

TEST 3: CONCEPT OF SUPPLY

Illustration 1

Explain the applicability of CGST & IGST? whether the act also extends to the state of Jammu and Kashmir?

Solution

CGST & IGST Act 2017 is applicable to whole of India. Initially it was not applicable to state of Jammu and Kashmir but by special ordinance it was made applicable to the state of Jammu and Kashmir from 8th July 2017.

Illustration 2

Define taxable territory and non- taxable territory?

Solution

As per section 2(109), taxable territory means the territory to which the provisions of the CGST act applies i.e. whole of territory of India.

Whereas a non- taxable territory has been defined under section 2(79) of CGST Act as a "Non-taxable territory" means the territory which is outside the taxable territory.

Illustration 3

Supply of all goods and/or service is taxable under GST. Discuss The validity of the statement.

Solution

The statement is incorrect, supplies of all goods and service are taxable except alcoholic liquor for human consumption, supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be taxable with effect from a future date. This date would be notified by the government on the recommendations of the GST council.

Illustration 4

Mr X businessman located in Nagpur procures goods from a trader located in Mumbai. Determine the nature of supply & GST applicable on such supply?

Solution

Location of supplier - Mumbai

Place of supply - Nagpur

Nature of supply - intra state supply (as within state)

GST applicable - CGST+SGST(MH)

Illustration 5

Are export and supplies to SEZ units developers out of the Ambit of GST?

Solution

No, they are liable to GST under IGST act 2017, however the tax burden on the same will be neutralized by granting refunds to person making such supplies as 16 of IGST act as zero rated supplies subject to such safeguard conditions and procedures as maybe prescribed as per section 7 of CGST act supplies made to and from SEZ are Deemed to treated an inter- state supply.

Illustration 6

When does a particular activity attract GST? Explain the scope?

Solution

As per section 9 of CGST act, GST is payable on supply of goods services for both and also as per section 7 of CGST act supply includes,

- a) All forms of supply of goods or services or both Such as cell transfer barter exchange licence rental lease for disposal made or agreed to be made for consideration by a person in the course of furtherance of business
 - b) Import of services for a consideration whether or not in course or furtherance of Business and
 - c) the activities specified in schedule I made or agreed to be made without consideration
- Thus, all the activities specified above falling under the scope of supply shall attract GST excluding those activities are specified in schedule III such activities for transactions undertaken by the central government or state government or any other authority in which they are engaged as public authorities as may be notified by the government of the recommendations of the Council, shall be treated neither as a supply of goods or supply of services

Illustration 7

Mention the necessary elements that Shall constitute supply under CGST act?

Solution

for any activity to qualify as a supply the following elements are required to be satisfied i.e,

- 1) an all the form of supply of goods or services or both such as sale, transfer, barter, exchange, lease, licence, rental or disposal
- 2) the supply is for consideration unless otherwise specifically provided under schedule 1
- 3) the supply is made in the course of furtherance of business the supply is made in the taxable territory

Illustration 8

Differentiate between a taxable supply and non-taxable supply under GST?

Solution**Taxable supply:**

- As per section 2(108) of CGST act means supply of goods or services or both which is leviable to GST under this act
- Falls under the purview of supply as per section 7 of CGST act
for example: supply of Gold jewellery for Silver articles etc

Non-taxable supply:

- as per section 2 (278) of CGST act means supply of goods or services for both which is not Leviable to GST under this act or under integrated goods and Service Tax Act
- does not fall under the purview of supply as per section 7 of CGST act
for example, supply of petrol or diesel

Illustration 9

What is the difference in between Nil rated zero rated supply of goods and services?

Solution

There exist a difference between Nil rated supply and zero rated supply as per GST law Nil rated supply means of supply of goods or services which has Nil rate in tariff or exempt buy notification,

zero rated supplies means a supply of goods or services for export or to SEZ units [section 16 of IGST]. where tax is levied table but export incentive is given.

Illustration 10

Explain the term of deemed distinct person

Solution

That term has not been specifically define under GST but as per clause 4 and clause 5 of section 25 of CGST act has categorised certain person who shall be Treated as distinct persons which state that:

- 1) a person who has obtained or is required to obtain more than one registration,
 - weather in one state or Union Territory or
 - more than one state or union territory shall
 - in respect of each such registration be treated as distinct persons for the purpose of this act

where a person who has obtained or is required to obtain registration in a state or union territory in respect of on establishment has an establishment in another state or union territory

then search establishment shall be treated as establishment of distinct person for the purposes of this act.

Illustration 11

Raman Private Limited has head office located in Bangalore Karnataka however the branch of Raman Private Limited is located in state of Gujarat will they fall under the Ambit of demand distinct person under GST act?

Solution

As per clause 4 of section 25 of CGST act Vikas Private Limited shall be required to obtain a separate registration in state of Karnataka and Gujarat in respect of its head office and branch respectively, thus head office and branch shall be treated as distinct person.

Illustration 12

Determine whether the following activities fall under the scope of business?

- a) M/S Pankaj Private Limited is engaged in the manufacturer of Auto Parts for industrial purpose
- b) M/S Rahul Limited acquired capital goods lying in stock of M/S Amit Limited as on takeover of business of M/S Amit Limited
- c) ETA star adventure club provides a free trekking camp two non- members of the club Adlabs Imagica charges 1500 as an entry fee into the park to its customers

Solution

- a) Yes, the given activity of manufacturers has been included in the definition of business.
- b) No as it part of transfer as going concern.
- c) No, as per the definition of business provision of services to member as in return for subscription fee, thus in the given case as free trekking camp is organised for non-members Yes, as per definition of business admission for consideration of persons to any premises as in the given case the entry fee is charged for admission into the park.

Illustration 13

M/S Asha buys a mobile for her personal use and after a year sales it to a mobile dealer will it constitute supply and is GST liveable on such supply?

Solution

As per section 7(1)(a) when any cell transfer barter etc is made for consideration in the course of furtherance of business then it would be treated as supply and liable to GST.

In the given case sale of mobile by MS Asha to a mobile dealer shall not be considered as supply as search sale is not in course or furtherance of business of MS Asha hence not treated as supply and no GST is payable.

Illustration 14

Determine whether the following terms fall under the Ambit of consideration,-

- a) Reliance jio offers free mobile handset payment of security deposit worth 1500 which is fully refundable
- b) Shambhu customer purchases gold necklace weighing 275 grams from Ranka Jewellers showroom INR exchange sales are old gold articles weighing 200 grams and pays differential amount in cash
- c) R C Cricket Association Chennai gift a motorbike to you Pankaj as endorsement to join their cricket club
- d) Vikas Limited is manufacturing fertilizers used for agriculture purpose state government has given 30% subsidy on sale of such fertilizers

Pankaj and Company trading concern had supplied the product X to Mr y as subsidies rate it of Aryas 30000 open market value of such goods 45000 supplier of of Pankaj and company has given the subsidy duet 2 compensate for the price difference

Solution

- a) No, as the amount of deposit in the given case is not applied by the supplier towards the mobile handset provided no, levy of GST
- b) **In this case there exist two forms of supply that is -**
[sale of gold necklace by Jeweller to the customer this falls under the Ambit of supply as such sale by the jeweller is in course of his business thus the consideration here is partly in kind and in money for differential grams i.e 75 grams paid by customer GST shall be levied on the value determined as per open market value for 275 grams of gold necklace,]
[sale of old gold articles by customer to jeweller this falls out of purview of supply as the cell by customer is not in course of business thus not fall under the Ambit of consideration hence no GST]
- c) Yes, supply of motorbike is in response to an offer to join the cricket club GST shall be levied.
- d) As per section 2(31) of CGST act, pertaining to consideration clearly excludes the value of of subsidy received from the central government or state government thus in the given case the amount of subsidy shall be excluded from the value of consideration.
- e) As per section 2(31) of CGST act pertaining to consideration clearly excludes the value of subsidy received from the central government or state government but in given case subsidy is given by the supplier and not by government hence subsidy is treated as consideration.

Illustration 15

PM Associates and Co CA firm donated old laptops to charitable schools on account of renovation of office the firm had taken input tax credit on the laptops so donated does it qualify as a supply?

Solution

As per section 7 (1)(c) read with schedule 1 of CGST act, 2017 permanent transfer or disposal of business assets where input tax credit has been availed shall be treated as supply even if made without consideration hence donation of old laptops to charitable schools shall qualify as supply since ITC has been availed by PM Associates and Co.

Illustration 16

Mr. Suresh import interior design service for designing his office from his brother Mr Prakash who resides in UK from last one year whether it is treated as supply under GST law?

Solution

As per the provision of para 4 schedule 11 of CGST act Import of any service without consideration buy a taxable person from related person outside India from any of his other establishment it outside India in the course of furtherance of business is treated at supply.

Conclusion therefore is given case referring to the above provisions Mr. Suresh has imported interior design service for business without consideration from his brother in UK is treated as supply of service as it is in course of business.

Illustration 17

Mr. P is the owner of a truck value at 700000 heat transfers the right to operate the truck to Mr y for a consideration but the ownership of the truck is not transferred determine whether it will be considered as a supply?

Solution

It is supply as per section 7(1) as it is a transfer for involve consideration however as per schedule II who of CGST act, 2017 any transfer of rights in goods without transfer of title there of shall be classified as supply of service.

Illustration 18

Classify following activities as a supply of goods or services as per schedule II-

- a) Mr Amit enters into a contract with Mr Vipul to rent out his property for commercial purpose.
- b) M/S Ganesh Enterprises provides catering service on occasion such as party, seminar, conference, etc.

- c) MS ABC Private Limited transferred stock of raw materials from its unit in Pune to one of its Branch located in Nagpur
- d) Mr P provided transportation facility for a deceased person in relation to performance of funeral rites.
- e) MS Nirmala developers undertakes a contract of Fabrication Works (involve goods) office of a complex building.

Solution

The activities are in relation to goods or services or both but in order to be classified as a supply it must be included in the scope of supply as per section 7 of CGST act-

- a) Yes, it is a supply as per section 7 (1) and as per schedule II of CGST act renting of immovable property has been classified as a supply of service,
- b) YES, it is a supply as per section 7(1) and as per schedule II of CGST act supply of food or any other article for human consumption where it is for consideration is classified as a supply of service,
- c) No, if goods are transferred from one unit to another unit in the same state of same business entity having same registration number then it would not be considered as supply under section 7 of CGST act,
- d) No, as per section 7(2) (a) read with schedule III of CGST act services of funeral, burial crematorium or mortuary including transportation of deceased shall neither be treated as supply of goods nor a supply of services,

Yes, it is a supply as per section 71 and as per schedule II and definition of works contract under section 2 (119) of CGST act Fabrication Works relating to an immovable property shall be classified as a supply of service,

Illustration 19

Piter Limited USA is the holding company of VS Limited imports business consultancy service from John Limited without consideration in September 2017, does it qualify as a supply

Solution

Yes, as per Para 4 of schedule-I Import of services by taxable person from related person outside India in the course of furtherance of business without consideration would be treated as supply,

In given case Import of business Consultancy Services by V S Limited from Piter Limited without consideration qualified at supply.

Illustration 20

determine whether the following supplies amount to composite supplies;

- A hotel provides 4 days 3 Nights package where in the facility of breakfast and dinner is provided along with the room accommodation,

A toothpaste company has offered the scheme of free toothbrush along with the toothpaste.

Solution

Under composite supply two or more taxable supplies of goods or services or both or any combination thereof are naturally bundled and supplied in conjunction with each other in the ordinary course of business one of which is a principal supply [Section 2(30) of the CGST act] in view of the same-

- Since, supply of breakfast and dinner with the accommodation in the hotel are naturally bundled said supplies qualify as composite supply,

Since, supply of Brush along with the toothpaste are not naturally bundled supplies do not qualify as composite supply.

Illustration 21

Vinay Limited supplying a kit which contains a tie 12% watch 28% a wallet 28% and a pen 12% as a Combo for 4500 watch wallet and pen are bonded as a kit the kit is supplied for a single price, Determine nature of supply.

Solution

Each of the goods in the package have individual identity and can be supplied separately but are deliberately supplied conjointly for a single consolidated price hence the supply would constitute mixed supply, as per section 2(74).

The supply of tie does not naturally necessitate the supply of other elements and vice versa. As, per section 8(b) tax rates applicable in case of mixed supply would be the rate of tax attributable to that one supply goods or services which suffers the highest rate of tax from amongst this applies forming part of the mixed supply therefore entire package will be chargeable to 28% GST.

Illustration 22

- a) State the advantages of GST
- b) M/s ABC Limited provides the following relating to Information Technology software compute the value of taxable service and GST liability (rate of CGST 9% and SGST 9%)
 - i. Development and design of Information Technology software 15 lakhs.
 - ii. Sale of free package software which is put on media 52 lakhs.

Solution**a) The advantages of GST-**

- 1) one Nation one tax
- 2) Removal of bundle indirect taxes such as VAT, CST service tax, CAD SAD & Excise
- 3) Removal of cascading effect of taxes i.e remove tax on tax
- 4) Increased is doing business;
- 5) lower cost of production increases demand will be lead to increase supply hence this will ultimately lead to rise in the production of goods resultantly boost to make in India initiative;
- 6) It will most export and manufacturing activity generate more employment and does increase GDP with gainful employment leading to substantive economic growth;

b) Will be treated as supply and as per schedule 2 who will be classified as supply of service value of taxable supply of service 15 lakhs.

CGST @ 9% of 15 lakhs = 1.35 lakhs SGST @ 9% of 15 lakhs = 1.35 lakhs.

Will be treated as supply & as per schedule II will be classified as supply of goods value of taxable supply of goods is 52 lakhs,

CGST @ 9% of 52 lakhs = 4.68 lakhs & SGST @ 9% of 52 lakhs = 4.68 lakhs.