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Charging and Collection of Tax under CGST Act,2017 with Schedules

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Charging of tax is the basic of GST on which rates of GST shall be charged. First of all , Activities shall be identify as goods or services and afterward, rate of goods as per rate list and rate of services as per rate list shall be applied. Without knowing the activities are goods or services, rate can not be applied. Therefore it becomes very important to identify weather activity is goods or service. There are activities have been treated as goods or services if supplied without consideration and there are activities which shall not be taxable neither as goods nor as services. Now, we will understand the charging and collection of tax one by one.

Scope of Supply

1. Supply Includes

A] All type of goods or services or both like sale , barter, exchange, transfer, license , lease, rental or disposal made or agreed to be made by person for consideration in the course or furtherance of business.

B] Import of services whether or not for consideration or furtherance of business.

C] **Activities to be treated as supply even if made without consideration**.

Schedule-I

1. Permanent transfer or disposal of business when ITC has been claimed on such assets.
2. When supply of goods or services takes place between related person or distinct person as specified in section 25 when made in the course of or furtherance of business.
3. When supply of goods

   i] by principal to his agents when agent make supply on behalf of his principal
   ii] agent to principal when agent undertake to receive such good on behalf of his principal.

4. Import of service by taxable person from related person or from any of his establishment outside India in the course or furtherance of business.

D] **Activities to be treated as supply of goods or supply of services as mentioned in Schedule-II**

1. Transfer
   - Any transfer of title in goods is supply of goods

- Any transfer of right in goods or undivided share in goods without the transfer of title in goods is supply of service
- An transfer of property under an agreement that the property in goods shall pass at future date after the full payment shall be treated as supply of goods.

2. Land and Building

    - Any lease, tenancy, easement , license to occupy land is supply of services
    - Any lease or letting out of building including commercial, industrial or residential complex for business or commerce is supply of service

3. Treatment of process

   Any treatment or process of other person good is supply of services.

4. Transfer of business assets

   - Where business assets has been transferred or disposed off for and without consideration , such transfer shall be supply of goods.
   - Where the goods held in business is transfer for personal purpose or made available to any person for use or for any other purpose other than the purpose of business shall be treated as supply of services.
   - Where any person ceased to be taxable person and any goods of business shall be deemed to be supply in the course of business or furtherance of business before he ceases to be taxable person

   i] business is transferred to other person a going concern
   ii] business is carried on by personal representative who is deemd to be taxable person.

5. Supply of services

   - Renting of immovable property
   - Construction of complex, building , civil structure or part thereof including complex or building intended for sale to buyer other than the entire consideration has been received after the completion certificate or after its first occupation , which ever is earlier.
   - Temporary transfer or permitting the use of any intellectual property right.
   - Development, design, customization ,programming, up gradation enhancement of information and technology software.
   - Agreeing to refrain from act or tolerate a act, or situation or to do an act.
   - Transfer of right to use the goods for any purpose for consideration or not.

6. Composite Supply

   - Work contract
   - Supply by way of or as part of service or in any other manner

whatsoever of goods , being food or any other article for human consumption or drink (other than alcoholic liquor for human consumption) where such supply is for consideration.

7. Supply of Goods

Following shall be treated as supply of goods
Supply of goods by unincorporated association or body of person to its member for consideration.

2] Except mentioned in point no. 1 above, the following shall neither be treated as supply of goods or supply of services.

a] Activities or transaction mentioned in the Schedule-III

- Service by employee to employer in the course of employment
- Service by court to tribunal
- i] Function performed by member of parliament , member of legislative assembly, member of municipality and member of other local authorities;
  ii] duties performed by person who hold any post of the provision of constitution in that capacity
  iii] any person as chairman or member or director of any body established by the Central Govt. or State Govt. or local authority.
- Service of funeral, burial, cremation or mortuary including transportation of deceased.
- Sale of land subject to clause b of paragraph 5 of Schedule-II, sale of building.
- Actionable claims, other than lottery , betting and gambling.

b] activities and transaction held by Central Govt. , State Govt. or local authority

above transaction Shall be treated neither a supply of goods nor as supply of services

2. Tax Liability on composite supply and mixed supply

a] composite supply includes one or more supply where one of them is principal supply, shall be treated as supply of principal supply

Composite supply 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 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;

b] Mixed supply includes one or more supplies shall be treated as supply of that particular supply which attract the highest rate of tax.

Mixed Supply as per Section 2[74]

" "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"

3. Levy and collection [Section-9]

a] Subject to the provision of sub section –b , tax on intra state supplies of goods or services or both other than alcoholic liquor, can not be more than 20%.

b] central tax on petroleum crude, high speed diesel, motor spirit known as [petrol], natural gas and aviation turbine fuel shall be levied w.e.f. such date as notified by the government on recommendation of council.

c] Govt. by notification shall declare category of goods or service or both where tax shall be paid under reverse charge by recipient of goods or service and all provision of the Act shall apply on this recipient. Section-9[3]

d] Central tax shall be paid on supply of all goods or services or both in case of recipient of goods or services on reverse charge basis if purchased from unregistered person by registered person. Section-9[4]

e] Govt. by notification specify category of services on intra state supplies which shall be paid by electronic commerce operator if such services are provided by them

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