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Definitions of Goods and Services in various statutes: A Compendium



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Introduction

This article briefs the reader about the various definitions of Goods and Services and its interpretation with the help of important case laws which helps out in determining the taxability of various transactions. However due to vastness of definition, the authors limited the scope of this article.

There are many statutes which set the base for defining the meaning of goods and services. All are mentioned in chronological order.

The General Clauses Act, 1897 ('GC Act'):

1. Section 3 of the Act contains the definitions. The beauty of GC Act is it doesn't define specifically about 'goods' or 'services' either. However, it provides two most important definitions which are reproduced as under and are regularly refereed by Hon'ble courts while delivering the judgement(s).

The Hon'ble Supreme Court has observed in case of **Chief Inspector of Mines v. K.C Thapar [1971] 1 SCR 46** provides that "*Whatever the General Clauses Act says, whether as regards the meaning of words or as regards to legal principles, has to be read into every Act to which it applies.*"

Meaning of Immovable property: Section 3 (26) states "**immovable property**" shall include

- land,
- benefits to arise out of land,
- and things attached to the earth, or
- Permanently fastened to anything attached to the earth.

Interpretation

It is an inclusive definition. Where, in any enactment, the definition of immovable property is in the negative and not exhaustive, the definition as given in the General Clauses Act will apply to the expression given in that enactment.

Examples:

- (a) Trees are immovable property because trees are benefits arising out of land and attached to earth. However, timber is not an immovable property as the same are not permanently attached to earth.
- (b) Any machinery fixed to soil and standing crops can be held as immovable property.

Meaning of movable property:

Section 3 (36) states "**movable property**" shall mean property of every description, *except immovable property*.

The Sale of Goods Act, 1930:

2. This act is earlier part of Contract Act. In the year 1930, this Act came into picture and provides the base definition of goods. The extracts of definition of goods is as under: Section 2 (7) of the said Act provides:

"goods" means every kind of moveable property ***other than actionable claims and money***;

and **includes** stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed *before sale or under the contract of sale*.

It has been held by Apex Court in case of ***State of Maharashtra v. Champalal Kishanlal Mohta*** AIR **1971 SC 908** "that things which are attached to land are the subject matter of the contract of sale if they are severed before the sale or under contract of sale".

It is concluded from the above definition that the Act deals with the sale of goods i.e. movable property only. On the other hand, sale of immovable property is governed by the Transfer of Property Act, 1882. It is noted that the actionable claims and money are excluded from the ambit of the definition. Actionable claims are the claim or debt for which legal action can be taken and can be enforced. For e.g.: recovery of refund is an actionable claim and is not included in the purview of the above definition.

Constitution of India:

3. Article 366 of the constitution provide various definitions. The relevant extract is reproduced hereunder:

Sub-article (12) states "**goods**" includes all materials, commodities, and articles;

The Constitution Bench of the Supreme Court in the case of ***Union of India v. Delhi Cloth and General Mills Co. Ltd.*** AIR **1963 SC 791** held as under:

"Moreover, the definitions of 'goods' make it clear that to become 'goods' an article must be something which can ordinarily come to the market to be bought and sold".

Sub-article (26A) states "**Services**" means anything other than goods; *[Inserted by the Constitution (One Hundred and First Amendment) Act, 2016, s. 14(ii) (w.e.f. 16-9-2016).]*

Finance Act, 1994:

4. Definition of goods and services are reproduced under Section 65B of the Act provides as under:

Sub-section (25) "Goods" means every kind of movable property other than actionable claim and money; and includes securities, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.

This definition is exactly worded from Sale of Goods of Act, 1930.

Sub-section (44) "service" means any activity **carried out by a person for another for consideration, and includes a declared service, but shall not include—**

- (a) an activity which constitutes **merely**, —
 - a transfer of title in goods or immovable property, by way of sale, gift or in any other manner; or
 - such transfer, delivery or supply of any goods which is deemed to be a sale within the meaning of clause (29A) of article 366 of the Constitution; or
 - a transaction in money or actionable claim;
- (b) a provision of service by an employee to the employer **in the course of or in relation to his employment;**
- (c) fees taken in any Court or tribunal established under any law for the time being in force.

Central Goods and Service Tax Act, 2017 ('CGST Act'):

5. Section [2\(52\)](#) of the CGST Act defines:

"goods" means every kind of movable property *other than money and securities*,

- But includes actionable claim,
- Growing crops,
- Grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;

Section 2 (102) of the CGST Act defines:

"services" means anything *other than goods, money and securities*

- But 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*;

Conclusion:

To conclude upon the subject-matter, though various definitions and interpretation are provided under different context of the various statutes, the Supreme Court has limited the scope of its definitions by the following ruling; ***State of Madras v. Gannon Dunkerley & Co., (Madras) Ltd.*** [\[1958\] 9 STC 353 \(SC\)](#) dealt with the question as to how the word 'goods' has to be understood after coming into force of the Constitution, has held that the *"cardinal rule of interpretation was that words should be read in their ordinary, natural and grammatical meaning, subject to this rider that in construing words in a constitutional enactment conferring legislative power the most liberal construction should be put upon the words so that the same may have effect in their widest amplitude"*.

Further, it is also pointed that there is no inconsistency between the word 'goods' found in the Constitution and in other statutes and therefore, the meaning assigned in one, equally applies to the meaning in the other.

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