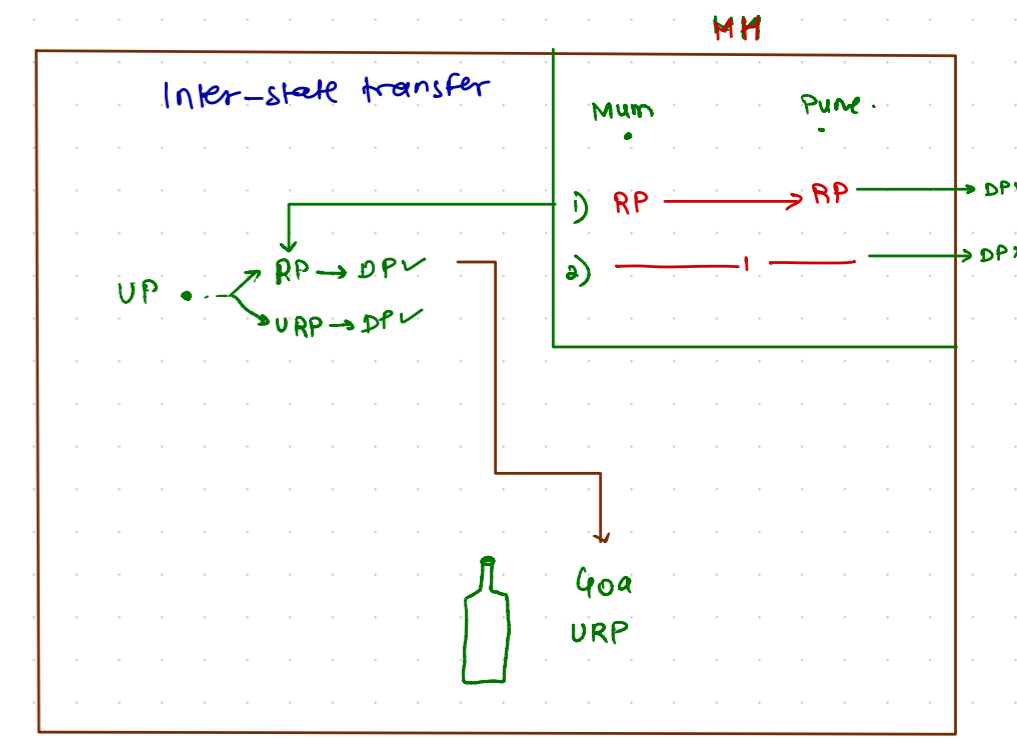


II] Related Party / Distinct Person

Any supply betⁿ 2 RPs / DPs w/o consideration \rightarrow would be considered as deemed supply \checkmark .

- Related Party \rightarrow Discussed \checkmark
- Distinct persons \rightarrow Sec 25

Distinct Person.



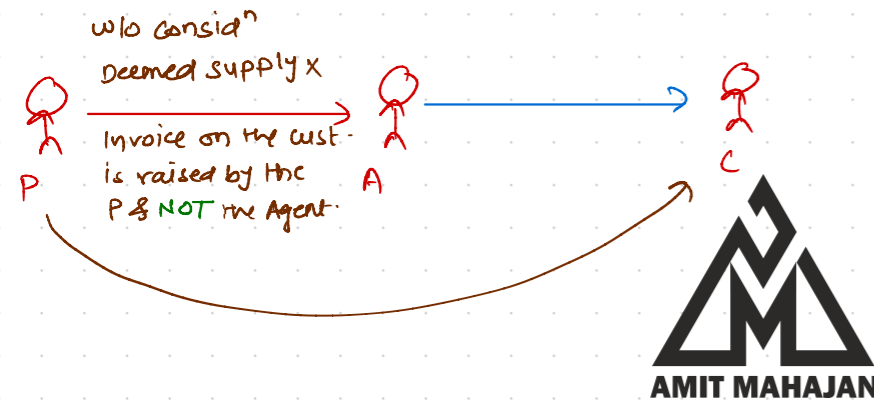
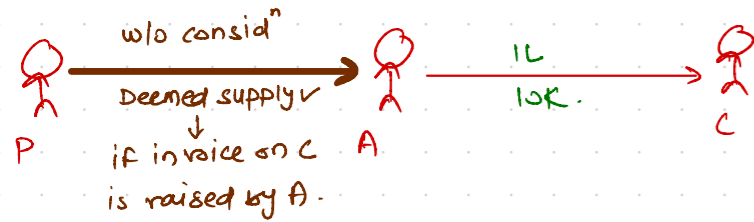
*** Legal Provision ***

The establishments of a person with separate registrations whether within the same State/UT or in different States/UTs are considered as **distinct persons**.

Where a person having one registered establishment in a State/UT has another establishment in a different State/UT [not necessarily registered], these establishments are considered as **establishments of distinct persons**.

Princ-Agent Relationship

Supply of goods by P to A without considⁿ would be considered as Deemed supply if the invoice of the goods is issued by the Agent in his own name.



P → A w/o consideration will be considered as deemed supply.
 ↓
 if invoice on the customer is raised by the Agent in his own name ✓

Sec 7(1A) + schedule II

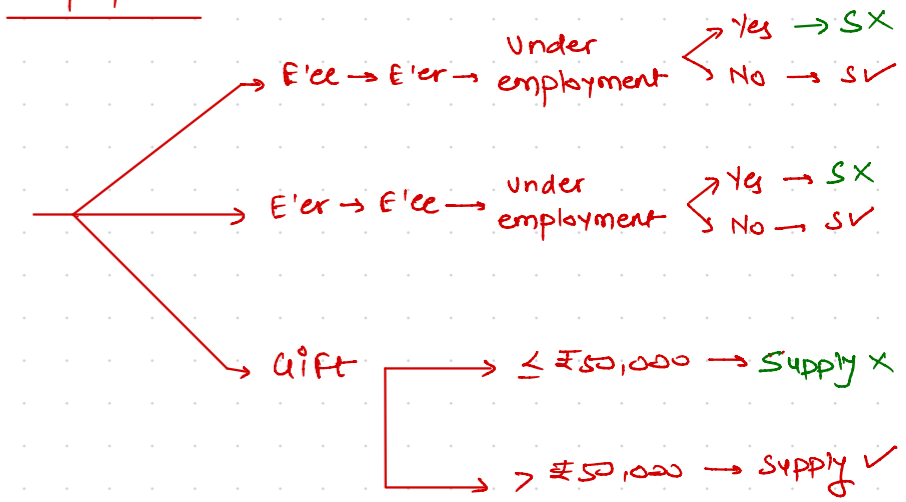
Activities to be considered as goods/services.

Particulars	Supply
1] Any transfer of title in goods.	Goods
2] Any transfer for a temp. period w/o transfer of title in goods.	Services
3] lease/Tenancy of imm. property.	services
4] service of Job work ✓	Service
5] Post liquidation of a Co → assets are transferred. Going concern → exempt	Goods
6] Sale of goods on Hire Purchase basis	Goods
7] Temp. transfer/permitting use/enjoyment of any IPR.	Service
8] Devt & designing of software.	Service
9] Non-compete agreement.	Service
10] works contract/Rest. service	Service

Sec 7(2) + schedule III

Negative List.
 ↓
 Neither goods nor services.

1] Employment



Note 1: Daily workers/Casual workers will be treated at par with employees & thus, no supply on service provided by them.

Note 2: Compensation for premature terminatⁿ

↓
GST not applicable

2] services by any court/tribunal
 [Consumer Dispute Adressal Commⁿ → Tribunal ✓]

3] i) Services performed by MPs/MLAs/
 any constitutional body.



4] Services of Funeral / Byrial / Crematorium / mortuary service including transportatⁿ of deceased

5] Actionable claims excluding Lottery / Gambling / Betting / online gaming / Horse racing / Casinos.

→ GST ✓

6] Sale of Land & Building.

1] Land → x supply x GST.

2] Building



Under-constⁿ
 ↓
 CC ✓ or OC ✓ } whichever is earlier.

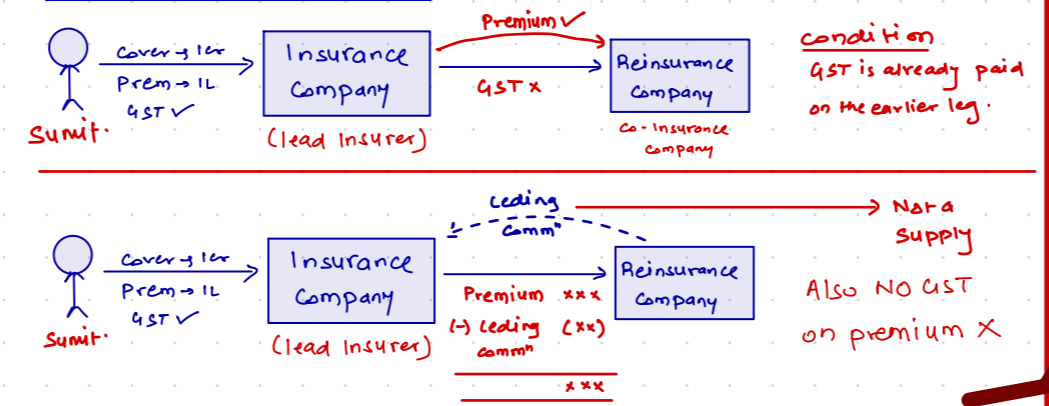
Ready to move.
 (construction is completed)
 ↓
 -ve list
 ↓
 x No supply x

CC	OC	₹	Payt	GST
20/6/24.	1/7/24.	1Cr	7/7/24.	X
6/7/24.	1/7/24.	1Cr	3/7/24.	X
1/7/24.	1/7/24.	1Cr.	1/7/24.	X
5/7/24.	1/7/24.	20L	20/6/24.	✓ 1Cr
		80L	10/7/24.	

7] Holding of shares by Holding Co of a subsidiary company.

2] Insurance & Co-insurance.

Insurance & co-insurance



Invoice	
A.C. (18%)	40,000
warranty (12%)	5,000
value	45,000

Composite supply ✓
 18%

Invoice ✓✓	
Part-G (18%)	200
Good Day (18%)	200
Belt (12%)	300
wallet (15%)	100
chocolate (28%)	200
Total	1000

Not a mixed supply
 ↓
 seller has not charged a single price.
 ↓
 Independent supply ✓
 ↓

Individual rates will be applicable.

Invoice	
Gift hamper	1000
	1000

Mixed supply

Section 8 → Composite & Mixed supply.

1] Composite supply

- 2 or more taxable supplies
- Made in conjunction with each other
- which are naturally bundled &
- One of which is a principle supply.

Treated as → Supply of Principle supply.

Tax Rate → Rate of Principle supply.

Example : 1) Phone & warranty.

2) Train & food.

3) Hotel & Laundry.

2] Mixed supply.

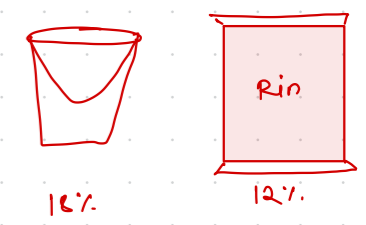
- 2 or more taxable supplies
- Made in conjunction with each other
 ↓
 For a single price.
- where such supply does not constitute a composite supply &
- the supplies are not naturally bundled.

Rate → Highest

Treated as → Supply of that product/service which attracts highest rate of tax.

Examples : 1) Rin & bucket.

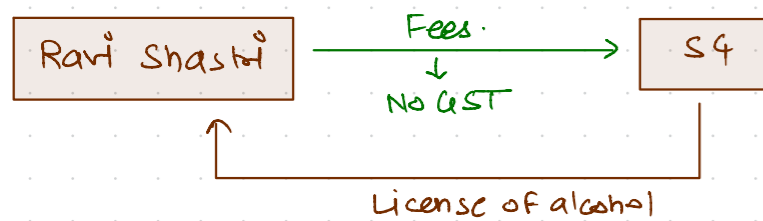
2) Gift hamper.



200/-

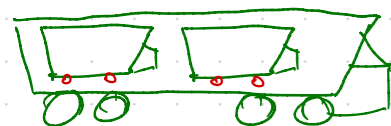
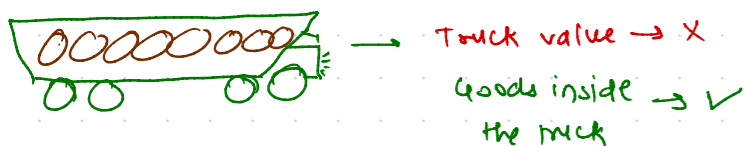
* Relevant Circulars *

1) Lic. of alcoholic liquor



Any other license → GST ✓

2) Inter-state movement of goods through various modes of conveyances.



when trucks are the goods which are getting transported
↓
GST will be applicable only on those trucks which are getting transported & not on the conveyance.



Language

Inter-state movement of various modes of conveyance between two distinct persons through trains, buses, trucks, tankers, trailers, vessels, containers, aircrafts for:

- 1) Carrying goods or pass or both
- 2) Repairs & Maint.

Important point → GST is applicable on R&M & not on conveyance.

3] Inter-state movement of Rigs, tools & spares & all goods on wheels

↓
X NO GST X

4] Display of names & placing of name plates in the premises of charitable organization / hospitals / Institutions.

- 1) Donors provide financial help to the charitable organisations / schools / Hospitals / old age home
- 2) Such institutions display the name of the donor to express the gratitude & public recognition of donor's act of philanthropy.
- 3) It is not aimed at giving any kind of publicity to the donor.
- 4) There is no obligation on the part of the recipient to do anything in return (no quid-pro-quo).
- 5) Thus, donation would not be considered as supply.

5] Art work sent by artists to galleries for exhibition is not a supply.

↓
as there is no consideration which flows from the gallery to the artist.

IF sold further → supply ✓

IF not sold further → NOT a supply. X

6] Circulars regarding composite supply.

- 1) Printing of books, pamphlets → supply of services.
- 2) Printing envelop, cartons → supply of goods.
- 3) Re-treading of tyres → supply of services.
- 4) Supply of re-treaded tyres → supply of goods.

7] Circulars on supply of food / beverage alongwith cinema tickets.

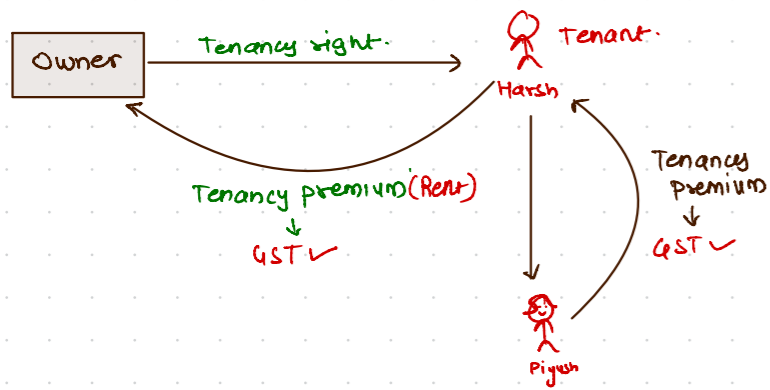
1) IF food is booked alongwith movie ticket
↓
Composite supply ✓

↓
Tax rate of ticket will be applicable ✓

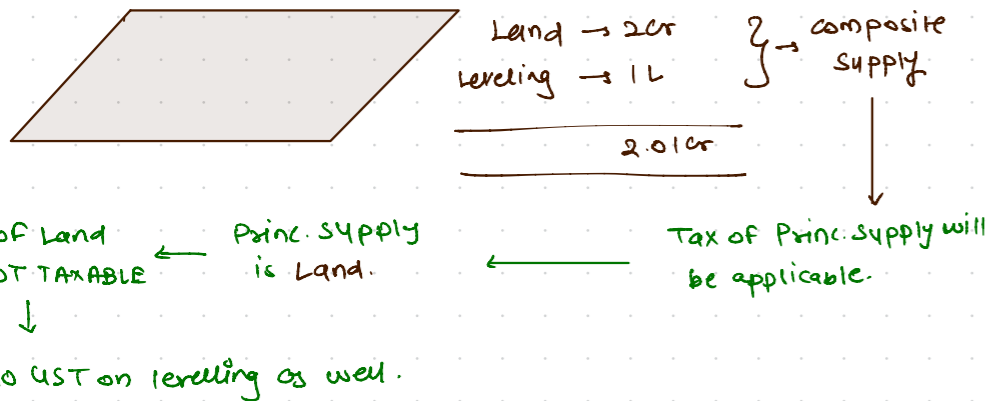
2) IF food is not booked at the time of booking a movie ticket but purchased independently.
↓
Treat supply of food as restaurant service & 5% is charged on the food element.

Ticket value → Rate of ticket
Food → 5%.

8] Taxability of tenancy rights



9] Taxability of sale of land after leveling, laying down of drainage lines, water pipeline



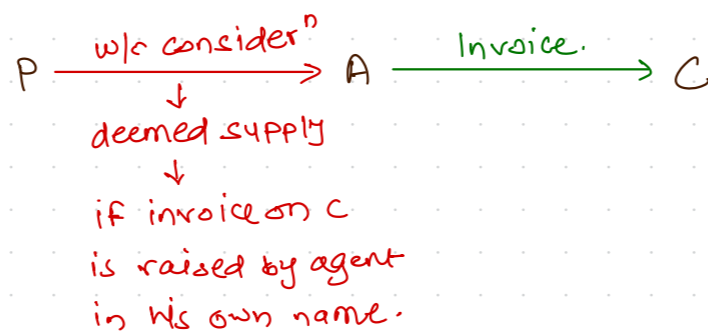
* Taxability on Cancellation Charges *

→ Cancellation charges are treated as composite supply & thus, rate of original supply (which is cancelled) will be applicable on the cancellation charges.

IF flight booking is cancelled

↓
GST rate of flight ticket will be applicable on the cancellation charges.

* Dei-Credere Agent *



Agents → Schedule I agent.

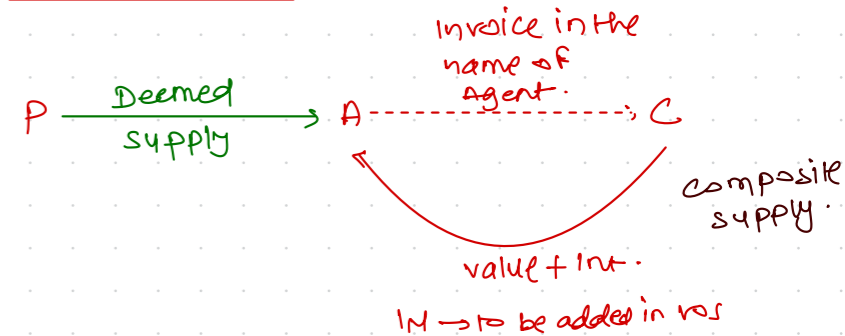
• DCA is an agent who guarantees the payment to the principal in case of failure of payment by the customer.

• If customer fails to make a payment, it will be considered that the short term loan has been given to the customer by the DCA.

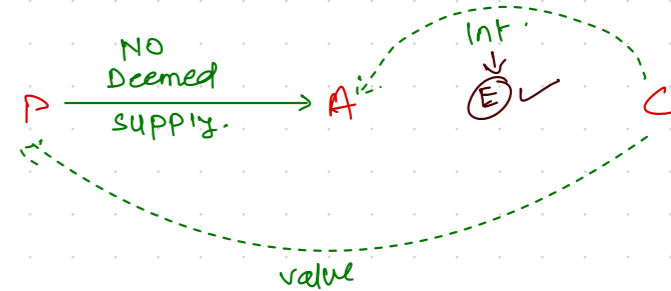
• DCA will also collect interest from the customer ✓

• Qs is whether interest will be added to value of supply of the agent??

Situation 1 Agent → sch I ✓



Situation 2 Agent → sch I x



Int paid to Agent
value is payable in the name of Principal

∴ Int receivable by Agent CANNOT be added to value of supply of Princ.

conclusion

1) IF schedule I Agent → Int ADDED to ROS.

2) IF NOT a schedule I Agent → Int NOT ADDED to ROS.

10] * Taxability in certain cases *

Nature	Taxability.
1] Liquidated damages.	NOT taxable.
2] Cheque dishonour.	NOT taxable.
3] Payment of penalty imposed for violation of laws.	NOT taxable.
4] Payment of bond amount by employee in the event of employee leaving employment before minimum agreed period.	NOT taxable.
5] Fixed capacity charges for power (minimum electricity bill) (electricity)	NOT taxable.

GST is applicable on these liquidated damages [Remember the examples from exam perspective]

GST on liquidated damages, Compensation and Penalty arising out of breach of contract or other provisions of law

Agreeing to the obligation
refrain from an act

- Non compete agreement
- Additional floor not built by the builder against the compensation by the neighbours which want to protect its sunlight

Agreeing to the obligation
tolerate an act or a situation

A shopkeeper allowing a hawker to operate from the common pavement in front of his shop against a monthly payment by the hawker

Agreeing to the obligation
to do an act

An Industrial unit agrees to install equipment for zero emission/discharge residential complex against a consideration paid by such RWA, even though the emission/discharge from the industrial unit was within permissible limits and there was no legal obligation upon the individual unit to do so

