

All India Federation of Tax Practitioners (CZ)

SCOPE OF SUPPLY UNDER GST

By:
CA Rajender Arora

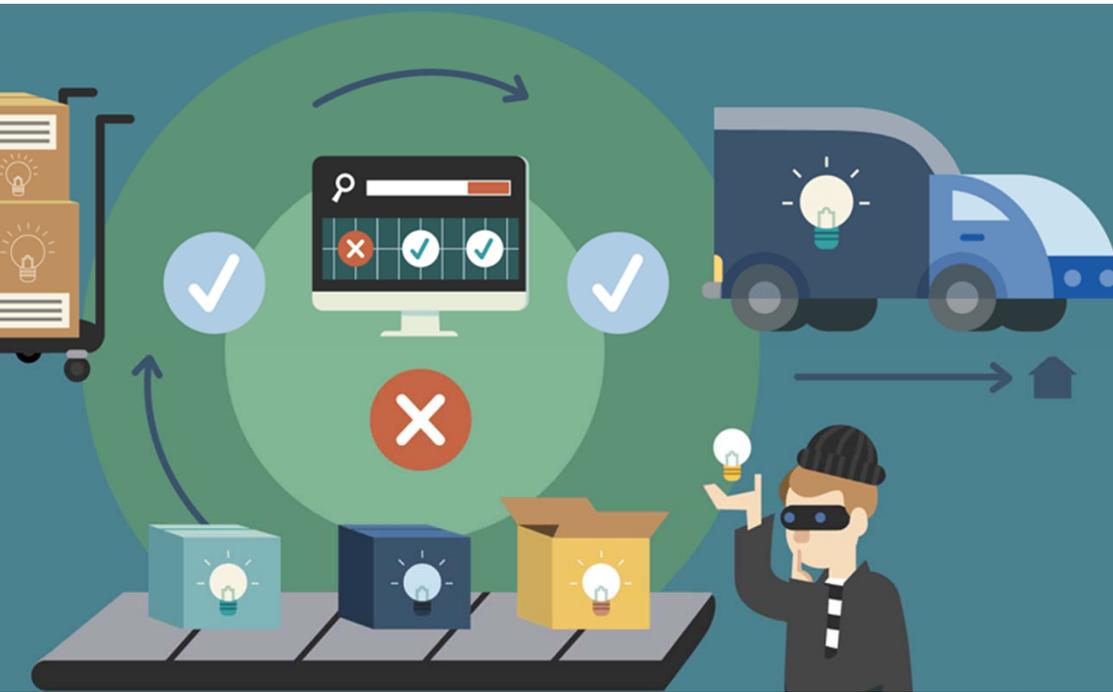
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ing of Supply Under GST

chedule-I

Schedule-II

Schedule-III



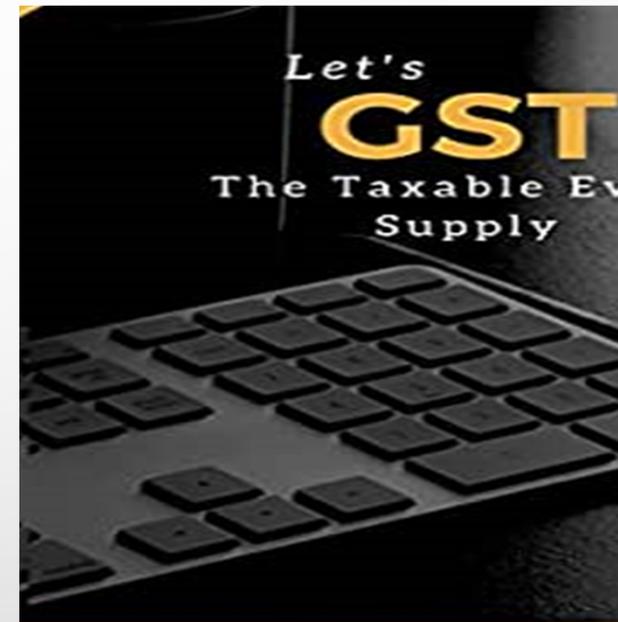
The Taxable event under GST is

Supply???

WHAT IS TAXABLE EVENT?

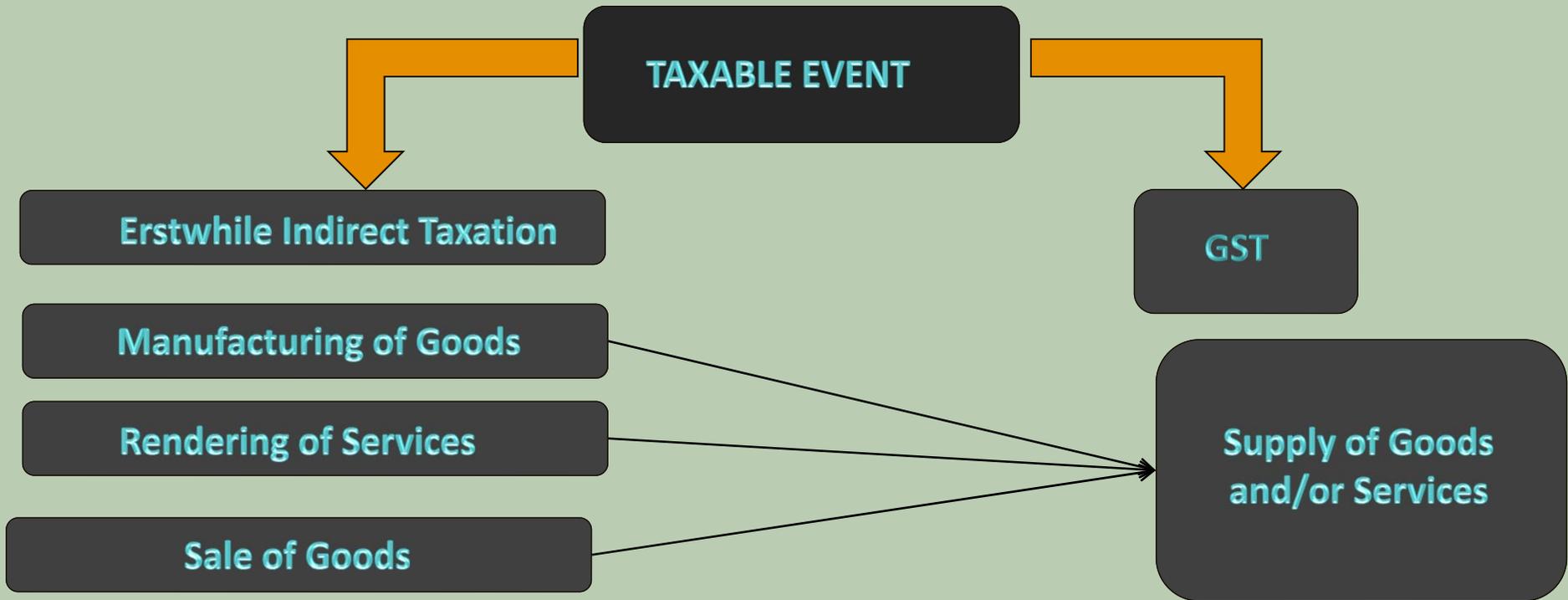
Event or transaction that results in a tax consequence for the party who executes the event.

Determination of the taxable event in any tax law is of most significance as the levy of tax is based on occurrence of that event. ”

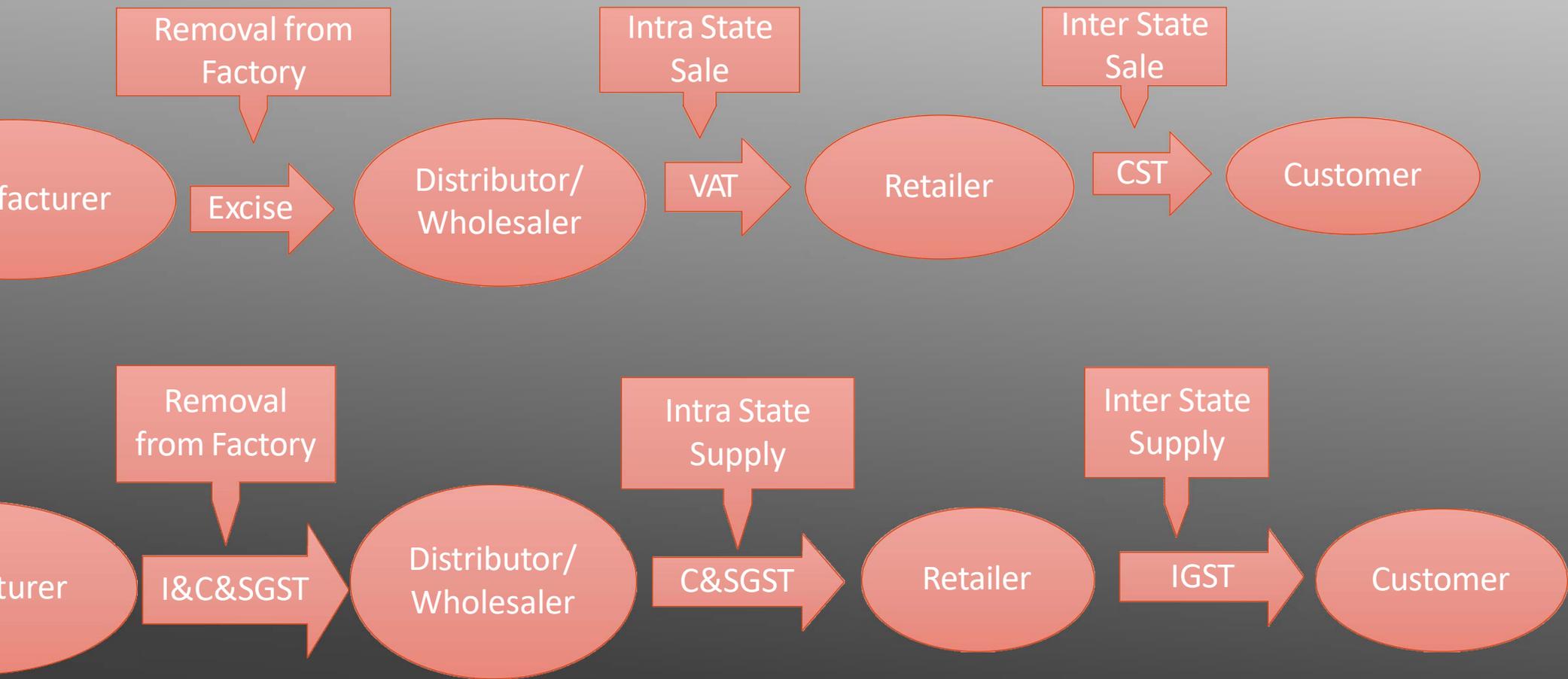


GST SCENARIO

Under the GST regime, all the major taxes levied under the indirect taxation i.e. Central Excise, VAT/CST etc. would be subsumed under the ambit of GST. They all will lose their existence.



taxes at various Taxable events under Previous Laws



EVANCE OF SUPPLY

st time this concept has been used for the purpose of defining taxable event

tion-9, GST will be levied on all supplies of goods or services or **both** at a speci

be only one uniform taxable event i,e. **Supply of Goods and/or Services.**

ly will be centric point to determine the levy and collection of GST.

NCE OF SUPPLY Continued...

Supply Of Goods/Services: where supplier and receiver are in different states.

Supply Of Goods/Services: where supplier and receiver are in same state.

supply will attract IGST which would be sum total of both CGST & SGST

te supply will attract CGST and SGST.

Scope of Supply [Section 7 of CGST Act 2017]

:

For the purposes of this Act, the expression “supply” includes—

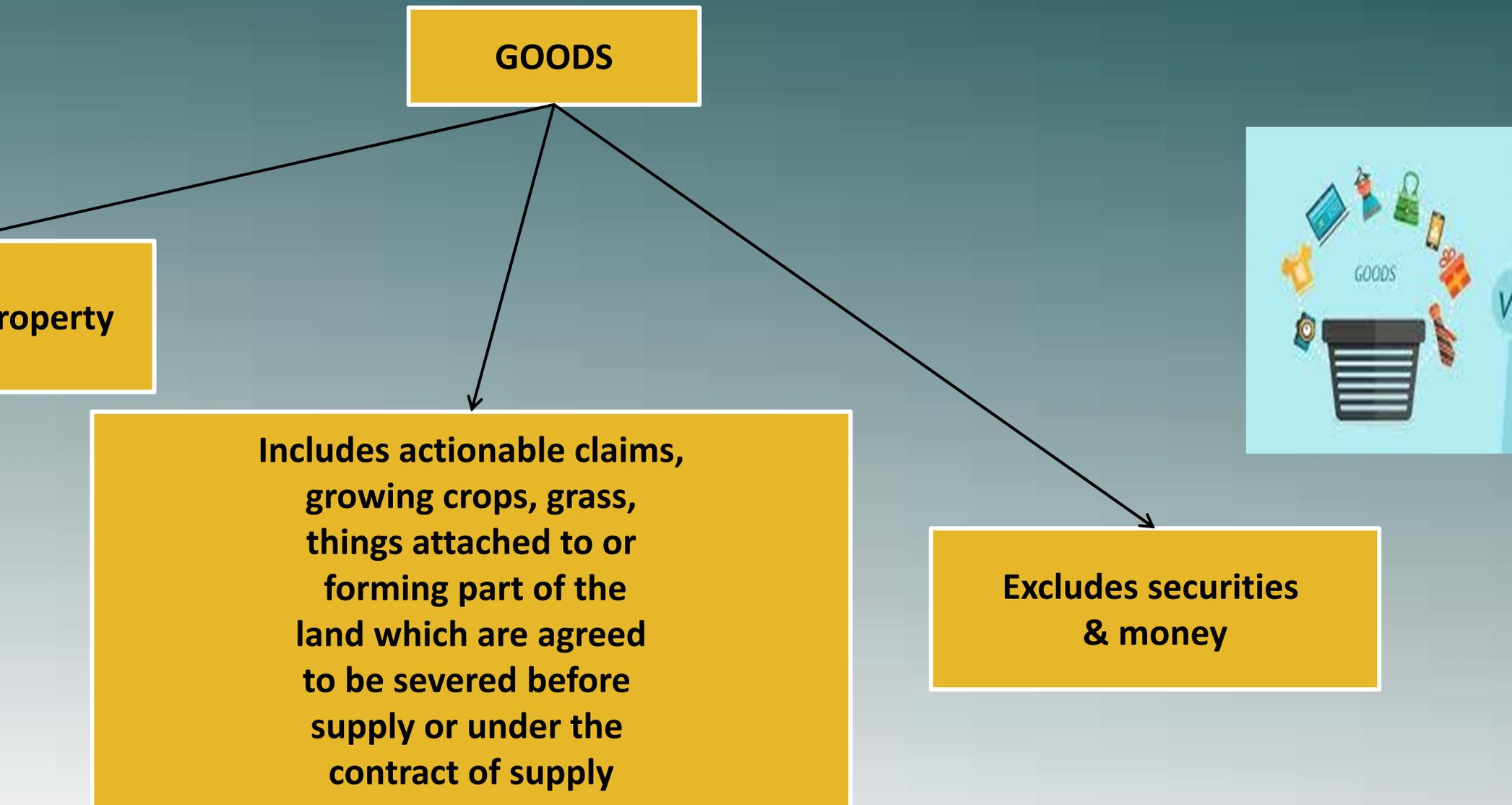
1. Supply of **GOODS OR SERVICES** or both such as

transfer
or
exchange
or
lease
or
sale

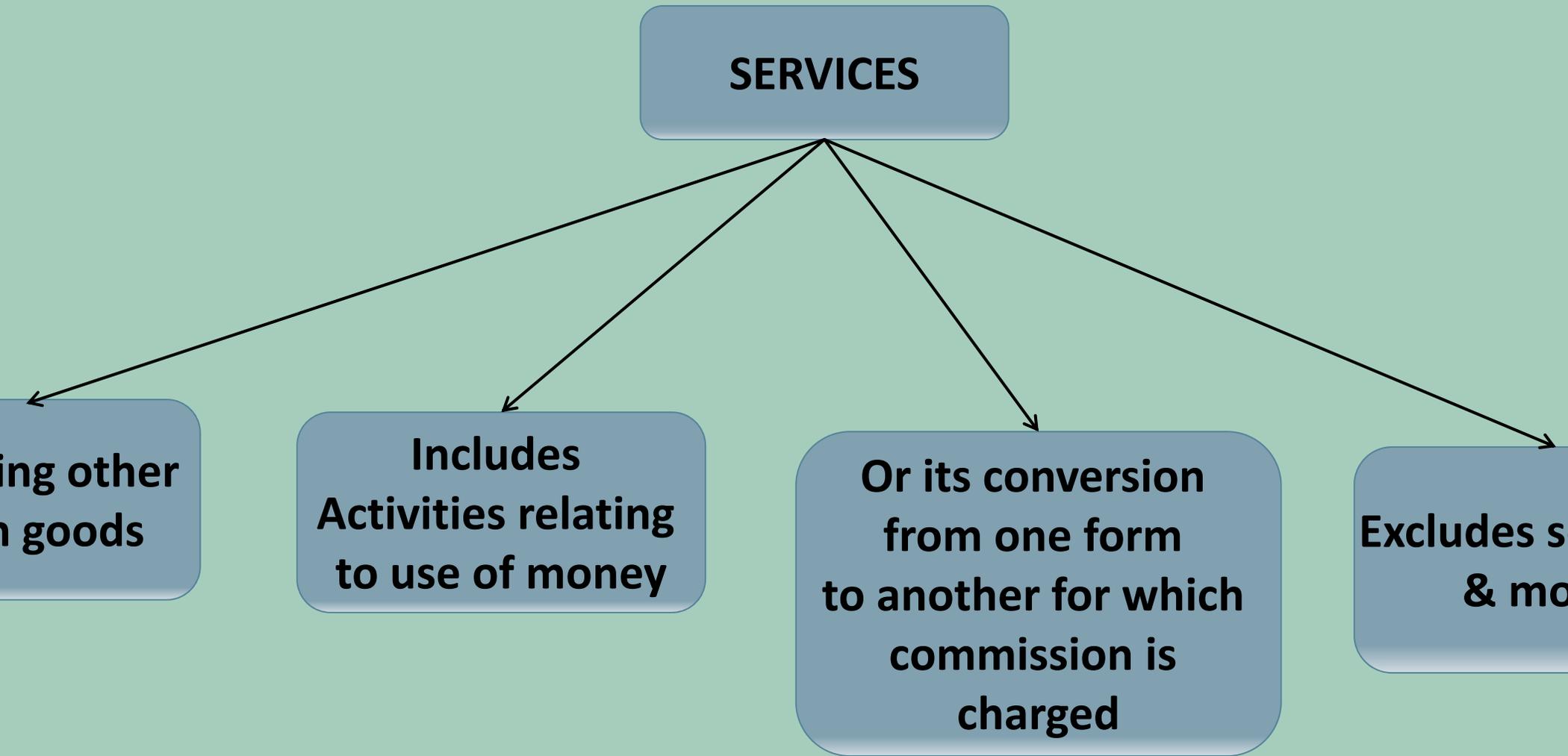
2. Supply made **FOR A CONSIDERATION** by a person in the **course or furtherance** of



Definition of Goods- 2(52)



Definition of Services- 2(102)



Definition of Consideration- 2(31)

Consideration includes

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graph TD; A[Consideration includes] --> B[Any payment made or to be made, whether in money or otherwise for supply of goods and/or services, whether by the said person or by any other person.]; B --> C[The monetary value of any act or forbearance, whether or not voluntary for the supply of goods and/or services, whether by the said person or any other person]; C --> D[Provided that a deposit, given in respect of the supply of goods and/or services shall not be considered as payment made for the supply unless the supplier applies the deposit as consideration for the supply];
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Provided that a deposit, given in respect of the supply of goods and/or services shall not be considered as payment made for the supply unless the supplier applies the deposit as consideration for the supply

Definition of Business-2 (17)

Includes –

...e, commerce, manufacture, profession, vocation, adventure, wager or any other

...or not it is for a pecuniary benefit;

...ity or transaction in connection with or incidental or ancillary to sub-clause (a);

...ity or transaction in the nature of sub-clause (a), whether or not there is volum
...y, continuity or regularity of such transaction;

...r acquisition of goods including capital goods and services in connection with
...cement or
...f business;

Business def.....continued

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

on, for a consideration, of persons to any premises;

supplied by a person as the holder of an office which has been accepted by him for the furtherance of his trade, profession or vocation;

s of a race club including by way of totalisator or a license to book maker or act

aker in such club; and]

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

E COURSE OR FURTHERANCE OF BUSINESS”

engaged in the business of transmission of power across the
Transmission of power is carried out through the networks of
n lines and sub- stations constructed by XYZ Ltd.

expansion program, the company has appointed consultants to bring
sal from other existing company, so as to acquire the business of
pany who are in the same line of business. The activity carried out
nts is considered as “***furtherance of business***”.

further includes...

) (b)

of services
consideration

or not in the course or furtherance of business
both personal as well as business use)



**Provider residing
abroad**

**Supply Of
Services**



**Recipient in
India**

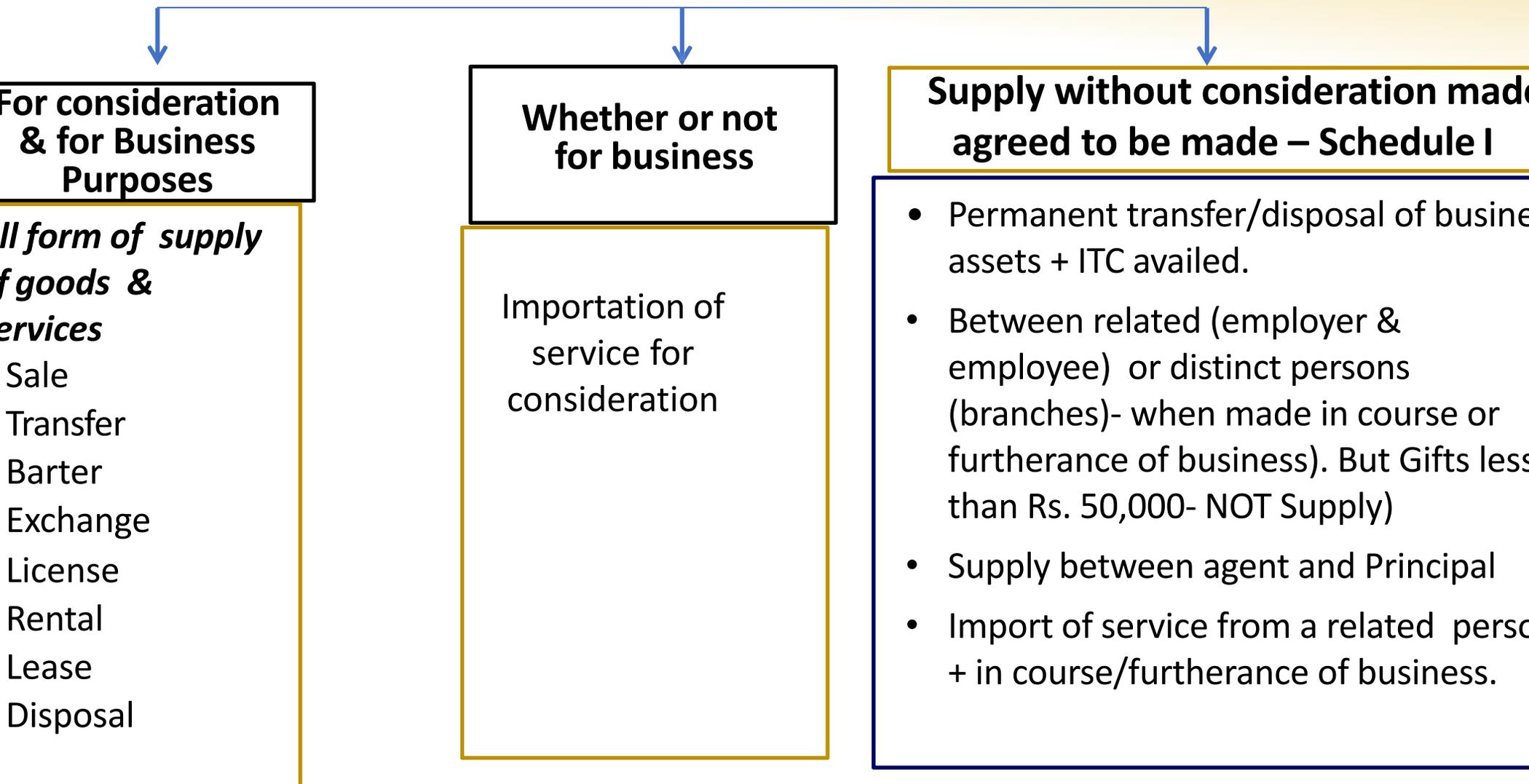
Section 7(1) (c)

the activities specified in **Schedule I**, made or agreed to be made without a consideration

➤ Section 7(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.

includes...



Schedule I

ASSETS TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION

Transfer or disposal of business assets where input tax credit has been available

Supply of goods or services or both between related persons or between distinct persons mentioned in section 25, when made in the course or furtherance of business:

Gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

Continued.....

of Goods-

a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or

an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

of services by a person from a related person or from any of his other establishments in India, in the course or furtherance of business.

Distinct Person

who has obtained or is required to obtain more than one registration, in one State or Union territory or in more than one State or Union territory in respect of each such registration, shall be deemed as distinct persons for the purposes of this Act.

Two or more persons who have obtained or are required to obtain registration in a State or Union territory in respect of an establishment, and who have an establishment in the same State or Union territory, then such persons shall be treated as distinct persons for the purposes of this Act.

Related Person

- Persons shall be deemed to be “related persons” if—
 - (i) such persons are officers or directors of each other’s businesses;
 - (ii) such persons are legally recognised partners in a business;
 - (iii) such persons are employer and employee of each other;
 - (iv) any person directly or indirectly owns, controls or holds twenty-five per cent or more of the outstanding voting stock or shares of both of them;
 - (v) one of them directly or indirectly controls the other;
 - (vi) both of them are directly or indirectly controlled by a third person;
 - (vii) together they directly or indirectly control a third person; or they are members of the same family;

(2) :

standing anything contained in sub-section (1), —

ties or transactions specified in **Schedule III**; or

activities or transactions **undertaken by the Central Government, a State Gov**
cal authority in which they are engaged as **public authorities**, as may be not
nment on the recommendations of the Council,

reated neither as a supply of goods nor a supply of service.

Section 7(3):

3. Subject to the provisions of sub-sections (1), (1A) and (2), the Government on the recommendations of the Council, specify, by notification, the goods 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.

SCHEDULE II

ACTIVITIES OR TRANSACTIONS TO BE TREATED AS SUPPLY OF GOODS OR OF SERVICES

TRANSFER

& BUILDING

TREATMENT OR PROCESS

TRANSFER OF BUSINESS ASSETS

SUPPLY OF SERVICES

OPPOSITE SUPPLY

SUPPLY OF GOODS

1. TRANSFER

transfer of the title in goods is a supply of goods



any transfer of the right in goods or of undivided share in goods without the title thereof, is a supply of services;



...TRANSFER

c. any transfer of title in goods under an agreement which stipulates that the property in goods shall pass at a future date upon payment of full consideration as agreed, is a supply of goods



SOLD TRUCKS ON 10 INSTALLMENTS



**TITLE TRANSFER AFTER 10TH
INSTALLMENT PAID**



**MANUFACTURING
Co.**



2. Land and Building

- a. any lease, tenancy , easement, license to occupy land is a services;
- b. any lease or letting out of the building including a commercial, or residential complex for business or commerce, either partly, is a supply of services.

Treatment or Process

Any treatment or process which is applied to another person's goods is a supply of services.



SEND DIAMONDS FOR SHAPING



RETURNED DIAMOND AFTER SHAPING



JOB WORKER



Transfer of business assets

Where goods forming part of the **assets of a business are transferred or disposed of** by or under the directions of the person carrying on the business so as no longer to form part of the business, **whether or not for a consideration**, such transfer or disposal is a supply of goods;

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

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

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

Example:

A person who, after incurring continuous losses decides to shut down his business and applies for registration under GST i.e. it ceases to be taxable person under GST.

of Services

Following shall be treated as supply of services, namely:-

Leasing of immovable property;

Construction of a complex, building, civil structure or a part thereof, including a part thereof, 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.

n-For the purposes of this clause-

expression "competent authority" means the Government or any authority authorized to issue completion certificate under any law for the time being in force and in case of requirement of such certificate from such authority, from any of the following, namely:

- i. an architect registered with the Council of Architecture constituted under the Architects Act, 1972; or
- ii. a chartered engineer registered with the Institution of Engineers (India); or
- iii. a licensed surveyor of the respective local body of the city or town or development or planning authority;

expression "construction" includes additions, alterations, replacements or removals of existing civil structure;

temporary transfer or permitting the use or enjoyment of any intellectual property

development, design, programming, customization, adaptation, upgradation, enhancement, implementation of information technology software;

agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and

Example: Non Compete Fees, Late delivery charges, Prepayment charges on early payment of loan installment)

transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.

Composite Supply

Following composite supplies shall be treated as a supply of services, namely:-

works contract as defined in clause (119) of section 2; and

supply, by way of or as part of any service or in any other manner whatsoever, of being food or any other article for human consumption or any drink (other than liquor for human consumption), where such supply or service is for cash, deferred or other valuable consideration.

Supply of Goods

Following shall be treated as supply of goods, namely:—

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

SCHEDULE III

SALES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SALE OF GOODS NOR SUPPLY OF SERVICES

made by an employee to the employer in the course of or in relation to his employment

as provided by any court or Tribunal established under any law for the time being in force

the functions performed by the Members of Parliament, Members of State Legislatures, Members of Panchayats, Members of Municipalities and Members of other authorities;

the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or

the duties performed by any person as a Chairperson or a Member or a Director of any 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.

of funeral, burial, crematorium or mortuary including transportation of the dead

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

able claims, other than lottery, betting and gambling.

of goods from a place in the non-taxable territory to another place in the
y without such goods entering into India.

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

Supply of goods by the consignee to any other person, by endorsement of bill of lading or receipt, or by endorsement of title to the goods, after the goods have been dispatched from the port of origin to a port located outside India but before clearance for home consumption]

Section 1.—For the purposes of paragraph 2, the term "court" includes District Court, High Court and Supreme Court.

Section 2.— For the purposes of paragraph 8, the expression "warehoused goods" shall have the meaning as assigned to it in the Customs Act, 1962

Composite & Mixed Supply

Composite Supply

- supply comprising two or more taxable supplies
- Which are naturally bundled
- one of which is a principal supply
- shall be treated as a supply of such principal supply

Mixed Supply

- Two or more independent supplies – single price
- shall be treated as supply of that particular supply
- which attracts the highest rate of tax.

Tax-Composite & Mixed supply

Composite Supply: Composite supply comprising 2 or more supplies, one of which is a principal supply, shall be treated as a supply of **such principal supply**

Mixed Supply: Mixed supply comprising 2 or more supplies shall be treated as a supply of the principal supply which attracts the **highest rate of tax**

Requirements for Composite Supply

Supply must be made **by a taxable person**

Supply must comprise 2 / more **taxable** supplies

Goods and / or services involved in the supply must be **naturally bundled**

Supplies must be supplied in conjunction with each other in the **ordinary course of business**

Each of the supplies involved must qualify as the **principal supply**

Provided in Section 2(27)): Where goods are packed, and transported with insurance, the supply of goods and transport and insurance is a composite supply and supply of goods is the principal supply. This implies that the supply is wholly as supply of goods

TESTING ON COMPOSITE SUPPLY:- AAR, West Bengal vs. Switching Avo Electro Power Ltd.-“
Supply of goods that does not amount to a composite supply is being offered at a single price, such supply includes multiple supplies - Held, yes - Whether where UPS and battery are supplied as separate goods, but a combination of goods supplied as single contract, supply of UPS and battery is to be considered as a composite supply under section 2(74), as they are supplied under a single contract at a combined single price - Held, yes

vs. Paras Motor Industries-Whether activity of fabrication and fitting and mounting of bus bodies by the supplier party is a composite supply of service with supply of goods, i.e., bus bodies, being principal supply. HSN Code 8707 - Held, yes

Circular No.32/06/2018-GST dated 12.02.2018 clarifies that “food supplied to the in-patients as a part of health care is a **part of composite supply of health care** and not separately taxable”. It also goes on to state that supplies of food by hospital to patients (not admitted) or their attendants or visitors are taxable.

Circular No.11/11/2017-GST dated 20.10.2017 has provided clarification on treatment of printing contracts.

In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the person who owns the usage rights to the intangible inputs while the physical inputs including paper, ink, etc. belong to the printer, supply of printing of the content supplied by the recipient of supply is the principal supply.

Supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. falling under heading 48 or 49 of the Customs Tariff, when supplied with design, logo etc. supplied by the recipient of goods but made using physical inputs including paper, ink, etc. by the printer, the 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 under respective headings of Chapter 48 or 49 of the Customs Tariff.

stand-alone UPS and battery could be supplied separately in a retail setup.

Therefore, the supply of UPS and battery would be considered as a mixed supply as they were supplied under a single contract at a combined single price- M/s Switching Avo Electro Power Ltd [2018]

Supply of medicines and allied items provided by the hospital through the pharmacy to the patient is part of composite supply of health care treatment and hence not separately

Justification given in letter F.No. 354/17/2018-TRU dated 12.02.2018 in the matter of supply of food to patient is applicable in the case of dispensing of medicines also

However, Supply of medicines and allied items by hospital through the pharmacy to the out-patient is taxable: AAR- Ernakulam Medical Centre Pvt Ltd 2018-TIOL-188-AAR-GST]

34/8/2018-GST dated 01.03.2018 provides a clarification on some *matters* including the following

of bus body building is a composite supply. As regards which of the components is the principal, it is to be determined on the basis of facts and circumstances of each case.

Accommodation services alongwith food is composite supply?

Case of M/s Sarj Educational Centre (hereinafter referred to as "the Appellant") on 29.03.2019 against Order No. 42/WBAAR/2018-19 dated 26.02.2019, pronounced by the West Bengal Authority for Advance Rulings, Kolkata, in favour of M/s. Sarj Educational Centre.

is stated to be the owner of a private boarding house and is providing services of lodging and food to the students of St. Michael's School, a secondary school run by a Charitable Society, namely the Sunshine Educational Society. The Appellant sought an advance ruling under section 97 of the West Bengal Goods and Services Tax Act, 2017 and the Central Goods and Services Tax Act, 2017, (hereinafter collectively referred to as "the GST Act") on the following question: Whether the composite rate of tax on the services provided by the Appellant to the students of lodging and supply of food is a composite rate of tax as provided in Section 2(30) of the GST Act.

Legal Authority for Advance Ruling (hereinafter referred to as the
passed an advance ruling by an order dated 26.02.2019, wherein it has been pronounced inter
offering several individual services in two different combinations to the recipients, depending upon
. None of the combinations of services being offered is a composite supply, as defined under Se
ut are mixed supplies within the meaning of Section 2(74) of the GST Act and therefore taxable
(b) of the GST Act. The services being mixed supplies, value of the entire combination of services c
taxable at the applicable rate.

contended as under:

case the applicant is engaged in supplying food, laundry service, housekeeping service etc, w
led with lodging service. All these components are independent of each other.

nt from the submission of the appellant that they, also provide lodging service without providing
ot avail laundry services. Therefore, none of the services are bundled together in a natural w
no principal Service.

Meaning and Tax liability of Mixed Supply

“mixed supply” means two or more individual supplies of goods or services, or any combination thereof, which are supplied together and reach each other by a taxable person for a single price where such supply does not constitute a composite supply.

The tax liability on a composite supply shall be determined in the following manner, namely-

A supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

A supply of more than one, goods and / or services which are not naturally bundled together but so as to be treated as a single supply is referred to as mixed supply of goods and / or services. It shall be deemed to be a supply of goods or services, which are liable to tax at the highest rate of GST. The characteristics of a mixed supply is as follows-

1. It consists of two or more **individual supplies**

2. It is supplied by a **taxable person**

3. It is made for a **single price**

4. It **does not constitute a composite supply**

medicines and allied items provided by the hospital through the pharmacy to the in-patient is part of the supply of health care treatment and hence not separately taxable - clarification given in the order dated 2018-TRU dated 12.02.2018 in the matter of supply of food to in-patient is applicable in the case of medicines also - However, Supply of medicines and allied items by hospital through the pharmacy to the in-patient is not taxable - **AR- Ernakulam Medical Centre Pvt Ltd [2018-TIOL-188-AAR-GST](#)**

Supply of spare parts/accessories and repair service are distinct and separately identifiable supplies for which different rates are levied and work orders are issued separately - such supply under the Repair Rate Contract is not taxable and is treated **as composite supply**. The goods and services would be liable to tax at the rates as applicable to the goods and services respectively- **Vista Marine And Hydraulics [2019-TIOL-431-AAR-GST]**

What can be considered while determining whether a supply is Composite or Mixed Supply

As there are no infallible tests for such determination, the following guiding principles could be adopted to determine whether a supply would be a composite supply or a mixed supply. However, every supply should be independently considered.

Description	Composite Supply	Mixed Supply
Supplies are bundled	Yes	No
Supplies are available for supply individually	No	Yes
One supply is dominant supply for recipient	Yes	No
Supplies (ies) are ancillary or they are received because of predominant supply	Yes	No
Supplies are priced separately	Yes/No	Yes
Supplies are provided together	Yes	No
Supplies can be goods	Yes	No
Supplies can be services	Yes	No
Supplies consist of one/ more goods and one/ more services	Yes	No

implication when mixed supply could be wrongly classified as composite supply and vice versa

on principal supply -12% & supply which attracts higher rate of tax in case of mixed supply is 18%.

vehicle/Refrigerators supplied for single price- mixed supply GST at

applicable to vehicle

assessee had wrongly determined the nature of supply to be composite supply but it was a mixed supply

rate - pay the difference of tax + interest.



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