

Case-study based review on levy including Supply, Composite and Mixed supply

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Disclaimer

- Views expressed in the presentation are personal and expressed based on my current understanding of the Goods and Services Tax Act, 2017
- Names used in the case studies are fictional and has no relation with any alive, dead or any other legal entity. Any resemblance is just co-incidental.
- Read GST Law carefully again before giving any professional advise



Index :

- **Provisions and Definitions**
- **Case Studies**

nature



What is
Supply?



Provisions : Section 7 (Relevant Extracts)

The expression "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;

(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.

(b) import 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;

and

*(1A) the activities to be treated as supply of goods or supply of services as referred to in **Schedule II**.*



Levy



Provisions : Section 9 (Relevant Extracts)

- (1) 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, and un-denatured extra neutral alcohol or rectified spirit used for manufacture 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 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) 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.*

Provisions : Section 9 (Relevant Extracts) Contd.

(3) 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) 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.

(5) specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services

A person in a dark suit is shown from the chest up, looking down at a smartphone held in their hands. The background is dark with several out-of-focus circular light sources, creating a bokeh effect. The overall mood is professional and focused.

What is Goods
or Services?

Provisions : Section 2

(52) “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;

(102) “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;



Type of Supplies

Provisions : Section 2 (Relevant Extracts)

(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;

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;.

(90) “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;

Provisions : Section 2 (Relevant Extracts)

(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.

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;

(47) “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 nontaxable supply;

(78) “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;



Sec 8-Tax liability on composite and mixed supplies

(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.



Case study

Mr. Daruwala has a business of sale of ethanol of Rs 9 crores and sale of whiskey of Rs 10 crores. He has recently started another business of EV charging and done a business of 5 lacs.

Discuss GST applicability on ethanol and the registration limits.





Things to Ponder :

- Goods
- Exempted Goods
- Non-taxable Goods
- Aggregate Turnover of Supplies

Relevant Provisions

2 (52) “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;

9(1) 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, and un-denatured extra neutral alcohol or rectified spirit used for manufacture 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 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.

Relevant Provisions

(47) “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 nontaxable supply;

(78) “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;

(6) “aggregate turnover” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess;



Case study

Ameer Society consists of 100 members from Koregaon Park. The society building is now 30 years old and due for renovation. The members have decided to do self redevelopment wherein each member contributes 1.50 crores as its contribution for constructing unit of same size as earlier.





Thinking on

1. Is it a supply?

2. Whether society is in course of business to provide such services to levy tax on the same?

Relevant Provisions

The expression "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;

(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.

(b) import 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;

and

*(1A) the activities to be treated as supply of goods or supply of services as referred to in **Schedule II**.*



Case study

CA Sharmaji is representing M/s Varmaji & Co. before Commissioner appeals regarding GST refund of the firm. He is also a partner in M/s Varmaji & Co.

CA Sharmaji is also registered in its individual capacity for purpose of renting commercial property.

Discuss GST exposure if any



Relevant Provisions

Schedule I : Activities to be treated as Supply even if made without consideration

Clause (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:

Section 15 : Explanation for related persons (ii) such persons are legally recognised partners in business

Sec 116(2) For the purposes of this Act, the expression “authorised representative” shall mean a person authorised by the person referred to in sub-section (1) to appear on his behalf, being-

(a) his relative or regular employee; or

(b) an advocate who is entitled to practice in any court in India, and who has not been debarred from practicing before any court in India; or

(c) any chartered accountant, a cost accountant or a company secretary, who holds a certificate of practice and who has not been debarred from practice; or

....



Case study

Mrs. Chudiwala has recently visited TBV Stores to buy jewelry for her anniversary. The jeweler has given the following charges in the bill :

Gold : Rs 85000/-

Making Charges : Rs 5000/-

Discuss the GST applicable on the above?



Relevant Provisions

(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;

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;.

(90) “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;





Case study

Mr. Bhangarwala having a turnover of Rs 100 crores buys scrap from its unregistered vendor who has charged the following in its invoice :

Metal and Plastic Scrap : Rs 100/-

Metal GST 18% (e.g.)

Plastic GST 28% (e.g)

Discuss RCM liability?





Relevant Provisions

(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.

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;



Case Study

Ms. Partywala has invited all her friends for celebrating passing CA final examinations. Her friend ordered a cake from Zomato (now Eternal Ltd) and the bill had following charges :

- *Cake Value* : Rs 460
- *Discount* : Rs 40
- *Packing Charges* : Rs Nil
- *Platform Fees* : Rs 10
- *Delivery Charges* : Rs 12
- *Donation* : Rs 3

Her friend asked Ms. Partywala to calculate GST payable on the bill.



Relevant Provisions

Section 9(5) specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services

(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;

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;

(90) “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;





Case study

Mr. Dukandar is constructing a commercial office for its own use. He has asked Mr. Contractorwala to construct who will be using cement, steel, metal, tiles, pipes and windows to construct the office.

Mr. Contractorwala has approached you to find whether the contract is composite supply or mixed and if yes, which is the principal supply/highest with HSN/SAC code if any?



Relevant Provisions :

As per clause (119) of sec 2 "works contract" means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract;

Relevant Provisions :

Schedule II Para 5- Supply of services

The following composite supplies shall be treated as a supply of services, namely:-

(a) works contract as defined in clause (119) of Section 2;





Case study

Mr. Keshav has booked a room in Mathura Dharmshala having room rent of 999/- per night with free breakfast.

Discuss GST liability on the room & breakfast

Relevant Provisions

(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;

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;.

(90) “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;

Case study

Mr. Bose has booked a room in JW Marriott having room rent of 12000/- per night. He ordered 2 bananas in his room for breakfast from the hotel kitchen. The banana was charged at Rs 330/- as fruit platter in his bill.

Discuss GST liability on the bananas ordered



Relevant Provisions :


Schedule II Para 5- Supply of services

The following composite supplies shall be treated as a supply of services, namely:-

(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.

A collage of many hands giving thumbs up against a blue background. The hands are of various skin tones and are positioned at different heights, creating a sense of a large group of people. The background is a solid, muted blue color.

Indicators of a Composite Supply (Naturally Bundled)



CBEC Education Guide on Services on Bundled Services

No straight jacket formula can be laid down to determine whether supplies are naturally bundled in the ordinary course of business.

Possible Indicators

- a) *The perception of the consumer or the recipient. If large number of suppliers of such bundle of supplies reasonably expect such supplies to be provided as a package then such a package could be treated as naturally bundled in the ordinary course of business*
- b) *Majority of suppliers in a particular area of business provide similar bundle of supplies*
- c) *If the nature of supplies is such that one of the supplies is the main supply and the other supplies combined with such supply are in the nature of incidental or ancillary supply which help in better enjoyment of a main supply*

Possible Indicators Contd.

- a) There is a single price, or the customer pays the same amount, no matter how much of the package they actually receive or use.*
- b) The elements are normally advertised as a package.*
- c) The different elements are not available separately.*
- d) The different elements are integral to one overall supply – if one or more is removed, the nature of the supply would be affected.*

Card Protection Plan Judgment

In all cases of supply of a service, the supply should be considered as “distinct and independent supply”.

A supply which constitutes a “single economic service” from an “economic point of view” must never be split artificially.

An examination of the essential character of the transaction is necessary to decide whether a supply constitutes multiple distinct “principal services” or a “single service”.

When one component of a supply constitutes a principal service and the other component(s) are merely ancillary services.

An ancillary service is not an end in itself. It is merely a means to an end for better enjoyment of the principal service



Case study

Developer charges the following amounts to customers for flats to be sold in his project

- a. Flat Price
- b. Parking Charges
- c. Electric Meter Installation
- d. Development Charges
- e. Club House Maintenance
- f. Society Formation Charges

As per the Scheme, first 50 customers shall be entitled for a fully furnished unit (AC, Fridge, Furniture).

Developer says that he is also selling under construction bungalows at an all-inclusive price of 35 cr with an Audi Car included in it per bungalow.

Identify what will be under Composite and/or Mixed Supply





Case study

Mr. Daruwala went in a hotel and ordered a cocktail (consisting of liquor and soft beverages etc). The hotelier has approached you to discuss what should he levy on such cocktail. VAT or GST?





Case Study

M/s Print Works India, a leading printing industry in India, is facing a dilemma regarding the nature of supply it provides. The company offers both goods (printed materials) and services (designing, printing, and packaging). The company is unsure whether the nature of their supply is that of goods, services, or if it constitutes a composite supply. If yes, what would constitute the principal supply?

Circular 11/11/2017

- *In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would **constitute supply of service**.*
- *In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wallpaper etc. printed with design, logo etc. supplied by the recipient of goods but made using physical inputs including paper belonging to the printer, predominant supply is that of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the **principal supply of goods**.*



Case study

M/s Sunshine Global Hospitals, provides a package healthcare for medical services, medicine, along with room rent and food for in-house patients. They show the itemized bills in their invoice.

Examine GST exposure in such case

Would your answer be different in case the room rent is exceeding Rs 5000/-?

Circular 32/6/2018

- *In Advance Ruling No. GUJ/GAAR/R/106 of 2020, the AAR Gujarat held that the supply of health services, including medicines, implants, and consumables used in patient treatment, constitutes a composite supply of healthcare services under SAC 999311. However, supply of these items, along with room rent and food for in-patients, is exempt from GST as part of inpatient healthcare services.*

- *Food supplied to the patients-*

Foods supplied to the in-patients as advised by the doctor or /nutritionists is a part of composite supply. Other supplies of food by a hospital to patients (Not admitted) or visitors are taxable separately.





Case study

M/s Auto Build Pvt. Ltd. specializes in bus body building, where it assembles and customizes bus bodies on chassis provided by customers. The company is unsure whether this activity should be classified as a supply of goods or services under GST?

Is the activity of bus body building by M/s Auto Build Pvt. Ltd. considered a supply of goods or services under GST?

Circular 34/8/2018

- *In the case of bus body building there is supply of goods and services.*
- *Thus, classification of this composite supply, as goods or service would depend on which supply is the principal supply which may be determined on the basis of facts and circumstances of each case.*

Case study

M/s TyreTech Pvt. Ltd. is a company engaged in the retreading of tyres. The company refurbishes old tyres to make them suitable for reuse by replacing worn-out treads with new ones. The company is uncertain about whether the activity of retreading tyres should be classified as a supply of goods or services under GST?

Whether the activity of retreading tyres by M/s TyreTech Pvt. Ltd. is a supply of goods or services under GST?



Circular 34/8/2018

In retreading of tyres, which is a composite supply, the pre-dominant element is the process of retreading which is a supply of service. Rubber used for retreading is an ancillary supply. Which part of a composite supply is the principal supply, must be determined keeping in view the nature of the supply involved. Value may be one of the guiding factors in this determination, but not the sole factor. The primary question that should be asked is what is the essential nature of the composite supply and which element of the supply imparts that essential nature to the composite supply.


Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods (retreaded tyres under heading 4012 of the Customs Tariff attracting GST @ 28%)

A mechanic in a dark shirt and blue pants is working on the front of a silver car in a garage. The car's hood is open, and the mechanic is using a tool. The background shows a corrugated metal wall and some equipment. An orange horizontal bar is in the top left corner.

Case Study

M/s AutoCare Pvt. Ltd. provides car servicing, involving both spare parts (goods) and labour (services), with the value of goods and services shown separately.

How should the car servicing by M/s AutoCare Pvt. Ltd., involving both goods and services, be treated under GST?



Circular 47/21/2018

The taxability of supply would have to be determined on a case-to-case basis looking at the facts and circumstances of each case.

Where a supply involves supply of both goods and services and the value of such goods and services supplied are shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately.



Case study

Renewable Energy Ltd is selling a Solar Power Generating System (SPGS) at package price wherein the solar energy devices (5%) are sold along with erection, commissioning and installation services (18%)

Examine such package sale would be composite or mixed supply?

Rate Notification of Goods and Services

Amendment made in the rate notification :

In Goods Rate Notification (5%) Chapter 84, 85 or 94

*If the goods specified in this entry are supplied, by a supplier, along with supplies of other goods and services, one of which being a taxable service specified in the entry at S. No. 38 of the Table mentioned in the notification No. 11/2017-Central Tax (Rate), dated 28th June, 2017 [G.S.R. 690(E)], the value of supply of goods for the purposes of this entry shall be deemed as **seventy per cent** of the gross consideration charged for all such supplies, and the remaining thirty per cent of the gross consideration charged shall be deemed as value of the said taxable service*

Balance 30% shall be deemed to be treated as services

A background image of a warehouse with tall metal shelving units filled with cardboard boxes. The scene is dimly lit, with a focus on the central aisle. A small orange rectangular graphic is located in the top left corner.

Checklist for Composite vs Mixed

- Are they supplied together
- Are they naturally bundled
- Are they available for Individual Supply
- Is there an existence of One Predominant Supply
- Are all other supplies Ancillary
- Is each supply priced separately



A group of people are clapping their hands in a circle, creating a sense of unity and celebration. The background is slightly blurred, focusing attention on the hands and the text. A man in the foreground is wearing a black watch on his left wrist.

Thank you everyone for everything!
God is Great!
CA Nishant Mundada