

*Beginners Course on GST*

**LEVY UNDER GST**

**CA SWAPNIL MUNOT**

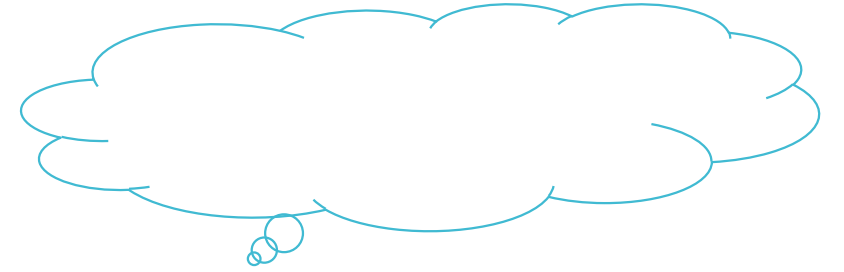
**ORGANIZED BY**

***Western India Regional  
Council of ICAI***



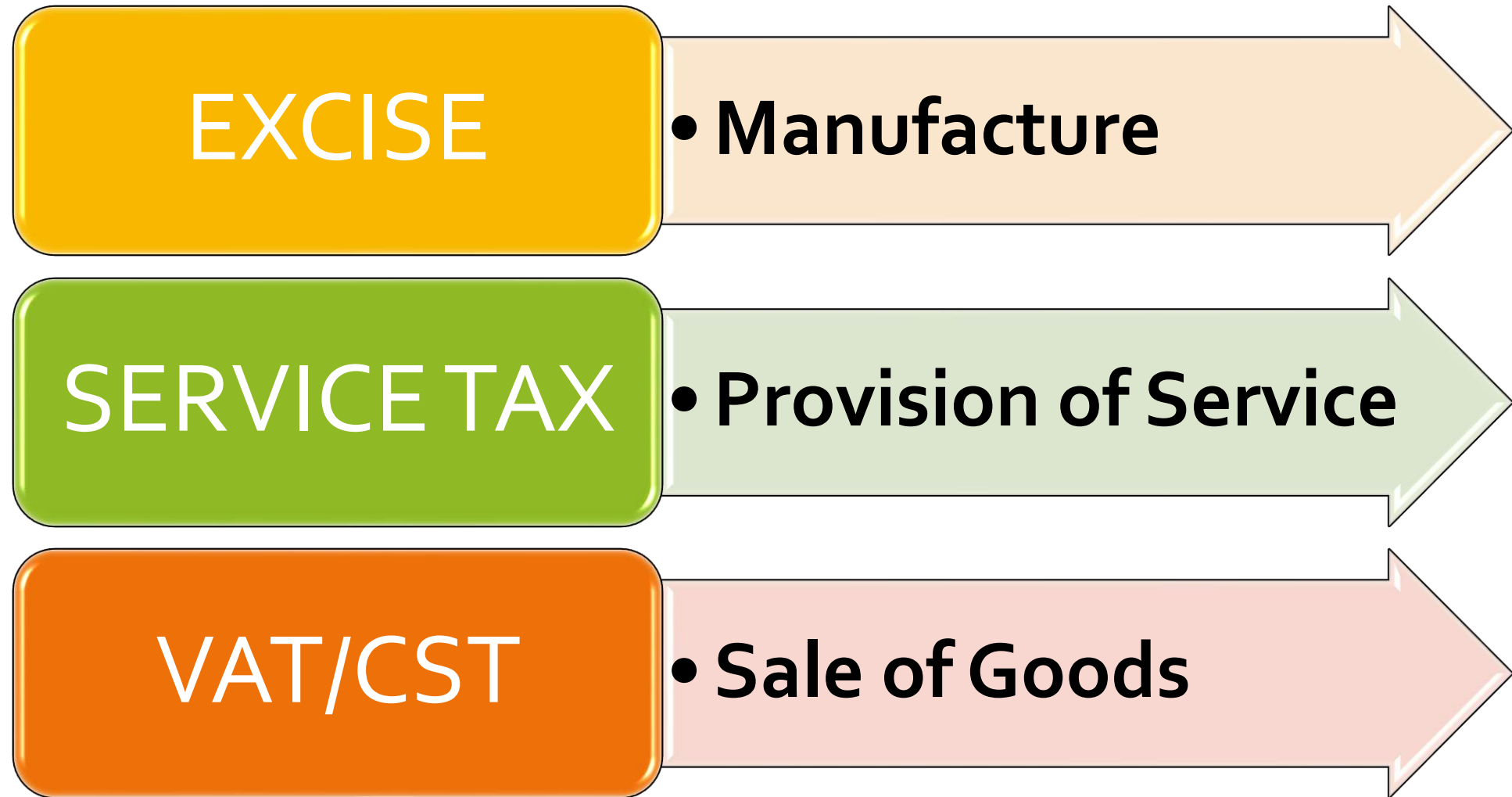
# CONTENT:





# TAXABLE EVENT UNDER GST...


# LEVY POINT UNDER ERSWHILE INDIRECT TAXES




# IMPORTANT PROVISIONS:



**Supply includes**




**Goods means**






**Service means**






**Business Includes**






**Consideration  
Includes**






**Sec 7**






**Sec 2(52)**



**Sec 2(102)**



**Sec 2(17)**



**Sec 2(31)**

# MEANING AND SCOPE OF SUPPLY:

Sec 7(1) of CGST Act 2017- For the purposes of this Act, the expression “supply” includes–

- a) all forms of **SUPPLY OF GOODS OR SERVICES** or both such as **Sale, Transfer, Barter, Exchange, License, Rental, Lease or Disposal** made or agreed to be made for a **CONSIDERATION** by a **PERSON** in the **COURSE OR FURTHERANCE OF BUSINESS**;



# MEANING AND SCOPE OF SUPPLY:

**Sec 7(1) of CGST Act 2017-** For the purposes of this Act, the expression “supply” includes–

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

Explanation - **For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law** for the time being in force **or any judgment**, decree or order of any Court, tribunal or authority, **the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;**

*[\*Inserted by Finance Act 2021 with effect from 1<sup>st</sup> July 2017]*



# MEANING AND SCOPE OF SUPPLY:

**Sec 7(1) of CGST Act 2017-** For the purposes of this Act, the expression “supply” includes–

- b) **import of services** for a consideration whether or not in the course or furtherance of business; and
- c) the activities specified in **Schedule I** made or agreed to be made without a consideration.
- ~~d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II ( This clause is omitted by CGST Amendment Act 2018 )~~

**Sec 7(1A) of CGST Act 2017- -**

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

( This subsection is inserted by CGST Amendment Act 2018 )



# SUPPLY: SCHEDULE I

## SCHEDULE I – ACTIVITIES to be treated as SUPPLY even made WITHOUT CONSIDERATION

1	<b>Permanent transfer/disposal of business assets</b> where input tax credit has been availed on such assets.
2	<b>Supply of goods or services or both between related persons</b> or between distinct persons as specified in section 25, when made in the course or furtherance of business: Provided that <b>gifts not exceeding Rs 50000/- in value in a F.Y. by an employer to an employee</b> shall not be treated as supply of goods or services or both.
3	Supply of goods— (a) by a <b>principal to his agent</b> where the agent undertakes to supply such goods on behalf of the principal; or (b) by an <b>agent to his principal</b> where the agent undertakes to receive such goods on behalf of the principal.
4	<b>Import of services by a taxable person from a related person</b> or from any of his other establishments outside India, in the course or furtherance of business.

# SUPPLY: SCHEDULE II

SCHEDULE II – Activities to be treated as SUPPLY OF GOODS or SUPPLY OF SERVICES	
Supply of Services	Supply of Goods
<ul style="list-style-type: none"><li>▪ <b>Transfer of Right to use the goods</b> without Transfer of title in goods</li><li>▪ <b>Lease/tenancy/licence</b> to occupy land, Lease of building, commercial or residential complex for business, Renting of immovable property</li><li>▪ <b>Construction</b>/alteration/replacement of complex/ building/civil structure or part thereof, including complex /building intended for sale wholly or partly, Except where entire consideration has been received after issuance of completion certificate.</li><li>▪ <b>Business goods used for personal purpose</b>, whether or not consideration</li><li>▪ Development/Design/programming/customization/upgradation/implementation of <b>IT Software</b></li><li>▪ Composite Service - <b>Works Contract, Hotel/Restaurant service</b></li><li>▪ <b>Tolerating an act, Job work, Temporary transfer of any Intellectual Property Right(IPR)</b></li></ul>	<ul style="list-style-type: none"><li>▪ <b>Transfer in Title</b> of goods,</li><li>▪ <b>Hire Purchase Sale,</b></li><li>▪ Transfer/dissposal of Business Assets,</li></ul>

# SUPPLY: SCHEDULE III

## SCHEDULE III – ACTIVITIES that shall NOT be treated as SUPPLY

1	<b>Service by Employee to Employer</b> in the course of Employment.
2	<b>Services by Tribunal or court</b>
3	<b>Functions performed by MP</b> , MLA, Member of Panchayat, Corporator, Member of body established by government etc.
4	<b>Services of funeral</b> , burial, crematorium or mortuary including transportation of the deceased.
5	<b>Sale of land</b> and, sale of building subject to clause (b) of paragraph 5 of Schedule II
6	<b>Actionable claims</b> , other than lottery, betting and gambling
7	Supply of goods <b>from a place in the non-taxable territory to another place in the non-taxable territory</b> without such goods entering into India
8	Supply of warehoused <b>goods to any person before clearance for home consumption</b>

# MEANING OF GOODS AND SERVICE:

Sec 2(52) of CGST Act 2017: “**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.



Sec 2(102) of CGST Act 2017: “**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** - For the removal of doubts, it is hereby clarified that the expression “services” includes facilitating or arranging transactions in securities

# MEANING OF CONSIDERATION:

Sec 2(31) of CGST Act 2017: “**Consideration**” in relation to the supply of goods or services or both includes —

a) **any payment made** or to be made, whether in money or otherwise,

**In respect of**, in response to, or for the inducement of, the supply of goods or services or both,

**Whether by** the recipient or by any other person

**But shall not** include any subsidy given by the Central Government or a State Government;

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

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



# MEANING OF PERSON:

Sec 2(84) of CGST Act 2017: **“Person” includes—**

- (a) an individual;                      (b) a Hindu Undivided Family;                      (c) a company;                      (d) a firm;
- (e) a Limited Liability Partnership;
- (f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;**
- (g) any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in clause (45) of section 2 of the Companies Act, 2013(18 of 2013);
- (h) anybody corporate incorporated by or under the laws of a country outside India;
- (i) a co-operative society registered under any law relating to co-operative societies;
- (j) a local authority;                      (k) Central Government or a State Government;
- (l) society as defined under the Societies Registration Act, 1860;(21 of 1860)                      (m) trust; and
- (n) every artificial juridical person, not falling within any of the above

# MEANING OF BUSINESS:

Sec 2(17) of CGST Act 2017: “**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 subclause (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;**

# MEANING OF BUSINESS:

Sec 2(17) of CGST Act 2017: “**business**” includes—

- f) **admission, for a consideration**, of persons to any premises;
- g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- h) activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and;
- i) **any activity or transaction undertaken by the Central Government, a State Government or any local authority** in which they are engaged as public authorities;





# MEANING OF PLACE OF SUPPLY:

Sec 2(85) of CGST Act 2017: “**Place of Supply**” includes —

- a) 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) a place **where a taxable person maintains his books of account;** or
- c) a place where a **taxable person is engaged in business through an agent,** by whatever name called;

# MEANING OF RECIPIENT AND SUPPLIER:

**Sec 2(93) of CGST Act 2017: “Recipient” of supply of goods or services or both, means —**

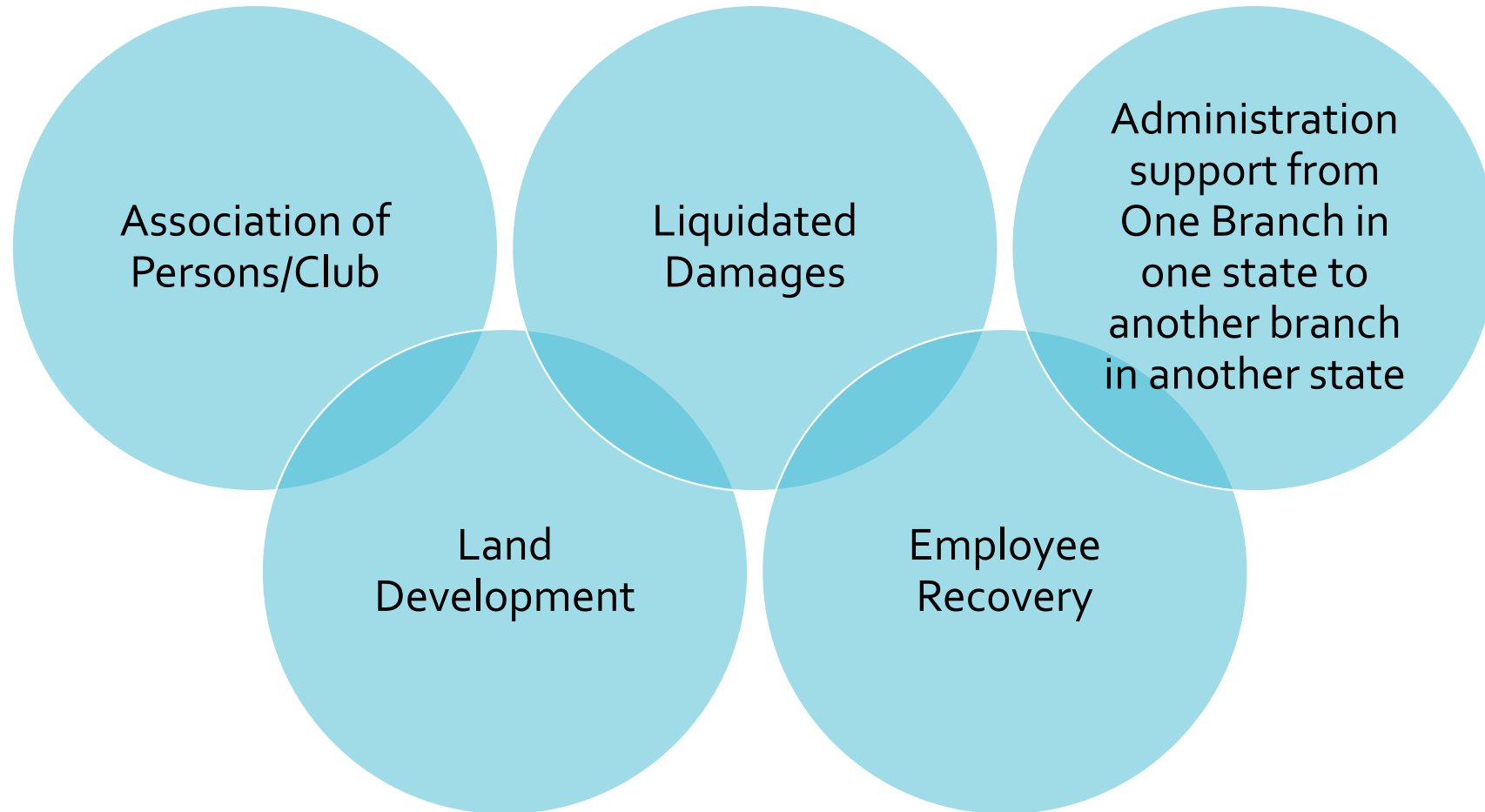
- a) where a consideration is payable for the supply of goods or services or both, the **person who is liable to pay** that consideration;
- b) **where no consideration is payable for the supply of goods, the person to whom the goods are delivered** or made available, or to whom possession or use of 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,**

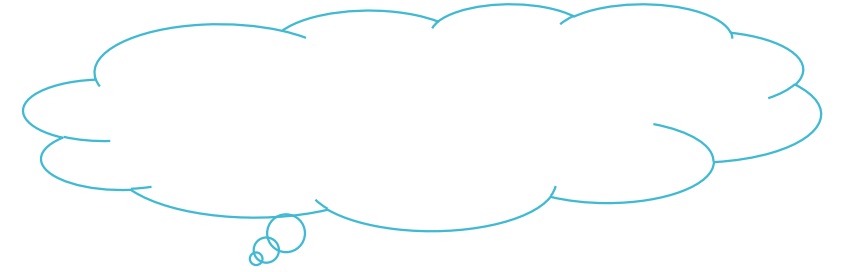
and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied;

**Sec 2(105) of CGST Act 2017: “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

# IMPORTANT ISSUES/DISPUTES IN SUPPLY:





# LEVY PROVISIONS UNDER GST...

# LEVY UNDER GST – CHARGING PROVISION

## Sec 9 of CGST Act 2017: Levy and Collection

- 1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both,
  - **Except** on the supply of alcoholic liquor for human consumption,
  - **On the value** determined under section 15 and
  - **At such rates**, not exceeding **twenty per cent.**, as may be notified by on the recommendations of the Council and
  - **collected** in such manner as may be prescribed and **shall** be paid by the taxable person.
  
- 2) The central **tax on the supply of petroleum** crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied **with effect from such date as may be notified by the Government on the recommendations of the Council.**

# LEVY UNDER GST – CHARGING PROVISION

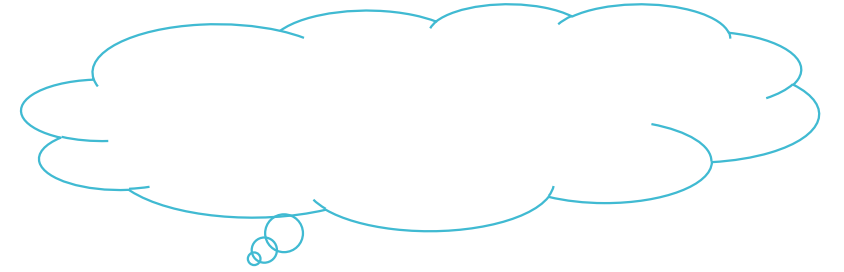
## Sec 9 of CGST Act 2017: Levy and Collection

- 3) The Government may, on the recommendations of the Council, by notification, **specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis** by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.
  
- 4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received **from an unregistered supplier, pay the tax on reverse charge basis** as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both

# LEVY UNDER GST – CHARGING PROVISION

## Sec 5 of IGST Act 2017: Levy and Collection

- 1) Subject to the provisions of sub-section (2), there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both,
  - **Except** on the supply of alcoholic liquor for human consumption,
  - **on the value determined** under section 15 of the Central Goods and Services Tax Act and at such rates,
  - **Not exceeding forty per cent.**, as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person:
- 2) Provided that the **integrated tax on goods imported** into India, shall be -
  - **levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975**
  - **on the value as determined under the said Act** at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962



# TYPES OF SUPPLY UNDER GST...



# MEANING OF EXEMPT SUPPLY AND TAXABLE SUPPLY :

**Sec 2(47) of CGST Act 2017: “Exempt Supply” means —** Supply of any goods or services or both which attracts

- Nil rate of tax or
- Which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and
- Includes non-taxable supply;;

**Sec 2(108) of CGST Act 2017: “Taxable Supply ” means —**

- a supply of goods or services or both which is leviable to tax under this Act

**Sec 2(78) of CGST Act 2017: “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;



# MEANING OF MIXED SUPPLY:

Sec 2(74) of CGST Act 2017: “**Mixed Supply**” means —

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

# MEANING OF COMPOSITE SUPPLY:

Sec 2(30) of CGST Act 2017: “**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

# MEANING OF PRINCIPAL SUPPLY:

Sec 2(90) of CGST Act 2017: “**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**;



# TAXABILITY OF MIXED AND COMPOSITE SUPPLY

**Sec 8 of CGST Act 2017: The tax liability** on a composite or a mixed supply shall be determined **in the following manner**, namely: -

- (a) **a composite supply** comprising two or more supplies, one of which is a principal supply, shall be treated as a **supply of such principal supply**; and
- (b) **a mixed supply** comprising two or more supplies shall be treated as a supply of that **particular supply which attracts the highest rate of tax**.

*In short, in case of Composite Supply, taxability is determined from principal supply, where as, in case of mixed, it is determined from higher taxed activity.*

# EXAMPLE OF MIXED AND COMPOSITE SUPPLY



★

### Amenities

- 140 Sq. ft.
- Queen Bed
- LED Television
- DVD (On Request)
- Standard Bath Amenities
- Direct Dial Telephone
- In Room Dining
- Air Condition
- Hot Water Timing - 7am to 11am

Rs 2000/- per day stay charges

The block contains four small photographs showing different views of a hotel room, including a bed, a desk, and a window.



but on a budget?

OFFER PRICE: RS 200/-

The image displays a collection of makeup products including a compact powder, mascara, lipstick, and brushes. The text 'but on a budget?' is written in a handwritten style at the top. The offer price 'OFFER PRICE: RS 200/-' is written in large, bold, red and blue letters at the bottom.

# ISSUES INVOLVED IN MIXED AND COMPOSITE SUPPLY

1. Classification of Supply as 'Composite Supply' or 'Mixed Supply'

2. Determination of Principal Supply in case of Composite Supply

3. Whether exempted supply and taxable supply, constitute composite supply ?

4. Whether Artificial vivisection of contract is possible ?

5. In case of mixed supply, If prices are charged separately, can it be regarded as Mixed Supply ?

6. In case of composite supply, If prices are charged separately, can it be regarded as Composite Supply ?

**Ability will get you Success. Character will keep you successful..!**

# Thank You...

यूँ ही नहीं मिलती राही को मंजिल,  
एक जुनून सा दिल में जगाना होता है.  
पूँछा चिड़िया से कैसे बना आशियाना  
बोली-  
भरनी पड़ती है उड़ान बार-बार  
तिनका तिनका उठाना होता है.

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