CHAPTER III
LEVY AND COLLECTION OF TAX
[*updated as per Central Goods and Services Tax (Amendment) Act, 2018]*

SUPPLY

Description	Section	Sub-sections
Scope of Supply	7	(1) -(3)
Tax liability on composite & mix supplies	8	

[Amended by Central Goods and Services Tax (Amendment) Act, 2018, published in Extraordinary-PART II—Section 1 (No.44) of official gazette on 30th August, 2018 commencement date 1st February-2019 vide NN 02/2019 – Central Tax dated 29th January, 2019 published in OG vide G.S.R. 62(E) Dated 29th January, 2019

Abbreviations

AA-18	**Central Goods and Services Tax (Amendment) Act, 2018**
NN	**Notification Number**
OG	**Official Gazette**
CGST Act	**Central Goods and Services Tax Act, 2017**
IGST Act	**Integrated Goods and Services Tax Act, 2017**

SECTION-7
SCOPE OF SUPPLY

SCOPE OF SUPPLY

7(1) For the purposes of this Act, the expression "supply" **includes**––

Clause (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**;

COMMENTARY ON KEY ISSUES

1. *Supply is not defined as such but inclusive definition. The word `includes' when used, enlarges the meaning of the expression defined so as to understand not only such things as they signify according to their natural import but also those things which the clause declares that they shall include.*
2. *Word used "Such as" to introduce an example or series of examples like 8 examples of supply given in sub-section.*
3. *All 8 terms sale, transfer, barter, exchange, licence, rental, lease or disposal are not defined anywhere in GST laws, so to understand these terms, their respective dictionary meanings can be referred.*
4. *Supply should be FOR A CONSIDERATION and IN THE COURSE OR FURTHERANCE OF BUSINESS. So subject to other provision of section 7, any transaction which is not for consideration or not in the course of business is not qualify as supply.*

STATUTORY DEFINITIONS OF TERMS USED IN THIS CLAUSE

1. GOODS- SECTION 2(52) OF CGST ACT, 2017

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. SERVICES- SECTION 2(102) OF CGST ACT, 2017

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.

Explanation. —For the removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities.

3. CONSIDERATION- SECTION 2(31) OF CGST ACT, 2017

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

(a) 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;

(b) 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:

Provided that 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.

4. PERSON - SECTION 2(84) OF CGST ACT, 2017

Person includes—

(a) an individual;

(b) a Hindu Undivided Family;

(c) a company;

(d) a firm;

(e) a Limited Liability Partnership;

(f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;

(g) any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in clause (45) of section 2 of the Companies Act, 2013;

(h) Any body corporate incorporated by or under the laws of a country outside India;

(i) A co-operative society registered under any law relating to co-operative societies;

(j) a local authority;

(k) Central Government or a State Government;

(l) society as defined under the Societies Registration Act, 1860;

(m) trust; and

(n) every artificial juridical person, not falling within any of the above;

5. BUSINESS- SECTION 2(17) OF CGST ACT, 2017

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 sub-clause (a);

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

(d) supply or acquisition of goods including capital goods 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;

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

(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) activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and

(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.

Clause (b)

Import of services for a consideration whether or not in the course or furtherance of business; **and**[1]

COMMENTARY ON KEY ISSUES

1. This clause is applicable irrespective of who is supplier and who is recipient so import of service by anyone from anyone.
2. Presence of consideration is must.
3. Treated as supply even if for personal purpose as presence of business purpose is not a must. So if Ram in India for designing his home, taking architect services of Jon residing in London is a supply under this clause.
4. If any transaction found to be without consideration, check if it is import of service, if yes it will be a supply unless exempted through exemption notification generally or specifically.
5. Manner of levy & Collection in case of import of services: -

   a) Under Forward Charge by overseas supplier- When recipient in India is non-taxable online recipient.
   [Overseas supplier will take registration with GST Commissioner, Banglore, appoint a person and ensure GST compliances]

   b) Under Reverse Charge by Indian recipient- - When recipient in India is other than non-taxable online recipient.
   [Serial No. 1 of NN 10/2017- Integrated Tax (Rate) | 28th June, 2017 read with entry no. 10 of exemption NN 9/2017-Integrated Tax (Rate) | 28th June, 2017]

Section 2(16) of IGST Act, 2017 Non-taxable online recipient means any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.

Explanation. —For the purposes of this clause, the expression "governmental authority" means an authority or a board or any other body, —

(i) set up by an Act of Parliament or a State Legislature; or

(ii) established by any Government,

with ninety per cent. or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution

STATUTORY DEFINITIONS OF TERMS USED IN THIS CLAUSE

1. IMPORT OF SERVICES - SECTION 2(11) OF IGST ACT, 2017
Import of services means the supply of any service, where—
(i) the supplier of service is located outside India;
(ii) the recipient of service is located in India; and
(iii) the place of supply of service is in India;

Clause (c)
the activities specified in Schedule I, made or agreed to be made without a consideration; ~~and~~[1]

SCHEDULE I
[See section 7]

ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION

1. Permanent transfer or disposal of business assets where input tax credit 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:
Provided that 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.

3. Supply of goods—
(a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or
(b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

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.

~~**Clause (d)**~~
~~**(d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.**~~[1]

(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;[1]

SCHEDULE II

[See section 7]

ACTIVITIES OR TRANSACTIONS[$] TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

1. Transfer

(a) any transfer of the title in goods is a supply of goods;

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

(c) any transfer of 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, is a supply of goods.

2. Land and Building

(a) any lease, tenancy, easement, licence to occupy land is a supply of services;

(b) any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.

3. Treatment or process

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

4. Transfer of business assets

(a) 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 those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person;

(b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person 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;

(c) where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him 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, unless—

(i) the business is transferred as a going concern to another person; or

(ii) the business is carried on by a personal representative who is deemed to be a taxable person.

5. Supply of services

The following shall be treated as supply of services, namely: —

(a) renting of immovable property;

(b) 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.

Explanation. —For the purposes of this clause—

(1) the expression "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 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 village or development or planning authority;

(2) the expression "construction" includes additions, alterations, replacements or remodelling of any existing civil structure

[$] *Inserted by AA-18 with effect from the 1st day of July, 2017*

SCHEDULE II
[See section 7]
ACTIVITIES TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

(c) temporary transfer or permitting the use or enjoyment of any intellectual property right;
(d) development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;
(e) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and
(f) 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.

6. Composite supply
The following composite supplies shall be treated as a supply of services, namely: —
(a) works contract as defined in clause (119) of section 2; and
(b) 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.

7. Supply of Goods
The 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.

(2) Notwithstanding anything contained in sub-section (1), —

(a) activities or transactions specified in Schedule III; or

SCHEDULE III
[See section 7]
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) the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;
(b) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or
(c) the 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 clause (b) of paragraph 5 of Schedule II, sale of building.

6. Actionable claims, other than lottery, betting and gambling.

Explanation-[“1”]. —For the purposes of paragraph 2, the term "court" includes District Court, High Court and Supreme Court.
[“Explanation 2. —For the purposes of paragraph 8, the expression “warehoused goods” shall have the same meaning as assigned to it in the Customs Act, 1962.”

“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.

8. (a) Supply of warehoused goods to any person before clearance for home consumption;
(b) 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.”]

**Highlighted paragraphs inserted by AA-18 with effect from the 1st day of February, 2019 NN 02/2019 – Central Tax dated 29th January, 2019*

(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.

Using powers under this clause, government of India issued 2 notifications till 9th July, 2017 notifying that the-

Following activities or transactions undertaken by the Central Government or State Government or Union territory or any local authority in which they are engaged as public authority, shall be treated neither as a supply of goods nor a supply of service, namely: -
"Services 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."

- 🕮 NN 14/2017-CT-R dated 28.06.2017 effective from 1st day of July, 2017 [effective date mentioned in Notification itself]
- 🕮 NN 14/2017-CT-R amended by NN 16/2018-CT-R dated 26.07.2018 effective from 27th day of July, 2018 [effective date mentioned in Notification itself]

(3) Subject to the provisions of ~~**sub-sections (1) and (2)**~~, **sub-sections (1), (1A) and (2)**[1] 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.

---

1. *Amended by AA-18 with effect from the 1st day of July, 2017 provided in AA only*

TAX LIABILITY ON COMPOSITE AND MIXED SUPPLIES

8. 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

STATUTORY DEFINITIONS OF TERMS USED IN THIS CLAUSE

1. COMPOSITE SUPPLY- SECTION 2(30) OF CGST ACT, 2017
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.

TAXABLE PERSON
SECTION 2(107) OF CGST ACT, 2017

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

TAXABLE SUPPLY
SECTION 2(108) OF CGST ACT, 2017

Means a supply of goods or services or both which is leviable to tax under this Act

2. PRINCIPAL SUPPLY- SECTION 2(90) OF CGST ACT, 2017
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.

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

STATUTORY DEFINITIONS OF TERMS USED IN THIS CLAUSE

1. MIXED SUPPLY- SECTION 2(74) OF CGST ACT, 2017

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.