Definition of Goods [sec 2(52)]

- Every kind of movable property other than money and securities
- But includes actionable claim, growing crop ,grass and things Attached to or forming part of the land which are agreed to be Severed before supply or contract of supply.

Money [Sec 2[75]

means
- Indian legal tender
- Foreign currency
- Cheque,draft
- Promissory note
- Bill of exchange etc.

Doesn't include
Any currency that is held for It's numismatic value.(Old coin)

Securities (not defined in gst)

Normal meaning:- shares, Debentures,bonds etc.

Actionable claim

Claims to any debt other than Debt secured by property or Beneficial interest in movable Property. Ex. Lottery, betting gambling, unsecured loan

Movable :- moved as such + marketable value

Definition of Services [sec 2(102)]

- Means anything other than goods ,money and securities
- But includes activity related to use of money or
- Conversation by cash or by any other mode from currency or
- denomination for separate consideration is charged.

Government [2(53)]

- Means the central government.

Local authority

Means • Panchayat • Municipality • Zilla parishad

Supplier [sec 2(105)]

Means person supplying goods or services or both include agent.

Person [sec 2(84)]

Person include • An individual • HUF • Company • Firm • LLP • AOP or BOI • Body corporate • Trust • CG/SG • Local authority • Society • every artificial person not cover above

Taxable supply [sec 2(108)]

Means supply of goods or services or both which levied to tax Under this Act.

Taxable territory [sec 2(109)]

Means territory to which provision of this Act is apply.

Section and schedule cover under supply chapter

Section 7 : Scope of supply
Section 8 : Tax treatment of composite and mixed supply
Schudule I : Activity to be treated as supply without consideration
Schudule II : Activity or transaction to treated as supply of goods or Supply of services
Schudule III : Activity or transaction shall treated neither as supply of goods or supply of services

Structure of section 7

section 7 : Scope of supply

Sec 7(1)

Sec 7(1)

- Sec 7(1)(a) With Consideration
- Sec 7(1)(aa) Self Supply
- Sec 7(1)(b) Import of service
- Sec 7(1)(c) Without Consideration → Refer Schudule I

Sec 7(1A) Classification of supply → Refer Schudule II

Sec 7(2)
Activity not cover under supply
Refer Schudule III

Sec 7(3)
To be notified.

Section 7(1)(a) : with consideration

All forms of supply of goods / of services / Both

Such as sale,transfer, barter,disposal,exchange , license, lease,rental
↓
Made or agreed to be made
↓
For a consideration
↓
By a person in the course or furtherance of business

supply must satisfied 2 condition to cover under 7(1)(a)
Supply should made for consideration
+
Supply should be in the course or FOB

Consideration [sec 2(31)]

Consideration includes Something in return it may in form of:-
- monetary
- Non monetary
- Do something
- Not to do something

But exclude subsidy given By CG/SG

Features of consideration

must exist
and
Must be certian
At the time of provision of activity

In the course and FOB

Business and ancillary to business related activity or transaction

Clarification of Government

1. Donation received by charitable institution from individual owner

Donation

- Not a intention of marketing /advertisement I.e pure donation → Not cover in consideration hence no gst
- Intention of marketing Means doner details display In charitable institute with aim of publicity → cover in consideration and gst shall apply

2. Artworks sent by artist to gallery for exhibition.

no consideration flow from gallery to artist not covered in supply.

Section 7(1)(aa) : Self Supply

Activity or transaction, by a person,other than an individual to its member or vice -versa for cash , deffered payment or other valuable consideration treated as supply.



Activity/transaction →
← With consideration



Any person other than individual — It's members

Section 7(1)(b) linked with section 7(1)(c) + Schudule I (para 4)

Section 7 (1)(b)

Import of services for a consideration whether or not in the course or FOB

Section 7 (1)(c) + para 4 of Schudule I

Import of services by a person from related person or from any other establishment outside India, in the course or FOB

Analysis of 7(1)(b) and 7(1)(c) + para 4 of Schudule I

o/s india — Import of services → india

With consideration
- In the course or fob → By any person → From any person → supply under 7(1)(b)
- Not In the course or fob → By any person → From any person → supply under 7(1)(b) → GST is exempt Except OIDAR service

Without consideration
- In the course or fob → By any person
  - From RP Or other Establish o/s India → supply under 7(1)(c)
  - From any Other Person → not a supply
- Not In the course or fob → By any person → From any person → not a supply

Section 7(1)(c): Activity treated as supply without consideration

The activities specified in schedule I, made or agreed to be made without consideration treated as supply.

Schedule I para 1

- There must be disposal or transfer of business asset
- Transfer or disposal must be permanent
- ITC must have been availed on such business asset
- without consideration

All condition satisfied then supply under para-1.

Schedule I para 2

Supply of goods or services or both
- between related party
- between distinct person

Without consideration in the course or FOB

Special point

Employer —Supply of goods/services, Free of cost→ Employee

- upto ₹50000 not a supply
- In excess of ₹50000 → Whole value chargeable to gst

Distinct person

- Establishment of person with separate registration whether within the state/UT or in different state/UT
- Where a person having one registered establishment in a state/ut has another establishment in different state/ut(not necessary registered)

Schedule I para 3

Supply of goods-

a) by a principal to his agent where the agent undertakes to supply on behalf of the principal without consideration, or

b) by a agent to his principal where the agent undertakes to supply on behalf of the principal without consideration.

IMPORTANT POINT

Invoice for further supply is issued by agent
- his name → cover in para 3
- name of principal → Not cover in para 3

Schedule I para 4

Already cover with section 7(1)(b) import of services from RP

Section 7(1A) :Classification of supply

where certain activities or transaction constitute a supply with the provision of section 7(1), they shall be treated either as supply of goods or supply of services as referred in schedule II.

Activities or transaction treated as SOG or SOS

Total 6 PARA → Contained 17 entries
- 4 entries → deemed 'SOG'
- 13 entries → deemed 'SOS'

If not classified here then refer section 7(2) or section 8

PARA -1 Link with PARA 5(f)

Transfer
- Title → Transfer of title in goods
  - 1(a) Immediate transfer
  - 1(c) future date transfer

  → Supply of goods
- Right
  - 1(b) Transfer of right in goods or Undivided shares in goods → Supply of services
  - 5(f) Transfer of right to use in goods

Right in goods
Possession transfer

Right to use any goods
Possession + contol transfer

PARA -2 link with PARA -5(a) of Schudule III

PARA 2 : land and building

(a) Any lease, tenancy, easement,license to occupy land is a supply of services.

(b) Any lease,letting out of the building including a commercial, Industrial or residential complex for business or commerce , either wholly or partly, is a supply of services.

PARA -5

(a) Renting of immovable property is supply of services.

Analysis

Immovable property
- Land or building or both
  - Renting,lease
    - Of land → Any purpose → SOS P-2(a)
    - Of building
      - Business or Commerce → SOS[P-2(b)]
      - Other Purpose → SOS[P-5(a)]
  - Sale → P-5 sch III → not a SOG not a SOS → no gst
- Other immovable property
  - Renting → SOS [P-5(a)]
  - Sale → Law silent ,may be notified

PARA- 3 Treatment or process

Any treatment or process which applied to another person's goods is a supply of services.



Owner —Raw material/ semi finished goods → / ← Return after process— Job -worker



Waste and scrap sold by job- worker

Supply u/s 7(1)(a) and supply of goods u/s PARA-1 of sch- II

PARA -4

(a) Where goods forming part of business are transferred or disposed is a supply of goods.

Note:- PARA 1(a) cover stock in trade
PARA 4(a) cover business asset

(b) Where, by or under the direction of person carrying business goods held or used for the business, are put to private use or made available to any person for for private use is supply of services.

(C) where any person ceases to be taxable person,any goods forming part of the assets of the business shall deemed to be suplied ans supply of goods except:-

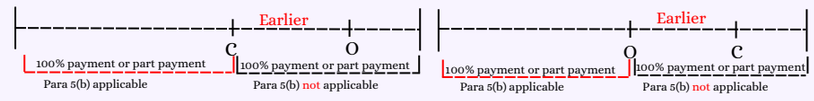
(i) business is transferred as going concern to another person

(ii) business is carried on by a personal representative who is deemed to be a taxable person.

PARA -5

(a) Renting of immovable property [other than cover u/s para 2 2(a)/2(b)]

(b) Construction of complex,building etc. except 100% consideration has been received after issuance of completion certificate or after it's first occupation which ever is earlier. supply of services.



(c) Temporary transfer or permitting the use of any intellectual property right is supply of services.

(d) Development, design, programming, customisation upgradation, enchance,implementation of IT software is Supply of services.

(e) Agreeing to the obligation to refrain from an act ,or tolerate an act(not to do something) is supply of services

(f) Transfer of the right to use any goods for any purpose is SOS.

PARA 6

Composite supply

- Specified composite supply
  - Restaurant service
  - Work-contract service Related to immovable Property
- Non-Specified composite supply → Treatment under section 8

Always deemed as SOS

Tax treatment of non-spefied composite supply or mixed supply

Composite supply [section 2(30)]

Composite supply means a supply by a taxable person to recipient consistent 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.

Mixed supply [section 2(74)

Mixed supply means two or more individual supplies of goods or services or any combination thereof ,made conjuction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

Identification test

Composite supply	Mixed supply
• Supply made by taxable person + • Combination of two or more taxable supply + • Naturally bundled + • One is principal supply other is ancillary. + • Not necessary to charge single price	• Supply made by taxable person + • Combination of two or more individual supply (taxable/NT) + • Not naturally bundled + • Not constitute composite supply + • Charge single price.

Tax treatment of CS (sec 8)	Tax treatment of MS(sec 8)
Treated as supply of principal supply	Treated as supply of which attract HIGHEST RATE OF TAX

Section 7(2) : Activity treated neither as SOG nor SOS

Notwithstanding anything contained in sub-section (1)

(a) Activities or transactions specified in schedule III

(b) Such activity or transaction undertaken by the centrl govt a state govt or any local authority, as maybe notified by the govt on the recommendation of the council,

shall be treated neither as SOG nor a SOS.

Schudule III : Activity treated neither as SOG nor SOS

Total 10 para under Schedule III

PARA -1

Services by an employee to the employer in the course or in relation to his employment.

PARA -2

Services by any Court or tribunal establish under any law.

- Court includes district,HC,SC
- Service provide by arbitral tribunal not covered here ,it means gst may be applicable

PARA-3

Function performed by → MPs , MLAs , member of panchayat , Member of local authority, IAS , CAG, Prime minister, president etc.

PARA-4

Services of funeral,burial,crematorium or mortuary or transportation of deceased.

PARA-5

Sale of land or building subject to para -2 of schedule II.

PARA-6 [Para 7, 8, 9, & 10 Next Page]

Actionable claim other than specified actionable claim.

specified actionable claim[sec 2(102A)]

Specified actionable claim means the actionable claims involved in or by way of - • Betting • Casinos • Lottery • Gambling • Horse racing • Online money gaming

Notification or Circulars related to supply

1. Activity related to panchayat/municipality

Services by way of any Activity in relation to a function performed by panchayat or municipality → neither treated as SOG Nor SOS.



2. Grant of alcoholic liquor license

Services by way of grant of alcoholic liquor license by state are treated neither AS SOG nor SOS.

3. Printing contract

It is clarified that printing contract is a composite supply Nature determine on the basis of principal supply.

Printing of

- Books ,pamlets,annual report where content of printing is more → SOS 
- Printed boxes ,letter cards where physical input is more → SOG 

4. Food supplied to patients

Food supplied to in-patient is part of composite supply of health care and not separately taxable. Food supplied to attendant or visitors are taxable.

5. Activity of bus body building

Classification of this composite supply as goods or services depends on principal supply, determine case to case.

 Body + chases SOG

 Only body SOS

6. Retreading of tyres

Old tyres belong to

- Receiver → Dominating element is process → SOS
- Supplier → SOG



7. supply of food and beverages in cinema hall

It is clarified that:

(i) Supply of food or beverages in a cinema hall is taxable as restaurant services.

(ii) Where cinema ticket and food and beverage are sale combo treated as composite supply.(Rate of cinema hall attract on entire supply)

8. Holding shares of subsidiary company by holding co.

treated neither SOG Nor SOS hence no gst.

9. Inter -state movement of various modes of conveyance between distinct person including:- Trans,tankers,buses,vessels,trucks,aircraft,etc.

(a) Carrington goods or passengers or both

Or

(b) For repair &maintenance purpose shall treated neither as SOG nor SOS.

However, gst shall be leviable on repairs and maintenance done for such conveyance.

10. Inter state movement of rigs,tools and spares and all goods on wheels (like cranes)

Such Inter state movement shall treated neither as SOG nor SOS.

11. Treatment in case of warranty replacement and repair services

1. Manufacturer Providing Warranty Services

- No Gst on free replacement or repair; GST applies if additional charges are collected.
- No ITC reversal required as these are part of original supply.

2. Distributor Providing Warranty Services on Behalf of Manufacturer

- No Gst if no consideration is received ;Gst applies if distributor charges the customer.
- No ITC reversal if GST is charged to the manufacturer or parts are received without charges ; ITC reversal applies if credit note is issued.

3. Supply Between Distributor and Manufacturer

- GST is payable if the distributor invoices the manufacturer for replaced parts ; no Gst if parts are provided without charge.
- The manufacturer can claim ITC on Gst paid on such supplies.

4.Repair services by Distributor to Manufacturer

- GST applies when the distributor invoices the manufacturer for repair services.
- The manufacturer can claim ITC on gst paid for these services.

5. Extended Warranty

- If purchased with the original supply, it is part of the composite supply; If purchased later ,it is a separate taxable service.
- ITC is available on inputs used for providing extended warranty services.

PARA 7 [Not for CA Inter]

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

Para - 8 [Not for CA Inter]

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 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.

PARA-9

Activity of apportionment of co- insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured in co-insurance agreements

PARA-10

Services by insurer to the reinsurer for which ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer

Circular on Art Works

- **Sending art works by an artist to a gallery only for exhibition is not a supply.**
- **This is because no consideration is received by the artist at that stage.**
- **Supply happens only when a buyer purchases a specific art work from the gallery.**
- **GST is payable at the time of sale, not at the time of exhibition.**

Clarificication. I'm Local Authority

Thus, it has been clarified that DDA cannot be treated as local authority under GST law as DDA does not meet the requirement of local authority as per section 2(69)1 of the CGST Act, 2017.]

Circular on Donation

Donations given to charitable or religious institutions are taxable only if the donor gets something in return (a service or benefit).

- If a donation is given voluntarily, and the institution has n obligation to provide any service, it is not a supply under GST.
- Displaying the donor's name (name plate / acknowledgement) only as a mark of gratitude is not considered advertising or promotion.
- Donations given to charitable or religious institutions are taxable only if the donor gets something in return (a service or benefit).
- If a donation is given voluntarily, and the institution has n obligation to provide any service, it is not a supply under GST.
- Displaying the donor's name (name plate / acknowledgement) only as a mark of gratitude is not considered advertising or promotion.

Circular on art work

Services by insurer to the reinsurer for which ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer

Circular on Del - Credere Agent

• A Del-credere Agent (DCA) is a selling agent who helps the principal find buyers.

• The key feature of a DCA is that he guarantees payment to the principal.

• If the buyer defaults, the DCA pays the principal on behalf of the buyer.

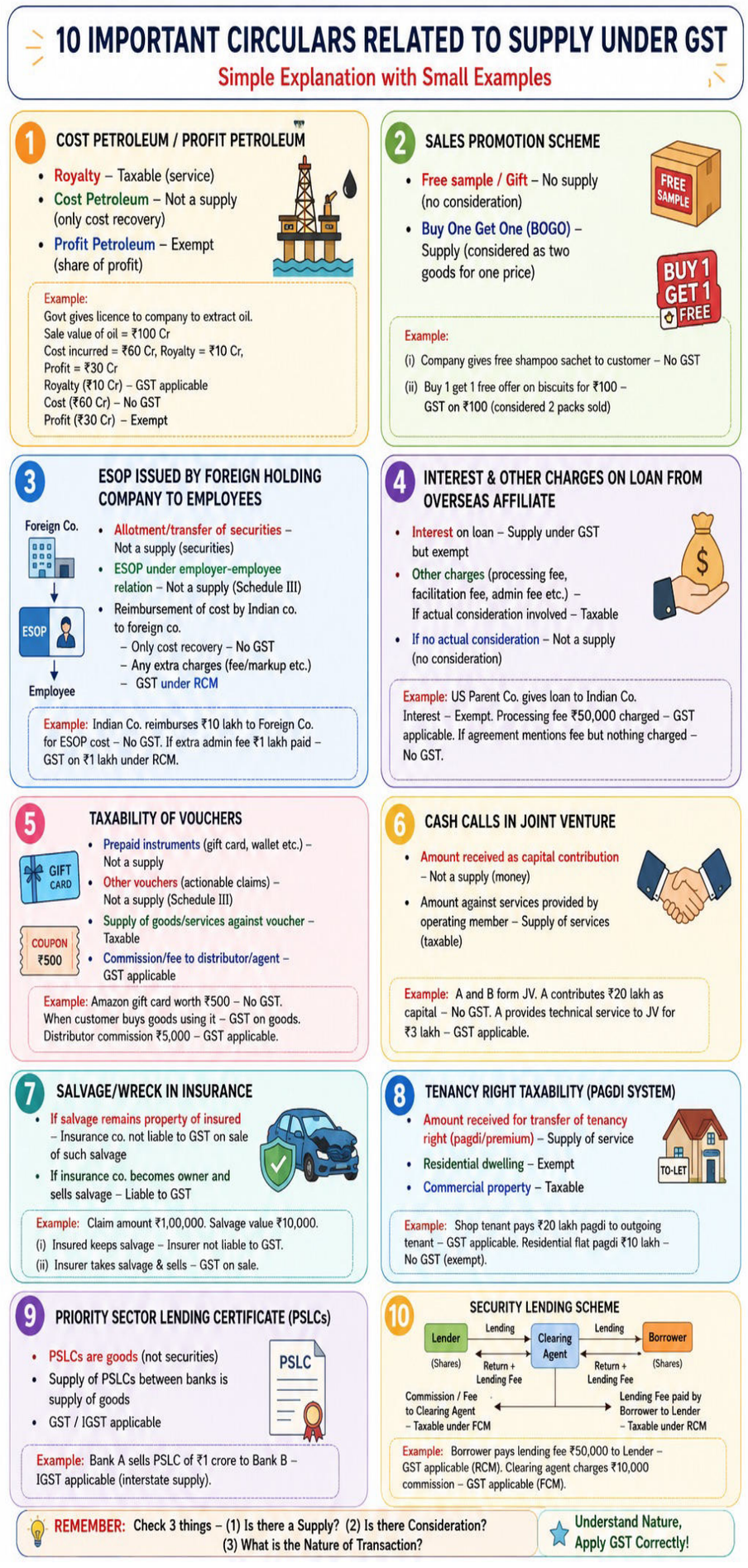
• Because of this payment guarantee, DCA earns higher commission than a normal agent.

To ensure payment, the DCA may:

• give a short-term loan to the buyer, or

• pay the principal directly and later recover the amount from the buyer.

• The buyer repays the DCA along with interest, as mutually agreed.



SPECIAL POINTS – AGREEMENT TO OBLIGATION TO DO AN ACT, TOLERATE AN ACT / SITUATION OR REFRAIN FROM AN ACT

Rule: It will be a **SUPPLY** only if that act/toleration/refrain is **CONTRACTUALLY LIABLE** for the same through a contract.

Situation	Simple Explanation	Easy Example	Supply under GST?
Liquidated Damage (paid for breach or delay in contract performance, early termination of contract, Penalty charges by bank or NBFCs for non-compliance with loan terms), Forfeiture of earnest money deposit for breach of "agreement to sell" for immovable property or failing to act on successful bid for natural resource	This is **penalty** for breaking the agreement or not performing it. It is not a payment for any service, so **NOT** a supply.	You agree to deliver machines by 1st May. You fail to deliver. Contract says you pay ₹5,00,000 as liquidated damages. This payment is **penalty**, not for any service.	Not Supply
Cheque dishonour penalty	**Penalty** for dishonouring cheque. Not for any service.	Cheque bounced, bank charges ₹750 as penalty. This is not for any service.	Not Supply
Penalty for violation of law	**Penalty** imposed by government for breaking law. Not for any service.	Factory violates pollution rules and pays ₹1,00,000 as penalty to the government. This is not for any service.	Not Supply
Forfeiture of salary or bond amount if employee does not continue minimum agreed period while resigning	Employee breaks the agreement (he leaves early), so company keeps the bond/salary. Not for any service.	Employee signs 2 years bond for training of ₹2,00,000. He resigns after 6 months. Company forfeits ₹2,00,000.	Not Supply
Pre-payment charges on loan, ticket amount forfeiture	Charges for closing loan early or cancelling ticket. I.t is for a **service** (lender/airline allows you to exit early).	• You close your loan before time. Bank charges 2% pre-payment fee. • You cancel flight ticket and airline keeps cancellation charges.	Supply
Payment for **early termination** of contract of lease	Tenant wants to end lease early. Landlord agrees and charges some amount. This is for a **service**.	You take office on lease for 5 years but want to vacate in 2 years. You pay ₹10,00,000 to landlord to end the lease early.	Supply
Late payment surcharge/fee etc. linked with main supply's payment	Extra charge for delay in payment of main supply (like interest/ surcharge). This is for **service** (finance/credit facility).	You pay supplier after 30 days instead of 15 days. Supplier charges **18% p.a.** interest for delay.	Supply
Forfeiture of non-refundable ticket/security deposit etc.	Amount is kept because of cancellation/no-show. For allowing cancellation terms.	Hotel booking has non-refundable policy. You cancel and hotel keeps ₹5,000. This is for allowing cancellation facility.	Supply

Key Takeaway:
If payment is a **PENALTY** for breaching agreement or law → **NOT SUPPLY**
If payment is for **AVAILING** a facility / service (like exit early, delay, cancellation) → **SUPPLY**

Remember: Look for **"Why the payment is made?"**
Penalty = Not Supply | Service/Facility = Supply

CLARIFICATION ON MONEY AND SECURITIES – SIMPLE EXPLANATION

Basic Rule: If the transaction is in **MONEY** – it is **NOT** covered in Goods or Services.
If the transaction is in **SECURITIES** – **it depends on the nature of activity.**

	What is the Transaction?	Simple Explanation	Example	Covered in GST?
1	Issuance of Loan, Deposit, Advance	Loan, deposit or advance is just giving money. **No supply of goods or service.**	• You give ₹10,00,000 as loan to a friend or company. → **You are giving money only.**	**Not Covered** (Not in Goods or Services) ✗
2	Issuance of Letter of Credit or Bank Guarantee	Bank is only giving a guarantee or assurance. **It is in the nature of money.**	• Bank issues guarantee of ₹5,00,000 on your behalf. → **It is not a service.**	**Not Covered** (Not in Goods or Services) ✗
3	Issuance of Certificate of Deposit or Commercial Paper	These are financial instruments (money/securities). **Not a supply.**	• Bank issues Certificate of Deposit worth ₹2,00,000. → **It is a transaction in money.**	**Not Covered** (Not in Goods or Services) ✗
4	Activities related to above products or securities *(brokerage, transfer fees, commission, issuance charges, service charges or any other fees/charges)*	These are services which facilitate or arrange transactions in securities. **Hence, it is a service.**	• Broker charges you ₹500 for buying shares. • Demat transfer charges ₹300. • Commission paid to broker. → **These are services.**	**Covered in Services** ✓
5	Future/Forward (without delivery) (Derivative)	No actual delivery of securities. It is only a contract based on price difference. **Transaction in securities.**	• You agree today to buy 100 shares next month at ₹1,000 (no delivery now). → **It is in securities.**	**Not Covered** (Not in Goods or Services) ✗
6	Future/Forward of Securities (with delivery)	There is actual delivery of securities. **Transaction in securities.**	• You agree to buy 100 shares next month and shares are actually delivered. → **It is in securities.**	**Not Covered** (Not in Goods or Services) ✗
7	Future/Forward of Commodities (with delivery)	Actual delivery of commodities (goods). Hence, it is **goods.** **Supply of goods.**	• You agree to buy 10 MT wheat next month and wheat is delivered. → **It is goods.**	**Covered in Goods** ✓
8	Interest and Discount (use of money)	Interest is for using money. It is a service. **Covered in Services.**	• Bank charges 10% interest on loan. • You give discount for early payment. → **It is a service.**	**Covered in Services** ✓
9	Security Lending Scheme	Service of lending securities and related facilities. **Covered in Services.**	• You lend your shares to someone and receive lending fees. → **It is a service.**	**Covered in Services** ✓

Quick Memory: If it is mostly about **MONEY** → **Not Covered** | If it is **SERVICE** related to **SECURITIES** → **Covered in Services** | If it is **GOODS** (commodities) → **Covered in Goods**

CHAPTER 3 SUPPLY UNDER GST



Question 1:

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

Answer:

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.

Expected

Question 2:

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

Answer:

As per Schedule I of the CGST Act, 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 Damodar Pvt Ltd and its branch located in another State are distinct persons, supply of goods between them qualifies as supply.

Expected

Question 3:

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.

Answer:

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:

- Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
- 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.
- Supply of goods by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.
- 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 4:

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.

Answer:

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 5:

Transfer of title and/or possession is necessary for a transaction to constitute supply of goods. Examine.

Answer:

Title as well as possession both have to be transferred for a transaction to be considered as a supply of goods. In case title is not transferred, the transaction would be treated as supply of service in terms of Schedule II of the CGST Act. In some cases, possession may be transferred immediately, but title may be transferred at a future date like in case of sale on approval basis or hire purchase arrangement. Such transactions will also be termed as supply of goods.

Expected

Question 6:

Examine whether the following activities would amount to supply u/s 7 read with Schedule 1 of the CGST Act:

(a) Sulekha Manufacturers have a factory in Delhi and a depot in Mumbai. Both these establishments are registered in respective States. Finished goods are sent from factory in Delhi to the Mumbai depot without consideration so that the same can be sold.

(b) 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.

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

Answer:

(a) Schedule I of CGST Act, inter alia, stipulates 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. Further, a person who has obtained more than one registration, whether in one State/Union territory or more than one State/Union territory shall, in respect of each such registration, be treated as distinct persons. In view of the same, factory and depot of Sulekha Manufacturers are distinct persons. Therefore, supply of goods from Delhi factory of Sulekha Manufacturers to Mumbai Depot without consideration, but in course/furtherance of business, is supply u/s 7 read with Schedule I of the CGST Act.

(b) Schedule I of CGST Act, inter alia, stiputates 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. section 15 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, as per the above definition, 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 u/s7 read with Schedule I of the CGST Act.

(c) 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 u/s 7 of the CGST Act read with Schedule I as although the same are provided in course or furtherance of business, such services have not been received from a related person.

Question 7:

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

(a) Renting of immovable property.

(b) Goods forming part of business assets are transferred or disposed of bylunder directions of person carrying on the business.

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

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

Answer:

(a) Supply of services

(b) Supply of goods

(c) Supply of services

(d) Supply of goods

Question 8:

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) Supply of goods by an unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.

(c) Any treatment or process which is applied to another person's goods.

(d) Transfer of title in goods.

Answer:

(a) Supply of services

(b) Supply of goods

(c) Supply of services

(d) Supply of goods

Question 9:

The goods supplied on hire purchase basis will be treated as supply of services. Examine the validity of the statement.

Answer:

The statement is not correct. 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 10:

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

(a) Ms 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.

(b) Ms 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 Ms Shriniti]. Further, Ms Shriniti did not pay any consideration for the said service.

(c) Will your answer change if in the above case, if Ms Shriniti has taken interior decoration services with regard to her business premises and not her residence?

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

Answer:

(a) Supply, u/s 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 Ms 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.

(b) Schedule 1 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. Section 15 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, Ms Shriniti Kaushik has received interior decoration services from her brother. In view of the above definition, Ms Shriniti and her brother shall be considered to be related as Miss Shriniti's brother is wholly dependent on her. However, Ms Shrinti has taken interior decoration services for her residence and not in course or furtherance of business. Consequently, services provided by Ms Shrinti's brother to her would not be treated as supply u/s 7 read with schedule I of the CGST Act.

(c) In the above case, if Ms Shriniti has taken interior decoration services with regard to her business premises, services provided by MS Shriniti's brother to her would be treated as supply u/s 7 of the CGST Act read with Schedule 1 of the CGST Act, 2017.

Question 11:

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 alongwith the room accommodation.

(b) A toothpaste company has offered the scheme of free soap alongwith the toothpaste.

Ans. 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.

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

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

Question 12:

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

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

Answer:

In the given case, the items supplied by Dumdum Electronics are not naturally bundled in the ordinary course of business. Therefore, such 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.

Question 13:

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:

- Chocolates - 18%
- Fruit juice bottles - 12%
- Toy balloons - 5%

Answer:

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 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 chocolate attracts the highest rate of tax. The rate of GST applicable on the package of ₹ 6,00,000 (20,000 × ₹30) shall be 18%.

Exempted

Question 14:

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 leviability 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.

Answer:

As per Section 25, 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'.

Schedule I to the CGST Act specifies situations where activities are to be treated as supply even if made without consideration.

Supply of goods and/or services between 'distinct persons' as specified in Section 25, when made in the course or furtherance of business is one such activity included in schedule I.

However, in view of the GST Council's recommendation, it has been clarified that the inter-state movement of various modes of conveyance between 'distinct persons' as specified in Section 25, not involving further supply of such conveyance, including trucks carrying goods or passengers or both or for repairs and maintenance, may be treated 'neither as a supply of goods nor supply of service' and therefore, will not be leviable to IGST.

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 15:

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.

Answer:

As per section 7(1)(a) of CGST Act, 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 "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 16:

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.

Answer:

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. 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 17

M/s Chand is a manufacturer of Paper products having factory at Pune, Maharashtra. M/s Kela and M/s Bela of Mumbai, Maharashtra are appointed as agents to sell the products on behalf of m/s Chand with the condition that both of them guarantee the realization of payment from buyers.

Both M/s Kela and M/s Bela provide short-term borrowing facilities to buyers for timely payment of dues against supplies made to them and for this they charge interest from the ultimate buyer. While M/s Kela raises invoices in the name of M/s Chand and M/s Bela raises invoices in its own name.

In light of provisions contained in Para 3 of Schedule I of CGST Act, kindly explain treatment of interest charged by M/s Kela and M/s Bela in above mentioned cases.

Answer:

- M/s Kela and M/s Bela are Del-Credere Agents (DCA) of M/s Chand as they guarantee the payment to the supplier. A DCA falls under the ambit of 'agent' under Para 3 of Schedule I of the CGST Act, 2017 if the invoice for supply of goods is issued by the DCA in its own name. However, if the invoice for supply of goods is issued by the supplier to the customer, either himself or through DCA, the DCA is not an 'agent' in terms of Para 3 of Schedule 1. Thus, while M/s Bela is an agent of M/s Chand in terms of Para 3 of schedule I, M/s Kela is not.
- Where the DCA is not an agent under Para 3 of Schedule I, the temporary short-term loan being provided by DCA to the buyer is a supply of service by the DCA to the recipient on principal-to-principal basis and is an independent supply. Said supply is specifically exempt from tax. Thus, interest charged by M/s Kela is an independent supply and is exempt from tax.
- Where the DCA is an agent under Para 3 of Schedule I, the temporary short-term credit being provided by DCA to the buyer no longer retains its character of an independent supply and is subsumed in the supply of the goods by the DCA to the recipient. The value of the

interest charged for such credit is included in the value of supply of goods by DCA to the recipient. Thus, interest charged by M/s Bela will be included in the value of goods supplied by it.

Question 18 :

Explain the concept of composite supply and mixed supply. A trader launches a package sales for marriage containing double bed, refrigerator, washing machine, wooden wardrobe at a single rate. He is issuing an invoice showing value of each goods separately, whether this is case of mixed supply or composite supply. Explain.

Answer:

- Composite supply comprises 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.
- 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.
- Items such as double bed, refrigerator, washing machine and wooden wardrobe are not naturally bundled and also the invoice for the supply shows separate values for each item, ie the package is not supplied for a single price. Therefore, supply of such items as a package will neither constitute a composite supply nor a mixed supply. Thus, the various items of the package will be treated as being supplied individually and they would be taxed at their respective rates.

Question 19 :

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

(i) Glory Ltd is engaged in 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.

Answer:

(i) An activity qualifies as supply under GST only if it is for a 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 20

Mr Jayesh, a registered supplier of Mumbai, received the following amounts in respect of the various activities undertaken by him during the month of October 2023.

S.No.	Particulars	Amount (₹)
(i)	**Commission received as a recovery agent from a Non-Banking Finance Company (NBFC)**	**80,000**
(ii)	**Actionable claim received from normal business debtors**	**10,50,000**
(iii)	**Amount received from ABC Ltd for performance of classical dance in one program**	**1,74,500**
(iv)	**Business assets (old computers) given to a friend free of cost, the market value of all the computers was ₹ 51,000. No ITC has been availed on such computers when used for business.**	**No amount Charged**
(v)	**Consideration received for one month rent from a registered individual person for renting of residential dwelling for use as residence. Tenant to use the property for stay of employees.**	**15,200**

Details of Input Services:

S.No.	Particulars	Amount (₹)
(i)	**Paid to an unregistered Goods Transport Agency for various consignments of transportation of goods by road. (Each individual consignment in a single carriage was of less than ₹ 1,450)**	**15,100**

Notes:

1. All the amounts stated above in both the tables are exclusive of GST, wherever applicable.

2. Aggregate turnover of Mr Jayesh in previous year was ₹ 42,00,000.

You are required to compute gross value of supplies, on which GST to be paid by Mr Jayesh for the month of October 2023.

Answer

Computation of Gross Value of Supplies on Which GST Needs To Be Paid By Mr Jayesh:

S.No.	Particulars	Amount (₹)
Outward Leg:		

(i)	Commission received as a recovery agent from a Non-Banking Finance Company (NBFC) {Services provided by a recovery agent to a NBFC are taxable under reverse charge mechanism as per Section 9(3) of CGST Act}	NBFC To Pay GST Under RCM
(ii)	Actionable claim received from normal business debtors {Actionable claims other than lottery, betting and gambling are covered under Schedule III of CGST Act, meaning that they shall neither qualify as supply of goods nor as supply of services}	Not A Supply
(iii)	Amount received from ABC Ltd for performance of classical dance in one program {Services provided by a performing artist in classical art forms of dance, music or theatre are exempt if the amount charged doesn't exceed ₹ 1,50,000 per event. Exemption is not available in the present case since the amount charged for one performance exceeds ₹ $1,50,000$}	1,74,500
(iv)	Business assets (old computers) given to a friend free of cost. No ITC has been availed on such computers when used for business. {Disposal of business assets without consideration shall be regarded as supply only where ITC has availed on such assets. The present transaction wouldn't qualify as supply since no ITC has been availed on business assets?	Not A Supply
(v)	Consideration received for one month rent from a registered individual person for renting of residential dwelling for use as residence. {Services provided by way of renting of residential dwelling for use as residence to a registered tenant are taxable under reverse charge mechanism as per section 9(3) of CGST Act?	Tenant To Pay GST Under RCM
Input Leg:		
(i)	Services received from an unregistered GTA for various consignments of transportation of goods by road. Each individual consignment in a single carriage was of less than ₹ 1,450. {Exemption not available because services are provided by GTA to a registered recipient and not to an unregistered recipient. Further since GTA hasn't obtained any registration, it implies that the transaction is taxable under reverse charge. Tax needs to be paid by the registered recipient under RCM. 3	15,100 Mr Jayesh To Pay Tax Under RCM
Gross Value of Supplies on Which Tax Is To Be Paid By Mr Jayesh: ₹ 1,74,500 FCM; ₹ 15,100 RCM		

Question 21:

Charm Limited, registered under GST in the State of Jharkhand, manufactures cosmetic products and appointed Mr Handsome of Mumbai, who is registered under GST in the State of Maharashtra, as their Del-credere agent (DCA) to sell their products. Being a DCA, he agrees to raise invoices in his own name and also guarantees for the realization of payments from customers to Charm Limited. In order to realize the payments from customers on time, he extends short term transaction based loans to them and charges interest for the same. Mr Handsome provides you the following details of transactions carried out during March 2023:

	Particulars	Amount in (₹)
Outward Supply:		
(i)	Goods sold by Mr Handsome in his DCA capacity (intra-state transaction)	2,80,000
(ii)	Interest earned from the above customers for short term credit facility provided for timely payment of dues. (intra-state transaction)	20,000
(iii)	Commission bill raised on Charm Limited (inter-state transaction) in respect of DCA services provided.	30,000
Inward Supply:		
(iv)	Inter-State supply of goods received from Charm Limited. Being a DCA, no consideration was paid. Value under section 15 - ₹ $2,00,000$	Nil
(v)	Received training in marketing and distribution from Charm Limited as per DCA agreement, free of cost. Company charges ₹ 75,000 for such training when it provides the same to others.	Nil

Applicable rate of tax on both inward and outward supplies is 9% each for CGST and SGST and 18% for IGST. Amounts given above are exclusive of taxes wherever applicable. Subject to the information given above, necessary conditions are complied with for availment of input tax credit. You are required to calculate the gross GST liability and eligible input tax credit for the month of March 2023 of Mr Handsome. Brief notes should form part of your answer for treatment of items in S. No. (i) to (v).

Answer

Computation of Gross GST Liability of Mr Handsome For The Month of March 2023:

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Goods sold by Mr Handsome in his DCA capacity (₹$2,80,000$) **Add: Interest earned for short term credit facility provided to above customers (₹$20,000$)**	**27,000 [3L × 9%]**	**27,000 [3L × 9%]**	**-**

[Since the invoice for goods sold is issued by the DCA (ie, Mr Handsome) in his own name, he would fall under the ambit of an agent under Schedule I of the CGST Act. Where DCA is an agent under Schedule I of the CGST Act, interest is included in the value of supply of the goods sold as short term credit facility provided by DCA to the buyer is subsumed in the supply of the goods by the DCA to the buyer.]			
Commission charged for DCA services [Being taxable supply of services]	**-**	**-**	**5,400 [$30,000 \times 18\%$]**
Gross GST Liability	**27,000**	**27,000**	**5,400**

Computation of Eligible ITC For The Month of March 2023:

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Inward supply of goods from Charm Limited free of cost [Supply of goods by principal (Charm Limited) to the agent (Mr Handsome) qualifies as supply even though it is made without consideration.]	**-**	**-**	**36,000 [$2,00,000 \times 18\%$]**
Training in marketing and distribution received from Charm Limited free of cost [Since no consideration is charged for the services provided, said services do not qualify as supply. As no GST is paid on the same, ITC is not available]	**-**	**-**	**-**
Total ITC Available	**Nil**	**Nil**	**36,000**

Question 22:

Examine whether the following activities would amount to "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.

Answer:

(i) An activity qualifies as supply under GST only if it is carried out for a consideration and is in course or furtherance of business. In the existing case, water cooler has been donated to a temple with no reference or mention of any business activity of the donor which otherwise would have got advertised. In case of donations, no GST is leviable where all the three conditions are satisfied - namely the gift or donation is-made to a charitable organization, the payment has the character of gift or donation and the purpose is philanthropic (ie, it leads to no commercial gain) and not advertisement. Since all the conditions are satisfied in the present case, the transaction wouldn't qualify as supply and thus GST shall not be leviable.

(ii) As per section 7(1)(c) of CGST Act read along with Schedule I of CGST Act, import of services by a person from a related person or from any of his establishments located outside India in the course or furtherance of business shall be treated as supply irrespective of the presence of consideration. Therefore, in the present case, management consultancy services received by Wesco Ltd (a registered person in Ahmedabad, Gujarat) free of cost from its head office located in singapore shall be deemed as supply.

Question 23:

Examine the existence of "consideration" for donation received by charitable institutions from individual donors, without quid pro quo an important feature as defined in Section 2(31) of the CGST Act, 2017.

Answer

- Donations received by the charitable institutions from individual donors are treated as consideration only if there exists, quid pro quo, ie there is an obligation on part of recipient of the donation or gift to do anything.
- When the name of the donor is displayed in recipient institution 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 a 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). There is no obligation (quid pro quo) on the part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration.

Question 24:

Describe the provisions related to import of services by a registered person as prescribed in sections 7(1)(b), 7(1)(c) and schedule 1 of CGST Act 2017.

Answer

Refer the relevant legal portion given in the book

Question 25:

Mr. Akshay a dealer sells a washing machine for Rs. 30,000 to earn a profit. Does it qualify as a supply?

Answer:

Yes, it qualifies as supply as per Section 7(1)(a) of CGST Act, 2017.

Question 26:

Mr. Ram (an unregistered person) wants to do MBA abroad. He takes Education consultancy services from a UK based consultant for Rs. 10,000. Does it qualify as a supply?

Answer:

Yes, it qualifies as supply, because as per Section 7(1)(b) of CGST Act, 2017, Supply includes import of services for a consideration whether or not in the course or furtherance of business. Hence, in the above case it will be treated as supply.

Question 27:

ABC Ltd. a manufacturing company scraps old plant and machinery due to renovation of manufacturing facility. The company has taken Input Tax Credit on plant and machinery so scrapped without consideration. Does it qualify as a supply?

Answer:

As per Section 7(1)(c) read with Schedule I of CGST Act, 2017, Permanent transfer or disposal of business assets where Input Tax Credit has been availed shall be treated as supply even made without consideration. Hence scrapping of old plant and machinery without consideration shall qualify as supply since Input Tax Credit has been availed by ABC Ltd.

Question 28:

Big Ltd. Provides management technical services without consideration to Small Ltd. In which Big Ltd. Has controlling rights. These technical services have been provided for benefit of entire group. Does it qualify as a supply?

Answer:

As per Section 7(1) (c) read with Schedule I of CGST Act, 2017, Supply of goods or services between related persons is treated as supply even if it is without consideration. As per Explanation to Section 15 of CGST Act, 2017, persons shall be deemed to be "related persons" if "one of them directly or indirectly controls the other". Since Big Ltd. has controlling rights of Small Ltd., they will be treated as related person and the said transaction will qualify as supply.

Question 29:

American Express Pvt. Ltd. makes gifts to an employee worth Rs. 75,000 during the year. Do such gifts qualify as a supply? Would your answer be different if gifts of Rs. 45,000 have been given to employee?

Answer:

As per Section 7(1) (c) read with Schedule I of CGST Act, 2017, supply of goods or services between related persons is treated as supply even if it is without consideration. As per Explanation to Section 15 of CGST Act, 2017, persons shall be deemed to be "related persons" if such persons are employer and employee. Thus, gifts to employee worth Rs. 75,000 will qualify as supply and such supply would be leviable to GST.

If gifts of Rs. 45,000 are given instead of Rs. 75,000, the same will not qualify as supply since it has been specifically provided that gifts not exceeding Rs. 50,000 in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

Question 30:

Honda Motors Ltd. engages DB Motors as an agent to sell motorcycle on its behalf. For the purpose, Honda Motors Ltd. has supplied 500 cars to the showroom of DB Motors located in Punjab. Does it qualify as supply?

Answer:

As per Section 7(1) (c) read with Schedule I of CGST Act, 2017, Supply of goods by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal shall be treated as supply even if made without consideration. In view of the same Supply of motorcycles by Honda Motors Ltd. to DB Motors will qualify as supply.

Question 31:

Raheja Builders (a registered taxable person) receives architectural design supplied by a foreign architect to design a residential complex to be built in Faridabad for a consideration of Rs. 1 crore. Does it qualify as supply?

Answer:

As per Section 7(1) (b) of CGST Act, 2017, Importation of services for a consideration whether or not in the course or furtherance of business is covered under supply. In the above case it will be treated as supply and will be liable to GST.

Question 32:

Heera Printers is a printing house registered under GST. It receives 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 Heera Printers. It is agreed that Heera 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 Heera Printers assuming that rate of GST applicable on services is 18% whereas the rate of GST applicable on supply of goods is 12%.

Answer:

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 Heera 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%.

Question 33:

- **Mr. Ramesh is engaged in the business of beauty products. Few of items on which he has already availed ITC, taken by him for personal use of his family members. Such transaction shall be treated as supply even though there is no consideration involved.**
- **Mr. Kisan purchased furniture on which he has taken ITC. After 2 years, he donated that furniture to an NGO. This donation is treated as supply under the GST law.**

Question 34:

X Ltd. has 3 branches. One at Kolkata, another at Chennai and third one at Mumbai. All these branches are separately registered with GST and treated as distinct persons. Any inter-State transfer (like stock transfer, etc.) among them shall be treated as supply even though there is no consideration.

Question 35:

1. Mr. Prem, Kolkata, is an agent of Mr. Magan, Mumbai. Mr. Prem is acquiring goods on behalf of Mr. Magan and supply it to Mr. Magan. Here, transaction between Mr. Prem and Mr. Magan is treated as supply even though there is no consideration.
2. Similarly, Mr. Ashok, Surat, is an agent of Mr. Magan, Mumbai. Mr. Magan is sending goods to Mr. Ashok for selling that in Surat. Here, transaction between Mr. Ashok and Mr. Magan is treated as supply even though there is no consideration.

Question 36:

What is the taxable event under GST? [FAQ 2]

Answer:

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.

Question 37:

Whether supplies made without consideration will also come within the purview of supply under GST? [FAQ 3]

Answer:

Yes, but only those activities which are specified in Schedule I to the CGST Act / SGST Act. The said provision has been adopted in IGST Act as well in UTGST Act also. In cases where the inputs/ capital goods sent for job work are not returned with in the specified time limit, the supplies made by the principal to job worker will also be deemed to be a supply.

Question 38:

Who can notify a transaction to be supply of goods or services? [FAQ 5]

Answer:

Central Government or State Government, on the recommendations of the GST Council, can notify an activity to be the supply of goods and not supply of services or supply of services and not supply of goods or neither a supply of goods nor a supply of services.

Question 39:

Are all goods and services taxable under GST? [FAQ 8]

Answer:

Supplies of all goods and services are taxable except alcoholic liquor for human consumption. Supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be taxable with effect from a future date. This date would be notified by the Government on the recommendations of the GST Council.

Question 40:

- 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.
- When a consumer buys a laptop and he also gets warranty, pre-installed windows and microsoft office applications, this supply is a composite supply. Here, supply of laptop is the principal supply and others are ancillary to it.

- Food supplied to the in-patients as advised by the doctor/ nutritionist is a part of composite supply of health care and not separately taxable". Further supplies of food by hospital to patients (not admitted) or their attendants or visitors are taxable.
- In the case 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.

Question 41:

- A hotel provides a 4-D/3-N package with the facility of breakfast. This is a natural bundling of services in the ordinary course of business. The service of hotel accommodation gives the bundle the essential character and would, therefore, be treated as service of providing hotel accommodation.
- A 5 star hotel is booked for a conference of 100 delegates on a lump sum package with the following facilities:
    - Accommodation for the delegates
    - Breakfast for the delegates,
    - Tea and coffee during conference
    - Access to fitness room for the delegates
    - Availability of conference room
    - Business centre

Question 42:

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.

In order to identify if the particular supply is a Mixed Supply, the first requisite is to rule out that the supply is a composite supply. A supply can be a mixed supply only if it is not a composite supply. As a corollary it can be said that if the transaction consists of supplies not naturally bundled in the ordinary course of business then it would be a Mixed Supply. Once the amenability of the transaction as a composite supply is ruled out, it would be a mixed supply, classified in terms of a supply of goods or services attracting highest rate of tax.

The following illustration given in the Education Guide of CBIC referred to above can be a pointer towards a mixed supply of services: "A house is given on rent one floor of which is to be used as residence and the other for housing a printing press. Such renting for two different purposes is not naturally bundled in the ordinary course of business. Therefore, if a single rent deed is executed it will be treated as a service comprising entirely of such service which attracts highest liability of service tax. In this case renting for use as residence is a negative list service while renting for non-residence use is chargeable to tax. Since the latter category attracts highest liability of service tax amongst the two services bundled together, the entire bundle would be treated as renting of commercial property."

While there are no infallible tests for such determination, the following guiding principles could be adopted to determine whether a supply would be a composite supply or a mixed supply. However, every supply should be independently analysed.

Description	Composite Supply	Mixed Supply
Naturally bundled	**Yes**	**No**
Each supply available for supply individually	**No**	**Yes / No**
One is predominant supply for recipient	**Yes**	**Yes / No**
Other supply(ies) is/ are ancillary or received because of predominant supply	**Yes**	**No**
Each supply priced separately	**Yes / No**	**No**
Supplied together	**Yes**	**Yes**
All supplies can be of goods	**Yes**	**Yes**
All supplies can be of services	**Yes**	**Yes**
A combination of one/ more goods and one/more services	**Yes**	**Yes**

Question 43:

What are composite supply and mixed supply? How are these two different from each other?

Answer:

Composite supply is a supply consisting of two or more taxable supplies of goods or services or both or any combination thereof, which are bundled in natural course and are supplied in conjunction with each other in the ordinary course of business and where one of which is a principal supply. For example, when a consumer buys a television set and he also gets warranty and a maintenance contract with the TV, this supply is a composite supply. In this example, supply of TV is the principal supply, warranty and maintenance service are ancillary.

Mixed supply is combination of more than one individual supplies of goods or services or any combination thereof made in conjunction with each other for a single price, which can ordinarily be supplied separately. For example, a shopkeeper selling storage water bottles along with refrigerator. Bottles and the refrigerator can easily be priced and sold separately.

Question 44:

What is the treatment of composite supply and mixed supply under GST?

Answer:

Composite supply shall be treated as supply of the principal supply. Mixed supply would be treated as supply of that particular goods or services which attracts the highest rate of tax.