

CE GST Course

(CE GST comprehensive course:Season 4, Session 2)

Schedule I: Supply without consideration

Schedule I: Activities to be treated as supply even if made without consideration: Entry 1

Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.

e.g.

ABC Ltd purchased a motor vehicle on 1st August 2017. ITC on the same was not allowed under the provisions of GST.

They donated the car to an orphanage to carry the kids from school to orphanage. They didn't charged anything.

- (i) What will be the taxability of this transaction?
- (ii) Will it make any difference if instead of motor vehicle the air conditioner was donated (on which ITC was taken)

Schedule I: Activities to be treated as supply even if made without consideration: **Entry 2**

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 fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

Schedule I: Activities to be treated as supply even if made without consideration: Entry 2

Meaning of related person:

Explanation.—For the purposes of this Act,—

(a) persons shall be deemed to be “related persons” if—

- (i) such persons are officers or directors of one another’s businesses;
- (ii) such persons are legally recognised partners in business;
- (iii) such persons are employer and employee;
- (iv) any person directly or indirectly owns, controls or holds twenty-five per cent. or more of the outstanding voting stock or shares of both of them;

Continue.....

Schedule I: Activities to be treated as supply even if made without consideration: Entry 2

Meaning of related person:

- (v) one of them directly or indirectly controls the other;
 - (vi) both of them are directly or indirectly controlled by a third person;
 - (vii) together they directly or indirectly control a third person; or
 - (viii) they are members of the same family;
- (b) the term “person” also includes legal persons;
- (c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

Important Advance rulings:

Caltech Polymers:

Food provided to employees on concessional rate is a supply.

Asia Columbia Hospitals:

Services by the employees sitting in head office will be a supply for branches.

Entry 3

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.

Meaning of agent:

Section 2(5) of CGST Act defines the agent as:

*“agent” means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, **who carries on the business of supply or receipt of goods or services or both on behalf of another;**”*

Schedule I: Activities to be treated as supply even if made without consideration: Entry 4

4. Import of services by a ~~taxable person~~ person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

Schedule II: ACTIVITIES OR TRANSACTIONS TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

Schedule II: ACTIVITIES OR TRANSACTIONS TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

1. Transfer

- (a) any transfer of the title in goods is a supply of goods;
- (b) any transfer of right in goods or of undivided share in goods without the transfer of title thereof, is a supply of services;
- (c) any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed, is a supply of goods.

Schedule II: ACTIVITIES OR TRANSACTIONS TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

2. Land and Building

- (a) any lease, tenancy, easement, license to occupy land is a supply of services;
- (b) any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.

3. Treatment or process

Any treatment or process which is applied to another person's goods is a supply of services.

Schedule II: ACTIVITIES OR TRANSACTIONS TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

4. Transfer of business assets

- (a) where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person;
- (b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, the usage or making available of such goods is a supply of services;

Schedule II: ACTIVITIES OR TRANSACTIONS TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

(c) where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless—

- (i) the business is transferred as a going concern to another person; or
- (ii) the business is carried on by a personal representative who is deemed to be a taxable person.

Schedule II: ACTIVITIES OR TRANSACTIONS TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

5. Supply of services

The following shall be treated as supply of services, namely:—

(a) renting of immovable property;

(b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.

Schedule II: ACTIVITIES OR TRANSACTIONS TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

Explanation.—For the purposes of this clause—

(1) the expression "competent authority" means the Government or any authority authorised to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely:—

- (i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972; or
 - (ii) a chartered engineer registered with the Institution of Engineers (India); or
 - (iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority;
- (2) the expression "construction" includes additions, alterations, replacements or remodelling of any existing civil structure;

Schedule II: ACTIVITIES OR TRANSACTIONS TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

- (c) temporary transfer or permitting the use or enjoyment of any intellectual property right;
 - (d) development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;
 - (e) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and
 - (f) transfer of the right to use any goods for any purpose (whether or not for a specified period)
- for cash, deferred payment or other valuable consideration.

Schedule II: ACTIVITIES OR TRANSACTIONS TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

6. Composite supply

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

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

(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.

Schedule II: ACTIVITIES OR TRANSACTIONS TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

7. Supply of Goods

The following shall be treated as supply of goods, namely:—

Supply of goods by any unincorporated association or body of persons to a member thereof for cash,

deferred payment or other valuable consideration.



**Schedule III: Neither a supply of
Goods nor Services**

Schedule III:ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES

1. Services by an employee to the employer in the course of or in relation to his employment.
2. Services by any court or Tribunal established under any law for the time being in force.
3. (a) the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;

Schedule III:ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES

- (b) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or
- (c) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.

Schedule III:ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES

4. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
5. Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.
6. Actionable claims, other than lottery, betting and gambling.

Explanation.—For the purposes of paragraph 2, the term "court" includes District Court, High Court and Supreme Court.

Schedule III:ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES

“ 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;
(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.”;**

Schedule III:ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES

(ii) the Explanation shall be numbered as Explanation 1 and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely:—

‘ Explanation 2.—For the purposes of paragraph 8, the expression “warehoused goods” shall have the same meaning as assigned to it in the Customs Act, 1962.’.

Section 8 of CGST Act

Sec 8: Taxability of composite and Mixed supply

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.

Definition of Composite and Mixed supply

Section 2(30) of CGST Act: Composite Supply

“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;

Definition of Composite and Mixed supply

Section 2(74) of CGST Act:

“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;

Composite and Mixed supply: Imp Pronouncements

- **Torrent Power Ltd. (Gujrat High Court):** Validity of Circular No. 34/8/2018. Ancillary activities like renting of metre are part of composite supply of electricity distribution. Principal supply is exempt so all these activities will also be exempt.
- Kundan Mishthan Bhandar: Advance ruling: Supply of food items from sweet shop in a restaurant will be taxable @5%.
- Kundan mishthan bhandar AAR reversed by AAAR: The order of AR was reversed.
- M/s Kerala forest development corporation ltd.: Tour operator can charge on individual items on various components.

Composite and Mixed supply:

- The first test for registered person is to identify the true and substantial nature of what is being supplied to the recipient from the perspective of recipient [1](#). This has to be determined objectively from the recipient's perspective. It is the actual supply made to the recipient that must be considered and not how the supply is invoiced or charged to the recipient. Even the proportion of cost of each element is not a determinative factor [2](#). However, the difficulty lies in ascertaining the question of where, in the eyes of the consumer, the value and benefit lies. What is in the mind of the customer when they make their purchase is highly subjective.

Composite and Mixed supply:

- In the second test, two or more distinct elements have been held to constitute a single supply where one element is the principal element and the other is ancillary whose role is only to enhance the enjoyment of the principal service by its customer. Since the ancillary element is not regarded as an aim by itself, but is only functional to the principal one, it will share the treatment of the principal service [3](#). To illustrate, where an airline supplied zero rated flights for a single price including the provision of in-flight catering, the Court of Appeal decided that catering was provided for the comfort and convenience of passengers and is ancillary to the main supply of the flight and therefore the court found a single composite supply.

Section 9 of CGST Act

Sec 9: Levy of GST

(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 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.

	Notification	Description
Goods	01/2017-Central Tax (Rate),dt. 28-06-2017	CGST Rate Schedule notified under section 9 (1)
	02/2017-Central Tax (Rate),dt. 28-06-2017	CGST exempt goods notified under section 11 (1)
	04/2017-Central Tax (Rate),dt. 28-06-2017	Reverse charge on certain specified supplies of goods under section 9 (3)
Services	11/2017-Central Tax (Rate) ,dt. 28-06-2017	To notify the rates for supply of services under CGST Act
	12/2017-Central Tax (Rate), dt. 28-06-2017	To notify the exemptions on supply of services under CGST Act
	13/2017-Central Tax (Rate), dt. 28-06-2017	To notify the categories of services on which tax will be payable under charge mechanism under CGST Act

Sec 9: Levy of GST

(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.

Sec 9:Levy of GST

(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.

Sec 9: Levy of GST

~~(4) The central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient 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.”

Sec 9:Levy of GST: notifications in old provision

Sl. No.	Notification No.	
1.	08/2017-Central Tax (Rate),dt. 28-06-2017	CGST exemption from reverse charge upto Rs.5000 per day under section 11 (1)
2.	38/2017-Central Tax (Rate) ,dt. 13-10-2017	Seeks to exempt payment of tax under section 9(4) of the CGST Act, 2017 till 31.03.2018

Notification No. 07/2019-CTR ,dt. 29-03-2019

Sl. No.	Category of supply of goods and services	Recipient of goods and services
1.	Supply of such goods and services or both [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI)] which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier) as prescribed in notification No. 11/ 2017- Central Tax (Rate), dated 28th June, 2017, at items (i), (ia), (ib), (ic) and (id) against serial number 3 in the Table, published in Gazette of India vide G.S.R. No. 690, dated 28th June, 2017, as amended	Promoter

Notification No. 07/2019-CTR ,dt. 29-03-2019

Sl. No.	Category of supply of goods and services	Recipient of goods and services
2.	Cement falling in chapter heading 2523 in the first schedule to the Customs Tariff Act, 1975 (51 of 1975) which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier) as prescribed in notification No. 11/ 2017- Central Tax (Rate), dated 28th June, 2017, at items (i), (ia), (ib), (ic) and (id) against serial Promoter. number 3 in the Table, published in Gazette of India vide G.S.R. No. 690, dated 28th June, 2017, as amended.	Promoter

Notification No. 07/2019-CTR ,dt. 29-03-2019

Sl. No.	Category of supply of goods and services	Recipient of goods and services
	Capital goods falling under any chapter in the first schedule to the Customs Tariff Act, 1975 (51 of 1975) supplied to a promoter for construction of a project on which tax is payable or paid at the rate prescribed for items (i), (ia), (ib), (ic) and (id) against serial number 3 in the Table, in notification No. 11/ 2017- Central Tax (Rate), dated 28th June, 2017, published in Gazette of India vide G.S.R. No. 690, dated 28th June, 2017, as amended.	Promoter.

Sec 9: Levy of GST

(5) The Government may, on the recommendations of the Council, by notification, 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:

Sec 9: Levy of GST

Proviso:1

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:

Sec 9:Levy of GST

Proviso:2

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

Section 10 of CGST Act

Composition Scheme:

(1) Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, whose

aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may

opt to pay, ~~in lieu of~~

~~the tax payable by him, an amount calculated at such rate~~

~~by him~~

~~under sub-section (1) of section 9, an amount of tax calculated at such~~

~~rate~~ as may be prescribed, but not exceeding,—

“in lieu of the tax payable

Composition Scheme:

- (a) one per cent. of the turnover in State or turnover in Union territory in case of a manufacturer,
- (b) two and a half per cent. of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II, and
- (c) half per cent. of the turnover in State or turnover in Union territory in case of other suppliers, subject to such conditions and restrictions as may be prescribed:

Notification No. 14/2019-Central Tax ,dt. 07-03-2019

Aggregate Turnover:

For normal states : 1.50 Crores. For

following states : 75 Lac.

(i) Arunachal Pradesh,

(ii) Manipur,

(iii) Meghalaya

(iv) Mizoram,

(v) Nagaland,

(vi) Sikkim,

(vii) Tripura,

(viii) Uttarakhand:

Notified rates by Notification No. 8/2017 as amended by notification no. 1/2018

1.	Manufacturer	1% of turnover in state Amended to 0.5% by Notification no. 1/2018 to 0.5%
2.	Para 6B of schedule II	2.5% of turnover in state
3.	Other suppliers	0.5% of turnover in state <u>changed to half % of taxable supplies by notification no. 01/2018</u>

Composition Scheme:

Provided that the Government may, by notification, increase the said limit of fifty lakh rupees to such higher amount, not exceeding ~~one crore rupees~~, **“one crore and fifty lakh rupees”** as may be recommended by the Council.

“Provided further that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding ten per cent. of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher.”;

Composition Scheme: Example 1

M/S X is engaged in sale of Banarasi Sarees. His turnover from sale of Sarees in last year was Rs. 1 Crore. He also received Rs. 2 Lac as rent of his shops and Rs. 1 lac for a flat let out for residential purpose. He also earned the interest of Rs. 4 lac on his fixed deposits and savings account.

Pls Assess his eligibility to take composition scheme.

Solution: **The eligible amount of services allowed to M/s X**

Calculation of turnover in a state:

Sale of Sarees:	1,00,00,000
Rent of Shop:	2,00,000
Rent of Residential property	1,00,000
Interest	<u>4,00,000</u>
Total turnover:	1,07,00,000

Allowed services are higher 10% of 1,07,00,000 and Rs. 5Lac Which is: Rs. 10,70,000

Composition Scheme:

(2) The registered person shall be eligible to opt under sub-section (1), if:—

~~(a) he is not engaged in the supply of services other than supplies referred to in clause (b) of paragraph 6 of Schedule II;~~

(a) save as provided in sub-section (1), he is not engaged in the supply of services;”

Composition Scheme:

(b) he is not engaged in making any supply of goods which are not leviable to tax under this Act; Order 1/2017 dated 13th October 2017 provided that:

- i) if a person supplies goods and/or services referred to in clause (b) of paragraph 6 of Schedule II of the said Act and also supplies any **exempt services** including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of **interest or discount**, the said person shall **not be ineligible** for the composition scheme under section 10 subject to the fulfillment of all other conditions specified therein.
- ii) aggregate turnover in order to determine his eligibility for composition scheme, **value of supply of any exempt** services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, **shall not be taken into account**.
- (c) he is not engaged in making any inter-State outward supplies of goods;

Composition Scheme:

- (d) he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; and
- (e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council: Provided that where more than one registered persons are having the same Permanent Account Number (issued under the Income-tax Act, 1961), the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.

Composition

Scheme:

- (3) The option available of by a registered person under sub-section (1) shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section (1).
- (4) A taxable person to whom the provisions of sub-section (1) apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.
- (5) If the proper officer has reasons to believe that a taxable person has paid tax under sub-section (1) despite not being eligible, such person shall, in addition to any tax that may be payable by him under any other provisions of this Act, be liable to a penalty and the provisions of section 73 or section 74 shall, mutatis mutandis, apply for determination of tax and penalty.

6% rate for services providers

Notification no. 2/2019 & 9/2019

CTR

1.	First supplies of goods or services or both upto an aggregate turnover of fifty lakh rupees made on or after the 1st day of April in any financial year, by a registered person.
	<p>1. Supplies are made by a registered person, -</p> <ul style="list-style-type: none">(i) whose aggregate turnover in the preceding financial year was fifty lakh rupees or below;(ii) who is not eligible to pay tax under sub-section (1) of section 10 of the said Act;(iii) who is not engaged in making any supply which is not leviable to tax under the said Act;(iv) who is not engaged in making any inter-State outward supply;(v) who is neither a casual taxable person nor a non-resident taxable person;(vi) who is not engaged in making any supply through an electronic commerce operator who is required to collect tax at source under section 52; and(vii) who is not engaged in making supplies of the goods, the description of which is specified in column (3) of the Annexure below and falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said annexure.

Notification no. 2/2019 & 9/2019

- CTR**
2. Where more than one registered persons are having the same Permanent Account Number, issued under the Income Tax Act, 1961(43 of 1961), central tax on supplies by all such registered persons is paid at the rate specified in column (2) under this notification.
 3. The registered person shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.
 4. The registered person shall issue, instead of tax invoice, a bill of supply as referred to in clause (c) of sub-section (3) of section 31 of the said Act with particulars as prescribed in rule 49 of Central Goods and Services Tax Rules.
 5. The registered person shall mention the following words at the top of the bill of supply, namely: - 'taxable person paying tax in terms of notification No. 2/2019-Central Tax (Rate) dated 07.03.2019, not eligible to collect tax on supplies'.
 6. The registered person opting to pay central tax at the rate of three percent under this notification shall be liable to pay central tax at the rate of three percent on all outward supplies specified in column (1) notwithstanding any other notification issued under sub-section (1) of section 9 or under section 11 of said

Notification no. 2/2019 & 9/2019

CTR

7. The registered person opting to pay central tax at the rate of three percent under this notification shall be liable to pay central tax on inward supplies on which he is liable to pay tax under sub-section (3) or, as the case may be, under sub-section (4) of section 9 of said Act at the applicable rates.

Explanation.-For the purposes of this notification, the expression “first supplies of goods or services or both” shall, for the purposes of determining eligibility of a person to pay tax under this notification, include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the said Act but for the purpose of determination of tax payable under this notification shall not include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the Act.

Notification no. 2/2019 & 9/2019 CTR

ANNEXURE

Sl. No.	Tariff item, sub-heading, heading or Chapter	Description
(1)	(2)	(3)
1	2105 00 00	Ice cream and other edible ice, whether or not containing cocoa.
2	2106 90 20	Pan masala
3	24	All goods, i.e. Tobacco and manufactured tobacco substitutes

Circular No.

97/16/2019-GST

(i) a registered person who wants to opt for payment of central tax @ 3% by availing the benefit of the said notification, may do so by filing intimation in the manner specified in sub-rule 3 of rule 3 of the said rules in **FORM GST CMP-02** by selecting the category of registered person as “Any other supplier eligible for composition levy” as listed at Sl. No. 5(iii) of the said form, latest by 30th April, 2019. Such person shall also furnish a statement in FORM GST ITC03 in accordance with the provisions of sub-rule (3) of rule 3 of the said rules.

Circular No.

97/16/2019-GST

- (ii) any person who applies for registration and who wants to opt for payment of central tax @ 3% by availing the benefit of the said notification, if eligible, may do so by indicating the option at serial no. 5 and 6.1(iii) of FORM GST REG-01 at the time of filing of application for registration.
- (iii) the option of payment of tax by availing the benefit of the said notification in respect of any place of business in any State or Union territory shall be deemed to be applicable in respect of all other places of business registered on the same Permanent Account Number.

i The facility to Opt-In for Composition Levy (Form GST CMP-02) for Financial Year 2018-19 is disabled for now.

Circular No.

97/16/2019-GST

(iv) the option to pay tax by availing the benefit of the said notification would be effective from the beginning of the financial year or from the date of registration in cases where new registration has been obtained during the financial year.

3. It may be noted that the provisions contained in Chapter II of the said Rules shall mutatis mutandis apply to persons paying tax by availing the benefit of the said notification, except to the extent specified in para 2 above.

Finance bill 2019

After sub section 1 of Sec 10 explanation inserted.

“Explanation.— For the purposes of second proviso, the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account for determining the value of turnover in a State or Union territory.”;

Finance bill

2019

“Explanation.— For the purposes of second proviso, the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account for determining the value of turnover in a State or Union territory.”;

- (a) engaged in making any supply of goods or services which are not leviable to tax under this Act;
- (b) engaged in making any inter-State outward supplies of goods or services;
- (c) engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source under section 52;

Finance bill 2019

(d) a manufacturer of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and

(e) a casual taxable person or a non-resident taxable person:
Provided that where more than one registered person are having the same Permanent Account Number issued under the Income-tax Act, 1961, the registered person shall not be eligible to opt for the scheme under this sub-section unless all such registered persons opt to pay tax under this subsection.”

Finance bill

2019

Explanation 1.— For the purposes of computing aggregate turnover of a person for determining his eligibility to pay tax under this section, the expression “aggregate turnover” shall include the value of supplies made by such person from the 1st day of April of a financial year upto the date when he becomes liable for registration under this Act, but shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Finance bill

Explanation 2.— For the purposes of determining the tax payable by a person under this section, the expression “turnover in State or turnover in Union territory” shall not include the value of following supplies, namely:—

- (i) supplies from the first day of April of a financial year upto the date when such person becomes liable for registration under this Act; and
- (ii) exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.’.

Section 11 of CGST Act

Exemption: Section 11 of CGST Act

- (1) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by notification, exempt generally, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification.
- (2) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by special order in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.

Exemption: Section 11 of CGST Act

(3) The Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.

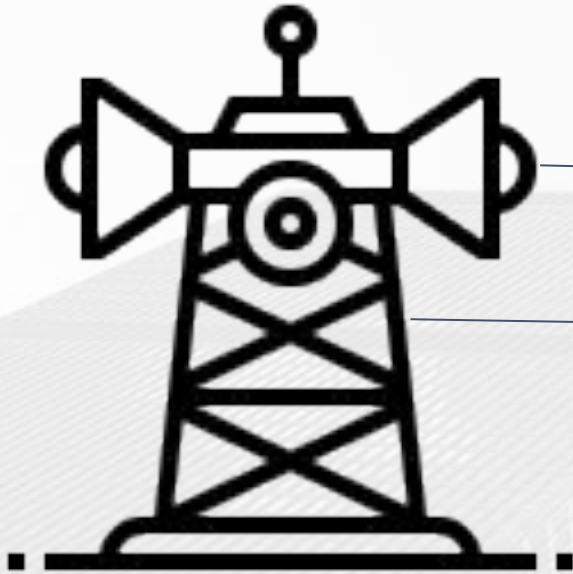
Explanation.—For the purposes of this section, where an exemption in respect of any goods or services or

both from the whole or part of the tax leviable thereon has been granted absolutely, the registered person supplying such goods or services or both shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both.

Case

study:3

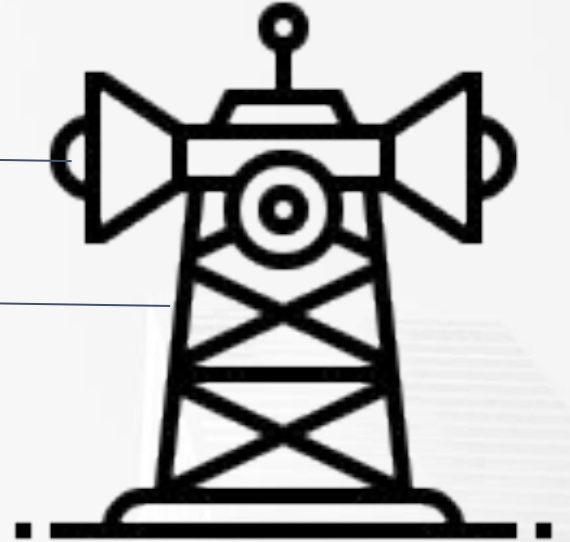
Gotcha industries have their plant in Hyderabad and Faridabad. They produce electricity in Mumbai and make captive consumption of it. But their branch is in Nasik. They sell it to electricity board and then buy it again to make it travel to other unit. What will be the taxability of this transaction.



Unit
A



Electricity
Board



Unit
B

Rule

Terms of Headings read with relative section and chapter notes are

Rule

Classification of Incomplete/Unfinished

Rule

Classification of Mixtures/Combinations of a material/Substance with other

Rule

Specific over

Rule

Essential character

Rule

Latter the

Rule

Akin

Rule

Case/Container/packagi

Rule 5(b)

Classification of Packing material and packing

Rule

Only sub- Headings at the same level are

6

comparable

Rule 1

- Titles of sections, chapters, and sub-chapters are provided for ease of reference only.
- For legal purposes, refer to headings and sub-headings to drive classification.

Rule 2a

- If the goods are incomplete/unfinished and have the characteristics of the finished product, classification is the same as that of the finished product (if the classification is known).
- The heading shall also include removed/unassembled or disassembled parts (i.e., SKD/CKD).

Rule 2b

- Any reference to a material or substance includes a reference to mixtures or combinations of that material or substance with other materials or substances.
- The classification of goods consisting of more than one material or substance shall take place as per Rule 3.

Rule 3a

- Choosing a specific heading is preferred over a general heading.
- For example, 85.10 is the classification for "shavers, hair clippers and hair removing appliances, with self-contained electric motor". This is a more specific classification for a handheld electric razor than either:
 - 67: "tools for working in the hand, pneumatic, hydraulic or with self-contained electric or non-electric motor," or
 - 09: "electro-mechanical domestic appliances with self-contained electric motors, other than

Rule 3b

- Mixtures/composite goods should be classified per the material or substance that gives them their essential character.
- For example, a grooming kit consisting of electric hair clippers (85.10), a comb (96.15), and a brush (96.03) inside a leather case (45.02), should be classified under the electric hair clippers heading (85.10).

Rule 3c

- If two headings are equally suited to the item, choose the heading that appears last in numerical order.

Rule 4

- If goods cannot be classified per the above rules, they are to be classified according to the goods to which they are most akin.

Rule 5

- Containers specifically designed for the article and suitable for long-term use will be classified along with that article, if such articles are normally sold along with such cases. For example, a camera case would fall under cameras.
- Packing materials and containers are also to be classified with the related goods except when the packing is for repetitive use.