
Coverage

Some Facts

Supply

Supply for consideration

Importation of service

Supply without consideration

Supply between principal & job worker

Supply between agent & Principal

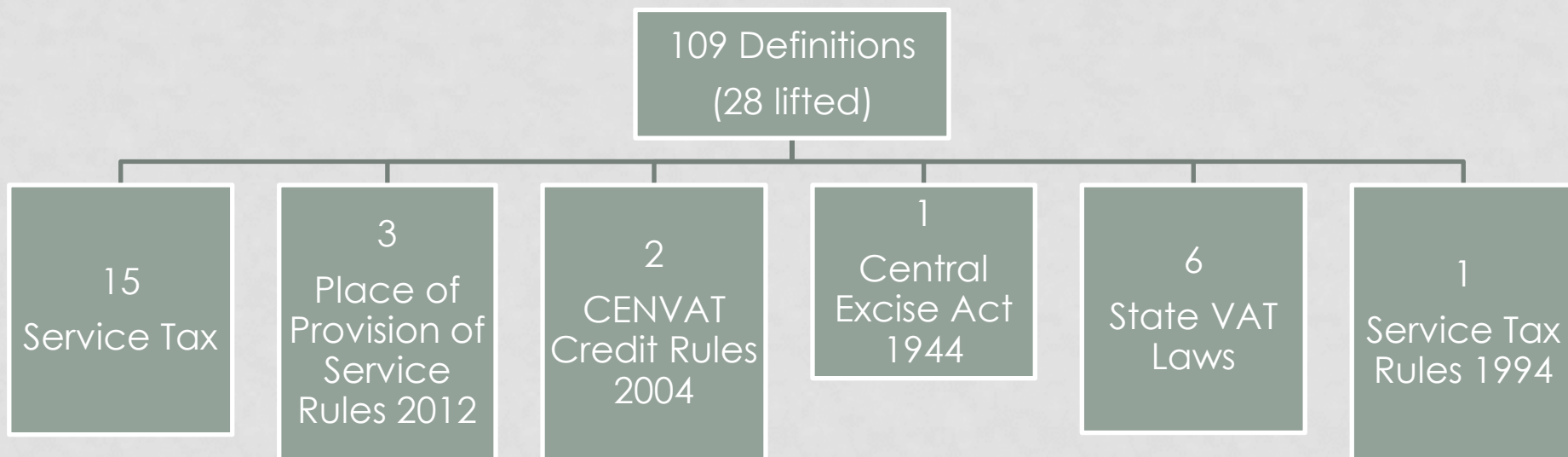
Supply – what is goods and what is services

Outward supply

Inward Supply

Case Studies

SOME FACTS



TERMS USED OFTEN

FAVOURITE TERMS

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graph TD; A[FAVOURITE TERMS] --> B[169<br/>As maybe prescribed]; A --> C[11<br/>As maybe notified]; A --> D[37<br/>On<br/>Recommendation<br/>of Council];
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169

As maybe prescribed

11

As maybe notified

37

On
Recommendation
of Council

GST LAW PACKAGE

3 ACTS !

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graph TD; A[3 ACTS !] --- B[CENTRAL GOODS & SERVICES TAX ACT]; A --- C[STATE GOODS & SERVICES TAX (NAME OF STATE) ACT]; A --- D[INTEGRATED GOODS & SERVICES TAX ACT];
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CENTRAL GOODS &
SERVICES TAX ACT

STATE GOODS &
SERVICES TAX
(NAME OF STATE)
ACT

INTEGRATED
GOODS &
SERVICES TAX ACT

DUAL GST : BASIC PROPOSED STRUCTURE

Excise Duty
VAT / CST
Service Tax



Manufacturing of Goods
Sale of Goods
Provision of Services



**Intra-state Supply
of Goods and
Services**

- Central GST
- State GST

**Inter-state Supply
of Goods and
Services**

- IGST
- ~~1% Additional Tax on
Supply of Goods~~

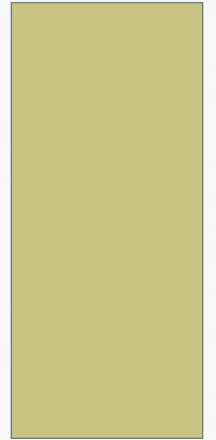
Imports

- Basic Customs Duty
- IGST (in place of CVD
and SAD)

Exports

- Zero Rated

SUPPLY UNDER GST REGIME



Article 366 (12A) of the Constitution

supply of goods, or services or both, except supply of alcoholic beverages for human consumption

Dictionary Meaning

give, contribute, provide, furnish, donate, bestow, grant, endow, afford, impart, lay on, come up with, make

available, proffer; dispense, allocate, allot, assign, disburse;

lavish, shower, regale;

informal fork out, shell out;

Archaic minister

provide, furnish, endow, serve, confer;

equip, kit out, rig out, outfit, clothe, fit, arm;

Rare endue

SEC 7: LEVY AND COLLECTION OF CENTRAL/STATE GST

- 1) There shall be levied a tax called the Central/State Goods and Services Tax (CGST/SGST) **on all intra-State supplies of goods and/or services** at the rate specified in the Schedule . . . to this Act and collected in such manner as may be prescribed.
- 2) The CGST/SGST shall be **paid by every taxable person** in accordance with the provisions of this Act.

SEC 4: LEVY AND COLLECTION OF IGST

1. There shall be levied a tax called the Integrated Goods and Services Tax on all ***supplies of goods and/or services made in the course of inter-State trade or commerce*** at the rate specified in the Schedule to this Act and collected in such manner as may be prescribed.
1. The Integrated Goods and Services Tax shall be paid by ***every taxable person*** in accordance with the provisions of this Act.

FEW POINTERS

- Activity driven or transaction driven?
- 1 person or 2 person?
- Consideration or no Consideration?

Description	Central Excise	Service Tax	VAT	GST
Charging Event	Manufacture	Provision of Service	Sale	Supply
Activity/Transaction Driven?	Activity	Transaction	Transaction	Activity?
Duality of person required?	No	Yes	Yes	No?
Consideration Required?	No	Yes	Yes	No
Value can be different from consideration	Yes	No	No	Yes

MEANING AND SCOPE OF SUPPLY

- Section 3

(1) Supply **includes**

- **all forms of supply** of goods and/or services **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, *(to a person?)*
- importation of service, whether or not for a consideration and whether or not in the course or furtherance of business, and
- a supply specified in Schedule I, made or agreed to be made without a consideration.

MEANING AND SCOPE OF SUPPLY

Supply "*includes*"

For consideration & for business "such as"

- *All form of supply of goods & Services*
- Sale
- Transfer
- Barter
- Exchange
- License
- Rental
- Lease
- Disposal
- *Made or agreed to be made*

Whether or not for consideration or business

- Importation of service

Supply without consideration made or agreed to be made

- Permanent transfer/disposal of business assets
- Temporary application of business assets to a private or non-business use
- Services put to a private or non-business use
- Assets retained after deregistration
- Supply of goods and/ or services by a taxable person to another taxable or non-taxable person in course of business

WHAT IS CONSIDERATION

(28) “consideration” in relation to the supply of goods and/or services to any person, includes

- (a) any payment , whether in money or otherwise,
- (b) the monetary value of any act or forbearance, be it voluntary or other wise
in respect of,
in response to,
or for the inducement of,
the supply of goods and/or services,
whether by the said person or by any other person;

Provided that a deposit, whether refundable or not, given in respect of the supply of goods and/or services shall not be considered as payment made for the supply unless the supplier applies the deposit as consideration for the supply;

WHAT ARE GOODS ?

- (48) “goods” means every kind of **movable property other than actionable claim and money** but includes securities, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under the contract of supply;
- Explanation.— For the purpose of this clause, the term ‘**moveable property**’ **shall not include any intangible property.**

WHAT ARE SERVICES?

- (88) “**services**” means ***anything other than goods***;
- Explanation: Services include intangible property and actionable claim but does not include money.
- *Shares held in d-mat form?*
- *Immovable property*
- *Duty scrips*
- *Electricity*
- *Reward points/gift vouchers/meals and other coupons/lottery tickets?*

WHAT ARE SERVICES?

- **business**" includes –
- any trade, commerce, manufacture, profession, vocation or any other similar activity, whether or not it is for a pecuniary benefit;
- any transaction in connection with or incidental or ancillary to (a) above;
- any transaction in the nature of (a) above, whether or not there is volume, frequency, continuity or regularity of such transaction;
- supply or acquisition of goods including capital assets and services in connection with commencement or closure of business;
- 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, as the case may be;
- admission, for a consideration, of persons to any premises; and
- 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;

SUPPLY FOR CONSIDERATION

- **Sale**

- Definition under VAT/CST law, Sale of Goods Act, Excise Act vary.
- **CST**: Transfer of property in goods for consideration
- **Sale of Goods Act**: seller transfers the property in goods to the buyer for a price
- **Excise Act**: transfer of the **possession of goods** by one person to another in the ordinary course of trade or business for cash or deferred payment or other valuable consideration
- GST???
- Agreement to sale??

SUPPLY FOR CONSIDERATION

- **Transfer**
 - Transfer of title in goods.
 - Transfer of right to use without t/f of title
- **Barter**
 - Means exchanging one for another, and does not have element of money
- **Exchange**
 - Exchange of a commodity for another, does have the element of money

SUPPLY FOR CONSIDERATION

Issues:

- Self supply
- Compulsory acquisition
- Captive consumption
- Agreement to supply
- Charitable activities/education/health activities for a consideration
- Voluntary payment- no counter obligation
- Sample

SUPPLY WITHOUT CONSIDERATION

Import of services, with or without consideration, whether or not in the course of business

Import of Service

- the supply of any service shall be treated as an **“import of service”** if,
 - the supplier of service is located outside India,
 - the recipient of service is located in India,
 - the place of supply of service is in India, and
 - the supplier of service and the recipient of service are not merely establishments of a distinct person;

Inter branch adjustment between Indian Co. HO and Branch outside India?
(Tech Mahindra- Mumbai CESTAT)

SUPPLY WITHOUT CONSIDERATION

Matters specified in schedule I will be supply, whether or not for consideration shall be supply –

- *Permanent transfer/disposal of business assets.*
- *Temporary application of business assets to a private or non-business use.*
- *Services put to a private or non-business use.*
- *Assets retained after deregistration.*
- *Supply of goods and / or services by a taxable person to another taxable or non-taxable person in the course or furtherance of business.*

Provided that the supply of goods by a registered taxable person to a job-worker in terms of section 43A shall not be treated as supply of goods.

SUPPLY WITHOUT CONSIDERATION

- **Permanent transfer/disposal of business assets.**

- 'Business assets'?? Means individual assets or all business assets collectively??
- Assets to include immovable property/ goodwill etc?? Assets not defined.
- Surrender of damaged good/ assets by the insured to insurer??
- Loss of assets by employee/ theft/ fire??
- Temporary transfer without consideration??
- Goods in stock consumed personally?

- **Temporary application of business assets to a private or non-business use.**

- Business assets to cover services??
- Non business use contains charity etc. Charity to be taxable??

SUPPLY WITHOUT CONSIDERATION

- Foreign practice – if ITC not available on motor vehicles, private usage of such not considered as supply. GST law requires reversal of ITC
- **Services put to a private or non-business use.**
 - Foreign tour expenses of wife of director??
 - Services means input services or output services or both??
- **Assets regained after deregistration**
 - Deregistration of the entity itself, or deregistration from GST (in a state or so)?
 - Assets retained by partner after dissolution of partnership??
 - Deregistration in one state and assets transferred to another state??

SUPPLY WITHOUT CONSIDERATION

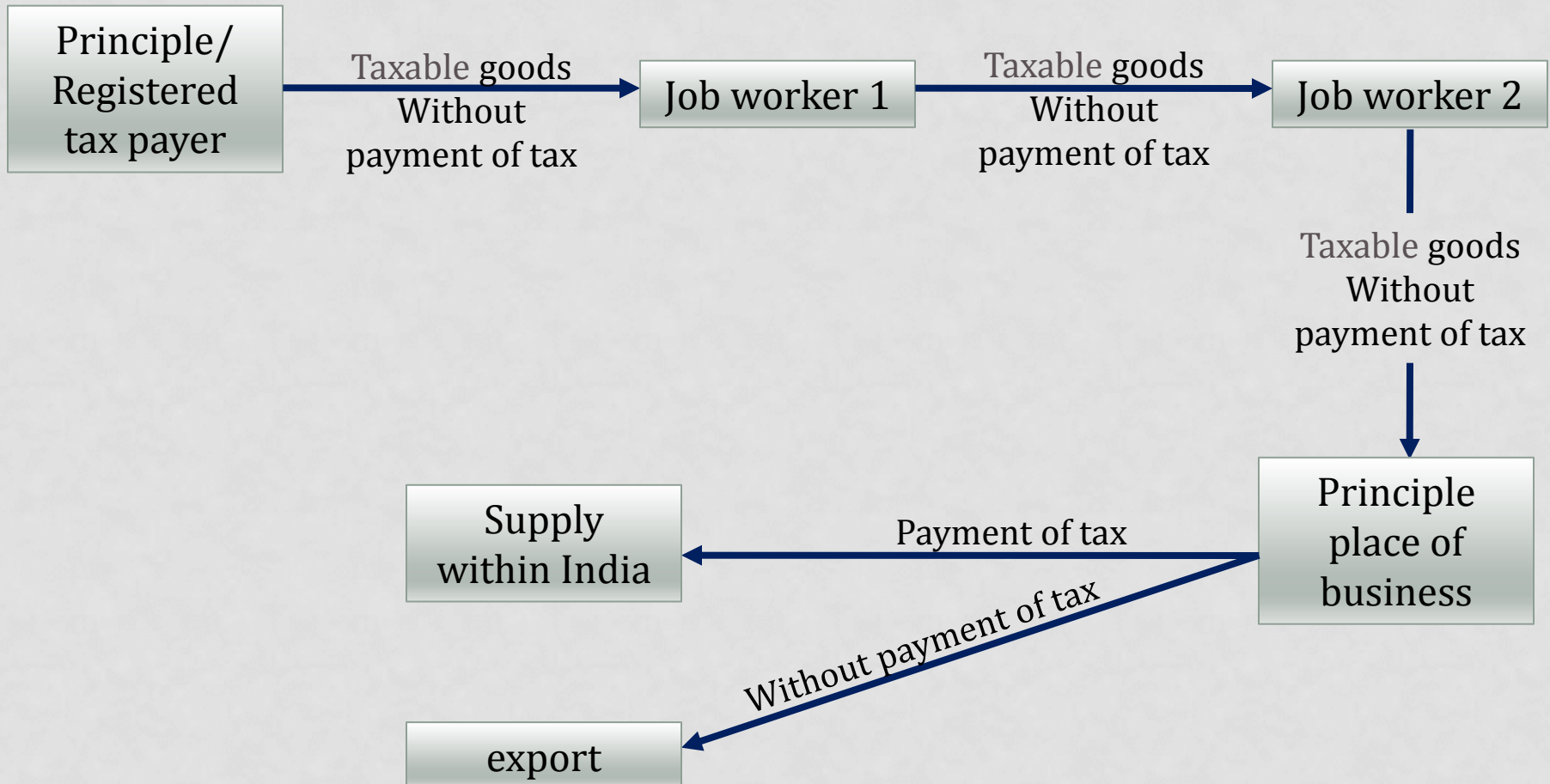
- **Supply** of goods and/or services by a taxable person to another taxable person or non-taxable person in course or furtherance of business
- Meaning of supply here??
- Is there enabling provision under the to treat one registered taxable person separate with another having same PAN number?
- Issues / discussion–
 - Inter branch adjustment for services availed at HO
 - Corporate guarantee provided to related company
 - Free issue of material by contractor to contractee (this free material shall also be included in the transaction value of supply by contractor. Invitation to double taxation??)
 - Gift / inheritance to be taxed??

MEANING OF SUPPLY

- **Principal-Agent**
- Where a person, acting as an agent, for an agreed commission or brokerage, either supplies or receives any goods and/or services on behalf of any principal, the transaction between such principal and agent shall be deemed to be a supply.
- 1. Supply between principal and agent- **Deemed supply**
- 2. Supply by agent to recipient- actual supply. (to be accounted to principal or agent?)
- 3. Supply by agent to principal
- Commission agent, tour operators, travel agents...

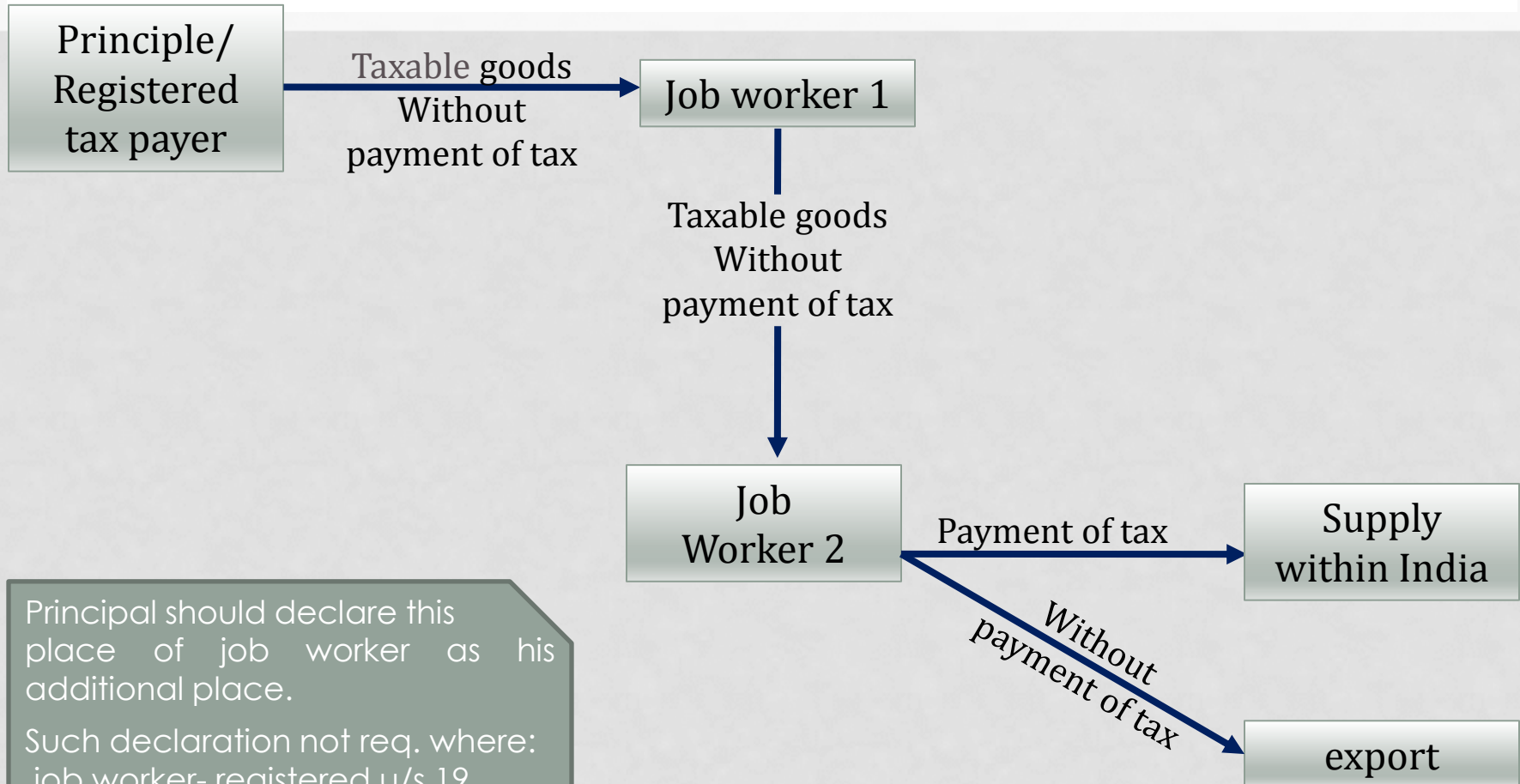
PRINCIPAL & JOB WORKER

Normal



PRINCIPAL & JOB WORKER

Supply from place of business of job worker



Principal should declare this place of job worker as his additional place.

Such declaration not req. where:
job worker- registered u/s 19
supply of goods as maybe notified

OTHER IMPORTANT CONCEPTS

- **Composite Supply: 2 (27)** means a supply consisting of -
- two or more goods;
- two or more services; or
- a combination of goods and services

provided in the course or furtherance of business, whether or not the same can be segregated;

Applicable principles in case of composite supply?

Partial supply taxable and partial non taxable- value?

OTHER IMPORTANT CONCEPTS

- “**inward supply**” in relation to a **person**, shall mean receipt of goods and/or services whether by purchase, acquisition or any other means and whether or not for any consideration;
- “**outward supply**” in relation to a **person**, shall mean supply of goods and/or services, whether by sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made by such person in the course or furtherance of business except in case of such supplies where the tax is payable on reverse charge basis;

SCHEDULE II

Goods	Services
Any transfer of the title in goods	Any transfer of goods or of right in goods or of undivided share in goods without the transfer of title thereof
Any transfer of title in goods under an agreement which stipulates that property in goods will pass at a future date upon payment of full consideration	Any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly
Where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration	Any lease, tenancy, easement, license to occupy land
	Any treatment or process which is being applied to another person's goods is a supply of services.

SCHEDULE II

Goods

Where any goods, forming part of the business assets of a taxable person, are sold by any other person who has the power to do so to recover any debt owed by the taxable person, the goods shall be deemed to be supplied by the taxable person in the course or furtherance of his business.

Where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless

- (a) the business is transferred as a going concern to another person; or
- (b) the business is carried on by a personal representative who is deemed to be a taxable person.

Services

Where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, the usage or making available of such goods.

Declared Services under existing Service Tax provisions.

However Whole value of Works Contracts and Restaurants shall be Service only.

GIST OF SCHEDULE – II – GOODS VS. SERVICE

Service

- Transfer of goods without transfer in title thereof
- Transfer of business assets for private use with or without consideration
- Lease, tenancy, license to occupy land
- Lease or letting out of commercial or residential building
- Treatment or process which is applied to another person's goods
- Declared list of service

Goods

- Transfer in title in goods
- Supply of goods by unincorporated association of body to their members for consideration
- Transfer of business assets except transfer made for the private use with or without consideration

CASE STUDIES

- Mr No Work has a big portfolio of shares, mutual funds and other securities and is heavily engaged in trading on daily basis. His securities are in dematerialized form only. He is aware that GST can be made applicable on trading in such securities. After reading definitions in Model GST Law he believes that securities are goods. Mr Advisor tells him that dematerialized securities can be services also. Mr No Work seeks your opinion to prove Mr Advisor wrong.

CASE STUDIES

- M/s Alwaysonline.com intends to buy a customized software for its business. It gives the contract for same to M/s Copy & Paste Ltd who develops the said software as per requirement of client and delivers the same. The software has a shelf life only of 1 year. Now M/s Alwaysonline.com says the said software is goods (As they have read famous decision by Hon'ble Supreme Court in relation to M/s TCS Ltd). M/s Copy & Paste Ltd says it is services. Mr Advisor who is famous for confusing says they are both. Can you sort this out after reading Model GST Law?

CASE STUDIES

- M/s Pure Munafa Trust is a religious trust which has temple under it. It provides Prasad to devotees at a nominal price. It wants to know whether such supply of Prasad can be treated as business activity under GST? If Yes, can they claim Input Tax Credit of fees paid for branding on such Prasad packet?

CASE STUDIES

- Mr Self Scholar while reading Model GST Law came to a conclusion that handing over of goods by a manufacturer to transporter for transport from premises of manufacturer to that of buyer can also be treated as supply and can be leviable to GST. Is Mr Scholar right? Can there be any possibility in this regard?

CASE STUDIES

- M/s All India Boss Private Ltd have offices in 6 states in country. They are manufacturers of Luxury Home Furnishing Items. They have manufacturing factory in Baroda and Chennai and warehouses in Jaipur, Mumbai, Bhopal & Kolkata. All units in separate states have different registration. However, Income Tax Return and other returns (Except GST returns) are filed centrally from Mumbai Head Office. Goods worth of Rs 5 cr are sent from Baroda Factory to Jaipur without levying GST. Mr Advisor is of the view that GST is not applicable in case of Branch Transfers after reading GST Law. Reference of Schedule-II and definition of Supply under Section 3 of CGST Act is given by him. According to him, self-supply is not taxable under GST What is your view?

THANK YOU

acknowledgement to CA Yash
Dhadha for valuable inputs

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