



## Chapter 1 - Supply Under GST

### Part A - ICAI TYK

- 1) Satyamev Printers is a printing house registered under GST. It received an order for printing 5000 copies of a book on yoga and meditation authored by a well-known yoga guru. The content of the book is to be provided by the yoga guru to Satyamev Printers. It is agreed that Satyamev Printers will use its own paper to print the said books. You are required to determine the rate of GST applicable on supply of printed books by Satyamev Printers assuming that the rate of GST applicable on services is 18% whereas the rate of GST applicable on supply of goods is 12%.

Sol. Section 2(30) provides that a composite supply means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

Circular No. 11/11/2017 GST dated 20.10.2017 has clarified that supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc. printed with logo, design, name, address or other contents supplied by the recipient of such printed goods, are composite supplies.

Further, section 8(a) stipulates that a composite supply comprising two or more supplies, one of which is a principal supply, is treated as a supply of such principal supply. Hence, one needs to ascertain what constitutes the principal supply in this supply. As per section 2(90), principal supply is the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

The above circular further clarifies that in the composite supply of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service.

Accordingly, in the given case, the supply of printed books by Satyamev Printers is a composite supply wherein the principal supply is supply of printing services. Thus, the rate of GST applicable thereon is the rate applicable on supply of printing services, i.e. 18%.

- 2) Sudama Associates, a registered supplier, disposes the computers owned by the business without consideration and it has not claimed input tax credit on such computers. Examine whether the

disposal of computers by Sudama Associates qualifies as deemed supply under Schedule I of the CGST Act, 2017.

Sol. As per section 7(1)(c) read with Schedule I of the CGST Act, 2017, permanent transfer or disposal of business assets is treated as supply even though the same is made without consideration. However, this provision would apply only if input tax credit has been availed on such assets. Therefore, the disposal of computers by Sudama Associates is not a supply as the input tax credit has not been availed on the same.

3) Shivaji Pvt. Ltd., a registered supplier, supplies the following goods and services for construction of buildings and complexes -

- excavators for required period at a per hour rate
- manpower for operation of the excavators at a per day rate
- soil-testing and seismic evaluation at a per sample rate.

The excavators are invariably hired out along with operators. Similarly, excavator operators are supplied only when the excavator is hired out.

For a given month, the receipts (exclusive of GST) of Shivaji Pvt. Ltd. are as follows:

- Hire charges for excavators - ₹ 18,00,000
- Service charges for supply of manpower for operation of the excavator - ₹ 20,000
- Service charges for soil testing and seismic evaluation at three sites - ₹ 2,50,000

Compute the GST payable by Shivaji Pvt. Ltd. for the given month.

Assume the rates of GST to be as under:

Hiring out of excavators - 12%

Supply of manpower services and soil-testing and seismic evaluation services - 18%

Sol. Computation of GST payable by Shivaji Pvt. Ltd.

Particulars	Value of supply	GST Rate	GST payable (₹)
Hiring charges for excavators	18,00,000	12%	2,16,000
Service charges for supply of manpower for operation of excavators [Refer Note 1]	20,000	12%	2,400
Service charges for soil testing and seismic evaluation [Refer Note 2]	2,50,000	18%	45,000
<b>GST liability</b>			<b>2,63,400</b>

Notes:

1. Since the excavators are invariably hired out along with operators and excavator operators are supplied only when the excavator is hired out, it is a case of composite supply under section 2(30) wherein the principal supply is the hiring out of the excavator. As per section 8(a), the composite supply is treated as the supply of the principal supply. Therefore, the supply of manpower for operation of the excavators will also be taxed at the rate applicable for hiring out of the excavator (principal supply), which is 12%.
2. Soil testing and seismic evaluation services being independent of the hiring out of excavator will be taxed at the rate applicable to them, which is 18%

4) Mr. Kanjilal Adani is an oil exploration & production contractor and is registered under GST in the State of Gujarat. He entered into a Production Sharing Contract (PSC) with Government of Gujarat wherein he gets a license to explore, exploit and sell the petroleum crude and/or natural gas from the Government in Aliabet Oilfield in lieu of royalty and a share in profit petroleum.

In the month of June, Mr. Kanjilal Adani explored the petroleum reserves at Aliabet Oilfield. He got a portion of the petroleum silt (non-taxable under GST) worth ₹ 3,00,000 as part of compensation. This petroleum silt is part of cost petroleum as per the contract entered with the Government.

Examine the taxability of the petroleum silt received by Mr. Kanjilal Adani under the GST law.

Sol. Compensation is received by Mr. Kanjilal Adani in the form of petroleum silt which, as per the contract with the Government of Gujarat, is part of cost petroleum. As per Circular No. 32/06/2018 GST dated 12.02.2018, the cost petroleum is not a consideration received by the oil exploration & production contractors for the services provided to Government under a Production Sharing Contract (PSC) and thus not taxable per se. The reason for the same is that the contractors carry exploration and production of petroleum for themselves and not as a service to the Government. They had acquired the right to explore, exploit and sell petroleum in lieu of royalty and a share in profit petroleum.

Consequently, the cost petroleum received by Mr. Kanjilal Adani is not taxable under GST.

5) Angad Private Ltd. is engaged in the business of distribution of construction material. As an incentive, Angad Private Ltd. pays an amount of ₹ 75,000 to its employees upon achieving a specified sales target. The incentive is part of the salary of the employees and applicable tax is deducted at source as per relevant income tax provisions. Angad Private Ltd. is of the view that GST is not leviable on such incentive paid to the employees. Whether the view taken by Angad Private Ltd. is correct?

Sol. Yes, Angad Private Ltd.'s view is correct. In terms of section 7(2) read with Schedule III of the CGST Act, 2017, services by an employee to employer in the course of or in relation to his

employment shall not be treated as supply under GST. Further, the amount paid as incentive by Angad Private Ltd. is not in the nature of gift, and thus, is not covered under Schedule I. In Fact, in the given case, the incentive is part of the salary and is directly linked to the sales target. Therefore, the services provided in course or in relation to employment by the employees for which incentives are given to them shall not be treated as a "supply".

In the light of above discussion, GST is not leviable on the incentive paid by Angad Private Ltd. to its employees.

- 6) XYZ Consultancy, registered in Bangalore, supplies technical consultancy services to its clients. It has been providing technical services to BA Ltd., Mumbai since past 2 years. Consideration is settled by BA Ltd. assignment-wise. BA Ltd. paid ₹ 37 lakh to XYZ Consultancy on 10th January for XYZ Consultancy agreeing not to provide similar technical services to any other business entity in India or abroad for a period of next 8 years. XYZ Consultancy is of the view that ₹ 37 lakh is not chargeable to tax under GST law. You are required to examine whether the view taken by XYZ Consultancy is valid in law. It may be noted that BA Ltd. is not ready to pay any further amount to XYZ Consultancy in addition to the amount already agreed.

Sol. In the given case, XYZ Consultancy is providing the service of agreeing to the obligation to refrain from an act to BA Ltd. against a consideration of ₹ 37 lakh [Schedule II read with Circular No. 178/10/2022 GST dated 03.08.2022]. Therefore, the same is liable to tax under GST law. Thus, view taken by XYZ Consultancy is incorrect.

- 7) Mokshabhumi Industries has its manufacturing unit in the State of Maharashtra. It stores the finished goods manufactured by it at a depot located in the State of Gujarat. The depot is owned by Punyabhumi Ltd. - a related person of Mokshabhumi Industries. Punyabhumi Ltd. has not charged any consideration from Mokshabhumi Industries for usage of depot for storage purpose. Whether the storage of goods permitted by Punyabhumi Ltd. to Mokshabhumi Industries qualifies as supply under GST?

Sol. As per section 7(1)(c) read with Schedule I, supply of goods or services or both between related persons without consideration when made in the course or furtherance of business qualifies as supply. Thus, the storage services provided by Punyabhumi Ltd. to Mokshabhumi Industries in course or furtherance of business qualify as supply under GST even though no consideration has been charged for the same.

- 8) Rob Shareholding Ltd., an approved intermediary, has entered into an agreement wherein certain securities were to be lent to Dhandhan Bank, under Securities Lending Scheme, 1997. Dhandhan

Bank shall pay specified lending fee against such lending of securities to it. Explain the taxability of transactions involved in the Securities Lending Scheme, 1997.

**Sol.** Securities Lending Scheme, 1997 (hereafter referred to as SLS) facilitates the lending and borrowing of securities. Securities are neither covered in the definition of goods nor covered in the definition of services. Therefore, a transaction in securities which involves disposal of securities is not a supply in GST and hence not taxable.

However, SLS doesn't treat lending of securities as disposal of securities and therefore is not excluded from the definition of services. The lending fee charged from the borrowers of securities has the character of consideration and is taxable under GST. Apart from above, the activities of the intermediaries facilitating lending and borrowing of securities for commission or fee are also taxable separately [Circular No. 119/38/2019 GST dated 11.10.2019].

- 9) Krishnadev is a trader based in India. Ramakrishna, brother of Krishnadev, is located in China and is also engaged in business of trading of goods. Krishnadev places an order with Ramakrishna for procurement of certain goods from local market in China. Before the shipment of goods from China to India, Krishnadev sold such goods to Christiano, a trader located in Brazil. The goods were subsequently shipped from China to Brazil. Comment on the taxability of transaction between Krishnadev and Christiano under GST in India.

**Sol.** The transaction between Krishnadev and Christiano is in the nature of merchant trading. As per Schedule III, transactions involving sale of goods from a place in non-taxable territory to another place in non-taxable territory, without such goods entering into India, shall be treated neither as supply of goods nor as supply of services under GST. Therefore, the transaction between Krishnadev and Christiano shall not be treated as supply and is thus not leviable to GST.

- 10) Mohandas International entered into a transaction for import of goods from a vendor located in Italy. Due to financial issues, Mohandas International was not in a situation to clear the goods upon payment of import duty. Mohandas International sold the goods to Radhakrishnan Export House by endorsement of title to the goods, while the goods were in high seas. The agreement further provided that Mohandas International shall purchase back the goods in future from Radhakrishnan Export House. Discuss the taxability of transaction(s) involved, under the GST law.

**Sol.** As per Schedule III, high seas sale transactions i.e. supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption shall be treated neither as supply of goods nor as supply of services under GST. Thus, the sale of goods by Mohandas International to Radhakrishnan Export House in high seas shall not be liable to GST.

Further, the import duty including IGST shall be payable by Radhakrishnan Export House at the time of clearance of goods at port of import. In case the goods are sold back by Radhakrishnan Export House to Mohandas International at a subsequent point of time, the same shall be treated as normal domestic sale transaction and GST shall be applicable on the same subject to other conditions prescribed under GST Law.

- 11) Mr. Happy has a huge residential property located at a prime location in Mumbai, Maharashtra. He has let out the 1st and 2nd floor to Mr. Peace for residential purposes in April. Mr. Peace surrenders his tenancy rights to Mr. Serene for a tenancy premium of ₹ 10,00,000 on 1st June. Mr. Serene has also paid the applicable stamp duty and registration charges on transfer of tenancy rights. Moreover, Mr. Serene has agreed to pay a monthly rent of ₹ 1,00,000 to Mr. Happy (unregistered under GST) from June. Determine the taxability of the transaction(s) involved in the given case, for the month of June.

Sol.Circular No. 44/2018 CT dated 02.05.2018 clarifies that the activity of transfer of tenancy right against consideration [i.e. tenancy premium] is squarely covered under supply of service liable to GST. It is a form of lease or renting of property and such activity is specifically declared to be a service in Schedule II i.e. any lease, tenancy, easement, licence to occupy land is a supply of services.

Although stamp duty and registration charges have been levied on such transfer of tenancy rights, it shall be still subject to GST. Merely because a transaction/supply involves execution of documents which may require registration and payment of registration fee and stamp duty, would not preclude them from the 'scope of supply' and from payment of GST.

The transfer of tenancy rights cannot be treated as sale of land/ building in Schedule III. Thus, it is not a non-supply under GST and consequently, a consideration for the said activity shall attract levy of GST. Services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is liable to GST.

Hence, in the given case, the tenancy premium of ₹10,00,000 received by Mr. Peace for surrendering his tenancy rights to Mr. Serene is liable to GST.

The circular further clarifies that since renting of residential dwelling for use as a residence to an unregistered person is exempt [Entry 12 of Notification No. 12/2017 CT (R) dated 28.06.2017] (Notification No. 12/2017 CT (R) dated 28.06.2017 (containing the list of services exempt from CGST) has been discussed in Chapter 4 - Exemptions from GST in this Module of the Study Material), grant of tenancy rights in a residential dwelling for use as residence dwelling against

tenancy premium or periodic rent or both to an unregistered person is exempt. Consequently, monthly rent ₹ 1,00,000 received by Mr. Happy from Mr. Serene is exempt.

- 12) a) Rudraksh Kapoor, owner of Rudraksh Publishing House, Ghaziabad, U.P., donated some money to Divyaprakash Charitable Trust in the memory of his late father. The Divyaprakash Charitable Trust constructed a room in the school run by it from such donation and wrote "Donated by Rudraksh Kapoor in the memory of his father" on the door of the room so constructed. Examine whether the money donated by Rudraksh Kapoor is leviable to GST.
- b) In the above question, if Divyaprakash Charitable Trust had written on the door of the room constructed from the money donated by Rudraksh Kapoor in the school run by it - "Donated by Rudraksh Publishing House, Ghaziabad, U.P.", would the given transaction/activity qualify as supply?

Sol.Circular No. 116/35/2019 GST dated 11.10.2019 has clarified that in case of donations received by a charitable institution, when the name of the donor is displayed in recipient institution's premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation). 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).

Thus, GST is not leviable where all the following three conditions are satisfied namely:

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

- a) In the backdrop of the above discussion, in the given case, the way the name of Rudraksh Kapoor is displayed on the door of the room constructed in the school run by Divyaprakash Charitable Trust, it is only an expression of gratitude and public recognition of Rudraksh's act of philanthropy and is not aimed at advertising or promoting his business.

There is no reference/mention of his publishing house which otherwise would have got advertised.

Thus, the money donated by Rudraksh Kapoor is not leviable to GST.

- b) In the given case, since the name of Rudraksh Publishing House has been displayed on the door of the room constructed in the school run by Divyaprakash Charitable Trust, it might be aimed at advertising or promoting his business. There is a direct mention of his publishing house which is being advertised. In such a case, it is a supply of service by Divyaprakash Charitable Trust for a consideration received in the form of donation.

13) Mrs. Kajal, a registered supplier of Jaipur (Rajasthan), has made the following supplies in the month of January:

(i) Supply of a laptop along with the laptop bag to a customer of Mumbai for ₹ 55,000 (exclusive of GST).

(ii) Supply of 10,000 kits (at ₹ 50 each) amounting to ₹ 5,00,000 (exclusive of GST) to Ram Fancy Store in Kota (Rajasthan). Each kit consists of 1 hair oil, 1 beauty soap and 1 hair comb.

(iii) 100 kits are given as free gift to Jaipur customers (all unrelated) on the occasion of Mrs. Kajal's birthday. Each kit consists of 1 hair oil and 1 beauty soap. Cost of each kit is ₹ 35. Input tax credit has not been taken on the goods contained in the kit.

(iv) Event management services provided free of cost to her brother (wholly dependent on her) for his son's marriage function in Indore (Madhya Pradesh). Cost of providing said services is ₹ 80,000.

(v) 1,400 chairs and 100 coolers hired out to Function Garden, Ajmer (Rajasthan) for ₹ 3,30,000 (exclusive of GST) including cost of transporting the chairs and coolers from Mrs. Kajal's godown at Jaipur to Function Garden, Ajmer. Since Mrs. Kajal is not a GTA, transportation services provided by her are exempt vide Notification No. 12/2017 CT (R) dated 28.06.2017

(Notification No. 12/2017 CT(R) dated 28.06.2017 (containing the list of services exempt from GST) has been discussed in Chapter 4 - Exemptions from GST in this Module of the Study Material)

Assume rates of GST to be as under:-

S. No.	Particulars	Rate of GST
1	Laptop	18%
2	Laptop bag	28%
3	Hair oil	18%
4	Beauty soap	28%
5	Hair comb	12%
6	Event management service	5%
7	Service of renting of chairs and coolers	12%
8	Transportation service	5%

From the above information, examine each of the above supplies made by Mrs. Kajal for the month of January and determine the rate of GST applicable on the same.

Sol.

S. No.	Particulars	Rate of GST
(i)	Supply of laptop bag along with laptop to Mumbai customer [Being naturally bundled, supply of laptop bag along with the laptop is a composite supply which is treated as the supply of the principal supply [viz. laptop] in terms of section 8(a). Accordingly, rate of principal supply, i.e. laptop will be charged.]	18%
(ii)	Supply of kits to Ram Fancy Store [It is a mixed supply and is treated as supply of that particular supply which attracts highest tax rate [viz. beauty soap] in terms of section 8(b)]	28%
(iii)	Free gifts to customers [Cannot be considered as supply under section 7 read with Schedule I as the gifts are given to unrelated customers without consideration.]	Nil
(iv)	Event management services provided free of cost to her brother [who is a related person] for his son's marriage. Thus, said services shall fall within the purview of Schedule I and shall be treated as supply even if made without consideration. Since it is an individual supply, it will be taxed at the rate applicable on said service.	5%
(v)	Chairs and coolers hired out to Function Garden [Transportation services provided by Mrs. Kajal are exempt. However, since chairs and coolers are hired out along with their transportation, it is a case of composite supply wherein the principal supply is hiring out of chairs and coolers. Accordingly, transportation service will also be taxed at the rate applicable for renting of chairs and coolers*]	12%

\*Note: As per section 2(30), composite supply means a supply made by a taxable person to a recipient consisting of two or more taxable supplies. Since in point (v), service of hiring out of chairs & coolers is taxable while transportation service is exempt, it is possible to take a view that this is not a case of composite supply. In that case, the two services will be treated as independent services and taxed accordingly.

14) Chandragupta Maurya is an artist who makes contemporary paintings. He is registered in the State of Kolkata. Chandragupta Maurya appoints Dhruv Kumar to auction his painting in Maharashtra. Dhruv Kumar arranges for the auction and identifies the potential bidders. The highest bid is accepted and the painting is sold to the highest bidder. The invoice for the supply of the painting is issued by Dhruv Kumar on the behalf of Chandragupta Maurya but in his own name and the painting is delivered to the successful bidder. Examine whether Dhruv Kumar can be considered as an agent of Chandragupta Maurya under Para 3 of Schedule I of the CGST Act, 2017.

Sol. An activity/transaction qualifies as supply under GST only if it is undertaken for a consideration and is in course/furtherance of business. However, supply of goods by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal is considered as supply even if made without consideration provided the invoice for further supply is issued by the agent in his own name [Section 7(1)(c) read with Para 3 of Schedule I of the CGST Act, 2017]. Circular No. 57/31/2018 GST dated 04.09.2018 provides that where the invoice for further supply of goods is being issued by the agent in his name then, any provision of goods from the principal to the agent would fall within the fold of Para 3 of Schedule I.

In the given case, Dhruv Kumar is not merely providing auctioneering services to Chandragupta Maurya, but is also supplying the painting on behalf of Chandragupta Maurya to the successful bidder and has the authority to transfer the title of the painting on behalf of Chandragupta Maurya. Dhruv Kumar issued the invoice in his own name for supply of the painting on the behalf of Chandragupta Maurya. Thus, Dhruv Kumar can be considered as an agent of Chandragupta Maurya under Para 3 of Schedule I.

### **Part B - PYQs/RTPs/MTPs**

- 15) Agrawal Carriers is a Goods Transport Agency (GTA) engaged in transportation of goods by road. As per general business practice, Agrawal Carriers also provides intermediary and ancillary services like loading/unloading, packing/ unpacking, transshipment and temporary warehousing, in relation to transportation of goods by road. With reference to the provisions of GST law, analyse whether such services are to be treated as part of the GTA service, being a composite supply, or as separate supplies. [MTP, May 2018], [CA Final (old) Nov.2018 - 5 Marks]

Sol. Composite supply means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which 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].

The GTA provides various intermediary and ancillary services, such as, loading/unloading, packing/unpacking, transshipment and temporary warehousing, which are provided in the course of transport of goods by road. These services are not provided as independent services but as ancillary to the principal service, namely, transportation of goods by road. The invoice issued by the GTA for providing the said service includes the value of intermediary and ancillary services.

In view of this, if any intermediary and ancillary service is provided in relation to transportation of goods by road, and charges, if any, for such services are included in the invoice issued by the GTA, such service would form part of the GTA service, being a composite supply, and would not be treated as a separate supply. However, if such incidental services are provided as separate services

and charged separately, whether in the same invoice or separate invoices, they shall be treated as separate supplies.

16) ABC Consultancy, registered in Mumbai, supplies technical consultancy services to its clients. It has been providing technical services to XY Ltd., Mumbai since past two years. Consideration is settled by XY Ltd. assignment wise. XY Ltd. paid Rs. 45 lakh to ABC Consultancy on 10th January, 2018 on ABC consultancy agreeing to not provide similar technical services to any other business entity in India or abroad for a period of 8 years. ABC Consultancy is of the view that Rs. 45 lakh is not chargeable to GST.

You are required to examine whether the view taken by ABC Consultancy is valid in law. Calculate GST liability of ABC Consultancy, if any. The technical services provided by ABC consultancy is otherwise chargeable to GST at the rate of 18%. It may be noted that XY Ltd. is not ready to pay any further amount to ABC Consultancy in addition to the amount already agreed. [CA Final Nov. 2022, 4 Marks]

Sol. The view taken by ABC Consultancy is not valid in law. The scope of supply is defined by section 7(1) of CGST Act, 2017. Schedule II also clarifies certain transactions which will be treated either as supply of goods or supply of services. The paragraph 5(e) of Schedule II provides that agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act is treated as supply of service.

Thus, any consideration received for agreeing to the obligation to refrain from an act, is subject to GST. Consideration received for non-compete agreement is deemed as consideration for supply of services. Consideration of Rs. 45 lakh received on the promise of ABC consultancy of not providing similar services to any other person, is consideration for supply, which is chargeable to GST.

Since, GST is not separately collected, it will be assumed that it is included in Rs. 45 lakh. Rule 35 of CGST Rules, 2017 provides that where the value of supply is inclusive of GST, the tax amount is determined in the following manner:

Tax amount = (Value inclusive of taxes x Sum of GST rates in %) / (100+ Sum of GST rates in %)  
Consequently, value of taxable supply will be Rs. 38,13,560 (i.e., Rs. 45,00,000 x 100/118). GST liability on Rs. 38,13,560 will be calculated as follows:

Particulars	Amount
Taxable Value of Supply	38,13,560
Add: CGST @9% of ₹38,13,560	3,43,220
SGST @9% of ₹38,13,560	3,43,220
Total GST Liability	6,86,440

17) A professional training institute gets its training material printed from a printing press. The content of the material is provided by the training institute who owns the usage rights of the same while the physical inputs including paper used for printing belong to the printer.

Ascertain whether supply of training material by the printing press constitutes supply of goods or supply of services.

[MTP - May 2018][RTP - Nov.

2019]

Sol.Circular No. 11/11/2017 GST dated 20.10.2017 has clarified that supply of books printed with contents supplied by the recipient of such printed goods, is composite supply and the question, whether such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply.

Principal supply has been defined in section 2(90) of the CGST Act as supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

In the case of printing of books where content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore, such supplies would constitute supply of service.

18) Mr. Rajesh Surana has a proprietorship firm in the name of Surana & Sons in Jaipur. The firm, registered under GST in the State of Rajasthan, manufactures taxable products. The firm also provides taxable consultancy services.

Mr. Rajesh Surana has provided the consultancy service to his brother - Mr. Akhilesh Surana (located in USA) without any consideration. The products manufactured by Mr. Akhilesh are similar to the ones manufactured by Mr. Rajesh Surana. Mr. Surana charges Rs. 3,00,000 for providing similar consultancy services to other independent customers located in USA.

Compute the GST liability, if any, in the given case assuming the rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively.

[MTP May 2019, 4 Marks]

Sol.Consultancy service to Mr. Akhilesh Surana (located in USA) has been provided without any consideration. Activity without consideration is not a supply in terms of section 7(1)(a) of the CGST Act, 2017. However, Schedule 1 to the CGST Act, 2017 enlists the activities to be treated as supply even if made without consideration. Accordingly, Para 2 of Schedule I treats **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 as a supply even if made without consideration.

However, a **brother who is not dependent** on the person supplying the service, does **not come within the purview** of the term 'family' as defined under section 2(49) of the CGST Act, 2017 and hence, is **not a related person**. Therefore, the export of service to an independent brother without any consideration will not fall under para 2 of the Schedule I to CGST Act, 2017. Hence, the **activity is not a supply** and is thus, not liable to any tax.

**19) Determine whether the following supplies amount to composite supplies:**

(i) A hotel provides 4 days-3 nights package wherein the facility of breakfast and dinner is provided along with the room accommodation.

(ii) A toothpaste company has offered the scheme of free toothbrush along with the toothpaste.

[PYQ]

Sol. Under composite supply, two 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,

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

(ii) Since supply of toothbrush along with the toothpaste are not naturally bundled, said supplies do not qualify as 'composite supply'.

**20) State whether the following supplies would be treated as supply of goods or supply of services as per Schedule II of the CGST Act:**

(i) Renting of immovable property

(ii) Goods forming part of business assets are transferred or disposed of by/under directions of person carrying on the business.

(iii) Transfer of right in goods without transfer of title in goods.

(iv) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date.

[Past Year Q.]

Sol. (i) Supply of services (ii) Supply of goods (iii) Supply of services (iv) Supply of goods

**21) Examine whether the following activities would amount to supply under section 7 read with Schedule I of the CGST Act:**

(i) 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.

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

[Past Year Q.]

Sol. (i) Schedule I of CGST Act, inter alia, stipulates that import of services by a 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, -

- the spouse and children of the person, and
- 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, Raman has received free of cost legal services from his brother. However, in view of section 2(49)(ii) above, Raman and his brother cannot be considered to be related as Raman's brother is a well-known lawyer and is not wholly/mainly dependent on Raman. Further, Raman has taken legal advice from him in personal matter 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 of the CGST Act read with Schedule I.

(ii) 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 of the CGST Act read with Schedule 1 as although the same are provided in course or furtherance of business, such services have not been received from a related person.

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