



Ineligible ITC

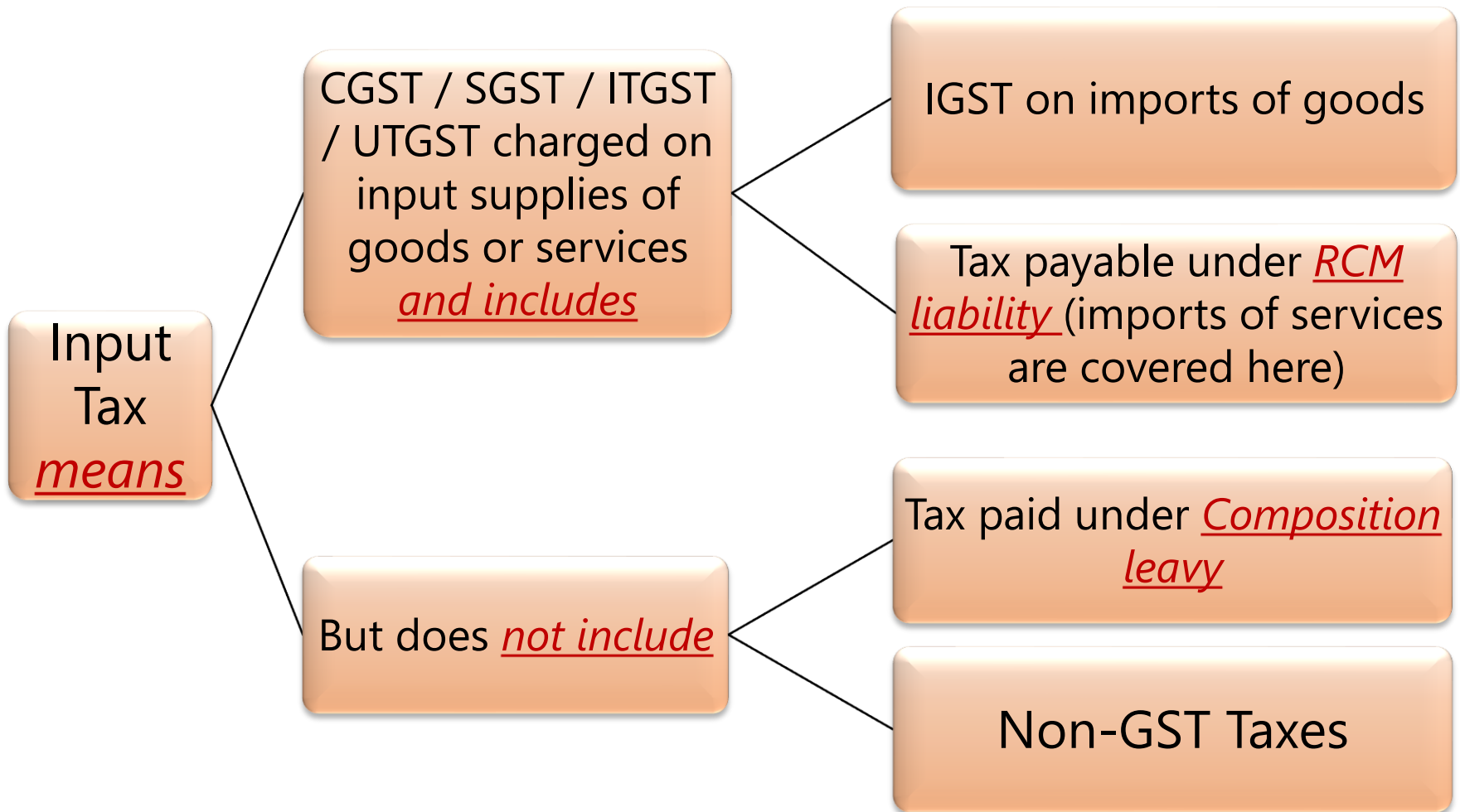
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Chartered Accountant

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2. Eligibility and conditions for claiming ITC
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4. Blocked Credit



What is 'Input Tax'? [Sec 2(62)]





Eligibility and conditions for claiming ITC

Section 16 : Eligibility & Conditions for claiming ITC

Sec 16(1) : Right to claim ITC

Every *Registered Person*

Entitled to take credit of *Input Tax* charged

On supply of *goods* or *services* or *both*

Used / intended to be used in course or furtherance of *business*

Subject to *rule 36 to 45*

In the manner specified in *sec 49* (Manner of payment)

And said amount shall be *credited to Electronic Credit Ledger.*

Section 16 : Eligibility & Conditions for claiming ITC

Sec 16(2) : Specified Conditions to be fulfilled

(a) Possession of *Invoice/Debit Note/Other prescribed tax paying document*

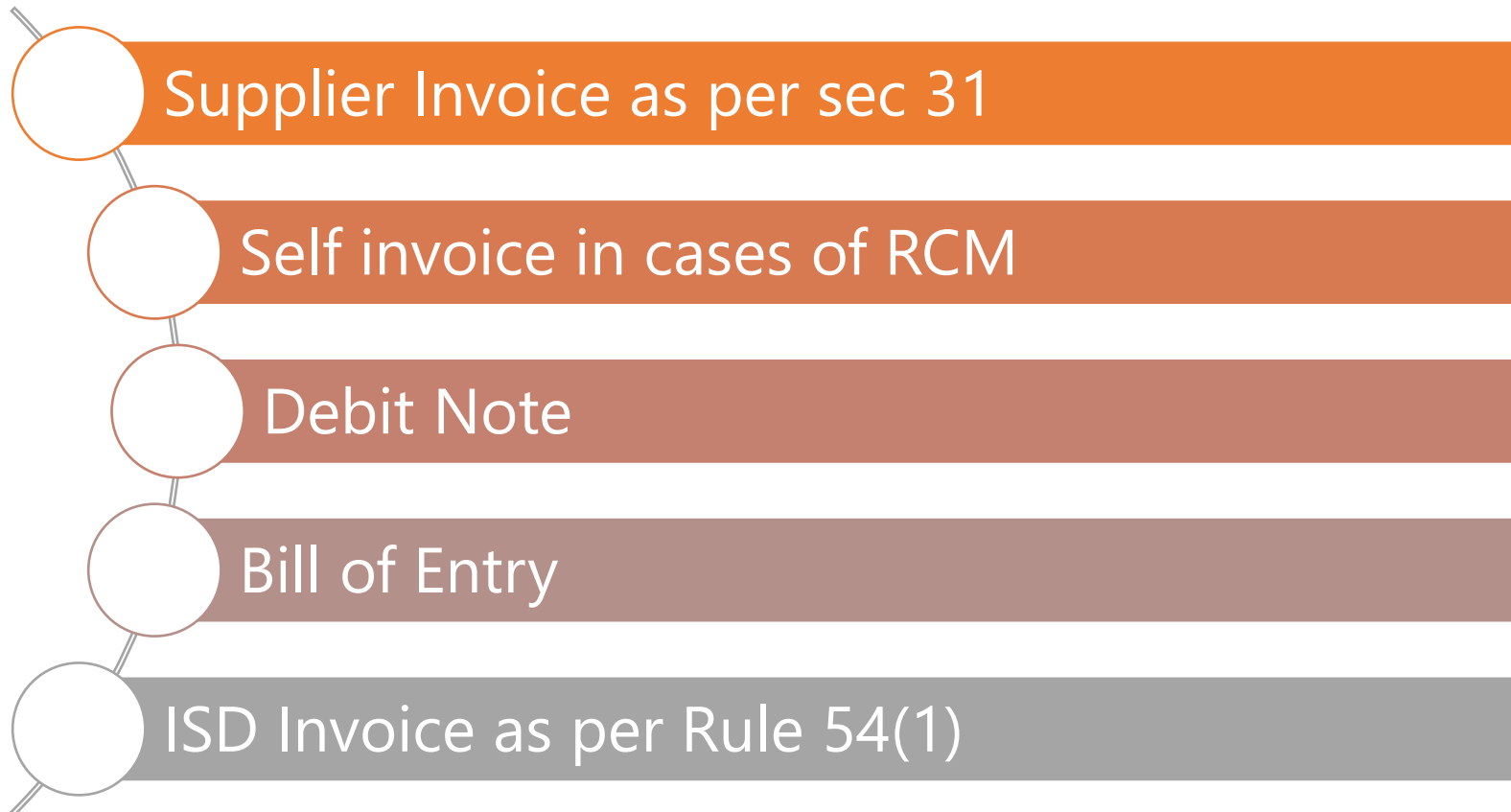
(b) Receipt of *goods or services or both*

(c) *Tax paid* by supplier

(d) *Return* filed by recipient u/s 39

Condition 1 : Supporting Documents for taking ITC

Rule 36(1) : Eligible Supporting Documents

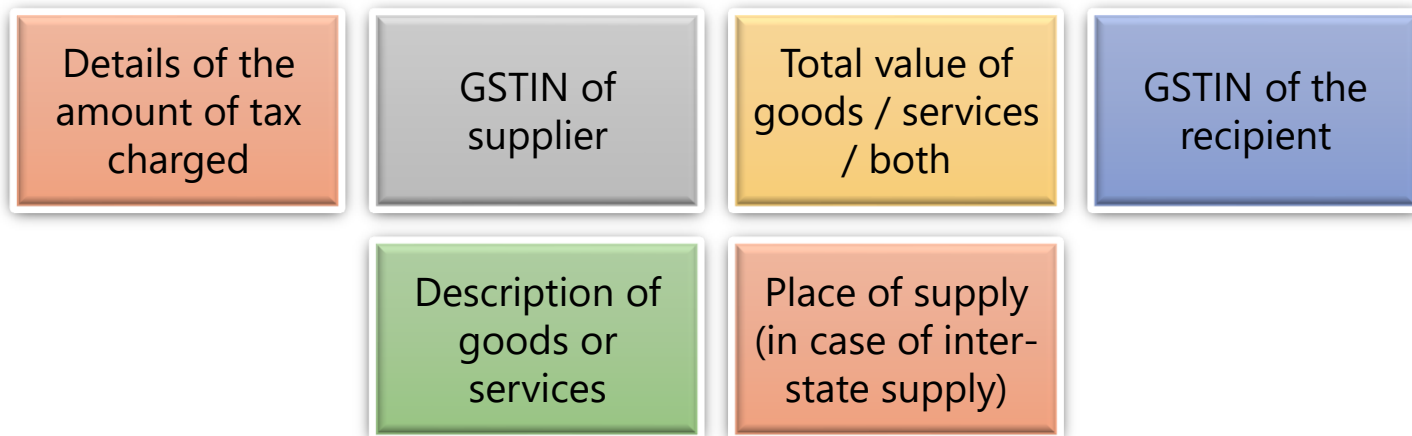
- 
- Supplier Invoice as per sec 31
 - Self invoice in cases of RCM
 - Debit Note
 - Bill of Entry
 - ISD Invoice as per Rule 54(1)

Condition 1 : Supporting Documents for taking ITC

Rule 36(2) : Particulars to be mentioned in the documents

- All the required particulars as per the provisions of *Chapter V* should be contained in the said document, and
- The information is furnished in *Form GSTR-2* by such person.

As per Proviso, even if the said document contains following particulars, ITC can be availed :



Condition 1 : Supporting Documents for taking ITC

Rule 36(3) GST demand order : ITC not admissible

~~ITC~~

GST paid on demand order
on account of any

- fraud,
- willful misstatement or
- suppression of facts

Condition 1 : Supporting Documents for taking ITC

Rule 36(4) : Restrictions on availment of ITC i.r.o Invoices/DNs which are not uploaded in GSTR 1 by supplier

ITC i.r.o.
Invoices/DNs
which are not
uploaded in GSTR
1 by supplier

Shall Not

Exceed 10%** of eligible ITC* i.r.o.
Invoices/DNs which
are uploaded in
GSTR 1 by supplier

*But obviously, ITC cannot exceed actual amount

**Earlier this amount was capped at 20%. It is changed to 10% by Notification No. 75/2019–Central Tax dated 26/12/2019 (Applicable w.e.f. 01/01/2020)

Condition 1 : Supporting Documents for taking ITC.

Rule 36(4) : Restrictions on availment of ITC i.r.o Invoices/DNs which are not uploaded in GSTR 1 by supplier

Circular No. 123/42/2019-GST

This restriction applies to only those invoices/DNs, details of which are not uploaded by the suppliers u/s 37(1) – Furnishing details of *Outward Supplies*.

Therefore following are the cases where this restriction is not applicable since these are outside the gambit of sec 37(1) :

IGST paid on Imports

Documents issued under RCM

Credit received from ISD

Condition 1 : Supporting Documents for taking ITC.

Rule 36(4) : Restrictions on availment of ITC i.r.o Invoices/DNs which are not uploaded in GSTR 1 by supplier

Circular No. 123/42/2019-GST

Cut off date for determination of eligible ITC



Due date of filing of GSTR-1 as per sec 37

Condition 1 : Supporting Documents for taking ITC

Rule 36(4) : Restrictions on availment of ITC i.r.o Invoices/DNs which are not uploaded in GSTR 1 by supplier

Circular No. 123/42/2019-GST

ITC not availed
due to this
provision



Shall be available in
any subsequent
period in which
invoice / DN of are
declared by the
supplier in GSTR-1

Condition 2 : Receipt of goods or services

Special Circumstances

Explanation to sec 16(2)(b),

- Where ***the goods are delivered by the supplier to the agent or any other person*** as directed by the recipient, it is ***deemed*** that the recipient has received the goods. Such delivery to the agent or any other person can take place before or during the movement of goods by way of transfer of title to goods or otherwise.
- Where the ***services are provided by the supplier to any person on the direction of*** and on account of the registered person (recipient) it shall be ***deemed*** that such registered person (recipient) has received the services

For Example, "Bill to.....Ship to....." Model

Condition 3 : Actual payment of GST by supplier

Pending actual payment by supplier



ITC will be allowed on provisional basis as per sec 41

Supplies under RCM



- RP shall make self invoice when supply is received
- RP shall pay GST (RCM) using e-cash ledger
- ITC shall be admissible only if GST (RCM) has been paid

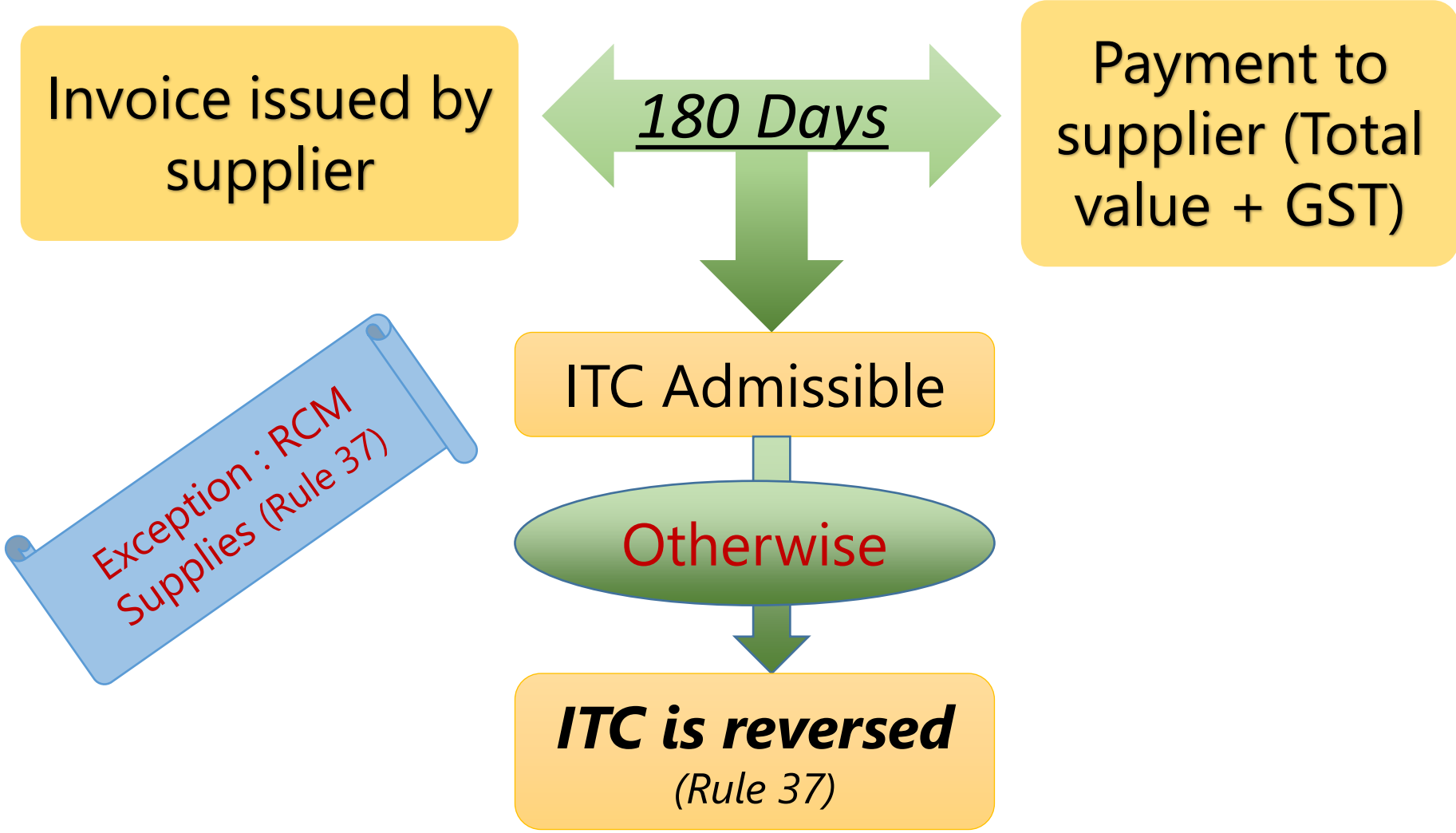
Government has clarified –

If the RCM liability of the month is paid, then ITC is admissible in *same month* in which *supply is received* (Not in the month in which payment is made)

Condition 4 : Filing of Sec 39 Return (Regular Return)

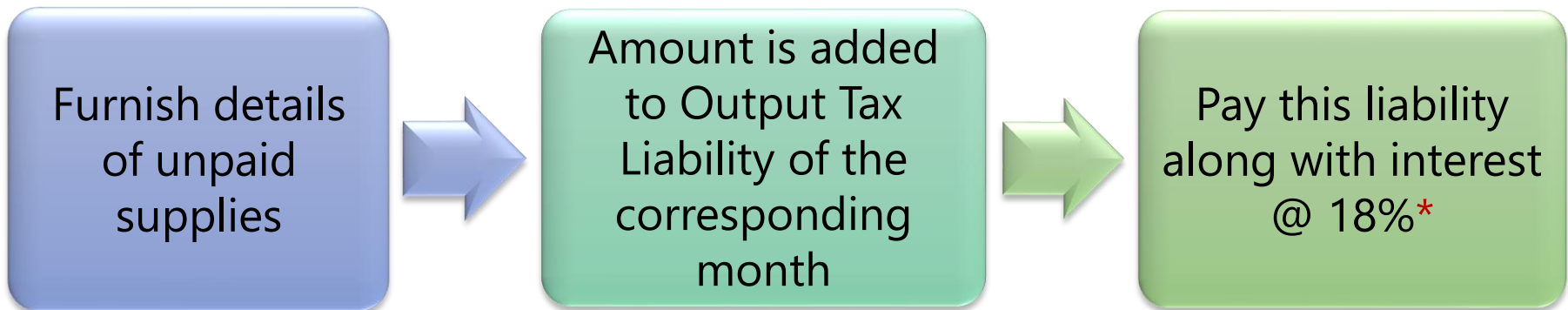
- ITC availment is to be made in e-credit ledger as maintained by portal
- When GSTR-3B is filed by recipient, then credit is posted into e-credit ledger (thus, availment takes place)

Section 16(2) Proviso : Payment to supplier within 180 days



Rule 37 : Non-payment of consideration within 180 days

Details of such supplies (including total value of such supply and Input Tax proportionate to unpaid value thereon) for which payment is not done to the supplier shall be furnished in GSTR-2 for *the month immediately following the period of 180 days from date of issue of invoice.*

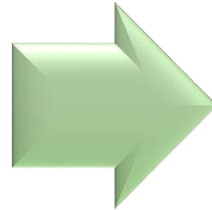


*Interest is payable for the period starting
From the date of availing ITC
Till date when amount is added to Output Tax Liability

Rule 37 : Non-payment of consideration within 180 days

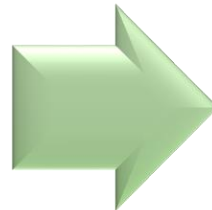
Non-applicability : Proviso to Rule 37(1)

Expenditure to be incurred by the supplier but actually incurred by the recipient



Deemed to have been paid [since includible in total value u/s 15(2)(b)]

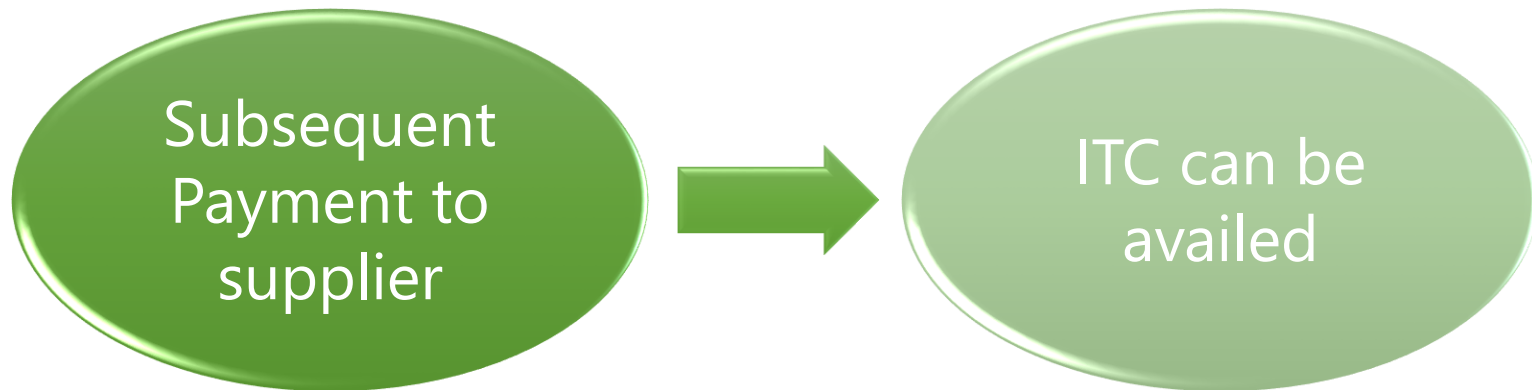
Supplies under *Schedule-1*



Deemed to have been paid

Rule 37 : Non-payment of consideration within 180 days

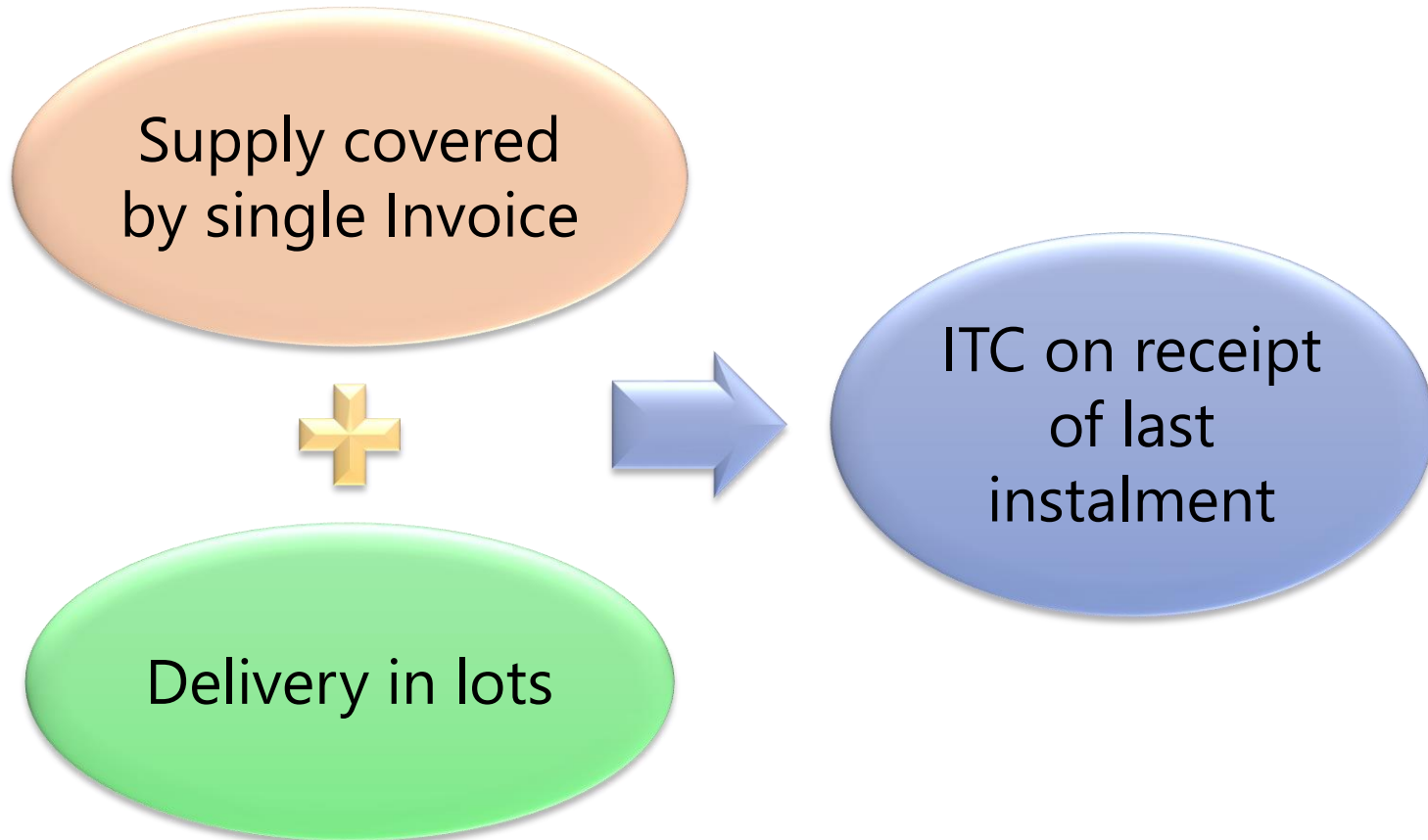
Rebooking of ITC on Payment



Time limit specified in sec 16(4) shall not apply
in case of rebooking of ITC

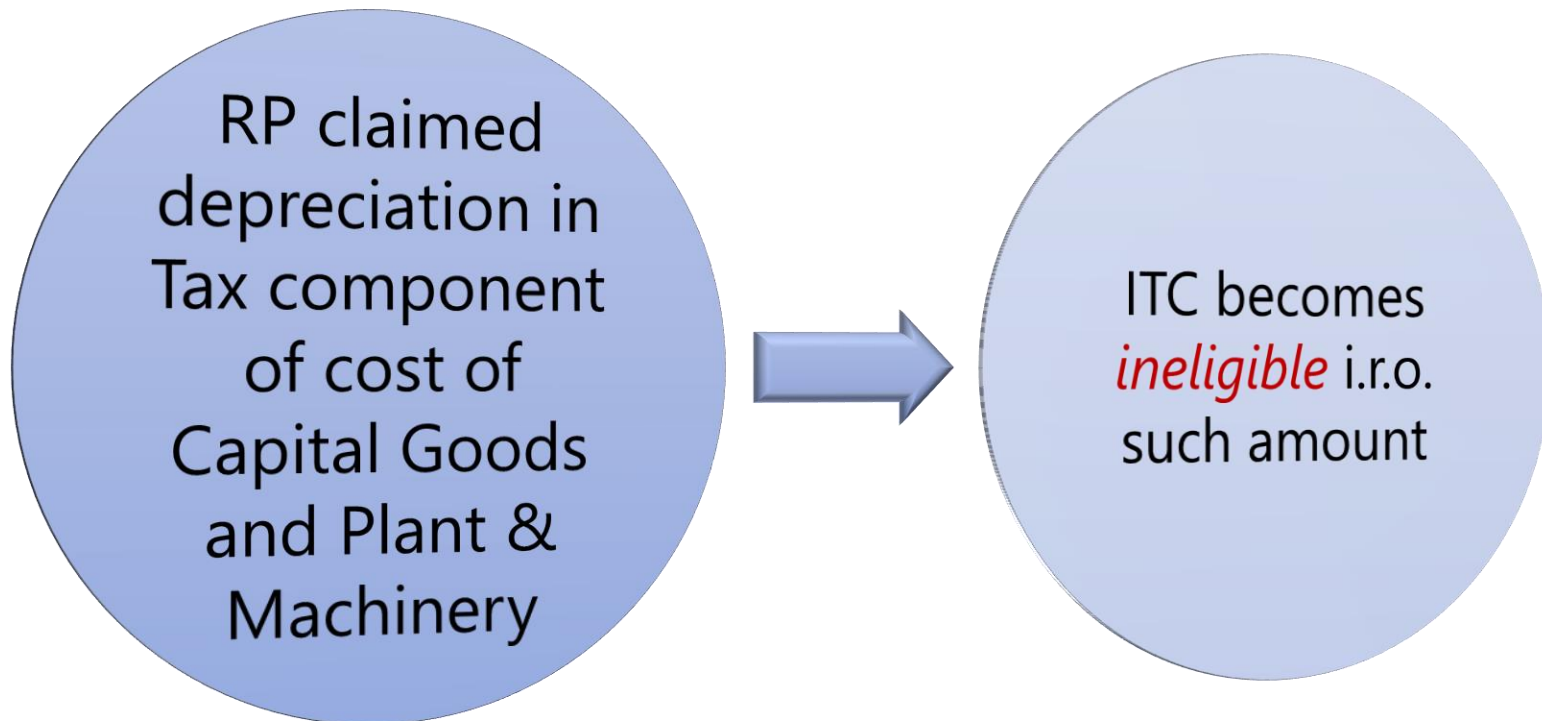
Section 16 : Eligibility & Conditions for claiming ITC

Proviso to sec 16(2): Supply in lot or instalment



Section 16 : Eligibility & Conditions for claiming ITC

Proviso to sec 16(3): Depreciation on Tax portion



Section 16 : Eligibility & Conditions for claiming ITC

Proviso to sec 16(4): Time limitation for booking or taking ITC

Earlier of :

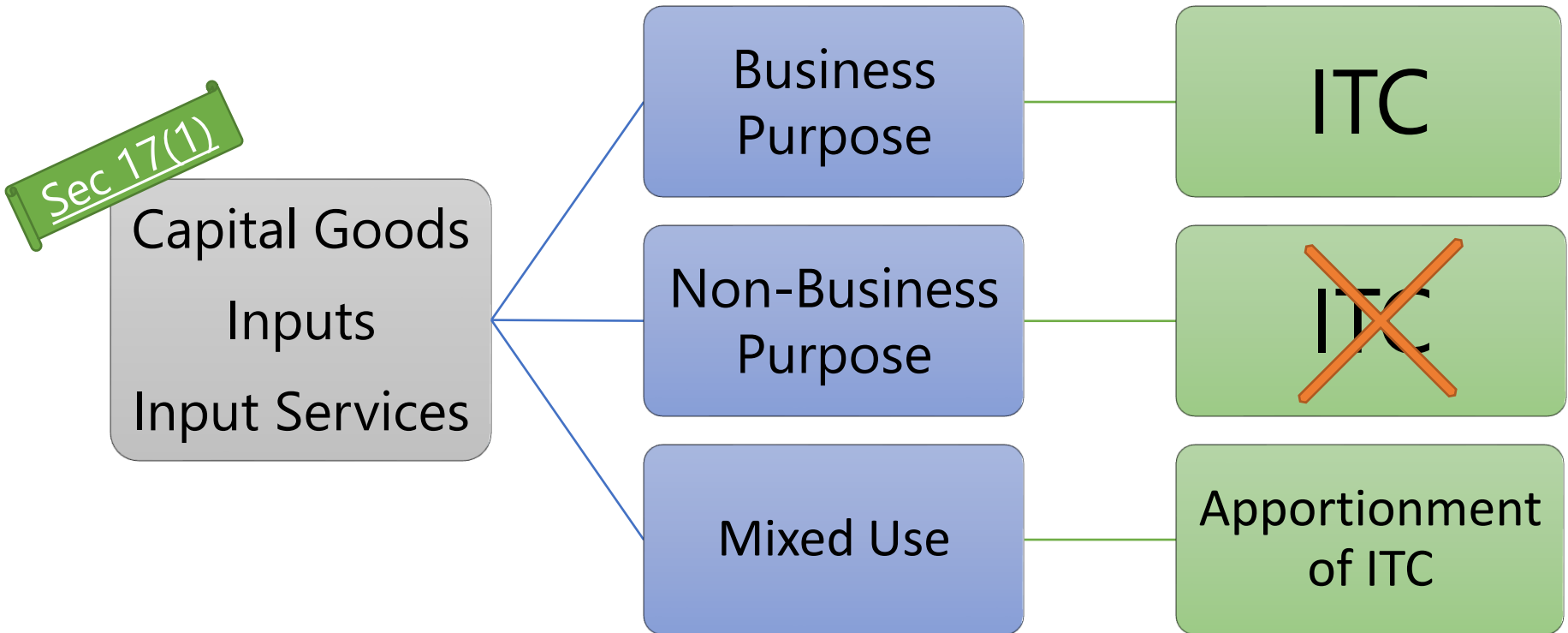
Due date of furnishing return u/s 39 following the end of FY (20/22/24th Oct)

Actual date of furnishing the relevant annual return

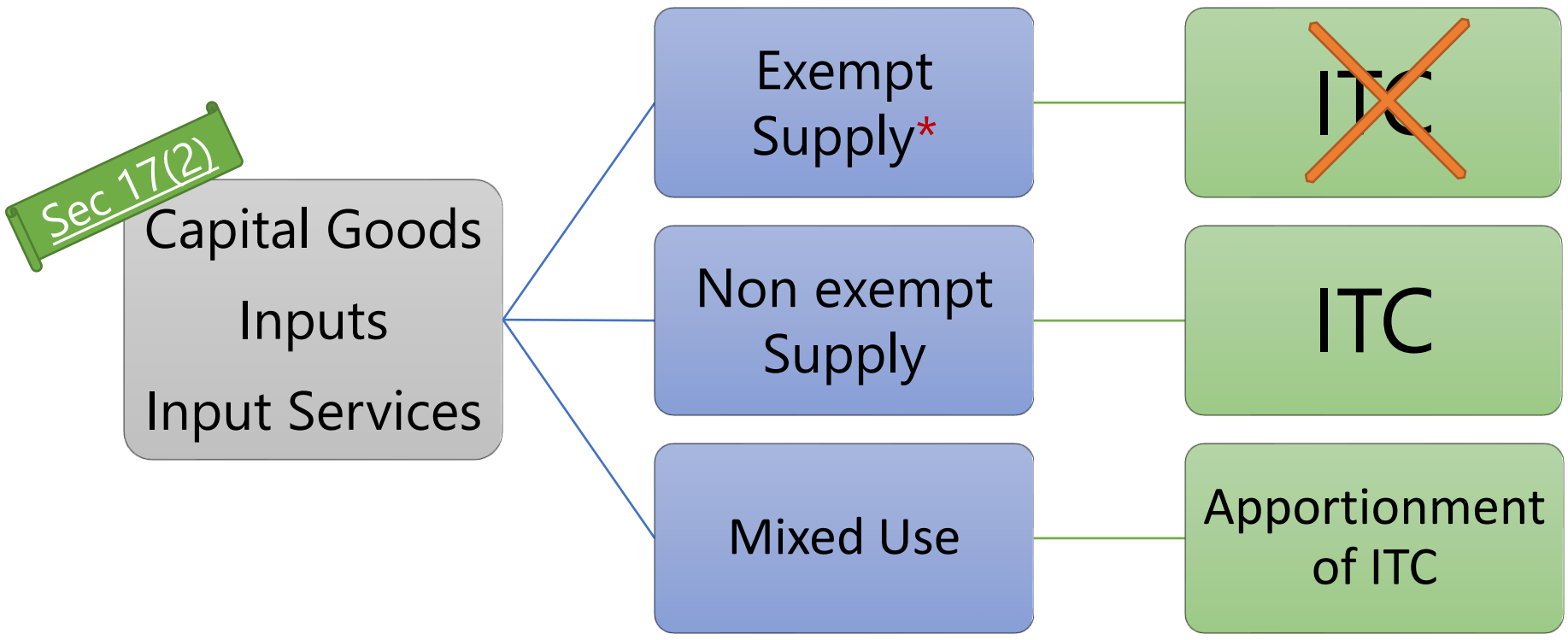


Apportionment of Credit

Sec 17 : Apportionment of Credit and Blocked Credit



Sec 17 : Apportionment of Credit and Blocked Credit



Sec 17 : Apportionment of Credit and Blocked Credit

Sec 17(3)

*Exempt Supply for the purpose of sec 17(2) shall include -

- Exempt supply u/s 2(47)**
- Supplies on which recipient is liable to pay tax on RCM basis
- Transactions in Securities (Value = 1% of Sales Value as per CGST Rules)
- Sale of Land, Sale of Building [subject to Schedule II para 5(b)***] (Value = Stamp Duty Value)


***Sale of Building after issuance of completion certificate or after first occupation, *whichever is earlier*, is exempt supply as per Schedule III Para 5.

Sec 17 : Apportionment of Credit and Blocked Credit

**Exempt Supply as per sec 2(47) means -



- Nil Rated Supply



- Supplies which may be wholly exempt from tax u/s 11



- And *includes* Non-taxable Supply

Sec 17 : Apportionment of Credit and Blocked Credit

Sec 17(3)

*Exempt Supply for the purpose of sec 17(2) *shall not include* - the value of activities / transactions specified in *Schedule III* except those specified in Para 5 of the said schedule

Sec 17 : Apportionment of Credit and Blocked Credit

Schedule III Supplies

1. Services by an employee to the employer in the course of or in relation to his employment.

2. Services by any court or Tribunal established under any law for the time being in force.

3(a). the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities

3(b). the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity

3(c). the duties performed by 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.

4. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.

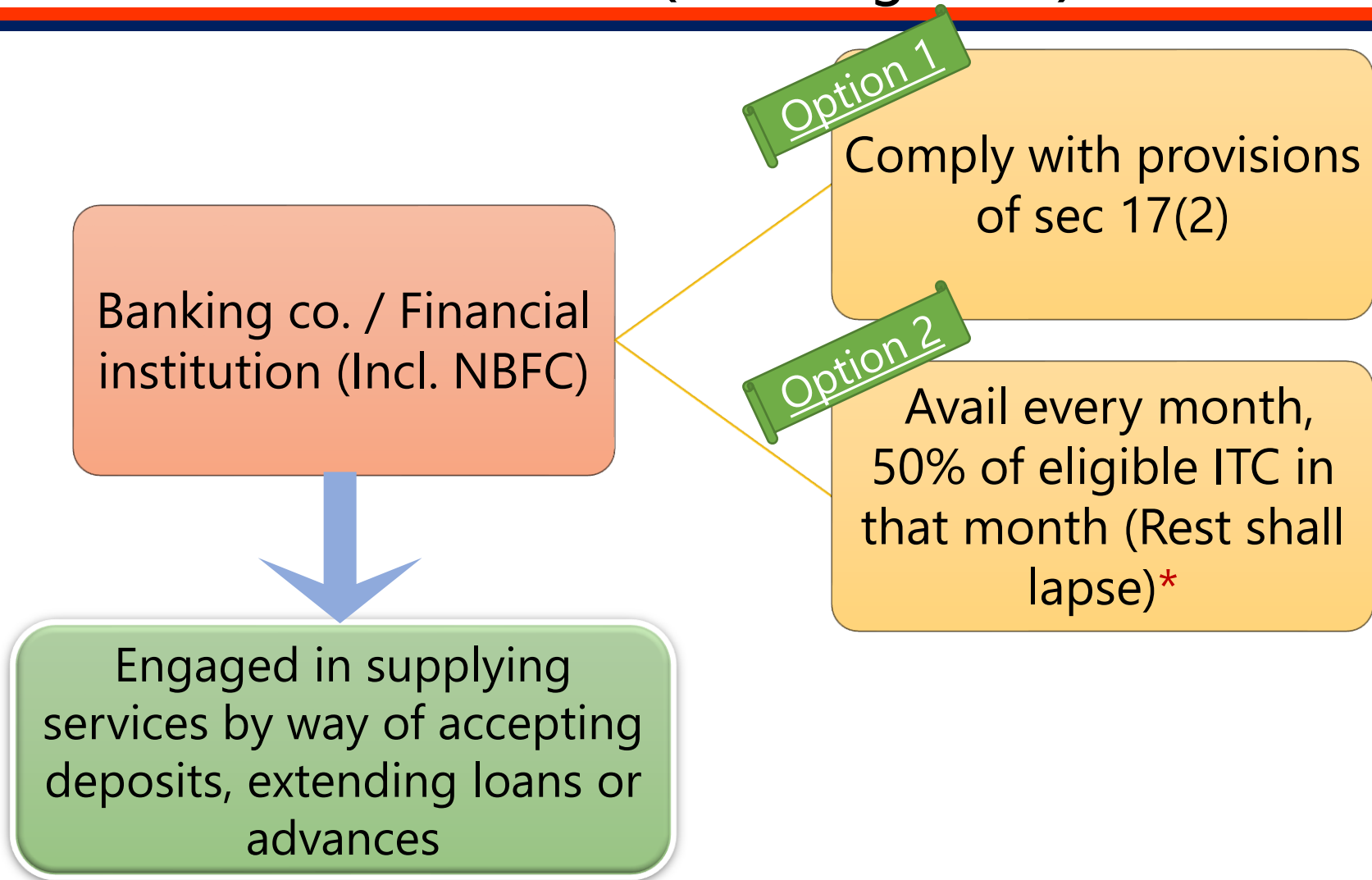
6. Actionable claims, other than lottery, betting and gambling.

7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.

8(a). Supply of warehoused goods to any person before clearance for home consumption;

8(b). Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.

Sec 17(4) : Special option for Banking Company / Financial Institutions (Including NBFC)



Sec 17(4) : Special option for Banking Company / Financial Institutions (Including NBFC)

Proviso to Sec 17(4)

Option once chosen cannot be withdrawn during the remaining part of FY

Restriction of 50% shall not apply to *Inter-branch supplies* (for inputs & input services)

Sec 17(4) : Special option for Banking Company / Financial Institutions (Including NBFC)

Conditions as per Rule 38 for banking companies who are availing ITC as per Option 2

Tax paid on inputs and input services for non-business purpose



~~ITC~~

Supplies on which ITC is Blocked



~~ITC~~

Sec 17(4) : Special option for Banking Company / Financial Institutions (Including NBFC)

ITC on inputs and
input services on
Inter-branch
supplies



50% of remaining
amount of ITC
furnished in Form
GSTR-2

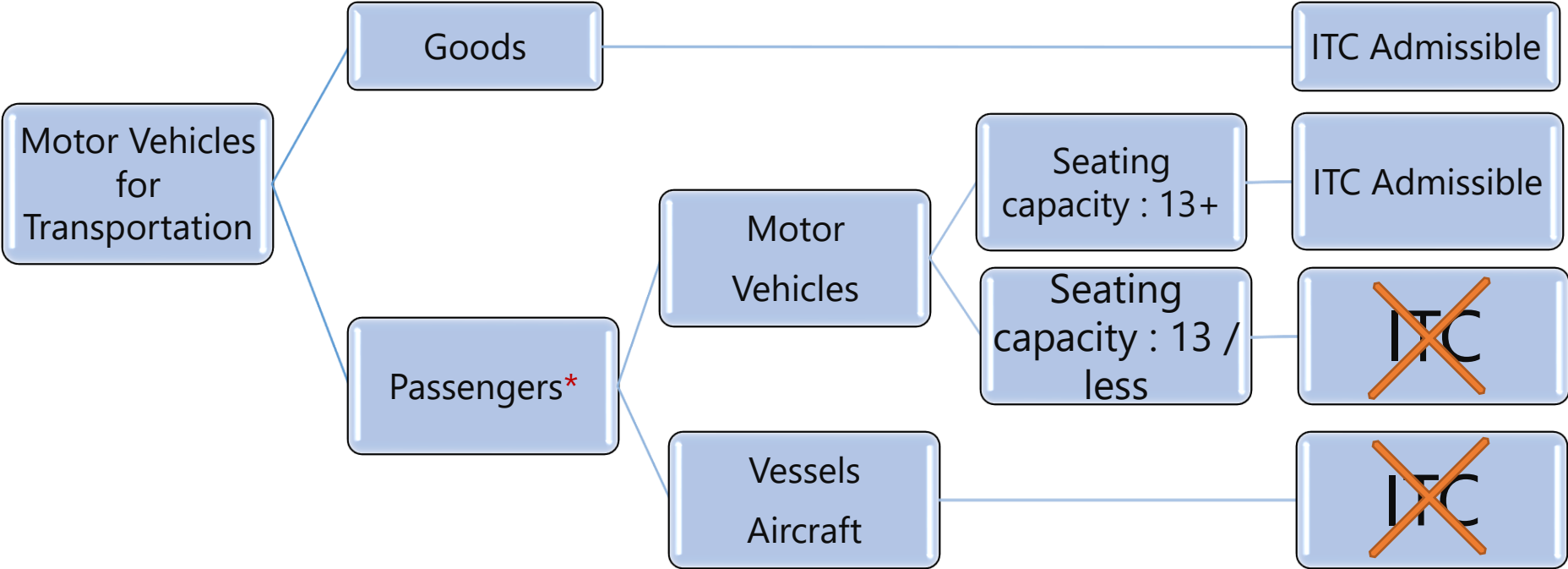
Shall be credited to
E-Credit Ledger



Blocked Credit

Sec 17(5) : Blocked ITC

Sec 17(5)(a)+(aa)




Sec 17(5) : Blocked ITC


Sec 17(5)(a)+(aa)

*Exceptions :

When used for making following taxable supplies

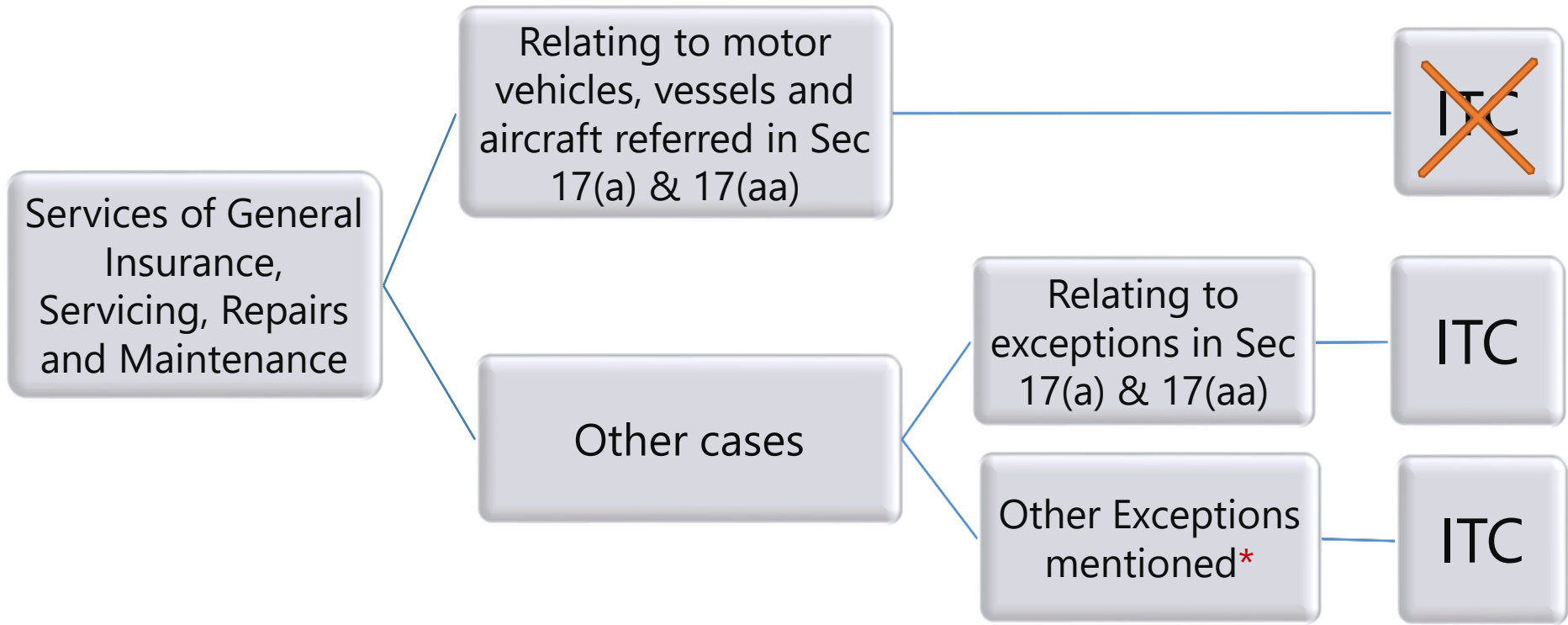
- 
- Further supply of such motor vehicles or vessels or aircraft

- 
- Transportation of passengers

- 
- Imparting training on driving on such motor vehicles
 - Imparting training on navigating such vessels
 - Imparting training on flying such aircraft

Sec 17(5) : Blocked ITC

Sec 17(5)(ab)

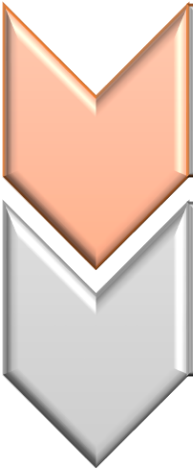


Sec 17(5) : Blocked ITC

Sec 17(5)(ab)

*Exceptions :

When received by taxable person engaged in

- 
- Manufacture of such motor vehicles or vessels or aircraft
 - Supply of general insurance services in respect of such motor vehicles, vessels or aircrafts insured by him

Sec 17(5) : Blocked ITC

Sec 17(5)(b)(i)

• Food & Beverages

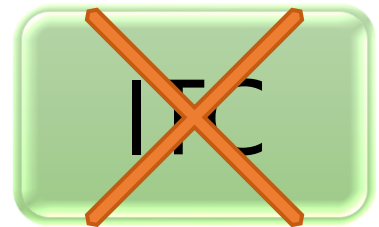
• Outdoor Catering

• Beauty Treatment

• Health Services

• Cosmetic & Plastic Surgery

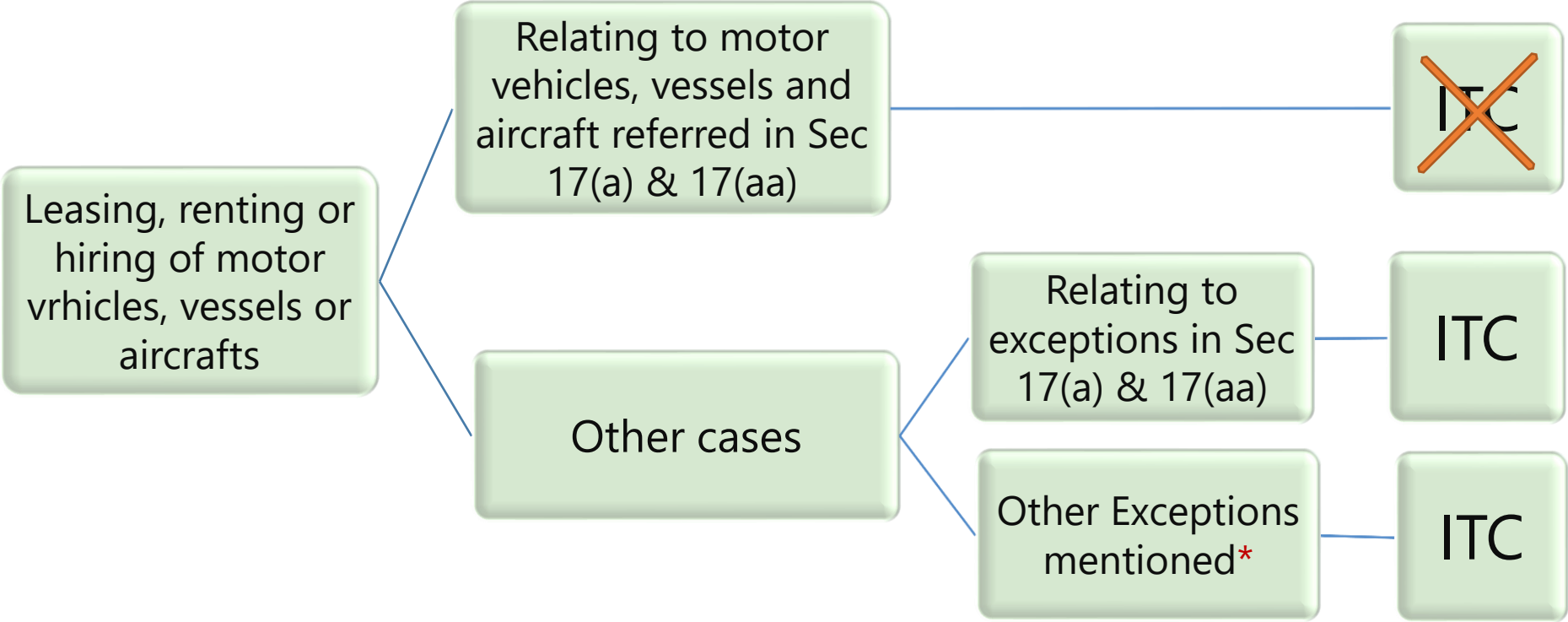
• Life Insurance & Health Insurance



Exceptions*

Sec 17(5) : Blocked ITC

Sec 17(5)(b)(i)



Sec 17(5) : Blocked ITC

Sec 17(5)(b)(i)

*Exceptions

Outward Supply

Is of Same
Category as
of Inward
supply

Is supplied as an
element of a
taxable
Composite or
mixed supply

Sec 17(5) : Blocked ITC

Sec 17(5)(b)(ii)&(iii)

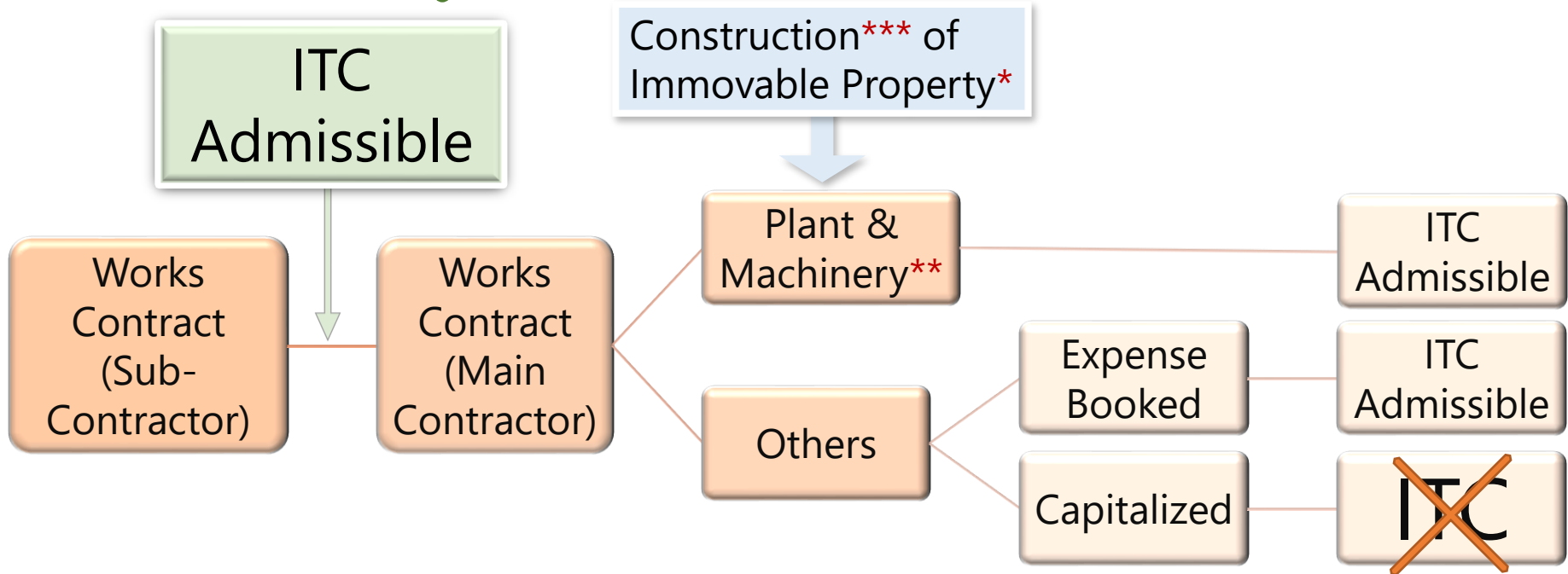
- Health & Fitness services
- Membership of Club
- Travel benefits extended to employees on vacation



If Goods / Services mentioned in Sec 17(5)(b) are provided by an *employer to employee* under *statutory Obligation*, *ITC is admissible*

Sec 17(5) : Blocked ITC

Sec 17(5)(c) : Works Contract



Sec 17(5) : Blocked ITC

Sec 2(119) : Works Contract

Works Contract
means a contract
for

- Building
- Construction
- Fabrication
- Erection
- Completion
- Installation
- Fitting Out
- Maintenance
- Renovation
- Alteration
- Commissioning
- Improvement
- Modification
- Repair

Wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract

Sec 17(5) : Blocked ITC

Sec 3 of
Transfer of
Properties Act,
1892

Immovable Property
does not include
Standing timber,
growing crops or
grass

Sec 3(26) of
General Clauses
Act, 1897

Immovable property" shall
include

1. land,
2. benefits to arise out of land,
and
3. things attached to the
earth, or permanently
fastened to anything attached
to the earth;

Sec 2(6) of the
Registration Act,
1908

immovable property" *includes*

1. land, buildings, hereditary
allowances, rights to ways, lights,
ferries, fisheries *or*
2. any other benefit to arise out
of land, and things attached to
the earth, or permanently
fastened to anything which is
attached to the earth, but not
standing timber, growing crops
nor grass

***Definition of Immovable Property under various acts**

Sec 17(5) : Blocked ITC

****** Plant & Machinery

Plant and machinery" *means*

apparatus, equipment, machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports

But *excludes*

1. land, building or any other civil structures,
2. telecommunication towers; and
3. pipelines laid outside the factory premises.

Sec 17(5) : Blocked ITC

***Construction

construction *includes*,

1. re-construction,
2. renovation,
3. additions or
4. alterations or
5. repairs,

to the extent of capitalisation, to the said immovable property.

Sec 17(5) : Blocked ITC

Sec 17(5)(d) : Construction on own account

Goods or services or both received by a taxable person for *construction* of an **immovable property** (*other than plant or machinery*) on his own account *including* when such goods or services or both are *used in the course or furtherance of business*.

Sec 17(5) : Blocked ITC

(e)

- Goods or Services or both on which tax is paid u/s 10 (Composition Scheme)

(f)

- Goods or Services or both received by NRTP *except on goods imported* by him

(g)

- Goods or Services or both used for personal consumption

(h)

- Goods lost, stolen, destroyed, written off or disposed off by way of gift or free samples

(i)

- Any tax paid in accordance with the provisions of sections 74, 129 and 130



Thank you!!