POINT OF TAXATION RULES,2011

- RULE 2A
- RULE 3
- RULE 4
- RULE 5
- RULE 6
- RULE 7
- RULE 8
- RULE 8A
- RULE 9

BY PRATEEK MISHRA

RULE 2A (NEW)

- **FOR PURPOSE OF THESE RULES, " DATE OF PAYMENT" SHALL BE –**
- **DATE ON WHICH PAYMENT IS ENTERED IN THE BOOKS**
-
- **OR**
- **DATE ON WHICH PAYMENT IS CREDITED IN THE BANK ACCOUNT OF PERSON LIABLE TO PAY TAX**
- **WHICHEVER IS EARLIER**

RULE 3 (DETERMINATION OF POINT OF TAXATION)

- If invoice issued within 30/45* days of completion of service

PAYMENT DATE

INVOICE DATE

WHICHEVER IS EARLIER

POINT OF TAXATION

- If invoice not issued within 30/45*days of completion of service

PAYMENT DATE

COMPLETION OF SERVICE DATE

WHICHEVER IS EARLIER

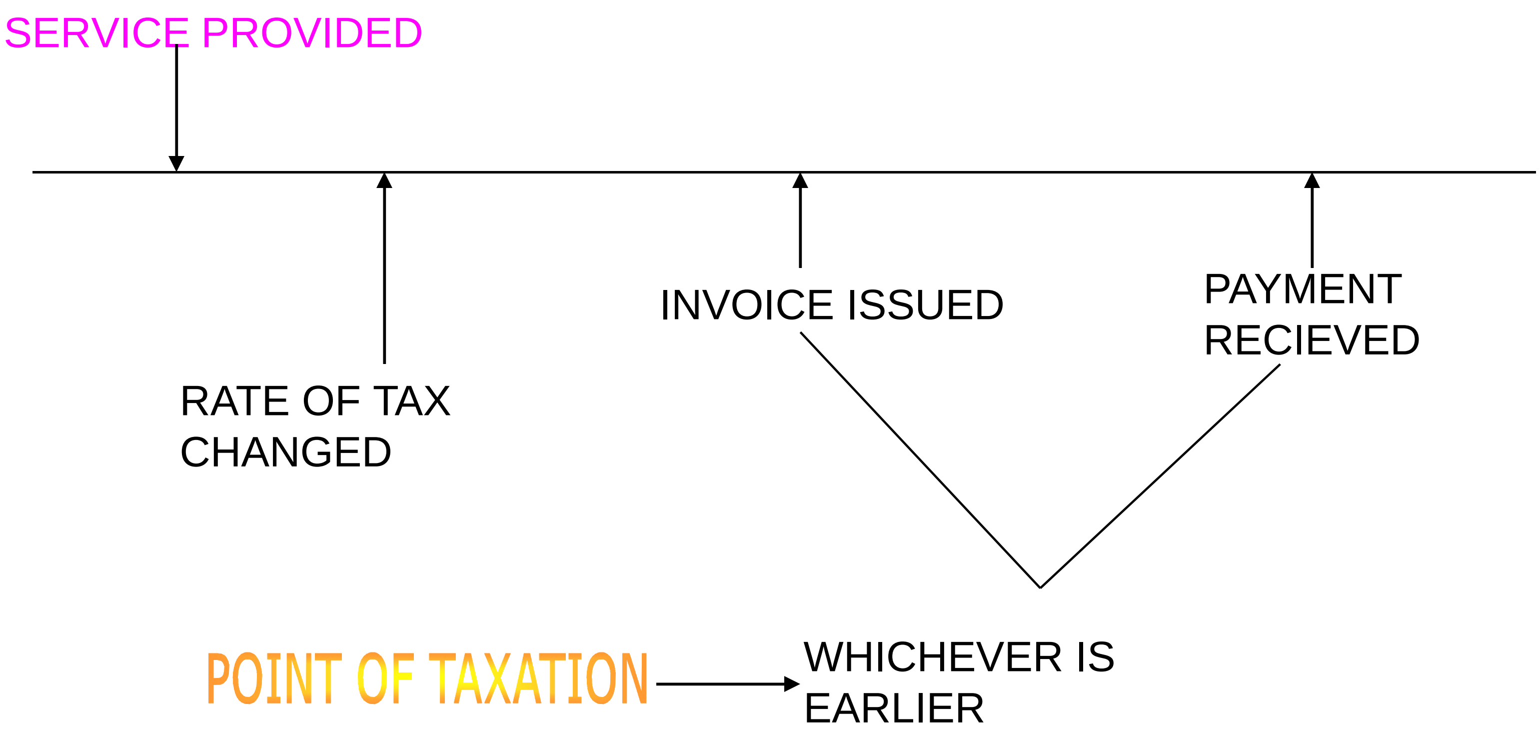
POINT OF TAXATION

* 45 days in case of banks and financial institutions providing banking and other financial services

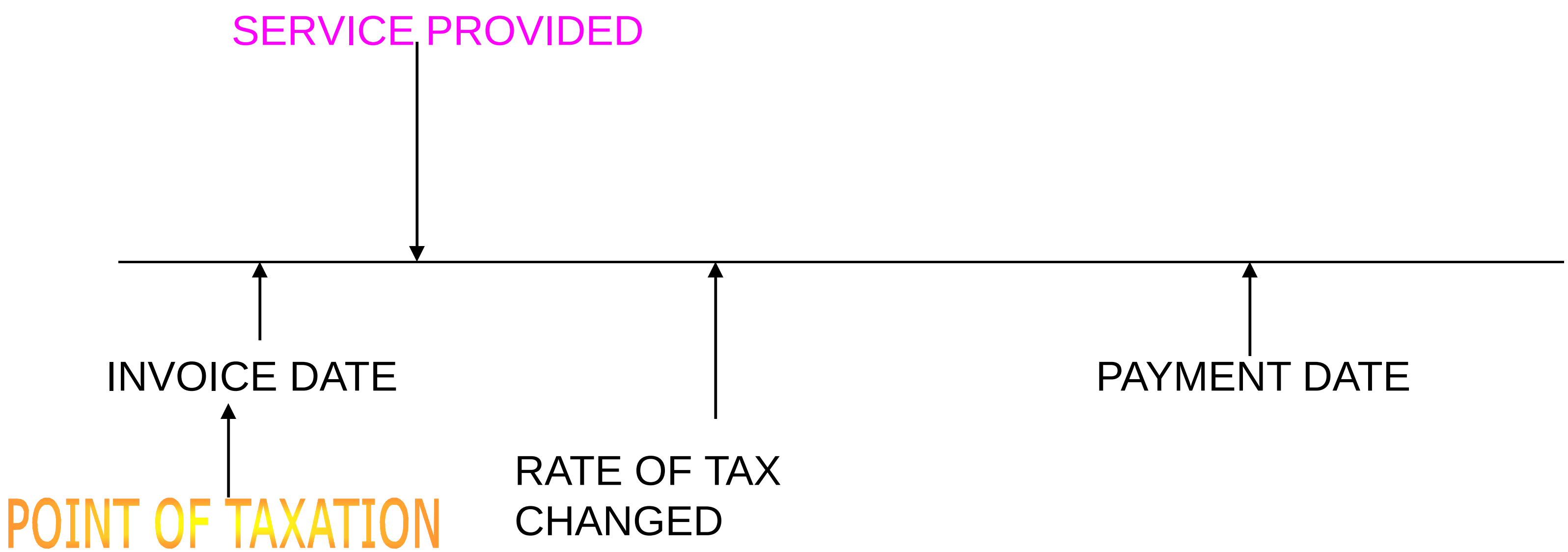
RULE4(DETERMINATION OF POINT OF TAXATION IN CASE OF CHANGE IN RATE OF TAX)

- CASE 1(SERVICE PROVIDED BEFORE CHANGE IN RATE)

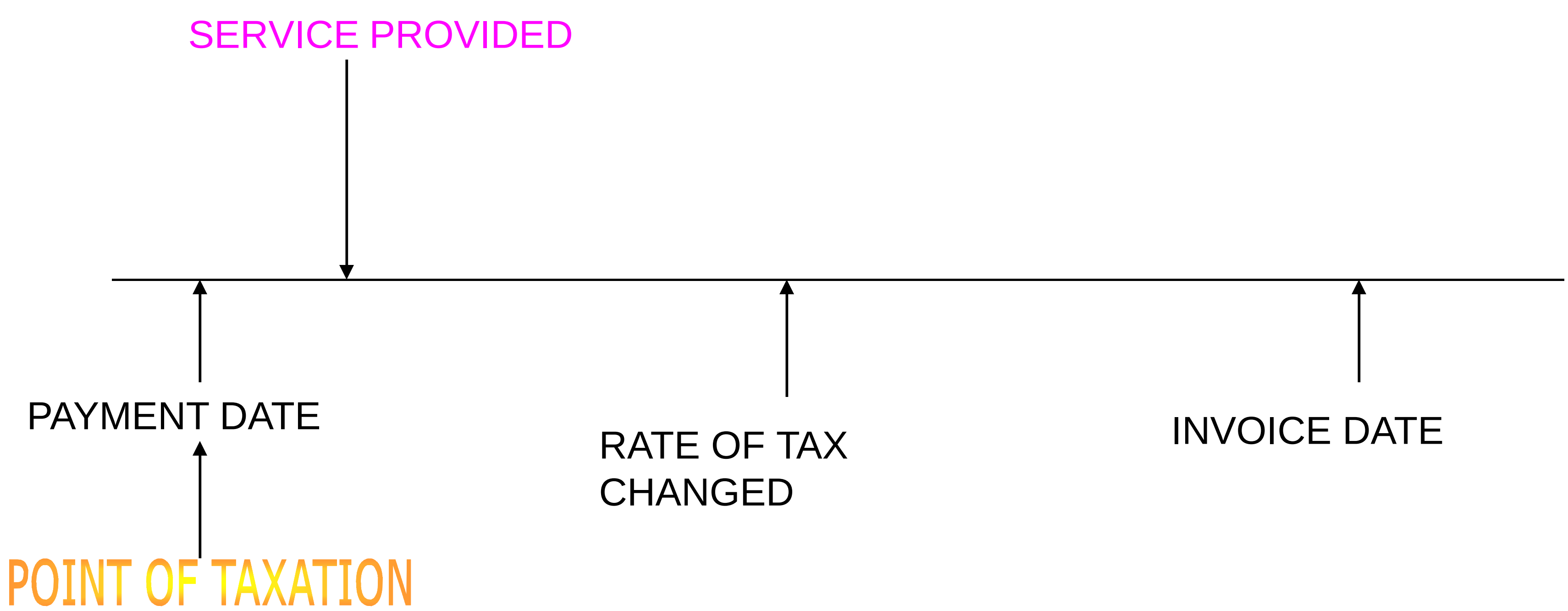
1) INVOICE ISSUED AND PAYMENT RECEIVED AFTER CHANGE IN RATE



2)INVOICE ISSUED PRIOR TO CHANGE IN RATE AND PAYMENT RECEIVED AFTER CHANGE IN RATE

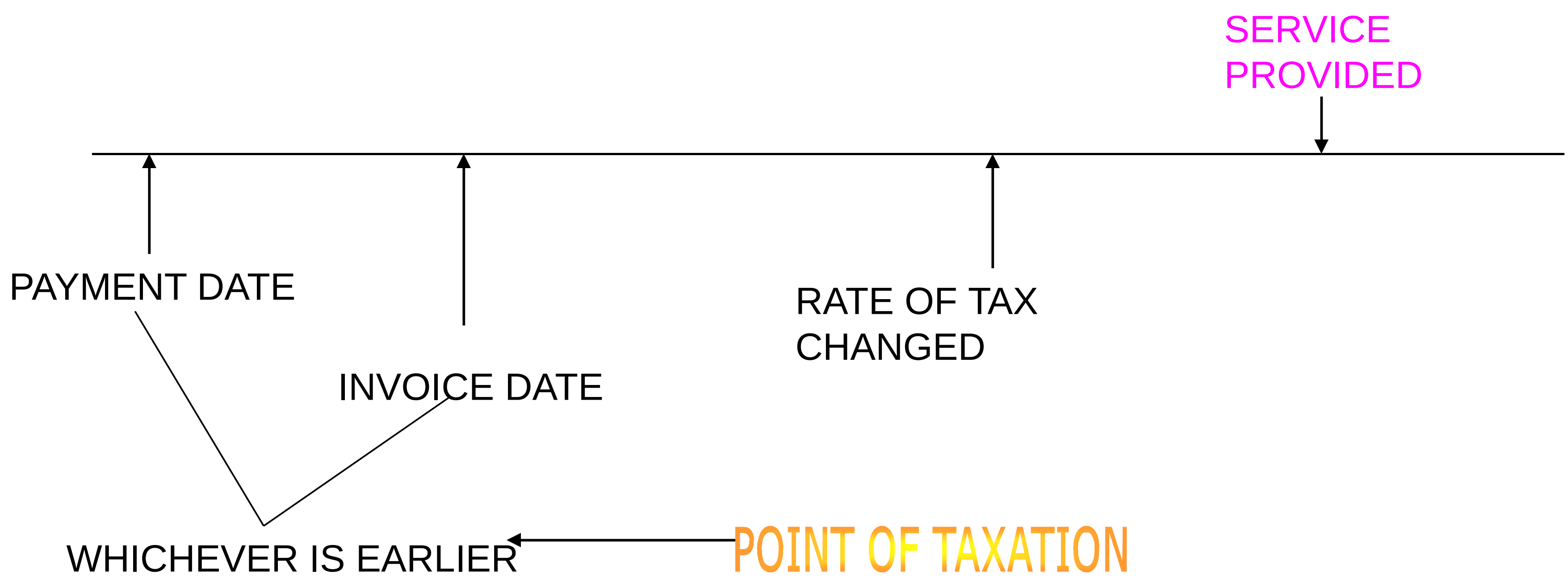


3) PAYMENT RECEIVED PRIOR TO CHANGE IN RATE AND INVOICE ISSUED AFTER CHANGE IN RATE

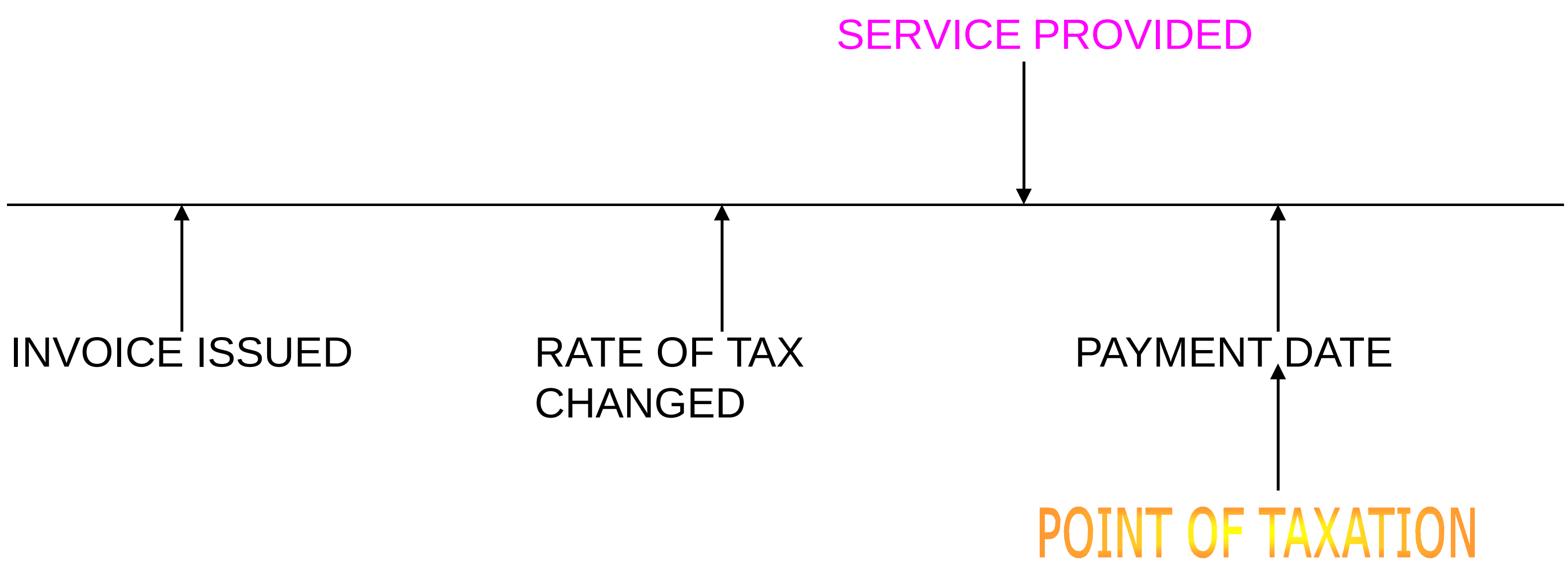


- CASE 2 (SERVICE PROVIDED AFTER CHANGE IN RATE)

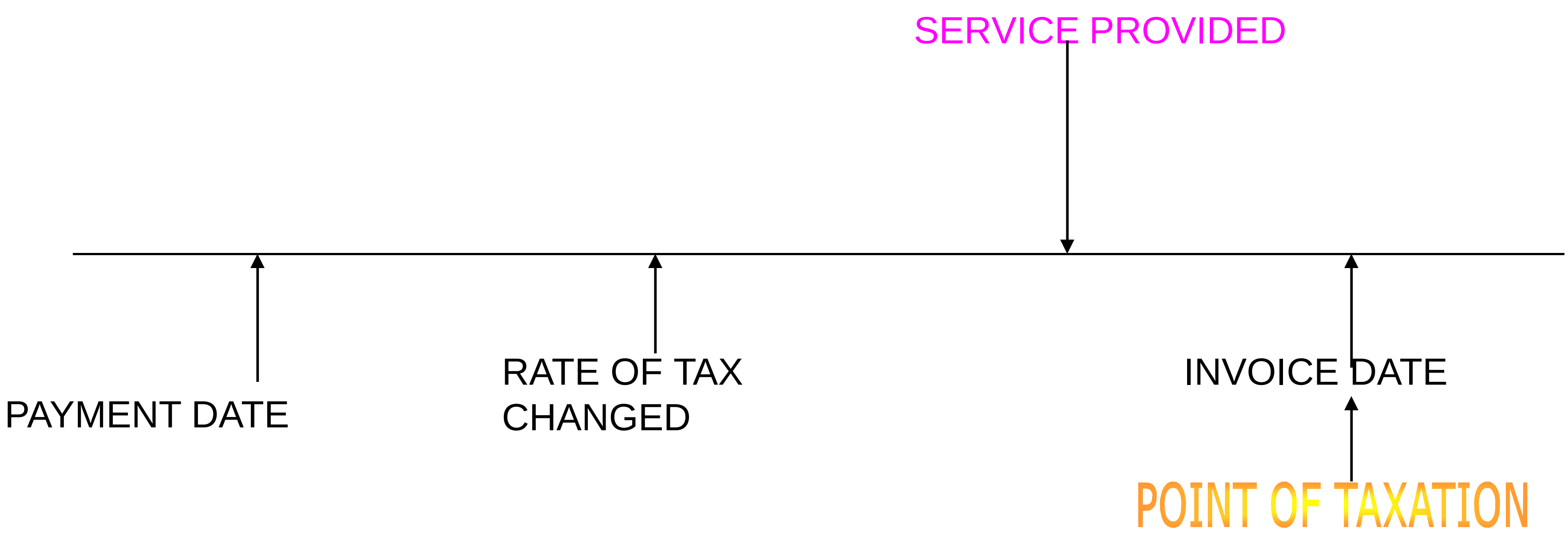
1) INVOICE ISSUED AND PAYMENT RECEIVED BEFORE CHANGE IN RATE



2)INVOICE ISSUED PRIOR TO CHANGE IN RATE AND PAYMENT RECEIVED AFTER CHANGE IN RATE



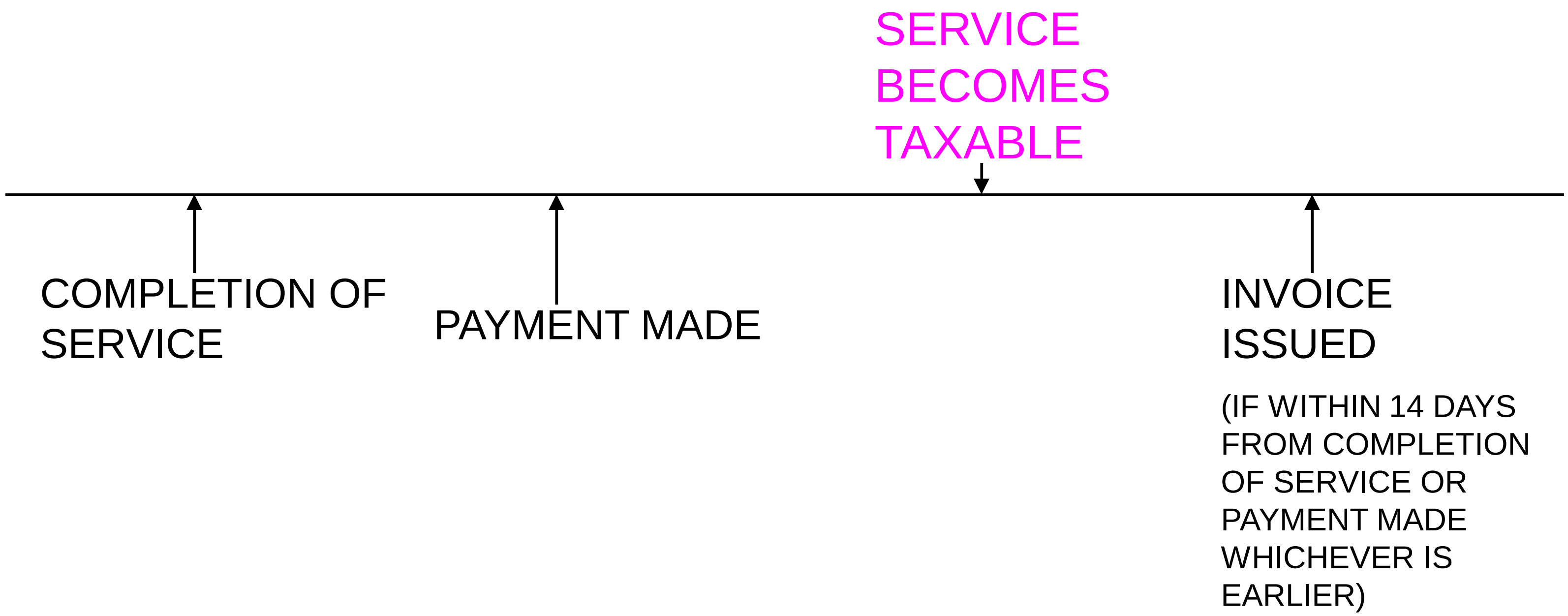
3) PAYMENT RECEIVED PRIOR TO CHANGE IN RATE AND INVOICE ISSUED AFTER CHANGE IN RATE



RULE 5 (PAYMENT OF TAX IN CASE OF NEW SERVICES)

CASE 1(NON-TAXABLE)

- **CASE 2(NON-TAXABLE)**



- **EVERY CASE OTHER THAN 1 & 2 IS TAXABLE**
- **IF NEW SERVICES FALLS UNDER AMBIT OF CONTINOUS SERVICE THEN RULE 6 IS APPLICABLE**

RULE 6 (DETERMINATION OF POINT OF TAXATION IN CASE OF CONTINOUS SUPPLY OF SERVICE)

RULE 6 is omitted and merged with RULE 3

RULE 7 (DETERMINATION OF POT IN CASE OF SPECIFIED SERVICES OR PERSONS)

- WHERE SERVICE RECIEVER IS LIABLE TO PAY SERVICE TAX(SECTION 68(2))

- IN CASE OF INDIVIDUALS AND PARTNERSHIP FIRMS WHOSE AGGREGATE VALUE OF TAXABLE SERVICES PROVIDED FROM ONE OR MORE PREMISES IS Rs 50 Lakhs OR LESS IN THE PREVIOUS FINANCIAL YEAR

IN ABOVE TWO CASES POT SHALL BE DATE OF PAYMENT.

IN CASE OF "ASSOCIATED ENTERPRISE" WHERE PERSON PROVIDING SERVICE IS LOCATED OUTSIDE INDIA POT SHALL BE DATE OF CREDIT IN BOOKS OF PERSON RECEIVING SERVICE OR DATE OF MAKING PAYMENT WHICHEVER IS EARLIER.

- **(EARLIER BENEFIT OF PAYMENT OF SERVICE TAX ON RECIEPT BASIS OPTION WAS ALSO FOR EXPORT OF SERVICES, WHICH IS NOW SHIFTED TOSERVICE TAX RULES,1994 AND INDIVIDUAL, PROPRIETARY FIRMS OR PARTNERSHIP FIRMS PROVIDING EIGHT SERVICES,WHICH IS PARTIALLY REMOVED AND CAP OF Rs 50 Lakhs IS IMPOSED)**

RULE 8 (DETERMINATION OF POT IN CASE OF INTELLECTUAL PROPERTY RIGHTS SERVICES)

WHEN AMOUNT OF CONSIDERATION IS NOT ASCERTAINABLE AT TIME OF PERFORMANCE OF SERVICE AND SUBSEQUENTLY IT GIVES RISE TO PAYMENT OF CONSIDERATION THEN IT SHALL BE TREATED AS HAVING PROVIDED EACH TIME, THEN POINT OF TAXATION SHALL BE DATE OF INVOICE ISSUED OR PAYMENT RECEIVED WHICHEVER IS EARLIER.

IN CASE OF LUMP SUM PAYMENT MADE THEN RULE 3 WILL BE APPLICABLE RATHER THAN RULE 8 .

RULE 8A (NEW)

- WHERE POT CANNOT BE DETERMINED AS PER THESE RULES AS THE DATE OF INVOICE OR THE DATE OF PAYMENT OR BOTH IS NOT AVAILABLE, CENTRAL EXCISE OFFICER MAY HANDLE SITUATION BY WAY OF BEST JUDGMENT.

RULE 9 (TRANSITIONAL PROVISIONS)

NOTHING CONTAINED IN THESE RULES SHALL BE APPLICABLE –

(i) WHERE THE PROVISIONS OF SERVICE IS COMPLETED; OR

(ii) WHERE INVOICES ARE ISSUED

PRIOR TO DATE OF THESE RULES COME INTO FORCE

THE END

BY PRATEEK MISHRA