

TABLE OF CONTENTS

SCOPE OF SUPPLY

1. Introduction – Page 3
2. Meaning of Goods And Services – Page 4
3. Meaning of Actionable Claims – Page 5
4. Meaning of Money – Page 6-9
5. Meaning of Term “Supply” – Page 10-13
6. Notifications For Sec 7(2)(b) – Page 14
7. Meaning of Consideration and Business – Page 15-17
8. Examples of Supply – Page 18
9. Schedule I – Page 19
10. Para 1 – Schedule I – Page 20-21
11. Para 2 – Schedule I – Page 22-31
12. Para 3 – Schedule I – Page 32-36
13. Schedule II – Page 37-42

TABLE OF CONTENTS

SCOPE OF SUPPLY

14. Schedule III – Page 43-46
15. Inter-state Movement Of Conveyance – Page 47-49
16. Levy of GST on Director's Remuneration - Circular No. 140/10/2020-GST Dt 10-06-2020 – Page 50-51
17. Whether Supply? Circulars clarifying issue of supply in certain cases – Page 52-64
18. Composite And Mixed Supply – Page 65-66
19. Whether Goods Or Services? – Page 67
20. Points To Note – Page 68-70

Introduction

Pre-GST

Excise – Manufacturing of Goods in India

Service Tax – Rendering of Service

VAT/CST – Sale of Goods in the course of Intra State (VAT)/Inter State Trade (CST)

Post-GST

GST – Supply of Goods and/or Services in India

Meaning of Goods and Services

A. **Section 2(52) - GOODS** - means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;

Goods include:

- Every kind of movable property
- Actionable claims
- Growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.

A goods does not include:

- Money
- Securities
- Immovable Property

Service include:

- Activities relating to use of money
- Activities relating to conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination

for which separate consideration is charged

Service does not include

- Money [**transaction in money**]
- Security
- Goods

B. **Section 2(102) - SERVICE** means anything other than **goods, money and securities** but **includes** activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

Explanation.—For the removal of doubts, it is hereby clarified that the expression “services” includes facilitating or arranging transactions in securities;

Meaning of Actionable Claims

Section 2(1) “ACTIONABLE CLAIM” shall have the same meaning as assigned to it in section 3 of the Transfer of Property Act, 1882;

As per section 3 of Transfer of Property Act, 1882 - **Actionable Claim** means

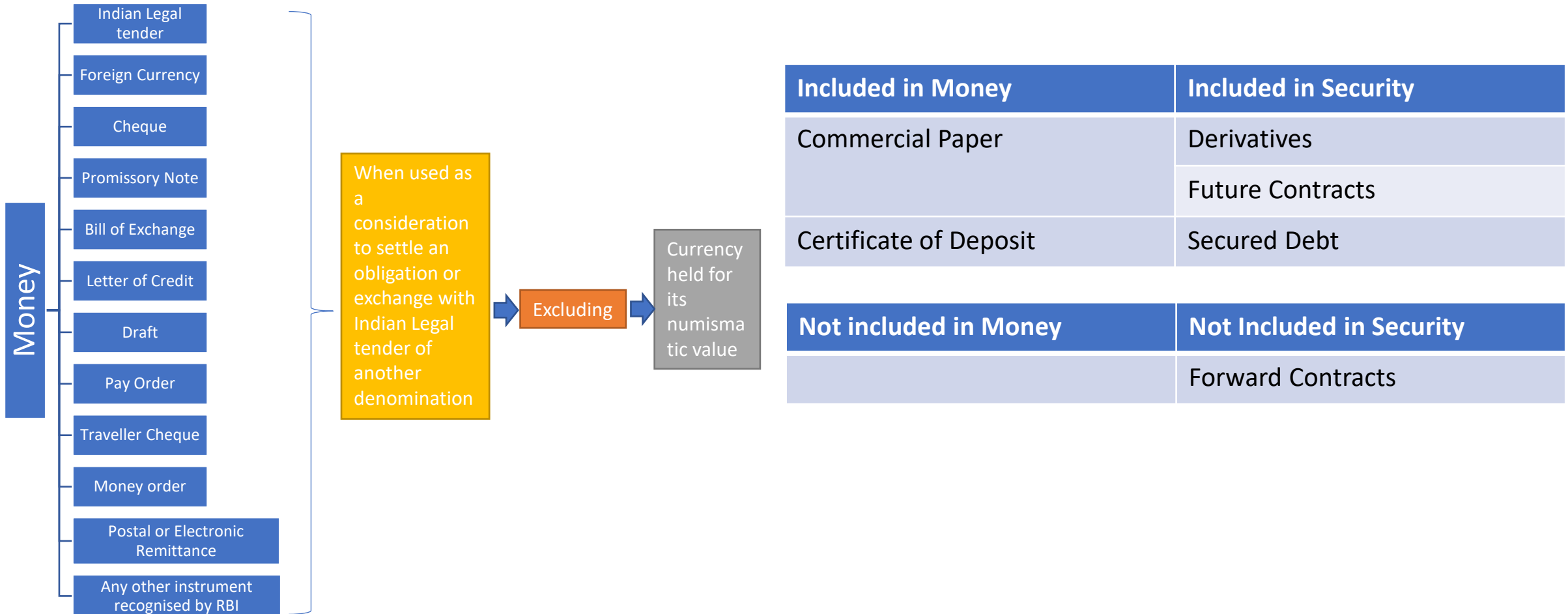
- a **claim to any debt**, other than a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property, or
- to any **beneficial interest** in movable property not in the possession,
- either actual or constructive, of the claimant, which the **civil courts recognise as affording grounds for relief**,
- whether such debt or beneficial interest be existent, accruing, conditional or contingent.

Eg – of **Actionable Claims**

1. Claims for arrear of rent
2. Right to recover Insurance Money
3. Lottery Ticket is actionable claims

Meaning of Money

Section 2(75) "MONEY" means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognised by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value;



Meaning of Money

Included in Money	Included in Security
Commercial Paper	Derivatives
	Future Contracts
Certificate of Deposit	Secured Debt

Not included in Money	Not Included in Security
	Forward Contracts

Note –

1. In terms of section 2(h) of SCRA, **securities** include –

- (i) **shares**, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate;
- (ia) **derivative**;
- (ib) units or any other instrument issued by any collective investment scheme to the investors in such schemes;
- (ic) security receipt as defined in clause (zg) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- (id) units or any other instrument issued to the investors under any mutual fund scheme;
- (ii) Government securities;
- (iia) such other instruments as may be declared by the Central Government to be securities; and
- (iii) Rights or interest in securities.

Meaning of Money

2. Commercial Paper (CP) and Certificate of Deposit (CD) are understood as unsecured money market instruments which may be issued in the form of a **promissory note** or in a dematerialised form through any of the depositories approved by and registered with SEBI.

CPs are normally issued by highly rated companies, primary dealers and financial institutions at a discount to the face value. CDs can be issued by Scheduled Commercial Banks (excluding RRBs and Local Area Banks) and All-India Financial Institutions (FIs) permitted by RBI.

3. Derivatives - In this regard, there may arise a doubt as to whether a 'derivative' is included within the meaning of 'securities' above and whether derivatives are liable to GST? 'Derivatives are included in the definition of 'securities' under SCRA. As derivatives fall in the definition of securities, they are neither goods nor services and hence, are not liable to GST.

4. Future Contracts – Future Contracts are in the nature of financial derivatives, the price of which is dependent on the value of underlying stocks or index of stocks or certain approved currencies and the settlement happens normally by way of net settlement with no actual delivery.

Since future contracts are in the nature of derivatives, these qualify as 'securities' and thus, are not subject to GST.

However, where the future contracts have a delivery option and the settlement of contract takes place by way of actual delivery of underlying commodity/currency, then such forward contracts would be treated as normal supply of goods and liable to GST.

Meaning of Money

5. **Forward Contract** - A forward contract is an agreement, executed, to purchase or sell a predetermined amount of a commodity or currency at a pre-determined future date at a pre-determined price. The settlement could be by way of actual delivery of underlying commodity/currency or by way of net settlement of differential of the forward rate over the prevailing market rate on the settlement date.

Where the settlement takes place by way of actual delivery of underlying commodity/currency, then such forward contracts would be treated as normal supply of goods and liable to GST.

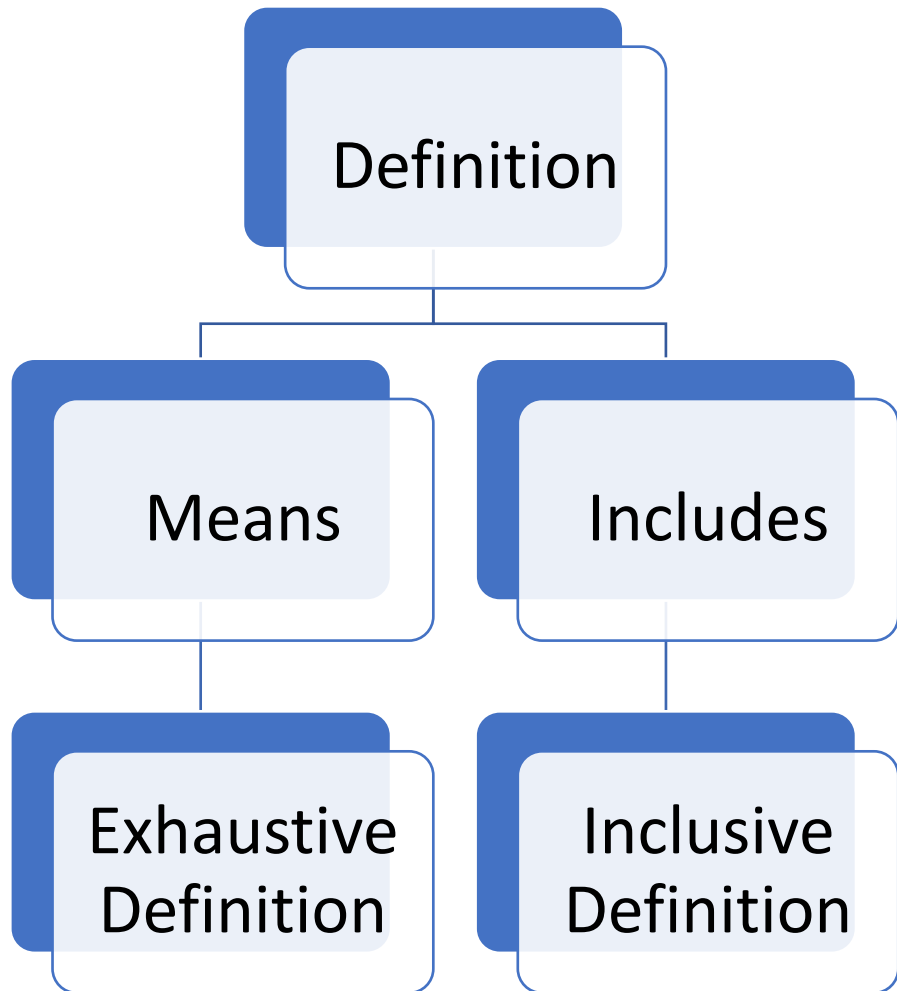
Where the settlement takes place by way of net settlement of differential of the forward rate over the prevailing market rate on the settlement date, the same would be falling within the purview of 'securities' and thus, are not chargeable to GST.

6. **Secured Debt** – Sale, purchase, acquisition or assignment of a secured debt does not constitute a transaction in money; it is in the nature of a derivative and hence a security.

Meaning of Term “Supply”

Section 7 of CGST Act,2017 – Scope of supply

(1) For the purposes of this Act, the expression “supply” **includes**–



The Supreme court in West Bengal State Warehousing Corporation Vs. Indrapuri Studio Pvt. Ltd. has examined the meaning of inclusive and exhaustive definition as appearing in various statutes.

The word “include” when used, enlarge the meaning of expression defined so as to comprehend not only such things as they signify according to their natural import but also those things which the clause declared that they shall includes.

Meaning of Term “Supply”

SECTION 7 OF CGST ACT,2017 – SCOPE OF SUPPLY

(1) For the purposes of this Act, the expression “supply” includes—

(a) **all forms of supply** of goods or services or both **such as** sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a **consideration** by a person **in the course or furtherance of business**; -

Consideration

In the course
or furtherance
of business

[(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.

Explanation.—For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, 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;][**Clause (aa) along with Explanation inserted vide FA, 2021, w.e.f. 1-7-2017, vide Notification No.39/2021 – Central Tax, dated 21.12.2021]**

(b) **import of services** for a **consideration whether or not in the course or furtherance of business**; and
Eg - Mr. X of Delhi is constructing a house for his personal use. He availed the services of an architect in California and paid \$ 20,000 for it. In this case Mr. X will be liable for payment of GST in RCM.

(c) the activities specified in **Schedule I**, made or agreed to be made **without a consideration**; and

SECTION 7 OF CGST ACT,2017 – SCOPE OF SUPPLY

Note –

1. It can be seen that sub-section (1) clause (aa) begins with the word “the activities or transactions, by a person, other than an individual” instead of using words “the activities or transactions, by an unincorporated associations”. This language is used to overcome the reasoning given by the APEX Court in the case of ‘State of West Bengal & Ors. Vs Calcutta Club Limited’, in which Honorable Supreme Court has dealt with Service tax between ‘Incorporated’ Clubs and its members.
2. Further Clause (aa) specifies that the activities or transaction should be provided to its members or constituents or vice-versa. Meaning thereby that receivers are not limited to its members only.
3. Explanation has been inserted to say that person and its members or constituents shall be deemed to be separate irrespective of any ruling.
4. Amendment has been made with retrospective affect from 1-7-2017 and seems to be doing away with the principle of mutuality and has unsettled the settled jurisprudence (with specific overriding effect over judgements). This amendment might not withstand judicial scrutiny.

Meaning of Term “Supply”

SECTION 7 OF CGST ACT,2017 – SCOPE OF SUPPLY

(1A) where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in **Schedule II**.

(2) **Notwithstanding anything contained in sub-section (1),—**

(a) activities or transactions specified in **Schedule III**; or

(b) such activities or transactions undertaken by the **Central Government, a State Government or any local authority** in which they are **engaged as public authorities**, as may be **notified** by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.

(3) **Subject to the provisions** of sub-sections (1),(1A) and (2), the Government may, on the recommendations of the Council, specify, by **notification**, the transactions that are to be treated as—

(a) a supply of goods and not as a supply of services; or

(b) a supply of services and not as a supply of goods.

Note - It can be seen that sub-section (2) begins with the word “notwithstanding” and sub-section (3) begins with the words “Subject to the provisions of sub-sections (1), (1A) and (2)”. Meaning that sub-section (2) has overriding effect on provisions of Subsection (1) and sub-section (3) is conditional or dependent on sub-section (1), (1A) and (2)

Notifications for Sec 7(2)(b)

(2) **Notwithstanding** anything contained in sub-section (1),—

(b) such activities or transactions undertaken by the **Central Government, a State Government or any local authority** in which they are **engaged as public authorities**, as may be **notified** by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.

“Services by way of any activity in relation to a function entrusted to a Panchayat under Article 243G of the Constitution or to a Municipality under Article 243W of the Constitution – **Notification No. 14/2017-CTR dt 28-6-2017**

“Service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name it is called.” – **Notification No. 25/2019-CTR dt 30-9-2019, This Notification has been made effective retrospectively since 1-7-2017, through The FA , 2022. However it has also been stated that no refund shall be granted.**

Note –

Circular No. 121/40/2019-GST dt 11-10-2019 has clarified that the above special dispensation applies only to supply of service by way of grant of liquor licences by the State Government as an agreement between the Centre and States and has no applicability or precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable

Services proved by the Government to business entities including by way of grant of privileges, licences, mining rights, natural resources such as spectrum etc. against payment of consideration in the form of fee, royalty etc. are taxable under GST. Tax is required to be paid by the business entities on such services under reverse charge.

Meaning of Term Consideration and Business

Section 2(31) “Consideration” in relation to the supply of goods or services or both includes—

- a) any payment made or to be made, **whether in money or otherwise**, in respect of, in response to, or for the inducement of, the supply of goods or services or both, **whether by the recipient or by any other person** but **shall not include any subsidy given by the Central Government or a State Government;**
- b) the **monetary value** of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, **whether by the recipient or by any other person** but **shall not include any subsidy given by the Central Government or a State Government;**

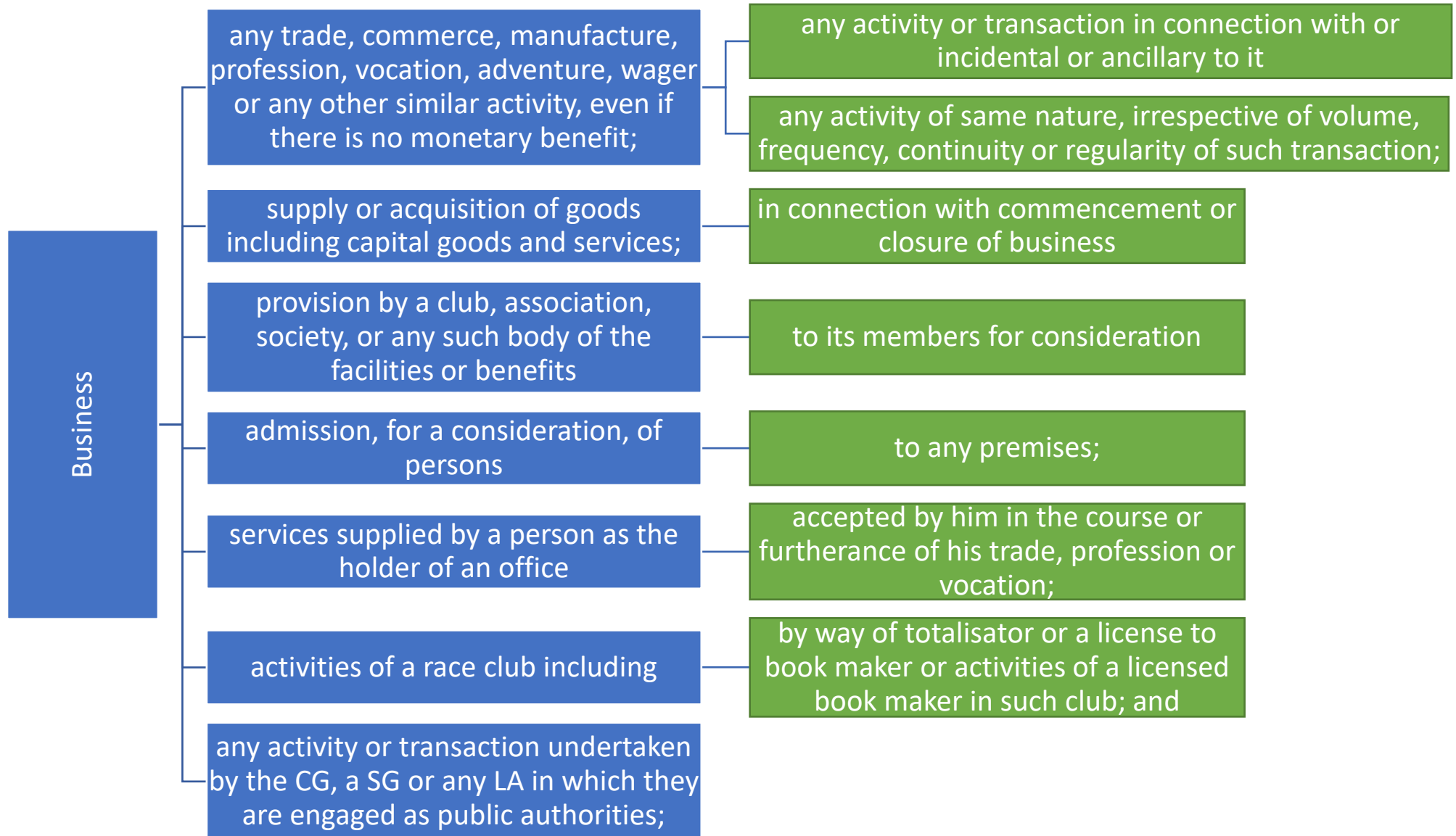
Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;

Meaning of Term Consideration and Business

Section 2(17) “Business” includes—

- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
- (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
- (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
- (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
- (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
- (f) admission, for a consideration, of persons to any premises;
- (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- (h) activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and
- (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;

Meaning of Term Consideration and Business



Examples of Supply

Mr S K, a famous actor, paints some paintings and sells them. The consideration from such sale is to be donated to a Charitable trust – 'Kind Human'. Whether sale of paintings by the actor qualifies as Supply?

Whether Supply?

Reason - Yes, Sale of Painting will be considered as supply as business includes vocation.

A Resident Welfare Association provides the service of depositing the electricity bills of the residents in lieu of some nominal charges. Whether this activity qualifies as supply?

Whether Supply?

Reason – Yes, as the service provided by the club/association to its members for consideration is a supply.

Service by way of admission to circus, cinema halls, amusement parks including theme parks, water parks, etc are considered as supply?

Whether Supply?

Reason – Yes, since admission of a person to any premises for a consideration is also included in business.

Supreme Turf Race Club is engaged in facilitating the wagering (betting) transactions on horses placed through totalisator. For providing the service of facilitating wagering transactions, Royal Turf Race Club gets commission which is deducted and retained by the club from the total bet value. Whether the said services amount to supply?

Whether Supply?

Reason – Yes, since business includes activities of a race club including by way of totalisator or a license to book maker or activities of a licenced book maker in such a club.

Schedule I

1. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.

Permanent Disposal

Business Assets

Availed ITC

2. 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:

Related Person

Provided that gifts not exceeding ₹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.

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
- (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

Principal + Agent

Goods

4. 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.

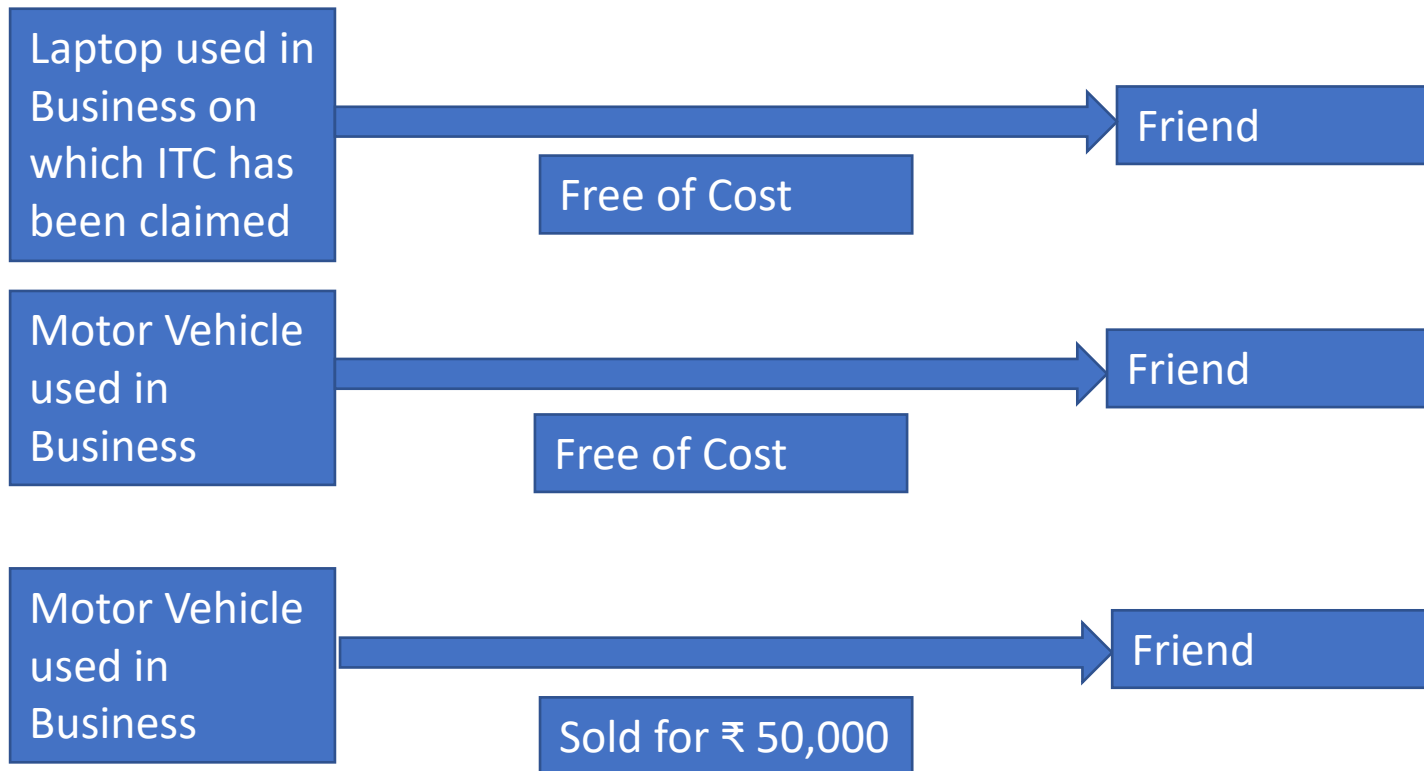
Import

Service

Related Person

Example 1 Banna Ltd. Is a wholesaler for ABC brand of shoes in India he has another establishment in Thailand & Banna Ltd. Importing management services from that establishment (situated at Thailand). Banna Ltd did not pay any consideration for rendering the services but under GST, it is a supply & Banna Ltd. shall be liable to pay IGST under GST.

Schedule I - Para 1 - Permanent Transfer or Disposal of Business Assets where Input Tax Credit has been availed



Whether supply?

Reason – Yes, as mentioned in Schedule I and is for business purpose

Whether supply?

Reason – No, as no consideration and not mentioned in Schedule I

Whether supply?

Reason – Yes, as there is consideration and business purpose.

Schedule I - Para 1 - Permanent Transfer or Disposal of Business Assets where Input Tax Credit has been availed

Sec 18(6) In case of supply of capital goods or plant and machinery, on which input tax credit has been taken, the registered person shall pay

✓ an amount equal to the input tax credit taken on the said capital goods or plant and machinery reduced by such percentage points as may be **prescribed** (5% points for every quarter or part thereof from the date of the issue of the invoice for such goods – Rule 40(2))

or

✓ the tax on the transaction value of such capital goods or plant and machinery determined under section 15, whichever is higher:

Provided that where **refractory bricks, moulds and dies, jigs and fixtures** are supplied as scrap, the taxable person may pay tax on the transaction value of such goods determined under section 15.

Example – M/s XYZ Ltd purchased a computer for ₹50,000 on 20th July, 2017 and paid GST @ 18% of ₹ 9,000. After 2 years he withdrew the business assets and transferred it for personal use. On that day, open market value of the same is ₹ 25,000/-. In such case, XYZ shall be liable to pay GST equivalent to –

A) ITC Availed – ITC eligible for 2 years

$$= 9,000 - 9,000 * 5\% * 8 = 9,000 - 3,600 = ₹ 5,400/-$$

B) Tax Payable on the Fair Market Value = $25,000 * 18\% = ₹ 4,500/-$

Whichever is higher. Therefore XYZ need to pay ₹ 5,400/- on transfer of such computer.

Schedule I - Para 2- Supply Between Related Persons or Between Distinct Persons

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:

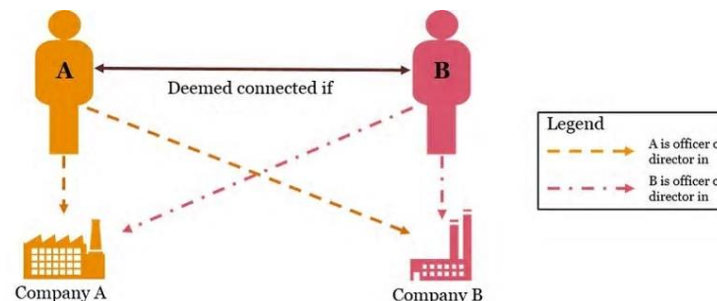
Provided that gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

Explanation 1 to Section 15

For the purposes of this Act,—

(a) persons shall be **deemed** to be “**RELATED PERSONS**” if—

i. such persons are officers or directors of one another’s businesses;



ii. such persons are legally recognised partners in business;

Mr. A and Mr. B are partners in a partnership firm Zika & Co. As per this clause, A&B shall be related persons. A transaction of supply between A & B in the course or furtherance of business shall be treated as supply even if made without consideration

iii. such persons are employer and employee;

Schedule I - Para 2- Supply Between Related Persons or Between Distinct Persons

- iv. any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them;

If Mr X holds shares having voting rights of 25% or more of Company A and Company B, then both Company A and Company B shall be deemed to be related.

- v. one of them directly or indirectly controls the other;

This shall include all the holding – subsidiary relationships, including subsidiary of a subsidiary companies.

- vi. both of them are directly or indirectly controlled by a third person;

As per clause (iv) of the definition, relationship is being established based on shareholding. However, in this clause relationship is established on the basis of control. Let's say X Ltd controls the composition of Board of directors of A Ltd and B Ltd. He is said to control both A Ltd and B Ltd. In such cases, A Ltd and B Ltd are related persons.

- vii. together they directly or indirectly control a third person; or

- viii. they are members of the same **family**;

(b) the term “person” also includes legal persons;

(c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

Eg – Suppose Mr A is a sole distributor of Mr B, running a sole proprietorship firm XYZ Ltd., then Mr A and Mr B are deemed to be related.

PRESS RELEASE – DT 10-7-2017

It is being reported that gifts and perquisites supplied by companies to their employees will be taxed in GST. Gifts upto a value of ₹ 50,000/- per year by an employer to his employee are outside the ambit of GST. However, gifts of value more than Rs 50,000/- made without consideration are subject to GST, when made in the course or furtherance of business.

Q1 The question arises as to **what constitutes a gift** - Gift has not been defined in the GST law. In common parlance, gift is made without consideration, is voluntary in nature and is made occasionally. It cannot be demanded as a matter of right by the employee and the employee cannot move a court of law for obtaining a gift.

Q2 Another issue is the **taxation of perquisites** - It is pertinent to point out here that the services by an employee to the employer in the course of or in relation to his employment is outside the scope of GST (neither supply of goods or supply of services). It follows therefrom that supply by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST.

Further, the input tax credit (ITC) scheme under GST does not allow ITC of membership of a club, health and fitness centre. [section 17 (5) (b) (ii)]. It follows, therefore, that if such services are provided free of charge to all the employees by the employer then the same will not be subjected to GST, provided appropriate GST was paid when procured by the employer. The same would hold true for free housing to the employees, when the same is provided in terms of the contract between the employer and employee and is part and parcel of the cost-to-company (C2C).

Circular No. 172/04/2022-GST dated 6-7-2022

Issue - Whether various perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are liable for GST?

Clarification –

- 1. Schedule III** to the CGST Act provides that “services by employee to the employer in the course of or in relation to his employment” will not be considered as supply of goods or services and hence GST is not applicable on services rendered by employee to employer provided they are in the course of or in relation to employment.
- 2.** Any perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are in lieu of the services provided by employee to the employer in relation to his employment. It follows therefrom that perquisites provided by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST when the same are provided in terms of the contract between the employer and employee.

Schedule I - Para 2- Supply Between Related Persons or Between Distinct Persons

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;

Section 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 Government company as defined in clause (45) of section 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; and
- (n) every artificial juridical person, not falling within any of the above;

Schedule I - Para 2- Supply Between Related Persons or Between Distinct Persons

DISTINCT PERSON UNDER SECTION 25

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

- One PAN Multiple registration



Registered head
office in Delhi

Registered branch
office in Tamil Nadu

Sec 25 (5) Where a person who has 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 establishments shall be treated as establishments of distinct persons for the purposes of this Act.

- One person multiple establishments
whether registered or not



Registered Restaurant in
Maharashtra

Unregistered liquor shop
in Uttarakhand

Note –

1. A person is not required to obtain registration from a State/UT from where he makes a non-taxable supply.
2. Since registration in GST is PAN based, once a supplier is liable to register, he has to obtain registration in each of the State/UTs in which he operates [and makes taxable supply] under the same PAN.
3. Further, he is normally required to obtain single registration in a State/UT. However, where he has multiple places of business in a State/UT, he has the option either to get a single registration for the said State/UT or get separate registrations for each place of business in such State/UT.

Schedule I - Para 2- Supply Between Related Persons or Between Distinct Persons

STOCK TRANSFER – WHETHER SUPPLY?

- ✓ Same PAN Multiple registration whether within a State or in two or more states or Union Territory is considered as Supply



Registered Factory in Lucknow



Registered Showroom in Delhi

- ✓ However, transfer between two units of a legal entity under single registration within same State will not be considered as Supply



Factory in Lucknow



Showroom in Kanpur

Single registration in UP

Schedule I - Para 2- Supply Between Related Persons or Between Distinct Persons

Circular No. 199/11/2023-GST dated 17-7-2023 - Clarification regarding taxability of services provided by an office of an organisation in one State to the office of that organisation in another State, both being distinct persons

Issue	Clarification
<p>Whether HO can avail the input tax credit (hereinafter referred to as 'ITC') in respect of common input services procured from a third party but attributable to both HO and BOs or exclusively to one or more BOs, issue tax invoices under section 31 to the said BOs for the said input services and the BOs can then avail the ITC for the same or whether is it mandatory for the HO to follow the Input Service Distributor (hereinafter referred to as 'ISD') mechanism for distribution of ITC in respect of common input services procured by them from a third party but attributable to both HO and BOs or exclusively to one or more BOs?</p>	<p>It is clarified that in respect of common input services procured by the HO from a third party but attributable to both HO and BOs or exclusively to one or more BOs, HO has an option to distribute ITC in respect of such common input services by following ISD mechanism laid down in Section 20 of CGST Act read with rule 39 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as 'the CGST Rules'). However, as per the present provisions of the CGST Act and CGST Rules, it is not mandatory for the HO to distribute such input tax credit by ISD mechanism. HO can also issue tax invoices under section 31 of CGST Act to the concerned BOs in respect of common input services procured from a third party by HO but attributable to the said BOs and the BOs can then avail ITC on the same subject to the provisions of section 16 and 17 of CGST Act.</p> <p>In case, the HO distributes or wishes to distribute ITC to BOs in respect of such common input services through the ISD mechanism as per the provisions of section 20 of CGST Act read with rule 39 of the CGST Rules, HO is required to get itself registered mandatorily as an ISD in accordance with Section 24(viii) of the CGST Act.</p> <p>Further, such distribution of the ITC in respect a common input services procured from a third party can be made by the HO to a BO through ISD mechanism only if the said input services are attributable to the said BO or have actually been provided to the said BO. Similarly, the HO can issue tax invoices under section 31 of CGST Act to the concerned BOs, in respect of any input services, procured by HO from a third party for on or behalf of a BO, only if the said services have actually been provided to the concerned BOs.</p>

Schedule I - Para 2- Supply Between Related Persons or Between Distinct Persons

Issue	Clarification
<p>In respect of internally generated services, there may be cases where HO is providing certain services to the BOs for which full input tax credit is available to the concerned BOs. However, HO may not be issuing tax invoice to the concerned BOs with respect to such services, or the HO may not be including the cost of a particular component such as salary cost of employees involved in providing said services while issuing tax invoice to BOs for the services provided by HO to BOs. Whether the HO is mandatorily required to issue invoice to BOs under section 31 of CGST Act for such internally generated services, and/ or whether the cost of all components including salary cost of HO employees involved in providing the said services has to be included in the computation of value of services provided by HO to BOs when full input tax credit is available to the concerned BOs.</p>	<p>The value of supply of services made by a registered person to a distinct person needs to be determined as per rule 28 of CGST Rules, read with sub-section (4) of section 15 of CGST Act. As per clause (a) of rule 28, the value of supply of goods or services or both between distinct persons shall be the open market value of such supply. The second proviso to rule 28 of CGST Rules provides that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services. Accordingly, in respect of supply of services by HO to BOs, the value of the said supply of services declared in the invoice by HO shall be deemed to be open market value of such services, if the recipient BO is eligible for full input tax credit.</p> <p>Accordingly, in cases where full input tax credit is available to a BO, the value declared on the invoice by HO to the said BO in respect of a supply of services shall be deemed to be the open market value of such services, irrespective of the fact whether cost of any particular component of such services, like employee cost etc., has been included or not in the value of the services in the invoice.</p> <p>Further, in such cases where full input tax credit is available to the recipient, if HO has not issued a tax invoice to the BO in respect of any particular services being rendered by HO to the said BO, the value of such services may be deemed to be declared as Nil by HO to BO, and may be deemed as open market value in terms of second proviso to rule 28 of CGST Rules.</p>

Schedule I - Para 2- Supply Between Related Persons or Between Distinct Persons

Issue	Clarification
<p>In respect of internally generated services provided by the HO to BOs, in cases where full input tax credit is not available to the concerned BOs, whether the cost of salary of employees of the HO involved in providing said services to the BOs, is mandatorily required to be included while computing the taxable value of the said supply of services provided by HO to BOs.</p>	<p>In respect of internally generated services provided by the HO to BOs, the cost of salary of employees of the HO, involved in providing the said services to the BOs, is not mandatorily required to be included while computing the taxable value of the supply of such services, even in cases where full input tax credit is not available to the concerned BO.</p>

Schedule I – Para 3 - Principal + Agent + Goods

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
- (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

Section 2(5) “**AGENT**” means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another;

Section 2(88) “**PRINCIPAL**” means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both;

Sec 24 - **Notwithstanding** anything contained in **sub-section (1) of section 22**, the following categories of persons shall be required to be registered under this Act,—

- (vii) persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an **agent** or otherwise;

Sec 23(1) The following persons shall not be liable to registration, namely:—

- (a) any person engaged exclusively in the business of supplying goods or services or both that are **not liable to tax** or **wholly exempt from tax** under this Act or under the Integrated Goods and Services Tax Act;
- (b) an **agriculturist**, to the extent of supply of **produce** out of **cultivation of land**.

Schedule I – Para 3 - Principal + Agent + Goods

Circular No. 57/31/2018-GST dt 4-9-2018

Scenario	Whether Agent?	Compulsory Registration
<p>Mr. A appoints Mr. B to procure certain goods from the market. Mr. B identifies various suppliers who can provide the goods as desired by Mr. A, and asks the supplier (Mr. C) to send the goods and issue the invoice directly to Mr. A.</p>	<p>In this scenario, Mr. B is only acting as the procurement agent, and has in no way involved himself in the supply or receipt of the goods. Hence, in accordance with the provisions of this Act, Mr.B is not an agent of Mr. A for supply of goods in terms of Schedule I.</p>	<p>Mr B, does not have to take compulsory registration as per Section 24. He, however, would be liable for registration if his aggregate turnover of supply of taxable services exceeds the threshold specified in sub-section (1) of section 22 of the CGST Act.</p>
<p>M/s XYZ, a banking company, appoints Mr. B (auctioneer) to auction certain goods. The auctioneer arranges for the auction and identifies the potential bidders. The highest bid is accepted and the goods are sold to the highest bidder by M/s XYZ. The invoice for the supply of the goods is issued by M/s XYZ to the successful bidder.</p>	<p>In this scenario, the auctioneer is merely providing the auctioneering services with no role played in the supply of the goods. Even in this scenario, Mr.B is not an agent of M/s XYZ for the supply of goods in terms of Schedule I.</p>	<p>Mr B, does not have to take compulsory registration as per Section 24 He, however, would be liable for registration if his aggregate turnover of supply of taxable services exceeds the threshold specified in sub-section (1) of section 22 of the CGST Act.</p>

Schedule I – Para 3 - Principal + Agent + Goods

Circular No. 57/31/2018-GST dt 4-9-2018

Scenario	Whether Agent?	Compulsory Registration
<ul style="list-style-type: none">Mr. A, an artist, appoints M/s B (auctioneer) to auction his painting. M/s B arranges for the auction and identifies the potential bidders. The highest bid is accepted and the painting is sold to the highest bidder. The invoice for the supply of the painting is issued by M/s B on the behalf of Mr. A but in his own name and the painting is delivered to the successful bidder.A similar situation can exist in case of supply of goods as well where the C&F agent or commission agent takes possession of the goods from the principal and issues the invoice in his own name.	<p>In this scenario, M/s B is not merely providing auctioneering services, but is also supplying the painting on behalf of Mr. A to the bidder, and has the authority to transfer the title of the painting on behalf of Mr. A. This scenario is covered under Schedule I.</p> <p>In such cases, the C&F/commission agent is an agent of the principal for the supply of goods in terms of Schedule I. The disclosure or non-disclosure of the name of the principal is immaterial in such situations.</p>	<p>Mr. B, is required to take compulsory registration as per Section 24</p>

Schedule I – Para 3 - Principal + Agent + Goods

Scenario	Whether Agent?	Compulsory Registration
<p>Mr A sells agricultural produce by utilizing the services of Mr B who is a commission agent as per the Agricultural Produce Marketing Committee Act (APMC Act) of the State. Mr B identifies the buyers and sells the agricultural produce on behalf of Mr. A for which he charges a commission from Mr. A.</p> <p>As per the APMC Act, the commission agent is a person who buys or sells the agricultural produce on behalf of his principal, or facilitates buying and selling of agricultural produce on behalf of his principal and receives, by way of remuneration, a commission or percentage upon the amount involved in such transaction.</p>	<p>In cases where the invoice is issued by Mr. B to the buyer, the former is an agent covered under Schedule I. However, in cases where the invoice is issued directly by Mr. A to the buyer, the commission agent (Mr. B) doesn't fall under the category of agent covered under Schedule I.</p>	<p>Notification No. 12/2017 CT (Rate) dated 24.06.2017 has exempted "services by any APMC or board or services provided by the commission agents for sale or purchase of agricultural produce" from GST. Thus, the "services" provided by the commission agent for sale or purchase of agricultural produce is exempted.</p> <p>Such commission agents (even when they qualify as agent under Schedule I) are not liable to be registered according to sub-clause (a) of sub-section (1) of section 23 of the CGST Act, if the supply of the agricultural produce, and /or other goods or services supplied by them are not liable to tax or wholly exempt under GST.</p>

The key ingredient for determining relationship of Principal and Agent under GST would be **whether the invoice for the further supply of goods on behalf of the principal is being issued by the agent or not.**

Invoice for further supply is being issued by the agent in his name  **Principal Agent as per Para 3**

Invoice is issued by the agent to the customer in the name of the principal  **Not Principal Agent as per Para 3**

Where the goods being procured by the agent on the behalf of the principal are invoiced in the name of the agent  **Principal Agent as per Para 3**

Del-Credere Agent (DCA)

The factor that differentiates a DCA from other agents is that the DCA guarantees the payment to the supplier. In such scenarios where the buyer fails to make payment to the principal by the due date, DCA makes the payment to the principal on behalf of the buyer (effectively providing an insurance against default by the buyer), and for this reason the commission paid to the DCA may be relatively higher than that paid to a normal agent. In order to guarantee timely payment to the supplier, the DCA can resort to various methods including extending short-term transaction-based loans to the buyer or paying the supplier himself and recovering the amount from the buyer with some interest at a later date. This loan is to be repaid by the buyer along with an interest to the DCA at a rate mutually agreed between DCA and buyer. **[Circular No. 73/47/2018-GST dt 5-11-2018]**

S.No.	Issue	Clarification
1	Whether a DCA falls under the ambit of agent under Para 3 of Schedule I of the CGST Act?	<p>As already clarified vide circular No. 57/31/2018-GST dated 4th September, 2018, whether or not the DCA will fall under the ambit of agent under Para 3 of Schedule I of the CGST Act depends on the following possible scenarios:</p> <ul style="list-style-type: none">• In case where the invoice for supply of goods is issued by the supplier to the customer, either himself or through DCA, the DCA does not fall under the ambit of agent.• In case where the invoice for supply of goods is issued by the DCA in his own name, the DCA would fall under the ambit of agent.

WHETHER AN ACTIVITY IS SUPPLY OF GOODS OR SERVICES?

1. Transfer –

Description	Supply of goods/services
(a) any transfer of the title in goods is a	Supply of goods
(b) any transfer of right in goods or of undivided share in goods without the transfer of title thereof, is a	Supply of service
(c) any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed, is a (Eg Hire Purchase Transactions and Transactions of Sale or return basis)	Supply of goods

2. Land and Building

(a) any lease, tenancy, easement, licence to occupy **land** is a **supply of services**;

(b) any lease or 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**.

3. Treatment or process

Any treatment or process which is applied to another person's goods is a supply of services. **(Job Work)**

4. Transfer of business assets

- (a) where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, ~~whether or not for a consideration*~~, such transfer or disposal is a **supply of goods** by the person;
- (b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, ~~whether or not for a consideration*~~, the usage or making available of such goods is a **supply of services**;
- (c) where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless—
- (i) the business is transferred as a going concern to another person; or
 - (ii) the business is carried on by a personal representative who is deemed to be a taxable person.

Permanent

Temporary

Services by way of transfer of a going concern, as a whole or an independent part thereof are exempt from GST (**S.No. 2** of Notification No. 12/2017-CTR dt 28-6-2017)

* Omitted by the Finance Act, 2020, retrospectively w.e.f. 1-7-2017 to consider 'transfer of business assets', as supply of goods/ services, only when it is made for consideration.

Schedule II

Sec 18(6) In case of supply of capital goods or plant and machinery, on which input tax credit has been taken, the registered person shall pay

✓ an amount equal to the input tax credit taken on the said capital goods or plant and machinery reduced by such percentage points as may be **prescribed (5% points for every quarter or part thereof from the date of the issue of the invoice for such goods – Rule 40(2))**

or

✓ the tax on the transaction value of such capital goods or plant and machinery determined under **section 15**, whichever is higher:

Provided that where **refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap**, the taxable person may pay tax on the transaction value of such goods determined under **section 15**.

Example – M/s XYZ Ltd purchased a computer for ₹50,000 on 20th July, 2017 and paid GST @ 18% of ₹ 9,000. After 2 years he withdrew the business assets and transferred it for personal use. On that day, open market value of the same is ₹ 25,000/-. In such case, XYZ shall be liable to pay GST equivalent to –

A) ITC Available – ITC eligible for 2 years = $9,000 - 9,000/60 * 24 = 9,000 - 3,600 = ₹ 5,400/-$

B) Tax Payable on the Fair Market Value = $25,000 * 18\% = ₹ 4,500/-$

Whichever is higher. Therefore XYZ need to pay ₹ 5,400/- on transfer of such computer.

Sec 2(92) “**QUARTER**” shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year;

5. Supply of services

The following shall be treated as supply of services, namely:—

- (a) renting of immovable property;
- (b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the **ENTIRE CONSIDERATION** has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is **earlier**.

Explanation.—For the purposes of this clause—

(1) the expression "competent authority" means the Government or any authority authorised to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely:—

- (i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972; or
- (ii) a chartered engineer registered with the Institution of Engineers (India); or
- (iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority;

(2) the expression "construction" includes additions, alterations, replacements or re-modelling of any existing civil structure;

Example - Rathi Builders has constructed individual residential units for agreed consideration of ₹ 1.2 cr per unit. ₹ 90 lakhs per unit were received before issuance of completion certificate is a supply of service and chargeable to GST.

Schedule II

(c) temporary transfer or permitting the use or enjoyment of any intellectual property right (IPR)

(d) development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software; (IT)

(e) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and

(f) transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.

6. Composite supply

The following composite supplies shall be treated as a **supply of services**, namely:—

(a) works contract as defined in clause (119) of section 2; and

Sec 2(119) “WORKS CONTRACT” means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any **immovable property** wherein **transfer of property in goods** (whether as goods or in some other form) is involved in the execution of such contract;

(b) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration. **[Supply of food and beverages]**

~~7. Supply of Goods~~

~~The following shall be treated as supply of goods, namely:—~~

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

[Omitted vide FA, 2021, w.e.f. 1-7-2017]

Eg Resident Welfare Association (RWA) of Ramprastha Society supplies air conditioners to its members at a concessional price.

Schedule III

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

Only services that are provided by the employee to the employer in the course of employment are outside the realm of supply. Other than this all the services are taxable. Eg Any amount paid by employer to employee for not joining a competing business is paid for providing the service of forbearance to act and cannot be considered for providing services in the course of employment.

2. Services by any court or Tribunal established under any law for the time being in force.

Consumer Dispute Redressal Commission is Tribunal. Thus fees paid to them are not leviable to GST

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; or (Eg. President, Vice President)

(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 and who is not deemed as an employee before the commencement of this clause.

Schedule III

4. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
5. Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.
6. Actionable claims, other than [specified actionable claims] [**Words in brackets amended vide CGST Amendment Act, 2023, w.e.f. 1-10-2023, it earlier stated 'lottery, betting and gambling'**]

Note –

- 1. Online money gaming, whether a game of skill or game of chance has been brought into the GST net w.e.f. 1-10-2023.**
- 2. Definition of Specified actionable claim has been inserted.**

Sec 2(102A) "specified actionable claim" means the actionable claim involved in or by way of—

- (i) betting;
- (ii) casinos;
- (iii) gambling;
- (iv) horse racing;
- (v) lottery; or
- (vi) online money gaming

[Clause inserted by CGST Amendment Act, 2023, w.e.f. 1-10-2023]

3. Definition of Supplier has been amended to make the person who organizes or arranges specified actionable claims shall be deemed to be the supplier of such services.

Sec 2(105) “supplier” in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied;

[**Provided that** a person who organises or arranges, directly or indirectly, supply of specified actionable claims, including a person who owns, operates or manages digital or electronic platform for such supply, shall be deemed to be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him and whether consideration in money or money’s worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims;]

[Proviso inserted by CGST Amendment Act, 2023, w.e.f. 1-10-2023]

Schedule III

7. 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. **(Out and Out Supplies – Merchant Trading)**
Example - Mr A purchased goods from China and sold it to Mr. G in Canada without bringing the goods to India.
8. (a) Supply of warehoused goods to any person before clearance for home consumption;
Example – Mr A imported some goods in India, but kept the goods in custom bonded warehouse without clearing it for home consumption. In the meantime, Mr A sold these goods to Mr. B while they were in the warehouse.
- (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. **(High Seas Sales)**
Example – Mr. A imported some goods from Japan. While the goods were in high seas, Mr. A sold these goods to Mr. B in India by way of endorsement of documents of title of goods.

[Para 7 and 8 and the Explanation 2 thereof shall be **deemed** to have been inserted therein w.e.f. 1-7-2017. Explanation inserted vide FA, 2023, w.e.f. 1-10-2023. However, no refund shall be made of all the tax which has been collected, but which would not have been so collected, had sub-section (1) been in force at all material times.]

Note -

The clarification inserted vide the FA, 2023, is to put to rest demand raised by the department for period from 1-7-2017 to 1-2-2019. As w.e.f. 1-2-2019, these two paragraphs were inserted in the Schedule. But this clarification is negative as those who had paid tax will not be granted refund of tax.

- **Whether Inter-state movement of various modes of conveyance**,**
 - carrying goods or passengers or for repairs and maintenance [except in cases where such movement is for further supply of the same conveyance], between distinct persons as specified in section 25(4) of the Central Goods and Services Tax Act, 2017;
 - carrying goods or passengers or both;**will be considered as supply and IGST would be leviable on the same ?**

- **ANS** - Such inter-state movement shall be treated 'neither as a supply of goods or supply of service' and therefore not be leviable to IGST.
- However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance.

- **i. Trains,
ii. Buses,
iii. Trucks,
iv. Tankers,
v. Trailers,
vi. Vessels,
vii. Containers,
viii. Aircrafts

- The issue pertaining to inter-state movement of rigs, tools and spares, and all goods on wheels [like cranes] was discussed in GST Council's meeting held on 10th November, 2017 and the Council recommended that the circular 1/1/2017-IGST shall mutatis mutandis apply to inter-state movement of such goods, and except in cases where movement of such goods is for further supply of the same goods, such inter-state movement shall be treated 'neither as a supply of goods or supply of service,' and consequently no IGST would be applicable on such movements.
- In this context, it is also reiterated that applicable CGST/SGST/IGST, as the case maybe, is leviable on repairs and maintenance done for such goods.

- **Applicability of GST on supply of cranes, rigs, tools & Spares and other machinery when moved from one state to another by a person on his account for their use for supply of service**
- As per Circular No. 21/21/2017-GST dated 22.11.2017, it was clarified that no IGST would be applicable on such interstate movements of rigs, tools & spares and all goods on wheels. Doubts have been raised regarding applicability of GST on inter-state movement of machinery like tower cranes, rigs, batching plants, concrete pumps and mixers which are not mounted on wheels, but require regular means of conveyance (used by companies in Infrastructure business).
- Any inter-state movement of goods for provision of service on own account by a service provider, where no transfer of title in such goods or transfer of goods to the distinct person by way of stock transfer is not involved, does not constitute a supply of such goods.
- Hence, it is clarified that any such movement on own account (not involving distinct person in terms of section 25), where such movement is not intended for further supply of such goods does not constitute a supply and would not be liable to GST.

Step 1 - We need to check whether director is an employee of the company or not.

If Director is an employee – Then it will be covered under clause (1) of the Schedule III to the CGST Act, 2017 and no GST would be leviable.

If Director is not an employee – Then services rendered by him shall be exigible to GST and Company will have to pay tax on RCM under Entry No. 6 of Notification No. 13/2017- CTR dt 28-6-2017.

Step 2 – To check whether a director is an employee of the company, further check whether director is an Independent Director or whole-time director.

If Director is an Independent Director - The definition of “independent directors” under section 149(6) of the Companies Act, 2013, read with Rule 12 of Companies (Share Capital and Debentures) Rules, 2014 makes it amply clear that such director **should not have been an employee** or proprietor or a partner of the said company, in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed in the said company.

Thus, remuneration paid to independent directors is taxable in hands of the company, on reverse charge basis.

If Director is a Whole Time Director - The definition of a whole time-director under section 2(94) of the Companies Act, 2013 is an inclusive definition, and thus he **may be a person who is not an employee of the company.**

Conclusion - Whole time director may or not be an employee of the company.

Step 3 – To check whether a whole-time director is an employee of the company, further check whether company is deducting TDS under sec 192 or sec 194J of the IT Act.

If Salary paid to Director is subject to TDS under Sec 192 of the IT Act as Salaries – Such remunerations are not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment in terms of Schedule III of the CGST Act, 2017.

If Salary paid to Director is subject to TDS under Sec 194J of the IT Act as Fees for professional or Technical Services – Such remunerations shall be treated as consideration for providing services which are outside the scope of Schedule III of the CGST Act, and is therefore, taxable. Further, in terms of **Notification No. 13/2017 – Central Tax (Rate) dated 28.06.2017**, the recipient of the said services i.e. the Company, is liable to discharge the applicable GST on it on reverse charge basis.

Whether Supply?

Nature of Transaction	Whether Supply?
<p>Art Work sent by artists to galleries for exhibition is not a supply as no consideration flows from the gallery to the artist.</p>	<p>It is clarified that in case of supply by artists through galleries, there is no consideration flowing from the gallery to the artist when the art works are sent to the gallery for exhibition and therefore, the same is not a supply. It is only when the buyer selects a particular art work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply. (Circular No. 22/22/2017-GST dt 21-12-2017)</p>
<p>Goods sent/taken out of India for exhibition or on consignment basis for export promotion. Such goods sent / taken out of India crystallise into exports, wholly or partly, only after a gap of certain period from the date they were physically sent / taken out of India. (Circular No. 108/27/2019-GST dt 18-7-2019)</p>	<p>As per section 7 of the CGST Act, for any activity or transaction to be considered a supply, it must satisfy twin tests namely-</p> <ul style="list-style-type: none">(i) it should be for a consideration by a person; and(ii) it should be in the course or furtherance of business. <p>Section 16 of the IGST Act deals with “Zero rated supply”.</p> <p>16. (1) “zero rated supply” means any of the following <u>supplies</u> of goods or services or both, namely:—</p> <ul style="list-style-type: none">(a) export of goods or services or both; or(b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit. <p>It is, accordingly, clarified that the activity of sending / taking the goods out of India for exhibition or on consignment basis for export promotion, except when such activity satisfy the tests laid down in Schedule I of the CGST Act (hereinafter referred to as the “specified goods”), do not constitute supply as the said activity does not fall within the scope of section 7 of the CGST Act as there is no consideration at that point in time. Since such activity is not a supply, the same cannot be considered as “Zero rated supply” as per the provisions contained in section 16 of the IGST Act.</p>

Whether Supply?

Nature of Transaction	Whether Supply?
<p>When is the supply of specified goods sent / taken out of India said to take place? (Circular No. 108/27/2019-GST dt 18-7-2019)</p>	<ul style="list-style-type: none">a) The specified goods sent / taken out of India are required to be either sold or brought back within the stipulated period of six months from the date of removal as per the provisions contained in sub-section (7) of section 31 of the CGST Act.b) The supply would be deemed to have taken place, on the expiry of six months from the date of removal, if the specified goods are neither sold abroad nor brought back within the said period.c) If the specified goods are sold abroad, fully or partially, within the specified period of six months, the supply is effected, in respect of quantity so sold, on the date of such sale.

Whether Supply?

Nature of Transaction	Whether Supply?
<p>Taxability of Cost Petroleum (Circular No. 32/06/2018-GST dt 12-2-2018)</p>	<p>When an oil exploration and production contractor gets a licence/lease to explore/mine the petroleum crude and / or natural gas from the Government, it enters into a <u>Production Sharing Contract (PSC)</u> with the Government. The Relationship of the contractors with the Government is not that of partners but that of licensor/lessor and licensee/lessee. As per these PSCs, when a contractor discovers oil/gas, he is at first entitled to recover the contract cost [expenses incurred in exploration, development, production and payment of royalty] involved in the extraction of oil/gas from the total sale proceeds and therefore, he is expected to share with the Government the profit from his venture [known as <u>profit petroleum</u>], as per PSC.</p> <p>The value of petroleum which the contractor is entitled to take in a year for recovery of the contract cost is called <u>Cost Petroleum</u>. Further, the total value of petroleum produced and saved from the contract area in a particular period, as reduced by the cost petroleum, is called the <u>Profit Petroleum. The government's share of profit petroleum</u> which is the consideration paid by the contractor to the Central Government for the services of grant of licence/lease to explore/mine petroleum crude and/natural gas <u>is exempt from GST.</u></p> <p><u>The Cost Petroleum</u> is not a consideration received by the contractor for the services provided to the Government and thus not taxable per se. The reason for the same is that the contractors carry exploration and production of petroleum for themselves and not as a service to Government. They had acquired the right to explore, exploit and sell petroleum in lieu of royalty and a share in profit petroleum</p>

Whether Supply?

Nature of Transaction	Whether Supply?
<p>(i) Whether transfer of tenancy rights to an incoming tenant, consideration for which is in form of tenancy premium, shall attract GST when stamp duty and registration charges is levied on the said premium, if yes what would be the applicable rate?</p>	<p>The transfer of tenancy rights against tenancy premium which is also known as “pagadi system” is prevalent in some States. In this system the tenant acquires, tenancy rights in the property against payment of tenancy premium(pagadi). The landlord may be owner of the property but the possession of the same lies with the tenant.</p> <ul style="list-style-type: none">• The tenant pays periodic rent to the landlord as long as he occupies the property.• The tenant also usually has the option to sell the tenancy right of the said property and in such a case has to share a percentage of the proceed with owner of land, as laid down in their tenancy agreement.• Alternatively, the landlord pays to tenant the prevailing tenancy premium to get the property vacated. Such properties in Maharashtra are governed by Maharashtra Rent Control Act, 1999.
<p>(ii) Further, in case of transfer of tenancy rights, a part of the consideration for such transfer accrues to the outgoing tenant, whether such supplies will also attract GST?</p>	<p>The activity of transfer of tenancy right against consideration in the form of tenancy premium is a supply of service liable to GST. It is a form of lease or renting of property and such activity is specifically declared to be a service in para 2 of Schedule II i.e. any lease, tenancy, easement, licence to occupy land is a supply of services.</p>

Whether Supply?

Nature of Transaction	Whether Supply?
	<p>The contention that stamp duty and registration charges is levied on such transfers of tenancy rights, and such transaction thus should not be subjected to GST, is not relevant. Merely because a transaction or a supply involves execution of documents which may require registration and payment of registration fee and stamp duty, would not preclude them from the scope of supply of goods and services and from payment of GST. The transfer of tenancy rights cannot be treated as sale of land or building declared as neither a supply of goods nor of services in para 5 of Schedule III to CGST Act, 2017. Thus a consideration for the said activity shall attract levy of GST.</p> <ul style="list-style-type: none"><li data-bbox="665 646 2423 732">• Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable.<li data-bbox="665 801 2435 939">• However, renting of residential dwelling for use as a residence is exempt[Sl. No. 12 of notification No. 12/2017-Central Tax(Rate)]. Hence, grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both is exempt.<li data-bbox="665 1003 2313 1089">• As regards services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is liable to GST. <p data-bbox="665 1103 1429 1139">(Circular No. 44/18/2018-CGST dt 2-5-2018)</p>

Whether Supply?

Transaction Type	Whether Supply?
Joint Venture (JV) (Circular No. 35/9/2018-GST dt 5-3-2018)	<ul style="list-style-type: none">• JV being an unincorporated temporary association constituted for the limited purpose of carrying out a specific project within a time frame, a comprehensive examination of the various JV agreements (at times, there could be number of inter se agreements between members of the JV) holds the key to understanding of the taxation of transactions involving taxable services between the JV and its members or inter-se between the members of a JV.• Thus, whether cash call is merely a transaction in money and hence not in the nature of consideration of taxable service, would depend on the terms of the Joint Venture Agreement, which may vary from case to case.• ‘Cash Calls’ are raised by an operating member of the joint venture on other members in proportion to their participating interests in the joint venture (unincorporated) to meet the expenditure on the operations to be carried out as per the approved work programme and budget. Let us understand the taxability of cash calls with the help of following examples :• <u>Illustration : There are 4 members in the JV including the operating member and each one contributes ₹ 100 as part of their share. A total amount of ₹ 400 is collected. The operating member purchases machinery for ₹ 400 for the JV to be used in oil production.</u>• In the above case, cash calls will not be subject to GST since the operating member is not carrying out an activity for another for consideration. Here, the money paid for purchase of machinery is merely in the nature of capital contribution and is therefore a transaction in money.• <u>Illustration : There are 4 members in the JV including the operating member and each one contributes ₹ 100 as part of their share. A total amount of ₹ 400 is collected. The operating member thereafter uses its own machinery and performs exploration and production activities on behalf of the JV</u>• In above case, the operating member uses its own machinery and is therefore providing ‘service’ within the scope of ‘supply’ because here operating member is recovering the cost appropriated towards machinery and services from other JV members in their participating interest ratio.

Whether Supply?

Transaction Type	Whether Supply?
Priority Sector Lending Certificates (PSLCs)	<p>PSLC – Lending by a commercial bank for specific sectors which have been identified as “priority sector” by RBI is called as Priority Sector Lending. Priority Sector Lending Certificates (PSLCs) are a mechanism to achieve the priority sector lending target and sub-targets by purchase of these instruments in the event of shortfall. This also incentivizes surplus banks as it allows them to sell their excess achievement over targets thereby enhancing lending to the categories under priority sector. Under the PSLC mechanism, the seller sells fulfilment of priority sector obligation and the buyer buys the obligation with no transfer of risk or loan assets.</p> <p>RBI’s FAQ on PSLCs have construed PSLCs are in the nature of goods. PSLC are not securities. PSLC are akin to freely tradeable duty scrips, Renewable Energy Certificates, REP licence or replenishment license, which earlier attracted VAT.</p> <p>In GST, there is not exemption to trading in PSLCs. Thus, PSLCs are taxable as goods. GST payable on certificates would be available as ITC to the bank buying the certificates. (Circular No. 34/08/2018-GST dt 1-3-2018)</p> <p>It is further clarified that nature of supply of PSLC between banks may be treated as a supply of goods in the course of inter-State trade or commerce. Accordingly, IGST shall be payable on the supply of PSLC traded over e-Kuber portal of RBI. (Circular No. 93/12/2019-GST dt 8-3-2019)</p>

Whether Supply?

Transaction Type	Whether Supply?
<p>Levy of GST on the service of display of name or placing of name plates of the donor in the premises of charitable organisations receiving donation or gifts from individual donors (Circular No. 116/35/2019-GST dt 11-10-2019)</p>	<p>Individual donors provide financial help or any other support in the form of donation or gift to institutions such as religious institutions, charitable organisations, schools, hospitals, orphanages, old age homes etc. The recipient institutions place a name plate or similar such acknowledgement in their premises to express the gratitude. 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 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 part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration.</p> <p>Some examples of cases where there would be no taxable supply are as follows:-</p> <p>(a) "Good wishes from Mr. Rajesh" printed underneath a digital blackboard donated by Mr. Rajesh to a charitable Yoga institution.</p> <p>(b) "Donated by Smt. Malati Devi in the memory of her father" written on the door or floor of a room or any part of a temple complex which was constructed from such donation.</p> <p>In each of these examples, it may be noticed that there is no reference or mention of any business activity of the donor which otherwise would have got advertised. Thus 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 (i.e. it leads to no commercial gain) and not advertisement, GST is not leviable.</p>

Whether Supply?

Transaction Type	Whether Supply?
<p>i. Liquidated damages paid for breach of contract;</p> <p>ii. Compensation given to previous allottees of coal blocks for cancellation of their licenses pursuant to Supreme Court Order;</p> <p>iii. Cheque dishonour fine/penalty charged by a power distribution company from the customers;</p> <p>iv. Penalty paid by a mining company to State Government for unaccounted stock of river bed material;</p> <p>v. Bond amount recovered from an employee leaving the employment before the agreed period; (Circular No. 178/10/2022-GST dated 03-08-2022)</p>	<p>“Agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act” has been specifically declared to be a supply of service in para 5 (e) of Schedule II of CGST Act if the same constitutes a “supply” within the meaning of the Act.</p> <p>Question is whether these services can be classified under Schedule II para 5(e)?</p> <p>Answer is if these services are supply, then only it can be covered under Schedule II para 5(e).</p> <p><u>As explained in Para 7 of the Circular -</u></p> <p><u>Agreement to do or refrain from an act should not be presumed to exist</u></p> <p>An agreement to do an act or abstain from doing an act or to tolerate an act or a situation cannot be imagined or presumed to exist just because there is a flow of money from one party to another. Unless there is an express or implied promise by the recipient of money to agree to do or abstain from doing something in return for the money paid to him, it cannot be assumed that such payment was for doing an act or for refraining from an act or for tolerating an act or situation.</p>

Whether Supply?

Transaction Type	Whether Supply?
	<p>Payments such as liquidated damages for breach of contract, penalties under the mining act for excess stock found with the mining company, forfeiture of salary or payment of amount as per the employment bond for leaving the employment before the minimum agreed period, penalty for cheque dis-honour and compensation given to previous allottees of coal blocks for cancellation of their licenses pursuant to Supreme Court Order are not a consideration for tolerating an act or situation.</p> <p><u>They are rather amounts recovered for not tolerating an act or situation and to deter such acts</u>; such amounts are for preventing breach of contract or non-performance and are thus mere 'events' in a contract.</p> <p>Further, such amounts do not constitute payment (or consideration) for tolerating an act, because there cannot be any contract: (a) for breach thereof, or (b) for holding more stock than permitted under the mining contract, or (c) for leaving the employment before the agreed minimum period or (d) for doing something leading to the dis-honour of a cheque.</p> <p>As has already been stated, unless payment has been made for an independent activity of tolerating an act under an independent arrangement entered into for such activity of tolerating an act, , such payments will not constitute 'consideration' and hence such activities will not constitute "supply" within the meaning of the Act.</p>

Whether Supply?

Transaction Type	Whether Supply?
<p>vi. Late payment charges collected by any service provider for late payment of bills;</p> <p>vii. Fixed charges collected by a power generating company from State Electricity Boards (SEBs) or by SEBs/DISCOMs from individual customer for supply of electricity;</p> <p>viii. Cancellation charges recovered by railways for cancellation of tickets, etc. (Circular No. 178/10/2022-GST dated 03-08-2022)</p>	<p><u>Transactions listed in vi, vii, viii are taxable for the reason detailed in Para 7.1.6 of the Circular which are as follows -</u></p> <p>If a payment constitutes a consideration for a supply, then it is taxable irrespective of by what name it is called; it must be remembered that a “consideration” cannot be considered de hors an agreement/contract between two persons wherein one person does something for another and that other pays the first in return. If the payment is merely an event in the course of the performance of the agreement and it does not represent the ‘object’, as such, of the contract then it cannot be considered ‘consideration’. For example, a contract may provide that payment by the recipient of goods or services shall be made before a certain date and failure to make payment by the due date shall attract late fee or penalty.</p> <p>A contract for transport of passengers may stipulate that the ticket amount shall be partly or wholly forfeited if the passenger does not show up. A contract for package tour may stipulate forfeiture of security deposit in the event of cancellation of tour by the customer. Similarly, a contract for lease of movable or immovable property may stipulate that the lessee shall not terminate the lease before a certain period and if he does so he will have to pay certain amount as early termination fee or penalty. Some banks similarly charge pre-payment penalty if the borrower wishes to repay the loan before the maturity of the loan period.</p>

Whether Supply?

Transaction Type	Whether Supply?
	<p><u>Such amounts paid for acceptance of late payment, early termination of lease or for pre-payment of loan or the amounts forfeited on cancellation of service by the customer as contemplated by the contract as part of commercial terms agreed to by the parties, constitute consideration for the supply of a facility, namely, of acceptance of late payment, early termination of a lease agreement, of pre-payment of loan and of making arrangements for the intended supply by the tour operator respectively.</u></p> <p>Therefore, such payments, even though they may be referred to as fine or penalty, are actually payments that amount to consideration for supply, and are subject to GST, in cases where such supply is taxable. Since these supplies are ancillary to the principal supply for which the contract is signed, they shall be eligible to be assessed as the principal supply, as discussed in detail in the later paragraphs. Naturally, such payments will not be taxable if the principal supply is exempt.</p>
<p>Whether sale of land after levelling, laying down of drainage lines etc., is taxable under GST (circular no. 177/09/2022-GST dated 3rd August, 2022)</p>	<ul style="list-style-type: none">✓ As per Sl no. (5) of Schedule III of the CGST Act, 2017, 'sale of land' is neither a supply of goods nor a supply of services, therefore, sale of land does not attract GST.✓ Land may be sold either as it is or after some development such as levelling, laying down of drainage lines, water lines, electricity lines, etc. It is clarified that sale of such developed land is also sale of land and is covered by Sr. No. 5 of Schedule III of the Central Goods and Services Tax Act, 2017 and accordingly does not attract GST.✓ However, it may be noted that any service provided for development of land, like levelling, laying of drainage lines (as may be received by developers) shall attract GST at applicable rate for such services.

Whether Supply?

Transaction Type	Whether Supply?
<p>Whether the activity of holding shares by a holding company of the subsidiary company will be treated as a supply of service or not and whether the same will attract GST or not. (Circular No. 196/08/2023-GST dated 17-7-2023)</p>	<p>Securities are considered neither goods nor services in terms of definition of goods under clause (52) of section 2 of CGST Act and the definition of services under clause (102) of the said section. Further, securities include 'shares' as per definition of securities under clause (h) of section 2 of Securities Contracts (Regulation) Act, 1956.</p> <p>This implies that the securities held by the holding company in the subsidiary company are neither goods nor services. Further, purchase or sale of shares or securities, in itself is neither a supply of goods nor a supply of services. For a transaction/activity to be treated as supply of services, there must be a supply as defined under section 7 of CGST Act. It cannot be said that a service is being provided by the holding company to the subsidiary company, solely on the basis that there is a SAC entry '997171' in the scheme of classification of services mentioning; <i>"the services provided by holding companies, i.e. holding securities of (or other equity interests in) companies and enterprises for the purpose of owning a controlling interest."</i>, unless there is a supply of services by the holding company to the subsidiary company in accordance with section 7 of CGST Act.</p> <p>Therefore, the activity of holding of shares of subsidiary company by the holding company per se cannot be treated as a supply of services by a holding company to the said subsidiary company and cannot be taxed under GST.</p>

Composite and Mixed Supply

Sec 8 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.

Sec 2(30) “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**;

Sec 2(90) “PRINCIPAL SUPPLY” means 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;

Illustration 1.— *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;*

Illustration 2.— *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.*

Illustration 3.— *A travel ticket from Mumbai to Delhi may include service of food being served on board, free insurance, and the use of airport lounge. In this case, the transportation of passenger, constitutes the pre-dominant element of the composite supply, and is treated as the principal supply and all other supplies are ancillary.*

Composite and Mixed Supply

Sec 2(74) “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**.

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;

S. No.	Composite Supply	Mixed Supply
1.	Two or more goods/services are naturally bundled	Two or more goods/services are not naturally bundled
2.	Supplies consists of two or more TAXABLE supplies of goods/services/both	Supplies consists of two or more supplies of goods/services/both
3.	Composite goods need not be supplied at a Single Price	Mixed supply must be supplied at a single price
4.	Composite supply shall be taxable at the rate applicable to the principal supply;	Mixed supply shall be taxable at the highest rate of tax applicable to one of its constituent supply.

Whether Goods or Service?

Activity Transaction	Principal Supply
Printing Service (Circular No. 11/11/2017-GST dt 20-10-2017)	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 and therefore such supplies would constitute supply of service
	In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. falling under Chapter 48 or 49, printed with design, logo etc. supplied by the recipient of goods but made using physical inputs including paper belonging to the printer, predominant supply is that of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods
Whether retreading of tyres is a supply of goods or services? (Circular No. 34/8/2018-GST dt 1-3-2018)	In retreading of tyres, which is a composite supply, the pre-dominant element is the process of retreading which is a supply of service . Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods .

In case of servicing of cars involving supply of both goods (spare parts) and services (labour) where the value of goods and services are shown separately, CBIC has clarified that the goods and services would be liable to tax at the rates as applicable to such goods and services. **(Circular No. 47/21/2018-GST dt 8-6-2018)**

POINTS TO NOTE

Item which are neither Goods nor Services → Money and Securities

Activities/Transaction which are neither Supply of Goods nor Supply of Services →

Schedule III Supply / Notified

No Supply / Negative List → Schedule III Supply / Notified

If Supply is not taxable → NO GST, Neither forward charge nor reverse charge

Non-Taxable Supply = Non-Leviable Supply → 1 + 5

Non-GST Supply → 1 + 5

Sec 2(108) “taxable supply” means a supply of goods or services or both which is leviable to tax under this Act;

Sec 2(78) “non-taxable supply” means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act;

Zero-Rated Supply → Exports and Supplies made to SEZ or SEZ Developers

Nil Rated → Supplies that have a declared rate of 0% GST

Exempt Supplies → **Nil rate of tax**
Wholly exempt from tax under Sec 11 (CGST Act) or Sec 6 (IGST Act)
Non-Taxable Supply (1+5)

Sec 2(47) “EXEMPT SUPPLY” means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply;

Notification No. 12/2017 dt. 28-6-2017

Entry No.	Description of Services
27	Services by way of— (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services); (b) inter se sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers.

POINTS TO NOTE

Sec 2(6) “AGGREGATE TURNOVER” means the aggregate value of all
taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis),
exempt supplies,
exports of goods or services or both and
inter-State supplies of persons having the same Permanent Account Number, **to be computed on all India** basis
but excludes
central tax, State tax, Union territory tax, integrated tax and cess;

Sec 2(112) “TURNOVER IN STATE” or **“TURNOVER IN UNION TERRITORY”** means the aggregate value of all
taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and
exempt supplies made within a State or Union territory by a taxable person,
exports of goods or services or both and
inter-State supplies of goods or services or both **made from the State or Union territory** by the said taxable person
but excludes
central tax, State tax, Union territory tax, integrated tax and cess;