



CA Karan Sheth
TAX KA TEACHER

CA FINAL IDT

CHART BOOK NOV'24

#TaxKaTeacher

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FREE IDT HELPLINE - 8879-727-727

(Solve your IDT Doubt in 48hrs.)

I Left CA, Half way because....

I had promised myself that I'd only give maximum

3 CA final attempts to myself, and if I still didn't pass, I'd give up.

And that's exactly what happened...

I had cleared one group of the CA finals by May 2015 and I quit my CA journey

Also

I was already making more money than many CA Peers, so I just felt that the entire purpose of doing CA had got defeated

IN 2019, something unexpected happened.

Teaching career : I was teaching CA Intermediate students, but I wasn't allowed to teach CA final students because my boss back then said

- "Become a CA first and then we shall have a conversation. You can Leave now"

Feeling like a Hypocrite my Students : Even though I had quit my CA journey I kept feeling inauthentic and more so a hypocrite when I had to tell my students to keep going and not give up, where I had myself given up four years ago.

Shaadi: I was 26, and was already into the process of bride hunting and I fairly remember that I had met a prospect that I thought I had a connection with but she did not go ahead with the rishta because I wasn't a CA and she was.

I felt stuck in every aspect of my life

So, I decided to give it another shot and started studying for my CA final exams once again, with more zeal and even more enthusiasm.

It was tough because -

Padh bhi Raha tha aur

Padha bhi Raha tha...

It was May 2019, I didn't clear it in first time as I fell short of 2 marks. Total was 198

I was going to quit again, it wasn't easy to go through it all again...

But a friend of mine somehow convinced me and said with a lot of conviction -

Last try kar le hojayega

(Her conviction was impeccable and I somehow convinced myself to keep going)

It was 16th Jan, 2020 1.45pm

I was teaching some 300 students, my phone was on silent, I saw 50 missed calls of my mom

I was worried, so I called her while standing on the podium and..

We asked - **Su thayu mummy**

She said - **Tu CA bani gyo beta, Tu CA bani gayo (Gujarati)**

& that was followed by a thunderous applause by my students.

To all the students out there, my message is simple:

If you know your **WHY** (ie Purpose)

You shall know your **HOW** (ie Way to get there)

GOODS AND SERVICES TAX

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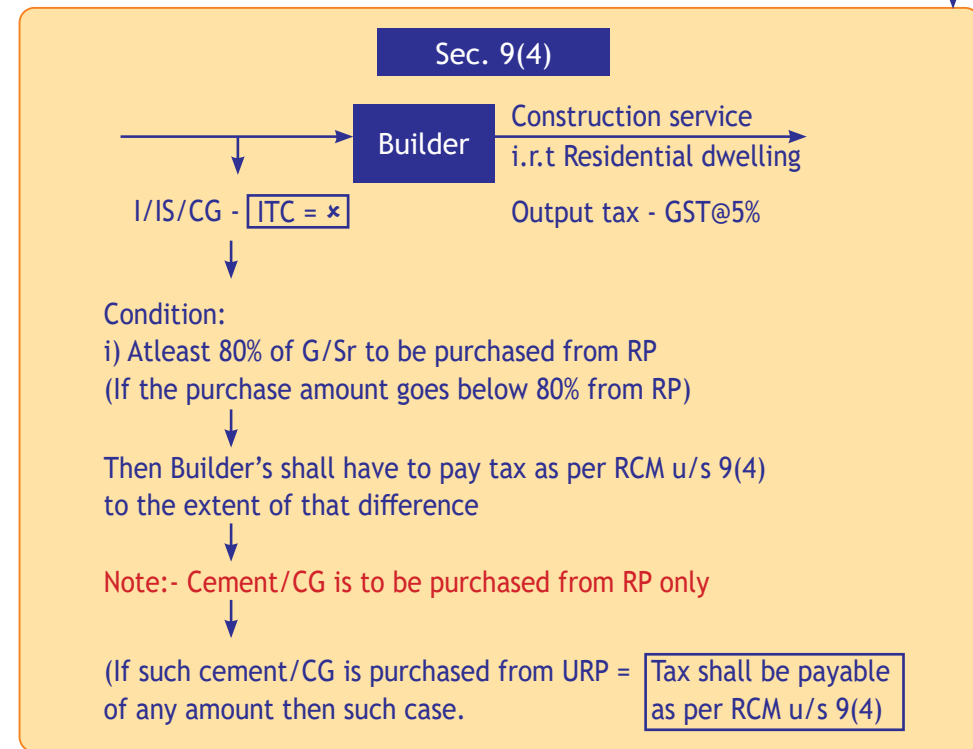
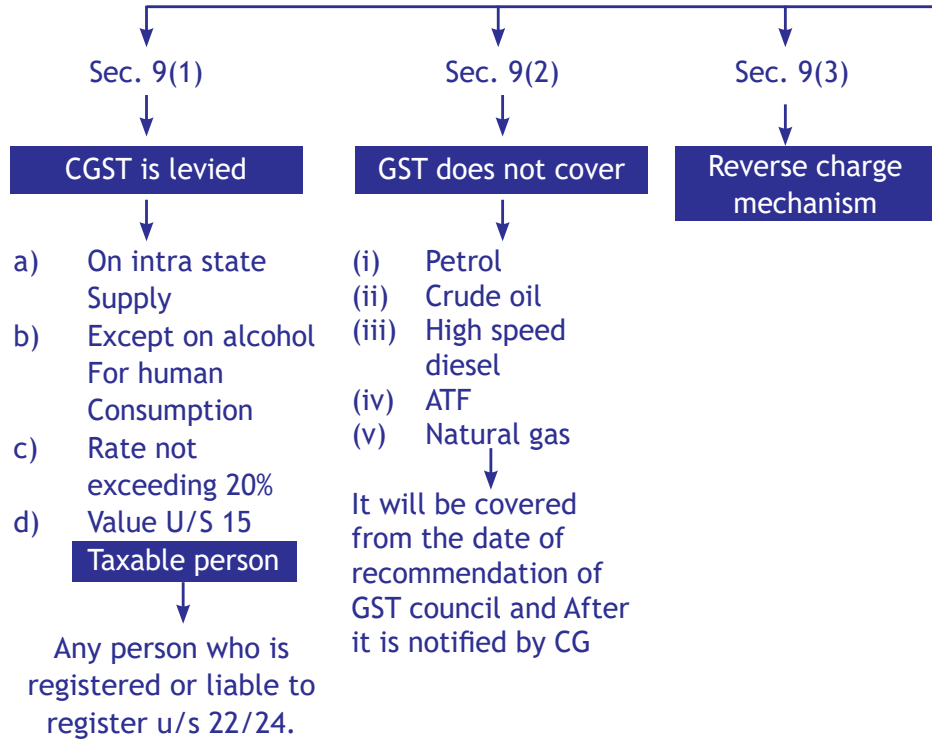
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CUSTOMS

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(Section-9)



Sec. 9(5)

- A. Transportation of passengers by Radio Taxis, Rickshaw, Metered Taxis & Any other Motor vehicle **excluding omnibus**
Tax to be paid by **ECO**
- B. Transportation of passenger Service by omnibus
i) Supplier = Other than Company → **ECO** ii) Supplier = Company → **Company**
- C. 1. Hotel accommodation service 2. House keeping service
(i) If supplier is registered → **Supplier**
(ii) If supplier is not registered → **ECO**
- D. Restaurant Service
If Restaurant (RP or URP) Supply service through ECO → **ECO u/s 9(5)**
If Restaurant is situated in a Hotel having declared tariff of more than ₹7500/day & supplies such service through ECO → **Restaurant u/s 9(1)**

ECO has physical presence	ECO itself
ECO does not have physical presence	Representative of ECO
ECO doesn't have physical presence nor has representative	Person appointed by ECO

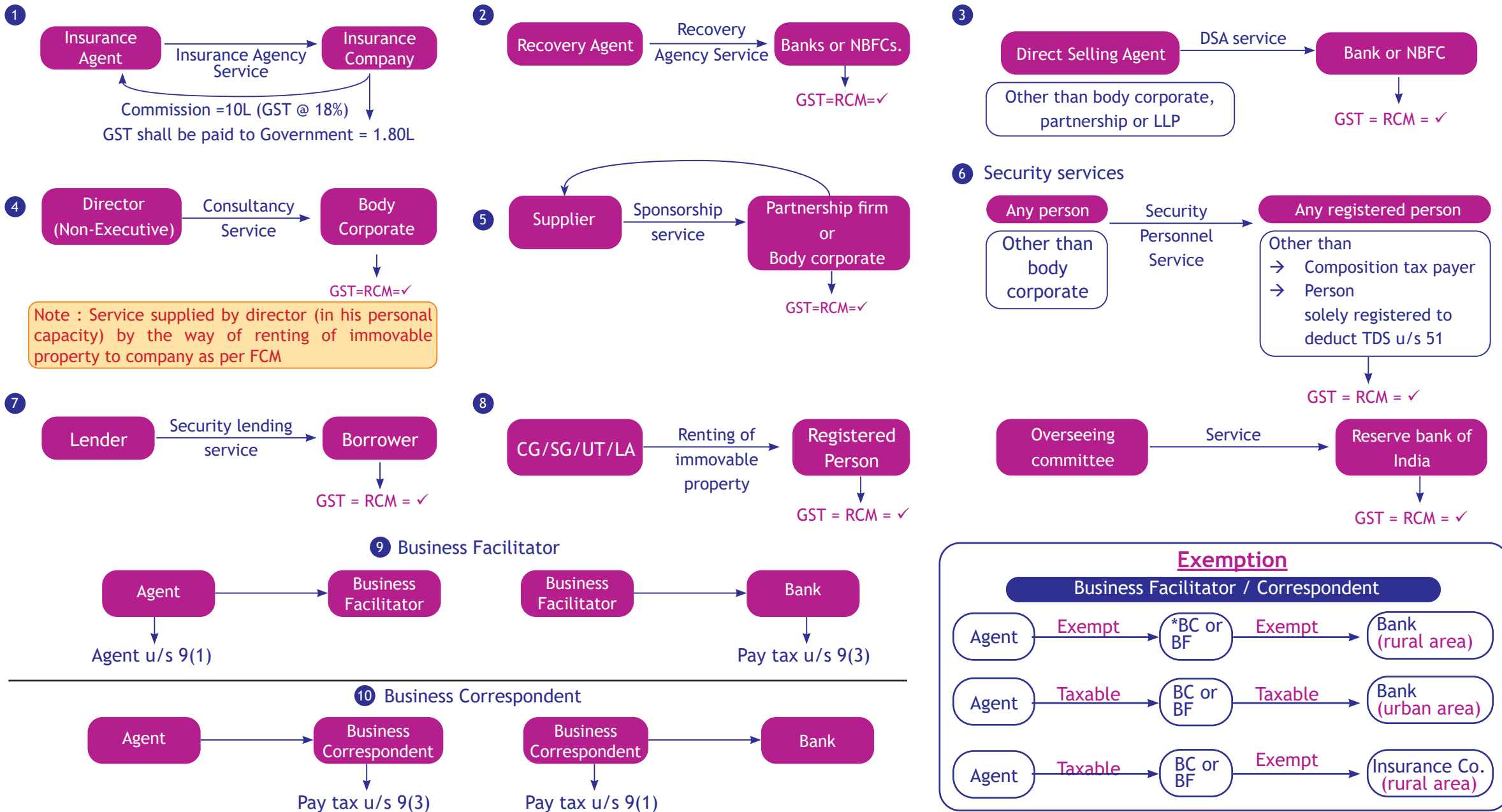
Situation	Person Liable to pay tax
Shiv Sagar Restaurant, a registered person in GST is supplying service through Zomato, an ECO	Zomato u/s 9(5)
Status Restaurant, an unregistered person supplying service through Swiggy, an ECO	Swiggy u/s 9(5)
Masala Kraft, a restaurant in Hotel Decent where the declared tariff is 2500/day supplies service through Zomato, ECO	Zomato u/s 9(5)
Shamiana, a restaurant in Taj Hotel where the declared tariff is 1,00,000/day supplies service through Zomato, ECO	Shamiana u/s 9(1) Restaurant
Neeta Travels Pvt Ltd is supplying transportation of passenger service in an omnibus through REDBUS app.	Neeta Travels Pvt Ltd u/s 9(1)
Eagle Travels, a partnership firm is providing transportation of passenger ger service in an omnibus through GOIBIBO app	GOIBIBO, an ECO u/s 9(5)

Important aspects to be remembered in RCM

1. All the recipients should be located in Taxable Territory
2. Whenever the conditions of RCM are not satisfied, tax shall be payable as per FCM i.e. by supplier
3. Partnership firm always includes LLP

Sec. 9(3)

Recipient shall pay tax to Government





GTA

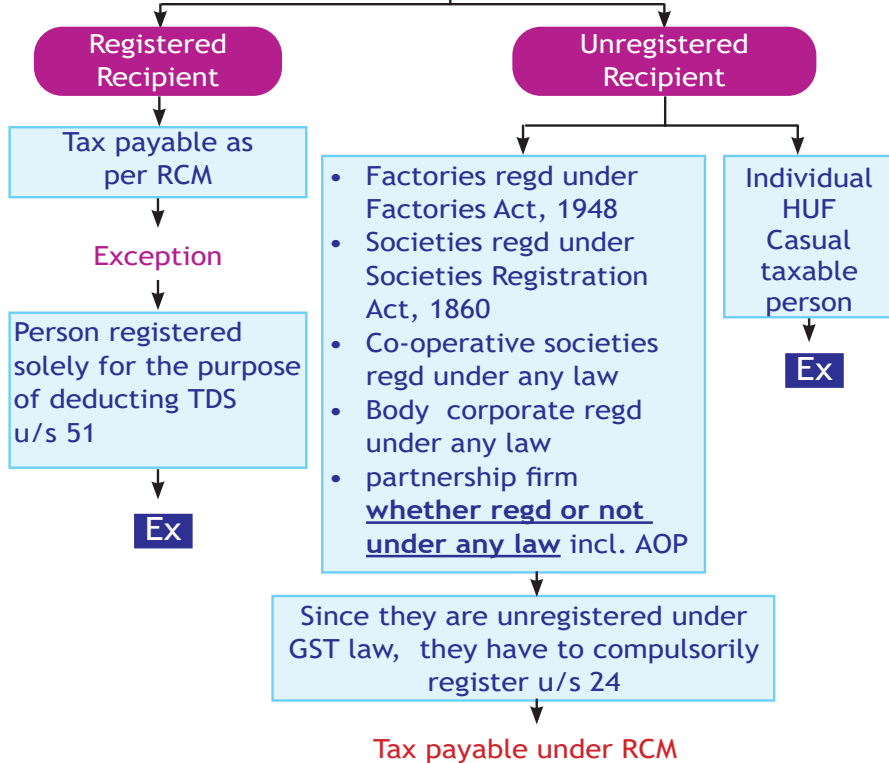
- i) Transport goods via Road
- ii) Issues consignment note



Recipient

Pay Freight

In case where GTA opts. for GST @ 5%



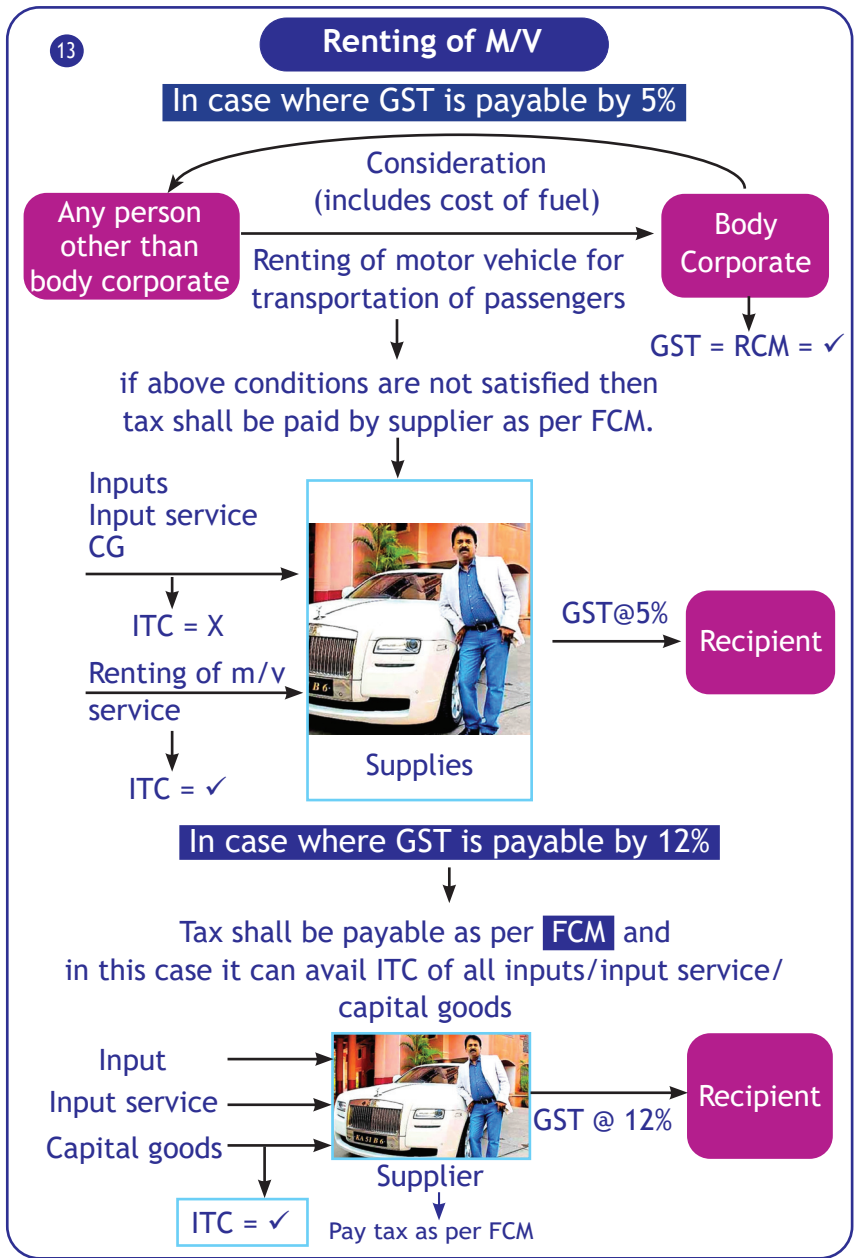
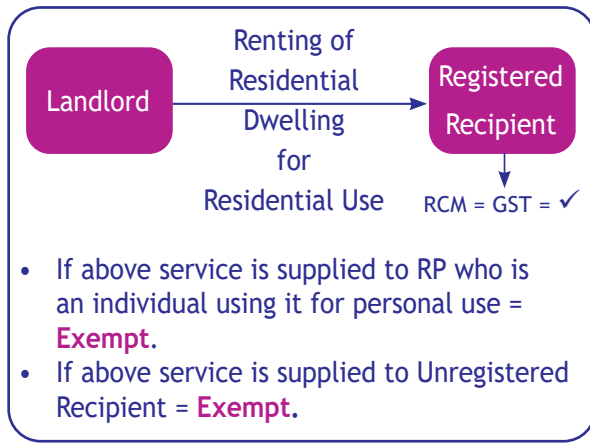
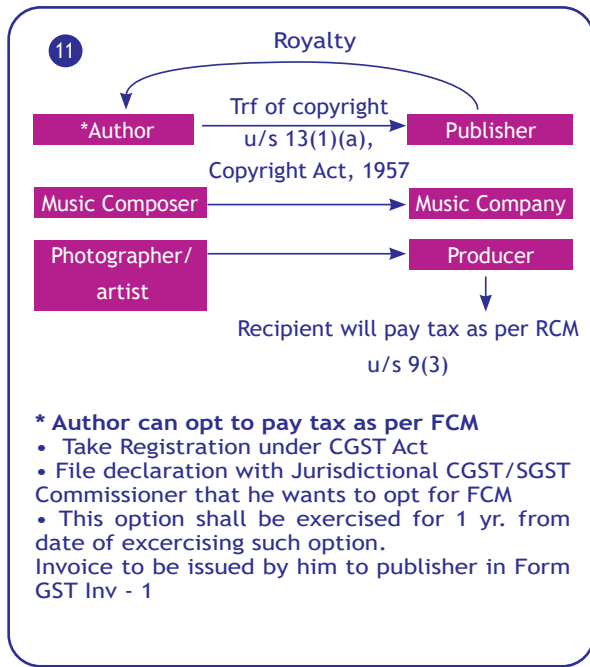
Note : GTA can opt for GST @5% without ITC & Pay tax as per FCM.

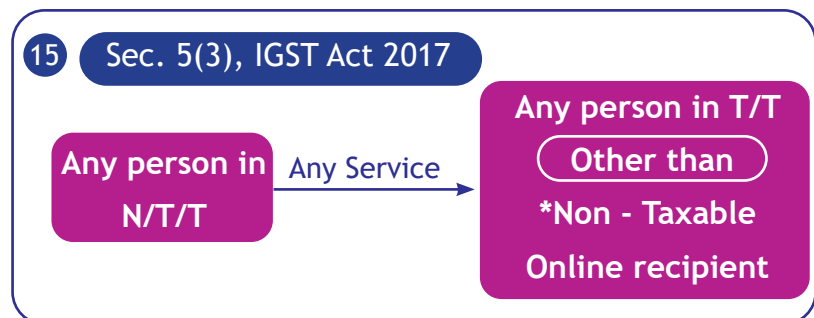
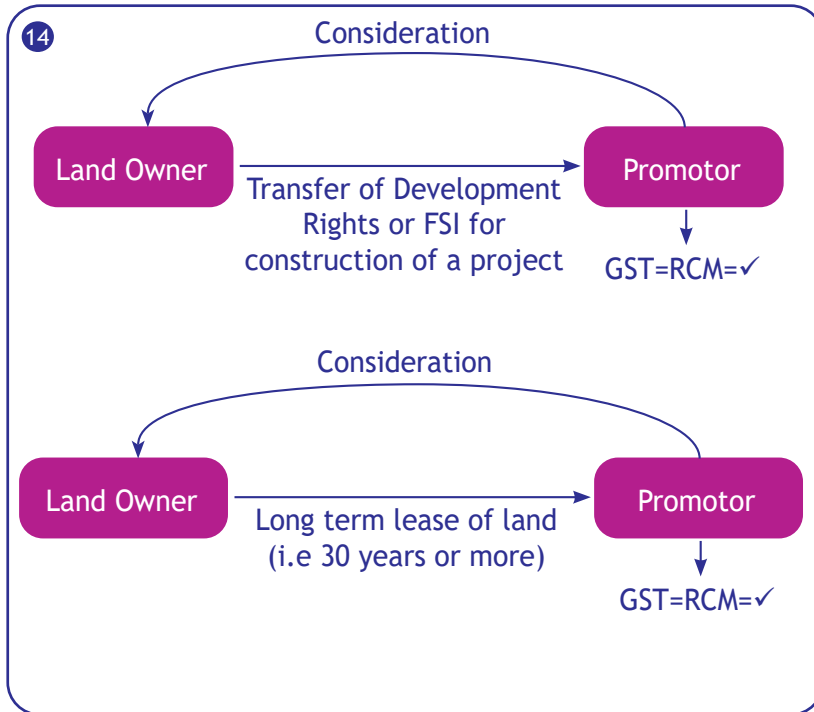
GTA (GST @ 12%)

Tax payable as per FCM

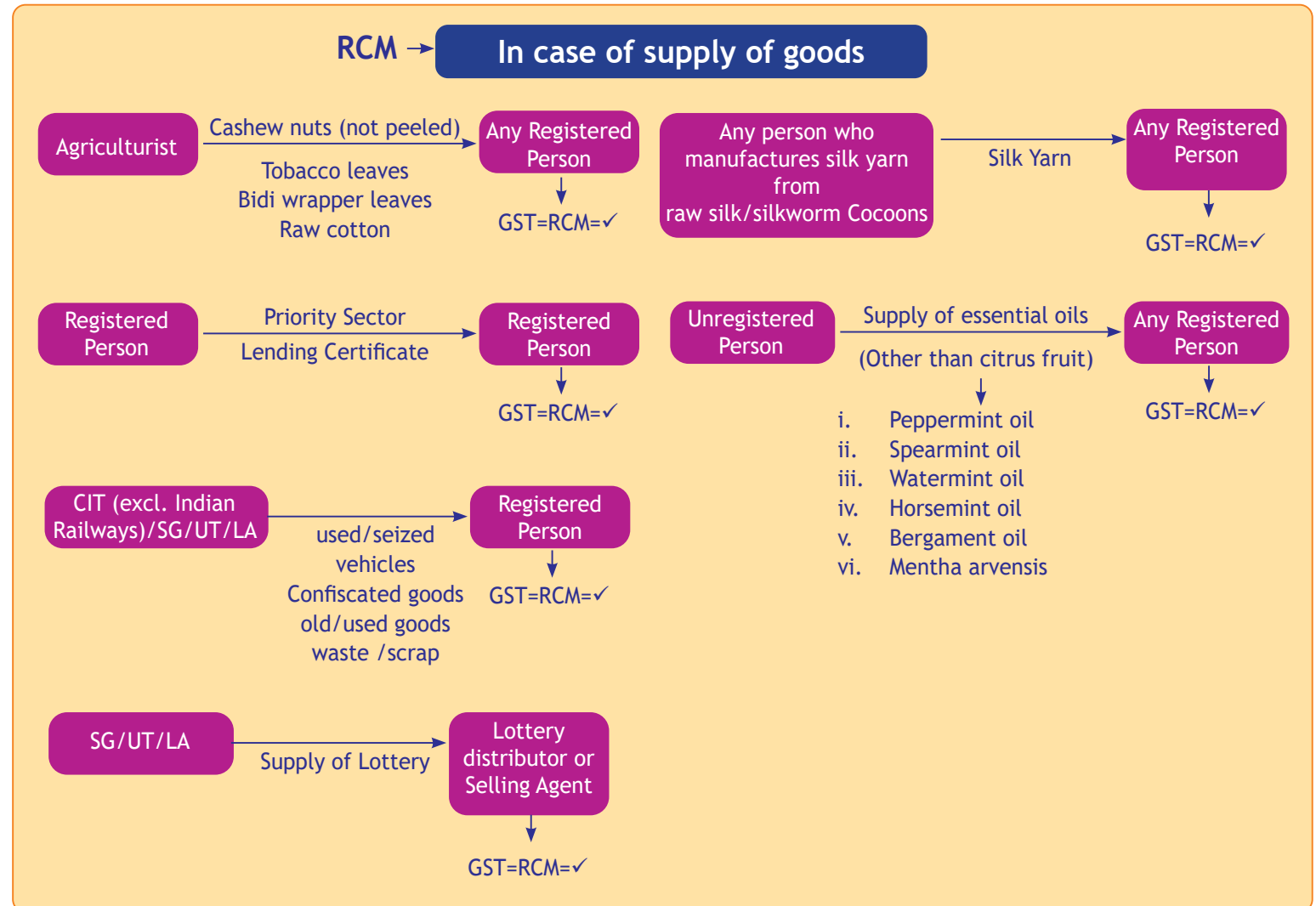
Exception

- i) Unregistered Individual, HUF, Casual taxable person; &
 - ii) Person registered solely for deducting TDS u/s 51
- Exempt

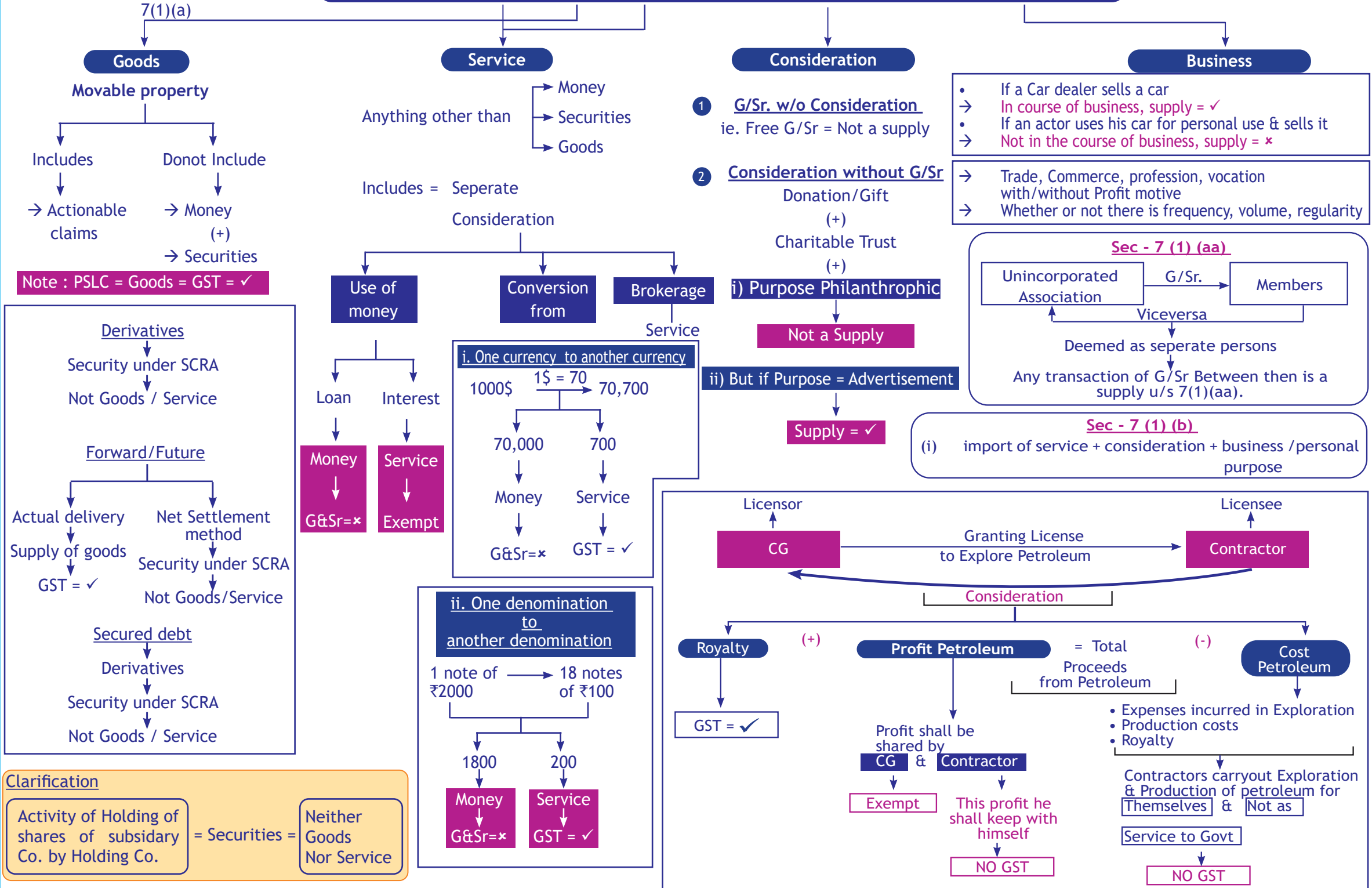




*NTOR = Unregistered person who procures OIDAR service in taxable territory.



Sec.- 7 (1) (a) = All forms of Goods/Service + made for consideration + in course of business



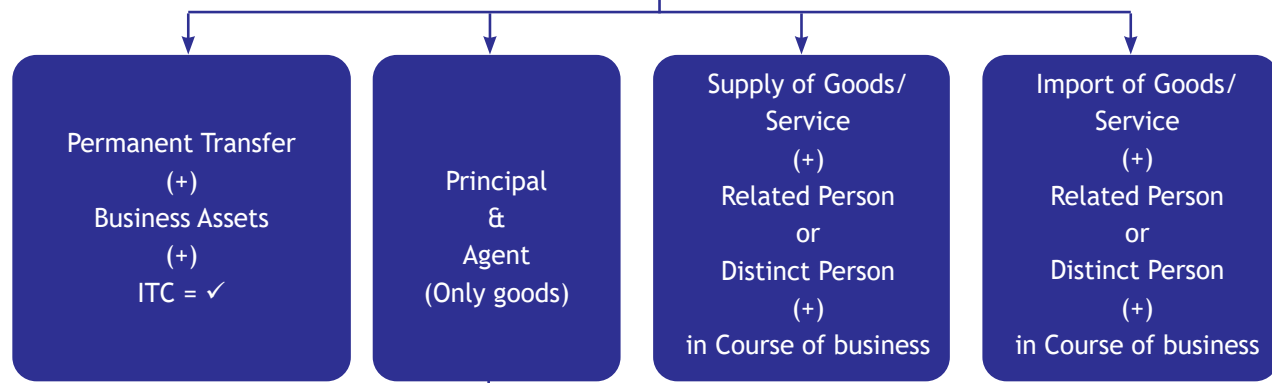
Clarification

Activity of Holding of shares of subsidiary Co. by Holding Co. = Securities = Neither Goods Nor Service

* PSLC → Priority Sector Lending Certificate.

Sec 7(1)(c): Deemed Supply

Activity w/o Consideration



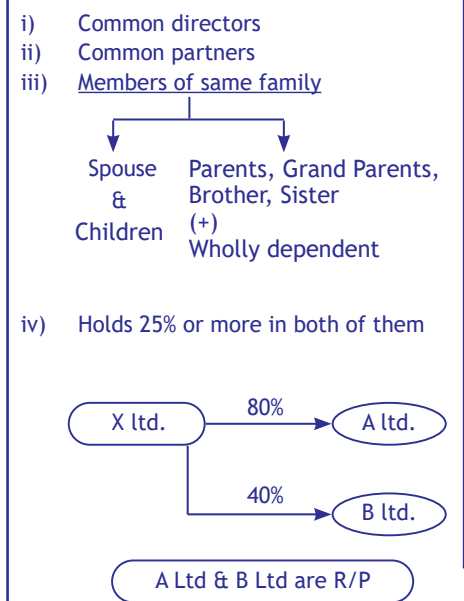
When Agent Issues invoice in his own name **P-A is covered under Sch-I**

Agent doesnot Issues invoice in his own name **P-A is not covered under Sch-I**

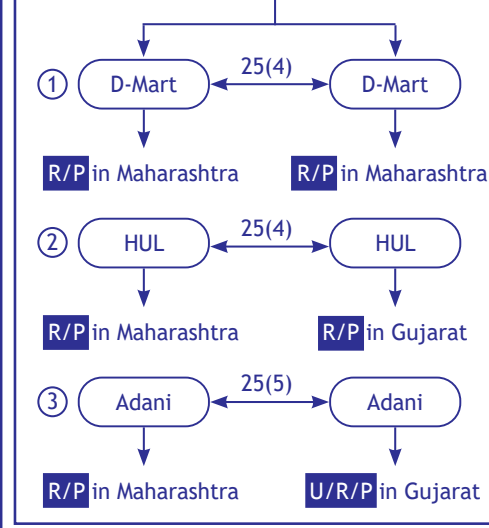
P ↔ DCA = is covered under Sch- I **Interest is included in VOS u/s 15(2)(d)**

P ↔ DCA = is not covered under Sch- I **Interest is exempt**

Related Person



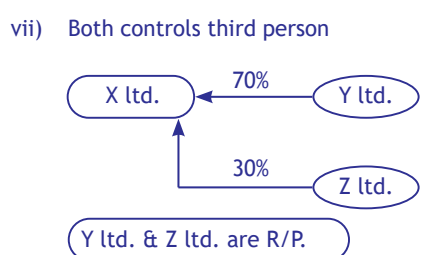
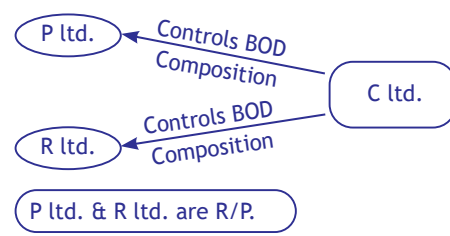
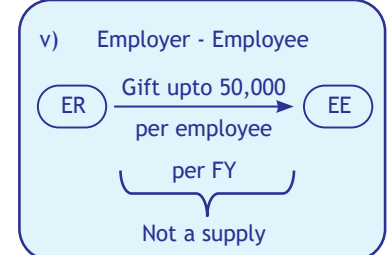
Distinct Person



A Ltd & B Ltd are R/P

Proviso to Sec 7(1)(c)

vii) Third person controls both the persons



Section 7 (1A) - Schedule II - Determination of supply of goods or services

CASES	SUPPLY OF GOODS OR SERVICES
1 Transfer of title in goods	Supply of goods
2 Transfer of right to use without transfer of title	Supply of service
3 Transfer of title in goods under an agreement where property pass at future date	Supply of goods
4 • Lease, tenancy, license to occupy land / building Clarification: Transfer of Tenancy rights against tenancy premium	Service
5 Treatment/ process on goods supplied by another person (ie Jobwork)	Service
6 Renting of immovable property	Service
7 Intellectual property rights	Permanent = Goods Temporary = Service
8 Information Technology Software	Pre-packaged software = Goods Design, development Upgrade = Service
9 Work contract	Service
10 Supply of goods being food or any drink for human consumption (ie Restaurant, Catering)	Service
11 Transfer of Business Assets	Goods forming part of business assets carried on by person who ceases to be a taxable person
12 If Entire Consideration is before CC or OC, w.i.e.	Services
If Entire Consideration is after CC or OC, w.i.e.	Neither Goods Not Service
13 Refrain from doing an act, tolerate an act	Refer Clarification*



Cases of Supply

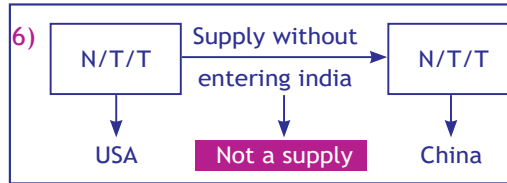
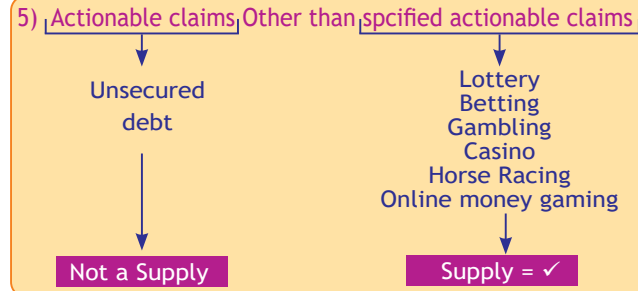
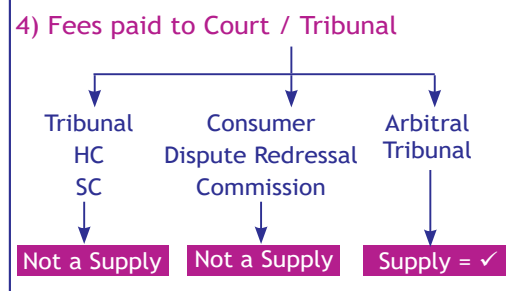
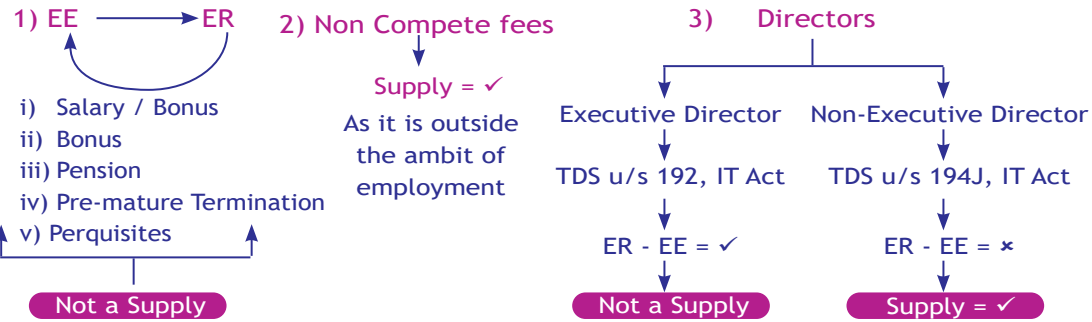
- Ex :
- Non-compete fees
 - Shopkeeper allowing a hawker to operate from common pavement in front of his shop
 - Customer cancellation charges
 - Charges on pre-payment of loan
 - Early termination of lease before a certain period

Cases where it is not a supply

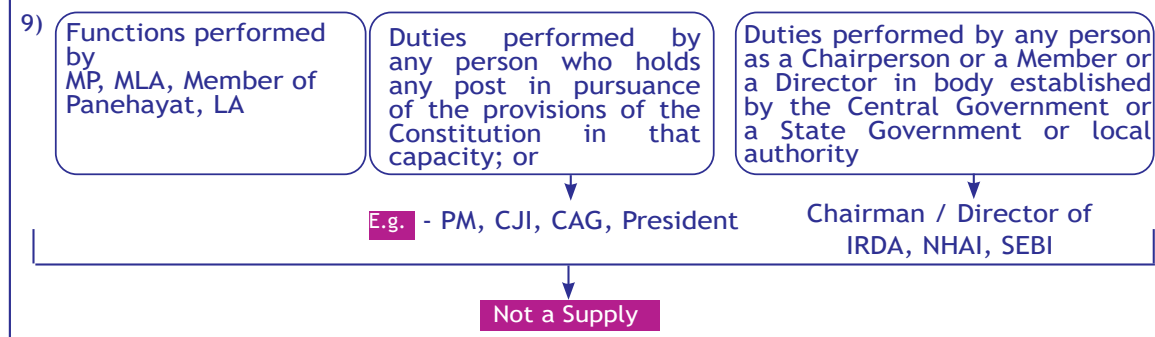
- Liquidates damages for breach of contract
- Damages to property
- Compensation for piracy
- Cheque dishonour penalty
- Penalty imposed for violation of any law
- Forfeiture of salary in event of employee not serving notice period
- Forfeiture of earnest money by selling in case of breach of an agreement to sell an immovable property
- Compensation given to previous allottees of coal blocks for cancellation of their licenses pursuant to SC.

Insurance Co is not supplying Service to policyholder by the way of refraining from doing an act of lodging insurance claim during previous year

Section 7(2), Schedule III [NEITHER SUPPLY OF GOODS NOR SUPPLY OF SERVICES]



8) (ie High seas Sales) = Not a Supply

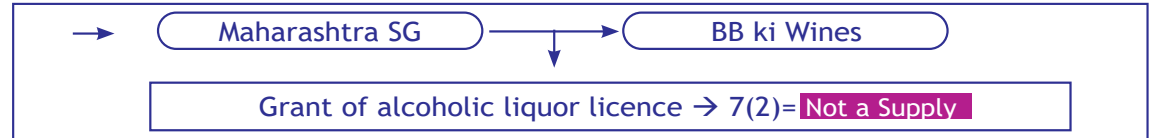
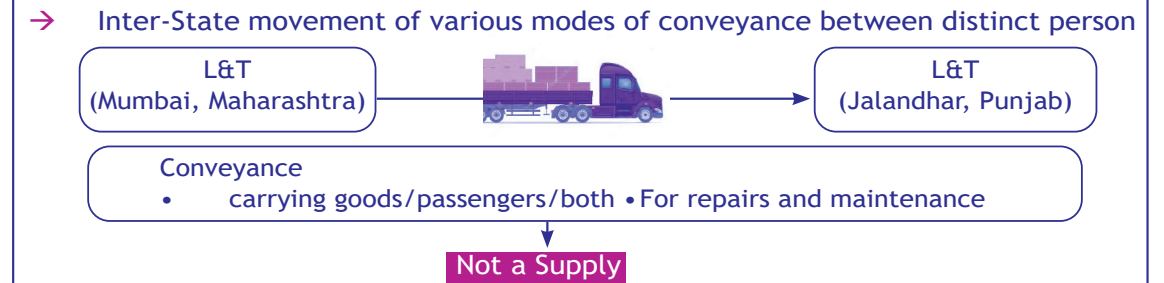


10) Funeral, burial, crematorium, mortuary (+) Transportation of deceased persons → **Not a Supply**

12) CG/SG/UT/LA → Functions entrusted to panchayat under Ar. 243G Municipality under Ar. 243W → **Not a Supply**

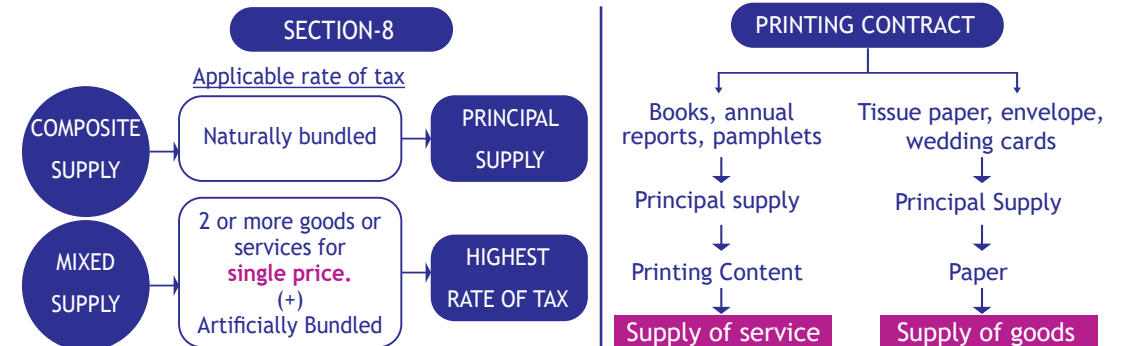
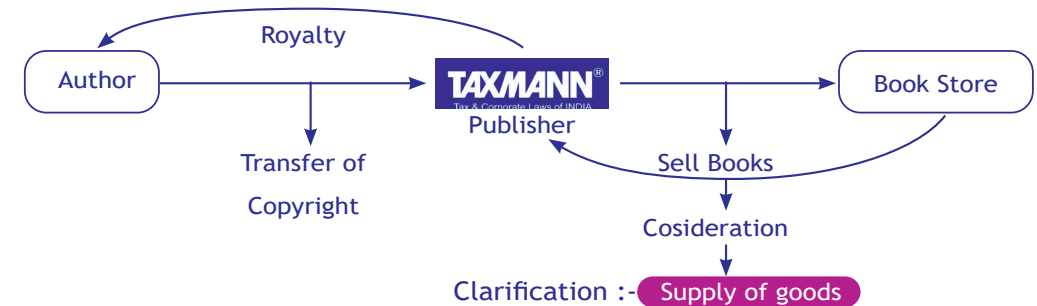
11) Sale of Land of Building = **Not a Supply**

Note : L&B can be sold with/without development like levelling, laying drainage, water lines = **Not a Supply**



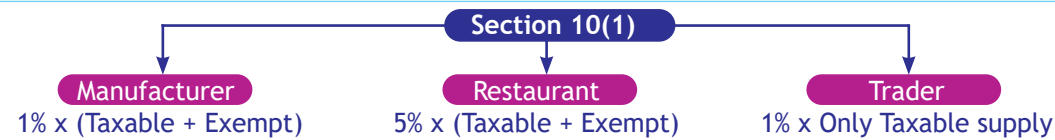
Clarification

The supply of books shall be treated as supply of goods as long as the supplier owns the books and has the legal rights to sell those books on his own account.



Combo Offer = Supply of food (+) Sale of cinema Ticket = Naturally Bundled = Composite supply = Principal Supply is Cinema Service

But if they are supplied independent of each other then supply of F&B in a cinema hall = Restaurant Service



Applicability

In PFY, Aggregate T/O does not exceed 150 lakhs / 75 lakhs → All NES (Except Assam) + Uttrakhand.

In CFY, he can opt to pay tax under composition scheme upto 150L/75L. Beyond that he shall start paying tax as per normal scheme. (within 7 days file intimation for withdrawl)



Includes
Value of all outward supplies, Taxable supplies, Exempt supplies, Exports, Inter-state supplies (Person having the same PAN on ALL INDIA BASIS)

Excludes
• CGST / SGST / UTGST / IGST / Cess
• Value of inward supplies on which tax is payable under reverse charge.

Note 1: in above outward supplies even supplies where tax is payable as per RCM is included.

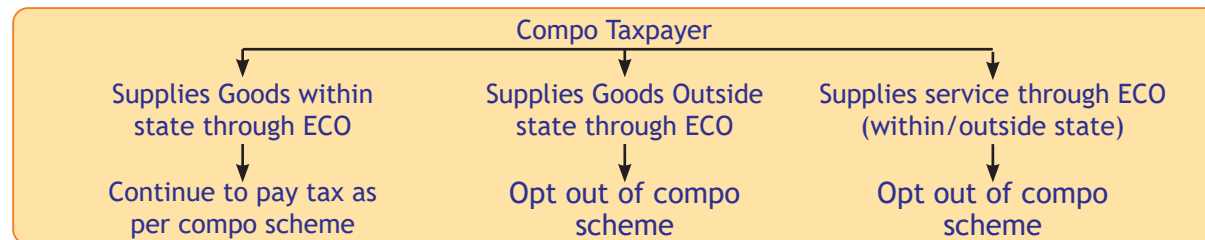
Note 2: Exempt supply includes Nil rated supply, Non taxable (5 Petroleum products, Alcoholic liquor)

Note 3: Do not include interest/discount on loans, advances, deposits. (in CFY & PFY).

Note 4 : Donot include any Schedule III activities as it is not supply.

Sec 10(2) - [All these restriction are to be followed in CFY as Composition scheme shall be opted in CFY]

- Supply of service other than restaurant should not exceed: 10% x T/o in PFY or 5L, w.i.h
- not supply goods & service that are **not leviable to tax** (ie Alcoholic liquor, 5 Petroleum Products)
- not engaged in **inter-state outward** supplies of goods/service
- not engaged in **goods*/service** supplied through **e-commerce operator**



Special procedure to be followed by ECO through which composition supplier supplies goods

The composition suppliers are permitted to make supply of goods through such ECOs. Composition suppliers are yet not permitted to supply service through ECO.

- Not allow any inter-State supply of goods
- The ECO shall collect TCS u/s 52(1) in respect of supply of goods made through it
- The ECO shall furnish the details of supplies of goods made through it by the said person in the statement in Form GSTR-8 electronically on the common portal.

- not a **Manufacturer** of →
Ice cream, Pan masala, Tobacco, Aerated waters
- Fly ash bricks or fly ash aggregate Fly ash blocks, Bricks of fossil meals or similar siliceous earths, Building bricks, Earthen or roofing tiles

- **NRTP** & **CTP** Cannot opt for Composition Scheme
- If a registered person has more than one branch then all branches shall opt for compo scheme

SEC 10(4): Cannot collect tax (ie. he issues Bill of Supply) & not entitled to claim ITC
SEC 10(5): Penalty u/s 73/74 shall apply to a person fraudulently paying tax under composition scheme.

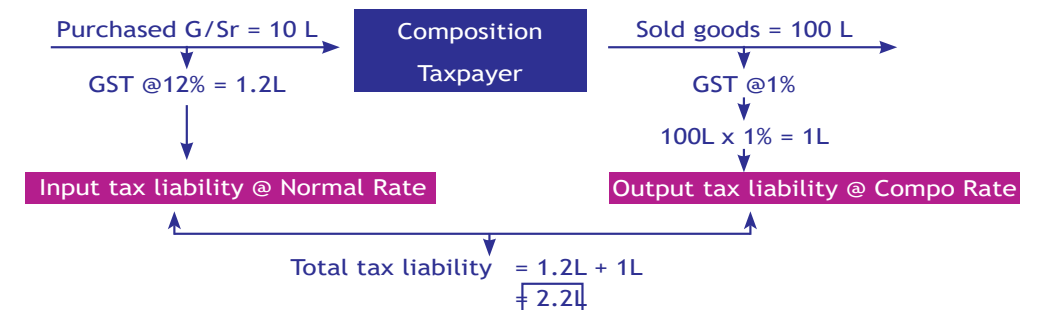
When P.O. believes that RP is ineligible to pay tax u/s 10.

- Issue SCN
- **Reply** by RP within **15 days**
- P.O shall issue **order** within **30 days** from receipt of reply → Accept or deny.
- Statement containing **details of Stock** within **30 days** from the date option is withdrawn/denied.

Payment of tax			Returns	
Form No.	GST CMP-08		GSTR-4	
Due Date	18th of month following the quarter		30th April of next FY	
Example	Period	Due Date	Period	Due Date
	April-June	18th July	FY 23-24	30th April 2024

Other Important Points

- Mention the words “composition taxable person, not eligible to collect tax on supplies” at the top of bill of supply& “composition taxable person” on every sign board at prominent place of business
- Compo taxpayer shall pay tax as per RCM at normal rate of tax.



3. Procedure for opting for the scheme

Category of persons	How to exercise option	Effective date of composition levy
New registration under GST	Intimation in the registration form	From the effective date of registration
Registered person opting for composition levy	Intimation in prescribed form	Beginning of the financial year

*NES = North Eastern States

* Goods = Person supplying goods through ECO within the state can continue to pay tax under compo scheme.

NEW SCHEME FOR SERVICE PROVIDERS - 10(2A)

Applicability

In PFY, If Aggregate T/o does not exceed 50 lakhs.



In CFY, can opt composition scheme upto Rs. 50 lakhs on first supplies of goods/ services beyond that tax shall be payable as per normal scheme u/s 9(1).

Rate

Rate = 6% x (Taxable + Exempt)

Conditions

- not engaged in making any supply which is not leviable to tax
- not engaged in making inter-state outward supply.
- neither a casual taxable person nor N RTP
- not engaged in making supply **goods***/ service through e-commerce operator.
- not engaged in making supplies of Ice cream and other edible ice, Pan masala, tobacco & aerated water
- shall not collect any tax from recipient & cannot avail ITC.
- shall issue Bill of Supply.
- Interest / discount on loan / advance / deposits shall not be added in CFY or PFY.

- Fly ash bricks or fly ash aggregate Fly ash blocks
- Bricks of fossil meals or similar siliceous earths
- Building bricks
- Earthen or roofing tiles

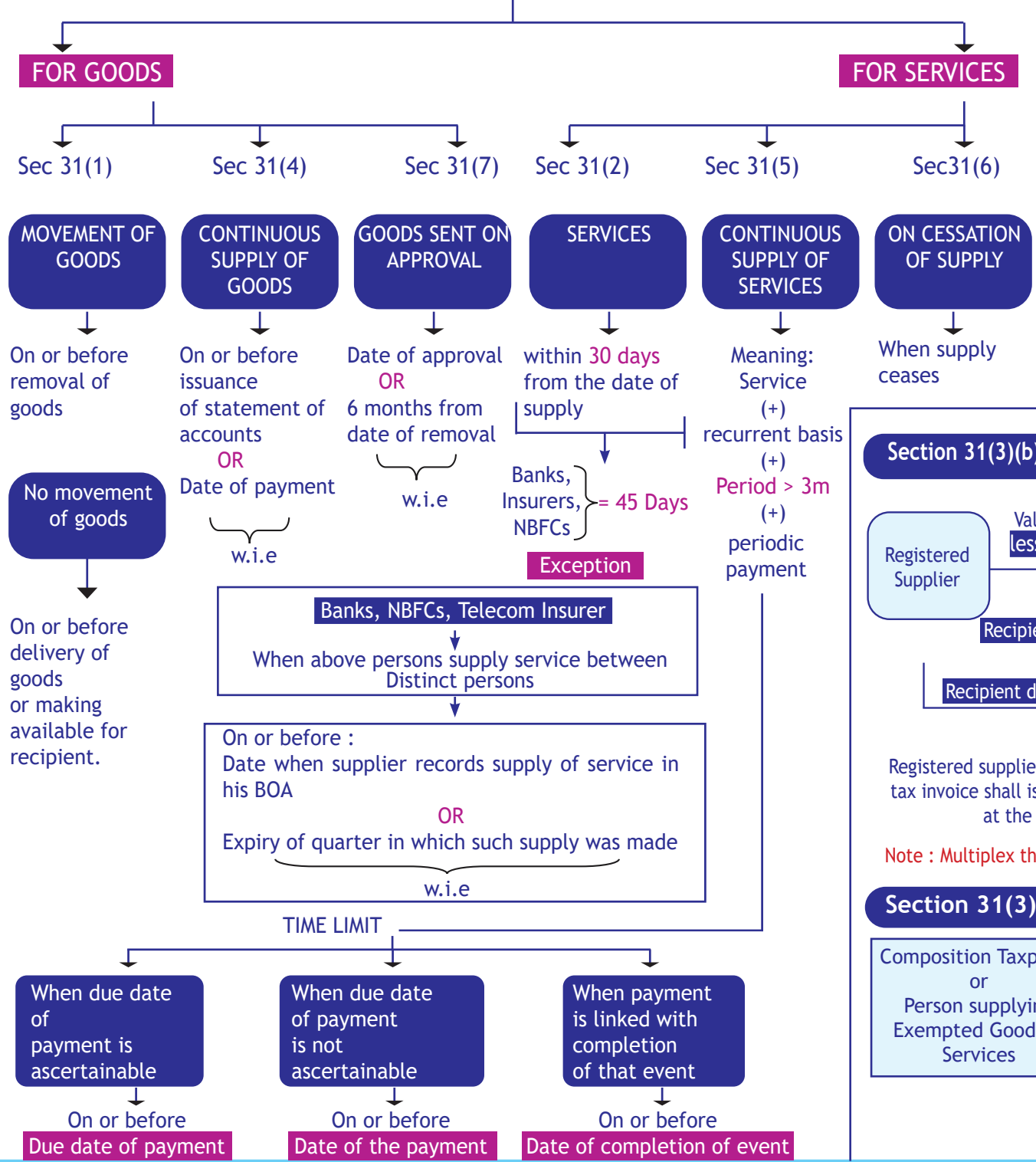
First supplies of goods or services or both (Manufacturer / Trader / SP:

Include

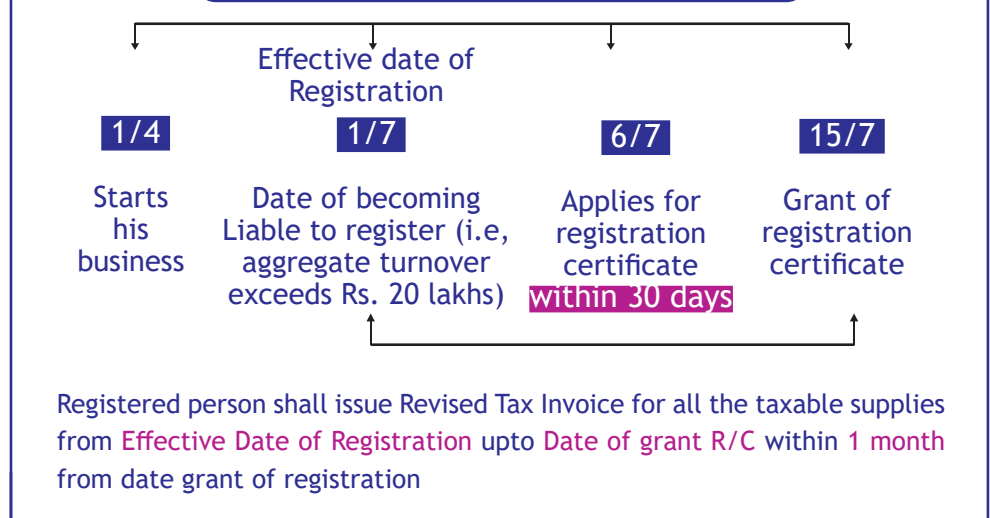
For the purpose of determining eligibility (In CFY) → T/o from 1st April to Date when he becomes liable to register

For the purpose of determination of tax payable → Donot include T/o from 1st April to Date when he becomes liable to register

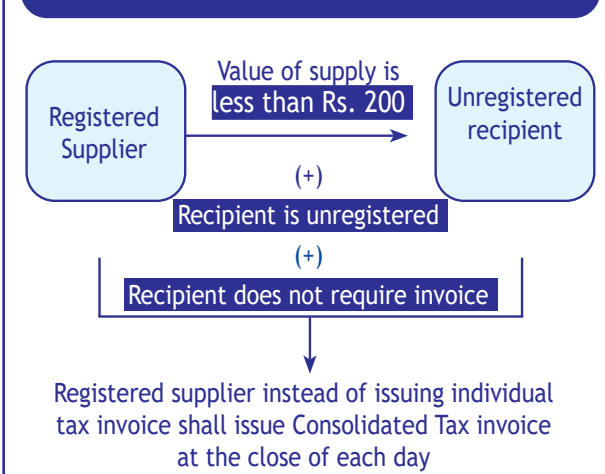
TIME LIMIT FOR ISSUING TAX INVOICE



Section 31(3)(a)- Revised Tax invoice

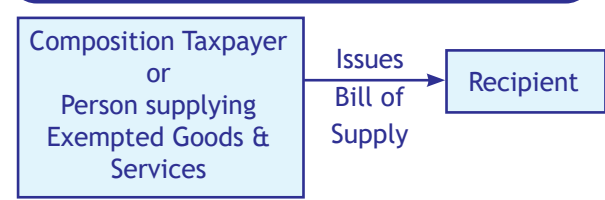


Section 31(3)(b)- Consolidated tax invoice

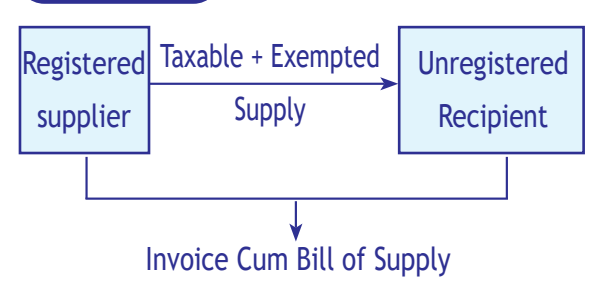


Note : Multiplex theatres cannot issue Consolidated Tax Invoice

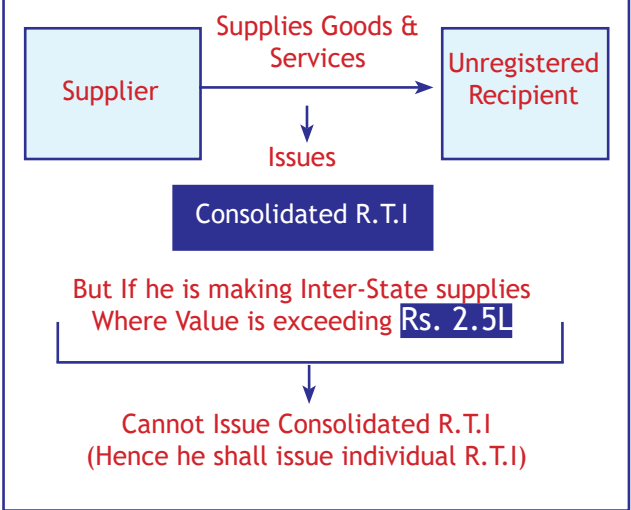
Section 31(3)(c)- Bill of supply



Rule 49:



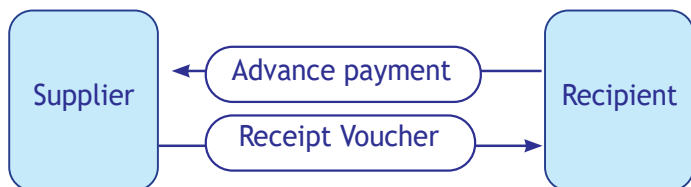
Note :



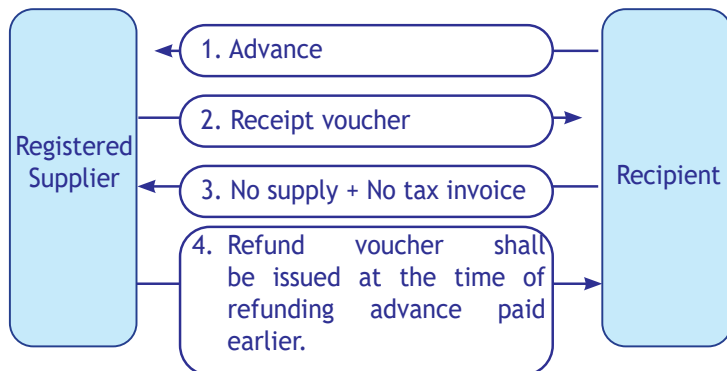
* BOA = Books of Accounts

Interstate supply 18%

Section 31(3)(d)- Receipt Voucher

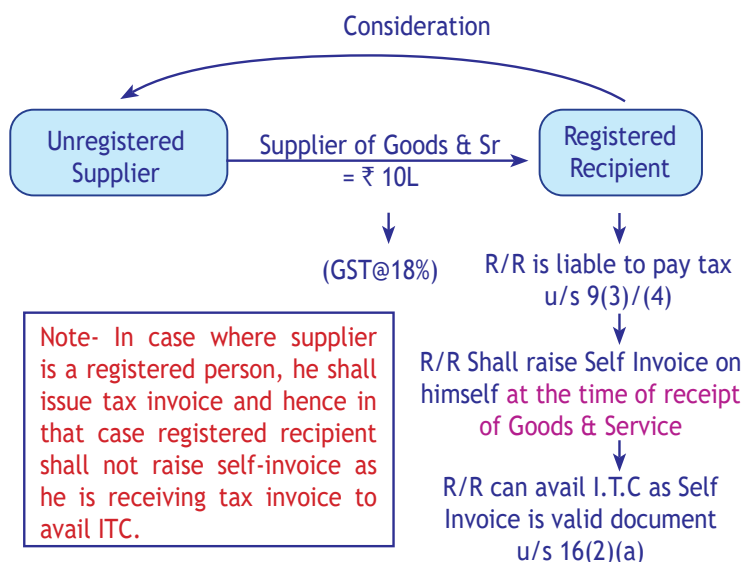


Section 31(3)(e)- Refund voucher

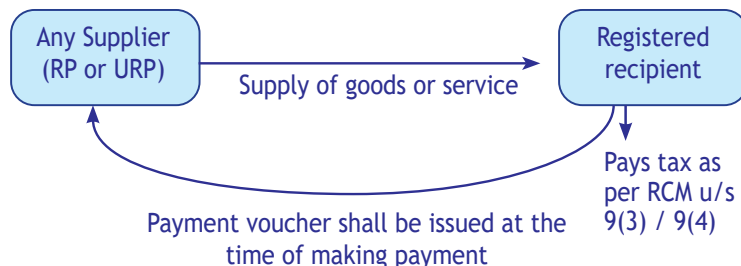


S.No.	Annual Turnover (AT) in the preceding FY	Number of Digits of HSN Code
1.	AT ≤ ₹ 5 crores	For B2B supply - 4 For B2C supply - 4 (optional)*
2.	AT > ₹ 5 crores	For B2B supply and B2C supply - 6

Section 31(3)(f)- Self invoice



Section 31(3)(g)- Payment voucher



Summarising Section 31(3)(f) and Section 31(3)(g)

Case I

When **supplier is unregistered** and **recipient is registered**

1. Registered recipient shall raise self invoice at the time of receipt of goods/service
2. Payment voucher shall be issued by registered recipient at the time of making payment.

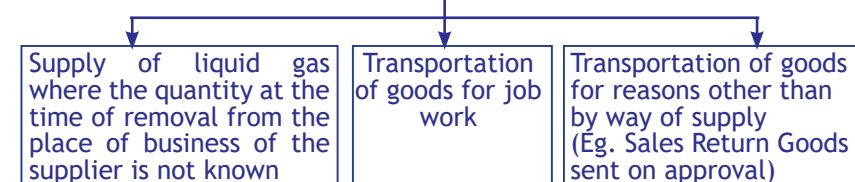
Case-II

When **supplier is registered** and **recipient is also registered**

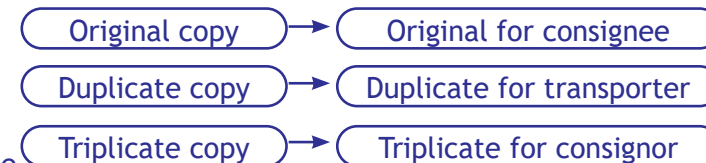
1. Registered recipient shall not raise self invoice because it's the registered supplier who has issued tax invoice to the recipient when goods or service are supplied
2. Payment voucher shall be issued by registered recipient at the time of making payment.

Rule 55-Delivery challan

Cases in which delivery challan is issued



The delivery challan shall be prepared in TRIPLICATE, in case of supply of goods, in the following manner:



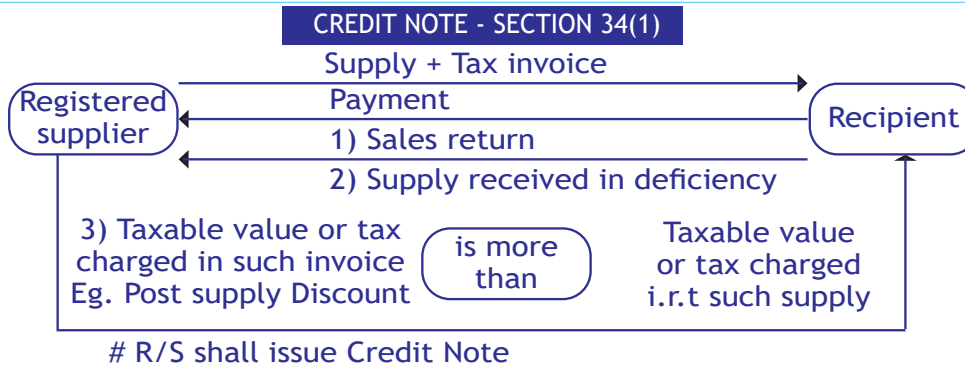
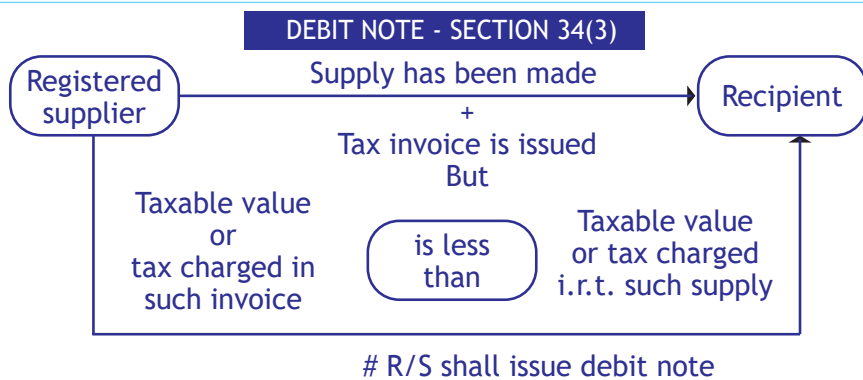
Rule 46 prescribes the particulars that a tax invoice issued by a registered person should contain. It inter alia, prescribes that:

- Where **recipient is registered**, tax invoice shall contain the name, address and GSTIN/ UIN of the recipient [Clause (d)].
- Where the **recipient is unregistered**:
 - (i) tax invoice shall contain name and address of the recipient and the address of delivery, along with the name of the State and its code, **only where the value of taxable supply ≥ ` 50,000** [Clause (e)].
 - (ii) **In case where the value of taxable supply < ` 50,000**, invoice shall contain the name and address of the recipient and the address of delivery, along with the name of the State and its code **only when the recipient requests that such details be recorded in the tax invoice** [Clause (f)].

In cases involving supply of online money gaming or in cases where any taxable service is supplied by or through an ECO or by a supplier of OIDAR services to a recipient who is unregistered, irrespective of the value of such supply, a tax invoice issued by the registered person shall contain the name of the State of the recipient and the same shall be deemed to be the address on record of the recipient.

Supplier permitted to issue document other than tax invoice

Situation	Type of Invoice
1. Supplier of passenger transport service	Tax Invoice shall include ticket in any form
2. Rule 46 : Insurer/ Banking company/ Financial institution, including NBFC	A Consolidated tax invoice/ any other document in lieu thereof, by whatever name called
3. Registered person supplying services by way of admission by exhibition of cinematograph film in multiplex screens.	Supplier is required to issue an Electronic ticket &



Time limit for declaration in the return:

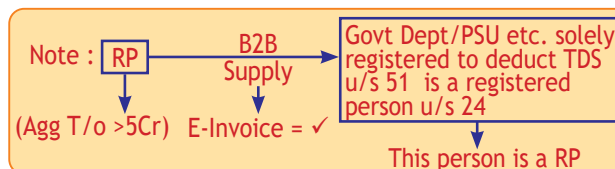
Debit Note Sec 34(4)	Credit Note Sec 34(2)
In the month in which debit note has been issued.	30th November following the end of FY in which supply was made or Actual date of furnishing Annual Return, w.i.e

R/S = Registered Supplier

E-Invoicing

Applicability Only B2B Supplies (Including Exports)

If Agg T/o of a registered person in any FY from 2017-18 onwards exceeds ₹ 5 crores.



Exemption from e-invoicing

- SEZ units (*SEZ developer is not exempted, E-Invoice = ✓)
- Insurer/banking company/NBFC
- GTA supplying services in relation to transportation of goods by road in a goods carriage
- Supplier of passenger transportation service
- Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens
- Government department
- Local bodies

Note: Required to declared on tax invoice that they are not required to issue e-invoice

Situations in which e-invoices are applicable

- Supply of goods and/or services to a registered person by notified person [B2B supplies] = **Applicable**
- Exports by notified persons = **Applicable**
- Supplies made by notified person, tax on which is payable under reverse charge u/s 9(3) = **Applicable**
- B2C supplies by notified persons = **NA**
- Invoices issued by Input Service Distributor = **NA**
- Where specified category of supplies are received by notified persons from unregistered persons [attracting reverse charge under section 9(4)] or through import of services = **NA**

Advantages

- Auto-reporting of invoices into GST return
- Auto-generation of e-way bill
- Substantial reduction in transcription errors
- Early payment
- Cost reduction
- Improved efficiency of business
- Reduction of tax evasion
- Elimination of fake invoices

Note: E-Invoice without IRN is not treated as document No ITC shall be availed with such E-Invoice.

Dynamic QR code on B2C invoices

Applicability → Only to B2C Invoices

A registered person whose aggregate turnover in any preceding financial year from 2017-18 onwards exceeds ₹ 500 crores will have a QR code.

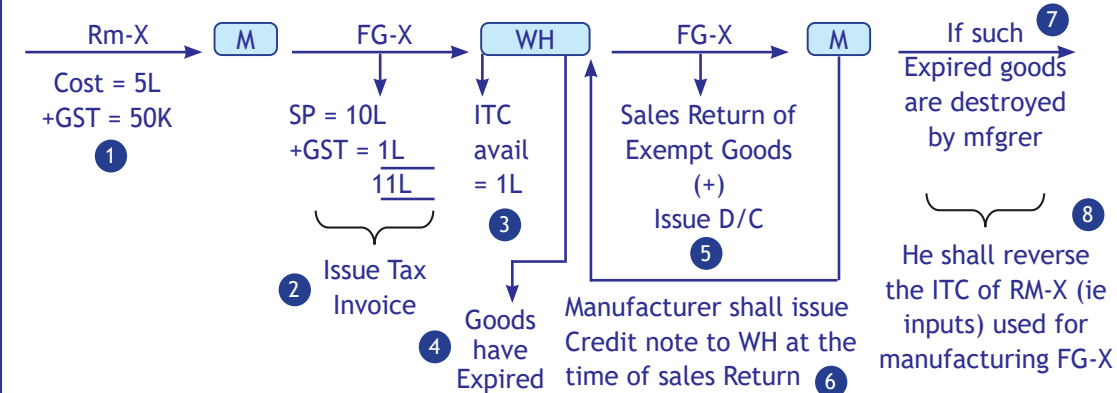
Note: If any supply made to UIN Holder = Comply Dy. QR code
Not a RP
∴ This a B2C Supply

Non-applicability of requirement of Dynamic QR code

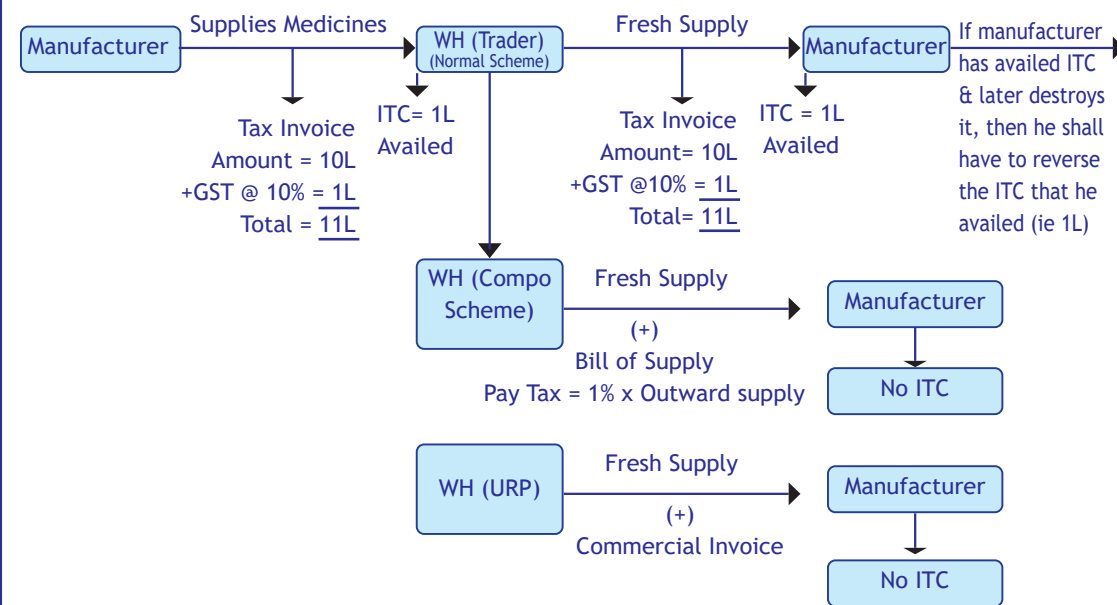
Dynamic QR code is not applicable to an invoice issued to an unregistered person by following suppliers:

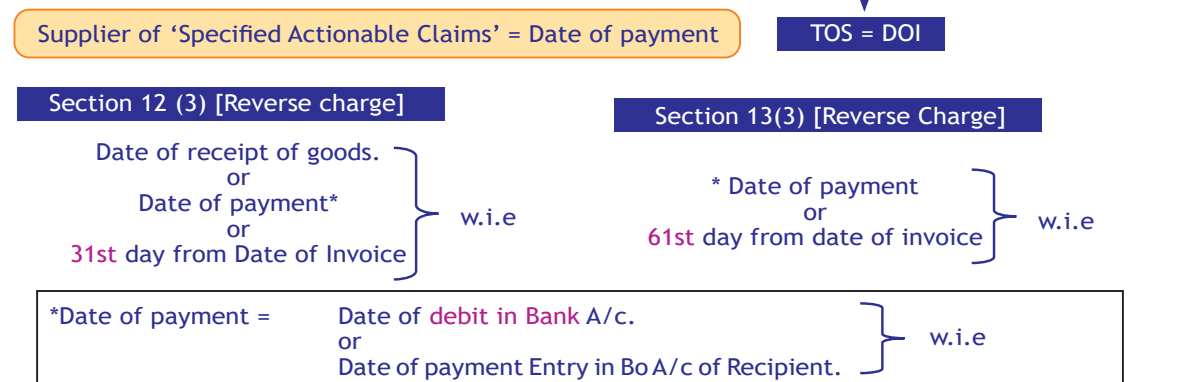
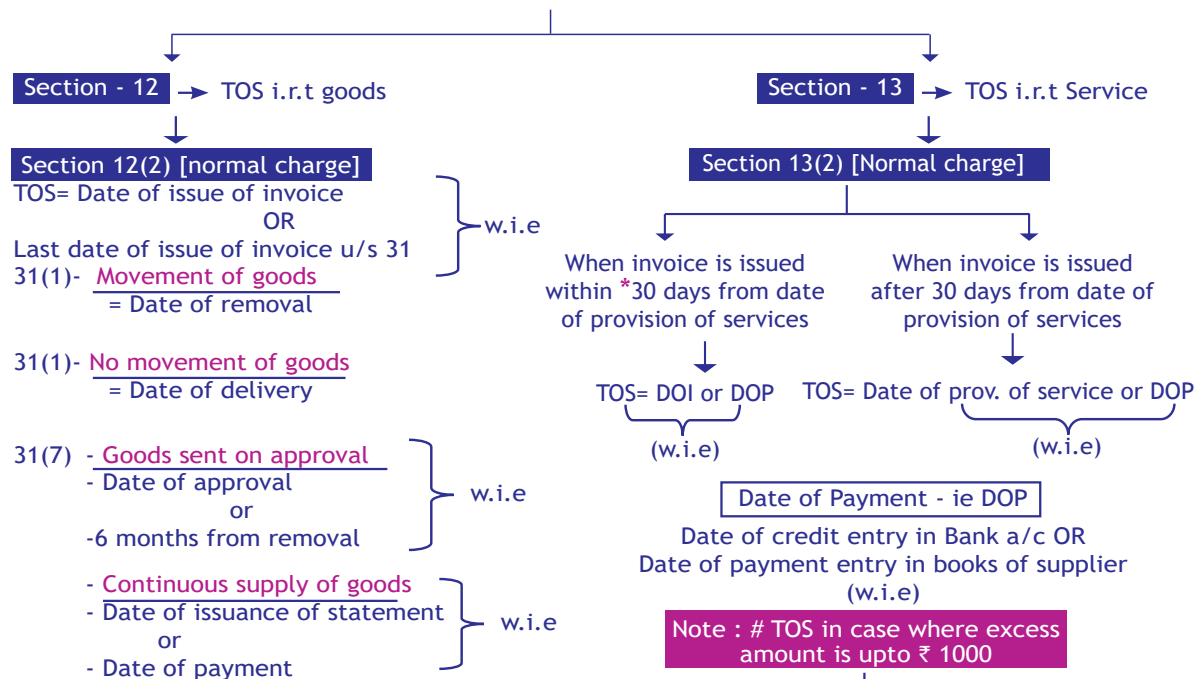
- Insurer or banking company or NBFC
- Goods transport agency supplying services in relation to transportation of goods by road in a goods carriage
- Supplier of passenger transportation service
- Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens
- Supplier of online information and database access or retrieval (OIDAR) services.

Case I : Sales Return by issuing Credit note



Case II : Treating Sales Return as 'Fresh Supply'.

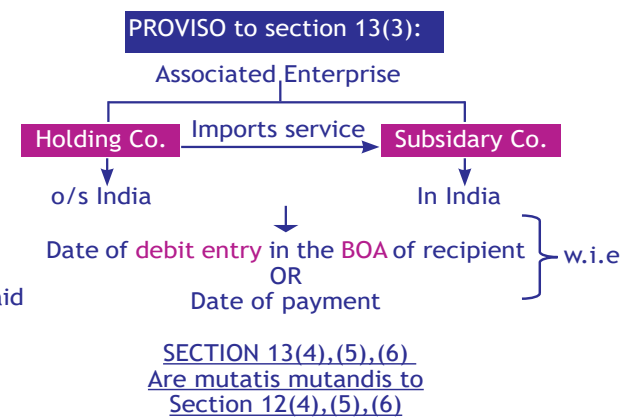




Section= 12(4) [Voucher]

- When supply - **identifiable**
TOS=Date of issue of voucher
- When supply - **not identifiable**
TOS= Date of redemption of voucher

Section 12(5) [Residual case]
When TOS can't be determined u/s 12(2), 12(3), 12(4) then
TOS = 1) **If person files periodic return** -Date of filing return
2) **Other case** = Date when tax is paid



Section 12(6) = Interest / Late fees / Penalty for delayed payment of consideration
TOS = DOP

Section 14- Change in rate of tax

In case of change in rate of tax in **respect of goods**

TOS = Date of issue of invoice or Last date to issue invoice, whichever is earlier.

In case of change in rate of tax in **respect of services**

TOS =

In case of supply of service

Principle: PEHLE RATE

FIR DATE

Applicable rate of tax shall be that rate which is prevalent on 2 events out of 3

TOS shall always DOI OR DOP

Old	New	Supply of service	
		Rate of tax	TOS
DOI DOS	DOP	OLD	DOI
DOP DOS	DOI	OLD	DOP
DOI DOP	DOS	OLD	DOI or DOP } w.e.e
DOI	DOP DOS	NEW	DOP
DOP	DOI DOS	NEW	DOI
DOS	DOP DOI	NEW	DOI or DOP } w.e.e

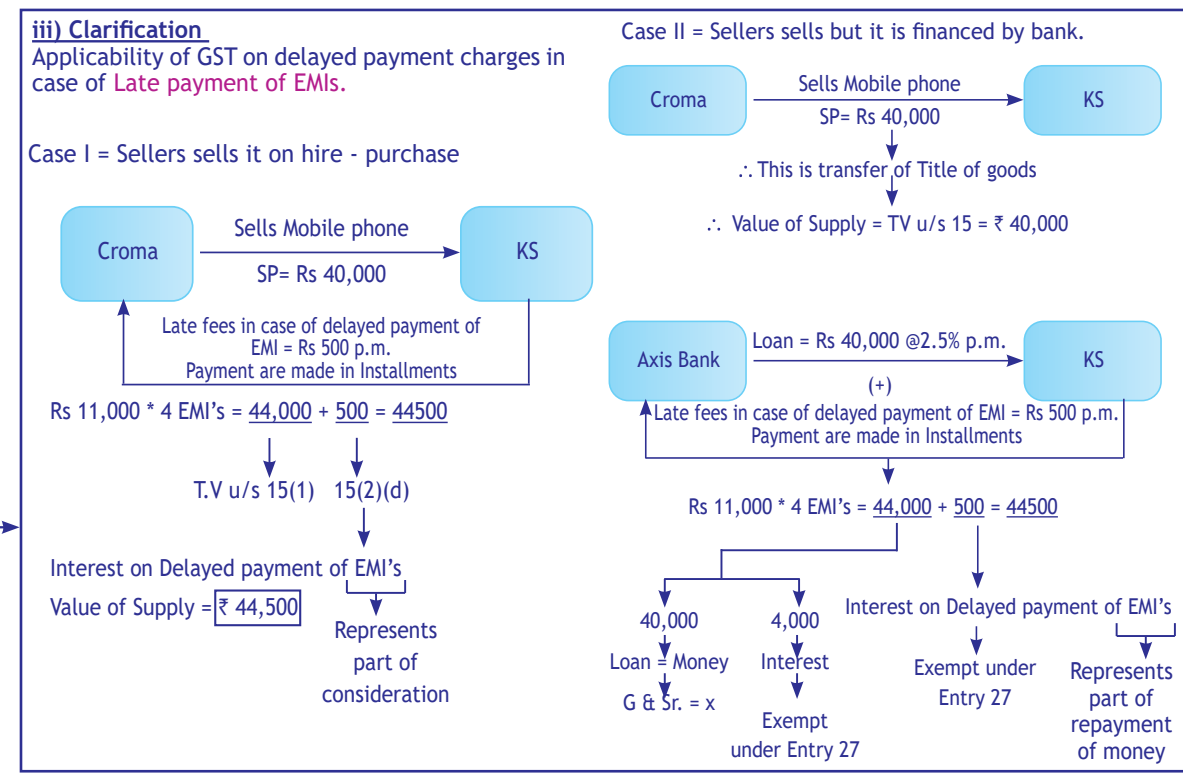
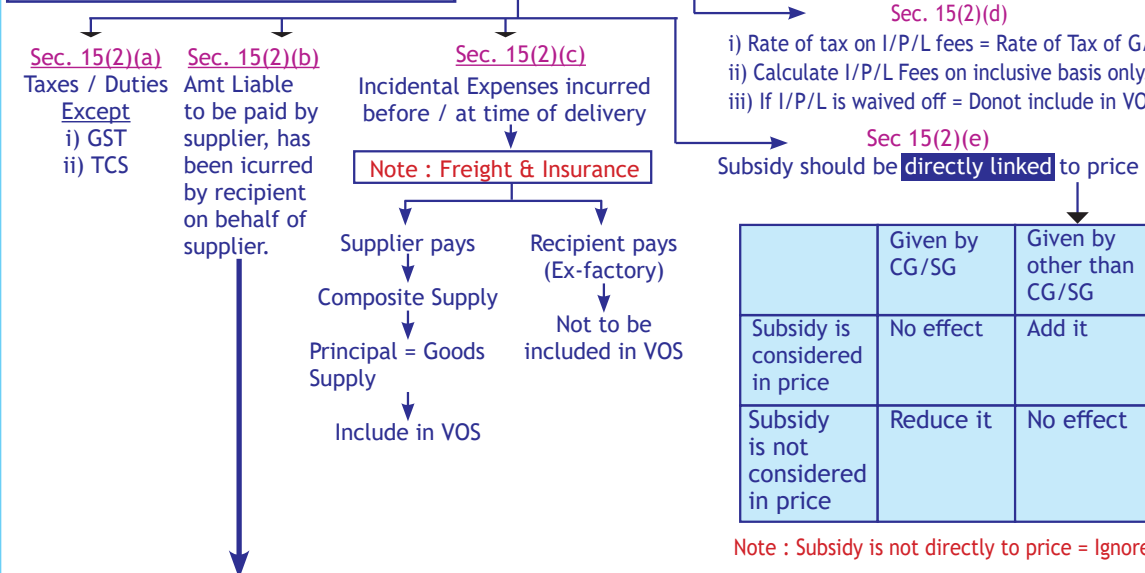
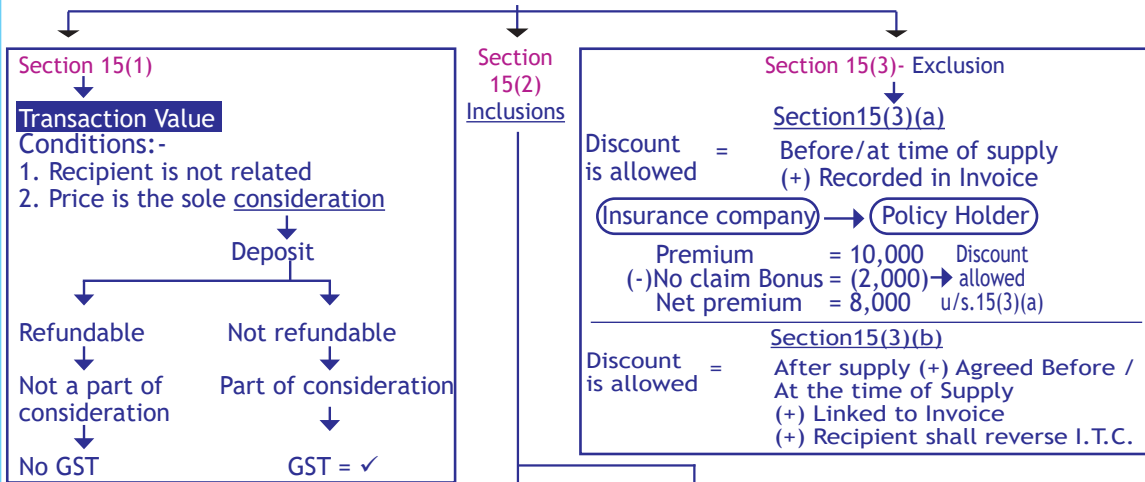
Proviso to Sec 14

Situation
If credit in bank a/c is after 4WDS from Date of change in rate of tax

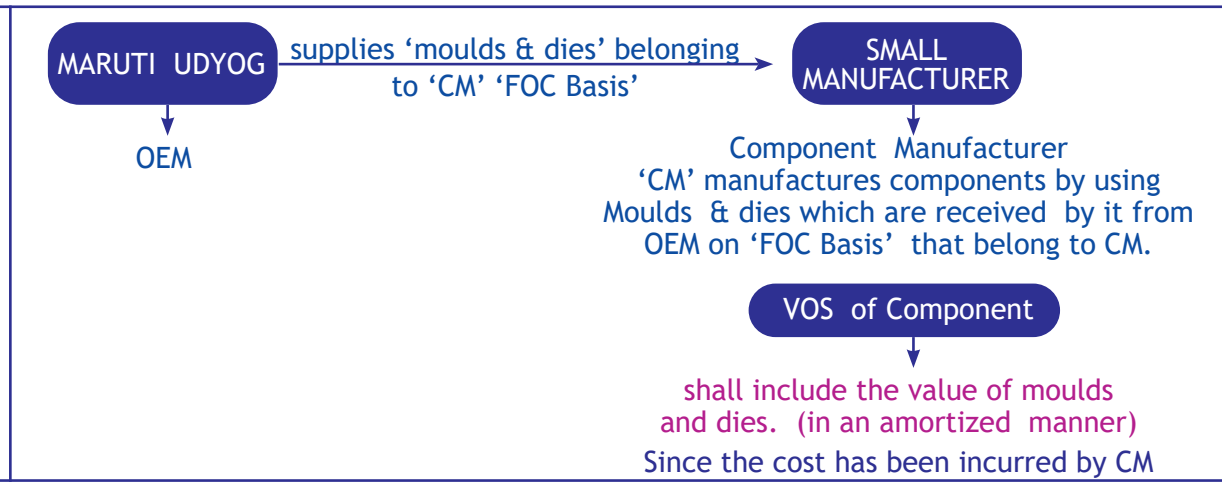
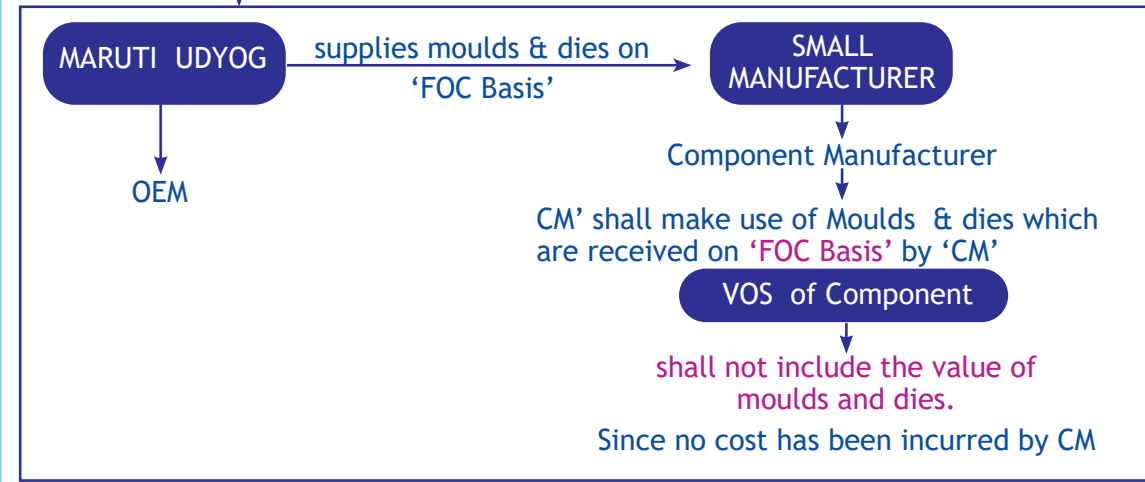
= **DOP**
= Date of credit in bank a/c

If credit in bank a/c is within 4WDS from Date of change in rate of tax

= Date of payment entry in BOA/cs.

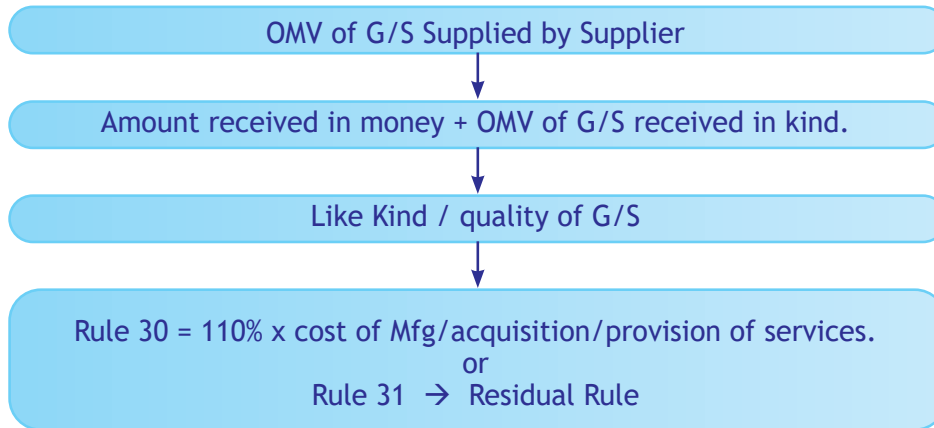


NOTE : Amount paid by CG to Acquiring banks for transactions made through RuPay/BHIM UPI is to be considered as subsidy by CG directly linked to price
Donot include in VOS V/s. 15 (2) (e)



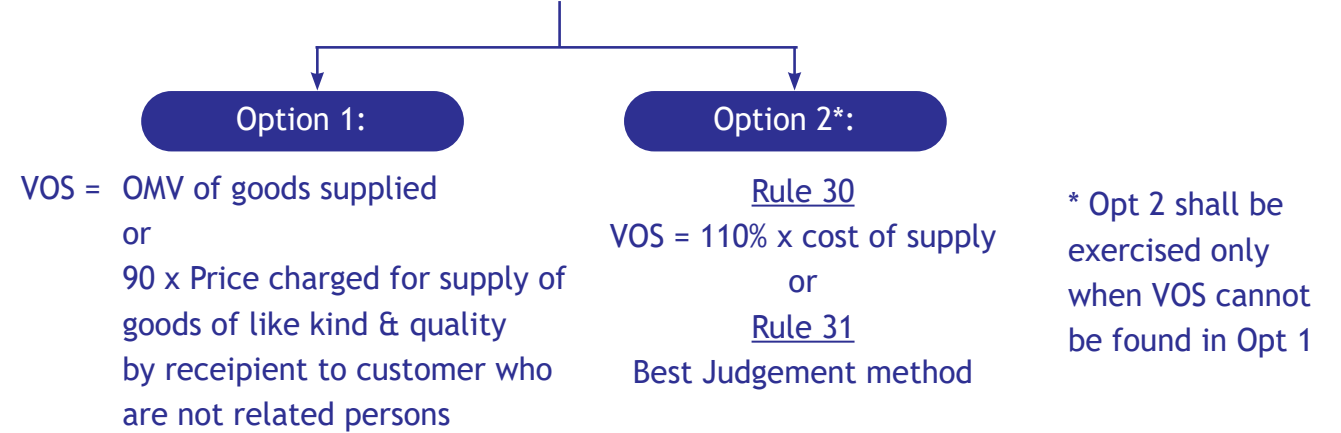
Valuation Rules

Rule 27: when consideration is not wholly in money

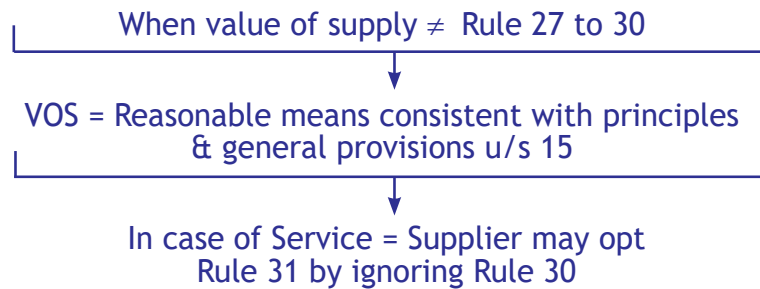


Rule 29:

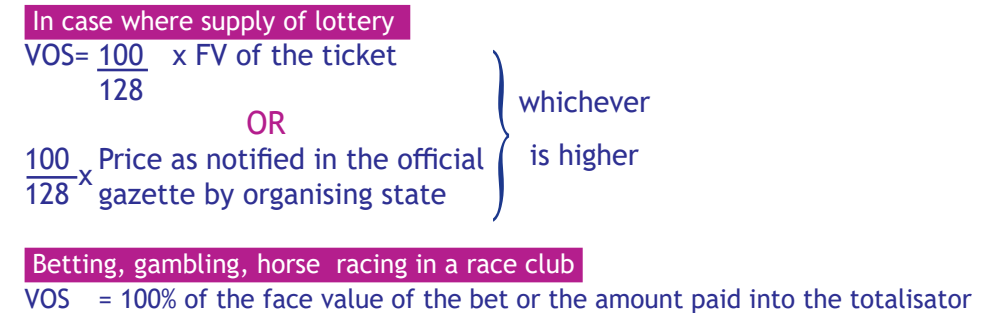
Where the supply of goods are made or received through agent.



Rule 31



Rule 31A



Rule 31B

In case of online gaming [incl online money]

VOS = Total amount paid to supplier

Rule 31C

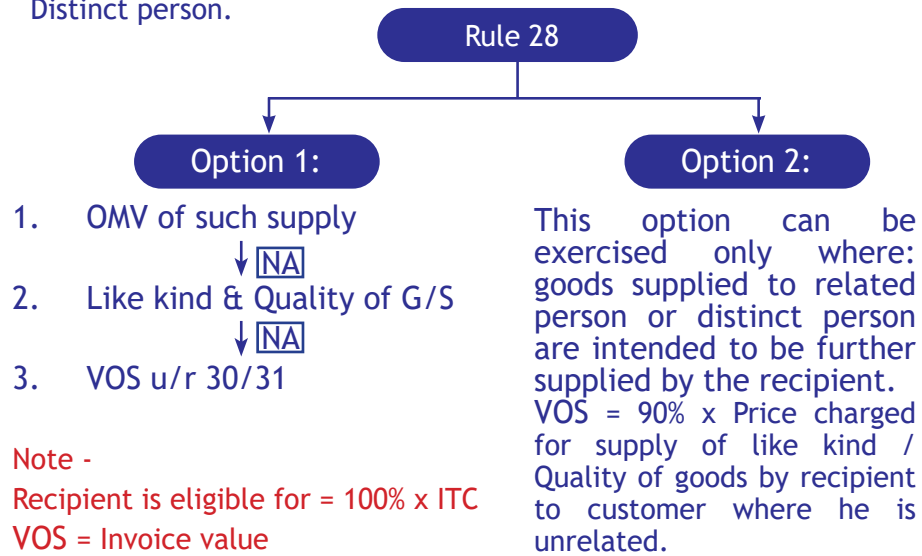
Actionable claims in case of casino

VOS = Total amt paid for purchase of tokens/coins/chips.

Common Point Rule 31B/31C

(Note - Any amount returned / refunded by the supplier to the player shall not be deducted from VOS)

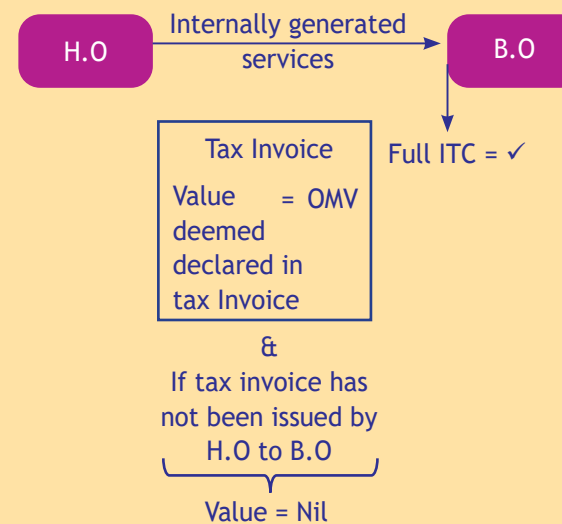
Rule 28: When supply of goods or services between Related persons or Distinct person.



Note : It is optional (in case of reseller) to go for Opt 1/ Opt 2 Dept cannot compel RP to opt either of them.

Clarification to i.r.t H.O & B.O

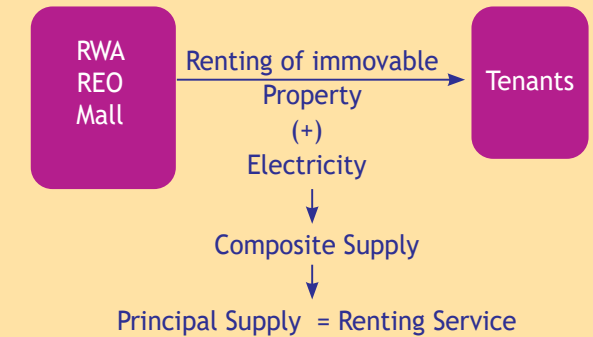
In respect of internally generated services, where full ITC is available to a BO, the value declared on the invoice by HO shall be deemed to be the OMV, irrespective of the fact whether cost of any particular component of such services, like employee cost etc., has been included or not in the value of the services. If HO has not issued a tax invoice to the BO, the value of such services may be deemed to be declared as Nil by HO to BO, and may be deemed as OMV



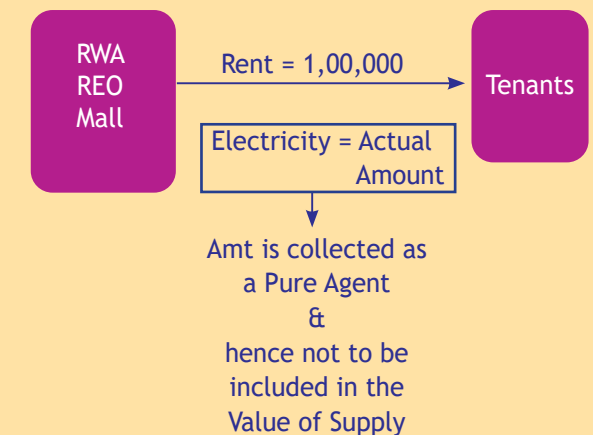
In respect of internally generated services provided by the HO to BOs, the cost of salary of employees of the HO, involved in providing the said services to the BOs, is not mandatorily required to be included while computing the taxable value of the supply of such services, even in cases where full ITC is not available to the concerned BO.

Other Clarification

Case I - When RWA, Real Estate owners charge adhoc amount of electricity charges.

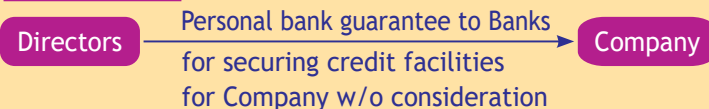


Case II - When RWA, Real Estate owners etc charge electricity on Actual Basis.



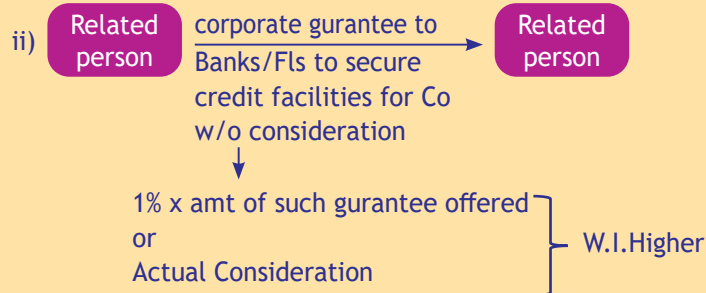
Rule 28

Clarification



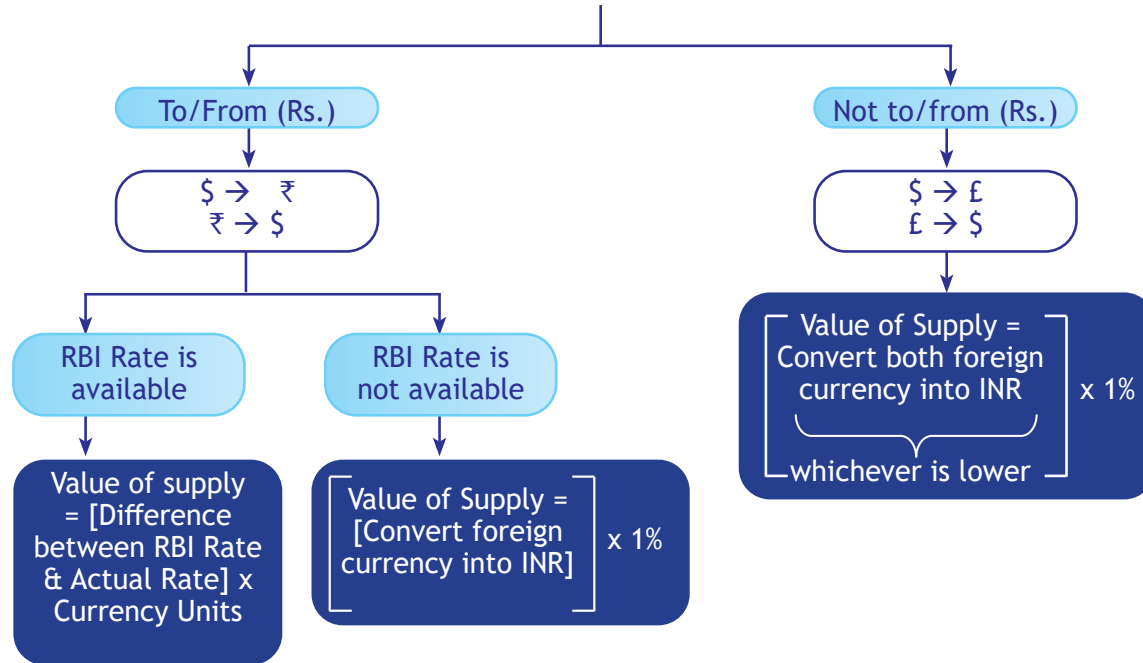
In case where no consideration is paid :- VOS = Nil
In case where consideration is paid :- VOS = Remuneration/ consideration paid to such director.

Rule 28(2)

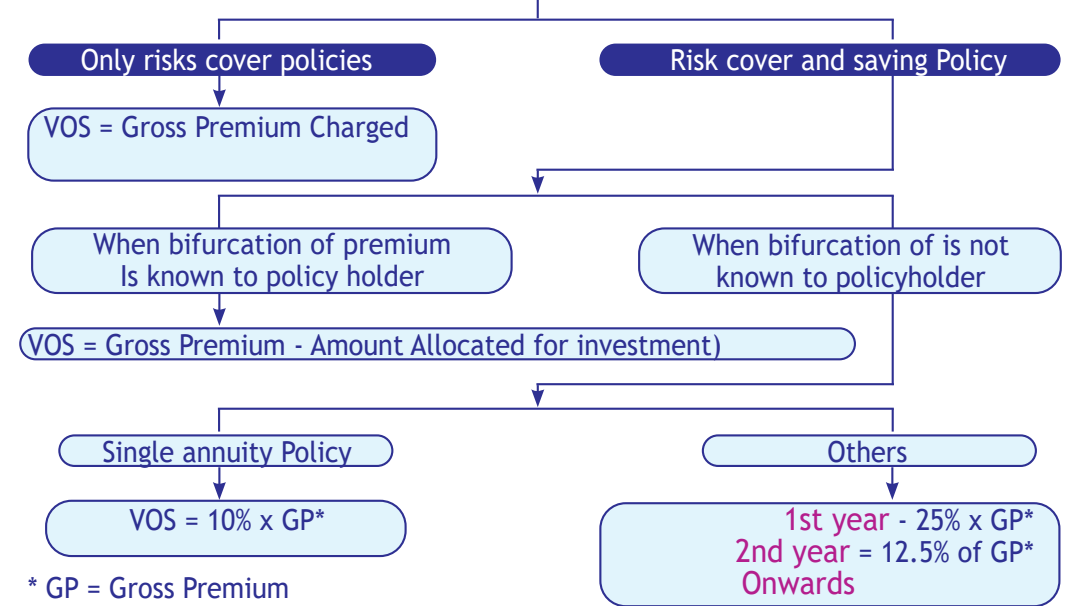


Rule 32(2)(a) Forex Agent

Option 1: Rule 32(2) (a)



Rule 32 (4): VOS of service in relation to **life insurance business**

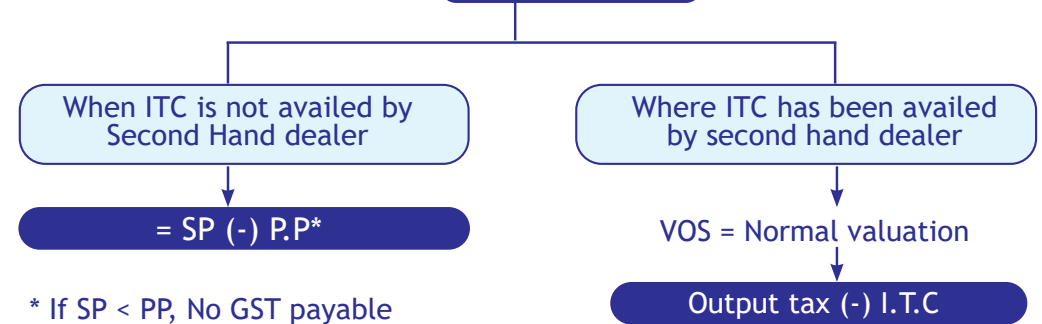


Rule 32(2)(b) → Forex Agent

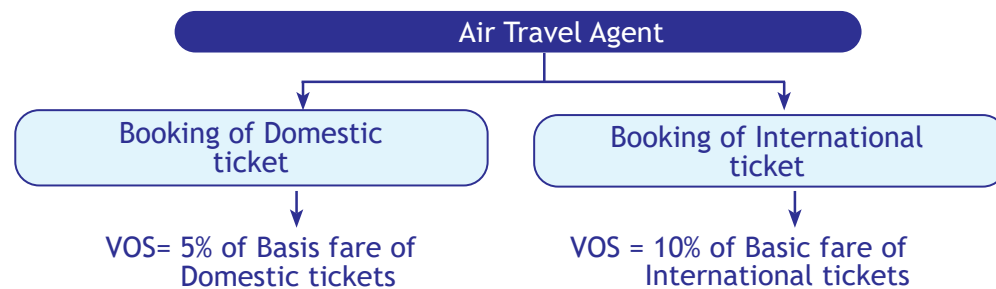
Option 2: 32 (2) (b)

Value of currency exchanged	Value of supply
Up to 1,00,000	Rs. 250 or 1% x VOCE, W.I.Higher
1,00,001 to 10,00,000	Rs. 1,000+0.5% x VOCE exceeding 1 Lac
More than Rs. 10,00,000	Rs. 5500+0.1% x VOCE exceeding Rs. 10 Lacs or Rs. 60,000 → W.I.LOWER

Rule 32 (5): VOS in relation to dealer of second hand goods
Value of **second hand goods**



Rule 32 (3):



Proviso to Rule 32(5)

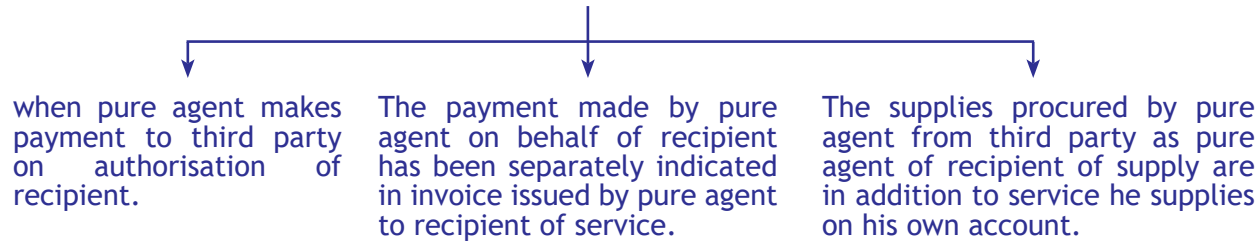
Purchase Value = P.P of goods for defaulting borrower (-)

No. of Quarter*
Date of Issue of Invoice = xxx
Date when such repossessed = xxx
No. of Quarters = xxxx

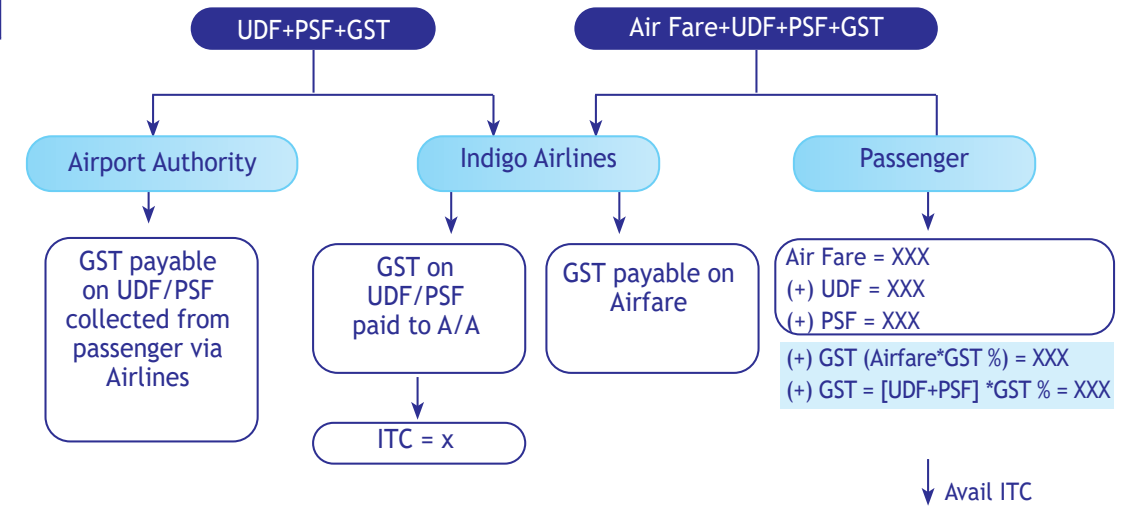
5% for every quarter between Date of purchase & Date of disposal by Repossessor of goods.

Rule 32 (6): Value of token, voucher, coupon, stamp (other than Postage stamp)
VOS = That money value of goods or services that can be redeemed

Rule 33: VOS of service in case of pure agent.
The expense or cost incurred by supplier as a pure agent of recipient: Exclude from VOS only if following condition are satisfied:



Clarification on issue of GST on airport levies



Rule 35

Rule 35 → Price cum Tax

$$\text{Tax Amount} = \frac{\text{Value (Incl of GST)}}{100 + (\text{Applicable GST Rate})} \times \text{Applicable GST}$$

Rule 34

Import/Export of goods	CBIC rate
Import/Export of services	GAAP rate

Case 1: When a person is liable to pay tax but has not paid

Eg:
Supplier = Exempt
Applicable rate of tax = 10%
Amt Collected from recipient = 1,00,000
Rule 35 = Tax Amount = $\frac{1,00,000}{100+10} \times 10$
Tax Payable = Rs. 9091

Case 2: When a person pays tax at a lower rate than then what is liable to pay

Eg:
Supplier = 10%
Applicable rate of tax = 20%
Amt Collected from recipient & paid to Govt = 1,10,000
SCN = Tax payable - Tax Paid. = $\frac{1,10,000}{100+20} \times 20$ (-) 10,000
= 18,333-10,000
= Rs. 8,333

Case 3: When supplier has received additional consideration

Eg:
Supplier = 10%
Applicable rate of tax = 10%
Additional consideration = Rs. 50,000
Total Amt Collected from recipient & paid to Govt = 1.10L+50K=1.60L
SCN = Tax Payable (-) Tax Paid = $\frac{1.60L}{110} \times 10$ (-) 10,000
= 14,545 - 10,000
= Rs. 4,545

Section 22(1)

In CFY, if **Agg T/o*** > 20L/40L/10L

Liable to register in that State where he makes **Taxable Supplies**

Manipur
Mizo
Tripura
Nagaland

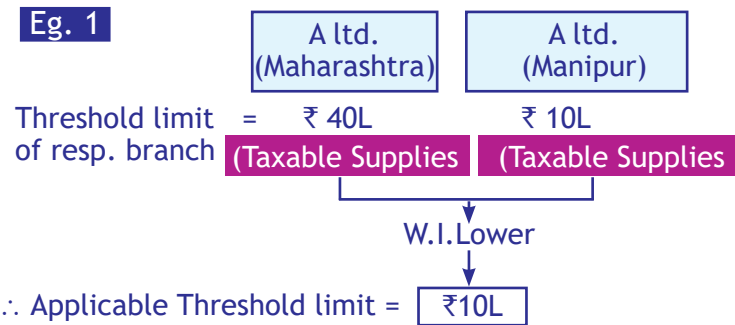
Note 1 : While calculating Aggregate Turnover Interest / discount on loans to be included.

Note 2: Donot Include Sch-III Activities as it is not a supply

Note 3: Aggregate Turnover includes all supplies made by Taxable person whether on his own a/c or on behalf of principal

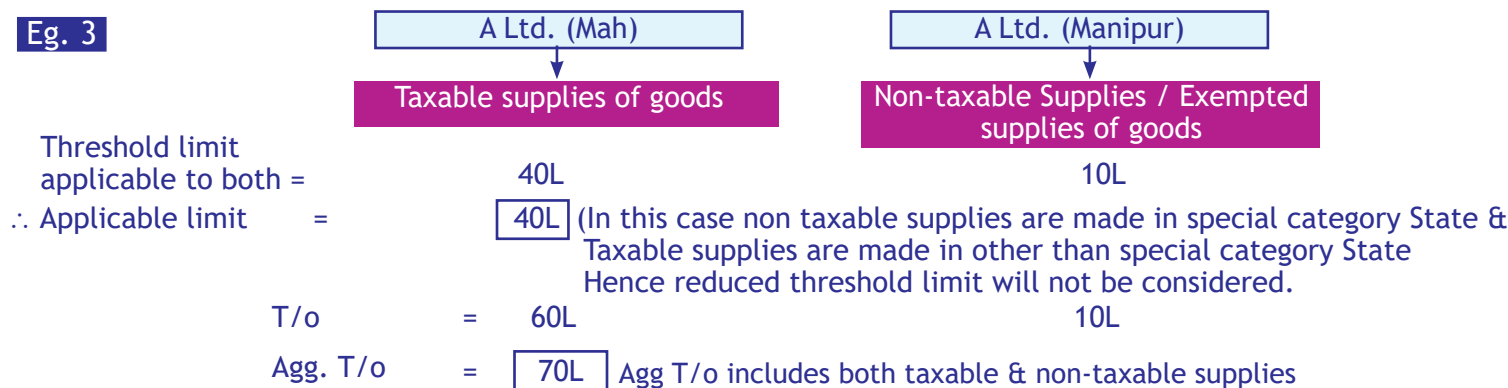
Note 4 : Sale of shares = Neither supply of G/Sr. = Donot include in aggregate T/o

Eg. 1

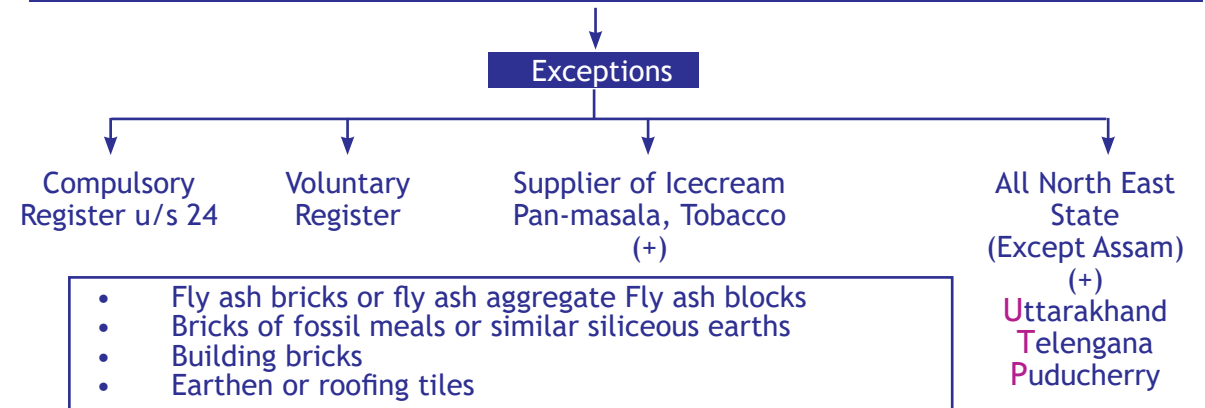


A Ltd. shall be liable to register in Both Maharashtra & Manipur as if makes T/S/G in both states.

Eg. 3

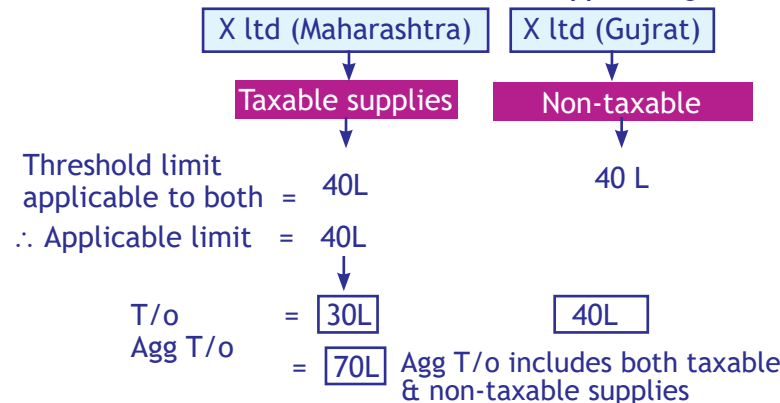


In CFY, if the person is exclusively supplying goods & Agg T/o > 40 Lacs



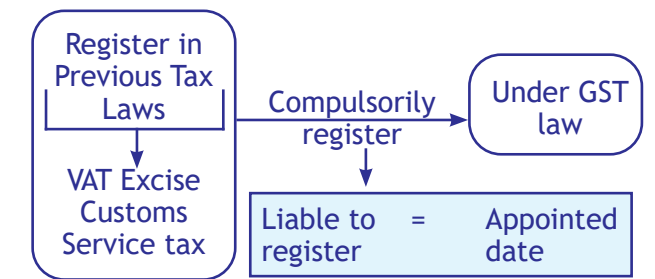
Eg. 2

Xltd. has two branches and it is exclusive supplier of goods.

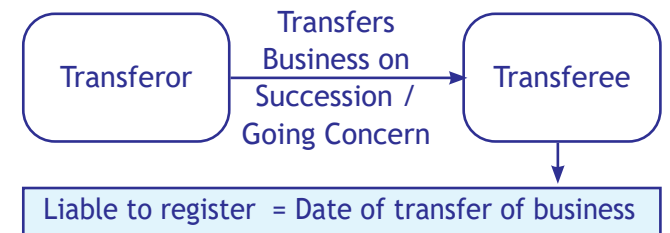


Conclusion : Xltd will register only in the state where it makes taxable supplies (ie mah)

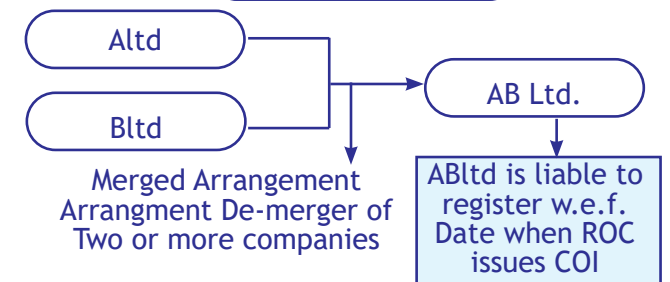
Section 22 (2)



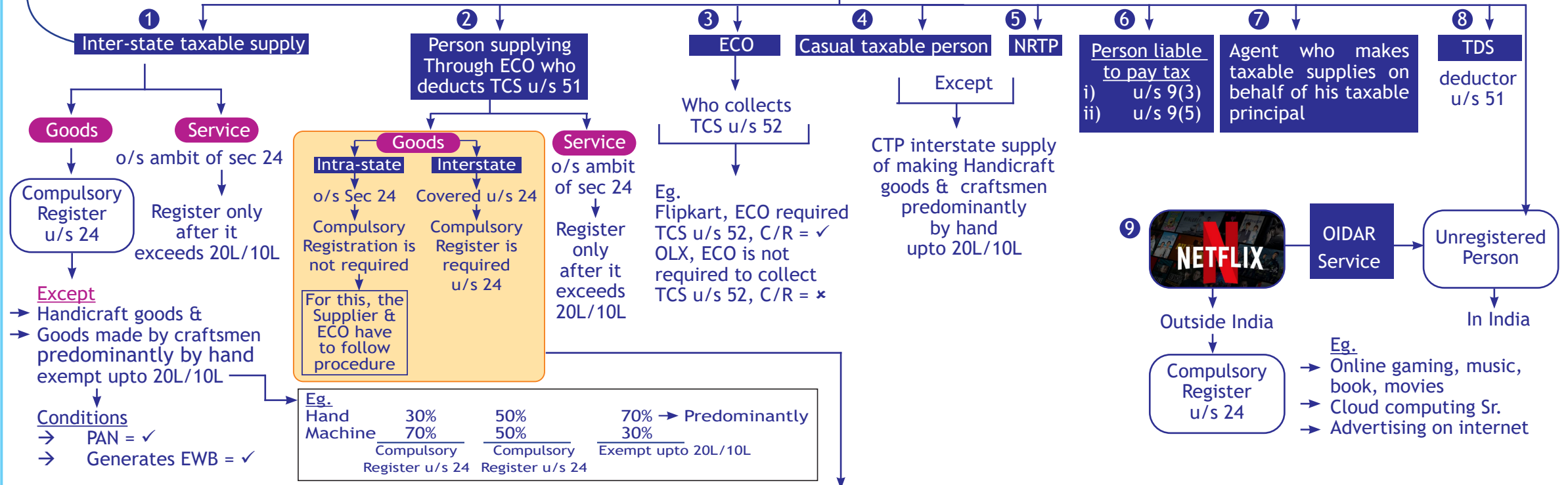
SECTION 22 (3)



SECTION 22 (4)



Section 24 = Compulsory Registration



Unregistered persons who are supplying goods, through ECO (TCS u/s 52)

Not required to obtain Compulsory Registration u/s 24

Subject to following conditions

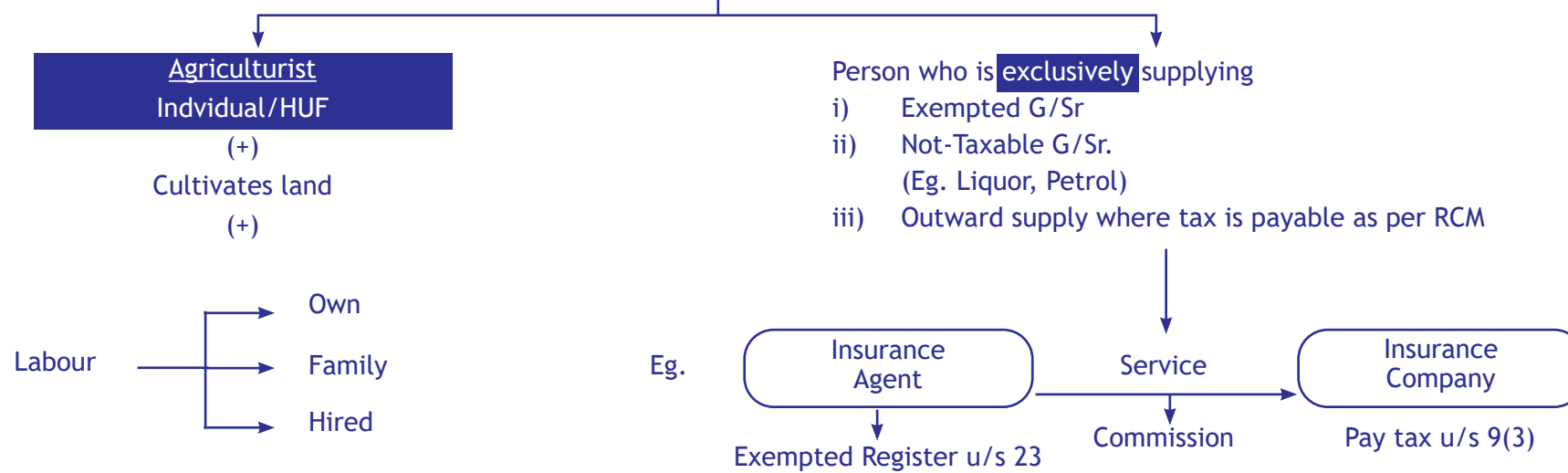
- not make any inter-State supply of goods;
- not make supply of goods through ECO in more than one State/Union territory;
- PAN
- such persons shall, before making any supply of goods through ECO, declare on the common portal:
 - their PAN
 - address of POB
 - State/UT in which such persons seek to make such supply, which shall be subjected to validation on the common portal;
- He is granted enrolment number on the common portal
- not be granted more than one enrolment number
- no supply of goods shall be made by such persons through ECO unless such persons have been granted an enrolment number on the common portal

A special procedure has been followed by ECO through which above unregistered persons supply goods

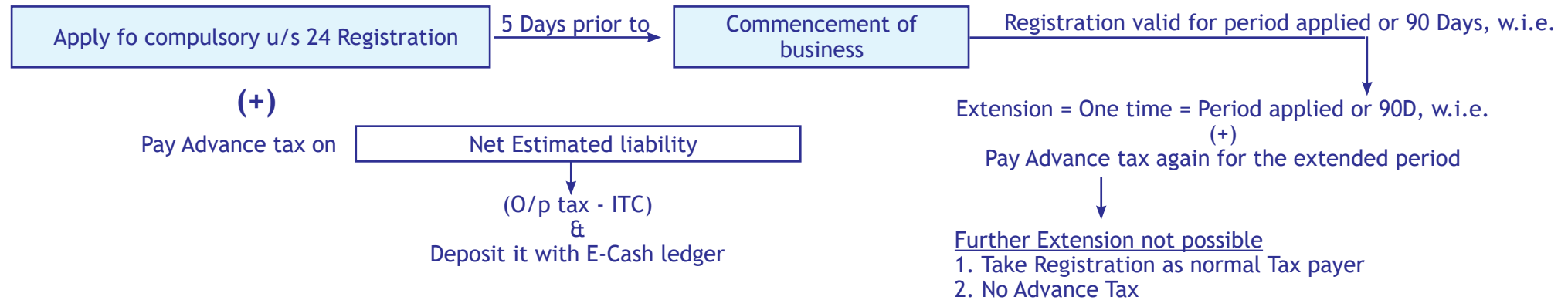
- ECO shall allow the supply of goods through it by the said person only if enrolment number has been allotted on the common portal to the said person;
- ECO shall not allow inter-state supply of goods through it by the said person
- ECO shall not collect TCS u/s 52(1).
- ECO shall furnish the details of supplies of goods made through it by the said person in Form GSTR-8



Section 23 = Exempted from Registration

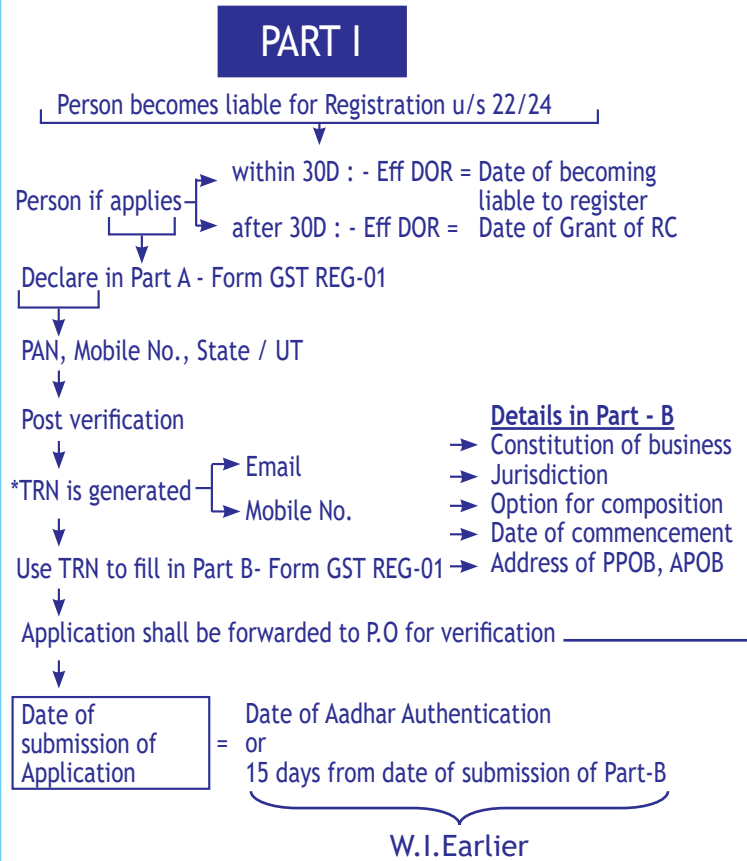


Section 27 - NRTP & CTP

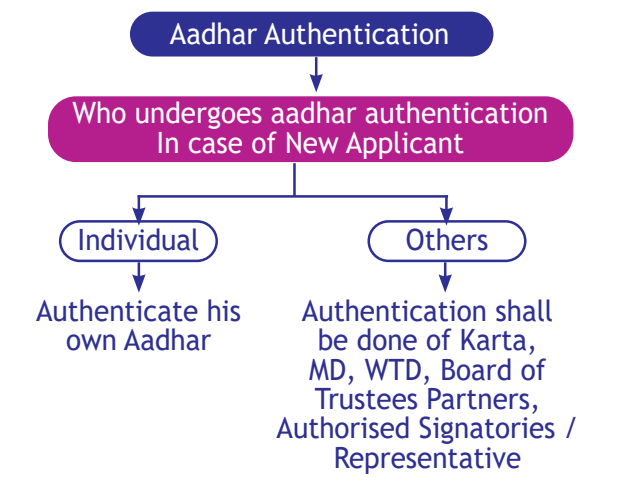
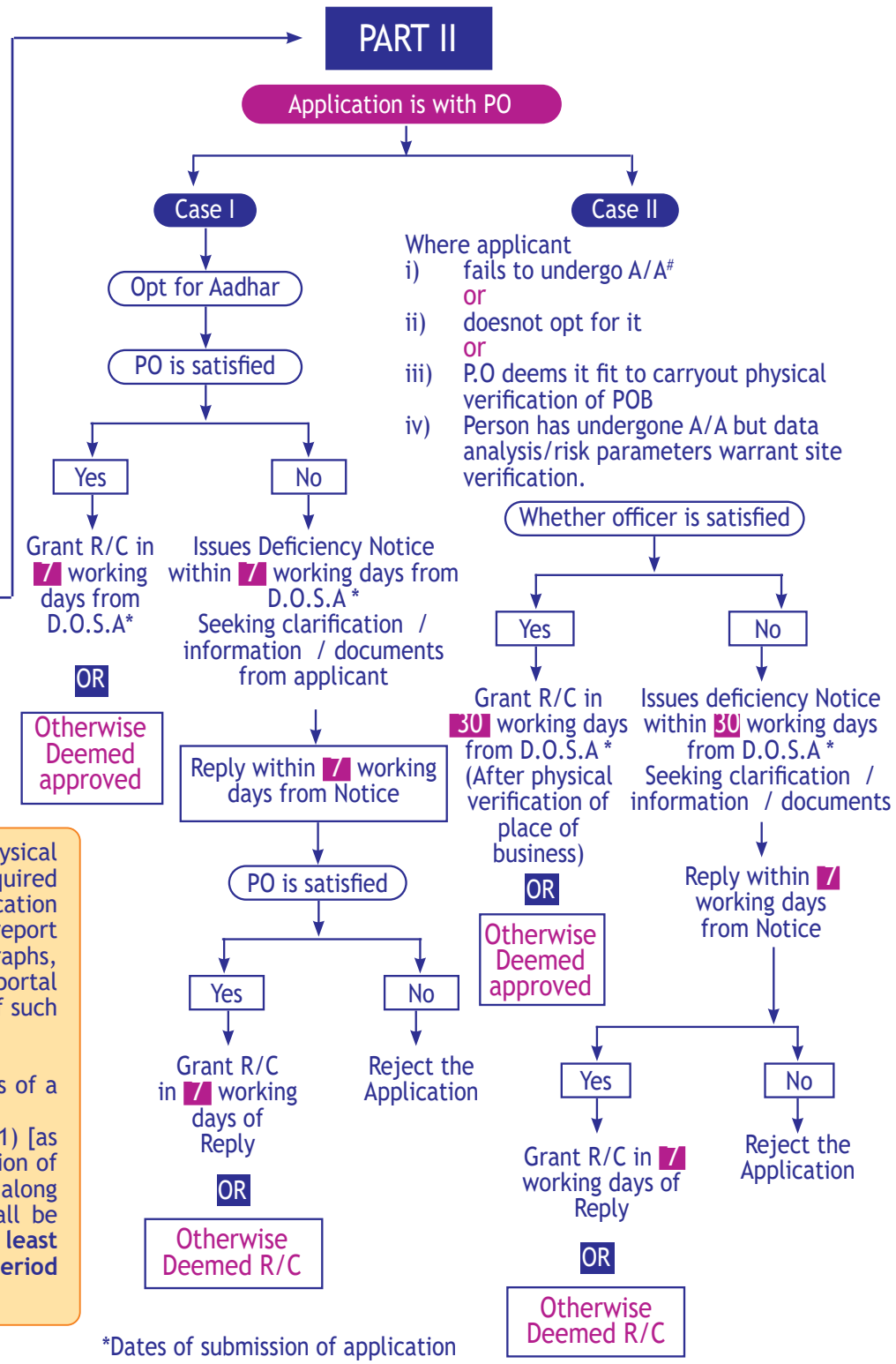


Note :
1. CTP / NRTP ≠ Compo Scheme
2. ITC is blocked u/s 17(5) to NRTP Except IGST paid on imported goods

PROCEDURE FOR REGISTRATION



- i) Where the proper officer is satisfied that the physical verification of the place of business of a person is required AFTER the grant of registration: he may get such verification of the place of business done and the verification report along with the other documents, including photographs, shall be uploaded in prescribed form on the common portal within a period of 15 working days following the date of such verification
- ii) Where the physical verification of the place of business of a person is required BEFORE the grant of registration in the circumstances specified in the proviso to rule 9(1) [as given above]: the proper officer shall get such verification of the place of business done and the verification report along with the other documents, including photographs, shall be uploaded in prescribed form on the common portal at least 5 working days prior to the completion of the time period specified in the said proviso.



- Following person have been exempted from Aadhar authentication**
- A person who is not a citizen of India
 - Department or establishment of State Government or Central Government
 - Local authority
 - Statutory body
 - Public Sector Undertaking
 - A person applying for Unique Identity Number under section 25(9)

- RP shall undergo Aadhar Authentication to become eligible for**
- For Filing of Application for Revocation of cancellation of RC
 - Filing of Refund Application in RED-01
 - Refund of IGST paid on goods exported out of India.

- In case of an already registered persons [Rule 10]**
- If an Aadhaar number is not assigned to an existing registered person, such person shall be offered alternate and viable means of identification in the prescribed manner.
- Such manner has been prescribed as follows:
- If Aadhaar number has not been assigned to the person required to undergo authentication of the Aadhaar number, such person shall furnish the following identification documents, namely: -
- (a) his/her Aadhaar Enrolment ID slip; and
 - (b) (i) Bank passbook with photograph; or (ii) Voter identity card issued by the Election Commission of India; or (iii) Passport; or (iv) Driving license issued by the Licensing Authority

However, once Aadhaar number is allotted to such person, he shall undergo the authentication of Aadhaar number within a period of 30 days of the allotment of the Aadhaar number.

Other Important Points

→ Seperate Registration of units having **same PAN** is necessary when

- i) Units are in different states / UT
- ii) SEZ & Non SEZ units in the same State / UT

iii) When Units (having same PAN) are in same state

Option I

Both Units can be seperately registered or

Option II

It can obtain single registration in that State” One of the units shall be declared as

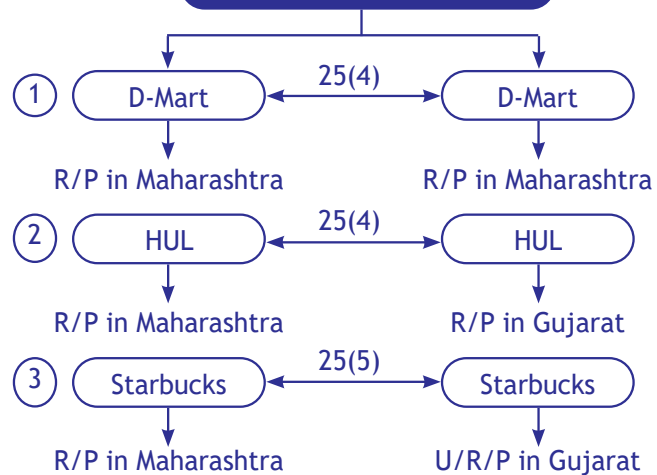
Principal “Place of business”

&

Other units to be declared as **Additional Place of business”**

→ Person can apply for voluntary RC u/s 25(3)

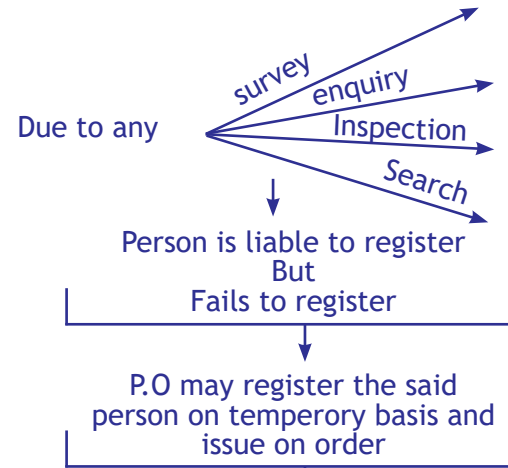
Distinct Person



→ Person deducting TDS = Require TAN
Others = Require PAN

Except : NRTP
→ Require Self Assured valid passport
→ Business Entity = Tax Identification No.

Sec. 25(8)

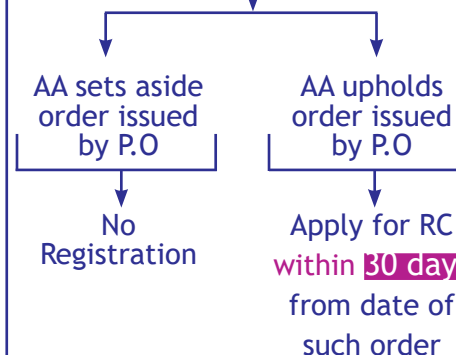


Such Person shall either

Accept (that he is liable)

Submit an application for registration within **90 days** from the date of grant of temporary registration,

Appeal



Sec. 25(9)

- i) Any specialized agency of UNO or
- ii) Any Multilateral Financial Institution or
- ii) Foreign Embassy / Consulate

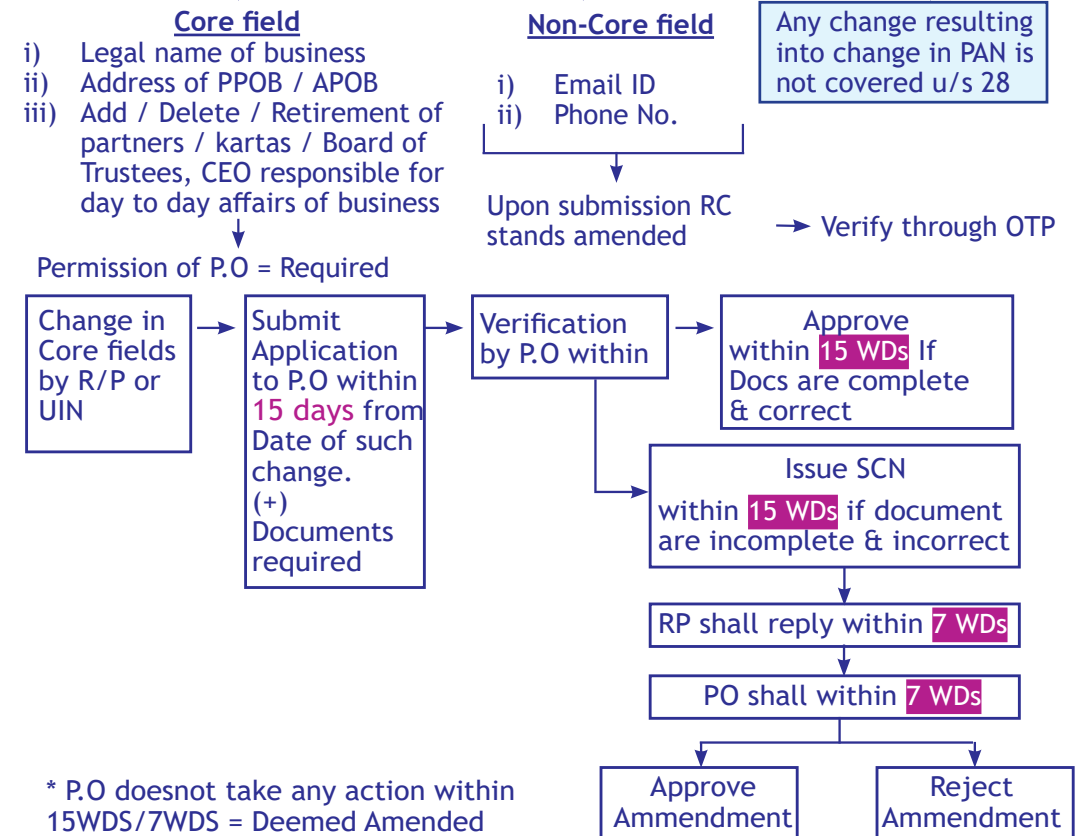
Require Unique Identification Number (UIN) = ✓

To claim refund of taxes paid on notified supplies of goods / Services received by him

P.O Shall assign UIN after receiving recommendation from MEA

⇒ Within **3 days** from D.O.S.A

Section 28 = Amendment in RC



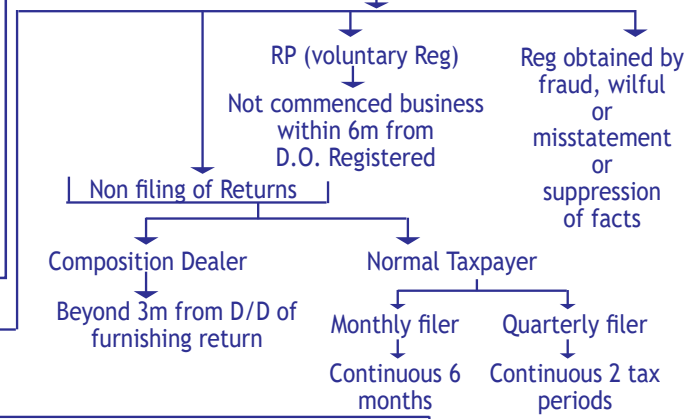
* P.O doesnot take any action within 15WDS/7WDS = Deemed Amended

Sec 29: CANCELLATION OF REGISTRATION

Sec 29(1) : On application made by RP

- Business has been discontinued
- Transferred fully for any reason like death, merger, amalgamation-
- Change in the constitution of business
Eg. P. Firm → LLP, Eg. LLP → Company
- Taxable person no longer liable to be registered u/s 22/24 or
Eg. Supplier of taxable goods / sr is exempted now who intends to opt out of voluntary registration

Sec 29(2) : cancellation done by P.O



contravention of Act/Rules by RP



***Rule 10A** = Furnishing bank a/c details. Within 30 days from Date of Grant of RC or
Time limit = **Furnishing details of outward supplies of goods / services in GSTR-1/IFF** whichever is earlier

Exception → TDS deductor TCS collector
They are mandatorily required to furnish bank details at the time of filing the application for registration

Suspension of R/C

1) Reasons

- (i) When RP himself applies for cancellation u/s. 29(1)
- (ii) When P.O cancels R/C of RP u/s. 29(2) & Rule 21

R/C can also be suspended by P.O where is comparison of



If the analysis of such comparison indicates Significant differences / anomalies
Indicating contravention
R/C shall be suspended

2) Eff Date of suspension

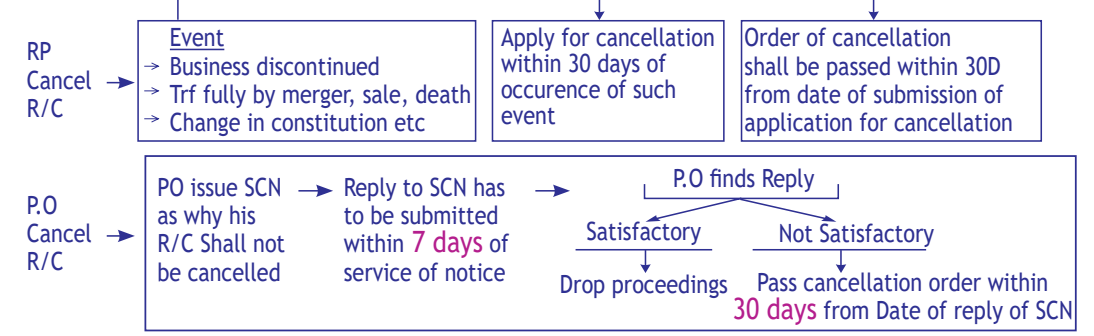
Date of submission or Date from which cancellation is sought
Date as determined by P.O after giving OOBH

W.I. Later

3) Consequences : RP cannot make taxable supplies or shall not file any returns u/s. 39

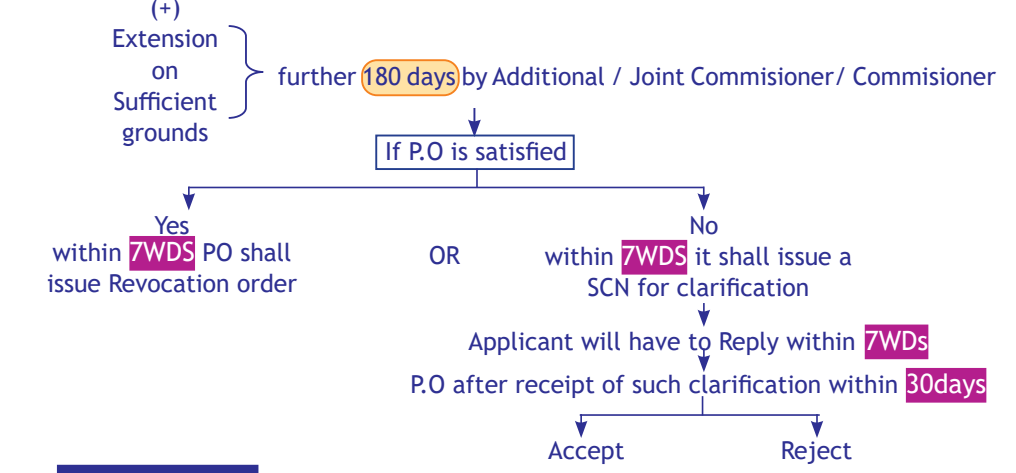
*Date of Service of Cancellation

Procedure Of Cancellation

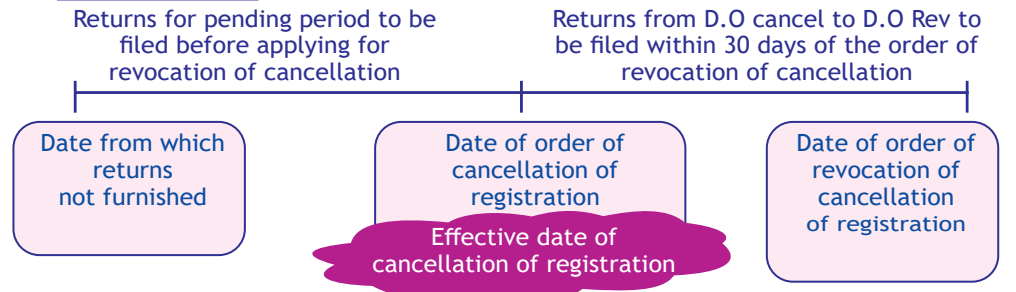


Section 30 - Revocation of Cancellation of Certificate (Read with rule 23)

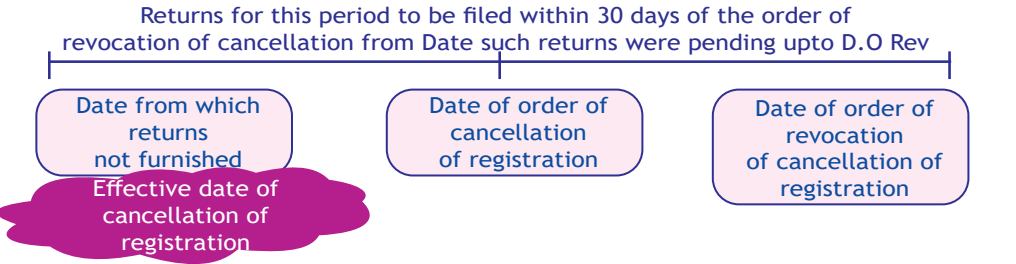
Application : - within 90 days from date of service of order of cancellation of registration



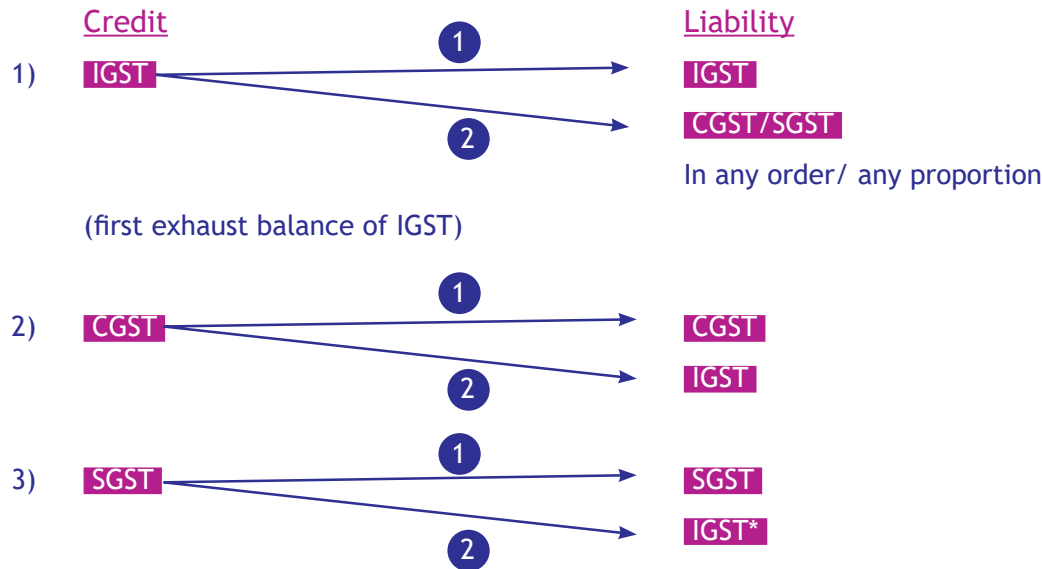
Case I : Prospective effect



Case II : Retrospective effect



MANNER OF UTILIZATION OF I.T.C.



- Notes
- SGST Credit Can be utilized to pay off IGST liability only if CGST credit is over.
 - Credit of CGST cannot be utilized to pay liability of SGST
 - Credit of SGST cannot be utilized to pay liability of CGST

B. Electronic Credit ledger

Debit Amount (DR)	Credit Amount (CR)
<ul style="list-style-type: none"> Credit amount of this ledger may be used for payment of output tax viz IGST, CGST, SGST, UTGST, CESS 	<ul style="list-style-type: none"> ITC as self-assessed in the return in the form of IGST, CGST, SGST, UTGST, CESS

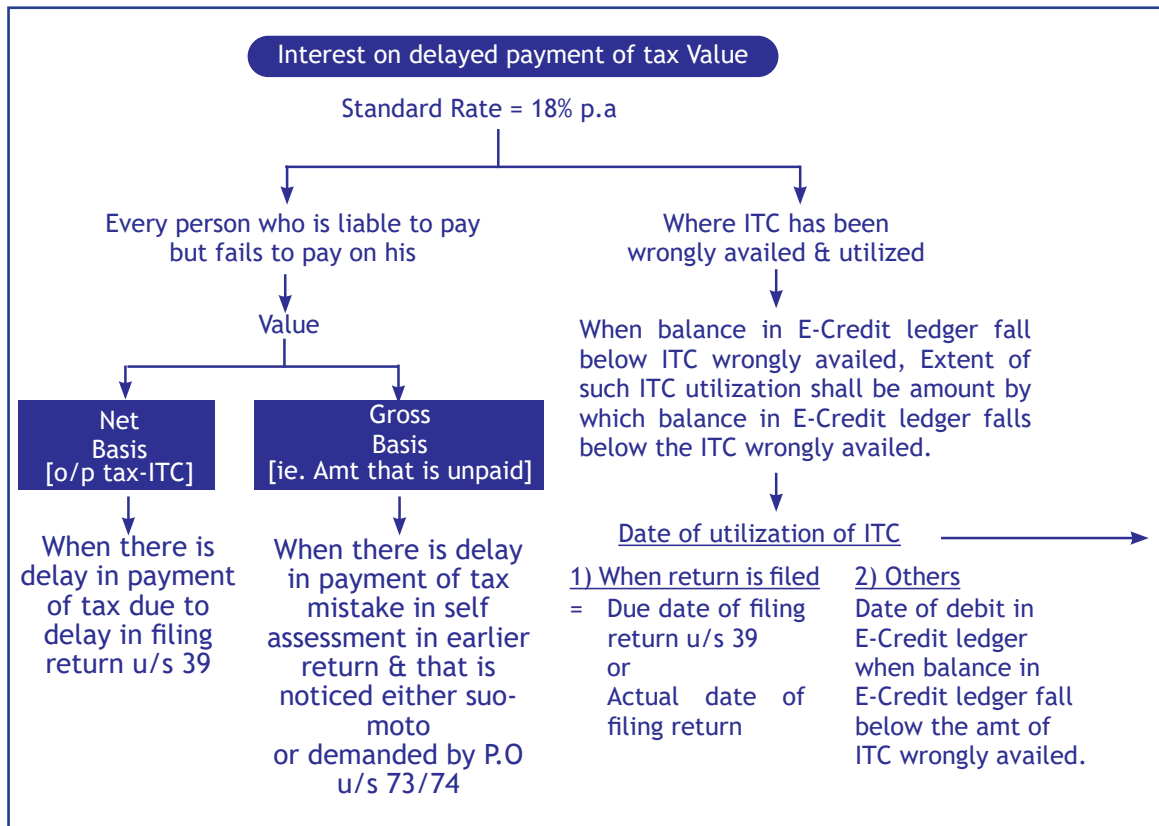
C. Electronic Liability Register

Debit Amount (DR)	Credit Amount (CR)
<ul style="list-style-type: none"> Amount payable towards tax, interest, fees etc. Tax or interest payable Any other dues 	<ul style="list-style-type: none"> E-Cash Ledgers
<ul style="list-style-type: none"> Amount payable towards output tax 	<ul style="list-style-type: none"> E-Credit Ledger

A. Electronic Cash Ledger

(Assume it as an account statement provided by bank, for easy understanding)

Debit Amount (DR)	Credit Amount (CR)
<ul style="list-style-type: none"> Credit amount of this ledger may be used for payment of tax, interest, fees etc. Remaining credit balance amount after payment of above tax etc. will be refunded to taxable person. 	<ul style="list-style-type: none"> Any deposit made towards tax, interest, penalty, late fee etc. via internet banking, RTGS, fund transfer etc. TDS/TCS claimed



Month	Opg Balance in E-Credit Ledger	Eligible ITC	ITC wrongly availed	Total ITC	Output Liability	Cl. Balance E-Credit Ledger	Amt on which Int is applicable
April	-	7L	50K	7.5L	7L	50K	-
May	50K	5L	-	5.5L	5L	50K	-
June	50K	3L	-	3.5L	3.3L	20K	30K
July	20K	6L	-	6.2L	6.2L	-	20K

Wrong availment of of IGST credit & Subsequently reversed at a certain date

No Interest shall : Balance of Total ITC (C+S+I) taken together has not fallen below Amt of such wrongly availed ITC of IGST

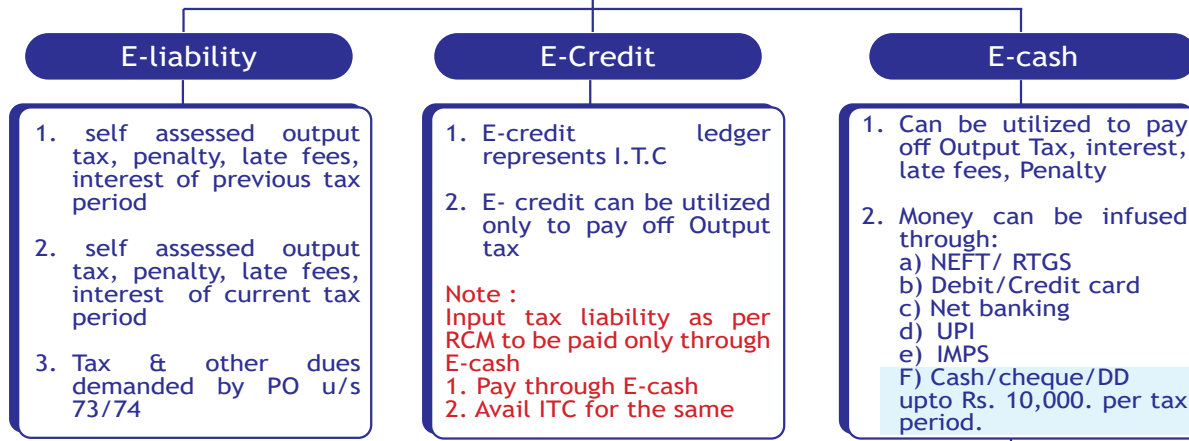
But if Balance of Total ITC goes below such wrongly availed IGST credit & the extent of utilization will be extent to which amount of wrongly availed IGST Credit.

Interest Starts from D/D of filing return or Actual date, W.I.E filing return

ie = 20th July or 25th July, W.I.E Given

Note :- Total ITC Balance shall not include GST Compensation cess

E-ledgers



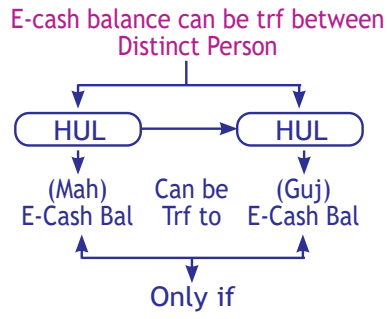
- P.O** to recover outstanding dues including attachment proceedings or sale of moveable/ immovable properties to collect the amount by way of cash/cheque/ demand draft during any investigation/ enforcement activity
- Govt Dept.**

Major & Minor Heads of E-Cash ledger



GST PMT - 09 Form can be used to

- Transfer Erroneous deposits under any minor head of a major head to any other minor head of same or other major heads.
- Transfer of any of amounts already lying unutilized under any of the minor heads in E-Cash ledger.



CGST/IGST Balances in E-cash ledger of one distinct person **cannot be transferred** to SGST Balance of E-cash ledger another distinct person in any other State

SGST Balances in & Cash ledger of one distinct person **cannot be transferred** to CGST/IGST Balance of E-cash ledger of distinct person in any other State

Rule 86A

If commissioner/officer authorised by him has a reason to believe that ITC available in e-credit ledger has been availed fraudulently/is ineligible He may not allow to debit such amt=credit in e-credit ledger

- Grounds for disallowing debit from e-credit ledger Credit is availed by RP
- ITC is availed on the invoice,debit notes where the supplier/recipient is non-existent / or found not conducting business from declared POB
 - on invoices,debit note on which tax in respect of which has not been paid to govt
 - w/o having invoice,debit note
 - w/o actually receiving G/Sr

Total amount of fraudulently availed ITC	Officer
Not exceeding 1Cr	Deputy comm/Assistant comm
Above 1Cr but not exceeding 5Cr	Additional comm/Joint comm
Above 5Cr	Principal Comm/Comm

* ZRS = Zero rated supply w/o payment of tax
* IDS = Inverted duty structure

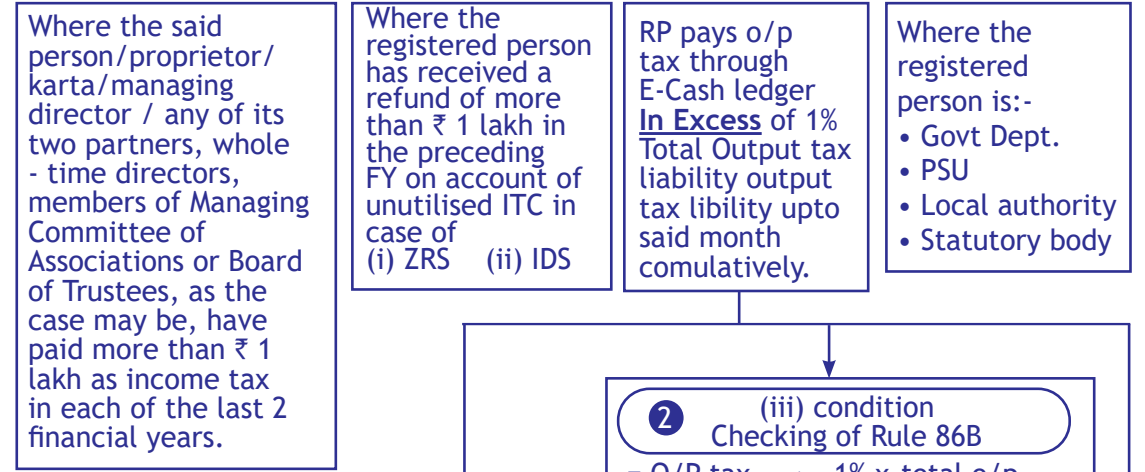
Rule 86B

In case where the value of Taxable supplies **Exceeds ₹ 50 lacs** [Other than = zero-related + Exempt Supplies]

E-Credit Ledger can be used only to the Extent of **99% of its output tax**

Eg. Outward supplies = ₹ 100 Lacs (GST@18%, excl.)	Computation of tax liability
E-Credit ledger Bal = ₹ 20Lacs	Output tax = 18Lacs
	(-) ITC = (17.82 Lacs) (99% x 18Lacs)
	E-Cash Ledger = 18,000

Cases where Rule 86B doesnot apply



1	April	May	June
Taxable supplies (GST@10%)	= 10L	20L	60L
E-Credit Ledger Balance (Given)	= 95K	1.90L	7L
O/P tax	= 1L	2L	6L
(-) ITC	= (30K)	(1.90L)	?
	<u>5K</u>	<u>10K</u>	<u>?</u>

2	(iii) condition Checking of Rule 86B
= O/P tax Payable through E-cash	> 1% x total o/p tax upto said month cumulatively
= 15K	> 1% x (1L+2L+6L)
= 15K	> 1% x 9K
= 15K	> 9K

3 This case is covered under (iii) exception & hence R-86B shall not apply as hence 100% ITC can be audited

Computation

O/P tax	= 6L
(-) ITC	= (6L)
	<u>Nil</u>

E-Credit ledger balance of ₹ 1L (7L-6L) shall be C/F

Section 7

Interstate Supply → IGST → 50% → CG, 50% → SG → (Where Goods/Service are destined / consumed)

1. Location of Supplier and Place of Supply

i) Two different states or ii) Two different UTs or iii) One state and one UT

2. Supply of goods imported in the territory of India till it crosses Custom Frontiers of India

3. Supply of service imported into the territory of India.

4. Inclusions:

- LOS is in India and POS outside India
- Supply of goods or service to/from SEZ
- Supply is in taxable territory and it is not intrastate supply and not covered elsewhere in section 7

Section 8

Intra-State Supply → within State → CGST+ SGST [All States+ J&K, Delhi, Puducherry]

→ within U/T → CGST+ UTGST [Chandigarh, Ladakh, Lakshadweep, Andaman Nicobar, Diu/Daman & Dadra Nagar Haveli]

One U/T →

Location of Supplier and Place of Supply

(i) Same State Or (ii) Same Union territories

Exclusion

- Supply of goods or services to / from SEZ
- Import of goods till it crosses customs frontiers of India
- Goods supplied to tourist u/s 15

Section 9

LOS & POS

upto 12nm (ie. T.W.I) → Coastal state / UT where nearest place of Appropriate baseline

Beyond 12nm (ie. T.W.I) but upto 200nm (ie. Continenta/Shelf) → Carved out as 'Seperate UT' named as 'Other territory'

Section 11

Import of goods → POS= Location of Importer

Export of goods → POS= Location outside India

Section 10 - POS of Goods [Domestic Supplies]

10(1)(a) Movement of goods ↓ POS Movement of goods terminates	10(1)(b) Bill to Ship to Model ↓ POS Principal POB of Third person	10(1)(c) No Movement of goods ↓ POS Place where goods are delivered	10(1)(ca) *OTC Sales to URP ↓ <table border="1"> <tr> <th>Situation</th> <th>POS</th> </tr> <tr> <td>→ Where the address of the unregistered person is recorded in the invoice.</td> <td>POS is location as per address of unregistered person recorded in the invoice**</td> </tr> <tr> <td>→ Where the address of the unregistered person is not recorded in the invoice.</td> <td>POS is location of the supplier</td> </tr> </table>	Situation	POS	→ Where the address of the unregistered person is recorded in the invoice.	POS is location as per address of unregistered person recorded in the invoice**	→ Where the address of the unregistered person is not recorded in the invoice.	POS is location of the supplier	10(1)(d) Installation or Assembling ↓ POS Place where goods are assembled or installed	10(1)(e) Goods on Board ↓ POS Place where goods are taken on board
Situation	POS										
→ Where the address of the unregistered person is recorded in the invoice.	POS is location as per address of unregistered person recorded in the invoice**										
→ Where the address of the unregistered person is not recorded in the invoice.	POS is location of the supplier										

**Simply mentioning the State of unregistered person instead of complete address would be sufficient.

SECTION 12 : LOS & LOR is in India

Eg.: Professional services (CA/CS/Lawyer), Security service
Cleaning service, Jobwork service

12(2) → General Provision (Services that are not covered from 12(3) to 12(14) are covered in this section)
B2B - LoR
B2C = If Supplier knows address of (R) - LoR
does not know (R) - LoS

12 (5) → Training & Performance
B2B = LoR
B2C = Place where training is held.

12 (7) → Organizing event service
B2B = LoR
B2C = where event is held
Exception- Event is o/s India - LoR

12 (8) → Transportation of goods
B2B = LOR &
B2C = where goods are handed over for transportation
Note :
Satellite Launching Sr is covered as 'Tr of Goods Sr' Hence POS is u/s12(8)

12 (9) → Transportation of Passengers
B2B - LoR
B2C = where passenger embarks journey
* Right to passage for future use where point of boarding is not known
B2B = LoR
B2C = PoS as per Sec. 12(2) as POS u/s 12(9) = NA
if (R) location is known → LOR
if (R) location is not known → LOS
Return journey shall be treated as **seperate journey**
In case of unregistered posson → ie Mumbai to Delhi = POS-Mumbai
Delhi to Mum = POS - Delhi

12 (13) → Insurance Service
B2B - LOR
B2C - If Address of recipient is known to supplier → LoR

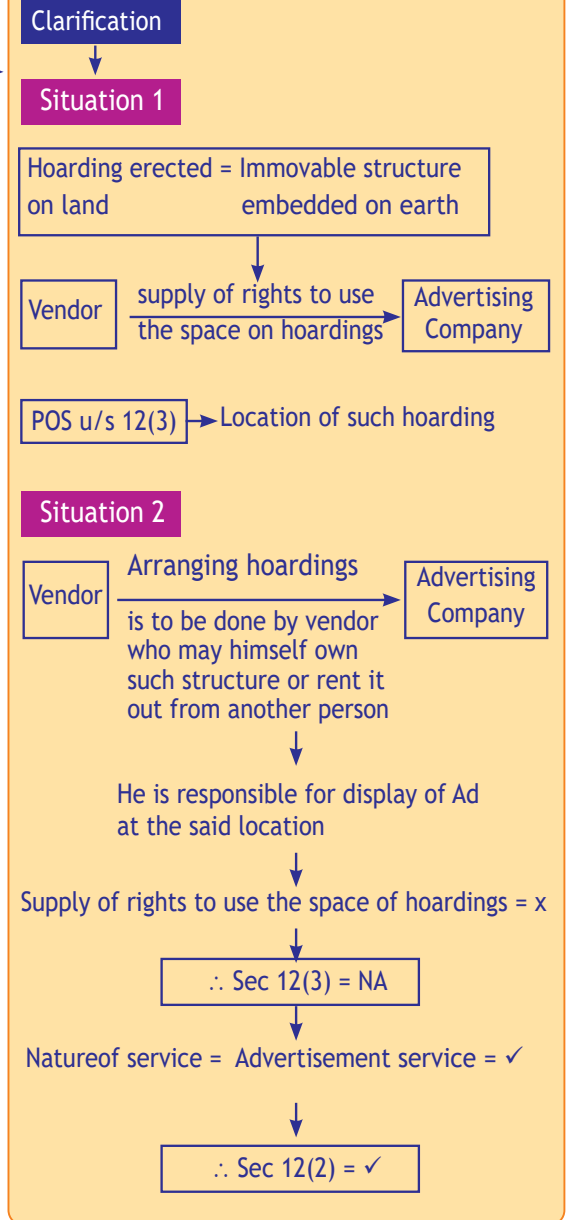
12(3) → Service i.r.t immovable property
POS = Immovable -property is situated
Exception: Imm. property o/s India = POS = LOR

12 (4) → Restaurant, catering, fitness, beauty,
POS - where Service is performed.

12 (6) → Event related
→ cultural event
→ Artistic
→ Sporting
→ Entertainment
→ Amusement park
POS - Event is held/Amusement park is situated.

12 (10) → Service supplied on board a conveyance
POS = First scheduled point of departure.

12 (12) → Banking, Broking Service
If Address of R
is known (ie A/c Holder) → LOR
Not known (ie Not an A/c Holder) → LoS



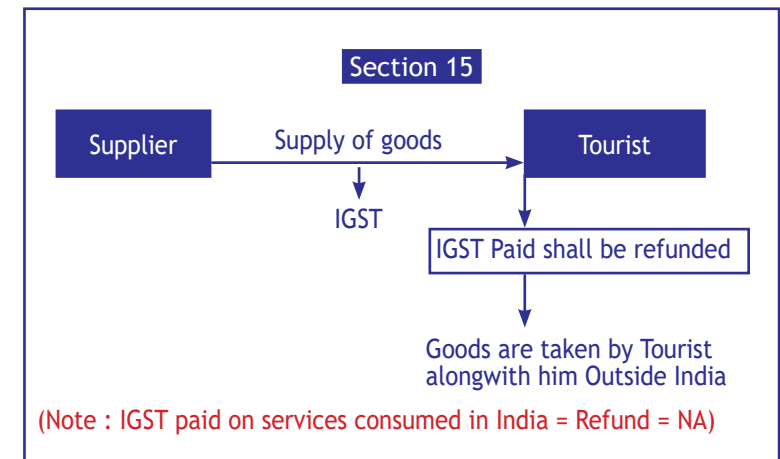
* OTC = Over the counter sales (S) = Supplier (R) = Recipient

12 (11) : Telecommunication Service

Situation	Place of supply
For fixed line, leased circuits, internet leased circuits ,cable connection or dish antenna	Place where such equipment is installed
Post-paid mobile and internet service	Billing address of the recipient
Prepaid mobile, internet service and direct to home television service through selling agent / reseller / distributor (Eg. Airtel to Airtel distributor)	Address of such agent/reseller/distributor
by any person to the final subscriber (Eg. Airtel distributor to final subscribe)	location where such pre - payment is received or such vouchers are sold;
that if such pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment,	the location of the recipient of services on the record of the supplier of services shall be the place of supply of such services.

12 (14) → Advertisement Service to CG/SG/UT/LA/Statutory Body

Type of advertisement	Factor which determines the proportionate value of service attributable to the dissemination in each State / Union territory.
Advertisements in newspapers and publications	Amount payable for publishing an advertisement in all the editions of a newspaper or publication, which are published in each State / Union territory.
Advertisements through printed material like pamphlets, leaflets, diaries, calendars, T-shirts, etc.	Amount payable for the distribution of a specific number of such material in each State / Union territory
Hoardings (other than those on trains)	Hoardings located in each State / Union territory
Advertisements on trains	Length of the railway track in each State / Union Territory, for that train
Advertisements on the back of utility bills of oil and gas companies, etc.	Amount payable for the advertisements on bills pertaining to consumers having billing addresses in each State / Union territory
Advertisements on railway tickets	Number of Railway Stations in each State / Union territory
Advertisements on radio stations	Amount payable to such radio station, which by virtue of its name is part of each State / Union territory
Advertisement on television channels	Number of viewers of such channel in each State / Union Territory.
Advertisements in cinema halls	Amount payable to a cinema hall or screens in a multiplex in each State / Union territory.
Advertisements on internet	Number of internet subscribers in each State / Union Territory
Advertisements through SMS	Number of telecom subscribers in each State/Union Territory



Import of service

- LOS = o/s India
- LOR = in India
- POS = in India

Export of service

- LOS = in India
- LOR = o/s India
- POS = o/s India
- Payment to be received in forex or rupees if permitted by RBI under explanation to sec 8.
- Both are **not distinct person**

Note :

- When consideration is paid in Indian Rupees from Special Rupee Vostro Accounts of correspondent banks of partner trading country opened by Authorized Dealer Bank
-

Sec 13(1) - (LOS or LOR of service is outside India)

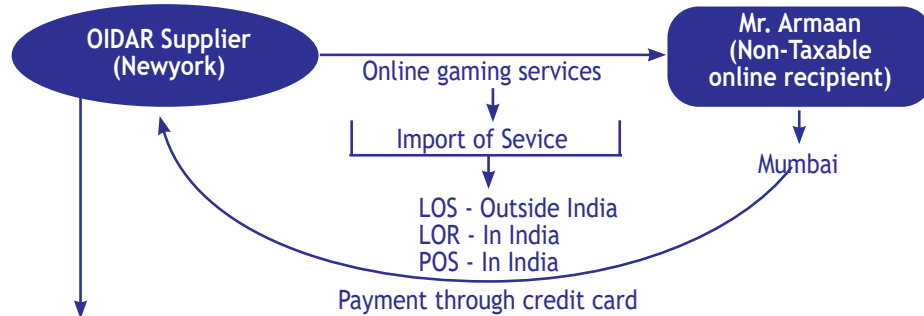
Sec	Condition	Place of Supply
13(2)	<p>All services other than covered in 13 (3) to 13(13) default Rule</p> <p>Note : 1) Cargo Handling Service POS = 12(2)/13(2) (Eg. havlage/unloading/siding of wagons)</p> <p>2) Composite supply of Software development & testing of software → Principal supply = Software development (ie testing of software is ancillary activity). → POS = 13(2)</p>	<p>POS = LOR if LOR is not available POS= LOS</p>
13(3)	<p style="text-align: center;">Section 13(3): Performance Based Services</p> <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <p>Goods</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <p>Situation</p> <p>i) Services requiring physical presence (Eg. Jobworker service)</p> <p>POS</p> <p>Where service is actually performed</p> </div> <div style="width: 30%;"> <p>Situation</p> <p>ii) Services supplied in respect of goods that are temporarily imported into India for repairs or any other treatment or process without being put to use</p> <p>POS</p> <p>13(3) = NA 13(2) = ✓ Therefore POS = LOR = LOS, if LOR is not available</p> </div> <div style="width: 30%;"> <p>Situation</p> <p>iii) Services supplied in respect of goods that are provided from a remote location by electronic means</p> <p>POS</p> <p>Where goods are situated at the time of supply of services</p> </div> </div> </div> <div style="text-align: center;"> <p>Individual</p> <p>Situation</p> <p>Services supplied to Individual which require physical presence of recipient (Eg. Salon, classroom teaching)</p> <p>POS</p> <p>Service is actually performed</p> </div> </div>	-
13(4)	Supply of service directly on immovable property (includes real Estate experts renting, architect, interior design etc.)	POS = place of immovable property located.
13(5)	way of admission to, or organisation of a cultural, artistic, sporting, scientific, educational or entertainment event, or a celebration, conference, fair, exhibition or similar events, and of services ancillary to such admission or organisation, shall be the place where the event is actually held.	POS = event is actually held.
13(6)	Supply of service u/s 13(3), (4), (5) in multiple taxable territory	POS = Taxable territory Entire contract in taxable territory
13(7)	Supply of service u/s 13(3), (4), (5) more than 1 state/UT	POS = follow rules
13(8)	<p>Supply by - Banks/NBFC to A/c holders</p> <p>- Intermediary services</p> <p>- Hiring all means of transport other than vessel /Aircraft including Yatch up to 1month</p>	<p>POS = LOS</p> <p>ie Non A/c Holders - 13(8) = NA 13(2) = ✓</p>
13(9)	Transportation of goods (other than mail or courier) - 13(9) - Omitted 13(2) - Now covered under this section	<p>POS = i) LOR is available - POS-LOR</p> <p>i) LOR is not available - POS-LOS</p>
13(10)	Passenger transport service	POS = place where passenger embarks for continuous journey
13(11)	On board supply of services	POS = First scheduled point of departure of conveyance
13(13)	<p>(i) Supply of research & development services related to pharmaceutical sector by person located to a person located in taxable territory to a person located in non- taxable territory</p> <p>(ii) When a foreign supplier provides maintenance, repairs, overhaul service in respect of ship/vessel to Indian shipping co</p>	<p>POS = LOR of service subject to fulfilment of condition</p> <p>POS = LOR</p>

13(12) - OIDAR Service → POS = LOR

Person receiving such service shall be deemed to be located in taxable territory if any two of the following non contradictory conditions are satisfied namely

Address of recipient of services through internet	Is in TT
Billing address of recipient	Is in TT
Card used by recipient for payment	Has been issued in TT
Bank account of recipient	Is maintained in TT
Fixed land line through which service is received used by recipient	Is in TT
Country code of SIM card used by recipient	Is in TT
IP address of device used by recipient	Is in TT

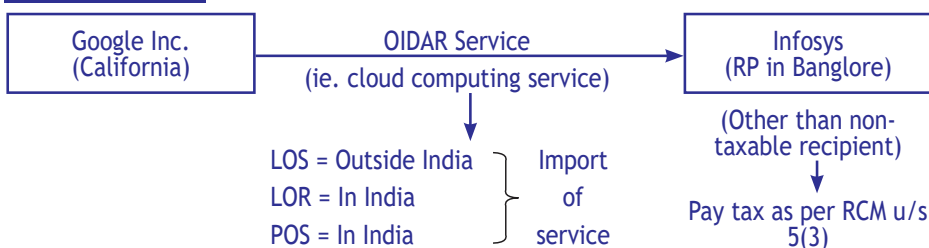
Section 14



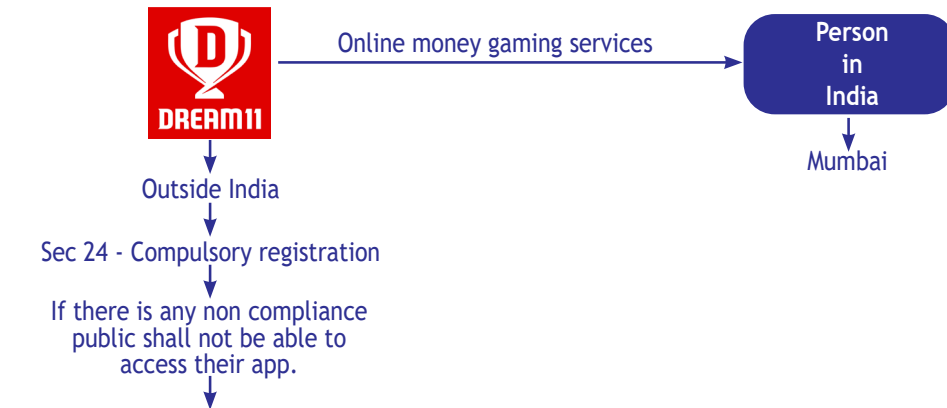
Tax shall be payable by OIDAR Supplier u/s 14
OIDAR Supplier shall Compulsorily register u/s 24 and pay tax as follows:

Situation	Who shall pay tax?
OIDAR Supplier has physical presence in India	OIDAR supplier
OIDAR Supplier does not have physical presence in India	Representative of OIDAR
OIDAR Supplier does not have its physical presence nor has its representative in India	Person appointed by OIDAR supplier

Sec 5(3) → RCM

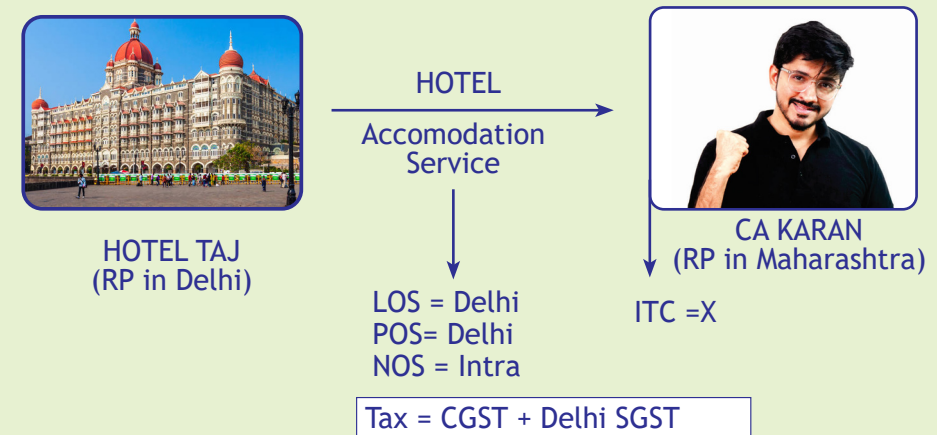


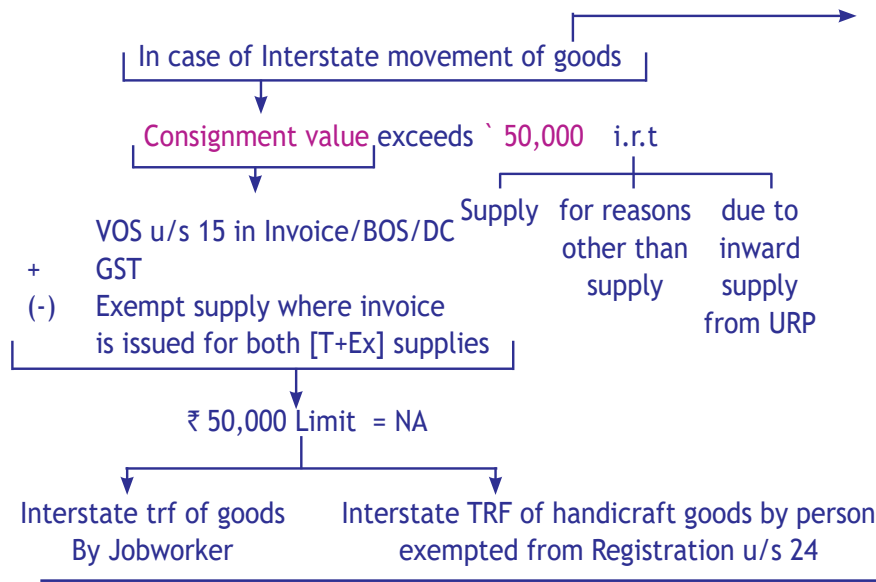
Section 14A



Situation	Who shall pay tax?
Online Money Gaming Supplier has physical presence in India	Online Money Gaming supplier
Online Money Gaming Supplier does not have physical presence in India	Representative of Online Money Gaming
Online Money Gaming Supplier does not have its physical presence nor has its representative in India	Person appointed by Online Money Gaming supplier

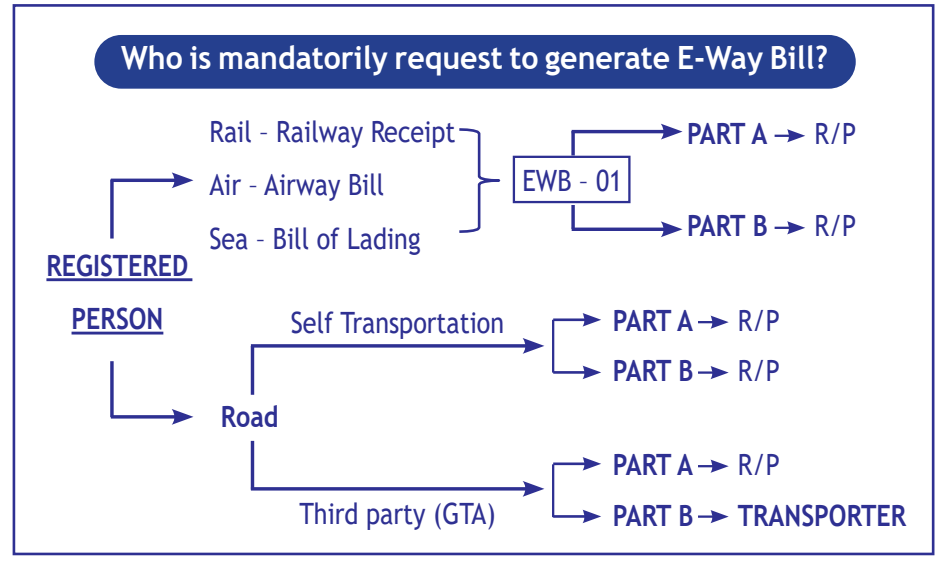
Importants adjustment to remember while calculating ITC



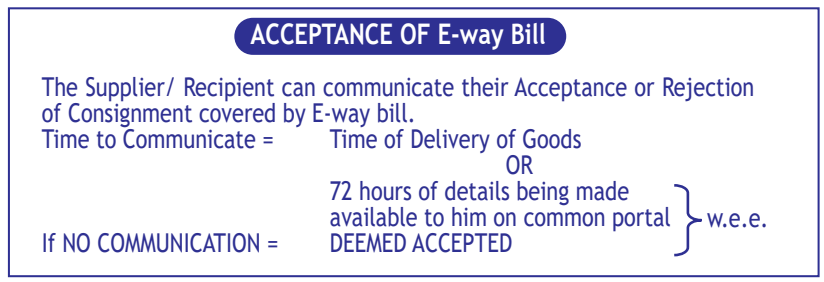
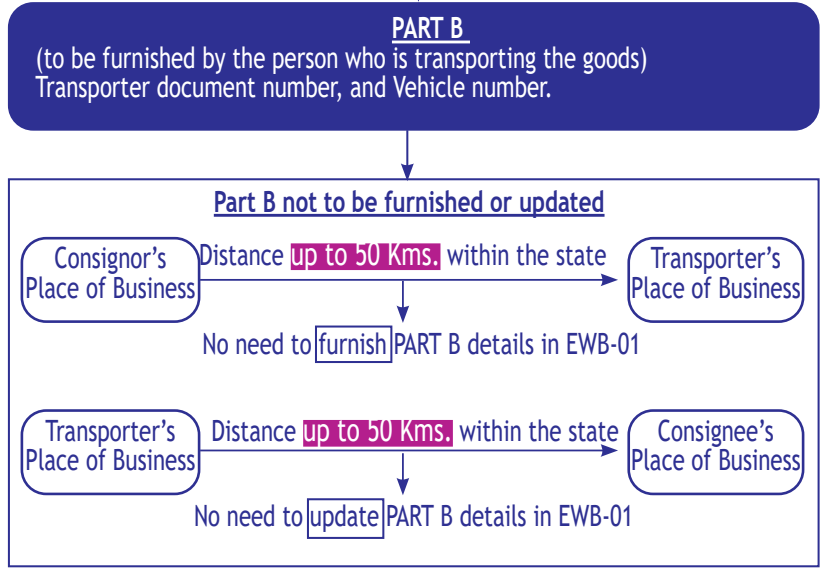
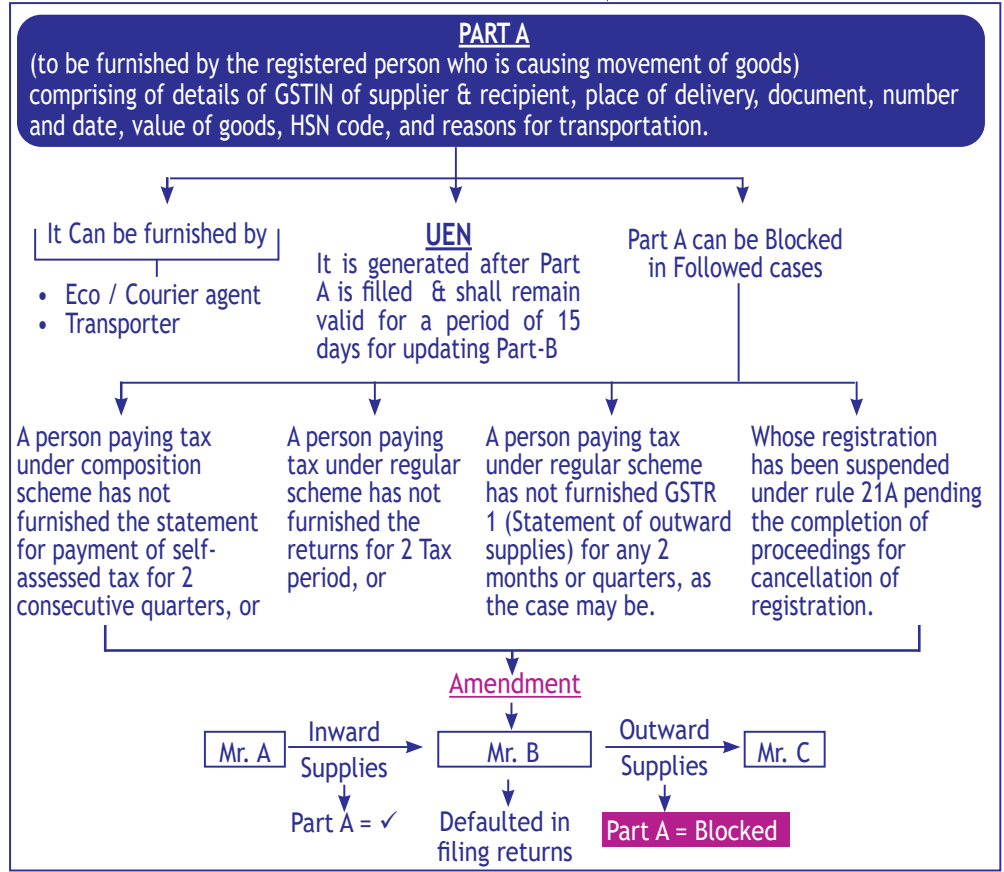


Eg.:

Only Taxable supplies	Only Exempt supplies	Taxable & Exempt supplies
VOS = 45K +GST = 20K CV = 65K	VOS = 100K CV = 100K	TS = 40K +Exs = 40K + GST = 5K CV = 45K
EWB = ✓	EWB = ✗	EWB = ✗

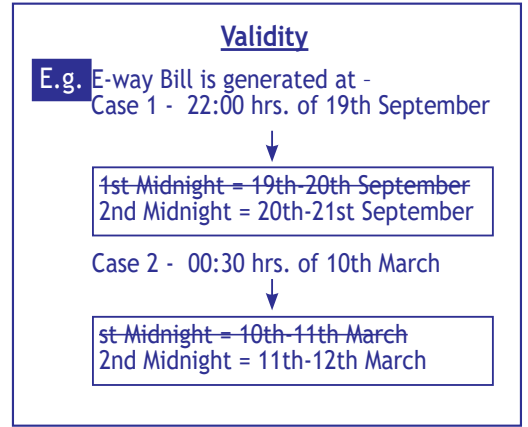


Information to be furnished in e-way bill

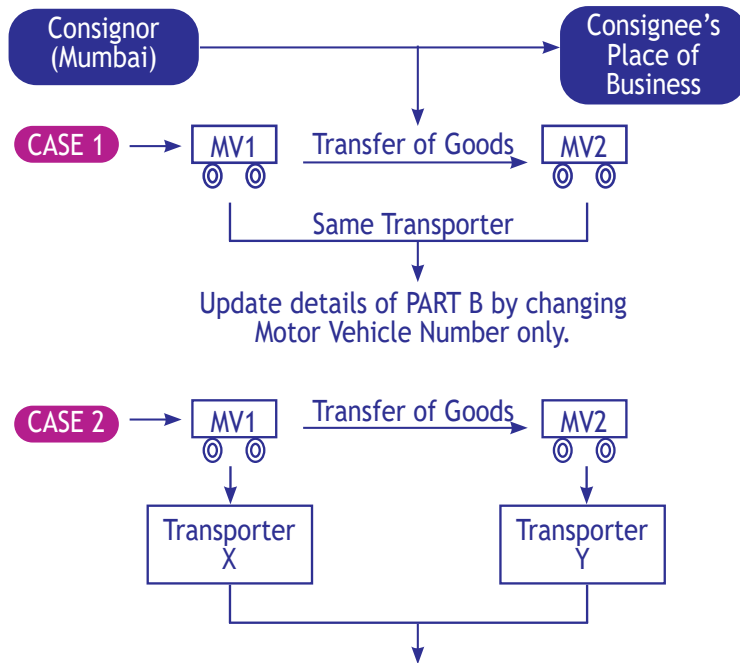


Validity of EWB

	No. of Kms	Validity
ODC or Mutimodal shipment where one mode of Transport is ship	= 20 Kms	= 1 Day (+) Additional Day
Other than ODC	= 200 Kms	= 1 Day (+) Additional Day



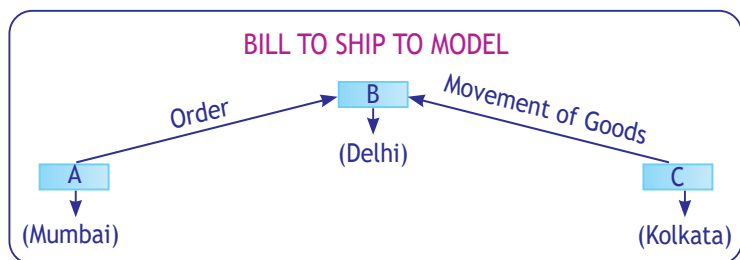
Transfer of goods from one conveyance to another



Update details of PART B by changing Motor Vehicle Number only.

Since, there is another transporter, Consignor/ Recipient who generated PART A details may 'Assign' E-way Bill No. to ANOTHER TRANSPORTER for updating the information in PART B for further movement of consignment

However, once the details of the conveyance have been updated by the transporter in Part B, the consignor or recipient, as the case may be, who has furnished the information in Part A shall not be allowed to assign the e-way bill number to another transporter [Proviso to rule 138(5A)].



Since, the movement of goods takes place only once, hence only one E-way Bill shall be generated.

INVOICE 1 - Issued by B to A
INVOICE 2 - Issued by A to C

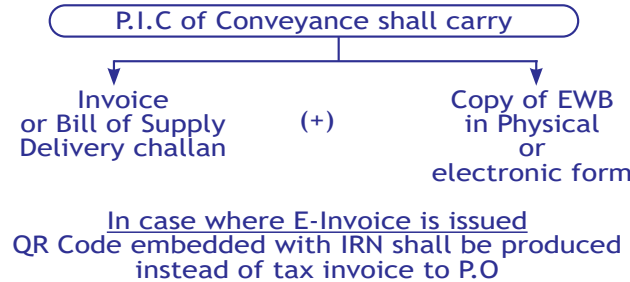
Hence, Either 'B' or 'A' can generate E-way Bill but only one E-way Bill shall be generated.

Cases where no E-way Bill is generated?

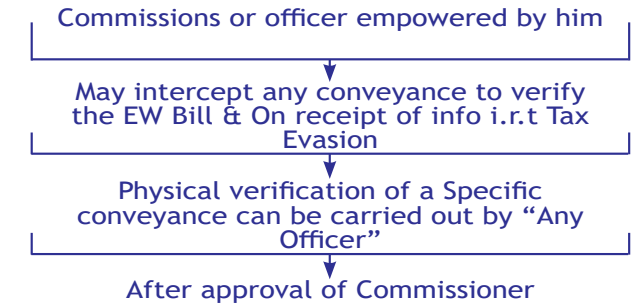
- Where the goods being transported are the ones given below-
 - Kerosene Oil sold under PDS.
 - Jewellery, goldsmiths' and silversmiths' wares and other articles. (Imitation jewellery → EWB is generated)
 - Currency
 - Used personal and household effects.
- Where the goods are being transported by a non-mortised conveyance.
 - Custom Port, Custom Airport, Air Cargo Complex, Land Custom Station
 - MV of Goods EWB = X to/from Inland Container Depot, Container Freight Station
 - One Custom Station to Another Custom Station
 - MV of Goods EWB = X
- Where the goods being transported, are exempt from tax N/N 2/2017 & N/N 7/2017
- Where the goods being transported are alcoholic liquor for human consumption petroleum crude, high speed diesel, motor spirit, natural gas or aviation turbine fuel.

- Where the supply of goods being transported is treated as no supply under Schedule III of the Act.
- Where empty cargo containers are being transported.
- Where goods are being transported up to a distance of 20 km from the place of the business of the consignor to a weighbridge for weighment or from the weighbridge back to the place of the business of the said consignor subject to the condition that the movement of goods is accompanied by a delivery challan issued in accordance with Rule 55.
 - WEIGH BRIDGE CHEMICAL MANUFACTURER
 - M/V of Goods Up to 20 Kms.
 - WEIGH BRIDGE
 - EWB = X
 - M/V of goods upto 20kms EWB = X
- Where empty cylinders for packing of liquefied petroleum gas are being moved for reasons other than supply.

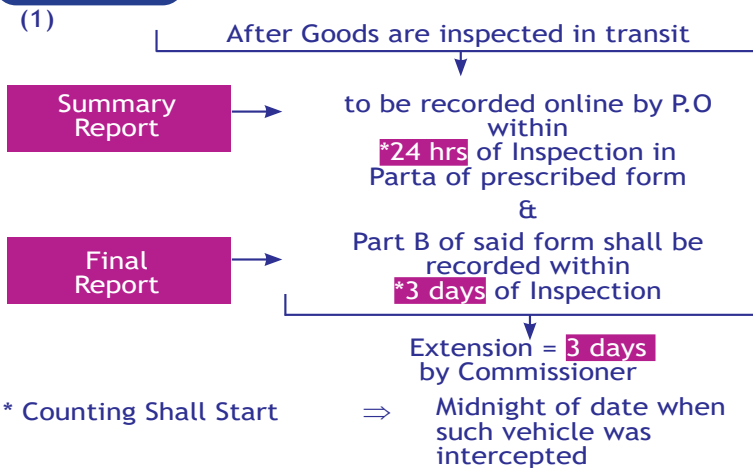
Rule 138A



Rule 138B

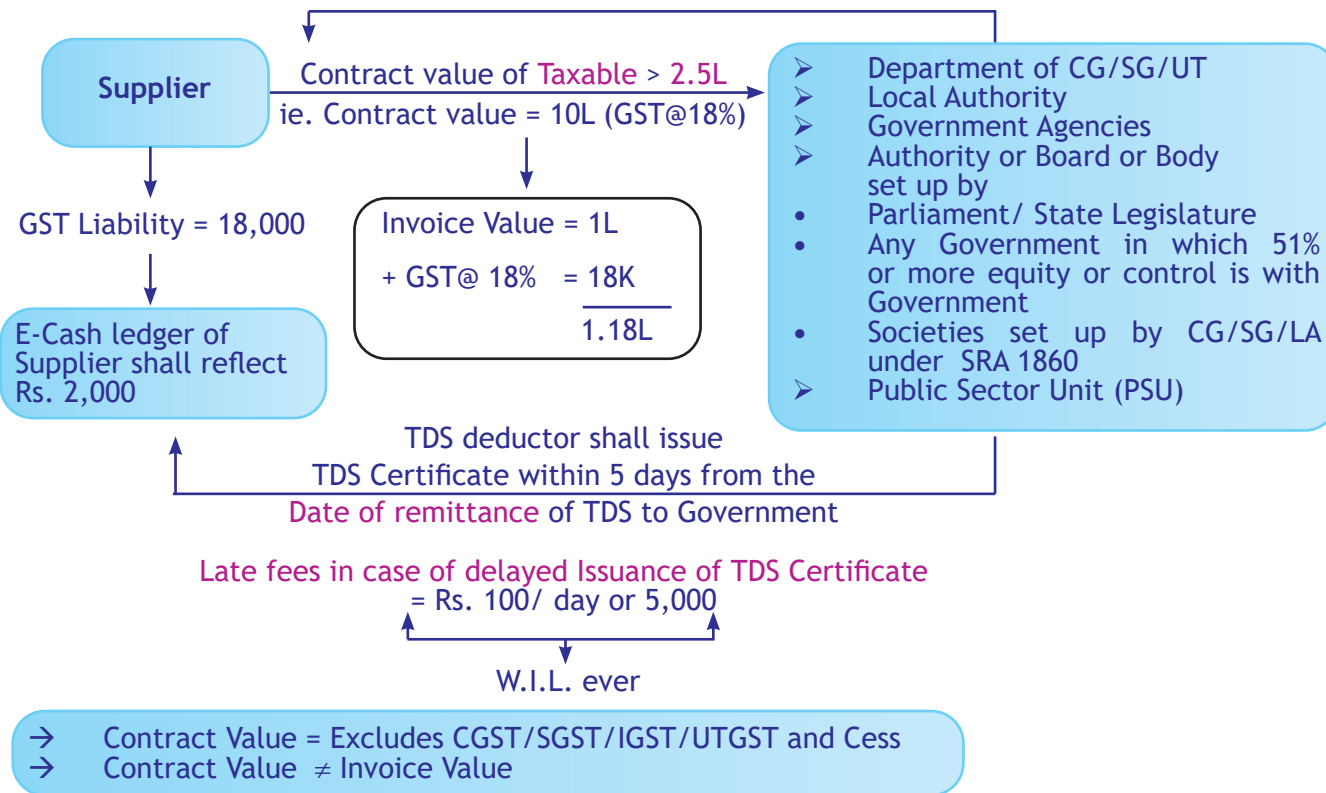


Rule 138C

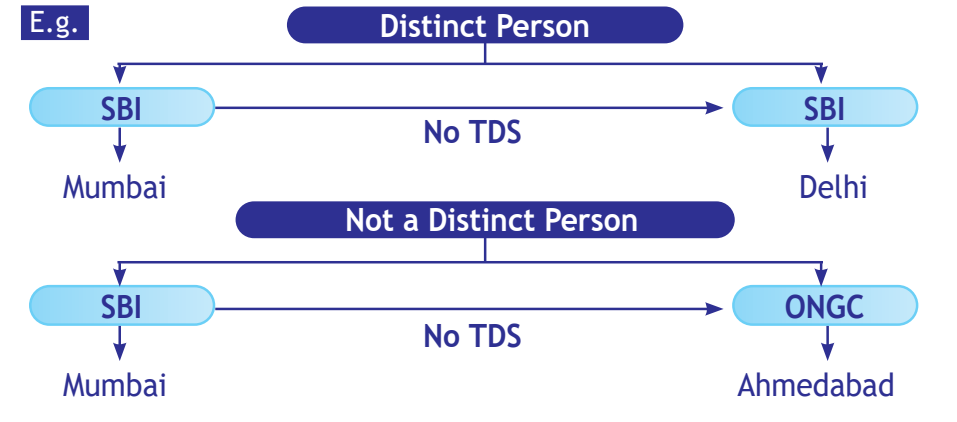


- One a physical verification of goods in conveyance is done during transit at one place → within one State or In any other State. No further physical verification of the said conveyance shall be carried out again in State / UT unless specific verification i.r.t Tax Evasion is made available.
- Only Such goods / Conveyances shall be detained / confiscated. Where there is violation

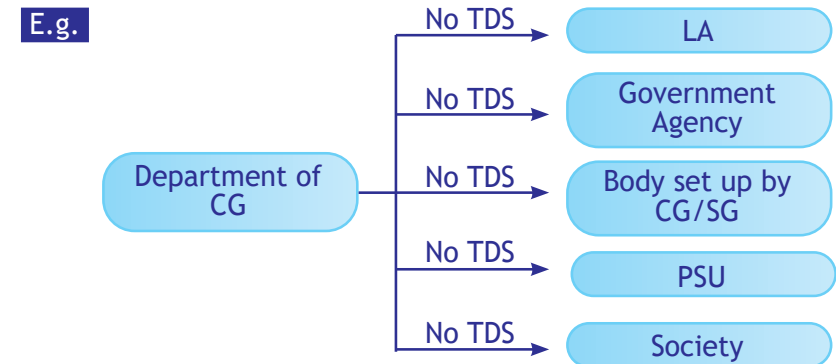
Payment → TDS @2% to be deducted = @ the time of payment on amount paid
(Payment remitted = 98000 + 18000)
→ TDS to be deposited = 10th of next month in which deduction takes place.



4. When Goods/Services are supplied from one PSU to another PSU (Whether or not distinct person)



5. If any supply of Goods/Services takes place between 'Specified Recipients' mentioned above



Cases where No TDS to be deducted

- Exempt Supplies
- No TDS shall be deducted when LOS & POS is in State A and LOR is in State B

LOS	POS	LOR	TDS
Maharashtra	Maharashtra	Maharashtra	Intra CGST@ 1% MSGST@ 1%
Gujarat	Maharashtra	Maharashtra	Inter IGST@ 2%
Gujarat	Gujarat	Maharashtra	No TDS

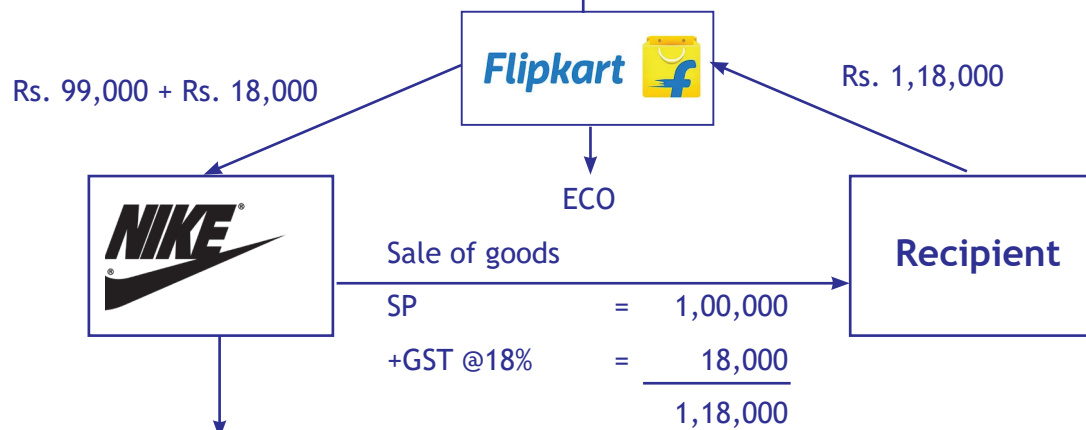
- Rate of TDS = 2%
 - Intra:- CGST @ 1%
SGST @ 1%
 - Inter:- IGST @ 2%
- TDS@2% of to be deducted on amount paid & not on contract value
- Delayed payment of TDS = Interest @18% p.a.
- Return = Form No:- GSTR - 7
Due date:- 10th of next month
- Delayed filing of return
Late fees u/s 47(1) = Rs. 25/ day or 1,000, W.I.L.

ECO

Every ECO **not being an agent** who goods & collects consideration on behalf of supplier from customer on **net value of taxable** supplies made through it by suppliers has been mandated to collect TCS.

E.g. OLX is an agent as consideration is not routed through him to supplier and hence it is not covered u/s 52

Collect TCS @1% on 'net value of taxable' supplies and deposit by 10th of next month



GST = 18,000 payable

Amount of Rs. 1000 shall be reflected in E-Cash Ledger of 'Nike'

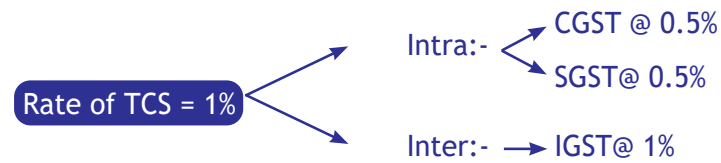
Net Value of taxable supplies:

Add: Aggregate value of taxable supplies of G/S [Other than those notified u/s 9(5)]
Less: Taxable supplies returned to suppliers

Cases where TCS is not collected

- Supplies on which tax is payable as per RCM.
- Import of goods/service.
- Supplies on which Goods/Services are Exempt.

While Solving Q&A remember :
If supplier has to pay tax u/s 9(1) → ECO shall deduct TCS u/s 52
If ECO pays tax u/s 9(5) → ECO shall not deduct TCS u/s 52



Due date of TCS = 10th of next month following the month in which such supplies takes place.

Delay in Depositing TCS = Interest @ 18% p.a.

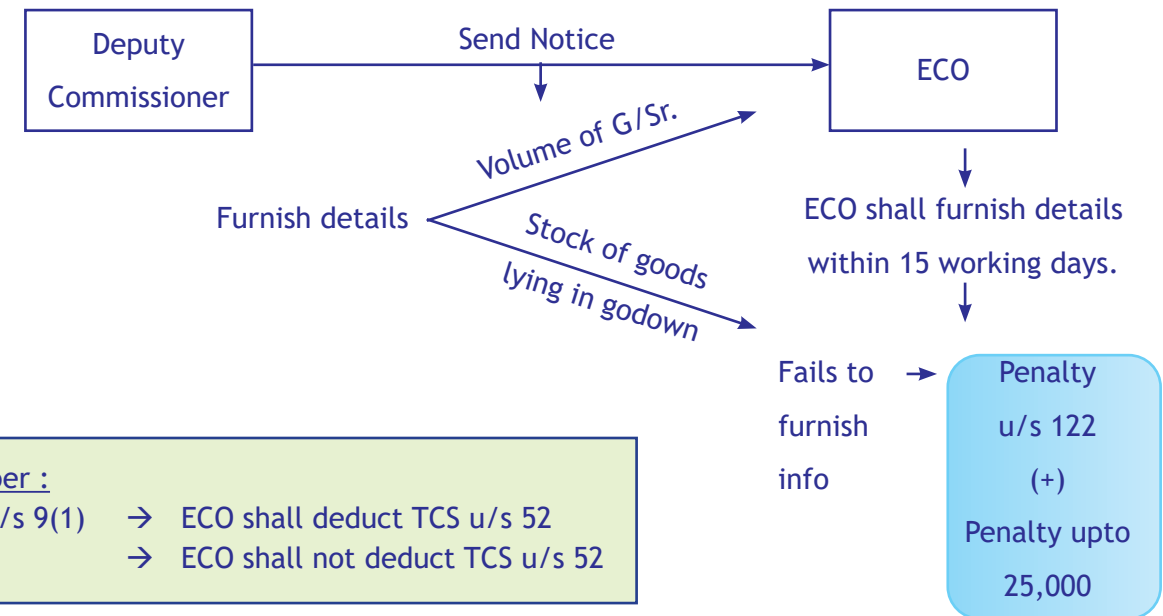
Return = Form No:- GSTR-8

Late fees on filing delayed return:

Rs. 100/ day
Or
5,000 } W.I.L.

Due date of filing Annual Statement = 31st December of next FY.

Notice to ECO



In the case of the ONDC Network (Open Network for Digital Commerce) there can be multiple ECOs in a single transaction one providing an interface to the buyer and the other providing an interface to the seller)

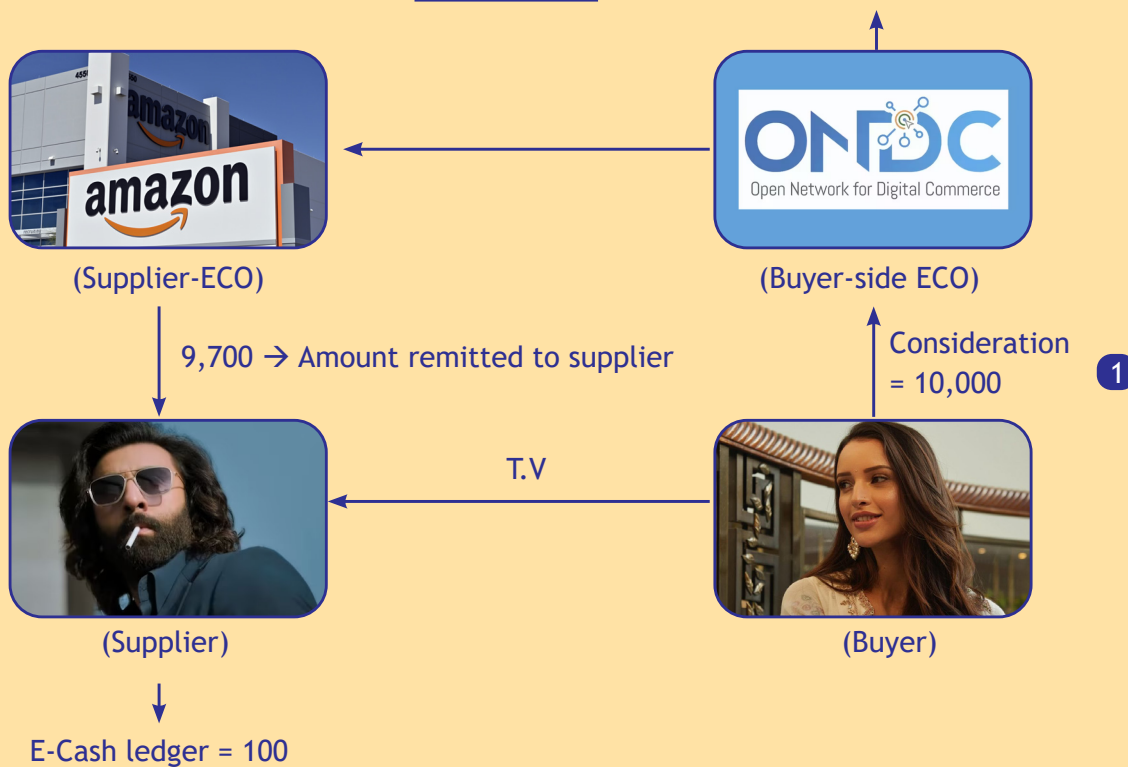
(In this setup, buyer-side ECO could collect consideration, deduct their commission and pass on the consideration to the seller-side ECO).

Clarification:-

Which ECO shall deduct TCS ?

Issue 1 - In this supplier side - ECO is not supplier himself

3 $9,900(-) 100 \text{ (Amazon fees)} (-) \text{TCS@1\%} = 100$ 2 $10,000 (-) 100 \text{ (ONDC Fees)} = 9,900$



Conclusion:- Only Supplier's ECO shall collect TCS u/s 52

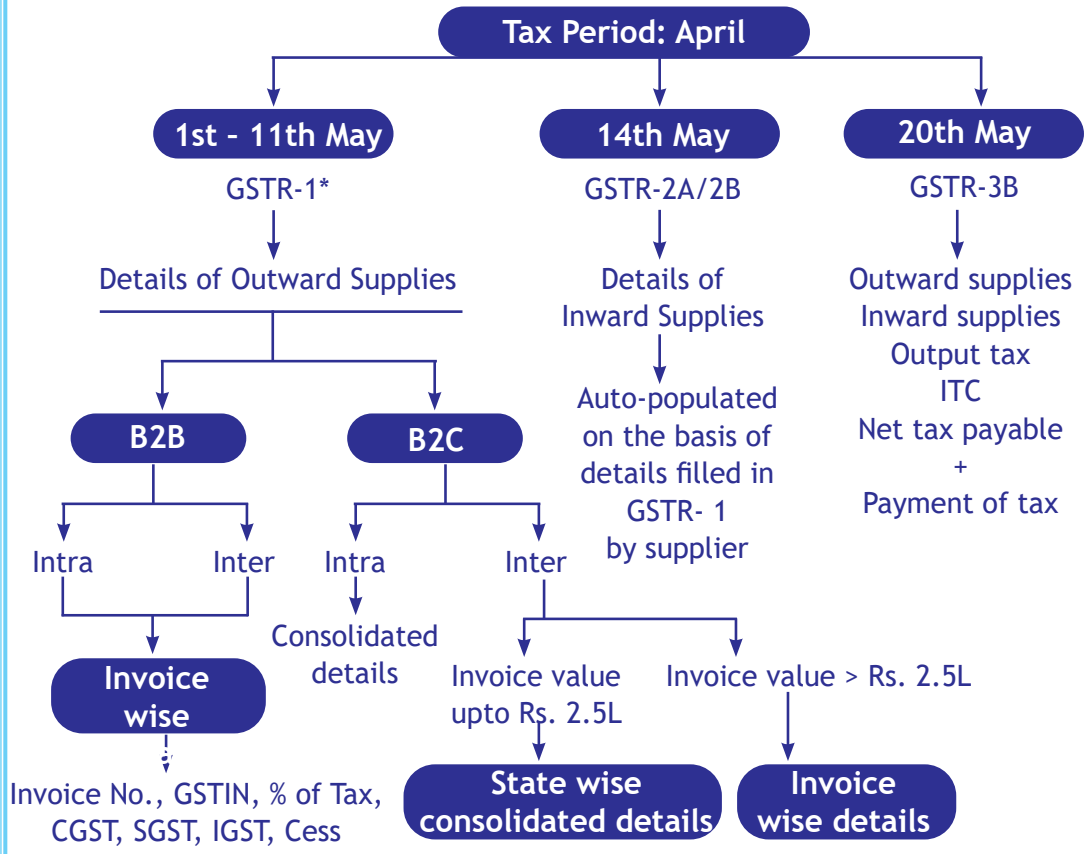
Issue 2 - In this supplier side ECO is supplier of goods himself

2 $10,000(-)100 \text{ (fees)}(-) \text{TCS@ 1\%-100} = 9,800$



Conclusion:- Only Buyer's ECO shall collect TCS u/s 52

Who will file Form GSTR-1 and Form GSTR-3B?
Normal Taxpayer (Including CTP)



*** Note 2 -**
Cases where RP is debarred from IFF/GSTR-I

- A registered person shall not be allowed to furnish the details of outward supplies in Form GSTR-1, if he has **not furnished** the return in **Form GSTR-3B for preceding months.**
- A registered person, opting for QRMP scheme shall not be allowed to furnish the details of outward supplies in Form GSTR-1 or using IFF, if he has **not furnished** the return in **Form GSTR-3B for preceding tax period.**
- Intimation **u/r 88C** to pay or explain the difference in GSTR-1 & 3B received
- Intimation **u/r 88D** has been issued on the common portal in respect of a tax period/periods,
- a registered person shall not be allowed to furnish GSTR-1/IFF, if he has not furnished the details of the bank account as per the provisions of **rule 10A.**

- Nil Returns*** → Nil GSTR-1/3B
- No business activity is done
 - Can be filed through SMS by OTP facility

Form GSTR-1 can be filed only after the tax period is over except -

- in case of cancellation of registration certificate of a normal tax payer,
- closure of business by a casual taxable person

Rectification of Errors
Due date of rectification of error in **Form GSTR-1/3B**

- Actual date of filing Annual Return
- Or
- 30th November** Following the FY to which Such details pertain

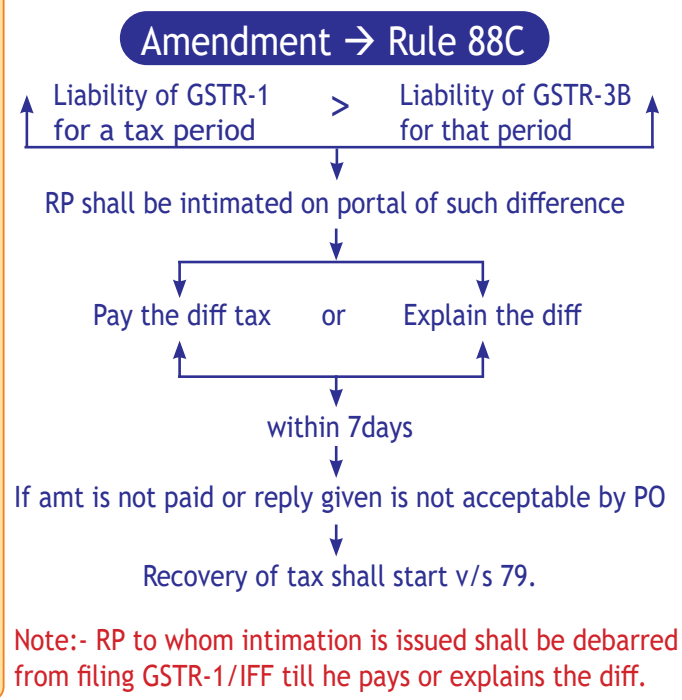
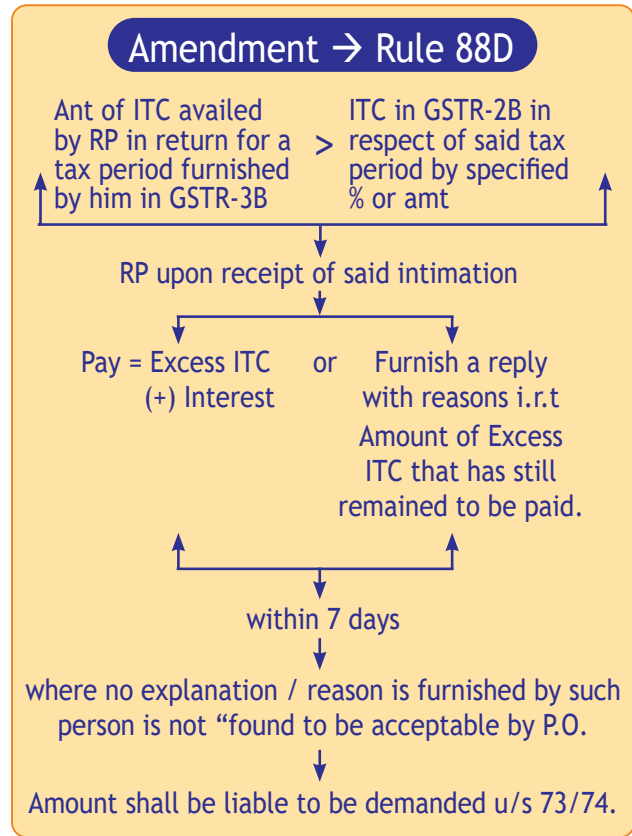
W.I.E

Can Return be revised?

There is no mechanism to revise the returns for any correction of errors

Rectification of errors/ omissions is allowed in subsequent returns

But it shall be effective only if done within time limit

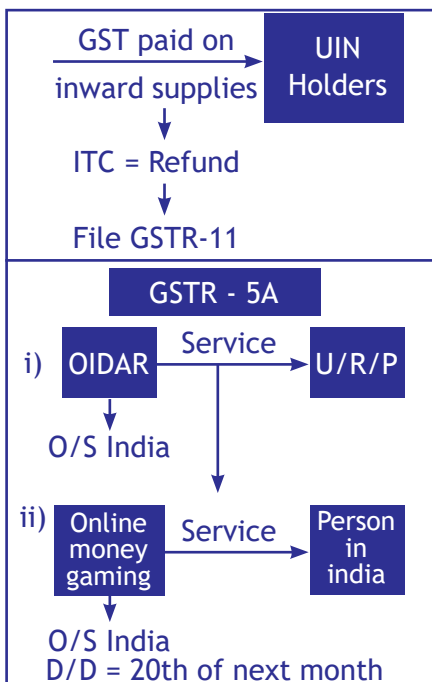


Composition Tax Payer

Payment of Tax		Returns	
Form No	GST CMP - 08	GSTR - 4	
Due date	18th of month following the quarter	30th April of next FY	
Example	Period	Due date	
	April - June	18th July	
	July - September	18th October	
	October - December	18th January	
	January - March	18th April	
Period	Due date	Period	Due date
FY 20-21	30th April 2021		
		Nil return	
		→ No business activity	
		→ Can be filed by SMS through OTP.	

NRTP

Payment of Tax		Return
Form No	-	GSTR - 5
Due date	Advance tax at the time of applying Registration Certificate	13th of next month Or 7 days from expiry of Registration Certificate
		} W.I.E.



TDS Deductor u/s 51

Form No. GSTR-7
Due Date : 10th of next month
and

TCS Deductor u/s 52

Form No. GSTR-8
Due Date : 10th of next month

Rectification of any omission / incorrect particulars shall be allowed by

= 30th November foll. the end of FY
or
Actual date of filing Annual Statement } w.i.e.

Final Return

Who shall file = Normal tax payer including CTP whose Registration Certificate has been cancelled or surrendered

Form No = GSTR-10
Due date = Within 3 months from Date of cancellation Or Date of cancellation order } **Whichever is later**

Annual Return

Who shall file = All registered person except

- 1) CTP
- 2) NRTP
- 3) ISD
- 4) TCS u/s 51 / TDS u/s 52
- 5) OIDAR outside India → U/R/P in India

Form No: GSTR - 9 = Normal Tax payer
Due date: 31st December of next FY

Note:

1. Every registered person whose Books of A/C are subject to GST audit u/s 35(5) shall also furnish a copy of audited annual accounts & Reconciliation statement on self certification basis alongwith Annual Return.
2. **Reconciliation Statement** reconciles the value of supplies declared in the return furnished for the financial year with the audited annual financial statement and such other particulars, as may be prescribed.
3. Belated Annual Return & Self certified Reco statement cannot be filed after expiry of a period of 3years from due date of furnishing said AIR

First Return

All the outward supplies made from date of becoming liable to register upto the date of grant of registration certificate shall be filed in First Return.

Example

Date of becoming liable to register 26/04	Date of grant of registration certificate 4/05
Outward supplies b/w 26/04 and 4/05 to be filed in Form GSTR-1 on 10th May	
&	
Tax shall be paid in Form GSTR-3B on 20th May	

Section 46

Notice shall be sent to RP who fail to file return

U/s 39	U/s 44	U/s 45	U/s 52
Normal Return	Annual Return	Final Return	TCS Statement

RP Shall furnish return within 15 days of such notice

QRMP Scheme

1

In PFY, if Agg T/o is upto ₹5 Crores
Then
In CFY, RP can opt for QRMP Scheme

2 **Condition:**

1. Taxpayer must have furnished his last return on due date.
2. RP does not have to exercise the option every quarter, once taken they shall continue to furnish the return for future tax periods unless
 - i) They become ineligible (ie. crosses 5 Crores) or
 - ii) For furnishing monthly return

3 This scheme is GSTIN Based

Eg: Dmart → Mah → Monthly return
→ Guj → QRMP scheme

Manner of exercising the option
From 1st day of Second Month of Preceding Quarter
Till
Last day of First Month of Quarter

Eg: July to Sept → Can Exercise his option → 1st May to 31st July

Due date of filing return GSTR-3B under QRMP

July - Sept → 22nd / 24th day succeeding quarter (i.e. 22nd / 24th oct)

22nd → Others
24th → All East + Northern States

Assam, Arunachal, Manipur, Mizoram, Meghalaya, Tirupura, Nagaland, Sikkim, West Bengal
J&K, Ladakh, Delhi, Haryana, Rajasthan, Punjab, Chandigarh, UP, Uttarakhand, Himachal Pradesh, Jharkhand, Odisha, Bihar

* IFF = Invoice Furnishing facility.

Submitting details of outward supplies.

	Jul	Aug	Sept
Details = o/w supplies	*IFF (Optional)	IFF (Optional)	GSTR-1 (Compulsory)
D/D	13th Aug	13th Sept	13th Oct

Note

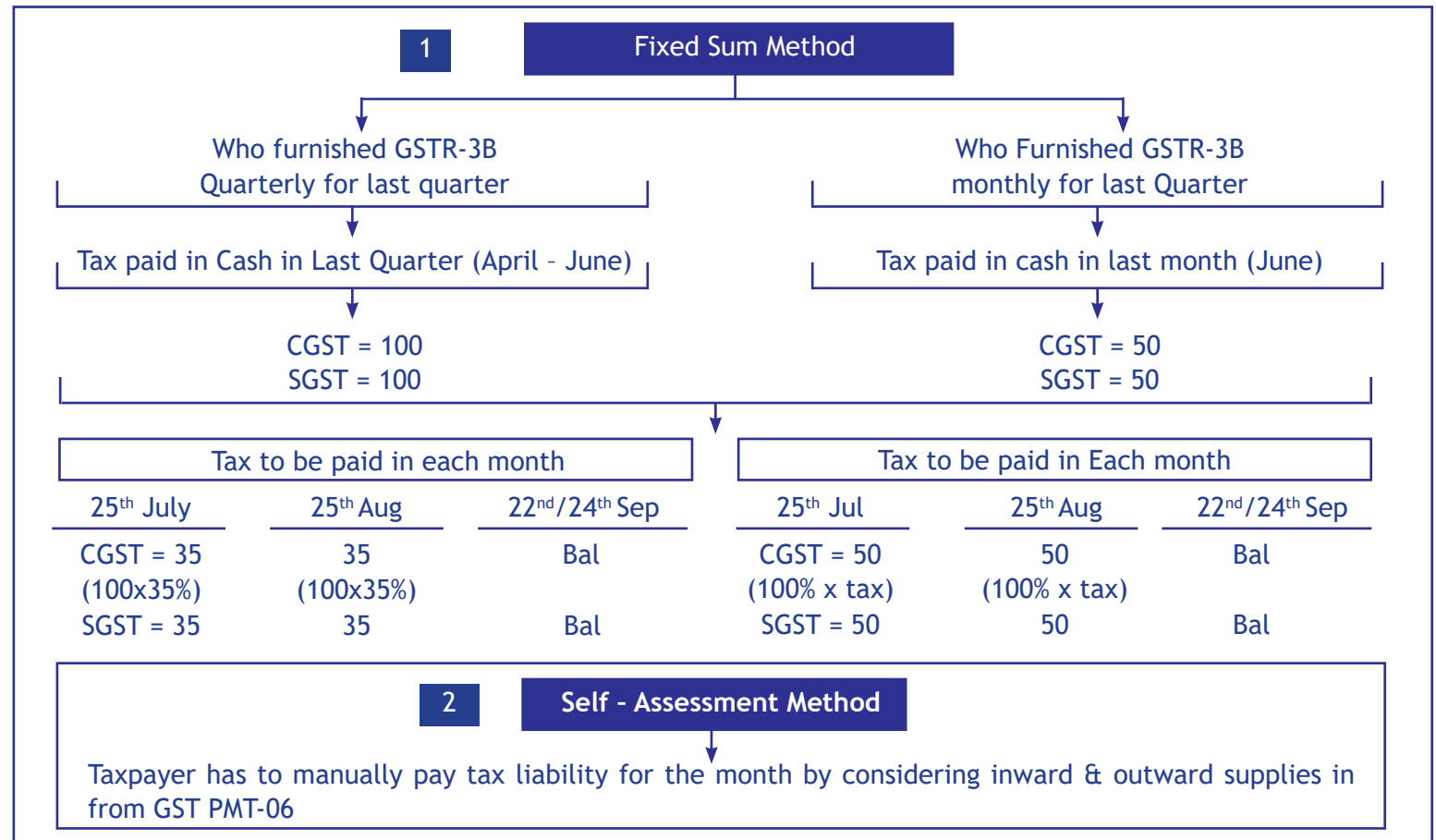
- 1) Value of supply in IFF shall not exceed ₹50 lacs per month
- 2) Invoices uploaded in IFF = B2B and shall not repeated in GSTR-1
- 2) Details of o/w supplies in IFF/GSTR-1 shall be reflected in GSTR-2A/2B

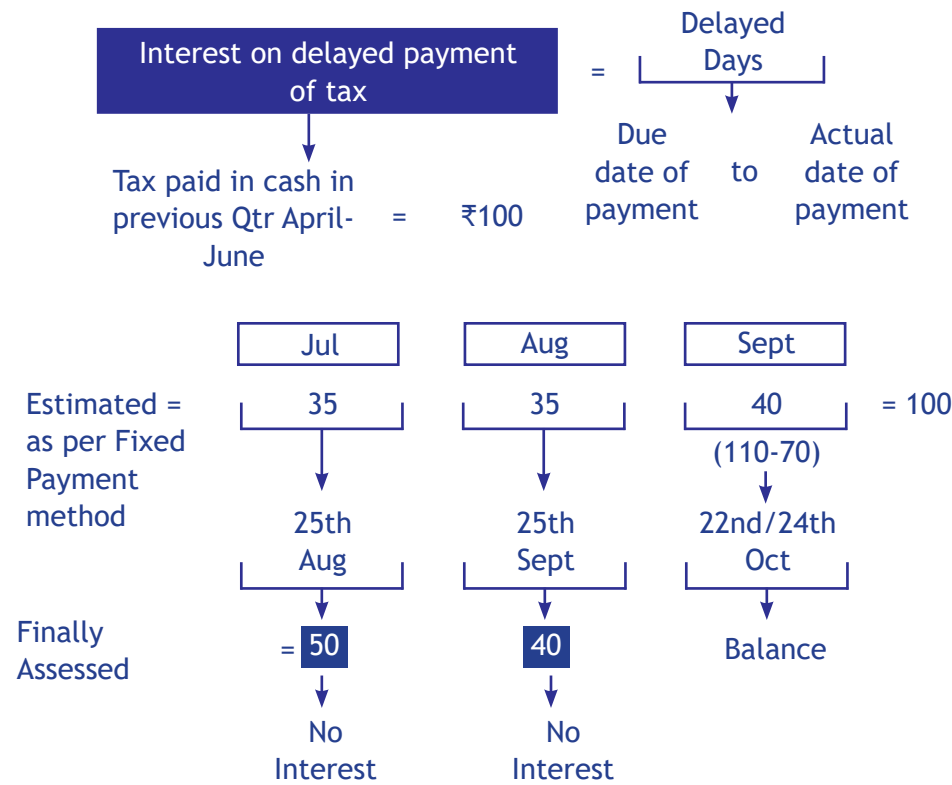
Payment of Tax → GST PMT-06 from (Monthly)

	1st Month	2nd month	End of Qtr
Payment = Challan	PMT-06	PMT-06	PMT-06
Due = Date	25th of succeeding month	25th of succeeding month	Along with return (i.e. 22/24 month)

Methods of payment

- Fixed sum method = ✓
- Self-Assessment method = ✓





But if the above payments are made as follow

July = ~~25th Aug~~ → 31st Aug

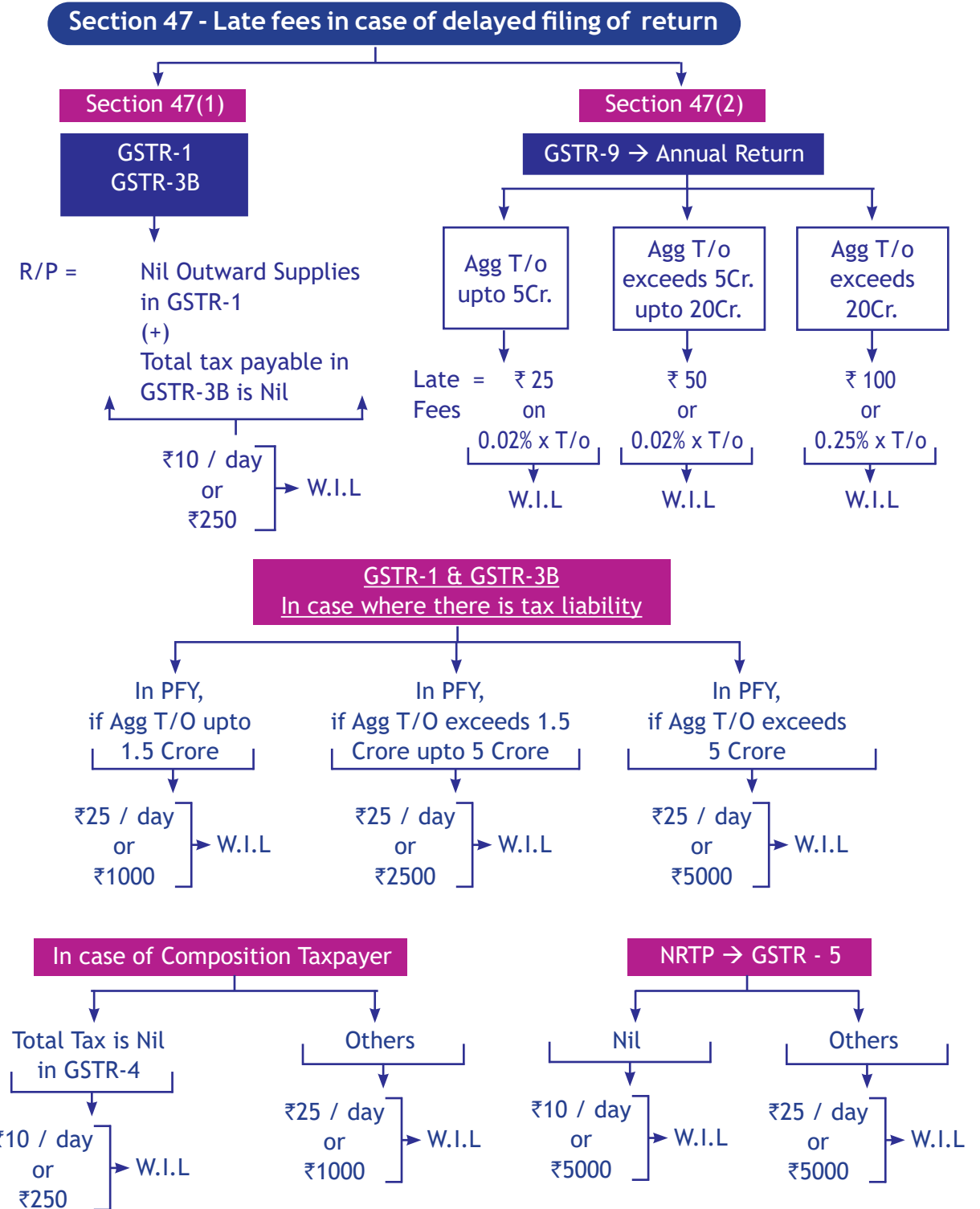
Interest @ 18% on delayed days (i.e. 6 days)

$$35 \times 18\% \text{ p.a} \times \frac{6 \text{ days}}{365 \text{ days}}$$

In case of self-Assessment Method also, applicability remains the same

Note:- No Late fees is payable if tax is not paid on due date as GST PMT - 06 is a payment form & not a return

ISD	TDS Collector	TCS Collector
Late Fees = 25/Day or 5000	Late Fees = 25/Day or 1000	Late Fees = 100/Day or 5000
W.I.L.	W.I.L.	W.I.L.



GST Council Recommends an exemption

Govt shall by notification exempt such G/Sr

w.e.f the date as specified in such notification

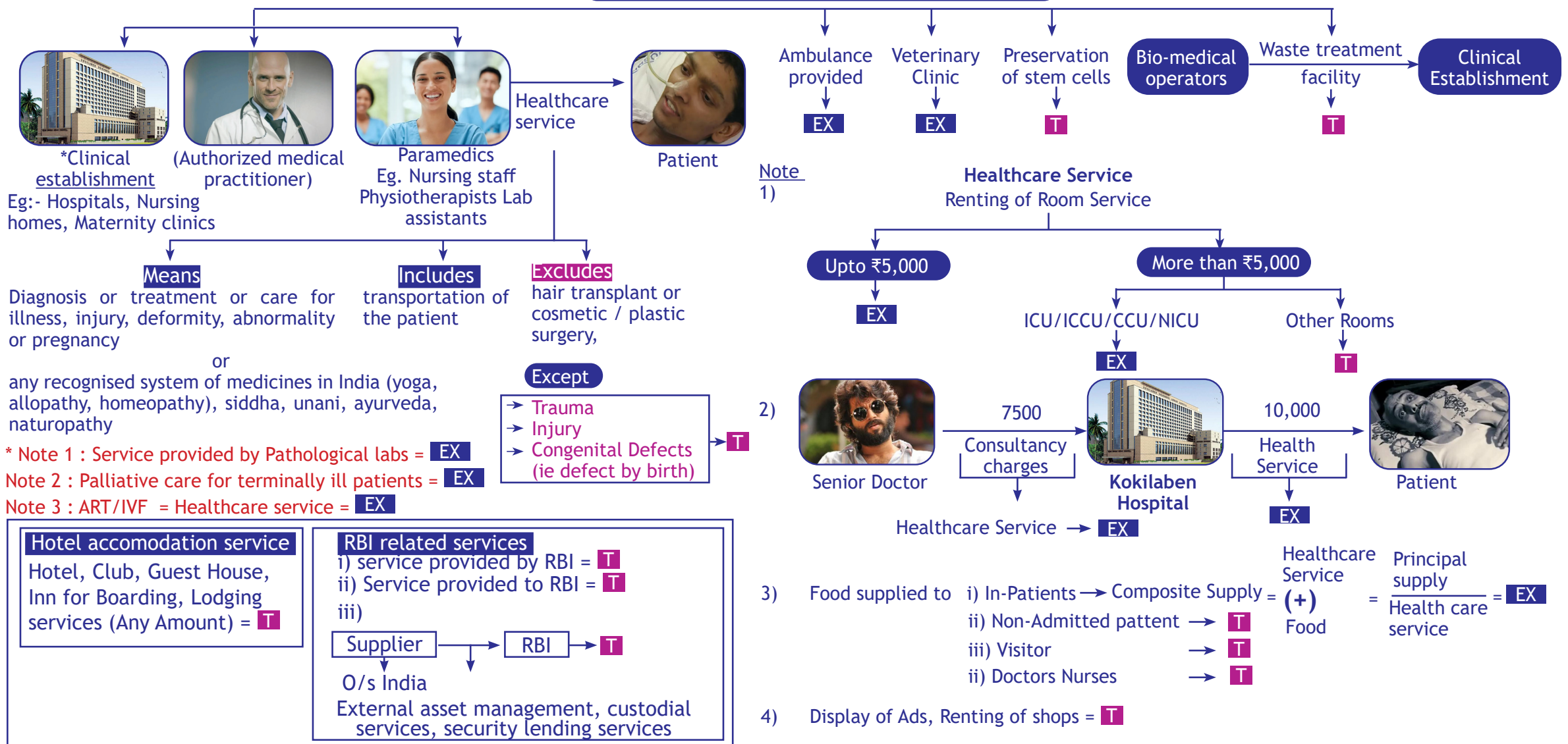
Note: Explanation inserted in an entry within 1 yr of issue of said notification
Effective date of such explanation in the entry = Retrospectively from Date of inception of such entry

Eg.

Principal Notification No. 11/2017 CT (R) dated 28.06.2017 came into force with effect from 01.07.2017. Thereafter, a new entry - Entry no. 3(vi) was inserted w.e.f. 21.09.2017. Subsequently, an explanation was also inserted with respect to entry no. 3(vi) by issue of a notification on 26.07.2018 [i.e. within 1 year of the insertion of entry 3(vi)].

Although the effective date mentioned in the notification which inserted said explanation was 26.07.2018, said explanation will be effective from the inception of entry 3(vi) in notification i.e. 21.09.2017 and not 26.07.2018. [Circular No. 120/39/2019 GST dated 11.10.2019]

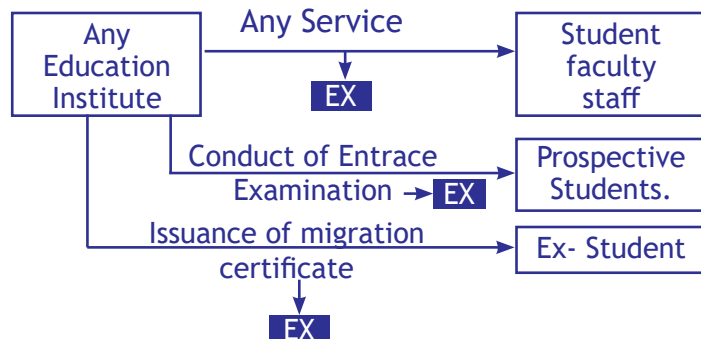
Health/Clinical Establishment related services



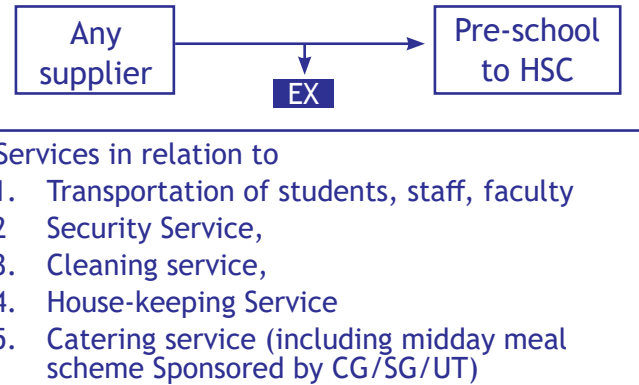
Education related services

1. Education Institution = **1**
- i) Pre-school (including **Anganwadis**) upto HSC
 - ii) Institution that gives qualification recognised by law
 - Indian Law → **EX** (Eg. ICAI, ICSI, Bar Council)
 - Foreign Law → **T** (Eg. CFA, ACCA)
 - iii) **IIM Act, 2017**
 - Short duration = Not Recognized = **T**
 - Long duration (> 1 Year) = Recognized by law = **EX**
 - iii) Maritime Training Institution → Merchant Shipping Act, 1958 → Education Institution
 - iv) Course run by
 - ITI/ITCs affiliated NCVT/SCVT
 - Modular Employable Skill course approved by NCVT
 - v) Central / State Boards / National Board of Exams / anybody, authority set up by CG/SG including National Testing Agency is an **education institution** in so far as it provides services by the way of conducting exams.
- **Few clarifications :**
- Online testing Result publication, printing of notification, Admit card, question papers → **EX**
 - Central Board State Board NBE → Conducting Exams Service → **EX**
- Services like giving accreditation to an institution / professional → **T**

Services provided by an Education institution to Students, Faculty and Staff **2**

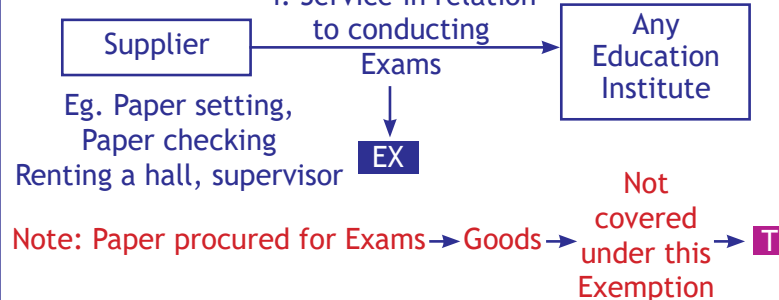


3. Services provided to Education institution **3**



- Note :**
- Security, Cleaning, Housekeeping service should be provided In campus = **EX** Outside campus = **T**
 - All other services to Pre-school to HSC = **T**
 - If above 5 services are provided to other Education institutions = **T**

4. Service in relation to conducting Exams **4**



5. Online education journal **5**



Note 1 : Private Coaching = Taxable **6**

- Note 2 :**
- Boarding = Education (+) Accomodation = Composite Supply = Pricipal Supply → Education Sr → **EX**

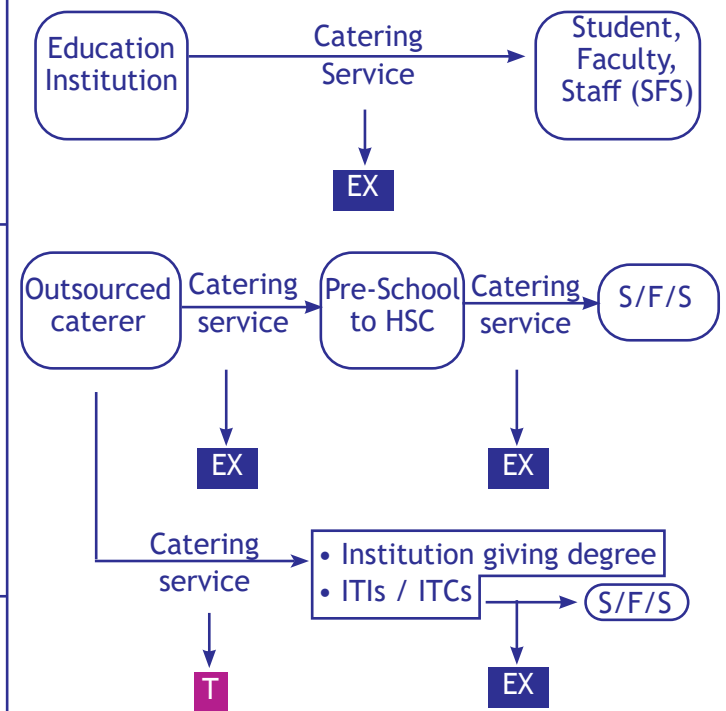
Note 3 :

Fees charged from prospective employers

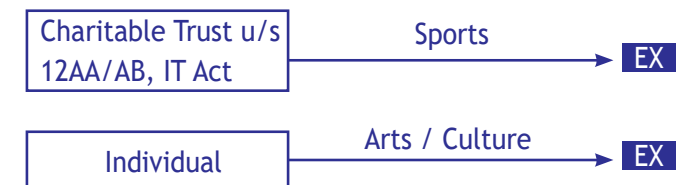
E.g. Placement service provided BY ICAI through Campus Interview to KS Academy → **T**

Note 4 :

Supply of Food



Coaching in relation to recreation activity



Services relating to agriculture and agricultural produce.

* Note : Rice is not an agriculture produce.

Agriculture includes cultivation of plants, crops and rearing of all life forms → Sericulture, horniculture etc.

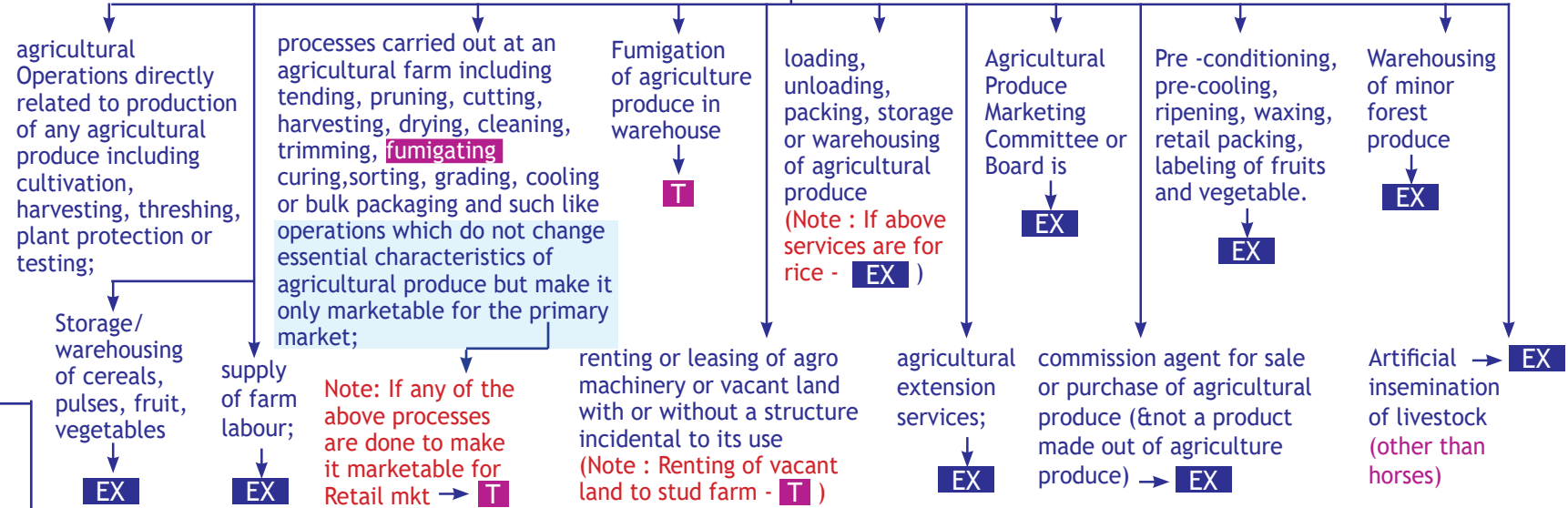
Except the rearing of horses

Note :

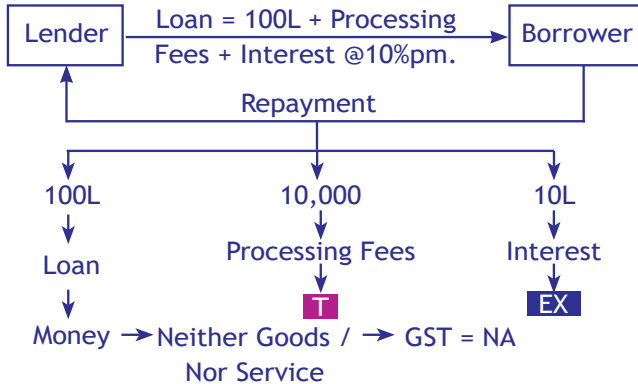
1. Custom milling of paddy into rice = **T**

Agri Produce	Product
Sugarcane	Jaggery
Coffee beans	Coffee powder
Tea leaves	Tea powder
Whole gram, Rajma	Dehusked/Split pulses

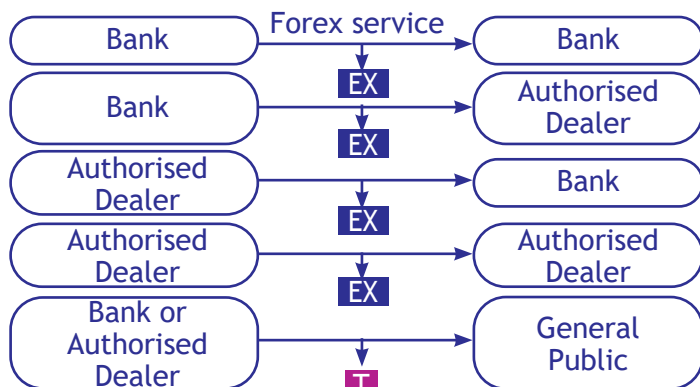
Services relating to agriculture or agricultural produce by way of - EX



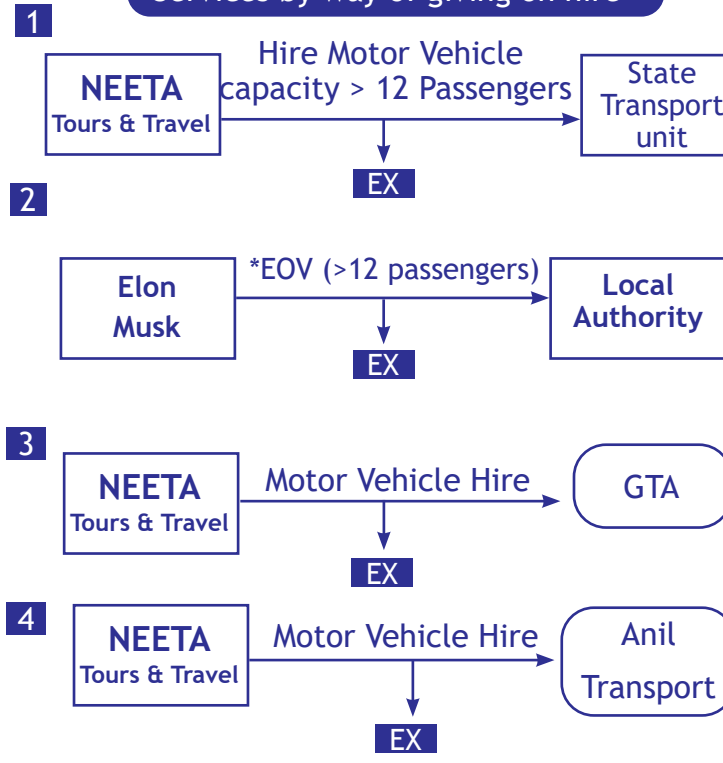
Services by Bank



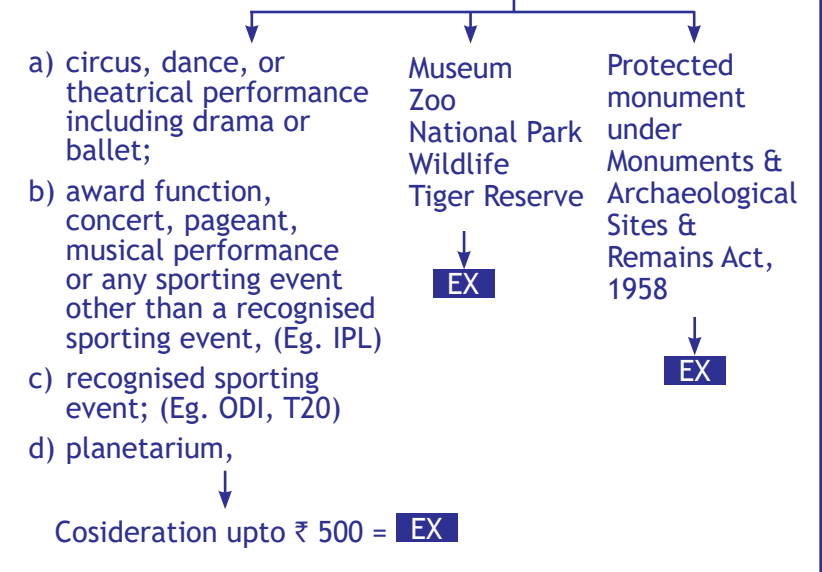
Note : Interest charged by credit card company = **T**



Services by way of giving on hire -



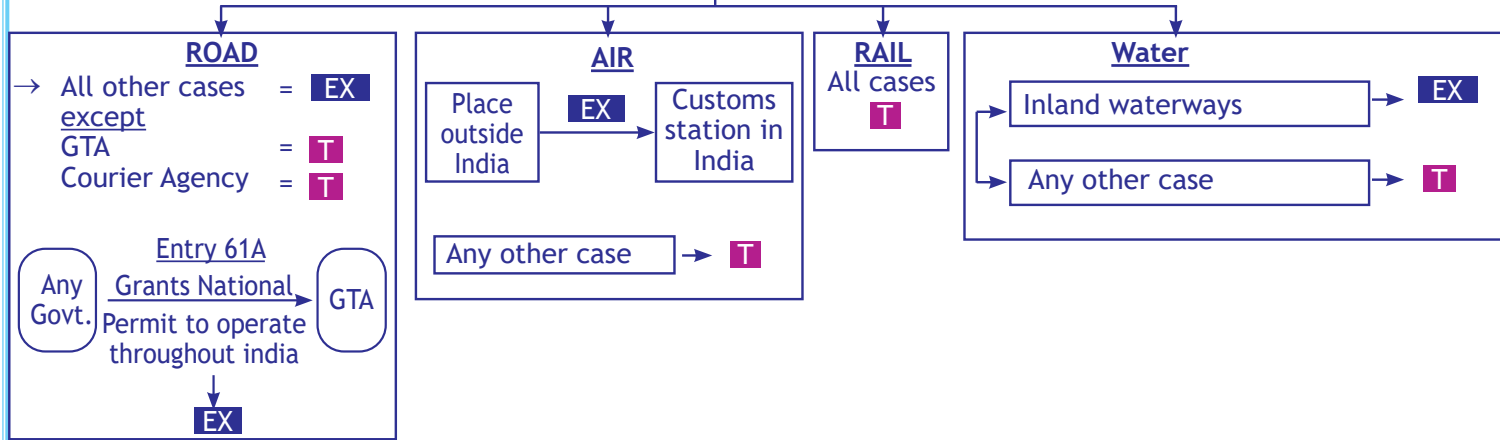
Admission to entertainment events



Entry No. 34: Services by an acquiring bank, to any person in relation to settlement of an amount upto 2,000 in a single transaction transacted through credit card, debit card, charge card or other payment card service. Explanation. For the purposes of this entry, "acquiring bank" means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card.

1

Transportation of goods

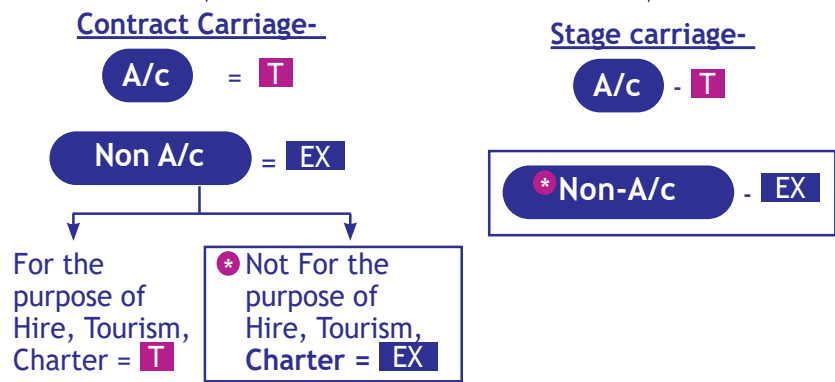
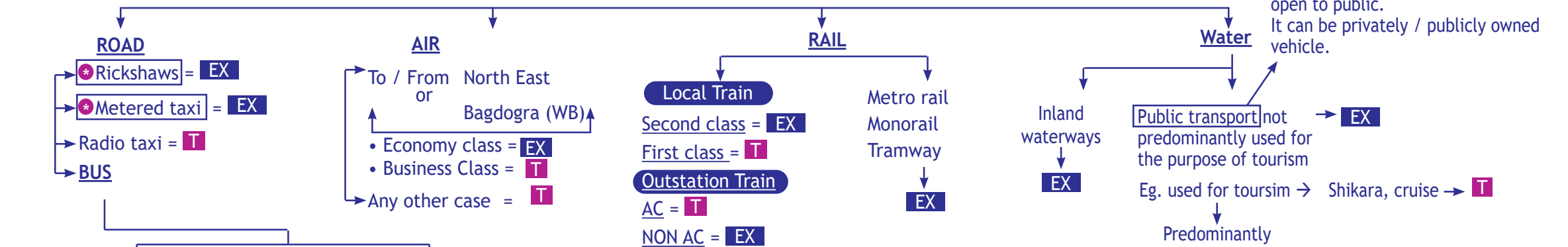


2

Note: Transportation of above goods by Air is = T

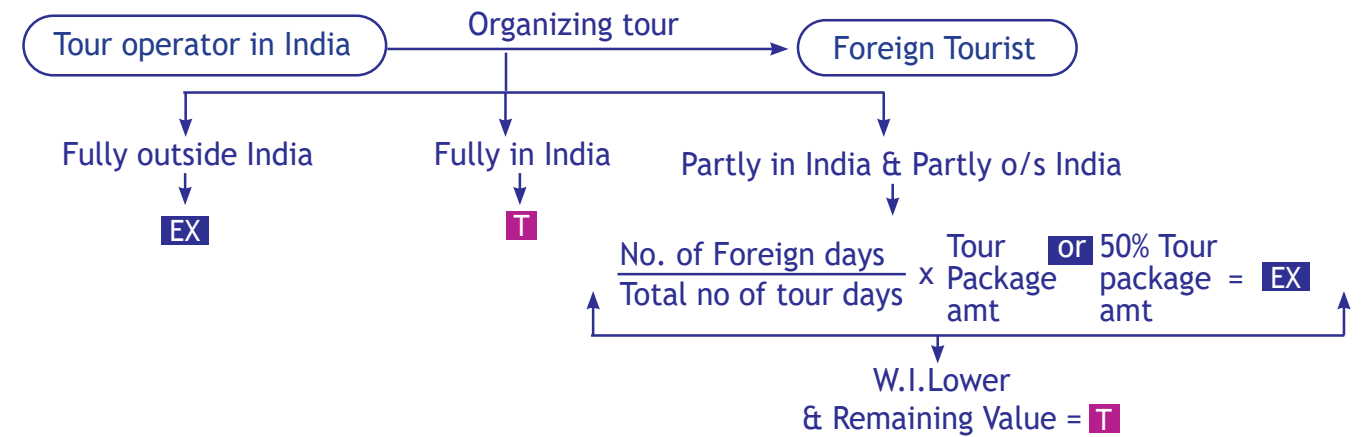


Transportation of passengers



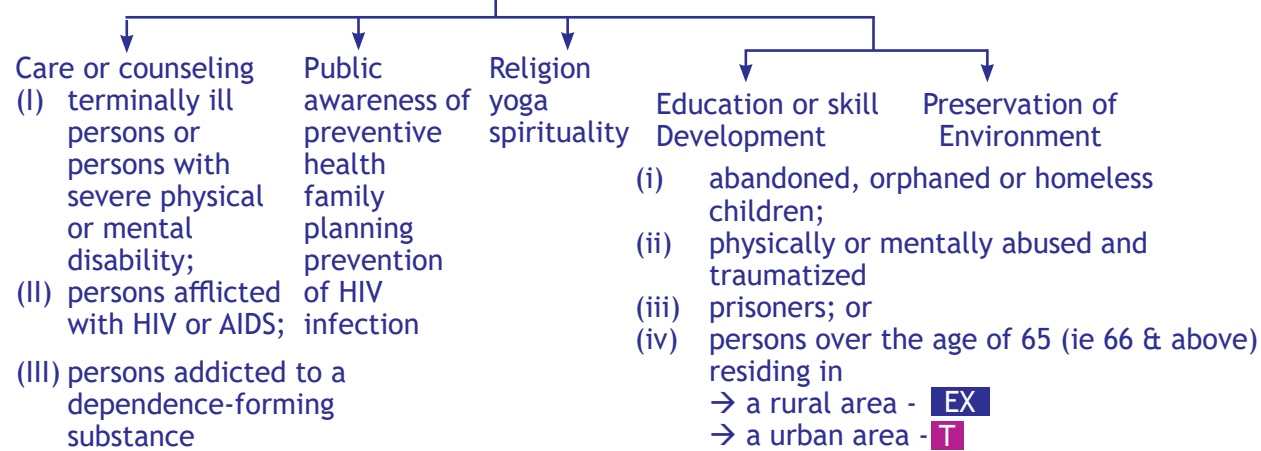
* Amendment = Taxable (in case such Services are supplied through ECO & tax is payable u/s 9(5).

Tour Operator



Service by Charitable Trust / Religious Trust

- Entity should be registered u/s 12AA,IT
- They should be charitable activities

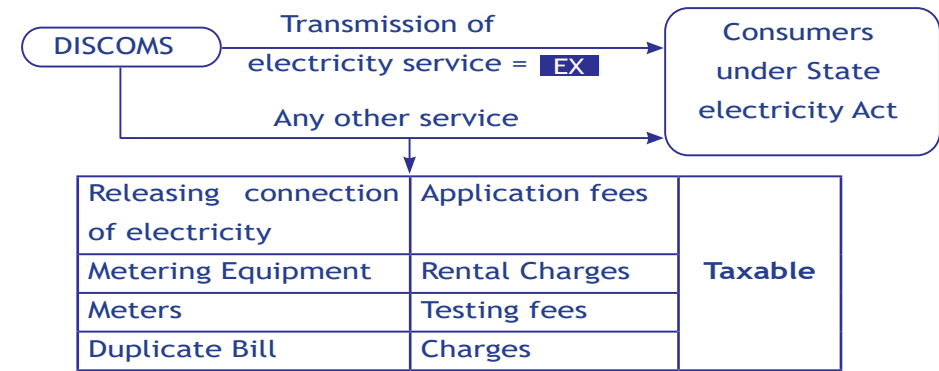
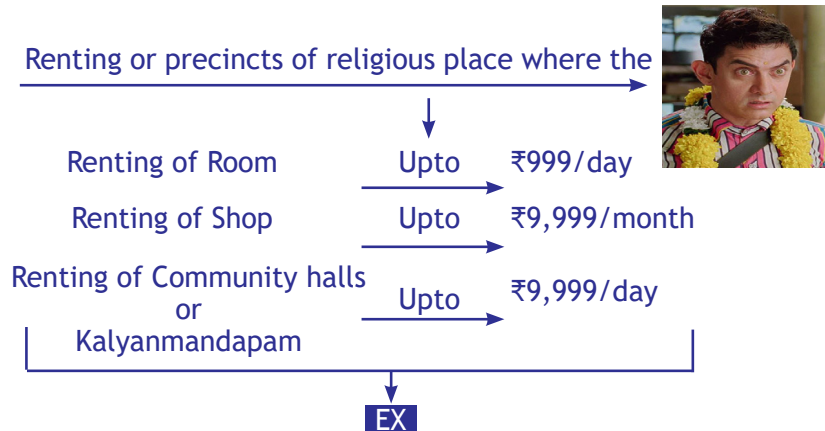


Note:

- Charitable trust U/s 12AA providing Advertisement service = **T**
- KMVN, an uttarakhand Govt unit organizing tour of Kailash mansarovar } **EX**
 - Haj Committee organizing Haj }
- In case of Residential programmes
 - Predominant Activity = Religion, yoga, Sprituality = **EX**
 - If predominant Activity = Accomodation + Food/Drinks = **T**
- Activities such as Fitness Camps, Classes in Aerobics, dance, music = **T**
- Service provided to charitable Trust u/s 12AA/AB = **T**

1 Conduct of religious ceremonies like birth, marriage, death rituals = **EX**

2 Charitable or Religious Trust Registered under u/s Sec 12AA /AB or u/s 10(23C)(v) or u/s10(23BBA) of Income Tax Act,1961.



Entry No. 44



- Total T/o has not exceeded ₹50 lacs during PFY. (+)
- Period of 3Yrs has not elapsed from the date of entering into agreement

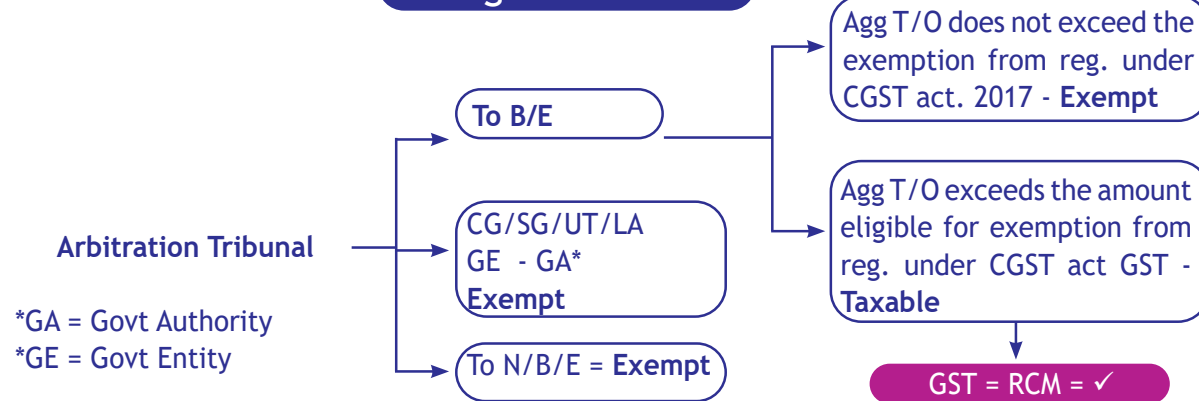
INCUBATEE 1

1st Year	10 Lakh	Eligible for exemption	GST=0
2nd Year	20 Lakh	Eligible for exemption	GST=0
3rd Year	20 Lakh	Eligible for exemption	GST=0
4th Year	40 Lakh	Not eligible for exemption (3 years have elapsed)	GST payable on 40 Lacs

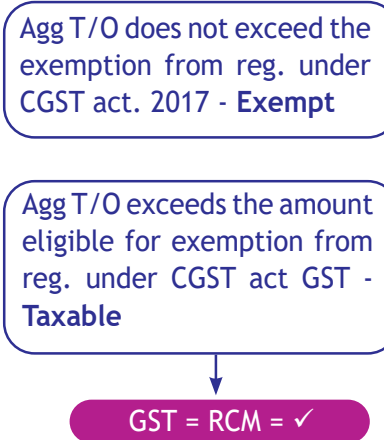
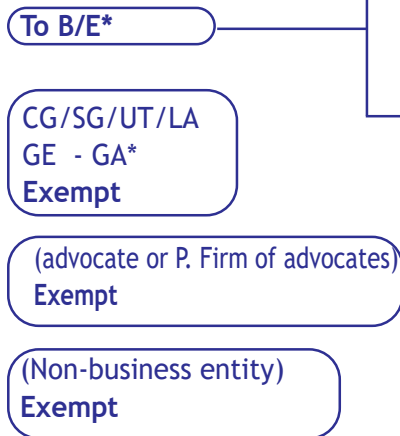
INCUBATEE 2

1st Year	10 Lakh	Eligible for exemption	GST=0
2nd Year	55 Lakh	Eligible for exemption	GST Payable on 5 Lakhs
3rd Year	40 Lakh	Not Eligible for exemption (as PY TO had exceeded 50 lakhs limit)	GST payable on 40 Lakhs
4th Year	80 Lakh	Not eligible for exemption (3 years have elapsed)	GST payable on 80 Lakhs

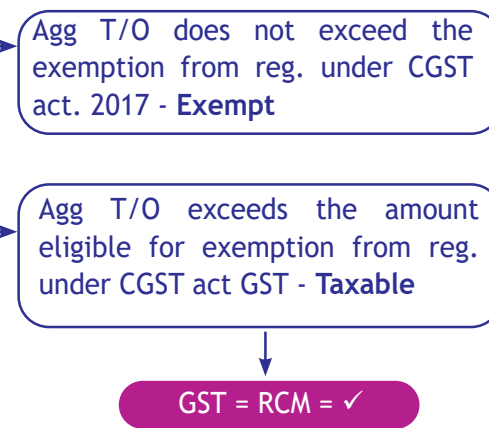
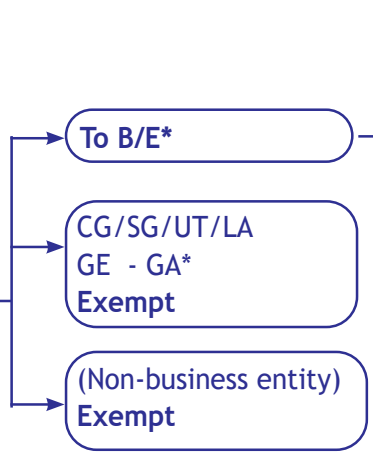
Legal Services



Individual advocate or P. firm of advocates



Harvey Specter senior advocate



* B/E : Business Entity

Non B/E= Non Business Entity

Any person who carries out business

Eg: Person employed / unemployed

RWA Services



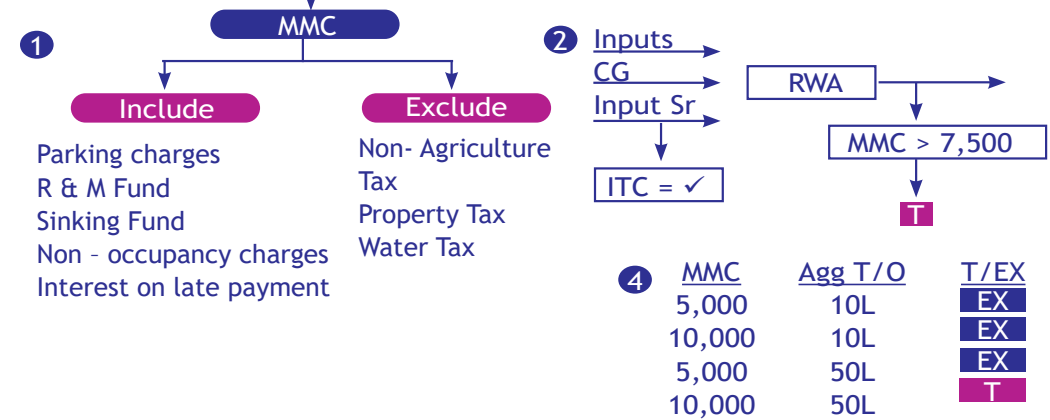
RWA



Members

Reimbursement of charges

MMC upto ₹ 7500/ Month / apartment



* MMC = Monthly maintenance charges

Entry No. 74A

Services provided by rehabilitation professionals recognised under the Rehabilitation Council of India Act, 1992 by way of rehabilitation, therapy or counselling and such other activity as covered by the said Act at medical establishments, educational institutions, rehabilitation centers established by Central Government, State Government or Union territory or an entity registered under section 12AA or 12AB of the Income-tax Act, 1961.

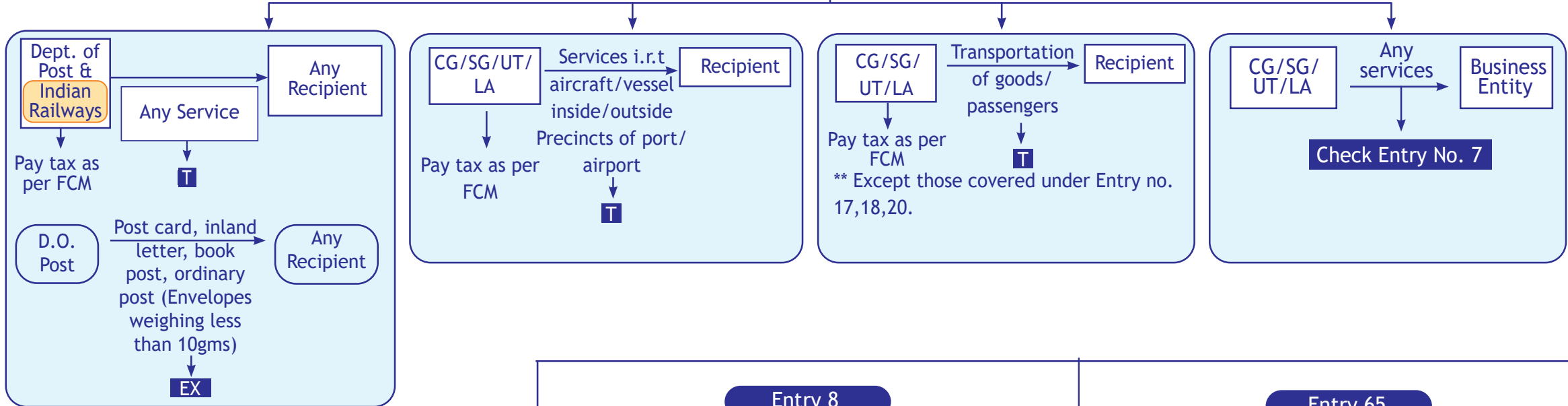
Entry No. 77A

Services provided by an unincorporated body or a non-profit entity registered under any law for the time being in force, engaged in,-
(i) activities relating to the welfare of industrial or agricultural labour or farmers; or
(ii) promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment, to its own members against consideration in the form of membership fee upto an amount of ₹ 1000/- per member per year.

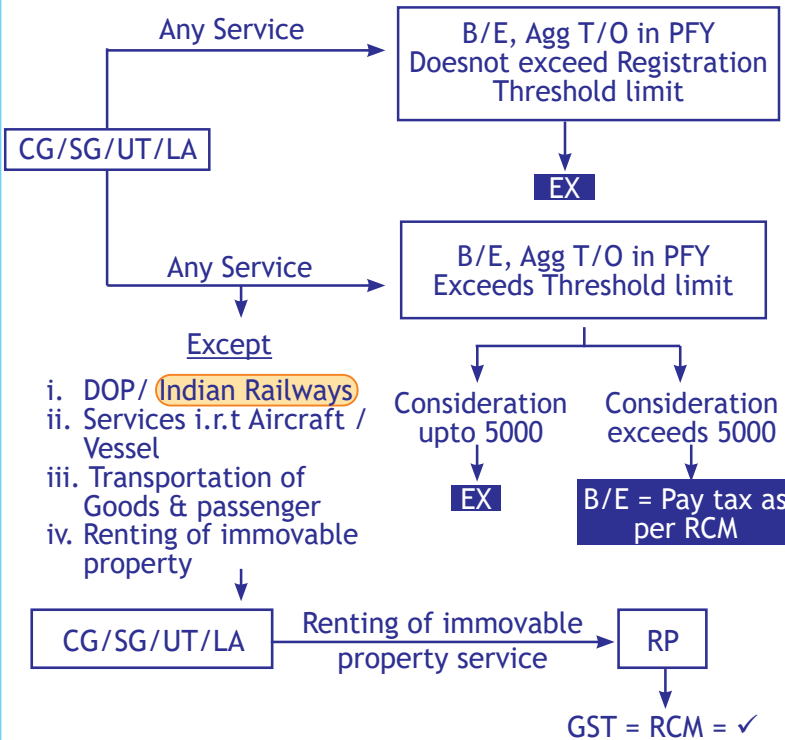
Government services

Entry 6 Any service supplied by CG/SG/UT/LA = EX

Except



Entry 7 & Entry 9



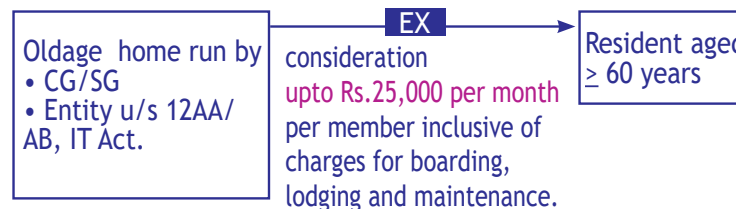
Entry 8



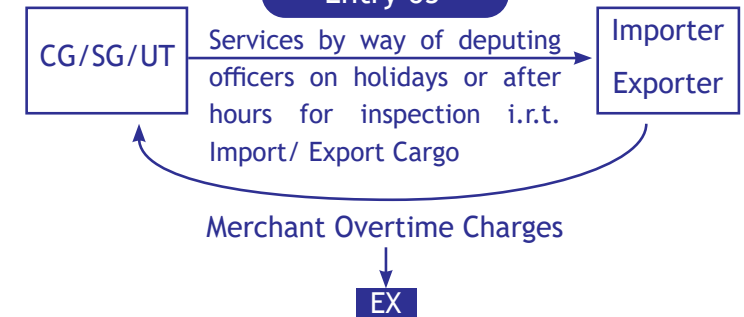
Above exemption is not applicable to:

1. Services provided by department of post / Indian Railways
2. Services provided i.r.t aircraft/vessel.....
3. Transportation of passengers and goods

Entry 9D



Entry 65



Entry 61

Service by the way of Issuing Passport, visa, birth/death certificate, driving licence EX

Entry 47

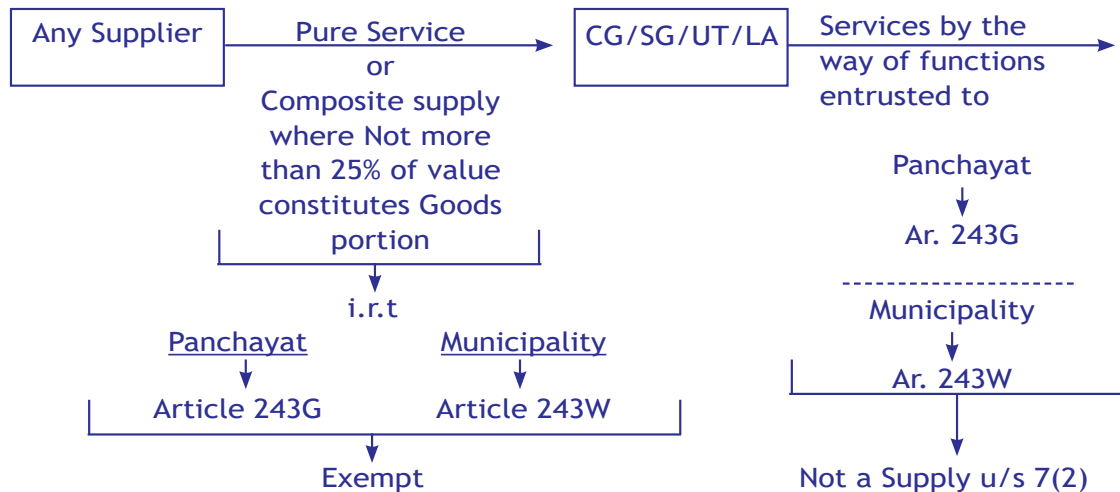
CG/SG/UT/LA Providing

- (i) Registration required under any law for the time being in force;
- (ii) Testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, including fire license, required under any law for the time being in force.

Note : If Recipient is URP = CG/SG/UT/LA shall pay tax as FCM

Services provided to CG/SG/UT/LA

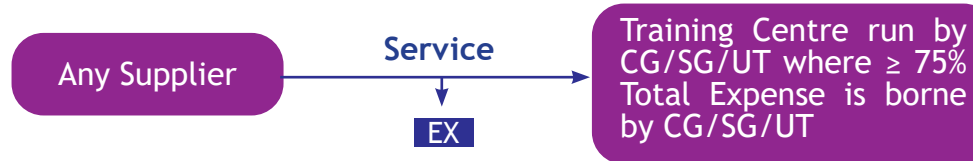
Entry 3/3A



Entry 3A shall include :

Composite supply of milling of wheat/paddy into flour/rice to SG for public distribution or Composite supply by the way of horticulture made to CPWD provided that goods supplied in it does not exceed 25% of value of composite supply.

Entry 72



Supplier

EX

Government Authority*

- i) water supply
- ii) public health
- iii) Sanitation conservancy
- iv) Solid waste management
- v) Slum improvement & upgradation

* DMFT [District Mineral Foundation Trust] = Government Authority

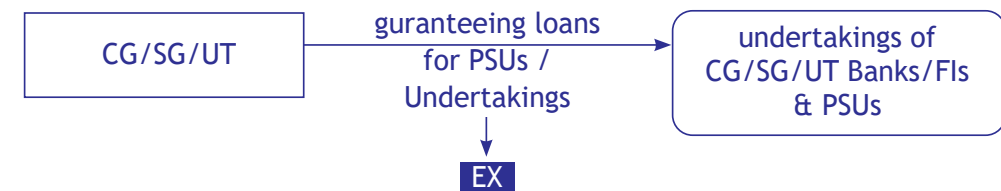
Entry No. 11A

Service provided by Fair Price Shops to Central Government, State Government or Union territory by way of sale of food grains, kerosene, sugar, edible oil, etc. under PDS against consideration in the form of commission or margin.

Entry No. 51

Services provided by the GSTN (Goods and Services Tax Network) to the CG or SG or UT for implementation of Goods and Services Tax. → **T**

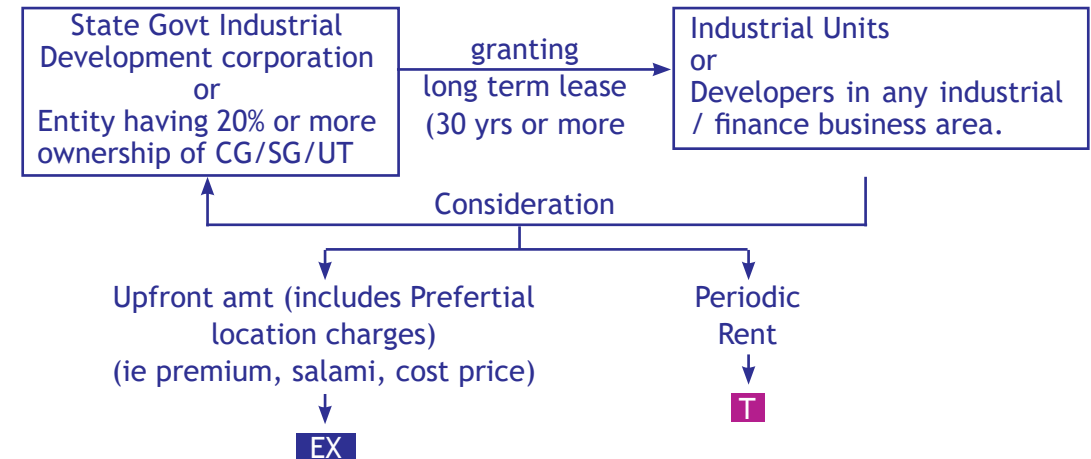
Entry No. 34A



Entry No. 19C

Satellite launch services → **EX**

Entry No. 41



Entry No. 63

Services provided by the Central Government, State Government, Union territory or local authority by way of assignment of right to use natural resources to an individual farmer for cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products.

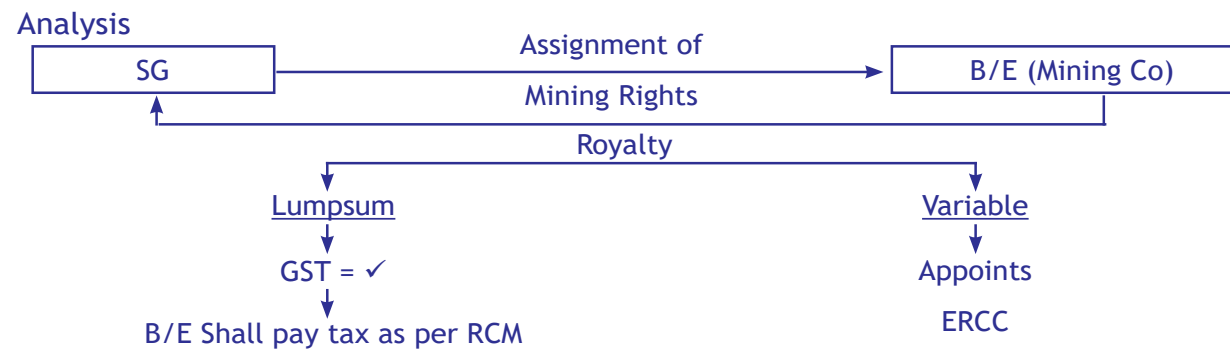
Entry No. 65B

Services supplied by a State Government to Excess Royalty Collection Contractor (ERCC) by way of assigning the right to collect royalty on behalf of the State Government on the mineral dispatched by the mining lease holders.

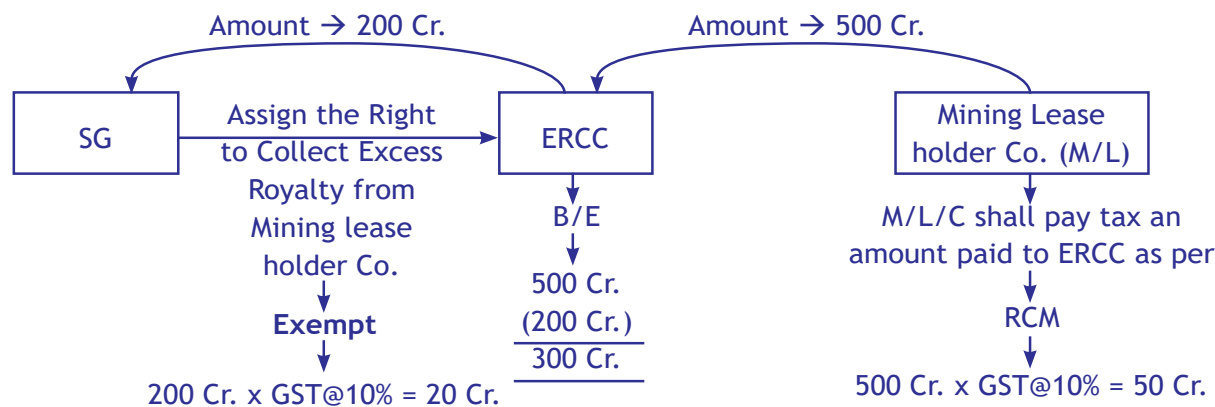
However, at the end of the contract period, ERCC shall submit an account to the State Government and certify that amount of GST deposited by mining lease holders on royalty is more than GST exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and where such amount of GST

paid by mining lease holders is less than the amount of GST exempted, the exemption shall be restricted to such amount as is equal to the amount of GST paid by the mining lease holders and the ERCC shall pay the difference between GST exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and GST paid by the mining lease holders on royalty.

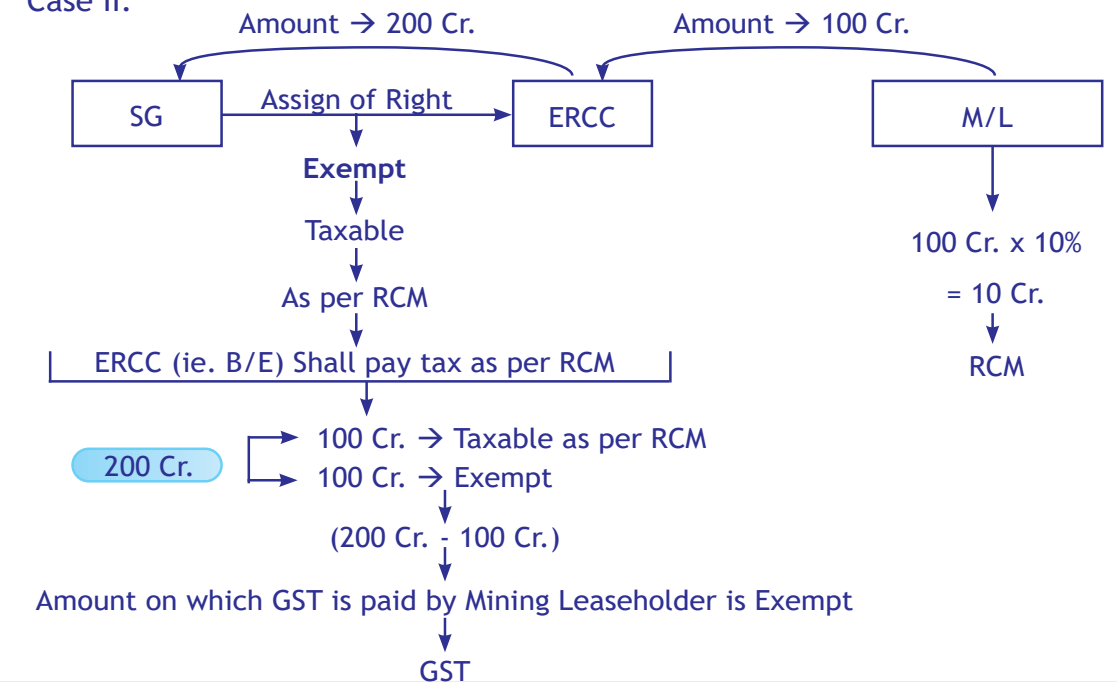
Explanation- Mining lease holder means a person who has been granted mining lease, quarry lease or license or other mineral concession under the Mines and Minerals (Development and Regulation) Act, 1957, the rules made thereunder or the rules made by a State Government under section 15(1) of the said Act.



Case I:

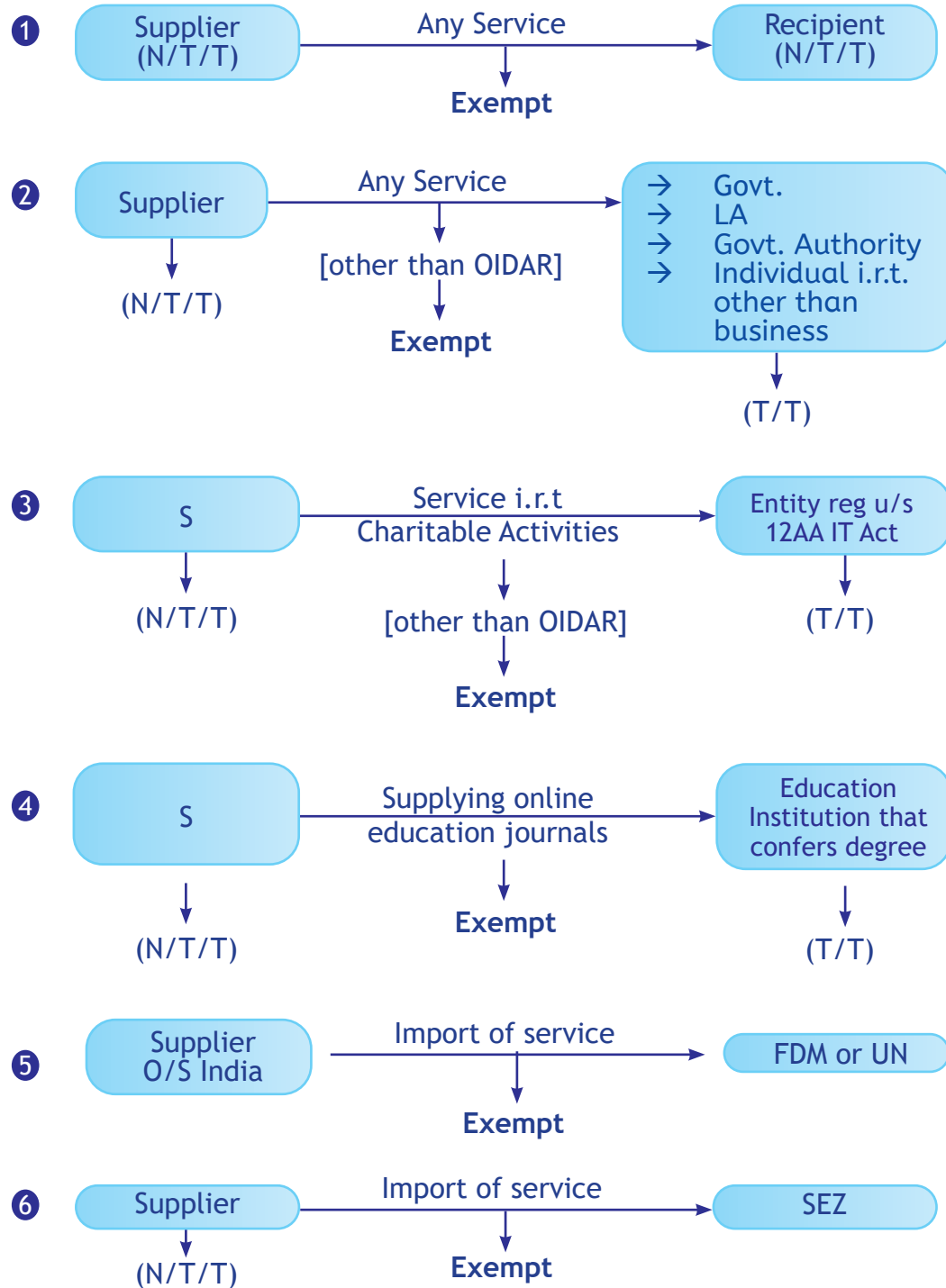


Case II:



ERCC = Excess Royalty Collection Contractor

Import of Services



Miscellaneous Exemptions

ENTRY 76 - Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets.

ENTRY 65A - Services by way of providing information under the RTI act (Right To Information act, 2005)

ENTRY 59 - Services by a foreign diplomatic mission located in India. - **EX**

Note : Service provided to foreign diplomatic mission = **T**

ENTRY 52 - Services by an organiser to any person in respect of a business exhibition held outside India.

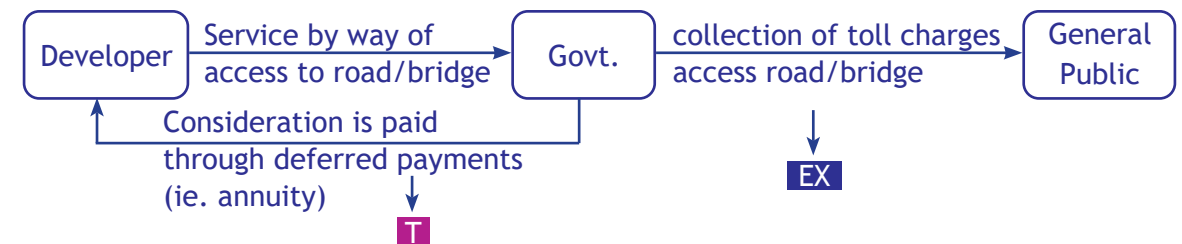
ENTRY 50 - Services by public libraries by way of lending of books, publications or any other knowledge enhancing content or material.

ENTRY 49 - Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India.

ENTRY 23 - Services by way of access to a road or a bridge on payment of toll charges.

- (1) Overloading charges to overloaded vehicle = Toll charges = **Ex.**
- (2) Additional amount collected on non-functional fashtag = Toll charges = **Ex.**

Entry No. 23A



ENTRY 36- Services of life insurance business provided under following schemes-

- (a) Life micro-insurance product** as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of ₹ 2,00,000; → **EX**
- (b) Other yojnas refer pg 4.111 module.
 - Aam Aadmi Bima Yojna
 - Pradhan Mantri Jan Dhan Yojna
 - Group Personal Accident Policy for Self Employed Women Services by collection of contribution under Atal Pension Yojana. Refer other yojanas - module 4.79

General insurance business services

ENTRY 35- Services of general insurance schemes/pension schemes- refer pg 4.112 module.

Entry 9B

Supply of services associated with Transit cargo to/from Nepal/Bhutan → **Ex**

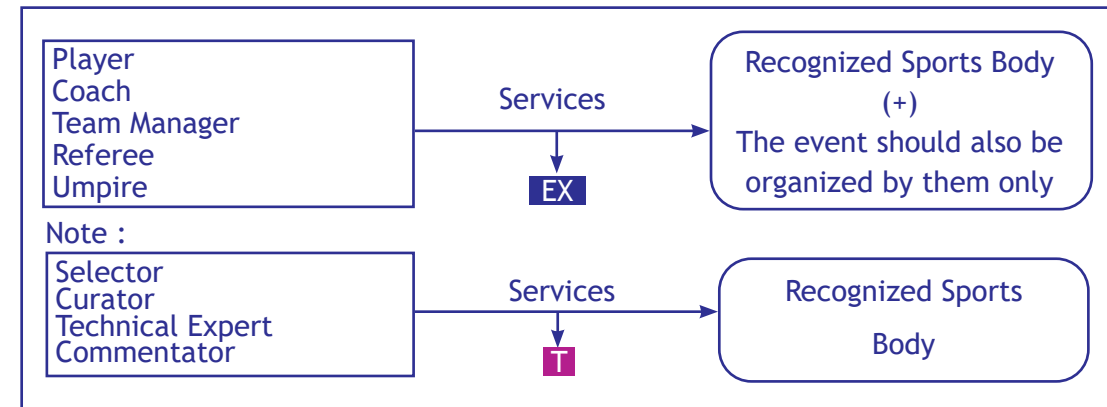
Clarification

Guest Anchors appearing on TV channels are paid Honorarium → **T**

Entry No. 11

Services by way of pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a **single residential unit** otherwise than as a part of a residential complex.

- 1) Mr.X supplying repairing service to a single residential otherwise than as a part of residential complex - **T** (not related to original works)
- 2) Mr. X supplying pure labour service of construction of a new residential complex - **T**
- 3) Mr.X supplying pure labour service of construction pertaining to single commercial unit - **T**



Tricky Adjustments in Q&A

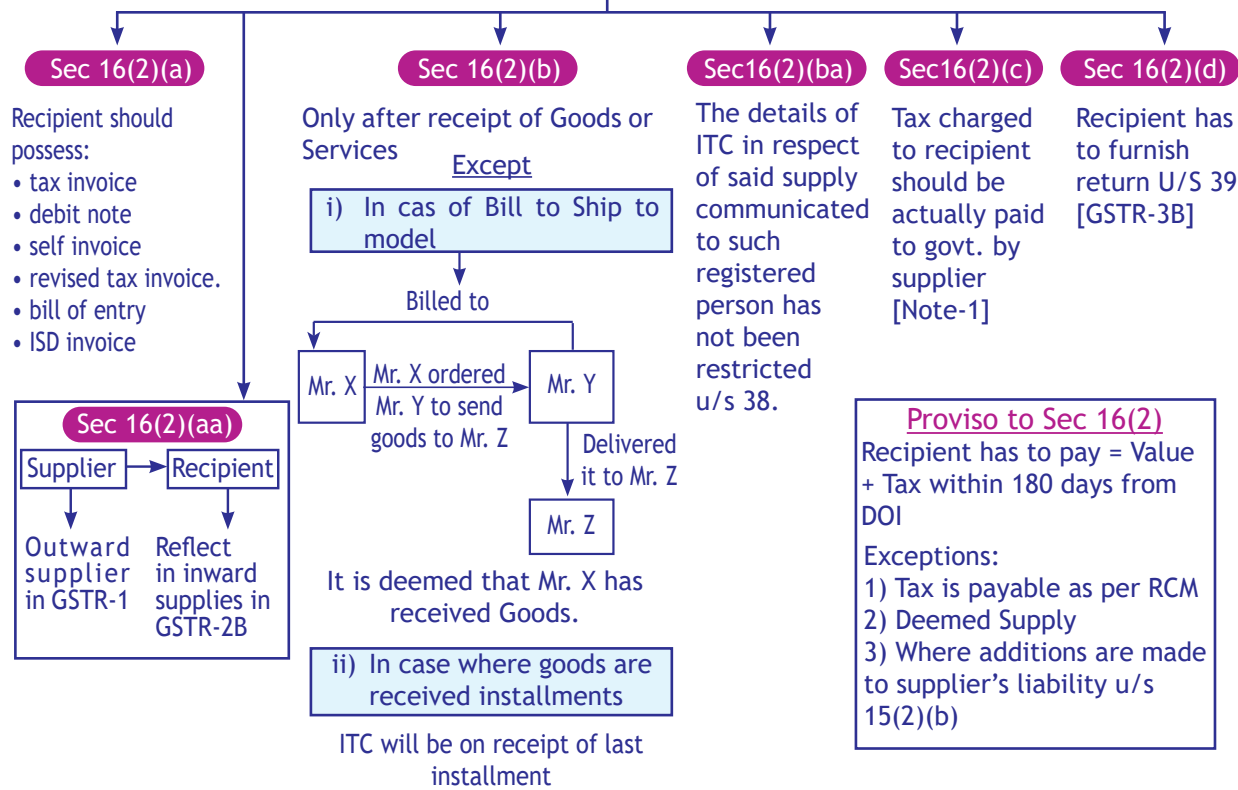
- Q. Services of life insurance business under Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, aving minimum amount of cover of 2,00,000 is exempt.
Ans. Taxable since the maximum coverage amount is Rs 2,00,000
- Q. Which of the following services is exempt under health care services provided by clinical establishments?
Chemist shop in the hospital selling medicines to public at large.
Ans. This is sale of medicine & hence it is not covered under Health care service that is notified under the exemption
- Q. Service by an acquiring bank, to any person in relation to settlement of an amount upto 2,500 in a single transaction transacted through credit card, debit card, charge card or other payment card service is exempt.
Ans. The limit mentioned in related to transactions is upto Rs 2000, hence this is taxable.
- Q. Hotel Decent rents a room for Rs.100/day
Ans. Taxable

- Q. Second Innings, a charitable trust u/s 12AB of IT Act, 1961 is providing skill development Service to senior citizens aged 65 years.
Ans. Taxable
- Q. Ms. Apna Bank Limited, a Scheduled Commercial Bank has furnished the following details for the month of August, 2018:
- | | (Excluding GST) |
|--|-----------------|
| Extended Housing Loan to its customers | 1000 |
- Ans. Extending loans is money that is neither supply of goods nor service hence no GST Shall apply.
- Q. Dukhiya Das is engaged in providing following services. With the help of information given below, determine which of the services provided by Dukhiya Das are exempt from GST:
Packaging of the onions purchased from village farmers into small packets of 1 kg each, in Dukhiya Das warehouse, so that same can be sold in a nearby city mall.
Ans. Packaging of agriculture produce is a process done to make the Good marketable for secondary market (ie city mall instead of primany market- Taxable

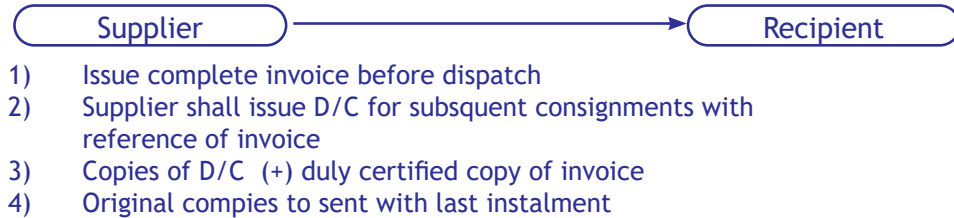
SECTION 16(1)

RP can avail ITC on Inputs, capital goods, inputs service used in the course of business

Sec 16(2) - Conditions for availing ITC



Goods are sent in lots/CKD/SKD



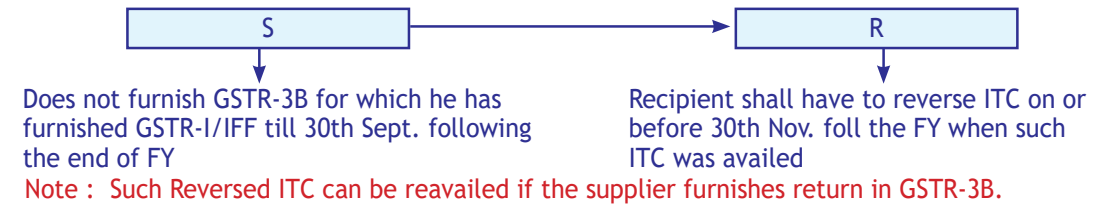
SECTION 16(3)

RP has claimed dep on tax component of cost of CG = No ITC
→ Input GST is capitalized = No ITC
→ Input GST is not capitalized = ITC = ✓

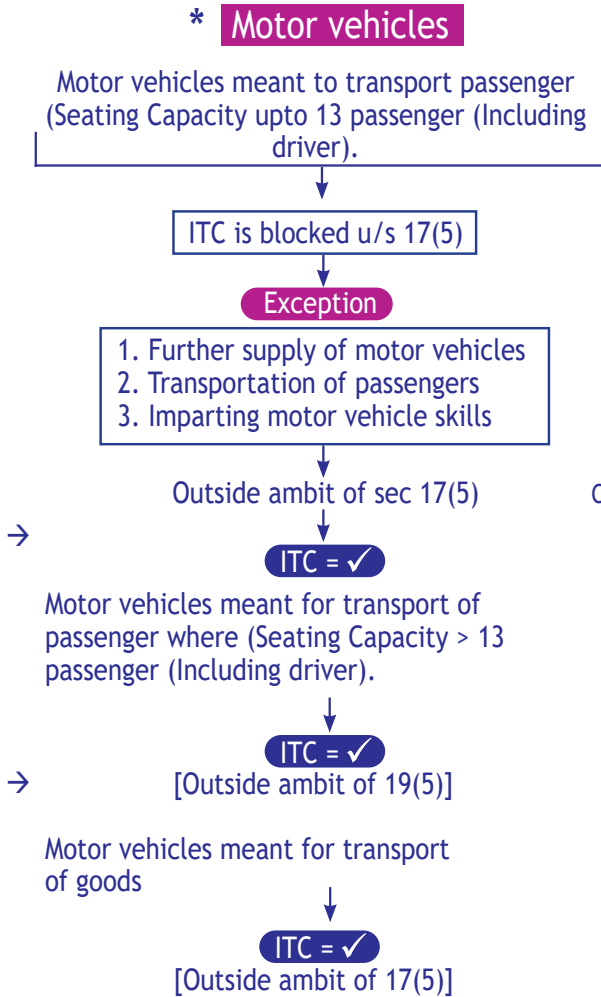
SECTION 16(4)-Time limit for availing ITC

30th November following the FY in which invoice/debit note pertains
OR
Actual date of filing annual return for relevant FY
Whichever is earlier

Rule 37A



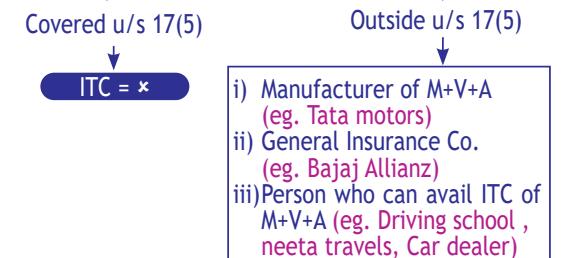
SECTION 17(5) = Blocked Credit



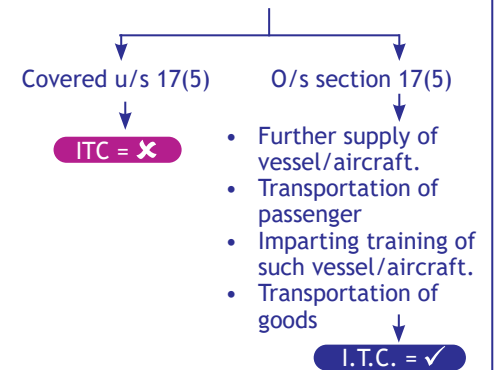
Motor vehicles doesnot include :

- i) Trains
- ii) Special purpose vehicles for being used in factory or any enclosed premises
- iii) Two/three wheeler (+) Engine capacity upto 25 cc

General Insurance, Repairs & Maintenance, Servicing charges



In the case of purchase of Vessel/Aircraft



Membership & Travel

- Membership of Health & Fitness Centre
- Travel benefits

Covered u/s 17(5)

ITC = ✗

Except

If above items are procured by Employer under Statutory obligation = ITC = ✓
Company Policy = ITC = ✗

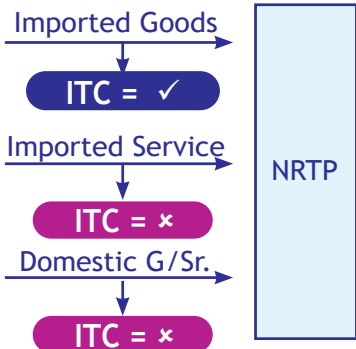
ITC Blocked u/s 17(5) when goods or services or both-

- purchase from a Compo Tax Payer



ITC = ✗

- Used for personal consumption
- Stolen destroyed, disposed of by way of gift or free sample.



- Any tax paid u/s 74/129/130
- Goods/services which are used in activities relating to his obligations under CSR u/s 135, Companies Act, 2013.

Renting of M/V, Life Insurance, Health Insurance, Food Beverages, Outdoor catering, Beauty treatment, Health services, Cosmetic & Plastic Surgery

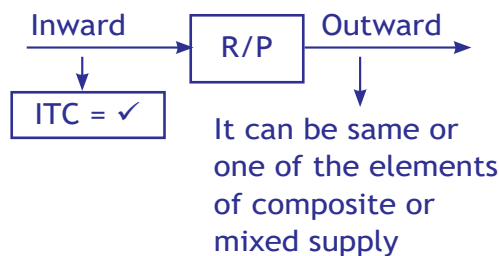
Covered u/s 17(5)

ITC of above items shall not be available even if it is in the course of business.

ITC = ✗

Outside u/s 17(5)

If above items are **inward supply** used for making **outward supply**



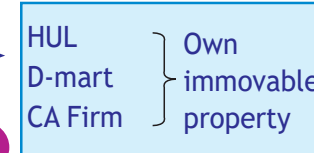
If above items are purchased by Employer under Statutory obligation = ITC = ✓
Company Policy = ITC = ✗

Works Contract

Covered u/s 17(5)

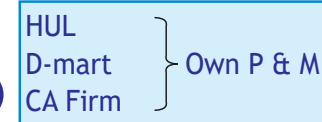
E.g.

W/C Sr.



W/C Sr.

ITC = ✓

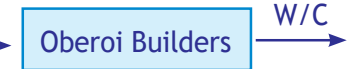


Except

Outside u/s 17(5)

E.g.

W/C



ITC = ✓

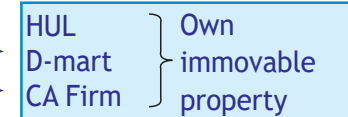
P&M :
Includes : such foundation & structural supports
Excludes : L& B, Telecommunication tower, Pipelines land **outside** factory premises

Construction on own account

Covered u/s 17(5)

E.g.

Cement
Labour
Service



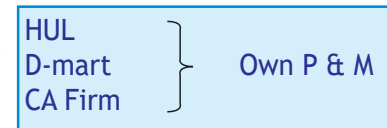
Construction on own account

ITC = ✗

Except

But

Cement
Labour
Service



Construction on own account

ITC = ✓

Outside u/s 17(5)

E.g.

Cement
Labour
Service



ITC = ✓

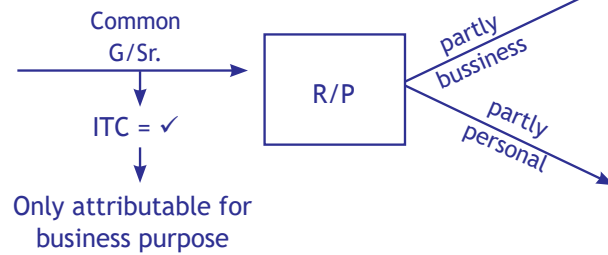
Common point

If the expense is debited to P/L = Not a part of immovable property
∴ o/s purview of 17(5)
ITC = ✓

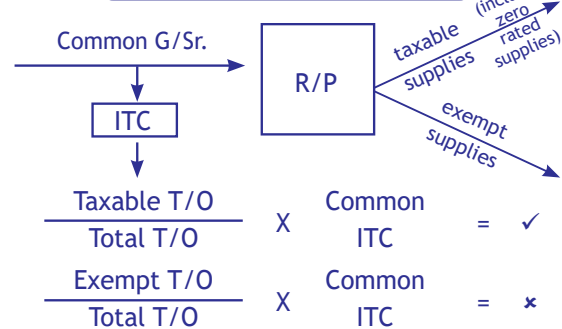
If the expense is capitalized = Part of immovable property
Covered u/s 17(5)
ITC = ✗

if Exempted Supply are ZRS → treat them as ZRS & G/Sr for them available as ITC

SECTION 17(1) r.w. R-42/43



SECTION 17(2) r.w. R-42/43

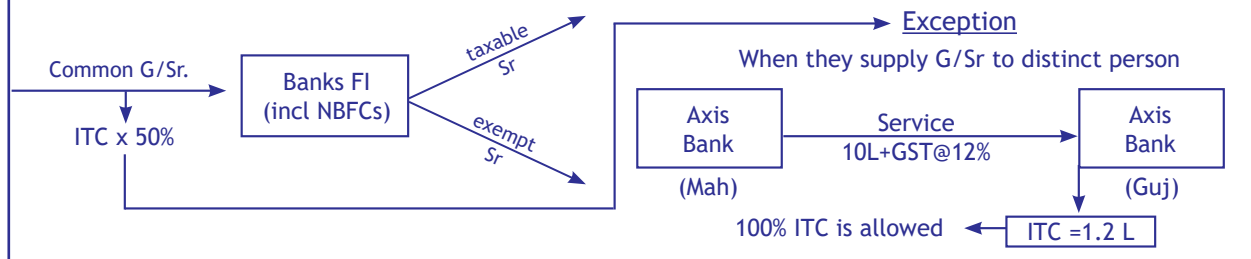


SECTION 17(3) r.w. R-42/43

The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

Explanation.- For the purposes of this sub-section, the expression “value of exempt supply” shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule.

SECTION 17(4) = Banks, FI (Incl. NBFC)



Rule 42- Apportionment of ITC i.r.t. inputs/CG

- Total input tax of inputs input service = T
- (-) I.T on i/p & i/p Service that are intended to be used exclusively for Non-business purpose = (T₁)
- (-) I.T on i/p & i/p Service that are intended to be used exclusively for exempt supplies = (T₂)
- (-) I.T on i/p & i/p Service which are blocked u/s 17(5) = (T₃)

$$\text{ITC credited to E-Credit Ledger} = C_1$$

$$T - [T_1 + T_2 + T_3]$$

- (-) I.T on i/p & i/p Service are used exclusively for taxable supplies (including zero-rated supplies) = (T₄)

$$\text{Common Credit (cc) available for apportionment} = (C_2)$$

$$[C_1 + T_4]$$

- (-) $\frac{\text{CC i.r.t Exempt Supplies}}{\text{CC} \times \frac{\text{Exempt T/o}}{\text{Total T/o}}} = (D_1)$
- (-) $\frac{\text{CC i.r.t Non Business Purpose}}{\text{CC} \times 5\%} = (D_2)$
- $\text{CC i.r.t Taxable supplies } (C_3) = C_2 - (D_1 + D_2)$
- Total Eligible ITC = $T_4 + C_3$

Rule 43- Apportionment of ITC i.r.t. CG

Case I

Step 1:- Take full I.T.C i.r.t CG in the month when it is received. [Tc]

Step 2:- Divide ITC by 60 to find credit attributable to 1 month [Tm = Tc/60]

Step 3:- Sum total of credit of one month for all such CG [Tr = Sum of all Tm]

Step 4:- Compute Monthly reversed Te = Tr x E/F (Selected to exempt supply)

Case II

Step 1 : Take Full I.T.C of tax paid at beginning of purchase of CG

Step 2 : Compute ITC relating to use of this CG only for exempt supply &

Step 3 : Start monthly reversal for common CG

Case III

Step 1: Don't take ITC again

Step 2: Start Reversal of CC based on each month

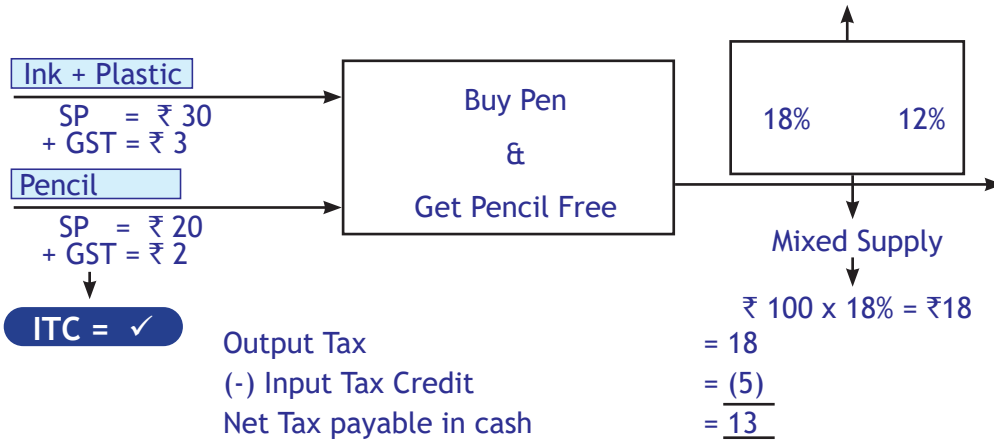
Applicable R-42/43	Exempt T/o	Total T/o (T+Ex)
ED/VAT/CST	= ✗	✗
Int on loans/deposit/Advances	= ✗	✓
Duty Credit Scrips	= ✗	✓
Sch-III Transactions	= ✗	✓
L & B	= [Stamp = ✓] [duty]	[Stamp = ✓] [duty]
Supply of warehoused goods before clearance for home consumption	= ✓	✓
Supply of goods from Duty Free Shops	= ✓	✓
Transaction in Securities	= ✓	✓
	[1% x Sale value]	[1% x Sale value]

Buy one get one free offer

This is not an individual supply of free goods, but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.

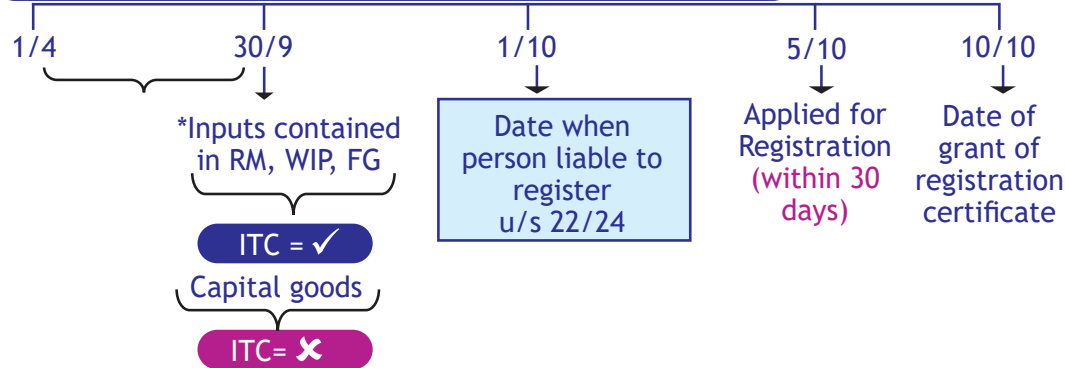
Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8.

ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.

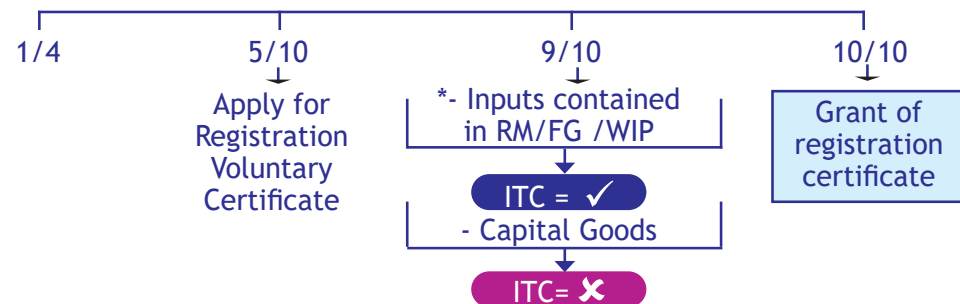


SPECIAL CASES FOR ITC (SEC- 18)

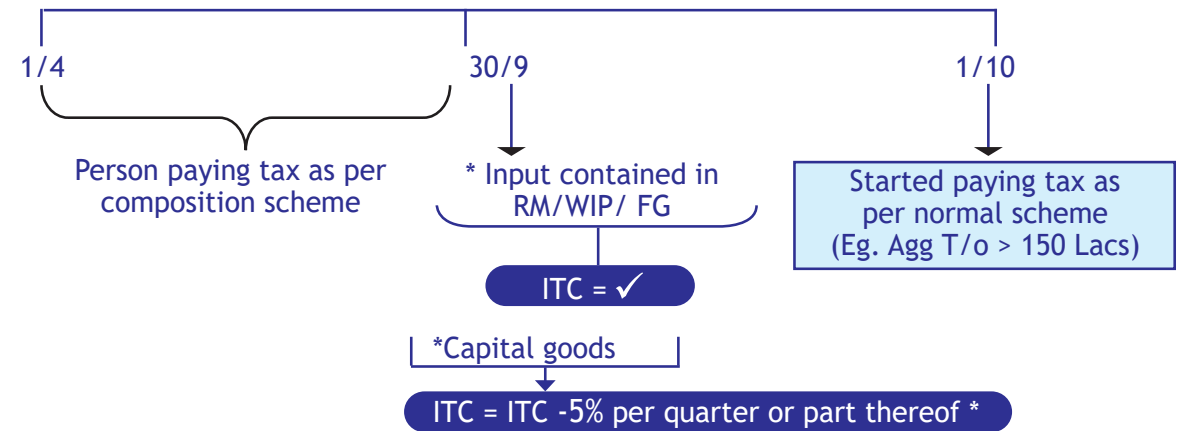
Section 18(1)(a): Availment of ITC for new registration



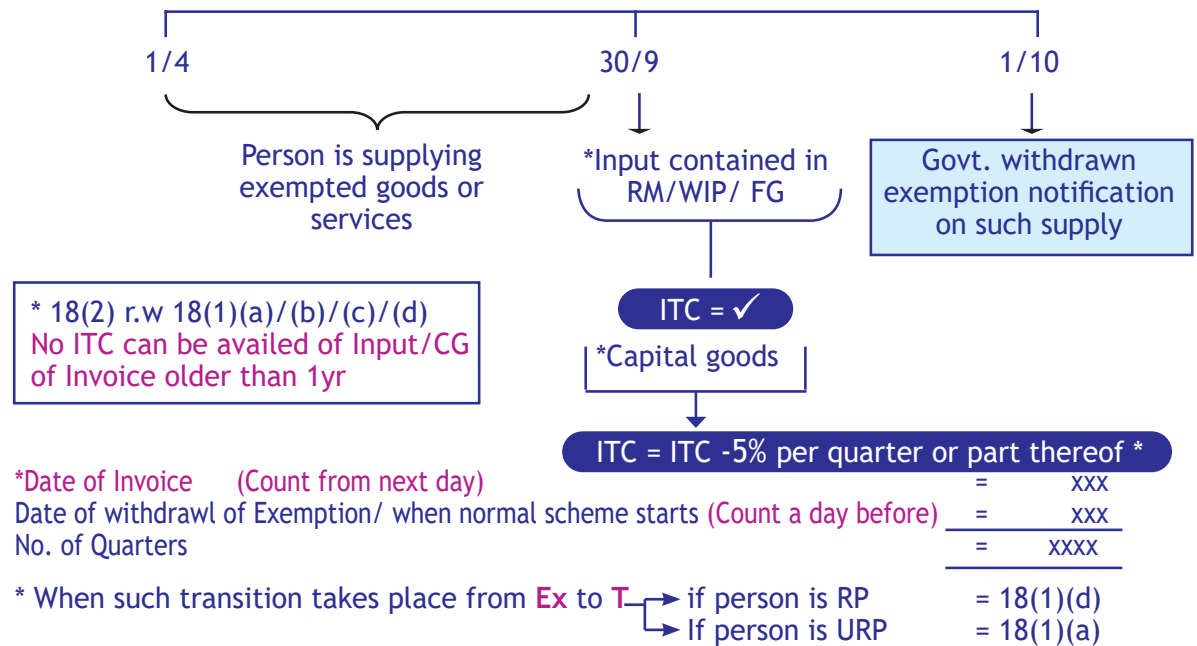
Section 18(1)(b) : Availment of ITC in case of voluntary registration



Section 18(1)(c): ITC when composition scheme opted out



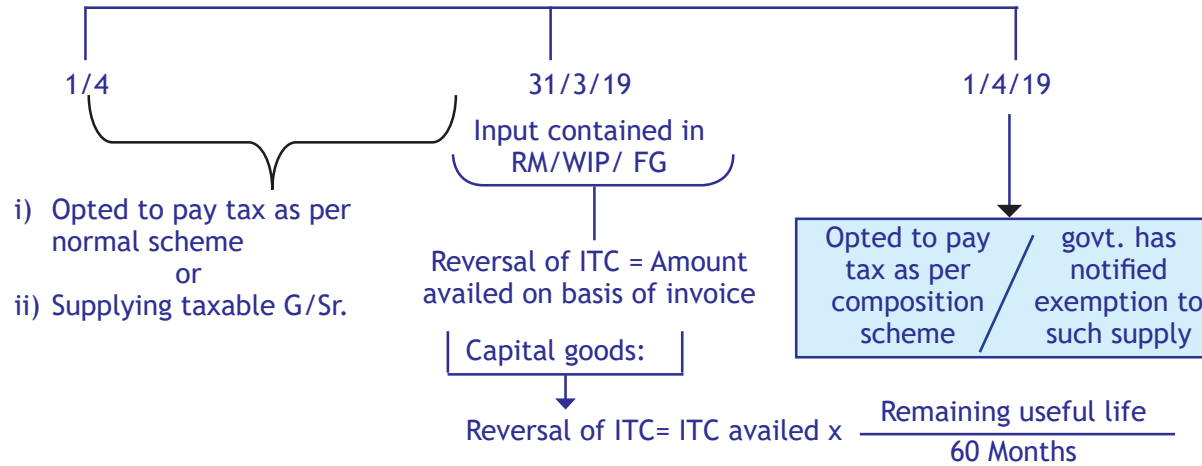
Section 18(1)(d): ITC when exempt supply of a Registered Person becomes taxable



REVERSAL OF ITC

SECTION 18(4):

- i) When a supplier who pays tax as per normal scheme opts to pay tax U/S 10 [ie. composition scheme]
- ii) When a taxable goods or services supplied becomes exempted goods or services as exemption notification issued by govt.



- i) Opted to pay tax as per normal scheme or
- ii) Supplying taxable G/Sr.

SECTION 29(5)

Amount payable on cancellation of Registration

In respect of inputs

ITC on inputs on Basis of Invoices

OR

O/p tax payable on such inputs

W.I.H

In respect of CG

ITC availed x Remaining life (in months) 60 months

OR

TV x Rate of tax

W.I.H

SECTION 18(3): ITC IN CASE OF TRANSFER OF BUSINESS

1 Change in constitution of registered person

Sale/Merger/Demerger/Amalgamation/lease/Transfer or change in ownership of business

2 Provision for transfer of liabilities

3 ITC remaining unutilized in the electronic credit ledger is transferred to the newly constituted entity

Value of Assets

In case of demerger: - ITC to be apportioned in ratio of value of assets of new units (to be taken at State level) & not All India level

Eg: - XYZ is registered in MP & UP.
Total value of assets = 100cr (MP = 60cr, UP = 40cr)
XYZ demerges into ABC & trf assets of 40Cr to ABC
Assets of XYZ = 30Cr trf to ABC (MP)
= 10Cr trf to ABC (UP)

Unutilized ITC of XYZ to be trf to ABC

State Level	MP = $\frac{30Cr}{60Cr} = 0.5$	UP = $\frac{10Cr}{40Cr} = 0.25$
India Level	= $\frac{30Cr}{100Cr} = 0.3$	= $\frac{10Cr}{100Cr} = 0.1$

- The ratio of value of assets shall be applied to the total amount of unutilized ITC of the transferor, i.e. sum of CGST, SGST/ UTGST and IGST credit.
- The said formula need not be applied separately in respect of each heads of ITC (CGST/ SGST/ IGST).

SECTION 18(6): SUPPLY OF CAPITAL GOODS

Reversal of ITC to the extent of = ITC availed = 5% per quarter or part thereof*

OR

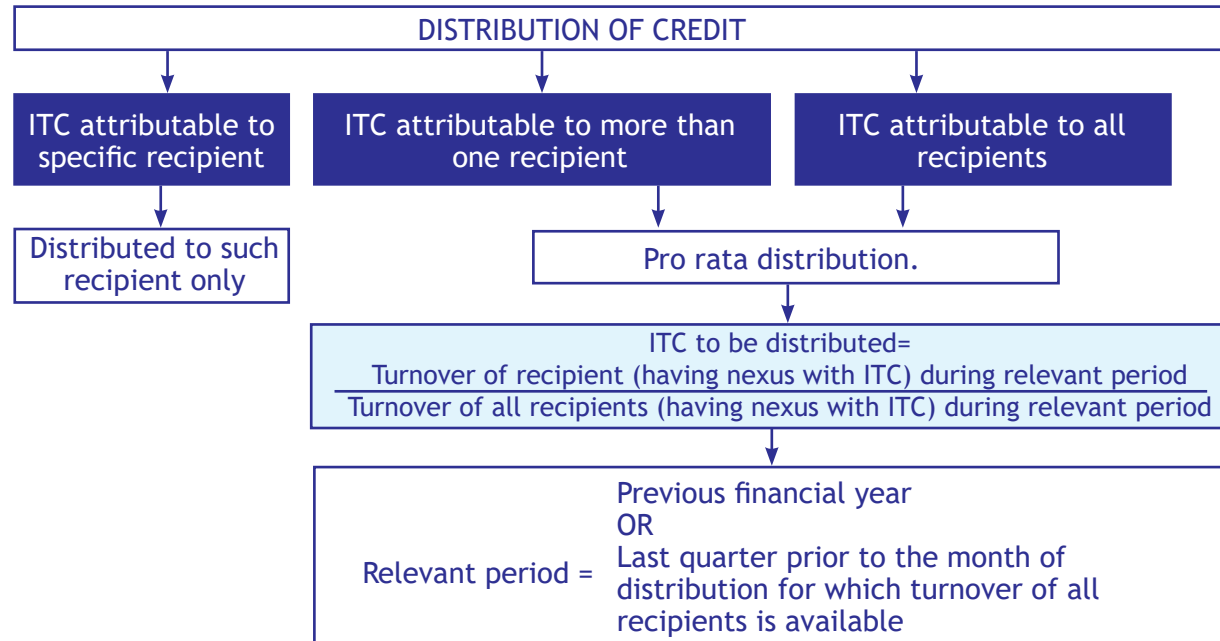
Transaction value x rate of tax, [whichever is higher]

DOI = xxx
Date when CG is sold = xxx
No. of Quarters = xxx

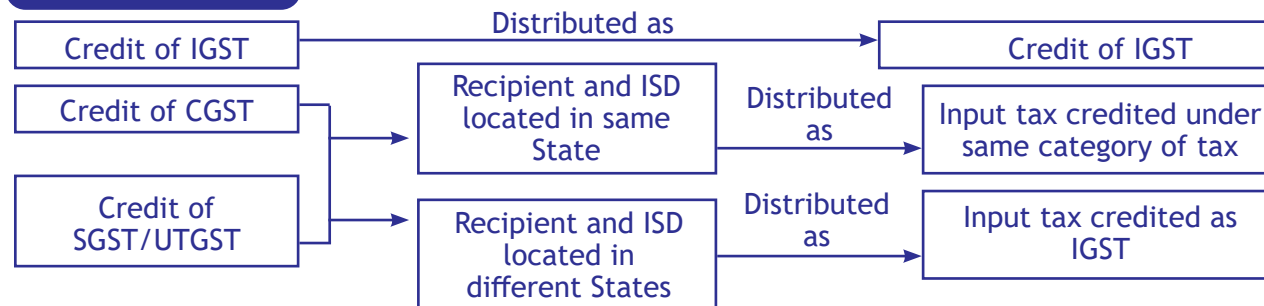
moulds, dies, jigs. & fixtures : TV X rate of tax

Input Service Distributor (ISD)

1. An ISD is required to obtain a compulsory registration u/s 24.
2. Proportions in which ITC is to be distributed



3. Distribution of taxes



4.
 - a. ISD is only for distribution of ITC i.r.t. Input Services.
 - b. ITC available for distribution in a month is to be **distributed in the same month.**
 - c. ISD should issue an ISD invoice for distributing ITC. It should be clearly indicated in such invoice that it is issued only for distribution of ITC.

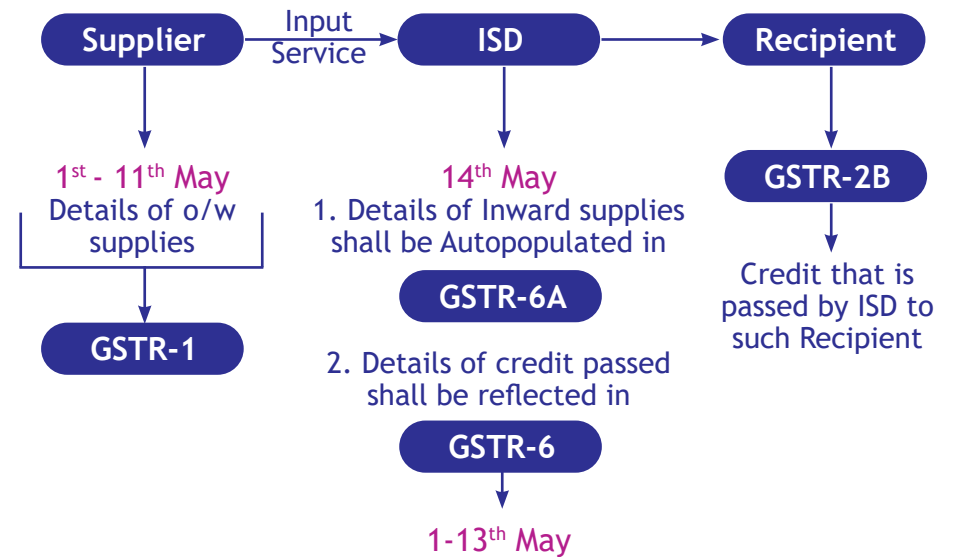
d. If ISD distributes excess credit to Recipient

• If credit distribution for the month	=	40	30
• If Excess credit distributed (ie. Credit note Amount)	=	(30)	(40)
• Net distribution	=	10	10

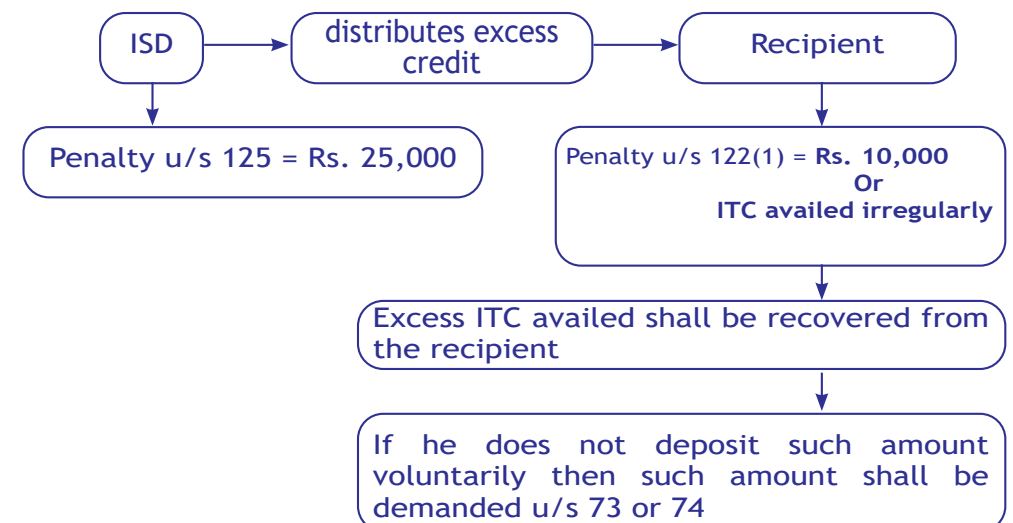
↓
O/p tax payable by the recipient.
(+)
Interest @18% p.a

e. Form No. : **ISD**

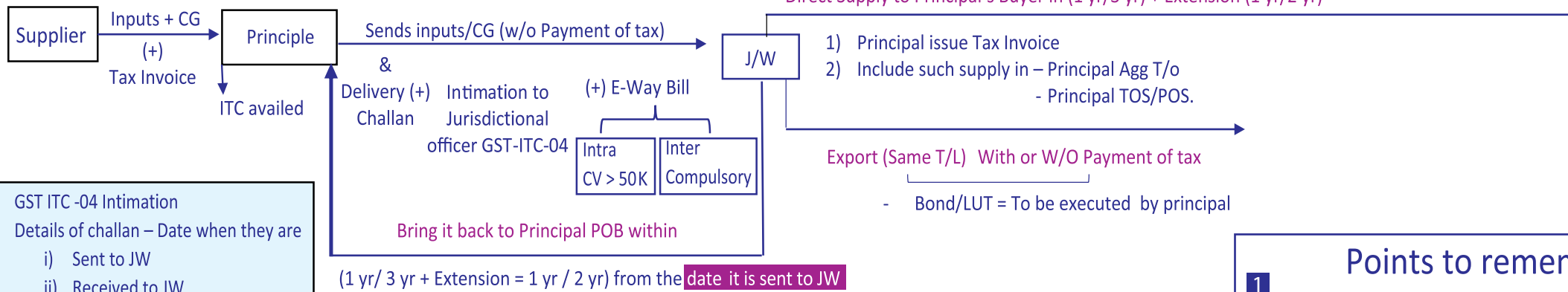
D/D pf Filing Return = 13th of the next month



f. **Penalty u/s 122 r.w 125**



Case I - When Inputs / CG are sent JW Principal POB.



GST ITC -04 Intimation
Details of challan – Date when they are
i) Sent to JW
ii) Received to JW
iii) Sent from JW to Another JW
Amendment
ATO Frequency D/D
Upto 5 cr. Annually 25th April
>5 Cr. Half yearly 25th Oct
25th April

If i/ps or CG are not received/directly supplied/exported within T/L

Deemed Supply = When inputs or CG were sent to J/W (+)
- Principal = To pay tax (+) Interest @ 18% p.a.
- To Raise Tax Invoice
- To reflect in GSTR-1

Points to remember

- Principal can supply goods directly from Job worker's POB
 - i) If JW is URP = Declare JW premises as APOB
 - ii) If JW is already RP = No requirement.
- Principal is responsible for keeping proper accounts.
- If JW uses any inputs, inputs Sr, CG for supplying JW service, it can avail ITC on the same.
- In case goods are sent
 - (i) JW → JW
 - (ii) JW → Principal
 Fresh D/C shall be issued by JW.

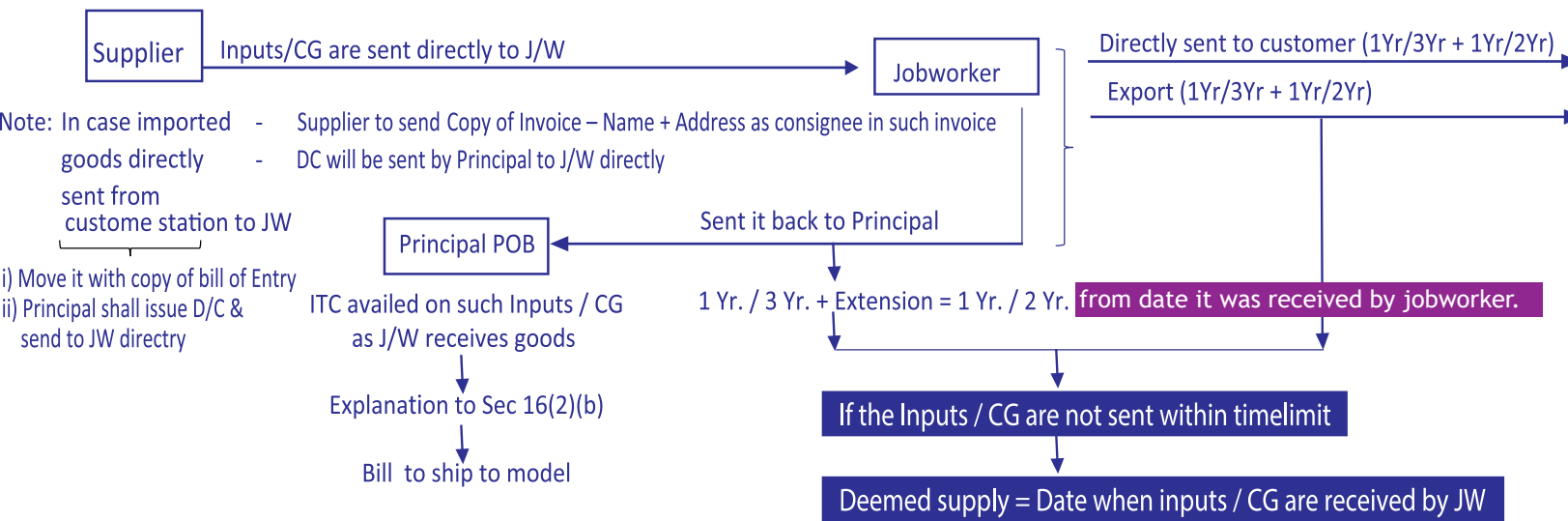
2 Supply of Waste/ Scrap

- JW Registered: JW = Pay GST
- JW – URP: Principal pays GST
- In case of sale of W/S: No need to declare APOB

3 Moulds Dies, Jigs, Fixtures

No T/L to receive back from J/W

Case II - When Inputs / CG are sent directly to JW.



Audit by Tax authorities

❖ Who conducts the audit and when?

- The Commissioner
- Any officer authorised by him, by way of a general or a specific order

❖ Place of Audit?

- Audit may be conducted at the place of business of registered person or in their office for a FY or part thereof or multiples thereof.

❖ Notice period

- At least 15 days prior notice should be given

Commencement of audit Means the later of the following:

- The date on which the records/accounts called for by the audit authorities are made available to them, or
- The actual institution of audit at the place of business of the taxpayer

❖ Time limit for completion of audit?

- 3 months from the date of conduct of audit
- Extension by Commissioner : not exceeding 6 months

❖ How to conduct audit?

- P.O authorised to conduct audit of the RP shall, verify the following:
- the documents on the basis of which the BOA/cs are maintained,
 - the returns and statements furnished
 - the correctness of the T/o, exemptions and deductions claimed,
 - the rate of tax of supply
 - ITC availed and utilized,
 - Refund claimed,

❖ Finalisation of audit

- On conclusion of audit, the proper officer shall within 30 days inform the registered person

Conclusion

Where Audit results in detection of Tax not Paid/Short Paid/ Erroneous Refund/ ITC wrongly availed / Utilized

P.O may initiate action u/s 73/74.

Special Audit

❖ Who conducts the audit and when?

- If at any stage of scrutiny, 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 the interest of revenue, is of the opinion that:
- the value has not been correctly declared; OR
 - the credit availed is not within the normal limits

AC shall issue a direction to RP after the Approval of Commissioner

To get his BOA/Cs Audited by CA/CMA Nominated by Commissioner

❖ Expenses of Audit

- Expenses will be borne by the Commissioner

❖ Time limit for completion of audit?

- 90 days
- Extension by AC : further 90 days

❖ Time limit for completion of audit?

- 90 days
- Extension by AC : further 90 days

Conclusion

Where Special Audit results in detection of Tax not Paid/Short Paid/ Erroneous Refund/ ITC wrongly availed / Utilized

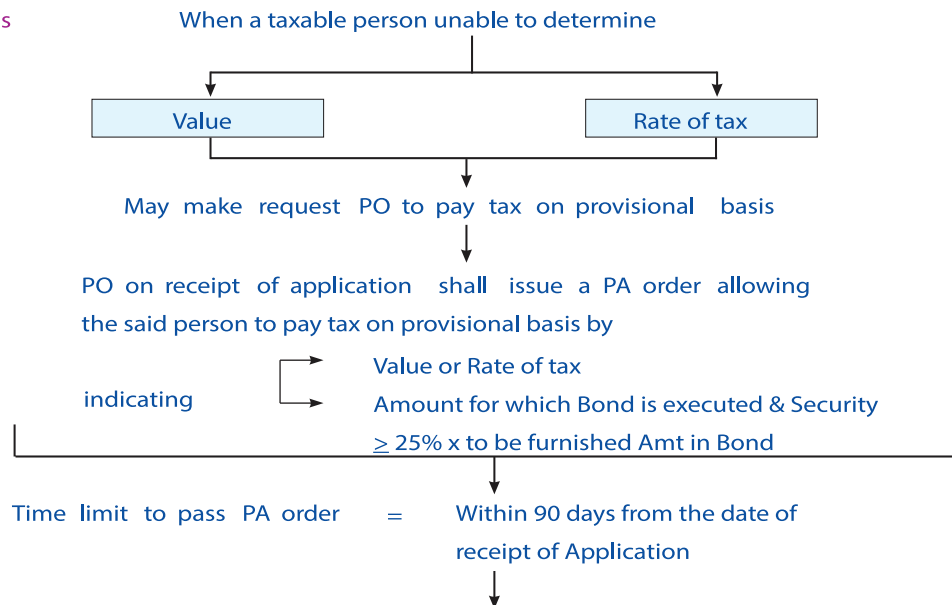
P.O may initiate action u/s 73/74.

Sec 59: Self Assessment

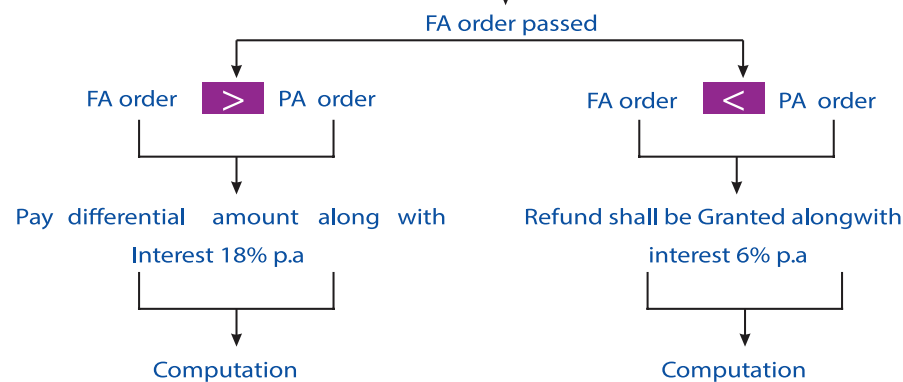
Every registered person shall self Assess the taxes payable under this act and furnish a return for each tax period as specified u/s 39.

Sec 60: Provisional Assessment

Analysis



Time limit to pass FA order	6m from the date of communication of PA order
Further Extension granted by Joint Comm/Addl ⁿ Comm	6m
Further Extension granted by Commissioner	4 years
Total	5 years

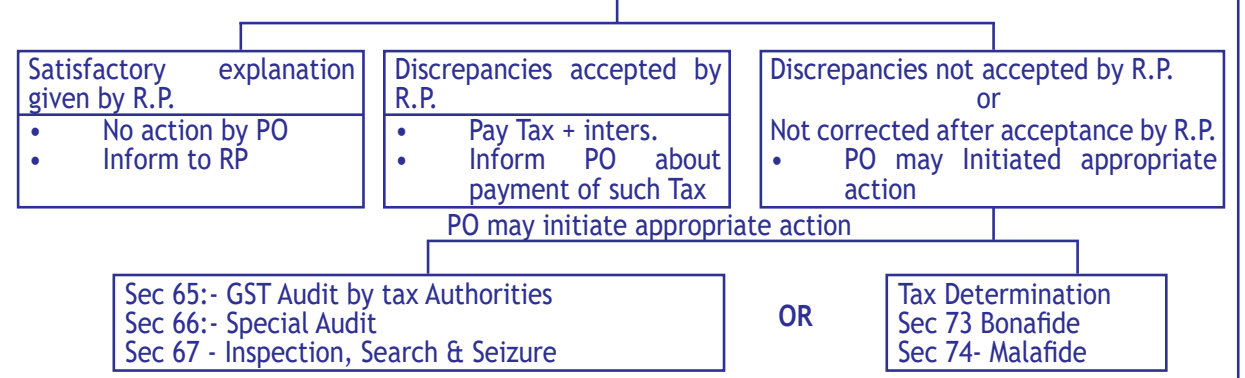


Date when the differential amount was due originally	xxx
Actual Date of payment	xxx
No of delayed days	xxx

Day after the Expiry of 60 days from date of receipt of refund Application	xxx
Date of grant refund	xxx
No of delayed days	xxx

Sec 61: Scrutiny of returns

- PO shall verify the correctness of return with respect to available information
- If discrepancies found, PO shall issue notice and person shall give a necessary Explanation within 30 days of service of notice



Sec 62 Assessment of non-filers of - returns S (Best Judgement Assessment)

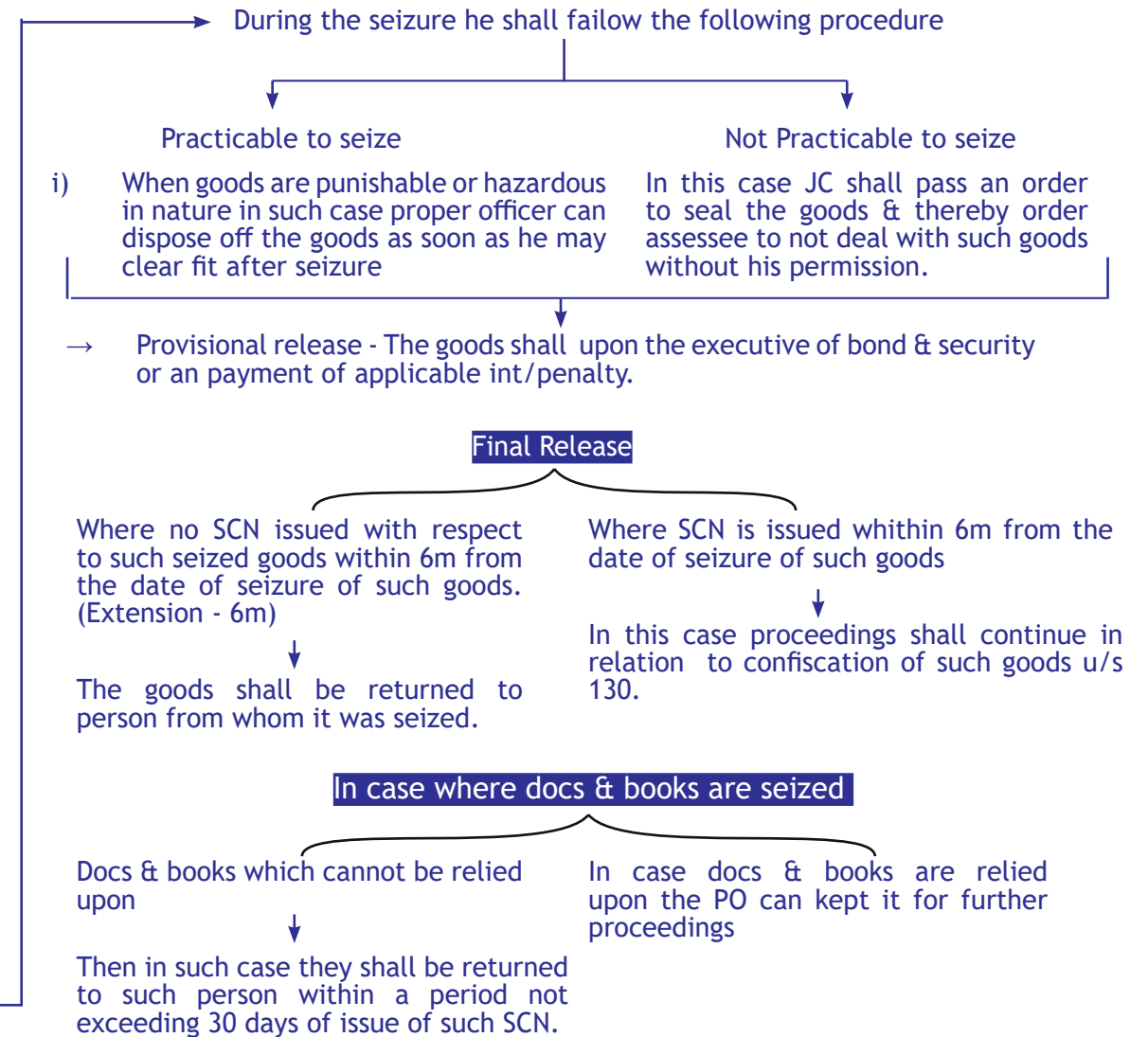
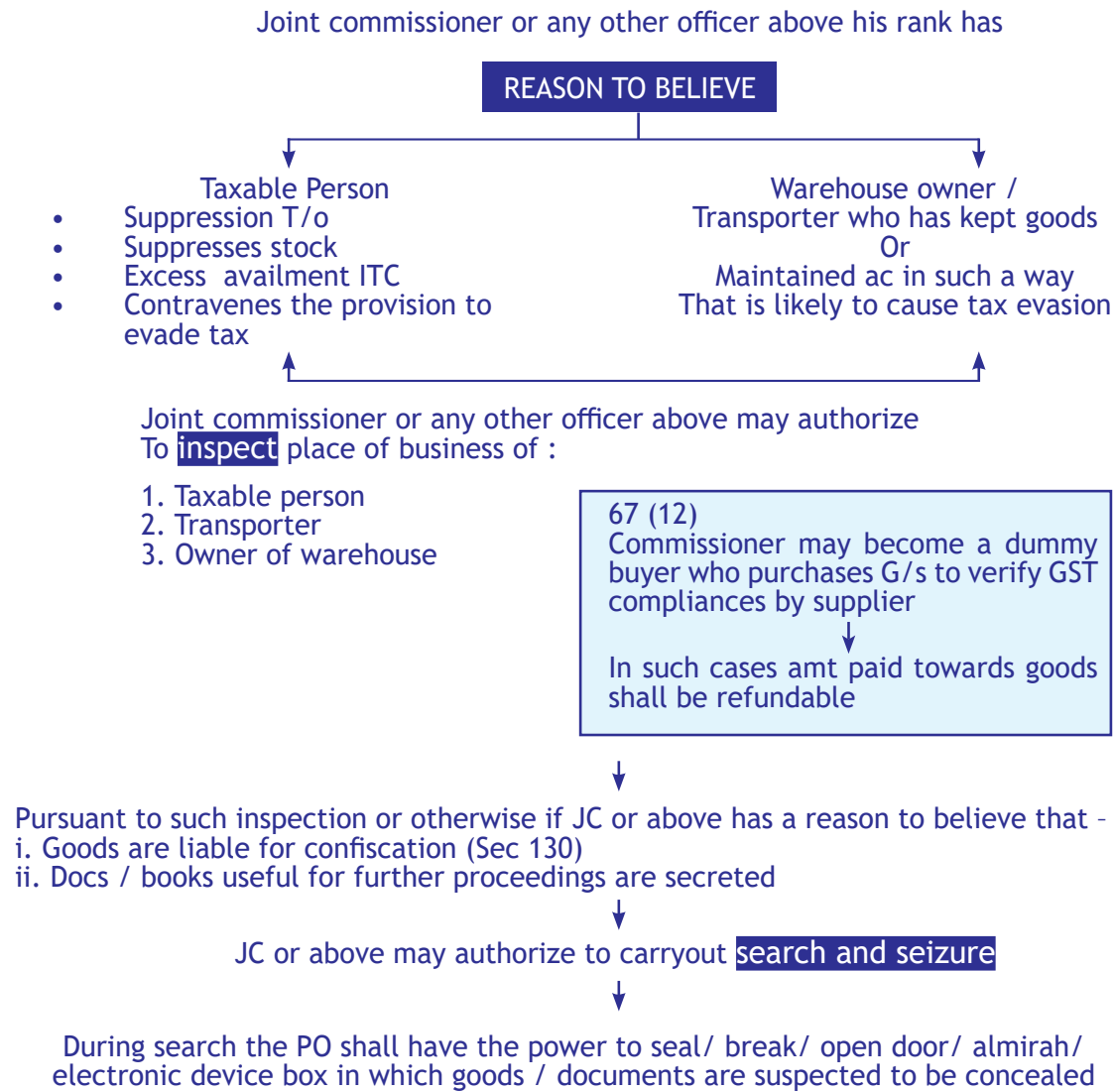
- Situation:** R.P. fails to furnish returns u/s 39, or U/s 45 (Final returns), & even after the service of notice u/s 46, taxable person fails to file return within 15 days then
- Withdrawal of BJA order:** When assessee furnishes a valid return within **60 days (+Extension 60D)** of service order (best judgement), it shall be deemed to have been withdrawn. But liability of interest (@18% pa) + late fee (100/- per max 5000/-) shall continue
- Time limit of order:** Within 5 years from D/D annual return for the FY to which tax not paid relates.

Sec 63 - Unregistered Person Best Judgement Assessment

- Situation:** If assessee fails to obtain registration or registration is cancelled u/s 29(2).
- Issue of notice:** PO issues a SCN & give **15 days time** to reply. And then issue an order & summary thereof shall be uploaded electronically.
- Time limit of order:** Within 5 years from D/D annual return for the FY to which tax not paid relates.

Sec 64: Summary Assessment

- Summary Assessment:** When PO has evidences showing tax liability of a person & delay adversely affectes revenue, he shall pass a summary assessment order. (prior apporval from AC/JC)
- Withdrawal of order:** The Summary Assessment Order may be withdrawn by Additional Commissioner/Joint Commissioner, -
 - on an application filed by taxable person for withdrawal of the summary assessment order within 30 days from the date of receipt of order; or
 - on his own motion, where he finds such order to be erroneous and may instead follow the procedures laid down in section 73 or section 74 to determine the tax liability of such taxable person.
- Deemed taxable person:** If taxable person is not ascertainable, & such liability O pertains to Supply of goods = Person incharge shall be liable to be assessed.



Sec 70 : Power to Summon

Situation : During the course of enquiry under this Act P.O may summon a person to appear before him & give evidence

Responsibilities of such sommoned person :

A person to whom summon is issued is leagally bound to attend either

- In person
- or
- Aurhorised Representative

He is bound to state the truth before the officer who has issued the summon and produce docs & other things as maybe required.

Sec 71

Access to Business Premises

Authorised officer can have access to any business premises for the purpose of enquiry

He can inspect BOA/cs, Docs, Computers, Softwares

Person in charge of the property shall furnish the following records to CA/CMA/Audit party

- Trial Balance
- Cost Audit Report
- Income Tax Audit Report
- Statement of Annual Financial A/cs.

Officers To Assist Proper Officers [Section 72]

- i. Police;
- ii. Railways
- iii. Customs;
- iv. Officers of State/UT/ Central Government engaged in collection of GST;
- v. Officers of State/UT/ Central Government engaged in collection of land revenue;
- vi. All village officers;
- vii. Any other class of officers as may be notified by the Central/State Government.

Search Warrant and its contents.

The written authority to conduct a search is generally called search warrant. The competent authority to issue search warrant is an officer of the rank of Joint Commissioner or above.

Search Warrant should contain the following details:

- the violation under the Act,
- the premise to be searched,
- the name and designation of the person authorized for search,
- the name of the issuing officer with full designation along with his round seal,
- date and place of issue,
- serial number of the search warrant,
- period of validity

Safeguards provided for in respect of Search or Seizure

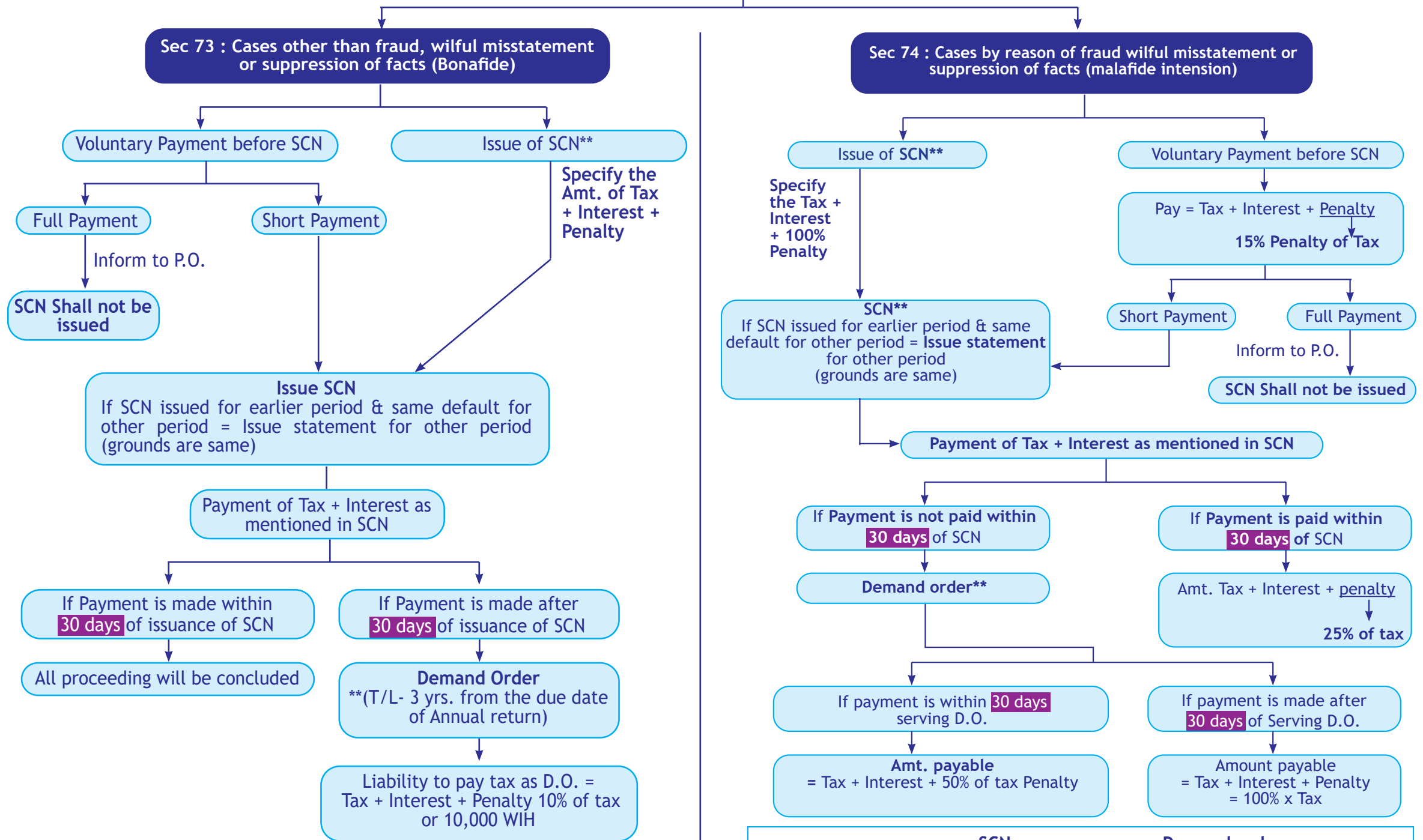
- Seized goods or documents should not be retained beyond the period necessary for their examination;
- Photocopies of the documents can be taken by the person from whose custody documents are seized;
- For seized goods, if a notice is not issued within six months of its seizure, goods shall be returned to the person from whose possession it was seized. This period of six months can be extended on justified grounds up to a further period of maximum six months;
- Certain specified categories of goods such as perishable, hazardous etc. can be disposed of immediately after seizure.

Safeguards for a person who is placed under arrest

- If a person is arrested for a cognizable offence, he must be informed in writing of the grounds of arrest and he must be produced before a magistrate within 24 hours of his arrest;
- If a person is arrested for a non-cognizable and bailable offence, the Deputy/ Assistant Commissioner can release him on bail and he will be subject to the same provisions as an officer in-charge of a police station under section 436 of the Code of Criminal Procedure, 1973;
- All arrest must be in accordance with the provisions of the Code of Criminal Procedure, 1973 relating to arrest.

Section 132 of the Act also prescribes which types of offences are cognizable and non-bailable and which types of offences are non-cognizable and bailable.

- Tax Not Paid
- Tax Short Paid
- ITC wrongly availed & utilized
- Erroneous Refund

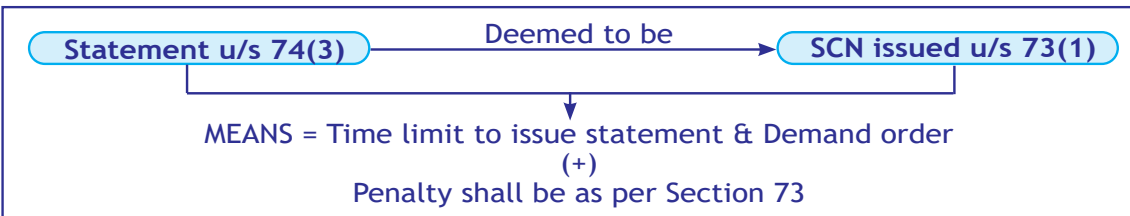
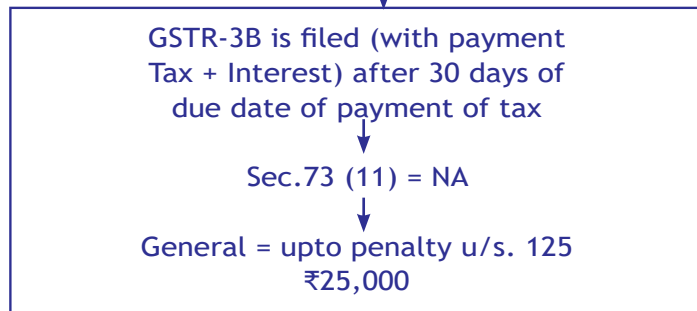


Timelimit
****All cases** : 2 yrs. & 9 months | **SCN** : 3years from D/D of A.R
****Erroneous Refund** : 2Yrs & 9months | **Demand order** : 3years from date of erroneous refund

SCN
 Timelimit : **All cases-4 yrs. & 6 months or 5 yrs from D/D of A.R
Demand order
 **Erroneous Refund-4Yrs & 6months or 5yrs from date of erroneous refund

Important points to remember

73 (11) : Self Assessed Tax (GSTR-1) but not paid within 30 days of due date.

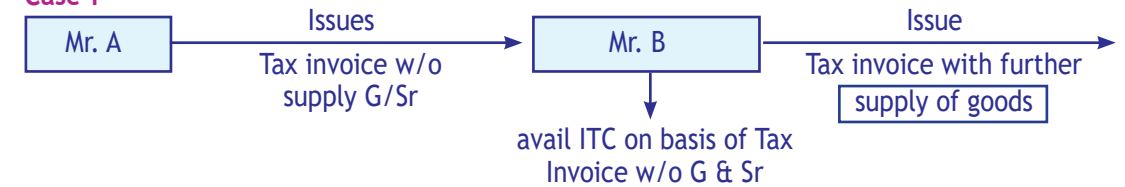


Important Notes -

- I. all proceedings in respect of the said notice” shall not include proceedings under section 132
- II. Proceedings against the main person have been concluded under section 73 or section 74, the proceedings against all the persons liable to pay penalty under sections 122, 125 are deemed to be concluded but sec129/130 shall continue

Clarifications

Case-I



Clarifications

Mr. A

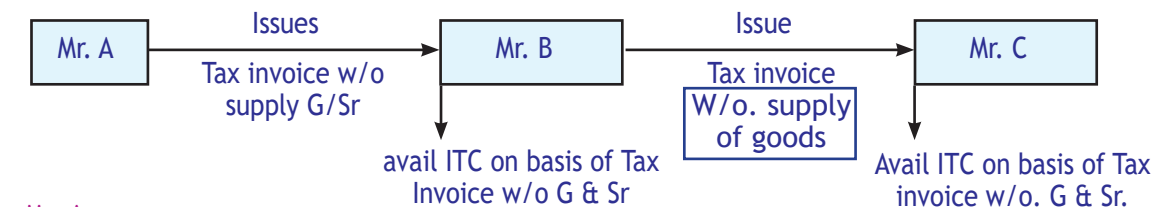
- (i) Is it supply u/s. 7 = No.
- (ii) D & R can be made from Mr. A = No u/s. 73/74.
- (iii) Any penalty imposed to Mr. A = Yes u/s. 122 (i) for issuing tax invoice w/o. supply G/Sr.

Mr. B

- (i) Is Mr. B liable for : Mr. B has availed ITC fraudulently by contravening Sec.16(2) (b) demand u/s. 73/74

- Hence liable for
- (i) D & R U/s. 74
 - (ii) Penalty u/s. 74
 - (iii) ∴ penalty is levied u/s. 74
No other penalty shall apply for the same (Incl. Sec.122(1)).

Case-II



Mr. A

- (i) Is it supply u/s. 7 = No.
- (ii) D & R can be made from Mr. A = No u/s. 73/74.
- (iii) Any penalty imposed to Mr. A = Yes u/s. 122 (i) for issuing tax invoice w/o. supply G/Sr.

Mr. B

- Penalty u/s., 122 (1) (ii) → Issue invoice w/o. supply
122 (1) (vii) → Avail ITC w/o. actual receipt G/Sr.

Mr. C

- No comments by ICAI.
→ Penalty → 122 (1) (vii) → KS opinion

Mr. A to Mr. B and Mr. B to Mr. C
Since no goods are supplied
↓
7(1)(a) shall not apply
↓
∴ No liability arises
↓
∴ Demand of tax u/s. 73/74 = NA

SUMMARY OF SECTION 75

- Time limit to issue SCN and Demand Order (+) Extend by Period of Stay Order.
- Interest mandatory to be paid even if not mentioned in Demand Order.
- If the case is remanded from Appellate Authority / Appellate Tribunal / Court

to
└─ Adjudicating Authority ─┘

↓
He shall pass order within 2 Years from Date of Communication of Order

- Opportunity of being heard before passing order.
- Amount in Demand order CANNOT EXCEED amount in SCN & Demand order shall confirm only those grounds that are covered in the notice.
- If Appellate Authority or Appellate Tribunal or Court modifies the TAX LIABILITY then Interest and Penalty shall automatically be modified.
- Demand Order = Speaking Order
- If Appellate Authority/Appellate Tribunal / Court concludes SCN u/s 74(1) is Invalid. Then,

SCN u/s 74(1) Deemed to be SCN u/s 73(1)

Note: Such order of re-determination of T,I,P Shall be issued by P.O within 2yrs from date if communication of said direction by AA/AT/Court.

- Adjudgments = Maximum 3
- If Demand Order is issued after time limit i.e. 3 years/5years = Date shall be barred.
- If Penalty is imposed u/s 73/74 → NO Penalty on same person shall be imposed under this Act.

→ Department shall directly start Recovery Proceedings u/s 79 in case where registered person has not paid Self Assessed Tax.

➤ This happens when Outward is reflected in GSTR-1 supply & not paid in GSTR-3B

➤ But if the difference is due to
i) Typographical error
ii) Where a supply could not be declared in GSTR-1 of earlier tax period but was paid correctly in GSTR-3B

↓
P.O shall send communication to RP for explaining the difference

↓
Recovery proceedings u/s 79 shall be initiated only when

- Fails to reply
- Fails to make payment
- Fail to explain reasons

SECTION 76

- Tax collected but not paid (Irrespective that supplies Taxable or Exempt)

→ P.O shall issue SCN = No Time limit

Demand order = within 1yr from date issue of SCN

→ Interest @ 18/ . p.a shall be paid



→ Amount paid to Govt

Shall be adjusted against tax payable by person i.r.t taxable supplies

Surplus amt after adjustment shall be credited to
1. Refund to person who has borne burden of tax
2. CWF

SECTION 77, GST Act

Wrongfully paid C + S

∴ Refund C+S (+)
Pay IGST

SECTION 19, GST Act

Wrongfully paid IGST

∴ Refund IGST (+)
Pay C+S

Interest on delayed payment of C+S or I = Nil

SECTION 78

Pay Tax + Int + Penalty within

3 months from the date of service of demand order

↓
If P.O consider then such period can also be reduced.

Section 79: Recovery

Through Magistrate
P.O. may file application to magistrate

Deduction from amount payable
Amount payable to such person = xxx
Less: Amount owing to Govt. = (xx)
Net payable to such person = xxx

Distrain of Movable/Immovable property
Distrain the property under the control of P.O.
If payment of
1) said amount
2) Cost of distress
(Remain unpaid for 30 days)
Such property may be sold

Through Collector
P.O. may prepare certificate specifying amount & send it to Collector in which P-I-D resides/carries/ business & Collect as if such dues were land arrears

Recovery through Goods
By Selling/Detaining any goods belonging to such person which are under control of P.O.

Garnishee Proceedings

Recovery from persons from whom money is due to such persons
Or Holds money of such person

Person to whom notice is served is bound to comply it

Any notice issued to P.O, Bank, Insurer
Not be necessary to produce
Deposit Receipt/Pass Book/Policy to recover money

P.O. can revoke/amend/extend the time for payment of such notice

Any person making payment in compliance with notice issued

Deemed to

Have made payment under authority of P-I-D

Any payment credited to Govt.

Shall be Deemed to

Amount paid by such P-I-D to the amount specified in the receipt

Even after notice is served if the person makes payment to P-I-D, then he shall be personally liable to the extent

Liability is discharged

Or

Extent of Liability of P-I-D

W.I.Less

Money demanded was not due to such P-I-D

If such person proves that

OR

He did not hold any money for P-I-D*

P.O. shall revoke such notice

*P-I-D = Person in Default

Recovery of tax u/s. 79 is done only after.

- (i) SCN is issued.
 - (ii) Demand order is confirmed and
- The same does not arise during the course of search, inspection, investigation on account of any issue detected during such proceedings.

SECTION 80

Tax can paid in Instalments
Self Assessed Tax = NA
Demand liabilities = ✓

Application - Commissioner

No of Installments = As Commissioner may deem fit
Max = 24 EMIs

Default in anyone Instalment = Outstanding Bal shall become due & payable immediately

Sec 82:- Tax to be first charge on property

- Any amount payable by a taxable person
- Govt shall have first charge on property (Subject to IBC).

Sec 83:- Provisional attachment of property

Pending of proceedings under,
Chapter XII - Assessment
Chapter XIV - Inspection Search Seizure
Chapter XV - Demand & Recovery

- Commission shall pass an order DRC - Mentioning details of the property which are attached
- Copy of order shall be sent to

Concerned Revenue Authority
Transport Authority
Bank

- Also Person whose Property is attached.
- Person can file objection in DRC-22A, if property is not liable to be attached. within 7 days
(No time limit to file it)

- If objection is filed commissioner should provide OOBH.
- If commissioner is satisfied

Yes
Release Property

No
Attachment Continues

Note 1:
Provisional Attachment on movable / immovable property shall be removed only on written instructions from Commissioner to that effect
or
An expiry of period of or from date of issuance of order of provisional attachment of property
Note 2: Property of a person specified v/s 122(1A) can also be attached a part from taxable person.

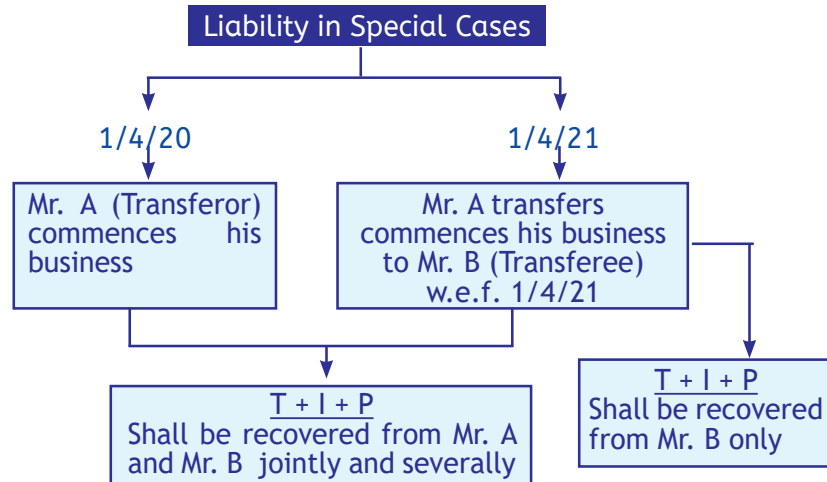
Sec 81:- Transfer of Property to be void

- Person after amt become due from him
- Creates charge or parts with the property
With the intention of defrauding the Govt).
Such trf = void
- **Exception**
If such trf is made
 - i) For Adequate Consideration or
 - ii) In good faith or
 - iii) Previous permission of P.O.

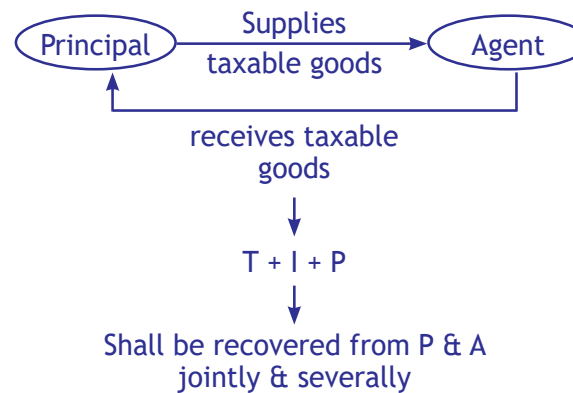
Sec 84:- Continuation & validation of Recovery proceedings

- D/o served Taxable Person
- Appeal / Revision application is filed
- Officer to stay Recovery Proceedings
- Appeal disposed off resulting info.
 - 1) Cancellation of D/o = No Recovery
 - 2) Confirming D/o = Recovery Continues
 - 3) Enhancing of Dues = Comm shall serve notice of demand for enhanced amount.
 - Recovery for both old & New Notice of demand shall continue now.
 - 4) Reduction of dues
 - Fresh demand notice not necessary
 - Recovery proceedings shall continue.

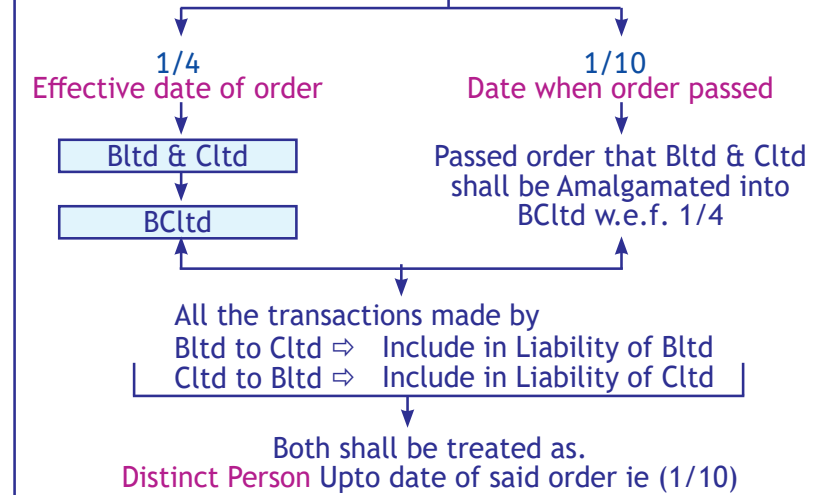
Sec 85 Liability in case of transfer of business



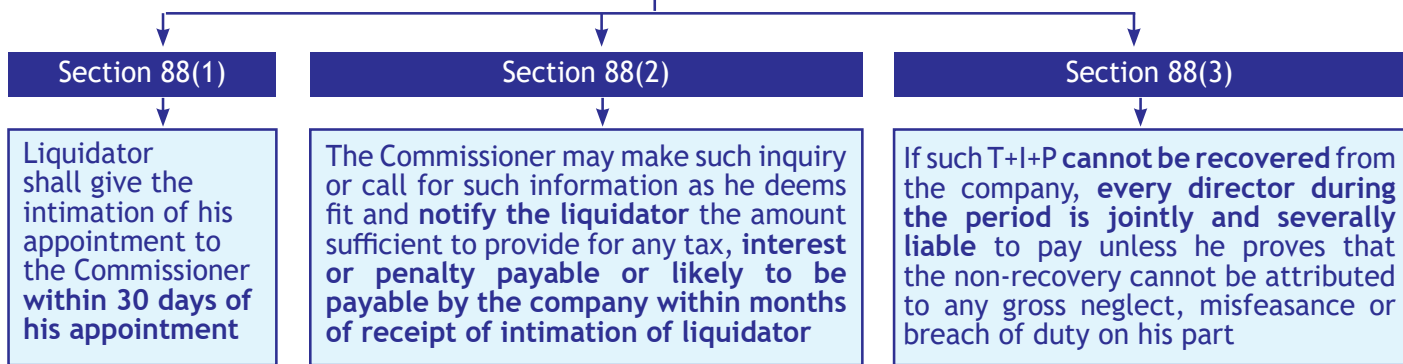
Sec 86 Liability of agent and principle



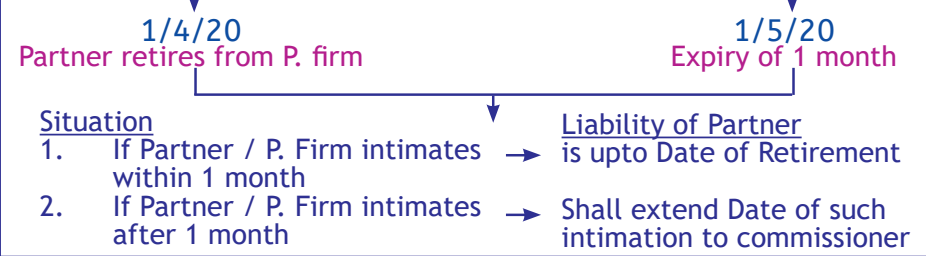
Section 87 : - Amalgamation



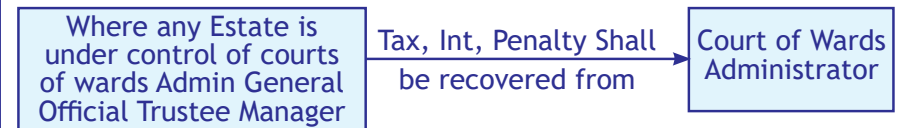
Section 88 : Liquidation of company



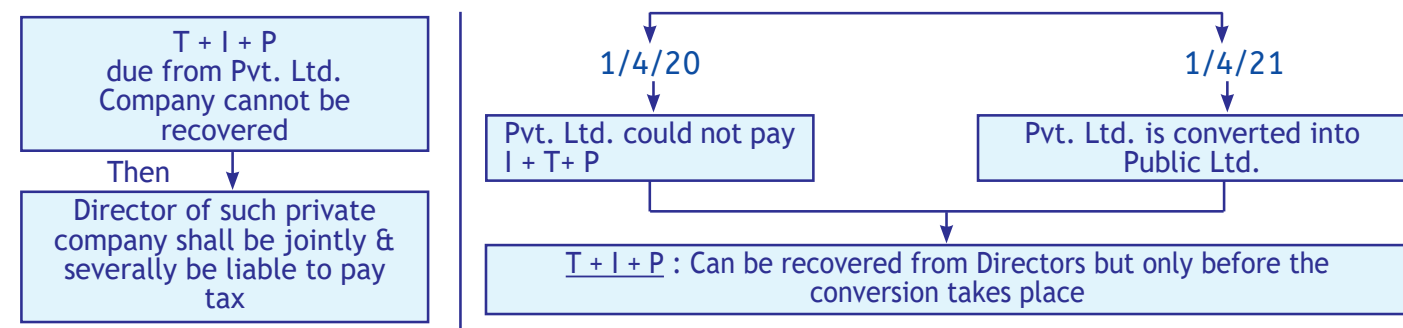
Section 90 -> P. Firm



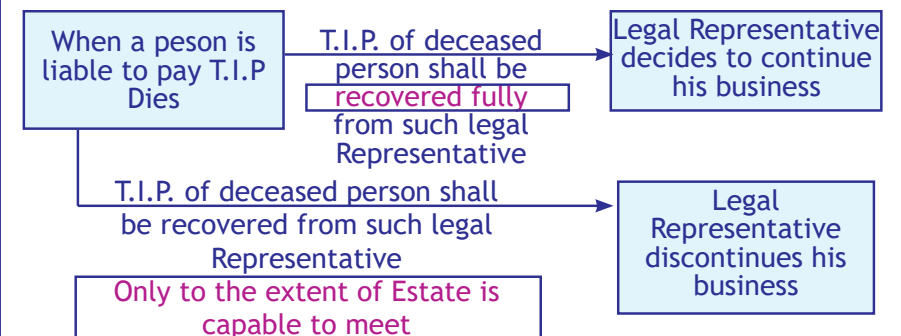
Section 92 -> Official Trustee



Section 89(2) : Private Company



Section 93 -> Deceased Person

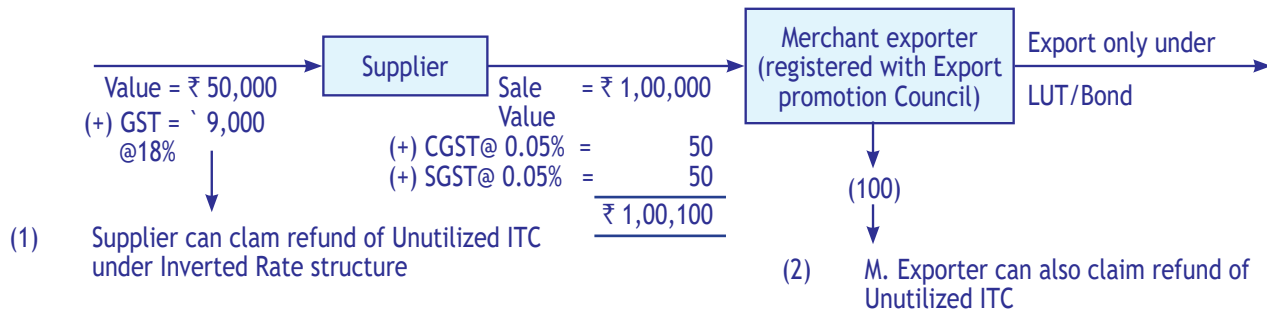


Section 91 Minor & Guardian

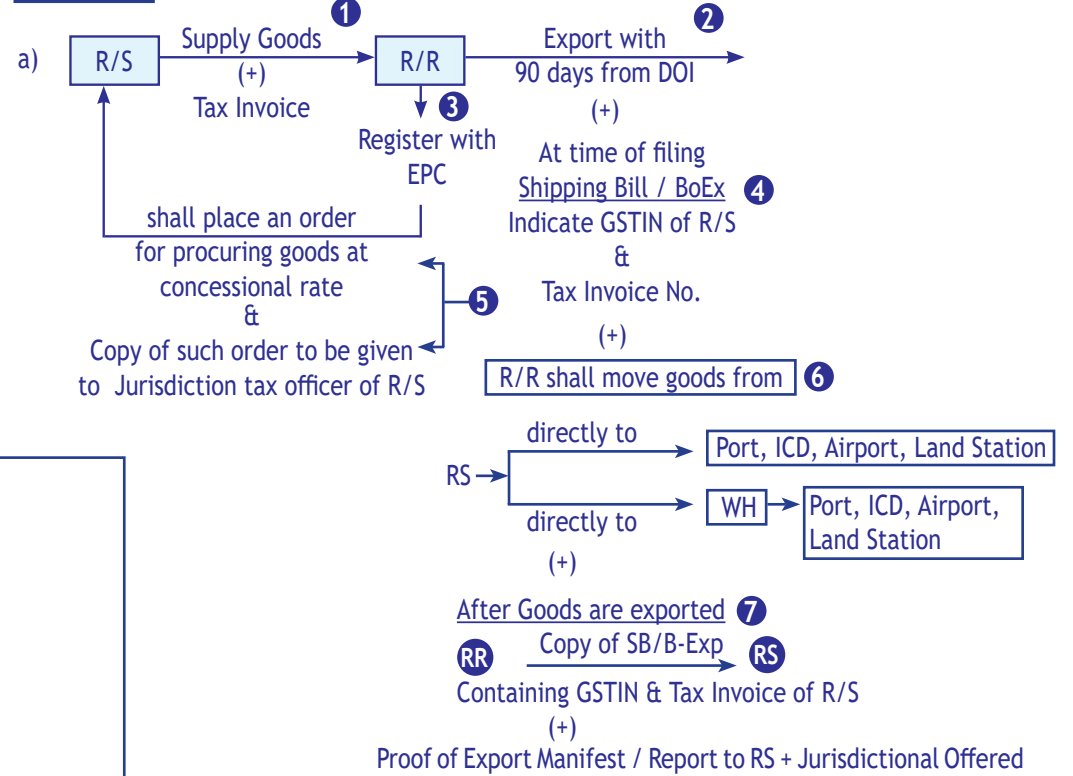


In case of discontinuance of business of P firm
 Only those partners that are in the firm at the time of discontinuance = Jointly & severally pay tax, Int, Penalty due to firm.

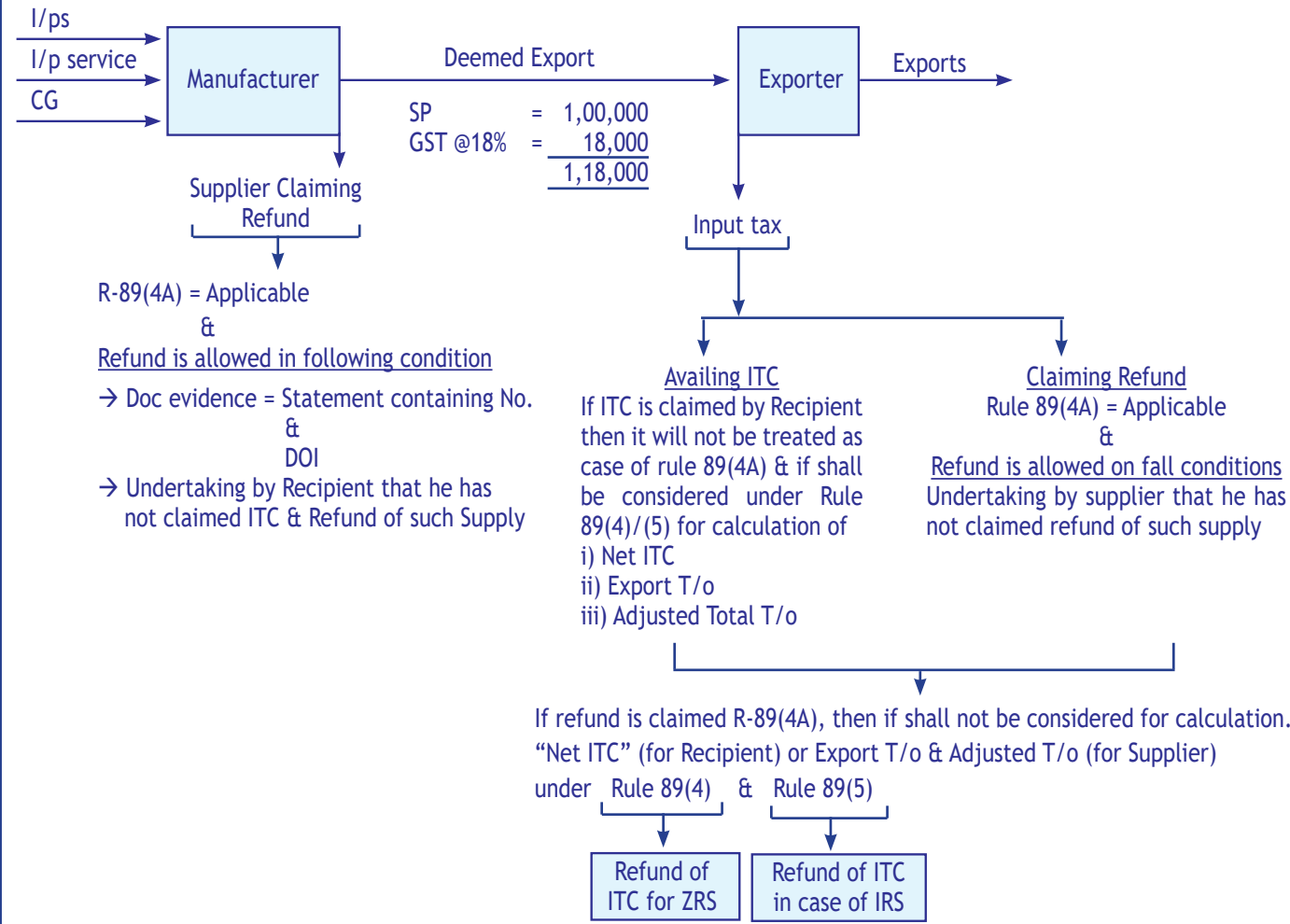
Merchant Exporter



Conditions



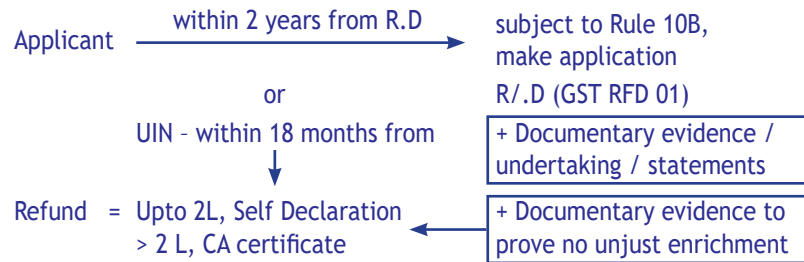
Deemed Exports



Documents and Evidences

Max time limit for application	Refund To Supplier	Refund To Recipient
2 Years from Relevant Date	Documents statement containing number/date of invoices along with other notified evidences	Documents:- • Undertaking by supplier • Filed by recipient
Relevant Date	Evidences-	• Recipient shall not claim refund, to be furnished manually
Date on which return relating to such deemed export is furnished	• Acknowledgement by the Jurisdictional Tax officer of Advance Authorisation / EPCG authorisation holders	
Application Form	• Copy of tax invoices, duly signed by recipient	
Amount of Refund	• Undertaking by recipient (that not ITC availed on such supplies)	
GST Paid	• Undertaking by recipient (that shall not claim refund on such supplies & supplier may claim refund)	

Refunds under GST



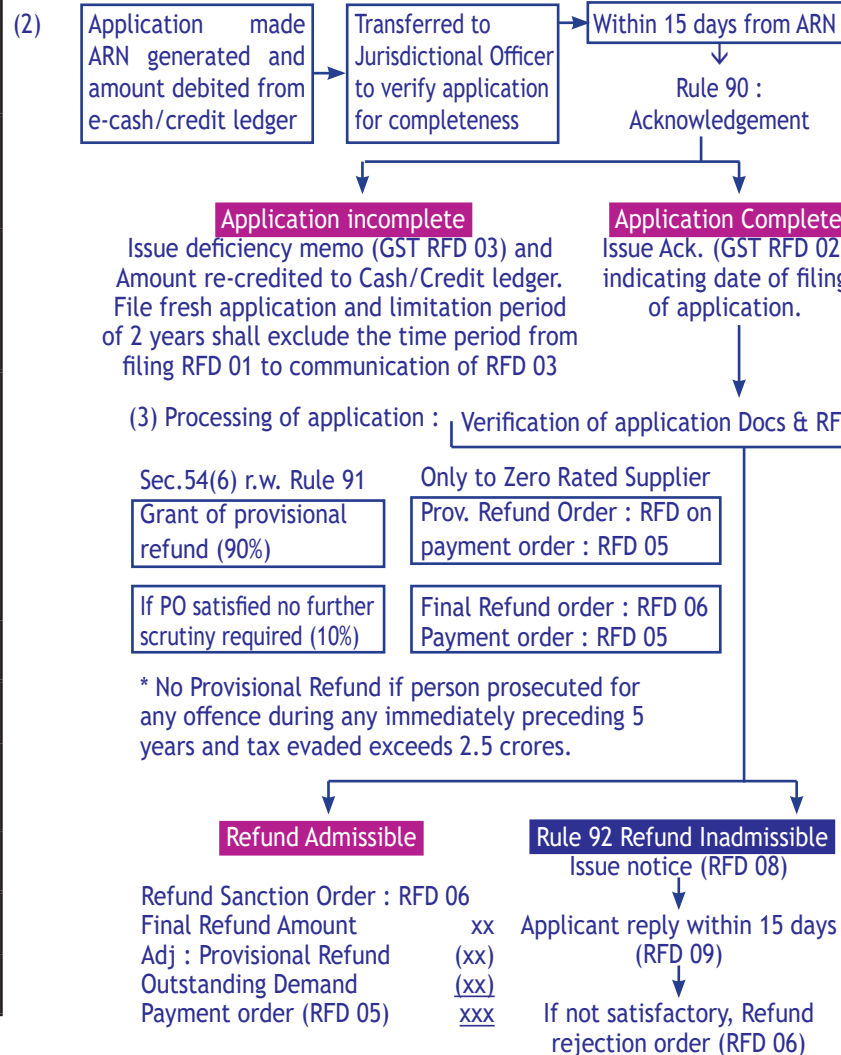
Situation	Relevant Date	Documentary Evidence
Export of Goods		
• By sea/air • by land • by post	• Ship / aircraft leaves India • such goods pass the frontier • Goods dispatched by Post Office	Statement of No. & + No. and date of Relevant Export Invoices Date of shipping Bill / Bill of Export
• Export of Service	Date of Invoice Date of Payment W.e. is LATER	Statement of No. & Date of invoices + Bank Realisation Certificate / Foreign Inward Remittance Certificate
• Supply of G/S to SEZ unit/Dev.	Due date of Return u/s. 39 w.r.t. such supplies	Statement of No. & Date of invoices (Rule 2 of SEZ ACE) + Endorsement by specified officer + Payment Details (in case of service)
Deemed Exports • Supply against AA • Supply against EPCG • Supply to EOU • Supply of Gold by Bank / PSU against AA	Date of filing Return relating to deemed export	Statement of No. & date of invoices + Ack. by Juris. Tax Officer of AA / EPCG holder / TI signed by EOU that supplies received, undertaking by recipient that no ITC availed and not file refund application
Refund of unutilised ITC	Due date of return u/s. 39	Statement of No. & date of invoices received and issued.
Finalisation of provisional assessment	Date of Adjustment of Tax	Ref. No. and copy of final Assessment Order
Judgement / order / decree of court / Tribunal	Communication of Judgement / decree / order	Copy of order / Ref. No. of payment of predeposit
Tax wrongly collected and paid	Date of payment of correct tax	Statement showing transaction details.
Excess payment of tax	Date of payment of tax	Statement showing details of excess amount paid
Person other than supplier	Date of receipt of G/S/B	Relevant documents.

Proof of unjust enrichment not required in following cases : Sec.54(3) :

- (a) Tax paid on export of G/S/B or ITC refund.
- (b) Unutilised ITC - SEZ supplies.
- (c) Tax paid on advance and no invoice / refund voucher issued.
- (d) Tax in pursuance of Sec.77 (wrong POS).
- (e) Tax / Internet borne by notified class of recipient.

For UIN Holders :

- Application is to be made within 18 months from last date of quarter in which supply received.
- Form : GST RFD 10.
- Documentary evidence : Statement of inward supplies in GSTR 11.
- Refund available if G/S/B received from RP against Tax Invoice with UIN of applicant on it. If UIN not mentioned, copy of invoice (duly attested) has to be submitted.
- For CSD Canteens: Application to be made in GST RFD 10A 50% of GST paid is available as refund.



GST RFD 07 - PART A : Order for withholding Refund informing reasons.

Withholding by Commissioner :

If refund is subject matter of appeal or further proceedings likely to affect the revenue adversely.

Withholding by PO :

PO may withhold refund and deduct tax, interest, fine, penalty or any other amount unpaid when Refund of ITC (U/S. 54(3)) is due and RP defaults in return or is liable.

- Where PO is satisfied, refund no longer liable to be withheld, pass order for release in GST RFD 07 - PART B.
- Person entitled to interest @ 6% p.a. on refund of withheld amount.

Rule 92(1A) : Refund in cash/credit based on original mode

GST RFD 06 : Final refund in cash xx
(GST PMT 03 for Adj : Outstanding demand (xx)
crediting amt. as ITC Payment order (GST RFD 05) xxx
in e-credit ledger)

- Rule 92 (1A) not applicable to tax paid on Zero Rated Supplies and deemed exports.

(4) From all Payment orders (RFD 05). Portal creates Consolidated Payment Advice and shares with PFMS website (Public Financial Management System)

Interest on delayed payment of Refund by Govt.

Refund credited to Bank A/c. within 60 days of application

The period of delay beyond 60D shall not include

- i) Any period beyond 15days of receipt of notice in RFD-08 which applicant takes to reply in GST RFD 09
- ii) Any period of time taken either by the applicant for furnishing the correct details of Bank a/c to which refund is to be Credited/ General Cases: Int @ 6% p.a
Court/Tribunal order :- Int @ 9% p.a

(5) Withdrawal of Refund Application :

Applicant file RFD 01 W before issuance of RFD 04/05/06/07/08 w.r.t. refund application to be withdrawn. On submission of RFD 01W, any amount debited in e-cash/credit ledger shall be recredited.

Rule 89 (4) Refund Claim in case of Zero Rated Supply :

$$\text{Refund Amount (Maximum admissible)} = \frac{\text{T/O of ZRS of goods + T/O of ZRS of services}}{\text{Adjusted Total Turnover}} \times \text{Net ITC}$$

1) **T/O of ZRS of Goods :** Other than T/O of supplies in respect of which refund claimed under sub rule (4A)/4(B)

Value of ZRS of goods made, without payment of Tax under Bond/LUT, during relevant period
OR
1.5 x like goods domestically supplied

↓ W.I. Less

2) **T/O of ZRS of Services :**

Value of ZRS of Services made without payment of tax under Bond / LUT, calculated as :

Aggregate of payment received during relevant period xx
(+) Payment received in prior period and service completed in relevant period xx
(-) Advances received in relevant period for which service not completed (xx)

3) **Net ITC :** ITC availed on inputs and input services other than ITC availed for which refund claimed under (4A)/(4B). xxx

4) **Adjusted Total Turnover :**

T/O of ZRS of G/S (as above) xx
(+) T/O of non ZRS in a State / UT xx
(-) Value of exempt supplies (Other than ZRS) (xx)
(-) 89(4A)/(4B) Turnover (xx)

Explanation : For the purpose of this sub-rule, value of goods exported out of India shall be taken as :

- (i) FOB value declared in SB/BOE
- (ii) Value declared in Tax Invoice/BOS } W.I. Less

Example : Manuf. supplies one type of goods overseas as well as in domestic market.

Net admissible ITC in relevant period = ₹270.

Supply	Value / Unit	No. of units supplied	Turnover (₹)	As per definition (1.5 times limit)
Local	200	5	1000	1000
Export	350	5	1750	1500
			2750	2500

∴ Refund amount = $\frac{1500}{1000 + 1500} \times 270 = ₹ 162.$

Rule 89 (4A) : Refund in case of deemed export shall be granted.

Rule 89 (4B) : Refund in case Merchant export, EOU goods imported under EPCG/AA shall be granted.

Rule 89 (5) : Refund claim in case of inverted Duty Structure.

$$\text{Refund Amount (Maximum)} = \left(\frac{\text{T/O of inverted Rated G/S} \times \text{Net ITC}}{\text{Adjusted Total Turnover}} \right) (-) \left(\text{Tax Payable on such inverted rate supply of G/S} \times \frac{\text{Net ITC ITC availed on inputs \& inputs services}}{\text{Net ITC ITC availed on inputs \& inputs services}} \right)$$

• **Net ITC :** Here, only ITC on "inputs" (not input services)

Other than sub rule (4A)/(4B)

- **In case of refund of unutilized ITC on account of :**
 - (i) Exports without payment of tax.
 - (ii) Supplies made to SEZ unit/developer without payment of tax
 - (iii) Accumulation due to inverted tax structure.

Common points i.r.t. 89(4) / (5).

- **Refund will be least of the following :**
 - (a) As per formula in rule 89 (4)/(5).
 - (b) Balance in e-credit ledger at the end of the tax period for which refund claim is filed after the return in form GSTR 3B.
 - (c) Balance in e-credit ledger of applicant at the time of filing refund application.
- **Debit in e-credit ledger shall be in following order :**
 - (1) Use IGST fully.
 - (2) CGST and S/UTGST equally to the extent of balance available.
 - (3) Remaining amount from credit ledger with available balance.

Other Points

- 1) Refund of ITC = Not allowed, If goods are subject to **Export Duty**
- 2) Refund of ITC = Not allowed, DDB = ✓

Consumer Welfare Fund

The Government shall constitute CWF and credit to the fund :

- (i) Amount referred in Sec.54 (5)
- (ii) Any amount from investment of amount from fund.
- (iii) Such other monies as prescribed.
 - (1) All amount of GST and investment income transferred to CWF.
 - (2) Where any amount, having been credited to the fund, is ordered / directed to be paid to any claimant by PO/Appellate Authority or court, the same shall be paid from the fund.
 - (3) Account of the fund maintained by CG shall be subject to audit by C&AG of India.
 - (4) Government shall, by order, constitute a standing committee with a Chairman, Vice-Chairman, Member Secretary and such other members for making recommendation for proper utilization.

Clarifications :

- An applicant may, at his option, file a refund claim for a tax period or by clubbing successive tax periods.
- GST on inward supplies of stores and spares, packing material, etc. shall be available as ITC as long as these inputs are used for the purpose of business and/or for effecting taxable supplies (including ZRS) and ITC is not restricted u/s. 17(5).

• **Refund of accumulated ITC on account of Reduction in GST Rate : An applicant trading in goods has purchased goods @ 18% GST. Subsequently, the rate has been reduced to 12%. Can refund be claimed under inverted tax structure?**

This is not covered u/s. 54(3) and hence no refund shall be available in such case.

• **Advance received for a supply and GST paid by issuing receipt voucher. No supply made. Can refund be claimed?**

Issue refund voucher u/s.31(3)(c). RP may file refund application (GST RFD 01).

• **Goods supplied under tax invoice are returned. Can refund be claimed?**

- Issue credit note u/s. 34 and tax liability shall be adjusted. No separate refund claim. However if no output liability, RP may file RFD 01 for refund.
- No time limit for filing refund claim with respect to balance in e-cash ledger.
- For refund of excess balance in e-cash ledger, no declaration / CA certificate is required to be furnished.
- TDS/TCS deposited in e-cash ledger (excess balance) can be refunded.
- ITC availed by recipient of deemed export supply not to be included in "Net ITC" under Rule 89 (4)/(5).

Refund in case of NRTP/CTP

Refund by CTP/NRTP shall be claimed only after Last return required to be furnished by him has been so furnished.

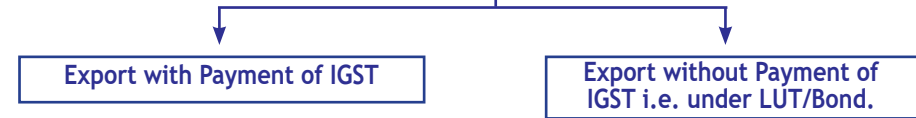
Refund in case of excess payment of tax

Apply :- Form - GST R.F.D-01

Post amendment even if interest has been paid in excess alongwith tax, it can be refunded.

EXPORTS UNDER GST

- Export of Goods / Services - Always Interstate (∴ IGST) but as per 16 (1), it is zero rated supply.



Claim refund of IGST paid.

Goods : sec.54(1) r.w. Rule 96

Application : Shipping Bill / Bill of Export

Refund processed by PO of customs

Services : Sec.54(i) r.w. Rule 89.

Application : GST RFD 01. Refund processed by GST Dept.

- Claim refund of unutilized ITC U/s. 54(3) r.w. Rule 89.
- Application : GST RFD 01.
- Refund based on formula.
- Refund processed by GST Dept.

Rule 96 : Refund of integrated tax paid on G/S/B Exported :

- Shipping bill deemed to be refund application.
Application deemed to have been filed when :
 - PIC of conveyance duly files a departure manifest / export manifest / export report covering number and date of shipping bills or bills of export. and
 - Applicant has furnished a valid return (GSTR 3B) :
Proviso : Any mismatch between the data furnished by the exporter in shipping bill and those furnished in GSTR1, such application for refund shall be deemed to be filed on such date when such mismatch is rectified by the exporter.
 - Applicant has undergone Aadhar Authentication (Rule 10B).
- Details of export invoices furnished in GSTR 1 shall be transmitted electronically by common portal to ICEGATE.
- Upon recipient of information regarding GSTR 3B being furnished, ICEGATE / PO of customs shall process refund.
- Claim for refund shall be withheld where :
 - Upon request from Jurisdictional Commissioner of Central / State / Union Territory Tax [Sec. 54(10)/(11)]. OR
 - PO of customs determines that goods were exported in violation of provisions of Customs Act, 1962. OR
 - The Commissioner in the Board / Officer authorised by the board, on the basis of data analysis and risk parameters, is of the opinion that verification of credentials of the exporter including the availment of ITC is considered essential before grant of refund in order to safeguard interest of revenue.
- Where refund is withheld in accordance with sub rule 4(a)/(c), such claim shall be transmitted to PO of Central Tax / State Tax / Union Territory Tax as the case may be, electronically through the common portal in system generated GST RFD-01 and the intimation of such transmission shall also be sent to the exporter electronically and the said system generated form shall be deemed refund application and deemed to be filed on date of transmission.
- Where refund is withheld in accordance with sub rule 4(b) and the PO of customs passes on order that the goods have been exported in violation of Customs Act provisions, such claim shall be transmitted to PO of Central Tax / State Tax / Union Territory Tax as the case may be, electronically through the common portal in system generated GST RFD-01 and the intimation of such transmission shall also be sent to the exporter electronically and the said system generated form shall be deemed refund application and deemed to be filed on date of transmission.
- For notified class of goods, refund of IGST paid to Government of Bhutan and not to exporter.
- For refund of IGST paid on services : File GST RFD 01 and shall be dealt with in accordance with Rule 89.

Rule 96A : Export of G/S under Bond / LUT :

Export of Goods	Export of Services
15 days after the expiry of 3 months, or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, if the goods are not exported out of India	15 days after the expiry of 1 year, or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange or in Indian rupees, wherever permitted by the Reserve Bank of India

- Exporter has to execute Bond / LUT prior to export, binding himself to pay tax due along with interest @ 18% within :
- Details of export invoices furnished in GSTR-1 shall be transmitted electronically by common portal to ICEGATE.
- When goods not exported within time and RP fails to pay the amount, LUT / Bond facility shall be withdrawn immediately and recovery shall begin.
- Facility shall be restored when RP pays the amount due.
- LUT not allowed for those prosecuted for any offence where tax evaded > 250 lakhs.
- Provisions of sub rule (1) applicable mutatis mutandis w.r.t. ZRS to SEZ unit / developer.

Rule 96B : Recovery of Refund of unutilized ITC/IGST paid on export of goods where export proceeds not realised :

- The person to whom refund made shall deposit the amount refunded to the extent of non-realisation of sale proceeds along with interest within 30 days.
- If there is a failure to deposit, amount shall be recovered as per Sec. 73/74 as is applicable for recovery of erroneous refund along with interest u/5.0.
- No recovery if RBI writes off the requirement of realisation of forex on merits.
- If sale proceeds realised post recovery, produce evidence within 3 months from date of realization and recovered amount shall be refunded to applicant :

Subcontracting of services by an exporter to another person located outside India:

ABC Ltd. India has received an order for supply of services amounting to \$ 500,000/- to a US based client. ABC Ltd. India is unable to supply the entire services from India and asks XYZ Ltd. Mexico (who is not merely an establishment of a distinct person viz. ABC Ltd. India, in accordance with the Explanation 1 in section 8 of the IGST Act) to supply a part of the services (say 40% of the total contract value). ABC Ltd. India shall be the exporter of services for the entire value if the invoice for the entire amount is raised by ABC Ltd. India. The services provided by XYZ Ltd. Mexico to the US based client shall be import of services by ABC Ltd. India and it would be liable to pay IGST on the same under reverse charge and also be eligible to take ITC of the IGST so paid. Further, if the provisions contained in section 2(6) of the IGST Act are not fulfilled with respect to the realization of convertible foreign exchange, say only 60% of the consideration is received in India and the remaining amount is directly paid by the US based client to XYZ Ltd. Mexico, even in such a scenario, 100% of the total contract value shall be taken as consideration for the export of services by ABC Ltd. India provided IGST on import of services has been paid on the part of services provided by XYZ Ltd. Mexico directly to the US based client and RBI (by general instruction or by specific approval) has allowed that a part of the consideration for such exports can be retained outside India. In other words, in such cases, the export benefit will be available for the total realization of convertible foreign exchange by ABC Ltd. India and XYZ Ltd. Mexico.

Section 122(1)

- | | |
|--|--|
| <ul style="list-style-type: none"> (i) Supply without issuing invoice or false/ incorrect invoice (ii) Issued invoice without supply (iii) ITC availed without receipt of Goods/ Services (iv) Tax collected but not paid within 3 months (v) Tax collected in contravention but not paid within 3 months (vi) fails to deduct tax u/s 51 (TDS) (vii) fails to deduct tax u/s 52 (TCS) (viii) fraudulently obtains refund (ix) takes or distributes ITC in contravention of Section 20 i.e. being an ISD , improperly ITC taken or distributed (x) fails to obtain registration even though liable to register (xi) furnishes false information w.r.t. registration or subsequently (xii) Issued invoice or document by using the registered number of another registered person | <ul style="list-style-type: none"> (xiii) Suppresses turnover (xiv) falsifies or substitutes financial records or produces fake accounts or documents (xv) transports taxable goods without documents (invoice/delivery challans and e-way bills) (xvi) obstructs or prevents an officer in discharge of his duties (xvii) tampers or destroys material evidence or documents (xviii) fails to keep, maintain or retain books of accounts (xix) fails to furnish information or document or furnishes false information (xx) supplies, transport or stores any goods liable to confiscation (xxi) disposes off or tampers any goods that have been detained or seized or attached |
|--|--|

Penalty u/s 122(1) = ₹ 10,000/- or Tax, W.I.H.

Sec 122(2)

Tax Not Paid
Tax Short Paid
ITC wrongly availed
Erroneous Refund

Without Fraud Wilful Misstatement
Suppression of facts

10,000
or
10% x Tax

W.I.H.

With Fraud Wilful Misstatement
Suppression of facts

10,000
or
100% x Tax

W.I.H.

Sec 122(3)

aids or abets in any of the above 21 offences

receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;

fails to issue invoice in according to the provisions of this Act fails to account for an invoice in his books of account.

acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or any goods which he knows are liable to confiscation.

fails to appear before the officer, when summoned.

Penalty = Extend upto ₹ 25,000/-

Sec 123 : Penalty for failure to furnish information return.

Information Return u/s 150(1)/ (2) is not filed
↓
Commissioner shall serve notice to defaulting person u/s 150(3) to furnish the info within a period not exceeding from 90 days from date of service of notice
↓
If said person fails to furnish info return within the time specified in notice
↓
Penalty = ₹100/day → (Max = ₹ 5000).

Sec 124 :Fine for Failure to furnish Stastics

If any person Without reasonable cause fails to Furnish such Information/return u/s 151 Wilfully furnishes any info /return which he knows to be false
↓
Fine - Extend up to ₹10,000 (+)
In case of continuing offences = ₹100/day (Max = ₹ 25,000).

Sec 125: General penalty

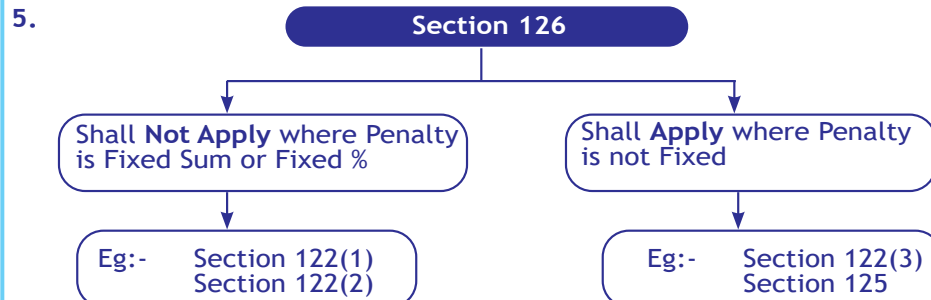
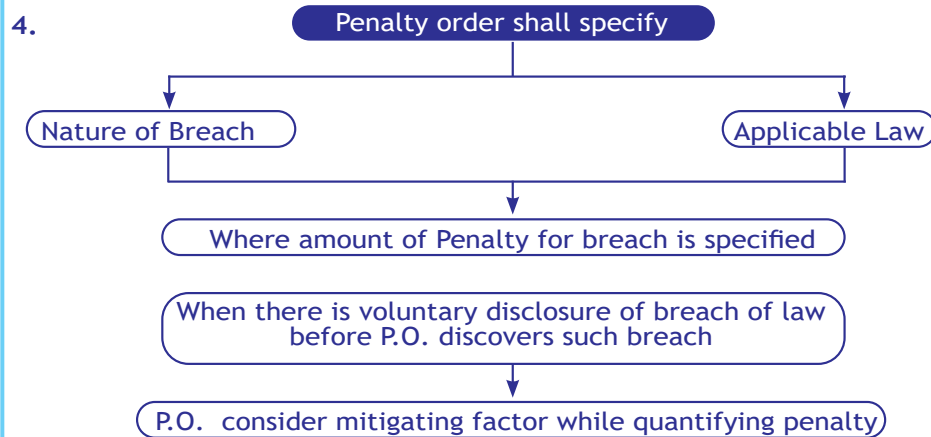
Sec 125 = General Penalty = Extend upto ₹25,000

Sec 126: General discipline related to penalty

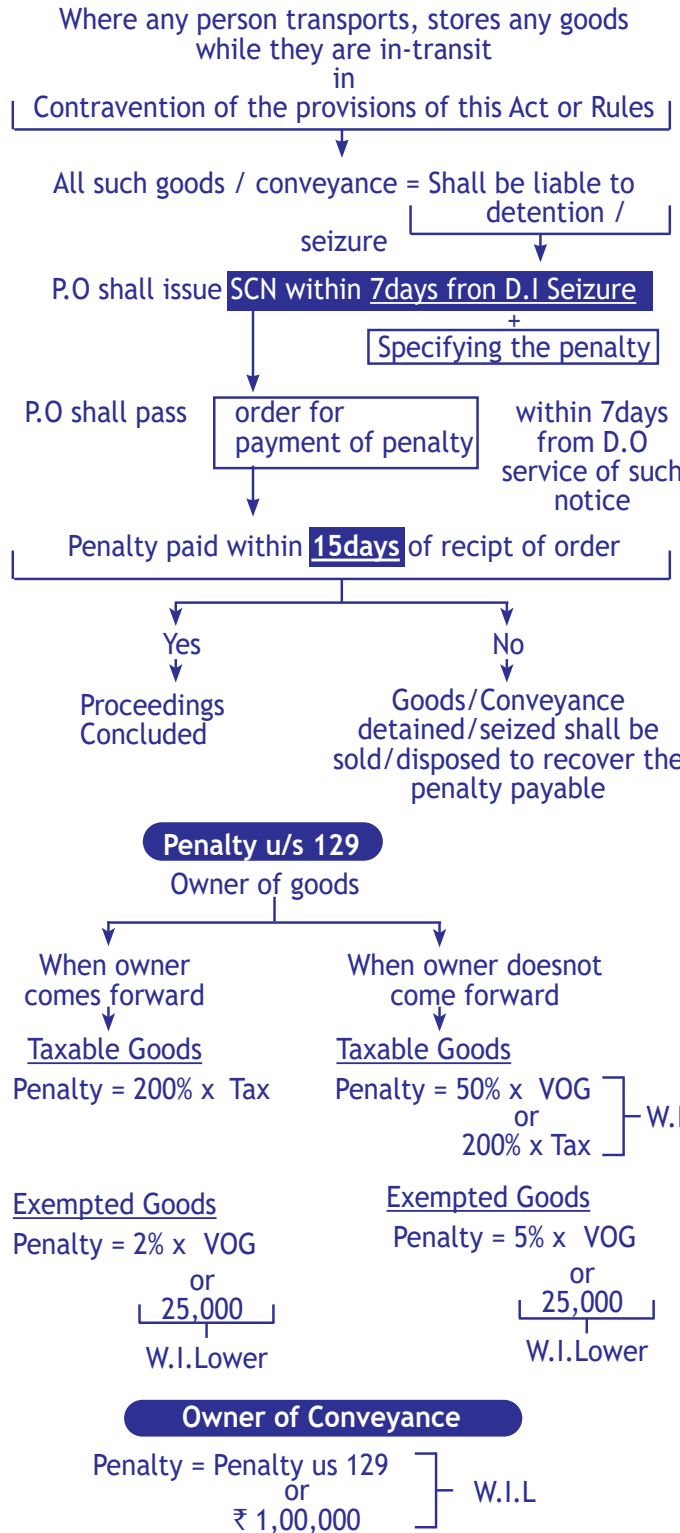
1. **No officer shall impose penalty**
 Minor Breaches of Tax Regulations or Procedural requirements → Minor Breach :- Tax Amount involved < ₹ 5000
 Any omission or mistake in documentation which is easily rectifiable and made without any fraudulent intent or gross negligence



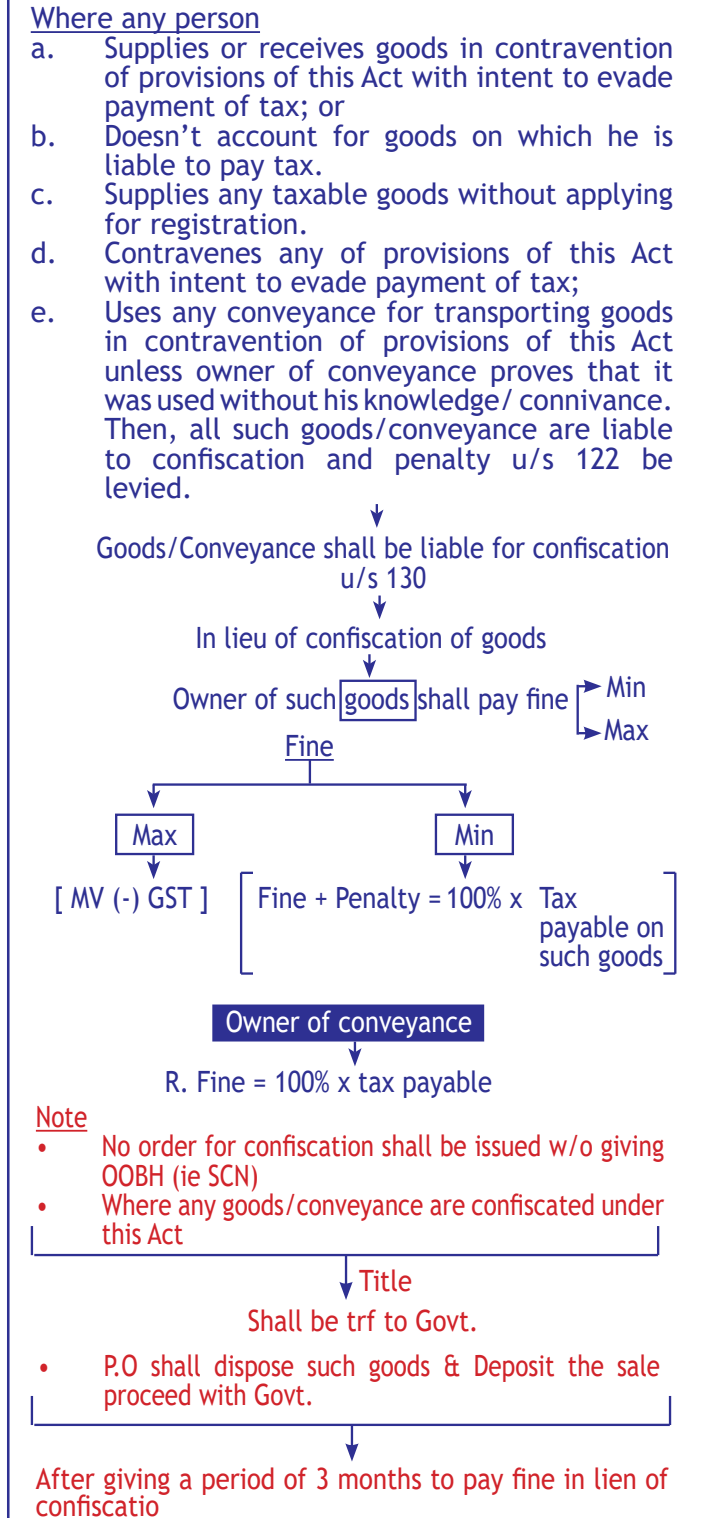
3. **No Penalty WITHOUT giving opportunity of being heard**



SECTION 129:



SECTION 130:



SECTION 132:

(a) Supply of G/Sr w/o Invoice	(h) Acquires possession / Transports / Removes supplies / purchases Goods liable for Confiscation
(b) Issue invoice w/o Supply G/S	(i) receives supply that he knows / reasons to believe that are in contravention of provision of this act.
(c) Avails ITC on basis of invoice w/o G/Sr. or fraudulently avails ITC u/s w/o any invoice.	(l) Commits / Abets any offence u/s 132(1)(a) to (f), (h), (i)
(d) Collects tax but fails to pay beyond a period of 3 months.	
(e) Evades Tax/fraudulently obtains refund & where such offence is not covered under clause (a) to (d).	
(f) Falsifies financial records Fake A/cs. Falso info	

} to evade tax

Offence & Prosecution

1 Arrest - Sec 69

Offence u/s 132(1), (a), (b), (c), (d) where Tax evasion > 2 crores

2 Cognizable & Non - Cognizable Offence = 132 (5)

Offence u/s 132(1), (a), (b), (c), (d) Where Tax evasion > 5 crores → Cognizable & Non bailable
Any other case - Non cognizable & bailable

3 Offences committed u/s 132(1)(a)/(b)/(c)/(d)/(e)/(h)/(i)/(l)

Tax Evasion

More than 5 cr
More than 2 cr upto 5 cr

Imprisonment

upto 5 years + Fine }
upto 3 years + Fine } Min Imprisonment = 6 m

Offence committed u/s 132(1)(b)

Issuance of Invoice without supply leading to wrongful availment / Utilization of ITC / Refund of tax

Tax Evasion
More than 1Cr upto 2cr

Imprisonment
upto 1Yr (+) Fine } Min* 6m

Offence committed u/s 132(1)(f)

Falsify a/cs, records, information with an intention to evade tax

Tax Evasion
No limit

Imprisonment
Upto 6m or Fine or both

For second & every subsequent offence

Tax Evasion
No limit

Imprisonment
upto 5yrs & Fine } Min* 6m

Section 133

OFFENCES COMMITTED BY GST OFFICERS AND CERTAIN OTHER PERSONS (SEC 133)

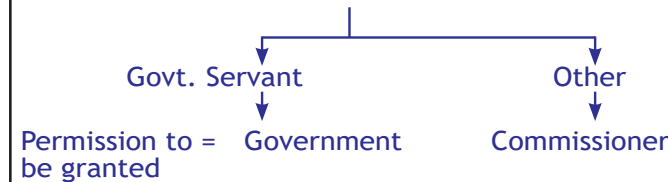
OMISSION/DEFAULT: - Wilfully discloses any info or contents of return otherwise than:-

1. in execution of his duties
2. for the purpose of prosecution for an offence

DEFAULT BY:

1. Any person engaged in collection of Statistic u/s 151 or compilation or computerization or
2. Any officer or Central tax having access to info. u/s 150(1) or
3. Any person engaged in connection with the provision of service on common portal or agent of common portal

PUNISHMENT: - Imprisonment upto 6 months or fine upto 25,000 or both



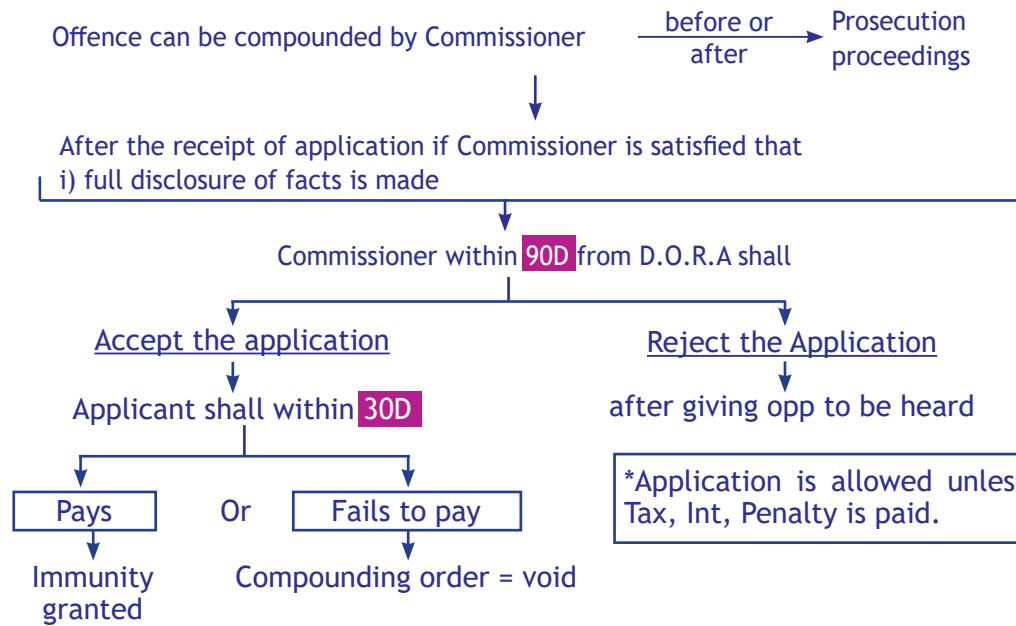
Section 137

OFFENCE COMMITTED BY	PERSON GUILTY	Nothing contained in this section shall render any person liable to punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.
1. company	Director, Manager, Secretary or other person if it is proved that offence has been committed :- a) with his consent/ connivance b) he is attributable to any negligence	
2. partnership firm or llp or trust	Partner OR Karta Or Managing Trustee	

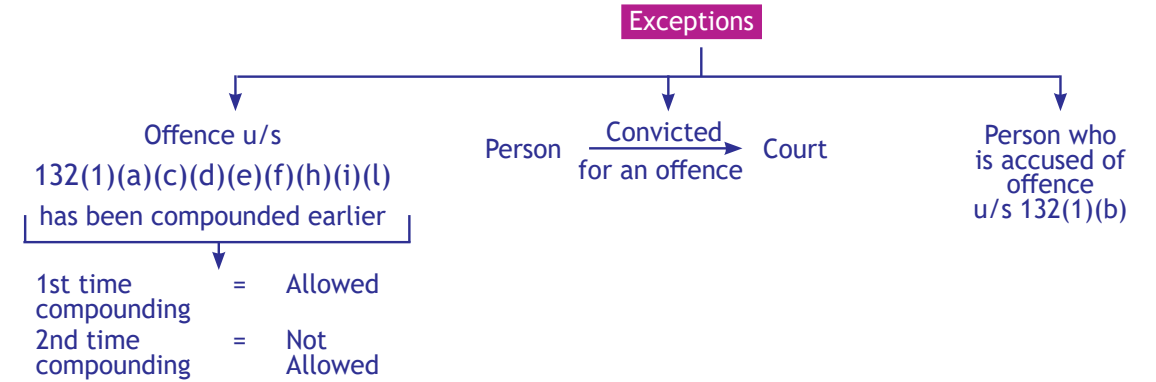
* Min 6m in absence of special & adequate reasons to the contrary to be recorded in judgement of Court.

DORA = Date of receipt of application

Sec138 : Compounding of offences

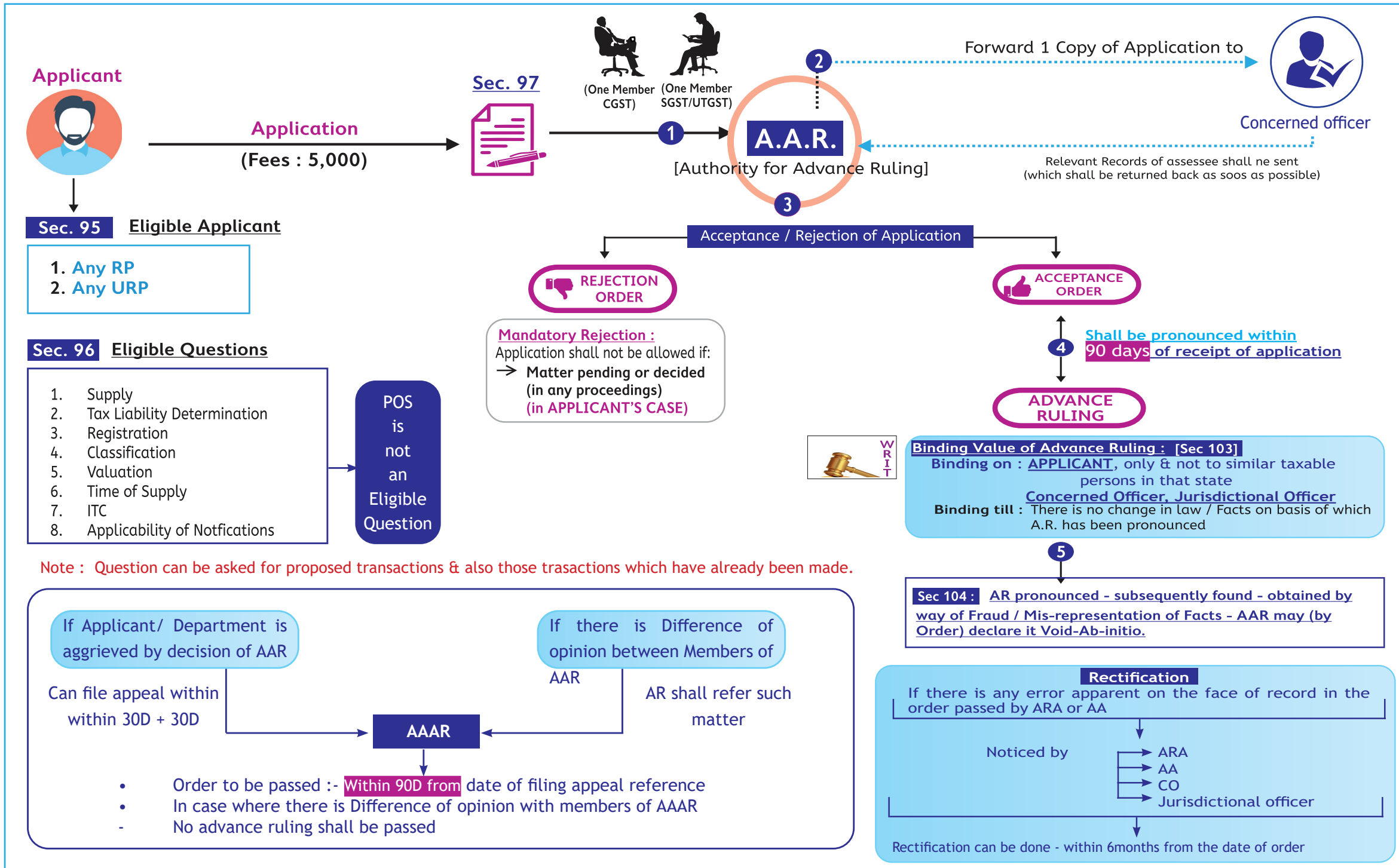


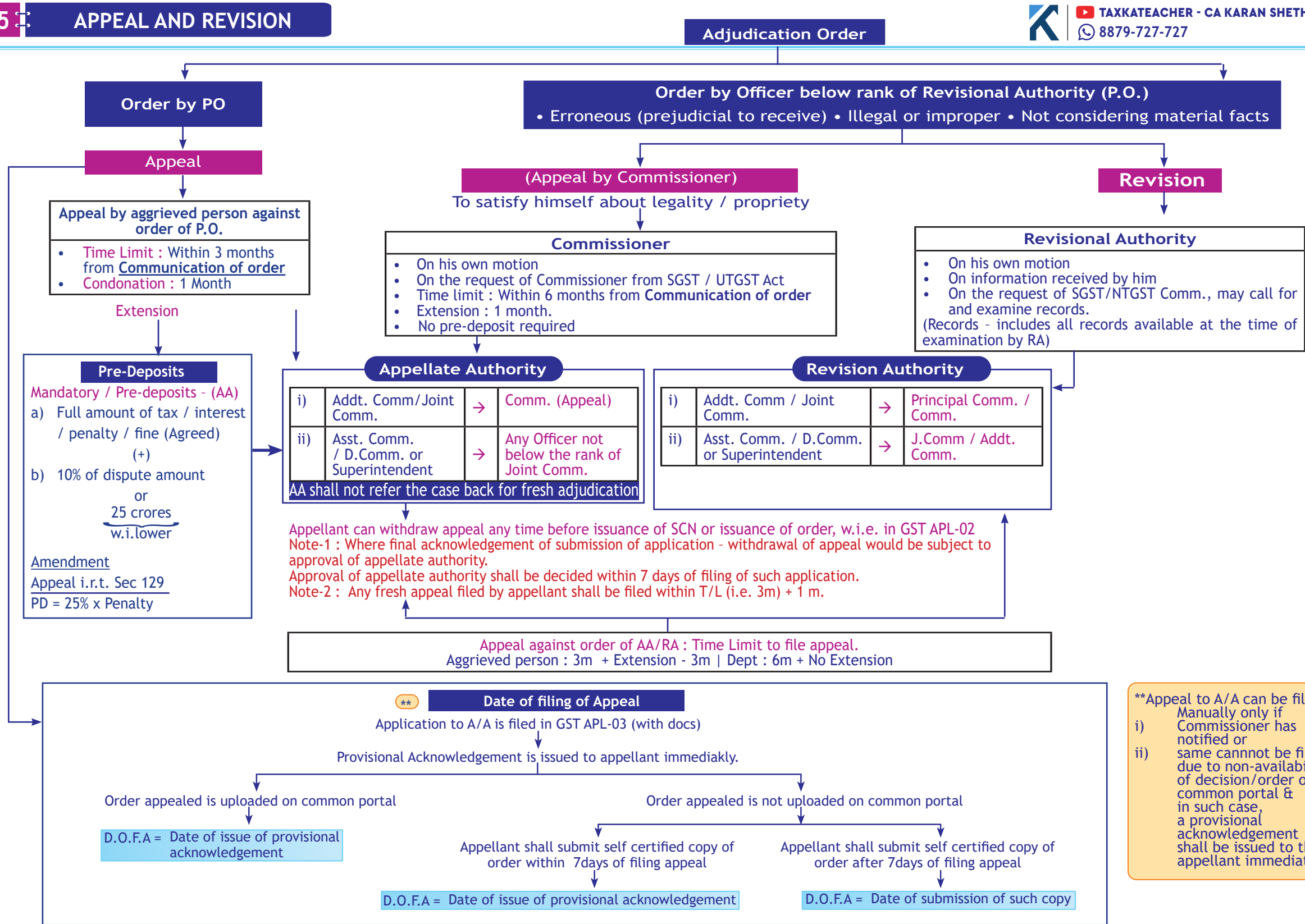
Sec 138 : Any offence under this act can be compounded by Commissioner (before or after institution of prosecution)



Compounding amount

	Compounding amt if	Compounding amt if
Offences	Amt > 5Cr. Involved u/s 132(1)(i)	Amt > 2Cr. upto 5Cr. Involved u/s 132(1)(ii)
Offences u/s 132(1)(a)(c)(d)(e)	Max → 75% x tax evaded or Min → 50% x tax evaded	60% x tax evaded or 40% x tax evaded
Offences u/s 132(1)(f)(h)(i)	→ 25% x tax evaded	25% x tax evaded
Offences u/s 132(1)(l) ie. Aids/Abets any offence above	→ 25% x tax evaded	25% x tax evaded





****Appeal to A/A can be filed - Manually only if**

- i) Commissioner has notified or
- ii) same cannot be filed due to non-availability of decision/order on common portal & in such case, a provisional acknowledgement shall be issued to the appellant immediately.

Revisional Authority

⇒ RA Cannot revise following orders

- Order subject to appeal before AA/AT/HC/SC*

RA may pass an order on any point not raised in any appeal before AA/AT/HC/SC, before expiry of :

- Order having period before 6 months, and after 3 years from communication of order
- Order already taken for revision
- Revisional Order

* 1 year from date of order in appeal, (or)

* 3 year from date of initial order, whichever is later.

Pre-Deposits

Mandatory Pre-Deposits (AA)

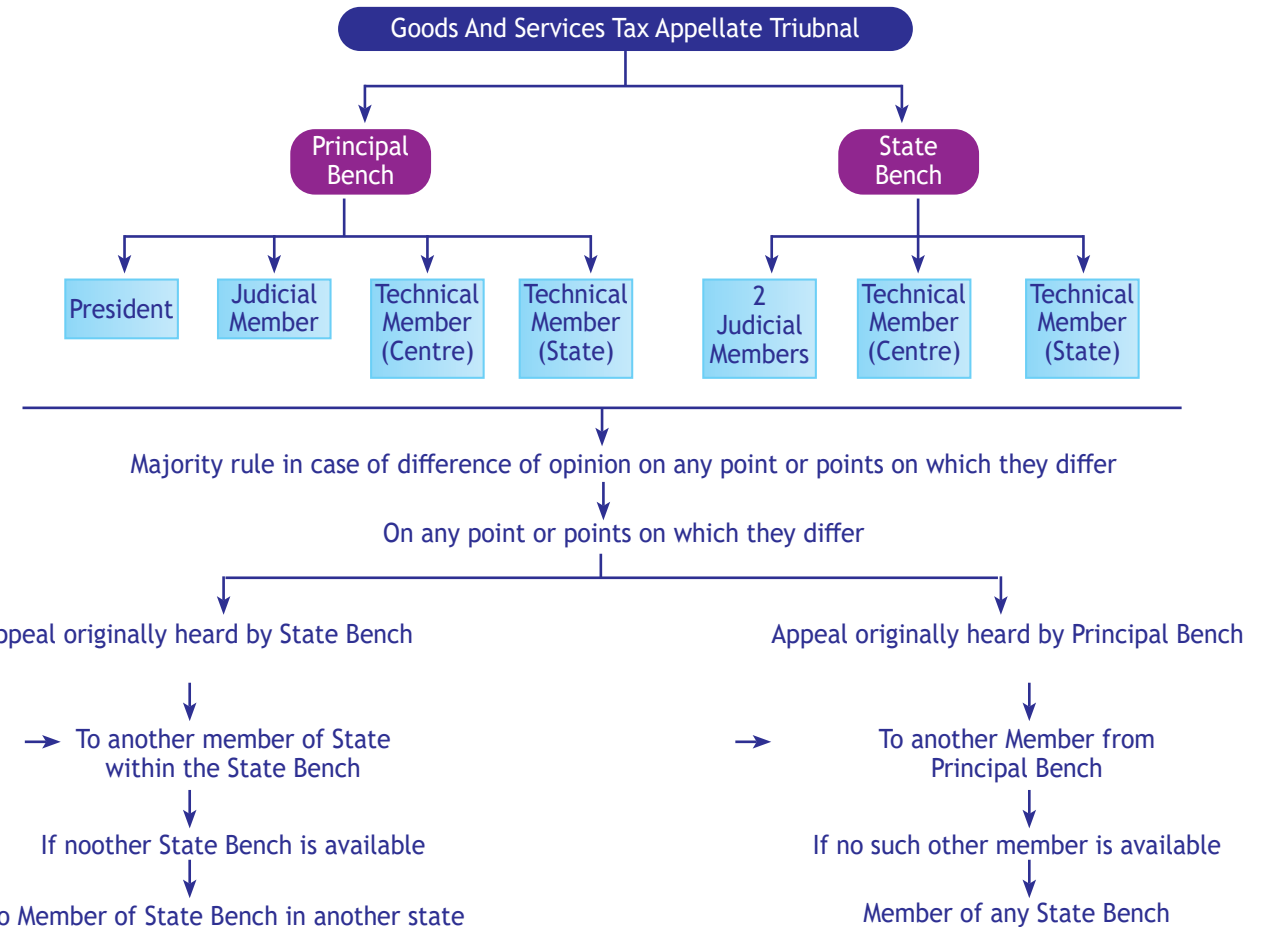
- Full amount of tax / interest / penalty / fine (Agreed) (+)
- 20% of dispute amount or 50 crores
w.i.lower

Appellate Tribunal (AT) (GSTAT)

Principal Bench	State Bench
Jurisdiction : to hear appeals against the order passed by the AA or the RA in the cases where one of the issues involved relates to the place of supply.	Jurisdiction : to hear appeals against the orders passed by the AA or the RA in the cases involving matters other than POS.
<ul style="list-style-type: none"> • AT can refuse an appeal, where - amount of tax or ITC or difference in tax or ITC/fine / fees / penalty determined by such order less than 50,000/- • Memorandum of cross objection can be filed (within 45 days from receipt of notice) in (Condonation - 45 days) • Refer the case back to the AA or to the RA, or to the original adjudicating authority, for a fresh adjudication. 	

Hearing by Single Member if appeal amount is upto 50 lakhs

- No Question of law is involved
- Prior Approval of President



Any Such points / Points shall be decided taking into account majority opinion including opinion of members who heard the case first

Order of AT

Rectification Order by AT

AT may amend any order passed by it so as to rectify any error apparent on the face of the record if such error is

- noticed in the order by its own accord, or
- is brought to its notice by the
 - CGST/SGST/NTGST Commissioner or
 - the other party to the appeal Within a period of 3 months from the date of the order.
- If amendment has the effect of enhancing an assessment or reducing a refund or ITC or otherwise increasing the liability then party has been given an opportunity of being heard.

If order is of AT (National Appellate Tribunal / Regional Tribunal), where disputed point is POS

Appeal shall lie to SC against an order passed by the National Tribunal / Regional Tribunal

If order is of AT (State Tribunal / Area Tribunal), where disputed point is other than POS

Appeal shall lie to High Court against an order passed by the State Bench or Area Benches of Tribunal

Supreme Court (SC)

PD = 100% x Disputed Tax dues
T/L = No Time-limit to file appeal.

Appeal shall lie to SC against an order passed by the HC where HC certifies to be a fit one for appeal to the Supreme Court.

High Court (HC)

- Pre-deposit : 100% x Disputed Tax dues
- Time limit : Within 180 days from date of order appealed against is received by commissioner
- Question of Law : The HC may admit such appeal if it is satisfied that the case involves a substantial question of law.
- Appeal shall be heard by bench of not less than 2 Judges.

If there is Diff of opinion, one or more Judges of HC shall be heard & decision shall be taken by majority:

Rule 112 - Production of Additional Evidence before AA/AT

Appellant shall not be allowed to produce before the AA or the AT additional evidence, whether oral or documentary.

Exception : In following cases, production of Additional Evidence shall be allowed :

- Adjudicating Authority / AA refused to admit evidences, ought to have been admitted,
- Appellant was prevented by sufficient cause from producing evidences called by Adjudicating Authority / AA
- Appellant was prevented by sufficient cause from producing evidences relevant to any ground of appeal to Adjudicating Authority / AA.
- Adjudicating Authority / AA has made order appealed against, without giving sufficient opportunity to appellant to produce evidences

Additional Evidence : Means evidence other than the evidence produced by him during the courts of the proceedings before the adjudicating authority or as the case may be, the AA.

Sec.116 - Authorised Representative

Authorised Representative :

- Relative / regular employee,
- Advocate / CA/ CMA/CS,
- Retired Officer of Tax Department (Group B Officer upto 2 years)
- GST practitioner

Disqualification for Authorised Representative :

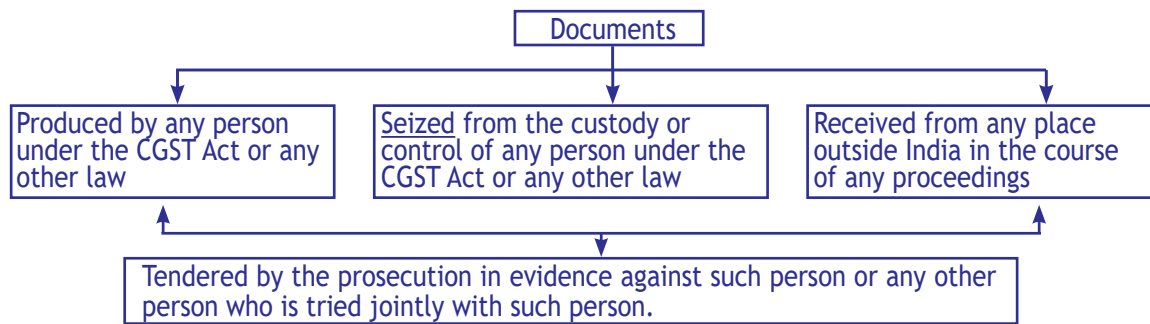
- Person dismissed / removed from Government Service
- Person convicted any offence under law
- Person found guilty of misconduct
- Person, who is insolvent

Section 121 - Orders - against which appeal can not be filed

Order - against which appeal can not be filed :

- Order of Comm. / Other - for transfer of proceeding from one officer to another officer
- Order of seizure / retention of books, docs etc.
- Order sanctioning prosecution
- Order u/s. 80 related to payment of tax / interest etc. in instalments

Section 144 : Presumption as to documents in certain cases



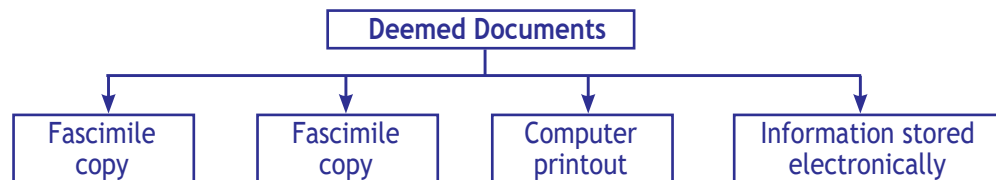
Court of law Presumes:

- truth of the contents of the document
- that the signature which purports to be in the handwriting of any particular person is in that person's handwriting
- execution or attestation in the document has been made by the person

If said person claims it to be false

Burden of proof shall lie with him

Section 145 : Admissibility of micro films, facsimile copies of documents and computer printouts as documents and as evidence



Such documents shall be admissible in any proceedings under the Act, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

Section 159 : Publication of information in respect of persons in certain cases

Section 159 confers powers on the Commissioner for publishing names and other particulars of persons in certain cases.

What type of information can be published?	The name of any person and any other particulars relating to any proceedings or prosecutions under the Act in respect of such person.
Who can publish such information?	Commissioner
When can the information be published?	As it is necessary/expedient in public interest to do so.
What is the limitation on publication of information relating to penalty?	No publication under this section shall be made in relation to any penalty imposed under the Act: <ul style="list-style-type: none"> • until the time for presenting an appeal to the Appellate Authority under section 107 has expired (three months extendable to further one month) without an appeal having been presented; or • the appeal, if presented, has been disposed of

Section 161 : Rectification of errors apparent on the face of record

Section 161 provides for rectification of mistakes/errors apparent on the face of record by any authority. It may be noted that this section overrides the entire Act, except for the provisions of section 160 (discussed above).

Which documents are covered under section 161?	<ul style="list-style-type: none"> • Decision / Order / Any notice • Order • Certificate • Any notice • Any other document
Who can rectify the errors apparent on the face of record?	Any authority who has or issued any of the above may rectify any error which is apparent on the face of record in such documents
What type of mistakes or errors can be rectified?	Mistake apparent from record Note: decision on a debatable point of law is not a mistake apparent from the record.
When does the Authority rectify the mistakes/ errors?	The authority may rectify the mistake/error: <ul style="list-style-type: none"> • suo moto • a GST officer • When such error or mistake is brought to notice by the affected person within a period of 3 months
What is the time limit for rectification?	No rectification can be made after a period of six months from the date of issue of such decision. Exception: Such T/L shall N.A. = Clerical from accidental omission/Arthemtical errors
What type of precautions should be taken at the time of rectification?	Principles of natural justice should be followed by the authority carrying out such rectification, if such rectification adversely affects any person.

Section 170 : Rounding off of tax etc

Rounding off principle

Amount contains part of a rupee consisting of paise, and such part is fifty paise or more	Increase to one rupee
Amount contains part of a rupee consisting of paise, and such part is less than fifty paise	Ignore such part

Section 168 : Power to issue instructions or directions

Section 168 empowers the Board (CBIC) to issue orders, instructions or directions to the CGST officers for the purpose of uniformity in the implementation of the Act. A circular is binding on the officers, but not on the assessee. However, in case such circular states something contrary to the law, the law shall prevail over the circular.

- Binding effect of circular: officer & Not on assessee

Section 168A : Power of government to extend time limit in special circumstances

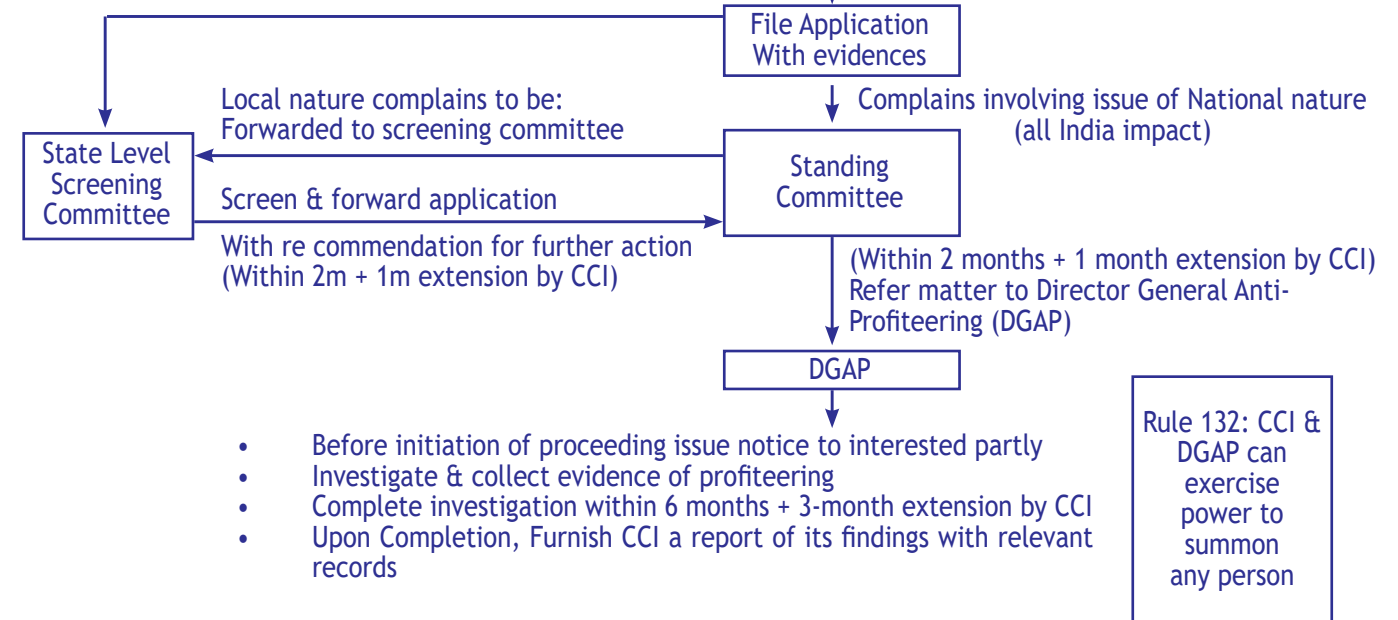
The Government is empowered to extend the time limits provided under the CGST Act in respect of actions which cannot be completed or complied with due to force majeure. Here, force majeure means war, epidemic, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature affecting the implementations of provisions of the CGST Act. This power can also be exercised retrospectively.

New Section 158A

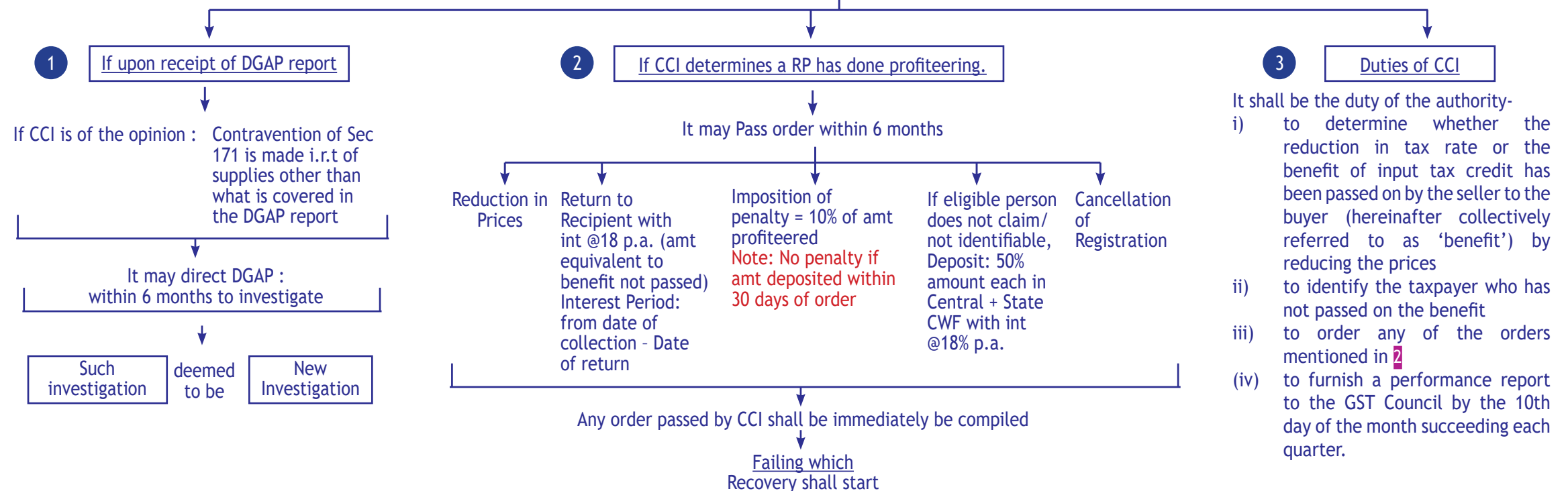
Full details can be shared by common portal with other systems as notified by Govt.

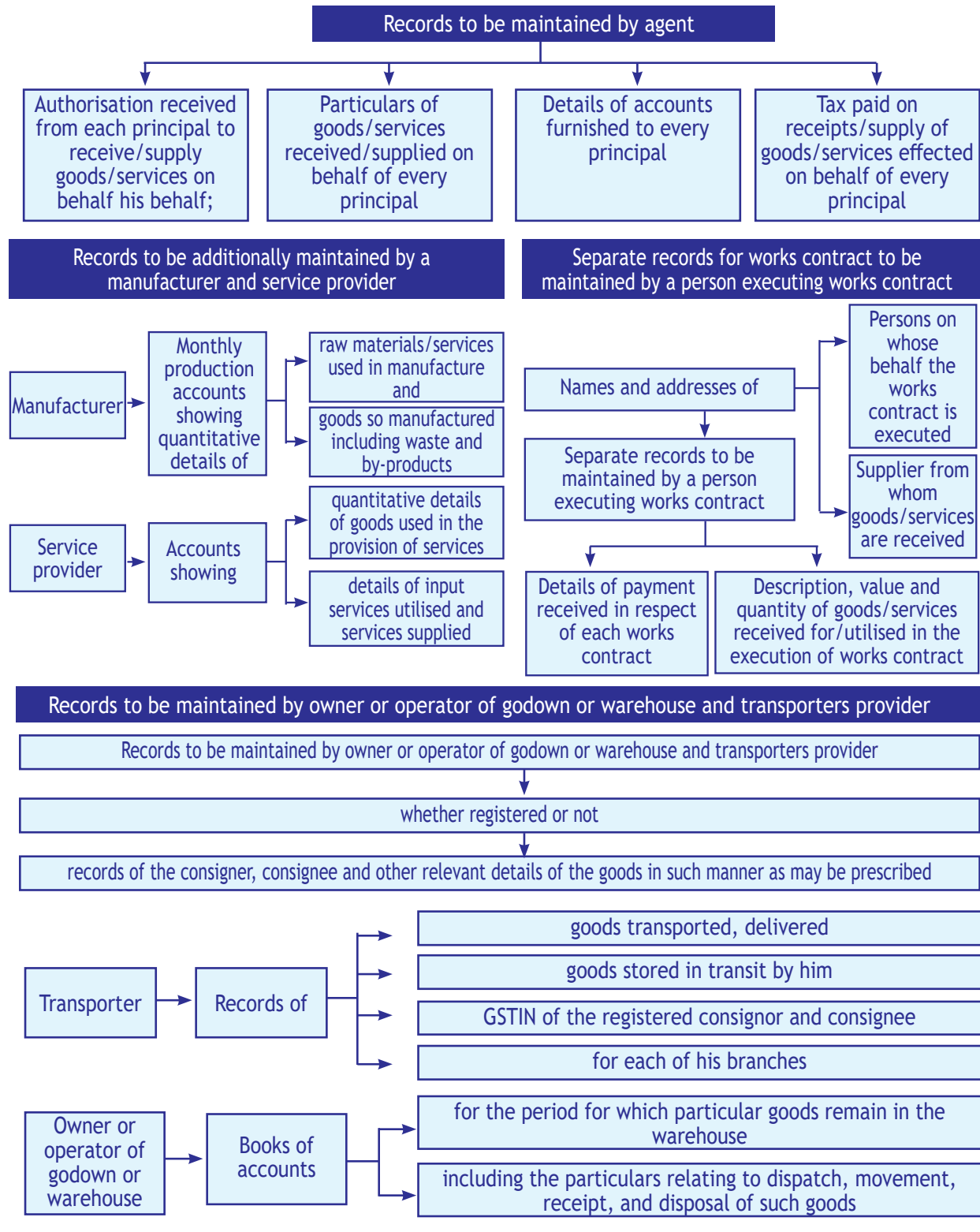
- 1) a) Particulars furnished
 - application for registration u/s 25
 - Return filed u/s 39
 - Annual Return of 44.
 - b) Particulars uploaded on common portal for preparation of invoice, Details of outward supplies furnished in GSTR-1
Particulars uploaded on common portal for generation of document u/s 68.
 - c) details as prescribed
- 2) Consent shall be obtained of
 - Supplier i.r.t (a)(b)(c)
 - Recipient i.r.t (b)(c)
 - 3) No action shall be taken against Government / Common Portal w.r.t any info shared under this section.

Complainant: Consumer/Organization/Supplier/Trader/Retailer
Complain that are of local nature



Competition Commission of India (CCI)





How the accounts and records will be maintained?

Records in electronic form be authenticated by a digital signature	Proper electronic back-up of records be maintained and preserved
Records in electronic form (Books of account include any electronic form of data stored on any electronic device.)	
Such records need to be produced, on demand, in hard copy or in any electronically readable format	Details of files, their passwords and explanation for codes, and any other info required for access

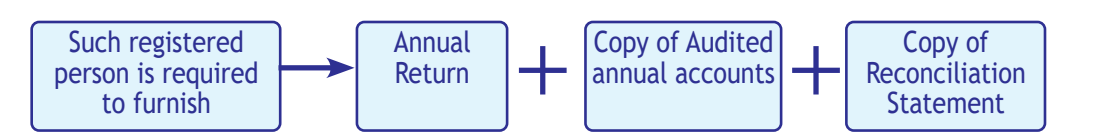
- No entry to be erased/overwritten
- Incorrect entries, other than those of clerical nature, be scored out under attestation and there after correct entry be recorded.
- In case electronic records beng maintained, a log of every entry edited or deleted shall be maintained.
- Books of account maintained manually be serially numbered
- Books of accounts, are required to be produced, on demand.

Audit of accounts

A registered person must get his accounts audited if his aggregate turnover during a FY exceeds ₹ 2 crores

Exception

No audit of books of accounts of the CG/SG/LA provided the same are subject to audit by CAG of India or any statutory auditor appointed for auditing the accounts of LA



Failure to maintain the accounts

- Failure to maintain the accounts
 - PO shall determine the tax payable on the unaccounted goods and/or services, as if the same had been supplied by such person
 - Provisions of section 73/74 shall, mutatis mutandis, apply for determination of such tax

Period of retention of accounts

72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records

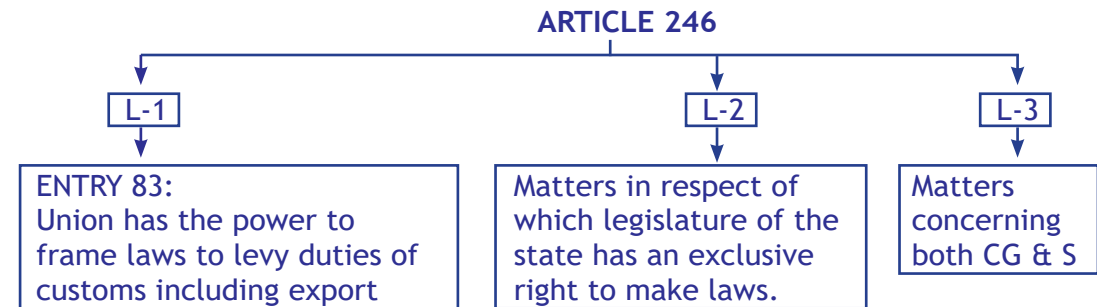
Where an appeal/ revision/ any other proceedings before any Appellate/Revisional Authority or Appellate Tribunal or Court, or an investigation is going on

1 year after final disposal of such appeal/revision/proceedings/investigation or **72 months** from the due date of furnishing of annual return for the year pertaining to such accounts and records whichever is later

History:

1. The term 'customs' derives its colour and essence from the term 'custom', which means a habitual practice or course of action that characteristically is repeated in like circumstances.
2. Kautiliya's Arthashastra also refers to shulka (Customs Duty) consisting of import duty and export duty to be collected at the city gates on both goods coming in and going out. Subsequently, the levy of tax on goods imported into the country was organised through legislation during the British period.

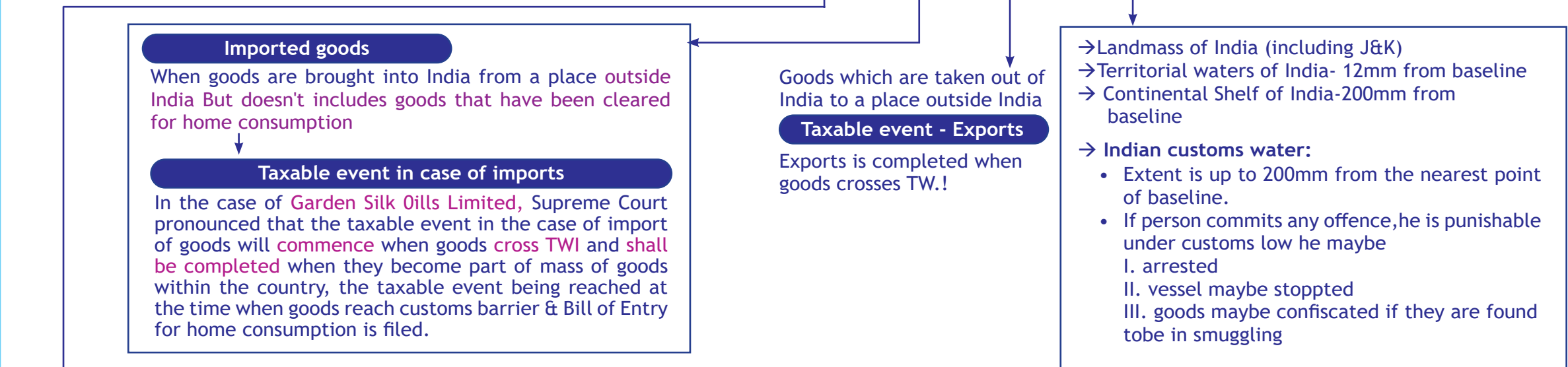
Constitutional provision



Charging Section 12

Section 12(1)

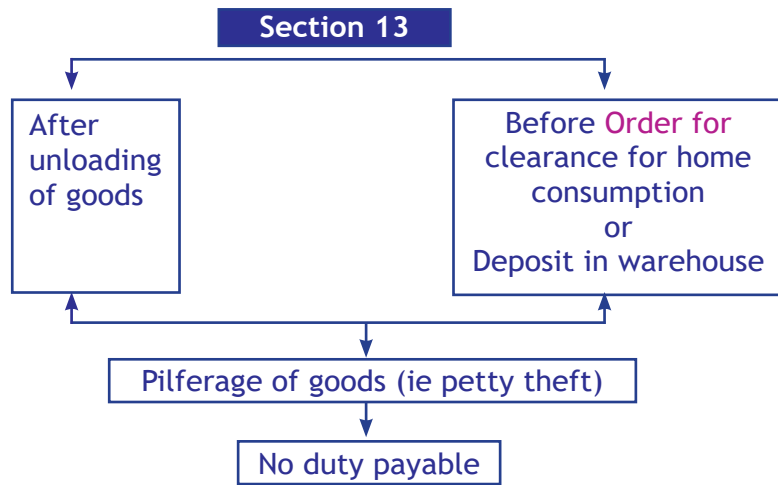
Duties of customs shall be levied at such rates as maybe specified under CTA, 1975 on goods, imported / exported from India



Goods:

GOODS includes ...				
1) Conveyance	2) Stores	3) Baggage	4) Currency & negotiable instruments	5) Any kind of movable property
Includes *vessel *aircrafts *vehicles (including trains)	Goods used on board a vessel or an aircraft Example foods, drinks, medical items, etc. <u>Includes</u> spare parts fuel	Personal luggage of passengers or crew members <u>Includes</u> unaccompanied baggage <u>Excludes</u> Motor vehicles	Importer or exporter shall disclose what amount of currency is brought taken by him It is included in goods for monitoring reasons.	Includes intangibles also imported in physical media

In the case of Associated Cement Companies, it has been held that intangibles are also goods as the phrase any other kind of moveable property· has wider connotation. Thereby concluding that software in CD-s or pen drive if imported or exported shall also be considered as goods.

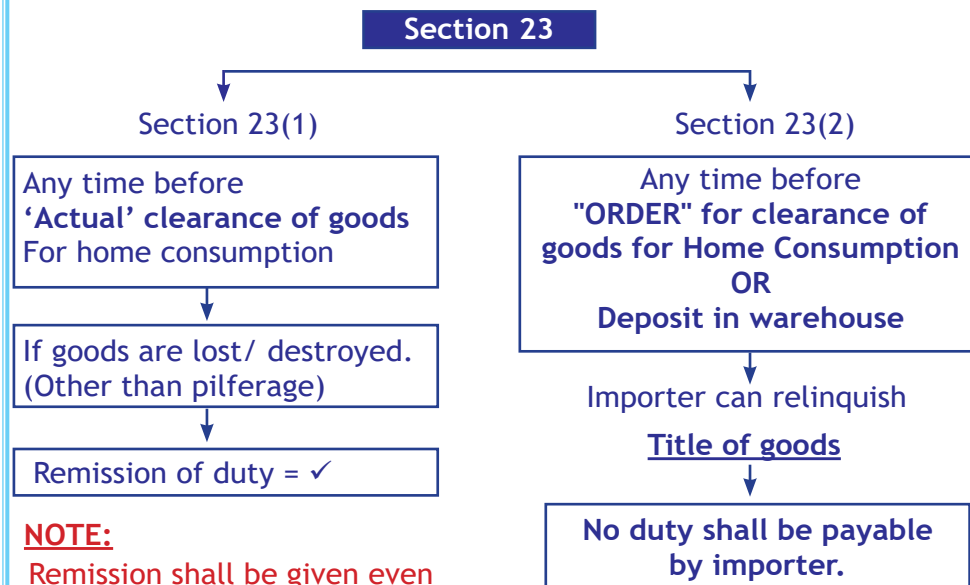


Note:
Instead of importer, Custodian shall pay duty, If good are pilfered

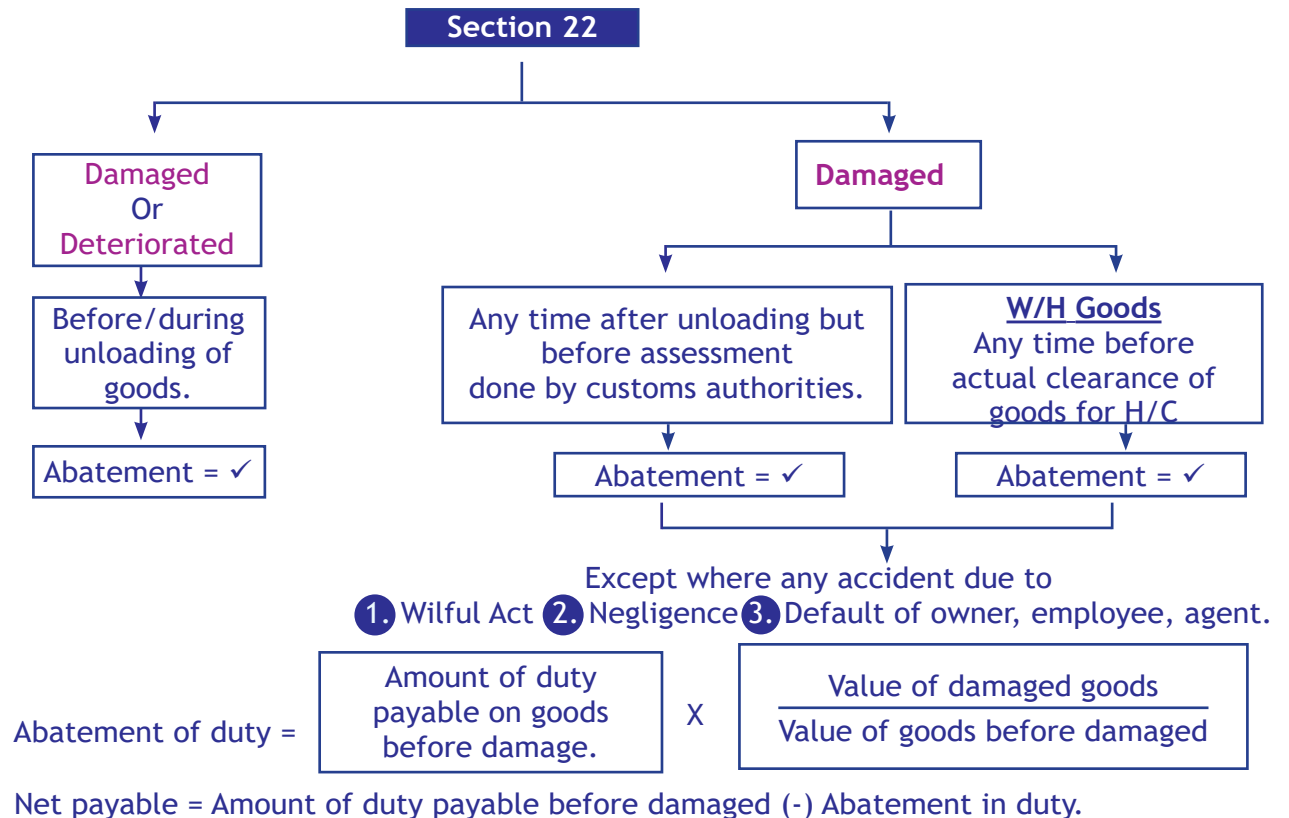
Applicable rate of duty = Rate prevailing on the date of delivery of Import Manifest /Report

In case goods are restored to be duty payable = Importer

If goods are pilfered i) before unloading of goods
ii) after order for clearance for H/C or WH } **Sec 13 = NA**



NOTE:
Remission shall be given even if goods are Lost/ Destroyed in warehouse.



Section 24 Denaturing or Mutilation of goods

→ If any imported goods can be used for more than one purpose and duty is leviable on the basis of its purpose of utilisation, then denaturing or mutilation of such goods is useful. By denaturing, goods are made unfit for other purposes. After denaturing process goods can be used only for one purpose and accordingly duty can be levied.

→ Eg:- Imported Ethyl alcohol has two purpose i) $\left[\begin{matrix} \text{Medicinal} \\ \text{Liquor} \end{matrix} \right] - 50\%$
ii) Mutilated Ehtyle alcohol only usable for medicine purpose - 10%

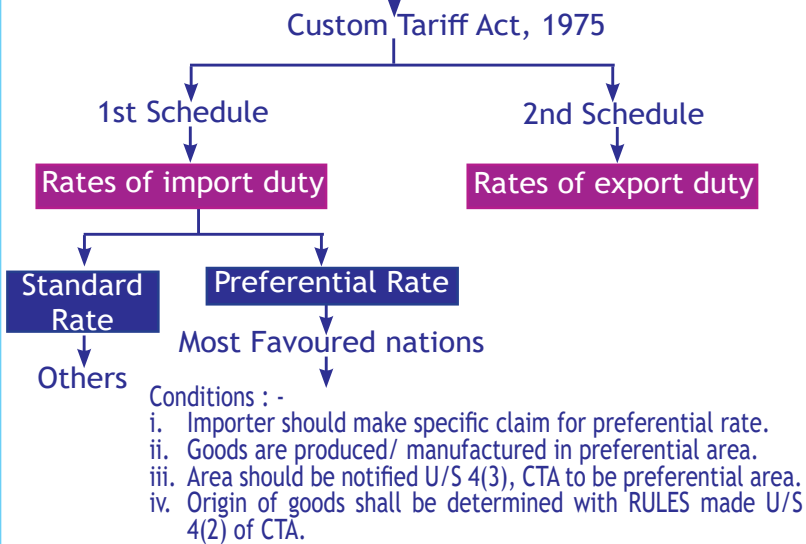
If Importer denatures ethyl alchol & makes it unfit as liquor then now since it has only medicinal purpose it will be subject to such rate-10%, only.

Section 21

<u>Derelict</u> ↓ Any cargo, vessel, etc. abandoned in the sea with no hope of recovery.	<u>Jetsam</u> ↓ goods jettisoned (thrown) from the vessel to save her from sinking.	<u>Flotsam</u> ↓ Jettisoned goods which continue floating in the sea	<u>wreck</u> ↓ cargo vessel / any property which are cast ashore by tides after ship wreck
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are coming / brought into India $\xrightarrow{\text{Considered}}$ they are imported into India, Import duty = ✓

BASIC CUSTOM DUTY (BCD)



CVD u/s 3(1)

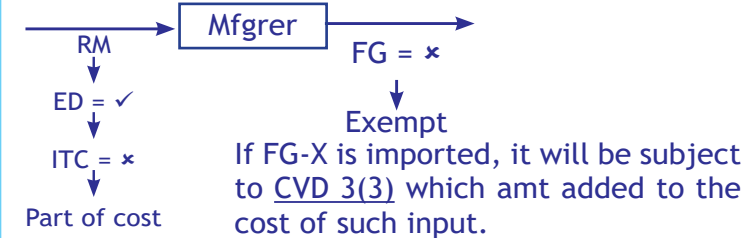
CVD = Excise duty on like article if manufactured/Produced in India

Applicability

- CVD u/s 3(1) =
- i) 5 petroleum Products
 - ii) Tobacco
 - iii) Alcohol liquor for human consumption

Rate of CVD = Rate of ED

CVD u/s 3(3)



CVD u/s 3(5) → Special CVD

Special CVD = VAT
Special CVD Rate = 4% (Max)
Applicability : 5 Petroleum Products
Alcoholic liquor for human consumption

CVD u/s 3(7) = IGST

Rate of CVD 3(7) = IGST Rate on like kind article not exceeding 40%

CVD u/s 3(9) = GST Compensation Cess

SAFEGAURD DUTY

When any article in India is imported in increased quantity (+)
Causes threat to domestic industry

→ **SGD** = AV x SGD RATE

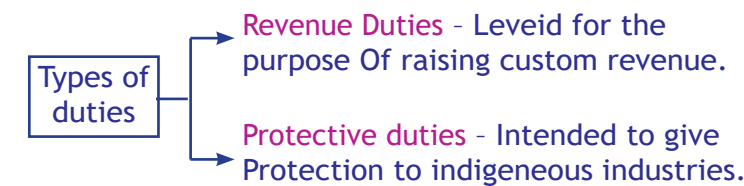
→ **Duration** : 4 years from date of its imposition (Max 10 years)

Provisional Assessment

Imposition = 200 days (max) from date of imposition

If upon final assessment it is determined that duty should not have been imposed, it shall be **refunded**

Section 6 & 7: Protective duties



- Levied by CG on recommendation of Tariff commission to protect interest of domestic industries (Effective upto date specified in 1st Schedule).
- Protective duty deemed to be specified in 1st schedule.
- If notification issued, CG shall introduce Bill in parliament during next session for continuance of protective duty. Notification shall cease to have effect on expiry of **6 months from date of introduction** in parliament if it doesn't become law.
- CG may Reduce/Increase duty by notification.
- In case of increase - parliament approval.

SWS = SOCIAL WELFARE SURCHARGE

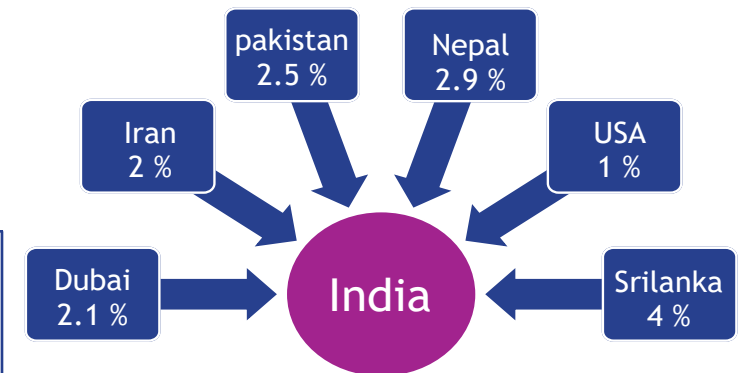
→ SWS @10 % x BCD
→ SWS is used to finance, education, health, social security

Agriculture infrastructure & development cess on import of certain items

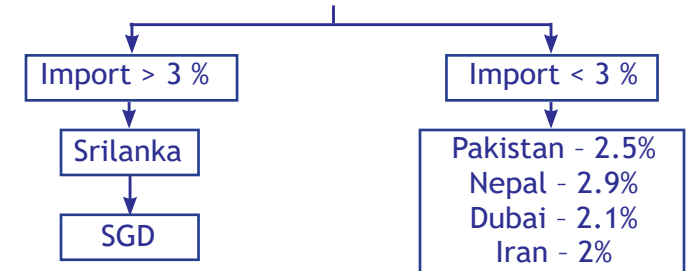
- Levied on specified goods @notified rates (apple, gold, silver)
- This cess is used to finance the improvement of agriculture infra & other development expenditure

Exemption from SGD

- 1 Articles originating from developing country, so long as share of imports of that article from country doesnot exceed 3% x total imports of article into India
- 2 Articles originating from more than one developing country: Articles originating from more than one developing country, so long as the aggregate of imports from developing countries each with less than 3% import share taken together does not exceed 9% of the total imports of that article into India.



Import form Developed country = (USA) =SGD.
Import form Developing countries



Aggregate of countries that individually import less than 3% But exceed 9% in aggregate. (ie.9.5%)

SGD = Levied On import from all the above county.

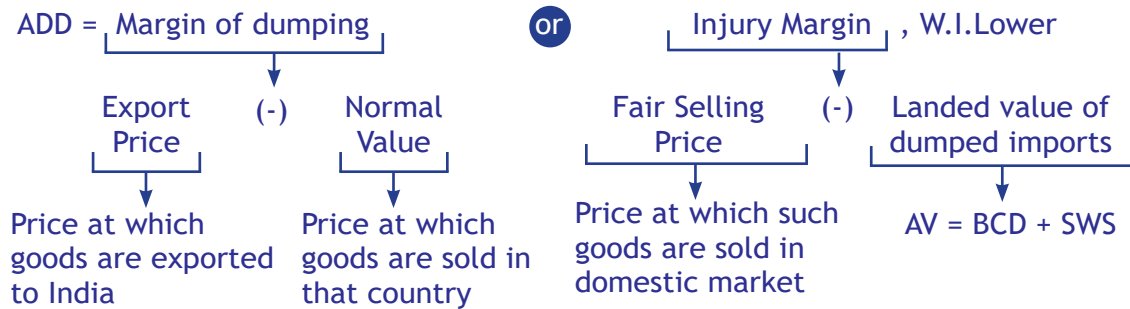
3



Unless

- (1) Specifically made applicable to them OR
- (2) Article imported has been cleared into DTA

Anti Dumping Duty



When there are no domestic sales

* Normal = Comparable representative Price of like article when exported from exporting Value country to a third country.

Provisional ADD - Later refunded if collected in excess

Retrospective Effect - Not beyond 90 days from date of such notification

DURATION - Effective = 5 yrs (No max period), unless revoked

Review to be done before 5 yrs period expires as to whether extension to be done or not

If such review is not concluded within such 5 yrs then ADD shall continue to be inforce for another 1 year

SEC 9AA: Refund of Anti dumping duty

If importer proves that excess duty paid , refund available subject to unjust enrichment

SEC 9B: no levy u/s 9 or 9A

- i. ASD & ADD ≠ levied together.
- ii. ASD & ADD ≠ levied just because origin country grant refund of duties/ taxes.
- iii. ASD & ADD ≠ levied if imports from WTO/MFN Unless it is proved that import of article in India causes/threatens matetial injury.
- iv. Provisional ASD & ADD ≠ levied on any article imported from specified country Unless preliminary finding have been made of such subsidy/dumping injuring domestic industry.

(ii),(iii) & (iv) mentioned above = NA.

The points (b), (c) and (d) mentioned above shall not be applicable in a case where countervailing or anti-dumping duty has been imposed on any article to prevent injury or threat of an injury to the domestic industry of a third country exporting the like articles to India.

Section : 9C APPEAL

Appeal can be preferred to CESTAT when aggrieved by ADD/ASD within 90 days
Fee = ₹ 1500

Section 9: countervailing duty on subsidized article.

Conditions to be satisfied:

- a) Any country, pays or bestows subsidy upon the manufacture or exportation of any article. Such subsidy include subsidy on transportation of such article.
- b) Such article are imported into India.
- c) The importation may/ may not directly be from the country of manufacture/ Production.
- d) The article, may be in the same condition as when exported from the country of manufacture or production or may be changed in condition by manufacture, production or otherwise.

CVD = subsidy or injury margin → Whichever is lower
(Max CVD shall not exceed subsidy)

Ways that constitute circumvention of CVD: -

- i. By altering the description or name or composition of the article on which such duty has been imposed.
- ii. By import of such article in an unassembled or disassembled form.
- iii. By changing the country of its origin or export or
- iv. In any other manner, whereby the countervailing duty so imposed is rendered ineffective it may extend the countervailing duty to such other article also from such date, not earlier than the date of initiation of the inquiry, as the CG may, by notification in the Official Gazette, specify.

Countervailing duty shall not be levied unless it is determined that -

- (i) The subsidy relates to export performance;
- (ii) The subsidy relates to the use of domestic goods over imported goods in the export article; or
- (iii) The subsidy has been conferred on a limited number of persons engaged in the manufacture, production or export of articles.

FORMAT FOR SOLVING NUMERICAL QUESTIONS

Assessable value	XX
(+) Basic Custom Duty	XX
(+) Protective duty	XX
(+) SWS @10% on 'BCD'	XX
(+) Safegaurd Duty (levied on assessable value)	XX
(+) Anti dumping duty (as per notification)	XX
(+) CVD on subsidized articles (as per notification)	XX
	XXX-(a)
(+) IGST on ('a')	
(+) CESS on ('a')	XX
	XX
TOTAL	XXX

Section 3(8A) Of Customs Tariff Act, 1975

Valuation provisions for determination of IGST liability in case of final clearance of warehoused goods [as introduced by FA,2018]

GOODS SOLD TO ANOTHER PERSON WHO IS NOW CLEARING (Bond to Bond Transfer) - Sec 3(8A) OF CTA, 1975

- (a) Sec 3(8) Value: (ie AV u/s 14 + BCD + SWS + All other duties)
 - (b) Transaction Value (ie Re-sale price of goods sold in WH)
- } W.I.H

Illustrations:

1. Mr A (GST Registered trader) has imported - the transaction value of which as per section 14(1) is Rs. 50,000. He gets the goods deposited into customs bonded warehouse. BCD@10%, SWS@10%, IGST@12% Applicable

Determine the duty liability actually payable under the following situations

1. Mr A clears the goods from warehouse by filing 'bill of entry for home consumption (ex- bond bill of entry). Post clearance from customs, he resells the goods to Mr R (another GST registered trader) at 1,50,000 (GST extra, if any).

Ans:

Mr A clears the good from warehouse by filing 'bill of entry for home consumption (ex-bond bill of entry), Post Clearance from customs, he resells the goods to Mr R (another GST registered trader) at 1,50,000 (GST extra, if any).
Clearance from Customs By Mr A: - Computation of Duty/ Tax liability

<table border="1" style="margin: auto;"> <tr><th style="padding: 5px;">Mr A</th></tr> <tr><td style="padding: 5px;">output tax = 18,000 (1.5LX 127.)</td></tr> <tr><td style="padding: 5px;">(-) LTC = (6,660)</td></tr> <tr><td style="padding: 5px;">IGST</td></tr> <tr><td style="padding: 5px;">C/B = <u>11,340</u></td></tr> </table>	Mr A	output tax = 18,000 (1.5LX 127.)	(-) LTC = (6,660)	IGST	C/B = <u>11,340</u>	<table border="1" style="margin: auto;"> <tr><th style="padding: 5px;">Mr R</th></tr> <tr><td style="padding: 5px;">Mr R can avail ITC = ₹18,000</td></tr> </table>	Mr R	Mr R can avail ITC = ₹18,000
Mr A								
output tax = 18,000 (1.5LX 127.)								
(-) LTC = (6,660)								
IGST								
C/B = <u>11,340</u>								
Mr R								
Mr R can avail ITC = ₹18,000								

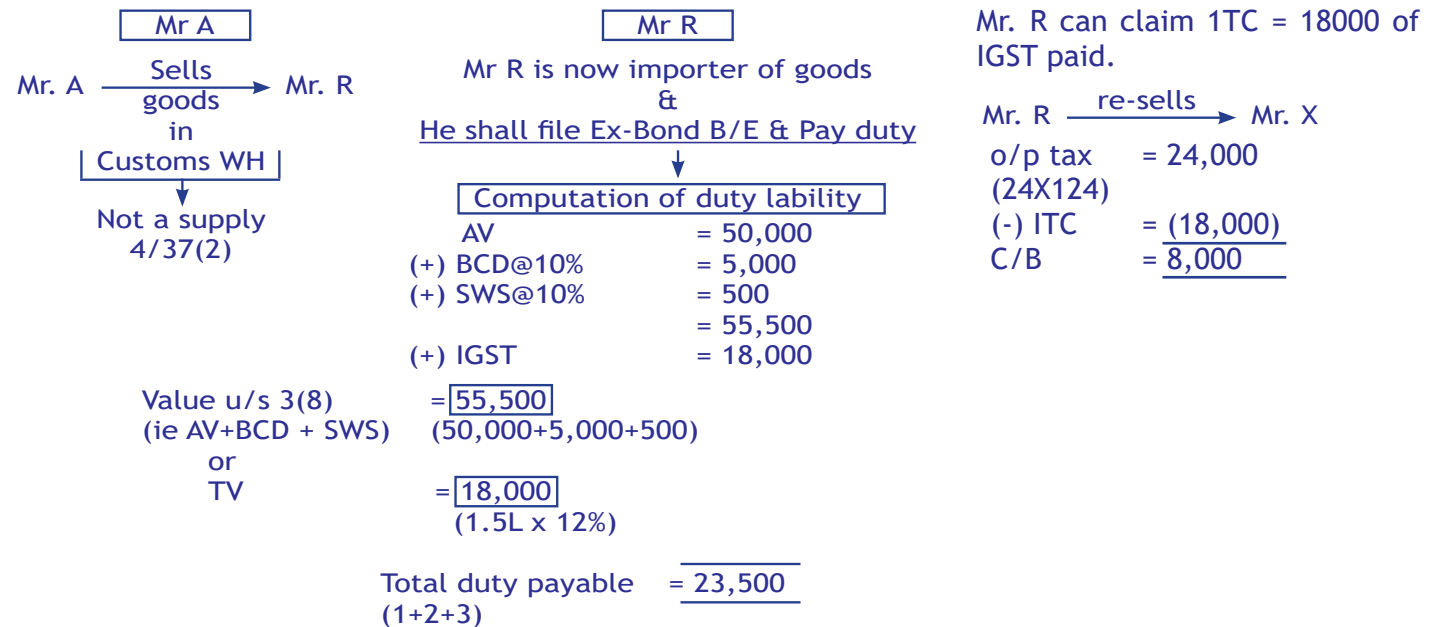
2. Mr A Resells the warehoused goods to Mr R (another GST registered trader) at 1,50,000 (GST extra, if any). Subsequently, Mr R clears the goods from warehouse by filing 'bill of entry for home consumption' (ex-bond bill of entry). Mr R resells the goods @2,00,000 (GST extra, if any) to Mr. X from its factory.

Ans.

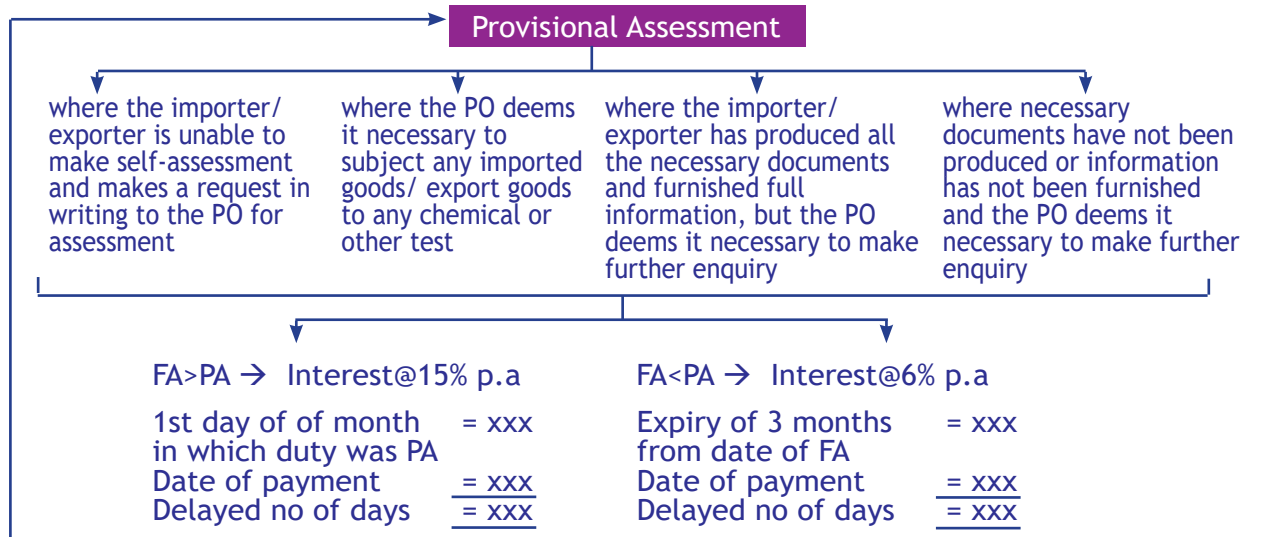
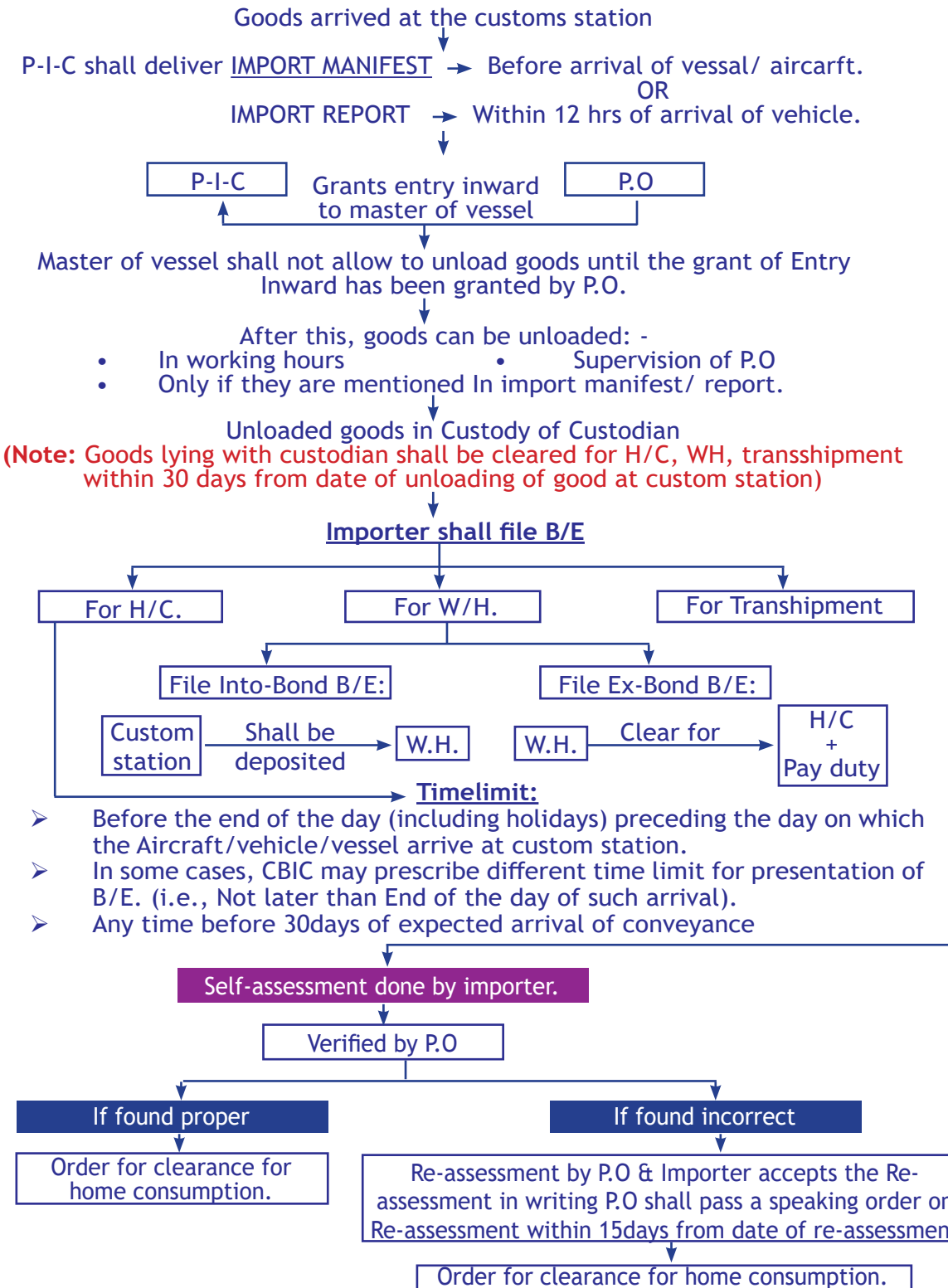
- Sale of warehoused goes without clearance from warehouse (Bond to Bond transfer of goods)
- Mr A will not be liable to any customs duty (as upon such sale, Mr R will step into shoes of importer and will be liable to pay duty/tax at time he clears such goods from warehouse).
 - Mr A will also not be liable to pay any GST on such sale of warehoused goods before clearance for home consumption it is not a supply u/s 7(2), CGST Act.

Clearance from Customs by Mr R: -- Computation of Duty/tax liability

	Duty/ tax	Rate	Value	Duty Amount (Rs)
Customs Duty	BCD	10%	50,000 [TV as per sec 14(1)]	5,000
	SWS	10%	5,000 [BCD]	500
GST	IGST	12%	Value as per Sec 3(8A) of CTA, 1975 = Higher of following 2 (a) Value as per sec 3(8) of CTA, 1975 = (AV+ BCD+SWS) (b) TV of such goods = 1,50,000 Thus, Value = 1,50,000	18,000 (1.5L x 12%)
Total Duty/ tax				23,500



Import procedure



Section 47: Clearance of Goods

- Where - the goods entered for home consumption are not prohibited + - Import duty and charges has been paid
- The PO can make an order permitting clearance of the goods for home consumption
- CG may permit certain class of importers to make deferred payment of duty. Importers who have been permission by CG in this respect are
 - Importers certified under Authorized Economic Operator programme as AEO (tier 2 & 3)
 - Authorised Public Undertaking
- On making clearance order, the BOE is presented to the custodian who delivers goods to importer
- Time limit to pay import duty:**
 - Self-assessment: Date of presentation of BOE
 - Provisional Assessment/Re-assessment/Assessment: Within one day (excluding holidays) from the date on which the BOE is returned to him by the PO for payment of duty
 - Deferred Payment: Due date as per rules specified in this behalf.
- Deferred Payment of Duty Rules, 2016**

Importer shall intimate: Paid duty for Bill Principal Commissioner/ (+) of Extry within (+) Commissioner of custom duedate

Paid differential duty for same Bill of Entry alongwith Interest on a/c of reassessment within one day (excluding holidays)

S No.	Goods corresponding to Bill of Entry returned for payment from	Due date of payment of duty, inclusive of the period (excluding holidays) as mentioned in section 47(2)
1.	1st day to 15th day of any month	16th day of that month
2.	16th day till the last day of any month other than March	1 st day of the following month
3.	16th day till the 31th day of march	31th March

Mandatory Electronic Payment of Duty

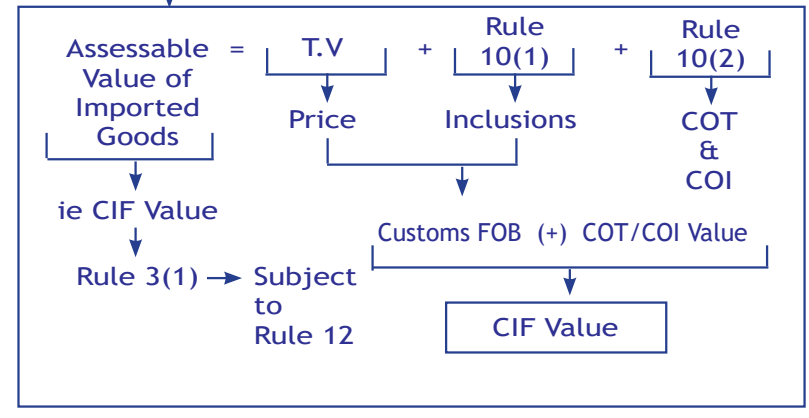
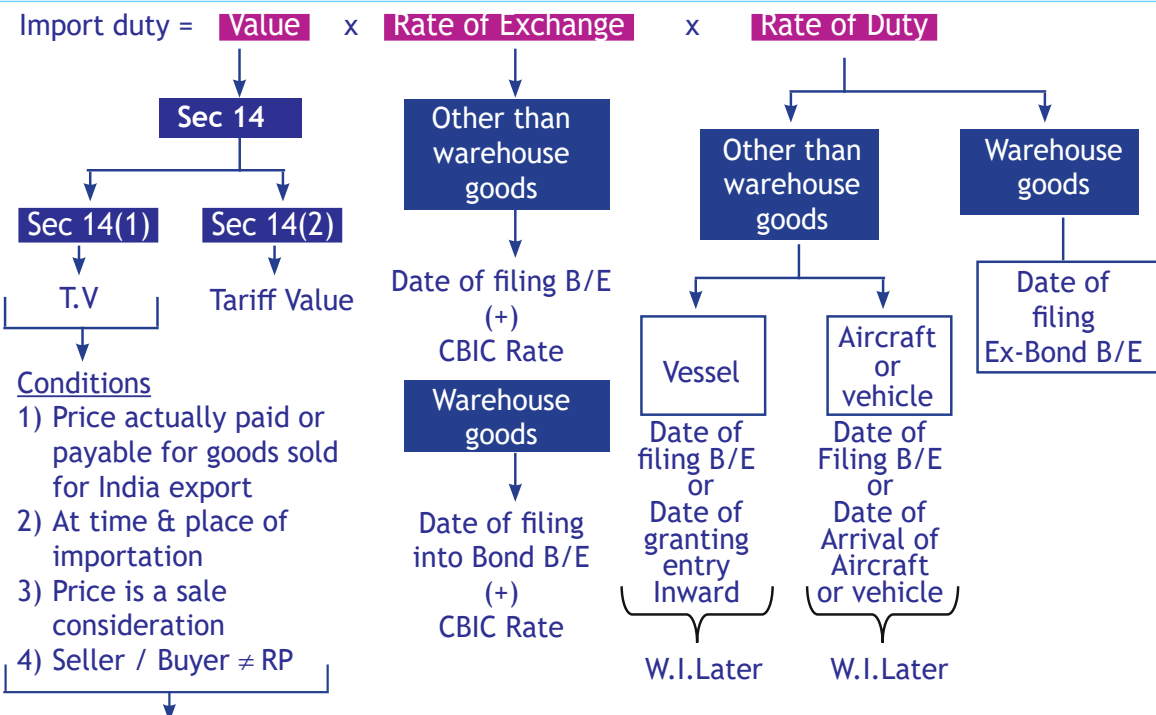
Importers registered under AEO (Tier 2 & 3) paying duty > = INR 10,000 per BOE

Deferred payment

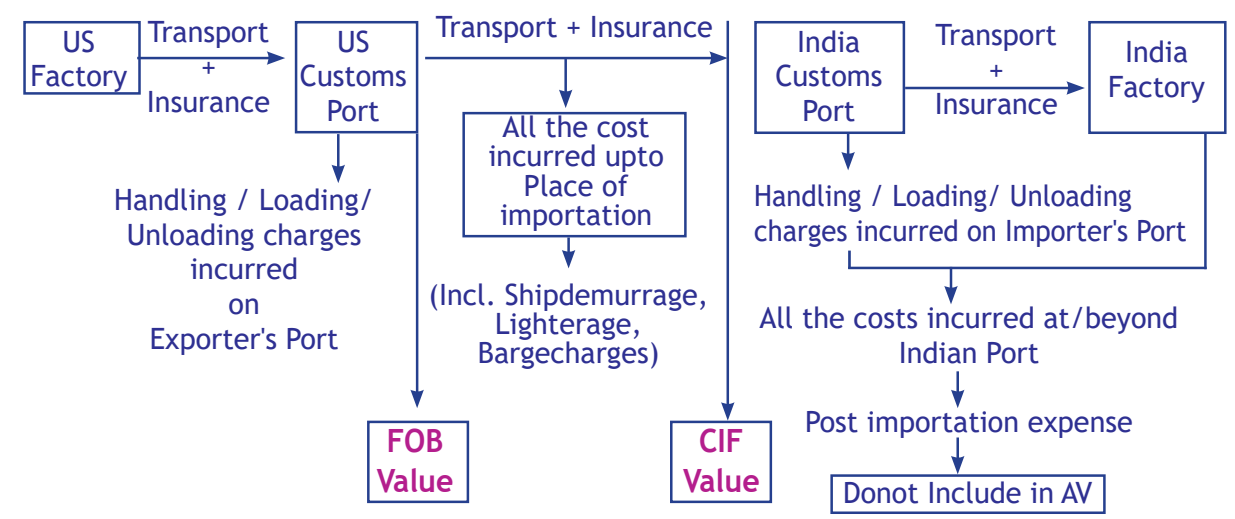
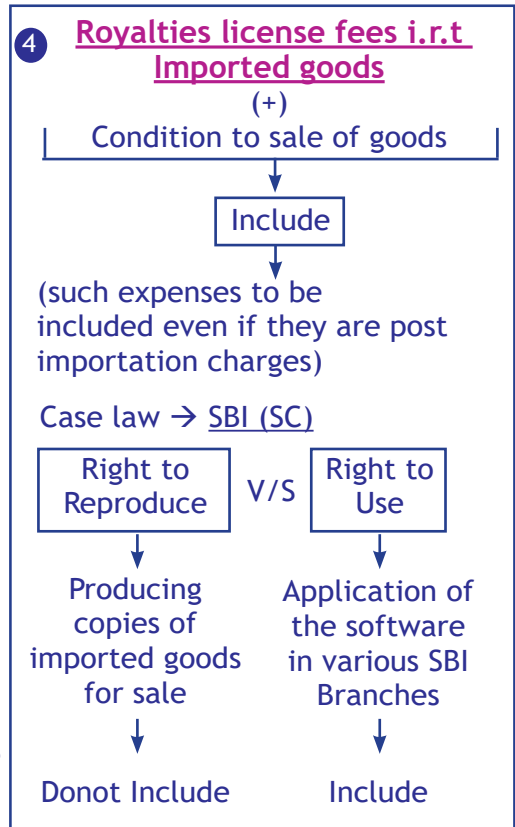
Deferred payment is not applicable = Default in Payment of duty is more than once in 3 Consecutive Months

Shall not be allowed unless Duty & (+) Interest, paid in full

*AEO - Authorized Economic Operator



- Rule 10(1)**
- Commission**
 - Selling Agent = Include 10(1)
 - Buying Agent = Donot Include
 - Canalizing Agent = Include (ie. Caselaw : Hyderabad Industries)
 - Cost of Containers** = Include
 - Free Assistance given by buyer**
 - Material parts, Tools dies moulds, Engineering development work, art work, plan sketches undertaken
 - In India - Donot Include
 - o/s India - Include



5 Process of subsequent resale disposal occurring to seller

Include 10(1)

Exception
Dividend from = Donot
buyer to seller Include
In TV

6 Other payments paid by buyer as a condition of sale

Eg.

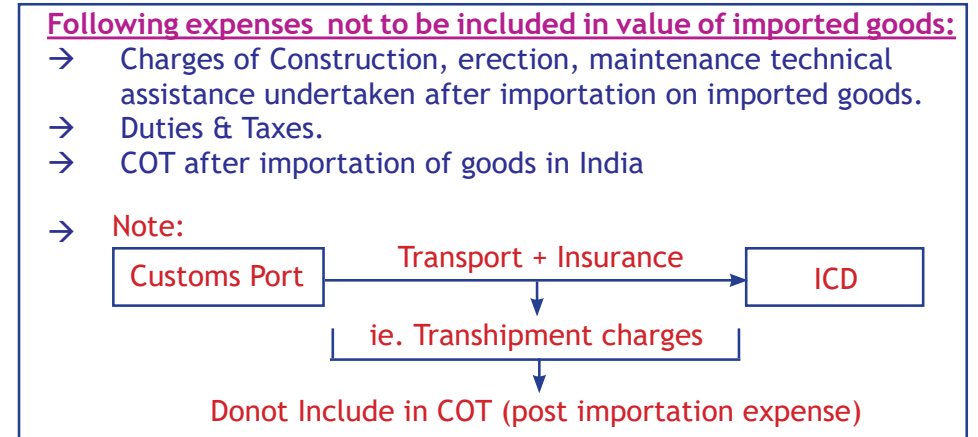
- 1) Installation charges
- 2) Technical know-how
- 3) Engineering charges

Include - (Even if they are post importation charges)

Caselaw :- Toyota Kirloskar Motor Pvt Ltd.

- 1) Seperate agreement was made for
 - i) Purchasing P&M
 - ii) Technical assistance to run the P&M.

Donot Include in Rule 10(1) as it is not a condition to sale



Rule 10(2)

	Actual amount ascertainable	Actual amount not ascertainable	
Cost of transport, loading, unloading and handling charges associated with delivery of imported goods to place of importation	Actual amount (However in case of import by air addition of cost of transport shall be restricted to max. of 20% of FOB)	FOB is ascertainable 20% of FOB	FOB + transit insurance is ascertainable 20% of total of FOB and transit insurance
Cost of insurance to the place of importation		FOB is ascertainable 1.125% of FOB	FOB + cost of transport is ascertainable 1.125% of total FOB and cost of transport

Rule 3

Rule 3(1)

Subject to Rule 12, the value of imported goods shall be the transaction value adjusted in accordance with prov. of Rule 10

Rule 3(2)

- TV of imported shall be accepted subject to following conditions.
- There are no restrictions as to the disposition or use of the goods by the buyer other than restrictions
 - Are imposed or required by law or by the public authorities in India or,
 - Limit the geographical area in which the goods may be resold or,
 - Do not substantially affect the value of the goods.
 - The sale or price is not subject to some condition or consideration for which a value cannot be determined in respect of the goods being valued.
 - No part of the proceeds of any subsequent resale, disposal or use of the goods directly or indirectly the seller, unless an appropriate adjustment can be made in accordance with the provisions of rule
 - The buyer and seller are not related.

Identical goods (IG) - (Rule 4)

Imported + Same physical features + Same producer + (if not available then others allowed)

Same country of production

same producer (if not available from other producer)

Similar goods - (Rule 5)

Imported goods + like features and component material/commercially interchangeable with imported goods + **same country of production** + same producer (if not available from other producer)

Rule 4/ Rule 5

Conditions:

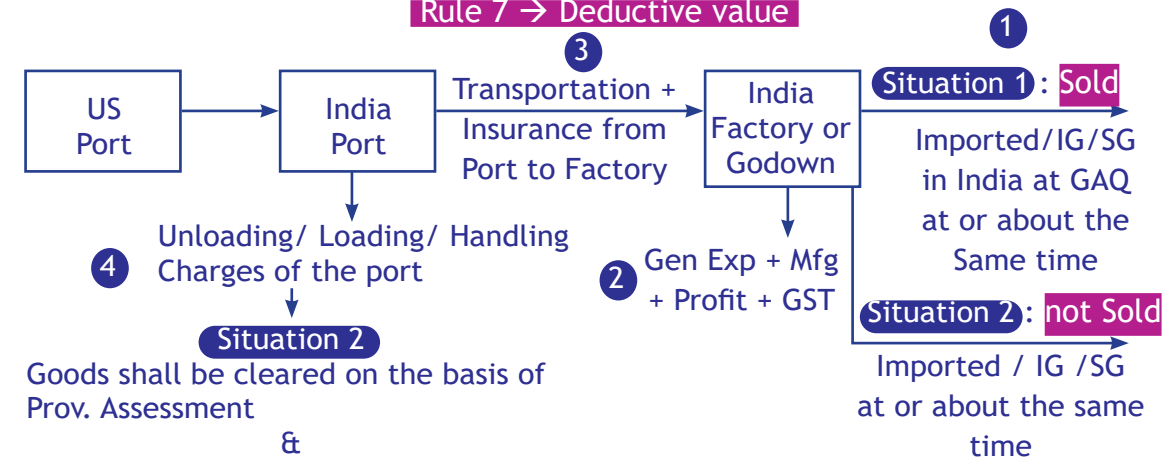
- IG/ SG are imported at or about same time.
- IG/ SG are imported substantial same quantity and commercial level, adjustment is allowed if there is any difference in quantity or commercial level
- Adjustment is allowed for rule 10(2) expenses
- If two or more TV of IG/ SG then take lowest TV

Rule 6

If value of imported goods cannot be determined under rule 4/5 then apply rule 7 then rule 8
But If importer requests to the P.O, he can apply rules 8 then rule 7.

(Determination of value of Imported Goods) Rule, 2017

Rule 7 → Deductive value



Goods shall be cleared on the basis of Prov. Assessment & Later its Final Assessment shall be done within 90 days of such importation as such Imported/ IG/SG shall be sold with such period.

Unit Price = xxx
(Sold @ GAV)

- (-) General Expense = (xx)
- (-) Manufacturer Expense = (xx)
- (-) COT & COI from port to factory = (xx)
- (-) UL/LC/HC on port = (xx)
- (-) Profit = (xx)
- (-) GST = (xx)

AV = xxx

GAQ = Greatest Aggregate quantity

(Rate at which highest qty of units are sold) → Eg: 1,00,000 units ₹80 → GAQ

Computed value (Rule 8)	Assessable value = Cost/value of materials used in producing the imported goods + Profits & general expenses + Other additions under Rule 10(2)
--------------------------------	---

Residual value (Rule 9)

Method : under residual method, value of imported goods shall be determined -
(a) using reasonable means,
(b) consistent with the principles and general provisions of these rules,
(c) on the basis of data available in India.

Basis shall not be considered: AV should not be selling price in India/ → highest price among multiple prices/ → price of the goods in the domestic market of the country of exportation/ → cost of production/ → price of the goods for the export to a country other than India/ → minimum customs values, or arbitrary or fictitious values.

Question
Format 1 :
All Cases → where COT is Ascertainable (Only Vessel)

Cost of Machine = xxx
 (+) Transport = xx
 Handling charges
 Loading charges
 Unloading charges
 (upto Exporter's Port)

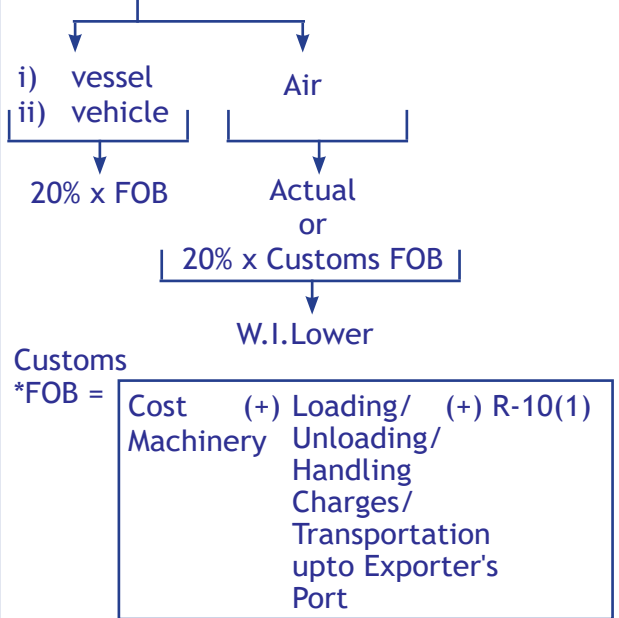
(+) FOB value = xxxx
 (+) Rule 10(1) = xxx
 Customs FOB Value = XXX

Rule 10(2)
 1) Cost of Insurance (Actual) = XX
 2) Cost of Transport (Actual) = XX
 (Includes Ship Lighterage Barge charges CIF Value = xxx)

Question
Format 2 : → when COT is Unascertainable (Only Vessel) or Air Freight

Cost of Machine = xxx
 (+) Rule 10(1) = xx
 Custom FOB = xxx

(+) Rule 10(2)
 COI (1.125% x FOB) = xx
 COT = xx

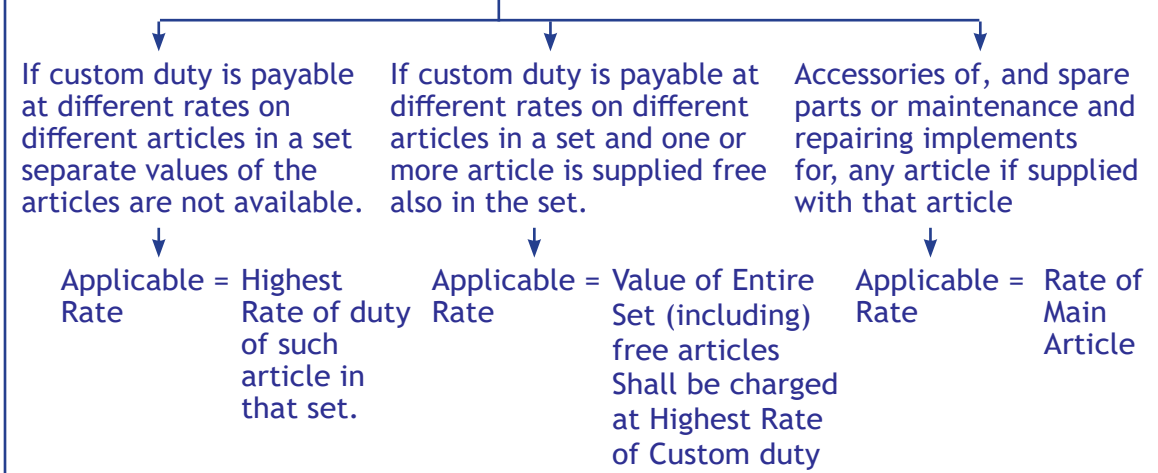


Rule 12 - Rejection of TV

P.O can reject the value declared by Importer
 ↓
 P.O then shall determine the value sequentially from Rule 4 to 9.
 ↓
 P.O may raise doubts about truth /accuracy of declared value on a/c of Certain reasons

- (a) Significantly higher value at which IG/SG imported at or about the same time in India;
- (b) The sale involves an abnormal discount or abnormal reduction from the ordinary competitive price;
- (c) The sale involves special discounts limited to exclusive agents;
- (d) The mis - declaration of goods in parameters such as description, quality, quantity, country of origin, year of manufacture or production;
- (e) The non-declaration of parameters such as brand, grade, specifications that have relevance to value;
- (f) The fraudulent or manipulated documents.

Section 19



Valuation of export goods

Export duty = $\frac{\text{Value}}{\text{T.V (ie FOB Value)}} \times \frac{\text{Rate of duty}}{\text{Date of filing Shipping Bill/ Bill of Export (+) CBIC Rate}} \times \frac{\text{RO Exchange}}{\text{Date of order permitting clearance and loading of the goods for export (ie Let Export Order)}}$

Price of goods (+)
 COT/COI from factory to port (+)
 Loading / unloading / handling changes) at the Exporter's Port

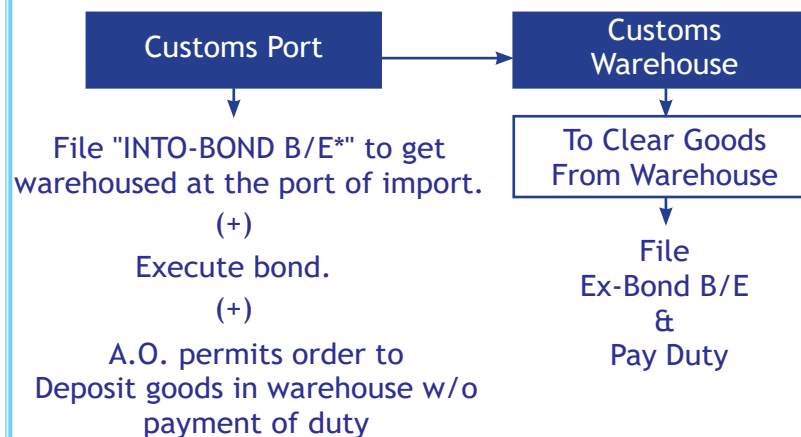
Customs Warehousing

Importer is required to do the following for availing this facility :

He should bind himself surety and security to pay to the government = $3 \times \text{TOTAL DUTY}$

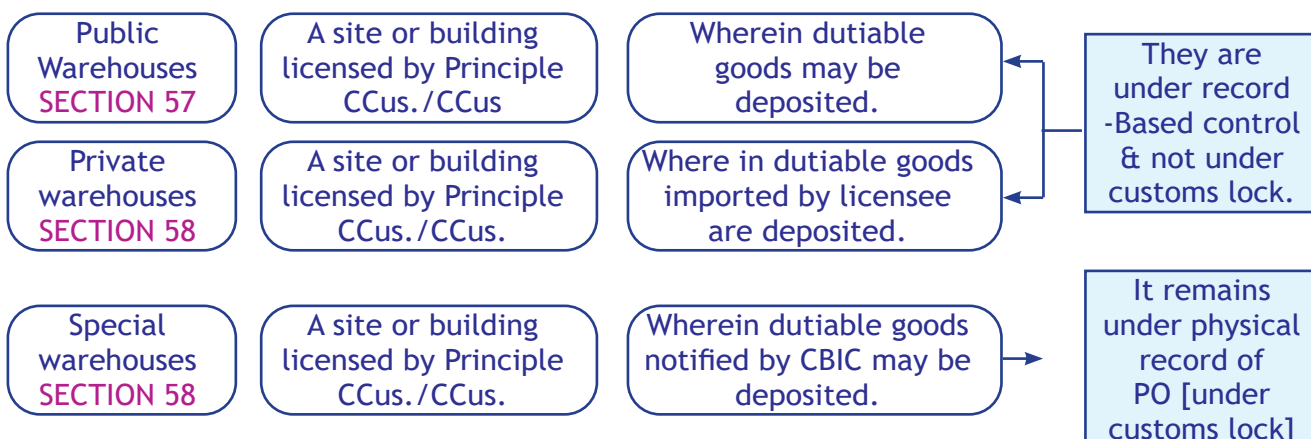
(+)
He should agree to pay duty on the goods cleared from Such warehouse = $\text{Value} \times \text{Rate of duty}$

Date on which B/E is filed (ie. Ex-Bond B/E)



Type of Warehouses:

A custom bonded warehouse can be established at any place in India, it approved by the licensing officer.



Section 58B: Cancellation of license:

- After given OBH, principal Comm./Comm. May cancel the warehouse license if license contravenes any of the provision.
- During pendency of enquiry - Operations of warehouse may be suspended.
- No goods shall be deposited in warehouse during suspension period. Already deposited goods shall continue to be governed by warehouse provision.

Where license is cancelled, warehouse goods shall be

- Removed to another warehouse.
- Cleared for home consumption/ Export.

Within **7 DAYS** from service of cancellation order. (+ extension by PO)

Section 59: Warehousing Bond-

An importer executing bond binds himself:contravenes any of the provision.

- To comply with the provision of custom law.
- To pay, on or before the date specified in the demand notice, all duties and interest.
- To pay all penalties and fines incurred for contravention of provision of custom law.

Consignment Bond:

Bond in respect of a particular consignment.
AMOUNT = 3X Duty

General Bond:

Running A/C is maintained.

Debit : imported goods warehoused
Credit: goods cleared Ex-Bond on payment of duty

Amount of General Bond determined by AC/DC having regards in:

- Past import and duty involved.
- Anticipated imports and expected revenue involved.

Above bonds valid even if goods transferred to another warehouse. If transferred to another person-transferee will execute bond/furnish security.

License not require to be renewed annually. It is not transferable and valid till surrender /cancellation, by written request of the licensee.

- In a **Public Warehouse**, goods can be kept by **any importer**.
- In a **Private warehouse**, dutiable goods imported **only by licensee are deposited**.
- **Special warehouse** - Locked by PO and no person will enter/remove goods without permission of PO **Only notified goods** (like gold, silver, precious metal, supply to foreign privileged person, etc.) **are deposited here**.

Section 60: Permission for removal of goods for deposit in warehouse:

Importer furnish Bond + Security



* Customs automated system may make electronic order on risk evaluation basis.

Section 61: period for which goods may remain in the warehouse:

S. No.	Class of goods	Period
1.	Goods for use in any 100% EOU/ EHTP/ STP/ warehouse where manufacture or other operations are permitted under section 65	
	(i) Capital goods	Till the clearance of such goods from warehouse
	(ii) Other goods	Till the consumption or clearance of such goods from warehouse
2.	Goods other than 1 above	Till the expiry of 1 year from the date of order permitting deposit of goods in warehouse

*The principal comm./ Commissioner may extent warehousing period by ≤ 1 year at a time.

Interest on warehoused goods:

- 1) The Board may "Waive" interest in individual cases
- 2)

S. No.	Class of goods	Provisions relating to interest payable	
1.	Capital goods and other goods for use in any 100% EOU/ EHTP/ STP/warehouse where manufacture or other operations are permitted under section 65	No Interest is payable	
2.	Goods other than 1. above	Interest will be payable if goods remain in the warehouse beyond 90 days from the date on which the order permitting deposit of goods in a warehouse under section 60 is made.	
		Rate of interest	15% p.a.
		Amount on which interest is payable	Duty payable at the time of clearance of the goods
		Period for which interest is payable	From the expiry of the 90 days till the date of payment of duty on the warehoused goods.

*ID = Import Duty

- 3) Goods which are not removed from the warehouse after is Deemed to be improperly removed.
- 4) Rate of duty is Applicable on the date of deemed removal.
- 5) EXAMPLE:

Q. 'X', an importer, (other than 100% EOU, STP unit, EHTP unit) imported some goods and deposited them in the warehouse on 12th April. These goods were re-exported without payment of duty on 15th August. With reference to the custom Act, 1962, discuss Whether any interest under section 61 of the custom Act, 1962 is payable by 'X'?

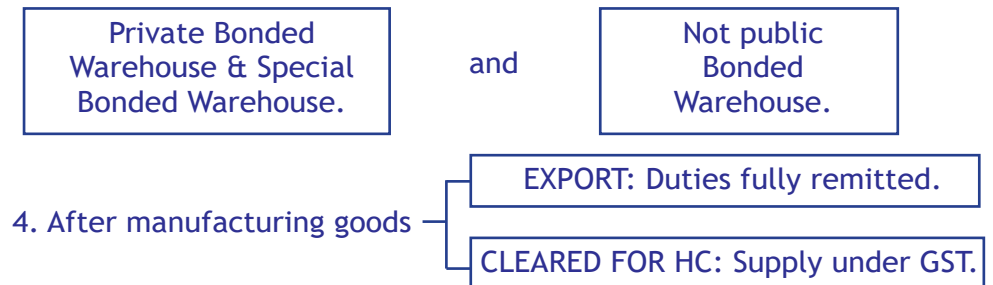
Ans. Since the goods have been re-exported without payment of duty, No interest is payable by 'X'.

Section 64: Owner's Right to deal with warehoused goods:

- a) Inspect the goods.
- b) Ensure that the goods do not deteriorate or get damaged during storage in warehouse.
- c) Sort the goods.
- d) Show the goods for sale.

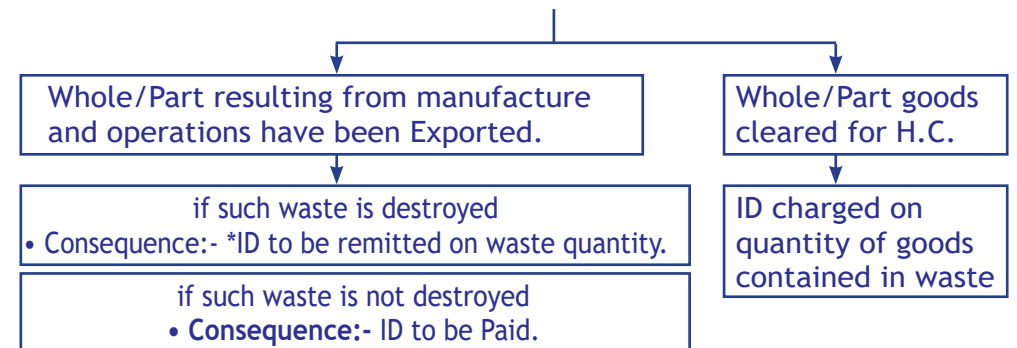
Section 65 & 66: Manufacture and other operations in relation to goods in a warehouse

1. Allowed in Private/ Special boned warehouse.
2. Permission: Principal Comm./ Comm.
3. Manufacture and Operations are allowed only in



4. After manufacturing goods

Treatment of waste generated during such processes:



Section 67, 68, 69: Removal of goods from warehouse:

Transfer from one warehouse to another:-

- Permission of PO
- Proper dispatch of goods under one-time lock & proper receipt of goods at destination warehouse so that there is no risk to revenue.

Clearance for home consumption:

- Present ex-bond BOE.
- Pay duty + interest penalty (if any)

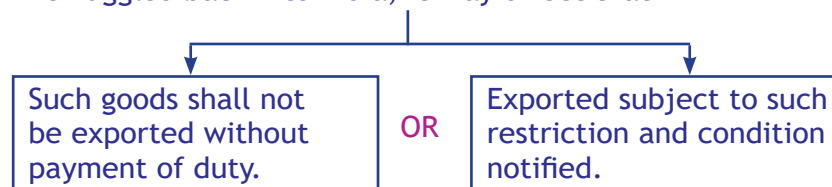
Relinquishment of title of warehoused goods: -

- Owner may relinquish title anytime before order for clearance of goods for home consumption, he shall not be liable to pay duty. However, has to be paid.
- No relinquishment where offence appears.

Clearance of warehoused goods for export:-

- No import duty.
- Shipping bill/bill of export label should be presented.
- Export duty, fine, penalties payable shall be assessed and paid (only import duty is waived)
- PO satisfy himself that all regulation complied.

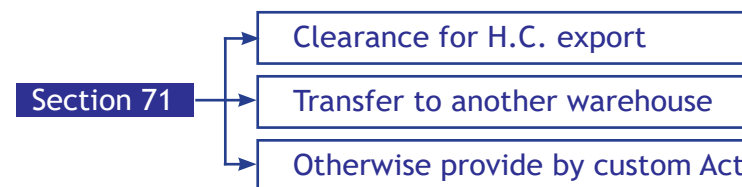
Government of India is of opinion that goods likely to be smuggled back into India, it may direct that



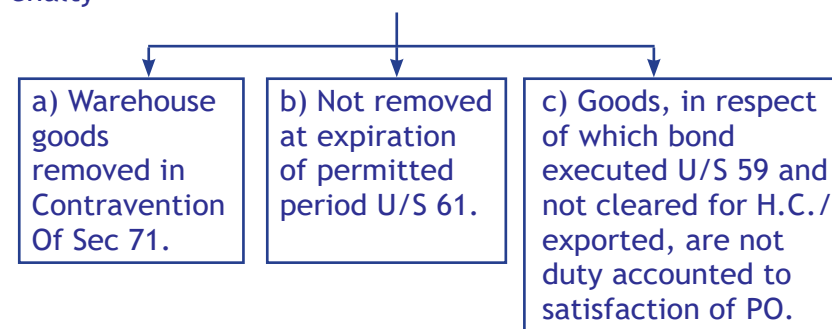
Allowance In respect of volatile goods:-

- 1) Neither the Importer nor the warehouse keeper can be asked to bear the duty burden of this normal loss.
- 2) AC/DC of customs may remit duty on such deficiency on A/C of natural causes.

Section 71 & 72: Improper removal of goods from warehouse:



Section 72 Enumerates cases where goods considered to be inappropriately removed may demand Duty + Interest + Fine + Penalty



Section 73: Cancellation and Return of warehousing Bond:

When goods cleared/exported/ transferred or otherwise duty accounted for and due amounts paid.

↓
PO shall cancel the bond as discharged in full.

Section 73A: Custody and removal of warehoused goods:

- WH keeper = Custodian of WH
- Records & A/cs = Min period of 5 years from date of removal of goods from WH
- Warehouse keeper shall have computerized accounting system.
- Warehouse keeper is custodian of warehoused goods
- Records & a/c is to be maintained for minimum period of 5 years from date of removal of goods from warehouse

Baggage Rules, 2016

1. Baggage includes unaccompanied baggage But doesnot include Motor vehicle
2. BCD on baggage = 35%
+ SWS@10% = 3.5%
Rate of duty = 38.5%.

Rule 3 - Country other than Nepal, Bhutan, Myanmar

Indian Resident Tourist of Indian Origin Foreign residing in India	Tourist of Foreign Origin	Infant
Used Personal Effects = Duty Free	Used Personal Effects = Duty Free	Used Personal Effects = Duty Free
Travel Souvenirs = Duty Free	Travel Souvenirs = Duty Free	
Articles other than mentioned in Annexure I = 50,000	Articles other than mentioned in Annexure I = 50,000	

Rule 4 - Country like Nepal, Bhutan, Myanmar

Any Passenger (Indian resident, a foreigner residing in India, Tourist of Indian Origin, Tourist of Foreign Origin) Except Infant		
Travelling by Other than Land route	Travelling by Land route	Infant
Used Personal Effects = Duty Free	Used Personal Effects = Duty-Free	Used Personal Effects = Duty Free
Travel Souvenirs = Duty Free		
Articles other than mentioned in Annexure I = 15,000		

Annexure I items

- Firearms
- Cartridges of fire arms > 50.
- Cigarettes > 100 sticks, cigars > 25, tobacco > 125gms
- Alcoholic liquor or wines > 2 litres.
- Gold or silver in any form other than ornaments.
- Flat Panel (LED / LCD) televisio.

Rule 5 additional allowance of jewellery

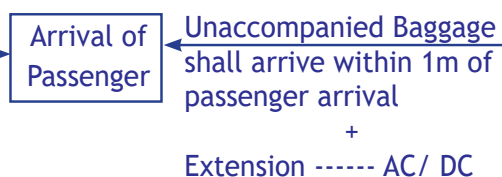
a passenger residing abroad for more than one year on return to India	Additional allowance of jewellery apart from rule 3 and 4
Gentleman passenger	Weight of 20 grams with a value cap of 50,000.
Ladies passenger	Weight of 40 grams with avalue cap of 1,00,000.

RULE 7 Currency -

import/ export of currency governed in accordance with provision of FEMA.

Rule 8 - Unaccompanied Baggage

Unaccompanied Baggage has arrived 2months before Passenger Arrival or such period allowed by AC/ DC not exceeding


RULE 6 Transfer of residence -

Duration of stay abroad.	Article allowed free of duty	Condition	Relaxation
≥ 3 months < 6 months	Personal/household article (other than annex I/II) upto aggregate value 60,000	Indian passenger	-
≥ 6 months < 1 year	Personal/household article (other than annex I/II) upto aggregate value 1,00,000	Indian passenger	-
Minimum stay of 1 year during preceding 2 year	Personal/household article (other than annex I/II) upto aggregate value 2,00,000	The Indian passenger should not have availed this concession in preceding 3 years	-
Minimum stay of 2 years or more	Personal/household article (other than annex I/II) upto aggregate value 5,00,000	Minimum stay of 2 years abroad, immediately preceding date of arrival on transfer of residence. AND Total stay in India on short visit during preceding 2 years should not exceed 6 months. AND Passenger has not availed this concession in preceding 3 years.	Shortfall upto 2 months can be condoned by AC/ DC on account of terminal leave/vacation or special circumstance recorded in writing. Principal Comm./Comm. May condone in special circumstance recorded in writing. No Relaxation

Annexure II:

- Colour Television.
- Video Home Theatre System.
- Dish Washer.
- Domestic Refrigerators of capacity above 300 litres or its equivalent.
- Deep Freezer.
- Video camera or the combination of any such Video camera with one/more of the following goods, namely:-
(a) Television receiver; (b) sound recording or reproducing apparatus; (c) video reproducing apparatus.
- Cinematographic films of 35 mm and above.
- Gold or Silver, in any form, other than ornaments.

Rule 9

Crew members can take benefit of Rule 3/4 Only when their Engagement is terminated.

Otherwise

Crew Members are given a small allowance = ₹ 1500 i.r.t. Chocolate, Cheese, Cosmetics, Petty Gifts for Family use or personal use.

Temporary Detention of Baggage - Section 80

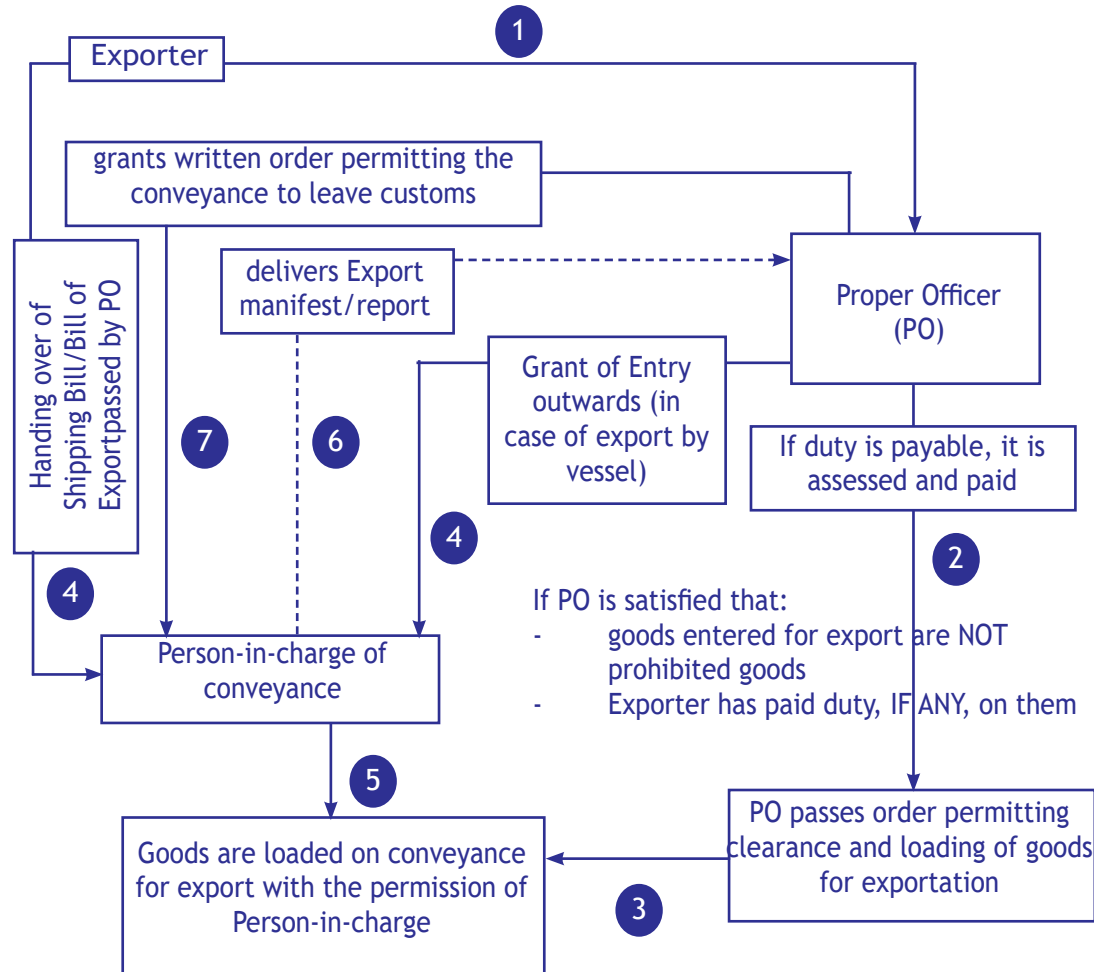
Temperory detention of Baggage is done in following case
1) Imported goods are prohibited in India Or
2) Passenger is unable to pay duty

↓
He may request Customs dept to detain his baggage for re-export at the time of his departure from India

↓
He cannot claim benefit of Sec 80 if baggage is not truly declared in baggage declaration."

Export procedure

Shipping Bill/ Bill of Export filed electronically



Sec 51A:

Payment of duty, interest, penalty, etc : Every deposit toward duty, interest, penalty, fees or any other sum (DIPPO) payable under CA/CTA or any other law shall be credited to E-Cash ledger.

Amit available in E-Cash ledger may be used for making paymt towards DIPFO under CA/CTA/any other law in presc. manner & Condition & pres. time limit. Balance in ECL after payment of DIPFO may be refunded.

E cash ledger is not applicable in following cases

- (i) with respect to goods imported/exported in customs stations where customs automated system is not in place;
- (ii) with respect to goods imported or exported at international courier terminals;
- (iii) with respect to accompanied baggage;
- (iv) other than those used for making electronic payment of:
 - (a) any duty of customs, including cesses and surcharges levied as duties of customs;
 - (b) IGST;
 - (c) GST Compensation Cess;
 - (d) interest, penalty, fees or any other amount payable under the Act, or Customs Tariff Act, 1975

Sec 51B:

Ledger for Duty Credit: Remission of any duty/tax/levy chargeable on material used in manufacturing of goods that are exported / Other financial benefits shall be credited in an electronic duty credit ledger maintained in the customs automated system. Duty credit may be used by the person to whom it is issued or the person to whom it is transferred towards pymt of duties under this act/ CTA 1975.

Transit and transshipment of goods

The provision of this chapter does not apply to: -

- a) Baggage b) Goods imported by post c) Stores

Transit	Transshipment
(i) Section 53 of the Customs Act, 1962 provides for transit of goods.	(i) Section 54 of the Customs Act, 1962 provides for transshipment of goods.
(ii) In case of transit of goods, goods are allowed to remain on the same conveyance.	(ii) In case of transshipment of goods, the conveyance changes i.e., the goods are unloaded from one conveyance and loaded in another conveyance.
(iii) In case of transit of goods, there is continuity of records.	(iii) In transshipment of goods, continuity in the records is not maintained as the goods are transferred to another conveyance.

- Goods may be transmitted or transhipped without payment of duty.
- Provision only apply to goods imported at custom port/airport. Do not cover transport by land. For land, certain conditions have to be fulfilled.

Postal Articles

Section 83:

Relevant date for Rate of duty and tariff valuation in respect of goods imported/ exported by post:

Date on which postal authorities or authorised couriers present to the P.O. a list containing the particular of such goods for purpose of assessing the duty thereon.

For Export : Date on which exporter delivers such goods to postal authorities or authorised courier for exportation.

Control of customs department only on goods



stores

Special provision relating to store: -

Stores means goods for use in vessel/aircrafts and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting. e.g. Foods, medicine, drinks, etc.

“Store List” in prescribed format is required to be filed as part of import manifest as well as export manifest/ import report or export report.

- P.O may permit warehousing of stores without being assessed to duty.
- Import stores may be consumed on board without payment of duty during the period such vessel/aircraft is a **foreign going** vessel/aircraft.



If voyage terminates in India/ vessel or aircraft convert into coastal voyage or domestic flight. Duty would be chargeable on unconsumed stores.

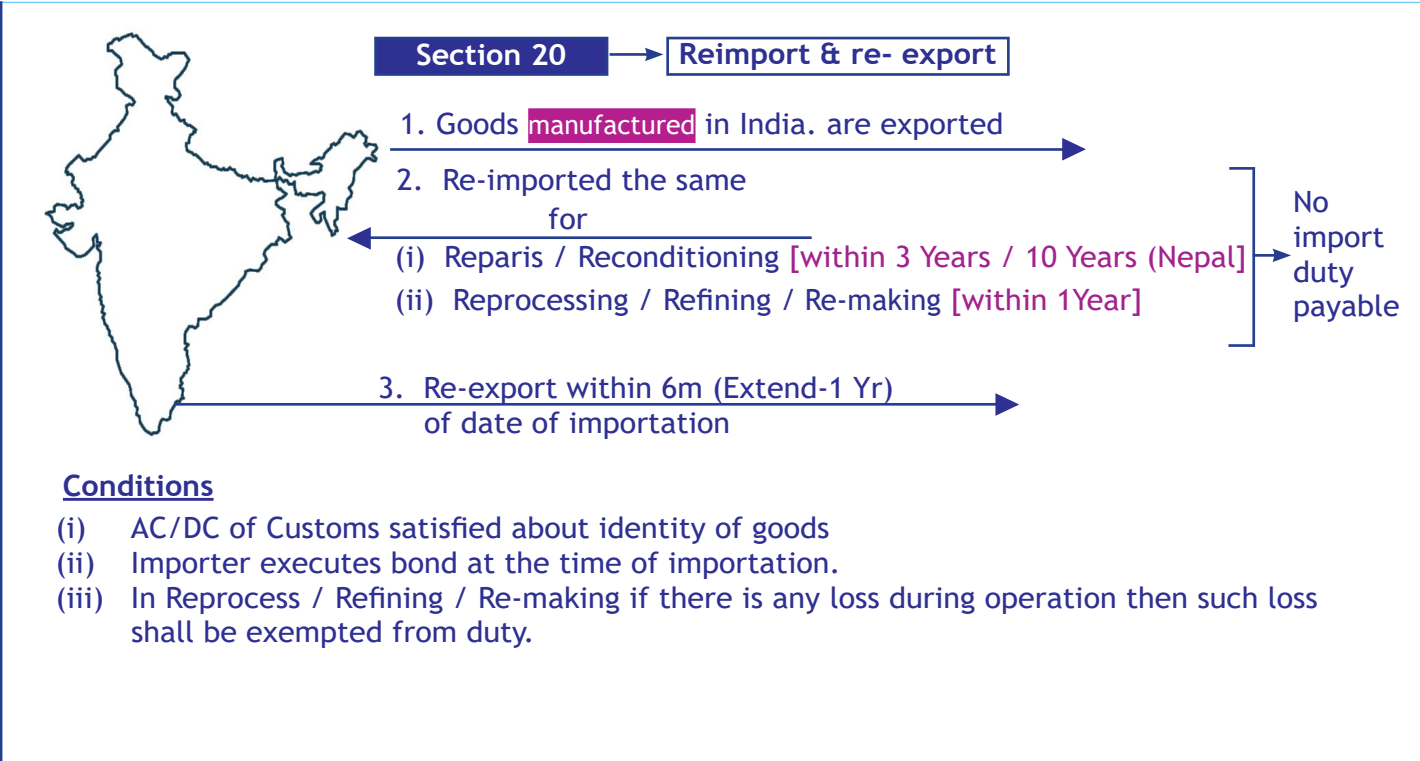
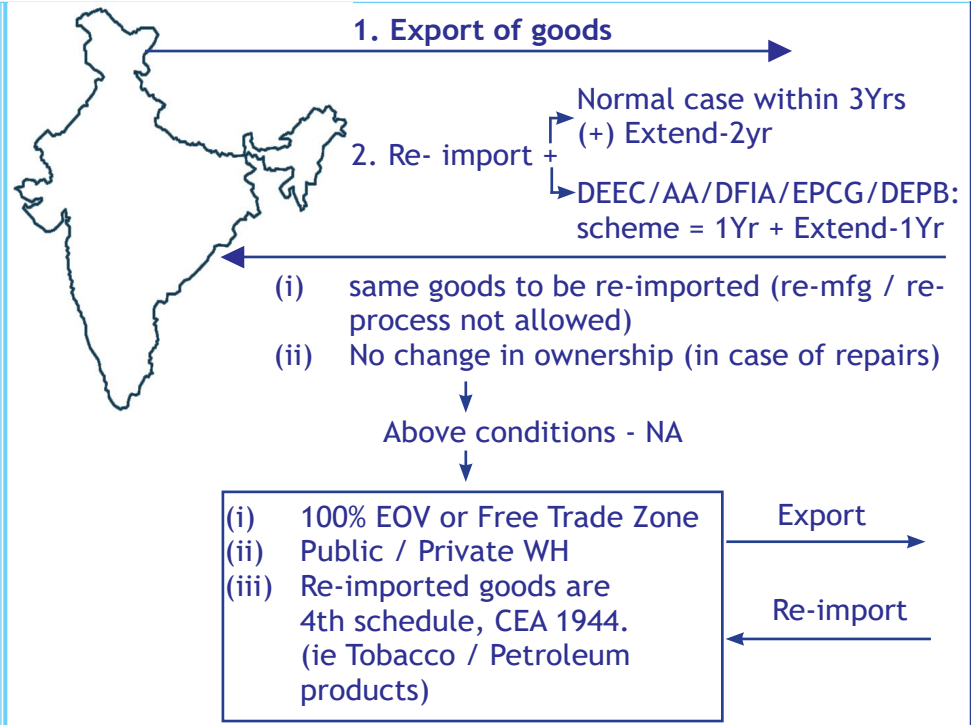
Foreign going vessel or aircraft: [Section 2(21)] means any vessel or aircraft for the time being engaged in the carriage of goods or passengers between any port or airport in India and any port or airport outside India, whether touching any intermediate port or airport in India or not

o includes-

- any naval vessel of any foreign Government taking part in any naval exercise;
- any vessel engaged in fishing or any other operations outside the territorial waters of India;
- any vessel or aircraft proceeding to a place outside India for any purpose whatsoever.

Special provisions regarding shipstores supplied to indian naval vessels [section 90] :

- Imported stores for the use in a ship of the Indian Navy may without payment of duty be consumed on board the ship of Indian Navy.
- Imported stores supplied free by the Government for the use of the crew of a ship of the Indian Navy, in accordance with their conditions of service, may be supplied without payment of duty to be consumed on board the ship of Indian Navy.
- The provisions of section 69 (duty-free export from a warehouse) and Chapter X (drawback) shall apply as they apply to other goods. However, they will be entitled to drawback of the whole of the duty of customs if any paid therein, instead of 98% alone otherwise applicable.



on Goods	Duty payable
<p>1 Exported under claim of DBK OR Refund of IGST paid on Export Bond without payment of IGST</p>	<p>→ Amt of incentive availed at time of export</p>
<p>2 Exported under duty exemption Schemes (DEEC/AA/DFIA/EPCG)</p>	<p>→ Amt of Incentive availed at time at time of export</p>
<p>3 Fair cost of repairs (incl Cost of repairs) + Re-imported being sent for Exports (other than above)</p>	<p>→ Freight & Insurance (bothways) (whether or not actually incurred/or not)</p>
<p>4 Residual cases</p>	<p>→ NIL</p>

- Goods sent for exhibition/consignment basis (clarification by CBIC)
- Goods sent for exhibition purposes/consignment basis do not constitute supply as it does not involve consideration.
 - There is no requirement of filing any LUT or bond and hence, no IGST is payable at the time of export of such goods and accordingly, no IGST is payable on re-import (situation 1 in the above table) Hence, this case falls under the residuary entry in the table above and accordingly, exemption is available.
 - Also, where exports have been made to related/distinct persons or principals/agents for participation in exhibition or consignment basis, but, **the same have been returned** exemption of the residuary entry will be available and no duty will be levied provided re import happens **within 6 months of delivery challan**

Rule 2(a)

Any incomplete/unfinished article classify complete/finished article
Unassembled/Disassembled article classify assembled article



Classify unfinished / unassembled goods = Finished/ Assemble

Rule 2(b) - Mixtures/combination of material substances

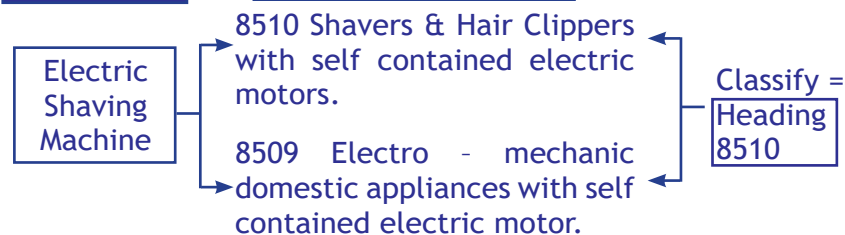
Coffee includes coffee mixed with Chicory = Coffee
Natural rubber will cover mixture of natural & synthetic rubber = Natural Rubber
Follow Rule 3 if two/more headings

Rule 3

Classification in case goods are classifiable under two/more headings

Rule 3(a)

Specific over General

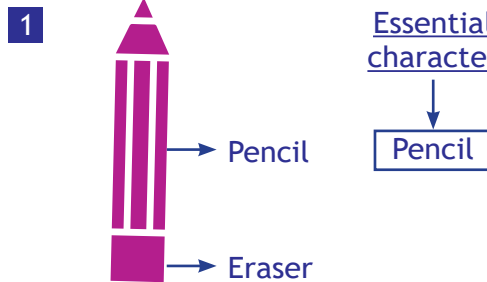


3(a) = NA to Mixed / Composite Supply Items in Sets.

Eg. (Pencil with Eraser at back) (in this both are specific headings, 3(a)=NA.)
↓
Shift Case to Rule 3(b)

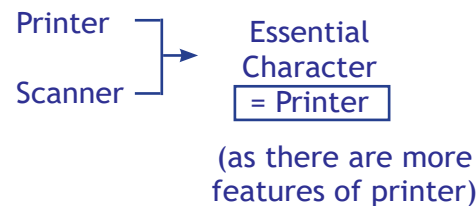
Rule 3(b)

Essential character



2

Multi Functional Printer



Rule 3(c)

If (a)(b) = NA
Later the Better



Rule 4

Akin Rule (apply it when above rules are NA)
Classify under similar goods heading

Eg.: Plastic films used to filter the glaze of sun light
Entry = Building wares of Plastic not elsewhere specified - Shutters Blinds
Plastic Films is most Akin to this entry

Rule 5

5(a) Packing cases / containers:
Camera / musical instrument / Gun / drawing / necklace case specially shaped / fitted, suitable for long term use presented with articles for which they are intended -Classify with specific/ set of 27 they article.

Eg. Classify
Camera (+) Case = Camera
Guitar (+) Case = Guitar

5(b) → Packing materials/container other than mentioned in (a)

Classify
Spectacles (+) Case = Spectacles

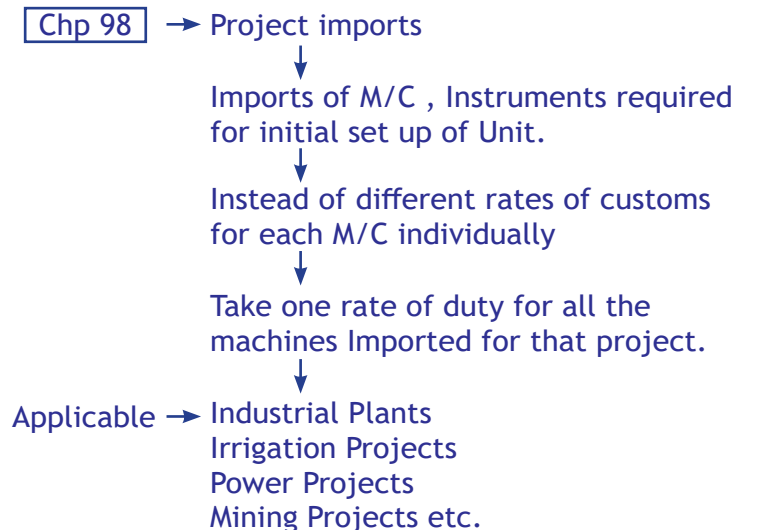
Exception
Classify
Gold Case for Cigars → Gold Case

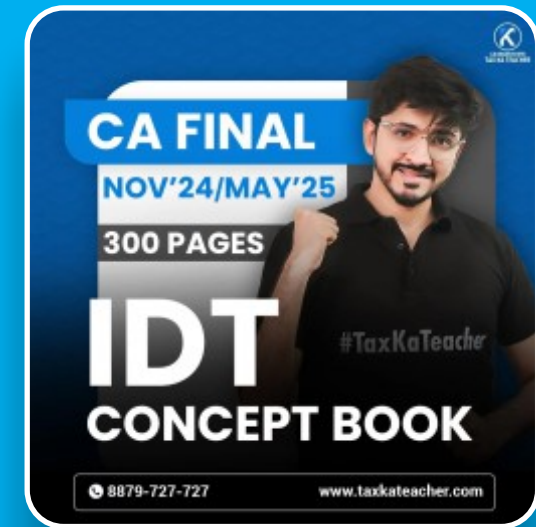
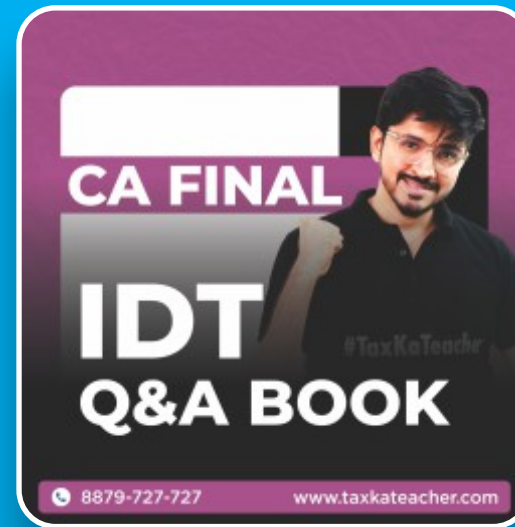
(essential character as a whole)
Gas cylinders → Cylinders

(Durable containers meant for repetitive use)

*Market / trade parlance theory: If a product not defined in CTA, it should be classified according to its common understanding in trade by dealers or consumers.
Eg.: Softly shall be classified as ice-cream and not Dairy product.

Project Imports





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