Goods and Service Tax

Unit 2

Supply: Taxable Event Under Gst

Taxable event is very important matter in every tax law. Its determination is most crucial for the proper implementation of any tax law. Taxable event is that on the happening of which the charge is fixed. It is that event which on its occurrence creates or attracts the liability to tax.

The taxable event under GST shall be the **supply** of goods or services or both made for consideration in the course or furtherance of business. The taxable events under the existing indirect tax laws such as manufacture, sale, or provision of services shall stand subsumed in the taxable event known as 'supply.'

Relevant Definition

Meaning of goods [Sec. 2(52)]

As per section 2(52) "goods" means

- every kind of **movable property**
- other than **money and security**
- but **includes**
  - actionable claims,
  - 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.

Meaning of services [Sec. 2(102)]

As per section 2(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;

Example: A foreign exchange dealer while exchanging one currency for another also charges a commission(often inbuilt in the difference between the purchase price and selling price currency). The related activityof providing the services for which a commission is charged separately would be very much a 'supply'.

Consideration [Sec. 2(31)]

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;

Place of Supply

GST is a destination based tax wherein the tax is payable in the state where goods and services are finally consumed. The taxes under GST may be CGST, SGST, UTGST and IGST. In order to determine the type of GST, the nature of supply is to be ascertained. This nature may be either Inter-state or Intra-state. The supply of goods imported into, or exported from India is treated as Inter-state supply.

Place of supply and location of supplier are the two major determinants, while deciding the nature of supply. The supply may be domestic or cross-border. The Domestic supply may further be within or outside the state. This bifurcation is applicable not only for goods but also for services.

Legal Framework

The provisions regarding place of supply of goods or services are provided in **Chapter V** of **IGST Act**, vide sections 10-14.

Section 10: Place of supply of **goods** other than supply of goods imported into, or exported from India

Section 11: Place of supply of **goods** imported into, or exported from India

Section 12: Place of supply of **services** where location of supplier and recipient is **in India**

Section 13: Place of supply of **services** where location of supplier or location of recipient is **outside India**

Section 14: Special provision for payment of tax by a supplier of online information and database access or retrieval services

Importance of place of supply

Place of supply is important to determine the kind of tax that is to be levied. The IGST is levied in case of inter-state supply whereas CGST and SGST become applicable in case of intra state supply. Whether a supply is inter-state or intra state, it depends upon the location of supplier and the place of Supply.

When the location of supplier and the place of supply are in two different States, it will be an Inter-State supply and IGST will be applicable but when the two are in the same State, then it will be an Intra-State supply and CGST & SGST/UTGST is applicable.

Case	Location of Supplier	Place of Supply	Whether location of supplier and the place of supply are in the same State	Whether inter-State/ intra-State
1.	Uttar Pradesh	Bihar	No	Inter-State (IGST)
2.	Uttar Pradesh	Uttar Pradesh	Yes	Intra-State (CGST& Pondicherry GST)
3.	Chandigarh	Chandigarh	Yes	Intra-State (CGST + UTGST)
4.	Chandigarh	Punjab	No	Inter-State (IGST)
5.	Chandigarh	Daman & Diu	No	Inter-State (IGST)
6.	Goa	Goa	Yes	Intra-State (CGST + Goa GST)
7.	Uttar Pradesh (SEZ)	Uttar Pradesh (Non-SEZ)	Special Case	Inter-State

<u>Location of supplier of Goods</u>

The word 'location' refers to the site or premises i.e. the geographical point. Location of supplier of goods is the site/premises of supplier where the supplier is situated together with the goods under his control, ready to be supplied. Thus, it is usually the place from where a supply is made. In GST registration certificate, a place is mentioned as a principal place of business and it may be taken as location of supplier.

<u>Location of supplier of Services</u>

The section 2(15) of the IGST Act, 2017 gives the meaning of "Location of Supplier of Services". The definition may be summarized in the table given below:

	Situation	Location of Supplier of Services
(a)	Where a supply is made from a place of business for which registration has been obtained	The location of such place of business;
(b)	Where a supply is made from a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere	The location of such fixed establishment;
(c)	Where a supply is made from more than one establishment, whether the place of business or fixed establishment	The location of the establishment most directly concerned with the provision of the supply
(d)	In absence of such places	The location of the usual place of residence of the supplier.

Location of Recipient of Services

The Location of Recipient of Services is defined by Section 2(14) of the IGST Act. It may be summarized in the table given below:

	Situation	Location of Supplier of Services
(a)	where a supply is received at a place of business for which registration has been obtained	the location of such place of business;
(b)	where a supply is received at a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere	the location of such fixed establishment
(c)	where a supply is received at more than one establishment, whether the place of business or fixed establishment	the location of the establishment most directly concerned with the receipt of the supply
(d)	in absence of such places	the location of the usual place of residence of the recipient

The term "place of supply" is a legal term and its meaning should be understood with the legal intent and not in common parlance.

GST is a destination based consumption tax but no provision of law clarifies this concept. The provisions of 'place of supply' fully bridge this missing link. In each case of supply, the law makers have declared the place of supply. It is the place of supply that will have right of accrual of revenue.

Composite and Mixed Supply

The taxable event under GST is supply of goods or services or both. GST will be payable on every supply of goods or services or both unless otherwise exempted.

Normally, goods or services are supplied separately and these are taxed at the rate specified for each such identifiable goods or services. However, when two or more goods are sold in combination it becomes difficult to identify the rate of tax to be levied in such cases. It is for this reason, that the GST Act identifies composite supplies and mixed supplies and provides certainty in respect of tax treatment under GST for such supplies.

Composite Supply under GST

Composite supply means a supply made by a taxable person to a recipient comprising of two or more goods/services or both, or any combination thereof, which are naturally bundled and supplied in with each other in the ordinary course of business, one of which is a principal or main supply.

Thus, provisions of composite supply can be summarised as under:

Composite Supply	
Essential Elements of a Composite Supply	i. Supply is made by a Taxable Person ii. It is made to a recipient iii. It consists of two or more taxable supplies of goods or services or both or any combination thereof which are naturally bundled and supplied in the ordinary course of business. They cannot be separated iv. One of the components of the supplies is a principal or main supply.
Tax Treatment of composite supply	It shall be treated as supply of the principal supply

Examples:

1. Supply is made for goods which are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is the principal supply.
2. A gift-wrapped box of chocolates. Here, the chocolates are the principal supply, while the box, gift wrapper, message card and gift wrapping service offered are supporting elements.
3. When a dealer sells a brand-new vehicle along with registration, insurance, a tool kit and first aid kit, and 4 free maintenance services. The supply of vehicle is the principal supply and all other services are ancillary.
4. A hotel provides a 4-D/3-N package with the facility of breakfast. This is a natural bundling of services in the ordinary course of business. The service of hotel accommodation gives the bundle the essential character and would, therefore, be treated as service of providing hotel accommodation.

Mixed Supply under GST

A mixed supply is supply of two or more individual goods or services, or 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.

Thus, provisions of mixed supply may be summarised as under:

Mixed Supply	
Essential elements of a mixed supply	i. It is made by a taxable person ii. It is made to a recipient iii. It consists of two or more individual supplies of goods or services or both or any combination thereof iv. The supply is made for a single price

	v. Supply is not naturally bundled and not supplied in conjunction with each other in the ordinary course of business
Tax Treatment of Mixed Supply	It shall be treated as a supply which attracts the higher rate of tax.

Examples:

1. A Diwali gift box consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juices supplied for a single price is a mixed supply. All are also sold separately. Since aerated drinks have the highest GST rate of 28%, aerated drinks will be treated as principal supply and 28% will apply on the entire gift box.
2. A shopkeeper sells storage water bottles along with the refrigerator. In this case, bottles and the refrigerator can be easily priced and sold separately. Hence, it is a mixed supply.

Differences between Composite Supply and Mixed Supply

Particulars	**Composite Supply**	**Mixed Supply**
Definition	Composite supply means a supply made by a taxable person to a recipient comprising of two or more goods/services or both, or any combination thereof, which are naturally bundled and supplied in with each other in the ordinary course of business, one of which is a principal or main supply.	A mixed supply is supply of two or more individual goods or services, or 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.
Naturally Bundled	Supplies are naturally bundled	Supplies are not naturally bundled
Principal Supply	One of the supplies involved is Principal Supply	None of the supplies involved is principal supply
Single Price	Single Price is not the significant factor in a composite supply	Single Price is the significant factor in a mixed supply
Availability of Individual Supplies	Supplies involved are not available individually	Supplies involved are available individually
Tax Treatment	A Composite Supply shall be treated as a principal supply	A Mixed Supply shall be treated as a particular supply which attracts the higher rate of tax

Current Taxation System on Imports- Exports

As per the current system, an individual/ business owner who imports goods has to pay a countervailing duty (CVD), customs duty, and special additional duty (SAD).

The countervailing duty rate is equivalent to the speed of excise in the country as if the goods had been manufactured domestically. If the individual uses the imported goods as raw products to manufacture goods domestically, he is provided with tax credits on the CVD paid. The additional duty is equivalent to the value-added tax on the sale of goods domestically. The customs duty paid on goods is not subject to refunds/ credits and is considered a high cost for the importer. The Ministry imposes these duties during imports to determine the market price of imported goods. Importing services would entail payment of service tax by the individual or business that avails the service. Hence, the importer can claim the tax credit, who imports these services.

However, unlike imports, exports of goods and services are not subject to taxation, i.e., the export tax rate is 0%. Also, the exporter can claim a refund on the tax paid on imported goods used to manufacture the goods that were eventually exported.

Imports under GST

The introduction of GST ushers in a new tax regime wherein the loss of tax credit can be prevented, and compliance can be maintained at various levels. The following details the salient features of the Model GST Law:

- An individual who imports goods/ services must pay Basic Customs Duty (BCD) and Integrated Goods and Services Tax (IGST) as imports to the country will be considered Inter-State supply per the Model Law. IGST, in this case, would subsume both countervailing duty (CVD) and special additional duty (SAD).
- No changes in the current rates charged for Basic Customs Duty (BCD) on imported goods.
- In the case of services, if the service provider is a permanent resident of a foreign country, the liability to pay the tax rests on the receiver of the service. It adopts the concept of reverse charge, where the receiver of the goods shall collect the tax from the provider and remit it to the government.
- For imports, the Maximum Retail Price (MRP) of the goods decides the charges for CVD. However, under the new model law, IGST will apply to the transaction value, not the MRP. In previous cases, this would reveal the margin of the service provider. Hence, to mitigate the effects, the importer may restructure the capital.
- Introduction of the 'Import and Sale' model- Credit will be provided equivalent to the tax paid while importing the goods under this model.

Exports under GST

- The GST will result in the eventual elimination of barriers between the various states and hence make exports more competitive in the market due to the integration of value chains.
- As per section 38 of the Central GST Act 2016, an exporter shall export the goods or services without charging any tax, as GST rates are zero under the current system. In addition, the exporter can also benefit from IGST credits paid on imported goods and services.
- The exporter can also claim a refund of the tax on inputs used to purchase/ manufacture goods from the exported commodities.

As GST includes significant central and state taxes, production will result in higher quality. This would increase the competitiveness of Indian goods and services in the international market and boost exports from India. Overall, the ensuing uniformity in taxation across the country may reduce the costs of imports and exports and result in easier compliance.

Reverse Charge under Section 9(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.

Reverse Charge in Case of Supply of Goods

S. No.	Description of supply of Goods	Supplier of goods	Recipient of supply
1.	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2.	Bidi wrapper leaves (tendu)	Agriculturist	Any registered person
3.	Tobacco leaves	Agriculturist	Any registered person
3A.	Any unregistered person who: Following essential oils other than those of citrus fruit namely: – a) Of peppermint (Mentha piperita); b) Of other mints: Spearmint oil (ex-Mentha spicata), Water mint-oil (ex-Mentha aquatic), Horsemint oil (ex-Mentha sylvestris), Bergament oil (ex-Mentha citrate).	Any registered person	
4.	Silk yarn	Any person who manufactures silk yarn from raw silk or silkworm cocoons for supply of silk yarn	Any registered person
4A.	Raw cotton	Agriculturist	Any registered person
5.	Supply of lottery	State Government, Union Territory, or any local authority	Lottery distributor or selling agent. Explanation. —For the purposes of this entry, lottery distributor or selling agent has the same meaning as assigned to it in clause (c) of Rule 2 of the Lotteries

			(Regulation) Rules, 2010, made under the provisions of sub-section (1) of section 11 of the Lotteries (Regulation) Act, 1998 (17 of 1998).
6.	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	Central Government, State Government, Union territory or a local authority	Any registered person
7.	Priority Sector Lending Certificate	Any registered person	Any registered person

Time of Supply

Time of Supply in GST is the time when a business owes GST on a sale.

Time of supply is an important factor in GST because it assures that businesses will pay accurate GST within the mentioned time limit. The most important aspect of this is to ensure that there is no missed payment of taxes. It helps the government to receive the GST revenue and its due correctly.

Example: A business sells a product to a customer on August 1st. The customer paid for the product on August 10th. The TOS for this transaction is August 1st because the sale was completed on that day. The business owes GST on the sale on August 1st, even though the customer did not pay for the product until August 10th.

Importance of Time of Supply

- To determine when to pay GST: The ToS system is built with the concept that it determines when businesses have to pay GST on a particular transaction. It ensures that you are following GST laws and can avoid penalties.
- To Claim Input Tax Credit (ITC): ITC is defined as a tax credit that businesses can claim on the GST they have paid on their inputs. To get ITC for your businesses, make sure that your suppliers have paid the GST on the outputs they have received.
- To file GST returns accurately: Businesses have to ensure that their GST returns are filed regularly and report tax liability for the previous period. ToS helps businesses check the correct tax liability to report on each return.
- To manage cash flow effectively: By knowing when they owe GST, businesses can plan their cash flow accordingly and avoid unexpected tax payments.

Time of Supply Under Different Scenarios

The Time of Supply in GST for a transaction can vary depending on the type of transaction and the nature of the goods or services being supplied. Here are some common scenarios and how ToS are determined in each case:

- **Sale of goods**: The time of supply for a sale of goods is the date on which the goods are delivered to the buyer. In other words, it is the date on which the buyer makes the goods available to the seller.
- **Provision of services**: The time of supply for a provision of services is the date on which the services are completed. We can also say it is the date on which the recipient makes the payment to the supplier.
- **Supply of goods on consignment**: The ToS for a supply of goods on consignment is the date on which the goods are sold to the customer. You can also consider it as the date When the customer pays the supplier
- **Supply of goods on credit**: It is the date for a supply of goods on credit on which the goods are received by the buyer. It is also defined as the date on which the invoice is issued to the buyer.
- **Import of goods**: The ToS for an import of goods is the date on which the goods are cleared by customs.
- **Export of goods**: The ToS for export is the date on which the goods are shipped out of the country.

Time of Supply of Goods Under Forward Charge in GST

A Forward charge is a mechanism where the supplier is liable to pay GST. The Time of Supply (ToS) of goods under forward charge is determined as follows:

- Invoice issuing: For most goods and services, the time of supply is the earlier of
  - The date the invoice is issued.
  - On the last day, the supplier is required to issue an invoice.
- Advance payments: In case the supplier receives the payment early without issuing an invoice. The time of supply of goods is the date when payment is received. However, if the invoice is issued within the prescribed period, the ToS will be based on the invoice date.
- Continuous supply of goods: In cases where there is a continuous supply of goods, the due date for payment can be found in the contract. You can make the ToS in this way:
  - The date the amount is entered in the books of accounts.
  - The date the payment is debited from the recipient’s bank account or credited to the supplier’s bank account.

Time of Supply of Services Under Forward Charge

The Time of Supply of services under forward charge is calculated similarly to the ToS for goods:

- Invoice issuance: The time of supply of services is considered based on invoice issue timing. Let’s see the following two cases when it can occur:
  - Firstly, the date the invoice is issued.
  - Secondly, when the supplier issues an invoice on the last day of the requirement.
- Advance payments: if the supplier receives payment before issuing an invoice, the GST liability arises on the date the payment is received. However, if the supplier issues an invoice within the prescribed period, the GST liability arises on the invoice date.

- Continuous supply of services: In cases of continuous supply of services, the due date for payment can be determined from the contract. The ToS takes place in the following:
    - The date when the amount is added to the books of accounts.
    - The date the payment is processed and completes the transfer from the recipient's bank account to the supplier's bank account.

Time of Supply of Goods Under Reverse Charge in GST.

Under the reverse charge mechanism, the recipient is responsible for paying GST. The Time of Supply for goods under reverse charge is noted in the following cases:

- Invoice Issue Date: If the supplier issues an invoice, then that particular invoice issue date is marked as Time of Supply.
- No invoice issued: If the supplier fails to generate an invoice within the mentioned time frame, in that scenario, the ToS is the date the recipient receives the goods.

Time of Supply of Services Under Reverse Charge in GST

As we know, in the reverse charge mechanism, one who receives payment has to pay GST. The Time of Supply (ToS) for services under reverse charge is determined as follows:

- Invoice issuance: Time of supply is noted when the supplier issues an invoice.
- No invoice issued: If the supplier does not issue an invoice within the mentioned time limit, the TOS is considered when
    - The date of payment made to the supplier.
    - The date of entry in the books of accounts.

Zero Rated Supply

The relevant provisions of zero-rated supplies are contained in section 16 (1) of the IGST Act, 2017 which states as under:

Zero rated supply means any of the following supplies of goods or services or both, namely –

- export of goods or services or both; or
- supply of goods or services or both to a Special Economic Zone developer or
- a Special Economic Zone unit.

Under zero rated supply, the output supplies as well as the inputs or input services used in supplying the supplies would be free from GST. Following are the important points under zero rated supply:

- The taxes paid on the supplies which are zero rated are refunded;
- The credit of inputs and input services are allowed;
- Wherever the supplies are exempted, or the supplies are made without payment of tax, the taxes paid on the inputs and / or input services will be refunded (i.e. unutilized input tax credit would be refunded).

Further, the provisions for the refund of unutilized input credit are contained in the explanation to Section 54 of the CGST Act, 2017, which defines refund as below:

“Refund” includes refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies, or refund of tax on the supply of goods regarded as deemed exports, or refund of unutilized input tax credit as provided under sub-section (3).

Nil Rated

Goods or services on which GST rate of 0 % is applicable are called NIL rated goods or services. Such goods or services, on which GST rate of 0% is applicable, are listed in schedule 1 under GST rate schedule. Example of Nil rated supplies are salt, jaggery, cereals etc.

Input tax credit of inputs and / or input services used in providing supply attracting Nil rate is not available i.e. no input tax credit on Nil rated supplies.

Exempted Supply

Exempted 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 of CGST Act or under section 6 of the IGST Act, and includes non-taxable supply.

Following points are to be noted for exempted supply:

- There is no GST applicable on outward exempted supplies.
- Input tax credit of inputs and / or input services used in providing exempted supply is not available i.e. no input tax credit on exempted supplies.
- A registered person supplying exempted goods or services, or both shall issue ‘bill of supply’ instead of tax invoice.

Non-GST Supply

Goods or services on which GST is not leviable are called Non GST supply. Input tax credit of inputs and / or input services used in providing non GST supply is not available i.e. no input tax credit on non GST supplies.

Examples of Non-GST supplies are alcohol for human consumption, petroleum products, electricity etc.