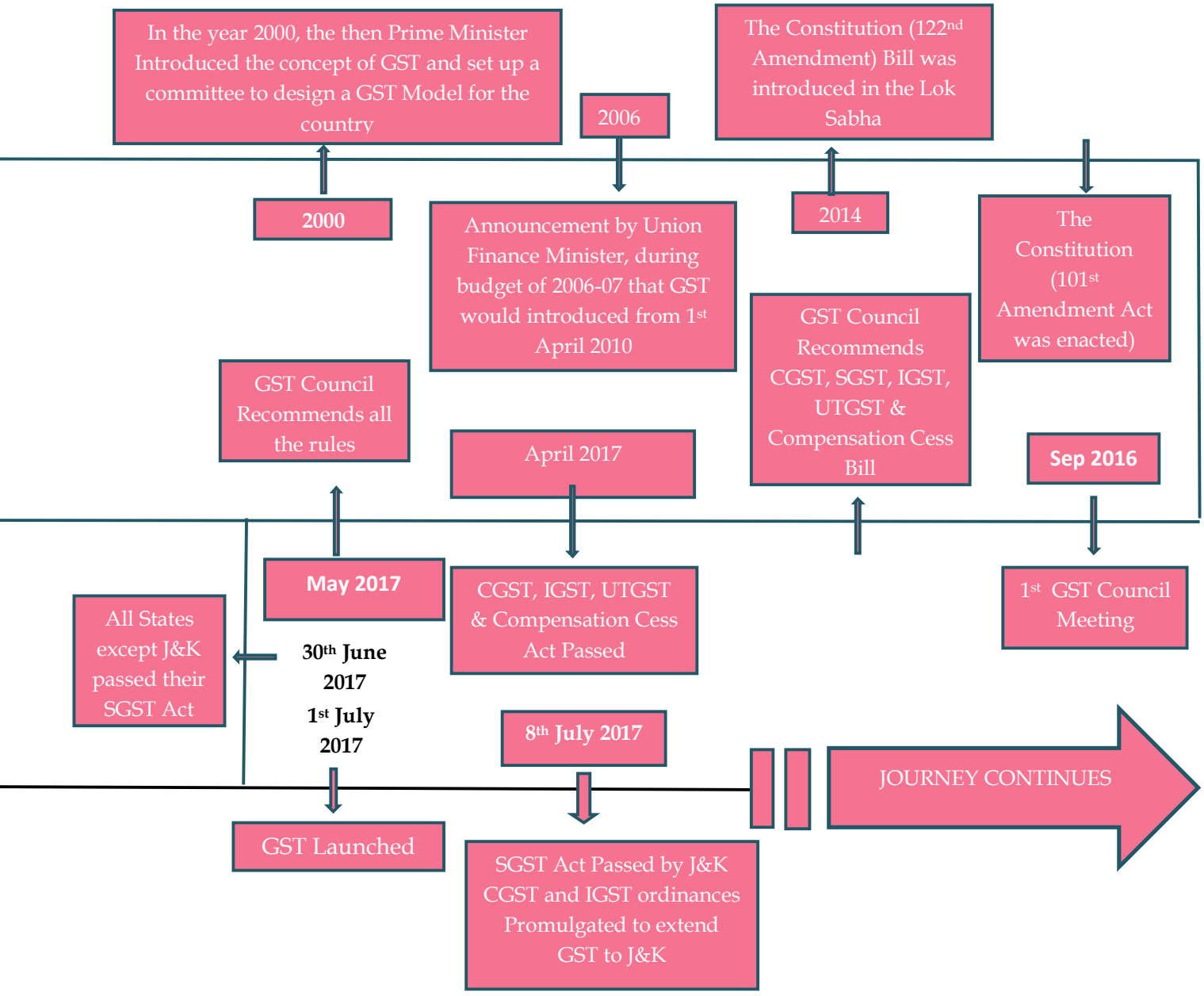
GOODS AND SERVICES TAX (GST)

CHAPTER 01

GST IN INDIA

AN INTRODUCTION



1.1 Concept of GST



- **Valued Added Tax** : GST is a value added tax levied on manufacture, sale and consumption of goods and services.
- **Continuous Chain of Tax Credits** : GST offers comprehensive and continuous chain of tax credits from the producer's point/service provider's point upto the retailer's level/consumer's level thereby taxing only the value added at each stage of supply chain.
- **Burden Borne by Final Consumer** : The supplier at each stage is permitted to avail credit of GST paid on the purchase of goods and/or services and can set off this credit against the GST payable on the supply of goods and services to be made by him. Thus, only the final consumer bears the GST charged by the last supplier in the supply chain, with set-off benefits at all the previous stages.
- **No Cascading of Taxes** : Since, only the value added at each stage is taxed under GST, there is no tax on tax or cascading of taxes under GST system. GST does not differentiate between goods and services and thus, the two are taxed at a single rate.

1.2 Taxes Subsumed in GST

CENTRAL LEVIES SUBSUMED IN GST	CENTRAL LEVIES NOT SUBSUMED IN GST
(1) Central Excise Duty and Additional Excise Duties	(1) Customs Duty
(2) Excise Duty under Medicinal and Toilet Preparation Act	(2) Central Excise Duty on 5 Petroleum Products and Tobacco & Tobacco Products.
(3) Service Tax	
(4) CVD and Special CVD	
(5) Central Sales Tax	
(6) Surcharges and Cesses in so far as they relate to supply of goods and services.	

STATE LEVIES SUBSUMED IN GST	STATE LEVIES NOT SUBSUMED IN GST
(1) State surcharges and cesses in so far as they relate to supply of goods and services	(1) State Excise Duty on Alcohol Liquor for Human Consumption and Opium, Indian Hemp and other Narcotic Drugs and Narcotics
(2) Entertainment Tax (except those levied by local bodies)	(2) Sales Tax on 5 Petroleum Products and Alcohol Liquor for Human Consumption

(3) Tax on lottery, betting and gambling	(3) Profession Tax
(4) Entry Tax (All Forms) and Purchase Tax	(4) Electricity Duty
(5) VAT/Sales Tax	(5) Stamp Duty
(6) Luxury Tax	(6) Toll Tax
(7) Taxes on advertisements.	(7) Road and Passenger Tax.

1.3 Central / State Levies to be Levied after introduction of GST

Goods	(Supply) GST	(Manufacture) ED	(Sale)	
			VAT	CST
Alcoholic Liquor for human consumption	✗	✔	✔	✔
Petroleum crude, High speed diesel, Motor spirit (Petrol), Natural gas, Aviation Turbine fuel	✗	✔	✔	✔
Tobacco & Tobacco products	✔	✔	✗	✗
Opium, Indian Hemp and other Narcotic Drugs	✔	✔	✗	✗
All other Goods & Service	✔	✗	✗	✗

1.4 Dual GST Model Introduced in India



- A dual GST has been implemented in India with the Centre and States simultaneously levying it on a common tax base. The GST levied by the Centre on intra-State supply of goods and / or services is called the Central GST (CGST) and that levied by the States/ Union territory is called the State GST (SGST)/ Union GST (UTGST). Similarly, Integrated GST (IGST) is levied and administered by Centre on every inter-State supply of goods and/or services.
- India is a federal country where both the Centre and the States have been assigned the powers to levy and collect taxes through appropriate legislation. Both the levels of Government have distinct responsibilities to perform according to the division of powers prescribed in the Constitution for which they need to raise resources. A dual GST, therefore, keeps with the Constitutional requirement of fiscal federalism. **GST extends to whole of India.**
- Since GST is a **destination based consumption tax**, revenue of SGST will ordinarily accrue to the consuming states. The inter-state supplier in the exporting state will be allowed to set off the available credit of IGST, CGST and SGST/UTGST (in that order) against the IGST payable on inter-state supply made by him. The buyer in the importing state will be allowed to avail the credit of IGST paid on inter-state purchase made by him. The revenue of inter-state sale will not accrue to

the exporting state and the exporting state will be required to transfer to the centre the credit of SGST/UTGST used in payment of IGST. The centre will transfer to the importing state the credit of IGST used in payment of SGST/UTGST.

- GST is levied at all stages right from manufacture up to final consumption with credit of taxes paid at previous stages available as setoff. Resultantly, only value addition is taxed and burden of tax is to be borne by the final consumer.

1.5 Functions of GST Network

The functions of the GSTN includes

- Facilitating registration;
- Forwarding the returns to Central and State authorities;
- Computation and settlement of IGST;
- Matching of tax payment details with banking network;
- Providing various MIS reports to the Central and the State Governments based on the taxpayer return information;
- Providing analysis of taxpayers' profile.

1.6 Benefits of GST

GST is a win-win situation for the entire country. It brings benefits to all the stakeholders of industry, Government and the consumer. The significant benefits of GST are discussed hereunder:



Benefits to economy

- **Creation of unified national market:** GST aims to make India a common market with common tax rates and procedures and remove the economic barriers thus paving the way for an integrated economy at the national level.
- **Boost to 'Make in India' initiative:** GST gives a major boost to the 'Make in India' initiative of the Government of India by making goods and services produced in India competitive in the national as well as international market. This will create India as a — Manufacturing hub.
- **Enhanced investment and employment:** The subsuming of major Central and State taxes in GST, complete and comprehensive setoff of input tax on goods and services and phasing out of Central Sales Tax (CST) reduces the cost of locally manufactured goods and services and increases the competitiveness of Indian goods and services in the international market and thus, gives boost to investments and Indian exports. With a boost in exports and manufacturing activity, more employment is generated and GDP is increased.

Simplified tax structure

- **Ease of doing business:** Simpler tax regime with fewer exemptions along with reduction in multiplicity of taxes under GST has led to simplification and uniformity in tax structure. The uniformity in laws, procedures and tax rates across the country makes doing business easier.

- **Certainty in tax administration:** Common system of classification of goods and services across the country ensures certainty in tax administration across India.

Easy tax compliance

- **Automated procedures with greater use of IT:** There are simplified and automated procedures for various processes such as registration, returns, refunds, tax payments. All interaction is through the common GSTN portal, therefore, less public interface between the taxpayer and the tax administration.
- **Reduction in compliance costs:** The compliance cost is lesser under GST as multiple record-keeping for a variety of taxes is not needed, therefore, there is lesser investment of resources and manpower in maintaining records. The uniformity in laws, procedures and tax rates across the country goes a long way in reducing the compliance cost.

Advantages for trade and industry

- **Benefits to industry:** GST has given more relief to trade and industry through a more comprehensive and wider coverage of input tax set-off and service tax set-off, subsuming of several Central and State taxes in the GST and phasing out of CST. The transparent and complete chain of set-offs which results in widening of tax base and better tax compliance also leads to lowering of tax burden on an average dealer in trade and industry.
- **Mitigation of ill effects of cascading:** By subsuming most of the Central and State taxes into a single tax and by allowing a set-off of prior-stage taxes for the transactions across the entire value chain, it helps in mitigating the ill effects of cascading, improving competitiveness and improving liquidity of the businesses.
- **Benefits to small traders and entrepreneurs:** GST has increased the threshold for GST registration for small businesses. Further, single registration is needed in one State. Small businesses have also been provided the additional benefit of composition scheme. With the creation of a seamless national market across the country, small enterprises have an opportunity to expand their national footprint with minimal investment.

1.7 Constitutional Provisions



Power to levy and collect taxes whether, direct or indirect emerges from the Constitution of India. In case any tax law, be it an act, rule, notification or order is not in conformity with the Constitution, it is called ultra vires the Constitution and is illegal and void.

The significant provisions of the Constitution relating to taxation are:

I. Article 265: Article 265 of the Constitution of India prohibits arbitrary collection of tax. It states that "no tax shall be levied or collected except by authority of law". The term "authority of law" means that tax proposed to be levied must be within the legislative competence of the Legislature imposing the tax.

II. Article 246: It gives the respective authority to Union and State Governments for levying tax. Whereas Parliament may make laws for the whole of India or any part of the territory of India, the State Legislature may make laws for whole or part of the State.

III. Seventh Schedule to Article 246: It contains three lists which enumerate the matters under which the Union and the State Governments have the authority to make laws.

List – I	Union List	It contains the matters in respect of which the parliament (Central Government) has the exclusive right to make laws.
List – II	State List	It contains the matters in respect of which the State Government has the exclusive right to make laws.
List - III	Concurrent List	It contains the matters in respect of which both the Central & State Governments have power to make laws.

Power to levy GST has been conferred by Article 246A of the Constitution which was introduced by the Constitution (101st Amendment) Act, 2016. Article 279A empowered President to constitute GST Council.

Why was the need to amend the Constitution of India before introducing the GST?

Earlier, the fiscal powers between the Centre and the States were clearly demarcated in the Constitution with almost no overlap between the respective domains. The Centre had the powers to levy tax on the manufacture of goods (except alcoholic liquor for human consumption, opium, narcotics etc.) while the States had the powers to levy tax on the sale of goods. In the case of inter-State sales, the Centre had the power to levy the Central Sales Tax but the tax was collected and retained entirely by the States. As for services, it was the Centre alone that was empowered to levy service tax.

Introduction of the GST necessitated the amendments in the Constitution so as to simultaneously empower the Centre and the States to levy and collect this tax. The Constitution of India was amended by the Constitution (101st Amendment) Act, 2016 for this purpose. Article 246A of the Constitution introduced thereby empowered the Centre and the States to simultaneously levy and collect the GST.

Significant amendments made by Constitution (101st Amendment) Act, 2016 are discussed below:

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

- This article grants power to Centre and State Governments to make laws with respect to GST imposed by Centre or such State.
- Centre has the exclusive power to make laws with respect to GST in case of inter-State supply of goods and/or services.
- However, in respect to the following goods, the aforesaid provisions shall apply from the date recommended by the GST Council:
    1. Petroleum Crude
    2. High Speed Diesel
    3. Motor Spirit (commonly known as Petrol)
    4. Natural Gas
    5. Aviation Turbine Fuel

V. Article 269A: Levy and collection of GST on inter-State supply

- Article 269A stipulates that GST on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.
- In addition to above, import of goods or services or both into India will also be deemed to be supply of goods and/ or services in the course of Inter-State trade or Commerce.

VI. GST Council: Article 279A

- Article 279A of the Constitution empowers the President to constitute a joint forum of the Centre and States namely, Goods & Services Tax Council (GST Council).
- The Union Finance Minister is the Chairman of this Council and Ministers in charge of Finance/Taxation or any other Minister nominated by each of the States & UTs with Legislatures are its members. Besides, the Union Minister of State in charge of Revenue or Finance is also its member.
- The function of the Council is to make recommendations to the Union and the States on important issues like tax rates, exemptions, threshold limits, dispute resolution etc.
- GST Council shall also recommend the date on which GST be levied on petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel.

जीत कर दिखाओ उनको
जो तुम्हारी हार का इंतजार कर रहे हैं...!

LEVY OF GST

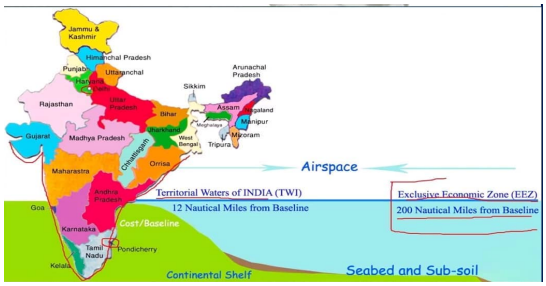
CHAPTER 02

Note : Our discussion in this Book will principally be confined to the provisions of CGST and IGST laws, as the specific State GST laws are outside the scope of syllabus. (Provisions of SGST laws are same as provisions of CGST Act, except few exceptional provisions.)

Extent of CGST Act / SGST Act / UTGST Act/ IGST Act (Section 1)

Applicability	CGST	SGST	UTGST	IGST
	Intra-State supply			Inter-State supply
All States of India	✓	✓		✓
Union Territories with Legislature (Delhi, Puducherry and Jammu & Kashmir)	✓	✓		✓
Union Territories without Legislature (UT) (a) the Andaman and Nicobar Islands; (b) Lakshadweep; (c) Dadra and Nagar Haveli and Daman and Diu; (d) Ladakh; (e) Chandigarh; and (f) Other territory.	✓		✓	✓

Definition of India [Sec. 2(56) of CGST Act, 2017] :



"India" means

- the territory of India as referred to in article 1 of the Constitution,
- its territorial waters, sea-bed 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.

Commencement of Acts – 01.07.2017 (J & K – 08.07.2017)

Levy and collection of CGST / IGST

Particulars	CGST [SEC. 9(1)] of CGST Act, 2017	IGST [SEC. 5(1)] of IGST Act, 2017
Levied on	Intra State supplies of goods/services/both	Inter State supplies of goods/services/both
Goods not leviable to GST	Alcoholic liquor for human consumption and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption 	
Value for levy	Value u/s 15 of the CGST Act	
Rates	Rates as notified by Government Maximum rate of CGST can be 20%	IGST rate= CGST rate + SGST rate Maximum rate of IGST can be 40%
Collected and paid by	Taxable Person [a person who is registered or liable to be registered u/s 22 or 24]	
5 Supplies on which GST would be levied w.e.f. a notified date [Sec. 9(2)/5(2)] [Which is not yet notified]	➢ petroleum crude ➢ high speed diesel ➢ motor spirit (commonly known as petrol) ➢ natural gas and ➢ aviation turbine fuel	GHUM LO OR JHUM LO... 
Tax payable under reverse charge mechanism (RCM) by recipient of supply	➢ Supply of goods or services or both, notified by the Government. [Sec. 9(3)/5(3)] ➢ Supply of specified categories of goods or services or both by an unregistered supplier to specified class of registered persons. [Sec. 9(4)/5(4)] ➢ All the provisions of the act shall apply to such recipient as if he is the person liable for paying the tax.	
Tax payable by the electronic commerce operator (ECO) [Sec. 9(5)/5(5)]	The Government may notify categories of services, the tax on supplies of which shall be paid by ECO as if such services are supplied through it and all the provisions of the act shall apply to such ECO as if ECO is the supplier liable for paying the tax. [Eg. Uber, Ola, Swiggy, etc.]	

Person liable to pay tax :

Forward Charge Sec. 9(1) / 5(1)	Supplier of Goods/Service
Reverse Charge Sec. 9(3) / 9(4) / 5(3) / 5(4)	Recipient of Goods/Service
E- Commerce Sec. 9(5) / 5(5)	ECO

Goods or Services imported in India:

- Import of Goods or Services = Inter-State Supply under IGST Act, 2017.
- Import of Goods: Customs Duty + IGST (as additional duty of customs).
- Import of Services: Only IGST is levied (no customs duty).
- Valuation of Imported Goods: As per Customs Laws.
- Import of Online Money Gaming: Treated as goods, but only IGST is levied (no customs duty).

TAXABLE EVENT UNDER GST = SUPPLY [SECTION 7]

सीधी बात...Supply होगा तो GST लगेगा...NO SUPPLY NO GST

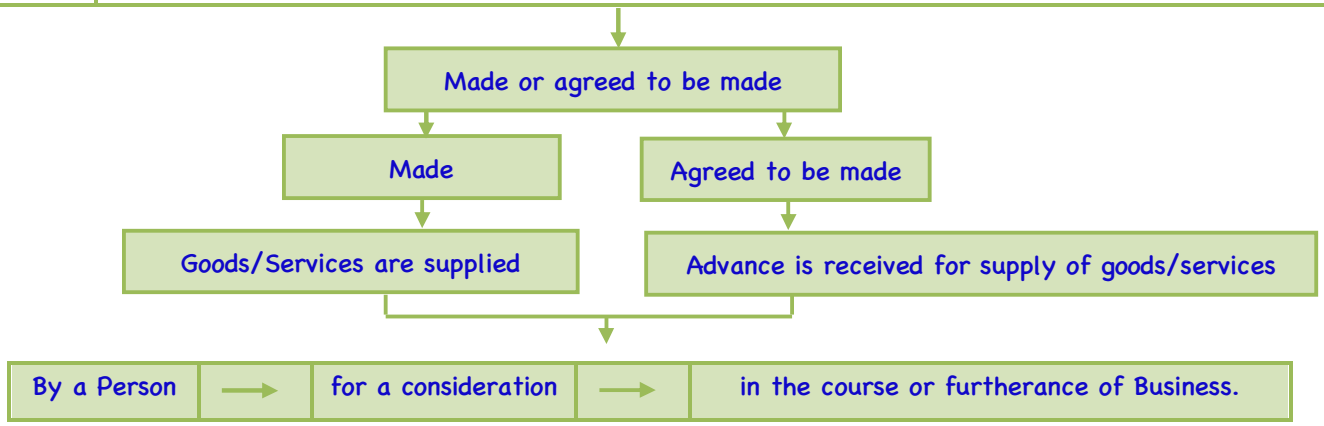
Sec. 7	Meaning and Scope of Supply	
(1)	Supply includes (सिर्फ "तुम ही हो" नहीं... "तुम भी हो"...)-	
	(a)	all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;
	(aa)	the activities or transactions, by AOP/BOI/Club etc., to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration. Explanation – AOP/BOI/Club etc. and its members or constituents shall be deemed to be two separate persons.
	(b)	importation 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.
(1A)	where certain activities or transactions constitute a supply in accordance with the provisions of sub section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.	
(2)	Notwithstanding anything contained in sub-section (1),	
	(a)	activities or transactions specified in Schedule III; or
	(b)	such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council
	shall be treated neither as a supply of goods nor a supply of services.	
(3)	Subject to sub-sections (1), (1A) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as –	
	(a)	a supply of goods and not as a supply of services; or
	(b)	a supply of services and not as a supply of goods.

ANALYTICAL DISCUSSIONS

ANALYSIS OF SEC. 7(1)(a)

Supply Includes All forms of supply of goods or services or both such as

Sale	A laptop dealer sells laptop to XYZ
Transfer	A branch transfers goods to another branch
Barter	Mr. XYZ exchanges his laptop with Mr. PQR's camera without cash exchange between the two parties
Exchange	A laptop dealer sells new laptop for Rs. 40,000 along with an exchange of old laptop [Price of new laptop without exchange is Rs. 50,000]
License	A developer (license holder) of information technology software gives license to use the software to his various clients
Rental	Bike is given on rent
Lease	A machinery is given on finance lease or operating lease
Disposal	Sale of Old machineries after expiry of its useful life



1. **Supply of anything other than goods or services does not attract GST. Let us analyse the terms "Goods" and "Services" as defined under the Act**

Definitions	Goods [Sec. 2(52)]	Services [Sec. 2(102)]
Means	Every kind of movable property 	Anything other than goods 
Excludes	Money and securities 	
Includes	(i) actionable claim (ii) growing crops, grass and things attached to/ forming part of the land which are agreed to be severed before	Activities relating to : (i) Use of money or (ii) Conversion of money by cash/by any other mode, from one form/currency/ denomination, to another, for which a separate consideration is

	supply or under a contract of supply.	charged. (iii) facilitating or arranging transactions in securities

Note: Money shall not include any currency that is held for its numismatic value.

2. Analysis of the term "Consideration":

- A supply is taxable only if made for a consideration.
- Consideration may be in money or may be in kind.
- Supply must involve a contractual relationship (express or implied) – done at the desire of the recipient in return for consideration.
- Free supplies like tourism info, free TV channels, friendly advice, etc. are not "supply for consideration" and hence not considered as supply.
- Donations, gifts, and charities are outside the scope of supply, unless covered u/s 7(1)(c).
- There must be a direct and immediate link between supply and consideration – not just a casual or remote connection.
- A grant with conditions like proper fund use or furnishing accounts does not constitute a supply of service.
- Donations are not consideration unless the recipient of donation is obligated to provide something in return, like advertising the donor's name or giving any benefit to the donor.
- **Levy of GST on the service of display of name or placing of name plates of the donor in the premises of charitable organisations receiving donation or gifts from individual donors [Circular]**

  If a donor's name is displayed only as a mark of gratitude or public recognition, it is not a supply of service, and the donation is not liable to GST.

  Example : "Donated by Smt. Malati Devi in the memory of her father" written on the door or floor of a room or any part of a temple complex which was constructed from such donation

  If the institution is obligated to display the donor's name for publicity or business promotion, it becomes a supply of service for a consideration (in the form of donation) and will be chargeable to GST.

पुण्य का काम पुण्य के लिए किया तो NO GST	पुण्य का काम Publicity के लिए किया तो GST लगेगा

4. Analysis of "In The Course Or Furtherance Of Business" :

(i) Only those supplies that are in the course or furtherance of business qualify as supply under GST.

Example: Mr. Ranveer Singh sells a car of his personal use to a any person. Sale of car by Mr. Ranveer Singh to any person is not a supply under CGST Act because this supply is not made in the course or furtherance of business. But, in the same case, if Mr. Ranveer Singh sells a car which he is been using in his business (as a business asset) to any person, then, it will be covered under the term "supply", although selling car is not his business, but, it will be deemed that this sale is made in the course or furtherance of his business.

(ii) Since, 'business' includes vocation, sale of goods or service even as a vocation (whether or not there is volume, frequency, continuity or regularity of such transactions) is a supply under GST.

Example: Mr. Kapil, a Chartered Accountant, paints some paintings and sells them. The consideration from such sale is to be donated to a Charitable Trust. The sale of paintings by Mr. Kapil qualifies as supply even though it is a one-time occurrence. Further, donating the consideration does not have any impact while determining the transaction to be treated as supply or not.

Analysis of Sec. 7(1)(aa) [Activities or transactions, by AOP/BOI/Club, etc. to its members or constituents or vice-versa]

Supply of goods or services or both by any person [including an unincorporated association or body of persons (AOP/BOI)] to a member thereof for cash, deferred payment or other valuable consideration shall be treated as supply of goods or services or both, as AOP/BOI are treated as two separate persons. Hence, GST will be levied on the same. Similarly, GST will be levied on the supply of goods or services or both by member of an unincorporated AOP/BOI to the AOP/BOI or to other members of the AOP/BOI.

Example: Membership fee or any other consideration paid by members to unincorporated AOP/BOI (e.g. Friends Club/Club Mahindra/etc.) for availing various services is Supply of Service and will be chargeable to GST.

Clarification regarding taxable services provided by the members of the Joint Venture (JV) to the JV and vice versa and inter se between the members of the JV [Circular]

1. Supply between an unincorporated AOP/BOI and its members is treated as supply between separate persons and is taxable under GST. Similarly, supplies between JV members and the JV are also taxable.
2. Member contributions to a JV, called 'Cash Calls', may be:
   (a) Taxable – if they are advance payments towards taxable services received from JV.
   (b) Non-taxable – if they are capital contributions to raise the funds for JV which is not in the nature of consideration and will be treated as mere transaction in money.

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

Example: Mr. Pankaj, has subscribed online videos (TV Shows, Movies, Webseries etc.) for entertainment of his family from www.netflix.com [an Online Information and Database access or retrieval (OIDAR) service supplier from outside India] at an agreed consideration of $ 100. The import of services by Mr. Pankaj is supply under section 7(1)(b), though it is not in the course or furtherance of business.

Note: Import of goods is governed by Customs Act.

Analysis of Section 7(1)(c) read with schedule I [Supply without consideration – Deemed Supply]

As per Schedule I, the following supplies made without consideration will be treated as supply u/s 7 of the CGST Act:

Schedule I	
1.	Permanent transfer or disposal of business assets where input tax credit (ITC) has been availed on

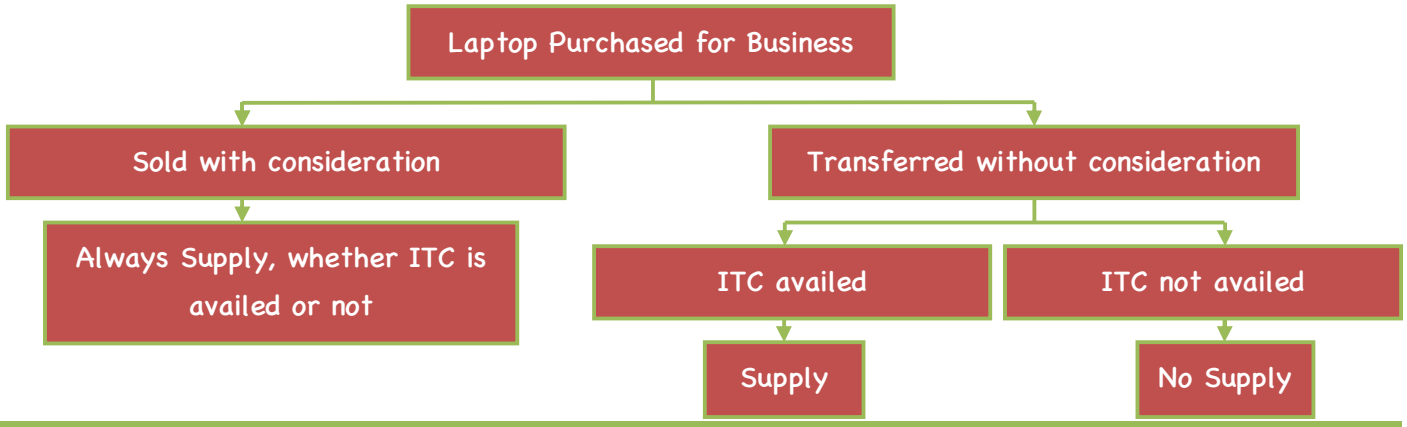
	such assets.
2.	Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business. However, gifts not exceeding Rs. 50,000 in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.
3.	Supply of goods – (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal (where the invoice for further supply to the customer is being issued by the agent in his own name); or (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal (where the goods being procured by the agent on behalf of the principal are invoiced in the name of the agent).
4.	Import of services by a ~~taxable~~ person from a related person or from any of his other establishments outside India, in the course or furtherance of business ["Taxable person" word substituted by "person" by CGST (Amendment) Act, 2018, w.e.f. 01.02.2019].

Analytical Discussion Of Para 1 To 4 Of Schedule I

PARA 1 - Permanent Transfer / Disposal of Business Assets:

Example: Guddu Bhaiya & Co. donates old A.C. to Charitable Schools. This will qualify as supply if input tax credit had been availed by Guddu Bhaiya & Co. on purchase of such A.C.

Example: Transfer of business assets (in respect of which ITC was availed) from holding to subsidiary company for NIL consideration, will qualify as supply.



PARA 2 - Supply between related person or distinct persons when made in the course or furtherance of business:

(a) **Related persons:** Person (Includes Legal person) deemed as related person, if :

- Such persons are officers/directors of one another's business
- Such persons are legally recognised partners
- Such persons are employer & employee
- A third person controls/own/holds (directly/indirectly) at least 25% voting stock/shares of both

ये है GST में हमारे रिश्तेदार
(Related Persons)

- One of them controls (directly/indirectly) other
- A third person controls (directly/indirectly) both of them
- Such person together control (directly/indirectly) a third person
- Such persons are member of the same family
- One of them is the sole agent/sole distributer/sole concessionaire of the other.

(b) **Family** means :

(i) the spouse and children of the person, and

(ii) the parents, grandparents, brothers and sisters of the person if they are wholly or mainly dependent on the said person. **[ATTENTION : ये लोग Dependent होंगे तो ही Related होंगे]**

(c) **Supply of goods or services or both between an employer and employee:**

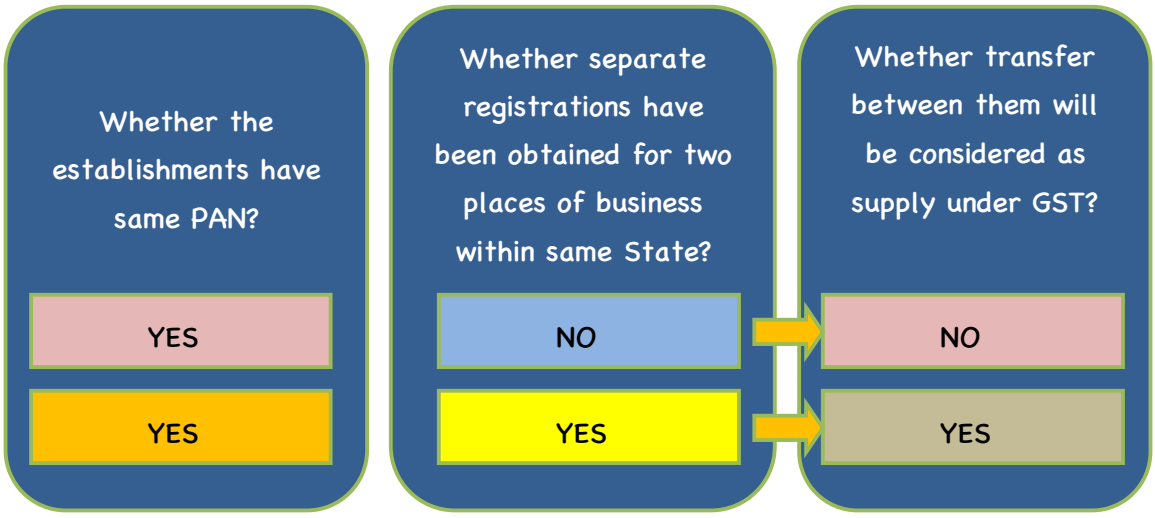
- Under GST, employer and employee are related persons.
- Services by an employee to employer in the course of employment are not treated as supply [(Schedule III) (discussed in subsequent paras)].
- Goods/services supplied by employer to employee in the course or furtherance of business, even without consideration, are treated as supply.
- Gifts up to Rs. 50,000 per financial year by employer to an employee are not taxable. Gifts above Rs. 50,000 (without consideration) are taxable.

(d) **Distinct Persons specified u/s 25 means** different GST registration numbers on same PAN.

Example : Mr. Ram, has a registered head office in Mumbai. He has also obtained registration in the State of Punjab in respect of his newly opened branch office. Mr. Ram shall be treated as distinct persons in respect of registrations in Maharashtra and Punjab.



(e) **Stock transfers or branch transfers:** Transactions between Distinct Persons (e.g., stock transfers or branch transfers) will qualify as 'supply' under GST although made without consideration.



Circulars regarding transactions between Distinct Persons:

1. GST is leviable on inter-state branch transfer of aircraft engines, parts and accessories for use by their own airlines. Further, Input Tax Credit of GST paid on purchase of aircraft engines, parts & accessories will be available for discharging GST liability on inter-state supply of such aircraft engines, parts & accessories by way of inter-state stock transfers between distinct persons. **[Circular]**
2. Inter-state movement of various modes of conveyance for transportation of goods or passengers (Ex. Trucks, Tankers, Buses, Cars, Trailers, Trains, Vessels, Aircrafts, etc.), between distinct persons, may not be treated as supply [except in cases where such movement is for further supply of same conveyance] and consequently, IGST will not be payable on such mode of conveyance.

   However, applicable GST shall be leviable on repairs and maintenance done by distinct person for such conveyance. **[Circular]**
3. Inter-state movement of rigs, tools and spares, and all goods on wheels [like cranes, etc.], between distinct persons is not leviable to IGST [except in cases where such movement is for further supply of these goods]. **[Circular]**

PARA 3 : Supply of Goods between Principal and Agent:

- Where the Invoice for further supply to the customer is being issued by the agent in his own name, then, any removal of goods from the principal to the agent would fall within the scope of para 3 above and GST will be levied on removal of goods from the principal to the agent.

  However, where the invoice is issued by the agent to the customer in the name of the principal, such agent shall not fall within the scope of para 3 above and no GST will be levied on removal of goods from the principal to the agent.

Where the invoice is issued by the agent to the customer in the name of:	Whether he will be an agent in terms in para 3 of Sch. I
Principal	No
Agent	Yes

Example: Mr. A sells agricultural produce by utilizing the services of Mr. B who is a commission agent as per the Agricultural Produce Marketing Committee Act (APMC Act) of the State. Mr. B identifies the buyers and sells the agricultural produce on behalf of Mr. A for which he charges a commission from Mr. A. As per the APMC Act, the commission agent is a person who buys or sells the agricultural produce on behalf of his principal, or facilitates buying and selling of agricultural produce on behalf of his principal and receives, by way of remuneration, a commission or percentage upon the amount involved in such transaction.

In cases where the invoice is issued by Mr. B to the buyer, then, he is an agent covered under Schedule I. However, in cases where the invoice is issued directly by Mr. A to the buyer, the commission agent (Mr. B) doesn't fall under the category of agent covered under Schedule I.

- Similarly, where the goods being procured by the agent on behalf of the principal are invoiced in the name of the agent, then, further removal of the said goods by agent to the principal would be covered by para 3 above and GST will be levied on removal of goods from the agent to the principal **[Circular]**.

Clarification regarding transactions between Principal & Del-Creder Agent [Circular]

A Del-Credere Agent (DCA) is a selling agent who guarantees payment to the principal (for which, DCA gets relatively higher commission). This may involve offering short-term loans to buyers or paying the supplier himself and recovering the amount from the buyer with some interest at a later date. This loan is to be repaid by the buyer along with an interest to the DCA.

If the transactions between principal and DCA is covered under Sch. I – Para 3, then, the interest charged by DCA to his customers will form part of value of supply by DCA to customers & hence, GST will be charged on entire value including interest.

But, if the transaction between Principal & DCA does not fall in Sch. I – Para 3, then, the interest charged by DCA to customer is merely an interest charged for extending loans or advances to customer which is exempt from GST. Hence, interest will not be chargeable to GST.

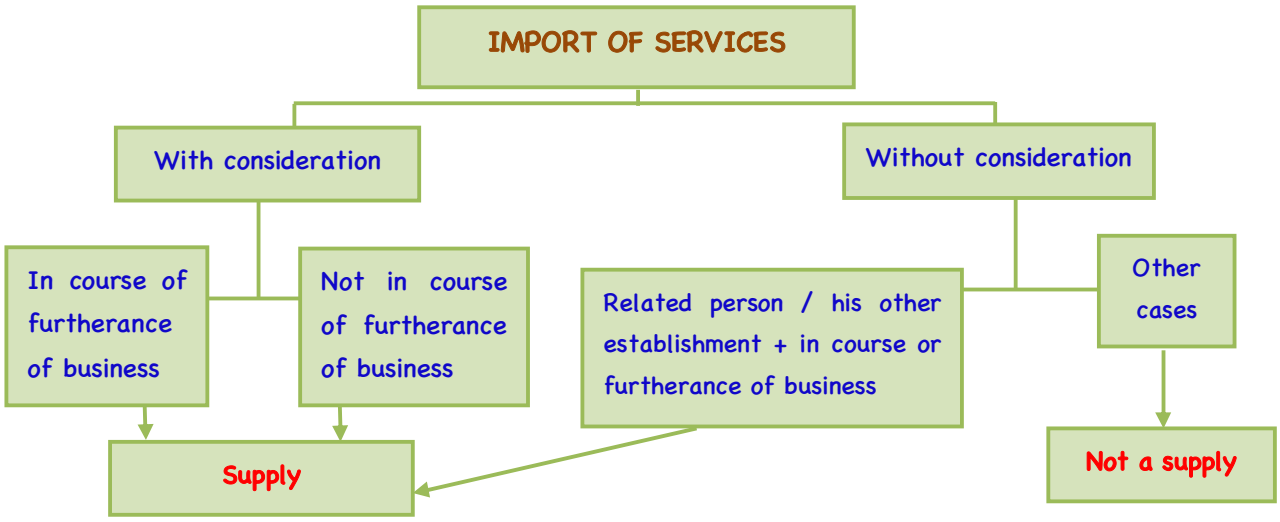
Example: Mr. Handsome, del-credere agent (DCA) of Charm Limited, agrees to raise invoices in his own name and also guarantees for the realization of payments from customers to Charm Limited. In order to realize the payments from customers on time, he extends short-term transaction-based loans to them and charges interest for the same.

For the month of March, sale of goods by Mr. Handsome in his DCA capacity is Rs. 2,80,000 and interest earned from the said customers for short term credit facility provided for timely payment of dues is Rs. 20,000. Further, commission charged from Charm Limited in respect of DCA services provided is Rs. 30,000. The value of supply of goods to customers is Rs. 3,00,000 and value of supply of agency services to Charm Limited is Rs. 30,000.

PARA 4 : Importation of services : Import of services by a person from a related person or from his establishments located outside India, without consideration, in the course or furtherance of business shall be treated as "supply".

Example: Mangal Associates received legal consultancy services from its head office located in USA. The head office has rendered such services free of cost to its branch office. Since, Mangal Associates and the branch office are related persons, services received by Mangal Associates will qualify as supply, even though the head office has not charged anything from it.

Example: Vijay, a proprietor registered in Pune, has sought architect services from his related person located in US, with respect to his newly constructed house in Pune. Although services have been received by Vijay without consideration from a related person, yet it will not qualify as supply, since, the same has not been received in the course or furtherance of business.



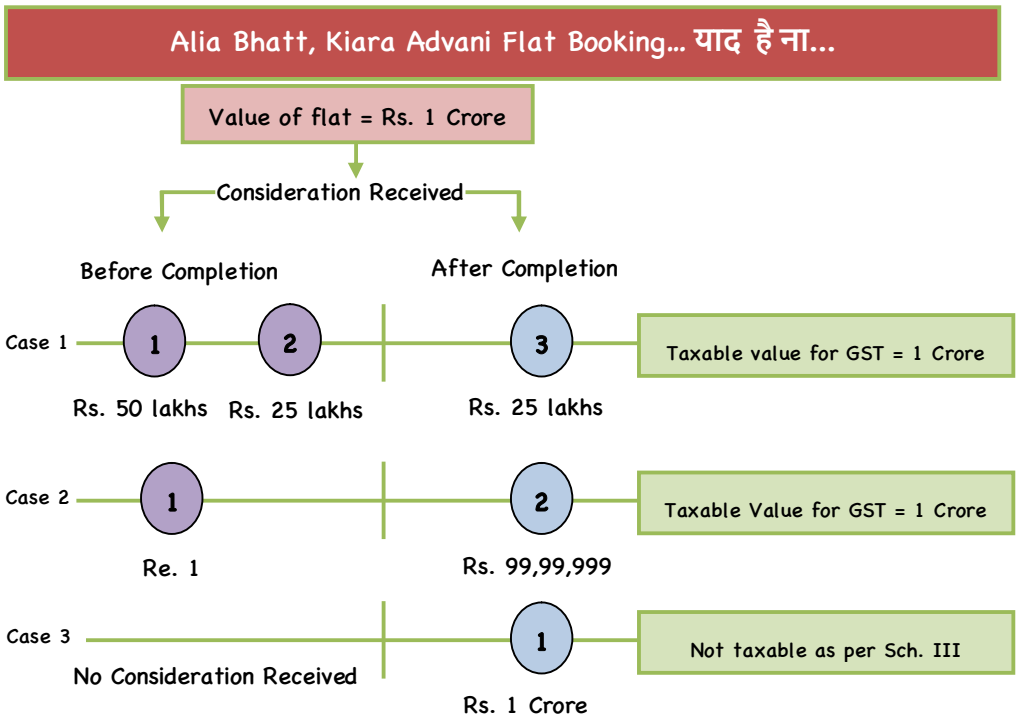
Analysis of Section 7(1A) read with schedule II [Activities or Transactions to be treated as supply of goods or Supply of Services] [ATTENTION : Schedule II में वही transactions आएंगे जो Already Supply है as per Sec. 7(1)]

Schedule II

Activities or transactions to be treated as supply of Goods or supply of services

Sl.	Transaction		Type	Nature of Supply
1	Transfer	(a)	Title in goods [**Example** : Sale of goods]	Supply of Goods
		(b)	Right in goods/undivided share in goods without transfer of title in goods [**Example** : Renting of machinery]	Supply of Services
		(c)	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. [**Example** : Hire Purchase]	Supply of Goods
2	Land and Building	(a)	Lease, tenancy, easement, licence to occupy land	Supply of Services
		(b)	Lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly.	Supply of Services
3	Treatment or Process	Applied to another person's goods [**Example :** "Job Work" like dyeing of fabric in various colours.]		Supply of Services
4	Transfer of Business Assets	(a)	Goods forming part of assets of a business are transferred or disposed off by or under the directions of the person carrying on the business so as no longer to form part of those assets. [**Example :** ABC & Co. donates old A.C. to Charitable Schools. This will qualify as supply of goods, if ITC had been availed by ABC & Co. on such A.C.]	Supply of Goods

		(b) Goods held/used for business are put to private use or are made available to any person for use, for any purpose other than a purpose of the business, by/under the direction of a person carrying on the business. [**Example :** A director using car provided by the company for personal travels.]	Supply of Services
		(c) Goods forming part of assets of any business carried on by a person who ceases to be a taxable person, shall be deemed to be supplied by him, in the course or furtherance of his business, immediately before he ceases to be a taxable person. [**Example:** Mr. A, a trader, is winding up his business. Any goods left in stock (on which ITC was availed) shall be deemed to be supplied by him and GST shall be payable.] **Exceptions:** • Business is transferred as a going concern to another person. • Business is carried on by a personal representative who is deemed to be a taxable person.	Supply of Goods
5	(a) Renting of immovable property  [**Example:** Renting of immovable property for any commercial activity, permitting use of immovable property for placing vending/dispensing machines, allowing erection of communication tower on a building for consideration, renting of land or building for entertainment or sports and renting of theatres by owners to film distributors, etc.]		Supply of Services
	(b) Construction of complex, building, civil structure, etc.: Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. "Construction" includes additions, alterations, replacements, or remodelling of any existing civil structure. "Competent Authority" means the Government or any authority authorised to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely: (i) an architect; or (ii) a chartered engineer; or (iii) a licensed surveyor. **Analysis:** If the builder/developer is constructing flats, offices, etc. in a		Supply of Services

	complex, and then booking them against advance payment before grant of completion certificate from competent authority, then, the value of the flats, offices, etc. (which are booked before grant of completion certificate) shall be chargeable to GST under the heading of "construction service".  	
	(c) Temporary transfer or permitting use or enjoyment of any Intellectual Property Right (IPR) [**Example :** Copyright]	Supply of Services
	(d) Development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of Information Technology Software. [**Example :** Customised Software]	Supply of Services
	(e) Agreeing to obligation to refrain from an act, or to tolerate an act or situation, or to do an act. [**Example :** Non-compete Agreements]	Supply of Services
	(f) Transfer of right to use any goods for any purpose [**Example :** Finance Lease]	Supply of Services
6	**Following composite supplies :** (a) 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.] Analysis: (i) If the construction, repairs, etc. contract is a composite contract of labour plus material (i.e. material is also supplied by service provider along with construction, repairs, etc. service), then, it is a	Supply of Services

	supply of service and GST would be charged on such contract under the heading of "Works Contract Service". (ii) If the construction, repairs, etc. contract is a pure labour contract (i.e. no materials are supplied by service provider), then, GST would be charged on such service under the heading of "construction service" or "repairing, etc. service".	
	(b) Restaurant and Outdoor Catering Services [Supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.] 	Supply of Services

Clarification regarding Issue related to taxability of 'Tenancy Rights' under GST [Circular]

1. The transfer of tenancy rights against tenancy premium which is also known as "pagdi system" is prevalent in some States. In this system the tenant acquires, tenancy rights in the property from landlord against payment of tenancy premium. Alternatively, Sometimes the landlord pays to tenant the prevailing tenancy premium to get the property vacated.
2. Any lease/tenancy/easement/license, to occupy land is supply of service (Para-2 Schedule II).
3. Transfer of tenancy rights will not be treated as sale of land/building even if stamp duty and registration charges is levied on the said premium.
4. Hence, the activity of transfer of 'tenancy rights' is covered under the scope of supply and is taxable under GST.
5. Renting of residential dwelling for use as a residence to an unregistered person is Exempt under GST.
6. Hence, grant of tenancy rights by landlord in a residential dwelling for use as residence to an unregistered person against tenancy premium or periodic rent or both is also exempt.
7. As regards services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is always liable to GST (whether property is commercial or residential).
8. Merely because a transaction/supply involves execution of documents (requiring registration and payment of fees and/or stamp duty), would not preclude them from scope of supply.

Analysis of Section 7(2)

1. Activities/transactions specified under Schedule III of the CGST Act [Section 7(2)(a)] [Negative List under GST]:

Schedule III

Sl.	Activities or transactions which shall be treated neither as a supply of goods nor a supply of services

1.	Services by an employee to the employer in the course of or in relation to his employment. **Analysis:** (i) **[Circular]** Director's remuneration which are declared as "Salaries" in the books of a company and subjected to TDS u/s 192 of the Income Tax Act, are not taxable under GST (being services provided in the capacity of an employee) (Example : whole time director). Further, the Director's remuneration which is declared as other than "salaries" in the Company's accounts and subjected to TDS u/s 194J of the Income Tax Act as Fees for professional or Technical Services shall be treated as consideration for providing professional or Technical services (not in the capacity of an employee) and is therefore, taxable under GST (Example: independent director). Further, in this case, the recipient of the said services i.e. the Company, is liable to discharge the GST on it under reverse charge mechanism (RCM). (ii) **[Circular]** Perquisites provided by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST when the same are provided in terms of the contract between the employer and employee. [Examples of perquisites: company car, fuel reimbursement, interest-free loan, medical facilities, credit cards, rent free accommodation, etc.] (iii) Non-compete fees received by an employee from employer is taxable as it is not in the course of or in relation to employment.
2.	Services by any Court or Tribunal established under any law for the time being in force. **Explanation:** The term "Court" includes District Court, High Court and Supreme Court.
3.	(a) Functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities; or (b) Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or (c) Duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.
4.	Services of funeral, burial, crematorium or mortuary including transportation of the deceased. **जाने वाले से कौन GST ले सकता है...**
5.	Sale of land and, subject to paragraph 5(b) of Schedule II, sale of building.

Rental, leasing, licensing of land and building	Treated as supply of service [GST is applicable]
Sale of flats, etc. in a building before completion certificate or 1st occupancy, whichever is earlier	Treated as supply of service under para 5(b) of Sch. II [GST is applicable]

	Sale of land and building	Not treated as supply as per para 5 of Sch. III [GST is not applicable]
6.	Actionable claims, other than specified actionable claims. जुआ खेलोगे तो GST देना पड़ेगा... 🙈 Note: "specified actionable claim" means the actionable claim involved in or by way of betting, casinos, gambling, horse racing, lottery or online money gaming. Further, the applicable rate of GST on specified actionable claims is 40%. **Illustration** : M/s Rohit ASREC Ltd. procured a portfolio of NPAs (of Rs. 50 crores) from Pankaj Bank Ltd. for a consideration of Rs. 7 crores (under the provisions of SRFAESI Act, 2002). Whether GST is leviable on Rs. 7 crores ? **Solution** : A transaction of procurement of a portfolio of NPAs is a transaction in actionable claim and is covered under para 6 of Schedule III of the CGST Act, 2017. Therefore, no GST would be charged on this transaction.	
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.	
9.	Activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured in co-insurance agreements, subject to the condition that the lead insurer pays GST on the entire amount of premium paid by the insured.	
10.	Services by insurer to the reinsurer for which ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer, subject to the condition that GST is paid by the reinsurer on the gross reinsurance premium payable by the insurer to the reinsurer, inclusive of the said ceding commission or the reinsurance commission.	

2. Activities/Transactions undertaken by the CG, a SG or UT or any LA as public authorities, notified by the Government [Sec. 7(2)(b)]

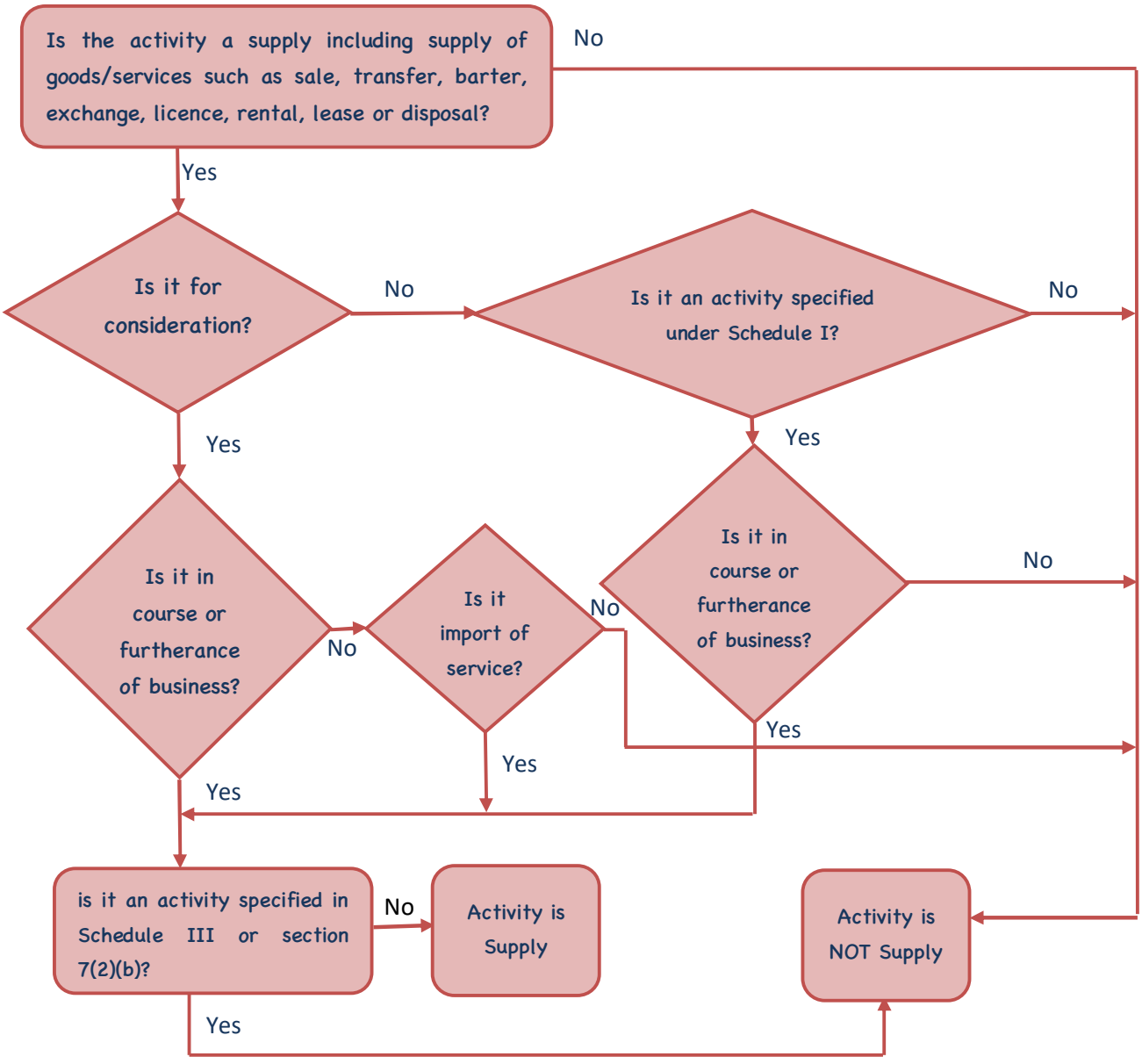
Following activities have been notified which shall be treated neither as supply of goods nor supply of services:

(i) Services provided by Central Government, State Government, Union territory or any local authority by way of any activity in relation to a function entrusted to a Panchayat under article 243G of the constitution or to a Municipality under article 243W of the constitution.

(ii) Service provided by State Government by way of grant of alcoholic liquor license, against consideration in the form of license fee or application fee or by whatever name it is called.

[Circular]: This special dispensation applies only to supply of service by way of grant of liquor licenses by the State Governments as an agreement between the Centre and States and has no applicability or precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable.

The Following Diagram summarise the steps to determine whether an activity undertaken is supply or not



Composite And Mixed Supplies [Section 8]

Sec. 8	Tax liability on Composite and Mixed Supplies	
(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	Composite Supply — Rate of Principal supply will be applicable
(b)	a mixed supply comprising of two or more supplies shall be treated as supply of that particular supply that attracts highest rate of tax.	Mixed Supply — Highest Rate of GST will be applicable

Analysis of Composite Supplies

1. Composite supply means a supply made by a taxable person to a recipient and :
   - Comprises two or more taxable supplies of goods or services or both, or any combination thereof,
   - Which are naturally bundled and supplied in conjunction with each other, in the ordinary course of business,
   - One of which is a principal supply.
2. Principal Supply means the supply of goods and services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.
3. Composite supply shall be treated as a supply of such principal supply for the purpose of taxability.

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

   Example: When a consumer buys a television set and he also gets warranty and a maintenance contract with the TV, this supply is a composite supply. In this example, supply of TV is the principal supply, warranty and maintenance services are ancillary.

   Example: A travel ticket from Mumbai to Delhi may include service of food being served on board, free insurance, and the use of airport lounge. In this case, the transport of passenger, constitutes the pre-dominant element of the composite supply, and is treated as the principal supply and all other supplies are ancillary.
4. Works contract and restaurant services are classic examples of composite supplies. However, the GST law identifies both as supply of services and such services are chargeable to specific rate of tax mentioned against such services (works contract service and restaurant service).
5. Whether the services are bundled in the ordinary course of business, would depend upon the normal or frequent practices followed in the area of business to which services relate. Such normal and frequent practices adopted in a business can be ascertained from several indicators.

   Example: Service of stay in hotel is often combined with a restaurant service. Such service is an ancillary service to the provision of hotel accommodation and the resultant package would be treated as services naturally bundled in ordinary course of business.

Analysis of Mixed Supplies

1. 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.
2. The individual supplies are independent of each other and are not naturally bundled.
3. How to determine if a particular supply is a mixed supply?
   - A supply can be a mixed supply only if it is not a composite supply. As a corollary it can be said that if the transaction consists of supplies not naturally bundled in the ordinary course of business, then, it would be a mixed supply.

- Once the amenability of the transaction as a composite supply is ruled out, it would be a mixed supply, if single price is charged by supplier for a bundled supply.

4. A mixed supply shall be treated as supply of that particular supply that attracts highest rate of tax for the purpose of taxability.

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

Example: A shopkeeper selling storage water bottles along with refrigerator. Bottles and the refrigerator can easily be priced and sold independently and are not naturally bundled. So, such supplies are mixed supplies.

Clarification regarding incidental/ancillary services provided in relation to transportation services provided by GTA [Circular]



Ancillary or incidental services provided by Goods Transport Agency (GTA) such as loading/unloading, packing/unpacking, transshipment, temporary warehousing etc. will be treated as composite supply of transport of goods irrespective of the fact that whether the charges for such ancillary or incidental services are charged separately, whether in the same invoice or separate invoices.

However, if such services are not provided in the course of transportation of goods and are invoiced separately, then these services will not be treated as composite supply of transport of goods.

Clarification regarding Retreading of Tyres [Circular]



- Retreading of tyres (in which Rubber is also used in the process) is a composite supply, in which the pre-dominant element is the process of retreading which is a supply of service.
- Where owner of the retreaded tyre sells the retreaded tyres, then, it is a supply of goods (i.e. retreaded tyres).

Clarification regarding activity of bus body building

In the case of bus body building, there is supply of goods as well as services. This is composite supply of goods and services. The principal supply in this case is "Supply of Service".

Clarification regarding Taxability of Printing Contracts [Circular]

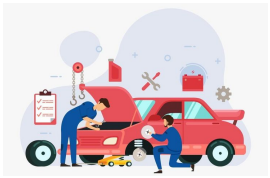
Printing Contracts are composite supplies.

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

In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc., printed with design, logo, etc. supplied by the recipient of goods but made using physical inputs including

paper belonging to the printer, predominant supply is that of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods.

Clarification regarding servicing of cars involving both supply of goods (spare parts) and services (labour) [Circular]



The taxability of supply would have to be determined on a case to case basis looking at the facts and circumstances of each case.

Where a supply involves supply of both goods and services and the value of such goods and services supplied are shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately.

Clarification regarding betting/gambling [Circular]



- GST will be levied on the admission charge or entry fee charged for admission into casino [Supply of Service].
- GST will be levied on betting / gambling services being provided by casinos [Supply of Service].
- GST is leviable at 40% on the transaction value of betting/gambling, i.e. the total bet value. For example, If entire bet value is Rs. 100, GST leviable will be Rs. 40/-.
- GST will be levied on horse racing [Supply of Service]. Further, GST is leviable at 40% on the transaction value of betting, i.e. the total bet value i.e. total of face value of any or all bets paid into the totalisator or placed with licensed book makers, as the case may be. For example, If entire bet value is Rs. 100, GST leviable will be Rs. 40/-.

Clarification on food or beverages supplied in a cinema hall [Circular]

Supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as:

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

b. supplied independent of the cinema exhibition service.

It is further clarified that where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

Clarification on Location charges or Preferential Location Charges (PLC) [Circular]

Location charges or Preferential Location Charges (PLC) paid along with the consideration for the construction services of residential/commercial/industrial complex forms part of composite supply where supply of construction services is the main service (Principal Supply) and PLC is naturally bundled with it and are eligible for same tax treatment as the main supply of construction service.

Clarification on various issues pertaining to GST treatment of vouchers [Circular]

Issue 1 -Whether "transactions in vouchers" falls under the category of supply of goods and/or services?

1. As per definition of "Voucher", it may be in nature of payment instrument which creates an obligation on the supplier to accept it as a consideration or part consideration for the supply of

goods and/or services. The issuance of payment instruments, including pre-paid instruments, in India is regulated by RBI.

2. Further, as per sec. 2(75) of CGST Act, "Money" includes an instrument recognized by the RBI which is used as a consideration to settle an obligation. Therefore, if the voucher is covered as a pre-paid instrument recognized by RBI, it will fall under the definition of "money". In such a case, as "money" is excluded from the definition of goods and services under GST, the transactions in voucher would be considered neither as a supply of goods nor as a supply of services.
3. In cases, where voucher is not covered as a pre-paid instrument recognized by RBI and hence, cannot be treated as money, the voucher will be in nature of an obligation on the supplier to receive it as consideration or part consideration and assure the beneficiary/voucher holder to claim certain goods and/or services as specified on the voucher or in the related documents. In such cases, the voucher can be considered as an "actionable claim" u/s 2(1) of the CGST Act.
4. Further, as per entry 6 of Schedule III of CGST Act, an activity or transactions of actionable claims, other than specified actionable claims, is to be treated neither as a "supply of goods" nor as a "supply of services". As vouchers are not "specified actionable claim", they are covered in entry 6 of Schedule III of CGST Act. Therefore, it appears that even in such a case, transaction in vouchers would be treated neither as a "supply of goods" nor as a "supply of services".

Issue 2 - What would be the GST treatment of transactions in vouchers by distributors/sub-distributors/ agents etc.?

1. **Where vouchers are distributed through the distributors/sub-distributors/dealers on Principal-to-Principal(P2P) basis:** In such cases, distributors/sub-distributors/dealers own the vouchers and pure trading of vouchers is neither supply of goods nor supply of services. Accordingly, such trading of vouchers would not be leviable to GST.
2. **Where vouchers are distributed using distributors/sub-distributors/agents on commission/fee basis (Principal-Agency basis):** In such cases, GST would be payable by such distributor/sub-distributor/agent, acting as an agent of the voucher issuer, on the commission/fee, for such purpose, as a supply of services to the voucher issuer.

Issue 3 -What would be GST treatment of additional services such as advertisement, co branding, marketing & promotion, customization services, technology support services, customer support services etc.

If these additional services are provided by either the distributor/sub-distributor or by another person to the voucher issuer (service recipient) against a service fee/service charge/affiliate charge, etc., then, it would be liable to GST.

Issue 4 -What would be the GST treatment of unredeemed vouchers (breakage)

1. If there is no redemption of voucher, then there is no supply of underlying goods and/or services, therefore, no GST would be charged on the amount retained for unredeemed vouchers by the voucher issuer.
2. Further, the value of such unredeemed vouchers accounted for in the statement of income is called breakage, which would not constitute as "monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person". Therefore, no GST on non-redemption of voucher (breakage).