

## Western India Regional Council of ICAI - Nagpur

**Date & Day** : 16<sup>th</sup> June, 2017 (Wednesday)

**Subject** : 1) Basic concepts and applicability of GST  
2) Levy, meaning and scope of Supply  
3) Important definitions and concepts

**Venue** : Hotel Centre Point,  
Ramdaspath, Nagpur

**Presented by** : CA Naresh Sheth

June 16, 2017

CA Naresh Sheth

1



### Basics

June 16, 2017

CA Naresh Sheth

2

## Present - Major Indirect Tax Levies

### Central Taxes

- Central Excise Duty
- Excise under M&TP Act
- Additional Duties of Excise
- Custom Duty
  - Basic
  - CVD
  - SAD
- Service Tax

### State Taxes

- VAT/Sales Tax & CST
- State Excise Duty
- Entertainment Tax
- Luxury Tax
- Taxes on lottery, betting and gambling
- Entry tax
- Stamp Duty
- Electricity Duty
- Profession Tax

### Local body Taxes

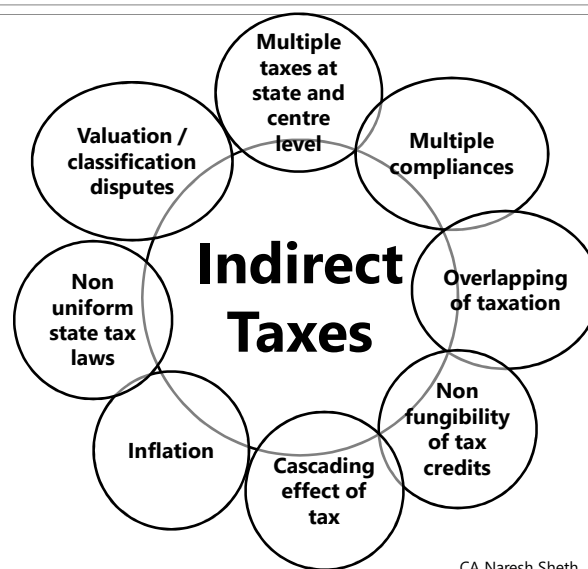
- Octroi
- LBT
- Property Tax
- Entertainment Duty
- Gram Panchayat Tax

June 16, 2017

CA Naresh Sheth

3

## Present taxation system - Complexities & Issues



June 16, 2017

CA Naresh Sheth

4

## Present Indirect Tax Structure – Cascading effect of taxes

Particulars	Value	Tax
Manufacture of Goods	1,00,000	
Add: Excise Duty (12.5% of 1,00,000)	12,500	12,500
Ex-factory value	1,12,500	
Add: Vat (13.5% of 1,12,500)	15,188	15,188
Taxable Amount before Octroi is charged	1,27,688	
Add: Octroi / Entry Tax (5.5% of 1,27,688)	7,023	7,023
Total Transaction Cost	1,34,711	34,711

Percentage of tax to transaction value =  $34,711/1,00,000 * 100 = 34.71\%$  (Rs.34,711)

Aggregate of all taxes =  $12.5\% + 13.5\% + 5.5\% = 31.50\%$  (Rs.31,500)

Cascading effect of tax i.e. tax on tax =  $3.21\%$  (Rs.3,211)

June 16, 2017

CA Naresh Sheth

5

## GST - Taxable Territory

Pre-requisites	Reference in the GST law												
Constitutional power to levy tax	<ul style="list-style-type: none"> <li>Article 246 A empowers Centre, State and Union Territory to levy and collect GST</li> </ul>												
Taxable territory - Section 1(2) of CGST Act, IGST Act and UTGST Act	<ul style="list-style-type: none"> <li>Territory to which the provisions of this Act apply:               <table border="0" style="margin-left: 20px;"> <tr> <td style="vertical-align: middle;"> <ul style="list-style-type: none"> <li>CGST Act applies to whole of <b>India</b></li> <li>IGST Act applies to whole of <b>India</b></li> </ul> </td> <td style="font-size: 3em; vertical-align: middle; padding: 0 10px;">}</td> <td style="vertical-align: middle;"><b>Except Jammu &amp; Kashmir</b></td> </tr> <tr> <td colspan="3"> <ul style="list-style-type: none"> <li>UTGST Act applies to the Union Territories of:                   <table border="1" style="margin-left: 20px; width: 100%;"> <tr> <td>Andaman and Nicobar Islands</td> <td>Dadra and Nagar Haveli</td> <td>Daman and Diu</td> </tr> <tr> <td>Lakshadweep</td> <td>Chandigarh</td> <td>other territory</td> </tr> </table> </li> <li>SGST Act applies to <b>28 States</b> and Delhi &amp; Puducherry</li> </ul> </td> </tr> </table> </li> </ul>	<ul style="list-style-type: none"> <li>CGST Act applies to whole of <b>India</b></li> <li>IGST Act applies to whole of <b>India</b></li> </ul>	}	<b>Except Jammu &amp; Kashmir</b>	<ul style="list-style-type: none"> <li>UTGST Act applies to the Union Territories of:                   <table border="1" style="margin-left: 20px; width: 100%;"> <tr> <td>Andaman and Nicobar Islands</td> <td>Dadra and Nagar Haveli</td> <td>Daman and Diu</td> </tr> <tr> <td>Lakshadweep</td> <td>Chandigarh</td> <td>other territory</td> </tr> </table> </li> <li>SGST Act applies to <b>28 States</b> and Delhi &amp; Puducherry</li> </ul>			Andaman and Nicobar Islands	Dadra and Nagar Haveli	Daman and Diu	Lakshadweep	Chandigarh	other territory
<ul style="list-style-type: none"> <li>CGST Act applies to whole of <b>India</b></li> <li>IGST Act applies to whole of <b>India</b></li> </ul>	}	<b>Except Jammu &amp; Kashmir</b>											
<ul style="list-style-type: none"> <li>UTGST Act applies to the Union Territories of:                   <table border="1" style="margin-left: 20px; width: 100%;"> <tr> <td>Andaman and Nicobar Islands</td> <td>Dadra and Nagar Haveli</td> <td>Daman and Diu</td> </tr> <tr> <td>Lakshadweep</td> <td>Chandigarh</td> <td>other territory</td> </tr> </table> </li> <li>SGST Act applies to <b>28 States</b> and Delhi &amp; Puducherry</li> </ul>			Andaman and Nicobar Islands	Dadra and Nagar Haveli	Daman and Diu	Lakshadweep	Chandigarh	other territory					
Andaman and Nicobar Islands	Dadra and Nagar Haveli	Daman and Diu											
Lakshadweep	Chandigarh	other territory											

June 16, 2017

CA Naresh Sheth

6

## Major Taxes to be subsumed in GST

### Central Taxes

- Central Excise Duty
- Additional Excise Duty
- Countervailing Duty
- Special Additional Duty
- Service Tax

### State Taxes

- VAT/Sales Tax & CST
- Purchase tax
- Entertainment Tax
- Luxury Tax
- Taxes on lottery, betting and gambling
- Entry tax

### Local Body Taxes

- Octroi
- LBT

June 16, 2017

CA Naresh Sheth

7

## Major Taxes to be retained Post-GST

### Central Taxes

- Central Excise on:
  - Tobacco products
  - **Petroleum Products**
- **Basic Custom Duty**

### State Taxes

- State Excise on Alcohol liquor
- State VAT on:
  - Alcohol liquor
  - **Petroleum Products**
- **Stamp Duty**
- **Electricity Duty**
- Profession tax
- Road tax
- Taxes on Mineral Rights

### Local Body Taxes

- Property Tax
- Entertainment Duty
- Gram Panchayat Tax

June 16, 2017

CA Naresh Sheth

8

## Taxable event in GST Regime vs. Existing regime

Tax	Taxable Event in Existing laws	Taxable Event in GST Regime
Service Tax	Provision of Service	<b>Supply of goods or services or both</b>
Excise Duty	Manufacture of excisable goods	
VAT/Sales Tax	Transfer of title in goods within state	
CST	Transfer of title in goods outside state	
Purchase Tax	Purchase of specified goods	
CVD	On import in lieu of excise duty	
SAD	On import in lieu of VAT	
Entry Tax / LBT	Entry of specified goods in the State for sale, use or consumption	
Entertainment tax	Provision of entertainment	

June 16, 2017

CA Naresh Sheth

9

## GST – Model and Philosophy

Meaning	<ul style="list-style-type: none"> <li>Broad based and comprehensive levy on goods and services consumed in economy</li> </ul>
Dual Model	<ul style="list-style-type: none"> <li>Central GST (CGST) to be levied on intra state supplies by Central Government</li> <li>State GST (SGST) to be levied on intra state supplies by State Government</li> <li>Union Territory GST (UTGST) to be levied on intra state supplies by Union Territory</li> <li>CGST &amp; SGST or CGST &amp; UTGST would be levied simultaneously on intra-state supply</li> <li>Integrated GST (IGST) to be levied on inter state supplies by Central Government and to distributed between Centre and States or Union Territory</li> </ul>
Destination Based Consumption Tax	<ul style="list-style-type: none"> <li>At present VAT is collected and retained by originating state</li> <li>Under GST, tax to accrue to the taxing authority which has jurisdiction over the place of consumption also termed as place of supply</li> <li>Supplies imported into country to attract GST</li> <li>Supplies exported outside country not to attract GST</li> </ul>

June 16, 2017

CA Naresh Sheth

10



## GST - Charging and Allied Provisions

June 16, 2017 CA Naresh Sheth 11

### Charging Provision: Sec 9 of CGST Act, Sec 7 of UTGST Act

Levy	There shall be levied a tax called <b>CGST / UTGST</b>	<ul style="list-style-type: none"> <li>➤ <b>Section 2(21) of CGST Act:</b> Central Tax means Central Goods and Services Tax levied under CGST Act</li> <li>➤ <b>Section 2(9) of UTGST Act:</b> Union Territory Tax means Union Territory Goods and Services Tax levied under UTGST Act</li> </ul>
On	All <b>intra-state supplies</b> of <b>goods</b> or <b>services</b> or both	
Except	On the supply of <b>alcoholic liquor for human consumption</b>	
Value	<b>On the value</b> determined u/s 15 of CGST Act	
Rate	At such rates as may be notified by CG in this behalf but <b>not exceeding 20%</b> on recommendation of council	

June 16, 2017 CA Naresh Sheth 12

## Charging Provision: Sec 9 of CGST Act, Sec 7 of UTGST Act

Collected

Collected in manner prescribed

Payable by

**Taxable person**

Petroleum &  
petroleum  
products

Government (on recommendation of GST council) shall levy CGST / UTGST on following w.e.f. such date as may be notified:

- Petroleum crude
- High speed diesel
- Motor spirit (Petrol)
- Natural gas
- Aviation turbine fuel

Section 9(2) of CGST Act

Section 7(2) of UTGST Act

June 16, 2017

CA Naresh Sheth

13

## Charging Provision: Sec 9 of CGST Act, Sec 7 of UTGST Act

RCM

- Government (on recommendation of GST council) may specify categories of goods or services covered under RCM
- CGST / UTGST in respect of supply by unregistered person to registered person shall be paid by registered person under RCM

➤ **Electronic Commerce u/s 2(44) of CGST Act:**  
means supply of goods or services or both including digital products over digital or electronic network

E-commerce

- Government (on recommendation of Council) specify categories of **services** on which tax to be paid by E-commerce operator
- If no physical presence in taxable territory, any person representing such operator in taxable territory shall be person liable to pay tax
- Neither physical presence nor representative, then such operator shall appoint a person in taxable territory for payment of tax

➤ **Electronic Commerce Operator u/s 2(45) of CGST Act:**  
means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce

June 16, 2017

CA Naresh Sheth

14

## Charging Provision - Section 5 of IGST Act

Levy

There shall be levied a tax called **IGST**

On

All **inter-state supplies** of **goods** or **services** or both

**Except**

On the supply of **alcoholic liquor for human consumption**

Value

**On the value** determined u/s 15 of CGST Act

Rate

At such rates as may be notified by CG in this behalf but **not exceeding 40%** on recommendation of council

➤ **Integrated tax u/s 2(12) of IGST Act:**

means integrated goods and services tax levied under this Act

➤ **Inter state Supplies of goods / services:**

Defined u/s 7 of IGST Act

➤ **Intra state Supplies of goods / services:**

Defined u/s 8 of IGST Act

June 16, 2017

CA Naresh Sheth

15

## Charging Provision - Section 5 of IGST Act

Collected

Collected in manner prescribed

Payable by

**Taxable person**

On import of goods

- IGST to be **levied and Collected** in accordance with the provisions of section 3 of the Customs Tariff Act, 1975
- **On the value** as determined under said Act
- **At the point** when duties of customs are levied on the said goods u/s 12 of the Customs Act, 1962

June 16, 2017

CA Naresh Sheth

16



## Charging Provision - Section 5 of IGST Act

Petroleum &  
petroleum  
products

Government (on recommendation of GST council) shall levy IGST on following w.e.f. such date as may be notified:

- Petroleum crude
- High speed diesel
- Motor spirit (Petrol)
- Natural gas
- Aviation turbine fuel

Section 5(2) of IGST Act

RCM

- Government (on recommendation of GST council) may specify categories of goods or services covered under RCM
- IGST in respect of supply by unregistered person to registered person shall be paid by registered person under RCM

June 16, 2017

CA Naresh Sheth

17

## Charging Provision - Section 5 of IGST Act

E-Commerce

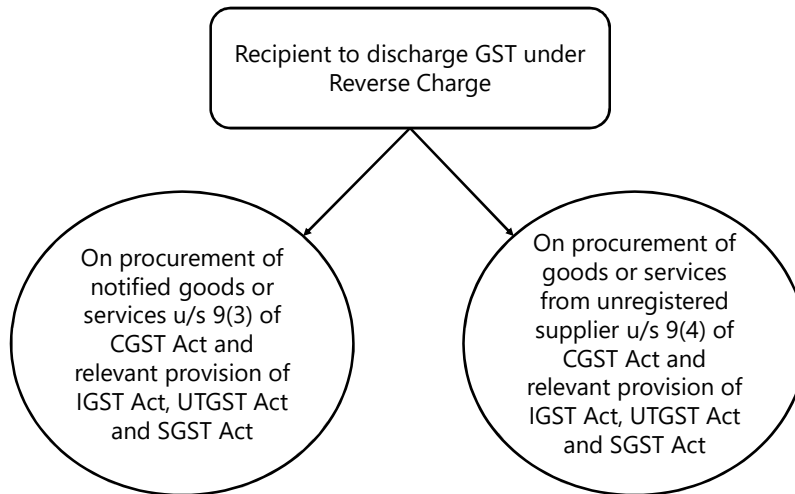
- Government (on recommendation of Council) specify categories of **services** on which tax to be paid by E-commerce operator
- E-commerce operator to be person liable to pay tax
- If no physical presence in taxable territory, any person representing such operator in taxable territory shall be person liable to pay tax
- Neither physical presence nor representative, then such operator shall appoint a person in taxable territory for payment of tax

June 16, 2017

CA Naresh Sheth

18

## Reverse Charge Mechanism



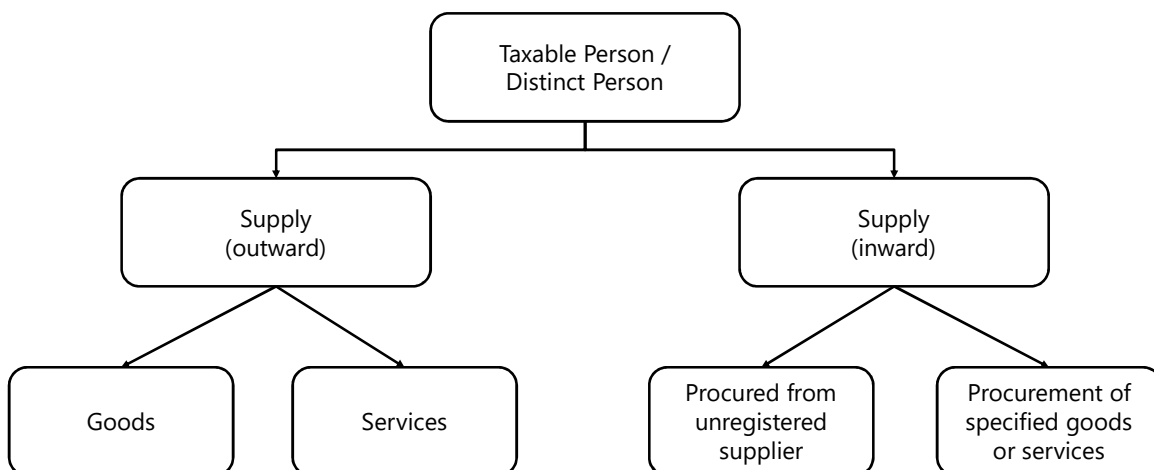
- Recipient to discharge GST under RCM as if he is the person liable for paying the tax on supply
- Recipient to make payment on his own account and on own GSTN number
- It is not TDS paid on behalf of supplier
- Recipient is entitled to ITC subject to ITC provisions

June 16, 2017

CA Naresh Sheth

19

## GST levy – Trigger points



June 16, 2017

CA Naresh Sheth

20



Taxable person &  
Distinct person

June 16, 2017 CA Naresh Sheth 21

## Person [Section 2(84) of CGST Act]

➤ **"Person" includes -**

Individual	HUF	Company	Firm
LLP	AOP or BOI, whether incorporated or not, in India or outside India	Corporation established by or under Central, State or Provincial Act	Government company
Local Authority	body corporate incorporated by or under the laws of a country outside India	co-operative society registered under any law relating to cooperative societies	society as defined under the Societies Registration Act, 1860 (21 of 1860)
Trust	Central or state government	every artificial juridical person, not falling within any of the preceding sub-clauses	

## Taxable Person and Registered Person

- **Taxable person means** [Section 2(107) of CGST Act]:
  - a person who is registered; or
  - liable to be registered under section 22 or section 24;
  
- **Registered person means** [Section 2(94) of CGST Act]:
  - a person who is registered u/s 25 of CGST Act; but
  - does not include a person having a Unique Identity Number

## Distinct Person

- **Distinct person u/s 25(4) and (5) of CGST Act:**
  - A person having registration in more than one state or union territory to be treated as distinct person in respect of each such registration
  - Different establishments of same person in more than one state or union territory to be treated as establishments of distinct persons
  
- **Distinct person means** [explanation 1 to section to section 8 of IGST Act]:
  - An establishment in India and any other establishment outside India
  - An establishment in a State or Union territory and any other establishment outside that State
  - An establishment in a State or Union territory and business vertical registered within that state or union territory

## Persons liable to be registered – Section 22

Existing assesses	Assesses under excise, service tax, VAT and other laws which are to be subsumed in GST w.e.f. appointed day
Every supplier	<b>Aggregate turnover</b> exceeds <b>Rs. 20 lakh</b> (Rs 10 lakhs for special category states)
Transferee or successor of business	Where business is transferred as a going concern w.e.f. date of such transfer or succession
Transferee of business	In case of amalgamation / demerger by order of HC w.e.f. date on which ROC gives certificate of incorporation giving effect to order of HC

June 16, 2017

CA Naresh Sheth

25

## Compulsory registration – Section 24

Persons making inter-state supply	Casual taxable person	Persons required to pay tax under RCM
Agent	Input service distributor	Non resident taxable person
Electronic commerce operator liable to pay tax u/s sec 9(5)	Every E-commerce operator	Person who supplies through E-commerce operator [other than supplies u/s 9(5)] who are required to collect tax u/s 52
Every person supplying online information and database access or retrieval services from outside India to unregistered taxable person in India	Persons required to deduct TDS u/s 51	such other person or class of persons as may be notified by CG or SG on recommendation of Council

June 16, 2017

CA Naresh Sheth

26

## Persons not liable to be registered – Section 23

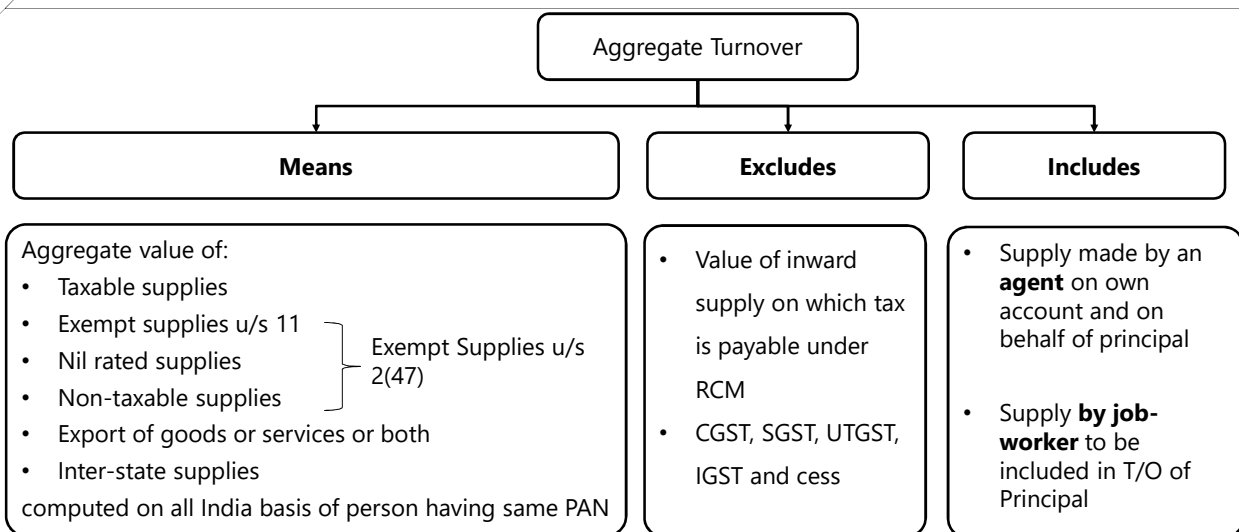
- Any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or are wholly exempt from tax under CGST Act or under IGST Act
- **Agriculturist, to the extent of supply of produce out of cultivation of land**
  - **Agriculturist means** an individual or HUF who undertakes cultivation of land [section 2(7) of CGST Act]:
    - By own labour; or
    - By the labour of family; or
    - By servants on wages payable in cash or kind or by hired labour under personal supervision or personal supervision of any member of the family
  - Term 'agriculture' was earlier defined under RMGL to include floriculture, horticulture, sericulture, raising of crops, grass or garden produce and grazing
  - Whether 'cultivation of land' includes floriculture, horticulture, sericulture, grass or garden produce and grazing?

June 16, 2017

CA Naresh Sheth

27


## Aggregate Turnover [Section 2(6) r.w. sec 22 of CGST Act]



June 16, 2017

CA Naresh Sheth

28



Goods and Services

June 16, 2017 CA Naresh Sheth 29

## Definition of 'Goods'

➤ **Goods means** [section 2(52) of CGST Act]:

- Every kind of movable property

- Other than:

- **Money [Sec. 2(75)]**
- **Securities [Sec. 2(101)]**

- But includes

- **Actionable claim [sec 2(1)];**
- Growing crops, grass and things attached to or forming part of land which are agreed to be severed before supply or under contract of supply

**Clause 6 of Schedule III:**

Actionable claims other than lottery, betting and gambling are neither to be treated as supply of goods or nor supply of service

- In addition to above, Schedule II deems certain supply to be that of goods

➤ **Whether electricity is liable to GST?**

## 'Money'

- **Money** means [Section 2(75) of CGST Act]:

Indian legal tender	Foreign currency	Cheque	Promissory note
Bill of exchange	Letter of credit	Draft	Pay order
Traveller cheque	Money order	Postal or electronic remittance	Any other instrument recognised by RBI

When used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination;

but shall not include any currency that is held for its numismatic value

## 'Actionable claims'

- **Actionable claim** [Section 2(1) of CGST Act] shall have the same meaning assigned to it in section 3 of Transfer of Property Act, 1882
- Whether factoring of debts is an actionable claim? Is it taxable?
- Whether winning of lottery is actionable claim? Is it taxable?
- Recently, **High Court of Sikkim in case of M/s Future Gaming and Hotels Services Pvt Ltd [2017-TIOL-589-HC-Sikkim-ST]** upheld the constitutional validity of levy of service tax on lottery services. However, it struck down the levy on the ground of absence of valuation mechanism for lottery services. Whether this decision will be valid in GST also?



## Definition of 'Service'

- **Services means** anything other than [section 2(102) of CGST Act]:

Goods	Money	Security
-------	-------	----------

- **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

In addition to above, Schedule II deems certain supply to be that of services



Supply

## Supply – Broad Concept

- **Concept of a supply is broader than a sale :**
  - Transfer of title in goods is required for Sales
  - Supply doesn't require transfer of title in goods
- **Presence of two persons for "taxable supply":**
  - Pre-requisite for VAT and Service tax
  - Not pre-requisite for Excise
  - Will not be a pre-requisite for GST
  - Even self-supplies may be a taxable supply in GST
- **Presence of Consideration for "taxable supply":**
  - Pre-requisite for VAT and Service tax
  - Not pre-requisite for Excise
  - Will not be a pre-requisite for GST

June 16, 2017

CA Naresh Sheth

35

## Definition of Supply

- Section 7 defines "Supply" to Include.....
- Definition of "Supply" is inclusive definition and hence one has to understand normal meaning of Supply
- Apart from what is provided in the section 3, the transactions covered under the general meaning of supply can also be covered
- **Dictionary meanings of "Supply":**
  - "Make(something needed or wanted) available to someone; provide"- Oxford Dictionary
  - "To provide materials, goods and services- an act of providing something" – Cambridge Dictionary
  - "To make (something) available to be used : to provide someone or something with : To make available"- Merriam- Webster Dictionary

June 16, 2017

CA Naresh Sheth

36

## Relevant extracts of definition of "Supply" under foreign laws

➤ **Australia GST Act u/s 9 and 10 defines "Supply" to mean:**

- 1) **A supply is any form of supply whatsoever**
- 2) Without limiting subsection (1), supply includes any of these.....

➤ **United Kingdom u/s 5(2) of VAT Act, 1994:**

- Subject to any provisions made by that Schedule and to Treasury orders under sub-sections (3) to (6) below-
  - a) **"supply" in this Act includes all forms of supply, .....**

➤ **Malaysian GST Act u/s 4 defines "Supply" to mean:**

- **All forms of supply**, including supply of imported services, done for a consideration and anything which is not a supply of goods but is done for a consideration is a supply of services

➤ **Canadian GST Act defines "Supply to mean:**

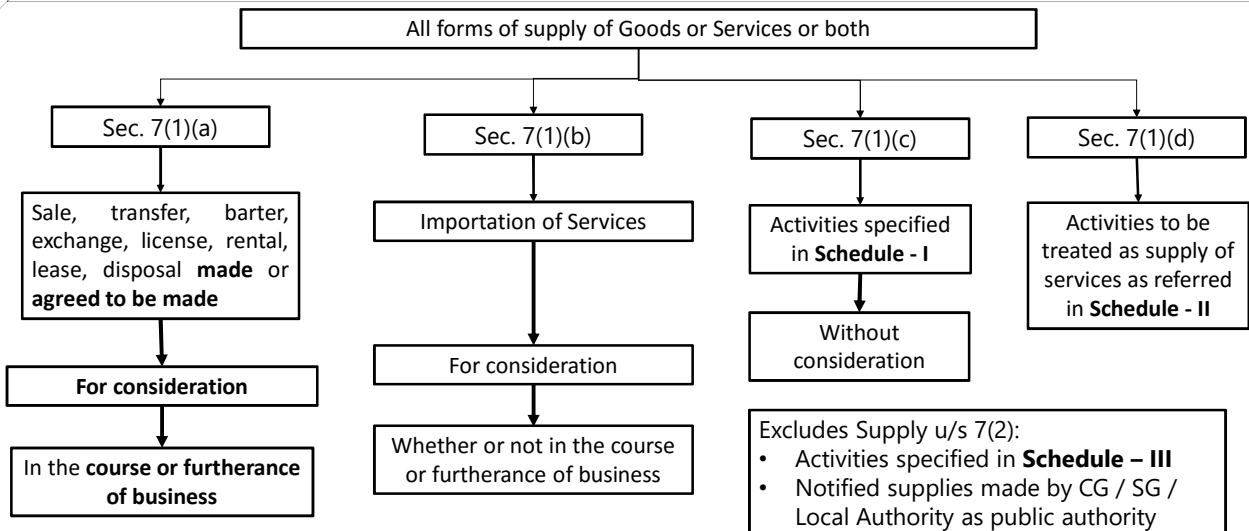
- Subject to sections 133 and 134, **the provisions of property or a service in any manner**, including sale, transfer, barter, exchange, license, rental, lease, gift or disposition

June 16, 2017

CA Naresh Sheth

37

## Supply u/s 7(1) of CGST Act



June 16, 2017

CA Naresh Sheth

38

## 'Consideration'

**Consideration** [section 2(31) of CGST Act] **includes:**

- Any payment made / to be made in money or otherwise
- The monetary value of any act or forbearance
- Deposit (refundable or not) to be treated as consideration only when adjusted against supply

In respect of /  
in response to or  
for the inducement of the  
supply of goods and/or  
services  
whether by recipient or by  
any other person

**Consideration excludes:**

- Subsidy given by Central or State Government

**Issues under deliberation:**

- What is the meaning of term 'otherwise'? Does it include consideration in kind?
- Whether mere book entry would amount to payment made ?

## 'Business'

➤ **Business includes** [section 2(17) of CGST Act]:

- Whether or not for pecuniary benefit and **irrespective of volume, frequency, continuity or regularity of following:**

Trade	Commerce	Manufacture	Profession
Vocation	Adventure	Wager	Or any other similar activity

- Supply / acquisition of goods (Including capital assets) and services in connection commencement or closure of business
- Provision of facilities / benefits to its members by:
  - Club
  - Association
  - Society
  - Or any such body

For subscription /  
other consideration

## 'Business'

➤ **Business includes** [section 2(17) of CGST Act]:

- Admission of person(s) to any premises for consideration
- Services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade commerce or vocation
- Services provided by a race club by way of totalisator or a licence to book maker in such club
- Any activity undertaken by CG or SG or local authority in which they are engaged as public authorities

June 16, 2017

CA Naresh Sheth

41

## Supplies without consideration under Schedule I

➤ **Permanent transfer / disposal of business assets where ITC has been availed on such assets**

- Disposal of computer to charitable organization
- Proprietor/ partners transferring goods for personal use
- Can GST be levied when ITC was claimed under earlier Law?

➤ **Supply of goods or services between related persons or between distinct persons specified u/s 25 when made in course or furtherance of business:**

- Branch / Depot transfer
- Services provided by Head Office/ corporate office to its Branch offices or regional offices
- Supply by employer to employees –
  - gifts not exceeding Rs. 50,000 in value in a financial year shall not be treated as supply

June 16, 2017

CA Naresh Sheth

42

## Supplies without consideration under Schedule I

### ➤ Supply of goods by or to agent:

- by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal, or
- by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

### ➤ Importation of services by a taxable person from:

- a related person or
- from any of his other establishments outside India

in the course or furtherance of business.

June 16, 2017

CA Naresh Sheth

43

## Schedule II – Matters to be treated as deemed supply of 'goods' or 'services' u/s 7

Transaction	Nature of Supply	Clause
Transfer of title in goods	Goods	1(a)
Transfer of: <ul style="list-style-type: none"> <li>• rights in goods; or</li> <li>• undivided share in goods</li> </ul> } <b>Without transfer of title</b>	Service	1(b)
Transfer of title in goods at future date upon payment of full consideration	Goods	1(c)
Lease, tenancy, easement, license to occupy land	Service	2(a)
Lease or letting out of building including commercial, industrial or residential complex (wholly or partly) for <b>business or commerce</b>	Service	2(b)
Treatment or processing of other's goods (job work)	Service	3

June 16, 2017

CA Naresh Sheth

44

## Schedule II – Matters to be treated as deemed supply of 'goods' or 'services' u/s 7

Transaction	Nature of Supply	Clause
<b>Transfer of business assets:</b> <ul style="list-style-type: none"> <li>• Transfer / disposal of goods forming part of business asset (with or without consideration)</li> <li>• When a person ceases to be a taxable person <b>except when:</b> <ul style="list-style-type: none"> <li>▪ <b>Business transferred as going concern</b></li> <li>▪ Business carried on by a personal representative (deemed to be a taxable person)</li> </ul> </li> <li>• Business assets put to private use or for any purpose other than business (With or without consideration)</li> </ul>	Goods	4(a)
		4(c)
	Service	4(b)
Renting of immovable property	Service	5(a)
Sale of under construction flats / units (money received before CC or First occupation certificate)	Service	5(b)
Temporary transfer or permitting use or enjoyment of IPR	Service	5(c)
Development, design, programming, customization etc. of IT Software	Service	5(d)

June 16, 2017

CA Naresh Sheth

45

## Schedule II – Matters to be treated as deemed supply of 'goods' or 'services' u/s 7

Transaction	Nature of Supply	Clause
Agreeing to the obligation to: <ul style="list-style-type: none"> <li>• Refrain from an act; or</li> <li>• Tolerate an act or situation; or</li> <li>• Do an act</li> </ul>	Service	5(e)
Transfer of right to use any goods for any purpose whether or not for specified period for consideration	Service	5(f)
Works Contract including transfer of property in goods	Service	6(a)
Supply of food as a part of service (Outdoor catering and restaurant sale)	Service	6(b)
Supply of goods by an unincorporated association to its members	Goods	7

➤ **Relevance of bifurcating above transactions as goods or services:**

- Place of supply
- Time of supply
- Rates

June 16, 2017

CA Naresh Sheth

46

## Schedule III – Activities or transactions not to be treated as supply

- **Services by employee to employer in the course of or in relation to his employment**
  - Supply of goods by employee to employer – taxable supply
  - Supply of goods/ services by employer to employee – taxable supply [not taxable up to Rs. 50,000]
- **Services by any Court or Tribunal established under any law for the time being in force (court includes district court, High Court and Supreme Court)**
- **Functions or duties performed by:**
  - Members of Parliament
  - Members of State Legislature
  - Members of Panchayats
  - Members of Municipalities

June 16, 2017

CA Naresh Sheth

47

## Schedule III – Activities or transactions not to be treated as supply

- Members of other local authorities
- any person who holds any post in pursuance of the provisions of the Constitution in that capacity
- 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
- **Services of funeral, burial, crematorium or mortuary including transportation of the deceased**
- **Sale of land and sale of building [subject to clause 5(b) of Schedule II]**
- **Actionable claims, other than lottery, betting and gambling**

June 16, 2017

CA Naresh Sheth

48



## Composite Supply

➤ **Composite supply means [sec 2(30) of CGST Act] :**

- 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**

Principal supply means supply of goods or services which constitutes predominant element of composite supply and to which any other supply forming part of composite supply is ancillary

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 the principal supply.

- 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**

June 16, 2017

CA Naresh Sheth

49

## Mixed Supply

➤ **Mixed supply means [sec 2(74) of CGST Act] :**

- **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 drink 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

- A mixed supply comprising two or more supplies shall be **treated as supply of that particular supply which attracts the highest rate of tax**

June 16, 2017

CA Naresh Sheth

50



## Applicable Levy

June 16, 2017 CA Naresh Sheth 51

## 'Intrastate' – Section 8 of IGST Act

**Section 8(1) and 8(2) of IGST Act:**

Location of Supplier

→

Same States or Union territory

→

INTRA State Supply

CGST & SGST/UTGST leviable

Place of Supply

→

Same States or Union territory

→

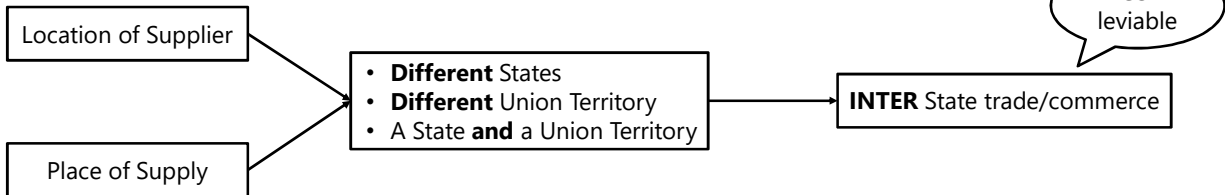
INTRA State Supply

- Intra-state supply of goods or service **shall not include** [proviso to section 8(1) and 8(2)]:
  - Supply of **goods or services** to or by SEZ developer or SEZ unit
  - Supply of **goods** imported into territory of India till they cross the customs frontiers of India
  - Supply of **goods** made to tourist referred to in section 15 of IGST Act:
    - Any supply made to non-resident tourist in India who takes such goods outside India will be liable to IGST and said IGST will be refunded to him in manner to be prescribed

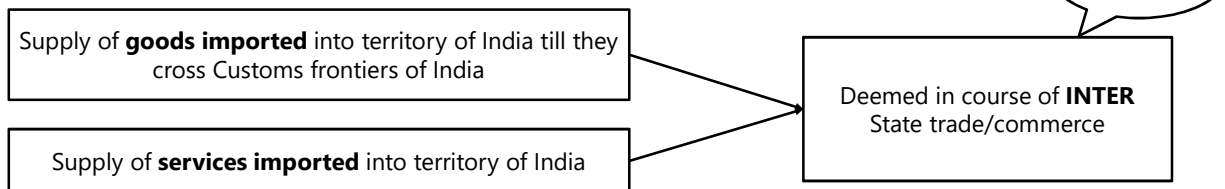
June 16, 2017 CA Naresh Sheth 52

## 'Interstate' – Section 7 of IGST Act

### Section 7(1) and 7(3) of IGST Act:



### Section 7(2) and 7(4) of IGST Act (Import):



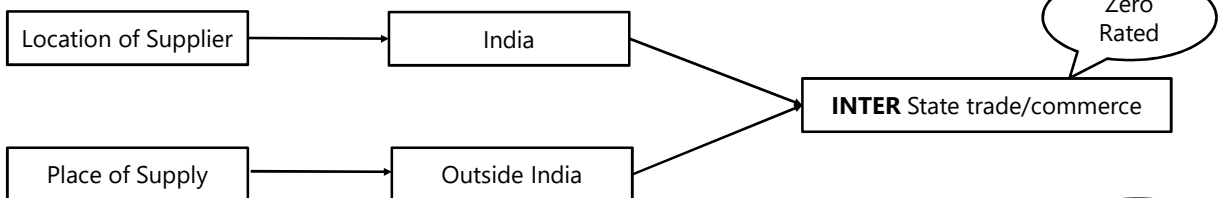
June 16, 2017

CA Naresh Sheth

53

## 'Interstate' – Section 7 of IGST Act

### Section 7(5)(a) of IGST Act (Export):



### Section 7(5)(b) of IGST Act:



June 16, 2017

CA Naresh Sheth

54

## Zero Rated Supplies [Sec 2(23) and Section 16 of IGST Act]

- **Zero Rated Supply** [sec 2(23) of IGST Act] shall have meaning assigned to it in Section 16
- **Section 16 of IGST Act:**
  - “zero rated supply” means any of the following supplies of goods or services or both –
    - Export of goods or services or both; or
    - Supply of goods or services or both to a SEZ developer or an SEZ unit
  - Subject to provisions of sub section (5) of section 17 of the CGST Act, credit of input tax may be availed for making zero rated supplies, even if that supply is an exempt supply

June 16, 2017

CA Naresh Sheth

55

## ‘Interstate’ – Section 7 of IGST Act

- **Section 7(5)(c) of IGST Act:**
  - Supply of goods or services or both in the taxable territory,
    - not being an intra-state supply; and
    - not covered elsewhere in section 7

Shall be deemed to be a supply of goods / service in course of inter-state trade or commerce

June 16, 2017

CA Naresh Sheth

56

## Tax levies in GST regime for Supply of Goods/Services - Relevant extract of tax invoice

### Intra-State Supply

Particulars	Amount (Rs.)	Amount (Rs.)
Value of Goods / Services		100,000
CGST(9% of 100,000)	9,000	18,000
SGST(9% of 100,000)	9,000	
Total Amount		118,000

### Inter-State Supply

Particulars	Amount (Rs.)	Amount (Rs.)
Value of Goods / Services		100,000
IGST (18% of 1,00,000)		18,000
Total Amount		118,000

**Following details will be mandatory:**

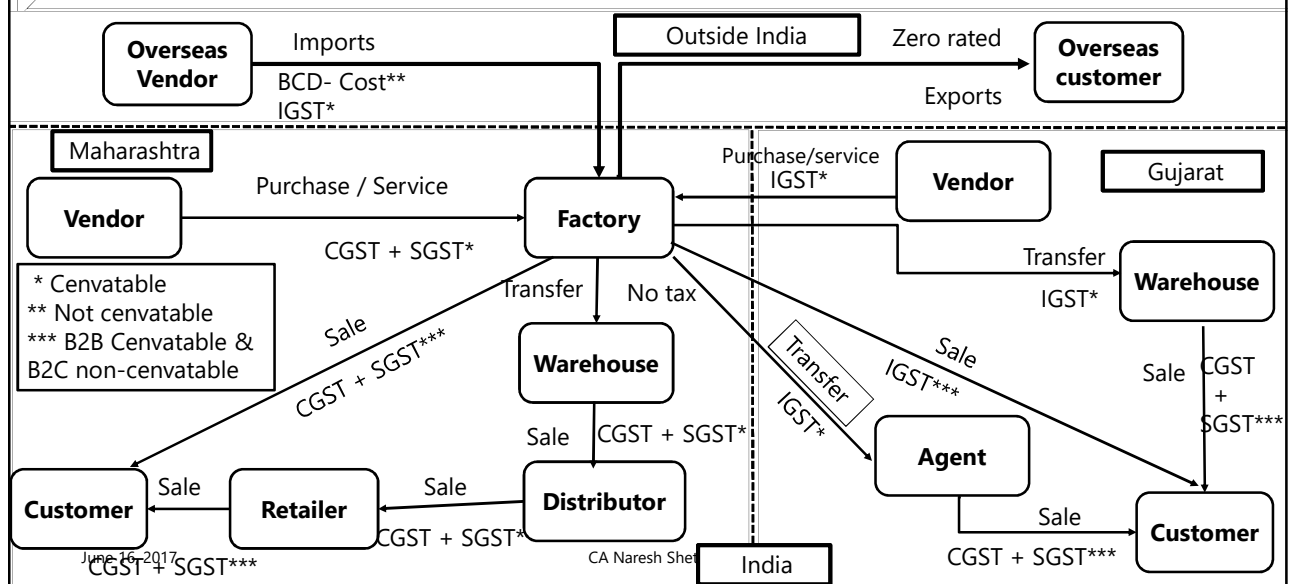
1. Name and address of Supplier
2. Name and address of Buyer
3. 15 digit GST Identification no. of dealer as well as buyer

June 16, 2017

CA Naresh Sheth

57

## Post GST - Supply chain



## Words of Caution

- Presentation is based on CGST Act, IGST Act and UTGST Act
- Views expressed are the personal views of faculty based on his interpretation of GST Act
- Presentation is done in educational meeting. Such meeting is arranged with a clear understanding that neither the Faculty nor Nagpur branch of WIRC will be responsible for any error, omission, commission and result of any action taken by a member or anyone on the basis of this presentation.

June 16, 2017

CA Naresh Sheth

59

**THANK YOU**

**[naresh.sheth@nashah.com](mailto:naresh.sheth@nashah.com)**

June 16, 2017

CA Naresh Sheth

60