



To cite this article: Sunakshi Khosla (2025). STUDY ON MEANING AND SCOPE OF SUPPLY (SECTION-7) IN GOODS & SERVICES TAX, International Journal of Research in Commerce and Management Studies (IJRCMS) 7 (4): 451-459 Article No. 469 Sub Id 845

## STUDY ON MEANING AND SCOPE OF SUPPLY (SECTION-7) IN GOODS & SERVICES TAX

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DOI: <https://doi.org/10.38193/IJRCMS.2025.7434>

### ABSTRACT

This research paper is published to understand the meaning and scope of supply in simple words. Entire GST is based on the understanding of single word i.e. “Supply”. It describes in the section 7 of the CGST Act’2017. This research paper includes the previous taxation system also to understand the GST in better way also.

**KEYWORDS:** Supply, Consideration, course or furtherance of business, forbearance

### INTRODUCTION

Article 366(28) of the Constitution of India defines the term “Taxation” as follows – “Taxation includes the imposition of any tax or impost, whether general or local or special, and tax shall be construed accordingly.” Taxation is the pecuniary which helps to raise funds from public by statutory authority. Government collects taxes to provide infrastructure for civilization welfare. Taxes are classified under two categories Direct tax and Indirect tax.

#### Direct Tax: -

It refers to the tax which directly charged on the income or wealth of person. A person includes an individual, Hindu Undivided Family (HUF), Association of Persons (AOP), Body of Individuals (BOI), a firm, LLP and a company.

#### Indirect Tax: -

It is the tax which is not collecting directly from the person on his/her income. Indirect tax collects from last consumer. Indirect tax is the tool of the Government to generate revenue without any discrimination. Indirect tax never creates difference in rich or poor people. It is regressive in nature and tax burden shifted from manufacture to ultimate consumer.

Indirect tax refers to Goods & Services Tax, which introduced on 1<sup>st</sup> July 2017 by amending Article 101 of the Indian Constitution Act and applicable to whole India including Jammu & Kashmir. It was proposed to be introduced in 2010 by Finance Minister Shri P. Chidambaram. GST follows the concept of “one Nation-one tax system.” GST is single taxes impose on sale, consumption, and production, before GST there are a lot of Indirect Taxes which subsume in GST like VAT, Sate Tax, Service Tax, Excise Duty, Custom Duty.

*“It’s a win for democratic ethos of India and a Victory for everyone; GST will improve the way of doing business.”* “Mr. Narendra Modi”

*“It is not the end but start of journey.”* “Mr. Arun Jaitely”

GST helps to create a common national market. GST has the capacity to raise revenue in the most transparent and non-aligned manner. GST is Destination based tax, levied at the place of consumption. Introduction of GST, facilitated businesses to follow one tax system instead of numerous. To make any economy organized, a good tax system is required, Goods and Services Tax is one of the perfect systems for Indian Economy.

GST is a simple, steady, and well-organized tax structure.

In indirect tax system tax will be levied on “**Taxable Event.**”

A **taxable event** is a transaction, point or occurrence at which tax would be levied. Under the earlier indirect tax regime, there was no specific point or event which decides the levy of tax because of this there were a lot of issues and litigation arises like whether a particular process amounted to manufacture or not, whether the sale was pre-determined sale, whether a particular transaction was a sale of goods or rendering of services etc. for resolving this issue GST introduces one comprehensive taxable event called “Supply”.

Before GST law manufacturing and sale of good and services provided are charged independently but in GST, whole amount of supply of goods and/or services is taxed in an integrated manner.

#### **Taxation system before GST: -**

There were so many indirect taxes levied before GST which was Byzantine Structure and having Cascading Effects also.

Taxes were levied before GST: -

#### **VAT: -**

As per Entry No. 54 of List II of State VAT charged by state governments on the sale of goods.

**Sales Tax: -**

According to Entry No. 92A of List I of Central Sales Tax levied on sale and purchase of goods within a state.

**Central Excise Duty: -**

As per Entry No. 84 of Union List, List I Schedule VII provides the power of levy of Excise duty at the time of manufacture of goods.

**Service Tax:**

According to Entry No. 97 List I, Schedule VII tax charged on services provided.

**Customs Duty:**

As per Entry No. 83 List I, Schedule VII, tax charged on imports and exports.

**Octroi and Entry Tax:**

As per Entry No 52 Local taxes levied on goods entering a state or municipality, In previous taxation system, registration is done by state or central authorities; no uniform registration facility was available.

Tax is levied at the time of sale of goods or goods manufactured and at the time of rendering of Services i.e. VAT was levied at every stage of goods.

Under the old taxation system, credit benefit available for services tax and excise duty but no set-off facility available counter to VAT on excise duty.

Threshold limit in VAT, central excise is Rs.1.5 crore and VAT ranges between Rs.5 lakh to Rs.20 lakh depending upon the state. In service tax it was ₹ 10 lacs.

Tax on relocation of merchandise to Representatives or Division depends upon state procedures but exempt if Form F is available.

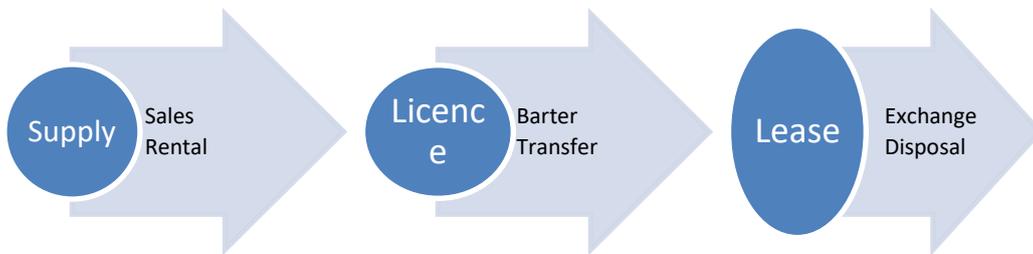
**Export of Goods and Services are exempt.**

If Form-C was available, concessional rate of 2% Central Sales Tax charged on inter-state transfers otherwise 5% to 14.5% levied on CST.

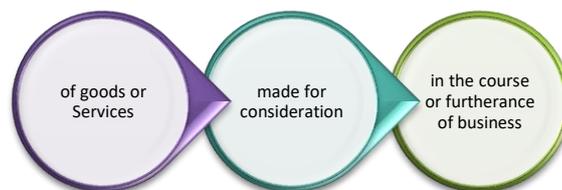
Entry tax was charged by certain states on inter-state transfer as import of Goods in local area. This type of working increases the administrative cost and intricate the work.

As per Goods and Services Act'2017, Supply is the Key factor of GST taxation system. Section 7 of CGST Act, 2017 describes the meaning and scope of supply.

**Meaning of Supply: Section 7(1)(a)** Supply means all type of supply of goods or services or both, supply Includes: -



**Supply: -Three Parameters of Supply**



**As per Section 7(1) (aa),**

Any activity or transaction between two members or any constituents for cash, deferred payment or any other valuable consideration.

**As per Section 7(b),**

Importation of Services for consideration, whether used for business purpose or not

**As per Section 7 (C)**

Activity or transactions mentioned in schedule 1, performed for consideration or not are still treated as supply.

**As per section 7 (2) (b),**

Activity or transactions undertaken by Central Government, State Government or local authority those are in public services or notified by the council shall not be supply of goods and services.

**As per section 7 (3)**

Government has power on the recommendation of the council, mention, by notification that the particular transaction to be treated as Supply of goods instead of supply of services and vice-versa.

**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. [Section 2(52)].

**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.

**Transactions even without consideration are known as Deemed Supply. (Section 7(1)(C) read with Schedule I.**

**Deemed Supply: -**

Deemed supply refers to the any transaction or activity made without consideration but to be treated as Supply. Section-7, Schedule-I

- ❖ Permanent Transfer or disposal of business assets on which ITC has been taken.
- ❖ Supply of goods or services or both between to related or distinct persons as mentioned in Section 25, used for business purpose
- ❖ Where principal and agent relationship exist
- ❖ Importation of services from related person used for business purpose

**Section 7(1A) read with Schedule II, explains the activities/transaction to be treated as Supply of goods and supply of services: -**

- ❖ In this first we talk about Transfer, there are two type transfer of
  - Title in goods - Supply of Goods
  - Title without goods and transfer of rights with goods – Supply of Services
  - Future date agreement on which entire consideration will be paid goods/property – Supply of Goods
- ❖ Lease and letting out or similar activities of land and building, whether commercial, residential, Industrial etc. – Supply of Service
- ❖ Any kind of procedure and treatment on others goods – Supply of Service
- ❖ In case of sale/transfer of fixed asset by the owner of the business where that asset is not the part of assets in future is treated as Supply of Goods.
  - Where business Goods are used for personal or used for other than business purpose is preserved as Supply of services
  - Where any taxable person winding up his business having goods as stock in trade, sale by him preserved as Supply of Goods.

- ❖ Renting of any Immovable property is considered as Supply of services for example renting of commercial, religious, educational and other places used from business purpose as godowns.
  - Construction of Immovable property except Sale of land and building where full amount received after completion of entire work or after its first occupation. Construction comprises accumulation, auxiliary, variations or modernising etc.
  - Transmission/ authorising to any one for use of Intellectual property right
  - Any kind of modification in IT software like Development, Desing, Programming, customisation, adaption, upgradation, enhancement and implementation
  - Any fixed asset transfer for undefined period and for uncertain amount of consideration
  - Any amount received for any commitment that to do certain work or not to do certain work.
- ❖ Composite Supplies always preserved as supply of services, where two or more goods/services, which are naturally bundled and supplied in with each other in the ordinary course of business, one of which is a principal supply. It means that the items are generally sold as a combination. The items cannot be supplied separately.
  - Work contracts like completion, construction, fabrication, erection, installation, fitting out, repair, maintenance, renovation, alteration etc.
  - Supply of eatable or any other item for human consumption except liquor for human consumption for any consideration.

**Section 7(2)(a) read with Schedule III, describes the transaction which are treated as non-supply for the purpose of GST. Non-Supply means Neither supply of goods nor supply of services**

- ❖ Any services provided in the relation of Employer and Employee are treated as non-supply. But Gifts up to ₹ 50k is exempt from the Ambit of Supply.
- ❖ Services provided by High Court, Supreme Court and District Court or Tribunal formed under any law or time being in force
- ❖ Activities accomplished by Members of: -
  - Parliament
  - State Legislature
  - Panchayats
  - Municipalities
  - Other local authorities
  - President of India
  - Vice President of India
  - Prime Minister of India

- Chief Justice of India
  - Speaker of Lok Sabha
  - Chief Election Commissioner
  - C&AG
  - Chairman of Union Public Service Commission
  - Attorney General of India
- ❖ Funeral, Burial, Crematorium or Mortuary services including Transportation of the deceased related services are non-supply under GST
  - ❖ Sale of land and building where full amount received after completion of entire work or after its first occupation
  - ❖ Non specified actionable claims are covered under the definition of non-supply.

Specified Actionable claims which included in the ambit of GST are: -

- Betting
- Casinos
- Gambling
- Horse Racing
- Lottery

#### **Online money gaming [Section 2(102A)]**

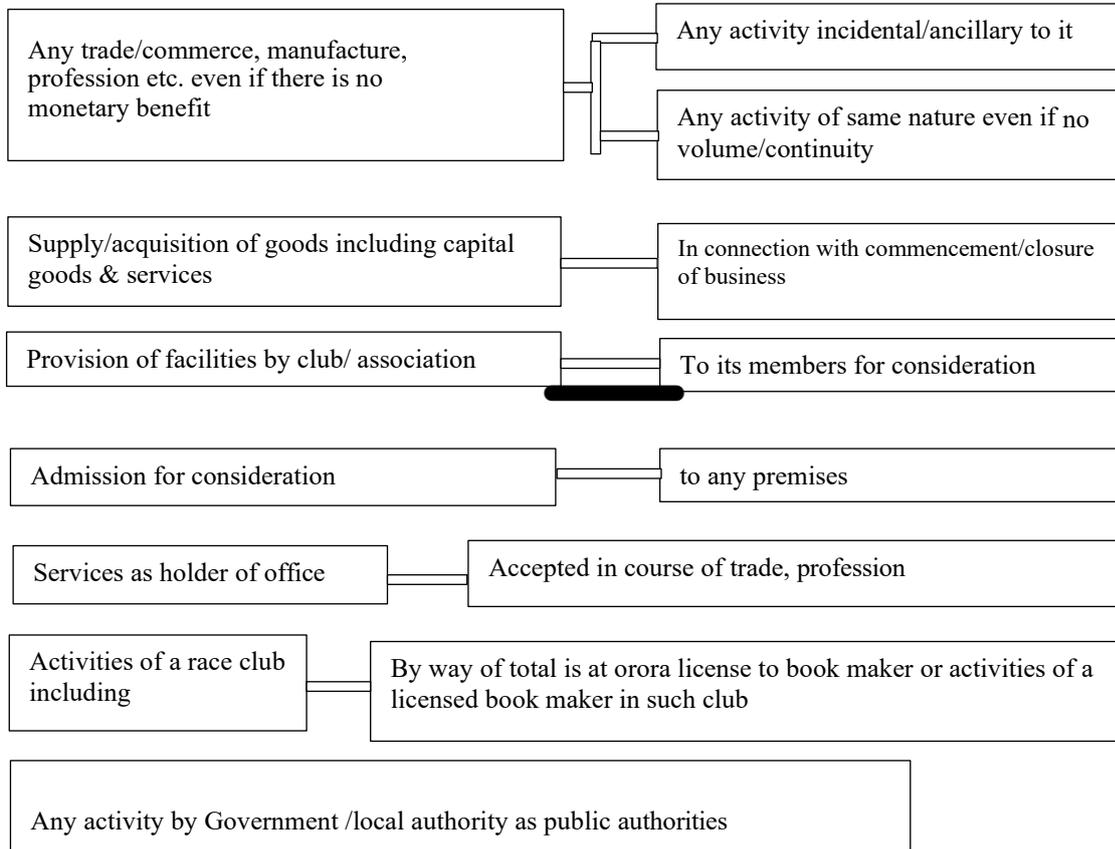
- ❖ Merchant Trading – It means goods supplied from one non-taxable country to another non-taxable country without incoming goods in India.
- ❖ In-Bond Sale of Goods – Means direct sale of goods from warehouse to someone without clearance for personal use
  - High Sea Sales – Means direct sale to any one else by the agent by the transfer of title in between the port of origin which located outside and before coming in Indian territory.
- ❖ Modes of conveyance provided services Inter-State.
- ❖ Relocation or transfer of goods and supply of services to inter-state except where same goods are for further supply.

**Consideration:** - Another important term in this act is Consideration. Its simple meaning is imbursement i.e. payment. Consideration means any payment paid or to be paid in terms of money or otherwise for the supply of goods or services or both but does not include any subsidy/amount given by the central or state government.

Consideration made for doing any act or forbearance also.

#### **Course or Furtherance of business: -**

First, we need to understand the meaning of business. It means: -



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