

BASIC CONCEPTS OF GST

DILIP PHADKE
Chartered Accountant

Areas Covered

Basic Concepts - Dual Model of GST,
Taxes subsumed and not subsumed,
Taxable event- *Existing Regime v. GST
Regime.*

Concept of Destination based value added
consumption tax

Relevant Important definitions

Levy & composition.

Transitional Provisions

Taxable Event : Existing Regime

- **Sales tax or VAT** is applicable on transfer of property in movable goods i.e. sale.
- **'Sale'** means “Parties competent to contract with Mutual assent Transfer general property in goods from seller to buyer for Price in money paid or payable”.
- **Deemed Sale** may not involve transfer of goods fully and includes “ Works contract, Hire purchase or instalment payment, leasing of goods, sale by club or AOP to its members, Supply of food /drinks for human consumption

Taxable Event : Existing Regime

- **Excise** is applicable on removal of **goods** manufactured or produced & covers processes that 'transform' a commodity to a new one with distinct name, character or use.
- Processes incidental or ancillary to completion of a manufactured product [sec.2(f)(i)]
- Processes specified in Section or Chapter Notes of Sch. I of Central Excise Tariff Act as amounting to manufacture
- Specified processes in relation to goods in Sch.III of Tariff Act e.g. packing, labelling, etc.
- **Service Tax** : applicable on services
'Service' means any activity done by one for another for consideration in business.

What is GST

- GST is one indirect tax for the whole nation
- Make India one unified common market in
FEDERAL STRUCTURE
- Single tax on supply of goods and services,
right from the manufacturer to the consumer.
- Essentially a tax only on value addition at each
stage with set off benefits– seamless credit.
Consumer not burdened with cascading of
taxes.

NEW TERM – SUPPLY (SEC. 7)

“supply” includes :

- (a) goods &/or services such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be **made for a consideration** by a person **in the course or furtherance of business**;*
 - (b) import of services for a consideration whether or not in the course or furtherance of business;*
 - (c) the activities specified in Sch I, made or agreed to be made without a consideration; and*
 - (d) the activities to be treated as supply of goods or supply of services as referred to in Sch II.*
- (2) Notwithstanding anything contained in sub-section (1),—*
- (a) activities or transactions specified in Schedule III; or*
 - (b) such activities or transactions undertaken by the CG, SG, LA in which they are engaged as public authorities, shall be treated neither as a supply of goods nor a supply of services.*

SCH – I ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE W/O CONSIDERATION

1. Permanent transfer or disposal of business assets where ITC has been availed on such assets.
2. Supply of G & / or S between related persons or between distinct persons as specified in sec. 25, when made in the course or furtherance of business
 - > Gifts not exceeding Rs. 50,000/-in value in a FY by an employer to an employee shall not be supply of G & / or S.
3. Supply of goods—
by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or vice a versa
4. Import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

SCH – II DEEMED SUPPLY OF SERVICES

- 1 Trf of right in goods w/o trf of title to goods. (Leasing)
- 2 Lease, Tenancy and License to occupy Land.
- 3 Letting out of building for business or commerce.
- 4 Job Work
- 5 Renting of Immovable Prop., Construction of complex, bldg, civil structure or a part thereof including intended for sale to a buyer except sale after oc or first occupation whichever is earlier.
- 6 Temporary trf or permitting to use/ enjoyment of any IPR.
- 7 development, design, prog., customisation, adaptation, upgradation, enhancement, implementation of IT software
- 8 agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and
- 9 Trf of right to use any goods.
- 10 Composite Supply – Works Contract & Supply of Food

SCH – II DEEMED SUPPLY OF GOODS

1. Any trf of title in goods
2. Trf of title in goods by agt that property in goods shall pass on a future date on payment of consideration.
3. Transfer of business assets whether or not for consideration
4. Goods forming part of the asset of business on the date of closure of business unless transfer as going concern (Exemption Sr. No. 32)
5. Supply of goods by unincorporated AOP or BOI for cash, deferred payment or other valuable consideration.

SCH – III NEITHER SUPPLY OF GOODS OR SERVICE

- 1 Employer and Employee – Service for employment
- 2 Service by Court or Tribunal
- 3 Functions performed by Political Persons like MP, MLA etc.
4. Service of Funeral, Burial, Crematorium or Mortuary including transportation of the deceased.
- 5 Sale of land other than construction
- 6 Actionable claims other than lottery, betting and gambling

EXISTING SIGNIFICANT TAXES

➤ **Central Taxes**

- Excise Duty
- Service Tax
- Custom Duty

➤ **State Taxes**

- VAT
- **CST (Revenue assigned by Union to States)**
- Luxury tax
- Entry Tax

Disadvantages in Existing Tax Structure

- Multiple Taxes / Levies.
- Lack of uniformity in rates and structure
- Cascading Effect – VAT on Excise Duty/ CVD, SAD – Tax on Tax
- Double taxation.
- Lack of seamless credit –
 - Trader does not get credit of service tax/ Excise duty/ CVD
 - CST – No credit for manufacturer/ trader/ service provider
- No set off inter service tax, Vat, Excise.
- Stock Transfers are Cumbersome & involves Costs
- Entry Tax – barriers to free movement of goods

Government's answers to these problems

GST

- *One Nation One Tax*
- Tax only on Value Addition
- Benefits of GST
- IGST on interstate transactions

Benefits of GST For Business & Industry

- Easy Compliance : A robust and Comprehensive IT GSTN system available to the tax payers online.
- Uniformity of tax rates and structures –
No need for State shopping
- Removal of cascading – system of seamless tax credits throughout the value chain and across
- States ensuring minimal cascading of taxes:-- No hidden cost of doing business, widening of ITC, Improved Competitiveness – Reduction in transaction cost of doing business, refunds available.
- No more MRP based taxation

Gain to manufacturers and exporters -

- Reduction in cost of manufacture, subsuming of major Centre and State taxes in GST.
- Comprehensive s/o of input goods and services.
- Zero rate of tax for export of goods & services – export competitive.
- **For the Consumers**
- Single & transparent Tax proportionate to the value of goods & services
- Reduction in prices of goods & services due to relief in overall tax burden

Advantages For Centre & State Governments

- Simple & easy to administer ?
- Better control on revenue leakages –
- IT infrastructure and seamless credit will incentivize tax compliance
- Higher Revenue efficiency – Decrease in cost of collection.
- For every state one bench of tribunal & Adv. Ruling authority – fast disposal of litigation & doubts
- **Ultimate Agenda**
- - **Check evasion and**
- - **boosts Revenue of Centre as well as States by expanding respective fiscal space**

Disadvantages - Negatives

- Following are made taxable: a) barter, exchange, b) import of services without consideration & non business purpose, c) use of asset for personal purpose, d) samples, e) free of cost supplies, f) Br. trf., g) subsidies linked to supply.
- Requirement of registration in multiple/same state.
- Compliance burden increased: a) multiple returns b) No ITC if tax not paid by supplier – Follow up.
- No area base exemption, concessions.
- Wide powers: assessment, scrutiny, audit, penalty, prosecution – taxpayer susceptible by tax admin.
- Mandatory pre deposit for filing SGST appeals.
- Returns & payments of TDS, TCS, RCM etc.

GST IN INDIA

- GST rates on goods and services collected by one agency across India
- Federal structure – Union and States
- Dual Structure - Dual Levy - Dual Control
- **Present Indirect taxing powers**
- **Central Govt.** :- Excise on Manufacturing, custom duty on imports & Service tax on services.
- **State Govt.** :- Tax on sale / purchase of goods; Tax on entry of goods in local area; Taxes on luxuries, betting, gambling, etc.
- ***Each tax a major source of revenue for discharging Government functions***

Goods and Services Tax Network [“GSTN”]

- GSTN a non- profit , non govt. Co. formed in Mar. 2013 to provide IT infrastructure services [GST Portal] to C.G. and S.G., taxpayers and stake holders
- In front end its Common IT platform for receiving and processing e-returns, e-payments, and e- reg.
- At back end it will help in audits, assessments & appeals.
- *Essentials for seamless value chain and tax credit mechanism*
- Unified tax credit clearing mechanism.

INTRA STATE SUPPLY SEC. 8

INTRA STATE SUPPLY

Sub. to sec. 10 for goods

Sub. to sec. 12 for services

- Location of supplier & place of supply in same state or union territory

NOT INTRA STATE SUPPLY

- Supply of goods/services to/by SEZ supplier or developer of SEZ.
- Imported goods till they cross custom frontier
- Supplies made to tourist referred in sec. 15

Establishment of distinct person

- In India & outside India
- In one state or UT & Other state or UT.
- One unit and other business vertical in same state or two units in two diff. states of same person

GST Rates for Foundry Materials

HSN	Product	Excise Rate	Vat	Total	GST Rate
7601	Aluminium Castings	12.5%	6%	19.25%	18%
7401	Gunmetal Castings	12.5%	6%	19.25%	18%
7301	Ferrous Castings	12.5%	6%	19.25%	18%
2505	Silica Sand	Nil	6%	6%	5%
3800/3900	Fluxes	12.5%	13.5%	27.69%	18%
7502/7202	Ferroalloys	12.5%	6%	19.25%	18%
2710	Furnace Oil	14%	13.5%	29.39%	28%
2701	Coal / Coke	6%	6%	12.36%	5%

Concept of Dual GST

- CGST & SGST on intrastate supplies
- IGST on interstate supplies

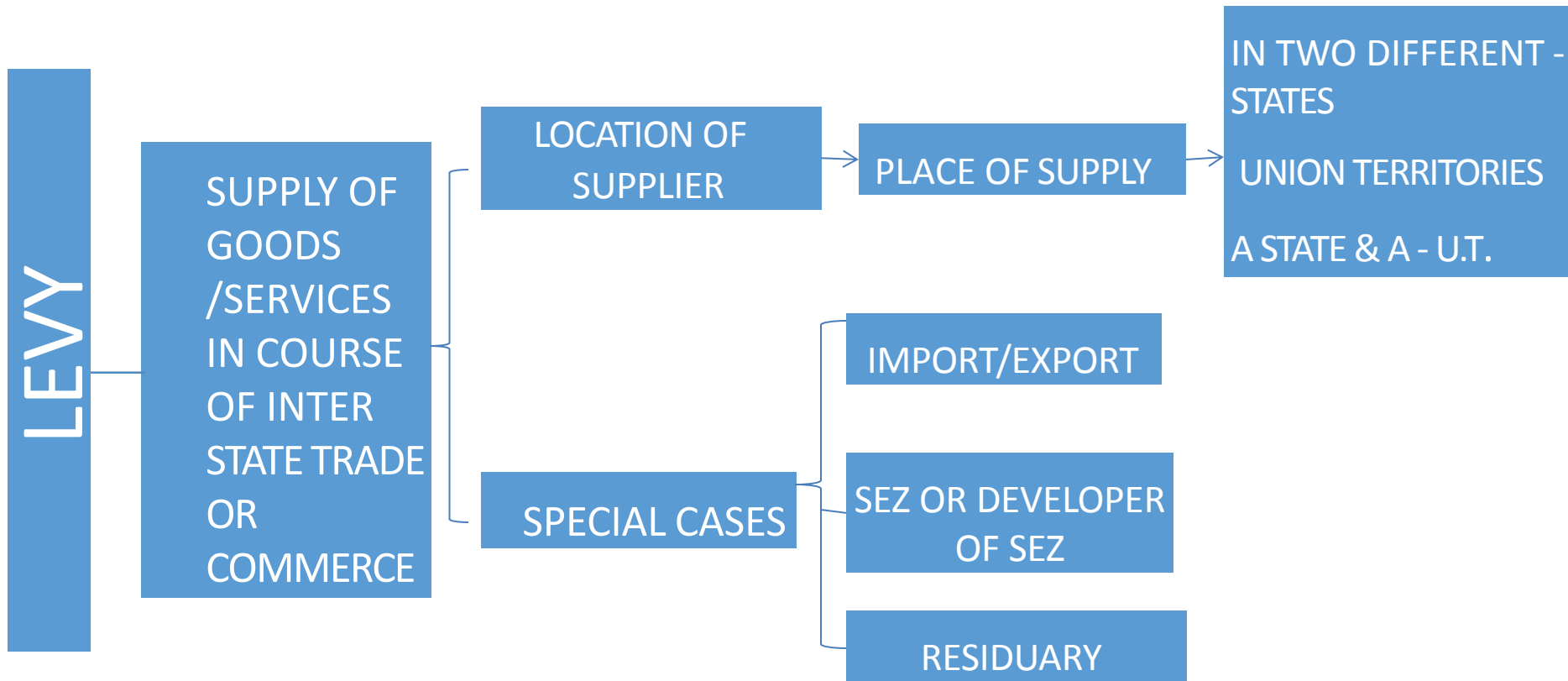
Destination Based

- Administered at place of origin.
- Enjoyed at place of consumption or destination

Set Off

- No set off between CGST & SGAT
- Set off of IGST against I/C/S /UT GST available.

IGST : The Broad Scheme Sec. 7



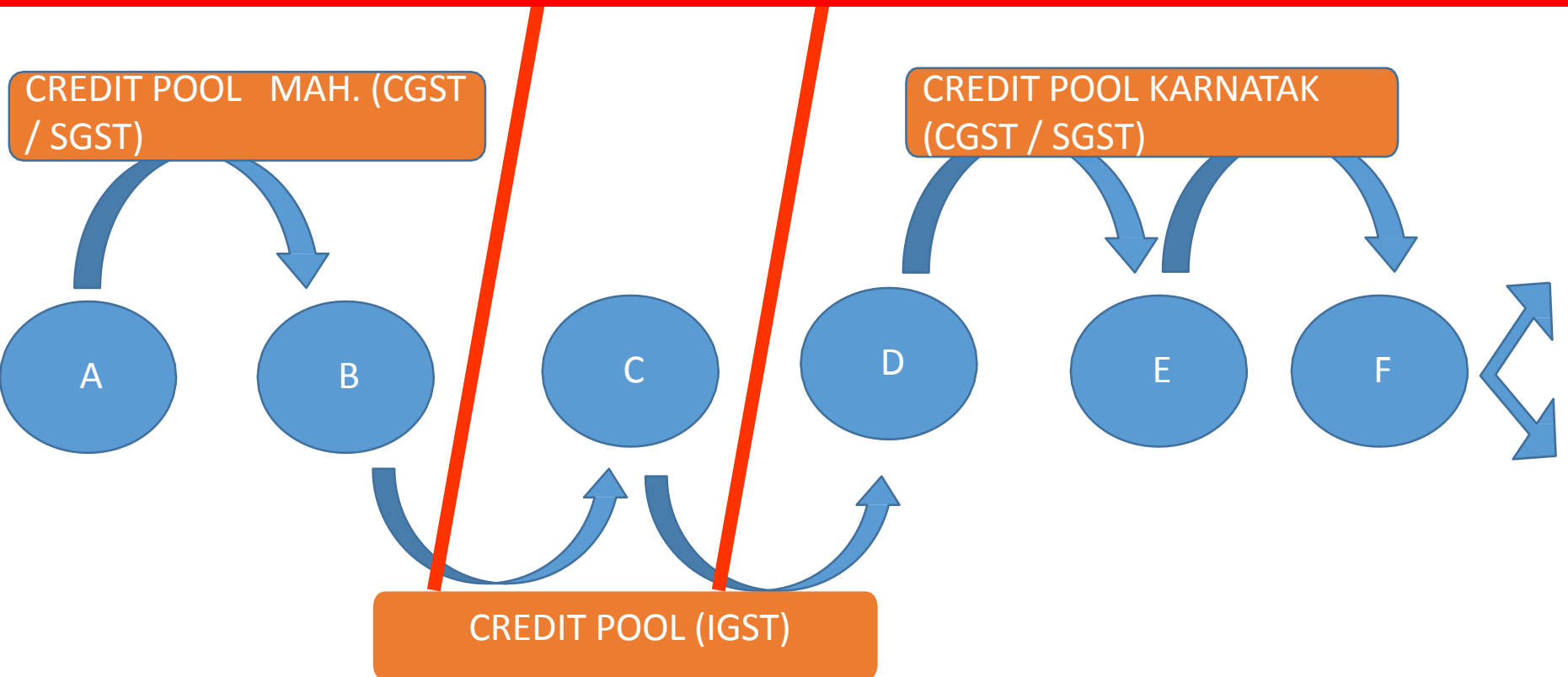
SUPPLY OF GOODS SUBJECT TO PROVI. OF SEC. 10 * SUPPLY OF GOODS IMPORTED TILL THEY CROSS CUSTOM BORDER ARE ISTC* SUPPLY OF SERVICES SUBJECT TO PROVISIONS OF SEC. 12 * SUPPLY OF SERVICES IMPORTED TO BE SUPPLY IN ISTC

IGST – how tax is trf. from org. to destination state

STATE MAHARASHTRA

STATE GOA

STATE KARNATAKA



Dual structure of GST

On every supply of goods & Services intra state

-- Central Govt. will levy CGST &

-- State Govt. will levy SCST

- **Credit**

- Allowed between goods and services;

- Allowed between CGST and CGST;

- Allowed between SGST and SGST

- Not allowed between CGST and SGST

- **Not allowed between CGST/ SGST OF ONE STATE WITH OTHER STATE.**

Inter – State Transactions of goods and services

- Center will collect IGST- integrated G & S tax.
- $IGST = CGST + SGST$ (to be same every state?)
- Novel GST mechanism provides for seamless credit
- Facilitates the continuity of cenvat credit without break
- Avoids distortion in taxation
- Facilitates the philosophy of consumption based tax
- Scrapping of all forms
- Pay and get credit instead of upfront pay less.
- Finance cost will go up

CREDIT IN	IGST	CGST	SGST
IGST	1	2	2
CGST	2	1	Not Allowed
SGST	3	Not allowed	1

DUAL GST WITHIN STATE: Working Example

Details	R.M. Supplier - S	Manufacturer -M	Retailer -R
Basic Price	10000	15000	20000
10% CGST	1000	1500	2000
10%SGST	1000	1500	2000
Total Price	12000	18000	24000

S will pay Rs. CGST 1000 + SGST 1000

M & R will get I.T.C. of taxes paid by S and M will pay : CGST 500 + SGST 500.

If R sells the goods to consumer C as he is ultimate user will not get any I.T.C.

Apportionment of IGST

Details	M of Mumbai	G of Goa	K retailer of Goa
Basic Price	10000	15000	20000
IGST 20%	2000	0	0
CGST 10%	0	1500	2000
SGST 10%	0	1500	2000
Total Price	12000	18000	24000

- M will pay IGST 2000/-
- G will adjust total IGST 2000 towards 1500/- CGST (pay 0 CGST) & 500 SGST while paying taxes (pay SGST 1000). Rs. 500 adjusted by G towards SGST will be trf. by Center to Goa state
- K will pay 500 each of SGST & CGST.

Apportionment of IGST

Details	M of Mumbai	G of Goa	A of Andhra
Basic Price	10000	15000	20000
IGST 20%	2000	3000	0
CGST 10%	0	0	2000
SGST 10%	0	0	2000
Total Price	12000	18000	24000

- M will pay IGST 2000
- G will pay IGST 1000 (3000-2000)
- A will pay CGST 0 adjusting IGST & SGST 1000 by adjusting balance IGST 1000
- Center will transfer Rs. 1000/- adjusted by A while paying SGST to ANDHRA state.

Central TAXES SUBSUMED/NOT SUBSUMED

Central Excise Duty (<i>except on specified petroleum items & tobacco and its products</i>)	✓ Yes	
Additional Excise Duties	✓ Yes	
Addl. Custom Duty (CVD)	✓ Yes	
Spl. Addl. Duty of Custom (SAD)	✓ Yes	
<i>Basic Custom duties</i>		✓ No
Central Sales Tax (CST)	✓ Yes	
Service Tax	✓ Yes	
Cesses	✓ Yes	

State TAXES SUBSUMED/NOT SUBSUMED

VAT / Sales tax [except on sale of specified petroleum items & alcoholic liquor]	✓ Yes	
Purchase Tax	✓ Yes	
Tax on Entertainment / Amusement (other than levied by local body)	✓ Yes	
Luxury tax	✓ Yes	
Taxes on lottery, betting and gambling	✓ Yes	
Excise on liquor		✓ No
Tax on advertisement other than in Press/ TV/ Radio	✓ Yes	
Property tax		✓ No
Tax on sale / consumption of electricity		✓ No
Stamp duties		✓ No

Sec. 9 Levy & Collection

- (1) CGST shall be levied on all intra state supplies of G & / S except supply of alcoholic liquor for human consumption, on the value determined u/s 15 at specified rate not exceeding 40% as may be notified and collected and paid by the taxable person
- The central tax on the supply of petroleum crude, HSD, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from notified date
- (3) Tax under RCM on specified categories of supply of goods or service
- (4) Tax under RCM on purchases from URD by RD

Sec. 10 Composition Levy

- Subject to prov. of 9(3) & (4), a taxable person can pay a composition tax at such prescribed rate if his aggregate turnover in preceding F Y didn't exceed Rs. 50 lacs.
- Subject such conditions and restrictions such rate shall not be exceeding
 - 1% in case of manufacturer
 - 2.5% in case of supply of food & drinks for human consumption
 - 0.5% in any other case.
- Govt. may increase the limit of Rs. 50 Lacs to higher amount but not exceeding Rs. 1 Crore

Sec. 10 Composition Levy

- **Conditions:**

(a) not engaged in the supply of services other than supplies of food and drinks for human consumption

(b) not engaged in making any supply of goods which are not leviable to tax under this Act;

(c) not engaged in making any inter-State outward supplies of goods;

(d) not engaged in making any supply of goods through an electronic commerce operator who is required to collect TCS under sec 52; and

(e) not a manufacturer of such goods as may be notified.

Sec. 10 Composition Levy

- Permission is granted only if all the registered persons having same PAN also opt to pay under composition
- The option shall be lapse w.e.f. the day on which aggregate t/o during F Y exceeds the limit specified in sub section (1)
- Shall not collect tax
- Not entitled to any ITC
- If found not eligible to pay under composition, shall pay tax as per other provision and also liable to penalty and provision of sec 73 or 74 shall apply mutatis mutandis

IMPORTANT DEFINITIONS

- **Sec 2(30) “composite supply”** means a supply consisting of two or more taxable supplies of G & / or S, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;
- **Illustration: Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply.**

IMPORTANT DEFINITIONS

- **Sec 2(74) “mixed supply”** means two or more individual supplies of G / S or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply **does not constitute a composite supply;**

Illustration: A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately.

Sec. 8 Tax on Composite & Mixed Supply

- The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:—

*(a) a **composite supply** comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such **principal supply**; and*

*(b) a **mixed supply** comprising two or more supplies shall be treated as a supply of that particular supply which attracts the **highest rate of tax**.*

Sec. 14 Change in Rate of Tax

- Supplies made **Before** change in rate

Issue of Invoice	Receipt of Payment	Point of Taxation
After	After	Earliest Date of inv./payment
Before	After	Date of Issue of Invoice
After	Before	Dt of Receipt of Payment

- Supplies made **After** change in rate

Issue of Invoice	Receipt of Payment	Point of Taxation
Before	After	Date of Receipt of Payment
Before	Before	Earliest Date of invoice or receipt of payment
After	Before	Date of Issue of Invoice

Sec. 14 Change in Rate of Tax

- Provided that the date of receipt of payment shall be the date of credit in the bank account if such credit in the bank account is after four working days from the date of change in the rate of tax.
- *Explanation.*—For the purposes of this section, “the date of receipt of payment” shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

IMPORTANT DEFINITIONS

- **Sec 2(18) Business Vertical** means a distinguishable component of an enterprise that is engaged in the supply of individual goods or services or a group of related goods or services which is subject to risks and returns that are different from those of the other business verticals.
- **Sec 2(19) “capital goods”** means goods, the value of which is capitalised in the books of account of the person claiming the input tax credit and **which are used or intended to be used in the course or furtherance of business;**

IMPORTANT DEFINITIONS

- **Sec 2(20) Casual Taxable Person** means a person who occasionally undertakes transactions involving supply of G & / or S in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business;
- **Sec 2(68) “Job work”** means any treatment or process undertaken by a person on goods belonging to another reg. person and the expression “job worker” shall be construed accordingly;

IMPORTANT DEFINITIONS

Sec 2(31) Consideration includes

- *(a) any payment made or to be made, whether in money or otherwise & (b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of G & / or S, whether by the recipient or by any other person **but shall not include any subsidy given by the CG or SG;***
- Provided that a deposit given in respect of the supply of G & / S shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;

IMPORTANT DEFINITIONS

- **Sec 2(47) Exempt Supply** means supply of any goods or services or both which attracts *nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the IGST Act* and includes non-taxable supply;
- **Sec 2(50) Fixed Establishment** means a place (other than the registered POB) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs;

IMPORTANT DEFINITIONS

- **Sec 2(56) “India”** means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and the air space above its territory and territorial waters;
- **Sec 2(61) “Input Service Distributor”** means an office of the supplier of G & / S which receives tax invoices issued under sec 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of Central, State, Integrated or UT tax paid on the said services to a supplier of taxable G & / S having the same PAN as that of the said office;

IMPORTANT DEFINITIONS

- **Sec 2(85) “Place of Business”** includes—

- (a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or*
- (b) a place where a taxable person maintains his books of account; or*
- (c) a place where a taxable person is engaged in business through an agent, by whatever name called;*

Sec 2(98) “Reverse Charge” means the liability to pay tax by the recipient of supply of G & / S instead of the supplier of such G & / S under Sec 9(3) or (4) or Sec 5(4) of the IGST;

IMPORTANT DEFINITIONS

- (93) “**recipient**” of supply of G &/or S, means—
- (a) where a consideration is payable for the supply of G &/or S, the person who is liable to pay that consideration;
- (b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and
- (c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

IMPORTANT DEFINITIONS

- **Sec 2(105) “Supplier”** in relation to any G & / S, shall mean the person supplying the said G & / S and shall include an agent acting as such on behalf of such supplier in relation to the G & / S supplied;
- **Sec 2(119) “Works Contract”** means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract;

IMPORTANT DEFINITIONS

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

IMPORTANT DEFINITIONS

- (106) *“tax period” means the period for which the return is required to be furnished;*
- (107) *“taxable person” means a person who is registered or liable to be registered u/s 22 or u/s 24;*
- (108) *“taxable supply” means a supply of goods or services or both which is leviable to tax under this Act;*
- (109) *“taxable territory” means the territory to which the provisions of this Act apply;*

Thank You