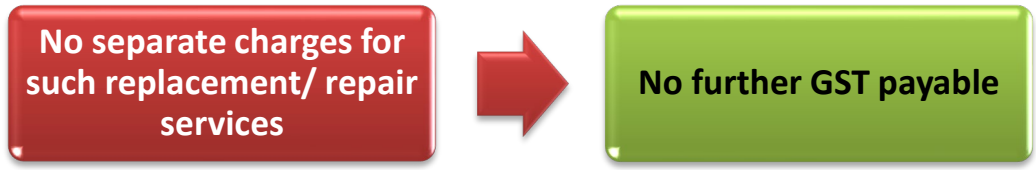
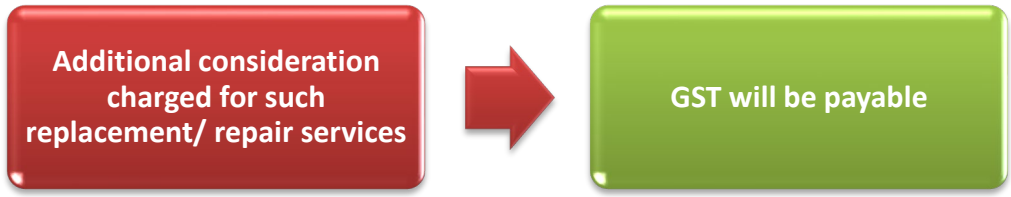
**period**, on which tax would have already been paid at the time of original supply of goods.

As such, where the manufacturer provides replacement of parts and/ or repair services to the customer during the warranty period, without separately charging any consideration at the time of such replacement/ repair services, **no further GST is chargeable on such replacement of goods or its parts and/ or repair service** during warranty period.

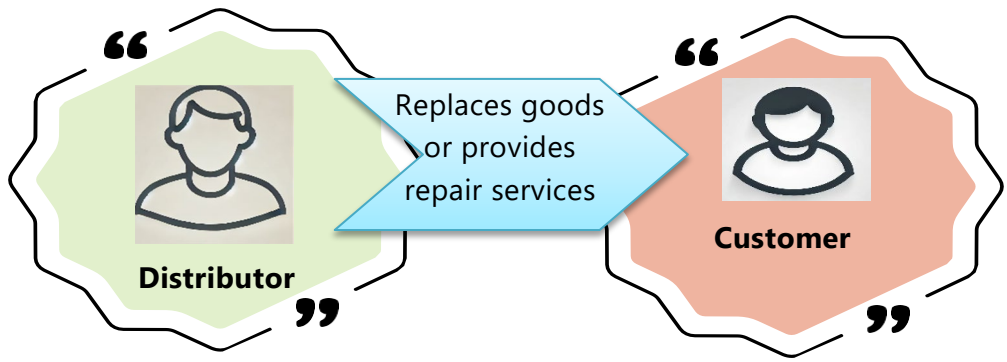



However, **if any additional consideration is charged** by the manufacturer from the customer, either for replacement of goods or its parts or for any service, **then GST will be payable** on such supply with respect to such additional consideration.




**SCENARIO 2**

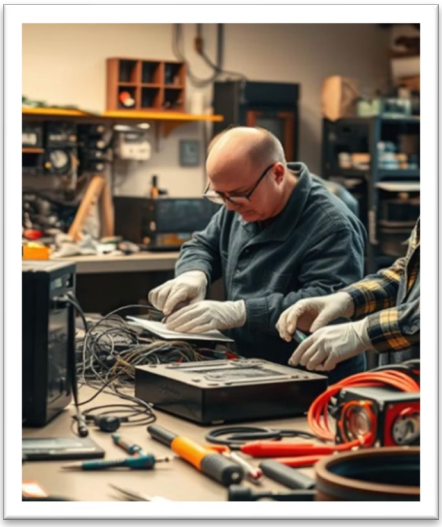
**DISTRIBUTOR PROVIDES WARRANTY RELACEMENT AND/OR REPAIR SERVICES TO THE CUSTOMER ON BEHALF OF THE MANUFACTURER**




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## Taxability of the transaction/activitiy undertaken between Distributor and Customer

**Issue 1:** Whether GST would be payable on replacement of goods or its parts and/ or repair services **provided by a distributor** without any consideration from the customer, as part of warranty on behalf of the manufacturer?



**Clarification:** There may be instances where a distributor of a company provides replacement of goods or its parts and/ or repair services to the customer as part of warranty on behalf of the manufacturer and no separate consideration is charged by such distributor in respect of the said replacement and/ or repair services from the customer.

In such cases, as **no consideration is being charged by the distributor from the customer, no GST would be payable** by the distributor on the said activity of providing replacement of goods or its parts and/ or repair services to the customer.

**No separate charges for such replacement/ repair services** → **No further GST payable**

However, **if any additional consideration is charged** by the distributor from the customer, either for replacement of goods or its parts or for any service, **then GST will be payable** on such supply with respect to such additional consideration. **Additional consideration charged for such replacement/ repair services.**

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## Taxability of the transaction/activitiy undertaken between Distributor and Manufacturer

**Issue 2:** Whether any supply is involved between the distributor and the manufacturer in case of replacement of GOODS OR ITS PARTS by distributor?

**Clarification:** There can be 4 instances as discussed at the next page.

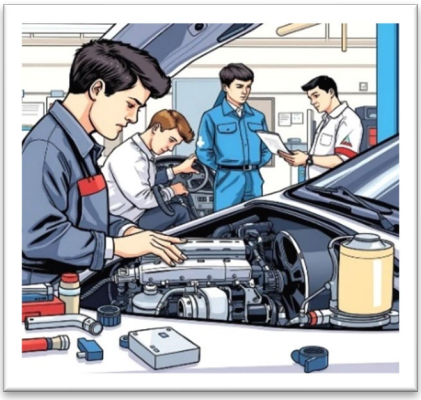


| In case where | In such a case |
|---|---|
| Distributor replaces the goods or its part(s) to the customer under warranty either by using his stock or by purchasing from a third party and **charges the consideration for the part(s) so replaced from the manufacturer, by issuance of a tax invoice**, for the said supply made by him to the manufacturer. | **GST would be payable** by the distributor on the said supply by him to the manufacturer. |
| Distributor **raises a requisition to the manufacturer for the goods or its part(s)** to be replaced by him under warranty and the **manufacturer then provides the said goods or its part(s)** to the distributor for the purpose of such replacement to the customer as part of warranty **without separately charging any consideration** at the time of such replacement. | **No GST is payable** on such replacement of goods or its part(s) by the manufacturer. |
| Distributor replaces the goods or its part(s) to the customer under warranty **out of the supply already received by him from the manufacturer and the** | Accordingly, the **tax liability may be adjusted** by the manufacturer subject to the condition that such distributor |

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| **manufacturer issues a credit note** in respect of the goods or its part(s) so replaced subject to provisions of section 34(2)[41]. | has reversed the ITC availed[42] against such goods/parts. |
| Distributor replaces the goods or its parts to the customer under warranty by using his stock and then raises a requisition to the manufacturer for the goods or the parts. The manufacturer then provides the said goods or the parts to the distributor through a delivery challan, without separately charging any consideration at the time of such replenishment. | No GST is payable on such replenishment of goods or the parts. |

**Issue 3:** Where the **distributor provides repair service, in addition to replacement of parts or otherwise, to the customer without any consideration**, as part of warranty, on behalf of the manufacturer but **charges the manufacturer for such REPAIR SERVICES** either by way of issue of tax invoice or a debit note, whether GST would be payable on such activity by the distributor?



[41] *Provisions of section 34(2) have been discussed in detail in Chapter 10: Tax invoice; Credit and Debit Notes in Module 2 of this Study Material.*

[42] *Provisions of ITC (Input Tax Credit) have been discussed in detail in Chapter 8: Input Tax Credit in Module 2 of this Study Material.*

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**Clarification:** In such scenario, there is a **supply of service by the distributor** and the **manufacturer is the recipient** of such supply of repair services in accordance with the provisions of section 2(93)(a) of the CGST Act, 2017.

**Distributor provides repair service, in addition to replacement of parts to customer without any consideration, as part of warranty and charges the manufacturer for such repair services.**

Hence, **GST would be payable** on such provision of service by the distributor to the manufacturer.

## SCENARIO 3

## EXTENDED WARRANTY

Sometimes companies provide offers of **Extended warranty** to the customers which can be availed (i) at the time of original supply or (ii) just before the expiry of the standard warranty period. Whether GST would be payable in both the cases?




**Clarification:**

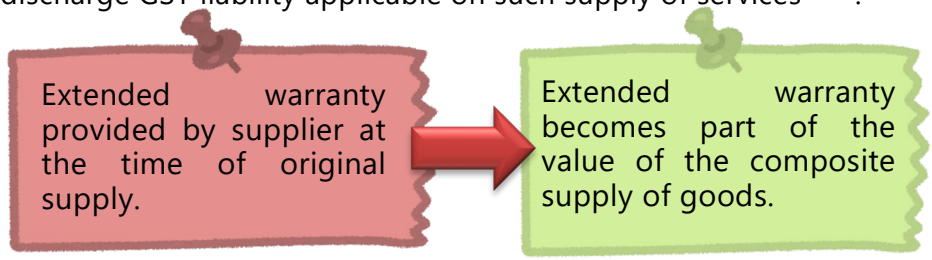
**(a)** **If a customer enters into an agreement of extended warranty with the supplier of the goods at the time of original supply**, then the consideration for such extended warranty becomes part of the value of the **composite supply**, the principal supply being the supply of goods, and GST would be payable accordingly.

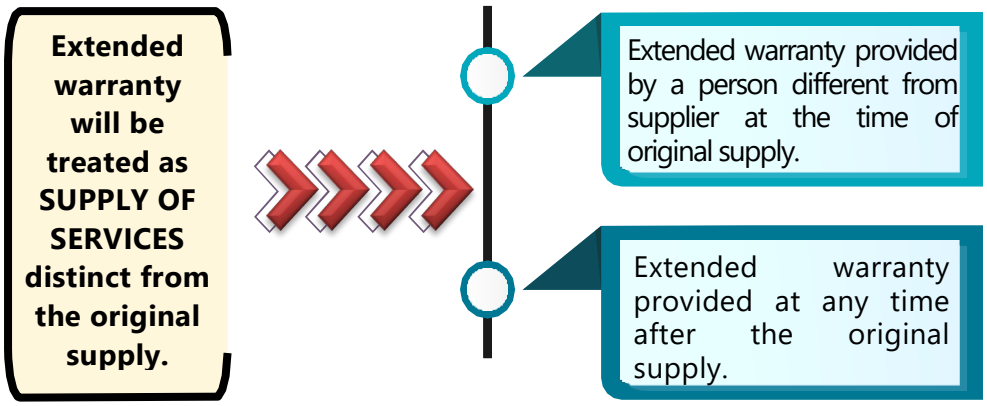
However, if the supply of extended warranty is made by a person different from the supplier of the goods, then supply of extended warranty will be treated as a separate supply from the original supply of goods and will be taxable as supply of services.

**(b)** **In case where a consumer enters into an agreement of extended warranty at any time after the original supply**, then the same shall be treated as a supply of **services distinct from the original supply** of

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goods and the supplier of the said extended warranty shall be liable to discharge GST liability applicable on such supply of services[43] [44].




## 5. Applicability of GST on Location Charges or Preferential Location Charges (PLC) collected along with consideration for sale/transfer of residential/commercial properties

Allowing choice of location of the apartment is integral part of supply of construction services. Therefore, PLC is part of consideration charged for supply of construction services before issuance of completion certificate.



[43] *Circular No. 195/07/2023 GST dated 17.07.2023 read with Circular No. 216/10/2024 GST dated 26.06.2024*

[44] *The provisions pertaining to availability of input tax credit have been discussed in Chapter-8: Input Tax Credit of Module 2 of this Study Material.*

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Therefore, PLC paid along with the consideration for the construction services of residential/ commercial/ industrial complex forms part of composite supply where supply of construction services is the main service and PLC is naturally bundled with it and are eligible for same tax treatment as the main supply of construction service[45].

## NON-SUPPLIES UNDER GST

**I. Activities/transactions specified under Schedule III:** Section 7(2)(a) provides activities or transactions specified in **Schedule III** shall be treated neither as a supply of goods nor a supply of services. Schedule III specifies transactions/ activities which shall be neither treated as supply of goods nor as supply of services. Thus, the activities/transactions specified under this schedule can be termed as Non-Supplies under the GST regime. In a way, it is a "Negative list" for the purposes of taxation in GST.

It is important to note that apart from the activities specified in Schedule III, some activities have been notified by the Government vide different notifications, which are also to be considered as non-supplies. Further, some circulars have been issued clarifying that certain transactions are to be considered as non-supplies.

Hence, our discussion under this heading will revolve around the following:

A. Non-supplies listed in Schedule III

B. Non-supplies notified vide notification

C. Non-supplies clarified by way of circular

### A. NON-SUPPLIES LISTED IN SCHEDULE III

| Para No. | Activities or transactions which shall be treated neither as a supply of goods nor a supply of services |
|---|---|
| 1. | Services by an employee to the employer in the course of or in relation to his employment. |

[45] *Circular No. 234/28/2024 GST dated 11.10.2024*

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| | **Only services that are provided by the employee to the employer in the course of employment are outside the realm of supply. However, services provided outside the ambit of employment for a consideration would qualify as supply[46].**<br>**(64)** Annapurna is a director in Nilgiri Ltd. receiving remuneration which is declared as salaries in the books of the company and subject to TDS under section 192 of the Income-tax Act, 1961. In this case, services provided by Annapurna to Nilgiri Ltd. are in course of her employment with the company.<br>**(65)** Services provided on contract basis by a person to another i.e. principal-to-principal basis are not services provided in the course of employment[47].<br>**(66)** 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.<br>**(67)** Annapurna, an independent director in Nilgiri Ltd., receives a sitting fee of ₹ 12,000. Since as per the Companies Act, 2013, independent director should not have been an employee of the company, services provided by Annapurna to Nilgiri Ltd. are not in course of employment. |
| **2.** | Services by any court or Tribunal established under any law for the time being in force.<br><br>Explanation – The term **"Court"** includes District Court, High Court and Supreme Court.<br>**Leviability of GST on amounts/fees charged by Consumer Disputes Redressal Commission** |

[46] *Also, refer Circular No. 213/07/2024 GST dated 26.06.2024 discussed at the end of the Table.*

[47] *Discussion based on Service Tax Education Guide issued under erstwhile under service tax law.*

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| | In order to provide inexpensive, speedy and summary redressal of consumer disputes, quasi-judicial bodies are set up in each District and State and at the National level, called the District Forums, the State Consumer Disputes Redressal Commissions and the National Consumer Disputes Redressal Commission respectively.<br><br>Consumer Disputes Redressal Commissions (National/ State/ District) may not be tribunals literally as they may not have been set up directly under Article 323B of the Constitution. However, they are clothed with the characteristics of a Tribunal[48].<br><br>Consequently, fee paid by litigants while registering complaints to said Commissions are not leviable to GST. Any penalty in cash imposed by or amount paid to these Commissions will also not attract GST *[Circular No. 32/06/2018 GST dated 12.02.2018]*. |
| **3.** | (a) Functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of  |

[48] *Consumer Disputes Redressal Commissions are clothed with the characteristics of a Tribunal on account of the following: -*

*(1) Statement of objects and reasons as mentioned in the Consumer Protection Bill state that one of its objects is to provide speedy and simple redressal to consumer disputes, for which a quasi-judicial machinery is sought to be set up at District, State and Central levels.*

*(2) The President of the District/State/National Disputes Redressal Commissions is a person who has been or is qualified to be a District Judge, High Court Judge and Supreme Court Judge respectively.*

*(3) These Commissions have been vested with the powers of a civil court under CPC for issuing summons, enforcing attendance of defendants/witnesses, reception of evidence, discovery/production of documents, examination of witnesses, etc.*

*(4) Every proceeding in these Commissions is deemed to be judicial proceedings as per sections 193/228 of IPC. The Commissions have been deemed to be a Civil Court under CrPC.*

*(5) Appeals against District Commissions lie to State Commission while appeals against the State Commissions lie to the National Commission. Appeals against National Commission lie to the Supreme Court.*

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| | Municipalities and Members of other local authorities.<br>(b) Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity.<br>**(68)** Duties performed by President of India, Vice President of India, Prime Minister of India, Chief Justice of India, Speaker of the Lok Sabha, Chief Election Commissioner, C & AG, Chairman of Union Public Service Commission, Attorney General of India, in that capacity.<br>(c) 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. |
| **4.** | Services of funeral, burial, crematorium or mortuary including transportation of the deceased. |
| **5.** | Sale of land and, subject to paragraph 5(b) of Schedule II, sale of building, (i.e. in case, where entire consideration for sale of building received after issuance of completion certificate or after its first occupation, whichever is earlier).<br><br>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 under this para and accordingly, does not attract GST.<br>However, it may be noted that any service provided for development of land, like levelling, laying of drainage lines (as may |

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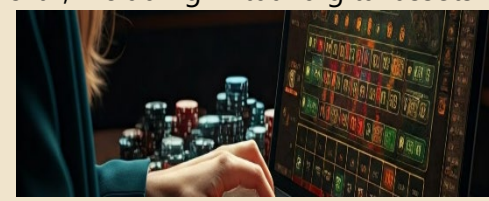
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| | be received by developers) shall attract GST at applicable rate for such services[49]. |
| **6.** | Actionable claims, other than ***specified actionable claims*****. 'Actionable claims'** are specifically included in the definition of goods under section 2(52) *[Refer the definitions of 'actionable claims' and 'goods' given under heading 'Relevant Definitions]*. However, this para of Schedule III specifically excludes actionable claims, other than **specified actionable claims** from the ambit of definition of supply.<br><br>Co-joint reading of said provisions implies that **only specified actionable claims are treated as supply. All other actionable claims are outside the ambit of definition of supply.**<br><br>Now the question arises, what are the specified actionable claims?<br>**Specified actionable claim** means the actionable claim involved in or by way of—<br>(i) betting;<br>(ii) casinos;<br>(iii) gambling;<br>(iv) horse racing;<br>(v) lottery; or<br>(vi) online money gaming [Section 2(102A)].<br><br>**Specified actionable claims**<br>   |

[49] *Circular No. 177/09/2022 GST dated 03.08.2022*

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**Online money gaming** means **online gaming**** in which players pay or deposit money or money's worth, including virtual digital assets, in the expectation of winning money or money's worth, including virtual digital assets[50], in any event including game, scheme, competition or any other activity or process, whether or not its outcome or performance is based on skill, chance or both and whether the same is permissible or otherwise under any other law for the time being in force.

**Online money gaming**



****Online gaming** means offering of a game on the internet or an electronic network and includes online money gaming [Section 2(80A)].

**Online gaming**



**(69) Some of the other examples of actionable claims** are: Right to recover insurance money, claim for arrears of rent, claims for future rents (if these can be assigned), unsecured loans, unsecured debentures, bills of exchange, promissory notes, bank guarantee, Fixed Deposit Receipt, right to the benefit of a contract, etc. These are not considered as supply of goods or services.

[50] *Virtual digital asset shall have the same meaning as assigned to it in section 2(47A) of the Income-tax Act, 1961 [Section 2(117A)].*

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**7.** **'Merchant trading':** 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.

example **(70)** Vivekanand purchased goods from USA and sold it to George in Canada without bringing the goods in India. This transaction is neither supply of goods nor supply of services.

**8.** **(a)** **'In-bond sales':** Supply of warehoused goods to any person before clearance for home consumption.



example **(71)** Radheyshyam imported some goods in India but kept the goods in **custom bonded warehouse** without clearing it for home consumption. In the meantime, Radheyshyam sold these goods to Sitaram while they were in warehouse. This transaction between Radheyshyam and Sitaram is neither supply of goods nor supply of services.

**(aa) Supply of goods warehoused in a Special Economic Zone or in a Free Trade Warehousing Zone to any person before clearance for exports or to the Domestic Tariff Area;**

**(b)** **High Sea Sales:** 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.



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| |  **(72)** Prasoon of India imported some goods from Japan. While the goods were in high seas, Prasoon sold the goods to Jinesh in India by way of endorsement of documents of title of goods. This transaction between Prasoon and Jinesh is neither supply of goods nor supply of services. |
| **9.** | Activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured in co-insurance agreements, subject to the condition that the lead insurer pays the central tax, the State tax, the Union territory tax and the integrated tax on the entire amount of premium paid by the insured.<br>Co-insurance is a practice where multiple insurance companies jointly cover a single insurance policy. Instead of a single insurer bearing the entire risk, the risk is shared between two or more insurers (called co-insurers). In a co-insurance agreement, each insurer agrees to cover a specific percentage of the risk and in return receives a corresponding percentage of the total premium. One of the co-insurers is designated as lead insurer.<br>The lead insurer is responsible for managing the policy, handling the administration such as claim processing and communicating with the insured. The lead insurer collects the total premium from the insured and then apportions the premium between the co-insurers (known as co-insurance premium) based on their respective shares of the risk, alongwith paying applicable taxes. |
| **10.** | Services by insurer to the reinsurer for which ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer, subject to the condition that the central tax, the State tax, the Union territory tax and the integrated tax is paid by the reinsurer on the gross reinsurance premium payable by the insurer to the reinsurer, inclusive of the said ceding commission or the reinsurance commission. |

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| | Reinsurance is a risk management practice where an insurance company (called the insurer) transfers part of its risk to another insurance company (called reinsurer) in exchange for a portion of the premium that insurer collects from its policyholders, called reinsurance premium. This allows the insurer to manage its risk and financial exposure. The reinsurer often pays ceding commission (also known as the reinsurance commission) to the insurer to compensate for administrative costs, underwriting, and acquisition expenses related to issuing and servicing the policies. By receiving this commission, the insurer is compensated for expenses and reduces its overall burden, making reinsurance financially viable. Generally, while paying the reinsurance premium, insurer deducts the ceding commission/ reinsurance commission payable by reinsurer. |

**ESOP/ESPP/RSU provided by a company to its employees through its overseas holding company**

Some of the Indian companies provide the option to their employees for allotment of securities/shares of their foreign holding company as part of the compensation package as per terms of contract of employment. In such cases, on exercising the option by the employees of Indian subsidiary company, the securities/shares of foreign holding company are allotted directly by the holding company to the concerned employees of Indian subsidiary company and the cost of such securities/shares is generally reimbursed by the subsidiary company to the holding company.




In case where securities/shares of the foreign holding company are transferred to the employees of domestic subsidiary company as Employee Stock Purchase Plan (ESPP) or Employee Stock Option Plan (ESOP) or

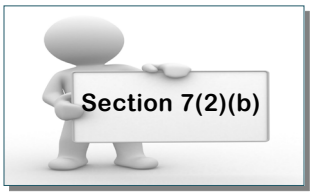
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Restricted Stock Unit (RSU)[51], **GST is not leviable on the compensation paid to the employee by the employer as per the terms of employment contract** since as seen earlier, the **purchase or sale of securities/shares, in itself, is neither a supply of goods nor a supply of services.** Moreover, the ESOP/ESPP/RSU is a **part of remuneration of the employee by the employer as per terms of employment** and is covered under Para 1 of Schedule III of the CGST Act.

When **reimbursement for transfer of securities/shares** (which is neither in the nature of goods nor services) is done by domestic subsidiary company to foreign holding company on cost-to-cost basis, the **same cannot be treated as import of services** by the domestic subsidiary company from the foreign holding company and hence, is not liable to GST.

If the **foreign holding company charges any additional fee**, markup, or commission from the domestic subsidiary company for issuing ESOP/ESPP/RSU to the employees of the domestic subsidiary company, then the same shall **be considered** to be in nature of **consideration** for the supply of **services of facilitating/arranging the transaction in securities/shares** by the foreign holding company to the domestic subsidiary company. The GST shall be payable by the domestic holding company on reverse charge basis on such import of services from the foreign holding company[52].

## B. NON-SUPPLIES NOTIFIED VIDE NOTIFICATION




Government is empowered to notify the activities/ transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities as the activities/transactions which shall be treated neither as supply of goods nor as supply of services. Till now, following two activities/transactions have been notified under said clause:

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[51] *ESPPs and ESOPs are typically presented as 'options' granted to employees, whereas RSUs take the form of awards or rewards contingent upon the employee meeting specific performance standards.*

[52] *Circular No. 213/07/2024 GST dated 26.06.2024*

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**(i) Activity in relation to Panchayat/Municipality functions:** 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 are treated neither as a supply of goods nor as a supply of service [53].

**Panchayat Functions**

**Municipality Functions**

**(ii) Grant of alcoholic liquor licence:** Services by way of **grant of alcoholic liquor licence by the State Governments** are treated neither as a supply of goods nor as a supply of service [54].

Such licence is granted against consideration in the form of licence fee or application fee or by whatever name it is called.



This special dispensation is applicable only to supply of service by way of grant of liquor licenses by the State Governments as an agreement between the Centre and States. Hence, this is not applicable/has no precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable.

**Grant of licence for alcoholic liquor**

It may be noted that services provided 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 [55].

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[53] *notified vide Notification No. 14/2017 CT (R) dated 28.06.2017/ Notification No. 11/2017 IT (R) dated 28.06.2017, as amended*

[54] *notified vide Notification No. 25/2019 CT (R) dated 30.09.2019/ Notification No. 24/2019 IT (R) dated 30.09.2019*

[55] *Circular No. 121/40/2019 GST dated 11.10.2019*

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## C. NON-SUPPLIES CLARIFIED BY WAY OF CIRCULAR

CBIC has clarified that following activities/transactions are non-supplies:

### (i) Inter-State movement of various modes of conveyance

Inter-State movement of various modes of conveyance, between distinct persons including-

- Trains,
- Buses,
- Trucks,
- Tankers,
- Trailers,
- Vessels,
- Containers,
- Aircrafts,

(a) carrying goods or passengers or both; or

(b) for repairs and maintenance,

[except in cases where such movement is for further supply of the same conveyance] 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 *[Circular No. 1/1/2017 IGST dated 07.07.2017**]*.

### (ii) Inter-State movement of rigs, tools and spares, and all goods on wheels [like cranes]



**Above circular shall *mutatis mutandis* apply to **inter-State movement of rigs, tools and spares, and all goods on wheels [like cranes],** [except in cases where movement of such goods is for further supply of the same

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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 *[Circular No. 21/21/2017-GST dated 22.11.2017]*.

In the preceding paras, we have discussed, how to determine whether a given activity or transaction constitutes a supply. Once an activity or transaction qualifies as supply, one needs to determine whether the same is leviable to GST or not.

Though the provisions relating to levy and collection of GST have been *discussed at length in Chapter 2 – Charge of GST in this Module of the Study Material*, a brief idea of the same is provided hereunder.

### (iii) Clarification regarding transactions in vouchers[56]

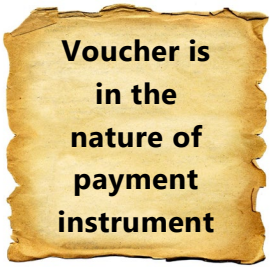
Voucher means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument [Section 2(118)].




[56] *Circular No. 243/37/2024 GST dated 31.12.2024*

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From this definition of voucher, it emerges that "voucher" may be in nature of payment instrument which creates an obligation on the supplier to accept it as a consideration or part consideration for the supply of goods and/or services.




The issuance of payment instruments, including pre-paid instruments, in India is regulated by Reserve Bank of India (RBI) in terms of the Payment and Settlement Act, 2007, RBI's Master Directions and the relevant Notifications/Circulars/ Communications issued by the RBI from time to time.

**Pre-paid instruments (PPIs) as defined by RBI**

- payment instruments that facilitate purchase of goods and/or services against the value stored on such instruments.
- The value stored on such instruments represents the value paid for by the holder, by cash, by debit to a bank account, or by credit card.
- The pre-paid instruments can be issued as cards, wallets and in any such form/instrument which can be used to access the PPI and to use the amount therein.

Further, as per section 2(75) of CGST Act, "money" includes an instrument recognized by the Reserve Bank of India which is used as a consideration to settle an obligation.

On combined reading of the definition of "voucher" as per section 2(118), along with definition of "money" as per section 2(75) and the description of "pre-paid instruments" given by RBI, the following is observed:-

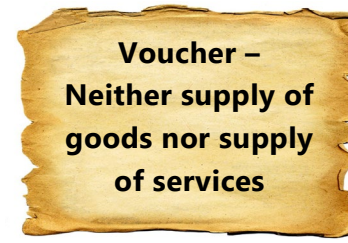
**Case A: Where the voucher is covered as a pre-paid instrument recognized by the RBI and is used as a consideration to settle an obligation**

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- In such cases, the voucher will fall under the definition of "money".
- Thus, as "money" is excluded from the definition of goods and services, the transactions in voucher would be considered neither as a supply of goods nor as a supply of services.

**Case B: where voucher is not covered as a pre-paid instrument recognized by RBI**

- In such cases, voucher cannot be treated as money.
- The voucher will be in nature of an obligation on the supplier to receive it as consideration or part consideration and assure the beneficiary/voucher holder to claim certain goods and/or services as specified on the voucher or in the related documents.




- In such cases, the voucher can be considered as an "actionable claim".
- As vouchers are not covered under definition of specified actionable claim, it appears that they are covered in entry 6 of Schedule III of CGST Act as actionable claims, other than specified actionable claims.
- Therefore, it appears that even in such a case, transaction in vouchers would be treated neither as a "supply of goods" nor as a "supply of services".

**Issue - 1**

**Whether "transactions in vouchers" falls under the category of supply of goods and/or services?**

**Clarification**

It has been clarified that irrespective of whether voucher is covered as a pre-paid instrument recognized by RBI or not, the

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voucher is just an instrument which creates an obligation on the supplier to accept it as consideration or part consideration and the transactions in voucher themselves cannot be considered either as a supply of goods or as a supply of services.

However, supply of underlying goods and/or services, for which vouchers are used as consideration or part consideration, may be taxable under GST.

**Issue - 2**

**What would be the GST treatment of transactions in vouchers by distributors/ sub-distributors/ agents etc.?**

**Clarification**

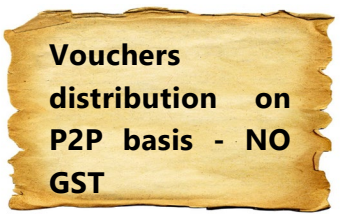
There are primarily two models for distribution of vouchers through distributors/ sub distributors/ agents, etc.

**(i) Where vouchers are distributed through the distributors/ sub-distributors/ dealers on Principal-to-Principal(P2P) basis:**

In such cases, the distributor/ dealer purchases voucher from the voucher issuer typically at a discounted rate and subsequently sells the same to the sub-distributors, corporates or end customers and generate revenue through a trading margin, which is a difference between the acquisition cost and the selling price of the vouchers by the said distributor/ dealer.

In such cases, distributors/ dealers (including sub-distributors) own the vouchers and operate autonomously with full control over the process from purchase to the final sale of the vouchers to the end user.

As per section 9 (1) of CGST Act, GST is chargeable on the supply of goods and/or services. As the transaction in vouchers is neither supply of




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goods nor supply of services, therefore, pure trading of vouchers in this case would not constitute either supply of goods or supply of services.

Accordingly, such trading of vouchers would not be leviable to GST as per section 9(1).

**(ii) Where vouchers are distributed using distributors/ sub-distributors/ agents on commission/ fee basis:**

In such cases, the transactions between the voucher issuer and the distributors/ sub-distributors/ agents are on principal-agency basis.

These arrangements, as per contract/agreement between distributor/sub-distributor/agents and the voucher issuer may specify a set of obligations on such agents such as marketing & promotion and other related support activities for distribution of vouchers against a commission/fee or any other amount by whatever name called, for such purpose.

In such cases, distributors/sub-distributors/agents do not operate autonomously, do not own the vouchers and only act as agent of the voucher issuer.




In such cases, GST would be payable by such distributor/sub-distributor/agent, acting as an agent of the voucher issuer, on the commission/fee or any other amount by whatever name called, for such purpose, as a supply of services to the voucher issuer.

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### Issue - 3

**What would be GST treatment of additional services such as advertisement, cobranding, marketing & promotion, customization services, technology support services, customer support services etc.**

### Clarification

In such a case, the said service fee/ service charge/ affiliate charge or other amount for supply of such additional services to the voucher issuer as per the terms of contract/agreement, would be liable to GST at the applicable rate in the hands of the said service provider.

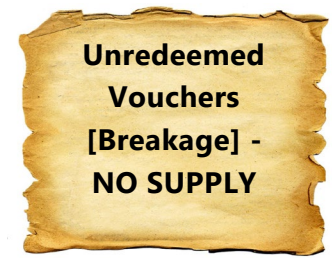



### Issue 4

What would be the GST treatment of unredeemed vouchers (breakage)?

### Clarification

In case vouchers remain unused/ unredeemed at the end of their expiry period, the businesses generally make book adjustments and account the said amount on account of unredeemed vouchers in their statement of income. The value of such unredeemed vouchers accounted for in the statement of income is called breakage.




The issue which arose for consideration was whether the amount attributed to the unredeemed voucher(breakage) can be considered as "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".

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As per section 9 (1) of the CGST Act, GST is leviable only on the supply of goods and/or services. In the case of breakage, there is no redemption of voucher and there is no supply of underlying goods and/or services. Therefore, there is no supply of goods and/or services on account of such unredeemed vouchers (breakage). As there is no underlying supply of goods and/or services in case of non-redemption of vouchers by the customer, the amount retained for unredeemed vouchers by the voucher issuer cannot be construed as consideration for any supply. Accordingly, such amount attributable to unredeemed vouchers (breakage) would not be taxable as per the provisions of section 9(1) of CGST Act.

*Circular No. 178/10/2022-GST dated 03.08.2022* clarifies that agreement to do or refrain from an act should not be presumed to exist, and that there must be an express or implied agreement, oral or written, to do or abstain from doing something against payment of consideration, for a taxable supply to exist.

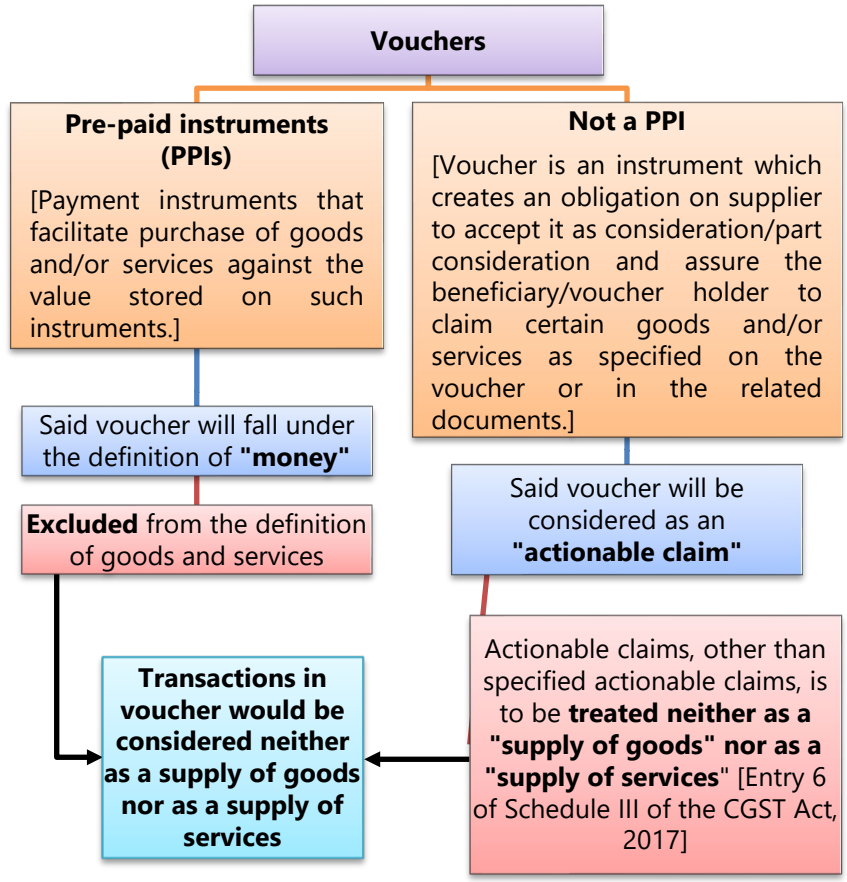
Considering the principle laid out in the said circular, it emerges that where the voucher is issued for the purpose of redemption in respect of a supply of goods and/or services and there is no express or implied agreement, oral or written, between the issuer of voucher and redeemer for payment of any amount or charges by the redeemer to the voucher issuer in case of non-redemption of the voucher, it cannot be considered that non-redemption of voucher by the redeemer tantamounts to supply of services.

Therefore, it appears that the amount attributable to non-redemption of voucher (breakage) would not constitute as a "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". Therefore, no GST appears to be payable on such amount attributable to non-redemption of voucher (breakage).

*[Circular No. 243/37/2024 GST dated 31.12.2024]*

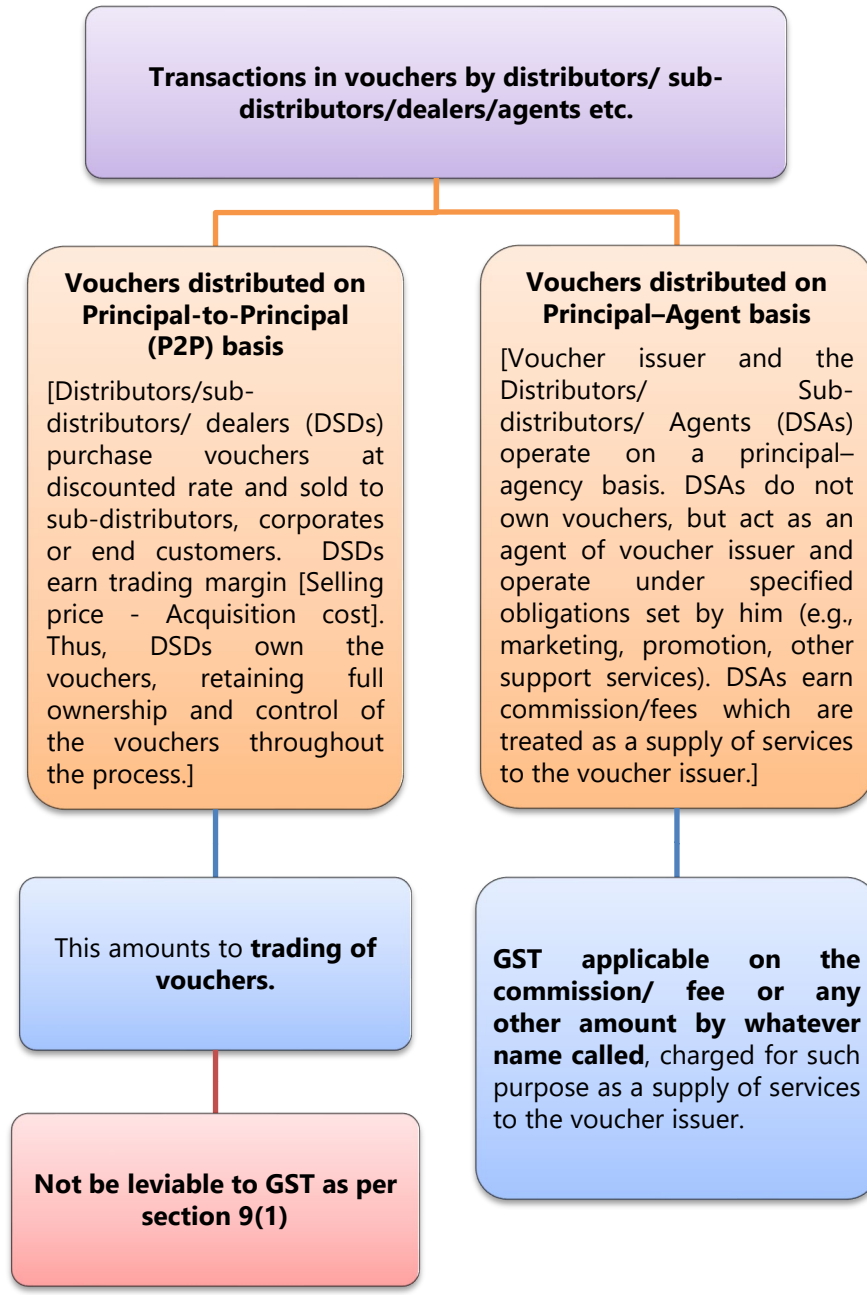
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The diagrammatic representation of the above circular is given below

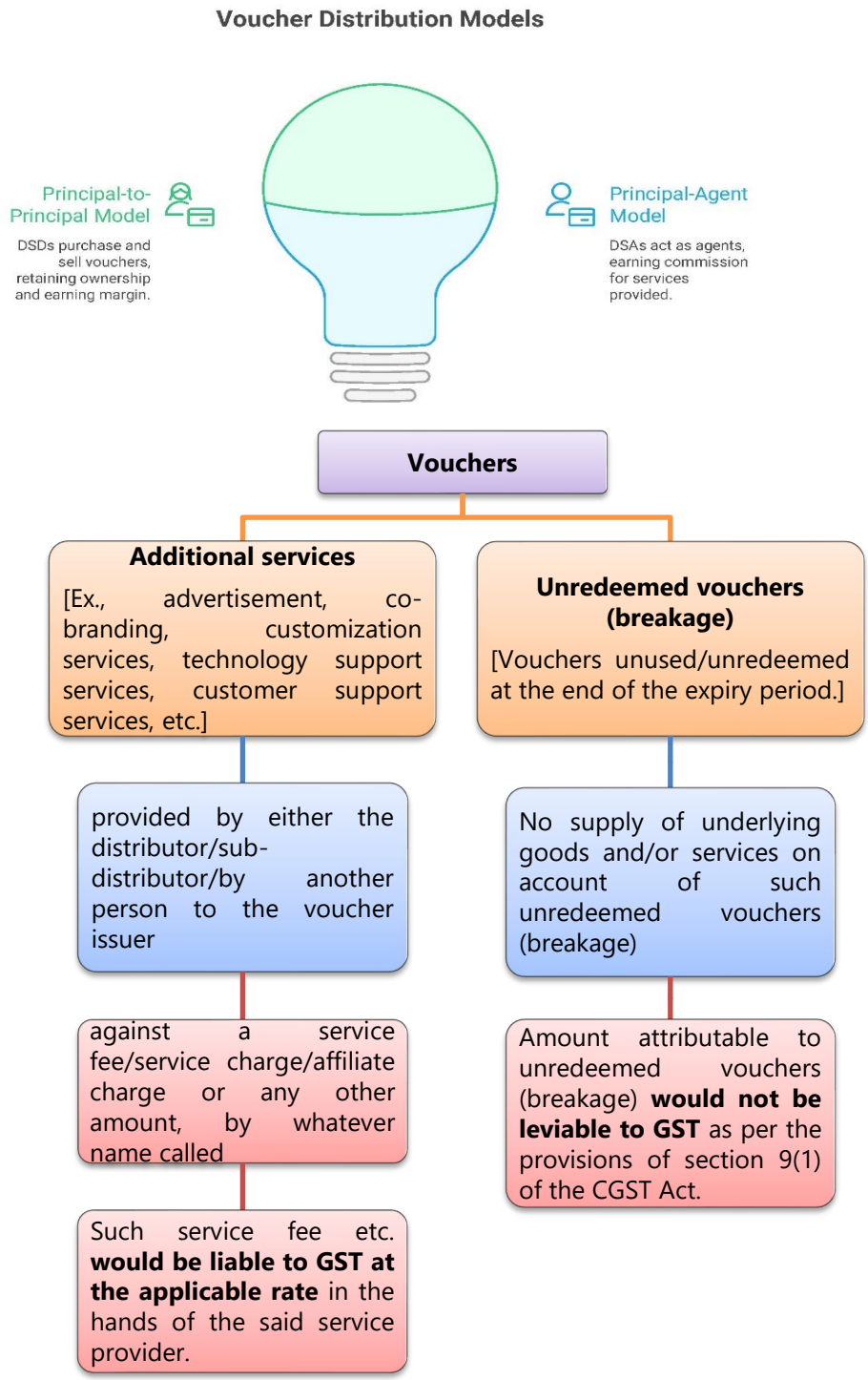



Thus, the transactions in voucher themselves cannot be considered either as a supply of goods or as a supply of services. However, supply of underlying goods and/or services, for which vouchers are used as consideration or part consideration, may be taxable under GST.

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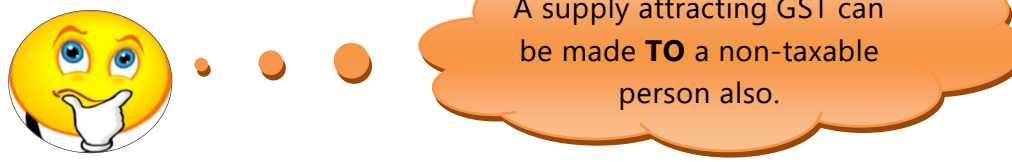
In the preceding paras, we have discussed, how to determine whether a given activity or transaction constitutes a supply. Once an activity or transaction qualifies as supply, one needs to determine whether the same is leviable to GST or not. Though the provisions relating to levy and collection of GST have been *discussed at length in Chapter 2 – Charge of GST in this Module of the Study Material*, a brief idea of the same is provided hereunder.

## Supply Leviable to GST

For a supply to attract GST, primarily two additional conditions need to be satisfied. These are – (i) supply must be made by a taxable person and (ii) supply must be a taxable supply. These two additional conditions have been discussed hereunder:

### (i) Supply by a taxable person

**A supply to attract GST should be made by a taxable person.**




The restriction of being a taxable person is only on the supplier whereas the recipient can be either taxable or non-taxable.

**Meaning of taxable person:** A "taxable person" is a person who is registered or liable to be registered under section 22 or section 24 *[The said sections and the concept of taxable person thereto have been discussed in detail in Chapter 8 – Registration in Module 2 of the Study Material]*.

Hence, a person who is liable to be registered but does not take a registration and remains an unregistered person shall be construed as a taxable person. Similarly, a person not liable to be registered, but who has obtained voluntary registration, is also a taxable person.

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### (ii) Taxable supply

For a supply to attract GST, the supply must be taxable. Taxable supply has been broadly defined and means any supply of goods or services or both which, is leviable to tax under the GST Law [Section 2(108)] *[Refer Chapter-2: Charge of GST in this Module of the Study Material for detailed discussion on leviability of GST].*

On the other hand, exempt supply means supply of any goods or services or both which attract **nil rate of tax** or which may be **wholly exempt from tax*** under section 11 of the CGST Act, or under section 6 of the IGST Act, and includes **non-taxable supply** [Section 2(47)]

****Exemptions may be provided to the specified goods or services or to a specified category of persons/ entities making supply [Refer Chapter-4: Exemptions from GST in this Module of the Study Material for detailed discussion].***

## 4. COMPOSITE AND MIXED SUPPLIES [SECTION 8]

### STATUTORY PROVISIONS

| ***Section 8*** | ***Tax liability on composite and mixed supplies*** |
|---|---|
| ***Clauses*** | ***Particulars*** |
| | *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 of two or more supplies shall be treated as supply of that particular* ***supply that attracts highest rate of tax.*** |

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## ANALYSIS

GST is payable on goods or services or both at the notified rates. Classification of any supply (whether as goods or services, the category of goods or services) is essential to determine the applicable rate of GST on the particular supply. The application of rates poses no problem if the supply is of individual goods or individual services, which is clearly identifiable and such goods or services are subject to a particular rate of tax.

However, in certain cases, supplies are not so simple and clearly identifiable. Sometimes supplies are a combination of goods or combination of services or combination of both goods and services and each individual component of such supplies may attract a different rate of tax.

In such cases, the rate of tax to be levied on such supplies may be a challenge. It is for this reason, that the GST Law identifies composite supplies and mixed supplies and provides certainty in respect of tax treatment under GST for such supplies.

In order to determine whether the supplies are 'composite supply' or 'mixed supply', one needs to determine **whether the supplies are naturally bundled or not naturally bundled in ordinary course of business**. The concept of 'naturally bundled' supplies is emanating from the definition of 'composite supply'.

## COMPOSITE SUPPLIES

**Composite supply** means a supply made by a taxable person to a recipient and:

- comprises two or more taxable supplies of goods or services or both, or any combination thereof.
- which are naturally bundled and supplied in conjunction with each other, in the ordinary course of business
- one of which is a principal supply [Section 2(30)].

This means that in a composite supply, goods or services or both are bundled owing to natural necessities. The elements in a composite supply are dependent on the 'principal supply'.

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**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. [Section 2(90)]

Works contract and restaurant services are classic examples of composite supply, but the GST law identifies both as supply of services *[as you would have seen in the discussion on Schedule II of the CGST Act earlier in this Chapter]* and chargeable to specific rate of tax mentioned against each of such services (works contract or restaurant).

However, in respect of other composite supplies (i.e. other than the two categories mentioned above), the need to determine the supply as a composite one, will arise, so as to determine the appropriate classification of such supply as supply of goods or supply of services as also the appropriate rate of tax.

It will be necessary to determine as to whether a particular supply is naturally bundled in the ordinary course of business and what constitutes principal supply in such composite supplies.

**How to determine whether the services are bundled in the ordinary course of business?**

Whether the services are bundled in the ordinary course of business or not, would depend upon the normal or frequent practices followed in the area of business to which services relate. Such normal and frequent practices adopted in a business can be ascertained from several indicators some of which are listed below:

- **The perception of the consumer or the service recipient** - If large number of service recipient of such bundle of services reasonably expect such services to be provided as a package, then such a package could be treated as naturally bundled in the ordinary course of business.

  **(73)** Mobile phone is always sold with battery.

- **Majority of service providers in a particular area of business provide similar bundle of services**.

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**(74)** Bundle of services of catering on board and services of transport by air is a bundle offered by a majority of airlines.

- The **nature of the various services in a bundle of services** will also help in determining whether the services are bundled in the ordinary course of business. If the nature of services is such that one of the services is the main service and the other services combined with such service are in the nature of incidental or ancillary services which help in better enjoyment of a main service, then it would be treated as services bundled in the ordinary course of business.

**(75)** Service of stay in a hotel is often combined with provision of breakfast and dinner provided free of cost during the stay. Such service is an ancillary service to the provision of hotel accommodation and the resultant package would be treated as services naturally bundled in the ordinary course of business.

- **Other illustrative indicators**, not determinative but indicative of bundling of services in the ordinary course of business are:
  - ✓ There is a single price or the customer pays the same amount, no matter how much of the package they actually receive or use.
  - ✓ The elements are normally advertised as a package.
  - ✓ The different elements are not available separately.
  - ✓ The different elements are integral to one overall supply. If one or more is removed, the nature of the supply would be affected.

***No straight jacket formula can be laid down to determine whether a service is naturally bundled in the ordinary course of business. Each case has to be individually examined in the backdrop of several factors some of which are outlined above.***

***The above principles explained in the light of what constitutes a naturally bundled service can be gainfully adopted to determine whether a particular supply constitutes a composite supply under GST and if so what constitutes he principal supply so as to determine the right classification and rate of tax of such composite supply.***

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Some of the examples of composite supplies have been given below:



**(76)** A 5 star hotel is booked for a conference of 100 delegates on a lump sum package with the following facilities:

– Accommodation for the delegates

– Breakfast for the delegates,

– Tea and coffee during conference

– Access to fitness room for the delegates

– Availability of conference room

– Business centre

As is evident a bouquet of services is being provided, many of them are chargeable to different effective rates of tax. If the principal service is described as convention service it is able to capture the entire essence of the package. Thus, the principal service may be judged as convention service and charged to tax accordingly.

However, it will be fully justifiable for the hotel to charge individually for the services as long as there is no attempt to offload the value of one service on to another service that is chargeable at a concessional rate.



**(77)** Poshaak Manufacturers entered into a contract with Cheeku Ltd. for supply of readymade shirts packed in designer boxes at Cheeku Ltd.'s outlet. Further, Poshaak Manufacturers would also get them insured during transit. In this case, supply of goods, packing materials, transport & insurance is a composite supply wherein supply of goods is principal supply.

**(78)** When a consumer buys a television set and he also gets mandatory 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 services are ancillary.

**(79)** 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.

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**How to determine the tax liability on composite supply?:** A **composite supply** comprising of two or more supplies, one of which is a principal supply, shall be treated as a **supply of such principal supply.** Accordingly, the entire value of composite supply [i.e. main supply + ancillary supply(ies)] shall be classified under the category of main supply and shall be taxed at the GST rate applicable to the main supply. This can be better understood with the help of following example:

**(80)** Rati Computers supplies laptop (worth ₹ 52,000) alongwith laptop bag (worth ₹ 3,000) to a customer for ₹ 55,000. Being naturally bundled**,** supply of laptop bag along with the laptop is composite supply which is treated as the supply of the principal supply [viz. laptop]. Assuming that the rate of tax applicable on laptop is 18% and on laptop bag is 40%, in the given case, rate of principal supply, i.e. laptop @ 18% will be charged on the entire value of ₹ 55,000.

CBIC, in the following cases, has clarified issues as to whether the given supplies are composite supply and if yes, what constitutes the principal supply in the given composite supply:

### 1. Printing industry issues



The printing industry in India in particular faced a dilemma in determining whether the nature of supply provided was that of goods or services. Another doubt was whether in case where certain contracts involved both supply of goods and services, whether the same would constitute a supply of goods or services or if it would be a composite supply and in case it is, then what would constitute the principal supply.

Thus, it is clarified that supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc. printed with logo, design, name, address or other contents supplied by the recipient of such printed goods, are composite supplies and the question, whether such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply.

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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. by the **printer using its physical inputs** including paper to print the **design, logo etc. supplied by the recipient** of goods, predominant supply is **supply 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[57].

### 2. Food supplied to the patients

Food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of health care and not separately taxable. However, other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable[58].

### 3. Activity of bus body building

In the case of bus body building, there is supply of goods and services. Thus, classification of this composite supply, as goods or service would depend on which supply is the principal supply which may be determined on the basis of facts and circumstances of each case[59].

### 4. Retreading of tyres

In retreading of tyres, which is a composite supply, the pre-dominant element is process of retreading which is a **supply of service**. Rubber used for retreading is an ancillary supply.

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[57] *Circular No. 11/11/2017 GST dated 20.10.2017*
[58] *Circular No. 32/06/2018 GST dated 12.02.2018*
[59] *Circular No. 34/08/2018-GST dated 01.03.2018*

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Supply of retreaded tyres[60], where the old tyres belong to the supplier of retreaded tyres, is a **supply of goods**[61].

### 5. Supply of food and beverages at cinema halls taxable as restaurant service

Eating joint is a wide term which includes refreshment or eating stalls/ kiosks/ counters or restaurant at a cinema also.

The cinema operator:

(i) may run these refreshment/eating stalls/ kiosks/ counters/ restaurant themselves

or

(ii) they may give it on contract to a third party.

The customer may like to avail the services supplied by these refreshment/snack counters or choose not to avail these services. Further, the cinema operator can also install vending machines, or supply any other recreational service such as through coin-operated machines etc. which a customer may or may not avail.

It is hereby clarified that:

(i) supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as:




(a) the food or beverages are supplied by way of or as part of a service, and

(b) supplied independent of the cinema exhibition service.

(ii) where the **sale of cinema ticket and supply of food and beverages are clubbed** together, and **such bundled supply satisfies the test of**

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[60] *Retread tyres are revamped tyres on which the worn out tread (the part of the tire that makes contact with the surface of the road) is replaced using new tread.*

[61] *Circular No. 34/8/2018-GST dated 01.03.2018*

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**composite supply**, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply[62].

## MIXED SUPPLIES

**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 [Section 2(74)].

The individual supplies are independent of each other and are not naturally bundled.




**How to determine if a particular supply is a mixed supply?:** In order to identify if the particular supply is a mixed supply, the first requisite is to rule out that the supply is a composite supply. A supply can be a mixed supply only if it is not a composite supply. As a corollary, it can be said that if the transaction consists of supplies not naturally bundled in the ordinary course of business, then the possibility of it being a mixed supply needs to be checked.

Once the amenability of the transaction as a composite supply is ruled out, and a single consideration is charged for the entire supply of different components, it would be treated as a mixed supply, classified in terms of supply of goods or services attracting highest rate of tax.

example

**(81)** A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink 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 or separate prices are charged.

[62] *Circular No. 201/13/2023 GST dated 01.08.2023*

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**(82)** A shopkeeper selling storage water bottles along with refrigerator for a single price. Bottles and the refrigerator can easily be priced and sold independently and are not naturally bundled. So, such supplies are mixed supplies.

**(83)** A house is given on rent through a single rent deed - one floor of which is to be used as residence and the other for housing a printing press, at a lump sum rent amount. Such renting for two different purposes is not naturally bundled in the ordinary course of business. Said supplies are mixed supply.

**How to determine the tax liability on mixed supply?:** A **mixed supply** comprising of two or more supplies shall be treated as supply of that particular **supply that attracts highest rate of tax.**



**(84)** Sringaar Enterprises supplies 10,000 kits (at ₹ 50 each) amounting to ₹ 5,00,000 to Raghav General Store. Each kit consists of 1 face cream, 1 face tissue packet and 1 nail paint. It is a mixed supply and is treated as supply of that particular supply which attracts highest tax rate. Assuming that the rate of tax applicable on face cream is 18%, on face tissue packet is 40% and on nail paint is 5%, in the given case, highest tax rate [viz. face tissue packet] @ 40% will be charged on the entire value of ₹ 5,00,000.

**More than one supply made together and taxed at the individual rates**

There can also be a case where an activity/transaction involves more than one supply of goods or services or both, but neither they are composite supplies nor can be categorised as mixed supplies, that is, all supplies carry independent significance. In such a case, if separate consideration is indicated against each supply, each such supply shall be charged at the respective rate applicable to that particular supply.



**(85)** 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, the goods and services would be liable to tax at the rates as applicable to such goods and services separately[63].

[63] *Circular No. 47/21/2018 GST dated 08.06.2018*

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# LET US RECAPITULATE

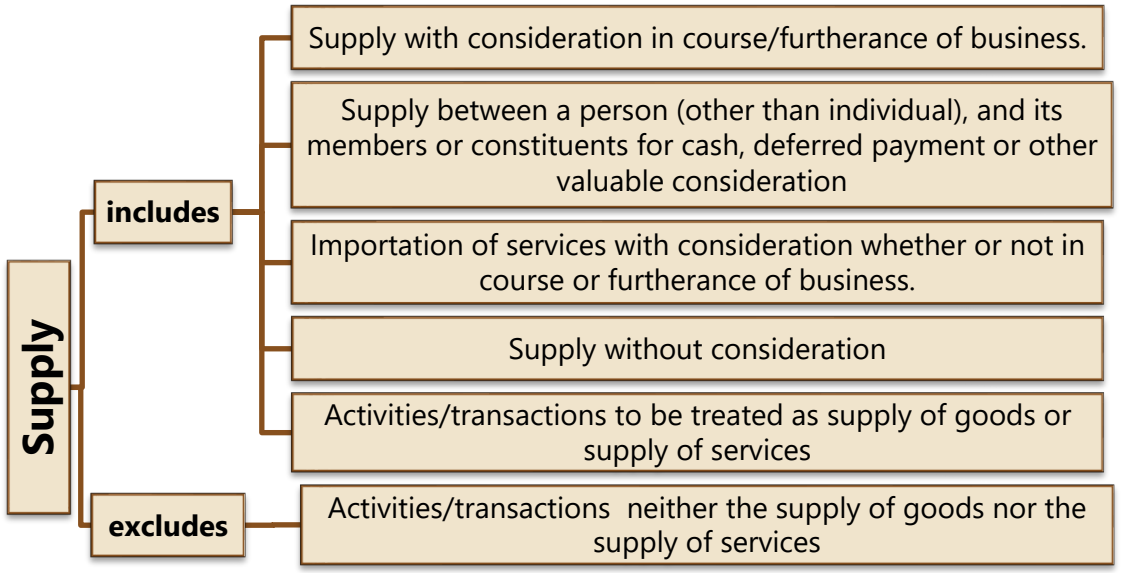
- The taxable event under GST is supply. The scope of supply under GST can be understood in terms of following parameters:

Supply should be of goods or services

Supply should be made for a consideration

Supply should be made in the course or furtherance of business

- While these parameters describe the concept of supply, under certain circumstances, transactions have been deemed as supply even when the supply is made without consideration or not in the course or furtherance of business. Activities specified in Schedule I are deemed to be a supply even without consideration. Further, import of services for a consideration, whether or not in the course or furtherance of business is treated as supply.
- Besides, some specified transactions/ activities are neither treated as supply of goods nor a supply of services. Furthermore, certain activities have been categorised as supply of goods or as supply of services.
- The discussion with respect to supply is broadly categorised into following:

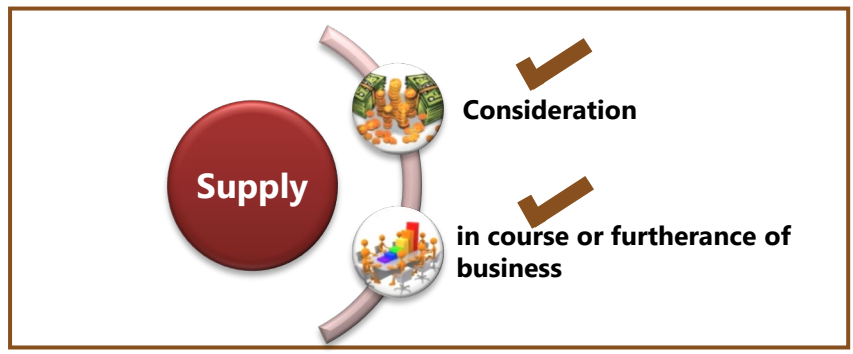



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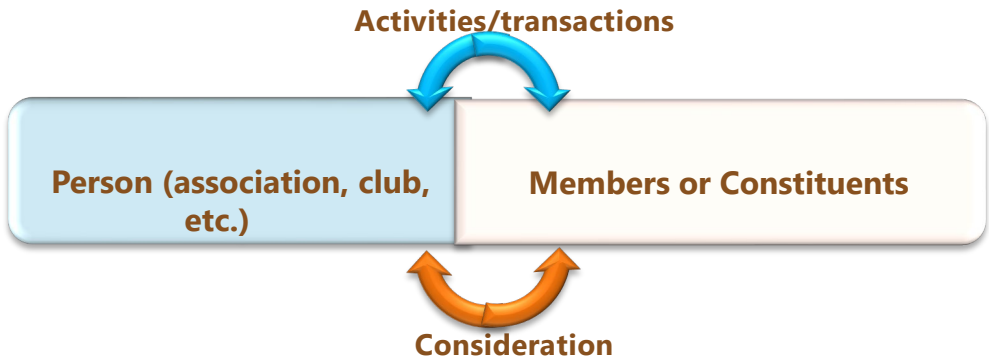
Sub-sections of section 7 alongwith related Schedules have been summarised as follows:

**1. Supply for consideration in course or furtherance of business [Section 7(1)(a)]**




**2. Activities/transactions between a person, other than an individual, and its members or constituents for valuable consideration [Section 7(1)(aa)]**

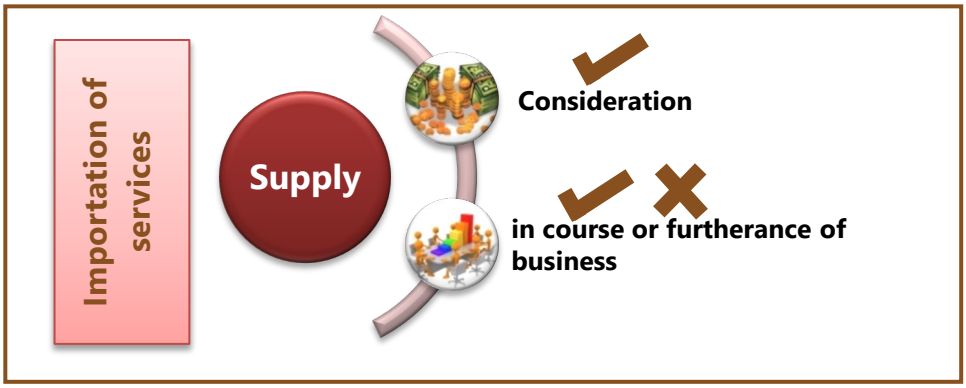



**3. Importation of services for consideration whether or not in course or furtherance of business [Section 7(1)(b)]**

Supply should be in course or furtherance of business. The exception to said rule is import of services is deemed as supply even if the same has been

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imported not in course/furtherance of business.

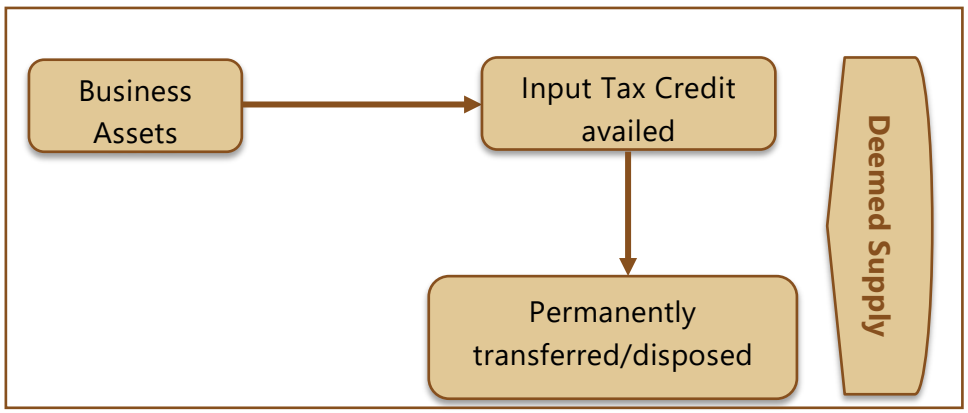



### 4. Supply without consideration – Deemed Supply [Section 7(1)(c) read with Schedule I]

This includes all supplies made to a taxable or non-taxable person, even if the same is without consideration. These are specifically mentioned in Schedule I appended to the CGST Act.

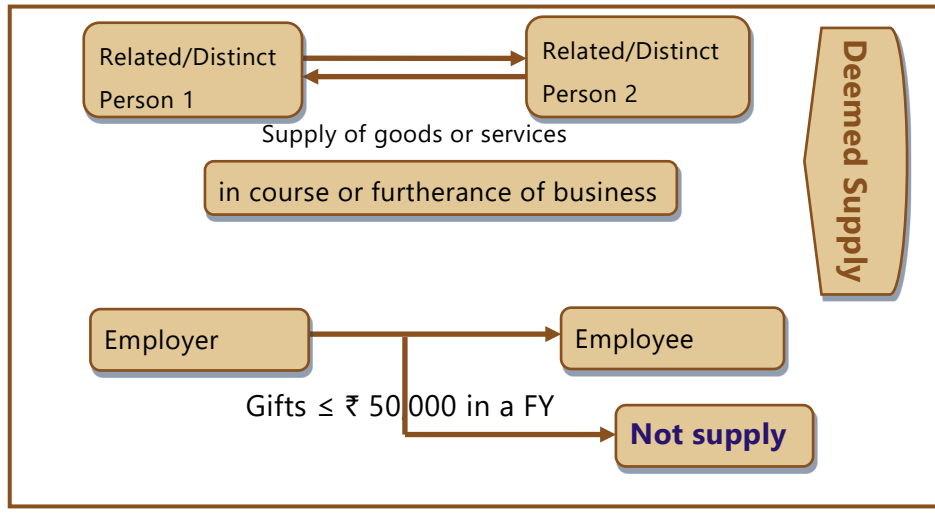
As per Schedule I, in the following four cases, **supplies made without consideration** will be treated as supply under section 7:

#### I. Permanent transfer/disposal of business assets

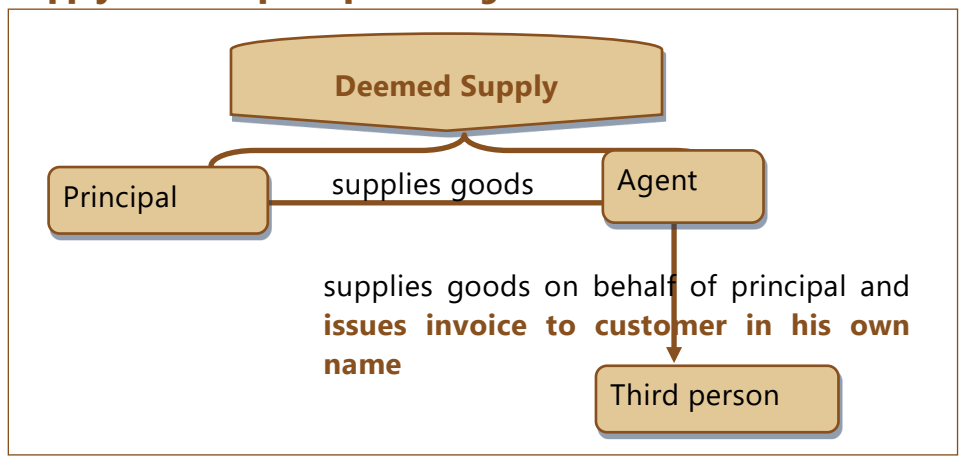


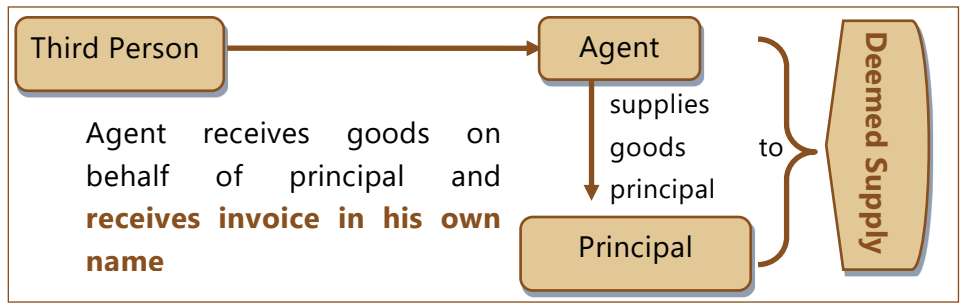

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## II. Supply between related persons or distinct persons



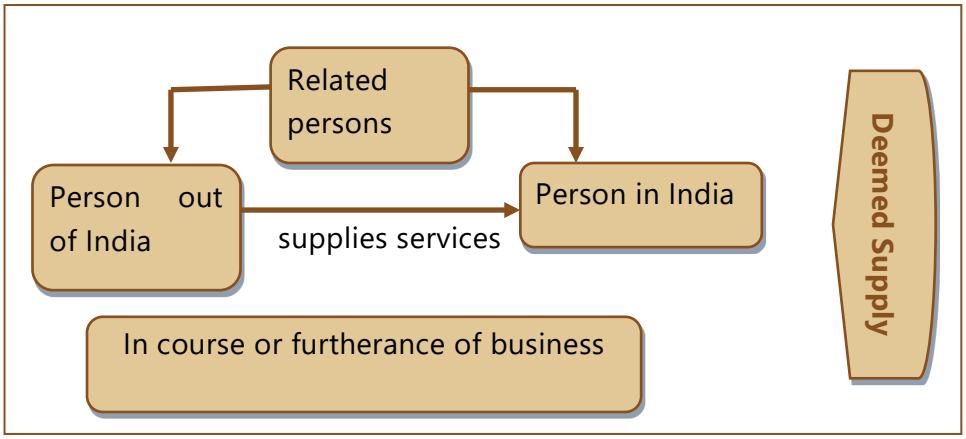

## III. Supply between principal and agent



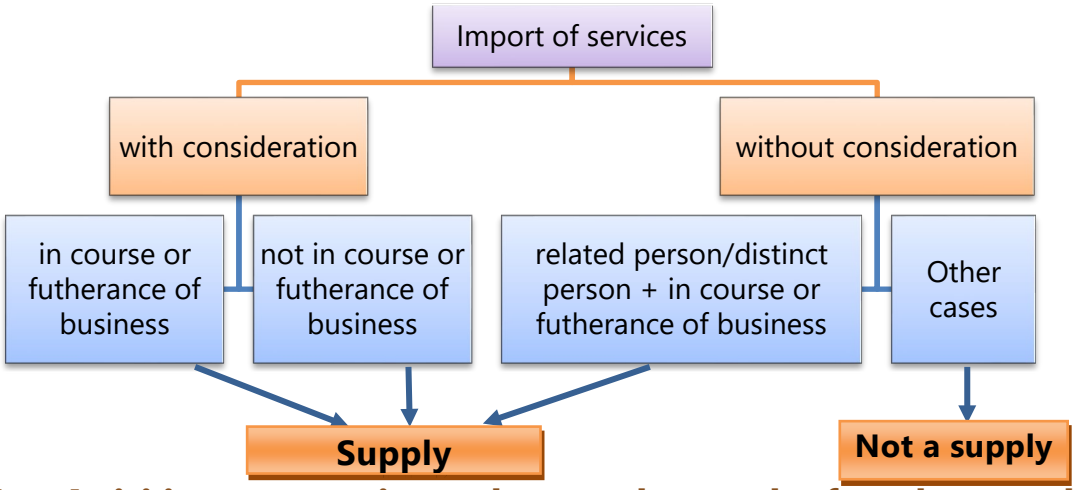

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### IV. Importation of services




The combined provisions of relating to import of services [as stipulated under under section 7(1)(b) and section 7(1)(c) read with Schedule I] have been depicted in the below mentioned diagram:

**Import of services**




### 5. Activities or transactions to be treated as supply of goods or supply of services [Section 7(1A) read with Schedule II]

| Para No. | Activity/ Transaction | Type | Supply of goods/ services |
|---|---|---|---|
| 1. | Transfer | (i) Title in goods | Goods |

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| | | | |
|---|---|---|---|
| | | (ii) Title in goods under an agreement that property shall pass at a future date. | |
| | | Right/undivided share in goods without transfer of title in them | Services |
| **2.** | Land and Building | Lease, tenancy, easement, licence to occupy land | Services |
| | | Lease/letting out of building including a commercial/ industrial/ residential complex for business/ commerce, wholly/ partly. | Services |
| **3.** | Treatment or Process | Applied to another person's goods | Services |
| **4.** | Transfer of Business Assets | Goods forming part of business assets are transferred/disposed of by/under directions of person carrying on business so as no longer to form part of those assets | Goods |
| | | Goods held/used for business are put to private use or are made available to any person for use for any purpose other than business, by/under directions of person carrying on the business | Services |
| | | Goods forming part of assets of any business carried on by a person who ceases to be a taxable person, 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. | Goods |

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| | | | |
|---|---|---|---|
| | | **Exceptions:**<br>❑ Business transferred as a going concern.<br>❑ Business carried on by a personal representative who is deemed to be a taxable person. | |
| **5.** | Renting of immovable property | | Services |
| | Construction of complex, building, civil structure, etc.<br>**Exception:**<br>Entire consideration received after issuance of completion certificate or after its first occupation, whichever is earlier. | | |
| | Temporary transfer or permitting use or enjoyment of any intellectual property right | | |
| | Development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of IT software | | Services |
| | Agreeing to obligation to refrain from an act, or to tolerate an act or situation, or to do an act. | | |
| | Transfer of right to use any goods for any purpose | | |
| **6.** | Following **composite supplies**:-<br>❑ Works contract<br>❑ Supply of goods, being food or any other article for human consumption or any drink. | | Services |

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## 6. Non-supplies under GST [Section 7(2)(a) read with Schedule III]

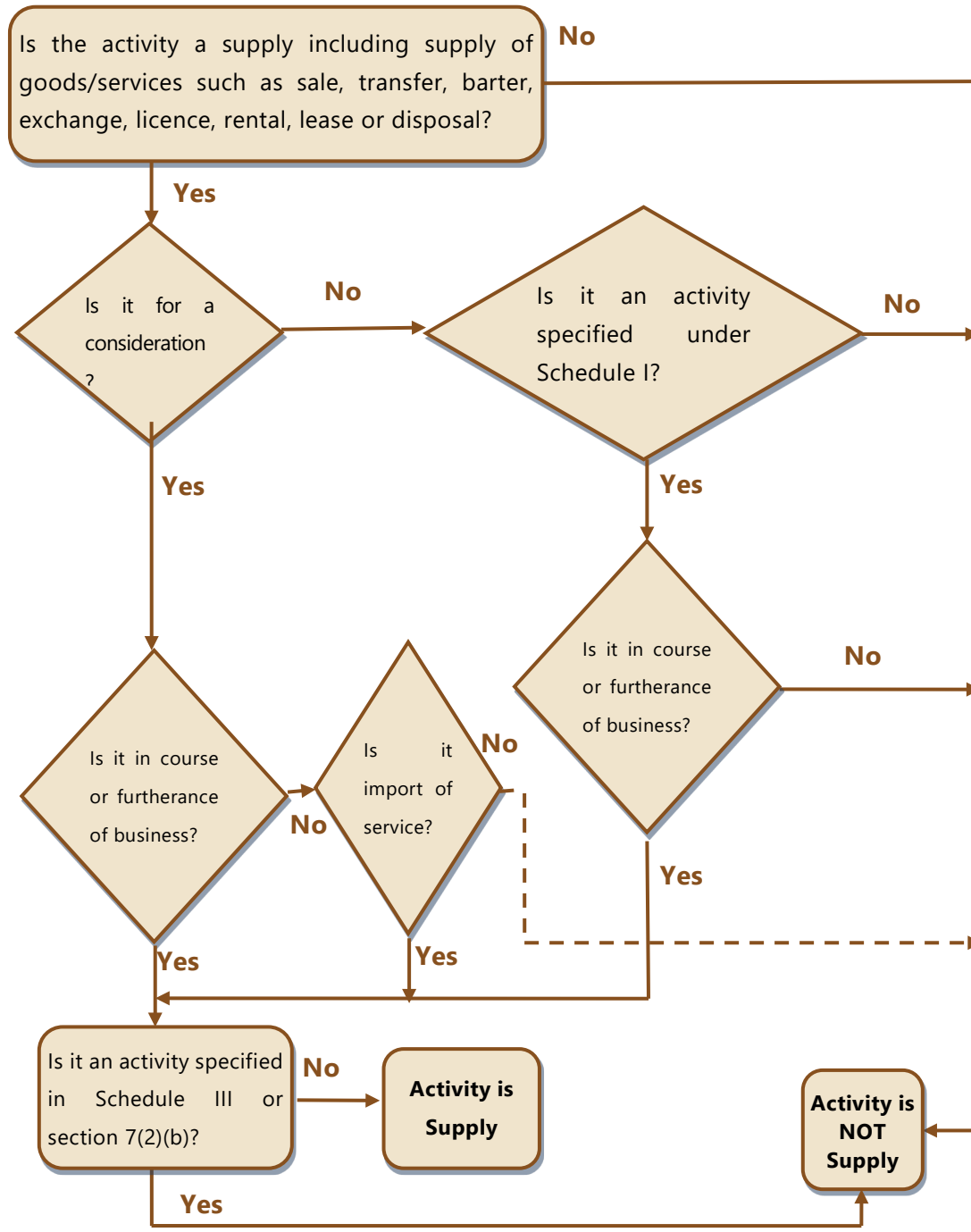
| Para No. | Activities or transactions which shall be treated neither as a supply of goods nor a supply of services |
|---|---|
| 1. | Services by an employee to the employer in the course of or in relation to his employment. |
| 2. | Services by any court or Tribunal established under any law for the time being in force. |
| 3. | (a) Functions performed by Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities & Members of other local authorities;<br>(b) Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or<br>(c) 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. |
| 4. | Services of funeral, burial, crematorium or mortuary including transportation of the deceased. |
| 5. | Sale of land and, subject to paragraph 5(b) of Schedule II, sale of building. |
| 6. | Actionable claims, other than **specified actionable claims**. |

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| | |
|---|---|
| **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. |
| **8.** | (a) Supply of warehoused goods to any person before clearance for home consumption.<br>(aa) Supply of goods warehoused in a Special Economic Zone or in a Free Trade Warehousing Zone to any person before clearance for exports or to the Domestic Tariff Area;<br>(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. |
| **9.** | Activity of apportionment of co-insurance premium by the lead insurer to co-insurers for jointly supplied insurance services, provided the lead insurer pays full GST on the total premium received from the insured. |
| **10.** | Services by insurer to reinsurer with ceding commission deducted from reinsurance premium are permitted, provided the reinsurer pays GST on the gross premium inclusive of such commission. |

**The diagram on next page summarises the steps to determine whether an activity undertaken is supply or not.**

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## 6. Composite and mixed supplies





**Composite Supply**

- Consist of two or more supplies
- Naturally bundled
- In conjunction with each other
- One of which is principal supply
- Tax liability shall be rate of principal supply
- **Example:** Charger supplied alongwith mobile phones.

**Mixed Supply**

- Consist of two or more supply
- Not naturally bundled
- Though can be supplied independently, still supplied together
- Tax liability shall be the rate applicable to the supply that attracts highest rate of tax
- **Example:** A gift pack comprising of choclates, candies, sweets and balloons.

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## TEST YOUR KNOWLEDGE

1. *Satyamev Printers is a printing house registered under GST. It receives an order for printing 5000 copies of a book on yoga and meditation authored by a well-known yoga guru. The content of the book is to be provided by the yoga guru to Satyamev Printers. It is agreed that Satyamev Printers will use its own paper to print the said books.*

   *You are required to determine the rate of GST applicable on supply of printed books by Satyamev Printers assuming that rate of GST applicable on services is 18% whereas the rate of GST applicable on supply of goods is 5%.*

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

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

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

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

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

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

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

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

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*Assume the rates of GST to be as under:*

*Hiring out of excavators – 5%*

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

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

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

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

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

6. *XYZ Consultancy, registered in Bangalore, supplies technical consultancy services to its clients. It has been providing technical services to BA Ltd., Mumbai since past 2 years. Consideration is settled by BA Ltd. assignment-wise. BA Ltd. paid ₹ 37 lakh to XYZ Consultancy on 10th January for XYZ Consultancy agreeing not to provide similar technical services to any other business entity in India or abroad for a period of next 8 years. XYZ Consultancy is of the view that ₹ 37 lakh is not chargeable to tax under GST law.*

   *You are required to examine whether the view taken by XYZ Consultancy is valid in law. It may be noted that BA Ltd. is not ready to pay any further amount to XYZ Consultancy in addition to the amount already agreed.*

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

8. *Rob Shareholding Ltd., an approved intermediary, has entered into a agreement wherein certain securities were to be lent to Dhandhan Bank, under Securities Lending Scheme, 1997. Dhandhan Bank shall pay specified lending fee against such lending of securities to it. Explain the taxability of transactions involved in the Securities Lending Scheme, 1997.*

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

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

11. *Mr. Happy, registered under GST, has a huge residential property located at a prime location in Mumbai, Maharashtra. He has let out the 1st and 2nd floor to Mr. Peace for residential purposes in April. Mr. Peace, registered under GST, surrenders his tenancy rights to Mr. Serene (unregistered under GST) for a tenancy premium of ₹ 10,00,000 on 1st June. Mr. Serene has also paid the applicable stamp duty and registration charges on transfer of tenancy rights.*

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*Moreover, Mr. Serene has agreed to pay a monthly rent of ₹ 1,00,000 to Mr. Happy from June.*

*You are required to ascertain whether GST is payable on (i) tenancy premium paid by Mr. Serene to Mr. Peace and (ii) monthly rent paid by Mr. Serene to Mr. Happy, for the month of June.*

12. (a) *Rudraksh Kapoor, owner of Rudraksh Publishing House, Ghaziabad, U.P., donated some money to Divyaprakash Charitable Trust in the memory of his late father. The Divyaprakash Charitable Trust constructed a room in the school run by it from such donation and wrote "Donated by Rudraksh Kapoor in the memory of his father" on the door of the room so constructed. Examine whether the money donated by Rudraksh Kapoor is leviable to GST.*

(b) *In the above question, if Divyaprakash Charitable Trust had written on the door of the room constructed from the money donated by Rudraksh Kapoor in the school run by it - "Donated by Rudraksh Publishing House, Ghaziabad, U.P.", would the given transaction/activity qualify as supply?*

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

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

(ii) *Supply of 10,000 kits (at ₹ 150 each) amounting to ₹ 15,00,000 (exclusive of GST) to Ram Distributors in Kota (Rajasthan). Each kit consists of 1 packaged drinking water, 1 energy drink and 1 natural fruit juice.*

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

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

(v) *1,400 chairs and 100 coolers hired out to Function Garden, Ajmer (Rajasthan) for ₹ 3,30,000 (exclusive of GST) including cost of transporting the chairs and coolers from Mrs. Kajal's godown at Jaipur to Function Garden, Ajmer. Since Mrs. Kajal is not a GTA, transportation services*

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*provided by her are exempt vide Notification No. 12/2017 CT (R) dated 28.06.2017[64].*

*Assume rates of GST to be as under:-*

| S. No. | Particulars | Rate of GST |
|---|---|---|
| 1. | Laptop | 18% |
| 2. | Laptop bag | 40% |
| 3. | Packaged drinking water | 18% |
| 4. | Energy drink | 40% |
| 5. | Natural fruit juice | 5% |
| 6. | Event management service | 5% |
| 7. | Service of renting of chairs and coolers | 18% |
| 8. | Transportation service | 5% |

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

14. *Chandragupta Maurya is an artist who makes contemporary paintings. He is registered in the State of Kolkata. Chandragupta Maurya appoints Dhruv Kumar to auction his painting in Maharashtra. Dhruv Kumar arranges for the auction and identifies the potential bidders. The highest bid is accepted and the painting is sold to the highest bidder. The invoice for the supply of the painting is issued by Dhruv Kumar on the behalf of Chandragupta Maurya but in his own name and the painting is delivered to the successful bidder.*

*Examine whether Dhruv Kumar can be considered as an agent of Chandragupta Maurya under Para 3 of Schedule I of the CGST Act, 2017.*

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

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## ANSWERS

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

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

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

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

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

**2.** As per section 7(1)(c) read with Schedule I of the CGST Act, 2017, permanent transfer or disposal of business assets is treated as supply even though the same is made without consideration. However, this provision would apply only

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if input tax credit has been availed on such assets. Therefore, the disposal of computers by Sudama Associates is not a supply as the input tax credit has not been availed on the same.

**3. Computation of GST payable by Shivaji Pvt. Ltd.**

| Particulars | Value of supply (₹) | Rate of GST | GST payable (₹) |
|---|---|---|---|
| Hiring charges for excavators | 18,00,000 | 5% | 90,000 |
| Service charges for supply of manpower for operation of excavators [Refer Note 1] | 20,000 | 5% | 1,000 |
| Service charges for soil testing and seismic evaluation [Refer Note 2] | 2,50,000 | 18% | 45,000 |
| **GST liability** | | | **1,36,000** |

**Notes:**

1. Since the excavators are invariably hired out along with operators and excavator operators are supplied only when the excavator is hired out, it is a case of composite supply under section 2(30) wherein the principal supply is the hiring out of the excavator.

   As per section 8(a), the composite supply is treated as the supply of the principal supply. Therefore, the supply of manpower for operation of the excavators will also be taxed at the rate applicable for hiring out of the excavator (principal supply), which is 5%.

2. Soil testing and seismic evaluation services being independent of the hiring out of excavator will be taxed at the rate applicable to them, which is 18%.

**4.** Compensation is received by Mr. Kanjilal Adani in the form of petroleum silt which, as per the contract with the Government of Gujarat, is part of cost petroleum.

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

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

**5.** Yes, Angad Private Ltd.'s view is correct. In terms of section 7(2) read with Schedule III of the CGST Act, 2017, services by an employee to employer in the course of or in relation to his employment shall not be treated as supply under GST. Further, the amount paid as incentive by Angad Private Ltd. is not in the nature of gift, and thus, is not covered under Schedule I. Infact, in the given case, the incentive is part of the salary and is directly linked to the sales target. Therefore, the services provided in course or in relation to employment by the employees for which incentives are given to them shall not be treated as a "supply".

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

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

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

**8.** Securities Lending Scheme, 1997 (hereafter referred to as SLS) facilitates the lending and borrowing of securities. Securities are neither covered in the

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definition of goods nor covered in the definition of services. Therefore, a transaction in securities which involves disposal of securities is not a supply in GST and hence not taxable.

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

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

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

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

**11.** *Circular No. 44/18/2018 CT dated 02.05.2018* clarifies that the activity of transfer of tenancy right against consideration [i.e. tenancy premium] is squarely covered under supply of service liable to GST. It is a form of lease or renting of property

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and such activity is specifically declared to be a service in Schedule II i.e. any lease, tenancy, easement, licence to occupy land is a supply of services.

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

The transfer of tenancy rights cannot be treated as sale of land/ building in Schedule III. Thus, it is not a non-supply under GST and consequently, a consideration for the said activity shall attract levy of GST. Services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is liable to GST. Hence, in the given case, the tenancy premium of ₹ 10,00,000 received by Mr. Peace for surrendering his tenancy rights to Mr. Serene is liable to GST.

The circular further clarifies that since renting of residential dwelling for use as a residence to an unregistered person is exempt *[Entry 12 of Notification No. 12/2017 CT (R) dated 28.06.2017*[65]*]*, grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both to an unregistered person is exempt. Consequently, monthly rent ₹ 1,00,000 received by Mr. Happy from Mr. Serene is exempt.

**12.** *Circular No. 116/35/2019 GST dated 11.10.2019* has clarified that in case of donations received by a charitable institution, when the name of the donor is displayed in recipient institution's premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation). Donations received by the charitable organisations are treated as consideration only if there exists, *quid pro quo*, i.e., there is an obligation on part of recipient of the donation or gift to do anything (supply a service).

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

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

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

(a) In the backdrop of the above discussion, in the given case, the way the name of Rudraksh Kapoor is displayed on the door of the room constructed in the school run by Divyaprakash Charitable Trust, it is only an expression of gratitude and public recognition of Rudraksh's act of philanthropy and is not aimed at advertising or promoting his business. There is no reference/mention of his publishing house which otherwise would have got advertised.

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

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

**13.**

| S. No. | Particulars | Rate of GST |
|---|---|---|
| **(i)** | Supply of laptop bag along with laptop to Mumbai customer<br>[Being naturally bundled, supply of laptop bag along with the laptop is a composite supply which is treated as the supply of the principal supply [viz. laptop] in terms of section 8(a). Accordingly, rate of principal supply, i.e. laptop will be charged.] | 18% |

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| | | |
|---|---|---|
| **(ii)** | Supply of kits to Ram Distributors<br>[It is a mixed supply and is treated as supply of that particular supply which attracts highest tax rate [viz. energy drink] in terms of section 8(b).] | 40% |
| **(iii)** | Free gifts to customers<br>[Cannot be considered as supply under section 7 read with Schedule I as the gifts are given to unrelated customers without consideration.] | Nil |
| **(iv)** | Event management services provided free of cost to her brother [who is a related person] for his son's marriage. Thus, said services shall fall within the purview of Schedule I and shall be treated as supply even if made without consideration. Since it is an individual supply, it will be taxed at the rate applicable on said service. | 5% |
| **(v)** | Chairs and coolers hired out to Function Garden<br>[Transportation services provided by Mrs. Kajal are exempt. However, since chairs and coolers are hired out along with their transportation, it is a case of composite supply wherein the principal supply is hiring out of chairs and coolers. Accordingly, transportation service will also be taxed at the rate applicable for renting of chairs and coolers*] | 18% |

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

*In that case, the two services will be treated as independent services and taxed accordingly.*

**14.** An activity/transaction qualifies as supply under GST only if it is undertaken for a consideration and is in course/furtherance of business. However, supply

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of goods by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal is considered as supply even if made without consideration provided the invoice for further supply is issued by the agent in his own name [Section 7(1)(c) read with Para 3 of Schedule I of the CGST Act, 2017].

*Circular No. 57/31/2018 GST dated 04.09.2018* provides that where the invoice for further supply of goods is being issued by the agent in his name then, any provision of goods from the principal to the agent would fall within the fold of Para 3 of Schedule I

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

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# Annexure-1

## Goods and Services Tax in India

Goods and Services Tax (GST) is a path breaking indirect tax reform which attempts to create a common national market. GST has subsumed multiple indirect taxes like excise duty, service tax, VAT, CST, luxury tax, entertainment tax, entry tax, etc.




VAT and GST are often used inter-changeably as the latter denotes comprehensiveness of VAT by coverage of goods and services. France was the first country to implement VAT/GST in 1954. Presently, more than 160 countries have implemented VAT/GST in some form or the other because this tax has the capacity to raise revenue in the most transparent and neutral manner. Most of the countries follow unified GST i.e., a single tax applicable throughout the country. However, in federal polities like Brazil and Canada, a dual GST system is prevalent. Under dual system, GST is levied by both the federal and the State Governments. India has adopted dual GST model because of its unique federal nature.







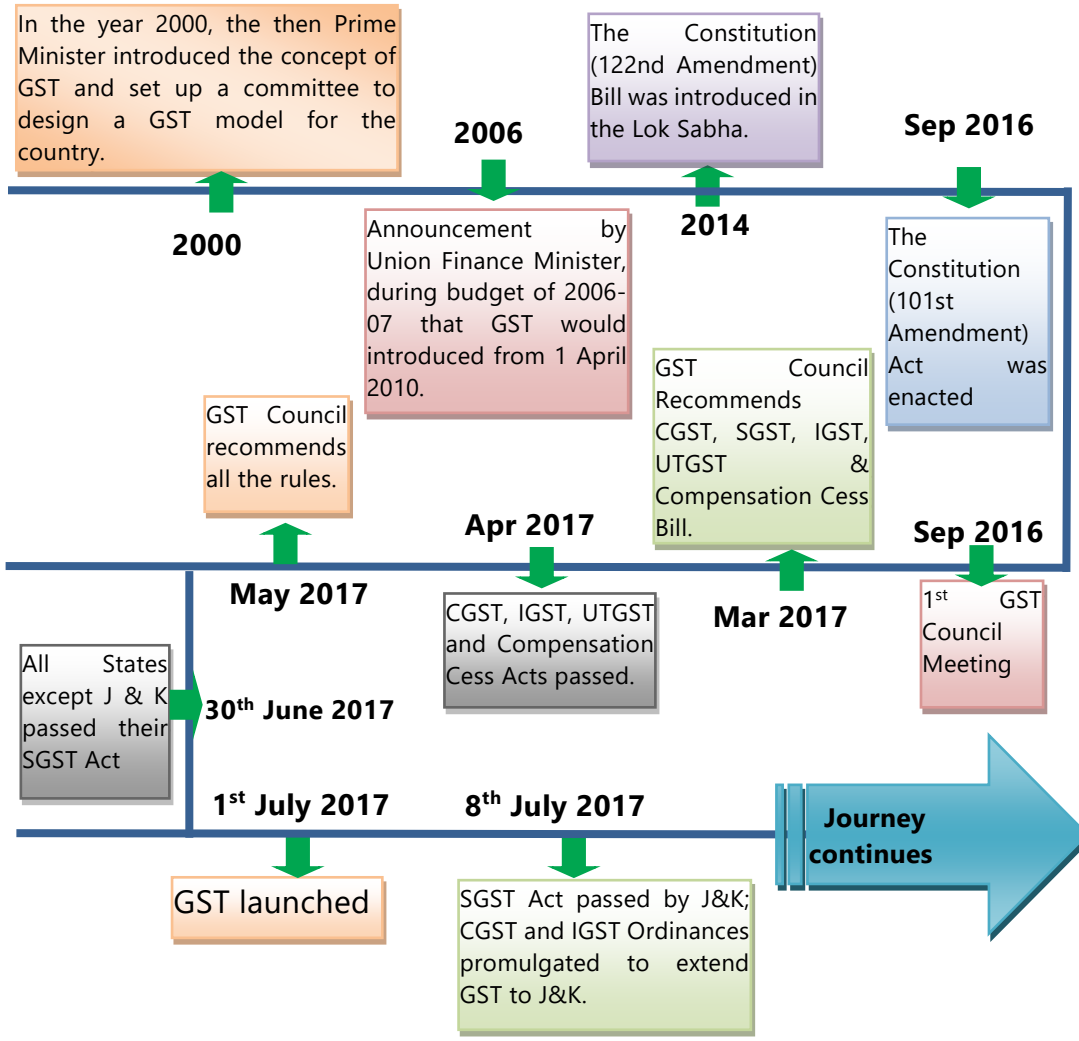
The idea of GST was mooted in the year 2000 when the then Prime Minister set up a committee to design a Goods and Services Tax (GST) model for the country. The talks of ushering in GST, however, gained momentum in the year 2014 when the NDA Government tabled the Constitution (122nd Amendment) Bill, 2014 on GST in the Parliament on 19th December, 2014. The Lok Sabha passed the Bill on 6th May, 2015 and Rajya Sabha on 3rd August, 2016. Subsequent to ratification of the Bill by more than 50% of the States, Constitution (122nd Amendment) Bill, 2014 received the assent of the President on 8th September, 2016 and became the **Constitution (101st Amendment) Act, 2016,** which paved the way for introduction of GST in India.




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In the following year, on 27th March, 2017, the Central GST legislations - Central Goods and Services Tax Bill, 2017, Integrated Goods and Services Tax Bill, 2017, Union Territory Goods and Services Tax Bill, 2017 and Goods and Services Tax (Compensation to States) Bill, 2017 were introduced in Lok Sabha. Lok Sabha passed these bills on 29th March, 2017 and with the receipt of the President's assent on 12th April, 2017, the Bills were enacted.

The enactment of the Central Acts was followed by the enactment of the State GST laws by various State Legislatures. With effect from 1st July, 2017, the historic indirect tax reform - GST was introduced. GST law was extended to Jammu and Kashmir on 8th July, 2017.




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Before we proceed with the finer nuances of Indian GST, let us first understand the basic concept of GST.




- GST is a value added tax levied on supply i.e., manufacture or sale of goods and provision of services.
- GST offers comprehensive and continuous chain of tax credits from the producer's point/service provider's point upto the retailer's level/consumer's level thereby taxing only the value added at each stage of supply chain.
- The supplier at each stage is permitted to avail credit of GST paid on the purchase of goods and/or services and can set off this credit against the GST payable on the supply of goods and services to be made by him. Thus, only the final consumer bears the GST charged by the last supplier in the supply chain, with set-off benefits at all the previous stages.
- Since, only the value added at each stage is taxed under GST, there is no tax on tax or cascading of taxes under GST system.

## Framework of GST as introduced in India

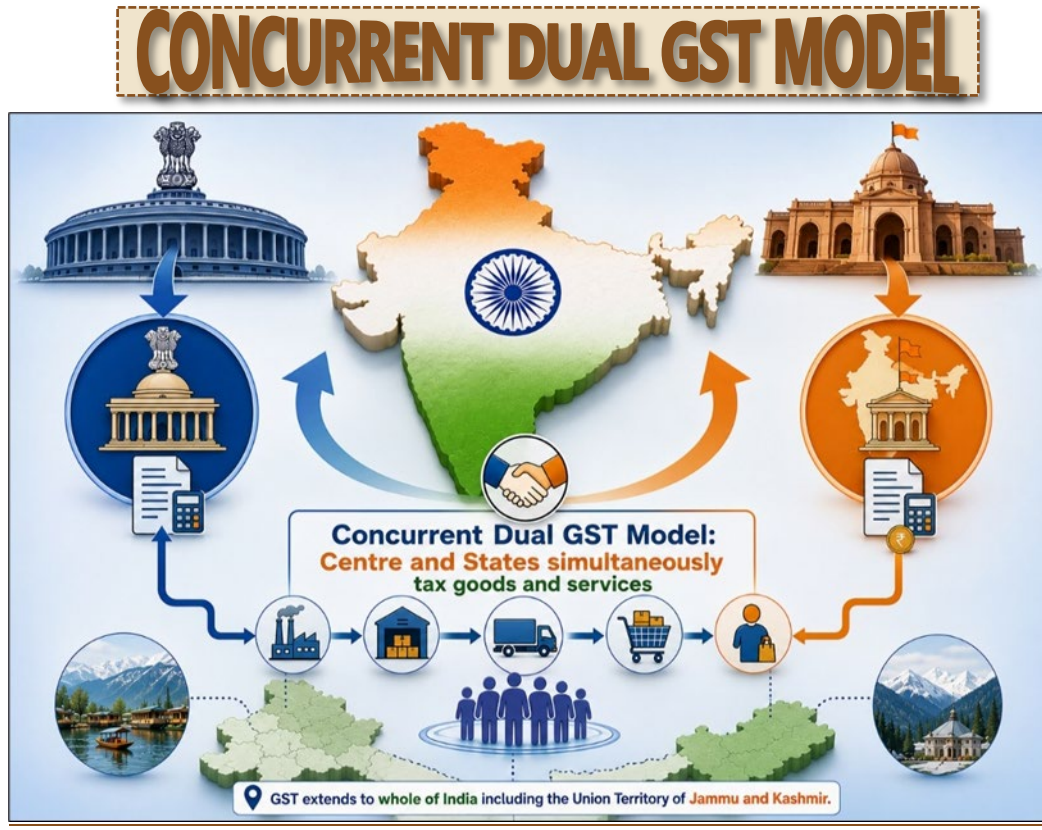
### I. Concurrent Dual GST:

India has a unique federal structure. In view of the same, India has adopted a **Concurrent Dual GST Model**. Under Concurrent Dual GST Model, the Centre and States simultaneously levy GST on complete supply chain, i.e. starting from production to distribution stage.

Thus, tax is imposed concurrently by the Centre and States, i.e. Centre and States simultaneously tax goods and services.

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Now, the Centre also has the power to tax intra-State sales & States are also empowered to tax services. GST extends to whole of India including the Union Territory of Jammu and Kashmir.

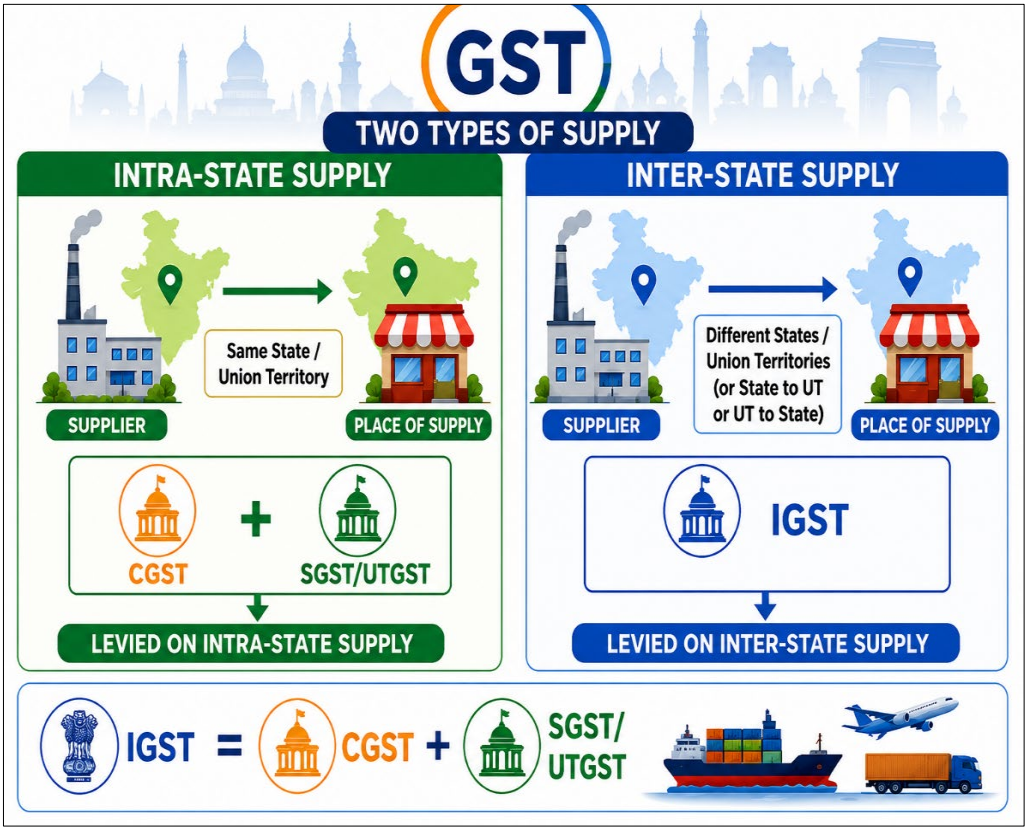



## II. Components of GST - CGST/SGST/UTGST/IGST




GST is a destination-based tax applicable on all transactions involving supply of goods or services or both for a consideration subject to exceptions thereof. GST in India comprises of Central Goods and Services Tax (CGST) - levied and collected by Central Government, State Goods and Services Tax (SGST) - levied and collected by State Governments/Union Territories with Legislatures and Union Territory Goods and Services Tax (UTGST) - levied and collected by Union Territories without Legislatures, on intra-State supplies of taxable goods and/or services.

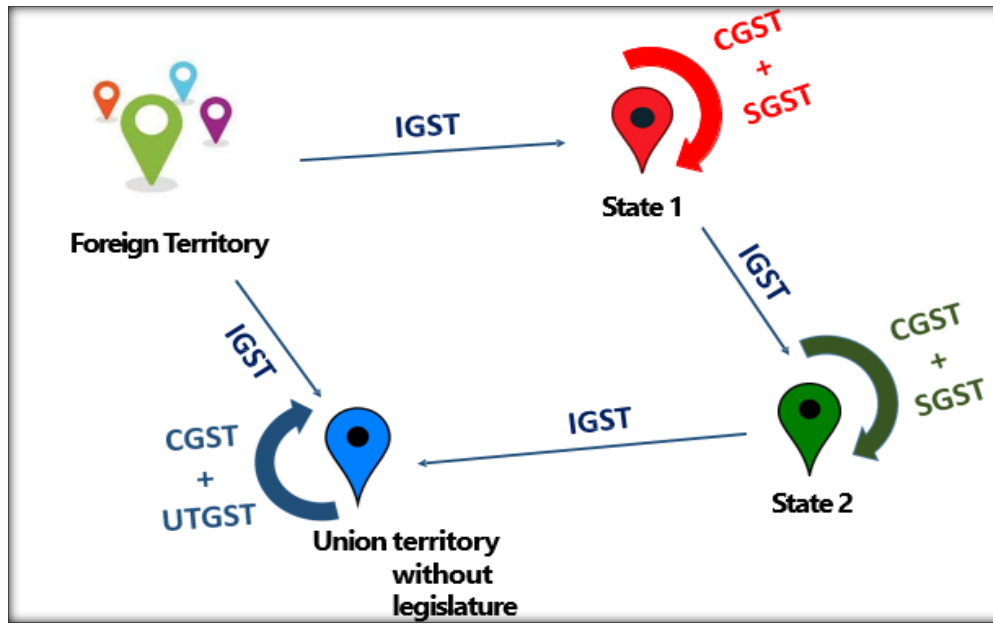
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As a general rule, where the location of the supplier and the place of supply of goods or services are in the same State/Union territory, it is treated as intra-State supply of goods or services respectively.

Further, where the location of the supplier and the place of supply of goods or services are in (i) two different States or (ii) two different Union Territories or (iii) a State and a Union territory, it is treated as inter-State supply of goods or services respectively. Inter-State supplies of taxable goods and/or services are subject to Integrated Goods and Services Tax (IGST). IGST is the sum total of CGST and SGST/UTGST and is levied by the Centre on all inter-State supplies.

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## III. Legislative Framework

There is single legislation – CGST Act, 2017 - for levying CGST. Similarly, Union Territories without Legislatures [i.e. Andaman and Nicobar Islands, Lakshadweep, Ladakh, Dadra and Nagar Haveli & Daman and Diu and Chandigarh] are governed by UTGST Act, 2017 for levying UTGST. States and Union territories with their own legislatures [i.e. Delhi, Jammu and Kashmir and Puducherry] have their own GST legislation for levying SGST.







In Ladakh, CGST and UTGST is levied on supply of goods or services or both. In Delhi, CGST and SGST is levied on supply of goods or services or both.

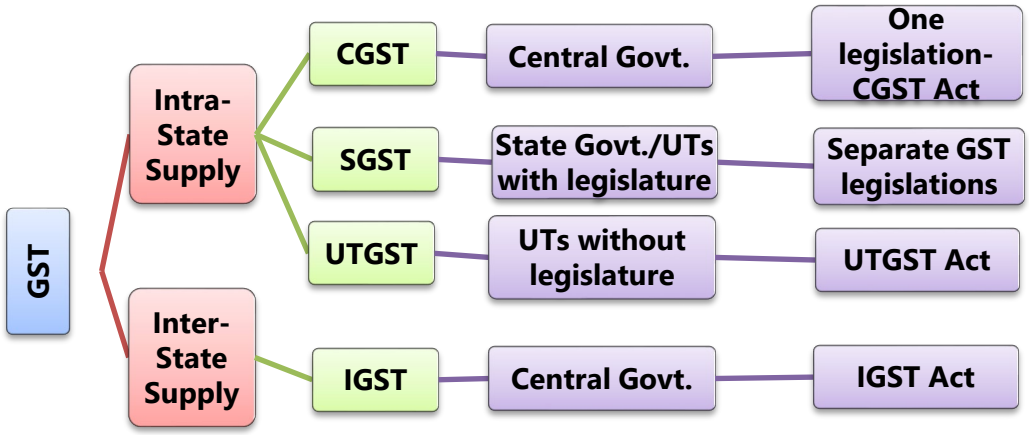
Though there are multiple SGST legislations, the basic features of law, such as chargeability, definition of taxable event and taxable person, classification and valuation of goods and services, procedure for collection and levy of tax and the like are uniform in all the SGST legislations, as far as feasible. This is necessary to preserve the essence of dual GST.

IGST is levied by the IGST Act, 2017 on inter-State supplies of goods and/or services, and on import of goods and/or services into India.

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In addition, the GST (Compensation to States) Act, 2017 provides for levy of a Compensation Cess on specified supplies to compensate States for revenue loss.




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## IV. GST Common Portal

Before GST, since the Centre and State indirect tax administrations worked under different laws, regulations, procedures and formats, their IT infrastructure and systems were also independent of each other. Integrating them for GST implementation was complex since it required integrating the entire indirect tax ecosystem so as to bring all the tax administrations (Centre, State and Union Territories) to the same level of IT maturity with uniform formats and interfaces for taxpayers and other external stakeholders.

Besides, GST being a **destination-based tax**, the inter-State trade of goods and services (IGST) needed a robust settlement mechanism amongst the States and the Centre. A Common Portal was needed which could act as a clearing house and verify the claims and inform the respective Governments to transfer the funds. This was possible only with the help of a strong IT infrastructure.

Resultantly, Common GST Electronic Portal – **www.gst.gov.in** – a website managed by Goods and Services Network (GSTN) [a wholly owned Government Company] is set by the Government to establish a uniform interface for the tax payer and a common and shared IT infrastructure between the Centre and States.




The GST portal is accessible over Internet (by taxpayers and their CAs/Tax Advocates etc.) and Intranet by Tax Officials etc. The portal is one single common portal for all GST related services.

A common GST system provides linkage to all State/ UT Commercial Tax Departments, Central Tax authorities, Taxpayers, Banks and other stakeholders. The eco-system consists of all stakeholders starting from taxpayer to tax professional to tax officials to GST portal to Banks to accounting authorities.

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The functions of the GSTN include facilitating registration; forwarding the returns to Central and State authorities; computation and settlement of IGST; matching of tax payment details with banking network; providing various MIS reports to the Central and the State Governments based on the taxpayer return information; providing analysis of taxpayers' profile.




However, it is important to note that the Common GST Electronic Portal for furnishing electronic way bill is www.ewaybillgst.gov.in [managed by the National Informatics Centre, Ministry of Electronics & Information Technology, Government of India]. E-way bill is an electronic document generated on the GST portal evidencing movement of goods.




Further, Invoice Registration Portal (IRP) is the website for uploading/reporting of e-invoices by the notified persons*. It is managed by the National Informatics Centre, Ministry of Electronics & Information Technology, Government of India.

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**All registered businesses with an aggregate turnover (based on PAN) in any preceding financial year from 2017-18 onwards greater than ₹ 5 crore are required to issue e-invoices.*

## V. GSPs/ASPs




GSTN has selected certain Information Technology, Information Technology enabled Services and financial technology companies, to be called GST Suvidha Providers (GSPs). GSPs have access to GST System and have the capability to develop applications to be used by taxpayers for interacting with the GSTN.




GSP develops applications having features like return filing, reconciliation of purchase register data with auto populated data for acceptance/rejection/modification, dashboards for taxpayers for quick monitoring of GST compliance activities. They may also provide role-based access to divide various GST related activities like uploading invoice, filing returns etc., among different set of users inside a company (medium or large companies will need it), applications for tax professional to manage their client's GST compliance activities, integration of existing accounting packages/ERP with GST System, etc.

GSP is an additional channel being made available for facilitating the taxpayers for performing some of the functions and use of their services is optional. GSPs may take the help of Application Service Providers (ASPs) who act as a link between taxpayers and GSPs.

## VI. Compensation Cess




A GST Compensation Cess at specified rate was imposed under the Goods and Services Tax (Compensation to States) Cess Act, 2017 on the specified luxury items or demerit goods, like pan masala, tobacco, aerated waters, motor cars etc., computed

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on value of taxable supply. Compensation cess is leviable on intra-State supplies and inter-State supplies with a view to provide for compensation to the States for the loss of revenue arising on account of implementation of the GST. Initially, it was levied for a period of 5 years upto 30th June, 2022. However, its levy and collection was extended till **31st March, 2026**.



The GST Compensation Cess has been phased out and it no longer exists as a levy under the GST regime.

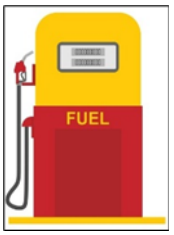
## VII. GST – A tax on goods and services

GST is levied on all goods and services, except alcoholic liquor for human consumption and petroleum crude, diesel, petrol, ATF and natural gas.

- **Alcoholic liquor for human consumption:** is outside the realm of GST. The manufacture/production of alcoholic liquor continues to be subjected to **State excise duty** and inter-State/intra-State sale of the same is subject to **CST/VAT** respectively.




- **Petroleum crude, diesel, petrol, ATF and natural gas:** As regards petroleum crude, diesel, petrol, ATF and natural gas are concerned, they are not presently leviable to GST. GST will be levied on these products from a date to be notified on the recommendations of the GST Council.




Till such date, **central excise duty** continues to be levied on manufacture/production of petroleum crude, diesel, petrol, ATF and natural gas and inter-State/intra-State sale of the same is subject to **CST/ VAT** respectively.

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- **Tobacco:** Tobacco is within the purview of GST, i.e. GST is leviable on tobacco. However, Union Government has also retained the power to levy excise duties on tobacco and tobacco products manufactured in India. Resultantly, **tobacco is subject to GST as well as central excise duty.**



- **Opium, Indian hemp and other narcotic drugs and narcotics:** Opium, Indian hemp and other narcotic drugs and narcotics are within the purview of GST, i.e. GST is leviable on them. However, State Governments have also retained the power to levy excise duties on such products manufactured in India. Resultantly, Opium, Indian hemp and other narcotic drugs and narcotics are **subject to GST as well as State excise duties.**




- Further, **real estate sector** has been kept out of ambit of GST, i.e. GST will not be levied on sale/purchase of immovable property.

## Taxes Subsumed in GST

The various central, State and local levies were examined to identify their possibility of being subsumed under GST. While identifying, the following principles were kept in mind:

(i) Taxes or levies to be subsumed should be primarily in the nature of indirect taxes, either on the supply of goods or on the supply of services.

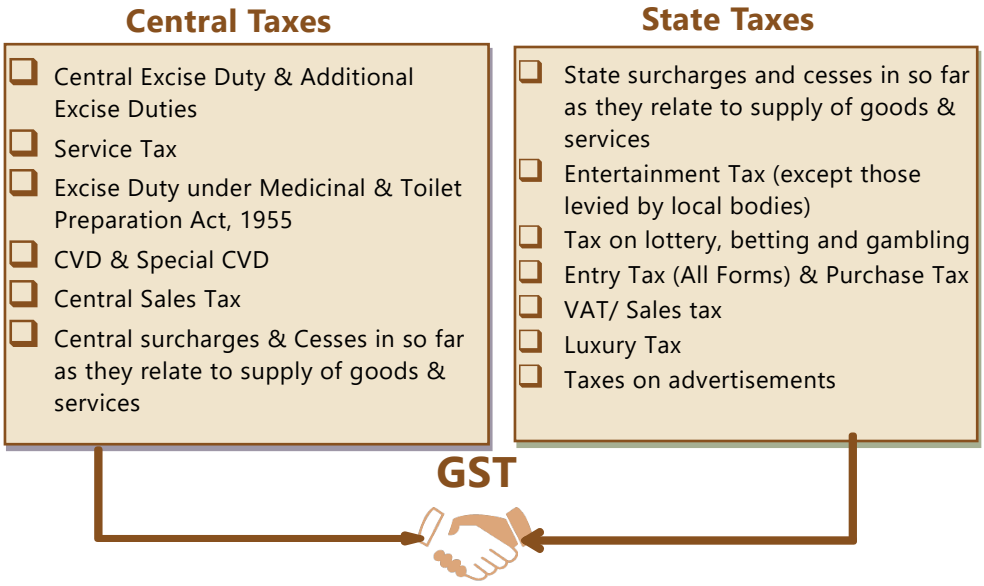
(ii) Taxes or levies to be subsumed should be part of the transaction chain which commences with import/ manufacture/ production of goods or provision of services at one end and the consumption of goods and services at the other.

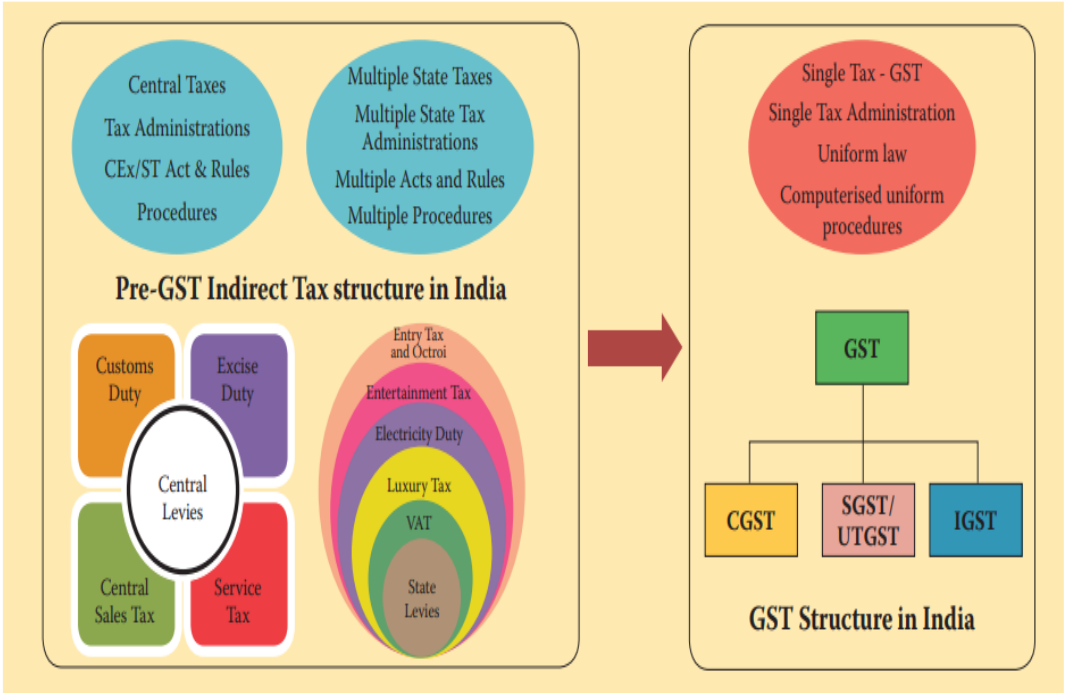
(iii) The subsuming of taxes should result in free flow of tax credit in intra and inter-State levels. The taxes, levies and fees that were not specifically related to supply of goods & services would not be subsumed under GST.

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(iv) Revenue fairness for both the Union and the States individually would need to be attempted.

Taking the above principles into account, following taxes were subsumed in the GST:




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# Within GST or outside GST

| | | |
|---|---|---|
|  | Alcohol for human consumption. | Power to tax remains with the State. |
|  | Five petroleum products – crude oil, diesel, petrol, natural gas and ATF. | GST Council to decide the date from which GST will be applicable. |
|  | Entertainment tax levied by local bodies. | Power to tax remains with the local bodies. |
|  | Tobacco | Within the purview of GST. Power to levy excise duties, also retained. |

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