

**Value of Supply**

**Time of Supply**

**Under GST**

Deliberation by :-

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A STUDENT OF GST™

# Tri Dev of Taxation

- Brahma – Parliament – Law Maker
- Vishnu – Consultants / Department Officials - Implementing
- Shiva – Judiciary – Interpreting/Amending laws

# Value of Supply

# Overview of Section 15

**Sec 15(1)**

Transaction  
value

**Sec 15(2)**

Inclusion and  
Exclusion to the  
value of Supply

**Sec 15(3)**

Non inclusion  
of discount in  
value of supply

**Sec 15(4)**

Determination  
of value as per  
the Rules

**Sec 15(5)**

Government to  
notify the  
determination  
of value in case  
of certain  
Supplies

# Value of Supply – Section 15

## Sec 15(5) – Value shall be notified

- “Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be notified by the Government on the recommendations of the Council shall be determined in such manner as may be prescribed.”
- Section 15(5) will **override** the section 15(1)/(4) of the act for specific supplies that Government may notify.

# Items Notified u/s 15(5) : CTR 27/2018

- Service by way of construction or engineering or installation or other technical services, provided in relation of setting up of following, -
  - (a) Bio-gas plant
  - (b) Solar power based devices
  - (c) Solar power generating system
  - (d) Wind mills, Wind Operated Electricity Generator (WOEG)
  - (e) Waste to energy plants / devices
  - (f) Ocean waves/tidal waves energy devices/plants
- **Explanation:-**

This entry shall be read in conjunction with serial number 234 of Schedule I of the notification No. 1/2017- Central Tax (Rate), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) dated 28th June, 2017 vide GSR number 673(E) dated 28th June, 2017. (70:30 Ratio)

## Value of Supply u/s 15(1)

Shall be the transaction value

which is the price actually **paid or payable**

for the **said** supply of goods or services

Where both the supplier and the recipient are  
**unrelated**

the **price** is the sole consideration for the  
supply



# Section 15(2) - Value of Supply shall include..

Includes

a) Tax, Duties, Cesses, Fees & Charges levied under any other laws

b) Amount **supplier is liable to pay** but incurred by the recipient

c) Incidental Expenses – Commission, Packing etc **charged by the supplier**

d) Interest, Late Fee, Penalty for delayed payment

e) Subsidies received by Supplier directly linked to Price **excluding** subsidies provided by CG/SG

## Sec 15(2)(a) – Inclusions

- TCS under Income-Tax Act, 1961 not includible in the taxable value for the purpose of GST:
- The CBIC vide Circular No. 76/50/2018 GST dated 31.12.2018 (amended vide corrigendum dated 7.03.2019) has clarified that for the purpose of determination of value of supply under GST, **tax collected at source (TCS)** under the provisions of the Income Tax Act, 1961 would **not be includible** as it is an interim levy not having the character of tax.

- Issue : Valuation of supply made by a component manufacturer using moulds and dies owned by Original Equipment Manufacturers (OEM) sent free of cost (FOC) to him
- Circular No. 47/21/2018 GST dated 08.06.2018 has clarified that while calculating the value of the supply made by the component manufacturer using moulds and dies owned by Original Equipment Manufacturers (OEM) sent free of cost (FOC) to him, the value of such moulds and dies **shall not be added to the value of supply** made by him because the cost of moulds/dies was not to be incurred by the component manufacturer and thus, does not merit inclusion in the value of supply in terms of section 15(2)(b).
- However, if the contract between OEM and component manufacturer was for supply of components made by using the moulds/dies belonging to the component manufacturer, but the same have been supplied by the OEM to the component manufacturer on FOC basis, **the amortised cost of such moulds/dies shall be added to the value of the components**

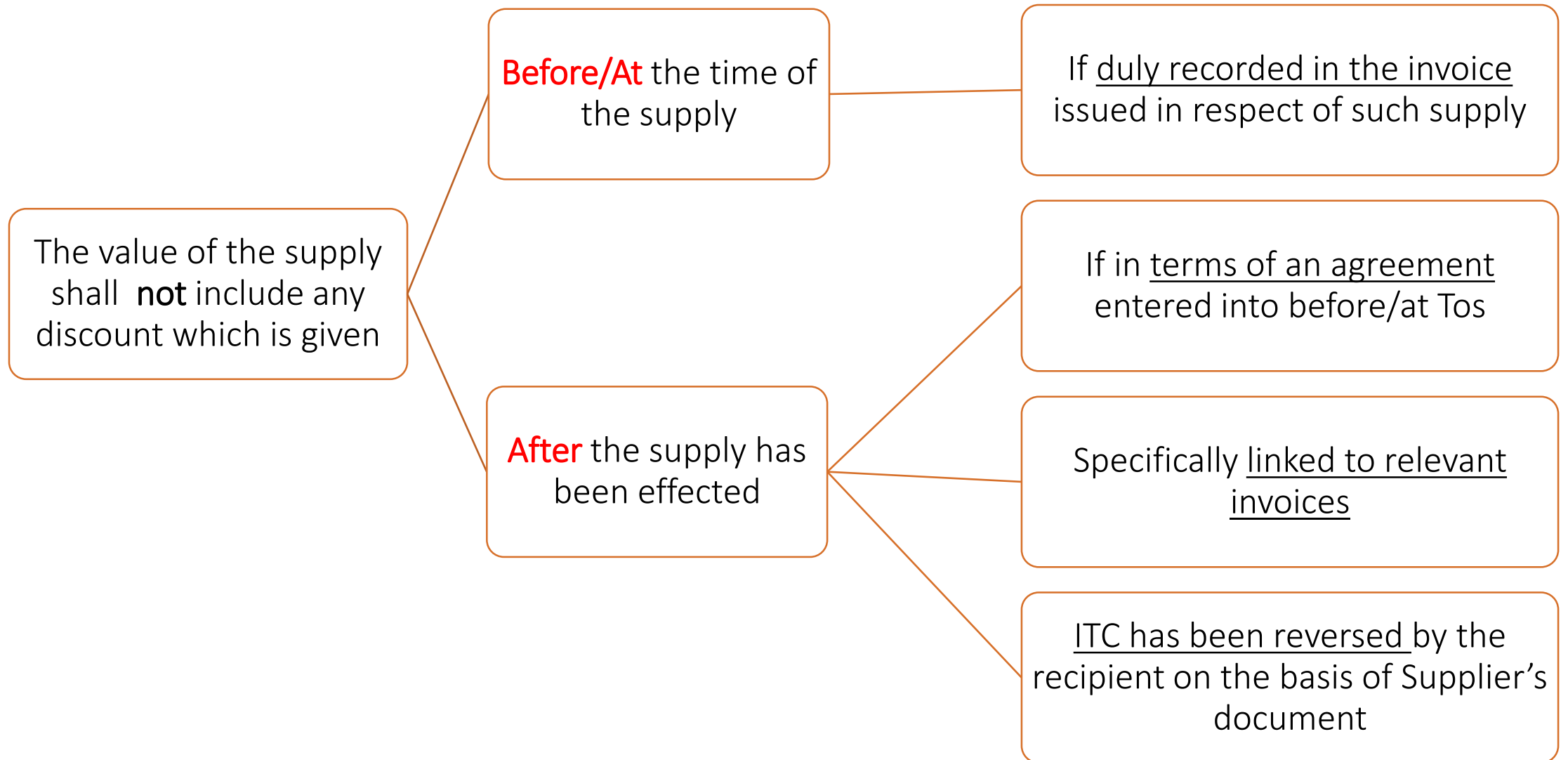
## Sec 15(2)(c) – Incidental expenses

- Commission: This may be paid to an agent and recovered from the buyer of the goods / services; this is part of the value of the supply.
- Packing, if charged by the supplier to the recipient, is similarly part of the value of the supply.
- Inspection or certification charges is another element that may be added to the value, if billed to the recipient of supply.
- Installation and testing charges at the recipient's site will also be added, being an amount charged for something done by the supplier in respect of the supply at the time of making the supply.
- Weighment charges, loading & designing charges incurred before supply

## Sec 15(2)(d) – Interest, late fee or penalty for delayed payment

- The value for a supply will include not only the base price but also the charges for delay in payment.
- Time of supply for such interest/ late fee/ penalty is the date when such amount is received by the supplier.
- Further, since such charges are an addition in the value of supply, **same rate of tax as applicable on the main supply of goods / service** are applicable on such charges as well

## Section 15(3) – Excludes discount



# Chapter IV- Valuation Rules

## Sec 15(4) – Determination of Value as per the Rules

- Where the value of the supply of goods or services or both
  - cannot be determined u/s 15(1),
  - the same shall be determined in such manner as may be prescribed
- Cannot be determined u/s 15(1), i.e., when:
  - a) Price is not the sole consideration
  - b) Supplier-recipient are related persons: Recourse to Rules even if the Supplier-Recipient relationship:
    1. Did not influence the price;
    2. Has no bearing on pricing;



# Rules Notified

The same has been prescribed under chapter IV valuation rules

- **Common Rules**

27 - where the consideration is not wholly in money

28 - between distinct or related persons, other than through an agent

29 - Value of supply of goods made or received through an agent

**30 - Value of supply of goods or services or both based on cost**

**31 - Residual method for determination of value of supply of goods or services**

- **Specific Rules**

31A - Value of supply in case of lottery, betting, gambling and horse racing

32 - Determination of value in respect of certain supplies

33 - Value of supply of services in case of pure agent

34 - Rate of exchange of currency, other than INR , for determination of value

35 - Value of supply inclusive of IGST , CGST, SGST, UTGST

# Market Value – Sec 2(73)

The value which a recipient of a supply is **required** to pay



In order to **obtain** the goods or services or both



Of like **kind** and **quality**



At or about the **same time**



At the **same commercial level**



Where the recipient and the supplier are **unrelated**

## Value of Like kind & quality

- Supply of like kind & quality means
  - any other supply made under similar circumstances,
  - which is same or closely or substantially resembles
    - in respect of characteristics, quality, quantity, functionality, reputation to the supply being valued

## VoS based on cost- Rule 30

Where the value of a supply of goods or services or both

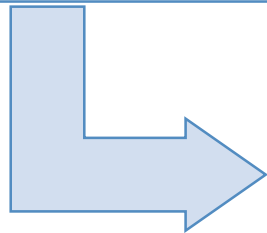
- is not determinable by any of the preceding rules of this Chapter,
- the value shall be one hundred and ten percent of **110%**
  - the cost of production or
  - manufacture or
  - the cost of acquisition of such goods or
  - the cost of provision of such services.

## Residual method for determination of VoS– Rule 31

- Where the value of supply of goods or services or both
  - cannot be determined under rules 27 to 30,
  - the same shall be determined **using reasonable means**
  - consistent with the principles and the general provisions of section 15 and
  - the provisions of this Chapter
- Provided that in the case of supply of services, the supplier may opt for this rule, ignoring rule 30.

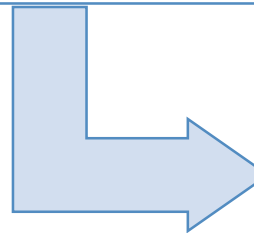
# VoS where consideration is not wholly in money – Rule 27

a) VOS Shall be Open market value



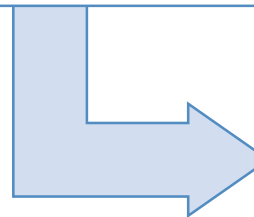
b) Sum total of consideration in money if known at the ToS

- If OPM is NA



c) Value of g/s of like kind and quality

- If (a) or (b) is NA



d) Consideration under Rule 30/31

- If (a) or (b) or (c) is NA

## Rule 28: Value of supply of goods or services or both between **distinct** or **related persons**, other than through an agent

(a) The open market value of such supply

**(b) If open market value is not available**

Value of supply of goods or services of like kind and quality

**(c) If value of supply is not determinable under clause (a) or (b)**

Value as determined by application of Rule 30 or Rule 31, in that order

Provided that where goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to 90% of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person

*Where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of goods or services*

# VoS of goods made/received through an agent - Rule 29

Open market value

Option

90% of the price charged for the supply of goods of like kind and quality

- Provided that his customer is not a related person and the goods are intended for further supply

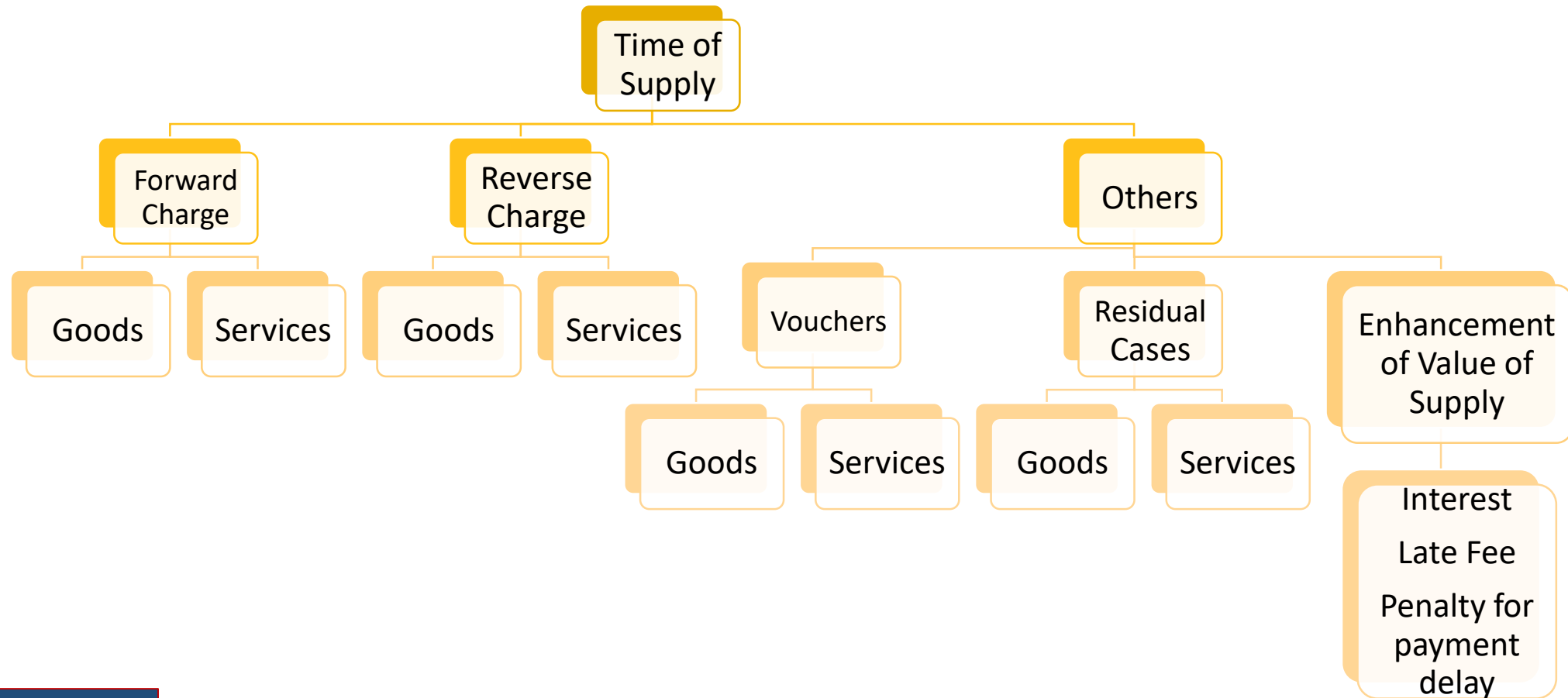
Consideration under Rule 30/31

- If (a) is NA

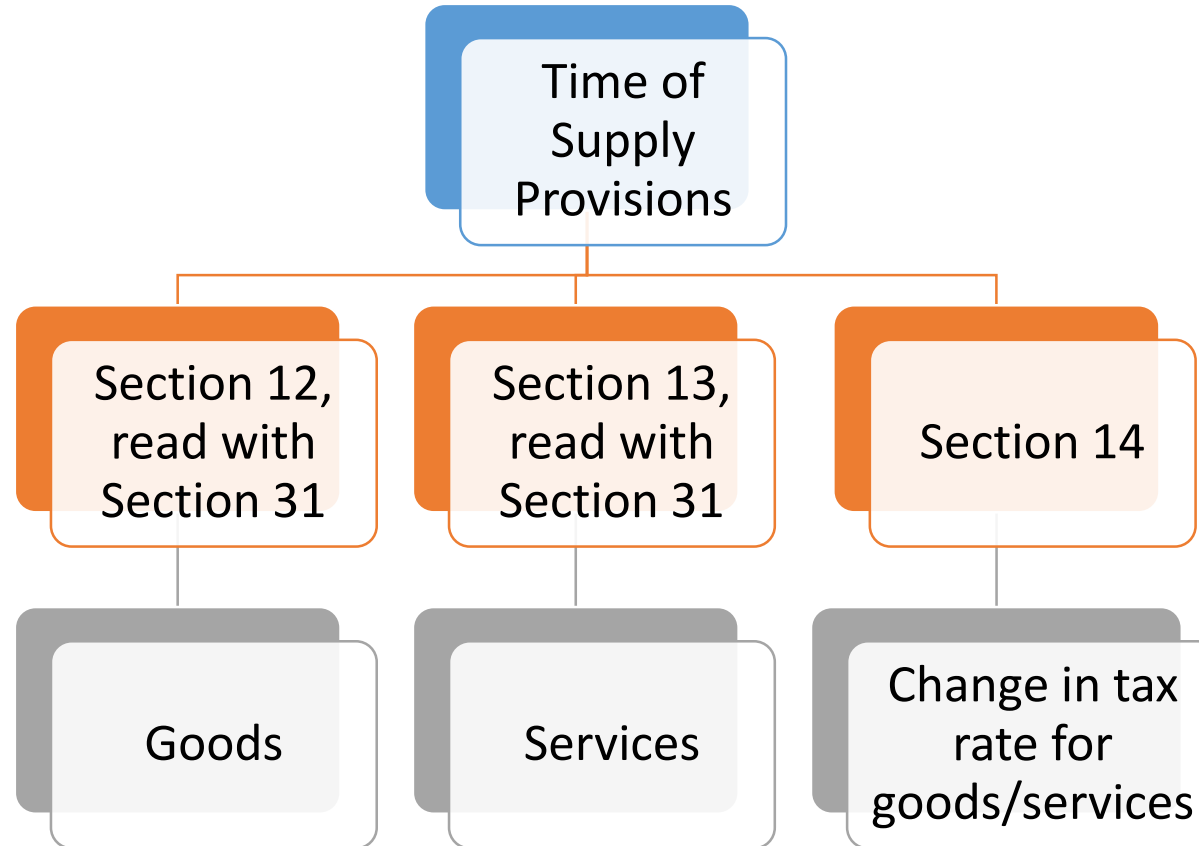


# Time of Supply

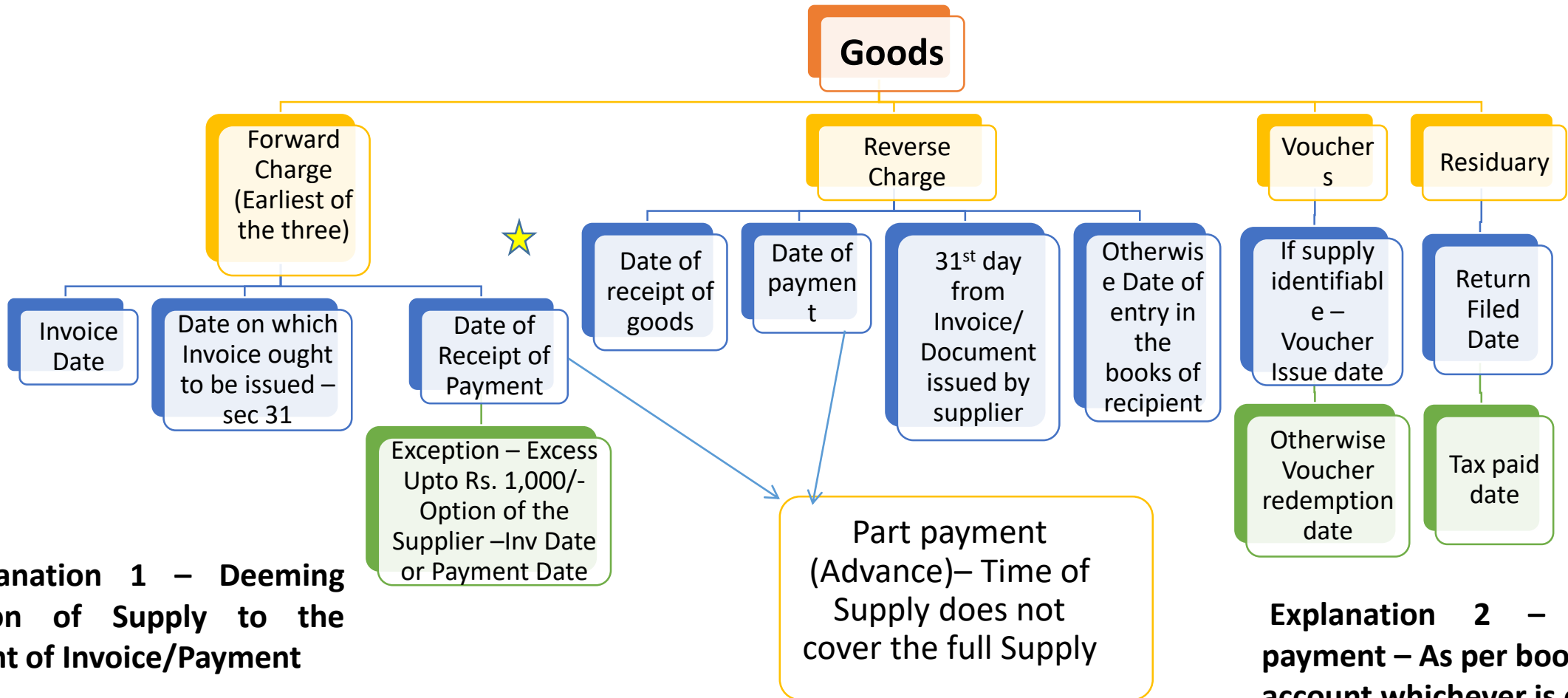
# Time of Supply - Overview



# Time of Supply



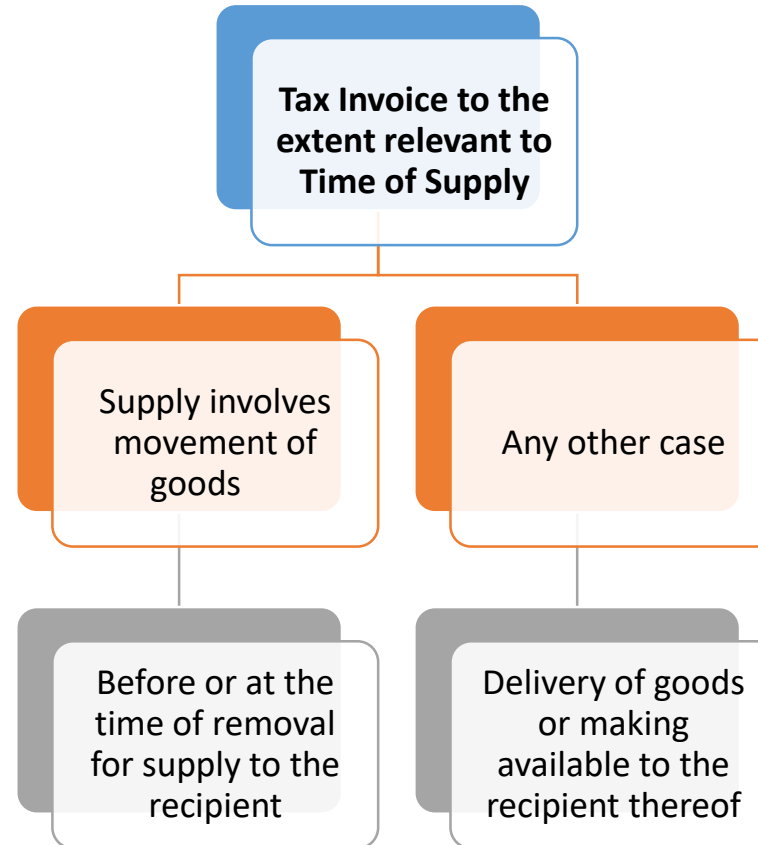
# Time of Supply – Goods – Section 12



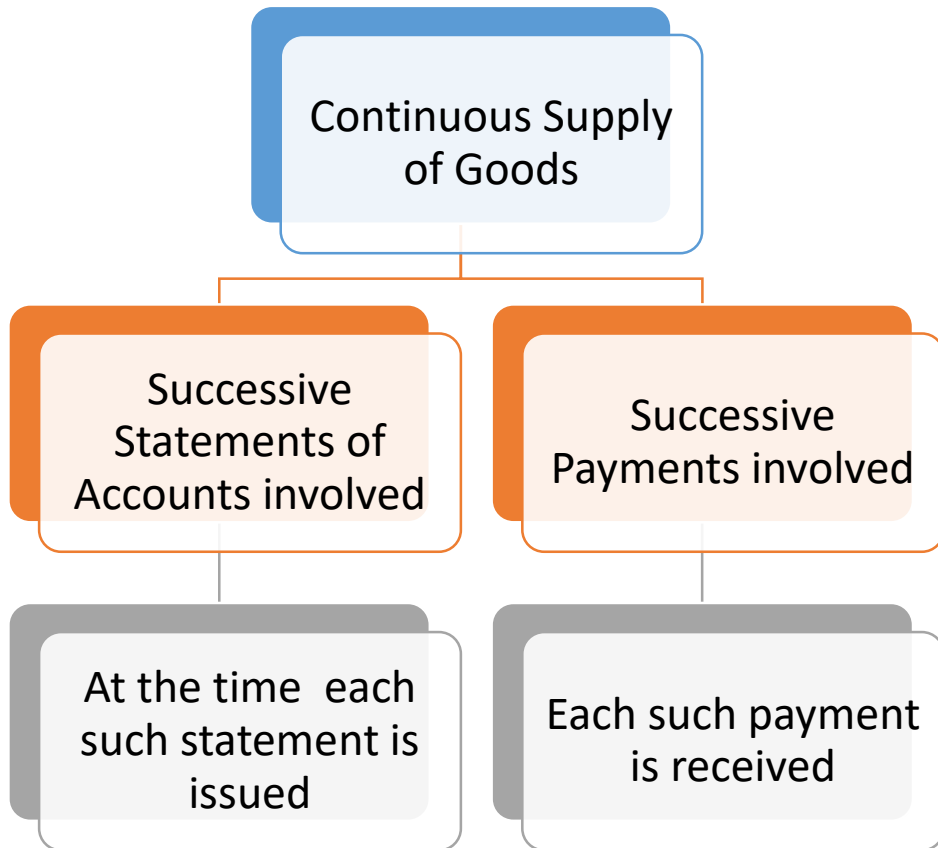
**Explanation 1 – Deeming Fiction of Supply to the extent of Invoice/Payment**

**Explanation 2 – Date of payment – As per books or Bank account whichever is earlier**

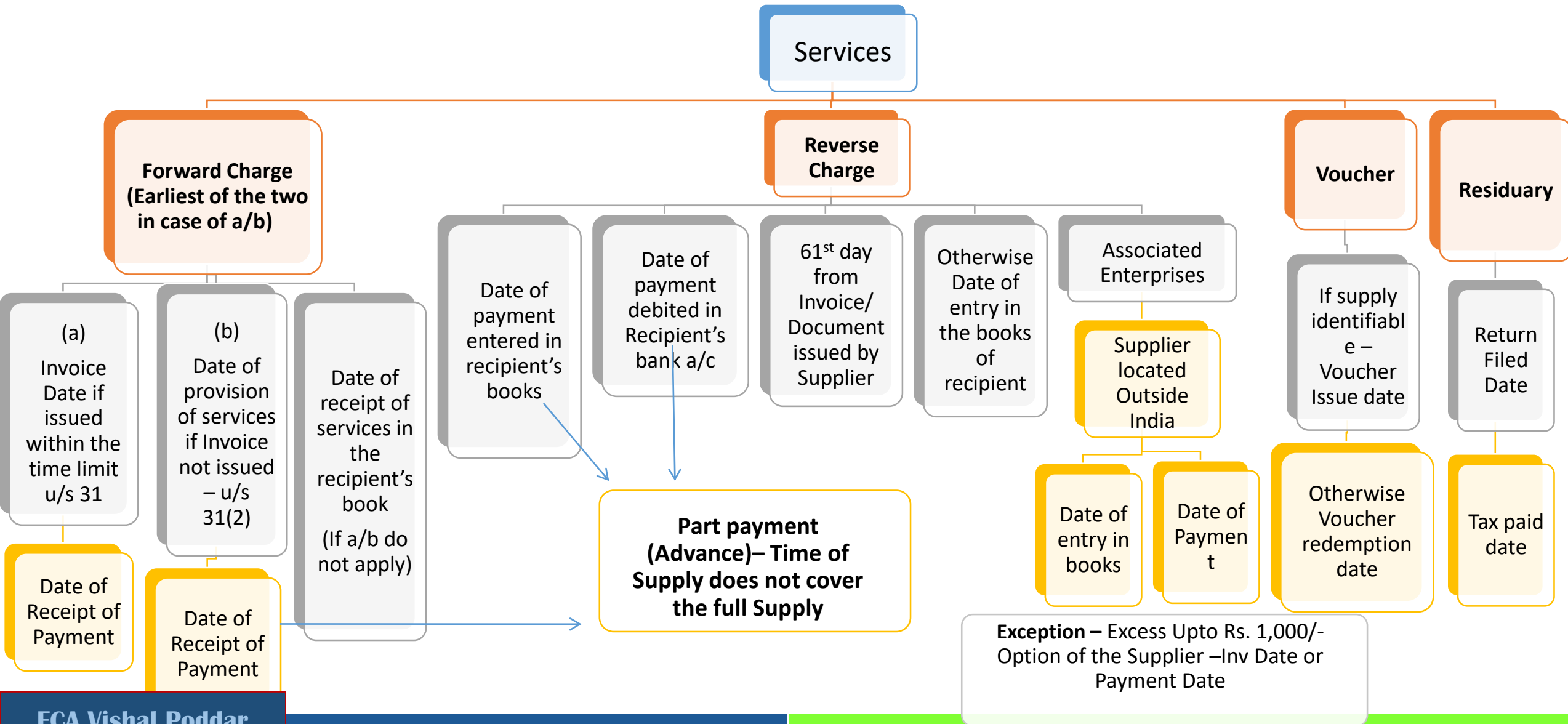
# Time of Invoice – Forward Charge-Sec 31



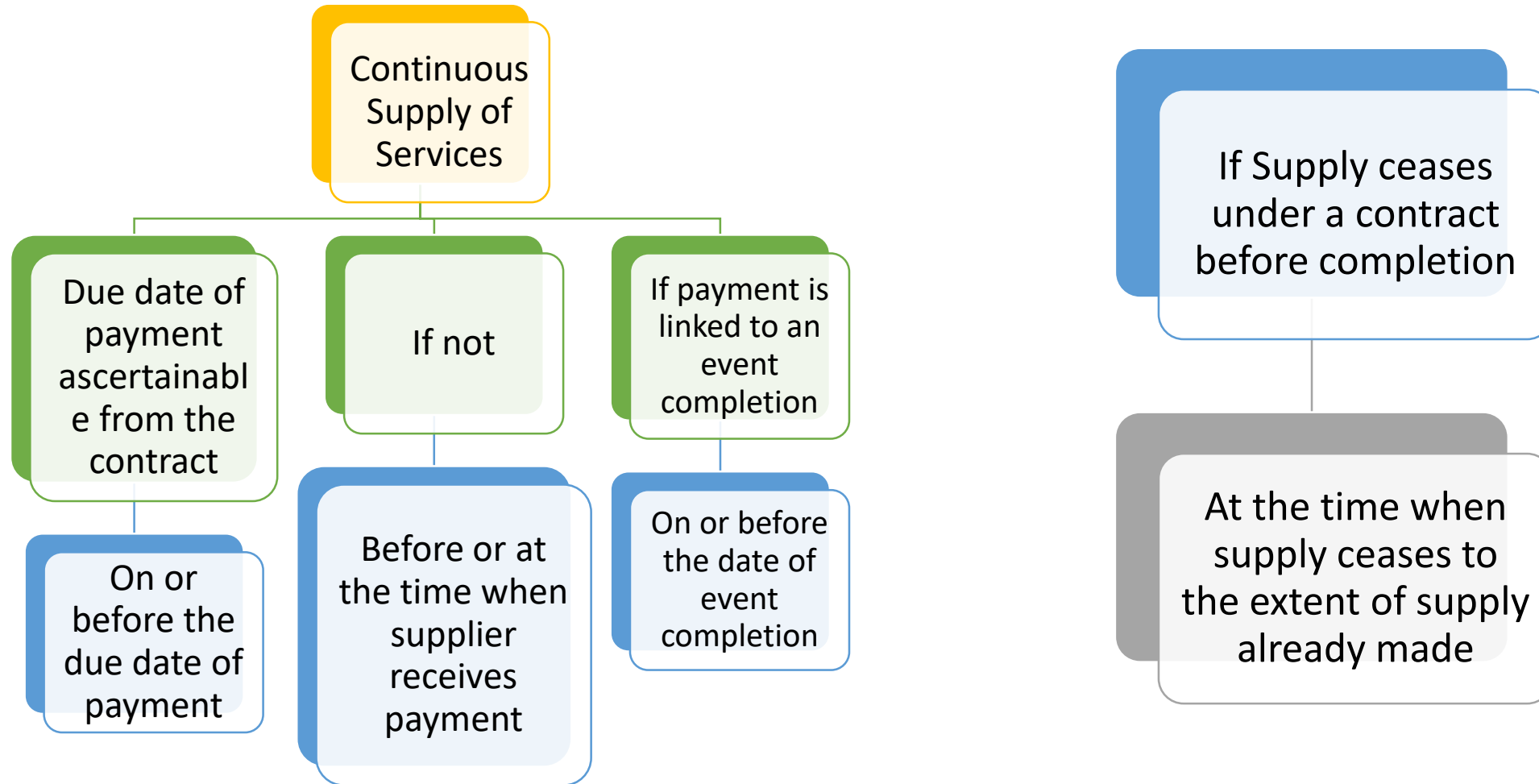
# Time of Invoice – Forward Charge-Sec 31



# Time of Supply – Services – Sec 13

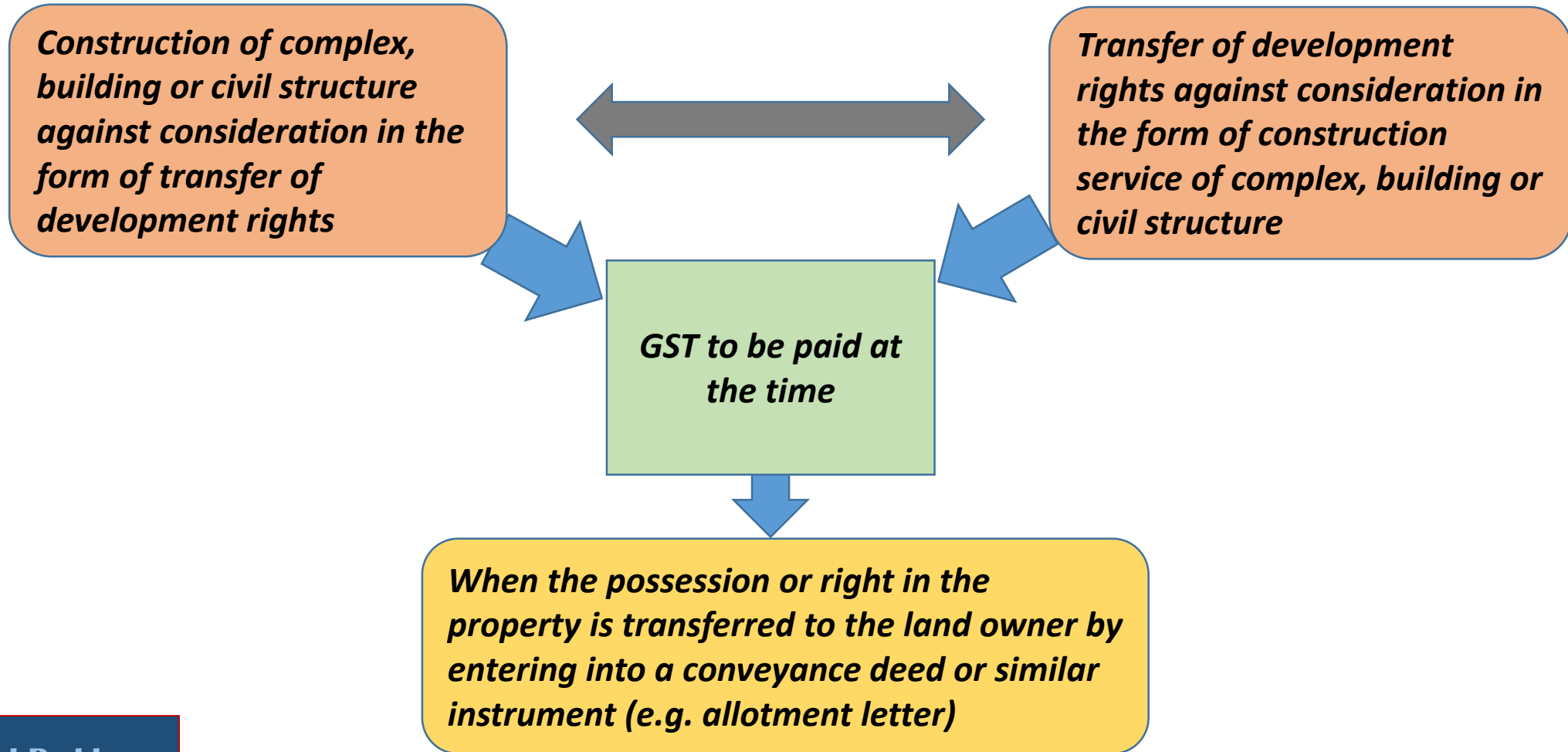


# Time of Invoice – Forward Charge – Sec13(2)

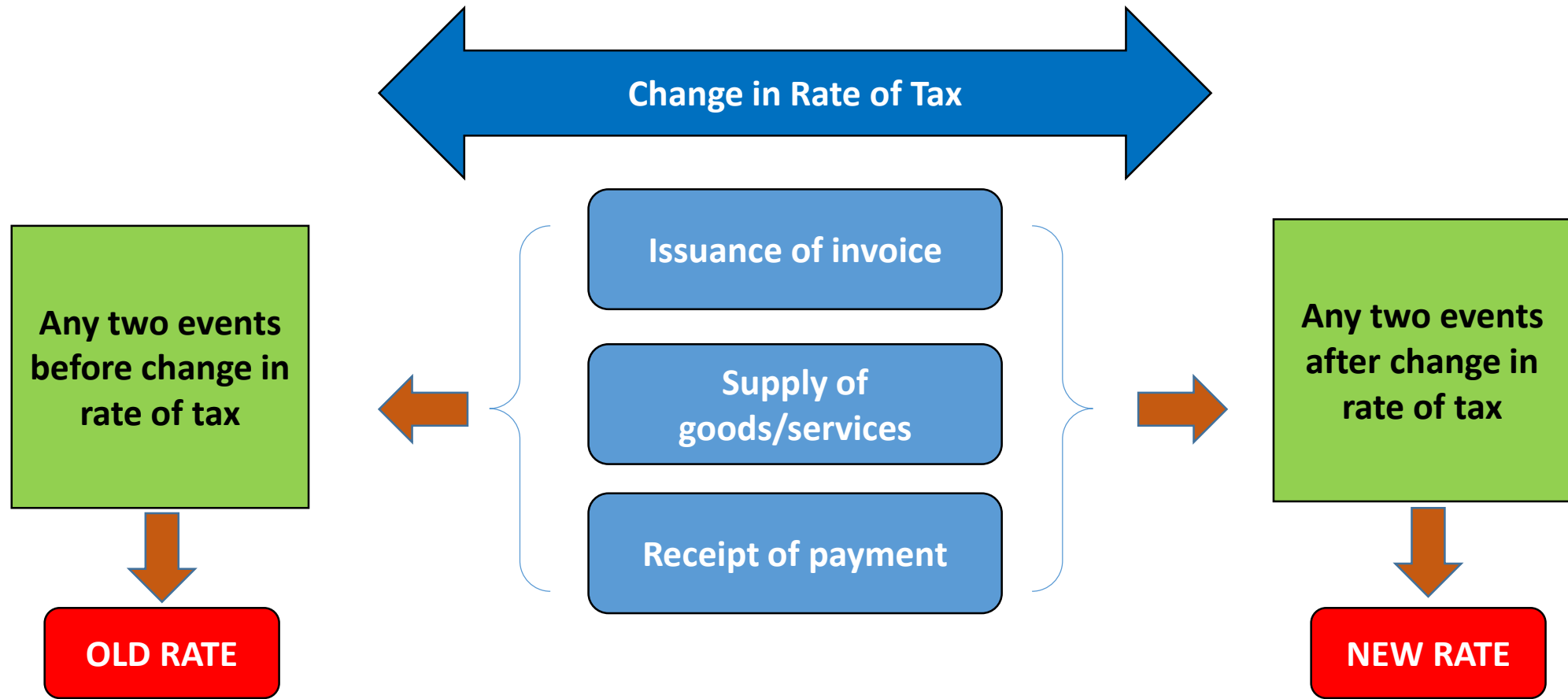




# SPECIAL PROCEDURE UNDER SECTION 148 FOR PAYMENT OF TAX IN CASE OF JOINT DEVELOPMENT AGREEMENTS IN REAL ESTATE SECTOR



# CHANGE IN RATE OF TAX – Section 14



**Thank You**

**FCA Vishal Poddar**

Partner

S.S.Mutha & Co.

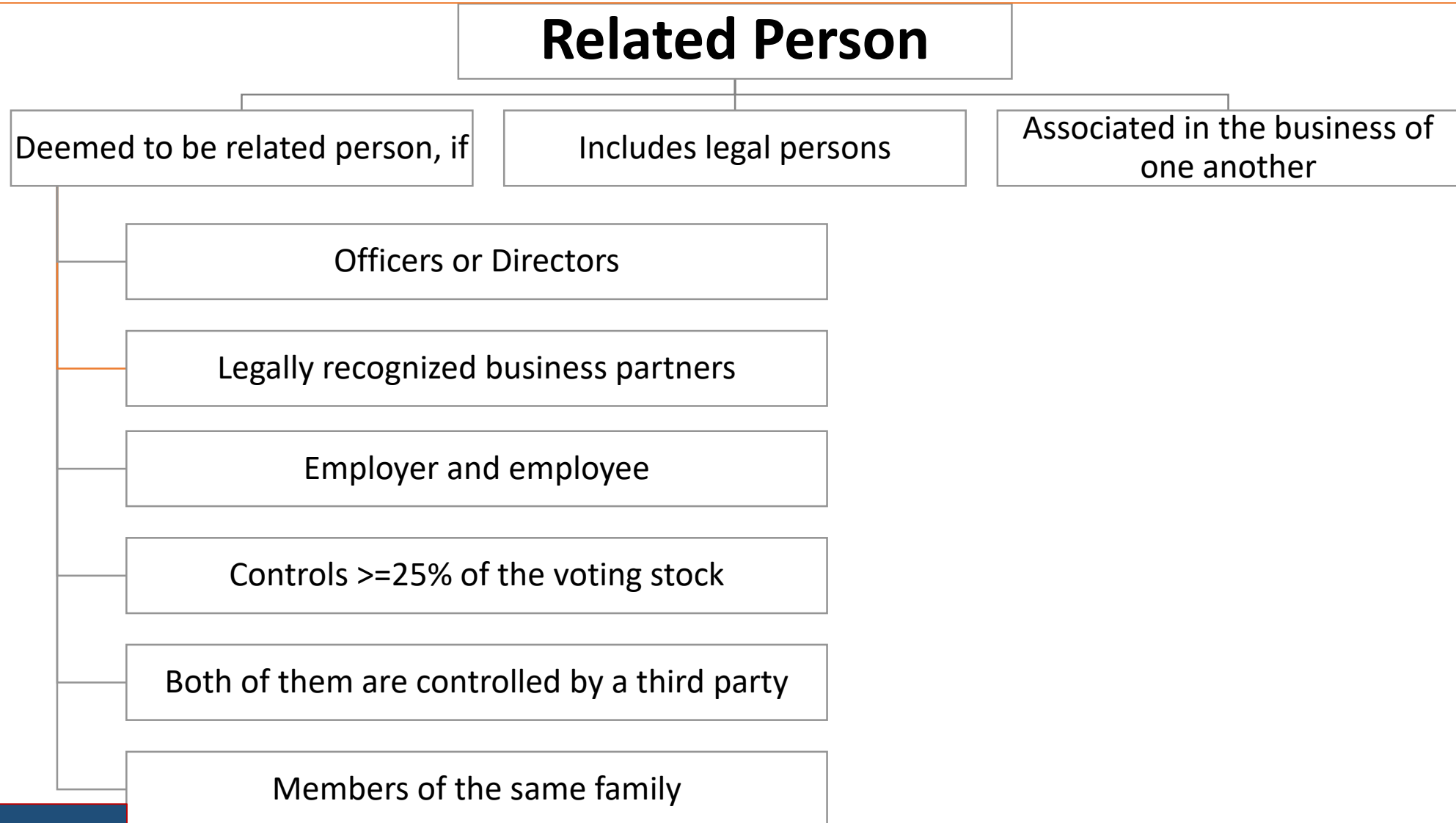
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# Annexure

# Related Persons



# Consideration

Consideration in relation to the supply of goods or services or both includes –

- (a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;
- (b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government

Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply [Section 2(31)].

# Time of Supply – Relevant Definitions

Sl.No.	Definitions	Section
1.	Associated Enterprise	2(12)
2.	Document	2(41)
3.	Prescribed	2(87)
4.	Voucher	2(118)
5.	Reverse Charge	2 (98)
6.	Goods	2(52)
7.	Recipient	2(93)
8.	Services	2(102)
9.	Supplier	2(105)

# Associated Enterprise 2 (12)

- Shall have the same meaning as assigned to it in section 92A of the Income-tax Act, 1961;
- **Section 92A of Income Tax Act, 1961:**  
An “**associate enterprise**”, in relation to other enterprises are those which can be owned and controlled by the same or common interest. The expression “associated enterprises” as per Section 65B (13) of the Finance Act, 2001 (**Finance Act**)



## Document – 2(41)

“document” includes

- written or printed record of any sort and
- Electronic record as defined in clause (t) of section 2 of the *Information Technology Act, 2000*;

# Prescribed – 2(87)

- means prescribed by rules
- made under this Act
- on the recommendations of the Council;

# Voucher - 2(118)

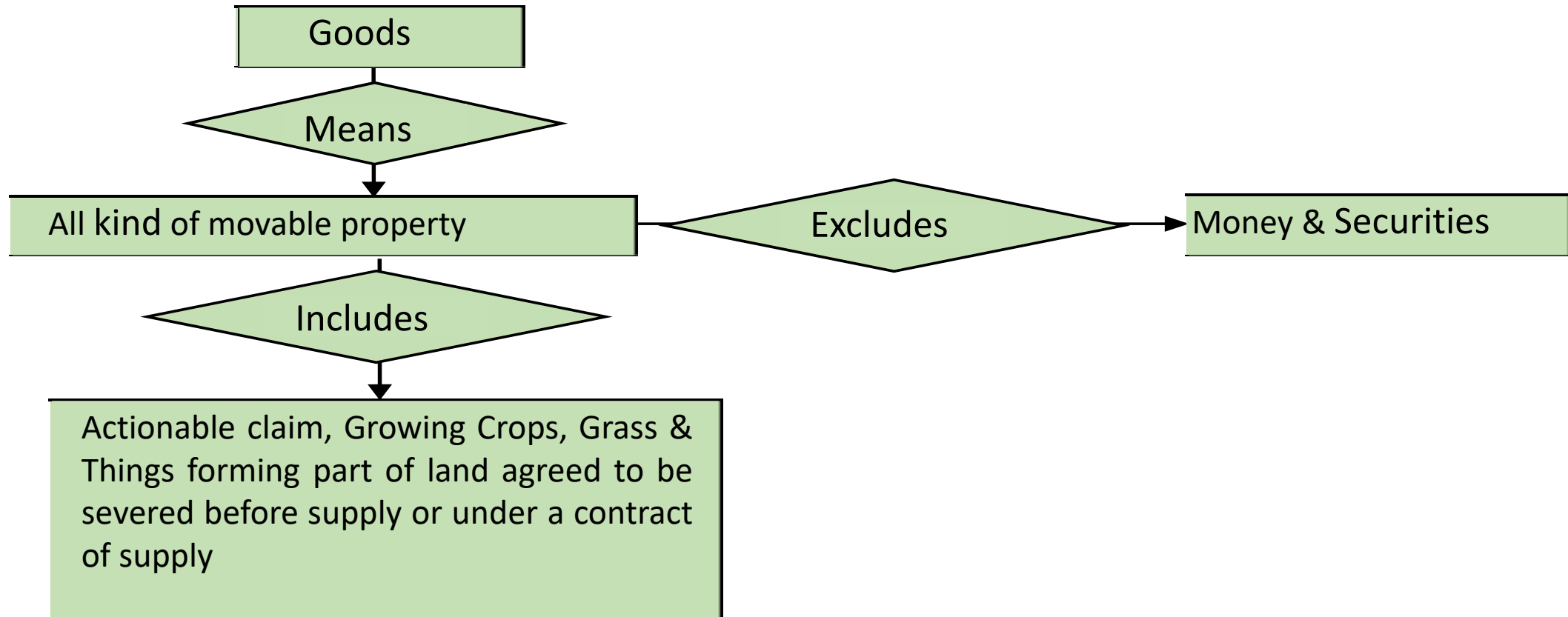
- “voucher” means an instrument
- where there is an obligation to accept it as consideration or
- part consideration for a supply of goods or services or both and
- where the goods or services or both to be supplied or
- the identities of their potential suppliers are either indicated
- on the instrument itself or
- in related documentation,
- including the terms and conditions of use of such instrument

# Reverse Charge 2(98)

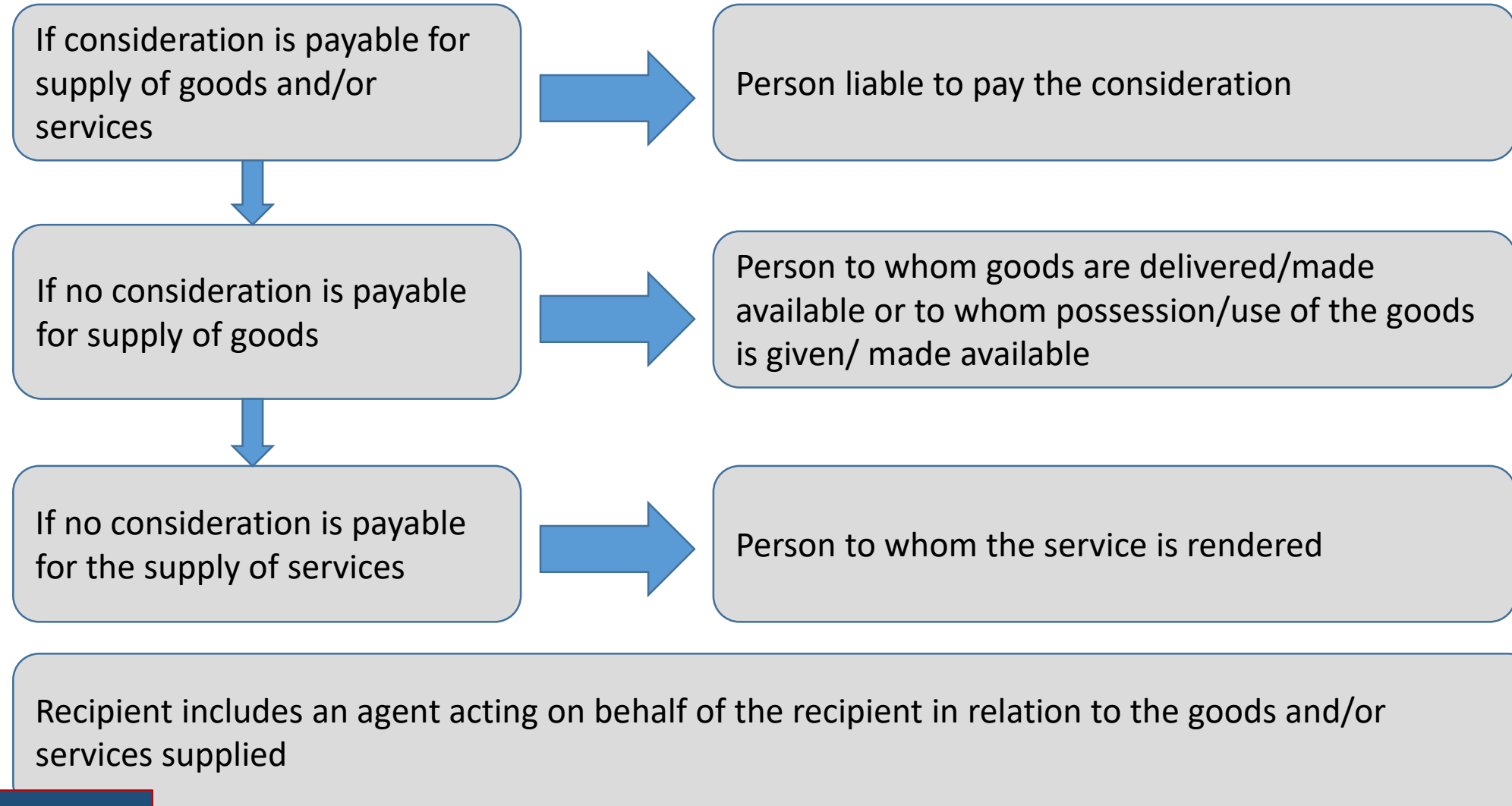
“reverse charge” means the liability to pay tax

- by the recipient of supply of goods or services or both
- instead of the supplier of such goods or services or both
- under sub-section (3) or sub-section (4) of section 9, or
- *under sub-section (3) or subsection (4) of section 5 of the Integrated Goods and Services Tax Act;*

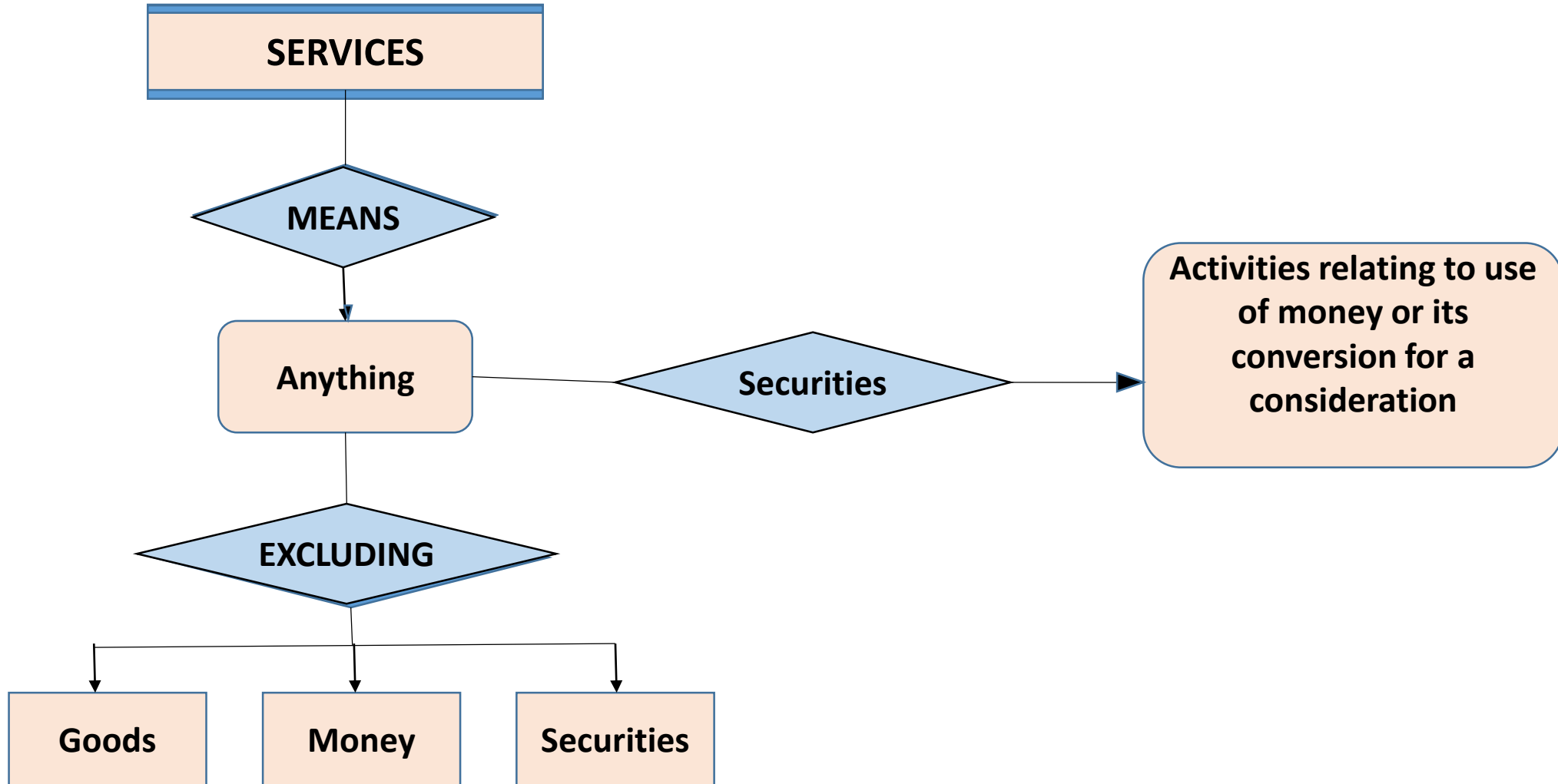
# Goods 2(52)



# Recipient 2(93)



# Services 2(102)



# Supplier – 2(105)

Supplier in relation to any goods or Services



Means the person supplying the said goods and services



and includes an agent acting on behalf of such supplier in relation to the goods and/or services



# Some Specific Valuation Rules

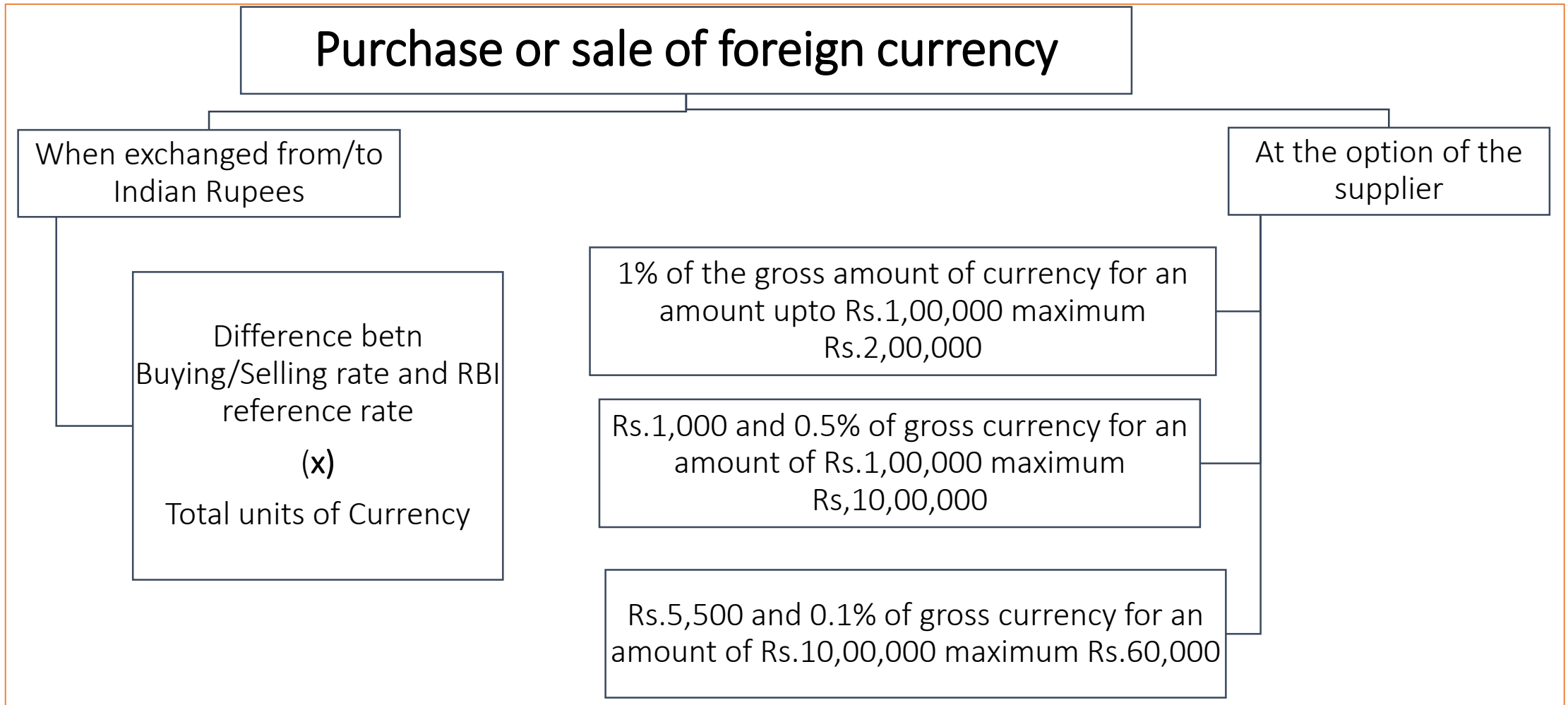
## VoS in case of lottery, betting, gambling and horse racing – Rule 31A

- The value of supply of lottery **run by** State Governments shall be deemed to be 100/112 of the
  - face value of ticket **or**
  - of the price
- as notified in the Official Gazette by the organising State, whichever is **higher**.
  
- The value of supply of lottery **authorised by** State Governments shall be deemed to be 100/128 of the
  - face value of ticket **or**
  - of the price
- as notified in the Official Gazette by the organising State, whichever is **higher**.

## Rule 31A : Value of supply in case of lottery, betting, gambling and horse racing

- Explanation:-
  - a) “lottery run by State Governments” means a lottery not allowed to be sold in any State other than the organizing State
  - b) “lottery authorised by State Governments” means a lottery which is authorised to be sold in State(s) other than the organising State also.
  - c) “Organising State” has the same meaning as assigned to it in clause (f) of sub-rule (1) of rule 2 of the Lotteries (Regulation) Rules, 2010
- Value of supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club shall be:
  - 100% of the face value of the bet or
  - the amount paid into the totalisator

# Determination of value in respect of certain supplies – Rule 32



# Air travel Agent 32(3)

Value of Supply =

Domestic  
Bookings

International  
Bookings

5% of basic fare

10% of basic fare

# Insurance Business 32(4)

## Life Insurance

Gross premium charged from a policy holder reduced by the amount allocated for investment, or savings on behalf of the policy holder

Single premium annuity policies

**10%** of single premium charged

All other cases

**25%** of single premium charged – 1<sup>st</sup> Year

**12.5%**– Subsequent years

## Second Hand Goods 32(5)

- Dealer in buying and selling of second hand goods
- Used goods as such or after such minor processing which does not change the nature of the goods
  - Where no input tax credit has been availed on the purchase of such goods
  - $\text{VoS} = \text{Purchase price} - \text{Selling price}$
  - Where the value of such supply is negative, it shall be ignored

## Coupons 32(6)

- Value of Supply in case of token , voucher, coupon or stamp
- Redeemable against a supply of goods or services or both
- Vos = Money value of g/s/b redeemable against such token, voucher, coupon, or stamp



## VoS of services in case of pure agent – Rule 33

Expenditure or costs incurred by a supplier as a pure agent of the recipient shall be excluded from the value

- **Conditions**

- The supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party
- Payment made has been separately indicated in the invoice issued by the pure agent
- Pure agent supplies additional services

# Pure Agent

Enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;



Neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;



Does not use for his own interest such goods or services so procured; and



Receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account

## Currency exchange of, other than INR - Rule 34

### 1. When exchanged for Taxable Goods

The rate shall be the applicable rate of exchange as notified by the Board u/s 14 of the Customs Act, 1962 in terms of Section 12

### 2. When exchanged for Services

The rate of exchange for determination of value of taxable services shall be the applicable rate of exchange determined as per the generally accepted accounting principles for the date of time of supply of such services in terms of section 13 of the CGST Act.

## Value inclusive of I+C+S/UT- Rule 35

- The tax amount shall be determined as follows

$$\text{Tax Amount} = \frac{\text{Value incl. taxes} \times \text{Tax rate in \% of I,C,S/UT}}{100 + \text{sum of tax rates}}$$

- Example –

### Question:

- Mr. A is selling a product for Rs.1,050 inclusive of GST. Rate of CGST & SGST will be 2.5%. What is the value of supply?

### Answer:

- Value of supply will be:  $1,050 \times 100 / (100 + 2.5 + 2.5) = 1,000$

# Advance Rulings

# ULTRATECH CEMENT LIMITED – Post Sale Discount

- Query

1. -Whether the amount paid to authorized dealers towards "rate difference" after effecting the supply of goods would be allowed as Credit Note or Discount under Section 15(1) r/w Section 34(1) / Section 15(3) r/w Section 34(1) of the CGST Act

- Ruling

- No

# M/s Nash Industries (I) Pvt Ltd.

- Query

Whether the amortised cost of the tool to be added to arrive at the value of the goods supplied for the purpose of GST u/s 15 of the CGST Act r/w rule 27 of CGST Rules.

- Ruling

The Amortised cost of tools which are re-supplied back to the applicant free of cost shall be added to the value of the components while calculating the value of the components supplied as per Section 15 of the CGST Act 2017

# M/s Premier Vigilance & Security Pvt Ltd

- Query

Whether toll charges reimbursed by the clients are eligible for deduction u/r 33 from the value of supply?

- Ruling

Toll charges paid are not to be excluded from the value of supply u/r 33. GST shall, therefore, be payable at the applicable rate on the entire value of the supply, including toll charges paid. The Applicant is not acting as a “pure agent” of the Bank while paying toll charges, which are the cost of the service provided to the Banks so that his vehicles can access roads/bridges to provide security services to the recipient.



# M/s. GKB Lens Pvt Ltd

- Query

The applicant supplies goods to his branches in other states. Whether such supplies can be valued in terms of the second proviso to rule 28 of the CGST Rules, 2017.

- Ruling

1. The Applicant has the option of not supplying goods to its branches u/r 28 and is eligible to value these goods u/r 28.
2. The expression “where the recipient is eligible for full input tax credit”, as used in the Second Proviso to Rule 28 of CGST Rules, 2017, means that the recipient will be eligible to take full input tax credit of the amount of tax paid by the supplier as mentioned in the respective invoice or any other document valid u/s 16(2)(a) of CGST Act.

# M/s. Sanghvi Movers Limited

- Query

What should be the value u/s 15 of the CGST Act, 2017 and the rules made thereunder for discharging applicable GST on movement of cranes from one GST registered office to another registered office in case the said movement is considered to be a taxable supply?

- Ruling

The value for the purpose of the section 15 where the recipient branch office in other state is eligible for full input tax credit would be the full value declared in the invoice as open market value of the service for the purpose of levy of tax and alternatively and amount equivalent to 90% of the price charged for the supply of goods like ,kind and quality by the recipient to his customer .