Taxation (GST)

IMPORTANT SECTIONS

CHAPTER -1

GST in India -An Introduction

- Concept of GST
- Framework of GST
- Constitutional provision pertaining to the levy of various tax
- Benefits of GST

CHAPTER -2

Supply under GST

- **Section-7(1)(a**) [Supply for consideration in the course or furtherance of business**]**
- **Section -7(1)(b) [**Importation of services for consideration whether or not in consideration or furtherance of business**]**
- **Section-7(1)(c) read with Schedule I** [Supply without Consideration-deemed supply]
- **Section-7(1A) read with schedule II [** Activities or transactions to be treated as supply of goods or Supply of services**]**
- **Section -8** [Composite and Mixed supply]

CHAPTER -3(A)/3(B)

Charges Under GST

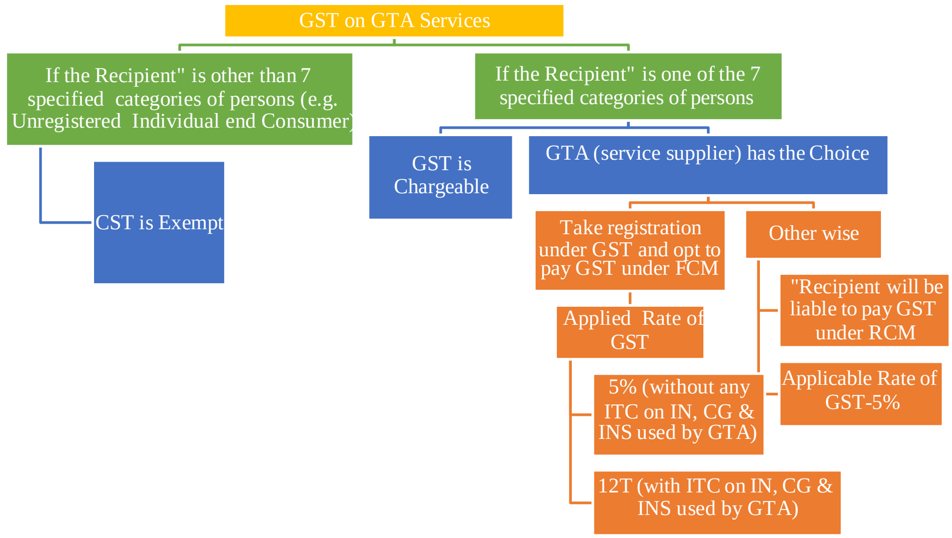
- **Section 9 of the CGST Act, 2017** – *Levy and Collection of CGST (Intra-State)*
- **Section 9(1)**: Imposes CGST on all **intra-State supplies of goods or services**, except alcoholic liquor for human consumption.
- **Section 9(2)**: Specifies that CGST on **petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, and ATF** will be levied **only when notified** by the Government.
- **Section 5 of the IGST Act, 2017** – *Levy and Collection of IGST (Inter-State)*
- **Composition Levy – Section 10 of the CGST Act**

  Governs eligibility, conditions, and tax rates applicable under the **composition scheme**.

  Offers a simpler tax alternative for small taxpayers at concessional rates.
- **Reverse Charge Mechanism (RCM) – Section 9(3) of CGST & Section 5(3) of IGST**

  Requires the **recipient**, not the supplier, to pay GST on certain notified supplies under **the reverse charge mechanism**.

Supply of goods/service/both notified by the government (Sec. 9(3))

<table>
<tr><td>Category of Supplier of Service</td><td>Recipient of Service</td></tr>
<tr><td>Services by a good transport agency (GTA) in respect of transportation of goods by road.
However, RCM on GTA service shall not apply where GTA has taken registration under GST and exercised the option to pay GST under FCM; and the GTA has issued a tax invoice to the recipient charging GST at the applicable rates and has made requisite declaration on such invoice issued by him. Further, the option exercised by GTA to itself pay GST under FCM during a Financial Year shall be deemed tohave been exercised for the next and future financial years unless the GTA files a declaration to revert under RCM on or after then 1st January to 31st March of the PFY.</td><td>Factory, Society, Co-operative society, GST registered person, body corporate, partnership firm including AOP, registered causal taxable person located in the taxable territory.


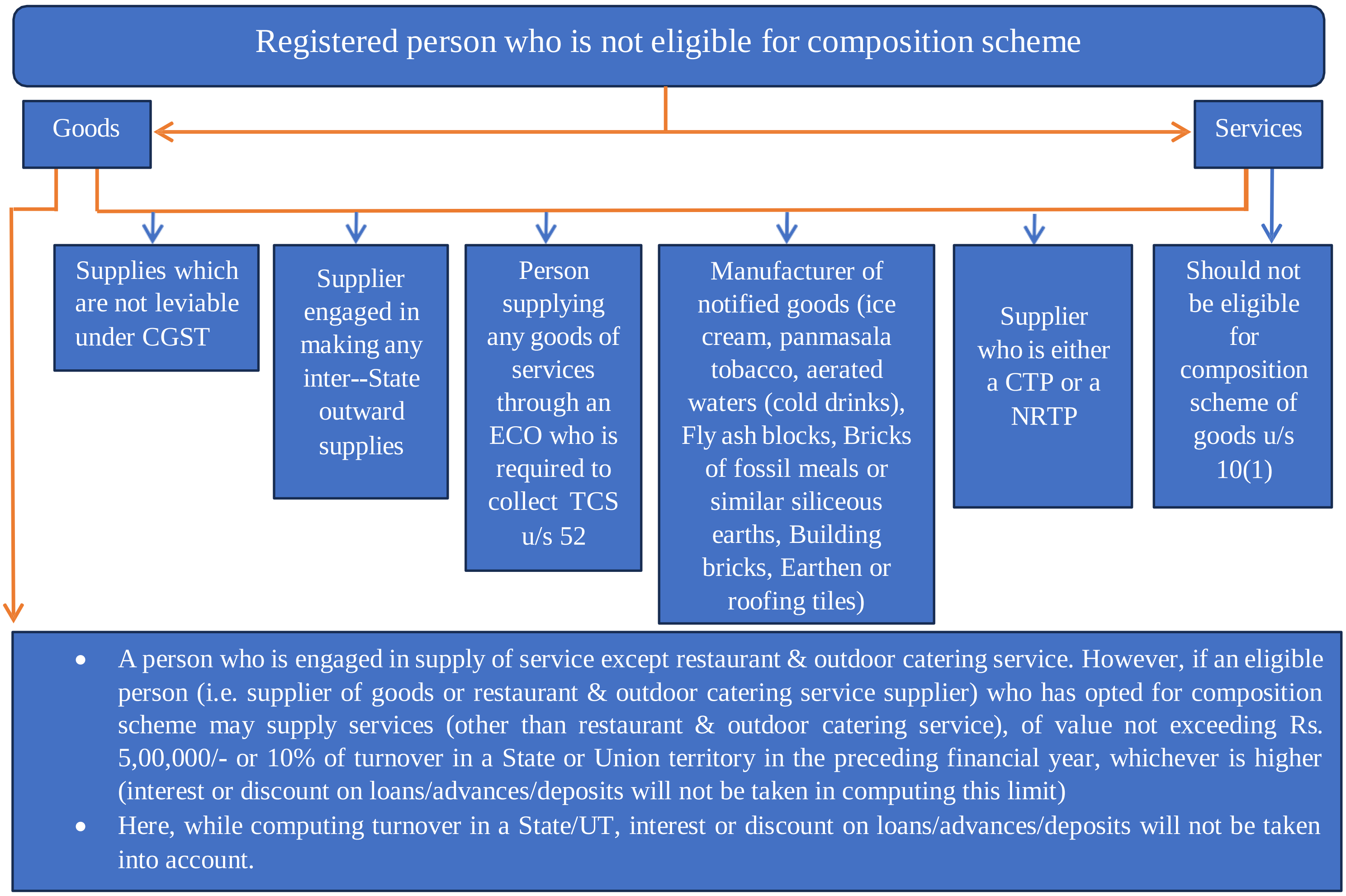
** Recipient of GTA service is the person who pays/is liable to pay freight for transportation of goods by road in goods carriage, located in the taxable territory.</td></tr>
<tr><td>Services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly.</td><td rowspan="2">Any business entity located in the taxable territory</td></tr>
<tr><td>Services supplied by an arbitral tribunal to a business entity</td></tr>
</table>

Services supplied by the CG, SG, UT or LA to a businesss entity excluding. (1) renting of immovable property, and (2) Services specified below. (i) Services by the department of Posts and the Ministry of Railways (Indian Railways) (ii) Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) Transport of goods or passengers [Provisions of RCM, in so far as they apply to the CG and SG, shall also apply to the Parliament, State Legislatures, Courts and Tribunals]	

Services supplied by the CG excluding the Ministry of Railways (Indian Railways), SG, UT or LA by way of renting of immovable property to a registered person	Registered Person under GST
Service by way of renting of residential dwelling to a registered person	Registered Person under GST
Services supplied by any person by way of Transfer of Development Rights (TDR) or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter)	
Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount/Periodic rent for construction of a project by a promoter.	Promoter
Director	The co. or a body corporate located in the taxable territory

Insurance agent	Any person carrying an insurance business, located in taxable territory
Recovery agent	A banking company or a financial institution or a NBFC, located in the taxable territory
Supply of services by music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright relating to original dramatic, musical or artistic works	Music company, producer or the like, located in the taxable territory
Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright relating to original literary works to a publisher.	Publisher located in the taxable territory (except where Author opts for FCM)
Members of Overseeing Committee to RBI	Reserve Bank of India (RBI)
Services supplied by individual Direct Selling Agents (DSAs) other than a body corporate, partnership from or LLP	A banking company or a NBFC, located in the taxable territory
Business facilitator (BF)	A banking company, located in the taxable territory
Agent of business correspondent (BC) to business correspondent (BC)	A business correspondent, located in the taxable territory
Security services (services provided by way of supply of security personnel) provided to a registered person by any person other than body corporate: However, nothing contained in this entry shall apply to:- (i) (a) a Department or establishment of the CG, SG, UT or (b) Local Authority; or (c) Governmental Agencies; which has taken registration only for the purpose of deducting TDS u/s 51 and not for making a taxable supply of goods or services. (ii) a registered person paying tax under Composition Scheme	A registered person, located in the taxable territory
Renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate, by any person other than body corporate, who does not issue invoice charging GST @ 12%.	Any body corporate located in the taxable territory
Lending of securities	Borrower

Composition scheme



CHAPTER -4

Place of supply

• **Section 10(1)(a)** – When goods involve movement, *POS is where movement terminates for delivery.*

• **Section 10(1)(b)** – *Bill-to–Ship-to transactions:* goods delivered on the direction of a third party – *POS is the principal place of business of that third person.*

• **Section 10(1)(c)** – *No movement of goods (e.g., ex-works):* POS is the *location of goods at delivery.*

• **Section 10(1)(d)** – *Goods assembled or installed on-site:* POS is the *place of installation/assembly.*

• **Section 10(1)(e)** – *Goods supplied on board a conveyance (train, ship, aircraft):*

POS is the *location where goods are taken on board.*

- **Section 10(2)** – If none of the above applies, POS is as *prescribed by the rules.*
- **10(1)(ca)** – goods purchased over the counter in one state and transported to another state by the buyer*(For supplies to **unregistered persons**, regardless of movement)*

(a) If the invoice records the recipient's address (even just the State), POS is **that address**.
(b) If no address is recorded, POS is the **supplier's location**.

- **Section 12(3)(a)** – Services related to immovable property (like sale of space or grant of rights) – POS is the **location of the immovable property**
- **Section 12(7)** – *Event services:*

  12(7)(a)(i) – For events to a **registered person** – POS is the **location of the recipient**.

  12(7)(a)(ii) – For events to an **unregistered person** – POS is **where the event is held**;

  if event outside India, POS is recipient's location.

- **Section 12(8)** – *Transportation of goods services:*

  (a) If recipient is **registered**, POS = recipient's location.

  (b)If **unregistered**, POS = place where goods were handed over for transportation; if exported, POS = destination abroad

- **Section 12(9)** – *Passenger transportation service (non-registered recipient):* POS is place where passenger *embarks,* but if embarkation is unknown at invoice time – default to general rule in **12(2)**

CHAPTER -5

Exemption from GST

- Section 11 (CGST)-Power to grant exemption via notification
- Section 6A(IGST)-IGST exemption (similar to Sec. 11A)
- Section 2(47)-Definition of exempt supply
- Section 2(78) - Definition of non-taxable supply
- Section 2(108) - Definition of taxable supply

Exemption under GST

Services Relating to Agriculture

⇒ Services relating to 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 or agriculture produce (A.P) by way of -

(a) agricultural operations directly related to production of any A.P. including cultivation, harvesting, threshing plant protection or testing.
(b) supply of farm labour;
(c) processes carried out at an agricultural farm including tending. pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating curing sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of A.P. but make it only marketable for the primary market;
(d) renting or leasing of agro machinery or vcant land.
(e) loading, unloading, packing, storage or warehousing of A.P;
(f) agricultural extension services;
(g) services by any APMC or Board or services provided by a comm. agent for sale or purchase of A.P.

⇒ loading, unloading, packing, storage or warehousing of rice.
⇒ Warehousing of minor forest produce.
⇒ Storage or warehousing of cereals, pulses, fruits and vegetables.
⇒ Carrying out an intermediate production process as job work in relation to agricultural .
⇒ Pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or the essential characteristics.
⇒ Transport of A.P., milk, salt and food grain including flour, pules and rice by GTA, rail or vessel.
⇒ Artificial insemination of livestock (other than horses).
⇒ Right to use natural resources to an individual farmer for the purpose of agriculture provide by CG, SG, UT, Local authority.
⇒ Services supplied by electricity distribution utilities for extending electricity distribution network upto the tube well of the farmer or agriculturalist for agricultural use.
⇒ Services provided by the National Centre for Cold Chain Development.

Entertainment and Sports Related Services

1. Services by way of admission to
   ⇒ a museum, national park, wildlife sanctuary, tiger reserve or zoo.
   ⇒ a protected monument.
   ⇒ circus, dance, or theatrical performance including drama or ballet; award function, concert, pageant, musical performance or any sporting event or planetarium, where the consideration is not more than Rs. 500 per person.
2. Services by an artist by way of a performance in folk or classical art forms of
   ⇒ Music, dance or theatre → where the consideration is upto Rs. 1,50,000 (if performance provided by such artist as a brand ambassador - no exemption)
3. Services provided by a tour operator to a foreign tourist in relation to a tour conducted wholly outside India.
4. Tour operator service, which is performed partly in India and partly outside India, supplied by a tour operator to a foreign tourist, to the extent of the value of the tour operator service which is performed outside India (in proportion to the numb er of days or 50% off value of entire tour, WIL).
5. Services provided to a recognized sports body (RSB) by (a) an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a RSB; or (b) another RSB
6. Services by way of sponsorship of sporting events organized by
   a national sports federation, Association of Indian Universities, the Central Civil Services Cultural and Sports Board, the Indian Olympic Association, Panchayat Yuva Kreeda Aur Khel Abhiyaan Scheme.
7. Services provided by and to FIFA and its subsidiaries directlty or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020 to be hosted in India, whenever rescheduled.
8. Services by way of right to admission to the events organized under FIFA U-17 Women's World Cup 2020, whenever rescheduled.
9. Services [certified by director (Sports), Ministry of Youth Affairs and Sports] provided by and to AFC and its subsidiaries directly or Indirectly related to any of the events under AFC Women's Asia Cup 2020 to be hosted in India.
10. Services by way of right to admission to the events organized under AFC Women's Asia Cup 2020.

CHAPTER -6
Time of Supply

- Section- 12(2) [Time of supply of goods (Forward charge)]

  (Earliest of the two dates:

  Date of Issue of the invoice or Last date invoice *should* have been issued (as per Section 31),

  Date of Receipt of payment (to the extent payment covered by supply of goods)

- **Section 12(3) / 13(3)** – Reverse Charge Mechanism (RCM)

  (**Goods (12(3))**: It is the **earliest** of the following:

  a) Date of receipt of goods

  b) Date of payment (booked or debited in bank)

  c) Date immediately following 30 days from the date of issue of the invoice

  (or document by some other name in lieu of invoice) by the supplier.

  Services (13(3)): **Supply from registered supplier – earlier of:**

1. Date of payment (books of the recipient or bank debit, whichever is earlier)
2. Date immediately after 60 days from invoice date (if supplier is required to issue invoice)

   b) Supply from an unregistered supplier – earlier of:

1. Date of payment (books of the recipient or bank debit, whichever is earlier)
2. Date of invoice (to be issued by recipient)

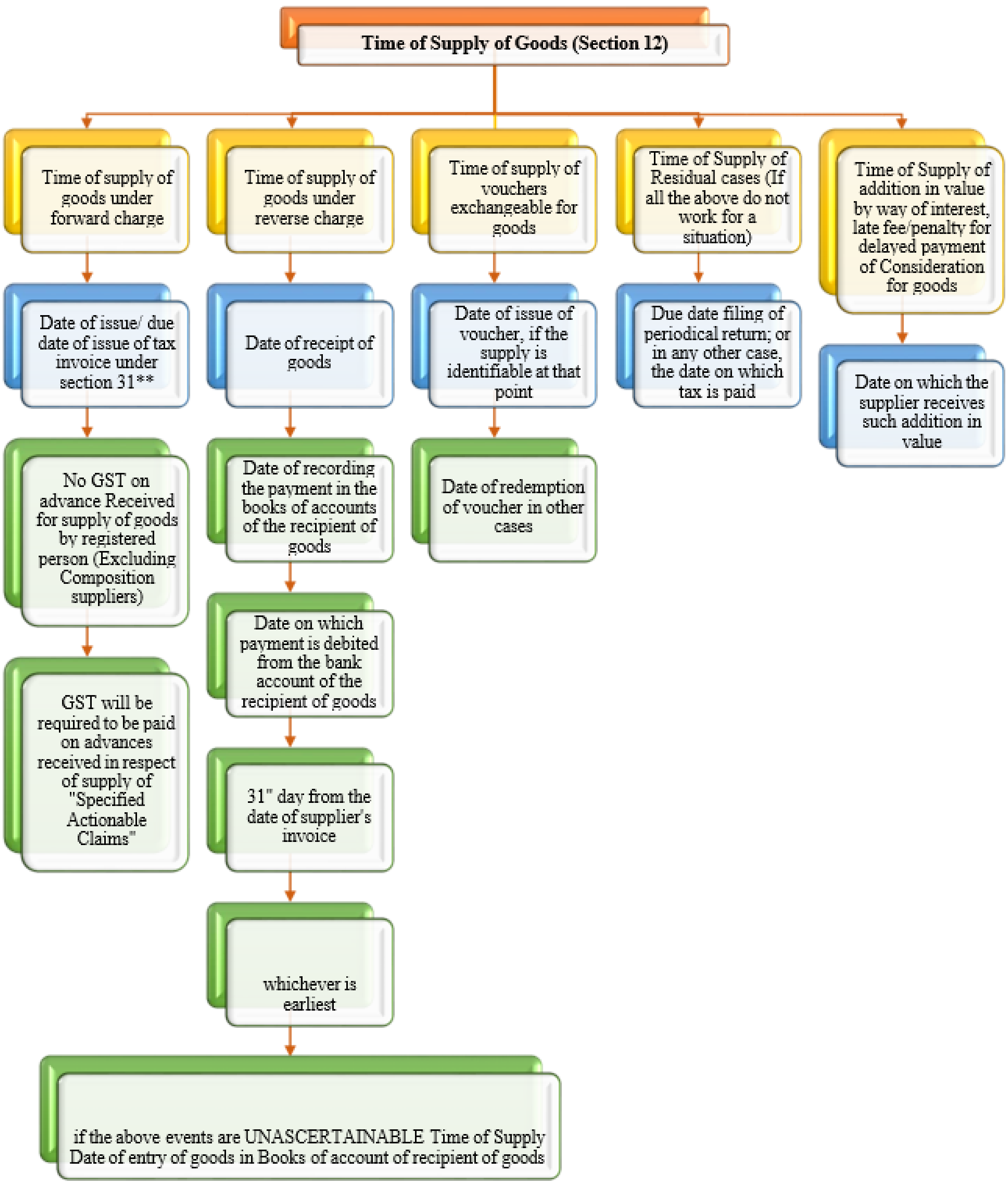
   Date of payment = Earlier of entry in the books of the recipient or the bank debit

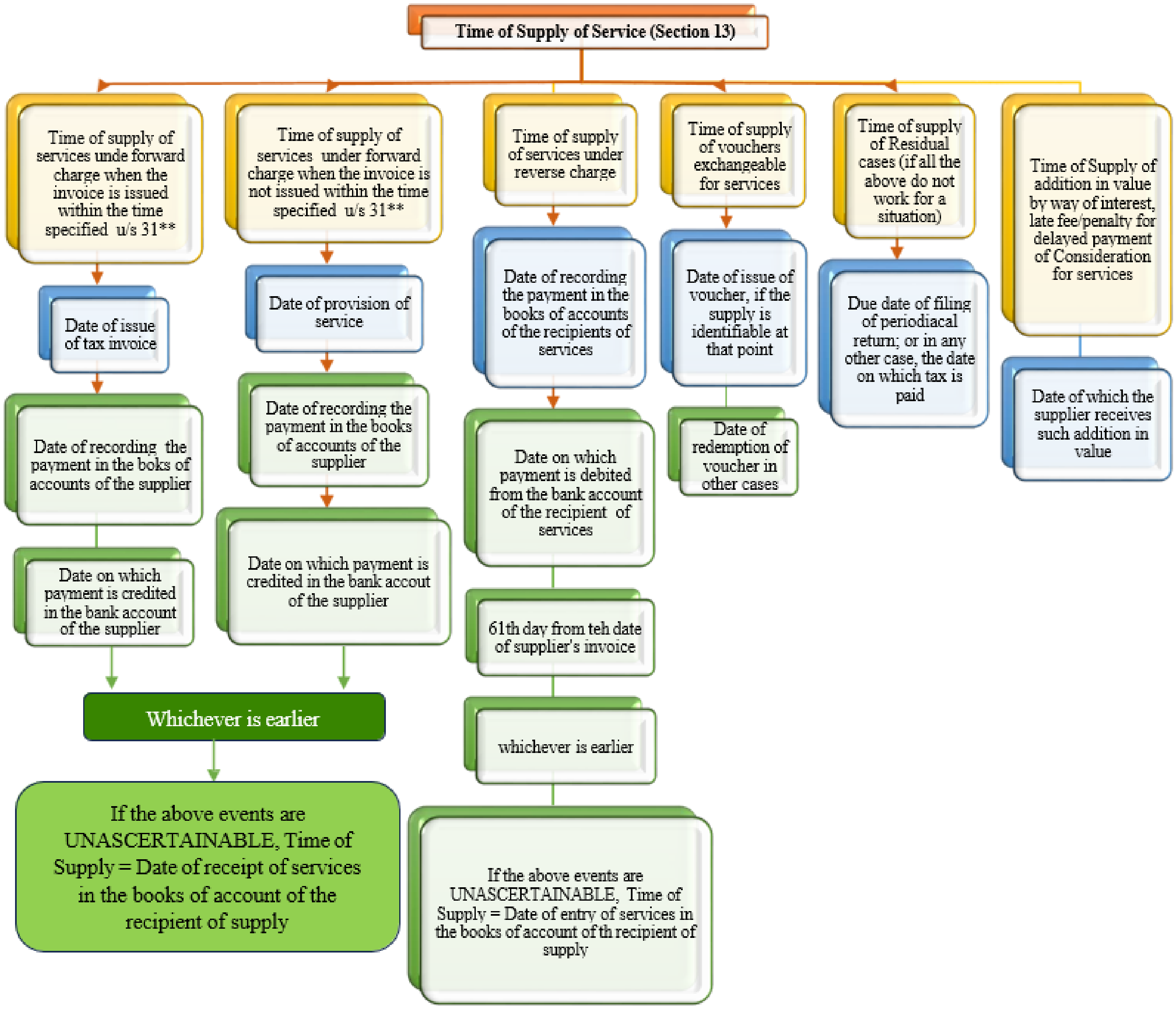
- **Section 12(4)** – *Vouchers for Goods*

  [If supply identifiable at voucher issue → **TOS = issue date**

  If not identifiable → **TOS = redemption date]**

- Section 13(2) : Time of supply of service covered under FCM

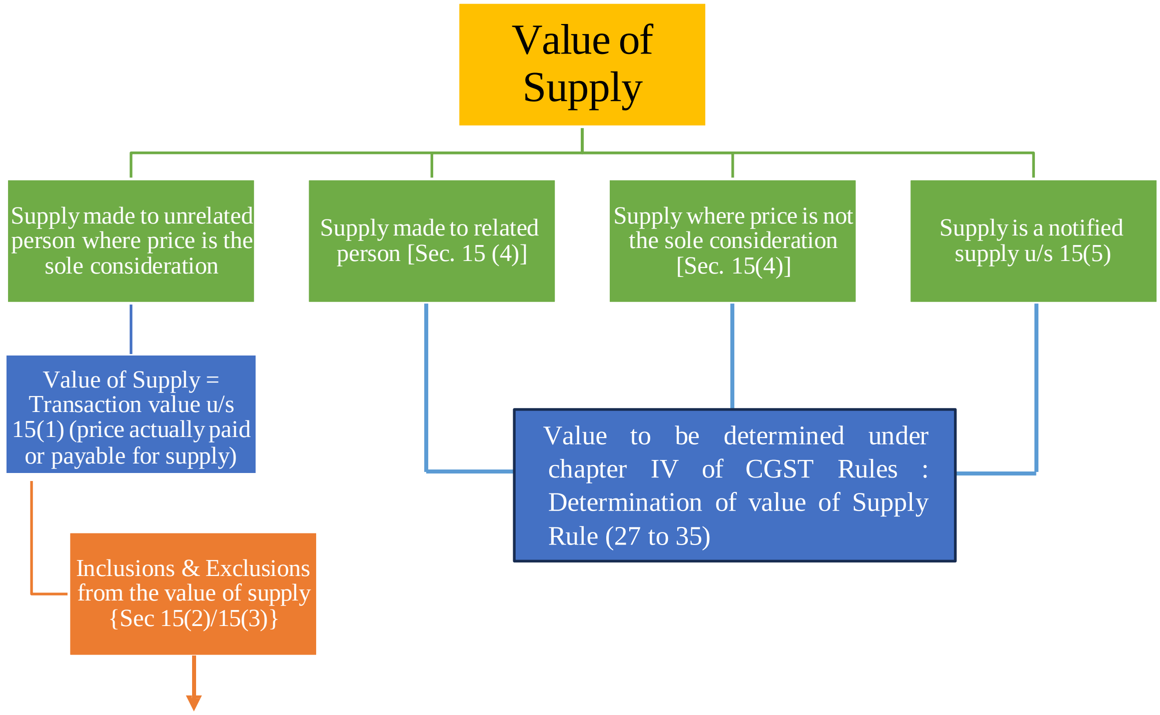




CHAPTER -7

Value of Supply

- **Section-15(1)** [Transaction value]
- **Section -15(2)** [Inclusions in Value]
  (Taxes other than GST, Third-party payment made by the recipient in relation to the supply, incidental expenses, subsidies directly linked to the price other than CG/SG subsidies, interest// late fee penalty for delay in payment)
- **Section -15(3)** [Exclusions from value]
  (Pre-supply discounts in invoice, post-supply discounts if agreed pre-supply, invoice-linked, and ITC reversed)



Item	Add/Less
Consultancy Charges in relation to installation	Add
Design, drawing and engineering charges	Add
Testing Charges	Add
Fright (From seller's premise to buyer's premise)	Add
Insurance Charges	Add
Interest/penalty charged by seller for delayed payment	Add
Interest/penalty charged by the seller for delayed payment, but waived later on	Do not Add
Inspection Charges	Add
Loading and weighment charges	Add
Primary Packing charges	Add
Protective Packing charges	Add
Subsidy (directly in relation to price) from the Central government or the State government	Do not add
Subsidy (directly in relation to price) from any other person	Add
Taxes/levies charged separately by the supplier (other than CGST/SGST/UTGST/IGST/GST CESS)	Add
Discount allowed at the time of supply [15(3)]	Less

CHAPTER-8
Input Tax Credit

- Section 16 (CGST Act): Eligibility & conditions, time limits, 180-day rule
- Section 17: Blocked credits, apportionment, exempt supplies
- Section 18: ITC on opening stock at (voluntary) registration
- Section 41: Reversal of ITC if supplier default (GSTR-3B)
- Section 49 & Rule 88A: Utilization sequence of ITC across taxes
- Rule 86A: Administrative restrictions on ITC usage

Input tax credit

Blocked Credits (Ineligible Credits) [Section 17(5)]

(a) ITC Related to Motor Vehicles, Vessels and Aircrafts

1. ITC on passenger Motor Vehicles (capacity upto 13 persons including driver) (Vehicles - engine capacity exceeding 25 CC) not allowed
   except when used for making following taxable supplies :
   (a) further supply of such motor vehicles, or
   (b) transportation of passengers, or
   (c) imparting training on driving such motor vehicles

2. ITC on Vessels and Aircrafts not allowed except when used
   (a) for transportation of goods;
   (b) for making the following taxable supplies, namely:-
      (i) further supply of such Vessels or Aircraft; or
      (ii) transportation of passengers; or
      (iii) Imparting training on navigating such vessels; or
      (iv) imparting training on flying such aircraft.

3. ITC of following services used for Motor Vehicles, Vessels or Aircrafts not allowed :
   (i) General insurance;
   (ii) Servicing, repair & maintenance, and
   (iii) Leasing, renting or hiring or motor vehicles, vessels or aircrafts.

excepts

⇒ where Motor Vehicles, Vessels, Aircrafts are eligible for ITC, then aforementioned services will also be eligible for ITC.

⇒ "General Insurance Service" and "Servicing, Repair and Maintenance Service" are availed by

(i) a manufacturer of motor vehicles, vessels or aircrafts, in respect of a motor vehicles, vessels or air crafts manufactured by such person;

(ii) an insurer in respect of motor vehicles, vessels or aircrafts insured or reinsured by such person, then, these 2 services will be eligible for ITC.

(b) (i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft, except when used for the purposes specified, life insurance and health insurance and EXCEPT WHEN,
An inward supply of these is used for making an outward taxable supply of the same category or as an element of a taxable composite or mixed supply.
(a) Membership of a club, health and fitness centre
(b) Travel benefits to employees on vacation such as LTC or home travel concession

ITC will be allowed if it is obligatory for an employer to provide these goods/services [covered under sub-clauses (i), (ii) & (iii) of clause (b)] to its employees, under any law for the time being in force.

(c) Works contract services for construction of an immovable property EXCEPT WHEN
⇒ It is input service for further supply of works contract service.
⇒ Immovable property is plant and machinery.

(d) Inward supplies received by a taxable person for construction of an immovable property (other than plant and machinery) on his own account even when such supplies are used in the course or furtherance of business (construction includes repairs, etc. which are capitalized to the immovable property).

(e) Inward supplies on which tax has been paid under the composition scheme.

(f) Inward supplies received by a NRTP except goods imported by him.

(fa) Goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility.

(g) Goods and/or services used for personal consumption.

(h) Goods that are lost, stolen, destroyed, written off or disposed of by way of gift or free samples

(i) GST paid under section 74, 129 and 130.

Apportionment of Credits [Section 17]

Goods and/or services

Used partly for business and partly for non-business purposes

Used partly for making taxable (including zero rated supplies) supplies & partly for exempt supplies

ITC available only as

Attributable to business purposes

Attributable to taxable supplies including zero rated supplies (ZRS)

Optional method for banks (including NBFC) [Rule 38]
i.e. Avail 100% of eligible ITC of Inputs, Inputs services & CG and then, reverse 50% of the ITC availed.
Restriction of 50% shall not apply to the tax paid on supplies received from another registration within the same entity.
In ward supplies covered u/s 17(S) or used for non business purposes are not eligible for ITC at all.
Option once exercised cannot be withdrawn during remaining part of the year.

Reversal of ITC

On switching to composition levy or exit from tax-paying status

⇒ ITC on inputs will be reversed proportionately on the basis of corresponding invoices on which credit had been availed on such inputs.

⇒ If invoices are not available, the ITC to be reversed will be based on the prevailing market price of such goods on the date of switch over/exemption.

⇒ ITC involved in the remaining useful life (in months) of the capital goods will be reversed on pro-rata basis, taking the useful life as 5 years.

On cancellation of Registration

1. Amount of credit to be reversed in respect of INPUTS :
   (i) ITC on inputs computed proportionately on the basis of corresponding invoices on which credit had been availed on such inputs or
   (ii) Output tax payable on such goods,
   Whichever is higher
   If tax invoices are not available, the ITC to be reversed will be based on the prevailing market price of such goods on the date of cancellation.
2. Amount of credit to be reversed in respect of CAPITAL GOODS OR PLANT & MACHINERY:
   (i) ITC involved in the remaining useful life in months of the capital goods will be reversed on pro-rata basis, taking the useful life as 5 years) or
   (ii) Tax on the transaction value of such capital goods or plant and machinery
   whichever is higher

On supply of capital goods or plant and machinery on which ITC has been taken

⇒ ITC taken on such goods reduced by 5% per quarter or part thereof from the date of issue of invoice for such goods (i.e., ITC pertaining to remaining useful life of the capital goods) or

⇒ Tax on transaction value of Capital Goods sold
whichever is higher

⇒ if refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value.

CHAPTER-9
Registration under GST

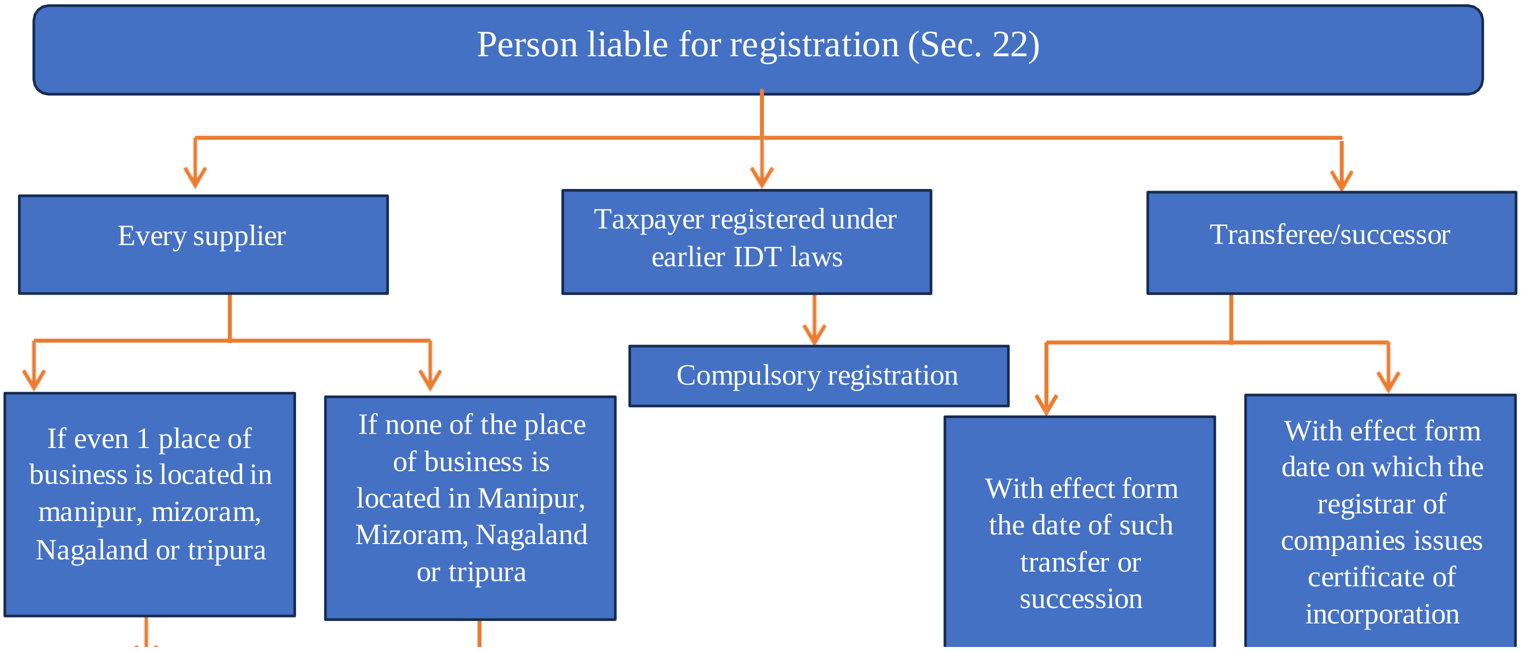
- **Section 22:** Threshold for registration

[Mandatory registration if:

(a) **Aggregate turnover exceeds ₹20 lakhs** (₹10 lakhs for special category states) in a financial year.

(b) For **goods**, limit is often **₹40 lakhs** (subject to conditions and state)]

- Section 23: Person not liable for registration
- Section 24: Compulsory registration categories
- Section 25: Registration procedure and voluntary registration
- Section 27: Special provisions for casual/non-resident taxable persons
- Section 29: Cancellation/suspension/revocation of registration



CHAPTER-10
Tax invoice, credit Note & Debit Note

- **Section 31:** Tax Invoice – time of issue for goods/services, revised invoice, bill of supply
- **Section 34:** Credit & Debit Notes – reasons, time limits, disclosure in return
- **Section 32:** Cannot collect tax unless registered
- **Section 33:** Must show tax separately on invoice

CHAPTER-11
Accounts and Records

- **Section 35:** Maintenance of Accounts and Records
- **Section 36:** Retention Period for Records

CHAPTER-12
E-way bill

- **Section 68:** Requirement of documents during transit
- **Rule 138:** E-Way Bill generation, validity, exemptions

CHAPTER-13
Payment of Tax

- **Section 49:** Payment of Tax, Interest, Penalty, and Other Amounts
  [Tax must be paid electronically from the electronic cash ledger or electronic credit ledger. The order of utilization is first IGST, then CGST, then SGST/UTGST.]
- **Section 50:** Interest on Late Payment of Tax
  [Interest is payable on delayed tax payment at prescribed rates (usually 18% per annum).]
- **Sections 73 & 74:** Demand and Recovery of Tax Not Paid or Short Paid
  [Provisions related to demand, recovery, and penalties for cases of non-payment or short payment of tax.]

CHAPTER-14

Tax Deduction at Source and collection of Tax source

- **Section 51**: Tax Deduction at Source (TDS)
- **Section 52:** Tax Collection at Source (TCS)

CHAPTER-15

Returns

- **Section 39:** Filing of return (GSTR-1, GSTR -3B, GSTR-4)
- **Section 44:** Final Return
- **Section 45:** Annual return (GSTR-9)
- **Section 46:** Notice to return defaulter