

GOODS & SERVICE TAX

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Multiple Taxes -Central

Custom Duty

- Basic Custom Duty
- Customs Cess
- Countervailing Duty
- Special Additional Duty (SAD)

Excise Duty : Basic Excise Duty, Additional Exercise Duty

Service Tax

Product Specific Cess like Automobile Cess

Education cess and SHEC, SBC, KKC

Infrastructure cess and clean energy cess

Research and Development Cess

Multiple Taxes

Value Added Tax

Central Sales Tax charged by originating state

Entry Tax

Octroi charged by Municipality

Local Body Tax (Maharashtra)

Entertainment Tax

Luxury Tax

Stamp Duty & Registration fees

Excise Duty- Issues

Taxable event –Manufacture/Deemed Manufacture

Different Rates- 2% or 6% or 12.5% or 24% or 27% or 30%

Different Valuation Mechanism – Production Capacity/Transaction Value /MRP

Movable and marketable

Different Exemption – absolute/conditional

Classification – Tariff Heading under CETA ,1985

Service Tax – Issues

Taxable event :Rendering of Services

Positive List Regime Vs Negative List Regime

Definition of 'services' and Exclusion thereof

Negative list of services

Mega Exemption List of services

Transaction involving both goods and services

Valuation and Abatement issues

Double Taxation

Fastest Growing Revenues collection for Central Govt.

VAT -Issues

Taxable event: Transfer of property in Goods/Deemed sale

Lack of uniformity in VAT Rates/Classification

Multiple threshold exemption limit

Different Forms and Procedure :

Registration

Due date of payment

Due date of returning filing

Due date of annual return

Assessment Procedure

Appellate procedure

Entry Forms

ITC and Reversal of ITC on CST sale

refund mechanism

CST - Issues

Origin based Tax –Manufacturing State Vs. Consuming State

C Form and other statutory declaration

No credit on CST purchases – leading to cascading

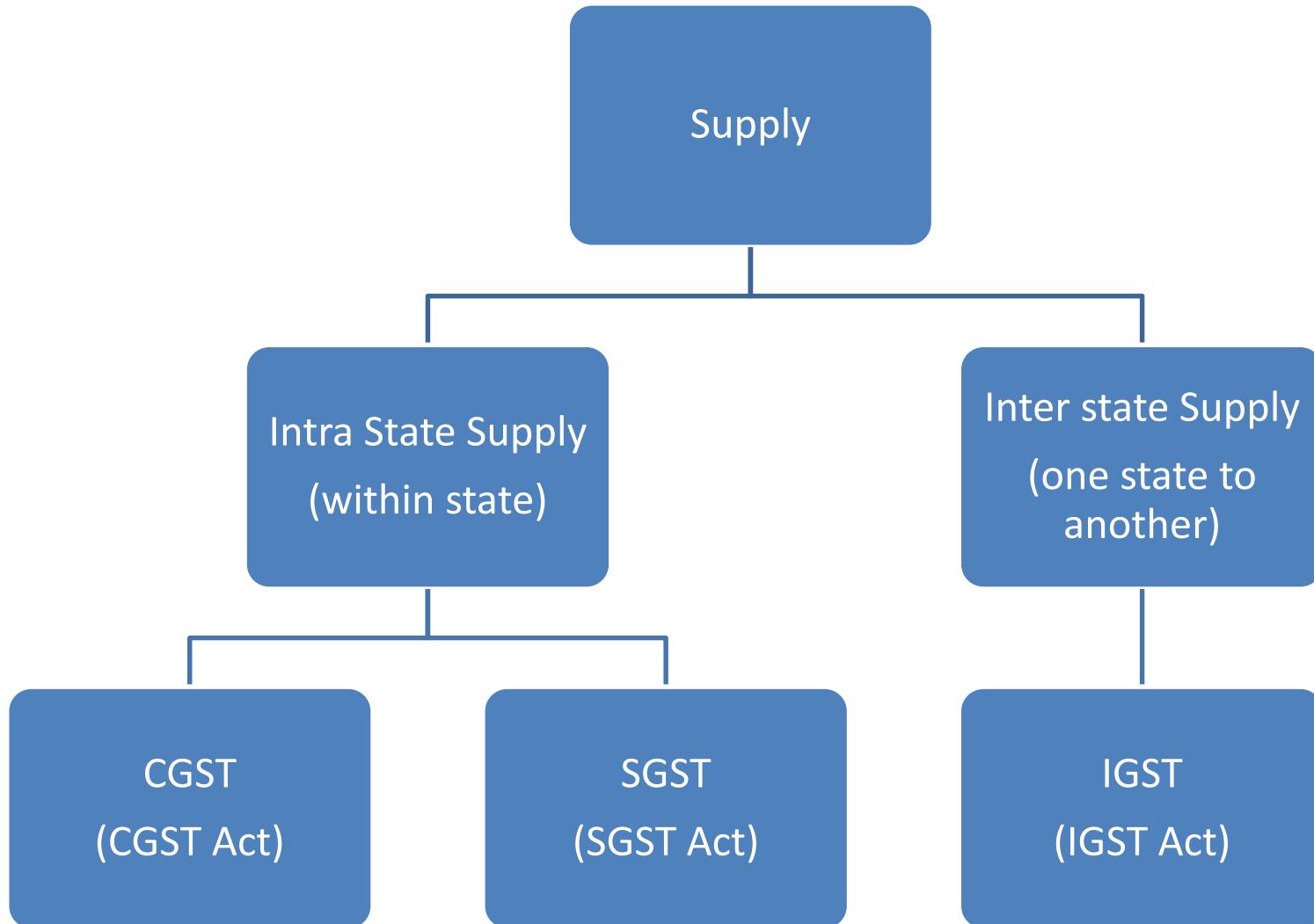
Complex Law on Stock transfer sale E-I/E-II

CST Vs VAT Issues – Check Post Control

Benefits of GST



Dual GST Model – India



TAXES LIKELY TO BE SUBSUMED IN GST

Central Taxes

- Central Exercise Duty
- Additional Exercise Duty
- Exercise Duty levied under Medicinal & Toilet Preparation Act,1955
- Service tax
- Central Sales Tax
- Additional Customs Duty commonly known as Countervailing duty (CVD)
- Special Additional Duty of customs (SAD)
- Central cesses and surcharges in so far as they relate to supply of goods and services

State Taxes

- Value added Tax/ Sales Tax
- Entertainment Tax (unless it is levied by local bodies)
- Luxury Tax
- Tax on lottery, betting and gambling
- Purchase Tax
- Octroi and Entry tax
- State surcharges and cesses in so far as they relate to supply of goods and services

Taxes not likely to be submitted in GST

Central Taxes

- Basis Custom duty
- Other Customs duty like ANTI-Dumping duty Safeguard duty etc.
- Export Duty

State Taxes

- Road & Passenger tax
- Toll Tax
- Property Tax
- Stamp Duty
- Electricity Duty
- Tax on Entertainment and amusement levied and collected by Panchayat/Municipality/Regional Council /District Council

Outline of CGST/IGST/UTGST Act,2017

CGST Act,2017	IGST Act,2017	UTGST Act,2017
174 Sections	25 Sections	26 Sections
21 Chapters	9 Chapters	9 Chapters
3 Schedules: Schedule I : Activities to be treated as supply even if made without consideration Schedule II: Activities to be treated as supply of goods or services Schedule III ; Activities or transaction which shall be treated neither as a supply of goods nor a supply of services.		

Levy & Collection : Provisions

Relevant Act	Relevant Section
CGST Act,2017	Section 9
IGST Act,2017	Section 5
UTGST Act,2017	Section 7

Principles for determining supply in the course of Intra/Inter- State trade or commerce

Intra – State supply of Goods/Services [Sec 8 of IGST Act,2017]

Location of supplier & Place of Supply – **same state/UT**

Inter –State supply of Goods/Services [Sec 7 of IGST Act,2017]

Location of supplier & Place of supply – **Two different States/UTs or b/w a State &UT**

Supply of goods imported into the territory of India till they cross the customs frontier of India

Supply of services imported into the territory of India

Supply of goods / services , when the supplier is located in India and the **place of supply is outside India**

Supply of goods/services **to or by a SEZ unit**

Any supply of goods/services in the taxable territory, **not being an Intra-state supply and not covered elsewhere in this section**

Summarized provisions-Intra state and Inter state

Transaction within the State(Intra- state transaction)

CGST	SGST/UTGST
To be levied by Centre	To be levied by State/UT
Implemented through single statute	Implemented through multiple statutes
Paid to the account of CG	Paid to the account of SG/UT
Maximum rate: 20%	Maximum rate : 20%

Inter-State transaction

IGST

To be levied by Centre
Implemented through single statute
Paid to the account of CG
$IGST = CGST + SGST/UT$
Maximum rate : 40%

Illustration : Intra- State Supply

'A' sold to 'B' of Mumbai		B' sold to consumer in Mumbai	
Particulars	Rs	Particulars	Rs
Sale price	100.00	Sale Price	150.00
CGST @ 9%	9.00	CGST @ 9%	13.50
SGST @ 9 %	9.00	SGST@9%	13.50
Total Price	118.00	Total price	177.00
Collected by CG at this stage	9.00	Total collection by CG -Amt paid through CGST = 9 -- Amt paid in cash = rs 4.50	13.50
Collected by Maharashtra Govt. at his stage	9.00	Total collection by Maharashtra Govt. -Amt paid through SGST = rs 9 -- Amt paid in cash = rs 4.50	13.50

Illustration : Inter – State purchase and Intra – State supply

'A' of Delhi sold 'B' of Mumbai		'B' sold to consumer in Mumbai	
Particulars	Rs	Particulars	Rs
Sale Price	100..00	Sale Price	150.00
IGST @18 %	18.00	CGST @ 9%	13.50
		SGST @ 9%	13.50
Total Price	118.00	Total price	177.00
Collected by Central Govt. at this Stage	18.0	Total collection by Central Govt. - Amt paid through IGST =Rs 13.50	13.50
Collected by Maharashtra Govt. at this stage		Total collection by Maharashtra Govt. -Amt paid through IGST = Rs 4.50 - Amt paid in cash = Rs 9.00	13.50

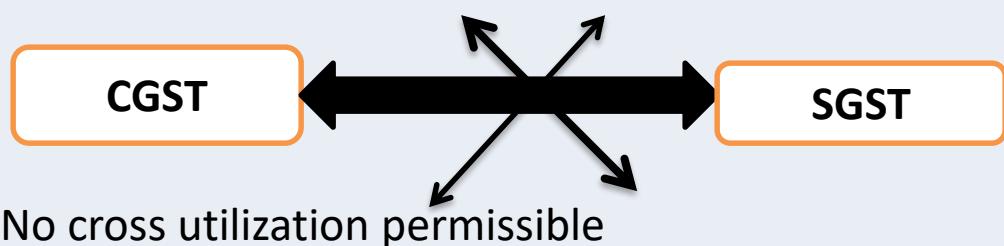
Illustration :Intra-State purchase and Inter-State supply

'A' of Mumbai sold to 'B' of Mumbai		'B' sold to consumer in Delhi	
Particulars	Rs	Particulars	Rs
Sale price	100.00	Sale price	150.00
CGST @9 %	9.00	IGST @18 %	27.00
SGST @ 9%	9.00		
Total Price	118.00	Total price	177.00
Collected by Central Govt. at this stage	9.00	Total collection by Central Government -Amt paid through CGST = Rs 9.00 - Amt paid through SGST = Rs 9.00 - Amt paid in cash =Rs 9.00	27.00
Collected by Maharashtra Govt. at this stage	9.00	Collection by Delhi Govt. : SGST share of IGST as per Art269A	

Manner of availment & utilisation of ITC under GST – Inter – State supply

Availment & Utilisation of Input Tax Credit

Transaction within the states (Intra – state Transactions)	Inter- State transaction	
CGST	SGST	IGST
<div style="border: 1px solid blue; padding: 5px;">CGST</div> <div style="border: 1px solid blue; padding: 5px; margin-top: 5px;">CGST</div> <div style="border: 1px solid blue; padding: 5px; margin-top: 5px;">IGST</div>	<div style="border: 1px solid blue; padding: 5px;">SGST</div> <div style="border: 1px solid blue; padding: 5px; margin-top: 5px;">SGST</div> <div style="border: 1px solid blue; padding: 5px; margin-top: 5px;">IGST</div>	<div style="border: 1px solid blue; padding: 5px;">IGST</div> <div style="border: 1px solid blue; padding: 5px; margin-top: 5px;">CGST</div> <div style="border: 1px solid blue; padding: 5px; margin-top: 5px;">SGST</div>



Levy & Collection of GST

RCM

CG/SG, on recommendation of the GST Council, shall notify categories of supply(goods and services) that would be covered under RCM

Tax in Respect of supply of goods/services by a supplier who is not registered – to a registered person shall be under RCM

Unlike the present regime, RCM concept for specified goods would certainly be a new concept (except Purchase tax in present regime)

Significant Impact

i.e. Recipient shall be the person liable to pay tax

Recipient to raise invoice on date of receipt of goods/services – Sec 31(3)(f)

No threshold limit exemption applicable when liability to pay GST is under RCM – sec 24 of CGST Act ,2017

Recipient to issue payment voucher at the time of making payment to supplier – sec 31(3)(g)

REGISTRATION

Threshold limit for GST Registration

Threshold limits for Registration

Sec 22(1)

INR 20 LAKHS

A Person making
taxable supply of
goods/services
In a state/UT

Excluding :
Special Category
States

INR 10 LAKHS

Special category
states

**States specified in
article 279(4)(g)**

Arunachal Pradesh,
Assam, Jammu &
Kashmir,
Manipur,Meghalaya,
Mizoram,Nagaland ,
Sikkim, Tripura,
Himachal Pradesh
,and Uttrakhand

Definition of Aggregate Turnover

Threshold limits to be computed on the basis of 'Aggregate turnover'

Important to understand the scope



Defined in Sec2(6) of the CGST Act, 2017

"aggregate turnover" means the aggregate value of all **taxable supplies** (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), **exempt supplies**, **exports** of goods or services or both and **inter state supplies** of persons having the same Permanent Account Number, to be computed on **all India basis** but **excludes** central tax, state tax , Union territory tax, integrated tax and cess.

Meaning of Aggregate Turnover

Sec2(6)

Particulars	Amount
All taxable supplies (excluding the value of inward supplies on which tax is payable the person under RCM)	XXXX
Exempt supplies	XXXX
Export of goods /services	XXXX
Inter-State supplies (of person having the same PAN, to be computed on all India basis.	XXXX
Excludes :	
CGST,SGST,UTGST,ITGST and CESS	XXXX
Net Total (Aggregate Turnover)	XXXX

Meaning of key terms

SEC	Provision(CGST Act, 2017)
2 (108)	<p><u>Meaning of Taxable Supply</u></p> <p>“taxable supply” means a supply of goods or services or both which is leviable to tax under this act;</p>
SEC	<p><u>Provision(CGST Act, 2017)</u></p>
2 (47)	<p><u>Meaning of Exempt Supply</u></p> <p>“exempt supply ”means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and <u>includes non taxable supply.</u></p>
SEC	<p><u>Provision (CGST Act, 2017)</u></p>
2 (78)	<p><u>Meaning of Non-Taxable Supply</u></p> <p>“non-taxable supply” means a supply of goods and services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act.</p>

Examples to compute Aggregate Turnover

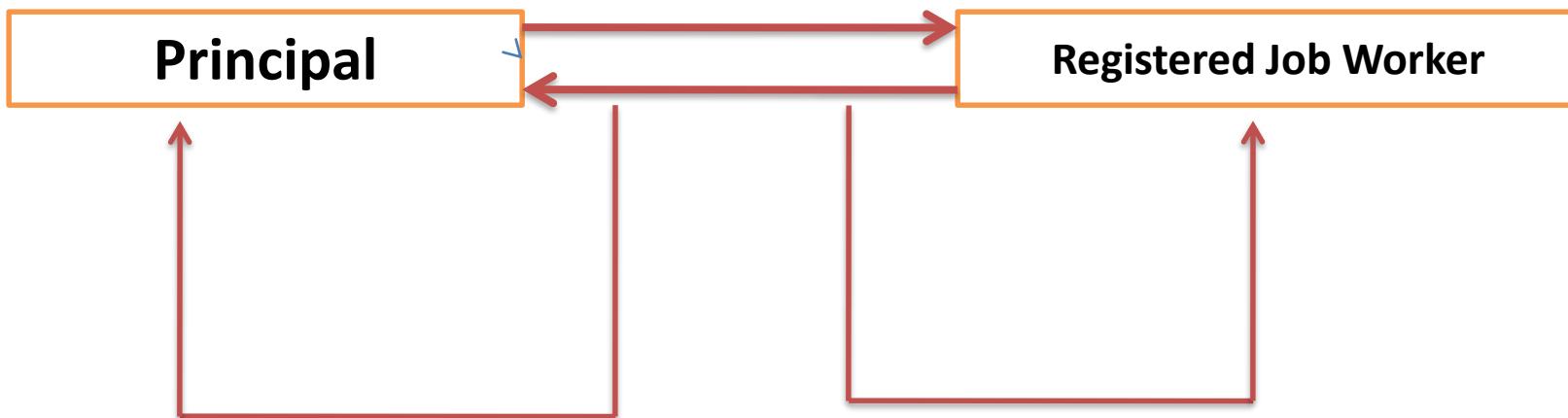
Turnover in Delhi (Rs)	Turnover in UP (Rs)	Turnover in Haryana (Rs)	Turnover in Uttrakhand (Rs)	Registration Required
5L	5L	5L		No
5L	5L	5L	2L	Yes. Only in UK
5L	11L	5L		Yes
11L (Taxable + exempt)	5L Exempt	5L Taxable		Yes

Sec 22(1) -Every supplier should be liable to be Registered under this Act in the State or Union territory , other than special category State, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees:

Inclusions in Aggregate Turnover

Explanation (i) to Sec 22 – the expression “aggregate turnover” shall include all supplies made by the taxable person ,whether on **his own account** or made **on behalf of all his principals**:

Explanation (ii) to Sec 22 – Registered Job Worker supplies of goods → to be treated as **supply of goods by principal** and not by job worker



Persons not liable for registration

Persons not liable for registration in GST

Sec23

Aggregate Turnover > 20 L /10 L –no registration in following case:

- Persons exclusively engaged in the business of supplying goods/services that are not liable to tax.
- Persons exclusively engaged in the business of supplying goods/services that are wholly exempt from tax .
- Agriculturist ,to the extent of supply of produce out of cultivation of land.
- Sec23(2) the govt may, on the recommendation of the council , by notification , specify the category of person who may be exempted from obtaining registration under this act.

**Mandatory registration
irrespective of
threshold**

Inter-state taxable supplies

Sec 24(i)

- (i) persons making any inter state taxable supply
- “taxable supply “ – it means a supply of goods or services or both which is leviable to tax under this act [Sec 2(108)]
- Definition of ‘Aggregate Turnover’ specially includes inter state supplies
- Person making taxable Inter-state supplies – Mandatory Registration in GST irrespective of threshold limits [Para 6(i) of sch v]
- Inter-state supplies shall be liable to tax and mandatory registration would be required in the state where from Inter state taxable supply is affected –refer distinct person concept

Casual taxable persons making taxable supply

Sec 24(ii)

- (ii) casual taxable persons making taxable supply
- Sec 2(20) – casual taxable person means a person who occasionally

Undertakes transaction involving supplying of goods or services or both in the course or furtherance of business ,whether as principal agent or in any other capacity ,in a state or a Union Territory where he has no fixed place of business

- Casual taxable person – A person who occasionally undertakes transaction in a state UT Where he has no fixed place of business
- Person registered in Haryana
- Participating in trade fare in Delhi
- Casual taxable person registration in Delhi

Reverse charge liability

Sec24(iii)

- (iii) persons who are required to pay tax under reverse charge
 - # specified categories of goods/services as notified by government –sec 9(3)
 - # supply of taxable goods /services by an unregistered person to registered person sec 9(4)

Non-resident taxable persons making taxable supply sec24(v)

(v) Non- resident taxable persons making taxable supply

sec2(77) – “non resident taxable person ”means any person who occasionally undertakes transaction involving supply of goods and services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence on India



non resident taxable person – a person who occasionally undertakes transaction but has no fixed place of business in India

Person resident outside India



Participating in trade fair in Delhi



Participating in trade fair in Delhi

Other categories of mandatory registration

- vi) Persons who are required to deduct tax u/s 51, whether or not separately registered under the GST Act
- vii) Persons who makes taxable supply of goods or services or both on behalf of other taxable person s whether as an agent or otherwise .
- viii) Input Services Distributor, whether or not separately registered under GST Act
- ix) Persons who supply goods or services or both, other than supplies specified under sub section (5) of section 9, through such electronic commerce operator who is required to collect tax at source under section 52

Other categories of mandatory registration

X) every e com operator.

XI) Every person supplying online information and data base access or retrieval services from one place outside India to a person in India, other than a registered taxable person

XII) Such other persons or class of persons as may be notified by Govt. on the recommendation of the GST Council

COMPOSITION LEVY IN GST – SEC 10

Composition Levy in GST – Sec 10(1)

turnover limit for composition scheme – aggregate turnover in preceding FY < Rs 75 lakh*

- The govt may by notification increase the said limit of Rs 75 lakh to such higher amount, not exceeding 1 crore as may be recommended by the GST council - Proviso to Sec 10(1)
- Rate to be notified – max rate of tax
- Manufacturer – 1% i.e. 2% for both CGST/SGST
- Food with services – 2.5% i.e., 5% for both CGST/SGST
- Others i.e. Trader – 0.5 that is 1% for both CGST/SGST

Eligible persons for Composition Levy – Sec 10(2)

- a) He is not engaged in the supply of services other than supplies referred to in clause (b) of paragraph 6 of schedule II
- b) He is not engaged in making any supply of goods which are not leviable to tax under this act
- c) He is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under sec52
- d) He is engaged in making any inter-state outward supplies of goods
- e) He is not manufacturer of such goods as may be notified by Government on the recommendation of the council

Composition Levy: Uniform adoption

Composition scheme shall be adopted uniformly by all registered taxable person having same PAN [proviso to sec10(2)]

State 'A'
Reg 1
Reg 2

State 'B'
Reg 1

State 'C'
Reg1
Reg2

State 'D'
Reg 1

Composition Scheme

Composition Levy : other provisions

- The day on which Aggregate turnover during a financial year exceeds Rs 75 lakhs – Composition stands withdrawn [sec10(3)].
- Composition dealer cannot enter into credit chain –Neither can collect tax from the recipient on supplies made by him nor shall be entitled to any credit of input tax [sec 10(40)]
- Sec 18(1)(c) – Eligibility to avail ITC on stock on ceasing to pay tax under Composition levy
- Proper officer has reasons to believe that taxable person was not eligible for Composition scheme --- such taxable person to pay ---tax + penalty ----- to be determined under sec 73 or 74 i.e determination of tax not paid/short paid in non- fraud case or fraud case

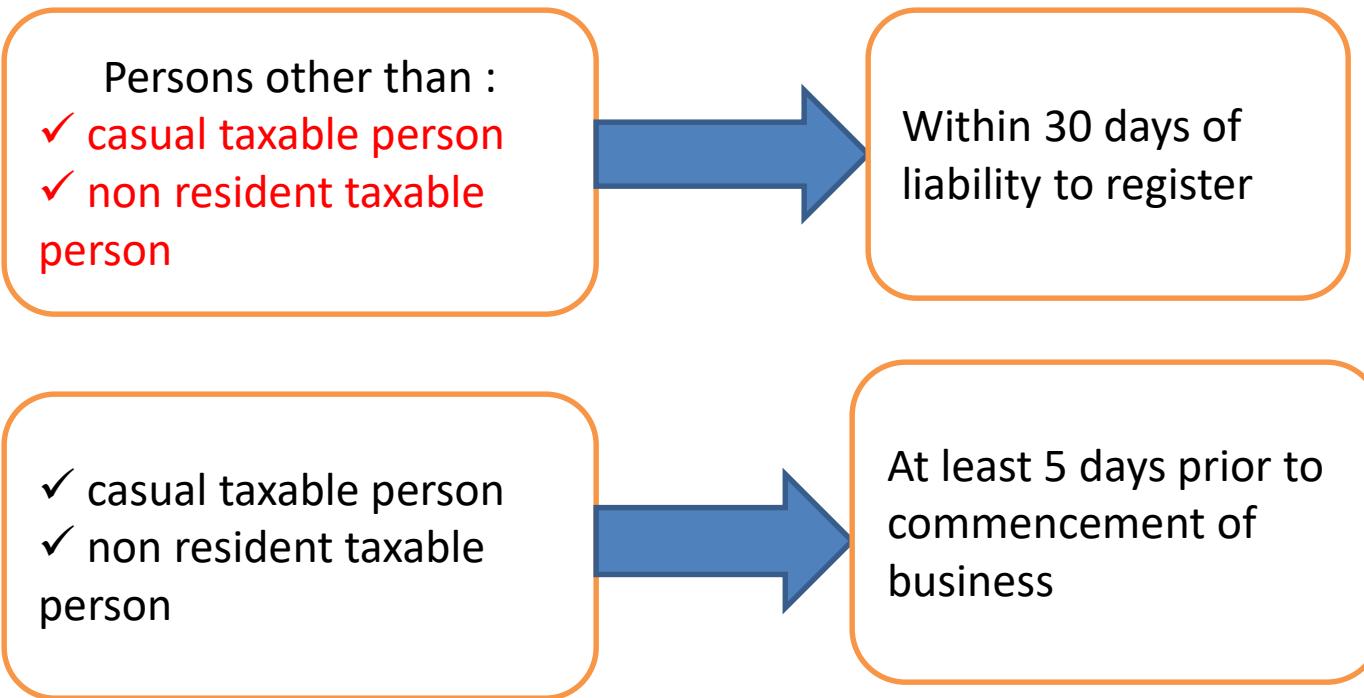
REGISTRATION PROCEDURES

Place of Registration?

- Every Supplier making taxable supply of goods/services, if his aggregate turnover exceeds specified limits (except specified persons not liable to registration in GST) --- State /UT where from he makes taxable supply of goods/services
- every person who makes a supply from the territorial waters of India ----- Coastal state or UT where the nearest point of the appropriate baseline is located

Time Period to apply for registration

Sec25(1)



Single Registration in a State/ UT except business verticals

Sec25 (c)

A person seeking registration under GST act shall be granted a single registration in a state or UT

Provide that a person having multiple business verticals in a state or UT may be granted a separate registration for each business vertical, subject to such conditions as may be prescribed – Prescribed in Rule 4

Definition of Business Verticals

Sec 2(18)

- It means a distinguishable component of an enterprise that is engaged in the supply of individual goods or services or a group of related goods or services which is subject to risks and returns that are different from those of the other business verticals.
- Explanation : For the purposes of this clause, factors that should be considered in determining whether goods or services are related includes :
 - I. the nature of goods or services
 - II. the nature of the production processes
 - III. the type or class of customers for the goods or services
 - IV. the methods used to distribute the goods or supply of services
 - V. the nature of the regulatory environment ,including banking ,insurance, or public utilities.

Separate Registration business verticals wise-conditions

Any person having multiple business verticals within the state or UT requiring separate registration of any of its business vertical may submit separate application in FORM GST REG 01 subject to following conditions :

- a) Such person has more than one business vertical is defined under section 2(18) of the act
- b) No business vertical of a taxable person shall be granted registration to pay tax under sec 10 if any one of the other business vertical of the same person is paying tax under section 9
- c) all separately registered business verticals of such person shall pay tax under this act on supply of goods or services or both made to another registered business vertical of such person and issue a tax invoice for such supply.

Distinct Person under GST

Sec	Provision (CGST Act, 2017)
25	<p><u>Persons with more than one registration whether in state/UT or more than one State/UT to be treated as distinct person</u></p> <p>(4) A person who has obtained or is required to obtain more than one registration whether 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</p>

State A
Reg 1
Reg 2

State B
Reg 1
Reg 2

Impact on self –supplies of goods and services and stock transfers

Distinct person in respect of each registration

Distinct Person under GST

SEC	Provision (CGST Act, 2017)
25	<p><u>Establishment of same person in different States ,to be treated as distinct person</u></p> <p>(5) Where a person who has obtained or is required to obtain registration in a State or Union Territory in respect of an establishment shall be treated as establishment of distinct persons for the purpose of this act</p>

State A
Head office

State B
Branch office

Establishment of distinct person

Impact on stock
transfers

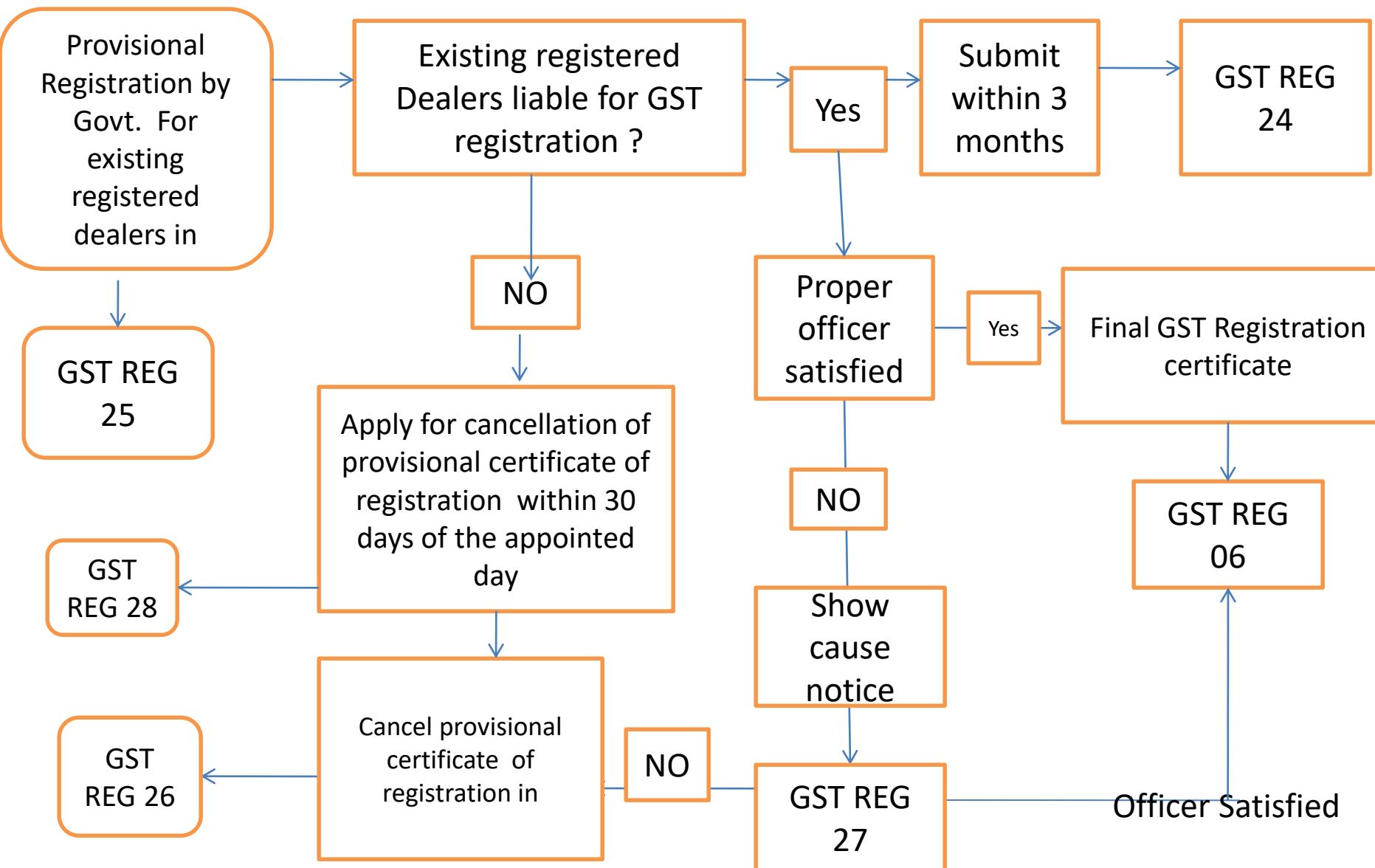
Voluntary Registration in GST

Sec 25(3)

- Any person, though not liable may get himself registered voluntary and all the provision of this Act as applicable to the registered taxable person shall be applicable to such person
- Feasible in case of B2B transaction --- for passing ITC benefit

Process of migration & subsequent registration

Rule 16



Registration process- A snapshot

1. PART A OF FORM GST REG 01 (Declare PAN , Mob no, E mail) for verification
2. ARN will be generated. Then the Applicant shall submit other details in PART B of FORM GST REG 01
3. Acknowledgment shall be issued electronically in FORM GST REG -02

1. If application found in order –registration shall be granted in 3 WD
2. IF not in order – Required clarification/ information document intimation in FORM GST REG 03 within 3 WD
3. The applicant shall furnish clarification in FORM GST REG – 04 with in 7 WD from the receipt of intimation

- Officer satisfied – Registration shall be approved with 7 Wd from receipt of such clarification
- Officer not satisfied
- Application rejected by recording reason in writing , In FORM GST REG 05

Approval/ Rejection

17 days
Process

Issue of Registration certificate – Rule 3

Sec 26 – Registration under SGST/UTGST act ~ Deemed registration * under CGST Act – Vice Versa * Provided application not rejected within stipulated time



RC to be granted in FORM GST REG 06 ,showing

Principal place of business

Every additional place of business

Effective date of registration

Application within 30 days

Application after 30 days

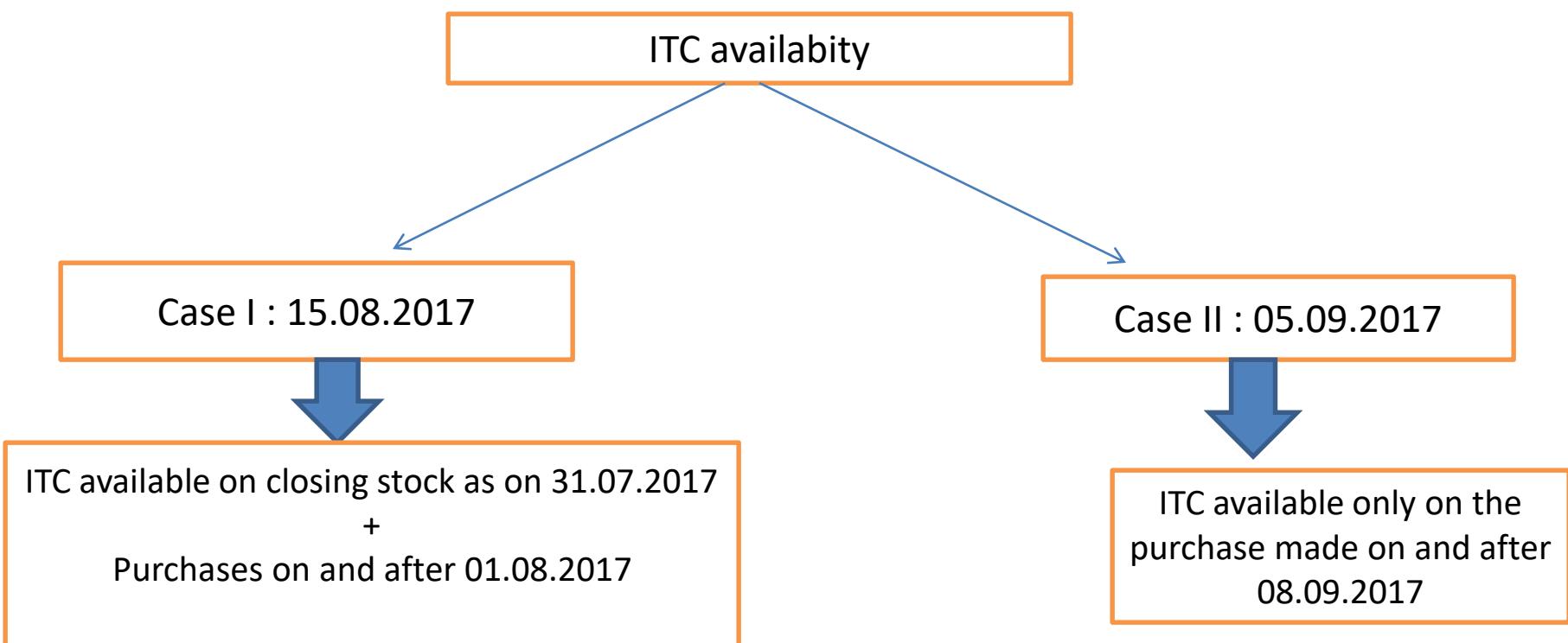
Date on which person becomes liable to registration

Date of grant of registration

Impact on ITC

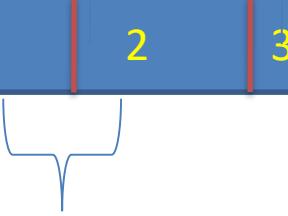
Illustration: Effective Date of Registration

Date of liability to register	Date of Application	Date of Grant of Registration	Registration effective from
XYZ Ltd becomes liable to register from 1.08.2017	15.08.2017	18.08.2017	?
	05.09.2017	08.09.2017	?



Structure of GSTIN

Each taxpayer will be allotted a State wise PAN based 15 digits Goods and Services Taxpayer identification Number ('GSTIN')

State code	PAN	Entity code	Blank	Check digit
1 	2 3 4 5 6 7 8 9 10 11 12 	13 	14 	15

In term of the Indian census 2011 each state to have a unique code e.g. '09' for the State of UP & '27' for Maharashtra

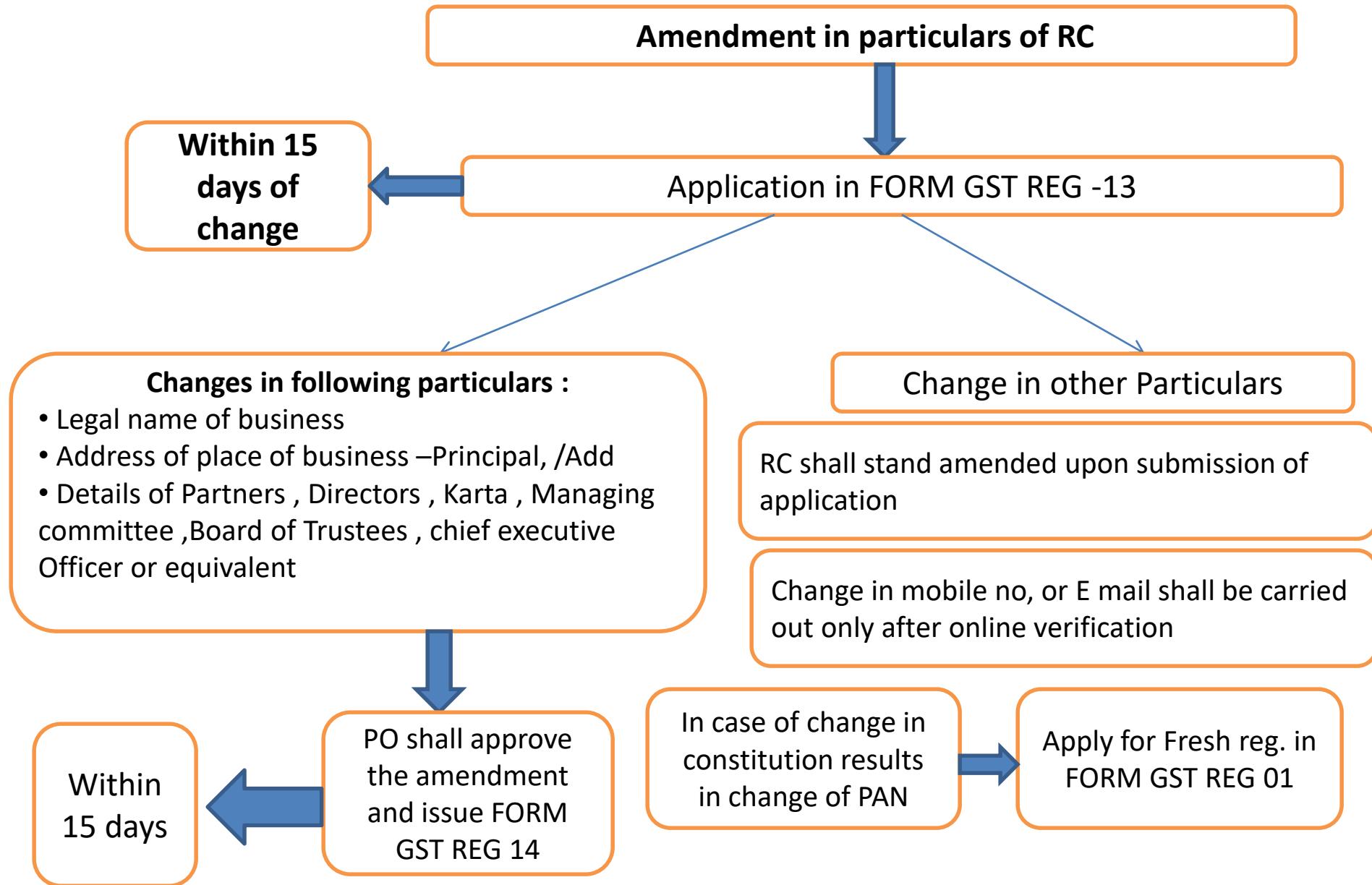
To be alpha numeric (1-9 & then a-z)and would be assigned depending on the number of registration a legal entity (having the same pan number) has within one state**

14th Digit would be kept Blank for future

A check digit is a form of redundancy check used for error detection on identification

** A taxable person can apply for multiple registration within a state only upto 35 business verticals of the same legal entity

Procedure for Amendment – Rule 11(1&2)



Physical verification of business premises in certain cases

Rule	Provision (Draft GST Registration rules)
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17	<u>Physical verification of business premises in certain cases</u> Where the proper officer is satisfied that the physical verification of the place of business of a taxable person is required after grant of registration he may get such verification done and the verification report along with other documents, including photographs shall be uploaded in FORM GST REG – 29 on the common portal within fifteen working days following the date of such verification
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Display of Registration certificate and GSTIN in name board

Rule	Provision (Draft GST registration Rules)
10	<p><u>Display of Registration certificate and GSTIN on name board</u></p> <p>(1) Every registered taxable person shall display his certificate of registration in a prominent location at his principal place of business and at every additional place or place of business</p> <p>(2) Every registered taxable person shall display his GSTIN on the name board exhibited at the entry of his principal place of business and at every additional place or places of business</p>

Taxable Event in GST- Supply

Relevant Provisions and schedules

Section/ Schedule	Particulars (CGST Act, 2017)
Section 7	Scope of 'Supply' → Meaning of Supply.. Only scope of supply provided.
Section 8	Tax liability on composite and mixed supplies
Schedule I	Activities to be treated as supply if made without consideration.
Schedule II	Activities to be treated either as supply of goods and services
Schedule III	Activities and transactions which shall be treated neither as supply of goods nor a supply of services

Applicable to IGST Vide Section 2(21) of the IGST Act, 2017 – “supply” shall have the same meaning as assigned to it in section 7 of the central goods and services tax act

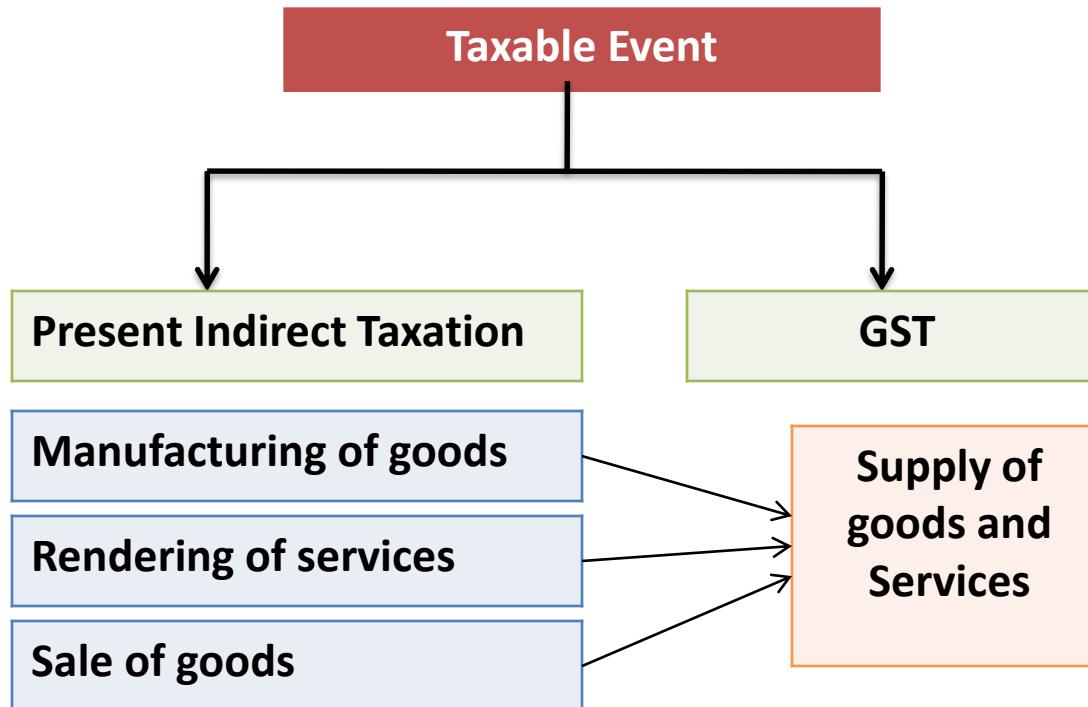
And

Section 20 of the IGST Act, 2017 – Applications of provisions of CGST Act to IGST Act

Applicable to UGST Vide Section 21 of the UGST Act, 2017 – Application of provisions of CGST Act to UGST Act.

Taxable Event Present Vs. Proposed

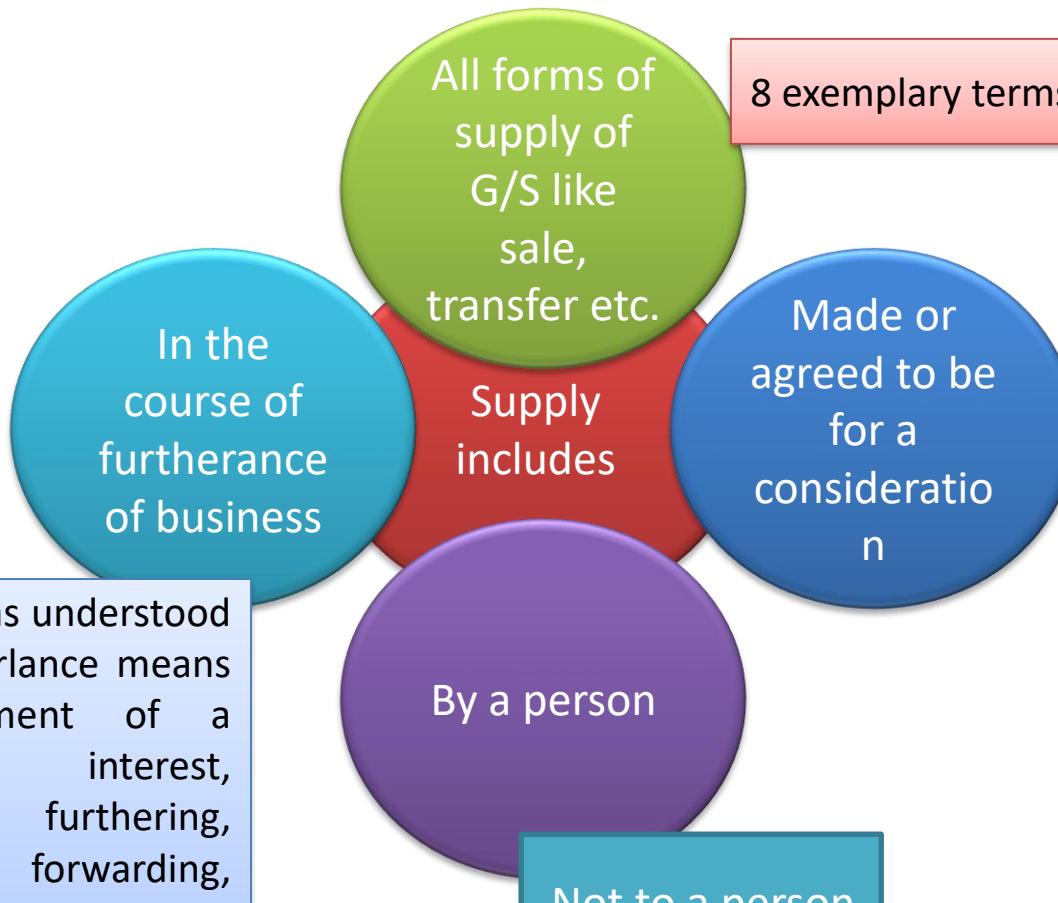
Art 366(12A) - “goods and service” tax means any tax on supply of goods or services or both except taxes on the supply of the alcoholic liquor for human consumption;



Subjective and inclusive definition of term 'Supply'

Section	Provision (CGST Act, 2017)
7	<p><u>Inclusive definition of term supply</u></p> <p>1. For the purposes of this Act, the expression supply includes – a) All forms of supply of goods or services or both <u>such as sale, transfer, barter, exchange, license, rental, lease or disposal</u> <u>made or agreed to be made</u> for a consideration by a person in the course of furtherance of business,</p> <p>Inclusive definition of term 'supply' : What 'supply' means ?</p> <p>Term 'includes' expands the meaning</p> <p>Supply must be made in the course of furtherance of business</p> <p>Consideration is required except for the cases covered under schedule I</p> <p>• Daypack System (Pvt) Ltd. Vs. Union of India [1988 (36) ELT 201(SC)] • Tata Consultancy Services Vs. State of Andhra Pradesh [2004 (178) ELT 22 (S.C.)]</p>

Key constituents of 7(1)(a)

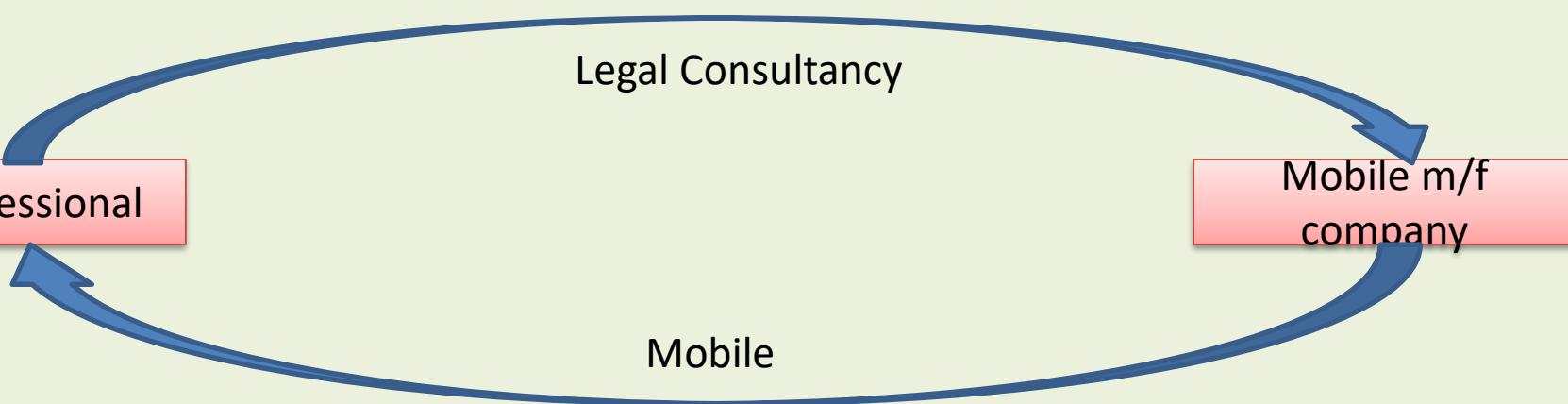


- ✓ whether in money or otherwise,
- ✓ whether by recipient or by other person,
- ✓ includes the monetary value of any act or forbearance,
- ✓ Includes deposits applied as consideration for supply)

Barter & Exchange

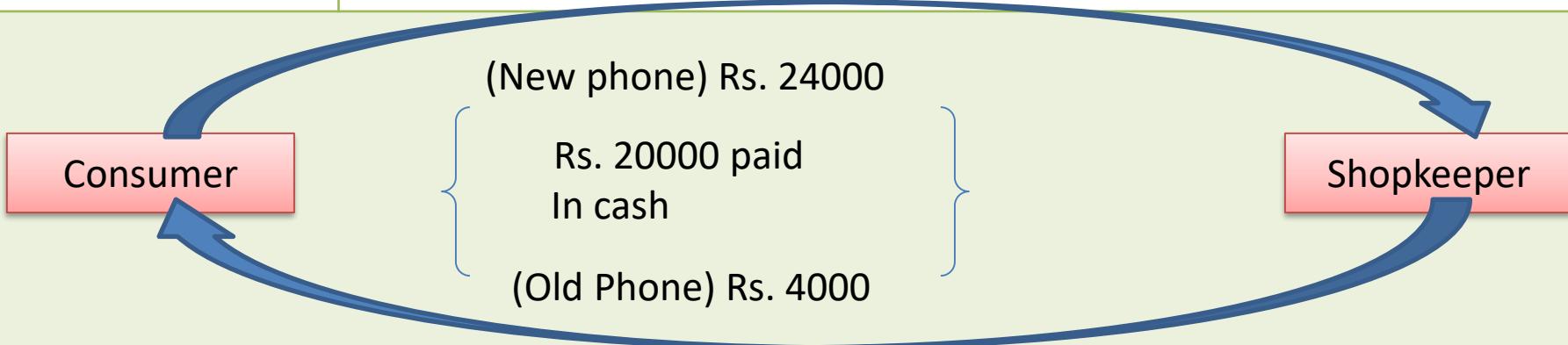
Barter

Exchange (goods or services) for other goods or services without using money.



Exchange

To give something to someone and receive something from that person



Import of services

Sec	Provision (CGST Act, 2017)
	<u>Import of Services</u>
7(1)	(b) Import of services, for a consideration whether or <u>not</u> in the course of furtherance of business

Exception



Entry 4 of Schedule I : Import of services by a taxable person from a related person or from any of his other establishments outside India, in the course of furtherance of business.

Related Person – Defined in explanation (a) to Sec 15

Services imported for personal purposes also taxable, if consideration involved

Definition of Related Persons

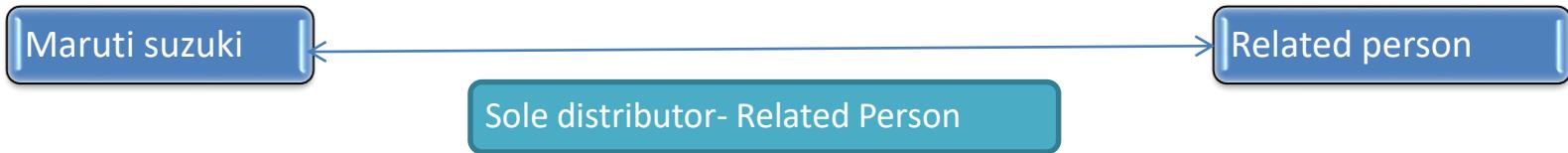
Persons
shall be
deemed
to be
“related
persons”
if only –

- Such persons are officers or directors of one another's businesses;
- Such persons are legally recognized partners in business;
- Such persons are employer and employee;
- Any person directly or indirectly owns, controls or holds twenty five percent or more of the outstanding voting stock or shares of both of them;
- One of them directly or indirectly controls the other;
- Both of them are directly or indirectly controlled by a third person;
- Together they directly or indirectly controls the third person;
- They are members of the same family;

Deemed ‘Related Person’

Explanation (b) – The term “person” also includes legal persons

Explanation (c) – Persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related



Taxability of Import of Services

Particulars	From related Person/ Establishment outside India	From any other person	
Consideration	Yes No	Yes	
Purpose	Personal or business	Business	Personal or business

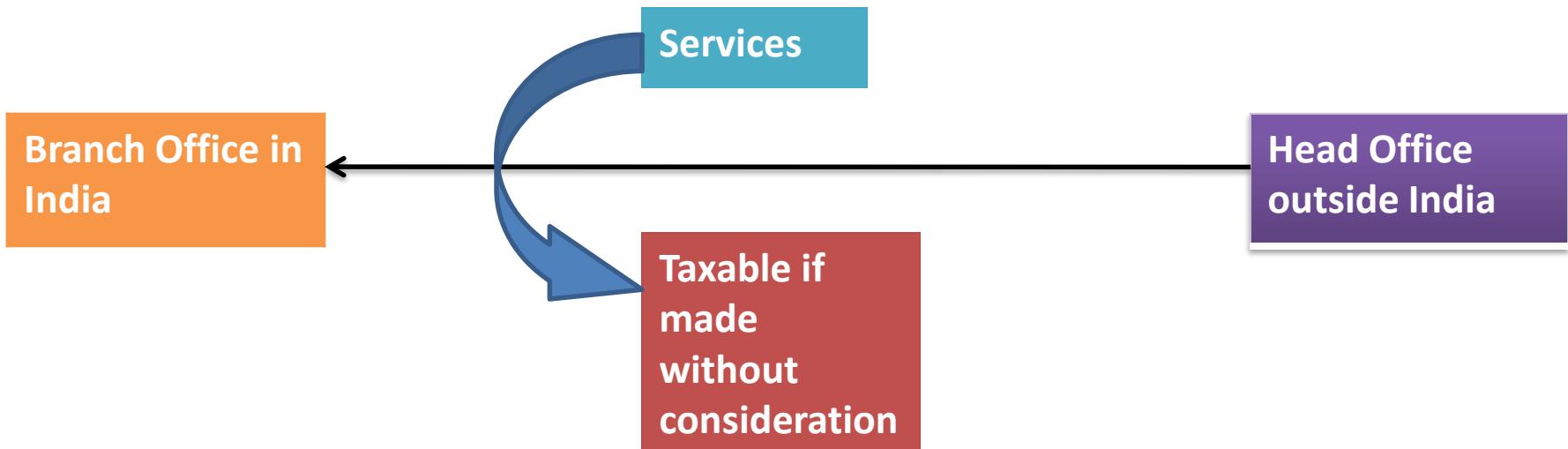
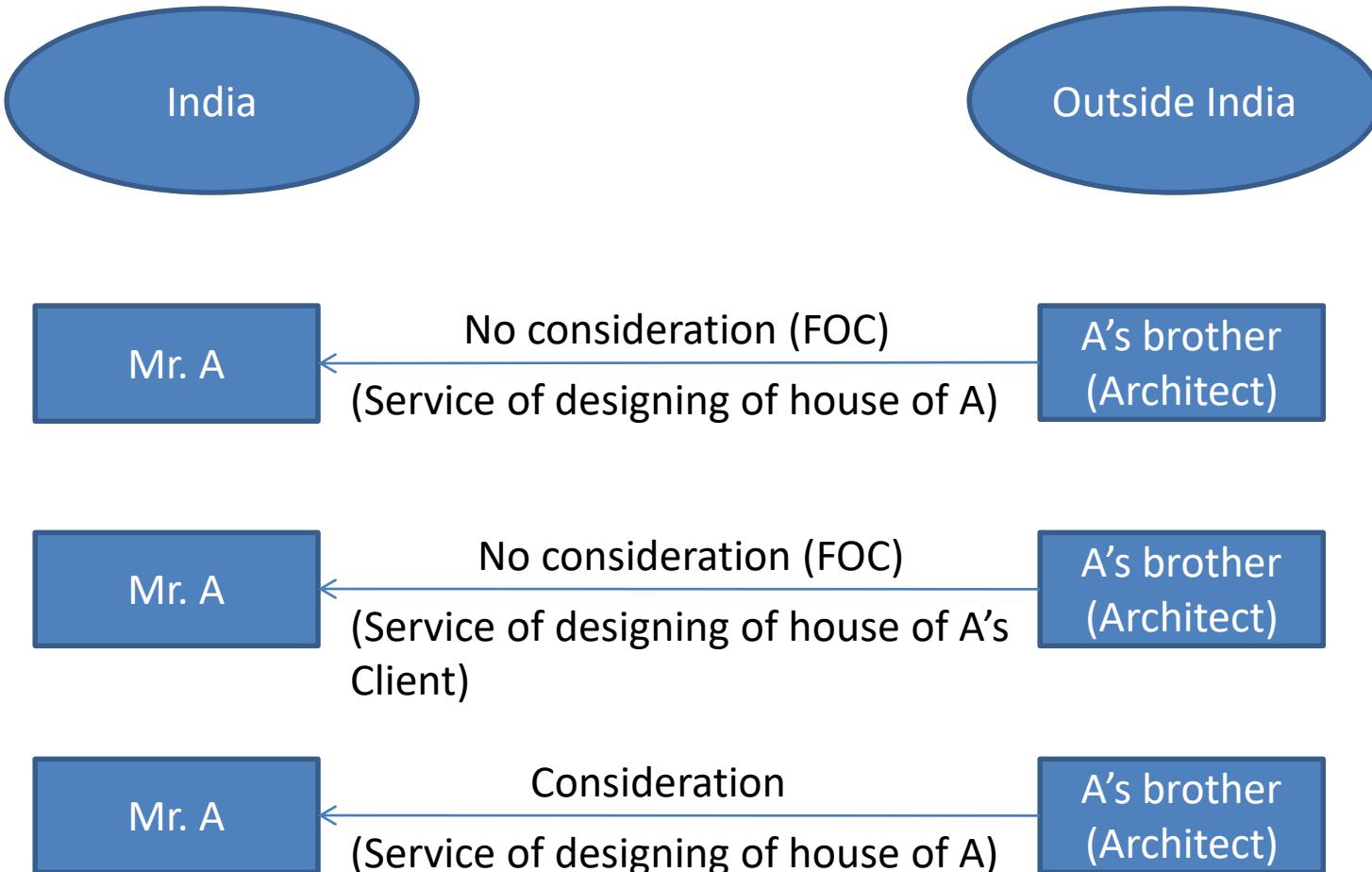


Illustration : Import of Services



Supply without Consideration

Supply without Consideration – Sch I

Section	Provision (CGST Act, 2017)
7(1)	<p><u>Supply without consideration</u></p> <p>(c) The activities specified in schedule I, made or agreed to be made without a consideration; and</p>



Schedule I: Activities to be treated as supply even if made without consideration



4 Specific entries are there

Permanent transfer/disposal of business assets – Entry 1

1. Permanent transfer / disposal of business assets where input tax credit can be availed on such assets.

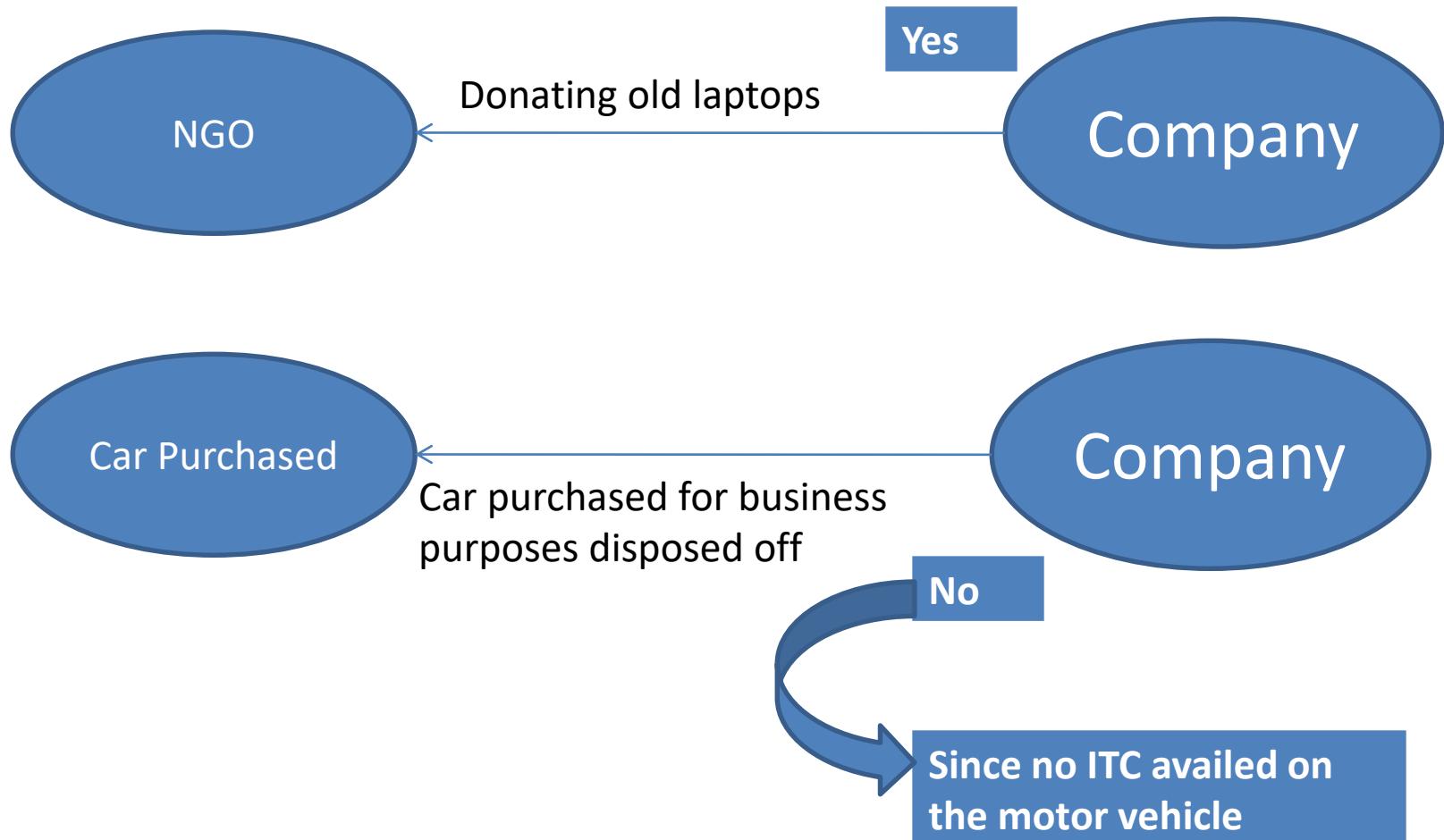
Transfer/ Disposal – Any act or process of moving something from one hand/ place to another

Such transfer disposal must be **permanent**

Business assets – Piece of property or equipment purchased exclusively or primarily for business use. There are many different categories of assets including current and non – current, short-term and long-term, operating and capitalized, tangible and intangible, such as vehicle, real estate, computers, office furniture and other furniture etc.

Supply taxable only when ITC has availed – thus the business assets on which ITC is not (Negative list of ITC) – Not covered under this entry. For eg., motor vehicle

Illustration : Entry 1 of Schedule I



Supply b/w related or distinct person

2. Supply of goods or services or both **between related persons , or** between distinct persons as specified in section 25, when made in the course or furtherance of business:

Provided that **gifts not exceeding fifty thousand rupees** in value in a **financial year** by an employer to an employee shall not be treated as supply of goods or services or both.

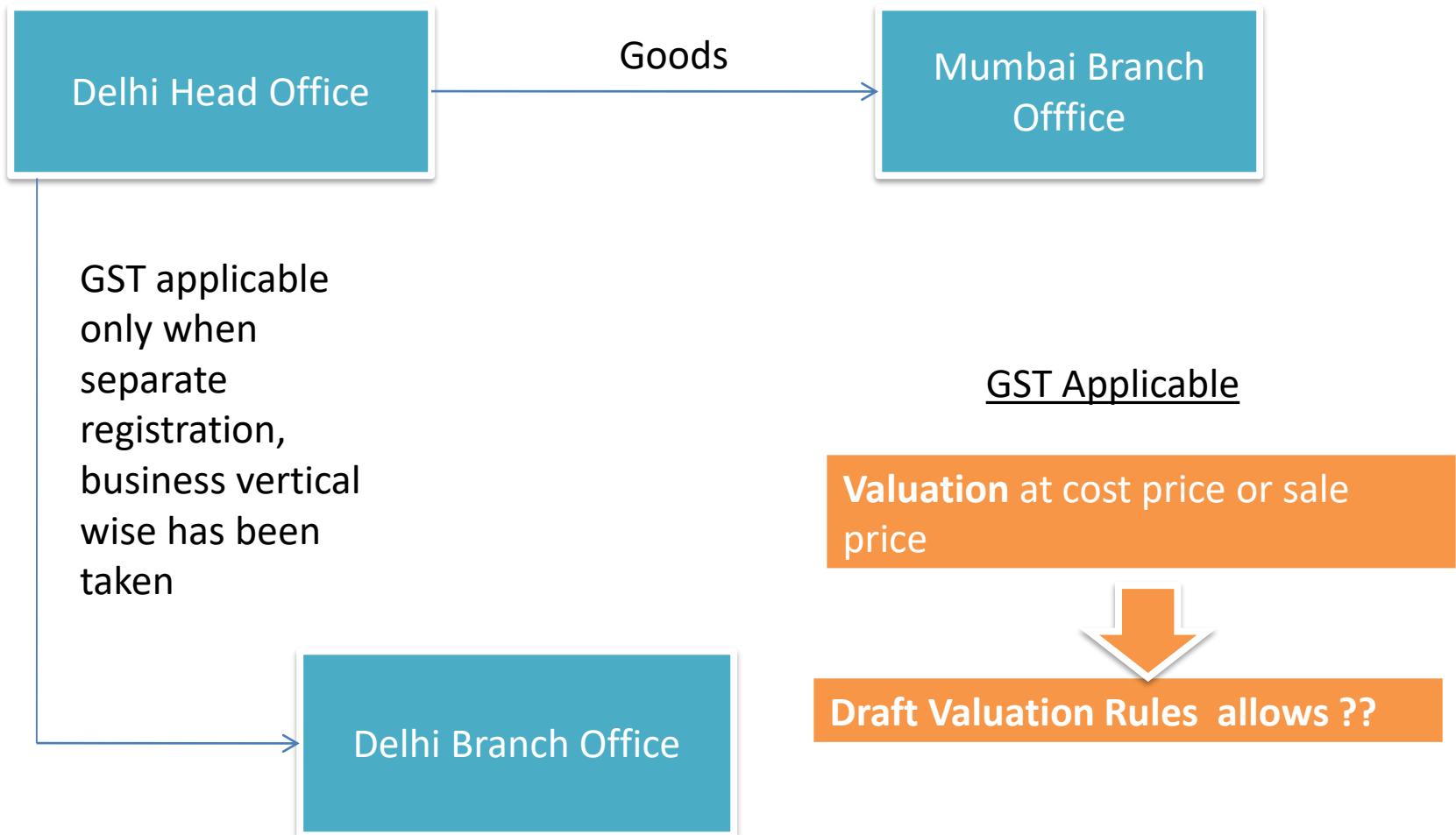
Following shall be treated as distinct person as per Sec 25:

- ✓ Person with more than one registration whether in a state or more than one state
- ✓ Establishment of same person in different States

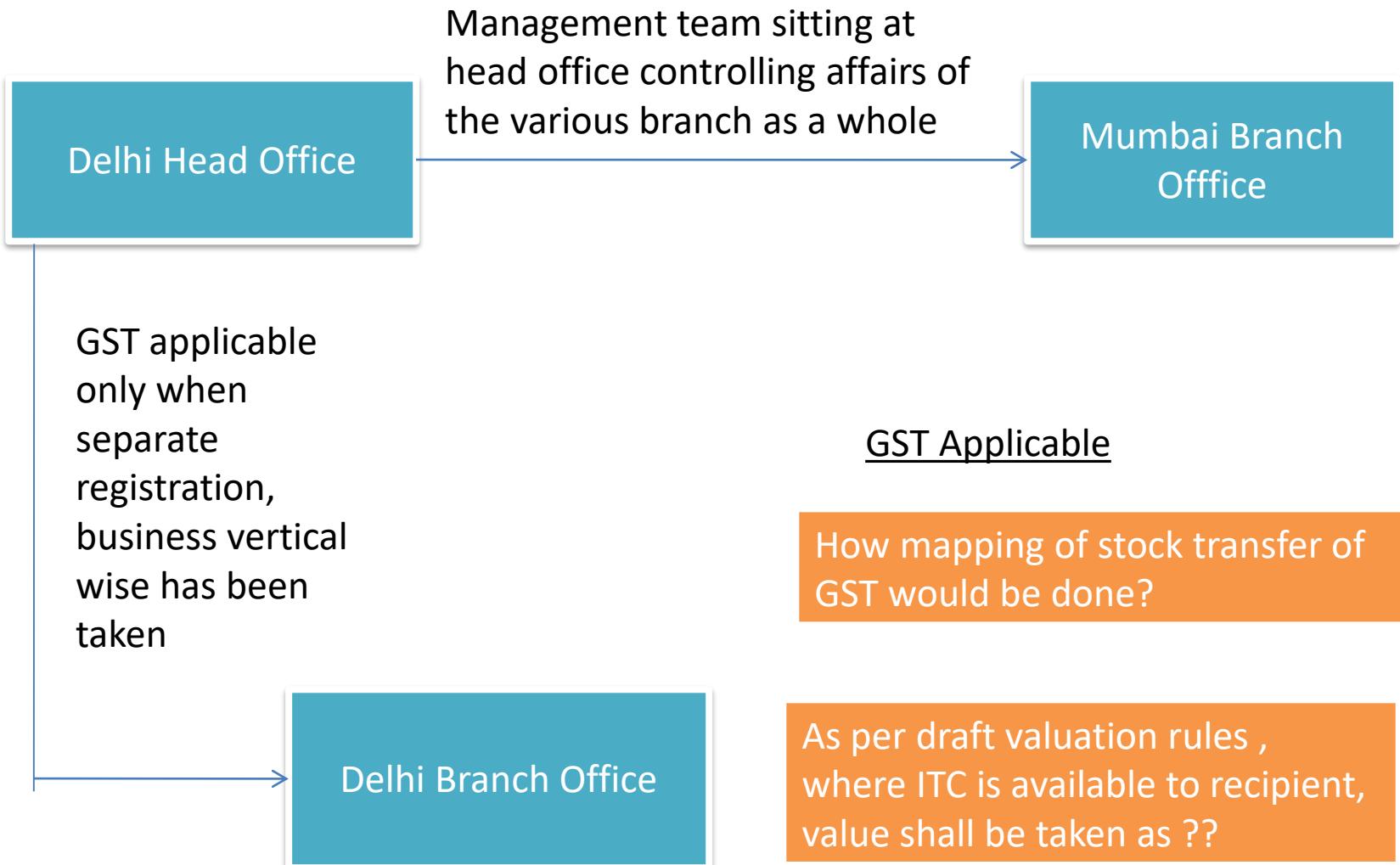
Stock- transfer chargeable to GST



Stock Transfer under GST - Goods



Stock Transfer under GST - Services



Principal - Agent transaction- Entry 3

3. Supply of goods-

- a) By a principal to his agent where the agent undertakes to supply such goods on behalf of principal, or
- b) By a agent to his principal where the agent undertakes to receive such goods on behalf of the principal

Import of services – Entry 4

4. Importation of services by a taxable person from a related person or from any of his other establishments outside India, in the course of furtherance of business.

Supply of Goods Vs. Supply of Service

Supply of Goods Vs. Supply of Services – Schedule II

Schedule II covers the activities to be treated as Supply of Goods or Supply of Services



7 broad entries / 18 specific entries

Supply of Goods Vs. Supply of Services: Snapshot

Schedule 2

Matters to be treated as supply of goods

1. Transfer of title in goods
2. Transfer of future goods
3. Transfer/ disposal of business assets with or without consideration
4. Goods forming part of business assets on ceasing to be a taxable person
5. Supply of goods by an unincorporated association

Matters to be treated as supply of services

1. Transfer of right to use goods without transfer of title
2. Lease, tenancy, easement, license to occupy land
3. Lease or letting out of building
4. Job work on other's goods
5. Personal use/making available business goods for non commercial / business usage whether or not for a consideration
6. Renting of immovable property

Supply of Goods Vs. Supply of Services: Snapshot

Schedule II

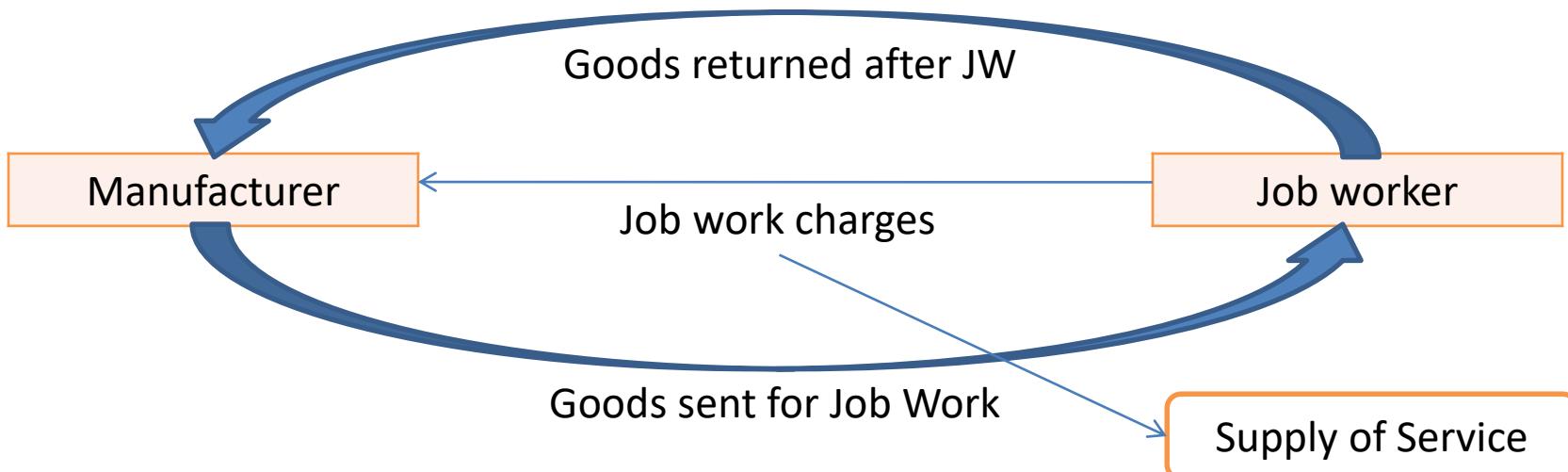
7. Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or before its first occupation, whichever is earlier
8. Temporary transfer or permitting the use or enjoyment of any intellectual property rights
9. Development, design, programming, customization, adaptation, up gradation, enhancement, implementation of information technology software
10. Agreeing to the obligation to refrain from an act, or to tolerate an act or situation , or to do an act
11. Transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration
12. **Works Contract (Composite Supply)**
13. Supply (Composite Supply), by way of or as any 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.

Para 3 of Schedule II: Treatment or process

3. Treatment or process

(a) Any treatment or process which is being applied to another person's goods is a supply of services.

Treatment or process on another person's goods i.e. Job work



Declared services~ Supply of Services in GST

Para	Provision (Schedule II to the CGST Act, 2017)	Services
5	<p>The following shall be treated as “supply of service”</p> <p>(a) Renting of immovable property,</p>	<p>Section 66E(a) of the FA, 1994</p>

Term not defined in GST law

“**Renting**” means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property – **Sec 65B(41) of the FA, 1994**

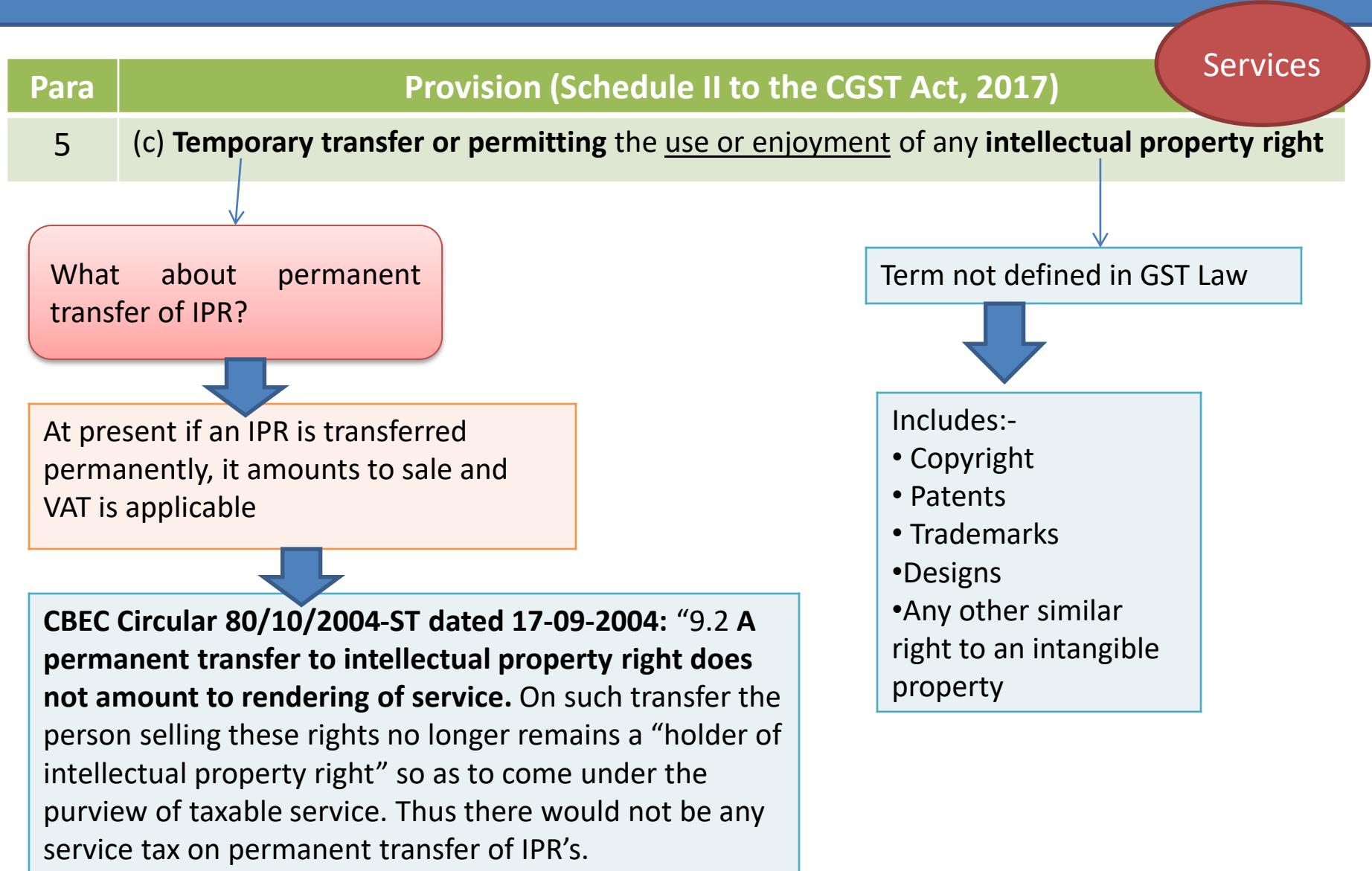
Immovable property include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to earth – **Section 3(26) of the General Clauses Act, 1987**

Duplication of Para No. 2(a) and 2(b) of Schedule II?

Construction services – Sec 66E(b) of FA, 1994

Para	Provision (Schedule II to the CGST Act, 2017)	Services
5	<p>(b) Construction of a <u>complex, building, civil structure or a part thereof</u>, including a complex or building intended for sale to a buyer, wholly or partly, <u>except where the entire consideration has been received after issuance of completion certificate</u>, where required, by the competent authority or after its first occupation, whichever is earlier.</p> <p>Explanation 2: Construction includes additions, alterations, replacement or remodeling of any existing civil structure</p> <p>Proof of occupation is sufficient even if completion certificate is not received – Slight deviation from present regime</p>	<p>Explanation 1: Competent authority means the government of any authority authorized to issue completion certificate under any law for the time being in force and in case of non – requirement of such certificate from such authority, from any of the following, namely:-</p> <ol style="list-style-type: none">1. An architect registered with the council of architecture constituted under the architect act 1972; or2. A chartered engineer registered with the institution of engineers (India); or3. A licensed surveyor of the respective local body of the city or town or village or development or planning authority

IPR related Services – Sec 66E(c) of FA, 1994



Software related services – Sec 66E(d) of FA, 1994

Para	Provision (Schedule II to the CGST Act, 2017)	Services
5	(d) Development, design, programming, customization, adaptation, up gradation, enhancement, implementation of information technology software	

Package Software – Goods or Services?



Article 366(12) – “goods includes all material commodities or articles”



Tata Consultancy Services Vs. State of Andhra Pradesh [2004 (178) ELT 22 (S.C.)] – “....In our view, the term “goods” as used in article 366(12) of the Constitution of India and as defined under the said act are very wide and includes all types of movable properties, whether those properties be tangible or intangible...”

Refraining/ Tolerating an act – Sec 66E(e) of FA, 1994

Para	Provision (Schedule II to the CGST Act, 2017)	Services
5	(e) Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act ;	<p>An act which binds a person, for not doing a particular act in the given circumstances. EG: Non-Compete fees for not doing a particular business or not to practice a particular profession</p> <p>To perform or to do something, necessarily prescribed.</p> <p>Accept the occurrences or existence of an act or a particular thing, which is imposed by a condition or circumstances. Eg: Penalty on early termination of agreement, Late delivery charges etc.</p>

Right to use goods – Sec 66E(f) of FA, 1994

Services

Para	Provision (Schedule II to the CGST Act, 2017)
5	(f) Transfer of the right to use any goods for any purposes (<u>whether or not for a specified period</u>) for cash, deferred payment or other valuable consideration;

Litigated in present regime : Service tax Vs. VAT

Theory of effective possession and control

- BSNL Vs. Union of India [(2006) 145 STC (91) SC];**
- SGS Lamba and sons VS. State of Andhra Pradesh [2012-TIOL-49-HC-AP-CT]**
- State of Andhra Pradesh Vs. Rashtriya Ispat Nigam Ltd. [2013 (31) S.T.R. 513 (S.C.)]**

Composite supply- Works contract

Services

Para	Provision (Schedule II to the CGST Act, 2017)
6	(a) Works contract as defined in clause (119) of section 2

Sec 2(119) – “works contract” means a contract for **building, construction, fabrication, completion, erection , installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property** wherein transfer of property in goods (whether as goods or in some other form) is involved in execution of such contract.

Sec 65B(54) of FA, 1994 – “works contract” means a contract wherein transfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods **and such contract is for the purpose of carrying out construction , erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, alteration of any moveable or immovable property** or for carrying out **any other similar activity or part thereof** in relation to such property;

Art 366(29A) - Works contract is deemed sale of goods

Composite supply- supply of foods and drinks

Services

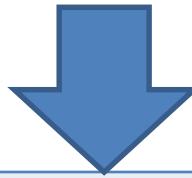
Para	Provision (Schedule II to the CGST Act, 2017)
6	(b) supply, by way of or any part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.

Art 366(29A) – Restaurant Services is deemed sale of goods

Supply of goods by unincorporated association

Goods

Para	Provision (Schedule II to the CGST Act, 2017)
7	(a) Supply of goods by an unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.



What about supply of services by club or associations?

Unincorporated association ~Member: Distinct Person in ST

Sec	Provision (Finance Act, 1994)
65B (44)	<p>Explanation 3.— For the purposes of this chapter,-</p> <p>(a) An unincorporated association or a body of persons, as the case may be, and a member thereof shall be treated as <u>distinct persons</u>;</p> <p>.....</p>

Sec	Provision (CGST Act, 2017)
2(84)	<p>“person” includes-</p> <ul style="list-style-type: none">a) An individual;b) A Hindu undivided family;c) A company;d) A firm;e) A limited liability partnership;f) An <u>association of persons or body of individuals, whether incorporated or not,</u> in India or outside India; <p>.....</p>

Transactions neither supply of goods nor supply of services

Sec	Provision (Finance Act, 1994)
7	<p><u>Activities or transactions which are neither supply of goods nor supply of services</u></p> <p>(2) Notwithstanding anything contained in sub-section (1),-</p> <p class="list-item-l1">(a) Activities or transactions specified in schedule III; or</p> <p class="list-item-l1">(b) Such activities or transactions are undertaken by the central government, a state government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated <u>neither as supply of goods nor a supply of services</u></p>



Schedule III: Activities or transactions which shall be treated neither as a supply of goods nor a supply of services

Services by employee to employer – Sch III

Sec	Provision (Finance Act, 1994)
1	Services by an employee to employer in the course of or in relation to his employment .



What about services by Employer to employee



Employer and employee are covered under related persons



Schedule I: Supply without consideration

2. Supply of goods or services or both between **related persons**, or between distinct persons as specified in section 25, when made in the course of furtherance of business:

Provided that **gifts not exceeding fifty thousand rupees** in value in a financial year by an employer to an employee shall **not** be treated as supply of goods or services or both

Other exclusions – Sch III

Para	Provision (Schedule III to the CGST Act, 2017)
2	Services by any Court or Tribunal established under any law for the time being in force.
3	(a) The functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities; (b) The duties performed by any person who holds any post in pursuance of the provisions of the constitution in that capacity; or (c) The duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or State Government or local authority and who is not deemed as an employee before the commencement of this clause
4	Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
5	Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building
6	Actionable claim other than lottery betting and gambling.
	Explanation.- For the purposes of paragraph 2, the term “court includes District court, High court and Supreme court.

Power of CG/SG to notify nature of transaction

Sec	Provision (CGST Act, 2017)
7	<p><u>Power of Govt. to specify transactions as supply of goods/services</u></p> <p>(3) Subject to the provisions of sub- sections (1) and (2), the Government may, on the recommendation of the council, specify, by notification, the transactions that are to be treated as-</p> <p class="list-item-l1">(a) a supply of goods and not as supply of services; or</p> <p class="list-item-l1">(b) a supply of services and not as supply of goods; or</p> <p class="list-item-l1">(c) neither a supply of goods nor as supply of services – Omitted from Final GST Law</p>

Composite and Mixed Supply

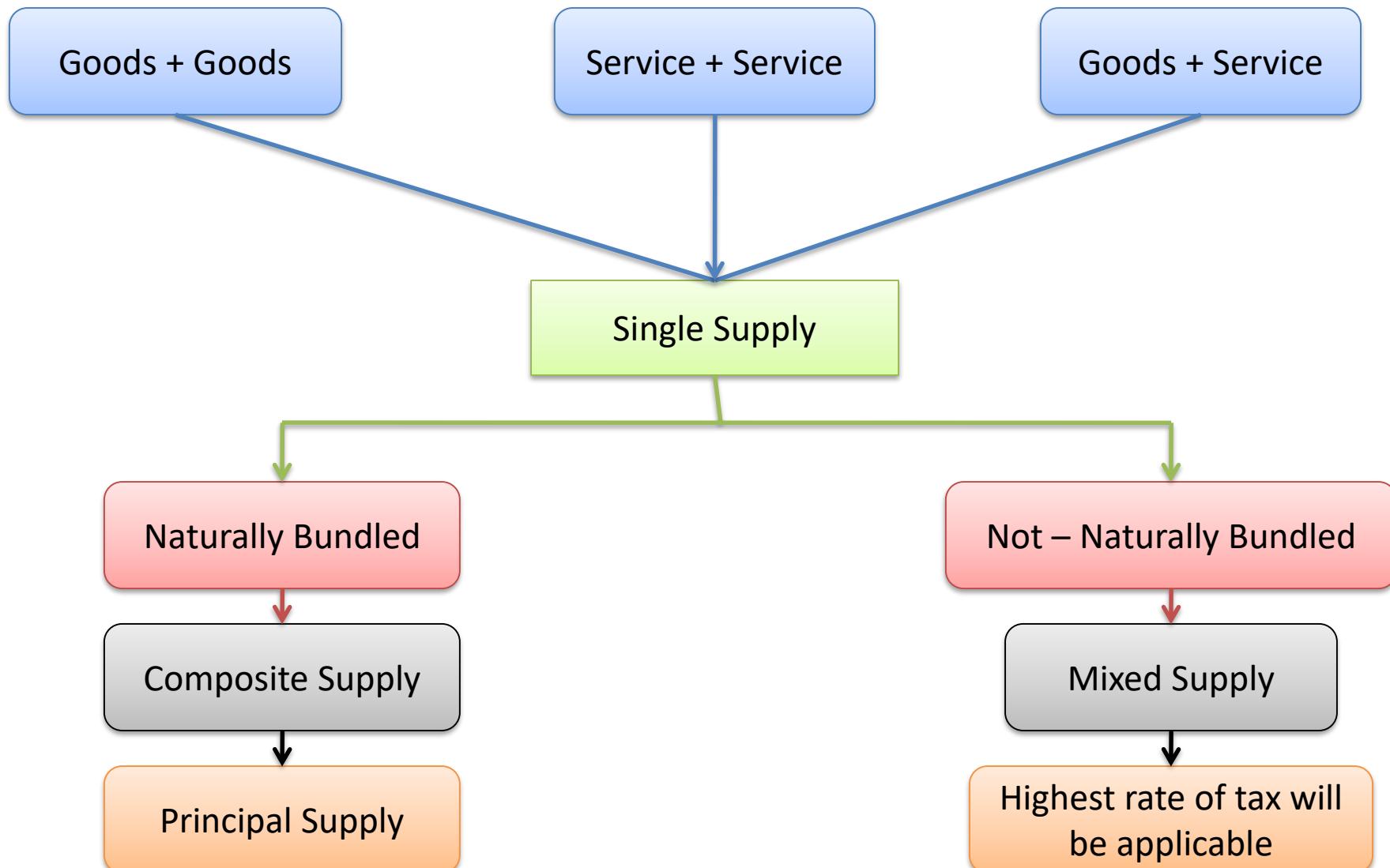
Composite and Mixed Supply

Sec	Provision (CGST Act, 2017)
8	<p><u>Composite and Mixed Supply</u></p> <p>The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:-</p> <p>(a) a <u>composite supply</u> comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply;</p> <p>(b) a <u>mixed supply</u> comprising two or more supplies shall be treated as supply of that particular supply which attracts the highest rate of tax.</p>

Meaning of Composite and Mixed Supply

Sec	Provision (CGST Act, 2017)
2 (30)	<p><u>Meaning of Composite Supply</u></p> <p>“Composite Supply” means a supply made by a taxable person to a recipient consisting two or more taxable supplies of goods or services or both, or any <u>combination</u> thereof, which are naturally bundled and supplied in conjunction with each other in the <u>ordinary course of business</u>, one of which is a principal supply;</p> <p>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</p>
2 (74)	<p><u>Meaning of Mixed Supply</u></p> <p>“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;</p> <p>Illustration : A supply of a package consisting of canned food, sweets chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is called a mixed supply. Each of these items can be supplied separately and is not dependent on any other.</p>

Meaning of Composite and Mixed Supply



Return of era of dominant intention

Concept of composite and mixed supply brings the concept of dominant intention test

Plethora of SC judgments stating dominant intention test is not relevant



- Bharat Sanchar Nigam Ltd. Vs. Union of India [2006 (2) S.T.R. 161 (S.C.)]
- Larsen Toubro and another Vs. State of Karnataka and another [2014-TIOL-46-SC-CT-LB]
- Kone Elevator India Pvt. Ltd. Vs. State of Andhra Pradesh [2014-TIOL-57-SC-CT-LB]
- State of Karnataka Etc. Vs. Pro LAB and Ors [2015-TIOL-08-SC-CT-LB]



For eg. Supply of AC with installation



Composite supply –Intention is to sell goods – supply of goods

Meaning of Goods and Services

Constitutional meaning of terms ‘goods’ and ‘services’

Art	Provision (101 st Constitutional Amendment Act, 2016)
366 (12)	<p><u>Meaning of Goods</u></p> <p>“goods includes all materials, commodities, and articles;”</p>

Art	Provision (101 st Constitutional Amendment Act, 2016)
366 (26A)	<p><u>Meaning of Services</u></p> <p>“Services” means anything other than goods</p>

Meaning of terms ‘goods’ and ‘services’

Art	Provision (CGST Act, 2017)
2	<p style="text-align: center;"><u>Meaning of Goods</u></p> <p>(52) “goods” means every kind of moveable 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;</p>

Art	Provision (CGST Act, 2017)
2	<p style="text-align: center;"><u>Meaning of Services</u></p> <p>(102) “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.</p>

Components of goods and Services

Particulars	Whether goods?	Whether Service?
Every kind of moveable property	Yes	No
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	Yes	No
Anything other than goods	No	Yes
Money	No	No
Transaction in money*	No	Yes
Actionable claim**	Yes	No
Securities	No	No

*Only following activities covered under transaction in money:

An activity relating to **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**.

**Read with Sch III

Time of Supply

Relevant Provisions – CGST Act, 2017

Chapter/Section	Particulars
Chapter IV : Time & Value of Supply	
Section 12	Time of Supply of Goods
Section 13	Time of Supply of Services
Section 14	Change in rate of tax in respect of supply of Goods & Services

Applicable to IGST vide Section 20 under Chapter IX of IGST Act, 2017

Applicable to UTGST vide Section 21 under Chapter IX of UTGST Act, 2017

Relevant Provisions – CGST Act, 2017

Chapter/Section	Particulars
Chapter VII:- Tax Invoice,	Credit and Debit Notes
Section 31	Tax Invoice
Section 32	Prohibition of unauthorized collection of Tax
Section 33	Amount of Tax to be indicated in tax invoice and other documents
Section 34	Credit & debit notes

Applicable to IGST vide Section 20 under Chapter IX of IGST Act, 2017

Applicable to UTGST vide Section 21 under Chapter IX of UTGST Act, 2017

Relevant Provisions – Final GST Invoice Rules

Rule/Format	Particulars
Rule 1	Tax Invoice
Rule 2	Time limit for issuing tax invoice
Rule 3	Manner of issuing invoice
Rule 4	Bill of Supply
Rule 5	Receipt Voucher
Rule 6	Refund Voucher
Rule 7	Payment Voucher
Rule 8	Revised tax invoice and credit or debit notes
Rule 9	Tax invoice in special cases
Rule 10	Transportation of goods without issue of invoice.

Point of Taxation (POT): Present indirect tax regime

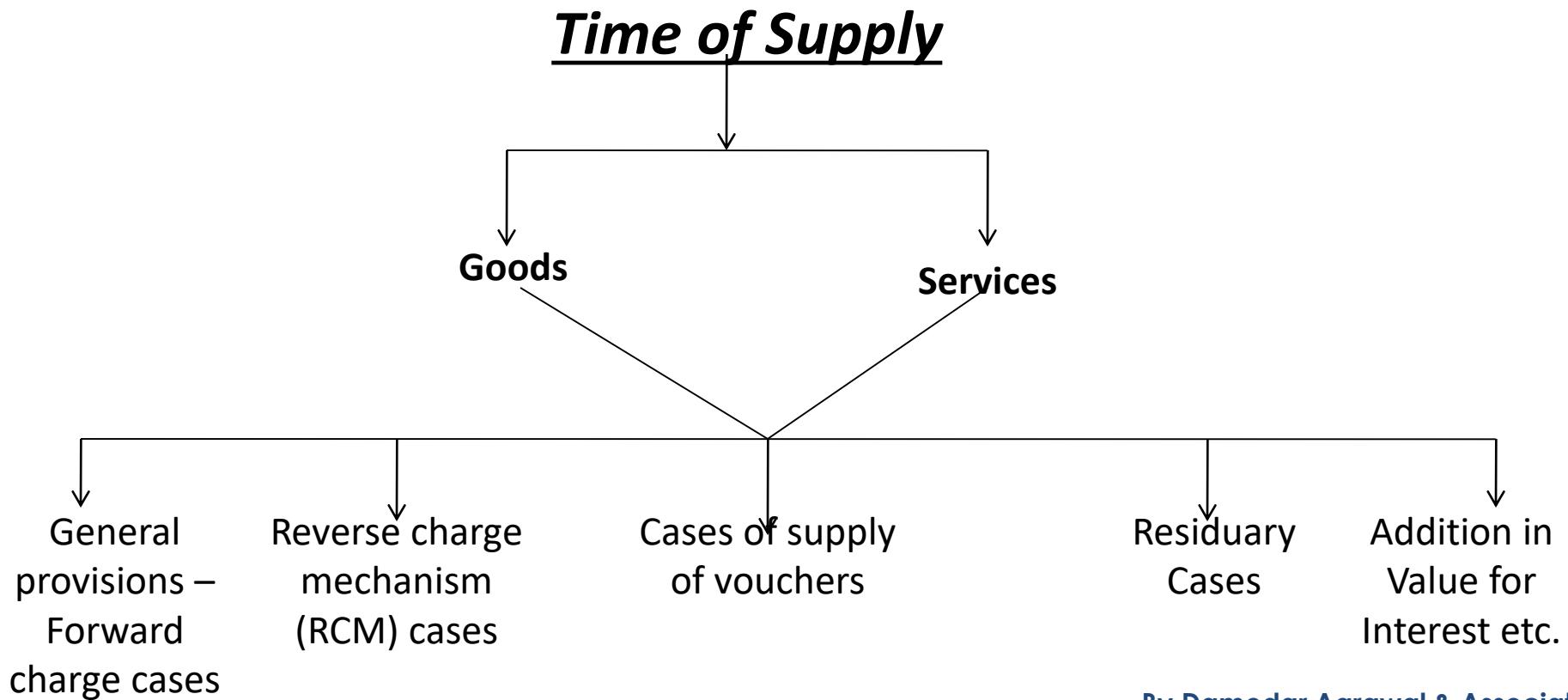
POT :- Point of time, when a transaction for manufacturing of goods or provision of services or sale of goods is to be taxed.

- **M/f of Goods**
 - * Incidence of ED :- arises on manufacture / production of goods in India.
 - * Liability to pay :- at the time of removal.
- **Rendering of Services**
 - * Generally earliest of receipt of money / issuance of invoice (if issues within stipulated time), otherwise, completion of service.
- **Sale of goods**
 - * VAT/CST, as the case may be, arises on transfer of title/property in goods including deemed sale [Article 366(29A)], paid on accrual basis.

Time of Supply – GST Law

Time of Supply :- Mechanism to determine point of time when liability to pay GST arises on any transaction related to supply of goods and/or services.

Sec 12(1) [Goods] / Sec 13(1) [Services] :- The liability to pay tax on the goods/services shall arise at the time of supply as determined in the terms of the provisions of this section.



Time of Supply in GST – Forward Charge

Provisions for determining Time of Supply of Goods & Services under Forward Charge

In case of Supply of Goods [Sec 12(2)]

Earliest of the following :-

- ✓ Date of **Issue of invoice** by the supplier or the last date on which he is required, to issue the invoice [under Sec 31(1)] with respect to the supply
- ✓ Date on which the supplier **receives the payment** with respect to the supply

In case of Supply of Services [Sec 13(2)]

Earliest of the following :-

- ✓ **Invoice issued with prescribed time period [under section [31(2)]]** :- Date of issue of invoice by the supplier, or the date of receipt of payment, whichever is earlier; or
- ✓ **Invoice not issued with prescribed time period [under section [31(2)]]** :- Date of provision of service , or the date of receipt of payment, whichever is earlier; or
- ✓ **Other** :- Date on which the recipient shows the receipt of services in his books of account

General provisions for raising invoice as per Sec 31

Provisions for raising invoice as per Sec 31 read with the Draft Rules on Invoice

In case of Supply of Goods [Sec 31(1)]

Before or at the time of,-

- a) **Removal of goods** for supply to the recipient, where the supply involves **movements of goods**, or
- b) **Delivery of goods** or making available thereof to the recipient, in any other case

In case of Supply of Services [Sec 31(2)]

Before or after the provision of service:-

But within a period prescribed

[i.e. **30 days in all cases/ 45 days** in case of banking company or a financial institution including a non – banking financial company from the date of supply of services]

Meaning of term ‘REMOVAL’

Provision (CGST Act, 2017)

Meaning of Term ‘Removal’

Sec
2(96)

“removal” , in relation to goods, means –

- a) **Dispatch** of goods for delivery by the supplier thereof or by any other person acting on behalf of such supplier; or
- b) **Collection** of goods by the recipient thereof or by any other person acting on behalf of such recipient

Illustration: Time of Supply of Goods

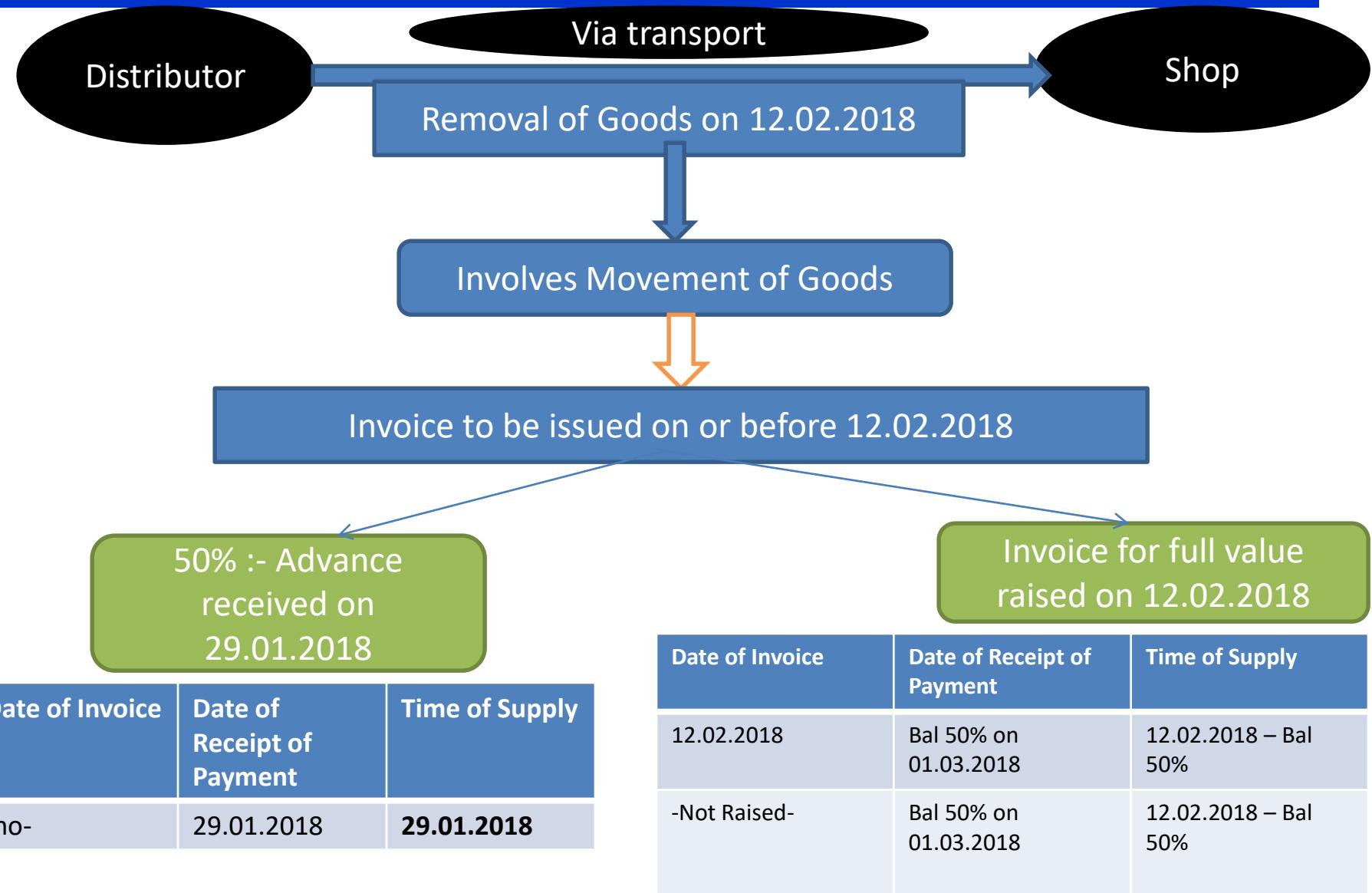
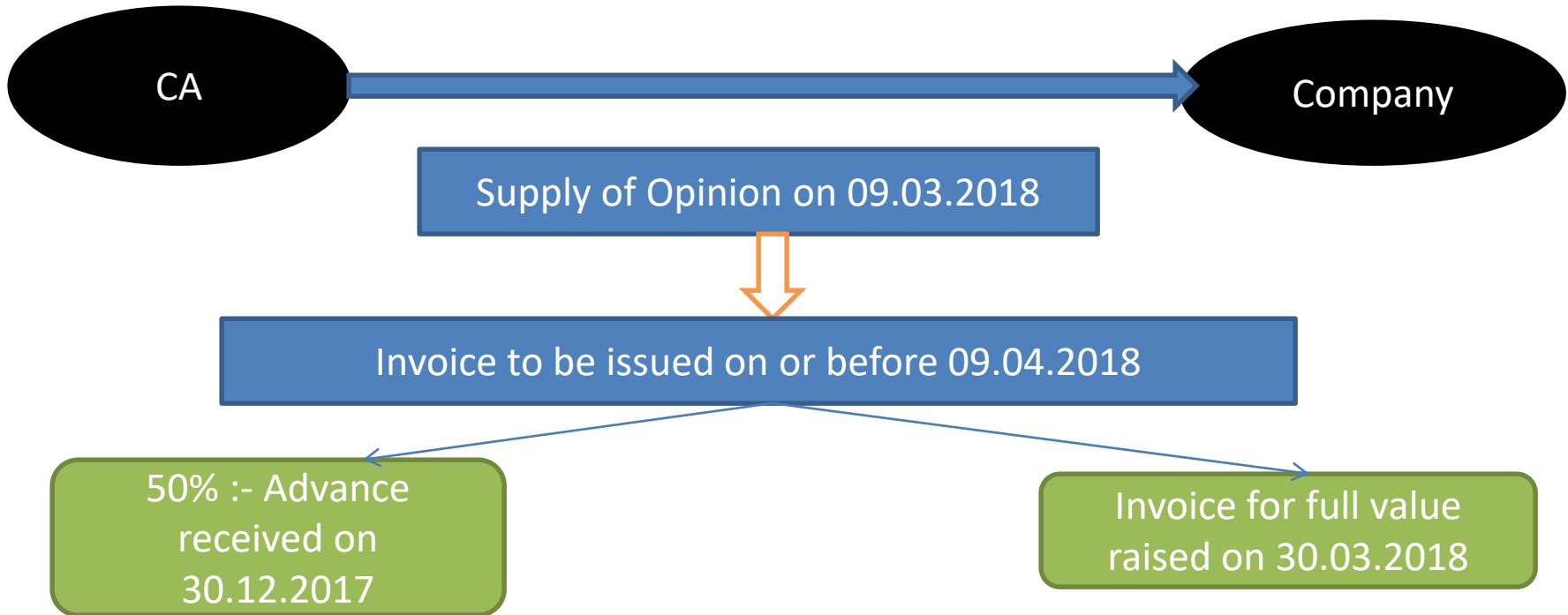


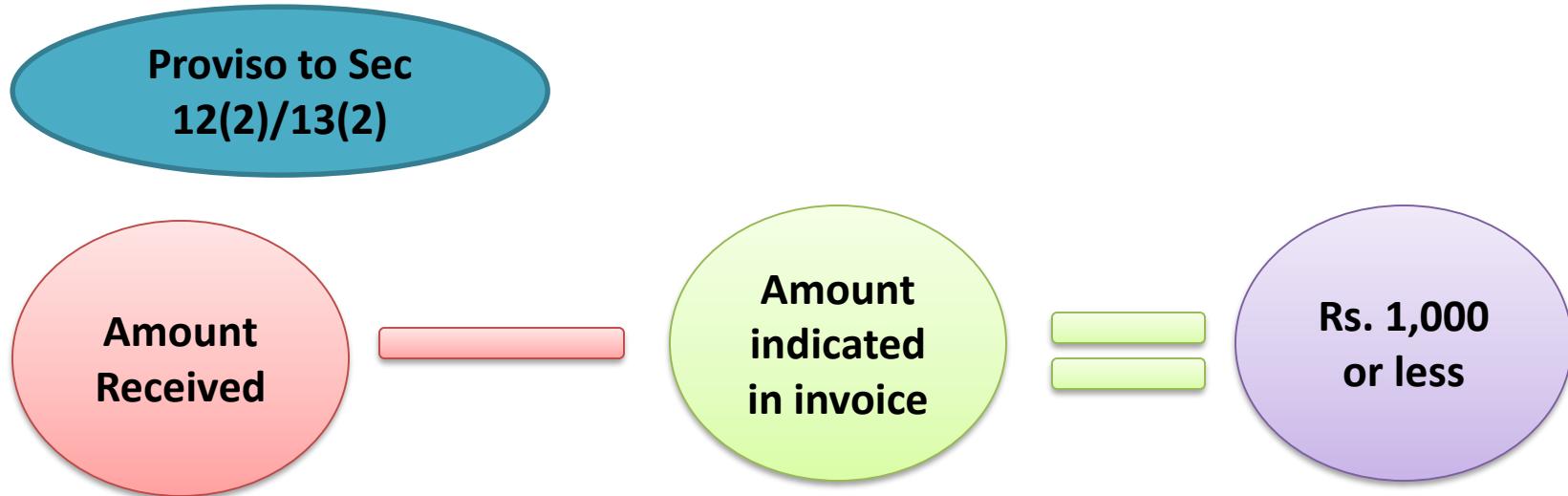
Illustration: Time of Supply of Services



Date of Invoice	Date of payment	Time of Supply
-no-	30.12.2017	30.12.2017 – part 50%

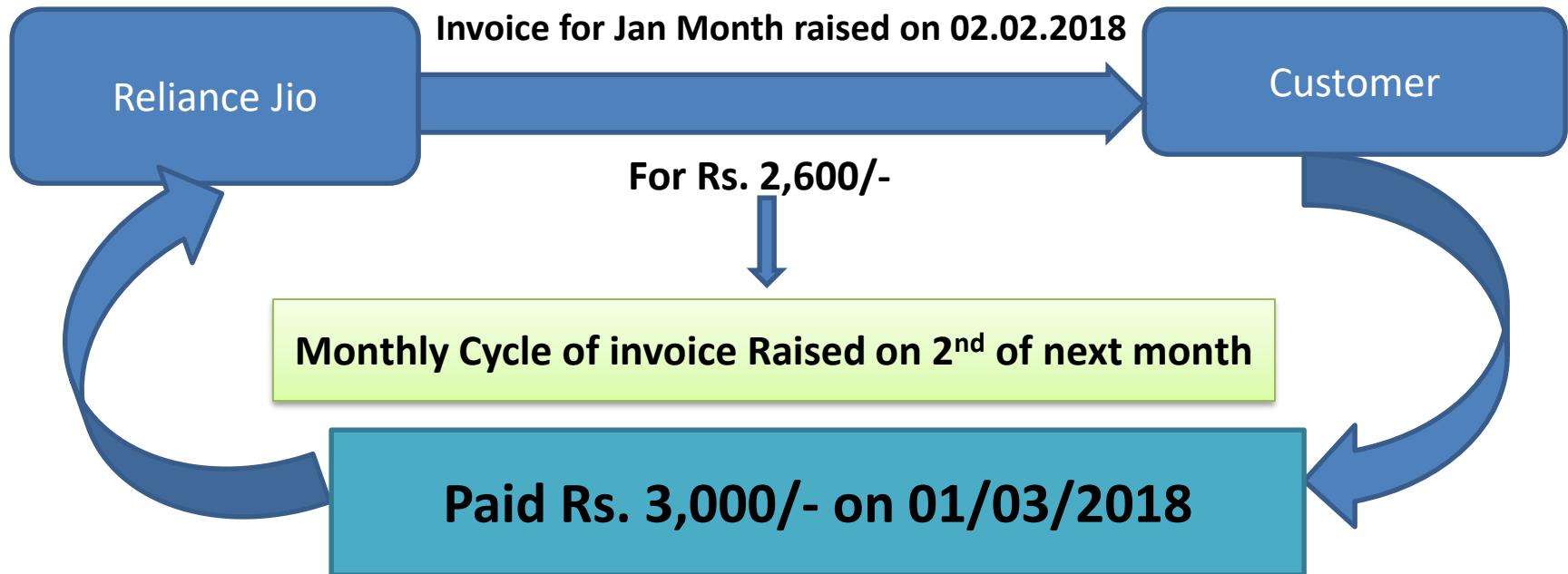
Date of Invoice	Date of Receipt of Payment	Time of Supply
30.03.2018	Bal 50% on 05.05.2018	30.03.2018 – Bal 50%
-Not Raised-	Not Received	10.03.2018 – Bal 50%

Excess receipt of amount up to Rs. 1,000/-



Time of Supply: - Date of issue of invoice at the option of Supplier

Illustration: Excess receipt of amount up to Rs. 1,000/-



	Date of Invoice	Date of payment	Time of Supply
For Rs. 2,600/-	02.02.2018	01.03.2018	02.02.2018
For Balance Rs. 400/-	02.03.2018	01.03.2018	02.03.2018 (at the option of Supplier)

Deemed Supply to the extent covered by Invoice/Payment

Sec	Provision CGST Act, 2017
Goods -12(2)	<u>Deemed Supply to the extent covered by Invoice/Payment</u> Explanation 1. – For the purposes of clauses (a) & (b), “supply shall be deemed to have been made <u>to the extent it is covered by the invoice , or as the case may be, the payment</u>
Services -13(2)	

GST applicable on advance receipt of goods & services

New concept for goods taxability – presently no ED or VAT/CST applicable on advance

Whether credit available to recipient?

Explanation applicable only for the purposes of time of supply provisions

Section 16(2)(b) :- One of the condition to avail ITC :- “he has received goods or services or both”

Determination of Date on which Supplier receives payment

Explanation 2 to Sec
12(2) / 13(2)

Date on which the supplier receives the payment



✓ Date of entering payment in BOA of supplier

OR

✓ Date of crediting payment in Bank Account of Supplier

WHICHEVER IS EARLIER

Determining time of supply in RCM cases – Goods & services

Provisions for determining time of supply in case of supply of goods and/or services under RCM

In case of Supply of Goods [Sec 12(3)]

Earliest of the following :-

- a) Date of receipt of goods, or
- b) Date of payment as entered in BOA of recipient or date on which payment is debited in his Bank account, which is earlier, or
- c) Date immediately following 30 days from the date of issue/any other document by the supplier

In case of Supply of Services [Sec 13(3)]

Earliest of the following :-

- a) Date of payment as entered in BOA of recipient or date on which payment is debited in his Bank account, which is earlier, or
- b) Date immediately following 60 days from the date of issue/any other document by the supplier

Not Possible :- Time of supply shall be the date of entry in books of account of recipient.

Determining time of supply in RCM cases – Goods

Date of Receipt of Goods	Date of payment by Recipient	Date of issue of invoice by supplier	Date immediately following 30 Days from the date of Invoice	Time of Supply
July 1	August 10	June 29	July 30	July 1
July 1	June 25	June 29	July 30	June 25
July 1	Part payment made on June 30 and Balance amount on July 20	June 29	July 30	June 30 for part payment made & July 1 for Balance amount
July 5	Payment is entered in the books on June 28 and debited in recipient's bank account on June 30	June 1	July 2	June 28 (i.e. when payment is entered in the books of recipient)
July 1	Payment is entered in the books on June 30 and debited in recipient's bank account on June 26	June 29	July 30	June 26 (i.e. when payment is debited in the recipient's bank account)

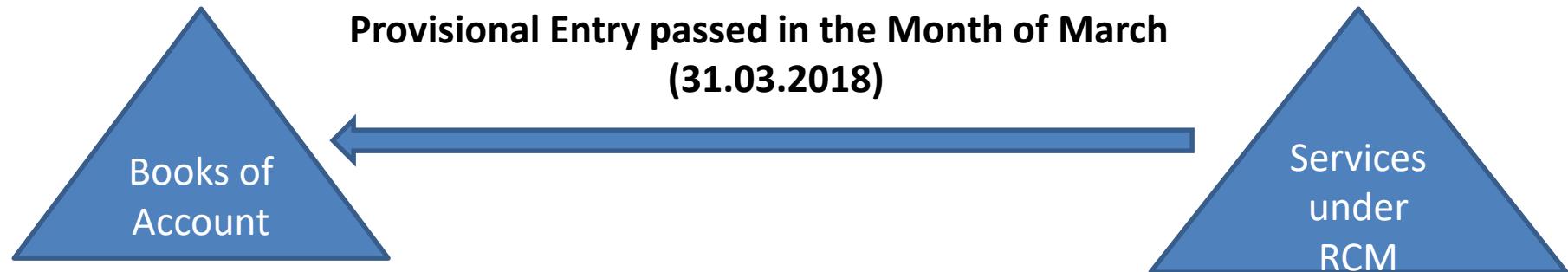
Determining time of supply in RCM cases – Services

Date of payment by Recipient	Date of issue of invoice by supplier	Date immediately following 60 Days from the date of Invoice	Time of Supply
August 10	June 29	August 29	August 10
August 10	June 1	August 1	August 1
Part payment made on June 30 and Balance amount on September 1	June 29	August 29	June 30 for part payment made & August 29 for Balance amount
Payment is entered in the books on June 28 and debited in recipient's bank account on June 30	June 1	August 1	June 28 (i.e. when payment is entered in the books of recipient)
Payment is entered in the books on June 30 and debited in recipient's bank account on June 26	June 29	August 28	June 26 (i.e. when payment is debited in the recipient's bank account)

RCM cases – Time of supply in residuary cases

Proviso to Sec 12(3)/13(3) :- Where it is not possible to determine the time of supply under clause (a), (b) or (c) [for goods]/, clause (a) or (b) [for services] :- the time of supply shall be **the date of entry in the books of account of the recipient of supply.**

**Provisional Entry passed in the Month of March
(31.03.2018)**



Date of Payment by Recipient	Date of issue of invoice by supplier	Date immediately following 60 Days from Invoice	Time of supply
--	--	--	31.03.2018

Time of Supply in RCM cases – Services (Associated Enterprise)

2nd Proviso to
Sec 12(3) / 13(3)

Date of Entry in BOA of Recipient

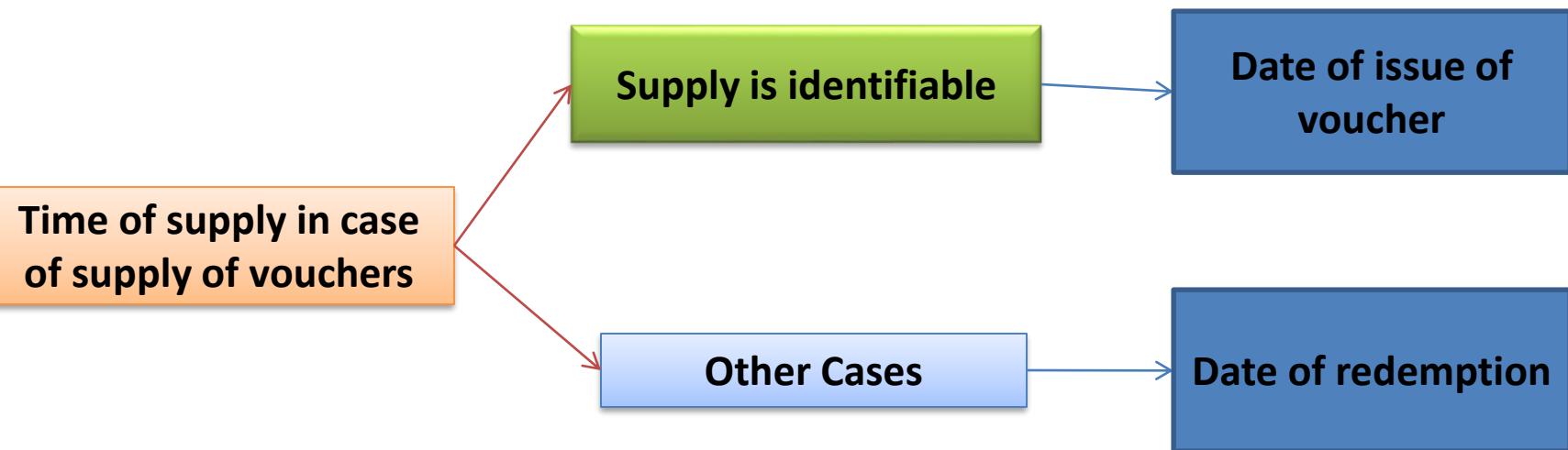
Time of supply in case of
import of services from
associated enterprises

Date of payment

whichever is
EARLIER

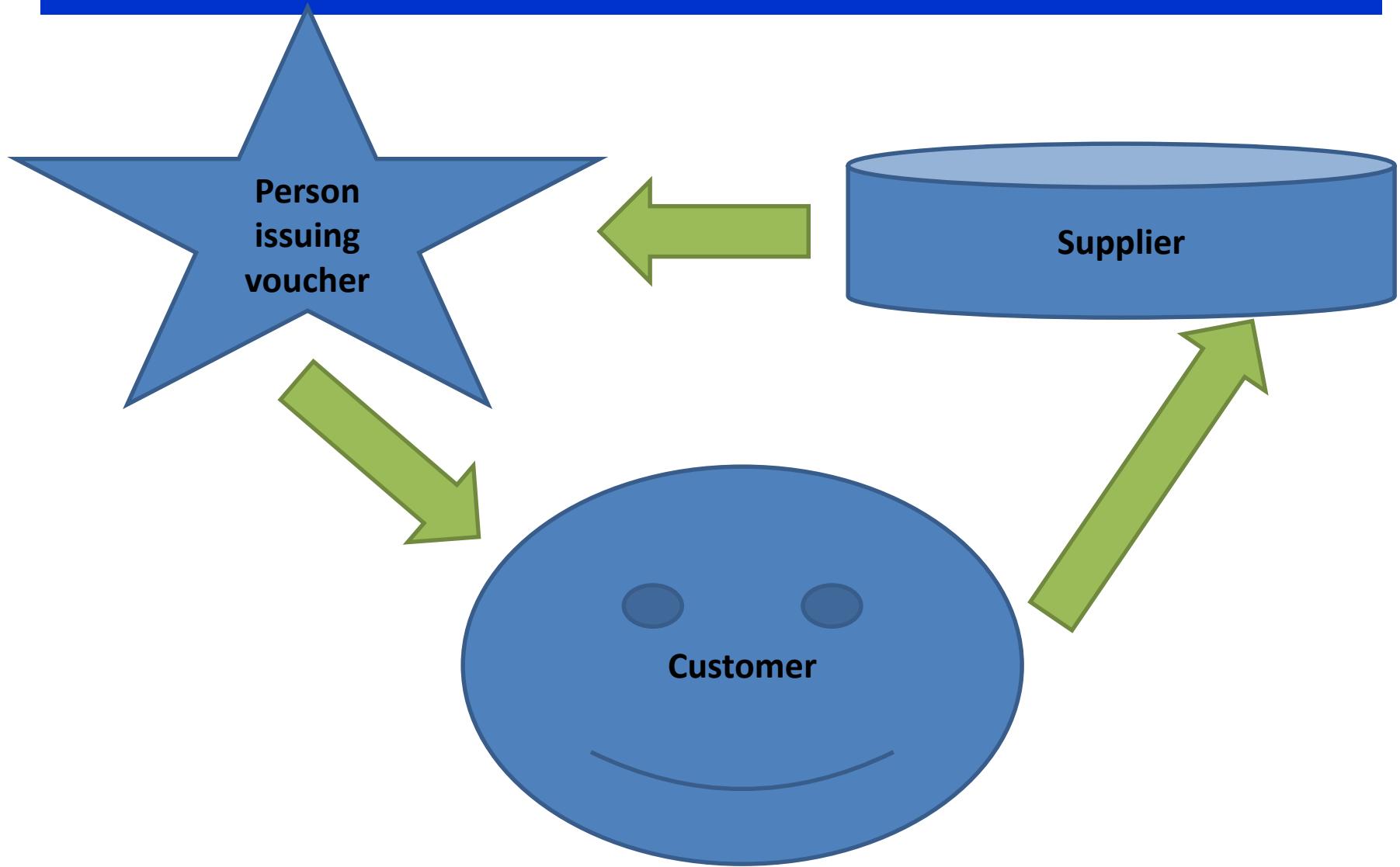
Definition of Associated Enterprises :- Sec 2(12) :- “associated enterprise’ shall have the meaning as assigned to it in Sec 92A of the Income Tax Act, 1961(43 of 1961);

Time of Supply in case of Supply of Vouchers

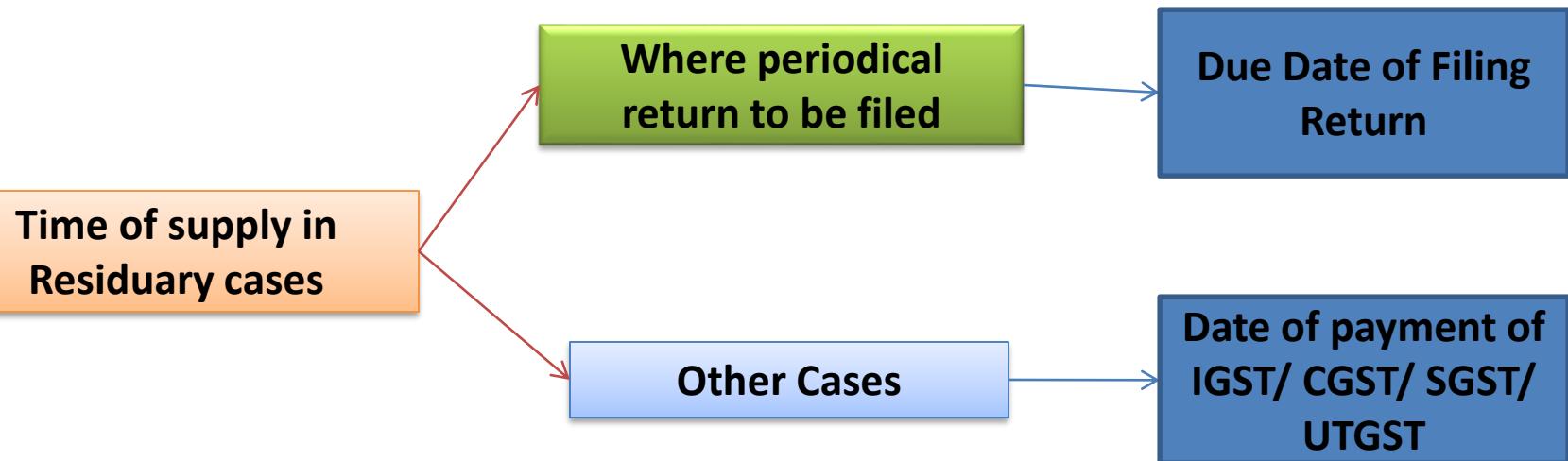


Sec 2(118) :- 'voucher' means an instrument where there is an **obligation to accept** it as consideration or part consideration for a supply of goods or services or both and where the **goods or services or both to be supplied** or the **identities of their potential suppliers** are either indicated on the instrument itself or in related documentation, indicating the **terms & conditions** of use of such instrument.

TOS when Vouchers issued by a Person other than supplier?



Time of Supply in Residuary cases

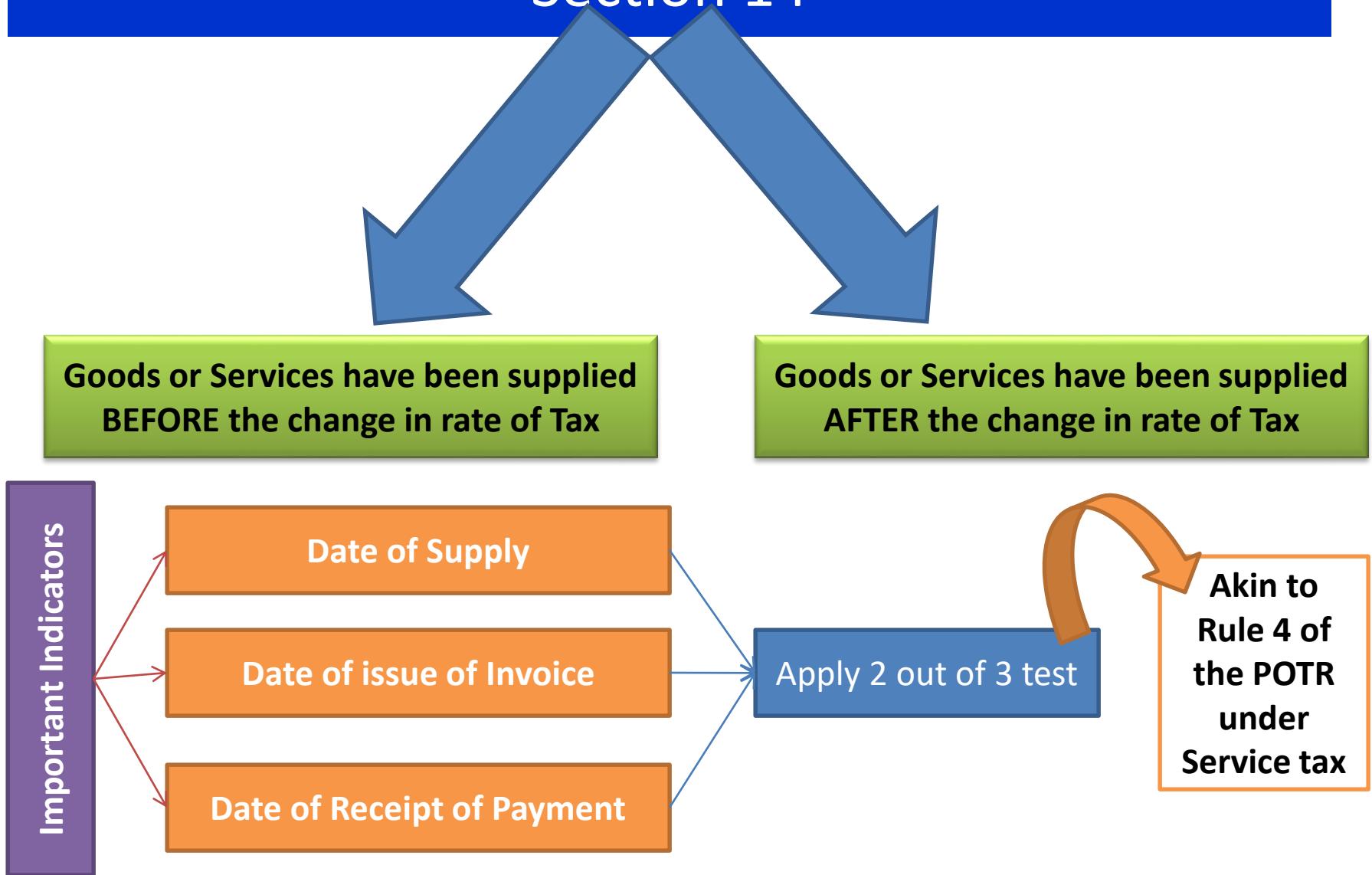


Time of Supply in case of Addition in Value

The time of Supply to the extent it relates to an **addition in the value of supply** by way of **interest, late fee or penalty for delayed payment** of any consideration shall be :-

Date on which the supplier receives such addition in value

Change in rate of tax for Goods or Services – Section 14



Supply before change in rate of Tax – Section 14(a)

Date of supply of Goods or Services (1)	Date of issue of invoice (2)	Date of Receipt of payment (3)	Time of Supply (4)	Applicable Rate (5)
Before the change in rate of tax	AFTER the change in rate of tax	AFTER the change in rate of tax	(2) or (3), whichever is earlier	New Rate
	BEFORE the change in rate of tax	AFTER the change in rate of tax	(2)	Old Rate
	AFTER the change in rate of tax	BEFORE the change in rate of tax	(3)	Old Rate

Supply after change in rate of Tax – Section 14(b)

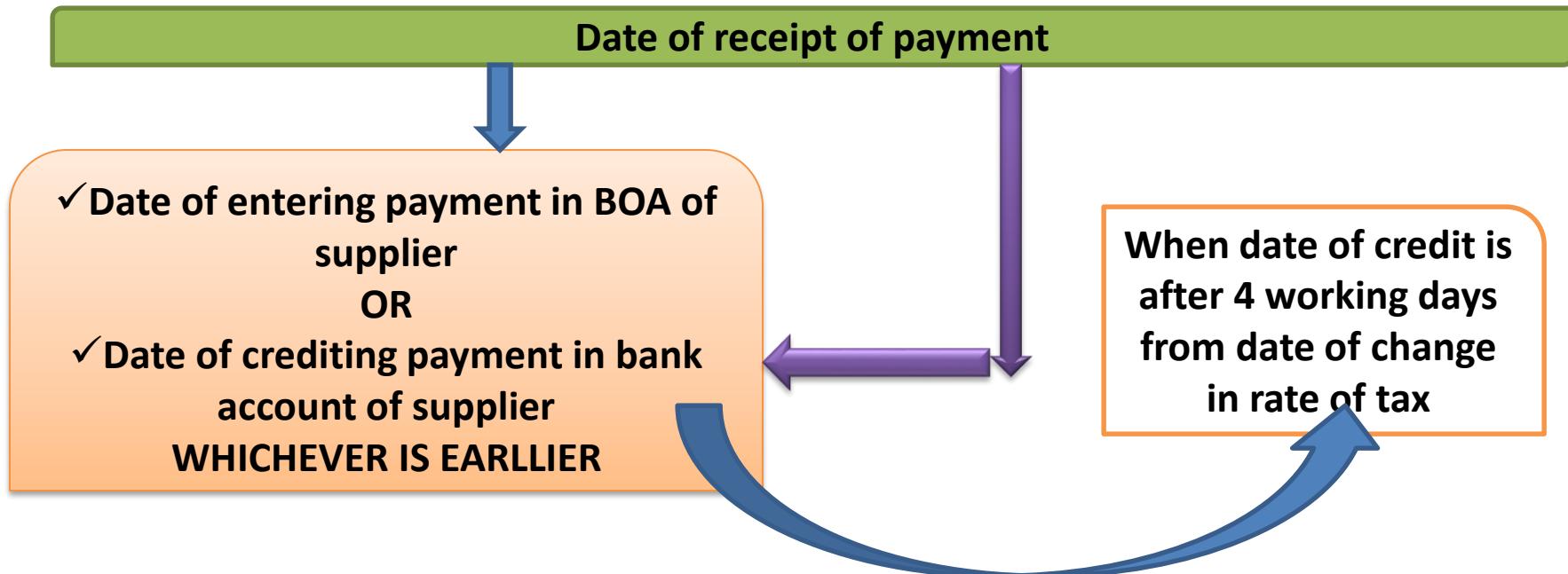
Date of supply of Goods or Services (1)	Date of issue of invoice (2)	Date of Receipt of payment (3)	Time of Supply (4)	Applicable Rate (5)
AFTER the change in rate of tax	BEFORE the change in rate of tax	AFTER the change in rate of tax	(3)	New Rate
	BEFORE the change in rate of tax	BEFORE the change in rate of tax	(2) or (3), whichever is earlier	Old Rate
	AFTER the change in rate of tax	BEFORE the change in rate of tax	(2)	New Rate

Supply before/after change in rate of Tax – Section 14

Assume that rate of tax changes from 18% to 20% w.e.f. June 1

Date of supply of Goods or Services (1)	Date of issue of invoice (2)	Date of Receipt of payment (3)	Time of Supply (4)	Applicable Rate (5)
May 28	June 9	July 25	June 9	20%
	May 28	July 25	May 28	18%
	June 9	May 26	May 26	18%
<hr/>				
June 10	May 28	June 25	June 25	20%
	May 28	May 16	May 16	18%
	June 9	May 28	June 9	20%

Date of receipt of payment in case of change in rates



Time of supply when new Goods/Services become taxable?

Rule 5 of the POTR:

Where a service is taxed for the first time, then,-

- (A) **No tax** shall be payable to the extent the invoice has been issued and the payment received against such invoice **before** such service became taxable;
- (B) **No tax** shall be payable if the payment has been received **before** the service becomes taxable and invoice has been issued **within fourteen days** of the date when the service is taxed for the first time.

Explanation 1.- This rule shall apply mutatis mutandis in case of new levy on services.

Explanation 2.- New levy or tax shall be payable on all the cases other than specified above

No Similar provisions in GST Law

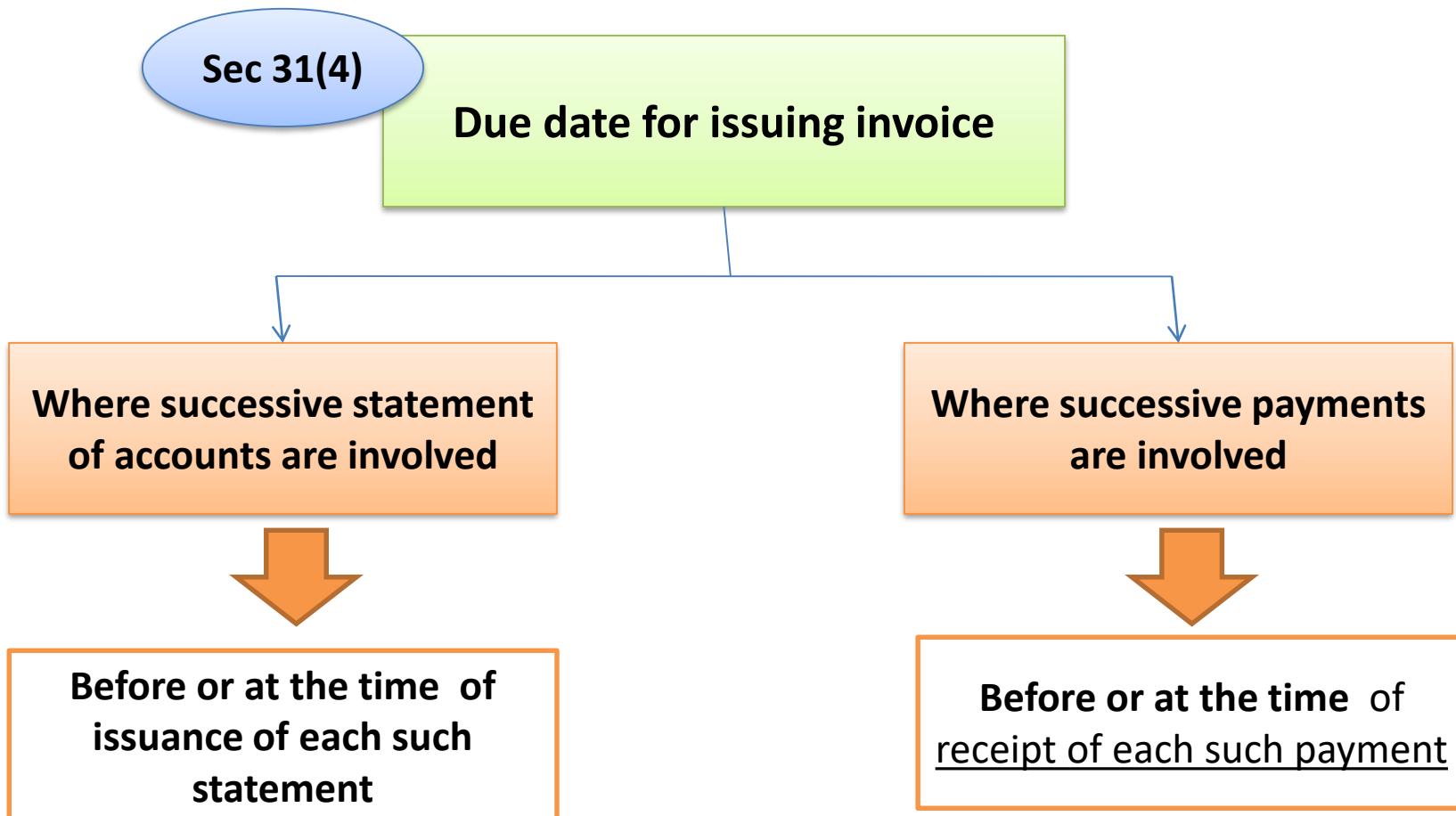
Continuous supply of goods and services

Meaning of “Continuous Supply of Goods”

Sec	Provision (CGST Act, 2017)
2 (32)	<p><u>Meaning of “Continuous Supply of Goods”</u></p> <p>“Continuous Supply of Goods” means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis and includes supply of such goods as the government may, subject to such conditions, as it may by notification, specify;</p>

Presently two services covered under Continuous Supply of Services –
Telecommunication and Works Contract

Due Date for issue of Invoice – Continuous supply of Goods



Time of supply in case of continuous supply of Goods

Time of Supply- Earliest of

Date of issue of invoice by supplier

Last date for issuing invoice: u/s 31(1) - **What about Continuous supply covered u/s 31(4)??**

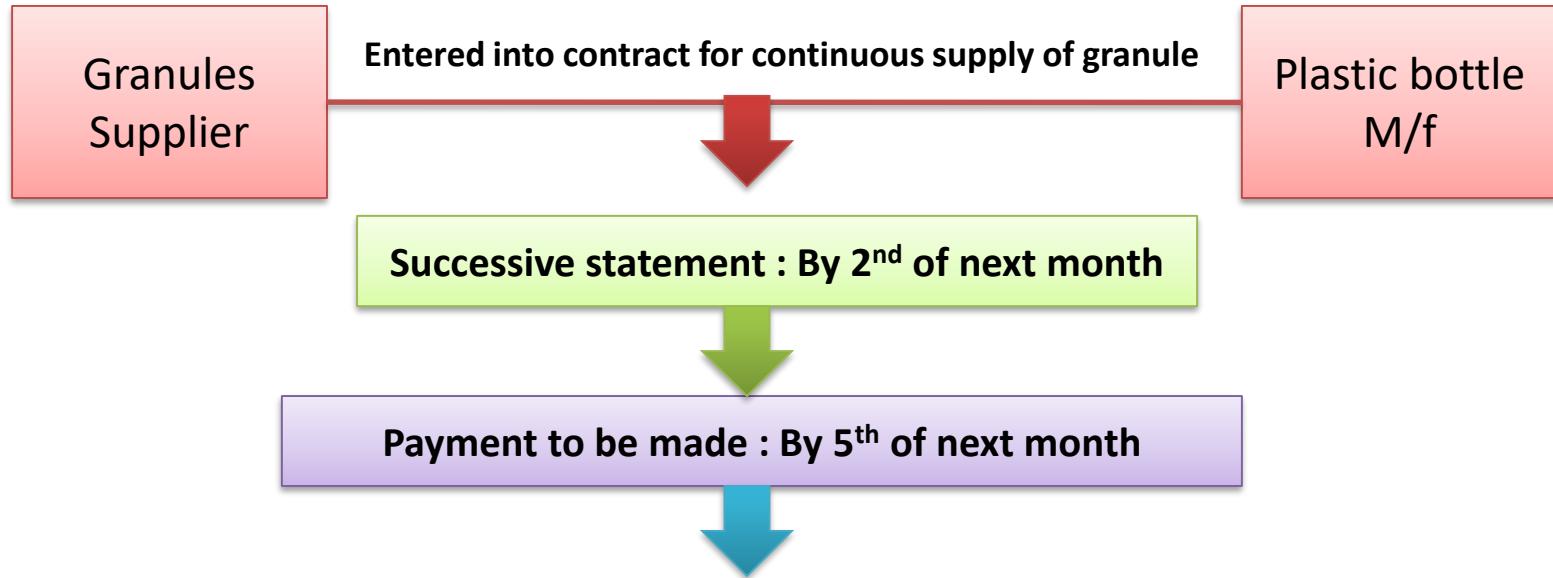
Where successive statements are involved – Before or at the time each such statement is issued

Where successive payments are involved – Before or at the time each such payment is received

Date on which the supplier received the payment i.e. Earliest of :

- Date on which payment is entered in the books of supplier
- Date on which payment is credited to the supplier's bank a/c

Illustration – Continuous supply of Goods



Date of issue of statement	Last date to issue invoice	Date of issue of invoice	Date of receipt of payment	Time of Supply
Feb 2	Feb 2	Feb 2	Feb 5	Feb 2
Feb 2	Feb 2	Feb 4	Feb 6	Feb 2
Feb 2	Feb 2	Jan 31	Feb 5	Jan 31

Continuous supply of services

Sec	Provision (CGST Act, 2017)
2 (33)	<p><u>Meaning of “Continuous Supply of Services”</u></p> <p>“continuous supply of services” means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such services as the government may, subject to such conditions, as it may, by notification, specify;</p>

Continuous Supply of Services

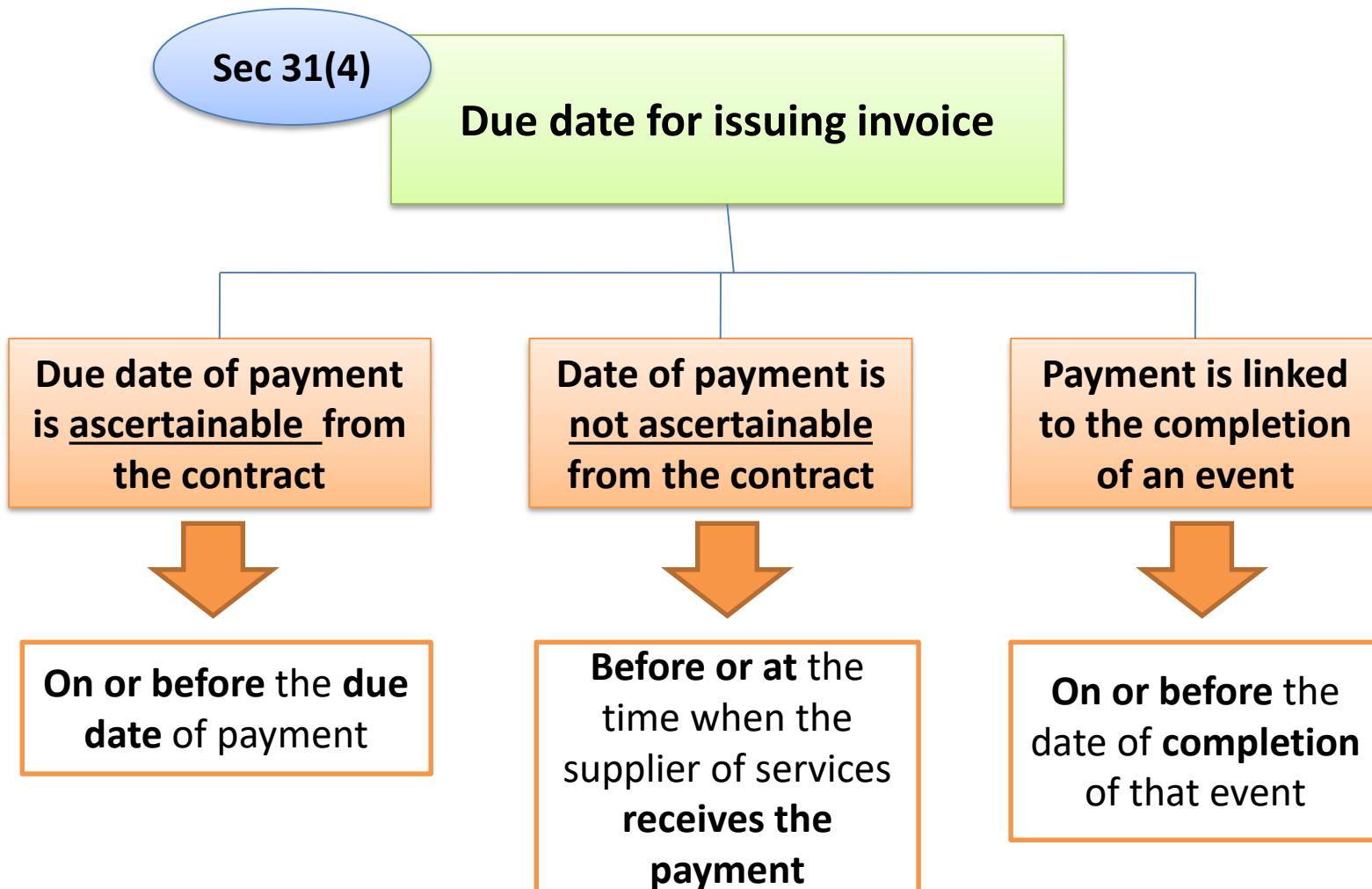


supply of services > 3 months on continuous or recurrent basis



Supply of notified services

Due date for issue of invoice – Continuous supply of Services



Time of supply in case of continuous supply of Services

Time of Supply- Earliest of

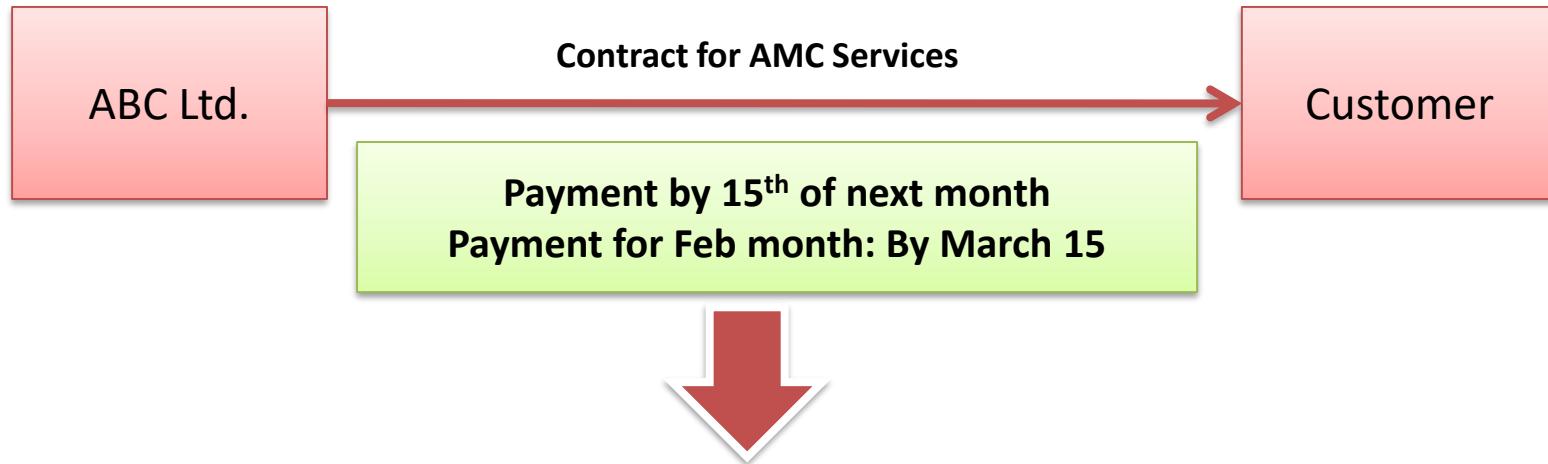
Invoice issued with prescribed time period [under Sec 31(2)] –
Date of issue of invoice by the supplier, or the date of receipt of payment, whichever is earlier; or

Invoice not issued with prescribed time period [under Sec 31(2)] – Date of provision of service, or the date of receipt of payment, whichever is earlier; or

Other – Date on which the recipient shows the receipt of services in his books of accounts

What about continuous supply covered u/s 31(5)??

Eg : Due date of payment is ascertainable from contract



Due date for issuance of invoice	Date of issue of invoice	Date of receipt of payment	Time of Supply
March 15	March 9	March 15	March 9
March 15	March 10	March 2	March 2
March 15	March 10	-Not Received-	March 10
March 15	Not Raised	-Not Received-	Feb 28

Eg: Payment is linked to completion of Event



Installment	Stages for Payment	Date of completion of Event	Due date of Invoice
I	Completion of ground floor	Mar 10	Mar 10
II	Completion of 1 st floor	Aug 25	Aug 25
III	Completion of 2 nd floor	Dec 20	Dec 20

Installment	Date of issue of invoice	Due date for issuance of invoice	Date of receipt of payment	Time of Supply
I	March 9	March 10	April 10	March 9
II	-Not issued-	Aug 25	-Not issued-	Aug 25
III	Feb 1	Dec 20	Dec 18	Dec 18

Other scenarios for issuing invoices

Due date to issue invoice: Cessation of services

Sec 31(6)

Where the supply of **services ceases** under the contract before the completion of the supply

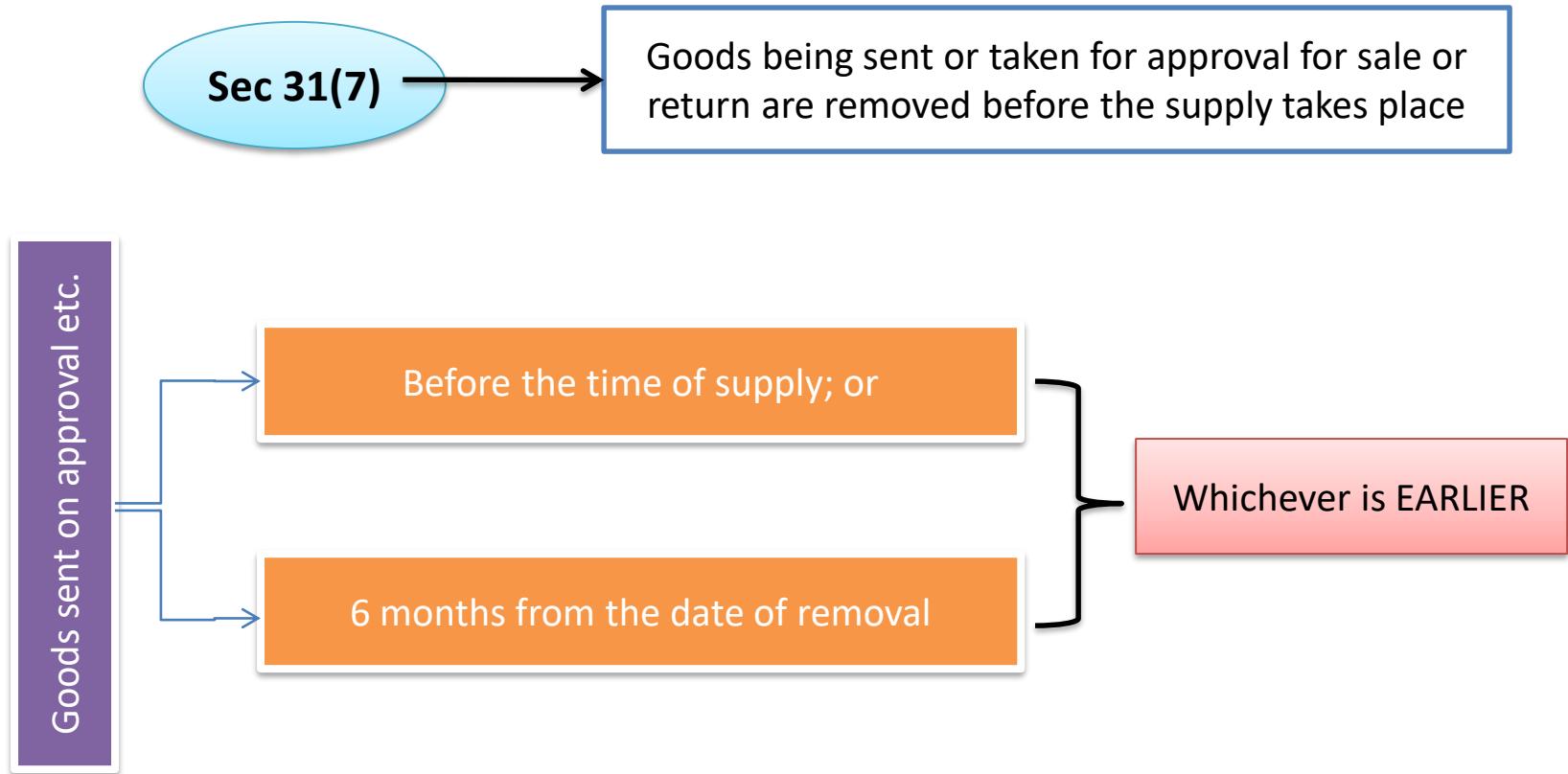


Invoice shall be issued **at the time when the supply ceases**



Such invoice shall be issued to the extent of the supply made before such cessation

Due date to issue invoice: Goods sent on approval etc.



Time of supply in case of goods sent on approval etc.

Time of Supply- Earliest of

Date of issue of invoice by supplier

Last date for issuing invoice: u/s 31(1) - **What about Goods sent on approval covered u/s 31(7)??**

Before or at the time of supply

Or

6 month from the date of removal,
Whichever is **EARLIER**

Date on which the supplier received the payment i.e. Earliest of :

- Date on which payment is entered in the books of supplier
- Date on which payment is credited to the supplier's bank a/c

Various types of invoices/ documents

Types of Invoices/ Other documents

Tax Invoice

Invoice

Bill of supply

Revised
Invoice

Receipt
Voucher

Refund
Voucher

Payment
Invoice

Delivery
Challan

Credit and
Debit Notes

Tax Invoice

Registered person supplying taxable goods/ services shall issue tax invoice within period prescribed

Tax invoice to contain the particulars specified in Rule 1 – Consecutive serial number (max 16 characters), in one or multiple series, containing alphabets, numbers or special characters or combination thereof , unique for a FY

Sec 31(3)(b)

Registered person may not issue a tax invoice where value of the goods/ services supplied < Rs. 200/- subject to such conditions and such manner as may be prescribed

Rule 1

- (a) The recipient is not a registered person; and
- (b) The recipient does not require such invoice, and shall issue a consolidated tax invoice for such supplies at the close of each day in respect of all such supplies

Manner and of issuing invoice – Goods and Service

Goods – Rule 3(1)

To be prepared in Triplicate –

ORIGINAL for RECIPIENT

DUPLICATE for TRANSPORTER

TRIPPLICATE for SUPPLIER

Service – Rule 3(2)

To be prepared in Triplicate

ORIGINAL for RECIPIENT

DUPLICATE for SUPPLIER

The serial number of invoices issued during a tax period shall be furnished electronically through the Common Portal in FORM GSTR – 1 [Rule 3(3)]

Invoice

Sec 31(3)(f)

Registered taxable person who is liable to pay tax under Sec 9(3)/ 9(4) [RCM cases], shall issue an invoice in respect of goods/ services received by him from unregistered supplier

Invoice to be issued on the receipt of goods/ services

Rule 1

Invoice shall bear the signature or digital signature of the recipient or his authorised representative

Bill of supply

Sec 31(3)(c)

- Registered person supplying **exempted** goods/ services
 - **Composition supplier**
shall issue Bill of Supply instead of tax invoice

Bill of supply to contain the particulars specified in Rule 4 - **Consecutive serial number (max 16 characters), in one or multiple series, containing alphabets, numbers or special characters or combination thereof , unique for a FY**

Rule 4

Any tax invoice or any other similar documents issued under any other Act for the time being in force in respect of any **non-taxable supply** shall be **treated as bill of supply** for the purposes of the Act

Proviso to Sec 31(3)(c)

Registered person may not issue a bill of supply where value of the goods/ services supplied < Rs. 200/- subject to such conditions and such manner as may be prescribed – **No condition prescribed**

Revised invoice after grant of RC

Sec 31(3)(a)

Registered person, may, within one month from the date of issuance of certificate of registration, issue Revised Invoice against the invoice already issued



During the period: From effective date of registration – Till the date of RC

Revised Invoice to contain the particulars specified in Rule 8 - **Consecutive serial number (max 16 characters), in one or multiple series, containing alphabets, numbers or special characters or combination thereof , unique for a FY**

Consolidated Revised Tax Invoice:

- For all supplies made to unregistered recipient (B2C)
- Inter – state supplies – Value < Rs. 2.5 Lakhs – For all unregistered recipient (B2C) located in a state

Receipt Voucher

Sec 31(3)(d)

Registered person on **receipt of advance payment** w.r.t. any supply of goods/ services, shall issue receipt voucher or any other document containing the particular prescribed in Rule 5

Consecutive serial number (max 16 characters), in one or multiple series, containing alphabets, numbers or special characters or combination thereof , unique for a FY

Proviso to Rule 5

Where at the time of receipt of advance, Rate of tax is not determinable – **Tax shall be paid @ 18%**

Where at the time of receipt of advance, nature of supply is not determinable – **Shall be treated as Inter - State supply**

Refund Voucher

Sec 31(3)(e)

After receipt of advance payment, subsequently no supply is made and no tax invoice is issued – Registered person shall issue refund voucher against such payment

Refund voucher to contain particulars specified in Rule 3 - Consecutive serial number (max 16 characters), in one or multiple series, containing alphabets, numbers or special characters or combination thereof , unique for a FY

Payment Voucher

Sec 31(3)(g)

Registered taxable person who is liable to pay tax under Sec 9(3) [RCM cases], shall issue a payment voucher at the time of making payment to supplier

Payment voucher to contain particulars specified in Rule 7 - Consecutive serial number (max 16 characters), in one or multiple series, containing alphabets, numbers or special characters or combination thereof , unique for a FY

Delivery Challan

Rule 10

Transportation of goods without issue of invoice

Consigner to issue delivery challan in lieu of invoice **at the time of removal of goods for transportation, in following cases:**

- a) Supply of **liquid gas** where the **quantity** at the time of removal from the place of business of the supplier is not known,
- b) Transportation of goods for **job work**,
- c) Transportation of goods for reasons **other than by way of supply**, or
- d) Such other supplies as may be notified by the board

Delivery challan to contain particulars specified in Rule 10 - Consecutive serial number (max 16 characters), in one or multiple series, containing alphabets, numbers or special characters or combination thereof , unique for a FY

To be prepared in Triplicate –

ORIGINAL for CONSIGNEE

DUPLICATE for TRANSPORTER

TRIPPLICATE for CONSIGNER

Delivery Challan

Rule 10

Where the goods being transported on a delivery challan in lieu of invoice, the same shall be **declared in FORM [WAYBILL]**.

Where the goods being **transported in a semi knocked down or completely knocked down condition**,

- a) The supplier shall issue the **complete invoice before dispatch** of the first consignment;
- b) The supplier shall issue a **delivery challan** for each of the subsequent consignments, giving reference of the invoice
- c) Each consignment shall be accompanied by copies of corresponding delivery challan along with a **duly certified copy of the invoice**; and
- d) The **original copy** of the invoice shall be sent along with the last consignment

Scenarios for issuing Credit Notes in GST

Sec 34(1)

Scenarios for issuing Credit Notes

Taxable value in tax invoice is found to exceed the taxable value in respect of such supply

Tax charged in tax invoice is found to exceed the tax payable in respect of such supply

Goods supplied are returned by the recipient

Goods/Services supplied are found to be deficient

Time limit for issuing Credit Notes in GST

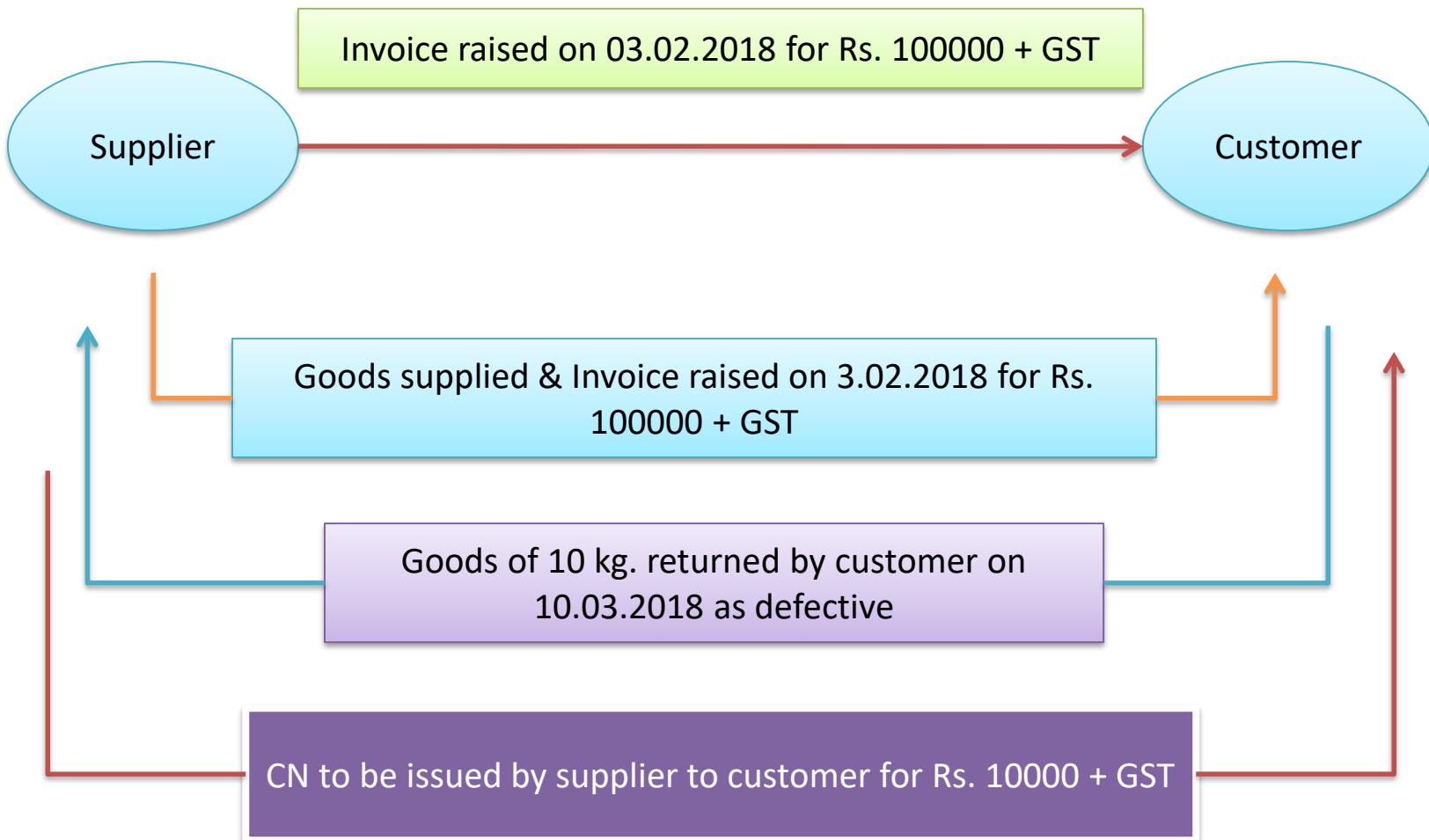


Details of Credit Note to be **declared in Return** for the month during which Credit Note has been issued

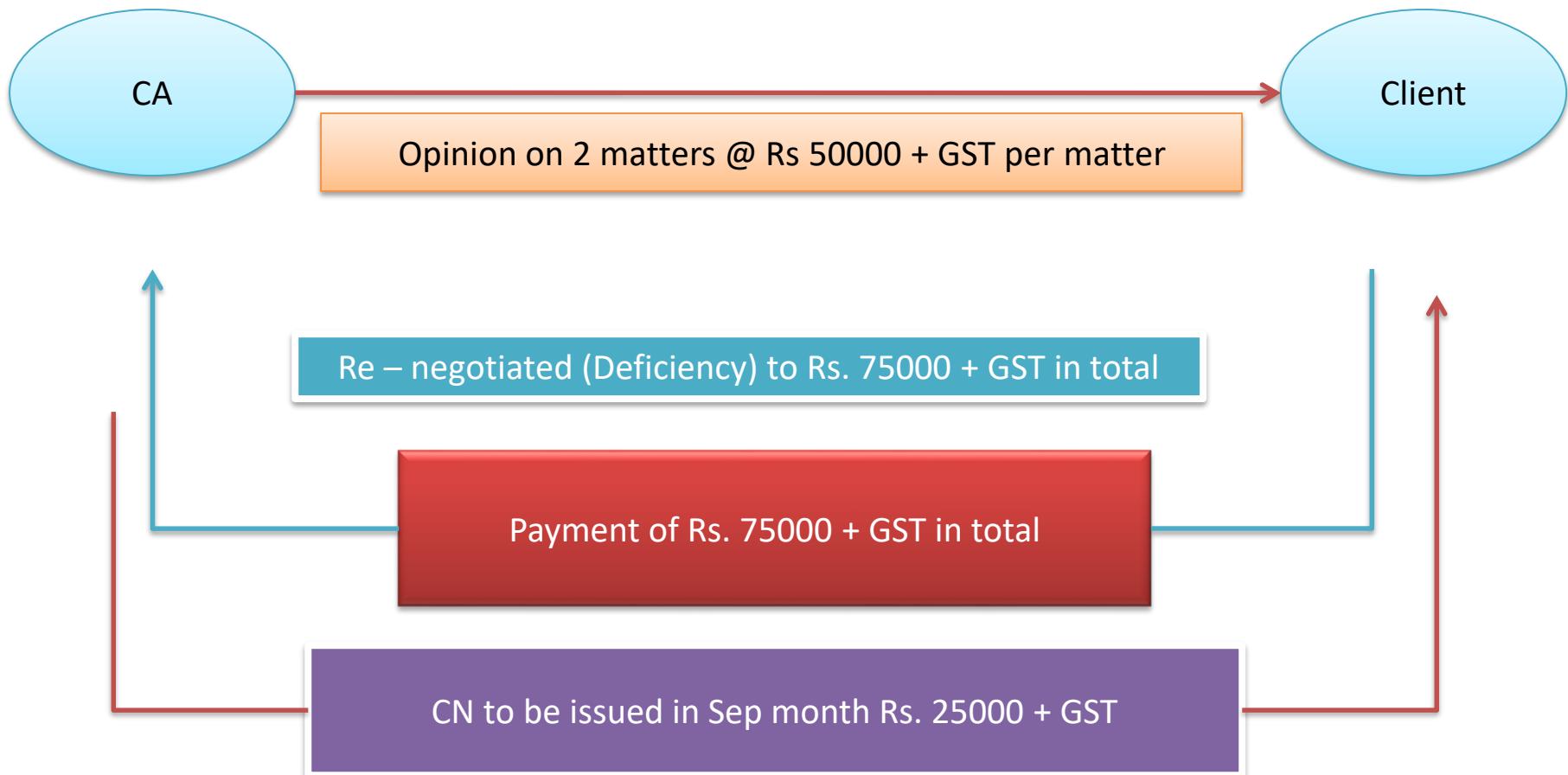
Tax Liability to be adjusted

No reduction in output tax liability of the supplier shall be permitted, if the **incidence of tax and interest on such supply has been passed on** to any other person

Eg: Issuing Credit Notes in GST



Eg: Return of goods and Credit Notes in GST



Scenarios for issuing Debit Notes in GST

Sec 34(3)

Scenarios for issuing
Debit Notes

Taxable value in tax invoice is found to be less
than taxable value in respect of such supply

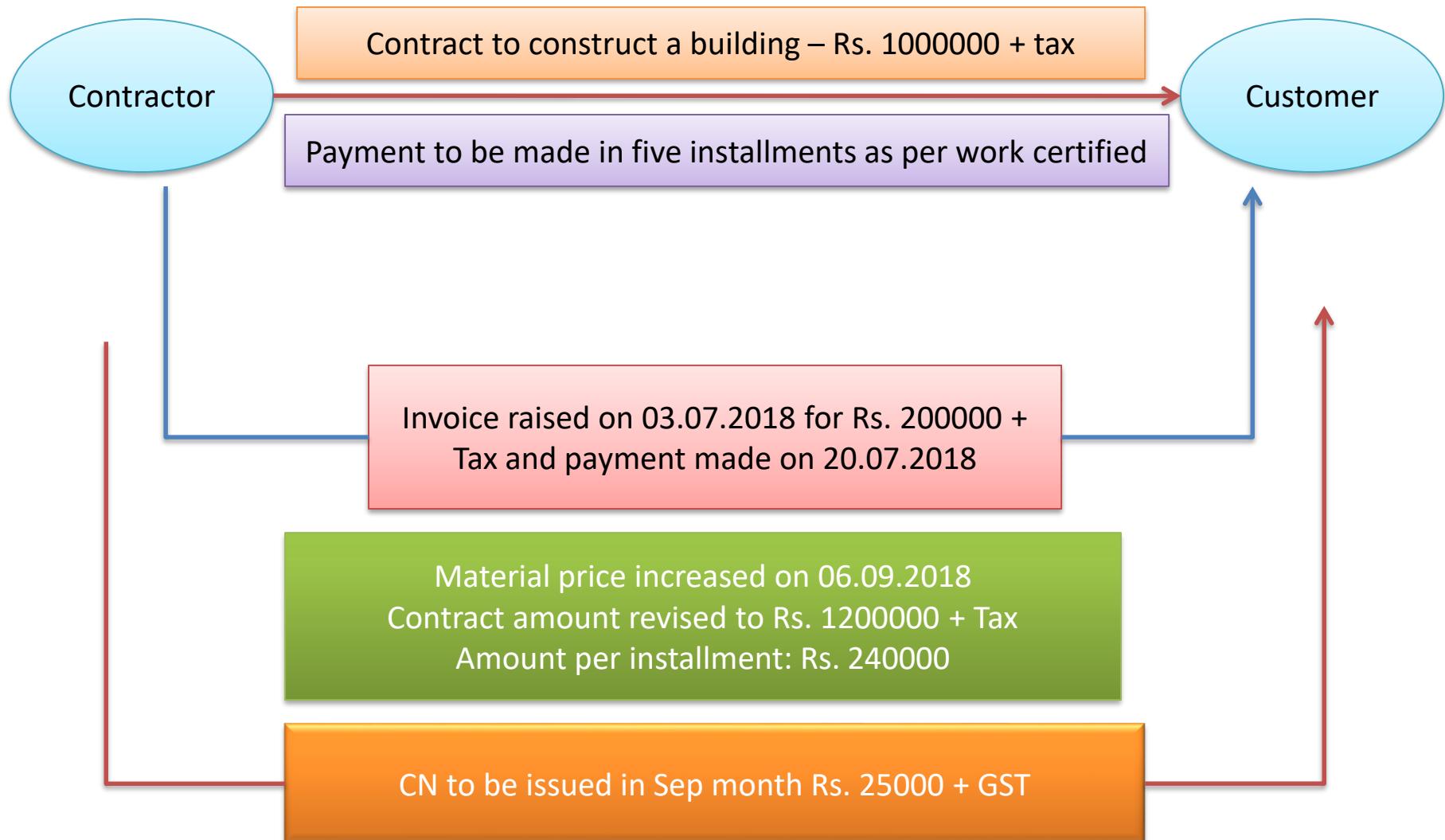
Taxable charged in tax invoice is found to be less
than tax payable in respect of such supply

Sec 34(4)

Details of Debit Note to be declared in Return for the month during which Debit Note has been issued

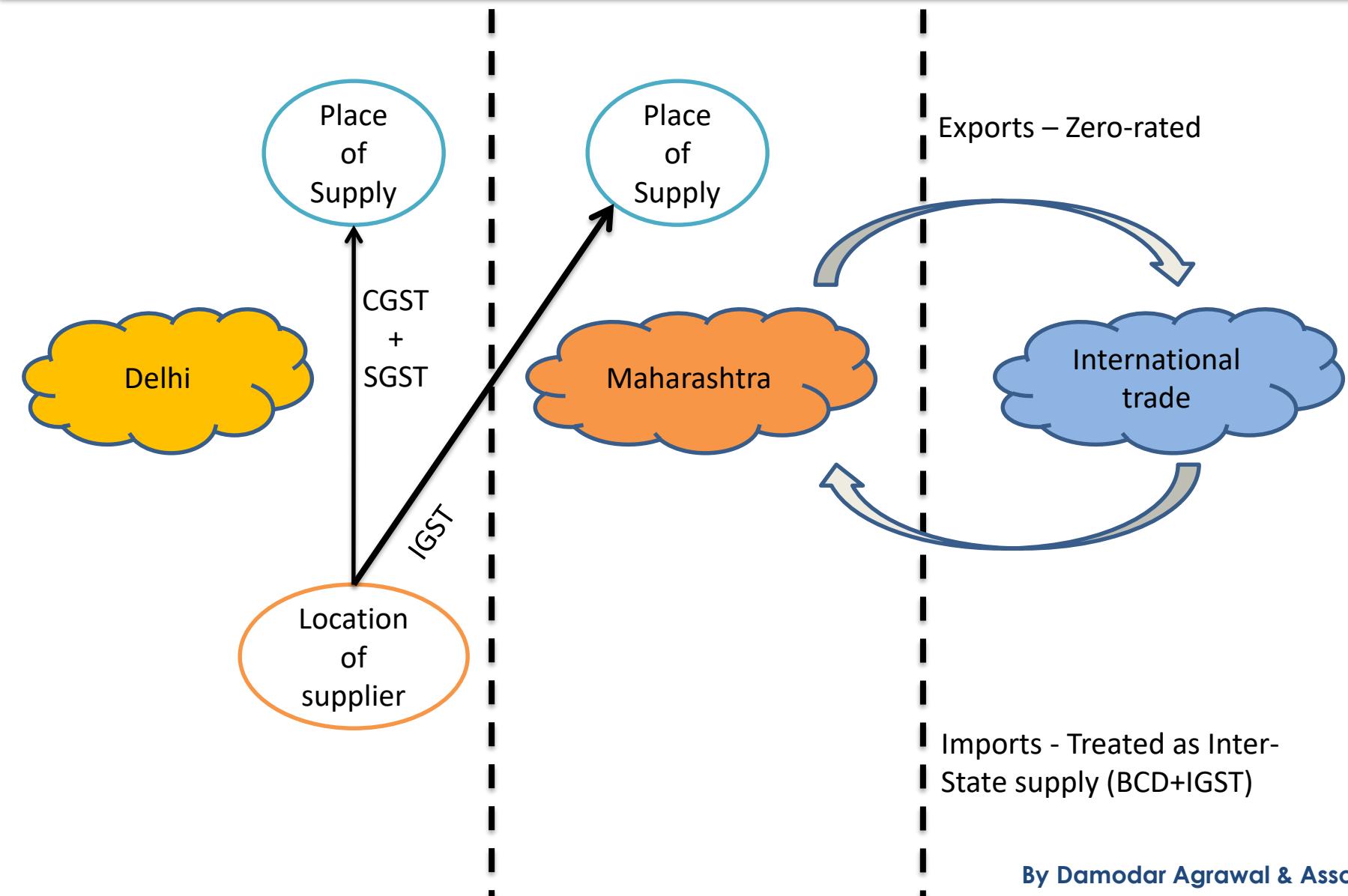
'Debit Note' shall include a supplementary invoice

Eg: Issuing Debit Notes in GST



Place of supply

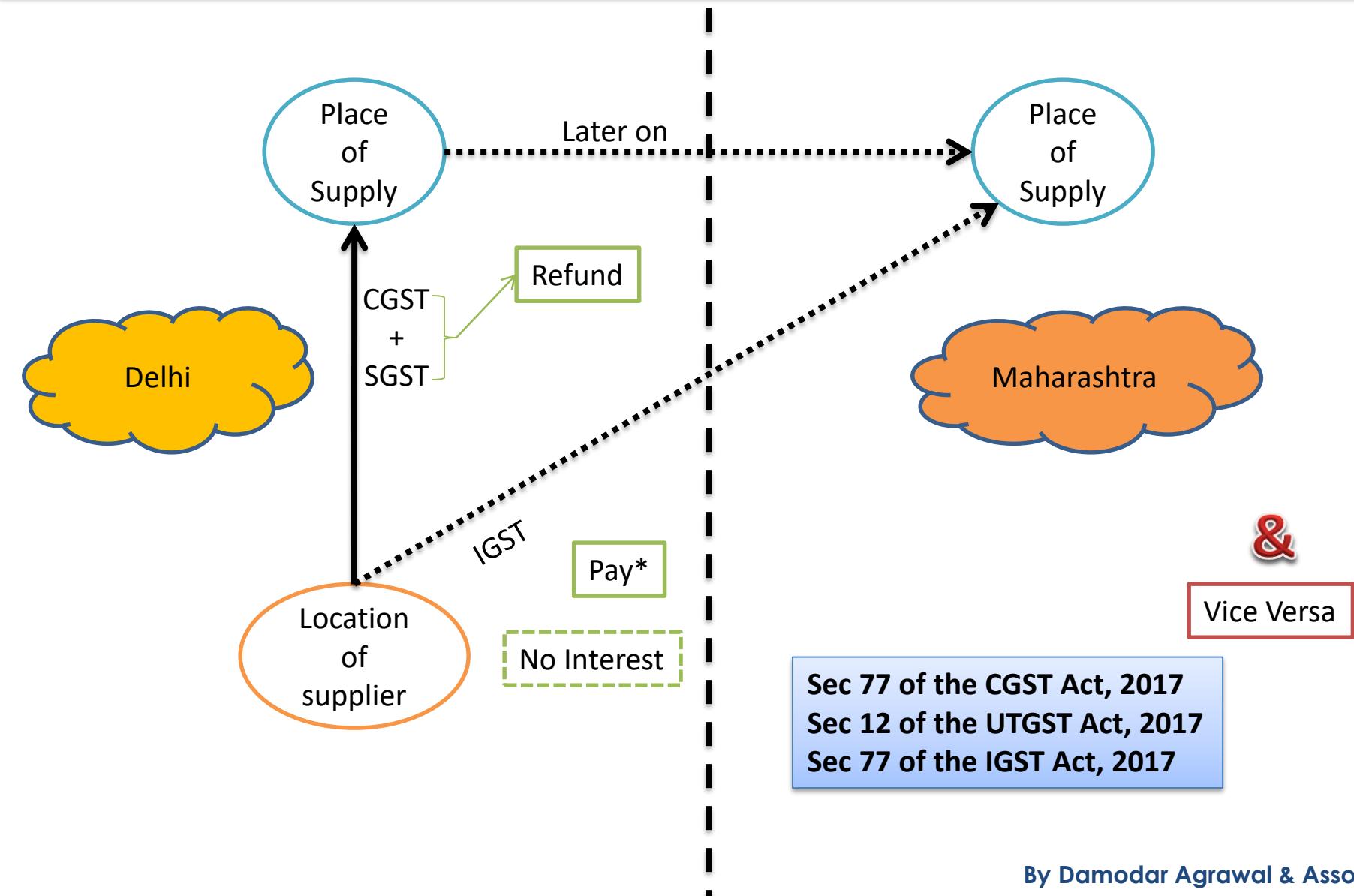
Nature of Supply – Intra-state/Inter-state



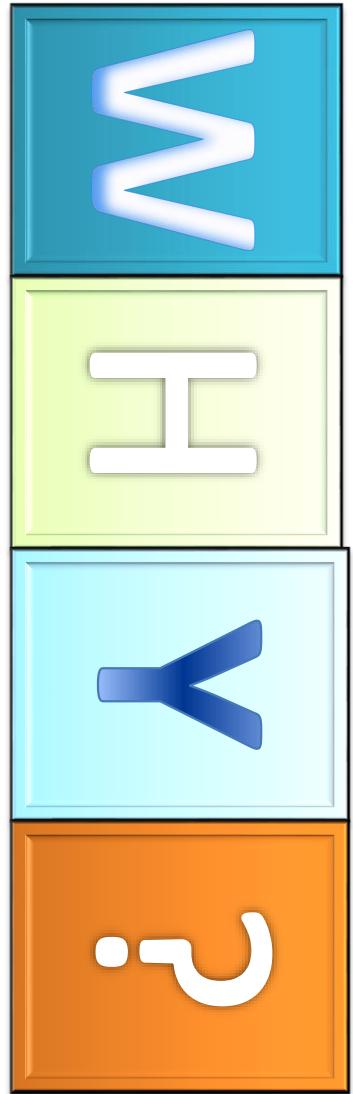
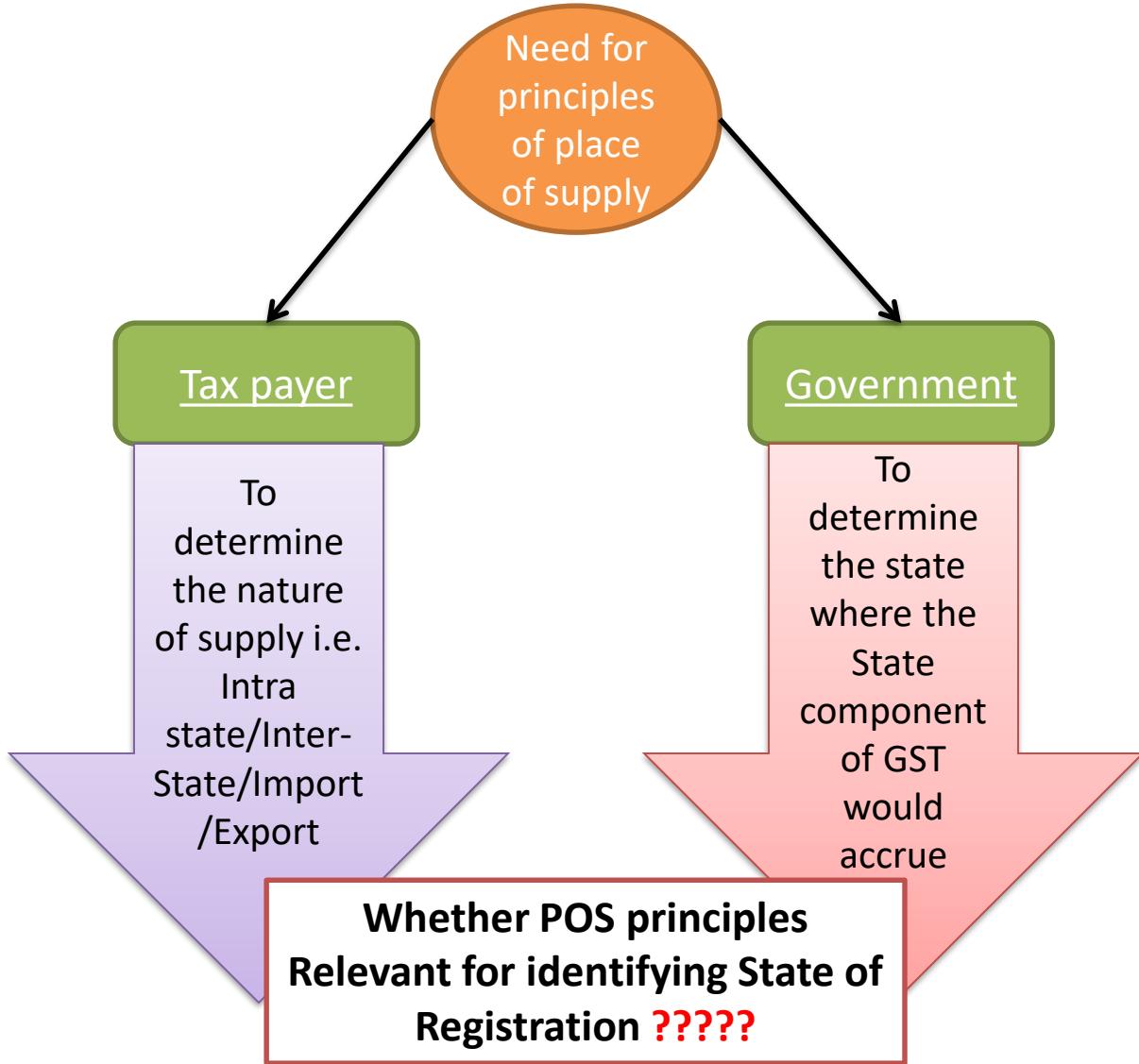
Principles for determining supply in the course of Intra/Inter-State trade or commerce

Intra-State supply of goods/services [Sec 8 of IGST Act, 2017]	Inter-State supply of goods/services [Sec 7 of IGST Act, 2017]
Location of supplier & Place of Supply – Same state/UT	Location of supplier & Place of Supply – Two different state/UTs, a state and a UT
Location of supplier of Goods – Not defined in GST Law	Supply of goods in the course of import into the territory of India till they cross the customs frontiers of India
	Supply of services in the course of import into the territory of India
	Supply of goods/services, when the supplier is located in India and the place of supply is outside India [Exports]
	Supply of goods/services to or by a SEZ developer or a SEZ unit
	Any supply of goods/services in the taxable territory, not being an intra-state supply and not covered elsewhere in this section

Tax wrongfully collected and deposited with the CG/SG



Needs for principles of place of supply in GST

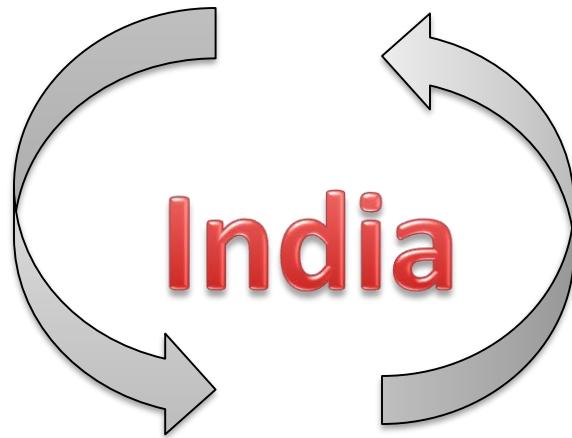


Relevant Provisions-IGST Act,2017

Chapter/Section	Particulars
	Chapter V: Place of supply of goods or services or both
Section 10	Place of supply of goods other than supply of goods imported into, or exported from India
Section 11	Place of supply of goods imported into, or exported from India
Section 12	Place of supply of services where location of supplier and recipient is in India
Section 13	Place of supply of services where location of supplier and location of recipient is outside India
Section 14	Special provision for payment of tax by a supplier of OIDAR services

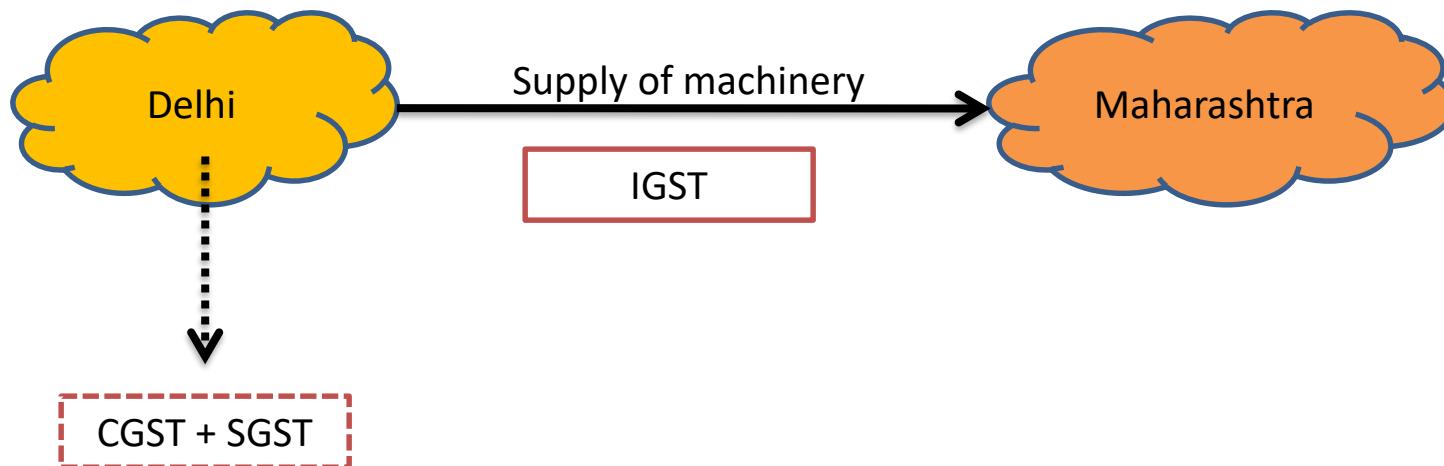
PLACE OF SUPPLY PROVISIONS
↓
GOODS
↓
SERVICES

Sec 10 (Goods) – To determine POS → Supplies within India



POS when supply of goods involve movement

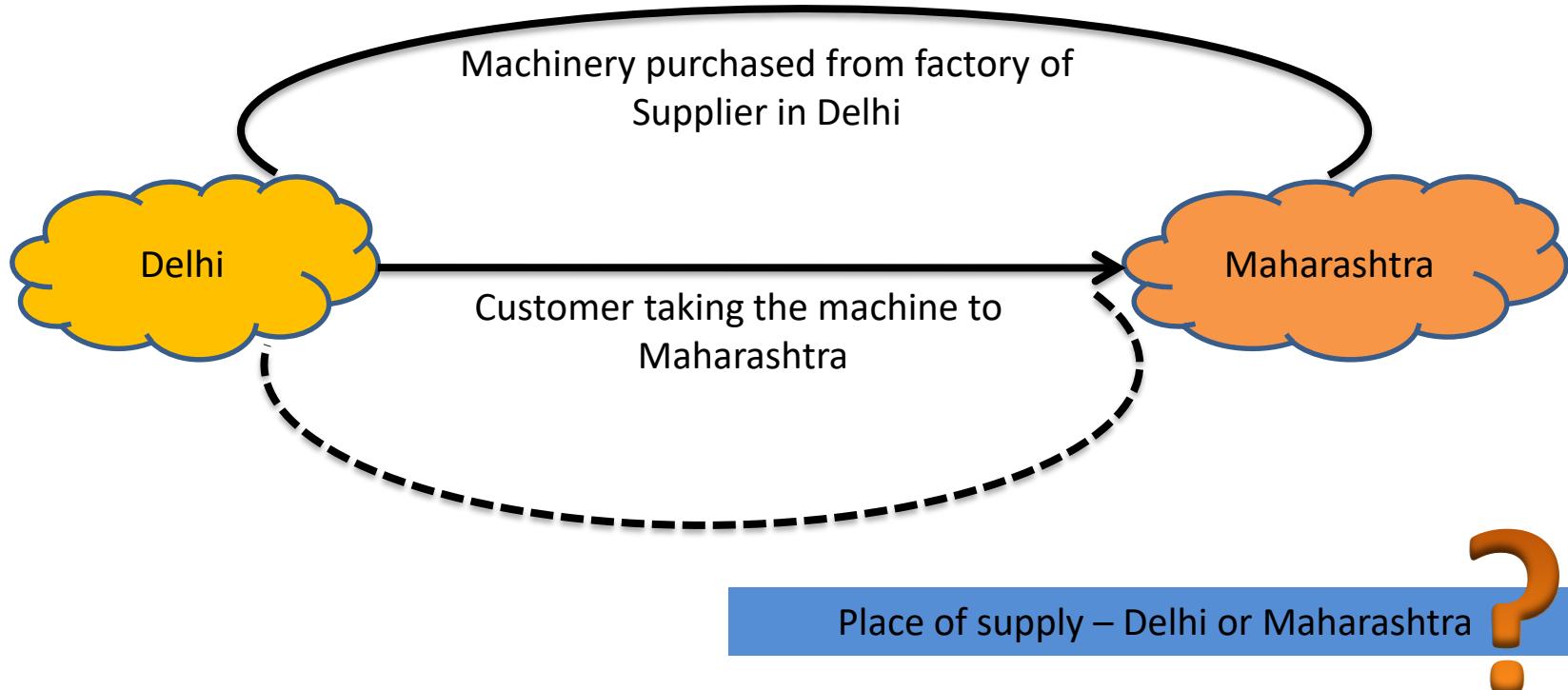
Sec	Provision (IGST Act, 2017)
	<u>POS when supply involves movement → Location at the time movement terminates</u>
10 (1)	(a) Where the supply <u>involves movements of goods</u> , whether by the supplier or recipient or by any other person , the place of supply of such goods shall be the <u>location of the goods</u> at the <u>time at which the movement of goods terminates for delivery</u> to the recipient;



POS when supply of goods does not involve movement

Sec	Provision (IGST Act, 2017)
	<p><u>POS when supply does not involve movement → Location at the time of delivery</u></p>
10 (1)	<p>(a) Where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply of such goods shall be the <u>location of the such goods at the time of the delivery</u> to the recipient;</p> <p style="text-align: center;">↓</p> <ul style="list-style-type: none"><input type="checkbox"/> Means goods are placed at the disposal of recipient<input type="checkbox"/> Physically not capable of being removed – M/c embedded to earth<input type="checkbox"/> Supplied in assembled or installed form<input type="checkbox"/> Supplier to his agent or his principal

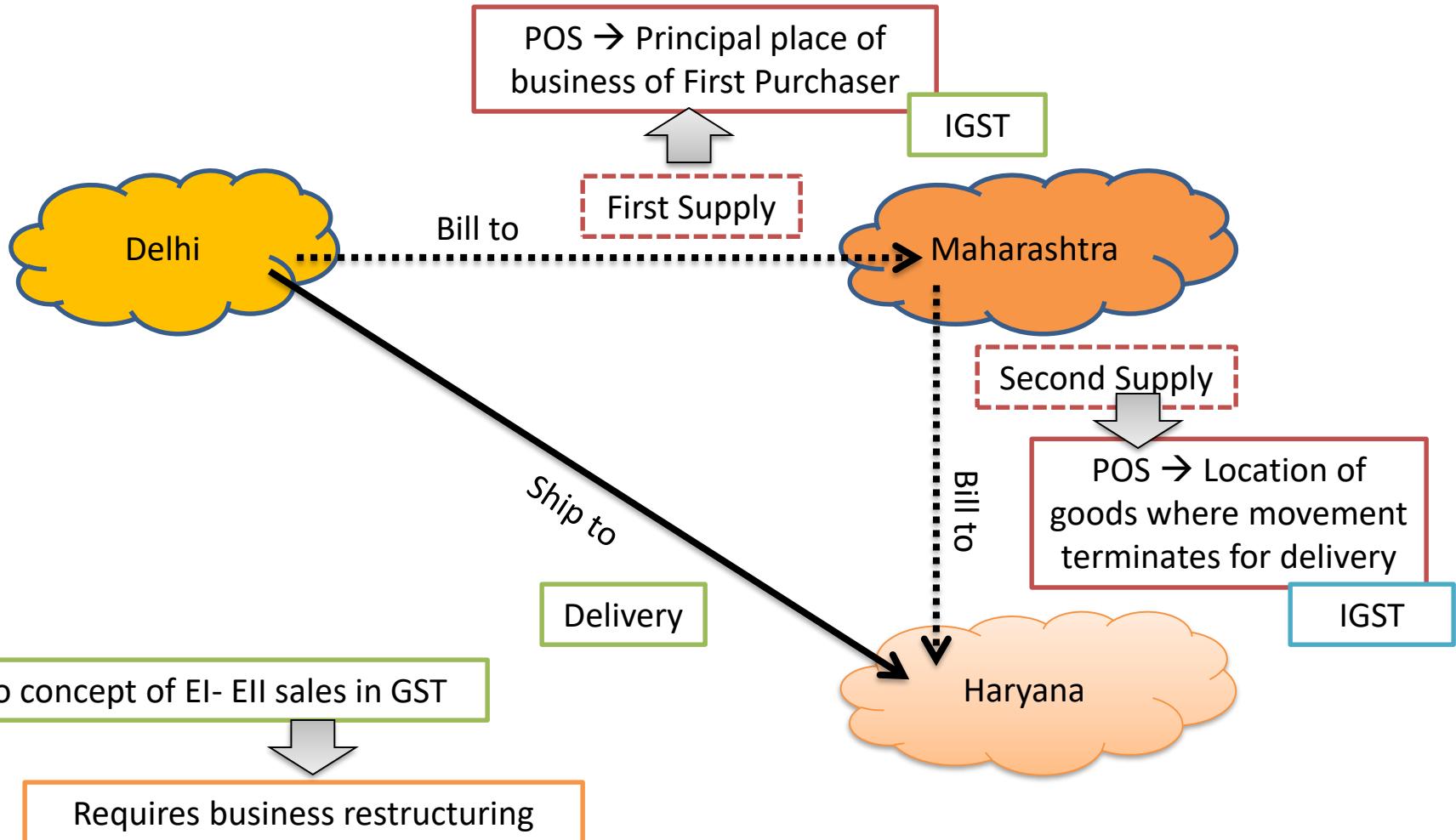
Case study – Identify Place of Supply



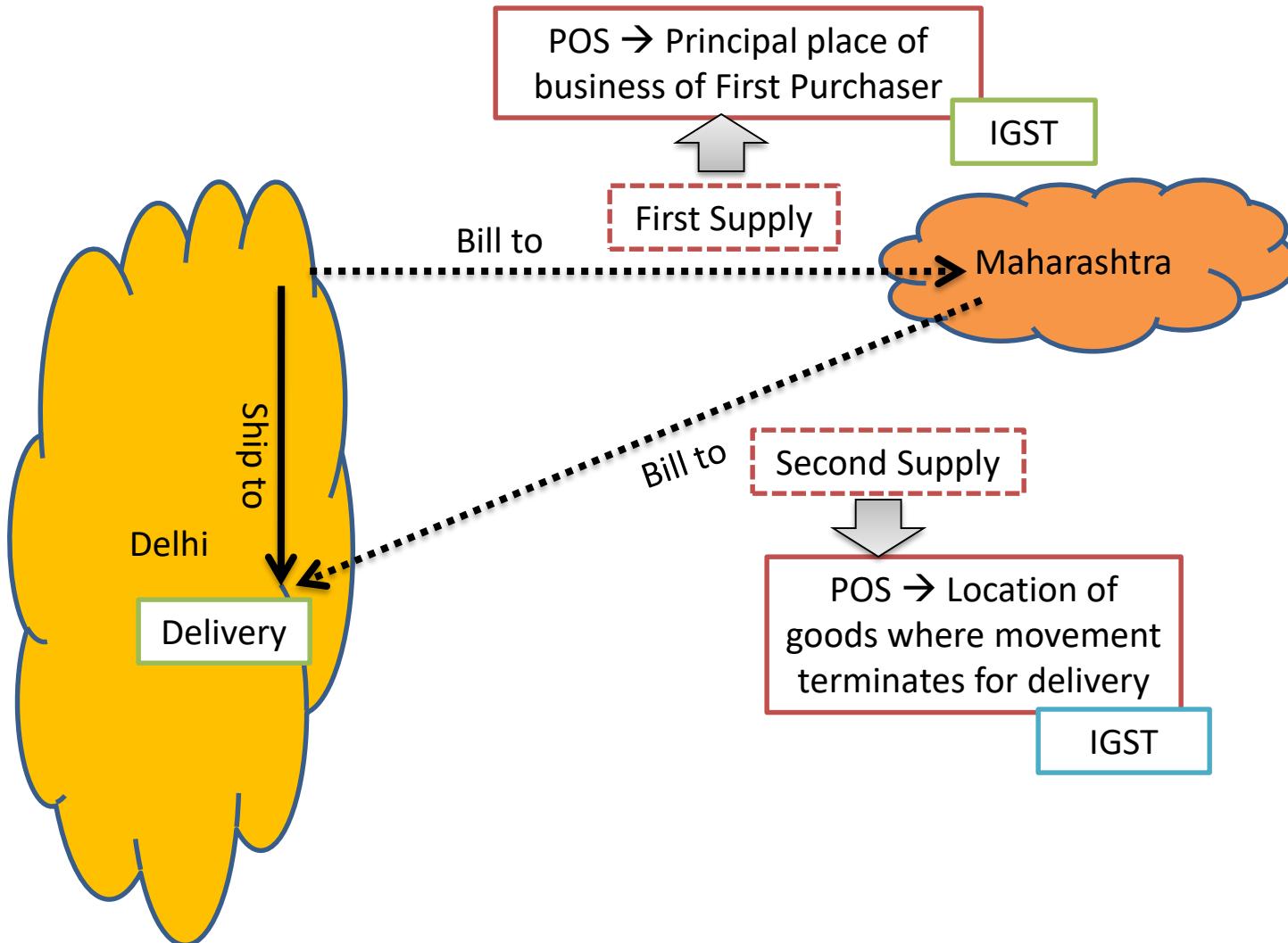
POS when goods are delivered on direction of third person

Sec	Provision (IGST Act, 2017)
10 (1)	<p><u>POS when goods are delivered on direction of third person → Place of business of third person</u></p> <p>(a) When the goods are delivered by the supplier to the <u>recipient</u> or <u>any other person</u>, on <u>the direction of a third person</u>, whether acting as an <u>agent</u> or otherwise, <u>before or during movement of goods</u>, either by way of <u>transfer of documents of title</u> to the goods or otherwise, it shall be <u>deemed</u> that the <u>said third person has received the goods</u> and the <u>place of supply</u> of such goods shall be the <u>principal place of business</u> of such person.</p>

In-transit sales in GST

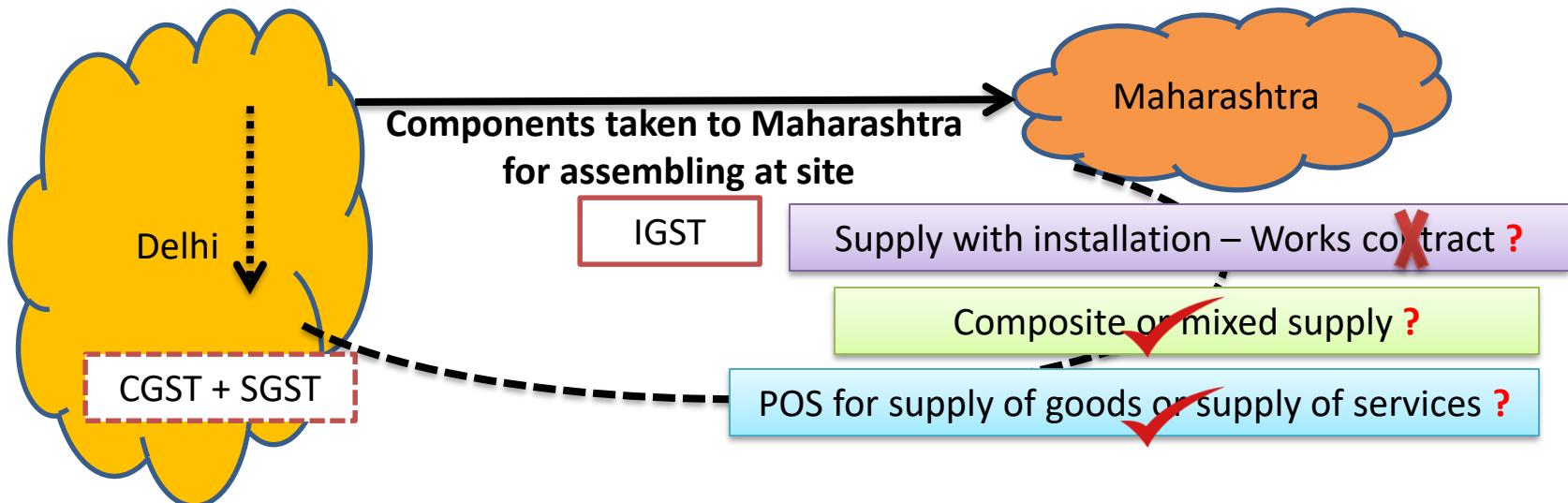


Bill-to Ship-to Model in GST



POS when goods are assembled/installed at site

Sec	Provision (IGST Act, 2017)
10 (1)	<p><u>POS when goods are assembled/installed at site → Place of installation/assembly</u></p> <p>(a) When the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly</p>

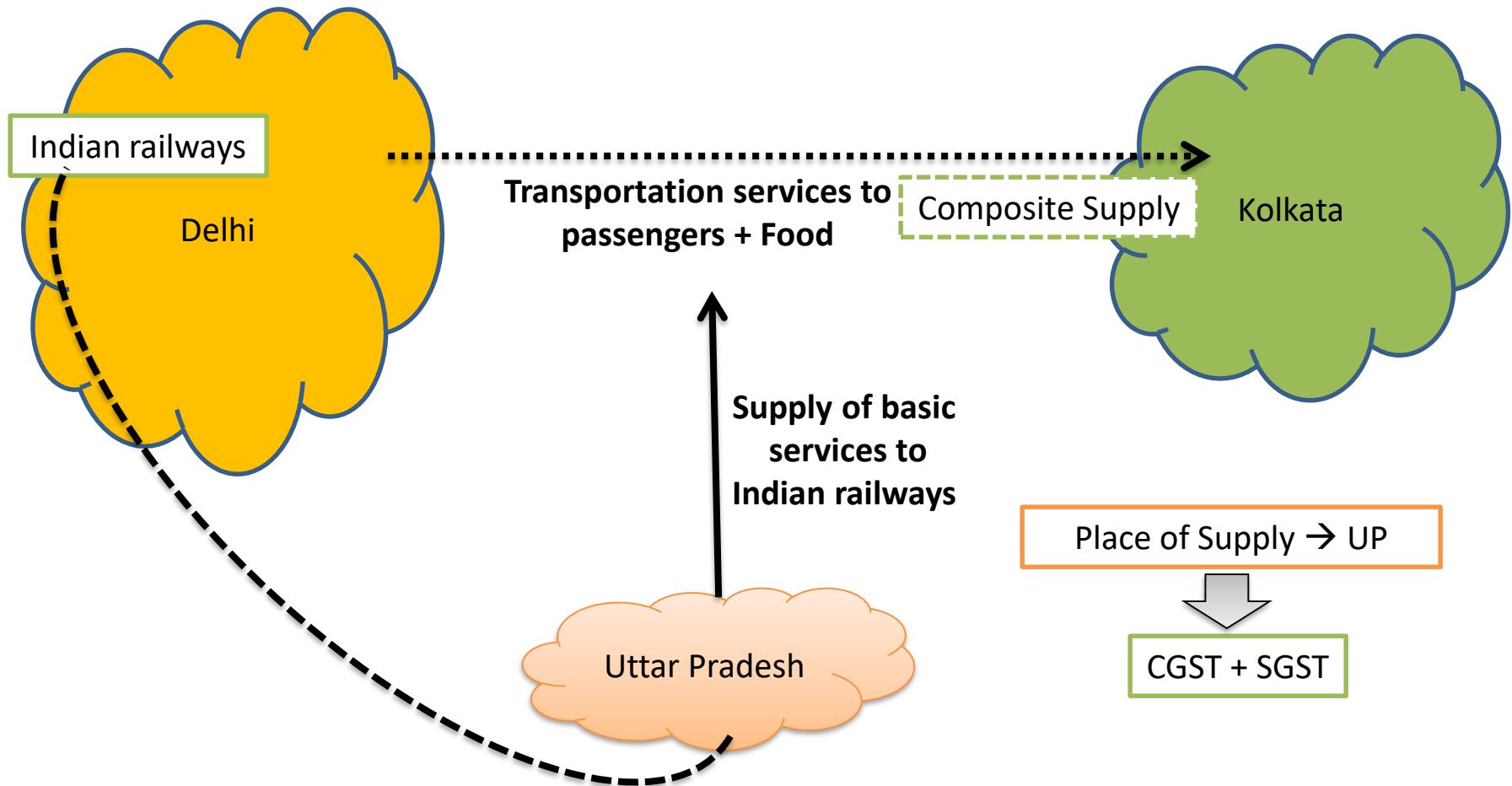


POS when goods are supplied on board a conveyance

Sec	Provision (IGST Act, 2017)
	<p><u>POS when goods are supplied on board a conveyance → Location at which goods are taken on board</u></p>
10 (1)	<p>(a) When the goods are supplied on board a conveyance, including a <u>vessel</u>, an <u>aircraft</u>, a <u>train</u> or a <u>motor vehicle</u>, the place of supply shall be the <u>location at which such goods are taken on board</u>.</p>

Sec	Provision (IGST Act, 2017)
12	<p><u>POS of Passenger Transportation services → B2B and B2C</u></p> <p>(9) The place of supply of passenger transportation service to</p> <p>(a) a registered person, shall be the <u>location of such person</u>;</p> <p>(b) a person other than a registered person, shall be the <u>place where the passenger embarks</u> on the conveyance for the continuous journey:</p> <p>PROVIDED where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined in accordance with the provision of sub-section (2).</p> <p>Explanation: For the purposes of this sub-section, the return journey shall be treated as a separate journey, even if the right to passage for onward and return journey is issued at the same time.</p>

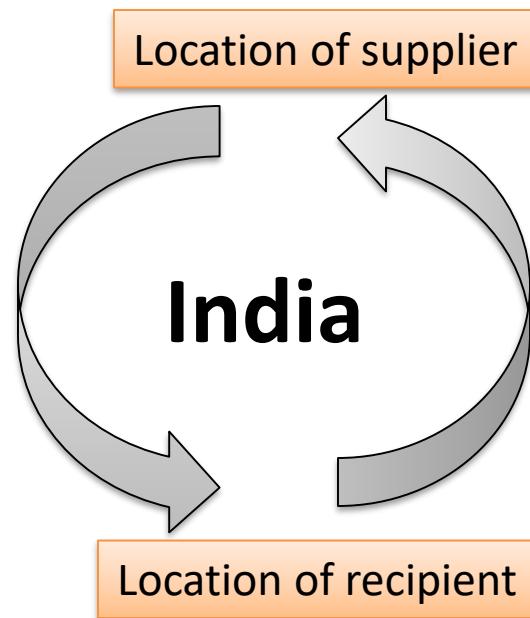
Eg: POS when goods are supplied on board a conveyance



CG power to prescribe manner of POS – Residuary cases

Sec	Provision (IGST Act, 2017)
10	<p><u>Residuary cases → POS manner to be prescribed</u></p> <p>(2) Where the place of supply of goods cannot be determined, the place of supply shall be determined as may be prescribed.</p>

Sec 10 (Services) – To determine POS → Supplies within India



Supply of services
↓
Within India
↓
Sec 12 applicable

Definition: Location of supplier/recipient of services

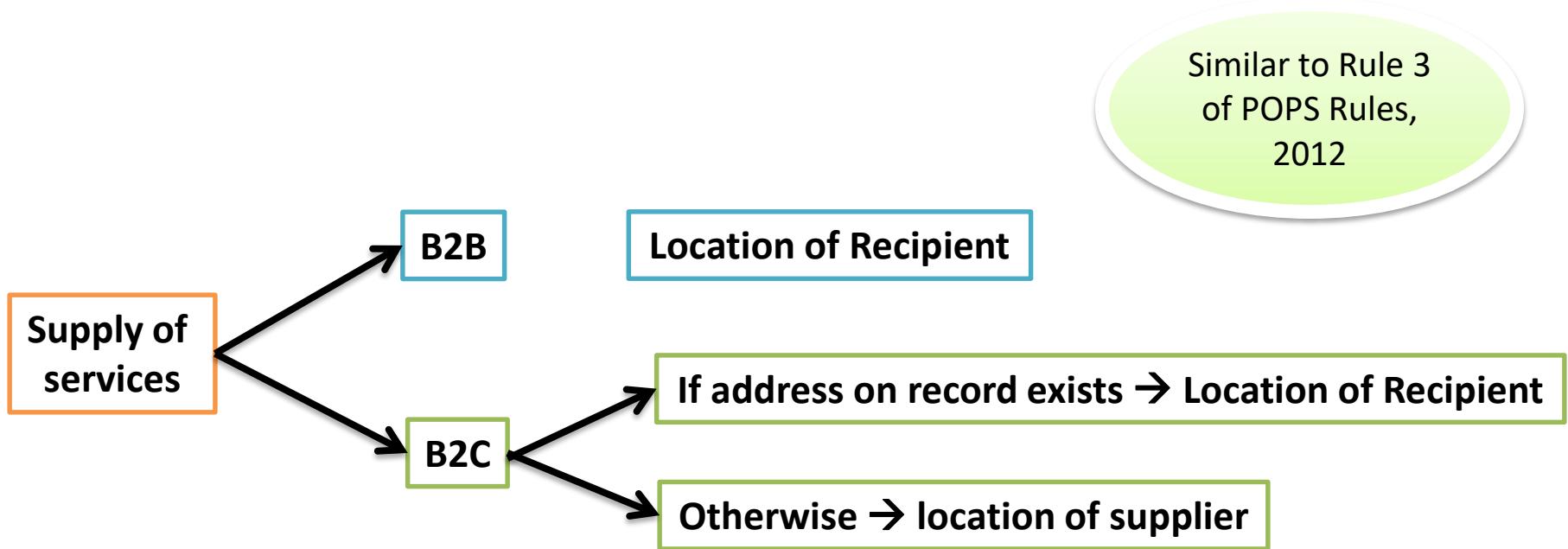
Sec 2(14) of IGST Act, 2017 → “location of the recipient of services means:

- (a) where a supply is received at a place of business for which registration has been obtained, the location of such place of business;
- (b) where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;
- (c) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and
- (d) In absence of such places, the location of the usual place of residence of the recipient;

Sec 2(15) of IGST Act, 2017 → “location of the supplier of services means:

- (a) where a supply is made from a place of business for which registration has been obtained, the location of such place of business;
- (b) where a supply is made from a place for which registration has been obtained (a fixed establishment), the location of such fixed establishment;
- (c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply;
- (d) In absence of such places, the location of the usual place of residence of the supplier

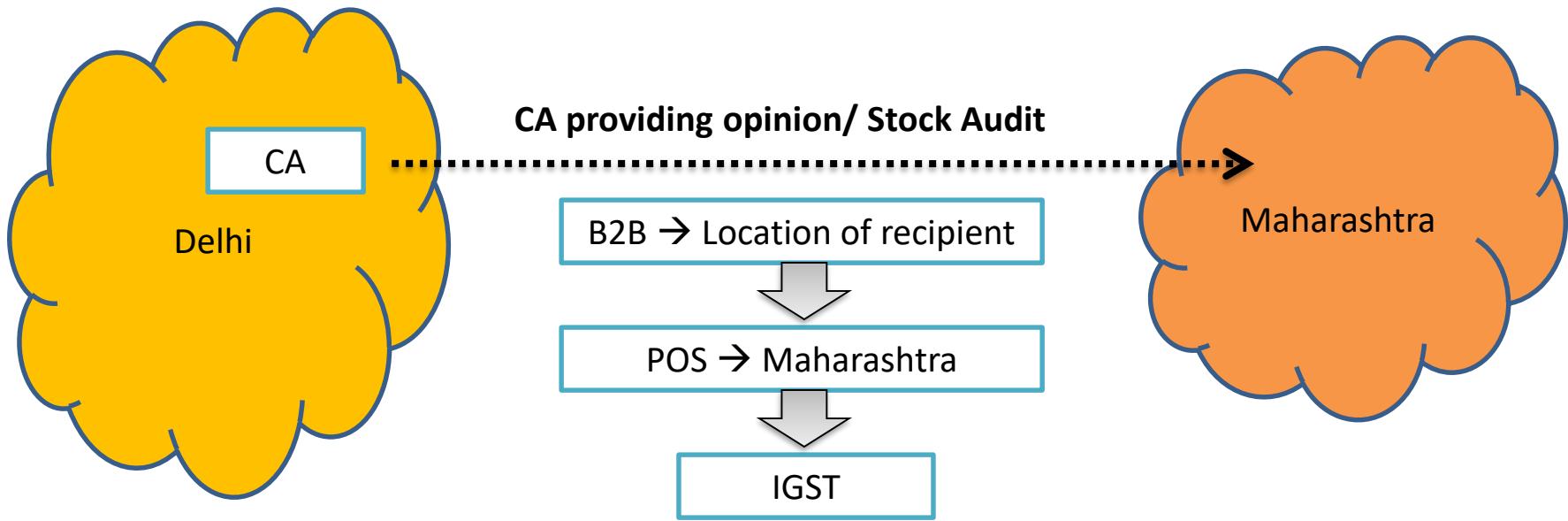
Default Rule [Sec 12(2)]: POS for supply of services



Similar to Rule 3
of POPS Rules,
2012

Sec 2(3) of the CGST Act, 2017 → “address on record” means the address of the recipient as available in the records of the supplier

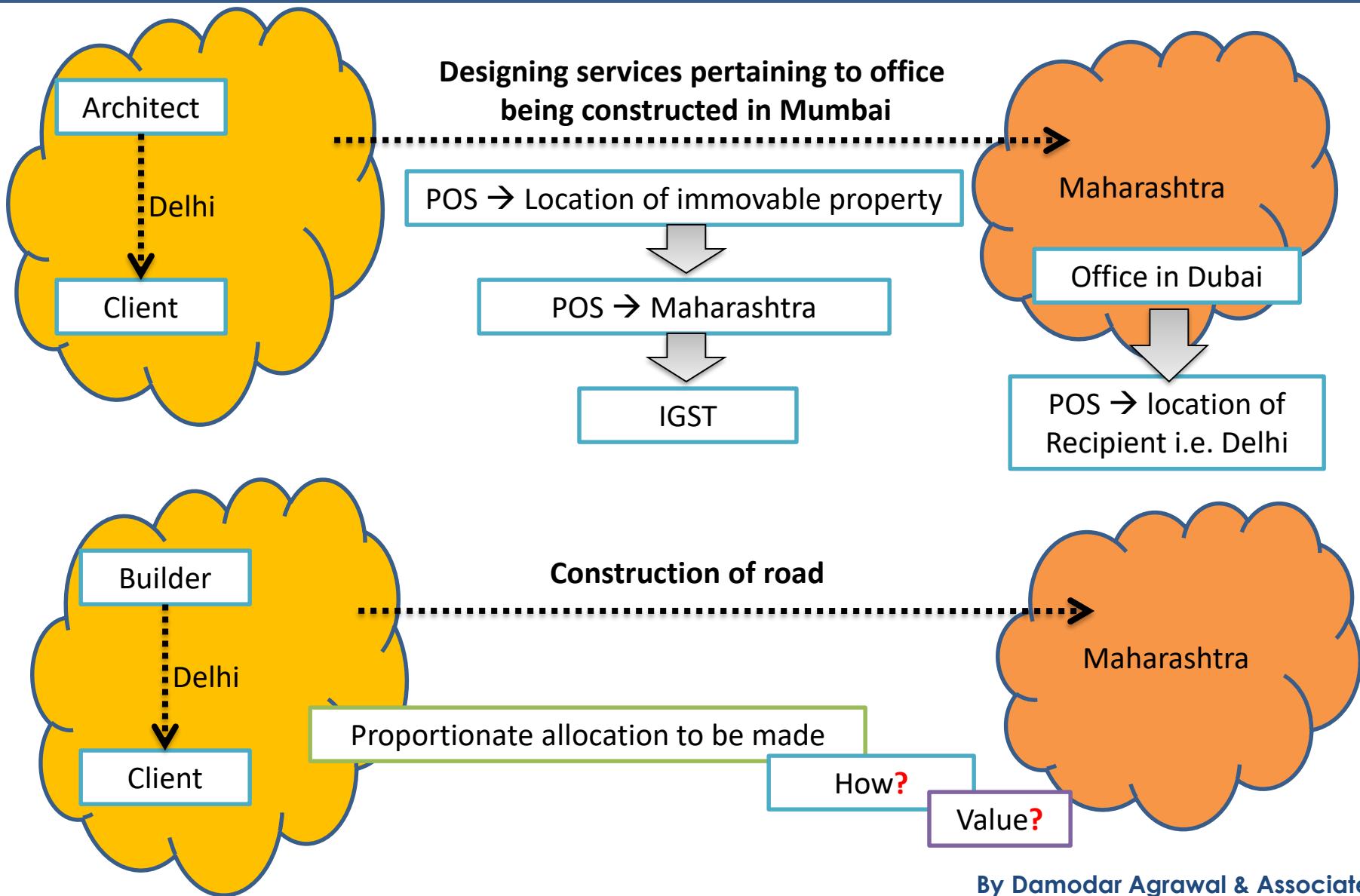
Eg of General Rule: POS for supply of services



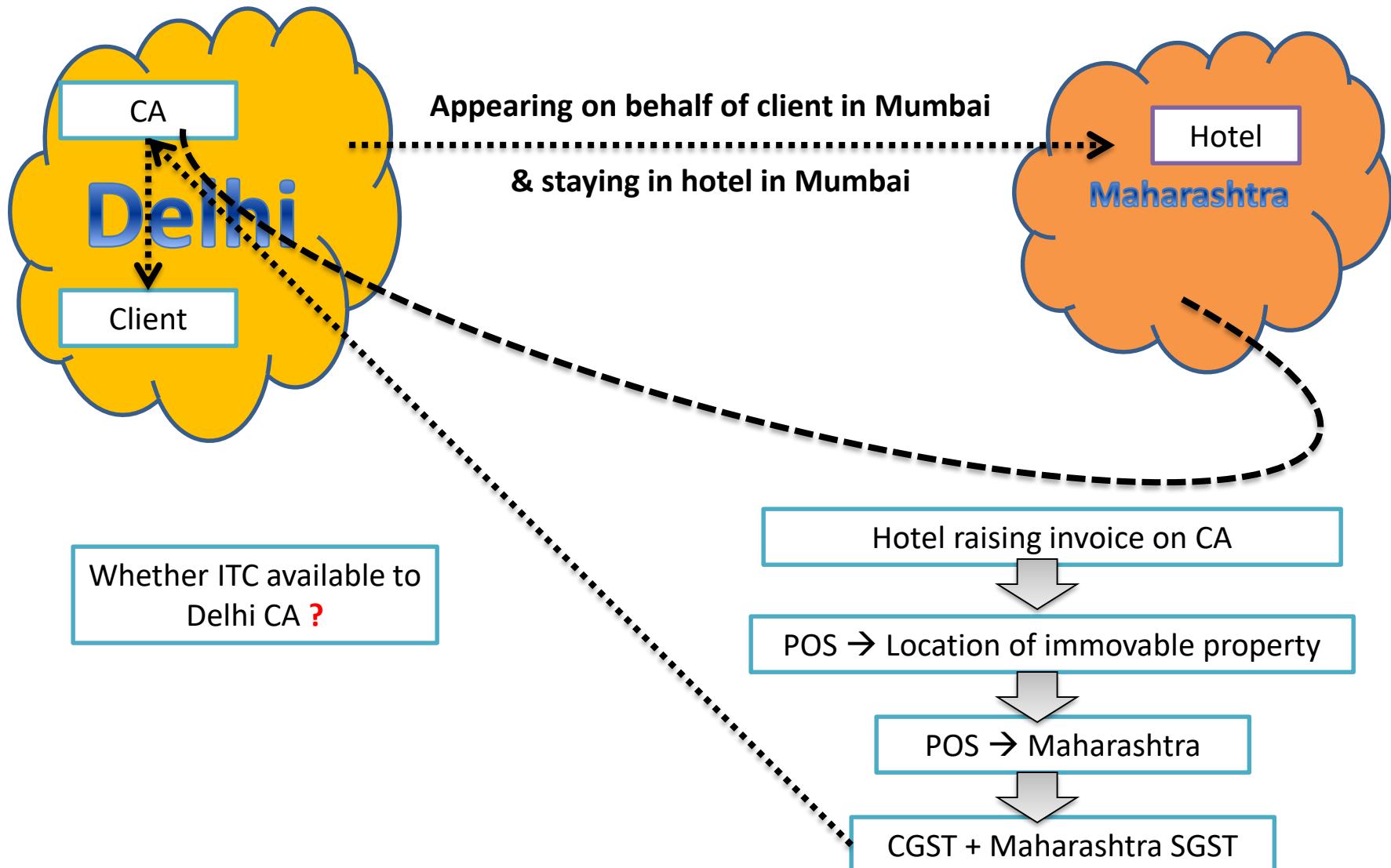
POS of immovable property related Services – Sec 12 (3)

Nature of services	Provision – POPS Rules, 2012	Provisions under GST Law
<p>Services related to immovable property:</p> <ul style="list-style-type: none"> ✓ Services directly related to immovable property including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work; or; ✓ Lodging accommodation by a hotel, inn, guest house, home stay, club or campsite, by whatever name called, and including a house boat or any other vessel; or ✓ Accommodation in any immovable property for organizing any marriage, official, social, cultural, religious, business function etc. ✓ Ancillary services to the services referred above 	Rule 5 → Location of Immovable property	<p>Location at which the immovable property/boat/vessel is located or intended to be located</p> <p>Where property/boat/vessel is located in more than one state/UT → Proportionate allocation amongst State/UTs as per the contract or on reasonable basis</p> <p>Where location of the immovable property/boat/vessel is located or intended to be located outside India → Place of supply shall be the location of the recipient</p>

Eg: POS of immovable property related Services



Eg: impact on credit avialment of POS of Immovable Property Services



POS of specified performance based services – Sec 12(4)

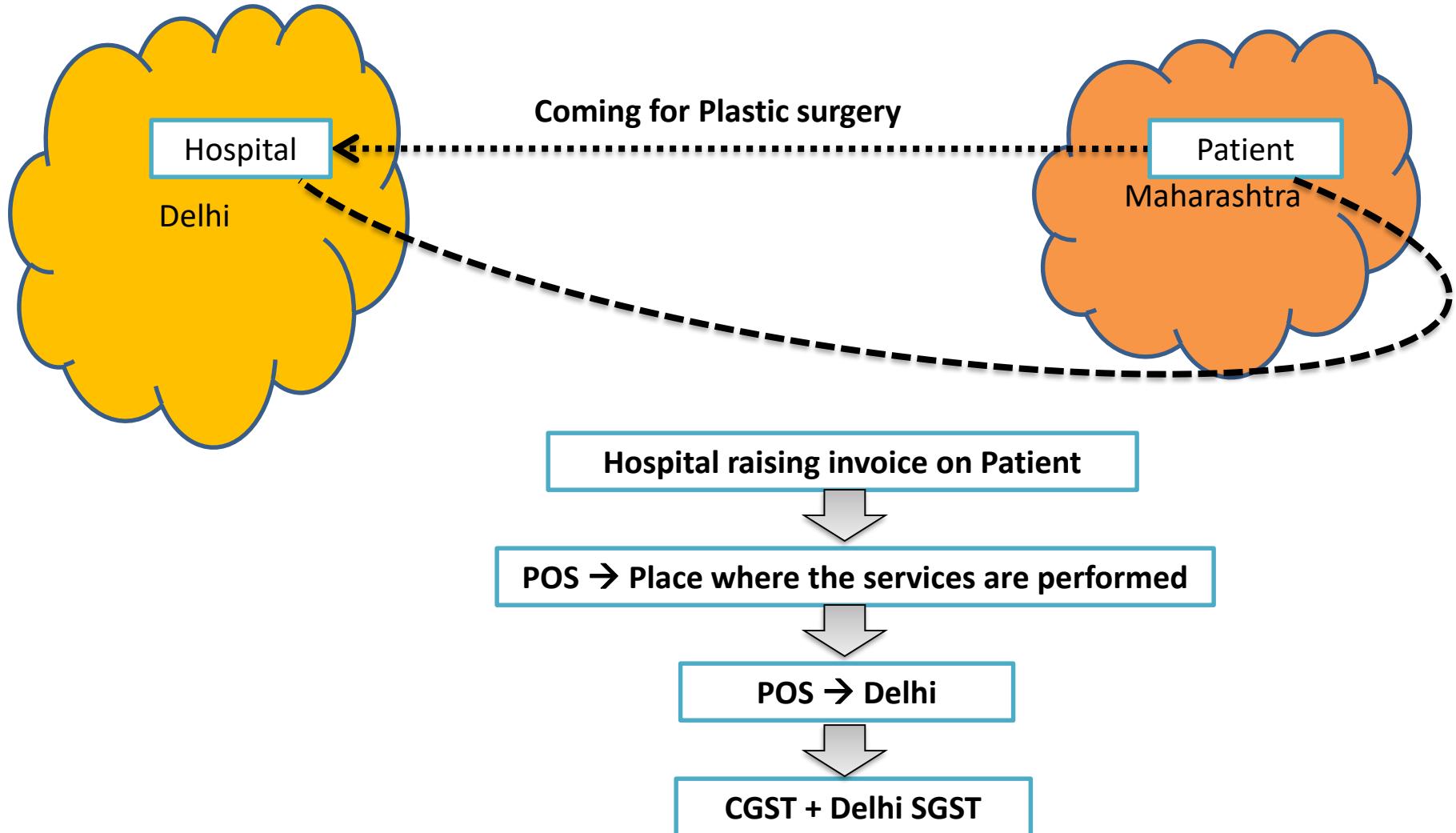
Nature of services	Provision – POPS Rules, 2012	Provisions under GST Law
<p>Following performance based services:</p> <ul style="list-style-type: none">✓ Restaurant and catering services;✓ Personal grooming✓ Fitness✓ Beauty Treatment✓ Health service including cosmetic and plastic surgery	<p>Rule 4: Place of actual performance → Where goods are required to be made physically available or where the physical presence of the recipient is required Location of Goods → Where services provided from a remote location by way of electronic means</p>	<p>Locations where the services are actually performed</p>

On Board caterings: S. 12(4) Vs. 12(10)

Unlike rule 14 of the POPS Rules, 2012 → No separate section of order of application of rules

What about other performance based services such as **installation of services, repair of goods, repair through remote access????**

Eg: POS of specified performance based services

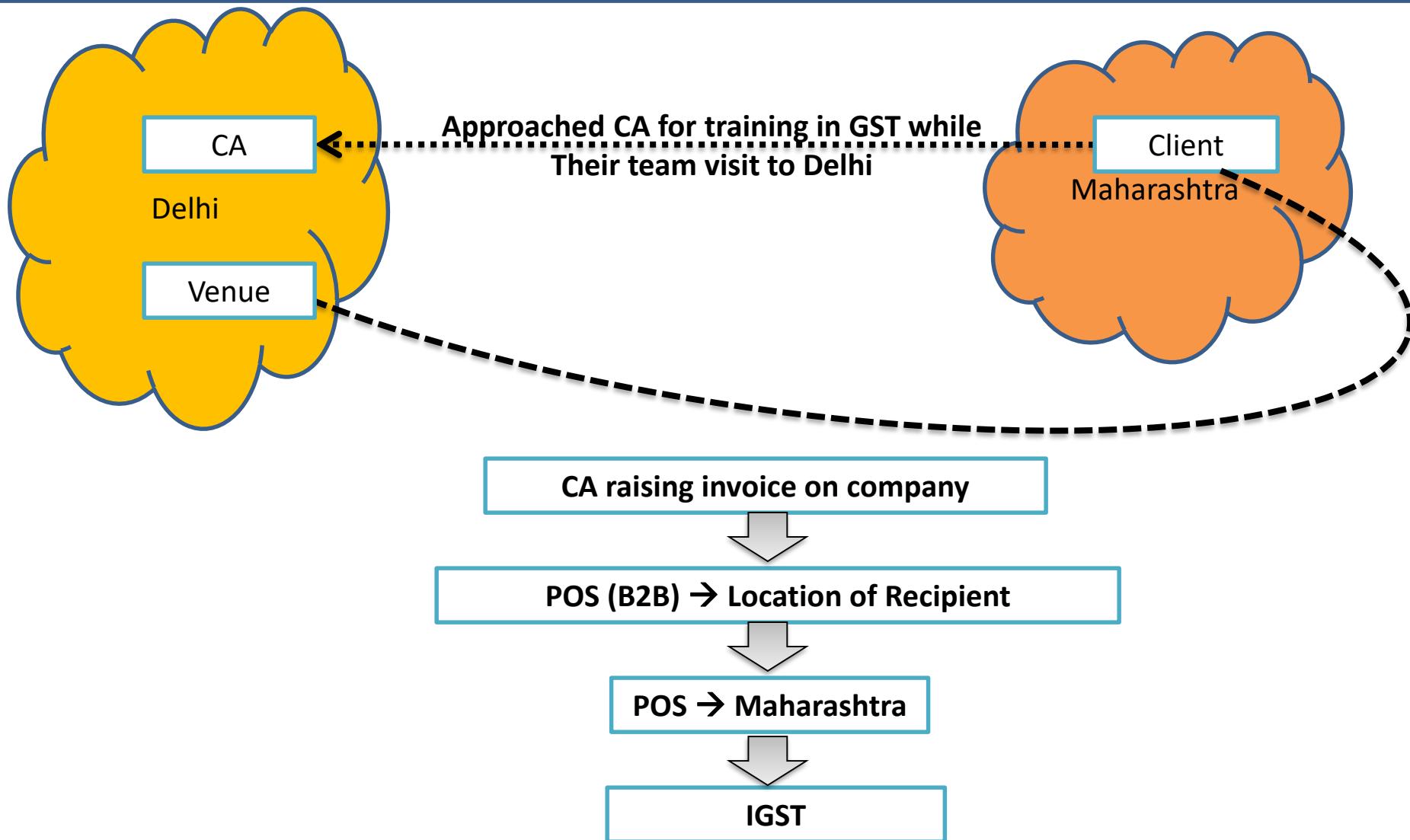


POS of training and performance Appraisal Services – Sec 12(5)

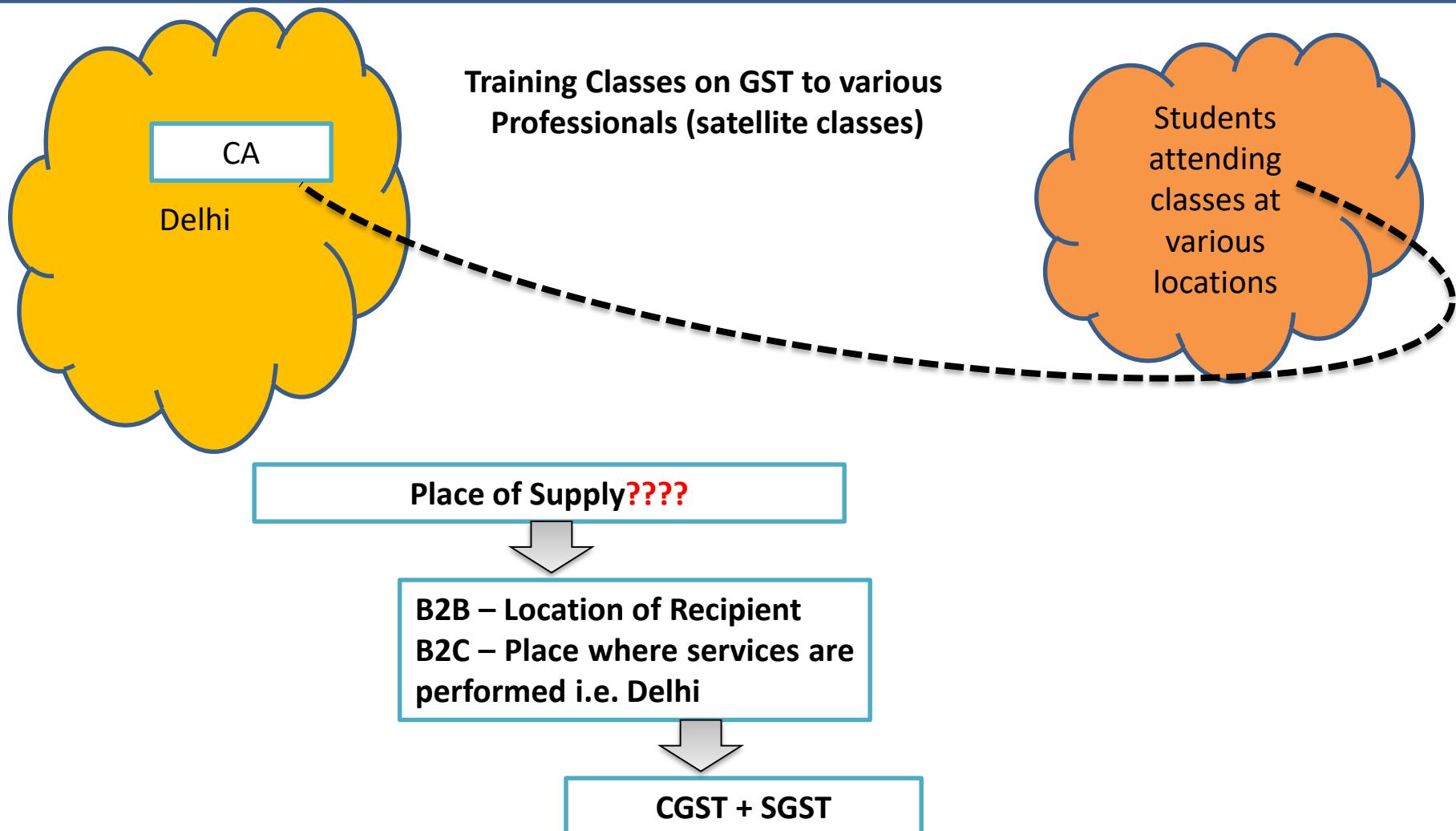
Nature of services	Provision – POPS Rules, 2012	Provisions under GST Law
Training & Performance appraisal services	<p>Rule 4 (a): Place of actual performance → Where physical presence of the recipient is required</p>	<p>B2B → Location of recipient B2C → Location where the services are actually performed</p>

POPS Rules, 2012 Vs. GST Law

Eg: POS of training and performance Appraisal Services



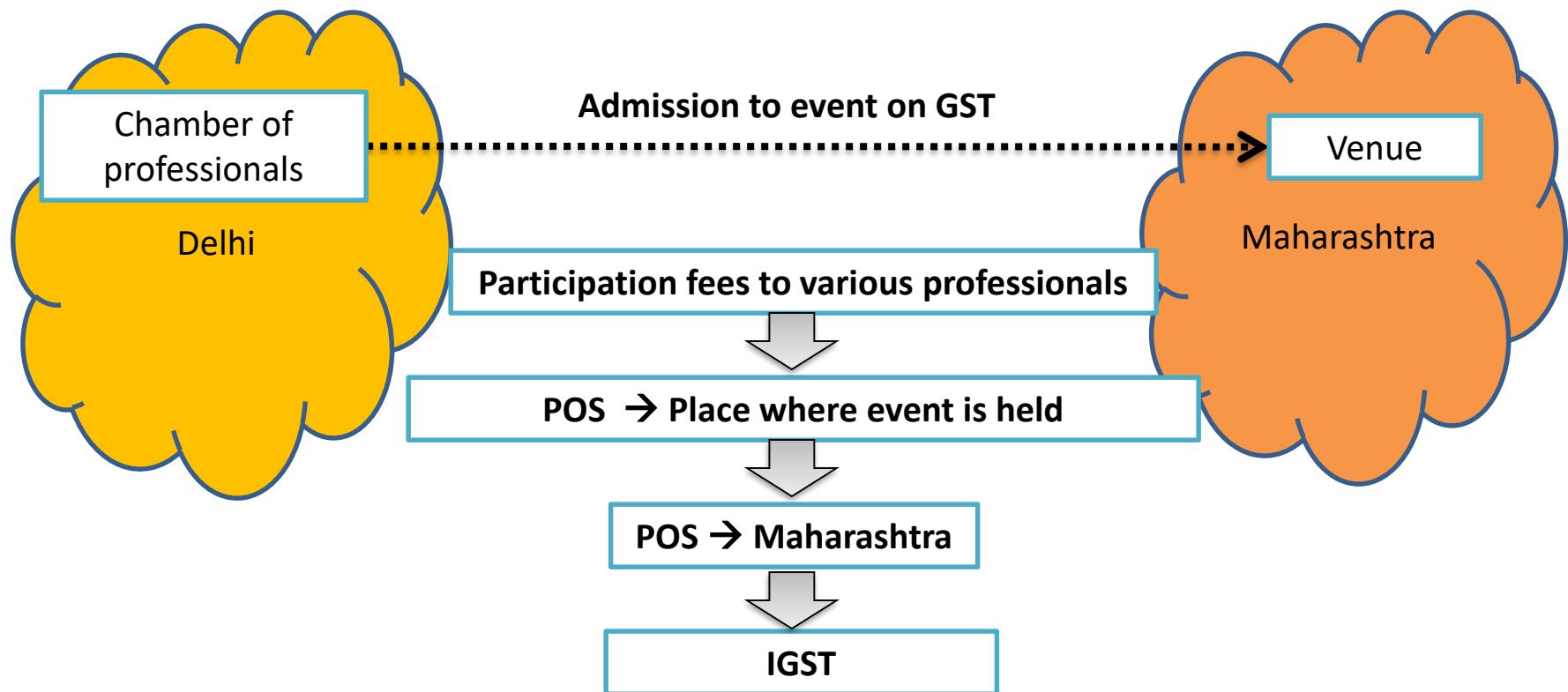
Eg: POS of training and performance Appraisal Services



POS of event based Services – Sec 12(6) & 12(7)

Nature of services	Provision – POPS Rules, 2012	Provisions under GST Law
<ul style="list-style-type: none"> ✓ Admission to Cultural, artistic, sporting, scientific, educational or entertainment event ✓ Admission to amusement park/any other place and services ancillary thereto ✓ Services ancillary thereto 	<p>Rule 6 → Place where the services are actually held</p> <p>(Services by way of admission to, or organization of, a cultural, artistic, sporting, scientific, educational or entertainment <u>event</u> or a <u>celebration</u>, <u>conference</u>, <u>fair</u>, <u>exhibition</u>, or <u>similar events</u>, and of services ancillary to such admission)</p>	<p>Place where the event is actually held or where the park or such other place is located.</p>
<ul style="list-style-type: none"> ✓ Organization of Cultural, artistic, sporting, scientific, educational or entertainment event including supply of services in relation to a conference, fair, exhibition, celebration of similar events; or ✓ Services ancillary to organization ✓ Assigning of sponsorship to such events 		<p>B2B → Location of recipient</p> <p>B2C → Place where the event is actually held</p> <p>Where event is held in more than one State/UT → Proportionate allocation amongst State/UTs as per the contract or on reasonable basis</p> <p>Where event is held outside India → Place of supply shall be the location of the recipient</p>

Eg: POS of admission to event



POS of Goods Transportation Services

Nature of services	Provision – POPS Rules, 2012	Provisions under GST Law
Goods transportation services, including by mail or courier	Rule 10: Place of destination of the goods (Services of transportation of goods, other than by way of mail or courier)	B2B → Location of recipient B2C → Location at which such goods are handed over for their transportation

POPS Rules, 2012 Vs. GST Law:
Contrast Provisions

POS of Passenger Transportation Services

Nature of services	Provision – POPS Rules, 2012	Provisions under GST Law
Passenger transportation services	Rule 11: Place where the passenger embarks on the conveyance for a continuous journey	B2B → Location of recipient B2C → Place where the passenger embarks on the conveyance for a continuous journey

POPS Rules, 2012 Vs. GST Law: Same in B2C

Sec 2(3) of IGST Act, 2017 → “Continuous journey” means a journey for which a single or more than one ticket is issued at the same time either by a single supplier of service or through an agent acting in behalf of more than one supplier of service, and which involves no stopover between any of the legs of the journey for which one or more separate tickets or invoices are issued

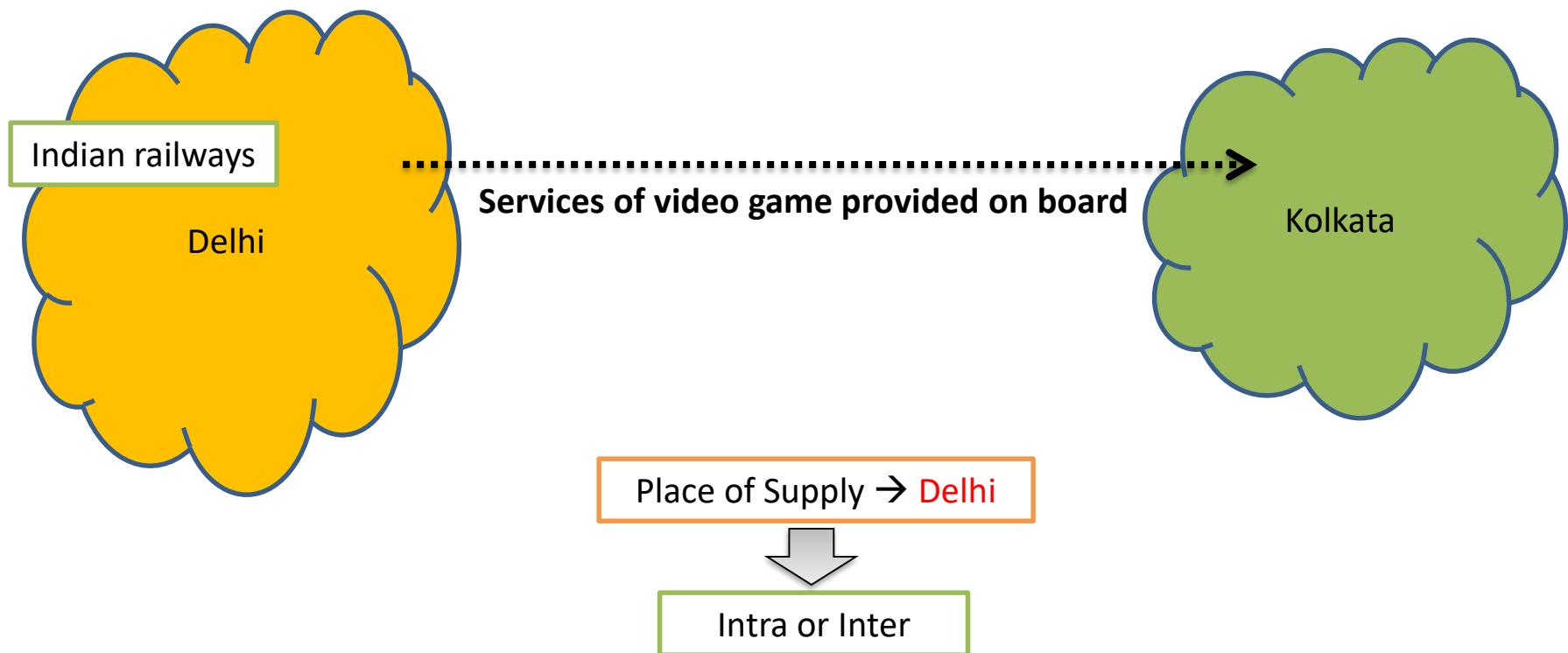
Explanation → For the purposes of this clause, ‘stopover’ means a place where a passenger can disembark either to transfer to another conveyance or break his journey for a certain period in order to resume it at a later point of time;

POS of services on board a conveyance – Sec 12(10)

Nature of services	Provision – POPS Rules, 2012	Provisions under GST Law
Services on board a conveyance, including a vessel, an aircraft, a train, or a motor vehicle	Rule 12: Place of first scheduled point of departure of that conveyance for the journey	Location of the first scheduled point of departure of that conveyance for the journey

POPS Rules, 2012 Vs. GST Law: Same

POS when services are supplied on board a conveyance



POS of Telecommunication Services – Sec 12(11)

Nature of Telecommunication Services	Place of Supply
Services by way of fixed telecommunication line , leased circuits, internet leased circuits, cable or dish antenna	Location where the telecommunication line, leased circuits or cable connection or dish antenna is <u>installed</u> for receipt of services
Post – Paid mobile connection (telecommunication + internet services)	Location of <u>billing address</u> of recipient on record of the supplier
Pre – Paid mobile connection (telecommunication + internet services + DTH television services)	<ul style="list-style-type: none"> ✓ Through selling agent or a re-seller or a distributor of SIM card or recharge voucher → <u>Address of the selling agent</u> or re-seller or distributor as per the record of the supplier ✓ By any person to the final subscriber → Location where such <u>pre-payment is received</u> or such <u>vouchers are sold</u>
Other cases	<u>Address of the recipient</u> as per records of supplier
<u>2nd Proviso</u> → Pre-paid services availed/recharge made through internet banking or other electronic mode → POS → <u>Location of recipient</u> on record of the supplier	<u>1st Proviso</u> → Where address of recipient as per records of the supplier is not available → POS → Location of the supplier of the services
Leased circuit is installed in more than one State/UT → Proportionate allocation amongst State/UTs as per the contract or on reasonable basis	

POS of OTHER SERVICES

Sec	Nature of services	Place of supply
12(12)	Banking and other financial services including stock broking services	<p><u>Location of recipient</u> of services on the record of the supplier of services</p> <p>Location of the recipient of services is not on the records → POS → Location of the supplier of services</p>
12(13)	Insurance Services	<p>B2B → Location of Recipient</p> <p>B2C → Location of Recipient of services on the records of the supplier of services</p>
12(14)	Advertisement services to the Central Govt , a State Government , a statutory body or a local authority meant for identifiable State/UT	<p>Taken as located in <u>each of such States/UTs</u> → Proportionate allocation amongst State/UTs as per the contract or on reasonable basis</p>

Meaning of Export and Import of Goods

Sec	Provision (IGST Act, 2017)
	<u>Residuary cases → POS manner to be prescribed</u>
2 (5)	"export of goods" with its grammatical variations and cognate expressions, means <u>taking goods out of India</u> to a place outside India;

Sec	Provision (IGST Act, 2017)
	<u>Definition of term 'import of goods'</u>
2 (10)	"import of goods" with its grammatical variations and cognate expressions, means <u>bringing goods into India</u> from a place outside India;

Principles of place of supply: Export and Import of Goods

Section	Nature of supply	POS under GST Law
Sec 11(a)	Goods imported into India	<u>Location of the importer</u>
Sec 11(b)	Goods exported from India	<u>Location outside India</u>

Proviso to Sec 5(1) of the IGST Act, 2017 → Provided that integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the customs tariff act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under section 12 of the Customs Act 1962.

S. 7(2) of the IGST Act, 2017 → Supply of goods in the course of import into the territory of India till they cross the custom frontiers of India in the course of inter-state trade or commerce.

Meaning of Export and Import of Services

Sec	Provision (IGST Act, 2017)
2 (6)	<p><u>Definition of term 'export of services'</u></p> <p>"export of services" means the supply of any service when</p> <ul style="list-style-type: none">(a) the supplier of services is located in India(b) the recipient of service is located outside India(c) the place of supply of service is outside India(d) the payment of such service is received by the supplier of service in convertible foreign exchange, and(e) The supplier of service and recipient of service are not merely establishments of distinct person in accordance with explanation 1 in section 8;

Sec	Provision (IGST Act, 2017)
2 (11)	<p><u>Definition of term 'import of services'</u></p> <p>"import of services" means the supply of any service, where</p> <ul style="list-style-type: none">(a) the supplier of service is located outside India(b) the recipient of service is located in India, and(c) the place of supply of services is in India;

Constituents: Export of Services Vs Import of Services

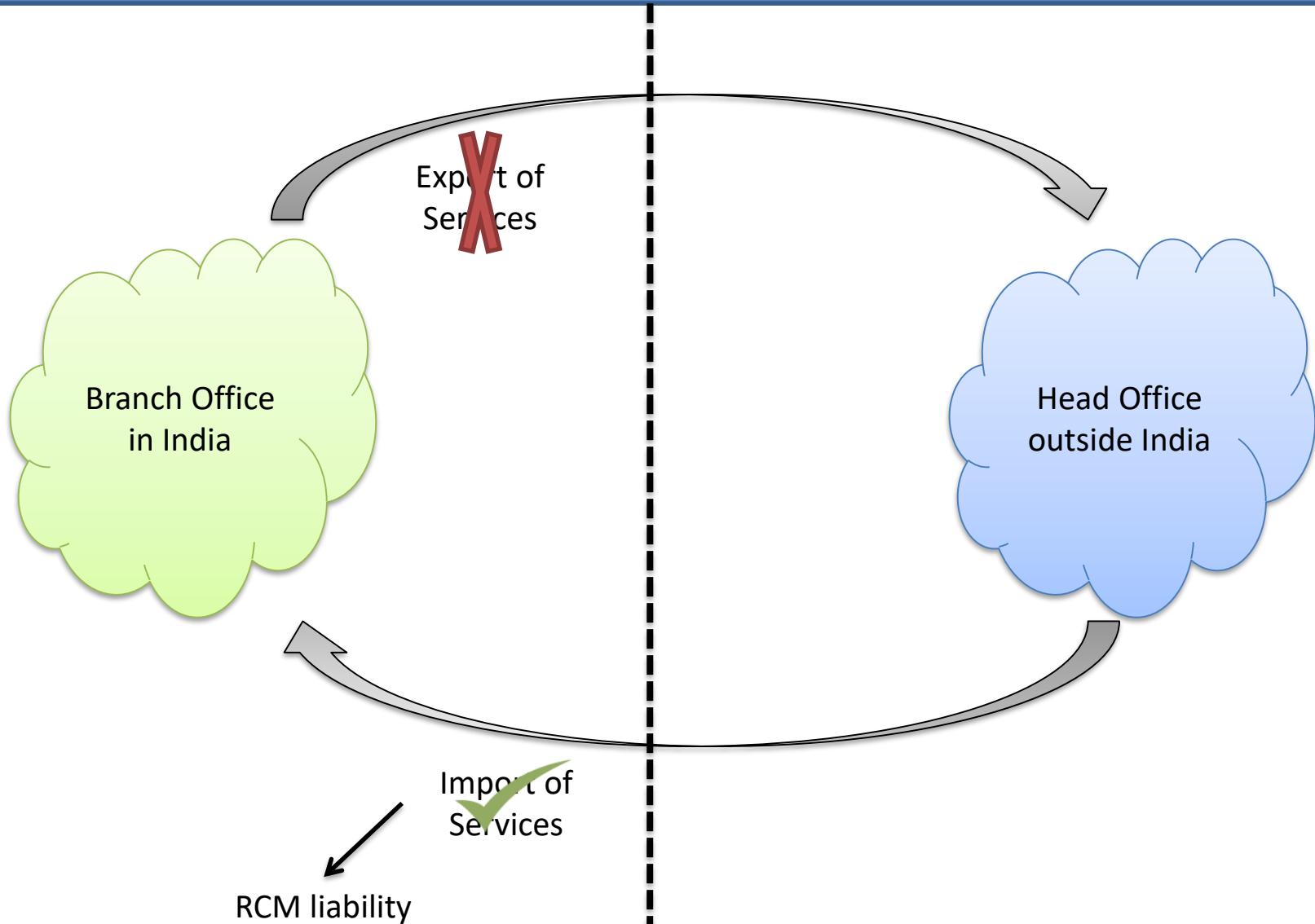
Particulars	Export of Services	Import of Services
Location of Supplier	India	Outside India
Location of Recipient	Outside India	India
Place of Supply	Outside India	India
Manner of Payment	In Convertible Foreign exchange	~
Relationship between Supplier and Recipient	<u>Not merely establishments of distinct person</u> [Explanation 1 to Sec 8]	~

Explanation 1: For the purposes of this Act, where a person has, -

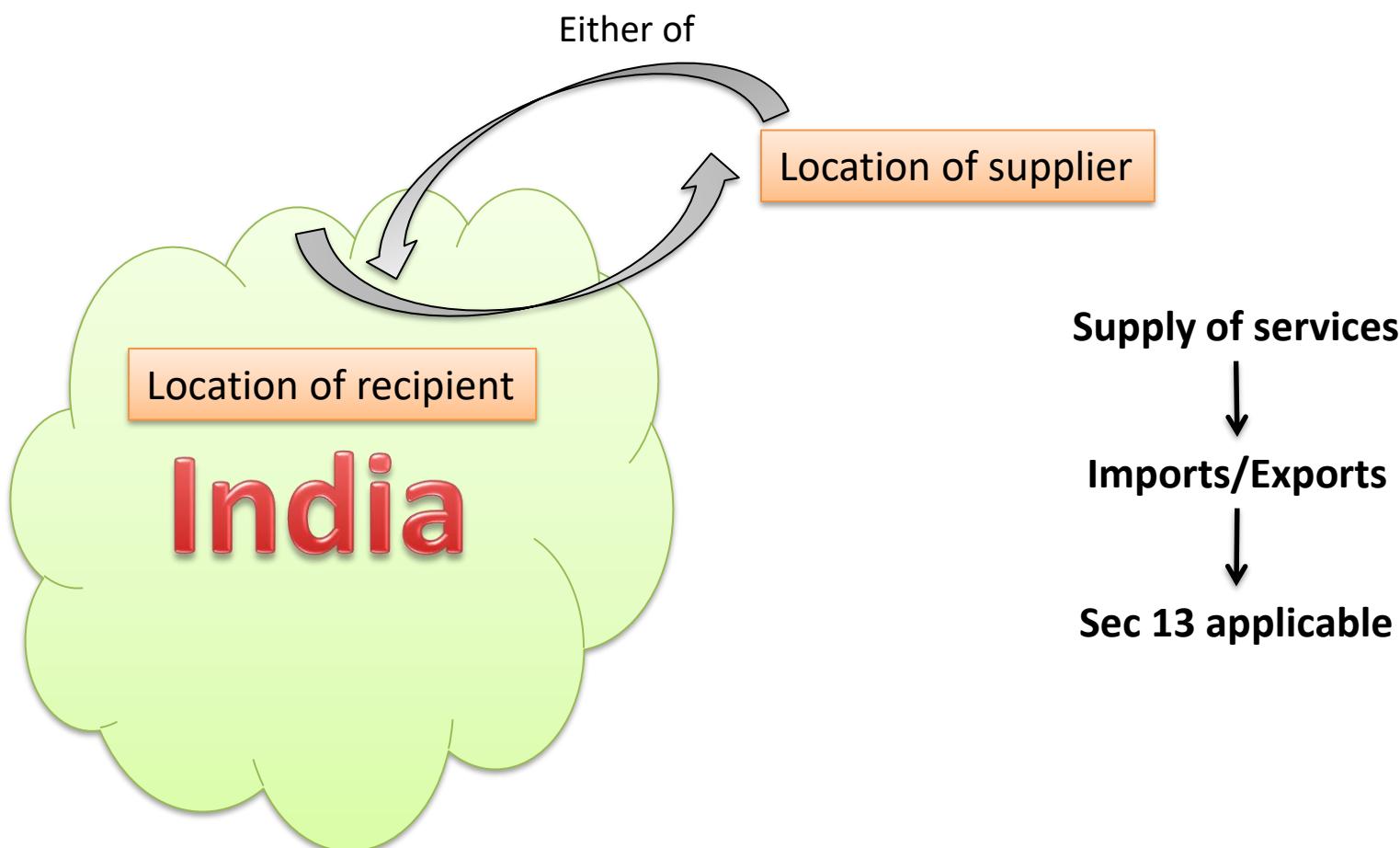
- (i) an establishment in India and any other establishment **outside India**
- (ii) an establishment in a **State or Union Territory** and any other establishment outside that state; or
- (iii) an establishment in a **State or Union Territory** and any other establishment being a business vertical registered within that State or Union Territory,

Then such establishment shall be treated as **establishments of distinct persons**.

Inter- Company supply: Export of Services Vs Import of Services



Sec 13 (Services) – To determine POS → Imports/Exports



POS of Services: Domestic Vs. Import

Sec Domestic/Outsi de	Nature of services	Place of supply of services (Domestic)	Place of supply of services (Exports/Imports)
12(2)/13(2)	Default Rule	B2B → Location of Recipient ("R") B2C → Location of R if address exists/ Otherwise Location of supplier (S")	Location of R Not available → Location of S
12(485)/13(3)	Performance based services provided remotely through electronic means	~	Location where goods are situated at the time of supply of services
--/13(3)	Immovable property related services	Location of the immovable property /boat/vessel	Location of the immovable property

POS of Services: Domestic Vs. Import

Sec Domestic/ Outside	Nature of services	Place of supply of services (Domestic)	Place of supply of (Exports/Imports)
12(6 & 7) /13(5)	Services by the way of admission /organization of a cultural, artistic event, etc	Admission → Place where event is actually held Organization → B2B : Location of R B2C : Place where event is actually held	Place where event is actually held
13(6)	Performance based services, Immovable property related services and event related services → supplied at more than one Location including a location , in the taxable territory	Immovable property related services and event related services → Proportionate allocation amongst states	Location in taxable territory where the greatest proportion of services is provided
13(7)	Performance based services, Immovable property related services and event related services → supplied at more than one Location including a location , in the taxable territory involving more than 1 state/UT	~	Each of the states in proportionate value allocable to each states

POS of Services: Domestic Vs. Import

Sec Domestic/Out side	Nature of services	Place of supply of services (Domestic)	Place of supply of services (Exports/Imports)
12(12)/13(8)	Banking /FI/ NBFC(to account holders)/ Intermediary services	Banking & other financial services	Place where event is actually held
13(6)	Performance based services, Immovable property related services and event related services → supplied at more than one Location including a location , in the taxable territory	Immovable property related services and event related services → Proportionate allocation amongst states	Location in taxable territory where the greatest proportion of services is provided
13(7)	Performance based services, Immovable property related services and event related services → supplied at more than one Location including a location , in the taxable territory involving more than 1 state/UT	~	Each of the states in proportionate value allocable to each states

POS of Services: Domestic Vs. Import

Sec Domesti c/Outsi de	Nature of services	POS (Dom estic)	Place of supply of services (Exports/Imports)
--13(12)	Online information on and Database Access Retrieval (OIDAR) services	~	<p>Location of R</p> <p>If 2 of the following non contradictory conditions satisfied ,R deemed to be located in India :</p> <ul style="list-style-type: none"> (a) The location of address presented by the recipient of services through internet is in the taxable territory ; (b) the credit card or debit card or store value card or charge card or any other card by which the Recipient of services settles payment has been issued in the taxable territory ; (c) the billing address of the recipient of services in the taxable territory (d) the internet protocol address of the devices used by the recipient of services is in taxable territory ; (e) the bank of the recipient of services in which the account used by the recipient of services in which the account used for payment is maintained is in the taxable territory ; (f) The country code of the subscriber identity module card used by the recipient of services is of taxable territory; (g) the location of the fixed land line through which the services is received by the recipient is in taxable territory

POWER OF CG

Sec /Outside	Domestic	Particulars
--13(13)		<p>In order to prevent double taxation or no taxation of the supply of a service, or for the uniform application of rules, the Government shall have the power to notify any description of services or circumstances in which the <u>place of supply shall be the place of effective use and enjoyment of a service.</u></p>

Special provision for payment of tax by supplier of OIDAR services

OIDAR supplier of services located in non taxable territory → to → Non taxable online recipient in India

IGST to be paid by the supplier located in non taxable territory

Intermediary located in non taxable territory , who arranges or facilitates the supply of such services → deemed to be the recipient of such services from the supplier in non taxable territory and in non taxable territory and supplying such services to the non- taxable online recipient except when such intermediary satisfies the following condition :

- ❖ the invoice or customer bill issued or made available by such intermediary taking part in the supply clearly identifies the services in question on its supplier in non taxable territory;
- ❖ the intermediary involved in the supply does not authorize the charge to the customer or take part in its charge .
- ❖ the intermediary involved in the supply does not authorise delivery;
- ❖ the general terms and conditions of the supply are not set by the intermediary involved in the supply but the supplier of services

Special provision for payment of tax by supplier of OIDAR services

OIDAR supplier of services located in non taxable territory → Single registration under the simplified registration scheme to be notified by the Government

Any person located in the taxable territory representing such supplier for any purpose in the taxable territory shall get registered and pay IGST on behalf of the supplier

If such supplier does not have a physical presence or does not have a representative for any purpose in the taxable territory, he may appoint a person in the taxable territory for the purpose of paying IGST and such person shall be liable for payment of such tax

VALUATION PROVISIONS/ RULES AT A GLANCE

Relevant Provisions - CGST Act, 2017

Chapter/ Section	Particulars
Chapter IV: Time & Value of Supply	
Section 15	Value of Taxable Supply
Applicable to IGST Act vide Section 20 under Chapter IX of the IGST Act, 2017	
Applicable to UTGST Act vide Section 21 under Chapter IX of the UTGST Act, 2017	

Relevant Provisions- Final GST Valuation Rules

Rules	Particulars
Rule 1	Value of Supply of Goods & Services where the consideration is not wholly in money
Rule 2	Value of Supply of Goods & Services or both between distinct or related persons, other than through an agent
Rule 3	Value of Supply of Goods made or received through an agent
Rule 4	Value of Supply of Goods & Services or both based on cost
Rule 5	Residual method for determination of value of Supply of Goods & Services or both
Rule 6	Determination of value in respect of certain supplies
Rule 7	Value of supply of services in case of pure agent
Rule 8	Rate of exchange of currency, other than Indian rupees, for determination of value
Rule 9	Value of supply inclusive of integrated tax, central tax, state tax, Union Territory Tax

Valuation Provisions: Present Indirect Tax Regime

Service Tax

Sec 67 of Finance
Act, 1994

Service Tax
(Determination of
value) Rules, 2006

Excise

Section 4/ 4A- TV &
MRP

Central Excise
(Determination of
Value of Excisable
Goods) Rules, 2000

Customs

Section 14- TV

Custom Valuation
(Determination of
Price of Imported/
Exported Goods)
rules, 2007

TRANSACTION VALUE CONCEPT IN GST

Transaction value based valuation in GST

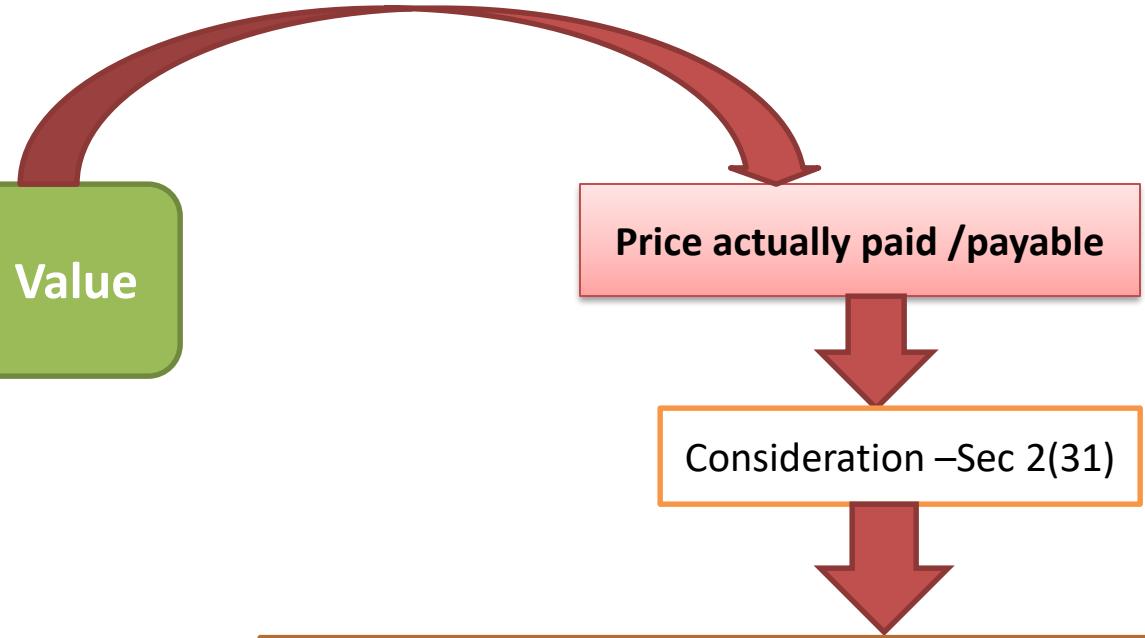
Section 15(1)

Value of supply = Transaction Value



Supplier and
recipient not
related

Price is the sole
consideration



- ✓ Whether in money or otherwise
- ✓ whether by the recipient or by any other person
- ✓ Includes the monetary value of any act or forbearance
- ✓ Includes Deposits applied as consideration for supply

Definition of 'Related Person'- explanation (a)

Persons shall be deemed to be “related persons” if:-

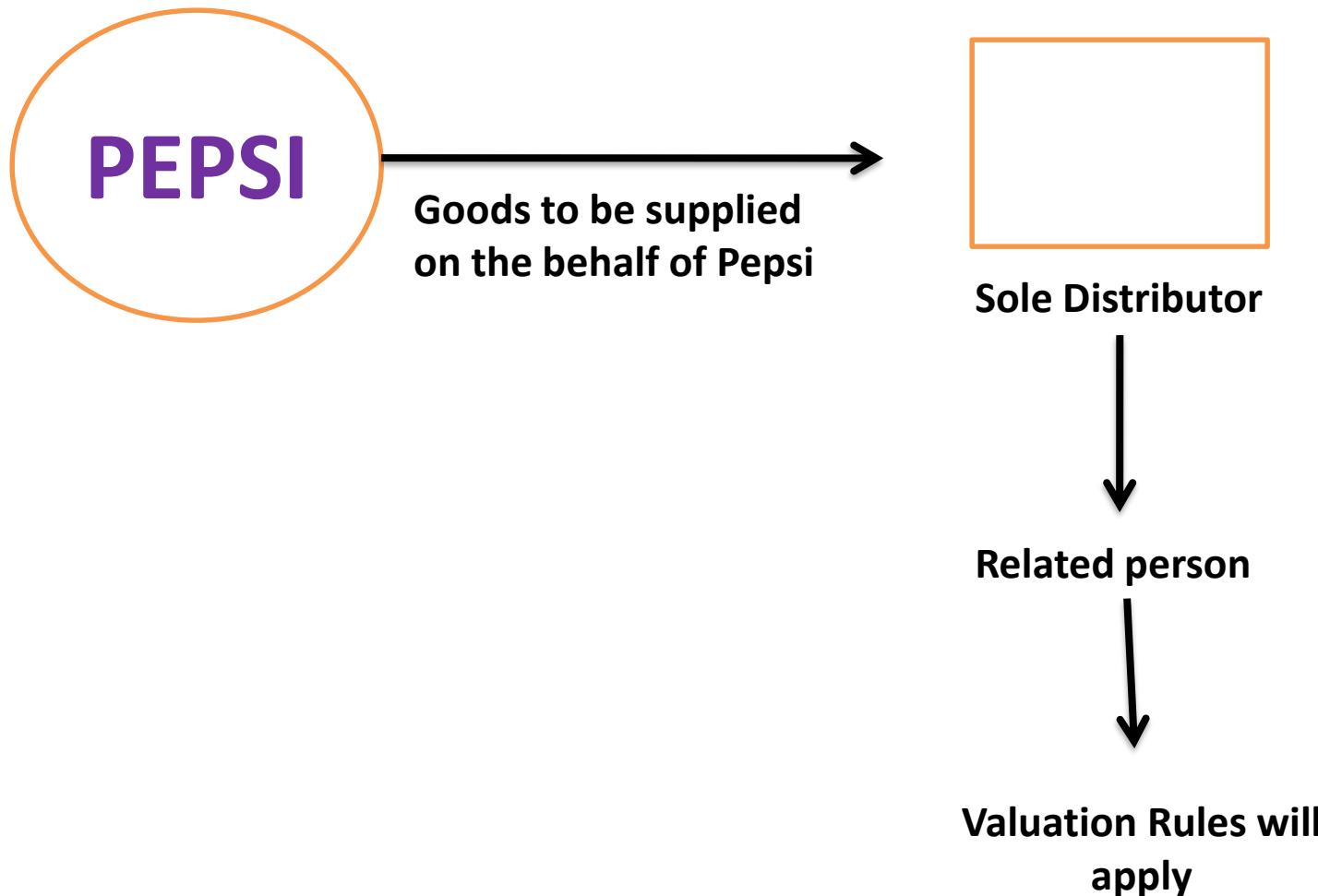
- (i) Such persons are officers or directors of one another's business
- (ii) Such persons are legally recognized partners in business
- (iii) Such persons are employer and employee
- (iv) Any person directly or indirectly owns, controls or holds twenty five percent or more of the outstanding voting stock or shares or both of them
- (v) One of them directly or indirectly controls the other
- (vi) Both of them are directly or indirectly controlled by a third person
- (vii) Together they directly or indirectly control a third person
- (viii) They are members of the same family

Deemed ‘Related person’

Explanation (b) – The term “person” also includes legal persons

Explanation (c) – Person who are associated in the business of one another in that one of the sole agent or sole distributor or sole concessionaire, howsoever described , of the other, shall be deemed to be related

Illustration : ‘Related person’



Inclusion & Exclusion

Transaction Value –
Inclusion and
Exclusions

Taxes/Duties/ Cesses etc,other than GST Acts

Sec	Provision (CGST Act,2017)
15	(2) The value of supply shall include :
(a)	Any taxes ,duties,cesses, fees and charges levied under any law for the time being in force other than this act , the state Goods and services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier

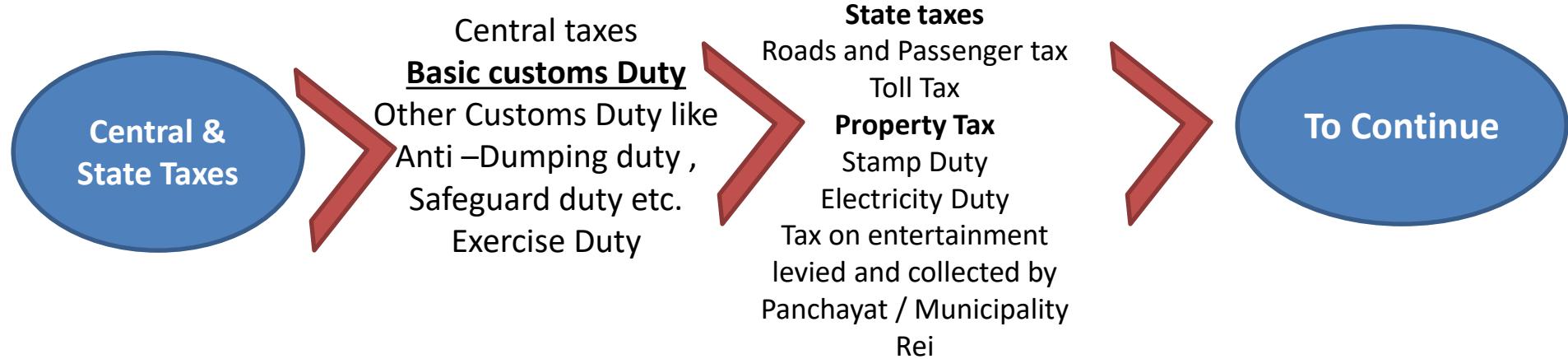


Taxes other than those levied under CGST/SGST/UTGST Act and GST Compensation Act (i.e. Cess on specified goods) → To be included in VALUE of supply → If charged separately



Taxes which are not subsumed in GST would be – included in VALUE for paying GST

Taxes not likely to be subsumed in GST



Products Specific treatment in GST

Alcoholic Liquor for Human Consumption

- Not subsumed under GST
- State Exercise plus VAT will continue to levy

Petroleum Products

- Included in GST but effective from the Date to be notified by the GST Council
- Present taxes by center and state would continue

Tobacco Products

- GST plus Central Exercise will be applicable

Electricity

- Electricity Duty will be levied rather than GST

Real Estate : Stamp Duty along with GST will apply

Amt liable to be paid by supplier ,but ,incurred by recipient

Sec	Provision (CGST Act, 2017)
15	(2) The value of supply shall include : (b) Any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;

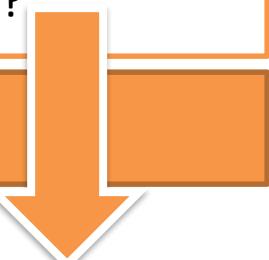


AMOUNT → LIABILITY of Supplier → INCURRED by Recipient → NOT included in price



E.G : Cement/steel supplied by recipient for construction of plant ??

Travel stay of CA in a hotel, appearing on behalf of the client

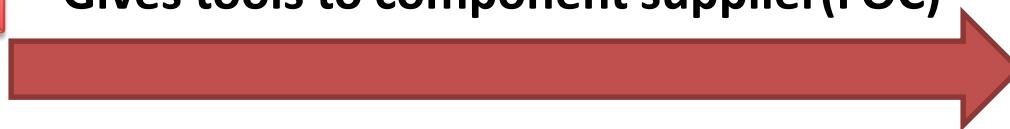


Contract terms to play an important role....

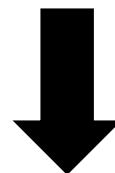
E.g.: Amt liable to be paid by supplier ,but ,incurred by recipient

**MARUTI
SUZUKI**

Gives tools to component supplier(FOC)

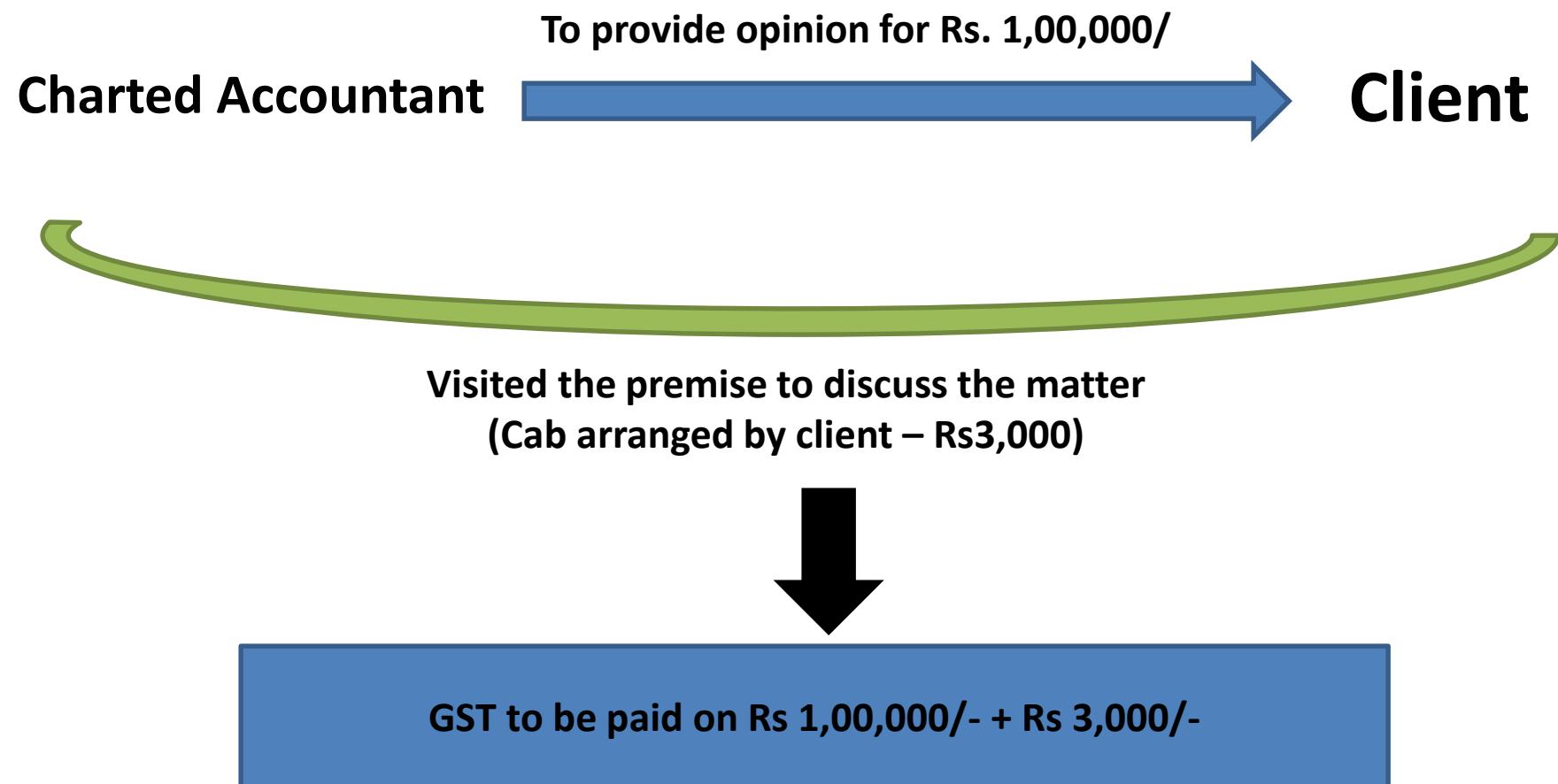


Components supplied by supplier to Maruti

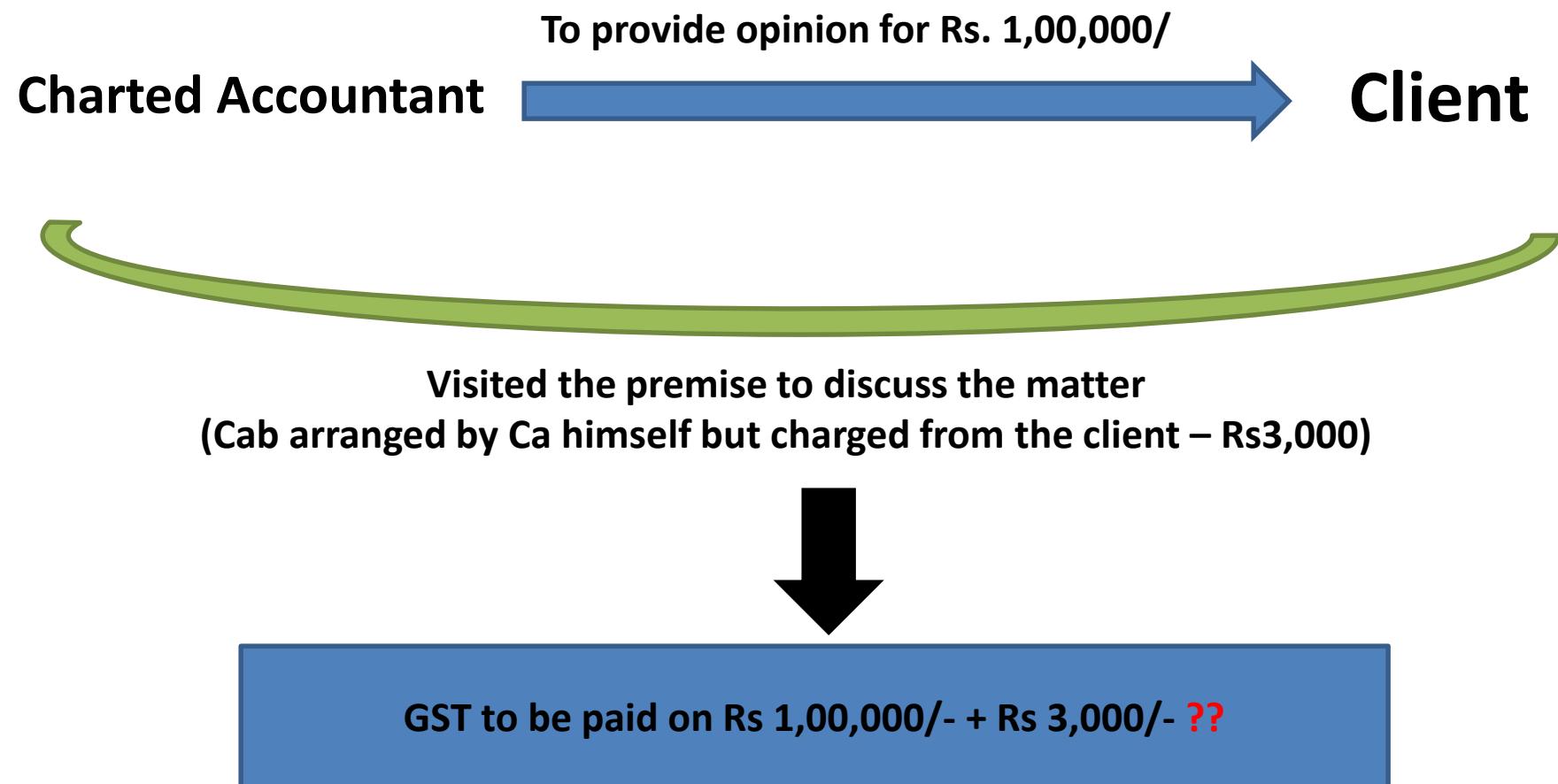


GST to be paid on the value of components

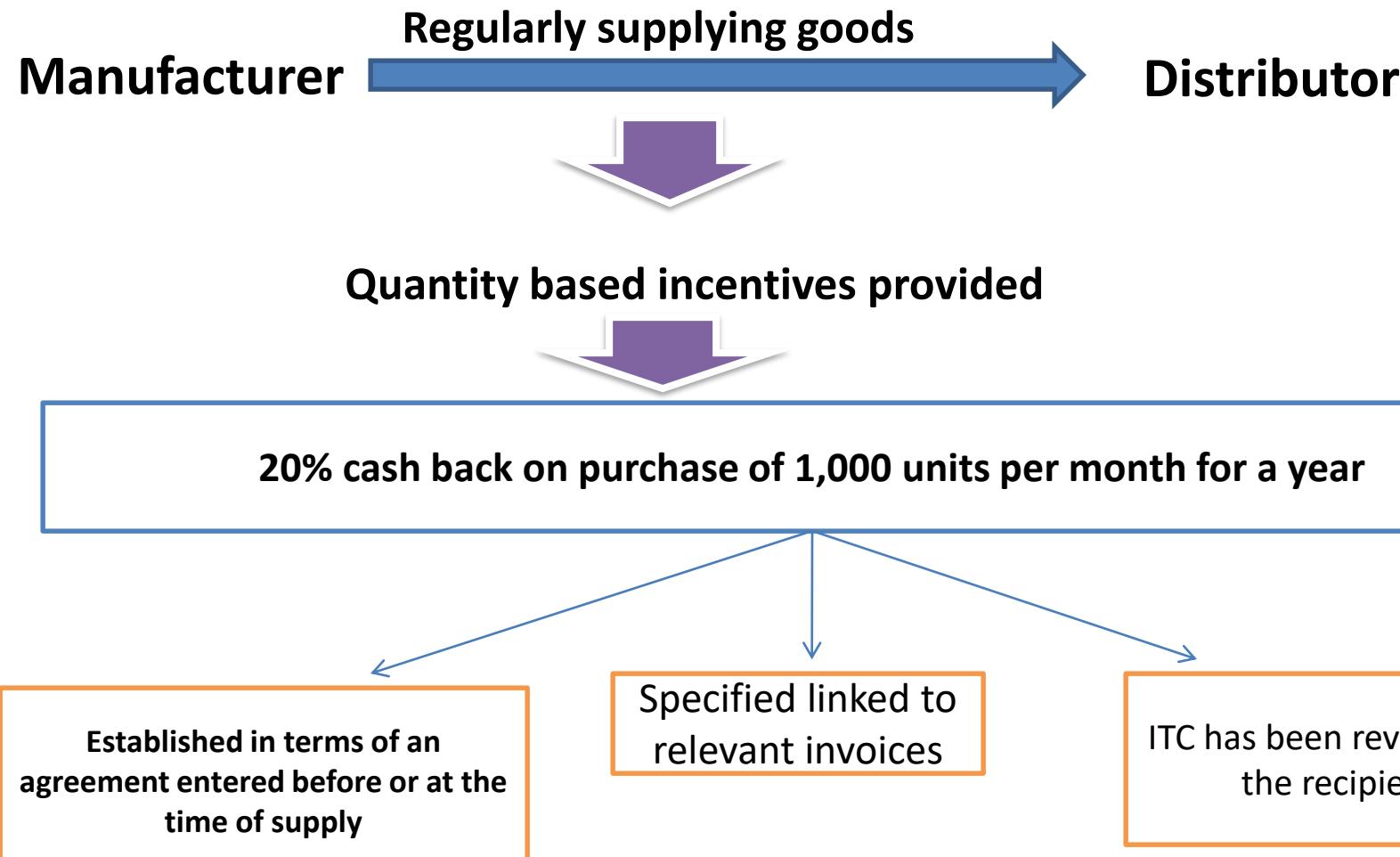
E.g. : Amt liable to be paid by supplier ,but ,incurred by recipient



E.g. : Amt liable to be paid by supplier ,but ,incurred by recipient

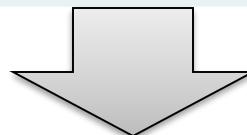


Eg : Discount after supply



Interest, late fee, penalty for delayed payment

Sec	Provision (CGST Act, 2017)
15	(2) The value of supply shall include:
(d)	Interest or late fee or penalty for delayed payment of any consideration for any supply; and



Rule 6(2)(iv) of Service Tax (Determination of Value) Rules, 2006 →

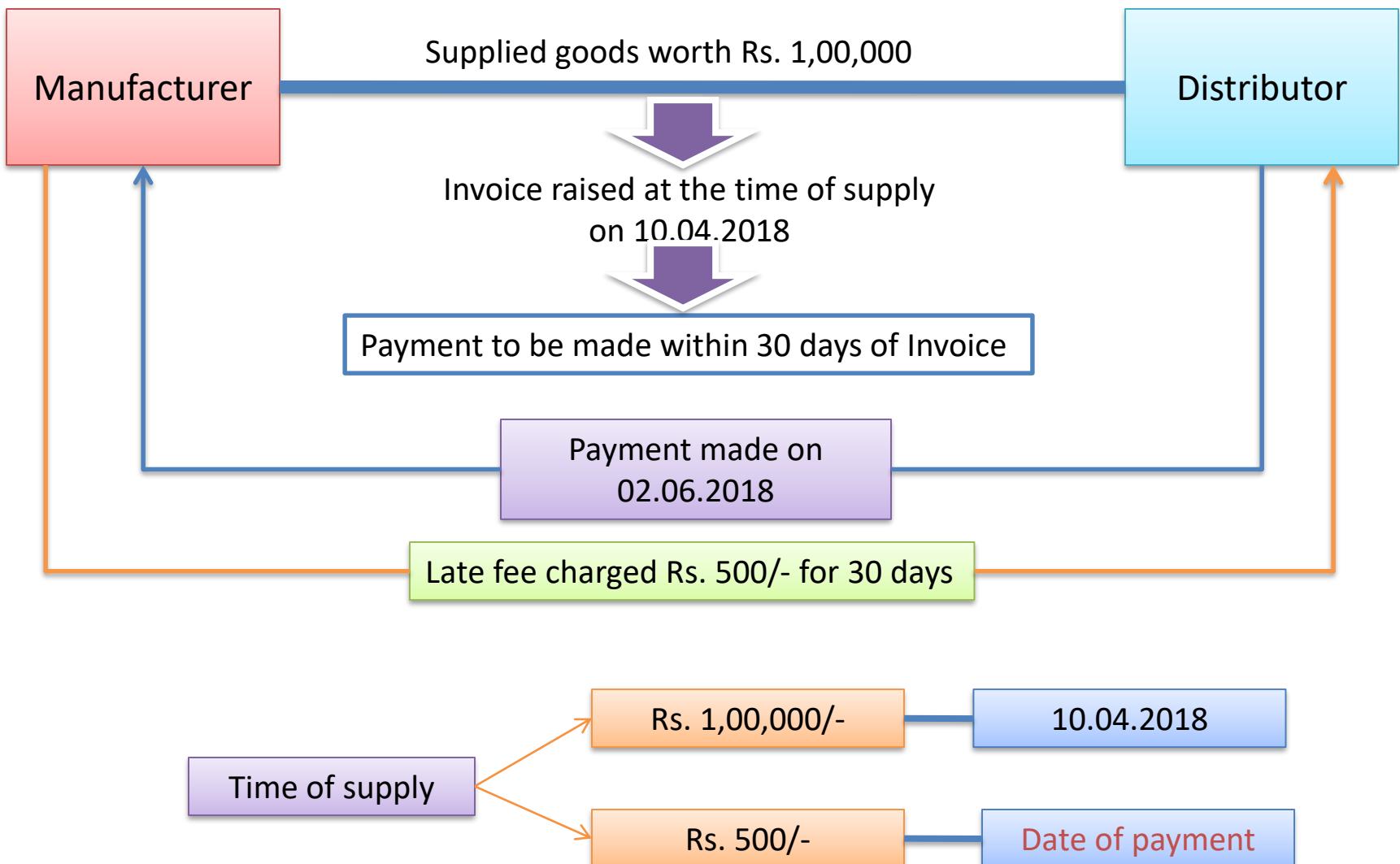
(2) Subject to the provisions contained in sub-rule (1), the value of any taxable service, as the case may be,
does not include.....

(iv) **Interest on delayed payment on any consideration** for the provision of services or sale of property, whether movable or immovable



GST → Supplementary invoice to be issued

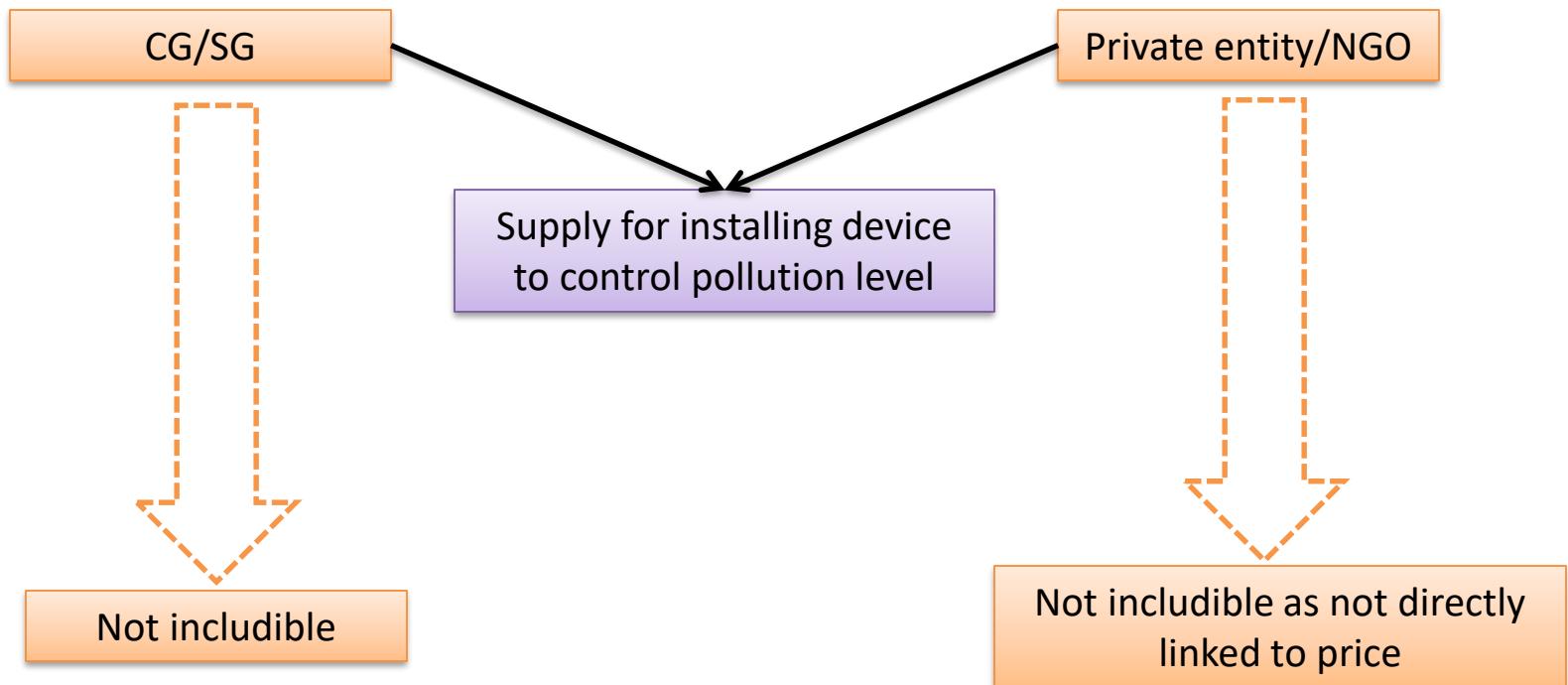
Eg: Interest, late fee, penalty for delayed payment



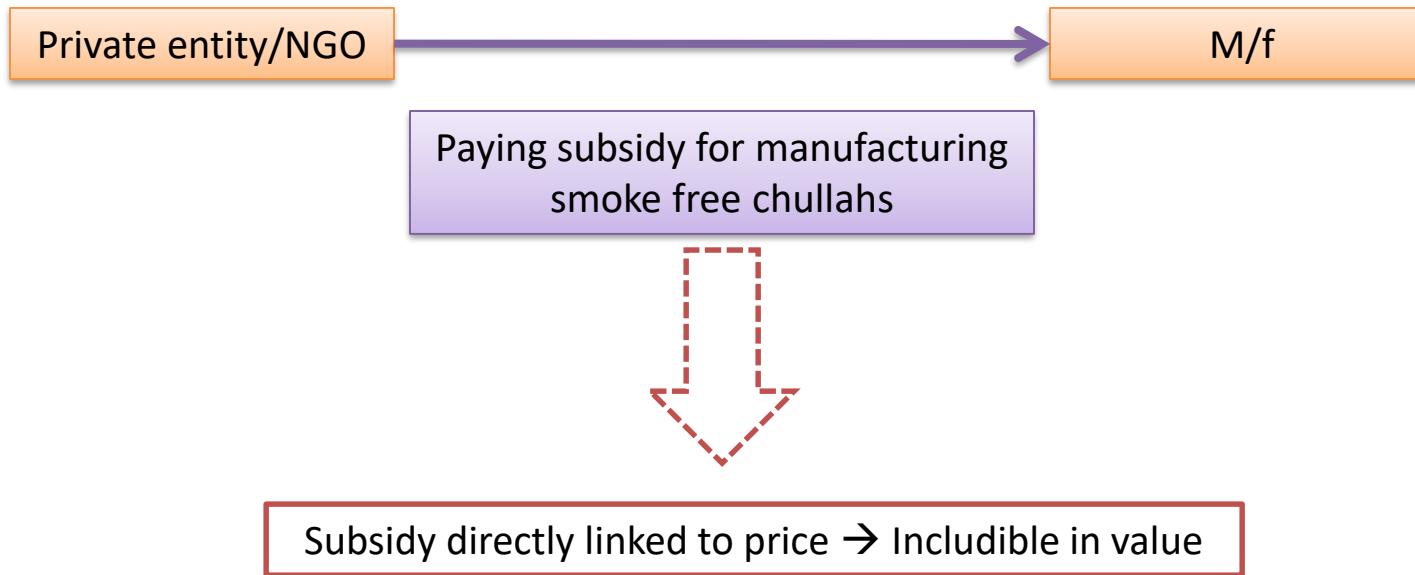
Subsidies directly linked to supply except given by CG/SG

Sec	Provision CGST Act, 2017
15	(2) The value of supply shall include:
(e)	<p>subsidies <u>directly linked to the price</u> <u>excluding subsidies provided by the Central Government and State Governments</u>;</p> <p>Explanation. – For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the <u>supplier</u> who receives the subsidy.</p>

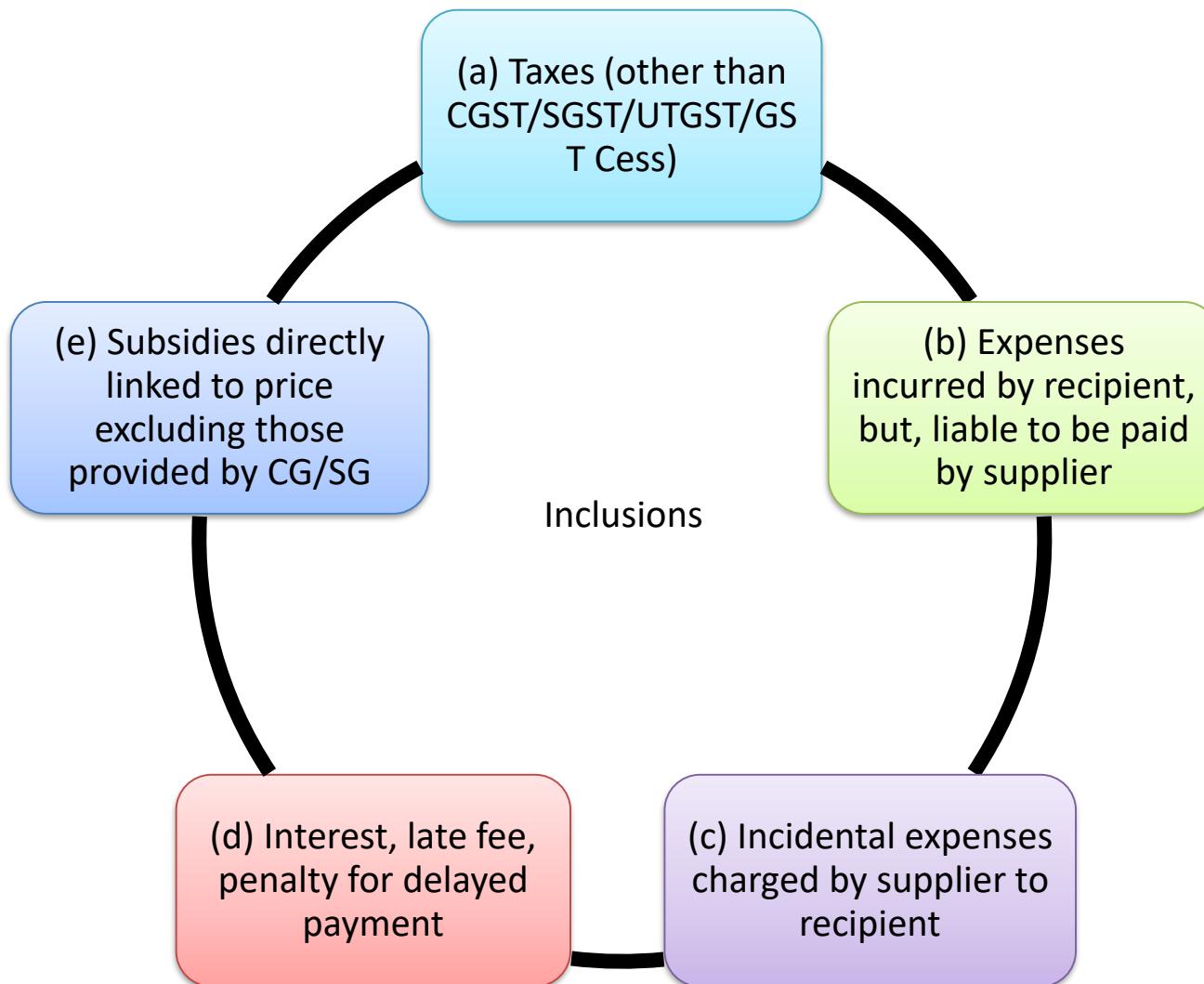
Subsidies not linked to price/ provided by CG/SG



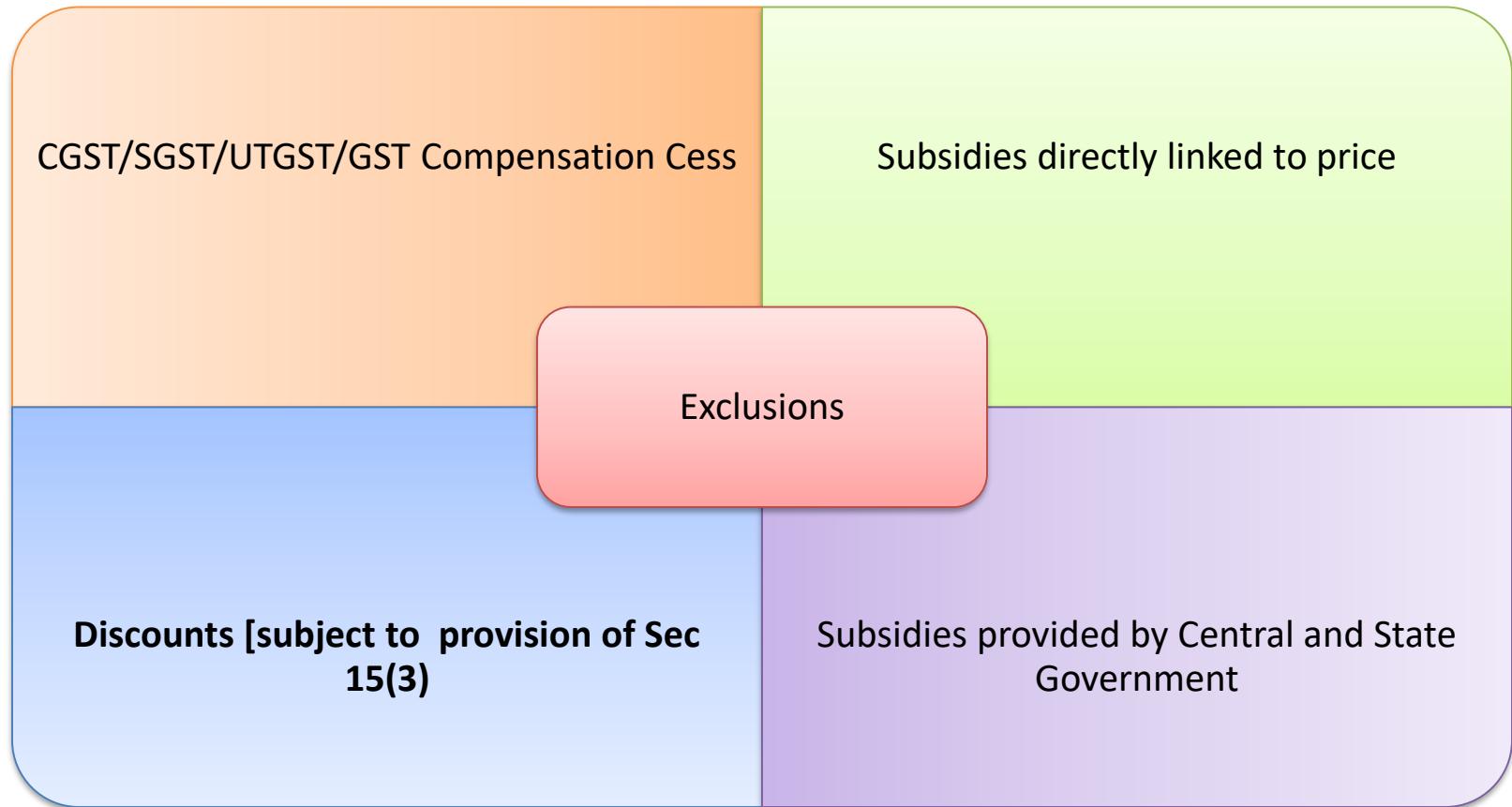
Eg: Subsidies directly linked to price



Inclusion in value of supply: Snapshot



Exclusions in value of supply: Snapshot



Treatment of discount in GST

Discount Vis-à-vis Valuation in GST: Sec 15(3)

(3) The value of the supply shall not include any discount which is given:

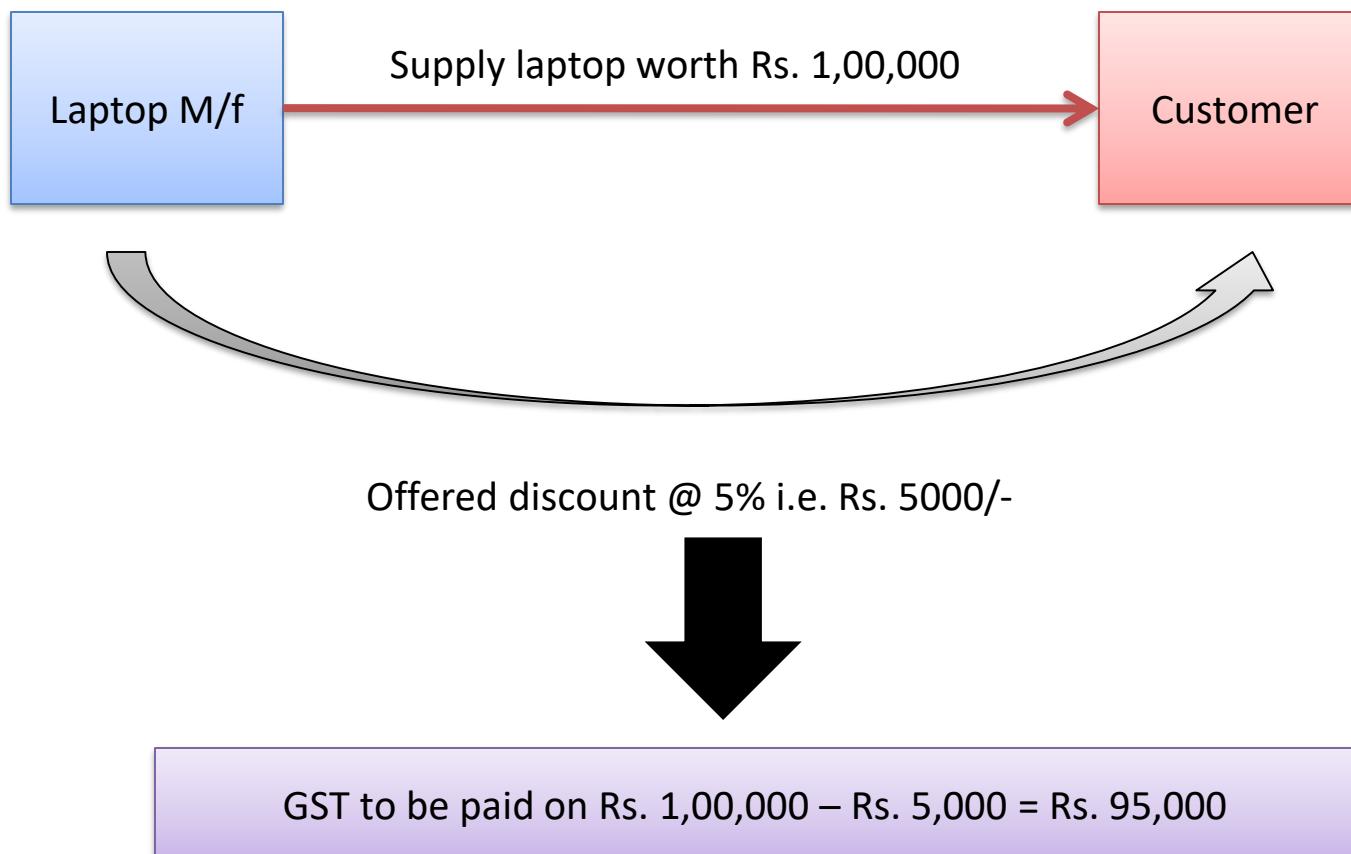
(a) Before or at the time of the supply

- If such discount has been duly **recorded in the invoice** issued in respect of such supply

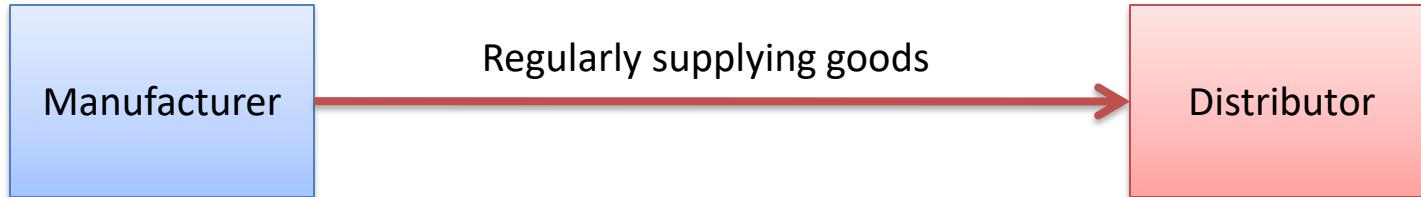
(b) After the supply has been effected

- If:
 - (i) Such discount is **established in terms of an agreement** entered into at or before the time of such supply and specifically linked to specific invoices; and
 - (ii) **Input tax credit** as is attributable to the discount on the basis of documents issued by the supplier, has been reversed by the recipient of the supply

Eg: Discount at the time of supply



Eg: Discount after supply



Quantity based incentives provided



20% cash back on purchase of 1,000 units per month for a year



Conditions to be satisfied for deducting discount from value



Established in terms of an agreement entered before or at the time of supply



Specifically linked to relevant invoices ?



ITC has been reversed by the recipient



Exceptions to Transaction Value

Value of SHARES APPLICABLE WHERE TV not applicable

Transaction value is not Assessable value

Reason

I. Supplier and recipient are related

II Price is not the sole consideration

Valuation to be done in accordance with GST Valuation Rules

(As finalized by the GST Council)

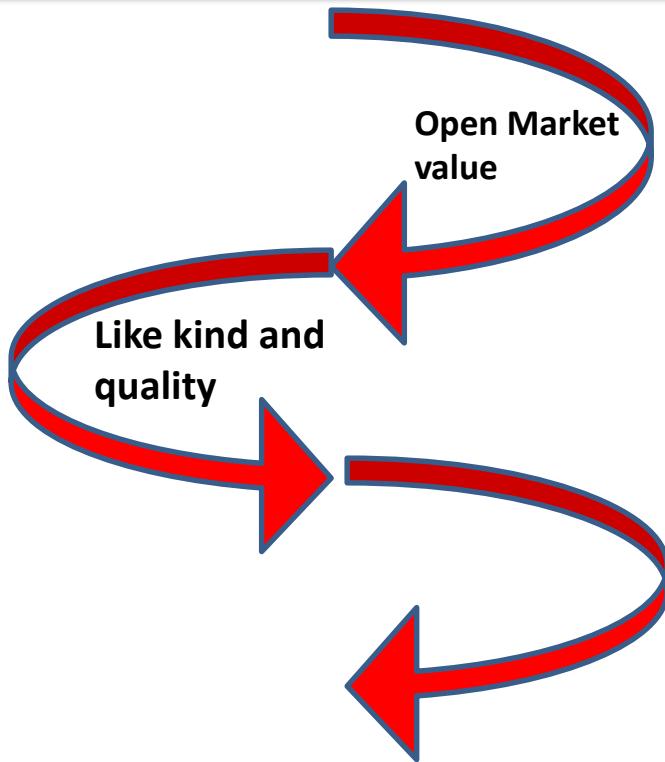
Value of such supplies as may be notified by the Government

**Section
15(5)**

- To be determined in such manner as may be prescribed

GST Valuation Rules

Broad Valuation Principles



Meaning of key terms

Open Market value – Explanation (a) to GST Valuation Rules

- “**to open market value** “ of a supply of goods or services or both means the **full value in money excluding the integrated tax ,central tax , State tax, Union territory tax and the cess payable** by a person in a transaction ,**where the supplier and the recipient of the supply are not related and the price is the sole consideration** to obtain such supply at the **same time** when the supply being valued is made.

Supply of goods or services or both of like kind and quantity – Explanation (b) to GST Valuation Rules

Supply of goods or services or both of like kind and quality means any other supply of goods or services or both made under similar circumstances that in respect of the characteristic ,quality functional components ,material and reputation of the goods or services or both first mentioned is the same as or closely or substantially resembles that supply of goods or services or both

Rule 1: Where consideration consideration is not wholly in money

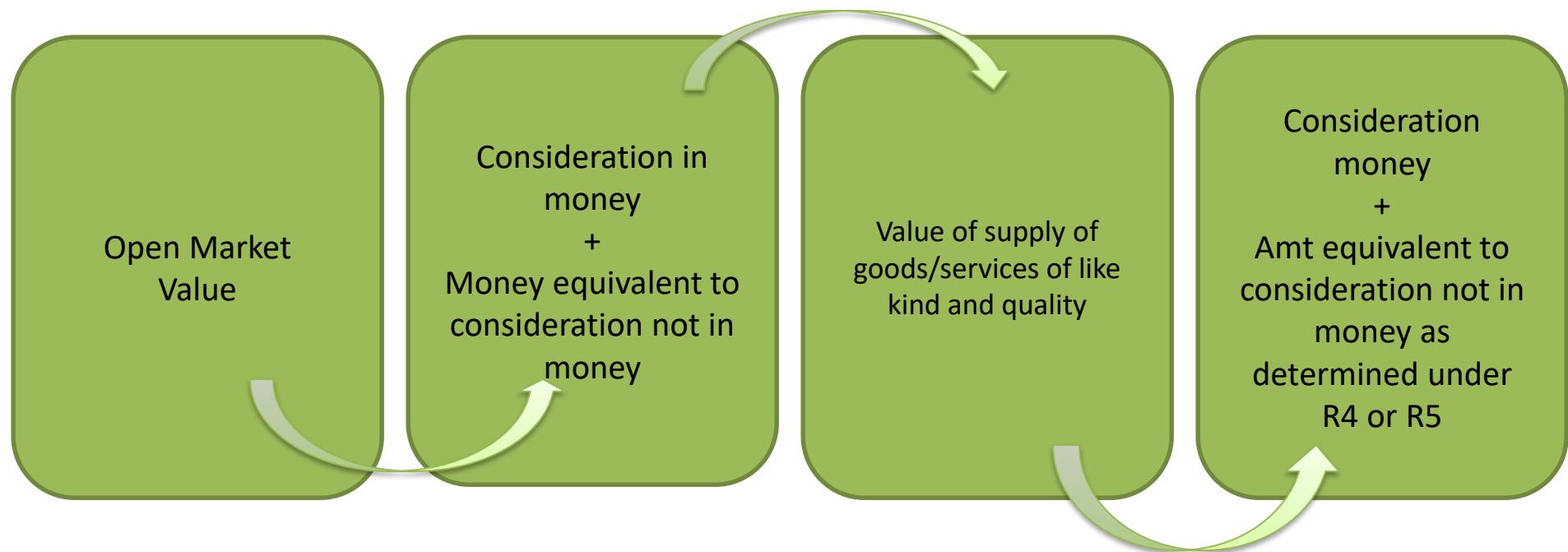


Illustration : Exchange

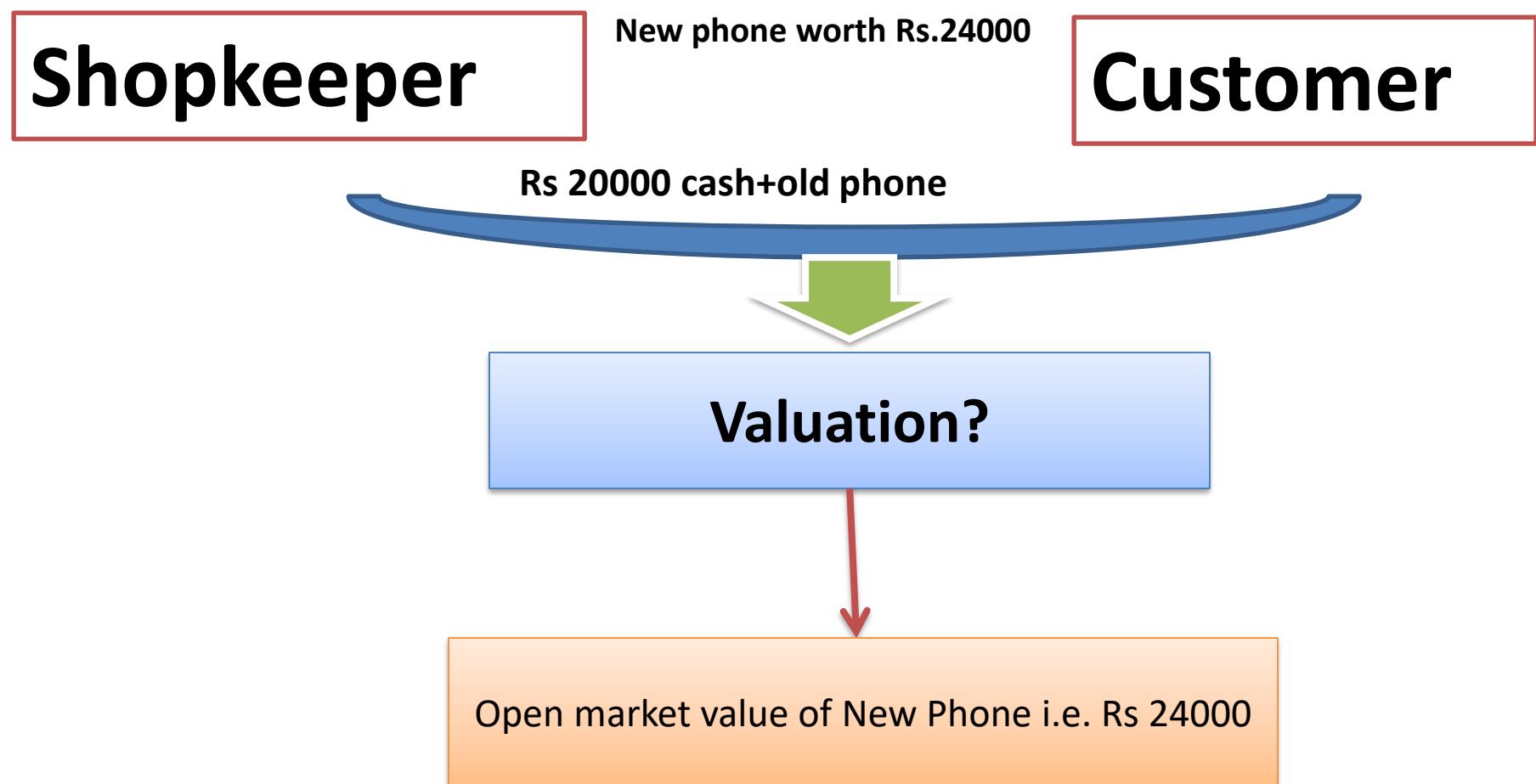


Illustration : Barter

Supplier

Laptop supplied for Rs 40000

Printer m/f

Printer given worth Rs 4,000

Value of laptop is not known

Valuation ?

Rs 40,000 +Rs 4,000 = Rs 44000

Rule 2 : Supply between distinct or related person

Open market value

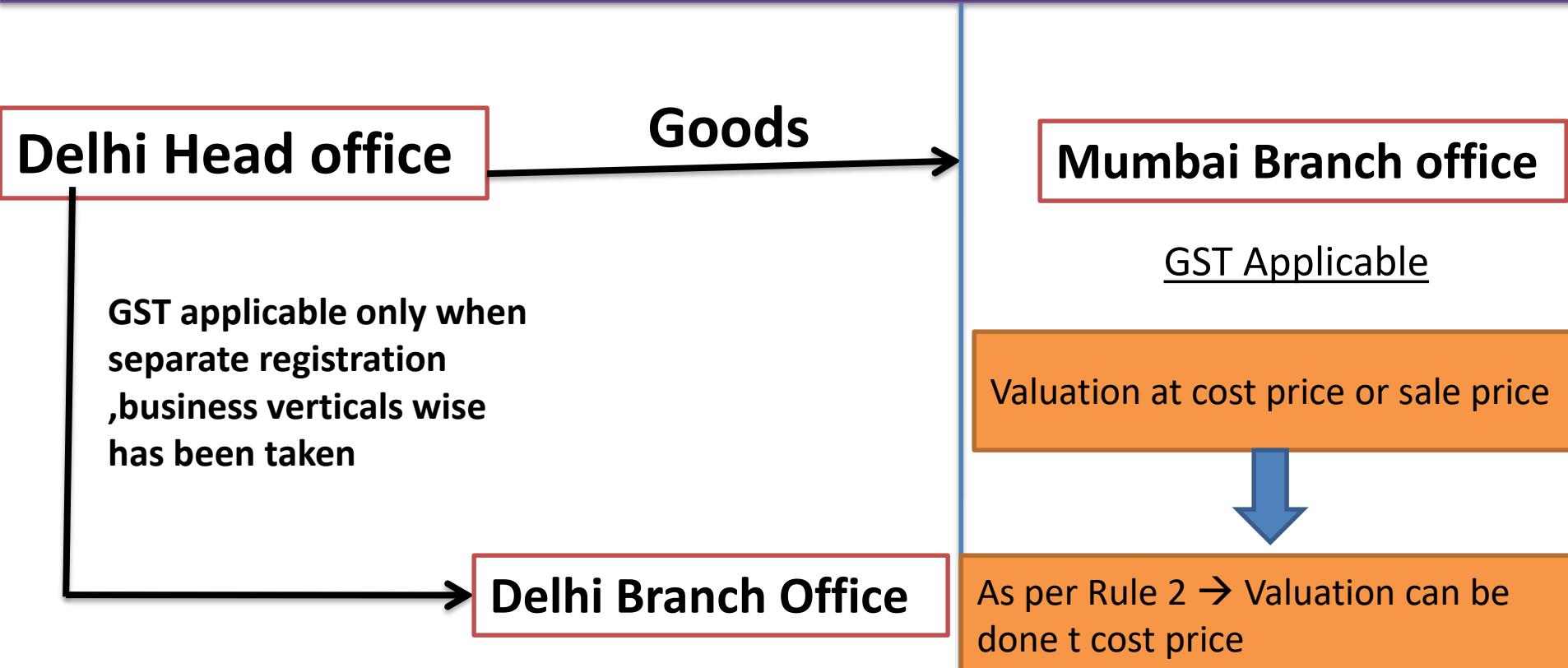
Value of supply of
goods/services of like
kind and quality

Value determined under
R4 or R5

Where recipient is eligible for full ITC → Value declared in invoice shall be deemed to be the open market value

Where goods are intended for further supply as such by the recipient → value shall be an amount equivalent to 90 % of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person → At the OPTION of the supplier

Illustration : Stock transfer



Rule 3: Supply through an agent

Value of supply shall be:

Open market value

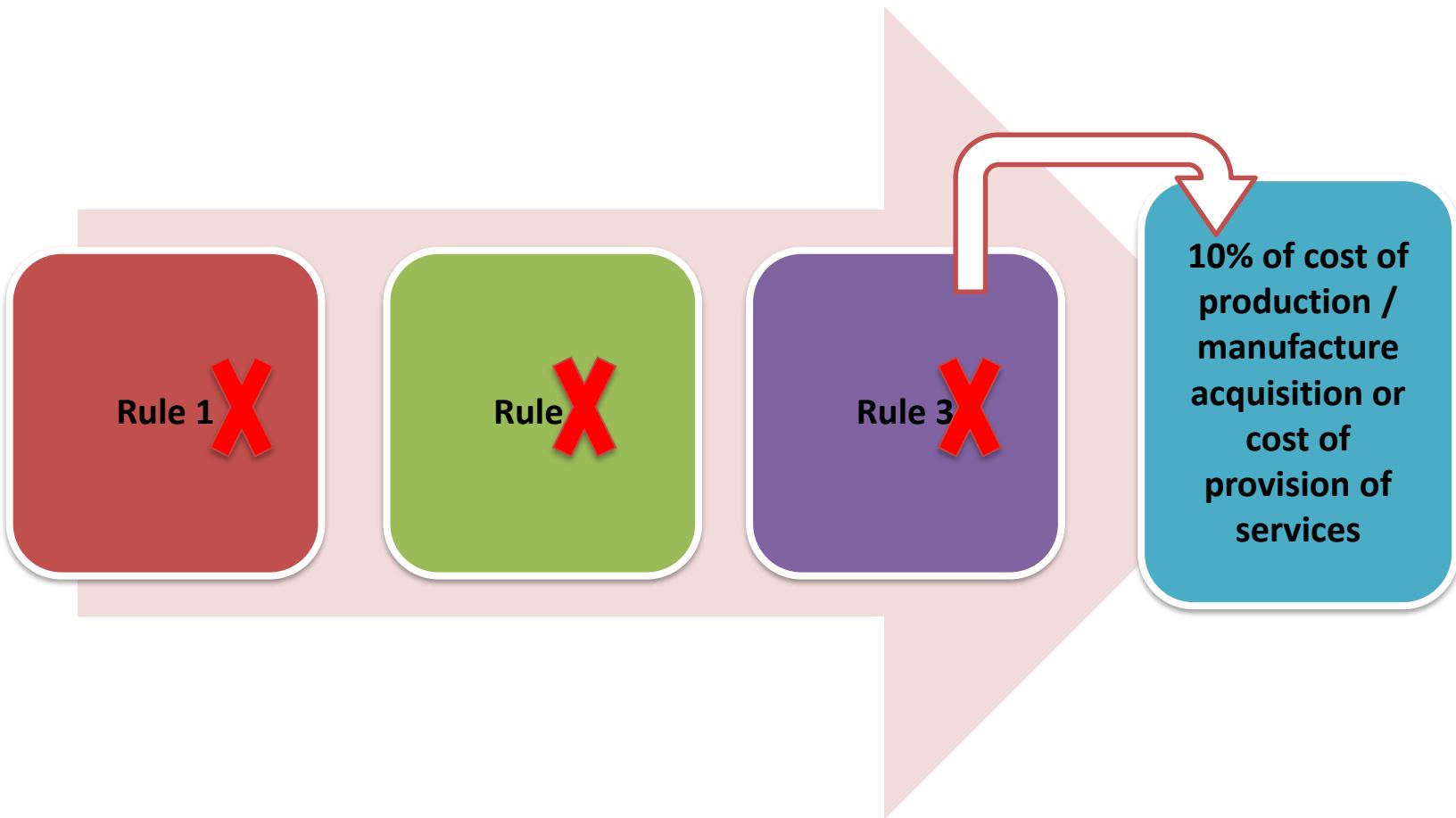
OR

**90% of price charged for
supply of goods of like kind
and quality by recipient to
an unrelated customer**

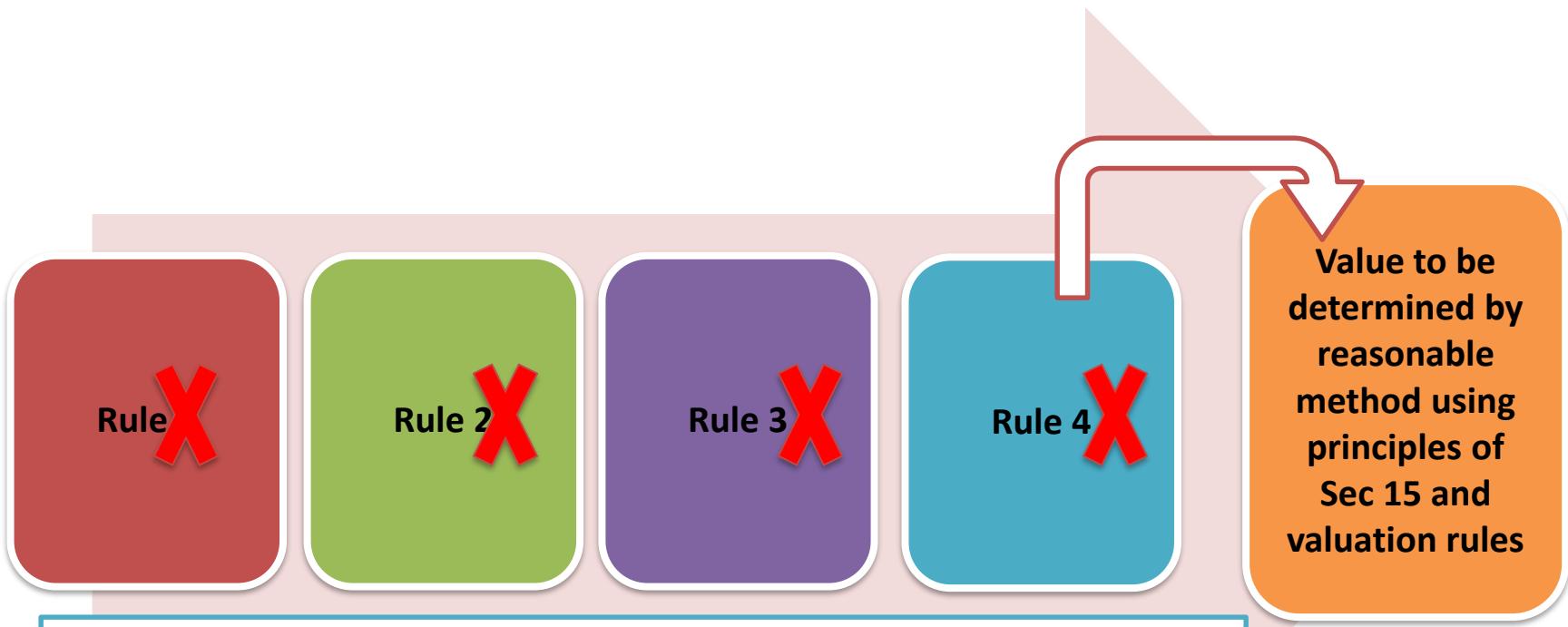
**Value determined
under R4 or R5**

At the OPTION of the supplier

Rule 4: Cost plus method



Rule 5: Residual method



Provided that in case of supply of services, the supplier may opt for this rule, disregarding Rule 4

Valuation in respect of certain supplies – Rule 6

Buying and selling second hand goods – Rule 6 (5)

- Buying and selling of second hand goods i.e. used goods as such or after minor processing which **does not change the nature** of the goods + where **no ITC** has been availed on purchase of such goods → Value → **Difference b/w selling price and purchase price**
- Where value is negative it shall be ignored

Purchased value of goods repossessed from a defaulting borrower – Proviso to Rule 6(5)

- Purchase value of goods repossessed from a defaulting borrower, who is not registered, for the purpose of recovery of loan or debt → shall be deemed to be the purchase price of such goods by the defaulting borrower reduced by 5 percentage points for every quarter or part thereof, between the date of purchase and the date of disposal by the person making such repossession

Valuation in respect of certain supplies – Rule 6

Token/ Vouchers/ Coupon/ Stamp – Rule 6(6)

- The value of a token, or a voucher, or a coupon, or a stamp (other than postage stamp) which is **redeemable** against a supply of goods or services or both → Shall be equal to the **money value of the goods or services** or both redeemable against such token, voucher, coupon, or stamp

Supply of services between distinct persons – Rule 6(7)

- The value of taxable services provided by such class of service provider as may be notified by the Government on the recommendation of GST Council as referred to in **paragraph 2 of Schedule I between distinct persons** as referred to in section 25, where **ITC is available** → **shall be deemed to be NIL**

Valuation for Pure Agent - For supply of Services

Rule 7 → The expenditure or cost incurred by the supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if ALL the following conditions are satisfied:

- (i) Service provider **acts as a pure agent** of the recipient of supply when he makes payment to third party on authentication by such recipient
- (ii) The payment made by the pure agent on behalf of the recipient of supply has been **separately indicated in the invoice** issued by the pure agent to the recipient of service; and
- (iii)The supplies procured by the pure agent by the third parties as a pure agent of the recipient of supply are **in addition to the services he supplies on his own account**

Meaning of Pure Agent

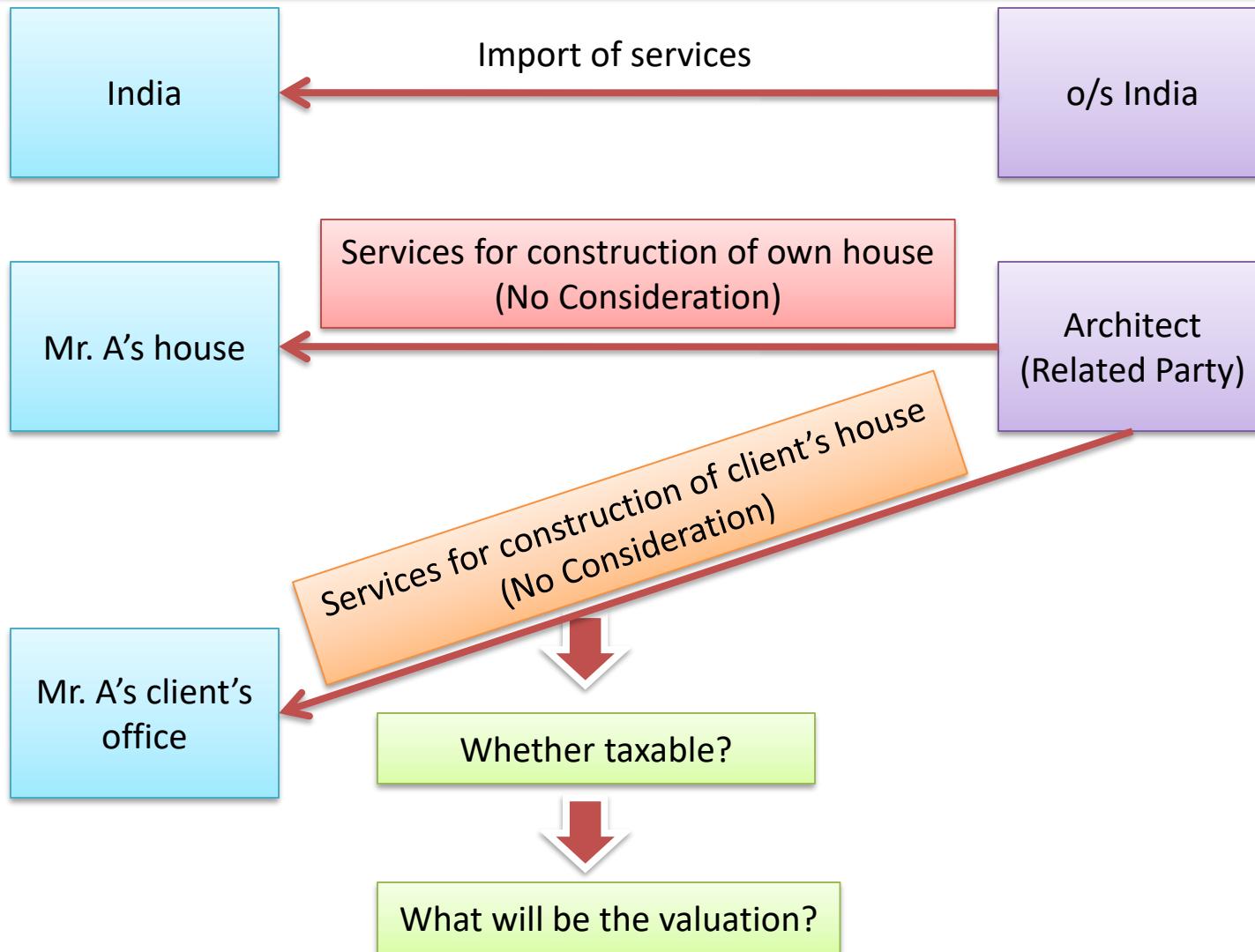
Explanation .- For the purposes of this rule, “**pure agent**” means a person who –

- (a) enters into a **contractual agreement** with the recipient of supply to act as his pure agent to incur expenditure or cost in the course of supply;
- (b) neither intends to hold nor holds any title to goods or services or both so procured or supplied as pure agent of the recipient of supply;
- (c) does not use for his own interest such goods or services so procured
- (d) receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account

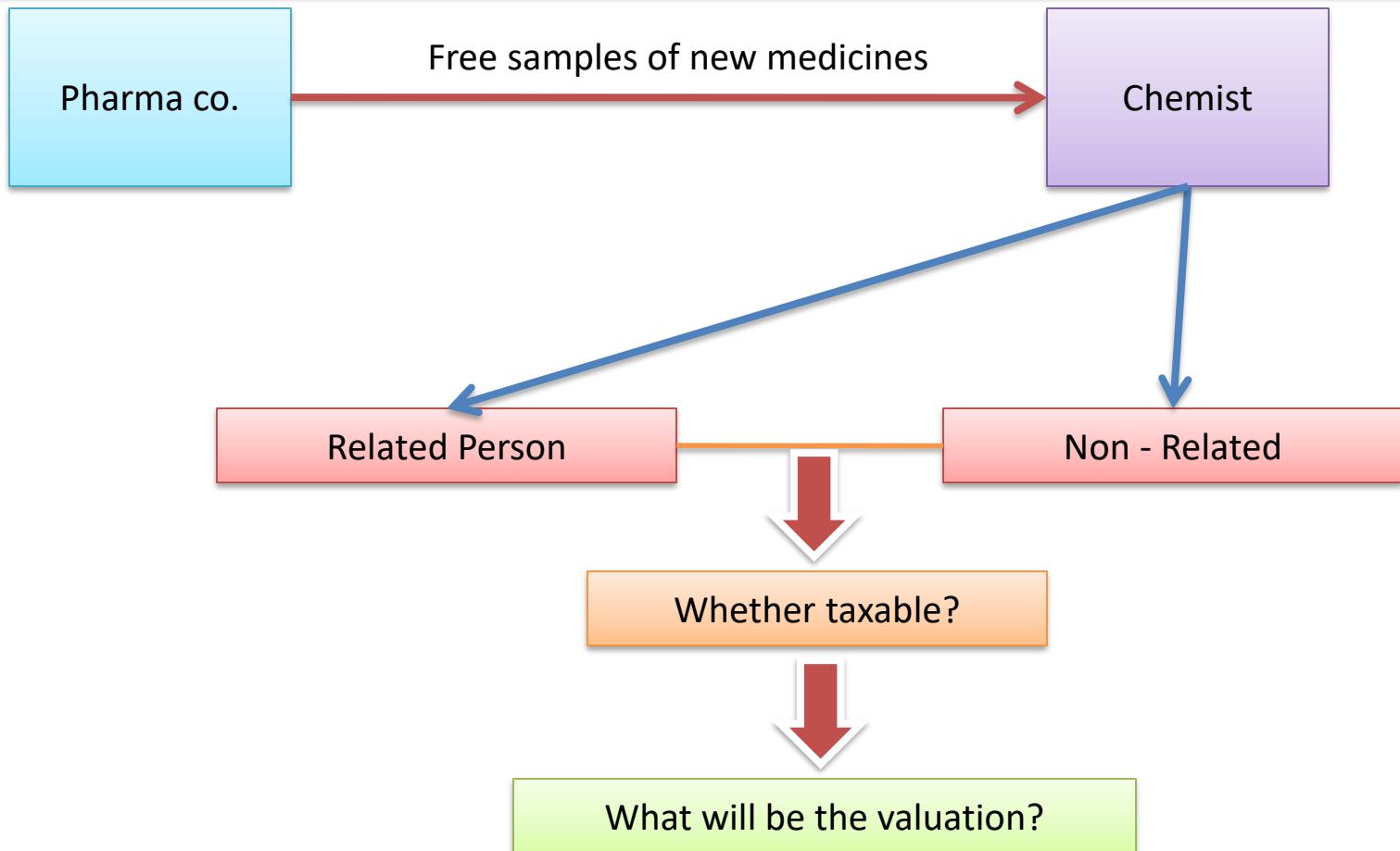
Special audit in case of doubtful valuation

Sec	Provision CGST Act, 2017
66	<p><u>Provisions of special audit</u></p> <p>(1) If at any stage of scrutiny, inquiry, investigation or any other proceedings before him, any officer not below the rank of Assistant Commissioner, having regard to the nature and complexity of the case and interest of revenue, is of the opinion that the <u>value has not been correctly declared</u> or the credit availed is not within the normal limits, he may, with the <u>prior approval of the commissioner</u>, direct such registered person by a communication in writing to get his records including books of account examined and audited by a chartered accountant or cost accountant as may be nominated by the commissioner</p>

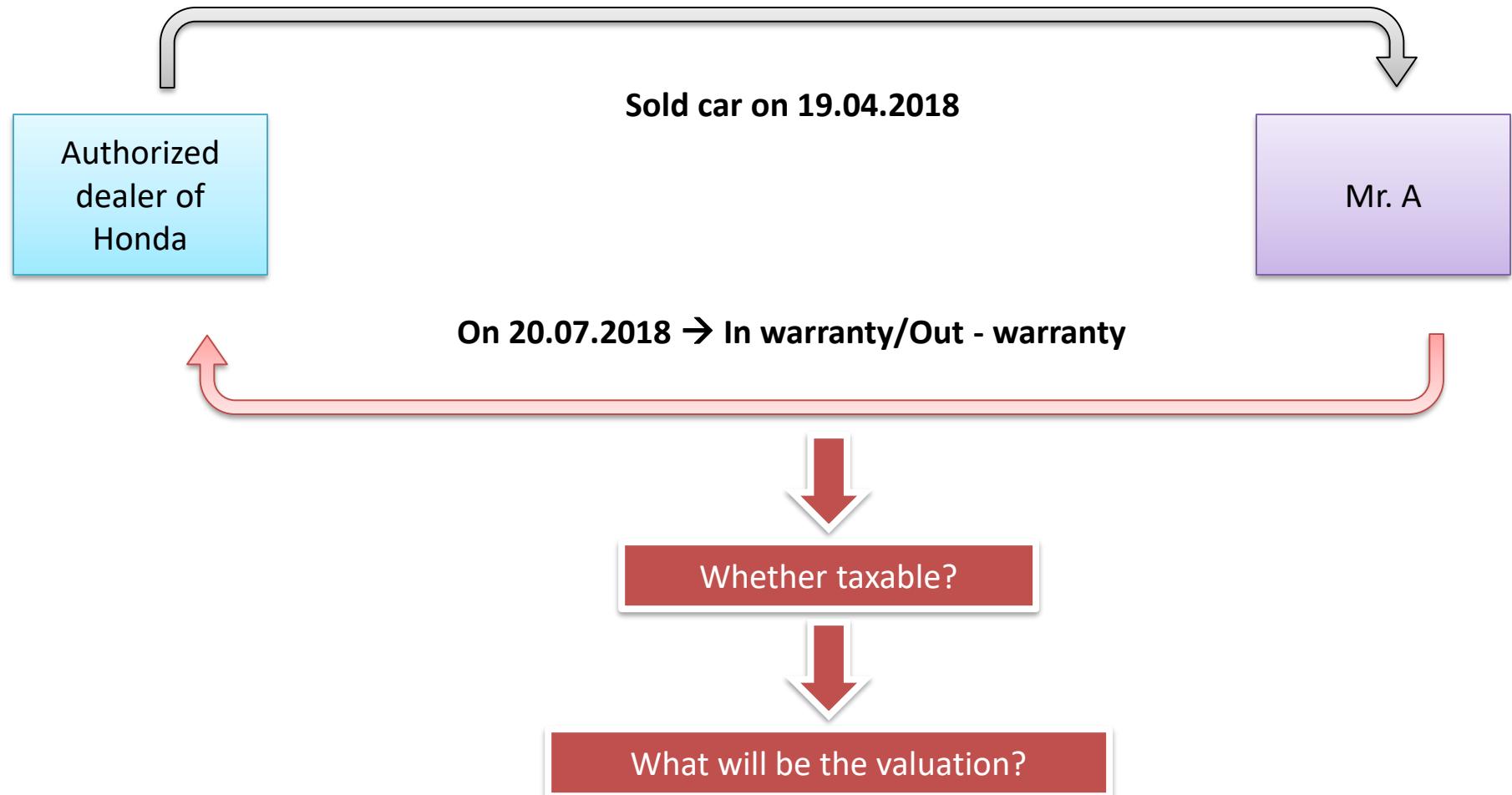
Case Study I: Import of services



Case Study I: Import of services



Case Study II: In warranty/Out - warranty



Key terms in GST

Input Tax Credit

'ITC'

Relevant Provisions - Definitions

Section (CGST Act, 2017)	Particulars	Section (IGST Act, 2017)
Sec 2(19)	Meaning of term 'Capital goods'	Sec 2(24)
Sec 2(59)	Meaning of term 'Input'	Sec 2(24)
Sec 2(60)	Meaning of term 'Input Service'	Sec 2(24)
Sec 2(61)	Meaning of term 'Input Service distributor'	Sec 2(24)
Sec 2(62)	Meaning of term 'Input tax'	Sec 2(24)
Sec 2(63)	Meaning of term 'Input tax credit'	Sec 2(24)

Sec	Provision (IGST Act, 2017)
2 (24)	words and expressions used and not defined in this act but defined in the Central Goods and Services Tax act, the Union Territory Goods and Services Tax act and the Goods and Services Tax (Compensation to States) Act shall have the same meaning as assigned to them in those Acts;

Definition of terms input tax credit and input tax

Sec	Provision (IGST Act, 2017)	
2 (63)	<p><u>Definition of terms input tax credit and input tax</u></p> <p>“input tax credit” means credit of ‘input tax’</p> <p>“ input tax” in relation to a registered person, means the central tax, state tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes –</p> <ul style="list-style-type: none">a) The integrated goods and service tax charged on import of goods;b) The tax payable under the provision of sub-sections (3) and (4) of section 9;c) The tax payable under the provision of sub-sections (3) and (4) of section 5 of The Integrated Goods and Service Tax Act;d) The tax payable under the provision of sub-sections (3) and (4) of section 9 of the respective State Goods and Service Tax Act; ore) The tax payable under the provision of sub-sections (3) and (4) of section 7 of the Union Territory Goods and Service Tax Act; <p>but does not include the tax paid under the composition levy;</p>	<p>Includes:</p> <ul style="list-style-type: none">✓ IGST paid on import of goods✓ Tax paid under RCM <p>Excludes:</p> <ul style="list-style-type: none">✓ Tax paid under Composition scheme <p>Deals with tax paid under RCM</p>

Definition of term input

Sec	Provision (IGST Act, 2017)
2 (59)	<p><u>Definition of terms 'input'</u></p> <p>“input” means any <u>goods other than capital goods</u> used or intended to be used by a supplier in the <u>course of furtherance of business</u>;</p>

Input - Wide definition

Goods other than capital goods

Used or intended to be used

by supplier

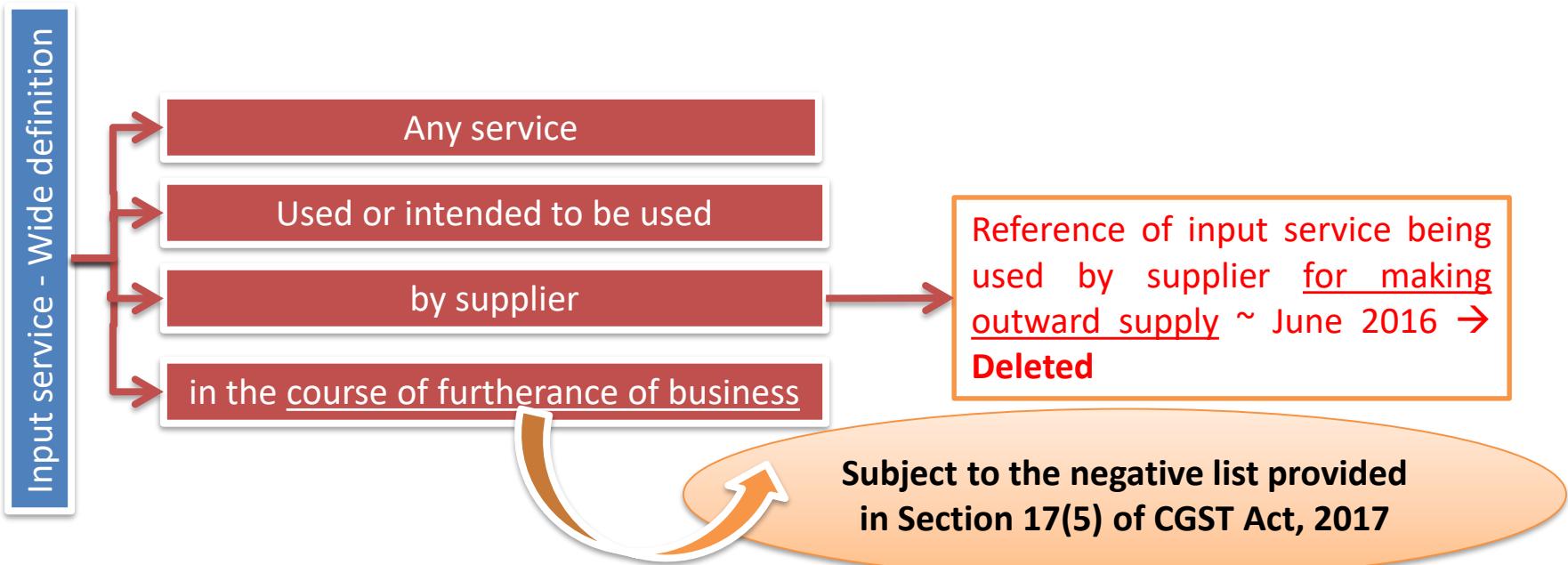
in the course of furtherance of business

Reference of inputs used by supplier for making outward supply ~ June 2016 → Deleted

Subject to the negative list provided in Section 17(5) of CGST Act, 2017

Definition of term ‘input service’

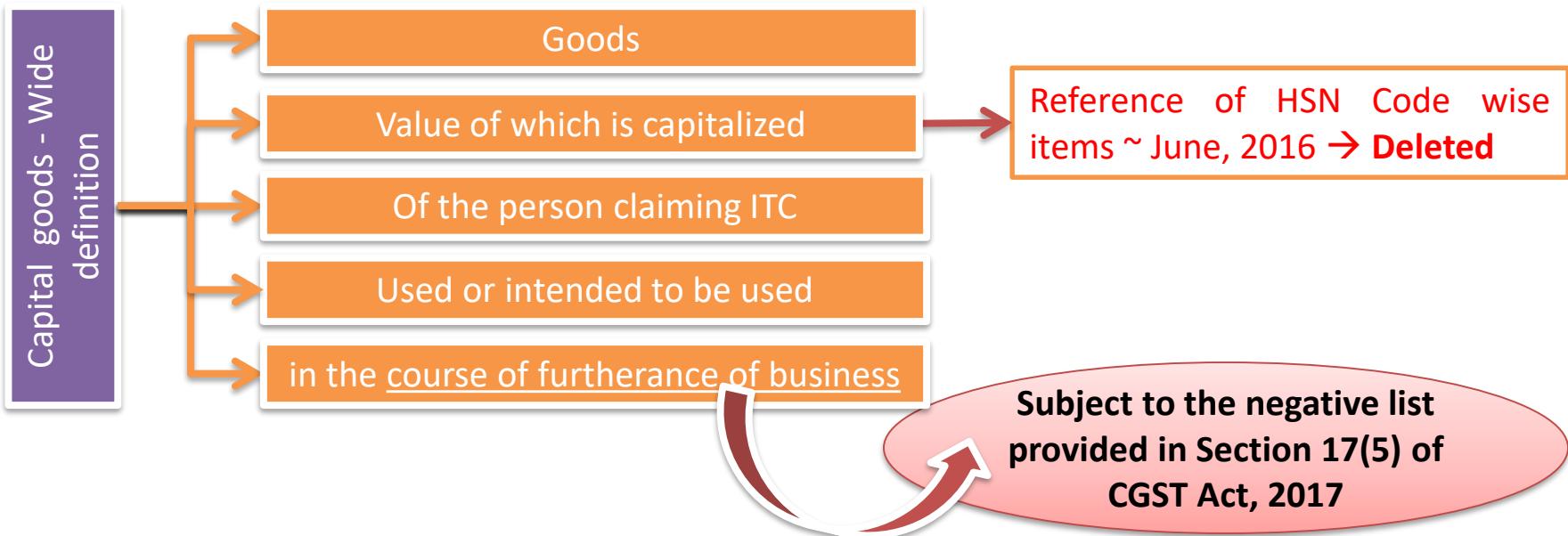
Sec	Provision (IGST Act, 2017)
2 (60)	<p><u>Definition of terms ‘Input service’</u></p> <p>“input service” means any service <u>used or intended to be used</u> by a supplier in the course of furtherance of business;</p>



Present Regime Vs. GST → concept of ‘Business’ re-introduced

Definition of term 'Capital goods'

Sec	Provision (IGST Act, 2017)
2 (19)	<p><u>Definition of terms 'Capital goods'</u></p> <p>"capital goods" means goods, the <u>value of which is capitalized in the books of accounts</u> of the person claiming the input tax credit and which are used or intended to be used by a supplier in the course of furtherance of business;</p>

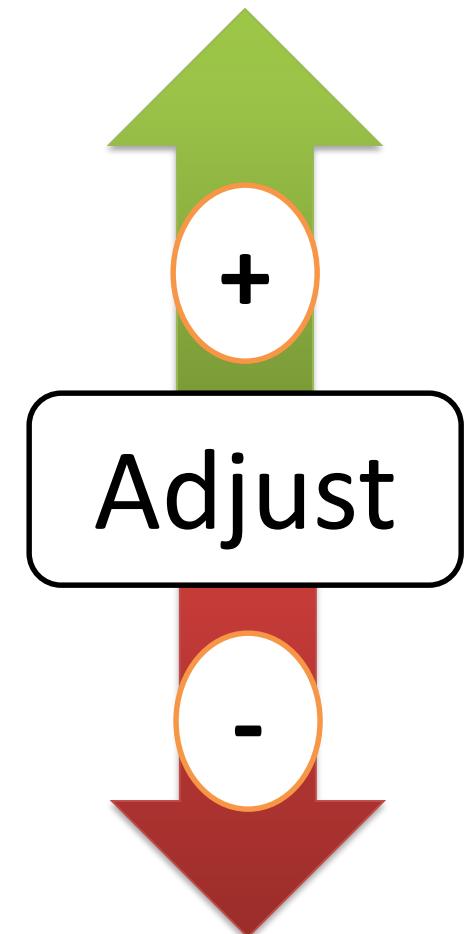
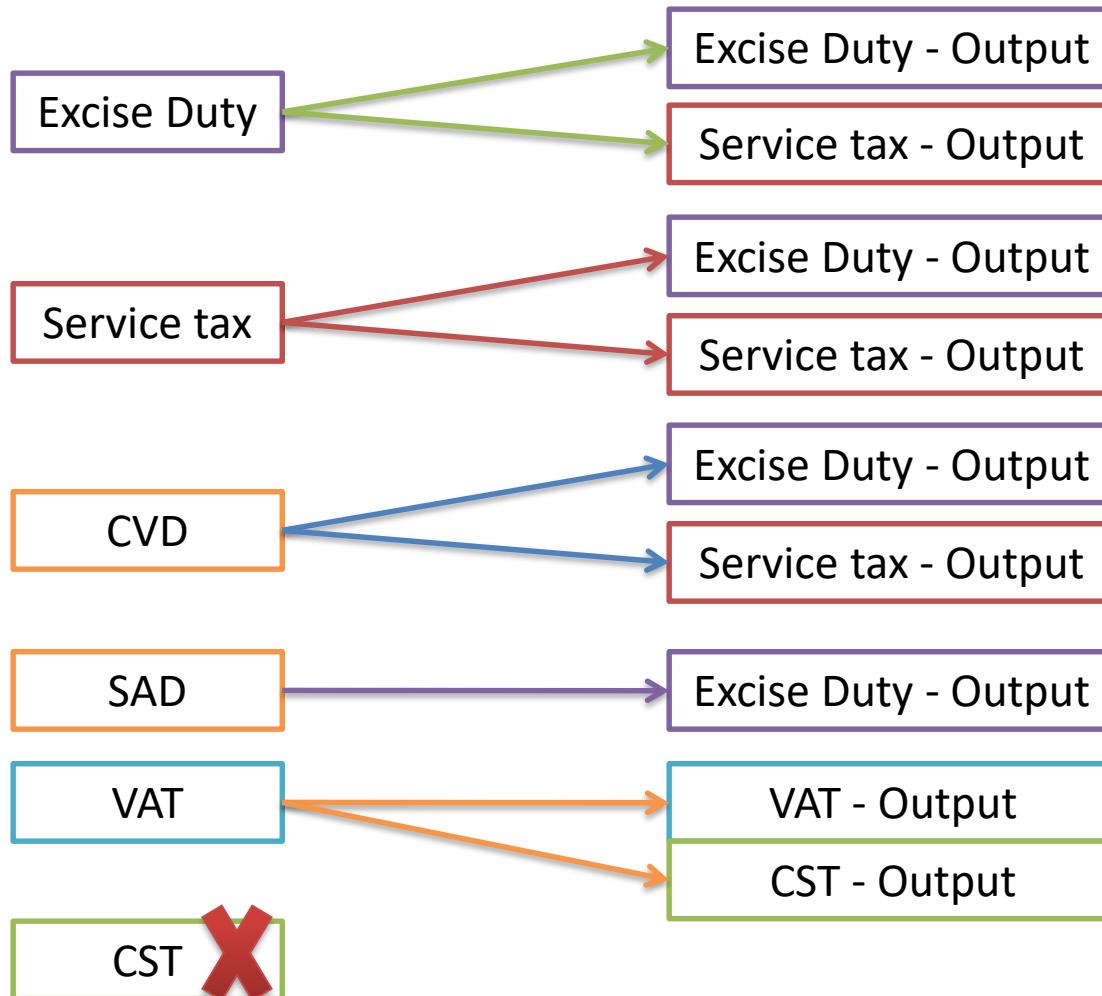


Manner of availing & utilizing GST ITC

Availability of credit – Present Indirect Tax Regime

Type of duty/ tax	Excise duty on Inputs and Capital goods	Service Tax on Input Services	VAT on Inputs and Capital Goods	CVD [Sec 3(1) of CTA]/ SAD [Sec 3(5) of CTA]On Inputs and Capital Goods [CTA – Customs Tariff Act, 1975]	CST On Inputs and Capital Goods
Nature of taxable person					
Manufacturer	✓	✓	✓	✓	✗
Trader	✗	✗	✓	✗ CVD ✓ SAD (Refund)	✗
Service Provider	✓	✓	✗	✓ CVD ✗ SAD	✗

Adjustment of credit – Present Indirect Tax Regime



Relevant Provisions – CGST Act, 2017

Chapter/ Section	Particulars
Chapter V: Input Tax Credit	
Section 16	Eligibility and conditions for taking ITC
Section 17	Apportionment of credit and blocked credit
Section 18	Availability of credit in special circumstances
Section 19	Taking ITC in respect of inputs and capital goods sent for job – work
Section 20	Manner of distribution of credit by input Service Distributor
Section 21	Manner of recovery of credit distributed in excess
Applicable to IGST wide Section 20 under Chapter IX (Miscellaneous) of the IGST Act, 2017	
Applicable to UGST wide Section 21 under Chapter IX (Miscellaneous) of the UGST Act, 2017	

Relevant Provisions – ITC Rules

Rule	Particulars
Rule 1	Documentary requirements and conditions for claiming input tax credit
Rule 2	Reversal of input tax credit in case of non – payment of consideration
Rule 3	Claim of credit by a banking company or financial institution
Rule 4	Procedure for distribution of input tax credit by Input Service Provider
Rule 5	Manner of claiming credit in special circumstances
Rule 6	Transfer of credit on sale, merger, amalgamation, lease or transfer of a business
Rule 7	Manner of determination of input tax credit in respect of inputs and input services
Rule 8	Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases
Rule 9	Manner of reversal credit under special circumstances

Eligible person & Manner of availing ITC

Sec 16(1)

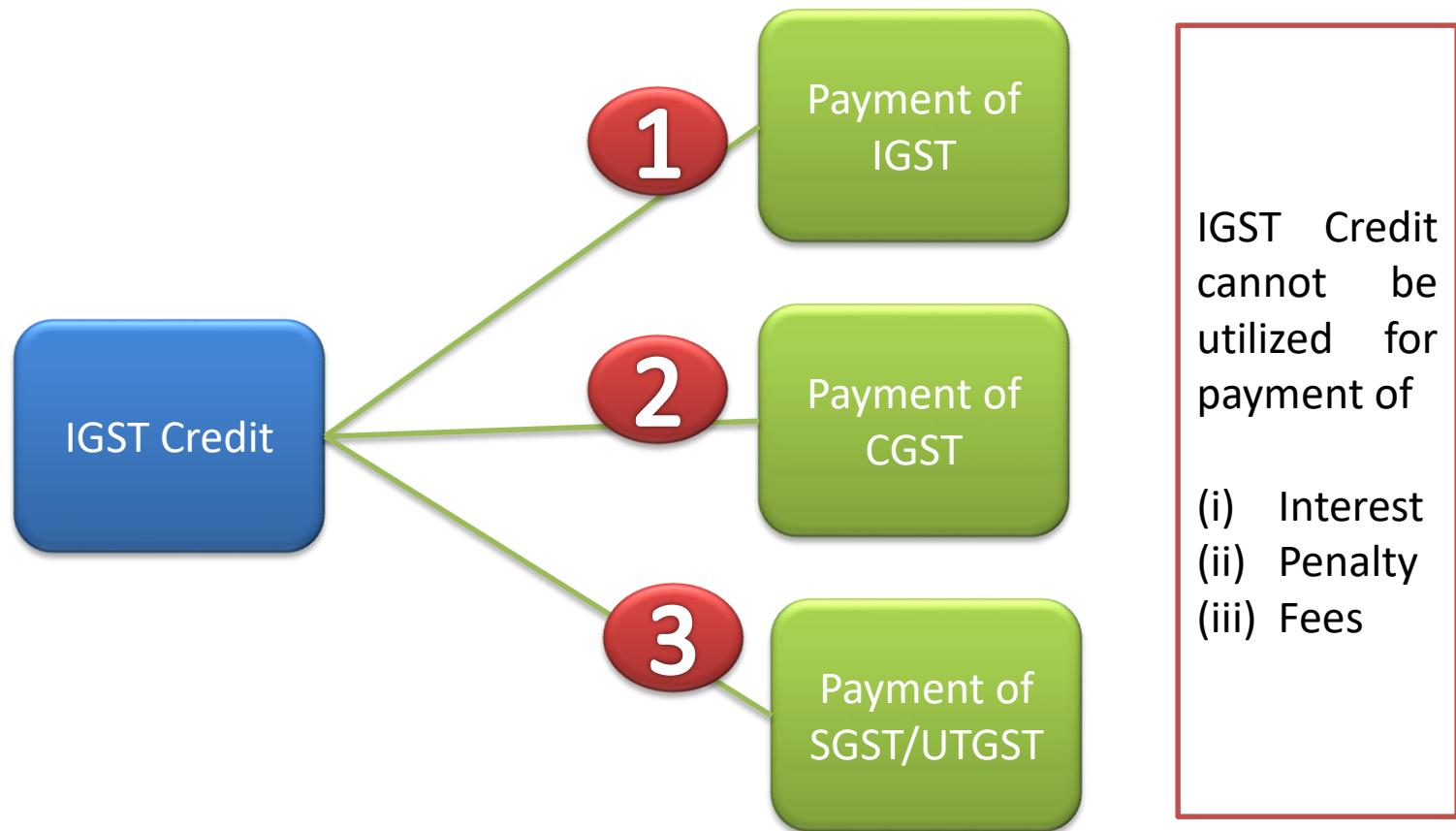
-Every registered taxable person

- Subject to such conditions and restrictions as may be prescribed; and
- within the time and manner specified in Sec 49

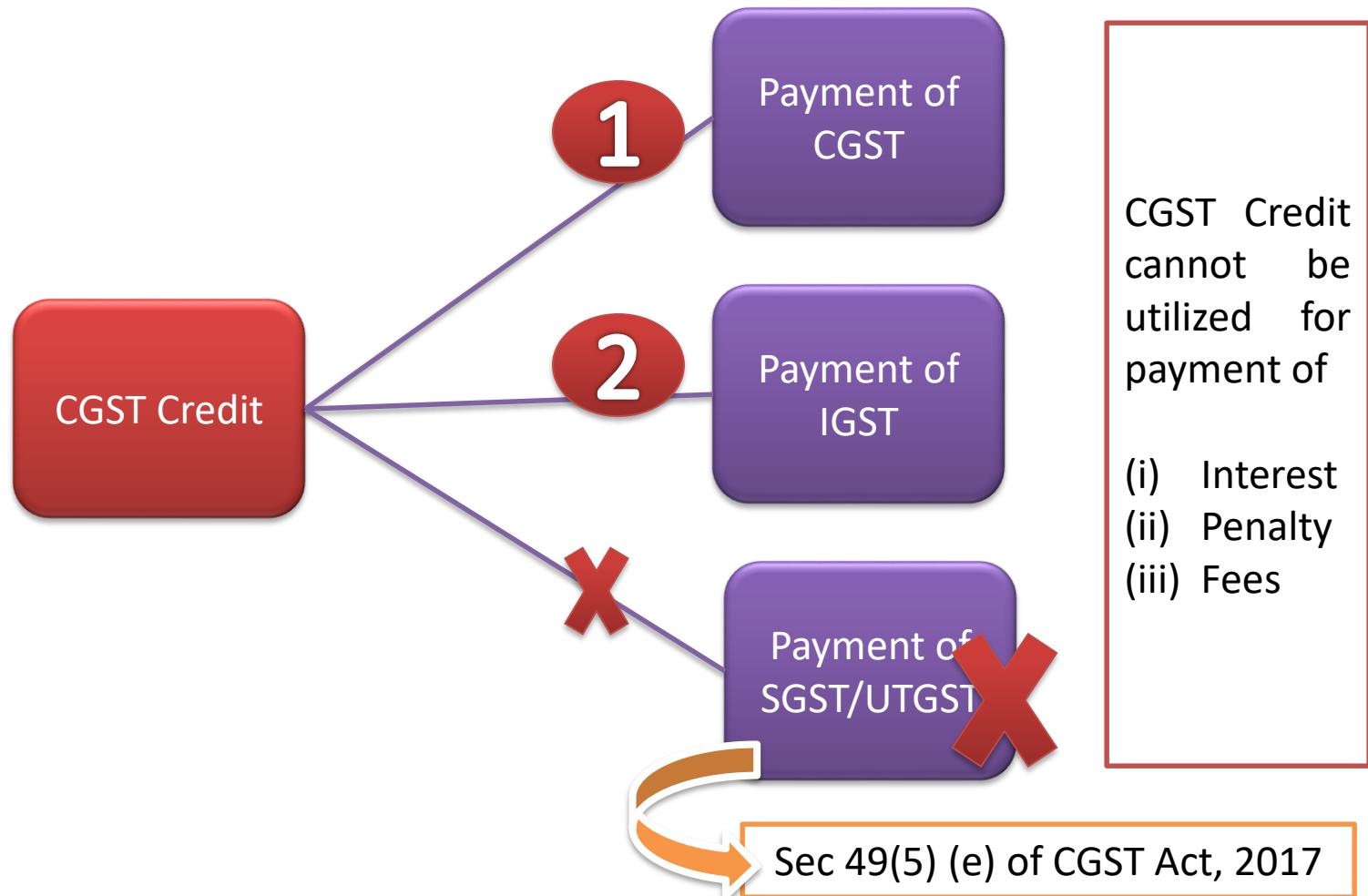
Entitled to take ITC admissible to him

Said amount to be credited to the electronic credit ledger of such person

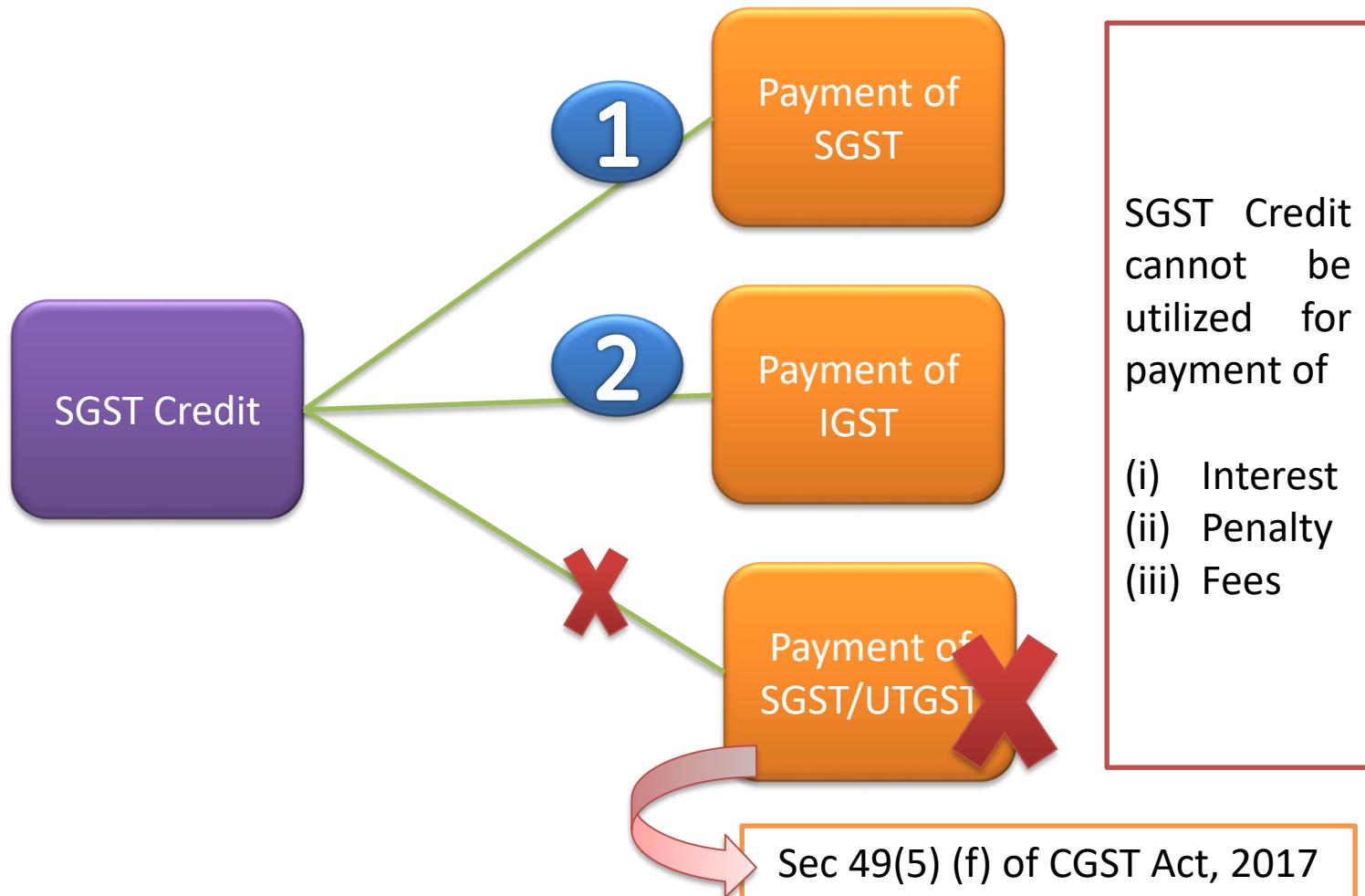
Manner of utilization of IGST credit – Sec 49(5)(a) of CGST Act



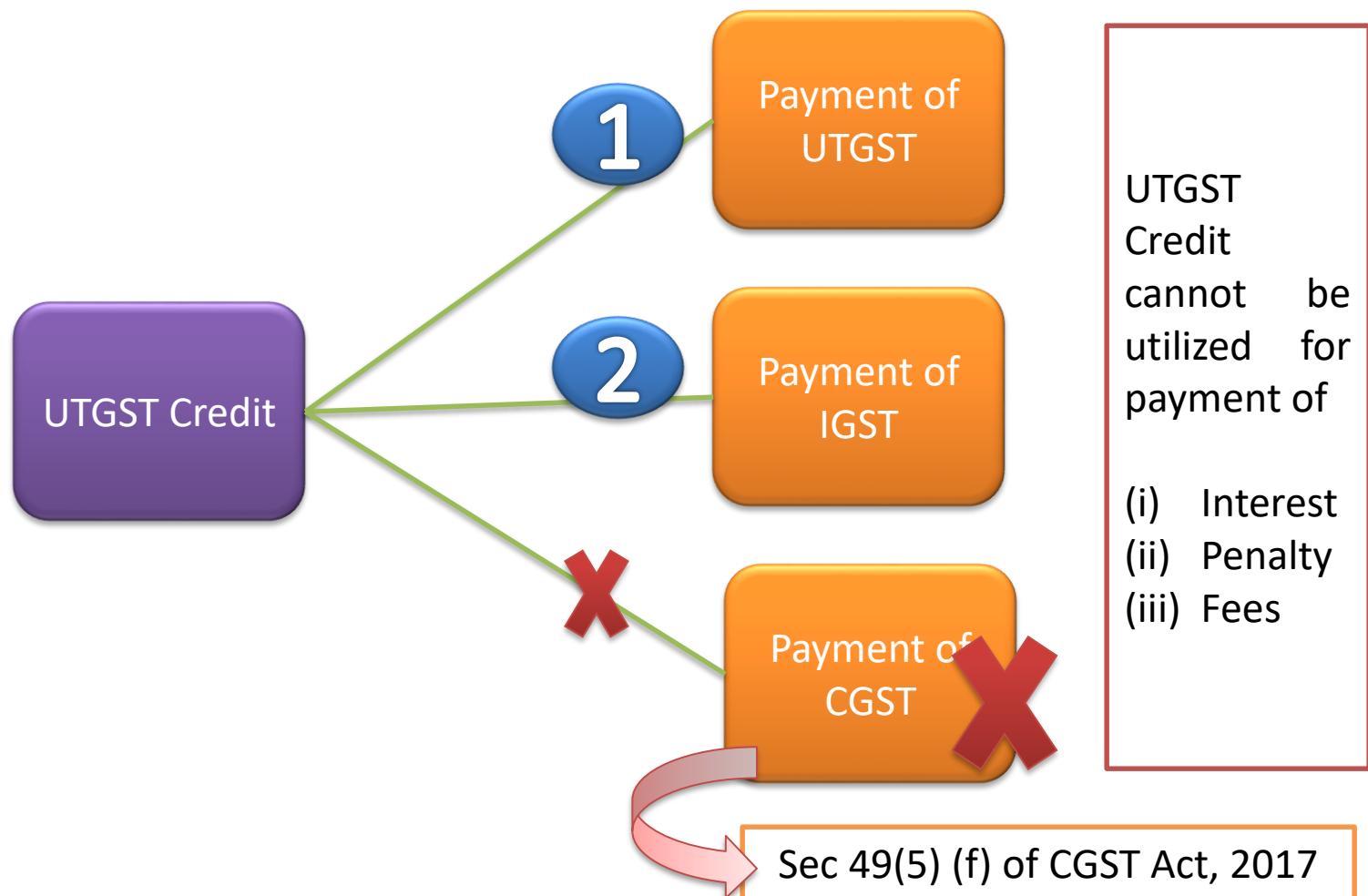
Manner of utilization of CGST credit – Sec 49(5)(b) CGST Act



Manner of utilization of SGST credit – Sec 49(5)(c) of CGST Act



Manner of utilization of UTGST credit – Sec 49(5)(d) of CGST Act



Conditions to avail GST ITC

Essential conditions to avail GST ITC

Sec 16(2)

(a) he is in **possession of a tax invoice or a debit note** issued by a supplier registered under this Act, or such other tax paying document as may be prescribed;

(b) he has **received the goods or services or both;**

GST payable on advance but corresponding ITC not available to recipient till receipt

Claim of ITC on Provisional basis

(c) Subject to provision of **section 41**, the **tax charged** in respect to such supply has been **actually paid to the Government**, either in cash or through utilization of input tax credit admissible in respect of the said supply; **and**

(d) he has **furnished the return** under section 39

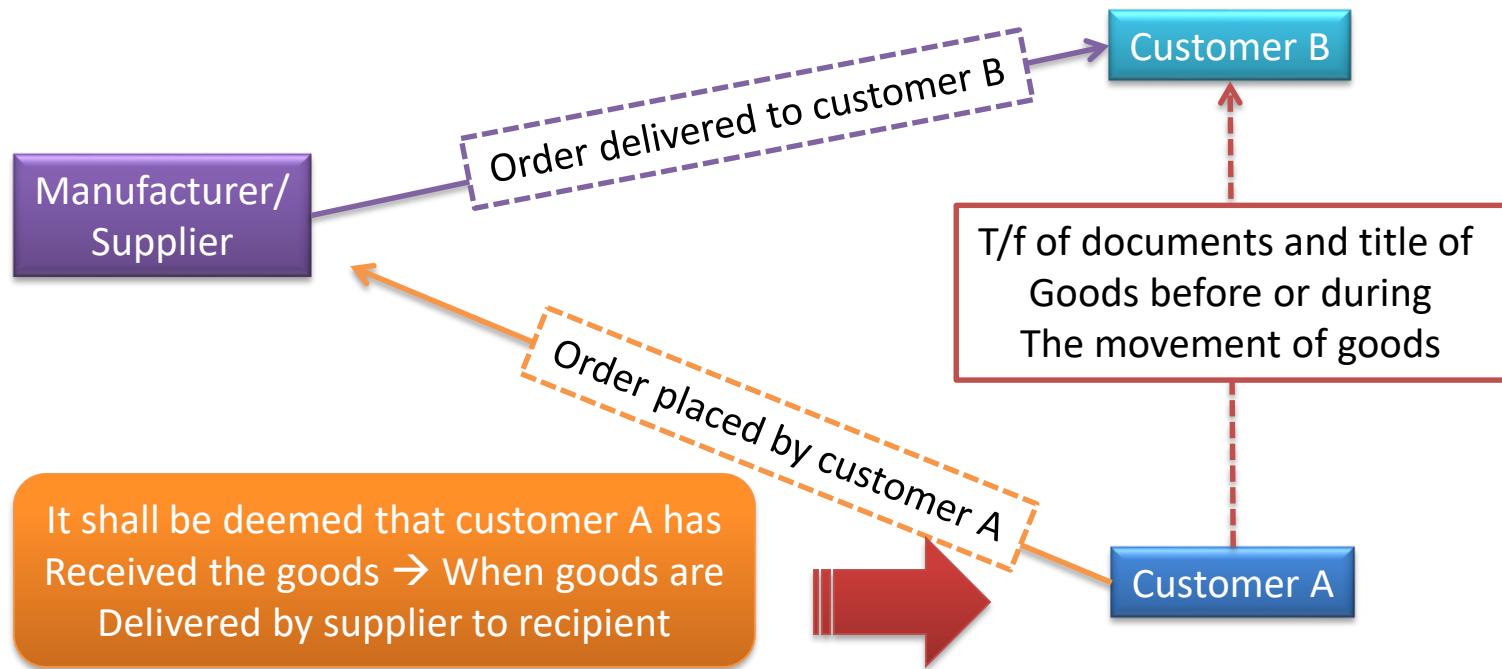
ITC dependent upon payment of tax by supplier → Concept of ITC matching and Mis-matching

Deemed receipt of goods by taxable person – Bill to Ship to

Explanation to Sec 16(2)(b)

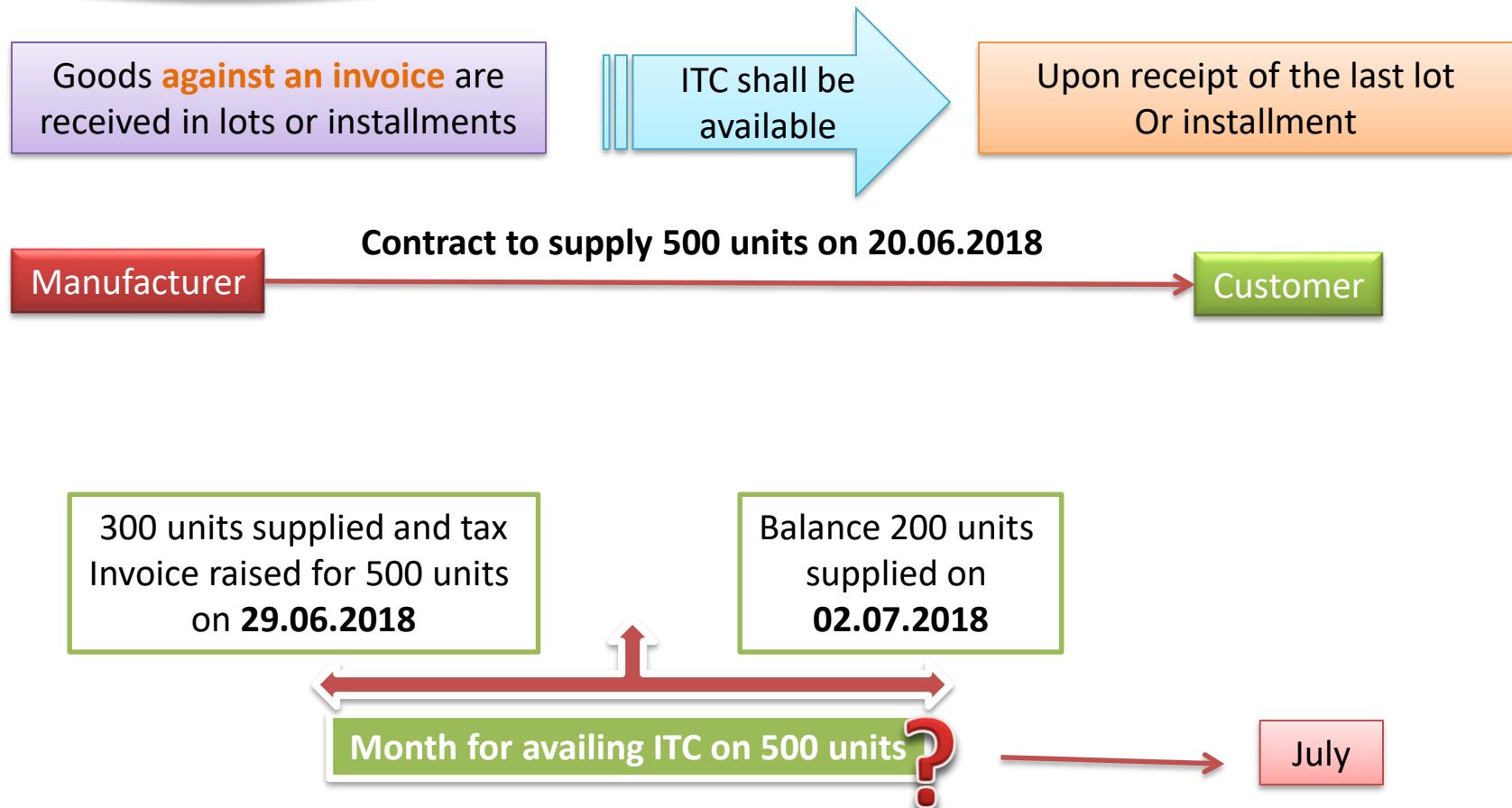


For Bill to Ship to model



ITC when goods against invoice are received in lots

1st proviso to section 16(2)



Invoices (Goods + Services) to be paid within 180 days

2nd proviso to section
16(2) read with rule 2

Rule 2(1) & (2) → In GSTR-2 for the month
Immediately following 180 days from issue of
invoice

Payment (Value
+ Tax) is not
made to vendor

Within 180 days

Amt equivalent
to ITC availed

Will be added to
output tax
liability along
with interest

Invoice	Value	Paid or not paid within 180 days from the date of invoice			Partially paid
Goods	100	✗	✓	✗	50
GST	18	✓	✗	✗	9
ITC admissible		No	No	No	Yes Yes → upto Rs 9

→ 3rd proviso to Sec 16(2) → Credit of ITC can be re-claimed on payment being made (Value+ Tax)

→ Proviso to Rule 2 → Reversal of ITC not applicable in case of supply made without consideration

→ Rule 2 (4) → Time limit for availing ITC not applicable in case of re- claim of ITC reversed earlier

No ITC when depreciation claimed on tax component of cost of CG

Sec 16(3)

(a) Depreciation is claimed on tax component

(b) Under income tax Act, 1961

Result=(a)+(b)
ITC shall not be allowed on such tax component

If Depreciation Charged on Rs 10,00,000/-

Cost of machinery: Rs. 10,00,000/-
GST @ 18%*: Rs. 1,80,000/-
Total value of machinery : Rs 11,80,000/-
assumed rate of GST

If Depreciation Charged on Rs 11,80,000/- (i.e. incl tax component)

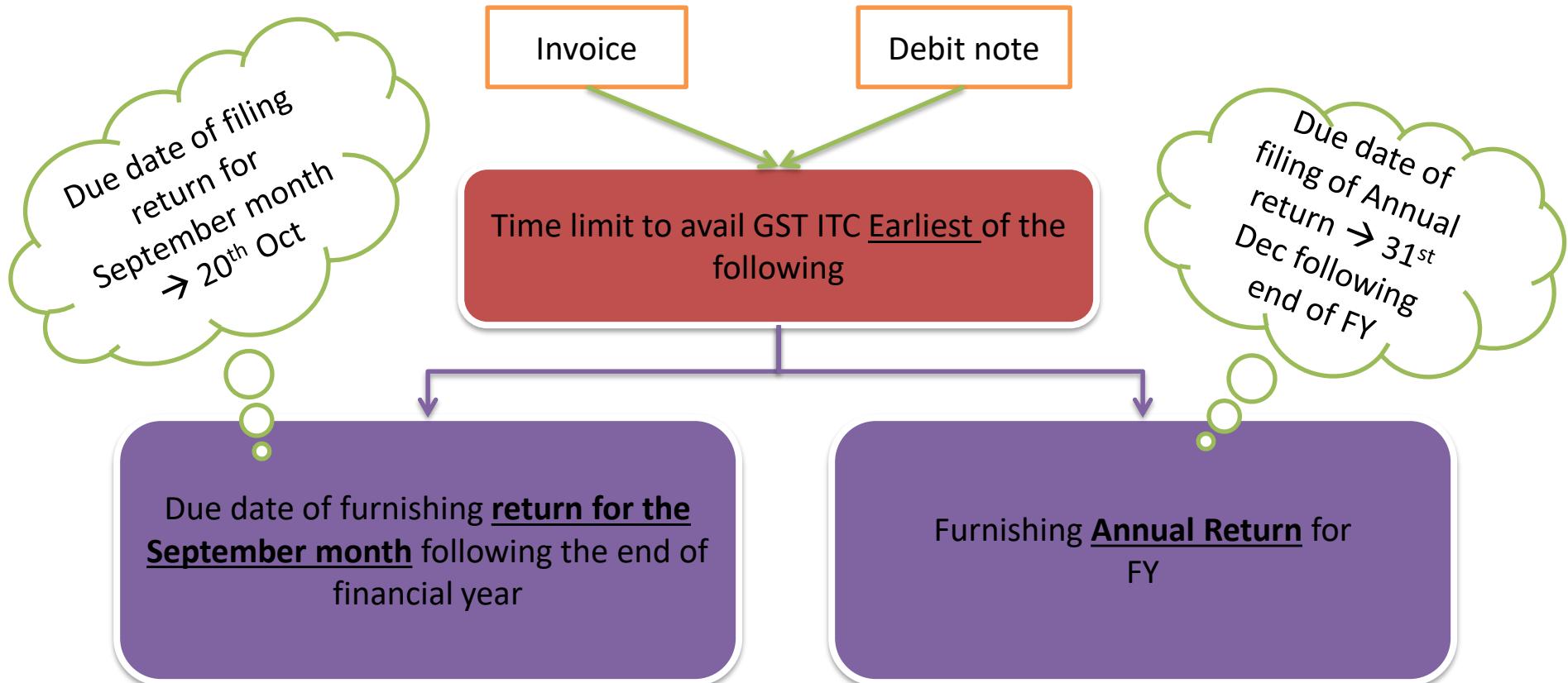
ITC available

ITC not available

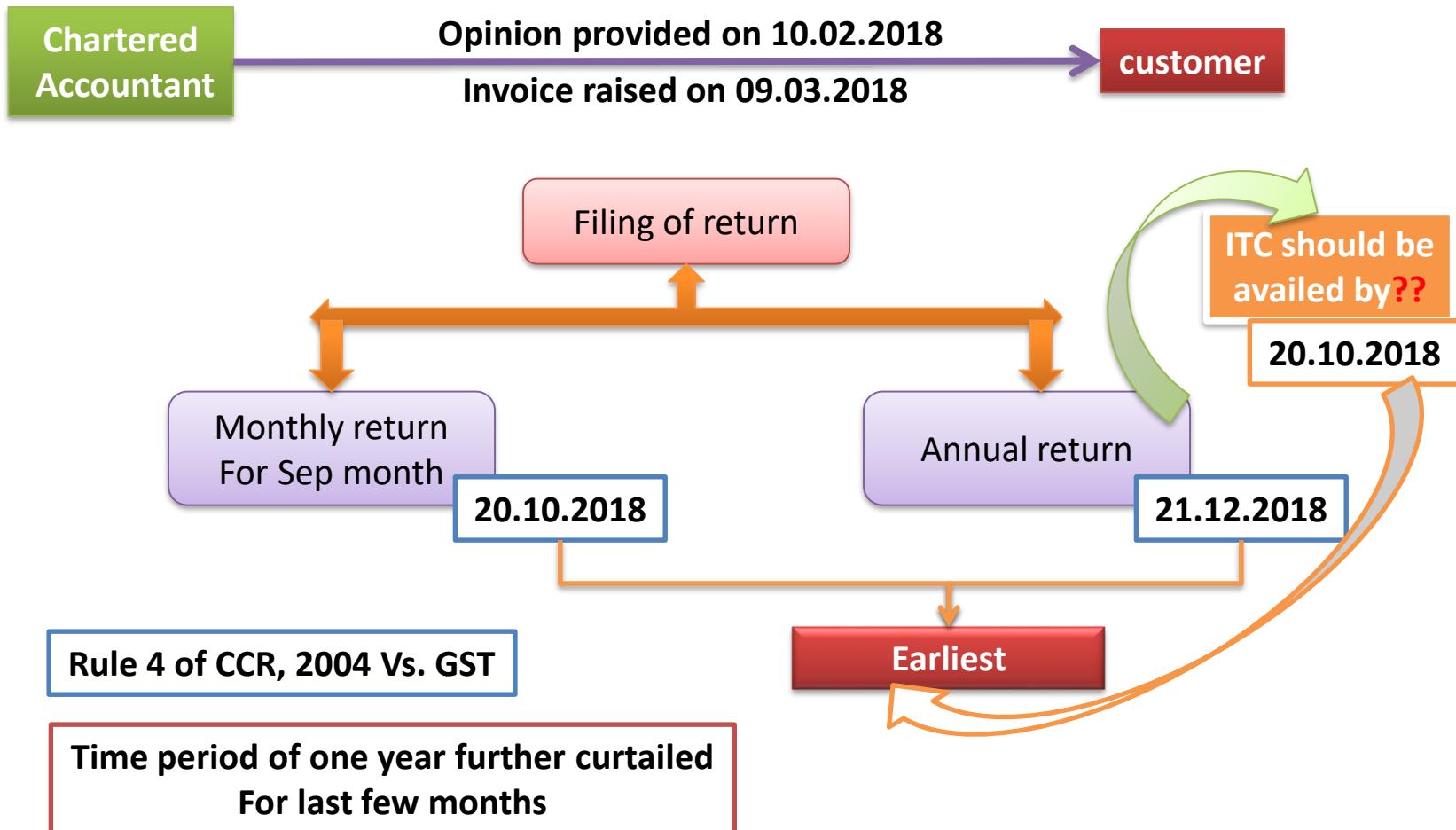
A person cannot enjoy double benefit under two different statutes

Time period to avail GST ITC

Section 16(4)

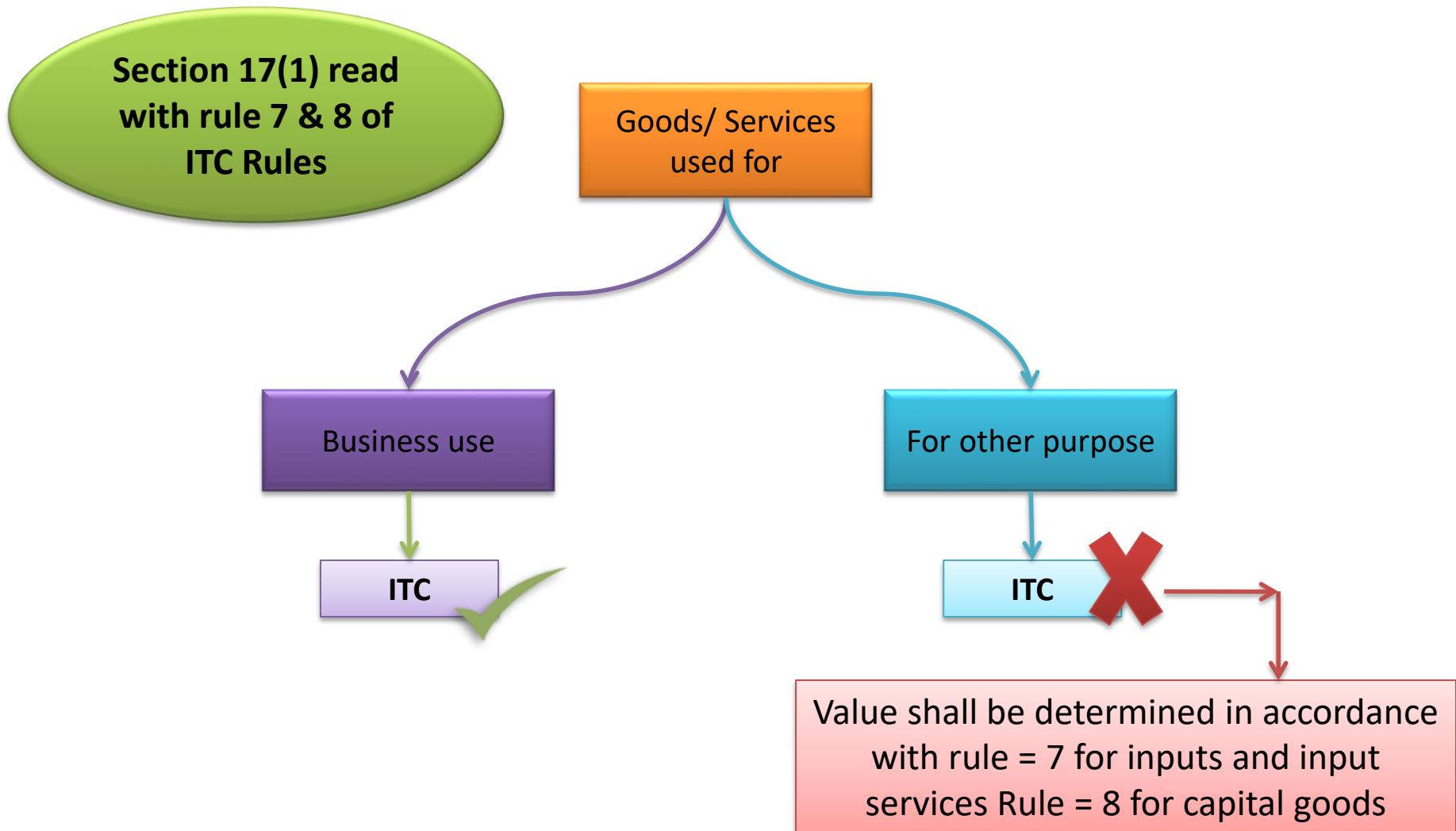


Eg: Time period to avail GST ITC

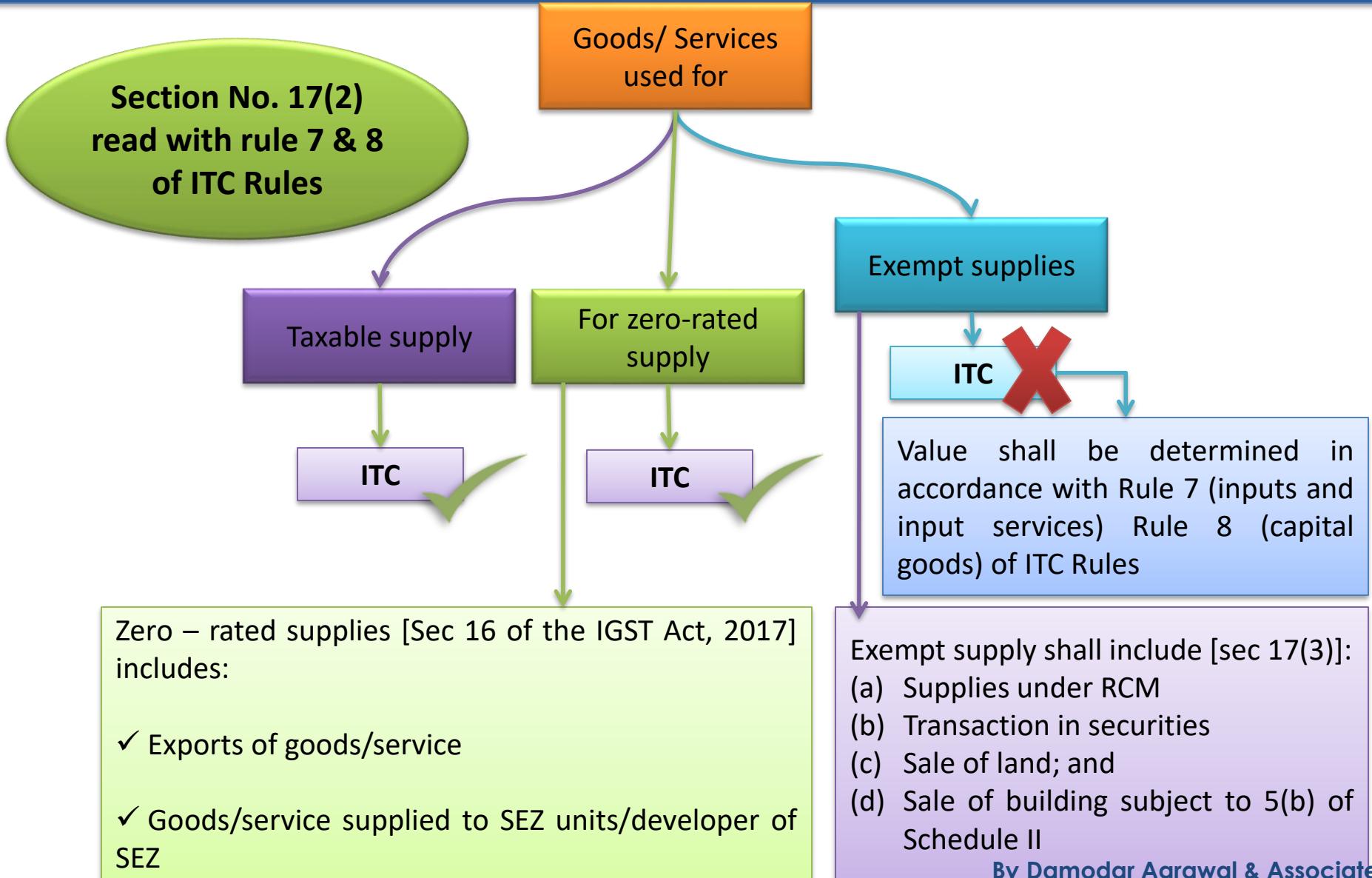


Apportionment of Credit & Blocked Credits

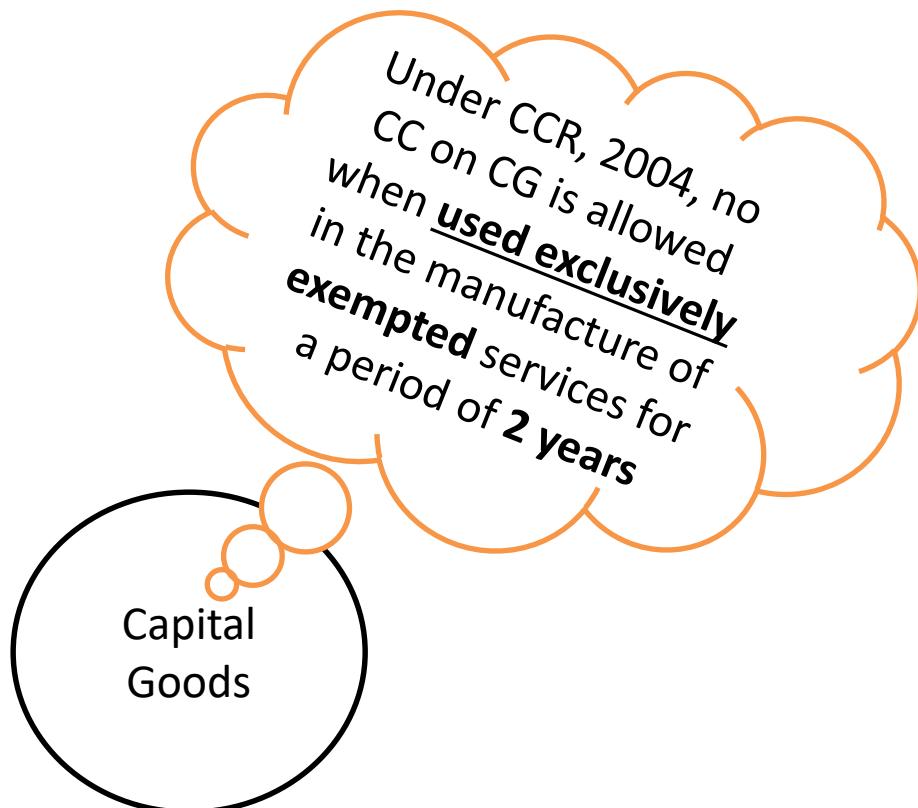
ITC available only to the extent of business use



ITC available only to the extent taxable supplies + zero-rated supplies



CC on CG in present regime Vs. ITC on CG in GST



Rule 6(4) of CCR, 2004 Vs.
Sec 17(2) of GST Law

ITC on CG also restricted to the extent used for taxable supplies including zero-rated supplies

Proportionate reversal of common ITC in respect of CG required !!

Optional 50 % ITC to Banking companies / FI including NBFC

Section 17(4) read with Rule 3 of ITC Rules

Banking Company or a financial institution including a NBFC

Engaged in supply of

Services by way of accepting deposits, extending loans or advances



Option 1 : can company with provision of Section 17(2) of CGST Act, 2017

Option once exercised
can't be withdrawn
during remaining part of FY

OPTION 2: can avail every month an amount equal to 50 % of the eligible ITC on

- a) Inputs
- b) Capital Goods
- c) Input services

Rest of the credit will lapse

- Restriction of 50% credit shall not apply to tax paid on supplies made by one registered person to another registered person having the same PAN.
- Procedure contained in Rule 3 of ITC Rules

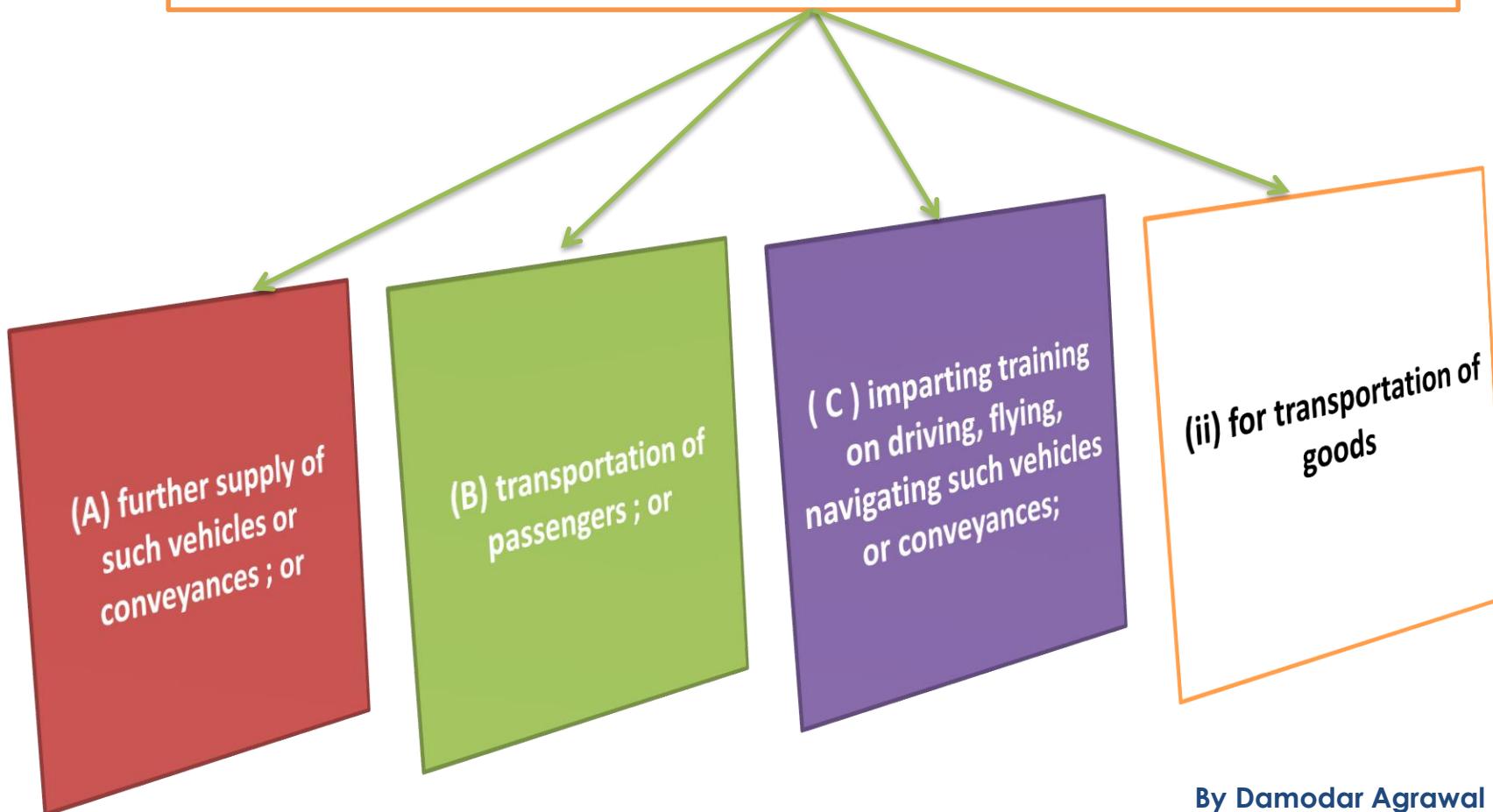
**INPUT TAX
CREDIT**

Negative list of GST ITC – Sec 17(5)

Motor Vehicles & Other conveyances –Sec 17(5)(a)

(a) Motor vehicles & other conveyances except when they are used

for making the following taxable supplies, namely



Case Studies : Motor Vehicles & Other conveyances – Sec 17(4)(a)



ITC

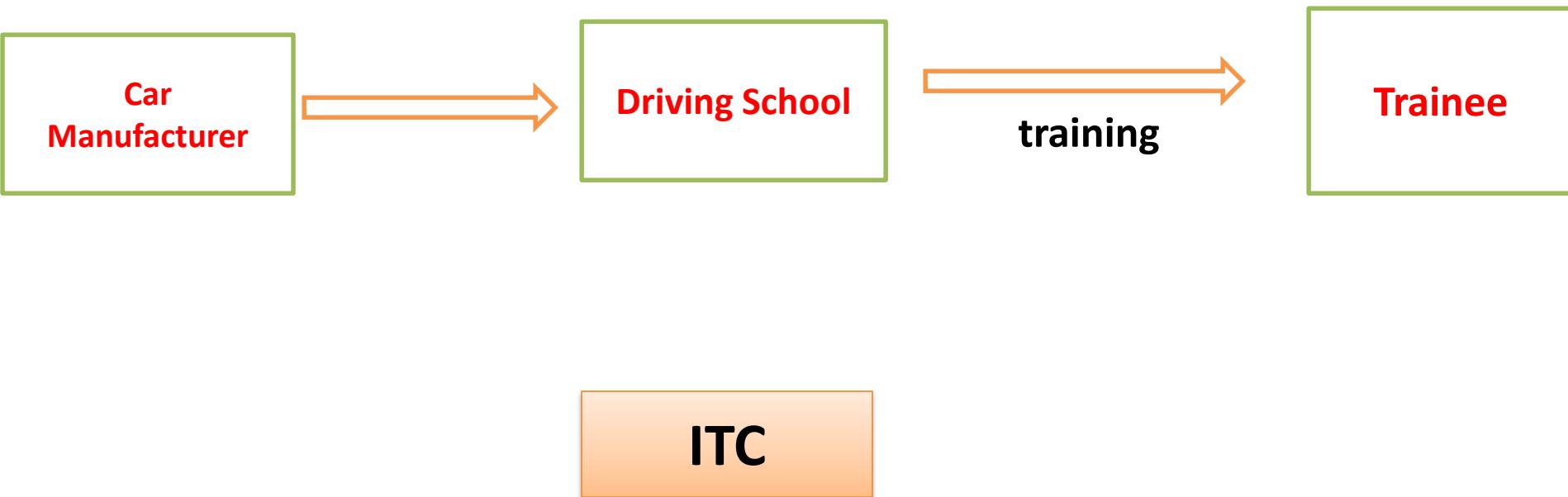


ITC

Case Studies : Motor Vehicles & Other conveyances – Sec 17(4)(a)



Case Studies : Motor Vehicles & Other conveyances – Sec 17(4)(a)



Outdoor catering, Rent-a-cab etc.- sec17(5)(b)

(b) Supply of goods or services or both, namely

(i)

- Food & beverages
- Outdoor catering
- Beauty treatment
- Health services
- Cosmetic and Plastic surgery

(ii) Membership of

- Club
- Health
- Fitness centre

(iii)

- Rent a cab
- Life Insurance
- Health Insurance

(iv) Travel benefits extended to employees on vacation such as leave or home travel concession



Except where such inward supply of goods or services or both of a particular category is **used** by a registered taxable person for making an outward taxable supply of the same category of goods or services or both as an element of a taxable composite or mixed supply

- Except Where :
- the **Government notifies the services which are obligatory for an employer** to provide to its employees under any law for the time being in force :
 - such inward supply of goods/services of a particular category Is **used for making an outward taxable supply of the same category of goods / services or as a part of a taxable composite or mixed supply**

Work contract services - sec17(5)(c)

(c) Work contract services

When supplied for **construction of an immovable property (other than plant and machinery)**

Except where it is an input service for further supply of works contract service

Sub –Contractor

Contractor

Construction of shed in factory for storing m/f cars

Customer

Car Manufacturer

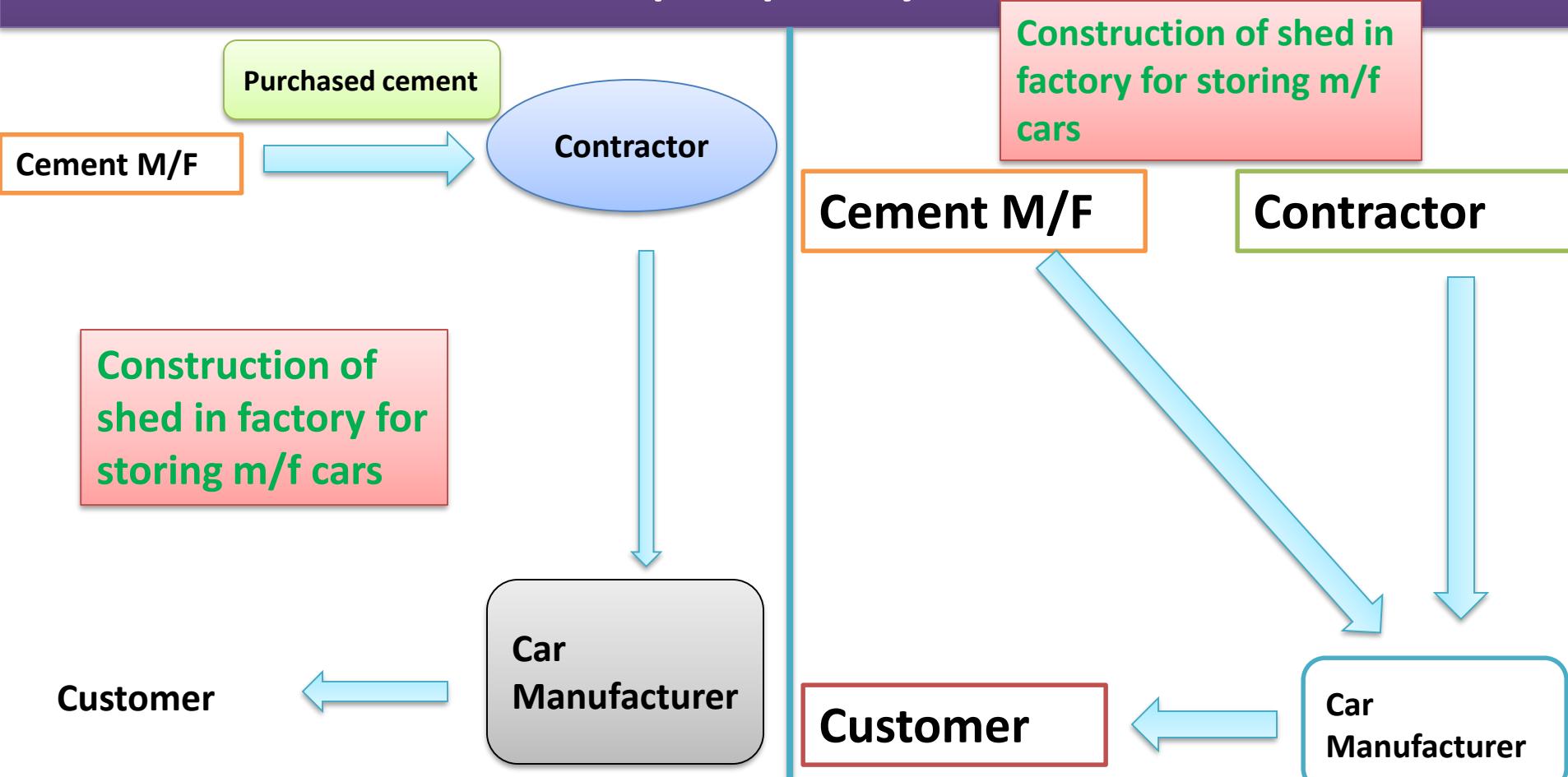
Goods/services for construction of immovable property –Sec17(5)(d)

(d) Goods or services or both received by a taxable person

For construction of an immovable property (other than plant or machinery) **on his own account**

Including when such goods or services or both are used in the course or furtherance of business

E.g. : Goods/services for construction of immovable property on own a/c



Meaning of term ‘Construction’

Sec	Provision (CGST Act,2017)
17(5)(d)	<p><u>Meaning of term ‘Construction’</u></p> <p>Explanation : For the purpose of <u>clauses (c) and (d)</u> the expression ‘construction’ <u>includes reconstruction ,renovation , additions, or alterations or repairs to the extent of capitalization</u> to the sold immovable property.</p>

Rule 2 of CCR,2004 Vs. GST Law

ITC on WC services used in relation to modernisation, renovation or repairs of a factory , premises of provider of output service or an office relating to such factory or premises

Present regime → ITC available
GST → ITC not available (if capitalized)

Meaning of term ‘Plant & Machinery’

Sec	Provision (CGST Act,2017)
17	<p><u>Meaning of term ‘Plant & Machinery’</u></p> <p>Explanation : For the purpose of this Chapter and Chapter VI, the expression “plant & machinery” means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes –</p> <ul style="list-style-type: none">i. land, building or any other avail structures;ii. Telecommunication towers andiii. Pipelines laid outside the factory premises

Rule 2 of CCR,2004 Vs. GST Law

Goods/Services used for laying foundation or making of structures for support of capital goods –Excludes from purview of ‘inputs’[Rule 2(1)] under CCR,2004

ITC available in GST



Other items of Negative list of GST ITC

- (e) Goods or services or both on which tax has been paid under section 10; → Composition levy
- (f) Goods or services or both received by a non-resident taxable person except on goods imported by him;
- (g) Goods or services or both used for personal consumption;
- (h) Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples and

Rule 3(5B) of CCR,2004 Vs. Model GST Law

Rule 3(5B) of CCR, 2004 → if the value of any input or capital goods before being put to use, on which CC has been taken is written off fully or partially or where any provision to write off fully or partially has been made in the books of account then, the manufacturer or service provider, as the case may be ,shall pay an amount equivalent to the CC taken in respect of the said input or capital goods.



GST – No Dispute of provisional entry of writing off in BOA

Other items of Negative list of GST ITC

(h) Any tax paid in terms of **Section 74,129 or 130**



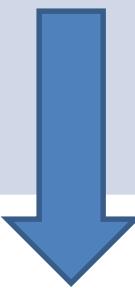
Sec 74: Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud or any willful misstatement or suppression of facts

Sec 129: Detention, Seizure and release of goods and conveyance in transit

Sec130: confiscation of goods and/or conveyance and levy of penalty

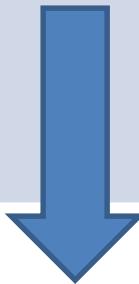
Availability of ITC in special circumstances Sec 18

Registration Obtained in 30 days

Eligible person	ITC on					As on
	Inputs in stock	Inputs in SFG in stock	Inputs in FG in stock	Capital Goods	Input Services	
Sec 18(1)(a) read with rule 5(1) of ITC Rules						
Person who has supplied for registration under the Act within thirty days						On the day immediately preceding the date from which he becomes liable to pay tax under the provision of this act
	<p>Rule 5(1) of ITC Rules : To claim ITC registered person has to file a declaration on common portal in Form GST ITC-01 within 30 days of becoming eligible to claim ITC:</p> <ul style="list-style-type: none"> ✓ Furnish details of stock – inputs, inputs in SFG/FG ✓ To be certified by CA or ICWA ,where, Aggregate value of claim > Rs 2 lakh 					
Credit lapse when registration not taken within 30 days !!!	<p>Sec 18(2) → A taxable person shall not be entitled to take input tax credit sub section(1) , in respect of any supply of goods and/or services to him after the expiry of one year from the date of issue of tax invoice relating to such supply</p>					

Voluntary Registration in GST

Eligible person	ITC on					As on
	Inputs in stock	Inputs in SFG in stock	Inputs in FG in stock	Capital Goods	Input Services	
Sec 18(1)(b) read with rule 5(1) of ITC Rules						
Person who takes voluntary registration						On the day immediately preceding the date from which he becomes liable to pay tax under the provision of this act



Sec 18(2) → A taxable person shall not be available after the expiry of one year from the date of issue of tax invoice relating to such supply

Credit lapse when registration not taken within 30 days !!!

Rule 5(1) of ITC Rules : To claim ITC registered person has to file a declaration on common portal in **Form GST ITC-01** within 30 days of becoming eligible to claim ITC:

- ✓ Furnish details of stock – inputs, inputs in SFG/FG
- ✓ To be certified by CA or ICWA ,where, Aggregate value of claim > Rs 2 lakh

From Composition Dealer → to → Normal Taxable Person

Eligible person	ITC on					As on
	Inputs in stock	Inputs in SFG in stock	Inputs in FG in stock	Capital Goods	Input Services	
Sec 18(1)(c) read with rule 5(1) of ITC Rules						
Where any registered person ceases to pay tax under <u>composition scheme</u>						On the day immediately preceding the date from which he becomes liable to pay tax under the provision of this act

Sec 18(2) → no credit shall be available after the expiry of one year from the date of issue of tax invoice relating to such supply

Rule 5(1)(a) → ITC shall be reduced by 5% per quarter of year or part thereof from the date of invoice/ such other document

Rule 5(1) of ITC Rules : To claim ITC registered person has to file a declaration on common portal in **Form GST ITC-01** within 30 days of becoming eligible to claim ITC:

- ✓ Furnish details of stock – inputs, inputs in SFG/FG
- ✓ To be certified by CA or ICWA ,where, Aggregate value of claim > Rs 2 lakh
- ✓ Details be verified with corresponding details of supplier in GSTR-1/ GSTR- 4

From Exempt supply → to → Taxable supply

Eligible person	ITC on					As on
Sec18(1)(d) read with Rule 5(1)	Inputs in stock	Inputs in SFG in stock	Input in FG in stock	Capital Goods	Input Services	
Where an exempt supply of goods or services or both by a registered person becomes a taxable supply				<u>Exclusively used for such exempt</u>		On the day immediately preceding the date from which such supply becomes taxable

Sec18(2) → No credit shall be available after the expiry of one year from the date of issue of tax invoice relating to such supply

Rule 5(1) of ITC Rules : To claim ITC registered person has to file a declaration on common portal in **Form GST ITC-01** within 30 days of becoming eligible to claim ITC:

- ✓ Furnish details of stock – inputs, inputs in SFG/FG
- ✓ To be certified by CA or ICWA ,where, Aggregate value of claim > Rs 2 lakh
- ✓ Details be verified with corresponding details of supplier in GSTR-1/ GSTR- 4

Change in constitution of registered taxable person – sale. Merger etc.

Eligible person	ITC on					As on
	Inputs in stock	Inputs in SFG in stock	Inputs in FG in stock	Capital Goods	Inputs Services	
Sec 18(3) read with Rule 6 of ITC Rules Where there is a change in the constitution due to → sale , merger , demerger , amalgamation, lease or transfer of the business with the specific provision for transfer of liabilities						ITC remaining utilized in E-credit ledger

Person shall be allowed to transfer the ITC that remain unutilized in his electronic credit ledger to such sold ,merged , demerged, amalgamated ,leased or transfer business

Transferor shall Request in Form GST ITC -02

Also submit a copy of certificate by CA or ICWA to certify t/f of liabilities

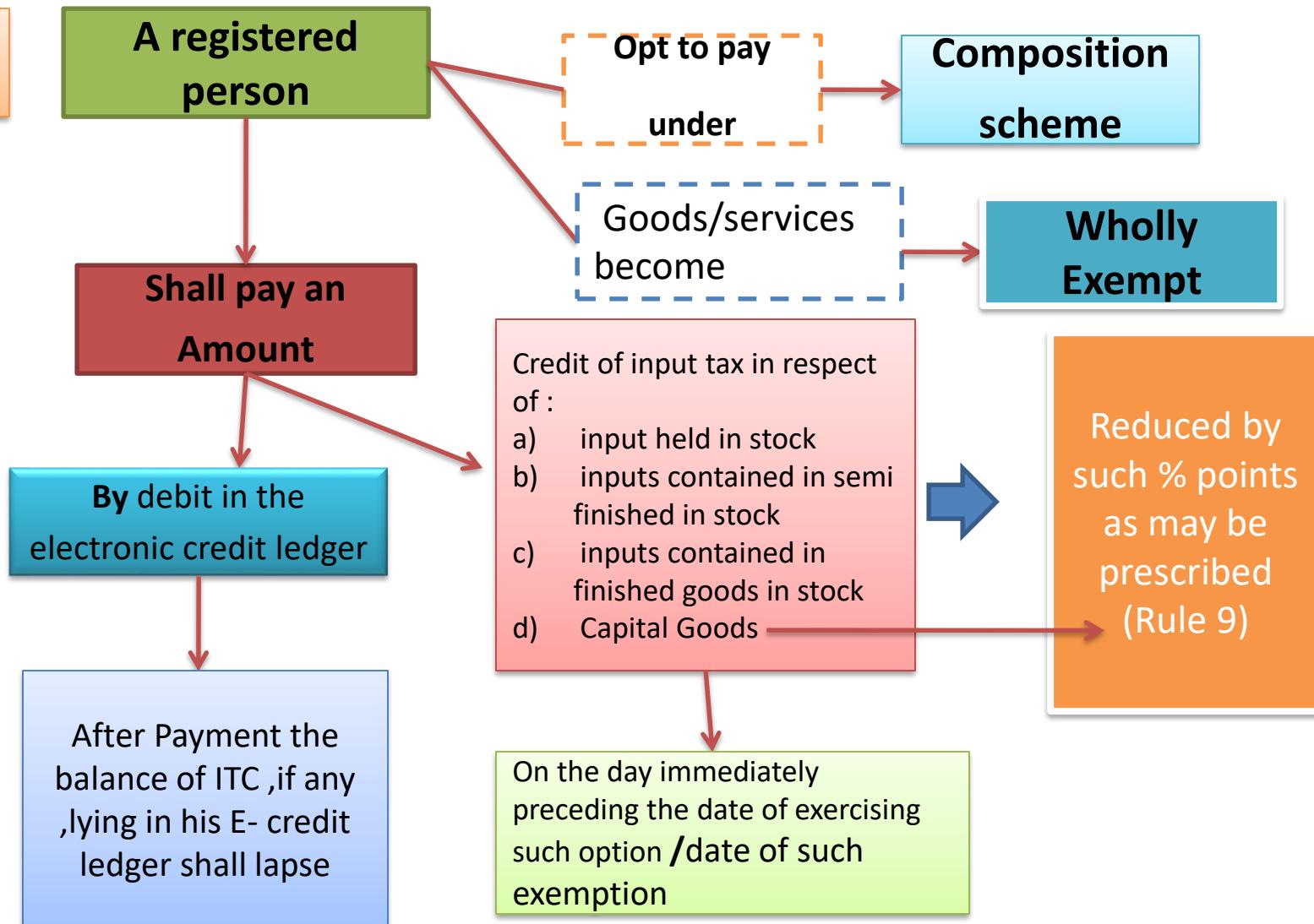
Transferee shall accept the details furnished by transferor

Upon acceptance , the unutilized credit shall be credited to E-credit ledger

Inputs & capital Goods so transferred shall be duly accounted for by Transferee

From Normal Taxable Person → to → Composite Dealer/Exempt supplies

Section 18(4)



ITC Reversal on supply of CG and P&M

Sec	Provision CGST Act,2017
18	<p><u>ITC reversal on supply of CG & P&M</u></p> <p>(6) In case of supply of capital goods or plant and machinery, on which input tax credit taken the registered person shall pay an amount equal to input tax credit taken on the said capital goods or plant and machinery reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery determine under section 15, whichever is higher:</p> <p>PROVIDED that where refractory bricks , moulds and dies , jigs and fixtures are supplied as scrap the taxable person may pay tax on the transaction value of such goods determined under section 15</p> <p>Similar provision as rule 3(5A) of CCR ,2004</p> <p>But</p> <p>When CG other than refractory bricks moulds and dies jigs and fixtures are supplied as scrap</p> <p>Rule 5(2) → ITC shall be reduced on said goods at the rate of 5 percentage points for every quarter or part thereof from the date of issue of invoice for such goods</p>

Manner of distribution of credit by Input Service Distributor (“ISD”)

Meaning of ISD

Sec	Provision (CGST Act,2017)
	<p>Input Service Distributor means an office of the supplier of goods or services or both which receives tax invoices issued under section 31 towards the receipt of Input services and issues a prescribed document for the purpose of distributing the credit of central tax ,State tax , integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same PAN as that of the said office</p>

Corporate Office

Receiving invoices for
common input services

Factory A

UP

Register as ISD →
Distributing credit to up
& Haryana factories

Factory B

Haryana

Delhi

Essential Conditions for distribution of credit by ISD

Section 20(2) → The Input Service Distribute the credit subject to the following condition namely

Credit can be distributed against ISO invoice in accordance to Rule9(1) of the Invoice rules

Amount of credit distributed shall not exceed the amount of credit available for distribution

ITC attributable to a recipient → Distributed only to that recipient

ITC attributable to more than one recipient → Distributed only amongst such recipients(s) → pro rata*

ITC attributable to all recipients → Distributed amongst such recipients → pro rata*

On the basis of the turnover in a state/UT of such recipient during the relevant period to the aggregate of the turnover of all such recipient and which are operational in the current year, during the said relevant period

Other conditions under Rule 4 of the ITC rules

ITC available for distribution in a month should be distributed in the same month and details thereof shall be furnished in FORM GS TR 6

Ineligible & eligible credit should be distributed separately

ITC on account of CGST,SGST,UTGST and IGST shall be distributed separately

For reduction of credit in case the ITC already distributed gets reduced for any reason → ISD shall issue an ISD credit note

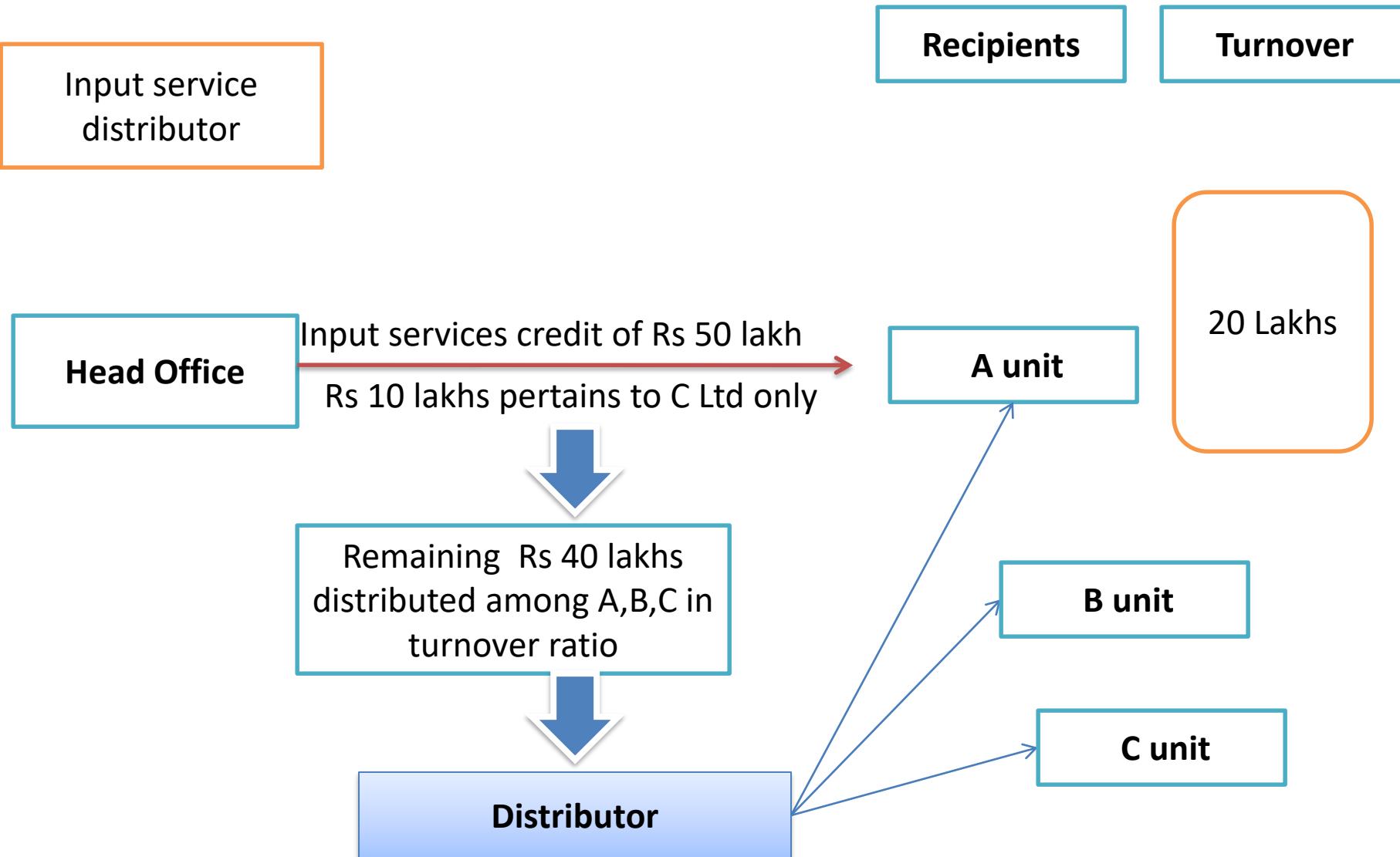
Any additional amount of ITC on account of issuance of a debit note to ISO by the supplier → shall be distributed in the month in which the debit note is included in the return in FORM GSTR 6

ITC required to be reduced on account of issuance of a credit note to ISO by the supplier → shall be apportioned to each recipient in same ration in which ITC contained in the original invoice was distributed

→ Reduced from amt to be distributed in that month

→ if negative then added to output liability of recipient

E.g.: Manner of distribution of credit by ISD



Manner of recovery of credit distributed in excess

Sec	Provision (CGST Act,2017)
21	Where the input service Distributor distributes the credit in contravention of the provisions contained in section 20 resulting in excess distribution of credit to one or more recipients of credit , the excess credit so distributed shall be recovered from recipients along with interest and the provisions of section 73 or 74 as the case may be shall apply for determination of amount to be recovered

Determination of tax not paid or erroneously refunded or input tax credit wrongly availed or utilized for any wilful misstatement of facts

Determination of tax not paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud or any willful misstatement of facts

MIGRATION PROVISIONS

By Damodar Agrawal & Associates

PARTICULARS

Various Transitional Provisions in GST:

- ✓ Amount of Cenvat Credit carried forward in the last return
- ✓ Unavailed Cenvat Credit on Capital Goods
- ✓ Credit of eligible duties and taxes in respect of inputs held in stock.
- ✓ Credit of eligible duties and taxes in respect of inputs or input services during transit
- ✓ Status of long term contracts
- ✓ Treatment of Branch Transfers
- ✓ Goods sent on approval basis
- ✓ Inputs/ Goods lying at job worker premises returned on or after the appointed day etc.

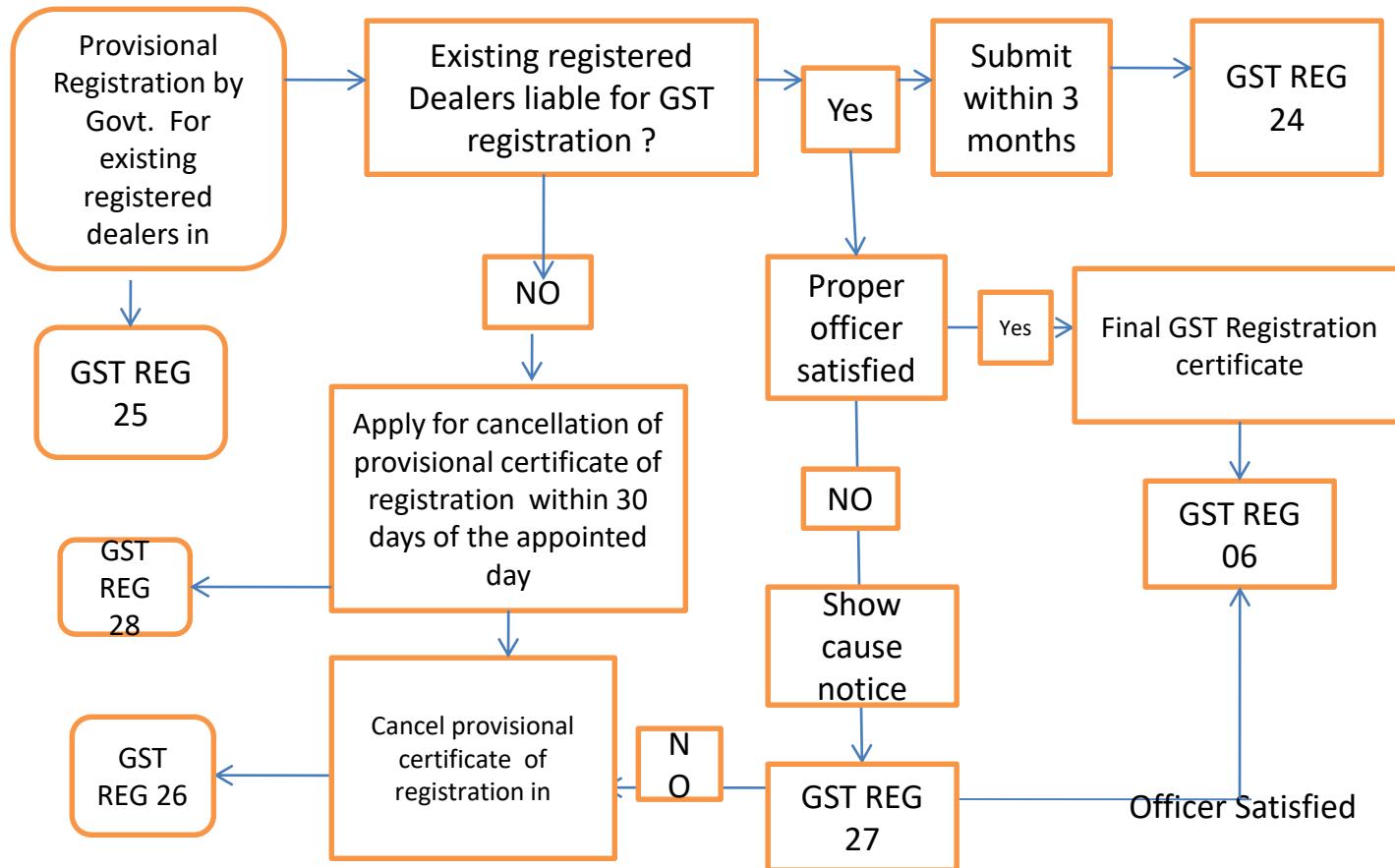
Important Points to be captured

Migration of Existing Registrants

By Damodar Agrawal & Associates

Process of migration & subsequent registration

Rule 16



Leading Transitional Provisions relating to Input Tax Credit

By Damodar Agrawal & Associates



Amount of credit c/f in return to be allowed as ITC- S 140(1)

Amount of CC/ITC carried forward in the return relating to the period ending with the day immediately preceding the appointed day → To be allowed to registered taxable person under GST



In e-credit Ledger

Cenvat Credit → CGST

Conditions to be fulfilled:

Credit is **admissible under GST Law**

Returns for 6 months immediately preceding the appointed day has been furnished under the existing law. [VAT return to be furnished, **not later than 90 days** after the appointed day]

The taxpayer who would opt for the **composition scheme** will **not be allowed** to carry forward existing credits

Credit must **not relate to goods manufactured & cleared under Exemption Notification** as notified by Government.

Eligible Credits- SGST

VAT Paid on goods

Entry tax paid on Goods

Entry Tax Credit- whether for all States or where credit of Entry Tax is allowed??????

Unavailed credit on CG not c/f in return to be allowed as ITC- S 140(2/ 18(2))

Unavailed Cenvat Credit/ ITC on capital goods not carried forward in return for the period ending with the day immediately preceding the appointed day → To be allowed to registered taxable person under GST

In e-credit Ledger

Cenvat Credit → CGST

VAT → SGST/ UTGST

Conditions to be fulfilled:

	CGST	UTGST
Credit is admissible under GST Law	✓	✓
Credit is admissible under Earlier Law	✓	✓
The taxpayer who would opt for composition scheme will not be allowed	✓	✓

Eligible Credit on inputs in stock- S 140(3)/18(3)

Credit of eligible duties/ taxes on inputs in stock → To be allowed to SPECIFIED registered taxable person under GST



In e-credit Ledger

Cenvat Credit → CGST

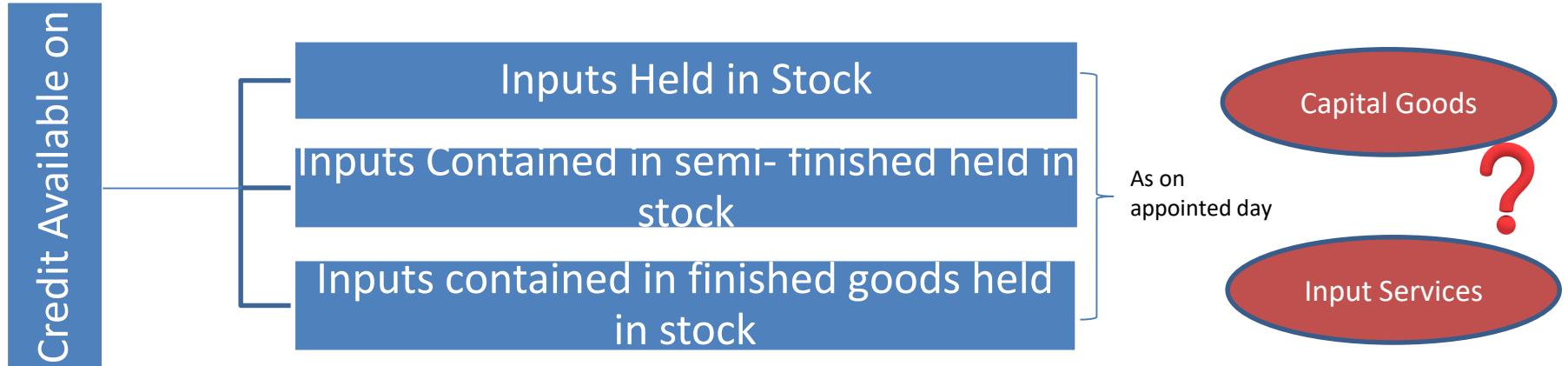
VAT → SGST/ UTGST

Persons eligible for Credit on inputs in stock- S 140(3)/18(3)

CGST	UTGST
Central Excise (under Earlier Law)	<ul style="list-style-type: none"> ✓ Not liable to be registered under the earlier law ✓ Engaged in the sale of exempted goods or tax free goods under existing law. ✓ Engaged in sale of goods which have suffered tax at first point of their sale and the subsequent sales of such goods are not subject to tax under existing law → but liable to be tax under GST ✓ Where the person was entitled to ITC at the time of sale of goods.
<ul style="list-style-type: none"> ✓ Manufacturing Exempted Goods ✓ Not Liable to be registered ✓ First Stage Dealer ✓ Second Stage Dealer ✓ Registered Importer ✓ Depot of a Manufacturer 	

Eligible duties/ taxes: Explanation 1 to Sec 140

Eligible Duties/ Taxes	
CGST	SGST
ED specified in Schedule I & II of CETA, 1985	VAT
CVD under Sec 3(1) of the Customs Tariff Act, 1975	Entry Tax
SAD under Sec 3(5) of the Customs Tariff Act, 1975	
NCCD under Sec 136 of the Finance Act, 2001	
AED under AED (Textile & textile Articles)Act, 1978	
AED under AED (Goods of Special Importance)Act, 1957	



Mandatory conditions to claim credit

Important Conditions:

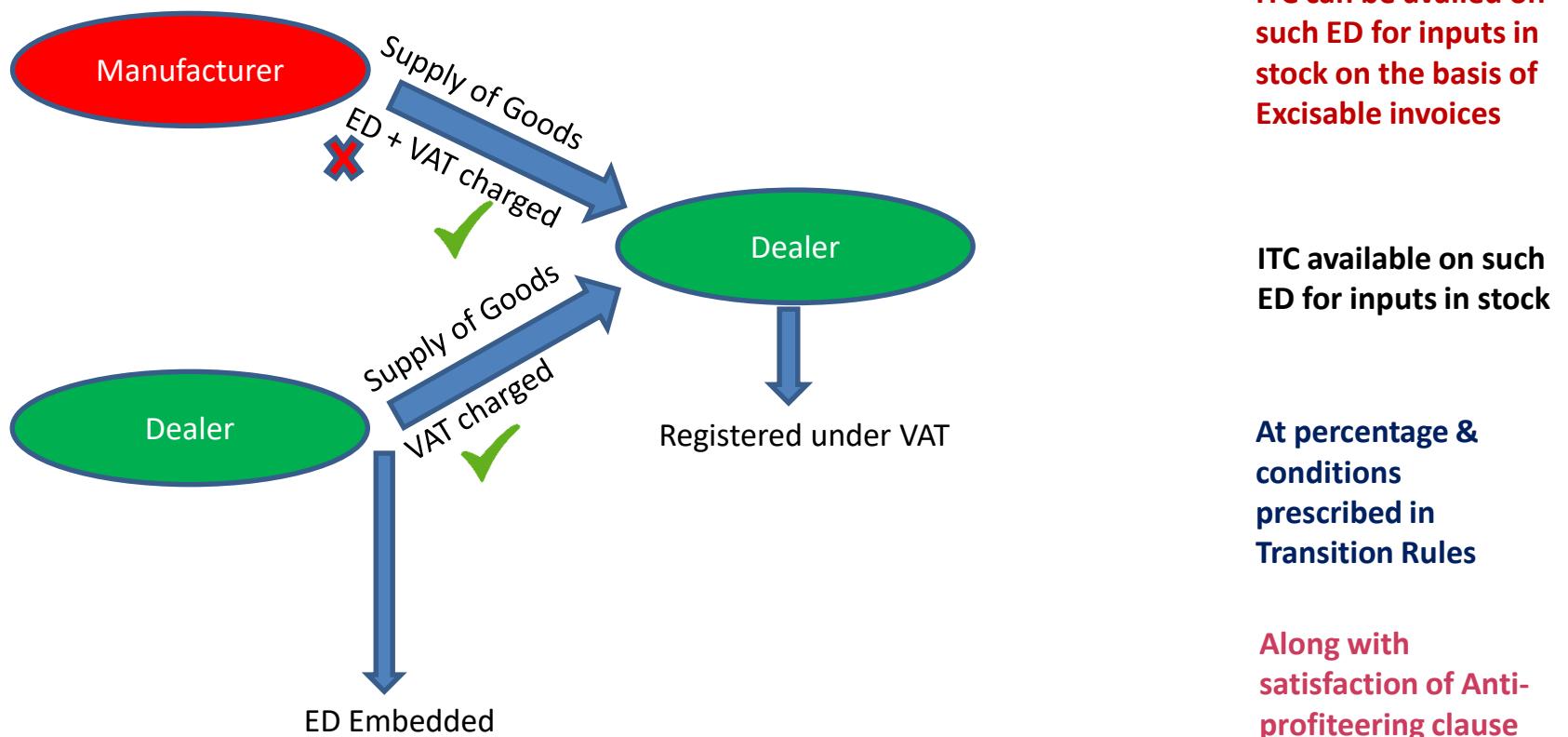
Supplier of services
not eligible for any
abatement under
GST Act

Possession of Invoice
etc., which should
not be earlier than
12 months

Goods Must be used
or intended to be
used for taxable
supply

Eligible to take the
credit under GST Law

ITC at prescribed rate when invoice etc. not available



Percentage & Conditions- Rule 1(4)(a)

Type of supply from such stock	Rate of tax applicable	Quantum of credit allowed
Intra- state Outward supply	CGST @ 9% or more CGST @ below 9%	60% of the CGST paid 40% of the CGST paid
Inter state outward supply	IGST @ 18% or more IGST @ below 18%	30% of the IGST paid 20% of the IGST paid

Conditions

The scheme shall be available for **6 tax periods** from the appointed date → Considering month as the tax period, such stock has to be wiped up 6 months of the appointed day.

Such goods were not **unconditionally exempt** from the **whole of the Excise Duty** or were not **NIL rated** in First Schedule to CETA.

The document for procurement of such goods is available with the registered person.

Details of stock so held is required to be furnished in form GST TRAN-1 **within 90 days** of the appointed day.

Statement in Form GST TRAN 2 is required to be furnished at the end of each of the 6 tax periods during which the scheme is in operation indicating therein the details of supplies of such goods effected during the tax period.

ITC shall be credited to the E-credit ledger of the applicant maintained in **FORM GST PMT-2** on the Common Portal.

The stock of goods on which the ITC is availed is **so stored** that it can be **easily identified** by the registered person.

Proposed Credit t/f Document (CTD) Scheme

Specified Goods covered under CTD Provisions:

- ✓ Goods of value exceeding Rs 25000 per piece;
- ✓ Bearing brand name of manufacturer/ principal manufacturer
- ✓ Identifiable as distinct number such as chassis/ engine no of car

CTD provision to transfer credit of Excise Duty:

Manufacturer registered under Excise, may issue CTD to evidence payment of Excise Duty on goods manufactured & cleared by him before the effective date of the CGST Act, 2017, under the cover of an invoice issued to a person not registered under Excise, but registered under the CGST Act, 2107

Conditions

CTD (serially numbered and containing the specified particulars) shall be issued within 30 days of the appointed date and copy of the corresponding invoices shall be enclosed

CTD shall not be issued in favour of a dealer to whom invoice was issued for the same goods before the appointed date.

Copies of all invoices relating to buying and selling from manufacturer to the dealer through intermediate dealers, is maintained by the dealer availing credit using CTDs.

The dealer availing credit on the basis of CTD shall, at the time of making supply of such goods, mention the corresponding CTD number in the invoice issued by him under section 31 of the CGST Act, 2017

A dealer availing credit using CTD on manufactured goods shall not be eligible to avail credit under provision of Rule 1(4) of Transition Rules made under the CGST Act, 2017 on identical goods manufactured by the same manufacturer available in the stock of the dealer etc.

ITC for inputs in stock → Engaged in taxable & exempt G/S

SPECIFIED Cenvat Credit/ ITC when engaged in the manufacture/ rendering/ sale of taxable as well as exempted goods/ services under existing law, BUT which are liable to tax under GST → To be allowed to registered taxable person under GST

Cenvat Credit → CGST



In e-credit Ledger

VAT & Entry Tax → SGST/
UTGST

Following credits to be allowed:

	CGST	UTGST
Amt of CC c/f in a return furnished under the existing law as per Sec 140(1); and	✓	✓
Amt of CC of eligible duties in respect of inputs held in stock and inputs contained in semi-finished goods held in stock on the appointed day, relating to exempted goods/ services as per Sec 140 (3)	✓	✓

Identify eligible credits pertaining to exempted G/S and preserve supporting documents

Same as Sec 140 (3)

ITC of Inputs/ Input services in transit- S 140(5)/ 18(5)

CC/ ITC of eligible duties and taxes in respect of inputs/ input services on which tax is paid by supplier under existing law but received on or after the appointed day → To be allowed to registered taxable person under GST



CG in Transit ???

In e-credit Ledger

Cenvat Credit → CGST

VAT & Entry Tax → SGST/
UTGST

Conditions to be fulfilled

	CGST	UTGST
Duty/ tax in respect of such inputs/ input services has been <u>paid by supplier</u>	✓	✓
Invoice or any other duty/ tax paying document was <u>recorded in the BOA</u> of such person within a period of 30 days from the appointed day	✓	✓
Registered taxable person shall furnish separately details in respect of such ITC-in GST TRAN-1 within 90 days of the appointed day	✓	✓



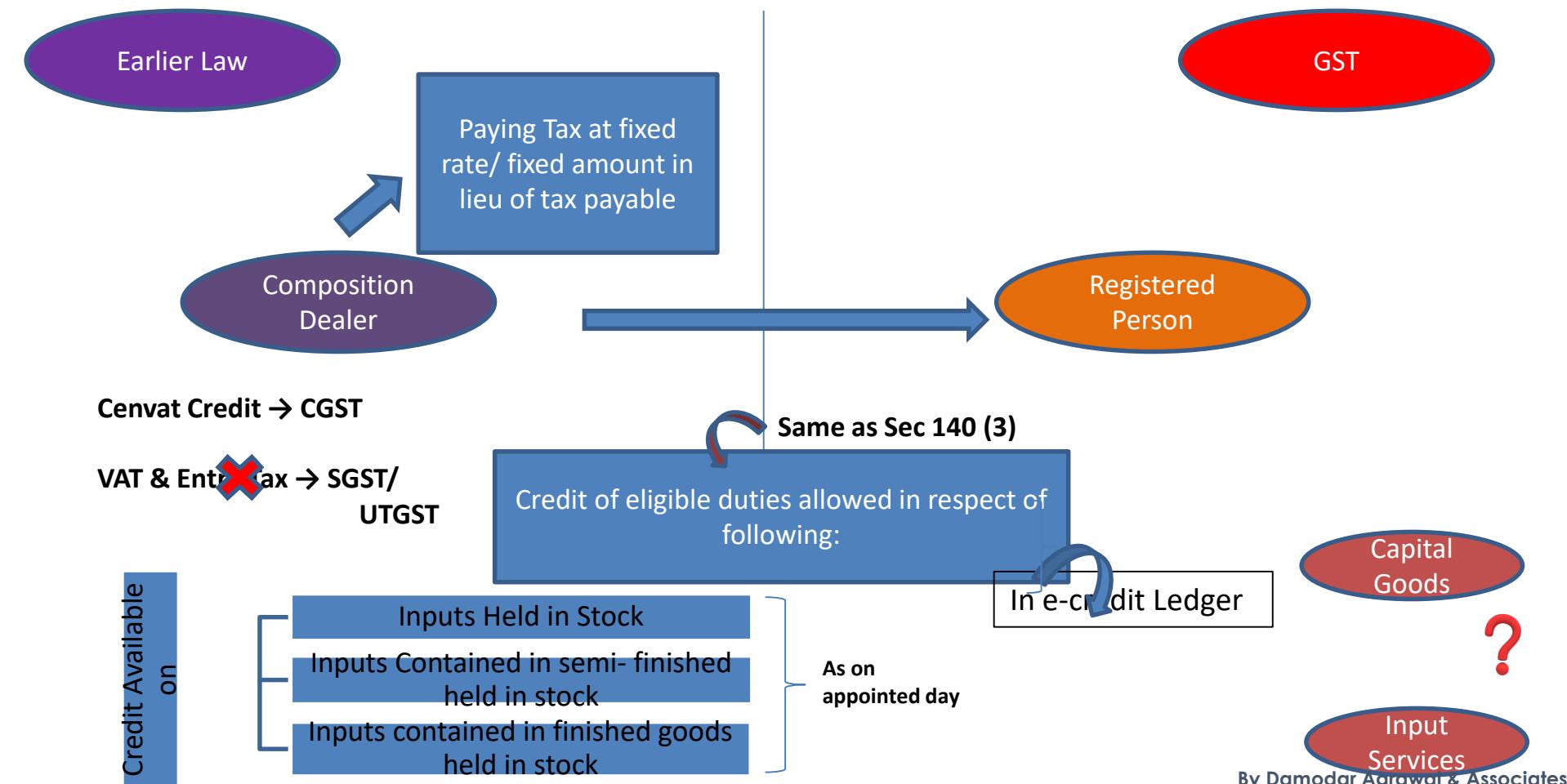
Extendable on sufficient cause → Further period not exceeding 30 days

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Eligible duties/ taxes: Explanation 2 to sec 140

Eligible Duties/ Taxes	
CGST	SGST
ED specified in Schedule I & II of CETA, 1985	VAT
CVD under Sec 3(1) of the Customs Tariff Act, 1975	Entry Tax
SAD under Sec 3(5) of the Customs Tariff Act, 1975	
NCCD under Sec 136 of the Finance Act, 2001	
AED under AED (Textile & textile Articles)Act, 1978	
AED under AED (Goods of Special Importance)Act, 1957	
Service Tax leviable under Section 66B of FA, 1994	

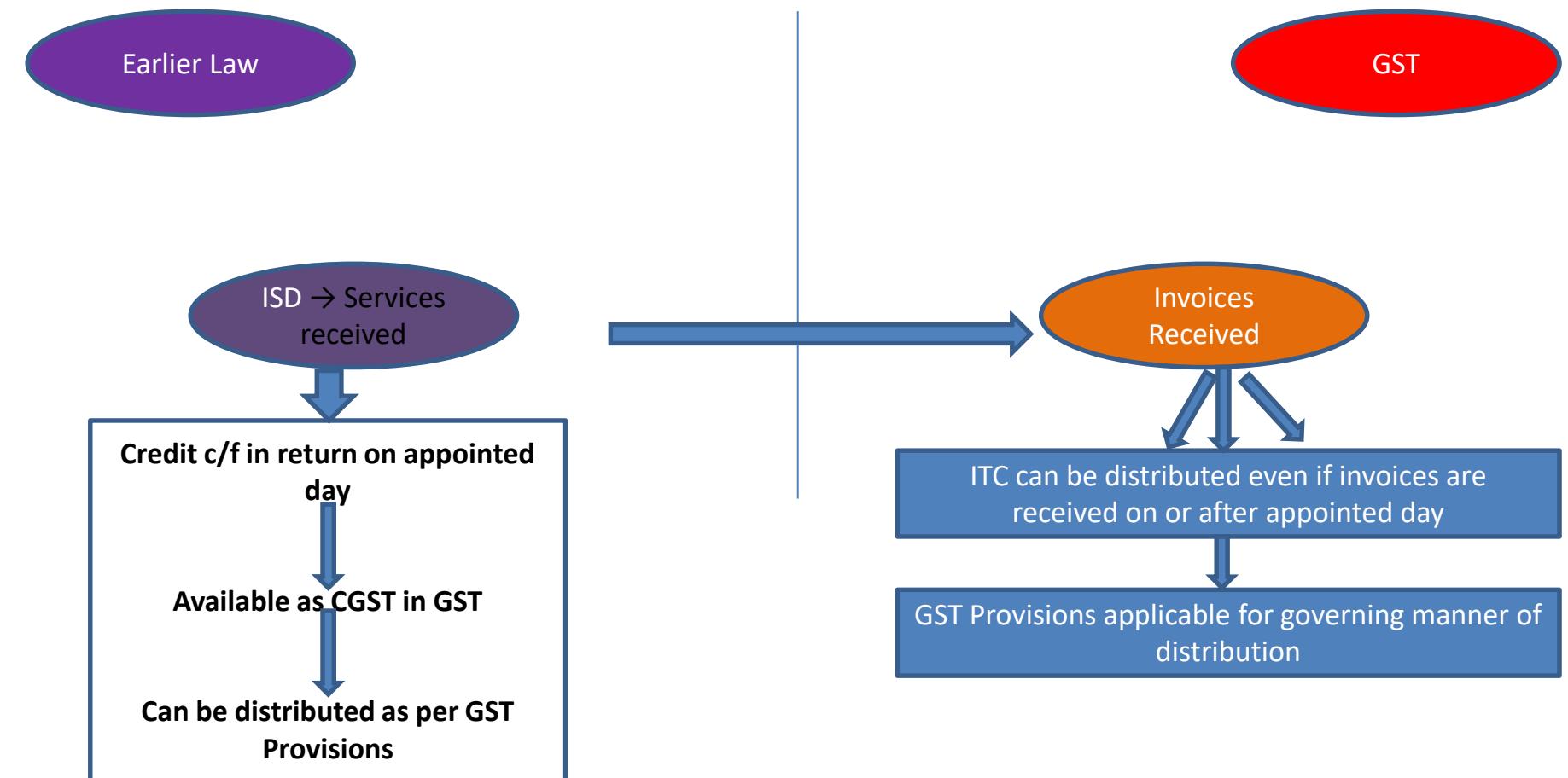
Eligible ITC on switching over from composition Scheme- S 140(6)/ 18(6)



Mandatory conditions to be fulfilled

Conditions to be fulfilled	CGST	UTGST
Such inputs/ goods are used or intended to be used for making taxable supplies under GST Act	✓	✓
Said registered person is not paying tax under Sec 10 (i.e. Composition Scheme)	✓	✓
Such registered person is eligible for ITC on such inputs under GST Act	✓	✓
Said Registered person is in possession of invoice and/ or other prescribed documents evidencing payment of duty under the existing law in respect of inputs	✓	✓
Such invoices and for other prescribed documents were issued not earlier than 12 months immediately preceding the appointed day.	✓	✓

ST Credit distribution by ISD- Sec 140 (7)



T/f of unutilised CC → Centralised Registration under Existing law

In case of centralised registration under the existing law, amount of Cenvat Credit carried forward in return furnished under existing law, in respect of the period ending with the day immediately preceding the appointed day → Allowed as ITC in GST to a taxable person who has obtained registration in GST

In e-credit Ledger

Cenvat Credit → CGST

Where Return is filed within 3 months from appointed day

Original Return

Full ITC Allowed

Revised Return

To the extent of reduced credit

When credit has been reduced from that claimed earlier

Credit is required to be eligible under the GST law

Credit is permitted to be transferred to ANY of the registered persons having the same PAN for which centralised registration was obtained under existing law

ITC which was reversed earlier due to non-payment within 3 months- S 140 (9)

CGST Law

Where any Cenvat credit availed for the input services provided under the existing law has been reversed due to non- payment of the consideration within a period of 3 months

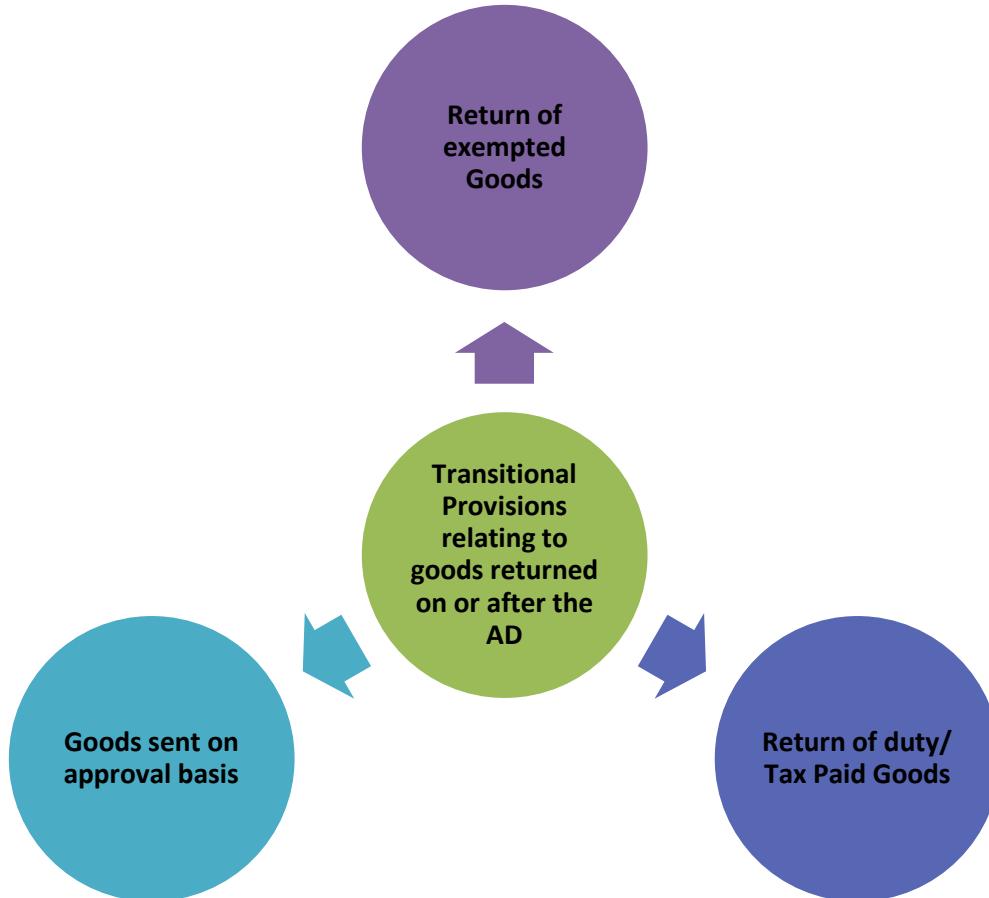
Such credit can be reclaimed

Rule 4(7) of CCR, 2004

If the registered person has made the payment of the consideration for that supply of services within a period of 3 months from the appointed day

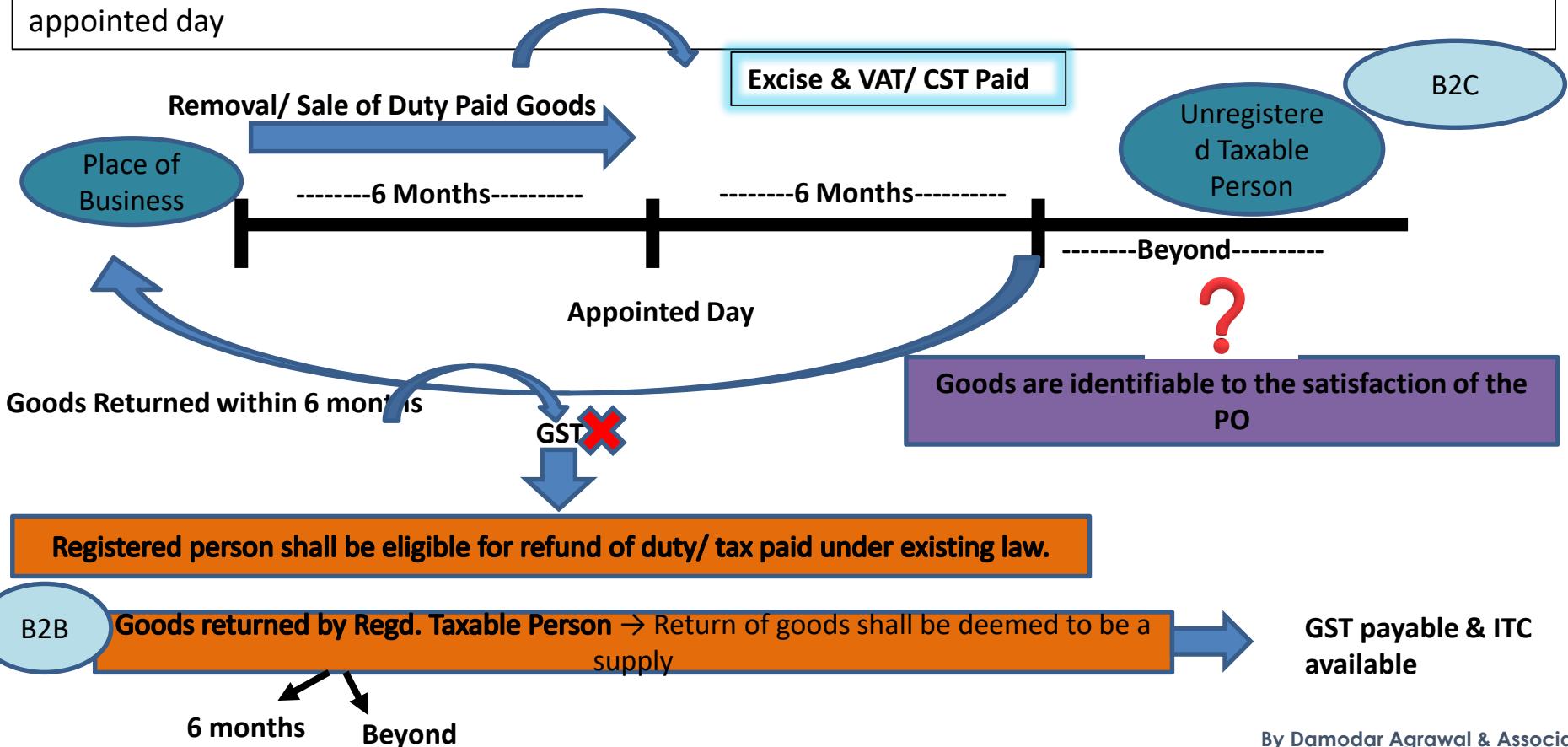
Such reversals need to be identified and payment to be made within 3 months from the appointed day

Goods returned on/ after appointed day



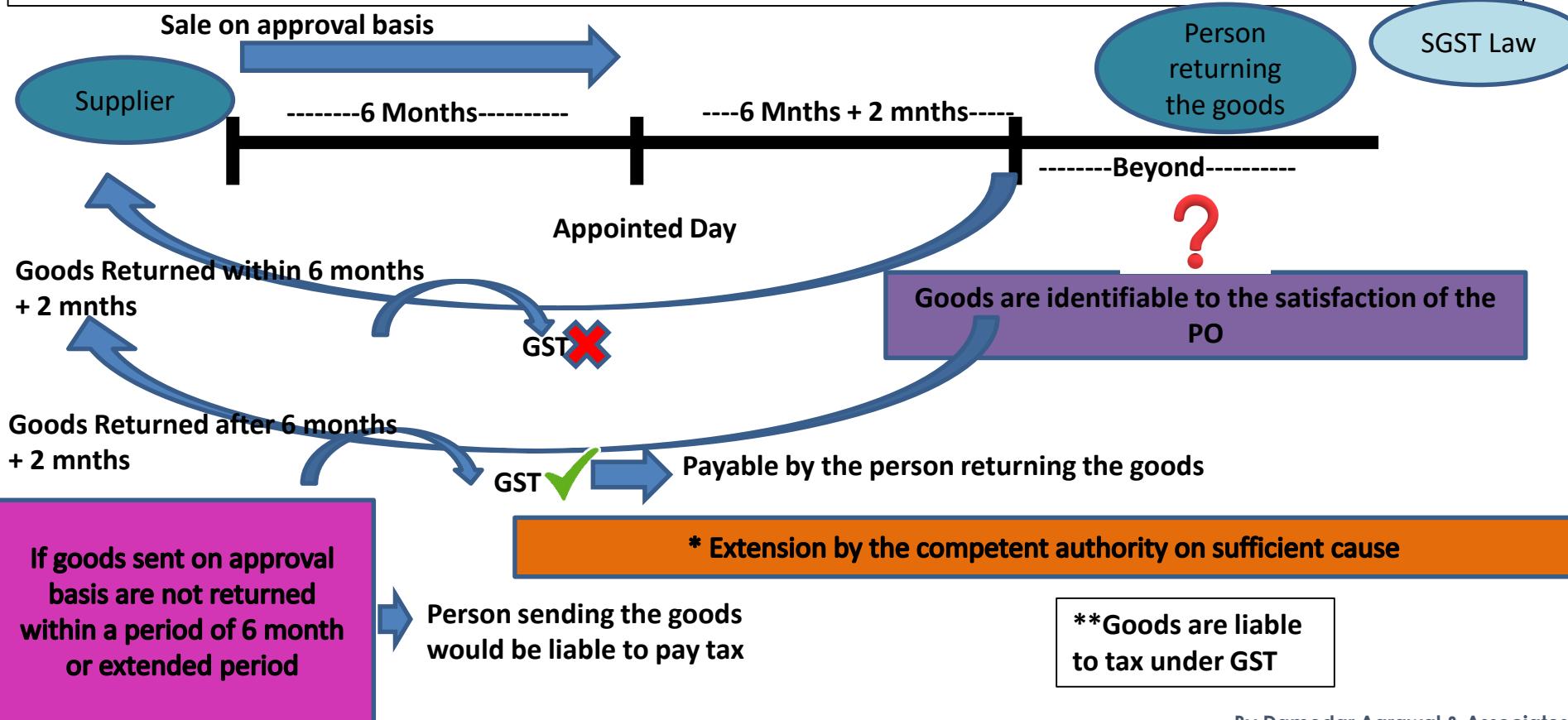
Goods sold before & returned after the appointed day – S 142(1)/ 20(1)

Any goods on which duty/ tax had been paid, if any, under existing law at the time of removal/ time of sale, not being earlier than 6 months prior to appointed day → Returned to any place of business on or after the appointed day



Goods sent on approval basis returned after appointed day- S 142 (12)/ 20(12)

Goods sent on approval basis, not earlier than 6 months prior to appointed day are rejected or not approved by the buyer → Returned on or after the appointed day



Output Liabilities

By Damodar Agrawal & Associates

Revision in Contract Prices- S 142 (2)/ 20(2)

(a)

- ✓ Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods/ services is **revised upwards** on or after the appointed → **Supplementary invoice or debit note** containing such particulars as may be prescribed, to be issued within **30 days** of such price revision.
- ✓ Such supplementary invoice or debit note shall be **deemed to have been issued in respect of an outward supply** made under **GST Act**

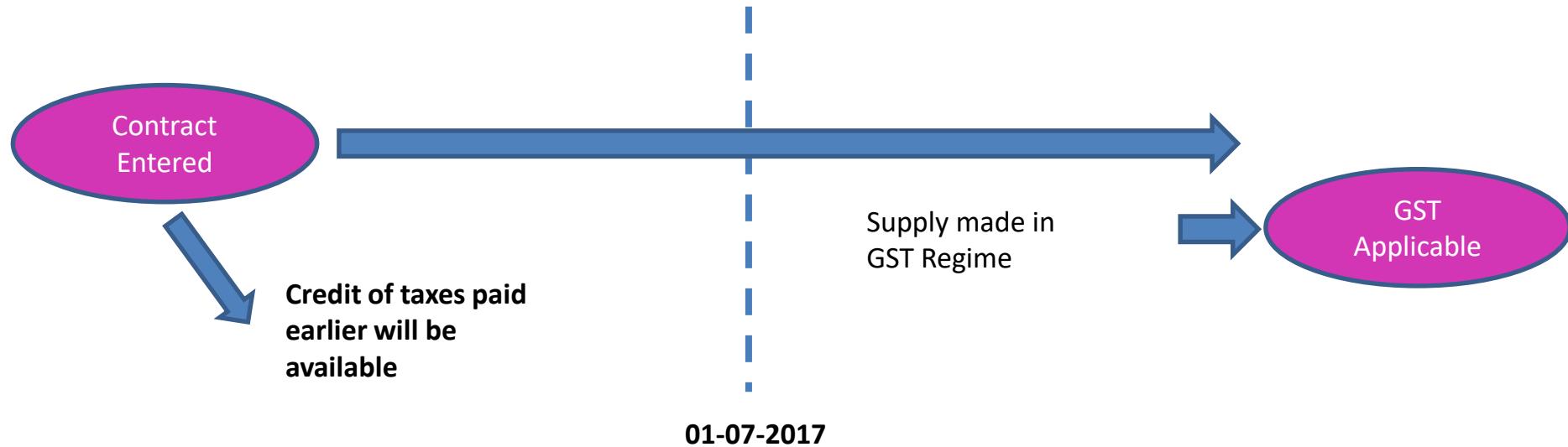
(b)

- ✓ In case of **downward revision** → **Credit Note**, containing such particulars as may be prescribed to be issued within **30 days** of such price revision.
- ✓ Such credit note shall be **deemed to have been issued in respect of an outward supply** made under GST Act.

Proviso

- ✓ The registered person shall be allowed to **reduce his output tax liability** on account of issue of the said credit note only if the **recipient has reduced his ITC** corresponding to such reduction of tax liability.

Long term contracts (Goods + Services involved)- S 142 (11)(c)/20(10)(c)



There would be dynamic changes in taxability of Works contract in GST:

- Works Contract restricted to only immovable properties
- Composite supply to apply for movable goods and services involved in single contract

Dominant intention test to prevail

Other Long term contracts - S 142 (11)(a) & (b) /20(10) (a) & (b)

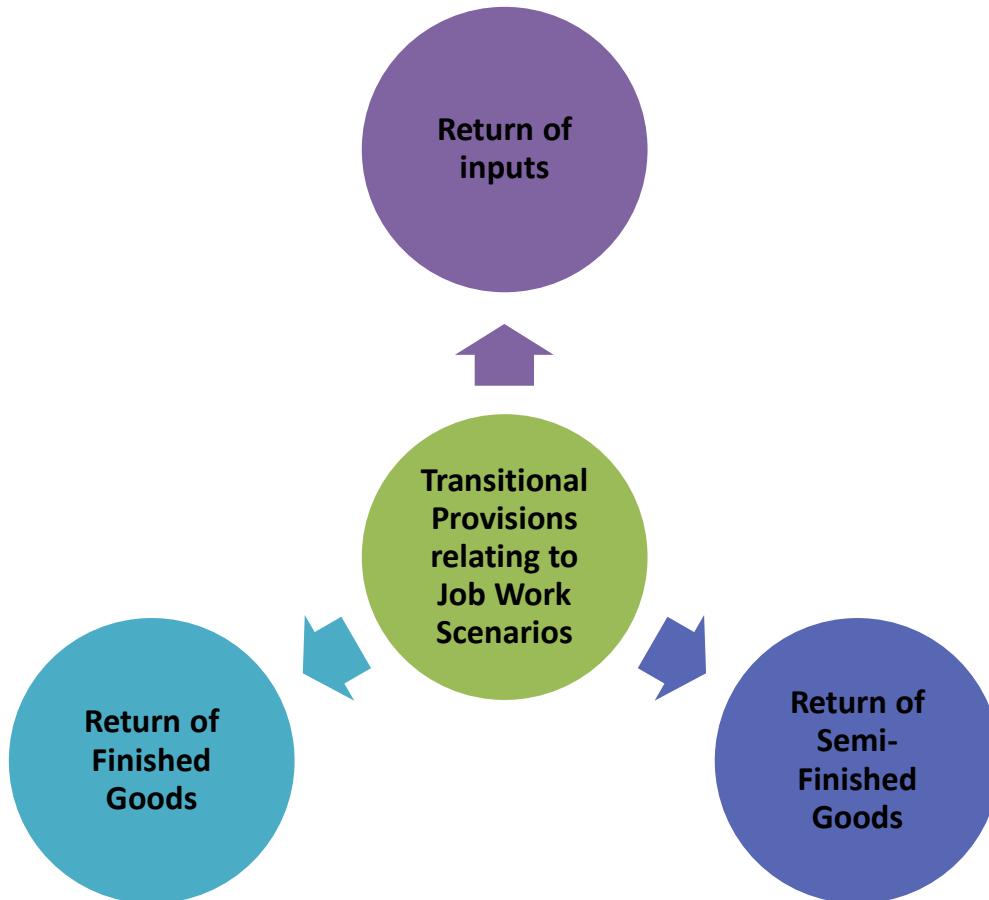
Notwithstanding anything Contained in Sec 12 & 13	Goods/ services	Tax leviable under Existing Law	Tax Leviable under GST	GST Payable
	Goods (Eg Goods in transit)	✓	✗	✗
	Services (Eg Advance Received)	✓	✗	✗
	Goods & Services Both	Dealt in previous slide		

Deduction of tax at source

Where a supplier has made any sale of goods in respect of which tax was required to be deducted at source under any law of a State or union territory relating to Value Added Tax Law and invoice for the same has also been issued before the appointed day →

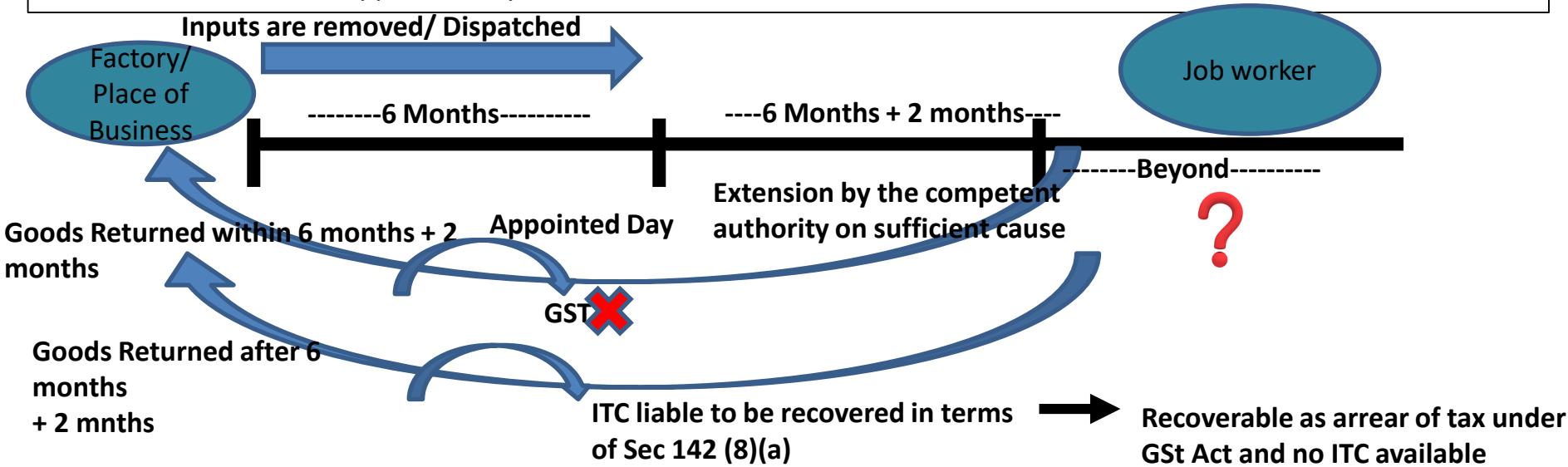
No Deduction u/s 51 shall be made by the deductor where payment to the said supplier is made on or after the appointed day

JOB WORK Scenarios



Inputs removed for Job Work returned on or after the appointed day – S 141(1)/UT 19(1)

Where any inputs received in a factory/ place of business had been removed/ despatched as such or removed after being partially processed to a job worker for further processing, testing, repairs etc. → Returned to said factory/ place of business on or after the appointed day



M/f + job worker → To declare the details of the inputs held in stock by job worker on behalf of the said person on the appointed day.

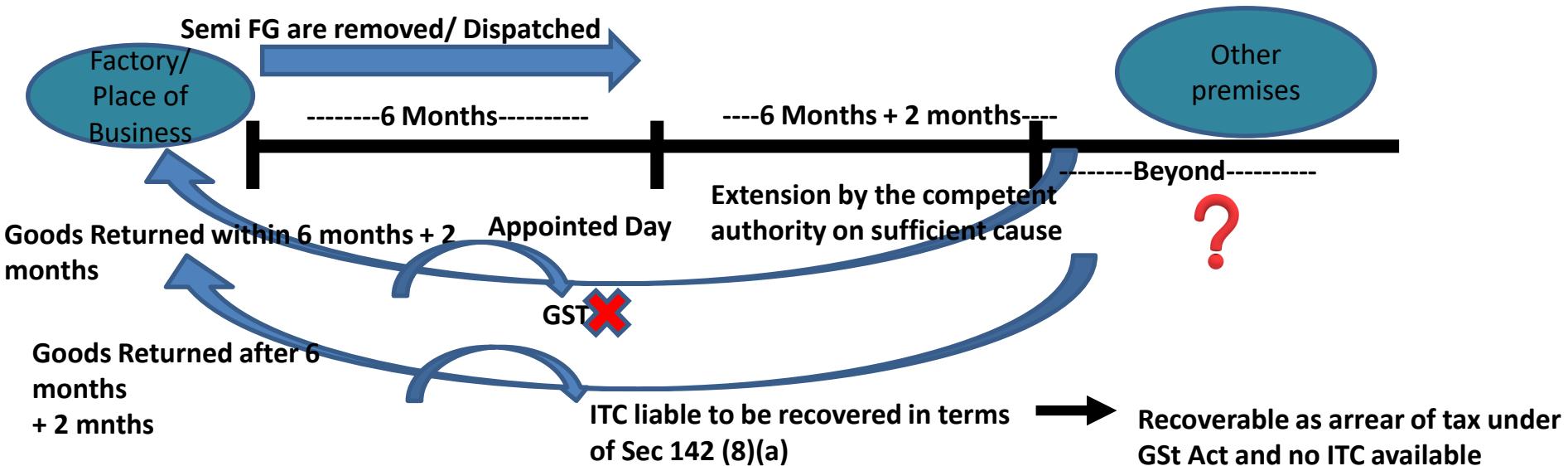
Important Provision of Sec 142 (8)(a) – recovery as an arrear of tax & no ITC

142 (8)(a) Treatment of the amount received or refunded in pursuance of assessment or adjudication proceedings

Where in pursuance of an assessment or adjudication proceedings instituted whether before, on or after the appointed day under the existing law, any amount of tax, interest, fine or penalty becomes recoverable from the person, the same shall , unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act;

Semi-FG removed for Job Work returned on or after the appointed day – S 141(2)/UT 19(2)

Where any semi- finished goods had been removed/ despatched from a factory/ place of business to any other premise for carrying out certain M/f process → Returned to said factory/ place of business on or after the appointed day

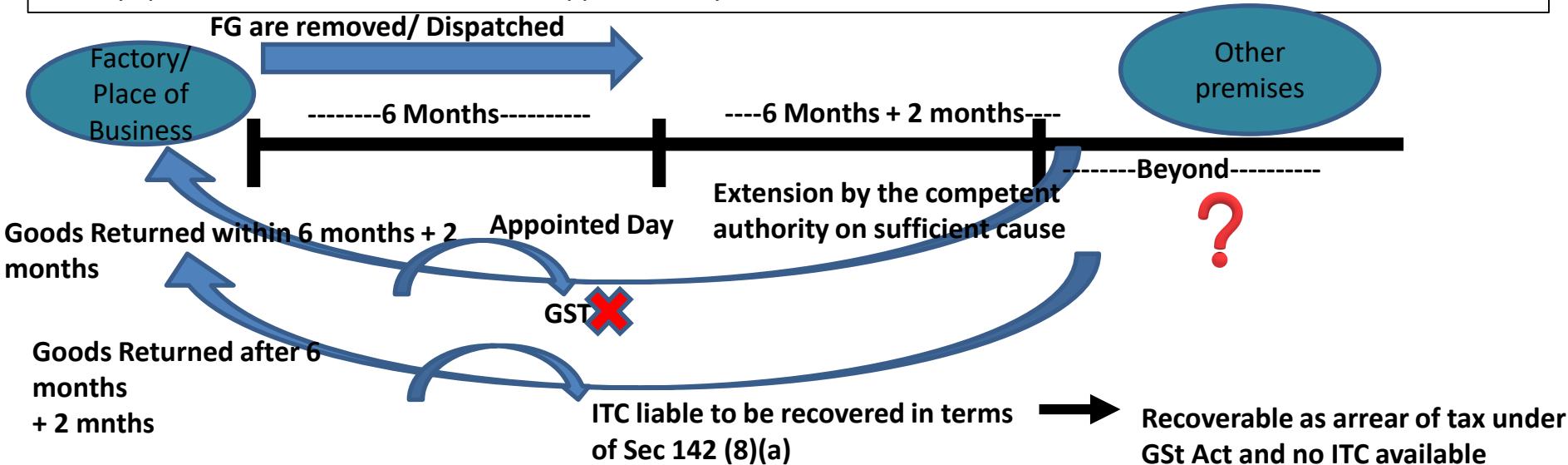


M/f + job worker → To declare the details of the inputs held in stock by job worker on behalf of the said person on the appointed day.

M/f or person dispatching → T/f goods to premises of any regd taxable person for supplying therefrom: India (on payment of tax)/ Exports (w/o tax)- Within 6+2 months

FG removed for Job Work returned on or after the appointed day – S 141(3)/UT 19(3)

Where any excisable goods/ goods had been removed/ despatched from a factory/ place of business to any other premise whether registered or not for carrying out tests/ other processes not amounting to M/f process → Returned to said factory/ place of business on or after the appointed day

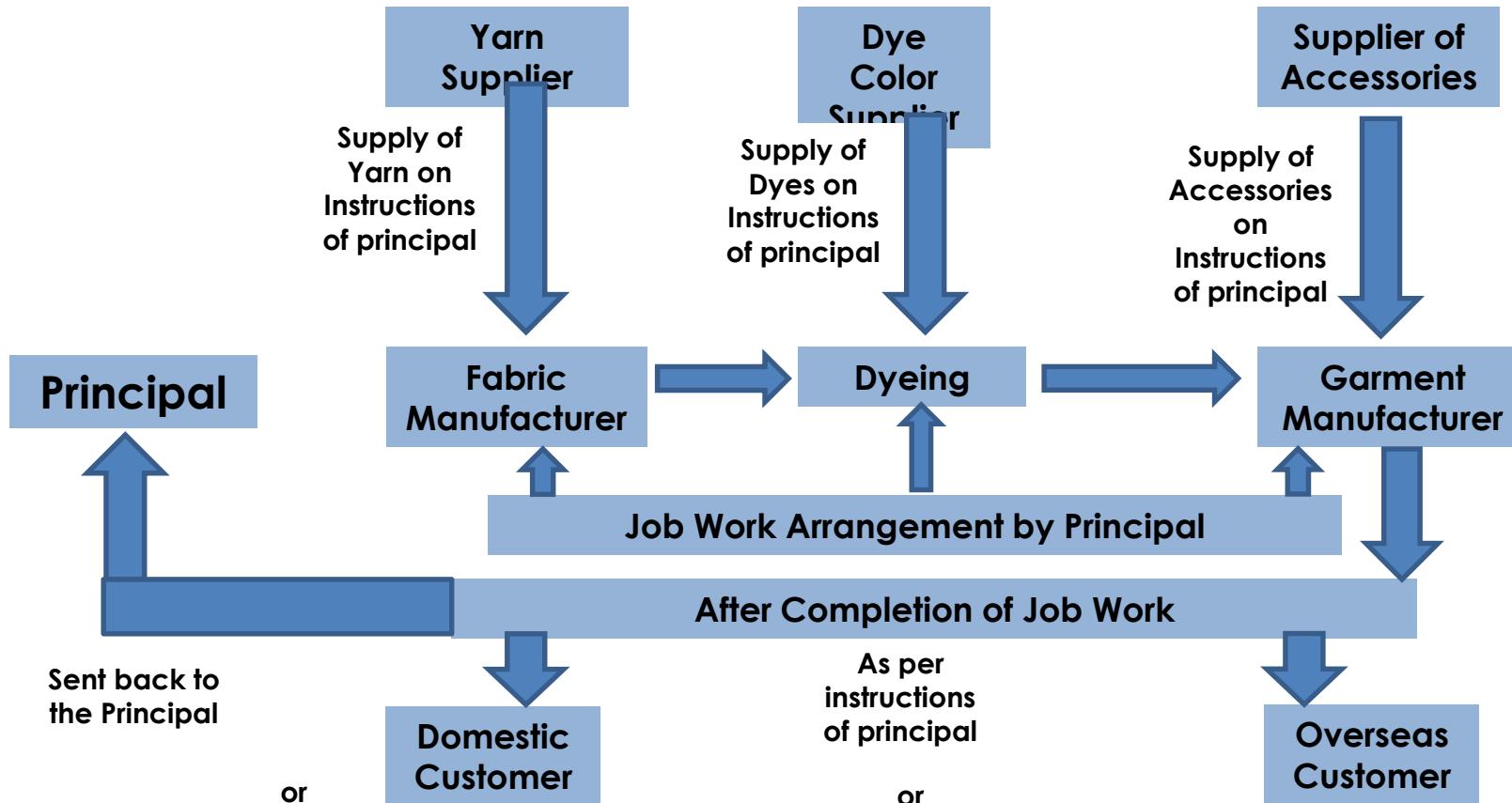


M/f or person dispatching → T/f goods from said other premises for supplying therefrom: India (on payment of tax)/ Exports (w/o tax)- Within 6+2 months

JOB WORK UNDER THE GST REGIME

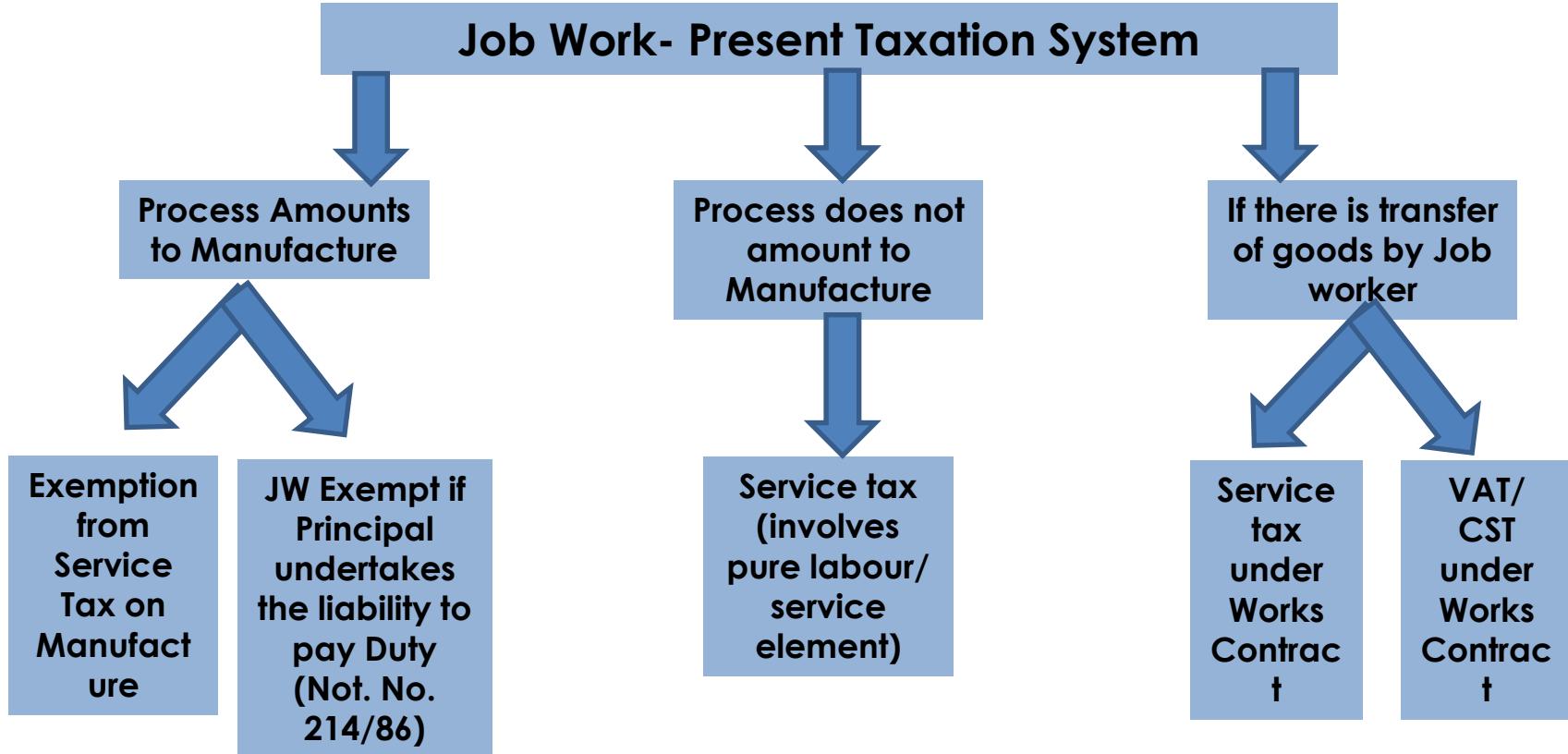
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Job Work Model: Example



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Job Work- Present Taxation System



As per Sec 2 (68) of CGST Act, 2017, “job work” means any treatment or process undertaken by a person on goods belonging to another **registered** person and the expression “job worker” shall be construed accordingly. The above definition has been enhanced (compared to present which confines to manufacturing in Excise) which includes any treatment or process which will also cover repairs, calibration, testing, such services etc. etc.

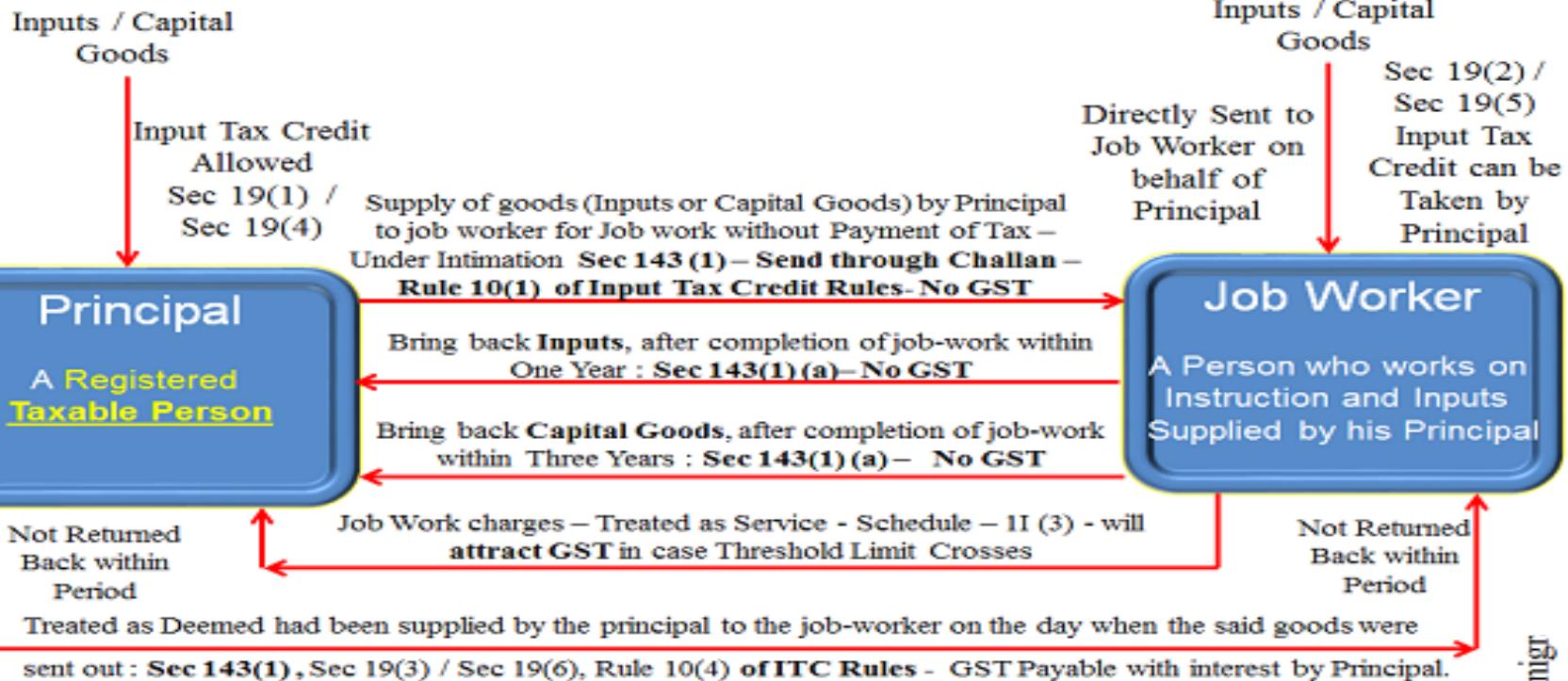
Schedule I [Section 7] includes activities to be treated as supply even if made without consideration. As per Clause 3 of the schedule,

- Supply of goods by a principal to his agent or
- by an agent to his principal shall also be treated as supply.

HENCE GST IS LEVIABLE

Sec 143 of CGST Act, allows supply of goods by a registered person (principal) to Job Worker without payment of GST.

Job Work under GST



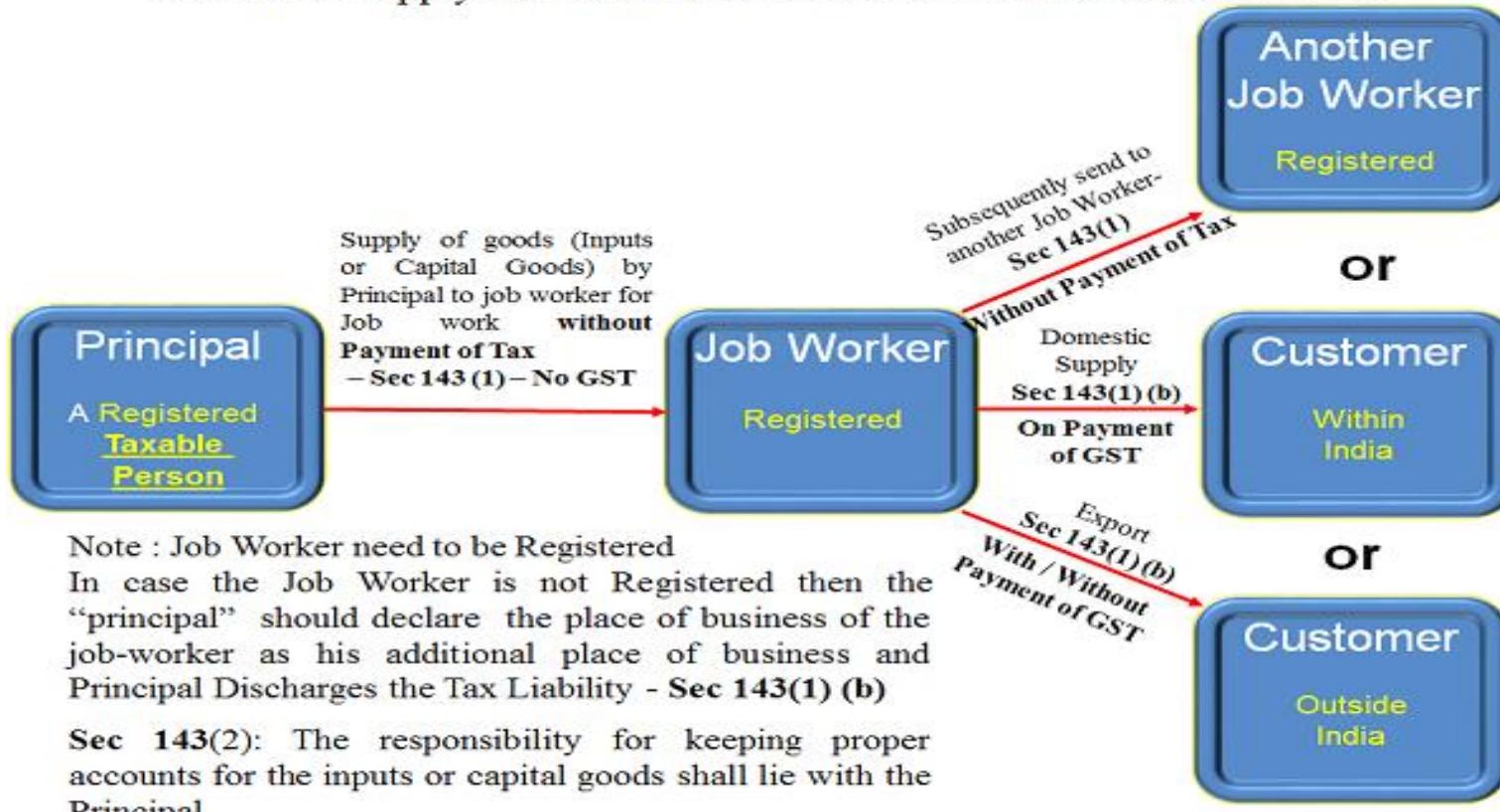
Note : In case of not receiving back the Inputs / Capital Goods the period of one year / three years shall be (1) when supplied by Principal's Premises : on the day when the said capital goods were sent out; (2) when supplied directly to the job worker : the date of receipt by the job worker

Sec 143(1) of CGST Act-

- Only the **Registered Persons** can avail the provisions of the Scheme.
- Goods (Input/ Capital) can **only** be removed to **Job Worker's place**
- Goods will be sent **without** payment of tax.
- Inputs includes Intermediate goods arising from any treatment or process carried out on the inputs by the principal or the job worker- Explanation
- Can be subsequently sent to another job-worker **only if the JOB Worker is registered or the Principal declare the Job worker place as his additional place of business.**
- Inputs to be bought back within **1 year**
- Capital goods to be bought back within **3 year** other than moulds & dies, jigs & fixtures or tools
- **Deemed supply** & GST payable if not received back within 1/3 year.
- Responsibility for accountability lies with the Principal.

- ITC allowed on inputs sent to Job worker by principal – Sec 19(1) of CGST Act
- ITC allowed even if inputs directly sent to the Job worker – Sec 19(2) of CGST Act
- ITC allowed on Capital goods sent to Job worker by principal – Sec 19(4) of CGST Act
- ITC allowed even if capital goods directly sent to the Job worker -Sec 19(5) of CGST Act
- Moulds and dies, jigs and fixtures, or tools sent out to a job-worker are not required to be received back by the Principal – Excluded from the Job Work Provisions – Sec 19(7) of CGST Act,
- Waste and Scrap generated at Job worker- may be supplied by the job worker directly from his place of business on payment of tax by Job Worker if such job worker is registered, or by the principal, if the job worker is not registered- Sec 143(5) of the CGST Act

Job Work : Supply the Goods from the Place of Business of a Job Worker



Input Tax credit Rules:

- The Input or capital goods shall be sent to the job worker under the cover of a challan issued by the principal, including where the inputs or capital goods are sent directly to job worker.
- The details of challan in respect of goods dispatched to a job worker or received from a job worker during a tax period shall be included in FORM GSTR-1 furnished for that period.
- If the goods are not returned within the specified time period, then the challan issued shall be deemed to be an invoice for the purpose of this act.

Invoice Rules:

- The delivery challans should be serially numbered.
- The delivery challans should be prepared in triplicate- original for consignee, duplicate for transporter and triplicate for Consignor
- When goods are transported on a delivery challan in lieu of an invoice, the same shall be declared in FORM (WAYBILL)
- The person in charge of a conveyance shall carry- delivery challan and a copy of the e-way bill or the e-way bill number

Transitional provisions:

- Goods removed as per the provisions of the existing law prior to the appointed day and if such goods are returned within a period of 6 months from the appointed date, no tax will be payable.
- This period can be extended by a period of 2 months
- If not returned within the specified time period, input tax credit shall be liable to be recovered.

Transitional Provisions : Goods Send for Further Processing

Sec 141. (1) Inputs Removed for further processing, testing, repair, reconditioning for Job work Prior to Appointed Date

Principal

No Tax Shall be Payable

Job Worker

Returned within six months from the appointed day

Sec 141. (2) Semi-finished goods Removed for manufacturing processes Prior to Appointed Date

Place of Business

No Tax Shall be Payable

Any Other Premises

Returned within six months from the appointed day

Sec 141. (3) Excisable goods Removed for carrying out tests Prior to Appointed Date

Place of Business

No Tax Shall be Payable

Any Other Premises

Returned within six months from the appointed day

Rule 2: Declaration of stock held by a principal

Every person to whom the provisions of section 141 apply shall, within sixty days of the appointed day, submit an application electronically in **FORM GST TRAN-1**, specifying therein, the stock or, as the case may be, capital goods held by him on the appointed day details of stock or, as the case may be, capital goods held by him as a principal at the place/places of business of his agents/branch, separately agent-wise/branch-wise.

Thank you

Huauk Xon

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