



# Hospitality & Tourism

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# WHAT IS



• GOODS & SERVICES TAX •

FAQ : It is a **destination based tax** on **consumption of goods and services**. It is levied at all stages right from manufacture up to final consumption with **credit of taxes paid at previous stages available as setoff**. In a nutshell, only value addition is taxed and burden of tax is to be borne by the **final consumer**.

# Impact of GST on Hotels and Cruise



# Hotel/Cruise



**Services directly relating to**

Accommodation by a hotel, etc. incl house boat, vessel

Accommodation in any imm. Prop. For any marriage or function etc. incl services provided i.r.t. such function at such property

Any related ancillary service

Location of Supplier and Recipient both in India



12.04.2023

If in India

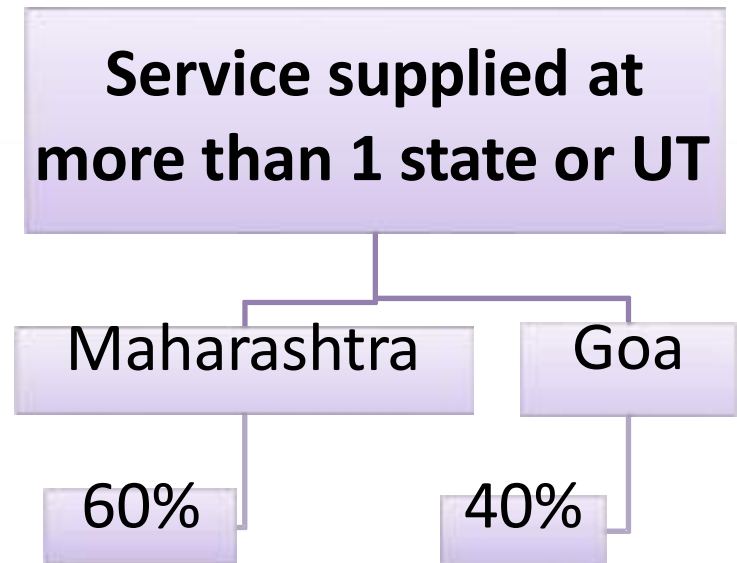
**Location of immovable property or boat or vessel or intended location**

If outside India

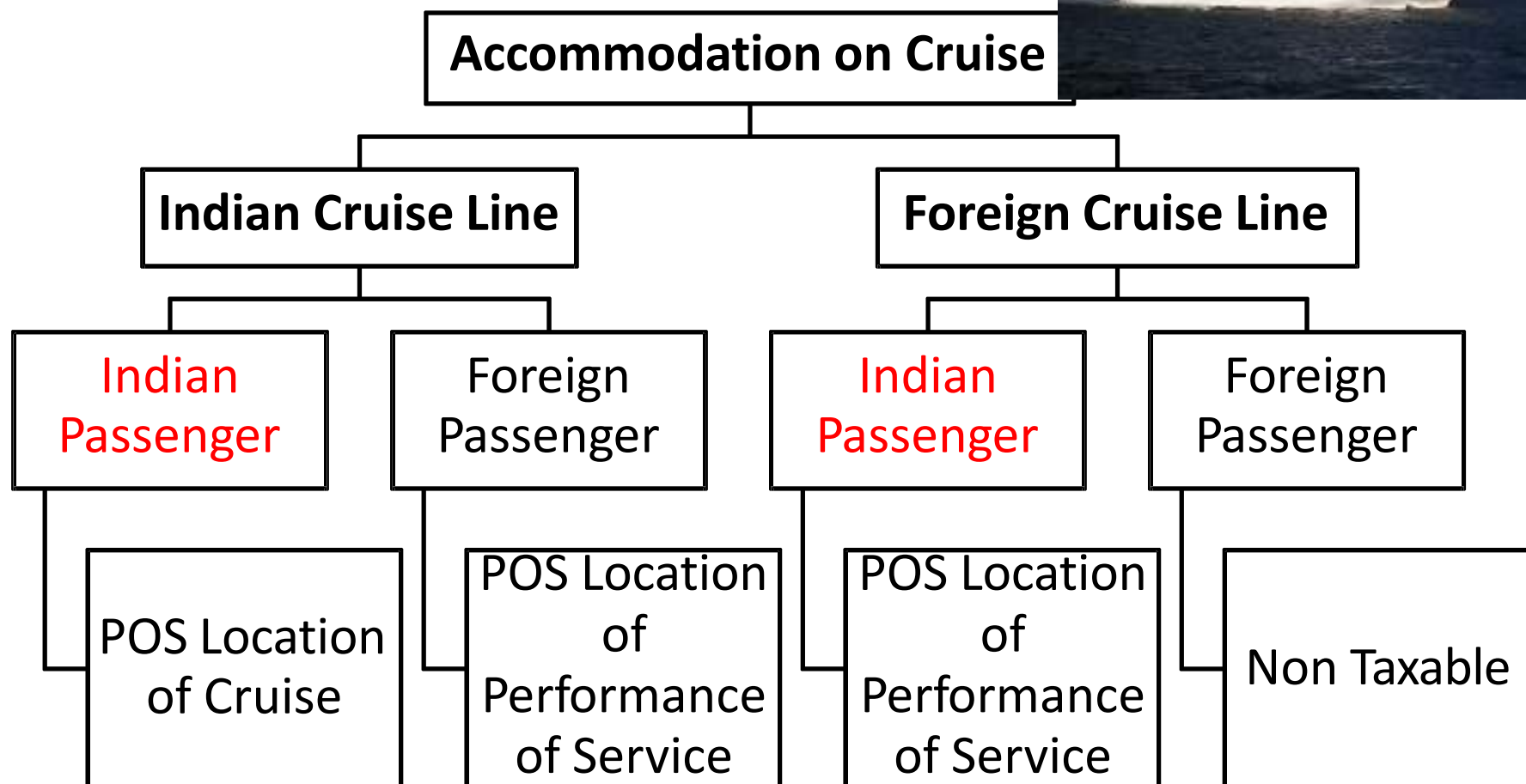
**Location of the recipient of Service**

# POS in case of multiple state

- Where the immovable property or boat or vessel is located in more than one State or UT,
- the supply of services shall be treated as made in each of the respective States or UT,
- in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.



# POS for Cruise



# Cruise to Foreign Pax

- Invoice should contain Name, Address and GST Number of Service Recipient
- Place of Supply



Shall be the location of actual performance of service in case

Services provided to an individual who is recipient of service/ person representing the SR

in the physical presence of the service receiver or a person acting on behalf of the receiver

With the SP for the provision of service

Service supplied at more than 1 location including a location in taxable territory

Maharashtra

12%

Sri Lanka

13%

Maldives

75%

**Place of supply shall be Maharashtra**

# Rate of Hotel Accommodations **GMJ**

As per Notification No. 13/2018- Central Tax (Rate), w.e.f. 27<sup>th</sup> July, 2018 GST rate will be determined on the basis of transaction value prior to that on declared Tariff.

Transaction Value per Unit per day	Upto 30 <sup>th</sup> Sept 2019	1 <sup>st</sup> Oct 19 till 12 <sup>th</sup> Mar 2022	W.e.f 13 <sup>th</sup> Mar 2022
Below Rs.1000	Nil	Nil	12%
Rs.1000	12%	Nil	12%
Rs.1001 to Rs.2499	12%	12%	12%
Rs.2500 to Rs.7499	18%	12%	12%
Rs.7500	28%	12%	12%
Rs.7501 & Above	28%	18%	18%





# Rate for Cruise



Income to Agent for booking of Cruise

Commission

Tour Operator

ITC only O-2-O Noti 1/2018

@ 18%



Supplier Invoice in the name of Customer

18% on Mark-up charged to client

5% on the full amount with no ITC (18% with ITC)

# Issues w.r.t Hotel services GMJ to SEZ



Hotel - Mumbai

Location of Supplier

POS u/s 12

Intra state





Whether Intra state or Inter state?



Company in SEZ

Inter state as per section 7 (5)(b)

# Issues in Hotel Accommodation

- Composite/ Mixed supply like food, Gym, etc.
- Extra Bed
- Membership fees
- ITC on Makeup for front desk staff 
- ITC on free pickup and drop
- ITC for Construction of Hotel Building 
- ITC on Repairs and renovation
- Customer paid advance at the time of booking later on cancelled, GST payable on cancellation?



# Credit not allowed 17(5)(b)

Allowed only for outward supply of same category or as element of composite/mixed supply or obligatory for employer under any law to give to employee

- food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, **renting/hiring/leasing of MV**, Vessel, Aircraft, life insurance, health insurance



# Credit not allowed 17(5)(c) & (d) **GMJ**

- Works contract services when supplied for construction of immovable property,
  - other than plant and machinery,
  - except where it is an input service for further supply of works contract service;
- goods or services received by a taxable person for construction of an immovable property other than plant and machinery, on his own account incl. when used for furtherance of business
- **Construction** includes re-construction, renovation, addition, alter, repair - **to the extent of capitalization to said immovable property**
- **'Plant and Machinery'** means apparatus, equipment, machinery fixed to earth by foundation or structural support that are used for making outward supply and includes such foundation and structural supports **but excludes** land, building or any other civil structures, telecom tower, pipeline outside factory premises



# Safari Retreats Private Limited Vs CC of CGST

## – Orrisa High Court W.P. (C) No. 20463 of 2018

- Applicant is in the business of construction of shopping mall and later on give on Rent.
- Applicant purchase various material and availed various services for construction of Mall.
- Where inputs are consumed in the construction of an immovable property which is meant and intended to be for the provision of taxable output services, whether input tax credit was available to the assessee?



- Rent income is arising out of the malls which are constructed after paying GST on different items.
- If ITC is denied on building meant and intended to be let out, it would amount to treating the transaction as identical to a building meant and intended to be sold.
- Further, treatment of these two different types of transactions as one for the purpose of GST, is contrary to the basic principles regarding classification of subject matter of tax levy and, therefore, violative of Article 14 of the Constitution.
- Hence, the interpretation adopted by the Revenue is frustrating
- the Petitioner in that case has to pay huge amount without any basis.
- The very purpose of the credit is to give benefit to the assessee.
- Therefore, if the Petitioner is required to pay GST on the rental income arising out of the investment on which he had paid GST, it is required to have the input tax credit on the GST.





## Cir 78/10/2022 – GST Dtd. 3<sup>rd</sup> August, 2022

- 11. A supply contracted for, such as booking of hotel accommodation, an entertainment event or a journey, may be cancelled by a customer or may not proceed as intended due to his failure to show up for availing the same at the designated place and time. The supplier may allow cancellation of supply by the customer within a certain specified time period on payment of cancellation fee as per commercial terms of the contract. In case the customer does not show up for availing the service, the supplier may retain or forfeit part of the consideration or security deposit or earnest money paid by the customer for the intended supply.
- facilitation supply of allowing cancellation of an intended supply against payment of cancellation fee or retention or forfeiture of a part or whole of the consideration or security deposit in such cases should be assessed as the principal supply

# Impact of GST on Restaurant Banquet Industry



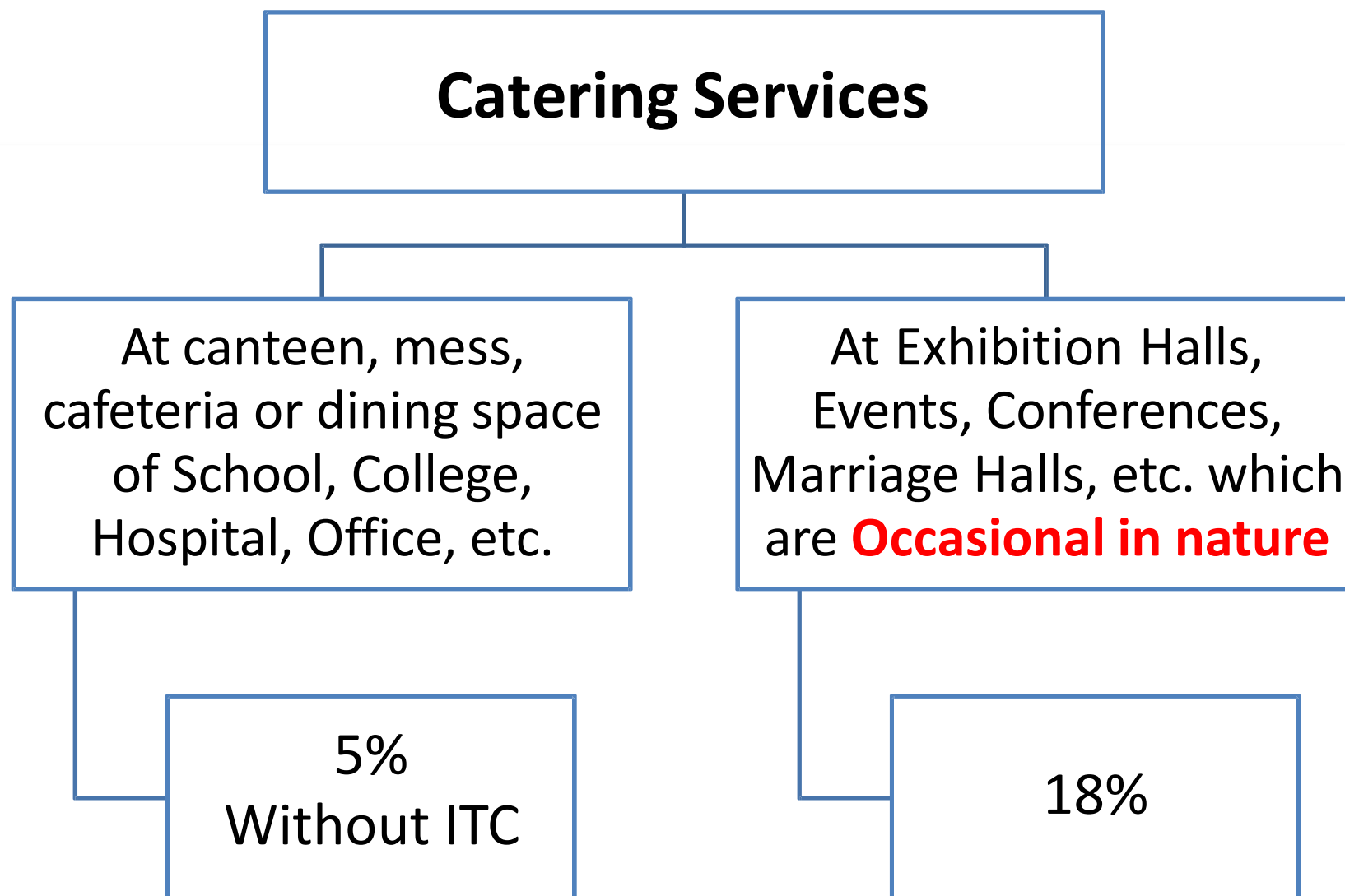
# Rate of Tax for Restaurant

Type of Restaurant	Rate (14 <sup>th</sup> Nov'17)	Conditions
Stand-alone restaurant, etc. not located in premises having residential or lodging facility	5%	No ITC
Restaurant, etc. located in premises having residential or lodging facility having declared tariff of any unit < Rs. 7500 per unit per day		
Restaurant, etc. located in premises having residential or lodging facility having declared tariff of any unit $\geq$ Rs. 7500 per unit per day	18%	NIL
Composition scheme	5%	No ITC

Charged more than 7500 for single room on 31-12, than 18% for entire year?

# Rate of Outdoor Catering

Type of Outdoor Catering Services	Upto 30 <sup>th</sup> Sept 2019	W.e.f 1 <sup>st</sup> Oct 2019
Supplied within the premises of Hotel having declared tariff of any unit up to Rs.7,500/- per day	18% with ITC	5% without ITC
Supplied within the premises of Hotel having declared tariff of any unit above Rs.7,500/- per day	18% with ITC	18% with ITC
Outdoor Catering Services other than above	18% with ITC	5% without ITC
<b>These rates are mandatory and not optional in nature</b>		



# Place of Supply

- The place of supply of
  - restaurant and catering services
- Location where the services are actually performed.



Sec  
12(4)

# Issues

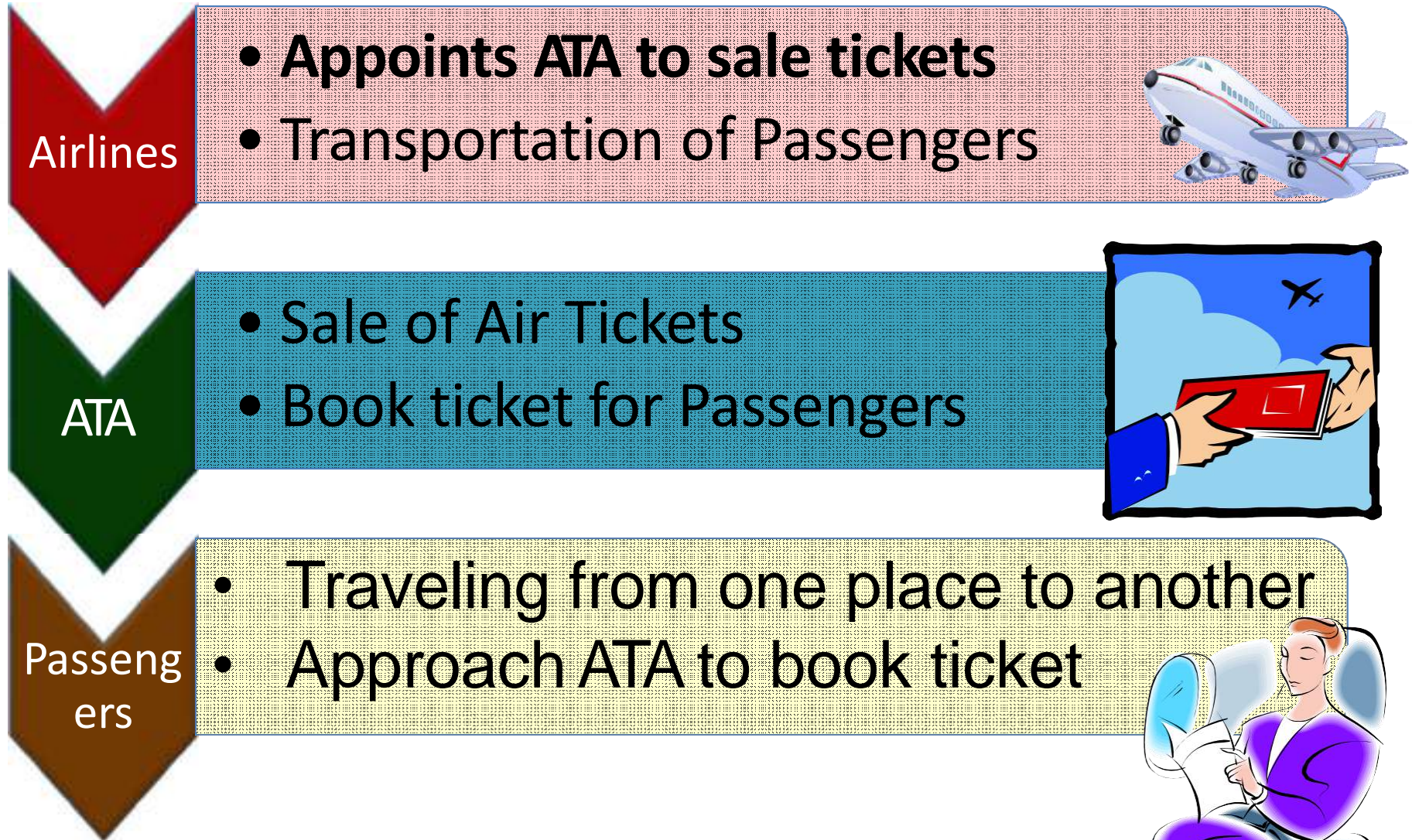
- Cover Charges
- Conducting License
- Renting
- Franchisee
- Supply of Liquor
- Ice cream parlor/ Sweets shop etc.

# Impact of GST on Tour Operator

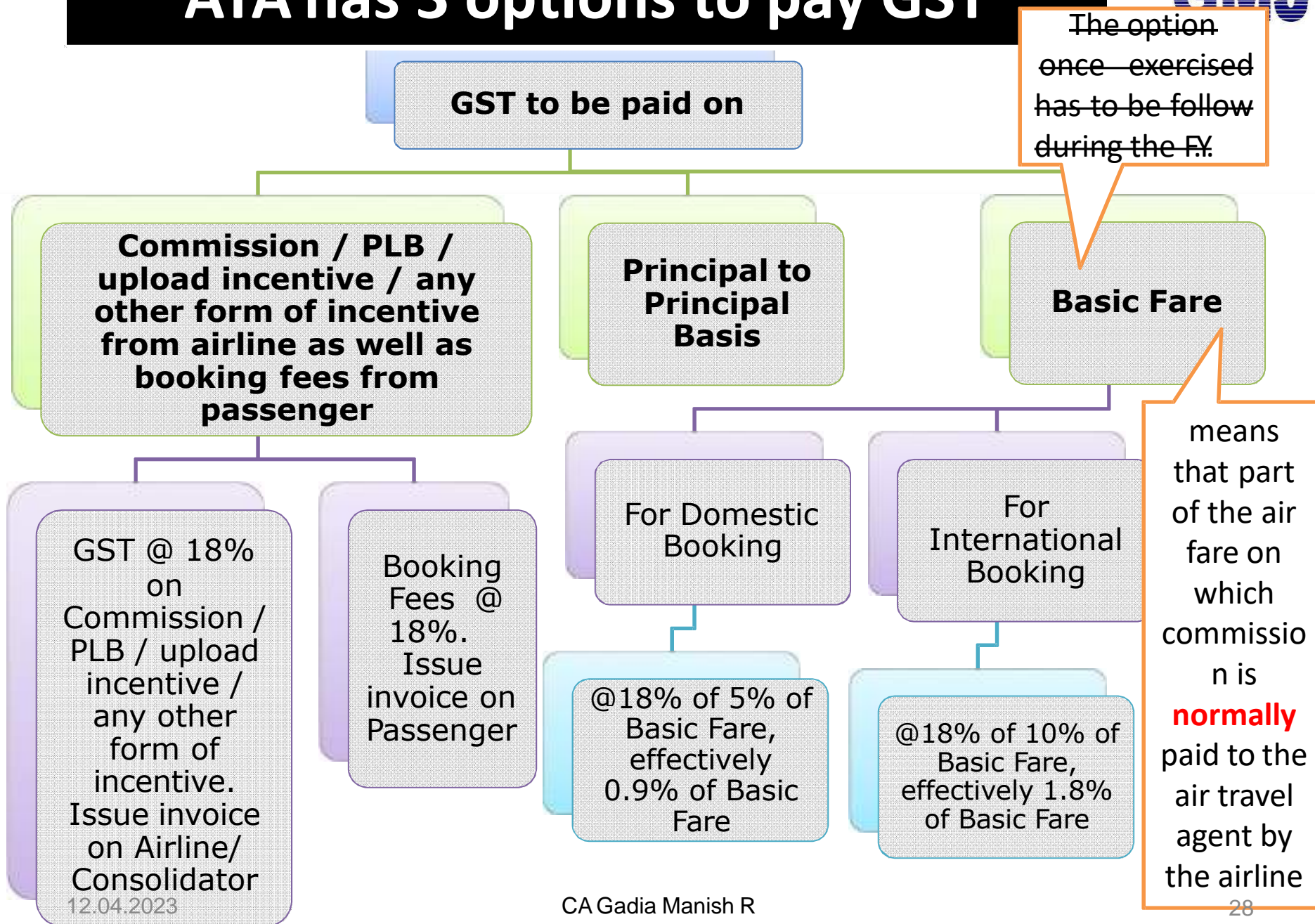




# Air Travel Agent Nature of Service



# ATA has 3 options to pay GST



# Principal to Principal Basis



**Airlines**

**Buys  
Tickets  
from  
Airlines**



**Travel Agent**

**Sells  
Tickets to  
Customer**



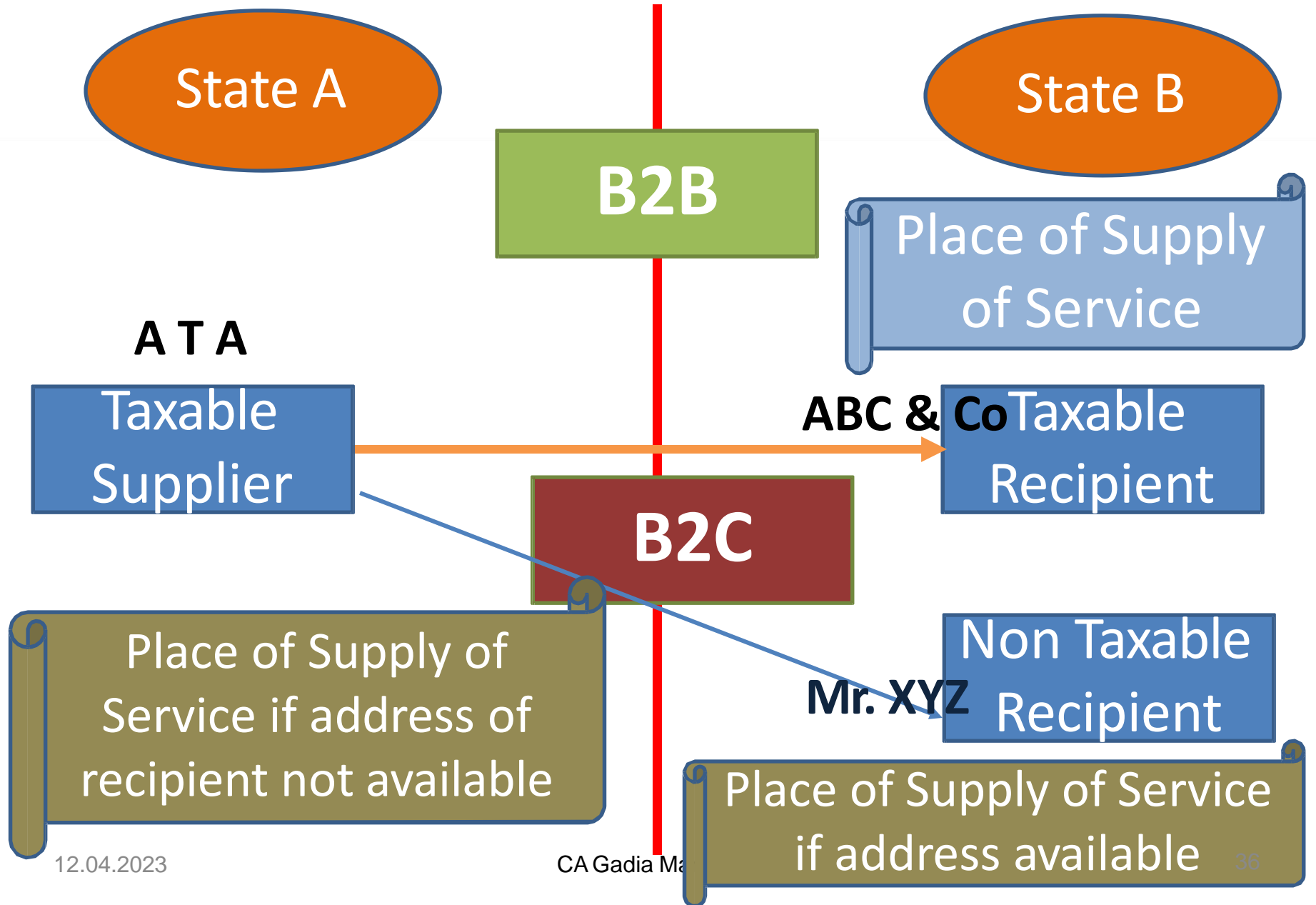
**Traveler**

Can Claim ITC  
of the Tax  
Charged by  
Airlines.

However, in this case the contractual liability/ obligations will be on the Travel Agent as he will be acting as a Principal and not as an Agent.

Will have to Charge GST @ Applicable to Airlines, POS would be similar as in case of Airlines.

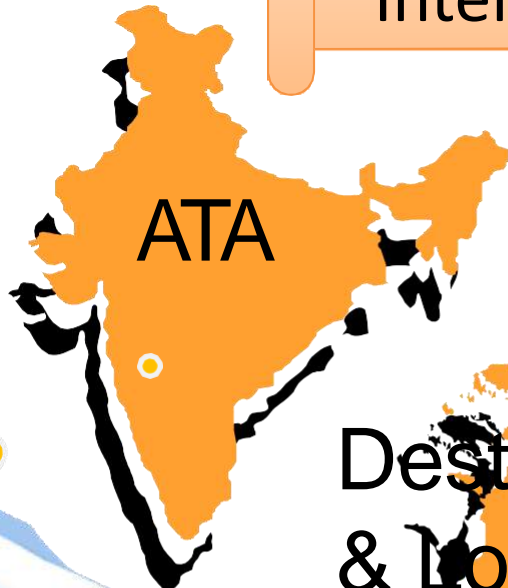
# Place of Supply of Service



Since ATA acts as an Intermediary



Origin & Location of Airlines



Destination & Location of Passenger



GST Payable in India

# Sub Agent buying tickets from consolidator



- Sub agent can also avail the option of paying GST at basic fare module or commission module (commission received from consolidator or service fees from client)
- Place of supply for a Sub Agent will be same as of a normal agent i.e.
  - Location of service receiver (if service receiver is located)
  - If address record on recipient exist, location of service receiver
  - Location of service provider in any other case

It is advisable to an ATA and a sub agent to provide client's Email ID while booking the ticket



# Rent a cab

Commission model

Net cost and Mark-up Basis

GST @ 18%

W.e.f 13<sup>th</sup> October, 2017

GST @ 5% on full value of invoice including value of fuel **ITC only operator to operator**

GST @ 12% on full value of invoice including value of fuel **with ITC**

GST @18% on full value of invoice **excluding value of fuel** with ITC

As per Notification No 20/2017 w.e.f. 22<sup>nd</sup> August, 2017

# Car Hire/Air Line/ Railway

Place of supply for passenger transportation

Location of Supplier and Recipient of Service is in India

Location of Supplier or Recipient of Service is Outside India



service receiver is registered?

Yes

No

Place where the passenger embarks on the conveyance for a continuous journey

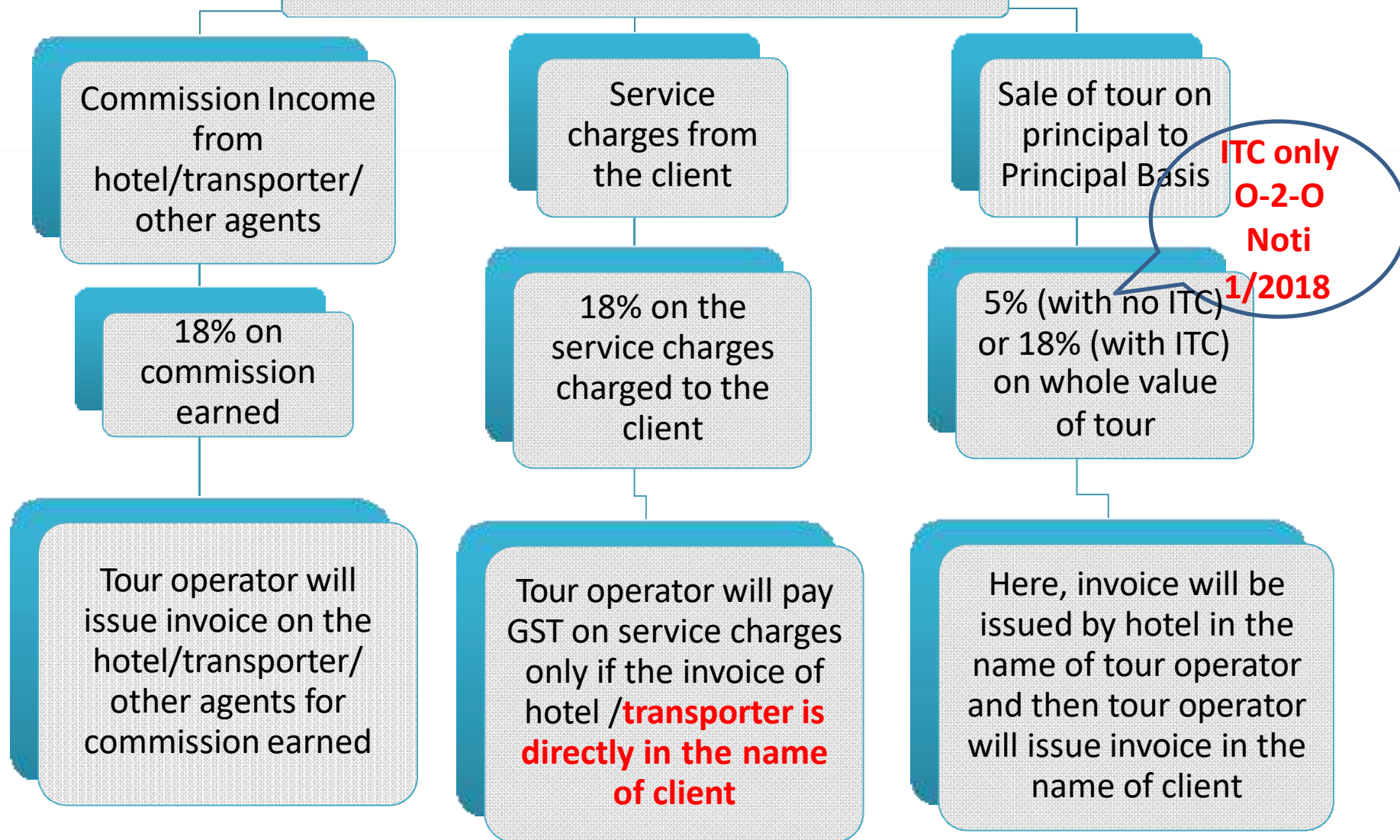
Location of Service Receiver

Place where the passenger embarks on the conveyance for a continuous journey





# Income for Tour Operator

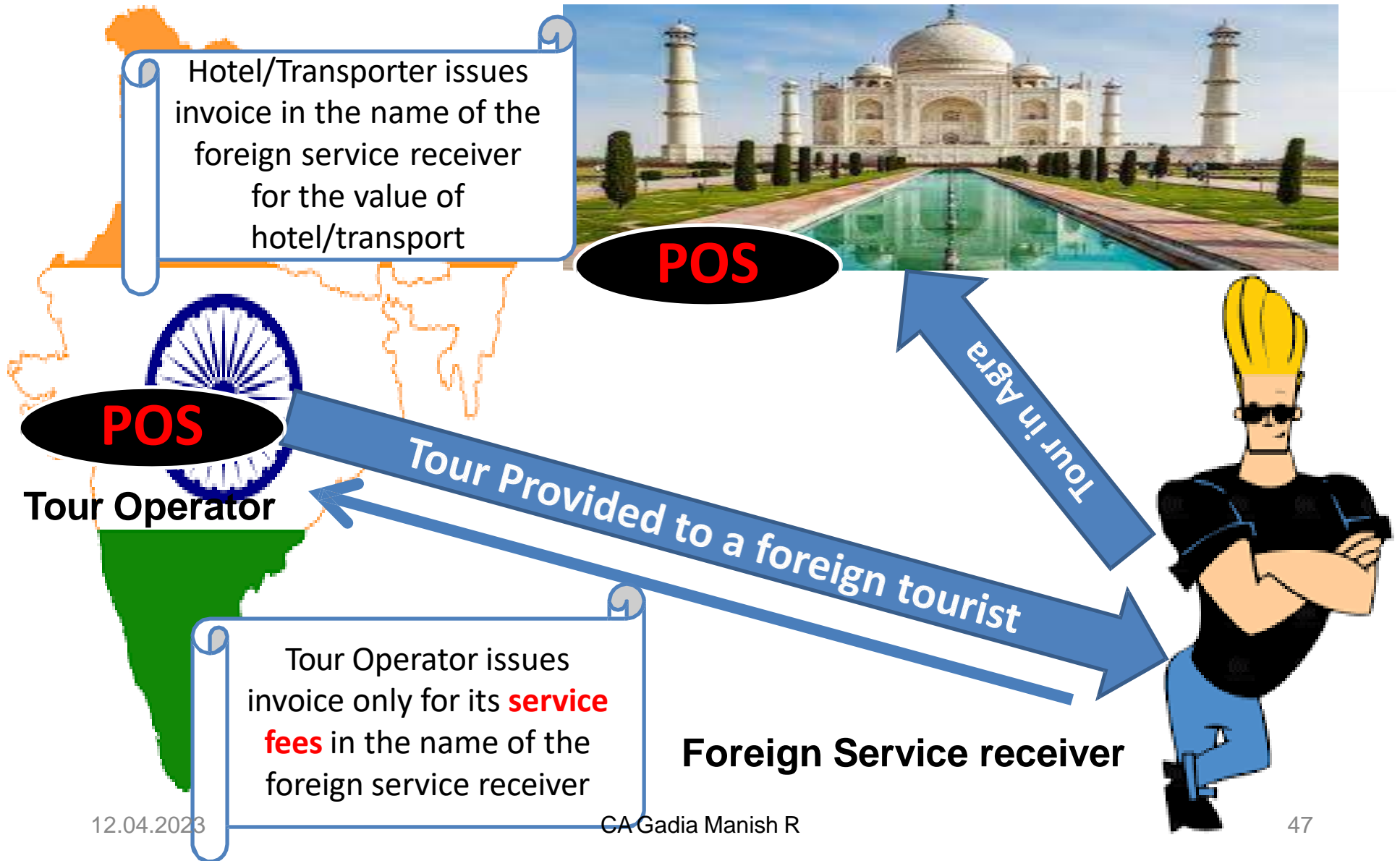


**In case of 5% it shall be Inclusive of charges of accommodation and transportation**

# Inbound Tour – Principal Basis



# Inbound Tour-Intermediary



# Inbound Tour at Multiple Places

Jaipur



Delhi



Agra



POS

?

Tour Operator

Consolidated Tour for a foreign tourist

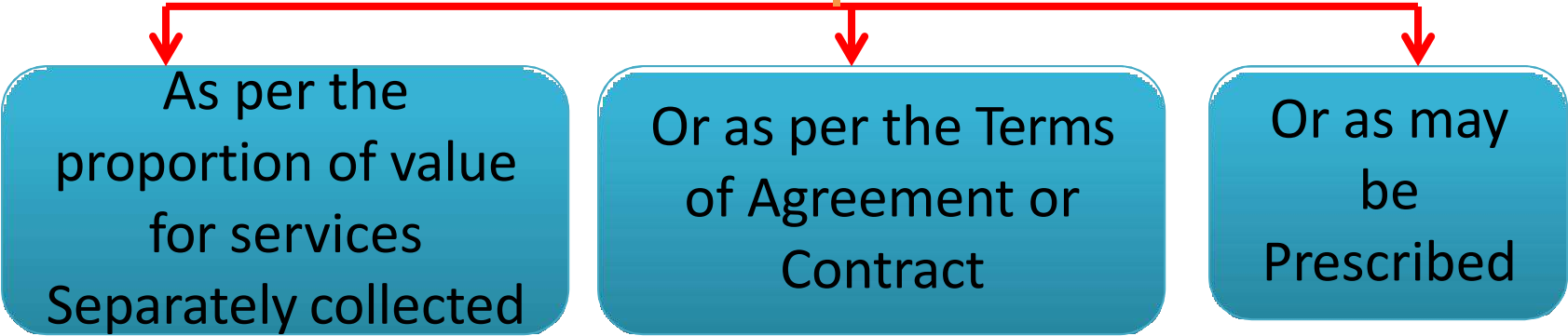
Triangle Tour

Foreign Service receiver



Place of Supply if Supply is made in more than one State or Union Territory shall be Treated As Supply in each state

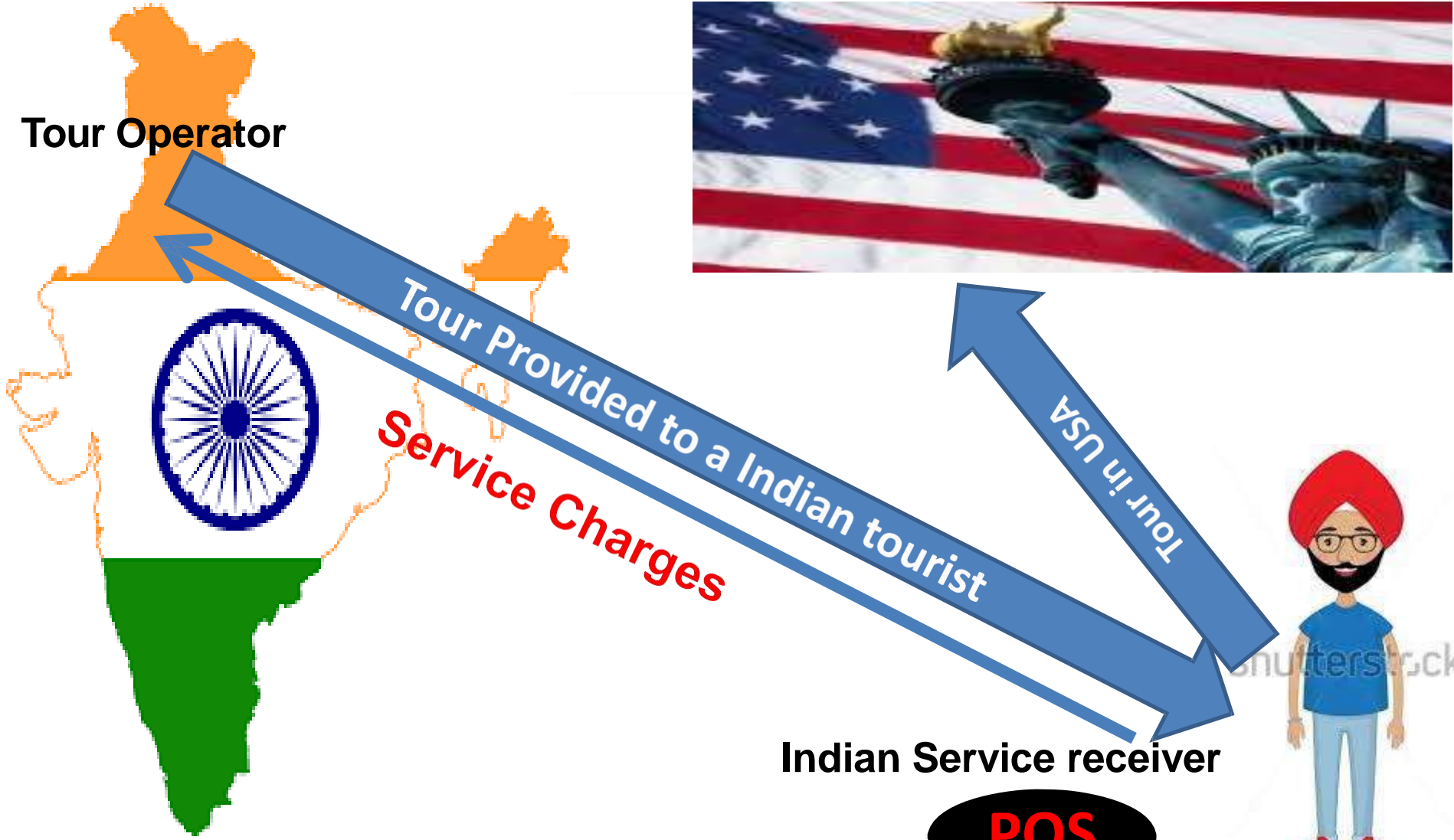
Value of Supply Specific to each State and Union Territory



Place of Tour	Amount Collected	POS
Jaipur	Rs, 35,000	Jaipur
Delhi	Rs. 30,000	Delhi
Agra	Rs. 35,000	Agra

The tour operator will issue separate invoice for all the 3 place of supply

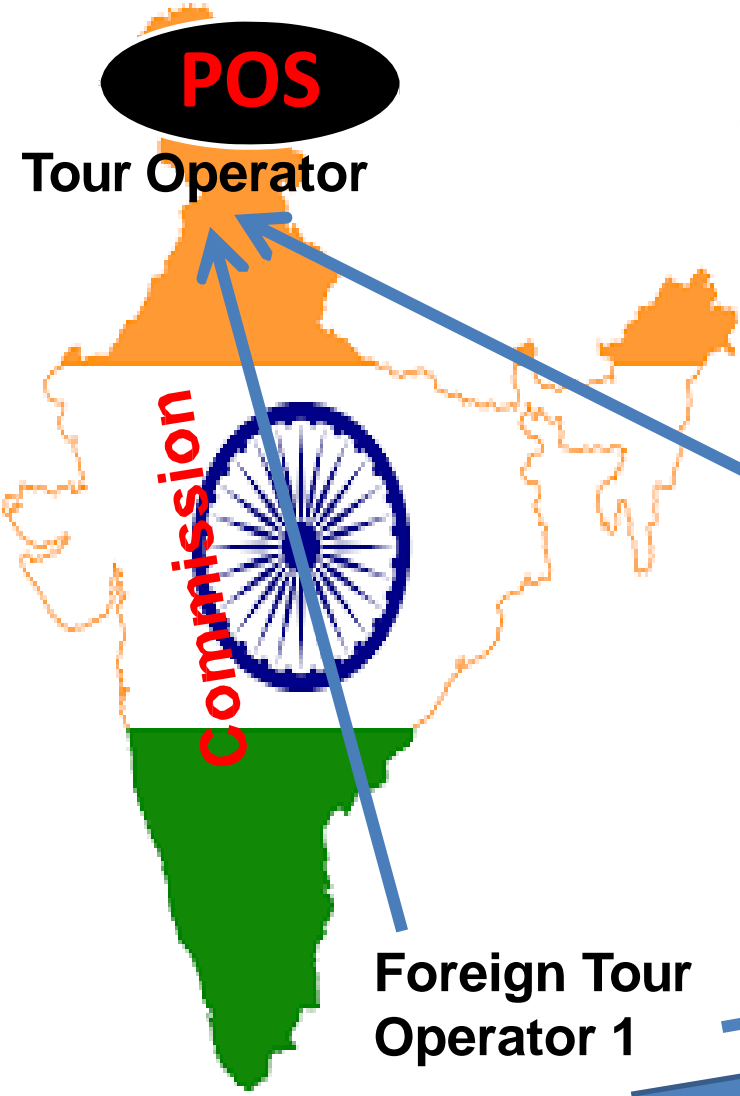
# Outbound Tour



Indian Service receiver

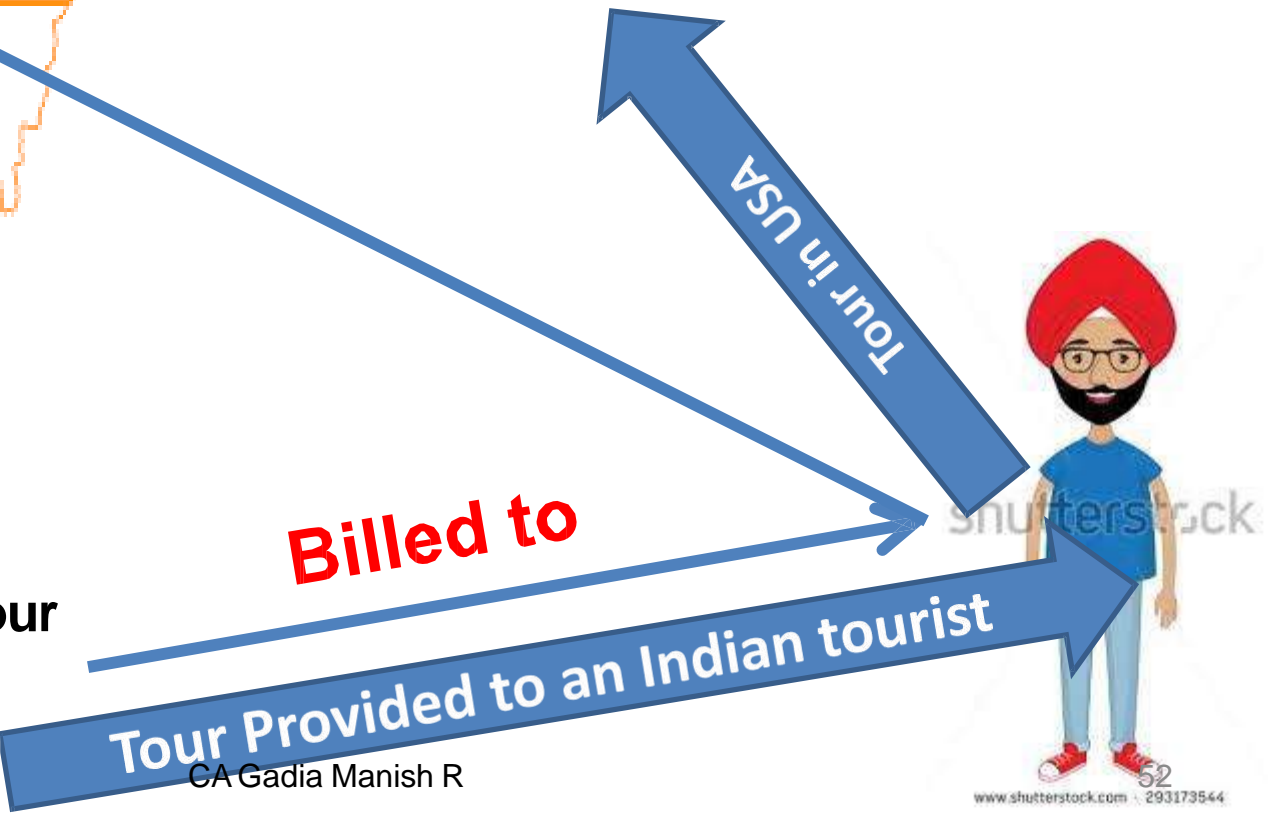
**POS**

# Intermediary Services – Outbound Tour

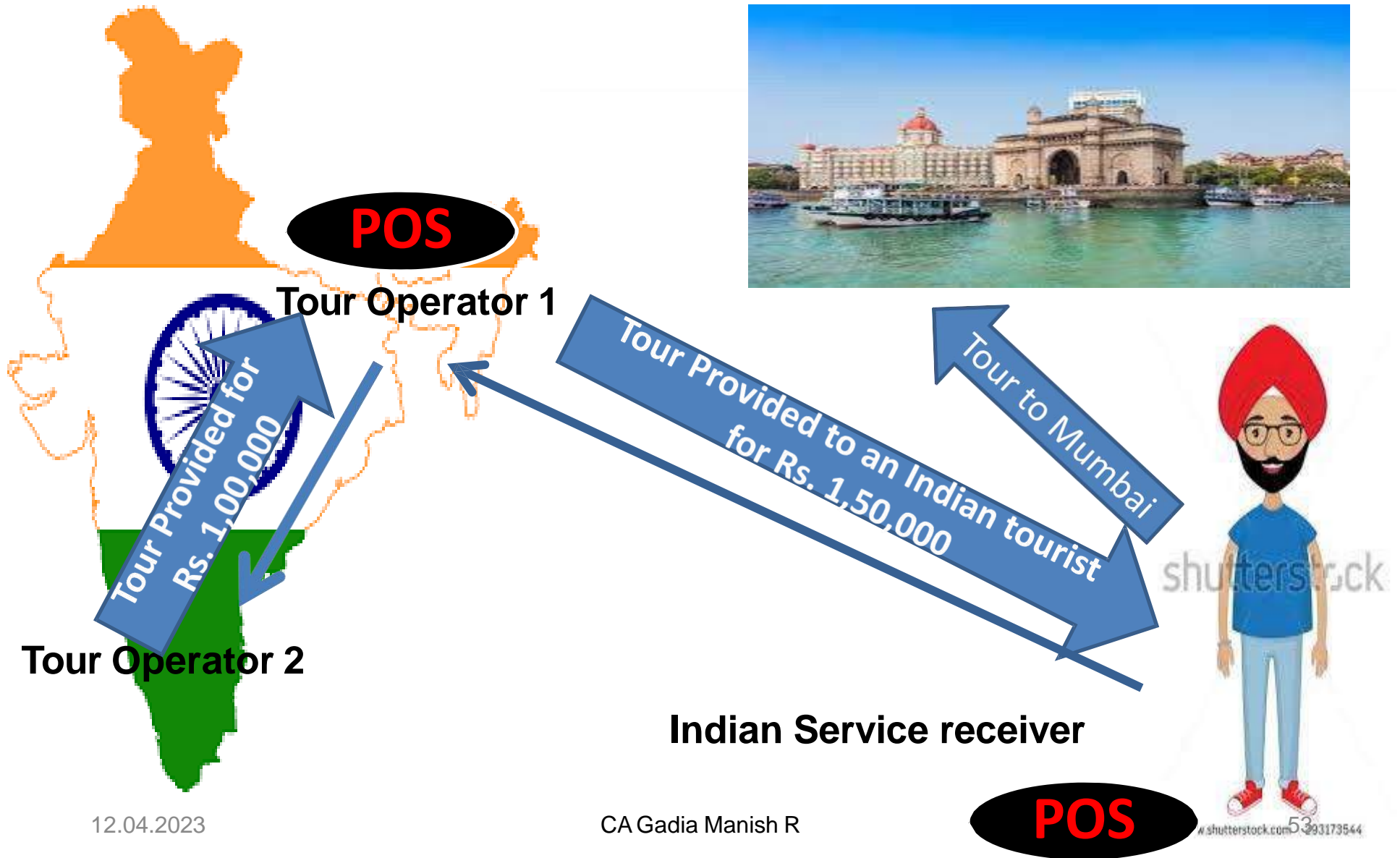


Tour Operator

Foreign Tour Operator 1

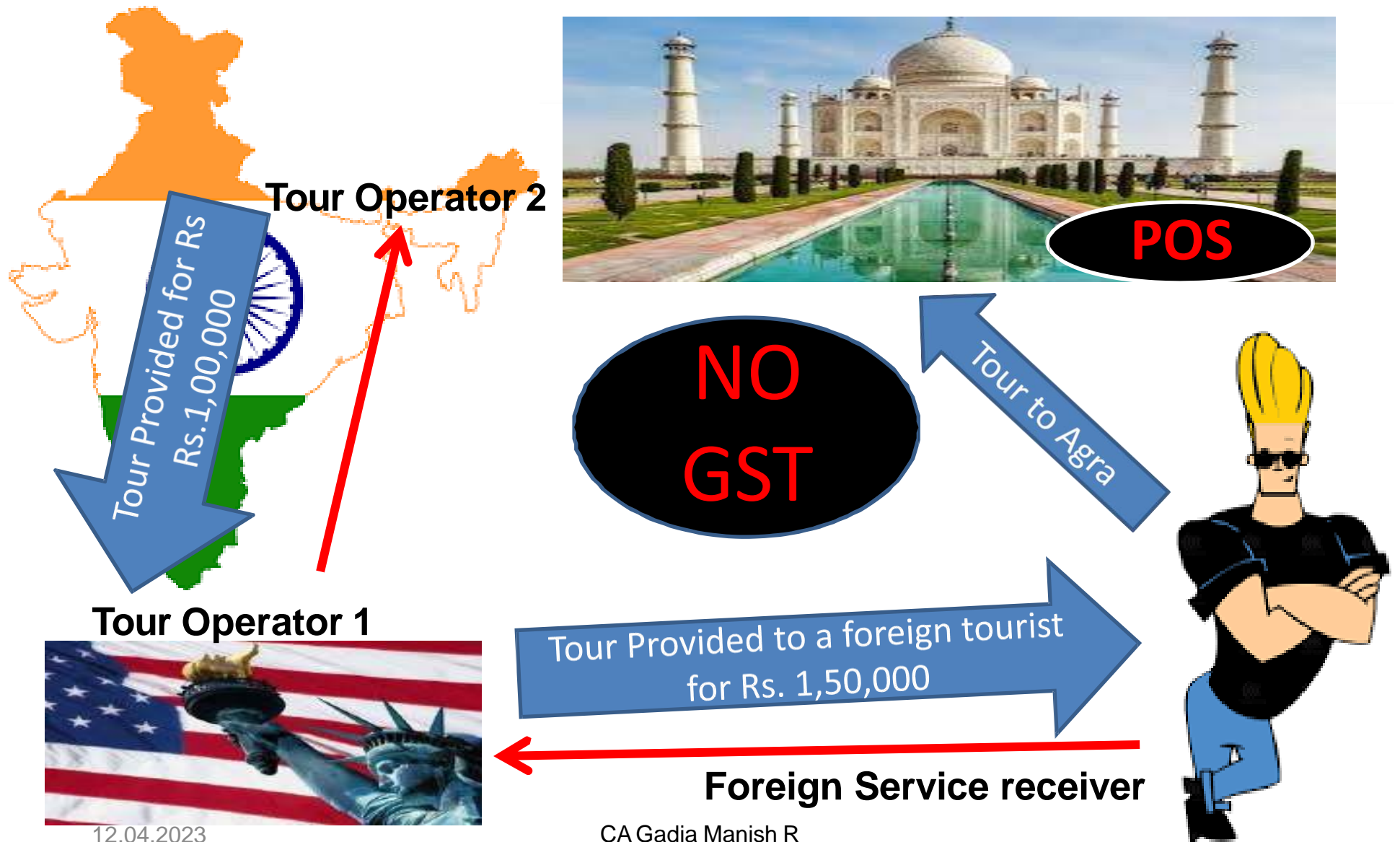


# Tour on Principal Basis- In India





# Principal Basis – Outside India



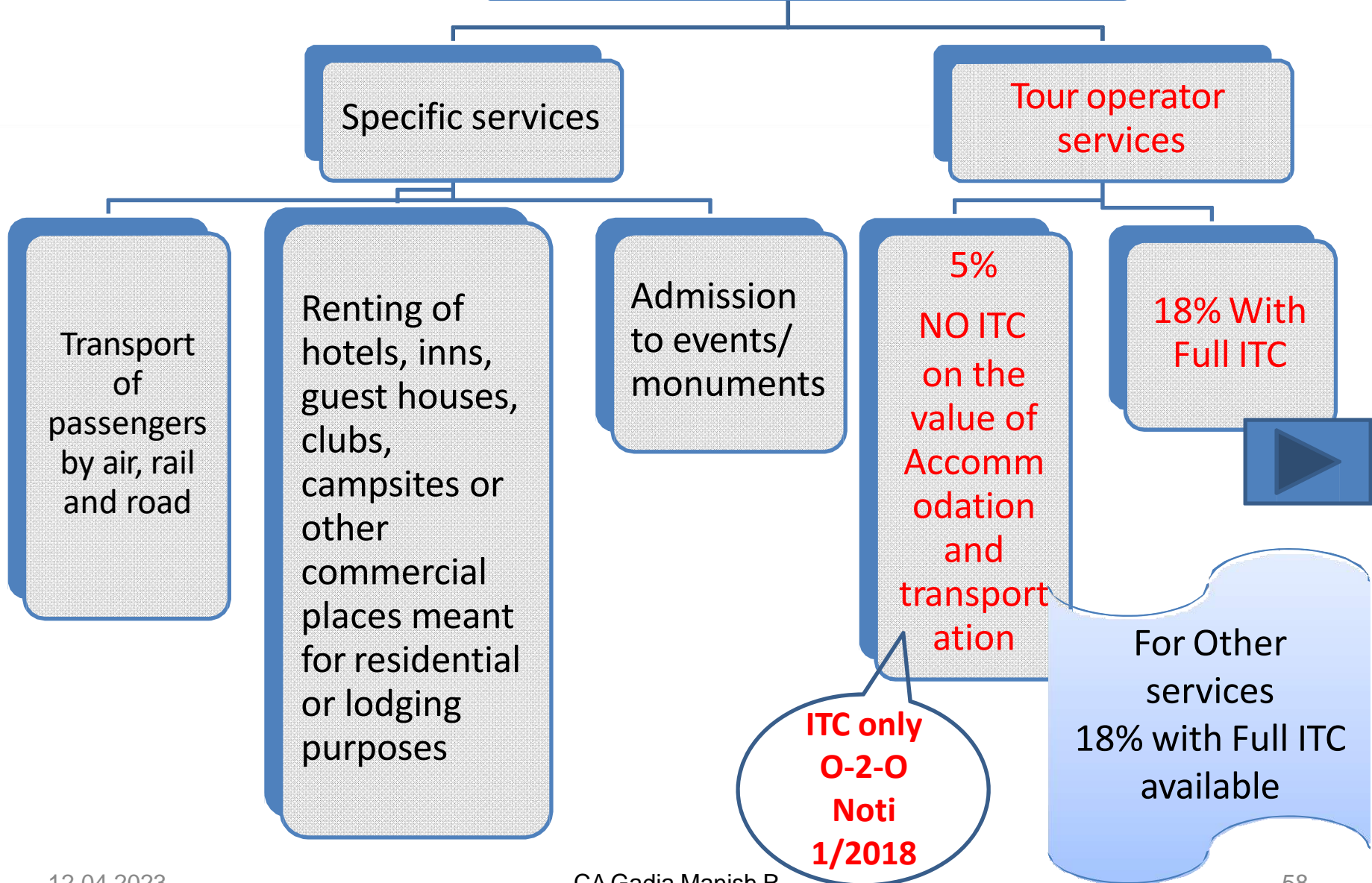
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CA Gadia Manish R

# Exemption under Entry no. 54



# Rates



# Major Expenses and Credit Available to Tour Operators



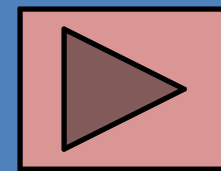
## Air Tickets

Credit Will not be available if the Invoice will be in the name of the Passenger

## Rent A Cab Service

**Credit Available**

## Hotel Accommodation / Admission



# Tour Operator



Place of Supply  
Location of Hotel – NO ITC



State B

Place of Supply  
Location of Customer

**GMJ**  
**GMJ & Co**

Customer  
State C



Place of Supply  
Location of Hotel  
ITC available to  
State A operator



State A

Place of  
Supply  
State B



State B

**GMJ & Co**  
Customer  
State C

Place of  
Supply  
Location  
of Customer



**Opinions or views  
are like wrist  
watches.**

**Every watch shows  
different time from  
others.**

**But every one  
believes that their  
time is right!**



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