

Classification Composite and Mixed Supply

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Composite and Mixed Supply

Composite Supply

▶ Section 2(30)

- ▶ “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;

▶ Section 2(90)

- ▶ “principal supply” means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;

Mixed Supply

▶ Section 2(74)

- ▶ “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;

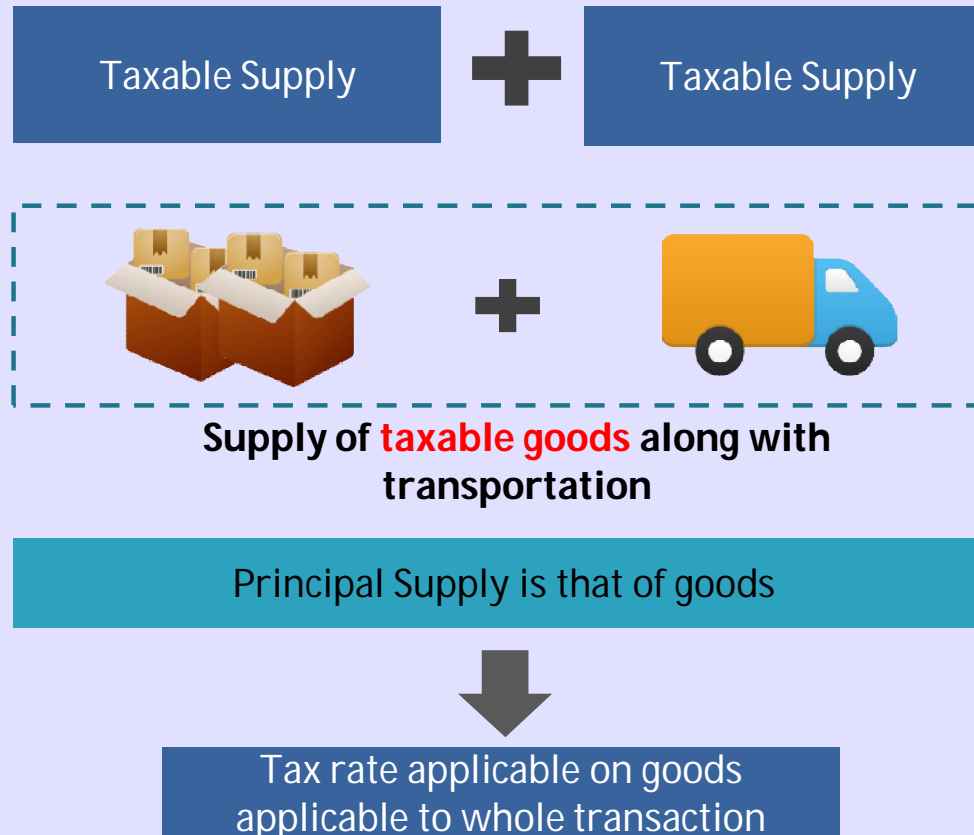
Tax Liability

- ▶ Section 8 - 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.

Mixed supply – Both supplies attracting same rate of tax?

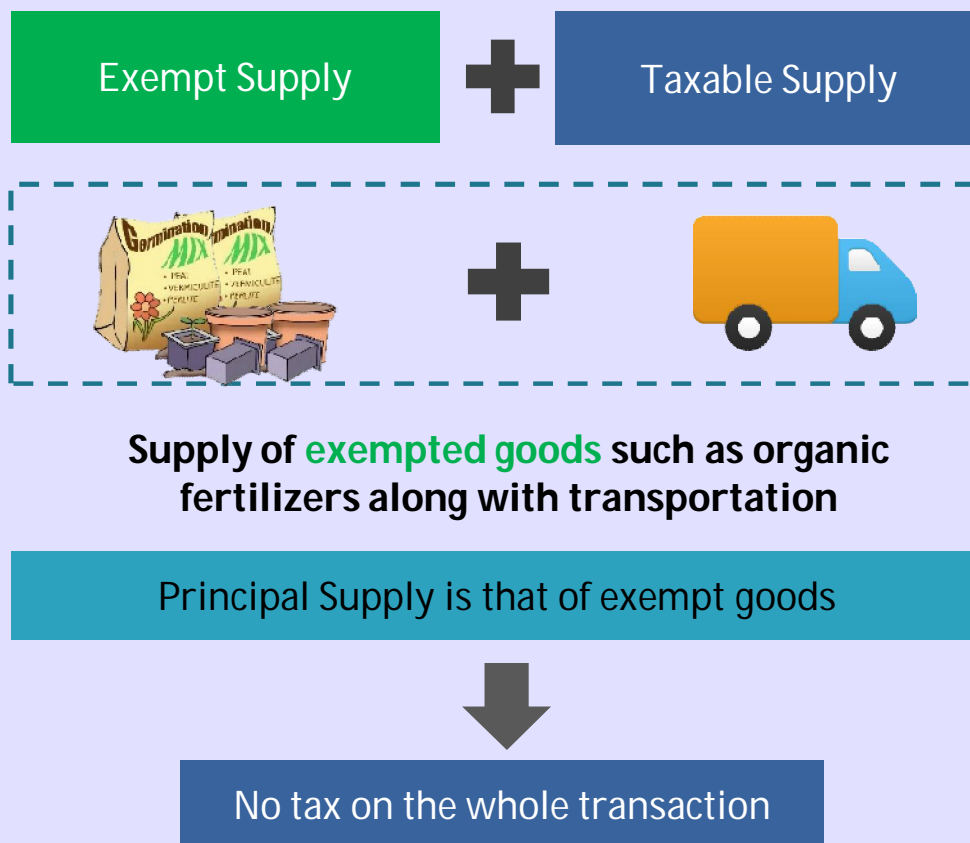
Composite or Mixed Supply - Issues

Case 1



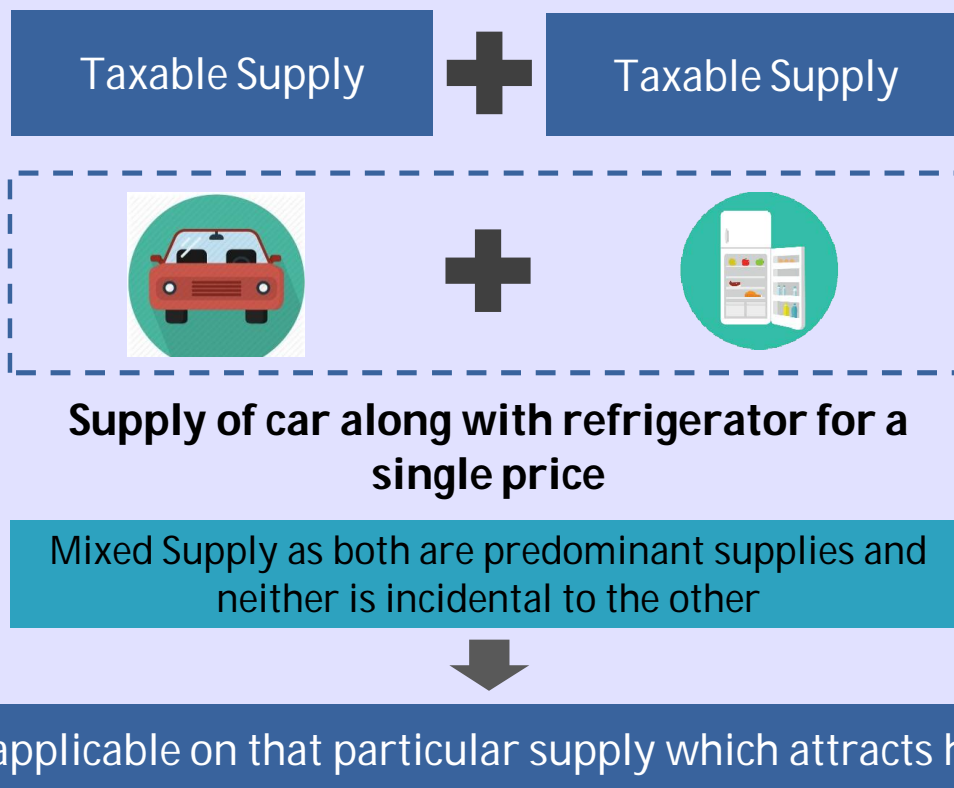
Composite or Mixed Supply - Issues

Case 2



Composite or Mixed Supply - Issues

Case 3



Composite or Mixed Supply - Issues

- ▶ Schedule II - Activities 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.

- ▶ Flyer on Composite and Mixed Supply –

A works contract and restaurant services are classic examples of composite supplies, however the CGST Act (Schedule II – Sl. No. 6) identifies both as supply of services and chargeable to specific rate of tax mentioned against such services (works contract and restaurants).

Composite or Mixed Supply - Issues

- ▶ AMC Contract :
 - ▶ Spares @ 12 % and Repair Services @18%
 - ▶ Spares @ 28% and Repair Services @ 18%
 - ▶ Spares @ 28% & 18% and Repair Services @ 18%
- ▶ Job Work (with some consumable and material)
- ▶ Divisible and indivisible contracts

GST Schedule and General Rules of Interpretation

GST Rates

- ▶ Multiple rates of tax for goods and services.
- ▶ Exemptions with restriction on availment of ITC.
- ▶ Six schedules for goods and one for services.
- ▶ Compensation cess for few goods and services.

GST Tariff Schedule

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(Department of Revenue)

Notification No.1/2017-Integrated Tax (Rate)

New Delhi, the 28th June, 2017

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, on the recommendations of the Council, hereby notifies the rate of the integrated tax of-

- (i) 5 per cent. in respect of goods specified in Schedule I,
- (ii) 12 per cent. in respect of goods specified in Schedule II,
- (iii) 18 per cent. in respect of goods specified in Schedule III,
- (iv) 28 per cent. in respect of goods specified in Schedule IV,
- (v) 3 per cent. in respect of goods specified in Schedule V, and
- (vi) 0.25 per cent. in respect of goods specified in Schedule VI

appended to this notification (hereinafter referred to as the said Schedules), that shall be levied on inter-State supplies of goods, the description of which is specified in the corresponding entry in column (3) of the said Schedules, 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 Schedules.

GST Tariff Schedule

Explanation. – For the purposes of this notification,-

(i) The phrase “unit container” means a package, whether large or small (for example, tin, can, box, jar, bottle, bag, or carton, drum, barrel, or canister) designed to hold a pre-determined quantity or number, which is indicated on such package.

(ii) The phrase “registered brand name” means brand name or trade name, that is to say, a name or a mark, such as symbol, monogram, label, signature or invented word or writing which is used in relation to such specified goods for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified goods and some person using such name or mark with or without any indication of the identity of that person, and which is registered under the Trade Marks Act, 1999.

(iii) “Tariff item”, “sub-heading” “heading” and “Chapter” shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

2. This notification shall come into force with effect from the 1st day of July, 2017.

[F.No.354/117/2017-TRU]

GST Tariff Schedule

▶ Explanation (iii) to the notification-

- ▶ Tariff item, sub-heading, heading and Chapter shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975.

▶ Explanation (iv) to the notification-

- ▶ The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

General Rules of Interpretation

▶ Rule 1 –

- ▶ The titles of Sections, Chapters and Sub-Chapters are provided for ease of reference only;
- ▶ for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and,
- ▶ provided such headings or Notes do not otherwise require, according to the following provisions:

General Rules of Interpretation

▶ Rule 2(a) –

- ▶ Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article.
- ▶ It shall also be taken to include a reference to that article complete or finished (or failing to be classified as complete or finished by virtue of this rule) presented unassembled or dis-assembled.

General Rules of Interpretation

▶ Rule 2(b) –

- ▶ Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances.
- ▶ Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance.
- ▶ The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.

General Rules of Interpretation

- ▶ Rule 3 – When by application of Rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows :
 - ▶ Rule 3(a) –
 - ▶ The heading which provides the most specific description shall be preferred to headings providing a more general description.
 - ▶ However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

General Rules of Interpretation

▶ Rule 3(b) –

- ▶ Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their **essential character**, insofar as this criterion is applicable.

General Rules of Interpretation

▶ Rule 3(c) –

- ▶ When goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

General Rules of Interpretation

▶ Rule 4 –

- ▶ Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin.



Issues in Classification

Rules of Interpretation for GST Rate Schedules

- ▶ How to decide the classification of parts not specifically or expressly included in GST Rate Schedules
- ▶ Section XVI – Chapter Note 2 – Parts (if suitable for use solely or principally with a particular kind of machine) are to be classified with the machine of that kind
- ▶ Applicability of Rules for interpretation of custom tariff / Chapter Notes / Section Notes
- ▶ Entry for all other goods: Schedule III - 18%

453.	Any Chapter	Goods which are not specified in Schedule I, II, IV, V or VI
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Issues in Classification

▶ Goods imported in sets

- ▶ During import of goods imported in sets – General Rules of Interpretation of the Customs Tariff Act will apply
- ▶ Such goods cleared as such in domestic market – Whether provisions of:
Composite or Mixed supply will be attracted? **OR**
Whether General Rules for Interpretation of the Customs Tariff Act, 1975 will prevail over CGST Act?

For E.g. 1. A set consisting of pencil, sketch pen and eraser

2. A set of talcum powder with Puff

3. A set consisting of conditioner and shampoo

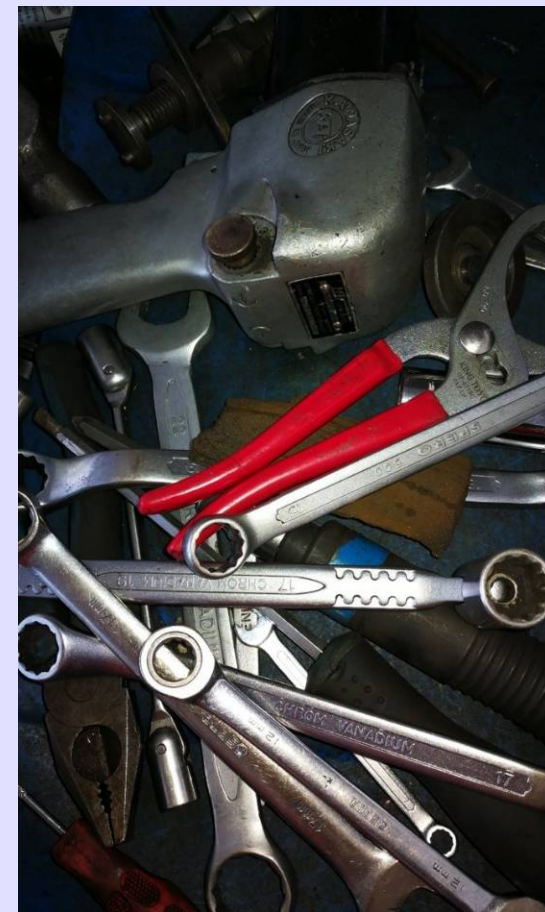
Issues in Classification

- ▶ Description of goods in GST rate notification *vis-à-vis* description of goods in Customs Tariff Act, 1975

Description of goods (as per Notification No.1/2017)	Chapter/Heading/ Sub-Heading/ Tariff items	Description of goods (as per Schedule to Customs Tariff)
Cartons, boxes and cases of corrugated paper or paper board	4819	Cartons, boxes, cases, bags and other packing containers, of paper, paperboard, cellulose wadding or webs of cellulose fibres; box files, letter trays, and similar articles, of paper or paperboard of a kind used in offices, shops or the like
Sewing machines, other than book-sewing machine of heading 8440; furniture, bases and covers specially designed for sewing machines; sewing machines needles and parts of sewing machines	8452	Sewing machines, other than book-sewing machine of heading 8440; furniture, bases and covers specially designed for sewing machines; sewing machines needles

Issues in Classification

- ▶ Interpretation of term "**parts**" appearing in description of goods under the GST Rate Notification
 - ▶ GST rate notification refers to Customs Tariff for explaining scope of goods mentioned under Schedules to GST rate notification.
 - ▶ Reference to Section Note of Customs Tariff read with HSN Explanatory Notes.



Issues in Classification

- ▶ Interpretation of term - "**parts**" appearing in description of goods under the GST Rate Notification

Description of goods (as per Notification No.1/2017)	Chapter/Heading / Sub-Heading/ Tariff items	Description of goods (as per Schedule to Customs Tariff)
Sewing machines, other than book-sewing machine of heading 8440; furniture, bases and covers specially designed for sewing machines; sewing machines needles and parts of sewing machines. [Sl. No. 200 of Schedule-II attracting CGST@6%]	8452	Sewing machines, other than book-sewing machine of heading 8440; furniture, bases and covers specially designed for sewing machines; sewing machines needles
Household or laundry-type washing machines, including machines which both wash and dry [Sl. No. 130 of Schedule-IV attracting CGST@14%]	8450	Household or laundry-type washing machines, including machines which both wash and dry



Thank You