

Part I: GST

? Chapter 1 | Supply ?

Section 7 | Schedule I, II, III

? Question 1

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

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

Answer

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

Conclusion: Therefore, the disposal of computers by Sudama Associates is **not a supply** as the ITC has not been availed on the same.

? Question 2

Dilasa Limited recruited Miss Chhaya as senior relationship manager. At the time of joining as senior relationship manager, the company paid ₹ 3,00,000 towards "Not joining" Milan Limited, a stiff competitor of Dilasa Limited. Is this a supply? **[Nov'24 Exam; ICAI SM]**

Answer

Since any amount paid by employer to employee for not joining a competing business is paid for providing the service of forbearance to act to refrain **cannot be considered for providing services in the course of employment**, amount received by Miss Chhaya from Dilasa Limited **amounts to supply** under the GST law.

? Question 3

[ICAI SM]

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

Answer

As per section 7(1)(c) read with Schedule I, supply of goods or services or both between related persons without consideration when made in the course or furtherance of business qualifies as supply.

Conclusion: Thus, the storage services provided by Punyabhumi Ltd. to Mokshabhumi Industries in course or furtherance of business **qualifies as supply** under GST even though no consideration is charged for the same.

? Question 4

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

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

Answer

Legal Provisions: An activity/transaction qualifies as supply under GST only if it is undertaken for a consideration and is in course/furtherance of business.

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

Case Analysis: Dhruv Kumar is not merely providing auctioneering services to Chandragupta Maurya, but is also supplying the painting on behalf of Chandragupta Maurya to the successful bidder and has the authority to transfer the title of the painting on behalf of Chandragupta Maurya. Dhruv Kumar issued the invoice in his own name for supply of the painting on the behalf of Chandragupta Maurya.

Conclusion: Thus, Dhruv Kumar **can be considered as an agent** of Chandragupta Maurya under Para 3, Sch I.

? Question 5

[Nov'22 Exam; ICAI SM]

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

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

Answer

In the given case, XYZ Consultancy is providing the **service of agreeing to the obligation to refrain** from an act to BA Ltd. against a consideration of Rs. 37 lakh [Schedule II, Para 5(e)].

Conclusion: Therefore, the same is liable to tax under GST law. Thus, view taken by XYZ Consultancy is **incorrect**.

Author's Note: It can be reasonably assumed that an agreement must have been entered w.r.t such amount. Also, you may be wondering that what is the relevance of the line "It may be noted that BA Ltd. is not ready to pay any

further amount to XYZ Consultancy in addition to the amount already agreed". This simply implies that XYZ Consultancy shall have to treat the entire 37 Lacs as amount inclusive of GST and the taxable value shall accordingly be calculated doing reverse calculation, depending upon the GST rate.

? Question 6

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

Answer

Yes, Angad Private Ltd.'s view is **correct**.

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

Conclusion: GST is **not leviable** on the incentive paid by Angad Private Ltd. to its employees.

? Question 7

[ICAI SM]

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

Answer

- The transaction between Krishnadev and Christiano is in the nature of **merchant trading**.
- As per Schedule III, transactions involving sale of goods from a place in non-taxable territory to another place in non-taxable territory, without such goods entering into India, shall be treated neither as supply of goods nor as supply of services under GST.

Conclusion: Therefore, the transaction between Krishnadev and Christiano shall **not be treated as supply** and is thus not leviable to GST.

? Question 8

Mohandas International entered into a transaction for import of goods from a vendor located in Italy. Due to financial issues, Mohandas International was not in a situation to clear the goods upon payment of import duty.

Mohandas International sold the goods to Radhakrishnan Export House by endorsement of title to the goods, while the goods were in high seas. The agreement further provided that Mohandas International shall purchase back the goods in future from Radhakrishnan Export House. Discuss the taxability of transaction(s) involved, under the GST law. **[Dec'21 MTP-2; ICAI SM]**

Answer

Legal Provisions: As per Schedule III, high seas sale transactions i.e. supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but **before clearance** for home consumption shall be treated neither as supply of goods nor as supply of services under GST.

Conclusion | Taxability of Transactions

- Sale of goods by Mohandas International to Radhakrishnan Export House in high seas shall **not** be liable to GST.
- Further, the import duty including IGST shall be payable by Radhakrishnan Export House at the time of clearance of goods at port of import.
- In case the goods are sold back by Radhakrishnan Export House to Mohandas International at a subsequent point of time, the same shall be treated as **normal domestic sale transaction** and GST shall be applicable on the same, subject to other conditions prescribed under GST Law.

? Question 9

ABC Insurance Ltd., a registered insurer in Maharashtra, is engaged in providing insurance services. During the current financial year, the company entered into following transactions:

- (i) ABC Insurance Ltd. enters into a co-insurance agreement with XYZ Insurance Ltd. where ABC Insurance Ltd. is the lead insurer. The insured – Gyaati Industries- pays a total premium of ₹ 50,00,000 which is apportioned by the lead insurer - ABC Insurance Ltd. between itself and XYZ Insurance Ltd. in the ratio of 60:40 for the insurance services jointly supplied by them to Gyaati Industries. ABC Insurance Ltd. agrees to discharge the entire GST liability on the full amount of premium received from Gyaati Industries.
- (ii) A large industrial plant needs an insurance worth ₹ 500 crore. It approaches ABC Insurance Ltd. for the same. However, since ABC Insurance Ltd. is unable to underwrite the entire risk alone, it enters into a reinsurance agreement with a reinsurer - PQR Insurance Ltd. The total premium charged is ₹ 50 lakh. The insurer - ABC Insurance Ltd. pays a reinsurance premium of ₹ 20 lakh to PQR Insurance Ltd. This allows ABC Insurance Ltd. to manage its risk and financial exposure. While paying this amount to PQR Insurance Ltd., ABC Insurance Ltd. deducts a ceding commission of ₹ 1,00,000 which it has charged for the services it provides to PQR Insurance Ltd. PQR Insurance Ltd. pays GST on the gross reinsurance premium including the ceding commission.

Based on the provisions of Schedule III of the CGST Act, 2017, discuss whether the following activities amount to supply:

- (a) Apportionment of co-insurance premium by ABC Insurance Ltd. to XYZ Insurance Ltd. for the insurance services jointly supplied by them to Gyaati Industries.
 - (b) Services by ABC Insurance Ltd. to PQR Insurance Ltd. for which ceding commission is deducted from reinsurance premium paid by ABC Insurance Ltd. to PQR Insurance Ltd. **[Sep'25 RTP]**
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Answer

- (a) As per para 9 of Schedule III of the CGST Act, 2017, 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 is **neither supply of goods nor supply of services and hence no GST** is charged on the apportionment transaction.

Conclusion: However, the lead insurer (ABC Insurance Ltd.) is required to pay the entire GST (CGST and SGST or IGST, as applicable) on the full premium amount paid by the insured – Gyati Industries, of ₹ 50,00,000. The co-insurer – XYZ Insurance Ltd. does not pay GST on its share of the premium separately.

- (b) As per para 10 of Schedule III of the CGST Act, 2017, 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 is **neither supply of goods nor supply of services**, subject to the condition that the central tax, the State tax, the Union territory tax and the integrated tax is paid by the reinsurer on the gross reinsurance premium payable by the insurer to the reinsurer, inclusive of the said ceding commission or the reinsurance commission.

Conclusion: However, the reinsurer (PQR Reinsurers Ltd.) is liable to pay GST on the **gross reinsurance premium** payable by the insurer (₹ 20 lakh), inclusive of the ceding commission (₹ 1 lakh).

Section 8: Composite and Mix Supply

? Question 10

Sharma Carriers is a Good Transport Agency engaged in transportation of goods by road. As per the general business practice, Sharma carriers also provides intermediary and ancillary services like loading /unloading, packing/unpacking, transshipment and temporary warehousing in relation to transportation of goods by road.

With reference to the provisions of GST law, analyse whether such services are to be treated as part of the GTA services, being a composite supply or as mixed supply.

Answer

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 [Section 2(30) of the 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** [Section 2(74) of the CGST Act, 2017].

Analysis | Conclusion

The various intermediary and ancillary services provided by GTA are not provided as independent services but as ancillary to the principal service, namely, transportation of goods by road. The invoice issued by the GTA for providing the said service includes the value of intermediary and ancillary services. In view of this, if any intermediary and ancillary service is provided in relation to transportation of goods by road, and charges, if any,

for such services are included in the invoice issued by Sharma Carriers, such service would form part of the GTA service, and thus **will be composite supply**, and not a mixed supply even though a single price is charged for the supply.

Further, if such incidental services are provided as **separate services and are billed separately**, whether in the same invoice or separate invoices, they will be treated as separate supply and not composite supply and there being **no single price**, the supply will also not be treated as mixed supply.

? Question 11

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

- (i) Supply of a laptop along with the laptop bag to a customer of Mumbai for Rs. 55,000 (exclusive of GST).
- (ii) Supply of 10,000 kits (at Rs. 50 each) amounting to Rs. 5,00,000 (exclusive of GST) to Ram Fancy Store in Kota (Rajasthan). Each kit consists of 1 hair oil, 1 beauty soap and 1 hair comb.
- (iii) 100 kits are given as free gift to Jaipur customers (all unrelated) on the occasion of Mrs. Kajal's birthday. Each kit consists of 1 hair oil and 1 beauty soap. Cost of each kit is Rs. 35. Input tax credit has not been taken on the goods contained in the kit.
- (iv) Event management services provided free of cost to her brother (wholly dependent on her) for his son's marriage function in Indore (Madhya Pradesh). Cost of providing said services is Rs. 80,000.
- (v) 1,400 chairs and 100 coolers hired out to Function Garden, Ajmer (Rajasthan) for Rs. 3,30,000 (exclusive of GST) including cost of transporting the chairs and coolers from Mrs. Kajal's godown at Jaipur to Function Garden, Ajmer. Since Mrs. Kajal is not a GTA, transportation services provided by her are exempt vide Notification No. 12/2017 CT (R) dated 28.06.2017. **[Nov'22 MTP; ICAI SM]**

GST Rates:

S. No	Particulars	GST Rate
1.	Laptop	18%
2.	Laptop Bag	40%
3.	Hair Oil	18%
4.	Beauty Soap	5%
5.	Hair Comb	18%
6.	Event Management Service	5%
7.	Service of Renting of Chairs and Coolers	18%
8.	Transportation Service	5%

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

Answer

S. No	Particulars	GST Rate
1	Supply of laptop bag along with laptop to Mumbai customer <i>[Being naturally bundled, it is a composite supply which is treated as the supply of the principal supply [viz. laptop] in terms of section 8(a). Accordingly, rate of principal supply, i.e. laptop will be charged.]</i>	18%
2	Supply of kits to Ram Fancy Store <i>[It is a mixed supply and is treated as supply of that particular supply which attracts highest tax rate [viz. beauty soap] in terms of section 8(b).]</i>	18%
3	Free gifts to customers <i>[Cannot be considered as supply under section 7 read with Schedule I as the gifts are given to unrelated customers without consideration.]</i>	NIL
4	Event management services provided free of cost to her brother [who is a related person as he is wholly dependent] for his son's marriage. <i>[Such services shall fall within the purview of Schedule I and shall be treated as supply even if made without consideration. Since it is an individual supply, it will be taxed at the rate applicable on said service.]</i>	5%
5	Chairs and coolers hired out to Function Garden <i>[Transportation services provided by Mrs. Kajal are exempt. However, since chairs and coolers are hired out along with their transportation, it is a case of composite supply wherein the principal supply is hiring out of chairs and coolers. Accordingly, transportation service will also be taxed at the rate applicable for renting of chairs and coolers (Note)]</i>	18%

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

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

? Question 12

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

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

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

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

→ Hire charges for excavators: Rs. 18,00,000

- Service charges for supply of manpower for operation of the excavator: Rs. 20,000
- Service charges for soil testing and seismic evaluation at three sites: Rs. 2,50,000

Compute the GST payable by Shivaji Pvt. Ltd. for the given month. Assume the rates of GST to be as under:

- Hiring out of excavators: 5%
- Supply of manpower services and soil-testing and seismic evaluation services: 18% [ICAI SM]

Answer

Computation of GST payable by Shivaji Pvt. Ltd.

<i>Particulars</i>	<i>Value of Supply (₹)</i>	<i>Rate of GST</i>	<i>GST Payable</i>
Hiring charges for excavators	18,00,000	5%	90,000
Service charges for supply of manpower for operation of excavators [Note 1]	20,000	5%	1,000
Service charges for soil testing and seismic evaluation [Note 2]	2,50,000	18%	45,000
GST Liability			1,36,000

Notes

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

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

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

Clarifications | Circulars

? Question 13

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

In the above Question, if Divyaprakash Charitable Trust had written on the door of the room constructed from the money donated by Rudraksh Kapoor in the school run by it - “Donated by Rudraksh Publishing House, Ghaziabad, U.P.”, would the given transaction/activity qualify as supply? [ICAI SM]

Answer

Analysis: In case of donations received by a charitable institution, when the name of the donor is displayed in recipient institution's premises, in such a manner, which can be said to be an expression of **gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity** to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation).

Donations received by the charitable organisations are treated as consideration only if there exists, quid pro quo, i.e., there is an obligation on part of recipient of the donation or gift to do anything (supply a service).

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

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

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

Conclusion: Thus, the money donated by Rudraksh Kapoor is **not leviable to GST**.

If written "Donated by Rudraksh Publishing House, Ghaziabad, U.P.": Now since the name of Rudraksh Publishing House has been displayed on the door of the room constructed in the school run by Divyaprakash Charitable Trust, it might be aimed at **advertising or promoting** his business. There is a direct mention of his publishing house which is being advertised. In such a case, **it is a supply** of service by Divyaprakash Charitable Trust for a consideration received in the form of donation.

? Question 14

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

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

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

Answer

The cost petroleum is **not a consideration** received by the oil exploration & production contractors for the services provided to Government under a Production Sharing Contract (PSC) and thus not taxable per se.

The reason for the same is that the contractors carry exploration and production of petroleum **for themselves and not as a service to Government**. They had acquired the right to explore, exploit and sell petroleum in lieu of royalty and a share in profit petroleum.

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

? Question 15

Rob Shareholding Ltd., an approved intermediary, has entered into an agreement wherein certain securities were to be lent to Dhandhan Bank, under Securities Lending Scheme, 1997. Dhandhan Bank shall pay specified lending fee against such lending of securities to it. Explain the taxability of transactions involved in the Securities Lending Scheme, 1997. **[Nov'24 Exam; ICAI SM]**

Answer

- Securities Lending Scheme, 1997 (hereafter referred to as SLS) facilitates the lending and borrowing of securities. Securities are neither covered in the definition of goods nor covered in the definition of services.
- Therefore, a transaction in securities which involves disposal of securities is not a supply in GST and hence not taxable.
- However, SLS **doesn't treat lending of securities as disposal** of securities and therefore is not excluded from the definition of services.

Conclusion: The lending fee charged from the borrowers of securities has the character of consideration and is **taxable** under GST. Apart from above, the activities of the intermediaries facilitating lending and borrowing of securities for commission or fee are also **taxable** separately.

? Question 16

[Sep'25 MTP-1; ICAI SM]

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

Determine the taxability of the transaction(s) involved in the given case, for the month of June.

Answer

- The activity of transfer of tenancy right against consideration [i.e. tenancy premium] is squarely covered **under supply of service liable to GST**. It is a form of lease or renting of property and such activity is specifically declared to be a service in Schedule II i.e. any lease, tenancy, easement, licence to occupy land is a supply of services.
 - Although stamp duty and registration charges have been levied on such transfer of tenancy rights, it shall be still subject to GST. Merely because a transaction/supply involves execution of documents which may require registration and payment of registration fee and stamp duty, would **not preclude them from the 'scope of supply' and from payment of GST**.
 - The transfer of tenancy rights cannot be treated as sale of land/ building in Schedule III. Thus, it is **not a non-supply under GST** and consequently, a consideration for the said activity shall attract levy of GST.
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