2. SUPPLY UNDER GST

Sec. 7 - Meaning & Scope of supply

Sec. 8 - Taxability of composite & Mixed Supplies

Schedule-I - Matters to be treated as supply even if made without consideration.

Schedule-II - Matters to be treated as supply of goods (or) as supply of the service.

Schedule-III - Matters (or) transactions which shall be treated neither as supply of goods (nor) supply of services.

SECTION-7

Supply Includes Sec.7(1)

a) All forms of supply of goods (or) service for consideration by a person in the course (or) in 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 consideration.

d) The activities to be treated as supply of goods (or) services as referred to in schedule-II.

Excludes Sec.7(2)

a) Activities (or) transactions specified in schedule-III

Supply includes sec.7(1)(a):

All forms of supply of goods (or) service for consideration by a person in the course (or) furtherance of business.

* Supply should be of goods (or) services (or) both.
* Supply should be made for a consideration.
* Supply should be made in the course (or) furtherance of business.
* Supply should be made by a Taxable person.
* Supply should be a taxable supply.

Explanation-1

(1) Supply includes all forms of supply of Goods (or) services (or) both.

- * Sales & Transfer
- * Barter & Exchange
- * License, lease, rentals etc.

Every kind of movable property

Excludes money & securities.

Includes
- * Actionable claims
- * Growing crops, grass & things attached to/forming part of the land which are agreed to be served before supply (or) under a contract of supply.

Any thing other than good

Includes

Activity relating to
- * use of money (or)
- * conversion of money by cash/ by any other mode, from one form/ currency/ denomination to another for which a separate consideration charged.

(2) Supply should be made for a consideration

Consideration

- Payment in money (or) otherwise for supply
- Monetary value of any act (or) forbearance for the supply.

$\rightarrow$ By Receipt (or) any other person

Excluding subsidy given by central/state governments.

Note:
* Deposit is in returnable nature hence it is not a consideration. otherwise it is a consideration.
* Money includes currency, coins, Promissory Notes, Bills of Exchange, cheque, travellor cheque, money order, Pay order, Electronical Remittances, letter of credit, demand draft excluding currency held for Numasmetic value.

(3) Supply should be in the course or furtherance of Business

(a) Any Trade/commerce, manf, Profession etc.
- → Any activity incidental/ancillary to it.
- → Any activity of (a) without any volume, frequency, continuity.

(b) Supply/acquisition of goods including capital goods & services → In connection with commencement/ closure of business.

(c) Provision of facility by club/Association etc. → to its members for consideration

(d) Admission for consideration → To any premises

(e) Services as holder of office → Accepted in the course/furtherance of the business (Trade/Profession)

(f) Services by Race club by way of → totalisator (or) a license to book maker in such club.

(g) Any supply of goods (or) services by the govt. as public authority would amounts to a business.

④ Supply should be made by a Taxable Person.

Meaning of Taxable person

* A "Taxable person" is a person who is Registered (or) liable to be Registered under section 22 (or) sec.24.
* Similarly, a person not liable to be registered, but has taken voluntary Registration & got himself registered is also a taxable person.

⑤ Supply should be a Taxable supply

* For a supply to attract GST, the supply must be taxable.
* Taxable supply has been broadly defined & means any supply of goods (or) services (or) both which is leviable to tax under GST law.

Importation of services, for a consideration whether (or) not in the course (or) furtherance of business: sec.7(1)(b)

* 7(1)(b) which brings within the ambit of "supply" the importation of services for a consideration whether (or) not in the course (or) furtherance of business.
* This is the only exception to the condition of supply being in course (or) furtherance of business.

The activities specified in "SCHEDULE-I" made (or) agreed to be made without consideration [sec. 7(1)(c)]

SCHEDULE-I

* Permanent Transfer (or) disposal of business assets where Input Tax credit has been availed on such assets.
* Supply of goods (or) services (or) both between related persons (or) between distinct persons as specified in sec.25
* Goods received by an agent on behalf of principle (or) goods supplied by an agent on behalf of principle.
* Import of services by an taxable person from a related person (or) from any of other establishments outside India, in the course of furtherance of business.

2(a) - RELATED PERSON

Explanation → For the purpose of this Act,

* Person shall be deemed to be "Related Persons" if -

i) Such persons are officers (or) directions of one another's business.
ii) Such persons are legally recognized partners in business.
iii) Such persons are employer and employee
iv) Any person directly (or) indirectly owns, controls (or) holds 25% (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. Eg:

MODI

KCR Related CB

vii) Together they directly (or) indirectly control a third person (or)

Eg:

KCR Related CB

Jagan

viii) They are members of the same family.

2(b) - DISTINCT PERSON

A person who has obtained/is required to obtain

* More than one registration
* Whether in one state/UT (or) more than one state/UT
* In respect of each such registration.
* be treated as distinct persons.

3) PRINCIPAL TO HIS AGENT:

Principal- agent:

* Supply of goods by a Principal to his agent, without consideration, where the agent undertakes to supply such goods on behalf of the principal is considered as supply.

4) Importation of services by a Taxable Person-

Importation of services:

* Import of services by a Taxable person.
* From a related person (or)
* From his establishments located outside India
* Without consideration
* In the course (or) furtherance of business.
* shall be treated as "SUPPLY".

Taxability of Import service

- With consideration
  - In the course of furtherance of business → 7(1)(b) → Taxable
  - Not in the course (or) furtherance of business → Taxable
- Without consideration
  - Related person/ distinct person + in the course of furtherance of business → Taxable; 7(1)(c) + Sch-I
  - Not in the course of furtherance of business → Not Taxable

NEGATIVE LIST UNDER GST

→ SCHEDULE-III

Activities which should be treated neither good nor supply.

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) The functions of MP, MLA, member of board constitued by Govt/ Local Authority.
4) Services of funeral, burial, crematorium (or) Mortuary including transportation of the deceased.

5) Sale of land & building
6) Actionable claims, other than lottery, betting & gambling.

SECTION-8: TAXABILITY OF COMPOSITE AND MIXED SUPPLIES

The tax liability on a composite (or) a mixed supply shall be determined as follows:

* A composite supply comprising two (or) more supplies one of which is a Principal supply, shall be treated as supply of such principal supply.
* A mixed supply comprising two (or) more supplies shall be treated as supply of that particular supply that attracts highest rate of tax

PRINCIPAL SUPPLY:

Principal supply means the supply of goods (or) services which constitutes the predominent elements of a composite supply and to which any other supply forming part of that composite supply is Anxillary.

* In order to determine whether the supplies are composite (or) mixed supply, one need to determine whether the supplies are naturally bundled (or) artificially bundled in the ordinary course of the business.