



GST- Introduction, Definitions, Concept of Supply, Composition Levy and Transitional Provisions

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Presentation Outline

- 1. Basic concepts of GST and Introduction**
- 2. Dual GST model**
- 3. Taxable event in GST Regime vs Existing Regime**
- 4. Important Definitions**
- 5. Meaning of Supply**
- 6. Composition Scheme**
- 7. Transitional Provisions**

BASIC CONCEPTS OF GST AND INTRODUCTION

GST- Why so much noise...

Challenges of current indirect tax structure

✓ Hindrances in Inter-state movement of goods:

- CST credit not available
- Uneconomic activities like opening of branches to save CST
- Purchase from outside State
- Plethora of forms required for movement of goods within State, Inter-State, through State

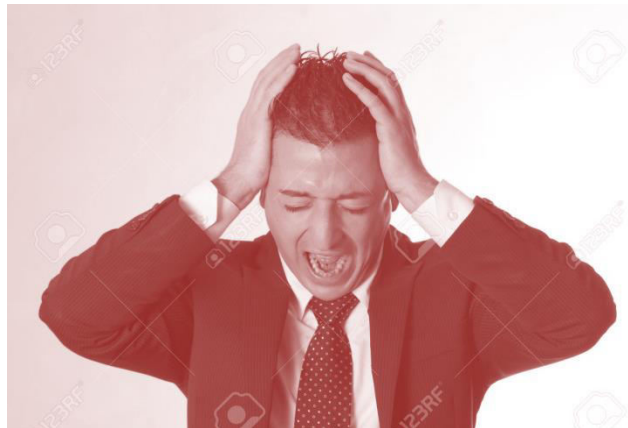
✓ Multiplicity of Indirect Taxes:

- Dispute about taxability or taxing under more than one law (Manufacture, Computer Software, Leasing)
- Compliance under various laws

✓ Cascading Taxation

- VAT on Excise Duty
- VAT & SAD Credit not available to service providers
- Service Tax Credit not available to traders

✓ No set-off, no Invoice Parallel Economy



Multiplicity of Indirect Taxes

✓ Union List

- Custom Duties
- Excise Duties
- ED on medicinal & toiletries preparation containing Alcohol
- Central Sales Tax
- Service Tax
- Residuary Entry:97

✓ State List

- Sales Tax/VAT
- Excise duty on Alcohol/Opium
- Entry Tax & Octroi
- Electricity Duty
- Taxes on vehicles
- Stamp Duty
- Luxury Taxes
- Entertainment taxes

Inter-State movement of Goods in India- Some facts

✓ Do you know?

- Covers trade between firms and within firm (Sale + Branch transfers)
- It is 54% of GDP
- Why so high Inter State Trade
 - Branch Transfer is about 50% of Inter State trade — CST not payable
 - Present IDT structure discourage within State trade
 - CST [s arbitrage opportunity against higher VAT rate
 - It is tax saving to buy inter-state where buyer is consumer or manufacture exempted goods— builders, factories manufacturing exempted goods
 - Automobile, Parts, Petrol, Diesel, construction material

Inter-State movement of Goods in India- Some facts

✓ Do you know?

- Area based exemptions
- Loss of Rs 87000 crores due to delay & wasteful fuel consumption at Border check posts and toll plaza (IIM Kolkata Study)
- Trucks in India covers 8500 kms in a year as against 1.5 to 2 lakh kilometers in a year in advanced countries
- Trucks spent 16% of travel time at border check posts — Ministry Road Transport
- 65% cargo movement by Road, 33% by Rail

The Bridge comes as a Foundation for the beginning of a New Economic Revolution- Do we expect the same from GST?



Hon. PM Narendra Modi

Inaugurated bridge on Friday 26th May, 2017 in Assam – 9.15 kms

It will reduce distance from Assam to Meka by 165 km

Cutting down the Travel time by 5 hours

Taxes to be subsumed

✓ Central Taxes to be Subsumed

- Central Excise duty (CENVAT)
- Additional duties of Excise
- Excise duty levied under Medicinal and Toiletries Preparation Act
- Additional duties of customs (CVD & SAD) and other domestic taxes impose on imports
- Service Tax
- Cess (viz., Cess on rubber, tea, coffee etc.)
- Central Sales Tax
- Surcharges levied by the Union viz., National Calamity Contingent Duty, Education Cess, Special Additional Duties of Excise on Motor-Spirit and High Speed Diesel (HSD).

GST



✓ State Taxes to subsumed

- State VAT / Sales Tax
- State Excise Duty (except on liquor)
- Purchase Tax
- Entertainment Tax (not levied by the local bodies)
- Luxury Tax
- Entry Tax (All forms)-Octroi
- Taxes on lottery, betting and gambling



Exclusions from GST

- Basic Customs Duty
- Stamp Duties
- Other taxes:
 - ▶ Tax on alcoholic liquor for human consumption (State)
 - ▶ Petroleum products – levy of GST to be made effective at a future date
 - ▶ Tax on entertainment and amusement levied and collected by Municipal authorities

GOODS AND SERVICES TAX

Evolution of GST

Year/ Date	Description
2000	Vajpayee Government mooted the Idea
2002-2004	Kelkar Task Force - Vijay Kelkar presented paper in Oct'02
2006	Proposal to Introduce the GST was put forth by April 2010 by FM in budget
2009	Empowered Committee presented first discussion paper
2010	FM proposed to introduce GST from April 2011
2011	Constitution 115th Amendment bill introduced in LS
2013	Committee submitted report in Aug'13 but the Lok Sabha dissolved GSTN Incorporated as Section 25 Company
2014	Revised Constitutional amendment bill was tabled in LS, GST expected from April 2016
2015	06 May 2015: Passed by Lok Sabha
2016	<ul style="list-style-type: none"> • 03 Aug 2016: Passed by Rajya Sabha • 08 Aug 2016: 101st Constitution Amendment Act 2016 passed • Within 23 days ratified by 50% states • 08 Sept 2016: GST bill now a law, President Pranab Mukherjee gives assent. • 12 Sept 2016: GST council formed & GST Council meetings commenced

The Governing Statute

- Centre has enacted CGST Act, IGST Act, UTGST Act on 12.04.2017
- GST to be effective from date to be notified by Central Government [section 1(3) of CGST, IGST and UTGST Act]
- **GST is all set to roll out by 1st July, 2017**
- There are various components under GST which are as follows:



Central GST (CGST) - Levy on **supply of ALL** goods and/ or services within a particular State, by the Central Government

State GST (SGST) - Levy on **supply of ALL** goods and/ or services within a particular State, by the **respective** State Government

Integrated GST (IGST) – Levy on **ALL inter-State supplies of** goods and/ or services, by the Central Government

State Enactments so far

- The SGST Acts have been passed in the following 15 states:

State	Enacted date
Telangana	9 th April, 2017
Bihar	24 th April, 2017
Rajasthan	26 th April, 2017
Jharkhand	27 th April, 2017
Chhattisgarh	28 th April, 2017
Uttarakhand	2 nd May, 2017
Madhya Pradesh	3 rd May, 2017
Haryana	4 th May, 2017
Gujarat	9 th May, 2017
Goa	9 th May, 2017
Assam	11 th May, 2017
Arunachal Pradesh	12 th May, 2017
Andhra Pradesh	16 th May, 2017
Odisha	19 th May, 2017
Maharashtra	22 nd May, 2017

RULES

Rules so far

✓ Rules on public domain:

- Composition Rules
- Valuation Rules
- Transitional Rules
- Input tax credit
- Invoice Rules
- Payment Rules
- Refund Rules
- Registration Rules
- Return Rules

✓ Draft Rules on public domain:

- Assessment and Audit
- E-way bill
- Accounts and Records
- Advance Ruling
- Appeals and Revision

GST Council

- ✓ As per Article-279 (1) of the amended Constitution, the GST Council was constituted on 12th September, 2016. This is a joint forum of Centre & State
- ✓ GST Council Members
 1. Union Finance Minister who will be the Chairperson
 2. The Union Minister of state, in-charge of Revenue of Finance.
 3. The Minister in charge of Finance or Taxation or any other Minister, nominated by each state government.
- ✓ The GST Council consisting of representatives from the Centre as well as the states, after being constituted, met from time to time to discuss various issues including the dual control, GST laws, exemptions, thresholds, rate structure, compensation cess, etc. and reached consensus on the same. Council has also recommended Four-tier GST rate structure and the thresholds.

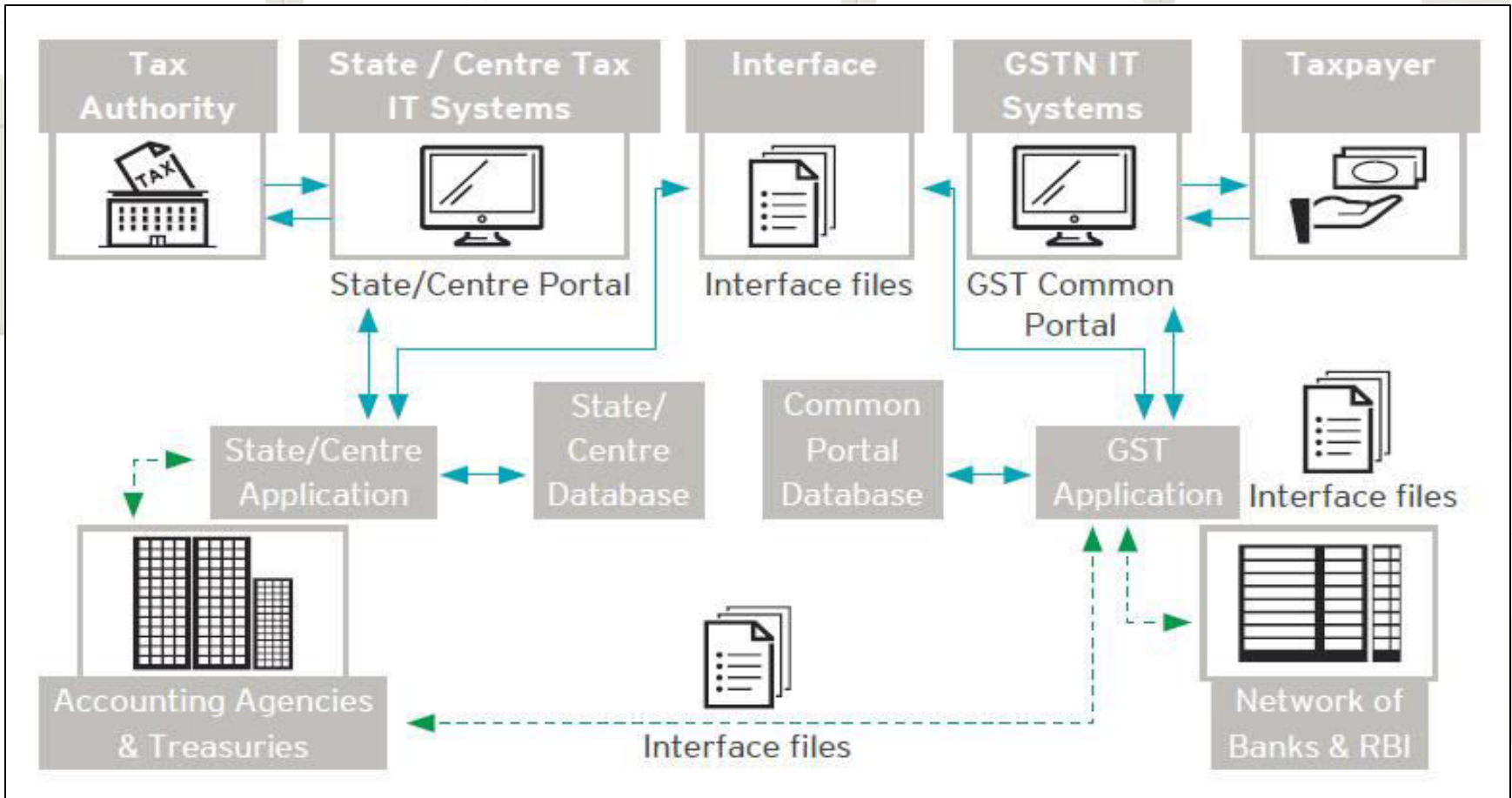


GSTN

- **Goods and Services Tax Network (GSTN)** is a Section 25 (not for profit), non-Government, private limited company incorporated on March 28, 2013
 - 49% equity shares of GSTN are held by the Central and State Governments and balance 51% by non Government financial institutions
- GSTN set up primarily to provide IT infrastructure and services to the Central and State Governments, tax payers and other stakeholders for implementation of the Goods and Services Tax (GST).
- GSTN to provide a common IT Portal and a GST system which would be a processing engine for entire country)
- GSTN IT portal to a common platform for:
 - Tax payer registration (New, Surrender, Cancellation, etc.)
 - Tax payment including integration with banks
 - Invoices upload & reconciliation
 - Periodic filing GST Returns
 - ITC and taxpayer ledger
 - IGST settlement
 - System admin & user management



GSTN



DUAL GST MODEL

GST Model

✓ Dual GST

- Central GST (CGST)
- State GST (SGST)

On intra-state supply of goods & services



✓ Integrated GST (IGST) [Rate of CGST + SGST] on

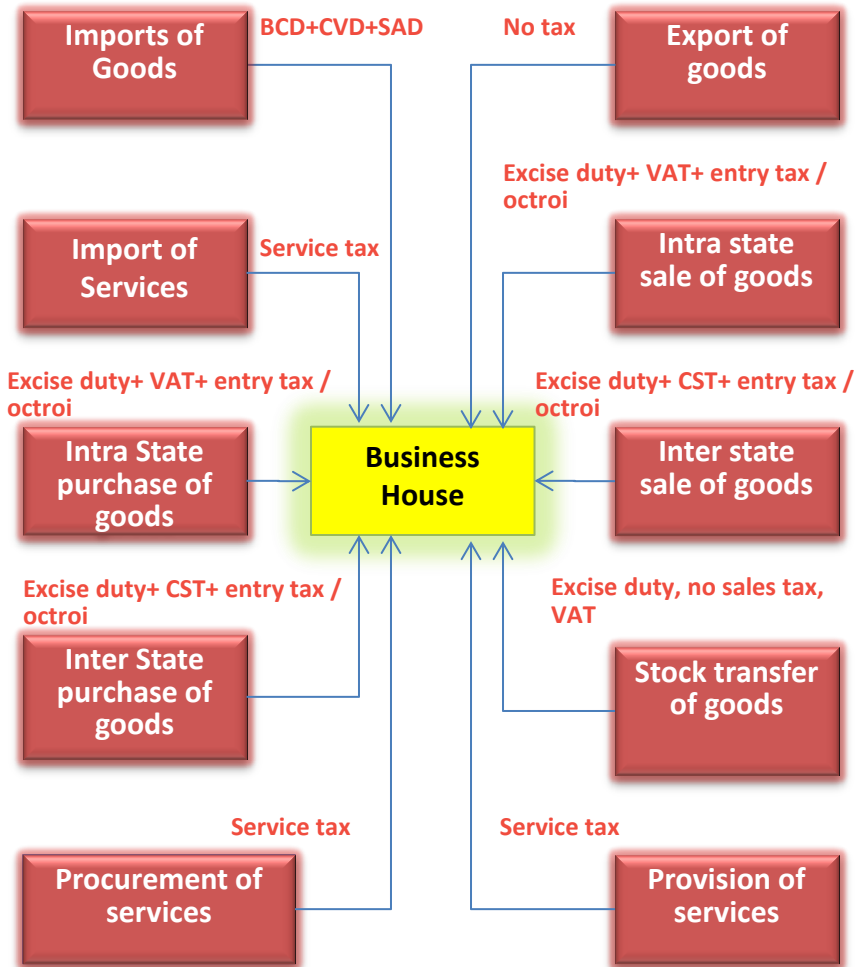
- Inter-State supplies of goods & services
- Inter-State Branch transfer of goods & services
- Import of goods & services

✓ Destination principle

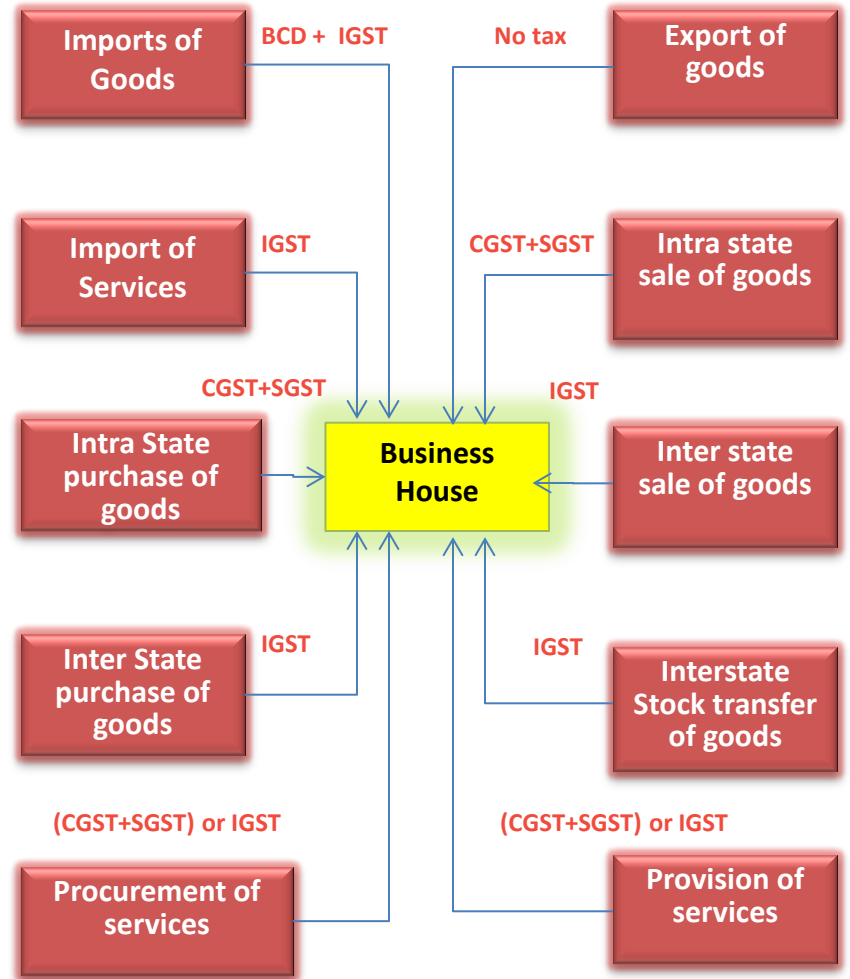
- The GST structure would follow the destination principle. Accordingly, imports would be subject to GST, while exports would be zero-rated. In the case of Inter-State transactions within India, the State tax would apply in the State of destination as opposed to that of origin.

***TAXABLE EVENT IN GST
REGIME VS EXISTING REGIME***

Present Indirect System

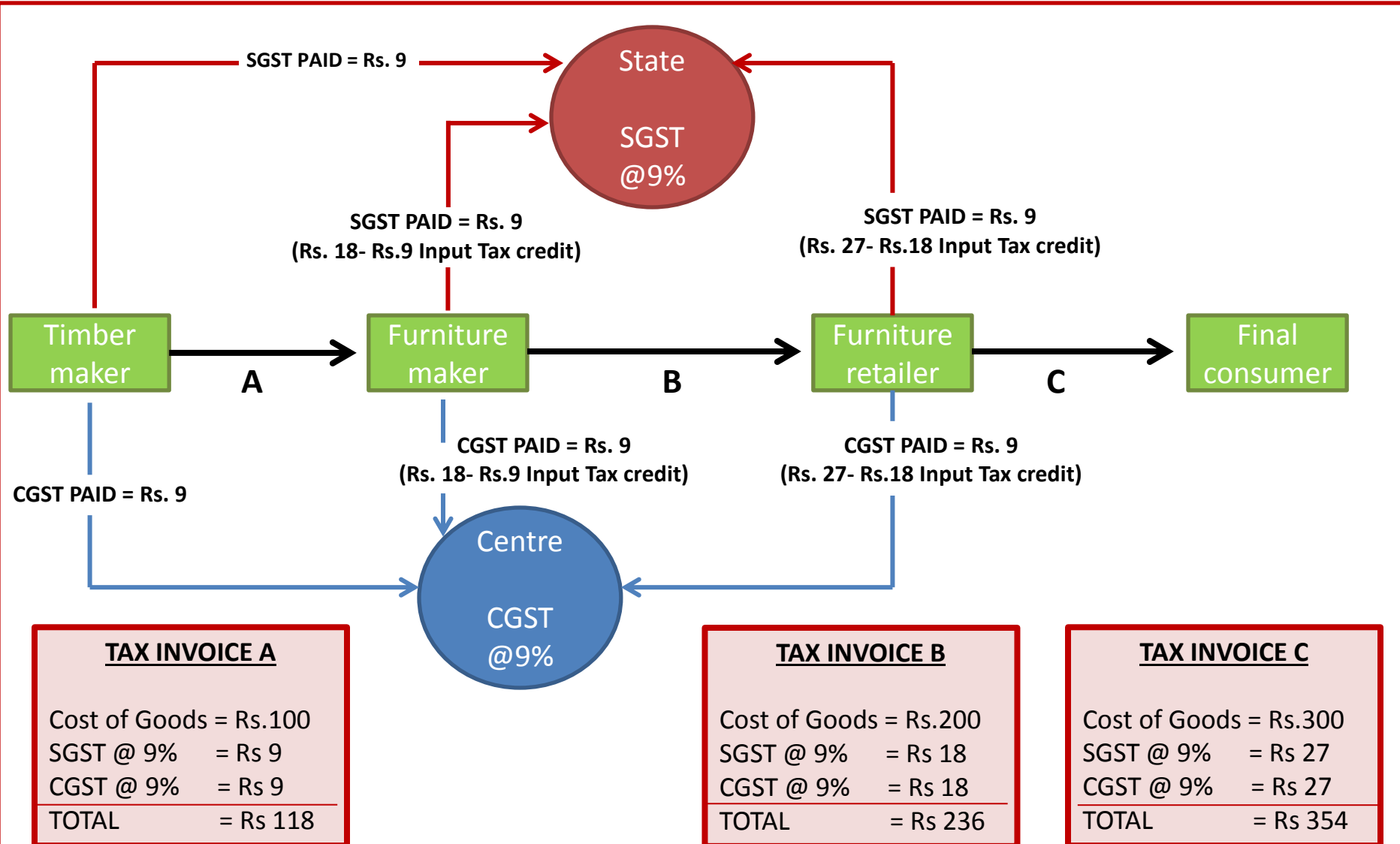


Proposed GST

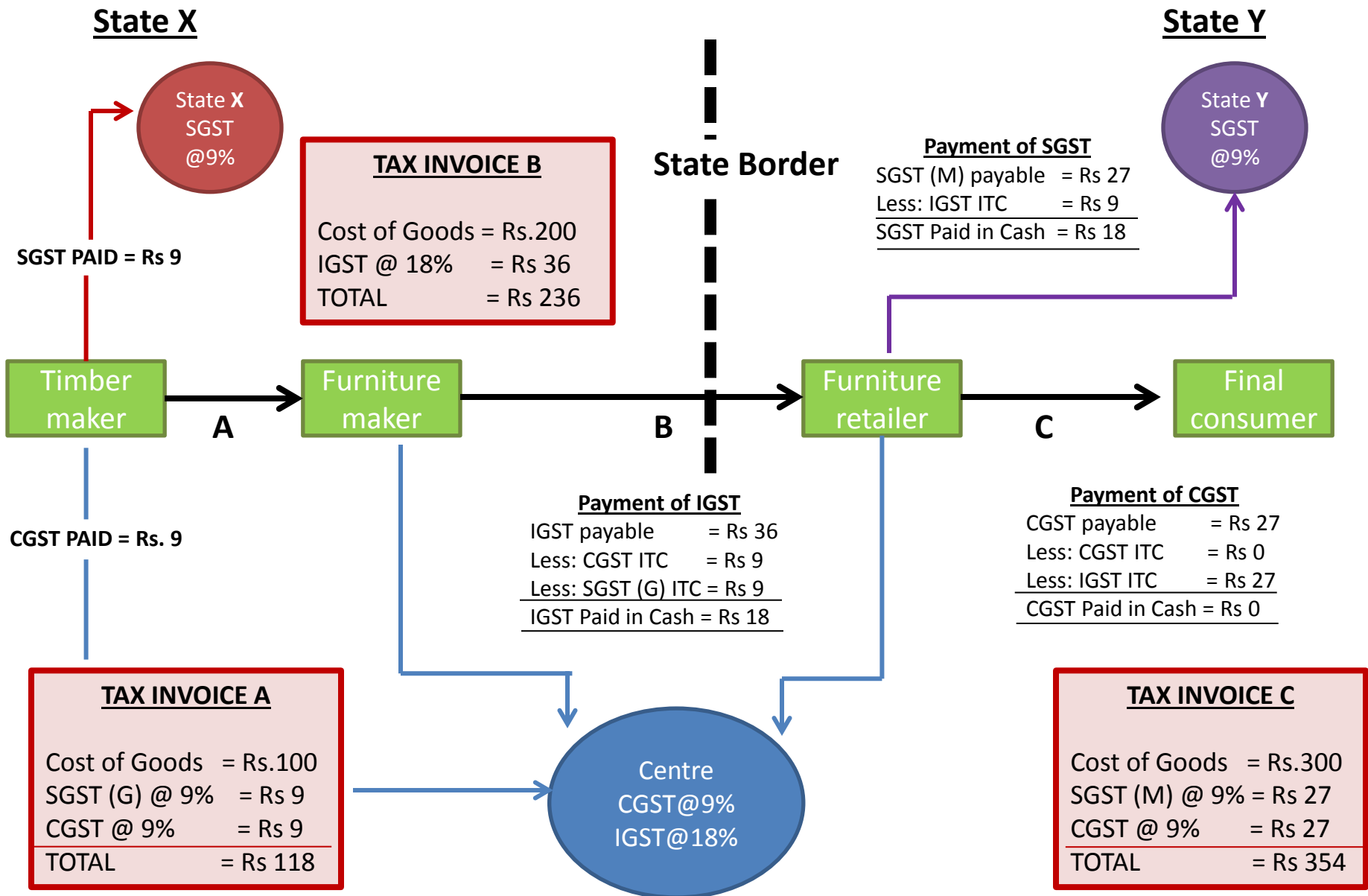


Dual GST within State (CSGST + SGST)

Working Example



Inter-State (IGST) Model: Working Example



GST Credit Mechanism

**Input Tax Credit
of CGST***

*No set off against SGST

1. Payment of CGST

2. Balance for
payment of IGST

**Input Tax Credit
of SGST****

**No set off against CGST

1. Payment of SGST

2. Balance for
payment of IGST

**Input Tax Credit
of IGST**

1. Payment of IGST

2. Balance for
payment of CGST

3. Balance for
payment of SGST

Broad Framework of GST

Taxable Event

-Supply

When to pay

- Time of Supply

Whom to pay (Jurisdiction)

-Place of Supply

Who will pay

-Taxable Person

How much to pay

- Valuation
- Rate of tax
- Input Tax Credit

What compliance to be done

- Registration
- Payment
- Returns

APPLIABILITY OF GST



Applicability of GST

Pre-requisites	Constitutional power to levy tax	Taxable territory -Section 1(2) of CGST Act, IGST Act and UTGST Act
Reference in GST law	Article 246 A empowers Centre, State and Union Territory to levy and collect GST	Territory to which the provisions of this Act apply: <ul style="list-style-type: none"> • CGST Act applies to whole of India • IGST Act applies to whole of India • UTGST Act applies to the Union Territories of: <ul style="list-style-type: none"> ▪ Andaman & Nicobar Islands ▪ Dadra & Nagar Haveli ▪ Daman & Diu ▪ Lakshadweep ▪ Chandigarh ▪ Other Territory • SGST Act applies to 29 States including Delhi & Puducherry

Except Jammu & Kashmir

Applicability of GST

Territorial Jurisdiction

✓ India [Section 2(56) of CGST Act]

- -29 States,
-7 Union Territories
[Clause (2) & (3) of Article 1 of Constitution]
- -Territorial waters, Seabed and the Subsoil underlying such water
 - continental shelf
 - EEZ or any other maritime zone
- Airspace above its territorial waters



IMPORTANT DEFINITIONS

Important Definitions



1. Person [Section 2(84) of CGST Act]

✓ Person Includes

- Individual
- HUF
- Company
- Firm
- LLP
- AOP or BOI, whether incorporated or not, in India or outside India
- Corporation established by or under Central, State or Provincial Act
- Government company
- Local Authority
- Body corporate incorporated by or under the laws of a country outside India
- Co-operative society registered under any law relating to cooperative societies
- Society as defined under the Societies Registration Act, 1860 (21 of 1860)
- Trust
- Central or state government
- Every artificial juridical person, not falling within any of the preceding sub-clauses

Important Definitions



1. Person

A. Taxable person means [Section 2(107) of CGST Act]:

- a person who is registered; or
- liable to be registered under section 22 or section 24;

B. Registered person means [Section 2(94) of CGST Act]:

- a person who is registered u/s 25 of CGST Act; but
- does not include a person having a Unique Identity Number

C. Distinct person u/s 25(4) and (5) of CGST Act:

- A person having registration in more than one state or union territory to be treated as distinct person in respect of each such registration
- Different establishments of same person in more than one state or union territory to be treated as establishments of distinct persons

Important Definitions



1. Person

D. Related Persons [Section 15]

- a) persons shall be deemed to be “related persons” if—
 - i. such persons are officers or directors of one another’s businesses;
 - ii. such persons are legally recognized partners in business;
 - iii. such persons are employer and employee;
 - iv. any person directly or indirectly owns, controls or holds twenty-five per cent or more of the outstanding voting stock or shares of both of them;
 - v. one of them directly or indirectly controls the other;
 - vi. both of them are directly or indirectly controlled by a third person;
 - vii. together they directly or indirectly control a third person; or they are members of the same family;
- b) the term “person” also includes legal persons;

Important Definitions

2. Business



✓ Business includes [section 2(17) of CGST Act]:

- Whether or not for pecuniary benefit and **irrespective of volume, frequency, continuity or regularity of following:**
 - Trade
 - Vocation
 - Commerce
 - Adventure
 - Manufacture
 - Wager
 - Profession
 - Or any similar activity
- Supply / acquisition of goods (Including capital assets) and services in connection commencement or closure of business
- Provision of facilities / benefits to its members by:
 - Club
 - Association
 - Society
 - Or any such body

For subscription / other consideration

Important Definitions

2. Business



✓ Business includes [section 2(17) of CGST Act]:

- Admission, for a consideration, of persons to any premises
- Services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade commerce or vocation
- Services provided by a race club by way of totalisator or a license to book maker in such club
- Any activity undertaken by CG or SG or local authority in which they are engaged as public authorities

Important Definitions

3. Goods

✓ Goods means [section 2(52) of CGST Act]:

- Every kind of movable property
- Other than:
 - Money [Sec. 2(75)]
 - Securities [Sec. 2(101)]
- But includes
 - Actionable claim [sec 2(1)];
 - Growing crops, grass and things attached to or forming part of land which are agreed to be severed before supply or under contract of supply

✓ In addition to above, Schedule II deems certain supply to be that of goods



Clause 6 of Schedule III:
Actionable claims other than lottery, betting and gambling are neither to be treated as supply of goods or nor supply of service

Important Definitions

4. Money

✓ **Money** means [Section 2(75) of CGST Act]:

- | | | |
|-----------------------|-----------------------------------|--|
| • Indian legal tender | • Money order | • Promissory note |
| • Bill of exchange | • Cheque | • Pay order |
| • Traveller cheque | • Draft | • Any other instrument recognized by RBI |
| • Foreign currency | • Postal or electronic Remittance | |
| • Letter of credit | | |

- When used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination; but shall not include any currency that is held for its numismatic value

Important Definitions



5. Actionable Claims

- ✓ Actionable claim [Section 2(1) of CGST Act] shall have the same meaning assigned to it in section 3 of Transfer of Property Act, 1882
 - "Actionable Claim is a claim to any debt, other than a debt secured by mortgage of immovable property or by hypothecation or pledge of moveable property, or to any beneficial interest in moveable property not in possession either actual or constructive, of the claimant, which the civil courts recognize as affording grounds of relief whether such debt or beneficial interest be existent, accruing or conditional or contingent".

- ✓ Whether factoring of debts is an actionable claim? Is it taxable?
- ✓ Whether winning of lottery is actionable claim? Is it taxable?

Important Definitions

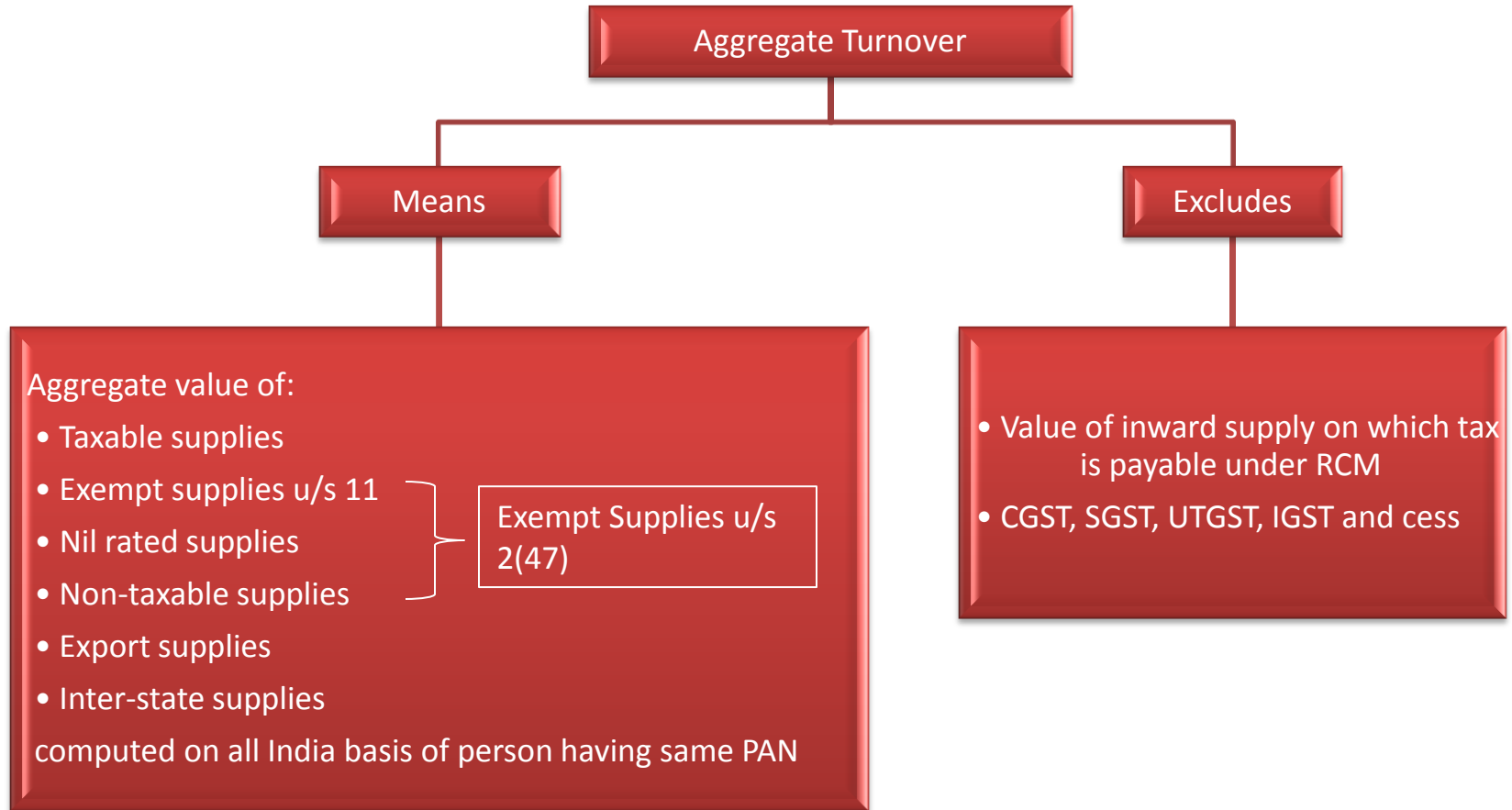
6. Service

- ✓ **Services means anything other than [section 2(52) of CGST Act]:**
 - Goods
 - Money
 - Security
- ✓ **Includes:**
 - activities relating to the use of money; or
 - its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged
- ✓ **In addition to above, Schedule II deems certain supply to be that of services**



Important Definitions

7. Aggregate Turnover [Section 2(6) of CGST/SGST Act]



Important Definitions



8. Recipient [Section 2(93) of CGST Act]

- Of supply of goods or services or both, means
 - a) Where a consideration is payable for the supply of goods or services or both, 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

9. Supplier [Section 2(105) of CGST Act]

- In relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied

Important Definitions

10. Location of recipient of services [Section 2(14) of IGST Act]

S.No	Case	Location of Recipient of Service
A	where a supply is received at a place of business for which the registration has been obtained	such place of business
B	where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere)	such fixed establishment
C	where a supply is received at more than one establishment, whether the place of business or fixed establishment	the location of the establishment most directly concerned with the receipt of the supply
D	in absence of such places	the location of the usual place of residence of the recipient;

Important Definitions

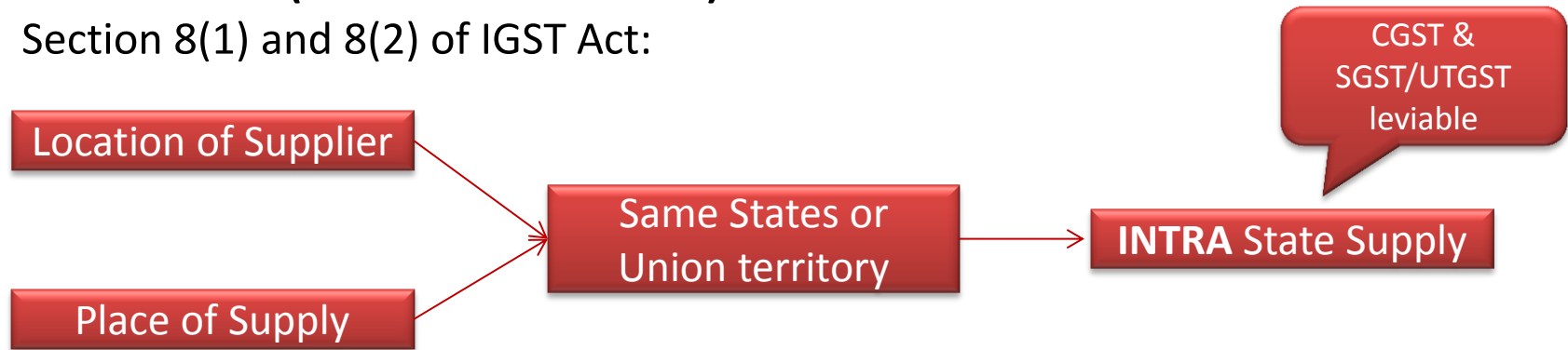
11. Location of supplier of services [Section 2(15) of IGST Act]

S.No	Case	Location of Supplier of Services
A	where a supply is made from a place of business for which the registration has been obtained	such place of business
B	where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere)	such fixed establishment
C	where a supply is made from more than one establishment, whether the place of business or fixed establishment,	the location of the establishment most directly concerned with the receipt of the supply
D	in absence of such places	the location of the usual place of residence of the recipient;

Important Definitions

12. Intrastate (Section 8 of IGST Act)

- ✓ Section 8(1) and 8(2) of IGST Act:

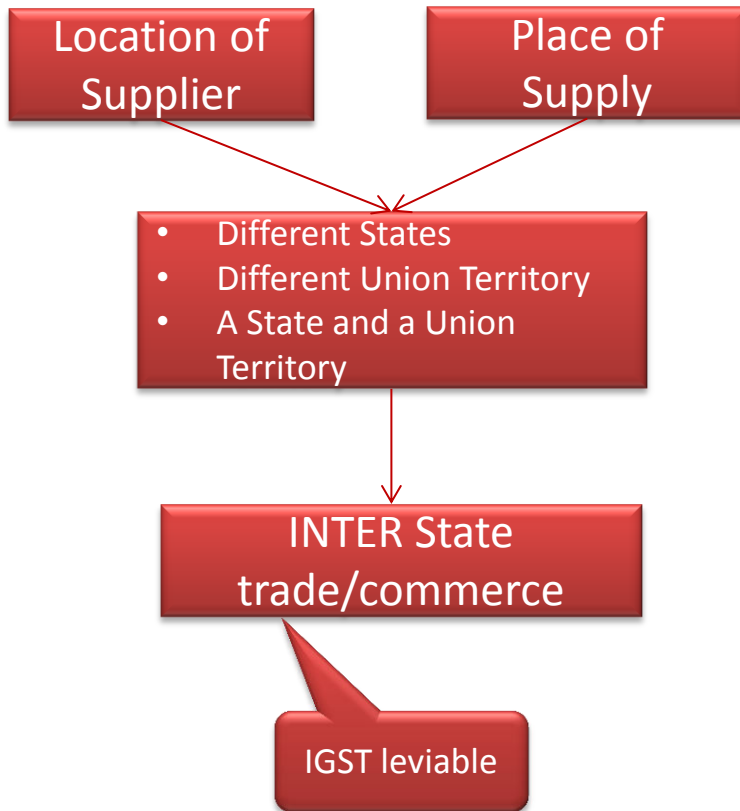


- ✓ Intra-state supply of goods or service shall not include [proviso to section 8(1) and 8(2)]:
 - Supply of goods or services to or by SEZ developer or SEZ unit
 - Supply of goods imported into territory of India till they cross the customs frontiers of India
 - Supply of goods made to tourist referred to in section 15 of IGST Act:
 - Any supply made to non-resident tourist in India who takes such goods outside India will be liable to IGST and said IGST will be refunded to him in manner to be prescribed

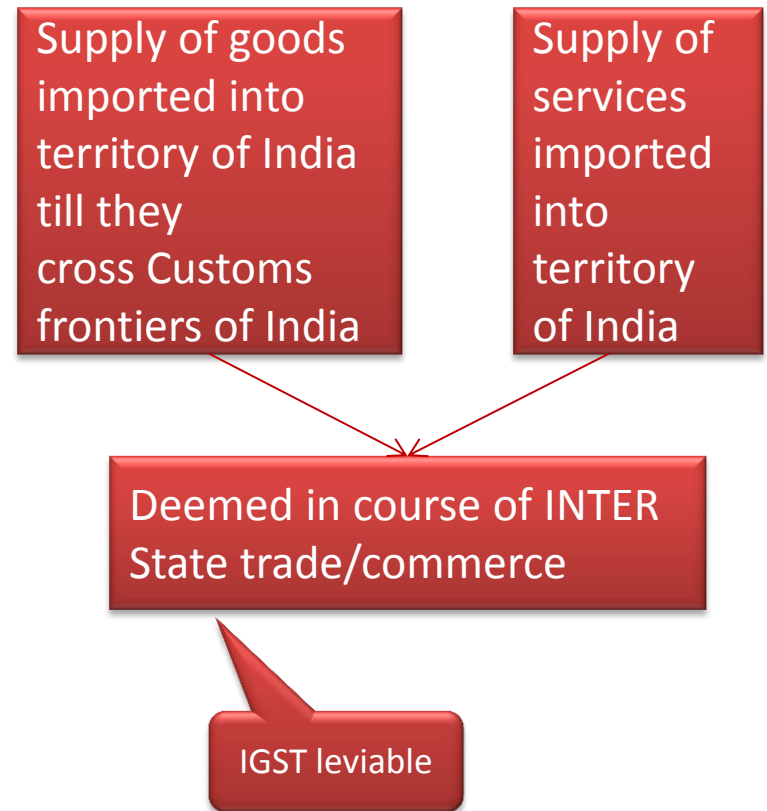
Important Definitions

13. Interstate (Section 7 of IGST Act)

✓ Section 7(1) and 7(3) of IGST Act:



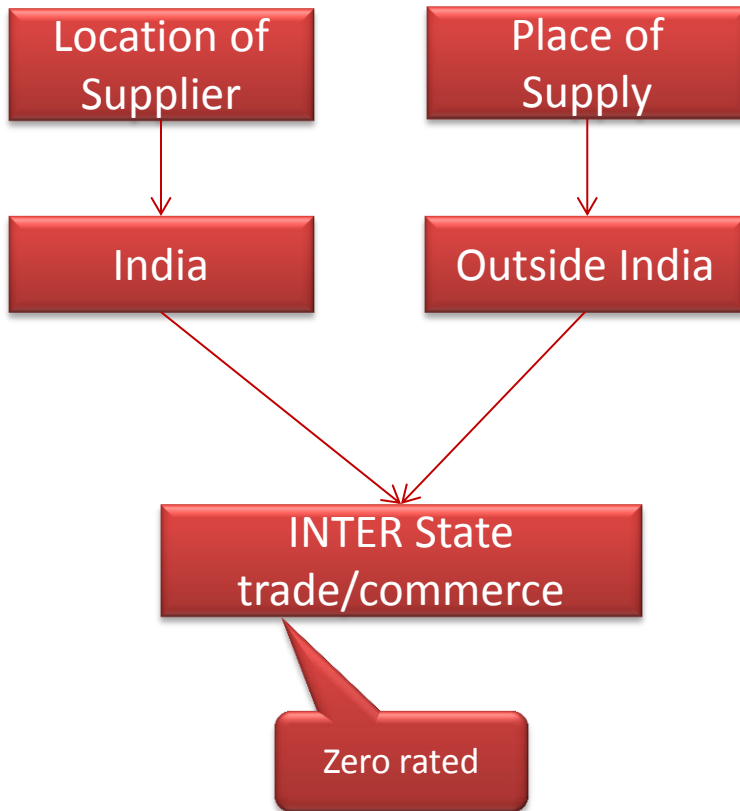
✓ Section 7(2) and 7(4) of IGST Act (Import):



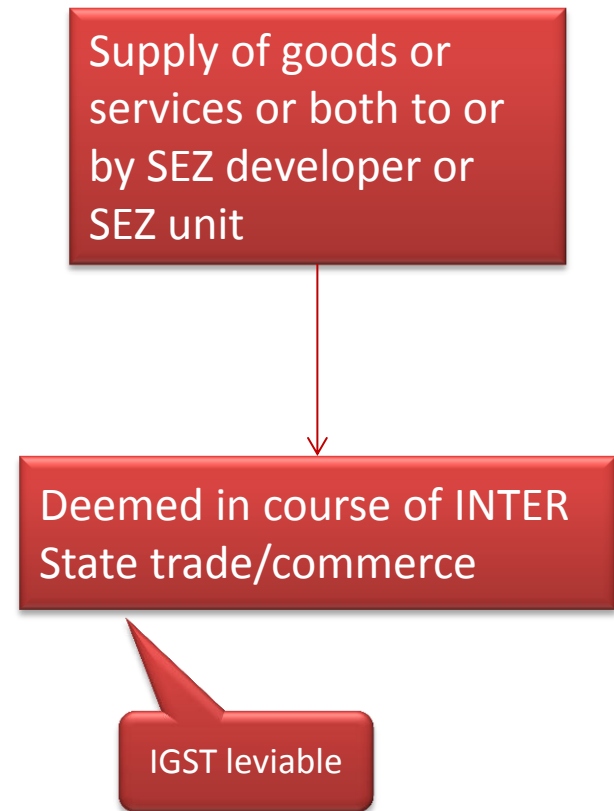
Important Definitions

13. Interstate (Section 7 of IGST Act)

✓ Section 7(5)(a) of IGST Act (Export):



✓ Section 7(5)(b) of IGST Act:



Important Definitions

INTRA - STATE

Sells Goods worth Rs. 1000

Ram
(Mumbai)

Shyam
(Mumbai)

Collects

Invoice Amount = Rs.1000

CGST = Rs. 90

SGST = Rs. 90

Important Definitions

INTER - STATE

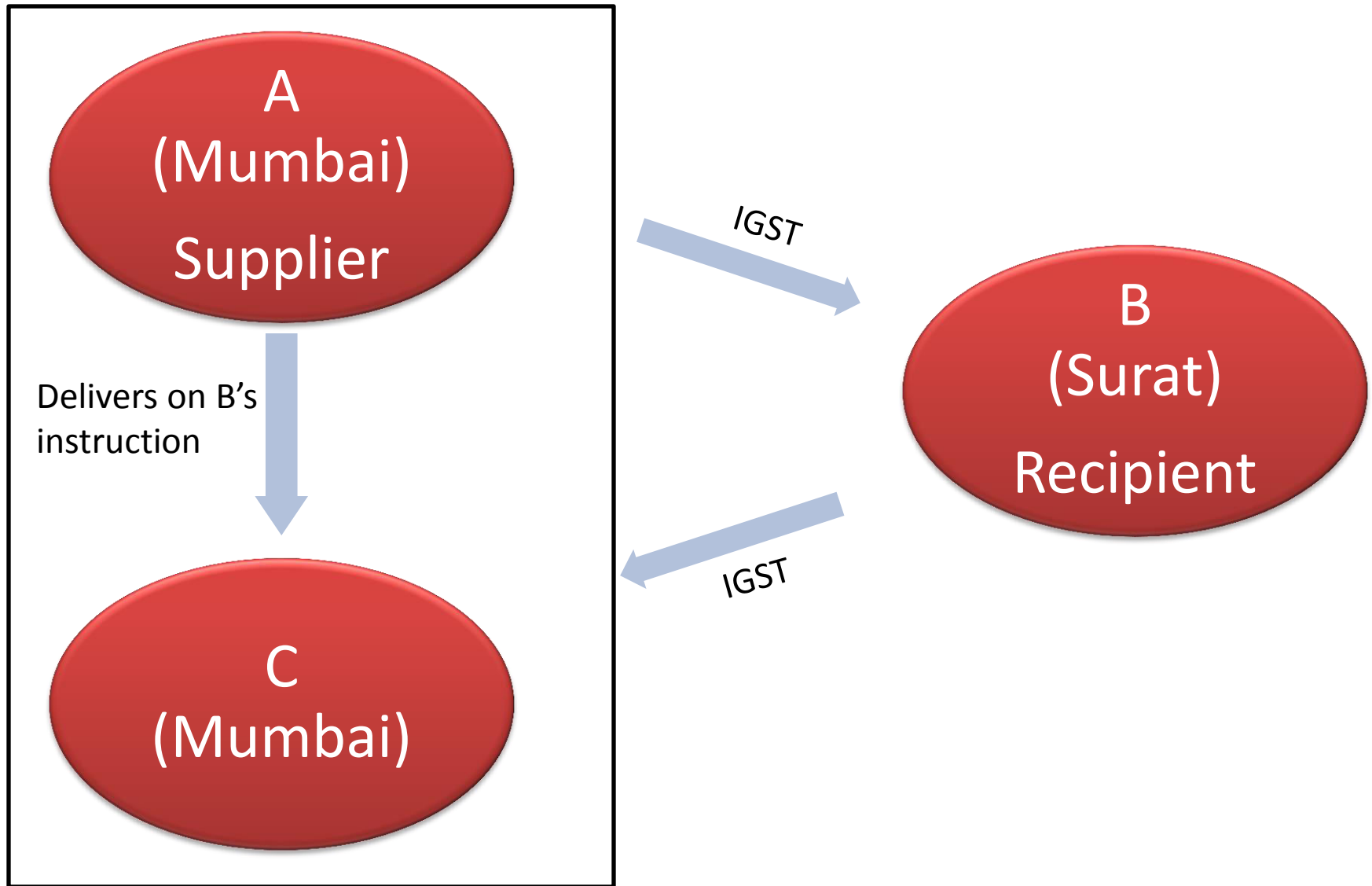
Sells Goods worth Rs. 1000

Ram
(Mumbai)

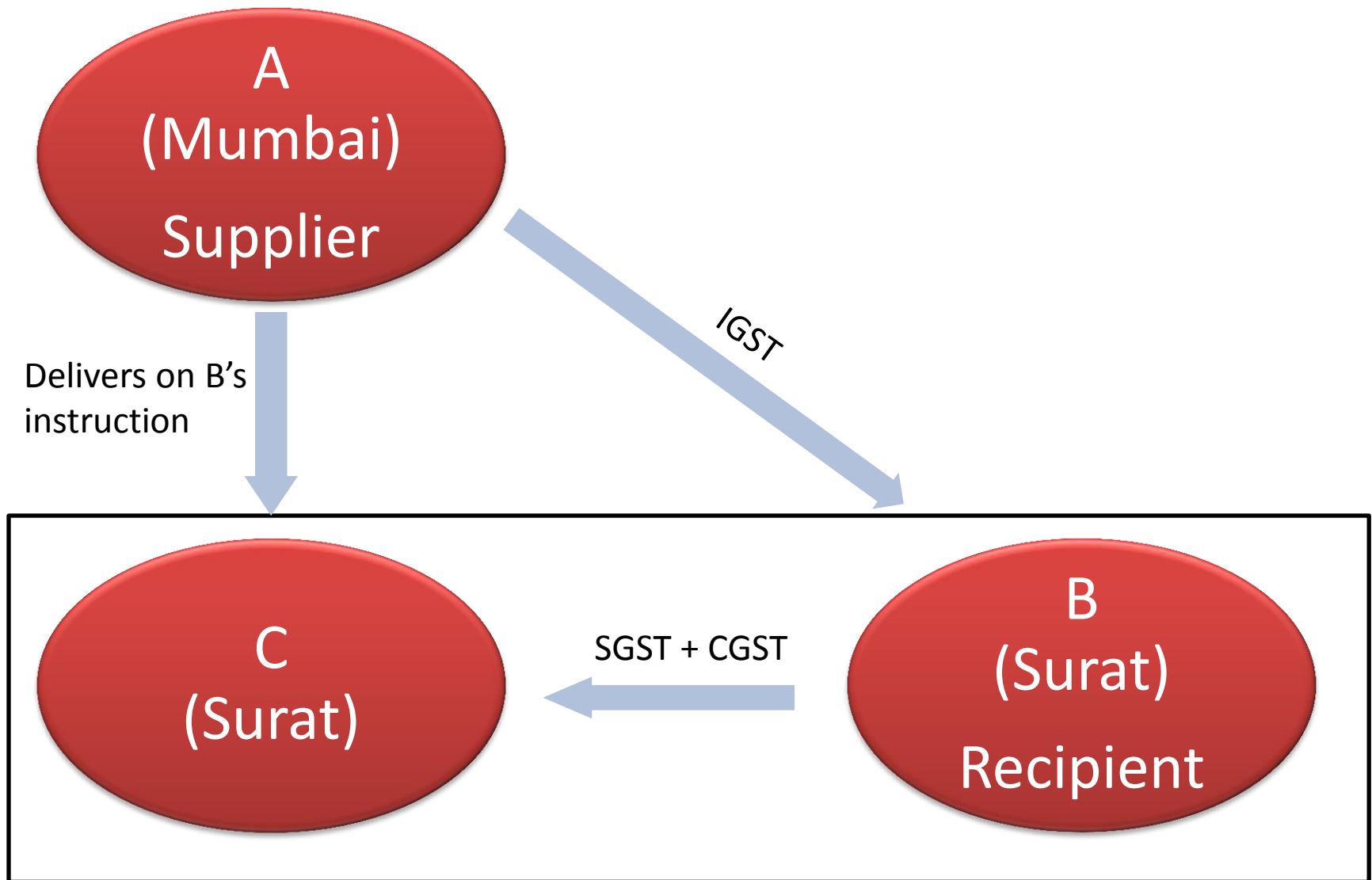
Shyam
(Surat)

Collects
Invoice Amount = Rs.1000
IGST = Rs. 180

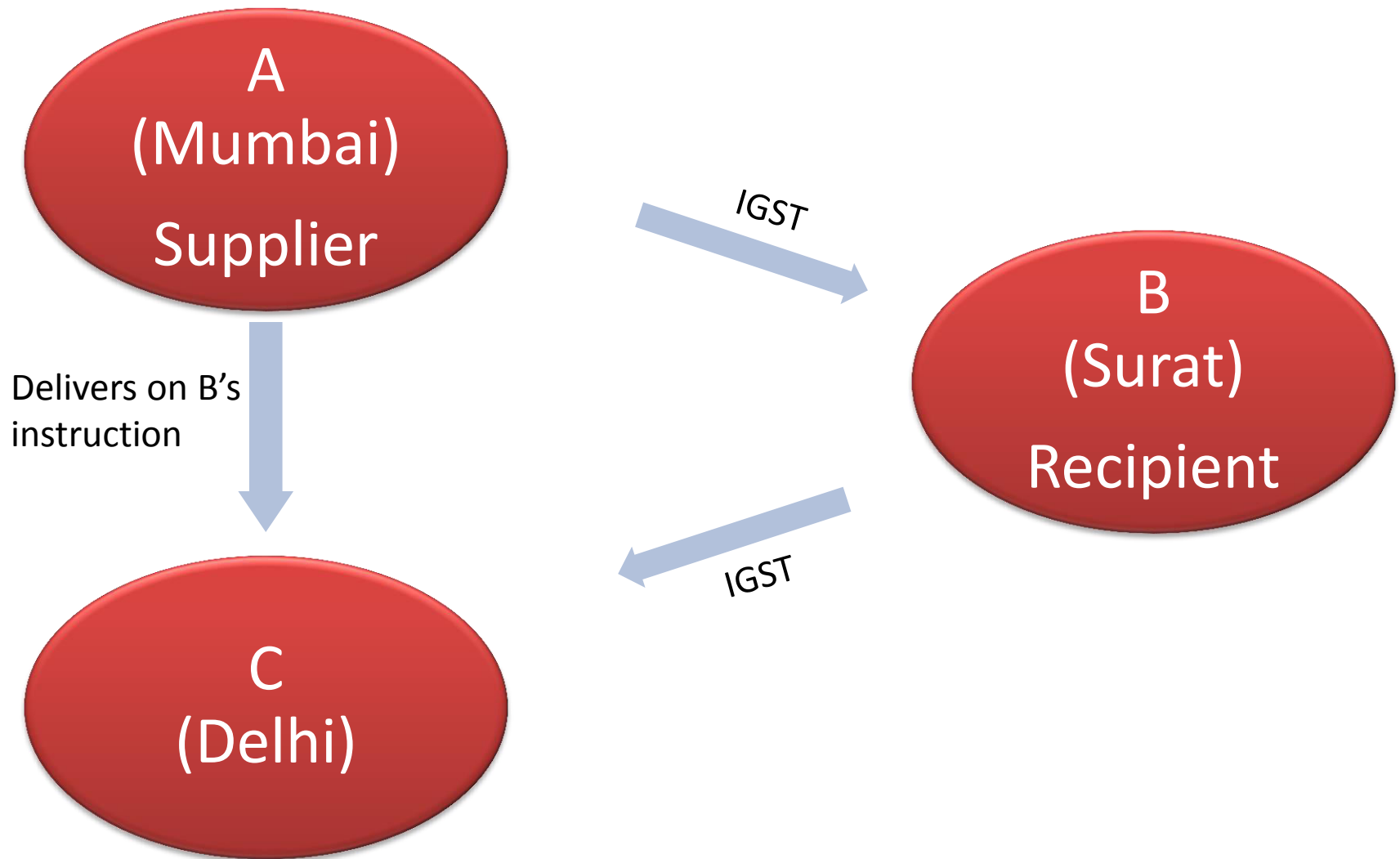
Important Definitions



Important Definitions



Important Definitions



Important Definitions



14. Import of goods u/s 2(10) r.w. sec 5 of IGST Act

- ✓ Term “Import of goods” is defined u/s 2(10) of IGST Act to mean bringing goods into India from a place outside India
- ✓ Goods imported into territory of India till they **cross Customs frontiers of India** deemed to be in course of inter-state trade or commerce [section 7(2) of IGST Act]
- ✓ Basic Customs Duty will continue to be leviable on CIF value declared as per Customs Valuation Rules
- ✓ IGST will be payable on import of goods in accordance with the provisions of section 3 of the Customs Tariff Act, 1975
 - **At the point** when duties of customs are levied on the said goods u/s 12 of the Customs Act, 1962
 - **On the value** as determined under Customs Act

Important Definitions



15. Import of service u/s 2(11) of IGST Act

- ✓ Section 2(11) of IGST Act provides that a supply will be considered as an **“Import of service”** if:
 - a) The supplier is located outside India,
 - b) The recipient is located in India,
 - c) The place of supply of service is in India, and
- ✓ Supply of services in course of import into territory of India deemed to be in the course of inter-state trade or commerce [Section 7(4) of IGST Act]
- ✓ IGST will also be payable on import of services for consideration whether such import is :
 - in course or furtherance of business
 - for personal use
- ✓ IGST will be payable by recipient of services under Reverse Charge

Important Definitions

16. Export of goods [Section 2(5) of IGST Act]

- With its grammatical variations and cognate expressions, means taking goods out of India to a place outside India

17. Export of services [Section 2(6) of IGST Act]

- Means the supply of any service when-
 - i. The supplier of service is located in India
 - ii. The recipient of service is outside India
 - iii. The place of supply of service is outside India
 - iv. The supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8



Important Definitions

A blue rectangular box with a white cloud-like shape inside. The text "ZERO-RATED" is written in black capital letters inside the white shape.

18. Zero Rated Supply [Section 16 of IGST Act]

- **Section 16(1)**- Zero rated supply means any of the following supplies of goods or services or both, namely:
 - **Export** of goods or services or both; or
 - Supply of goods or services or both to a Special Economic Zone (**SEZ**) developer or a Special Economic Zone unit
- **Section 16(2)**- It is exempt supply; but u/s 17(5), credit on input tax for making zero rated supplied may be availed

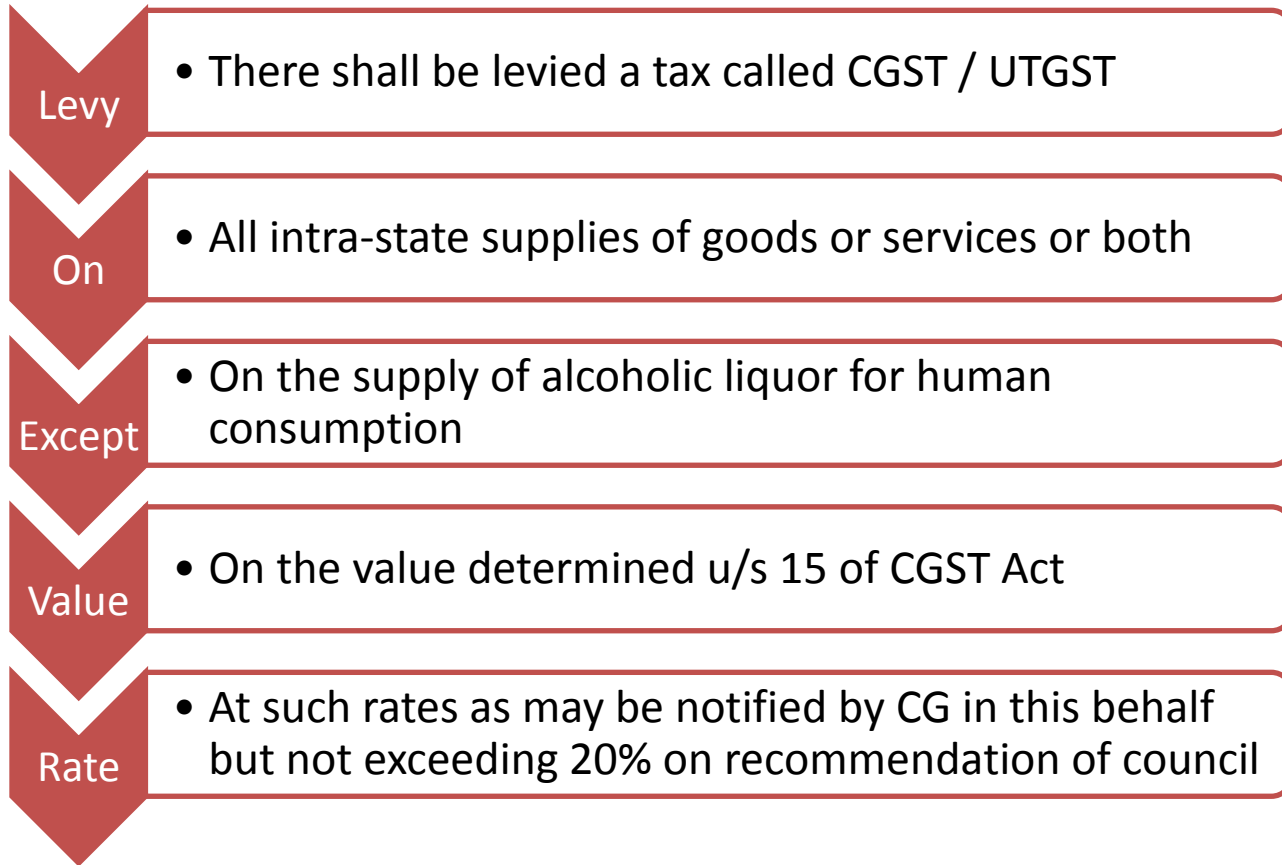
19. Exempt supply is defined in section 2(47) of GST Act. (47)

- "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 Integrated Goods and Services Tax Act, and includes non-taxable supply.
- It thus includes the supply of following type of goods and services:
 - a) Non-taxable supply;
 - b) Supply attracting nil rate of tax;
 - c) Supplies exempt under Section 11 of the GST Act excluding IGST and under Section 6 of the IGST Act;

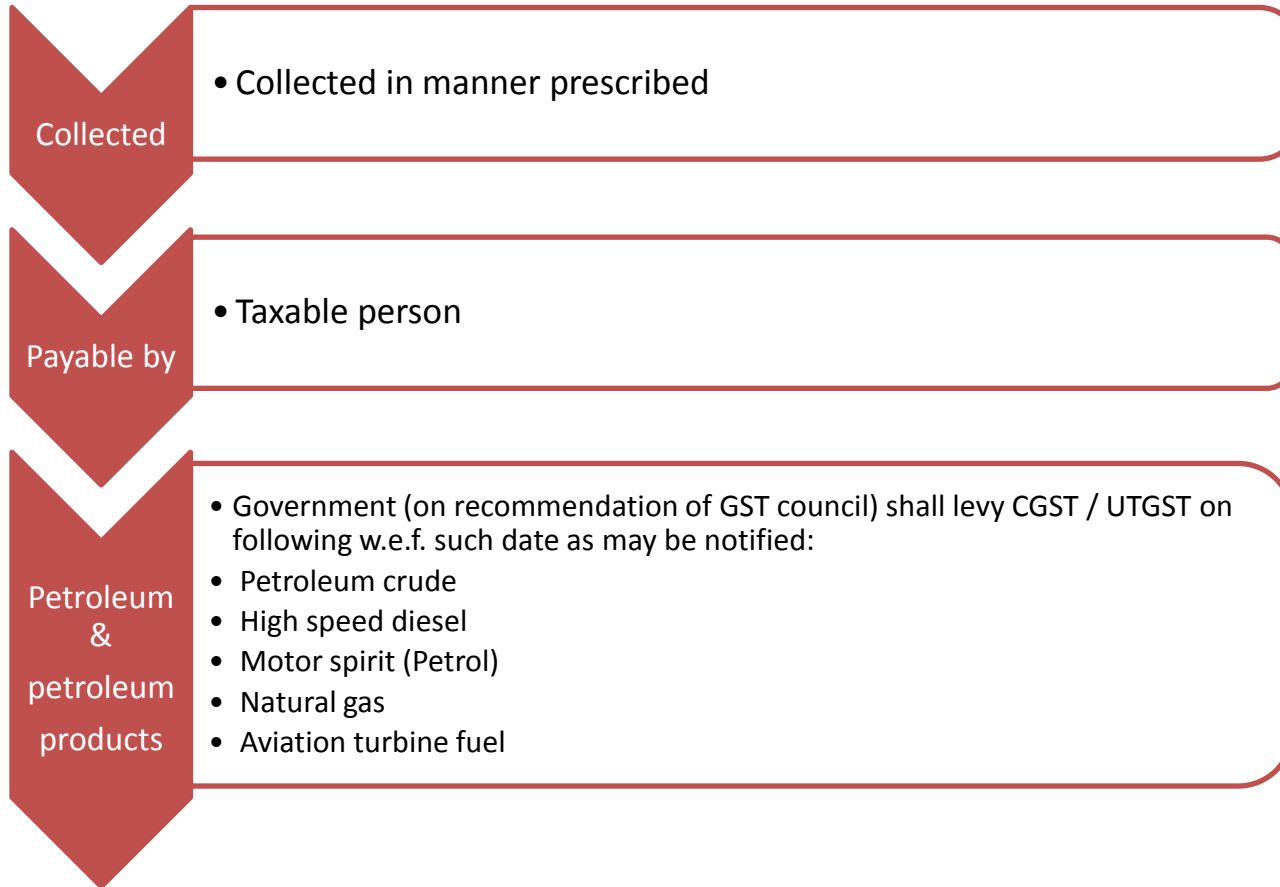
A yellow rectangular box with a black border. The text "EXEMPT" is written in black capital letters inside the box.

CHARGING PROVISION

Charging Provision: Sec 9 of CGST Act



Charging Provision: Sec 9(2) of CGST Act



Charging Provision: Sec 9 of CGST Act

RCM

- Government (on recommendation of GST council) may specify categories of goods or services covered under RCM
- CGST / UTGST in respect of supply by unregistered person to registered person shall be paid by registered person under RCM

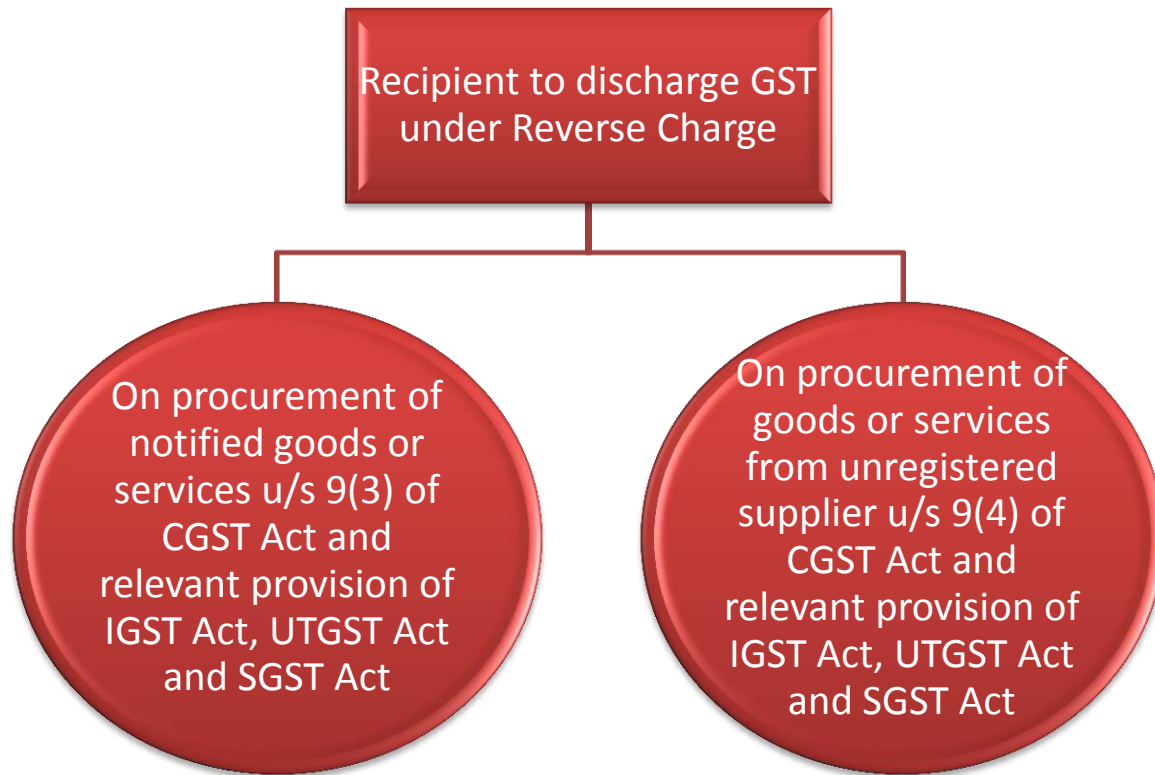
- ✓ Electronic Commerce u/s 2(44) of CGST Act: means supply of goods or services or both including digital products over digital or electronic network

E-commerce

- Government (on recommendation of Council) specify categories of services on which tax to be paid by Ecommerce operator
- If no physical presence in taxable territory, any person representing such operator in taxable territory shall be person liable to pay tax
- Neither physical presence nor representative, then such operator shall appoint a person in taxable territory for payment of tax

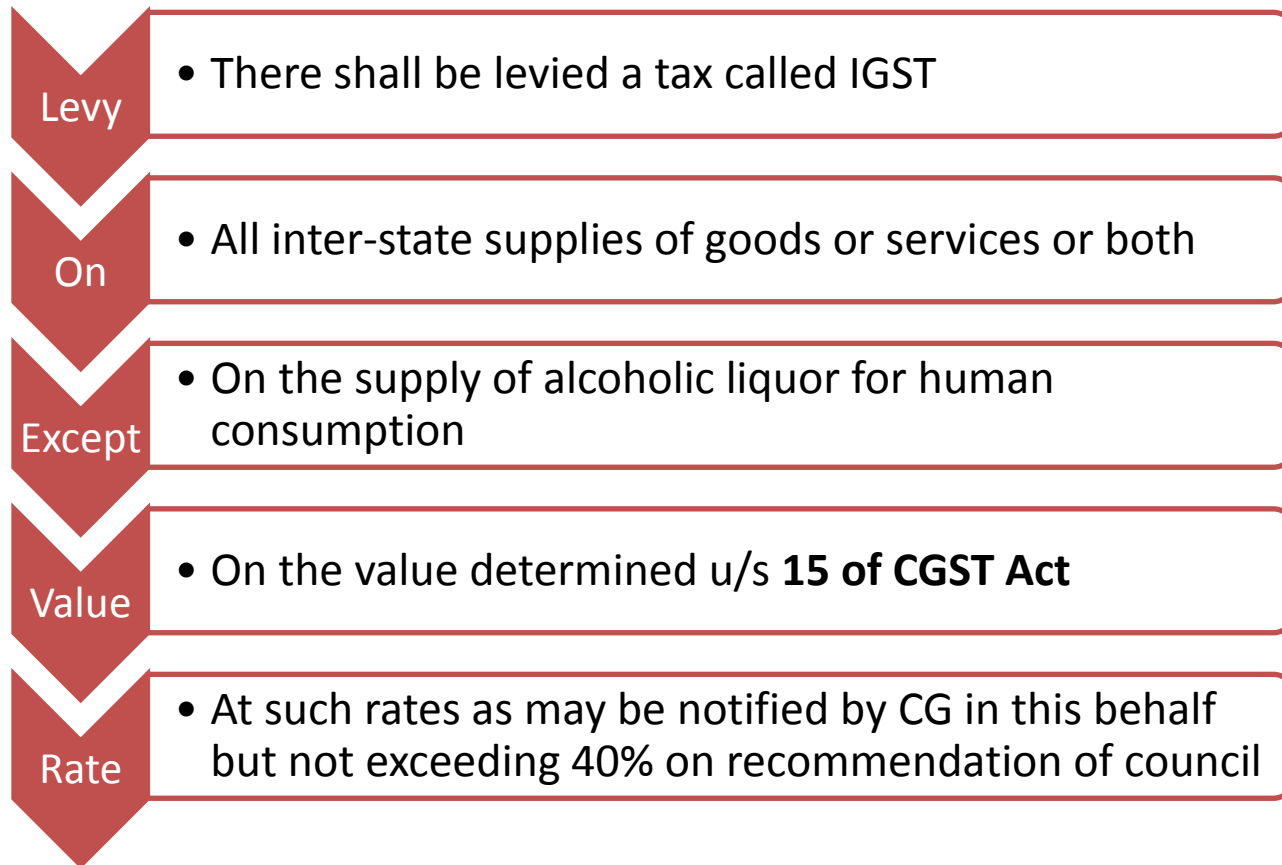
- ✓ Electronic Commerce Operator u/s 2(45) of CGST Act: means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce

Reverse Charge Mechanism

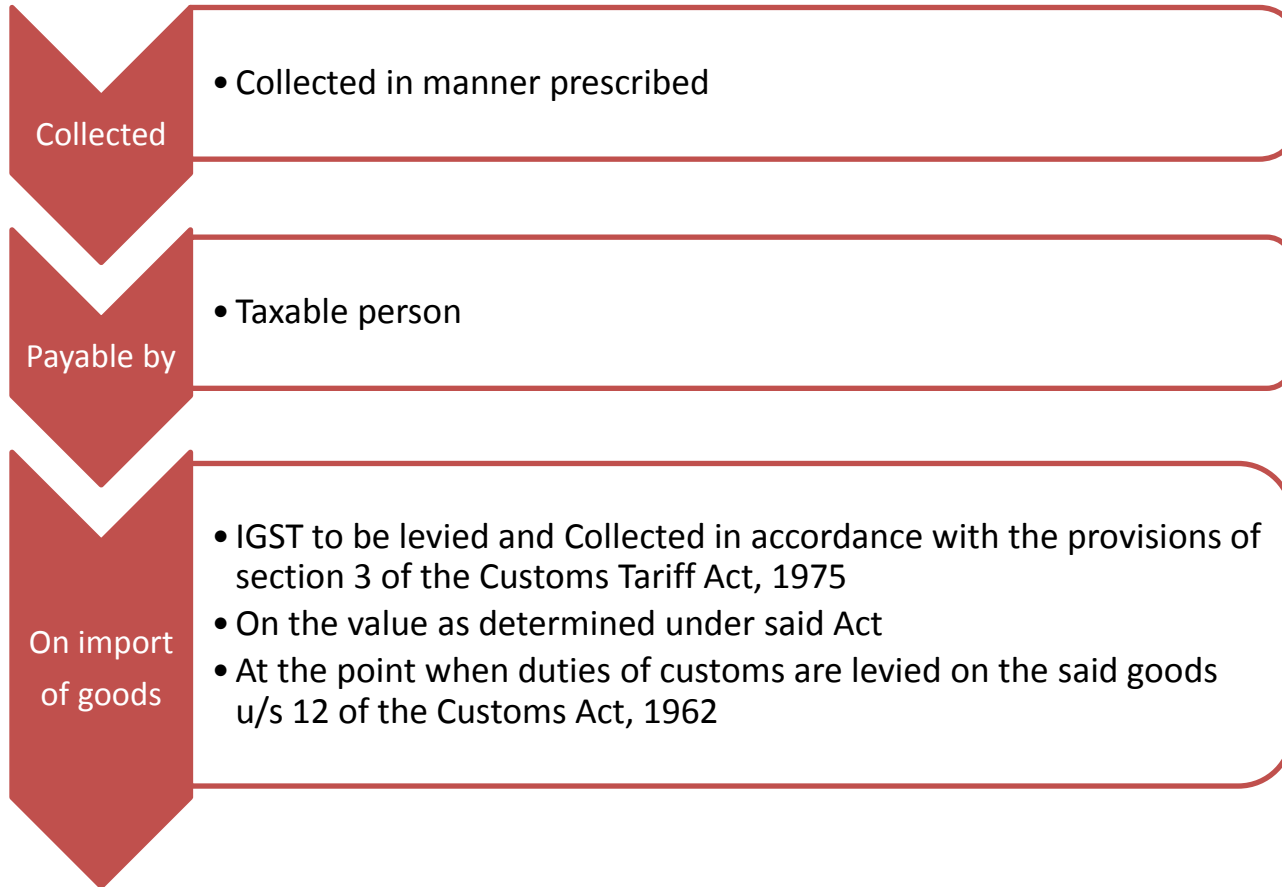


- Recipient to discharge GST under RCM as if he is the person liable for paying the tax on supply
- Recipient to make payment on his own account and on own GSTN number
- It is not TDS paid on behalf of supplier
- Recipient is entitled to ITC subject to ITC provisions

Charging Provision: Sec 5(1) of IGST Act



Charging Provision: Sec 5(1) of IGST Act



Charging Provision: Sec 5(2), 5(3) & 5(4) of IGST Act

Petroleum
&
petroleum
products

- Government (on recommendation of GST council) shall levy IGST on following w.e.f. such date as may be notified:
- Petroleum crude
- High speed diesel
- Motor spirit (Petrol)
- Natural gas
- Aviation turbine fuel

RCM

- Government (on recommendation of GST council) may specify categories of goods or services covered under RCM
- IGST in respect of supply by unregistered person to registered person shall be paid by registered person under RCM

Charging Provision: Sec 5(5) of IGST Act

E-
Commerce

- Government (on recommendation of Council) specify categories of services on inter-state supplies on which tax to be paid by E-commerce operator
- E-commerce operator to be person liable to pay tax
- If no physical presence in taxable territory, any person representing such operator in taxable territory shall be person liable to pay tax
- Neither physical presence nor representative, then such operator shall appoint a person in taxable territory for payment of tax

MEANING OF SUPPLY

Supply

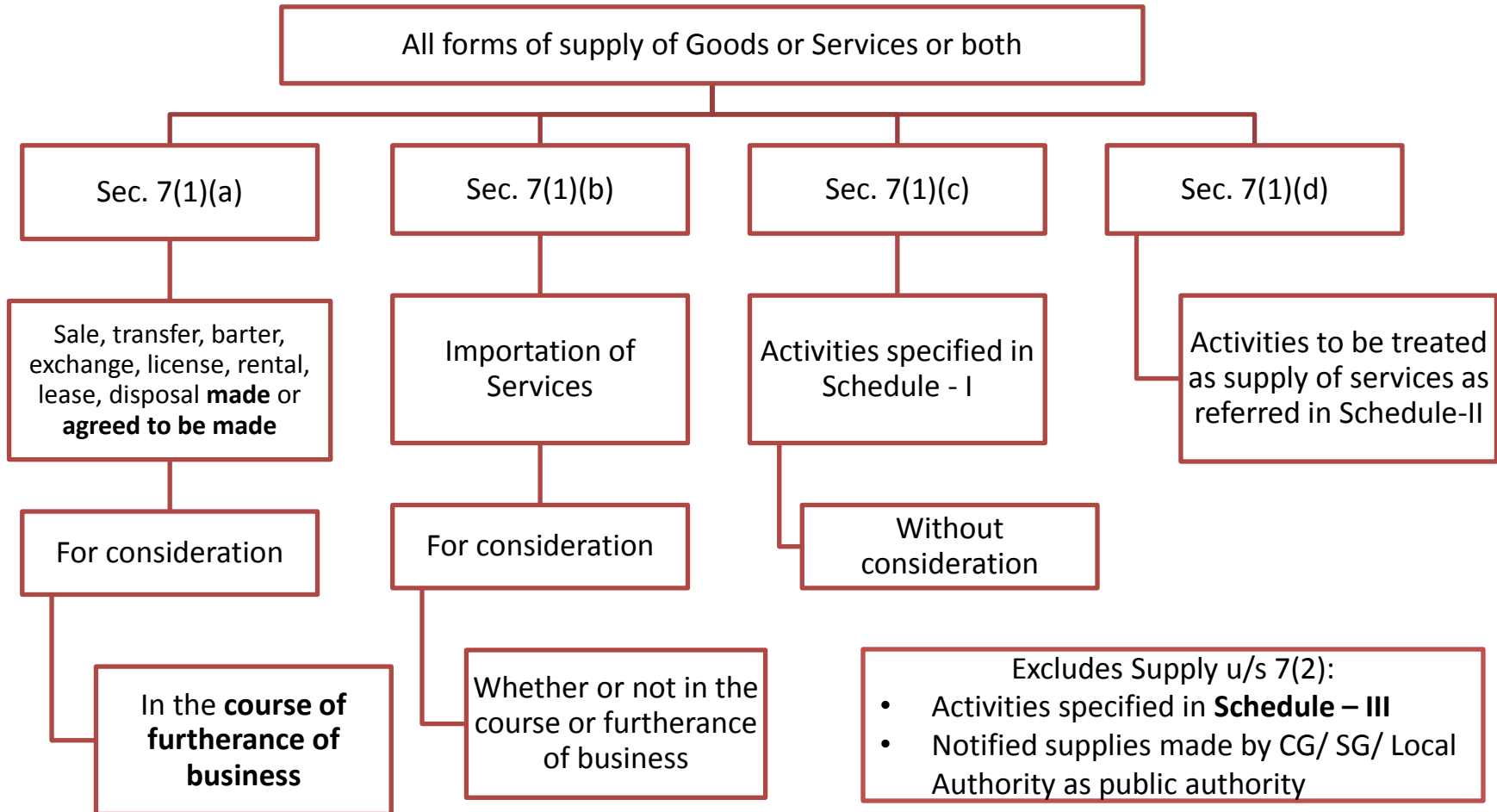
Broad Concept

- ✓ Concept of a supply is broader than a sale :
 - Transfer of title in goods is required for Sales
 - Supply doesn't require transfer of title in goods
- ✓ Presence of two persons for “taxable supply”:
 - Pre-requisite for VAT and Service tax
 - Not pre-requisite for Excise
 - Will not be a pre-requisite for GST
 - Even self-supplies may be a taxable supply in GST
- ✓ Presence of Consideration for “taxable supply”:
 - Pre-requisite for VAT and Service tax
 - Not pre-requisite for Excise
 - Will not be a pre-requisite for GST



Supply

Supply u/s 7(1) of CGST Act



Supply

Consideration

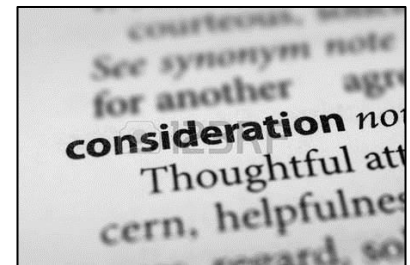
Consideration [section 2(31) of CGST Act] includes:

- Any payment made / to be made in money or otherwise
- The monetary value of any act or forbearance
- Deposit (refundable or not) to be treated as consideration only when adjusted against supply

In respect of/ in response to or for the incidence of the supply of goods and/or services whether by recipient or by any person

Consideration excludes:

- Subsidy given by Central or State Government
- Issues under deliberation:
- What is the meaning of term 'otherwise'? Does it include consideration in kind?
- Whether mere book entry would amount to payment made ?



Supply

Supplies without consideration under Schedule I

- ✓ Permanent transfer / disposal of business assets where ITC has been availed on such assets
 - Assets transferred on succession of business,
 - conversion of entity (firm to LLP, company to LLP, firm to company, LLP to company),
 - Amalgamation or merger,
 - Disposal of computer to charitable organization
 - Proprietor/ partners transferring goods for personal use
 - Can GST be levied when ITC was claimed under earlier Law?

- ✓ Supply of goods or services between related persons or between distinct persons specified u/s 25 when made in course or furtherance of business:
 - Branch / Depot transfer
 - Services provided by Head Office/ corporate office to its Branch offices or regional offices



Supply



Supplies without consideration under Schedule I

- Supply by employer to employees –
 - gifts not exceeding Rs. 50,000 in value in a financial year shall not be treated as supply
- ✓ Supply of goods by or to agent:
 - by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal, or
 - by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.
- ✓ Importation 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.

Supply

Schedule II – Matters to be treated as deemed supply of ‘goods’ or ‘services’ u/s 7

Transaction	Nature of Supply	Clause
Transfer of title in goods	Goods	1(a)
Transfer of: <ul style="list-style-type: none"> • rights in goods; or • undivided share in goods } Without transfer of title	Service	1(b)
Transfer of title in goods at future date upon payment of full consideration	Goods	1(c)
Lease, tenancy, easement, license to occupy land	Service	2(a)
Lease or letting out of building including commercial, industrial or residential complex (wholly or partly) for business or commerce	Service	2(b)
Treatment or processing of other’s goods (job work)	Service	3

Supply

Schedule II – Matters to be treated as deemed supply of ‘goods’ or ‘services’ u/s 7

Transaction	Nature of Supply	Clause
Transfer of business assets: <ul style="list-style-type: none"> • Transfer / disposal of goods forming part of business asset (with or without consideration) • When a person ceases to be a taxable person except when: <ul style="list-style-type: none"> ▪ Business transferred as going concern ▪ Business carried on by a personal representative (deemed to be a taxable person) 	Goods	4(a) 4(c)
Business assets put to private use or for any purpose other than business (With or without consideration)	Service	4(b)
Renting of immovable property	Service	5(a)
Sale of under construction flats / units (money received before CC or First occupation certificate)	Service	5(b)
Temporary transfer or permitting use or enjoyment of IPR	Service	5(c)
Development, design, programming, customization etc. of IT Software	Service	5(d)

Supply

Schedule II – Matters to be treated as deemed supply of ‘goods’ or ‘services’ u/s 7

Transaction	Nature of Supply	Clause
Agreeing to the obligation to: <ul style="list-style-type: none">• Refrain from an act; or• Tolerate an act or situation; or• Do an act	Services	5(e)
Transfer of right to use any goods for any purpose whether or not for specified period for consideration	Service	5(f)
Works Contract including transfer of property in goods	Service	6(a)
Supply of food as a part of service (Outdoor catering and restaurant sale)	Service	6(b)
Supply of goods by an unincorporated association to its members	Goods	7

Supply

Schedule III – Activities or transactions not to be treated as Supply

- ✓ Services by employee to employer in the course of or in relation to his employment
- ✓ Services by any Court or Tribunal established under any law for the time being in force (court
 - includes district court, High Court and Supreme Court)
- ✓ Functions or duties performed by:
 - Members of Parliament
 - Members of State Legislature
 - Members of Panchayats
 - Members of Municipalities



Supply

Schedule III – Activities or transactions not to be treated as Supply

- Members of other local authorities
 - any person who holds any post in pursuance of the provisions of the Constitution in that capacity
 - any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause
- ✓ Services of funeral, burial, crematorium or mortuary including transportation of the deceased
 - ✓ Sale of land and sale of building [subject to clause 5(b) of Schedule II]
 - ✓ Actionable claims, other than lottery, betting and gambling

Supply

Composite Supply



Composite Supply

- ✓ Composite supply means [sec 2(30) of CGST Act] :
 - a supply made by a taxable person to a recipient consisting of two or more supplies of goods or services
 - or both 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 the principal supply.

- ✓ 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 (Section 8 of CGST Act)

Supply



Mixed Supply

- ✓ Mixed supply means [sec 2(74) of CGST Act] :
 - two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other
 - by a taxable person
 - for a single price
 - where such supply does not constitute a composite supply

Illustration: A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink 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

- ✓ A mixed supply comprising two or more supplies shall be treated as supply of that particular supply which attracts the **highest rate** of tax (Section 8 of CGST Act)

Supply

Whether following are supply as defined u/s 7?

- Long term lease of land / building
- Insurance claim received against loss of business assets
- Sale of business as a going concern
- Lease / renting of residential house
- Services provided by co-operative housing societies to its members
- Statutory functions carried out by various government departments
- Activities carried out by charitable trust and NGOs
- Personal assets or articles sold through OLX, Quickr, etc
- Partner working for the firm for remuneration
- Personal assets brought to firm / LLP / company as capital
- Lost, stolen and destroyed goods

Some Doubts!!

Definition of supply —

- ‘Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation or to do an act’ —
 - Compensation for reduction of Potato harvesting — EC
 - Forfeiture of deposit for non performance of contract — Australia
 - Ex Employee paid compensation for violating post job conditions — Australia
 - Divesting part of business
 - Payment by transporter of violating speed limit in factory
 - Late delivery charges
 - Sale of Development Rights
 - Long term lease my MIDC or sub lease by original Lessee

COMPOSITION SCHEME

Composition Scheme

Composition
Scheme

We can understand the scheme with FAQs

Q1. What is composition scheme?

Ans. A person whose aggregate turnover in the preceding financial year is less than Rs.50 Lakhs can opt for a simplified composition scheme where tax will payable at a concessional rate on the turnover in a state without the benefit of ITC.

Q2. Who can opt for Composition Scheme?

Ans. Businesses dealing only in goods can only opt for composition scheme. Services providers have been kept outside the scope of this scheme. However, restaurant sector taxpayers may also opt for the scheme.

This holds true if your annual turnover is below Rs. 50 Lakhs.

Q3. Do Composition Dealers have the option to avail Input Tax Credit?

Ans. No, a Composition Dealer is not allowed to avail input tax credit of GST paid to their supplier.

Q4. Can a Composition Dealer issue Tax Invoice?

Ans. No. Since a Composition Dealer is not allowed to avail input tax credit, such a dealer cannot issue a tax invoice as well. A buyer from composition dealer will not be able to claim input tax on such goods.

Composition Scheme

Composition
Scheme

We can understand the scheme with FAQs

Q5. Which returns are required to be filed by a taxable person registered under Composite Scheme?

Ans. The taxable person is required to furnish only one return i.e. GSTR-4 on a quarterly basis (due date 18th of next month) and an annual return in FORM GSTR-9A (due date -31st December following the FY)

Q6. Is liability to pay taxes under Reverse Charge Mechanism covered under the Composite Scheme?

Ans. Any tax payable under Reverse Charge Mechanism will not be covered under the scheme. These taxes will be liable to be paid as a normal tax payer.

Q7. Can a dealer involved in interstate supplies opt for Composition Scheme?

Ans. No, Composition Scheme is available only for **intra-state supplies**. If a dealer is involved in inter-State supplies, then he cannot opt for the scheme.

Q8. What are the transition provisions if a business transits from Composition Scheme under current regime to Regular Taxation under GST?

Ans. Taxpayers registered under composition scheme under the current regime will be allowed to take credit of input held in stock, or in semi-finished goods or in finished goods on the day immediately preceding the date from which they opt to be taxed as a regular tax payer.

Composition Scheme

Composition
Scheme

We can understand the scheme with FAQs

Q9. How to compute 'aggregate turnover' of Rs. 50 Lakhs to determine eligibility for composition scheme?

Ans. Aggregate turnover' means:

Value of all **outward supplies** (taxable Sales + exempt Sales + Exports sales + Inter-state Supplies) of a person having the same PAN

Minus: Taxes levied under central tax (CGST), State tax (SGST), Union territory tax (UTGST), integrated tax (IGST) and compensation cess.

Note: The value of inward supplies on which tax is payable under reverse charge is not taken into account for calculation of 'aggregate turnover'.

Q10. Who are not eligible to opt for composition scheme?

Ans. (i) Supplier of services other than supplier of restaurant service;

(ii) Supplier of goods which are not taxable under the CGST Act/SGST Act/UTGST Act.

(iii) An inter-State supplier of goods;

(iv) Person supplying goods through an electronic commerce operator;

(v) Manufacturer of certain notified goods

Composition Scheme

Intimation for composition levy

- ✓ Any person being granted registration on a provisional basis and who opts for Composition Levy shall file an intimation in **FORM GST CMP-01**, duly signed, before or within 30 days of appointed date. If intimation is filed after the appointed day, the registered person:
 - a) Will not collect taxes
 - b) Issue bill of supply for supplies
- ✓ For fresh registration under the scheme, intimation in **FORM GST REG- 01** must be filed. Every composition scheme holder must fulfill following yearly compliance:
 - a) Intimation in **FORM GST CMP- 02** for exercise option
 - b) Statement in **FORM GST ITC- 3** for details of ITC relating to inputs lying in stock, inputs contained in semi-finished or finished goods within 60 days of commencement of the relevant financial year
- ✓ Any person who files an intimation in **FORM GST CMP-01**, must also file **FORM GST CMP-03** within 60 days of exercise of option:
 - a) Details of stock
 - b) Inward supply of goods received from unregistered persons held by him on the date preceding the day of exercise of option
- ✓ Any intimation filed in **FORM GST CMP-01** or **FORM GST CMP- 02** will be deemed to have been filed for all the places of business having the same registered PAN.

Composition Scheme

Effective date

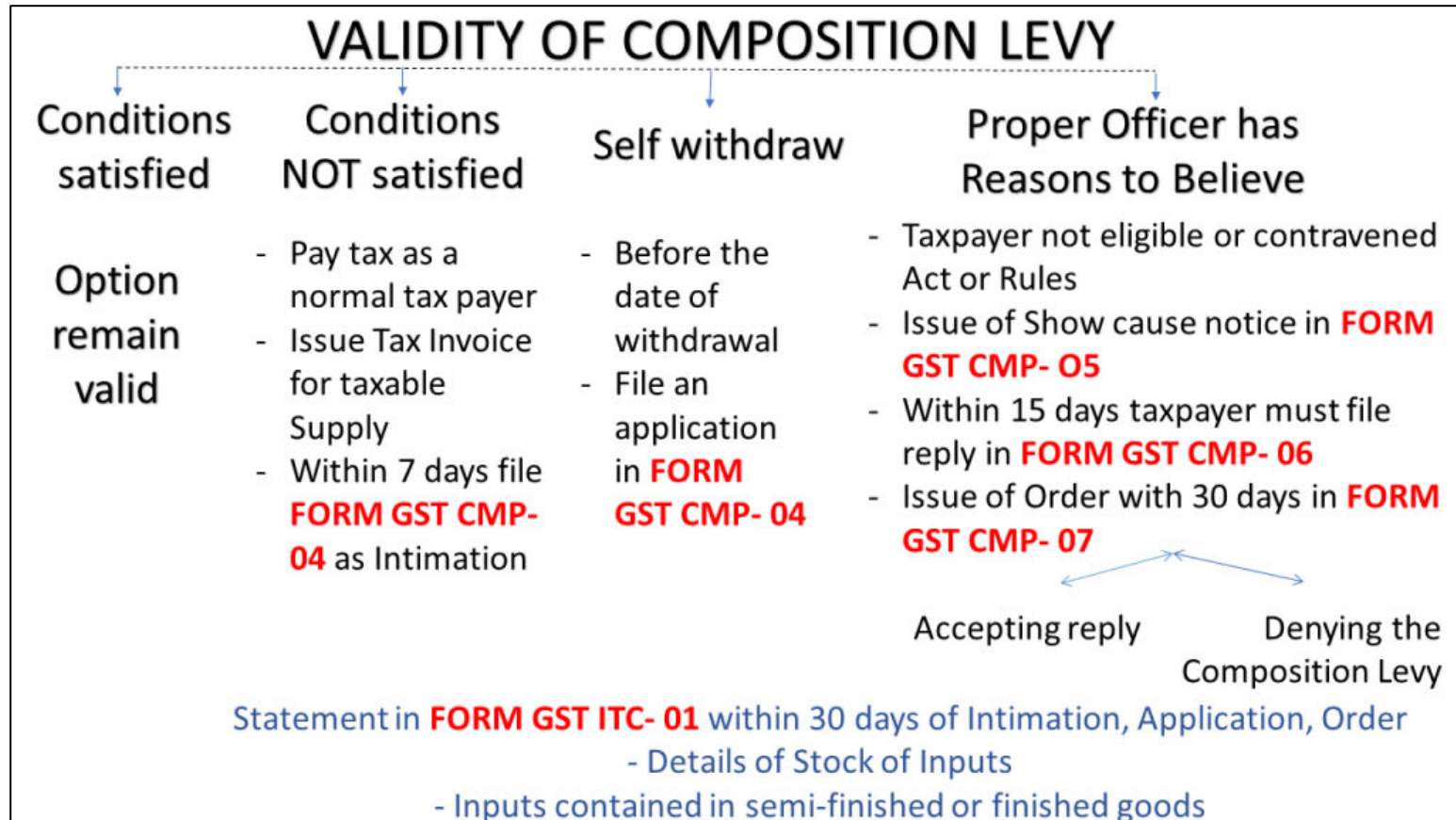
- ✓ The option to pay tax under Composition Scheme shall be effective:
 - Appointed date where **FORM GST CMP-01** is filed
 - Beginning of the financial year where FORM GST CMP- 02 is filed
- ✓ The intimation filed in **FORM GST REG- 01** shall be considered only after grant of registration to the applicant.
 - Option to pay tax under Composition Scheme shall be effective from:
 - where the application for registration has been submitted within thirty days from the day he becomes liable for registration, such date.
 - If above condition is satisfied, the effective date of registration shall be the date of grant of registration.

Composition Scheme

Conditions and Restrictions

1. The person opting for the scheme must neither be a casual taxable person nor a non-resident taxable person.
2. The goods held by him in stock on the appointed date must not be purchased from a place outside his state. The goods should therefore not be classified as:
 - Inter- state purchase
 - Imported Goods
 - Branch situated outside the State
 - Agents or Principal situated outside the State
3. Where the taxpayer deals with unregistered person, tax must be paid or no stock must be held
4. Mandatory display on invoices of the words “**composition taxable person, not eligible to collect tax on supplies**”
5. Mandatory display of the words “**Composition Taxable Person**” on every notice and signboard displayed at a prominent place.
6. He is **not a manufacturer** of such goods as may be notified by the Government during the preceding financial year

Composition Scheme



Composition Scheme

Rate of Tax

- The category of registered persons, eligible for composition levy under section 10 and these rules, specified in column (2) of the Table below shall pay tax under section 10 at the rate specified in column (3) of the said Table :

Sr. No.	Category of registered persons	Rate of tax
1	Manufacturers, other than manufacturers of such goods as may be notified by the Government	2% (SGST 1% and CGST 1%)
2	Restaurant, caterers, canteen, etc	5% (SGST 2.5% and CGST 2.5%)
3	Retailers	1% (SGST 0.5% and CGST 0.5%)

TRANSITIONAL PROVISIONS

Transitional Provisions

Sr. No.	Particulars	Remarks
1	Migration of existing taxpayers to GST	<p>-Every registered person under earlier laws shall be issued a provisional registration certificate for 6 months</p> <p>-During this period such registered person shall be required to furnish the prescribed details . Post which Final Registration Certificate would be granted</p>
2	Balance of Credit on appointment date	Balance of unutilized CENVAT/ input tax credit forward in the return furnished under earlier law will be allowed to be carried forward by incorporating it in the electronic credit ledger
3	Credit on inputs held in stock for a taxable person switching over from composition scheme	The Registered person shall file a declaration electronically in Form GST ITC-01 within 30 days of becoming eligible to claim ITC in respect of inputs held in stock.

Sr. No.	Particulars	Remarks
4	Unutilized credit furnished under earlier law in the event of a taxable person switching over to composition scheme under GST	Shall be entitled to avail eligible credit only in respect of inputs held in stock on the appointed day and balance credit if any shall lapse.
5	Taxability in respect of exempted goods or duty paid under earlier act returned on or after the appointed day.	Goods exempted under earlier law but taxable under GST, removed within 6 months prior to the appointed day, returned to any place of business will not be taxed
6	Refund claim filed under Earlier law and still pending on or after the appointed day.	Shall be disposed of as per the provision of earlier law.
7	Pending Litigation (Appeal, Assessment, Reference, Review, Revision)	<p>-Pending litigation shall be disposed of as per the provisions of earlier law.</p> <p>-Any amount found admissible/ refundable to the claimant, shall be refunded in cash under earlier law.</p> <p>-In case any amount becomes recoverable, shall be recovered as arrear of tax under GST regime.</p>

Sr. No.	Particulars	Remarks
8	Taxability in case of supply of goods/ services made after the appointed day but consideration and tax paid prior to the appointed day	Shall not be liable to tax under GST regime
9	Taxability in case of supply of goods/ services made before the appointed day where part consideration received on or after the appointed day but tax is paid in full under earlier law	Shall not be liable to tax under GST regime
10	Credit distribution of Service Tax by ISD on the services received prior to the appointed day	Shall be eligible for distribution as credit under GST regime
11	Applicability of deduction of tax at source under Earlier law and invoice is issued prior the appointed day	No deduction under GST regime where payment to the supplier is made on after the appointed day.
12	Import of services or inter-state supply of goods/ services made on or after the appointed day	Shall be taxable under IGST Law. However, in case tax on such transaction was paid in full under the earlier law, no tax shall be payable under IGST.

GST Rates- No tax

✓ GOODS

- Fresh meat
- fish chicken
- Eggs
- Milk
- butter milk
- Curd
- natural honey
- fresh fruits and vegetables
- Flour
- Besan
- Bread
- Prasad
- Salt
- Bindi
- Sindoor
- Stamps
- judicial papers
- printed books
- Newspapers
- Bangles
- Handloom

✓ SERVICES

- Hotels and lodges with tariff below Rs 1,000, Grandfathering service has been exempted under GST



GST Rates- 5%

✓ GOODS

- Fish fillet
- Cream
- skimmed milk powder
- branded paneer
- frozen vegetables
- Coffee
- Tea
- Spices
- Pizza bread
- Rusk
- Sabudana
- Kerosene
- Coal
- Medicines
- Stent
- Lifeboats

✓ SERVICES

- Transport services (Railways, air transport), small restaurants will be under the 5% category because their main input is petroleum, which is outside GST ambit



GST Rates- 12%

✓ GOODS

- Frozen meat products
- Butter
- Cheese
- Ghee
- Dry fruits in packaged form
- Animal fat
- Sausage
- Fruit juices
- Bhutia
- Namkeen
- Ayurvedic medicines
- Tooth powder
- Agarbatti
- Colouring books
- Cell Phones

✓ SERVICES

- Non-AC hotels, business class air ticket, fertilisers, Work Contracts will fall under 12 per cent GST tax slab



GST Rates- 18%

✓ GOODS

- Flavored mixes
- refined sugar • mineral water
- pasta • tissues
- cornflakes • envelopes
- pastries and cakes • tampons
- preserved vegetables • note books
- steel products
- jams • printed circuits
- sauces • camera
- soups • speakers and
- ice cream • Monitors
- instant food

✓ SERVICES

- AC hotels that serve liquor, telecom services, IT services, branded garments and financial services will attract 18 per cent tax under GST.



GST Rates- 28%

✓ GOODS

- Chewing gum
- Molasses
- chocolate not containing cocoa
- waffles and wafers coated with chocolate
- pan masala
- aerated water
- Paint
- Deodorants
- shaving creams
- after shave
- hair shampoo
- Dye
- Sunscreen
- Wallpaper
- ceramic tiles
- water heater
- Dishwasher
- weighing machine
- washing machine
- ATM
- vending machines
- vacuum cleaner
- Shavers
- hair clippers
- Automobiles
- Motorcycles
- aircraft for personal use
- Yachts

✓ SERVICES

- 5-star hotels, race club betting, cinema will attract tax 28 per cent tax slab under GST



What's New in GST?

- Common exemption list for CGST & SGST
- GST on advance payment against Sale of Goods
- Inter-State Branch Transfer liable to tax
- Supply to Agent liable to tax
- TCS for E-commerce Operator
- ITC allowed when supplier filed return and paid taxes
- Input Tax Credit allowed on all goods/services used for furtherance of business —Expanded scope with a Negative List
- Capital Goods Credit allowed in full
- Temporary use of Business Asset for personal purpose — liable to GST (office car for personal use)

What's New in GST?

- Transparency as total taxes paid available in invoice
- Total Tax burden for a consumer to reduce
- Expected GDP growth by increase in economic activities and efficient use of resources
- Broadening of Tax base
- Improved compliance & revenue collections
- Removal of distortions and better level playing field for organized sector angst. Small scale sector

Electronic Way (e-way) Bill Rules

E way bill will have to issued for all supplies of goods exceeding value of 50000

E-way bill will have to be issued online on GST website

Validity of e-way bill from the time and date of its issuance will be as under :

- for 100 kms - 1 day
- for 100 to 300 kms - 3 days
- for 300 to 500 kms - 5 days
- for 500 to 1000 kms - 10 days
- for more than 1000 kms - 15 days

An e-way bill can be cancelled only within 24 hrs of its issuance

Where a vehicle has been detained for more than 30 mins the transporter can upload this information on GSTN



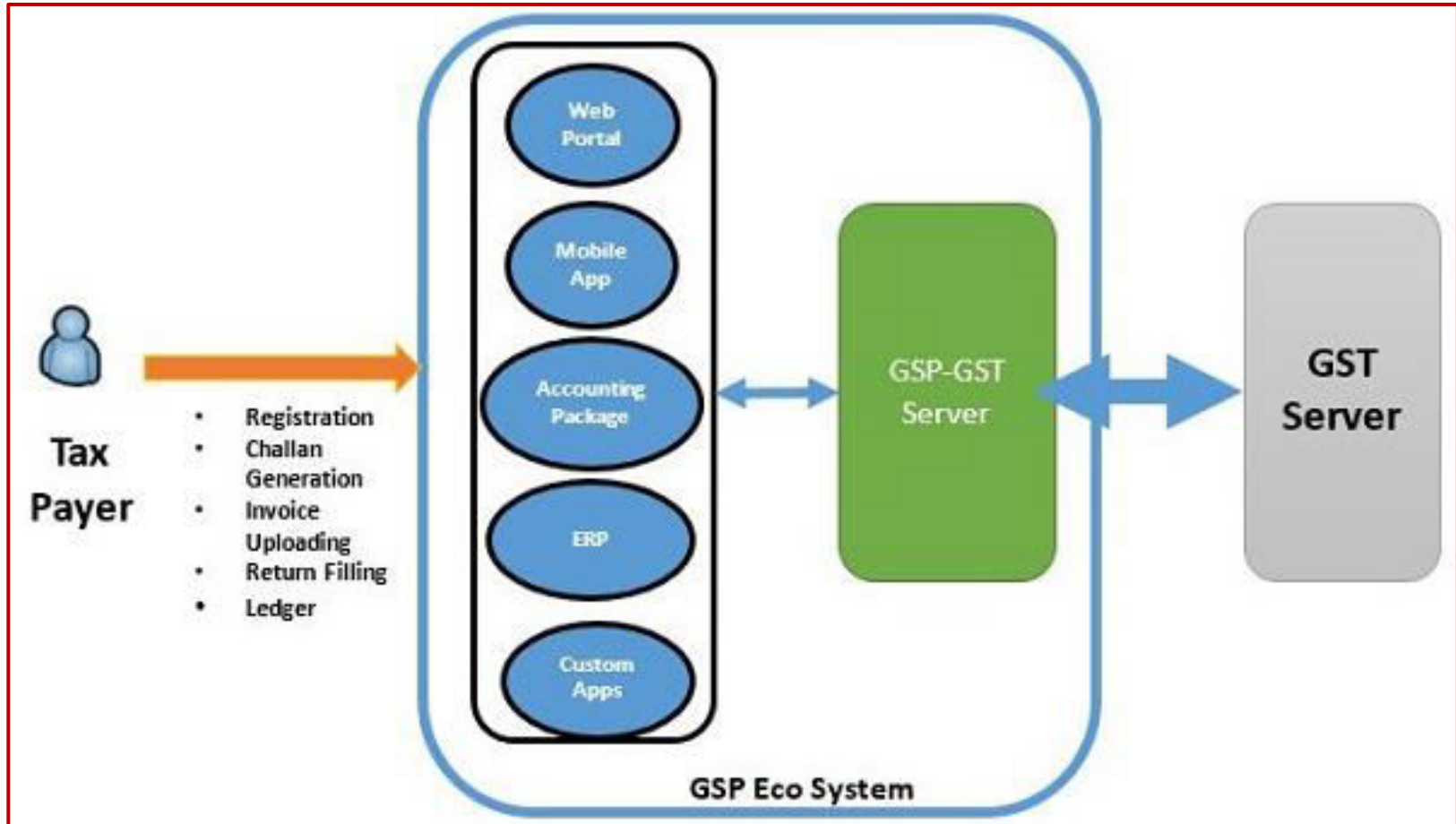
GST Rating

- Taxpayers registered under the new goods and services tax (GST) regime will be assigned a rating, based on how promptly they upload invoices, pay taxes and file returns.
- The ratings will be made public on the GST Network (GSTN) website as tax authorities seek to build peer pressure among companies to ensure compliance
- Let's take an example to understand this further. Let's assume that GST rating will be done on a scale of 1-10, wherein someone rated at 1 is least compliant and a rating of 10 depicts excellent compliance.

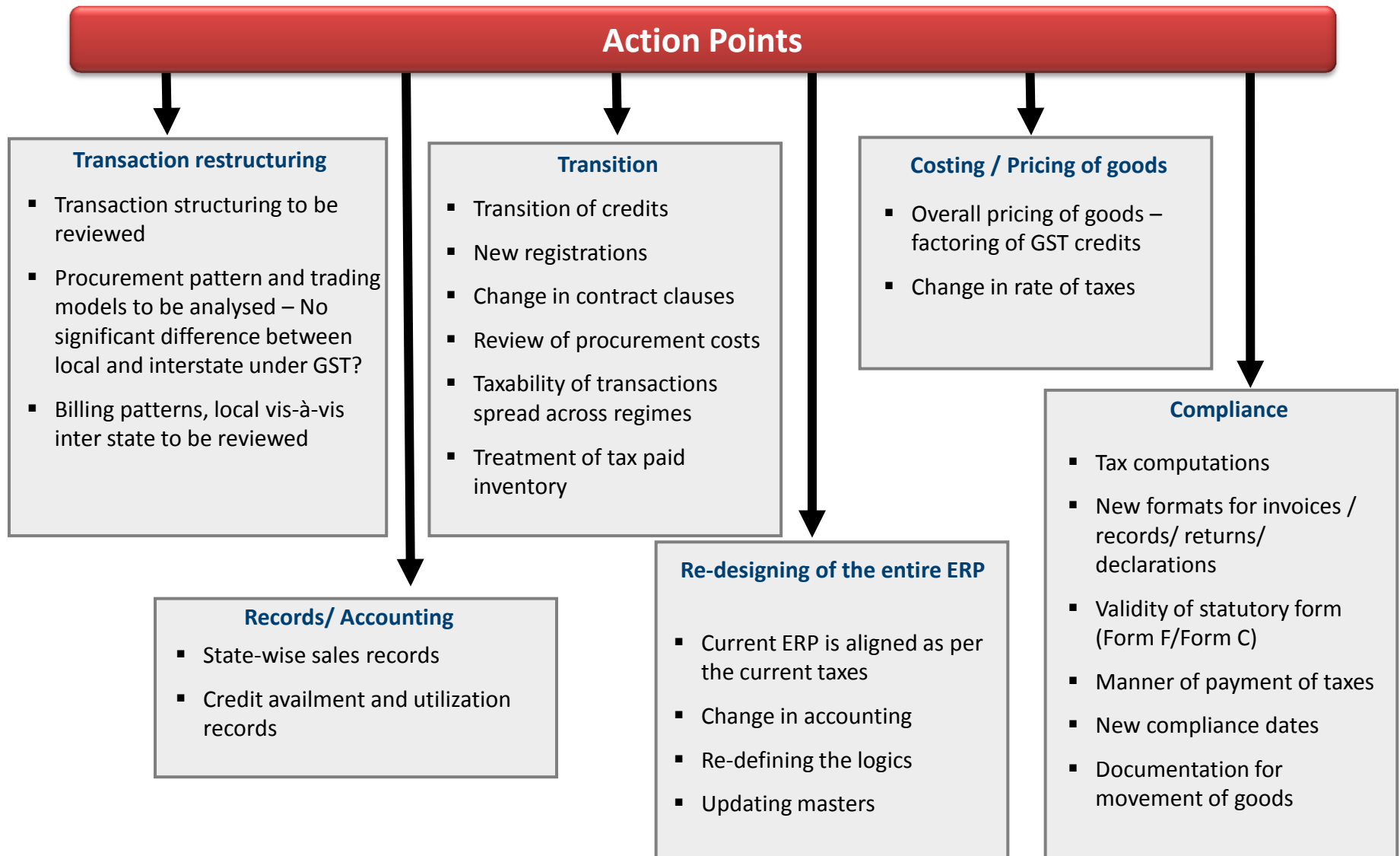
GST Suvidha Provider

- ✓ GSP is an interface between GSTN & Tax Payer. GSP will develop web/mobile interfaces for tax payers to interact with GSTN.
- ✓ Taxpayers will interface with GST System via GSP ecosystem provided by way of applications for activities such as Registration, Tax payments, Returns filing and other information exchange with GST core system.
- ✓ GST Suvidha Provider's (GSP) are the companies selected to give encrypted data to GSTN
- ✓ Total 34 Companies are selected as GSP
- ✓ All the tax payers data either Supply bill , Receipt bill , Payment process , Debit note or credit note , invoice matched / mismatched for credit verifications etc... will be first go to GSP servers and after due validation it will transfer to GSTN network in encrypted form as specified by GSTN.

GST Suvidha Provider



Key Challenges



Thank
you



- By CA. Hasmukh N. Shah

Managing Partner
Hasmukh Shah & Co LLP

*Organized by WIRC
May 29, 2017*