



# Entertainment & Media

*Indirect tax landscape & emerging issues*

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# Entertainment

Content is the king

# Content – create to monetize

- Content Creation

- Creative
- Manpower
- Location
- Equipment
- Services
- Talent
- Line Production

- Content Monetization

- Copyrights
- End Consumer Monetization – Subscription / OTT/ Video on Demand
- Merchandise
- Advertisements
- Cross Selling

# Creative ...

- Compulsory Reverse Charge Mechanism

- Supply of services by a music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original dramatic, musical or artistic works to a music company, producer or the like

- Optional Reverse Charge Mechanism

- Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a publisher

- Tax Rates

- Temporary or permanent transfer or permitting the use or enjoyment of Intellectual Property (IP) right in respect of goods other than Information Technology software – 12%
- Services of Work for Hire – 18%

# Manpower ...

- No RCM except Security Services
- Many examples of URD
- Unorganised Sector – 2A vs. 3B Matching
- Garnishee Proceedings – Multiple States
- Valuation – Reimbursements of PF/ESIC/Labour Cess

# Location ...

- Hotels / Venues on Hire
- Generally fits within the immoveable property related basket for
  - International POS
  - Domestic POS
- Requirement for Multi State Registrations to claim the credits
- Is outsourcing to local person a solution? What are the risks?

# Equipment hire...

- List of blocked Credits includes
  - Motor vehicles for transportation of persons
  - services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles
- Whether credit is available for
  - Destroyed Cars used in shooting
  - Vanity Vans

# Services ...

- List of blocked Credits includes
  - food and beverages, outdoor catering, beauty treatment
  - Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;
- Can credit be claimed on F&B of crew / beauty treatment of talent ?



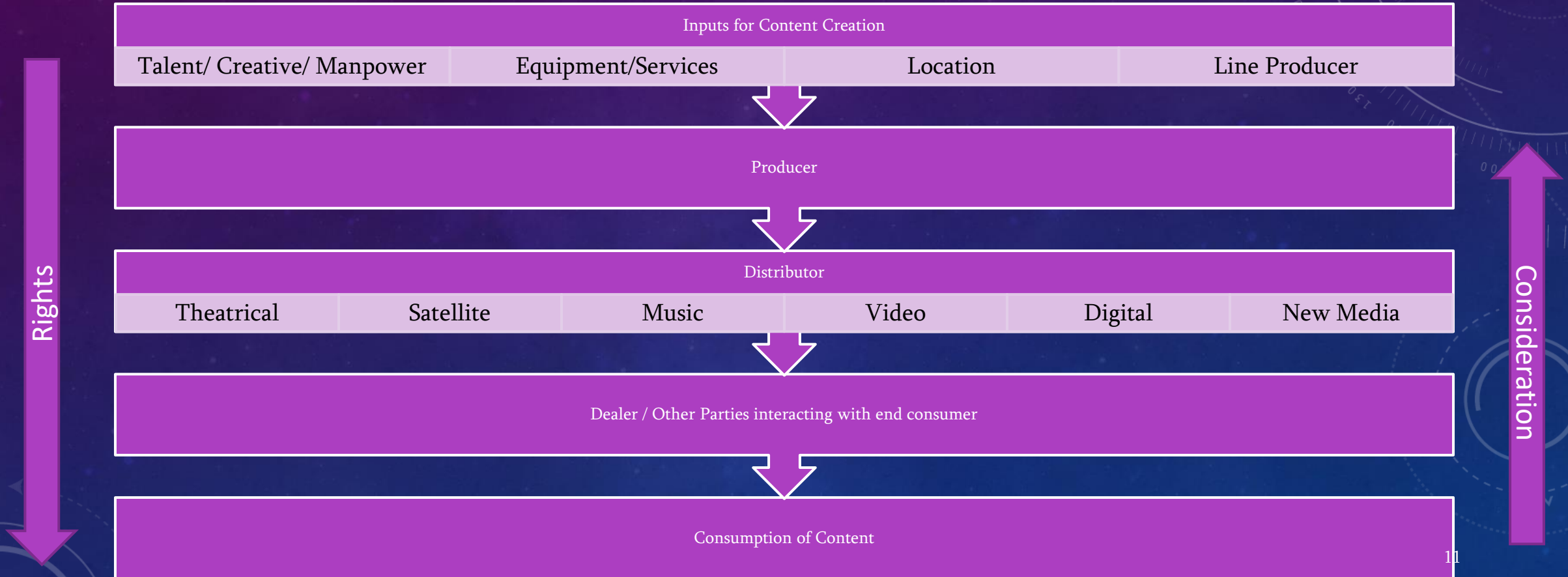
# Talent ...

- Celebrity Management Agreements
  - With Third Parties
  - With OPC / Related Party
- Taxability of Reimbursements and Direct Payments
- Barter Deals
- Complex Deals
  - Profit Sharing & Stake Sales

# Line production ...

- Whether pure agent / intermediary ?
- Cross Border Transactions – Place of Supply?
- Valuation
  - Subsidies / Incentives Received from Governments

# COPYRIGHTS – TYPICAL DEAL



# Consideration – Typical components

- Minimum Guarantee
- Marketing Commitment
- Overflows
  
- Net Revenues from Exploitation – Gross Collections reduced by taxes and agreeable reductions

# Typical issues:

- Whether marketing commitment amounts to barter and a service rendered?
  - If yes, whether the commitment amount or the recouped amount or the spent amount?
- Whether overflow liable for tax?
  - Does it partake the character of revenue sharing?
- What is the character of overflow?
- What is the time of supply?
  - No provision under GST similar to Rule 8 of the Point of Taxation Rules, 2011

# Copyrights

- Whether Goods or Services?
- Distinct Entries in both the schedules – Rate is the same
- Definition of goods in draft law did not see the light of the day
- Litigation in the old law on perpetual deals
- Impact
  - Time of Supply – Tax on Advances
  - Export Claims – how to demonstrate
  - Eligibility of Input Tax Credit to the Recipient

# Copyrights – issues (contd.)

- ITC on Inputs – 18%, Tax on Output – 12%
- Inverted Rate Structure – Eligibility for Refund? Contrary decisions from High Court
- ITC Accumulation - Timing Impact
- Shelved/Delayed Projects
  - Timelines for Credit Notes
  - Advances Refunded – consequential GST Refund
  - Accumulated ITC for shelved projects – whether to reverse?

# Media

The 4<sup>th</sup> Estate



# Print media

- Supply
  - Advertisement in Print Media liable for GST @ 5%
  - Sale of Newspapers liable for GST @ NIL %
  - Periodic Subscriptions to Newspapers ??
  - Digital Newspaper liable for GST @ 5% or 18% - whether newspaper can be considered as e-book?
  - How to determine the location of the supplier? Print circulation in one State but sales office in another State
  - Implementation of Branch Transfer of Services / Cross Charge
  - Taxability of Scrapped Newspapers
- RNI Classification
  - Tax Rate on Newsprint 5% vs. 12%
  - Tax Rate on Job Work in relation to printing 5% vs. 12%
  - Paid Content – nature of service – advertisement or promotion?
- Place of Supply
  - Who is the recipient of supply – Advertising Agency or the Advertiser?
  - Specific Provisions for B2C / B2G Customers

# Print media – contd.

- Valuation
  - Barter Deals
  - Discounts and Incentives
- Input Tax Credit
  - Proportionate Reversal
    - Rule 42 – whether printing cost is T2 (exclusively exempt) or C1 (common credit) ?
    - Rule 43 – capital goods credit – how to operationalize?
  - Free Supplies – Complimentary Newspapers / Advertisements
  - Credit Accumulation – Inverted Rate Structure
- Time of Supply
  - Cancellations , Refunds & Forfeiture

# Electronic Media (TV / Radio):

- Supply
  - Broadcasting Subscriptions as well as advertisements liable for GST @ 18%
  - How to determine the location of the supplier? Location of the contracting party or the telecast centre?
  - Implementation of Branch Transfer of Services / Cross Charge
  - Supply by prepaid vouchers / recharges
  - RCM on AGR and Government payments
- Place of Supply
  - Who is the recipient of supply – Advertising Agency or the Advertiser?
  - Specific Provisions for B2C / B2G Customers
- Valuation
  - Barter Deals
  - Discounts and Incentives
- Time of Supply
  - Tax Implications on Advances
  - Associated Cash Flow Issue

# OOH / Outdoor Media:

- Place of Supply
- Location of Supplier
- Input Tax Credit
  - Whether Civil Structure?
  - Written Off at expiry of the lease period?
- Interstate Movement of Client Supplied Materials – whether amounts to branch transfer?
- Reverse Charge Mechanism on payments to Municipal Corporation
  - For Corporation Owned Lands
  - For Private Lands

# Digital / social Media:

- Scenarios
  - Indian Supplier – Indian Recipient -- Taxable
  - Indian Supplier – Foreign Recipient -- Export
  - Foreign Supplier – Indian B2B Recipient -- Import
  - Foreign Supplier – Indian B2C Recipient -- OIDAR
- How to determine the recipient of supply?
  - Does the media act as an agent of the content provider or as a principal?
  - What is important – contract / conduct / flow of money
- Risk of Double Taxation – first as non export and second as import / OIDAR
- Can the OIDAR Representative be considered as Indian establishment of the foreign supplier?

# Media: Common Issues

- Bundling of Services – whether mixed or composite supplies? What is the dominant supply?
  - Print and Non Print
  - Print and Creative
  - Print and Brand Promotion
  - Print and Paid Content
  - Ground Events
- Barter Deals
  - How to value
  - If between related parties
  - If at a distant date
- Discounts and Incentives
  - Whether independent supply?
- Cancellations & Forfeitures
  - Whether independent supply?

# Ground events / reality shows/ award nights

- Different Tax Rates for Participation to such events
- Sponsorship under Reverse Charge Mechanism
  - Corresponding Reversal of Input Tax Credit
- Distinction between sponsorship and brand promotion
- POS for foreign sponsors
- Prize Moneys and Awards by sponsors
  - Routed through the company
  - Not Routed through the company
- Bundled Services – Media Campaign & sponsorship

The background is a dark blue gradient with a subtle pattern of white dots. On the left side, there are several overlapping circular elements. A prominent feature is a large circular scale with tick marks and numerical labels (140, 150, 160, 170, 180, 190, 200, 210, 220, 230, 240, 250, 260) arranged in a semi-circle. Other circles include solid and dashed lines, some with arrows indicating direction, and some with partial segments. The overall aesthetic is technical and modern.

Thank you !!