CA Vishal Bhattad

FRAMEWORK OF GST

Name	Governing Act	Levied by	Event of Levy
CGST	Central Goods and Services Tax Act, 2017	Central Government	On **Intra State supply** of Goods and Services
SGST	State Goods and Services Tax Act, 2017	State Government	On **Intra State supply** of Goods and Services
UTGST	Union Territory Goods and Services Tax Act, 2017	Union Territories	On **Intra State supply** of Goods and Services
IGST	Integrated Goods and Services Tax Act, 2017	Central Government	On **Inter State supply** of Goods and Services
GST CESS	GST Compensation Cess Act, 2017	Central Government	On **Intra/Inter State supply** of notified Goods and Services

CONCEPT & PRINCIPLE OF GST

- GST is a **Broad-based Value added tax**
- GST is a **Destination based tax**
- GST is technically **paid by suppliers** but it is actually **borne by consumers (Ultimate burden may be passed on).**
- GST is **collected at multiple stage** of production and distribution of goods and services in which taxes paid on inputs are allowed as set off against output tax.
- GST is a **tax on the consumption of products from business sources**, and not on personal or hobby activities.
- Under GST, **input tax credit** is provided throughout the value chain for creditable acquisition.

CONSTITUTIONAL AMENDMENTS

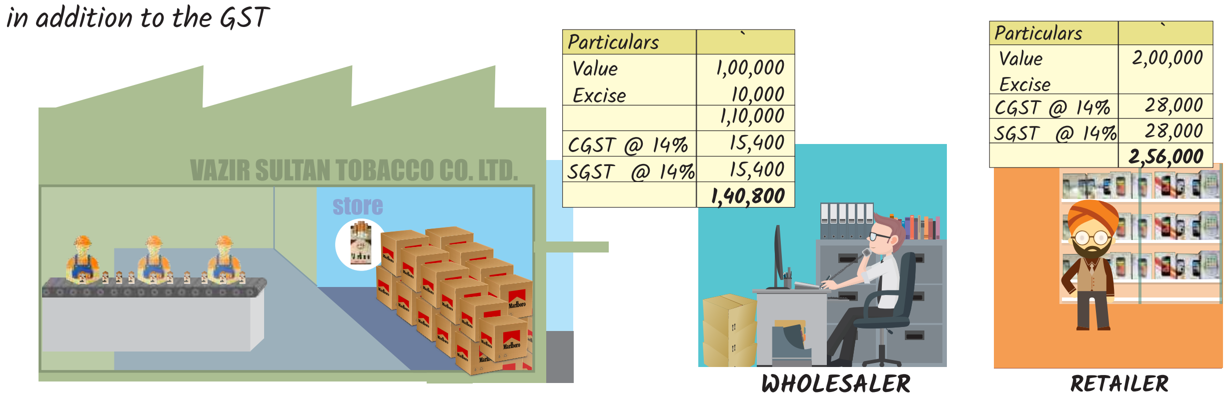
Article 366 (12A)	GST means "Any tax on supply of Goods or Services or both except tax on Supply of the Alcoholic Liquor for human Consumption
Article 246A	Concurrent powers to both, Parliament and State Legislatures is given to make laws with respect to GST
Article 269A	Provides exclusive power to the Parliament to legislate with respect to inter-State trade or commerce i.e. integrated tax (IGST) (including import)

BENEFITS OF GST

1) **Creation of Unified National market**
2) **Mitigating Cascading Effect of taxes**
3) **Elimination of multiple taxes and double taxation**
4) **To Promote make in India Initiative**
5) **It also helps to increase overall revenue of Govt.**

TAXES ON TOBACCO AND TOBACCO PRODUCTS, OPIUM, INDIAN HEMP AND OTHER NARCOTIC DRUGS AND NARCOTICS:

In the case of tobacco and tobacco products, the Centre alone would have the power to levy excise duty in addition to the GST



TAXABILITY ON GOODS IN SPECIAL CASES

Taxability on Goods in Special Cases

Goods totally out of levy of GST

1) Petroleum Products
   - a) Petroleum Crude
   - b) High Speed Diesel
   - c) Motor spirit
   - d) ATF
   - e) Natural Gas

   Manufacture
   - Central Excise

   Sale
   - Intra - VAT
   - Inter - CST

2) Alcoholic liquor for human consumption

   Manufacture
   - State Excise

   Sale
   - Intra - VAT
   - Inter - CST

Goods subject to Excise & GST

1) Tobacco & Tobacco products

   Manufacture
   - Central Excise Duty

   Sale/supply
   - Intra - CGST & SGST
   - Inter - GST

2) Opium, Narcotics etc

   Manufacture
   - State Excise Duty

   Sale
   - Intra - CGST & SGST
   - Inter - IGST

No VAT & CST

All other good & services

GST is payable

Undenatured extra neutral alcohol/ rectified spirit used for manufacture of alcoholic liquor for HC - excluded from scope of GST on the basis of GST recommendations vide FA (no. 2) 2024. Taxability under excise/VAT is not clear till date (Applicable for Nov 25 Exam)

TAXES TO BE SUBSUMED IN GST

Central Taxes	State Taxes
Central Excise duty	State VAT/Sales Tax
Additional excise duty	Central Sales Tax
Excise duty levied under Medicinal & Toiletries preparation Act	Purchase Tax
Additional Customs duty(ACD)	Entertainment Tax (other than those levied by local bodies)
Service Tax	Luxury Tax
Surcharges & Cesses	Entry Tax (All forms)
Central Sales Tax	Taxes on lottery, betting & gambling
	Surcharges & Cesses

Taxes not subsumed under GST

1.	Property Tax & Stamp Duty
2.	Electricity Duty
3.	Excise Duty on Alcohol
4.	Basic Custom Duty
5.	Excise Duty on Petrol Diesel

RECOMMENDATION OF GST COUNCIL

The Goods and Services Tax Council shall make recommendations to the Union and the States on—

(a) Taxes to be subsumed in GST
(b) Exemption in GST
(c) model Goods and Services Tax Laws, principles of levy, apportionment of Goods and Services Tax levied on supplies in the course of inter-State trade or commerce under article 269A and the principles that govern the place of supply;
(d) the threshold limit of turnover for Exemption
(e) the rates of GST & other Special Rates
(f) Special Provision w.r.t. the special category state
(g) any other matter relating to the goods and services tax, as the Council may decide.
(h) Special rates to raised additional resources during any natural calamity /disaster

SPECIAL CATEGORY OF STATE

1) Arunachal Pradesh 2) Assam 3) Jammu and Kashmir 4) Manipur 5) Meghalaya 6) Mizoram 7) Nagaland 8) Sikkim 9) Tripura 10) Himachal Pradesh 11) Uttarakhand

Note:-Jammu and Kashmir is now UT with state legislature, but still covered under special category States.

MANNER OF UTILIZATION OF ITC IN GST

INWARD SUPPLY	OUTWARD SUPPLY		
1. IGST	First IGST	Any CGST	Any SGST/ UTGST
2. CGST	First CGST	Second IGST	
3. SGST/UTGST	First SGST/UTGST	Second IGST	

Note:- CGST cannot be used against SGST/UGST or vice-versa

Section 9(1)of CGST Act/Sec 5(1)of IGST Act :- Charging Section

Levy

Charge

9(1) - Intra-State Supply of Goods or services or Both

5(1) [IGST Act]- Inter-State Supply of Goods or Services or Both

Value

Shall be determined as per sec 15 read with rules

Rate

CGST Rate	0%	0.125%	1.5%	2.5%	6%	9%	14%
SGST Rate	0%	0.125%	1.5%	2.5%	6%	9%	14%
Total	0%	0.25%	3%	5%	12%	18%	28%

Goods not Subject to Levy of GST - alcoholic liquor & un-denatured extra neutral alcohol/ rectified spirit used for manufacture of alcoholic liquor (applicable for Nov 25 exam), for human consumption.

Sec 9(2):- Levy on Petroleum Products from Notified date : - Supply of petroleum crude, high speed diesel, petrol, natural gas and ATF shall be levied from the notified date on recommendation of GST Council.

Note : Still levy of GST on such products is not notified

Analysis: The type of levy existing or to be continued after GST

	(Supply) GST	(Production) ED	(Sale) VAT	(Sale) CST
1. Alcoholic Liquor for Human Consumption	✗	State	✓	✓
2. Petroleum crude, High speed Diesel, Motor spirit (Petrol), Natural gas, Aviation Turbine fuel	✗	Central	✓	✓
3. Tobacco & Tobacco products	✓	Central	✗	✗
4. Opium, Indian Hemp and other Narcotic Drugs	✓	State	✗	✗
5. All other Products	✓	✗	✗	✗

Collection

in such manner as may be prescribed (Detail discussion in TOS chapter)

Person Liable to Pay Tax

Sec 2(107) "Taxable person" - includes

Registered	liable to be registered u/s 22 or 24
Forward Charge Sec 9(1)	Supplier is liable to pay tax
Reverse Charge Sec 9(3) /9(4)	Recipient is liable to pay tax
E-Commerce Sec 9(5)	ECO (Third Party) is liable to pay tax

Sec 2(84) "Person" - includes

(a) An Individual

(b) A hindu undivided family

(c) A Company

(d) A 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 sec 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, not falling within any of the above

Deemed Distinct Persons : Sec 25 CGST Act

25 (4) A person who has obtained or is required to obtain more than one registration.

- whether in one State or Union territory or
- more than one State or UT shall,

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

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.

SEC 2 (56) "INDIA"

Means

a) Territory of India (state and the Uts.)

b) Its
- Territorial Water,
- seabed and
- sub-soil underlying such waters,
- continental shelf,
- EEZ or
- any other maritime zone as defined in the Territorial Waters, Continental Shelf, EEZ and Other Maritime Zones Act, 1976

c) Air space above its territory & territorial waters

SEC 2(114) "UNION TERRITORY"

Means the territory of -

(a) the Andaman and Nicobar Islands

(b) Lakshadweep

(c) Daman and Diu and Dadra and Nagar haveli

(d) Ladakh

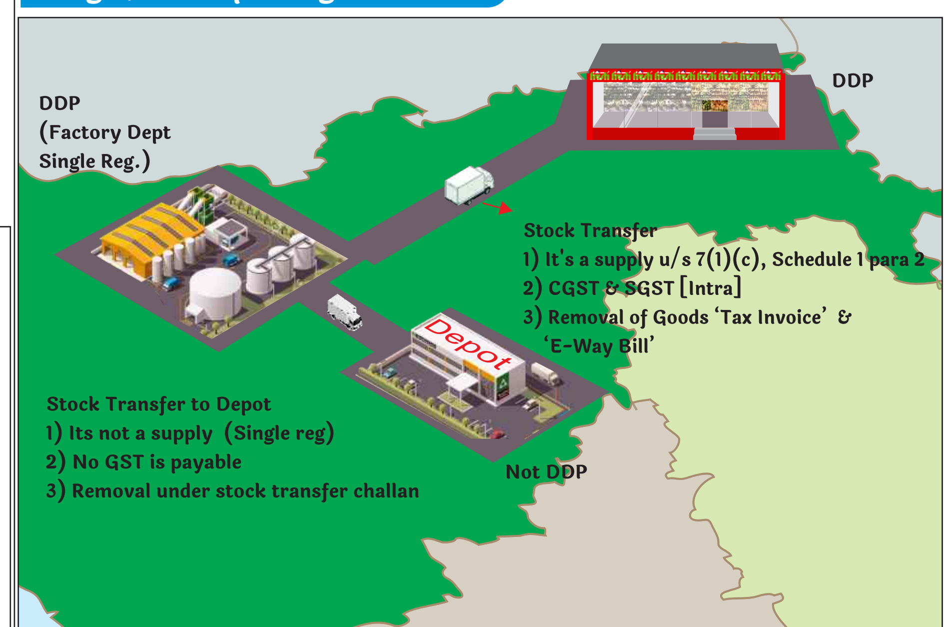
(e) Chandigarh

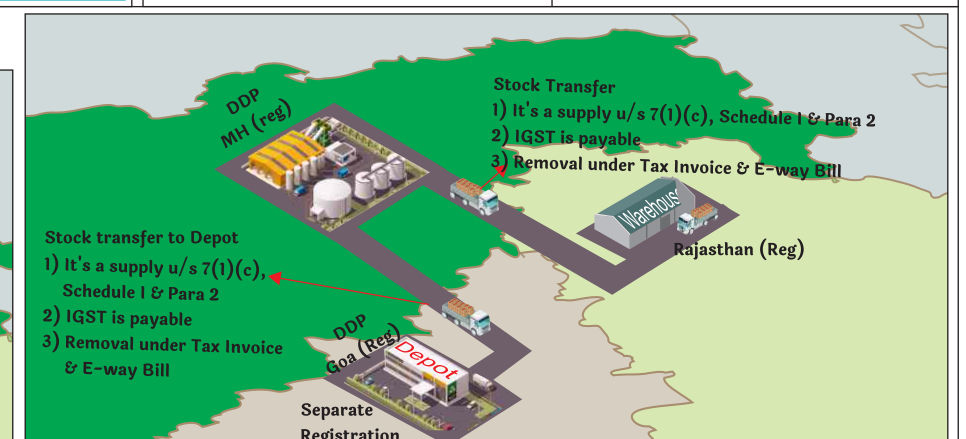
(f) and Other territory

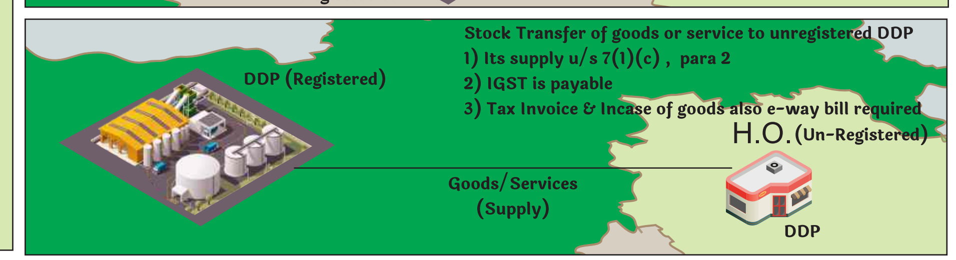
Union Territory of India

UT	UT	UT
State Legislature	No State Legislature	Partly State Legislature - Delhi - Puducherry - JK
State - 28 States	UT (Total Governed by CG)	Considered State for GST Purpose
Intra State - CGST 50% - SGST 50%	Intra State - CGST 50% - UTGST 50%	
Inter State -IGST 100%	Inter State - IGST 100%	

Single/ Multiple Registration







Sec 2(93) "Recipient"

a) Where supply of goods or services is for consideration

Recipient = person who is liable to pay such consideration

Where supply of goods or services is without consideration

Clause (b) Supply of goods

Recipient = a person to whom
- goods are delivered
- made available or
- possession or use of goods is given

Clause (C)] Supply of Services

Recipient = A Person to whom service is rendered

Recipient also includes agent acting on behalf of the recipient

Sec 2(94) "Registered person" - includes

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

Sec 2(80A):- Online Gaming

Means offering of a game on internet or electronic network & includes online money gaming

Sec 2 (105) "Supplier"

means person supplying the said goods or services or both and **shall include** an agent acting as such on behalf of such supplier

Proviso:- Supplier includes person arranging supply of specified actionable claims & also who owns / operates / manages e-platform for supply.

Sec 2(102A):- Specified actionable claim

Means actionable claim involved in/by betting, casinos, gambling, horse racing, lottery or online money gaming.

Business includes [Sec 2(17)]

General Activities | **Special Activities**

General Activities

a) Any trade, commerce, manufacture / Profession vocation / Adventure / Wager / Any Other similar activity — Whether or not for pecuniary benefit.

b) Any activity or transaction — In connection with or Incidental or Ancillary to — Sub - Clause (a)

c) Any activity or transaction in nature of Sub Clause (a) — Whether or Not — There is a volume, frequency, continuity or regularity of such transaction.

d) Supply or acquisition of goods including capital goods & service in connection with — Commencement or Closure of business

Special activities

e) Provision by a — Club or Association or Society or Any Such body — of facilities or benefits to it's members.

f) Admission for a consideration of person to any premises

g) Services supplied by a person as a holder of an office which has been accepted by him — In course or furtherance of his trade / Profession / Vocation

h) Activity of a race club including by way of totalisator or a licence to book maker or activities or licenced book marker in such club and

i) Any activity or transaction under taken by CG/SG/ local authority in which they are engaged as public authorities.

Type of Supply

Taxable Supply

SOG/SOS which is leviable to GST

- **Chargeable Supply**: SOG/SOS is subject to payment of GST @ applicable rates
- **Zero Rated Supply**: SOG/SOS which is chargeable to GST, but Govt. has given export benefits for direct exporters or SEZ suppliers
- **Nil Rate Supply**: SOG/SOS subject to **"Nil Rate"** as per GST Tariff
- **Exempt Supply**: SOG/SOS which is chargeable to GST at normal rates but to promote social-economic objective, govt. has temporarily exempted such supply by way of Notification 12/2017.

Non- Taxable Supply

SOG/SOS which is not leviable to GST
eg. 1) Petroleum product
2) Alcohol liquor for Human Consumption

Note:- As per Se 2(47) : For GST Purpose Exempt Supply includes Nil Rate, Wholly Exempt & non taxable supply

Sec 2 (52) Goods | Sec 2(102) Services

MEANS

Goods: Any kind of movable property

INCLUDES

Actionable Claims, Growing Crop, grass & things attached to or forming part of land agreed to be severed before/under a contract of supply

Interest on Loan/Adv/Deposits
It's a service but Govt. has exempted such interest by N/N 12/2017 **Except** interest on credit card

EXCLUDES

Money
Securities

Services: Anything other than goods

INCLUDES

Separate consideration is charged for
- Use of Money (eg. Interest)
- Conversion of money (eg. Commission)
- to Facilitate or arranging transaction of securities (e.g. brokerage/ protfolio managment fees)

Sec 16 of IGST Act:

ZRS means Export of goods/services or both or SOG/ SOS for authorised operations to a SEZ developer/ unit.

CHAPTER - 1 : CONCEPT OF SUPPLY (SEC 7)

Sec 7(1)=Supply Includes

Supply of goods / Services with consideration

Sec 7(1) (a) All forms of supply of goods / services/both

Such as | Made or Agreed tobe made | For consideration | In the course or furtherance of Business (of supplier)

Such as
Sale
Transfer
Barter
Exchange
Disposal
Licence
Rental
Lease

No	Particulars	Explanation
1	Made	Goods are already delivered or Service is already provided to the recipient
2	Agreed to be Made	This is split up in two parts namely: (i) There is an agreement for supply of goods or provision of service (ii) An advance has been received against the supply of goods or provision of service

Sale of car for personal use by an individual- Not a supply in course or furtherance of business

Sale of old jewellery which was used personally- Not a supply in course or furtherance of business

Prasadam supplied by religious places like temples, mosques etc.-Not a supply in Course of furtherance of business

Sec 2(31) for consideration

a Any payment made or agreed to be made whether in money or otherwise

Whether by recipient or otherwise

b The monetary value of any act or forbearance

Whether by recipient or otherwise

- Inrespect of or
- Inresponse to or
- For inducement

Supply of goods/services

Exclusion:- it shall not includes

1) Any subsidy given by central or state govt.
2) Deposits for concerning SOG/SOS except the supplier applies the deposits as a consideration for said supply

Sec 7(1) (b) Import of Services

- for consideration
- whether or not in the course or furtherance of business

i) GST on import of goods governed by Customs Tariff Act [ACD 3(5)/3(7)]

ii) RCM is applicable on such service except OIDAR (FCM)

iii) Imports other than for business purpose (for personal use) Exempt N/N 04/2017

Import of Service (Analysis)

With consideration
- In the course of Business → Taxable
- Not in the course of business → Taxable

Without consideration
- Related/ Distinct person (In the course of Business) → Taxable
- Other Cases → Not Taxable

Schedule I

Sec 7 (1)(c) Deemed supply

Supply of goods/service without consideration

1. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
2. Supply of goods or services or both
   - between related persons or
   - between distinct person as specified in u/s 25, in the course of furtherance of business

   Provided that gift upto ₹50,000 in value in a financial year by an employer to an employee shall not be treated as supply
3. Supply of goods
   (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or (agent issuing his own invoice)
   (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal (agent issuing his own invoice)
4. Import of Service without consideration

   Import of Services by any person
   - from a related person outside India or
   - from any of his other establishments outside India,

   in the course or furtherance of business

Sec 7(2)(a)=Supply Excludes

a) Sch III (Transaction not be treated as supply)

1	Services by an employee to the employer in the course of or in relation to his employment.	
i.	Compensation for premature termination	Non Taxable as it is in relation to employment.
ii.	Non compete fees received by an employee from employer	Taxable as it is not in the course of or in relation to employment
iii.	Casual labour appointed on daily basis for wages	Non Taxable as it is in relation to employment contract
iv.	Directors Remuneration	a) If TDS under IT Act is deducted u/s 192 - Not a Supply b) If TDS under IT Act is deducted u/s other sec - Supply
v.	perquisites provided by the employer to the employee in terms of employment contractual not a supply.	
2	Services by any court or Tribunal established under any law for the time being in force.	
3 a)	The functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities	
b)	The duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity	
c)	The duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority	
4	Services of funeral, burial, crematorium or mortuary including transportation of the deceased.	

7 Sec 7(1) (aa) :- Activities or Transactions

By Any person [other than Individual] — For — Member or Constituents

Cash | Deferred payment | Other valuable consideration

Explanation:- 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

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

(i) such persons are officers or directors of one another's business
(ii) such persons are legally recognized partners in business
(iii) such person are employer and employee
(iv) any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them
(v) one of them directly or indirectly controls the other
(vi) both of them are directly or indirectly controlled by a third person
(vii) together they directly or indirectly control a third person
(viii) they are members of the same family

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 mainly dependent on the said person.

Schedule II : Activities or transactions to be treated as supply of goods or services

Sec 7(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.

Para 1 : Transfer of goods

Supply of goods	1) Transfer of title in goods 2) Transfer of Title in Goods on future date (Ex. Hire Purchase)
Supply of Service	Transfer of rights in goods or undivided share in goods without transfer of title in goods

Para 2 : Land & Building

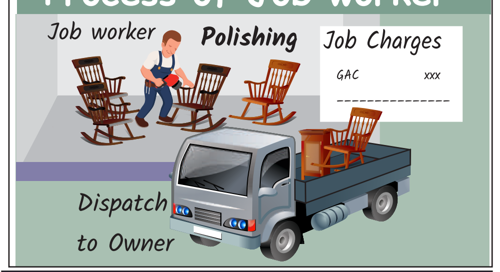
Supply of Service	Any lease, tenancy, easement, license to occupy land
Supply of Service	Any lease, letting of building including commercial, industrial complex for business/commerce either wholly or partly

Note : Sale of land & building not treated as supply as per schedule 3 other than construction intended for sale [of para 5(b)]

Para 3: Treatment or process

Supply of Service	Any treatment or process which is applied to another person's goods (Jobwork)

Process of Job worker



Para 4 : Transfer of business asset

Supply of goods	**Permanent transfer of Business Asset:-** If goods as a part of the asset are permanently transferred or disposed off
Supply of Service	**Temporary transfer of business assets:-** If goods as a part of business asset are put to any private use or are used for any purpose other than business

(c) Deemed Supply : If any person ceases to be a taxable person then goods forming part of business asset shall be **deemed to be supplied (In the course or furtherance of business)** unless :-
(i) Business is transferred as going concern to another person.
(ii) Business is carried on by personal representative who is deemed to be a TP.
} not a deemed supply

Para 5 : Following activities always treated as supply of service under GST

ⓐ Renting of immovable property

ⓑ Construction of complex, building, civil structure including a complex, building intended for sale to buyer. But in following case it shall not be treated as supply.
When entire consideration has been received after
- issuance of completion certificate /
- It's 1st occupancy
whichever is earlier

Note :- Construction - it includes addition, alteration, replacement, remodeling of any existing civil structure

1) before Completion 40,00,000 20,00,000 | After Completion 20,00,000 — Taxable value for GST = ₹80 Lacs
2) ₹1 — 79,99,999 — Taxable Value = ₹80 Lacs
3) After Completion 80,00,000 — Not taxable As per Sch - III

ⓒ Temporary transfer of IPR

ⓓ Development, design, programming, customisation etc. of info. Tech. Software

Customized Software	SOS
Sale of Pre-packed Software	SOG
License to use prepacked Software	SOS

ⓔ Agreeing to the obligation to refrain from an act or to tolerate an act.

ⓕ Transfer of right to use any goods for any purpose for cash, deferred payment or other consideration.

Para 6 : Composite supply treated as supply of service

Supply of Service	ⓐ Works contract

Labour + Material = Works Contract (construction)

Supply of Service	Restaurant, catering or any supply of service where food/ drink is supplied for consideration.

5 Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building

Analysis

Sale of land and Building	Not treated as supply as per sch III , No GST
Rental, Leasing licensing of Land & Building	Treated as Supply GST Payable
Sale of Building before completion certificate or 1st occupancy whichever earlier	Treated as supply para 5(b), Sch II GST payable

Clarification 177/09/2022 GST: Sale of land either as it or after development like levelling, laying down of drainage, water & electricity lines is also sale of land and not attract GST

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

7 Supply of goods from a place a non-taxable territory to a another place in the non-taxable territory without such goods entering in India

8 a) Supply of warehoused goods to any person before clearance for home consumption

b) Supply of goods by the consignee to any other person, by endorsement of document 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

Applicable for Nov 25 Exam

9 Apportionment of co-insurance premium by the lead insurer to the co-insurer is **not supply**, provided the lead insurer pays GST on the entire premium paid by the insured.

10 Services by insurer to the reinsurer for which ceding, or reinsurance commission is **deducted** from reinsurance premium paid by the insurer to the reinsurer, are **not supply**, provided that GST is paid by the reinsurer on the gross reinsurance premium, inclusive of the commission.

Sec 7(2)(b)= Notified activities by Government

- Services under Article 243G & 243W of Panchayats & Municipality **and**
- Services of granting liquor license against consideration in the form of license fee by SG.

Sec 8 : Composite Supply & Mixed Supply

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

(a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and

(b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

Definition - Composite Supply

Composite Supply as per Sec 2 (30) : 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 ordinary course of business one of which is a principal supply

Illustration.— (Goods + Service) Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;

Definition - Mixed Supply

Mixed Supply as per Sec 2 (74) : 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

Illustration.— A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately

IMPORTANT CLARIFICATIONS

Circular No.:- 1/1/2017

Issue:- Whether Inter-state movement of various modes of conveyance, carrying goods/ passenger/ both, or for Repair and maintenance, between distinct persons (Reg Br.1 to Reg Br.2), is leviable to IGST? (Conveyance = Trains, buses, trucks, tankers, trailers, vessels, containers, aircrafts.)

Decision:- It shall not be treated as SOG/SOS, so no IGST. (Except further supply)(Schedule I, Para 2)

Clarification :- 1-Conveyance carrying goods/ passenger/ both:- Treated neither as SOG or SOS, No IGST.

2-Conveyance for repair & maintenance:- Treated neither as SOG or SOS, No IGST.

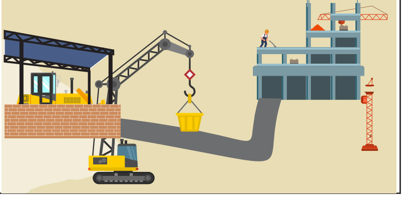
(On such Repair and maintenance charges:- GST payable)

3-Conveyance moved for further supply:- Treated as SOG/SOS, IGST shall be levied.

Circular No.:- 21/21/2017

Issue :- Whether Inter-state movement of Rigs, tools, spare parts, and all goods on wheels (like cranes) between distinct persons (Reg Br.1 to Reg Br.2), is leviable to IGST?

Decision:- It shall not be treated as SOG/SOS, so no IGST (As per Schedule I, Para 2)



Clarification:- 1)It shall not be treated as supply of goods nor supply of services, hence no IGST is levied,

2) However, applicable CGST/SGST/IGST shall be leviable on further supply of these goods.

Circular No.:- 116/35/2019

Issue:- Whether GST is leviable on the service of display of name/ placing of name plates of donor in the premises of charitable organizations receiving donation/gifts from individual donors?

Clarification :- 1- Individual Donors= provide financial help, etc in form of donation/gift, to charitable institutions, etc

2- Recipient institution= place a Name plate, etc in their premises to express the gratitude

3- Purpose is philanthropic (i.e., it leads to no commercial gain) and not advertisement.

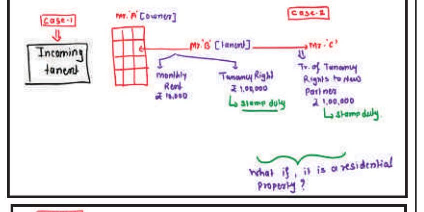
5- No obligation on part of recipient to do anything

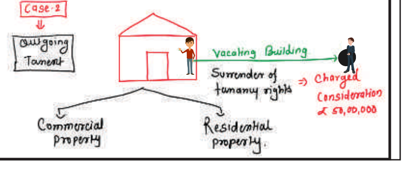
6-Hence, No GST on such activity

Circular No.:- 44/2018

Issue:- (1) Whether Tenancy premium for transfer of tenancy rights to an incoming tenant, attract GST, when stamp duty and registration charges is levied on the said premium?

(2) Whether supply, in case of transfer of tenancy rights, a part of the consideration for which, accrues to the outgoing tenant, attracts GST?





Clarification:- 1- Any lease/tenancy/easement/license, to occupy land=SOS (Para-2 Schedule II)

2- Transfer of tenancy rights=Not treated as Sale of Land/Building

3- Renting of residential dwelling for use as a residence= Exempt

4- (Transfer of tenancy rights, against consideration of Tenancy premium):-

- To an Incoming tenant= Taxable
- To a New tenant= Taxable
- To a New tenant(for Residential Property)= Exempt

5- Service provided by Outgoing tenant as surrendering the tenancy rights, against consideration in the form of a portion of tenancy premium= Taxable

6-Merely because a transaction/ supply involves execution of Docs. (require registration, pay fees, and stamp duty), wouldn't preclude them from scope of supply.

Circular No.:- 57/31/2018

Issue:- What is the scope of Principal-Agent-Relationship, under Para 3 of schedule I of CGST Act, in context of Agents?

Clarification:- (1) Supply by Principal to Agent, where Agent shall issue, for further supply, Invoice

Invoice in his name:- Agent shall be covered under Para 3, Schedule I

Invoice in the name of Principal:- Agent shall not be covered under Para 3, Schedule I

(2) Supply by Agent to Principal, where goods being procured by Agent on behalf of Principal, Invoice :-

Invoice in his name:- Agent shall be covered under Para 3, Schedule I

Invoice in the name of Principal:- Agent shall not be covered under Para 3, Schedule I

Circular no. 178/10/2022

Parameters for taxability under GST:

- ➲ Contractual relationship between supplier & recipient
- ➲ Express or implied promise from supplier for services under para 5(e) of sch II ie payment cannot be assumed
- ➲ Independent arrangement or activity
- ➲ If payment not represent object, it cannot be consideration

a) **Liquidated damages:** Normally no express or implied agreement, thus not taxable, but are taxable in certain cases.

b) **Compensation for cancellation of coal blocks:** not given under contract between govt & allotee, hence not taxable

c) **Cheque dishonour fine/ penalty:** Never implied or express offer, hence not taxable

d) **Penalty imposed for violation of Law:** No agreement between Govt and violater, hence not taxable

e) **Forfeiture of salary or payment of bond amount:** These amounts are not consideration for tolerating the act, hence not taxable

f) **Compensation for not collecting toll charges:** compensation received are treated as supply

g) **Late payment surcharge or fee:** Late payment with interest, fee, fine, penalty are naturally bundled hence assessed as principle supply

h) **Fixed Capacity charges for Power:** These are charged as sale of electricity which is exempt

i) **Cancellation charges:** Assessed as principal supply & same rate is applicable to service contract

Circular No.:- 73/47/2018

Issue:- 1- What is the scope of Principal-Agent-Relationship, under Para 3 of sch. I of CGST Act, in context of "Del-Credere Agent"(DCA)?

2- Whether temporary loan and interest thereon, extended by DCA to recipient, is to be included in value of goods being supplied by principal? (Where DCA is not issuing own invoice)

3- Where DCA makes payment to principal and charges interest to buyer for delay payment along with value of goods, whether interest will form part of value of goods or not? (Where DCA is issuing own invoice)

Decision:- For 1- If invoice issued by agent in his own name, shall fall under Para 3 sch I only.

For 2- It is an independent supply, So not included in Value of goods

For 3- It is not to be treated as separate supply, So included in Value of goods (As per Para 3, Schedule I)

Circular no. 172/04/2022

Any perquisites provided by employer to its employees:

- ➲ If terms of contract = Not supply under Schedule III.
- ➲ If not in terms of contract = If value exceeds ₹50,000, it is taxable under Para 2 of Schedule I

Circular No.:- 11/11/2017

Issue:- Whether such supplies constitutes SOG/SOS:-

(1) Printing of books, pamphlets, brochers, annual reports, and the like

(2) Supply of Printed envelopes, letter cards, printed box, napkin, wall papers etc, printed with design, logo, etc

Decision:- For (1):- SOS For (2):- SOG (Sec 8, composite and mixed supply)

Clarification

1- Classification of such supplies as SOG/SOS,= on the basis of what constitutes the Principal Supply.

2- Printing of books, pamphlets, broachers, annual reports, etc= SOS (Supply of printing, on the content supplied by the recipient of supply is the Principal supply.

3- Supply of Printed envelpos, letter cards, etc, printed with design, logo, etc.= SOG

(Predominant supply is goods, and supply of printing of the content, supplied by recipient, is Ancillary to the Principal supply of goods.

Circular no. 190/02/2023

Incentives paid by Ministry of electronic & Information Technology (Meity) to acquiring bank under incentives schemes for promotion of digital payments are treated as Subsidy hence not taxable

Circular No. 196/08/2023

Activity of holding of shares of subsidiary company by holding company **cannot be treated as a supply of services** by a holding Co. & **cannot be taxed** since shares are neither goods nor services.

Circular No. 201/13/2023

- ➲ Supply of food/beverages in cinema hall is **taxable as 'restaurant service',** if:
  - a) food or beverages are supplied as part of a service, &
  - b) supplied independent of the cinema exhibition service.
- ➲ If sale of cinema ticket & food & beverages **are bundled together** as **composite supply,** entire supply **will attract GST rate of exhibition of cinema.**

Taxability of ESOP/ESPP/RSU provided by a company to its employees through its overseas holding company [Cir. No.213/07/2024]:-

- ➲ ESOP/ESPP/RSU are part of employee remuneration, **not considered** a supply.
- ➲ Reimbursements from an Indian subsidiary to a foreign holding company on a cost-to-cost basis, are **not subject** to GST.
- ➲ However, if the foreign holding company charges any additional fee, it is considered a **SOS,** and **GST will be levied** on the additional amount under RCM.

GST is payable on salvage/wreck value earmarked in the claim assessment of the damage caused to the motor vehicle [Cir. No.215/09/2024]:-

1) **Salvage Value Deduction:** If a claim is settled after deducting the salvage value, the salvage remains with the insured. Thus, insurance company is **not liable to pay GST** as it is not a supply.

2) **Full Insured Declared Value (IDV) Settlement:** If the contract stipulates settlement on full IDV without deducting salvage value, the salvage becomes the property of the insurance company. Thus, it **must pay GST** when it sells the salvage to a buyer.