Lawgics

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Serial No. 005
Dt.: 05-01-2023

Section 8 of CGST Act, 2017

8. Tax liability on composite and mixed supplies.

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.

Our Interpretation

Section 8(a)	**<u>Tax Liability on composite supplies</u>** Composite supply means, supply of two or more supplies of goods or services or any combination thereof which are naturally bundled in conjunction with each other in the ordinary course of business and **out of which, one is a principal supply**. The Tax rate applicable to principal supply would be required to be collected on the composite supplies though pricing of all supplies is shown separately on the invoice. 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. A works contracts and restaurant services are classic examples of composite supplies. Few Other Examples: - 1. Supply of Air conditioner with installation 2. Construction of house with electrification & water systems 3. Hotel accommodation with wi-fi, breakfast, gym, indoor games 4. Sales of laptop with leather bag The rule is – 'If various elements of a bundled service are naturally bundled in the ordinary course of business, it shall be treated as provision of a single service which gives such bundle its essential character'. Thus, two or more taxable supplies must appear to be naturally bundled and presented to recipient as a part of single bargain. Whether services are bundled in the ordinary course of business would depend upon **several indicators** some of which are listed below – • The perception of the consumer or the service receiver. If large number of service receivers of such bundle of services reasonably expect such services to be provided as a package, then such a package could be treated as naturally bundled in the ordinary course of business. • Majority of service providers in a particular area of business provide similar bundle of services. For example, bundle of catering on board and transport by air is a bundle offered by a majority of airlines.

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<tr><td></td><td>• The nature of the various services in a bundle of services will also help in determining whether the services are bundled in the ordinary course of business. If the nature of services is such that one of the services is the main service and the other services combined with such service are in the nature of incidental or ancillary services which help in better enjoyment of a main service. For example, service of stay in a hotel is often combined with a service or laundering of 3-4 items of clothing free of cost per day. Such service is an ancillary service to the provision of hotel accommodation and the resultant package would be treated as services naturally bundled in the ordinary course of business.
<u>Other indicators of bundling of services in ordinary course of business are –</u>
• There is a single price or the customer pays the same amount, no matter how much of the package they actually receive or use.
• The elements are normally advertised as a package.
• The different elements are not available separately.
• The different elements are integral to one overall supply – if one or more is removed, the nature of the supply would be affected.
No straight jacket formula can be laid down to determine whether a service is naturally bundled in the ordinary course of business. Each case has to be individually examined in the backdrop of several factors. Therefore, this involves a lot of litigation and a lot of advance rulings have been sought for determining whether supply is a “Composite Supply”. CBIC has also given certain clarifications from time to time in the below mentioned Circulars.
• Circular no.11/11/2017-GST dated 20.10.2017
• Circular No. 32/6/2018-GST dated 12.02.2018
• Circular No. 34/8/2018-GST dated 01.03.2018
• Circular No. 47/21/2018-GST dated 08.06.2018
• Circular No. 152/08/2021-GST dated 17.06.2021
• Circular No. 153/09/2021-GST dated 17.06.2021
• Circular No. 177/09/2022-TRU dated 03.08.2022</td></tr>
<tr><td>Section 8(b)</td><td><u>Tax Liability on Mixed supplies</u>

Mixed Supplies means two or more independent supplies of goods or services or both or any combination thereof, for a single price (Combo pack) where such supply does not constitute Composite Supply. Thus, it can be said that mixed supply basically refers to such supplies whose components are neither integral to each other nor dependent on one another, yet the supplier charges one single price for such supplies. In order to identify if the particular supply is a Mixed Supply, the first requisite is to rule out that the supply is a composite supply. A supply can be a mixed supply only if it is not a composite supply. If the transaction consists of supplies not naturally bundled in the ordinary course of business, then it would be a Mixed Supply. In such a mixed supply, such tax rate would be charged which would be the highest rate of tax on each component in that combo pack. <u>Few examples are listed below:</u>

1. A supply of a package such as Diwali Pack, combo Gift Pack, etc. 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.
2. A house is given on rent one floor of which is to be used as residence and the other for housing a printing press. Such renting for two different purposes is not naturally bundled in the ordinary course of business. Therefore, if a single rent deed is executed it will be treated as a service comprising entirely of such service which attracts highest liability of service tax. In this case renting for use as residence is a negative list service while renting for non-residence use is chargeable to tax. Since the latter category attracts highest liability of service tax amongst the two services bundled together, the entire bundle would be treated as renting of commercial property.</td></tr>
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