

SMART NOTES

GST

[Part - 1]
2021 EXAMS



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CHAPTER - 1 **BASIC CONCEPTS OF GST**

DEFICIENCY OF EXISTING INDIRECT TAX SYSTEM

1. Cascading effect
2. No credit of CENVAT with VAT & Vice Versa
3. Power of tax divided between C&S Govt.
4. Goods & services taxed differently
5. Service sector not taxed adequately.
6. Oil, Gas Production, Mining, Agriculture, Wholesale Retail Trade, Real Estate Construction was out of CENVAT Credit.
7. Entry tax, Octroi, Luxury Tax, Entertainment tax are kept outside of VAT Scheme.
8. No credit of CST
9. Multiple registrations, forms, returns were required under various taxation laws and rules.
10. Lack of cross verification of returns filed under State as well as Central Taxation
11. More than fifteen taxes under Indirect Tax System. Leading to duplicity
12. Entry Tax and Octroi and compliance to it are time consuming. The transporters are required to wait for hours on border of a state, while entering in other state.

WHAT IS GST

- Destination based consumption tax
- Value added tax levied on manufacture, sale and consumption of goods and services.
- Taxing only the value added at each stage of supply chain.
- Supplier at each stage is permitted to avail credit of GST paid on purchase and can set off credit against the GST payable on supply
- Final consumer bears the GST charged by the last supplier in the supply chain, with set-off benefits at all the previous stages.
- There is no tax on tax or cascading of taxes under GST system.
- GST does not differentiate between goods and services and thus, the two are taxed at a single rate

GST INTERNATIONAL PERSPECTIVE

- France was the first country to implement VAT, in 1954.
- More than 160 countries have implemented GST / VAT
- Centralized VAT eg Switzerland, Australia
- Dual VAT structure eg Canada, Brazil, Russia
- 3 types of GST models under Canadian System of GST) whereas Canada has multiple rate slabs. Indian GST based on Canadian model
- Malaysia has a lower rate of 6% (Malaysia though scrapped GST in 2018 due to popular uproar against it)
- Hungary has one of the highest rate of 27%.
- Australia levies GST at the rate of 10%.
- The average rate of VAT across the EU is around 19.5%.

HISTORY OF GST IN INDIA

- **17th July, 2000** : Set up of Empowered committee headed by West Bengal Finance Minister Asim Dasgupta to design GST model.
- **2003**: Formation of task force under Vijay Kelkar
- **July 2004** : Kelkar Task Force on Fiscal Responsibility & Budget Management (FRBM) recommended introduction of GST

Kelkar Shah model is based on Canadian model of GST

- **6th May, 2015** : **Constitution(122nd Amendment) Bill, 2014** passed in Lok Sabha
- **3rd Aug 2016** : Bill passed in Rajya Sabha
- **8th September, 2016** : **Bill** received assent of President & became **Constitution (101st Amendment) Act, 2016**,
- **27th March, 2017** : CGST Bill, 2017, IGST Bill, 2017, UTGST Bill, 2017 & GST (Compensation to States) Bill, 2017 were introduced in Lok Sabha.
- **29th March, 2017** : Lok Sabha passed these bills on and with the
- **12th April, 2017** : Receipt of President's assent

- Enactment of State GST laws by various State Legislatures.

Telangana, Rajasthan, Chhattisgarh, Punjab, Goa and Bihar were among the first ones to pass their respective State GST laws.

- **1st July, 2017** : GST was introduced in India **excluding J&K**
- **7th July, 2017** : **Introduced in J&K by CGST (Extension to J&K) Act, 2017**

CONSTITUTIONAL PROVISIONS OF GST

- Constitution of India is supreme law of India
 - Three-tier federal structure i.e Union Government, State Governments & Local Government
 - Power to levy taxes & duties is distributed amongst them
 - Preamble, 25 parts containing **448 Articles and 12 Schedules**.
1. **Article 265** : “No tax shall be levied or collected except by authority of law”
 2. **Article 246** : Parliament may make laws for whole of India or any part of territory of India,
State Legislature may make laws for whole or part of State.
 3. **Seventh Schedule to Article 246:**
 - 3 lists contains matters under which Union & State Govt have authority make laws.
 - Entries 82 to 91 of List I : Central Government has power to levy taxes.
 - Entries 45 to 63 of List II : State Governments has the power to levy taxes.
 - Parliament has a further power to make any law for any part of India not comprised in a State even if such matter is included in State List.

Power to levy GST has been conferred by Article 246A of the Constitution which was introduced by the Constitution (101st Amendment) Act, 2016

Significant provisions of Constitution (101st Amendment) Act, 2016**1. Changes in the list****UNION LIST :**

83. Duties of customs including export duties.

84. Duties of excise on the following goods manufactured or produced in India, namely:—

- (a) petroleum crude; (b) high speed diesel; (c) motor spirit (commonly known as petrol);
- (d) natural gas; (e) aviation turbine fuel; and (f) tobacco and tobacco products

92. ~~Taxes on the sale or purchase of newspapers and on advertisements published therein.~~ (omitted as per 101st Amendment Act)

92A. Taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce.

92C. ~~Taxes on services.~~ (omitted as per 101st Amendment Act)

97. Any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists.

STATE LIST :

49. Taxes on lands and buildings

51. Duties of excise on following goods manufactured or produced in the State

- (a) alcoholic liquors for human consumption
- (b) opium, Indian hemp & other narcotic drugs and narcotics but not including medicinal & toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry.

52. ~~Taxes on the entry of goods into a local area for consumption, use or sale therein.~~ (Omitted as per 101 Amendment) Act)

53. Taxes on the consumption or sale of electricity

54. Taxes on the sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption, but not including sale in course of inter-State trade or commerce or sale in the course of international trade or commerce of such goods.

55. ~~Taxes on advertisements other than advertisements published in the newspapers [and advertisements broadcast by radio or television]~~ (omitted as per 101 Amendment) Act)

60. Taxes on professions, trades, callings and employments.

62. Taxes on entertainments and amusements to the extent levied & collected by Panchayat or a Municipality or Regional Council or District Council.

63. Rates of stamp duty in respect of documents other than those specified in union list

2. Article 366 : Definitions

GST means

- any tax on supply of goods, or services or both
- except taxes on supply of alcoholic liquor for human consumption.

Goods : includes all materials, commodities, and articles

Services means anything other than goods

State with reference to articles 246A, 268, 269, 269A and article 279A, includes a Union territory with Legislature

3. Article 246A : Power to make laws with respect to Goods and Services Tax

- **Parliament & Legislature of every State**, have power to make laws wrt GST imposed by Union or by such State.
- **Parliament has exclusive power** to make laws wrt GST where supply takes place in course of inter-State trade or commerce.(ISS)

4. Article 269A : Levy & collection of GST on inter-State supply

- GST on supplies in the course of ISS
- levied & collected by CG and
- apportioned between Union and States
- as per law of parliament
- on recommendations of GST Council

Import of goods or services or both into India will also be deemed as ISS

5. Article 279A : GST Council

- Article 279A empowers the President to constitute **GST Council**
- **12th September, 2016** : Provisions relating to GST Council came into force
- **15th September, 2016** : President constituted GST Council
- **Members = 33**

1)Chairman : Union Finance Minister (1)

2) Members :

Ministers in charge of Finance/Taxation or any other Minister nominated by States & UTs with Legislatures (28+3)

Union Minister of State in charge of Revenue or Finance (1)

- **The function of Council :**
-Recommendations to Union & States on issues like tax rates, exemptions, threshold limits, dispute resolution etc
-Recommend date on which GST be levied on petroleum crude, high speed diesel, motor spirit, natural gas and ATF
- **Decision of GST Council :** Majority of min 3/4th of weighted votes of members present & voting.
- **Vote of Centre :** Weightage of 1/3rd of total votes cast
- **Votes of all SG taken together :** Weightage of 2/3rd of total votes cast
- **Quorum :** 50%

Features of GST

1. Dual GST

2. CGST/SGST/UTGST/IGST/GSTCC

- **CGST :** CG + CGST Act, 2017 + Intra state/UT supplies
- **SGST :** SG + SGST Act, 2017 + Intra state/UT with State legislature supplies
- **UTGST –** CG + UTGST Act, 2017 + Intra UT without State Legislature supplies

Sec 2(114) of CGST Act, “Union Territory” means

- Andaman and Nicobar Islands;
- Lakshadweep;
- Dadra and Nagar Haveli and Daman and Diu;
- Chandigarh;
- Ladakh and
- Other territory.

▪ J&K Reorganisation Act, 2019

Reorganised state of J&K into UT of J&K & Ladakh

UT of J&K shall be UT with its own Legislature

UT of Ladakh shall be UT without legislature.

GST Status

- UT of J&K shall have status of a state.
- UT of Ladakh shall have status of a UT
- **26 Jan 2020 :** 2 UT were merged to form UT of Dadra and Nagar Haveli and Daman and Diu.
- **IGST:** CG + IGST Act, 2017 + Inter-State supplies/Inter union territory supplies
- **GST CC :** CG + GSTCTS Act, 2017 + Specified Goods

3. Classification of goods and services

- **HSN (Harmonised System of Nomenclature)** : Classification of goods

India is member of World Customs Organization (WCO) since 1971. It was originally using 6-digit HSN codes to classify commodities but later two more digits were added to make the codes more precise, resulting in an 8 digit classification.

The purpose of HSN codes is to make GST systematic and globally accepted.

- **Service Accounting code : (SAC)** : Classification of services

4. Registration

- Every supplier is required to obtain registration in State/UT from where he makes the taxable supply if his aggregate turnover exceeds ₹ 20 lakh during a FY.
- The limit of ₹ 20 lakh will be reduced to ₹ 10 lakh if the person is carrying out business in Manipur, Mizoram, Nagaland, Tripura
- In case of exclusive supply of goods limit is also ₹40 lakhs is also provided.

5. Composition Scheme

For providing relief to small businesses making intra-State supplies, a simpler method of paying taxes and accounting thereof is also prescribed, known as Composition Levy

6. Exemptions :

GST Law also contains provisions for granting exemption from payment of tax on essential goods and/or services.

6. Manner of utilization of ITC

- Credit of IGST can be utilized for the payment of IGST & then Either for CGST or for SGST/UTGST in any manner or proportion

Credit of IGST has to exhausted before claiming CGST/SGST/UTGST Credit

- CGST credit can be utilized for payment of CGST & then IGST
- SGST credit can be utilized for payment of SGST & then IGST
- CGST credit cannot be utilized for payment of SGST & Vice versa

7. GST Common Portal

Common GST Electronic Portal – www.gst.gov.in – a website managed by Goods & Services Network (GSTN)

Company incorporated u/s 8 of the Companies Act, 2013 has been set by Government

- The portal is one single common portal for all GST related services (Registration, Payment and Return etc)
- Provides 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 by Tax Officials ,Banks and other stakeholders

8. GSPs/ASPs

- GSTN has selected certain IT, & financial technology companies as GST Suvidha Providers(GSPs).
- GSPs develop applications to be used by taxpayers for interacting with GSTN.
- They facilitate the tax payers in uploading invoices as well as filing of returns and act as a single stop shop for GST related services.
- GSPs may take the help of Application Service Providers (ASPs) who act as link between taxpayers and GSPs

9. Taxes to be Subsumed under VAT**CENTRAL TAXES**

- Central Excise Duty
- Additional Excise Duties
- Excise Duty under Medicinal & Toilet Preparation Act
- Service Tax
- CVD & Special CVD
- Central Sales Tax
- Central surcharges and Cesses

STATE TAXES

- Entertainment Tax (except those levied by local bodies)
- Tax on lottery, betting and gambling
- Entry Tax & Purchase Tax
- VAT/ Sales tax
- Luxury Tax
- Taxes on advertisements
- State surcharges and cesses

Benefits of GST

1. **Creation of unified national market**
2. **Mitigation of ill effects of cascading**
3. **Elimination of multiple taxes and double taxation:**
4. **Boost to 'Make in India' initiative**
5. **Buoyancy to the Government Revenue**

CHAPTER - 2
DEFINITIONS**SEC 2 : DEFINITIONS**

(1) “**Actionable claim**” shall have same meaning u/s 3 of Transfer of Property Act, 1882;

As per section 3 of Transfer of Property Act, 1882,

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

(2) “**Address of delivery**” means the address of recipient of goods or services or both indicated on tax invoice issued by a registered person for delivery of such goods or services or both;

(3) “**Address on record**” means address of recipient as available in records of supplier;

(4) “**Adjudicating authority**” means any authority, appointed or authorised to pass any order or decision under this Act, but does not include

- CBIC,
- Revisional Authority,
- Authority for Advance Ruling,
- Appellate Authority for Advance Ruling,
- Appellate Authority,
- Appellate Tribunal and
- Authority referred u/s 171(2)

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

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

(7) “**Agriculturist**” means an individual or HUF who undertakes cultivation of land—

- (a) by own labour, or
- (b) by the labour of family, or
- (c) by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family;

(8) “**Appellate Authority**” means an authority appointed or authorised to hear appeals as referred u/s 107;

(9) “**Appellate Tribunal**” means the Goods and Services Tax Appellate Tribunal constituted u/s 109;

(10) “**Appointed day**” means the date on which the provisions of this Act shall come into force;

(11) **“Assessment”** means determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment and best judgment assessment;

(12) **“Associated enterprises”** shall have the same meaning u/s 92A of the Income-tax Act, 1961;

(13) **“Audit”** means the examination of records, returns and other documents maintained or furnished by the registered person under this Act or the rules made thereunder or under any other law for the time being in force to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of this Act or the rules made thereunder;

(14) **“Authorised bank”** shall mean a bank or a branch of a bank authorised by the Government to collect the tax or any other amount payable under this Act;

(15) **“Authorised representative”** means the representative u/s 116;

(16) **“Board”** means the CBIC constituted under the Central Boards of Revenue Act, 1963;

(17) **“Business”** includes—

(a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;

(b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);

(c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;

(d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;

(e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;

(f) admission, for a consideration, of persons to any premises;

(g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;

(h) activities of a race club including by way of totalisator or license to book maker or activities of a licensed book maker in such club; and

(i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;

~~(18) **“Business Vertical”** means a distinguishable component of an enterprise that is engaged in the supply of individual goods or services or a group of related goods or services which is subject to risks and returns that are different from those of the other business verticals.~~

~~Explanation.—For the purposes of this clause, factors that should be considered in determining whether goods or services are related include—~~

~~(a) Nature of the goods or services;~~

~~(b) Nature of the production processes;~~

~~(c) Type or class of customers for the goods or services;~~

~~(d) Methods used to distribute the goods or supply of services; and~~

~~(e) Nature of regulatory environment (wherever applicable), including banking, insurance, or public utilities;~~

~~“Deleted by CGST Amendment Act, 2018”~~

- (19) **“Capital Goods”** means goods, the value of which is capitalised in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business;
- (20) **“Casual taxable person”** means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business;
- (21) **“Central tax”** means the central goods and services tax levied u/s 9;
- (22) **“Cess”** shall have the same meaning as assigned to it in the GST (Compensation to States) Act;
- (23) **“Chartered accountant”** means a CA as defined u/s 2 of CA Act, 1949;
- (24) **“Commissioner”** means the Commissioner of central tax and includes Principal Commissioner of central tax appointed u/s 3 and Commissioner of integrated tax appointed under IGST Act;
- (25) **“Commissioner in the Board”** means the Commissioner referred to in section 168;
- (26) **“Common portal”** means the common goods and services tax electronic portal referred to in section 146;
- (27) **“Common working days”** in respect of a State or Union territory shall mean such days in succession which are not declared as gazetted holidays by the Central Government or the concerned State or Union territory Government;
- (28) **“Company secretary”** means a company secretary as defined u/s 2 of Company Secretaries Act, 1980;
- (29) **“Competent authority”** means such authority as may be notified by the Government;
- (30) **“Composite supply”** means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;
Illustration.— Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;
- (31) **“Consideration”** in relation to the supply of goods or services or both includes—
- (a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;
- (b) Monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by Central Government or a State Government:
- Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;
- (32) **“Continuous supply of goods”** means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify;

- (33) **“Continuous supply of services”** means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify;
- (34) **“Conveyance”** includes a vessel, an aircraft and a vehicle;
- (35) **“Cost accountant”** means a cost accountant as defined u/s 2 of CWA Act, 1959;
- (36) **“Council”** means the Goods and Services Tax Council established under article 279A of the Constitution;
- (37) **“Credit note”** means a document issued by a registered person u/s section 34(1);
- (38) **“Debit note”** means a document issued by a registered person u/s 34(3);
- (39) **“Deemed exports”** means such supplies of goods as may be notified u/s 147;
- (40) **“Designated authority”** means such authority as may be notified by the Board;
- (41) **“Document”** includes written or printed record of any sort and electronic record as u/s 2(f) of the Information Technology Act, 2000;
- (42) **“Drawback”** in relation to any goods manufactured in India and exported, means the rebate of duty, tax or cess chargeable on any imported inputs or on any domestic inputs or input services used in the manufacture of such goods;
- (43) **“Electronic cash ledger”** means the electronic cash ledger referred to u/s 49(1);
- (44) **“Electronic commerce”** means the supply of goods or services or both, including digital products over digital or electronic network;
- (45) **“Electronic commerce operator”** means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce;
- (46) **“Electronic credit ledger”** means the electronic credit ledger referred to u/s 49(2);
- (47) **“Exempt supply”** means supply of any goods or services or both which attracts *nil* rate of tax or which may be wholly exempt from tax u/s 11, or under section 6 of the IGST Act, and includes non-taxable supply;
- (48) **“Existing law”** means any law, notification, order, rule or regulation relating to levy and collection of duty or tax on goods or services or both passed or made before the commencement of this Act by Parliament or any Authority or person having the power to make such law, notification, order, rule or regulation;
- (49) **“Family”** means,—
(i) Spouse and children of the person, and
(ii) Parents, grand-parents, brothers and sisters of person if they are wholly or mainly dependent on person;
- (50) **“Fixed establishment”** means a place (other than the registered place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs;
- (51) **“Fund”** means the Consumer Welfare Fund established u/s 57;

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

(53) **“Government”** means the Central Government;

(54) **“Goods and Services Tax (Compensation to States) Act”** means the Goods and Services Tax (Compensation to States) Act, 2017;

(55) **“Goods and services tax practitioner”** means any person who has been approved under section 48 to act as such practitioner;

(56) **“India”** means the territory of India as referred under Constitution, its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and the air space above its territory and territorial waters;

(57) **“Integrated Goods and Services Tax Act”** means the Integrated Goods and Services Tax Act, 2017;

(58) **“Integrated tax”** means the integrated goods and services tax levied under the Integrated Goods and Services Tax Act;

(59) **“Input”** means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business;

(60) **“Input service”** means any service used or intended to be used by a supplier in the course or furtherance of business;

(61) **“Input Service Distributor”** means an office of the supplier of goods or services or both which receives tax invoices issued u/s 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office;

(62) **“Input tax”** in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes—

(a) IGST charged on import of goods;

(b) Tax payable u/s 9(3) and 9(4);

(c) Tax payable u/s 5(3) & 5(4) of IGST Act;

(d) Tax payable u/s 9(3) and 9(4) of the respective SGST Act; or

(e) Tax payable u/s 7(3) & 7(4) of UTGST Act, but does not include tax paid under the composition levy;

(63) **“Input tax credit”** means the credit of input tax;

(64) **“Intra-State supply of goods”** shall have the same meaning as assigned to it in section 8 of the Integrated Goods and Services Tax Act;

(65) **“Intra-State supply of services”** shall have the same meaning as assigned to it in section 8 of the Integrated Goods and Services Tax Act;

(66) **“Invoice” or “tax invoice”** means the tax invoice referred to in section 31;

(67) **“Inward supply”** in relation to a person, shall mean receipt of goods or services or both whether by purchase, acquisition or any other means with or without consideration;

(68) **“Job work”** means any treatment or process undertaken by a person on goods belonging to another registered person and the expression “job worker” shall be construed accordingly;

(69) **“Local authority”** means —

- (a) “Panchayat” as defined under article 243(d) of Constitution;
- (b) “Municipality” as defined in article 243P(e) of Constitution;
- (c) Municipal Committee, Zilla Parishad, District Board, and other authority legally entitled to local fund;
- (d) Cantonment Board defined u/s 3 of Cantonments Act, 2006;
- (e) Regional Council or a District Council constituted under Sixth Schedule to the Constitution;
- (f) Development Board constituted under article 371 & 371J of Constitution; or
- (g) Regional Council constituted under article 371A of Constitution;

(70) **“Location of the recipient of services”** means,—

- (a) where a supply is received at a place of business for which the registration has been obtained, the location of such place of business;
- (b) where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;
- (c) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and
- (d) in absence of such places, the location of the usual place of residence of the recipient;

(71) **“Location of the supplier of services”** means,—

- (a) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;
- (b) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;
- (c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provisions of the supply; and
- (d) in absence of such places, the location of the usual place of residence of the supplier;

(72) **“Manufacture”** means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term “manufacturer” shall be construed accordingly;

(73) **“Market value”** shall mean the full amount which a recipient of a supply is required to pay in order to obtain the goods or services or both of like kind and quality at or about the same time and at the same commercial level where the recipient and the supplier are not related;

(74) **“Mixed supply”** means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

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

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

(76) **“Motor vehicle”** shall have the same meaning as assigned u/s 2(28) of the Motor Vehicles Act, 1988;

(77) **“Non-resident taxable person”** means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India;

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

(79) **“Non-taxable territory”** means the territory which is outside the taxable territory;

(80) **“Notification”** means a notification published in the Official Gazette and the expressions “notify” and “notified” shall be construed accordingly;

(81) **“Other territory”** includes territories other than those comprising in a State and those referred to in sub-clauses (a) to (e) of clause (114) ;

(82) **“Output tax”** in relation to taxable person, means the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis;

(83) **“Outward supply”** in relation to a taxable person, means supply of goods or services or both, whether by sale, transfer, barter, exchange, licence, rental, lease or disposal or any other mode, made or agreed to be made by such person in the course or furtherance of business;

(84) **“Person”** includes—

- (a) Individual;
- (b) Hindu Undivided Family;
- (c) company;
- (d) firm;
- (e) Limited Liability Partnership;
- (f) Association of persons or a body of individuals, whether incorporated or not, in India or outside India;
- (g) Corporation established by or under any Central Act, State Act or Provincial Act or Government company as defined u/s 2(45) of the Companies Act, 2013;
- (h) Body corporate incorporated by or under the laws of a country outside India;
- (i) Co-operative society registered under any law relating to co-operative societies;
- (j) Local authority;
- (k) Central Government or a State Government;
- (l) society as defined under Societies Registration Act, 1860;
- (m) trust; and
- (n) Artificial juridical person, not falling within any of the above;

(85) **“Place of business”** includes—

- (a) Place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or
- (b) Place where a taxable person maintains his books of account; or
- (c) Place where a taxable person is engaged in business through an agent, by whatever name called;

(86) **“Place of supply”** means the place of supply as referred to in Chapter V of IGST Act;

- (87) **“Prescribed”** means prescribed by rules made under this Act on the recommendations of the Council;
- (88) **“Principal”** means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both;
- (89) **“Principal place of business”** means the place of business specified as the principal place of business in the certificate of registration;
- (90) **“Principal supply”** means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;
- (91) **“Proper officer”** in relation to any function to be performed under this Act, means the Commissioner or the officer of the central tax who is assigned that function by the Commissioner in the Board;
- (92) **“Quarter”** shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year;
- (93) **“Recipient”** of supply of goods or services or both, means—
(a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;
(b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and
(c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,
and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied;
- (94) **“Registered person”** means a person who is registered u/s 25 but does not include a person having a Unique Identity Number;
- (95) **“Regulations”** means the regulations made by the Board under this Act on the recommendations of the Council;
- (96) **“Removal”** in relation to goods, means—
(a) despatch of the goods for delivery by the supplier thereof or by any other person acting on behalf of such supplier; or
(b) collection of the goods by the recipient thereof or by any other person acting on behalf of such recipient;
- (97) **“Return”** means any return prescribed or otherwise required to be furnished by or under this Act or the rules made thereunder;
- (98) **“Reverse charge”** means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both u/s 9(3) or 9(4), or under sub-section (3) or subsection (4) of section 5 of the IGST Act;
- (99) **“Revisional Authority”** means an authority appointed or authorised for revision of decision or orders as referred to in section 108;

(100) “**Schedule**” means a Schedule appended to this Act;

(101) “**Securities**” shall have the same meaning as assigned u/s 2(h) of the Securities Contracts (Regulation) Act, 1956;

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

Explanation : The expression “services” includes facilitating or arranging transactions in securities.

(103) “**State**” includes a Union territory with Legislature;

(104) “**State tax**” means the tax levied under any State Goods and Services Tax Act;

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

(106) “**Tax period**” means the period for which the return is required to be furnished;

(107) “**Taxable person**” means a person who is registered or liable to be registered u/s 22 or u/s 24;

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

(109) “**Taxable territory**” means the territory to which the provisions of this Act apply;

(110) “**Telecommunication service**” means service of any description (including electronic mail, voice mail, data services, audio text services, video text services, radio paging and cellular mobile telephone services) which is made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature, by wire, radio, visual or other electromagnetic means;

(111) “**The State Goods and Services Tax Act**” means the respective State Goods and Services Tax Act, 2017;

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

(113) “**Usual place of residence**” means—

(a) in case of an individual, the place where he ordinarily resides;

(b) in other cases, the place where the person is incorporated or otherwise legally constituted;

(114) “**Union territory**” means the territory of—

(a) the Andaman and Nicobar Islands;

(b) Lakshadweep;

(c) Dadra and Nagar Haveli & Daman and Diu;

(d) Ladakh;

(e) Chandigarh; and

(f) other territory.

Explanation.—For the purposes of this Act, each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union territory;

(115) **“Union territory tax”** means the Union territory goods and services tax levied under the Union Territory Goods and Services Tax Act;

(116) **“Union Territory Goods and Services Tax Act”** means the Union Territory Goods and Services Tax Act, 2017;

(117) **“Valid return”** means a return furnished u/s 39(1) on which self-assessed tax has been paid in full;

(118) **“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;

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

(120) **Words and expressions used and not defined** in this Act but defined in the Integrated Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act shall have the same meaning as assigned to them in those Acts;

(121) **Any reference in this Act to a law** which is not in force in the State of Jammu and Kashmir, shall, in relation to that State be construed as a reference to the corresponding law, if any, in force in that State.

CHAPTER - 3 **CHARGE OF GST**

Sec 1 : Short Title, Extent & Commencement of CGST ACT 2017

- (1) CGST Act, 2017.
- (2) Extends to whole of India **except to J&K**
Extended to J &K w.e.f 8/7/2017 by CGST (Extension to J&K) Act, 2017
- (3) Come into force on date notification by CG, Provided that different dates may be appointed for different provisions

Sec 9 of CGST Act, 2017 : Charging Section

Sec 9(1) : CHARGE OF CGST

- Subject to 9(2)
- CGST @ Max **20%** + **notified by CG** + **recommendations of Council**
- on **intra-State supplies** of goods/services **Except** on supply of ALFHC
- On **value** u/s 15
- **Collected in prescribed manner**
- **paid by taxable person.**

Sec 9(2) : CGST ON PETROLEUM PRODUCTS

- CGST + date to be notified by CG + recommendations of Council.
- **Petroleum crude, high speed diesel, motor spirit (petrol), natural gas & ATF**

Sec 9(3) : CGST ON REVERSE CHARGE

- CG + Notification + recommendations of Council,
- **specified categories** of **supply of goods/services**
- tax paid on **reverse charge** basis
- by recipient

Sec 9(4) : CGST BY UNREGISTERED SUPPLIER

- CG + notification + recommendations of Council,
- specify **class of registered persons**
- for **specified categories of goods/services**
- received from **unregistered supplier**,
- pay tax on reverse charge basis as recipient

Sec 9(5) : CGST BY ELECTRONIC COMMERCE OPERATOR

- CG + Notification + on recommendations of Council
- specify **categories of services**
- **Tax** shall be paid by **ECO**
- if such services are supplied through it

If ECO does not have physical presence in taxable territory :

Person representing ECO for any purpose in taxable territory shall be liable to pay tax

If ECO does not have physical presence in taxable territory & no representative in said territory :

ECO shall appoint a person in taxable territory and such person liable to pay tax

Special point :**1. REVERSE CHARGE u/s 9(3) for GOODS [N/N- 4/2017]**

| Sno. | Goods | Supplier | Recipient |
|------|---|---|---------------------------------------|
| 1. | <ul style="list-style-type: none"> • Cashew nuts, not Shelled/peeled • Bidi wrapper leaves(tendu) • Tobacco leaves • Raw cotton | Agriculturist | Registered person |
| 2. | Silk yarn | Manufacturer of Silk yarn from raw silk/silk worm cocoons | Registered person |
| 3. | Supply of Lottery | SG,UT or LA | Lottery distributor or selling agent. |
| 4. | Used vehicles, seized/confiscated goods, old/used goods, waste scrap | CG, SG, UT or LA | Registered person |
| 5. | Priority sector lending certificate | Registered Person | Registered Person |

2. REVERSE CHARGE u/s 9(3) for SERVICES [N/N- 13/2017]

| Sn | Services | Supplier | Recipient Located in TT |
|----|--|-------------------------------------|---|
| 1. | Transportation of goods by road <i>Services by GTA to unregistered person are exempted.</i> <i>GTA = transport of goods by road & issues consignment note</i> <i>RCM of GTA will not apply if services to Govt depts, LA or govt agency does not make taxable supplies and regn u/s 51</i> | GTA [who has not paid GST @ 12%] | (a) Factory under Factories Act (b) Regn Society (c) Regd Co-operative society (d) Person registered GST (e) Regd Body corporate (f) firm including AOP (g) CTP liable to pay freight |
| 2. | Legal services | Advocate | Business entity |
| 3. | Arbitral Tribunal | Arbitral tribunal | Business entity |
| 4. | Sponsorship Services | Any Person | Body corporate or partnership firm |
| 5. | Govt services Excluding : (i) postal services + Postal department <ul style="list-style-type: none"> • speed post, • express parcel • post life insurance • agency services provided to person other than GOVT/UT/LA (ii) Services to aircraft/vessel, at port/airport (iii) Transport of goods/passengers. (iv) Renting of Immovable Property | CG, SG, UT or LA | Business Entity |
| 6. | Renting of Immovable Property | CG, SG, UT or LA | Registered person |

| | | | |
|-----|---|---|--|
| 7. | Non employee Director | Director | Company or a body corporate |
| 8. | Insurance agent | Insurance agent | Insurance company |
| 9. | Recovery agent | Recovery agent | Bank/financial institution/ NBFC |
| 10. | Transfer of copyright u/d Copyright Act relating to original literary/dramatic, musical/artistic works | Music Composer, Photographer, Artist | Music company /producer |
| 11. | Author Option of forward charge if- 1. Regn u/s CGST 2. Files declaration to pay under forward charge u/s 9(1) 3. Not withdraw option within 1 year from date of exercising such option 4. Makes declaration on invoice issued to publisher | Author | Publisher located in Taxable Territory |
| 12. | Overseeing committee constituted by RBI | Members of Overseeing Committee | RBI |
| 13. | Business facilitator | Business facilitator (BF) | Banking company |
| 14. | Agent of Business Correspondent | Agent of business correspondent (BC) | Business correspondent |
| 15. | Supply of security personnel <i>Exception</i> (i) Department of Govt/UT/LA Govt agency not for making taxable supplies & Regn u/s 51 (ii) Registered person u/s 10 | Non Body corporate | Registered person |
| 16. | Transfer of development rights or Floor Space Index (FSI) for project | Any person | Promoter |
| 17. | Long term lease of land (30 years or more) in | Any person | Promoter |
| 18. | Renting of passengers motor vehicle if fuel cost included in consideration charged | Non Body corporate + not issuing invoice charging CGST @6 % | Body corporate |
| 19. | Lending of securities under Securities Lending Scheme of SEBI | Lender i.e who deposits securities with approved intermediary | Borrower i.e. person who borrows securities. |
| 20. | Direct Selling Agents (DSA) | Individual direct selling agents (DSA) other than body corporate/firm | Banking /NBFC |

3. REVERSE CHARGE for SERVICES UNDER IGST

Notification No. 10/2017

| Sn | Services | Supplier | Recipient located in taxable territory. |
|----|--|---|---|
| 1. | Any Service | Person located in non-taxable territory | Any Person OTHER THAN non-taxable online recipient. |
| 2. | Transportation of goods by vessel from place outside India upto customs station of clearance in India <i>Gujarat HC in case of Mohit Minerals Pvt Ltd Vs Union of India has declared the levy & collection of GST on above point 2 as unconstitutional</i> | Person located in non-taxable territory | Importer u/s 2(26) of Customs Act |

4. Notified supplies u/s 9(4)Notification No. 07/2019 & 24/2019 wef 1st of April, 2019

| Sn | Category of supply of goods and services | Recipient |
|----|--|-----------|
| 1 | Supply of inputs & input services or both purchased by promoter shortfall from 80% value of goods/services required to be purchased from RD for construction of project, in F/Y (part of F/Y till date of issuance of completion certificate or first occupation, earlier) | Promoter. |
| 2 | Cement (chapter heading 2523 in 1st schedule to CTA, 1975) purchased by promoter from URD for construction of project, in F/Y (or part of F/Y till date of issuance of completion certificate or first occupation, earlier) | Promoter. |
| 3 | Capital goods (any chapter in 1 st schedule to CTA, 1975) | Promoter |

Special point :

- Following services are not covered under above notification
 - services by way of grant of development rights,
 - long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or
 - FSI (including additional FSI)

Special points :

- Inputs and input services on which tax is paid by promoter under reverse charge under Section 9(3) of CGST Act shall be deemed to have been procured from registered person.
- Input & input services from composition dealer shall be considered as purchase from registered person paying taxes under composition scheme.
- Calculations of shortfalls are to be done F/Y-wise. The excess % of purchased from registered suppliers in F/Y cannot be adjusted in a next f/y.
- Inward supplies of exempted goods/services shall be included in the value of supplies from unregistered persons while calculating threshold of 80%
- Expenditure such as salaries, wages etc should not be considered in calculating the 80% threshold of input and input services because these are not supplies under GST Schedule III.
- The **GST Rate is 18%** even if the actual rate of GST in case of some of inputs or input services is lower than 18%

Illustration 1 : A promoter purchased 60% of input and input services used in the construction of project from registered supplier. Despite he also purchased 15% Cement & 25% other input & input services from unregistered person, during financial year 2020-21.

| | |
|---|-----------|
| Promoter purchased input and input services used in the construction of project from registered supplier | 60% |
| Promoter purchased Cement used in the construction of project from unregistered person. [He is liable to pay under RCM for total purchase of Cement from unregistered person, irrespective of % total purchase] | 15% |
| Other purchases from unregistered person | 25% |
| Promoter is required to purchase minimum 80% of input and input services or both required to be purchased from registered person | |
| Shortfall from the minimum value of goods or services or both required to be purchased by a promoter Liable to pay under RCM on shortfall $80\% - (60\% + 15\%)$ | 5% |

Illustration 2 : A promoter purchased 60% of input and input services used in the construction of project from registered supplier. Despite he also purchased 15% Cement & 12% other input & input services from unregistered person, during financial year 2020-21. He has also purchased input services on which tax is paid under reverse charge under Section 9(3) of the CGST Act.

| | |
|---|------------|
| Promoter purchased input and input services used in the construction of project from registered supplier. | 60% |
| Promoter purchased Cement used in the construction of project from unregistered person. [He is liable to pay under RCM for total purchase of Cement from unregistered person, irrespective of % total purchase] | 15% |
| Input services on which tax is paid under reverse charge under Section 9(3) of the CGST Act. | 13% |
| Other purchases from unregistered person. | 12% |
| Promoter is required to purchase minimum 80% of input and input services or both required to be purchased from registered person. | |
| Shortfall from the minimum value of goods or services or both required to be purchased by a promoter Liable to pay under RCM on shortfall $80\% - (60\% + 15\% + 13\%)$ | NIL |

Illustration 3 : A promoter purchased 82% of input and input services used in the construction of project from registered supplier. Despite he also purchased 05% Cement & 03% other input & input services from unregistered person, during financial year 2020-21. He has also purchased 10% capital goods from unregistered person during financial year 2020-21.

| | |
|--|------------|
| Promoter purchased input and input services used in the construction of project from registered supplier. | 82% |
| Promoter purchased Cement used in the construction of project from unregistered person. [He is liable to pay under RCM for total purchase of Cement from unregistered person, irrespective of % total purchase] | 05% |
| Capital Good purchased from unregistered person. | 10% |
| Other purchases from unregistered person. | 03% |
| Promoter is required to purchase minimum 80% of input and input services or both required to be purchased from registered person. | |
| Shortfall from the minimum value of goods or services or both required to be purchased by a promoter Liable to pay under RCM on shortfall $80\% - (82\% + 05\% + 10\%)$ [However, Promoter is liable to pay GST under RCM on purchase of Cement and Capital Goods in spite of his purchased from registered supplier exceeds from minimum value of 80%] | NIL |

5. Notified services u/s 9(5)

N/N- 17/2017

Following categories of services, tax shall be paid by ECO

- (i) **Services of transportation of passengers** by Radio-taxi, Motorcab, Maxicab Motor cycle;
- (ii) **Services of providing accommodation** in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes,

except where supplier is liable for registration u/s 22(1)

- (iii) **Services by way of house-keeping**, such as plumbing, carpentering etc,

Except where supplier is liable for registration u/s 22(1) of CGST Act.

Special point :

- (a) **Radio taxi means** a taxi including a radio cab, by whatever name called, which is in two way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS)
- (b) **Maxicab, Motorcab and Motor cycle** shall have same meanings u/s 2 of Motor Vehicles Act, 1988 .

CHAPTER - 4

CONCEPT OF SUPPLY

CONCEPT OF SUPPLY [SECTION 7]

Sec 7(1) : WHAT IS SUPPLY

(a)

- **Supply of Goods or Services** or both
- **Sale, transfer, barter, exchange, licence, rental, lease or disposal**
- **Consideration**
- by **Person**
- for **business**

(b)

- **Import** of services
- **consideration**
- whether or not for **business**

(c)

- Activities under **Schedule I**,
- Without **consideration**

Sec 7(1A) : WHAT IS SUPPLY OF GOODS OR SUPPLY OF SERVICES : Check Schedule II.

Sec 7(2) : WHAT IS NOT SUPPLY

(a) Activities of **Schedule III** or

(b) Activities by CG, SG or LA + engaged as public authority + notified by Government + recommendations of Council.

Notification 14/2017 : Activity of **Panchayat** u/a 243G or **Municipality** u/a 243W

Notification 25/2019 : Grant of alcoholic liquor licence, against consideration

Sec 7(3) : Government + recommendations of Council + notification + transactions treated as—

(a) supply of goods & not as supply of services or

(b) supply of services & not as supply of goods.

Special point :**1. SCHEDULE I : ACTIVITIES AS SUPPLY EVEN IF WITHOUT CONSIDERATION**

1. Permanent transfer or disposal of business assets + ITC availed on such assets.

2. Supply of Goods/Services + Related persons or Between Distinct persons u/s 25 + For business:

NO SUPPLY : Gifts upto ₹50,000 in F/Y by employer to employee

3. Supply of goods—

(a) By principal to his agent + agent to supply goods on behalf of principal the principal; or

(b) By agent to his principal + agent undertakes to receive goods on behalf of principal.

4. Import of service + without consideration + from related party/establishment outside India + for business + received by ~~taxable~~ person

Circular No. 116/35/2019 : No GST on gift or donation to charitable organization for philanthropic (i.e. it leads to no commercial gain) and not advertisement

Special point :**Circular No. 57/31/2018-GST**

Where invoice for further supply is being issued by agent in his name then, any provision of goods from principal to the agent would fall under schedule 1

However, it may be noted that in cases where invoice is issued by agent to customer in the name of the principal, such agent shall not fall within under Schedule

Similarly, where goods being procured by agent on behalf of principal are invoiced in the name of agent then further provision of the said goods by the agent to the principal would be covered under schedule 1

2. SCHEDULE II : ACTIVITIES TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES**1. Transfer**

(a) Transfer of title in Goods : **SOG**

(b) Transfer of right in goods or of undivided share in goods + without transfer of title : **SOS**

(c) any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed : **SOG**

2. Land and Building

- (a) Lease, tenancy, easement, licence to occupy land : **SOS**
- (b) Lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly : **SOS**

3. Treatment or process

Treatment or process which is applied to another person's goods : **SOS**

4. Transfer of business assets

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

5. Supply of services (SOS)

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

- (a) renting of immovable property;
- (b) construction of a complex, building, civil structure intended for sale to a buyer, wholly or partly, except where 100% consideration received after issuance of completion certificate, where required, by **competent authority** or after its first occupation, whichever is earlier.

Construction" includes additions, alterations, replacements or remodelling of any existing civil structure

- (c) Temporary transfer or permitting the use or enjoyment of any intellectual property right;
- (a) Development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;
- (e) Agreeing to obligation to refrain from act, or to tolerate an act or a situation, or to do an act;
- (f) Transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.

6. Composite supply (SOS)

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

(a) works contract as defined u/s 2(119); and

(b) supply of food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.

7. Supply of Goods (SOG)

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

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

3. SCHEDULE III : ACTIVITIES NEITHER AS SOG NOR SOS

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

2. Services by **court or Tribunal** established under any law
(Court includes District Court, High Court and Supreme Court).

3.

(a) Functions performed by **MP, MLA, Members of LA**

(b) Duties performed by holder of **constitutional post**

(c) Duties performed by **Chairperson or Member or Director** in a body established by CG or SG or LA & who is not deemed as an employee

4. Services of **funeral, burial, crematorium or mortuary including transportation of deceased.**

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

6. **Actionable claims**, other than lottery, betting and gambling.

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. **Supply of warehoused goods** to any person before clearance for home consumption.

9. **Supply of goods by the consignee** to any other person, by endorsement of documents of title to goods, after goods have been dispatched from port of origin located outside India but before clearance for home consumption.

Sec 8 : Composite & Mixed supply

The tax liability shall be determined in the following manner, namely:—

(a) Composite supply = Supply of principal supply

(b) Mixed supply = Supply which attracts highest rate of tax.

Special point :

Sec 2(30) : Composite supply

- Means **supply** made
- by **Taxable Person**
- to **Recipient**
- Consisting of two or more **taxable supplies**
- of **goods or services** or both, or any combination
- which are **naturally bundled** and
- supplied in conjunction with each other in ordinary course of business,
- one of which is principal supply

Illustration : Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;

Sec 2(74) : Mixed Supply

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

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