Chapter-2. GST: The New Taxation Regime

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GST: The New Taxation Regime axes

GST has been introduced with effect from 1st July, 2017.

The idea of GST was first mooted by Kelkar Task Force in 2004.

GST was launched at midnight of 30th June, 2017 from Central Hall of Parliament

Genesis of GST

Global Perspective:	• **France was the first country to implement GST in 1954.** • **At present, more than 160 countries have implemented it.**	
Expansion of govt. revenue base & achieving in Direct & Indirect/Consumption tax are often cited for reasons for introducing GST		
Indian Perspective:		
Kelkar Task Force in 2004	**16-07-2004**	Dr. Kelkar Task Force recommended the need of a National GST
GST proposed in 2007-08	**28-02-2006**	Budget Speech 2007-08: Union FM moots the idea of GST from April, 2010
GST Revival in 2014- Constitution Amendment Bill	**19-12-2014**	Constitutional (122nd Amendment) Bill, 2014 introduced in Lok Sabha
Constitution Amendment Act	**06-05-2014** **03-08-2016** **08-09-2016**	Constitutional (122nd Amendment) Bill, 2014 passed in Lok Sabha Constitutional (122nd Amendment) Bill, 2014 passed in Rajya Sabha Subsequent to ratification of bill by more than 50% of the states, Constitutional (122nd Amendment) Bill, 2014 received the assent of President of India. - It became Constitutional (101st Amendment) Act, 2016 which paved the way of GST in India

Central GST Act	**27-03-2016** **29-03-2016** **12-04-2017**	**Central GST Legislations introduced in Lok-Sabha - CGST Bill, 2017, IGST Bill,2017, UTGST Bill,2017, GST (Compensation to states) Bill, 2017 introduced** **Central GST Legislations passed in Lok-Sabha - CGST Bill, 2017, IGST Bill, 2017, UTGST Bill,2017, GST (Compensation to states) Bill, 2017 passed** **Central GST Legislations received assent of president and Bills enacted - CGST Act, 2017, IGST Act, 2017, UTGST Act, 2017, GST (Compensation to States) Act, 2017**

<table>
<tr><th>State GST Act</th><th>Diff dates</th><th>Enactment of the Central Act was followed by the enactment of the State GST laws by various State legislature.</th></tr>
<tr><td rowspan="2">Roll out from 1st July 2017</td><td>01-07-2017</td><td>GST has been implemented across India w.e.f. 1st July, 2017.</td></tr>
<tr><td>08-07-2017</td><td>GST in the State of Jammu & Kashmir came into force w.e.f. 8th July, 2017.

On 8th July, 217, CGST (Extension to J&K) Ordinance, 2017 and IGST (Extension to J&K) Ordinance, 2017 were promulgated making necessary changes in CGST Act and IGST Act and declaring that the said Acts shall be applicable to the State of J&K also.</td></tr>
<tr><td>Why India needed GST?</td><td colspan="2">Earlier system of taxation of goods and services was not efficient and leading to distortions and cascading effect.
This was adversely impacting GDP growth.
It also inhibits voluntary compliance.
GST has been introduced with the intent and expectation of overcoming the demerits and limitations of earlier taxation system.
It is expected that GDP will grow by 2% due to GST.
It is expected that compliance level will increase in GST.</td></tr>
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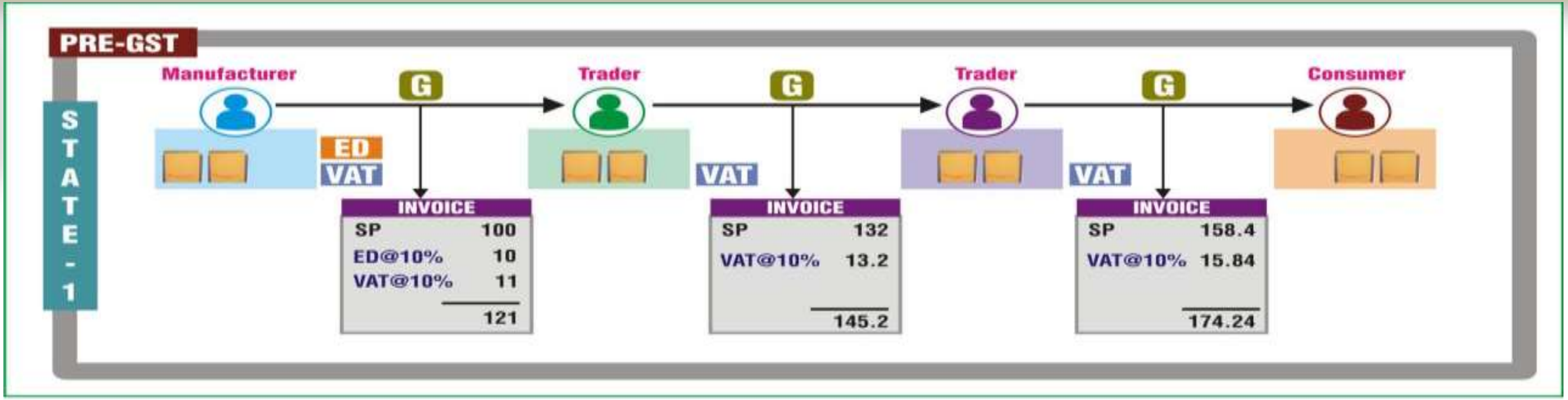
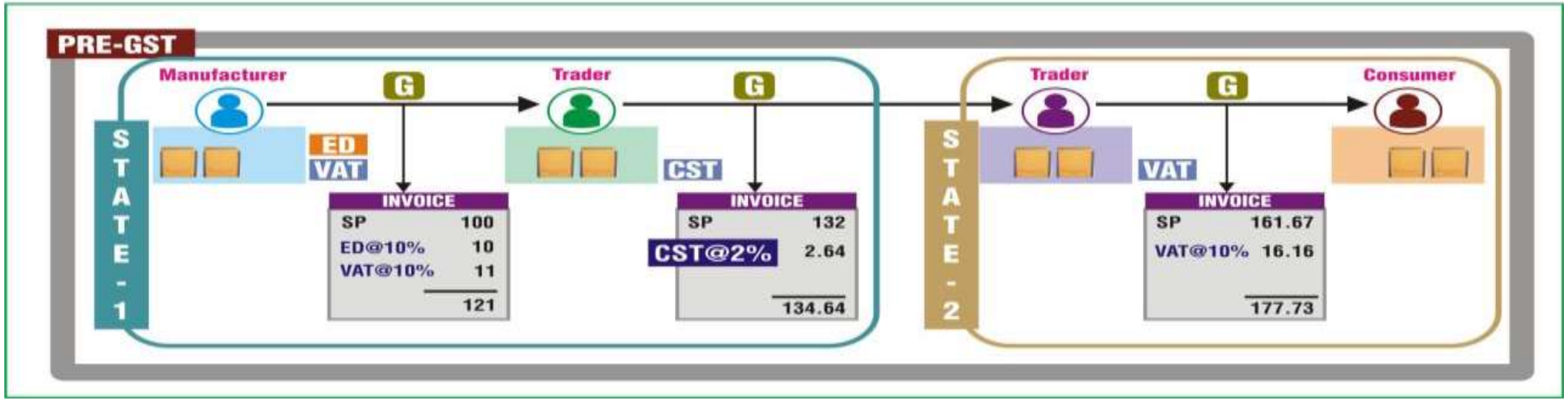
	Pre GST		Post GST	
	Event	Tax	Event	Tax
Goods	Manufacture	Excise Duty (Central Levy)	Supply	GST (Central + State Levy)
	Sale	VAT (local sales) (State Levy) Central Sale Tax (inter-state sales) (Central Levy)		
Services	Provisioning	Services (Central Levy)		

Earlier Taxation System – Demerits thereof

Taxation of Goods:





Cascading Effect -- due to inclusion of ED in computation of VAT

- VAT payable to SG was computed on (basic value + ED charged by manufacturer).

Cascading Effect -- due to non-allowance of credit of central levy against state levy (& vice-versa)

- Trade liable to pay VAT was not allowed to take credit of ED paid on goods purchased from manufacturer.

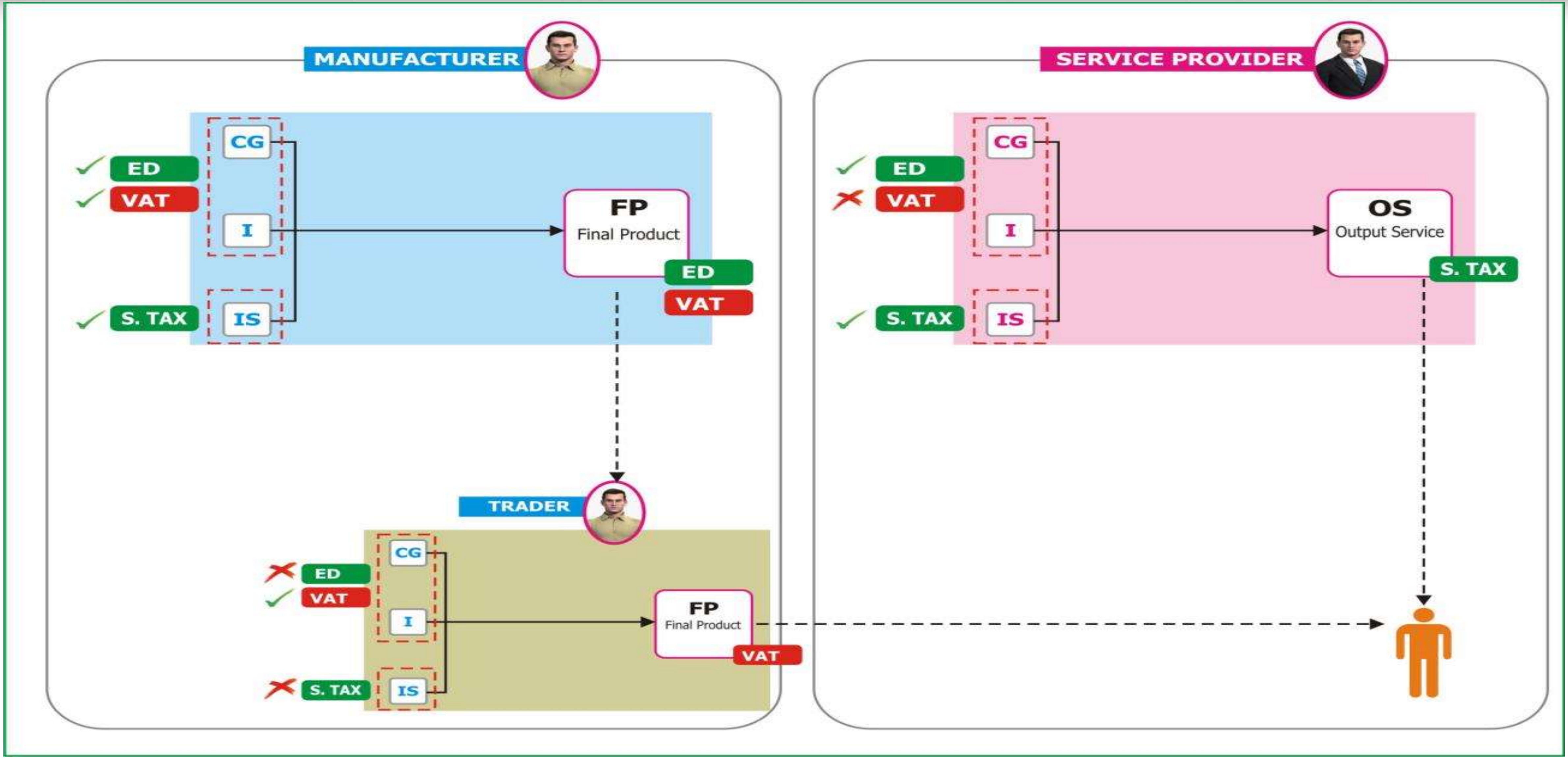
Cascading Effect -- due to inclusion of Non-VATable CST

- Central Sales Tax was payable in case of inter-state sales. CST was levied by CG but it was collected and retained by SG. CST was non-VATable (as State did not give credit of CST paid to other State Government)

Cascading Effect -- due to inclusion of credit of certain taxes/duties

- Under erstwhile regime, centre and State did not allow credit of certain levies levied by them respectively. For example, CG did not give credit of ‘Infrastructure Cess’ levied by them. Siimlary, SG did not give credit of of luxury tax, entertainment tax.

Taxation of Goods vs Taxation of Services



Cascading Effect -- due to non-integraton of VAT and Service Tax

- VAT payable to SG was computed on (basic value + ED charged by manufacture).

	Tax Liability on Output	**Credit Admissibility**	**Cascading Effect**
Manufacture	Manufacture: ED(CG) Sale: VAT (SG)	ED on Goods ST on Services VAT on Goods	-----
Dealer	Sale: VAT (SG)	No Credit of ED on Goods VAT on Goods No Credit of ST on services	<u>Cascading Effect</u>
Service Provider	Provisioning of Sr: ST (CG)	ED on Goods ST on Services No Credit of VAT on Goods	<u>Cascading Effect</u>

Problem of Taxation certain transaction—as goods or as service

Pre-GST Food Bill

Basic :	Rs. 1,000
13.5% VAT :	Rs. 135
5.6% Service Tax :	Rs. 56
0.2% Swachh Bharat Cess :	Rs. 2
0.2% Krishi Kalyan Cess :	Rs. 2
Total :	**Rs. 1,195**

Pre-GST Alocohol Bill

Basic :	Rs. 1,000
5% VAT :	Rs. 50
6% Service tax :	Rs. 60
Grand Total :	**Rs. 1,110**

Double Taxation -- due to same subject matter being treated as 'Goods' and 'Services

- **Over the years, distinction between goods and services has become haze, due to which there is overlapping of State VAT and CST on transaction like catering services (restaurant services and outdoor catering services).**
- Same transaction was getting taxed both by the CG and SG which is creating double taxation and resultant litigation

Miscellaneous other issues

- **<u>Multiple levies results into high compliance costs:</u>** Large number of taxes create high compliance cost for taxpayers in the form of number of return, payments, etc.

- **<u>No National market -- due to barriers of taxes:</u>** India did not have a national market due to invisible barriers of CST and Entry tax.

GST is expected to be cure of ills of existing indirect tax regime

Supply of goods as well as services is taxed with GST only.

Manufacture and trader are taxed alike – both being supplier of goods are liable to pay GST.

Supplier of is taxed in same manner as supplier of goods – both are liable to pay GST.

Under GST regime, flow of credit is seamless.

(seamless = smooth and continuous, with no apparent gaps or spaces in one part and the next)

Even inter-state supply is with seamless flow of credit.

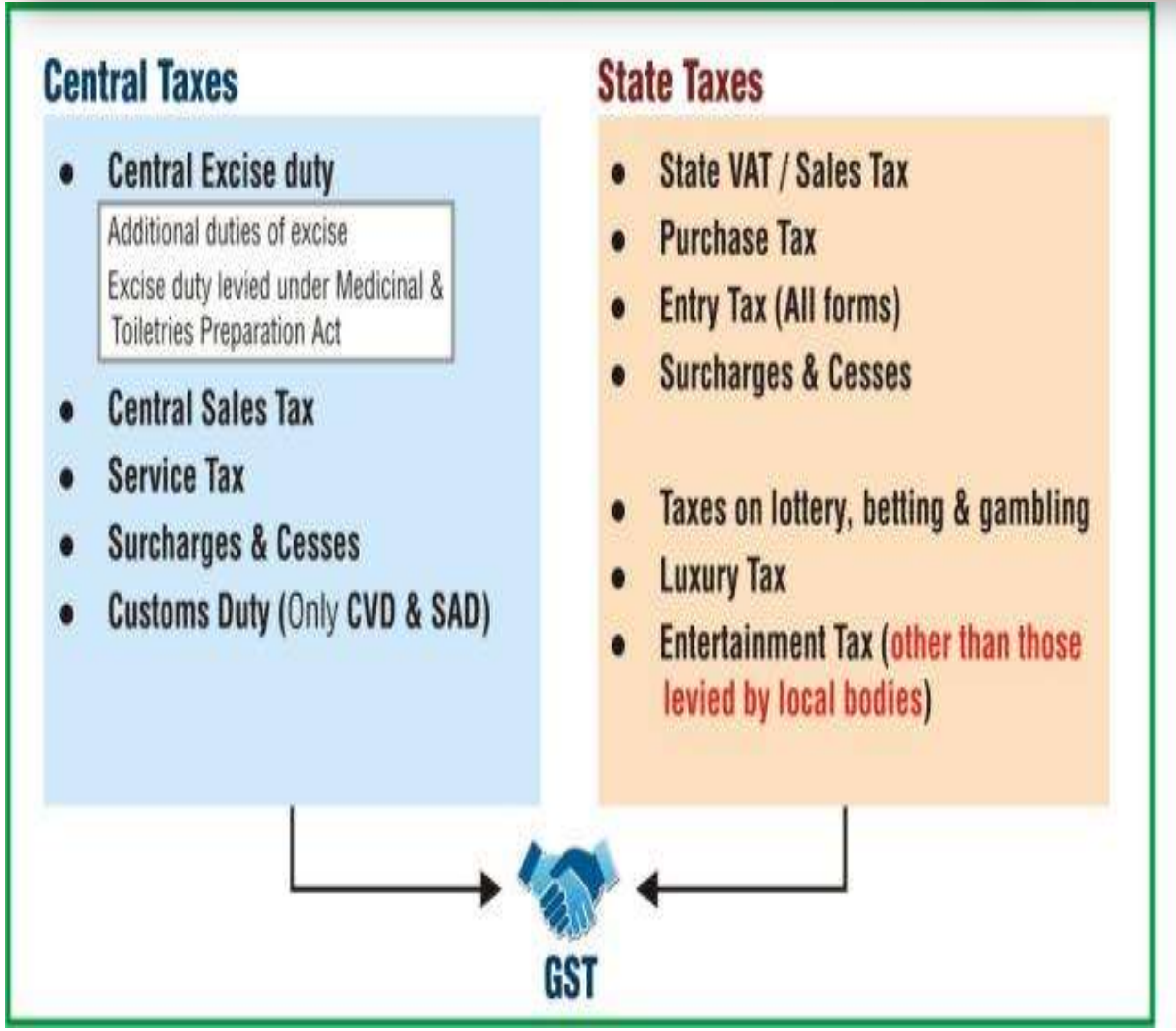
Thus, there will be no tax barrier – leading to 'ONE NATION, ONE TAX – ONE MARKET'

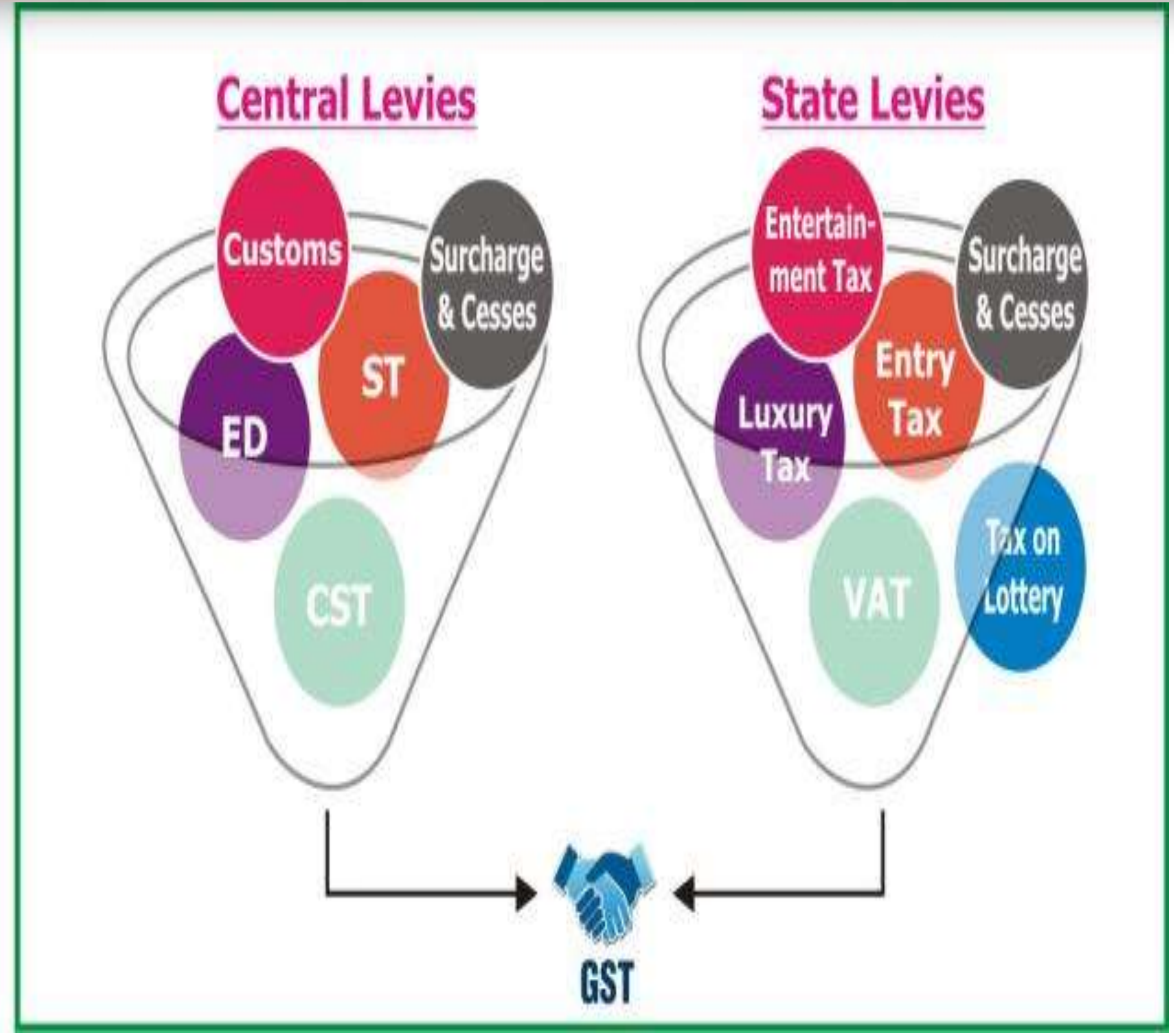
Under GST regime, any supply transaction is taxed either as supply of goods or as supply of services and thus, there is no double taxation.

Supply involving both supply of goods and services element is handled either as supply of goods or as supply of services.

Relevant provisions have been made in this regard under GST law.

GST has subsumed major indirect taxes and thereby resolving the problem of high compliances costs too.





Principles kept in mind while deciding about category of taxes to be subsumed in GST

- Taxes subsumed shall be in nature of indirect tax;
- Taxes subsumed shall be part of the transaction chain which commences with manufacture/production of goods or provision of services at one end and consumption of goods and services at the other;
- The subsumation shall result in free flow of credit at all levels – whether intra-state supplies or inter-state supplies;
- The submation shall result in revenue fairness to centre as well as state.

GST

Benefits of GST :

1. Benefits to Central/ State Government

Unified Common national market: GST aims to make India a common market with common tax rates and procedures and remove the economic barriers thus paving the way for an integrated economy at the national level.

Boost to export/ make in India: GST will give a major boost to the ‘Make in India’ initiative of the Government of India by making goods and services produced in India competitive in the national as well as international market.

Increase in revenue: GST is expected to bring buoyancy to the Government Revenue by widening the tax base and improving the taxpayer compliance

2.Benefits to Trade

1)A

- **Reduction in multiplicity of taxes:** GST will subsume majority of existing indirect tax levies both at Central and State level into one tax i.e, GST which will be leviable uniformly on goods and services.

B

- **Mitigation of cascading effect:** By subsuming most of the Central and State taxes into a single tax and by allowing a set-off of prior-stage taxes for the transactions across the entire value chain, it would mitigate the ill effects of cascading, improve competitiveness and improve liquidity of the businesses

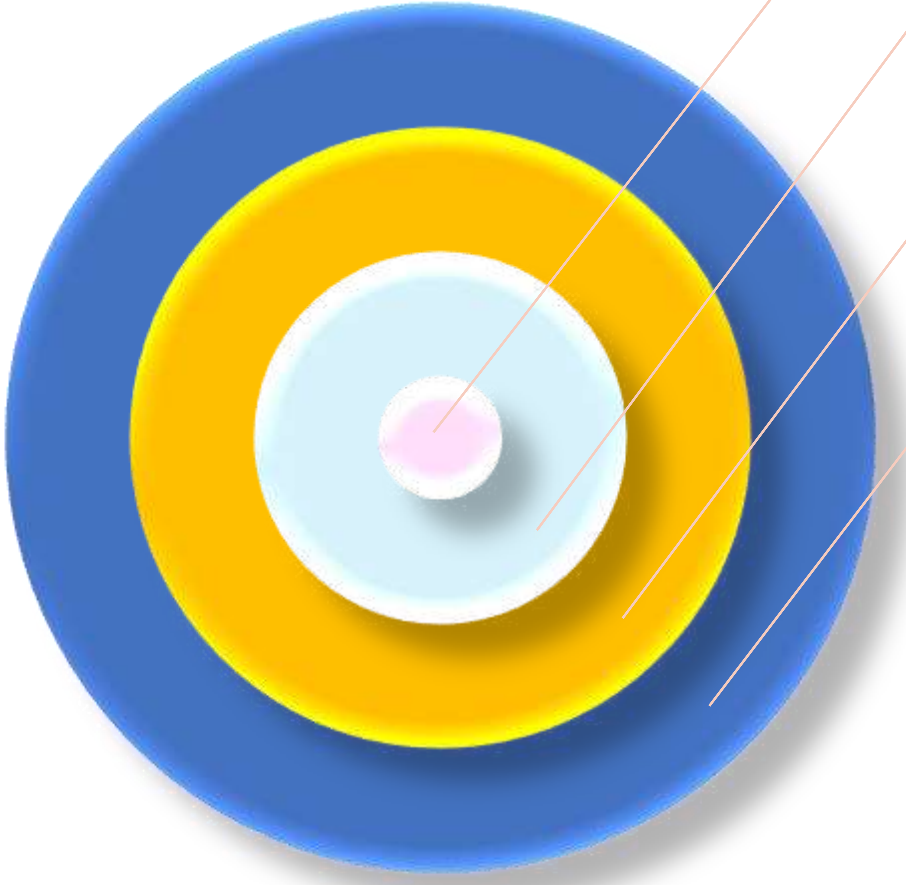
C

- **Mitigation of double taxation:** GST law makes provisions for treatment of composite/mixed supply either as treatment of goods and/or services, thereby mitigating the situation of double taxation.

D

- **Simple tax regime:**
  - Fewer rates
  - Fewer exemptions

3. Benefits to Consumer



Simpler tax system

Reduction in prices of goods due to elimination of cascading effect

Uniform prices throughout the country

What are the basic feature of GST ?

1. GST is an indirect tax.

"Indirect" means that *it is levied on the supply of goods and services*, rather than directly on income.

2. GST is a consumption Tax.

"Consumption tax" means, in economic terms, *that the tax is ultimately borne by consumers, not by suppliers (producers, traders or service providers).*

Business Entity, in reality, act as collector of tax for Government.

3. GST is also a VALUE ADDED TAX.

Value Added Tax refers to

… **any national tax** *by whatever name it is known such as GST*

… **that embodies the basic features of a value added tax, i.e,**

…. **a tax on final consumption**

…. **Collected form, but in principle not borne by, businesses through a staged Collection process.**

VAT is tax on household consumption

- **Burden of VAT should not rest on business.**

Staged collection process

- Tax is collected through a staged process.

  Each business in supply chain takes part in the process of

  …. Controlling and collecting the tax,

  …. Remitting the proportion of tax corresponding to its margin, i.e, on the difference between VAT imposed on its taxed inputs and VAT imposed on its taxed output.

Thus, tax is in principle collected on the 'value added' at each stage of production and distribution.

Chapter-3. GST AND CONSTITUTIONAL PROVISIONS

INDIAN CONSTITUTION

Question: Why does introduction of GST require a Constructional Amendment?	Currently, **the fiscal powers between the Centre and the States are clearly demarcated in the Constitution** with almost no overlap between the respective domains.
	The Centre has the powers to levy tax on the manufacture of goods (except alcoholic liquor for human consumption, opium, narcotics etc.) while the States have the powers to levy tax on the sale of goods. In the case of inter-State sales, the Centre has the power to levy a tax (the Central Sales Tax) but, the tax is collected and retained entirely by the States.
	As for services, it is the Centre alone that is empowered to levy service tax.
	Introduction of the GST required amendments in the Constitution so as to simultaneously empower the Centre and the States to levy and collect this tax. The Constitution of India has been amended by the Constitution (101st amendment) Act, 2016 for this purpose. **Article 246A of the Constitution empowers the Centre and the States to levy and collect the GST.**

Article 246-A : Special provision with respect to GST

1.Notwithstanding anything contained in articles 246 and 254,	Parliament, and,	subject to clause (2), the Legislature of every State**,	have power to make laws with respect to GST imposed by the Union or by such State.

Author: **Overriding effect:** Article 246-A overrides article 246 and 254. Article 246 deals with distribution of power and Article 254 deals with the effect of inconsistency between the law of Parliament and law of State Legislature. This has been done so as to provide a concurrent power to both Centre and States to levy GST without any issue of repugnancy or inconsistency, etc.

(2) Parliament has exclusive power to make laws with respect to GST where the **supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.**

Author: Supply taking place in course of inter-state trade or commerce shall be legislated exclusively by Parliament.

No State can legislate on such supply.

Explanation: The provisions of this article, shall, in respect of GST on following products, take effect from the date recommended by the GST Council:

petroleum crude, high speed diesel,

motor spirit (commonly known as petrol),

natural gas and

aviation turbine fuel

Article 286 : Restriction as to imposition of tax on supply of goods or services or both

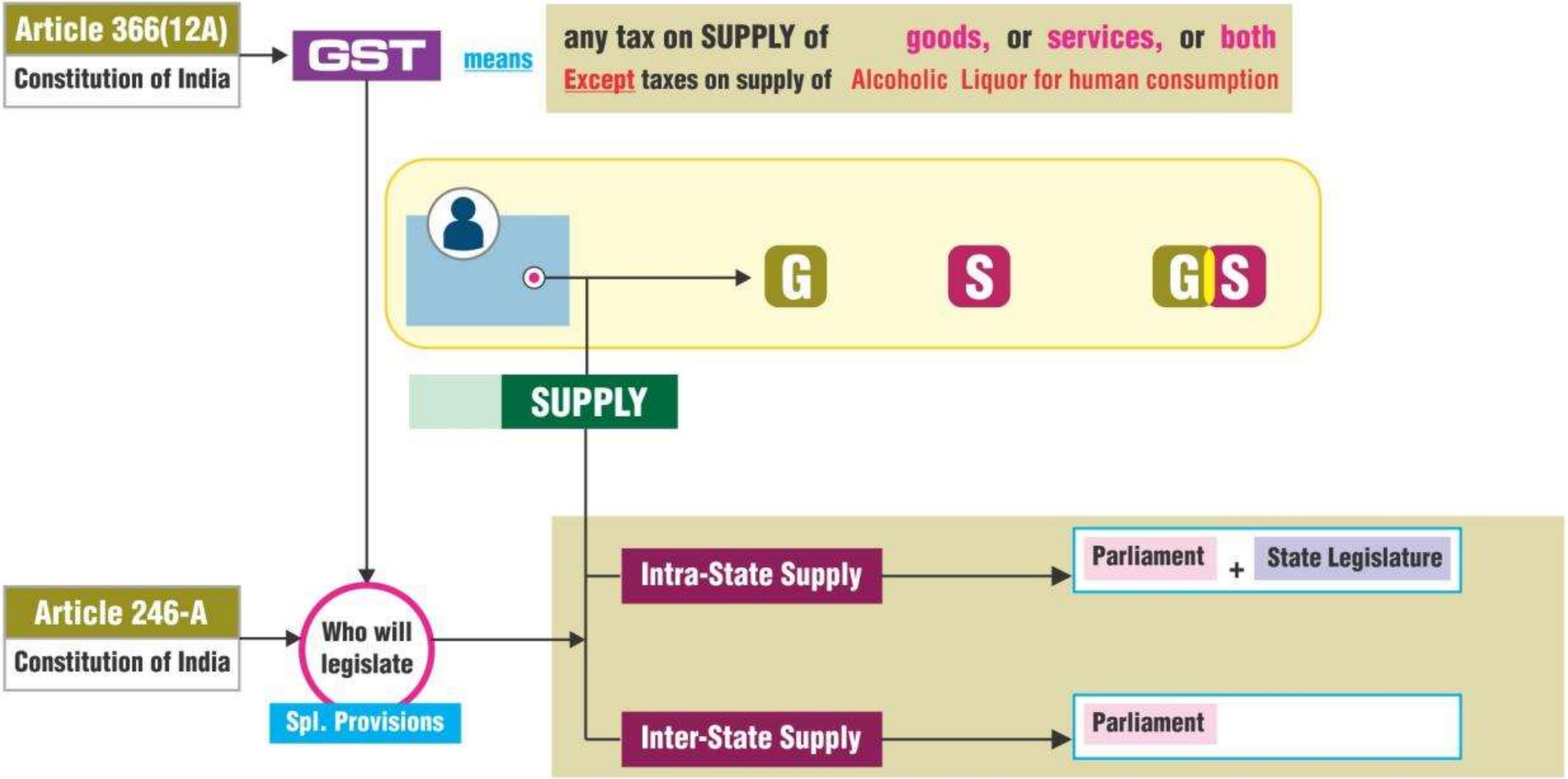
(1) No law of a State shall impose, or authorize the imposition of, a tax on the supply of goods or of services or both,

where such supply takes place-

(a)outside the State; or

(b)in the course of the import of the goods or services or both into, or export of the goods or services or both out of, the territory of India.

(2) Parliament may by law formulate principles for determining when a supply of goods or of services or both takes place in any of the ways mentioned in clause (1).



Article 366(12A)
Constitution of India
GST
means
any tax on SUPPLY of goods, or services, or both
Except taxes on supply of Alcoholic Liquor for human consumption
G
S
G S
SUPPLY
Article 246-A
Constitution of India
Who will legislate
Spl. Provisions
Intra-State Supply
Parliament
+
State Legislature
Inter-State Supply
Parliament

How would a particular transaction of goods and services be taxed simultaneously under Central GST (CGST) and State GST (SGST)?

The Central GST and the State GST would be levied simultaneously on every transaction of supply of goods and services.

Further, both would be levied on the same price or value.

Thus, GST in India = Dual GST

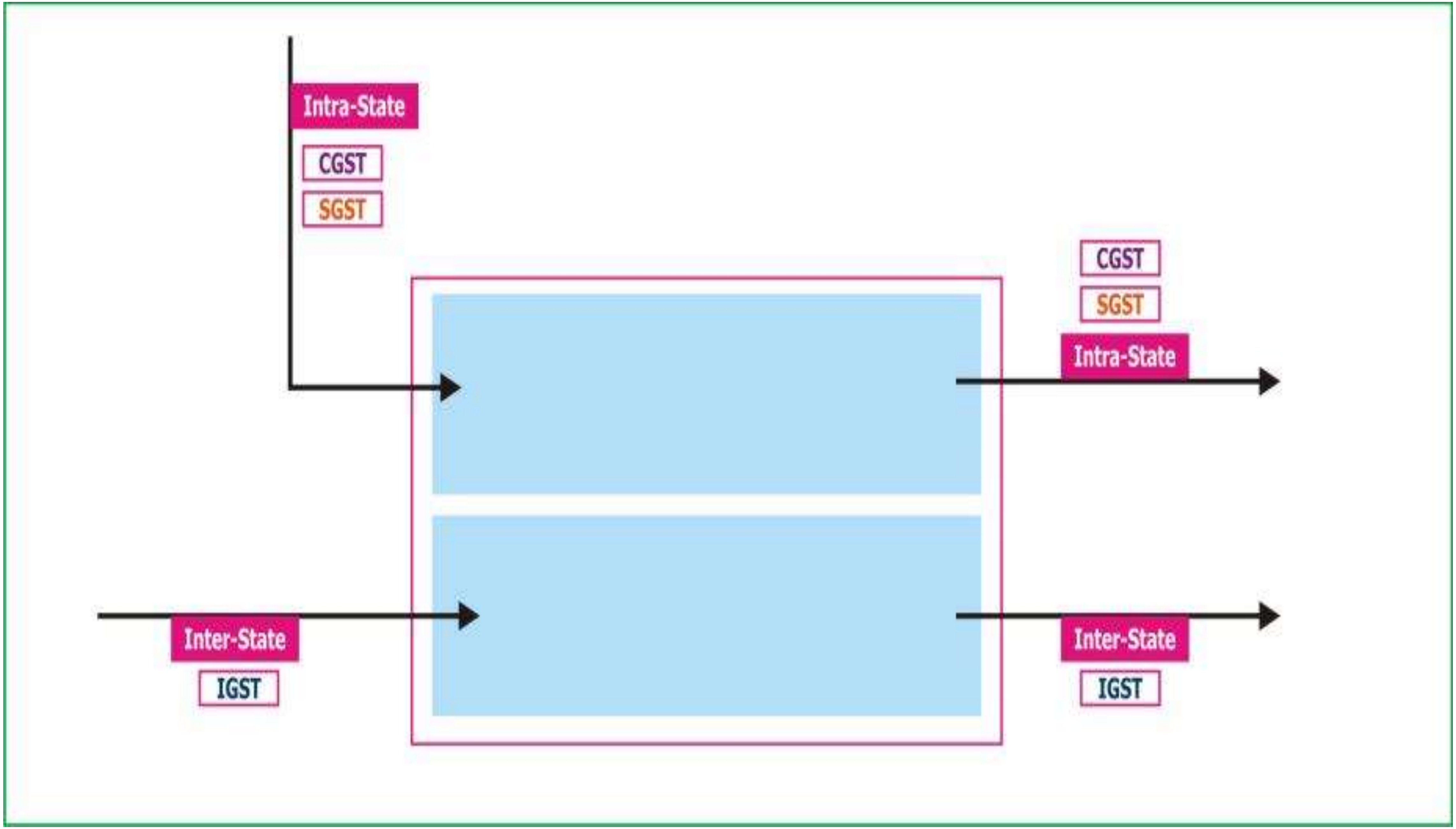
Illustration I: (Intra-state supply of goods on which the rate of CGST is 10% and that of SGST is 10%.)

A wholesale dealer of steel in UP has made intra-state supply of steel bars and rods to a construction company.

GST LIAB	AMT	PAYABLE TO
CGST	100*10% = 10	CG
SGST	100*10% = 10	SG

	CGST	SGST
Gross GST Payable	10	10
Less ITC	(CGST)	(SGST)
Net GST Payable	XXX	XXX

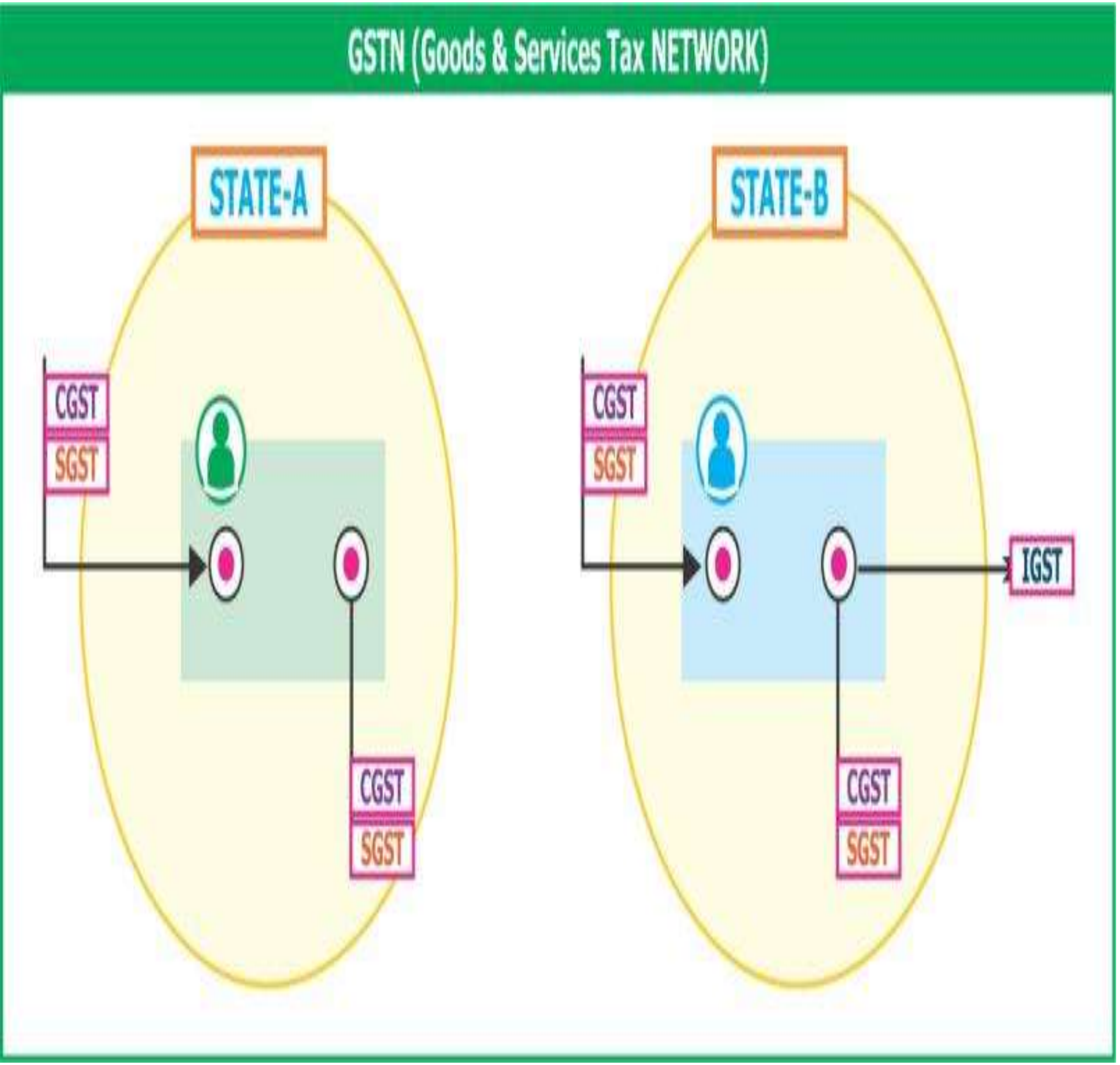
Credit of CGST – To be utilized for payment of CGST
Credit of SGST – To be utilized for payment of SGST


Intra-State
CGST
SGST
CGST
SGST
Intra-State
Inter-State
IGST
Inter-State
IGST

How will be Inter-State Transactions of Goods and Services be taxed?

Centre would levy IGST which would be CGST plus SGST on all inter-State transactions of taxable goods and services.

The inter-State seller/supplier will pay IGST on value addition after adjusting available credit of IGST, CGST, and SGST on his purchases.



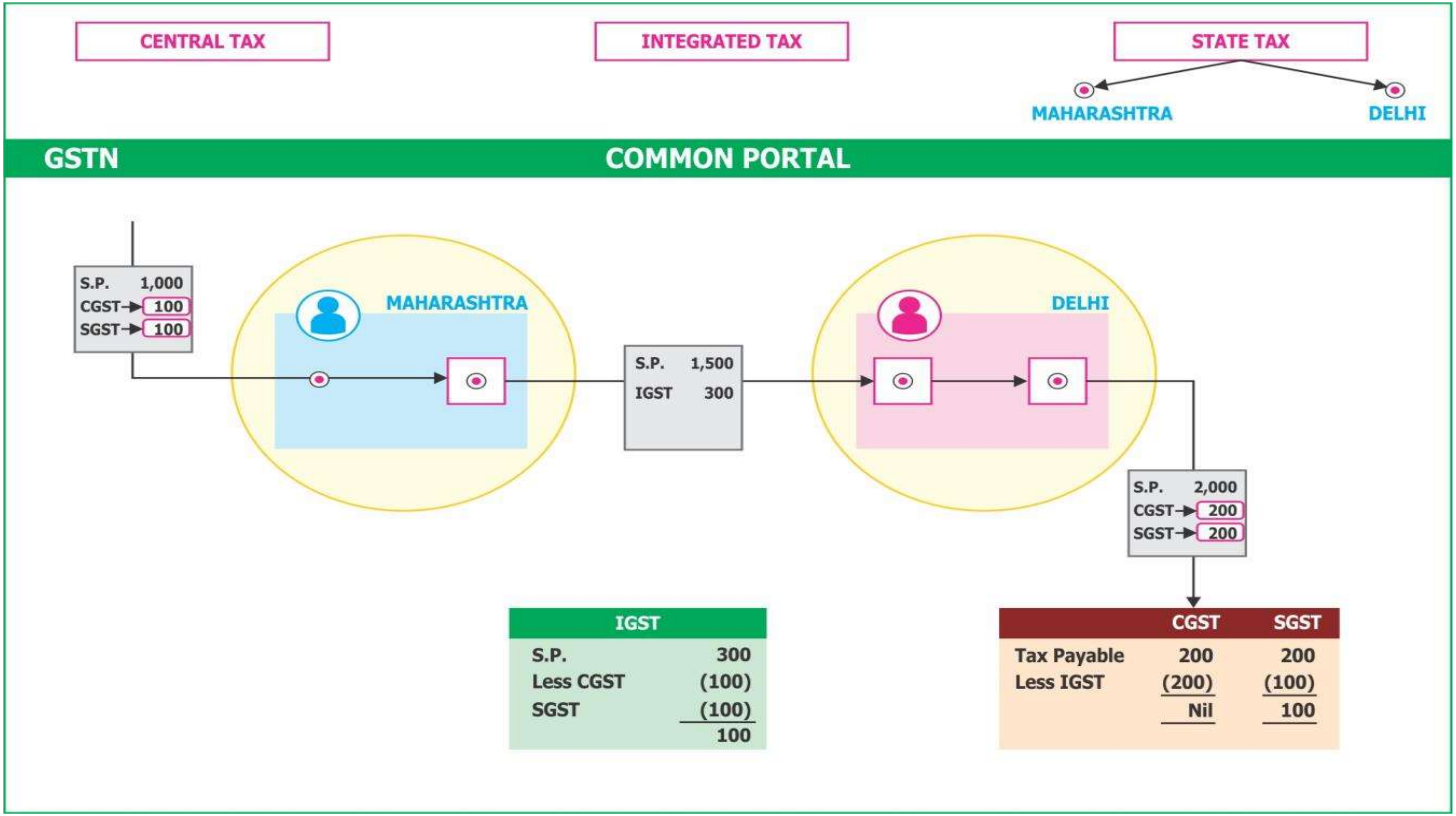
Nature of ITC	Sequence of Utilization of ITC for Payment of		
	First	Second	Next
IGST	IGST	CGST	SGST
CGST	CGST	IGST	-
SGST	SGST	IGST	-

Supplier in Exporting State

Supplier will do following	Central Agency will do following
IGST (ITC) set-off against IGST (output liability)	Nothing to be done
CGST (ITC) set-off against IGST (output liability) [Sec 53 of CGST Act]	CGST (ITC) so set off shall be transferred **from** Central tax account **to** Integrated Tax Account maintained by it.
SGST (ITC) set-off against IGST (output liability) [Sec 53 of SGST Act]	SGST (ITC) so set off shall be transferred **from** State tax account **to** Integrated Tax Account maintained by it.

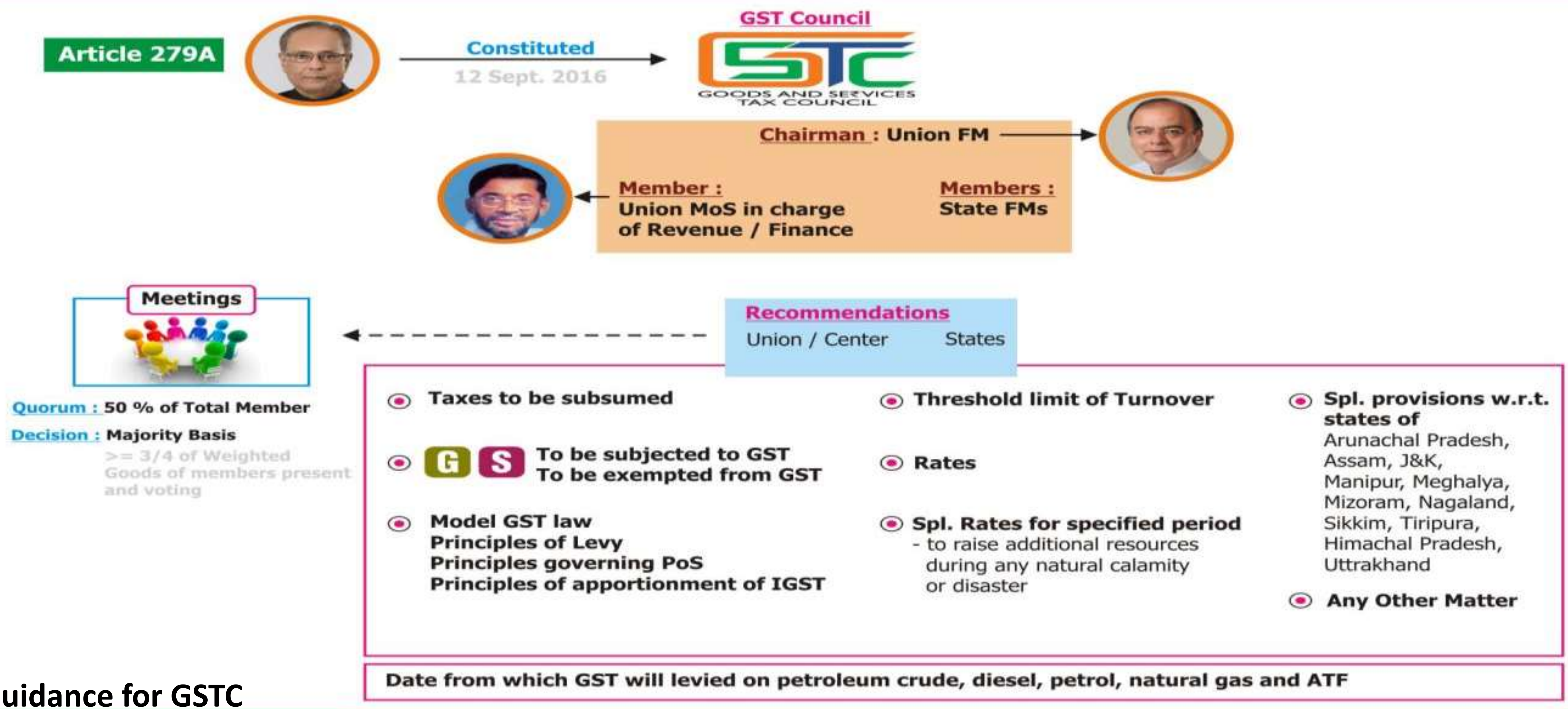
Recipient Supplier in Importing State

Supplier will do following	Central Agency will do following
IGST (ITC) set-off against IGST (output liability)	Nothing to be done
IGST (ITC) set-off against CGST (output liability) [Sec 19 of IGST Act]	IGST (ITC) so set off shall be transferred **from** Integrated tax account **to** Central Tax Account maintained by it
IGST (ITC) set-off against SGST (output liability) [Sec 19 of IGST Act]	IGST (ITC) so set off shall be transferred **from** Integrated tax account **to** State Tax Account maintained by it.



CENTRAL TAX
INTEGRATED TAX
STATE TAX
MAHARASHTRA
DELHI
GSTN
COMMON PORTAL
S.P. 1,000
CGST 100
SGST 100
MAHARASHTRA
S.P. 1,500
IGST 300
DELHI
S.P. 2,000
CGST 200
SGST 200
IGST
S.P. 300
Less CGST (100)
SGST (100)
100
CGST SGST
Tax Payable 200 200
Less IGST (200) (100)
Nil 100

ARTICLE 279-A: GST Council



Guidance for GSTC

While discharging the functions conferred by Article 279-A, the GSTC shall be guided by the need –

...For a harmonized structure of GST and

...For the development of a harmonized national market for the GST.

GST COMMON PORTAL

GST COMMON PORTAL:

Under GST, taxpayer interface with the Government (CG or SG) is through a common portal

This portal is, therefore, referred as common portal. It is www.gst.gov.in.

Goods and Services Tax Network

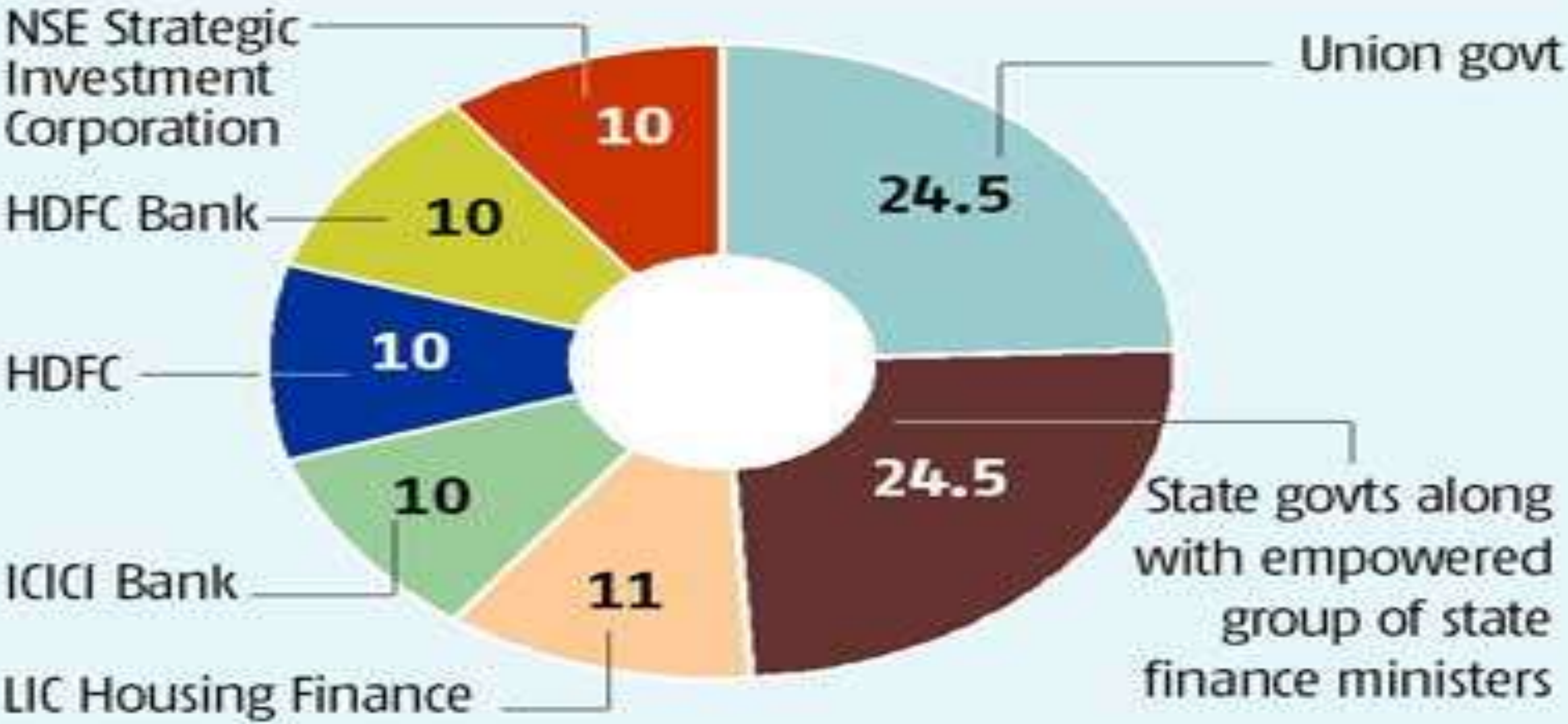
This portal has been developed by GSTN (Goods and Service Tax Network).

GSTN is a company incorporated under provisions of Sec 8 of the Companies Act, 2013 (i.e. a not for profit company)

It is a non-government, private limited company. (but still in view of the sensitivity of the information that would be available with the agency which will put in place the IT Infrastructure, the Government has maintained strategic control over the agency)

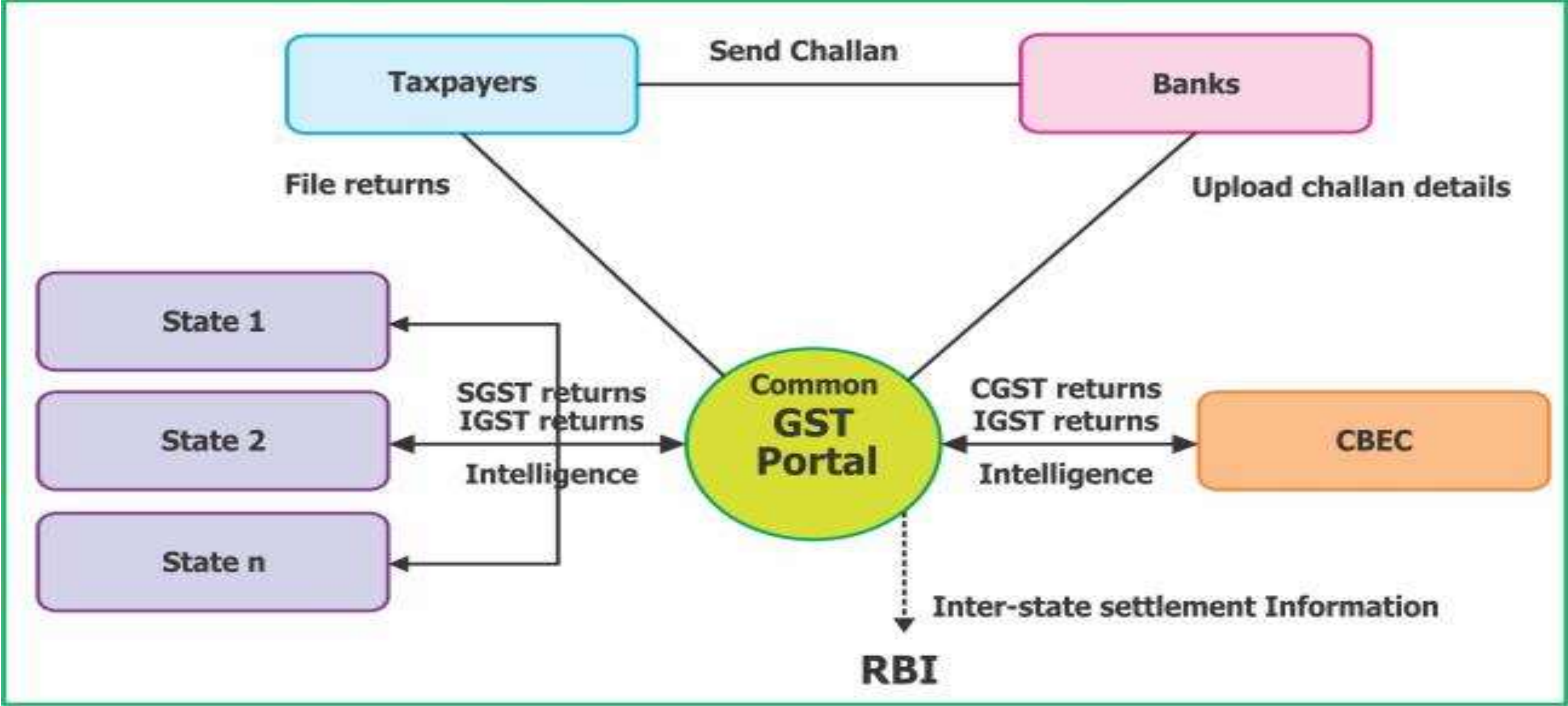
GSTN SHAREHOLDING

(%)



Source: GSTN

GTSN has been set up to provide IT infrastructure and services to the Central and State Governments, tax payers and other stakeholders for implementation of the GST.



The functions of the GSTN include:

- *Facilitating registration;*
- *forwarding the returns to Central and State authorities;*
- *computation and settlement of IGST;*

matching of tax payment details with banking network;

- *providing various MIS reports to the Central and the State Governments based on the taxpayer return information;*
- *providing analysis of taxpayers' profile; .*

The GST Common Portal will be the **single interface for all taxpayers from any part of the country.**

For all cases like tax payment, return filing, refund claim filing, appeals filing etc.

GST Common Portal will be the only interface for the taxpayer

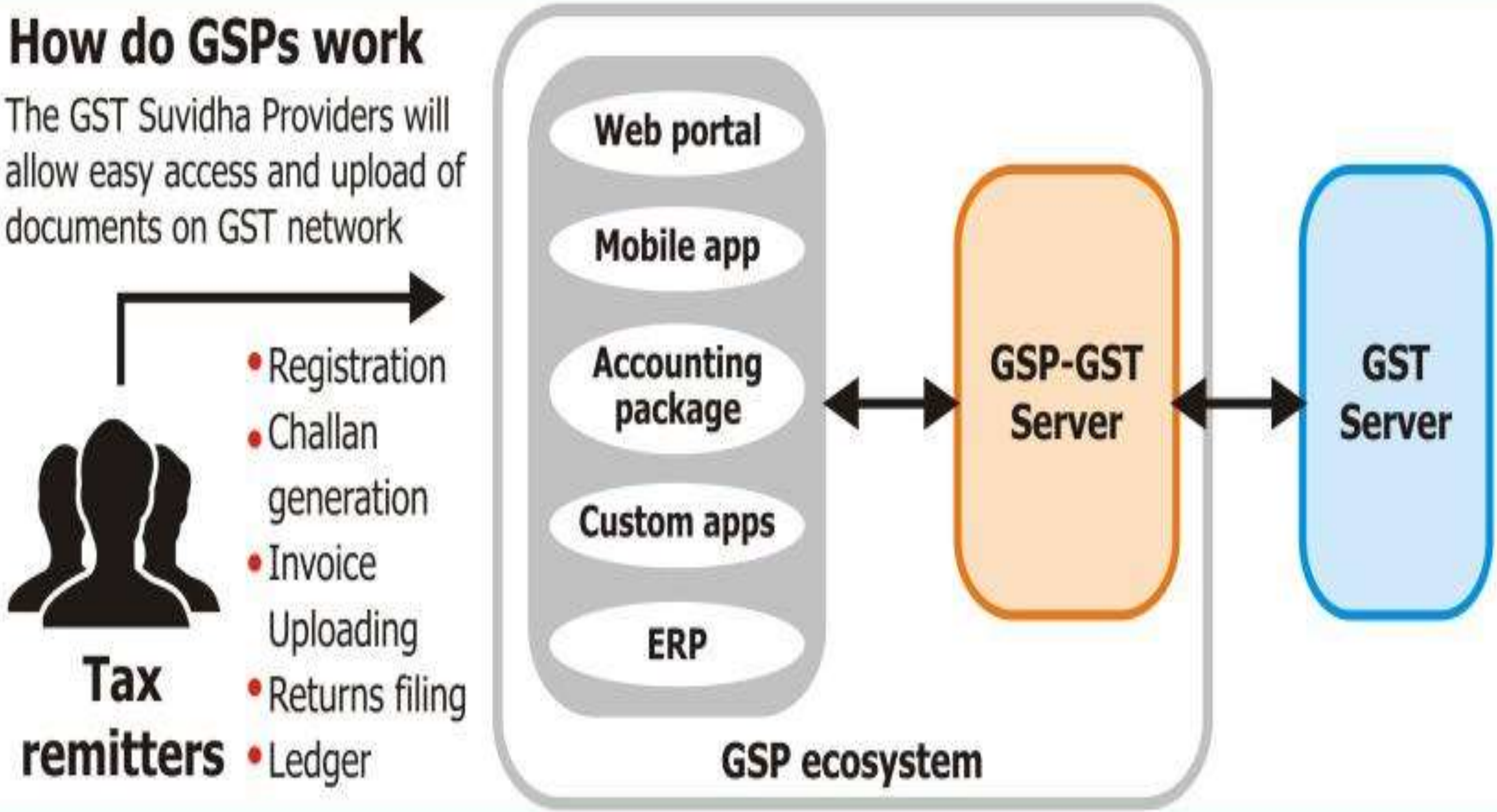
Only in cases where a taxpayer is picked up for scrutiny or audit, will the taxpayer be required to interface with the respective tax authority.

GSPs(GST Suvidha Provider)

- GSTN has selected certain IT and financial technology companies, to be called GST Suvidha Providers (GSPs).
- GSPs develop applications to be used by taxpayers for interacting with the GSTN.
- They facilitate the tax payers in uploading invoices as well as filing of returns and act as a single stop shop for GST related services.
- They customize products that address the needs of different segment of users.
- GSPs may take the help of Application Service Providers (ASPs) who act as a link between taxpayers and GSPs.

How do GSPs work

The GST Suvidha Providers will allow easy access and upload of documents on GST network



Insertion of 246-A + Amendment in Article 246

Distribution of powers as per Article 246: Amendment to Union List and State List post insertion of Article 246-A

List I – Union List

82 Taxes on Income other than agricultural income.

83 Duties of customs including export duties.

84 ~~Duties of excise on tobacco and other goods manufactured or produced in India Except~~

~~(a) alcoholic liquor for human consumption~~

~~(b) opium, Indian hemp and other narcotic drugs and narcotics but including~~

~~Medicinal and toilet preparations containing alcohol, opium Indian hemp and other narcotic drugs and narcotics~~

List II – State List

46 Taxes on agricultural income.

51 Duties of excise on the following goods manufactured or produced in the State

(a) alcoholic liquor for human consumption

(b) opium, Indian hemp and other narcotic drugs and narcotics

but including-

Medicinal and toilet preparations containing alcohol, opium Indian hemp and other narcotic drugs and narcotics

List I – Union List

Duties of excise on following goods manufactured or produced in India

(a) Petroleum crude;

(b) High Speed Diesel;

(c) Motor spirit (commonly known as petrol);

(d) Natural gas;

(e) Aviation Turbine fuel;

(f) Tobacco and tobacco products.

92-A Taxes on sale or purchase of goods*, where such sale or purchase takes place in course of the inter-state trade or commerce

92-C ~~Taxes on services~~

97 Any other matter nor enumerated in List II or List III including any tax not mentioned in either of those lists

List II – State List

54 ~~Taxes on sale or purchase of goods,~~ ~~subject to provisions of Entry 92-A of List~~1

Taxes on sale of

(a) Petroleum crude;

(b) High Speed Diesel;

(c) Motor spirit (commonly known as petrol);

(d) Natural gas;

(e) Aviation Turbine fuel;

(f) Alcoholic Liquor for Human Consumption

But not including

....sale in the course of inter-state trade or commerce

TAXATION – Post GST Law

	(Supply) GST	(Production) ED	(Sale) VAT	CST
1. Alcoholic Liquor for Human Consumption	No (never)	Yes (State Excise)	Yes (State VAT)	Yes
Opium/ Indian hemp narcotics	Yes	Yes Excise	No	No
2. Tobacco & tobacco products	Yes	Yes [*1] (Central Excise)	No	No[*2]
3. Petroleum crude; High Speed Diesel; Motor spirit (commonly known as petrol); Natural gas; Aviation Turbine fuel;	No (for the time being)	Yes [*1] (Central Excise)	Yes (State VAT)	Yes
4. Others	Yes	No[*1]	No	No[*2]

***1: Amendment to Entry No. 84 of Constitution + Amendment made in Central Excise Act, 1944 <u>(by Taxation Law Amendment Act, 2017)</u>**

***2: Amendment made in Central Sales Tax Act, 1956 (by Taxation Law Amendment Act, 2017)**

Illustration

Company	Activity		Treatment under GST Law			
			Supply	GST Rate	Value	
Pioneer Distilleries	Manufacture and sale of A/L for Human consumption		**Non-taxable Supply**	-------	-------	------
Delhi Aviation Pvt. Ltd.	Manufacture and sale of ATF (Aviation Turbine Fuel)		**Non-taxable Supply**	-------	-------	------
Godfrey Phillips India Ltd.	Manufacture and sale of Tobacco products		**Taxable Supply**	28% (As notified by **GST Council)**	**Transaction Value** (generally)	

Article 246-A : Special provision with respect to GST

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petroleum crude, high speed diesel,

motor spirit (commonly known as petrol),

natural gas and

aviation turbine fuel

Constitution of India

Article 269-A Levy and collection of GST in course of inter-State trade or commerce

- (1) GST on supplies in the course of inter-State trade or commerce shall be
  ….levied and collected by the Government of India and
  ….such tax shall be ***apportioned*** ***between the Union and the States***
  …..in the manner
  ….as may be provided by Parliament by law on the recommendations of the GST Council.

Explanation.-*For the purposes of this clause,*

supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.

Article 269-A Levy and collection of GST in course of inter-State trade or commerce

(5) Parliament may, by law, formulate the principles for determining
...the place of supply, and
...when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

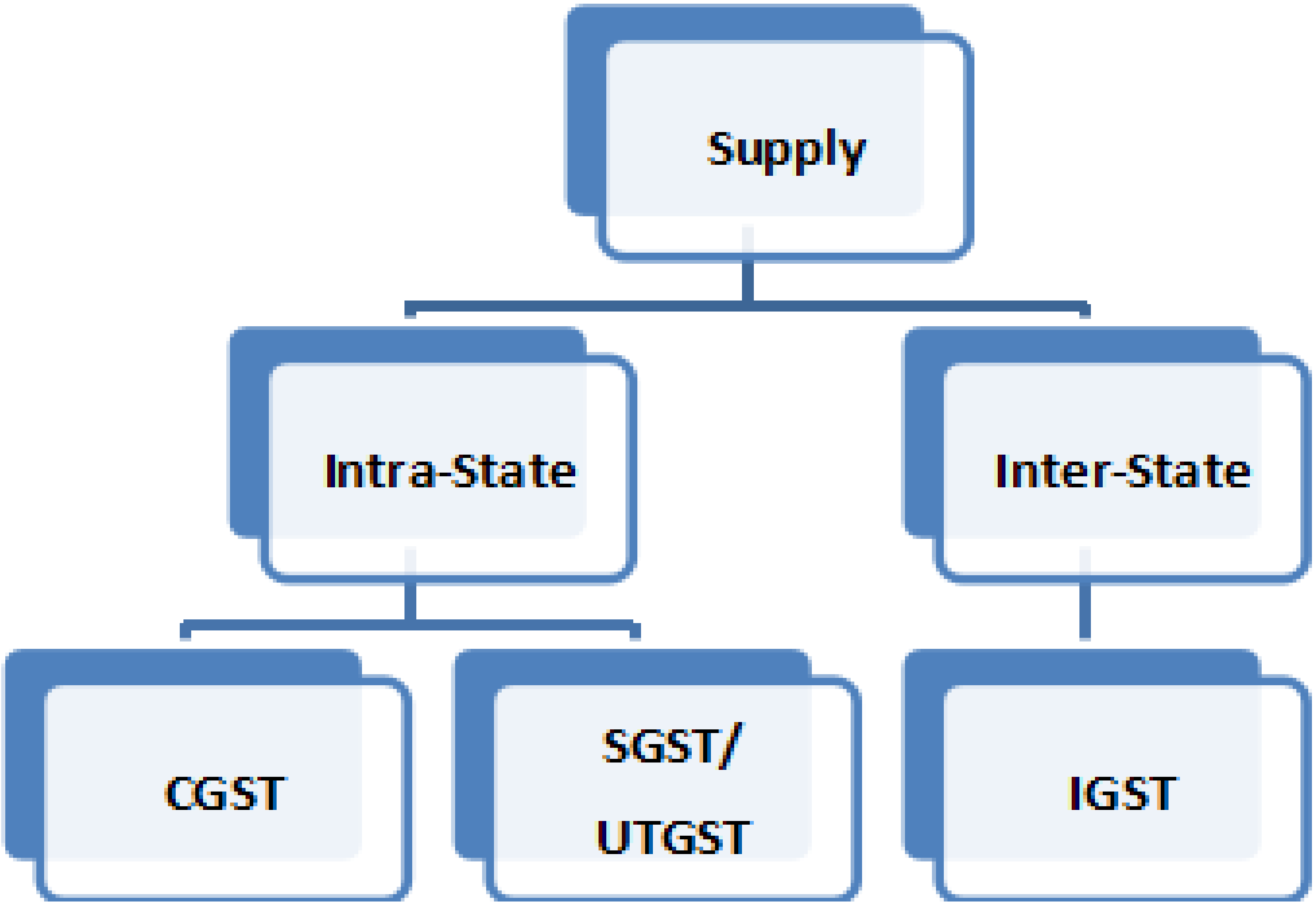
Author : IGST Act has been made by Parliament has these purposes.	
Principles for determination of place of supply	
POS of Goods	**Sec 10 + Sec 11**
POS of Services	**Sec 12 + Sec 13**
Principles for determination nature of supply – Inter-State supply or Intra-State Supply	
Inter-State Supply:: Sec 7	**Intra-State Supply:: Sec 8**

ADMINISTRATIVE ASPECT: OFFICERS:

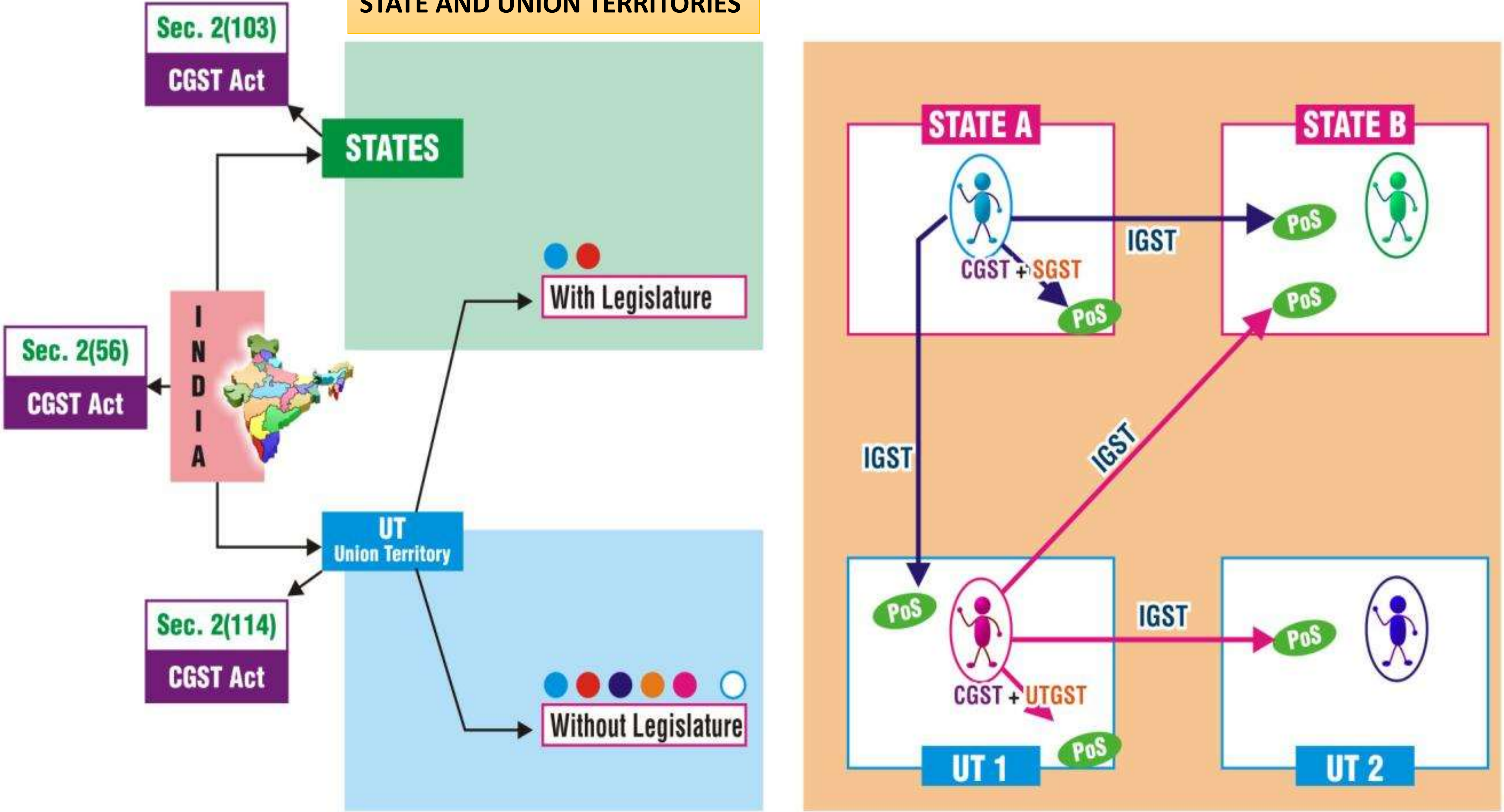
	INTRA-STATE SUPPLY			INTER-STATE SUPPLY
	CGST	SGST	UTGST	IGST
Class of Officers	**Sec 3:** ***Different class of Officers***		**Sec 3:** ***Different class of Officers***	**IGST Rules, 2017**
Appointment of Officers	**Sec 3:** ***CG will appoint officers*** *(by notification)*		**Sec 3:** ***Administrator* will appoint officers*** *(by notification)*	
	Sec 4: ***CBEC may also appoint any person as officer.***			**Sec 3:** ***CBEC will appoint 'Central Tax Officer' for exercising powers under IGST Act.***

Powers of Officers	**Sec 5:** ~***Officers to exercise powers conferred by CGST Act.*** ~ *CBEC may impose conditions and limitation on exercise of powers.*	**-------**	**Sec 5:** ~ ***Officers to exercise powers conferred by UTGST Act.*** ~ ***Commissioner*** *may impose conditions and limitation on exercise of powers.*	**<u>IGST Rules, 2017</u>**
	~ *An officer can exercise power of his subordinate officers.* ~ ***Commissioner*** *(with approval of CBEC) can delegate his powers to his subordinate officers.*	**-------**	~ *An officer can exercise power of his subordinate officers.* ~ ***Commissioner*** *(with approval of CBEC) can delegate his powers to his subordinate officers.*	

Authorization of other GST officers	**Sec 6:** ~ ***Officers appointed u/SGST + Officers appointed u/UTGST = Authorized to act as proper officer under CGST Act*** *(subject to conditions as CG may specify)*	**-----**	**Sec 6:** ~ ***Officers appointed u/CGST Act = Authorized to act as proper officer under UTGST Act*** *(subject to conditions as CG may specify)*	**Sec 4:** ***Officers appointed u/SGST + Officers appointed u/UTGST = Authorized to act as proper officer under IGST Act*** *(subject to conditions as CG may specify)*
	PO under CGST Act – **passing order u/CGST Act** ~ Shall also pass order u/SGST Act or UTCGST Act ~ Such order shall be intimated to officer u/SGST or UTGST Act	------	PO under UTGST Act – **passing order u/UTGST Act** ~ Shall also pass order u/CGST Act ~ Such order shall be intimated to officer u/CGST Act	-----------
	PO under SGST Act/ UTGST Act initiated proceeding on any matter ~ PO under CGST Act shall not initiate any proceeding u/CGST Act.	-----	PO under CGST Act initiated proceeding on any matter ~ PO under UTGST Act shall not initiate any proceeding u/UTGST Act.	-----------
	Order passed by PO under CGST Act – **Rectification, appeal and revision shall not lie before** officer u/SGST or UTGST Act	-----	Order passed by PO under UTGST Act – **Rectification, appeal and revision shall not lie before** officer u/CGST Act	-----------


Supply
Intra-State
Inter-State
CGST
SGST/
UTGST
IGST

STATE AND UNION TERRITORIES



Constitution of India

Article 366(26-B) : 'State', with reference to *articles 246-A*, 269-A and 279-A, includes *'a Union Territory with State Legislature'* .

Union Territories of India

1. India = Territory of 'States' + Territory of 'Union Territories' [Article 1]
2. States = 29 States
3. Union Territories = 7 UTs
4. Provisions relating to UTs

- Article 239: Administration of UT

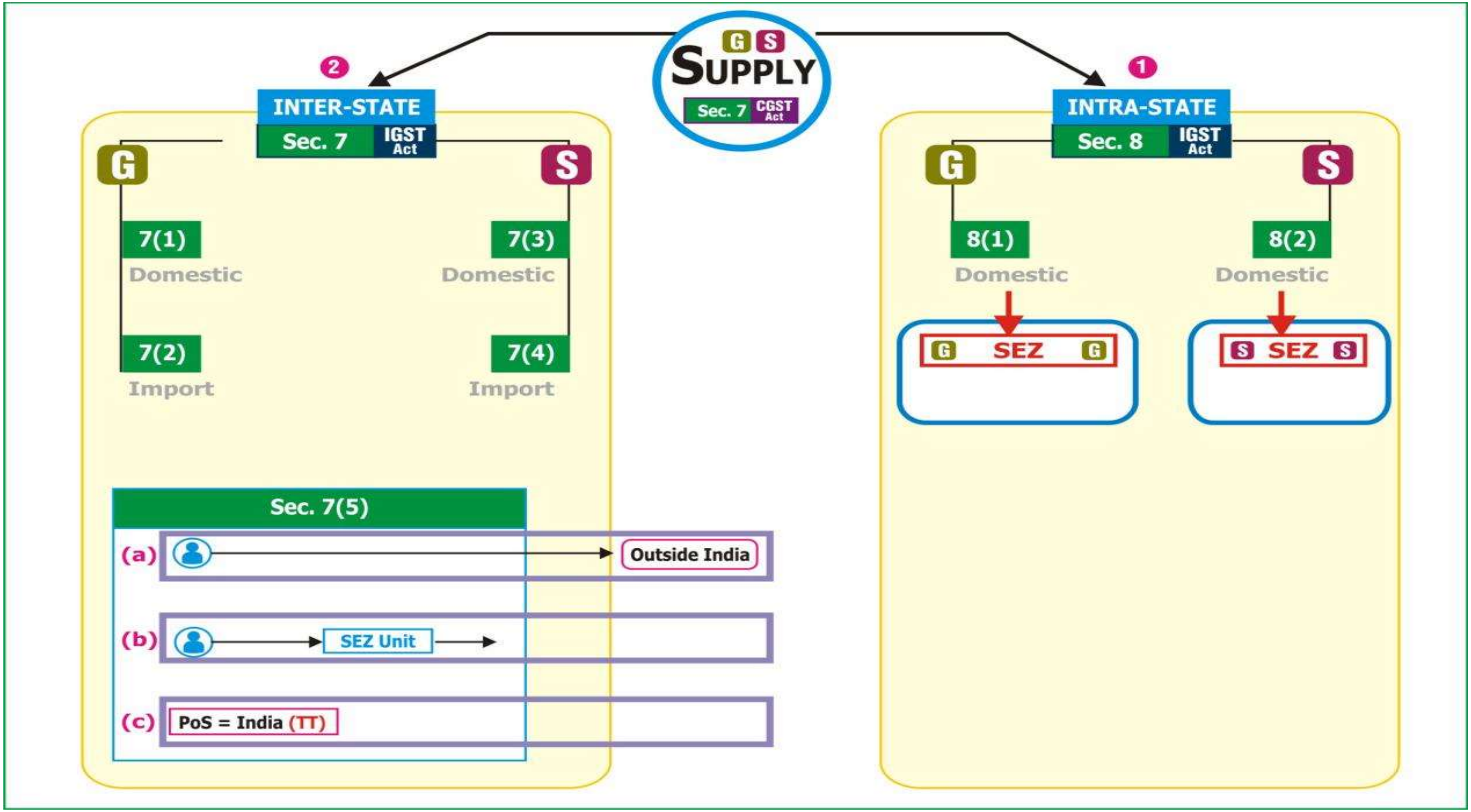
  [UT is administered by President, acting through an administrator]

- Article 239-A: Creation of local legislature for UT of Puducherry.

- Article 239-AA: Special Provisions w.r.t Delhi

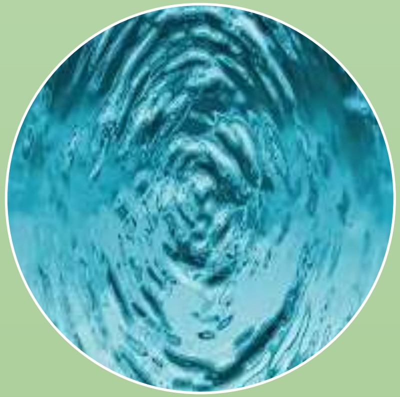
INTER STATE SUPPLY vs. INTRA STATE SUPPLY

Sec 7	Inter-State Supply	Sec 8	Intra-State Supply
7(1)	*Subject to the provisions of section 10* (*Sec 10 = Determination of place of supply), supply of goods, where the location of the supplier and the place of supply are in— (a) *two different States*; (b) *two different Union territories*; or (c) *a State and a Union territory*, shall be treated as a supply of goods in the course of inter-State trade or commerce.	8(1)	*Subject to the provisions of section 10* (*Sec 10 = Determination of place of supply), supply of goods,— where the location of the supplier and the place of supply are in— … *same State*; … *same Union territory*; shall be treated as intra-State supply. *Excluded from Intra-State, shall always be treated as Inter-State Supply* Provided that the following supply of goods shall not be treated as intra-State supply, *namely:*— (i) supply of goods to *or* by a SEZ developer or a SEZ unit;
7(2)	Supply of goods imported into the territory of India, *till they cross the customs frontiers of India*, *shall be treated to be a supply of goods in the course of inter-State trade or commerce.*		
7(3)	*Subject to the provisions of section 12* (*Sec 12= Determination of place of supply), supply of services,— where the location of the supplier and the place of supply are in— (a) *two different States*; (b) *two different Union territories*; or (c) *a State and a Union territory*, shall be treated as a supply of services in the course of inter-State trade or commerce.	8(2)	*Subject to the provisions of section 12* (*Sec 12= Determination of place of supply), supply of services,— where the location of the supplier and the place of supply are in— … *same State*; … *same Union territory*; shall be treated as intra-State supply. *Excluded from Intra-State, shall always be treated as Inter-State Supply* Provided that the intra-State supply of services shall not include supply of services to *or* by a SEZ developer or a SEZ unit.,
7(4)	Supply of services imported into the territory of India shall be treated to be a supply of services in the course of inter-State trade or commerce		Explanation 1.—For the purposes of this Act, where a person has,— *(i)* ***an establishment in India and any other establishment outside India;*** *(ii) an establishment in a State or Union territory and any other establishment outside that State or Union territory; or* *(iii) an establishment in a State or Union territory and any other establishment being a business vertical registered within that State or Union territory,* then such establishments shall be treated as establishments of distinct persons.
7(5)	Supply of goods or services or both,— (a) when the supplier is located in India and the place of supply is outside India; (b) to *or* by a SEZ developer or a SEZ unit; or (c) in the taxable territory, not being an intra-State supply and not covered elsewhere in this section, shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce.		



G S
SUPPLY
Sec. 7 CGST Act
2
INTER-STATE
Sec. 7 IGST Act
G
S
7(1)
Domestic
7(2)
Import
7(3)
Domestic
7(4)
Import
Sec. 7(5)
(a)
Outside India
(b)
SEZ Unit
(c)
PoS = India (TT)
1
INTRA-STATE
Sec. 8 IGST Act
G
S
8(1)
Domestic
8(2)
Domestic
G SEZ G
S SEZ S

SECTION 9: Supplies in Territorial Waters



(a) ***<u>Where the location of the supplier is in the territorial water</u>***

(b) ***<u>Where the place of supply is in the territorial waters.</u>***

the location of such supplier; or

the place of supply,

shall, for the purposes of this Act,

be <u>deemed to be</u> in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

Not withstanding anything contained in this Act

Author:

TERRITORIAL WATERS OF INDIA (TWI)= 12 NAUTICAL MILES

Status of such person/ supply for purposes of GST Law

Supplier located in TWI

- Location of supplier shall be treated to be in **Coastal State or Union Territory where the nearest point of appropriate baseline is located.**

Place of Supply = TWI

- Place of supply shall be treated to be in **Coastal State or Union Territory where the nearest point of appropriate baseline is located.**

Illustration (ICAI BGM)

1. Supply transaction: Repair of ship (which is moored off in coast of Kochi)

- **Supplier:** A Ltd, company in Delhi **Recipient**: C Ltd, company in UK **Place of supply=** Location of Ship
- By application of Sec 9, Place of Supply will not be the waters but Kochi.
- Now, supplier in one state and place of

STATE AND UNION TERRITORIES

INDIA
[Sec 2(56) of CGST Act]

"India" means

the territory of India as referred to in article 1 of the Constitution,

its territorial waters, seabed and sub-

soil underlying such waters,

continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, **and**

the air space above its territory and territorial waters;

= STATE
[Sec 2(103) of CGST Act]

"State" includes a Union territory with

Author Legislature.

1. State includes Union Territories with legislature.
2. Delhi and Puducherry are

two such states. These shall have SGST Act.

+ UNION TERRITORY
[Sec 2(114) of CGST Act]

"Union territory" means the territory of—

(a) the Andaman and Nicobar Islands

(b) Lakshadweep

(c) Dadar and Nagar Haveli

(d) Daman and Diu

(e) Chandigarh; and

(f) Other territory*

Explanation.—For the purposes of this Act, each of the territories specified in sub-clauses (a) to (f) shall be considered to be a

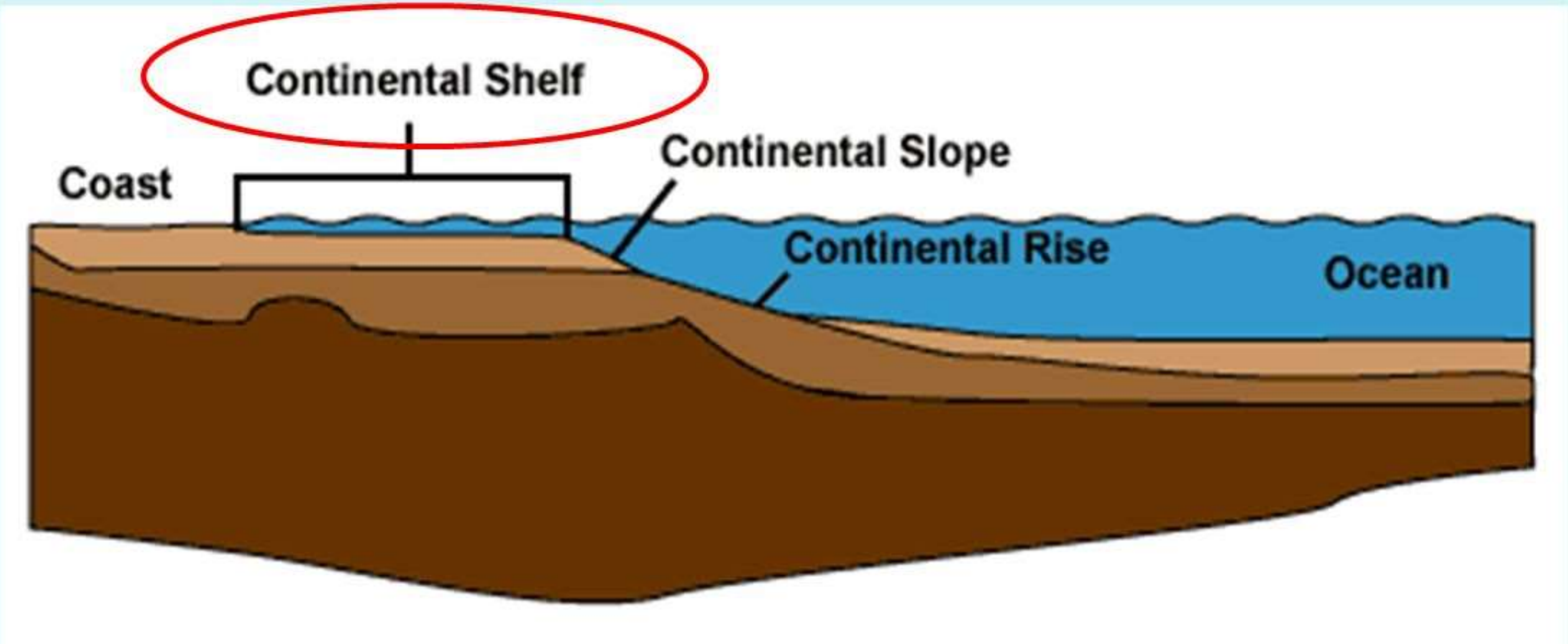
separate Union territory;

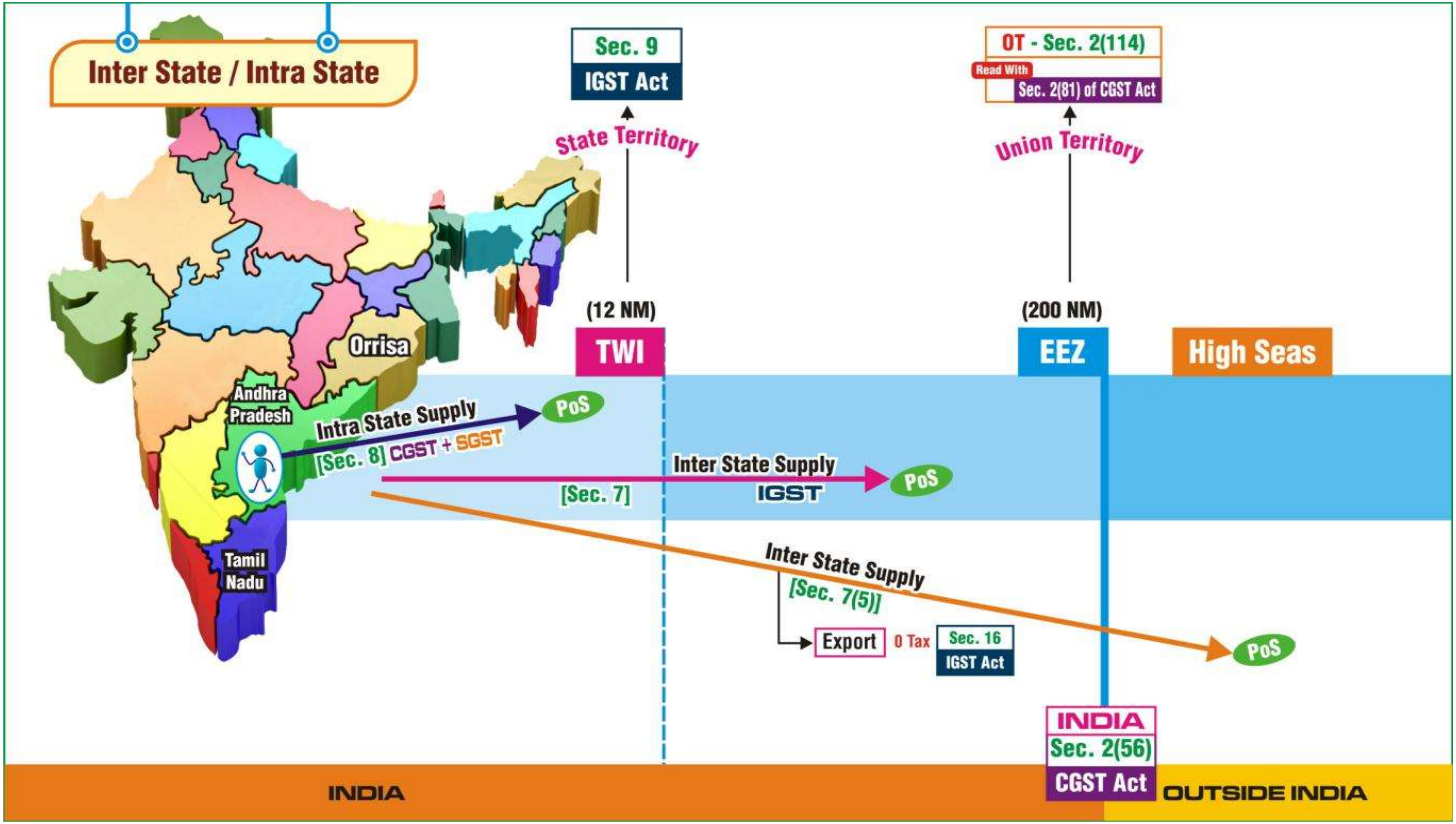
OTHER TERRITORY - [Sec 2(81) of CGST Act]

"Other territory" includes territories other than those comprising in a State and those referred to in sub-clauses (a) to (e) of clause (114);

1A) CONTINENTAL SHELF

- Gently <u>sloping</u> land area along the edges of continents




Inter State / Intra State
Sec. 9
IGST Act
State Territory
OT - Sec. 2(114)
Read With
Sec. 2(81) of CGST Act
Union Territory
(12 NM)
TWI
(200 NM)
EEZ
High Seas
Orrisa
Andhra Pradesh
Tamil Nadu
Intra State Supply
[Sec. 8] CGST + SGST
PoS
Inter State Supply
IGST
[Sec. 7]
PoS
Inter State Supply
[Sec. 7(5)]
Export
0 Tax
Sec. 16
IGST Act
PoS
INDIA
Sec. 2(56)
CGST Act
INDIA
OUTSIDE INDIA

SECTION 9:Supplies in TERRITORIAL WATERS.


India
भारत
State or Union Territory
National Capital
State or Union Territory Capital
0 200 400 Kilometers
0 200 400 Miles
© Nations Online Project
Turkmenistan
Uzbek.
Tajikistan
Afghanistan
Kabul
Islamabad
Pakistan
China
Nepal
Kathmandu
Tibet
Bhutan
Thimphu
Bangladesh
Dhaka
Myanmar
Rangoon
Sri Lanka
Colombo
Maldives
Pakistani line of control
Chinese line of control
Jammu & Kashmir
Srinagar
Jammu
Himachal Pradesh
Shimla
Punjab
Chandigarh
Dehra Dun
Uttaranchal
Haryana
New Delhi
Delhi
Rajasthan
Jaipur
Lucknow
Uttar Pradesh
Patna
Bihar
Sikkim
Gangtok
Arunachal Pradesh
Itanagar
Assam
Dispur
Nagaland
Kohima
Shillong
Meghalaya
Manipur
Imphal
Agartala
Tripura
Aizawl
Mizoram
Jharkhand
Ranchi
West Bengal
Kolkata (Calcutta)
Gandhinagar
Gujarat
Bhopal
Madhya Pradesh
Chhattis-garh
Raipur
Orissa
Bhubaneswar
Diu
Daman
Daman
Silvassa
Dadra & Nagar Haveli
Maharashtra
Mumbai (Bombay)
Hyderabad
Andhra Pradesh
Pondicherry
Arabian Sea
Bay of Bengal
Panaji
Goa
Karnataka
KINDIA
Chennai (Madras)
Bangalore
Pondicherry
Pondicherry
Tamil Nadu
Pondicherry
Pondicherry
Kavaratti
Lakshadweep
Kerala
Thiruvananthapuram
Laccadive Sea
Indian Ocean
Andaman Islands
Port Blair
Andaman and Nicobar Islands
Andaman Sea
Nicobar Islands
75
90
30
15

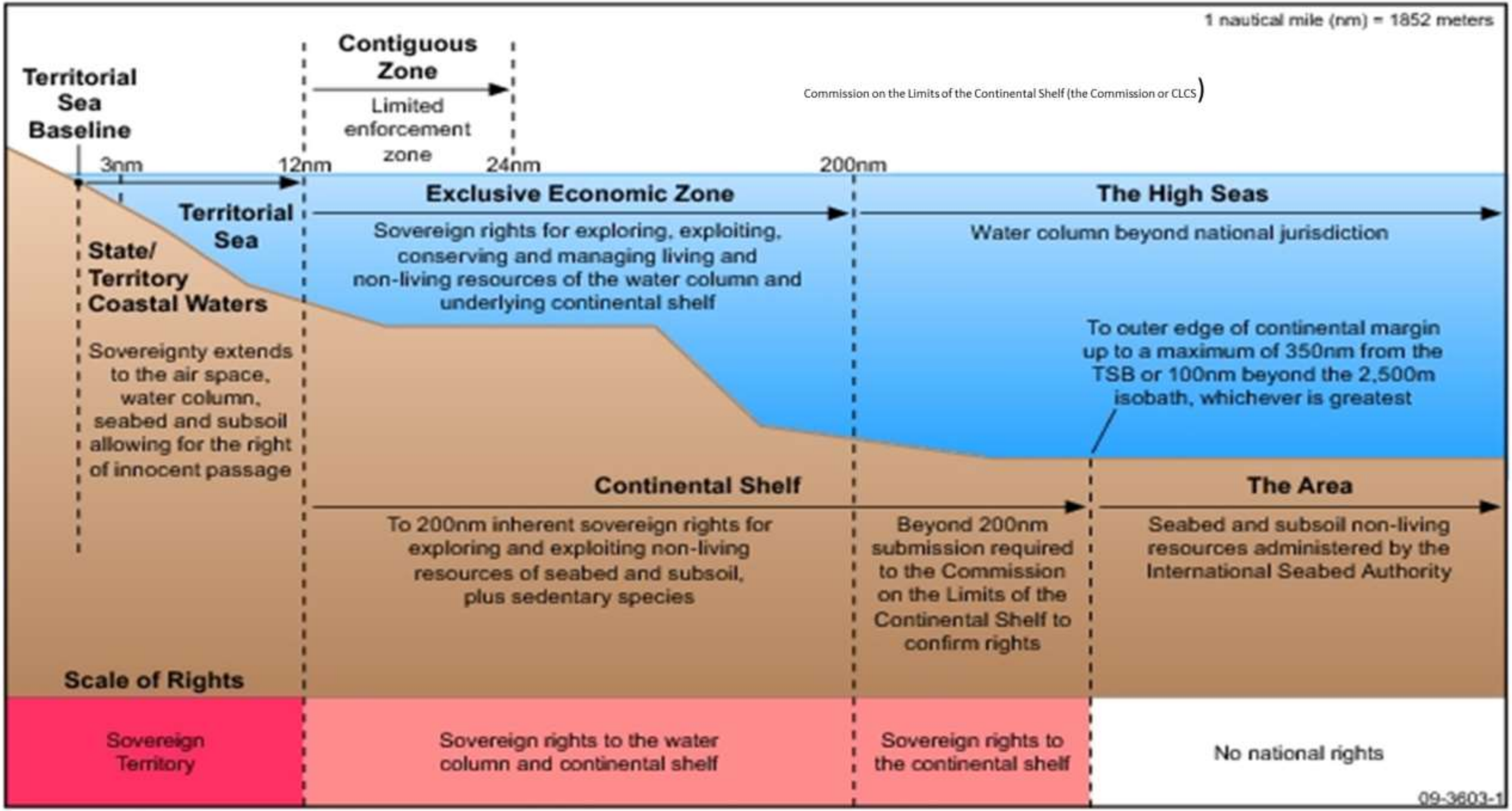
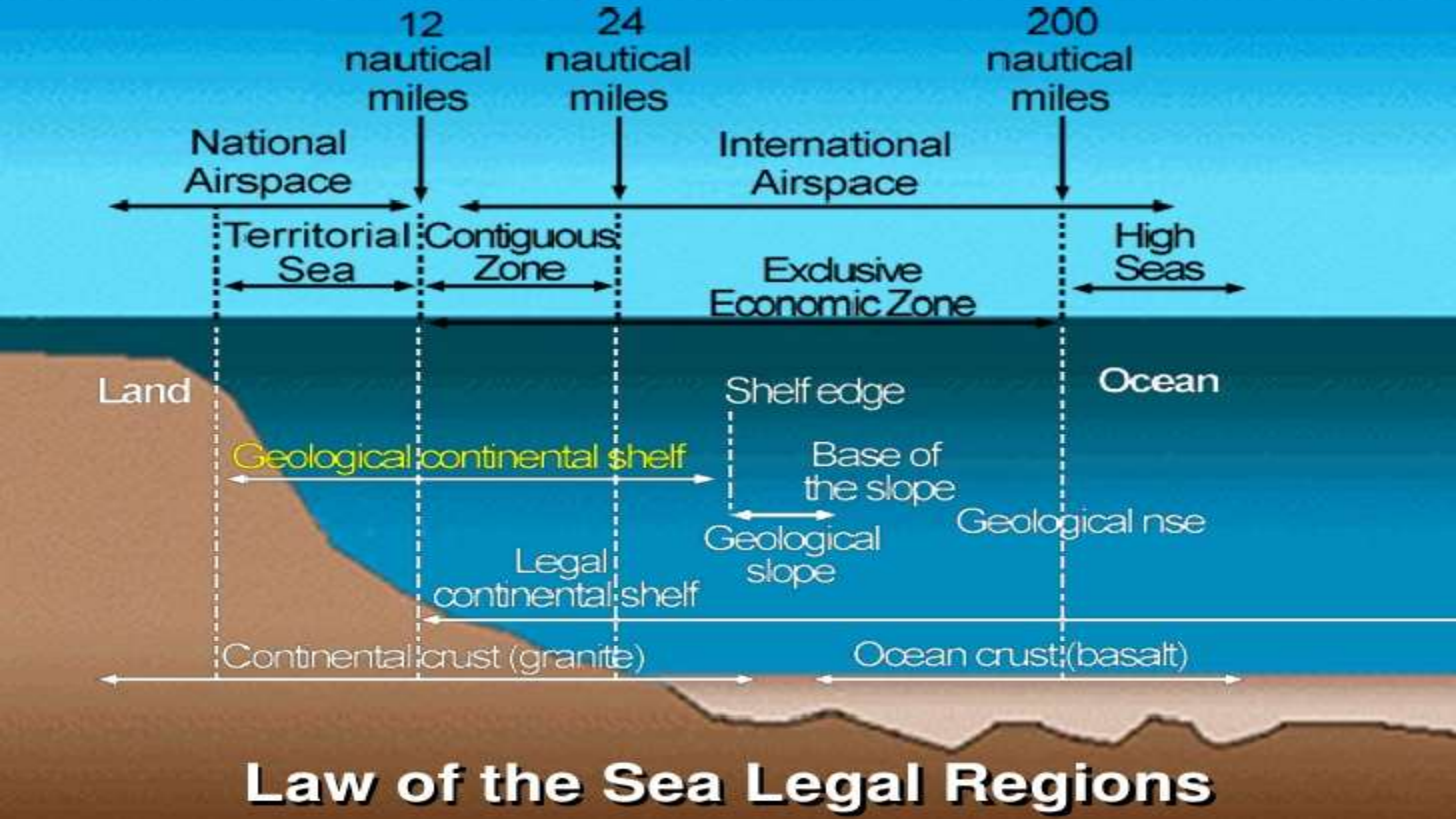


Figure 1: Offshore extent of the maritime zones recognized under international law


12 nautical miles
24 nautical miles
200 nautical miles
National Airspace
International Airspace
Territorial Sea
Contiguous Zone
Exclusive Economic Zone
High Seas
Land
Ocean
Shelf edge
Geological continental shelf
Base of the slope
Geological nse
Geological slope
Legal continental shelf
Continental crust (granite)
Ocean crust (basalt)
Law of the Sea Legal Regions

UNCLOS or the United Nation's Convention on Laws of the Sea was formed to ensure freedom of shipping navigation at the sea. This allowed ships of one country to move safely and freely in international waters.

However, as per this law, a specific boundary or limit has been provided to each country to define the aspect of marine business and commercial activities, including all kinds of jurisdictions.

Territorial sea

According to UNCLOS, the territorial sea can be defined as the area which extends up to 12 nautical miles from the baseline of a country's coastal state. The territorial sea is under the jurisdiction of that particular country; however, foreign ships (both merchant and military) ships are allowed passage through it.

This type of passage of territorial passage of foreign ships is known as innocent passage. However, the right to innocent passage can be suspended if there is a threat to the security of the coastal state.

The coastal state can also exercise jurisdiction if

Any kind of activities in the territorial vessel has consequences extending to the coastal state
There is a threat to the peace of the coastal country
There is illicit traffic or smuggling of drug

Contiguous Zone:

Contiguous zone can be defined as the belt which extends 12 nautical miles beyond the territorial sea limit.

A coastal state's control on this area is limited to prevention of actions which can infringe its customs, fiscal, and immigration laws. It can also act if any activity in the contiguous zone threatens regulations in the territorial sea.

It is possible that vessels carrying noxious dangerous substances or waste may be turned away on public health or environmental grounds.

Exclusive economic zone

Exclusive economic zone can be defined as a belt of water which extends up to 200 nautical miles from the baseline of the coastal state. Thus it includes both territorial sea and contiguous zone.

The exclusive economic zone provides the coastal state control over all economic resources such as fishing, mining, oil exploration, and marine research.

The coastal state also has jurisdiction regarding protection and preservation of natural resources and marine environment.

Continental Shelf

The continental shelf can be defined as the area whose outer limit shall not exceed 350 nautical miles from the baseline or shall not exceed 100 nautical miles from the 2500 meters isobath.

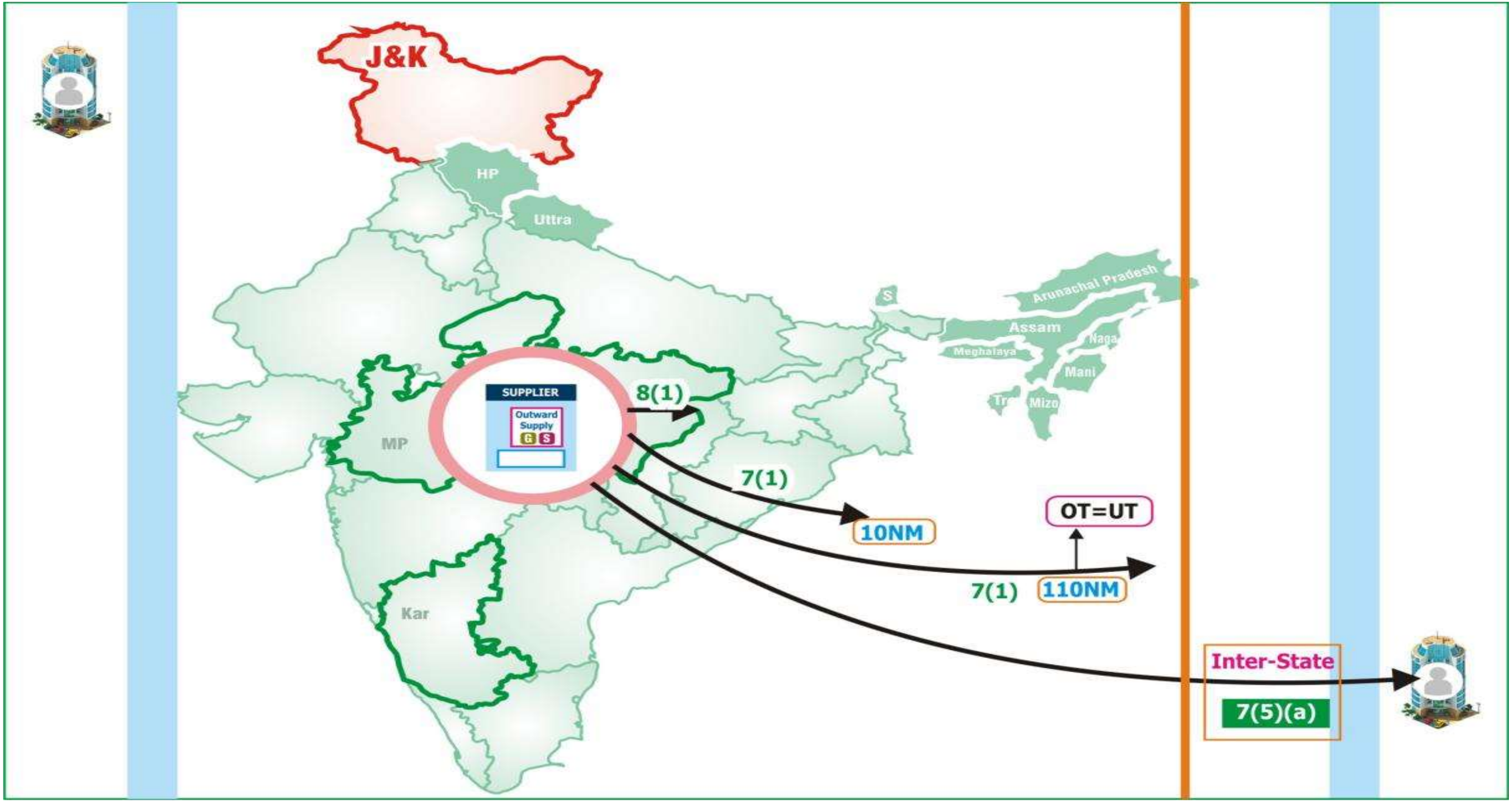
The coastal state has exclusive rights for exploring and exploiting its natural resources in this area. The state also has the exclusive rights to authorize and regulation drilling on the shelf for all purposes.

High Seas

High seas can be defined as the part of the sea that is not included in the exclusive economic zone, in the territorial sea, or in the internal waters of a coastal state or archipelagic waters of an archipelagic state.

High seas are open to all states for freedom of navigation, freedom of over flight, freedom to construct artificial islands installation, freedom of fishing, and freedom of scientific research.

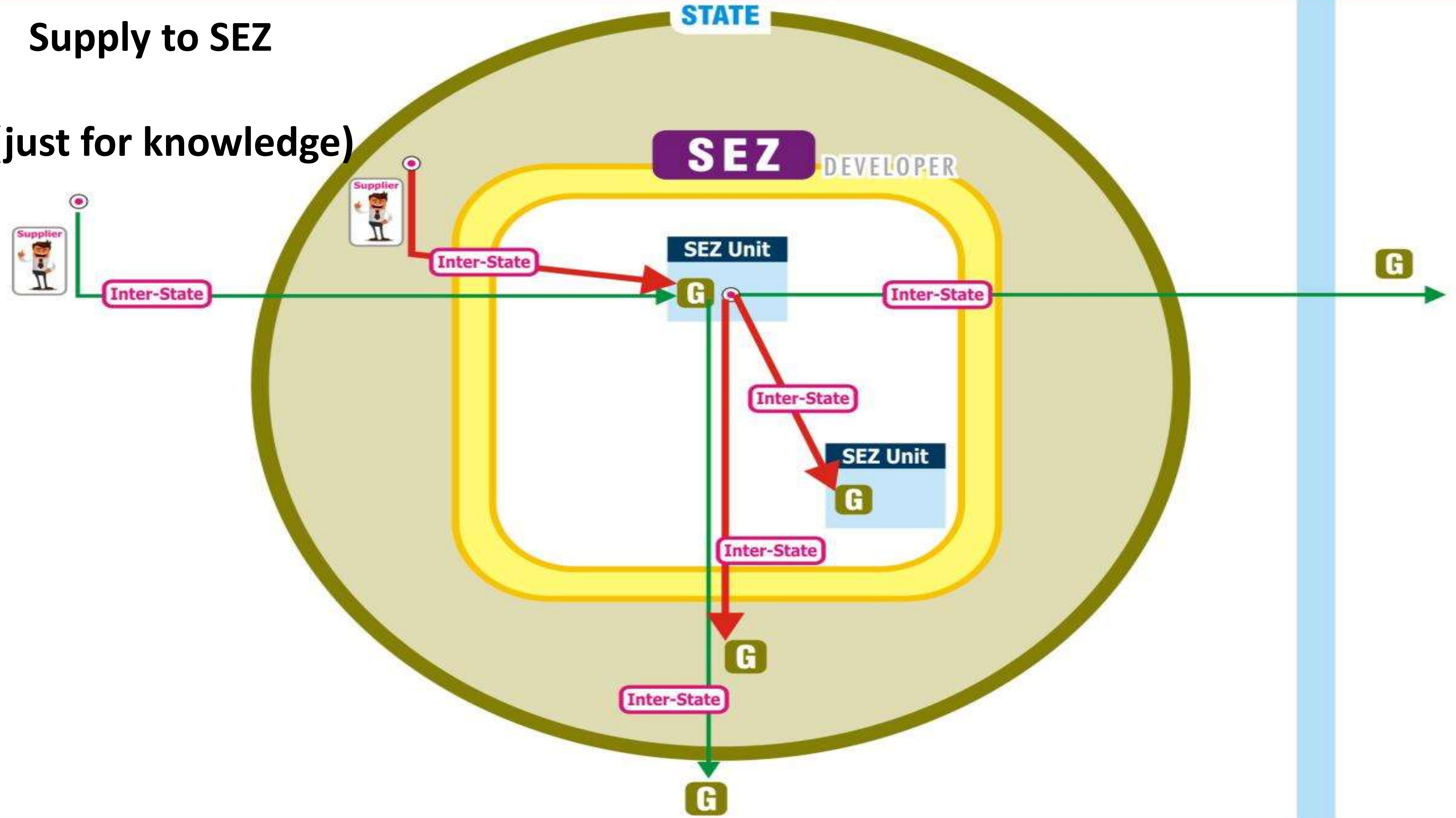
High seas are reserved for peaceful navigation through international waters. However, regulations have been made to avoid prevention of slave trade, piracy, seizure of ships, illicit narcotics trafficking and unauthorized broadcasting.



J&K
HP
Uttra
MP
Kar
S
Arunachal Pradesh
Assam
Naga
Meghalaya
Mani
Mizo
SUPPLIER
Outward Supply
G S
8(1)
7(1)
10NM
OT=UT
7(1)
110NM
Inter-State
7(5)(a)

Supply to SEZ

(just for knowledge)



Exports = Zero-rated under GST (considering DBT - Destination Based Taxation)

IGST Act, 2017: Chapter VII: Zero-rated supply

Section 16 : Zero-rated supply

Zero-rated Supply: (a) Export (b) Supply to SEZ Developer/unit

(1) "Zero rated supply" means any of the following supplies of goods or services or both, namely:—

(a) Export of goods or services or both; or

(b) Supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

ITC admissible even if no tax on outward supplies

(2) Subject to the provisions of sub-section (5) of section 17 of the Central Goods and Services Tax Act,

….credit of input tax may be availed for making zero-rated supplies, ***notwithstanding that such supply may be an exempt supply.***

2 options to supplier:

(1) Supply without tax and claim refund of ITC	(2) Pay IGST (using credit or otherwise) and claim refund of IGST paid

(3) **A registered person making zero rated supply** shall be **eligible to claim refund** under either of the ***following options***, namely:—

(a) he may	**supply** goods or services or both under bond or Letter of Undertaking, *subject to such conditions, safeguards and procedure as may be prescribed*, without payment of integrated tax	and **claim** refund **of unutilized input tax credit;** or
(b) he may	**supply** goods or services or both *subject to such conditions, safeguards and procedure as may be prescribed*, on payment of integrated tax	and **claim** refund **such tax paid on goods or services or both supplied;**

Author:

1. Tax treatment of zero-rated supply

The tax component of any zero-rated supply has to be completely removed from total value chain of such supply. Towards this objective, following 2 options have been provided to supplier of such supplies.

		Output tax	ITC	
Option 1	16(3)(a)	**IGST=0** • Supply under Bond / Letter of Undertaking • Supply under Bond/ Letter of Undertaking Compliance with prescribed conditions, safeguards and procedures	**ITC still admissible**	• Use ITC towards payment of output tax on other supplies • If not utlizable, then refund of ITC admissible.
Option 2	16(3)(b)	**IGST payable** (as applicable) • Compliance with prescribed conditions, safeguards and procedures	**ITC admissible** (in normal course)	• Claim refund/ rebate of IGST paid (total output tax) • For claiming refund, provisions of Sec 54 of CGST Act shall be complied with.

2. Benefits relating to zero-rating supply is only to REGISTERED PERSON

- Supplier must 'registered' to opt for either of the above benefits.
- No refund shall be admissible is supplier is unregistered.

Other miscellaneous constitutional amendments:

Article 271: SURCHARGE on certain duties and taxes for purposes of the Union

Notwithstanding anything contained in article 269 and 270,

Parliament may at any time

….increase any of the duties or taxes referred to in those articles *except the GST under article 246A*

…by a surcharge for purpose of the Union

and *the whole proceeds of any such surcharge shall form part of the Consolidated Fund of India.*

Author:

- Article 271 provides that Centre may levy surcharge on various duties/taxes which will be shared.

- It is provided that said Article 271 cannot be used to levy surcharge/cess on GST Under Article 246-A.

Sec 18 of Constitutional Amendment Act

- **Parliament shall**, *on recommendation of GST Council*, ***provide for compensation to states*** *for loss of revenue arising on account implementation of GST for a period of 5 years*

GST(COMPENSATION TO STATES) ACT, 2017

Charging Section= Sec. 8 of GST (Compensation to States) Act, 2017

Coverage of goods

Cess is leviable only on specified items.

DEMERITS GOODS/SIN GOODS

- Aerated waters.
- Tobacco & Tobacco Products, Cigarettes, other tobacco products
- Coal, Lignite, Peat
- Motor Vehicle

Coverage of Supply

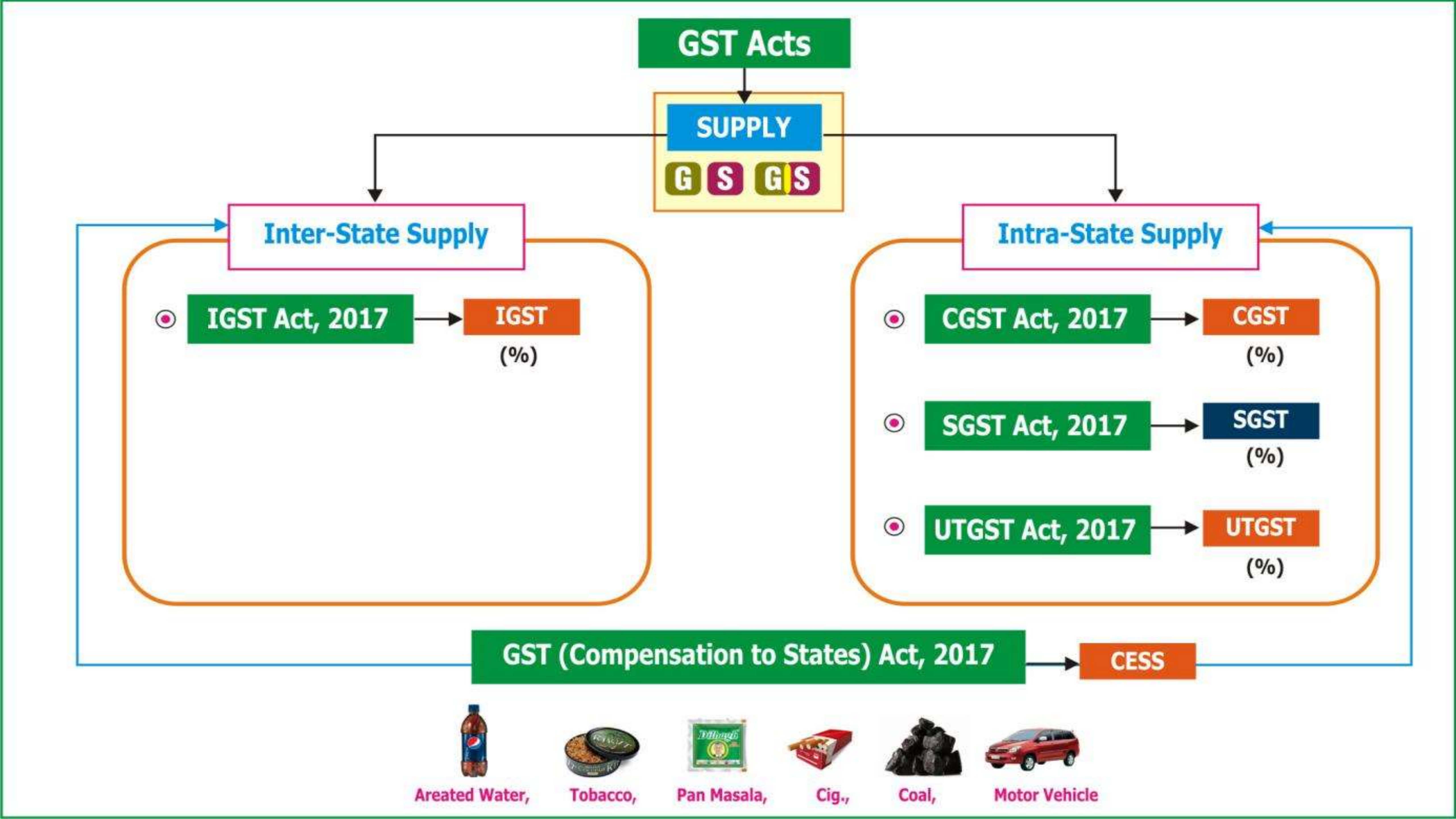
Cess shall be liable on Intra-State supply

as well as Inter-State supply

Rates/Value

As notified by GST Council

Value shall be same on which GST is charged.


GST Acts
SUPPLY
G S G S
Inter-State Supply
IGST Act, 2017
IGST
(%)
Intra-State Supply
CGST Act, 2017
CGST
(%)
SGST Act, 2017
SGST
(%)
UTGST Act, 2017
UTGST
(%)
GST (Compensation to States) Act, 2017
CESS
Areated Water,
Tobacco,
Pan Masala,
Cig.,
Coal,
Motor Vehicle