

GST Ki Pathshala

SUPPLY UNDER GST

CA SWAPNIL MUNOT

ORGANIZED BY

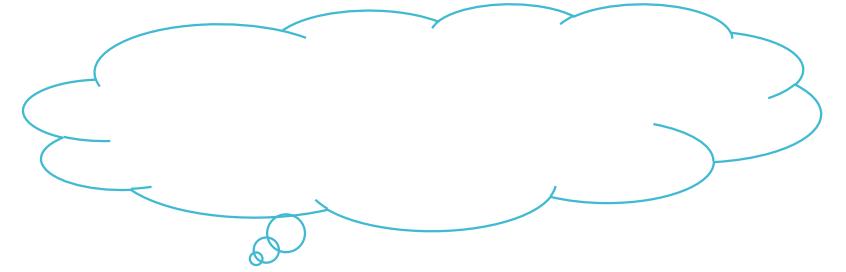
WICASA ICAI Pune

jointly with WICASA of 12 other cities



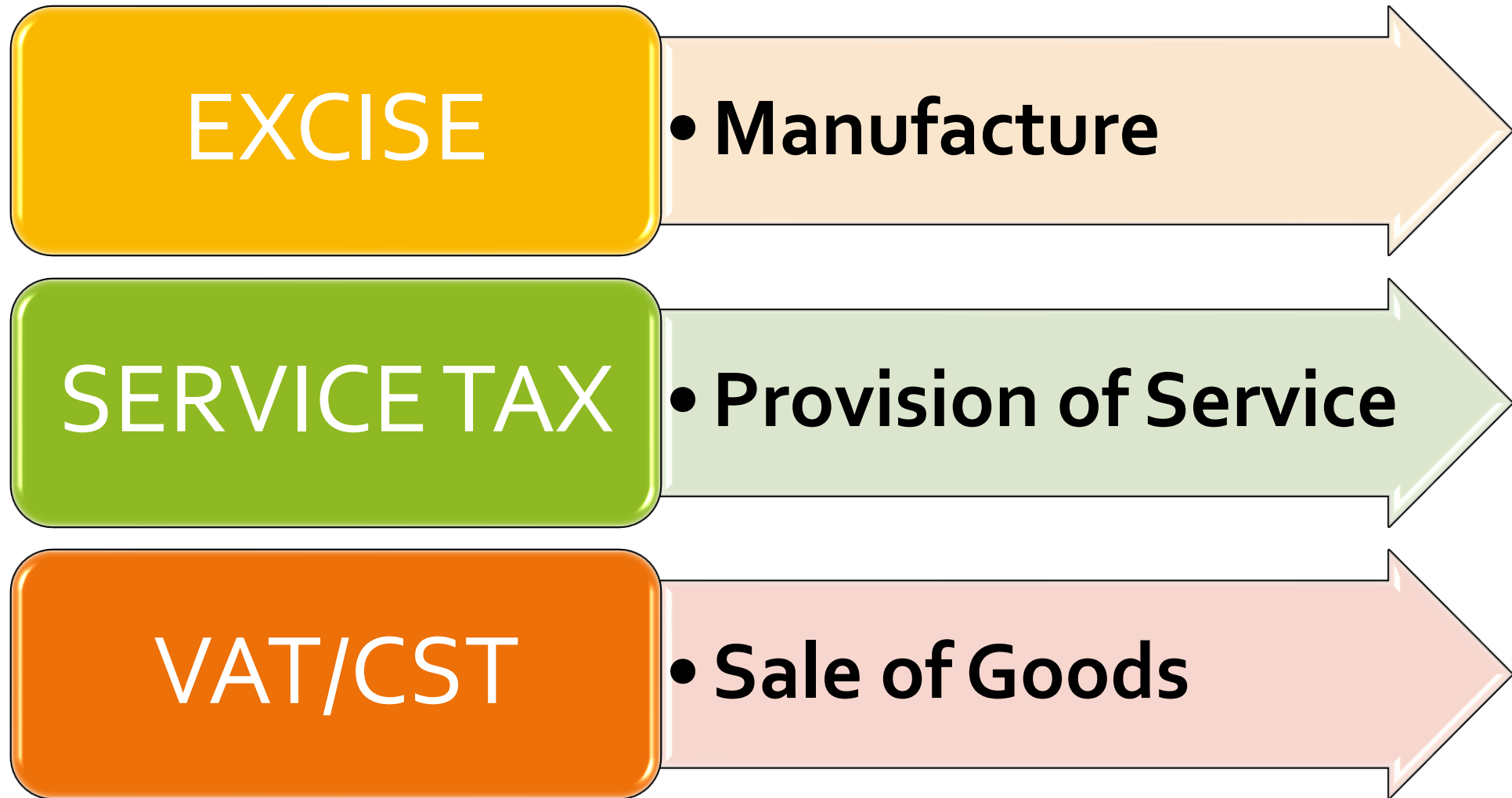
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IMPORTANT PROVISIONS:



Supply includes




Goods means



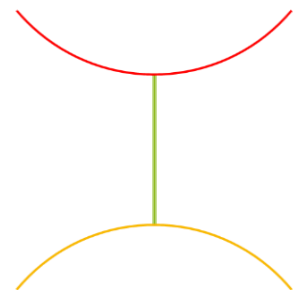
Service means



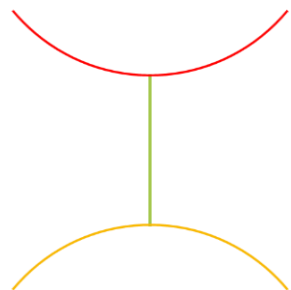
Business Includes



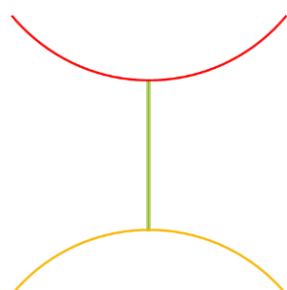
Consideration
Includes



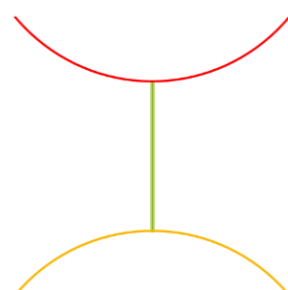
Sec 7



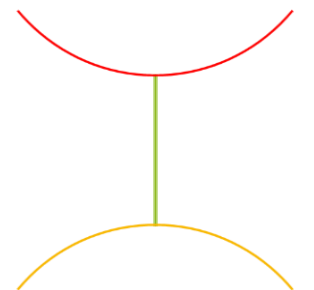
Sec 2(52)



Sec 2(102)



Sec 2(17)



Sec 2(31)

MEANING AND SCOPE OF SUPPLY:

Sec 7(1) of CGST Act 2017- For the purposes of this Act, the expression “supply” includes–

- a) all forms of **SUPPLY OF GOODS OR SERVICES** or both such as **Sale, Transfer, Barter, Exchange, License, Rental, Lease or Disposal** made or agreed to be made for a **CONSIDERATION** by a **PERSON** in the **COURSE OR FURTHERANCE OF BUSINESS**;



MEANING AND SCOPE OF SUPPLY:

Sec 7(1) of CGST Act 2017- For the purposes of this Act, the expression “supply” includes–

***(aa)** the activities or transactions, **by a person**, other than an individual, **to its members** or constituents or vice versa, **for cash, deferred payment or other valuable consideration.**

Explanation - **For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law** for the time being in force **or any judgment**, decree or order of any Court, tribunal or authority, **the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;**

*[*Inserted by Finance Act 2021 with effect from 1st July 2017]*



MEANING AND SCOPE OF SUPPLY:

Sec 7(1) of CGST Act 2017- For the purposes of this Act, the expression “supply” includes–

- b) **import of services** for a consideration whether or not in the course or furtherance of business; and
- 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 (This clause is omitted by CGST Amendment Act 2018)~~

Sec 7(1A) of CGST Act 2017- -

- 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**.

(This subsection is inserted by CGST Amendment Act 2018)

MEANING AND SCOPE OF SUPPLY:

Sec 7(2) of CGST Act 2017- 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

SUPPLY: SCHEDULE I

SCHEDULE I – ACTIVITIES to be treated as SUPPLY even made WITHOUT CONSIDERATION

| | |
|---|---|
| 1 | Permanent transfer/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 Rs 50000/- in value in a F.Y. 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. |

SUPPLY: SCHEDULE II

| SCHEDULE II – Activities to be treated as SUPPLY OF GOODS or SUPPLY OF SERVICES | |
|--|--|
| Supply of Services | Supply of Goods |
| <ul style="list-style-type: none">▪ Transfer of Right to use the goods without Transfer of title in goods▪ Lease/tenancy/licence to occupy land, Lease of building, commercial or residential complex for business, Renting of immovable property▪ Construction/alteration/replacement of complex/ building/civil structure or part thereof, including complex /building intended for sale wholly or partly, Except where entire consideration has been received after issuance of completion certificate.▪ Business goods used for personal purpose, whether or not consideration▪ Development/Design/programming/customization/upgradation/implementation of IT Software▪ Composite Service - Works Contract, Hotel/Restaurant service▪ Tolerating an act, Job work, Temporary transfer of any Intellectual Property Right(IPR) | <ul style="list-style-type: none">▪ Transfer in Title of goods,▪ Hire Purchase Sale,▪ Transfer/dissposal of Business Assets, |

SUPPLY: SCHEDULE III

SCHEDULE III – ACTIVITIES that shall NOT be treated as SUPPLY

| | |
|------|---|
| 1 | Service by Employee to Employer in the course of Employment. |
| 2 | Services by Tribunal or court |
| 3 | Functions performed by MP , MLA, Member of Panchayat, Corporator, Member of body established by government etc. |
| 4 | Services of funeral , burial, crematorium or mortuary including transportation of the deceased. |
| 5 | Sale of land and, sale of building subject to clause (b) of paragraph 5 of Schedule II |
| 6 | Actionable claims , other than <i>specified actionable claims</i> [amended vide Central Goods and Service Tax (Amendment Act 2023 w.e.t 1.10.2023)] |
| 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 |
| 8(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. |



MEANING OF GOODS AND SERVICE:

Sec 2(52) of CGST Act 2017: “**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.



Sec 2(102) of CGST Act 2017: “**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;
- **Explanation** - For the removal of doubts, it is hereby clarified that **the expression “services” includes facilitating or arranging transactions in securities**

MEANING OF CONSIDERATION:

Sec 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;

MEANING OF PERSON:

Sec 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(18 of 2013);
- (h) anybody 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;(21 of 1860) (m) trust; and
- (n) every artificial juridical person, not falling within any of the above

MEANING OF BUSINESS:

Sec 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 subclause (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;**

MEANING OF BUSINESS:

Sec 2(17) of CGST Act 2017: “**business**” includes—

- 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;



MEANING OF PLACE OF SUPPLY:

Sec 2(85) of CGST Act 2017: **“Place of Business” includes —**

- a) a place from **where the business is ordinarily carried on, and includes** a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or
- b) a place **where a taxable person maintains his books of account;** or
- c) a place where a **taxable person is engaged in business through an agent,** by whatever name called;



MEANING OF RECIPIENT AND SUPPLIER:

Sec 2(93) of CGST Act 2017: “Recipient” of supply of goods or services or both, means —

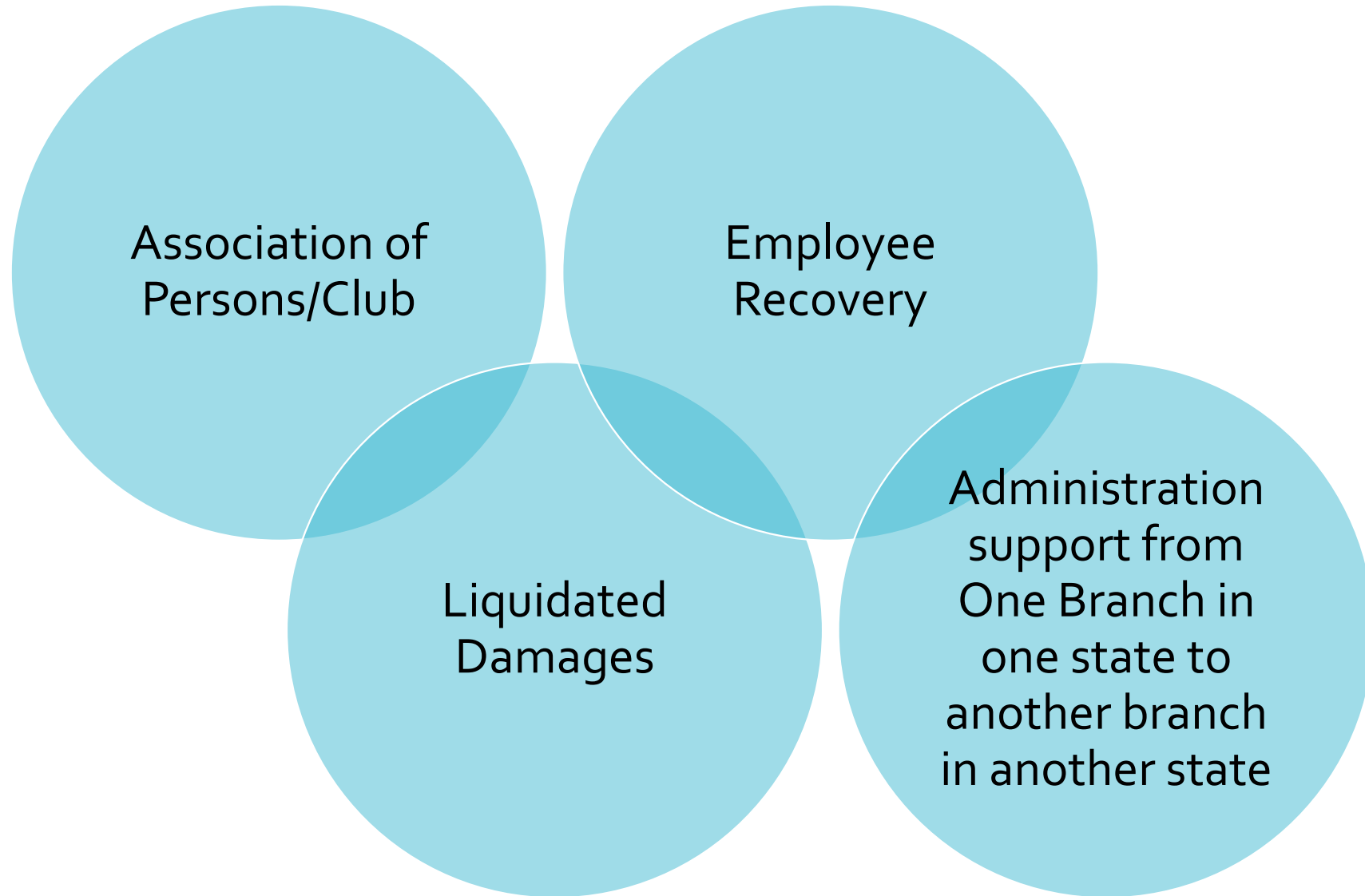
- a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;
- b) **where no consideration is payable for the supply of goods, the person to whom the goods are delivered** or made available, or to whom possession or use of the 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,**

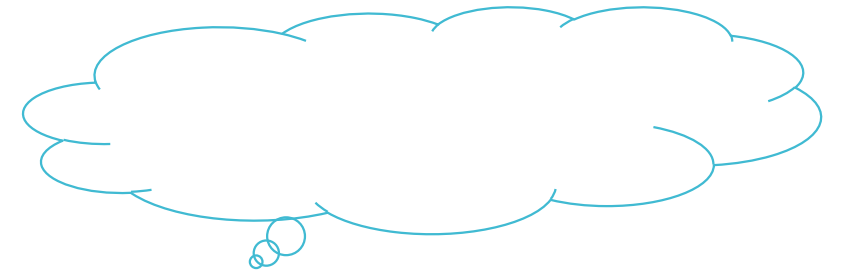
and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied;

Sec 2(105) of CGST Act 2017: “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

IMPORTANT ISSUES/DISPUTES IN SUPPLY:





CLARIFICATION...

GST APPLICABILITY ON PENAL RECEIPTS [Circular No 178/10/2022 GST]

- It is now clarified that below receipts/activity are **NOT TAXABLE**:
 - Payments such as **liquidated damages for breach of contract**,
 - **Forfeiture of salary** or recovery of bond amount in the event of the employee leaving the employment before the minimum agreed period,
 - **Fine / Penalty** that the supplier or a banker imposes, for **dishonor of a cheque**
 - **Damages resulting from** - damage to property, negligence, piracy, unauthorized use of trade name, copyright,
 - Penalty stipulated in a contract for delayed construction of houses
 - Forfeiture of earnest money by a seller in case of breach of an agreement to sell immovable property.
 - **Compensation given by government** on termination of any contract, details/clause for the same was not expressly covered in agreement.
 - **Penalty/Fine imposed for violation of laws such as** - traffic violations, or for violation of pollution norms or other laws, penalties imposed on discovering mining of excess mineral beyond the permissible



GST APPLICABILITY ON PENAL RECEIPTS [Circular No 178/10/2022 GST]

- It is clarified that below activity ARE TAXABLE: [As it constitute consideration for the supply of a facility]
- **Late Payment Fee/ Fine / Penalty:** Contract may provide that payment by the recipient of goods or services shall be made before a certain date and failure to make payment by the due date shall attract late fee or penalty
- **Ticket / Tour Booking:**
 - ✓ Contract for transport of passengers may stipulate that the ticket amount shall be partly or wholly forfeited if the passenger does not show up.
 - ✓ Contract for package tour may stipulate forfeiture of security deposit in the event of cancellation of tour by customer.
 - ✓ Amount forfeited in the case of non-refundable ticket for air travel or security deposit or earnest money forfeited in case of the customer failing to avail the travel, tour operator or hotel accommodation service or such other intended supplies, should be assessed at the same rate as applicable to the service contract,

GST APPLICABILITY ON PENAL RECEIPTS [Circular No 178/10/2022 GST]

- **It is clarified that below activity ARE TAXABLE:** [As it constitute consideration for the supply of a facility]
 - **Amount paid for pre closure of loan / termination of lease / Contract:**
 - ✓ Facilitation supply of allowing cancellation of an intended supply against cancellation fee / forfeiture of a part or whole of consideration or security deposit, in such cases should be assessed as the principal supply
 - ✓ Contract for lease of movable / immovable property may stipulate that the lessee shall not terminate the lease before a certain period and if he does so he will have to pay certain amount as early termination fee.
 - ✓ Some banks similarly charge pre- payment penalty if the borrower wishes to repay the loan before the maturity of the loan period
 - ✓ Amounts paid for - early termination of lease or for pre-payment of loan or the amounts forfeited on cancellation of service by the customer
 - **Valuation aspect in such case :** These supplies are ancillary to the principal supply for which the contract is signed, they shall be eligible to be assessed as the principal supply. Naturally, such payments will not be taxable if the principal supply is exempt]



GST APPLICABILITY ON - ELECTRICITY REIMBURSEMENT

[Circular No 206/18/2023 GST]

- **ISSUE:** Whether GST is applicable on reimbursement of electricity charges received by real estate companies, malls, airport operators etc. from their lessees/occupants.
- **CLARIFICATION ISSUED:**
 - ✓ It is clarified that whenever electricity is supplied bundled with renting of immovable property and/or maintenance of premises, it forms a part of composite supply & shall be taxed accordingly. The principal supply is renting of immovable property and/or maintenance of premise, as the case may be, and the supply of electricity is an ancillary supply. Even if electricity is billed separately, the supplies will constitute a composite supply and therefore, the rate of the principal supply i.e., GST rate on renting of immovable property and/or maintenance of premise, would be applicable.
 - ✓ However, where electricity is supplied by Real Estate Owners, Resident Welfare Associations, Real Estate Developers etc., as pure agent, it will not form part of value of their supply. Further, where they charge for electricity on actual basis that is, they charge the same amount for electricity from their lessees/occupants as charged by the Electricity Boards/DISCOMs from them, they will be deemed to be acting as pure agent for this supply.



GST APPLICABILITY ON – GUARANTEE [Circular No 204/16/2023 GST]

- **ISSUE:** Since inception of GST, there was ambiguity with respect to GST implication on Bank Guarantee by Directors / Holding company. To settled down said issue, government has made amendment to Rule 28(2) of CGST Rules 2017 to provide for valuation and also issued clarification vide Circular No 204/16/2023-GST dated 27.10.2023
- **CLARIFICATION ISSUED:**

| CASE/SITUATION | GST IMPLICATION |
|--|--|
| Personal guarantee by the Director of a company to the bank/ financial institutions for sanctioning of credit facilities to the said company without any consideration | <p>As per mandate provided by RBI in terms of Para 2.2.9 (C) of RBI's Circular No. RBI/2021-22/121 dated 9th November, 2021, no consideration by way of commission, brokerage fees or any other form, can be paid to the director by the company, directly or indirectly, in lieu of providing personal guarantee to the bank for borrowing credit limits.</p> <p>As such, when no consideration can be paid for the said transaction by the company to the director in any form, directly or indirectly, as per RBI mandate, there is no question of such supply/ transaction having any open market value.</p> <p>Accordingly, the open market value of the said transaction/ supply may be treated as zero and therefore, taxable value of such supply may be treated as zero. In such a scenario, no tax is payable on such supply of service by the director to the company.</p> |

GST APPLICABILITY ON – GUARANTEE [Circular No 204/16/2023 GST]

| CASE/SITUATION | GST IMPLICATION |
|---|--|
| Personal guarantee by the Director of a company to the bank/ financial institutions for sanctioning of credit facilities to the said company with consideration | <p>There may, however, be cases where the director, who had provided the guarantee, is no longer connected with the management but continuance of his guarantee is considered essential because the new management's guarantee is either not available or is found inadequate, or there may be other exceptional cases where the promoters, existing directors, other managerial personnel, and shareholders of borrowing concerns are paid remuneration/ consideration in any manner, directly or indirectly.</p> <p>In all these cases, the taxable value of such supply of service shall be the remuneration/ consideration provided to such a person/ guarantor by the company, directly or indirectly.</p> |
| Corporate guarantee by a person on behalf of another related person, or by the holding company for sanction of credit facilities to its subsidiary company, to the bank/ financial institutions (with or without consideration) | <p>In case of supply of services by a related person to another person or by a holding company to a subsidiary company, in the form of providing corporate guarantee on their behalf to a bank/ financial institution, the taxable value of such supply of services, will be determined as per the Rule 28(2) of CGST Rules 2017. Same is reproduced below:</p> <p><i>“The value of supply of services by a supplier to a recipient who is a related person, by way of providing corporate guarantee to any banking company or financial institution on behalf of the said recipient, shall be deemed to be 1% of the amount of such guarantee offered, or the actual consideration, whichever is higher”</i></p> |

GST APPLICABILITY ON – CROSS CHARGE [Circular No 199/11/2023 GST]

- **ISSUE:** Since inception of GST, matter of HO services to Branches was very much discussed and concern were raised on its taxability. This was widely applicable issue but there was no clear solution or litigation free GST opinion on it.
- **CLARIFICATION ISSUED:**
- ❖ **PROCUREMENT OF COMMON SERVICES BY HO, WHICH ARE USED BY HO AND BRANCH OFFICE (BO) OR BO'S ONLY** [It means, Common Services for whole company such as ERP Services / Internal Audit / Consultant for whole company etc] - In such case, HO has two options (as of now) for compliances of GST provisions.
- ✚ **OPTION I:** HO can either obtain ISD Registration and distribute common ITC as per ISD provisions given in GST Law. OR,
- ✚ **OPTION II:** In such case, HO can issue Tax Invoice to BO in respect of common input services procured from a third party by HO but attributable to the said Bos. Here, the Bos can then avail ITC on the same subject to the provisions of section 16 and 17 of CGST Act.



GST APPLICABILITY ON – CROSS CHARGE [Circular No 199/11/2023 GST]

❖ **INTERNALLY GENERATED SERVICES BY HO TO BO'S [SUCH AS ADMINISTRATION / HR / ACCOUNTING ETC SUPPORT BY HO TO BO]** - For said activity, two scenario is provided in circular.

✚ **SENARIO I: WHERE FULL ITC IS AVAILABLE TO THE CONCERNED BO's –**

- **If Tax Invoice is issued by HO to Bo for said purpose:** In such case, the value declared on the invoice by HO to the said BO in respect of a supply of services shall be deemed to be the open market value of such services as per Second proviso to Rule 28 of CGST Rules 2017.
 - ✓ This is irrespective of the fact whether cost of any particular component of such services, like employee cost etc., has been included or not in the value of the services in the invoice.
 - ✓ It means, whatever invoice value is mentioned for internal services of HO to BO's (where BO is eligible for Full ITC), same will be accepted and it will be deemed to be market value.
- **If Tax Invoice is NOT issued by HO to Bo for said purpose:** It means, HO has not made cross charge to BO for its services. In such case, the value of such services may be deemed to be declared as Nil by HO to BO as per second proviso to Rule 28 of CGST Rules 2017.

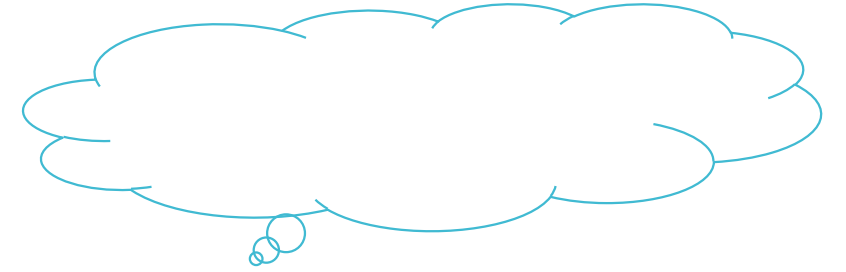


GST APPLICABILITY ON – CROSS CHARGE [Circular No 199/11/2023 GST]

❖ **INTERNALLY GENERATED SERVICES BY HO TO BO'S [SUCH AS ADMINISTRATION / HR / ACCOUNTING ETC SUPPORT BY HO TO BO]** - For said activity, two scenario is provided in circular.

✚ **SENARIO II: WHERE FULL ITC IS 'NOT' AVAILABLE TO THE CONCERNED BO'S –**

- In respect of internally generated services provided by the HO to BOs, the cost of salary of employees of the HO, involved in providing the said services to the BOs, is not mandatorily required to be included while computing the taxable value of the supply of such services, even in cases where full input tax credit is not available to the concerned BO.
- It means, HO is not required to raise invoice to BO for said internal service and not required to pay GST.



LEVY PROVISIONS UNDER GST...

LEVY UNDER GST – CHARGING PROVISION

Sec 9 of CGST Act 2017: Levy and Collection

- 1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both,
 - **Except** on the supply of alcoholic liquor for human consumption,
 - **On the value** determined under section 15 and
 - **At such rates**, not exceeding **twenty per cent.**, as may be notified by on the recommendations of the Council and
 - **collected** in such manner as may be prescribed and **shall** be paid by the taxable person.

- 2) The central **tax on the supply of petroleum** crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied **with effect from such date as may be notified by the Government on the recommendations of the Council.**



LEVY UNDER GST – CHARGING PROVISION

Sec 9 of CGST Act 2017: Levy and Collection

- 3) The Government may, on the recommendations of the Council, by notification, **specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis** by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

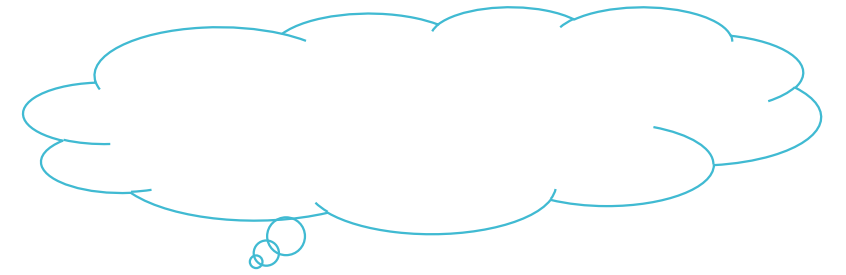
- 4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received **from an unregistered supplier, pay the tax on reverse charge basis** as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both

LEVY UNDER GST – CHARGING PROVISION

Sec 5 of IGST Act 2017: Levy and Collection

- 1) Subject to the provisions of sub-section (2), there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both,
 - **Except** on the supply of alcoholic liquor for human consumption,
 - **on the value determined** under section 15 of the Central Goods and Services Tax Act and at such rates,
 - **Not exceeding forty per cent.**, as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person:
- 2) Provided that the **integrated tax on goods imported** into India, shall be -
 - **levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975**
 - **on the value as determined under the said Act** at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962





TYPES OF SUPPLY UNDER GST...

MEANING OF EXEMPT SUPPLY AND TAXABLE SUPPLY :

Sec 2(47) of CGST Act 2017: “Exempt Supply” means — Supply of any goods or services or both which attracts

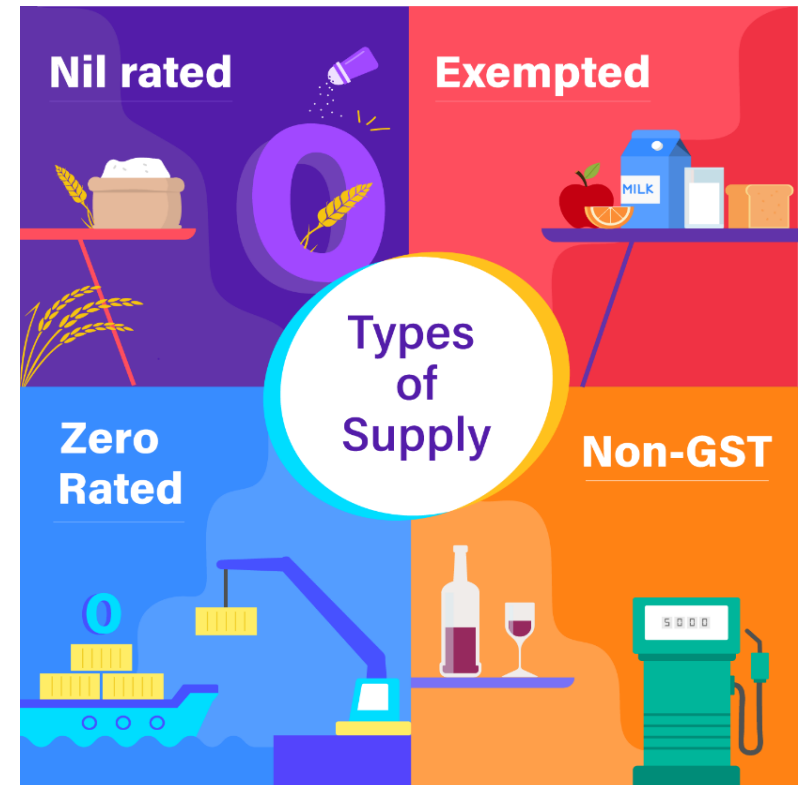
- Nil rate of tax or
- Which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and
- Includes non-taxable supply;;

Sec 2(108) of CGST Act 2017: “Taxable Supply ” means —

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

Sec 2(78) of CGST Act 2017: “Non - Taxable Supply ” means —

- a supply of goods or services or both
- **which is not leviable to tax** under this Act or under the Integrated Goods and Services Tax Act;



MEANING OF MIXED SUPPLY:

Sec 2(74) of CGST Act 2017: “**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
- **Illustration:** A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately

MEANING OF COMPOSITE SUPPLY:

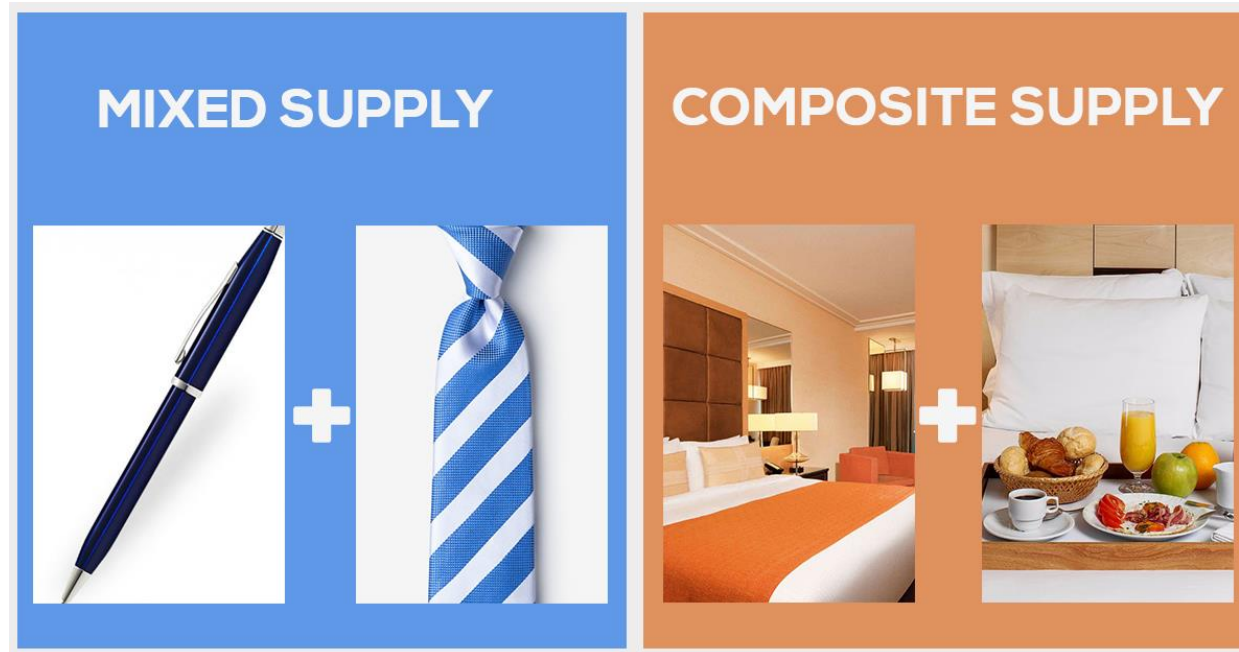
Sec 2(30) of CGST Act 2017: “**Composite Supply**” means —

- 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**;
- **illustration:** Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply

MEANING OF PRINCIPAL SUPPLY:

Sec 2(90) of CGST Act 2017: “**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**;



TAXABILITY OF MIXED AND COMPOSITE SUPPLY

Sec 8 of CGST Act 2017: 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 two or more supplies shall be treated as a supply of that **particular supply which attracts the highest rate of tax**.

In short, in case of Composite Supply, taxability is determined from principal supply, where as, in case of mixed, it is determined from higher taxed activity.

EXAMPLE OF MIXED AND COMPOSITE SUPPLY



PRICE: RS 1499/-

EXAMPLE OF MIXED AND COMPOSITE SUPPLY



Amenities

- 140 Sq. ft.
- Queen Bed
- LED Television
- DVD (On Request)
- Standard Bath Amenities
- Direct Dial Telephone
- In Room Dining
- Air Condition
- Hot Water Timing - 7am to 11am

Rs 2000/- per day stay charges

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OFFER PRICE: RS 200/-

ISSUES INVOLVED IN MIXED AND COMPOSITE SUPPLY

1. Classification of Supply as 'Composite Supply' or 'Mixed Supply'

2. Determination of Principal Supply in case of Composite Supply

3. Whether exempted supply and taxable supply, constitute composite supply ?

4. Whether Artificial vivisection of contract is possible ?

5. In case of mixed supply, If prices are charged separately, can it be regarded as Mixed Supply ?

6. In case of composite supply, If prices are charged separately, can it be regarded as Composite Supply ?

ZERO RATED SUPPLY:

- **Sec 16(1) of IGST Act 2017:** “**Zero Rated Supply**” means any of the following supplies of goods or services or both, namely
 - (a) Export of goods or services or both; or
 - (b) Supply of goods or services or both **for authorised operations** to a SEZ developer or a SEZ unit.

Sec 2(5) “Export of goods” means taking goods out of India to a place outside India;

Sec 2(6) “Export of services” means the supply of any service when,—

- (i) the supplier of service is located in India;
- (ii) the recipient of service is located outside India;
- (iii) the place of supply of service is outside India;
- (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India; and
- (v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;

- **Sec 16(2) of IGST Act 2017:** Subject to the provisions of Section 17(5) of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.

ZERO RATED SUPPLY:

- **Sec 16(3) of IGST Act 2017:** A registered person making zero rated supply shall be eligible to claim refund of unutilised input tax credit on supply of goods or services or both, without payment of integrated tax, under bond or Letter of Undertaking, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder, subject to such conditions, safeguards and procedure as may be prescribed:

Provided that the registered person making zero rated supply of goods shall, in case of non-realisation of sale proceeds, be liable to deposit the refund so received along with the applicable interest within 30 days after the expiry of the time limit prescribed under the FEMA Act, 1999 for receipt of foreign exchange remittances,

- **Sec 16(4) of IGST Act 2017:** The Government may, by notification, specify—
 - (i) a class of persons who may make zero rated supply on payment of integrated tax and claim refund of the tax so paid;
 - (ii) a class of goods or services which may be exported on payment of integrated tax and the supplier of such goods or services may claim the refund of tax so paid.

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यँ ही नहीं मिलती राही को मंजिल,
एक जुनून सा दिल में जगाना होता है.
पूँछा चिड़िया से कैसे बना आशियाना
बोली-
भरनी पड़ती है उड़ान बार-बार
तिनका तिनका उठाना होता है.

PRESENTED BY

CA SWAPNIL MUNOT

 +91 90212 65137

munotswapnil@gmail.com

