CONCEPT OF SUPPLY, MIXED SUPPLY & COMPOSITE SUPPLY UNDER GST

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COMMENTARY ON UNION BUDGET 2017
GST MODEL LAW (NOVEMBER 2016) & BUSINESS PROCESSES – A TECHNICAL COMMENTARY
GST MODEL LAW (JUNE 2016) & BUSINESS PROCESSES – A TECHNICAL COMMENTARY
“SERVICE TAX AND VAT IN WORKS CONTRACT: A COMPREHENSIVE TECHNICAL GUIDE”.
WITHDRAWAL OF LEGAL TENDER 2016

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Under GST various taxable events like manufacture, sale, rendering of service, purchase, entry into a territory of state etc. have been included in just one event i.e. supply. The taxable event in GST is supply of goods or services or both.

In case of Intra-state supply the Central and State governments have simultaneous power to levy CGST and SGST respectively. However in case of Inter-state supply only Central Government can levy taxes.

The meaning and scope of supply can be understood from the following points:-

- Supply of goods or services. Supply of anything other than goods or services does not attract GST
- 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
- Supply should be made within the taxable territory

Some of the exceptions to the requirements of supply are:-

- Any supply of goods or services without consideration is not a supply. In exception of
this there are also some transactions which are treated as supply even done without consideration.

- Further, import of services for a consideration, whether or not in the course or furtherance of business is treated as supply.
- Any transfer of title in goods would be a supply of goods, whereas any transfer of right in goods without transfer of title would be considered as services.

Supply of Goods or Services Both:-

Goods as well as services have been defined in the GST Law. The securities are excluded from the definition of goods as well as that of services. Money is also excluded from the definition goods and services.

Any transfer of title in goods would be a supply of goods, whereas any transfer of right in goods without transfer of title would be considered as services.

Some activities which are out of the scope of supply are mentioned below:-

- Services by an employee to the employer in the course of or in relation to his employment.
- Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
- Sale of land and sale of building where the entire consideration has been received after completion certificate is issued or after its first occupation.
- Actionable claims other than lottery, betting and gambling shall be neither goods nor services.

Supply for Consideration:-

Consideration can be in terms of money or kind. Any subsidy given by the central government or state government is not considered as consideration.

In case of barter of goods or services the same activities is treated as supply and consideration.

Some of the activities which are treated as supply even if made without consideration and such are:-

- Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
- Supply of goods or services or both made in course of furtherance of business between related persons or between distinct persons.
- Gifts exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall be treated as supply of goods or services or both.
- 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.

- Import of services by a taxable person from a related person or from any of his other establishment outside India in course of furtherance of business.

**Supply in the Course or Furtherance of Business:**

Only those supplies that are in the course or furtherance of business qualify as supply under GST. Sale of goods or service even as a vocation is a supply under GST. For example we can say that if a politician does painting for charity and sales the painting as one time occurrence then the sale will be treated as supply. Import of services for a consideration though it is not in the course of furtherance of business, is treated as supply.

**Supply by a Taxable Person:**

A person who is registered or a person who is liable to be registered or who is not liable to registered but have taken voluntary registration under GST is treated as taxable person under GST. A supply to attract GST should be made by a taxable person. The person making supplies from different states need to take registration separately for each state.

**Taxable Supply**

Any supply of goods or services or both which is liable to tax is treated as taxable supply and to attract GST a supply must be taxable.

**Composite/Mixed Supply**

When supply is made by a taxable person in ordinary course of business to a recipient compromising two or more supplies of goods or services any combination thereof then it is treated as composite or bundled supply & one of which is a principal supply.

**Composite Supply:** 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 is called as composite supply and one of which is a principal supply.

For example: 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.

In case of composite supply it is necessary to determine that whether the supply is bundled in the natural course of business and what constitute principal supply in such composite supplies.
Bundled service means a bundle of provision of various services wherein an element of provision of one service is combined with an element or elements of provision of any other service or services.

An example of ‘bundled service’ would be air transport services provided by airlines wherein an element of transportation of passenger by air is combined with an element of provision of catering service on board.

Some of the example of bundled supply which is treated as supply of single services in the ordinary course of business is as follows:-

- 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.
- A 5 star hotel is booked for a conference of 100 delegates on a lump sum package with the following facilities:
  - Accommodation for the delegates
  - Breakfast for the delegates
  - Tea and coffee during conference
  - Access to fitness room for the delegates
  - Availability of conference room
  - Business centre

Some of the indicators which show the nature of bundled services:-

- The perception of the consumer or the service receiver - If large number of service receivers of such bundle of services reasonably expect such services to be provided as a package, then such a package could be treated as naturally bundled in the ordinary course of business.
- Majority of service providers in a particular area of business provide similar bundle of services. For example, bundle of catering on board and transport by air is a bundle offered by a majority of airlines.
- If the nature of services is such that one of the services is the main service and the other services combined with such service are in the nature of incidental or ancillary services which help in better enjoyment of a main service.
- Other illustrative indicators, not determinative but indicative of bundling of services in the ordinary course of business are:
  i. There is a single price or the customer pays the same amount, no matter how much package they actually receive or use
ii. The elements are normally advertised as a package

iii. The different elements are not available separately

iv. The different elements are integral to one overall supply. If one or more is removed, the nature of the supply would be affected

**Mixed Supply:** Under GST when two or more individuals 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, it is treated as mixed supply.

For example: Price of Shampoo along with Soap (being supply with Shampoo) is Rs 100 and rate of GST on Shampoo is 5% and on Soap is 18%, therefore, higher rate of Soap @ 18% is being charged supply of Shampoo along with Soap i.e. Rs 18 (18% of Rs 100).

A supply can be a mixed supply only if it is not a composite supply. The supplies which are not naturally bundled in the ordinary course of business then it will be treated as mixed supply and it attracts the highest rate among its constituent’s supplies.