Overview of

GOODS AND SERVICES TAX

INDEX

(Complete portion with maximum number of colourful charts and tables)

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INTRODUCTION - GST IN INDIA

1. Genesis of GST in India

16.07.2004
- Kelkar Task Force recommended the fully integrated GST on a national basis.

28.02.2006
- The then Union FM, Shri P. Chidambaram, announced that GST to be introduced from 01.04.2010 in Budget 2007-2008.

19.12.2014
- NDA Government tabled the Constitution (122nd Amendment) Bill, 2014 on GST in the Parliament.

06.05.2015
- The Lok Sabha passed the Constitution (122nd Amendment) Bill, 2014.

03.08.2016
- Rajya Sabha passed the Constitution (122nd Amendment) Bill, 2014.

08.09.2016
- Constitution (122nd Amendment) Bill, 2014 received the assent of the President and became Constitution (101st Amendment) Act, 2016.

27.03.2017
- The Central GST legislations - Central Goods and Services Tax Bill, 2017, Integrated Goods and Services Tax Bill, 2017, Union Territory Goods and Services Tax Bill, 2017 and Goods and Services Tax (Compensation to States) Bill, 2017 were introduced in Lok Sabha.

29.03.2017
- Lok Sabha passed these above mentioned three bills.

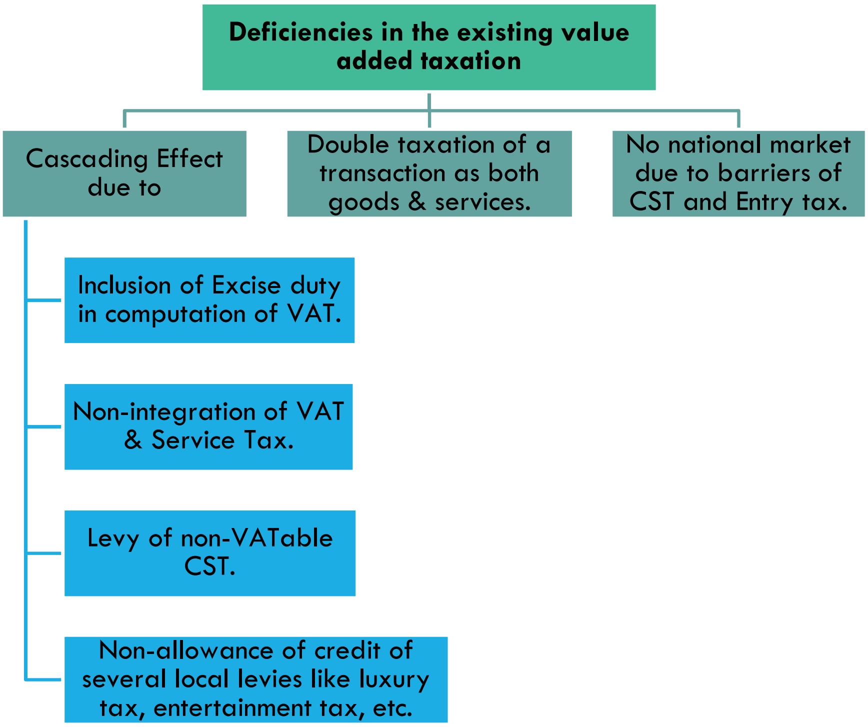
12.04.2017
- The above mentioned three bills received the President's assent and the Bills were enacted.

01.07.2017
- **Implementation of GST across India.**

France was the first country to implement GST in the year 1954 and within 62 years of its advent, about 160 countries across the world have adopted GST.

2. Need for GST in India

The **deficiencies in the existing value added taxation** system has led to a comprehensive tax structure covering both goods and services i.e. GST.



3. Benefits of GST

GST is a win-win situation for the entire country. The significant benefits of GST are listed below.

Mitigation of ill effects of cascading

- Allowing a set-off of prior-stage taxes for the transactions across the entire value chain.

Elimination of multiple taxes and double taxation

- Majority of existing indirect tax levies will be subsumed both at Central and State level into one tax i.e. GST.

Creation of unified national market

- A common market with common tax rates and procedures.

Buoyancy to the Government Revenue

- Widening the tax base and improving the taxpayer compliance.

Boost to 'Make in India' initiative

- Making goods and services produced in India competitive in the national as well as international market.

Benefits to Consumers

- It will lower the cost of goods and services, give a boost to the economy and make the products and services globally competitive.

4. Constitutional Amendment

Constitution (122nd Amendment) Bill, 2014 received the assent of the President and became Constitution (101st Amendment) Act, 2016 on 8th September, 2016.

Following are the significant amendments made by the Constitution (101st Amendment) Act, 2016:

Concurrent powers on Parliament and State Legislatures to make laws governing goods and services. Levy of IGST on inter-State transactions of goods and services to be levied and collected by the Central Government and apportioned between the Union and the States.

GST will be levied on all supply of goods and services **except alcoholic liquor for human consumption.**

GST shall not be levied till a date to be notified on the recommendations of the GST Council on the following products:

Petroleum Crude, High Speed Diesel , Motor Spirit (commonly known as Petrol), Natural Gas and Aviation Turbine Fuel.

The Union Government shall retain the power to levy duties of excise on the aforesaid products besides tobacco and tobacco products manufactured or produced in India.

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).** President constituted the GST Council on 15th September, 2016.

GST Council consists of the following:

Union Finance Minister (Chairman), Ministers in charge of Finance/Taxation or any other Minister nominated by each of the States & UTs with Legislatures, Union Minister of State in charge of Revenue or Finance.

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.

CONCEPT OF GST

1. Concept of GST

GST is a path breaking indirect tax reform which will create a common national market by dismantling inter-State trade barriers. GST has subsumed multiple indirect taxes like excise duty, service tax, VAT, CST, luxury tax, entertainment tax, entry tax, etc.

The following are the basic features of GST:

Value 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 continuous chain of tax credits from the producer's point/service provider's point upto the retailer's level/consumer's level.
Ultimate burden on final consumer	• 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.	

GST will extend to whole of India except the State of Jammu and Kashmir.

Taxes to be subsumed in GST

Central Levies

- Central Excise Duty & Additional Excise Duties
- ServiceTax
- Excise Duty under Medicinal & Toilet Preparation Act
- CVD & Special CVD
- Central Sales Tax
- Surcharges and Cesses in so far as they relate to supply of goods & services

State Levies

- State surcharges and cesses in so far as they relate to supply of goods & services
- EntertainmentTax (except those levied by local bodies)
- Tax on lottery, betting and gambling
- EntryTax (AllForms) & PurchaseTax
- VAT/Salestax
- LuxuryTax
- Taxes on advertisements

2. Dual GST Model

Dual GST

- India will adopt a dual GST which will be imposed concurrently by the Centre and States i.e. Centre and States will simultaneously tax goods and services.

CGST/SGST/UTGST/IGST

- GST in India will comprise of **Central Goods and Service Tax (CGST)** - levied and collected by Central Government, **State Goods and Service Tax (SGST)** - levied and collected by State Governments/Union Territories with State Legislatures and **Union Territory Goods and Service Tax (UTGST)** - levied and collected by Union Territories without State Legislatures, on intra-State supplies of taxable goods and/or services. Inter-State supplies of taxable goods and/or services will be subject to **Integrated Goods and Service Tax (IGST).** IGST will approximately be a sum total of CGST and SGST/UTGST and will be levied by Centre on all inter-State supplies.

Legislative Framework

- There is single legislation – CGST Act, 2017 - for levying CGST. Similarly, Union Territories without State legislatures [Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu and Chandigarh] will be governed by UTGST Act, 2017 for levying UTGST. States and Union territories with their own legislatures [Delhi and Puducherry] have to enact their own GST legislation for levying SGST.

Manner of Utilization of ITC

- Cross utilization of credit of CGST and SGST/UTGST will not be possible i.e. CGST credit cannot be utilized for payment of SGST/UTGST and SGST/UTGST credit cannot be utilized for payment of CGST. However, cross utilization will be allowed between CGST/SGST/UTGST and IGST i.e. credit of IGST can be utilized for the payment of CGST/SGST/UTGST and vice versa.

Threshold Exemption & Composition Scheme

- In GST regime, tax (i.e. CGST and SGST/UTGST for intra-State supplies and IGST for inter-State supplies) shall be paid by every taxable person and in this regard provisions have been prescribed in the law. However, for providing relief to small businesses, following provisions have been made:
- **Threshold Exemption** to supplier having aggregate turnover upto ₹ 20 lakhs (for North Eastern States and Sikkim, the limit is ₹ 10 lakhs).
- **Composition Scheme** to supplier having aggregate turnover upto ₹ 50 lakhs in the preceding year.

Resultantly, **Goods and Services Network (GSTN)**- a Special Purpose Vehicle – has been set to provide a shared IT infrastructure and services to Central and State Governments, taxpayers and other stakeholders for implementation of GST.

The functions of the GSTN include:

i. Facilitating registration,
ii. Forwarding the returns to Central and State authorities,
iii. Computation and settlement of IGST,
iv. Matching of tax payment details with banking network,
v. Providing various MIS reports to the Central and the State Governments based on the taxpayer return information,
vi. Providing analysis of taxpayers' profile and
vii. Running the matching engine for matching, reversal and reclaim of input tax credit.

RELEVANT DEFINITIONS

S. No.	Sec of CGST Act	Definitions
1.	2(52)	Goods
2.	2(45)	E-Commerce Operator (ECO)
3.	2(47)	Exempt Supply
4.	2(17)	Business
5.	2(31)	Consideration
6.	2(84)	Person
7.	2(90)	Principal Supply
8.	2(93)	Recipient
9.	2(56)	India
10.	2(98)	Reverse Charge
11.	2(102)	Services
12.	2(105)	Supplier
13.	2(108)	Taxable Supply
14.	2(78)	Non-taxable Supply
15.	2(107)	Taxable Person

1. Goods

Goods means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.

2. E-Commerce Operator (ECO)

ECO means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.

3. Exempt Supply

Exempt supply means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply.

4. Business

Business includes:

(a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;

(b) any activity or transaction in connection with or incidental or ancillary to (a) above;

(c) any activity or transaction in the nature of (a) above, whether or not there is volume, frequency, continuity or regularity of such transaction;

(d) supply or acquisition of goods including capital assets and services in connection with commencement or closure of business;

(e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members, as the case may be;

(f) admission, for a consideration, of persons to any premises; and

(g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;

(h) services provided by a race club by way of totalisator or a licence to book maker in such club

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

5. Consideration

Consideration in relation to the supply of goods or services or both includes:

i. any payment made or to be made, whether in money or otherwise, 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 but shall not include any subsidy given by the Central Government or a State Government,
ii. the 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 but shall not include any subsidy given by the Central Government or a State Government.

However, a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply.

6. Person

Person includes:

i. An individual
ii. A Hindu undivided family
iii. A company
iv. A firm
v. A Limited Liability Partnership
vi. An association of persons or a body of individuals, whether incorporated or not, in India or outside India
vii. Any corporation established by/under any Central, State or Provincial Act or Government company as defined in section2(45) of CompaniesAct,2013
viii. Any body corporate incorporated by or under the laws of a country outside India
ix. A co-operative society registered under any law relating to cooperative societies
x. A local authority
xi. Central Government or a State Government
xii. Society as defined under the Societies Registration Act, 1860
xiii. Trust
xiv. Every artificial juridical person, not falling within any of the above.

7. Principal Supply

Principal supply means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

8. Recipient

Recipient of supply of goods and/or services means-

(a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration,
(b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available, and
(c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply

and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied.

9. India

India means:

i. Territory of India as referred to in article 1 of the Constitution,
    a. Its territorial waters, seabed 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,
ii. The air space above its territory and territorial waters.

10. Reverse Charge

Reverse charge means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under section 9(3)/9(4), or under section 5(3)/5(4) of the IGST Act.

11. Services

Services means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.

12. Supplier

Supplier in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied.

13. Taxable Supply

Taxable supply means a supply of goods and/or services which is chargeable to tax under CGST Act.

14. Non-taxable Supply

Non-taxable supply means a supply of goods or services or both which is not leviable to tax under CGST Act or under IGST Act.

15. Taxable Person

Taxable person means a person who is registered or liable to be registered under section 22 or section 24.

LEVY AND COLLECTION OF GST

CGST Act/SGST Act/UTGST Act levies tax on all intra-State supplies of goods and/or services while IGST Act levies tax on all inter-State supplies of goods and/ or services.

Intra-State Supply	Inter-State Supply
Location of the supplier and the place of supply of goods or services are in the same State/Union territory.	Location of the supplier and the place of supply of goods or services are in (i) two different States or (ii) two different Union Territories or (iii) a State and a Union territory.
CGST/SGST/UTGST	IGST

CGST
- CGST stands for Central GST
- This is applicable on supplies within the State
- Tax collected will be shared to Centre

SGST
- SGST stands for State GST
- This is applicable on supplies within the State
- Tax collected will be shared to State

IGST
- IGST stands for Integrated GST
- This is applicable on interstate and import transactions
- Tax collected is shared between Centre and State

Value and Rates for levy

Value for levy: Transaction value under section 15 of the CGST Act.

Rates of CGST/IGST/SGST/UTGST: Rates for CGST/UTGST/SGST are rates as may be notified by the Government on the recommendations of the GST Council [Rates notified are 5%, 12%, 18% and 28%]. IGST will be approximately the sum total of CGST and SGST/UTGST. Maximum rate of CGST will be 20% while for IGST, maximum rate will be 40%.

Reverse Charge

GST shall be paid by the recipient of goods or services or both, on reverse charge basis, in the following cases:

1. Supply of goods or services or both, notified by the Government on the recommendations of the GST Council.

2. Supply of taxable goods or services or both by an unregistered supplier to a registered person.

Electronic Commerce Operator (ECO)

The Government may notify specific categories of services the tax of which shall be paid by the ECO.

1. If the ECO is located in taxable territory- Person liable to pay tax is the ECO.

2. If the ECO does not have physical presence in the taxable territory- Person liable to pay tax is the person representing the ECO.

3. If the ECO has neither the physical presence nor any representative in the taxable territory- Person liable to pay tax is the person appointed by the ECOfor the purpose of paying the tax.

TAXABLE EVENT - SUPPLY

1. Taxable Event

The incidence of tax is the foundation stone of any taxation system. It determines the point at which tax would be levied i.e. the taxable event.

Taxable Event under Old Laws

- **Service Tax**: Rendering of Services
- **Excise**: Manufacture of Goods
- **VAT/CST**: Sale of Goods

Taxable event under GST

- **Supply** of Goods or Services or both

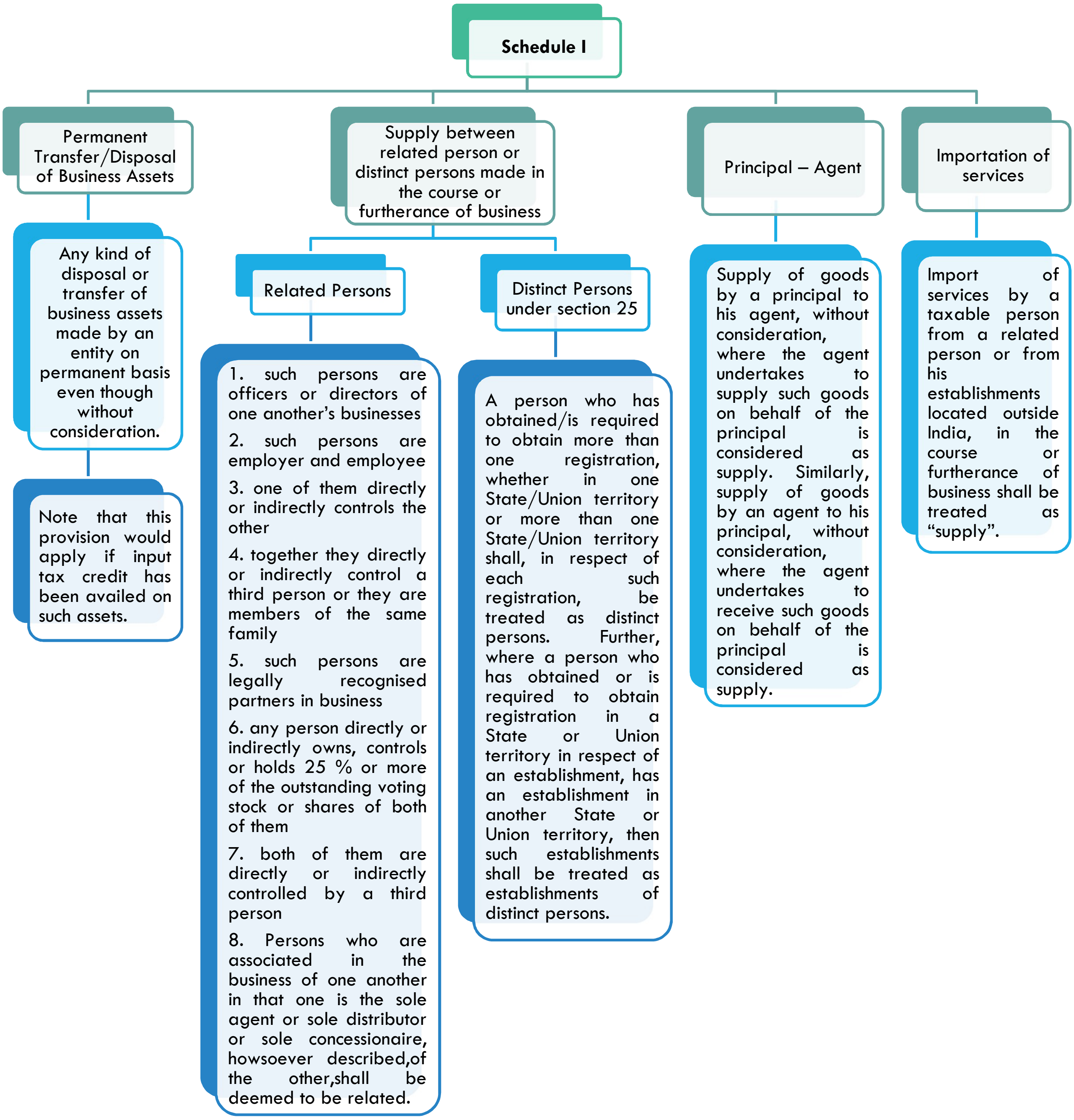
2. Concept of Supply (Section 7 of CGST Act)

Sub Section	Clause	Particulars
1.	Supply includes	
	(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,
	(b)	importation of services, for a consideration whether or not in the course or furtherance of business,
	(c)	the activities specified in **Schedule I**, made or agreed to be made without a consideration,
	(d)	the activities to be treated 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) & (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.

3. Schedule I

This includes all supplies by a taxable person to a taxable or non-taxable person, **even if the same is without consideration.**



4. Schedule II

Section 7(1)(d) of the Act refers to Schedule II for determining whether a particular transaction is a **supply of goods or service**. This helps in mitigating ambiguities in existing laws.

S.N.	Transaction	Particulars	Nature of Supply
1.	Transfer	Title in goods	Supply of Goods
		Right in goods/ undivided share in goods without transfer of goods	Supply of Services
		Title in goods under an agreement which stipulates that property shall pass at a future date.	Supply of Goods
2.	Land and Building	Lease, tenancy, easement, licence to occupy land	Supply of Services
		Lease or letting out of building wholly or partly	Supply of Services
3.	Treatment or Process	Applied to other person's goods	Supply of Services
4.	Transfer of Business Assets	Goods forming part of business assets are transferred or disposed of by/under directions of person carrying on the business, whether or not for consideration	Supply of Goods
		Goods held/used for business are put to private use or are made available to any person for use for any purpose other than business, by/under directions of person carrying on the business, whether or not for consideration	Supply of Services
		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	Supply of Goods
5.		Renting of immovable property	Supply of Services
		Construction of complex, building, civil structure, etc.	
		Temporary transfer or permitting use or enjoyment of any intellectual property right	
		Development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of IT software	
		Agreeing to obligation to refrain from an act, or to tolerate an act or situation, or to do an act.	
		Transfer of right to use any goods for any purpose	
6.		Following composite supplies: - 1.Works contract services 2.Supply by way of or as part of any other service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink	Supply of Services
7.		Supply of goods by an unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.	Supply of Goods

5. Schedule III (Negative List under GST)

This schedule specifies transactions/ activities which shall be **neither treated as supply of goods nor a supply of services**.

S. No.	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.
2.	Services by any court or Tribunal established under any law for the time being in force.
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; (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.
5.	Sale of land and, subject to paragraph 5(b) of Schedule II, sale of building.
6.	Actionable claims, other than lottery, betting and gambling. Explanation - For the purposes of paragraph 2, the term "Court" includes District Court, High Court and Supreme Court.

COMPOSITE AND MIXED SUPPLIES

1. Statutory Provisions (Section 8)

Section 8	Tax liability on composite and mixed supplies
Clauses	**Particulars**
	The tax liability on a composite or a mixed supply shall be determined in the following manner, namely: -
(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
(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.

2. Composite Supplies

In order to determine whether the supplies are 'composite supplies' or 'mixed supplies', one needs to determine whether the supplies are naturally bundled or not naturally bundled in ordinary course of business.

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. are **naturally bundled** and supplied in conjunction with each other, in the ordinary course of business.

A composite supply comprising of two or more supplies, one of which is a principal supply, shall be treated as a supply of such **principal supply**.

3. Mixed Supplies

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.

The individual supplies are independent of each other and are **not naturally bundled**.

A mixed supply comprising of two or more supplies shall be treated as supply of that particular **supply that attracts highest rate of tax**.