GST GOOGLY

MISCELLANEOUS

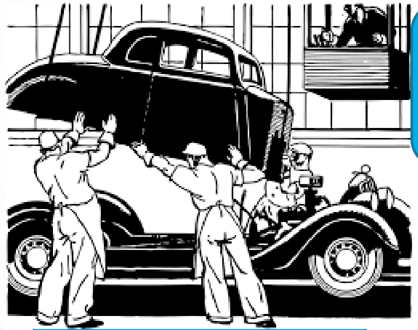
TRANSITIONAL PROVISION

BY – CA DIVYANSHU SENGAR

Section 142 (1) Goods Returned after Appointed Date -

- Where any goods on which duty, if any, had been paid under the existing law at the time of removal thereof, not being earlier than six months prior to the appointed day, are returned to any place of business on or after the appointed day, the registered person shall be eligible for refund of the duty paid under the existing law where such goods are returned by a person, other than a registered person, to the said place of business within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer:

- Provided that if the said goods are returned by a registered person, the return of such goods shall be deemed to be a supply.



Manufacturer

SALE

Within 6 months from Appointed Date

DUTY PAID as per Existing Law

If returned by Registered Person, than deemed to be a Supply

RETURN after Appointed Date

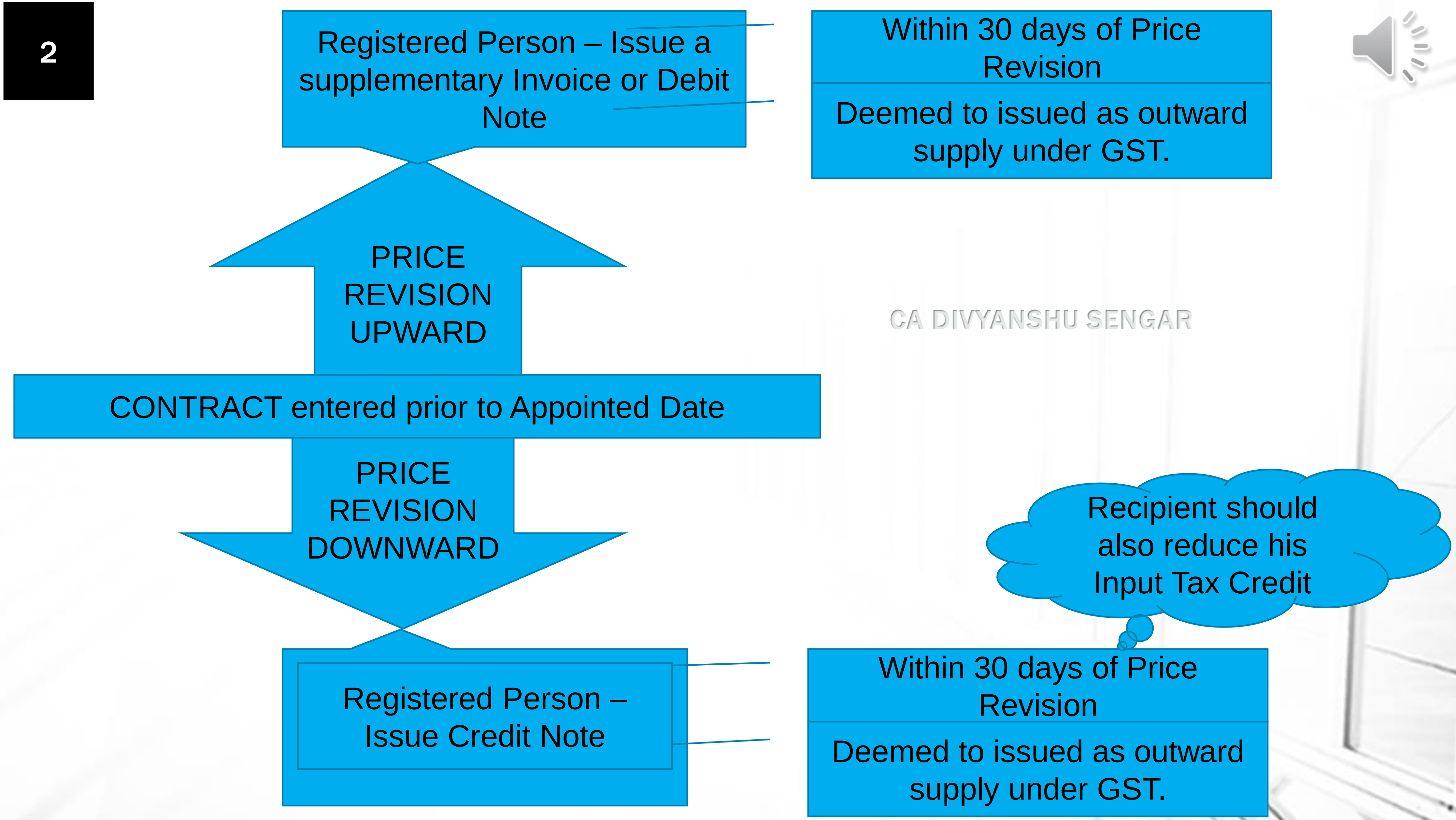
eligible for refund of the duty paid.

Section 142 (2) PRICE Revision-

- (a) where, in pursuance of a contract entered into prior to the appointed day, the price of any goods or services or both is revised upwards on or after the appointed day, the registered person who had removed or provided such goods or services or both shall issue to the recipient a supplementary invoice or debit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such supplementary invoice or debit note shall be deemed to have been issued in respect of an outward supply made under this Act;

- (b) where, in pursuance of a contract entered into prior to the appointed day, the price of any goods or services or both is revised downwards on or after the appointed day, the registered person who had removed or provided such goods or services or both may issue to the recipient a credit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such credit note shall be deemed to have been issued in respect of an outward supply made under this Act:

- Provided that the registered person shall be allowed to reduce his tax liability on account of issue of the credit note only if the recipient of the credit note has reduced his input tax credit corresponding to such reduction of tax liability.


Registered Person – Issue a supplementary Invoice or Debit Note
Within 30 days of Price Revision
Deemed to issued as outward supply under GST.
PRICE REVISION UPWARD
CONTRACT entered prior to Appointed Date
PRICE REVISION DOWNWARD
Recipient should also reduce his Input Tax Credit
Registered Person – Issue Credit Note
Within 30 days of Price Revision
Deemed to issued as outward supply under GST.

Section 142 (3) REFUND CLAIM Filed under Existing Law -

- Every claim for refund filed by any person before, on or after the appointed day, for refund of any amount of CENVAT credit, duty, tax, interest or any other amount paid under the existing law, shall be disposed of in accordance with the provisions of existing law and any amount eventually accruing to him shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944:

- Provided that where any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse:
- Provided further that no refund shall be allowed of any amount of CENVAT credit where the balance of the said amount as on the appointed day has been carried forward under this Act.

No CENVAT CREDIT Refund if already Carried Forward in GST

CLAIM for REFUND (CCR, Duty, Tax, Interest or any other amount) filed under the EXISTING Law

Shall be disposed of as per EXISTING Law

- Any amount eventually accruing to him shall be paid in cash
- if fully or partially rejected, the amount so rejected shall lapse

Section 142 (4) & (5)

- (4) Every claim for refund filed after the appointed day for refund of any duty or tax paid under existing law in respect of the goods or services exported before or after the appointed day, shall be disposed of in accordance with the provisions of the existing law:
- Provided that where any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse:

- Provided further that no refund shall be allowed of any amount of CENVAT credit where the balance of the said amount as on the appointed day has been carried forward under this Act.
- (5) Every claim filed by a person after the appointed day for refund of tax paid under the existing law in respect of services not provided shall be disposed of in accordance with the provisions of existing law and any amount eventually accruing to him shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944.

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No CENVAT CREDIT Refund if already Carried Forward in GST

CLAIM for REFUND (Duty or Tax) filed under the EXISTING Law i.r.o Goods/ Services exported.

Shall be disposed of as per EXISTING Law

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if fully or partially rejected, the amount so rejected shall lapse

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CLAIM filed after Appointed Date for REFUND of Tax paid under Existing Law – Service not Provided

Shall be disposed of as per EXISTING Law

Any amount eventually accruing to him shall be paid in cash

Section 142 (6)

- (a) every proceeding of appeal, review or reference relating to a claim for CENVAT credit initiated whether before, on or after the appointed day under the existing law shall be disposed of in accordance with the provisions of existing law, and any amount of credit found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act:

- Provided that no refund shall be allowed of any amount of CENVAT credit where the balance of the said amount as on the appointed day has been carried forward under this Act;

- (b) every proceeding of appeal, review or reference relating to recovery of CENVAT credit initiated whether before, on or after the appointed day under the existing law shall be disposed of in accordance with the provisions of existing law and if any amount of credit becomes recoverable as a result of such appeal, review or reference, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

6 (a)

No CENVAT CREDIT Refund if already Carried Forward in GST

Proceeding of appeal, review or reference → relating to a claim for CENVAT Credit under Existing Law → Shall be disposed of as per EXISTING Law

- Any amount of credit found to be admissible shall be refunded to him in cash
- if amount rejected, the amount so rejected shall lapse

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6 (b)

Amount recovered Not admissible as INPUT TAX in GST

Proceeding of appeal, review or reference → relating to recovery of CENVAT credit → Shall be disposed of as per EXISTING Law

- Any amount of credit becomes recoverable to be recovered under existing Law
- & if not recovered under existing Law, to be recovered as an arrear of tax under GST.

Section 142 (7)

- (a) every proceeding of appeal, review or reference relating to any output duty or tax liability initiated whether before, on or after the appointed day under the existing law, shall be disposed of in accordance with the provisions of the existing law, and if any amount becomes recoverable as a result of such appeal, review or reference, the same shall, unless recovered under the existing law, be recovered as an arrear of duty or tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

- (b) every proceeding of appeal, review or reference relating to any output duty or tax liability initiated whether before, on or after the appointed day under the existing law, shall be disposed of in accordance with the provisions of the existing law, and any amount found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act.

7 (a)

Amount recovered Not admissible as INPUT TAX in GST

Proceeding of appeal, review or reference

relating to any OUTPUT DUTY/TAX liability initiated under Existing Law

Shall be disposed of as per EXISTING Law

Any amount becomes recoverable to be recovered under existing Law

& if not recovered under existing Law, to be recovered as an arrear of tax under GST.

7 (b)

proceeding of appeal, review or reference

relating to recovery of CENVAT credit

Shall be disposed of as per EXISTING Law

Any amount found to be admissible shall be refunded to him in cash

& the amount rejected, if any, shall not be admissible as input tax credit under this Act.

Section 142 (8)

- (a) where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law, any amount of tax, interest, fine or penalty becomes recoverable from the person, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act;

- (b) where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law, any amount of tax, interest, fine or penalty becomes refundable to the taxable person, the same shall be refunded to him in cash under the said law, notwithstanding anything to the contrary contained in the said law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act.

8 (a)

An assessment or adjudication proceedings instituted

any amount of tax, interest, fine or penalty becomes recoverable from the person

Any amount becomes recoverable to be recovered under existing Law

& if not recovered under existing Law, to be recovered as an arrear of tax under GST.

Amount recovered Not admissible as INPUT TAX in GST

8 (b)

An assessment or adjudication proceedings instituted

any amount of tax, interest, fine or penalty becomes refundable to the person

Any amount found to be admissible shall be refunded to him in cash

& the amount rejected, if any, shall not be admissible as input tax credit under this Act.

Section 142 (9)

- (9) (a) where any return, furnished under the existing law, is revised after the appointed day and if, pursuant to such revision, any amount is found to be recoverable or any amount of CENVAT credit is found to be inadmissible, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act;

- (b) where any return, furnished under the existing law, is revised after the appointed day but within the time limit specified for such revision under the existing law and if, pursuant to such revision, any amount is found to be refundable or CENVAT credit is found to be admissible to any taxable person, the same shall be refunded to him in cash under the existing law, notwithstanding anything to the contrary contained in the said law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act.

9 (a)

Any return, furnished under the existing law, is revised after the appointed day

pursuant to such revision, any amount is found to be recoverable or any amount of CENVAT credit is found to be inadmissible

→ Any amount becomes recoverable to be recovered under existing Law

→ & if not recovered under existing Law, to be recovered as an arrear of tax under GST.

Amount recovered Not admissible as INPUT TAX in GST

9 (b)

Any return, furnished under the existing law, is revised after the appointed day

any amount is found to be refundable or CENVAT credit is found to be admissible

→ Any amount found to be admissible shall be refunded to him in cash

& the amount rejected, if any, shall not be admissible as input tax credit under this Act.

Section 142 (10) & (11)

- (10) Save as otherwise provided in this Chapter, the goods or services or both supplied on or after the appointed day in pursuance of a contract entered into prior to the appointed day shall be liable to tax under the provisions of this Act.
- (11) (a) notwithstanding anything contained in section 12, no tax shall be payable on goods under this Act to the extent the tax was leviable on the said goods under the Value Added Tax Act of the State;
- (b) notwithstanding anything contained in section 13, no tax shall be payable on services under this Act to the extent the tax was leviable on the said services under Chapter V of the Finance Act, 1994;
- (c) where tax was paid on any supply both under the Value Added Tax Act and under Chapter V of the Finance Act, 1994, tax shall be leviable under this Act and the taxable person shall be entitled to take credit of value added tax or service tax paid under the existing law to the extent of supplies made after the appointed day and such credit shall be calculated in such manner as may be prescribed.

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CONTRACT entered before Appointed Date (i.e. 01/07/17)

Goods or services or both supplied on or after the appointed day

LIABLE to TAX as per GST.

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(a)

TAX was leviable on the said goods under the Value Added Tax Act of the State

NO TAX PAYABLE under GST.

(b)

TAX was leviable on the said services under Chapter V of the Finance Act, 1994

(c)

TAX was paid on any supply both under

VAT Act

FINANCE Act

tax shall be leviable under GST

Take Credit of VAT or Service tax paid on supplies made after Appointed Date. (01/07/17)

Section 142 (12)

- Where any goods sent on approval basis, not earlier than six months before the appointed day, are rejected or not approved by the buyer and returned to the seller on or after the appointed day, no tax shall be payable thereon if such goods are returned within six months from the appointed day:

- Provided that the said period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

- Provided further that the tax shall be payable by the person returning the goods if such goods are liable to tax under this Act, and are returned after a period specified in this sub-section:

- Provided also that tax shall be payable by the person who has sent the goods on approval basis if such goods are liable to tax under this Act, and are not returned within a period specified in this sub-section.

Goods sent on approval basis, not earlier than six months before the appointed day,

After Appointed Date (01/07/17)

Buyer Rejected/ Not approved, returned to Seller.

To returned within 6 months plus 2 months (from Appointed Date) (Commissioner Approval)

Within Time → No TAX Shall be payable

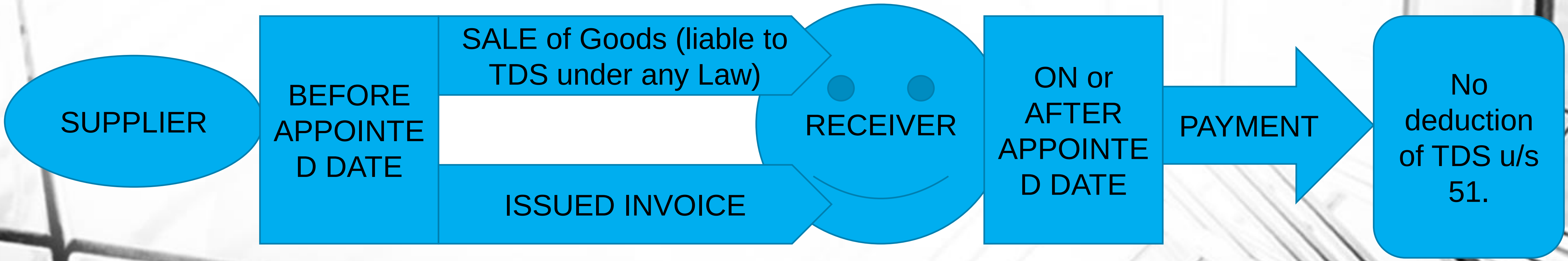
After given time → TAX shall be payable by the Person Returning the Taxable Goods

NOT RETURNED → TAX shall be payable by the Supplier if those Taxable Goods not returned.

Section 142 (13)

- Where a supplier has made any sale of goods in respect of which tax was required to be deducted at source under any law of a State or Union territory relating to Value Added Tax and has also issued an invoice for the same before the appointed day, no deduction of tax at source under section 51 shall be made by the deductor under the said section where payment to the said supplier is made on or after the appointed day.

- Explanation.—For the purposes of this Chapter, the expressions “capital goods”, “Central Value Added Tax (CENVAT) credit”, “first stage dealer”, “second stage dealer”, or “manufacture” shall have the same meaning as respectively assigned to them in the Central Excise Act, 1944 or the rules made thereunder.



In case of any query/ clarity/ correction, you can reach me @ cadivyanshusengar@gmail.com.

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