

CA final Indirect taxes- GST and Customs

Flow charts July 2021

(Old and New) Fully revised

Amended as per Finance Act 2020 and

Amendments, Circulars and notifications up to 31.10.2020)

All amendments are highlighted with red colour

(Also useful for CWA/CS)

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Numerical problems will be asked from the topics of

SN	GST	Customs
1	Basic Concepts and GST Calculation	Basic concepts
2	Exempted services from GST	Valuation
3	Input tax eligibility and GST Calculation	Duty drawback
4	Time and place of supply of goods and Services	baggage
5	Valuation inclusions and exclusion	Additional reading suggested.: ICAI/Mock test papers/RTP and practical problems
6	Composition scheme eligibility and turnover limit calculation	

Study Guidelines for May 2021 examination

Final (New) Course Paper 8: Indirect Tax Laws

The following are applicable for May 2021 examination:

- (i) The provisions of CGST Act, 2017 and IGST Act, 2017 as amended by the Finance Act, 2020 and the Finance (No. 2) Act, 2019, which have become effective up to 31st October, 2020, including significant notifications and circulars issued and other legislative amendments made, up to 31st October, 2020.
- (ii) The provisions of the Customs Act, 1962 and the Customs Tariff Act, 1975, as amended by the Finance Act, 2020, including significant notifications and circulars issued and other legislative amendments made, up to 31st October, 2020.

The Study Guidelines given below specify the exclusions from the syllabus for May 2021 examination.

List of topic-wise exclusions from the syllabus

(1)	(2)	(3)
S. No. in the syllabus	Topics of the syllabus	Exclusions (Provisions which are excluded from the corresponding topic of the syllabus)
Part-I: Goods and Services Tax		
1(ii)	Levy and collection of CGST and IGST – Application of CGST/IGST law; Concept of supply including composite and mixed supplies, inter-State supply, intra-State supply, supplies in territorial waters; Charge of tax including reverse charge; Exemption from tax; Composition levy	(i) Rate of tax prescribed for supply of goods * (ii) Rate of tax prescribed for supply of services * (iii) Exemptions for supply of goods (iv) Categories of supply of goods, tax on which is payable on reverse charge basis
1(iv)	Time and Value of supply	Value of supply in cases where Kerala Flood Cess is applicable.
1(v)	Input tax credit	(i) Manner of determination of input tax credit in respect of inputs, input services and capital goods and reversal thereof in respect of real estate projects (ii) Manner of reversal of credit of additional duty of customs in respect of Gold dore bar
1(vii)	Procedures under GST including registration, tax invoice, credit and debit notes, electronic way bill, accounts and records, returns, payment of tax including tax deduction at source and tax collection at source, refund, job work	(i) Furnishing of GSTR-2, GSTR-1A and GSTR-3 (ii) Matching, reversal & reclaim of input tax credit (iii) Matching, reversal & reclaim of reduction in output tax liability
1(xv)	Other provisions	Transitional Provisions
Part-II: Customs & FTP		
1.(v)	Officers of Customs; Appointment of customs ports, airports etc.	Completely excluded

1.(vii)	Provisions relating to coastal goods and vessels carrying coastal goods	
1.(viii)	Warehousing	
1.(x)	Demand and Recovery	
1.(xi)	Provisions relating to prohibited goods, notified goods, specified goods, illegal importation/exportation of goods	
1.(xii)	Searches, seizure and arrest; Offences; Penalties; Confiscation and Prosecution	
1.(xiii)	Appeals and Revision; Advance Rulings; Settlement Commission	
1.(xiv)	Other provisions	

***Rates specified for computing the tax payable under composition levy are included in the syllabus.**

Notes:

- (1) **Applicability of the Finance Act, 2020:** The amendments made by the Finance Act, 2020 in the Central Goods and Services Tax Act, 2017 [hereinafter referred to as CGST Act, 2017] and the Integrated Goods and Services Tax, 2017 [hereinafter referred to as IGST Act, 2017] which have become effective till 31.10.2020 are applicable for May 2021 examinations. However, select amendments made by the Finance Act, 2020 namely, amendments made in sections 10, 16, 29, 30, 31, 51, 122 and 132 of the CGST Act, 2017 have not become effective as on 31.10.2020. Therefore, the same are not applicable for May 2021 examinations.
- (2) **Applicability of the Finance (No. 2) Act, 2019:** All the amendments made by the Finance (No. 2) Act, 2019 are applicable for May 2021 examinations except the amendment made in sections 2(4), 39, 95, 102, 103, 104, 105 and 106 of the CGST Act, 2017 and the insertion of new sections 101A, 101B & 101C in the CGST Act, 2017 (which have not become effective till 31.10.2020). Further, Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 introduced vide Chapter V of the Finance (No. 2) Act, 2019 is not applicable for May, 2021 examinations.
- (3) In the above table, in respect of the topics of the syllabus specified in column (2) the related exclusion is given in column (3). Where an exclusion has been so specified in any topic of the syllabus, the provisions corresponding to such exclusions, covered in other topic(s) forming part of the syllabus, shall also be excluded.
- (4) November 2020 edition of the Study Material is relevant for May 2021 and November 2021 examinations. The entire content included in the November 2020 edition of the Study Material (except the exclusions mentioned herein) shall be relevant for May 2021 examinations.

GST Basics and Introduction

Concept of GST

- ❖ GST is a **value added tax** levied on manufacture, sale and consumption of goods and services
- ❖ GST Provides **comprehensive and continuous chain of tax credits** from the producer/Service provider up to retail level /Consumer level.
- ❖ Each person will get credit for the taxes paid at earlier stage. The consumer will bear the final tax.
- ❖ Since, only the value added at each stage is taxed under GST, there is no tax on tax or cascading of taxes under GST system
- ❖ GST does not differentiate between goods and services and thus, the two are taxed at a single rate.

Need for GST in India

- ❖ Concept of one nation, one tax, and one market.
- ❖ Compete with global market as many nations are following GST regime
- ❖ Deficiency in earlier indirect tax system:
- ❖ Cenvat credit of excise and service tax is not available to retailer and vat dealers
- ❖ Central excise is includible in value for vat calculation resulting double tax.
- ❖ CST credit is not vatable for dealers.
- ❖ Difficulty in distinguish between goods and services especially in case of intellectual properties, drawings and designs, Restaurant services, software and work contract

GST Common Portal

- ❖ Common GST Electronic Portal – **www.gst.gov.in** – a website managed by Goods and Services Network (GSTN)
- ❖ GSTN is a company incorporated under the provisions of section 8 of the Companies Act, 2013. It has been set by the Government to establish a uniform interface for the tax payer and a common and shared IT infrastructure between the Centre and States.
- ❖ The GST portal is accessible over Internet (by taxpayers and their CAs/Tax Advocates etc.) and Intranet by Tax Officials etc.
- ❖ The portal is one single common portal for all GST related services.
- ❖ A common GST system provides linkage to all State/ UT Commercial Tax Departments, Central Tax authorities, Taxpayers, Banks and other stakeholders.
- ❖ The eco-system consists of all stakeholders starting from taxpayer to tax professional to tax officials to GST portal to Banks to accounting authorities.
- ❖ Primarily, GSTN provides three front end services to the taxpayers namely registration, payment and return through GST Common Portal.
- ❖ 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 taxpayer's profile; and running the matching engine for matching, reversal and reclaim of input tax credit

Taxes subsumed in GST

SN	Central taxes	SN	State taxes
1	Central excise	1	Sales tax/Vat
2	Additional excise duties	2	Luxury tax
3	Excise duty on medical and toilet preparations Act	3	Tax on Advertisement
4	Service tax	4	Purchase tax
5	Counter vailing duty	5	Entry tax/octroi
6	Special counter vailing duty (SAD 4%)	6	Tax on lottery, betting and gambling
7	Central sales tax	7	Surcharge and cess relating to goods and Services
8	Surcharge and cess relating to goods and Services	8	

Taxes continue to remain after GST

- ❖ Central excise on petroleum products
- ❖ State Central excise duty on alcoholic liquor for human consumption
- ❖ State vat on petroleum products
- ❖ Custom duty on imports (BCD and safe guard duties)

BENEFITS OF GST

- ❖ GST brings benefits to all the stakeholders of industry, Government and the consumer. It will lower the cost of goods and services, give a boost to the economy and make the products and services globally competitive.
- ❖ Creation of unified national market:
 - ST 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.
- ❖ Mitigation of ill effects of cascading:
 - 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.
- ❖ Elimination of multiple taxes and double taxation:
 - GST has subsumed majority of existing indirect tax levies both at Central and State level into one tax i.e., GST which is leviable

uniformly on goods and services. This will make doing business easier and will also tackle the highly disputed issues relating to double taxation of a transaction as both goods and services.

❖ Boost to 'Make in India' initiative:

- 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.

❖ Buoyancy to the Government Revenue:

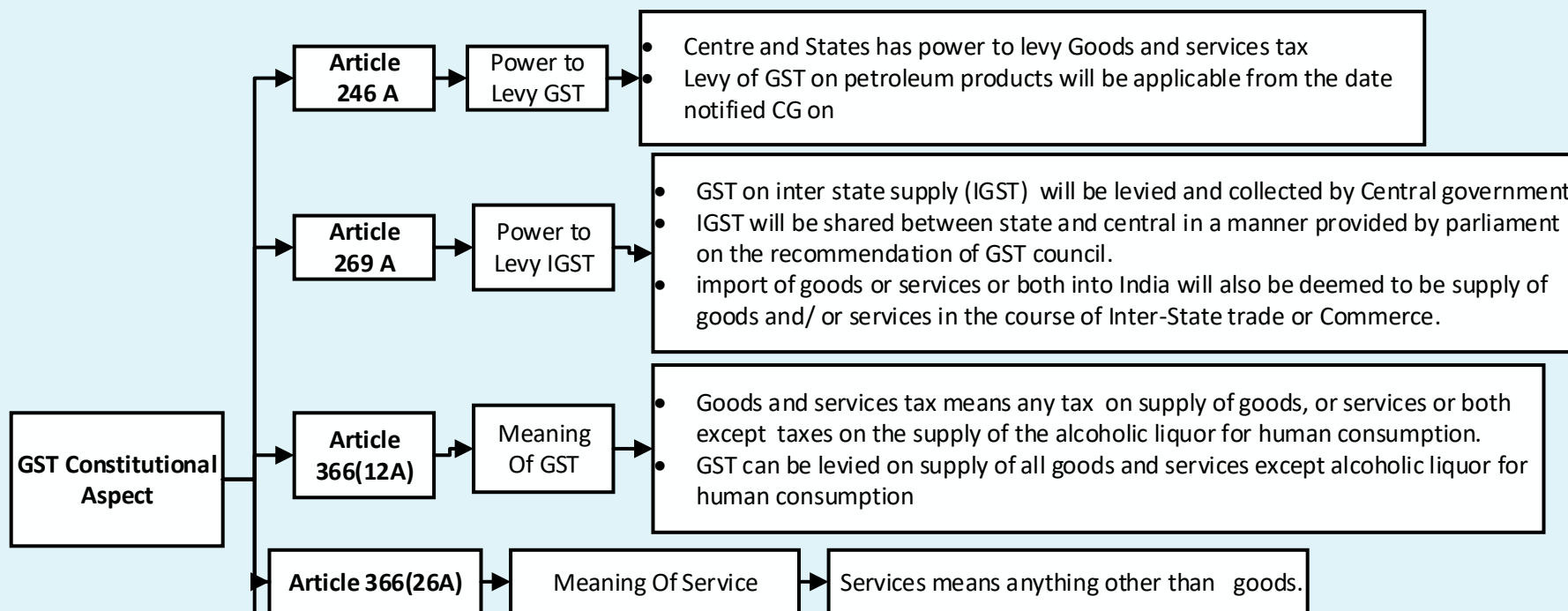
- GST is expected to bring buoyancy to the Government Revenue by widening the tax base and improving the taxpayer compliance.

Constitutional Aspect of GST

- Introduction of GST is biggest indirect tax reform since independence.
- There is no provision for levy of GST in the Constitution and hence Levy of GST need Constitutional amendment
- The Constitution amendment Bill 2014 was passed in Lok Sabha on 6th May 2015 and on the Rajya Sabha on 3rd August 2016. The bill was subsequently ratified by more than 50% of State legislatures. Finally, Constitution 101st (Amendment) Act, 2016 received the president assent on 08.09.2016.

The central legislations of GST were passed in parliament and finally received the assent of President on 12th April 2017. State GST laws are also passed by the state legislatures passed and pave way for levy of GST.

GST Constitutional Background

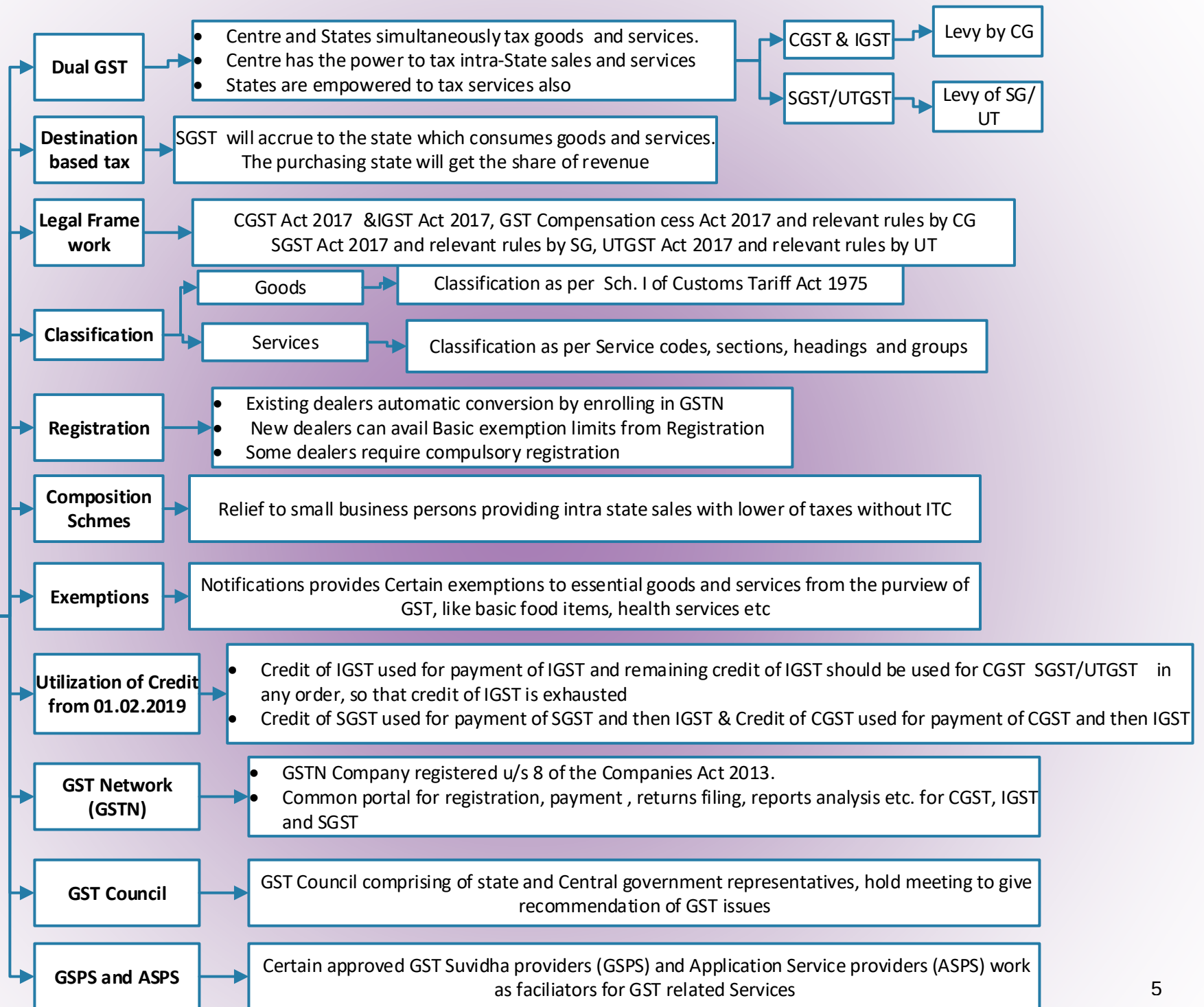


GST Council

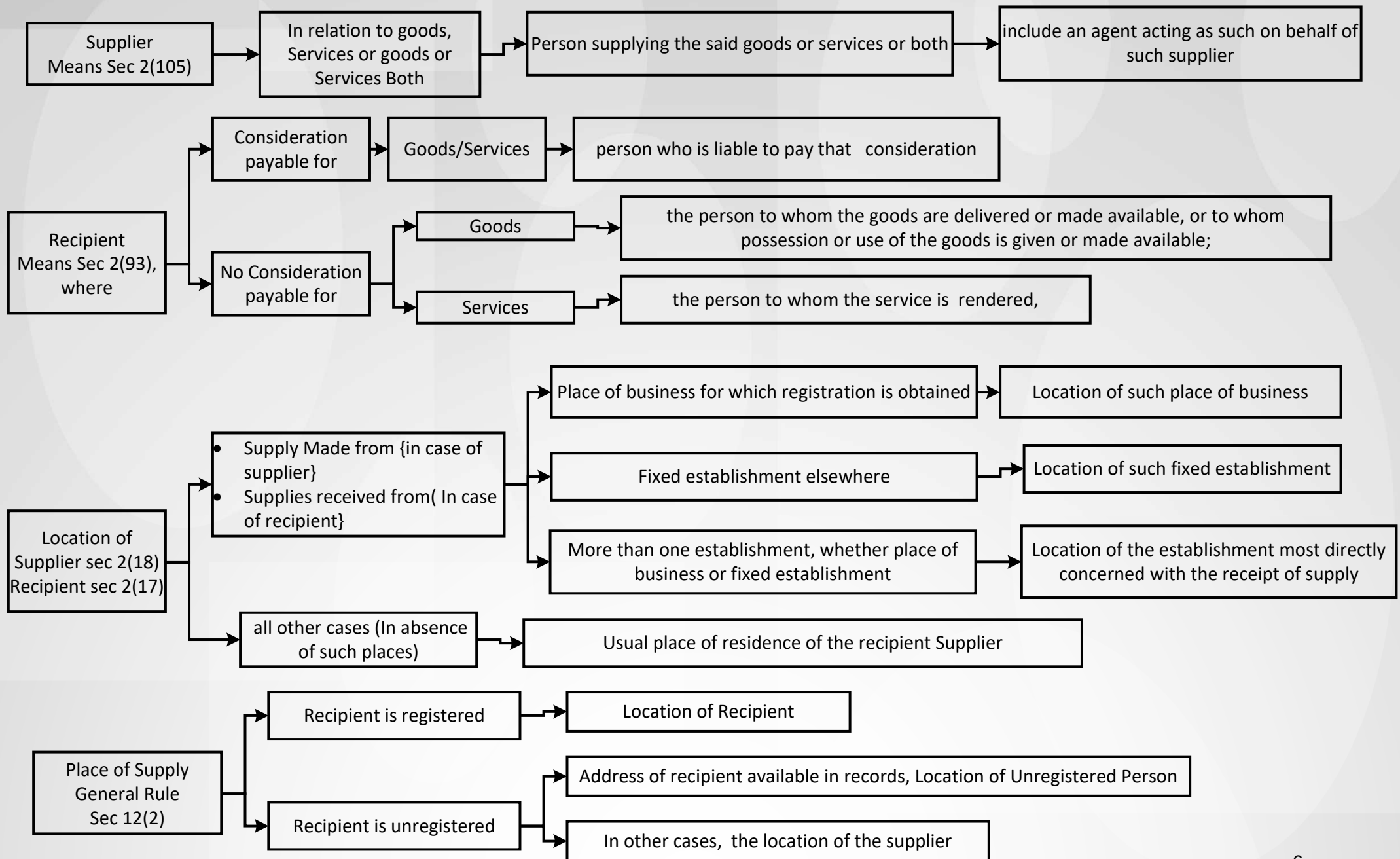
1	President to constitute a joint forum of the Centre and States namely, Goods & Services Tax Council (GST Council).
2	The provisions relating to GST Council came into force on 12 th September 2016. President constituted the GST Council on 15th September, 2016.
3	The Union Finance Minister is the Chairman of this Council and Ministers in charge of Finance/Taxation or any other Minister nominated by each of the States & UTs with Legislatures are its members.
4	The Union Minister of State in charge of Revenue or Finance is also its member.
5	The function of the Council is to make recommendations to the Union and the States on important issues like tax rates, exemptions, threshold limits, dispute resolution etc.
6	It shall also recommend the date on which GST be levied on petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel.
7	Every decision of the GST Council is taken by a majority of not less than three-fourths of the weighted votes of the members present and voting. Vote of the Centre has a weightage of one-third of total votes cast and votes of all the State Governments taken together has a weightage of two-thirds of the total votes cast, in that meeting.

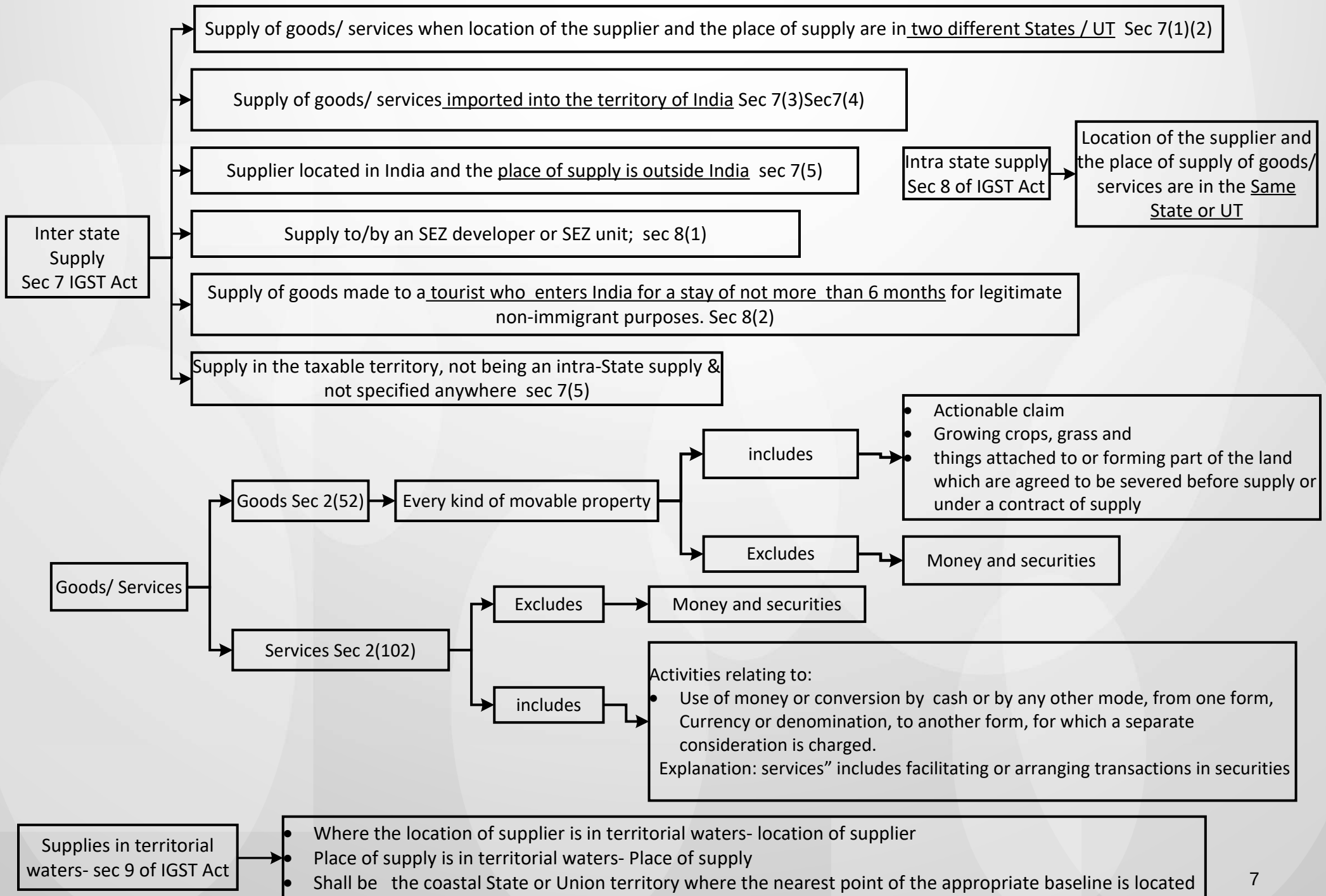
GST FRAME WORK

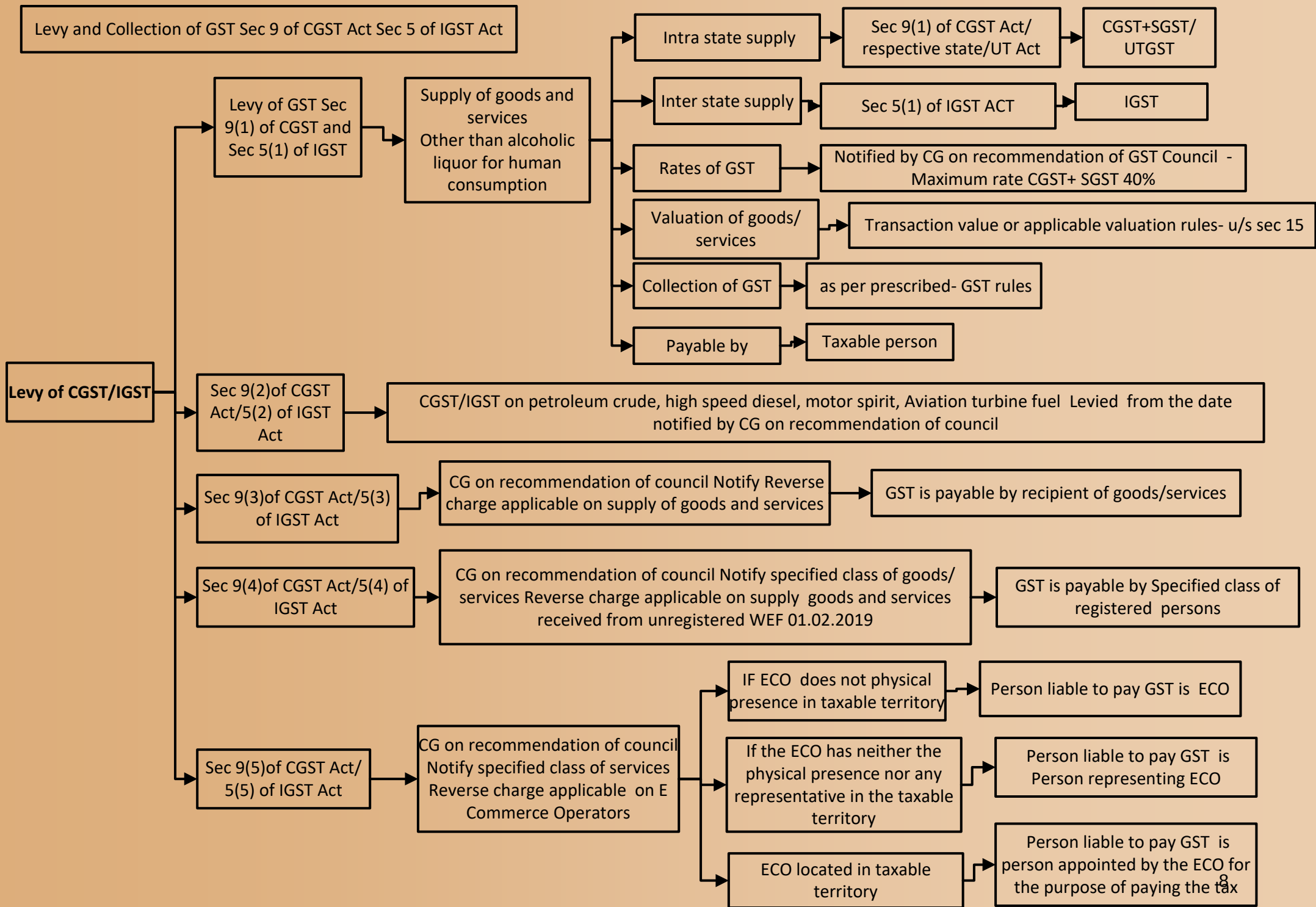
Frame work of GST

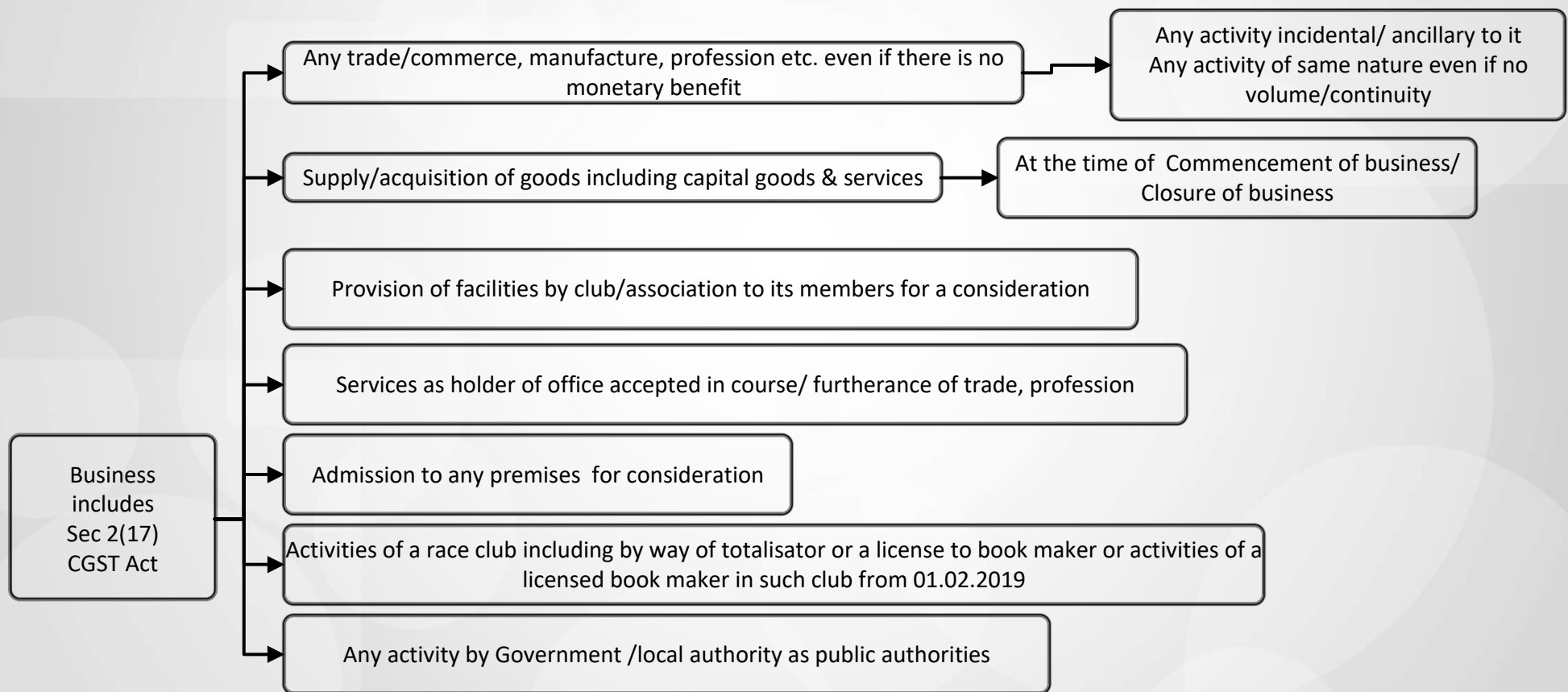
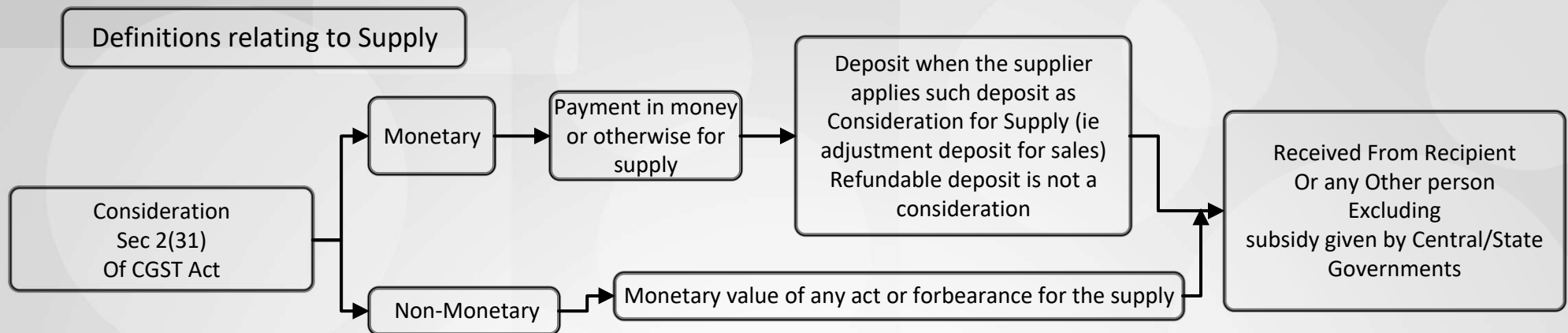


Important definitions under Charging section



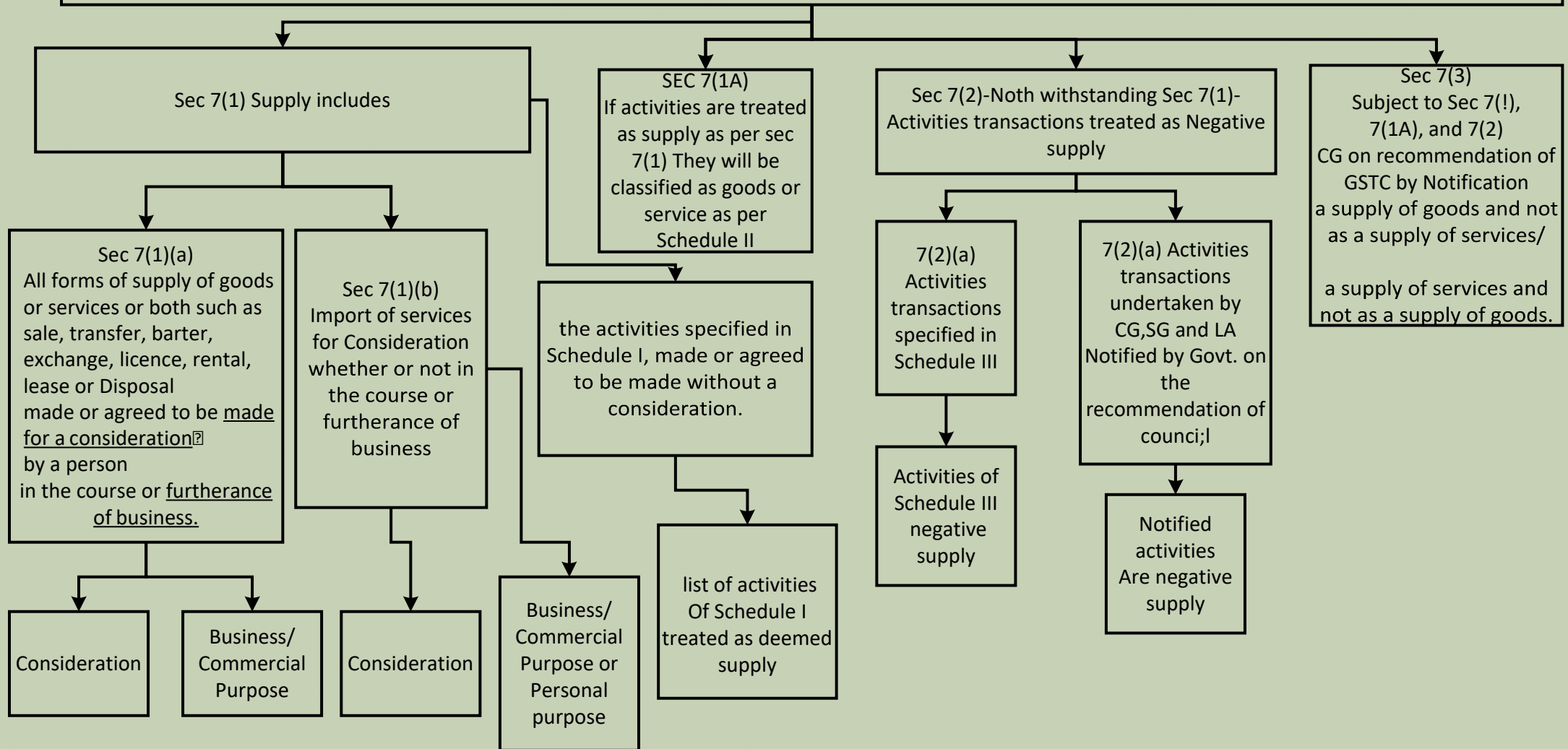






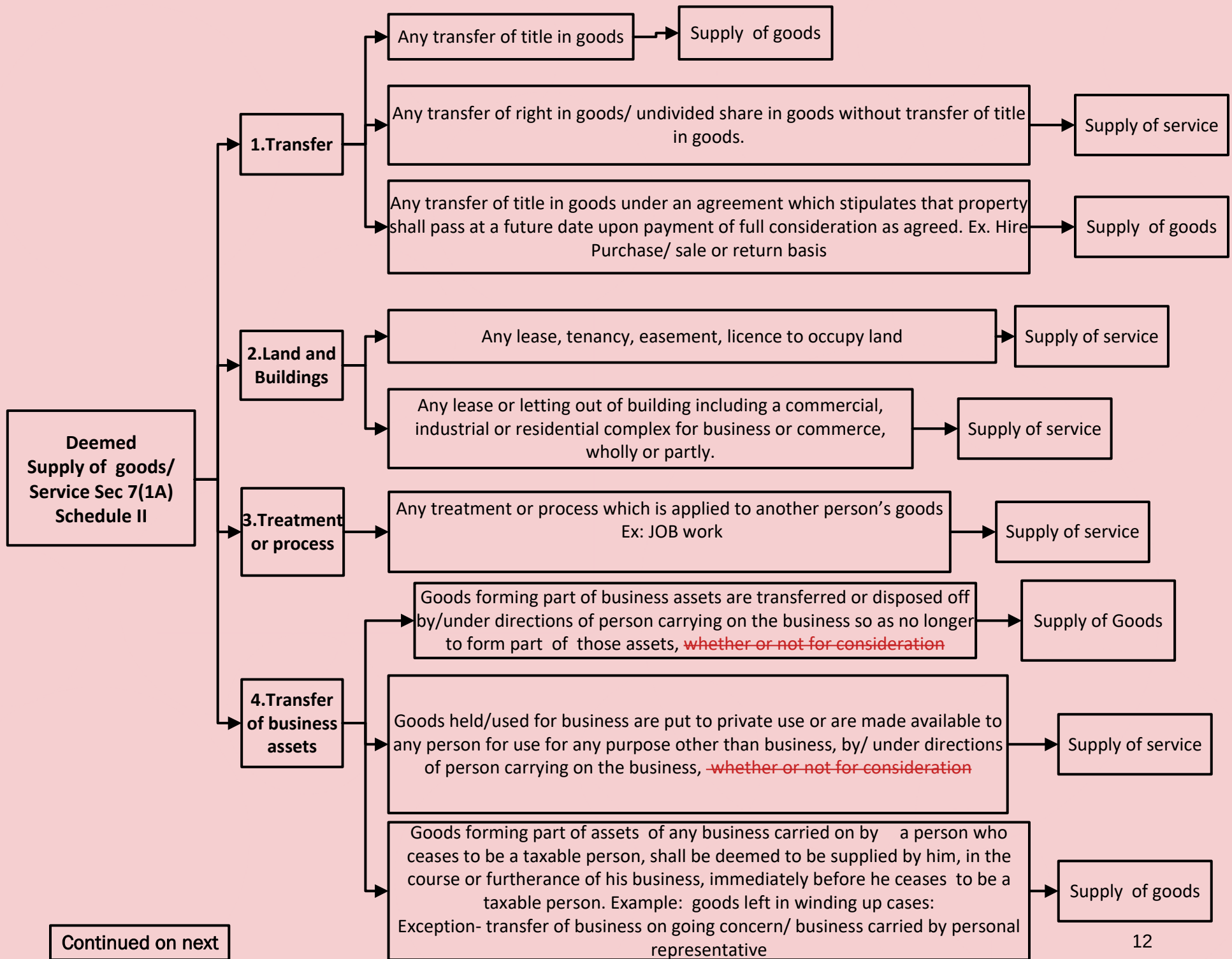
Money: means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveler cheque, money order, postal or electronic remittance or any other instrument recognised by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value [Sec. 2(75)]

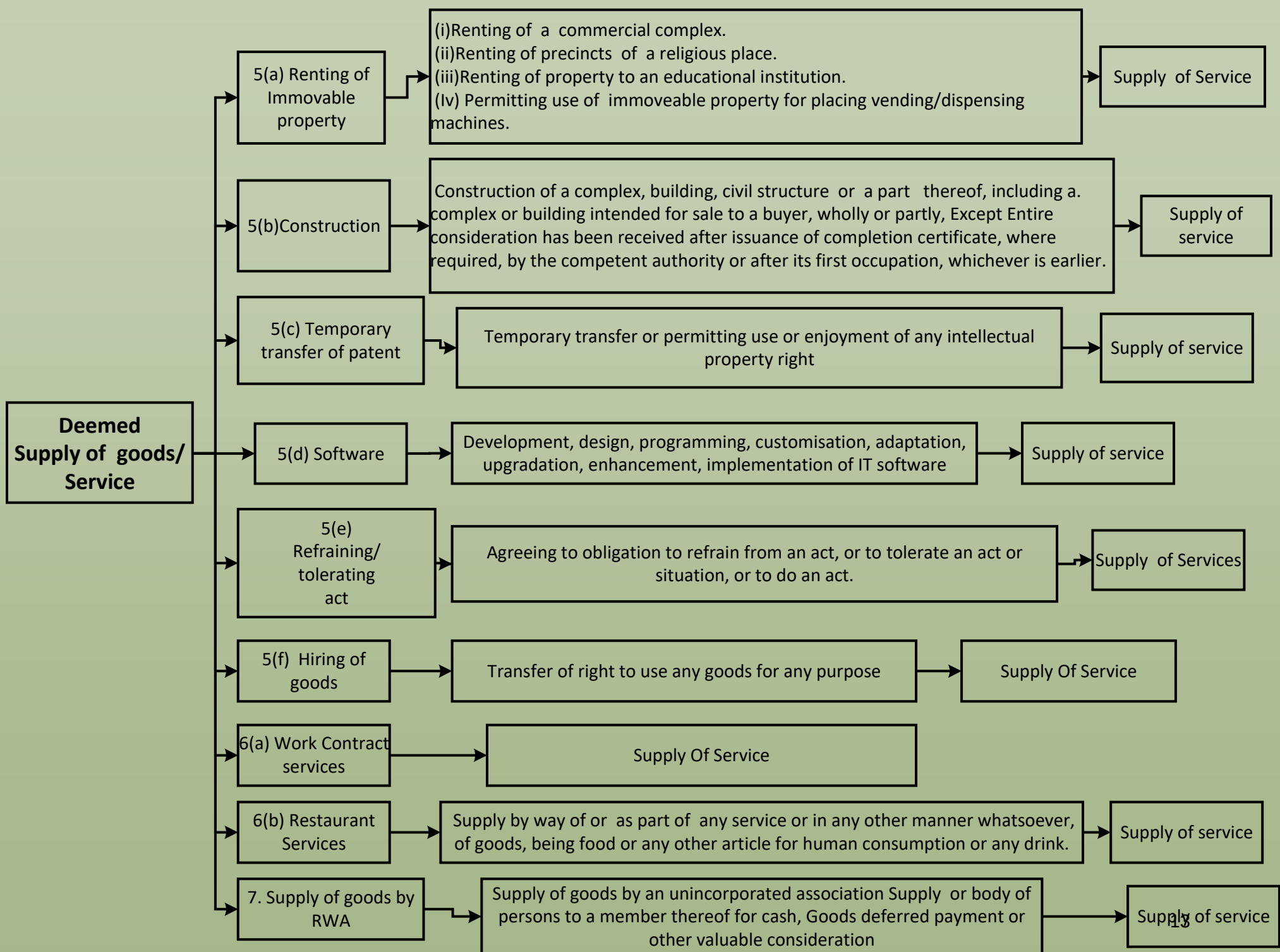
Supply Sec 7 of CGST ACT



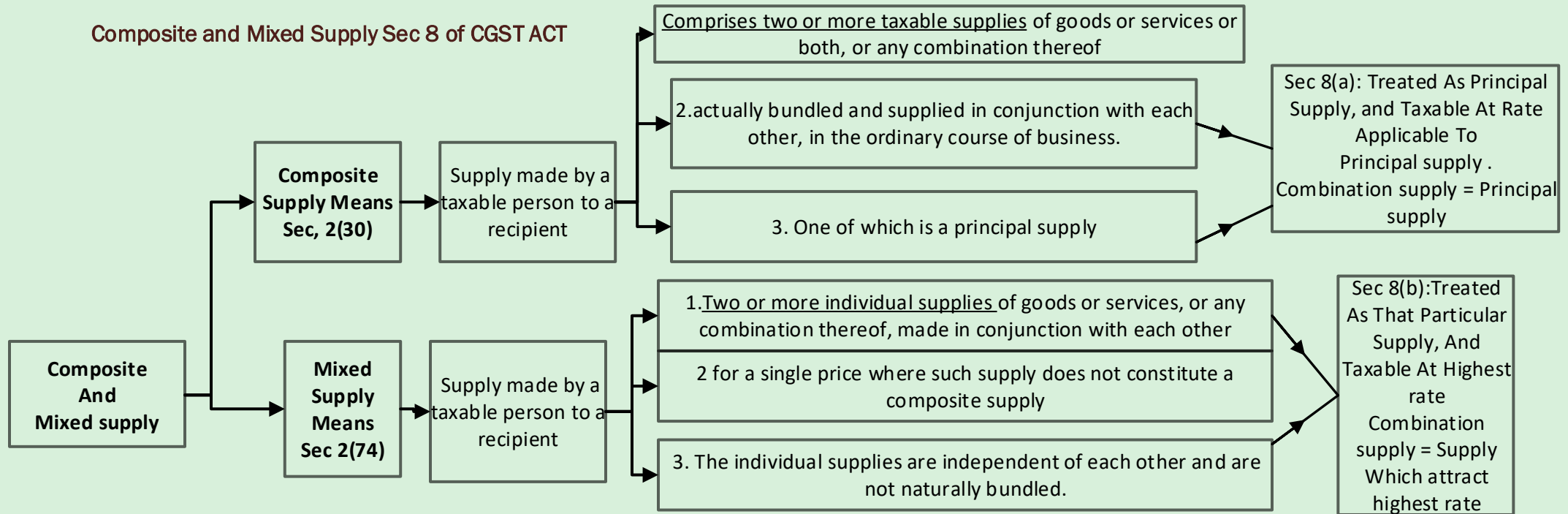
	Schedule I: - Deemed supply - Supplies made without Consideration- Sec 7(1)(c)
1	Permanent transfer / disposal of business assets for which ITC is availed
2	Supplies between related persons/ distinct persons (person has more than one registration in same state or different state ex. Ho and branches) in the course or furtherance of business. Gift by employer to employee in excess of Rs. 50000/- (gifts of less than Rs. 50,000 in value in a FY by employer to employee not to be treated as supply)
3	Supply of goods by principal to agent where agent undertakes to supply on behalf of principal without consideration. In case of Services Consideration is must Supply of goods by agent to Principal where agent undertakes to receive such goods on behalf of principal without consideration. In case of Services Consideration is must
4	Importation of service by a person (The word taxable person is omitted) from a related person or from any of his other establishments outside India in <u>the course or furtherance of business</u> . Example: Importer of exempted supplies who imports services from related person is liable for GST

SNO	Schedule III- Negative list of supply- Activities or transactions which shall be treated <u>neither as a supply of goods nor a supply of services-Sec 7(2)</u>
1	Services by an employee to the employer in the course of or in relation to his employment.
2	Services by any court or Tribunal established under any law for the time being in force.t.
3	Services of MP, MLA, MLC, Corporater, members of panchayat, Govt nominated posts like chairman of corporations /Constitutional posts like speaker, governor etc.
4	Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
5	Outright sale of land or Building
6	Actionable claims, other than lottery, betting and gambling.
7	Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.
8	Supply of warehoused goods to any person before clearance for home consumption; Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption





Composite and Mixed Supply Sec 8 of CGST ACT



Factors in determination of bundled in the ordinary course of business: Perception of consumer/Majority of business do such bundled service/ Nature of service.

Principal supply means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary. [Section 2(90) of CGST Act]

One supply is principal supply and other one is ancillary. Both should be taxable supplies. Both supplies supplied to one recipient

Guiding principle of Composite and Mixed supply			
SNo	Descriptions	Compo site supply	Mixed supply
1	Naturally bundled	Yes	No
2	Supplied together	Yes	No
3	One is predominant supply	Yes	No
4	Can be supplied separately	No	No
5	Each supply priced separately	No	No
6	Other supply is not aim in itself	Yes	No
7	All supplies or goods or services	Yes	Yes
8	One supply is goods other service	Yes	Yes

Examples of composite supply			Examples of Mixed supply	
SNo	Nature of supply	Principal supply	SNo	Nature of supply
1	Charger supplied along with mobile phones.	Mobile phone	1	A supply of a package consisting of canned foods, sweets, Chocolates, cakes, dry fruits, aerated drink and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately.
2	Transportation of goods along with packing insurance loading and unloading	Transportation of goods		
3	Supply of food along with service charges	Restaurant service		
4	Works Contract	Work contract service		
5	Air ticket along with food, insurance and free lounge	Airline transport of passengers		
6	Supply of Equipment along with accessories and warranty	Supply of equipment		
7	Hotel service along with food, telephone, laundry	Renting of immovable property	2	A gift pack comprising of chocolates and sweets.

CBIC circulars on Composite and Mixed Supply

Activity/Transaction	Principal supply
Supply of printed books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc., printed with design, logo, name, address or other contents supplied by the recipient of such printed goods	In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer , supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute
	In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. by the printer using its physical inputs including paper to print the design, logo etc. supplied by the recipient of goods, predominant supply is supply of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods . [Circular No. 11/11/2017 GST dated 20.10.2017]
Activity of bus body building	The principal supply may be determined on the basis of facts and circumstances of each case [Circular No. 34/8/2018-GST dated 01.03.2018]
Retreading of tyres [Circular No. 34/8/2018-GST dated 01.03.2018].	Pre-dominant element is process of retreading which is a supply of service . Rubber used for retreading is an ancillary supply. Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods

GST LIABILITY CLARIFICATIONS

Latest

Service by way of grant of alcoholic liquor licence is neither a supply of goods nor a supply of service

Service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name it is called.” Is not a supply of goods or services [Notification No. 25/2019 CT (R) dated 30.09.2019/ Notification No. 24/2019 IT (R) dated 30.09.2019]?

Other than liquor cases GST applicable: Circular No. 121/40/2019 GST dated 11.10.2019 has clarified that the above special dispensation applies only to supply of service by way of grant of liquor licenses by the State Governments as an agreement between the Centre and States. GST is applicable in grant of other licenses and privileges in case of mining rights, natural resources such as spectrum etc. against payment of consideration in the form of fee, royalty etc. Tax is required to be paid by the business entities on such services under reverse charge.

Clarification in respect of goods sent/ taken out of India for exhibition or on Consignment basis for export promotion [Circular No. 108/27/2019 GST dated 18.07.2019]

Cannot be considered as supply as there is no consideration: the activity of sending/ taking the goods out of India for exhibition or on consignment basis for export promotion, do not constitute supply as the said activity does not fall within the scope of section 7 of the CGST Act as there is no consideration at that point in time.

when such activity satisfies the tests laid down in Schedule I of the CGST Act It amounts to supply and GST payable

Since such activity is not a supply, the same cannot be considered as “Zero rated supply” as per the provisions contained in section 16 of the IGST Act.

Execution of a bond or LUT, as required under section 16 of the IGST Act, is not required in case of these goods

Clarification on issue of GST on airport levies [Circular No. 115/34/2019 GST dated 11.10.2019]

- Passenger service fee (PSF), User development fee (UDF) charged and collected as per Aircraft rules 1937, by the airport operators from the passengers for providing the services to passengers. PSF and UDF charged by airport operators are consideration for providing services to passengers. And are falls with in the definition of Consideration. u/s 2(31).

- Since, the airport operators are collecting PSF and UDF inclusive of GST, there is no question of their not paying GST collected by them to the Government.
- airport operator and airlines shall be liable to pay GST on the same under forward charge. ITC of the same will be available with the airport operator.

When airlines act as pure agent airport levies will not be includible in value subject to conditions: Circular No. 115/34/2019 GST dated 11.10.2019

Airlines may act as a pure agent for the supply of airport services in accordance with rule 33 of the CGST rules. Rule 33 of the CGST rules provides that the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply.

Accordingly, the airline acting as pure agent of the passenger should separately indicate actual amount of PSF and UDF and GST payable on such PSF and UDF by the airport licensee, in the invoice issued by airlines to its passengers.

The airline shall not take ITC of GST payable or paid on PSF and UDF.

The airline would only recover the actual PSF and UDF and GST payable on such PSF and UDF by the airline operator.

The amount so recovered will be excluded from the value of supplies made by the airline to its passengers. In other words, the airline shall not be liable to pay GST on the PSF and UDF (for airport services provided by airport licensee), provided the airline satisfies the conditions prescribed for a pure agent under rule 33 of the CGST Rules.

The registered passengers, who are the ultimate recipient of the airport services, may take ITC of GST paid on PSF and UDF on the basis of pure agent's invoice issued by the airline to them

Art works sent by artists to galleries for exhibition is not a supply no GST.

when a buyer selects a particular art, work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply. Circular No. 22/22/2017 GST dated 21.12.2017

Moulds and dies owned by Original Equipment Manufacturers (OEM) that are sent free of cost (FOC) to a component manufacturer (the two not being related persons or distinct persons) does not constitute a supply as there is no consideration involved [Circular No. 47/21/2018 GST dated 08.06.2018]

Services of short-term accommodation, conferencing, banqueting etc., provided to a SEZ developer or a SEZ unit shall be treated as an inter-State supply [Circular No. 48/22/2018 GST dated 14.06.2018].

Tenancy rights/pagadi system

- ❖ Pagadi system i.e. transfer of tenancy rights against tenancy premium, covered under supply of service liable to GST. It is a form of lease or renting of property and such activity is specifically declared to be a service Schedule II.
- ❖ The transfer of tenancy rights cannot be treated as sale of land/ building as per Schedule III.
- ❖ Further, services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is liable to GST [Circular No.44/18/2018 CGST dated 02.05.2018].

Inter-State movement of various modes of conveyance, between distinct persons Inter-State movement of various modes of conveyance Trains, Buses, Trucks, Tankers, Trailers, Vessels, Containers, Aircrafts, Is not liable for GST and hence no GST payable. However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance [Circular No. 1/1/2017 IGST dated 07.07.2017**].

inter-State movement of rigs, tools and spares, and all goods on wheels [like cranes], [except in cases where movement of such goods is for further supply of the same goods], such inter-State movement shall be treated 'neither as a supply of goods or supply of service,' and consequently no IGST would be applicable on such movements. In this context, it is also reiterated that applicable CGST/SGST/IGST, as the case maybe, is leviable on repairs and maintenance done for such goods [Circular No. 21/21/2017-GST dated 22.11.2017].

Fee paid by litigants in the Consumer Disputes Redressal Commissions are not leviable to GST.

Any penalty or fees imposed by or amount paid to these Commissions will also not attract GST. Circular No. 32/06/2018 GST dated 12.02.2018

Activity of bus body building, is a supply of goods or services

Classification of this composite supply, as goods or service would depend on which supply is the principal supply which may be determined on the basis of facts and circumstances of each case **Circular No. 34/08/2018 GST dated 01.03.2018**

Retreading of tyres is a supply of goods or services

The pre-dominant element is the process of retreading which is a supply of service. Rubber used for retreading is an ancillary supply. Which part of a composite supply is the principal supply. **Circular No. 34/08/2018 GST dated 01.03.2018**

Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods.

GST on taxable services provided by the members of the JV to the JV and vice versa and inter se between the members of the JV (Taxability of cash calls in case of JV) [Circular No. 35/09/2018 GST dated 05.03.2018]

Illustration	Taxability
Illustration A: There are 4 members in the JV including the operating member and each one contributes Rs. 100 as part of their share. A total amount of Rs. 400 is collected. The operating member purchases machinery for Rs. 400 for the JV to be used in oil production.	It is the subject matter of 'ST/GST' for the reason that the operating member is not carrying out an activity for another for consideration. In Illustration A, the money paid for purchase of machinery is merely in the nature of capital contribution and is therefore a transaction in money
Illustration B: There are 4 members in the JV including the operating member and each one contributes Rs. 100 as part of their share. A total amount of Rs. 400 is collected. The operating member thereafter uses its own machine and performs exploration and production activities on behalf of the JV	the operating member uses its own machinery and is therefore providing 'service' within the scope of supply of CGST Act. This is because in this scenario, the operating member is recovering the cost appropriated towards machinery and services from the other JV members in their participating interest ratio.

Services provided by a College Hostel Mess

- If the catering services is one of the services provided by an educational institution to its students, faculty and staff and the said educational institution is covered by the definition of 'educational institution' as given above, then the same is exempt
- If the catering services, i.e., supply of food or drink in a mess or canteen, is provided by anyone other than the educational institution, then it is a supply of service to the concerned educational institution and attracts GST [Circular No. 28/02/2018 GST dated 08.01.2018]

Clarification on hostel accommodation provided by Trusts to students

Hostel accommodation services do not fall within the ambit of charitable activities as defined in para 2(r) of Notification No. 12/2017-CT(Rate). However, services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below Rs. 1,000 per day or equivalent are exempt. Thus, accommodation service in hostels including by Trusts having declared tariff below Rs. 1,000 day is exempt. [Circular No. 32/06/2018 GST dated 12.02.2018].

Classification

cutting and packing of fabrics into pieces of different lengths from bundles or thans, will not change the nature of these goods and such pieces of fabrics would continue to be classifiable under the respective heading as the fabric. [Circular No. 13/13/2017 GST dated 27.10.2017.

Clarification on various doubts related to treatment of sales promotion schemes under GST. [Circular 92/11/2019 GST dated 07.03.2019		
SNO	Particulars/Issue	GST Liability
1	Free samples and gifts. Example: drug samples of Pharma companies	- As per section 7(1)(a) of the CGST Act, the goods or services which are supplied free of cost (without any consideration) shall not be treated as supply” under GST (except in case of activities mentioned in Schedule I of the CGST Act). Hence there is no GST liability. - ITC is not available Sec 17(5)
2	Buy one get one free offer	- When one item is being “supplied free of cost” without any consideration. In fact, it is not an individual supply of free goods, but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one. - Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the CGST Act. - ITC available

Composition Scheme - Sec 10 and Notification No 14/2019 dated 07.03.2019 with effective from 01.04.2019				
SNO	Particulars			
1	Applicability Sec 10(1)	Registered persons of		
		(a)	Manufacturer of goods other than goods of ice cream pan masala and tobacco, aerated waters	
		(b)	Supplier of Restaurant, catering, mess services	
		(c)	Traders	
2	Eligibility Turnover limits On <u>all India PAN</u> basis Sec 10(1)	Eligibility to the Composition scheme is available when the Aggregate turnover of PFY in case of		
		(a)	All North eastern states except Assam and Uttarakhand – not exceeding Rs. 75 lakhs	
		(b)	J &K, Himachal Pradesh and all other states - not exceeding Rs. 1.50 crores	
3	Non-eligible persons Sec 10(2)	(a)	Persons having interstate <u>outward supply of goods</u>	
		(b)	Supplier of goods which are not leviable to tax (petroleum products)	
		(c)	Supplier supplying goods services through an electronic commerce operator who is liable to collect TCS	
		(d)	Non-Resident taxable person	
		(e)	Casual taxable person	
4	Rates of GST Sec 10(1) (a), (b) and (c) & Rule 7	(a)	Manufacturer of goods	1% of turnover of state/UT
		(b)	Supplier of Restaurant, catering, mess services	5% of turnover of state/UT
		(c)	Traders	1% of turnover of taxable supplies of goods/services
5	Marginal supply of services allowed Sec 10(1) proviso	Taxable persons of manufacturer, supplier of restaurant and traders can supply services other than restaurant services up to maximum of 10% of PFY turnover of Rs. 5 lakhs WEH		
		While computing the limit of turnover of state UT <u>income by way of interest or discount shall not be considered.</u>		
6	Conditions	(a)	Sec 10(3) -Eligibility will be lapsed on the day when the limit exceeds	
		(b)	Sec 10(4) -Shall not collect tax and not eligible for ITC	
		(c)	Sec 10(5)-The PO reason to believe, if a taxable not eligible for the scheme but avails the scheme, SCN will be issued, recovery proceedings will be made for tax and penalty u/s 73 or 74	

Definitions	
Aggregate turnover Explanation 1 to Sec 10(5) – To determine the eligibility of the scheme. Calculation from 1st April of PFY	Turnover of state/UT- Sec 2(112) explanation to Sec 10(1)- To determine the tax payable – Calculation from 1st April of FY
Includes	Includes
All taxable supplies ((excluding the value of inward supplies on which tax is payable by a person on reverse charge basis	All taxable supplies ((excluding the value of inward supplies on which tax is payable by a person on reverse charge basis
Exported goods/services	Exported goods/services
Exempted goods/services	Exempted goods/services made with in state
Nil rate of Goods and services	Nil rate of Goods and services made with in state
Nontaxable goods and services	Nontaxable goods and services made with in state
Inter-State supplies between distinct persons <u>having same PAN</u>	Inter-State supplies from the State or Union territory by the said taxable person
Excludes	Excludes
CGST, SGST, UTGST, IGST, Cess	CGST, SGST, UTGST, IGST, Cess
Income of Interest and discount on loans deposits WEF 01.01.2020	Income of Interest and discount on loans deposits WEF 01.01.2020
Note: The general definition of Aggregate turnover -Sec 2(6) includes Income of Interest and discount on loans deposits	Note: The general definition of turnover of state-Sec 2(6) includes Income of Interest and discount on loans deposits

Procedure Rule 3 to 7 of CGST Rules			
1	Exercise of option	(a)	At the time of registration, in Part B in registration application form. Scheme is effective from the date of registration
		(b)	After registration in form GST COMP 02 before the start of FY. Scheme is effective from the 1 st day of April
		(c)	Option should be exercised on all India PAN basis, for all units in India
		(d)	Fresh intimation to be filed every year to continue the provision of composition tax payer
2	Intimation of stock details	(a)	The taxable person should intimate input stock details, including details of stock purchased from unregistered supplier with in 9 days from the date of opting scheme
3	Validity of scheme	(a)	shall remain valid so long as he satisfies all the conditions
		(b)	scheme lapses from the day on which aggregate turnover of a registered person exceeds the specified limit. he is required to file an intimation for withdrawal from the scheme in prescribed form within 7 days of the occurrence of such event.
		(c)	The taxable person who intends to withdraw from the scheme shall, before the date of such withdrawal, file an application in prescribed form. The effect will be from the date of application. He can avail ITC
4	Other conditions	(a)	the taxable person is required to pay tax on inward supplies at applicable reverse charge rates
		(b)	the goods held in stock by him have not been purchased from an unregistered supplier and where purchased, he pays the tax under reverse charge
		(c)	Tax should not collect and NO ITC
		(d)	Tax invoice should not be issued. Bill of supply to be issued, he shall mention the words 'composition taxable person, not eligible to collect tax on supplies' at the top of the bill of supply issued by him;
		(e)	Word “The Composition Tax Person” should be displayed at Prominent Places like notice, sign board,
Effective date in case of denial of composition option by tax authorities			
In case of denial of option to pay tax under composition levy by the tax authorities, it has been clarified that the effective date of such denial shall be from a date, including any retrospective date, as may be determined by tax authorities. However, such effective date shall not be prior to the date of contravention of the provisions of the CGST Act/ CGST Rules [Circular No. 77/51/2018 GST dated 31.12.2018] .			

Composition Scheme – for Service Providers Notification No 2/2019 dated 07.03.2019 with effective from 01.04.2019		
Optional concessional rate of tax for service providers other restaurant services		
Particulars		
Applicability	Registered persons of	
	(a)	Service provider who cannot opt composition scheme u/s 10 of CGST ACT i.e. service providers other restaurant services
Eligibility Turnover limits On <u>all India PAN</u> <u>basis</u>	Eligibility to the concessional scheme is available when the Aggregate turnover of PFY	
	(a)	not exceeding Rs. 50 lakhs
Non-eligible persons	(a)	Persons having interstate outward supply of goods and Services
	(b)	Supplier of goods /services which are not leviable to tax
	(c)	Supplier supplying goods services through an electronic commerce operator who is liable to collect TCS
	(d)	Manufacturer of goods of ice cream pan masala and tobacco, aerated waters
	(e)	Non-Resident taxable person
	(f)	Casual taxable person
Rate of GST	(a)	6% on first supplies of goods and/or services up to an aggregate turnover of Rs. 50 lakh made on/after 1st April in any financial year
	(b)	In case of newly registered persons who registered after crossing the exemption limit, they can avail basic exemption limit, and they can pay 6% on the remaining turnover up to Rs. 50 lakhs, the excess turnover if any they can pay normal rate of tax
Marginal supply of goods allowed	Registered person can supply goods or restaurant services up to maximum of Rs. 5 lakhs	
	While computing the limit of turnover of state or UT <u>income by way of interest or discount shall not be considered.</u>	
Conditions and procedures	Similar to Composition scheme, the rules of composition are applicable to concessional rate of tax to service providers	

Reverse Charge under GST Sec 9(3) & Notification No. 13/2017 CT (R) dated 28.06.2017

The following table provides a combination of Supplier of service and Service Recipient where the reverse charge of GST is applicable. Any other combination of Supplier of Service or Service Recipient, if the GST is not exempted the GST is payable by Supplier of Service.

1 Services of Goods Transport Agency (GTA)

S. No	Particulars	Particulars
1	Supplier of Service	GTA which is not paying 12% GST (i.e. GTA which is opting to pay GST 5%)
2	Service Recipient (specified persons)	Consignor or consignee who is factory, society, co-operative society registered under respective laws, body corporate established under law, partnership firm whether registered or not, AOP, any registered person under GST, Casual taxable person
3	Explanation	The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification. i.e., If such a person is located in a non-taxable territory, the supplier of service shall be liable to pay GST

2.Services of Individual Advocate/ Senior Advocate,

S. No	Particulars	Particulars
1	Supplier of Service	An individual advocate including a senior advocate or firm of advocates.
2	Nature of Service	by way of representational services before any court, tribunal or authority, directly or indirectly
3	Service Recipient	Any business entity located in the taxable territory

legal service” means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.

3. Services of Arbitral tribunal to a business entity.

S. No	Particulars	Particulars
1	Supplier of Service	An arbitral tribunal
2	Service Recipient	Business entity turnover

4. Services provided by way of sponsorship to anybody corporate or partnership firm

S. No	Particulars	Particulars
1	Supplier of Service	Any person
2	Service Recipient	Anybody corporate or partnership firm located in the taxable territory

5. All Taxable Services by Government or Local Authority ~~excluding renting of immovable property~~ and Postal, port, airport and railway services Notification No. 3/2018 CT (R) dated 25.01.2018 & Notification No. 3/2018 IT (R) dated 25.01.2018]

S. No	Particulars	Particulars
1	Supplier of Service	Central Government/State Government /Union Territory or Local Authority
2	Service Recipient	Any Business entity located in taxable territory

Supply of Service of Renting of immovable property by Central Government/State Government /Union Territory or Local Authority to a Registered person, GST is payable under reverse charge by recipient person i.e. by Registered Person

6. Services of director to company/Body Corporate

S. No	Particulars	Particulars
1	Supplier of Service	Director
2	Service Recipient	Company/Body Corporate located in taxable territory

GST on Director Remuneration (CBIC Circular No. 140/10/2020 – GST, dated 10-6-2020):

SN	Type of director	Nature of amount	GST liability
1	Other than Independent Director	Remuneration paid to director is subject to TDS u/s 192 of the Income Tax Act	Salary- GST not applicable
		Remuneration paid to director is subject to TDS u/s 194 J of the Income Tax Act	Other than salary it is Professional fees – GST applicable on RCM
2	Independent Director	Remuneration	Not an employee. GST applicable on RCM
3	Nominee Directors, Non-executive Directors	Remuneration	Not an employee. GST applicable on RCM
3	Directors	Sitting fees	GST applicable on RCM

7.Services supplied by an insurance agent to any person carrying on insurance business.

S. No	Particulars	Particulars
1	Supplier of Service	Insurance Agent
2	Service Recipient	Any person carrying on insurance business, located in the taxable territory

8 Services supplied by a recovery agent

S. No	Particulars	Particulars
1	Supplier of Service	A recovery agent
2	Service Recipient	A banking company or a financial institution or a non- banking financial company, located in the taxable territory

9.Supply of services by an ~~author~~, music composer, photographer, artist. or the like

S. No	Particulars	Particulars
1	Supplier of Service	An Author /music Composer/photographer/artist or the like
2	Nature of service	by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary dramatic, music, literary artistic work
3	Service Recipient	Publisher , music company, producer or the like, located in the taxable territory.

In case of service by an author to Publisher Reverse charge is optional wef 01.10.2019. Notification No. 22/2019 CT (R) dated 30.09.2019/
Notification No. 21/2019 IT (R) dated 30.09.2019

an author can choose to pay tax under forward charge if-

- he has taken registration under the CGST Act and filed a declaration, in the prescribed form, that he exercises the option to pay CGST on the said service under forward charge in accordance with section 9(1) of the CGST Act and to comply with all the provisions as they apply to a person liable for paying the tax in relation to the supply of any goods and/or services
- he shall not withdraw the said option within a period of 1 year from the date of exercising such option;
- he makes a declaration on the invoice issued by him in prescribed form to the publisher

10.Services of Person located in nontaxable territory		
S. No	Particulars	Particulars
1	Supplier of Service	Any person located in a non-taxable territory
2	Nature of service	Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient
3	Service Recipient	Any person located in the taxable territory other than non-taxable online recipient.

Non-taxable online recipient means:

As per Section 2(16) of the Integrated Goods and Services Tax (IGST) Act, 2017,

- any Government,
- local authority,
- governmental authority,
- an individual or
- any other person not registered

and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.

11. Services supplied by a person located in non- taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India		
S. No	Particulars	Particulars
1	Supplier of Service	A person located in nontaxable territory
2	Nature of service	transportation of goods by a vessel from a place outside India up to the customs station of clearance in India
3	Service Recipient	Importer includes any owner, beneficial owner or any person holding himself out to be the importer

12. Services by way of transportation of passengers by a radio-taxi, motor cab, maxi cab

S. No	Particulars	Particulars
1	Supplier of Service	Driver of Cab
2	Nature of service	Transport of Passengers
3	Service Recipient	E Commerce Operator

13. Services of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places through electronic commerce operator

S. No	Particulars	Particulars
1	Supplier of Service	Unregistered person Supplying services through Electronic Commerce Operator
2	Nature of service	Transport of Passengers
3	Service Recipient	E Commerce Operator

14 Services of Overseeing Committee members to RBI *Notification No. 33 & 34/2017 IT (R) dated 13.10.2017*

S. No	Particulars	Particulars
1	Supplier of Service	Overseeing Committee members
2	Nature of service	Services to RBI
3	Service Recipient	RBI

15 Services of Individual Direct Selling Agent

S. No	Particulars	Particulars
1	Supplier of Service	Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or LLP firm
2	Nature of service	Services supplied by individual Direct Selling Agents (DSAs)
3	Service Recipient	A banking company or a NBFC, located in the taxable territory

16 Services provided by Business facilitator to a banking company from 01.01.2019		
S. No	Particulars	Particulars
1	Supplier of Service	Business facilitator
2	Nature of service	Services provided by Business facilitator to a banking company
3	Service Recipient	A banking company or a NBFC, located in the taxable territory

17 Services provided by an agent of business correspondent to business from 01.01.2019		
S. No	Particulars	Particulars
1	Supplier of Service	An agent of business Correspondent
2	Nature of service	Services provided by an agent of business correspondent to business
3	Service Recipient	A business correspondent located in taxable territory

18 Security services (services provided by way of supply of security personnel) provided to a registered person other than CG/ SG/ LA and Government Agency. from 01.01.2019		
S. No	Particulars	Particulars
1	Supplier of Service	Any person other than a body corporate
2	Nature of service	Security services (services provided by way of supply of security personnel) provided to a registered person other than CG SG LA and Government Agency.
3	Service Recipient	Registered person located in taxable Territory

19. Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter. from 01.01.2019		
S. No	Particulars	Particulars
1	Supplier of Service	Any person
2	Nature of service	Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter
3	Service Recipient	Promoter Builder

20. Long term Lease of land 30 years or more from 01.04.2019		
S. No	Particulars	Particulars
1	Supplier of Service	Any person
2	Nature of service	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project
3	Service Recipient	Promoter

21. Services provided by way of renting of a motor vehicle provided to a body corporate wef 01.10.2019		
S. No	Particulars	Particulars
1	Supplier of Service	Any person other than a body corporate, who is paying GST 5% on renting of motor vehicles with input tax credit only of input service in the same line of business
2	Nature of service	Services provided by way of renting of a motor vehicle provided to a body corporate where cost of fuel included in consideration
3	Service Recipient	Anybody corporate located in the taxable territory
4	Conditions for	Supplier is other than a body-corporate;

	Supplier Notification	Supplier does not issue an invoice charging GST @12% from the service recipient;
	29/2019 dated 31.12.2019	supplies the service to a body corporate.

22 Services of lending of securities under Securities Lending Scheme,1997 ("Scheme") of Securities and Exchange Board of India, as amended WEF 01.10.2019		
S. No	Particulars	Particulars
1	Supplier of Service	Lender i.e., a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI
2	Nature of service	Services of lending of securities under Securities Lending Scheme,1997 ("Scheme") of Securities and Exchange Board of India, as amended
3	Service Recipient	Borrower i.e., a person who borrows the securities under the Scheme through an approved intermediary of SEBI

Clarification on the liability of GST on Lending of Securities- [Circular No. 119/38/2019 GST dated 11.10.2019]

- The activity of lending of securities is not a transaction in securities as it does not involve disposal of securities.
- The Scheme under the Securities Lending Scheme, 1997 doesn't treat lending of securities as disposal of securities and therefore is not excluded from the definition of services.
- The lender temporarily lends the securities held by him to a borrower and charges lending fee for the same from the borrower.
- The borrower of securities can further sell or buy these securities and is required to return the lent securities after stipulated period of time.
- The lending fee charged from the borrowers of securities has the character of consideration and this activity is taxable in GST since 01.07.2017.
- With effect from 1st October 2019, the borrower of securities shall be liable to discharge GST under reverse charge mechanism. The nature of GST to be paid shall be IGST under reverse charge mechanism.
- Apart from above, the activities of the intermediaries facilitating lending and borrowing of securities for commission or fee are also taxable separately

Time of supply of goods- liability to pay tax arises -sec 12

Time of supply of Goods/Services various types

Time of supply under forward charge Sec 12(2)

Time of supply under reverse charge Sec 12(3)

Time of supply of vouchers exchangeable for goods Sec 12(4)

Time of supply in residual cases Sec 12(5)

Time of supply of Goods Under forward charge sec 12(2)
Earlier of

Date of issue of invoice/Due date of issue of invoice

Date on which the payment is credited to the supplier's bank account

Date on which payment recorded in the books of supplier

Where the supplier receives amount up to Rs. 1000/- in excess of Invoice price, The time supply will be at the option of supplier, be date of invoice. Applicable for goods as well as services

Time of Supply of Goods under reverse charge u/s 12(3) of GST Act, 2017
Earlier of

The date of receipt of goods

The date on which the payment is debited in bank account of recipient

The date of payment entered in the books of recipient

Date Immediately following 30 days from the (31 day) date of issue of invoice by the supplier

Time of supply in residual cases for supply of goods Sec 12(5)/ Services Sec 13(5)

When GST Return is to be filed

Due date of filing of Return

Other cases

Date of payment of GST

Payment of GST in case of goods is date of invoice/ due date of invoice. Hence no need to pay tax on advances received against supply of goods Sec 12(2)(a)

Composition dealers are also not required to pay tax on advances received. As they have to prescribed rate on turnover

If the these events are UNASCERTAINABLE ; Time of supply = Date of entry of good in books of account of recipient of goods

Time of supply of vouchers exchangeable for goods Sec 12(4)/ Services Sec 13(4)

Food pass (Any food item can be purchases)/
Shirt coupon (Only Shirt can be purchased)

Supply is identifiable at the time of issue of voucher

DATE OF ISSUE OF VOUCHER

Supply is not identifiable at the time of issue of voucher

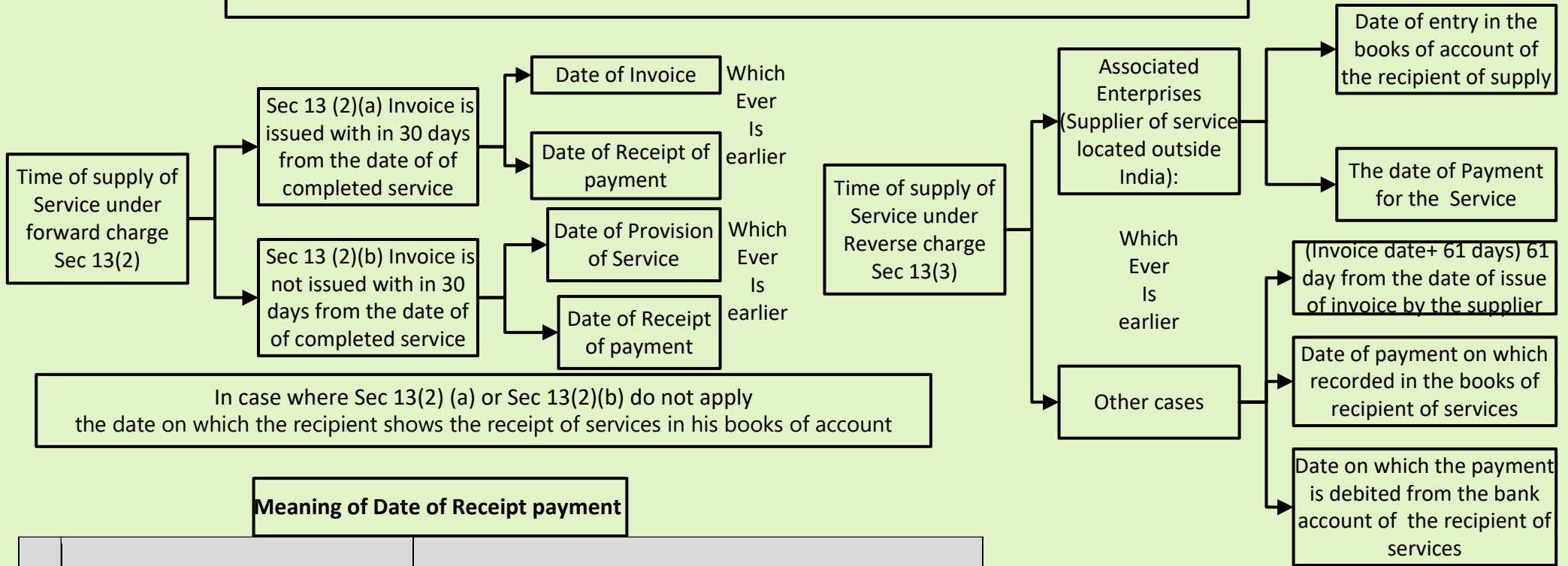
DATE OF REDEMPTION OF VOUCHER

Addition in value by way of interest, late fee/ penalty for delayed payment of consideration for goods Sec 12(6)/ Services Sec 13(6)

Time of supply

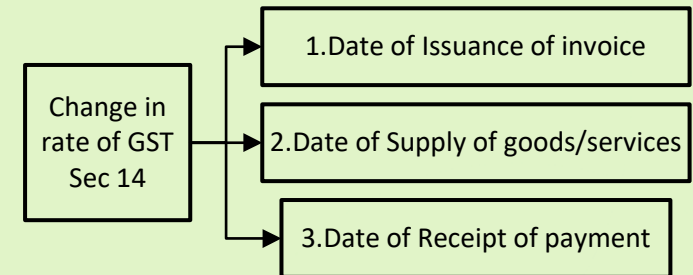
Date on which the supplier receives such addition in value

Time of supply of services -Liability to pay tax arise on services -Sec 13

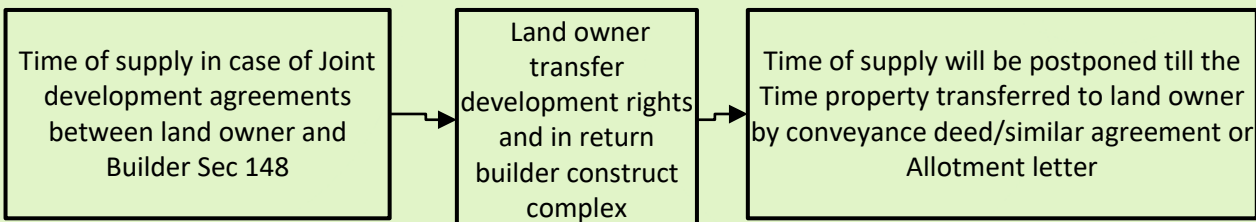


Meaning of Date of Receipt payment

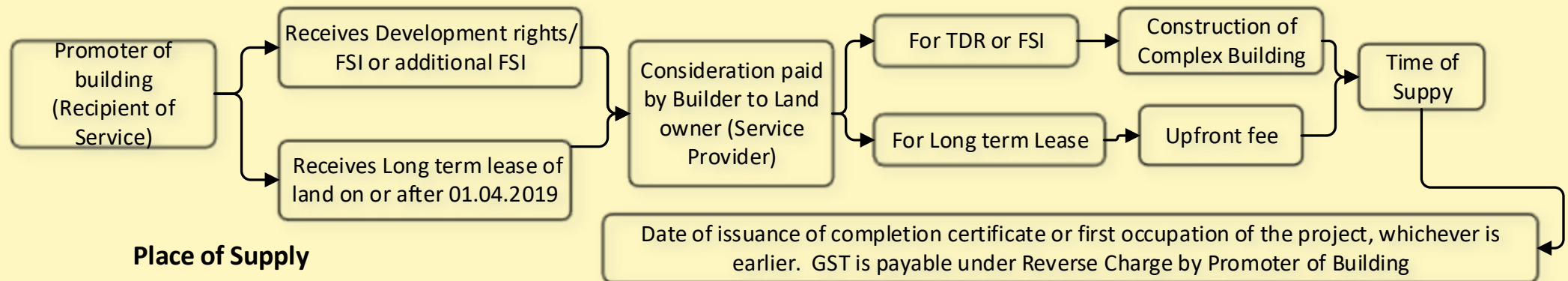
1	Normal cases	Date of entry in books or date of crediting in bank account, Whichever earlier.
2	Special cases in case of Change in rate of GST	
	Rate changes between entry in books and credited in bank account	Payment is credited in the bank with in 4 days from the effective date of new rate- <u>date of entry in the books is the date of payment</u> Payment is credited in the bank after 4 days- <u>date of Crediting in the bank account is the date of payment</u>



Any 2 events happen before change in rate of GST – Old rate of GST
 Any 2 events happen after change in rate of GST – New rate of GST

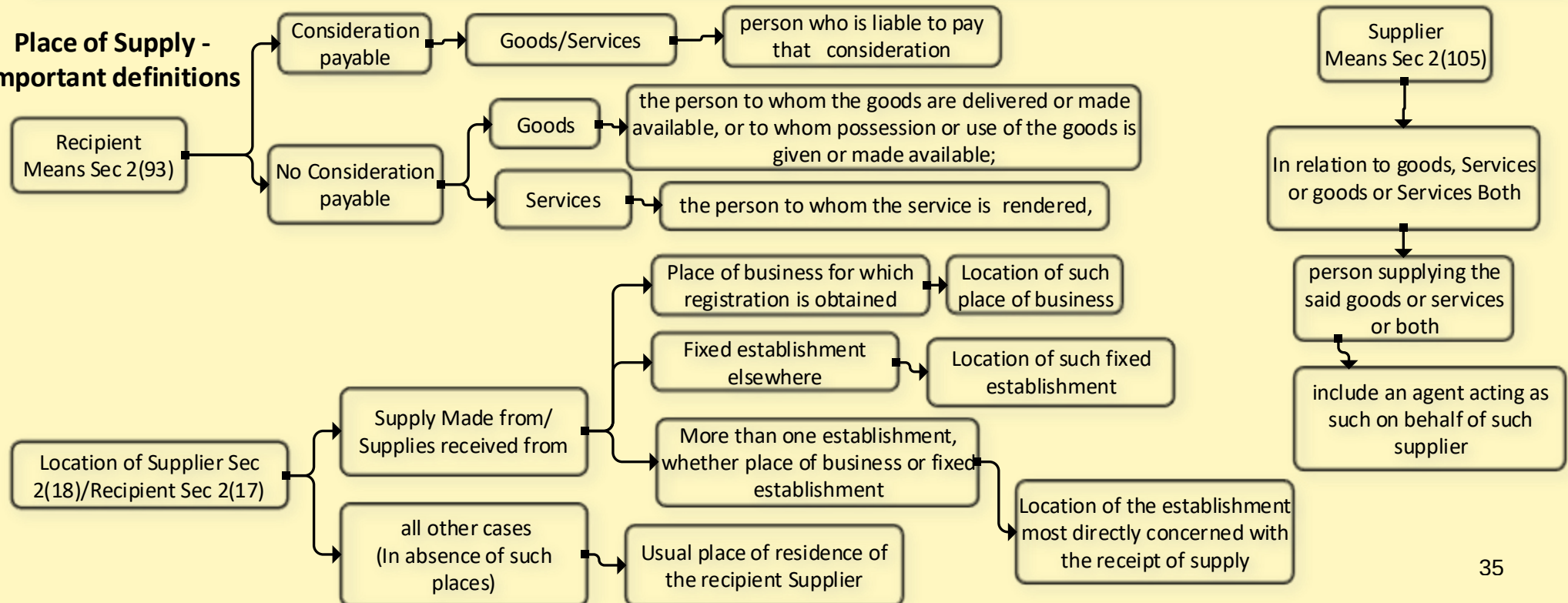


Time of Supply in case of Service of TDR and Long term Lease of Land [Notification No. 6/2019 CT(R) dated 29.03.2019]



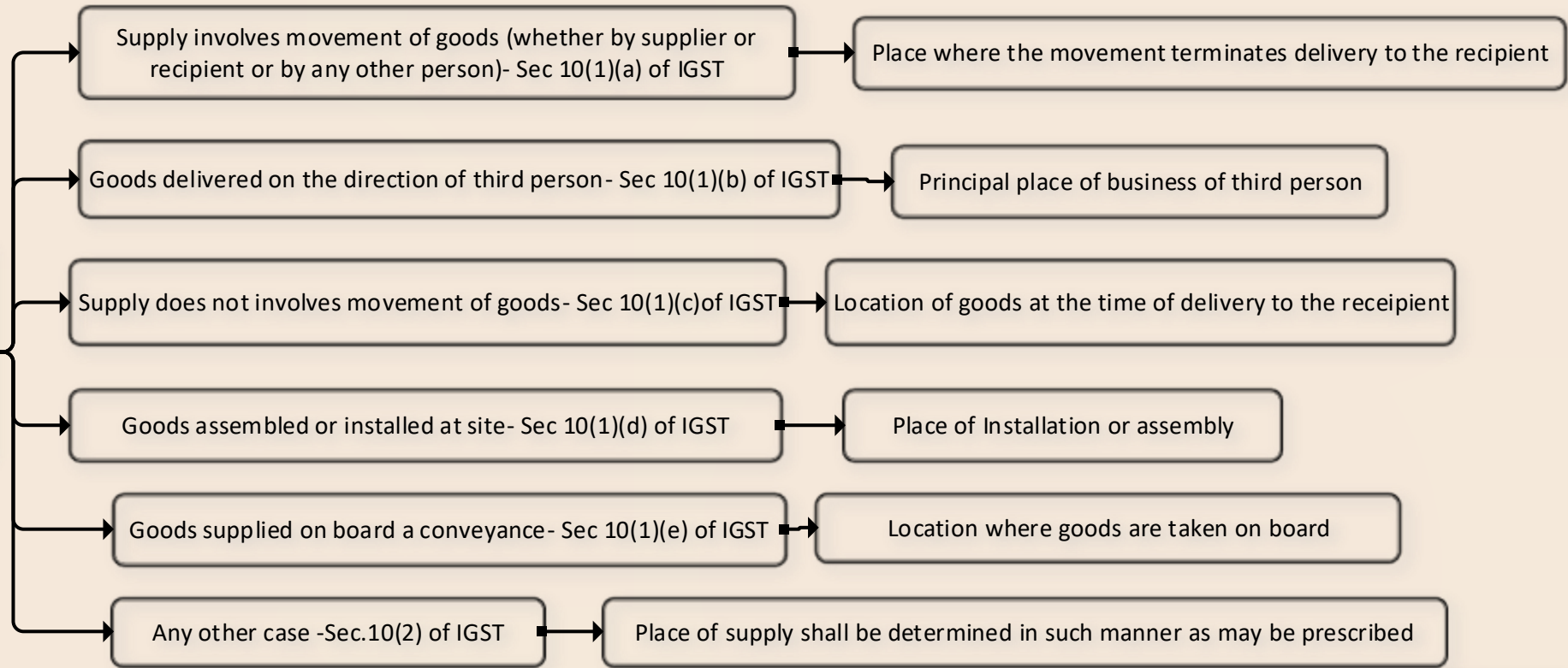
- The place of supply provisions determines the taxable jurisdiction where the tax should reach.
- The place of supply, the location of the supplier and recipient are the determinants to ascertain the nature of supply,
- Determination of place of supply is necessary to know whether a supply is intra-State or inter-State to attract liability of CGST and SGST/UTGST or IGST

Place of Supply - Important definitions

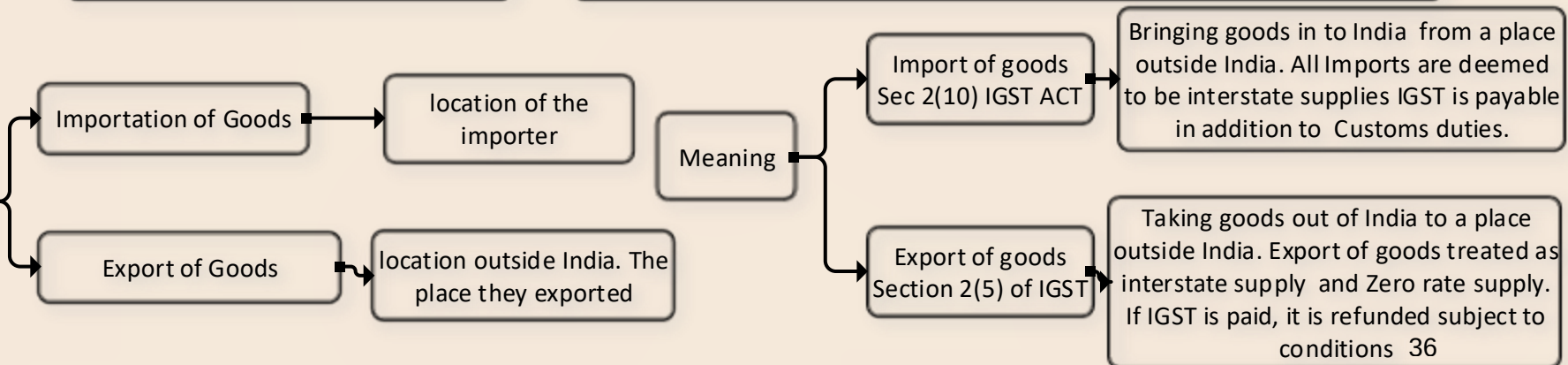


Place of Supply of Goods-Domestic supply Sec 10 of IGST Act

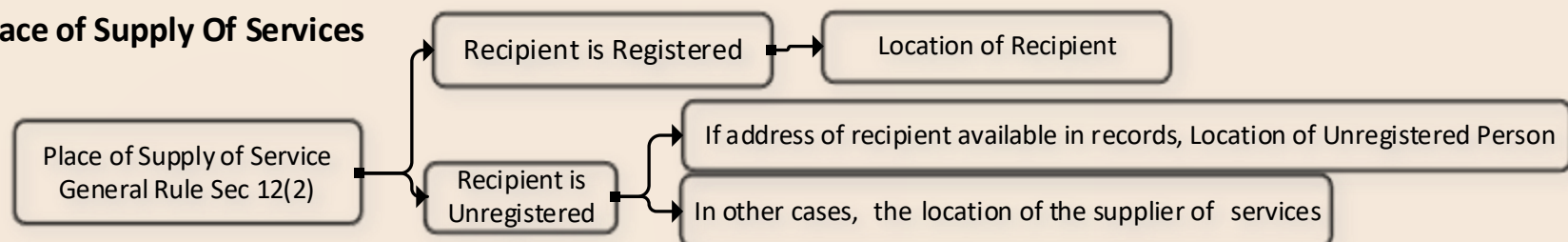
Place of Supply of Goods-Domestic (Other than Import or Export)



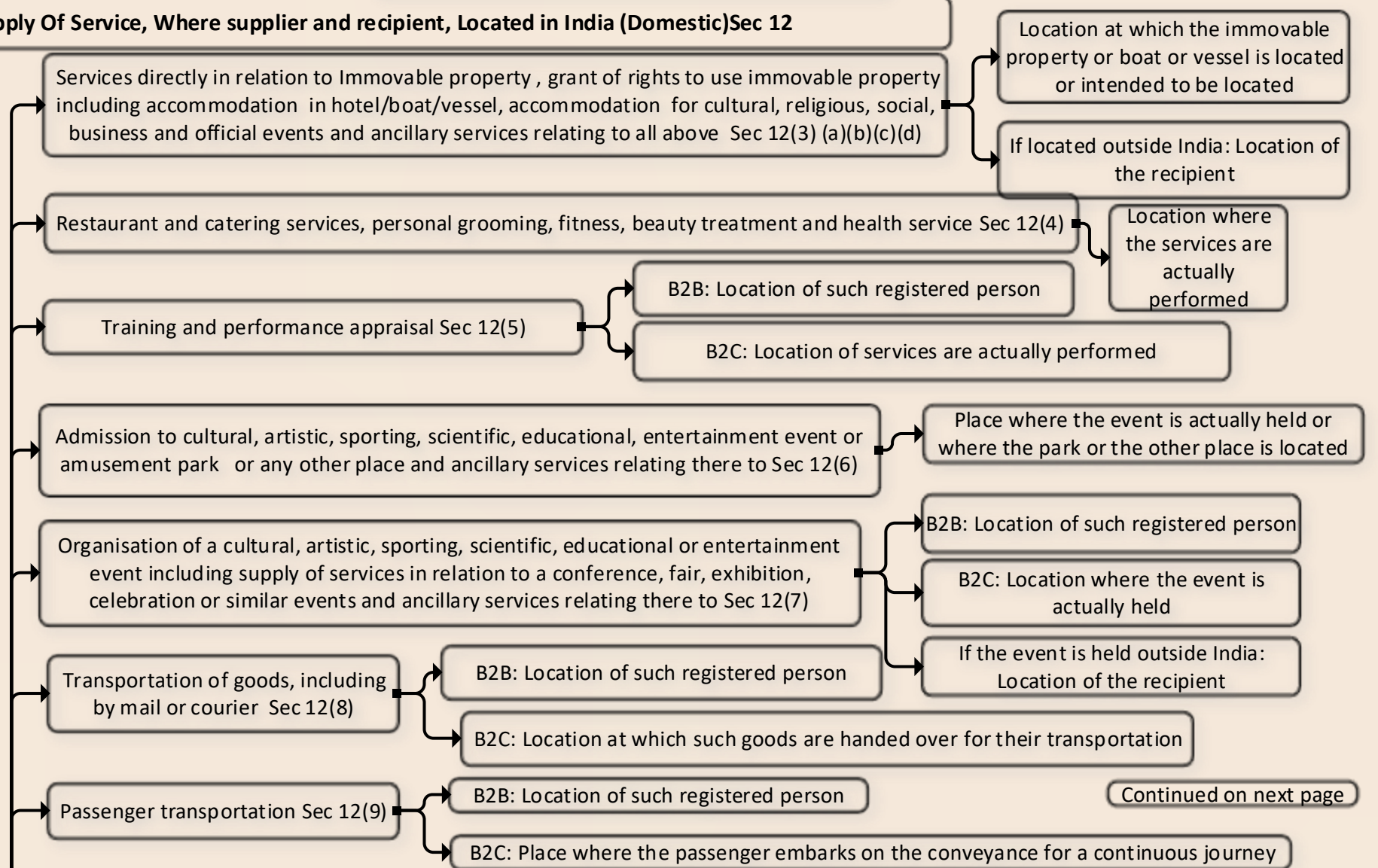
Place of supply In case of Import Export of Goods sec 11



Place of Supply Of Services

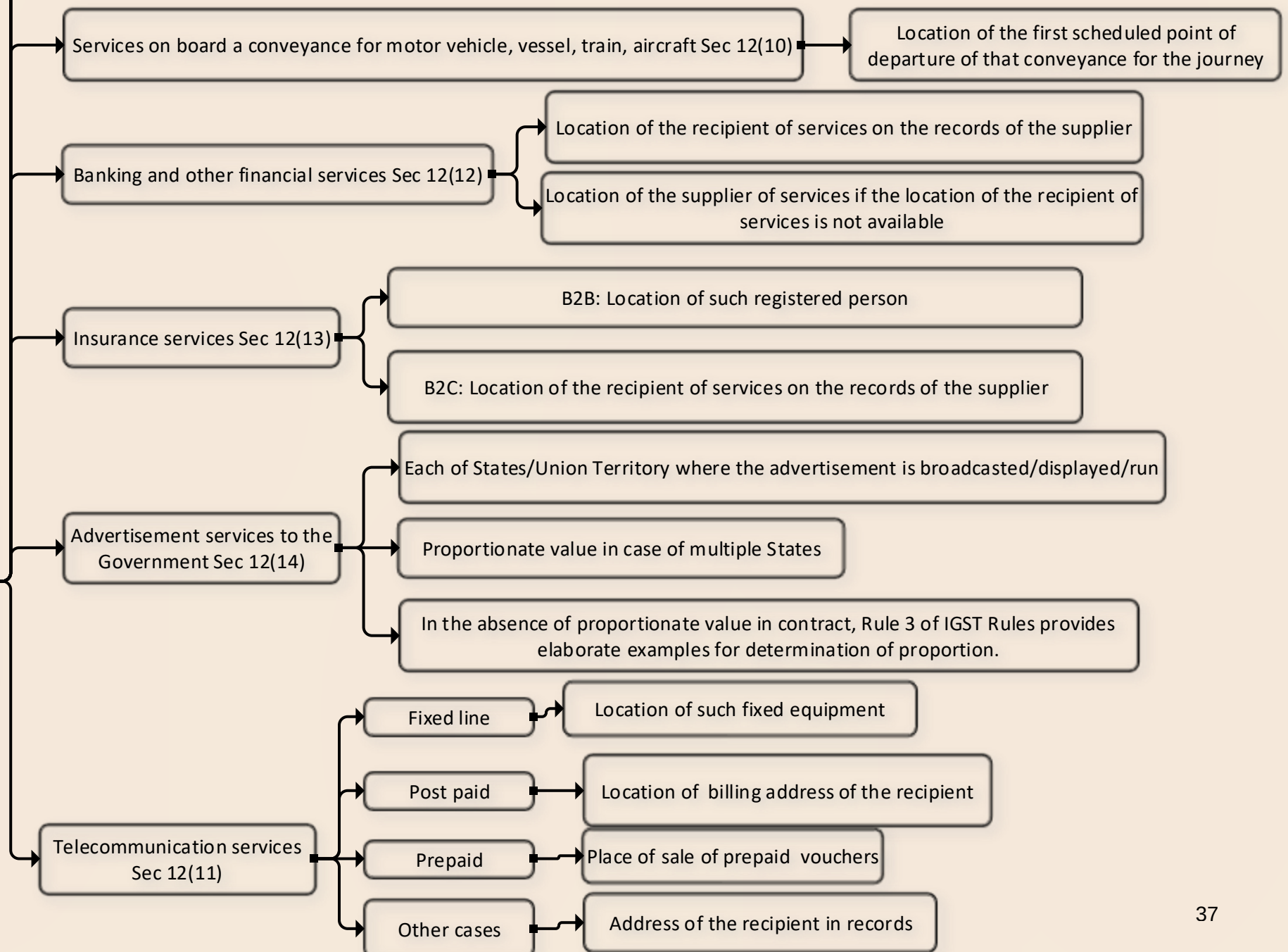


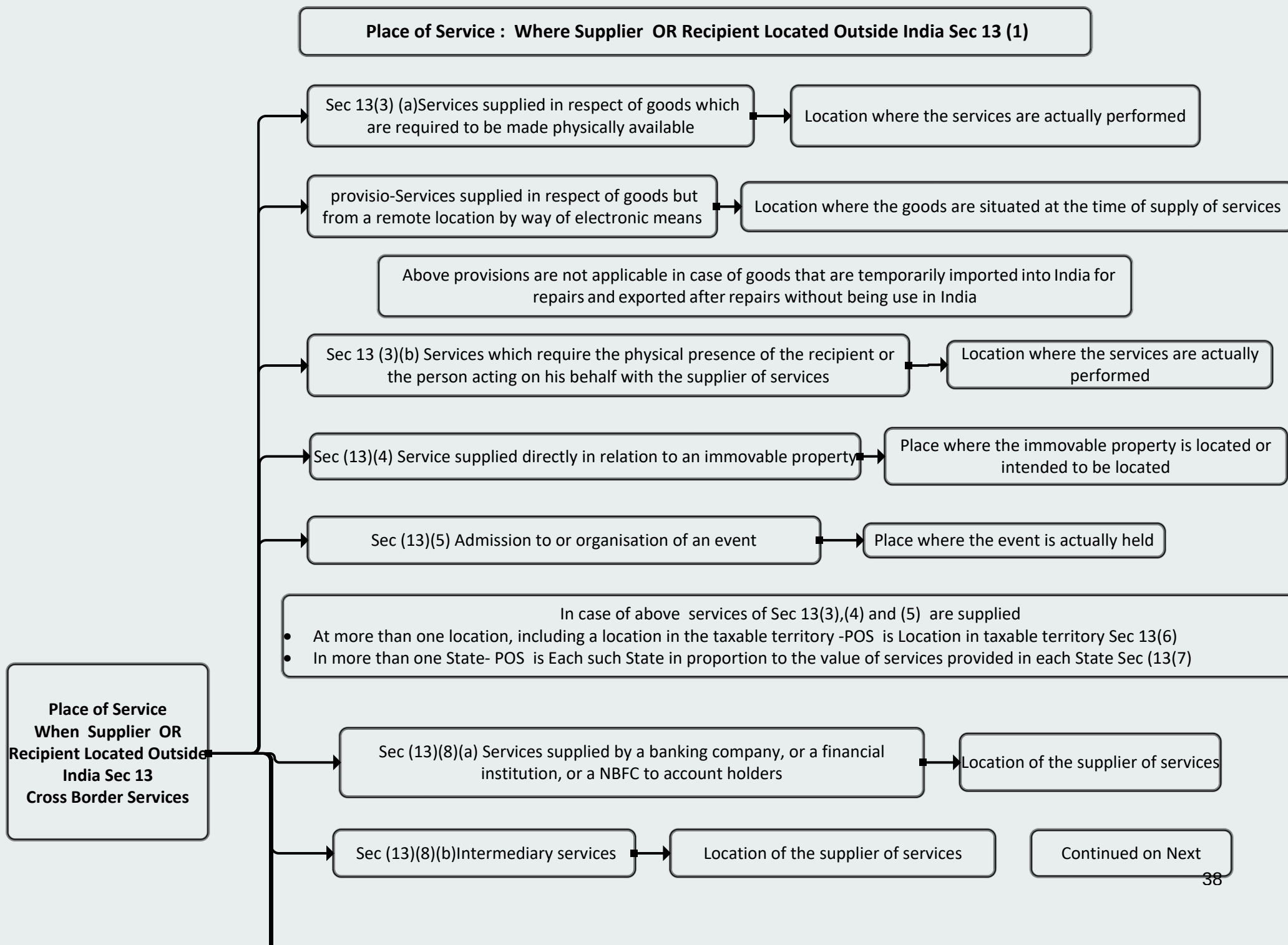
Place of Supply Of Service, Where supplier and recipient, Located in India (Domestic) Sec 12

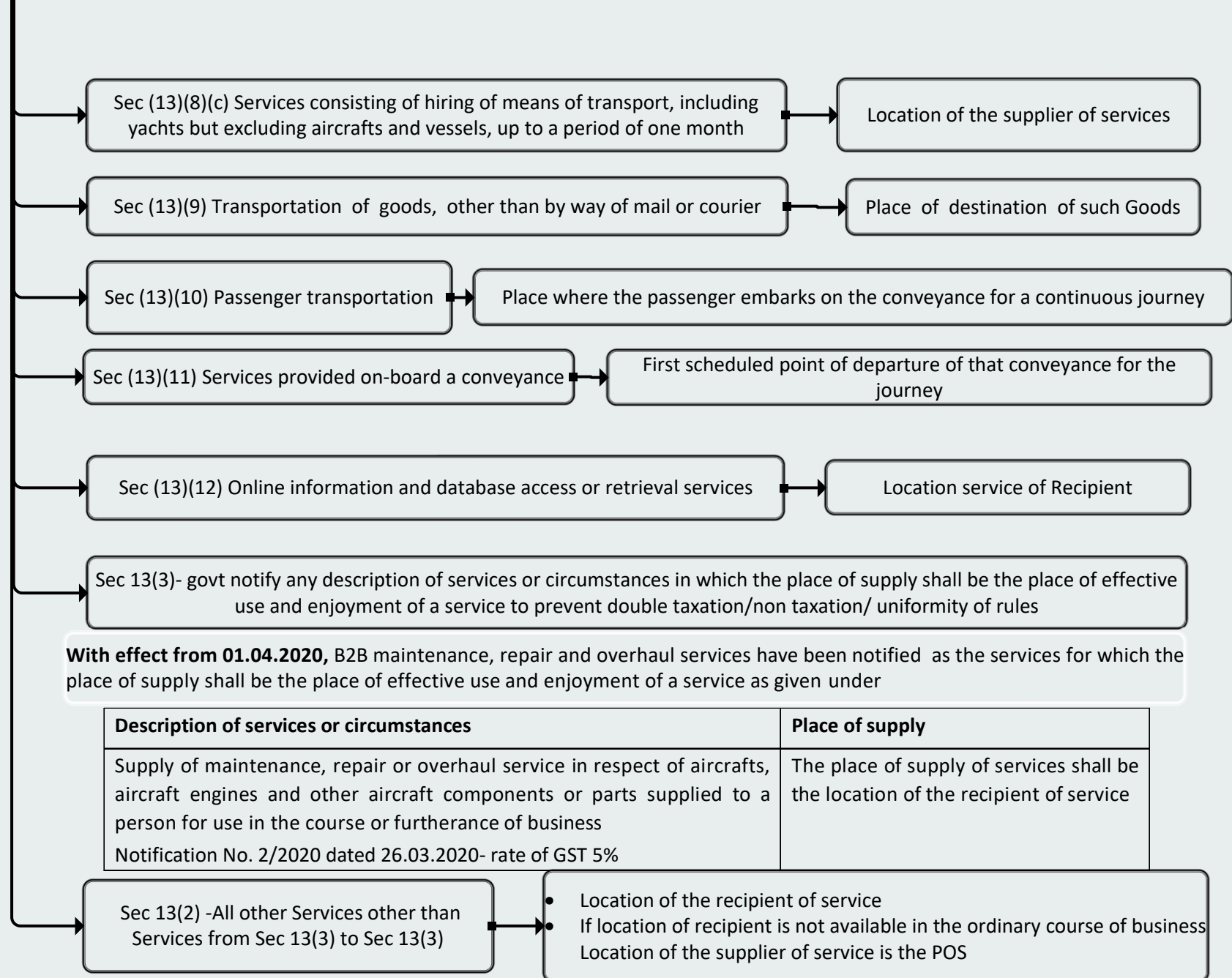


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Place of Supply of Service-Domestic Supply Specific rule- Sec 12







Place of supply in case of R & D activities of Pharma Industry when Supplier is located in Taxable territory and recipient locate in Nontaxable Territory- Notification No. 04/2019 IT dated 30.09.2019 WEF 01.10.2019		
Sl. No.	Nature of supply	Place of supply
1.	Integrated discovery and development	Location of the recipient of services subject to fulfillment of the following conditions: - • Supply of services from the taxable territory is provided as per a contract between the service provider located in taxable territory and service recipient located in non-taxable territory. • Such supply of services fulfills all other conditions in the definition of export of services, except the condition that place of supply is outside India.
2.	Integrated development	
3.	Evaluation of the efficacy of new chemical/ biological entities in animal models of disease	
4.	Evaluation of biological activity of novel chemical/ biological entities in in-vitro assays	
5.	Drug metabolism and pharmacokinetics of new chemical entities	
6.	Safety Assessment/ Toxicology	
7.	Stability Studies	
8.	Bio-equivalence and Bioavailability Studies	
9.	Clinical trials	
10.	Bio analytical studies	

Place of supply in case of repair, maintenance and overhaul in case of Aircrafts., Notification No. 2/2020 IT dated 26.03.2020

With effect from 01.04.2020, B2B maintenance, repair and overhaul services have been notified as the services for which the place of supply shall be the place of effective use and enjoyment of a service as given under:

Description of services or circumstances	Place of supply
Supply of maintenance, repair or overhaul service in respect of aircrafts, aircraft engines and other aircraft components or parts supplied to a person for use in the course or furtherance of business	The place of supply of services shall be the location of the recipient of service

Clarification of place of supply of in case of certain supplies Circular No. 103/22/2019 GST dated 28.06.2019]		
Sl. No.	Nature of service	Place of supply
1	Various cargo handling services provided by ports to clients. Some of such services are in respect of arrival of wagons at port, haulage of wagons inside port area up-to place of unloading, siding of wagons inside the port, unloading of wagons, movement <u>The place of supply for the above services is As per sec 12(2) or Sec 13(2) depend upon the terms of contract</u>	General Rule Sec 12(2) – - location of the person receiving the services - the services are supplied to an unregistered person, the place of supply is: the location of such unregistered person, if the address of the unregistered person is available in the records of the supplier - the location of the supplier of services in other cases
		<u>Where the supplier or recipient located outside India Sec 13(2)</u> Location of the recipient of service Location of the supplier of service, if location of recipient is not available in the ordinary course of business
2	Services rendered on goods temporarily imported in India - place of supply in case of services rendered on unpolished diamonds received from abroad, which are exported after cutting, polishing etc.	In case of cutting and polishing activity on unpolished diamonds which are temporarily imported into India <u>are not put to any use in India</u> , the place of supply would be determined as per the provisions contained in <u>section 13(2) of the IGST Act. As above</u>
3	Place of supply in case of software/ design services related to Electronics Semi-conductor and Design Manufacturing (ESDM) industry: supply of software/design services by a supplier located in taxable territory to a service recipient located in non-taxable territory by using the sample hardware kits provided by the service recipient Circular No. 118/37/2019 GST dated 11.10.2019	The place of supply of software/design by supplier located in taxable territory to service recipient located in non-taxable territory by using sample prototype hardware / test kits in a composite supply, where such testing is an ancillary supply, is <u>the location of the service recipient as per section 13(2) of the IGST Act</u> . Provisions of section 13(3)(a) of IGST Act do not apply separately for determining the place of supply for ancillary supply in such cases

Exemption for Service related to Charitable and religious activities

SNo	Activity	Taxability
1	Charitable Activities by entity registered u/s 12AA of Income tax act	Exempt
	(i) A. Public health Care or counseling of	
	- terminally ill persons or persons with severe physical or mental disability - Persons afflicted with HIV or AIDS; - persons addicted to a dependence-forming substance such as narcotics drugs or alcohol;	
B	Public awareness of preventive health, family planning or prevention of HIV infection	
ii	Advancement of religion or spirituality including YOGA	
iii	ADVANCEMENT OF EDUCATIONAL PROGRAMMES / SKILL DEVELOPMENT relating to	
	- abandoned, orphaned or homeless children; - physically or mentally abused and traumatized persons; - prisoners; or - persons over the age of 65 years residing in a rural area;	
iv	PRESERVATION OF ENVIRONMENT including watershed, forests & wildlife	
2	(a) Service of Conducting Religious Ceremony	Exempt
	(b) Renting of precincts of a religious place meant for general public, owned or managed by entity registered u/s 12AA or Sec 10(23C) (v) of Income tax act - Renting of rooms where charges up to Rs.1,000 per day ; - Renting of premises, community halls, kalyanamandapam or open area, and the like where charges are up to Rs 10,000 per day; - Renting of shops or other spaces for business or commerce where charges are up to Rs. 10,000 per month.	Exempt
3	Services by way of training or coaching in recreational activities relating to-	
	(a) Arts or culture, sports namely, dance, music, painting, sculpture making, literary activities, theatre, sports etc. of any school, tradition or language or any of the sports.	Exempt
	(b) Sports by charitable entities registered under section 12AA of the Income-tax Act	Exempt

4		Hostel accommodation services provided by trusts to students up to declared tariff of Rs. 1000/- per day	Exempt
5		Arranging yoga and meditation camp by charitable trusts registered under Sec 12AA	
	(a)	Fee or consideration charged in any other form from the participants	Exempt
	(b)	Residential programmes or camps where the fee charged includes cost of lodging and boarding when primary and predominant activity is advancement of religion, spirituality or yoga	Exempt
	(c)	Merely or primarily provide accommodation or serve food and drinks against consideration in any form including donation,	Taxable
	(d)	Activities such as holding of fitness camps or classes such as those in aerobics, dance, music	Taxable
6		Services of Religious Yatras/pilgrimage organised by any charitable or religious trust (Exemption available only to specified institutions like haj committee etc., and not trusts)	Taxable
7		Hospitals managed by charitable trusts- Cover under health services	Exempt
8		Grant of advertising rights to a person on the premises of the charitable/religious trust or on publications of the trust, or	Taxable
9		Granting admission to events, functions, celebrations, shows against admission tickets or fee	Taxable
10		Service Provided to <u>Charitable trusts by other persons</u> where there is no any specific exemption	Taxable
11		Meaning of certain terms	
	(i)	rural area means the area comprised in a village as defined in land revenue records, excluding the area under any municipal committee, municipal corporation, town area committee, cantonment board or notified area committee; or any area that may be notified as an urban area by the Central Government or a State Government	
	(ii)	Religious place means a place which is primarily meant for conduct of prayers or worship pertaining to a religion, meditation, or spirituality.	
	(iii)	Precincts include immovable located within outer boundary wall or immediate vicinity of religious place is eligible for exemption benefit	
	(iv)	General public means the body of people at large sufficiently defined by some common quality of public or impersonal nature	

Levy of GST on the service of display of name or placing of name plates of the donor in the premises of charitable organisations receiving donation or gifts from individual donors - GST Not leviable- Circular No. 116/35/2019 GST dated 11.10.2019]

- The recipient institutions place a name plate or similar such acknowledgement in their premises to express the gratitude.
- When the name of the donor is displayed in recipient institution premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation).
- There is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration
- The payment has the character of gift or donation and the purpose is philanthropic (i.e., it leads to no commercial gain) and not advertisement, GST is not leviable.

Examples

Good wishes from Mr. Rajesh" printed underneath a digital blackboard donated by Mr. Rajesh to a charitable Yoga institution.

Donated by Smt. Malati Devi in the memory of her father" written on the door or floor of a room or any part of a temple complex which was constructed from such donation.

In each of these examples, it may be noticed that there is no reference or mention of any business activity of the donor which otherwise would have got advertised

Health care Services

SNO	Nature of service	Taxability
1	System of medicine exempted: Allopathy, Yoga, Naturopathy, Ayurveda, Homeopathy, Siddha, Unani, any other system of medicine that may be recognized by Central Government	Exempt
	Health care Services of diagnosis, treatment for illness, injury, deformity, abnormality and pregnancy rendered by • Authorised Medical Practitioners (i.e. doctors registered under medical council or any Indian law), • Hospitals, clinics, nursing homes sanatoriums, Laboratories • Paramedics, (i.e. Support staff like nurses, lab technicians and Physio therapist). • Plastic/Cosmetic Surgery when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma	
2	Ambulance services provided by all <u>service providers</u> (whether or not by clinical establishment or an authorised medical practitioner or paramedics)	Exempt
3	Services by a veterinary clinic in relation to health care of animals or birds	Exempt
4	Services provided by the cord blood banks by way of preservation of stem cells or any other service in relation to such preservation	Exempt
5	Supply of services other than healthcare services such as renting of shops, auditoriums in the premises of the clinical establishment, display of advertisements etc.	Taxable
6	Health care services of hair transplant or cosmetic or plastic surgery of beautification	Taxable
7	Reiki Healing treatment (therapy which is not recognised treatment)	Taxable

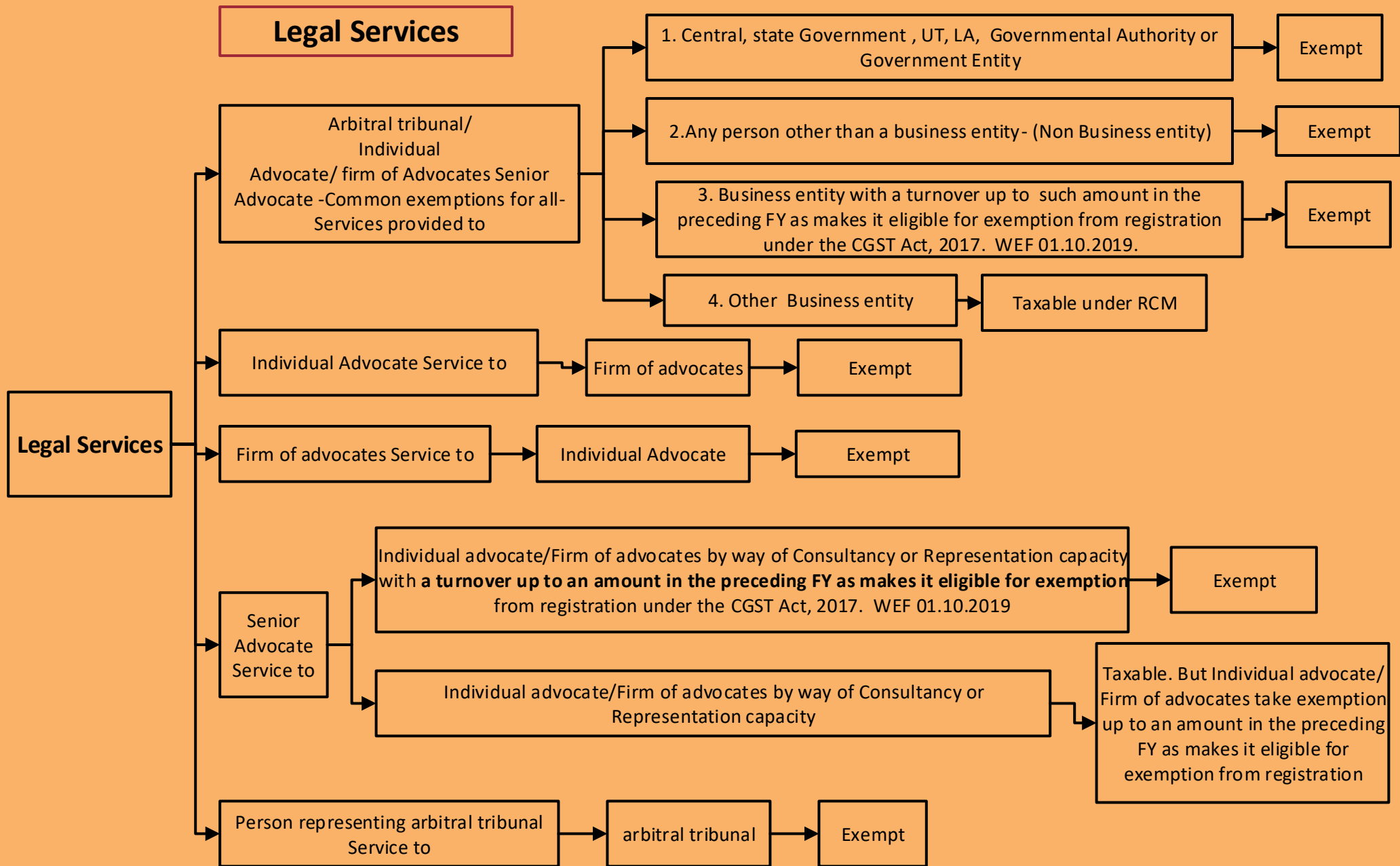
Certain health care services of Hospitals and their taxability CBIC Clarification			
SNo	Activity	Taxability	Reference
1	Room rent received from Inpatients	Exempt from GST	Circular No 27/01/2018 Dated 04.01.2018
2	Amount received by senior Doctors, specialists/Technicians who attend to hospitals on contract basis/retainer basis	Exempt from GST	Circular No 32/06/2018 Dated 12.02.2018
3	Hospitals charge the patients, say, Rs. 10,000/- and pay to the consultants/technicians only Rs. 7,500/- and keep the balance for providing ancillary services which include nursing care, infrastructure facilities, paramedic care, emergency services	Exempt from GST. Services falls within the definition of health care services	Circular No 32/06/2018 Dated 12.02.2018
4	Food supplied to the patients	Hospital own canteen. No ITC on inputs and capital goods. GST is chargeable on food supplied to patients.	Circular No 32/06/2018 Dated 12.02.2018
		Outsourced canteen., canteen should charge GST to hospital. Hospital will not get ITC on food bills.	
5	Food supplied to the in-patients as advised by the doctor/nutritionists	is a part of composite supply of healthcare and not separately taxable	Circular No 32/06/2018 Dated 12.02.2018
6	Supplies of food by a hospital to patients (not admitted) or their attendants or visitors	No exemption. GST payable.	Circular No 32/06/2018 Dated 12.02.2018
7	Ambulance services by Hospitals, private parties, outsourced/ run by Government/dial 108	Exempt from GST.	
8	Supply of services other than healthcare services such as renting of shops, auditoriums in the premises of the clinical establishment, display of advertisements	No exemption. GST payable.	

Services relating to Entertainments				
1.Services by a performing artist in folk or classical art forms				
SN	Supplier of Service	Recipient	Service	Taxability
(a)	Artist of folk music, folk dance and folk theatre	Any person	Performance in folk music, folk dance/Folk theatre	Exempt up to Consideration for a Performance was up to Rs. 1,50,000 Above Rs.1.5 lakhs entire amount taxable
(b)	Artist of Classical music, Classical dance and Classical theatre	Any person	Performance in Classical music, Classical dance/ Classical theatre	Exempt up to Consideration for a Performance was up to Rs. 1,50,000 Above Rs.1.5 lakhs entire amount taxable
(c)	Above (a) and (b) as a brand ambassador	Any person	Performance as brand ambassador	Taxable
(d)	Artist of Western music, mimicry, modern theatre, magic shows	Any person	Performance	Taxable
(e)	Artists of cinema, television	Any person	Performance	Taxable
(f)	Artists of Painting, sculpture	Any person	Performance	Taxable
2. Admission to museum, zoo etc. Consideration received from visitors is exempt as follows				
Service by way of admission to a museum, zoo, national park, wildlife sanctuary, a tiger reserve protected monument				
3. Admission to following entertainment events consideration not more than Rs. 500/- per person is exempt				
Services by way of right to admission to				
(a)	Circus, <u>d</u> ance or theatrical performance including drama or ballet;			
(b)	Recognized sporting event;			
(c)	Award function, Concert, Pageant, Musical performance or any Sporting event other than a recognised sporting event			
(d)	Planetarium.			

Health care Services

SNO	Nature of service	Taxability
1	System of medicine exempted: Allopathy, Yoga, Naturopathy, Ayurveda, Homeopathy, Siddha, Unani, any other system of medicine that may be recognized by Central Government	Exempt
	Health care Services of diagnosis, treatment for illness, injury, deformity, abnormality and pregnancy rendered by • Authorised Medical Practitioners (i.e. doctors registered under medical council or any Indian law), • Hospitals, clinics, nursing homes sanatoriums, Laboratories • Paramedics, (i.e. Support staff like nurses, lab technicians and Physio therapist). • Plastic/Cosmetic Surgery when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma	
2	Ambulance services provided by all <u>service providers</u> (whether or not by clinical establishment or an authorised medical practitioner or paramedics)	Exempt
3	Services by a veterinary clinic in relation to health care of animals or birds	Exempt
4	Services provided by the cord blood banks by way of preservation of stem cells or any other service in relation to such preservation	Exempt
5	Supply of services other than healthcare services such as renting of shops, auditoriums in the premises of the clinical establishment, display of advertisements etc.	Taxable
6	Health care services of hair transplant or cosmetic or plastic surgery of beautification	Taxable
7	Reiki Healing treatment (therapy which is not recognised treatment)	Taxable

Certain health care services of Hospitals and their taxability CBIC Clarification			
SNo	Activity	Taxability	Reference
1	Room rent received from Inpatients	Exempt from GST	Circular No 27/01/2018 Dated 04.01.2018
2	Amount received by senior Doctors, specialists/Technicians who attend to hospitals on contract basis/retainer basis	Exempt from GST	Circular No 32/06/2018 Dated 12.02.2018
3	Hospitals charge the patients, say, Rs. 10,000/- and pay to the consultants/technicians only Rs. 7,500/- and keep the balance for providing ancillary services which include nursing care, infrastructure facilities, paramedic care, emergency services	Exempt from GST. Services falls within the definition of health care services	Circular No 32/06/2018 Dated 12.02.2018
4	Food supplied to the patients	Hospital own canteen. No ITC on inputs and capital goods. GST is chargeable on food supplied to patients.	Circular No 32/06/2018 Dated 12.02.2018
		Outsourced canteen., canteen should charge GST to hospital. Hospital will not get ITC on food bills.	
5	Food supplied to the in-patients as advised by the doctor/nutritionists	is a part of composite supply of healthcare and not separately taxable	Circular No 32/06/2018 Dated 12.02.2018
6	Supplies of food by a hospital to patients (not admitted) or their attendants or visitors	No exemption. GST payable.	Circular No 32/06/2018 Dated 12.02.2018
7	Ambulance services by Hospitals, private parties, outsourced/ run by Government/dial 108	Exempt from GST.	
8	Supply of services other than healthcare services such as renting of shops, auditoriums in the premises of the clinical establishment, display of advertisements	No exemption. GST payable.	



Business entity means any person including individual ordinarily carrying any activity relating to industry commerce, business, or profession

CONSTRUCTION SERVICES			
SN	Nature of service		Taxability
1	Pure labour contracts under Housing for All (Urban) Mission / Pradhan Mantri Awas Yojana		Exempt
	Services provided by way of pure labour contracts of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other “ original works ” pertaining to the “Beneficiary- Led (individual house) Construction or Enhancement (BLC)” under the Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana		
2	Pure labour contracts of a single residential unit		
	Services by way of pure labour contracts of construction, erection, commissioning, or installation of “ original works ” pertaining to a single residential unit otherwise than as a part of a residential complex		Exempt
3	Services supplied by Electricity Distribution Utilities by way of construction, erection, commissioning, or installation of infrastructure for extending electricity distribution network up to the tube well of the farmer or agriculturalist for agricultural use.		Exempt
4	Supply of TDR (Transferrable Development rights), FSI (Floor Space Index) long term lease (premium) of land by a landowner to a developer from 01.04.2019. Entry No 41A and 41B		
	Supply of TDR, FSI, long term lease (premium) of land by a landowner to a developer are exempted subject to the condition that the constructed flats are sold before issuance of completion certificate and tax is paid on them.		
	Exemption of TDR, FSI, long term lease (premium) shall be withdrawn in case of flats sold after issue of completion certificate, but such withdrawal shall be limited to 1% of value in case of affordable houses and 5% of value in case of other than affordable houses		
Meaning of certain words			
1	“Original works” means –		
	(a) all new constructions,		
	(b) all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable, or		
	(c) erection, commissioning or installation of plant, machinery or equipment or structures, whether pre-fabricated or otherwise		
2	Residential complex” means any complex comprising of a building or buildings, having more than one single residential unit.		
3	“Single residential unit” means a self-contained residential unit which is designed for use, wholly or principally, for residential purposes for one family		

New effective rates of GST for the new projects by promoters (Builders) are as follows:

- (i) New rate of 1% without ITC on construction of **affordable houses** (area 60 sqm in metros/ 90 sqm in non-metros and value up to Rs. 45 lakh).
- (ii) New rate of 5% without ITC shall be applicable on construction of:
 - (a) all houses other than affordable houses, and
 - (b) commercial apartments such as shops, offices etc. in a residential real estate project (RREP) in which the carpet area of commercial apartments is not more than 15% of total carpet area of all apartments.

Conditions:

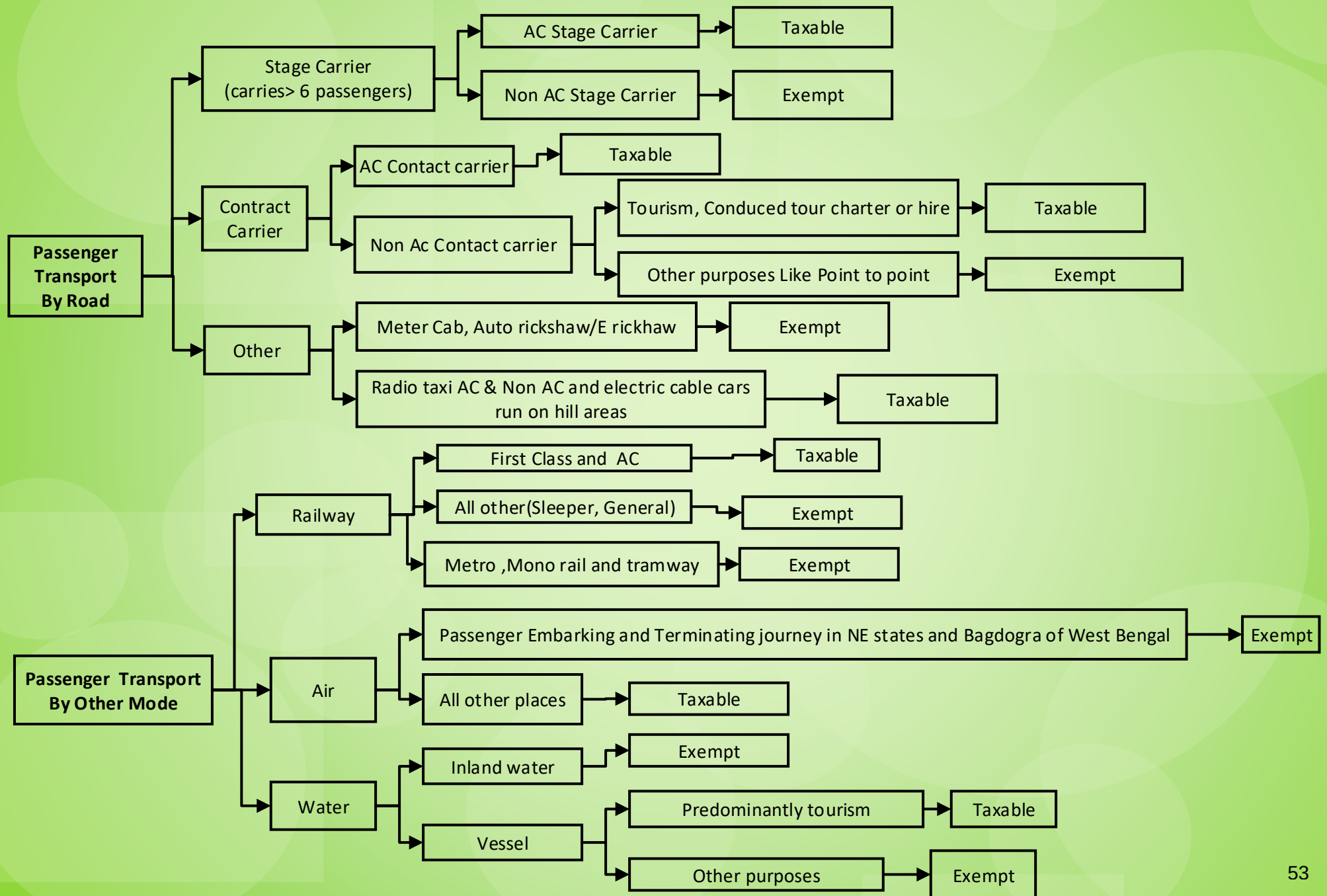
Above tax rates shall be available subject to following **conditions:**

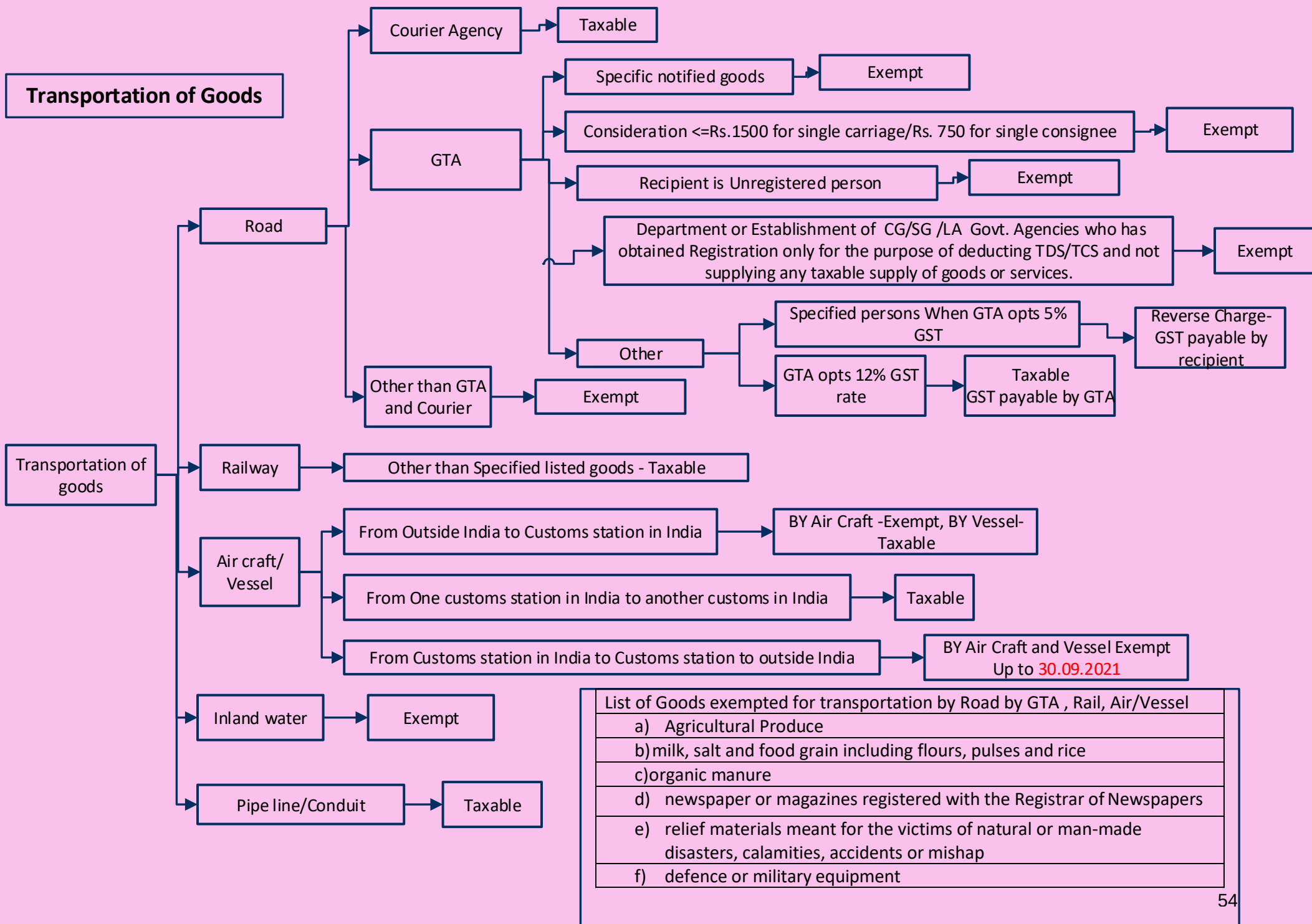
- (a) Input tax credit shall not be available.
- (b) 80% of inputs and input services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], used in supplying the service shall be purchased from registered persons

GST liability on Transfer of Development rights (TDR) for Construction service and Transfer of Construction service for transfer of Development rights Notification No. 4/2018 CT (R) dated 25.01.2018]

- GST liability arise in both cases for land owner and for builder
- The liability deferred till to the time when the possession or right in the property is transferred to the land owner by entering into a conveyance deed or similar instrument (eg. allotment letter).
- The liability to pay tax on TDR, FSI, long term lease (premium) has been shifted from land owner to builder under the reverse charge mechanism (RCM)

Transportation of passengers with or without Belongings





List of Goods exempted for transportation by Road by GTA , Rail, Air/Vessel	
a)	Agricultural Produce
b)	milk, salt and food grain including flours, pulses and rice
c)	organic manure
d)	newspaper or magazines registered with the Registrar of Newspapers
e)	relief materials meant for the victims of natural or man-made disasters, calamities, accidents or mishap
f)	defence or military equipment

Banking and Financial Services

SN	Nature of service	Taxability
1	Specified financial services in case of Banks and Financial Institutions	
(a)	Consideration is represented by way of interest or discount on Services by way of extending deposits, loans or advances	Exempt
(b)	Invoice discounting/cheque discounting or any other similar form of discounting, such discounting is a manner of extending a credit facility or a loan.	
(c)	Any interest/ delayed payment charges charged to clients for delay in payment of brokerage amount/ settlement obligations/ margin trading facility	
(d)	Collateralized Borrowing and Lending Obligations (CBLO) transactions: borrowing bank pays an amount as consideration to the lending bank for funds provided by it for a short term. Such amount would qualify as 'consideration represented by way of interest or discount'.	
(e)	Interest for lending or borrowing of money to and from RBI by banks through financial instruments of short-term call money market of repos and reverse repos	
(f)	Income from Commercial Paper (CP) or Certificates of Deposit	
(g)	Sale and purchase of foreign exchange between banks and authorized dealers of foreign exchange or between banks and such dealers.	
(h)	Charges for late payment of outstanding dues on credit card (Specifically excluded from exemption)	Taxable
(i)	Service charges or administrative charges or entry charges, documentation charges, process fee recovered in addition to interest on a loan, advance or a deposit.	
(j)	Interchange fees on card settlement fees paid/ shared by banks:	
(k)	service fees or documentation fees or broking charges or such like fees or charges are charged on Asset securitization	
(l)	transaction processing fees levied for takeover of loans from one bank to another bank but not on the interest component	
(m)	charges collected in the course of transfer or assignment of a debt	
(n)	Investments by way of equity or any other manner where the investor is entitled to a share of profit.	

2	Services by the Reserve Bank of India.	Exempt
	Services received by the RBI, from outside India in relation to management of foreign exchange reserves. External asset management” services received by RBI from overseas financial institution is exempt under this Entry. (External asset management” services	IGST Exempt
3	Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY)	Exempt
4	Services by an acquiring bank, to any person in relation to settlement of an amount up to Rs.2,000 in a single transaction transacted through credit card, debit card, charge card or other payment card service.	Exempt
5	Services by an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees (INR)-	Exempt

Clarification regarding applicability of GST on delayed payment charges in case of late payment of Equated Monthly Instalments (EMI) [Circular No. 102/21/2019-GST dated 28.06.2019]

As per Entry 27 of exemption notification, interest payable in any manner in respect of any moneys borrowed/debt incurred including a deposit, claim or other similar right or obligation

As per the provisions of section 15(2)(d) of the CGST Act, the value of supply shall include interest or late fee or penalty for delayed payment of any consideration for any supply

The taxability is explained in the following illustrations

Illustration – 1: X sells a mobile phone to Y. The cost of mobile phone is Rs. 40,000/-. However, X gives Y an option to pay in installments, Rs. 11,000/- every month before 10th day of the following month, over next four months (Rs. 11,000/- × 4 = Rs. 44,000/-). As per the contract, if there is any delay in payment by Y beyond the scheduled date, Y would be liable to pay additional/ penal interest amounting to Rs. 500/- per month for the delay.

In some instances, X is charging Y Rs. 40,000/- for the mobile and is separately issuing another invoice for providing the services of extending loans to Y, the consideration for which is the interest of 2.5% per month and an additional/ penal interest amounting to Rs. 500/- per month for

each delay in payment.

In this case, the amount of penal interest is to be included in the value of supply [in terms of section 15(2)(d)]. The transaction between X and Y is for supply of taxable goods i.e. mobile phone. Accordingly, the penal interest would be taxable as it would be included in the value of the mobile, irrespective of the manner of invoicing.

Illustration – 2: X sells a mobile phone to Y. The cost of mobile phone is Rs 40,000/-. Y has the option to avail a loan at interest of 2.5% per month for purchasing the mobile from M/s. ABC Ltd. The terms of the loan from M/s. ABC Ltd. allows Y a period of four months to repay the loan and an additional/ penal interest @ 1.25% per month for any delay in payment.

Here, the additional/ penal interest is charged for a transaction between Y and M/s. ABC Ltd., and the same is getting covered under exemption Entry 27. Consequently, in this case the 'penal interest' charged thereon on a transaction between Y and M/s. ABC Ltd. would not be subject to GST as the same would be covered under said exemption entry. However, any service fee/ charge or any other charges, if any, are levied by M/s. ABC Ltd. in respect of the transaction related to extending deposits, loans or advances does not qualify to be interest as defined in exemption notification, and accordingly will not be exempt.

Moreover, the value of supply of mobile by X to Y would be Rs. 40,000/- for the purpose of levy of GST.

It is further clarified that the transaction of levy of additional/ penal interest does not fall within the ambit of entry 5(e) of Schedule II of the CGST Act as this levy of additional/ penal interest satisfies the definition of “interest” as contained in exemption notification

Miscellaneous Business Services

SN	Nature of Service		Taxability
1	Services by the intermediaries in respective capacities		
	(a)	by a business facilitator / a business correspondent to a banking company with respect to accounts in its “rural area” branch.	Exempt
	(b)	by any person as an intermediary to a business facilitator / business correspondent with respect to services mentioned in above	
	(c)	by a business facilitator / business correspondent to an insurance company in a rural area	
	(d)	Service provided by Intermediary when both Location of supplier and receiver located in Non-taxable territory Wef 01.10.2019	IGST Exempt
2	Renting of Motor Vehicle for transportation of passengers and goods		
	(a)	To a state transport undertaking, a motor vehicle meant to carry more than twelve passengers	Exempt
	(b)	to a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers Wef 01.10.2019	
	(c)	to a goods transport agency, a means of transportation of goods	
	EOV means vehicle falling under Chapter 87 in the First Schedule to the Customs Tariff Act, 1975 which is run solely on electrical energy derived from an external source or from one/more electrical batteries fitted to such road vehicle		
3	Services provided by an Incubatee within premises of incubator		
	(a)	Service Up to Total turnover of Rs.50 lakhs is exempt from GST, When PFY turnover is <= Rs.50 lakhs	
		Period of exemption: Three years from the date of entering into an agreement as an incubate with incubator.	
	Incubatee” means an entrepreneur located within the premises of a Technology Business Incubator (TBI) or Science and Technology Entrepreneurship Park (STEP) recognised by the National Science and Technology Entrepreneurship Development Board (NSTEDB) of the Department of Science and Technology, Government of India and who has entered into an agreement with the TBI or the STEP to enable himself to develop and produce hi-tech and innovative products.		
4	Services provided by TBI or STEP		
		Any Service to Incubatee	Exempt

5	Import of services- Services received from a Supplier of Service located in a Non-taxable Territory (NTT) by		
	(a)	the Central Govt., State Govt., Union Territory, Local authority, Governmental authority or an individual in relation to any purpose other than commerce, industry, business or profession; or	IGST Exempt
	(b)	an entity registered u/s 12AA of the Income tax Act, 1961 for the purposes of providing charitable activities; or	
	(c)	a person located in a non-taxable territory (NTT).	
	This exemption is not allowed to – (i) Online information and database access or retrieval services (OIDAR) received by persons specified in Entry (a) or Entry (b); or (ii) Services by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India.		
6	Business exhibition		
	(a)	Service by an organizer to any person in respect of a business exhibition held outside India. – Exempt	
7	Tour operator		
	(a)	Services provided by a tour operator to a foreign tourist in relation to a tour conducted wholly outside Example: Service provided by Travel Agency to a Foreign National for a tour conducted in Outside India is IGST exempted	
	Tour operator” means any person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours		
8	Services provided by rehabilitation professionals in Effective from 01.01.2019- Exempt		
		rehabilitation, therapy or counselling and such other activities in the Centres established by State/Central Government or Entity registered under Sec 12AA of Income tax Act	

Sports Services				
S NO	Services provided to a recognized sports body			
	Supplier of Service	Recipient	Transaction	Taxability
1	Individual as a <u>player, referee, umpire, coach or team manager</u>	recognised sports body	Participation in a sporting event organized by a recognized sports body	Exempt
2	Recognized sports body	recognised sports body	Any service	Exempt
3	Individuals such as <u>selectors, commentators, curators, technical experts</u>	recognised sports body	participation in a sporting event organized by a recognized sports body	Taxable
4	Individual as a player, referee, umpire, coach or team manager	Unrecognized sports body like IPL	participation in a sporting event	Taxable
	Recognized Sports body means			
	(a)	The Indian /international Olympic Association		
	(b)	Sports Authority of India		
	(c)	A national sports federation or National sports promotion organizations recognized by the Ministry of Sports and Youth		
	(d)	A federation or a body which regulates a sport at international levels and its affiliated federations or bodies regulating a sport in India		
	(e)	The Indian /international Olympic Association		

Sponsorship of tournaments or championships		
Services by way of sponsorship of sporting events organized:		
(a)	by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, state or zone/ any COUNTRY	Exempt
(b)	by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;	
(c)	by Central Civil Services Cultural and Sports Board;	
(d)	as part of national games, by Indian Olympic Association; or	
(e)	Under Panchayat Yuva Kreedha Aur Khel Abhiyaan (PYKKA) Scheme	

(f)	by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, state or zone/ any COUNTRY	
Other services relating to FIFA		
(a)	Services provided by and to Fédération International Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020 to hosted in India WEF 01.10.2019	Exempt

Services relating to agriculture

SNO	Nature of service		Taxability
1	Services relating to agriculture/agricultural produce by way of		Exempt
	(a)	Agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;	
	(b)	Supply of farm labour;	
	(c)	Processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which <u>do not alter essential characteristics of agricultural produce but make it only marketable for the primary market;</u>	
	(d)	Renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;	
	(e)	Loading, unloading, packing, storage or warehousing of agricultural produce;	
	(f)	Agricultural extension services;	
	(g)	Services by any Agricultural Produce Marketing Committee or Board or Services provided by a commission agent for sale or purchase of agricultural produce	
	(h)	Services by way of fumigation in a warehouse of agricultural produce	
	Meaning of Certain terms		
Agriculture	Cultivation of plants and rearing of all life forms of animals except the rearing of horses for food, fibre, fuel, raw material or other similar products		
Agriculture Produce	any produce of agriculture on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market		
2	Carrying out an intermediate production process <u>as job work</u> in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce.		Exempt
3	Services by way of artificial insemination of livestock (other than horses).		Exempt
4	Services by way warehousing of rice of loading,unloading, packing, storage		Exempt
5	Services by way of fumigation in a warehouse of agricultural produce		Exempt
6	Services by way of storage/ warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibers such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, Tendu leaves, coffee and tea. WEF 01.10.2019 – (New Entry)		Exempt

	Examples not liable for GST.	
SN	Agricultural Activity	Examples cover under Exemption
1	Agricultural operations	Breeding of fish (pisciculture), rearing of silk worms (sericulture), cultivation of ornamental flowers (floriculture) and horticulture, forestry Plantation crops like rubber, tea or coffee Process of cereals, pulses, copra and Joggery <u>done by Cultivator</u>
2	Processes which do not alter the essential characteristics of agricultural produce	tending, pruning, cutting, harvesting; drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging
3	Agricultural extension services	Application of scientific research and knowledge to agricultural practices through farmer education or training
4	Renting or leasing of agro machinery or vacant land	Leasing of vacant land with a green house or a storage shed <u>which is incidental to its use for agriculture</u>
5	Commission agent	Commission received on purchase/sale of paddy
6	Services by any Agricultural Produce Marketing Committee	provision of facilities and amenities like, sheds, water, light, electricity, grading facilities, collect market fees, license fees, rents etc.

	Examples: GST is payable	
	Agricultural Activity	Examples cover under taxable Service
1	Processes which alter the essential characteristics of agricultural produce	Process of fast food snack items like Potato chips or tomato ketchup The processes of grinding, sterilizing, extraction packaging in retail packs of agricultural products <u>for sale in retail market</u>
2	Services by any Agricultural Produce Marketing Committee	Service provided by such bodies which is not directly related to agriculture or agricultural produce will be liable to tax e.g. renting of shops or other property
3	Renting or leasing of agro machinery or vacant land	Renting and leasing of agro machinery for rice
4	Commission agent	Commission received on purchase/sale of rice

GST on warehousing Loading unloading packing of tea coffee jaggery etc., [Circular No. 16/16/2017 GST dated 15.11.2017]

SN	Produce	GST Liability	Reason/Remarks
1	Tea (i.e. black tea, white tea etc.), / processed coffee beans or powder	GST payable. No exemption	Tea is a processed product made in tea factories after carrying out several processes, such as drying, rolling, shaping, refining, oxidation, packing etc. Hence it is not an agricultural produce. Similarly, in case of processed coffee bean/powder.
2	Jaggery	GST payable. No exemption	Processing of sugarcane into jaggery changes its essential characteristics. Thus, jaggery is also not an agricultural produce
3	Processed spices	GST payable. No exemption	Changes its essential characteristics.
4	Processed dry fruits/ cashew nuts	GST payable. No exemption	Changes its essential characteristics.
5	Dal obtained after Dehusking or splitting or both of pulses	GST payable. No exemption	Dehusking or splitting done by millers and not by farmers, hence not an agricultural produce
6	Pulse grains such as whole gram, rajma	GST exemption	Agricultural produce
7	Milling of paddy in to rice	GST payable. No exemption	Milling is done by millers and not by farmers, hence not an agricultural produce

Service by a club/association/society to own members

SN	Nature of Service		Taxability
1	Registered unincorporated body or a non- profit entity		Exempt
	(a)	To its own members by way of <u>reimbursement of charges or share of contribution, for the provision of carrying out any activity which is exempt from the levy of GST</u>	
	(b)	To its own members by way of reimbursement of charges or share of contribution provided by Resident welfare Association. (RWA) for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex. When limit exceeds entire amount is taxable and not the excess amount.	Exempt up to Rs.7500/ Per month per member
2	Unincorporated body or a non-profit entity registered under any law for the time being in force to its own members against consideration in the form of membership fee of services relating to		
	(a)	Activities relating to the welfare of industrial or agricultural labour or farmers	Exempt Up to Rs. 1000/ per member Per year
	(b)	Promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment	
3	Registered trade union		
		To its own members by way of <u>reimbursement of charges or share of contribution</u>	Exempt

Clarification regarding exemption available to services provided by a Resident Welfare Association (RWA) to its own members under earlier law is also made applicable

	Issue	Clarification
1	In a residential complex, monthly contribution collected from members is used by the RWA for the purpose of making payments to the third parties, in respect of commonly used services or goods ex. Maintenance lift, sump etc.	Exemption in mega exemption notification is provided specifically with reference to service provided by an unincorporated body or a non-profit entity registered under any law for the time being in force such as RWAs, to its own members
2	If the contribution of a member(s) of a RWA exceeds `Rs.7500 per month, how should the GST liability be calculated	If per month per member contribution of any or some members of a RWA exceeds `Rs. 7500 entire contribution of such Members liable for GST

3	If a RWA provides certain services such as payment of electricity or water bill issued by third person, in the name of its members, acting as a 'pure agent' of its members, is exclusion from value of taxable service available for the purposes of SSP exemption or exemption provided under mega exemption notification?	Expenditure or costs incurred by a Supplier of Service as a pure agent of the recipient of service shall be excluded from the value of taxable service. If RWA do not charge any Commission. If Bills were in the name of RWA there is no agent involved and hence includable in value.
5	Is ITC credit available to RWA for payment of GST	RWA may avail ITC and use the same for payment of GST

Clarification on issues related to GST on monthly subscription/ contribution charged by a Residential Welfare Association from its members Circular No. 109/28/2019 GST dated 22.07.2019.

	Issue	Clarification
1	Upper limit of exemption of Maintenance charges of RWA	Supply of service by RWA (unincorporated body or a non- profit entity registered under any law) to its own members by way of reimbursement of charges or share of contribution up to an amount of Rs. 7,500/- per month per member for providing services and goods for the common use of its members in a housing society or a residential complex are exempt from GST.
2	Aggregate turnover <= Rs. 20 lakhs and Maintenance charges > Rs. 7500/-	RWA does not require Registration. No GST even Maintenance charges per member per month > Rs. 7500/-
3	Aggregate turnover > Rs. 20 lakhs and Maintenance charges > Rs. 7500/- and availability of ITC	Registration. GST payable. RWAs are entitled to take ITC of GST paid by them on capital goods (generators, water pumps, lawn furniture etc.), goods (taps, pipes, other sanitary/hardware fillings etc.) and input services such as repair and maintenance services.
5	Where a person owns 2 or more flats in the housing society/residential complex, ceiling Limit calculation	a person who owns 2 or more residential apartments in a housing society/residential complex shall normally be a member of the RWA for each residential apartment owned by him separately. The ceiling of Rs. 7,500/- per month per member shall be applied separately for each residential apartment owned by him. For example, if a person owns 2 residential apartments in a residential complex and pays Rs. 15,000/- per month as maintenance charges towards maintenance of each apartment to the RWA (Rs. 7,500/- per month in respect of each residential apartment), the exemption from GST shall be available to each apartment.

SERVICES BY CERTAIN BODIES / INSTITUTIONS WHICH ARE EXEMPT FROM TAX

SN	INST.	Nature of Service Exempt
1	ESI	Services by the Employees' State Insurance Corporation (ESIC) to the persons governed under the ESI Act
2	EPFO	Services provided by Employees Provident Fund Organisation (EPFO) to the persons governed under EPF Act, 1952
3	IRDA	Service provided by the Insurance Regulatory and Development Authority of India (IRDA) to insurers (i.e. insurance companies) under the IRDA Act, 1999.
4	SEBI	Service provided by the Stock Exchange Board of India (SEBI) by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market.
5	FDM	All services provided by a 'Foreign Diplomatic Mission' (FDM) located in India.
		FDM' does not cover any office or establishment of an international organization / multi-national company. Hence the services provided by such office or establishment are not exempt.
		Services provided by FDM are exempt. But services provided to FDM are not exempt under this Entry.
6	NCCCD	Service provided by the National Centre for Cold Chain Development (NCCCD) by way of cold chain knowledge dissemination
7	Satellite	Satellite launch Services supplied by ISRO, Antrix Corporation Limited and New Space India Limited

Miscellaneous Services Exempt from tax

Going concern
Services by way of transfer of a going concern, as a whole or an independent part thereof.
Services associated with transit cargo to Nepal and Bhutan
Supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries).
Upfront amount for industrial /financial leasing Notification No. 28/2019-Central Tax (Rate), dated 31st December 2019

Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease (30 years or more) lease of industrial plots or plots for development of infrastructure for financial business, provided by the State Govt. Industrial Development Corporations or State Govt. Industrial Undertakings or by any other entity having ~~50%~~ 20% or more ownership of Central Government, State Government or Union territory to the industrial units or the developers in any industrial or financial business area.

GST exemption on the upfront amount is admissible irrespective of whether such upfront amount is payable or paid in one or more instalments, provided the amount is determined upfront. Circular No. 101/20/2019 GST dated 30.04.2019. The plots should be used by lessee as per the conditions of lease and for purpose, which they obtained. any violation or subsequent change of land use ,liable to pay tax on upfront fee along with interest

Spectrum service

Service provided by the Central Govt., State Govt., Union Territory or Local authority by way of allowing a business entity to operate as a telecom Supplier of Service or use radio frequency spectrum during the period prior to 01.04.2016, on payment of licence fee or spectrum user charges.

Leasing of Railways assets

Services of leasing of assets (rolling stock assets including wagons, coaches, locos) by the Indian Railway Finance Corporation to Indian Railways.

Journalist

Services by way of collecting or providing news by an independent journalist, Press Trust of India (PTI) or United News of India.

Public libraries

Services of public libraries by way of lending of books, publications or any other knowledge-enhancing content or material.

Slaughtering service

Services by way of slaughtering of animals

Public conveniences

Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets.

Services in Nepal or Bhutan

Supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries) exempt from CGST
Service of Access to Road and Bridge
Supply of service by way of access to a road or a bridge on payment of annuity, has been exempted from GST
Pilgrimage Services
Services by a “ specified organization ” in respect of a “ religious pilgrimage facilitated under bilateral arrangement ”.
“Specified organization” means: (a) Kumaon Mandal Vikas Nigam Limited (a Govt. of Uttarakhand Undertaking), (b) Haj Committee of India, (c) State Haj Committee.
Exemption available to Services provided by “Kumaon Mandal Vikas Nigam Limited” in relation to “Kailash Mansarovar Yatra” and Service provided by “Haj Committee of India” and “State Haj committee

Services by Government			
1	Services taxable for Central Government, State government, Local authority and Union Territory		
		All the Services are exempt except the following	
	(a)	Services by the Department of Posts by way of speed post, express parcel post, life insurance and agency services provided to a person other than the Central Govt., State Govt., Union territory.	Taxable
	(b)	Services in relation to an aircraft or a vessel (inside or outside the precincts of a port or airport).	
	(c)	Transport of goods or passengers.	
	(d)	Any service other than services covered under above provided to business entity	
2	Services Exempt for Central Government, State government, Local authority and Union Territory		
	(a)	Services provided by one government to other government	Exempt
	(b)	Services where the consideration for such services does not exceed Rs. 5,000/- . Where continuous supply of service (CSS) the exemption shall be available only if the consideration charged for such service does not exceed Rs. 5,000/- in a financial year.	
	(c)	Services in relation to registration required under any law, or testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, including fire license, required under any law.	
	(d)	Services by way of issuance of passport, visa, driving licence, birth certificate or death certificate.	
		Services by way of tolerating non-performance of a contract for which consideration in the form of fines or liquidated damage is payable to other Government	
	(e)	Services by way of assignment of right to use natural resources to an <u>individual farmer</u> for cultivation of plants and rearing of all life forms of animals (except the rearing of horses) for food, fiber, fuel, raw material or other similar products.	
	(f)	Services by way of assignment of right to use any natural resource where such right to use was assigned by the Central Govt., State Govt., Union Territory or Local authority before 01.04.2016. This exemption is allowed only to the tax payable on one-time charge (payable, in full upfront or in installments).	
	(g)	Services by way of deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo on payment of Merchant Overtime Charges (MOT Charges).	
	(h)	Services by way of admission to a protected monument so declared under the Ancient Monuments and Archaeological Sites and Remains Act 1958 or any of the State Acts, for the time being in force,	
	(i)	to a business entity with an Aggregate Turnover of upto such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017. [i.e. a small business entity	
	(j)	Service by way of any activity in relation to any function entrusted to a municipality under article 243W of the Constitution	

	(k)	Service authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution.	
	(l)	Services by way of providing information under the Right to Information Act, 2005	
	<u>Exemption of Upfront Payment for long term lease of industrial/ financial infrastructure plots by an entity having 20% or more ownership of Central or State Government. Notification No. 28/2019-Central Tax (Rate), dated 31st December 2019</u>		
	(m)	Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease (30 years or more) lease of industrial plots or plots for development of infrastructure for financial business, provided by the State Govt. Industrial Development Corporations or State Govt. Industrial Undertakings or by any other entity having 50% 20% or more ownership of Central Government, State Government or Union territory to the industrial units or the developers in any industrial or financial business area. GST exemption on the upfront amount is admissible irrespective of whether such upfront amount is payable or paid in one or more instalments, provided the amount is determined upfront. Circular No. 101/20/2019 GST dated 30.04.2019. The plots should be used by lessee as per the conditions of lease and for purpose, which they obtained. any violation or subsequent change of land use liable to pay tax on upfront fee along with interest	

	with 90% or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority	
3	Services by Fair Price Shops to Central Govt. State Govt. / UT	
	Supply of services by Fair Price Shops to Central Govt State Govt. / UT. by way of sale of wheat, rice and coarse grains under Public Distribution System (PDS) against consideration in the form of commission or margin	Exempt
4	Air services to the Central Govt	
	Services provided to the Central Govt. by way of transport of passengers (with or without accompanied belongings), by air, embarking from or terminating at a Regional Connectivity Scheme Airport (RCS Airport), against consideration in the form of viability gap funding, for a period of 3 years from the date of commencement of operations of the regional connectivity Notification No. 2/2018 CT (R) dated 25.01.2018].	Exempt
	This exemption shall not be allowed after expiry of a period of 1 year from the date of commencement of operations of the RCS Airport as notified by the Ministry of Civil Aviation	
5	Insurance services to Govt.	
	Services provided to the Central Govt., State Govt., Union Territory under any insurance scheme for which total premium is paid by the Central Govt., State Govt. or Union Territory.	
6	Training services to Govt.	
	Services provided to the Central Govt., State Govt. or Union Territory administration under any training programme for which total expenditure is borne by the Central Govt., State Govt. or Union Territory administration.	Exempt
7	Services provided by GSTN to Govt.	
	Services provided by the Goods and Service Tax Network (GSTN) to the Central Govt., State Govt. or Union Territories for implementation of GST.	Exempt
8	Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply provided to the Central Government	Exempt
9	Services by way of admission to a protected monument so declared under the Ancient Monuments and Archaeological Sites and Remains Act 1958 or any of the State Acts, for the time being in force, have been exempted from CGST	Exempt
10	Central Government's share of profit petroleum exempted from CGST	
	(a) The intra-State supply of services by way of grant of license or lease to explore or mine petroleum crude or natural gas or both, has been exempted from so much of CGST as is leviable on the consideration paid to the Central Government in the form of Central Government's share of profit petroleum as defined in the contract entered into by the Central Government in this behalf	Exempt

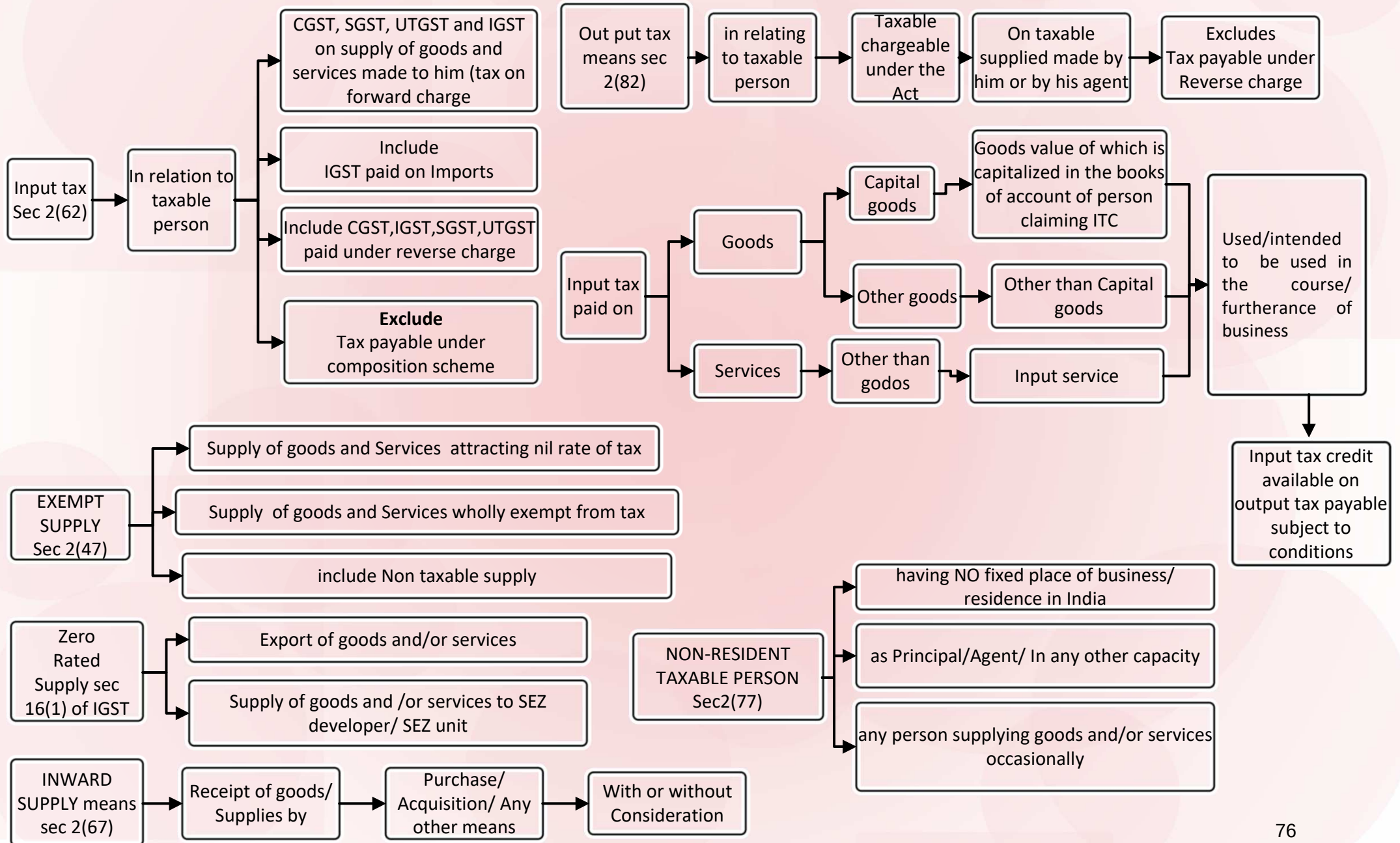
	(b)	Royalty and license fee exempted from IGST to the extent it is paid on the consideration attributable to royalty and license fee included in transaction value under Rule 10(1)(c) of Customs Valuation (Determination of value of imported Goods) Rules, 2007	Exempt
11	Activities carried by DISCOMS against recovery of charges from consumers under State Electricity Act Circular No. 34/08/2018 GST dated 01.03.2018]		
	(a)	Service by way of transmission or distribution of electricity by an electricity transmission or distribution utility is exempt	
	(b)	Other services by DISCOMS to Consumer like the following are taxable (i) Application fee for releasing connection of electricity; (ii) Rental Charges against metering equipment; (iii) Testing fee for meters/ transformers, capacitors etc.; (iv) Labour charges from customers for shifting of meters or shifting of service lines; (v) Charges for duplicate bill;	
12	Guarantee provided by State Government to state owned companies against guarantee commission		
	Services supplied by Central/State Government/Union territory to their undertakings or Public Sector Undertakings (PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the banking companies and financial institutions (The words 'banking companies' have been inserted in the entry <i>[Effective from 01.01.2019].</i>)		

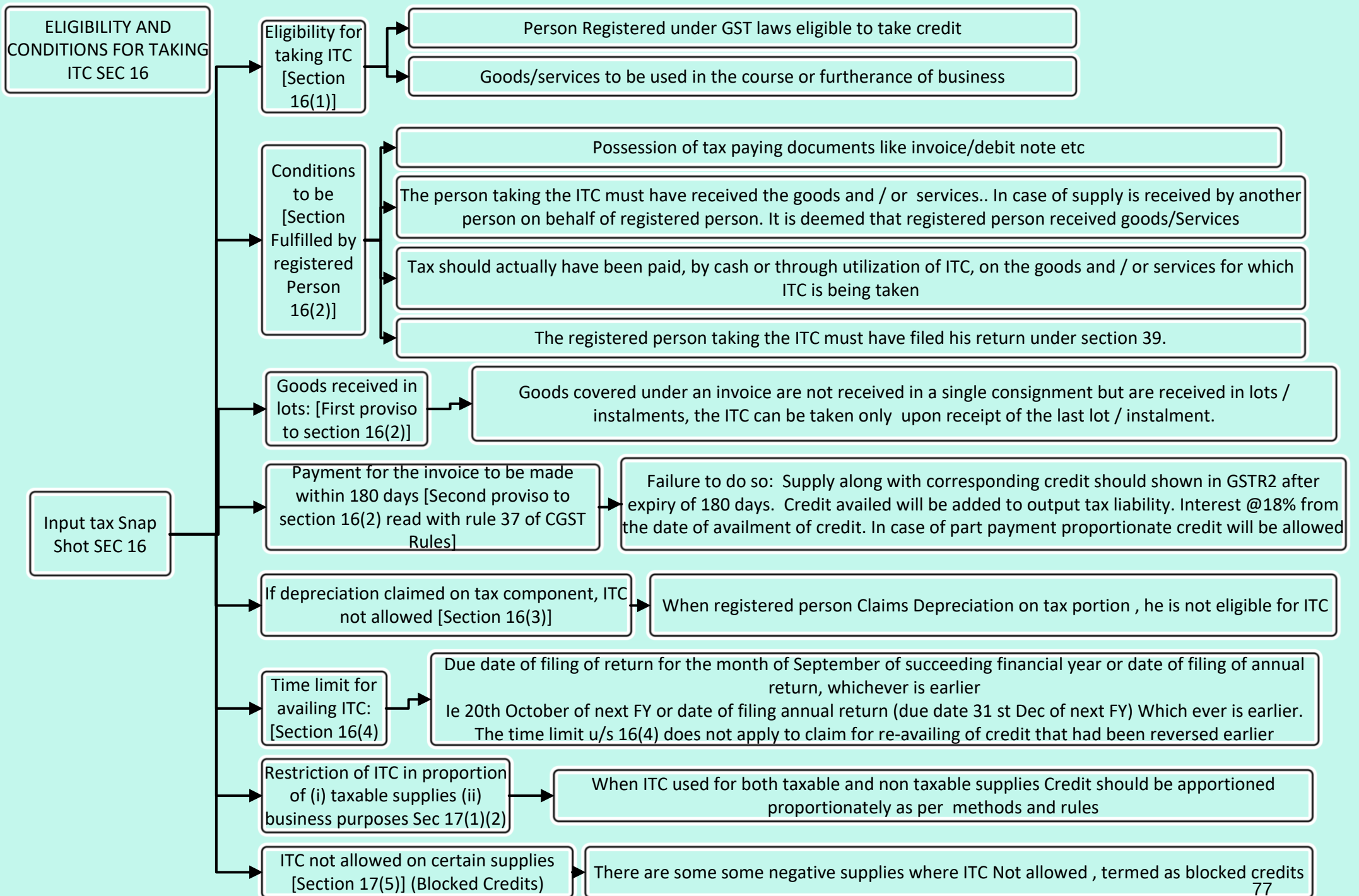
Insurance Services Exempt from tax	
NPS	
Services of life insurance business provided by way of annuity under the National Pension System (NPS).	
Group insurance of forces	
Services of life insurance business provided by the Army, Naval and Air Force Group Insurance Funds to the members of Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Govt.	
Specified schemes of General Insurance Business	
Services of general insurance business provided under certain specified schemes .	
(a) Hut Insurance Scheme; (b) Cattle Insurance under Swarnajaynti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme); (c) Scheme for Insurance of Tribal; (d) Janata Personal Accident Policy and Gramin Accident Policy; (e) Group Personal Accident Policy for Self-Employed Women; (f) Agricultural Pump set and Failed Well Insurance; (g) premia collected on export credit insurance; (h) Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme, approved by the Government of India and implemented by the Ministry of Agriculture; (i) Jan Arogya Bima Policy; - National Agricultural Insurance Scheme (Rashtriya Krishi Bima Yojana); (k) Pilot Scheme on Seed Crop Insurance; (l) Central Sector Scheme on Cattle Insurance; (m) Universal Health Insurance Scheme; (n) Rashtriya Swasthya Bima Yojana; (o) Coconut Palm Insurance Scheme; - Pradhan Mantri Suraksha BimaYojna	
Services of life insurance business provided under certain specified schemes .	

(a) Janashree Bima Yojana;
(b) Aam Aadmi Bima Yojana;
(c) Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of fifty thousand rupees;
(d) Varishtha Pension Bima Yojana;
(e) Pradhan Mantri Jeevan Jyoti Bima Yojana;
(f) Pradhan Mantri Jan Dhan Yojana; Pradhan Mantri Vaya Vandana Yojana
Collection of contribution under Atal Pension Yojna (APY)
Service by way of collection of contribution under Atal Pension Yojna (APY).
Collection of contribution under Pension Scheme of State Govt.
Service by way of collection of contribution under any pension scheme of the State Governments.

- ❖ **Services of life insurance provided/agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the concerned Central Armed Police Force. WEF 01.10.2019**
- ❖ Services of life insurance provided or agreed to be provided by the Naval Group Insurance Fund to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government, have been exempted from CGST [Notification No. 2/2018 CT (R) dated 25.01.2018].
- ❖ life insurance business provided under, inter alia, life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of ` 2,00,000, have been exempted from CGST [Notification No. 2/2018 CT (R) dated 25.01.2018]
- ❖ Services provided by State Government by way of general insurance (managed by Government) to employees of the State Government/Police personnel, employees of Electricity Department or students are exempt vide entry 6 of aforesaid notification which exempts services by Central Government, State Government, Union territory or local authority to individuals

Input tax Definitions





Restriction on availment of input tax credit (ITC) in respect of invoices/debit notes not uploaded by the suppliers in their GSTR-1s [New sub-rule (4) inserted in rule 36 of the CGST Rules] [Notification No. 49/2019 CT dated 09.10.2019] [Notification No. 75/2019 CT dated 26.12.2019]

With effect from 09.10.2019, a new sub-rule (4) has been introduced in rule 36 to specify the quantum of ITC that can be claimed against the invoices/debit notes uploaded and invoices/debit notes not uploaded by supplier. Further amendment made in 26.12.2019 as below

Case	Amount of ITC to be claimed by recipient
Where invoice/debit note has been uploaded by the supplier in his GSTR-1	Full ITC, if all other conditions of availing ITC are fulfilled
Where <u>invoice/debit note has not been uploaded</u> by supplier in his GSTR-1 Notification No 75/2019 dated 26 th Dec 2019 WEF 01.01.2020	20% 10% of the eligible ITC available in respect of the uploaded invoices/debit notes. <u>However, the ITC so claimed should not exceed the actual eligible ITC available in respect of the invoices not uploaded.</u>

Condition of 10% shall apply cumulatively for the period February, March, April, May, June, July and August, 2020 and the return in **FORM GSTR-3B** for the tax period September, 2020 shall be furnished with the cumulative adjustment of input tax credit for the said months in accordance with the condition above.]

Clarification on restriction in availment of input tax credit in terms of rule 36(4) of CGST Rules, 2017, in respect of invoices not uploaded. Circular No. 123/42/2019-GST Dated: November 11,2019

SN	Issue	Clarification
1	What are the / debit notes on which the restriction	The restriction of availment of ITC is imposed only in respect of those invoices / debit notes, details of which are required to be uploaded by the suppliers under section 37(1). Credit can be taken on tax paid on RCM, IGST on imports, credit distributed by ISD
2	Whether the said restriction is to be calculated supplier wise or on consolidated basis	Restriction is to be calculated on consolidated basis not on supplier wise. Sec 36(4) linked to total eligible credit from all suppliers. Invoices which are not eligible to take ITC (blocked credit) not to be considered for 10% limit.

<u>3</u>	As per GSTR 2A, what is the admissible ITC on invoices not uploaded by suppliers	ITC shall not exceed 20% 10% of the eligible input tax credit available to the recipient in respect of invoices or debit notes the details of which have been uploaded by the suppliers. The taxpayer may have to ascertain the same from his auto populated FORM GSTR 2A as available on the due date of filing of FORM GSTR-1
<u>4</u>	How much ITC a registered tax payer can avail in his FORM GSTR-3B in a month in case the details of some of the invoices have not been uploaded by the suppliers under sub- section (1) of section 37.	Refer the illustration given below
<u>5</u>	When can balance ITC be claimed in case availment of ITC is restricted as per the provisions of rule 36(4)?	The balance ITC may be claimed by the taxpayer in any of the succeeding months provided details of requisite invoices are uploaded by the suppliers. He can claim proportionate ITC as and when details of some invoices are uploaded by the suppliers provided that credit on invoices

Illustration:

Mr. Vijay, a registered supplier, receives 100 invoices (for inward supply of goods/ services) involving GST of Rs. 10 lakhs, from various suppliers during the month of October 20XX.

Compute the ITC that can be claimed by Mr. Vijay in his GSTR-3B for the month of October 20XX to be filed by 20th November 20XX in the following independent cases assuming that GST of Rs. 10 lakhs are otherwise eligible for ITC:

Case I

Out of 100 invoices, 80 invoices involving GST of Rs. 6 lakhs have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor.

Case II

Out of 100 invoices, 75 invoices involving GST of Rs. 9.5 lakh have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor.

Answer

ITC to be claimed by Mr. Vijay in his GSTR-3B for the month of October 20XX to be filed by 20th November 20XX will be computed as under

Case I

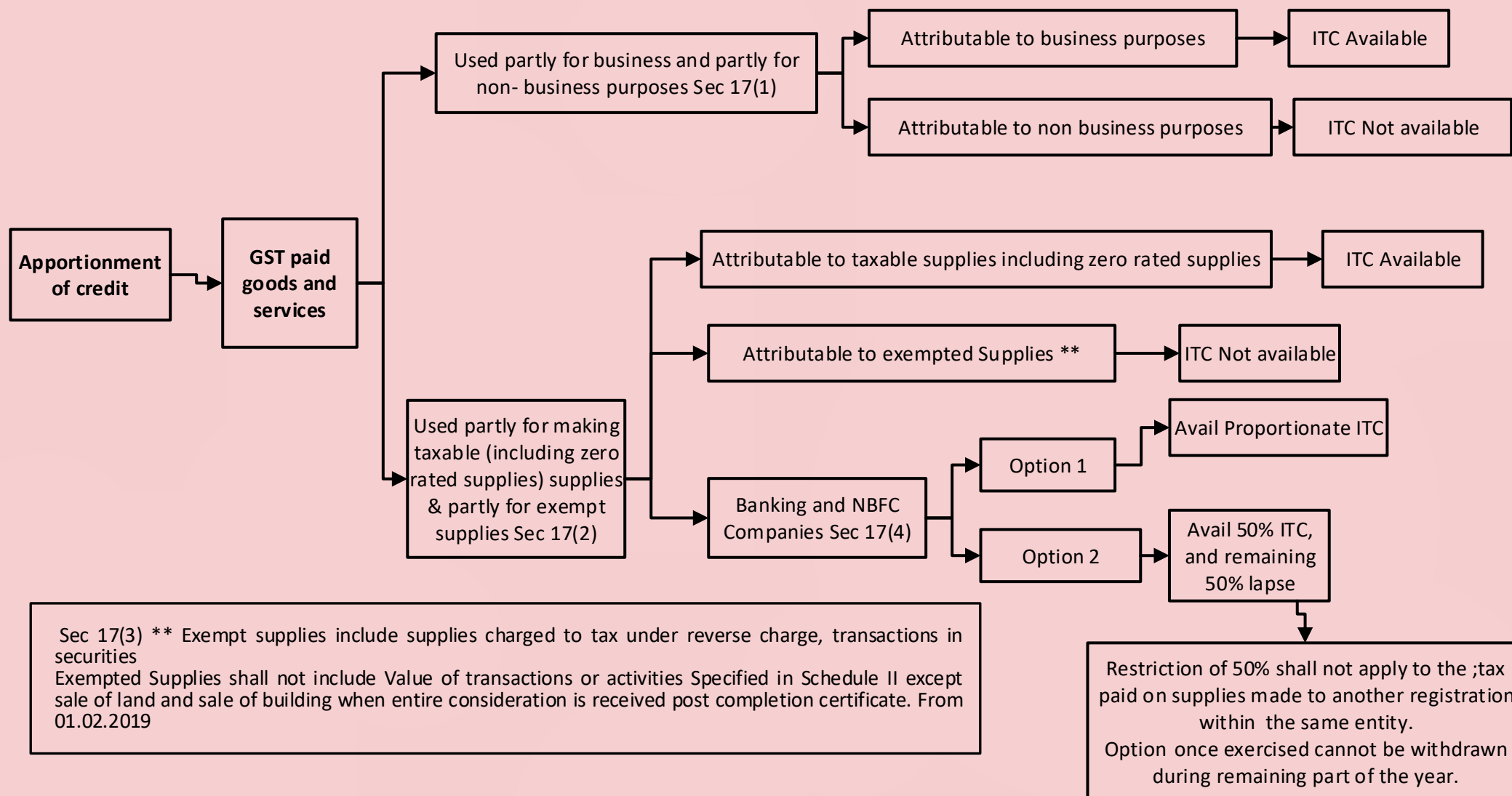
Invoices	Amount of ITC involved in the invoices (Rs.)	Amount of ITC that can be availed (Rs.)	Reason/ Remark
In respect of 80 invoices uploaded in GSTR-1	6 lakhs	6.00 lakh	Full ITC can be claimed in respect of Invoices uploaded
In respect of 20 invoices not uploaded in GSTR-1	4 lakhs	0.60 lakh	10% of ITC of Invoice uploaded 10% of 6 lakhs) can be claimed
Total	10 Lakh	6.60 lakh	

Case II -ITC to be claimed by Mr. Vijay in his GSTR-3B for the month of October 20XX to be filed by 20th

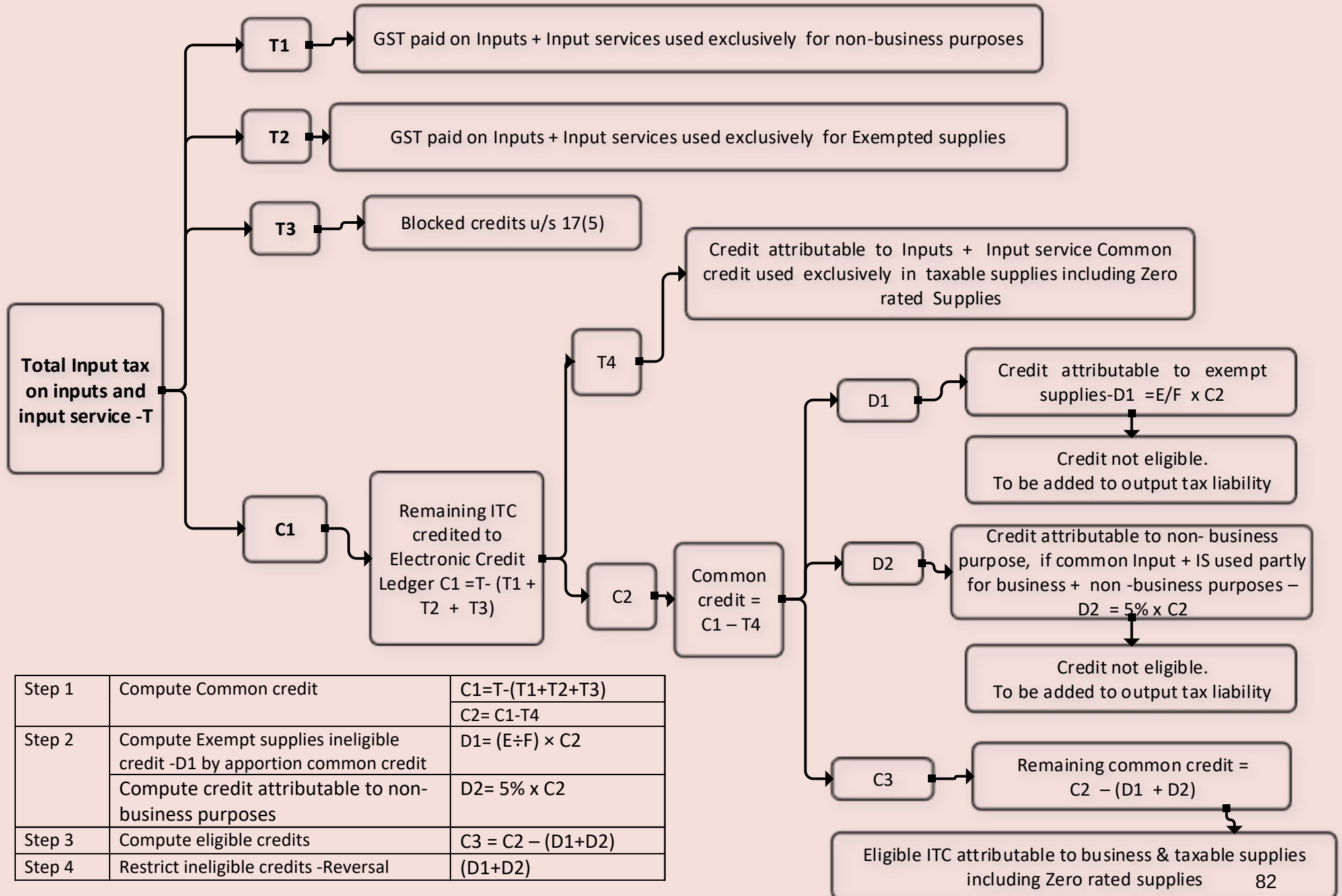
November 20XX will be computed as under-

Invoices	Amount of ITC involved in the invoices (Rs.)	Amount of ITC that can be availed (Rs.)	Reason/ Remark
In respect of 75 invoices uploaded in GSTR-1	9.5 lakh	9.5 lakh	Full ITC can be claimed in respect of Invoices uploaded
In respect of 25 invoices not uploaded in GSTR-1	0.5 lakh	0.5 lakh	10% of ITC of invoices uploaded 9.5 lakhs x10% =0.95 lakhs which is exceed Rs. 0.5 lakhs, the actual amount of ITC Rs. 0.5 lakhs can be claimed
otal	10 Lakhs	10 lakhs	

Apportionment of common credit Sec 17(1) to 17(4)



Apportionment of common credit in case of inputs and Input service -rule 42



Continued on Next

Apportionment of Common credit of Input, input service- Rule 42			Tax Period	XXXXXX
Term used	Rule 42(1)	Particulars	Amount	
T	(a)	total input tax involved on inputs and input services in a tax period, be denoted as 'T';	XXXXXX	
T1	(b)	the amount of input tax, out of 'T', attributable to inputs and input services intended to be used exclusively for purposes other than business, be denoted as 'T1';	XXXXXX	
T2	(c)	the amount of input tax, out of 'T', attributable to inputs and input services intended to be used exclusively for effecting exempt supplies, be denoted as 'T2';	XXXXXX	
T3	(d)	the amount of input tax, out of 'T', in respect of inputs on which credit is not available under section 17(5) (Blocked Credit), be denoted as 'T3';	XXXXXX	
$C1 = T - (T1 + T2 + T3)$	(e)	the amount of input tax credit credited to the electronic credit ledger of registered person, be denoted as 'C1' and calculated as: $C1 = T - (T1 + T2 + T3)$	XXXXXX	
T4	(f)	the amount of input tax credit attributable to inputs and input services used exclusively in or in relation to taxable supplies including zero rated supplies, be denoted as 'T4'	XXXXXX	
	(g)	T1', 'T2', 'T3' and 'T4' shall be determined and declared by the registered person at the invoice level in FORM GSTR-2 and in summary form in GSTR 3B	XXXXXX	
$C2 = C1 - T4$	(h)	Input tax credit left after attribution of input tax credit under clause (g) shall be called common credit, be denoted as 'C2' and calculated as: $C2 = C1 - T4$	XXXXXX	
$D1 = (E \div F) \times C2$	(i)	The amount of input tax credit attributable towards exempt supplies, be denoted as 'D1' and calculated as: $D1 = (E \div F) \times C2$	XXXXXX	
		where: –		
		'E' is the aggregate value of exempt supplies, that is, all supplies other than taxable and zero-rated supplies, during the tax period, and		
		F' is the total turnover of the registered person during the tax period. If no turnover during the tax period/values not available, values for last period may be used		

D2	(j)	(j) the amount of credit attributable to non-business purposes if common inputs and input services are used partly for business and partly for non-business purposes, be denoted as 'D2', $D2 = 5\% \times C2$; and	XXXXX
C3	(k)	(k) the remainder of the common credit shall be the eligible input tax credit attributed to the purposes of business and for effecting taxable supplies including zero rated supplies and shall be denoted as 'C3', where, - $C3 = C2 - (D1 + D2)$;	XXXXX
	(l)	The amount 'C3, D1 and D2' shall be computed separately for input tax credit of CGST, SGST, UTGST and IGST declared in GSTR 3B	
	(m)	Compute D1 and D2 (i.e. ineligible credit in addition to ineligible credit at invoice level and add that amount to the output tax liability. This will be added on monthly basis	
	(2)	• $\sum (D_1 + D_2)$ will be computed for the whole financial year, by taking exempted turnover and aggregate turnover for the whole financial year. • If this amount is more than the amount already added to output tax liability every month, the differential amount will be added to the output tax liability reversed in GSTR 3B in any of the month till September of succeeding year along with interest @ 18% from 1st April of succeeding year till the date of payment. • If this amount is less than the amount added to output tax liability every month, the additional amount paid has to be claimed back as credit in GSTR 3 of any month till September of the succeeding year	

Rule 43	Apportionment of Common credit in case of Capital goods <u>Notification No 16/2020 CT dated 23.03.2020. WEF 01.04.2020 Rule 43</u>	
	Usage of Capital goods	Treatment of ITC
(1)(a)	Capital goods procured to effect exclusively exempt supply & non-business supply	ITC shall not be credited to his electronic credit ledger
(1)(b)	Capital goods procured to effect exclusively taxable supply / zero-rated supply	ITC shall be credited to his electronic credit ledger
(1)(c)	Capital goods procured to effect taxable supply as well as exempt supplies	"A", shall be credited to the electronic credit ledger then will be reversed in proportion of exempt supplies.
Proviso to (1)(c)	Capital goods procured to effect exclusively exempt supply & non-business supply now used for providing taxable as well as exempt supply.	"A" shall be arrived at by reducing the input tax at the rate of 5% p.q. for every quarter or part thereof and the amount "A" shall be credited to the electronic credit ledger A" as reflected in invoice be credited to electronic credit ledger. ITC attributable to the <u>period during which such capital goods were covered by clause (a)</u> , denoted as "T _{ie} ", shall be <u>calculated at the rate of 5% per quarter. or part thereof</u> and added to the output tax liability of the tax period in which such credit is claimed
(1)(d)	"A" credited to the electronic credit ledger under clause (c), to be denoted as "Tc", shall be the common credit in respect of capital goods	"A" credited to the electronic credit ledger under clause (c) in respect of common capital goods whose useful life remains during the tax period , to be denoted as "Tc", shall be the common credit in respect of such capital goods. Thus, what Tr was supposed to do is now inculcated into formula of Tc.
Proviso to rule (1)(d)	Capital goods procured to effect exclusively taxable supply & zero-rated supply now used for providing taxable as well as exempt supply.	The value of "A" arrived at by reducing the input tax @ 5% p.q. or part thereof shall be added to the aggregate value "Tc". The input tax credit claimed in respect of such capital good(s) shall be added to arrive at the aggregate value "Tc". (Earlier reduced A was to be added in Tc & then was liable to be reversed)

Calculation of ITC added to Output tax liability /Reversal		
Rule 43	Particulars	Calculation
(1)(e)	Input tax credit attributable to a tax period on common capital goods during their useful life, be denoted as "Tm"	$Tm = Tc \div 60$.
(1)(f)	ITC, at the beginning of a tax period, on all common capital goods whose useful life remains during the tax period, be denoted as "Tr"	Omitted vide By Notification No. 16/2020 – CT dt. 23.03.2020 w.e.f. 01.04.2020 <i>(due to amendment in definition of Tc)</i>
(1)(g)	The amount of common credit attributable towards exempted supplies "Te"	$Te = Tr \times E/F$ (It seems to be a typographic error by department since Tr has been omitted the formula shall stand revised as " $Te = Tc \times E/F$ ")

Examples

Example 1 (Exclusive Exempt supply subsequently used for Common use)

A Ltd. purchased a machine on 1st April, 2018 used for effecting exclusive exempt supplies. However, w.e.f. 1st April, 2020, the said machinery started to effect taxable as well as exempt supply. The cost of the machine was Rs. 1,00,000/- (excl. GST @ 12%).

Solution

Position pre-amendment:		Position post-amendment:	
Particulars	Rs.	Particulars	Rs.
Amount to be credited to ECrL		Amount to be credited to ECrL	12,000
= 12,000-(12,000 x 5% x 8 quarters) =12,000 -4,800 =	7,200	Amount to be added to output tax liability (Tie) = 12,000 x 5% x 8 quarters)	4,800
Reversal for tax period for exempt supplies (Tm) = 7200/60=	120	Reversal for tax period for exempt supplies (Tm) = 12000/60=	200

Example 2 (Exclusive Taxable supply subsequently used for Common use)

ABC Limited, purchased a machinery worth Rs. 1,00,000/- (excl. GST @ 12%) on 1st April, 2018; the same was put to use for effecting EXCLUSIVELY taxable supplies. W.e.f. 1st July 2020 the said machine was put to use for taxable as well as exempt supplies. Calculate A, Tc, Tm. The turnover for July, 2020 was: Taxable Turnover: – Rs. 1,50,00,000, Exempt Turnover: – Rs. 75,00,000, and Total Turnover: – Rs.2,25,00,000

Solution:

Position pre-amendment:		Position post-amendment:	
Particulars	Rs.	Particulars	Rs.
Amount to be credited to ECrL	12,000	Amount to be credited to ECrL	12,000
Calculation of Reversal		Calculation of Reversal	
Total ITC	12,000	Total ITC	12,000
5% per quarter or part thereof for 9 quarters= 12000 x5% x 9	5,400	5% per quarter or part thereof	Not Applicable
Value of A for the purpose of Rule 43(1)(d) = 12,000- (12000 x5% x 9)- (Tc)	6,600	Value of A for the purpose of Rule 43(1)(d) - (Tc)	12,000
Tm (This formula will be valid till its useful life is pending i.e. 5 years -6600/60	110	Tm (This formula will be valid till its useful life is pending i.e. 5 years- 12,000/60	200
Amount to be added to Output Tax Liability of the month of July, 2020) Te = Tm x E/F = 110 X 75/225	37	Amount to be added to Output Tax Liability of the month July, 2020) Te = Tm x E/F =200 X 75/225	67

[Rule 43(1)(g); states that $T_e = T_r * E/F$, however, since clause f i.e. T_r is omitted the clause g shall also be stand amended as to " $T_e = T_m * E/F$ ". It seems drafting error of law, which shall be resolved in due course by way of issuance of notification

DEFINITIONS:

SN	TERM	DEFINITION
1	Aggregation of Common Credit T_c	$T_c = \sum A$, ("A" credited to the electronic credit ledger under clause (c) in respect of common capital goods whose useful life remains during the tax period, to be denoted as " T_c ")
2	Monthly Common Credit on Capital Goods T_m	$T_m = T_c / 60$... (Since life of Capital goods is 5 years, it is taken as 60 months)
3	Common Credit Attributable towards exempt supplies T_e $T_e = (E / F) \times T_r$ where; (instead of T_r it should be T_c . It seems to be error in law	"E" is the aggregate value of exempt supplies during the tax period, and" F" is the total turnover in the State of the registered person during the tax period

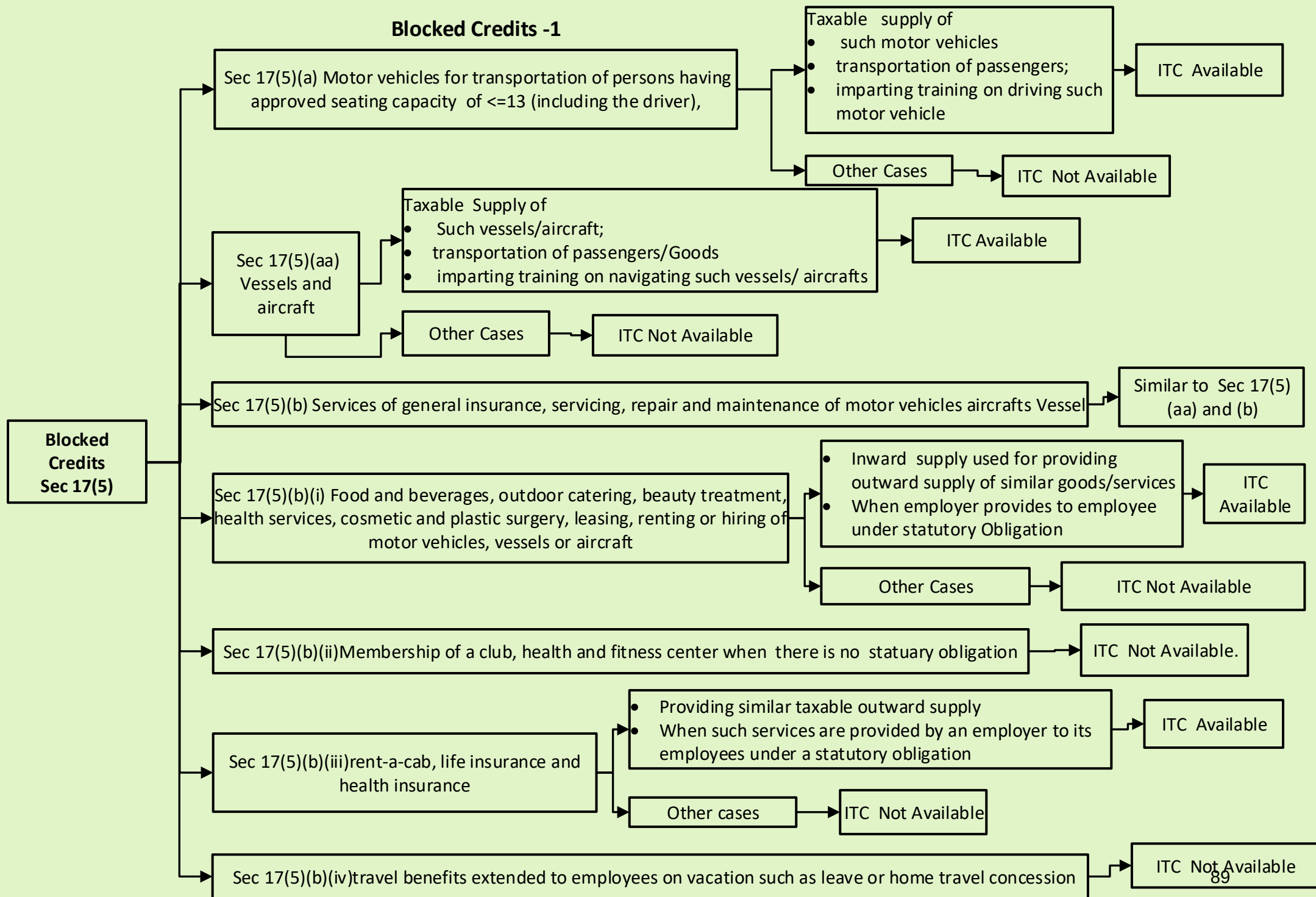
Exempted Turnover

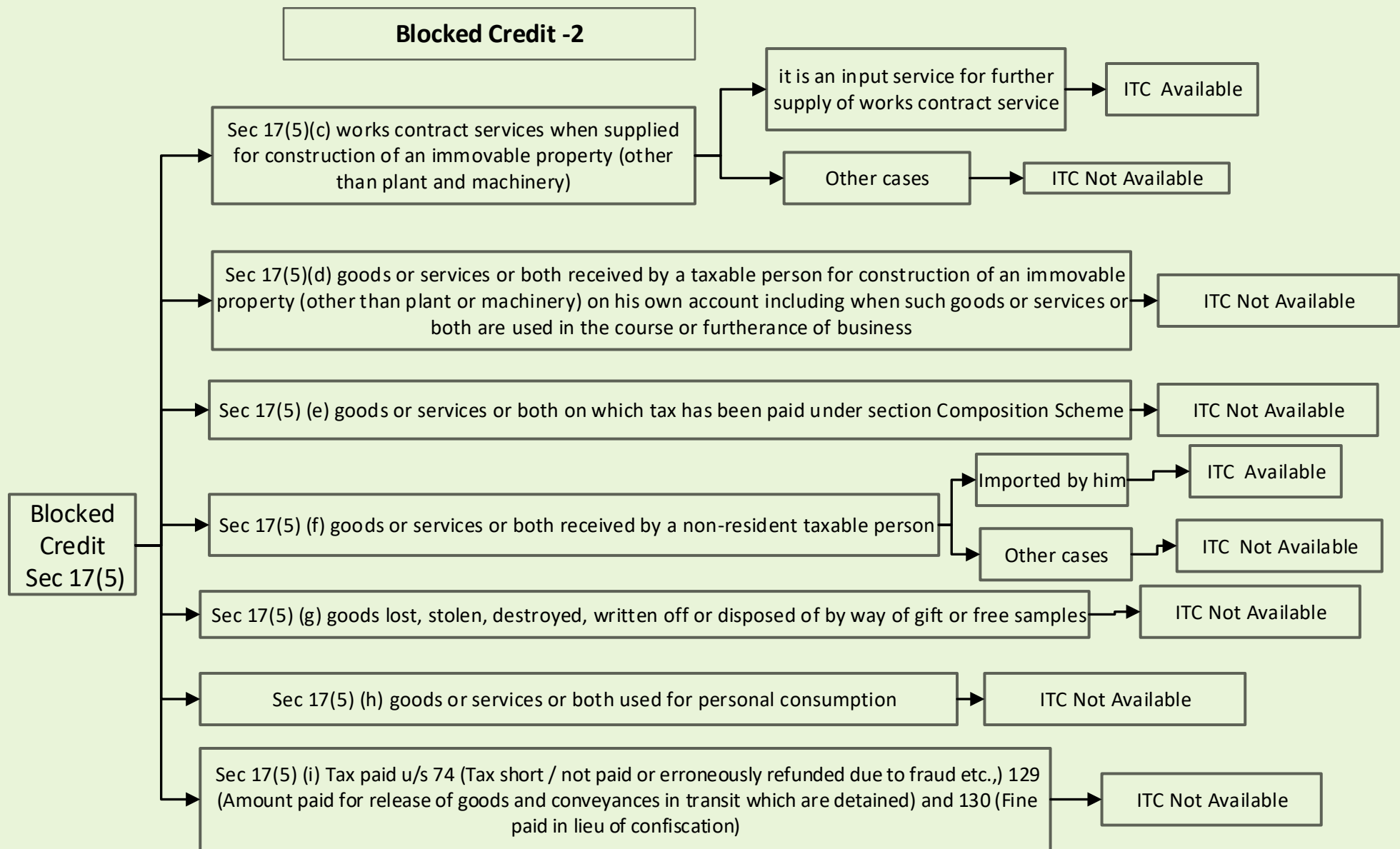
<u>Inclusions</u>		
<u>1</u>	Non-taxable supply– Supplies not leviable to tax under GST. E.g. Alcoholic Liquor for human consumption	<u>XXXXXX</u>
<u>2</u>	Outward Supplies on which the recipient is liable to pay tax on reverse charge basis – it would be treated as exempt in the hands of the supplier and not recipient	<u>XXXXXX</u>
<u>3</u>	Transaction in securities– Value shall be 1% of the sale value (Rule 45 of CGST Rules, 2017)	<u>XXXXXX</u>
<u>4</u>	Sale of Land– Value shall be stamp duty value	<u>XXXXXX</u>
<u>5</u>	Sale of Completed Building on which GST is not applicable (sale after receipt of occupancy certificate or after first occupation) – Value shall be the same as adopted for stamp duty purposes	<u>XXXXXX</u>
<u>Exclusions</u>		
1	Value of exempt supplies shall not include Schedule III activities except Sale of Land & Completed Building – CGST Amendment Act, 2018	<u>XXXXXX</u>
2	Excise Duty & VAT applicable on 9(2) of CGST Act supplies & tobacco and tobacco products.	<u>XXXXXX</u>
3	Interest / Discount received on deposits, loans (except for Banks and other Financial Institutions) [Explanation to Rule 43]	<u>XXXXXX</u>
4	Services by Transport of Goods “by vessel” from customs station to place outside India [Explanation to Rule 43]	<u>XXXXXX</u>

Total Turnover

<u>Inclusions</u>		
Value of all taxable supplies (other than inward supplies covered under reverse charge) made within the State,		<u>XXXXXX</u>
Value of all exempt supplies made within the State,		<u>XXXXXX</u>
Exports of goods and services		<u>XXXXXX</u>
Inter State Supplies		<u>XXXXXX</u>
<u>Exclusions</u>		
CGST, SGST, IGST and Compensation cess.		<u>XXXXXX</u>

- If registered person **does not have any turnover during the said tax period or the aforesaid information is not available**, the value of E/F **shall be calculated** by taking values of **E and F of the last tax period for which the details** of such turnover are **available**, previous to the month during which the said value of E/F is to be calculated.
- The amount T_e shall be computed separately for central tax, State tax, Union territory tax and integrated tax.





'construction' includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property

'plant and machinery' means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes-
 (i) land, building or any other civil structures/(ii) telecommunication towers; and (iii) pipelines laid outside the factory premises.

Examples on Blocked Credit		
1	ITC on Motor Vehicles	
	(a) Motor cars purchased by Cab operators, driving schools, Car dealers	Allowed
	(b) Motor cars purchased for transport of employees, Directors, official use of employees	Blocked
	(c) Buses (seating capacity > 13 persons) for daily commuting of employees from residence to office	Allowed
2	ITC on Vehicles for transportation of goods	
	In case of transportation of goods, there is no requirement of making similar taxable supply	
	(a) Trucks, tippers, dumpers etc. purchased for transportation of goods with in the factory or transport to goods customers	Allowed
3	ITC on Aircrafts/Vessels	
	(a) Aircrafts/Vessels purchased by Air lines/shipping companies for transport of passengers/ goods	Allowed
	(b) Aircrafts/Vessels purchased by Aviation, maritime training institutes	Allowed
	(c) Aircrafts purchased for transportation of CEO, directors	Blocked
4	ITC on Services of general insurance, servicing, repair and maintenance of motor vehicles aircrafts Vessels	
	(a) Persons who are getting ITC on Motor Vehicles, Aircrafts and Vessels are eligible to take ITC on general insurance, servicing, repair and maintenance of motor vehicles aircrafts Vessels	Allowed
	(b) General Insurance, maintenance, repair on motor cars used by employees, directors	Blocked
	(c) General Insurance, maintenance repair, Aircrafts purchased for transportation of CEO, directors	Blocked
5	ITC on Services of Food and beverages, outdoor catering	
	(a) Restaurant, bars, catering contractors for their outward supply	Allowed
	(b) Outdoor catering service availed by a company to run a canteen in its factory. The Factories Act, 1948 requires the company to set up a canteen in its factory. ITC on such outdoor catering	Allowed
	(c) ITC on outdoor catering services availed by a company, for a team development event organised for its employees	Blocked
6	ITC on Services of Beauty treatment, health services, cosmetic and plastic surgery	
	(a) Beauty parlors, fitness Centres, cosmetic surgery clinics for their outward taxable supply	Allowed
	(b) GST paid by Celebrities on their beauty treatment, Fitness services ITC is	Blocked
7	ITC on Membership of a club, health and fitness center when there is no statutory obligation	Blocked
8	ITC on Services of Rent-a-cab, life insurance and health insurance	

	(a)	Cab operators, insurance companies for their outward supply	Allowed
	(b)	Cab services availed by Company for onsite visit of its employees.	Blocked
	(c)	A hotel pays GST on cab services availed for airport pick up and drop facilities for its guests. In turn, the hotel recovers the same from its guests as part of composite supply of hotel stay services and cab	Allowed
	(d)	When Life insurance is mandatory as per Labour laws, Mines Act	Allowed
9	Services of Works Contract/Construction		
	(a)	ITC on Works Contract Services, <u>except where it is an input service for further supply of works contract service</u>	Blocked
	(b)	Goods or services received by a taxable person for construction of an immovable property on his own account even when used in course or furtherance of business	Blocked
	(c)	Inward supply of goods or services for construction of an immovable property for 'own use'	Blocked
	(d)	ABC Ltd., availed services of a builder for construction of its factory which will be used for manufacturing taxable goods. The builder charged GST on invoice raised to ABC Ltd. ITC to ABC Ltd	Blocked
	(e)	XYZ Ltd., availed works contract services for constructing foundation of pillars supporting the machinery ITC on GST paid	Allowed

Conditions for using ITC in Electronic credit ledger- New rule 86A Notification No 75 /2019 dated 26.12.2019 WEF 11.01.2020

The Commissioner or an officer authorised by him in this behalf, not below the rank of an AC having reasons to believe that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible.

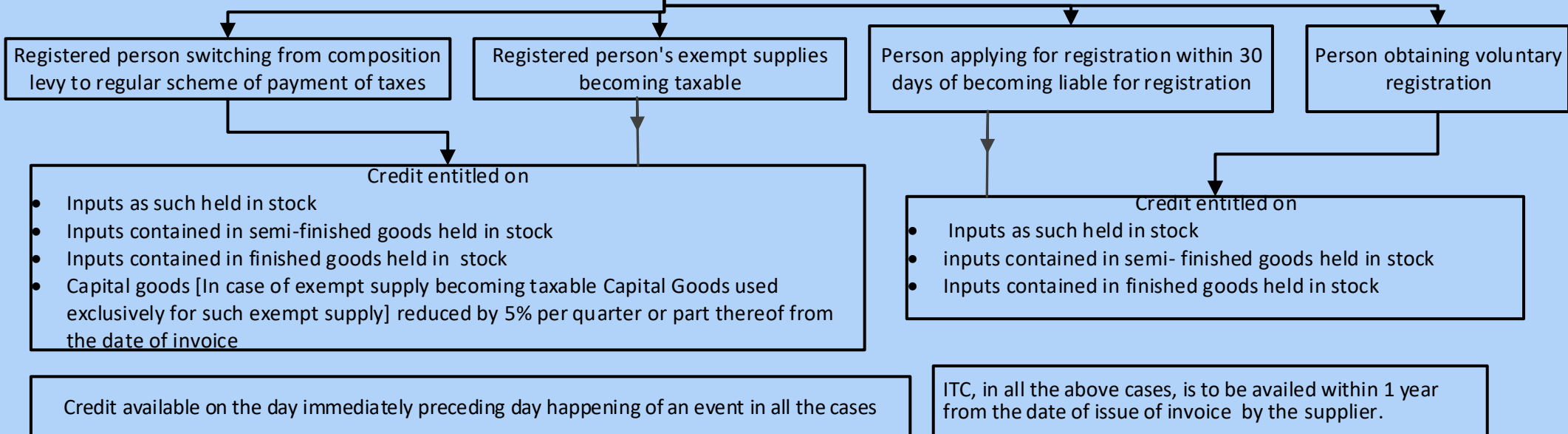
The restrictions can be imposed in the following circumstances:

- (i) ITC has been availed on the basis of tax invoices/valid documents -
 - issued by a non-existent supplier or by a person not conducting any business from the registered place of business; or
 - without receipt of goods or services or both; or
 - the tax in relation to which has not been paid to the Government
- (ii) Registered person availing ITC has been found non-existent or not to be conducting any business from the registered place of business; or
- (iii) Registered person availing ITC is not in possession of tax invoice/valid document.

The Commissioner or an officer authorised by him, by recording reasons in writing impose restrictions for a period of one year, for not allowing debit in electronic ledger (use of ITC) or claim of refund equivalent to such credit

Special circumstances enabling availing of credit when non paying tax entities becomes tax paying entities Sec 18(1)(2)(3) and rule 40

Eligibility of Input tax credit

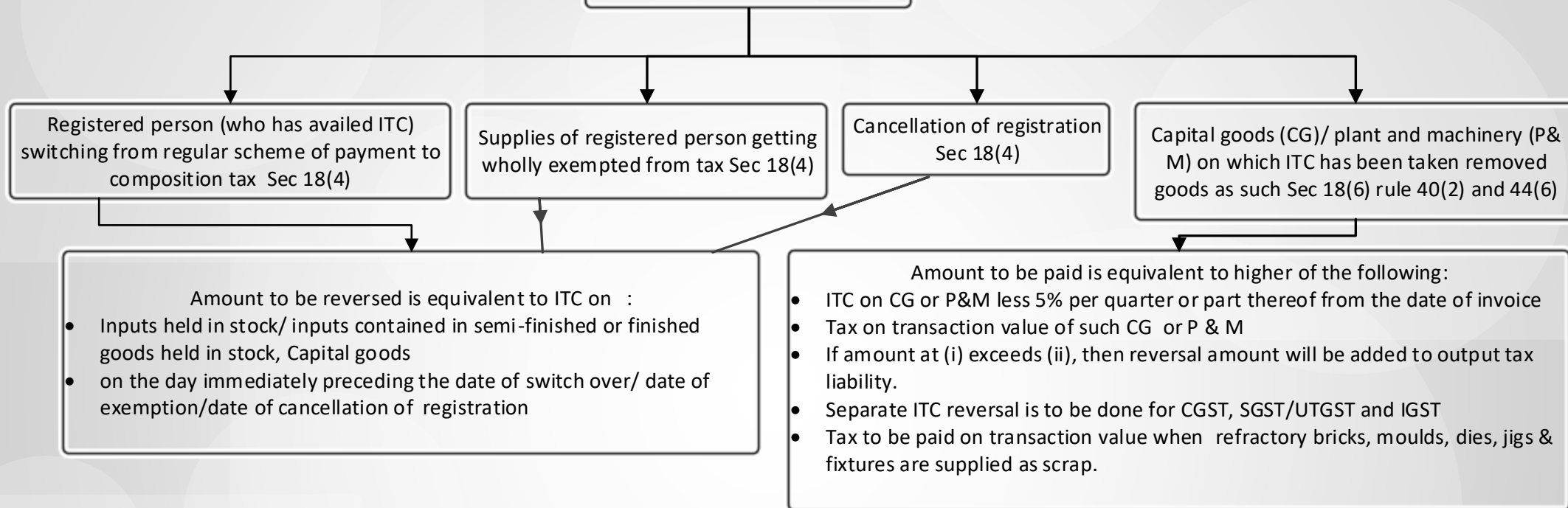


Conditions for availing above credit:

- Filing of electronic declaration giving details of inputs held in stock/contained in semi-finished goods and finished goods held in stock and capital goods on the days immediately preceding the day on which credit becomes eligible.
- Declaration has to be filed within 30 days from becoming eligible to avail credit.
- Details in (i) above to be certified by a CA/ Cost Accountant if aggregate claim of CGST, SGST/ IGST credit is more than Rs. 2,00,000.

Special circumstances reversal of credit when tax paying entities becomes non tax paying entities Sec 18 (4) 18(6) and Rule 44

Reversal of Input tax credit



Manner of reversal of credit on inputs and capital goods & other conditions

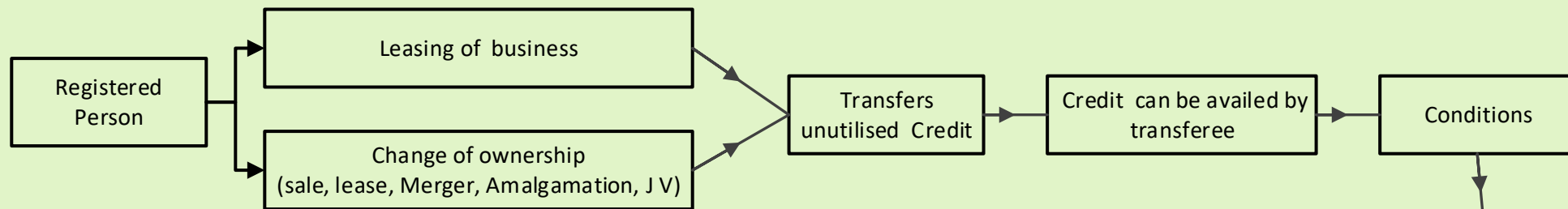
- (i) Inputs-** Proportionate reversal based on corresponding invoices. If such invoices not available, prevailing market price on the effective date of switch over/ exemption/cancellation of registration should be used with due certification by a practicing CA/ Cost Accountant
- (ii) Capital goods -** Reversal on *pro rata* basis pertaining to remaining useful life (in months), taking useful life as 5 years.
- (iii)** ITC to be reversed will be calculated separately for ITC of CGST, SGST/UTGST and IGST.
- (iv)** Reversal amount will be added to output tax liability of the registered person.
- (v)** Electronic credit/cash ledger will be debited with such amount. Balance ITC if any will lapse.

ITC Reversal on Return of time expired medicines/drugs

Where the time expired medicines/drugs (goods) returned by the retailer/wholesaler as a fresh supply, are destroyed by the manufacturer, he/she is required to reverse the ITC availed on the return supply in terms of section 17(5)(h) of the CGST Act. It is pertinent to mention here that the ITC which is required to be reversed in such scenario is the ITC availed on the return supply

Illustration: Supposedly, manufacturer has availed ITC of Rs. 10/- at the time of manufacture of medicines valued at Rs. 100/-. At the time of return of such medicine on the account of expiry, the ITC available to the manufacturer on the basis of fresh invoice issued by wholesaler is Rs. 15/-. So, when the time expired goods are destroyed by the manufacturer, he would be required to reverse ITC of Rs. 15/- and not of Rs. 10/-. The clarification may also be applicable to return of goods for reasons other than being time expired. [Circular No. 72/46/2018 GST dated 26.10.20184].

Transfer of Unutilised Credit in case of change in constitution sec 18(3) and rule 41

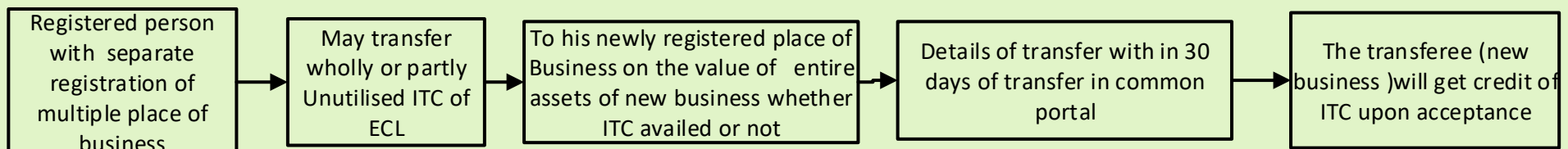


- Transferor ,transfers Inputs, WIP,CG with specific provision of transfer of liabilities .
- Transferor should file FORM GST ITC-02 with a request for transfer of unutilized ITC lying in his electronic credit ledger to the transferee
- Transferee Accounts Inputs, WIP & ,CG to the satisfaction of PO
- Details of change in constitution along with request for transfer of credit to filed in common portal
- A Certificate by CA/CWA will have to be submitted certifying that change in constitution has been done with specific provision for transfer of liabilities.
- Upon acceptance of such details by the transferee on the common portal, the unutilized ITC will be credited to his Electronic Credit Ledger.

Change of ownership include death of sole proprietor. The legal heir can avail Unutilised ITC . [Circular No. 96/15/2019 GST dated 28.03.2019]

Transfer of credit on obtaining separate registrations for multiple places of business within a State/Union territory as below

[New rule 41A inserted in the CGST Rules, 2017]Notification No. 03/2019 CT dated 29.01.2019]



Clarification in case of ITC in case of Business reorganization of partial transfer of business assets:

Under Sec 18(3) read with Rule 41(1) Circular No. 133/3/2020 GST dated 23.03.2020]

ITC shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme. Further, “value of assets” means the value of the entire assets of the business, whether or not ITC has been availed thereon.

For the purpose of apportionment of ITC pursuant to a demerger under rule 41(1), the value of assets of the new units is to be taken at the State level (at the level of distinct person) and not at the all-India level. The transferor would be required to file FORM GST ITC-02 only in those States where both transferor and transferee are registered.

The formula for apportionment of ITC, as prescribed under proviso to rule 41(1) of the CGST Rules, shall be applicable for all forms of business re-organization that results in partial transfer of business assets along with liabilities and not just demerger as mentioned in the proviso to rule 41(1).

The ratio of value of assets, as prescribed under proviso to rule 41(1) shall be applied to the total amount of unutilized ITC of the transferor, i.e. sum of CGST, SGST/ UTGST and IGST credit. The said formula need not be applied separately in respect of each heads of ITC (CGST/ SGST/ IGST). Further, the said formula shall also be applicable for apportionment of cess between the transferor and transferee.

Example

XYZ Ltd is a registered person registered in 4 states, UP, MP, AP and Bihar. As a part of such demerger, part of assets of XYZ amounting to Rs 30 Crore are transferred to company ABC in State of M.P, while assets amounting to Rs 10 crore only are transferred to ABC in State of U.P. The Assets of Bihar and AP were not transferred (Total assets amounting to Rs 40 crore at all-India level are transferred from XYZ to ABC). The value of Assets and ITC balances are as below:

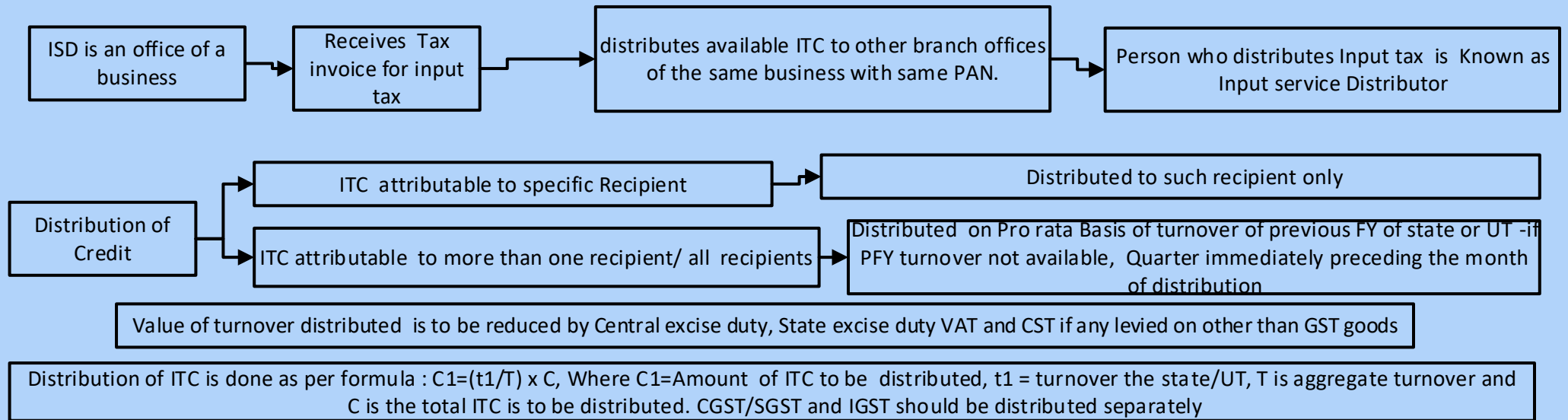
Particulars	Assets in UP Rs. In Cr.	Assets in MP. Rs. In Cr.	Assets in UP Rs. In Cr.	Assets Bihar Rs. In Cr.	Total Assets. Rs. In Cr.
Value of Assets ITC availed	50	35	45	50	180
Value of Assets ITC not availed	10	5	5	NIL	20
Total value of assets on appointed date	60	40	50	50	200
ITC Credit in ECRL on the date of filing of ITC 02					
CGST	1	2	2	1	6
SGST	1	2	2	1	6
IGST	2	3	4	3	12
Total credit all heads	4	7	8	5	24

Solution

Company name	Assets in UP Rs. In Cr.	Assets in MP. Rs. In Cr.	Assets in UP Rs. In Cr.	Assets Bihar Rs. In Cr.	Total Assets. Rs. In Cr.
Value of Assets	60	40	50	50	200
Assets Transferred	30	10	NIL	NIL	40
Ratio of assets transferred	$30/60 = 0.5$	$10/40 = 0.25$	NA	NA	$40/200 = 0.2$
Total credit all heads	4	7	8	5	-
ITC distributed to ABC	$4 \times 0.5 = 2$	$7 \times 0.25 = 1.75$	NIL	NIL	-
The transferor has liberty to determine the amount to be transferred under each head of CGST/SGST and IGST within this total amount, subject to the ITC balance available with the transferor under the concerned tax head. For example, in case of UP state, XYZ Ltd., can transfer CGST and SGST total Rs. 2 crores and retain credit of IGST.					

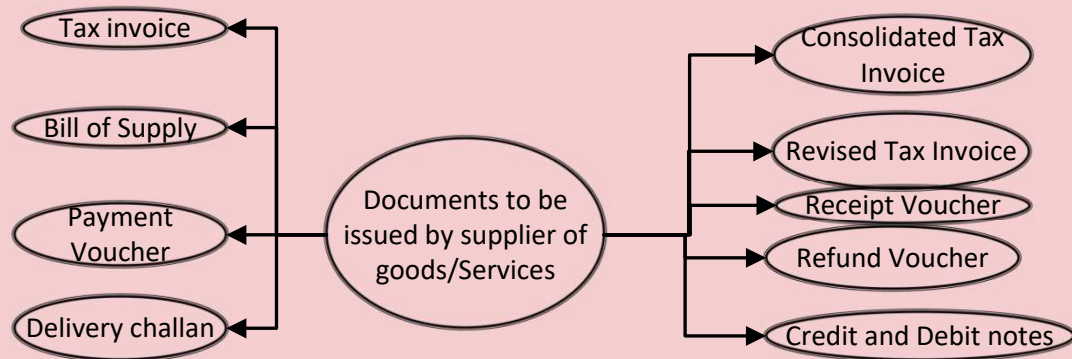
For the purpose of apportionment of ITC under rule 41(1), the ratio of the value of assets taken as on the “appointed date of demerger” should be applied on the ITC balance of the transferor on the date of filing FORM GST ITC – 02.

Distribution of Credit by Input Service Distributor Sec 20 and Rule 39 and rule 54

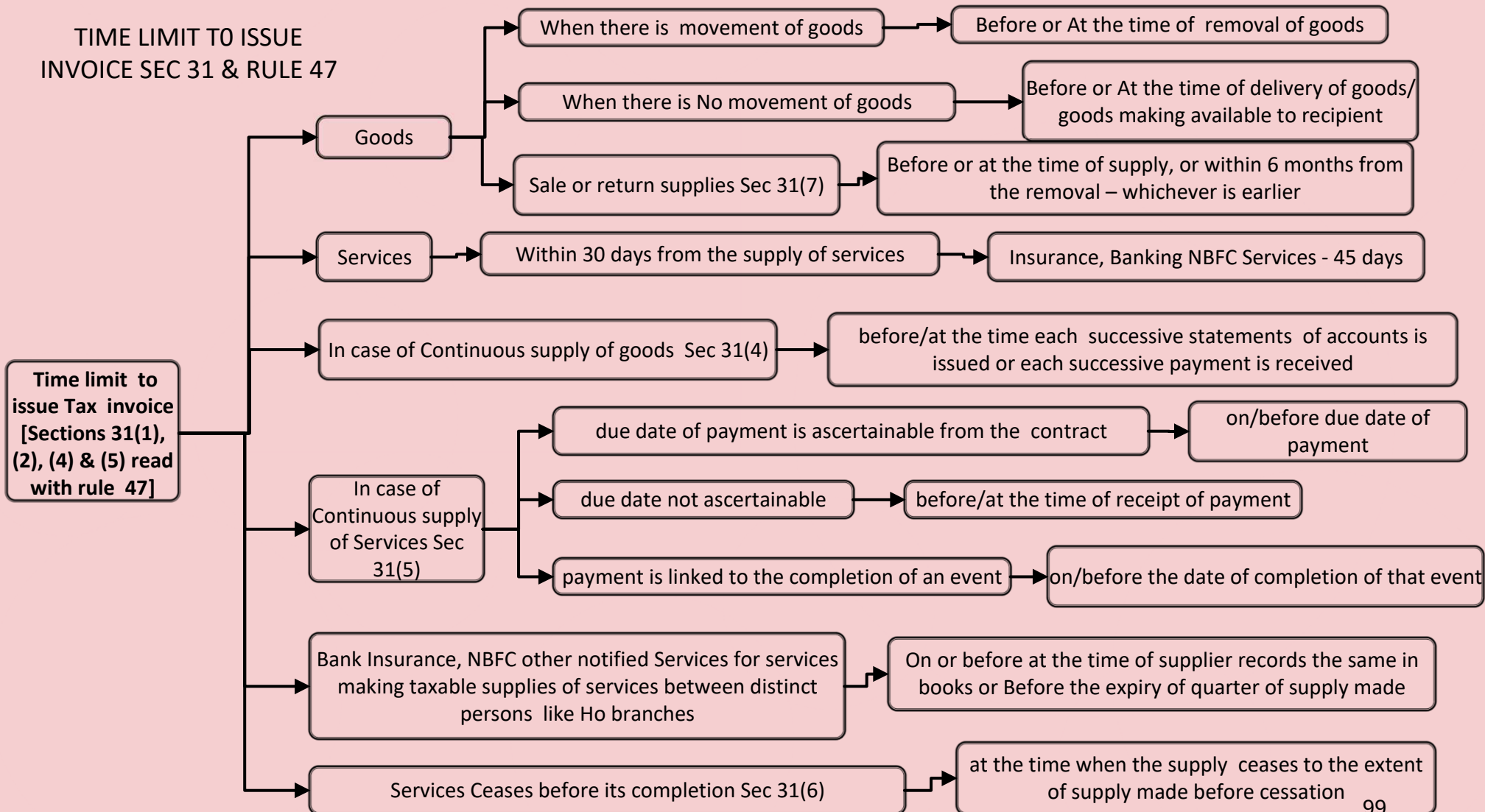


Procedure for ISD

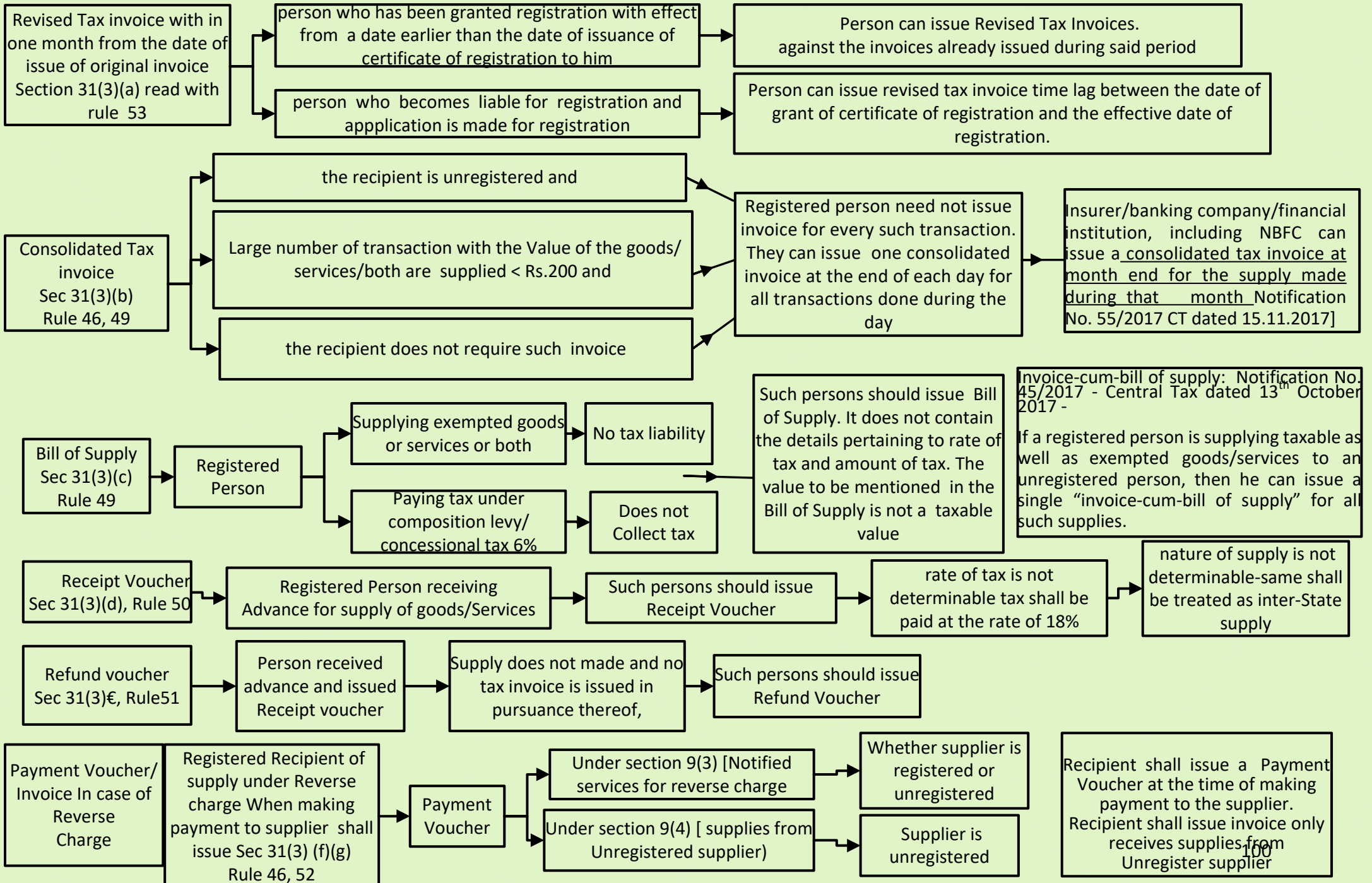
- Should register as ISD. He cannot accept supplies under reverse charge mechanism. In such case he need a separate registration as a tax payer.
- The ISD has to issue an ISD invoice, as prescribed in rule 54(1) of the CGST Rules, for distributing ITC. It should be clearly indicated in such invoice that it is issued only for distribution of ITC.
- The ISD needs to issue a ISD credit note, for reduction in credit if the distributed credit gets reduced for any reason.
- The additional ITC on account of issue of a debit note to the ISD is distributed by the ISD
- If the ISD is a banking company/ financial institution including NBFC, the document for distributing credit need not be serially numbered.
- ITC available for distribution in a month is to be distributed in the same month.
- Details of distribution of credit and all ISD invoices issued should be furnished by ISD in monthly GSTR-6 within 13 days after the end of the month.
- The details in the returns are made available to the respective recipients in their GSTR 2A. The recipients may include these in its GSTR- 2 and take credit.
- An ISD is not required to file annual return.
- Sec 21 :If the ISD has distributed excess credit to any recipient, the excess will be recovered from the recipient with interest as if it was tax not paid by initiating action under section 73 or 74



TIME LIMIT TO ISSUE INVOICE SEC 31 & RULE 47



Documents under GST



Contents of Tax Invoice Sec 31(1) (2) and rule 46

[Subject to rule 54 (i.e. other than input service Distributor, Banking or NBFC and so on) Section 31 read with Rule 46 of the CGST Rules, 2017]
There is no format prescribed for an invoice, however, invoice rules makes it mandatory for an invoice to have the following fields (only applicable field are to be filled)

1	Name, address and GSTIN of the supplier	
2	A consecutive serial number, in one or multiple series, containing alphabets or numerals or special characters like hyphen or dash and slash symbolized as “-” and “/” respectively, and any combination thereof, unique for a financial year	
3	Date of its issue	
4	Name, address and GSTIN or UIN, (Unique Identity Number for specialized agency like UNO) if registered, of the recipient	
5	If the recipient is unregistered and value of supply	Particulars of Invoice
	Rs. 50,000 or more	Name and address of the recipient and the address of delivery, along with the name of State Code.
	Less than Rs.50,000	Above details should be given only if unregistered recipient ask for
6	Name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered and where the value of taxable supply is fifty thousand rupees or more	
7	HSN code of goods or Accounting Code of Services	
8	Description of goods or services	
9	Quantity in case of goods and unit or Unique Quantity Code there of	
10	Total value of supply of goods or services or both	
11	Taxable value of supply of goods or services or both, taking into account the discount or abatement, if any	
12	Rate of tax (Central tax, State tax, Integrated tax, union territory tax or cess)	
13	Amount of tax charged in respect of taxable goods or services (Central tax, State tax, Integrated tax, union territory tax or cess)	
14	Place of supply along with the name of State, in case of a supply in the course of inter-State trade or commerce	
15	Address of delivery where the same is different from the place of supply	
16	Whether the tax is payable on reverse charge basis	

17	Signature or digital signature of the supplier or his authorized representative (Not required in case of Electronic Invoice issued as per IT Act 2000 .Notification No 74/2018 dated 31.12.2018
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- ❖ A registered person may not issue a Tax Invoice if: Value of the goods/services/both supplied < Rs.200, the recipient is unregistered; and the recipient does not require such invoice.
- ❖ Instead such registered person shall issue a **Consolidated Tax Invoice** for such supplies at the close of each day in respect of all such supplies. Signature or digital signature of the supplier or his authorized representative (Not required in case of Electronic Invoice issued as per IT Act 2000. Notification No 74/2018 dated 31.12.2018

where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single **“invoice-cum-bill of supply”** may be issued for all such supplies. This rule is notwithstanding anything contained in rule 46 or rule 49 or rule 54 of CGST Rules.

[Notification No. 45/2017 CT dated 13.10.2017]

Invoice in case of export of goods or services [Third proviso to rule 46]

- ❖ In the case of the export of goods or services, the invoice shall carry an endorsement “SUPPLY MEANT FOR EXPORT ON PAYMENT OF INTEGRATED TAX” or “SUPPLY MEANT FOR EXPORT UNDER BOND OR LETTER OF UNDERTAKING WITHOUT PAYMENT OF INTEGRATED TAX, as the case may be
- ❖ Particulars of an Export Invoice are same as a Tax Invoice. However, where recipient is unregistered and value of supply is Rs.50,000 or more, instead of name of State and its code, in case of an export invoice, name of the country of destination is to be mentioned

Particulars of Revised Tax Invoice Rule 53(1) : Notification No. 03/2019 CT dated 29.01.2019] from 01.02.2019

The word “Revised Invoice”, wherever applicable, indicated prominently;
Name, address and GSTIN of the supplier;
A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash and any combination thereof, unique for a FY;
Date of issue of the document;
31.03.2021Name, address and GSTIN or U

Name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;
Serial number and date of the corresponding tax invoice or, as the case may be, bill of supply;
Signature/digital signature of the supplier/his authorized representative not required in case of electronic invoice

Number of HSN digits required on tax invoice and class of registered person/ not required to mention HSN [Rule 46]

Up to 31.03.2021			From 01.04.2021		
SN	Annual Turnover (AT) in the preceding FY	Number of Digits of HSN Code	SN	Annual Turnover (AT) in the preceding FY	Number of Digits of HSN Code
1	Up to Rs. 1.5 crores	Nil	1	Up to Rs. 5 crores	B2B 4 digits B2B 4 digits (optional)
2	>Rs 1.5 crores up to Rs. 5 crores	2	2	Above Rs. 5 crores	B2B and B2C 6 digits
3	> 5 crores	4			

E- Invoice Rule 48(4) from 01.10.2020

- All registered businesses with an aggregate turnover (**based on PAN**) in any preceding financial year from 2017-18 onwards greater Rs. ~~100-Crore~~ **than Rs.500 crore** (notified persons) will be required to issue e-invoices.
- Supplier shall prepare invoice and other prescribed documents in respect of supply of goods or services or both to a registered person or for Exports
- E-invoicing is not generation of invoice by a Government portal. Taxpayers will continue to create their GST invoices on their own Accounting/Billing/ERP Systems as per e-invoice schema.
- These invoices will then be reported to 'Invoice Registration Portal (IRP)'. On such reporting, IRP will generate a unique 'Invoice Reference Number (IRN)', digitally sign it and return the e-invoice to the supplier.

- A GST e-invoice will be valid only with a valid IRN.
- Invoice issued by such person in other than the specified manner shall not be treated as an invoice.
- Provisions relating to number of copies of Invoice shall not apply to such invoice.

Exemption from E invoice is given to following suppliers

- Insurer or a Banking Company or a Financial Institution, including a Non-Banking Financial Company
- Goods Transport Agency supplying services of transportation of goods by road in a Goods Carriage
- Passenger Transportation Service
- Supplier providing service of admission to exhibition of Cinematograph Films in Multiplex Screens
- **Special Economic Zone unit (exemption not applicable to SEZ developer)**
- Commissioner may, on the recommendations of the Council, by notification, exempt a person or a class of registered persons from issuance of such invoice for a specified period,

Issues in E invoice

A taxpayer (say a firm of advocates) having aggregate turnover in a FY of more than Rs. 500 crores are supplying services to a company (who will be discharging tax liability as recipient under reverse charge mechanism), such invoices have to be reported by said tax payer (since it is a notified person) to IRP.

On the other hand, where specified category of supplies is received by notified person from unregistered persons [attracting reverse charge under section 9(4)] or through import of services, e-invoicing doesn't arise/ not applicable. E-invoicing is also not applicable for import of goods (Bills of Entry)

Maharaja Private Limited has an SEZ unit and a regular DTA unit (both having same PAN). The aggregate total turnover of Maharaja Private Limited is more than Rs. 500 crores (considering both the GSTINs). However, the turnover of DTA unit is below Rs. 100 crores for FY 2019-20. In this scenario, SEZ unit is exempt from e-invoicing. However, e-invoicing will be applicable to DTA Unit because the aggregate turnover of the legal entity in this case is > Rs. 500 crores. The eligibility is based on aggregate annual turnover on the common PAN.

Dynamic QR Code (with effective from 01.12.2020)- Rule 46

Invoice issued by a registered person, whose aggregate turnover in any preceding financial year from 2017-18 onwards exceeds Rs. 500 crores to an unregistered person (B2C invoice) shall have Quick Response (QR) code.

A Dynamic Quick Response (QR) code made available to buyer by such registered person through digital display (with payment cross- reference) shall be deemed to be having QR code

The purpose of this provision is to enable and encourage digital payments where buyer can scan the dynamic QR code and make payment from mobile wallet directly

The dynamic QR code, on the other hand, will have the payment details and thus 'scan and pay' in one go is possible.

This has no relevance or applicability to the e-invoicing in respect to B2B supplies by notified class of taxpayers.

Dynamic QR Code will be generated by the seller himself either on the Point of Sale (PoS) machine or the invoice issued

Exemption from Dynamic QR Code provision to following suppliers

- Insurer or Banking Company or a Financial Institution, including a Non-Banking Financial Company
- Goods Transport Agency supplying services of transportation of goods by road in a Goods Carriage
- Passenger Transportation Service
- Supplier providing service of admission to exhibition of Cinematograph Films in Multiplex Screens
- Supplier of Online Information and Database Access or Retrieval Services to non-taxable online recipient

Provisions for issuance of invoice/debit note/credit note by registered taxable person (having same PAN and State code as ISD) to ISD to transfer the credit of common input services [Notification No. 3/2018 CT dated 23.01.2018]

A new sub-rule (1A) has been inserted in rule 54 of CGST Rules. The new sub-rule provides as under:

A registered person, having the same PAN and State code as an input service distributor (ISD), may issue an invoice/credit note/debit note to transfer the credit of common input services to the ISD, which shall contain the following details :-

- (i) name, address and GSTIN of the registered person having the same PAN and same State code as the ISD;
 - (ii) a consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters - hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;
 - (iii) date of its issue;
 - (iv) GSTIN of supplier of common service and original invoice number whose credit is sought to be transferred to the ISD;
 - (v) name, address and GSTIN of the ISD;
 - (vi) taxable value, rate and amount of the credit to be transferred; and
 - (vii) signature or digital signature of the registered person or his authorised representative.
- (b) The taxable value in the invoice issued under clause (a) shall be the same as the value of the common services.

Person-in-charge of the conveyance to carry a copy of the tax invoice/ bill of supply where such person is not required to carry an e-way bill [Notification No. 3/2018 CT dated 23.01.2018]

A new rule 55A - Tax invoice or bill of supply to accompany transport of goods, has been inserted in the CGST Rules. The new rule lays down that the person-in-charge of the conveyance shall carry a copy of the tax invoice or the bill of supply issued in accordance with the provisions of rules 46, 46A or 49 in a case where such person is not required to carry an e-way bill under these rules.

Clarification on issues wherein the goods are moved within the State or from the State of registration to another State for supply on approval basis

- ❖ Where the goods which are taken for supply on approval basis can be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of delivery of goods.
- ❖ For this purpose, the person carrying the goods for such supply can carry the invoice book with him so that he can issue the invoice once

the supply is fructified.

- ❖ It is further clarified that all such supplies, where the supplier carries goods from one State to another and supplies them in a different State, will be inter-state supplies and attract integrated tax in terms of section 5 of the IGST Act.
- ❖ It is also clarified that this clarification would be applicable to all goods supplied under similar situations. [Circular No. 10/10/2017 GST dated 18.10.2017]

Special provisions pertaining to tax invoice for services by way of admission to exhibition of cinematograph films in multiplex screens [Rule 46 and 54 of the CGST Rules] Notification No. 33/2019 CT dated 18.07.2019

- Section 31(3)(b) of the CGST Act read with fourth proviso to rule 46 of the CGST Rules, provides A registered person has an option to issue consolidated tax invoice for supplies at the close of each day where the value of goods or services supplied is less than Rs. 200; recipient is unregistered and does not require tax invoice
- With effect from 01.09.2019, a new sub-rule (4A) has been inserted in rule 54⁵. Accordingly, a registered person who is supplying services by way of admission to exhibition of cinematograph films in multiplex screens shall be required to issue an electronic ticket.
- The said electronic ticket is deemed to be a tax invoice, even if such ticket does not contain the details of the recipient of service but contains the other information as mentioned under rule 46.
- Moreover, supplier of such services in a screen other than multiplex screens also has been given an option to follow above procedure.

Clarification with regard to issue of invoice in respect of goods sent/ taken out of India for exhibition or on consignment basis for export promotion. Circular No. 108/27/2019 GST dated 18.07.2019]

- Such goods do not constitute supply except such activity satisfied the tests laid in Schedule I of CGST Act.
- The specified goods sent/taken out of India are required to be either sold or brought back within the stipulated period of 6 months from the date of removal as per the provisions contained in section 31(7) of the CGST Act.
- The supply would be deemed to have taken place, on the expiry of 6 months from the date of removal, if the specified goods are neither sold abroad nor brought back within the said period.

If the specified goods are sold abroad, fully or partially, within the specified period of 6 months:

- The supply is effected, in respect of quantity so sold, on the date of such sale.

- Further, the sender shall issue a tax invoice in respect of such quantity of specified goods which has been sold abroad, in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules.

Illustration

M/s. ABC sends 100 units of specified goods out of India. The activity of merely sending/ taking such specified goods out of India is not a supply. No tax invoice is required to be issued in this case but the specified goods shall be accompanied with a delivery challan issued in accordance with the provisions contained in rule 55 of the CGST Rules.

In case the entire quantity of specified goods is brought back within the stipulated period of 6 months from the date of removal, no tax invoice is required to be issued as no supply has taken place in such a case.

In case, however, the entire quantity of specified goods is neither sold nor brought back within 6 months from the date of removal, a tax invoice would be required to be issued for entire 100 units of specified goods in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules within the time period stipulated under section 31(7) of the CGST Act.

Delivery Challan

SN	Particulars/Contents of Delivery Challan
1	Date and number of the delivery challan
2	Name, address and GSTIN of the consigner, if registered
3	Name, address and GSTIN or UIN of the consignee, if registered
4	HSN code and description of goods,
5	Quantity (provisional, where the exact quantity being supplied is not known)
6	Taxable value
7	Tax rate and tax amount – central tax, state tax, integrated tax, union territory tax or cess, where the transportation is for supply to the consignee
8	Place of supply, in case of inter-state movement
9	Signature

Contents of bill of supply

(a)	name, address and GSTIN of the supplier
(b)	a consecutive serial number, not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash symbolised as "-" and "/" respectively, and any combination thereof, unique for a financial year
(c)	date of its issue
(d)	name, address and GSTIN or UIN, if registered, of the recipient
(e)	HSN Code of goods or Accounting Code for services
(f)	description of goods or services or both
(g)	value of supply of goods or services or both considering discount or abatement, if any, and
(h)	signature or digital signature of the supplier or his authorized representative (signature or digital signature on Bill of Supply is not required if electronic bill of supply is issued - third <i>proviso</i> to rule 49 of CGST Rules inserted w.e.f. 31-12-2018).

	Particulars of Receipt Voucher
(a)	Name, address and GSTIN of the supplier;
(b)	A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash and any combination thereof, unique for a FY
(c)	Date of its issue;
(d)	Name, address and GSTIN or UIN, if registered, of the recipient;
(e)	Description of goods or services;
(f)	Amount of advance taken;
(g)	Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess
(h)	Amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
(i)	Place of supply along with the name of State and its code, in case of a supply in the course of inter-State trade or commerce;
(j)	Whether the tax is payable on reverse charge basis; and
(k)	Signature/digital signature of supplier/his authorized representative

The contents of refund voucher, payment voucher is similar to that of receipt voucher

	The new Rule 53(1A) sets out the contents of credit and debit note. Notification No. 3/2019-Central Tax Dt.29.01.2019 from 01.02.2019
(a)	name, address and Goods and Services Tax Identification Number of the supplier.
(b)	nature of the document.
(c)	a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as "-" and "/" respectively, and any combination thereof, unique for a financial year.
(d)	date of issue of the document.
(e)	name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient.
(f)	name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is unregistered.
(g)	serial number(s) and date(s) of the corresponding tax invoice(s) or, as the case may be, bill(s) of supply.
(h)	value of taxable supply of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient; and
(i)	signature or digital signature of the supplier or his authorised representative.

Debit notes and Credit Notes Sec 34 CGST ACT 2017

Registered Supplier of goods or services or both shall issue Credit or Debit notes to Recipient of goods or services or both

Credit notes
When to be
issued
34(1)

tax invoice has been
issued
For supply of goods or
services or both

Taxable value in invoice > Taxable value in respect of such supply

Tax charged in invoice > Tax payable in respect of such supply or

where the goods supplied are returned by the recipient or

where goods or services or both supplied are found to be deficient

Particulars of the Debit and Credit
Notes are same as the particulars of
revised tax invoices.

Debit notes
When to be
issued
Sec 34(3)

tax invoice has been issued
For supply of goods or
services or both

Taxable value in invoice < Taxable
value in respect of such supply or

Tax charged in invoice < Tax payable
in respect of such supply or

The registered person to issue one (consolidated) or more
debit notes in respect of multiple invoices issued in a
financial year without linking the same to individual
invoices. Sec 34(1) and 34(3) WEF 01.02.2019

Debit note shall include a supplementary invoice.

Details of
Debit Note/Credit
Note to be declared in
monthly Return in the
month they issued

Credit note
Sec 34(2)

Maximum time to
disclose

September following the end of the
financial year in which such supply was
made, or

the date of furnishing of the relevant
annual return, Which ever is earlier

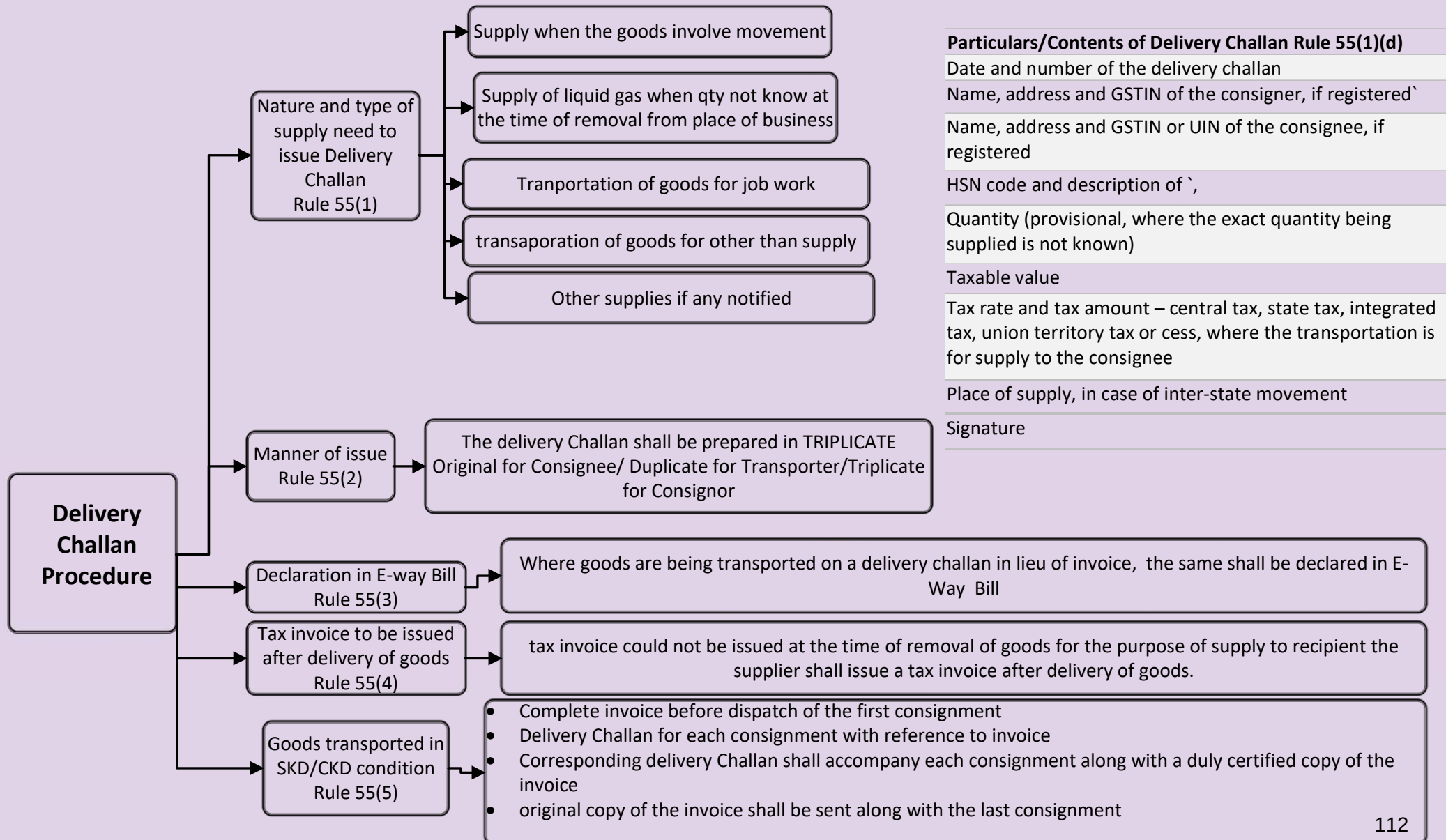
Debit note
Sec 34(4)

In the month which it is issued

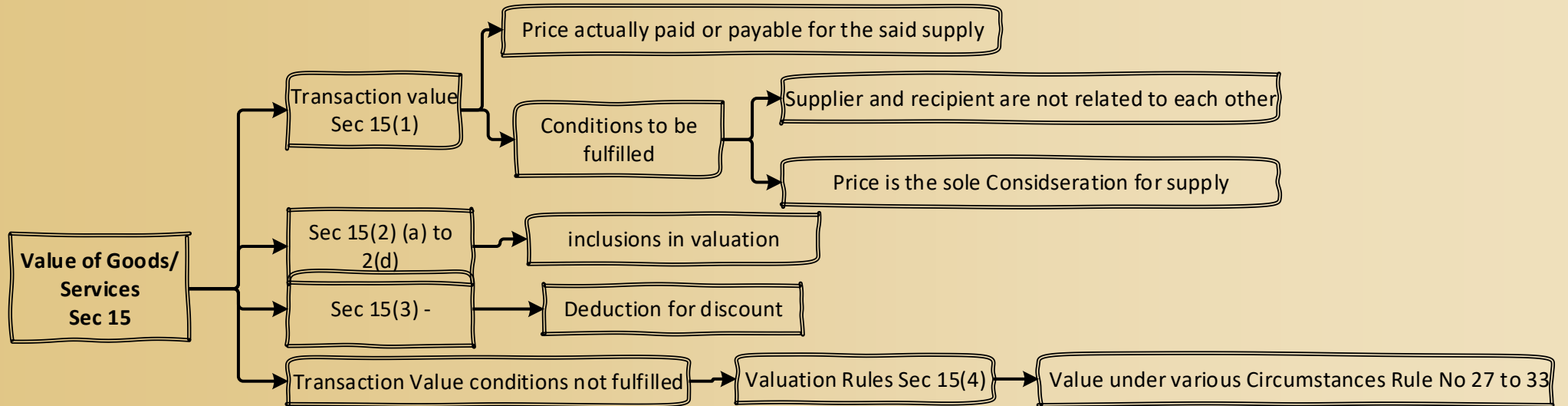
No reduction in output tax liability of the supplier shall
be permitted, if the incidence of tax and interest on such
supply has been passed on to any other person.

Delivery Challan

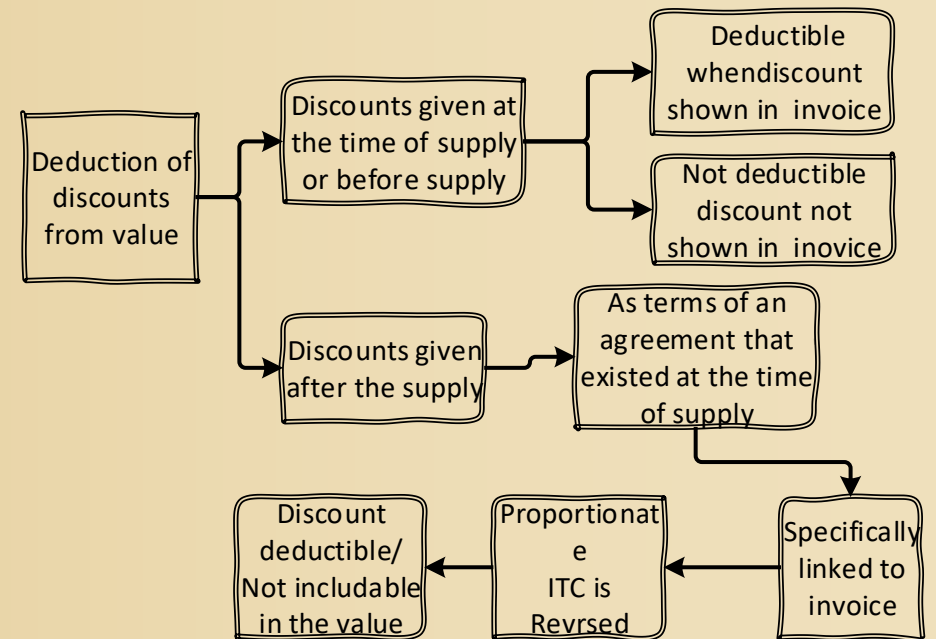
Rule 55 : Specifies the cases where at the time of removal of goods, goods may be removed on delivery challan and invoice may be issued after delivery



Valuation of Supply of goods and Services Sec 15



Value of Supply Sec. 15(1)	
Price/Sale consideration of goods/Services	XXX
Add: If not included in the above	
Sec. 15(2)(a): - Any taxes (other than taxes levied under CGST/SGST/UTST/compensation cess), - Duties, Cesses, Fees and charges	XX
Sec. 15(2)(b): Supplies made by the recipient on behalf of supplier	XX
Sec. 15(2)(c): Commission and packing or incidental expenses	XX
Sec. 15(2)(d): Interest or late fee or penalty for delayed payment	XX
Sec. 15(2)(e): Subsidy directly linked to the price (other than Govt. subsidy)	XX
Less:	
Sec. 15(3): Discount	XX
Transaction Value	XX



GST Valuation rules Sec 15(4)

RULE 27: Consideration not wholly in money

Value shall be either of the following in the given order:

- open market value
- total of consideration in money + amount equal to the consideration not in money
- value of supplies of like kind and quality
- consideration in money + money value of non- monetary consideration computed as per rule 30 or 31 in that order.

RULE 28: Supply between distinct/ related persons, other than agent

Value shall be either of the following in the given order:

- open market value
- value of supplies of like kind and quality
- value as per rule 30 or 31 in that order.
- Option to supplier to value goods sold as such by recipient Value= 90% of price charged by recipient to its unrelated customer
- Recipient eligible for ITC ? invoice value = open market value (taxable value)

RULE 29: Supply made/received through an agent

Value shall be either of the following in the given order:

- open market value or 90% of price charged by recipient to his unrelated customer for supplies of like kind and quality;
- value as per rule 30 or 31 in that order

RULE 30: Value based on cost

Value shall be 110% of cost of production/acquisition/ provision of goods or services

RULE 31: Residual method (Best Judgement Method)

Value shall be determined using reasonable means consistent with the principles and general provisions of section 15 & valuation rules. For services, rule 31 can be adopted before rule 30.

RULE 33: Supply as a pure agent

Value = Costs incurred by the supplier as a pure agent of recipient shall be excluded from value

RULE 34: Rate of exchange for determination of value

Goods = Rate notified by CBEC under Customs Act on the date of time of supply of such goods;

Services = Rate as per GAAP on the date of time of supply of such services

Rule 35: Value inclusive of taxes

Where value of supply is inclusive of CGST, SGST/UTGST or IGST, the tax amount is calculated by making back calculations. Tax amount =
(Value inclusive of GST x GST rate in % of IGST or CGST, SGST/UTGST)/100 + sum of applicable GST rates in %)

Board Clarification in Valuation

Amount of TCS collected Under Income tax ACT not includable in Valuation as it is an interim levy not having the character of tax. Circular No. 76/50/2018 GST dated 31.12.2018

Valuation in case of Services of Business Facilitator (BF)/Business Correspondent (BC) to Banking Company.

The Entire value of amount collected by bank from their Customs in respect of services of BC/BF is includible in the value for the purpose of payment of GST ***Circular No. 86/05/2019 GST dated 01.01.2019***

Classification on discounts and exclusion in the value [Circular 92/11/2019 GST dated 07.03.2019]

S No	A. Discounts including 'Buy more, save more' offers	
	Type of Discount	Treatment
1	Volume discount for bulk purchases. Example 5% discount up to Volume Rs.20000/- and 10% discount above Rs.20000/	This discount normally shown in invoice. Excluded in determining the Value.
2	Periodic and year end discounts	These are post supply discounts and usually given as per agreement. Discounts are passed through credit notes. Proportionate ITC is to be reversed to allow discount as deduction.
	B. Secondary Discounts	
	Discounts given after the time of supply. Ex. Reduction in values, discounts for prompt payments to debtors	Excludible from valuation only when The Benefit of discount passed on to buyer. Credit notes are issued for the discount Proportionate ITC is reverse.

Determination of value in respect of certain supplies -Rule 32

This rate is optional. The supplier can also value under normal valuation rules

Special provision relating to determination of value of service of purchase or sale of foreign currency including money changing [Sub-rule (2)]

Method-1 Rule 32(2)(a)

Case 1: Transaction where one of the currencies exchanged is Indian Rupees

- ❖ The value of supply is difference between buying rate or selling rate of currency and RBI reference rate for that currency at the time of exchange multiplied by total units of foreign currency
- ❖ However, if RBI reference rate for a currency is not available then value of supply is **1%** of the gross amount of Indian Rupees provided/ received by the person changing the money

Example

Mr.Amit sha converted USD \$ 100 into Rs. 7600 @ Rs. 76 per USD through Western Money Changers. RBI reference rate 20th October for US \$ is Rs.74 per US \$. The value of supply in this case is $(Rs. 74 - Rs. 76) \times \$ 100 = Rs. 200$ and GST will be levied on this amount. If the RBI reference rate is not available, then 1% of Rs. 7,600 i.e., Rs. 76 will be the value of supply of service.

Case 2: Transaction where neither of the currencies exchanged is Indian Rupees

The value of supply is 1% of the lesser of the two amounts the person changing the money would have received by converting (at RBI reference rate) any of the two currencies in Indian Rupees.

Example

US \$ 9,000 are converted into UK £ 4,500. RBI reference rate at that time for US \$ is Rs. 74 per US dollar and for UK £ is Rs. 90 per UK Pound. In this case, neither of the currencies exchanged is Indian Rupee.

Hence, in the given case, value of taxable service would be 1% of the lower of the following: -

(a) US dollar converted into Indian rupees = $\$ 9,000 \times Rs. 74 = Rs. 6,66,000$

(b) UK pound converted into Indian rupees = $\text{£ } 4,500 \times Rs. 90 = Rs. 4,05,000$

Value = 1% of Lesser amount = $4,05,000 \times 1\% = Rs. 4050$

Method-2 Rule 32(2)(b)

The person supplying the service may also exercise the following option (based on slab rates) to ascertain the value of service, however, once opted he cannot withdraw it during the remaining part of the financial year:

S.N	Currency exchanged	Value of supply
1.	Up to Rs. 1,00,000	1% of the gross amount of currency exchanged OR Rs. 250 whichever is higher
2.	Exceeding Rs. 1,00,000 and up to Rs. 10,00,000	Rs. 1,000 + 0.50% of the (gross amount of currency exchanged)
3.	Exceeding Rs. 10,00,000	Rs. 5,500 + 0.1% of the (gross amount of currency exchanged) OR Rs. 60,000 whichever is lower

Example

Mr. X, a money changer, has exchanged US \$ 10,000 to Indian rupees @ Rs. 74 per US \$. Mr. X wants to value the supply in accordance with rule 32(2)(b) of CGST Rules. Determine the value of supply made by Mr. X.

Value of supply, made by Mr. X, under rule 32(2)(b) of CGST Rules is computed as under as per slab basis

Particulars	Rs.	Rs.
Value of currency exchanged in Indian rupees [Rs.74 x US \$ 10,000]	7,40,000	
Up to First Rs. 1,00,000	1,000	
For the next Rs.6,40,000 [0.50% x Rs.6,40,000]	<u>3,400</u>	
Value of supply		4,400

Special provision relating to determination of value of service of booking of tickets for air travel by an air travel agent [Rule 32 (3)]

Rule	Service	Value
32(3)	Air travel agent's service (Domestic Bookings)	0.5% of the basic Fare
	Air travel agent's service (International Bookings)	10 % of the basic Fare

Note: Other charges like commission, taxes shall be ignored in calculating the value

Special provision relating to determination of value of service in relation to life insurance business Rule 32(4)

Value of life insurance service varies with nature of insurance policy. The details are as follows:

SN	Nature of the Policy	Taxable value
1	Policy with dual benefits of risk coverage and investment	<u>Gross premium charged less amount allocated for investments/savings if such allocation is intimated to the policy holder at the time of collection of premia</u>
2	Single premium annuity policy	10% of the single premium charged from the policy holder where allocation for investments/ <u>savings is not intimated to the policy holder</u>
3	Other cases	25% of premium charged from the policy holder in the first year and 12.5% of premium charged for subsequent years
4	Policy <u>with ONLY risk Cover</u>	<u>Entire premium</u> charged from the policy holder

Special provision relating to determination of value of second-hand goods – Margin Scheme [Rule 32(5)]

SN	Particulars	Value
1	When ITC is not availed [Margin Scheme]	Value = Selling price - Purchase price, Selling price < Purchase price : Ignore negative value
2	When ITC is availed	Normal valuation as per Valuation Rules

Note:

- ❖ the CGST leviable on intra-State supplies of second-hand goods received by a registered second-hand goods dealer [who pays CGST on the value of outward supply of such second-hand goods under margin scheme] from any unregistered supplier, has been exempted vide Notification No. 10/2017 CT (Rate) dated 28.06.2017. Similar exemptions are also there in respective SGST Acts.

Purchase value of supply of goods repossessed from a defaulting borrower

SN	Particulars	Value
1	Purchase value of goods repossessed from unregistered borrower	Purchase price minus 5% per quarter or part thereof from date of purchase till the date of disposal by the person making repossession
2	Purchase value of goods repossessed from registered borrower	The repossessing lender agency will discharge GST at the supply value without any reduction from actual/notional purchase value

Coupon/vouchers/stamps/tokens rule 32(6): Value = money value of supplies redeemable against such voucher/ coupon

New rule 31A introduced in CGST Rules to provide for valuation of supply of lottery Notification No. 3/2018 CT dated 23.01.2018]

Supply	Value
Supply of lottery run by State Governments Notification No.01/2020-Central Tax (Rate) dated 21st February, 2020 Uniform rate of GST 28% for state run and state authorised lottery	<u>Higher of the two amounts to be deemed as the value</u> 100/112 100/128 of the face value of ticket OR 100/112 100/128 of the price as notified in the Official Gazette by the organizing State
Supply of lottery authorised by State Governments	<u>Higher of the two amounts to be deemed as the value</u> 100/128 of the face value of ticket OR 100/128 of the price as notified in the Official Gazette by the organising State
Supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club	100% of the face value of the bet or the amount paid into the totalisator

- ❖ “lottery run by State Governments” means a lottery not allowed to be sold in any State
 - other than the organizing State;
- ❖ “lottery authorised by State Governments” means a lottery which is authorised to be
 - sold in State(s) other than the organising State also; and

- ❖ “Organising State” has the same meaning as assigned to it in clause (f) of sub-rule of rule 2 of the Lotteries (Regulation) Rules, 2010.

Clarification on issue of GST on airport levies [Circular No. 115/34/2019 GST dated 11.10.2019]

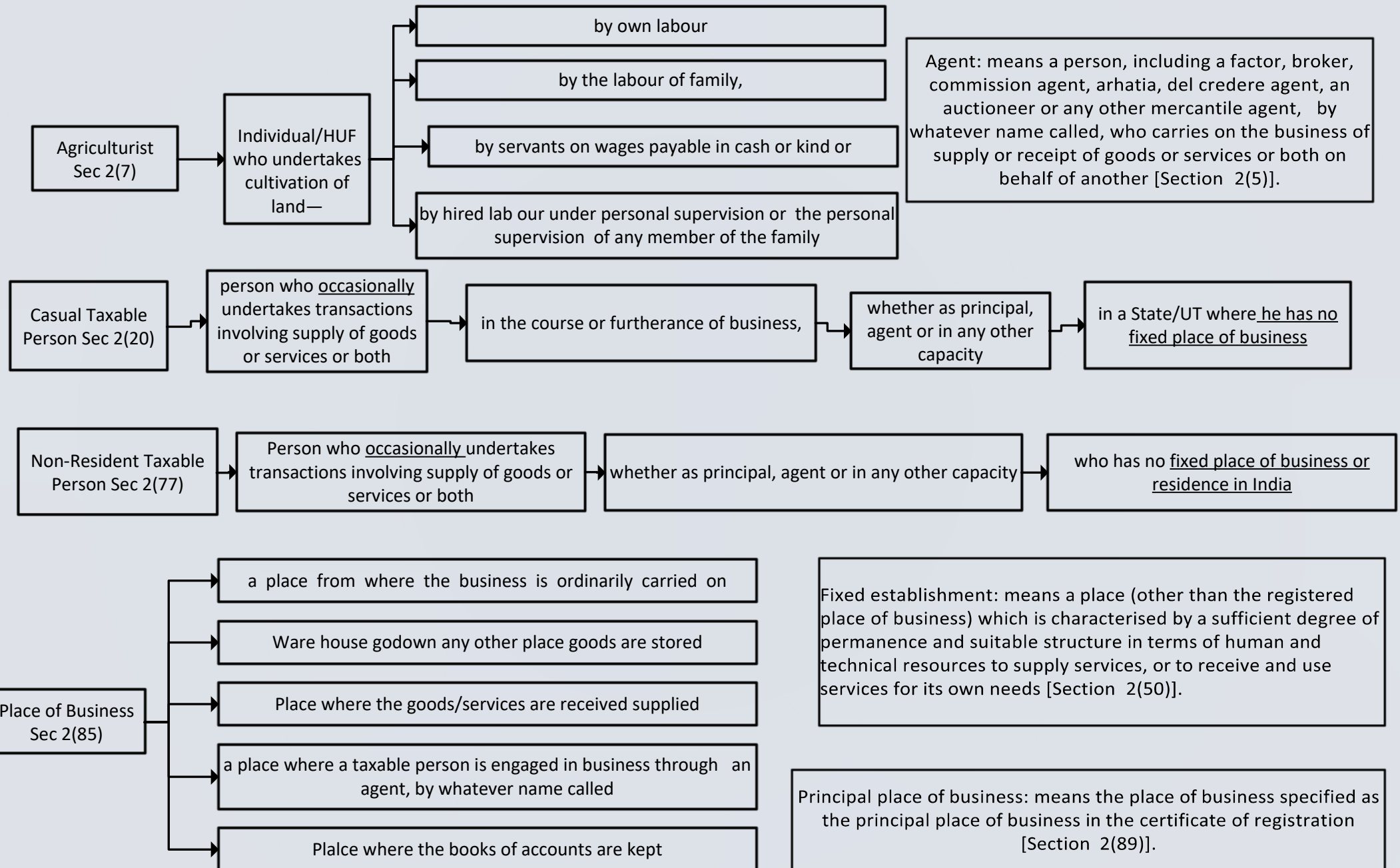
- Passenger service fee (PSF), User development fee (UDF) charged and collected as per Aircraft rules 1937, by the airport operators from the passengers for providing the services to passengers. PSF and UDF charged by airport operators are consideration for providing services to passengers. And are falls within the definition of Consideration. u/s 2(31).
- Since, the airport operators are collecting PSF and UDF inclusive of GST, there is no question of their not paying GST collected by them to the Government.
- airport operator and airlines shall be liable to pay GST on the same under forward charge. ITC of the same will be available with the airport operator.

When airlines act as pure agent airport levies will not be includible in value subject to conditions: Circular No. 115/34/2019 GST dated 11.10.2019

- ❖ Airlines may act as a pure agent for the supply of airport services in accordance with rule 33 of the CGST rules. Rule 33 of the CGST rules provides that the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply.
- ❖ Accordingly, the airline acting as pure agent of the passenger should separately indicate actual amount of PSF and UDF and GST payable on such PSF and UDF by the airport licensee, in the invoice issued by airlines to its passengers.
- ❖ The airline shall not take ITC of GST payable or paid on PSF and UDF.
- ❖ The airline would only recover the actual PSF and UDF and GST payable on such PSF and UDF by the airline operator.
- ❖ The amount so recovered will be excluded from the value of supplies made by the airline to its passengers. In other words, the airline shall not be liable to pay GST on the PSF and UDF (for airport services provided by airport licensee), provided the airline satisfies the conditions prescribed for a pure agent under rule 33 of the CGST Rules.
- ❖ The registered passengers, who are the ultimate recipient of the airport services, may take ITC of GST paid on PSF and UDF on the basis of pure agent's invoice issued by the airline to them

Registration under GST

Important Definitions



Registration Under GST

Persons liable to get registered when turnover crosses Threshold limit Sec 22

Person require Compulsory Registration irrespective of turnover limit Sec 24.

Voluntary Registration by Person to boost their business Sec 25(3)

Persons does not require Registration Sec 23

Registration Statutory Provisions

Voluntary Registration by Person to boost their business Sec 25(3)

Person require Compulsory Registration irrespective of turnover limit Sec 24

Persons liable to get registered when turnover crosses Threshold limit Sec 22

- A person who is not liable to be registered under section 22 or section 24 may get himself registered voluntarily
- Voluntary registration is advantageous for the persons which supply of goods / services or to registered persons
- Once he get registered he is liable to pay GST irrespective of his turnover

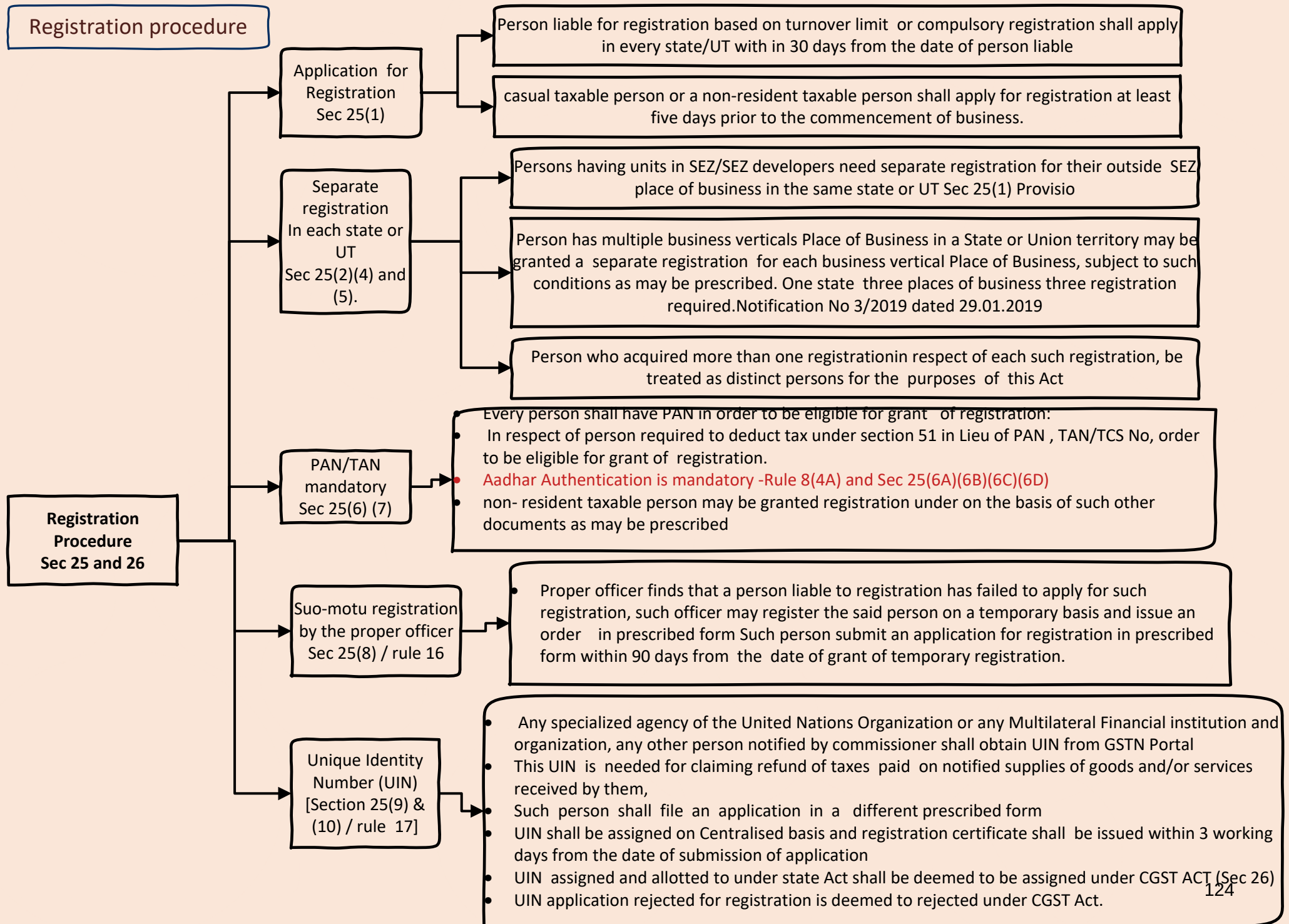
- Persons making any inter-State taxable supply (Some notified goods exemption from Registration up to Rs. 20 lakhs is available)
- Casual taxable persons/Non resident taxable person making taxable supply
- A person receiving supplies on which tax is payable by recipient on reverse charge basis
- Ecommerce operators who is required to collect TCS from 01.02.2019
- Person who supplies goods/services through ECO who liable to collect TCS
- Persons who are required to deduct tax under section 51 (TDS) whether or not separately registered under this Act
- Agents who supply taxable supplies on behalf of other taxable person
- Input Service Distributor, whether or not separately registered under this Act
- Every person supplying online information and data base access or retrieval services from a place outside India to a person in India, other than a registered person;
- Such other person or class of persons as may be notified by the Government on the recommendations of the Council

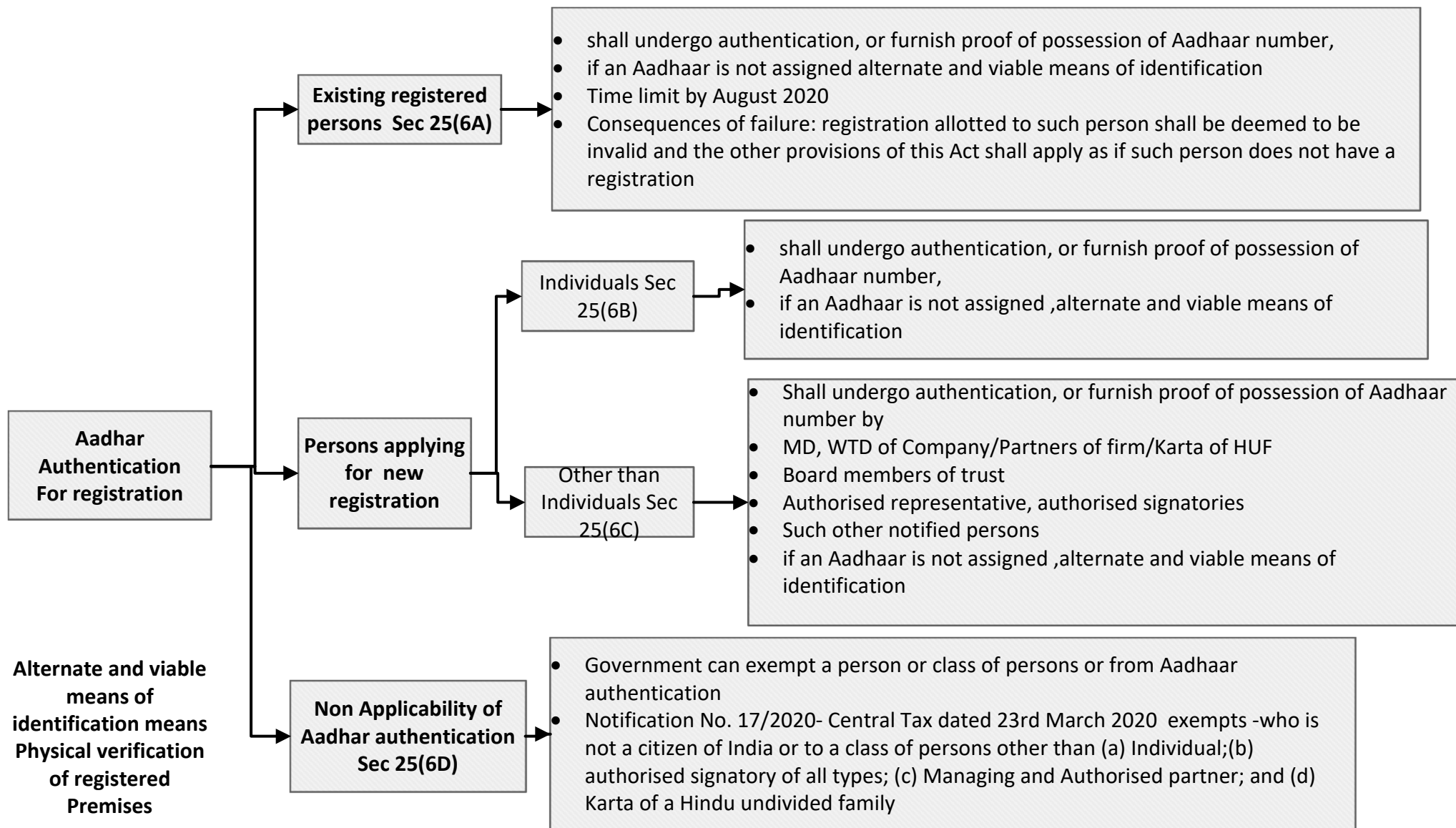
- Person whose taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds specified limit
- Government may, at the request of a special category State (SCS) and on the recommendations of the Council, enhance the aggregate turnover limit to Rs. 20 lakhs
- SCS states for the purpose of Sec 22 are Mizoram, Tripura, Manipur and Nagaland
- In case of transfer of business the transferee should get registered from the date of transfer/succession.
- Legal heir should obtain fresh registration in case of succession of business by death of sole proprietor Circular 96/215/2019 dated 28.03.2019

Threshold limit for Registration Notification 10/2019 dated 07.03.2019			
SN	States with threshold limit of Rs. 10 lakhs for both goods and services (SCS states)	States with threshold limit of Rs. 20 lakhs for both goods and services	States with threshold limit of Rs. 20 lakhs for services and Rs. 40 lakhs for persons exclusively supplying goods
1	Manipur	Arunachala Pradesh	Jammu and Kashmir
2	Mizoram	Meghalaya	Himachal Pradesh
3	Nagaland	Sikkim	Assam
4	Tripura	Uttarakhand	All Other states
5	--	Puducherry	While calculating the limit of 40 lakhs interest on deposits, loans and advances should be excluded – <i>explanation</i> to section 22(1) of CGST Act.
6	---	Telangana	

Aggregate Turnover All India Basis of same PAN of all Branches for calculation of threshold limit					
SN	Inclusions		SN	Exclusions	
1	Taxable supplies	Xxxx	1	CGST/SGST/UTGST/IGST	Xxxx
2	Exempt supplies	Xxxx	2	Compensation cess	Xxxx
3	Outward supplies on which tax is payable under reverse charge	Xxxx	3	inward supplies on which tax is payable under reverse charge/ Job worker supply to principal after completion of Job worker (it will be considered for Principal)	Xxxx
4	Inter-State supplies	Xxxx	Aggregate turnover to include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals		
5	Inter-State supplies of branch Ho transfers	Xxxx			
6	Exports	Xxxx			
	Total	Xxxx			

Registration procedure

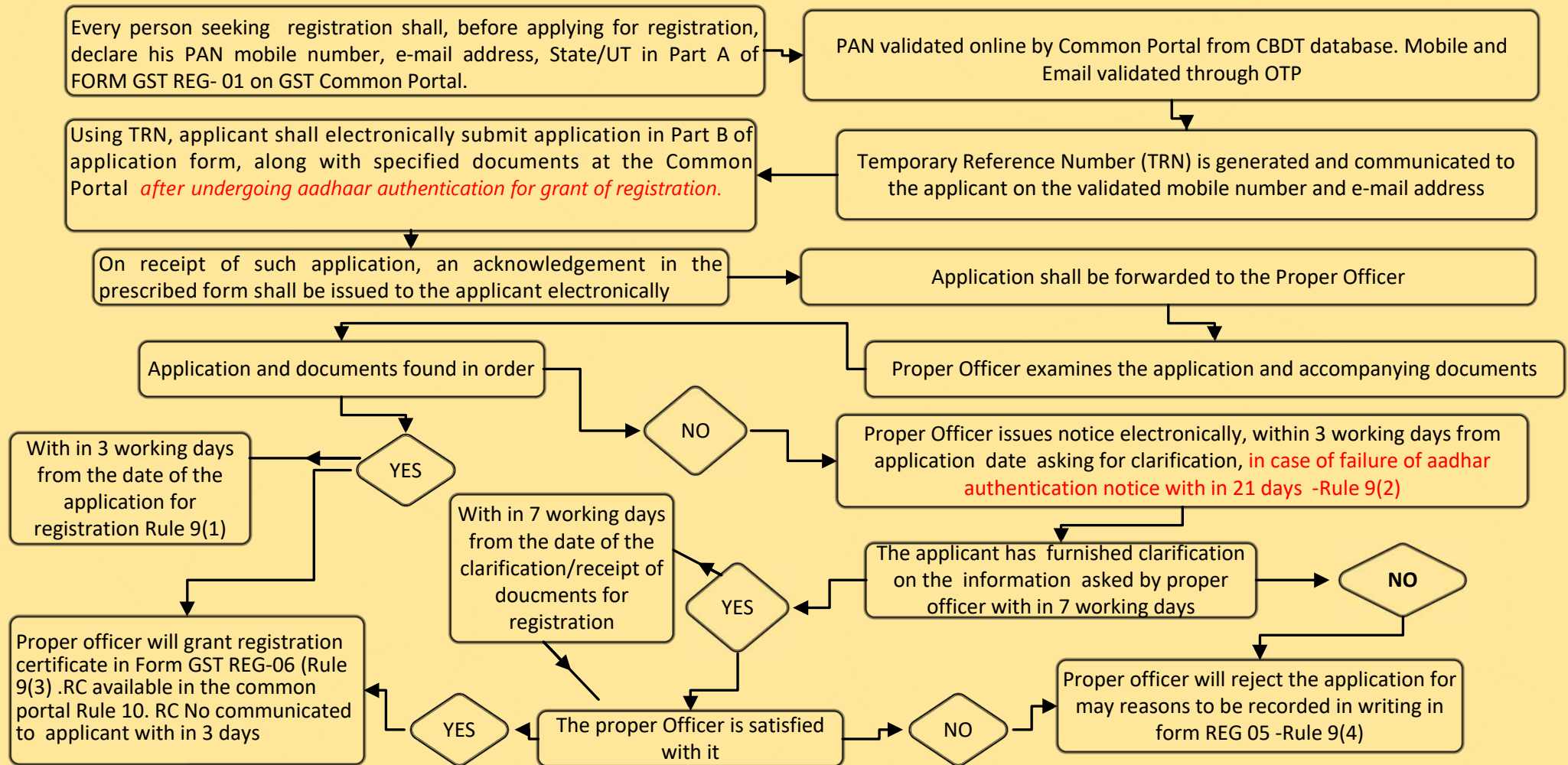




RULE 25. Physical verification of business premises in certain cases

Where the proper officer is satisfied that the physical verification of the place of business of a person is required due to failure of Aadhaar authentication before the grant of registration, or due to any other reason after the grant of registration, he may get such verification of the place of business, in the presence of the said person, done and the verification report along with the other documents, including photographs, shall be uploaded in **FORM GST REG-30** on the common portal within a period of fifteen working days following the date of such verification.

Procedure for Registration Covered under Rules 8, 9 and 10



Deemed Approval of Application

If the proper officer fails to take any action -

- within **3 working days** from the date of submission of application, or
- within **7 working days/(21 days in case of Aadhar related notice)** from the date of receipt of clarification, information or documents furnished by the applicant,
- the application for grant of registration shall be deemed to have been approved.

Special Provision for grant of Registration in case of certain persons

Non-Resident Taxable Person (NRTP) and Casual Taxable Person (CTP) [Sections 25 & 27 read with rules 13 & 15]

- (Both CRTP and NRTP have to compulsorily get registered under GST irrespective of the threshold limit, at least 5 days prior to commencement of business.
- CTP will submit the application for registration in the normal form for application for registration i.e. Form GST REG 01 and his registration of CTP will be a PAN based registration.
- Application will be submitted by NRTP in a different prescribed form along with valid passport/ TIN UIN of other country
- CTP/NRTP are required to make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought.
- Registration Certificate granted to CTP/NRTP will be valid for (Period specified in the registration application, or 90 days from the effective date of registration/ can be extended for further period by making an application
- CTP and NRTP will make taxable supplies only after the issuance of the certificate of registration

Spl. Provision for grant of Registration in case of certain persons

Persons require to deduct Tax(TDS) and collect TCS Sec 51 and 52

- Application for registration has to be submitted by such persons in a different prescribed form at GST Common Portal.
- When a Person applying for registration to collect TCS in a state/UT does not have physical presence he should mention name of state in part A in state/UT and name of state/UT where place of business is located in Part B Notification 74/2018 dated 31.12.2018
- They would be granted registration within 3 working days from the date of submission of application after due verification.
- Registration will be cancelled if proper officer is satisfied that such person is no longer liable to deduct tax at source or collect tax at source

Other than the above, the procedure for registration like verification, asking for clarification and granting registration is similar.

Special Economic Zone (SEZ) [First proviso to rule 8(1)]

- SEZ/SEZ developer will make a separate application for registration as a business vertical distinct from his other units located outside SEZ
- Where two units of a tax payer are located in same State - one in SEZ and another outside SEZ. Separate registrations have to be obtained for each of the two units as separate business vertical

Input Service Distributor (ISD) [Second proviso to rule 8(1)]

- Every person being an ISD shall make a separate application for registration as such ISD
- There is no threshold limit for registration for an ISD.
- An ISD is required to obtain a separate registration even though it may have registered as supplier

Bank Account details may be furnished after obtaining registration certificate [New rule 10A inserted and rule 21 of the CGST Rules amended]

- ❖ While applying for registration on GST portal, a person is required to furnish the details of his bank account. This requirement has now been relaxed to a limited extent, by inserting a new rule 10A to the CGST Rules
- ❖ A registered person has an option to give his bank account details after obtaining registration, within 45 days from the date of grant of registration or the due date of furnishing return, whichever is earlier.
- ❖ This relaxation is not available for those who have been granted registration as TDS deductor/ TCS collector under rule 12 or who have obtained suo-motu registration under rule 16.
- ❖ However, if a person violates the provisions of rule 10A, his GST registration is liable to be cancelled [Rule 21].

Effective date of Registration- Rule 10

Where an applicant submits application for registration	effective date of registration is
<u>within</u> 30 days from the date he becomes liable to registration	the date on which he becomes liable to registration
<u>after</u> 30 days from the date he becomes liable to registration	date of grant of registration

Display of registration certificate and GSTIN on the name board [Rule 18]

Every registered person shall display his registration certificate in a prominent location at his Principal place of Business and at every Additional place of Business. Further, his GSTIN also has to be displayed on the name board exhibited at the entry of his Principal place of Business and at every Additional place of Business

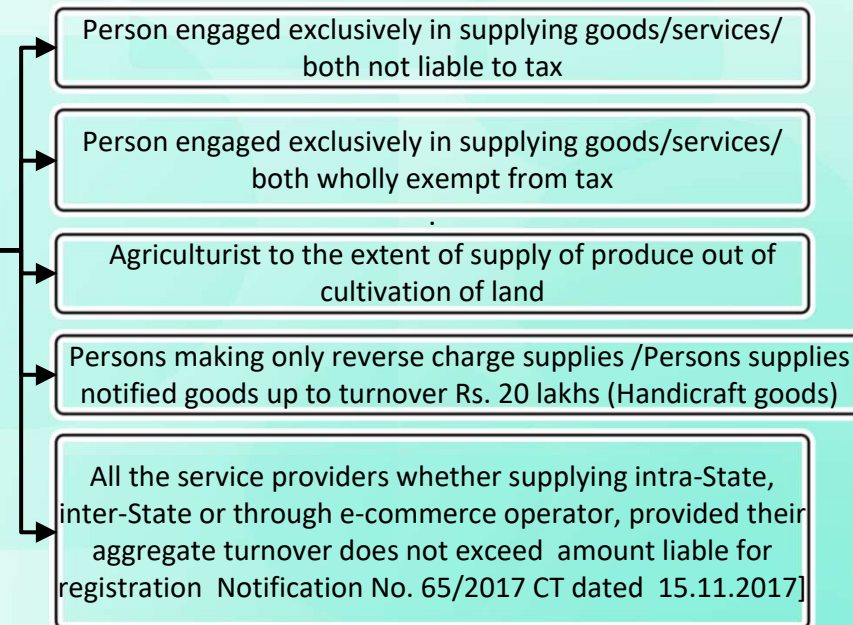
Manner of furnishing the details of State/UT in application for registration by a TDS deductor in a State/UT where he doesn't have a physical presence [Rule 12(1A) of the CGST Rules

- ❖ The existing rule applicable to TCS persons now made applicable to TDS deductor also
- ❖ When a person is applying for registration to deduct TDS in a State/UT where he does not have a physical presence, he shall mention name of said State/UT in Part A of prescribed application form for registration.
- ❖ Further, the name of the State/UT in which his principal place of business is located is to be mentioned in Part B of the application form. States/UTs mentioned in Part A and Part B of the application form may be different.

Liability to register in respect of services provided by the commission agent for sale/ purchase of agricultural produce Circular No. 57/31/2018 GST dated 04.09.2018,

- ❖ Mr. A sells agricultural produce by utilizing the services of Mr. B who is a commission agent as per the Agricultural Produce Marketing Committee Act (APMC Act) of the State
- ❖ Mr. B identifies the buyers and sells the agricultural produce on behalf of Mr. A for which he charges a commission from Mr. A. In cases where the invoice is issued by Mr. B to the buyer,
- ❖ Since the services provided by the commission agent for sale or purchase of agricultural produce are exempt from GST vide Notification No. 12/2017 CT (R) dated 28.06.2017. Such commission agents (even when they qualify as agent under Schedule I) are not liable to be registered in accordance with provisions of section 23(1)(a)
- ❖ commission agent will be liable to get mandatorily registered under this provision only when both the following conditions are satisfied:
- ❖ (a) the principal should be a taxable person; and
- ❖ (b) the supplies made by the commission agent should be taxable
- ❖ commission agent is liable to pay tax under reverse charge, such an agent will be required to get registered compulsorily

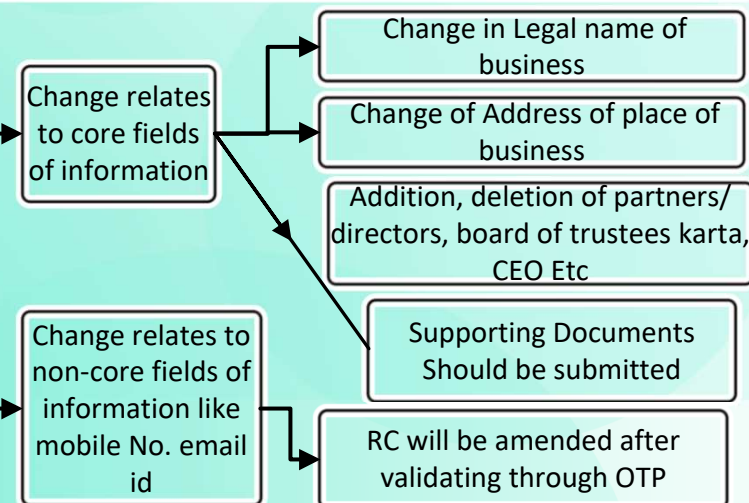
Persons does not require Registration Under GST Sec 23



Amendment of registration Sec 28 and Rule 19

If is any change in the particulars furnished in registration application/ UIN application, registered person shall submit an application in prescribed manner, within 15 days of such change, along with documents relating to such change at the Common Portal.

Amendment of RC



Procedure with regard to amendment of RC

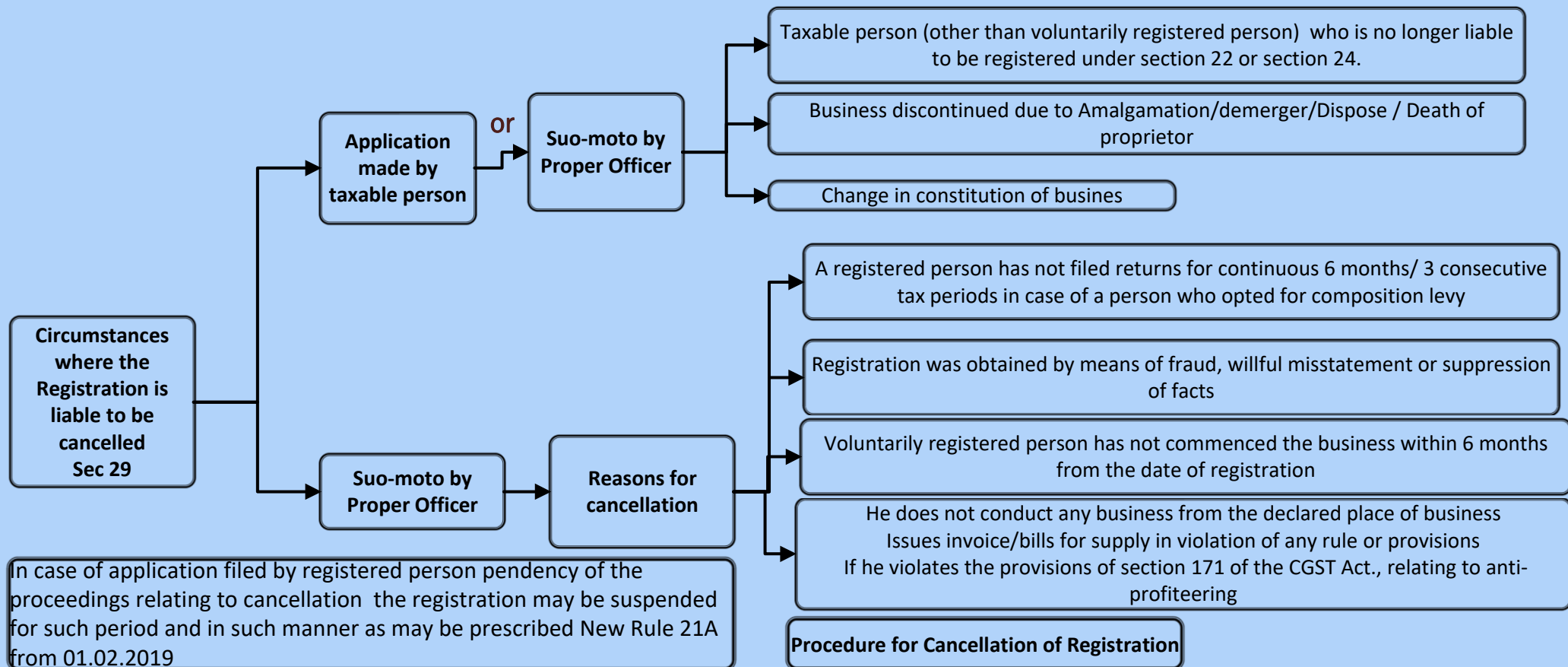
- If the documents and particulars are correct, the RC will be amended within 15 working days
- If PO is of the opinion that amendment is unwarranted or documents furnished are incomplete/incorrect, PO will serve a SCN why application for amendment should not be rejected
- Registered person should reply to the notice within 7 working days.
- If the reply is satisfied RC will be amended. If not satisfied application for amendment will be rejected

If the proper officer fails to take any action,-

(a) within a period of fifteen working days from the date of submission of the application, or
 (b) within a period of seven working days from the date of the receipt of the reply to the show cause notice,
 the certificate of registration shall stand amended to the extent applied for and the amended certificate shall be made available to the registered person on the common portal.

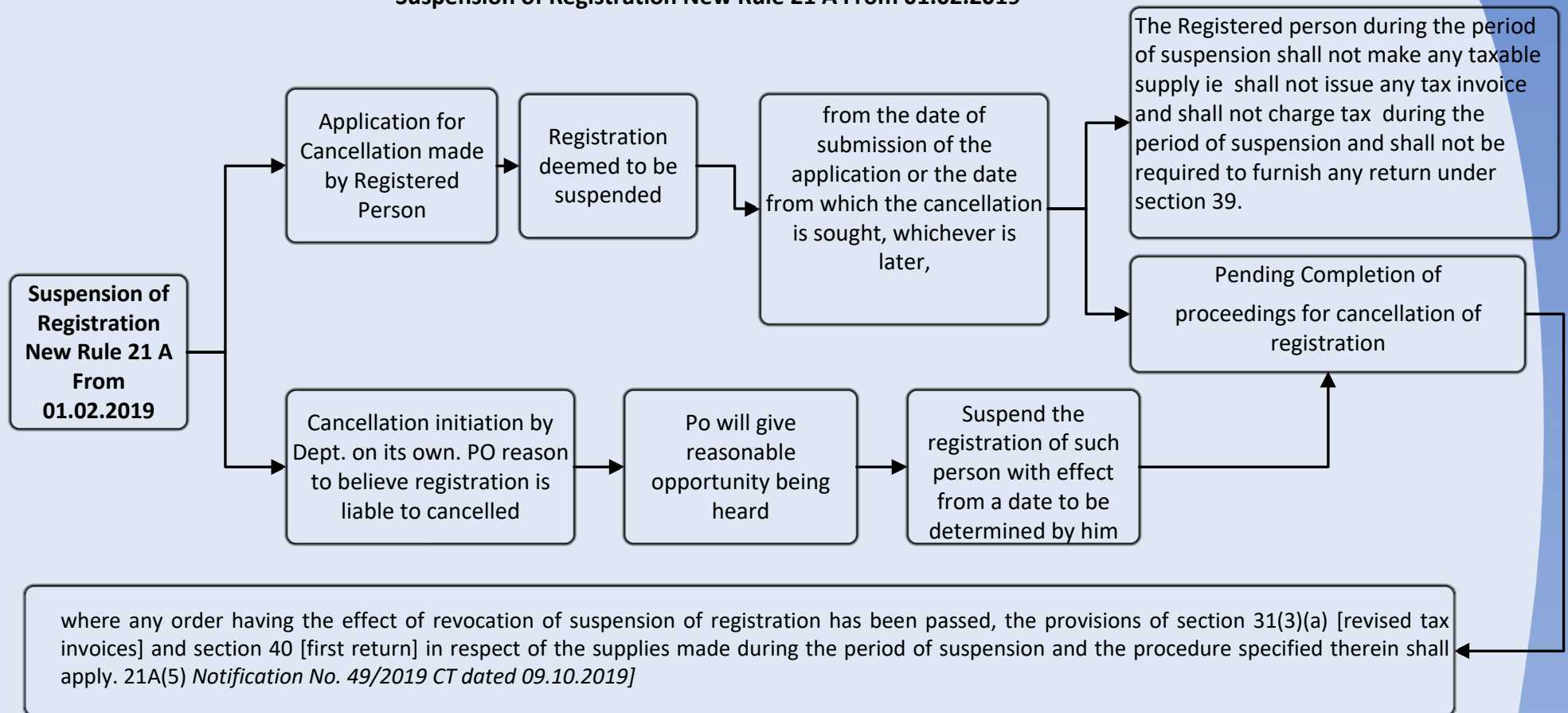
Amendment of RC effective earlier than date of submission of application:

- Amendment order of RC from the date earlier than the date of submission of application is made only with the order of the Commissioner for reasons to be recorded in writing and subject to such conditions as the Commissioner may, in the said order, specify. Notification No. 75/2017 CT dated 29.12.2017

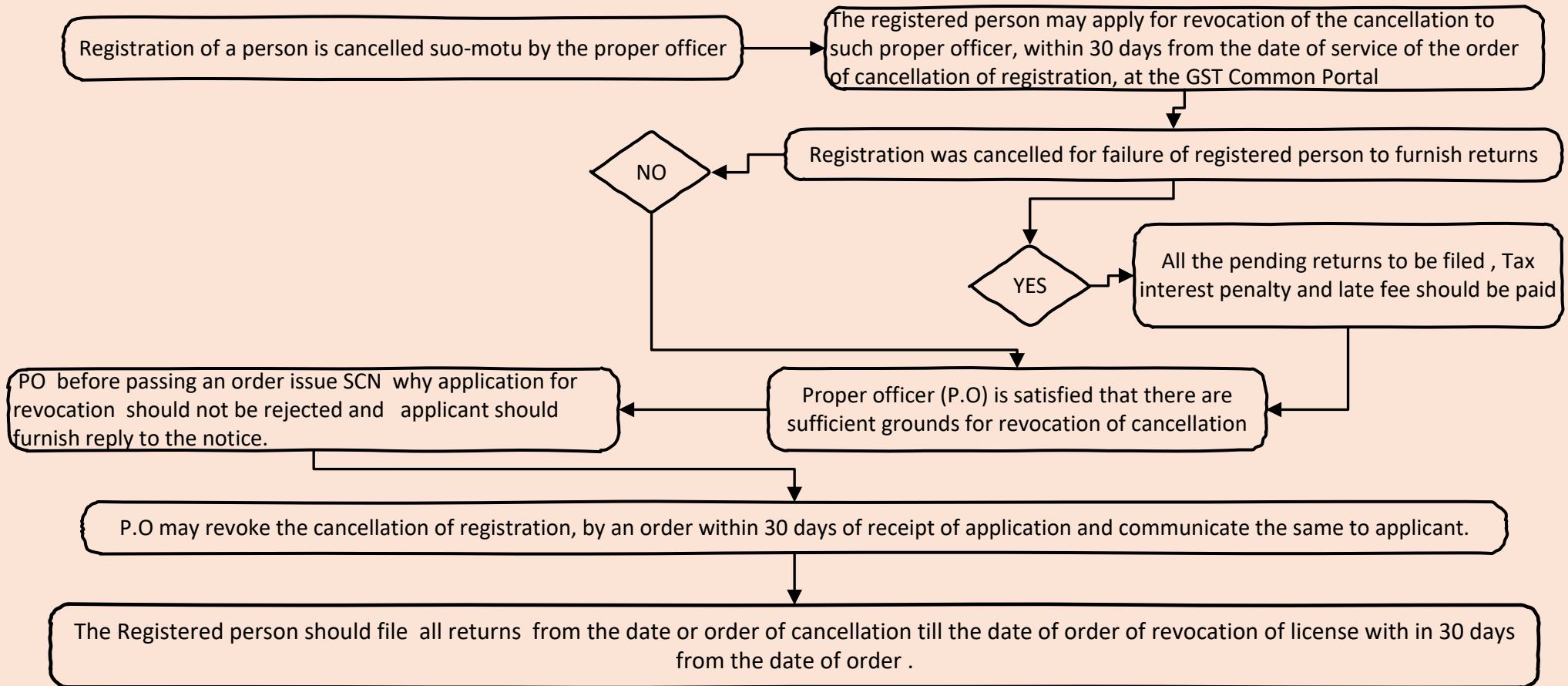


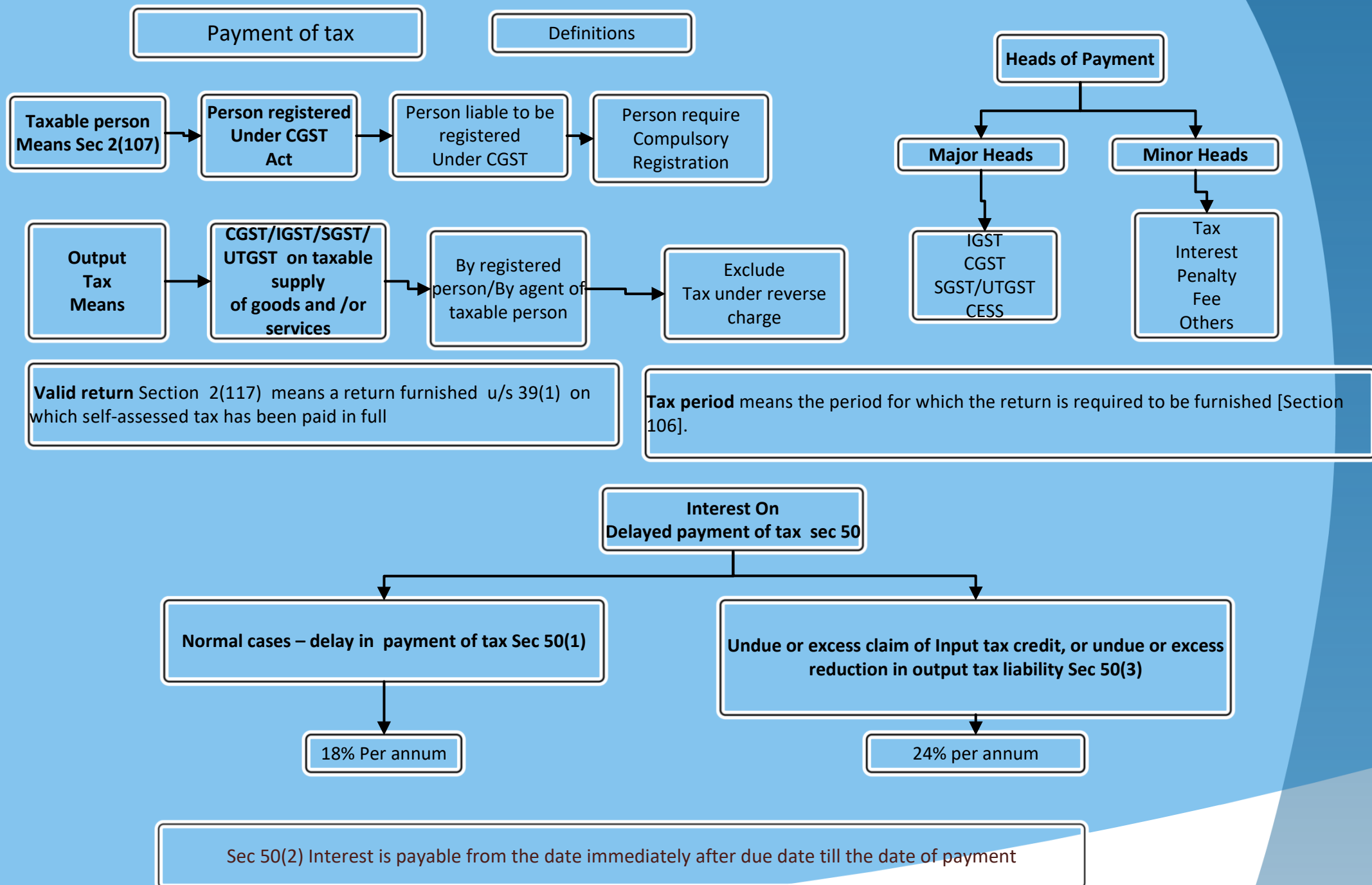
- Application for Cancellation through common portal with in 30 days of occurrence of event
 - Details of stock of inputs, WIP, FG and Capital goods along with details of tax liability on the date of application should be furnished
 - A registered person whose registration is cancelled will have to debit the electronic credit or cash ledger by an amount equal to credit availed on inputs, WIP, finished goods, and capital goods or output tax payable whichever is higher sec 29(5)
 - The registered person continues to liable for taxes due period prior to the date of cancellation
 - in respect of capital goods, credit is to be reversed by taking useful of capital goods is 60 months
 - Where the proper officer cancels the registration Suo-moto, SCN is to be issued, if registered person given reply within 7 working days and if is satisfactory, the cancellation proceedings should be dropped
 - ~~A voluntarily registered person cannot seek cancellation before the expiry of a period of 1 year from the effective date of registration [Proviso to rule 20]~~ Notification No. 3/2018 CT dated 23.01.2018] this condition was omitted
 - A person to whom a UIN has been granted under rule 17, cannot apply for cancellation of registration [Rule 20]
 - The cancellation of registration shall be effective from a date to be determined by the proper officer.
 - The cancellation of registration under either SGST Act/UTGST Act shall be deemed to be a cancellation of registration under CGST Act [Section 29(4)].
- The proper officer will direct the taxable person to pay arrears of any tax, interest or penalty including the amount liable to be paid for ITC reversal under section 29(5)

Suspension of Registration New Rule 21 A From 01.02.2019



Revocation of Cancellation of license sec 30, Rule 23





Sec 50 (1) Proviso with effect from 01.09.2020

When a registered person has paid his taxes through a return specified under Section 39 of CGST Act, **2017 belatedly, interest shall be applicable only on the net taxes paid through electronic cash ledger and not on the gross taxes paid for such tax period.**

CBIC has issued F. No. CBEC- 20/01/08/2019-GST dated: 18th September, 2020 for giving instructions to the filed formations for giving effect to 39th GST Council decision of collecting interest under Section 50(1) only on the net tax liability paid through cash w.e.f. 01.07.2017.

Accordingly, Interest if any payable by the registered person for delay in remittance of taxes beyond the stipulated due date on account of delay in filing of return under section 39, shall be demanded only on the net cash liability of taxes and not on the gross tax liability

Example: M/s ABC Ltd. have belatedly filed GST return (under section 39) for the month of January after 60 days from the due date for filing such return. Total tax paid in such return is as below:

Particulars	IGST (Rs)	CGST (Rs)	SGST (Rs.)	Examine the interest payable as per the provisions of GST law. What would be your answer, if entire tax for the month of January has to be paid through Electronic Credit Ledger except taxes to be paid on reverse charge basis
Output tax payable	4,50,000	2,85,000	2,85,000	
Tax payable under reverse charge	18,000	32,000	32,000	
Input tax available for utilisation	2,50,000	55,000	55,000	
Tax paid through Electronic Cash Ledger	2,18,000	2,62,000	2,62,000	
Answer				
Interest on tax amount paid through cash ledger=amount x 18% x 60/365	6,450	7,752	7,752	
Alternative 2				
Tax under reverse charge amount x18% x60/365	533	947	947	

Where the returns are filed subsequent to initiation of demand proceedings u/s 73 and 74 interest is payable on the Gross tax liability. The payment of interest in case of belated payment of tax should be made voluntarily i.e. even without a demand.

Electronic Ledgers under GST

1. Electronic Liabilities Register

Electronic tax liability register is a register to be maintained in the common portal of GST in **FORM GST PMT-01**, to record all liabilities of a taxable person. It has two parts. **Part-I is for recording return related liabilities and Part-II is for recording other than return related liabilities.**

The possible debits and credits to Electronic tax liability register are as follows

	Debits		Credits
	Part I		
1	the amount payable towards tax, and other dues like interest, late fee or any other amount <u>payable as per the return</u>	1	Liability discharged through electronic credit ledger by way of TDS deducted TCS Collected
	Part II		
2	the amount payable towards tax and other dues <u>determined by Proper officer</u>	2	Liability discharged through electronic cash ledger by way of payment
3	the amount of tax and interest payable as a result of mismatch under section 42 or section 43 or section 50; or	3	Reduction in liability by appeals, revisions etc.,
4	any amount of interest that may accrue from time to time.	4	Reduction in penalty if any

2. Electronic Credit Register. Sec 49 (2)

Electronic credit ledger is a register to be maintained in the common portal of GST in FORM GST PMT-02 to record input tax credit claimed, utilization, reversal and refund. The credit in this ledger can be used to make payment of TAX ONLY and no other amounts such as interest, penalty, fees etc.

The possible debits and credits to Electronic credit ledger are as follows:

	Debits		Credits
1	Utilisation of input tax credit for CGST, IGST STGST and UTGST as per sec 49	1	Input tax credit claimed;
2	Claim of refund Unutilised amount		

Conditions for using ITC in Electronic credit ledger- New rule 86A Notification No 75 /2019 dated 26.12.2019 WEF 11.01.2020

The Commissioner or an officer authorised by him in this behalf, not below the rank of an AC having reasons to believe that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible due to

<u>Condition for supplier</u>		<u>Conditions for recipient</u>
<u>1</u>	found non-existent or not to be conducting any business from registered place	found non-existent or not to be conducting any business from registered place
<u>2</u>	Tax not paid to Government on documents of ITC prescribed under rule 36	not in possession of a tax invoice or debit note or any other document prescribed under rule 36
		Availing ITC without receipt of goods or services or both

The Commissioner or an officer authorised by him, by recording reasons in writing impose restrictions for a period of one year, for not allowing debit in electronic ledger (use of ITC) or claim of refund equivalent to such credit

3. Electronic Cash Ledger: Sec 49 (1)

Electronic cash ledger is a register to be maintained in the common portal of GST in FORM **GST PMT-05** to record deposit of tax, interest, penalty and other amounts, utilization thereof and refund

The possible debits and credits to Electronic cash register are as follows

Debits		Credits	
1	Utilisation of input tax credit for CGST, IGST, SGST and UTGST as per sec 49	1	Payment made through challan on receipt of CIN
2	Claim of refund Unutilised amount	2	Amount deducted/ collected by way of TDS and TCS in FORM GSTR-02 by the registered person.

Any discrepancy in the three ledgers is to be communicated to the jurisdictional officer in form PMT04.

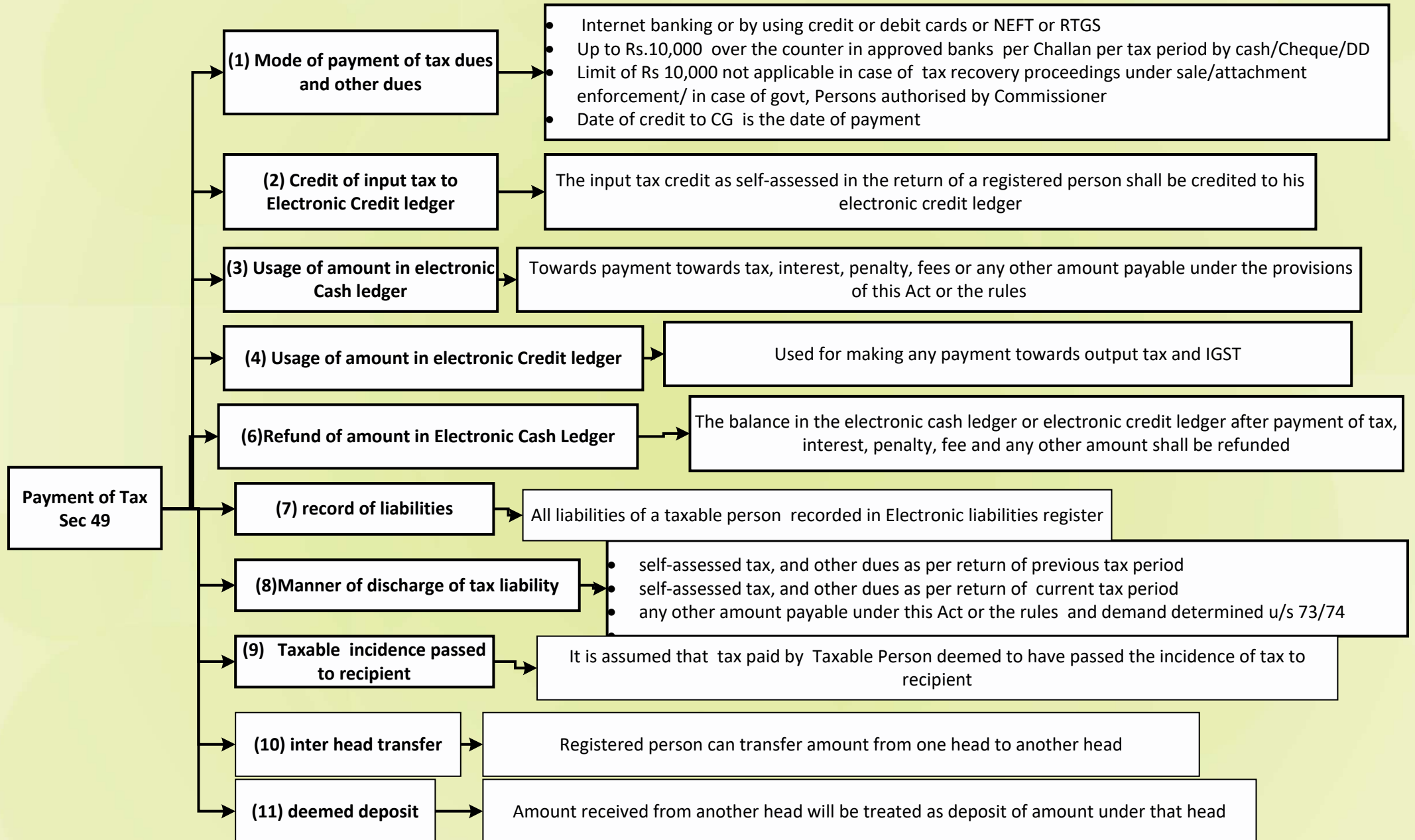
FA (2) 2019 WEF 01.01.2020

Sec 49(10) A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger from one major head, minor head to other major or minor head. I.e. IGST to CGST- SGST, or UTGST vice versa by using form GST PMT 09

Sec 49(11) Where any amount has been transferred to the electronic cash ledger under this Act, the same shall be deemed to be deposited in the said ledger

New Sec 53A: Consequent to allowing transfer of tax dues from one head to another, the amount Government should transfer State or UT account

PAYMENT OF TAX, INTEREST, PENALTY AND OTHER AMOUNTS [SECTION 49]



• “tax dues” means the tax payable under this Act and does not include interest, fee and penalty “other dues” means interest, penalty, fee or any other amount payable under this Act or the rules made there under.

Manner of Utilisation of ITC of IGST. CGST, SGST/UTGST Sec 49, Sec 49A, 49B and Rule 88A. From 01.02.2019

Input Tax Credit	Can be utilized against	Order of utilization
IGST	IGST, CGST, SGST & UTGST	1. IGST
		2. CGST / SGST/UTGST i.e. Remaining ITC of IGST can be first utilized either against CGST or SGST in any proportion in any manner.
SGST	SGST & IGST	1. SGST
		2. IGST
UTGST	UTGST & IGST	1. UTGST
		2. IGST

Relevant Amendments

Sec 49(5) Proviso 1 and 2: Input tax credit on account of SGST/UTGST shall be utilised towards payment of IGST only where the balance of the ITC on account of CGST not available for payment of IGST

New Section 49A: (Overriding section of section 49) Utilisation of input tax credit subject to certain conditions (Relevant Rule 88A)

ITC on account of CGST/ SGST or UGST shall be utilised towards payment of IGST CGST, SGST or UGST, as the case may be, only after the ITC available on account of IGST has first been utilised fully towards such payment.

New Section 49B: (Overriding section of section 49) Order of utilisation of input tax credit (Relevant Rules 88A)

The Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax credit on account of IGST CGST, SGST or UGST, as the case may be, towards payment of any such tax

Rule 88A

The newly inserted rule 88A allows utilization of ITC of IGST towards the payment of CGST and SGST/UTGST in any order subject to the condition that the entire **ITC of IGST is completely exhausted first before the ITC of CGST or SGST/UTGST can be utilized.**

The new rule provides as under:

- ❖ ITC of IGST should first be utilized towards payment of IGST.
- ❖ Remaining ITC of IGST, if any, can be utilized towards the payment of CGST and SGST/UTGST in any order, i.e. ITC of IGST can be first utilized either against CGST or SGST.
- ❖ ITC of CGST, SGST/UTGST can be utilized towards payment of IGST, CGST, SGST/UTGST only after the ITC of IGST has first been utilized fully.[Notification No. 16/2019 CT dated 29.03.2019 read with Circular No. 98/17/2019 GST dated 23.04.2019]

Clarification in respect of utilization of ITC under G S T

CBIC has clarified that after the insertion of new rule 88A in the CGST Rules, 2017, the order of utilization of ITC will be as per the order (of numerals) given below:

ITC of	Output IGST liability	Output CGST liability	Output SGST/ UTGST liability
IGST	(I)	(II) – <u>In any order and in any proportion</u>	
(III) ITC of IGST to be completely exhausted mandatorily			
CGST	(V)	(IV)	Not permitted
SGST/UTGST	(VII)	Not permitted	(VI)

Illustration: Amount of ITC available and output tax liability under different tax heads

Head	Output tax liability	ITC available
IGST	1000	1300
CGST	300	200
SGST/UTGST	300	200
Total	1600	1700

Solution

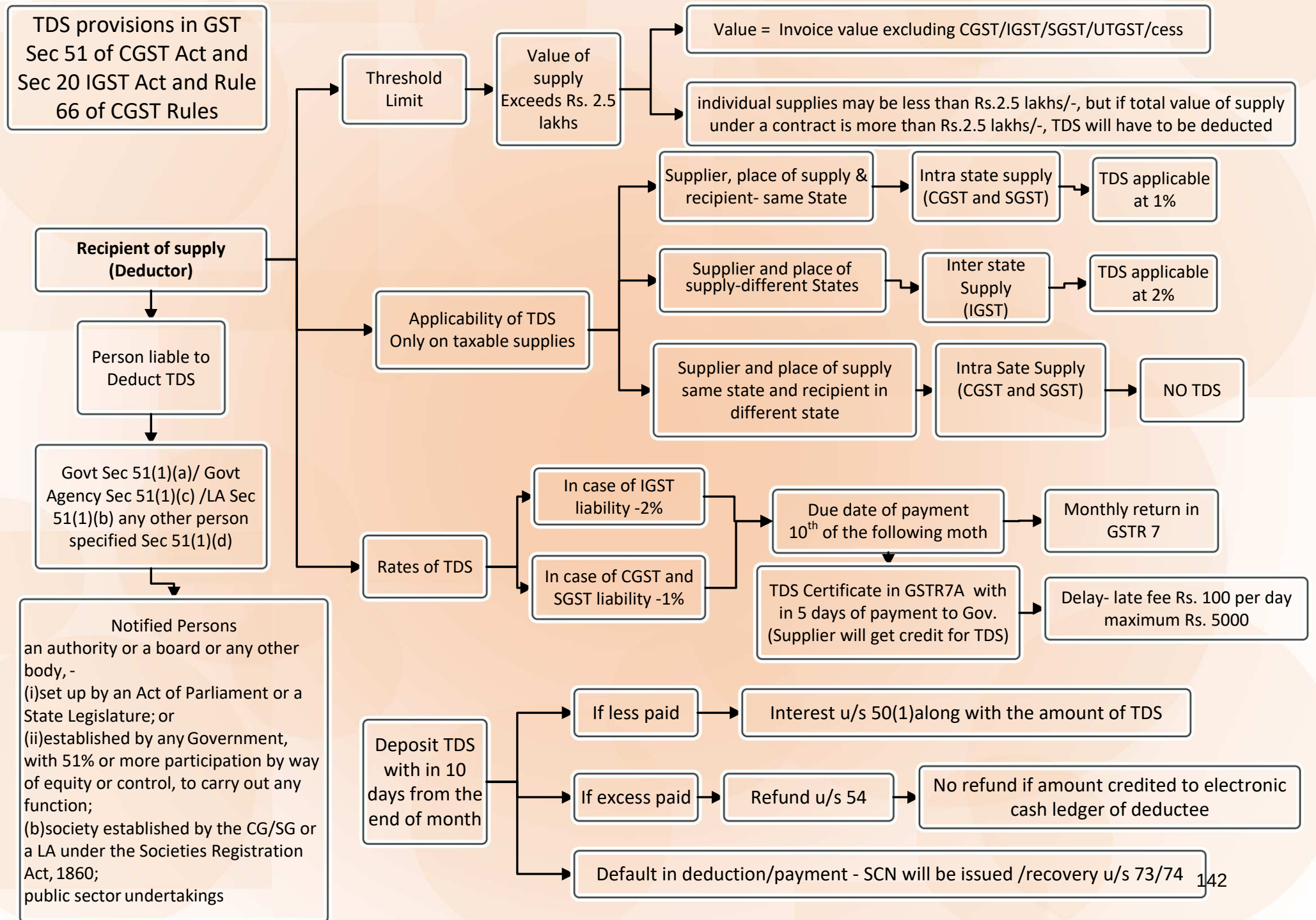
Option 1:

ITC of	Discharge of output IGST liability	Discharge of output CGST liability	Discharge of output SGST/UTGST liability	Balance of ITC
IGST	1000	200	100	0
<i>ITC of IGST has been completely exhausted</i>				
CGST	0	100	-	100
SGST/UTG	0	-	200	0
Total	1000	300	300	100

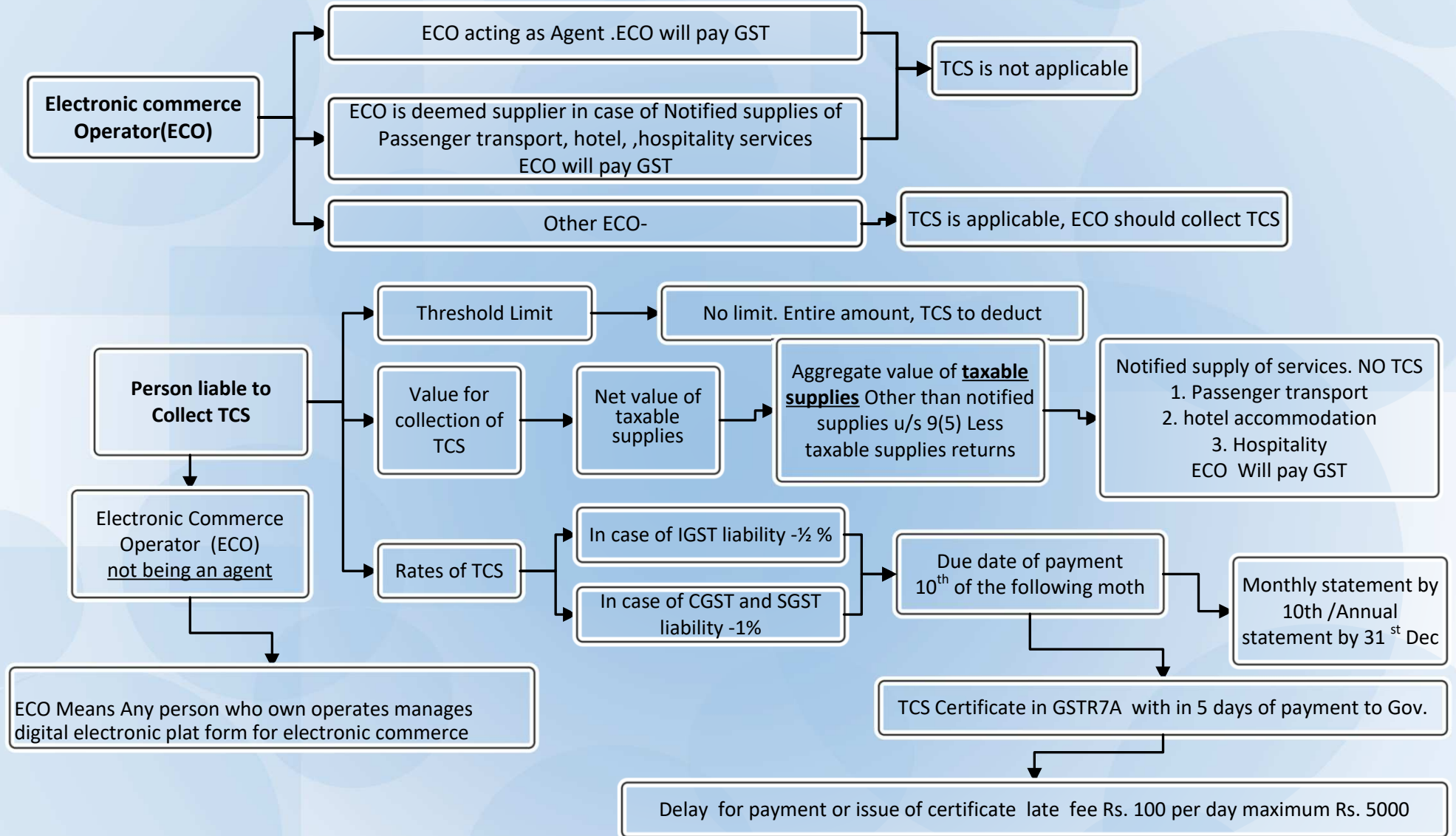
Option 2:

ITC of	Discharge of output IGST liability	Discharge of output liability of CGST	Discharge of output SGST/UTGST Liability	Balance of ITC
IGST	1000	100	200	0
<i>ITC of IGST has been completely exhausted</i>				
CGST	0	200	-	0
SGST/UTGST	0	-	100	100
Total	1000	300	300	100

[Circular No. 98/17/2019 GST dated 23.04.2019]

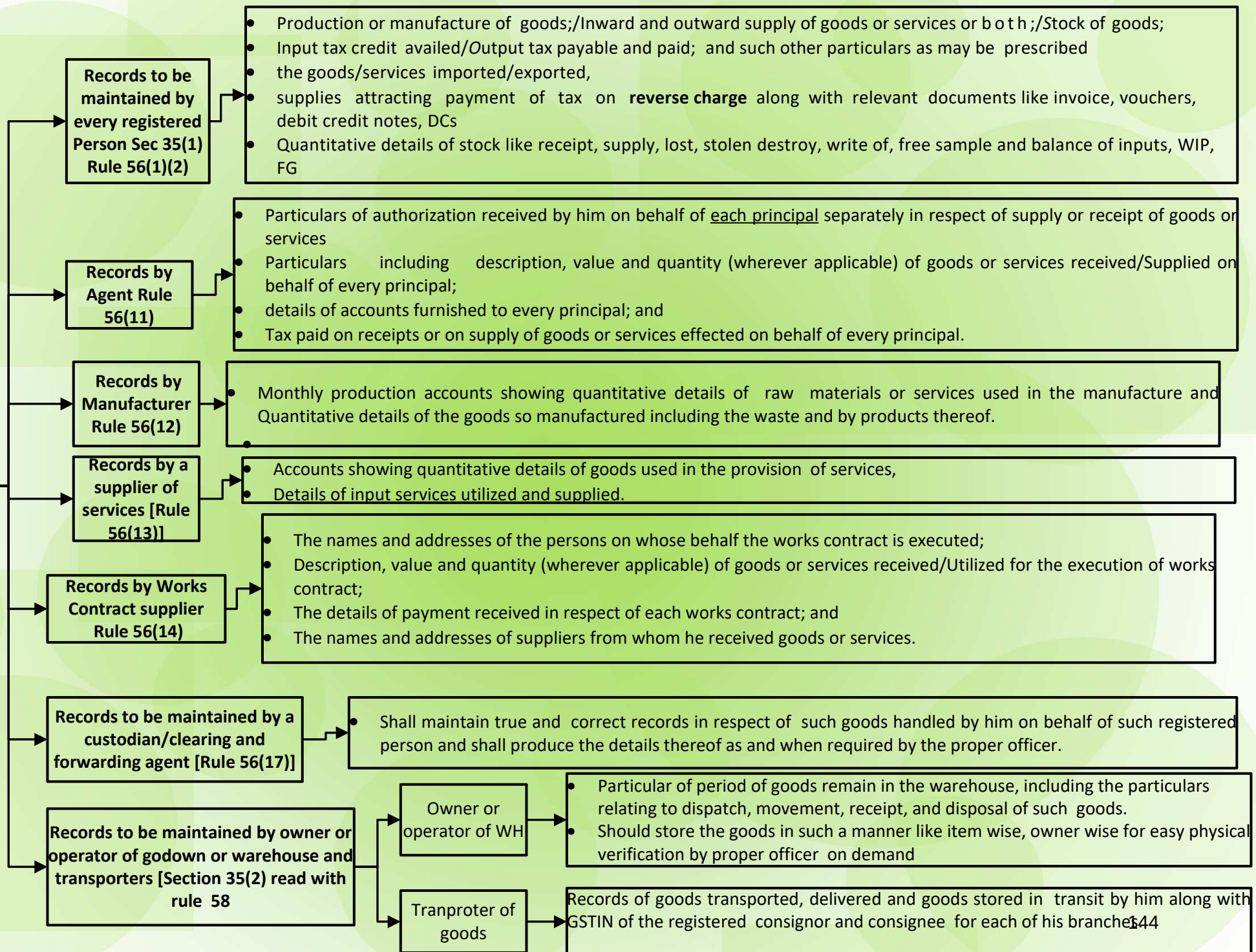


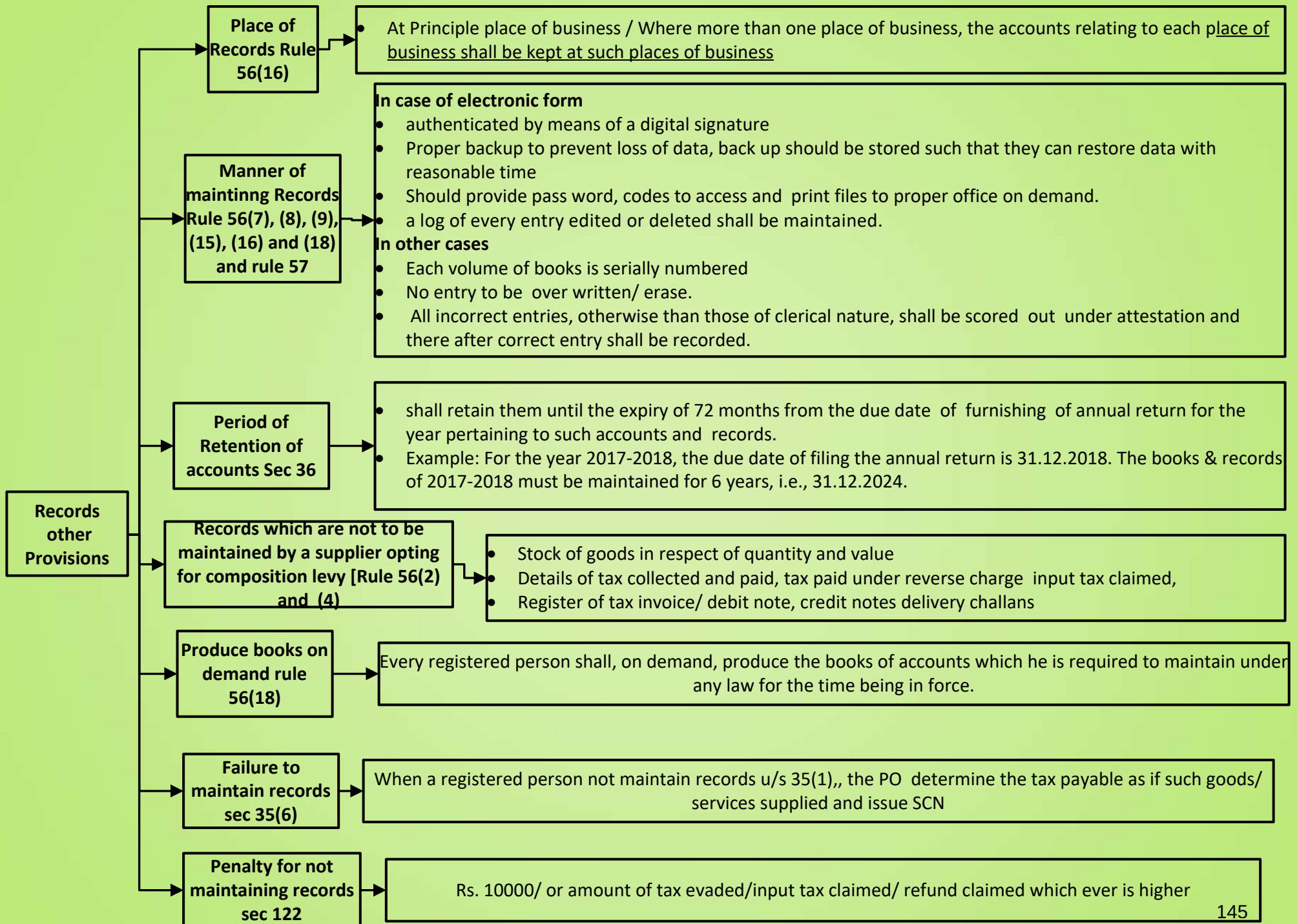
TCS provisions in GST Sec 52 of CGST Act and Sec 20 IGST Act

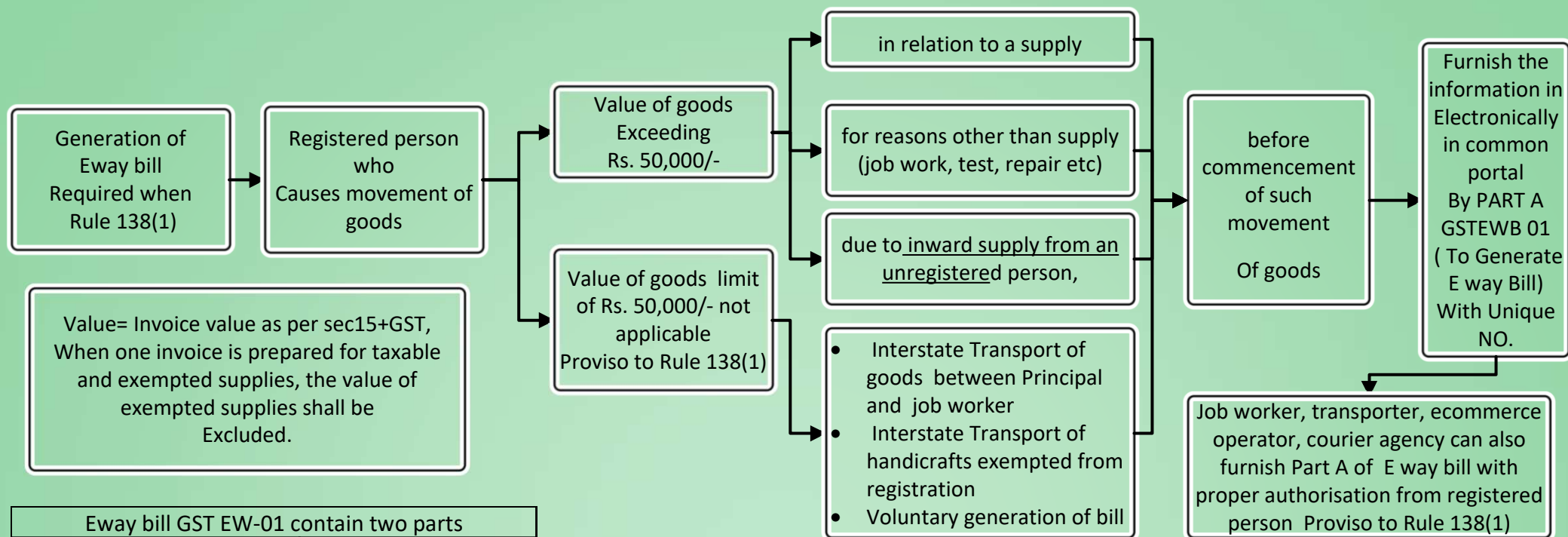


- Any person who liable to deduct TDS/Collect TCS should require compulsory registrsation.
- Any amount shown as TDS/TCS will be reflected in the electronic cash ledger of the concerned supplier.
- He can utilize this amount towards discharging his liability towards tax, interest fees and any other amount.

Accounts and Records under GST







Eway bill GST EW-01 contain two parts	
Part A	PART B
GSTIN of supplier, Recipient	Vehicle No
Place of delivery	Transporter document
Document No, date	
HSN code, value of goods	
Reasons for transportation	

An e-way bill is valid only when the required information to be furnished in part A and part B are furnished and a unique e-way bill number (EBN) is generated. shall be made available to the supplier, the recipient and the transporter. The requirement to generate the e-way bill shall depend on the mode of transportation of goods as below

SN	Transportation of goods through	Furnishing of Eway Bill
1	own conveyance or hired conveyance or public conveyance	the Part B shall be filed by the supplier or recipient
2	through a transporter	Part B shall be filed by the transporter
3	Railways or airways or vessel	Both Part A and Part B) shall be filed by registered supplier or recipient
4	Change of vehicle	Part B will be updated by transporter before the change of vehicle
5	Bill to ship transactions	The person who order or the person who sends goods will generate

Rule 138E: Restriction on furnishing of information in PART A of

FORM EWB-01

With effect from 11.01.2020

No person shall be allowed to furnish the information in PART A of FORM GST EWB-01 in respect of a registered person, whether as a supplier or a recipient, who

a) Person paying tax under Composition scheme and availing notification No. 02/2019, has not furnished the statement in FORM GST CMP-08 **for two consecutive quarters**

b) Other persons has not furnished the returns for a consecutive period of two months / / has not furnished the statement of outward supplies **for any two months or quarters**

1	Validity of Eway Bill Rule 138(10)	(a)	1 day in case of first 100 K.M, For Every additional 100 Km or part there of one additional day
		(b)	One day Up to 20 KM In case of Multimodal shipment at least one leg involves transport by ship, One more additional day for every 20 KM or part there of
		(c)	Commissioner can extend for certain class of goods
		(d)	Transporter can extend Exceptional cases in common portal, 8 hour before/after expiry period giving reasons
		(e)	The e way bill generated in the portal is valid in every state and union territory Rule 138(13)
2	Cancellation Rule 138(9)	(a)	E way bill can be cancelled with 24 hours of Generation, if the goods are not transported or not transported as per E way bill generation
		(b)	An e-way bill cannot be cancelled if it has been verified in transit
3	Acceptance by Consignee (Recipient) Rule 138(12)	The recipient should communicate acceptance or rejection of consignment of Eway bill within 72 hours of generation or receipt of delivery of goods whichever is earlier. If not communicated it is deemed that goods are accepted.	
4	Consolidated E way Bill Rule 138(6)	Consignor/Consignee/Transporter can generate Individual E way bills on the basis of invoice, Delivery challan in EWB-01 and generate Consolidated Eway bill in Aggregate value is > Rs. 50,000 in EWB-02	
5	E way bill Not required	(a)	Certain goods like Petroleum Products, gold, jewelry, Currency, postal bags, used house hold goods etc.
		(b)	Transport of goods from Customs port, air port, land customs station to ICD and CFS
		(c)	Transport of goods through non motorised conveyance
6	E way bill in case of movement of goods with in state	Each state has different circulars and notifications with regarding to class of goods, limits of value and distance in kilometers	
7	Penalty	Where the goods are transported with out E way bill, and documents, the provisions detention, confiscation and seizure of goods will be applicable	
8	Documents and devices carried by Person in charge of Conveyance Rule 138 E	(a)	the invoice or bill of supply or challan or delivery challan
		(b)	a copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance
		(c)	Clause (b) shall not apply in case of movement of goods by rail or by air or vessel
		(d)	In case E-invoice is issued in the manner prescribed under rule 48(4), the Quick Response (QR) code having an embedded Invoice Reference Number (IRN) in it, may be produced electronically, for verification by the proper officer in lieu of the physical copy of such tax invoice. With effect from 30.09.2020

GST Returns

(Sections 37 to 47 of the CGST Act, 2017 read with Rules 59 to 82 of the CGST Rules, 2017)

- ❖ The term “return” ordinarily means statement of information (facts) furnished by the taxpayer, tax administrators, at regular intervals.
- ❖ The information to be furnished in the return generally comprises of the details pertaining to the nature of activities/business operations of taxpayer and Tax information like sale price, turnover, or value; deductions and exemptions; and determination and discharge of tax liability for a given tax period
- ❖ The return, therefore, constitutes a kind of working sheet/supporting document for the tax authorities that can be relied upon as the basis on which the tax has been computed by the taxpayer.
- ❖ Under GST, a regular taxpayer needs to furnish monthly returns, quarterly returns and annual return. it mandatory to file all returns electronically.
- ❖ The taxpayer is generally required to furnish the return in a specific statutory format
- ❖ There are separate returns for each type of taxpayer
- ❖ The GST returns can be filed through GSTN portal, or GST Suvidha Providers (GSPs).

The types of various returns are as follows.

Return Form No.	Applicability and details to be furnished	Frequency	Prescribed Due Date
GSTR-1 Sec 37(1) read with rule 59(1)	Details of outward supplies to be filed by every registered person except: -	Monthly (Turnover more than Rs. 1.5 crores)	11 th of Succeeding Month
	• An Input Service Distributor (ISD),	Quarterly (Turnover up-to than Rs. 1.5 crores)	Last day of the month, succeeding such Quarter
	• A non-resident taxable person (NRTP),		
	• A composition taxpayer,		
	• A person required to collect TCS or deduct TDS.		
GSTR-2	Inward supplies (Purchases) (deferred not to be filed now)–	Monthly	15th of next month
GSTR-3	Return summarizing the details of GSTR 1 and GSTR 2– (deferred not to be filed now)	Monthly	20th of next month
GSTR-3B sec 39(1) read with rule 61(5) (Treated as Return filed u/s 39(1) retrospective from	Summary return for payment of taxes to be filed by every registered person, (except an Input Service Distributor (ISD), a non-resident taxable person (NRTP), a composition taxpayer or a person required to collect TCS or deduct TDS).	Monthly	20 th of next month

01.07.2017)			
GSTR-4 Sec 39(2)	• Composition taxpayer • Service Providers paying tax at 6% i.e., as per Notification No. 02/2019-Central Tax sec 39(1) (2)	Annually	30 th April following the end of relevant Financial Year.
GST CMP-08	Payment of self-assessed tax	Quarterly	18 th of the month, succeeding such Quarter.
GSTR-5 Sec 39(5) read with rule 63	Return for Non-Resident Taxpayer	Monthly	Earlier of the following dates: ■ 20th of next month; or ■ Within 7 days from expiry of validity of registration.
GSTR-5A Rule 64	Return for a person supplying OIDAR services from a place outside India to a non-taxable person in India.	Monthly	20 th of next month
GSTR-6 Sec 39(6) read with rule 60(5) & rule 65	Return for Input Service Distributor (ISD)	Monthly	13 th of next month
GSTR-7 Sec 39(7) read with rule 60(6) & rule 66	Return for Registered persons deducting tax at source (TDS) (Refer note 2)	Monthly	10 th of next month
GSTR-8 Sec 52(4) read with rule 60(7) & rule 67	Return for e-commerce operator to report tax collected at source (TCS) (Refer note 2)	Monthly	10 th of next month
GSTR-9 Sec 44	Annual Return (Refer Note 1) Optional for small taxpayers whose aggregate turnover is less than Rs 2 crores and who have not filed the said return before the due date for FY 2018-19 and 2019-20	Annually	31 st December following the end of relevant Financial Year Commissioner can extend time by recording reasons in writing

GSTR-9A Sec 52 read with Rule 80	Annual return for Composition taxpayer	Annually	31 st December following the end of relevant Financial Year
GSTR-9B Sec 52 read with Rule 80	Annual return for e-commerce operators	Annually	31 st December following the end of relevant Financial Year
GSTR-9C Sec 44(2) & 35(5) read with Rule 80(3)	Reconciliation Statement and audit certification (Refer Note 1)	Annually	31 st December following the end of relevant Financial Year
GSTR-10 Sec 45 read with Rule 81	Final return (to be furnished in the event of cancellation of GST registration)	One time	Within 3 months from the date of cancellation or date of order of cancellation, whichever is later
GSTR-11 Rule 82	Details of inward supplies of a person having Unique Identity No. (UIN)	Transaction based	Return is required to be furnished, if such person claims refund of GST

The due date of filing of the returns in the table mentioned above) may be extended by the Commissioner/Commissioner of State GST/Commissioner of UTGST for a class of taxable persons by way of a notification. There were notifications for extension of time due to Covid 19 not relevant for Exam

Note 1: Person supplying online information technology and database access retrieval (OIDAR) not required to file Annual return form GSTR 9 and Reconciliation statement GSTR 9C [Notification No. 30/2019 CT dated 28.06.2019]

Note 2: Rule 66(2)/67(2) has been amended to lay down that the details of TDS/TCS furnished by the deductor in GSTR-7/GSTR-8 shall be made available electronically to each of the deductees on the common portal after filing of Form GSTR-7 /GSTR-8 for claiming the amount of tax deducted /collected in his electronic cash ledger after validation.

- The time limit for annual returns file u/s 44 can be extended by Commissioner by recording reasons in writing. Extension by state commissioner can also be treated as extended by Commissioner Explanation to Sec 44(1) -FA (2) 2019 with effect from 01.02.2020
- The time limit for monthly return GSTR 8 and annual return GSTR 9B can be extended by Commissioner by recording reasons in writing. Explanation to sec 52(4) and (5) -FA (2) 2019 with effect from 01.02.2020

Exemption of Foreign Airlines from furnishing reconciliation Statement in FORM GSTR- 9C Notification No 09/20 dated 15th March 2020

The foreign airlines company as the class of registered persons who shall **not be required to furnish** reconciliation statement in **FORM GSTR-9C** under section 44(2) of the CGST Act read with rule 80(3) of the CGST rules subject to duly authenticated statement of receipts and payments by Chartered Accountant.

Summary -who should file what return

S. No.	Category of Person	Return Applicable
1.	Every registered person other than: • An Input Service Distributor (ISD), • A non-resident taxable person (NRTP), • A Composition taxpayer, • A person requires to collect TCS or deduct TDS.	GSTR-1 GSTR-2 (Suspended/deferred) GSTR-3 (Suspended/deferred) GSTR-3B, GSTR-9
2.	Every registered person whose annual turnover exceeds Rs. 2 crores	GSTR-9C
3.	Registered person who opts for Composition Scheme	GSTR-4, CMP-08, GSTR-9A
4.	Non-resident Suppliers	GSTR-5
5.	OIDAR services provided by a person located abroad to a non-taxable person in India	GSTR-5A
6.	Input Service Distributor	GSTR-6
7.	Person required to deduct TDS	GSTR-7
8.	Electronic commerce operators required to collect tax at source	GSTR-8, GSTR-9B
9.	Final return (to be furnished in the event of cancellation of GST registration)	GSTR-10
10.	Person having Unique Identification Number	GSTR-11

First Return Sec 40

- When a person becomes liable to registration after his turnover crosses the threshold limit, he may apply for registration within 30 days of so becoming liable.
- There might be a time lag between a person becoming liable to registration and grant of registration certificate.
- During the intervening period, such person might have made the outward supplies, i.e. after becoming liable to registration but before grant of the certificate of registration.
- The registered person shall declare his outward supplies made during said period in the first return furnished by him after grant of registration.
- The format for this return is the same as that for regular return.
- ITC can be availed by the recipient on such supplies, firstly, the registered person may issue revised tax invoices against the invoices already issued during said period within 1 month from the date of issuance of certificate of registration

Who can opt for quarterly returns?

- Small business entities whose aggregate turnover is up to Rs. 1.5 crore in the preceding financial year or in the current financial year. have been allowed to opt for quarterly filing of GSTR-1
- This option is available only for GSTR-1 and all other applicable returns shall be filed by the taxpayer within the prescribed time limits as applicable to them unless extended.
- For new taxpayers, the limit of Rs. 1.5 crore shall be checked on basis of estimated turnover of current financial year.
- A person who has opted for monthly/quarterly filing of return, cannot change the periodicity of filing of return in the same financial year.

- He would be required to remain in that category for the remaining part of the financial year. He may change the option at the beginning of next financial year.

Filing of return is mandatory?

- Every registered person who is required to file GSTR-3B or GSTR-4 is required to furnish return for every tax period whether or not any supply of goods or services have been made during such period.
- Thus, even if no goods or services are supplied during the relevant period, taxpayer has to file a *nil* return.
- Other registered persons shall be required to file their relevant returns, only if there is a transaction or supply during the relevant tax period which has to be reported in these returns.

Revision of GST Returns

- GST returns once filed cannot be revised.
- Errors or omissions in GST returns of a particular tax period, which are other than as a result of scrutiny, audit and inspection by tax authorities, can be rectified in the GST return to be filed for the subsequent month. /quarter Sec 39(9)
- Any tax liability due to omission/rectification should be paid along with interest
- Rectification is not allowed after furnishing of annual return or GSTR-3B for the month of September following the end of the financial year to which such error pertains, whichever is earlier.

Consequences of default

Notice to return defaulters Sec 46 and Rule 68

- A notice in prescribed form is issued, electronically, to a registered person who fails to furnish return under section 39 [Normal Return] or section 44 [Annual Return] or section 45 [Final Return] or section 52 [TCS Statement]
- The notice requires the registered person to furnish the return within 15 days, failing which the tax liability will be assessed under section 62, based on the relevant material available with the proper officer.
- In addition to tax so assessed, applicable interest and penalty will also be payable
- If a registered person fails to furnish a return for a particular tax period then he cannot furnish any return for the subsequent tax period. Further, a notice shall be issued by the proper officer to such supplier in Form GSTR-3A requiring him to furnish such return within 15 days.

Levy of late fees Sec 47

- In case a registered person fails to furnish the required return by the due date, then he shall be liable to pay the late fee for every day during which such failure continues.
- The late fees specified in the below table is total late fees levied under the CGST Act and respective State/UT GST Acts.

Return Form No.	Minimum late fees for every day of default (Rs.)	Max. late fees (Rs.)
GSTR-1, GSTR 3B, GSTR-4 GSTR-5, GSTR-5A, GSTR-6	For other than <i>nil</i> return: Rs. 50 For <i>nil</i> return: Rs. 20	Rs. 10,000
GSTR-7	For failure to furnish return: Rs. 200	Rs. 10,000
GSTR-8	For failure to furnish return: Rs. 200	-
GSTR-9	For failure to furnish return: Rs. 200	0.50% of turnover in State or Union territory
GSTR-9A	For failure to furnish return: Rs. 200	
GSTR-9B	For failure to furnish return: Rs. 200	-
GSTR-9C	For failure to furnish return: Rs. 200	-
GSTR-10	For failure to furnish return: Rs. 200	Rs. 10,000
GSTR-11	-	-

General Penalty

Where any specific penalty is not mentioned then a general penalty of Rs 50,000 shall apply.

Rule 67A: Manner of furnishing of return by short messaging service facility (w.e.f. 1.7.2020)

For a registered person who is required to furnish a Nil return under section 39 in FORM GSTR-3B or Nil details of outward supplies under section 37 in FORM GSTR-1 or FORM GST CMP-08 for a tax period, it can be furnished through a short messaging service (SMS) using the registered mobile number and the said return shall be verified by a registered mobile number based One Time Password facility.

Outward Supply, ITC in inward supply and tax payable all should be NIL in order to avail to file return in SMS facility.

A Nil return or Nil details of outward supplies shall mean that which has nil or no entry in all the Tables in FORM GSTR-3B / GSTR-1 / FORM GST CMP-08

GST Practitioners Sec 48 and Rule 83 and 83 A

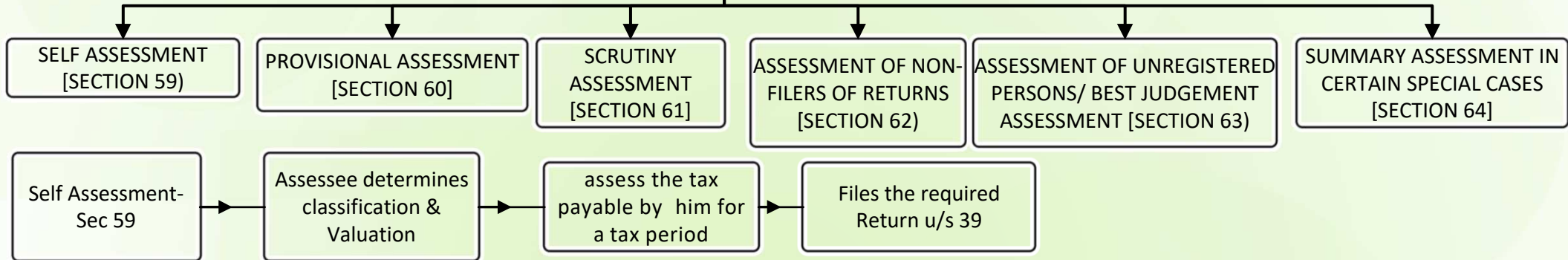
SNO	Particulars	
1	Eligible persons	1.Citizen of India, person of sound mind/Not adjusted as insolvent/not convicted in any competent court
		2.Retired officer not lower than the rank of a Group-B gazetted officer for a period of not less than two years of - Commercial tax of SG - Central board of Indirect taxes and customs - Department of Revenue Government of India.
		3.He has enrolled as a sales tax practitioner or tax return preparer under the existing law for a period of not less than five years. He has to pass the examination conducted by NACIN within 30 months from 1 st jul july 2017 to continue as GSTP

		4. Passed - Graduate or post graduate exam of Commerce, law, banking management or administration of recognised Indian University or foreign University recognised by India. - Examination notified by GST Council (Examination conducted by NACIN) - Final examination of CA/CWA/CS
2	Procedure	Application to be made electronically through common Portal On receipt of application the authorised officer after making enquiry accept or reject the application if person is not qualified Enrolment is valid until the period, it is cancelled. A registered person at his option can authorise GST Practitioners in common portal and at any time withdraw authorisation. A confirmation mail and SMS will be forwarded to registered person
3	Activities of GSTP on behalf of Registered person	- furnish the details of outward and inward supplies; - furnish monthly, quarterly, annual or final return; - make deposit for credit into the electronic cash ledger; - file a claim for refund; and - file an application for amendment or cancellation of registration. - furnish information for generation of e-way bill; (furnish details of challan in the prescribed form; - file an application for amendment or cancellation of enrolment under rule 58 and - file an intimation to pay tax under the composition scheme or withdraw from the said scheme
4	Other	The goods and services tax practitioner shall- (a) prepare the statements with due diligence; and (b) affix his digital signature on the statements prepared by him or electronically verify using his credentials. - If GSTP found any misconduct in proceedings the authorised officer may serve notice and after giving reasonable opportunity and disqualify to act as a GSTP. - The various forms from GSTPCT 01 to 05 prescribed to follow the procedure.

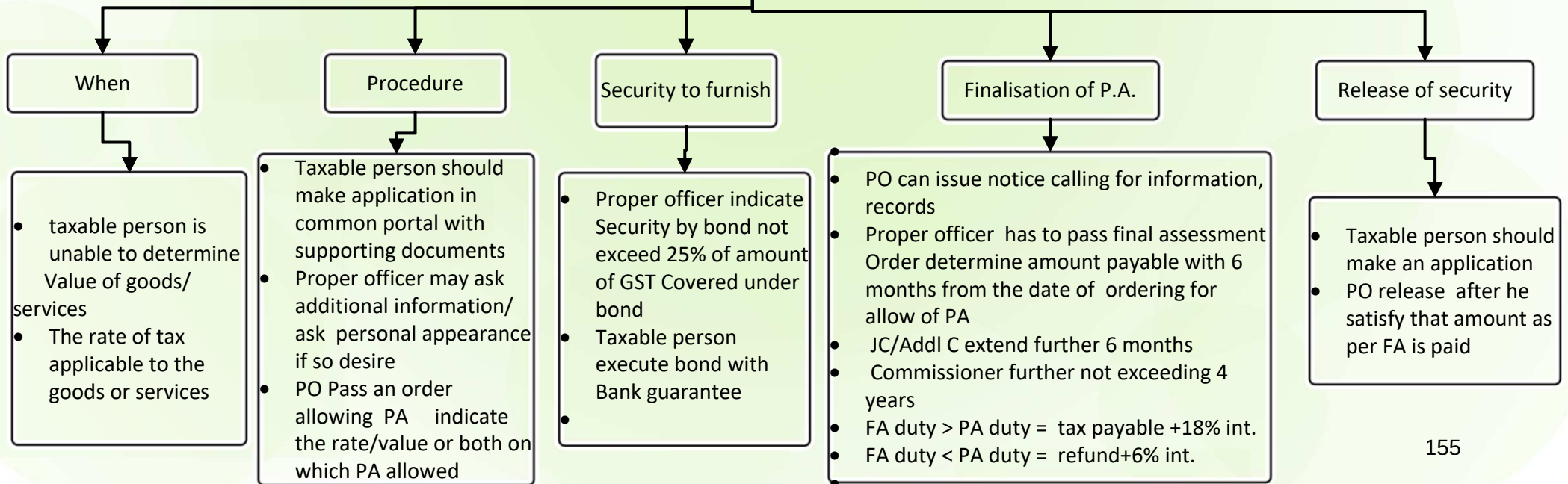
Assessments under GST

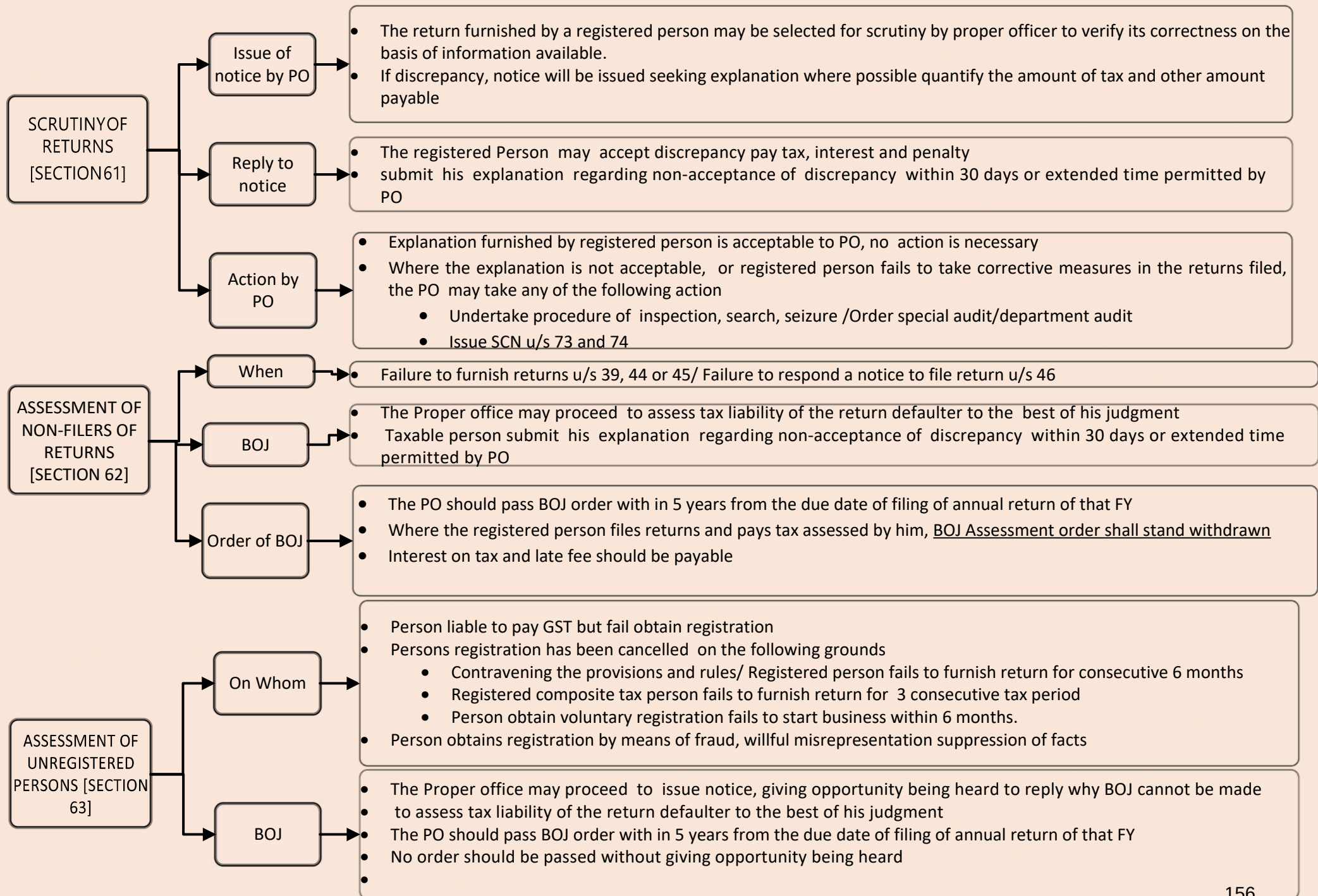
Assessment means determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment and best judgment assessment. [Section 2(11)]

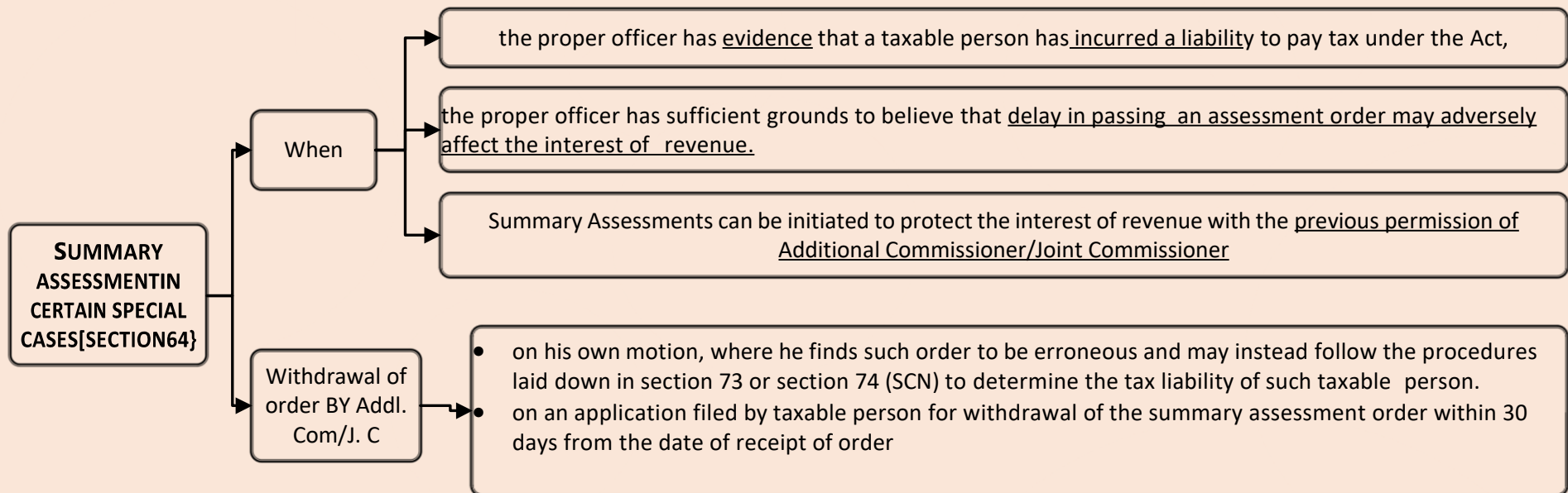
Types of Assessments



Provisional Assessment Sec 60



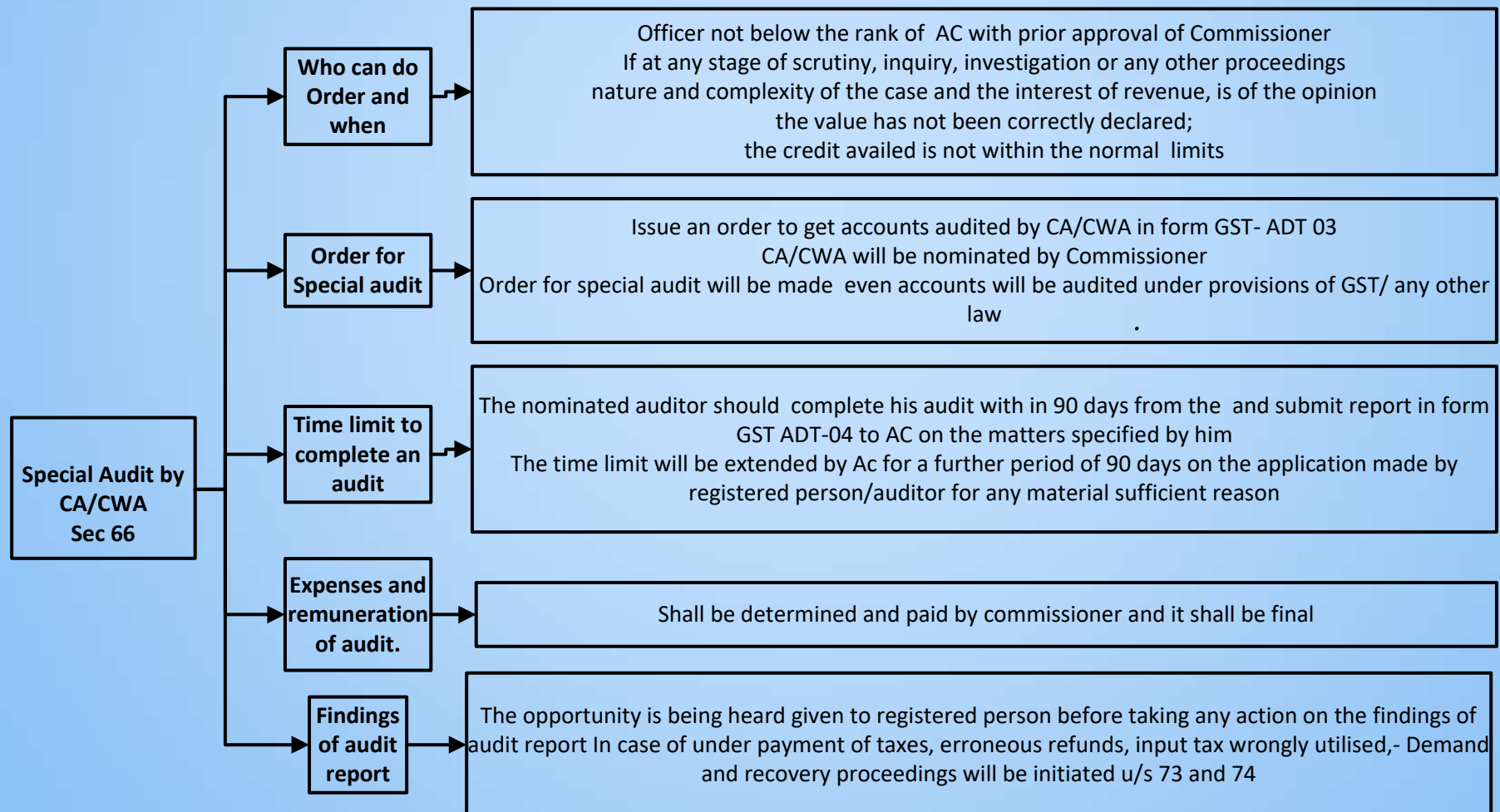
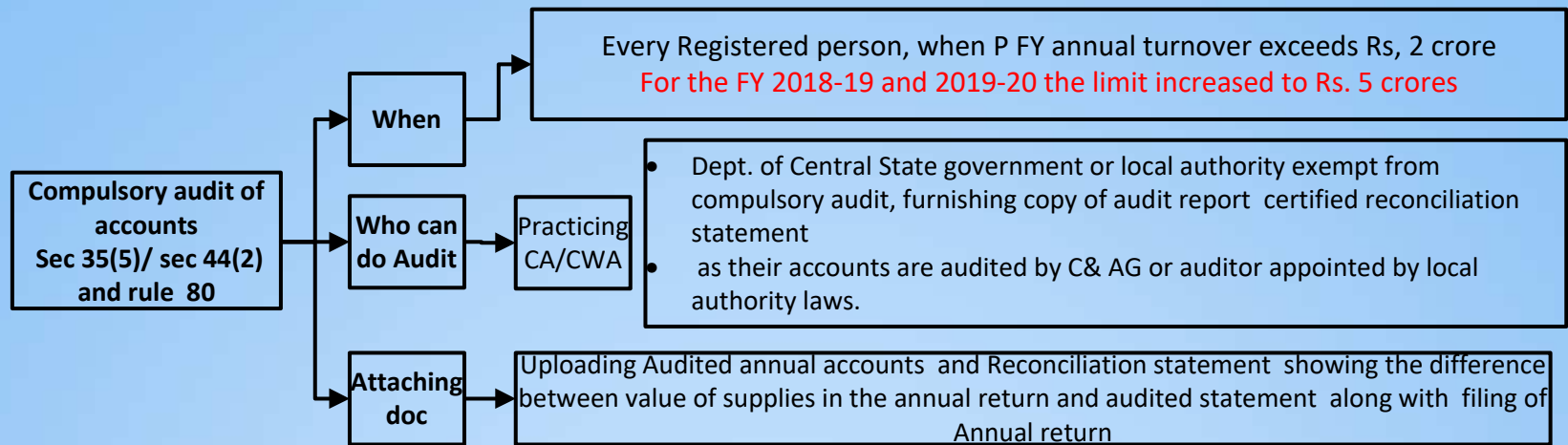


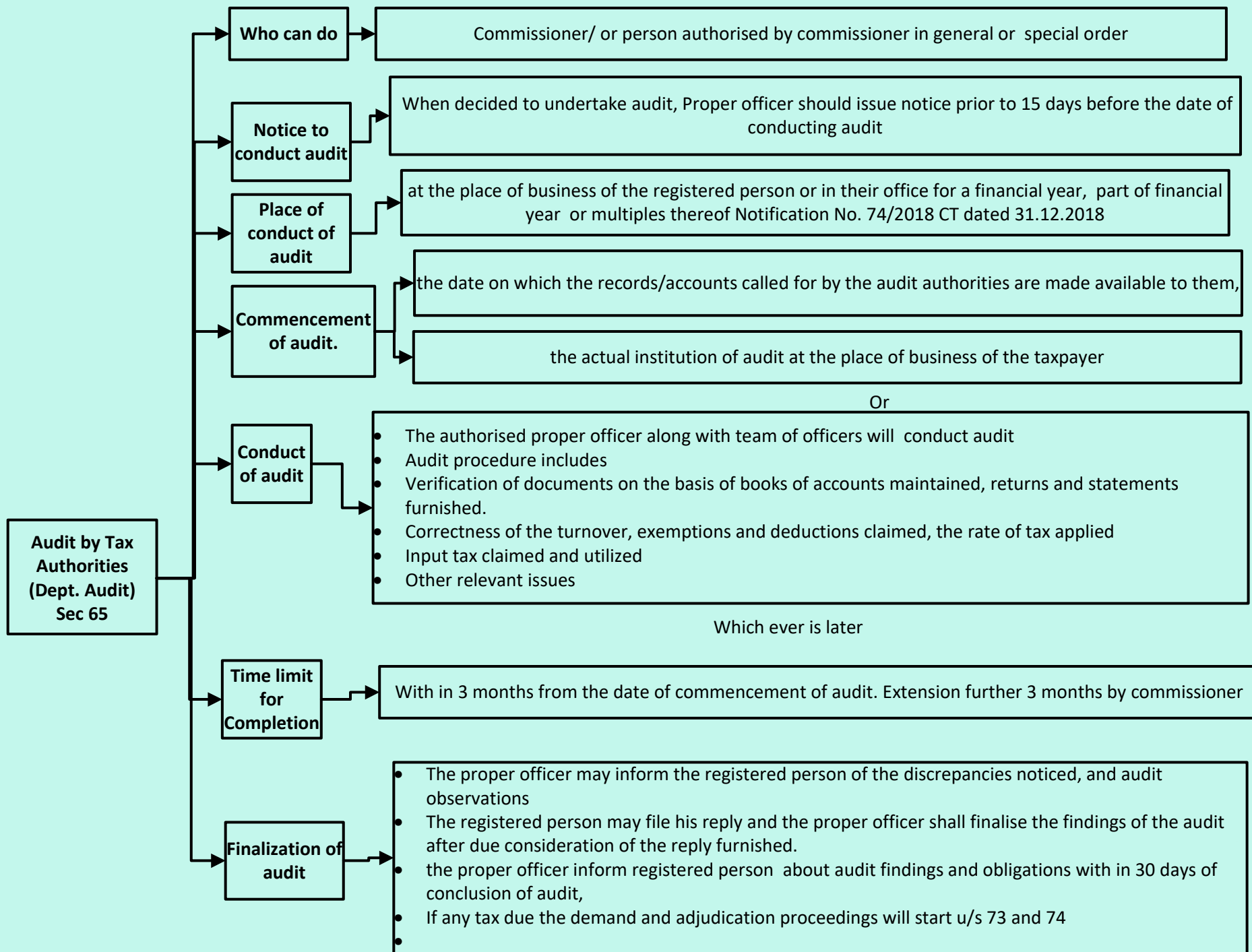


Example: Deemed taxable person

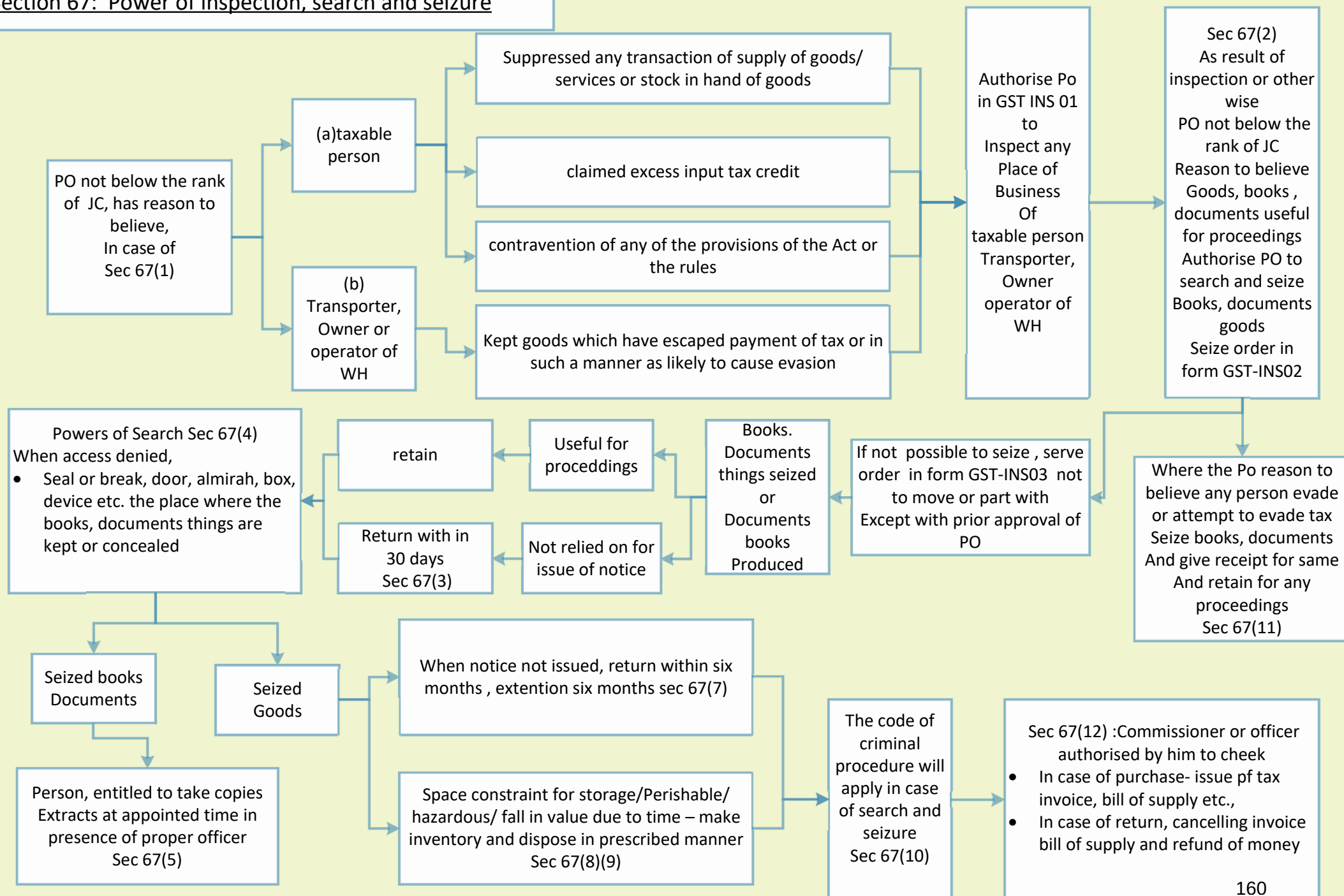
When goods are under transportation or are stored in a warehouse, and the taxable person in respect of such goods cannot be ascertained, the person in charge of such goods shall be deemed to be the taxable person and will be assessed to tax

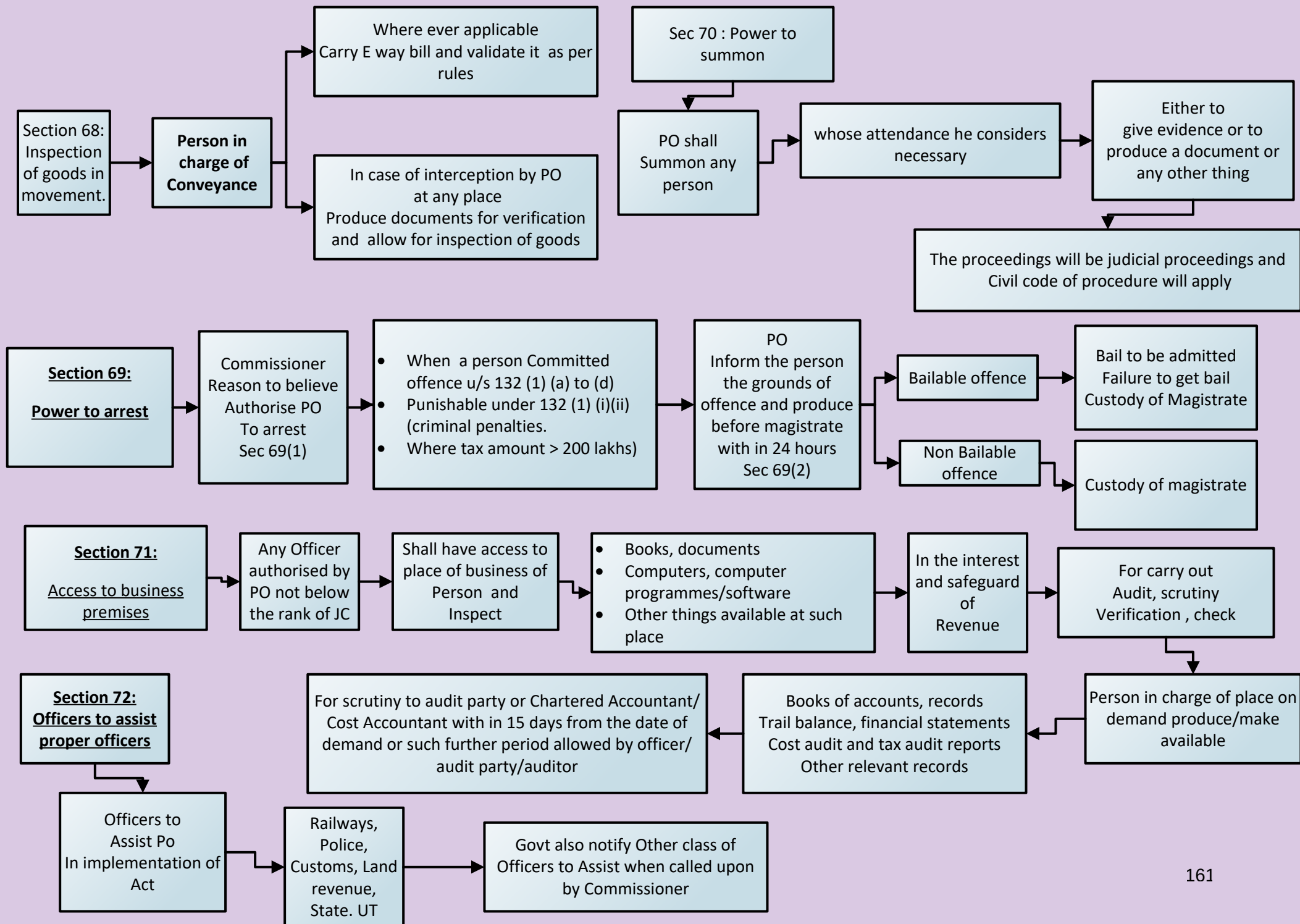
The summary of assessment orders under section 62, 63 and 64 of the CGST Act is required to be uploaded on portal electronically in the prescribed forms. **[Notification No. 16/2019 CT dated 29.03.2019]**





Section 67: Power of inspection, search and seizure





Demand and Adjudication Sec 73, 74 & 75

Notice before SCN Rule 142(1A) 73(1), 74(1)

The proper officer ~~shall~~ **may**, before serving of such SCN, communicate the details of any tax, interest and penalty as ascertained by him, in form, GST DRC-01A to the person chargeable with tax, interest and penalty under section 73(1)/74(1). The tax payer can take the advantage of Nil Penalty in normal cases

Show cause notice (SCN) sec 73(1)/74(1)- Form DRC01

Contents,
Manner of
Issue

Date, Name and address of Taxable person., Amount payable along with calculation, of tax, interest Penalty, - asking the person why specified amount should not be paid

Time limit/
Limitation
period

Normal Cases- Bonafide mistake Sec
73 (2)& (10)

2 years 9 months
from @

Fraud cases Deliberate/ intentional
evasion-- Extended Period 74(2) & (10)

4years 6 months
from @

- @
- due date of filing of annual return for fy which demand pertains
 - Date of erroneous refund of tax

For computation of time limit, period of stay by court, tribunal to be excluded- sec 75

Tax not paid/ short paid / Erroneously refunded/ ITC wrongly availed or utilised

(Payment before SCN) No SCN /No statement will be issued If Sec -73(6)/74(6)

Normal Cases- Sec
73(5)

Taxable person Paid tax+ int @18% before receiving SCN/statement on own ascertainment or ascertainment by PO intimation in form No DRC03
PO will issue ack for the amount

Fraud cases Sec 74(5)

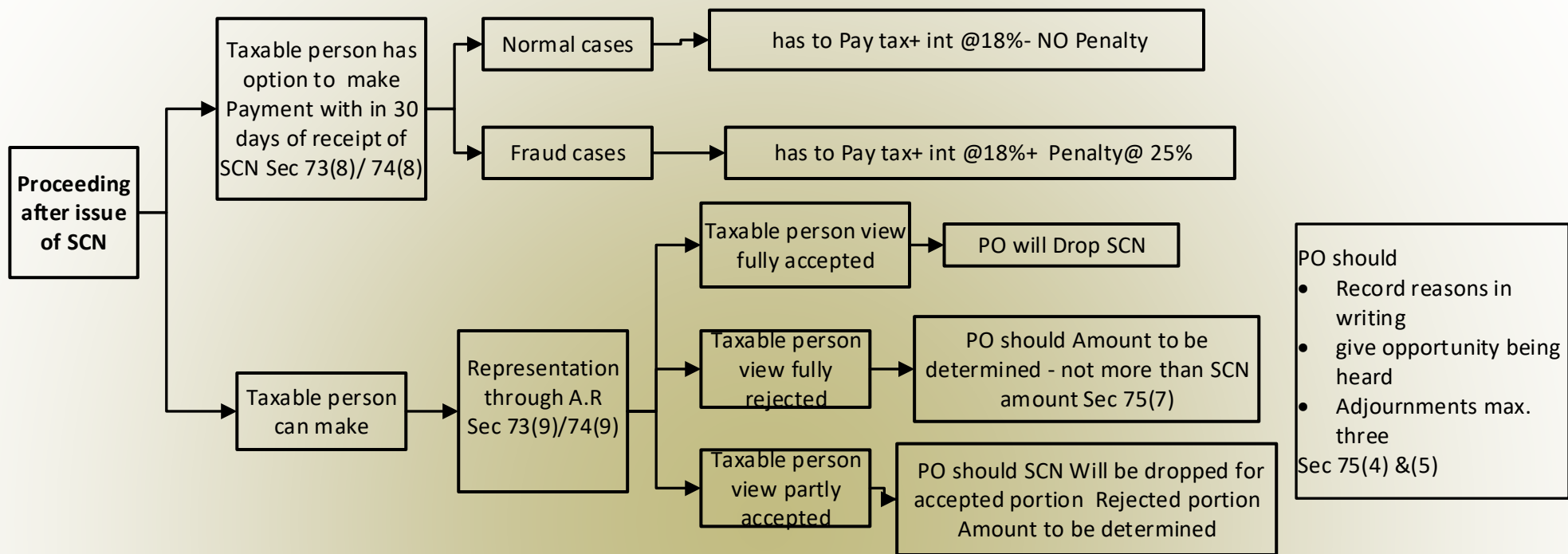
Taxable person Paid tax+ int @18%+ Penalty @15% before receiving SCN/ statement on own ascertainment or ascertainment by PO .intimation in form No DRC 03. PO will issue ack for the amount

- If taxable person pays full amount and make a submission the proceedings will conclude.
- If he pays part amounts and made a submission, PO will issue SCN for the short fall amount Sec 73(7)/Sec 74(7)
- Benefit of NIL or reduced penalty available to tax payer for the amount paid

PO can issue a statement Sec 73(3)/ 74(3)

Where the SCN was issued for any period , if a person commit default in some other period, Po can issue a statement instead of detailed SCN, determine amount. The statement issued is deemed to be SCN when the grounds relied upon in the said statement, is same as SCN issued earlier except in fraud cases

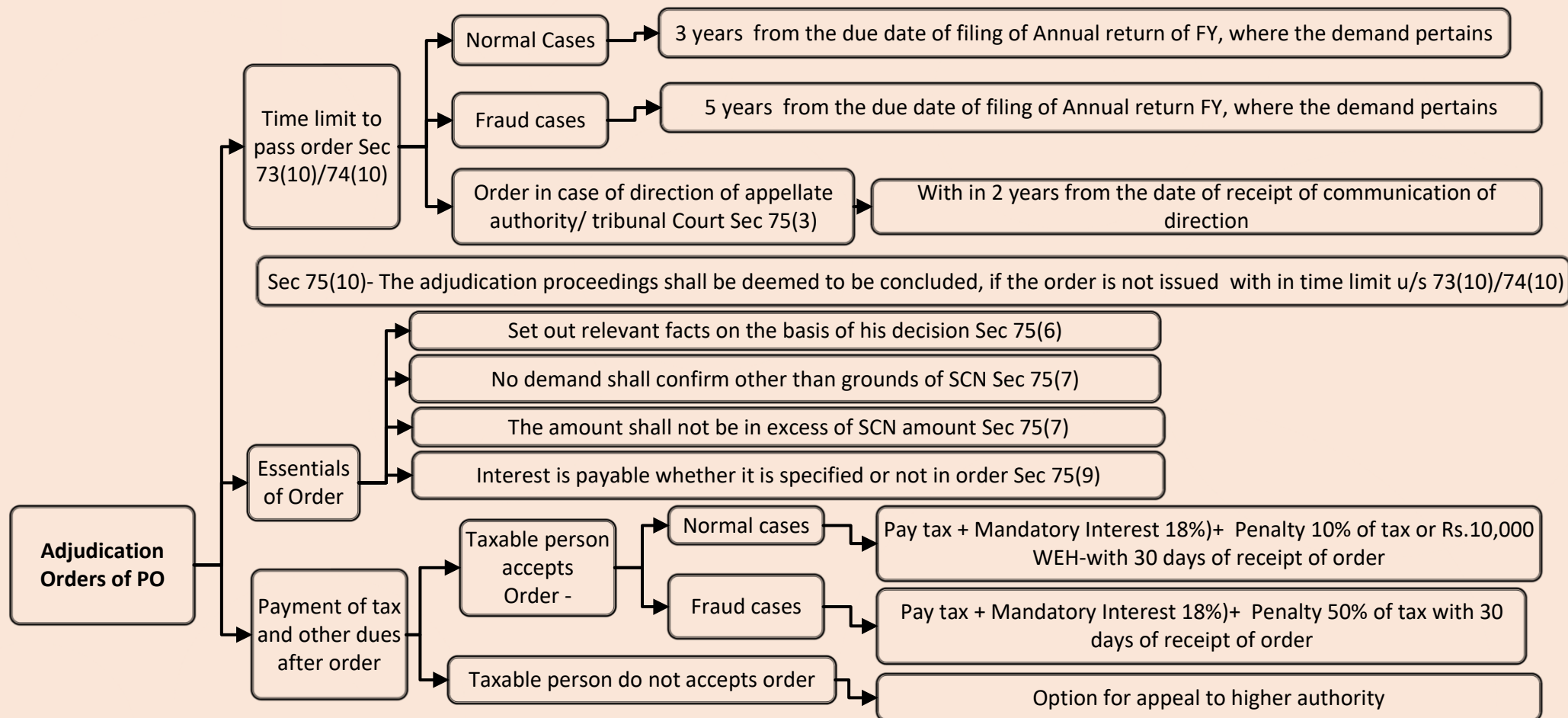
Where the SCN was issued u/s 74(1) for fraud cases in cases of extended period, and if it is not sustainable under tribunal court, it can be deemed as notice issued u/s 73(1) for normal period- sec 75(2)



Where any amount of self-assessed tax and interest as per return filed u/s 39, is not paid wholly or partly, there is no need of SCN, the amount can be recovered u/s 79

Where any amount of self-assessed tax/amount collected not paid with in 30 days from the due penalty 10% of tax or Rs.10,000 Weh is payable Sec 73(11)

- Where appellate authority modifies duty, the interest and penalty shall stand modified accordingly sec 75(8)
- If SCN amount was increased in appeal, Interest on increased amount is payable from date of order- .
- Interest shall be calculated from the date on which such Tax becomes due up to the date of actual payment of the amount due.
- The Penalty under this section cannot be levied for delay in filing of return GSTR 3B. In such cases general penalty u/s 125 can be levied Circular No. 76/50/2018 GST dated 31.12.2018]
- (There any penalty is imposed under as above under section 73 or section 74, no penalty for the same act or omission shall be imposed on the same person under any other provision of this Act. Sec 75(13)

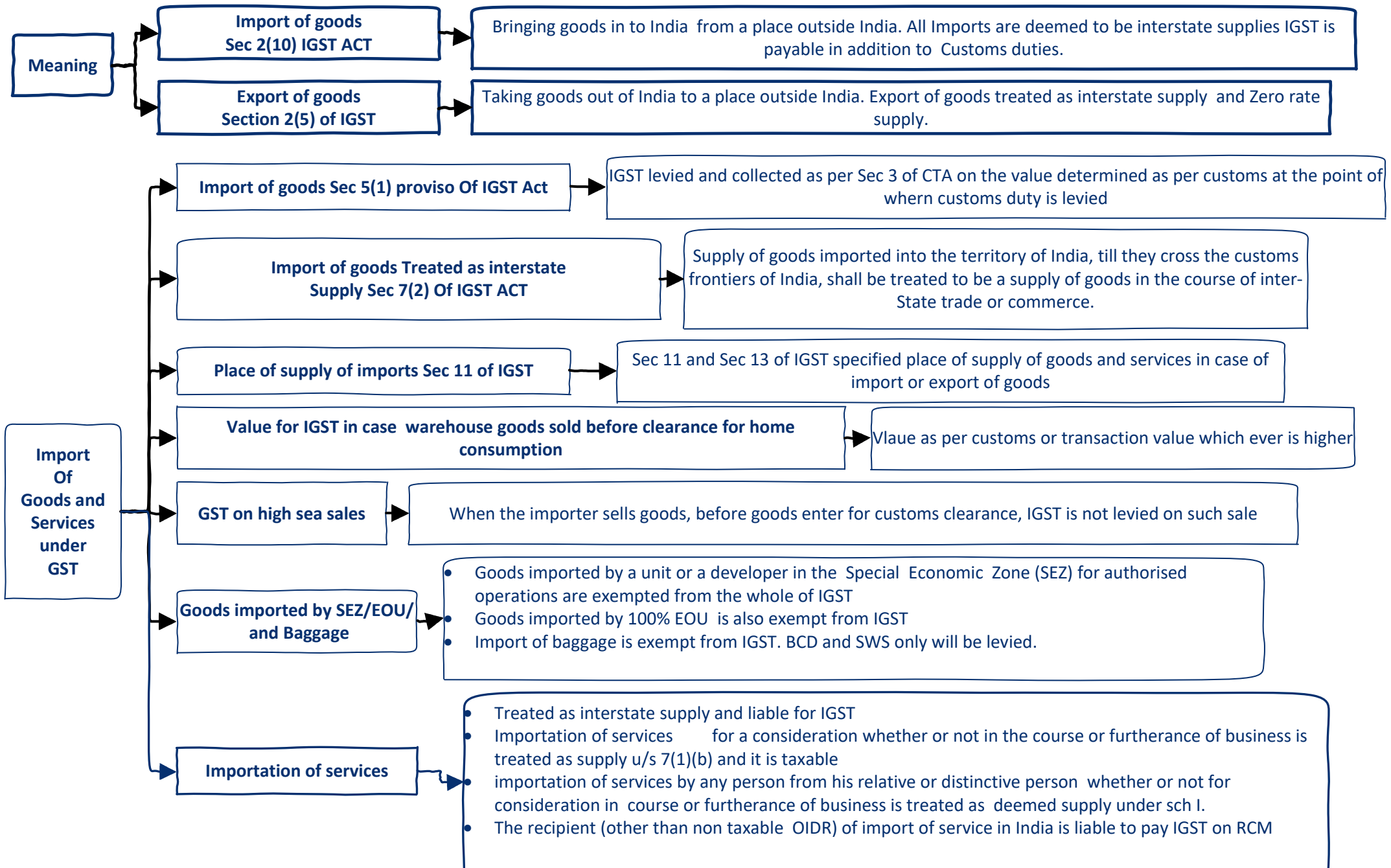


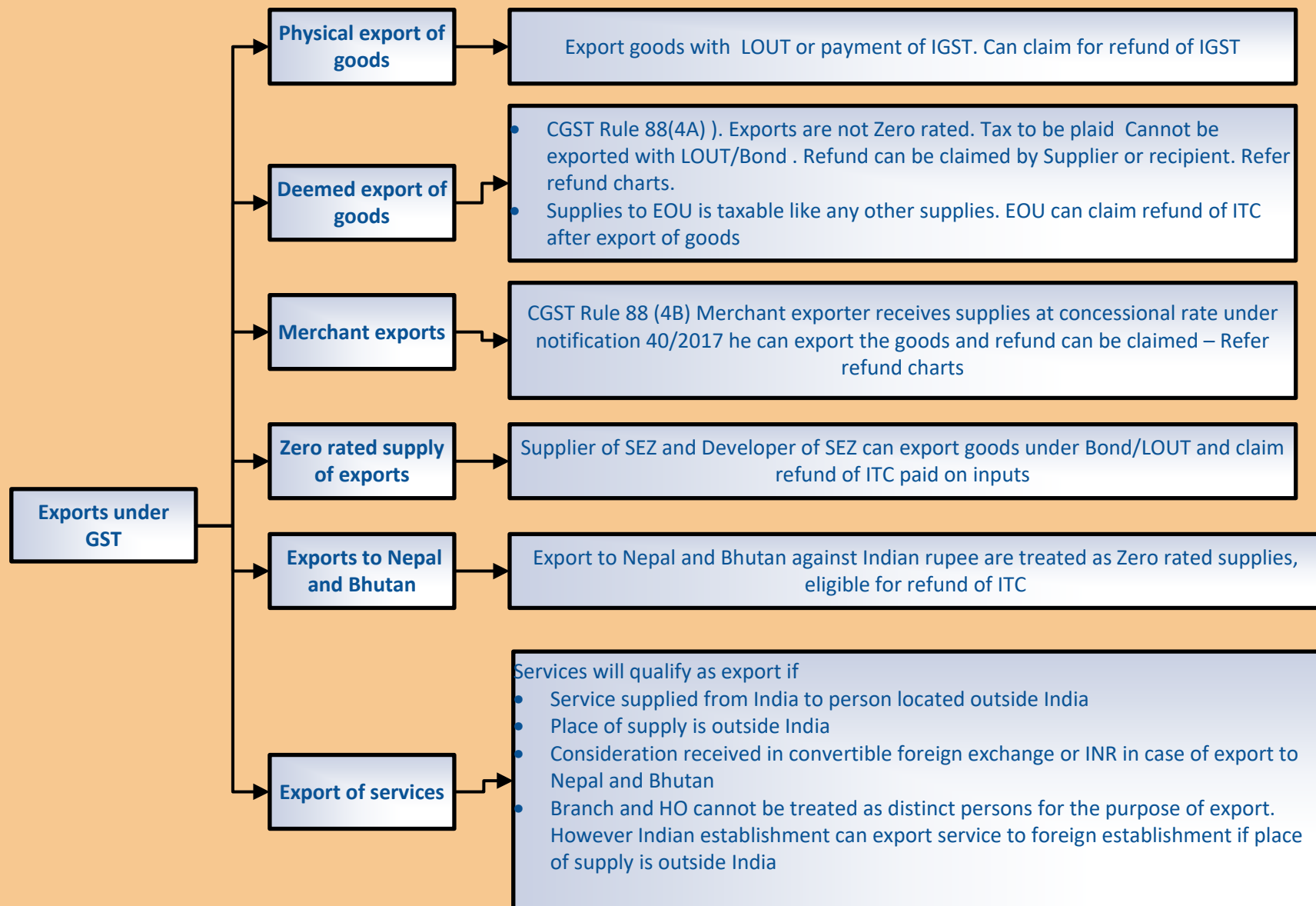
Monetary limits for issuing SCN and orders			
CGST Officer	CGST u/s 73/74	IGST u/s 20	CGST+ IGST u/s 73/74 and u/s 20
(2)	(3)	(4)	(5)
Superintendent of Central Tax	<=Rs.20 lakh	<=Rs.20 lakh	<=Rs.20 lakh
DC/AC of Central Tax	>Rs. 10 Lakhs <= Rs. 1 crore	>Rs. 10 Lakhs <= Rs. 2 crores	>Rs. 10 Lakhs <= Rs. 2 crores
Additional or Joint Commissioner of Central Tax	>Rs. 1 Crore without any limit	>Rs. 2 Crore without any limit	>Rs. 1 Crore without any limit

	Recovery of GST	
Sect 78:	Initiation of recovery proceedings	
	Amount payable in pursuance or order is payable with three months from service of order, failure recovery proceedings will start	
	the proper officer considers it expedient in the interest of revenue, he may, for reasons to be recorded in writing, require the said taxable person to make such payment within such period less than a period of three months	
Sec 79	Modes of recovery	
	Where the amount payable is not paid, the proper officer shall proceed to recover the amount by one or more of the following modes	
	a)	Adjustment of refund/ detaining the selling of goods
	b)	distrain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid;
	c)	Recovery from a debtor of taxable person The Central officer by notice in writing require on the debtor to withhold money when it due or pay when it is held or pay within the time specified in the notice., If such person fails to pay the amount, he is personally liable to pay the amount to Government.
	d)	As arrears of land revenue by issuing certificate to district revenue collector (sale by auction of properties)
	e)	proper officer may file an application to the appropriate Magistrate and such Magistrate shall proceed to recover from such person the amount specified thereunder as if it were a fine imposed by him. If the amount recovered is less than the amount payable, the recovered amount will be credited to state and central government in proportion
Sec 80	Payment of tax and other amount in instalments	
	a)	On an application filed by a taxable person, the Commissioner may, for reasons to be recorded in writing, extend the time for payment or allow payment of any amount in maximum 24 monthly installments subject to conditions
	b)	Mandatory interest under sec 50 is payable
	c)	where there is default in payment of any one instalment on its due date, the whole outstanding balance payable on such date shall become due and payable without any notice
Sec 81	Transfer of property void in certain circumstances	
	a)	Where a person, after any amount has become due from him, creates a charge property belonging to him, or transfer by sale exchange, mortgage, the charge or transfer becomes void
	b)	Charge or transfer shall not be void if it is made for adequate consideration, in good faith and without notice of outstanding dues

Sec 82	Tax to be first charge on property
	Subject to the provisions of Insolvency and Bankruptcy Code, 2016, any amount payable by a taxable person or any other person on account of tax, interest or penalty which he is liable to pay to the Government shall be a first charge on the property of such taxable person or such person.
Sec 83	<u>Provisional attachment to protect revenue in certain cases</u>
	Where during the pendency of <u>any proceedings of</u>
a)	Assessment of non-filer of returns u/s 62, assessment of unregistered persons u/s 63,
b)	Summary assessment in special cases u/s 64, power of search, seizure and inspection u/ 67
c)	Adjudication and demand u/s 73, u/s 74
	Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, including bank account, belonging to the taxable person in such manner as may be prescribed
	The provisional attachment has in effect for a period of one year from the date of order
Sec 84	Continuation and validation of certain recovery proceedings
	Where any notice of demand in respect of any tax, penalty, interest or any other amount (Government dues) payable is served on taxable person or any other person and any appeal or revision application is filed or any other proceedings is initiated in respect of such Government dues
a)	Dues enhances in appeal or revision, the commissioner serve fresh notice on enhanced amount before disposal of appeal, revision, proceedings prior to disposal of appeal will continue.
b)	Dues reduces in appeal or revision, no need of fresh notice. the Commissioner shall give intimation of such reduction to him and to the appropriate authority with whom recovery proceedings is pending. proceedings prior to disposal of appeal will continue.

GST ON IMPORT OF GOODS AND SERVICES





EXPORT PROCEDURE UNDER GST for Direct exports and Zero rated in case of SEZ Rule 96A and 96B		
1	Execution of Bond	Exporter has to execute the bond or LUT prior to export, binding himself to pay the tax due along with interest @ 18% failure to export
2	Time limit to Export	In case of export of goods: within 3 months 15 days from the date of issue of export invoice or such other time extended by Commissioner In case of export of services: within 1 year 15 days from the date of issue of export invoice or such other time extended by Commissioner, Export proceeds does not receive in convertible foreign exchange or INR as per RBI guidelines
3	Failure to export with time limit	Tax along with interest is to be paid for the delay Export with Bond/LOUT will be withdrawn and it is restored after due is paid
4	Other procedure	All registered persons are eligible to furnish a LUT in place of a bond except those who have been prosecuted for cases involving an amount exceeding Rs. 250 lakhs The details of the export invoices should be submitted in GSTR-1. These details shall be electronically transmitted to the system designated by Customs and a confirmation that the goods covered by the said invoices have been exported out of India shall be electronically transmitted to the common portal from the said system. self-sealing of packets and sealing of containers, wherever required to be carried out under the supervision of the jurisdictional central officer or state officer. A copy of the sealing report would be forwarded to the Deputy/Assistant Commissioner having jurisdiction over the principal place of business. There is no restriction on invoicing of export contracts in Indian Rupees as per FEMA regulations. The acceptance of LUT for supplies of goods or services to countries outside India or SEZ developer or SEZ unit will be permissible irrespective of whether the payments are made in Indian currency or convertible foreign exchange as long as they are in accordance with the applicable RBI guidelines
5	Clarification on LOUT/Bond	The LUT shall be valid for the whole financial year in which it is tendered. The registered person (exporters) shall fill the relevant form on the common portal. An LUT shall be deemed to be accepted as soon as an acknowledgement for the same, bearing the Application Reference Number (ARN), is generated online No document needs to be physically submitted to the jurisdictional office for acceptance of LUT. Bond will be required to be furnished by those persons who have been prosecuted for cases involving an amount exceeding 250 lakh. A bond, in all cases, shall be accompanied by a bank guarantee of 15% of the bond amount. [Notification No. 37/2017 CT dated 04.10.2017].

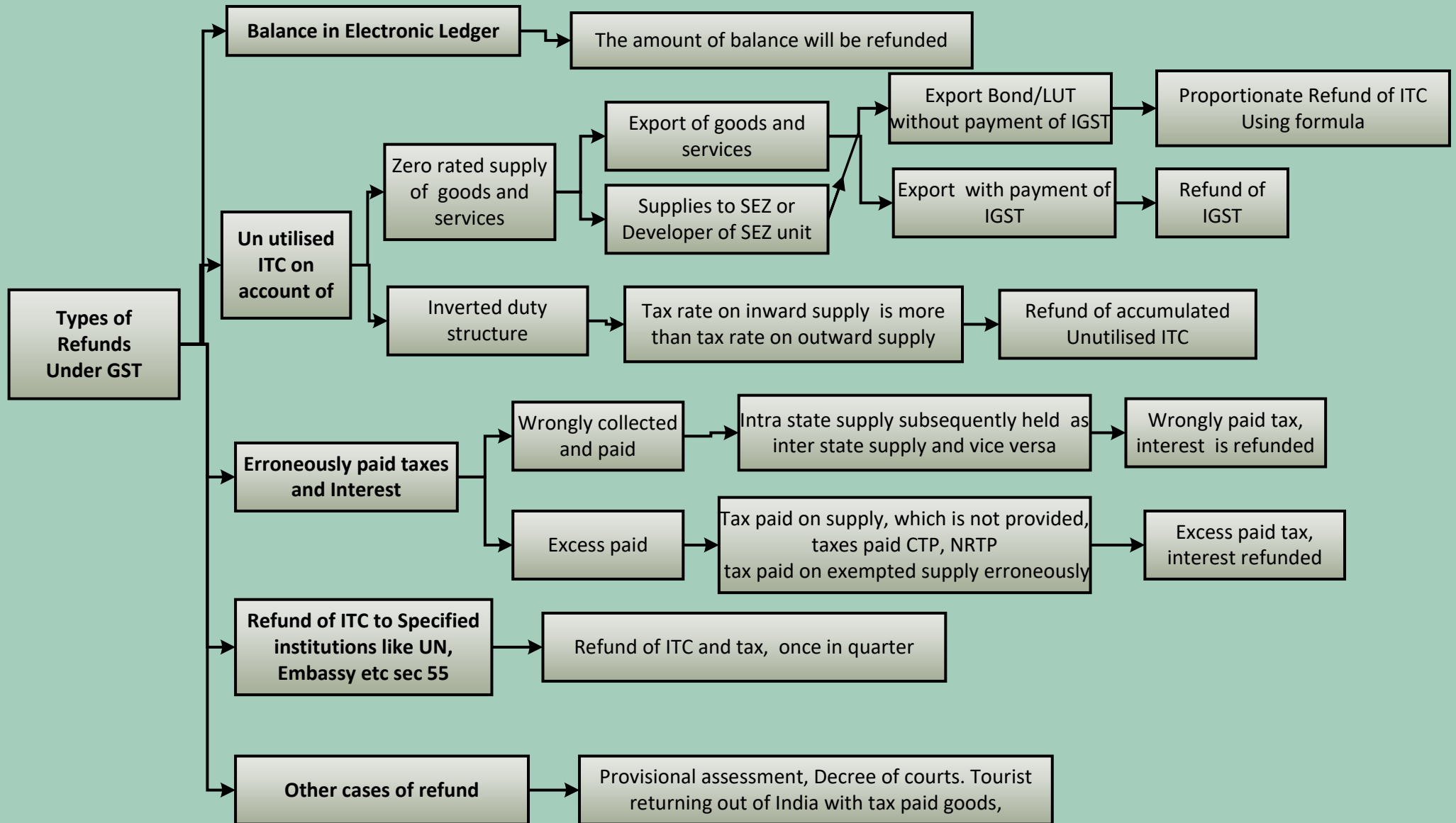
		The exporters shall furnish a running bond where the bond amount would cover the amount of self-assessed estimated tax liability on the export.
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Taxability of subcontracting/Outsourcing of export of services Outside India <i>Circular No. 78/52/2018 GST dated 31.12.2018</i>		
If an exporter of services outsources a portion of the services contract to another person located outside India, there may be instances where the full consideration for the outsourced services is not received by the exporter in India. The tax treatment of the said portion of the contract at the hands of the exporter has been explained vide Circular No. 78/52/2018 GST dated 31.12.2018 as under		
1		Full contract value of service will be treated as export of services if the conditions laid down for export of service is satisfied.
2		Out sourced portion will be the Import of services by the exporter, Exporter is liable to pay IGST on RCM and he can claim ITC
3		Full consideration for the contract may not be received since the recipient outside India pays consideration directly to the outsourced person. The portion directly paid will also be treated as consideration for export of services. Subject to condition that
		Export has paid IGST on the outsourced portion and RBI by general instruction or by specific approval has allowed that part of the consideration for such exports can be retained outside India
Example		
ABC Ltd. India has received an order for supply of services amounting to \$ 500,000/- to a US based client. ABC Ltd. India is unable to supply the entire services from India and asks XYZ Ltd. Mexico (who is not merely an establishment of a distinct person viz. ABC Ltd. India, in accordance with the Explanation 1 in section 8 of the IGST Act) to supply a part of the services (say 40% of the total contract value).		
Taxability in this example is		
The full value of contract \$ 500,000 will be treated as export of services by ABC Ltd		
ABC Ltd liable to pay IGST on the outsourced portion 40% i.e., \$ 2,00,000 as import of service under RCM		
It is sufficient if ABC Ltd receives convertible foreign exchange for its portion \$3,00,000.		
US based client can pay directly the consideration of \$2,00,000 to XYZ Mexico Ltd, and that consideration retained outside India		
ABC Ltd will get the export benefit for the total consideration of convertible foreign exchange.		

Online Information Data Base Access and Retrieval (OIDAR) Sec 2(17) IGST ACT			
1	Meaning	(a)	Service of Delivery is mediated through Information Technology, internet or Electronic newt works
		(b)	nature of supply essentially automated,
		(c)	Has minimal human intervention
		(d)	impossible without information technology.
2	Include (Examples)	(a)	Advertising on internet
		(b)	Providing cloud services (Google Drive)
		(c)	Provision of e-books, movie, music, software and other intangibles via internet (Hot star, Amazon Prime Video)
		(d)	Providing data or information, retrievable or otherwise, to any person, in electronic form through a computer network;
		(e)	Online gaming
3	Non OIDAR Services	(a)	Supplies of goods, where the order and processing is done electronically
		(b)	Supplies of physical books, newsletters, newspapers or journals
		(c)	Services of lawyers and financial consultants who advise clients through email
		(d)	Booking services or tickets to entertainment events, hotel accommodation or car hire
		(e)	Educational or professional courses, where the content is delivered by a teacher over the internet
		(f)	Offline physical repair services of computer equipment
		(g)	Advertising services in newspapers, on posters and on television
4	Registration	(a)	Section 14(2) provides that the supplier of OIDAR services shall, for payment of integrated tax, take a single registration under the Simplified Registration Scheme with Principal commissioner of central tax, Bengaluru (West) in form GST REG 10
		(b)	Any person located in the taxable territory representing such supplier shall get registered and pay IGST on behalf of the supplier.
		(c)	If such supplier does not have a physical presence or does not have a representative for any purpose in the taxable territory, he may appoint a person in the taxable territory for the purpose of paying integrated tax and such person shall be liable for payment of such tax.
5	Place of supply	(a)	Supplier & recipient in India: -Place of supply is a location of recipient.
		(b)	Supplier located outside India: Place of supply is in India

Responsibility of Paying tax				
Location of Supplier	Location of recipient	Taxability	Forward Charge/ Reverse Charge	Examples
India	India	Yes	Forward Charge	Hot star (registered in India) allows Indian users to register and watch movies.
Outside India	India Recipient: Registered	Yes	Reverse Charge. (GST payable by the recipient)	An Indian Co.(registered) asks Blue Host (US) for web hosting services. GST is payable by the Indian Co. under RCM.
	Recipient: Non-Taxable Person	Yes	Forward Charge (GST payable by the service provider)	A student in India registers in Netflix (US) for watching movies. Netflix has to pay IGST.
India	Outside India	No (Export of service)	NA	Hot star allows foreigners to register and watch movies. GST is not applicable as it is an export of service
Outside India	Outside India	No (Not covered under GST)	NA	Netflix (US) provides online movie streaming services to people in US. This is not covered in Indian GST.

Types of Refunds Under GST/Circumstances under which refund arises



Types of refund and procedure for application of refund and eligible refund						
Maximum time limit for application of refund is 2 years from relevant date, in case of refund to institutions like UN etc., once in quarter, max 18 months						
SN	Type of Refund	Application form Sec 54(1) Rule 89	Relevant date Sec 54 Explanation 2	Amount of Refund	Doctrine of Unjust enrichment	Documents and conditions for Refund Sec 54 (4)
1	Balance in Electronic cash Ledger	Return u/s 39 GSTR 3B, 4, or 7	Date of payment of tax	Excess balance In Ledger	Not Applicable	Return u/s 39 GSTR 3B, 4, or 7
2	Zero rated supply of goods and services Exporting without Bond and payment of IGST	In case of Goods- Shipping bill In case of services Form GST RFD01	Goods are exported by Sea/ Air: Ship/ Aircraft leaves India Land: When goods pass the Frontier Post: Dispatch of goods by Post Supply of Service Amount received after Supply- Date of receipt of Convertible foreign exchange Advance received - Date of Invoice	Refund of IGST paid No refund if DBK claimed No refund of ITC Sec 54(3)	Not Applicable	Statement containing the no. & date of Invoice received and issued during tax period. Foreign Inward Remittance Certificates
3	Zero rated supply of Supplies to SEZ or developer of SEZ	Form GST RFD01	Payment of tax	Refund of IGST paid on exported goods Refund of ITC if supply is made through SEZ (formula based)	Not applicable	Statement containing the no. & date of Invoice received and issued during tax period. Evidence regarding goods admitted in full for authorized operations as endorsed by the specified officers of SEZ A declaration to the effect that tax has not been collected from SEZ unit or SEZ developer

4	Zero rated supply of goods and services Exporting with Bond without payment of IGST	In case of Goods- Shipping bill In case of services Form GST RFD01	– End of FY in which such claim for refund arises.	Proportionate ITC using formula	Not Applicable	Statement containing the no. & date of Invoice received and issued during tax period.
5	Deemed exports Rule 89(4A)- supply against Advance authorisation and 89(4B)	Form GST RFD01	Date on which return relating to such Deemed export is furnished	Proportionate IGST using formula	Applicable	Statement containing the no. & date of Invoice along with such other particulars as may be notified in this behalf
6	Inverted Duty structure	Form GST RFD01	Due date of furnishing return u/s 39 for the period in which such claim for refund arises	Proportionate ITC using formula	Applicable	Statement containing the no. & date of Invoice received and issued during tax period.
7	Specified institutions	Form GST RFD 10	Once in Quarter	Tax paid	Not Applicable	Details of Purchase Invoice
8	Erroneous payment of taxes and interest	Form GST RFD01	Date of payment	Tax and interest paid	Some cases Applicable	Statement showing details of the amount of claim on account of excess payment of tax/ wrong payment of tax
9	Refund on order of court or Tribunal	Form GST RFD01	Date of communication of order	Amount specified in order	Applicable	Copy of order
10	Refund of Final assessment in case of provisional assessment	Form GST RFD01	Date of final assessment	Difference amount of tax	Applicable	Copy of order
11	Refund to tourist	Form GST RFD01	Date of payment of tax	Tax paid	Not applicable	Purchase invoice
12	CTP/ NRTP	Form GST RFD01	return for entire period for which registration is held i.e., last return of CTP/NRTP	Amount paid extra in advance after filling return	Not applicable	Final Return by CTP/NRTP

Refund of ITC under section 54(3) restricted to the extent of credit reflected in Form GSTR-2A Circular No.135/05/2020 GST dated 31.03.2020]

The amount of refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in Form GSTR-1 and are reflected in the Form GSTR-2A of the applicant (10% restriction)

Formulas for refund (explanation to Rule 89)

Zero rated supplies/deemed exports eligible for refund of ITC

$$\text{Refund amount} = \frac{\text{Turnover of Zerorated supply of goods} + \text{Turnover of Zero rated supply of services}}{\text{Adjusted total Turnover}} \times \text{Net ITC}$$

Turnover of zero-rated supply of goods means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less, other than the turnover of supplies in respect of which refund is claimed under Rule 89(4A) and 4(B). Notification No.16/2020 CT dated 23.03.2020

Inverted duty structure

$$\text{Maximum Refund amount} = \frac{\text{Turnover of inverted supply of goods and Services}}{\text{Adjusted total Turnover}} \times \text{Net ITC} - \text{Tax payable in respect of inverted supply of goods and Services}$$

Refund for Inverted duty structure an account of accumulated ITC on account of reduction in GST rate on goods, not available. Circular No.135/05/2020 GST dated 31.03.2020

- When the GST rate on inward supplies is subsequently reduced, refund under inverted duty structure is not available.
- For example, an applicant trading in goods has purchased, say goods “X” attracting 18% GST. However, subsequently, the rate of GST on “X” has been reduced to, say 12%.

- It is clarified that, in such cases, the input and output being the same, though attracting different tax rates at different points in time, do not get covered under section 54(3)(ii) of the CGST Act, 2017. Thus, refund of accumulated ITC under said clause would not be applicable in cases where the input and the output supplies are the same.

Meaning of terms			
1	Refund amount	Means the maximum refund that is admissible	
2	Net ITC	means ITC availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules 89 (4A) or 89 (4B) or both. (Deemed Export or Penultimate supply)	
3	Turnover of zero-rated supply of goods	means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond/LUT other than the turnover of supplies in respect of which refund is claimed under sub-rules 89(4A) or 89 (4B) or both.	
4	Turnover of zero-rated supply of Services (ZRSS)	means the value of zero-rated supply of services made without payment of tax under bond or LUT, calculated in the following manner, namely	
		Payments received during the relevant period for ZRSS	Xxxxxx
		Add: ZRSS where supply has been completed for which payment had been received in advance in any period	Xxxxxx
		Less: advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period	xxxxxx
		Turnover of Zero-rated supply of services	xxxxxx
5	Adjusted Total Turnover:	The turnover in a State or a Union territory, as defined under section 2(112), excluding the turnover of services;	
		Add: The turnover of zero-rated supply of services determined in terms of clause (D) above & non-zero-rated supply of services	
		excluding, the value of exempt supplies other than zero-rated supplies and the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or(4B) or both (deemed Export and Penultimate supply) if any during the relevant period	
6	Relevant period	means the period for which the claim has been filed.	

Deemed Exports Rule 89(4A)- export Supply using export benefits of notification No. 48/2017-Central Tax dated 18th October, 2017

- Supply of goods by a registered person against Advance Authorisation
- Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation
- Supply of goods by a registered person to Export Oriented Unit

- Supply of gold by a bank or Public Sector Undertaking specified in the notification No. 50/2017-Customs, dated the 30th June, 2017 (as amended) against Advance Authorisation

Refund will be sanctioned as per above formula

Penultimate supply -Refund claim by merchant exporter Rule 89(4B) Notification No. 40 and 41/2017-Central Tax dated 23.10.2017

- The registered person supplies the against tax invoice goods, to registered exporter and also who registered in export promotion council.
- The exporter will export goods with in 90 days from the date of receipt of supply.
- The exporter is eligible to get refund of ITV on inputs and input services used in export of goods

Determination of refundable amount in case of refund of Unutilised ITC on account of exports without payment of tax, (ii) supplies made to SEZ Unit/SEZ Developer without payment of tax or (iii) accumulation due to inverted tax structure, Master Circular on Refunds – Circular No. 125/44/2019 GST dated 18.11.2019

In case of refund of unutilized input tax credit (ITC) on account of (i) exports without payment of tax, supplies made to SEZ Unit/SEZ Developer without payment of tax or (iii) accumulation due to inverted tax structure,

the common portal calculates the refundable amount as the least of the following amounts:

- a) The maximum refund amount as per the formula in rule 89(4) or rule 89(5)¹ of the CGST Rules, 2017 [formula is applied on the consolidated amount of ITC, i.e. Central tax + State tax/Union Territory tax +Integrated tax];
- b) The balance in the electronic credit ledger of the applicant at the end of the tax period for which the refund claim is being filed after the return in Form GSTR-3B for the said period has been filed; and
- c) The balance in the electronic credit ledger of the applicant at the time of filing the refund application.

After calculating the least of the above 3 amounts, as detailed above, the equivalent amount is to be debited from the electronic credit ledger of the applicant in the following order

- a) Integrated tax, to the extent of balance available;
- b) Central tax and State tax/Union Territory tax, equally to the extent of balance available and in the event of a shortfall in the balance available in a particular electronic credit ledger.

**Procedure for refund of Tax paid of Inward supplies of Goods to Retail outlets in International Airports supplies to passengers Tax free outward supplies
Notification No. 31/2019 CT dated 28.06.2019, Notification No. 11/2019 CT (R) dated 29.06.2019 and Notification No. 10/2019 IT (R) dated 29.06.2019
read with Circular No. 106/25/2019 -GST dated 29.06.2019**

- Supply of goods by a retail outlet established in the departure area of an international airport, beyond the immigration counters, to an outgoing international tourist, is exempted from IGST.
- Retail outlets making tax free supply of indigenous goods to an outgoing international tourist [eligible passenger] are entitled to claim refund of applicable CGST+SGST/UTGST or IGST paid on inward supply of such goods.

The procedure for claiming refund on tax paid on inward supplies is as follows:

1	Who can claim refund	(a)	Retail outlet, registered under GST and holding a valid GSTIN, established in departure area of an international airport, beyond the immigration counters,
		(b)	supplying indigenous goods to an outgoing international tourist who is leaving India
2	Application for refund		Retail outlet shall furnish the application for refund claim in prescribed form on a monthly/quarterly
			Self-certified compilation of purchase invoices along with enclosures of purchase invoices
3	Conditions for refund	(a)	the inward supplies of goods were received from a registered person against a tax invoice
		(b)	Goods were supplied by the said retail outlet to an outgoing international tourist against foreign exchange without charging any tax;
		(c)	name and GSTIN of the retail outlet is mentioned in the tax invoice for the inward supply; and
		(d)	such other restrictions or conditions, as may be specified, are satisfied
Outgoing international tourist” (“eligible passengers”) shall mean a person not normally resident in India, who enters India for a stay of not more than 6 months for legitimate non-immigrant purposes			

Refund to be granted both in cash and credit, based on original mode of payment [Rule 92(1A)] Notification No.16/2020 CT dated 23.03.2020]

- When the PO is satisfied the refund is due, the refund is to be paid in cash proportionately by adjusting towards outstanding due and credited in Electronic credit ledger.
- Form RFD06 will used for the amount paid towards in cash towards the tax and Form PMT03 will be used for payment of tax by utilising ITC

Recovery and Refund of tax when the export sale proceeds not received within stipulated time: Notification No.16/2020 CT dated 23.03.2020]

Where any refund of Unutilised input tax credit on account of export of goods or of integrated tax paid on export of goods has been paid to an applicant, but the sale proceeds in respect of such export goods have not been realised, in full or in part, in India within the period allowed under the FEMA,

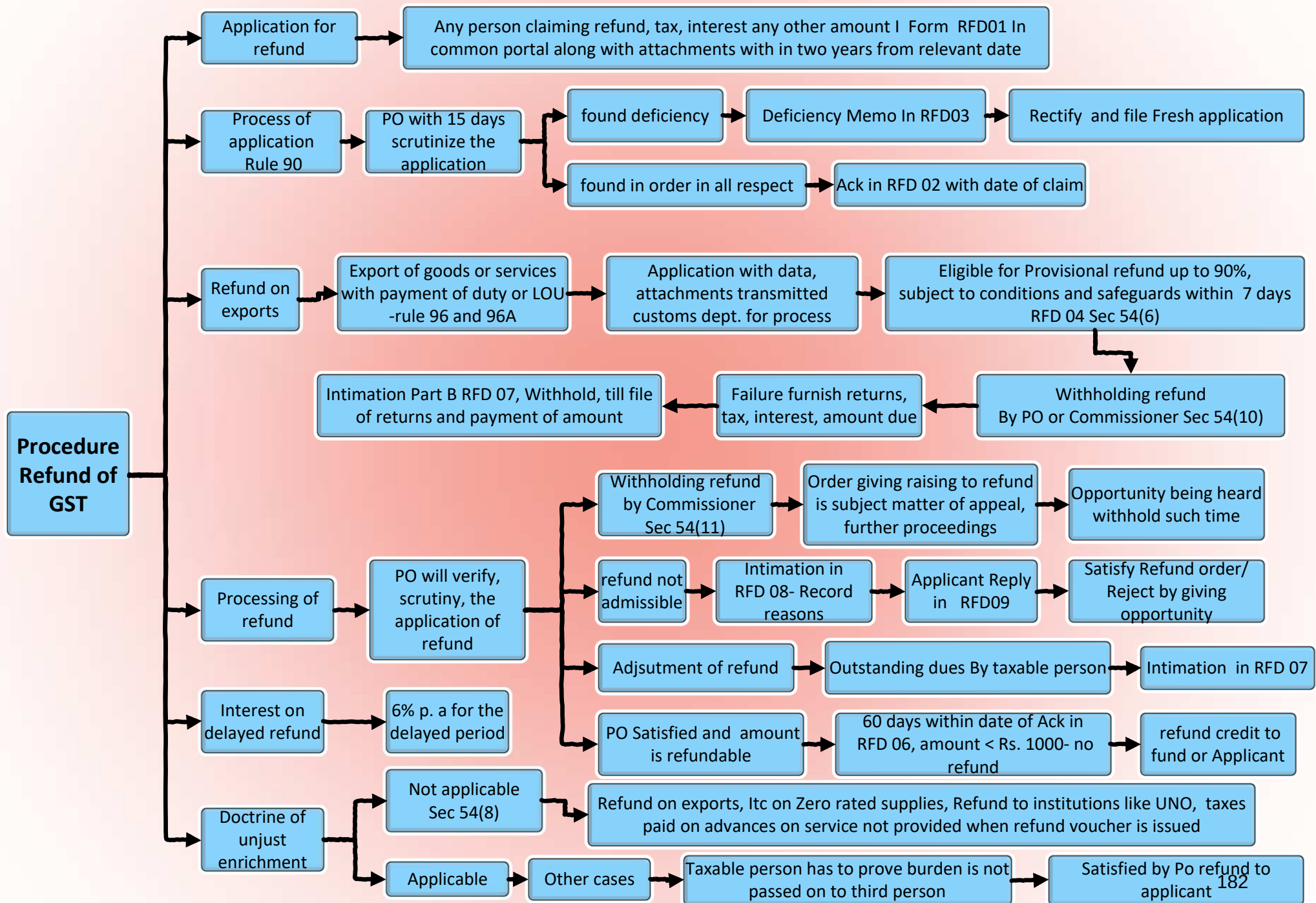
- The person to whom the refund has been made shall deposit the amount so refunded, to the extent of non-realisation of sale proceeds.
- The amount has to be deposited along with applicable interest within 30 days of the expiry of the said period or, as the case may be, the extended period.
- In case of failure to do so, the amount refunded shall be recovered in accordance with the provisions of sections 73 or 74 of the CGST Act, along with interest under section 50.
- If the RBI writes off the requirement of realisation of sale proceeds on merits, the refund paid to the applicant shall not be recovered.
- Where the sale proceeds realised subsequently, refund can be claimed within 3 months from the date of realisation

Clarification on whether the refund claims can be preferred in respect of specified goods sent / taken out of India but not brought back

- The activity of sending / taking specified goods out of India is not a zero-rated supply
- The sender of goods cannot prefer any refund claim when the specified goods are sent / taken out of India
- the supply would be deemed to have taken place:
 - on the date of expiry of 6 months from the date of removal, if the specified goods are neither sold nor brought back within the said period; or
 - on the date of sale, in respect of such quantity of specified goods which have been sold abroad within the specified period of 6 months
- When part of the goods is sold after sent out of India, an invoice is to be raised and refund can be claimed under Zero rated supply in respect of unit sold.

Clarification in respect of certain challenges faced by the registered persons in implementation of provisions of GST Laws [Circular No. 137/07/2020 GST dated 13.04.2020].

Clarification on when a person can claim refund/or adjust his tax liability in the following cases		
SNo.	Issue	Clarification
1	(a) <u>An advance is received</u> by a supplier for a service <u>contract</u> which subsequently got <u>cancelled</u> . The supplier has issued the invoice before supply of service and paid the GST thereon.	The supplier <u>has to issue credit note</u> ” as per Sec 34 of the CGST Act. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return <u>Where there is no output liability</u> against which a credit note can be adjusted, registered persons can claim refund under “Excess payment of tax, if any” through Form GST RFD-01
	(b) Goods supplied by a supplier under cover of a tax invoice are returned by the recipient	
2	An advance is received by a supplier for a Service contract which got cancelled subsequently. <u>The supplier has issued receipt voucher and paid the GST on such advance received</u> . Whether he can claim refund of tax paid on advance or he is required to adjust his tax liability in his returns	The taxpayer can apply for refund of GST paid on such advances by filing Form GST RFD-01 under the category “Refund of excess payment of tax”.



Job Work Under GST Sec 19 and 143, Rule 45

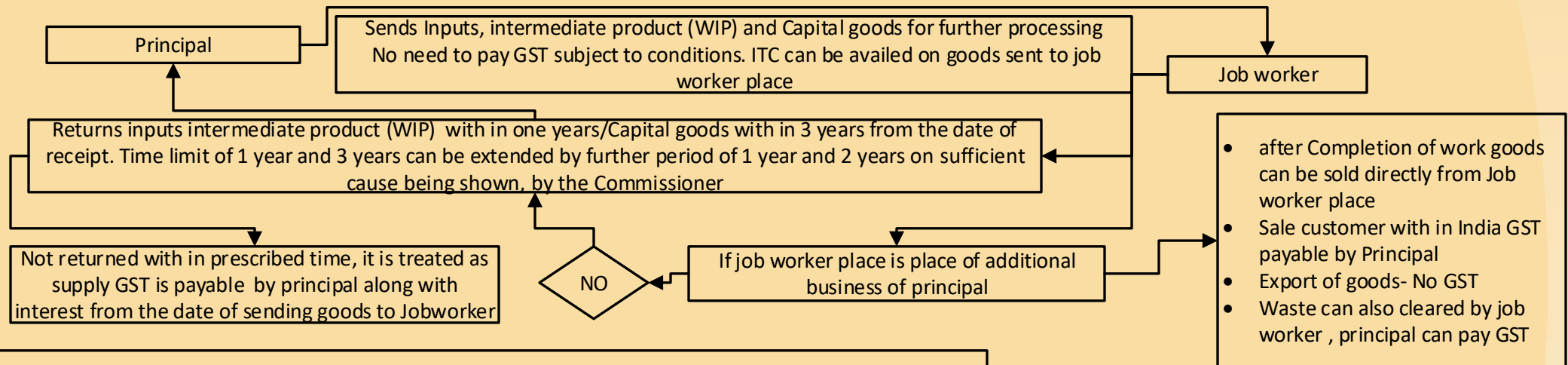
Job work Meaning

Section 2(68) of the CGST Act, 2017 defines job work as 'any treatment or process undertaken by a person on goods belonging to another registered person'.

The one who does the said job would be termed as 'job worker'.

The ownership of the goods does not transfer to the job-worker but it rests with the principal.

The job-worker is required to carry out the process specified by the principal, on the goods



Example:

A Ltd. sends the goods to B & Co job worker for making finished goods on 30.07.2017. What are the tax implications, in the following cases if GST @ 18% is levied:

B & Co. sends the goods back to X Ltd within one year of being sent.

B & Co. sells the goods directly to the customer in behalf of X Ltd. Make suitable assumptions as required.

Answer

SN	Particulars	Tax implications
1	On supply of goods to B & Co	No GST payable by A Ltd. ALTD can avail ITC. If goods do not return back within one-year GST payable by A Ltd with interest. Assumed no extension of time is granted.
2	B & Co. sells the goods directly to the customer in behalf of X Ltd	No tax liability on job worker B & Co., GST payable by A Ltd at applicable rate of GST. Assumed B & Co is additional place of business of A Ltd.,
3	B& Co sends the finished goods back to A Ltd	there is no tax liability on returning of goods back to the principal i.e. A Ltd within a period of one year

Goods sent from one job worker to another job worker, Notification No 14/2018 dated 23.03.2018

- where the goods are sent from one job worker to another job worker, the challan may be issued either by the principal or the job worker sending the goods to another job worker.
- Where the goods are sent by one job worker to another or are returned to the principal, the challan issued by the principal may be endorsed by the job worker, indicating therein the quantity and description of goods.
- Such endorsed challan may be further endorsed by another job worker, indicating therein the quantity and description of goods.

Clarification on issues related to Job Work

Various issues relating to job work have been clarified vide Circular No. 38/12/2018 dated 26.03.2018 . These are more practical oriented. Not relevant for exam.

Liability in special cases		
Tax dues =Tax +interest+ penalty		
Sec 85		Liability in case of transfer of business
	a)	Where the business is transferred by sale, lease, licence, gift or any other manner, the transferor and transferee jointly and severally liable for tax dues to the extent of transfer and up to the date of transfer
	b)	The transferee liable to pay tax on the supply of goods and services from the date of transfer till the date of new registration
Sec 86		Liability of agent and principal.
		Where an agent supplies or receives any taxable goods on behalf of his principal, such agent and his principal shall, jointly and severally, be liable to pay the tax payable on such goods
Sec 87		Liability in case of amalgamation or merger of companies
	a)	When two or more companies are amalgamated or merged in pursuance of an order of court or of Tribunal or otherwise, the supplies, receipts between the date of order and date from which order takes place between the companies are treated as turnover and liable to be taxed.
	b)	the said two or more companies shall be treated as distinct companies for the period up to the date of the said order and the registration certificates of the said companies shall be cancelled with effect from the date of the said order
Sec 88		Liability in case of company in liquidation. Rule 160
	a)	When any company is being wound up whether under the orders of a court or Tribunal or otherwise, the liquidator shall intimate to the commissioner within 30 days of his appointment.
	b)	The Commissioner shall, after making such inquiry or calling for such information as he may deem fit, notify the liquidator within three months from the date on which he receives intimation of the appointment of the liquidator, the amount which in the opinion of the Commissioner would be sufficient to provide for any tax, interest or penalty which is then, or is likely thereafter to become, payable by the company
	c)	When any private company is wound up and any tax dues on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered from company, every person as director for the period of due is jointly and severally liable.
	d)	Director is not liable for the dues if he proves to the satisfaction of the Commissioner that such non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.
Sec 89		Liability of directors of private company
		Not withstanding anything in companies Act 2013
	a)	If tax dues cannot be recovered, then every person who was a director of the Private Company during such period shall, jointly and severally, be liable for payment of such dues

	b)	Director is not liable he proves to the satisfaction of the Commissioner that such non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company
	c)	In case of conversion of Private Limited in to Public limited, Director is not liable for the tax dues of supplies before conversion. However, Director is liable for personal penalty imposed on him.
Sec 90	Liability of partners of firm to pay tax	
	a)	Each of the partners are jointly or severally liable for tax dues of firm
	b)	where any partner retires from the firm, he or the firm, shall intimate the date of retirement to the commissioner, the retiring partner is liable for the tax dues of firm up to the date of retirement.
	c)	if no such intimation is given within one month from the date of retirement, the liability of such partner will continue till the date of receipt of notice by Commissioner
Sec 91	Liability of guardians, trustees, etc.	
	Guardian, trustee or agent of a minor or other incapacitated person are liable for the tax dues in respect of business carried by them on behalf and for the benefit of minor, incapable person	
Sec 92	Liability of Court of Wards, etc.,	
	Court of Wards, the Administrator General, the Official Trustee or any receiver or manager are liable for the tax dues of business of the estate or any portion of the estate of a taxable person owning is under their control	
Sec 93	Special provisions regarding liability to pay tax, interest or penalty in certain cases	
	a)	Legal representative or other person, shall be continue to liable for the tax dues of business carried by them of a deceased person
	b)	Legal representative shall be liable for tax dues to the extent of estate inherited, in case of discontinued business carried on by him before or after the death of taxable person. The liable will be continued even the tax liabilities determined after death of a taxable person.
	Subject to the provisions of Insolvency and Bankruptcy Code, 2016	
	c)	In case of partition of HUF AOP, Members of HUF and AOP Members jointly and severally liable for the tax dues up to the date of partition
	d)	When firm is dissolved, then, every person who was a partner shall, jointly and severally, be liable to pay tax dues of firm determined before or after the date of dissolution remained unpaid by firm.
	e)	the guardian of a ward on whose behalf the business is carried on by the guardian, a trustee who carries on the business under a trust for a beneficiary, if the guardianship, trusteeship is terminated ward or beneficiary shall be liable for tax dues determined before or after termination.
Sec 94	Liability in other cases (discontinued business or change in constitution)	
	a)	Where a HUF, Firm, AOP discontinued its business, the tax dues are determined as if discontinuation not takes place. Every person who is a partner, member at the time of discontinuation is jointly and severally liable.
	b)	Where a change has occurred in the constitution of a firm or an AOP, partners, members as existed before and exists after change are jointly and severally liable for tax dues'. LLP will be considered as a firm

APPLICATION OF PROVISIONS OF CENTRAL GOODS AND SERVICES TAX ACT [SECTION 20 OF THE IGST ACT]

The following provisions of CGST Act apply to IGST Act also-

- (i) scope of supply;
- (ii) composite supply and mixed supply;
- (iii) time and value of supply;
- (iv) input tax credit;
- (v) registration;
- (vi) tax invoice, credit and debit notes;
- (vii) accounts and records;
- (viii) returns, other than late fee;
- (ix) payment of tax;
- (x) tax deduction at source [TDS rate under IGST – 2%];
- (xi) collection of tax at source [TCS rate under IGST – not exceeding 2%];
- (xii) assessment;
- (xiii) refunds;
- (xiv) audit;
- (xv) inspection, search, seizure and arrest;
- (xvi) demands and recovery;
- (xvii) liability to pay in certain cases;
- (xviii) advance ruling;

- (xix) appeals and revision;
- (xx) presumption as to documents;
- (xxi) offences and penalties;
- (xxii) job work;
- (xxiii) electronic commerce;
- (xxiv) transitional provisions; and
- (xxv) miscellaneous provisions including the provisions relating to the imposition of interest and penalty

Where the penalty is leviable under the CGST Act and the SGST/UTGST Act, the penalty leviable under the IGST Act shall be the sum total of the said penalties

Anti-profiteering Sec 171

As per section 171(1): Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient /Consumer by way of commensurate reduction in prices.

Example on reduction in rate

Particulars	Service tax regime	GST regime
Taxable value	100	100
ST rate 15%	15	
GST rate 5%		5%
Total Invoice value	115	105
The Benefit of Rs.10 (115-105) should be passed on to recipient by way of reduction in price		

Example on benefit of ITC

Particulars	Service tax regime	GST regime
Output tax liability	25	25

Less ITC ST/GST paid	12	12
Less ITC on VAT paid	NIL	5
Net output tax liability	13	8
The Benefit of Rs.5 (13-8) should be passed on to recipient by way of reduction in price		

National Anti-Profiteering Authority [Section 171(2)]

National Anti-Profiteering Authority is being constituted by the Central Government to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods and/or services supplied by him

Anti-profiteering of CGST Rules, 2017 prescribe the provisions relating to constitution of such authority, duties of the authority, orders of the authority etc.

The National Anti-Profiteering Authority shall be a five-member committee consisting of a Chairman who holds or has held a post equivalent in rank to a Secretary to the Government of India; and four Technical Members who are or have been Commissioners of State tax or central tax for at least one year or have held an equivalent post under earlier laws.

Authority ceases to exist after the expiry of **4 years** from the date on which the Chairman enters upon his office unless the GST Council recommends otherwise

Duties & Powers of National Anti-Profiteering Authority -Section 171(3):

It shall be the duty of the authority-

- ❖ to determine whether the reduction in tax rate or the benefit of input tax credit has been passed on by the seller to the buyer (hereinafter collectively referred to as 'benefit') by reducing the prices
- ❖ to identify the taxpayer who has not passed on the benefit
- ❖ to order for reduction in prices/ return to the recipient, an amount equivalent to the amount not passed along with interest @18%
- ❖ imposition of penalty/cancellation of registration
- ❖ to furnish a performance report to the GST Council by the 10th of the month succeeding each quarter

Process followed by the Authority

Application to the Authority:

All applications from interested parties on issues of local nature shall first be examined by the State Level Screening Committee. On being satisfied that the

supplier has not passed on the benefit, the Screening Committee will forward the application **within 2 months and further extension 1 month** with its recommendations to the Standing Committee on Anti- profiteering.

If the Standing Committee is satisfied that there is a prima facie evidence to show that the supplier has not passed on the benefit, it shall refer the matter to the Director General of Anti-profiteering within **2 months and further extension 1 month** for a detailed investigation.

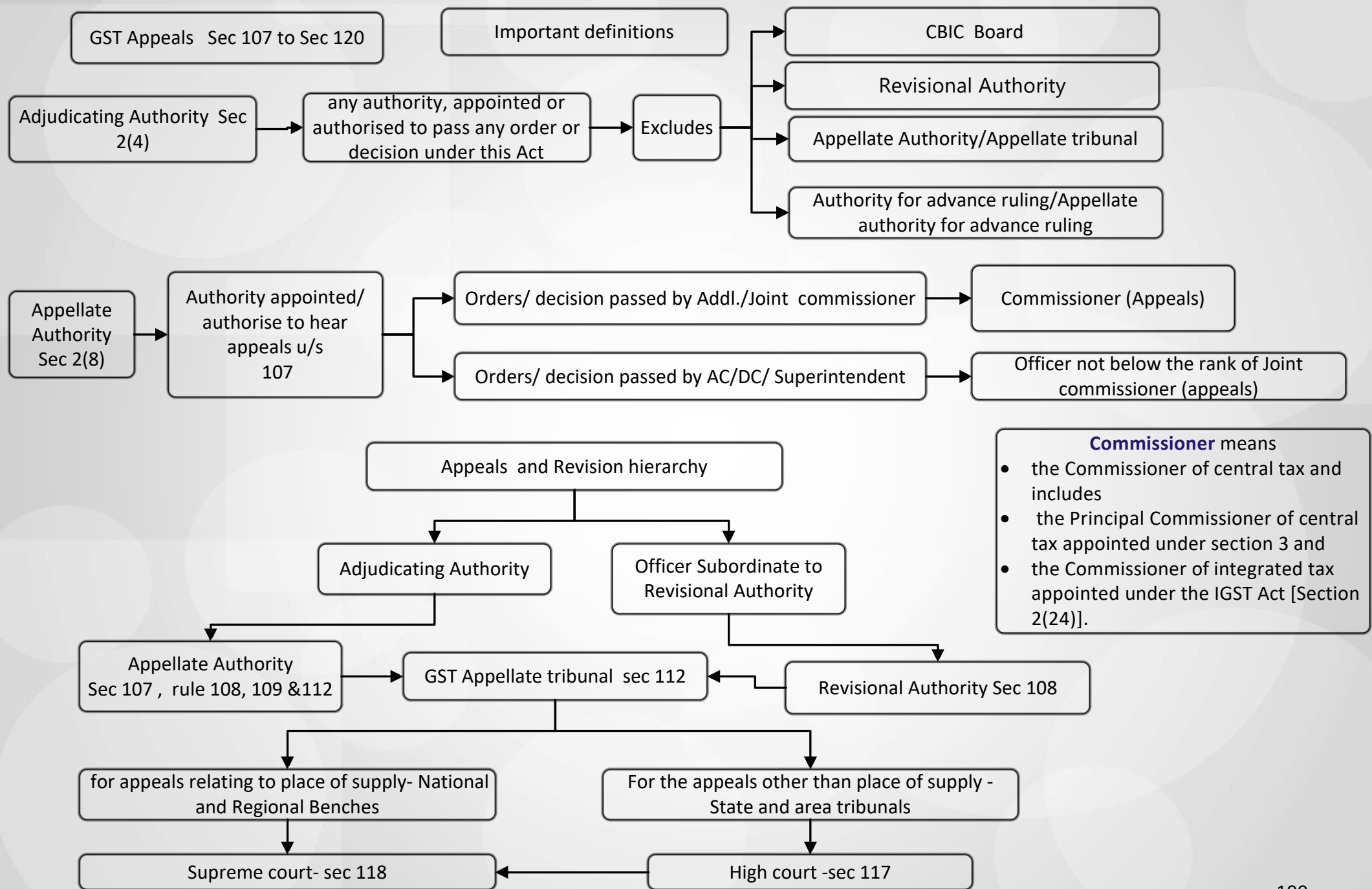
Investigation:

- Directorate General of Anti-profiteering shall conduct investigation and collect evidence necessary to determine undue profiteering and before initiation of the investigation, issue a notice to the interested parties (and to such other persons as deemed fit for a fair enquiry into the matter).
- The evidence or information presented to Directorate General of Anti- profiteering by one interested party can be made available to the other interested parties, participating in the proceedings.
- The evidence provided will be kept confidential and the provisions of section 11 of the Right to Information Act, 2005, shall apply mutatis mutandis to the disclosure of any information which is provided on a confidential basis.
- Director general of Anti profiteering or an officer authorized by him will have the power to summon any person either to give evidence or to produce a document or any other thing.
- He will also have same powers as that of a civil court and every such inquiry will be deemed to be a judicial proceeding.
- Directorate General of Anti-profiteering will complete the investigation within **a period of 6 months or within such extended period not exceeding a further period of 3 months** for reasons to be recorded in writing as allowed by the Standing Committee.
- Upon completion of the investigation, Directorate General of Anti-profiteering will furnish to the Authority, a report of its findings along with the relevant records.

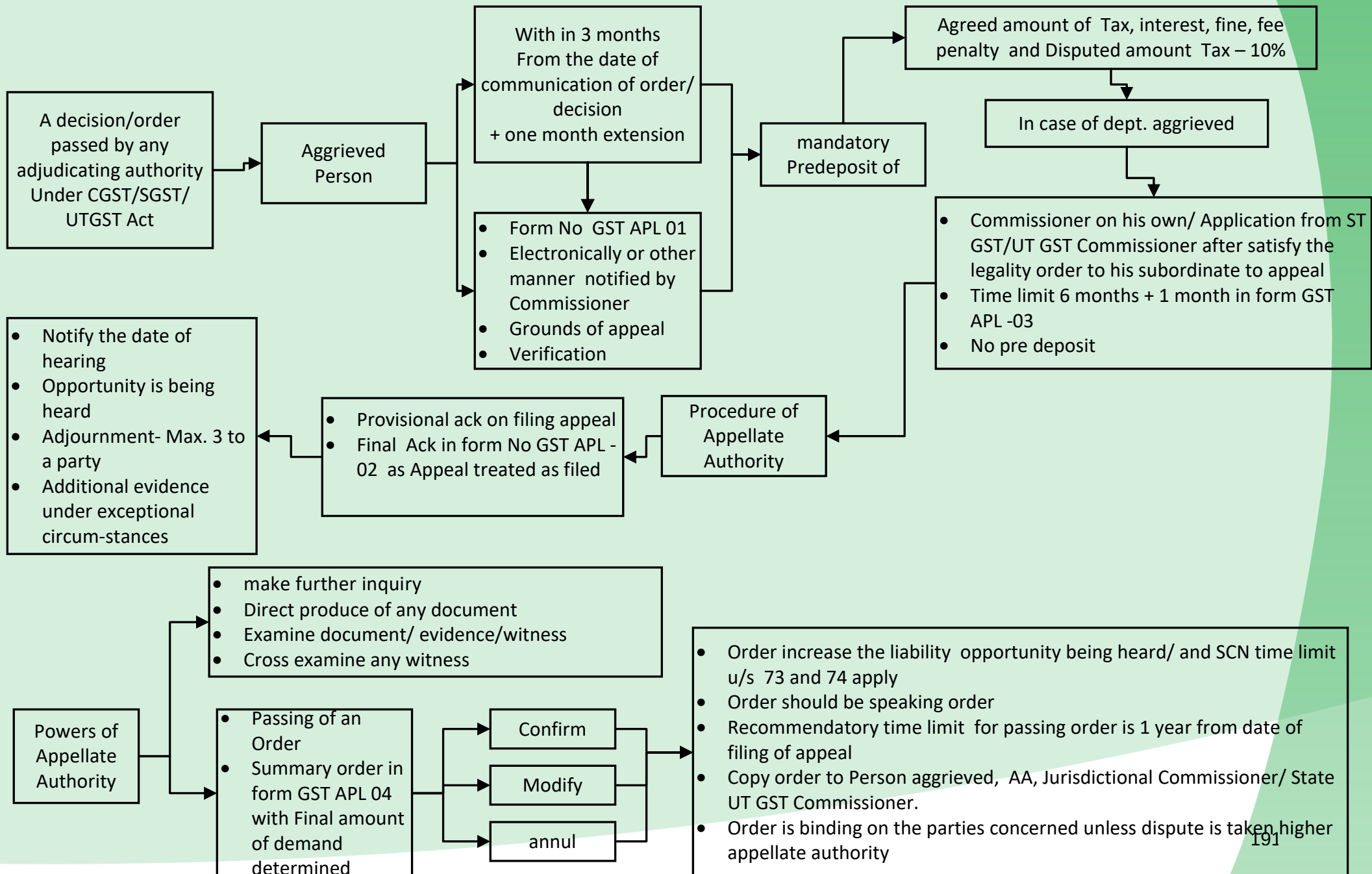
Order of the Authority

Where the Authority determines that a registered person has not passed on the benefit of the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices, the Authority may order-

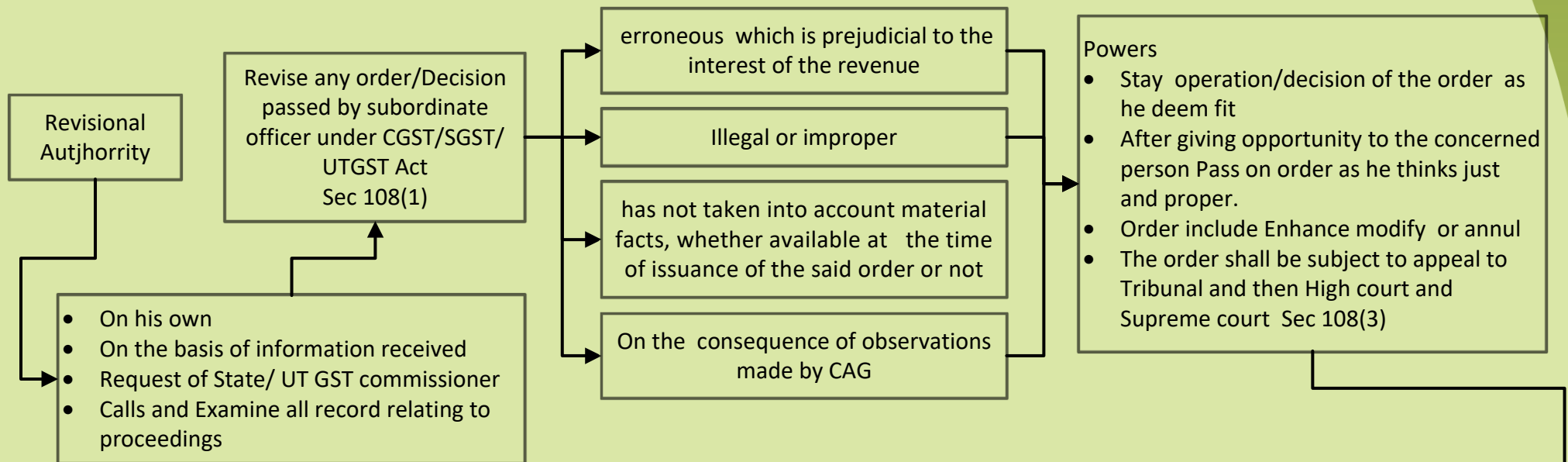
- (a) reduction in prices;
 - (b) the Authority order to deposit an amount equivalent to 50% of the amount not passed on by way of commensurate reduction in prices, in the Consumer Welfare Fund of the Centre and remaining 50% in the Consumer Welfare Fund of the concerned State* where the eligible person does not claim return of the amount or is not identifiable.
 - (c) imposition of penalty as specified under the Act; and
 - (d) cancellation of registration under the Act.
- (e) Authority can seek a clarification from DGAP on the Investigation report submitted by it during the process of determining as to whether the benefit of reduction in rate of tax or benefit of ITC has been passed on to the recipient by way of commensurate reduction in prices.**



Appeals to Appellate authority sec 107

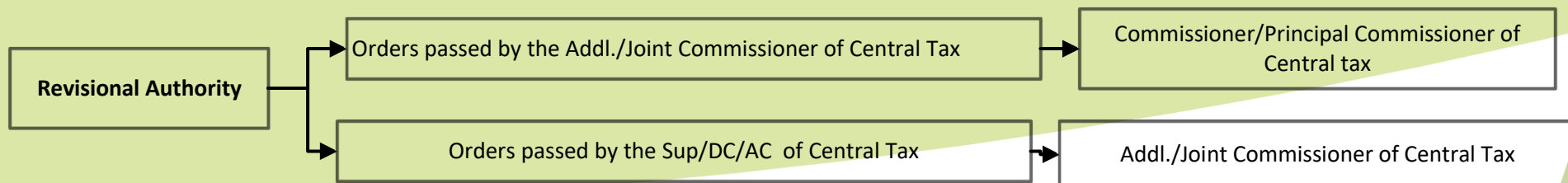


Revision of Orders by Revisional Authority Sec 108

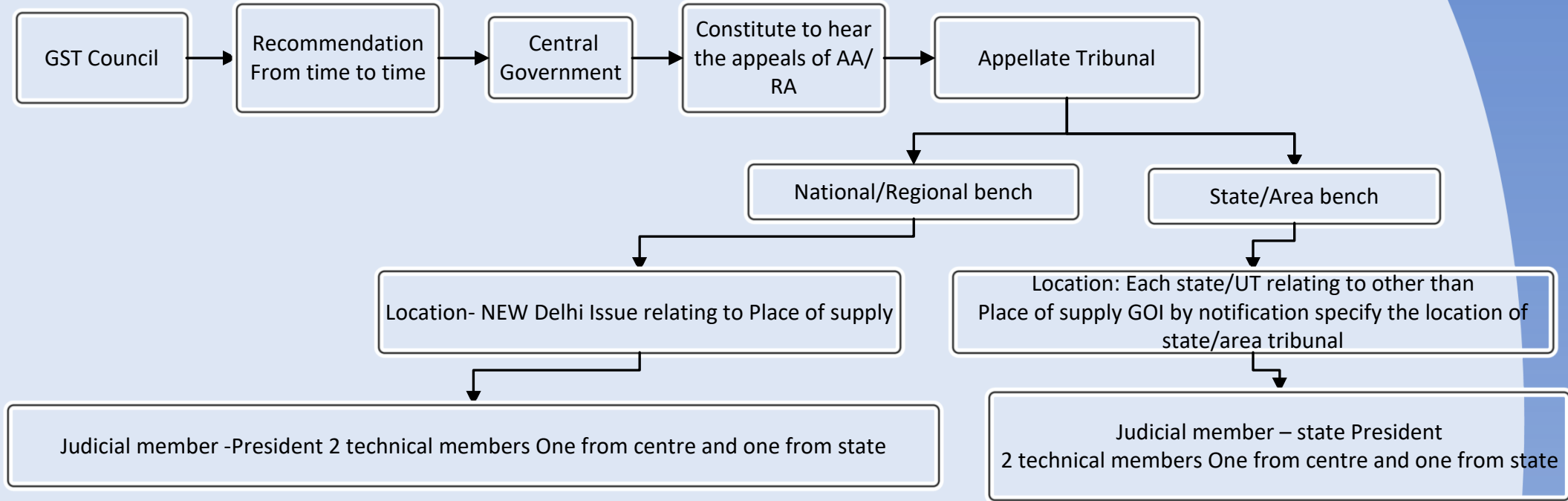


Order cannot be revised Sec 108(2)

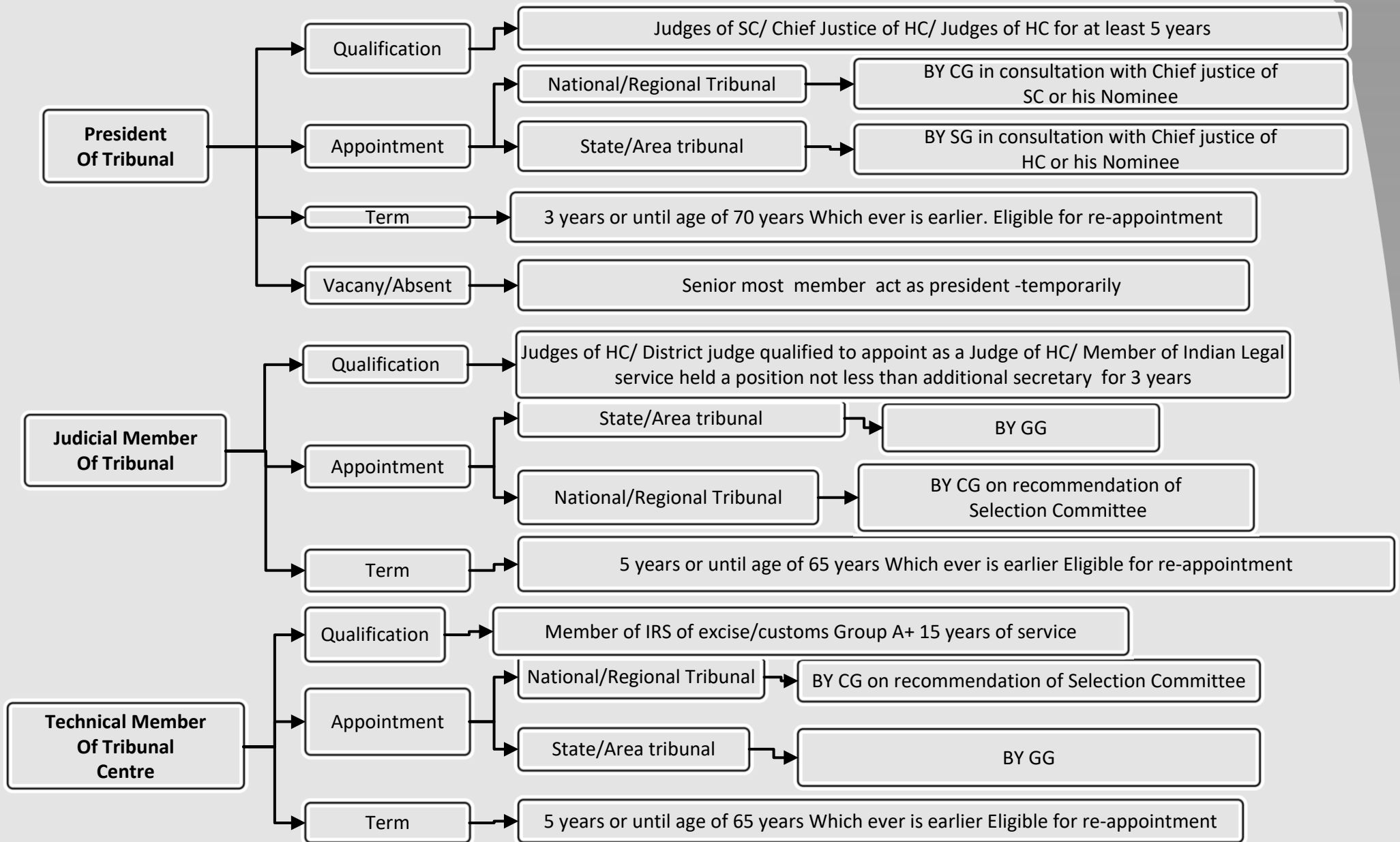
- Time limit 6 months not elapsed and 3 years elapsed from the date original order.
- Exclusion of period of limitation: Where the order has to pass to give effect of the order of tribunal/HC/SC the period spent between the date of decision of Tribunal and High court/ High court and supreme court
- The order has been subject matter of appeal.
- The RA may pass an order on any point which has not been raised and decided in an appeal before AA/Tribunal/High Court/Supreme Court, before the expiry of a period of 1 year from the date of the order in such appeal or before the expiry of a period of 3 years from the date of initial order, whichever is later Sec 108(4)
- the order has already been taken for revision at an earlier stage
- the order sought to be revised is a revisional order in the first place

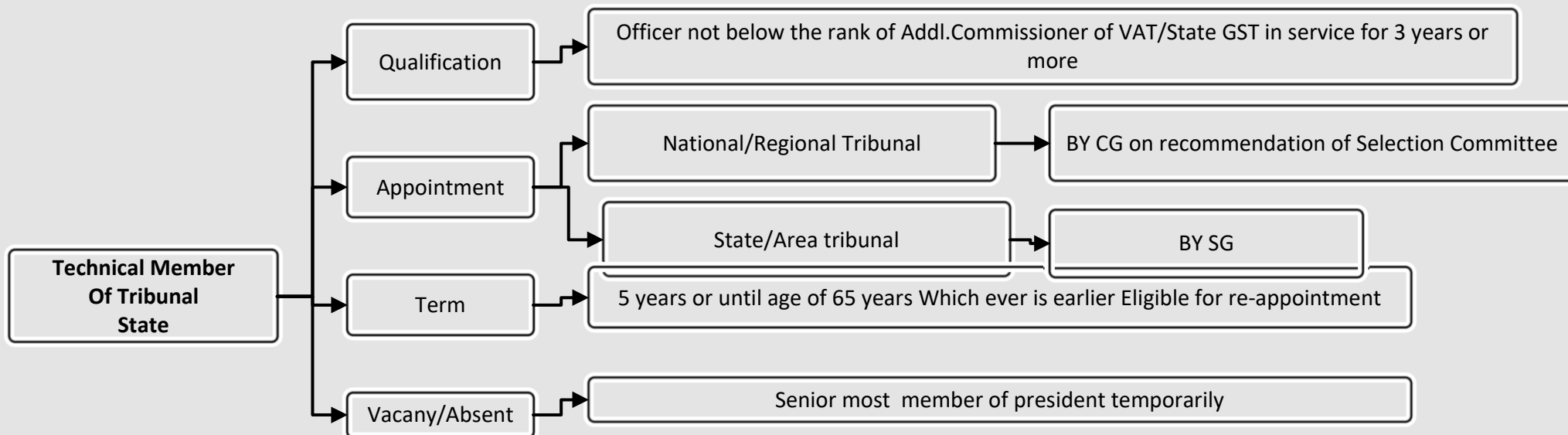


Constitution of Appellate Tribunal and benches Sec 109

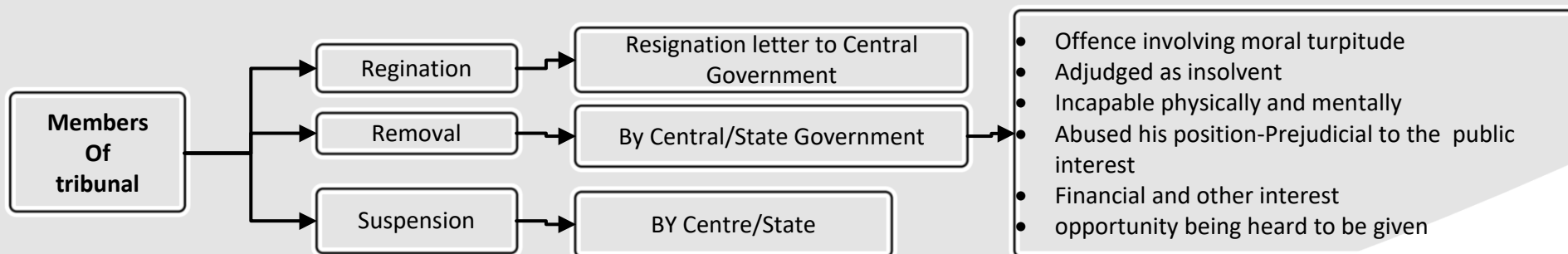


Appointment and qualification of President and Members Sec 110

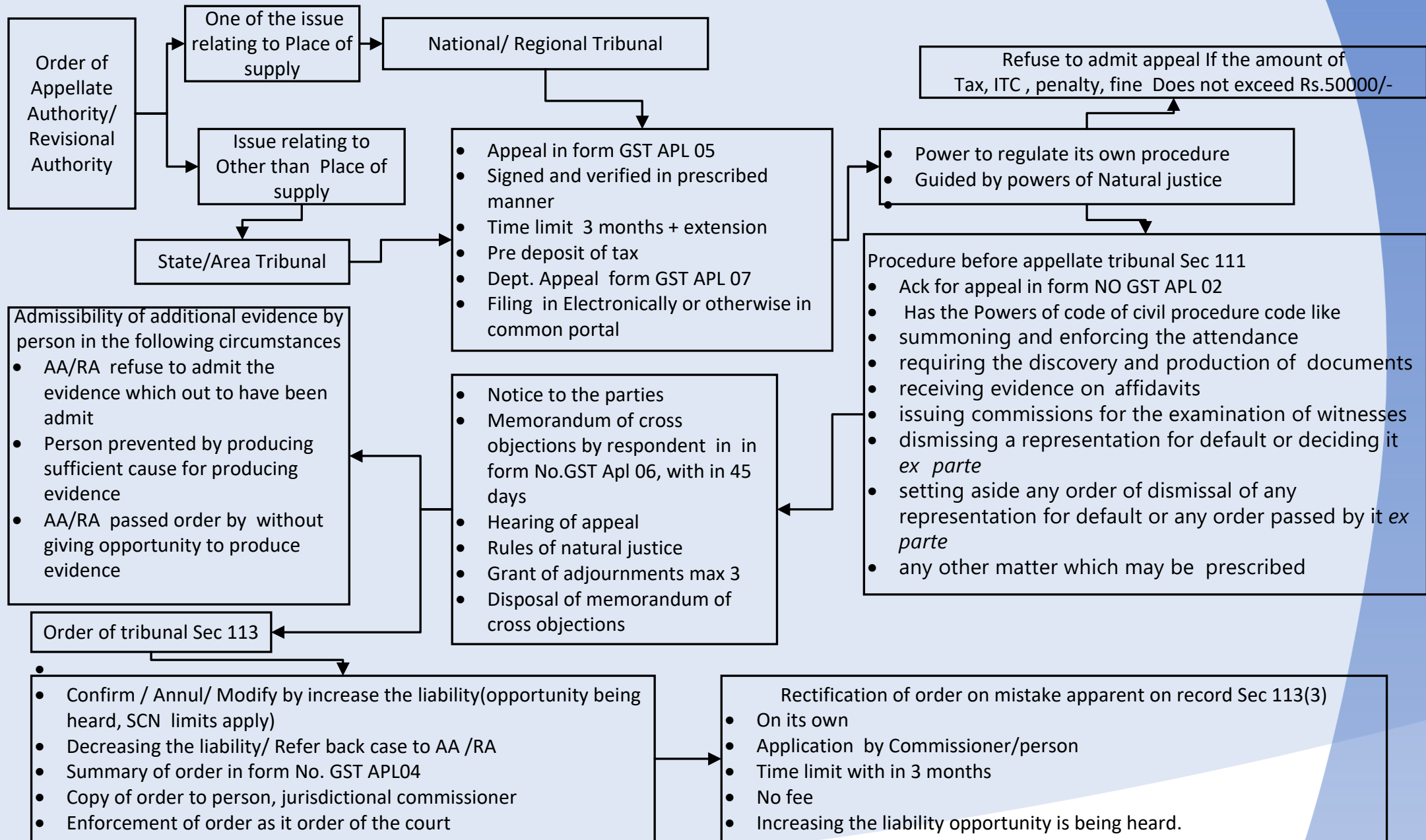




President/members of Tribunal are not eligible to appoint if they had financial and other interests



Appeals to GST Tribunal sec 111 to 113



Mandatory Pre-deposit of tax in appeal Sec 107(6) and Sec 112(8)				
SN (1)	Particulars (2)	Agreed amount/undisputed tax (3)	Disputed/ tax subject matter of appeal (4)	Total amount to deposit
1	First appeal before Appellate authority	Full 100% of amount tax + Interest+ penalty+ fee	10% of the disputed tax subject to maximum Rs. 25 Crore	(3) + (4)
2	Second Appeal before Appellate Tribunal	Full 100% of amount tax + Interest+ penalty+ fee	20% of the remaining amount of tax in dispute, in addition to the amount paid in first appeal subject to maximum Rs. 50 crores	(3) + (4)

Note: Pre-deposit can be made through CGST Credit -*Dell International Services v. CCT (2019) 365 ELT 813 (CESTAT)*.

Once the appellant has paid the pre-deposit amount as per sec 112(8) the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal -section 112(9) of CGST Act.

Example:

XYZ Ltd. received a demand notice from the Assistant Commissioner of Central Tax on 1.9.2018 under Section 73 of the CGST Act, 2017 as below

CGST and SGST Due	Rs. 10,00,000
Interest	@ 18% p.a. for number of days till the date of payment
Penalty	10% of tax or Rs. 10,000/- whichever is higher

The assessee went for appeal and filed the case in the Appellate Authority on 20.9.2018. This appeal has been taken up for hearing on 03-10-2018.

Case 1: How much has to pay as pre-deposit of duty under section 107(6) of the CGST Act, 2017 by XYZ Ltd. to entertain appeal by the Appellate Authority (i.e. Commissioner (Appeals)).

Case 2: Whether your answer is different if the assessee appeals only part of the amount say ` 6,00,000 is in dispute arising from the said order.

Answer:

Case 1	10% of disputed tax Rs. 10 lakhs Rs. 1 lakh
Case 2	(Full amount of agreed tax Rs. 4 lakhs+ applicable interest + Penalty Rs.10,000/-) + (10% of disputed tax Rs.6 lakhs = Rs. 60,000)

Considered the above example, where Appellate Authority passed the order against the assessee, if so how much has to pay as pre-deposit of duty under section 112(8) of the CGST Act, 2017 to entertain appeal by Appellate Tribunal (GSTAT).

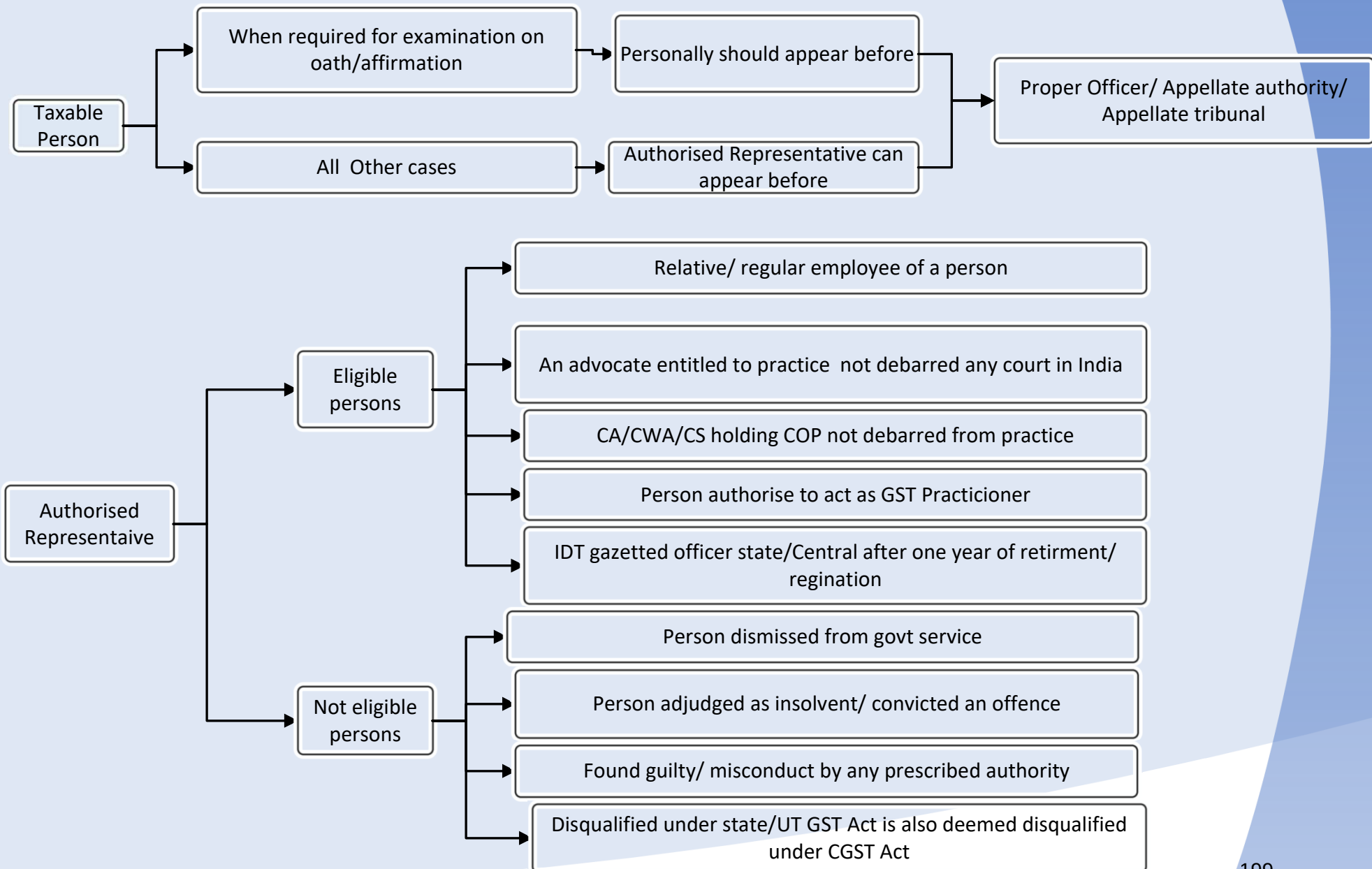
Answer:

Case 1	20% of disputed tax Rs. 10 lakhs = Rs. 2 lakhs in addition to Pre-deposit tax Rs. 1 lakh paid in the appeal of appellate authority
Case 2	20% of disputed tax Rs.6 lakhs = Rs. 1,20,000 in addition to predeposit of 10% of disputed tax paid Rs. 60,000 in the appeal of appellate authority Note: Full amount of agreed tax Rs. 4 lakhs+ applicable interest + Penalty Rs.10000 already paid in appeal of appellate authority

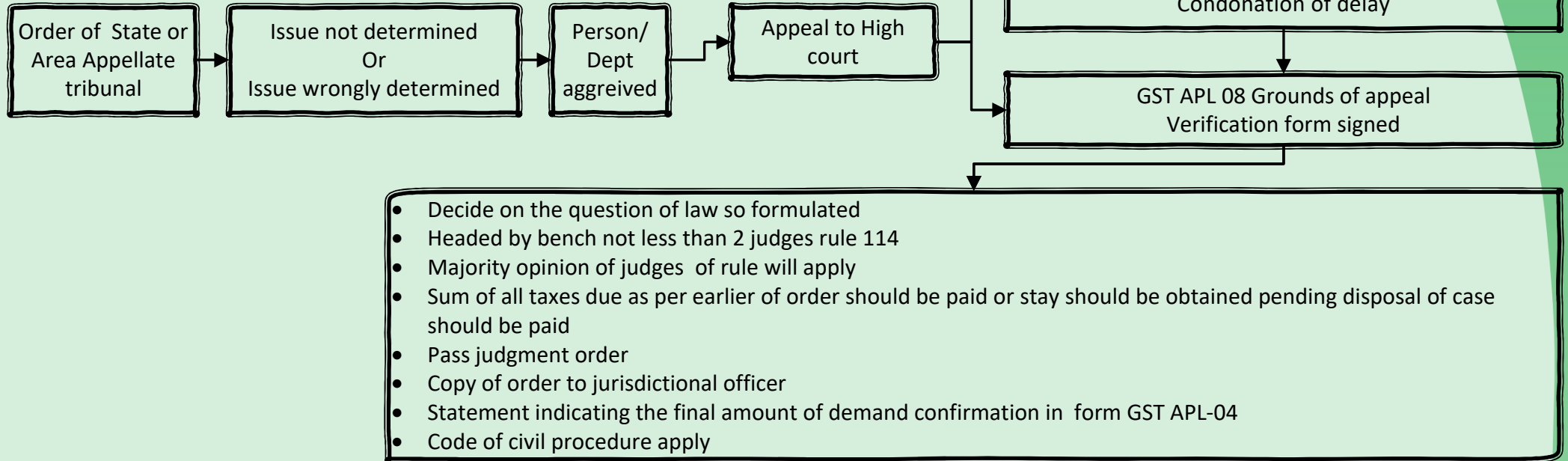
Refund of Pre- deposit: sec 115

If the pre-deposit made by the appellant before the AA or the Tribunal is required to be refunded consequent to any order of the AA or of the Tribunal, the amount of pre-deposit will be refunded along with interest @6% p.a, from the date of payment of deposit till the date of refund of amount.

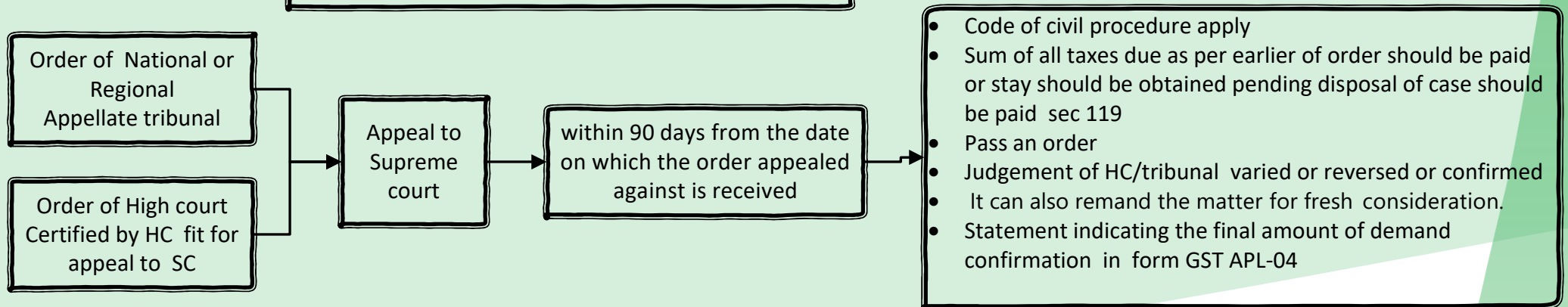
Sec116- Authorised Representative



Appeals to High court sec 117



Appeals to Supreme court sec 118, sec 119



APPEAL NOT TO BE FILED IN CERTAIN CASES [SECTION 120]

- ❖ The Board (CBIC) may, on the recommendation of the GST Council, from time to time, issue orders or instructions or directions fixing such monetary limits, as it may deem fit, for the purposes of regulating the filing of appeal or application by the tax officer under the provisions of this Chapter
- ❖ It shall not preclude such GST officer from filing appeal or application in any other case involving the same or similar issues or questions of law.
- ❖ No person, being a party in appeal or application shall contend that the GST officer has acquiesced in the decision on the disputed issue by not filing an appeal or application.
- ❖ Thus, non-filing of appeal by department cannot be used as precedent.
- ❖ The Appellate Tribunal or court hearing such appeal or application shall have regard to the circumstances under which appeal or application was not filed by the GST Officer in pursuance of the orders or instructions or directions - section 120(4) of CGST Act.

NON-APPEALABLE DECISIONS AND ORDERS [SECTION 121]

Section 121 lays down that no appeals whatsoever can be filed against the following orders: -

An order

- ❖ of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer;
- ❖ pertaining to the seizure or retention of books of account, register and other documents; or
- ❖ sanctioning prosecution under the Act
- ❖ passed under section 80 (payment of tax in instalments).

Appeal Provisions snap shot

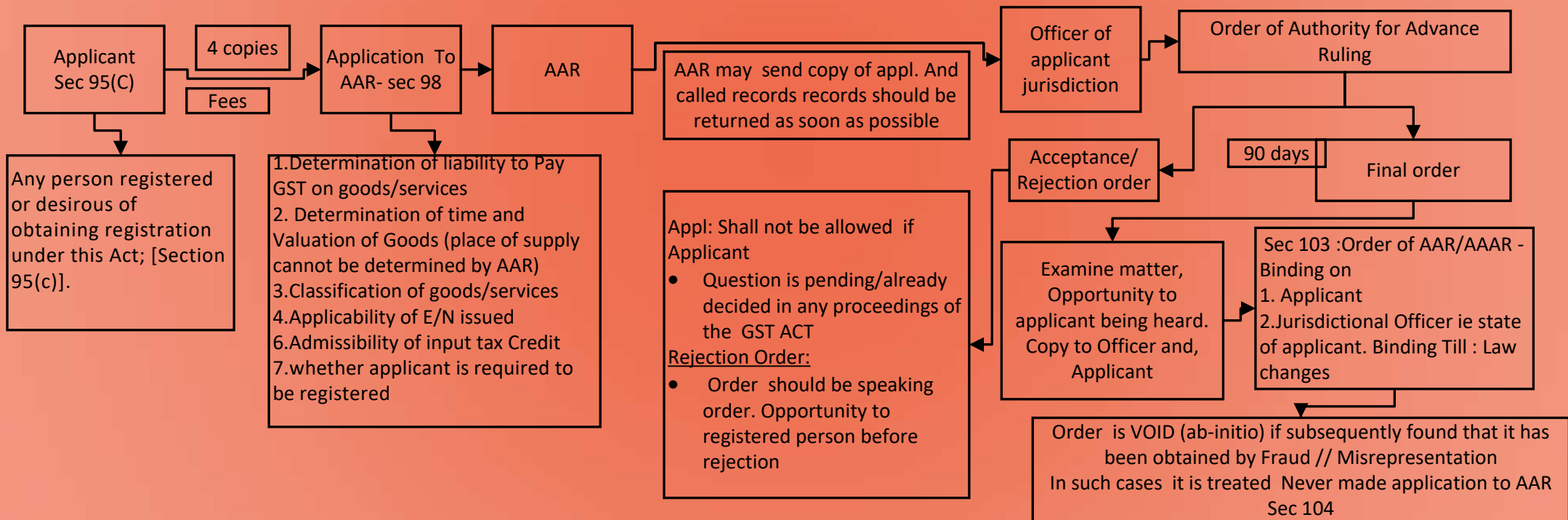
Description	Appellate Authority	Revisional Authority	Appellate Tribunal
Appeal against order of	Adjudicating Authority - section 107(1)	Suo motu action by Authority under section 108 - (taxable person himself cannot apply for revision)	Appellate Authority or Revisional Authority - section 112(1)
Are fees payable while filing appeal	No	No question arises	Yes - section 112(7)
Can department file appeal	Yes - section 107(2) and 107(3)	No question	Yes - section 112(3) and 112(4)
Time limit for filing appeal	Three months from date of communication of order - section 107(1) - can be extended by one month - section 107(4)	Revisional Authority can initiate action after three months but within three years from date of order, if no appeal was filed before Appellate Authority	Three months from date of communication of order - section 112(1) - can be extended by further three months - section 112(6)
If issue relates to place of supply	Can be filed	Can be taken up	National/Regional bench of Appellate Tribunal
If issue <i>does not</i> relate to place of supply	Can be filed	Can be taken up	State/Area bench of Appellate Tribunal
Pre-deposit of tax	10% of tax in dispute and 100% of tax, interest, penalty or fine that is not in dispute - section 107(6)	No question of pre-deposit	20% of tax in dispute and 100% of tax, interest, penalty or fine that is not in dispute - section 112(6) [20% of tax in dispute payable in addition to 10% paid earlier]

Is interest payable to taxable person if pre-deposit refunded if he wins appeal?	Yes - section 115	Question does not arise	Yes - section 115
Can person appear through Authorised Representative	Yes - section 116(1)	Yes - section 116(1)	Yes - section 116(1)
Can matter be remanded to lower authority	No - section 107(11)	Question does not arise	Yes - section 113(1)
Can authority rectify mistake in order apparent from record	Yes - within six months - section 161	Yes - within six months - section 161	Yes - within three months - section 113(3)
Appeal before High Court	No - as appeal to be filed before Appellate Tribunal	No - as appeal to be filed before Appellate Tribunal	Against the order of State/Area bench of Appellate Tribunal only on substantial question of law - section 117(1)
Further Appeal before Supreme Court	No - as appeal to be filed before Appellate Tribunal	No - as appeal to be filed before Appellate Tribunal	(a) against the order of National/Regional bench of Appellate Tribunal <i>or</i> (b) if High Court certifies it as fit case to further appeal - section 118(1)

Authority for Advance Ruling (AAR) and Appellate Authority for Advance Ruling (AAAR)

- Advance Ruling: Sec 95 (a): means a decision provided by the Authority or the Appellate Authority in relation to the supply of goods/ services being undertaken or proposed to be undertaken by the applicant;
- The Government shall appoint officers not below the rank of Joint Commissioner as member of the Authority for Advance Ruling.
- Authority for Advance Ruling (AAR) & the Appellate Authority for Advance Ruling (AAAR) is constituted under the respective State/Union Territory Act and not the Central Act
- Authority for Advance ruling /Appellate Authority for Advance ruling constituted under state/UT is deemed to be AAR/AA for AR under CGST Act
- The ruling given by the AAR & AAAR will be applicable only within the jurisdiction of the concerned state or union territory. It is also for this reason that questions on determination of place of supply cannot be raised with the AAR or AAAR.

PROCEDURE FOR OBTAINING ADVANCE RULING [SECTION 98]



Amendment of order by RECTIFICATION OF MISTAKES [SECTION 102]

- AAR and AAAR to amend their order within a period of 6 months from the date of the order.
- The mistake may be noticed on its own or may be brought to its notice by the applicant or the concerned or the jurisdictional officer.
- If a rectification has the effect of enhancing the tax liability or reducing the quantum of input tax credit, the applicant must be heard before the order is passed

APPELLATE AUTHORITY FOR ADVANCE RULING (AAAR) sec 99

- ❖ Appellate Authority for Advance Ruling (AAAR) is constituted under the respective State/Union Territory Act and not the Central Act
- ❖ If there is a difference of opinion between the two members of AAR, they shall refer the point or points on which they differ to the AAAR for hearing the issue
- ❖ If the members of AA for AR are also unable to come to a common conclusion in regard to the point(s) referred to them by AAR, then it shall be deemed that no advance ruling can be given in respect of the question

APPEALS AGAINST ORDER OF AAR TO THE APPELLATE AUTHORITY [SECTION 100 AND 101]

- ❖ If the applicant is aggrieved with the finding of the AAR, he can file an appeal with AAAR. Similarly, if the concerned or jurisdictional officer of CGST/SGST does not agree with the finding of AAR, he can also file an appeal with AAAR.
- ❖ In normal circumstances, the concerned officer will be the officer in whose jurisdiction the applicant is located. Thus, it can be seen that a decision of the Appellate authority is also treated as an advance ruling.
- ❖ Any appeal must be filed within 30 days from the receipt of the advance ruling. The Appellate Authority may allow for an additional 30 days for filing an appeal, if it is satisfied that there was a sufficient cause for delay in presenting the appeal.
- ❖ The appeal has to be in the prescribed form and has to be verified in the prescribed manner. An appeal has to be filed by the applicant along with fee of Rs. 10,000/-. However, if the concerned officer or jurisdictional officer is aggrieved by the decision of AAR, then no fee is required to be paid. “
- ❖ The Appellate Authority must pass an order after hearing the parties to the appeal within a period of 90 days of the filing of an appeal.
- ❖ If members of AAAR differ on any point referred to in appeal, it shall be deemed that no advance ruling is issued in respect of the question under appeal.
- ❖ The said authority can either confirm or modify the ruling appealed against.
- ❖ A copy of the advance ruling pronounced by the Appellate Authority should be signed by the members, certified in the prescribed manner, and communicated to the applicant, the concerned officer, the jurisdictional officers and to the Authority.

Section 105 and 106: Powers and Procedure of Authority of Advance Ruling and Appellate Authority for Advance Ruling

The Authority or the Appellate Authority shall, for the purpose of exercising its powers regarding—

- ❖ discovery and inspection;
- ❖ enforcing the attendance of any person and examining him on oath;
- ❖ issuing commissions and compelling production of books of account and other records,
- ❖ have all the powers of a civil court under the Code of Civil Procedure, 1908.

The Authority or the Appellate Authority shall be deemed to be a civil court for the purposes of and every proceeding before the Authority or the Appellate Authority shall be deemed to be a judicial proceeding

The Authority or the Appellate Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure

PENALTIES UNDER GST

Sec 122(1) Offences with Penalty Rs. 10,000/- or Tax amount/Refund amount/Input tax credit whichever is higher

1. Supply of any goods/services without issue of any invoice / issue of an incorrect or false invoice
2. Issue of any invoice or bill without supply of goods / services in violation of the provisions of this Act or the rules made thereunder;
3. Collects any amount as tax/ Collects any tax in contravention of the provisions of this Act but fails to pay the same to the Government beyond a period of three months
4. (Fails to deduct/collect the tax as per provisions of Act or less deduction/collection of tax/ fails to pay such tax
5. Takes or utilizes input tax credit without actual receipt of goods / services either fully or partially, in contravention of the provisions of this Act or as per rules
6. Fraudulently obtains refund of tax under this Act;
7. Takes or distributes input tax credit in contravention of section 20, or as per rules
8. Falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information or return with an intention to evade payment of tax due under this Act;
9. Is liable to be registered under this Act but fails to obtain registration;
10. Furnishes any false information with regard to registration particulars, either at the time of applying for registration, or subsequently;
11. Obstructs or prevents any officer in discharge of his duties under this Act;
12. Transports any taxable goods without the cover of documents as may be specified in this behalf;
13. Suppresses his turnover leading to evasion of tax under this Act;
14. Fails to keep, maintain or retain books of account and other documents as per the Act/Rules
15. Fails to furnish information or documents called for by an officer or furnishes false information or documents during any proceedings under this Act;
16. Supplies, transports or stores any goods which he has reasons to believe are liable to confiscation under this Act;
17. Issues any invoice or document by using the registration number of another registered person;
18. Tampers with, or destroys any material evidence or document;
19. Disposes off or tampers with any goods that have been detained, seized, or attached under this Act

Penalty u/s 122(2)

S N	Nature of Violation	Penalty normal cases	Penalty normal cases
1	who supplies any goods or services or both on which any tax has not been paid or short-paid or erroneously refunded	Rs.10,000/-; or 10% of the tax Whichever is higher	Rs.10,000/-; or 100% of the tax Whichever is higher
2	where the input tax credit has been wrongly availed or utilized		

Sec 122(3) Offences with Penalty Rs. 25,000/- on a person

- ❖ Aids or abets (Encourage or help) any of the offences specified in Sec 122(1)
- ❖ acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reasons to believe are liable to confiscation under this Act/rules;
- ❖ Receives any goods/services which he knows or reason to believe in contravention of Act/ rules
- ❖ fails to appear before the officer of central tax, when issued with a summon for appearance to give evidence or produce a document in an inquiry;
- ❖ fails to issue invoice as per provisions/rules or fails to account for an invoice in his books of account,

PENALTY FOR FAILURE TO FURNISH INFORMATION RETURN [SECTION 123]

- ❖ Where a person who is required to furnish information return under section 150, has not furnished the same within the time specified, the Commissioner or an officer authorized by him serve notice and in requiring him to furnish the information return within a period not exceeding 90 days from the date of service of notice.
- ❖ If the said person still fails to furnish the return within the period specified in notice issued, the penalty will be levied Rs. 100 per day or Rs. 5000 Whichever is higher.

FINE FOR FAILURE TO FURNISH STATISTICS [SECTION 124]

- ❖ Commissioner has got power by notification direct that statistic may be collected relating to any matter in connection with the Act. The commissioner or any person authorised by him may call the concerned persons to furnish information or return (sec 151)
- ❖ If any person required to furnish any information or return under section 151, fails to furnish without a reasonable cause/ willfully furnishes false information or return
- ❖ Penalty Rs. 100 per day or Rs. 25,000/ whichever is higher

GENERAL PENALTY [SECTION 125]

Any person, who contravenes any of the provisions of this Act/Rules for which no penalty is separately provided for in this Act, shall be liable to a penalty which may extend to Rs. 25,000/-

GENERAL DISCIPLINES RELATED TO PENALTY [SECTION 126]

- ❖ Penalty shall be imposed on any person only by giving him an opportunity of being heard i.e. Issue of SCN and proper hearing in the matter
- ❖ The officer should specify the nature of the breach and the applicable law, regulation or procedure under which the amount of penalty is levied
- ❖ No penalty shall be imposed by any officer under this Act for –
 - ❖ Minor breaches of tax regulations,
 - ❖ Procedural requirements of the law,
 - ❖ Any omission or mistake in documentation which is easily rectifiable

POWER TO WAIVE PENALTY OR FEE OR BOTH [SECTION 128]

The Government may, by notification, waive in part or full, any penalty referred to in section 122/123 and 125 o or any late fee referred to in section 47 (for delay in filing of return) for such class of taxpayers and under such mitigating circumstances as may be specified therein on the recommendations of the Council.

PUNISHMENTS FOR CERTAIN OFFENCES CRIMINAL PENALTIES) [SECTION 132]

The following are the major offences under the Act which warrant institution of criminal proceedings and prosecution.

According to the provisions of Section 132(1), whoever commits any of the following offences, namely: —

supplies any goods or services or both without issue of any invoice, in violation of the provisions /RULES with the intention to evade tax;

- a) supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;
- b) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act/Rules leading to wrongful availment or utilisation of input tax credit or refund of tax;
- c) avails input tax credit using such invoice or bill referred to in clause (b);
- d) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;
- e) evades tax, fraudulently avails input tax credit or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);
- f) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information with an intention to evade payment of tax due under this Act;
- g) obstructs or prevents any officer in the discharge of his duties under this Act;
- h) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with, any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;
- i) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;
- j) tampers with or destroys any material evidence or documents;
- k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or
- l) attempts to commit, or abets the commission of any of the offences mentioned in clauses (a) to (k) of this section

shall be punishable with the previous sanction of Commissioner, as under

Section	Amount of tax involved	Quantum of Punishment	Cognizable/ Non-cognizable
132(1)(i)	> Rs. 500 lakhs	Up to 5 years with fine	Cognizable (Non bailable) Sec 132(5)
132(1)(ii)	> Rs.200 lakhs ≤ Rs. 500 lakhs	Up to 3 years with fine	Non-cognizable (Bailable) sec 132(4)
132(1)(iii)	> Rs. 100 lakhs ≤ Rs. 200 lakhs	Up to 1 years with fine	Non-cognizable (Bailable)
132(1)(iv)	Offence specified in clauses (f), (g) or (j) of Section 132(1) of the CGST Act, 2017	Up to 6 months or with fine or with both	Non-cognizable (Bailable)

Second and subsequent offence:

Section 132(2) of the CGST Act, 2017 where any person convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to five years and with fine.

Minimum imprisonment is 6 months:

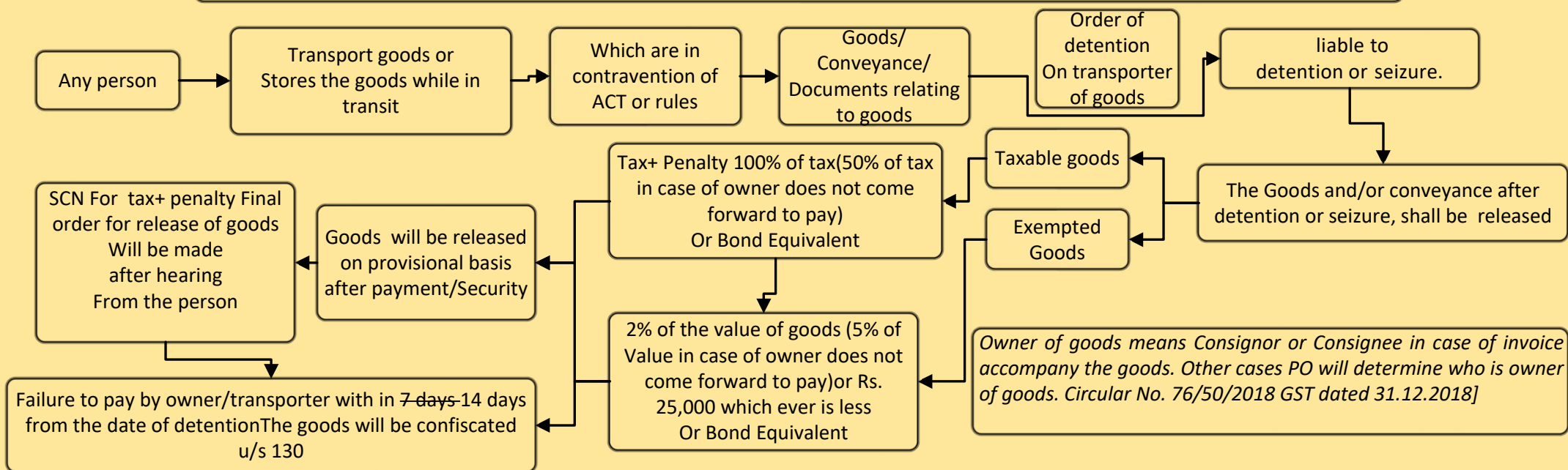
Section 132(3) of the CGST Act, 2017 the imprisonment referred to in clauses (i), (ii) and (iii) of sub-section (1) and sub-section (2) shall, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court, be for a term not less than six months.

Meaning of 'Tax' for the purpose of Section 132

The term "tax" shall include the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or refund wrongly taken under the provisions of this Act, the SGST Act, IGST Act or the UTGST Act and cess levied under the Goods and Services Tax (Compensation to States) Act. [Explanation to Section 132 of CGST Act]

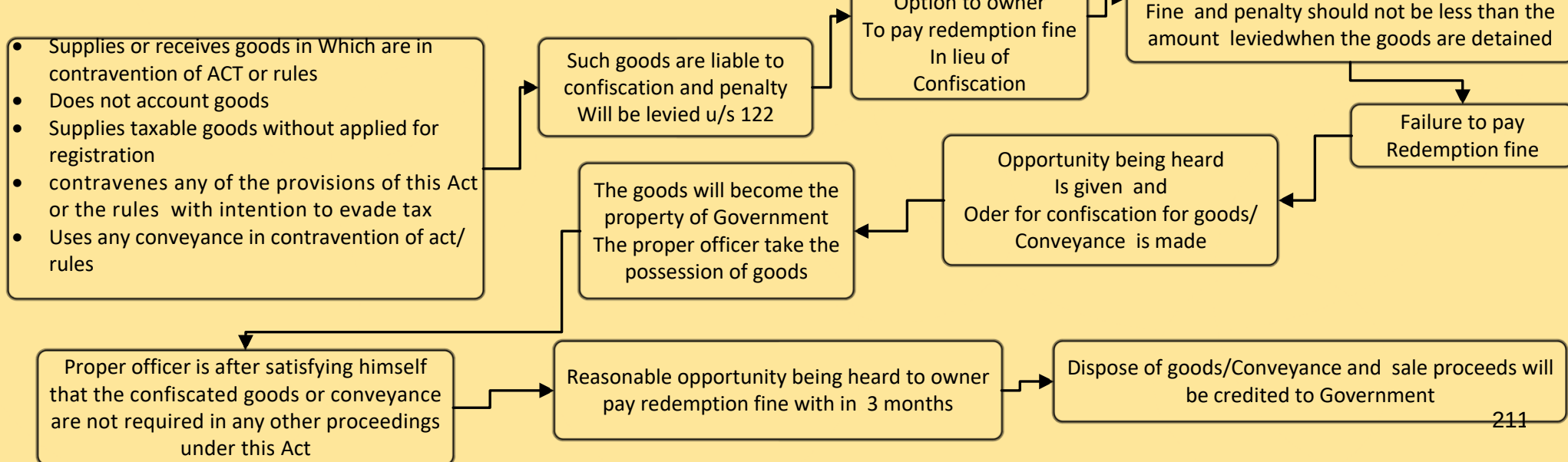
DETENTION, SEIZURE AND RELEASE OF GOODS AND CONVEYANCES IN TRANSIT [SECTION 129]

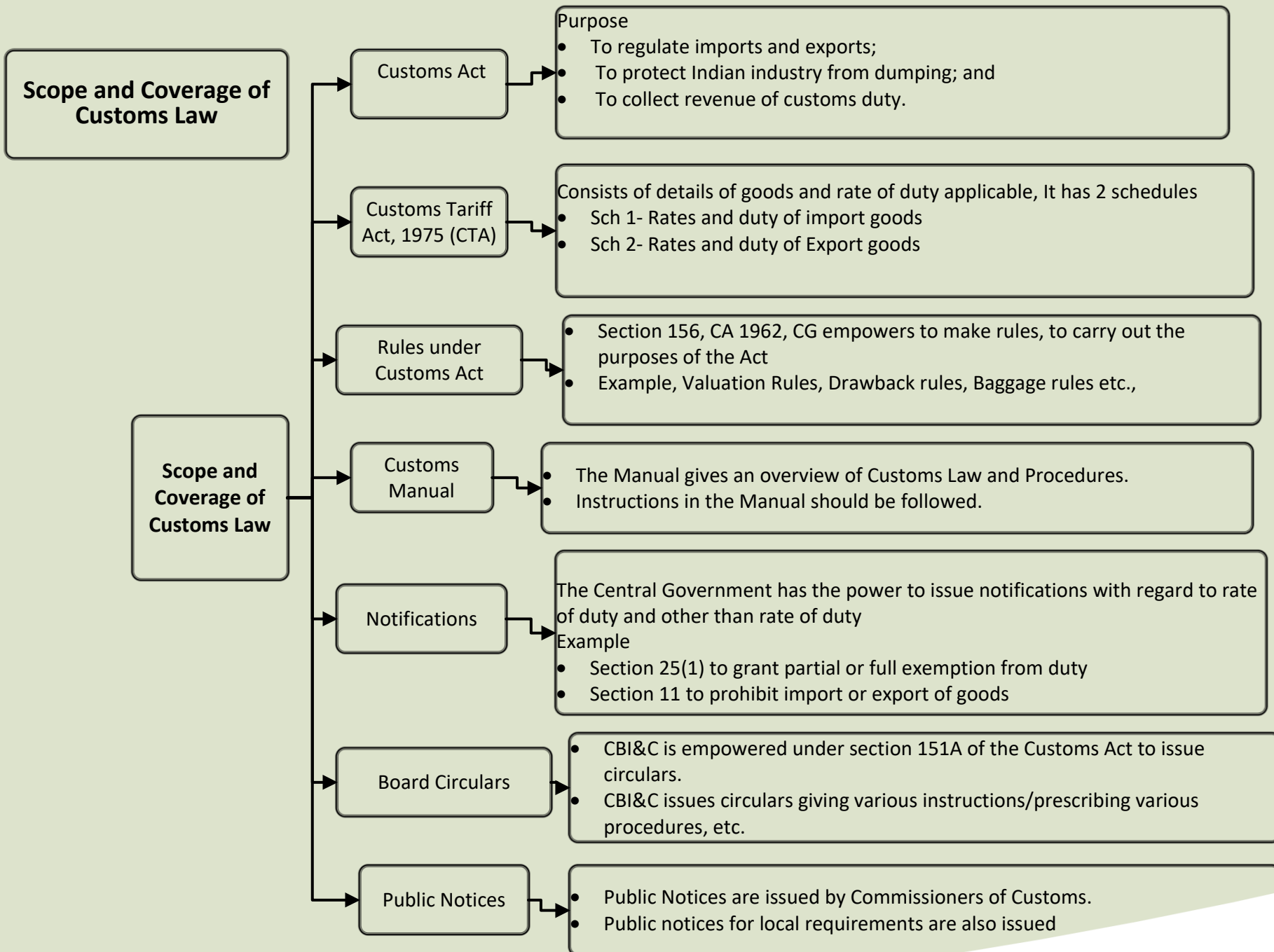
Over riding provision of all other sections



CONFISCATION OF GOODS OR CONVEYANCES AND LEVY OF PENALTY [SECTION 130]

Over riding provision of all other sections

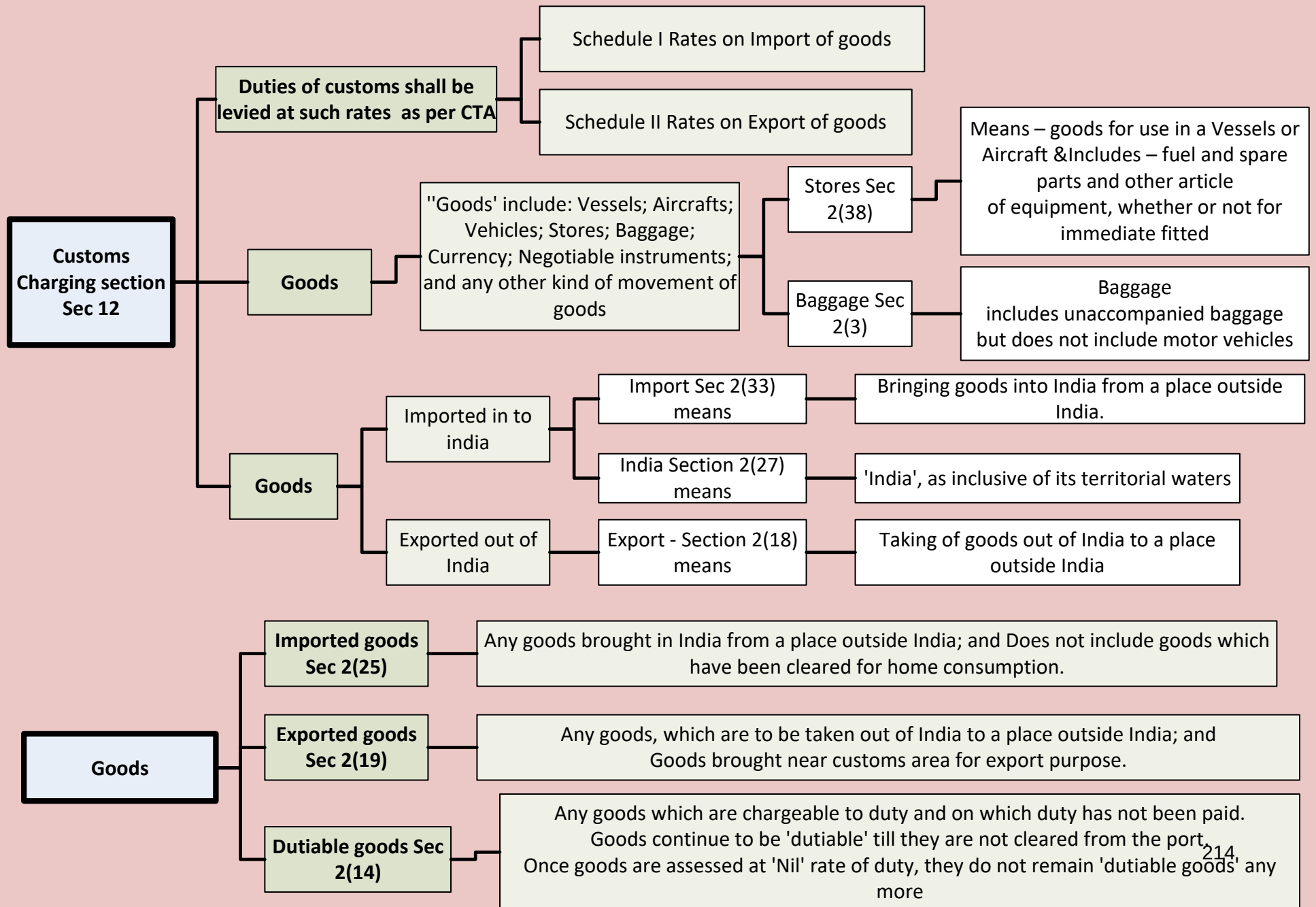




Important definitions in Basics of Customs	
Export - Section 2(18)	Taking of goods out of India to a place outside India.
Import - Section 2(23)	Bringing goods into India from a place outside India.
India - Section 2(27)	'India', as inclusive of its territorial waters
Territorial waters of India	Territorial waters refer to that portion of the sea, which is adjacent to the shores of a country, 12 nautical miles from the base line. (1 nautical mile = 1.853 Kms)
	'Import' is complete as soon as goods enter a country's territorial waters. Similarly, export is complete only when goods cross territorial waters
Indian Customs Waters Sec 2(28)	"Indian customs waters" means the waters extending into the sea up to the limit of Exclusive Economic Zone under section 7 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 and includes any bay, gulf, harbour, creek or tidal river
Exclusive economic zone	In this zone, the coastal State has exclusive rights to exploit it for economic purposes like constructing artificial islands (for oil exploration, power generation, etc.), fishing, mining of mineral resources and conducting scientific research.
	Beyond 200 nautical miles, the area is known as 'High Seas', where all countries have equal rights
	These high seas are reserved for peaceful purposes
	In this zone, the coastal State has exclusive rights to exploit it for economic purposes like constructing artificial islands (for oil exploration, power generation, etc.), fishing, mining of mineral resources and conducting scientific research.
'Goods' - Section 2(22)	'Goods' include: Vessels; Aircrafts; Vehicles; Stores; Baggage; Currency; Negotiable instruments; and any other kind of movable property on which duty is payable. The duty is also payable on goods belonging to the Government
Imported Goods - Section 2(25)	Any goods brought in India from a place outside India; and
	Does not include goods which have been cleared for home consumption.
Export Goods - Section 2(19)	Any goods, which are to be taken out of India to a place outside India; and
	Goods brought near customs area for export purpose.
Dutiable Goods - Section 2(14)	Any goods which are chargeable to duty and on which duty has not been paid.
	Goods continue to be 'dutiable' till they are not cleared from the port.
	Once goods are assessed at 'Nil' rate of duty, they do not remain 'dutiable goods' any more

Customs duty Levy / Charging Sec 12 of CA 1962

Sec 12 of customs provides customs duty shall be levied at such rates specified in Customs Tariff Act, 1975, or any other law for the time being in force, on goods imported into and exported from India. Duty payable on goods imported by government also.

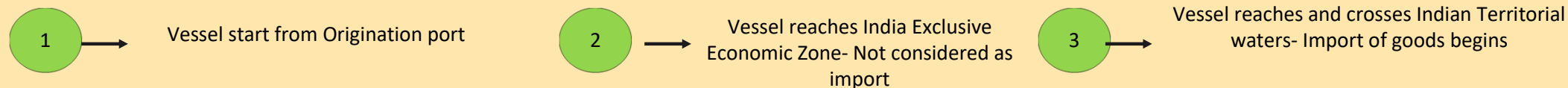
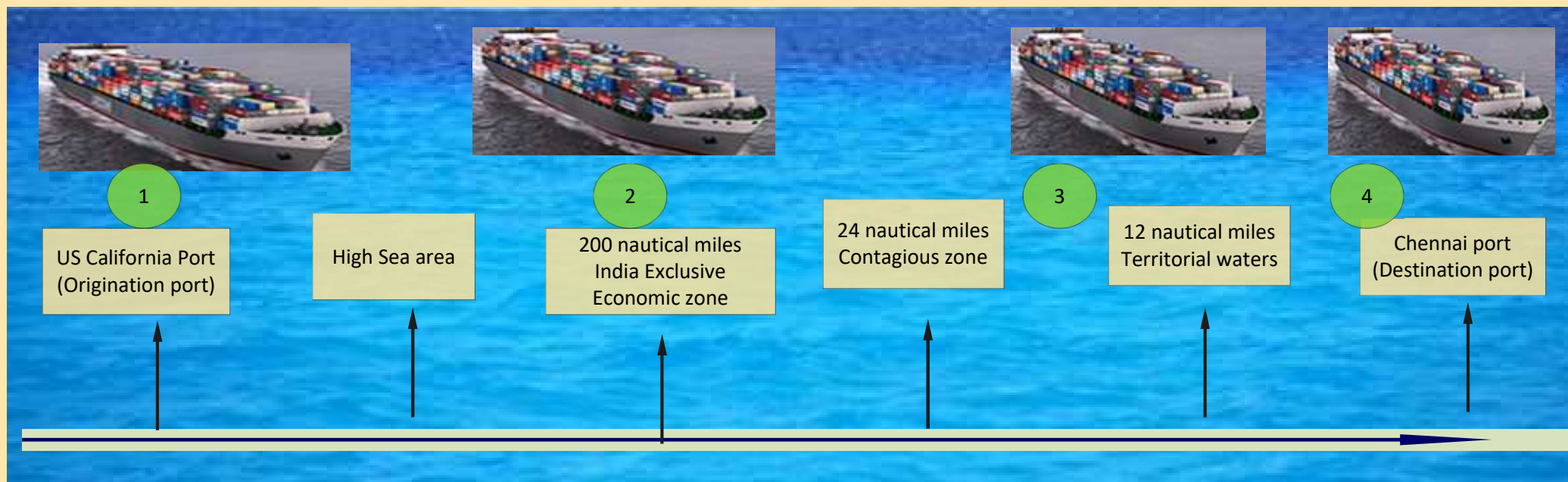


Customs Duty liability Sec 12

India includes territorial waters of India. Consequently, even an innocent entry of a vessel into the territorial waters of India would result in import of goods. It was impossible to determine when exactly the vessel crossed the territorial waters limit or not. Hence taxable event of import of goods was settled as follows

Taxable event for Import goods

Example- Goods imported from US Port in California to Chennai port in India



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Duty liability in case of warehouse goods

- Vessel reaches Chennai port and customs barrier
 - Import is said to be complete
 - Importer files Bill of entry for home consumption
 - Import duty liability will attract
- Garden Silk Mills v. UOI 1999 (113) E.L.T. 358 (S.C.)

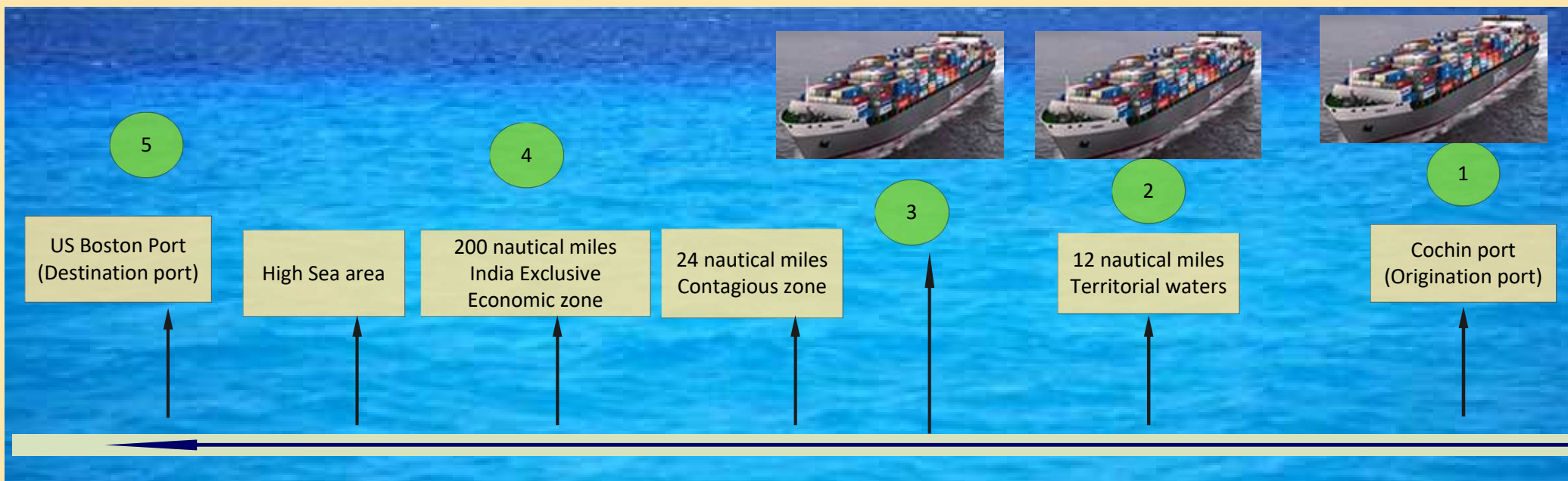
- In case of goods cleared for warehouse, the warehoused goods will be continue to be in customs bond
 - Import takes place only when the goods are cleared from the warehouse.
 - Duty payable at the time of removal from warehouse for home consumption.
- Kiran Spinning Mills v. Collector of Customs 1999 (113) E.L.T. 753 (S.C.)

Customs Duty liability Sec 12

India includes territorial waters of India. Consequently, The export is deemed to be completed only when the Vessel crosses the territorial waters of India . If the vessel accidentally sinks within territorial waters it will not be considered as export of goods.

Taxable event for Export goods

Example- Goods export from Cochin Port in India to US Port in Boston



1

- Vessel is at Cochin port and customs barrier
- Export files shipping and payment of duty
- Proper officer will issue let export order
- Loading of goods will commence and entry outward is granted
- Vessel starts from Cochin port
- Export of goods will commence

3

- Vessel crosses Indian Territorial waters-
- Export is deemed to be completed
- Exporter is eligible for export benefits

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2

→ Vessel reaches Territorial waters
Export is continue

Suppose, if vessel sinks before crossing Territorial waters and within in the limit of Territorial waters it is not treated as Export. Exporter is not entitled for any export benefits. Rajendra Dyeing and Printing Mills (SC)

4

and

5

→ Not relavant

DUTY LIABILITY IN CERTAIN SPECIAL CIRCUMSTANCES

Re-importation of goods produced/manufactured in India [Section 20]

Goods manufactured or produced in India, which are exported and thereafter re-imported are treated on par with other goods, However, the following concessions are available in this regard:

Concessional duty payable in case of re-importation of goods exported for repairs or exported under duty drawback, rebate etc *Notification no. 94/96 Cus. dated 16.12.1996*

SN	Description of goods exported	Amount of import duty payable if re-imported
1	Goods exported under claim for duty drawback, rebate of excise duty, bond without payment of duty, etc	Amount of incentive availed of at the time of export
2	Goods exported for repairs abroad	Duty payable on fair cost of repairs carried out including cost of materials used in repairs (whether such costs are actually incurred or not), insurance and freight charges, both ways
Conditions to claim concession		
1	The time limit for re-importation is 3 years. This is extendable to 5 years.	
2	The exported goods and the re-imported goods <u>must be the same</u> .	
3	In case of Goods exported for repairs abroad the ownership of the goods should also not have changed.	

Example for SN 2

A machine was originally imported from Japan at Rs. 500 lakhs in July, 2017 on payment of all duties of customs. The said machine was exported (sent-back) to supplier for repairs in December, 2017 and re-imported without any re- manufacturing or re-processing in October next year after repairs. Since the machine was under warranty period, the repairs were carried out free of cost.

However, the fair cost of repairs carried out (including cost of material Rs. 6 lakh) would have been ` 9 lakh. Actual insurance and freight charges (to and fro) were Rs.3 lakh. The rate of basic customs duty is 10% and integrated tax is 12%. Ignore GST compensation cess.

Compute the amount of customs duty payable (if any) on re-import of the machine after repairs. The ownership of the machine has not been changed during the period.

Answer

Value of goods re-imported after exports [`Rs 9 lakh (including cost of materials) + Rs.3 lakh]	12,00,000
Add: Basic customs duty @ 10% (A)	1,20,000
Add: Education Cess @ 3% (A) - (B)	_3,600
Value for computing integrated tax under section 3(7) of CTA 1975	13,23,600
Integrated tax @ 12% (` 13,23,600 x 12%) - (C)	1,58,832
Total Customs duty and integrated tax payable [(A) +(B)+(C)]	2,82,432

Exported goods re imported

Exemption to re-import of goods and parts thereof for repairs, reconditioning, reprocessing, remaking or similar other process Notification No. 158/1995, dated 14.11.1995

SN	Goods manufactured in India and re- imported for	Time-limit for re-importation from the date of exportation
1	Repairs or for reconditioning	3 years (In case of export to Nepal -10 years)
2	Reprocessing/ Refining/Re-making/similar process	1 year
Conditions to be satisfied		
1	Goods must be re-exported within 6 months (extended to 1 year) of the date of re- importation.	
2	The AC/DC of Customs is satisfied as regards identity of the goods	
3	The importer at the time of importation executes a bond	

Goods derelict, wreck etc. [Section 21]

The concept of ‘goods brought into India’ is not confined to goods, which are intentionally brought into India, but also extends to derelict, jetsam, flotsam and wreck brought or coming into India.

This implies that apart from goods which are normally imported in the course of international trade, flotsam, and jetsam, which are washed ashore and derelict and wreck brought into India out of compulsion are also treated on par with trade goods.

SN	Term	Meaning
1	Derelict	This refers to any cargo, vessel, etc. abandoned in the sea with no hope of recovery.
2	Jetsam	This refers to goods jettisoned from the vessel to save her from sinking
3	Flotsam	Jettisoned goods which continue floating in the sea are called flotsam
4	Wreck	This refers to cargo or vessel or any property which are cast ashore by tides after ship wreck

All goods, derelict, jetsam, flotsam and wreck brought or coming into India, shall be dealt with as if they were imported into India, unless it be shown to the satisfaction of the proper officer that they are entitled to be admitted duty-free under this Act

Distinguish between Jetsam and Flotsam

Jetsam and Flotsam are goods which are jettisoned (i.e. thrown with speed) from the vessel into the sea to reduce weight of vessel to prevent it from sinking. They are not abandoned goods. Jetsam gets sunk whereas Flotsam does not sink but floats. Duty is payable on both unless they are entitled to be admitted free of duty.

Exemptions/Remissions/Abatement of duty

Exemption of duty on pilfered goods - Section 13

The term 'pilfer' means, "to steal, especially in small quantities; petty theft". Pilfer does not include loss of total package. If any imported goods are pilfered after unloading, before the proper officer has made an order for clearance for home consumption or deposit in a warehouse; the importer shall not be liable to pay the duty leviable on such goods except where such goods are restored to the importer after pilferage. There is no remedy if goods are pilfered after the order for clearance is made but before the goods are actually cleared.

Other points:

- If goods are pilfered after the order of clearance is made but before the goods are actually cleared, duty is leviable
- Section 13 deals only with pilferage. It does not deal with loss/destruction of goods.
- In case of pilferage, only section 13 applies and claim of refund under section 23(1) is not permissible - *Bharat Earth Movers* 2001 (129) ELT 580 (Mad).

Remission of duty on lost destroyed or abandoned goods - Section 23

- If AC/DC satisfied that any imported goods have been lost (otherwise than as a result of pilferage) or destroyed, at any time before clearance for home consumption, remission will be granted.
- The remission of duty is permissible only in the case of total loss of goods, the loss is forever and beyond recovery.
- The loss is generally due to natural causes like fire, flood, etc.
- In case duty has already been paid, refund can be obtained after getting the remission orders.
- Remission will be available even the goods lost/destroyed in goods in warehouse before clearance of home consumption.

Relinquishment of title of goods by Importer

- Importer can relinquish title of goods before an order for clearance of the goods for home consumption or to deposit into a warehouse.
- Even if goods are warehoused, the owner of warehoused goods can relinquish the title of goods any time before order for home clearance is made.
- Owner of any such imported goods shall not be allowed to relinquish his title to such goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force.
- Relinquishment is done by endorsing the document of title, viz. Bill of Lading, Airway Bill, etc. in favour of the Commissioner of Customs along with the invoice. If the importer does so, he will not be required to pay the duty amount.

Reasons for relinquishment

- The goods are in much deteriorated condition and it is not worthwhile to pay duty.
- The assessment of duty is done on much higher side than expected.
- If the importer decides to abandon the goods, he shall not be liable to pay any duty [section 23(2) of Customs Act].
- In case of relinquishment of warehouse goods, the importer will be required to pay rent, interest, other charges and penalties that may be payable, but duty will not be payable.

Distinction between section 13 - pilferage and section 23 - remission on damaged goods

Section 13	Section 23(1)
Section 13 deals with pilferage.	Section 23(1) deals with loss or destruction of goods, except pilferage.
No duty is payable at all under Section 13, but duty becomes liable if goods are restored.	Duty is payable under section 23(1), but it is remitted by Assistant Commissioner of Customs. Thus, unless remitted, duty has to be paid under section 23(1).
Importer does not have to prove pilferage.	Burden of proof is on importer to prove loss or destruction.

Section 13	Section 23(1)
Pilferage should be before order for clearance is made.	Loss or destruction can be any time before clearance.
Loss must be only due to pilferage.	Loss or destruction may be due to fire, accident etc. but not pilferage; e.g. loss by leakage is covered under section 23.
Under Section 13, duty is normally not paid. However, if duty is paid before examination of goods, refund can be claimed if goods are found to be pilfered during examination but before order for clearance is made.	Under section 23(1), if duty is paid, then refund can be obtained only if remission is granted by Customs Authorities. Thus, remission under section 23(1) is at the discretion of Custom Authorities. [Of course, the discretion has to be exercised judiciously].
Section 13 is not applicable for warehoused goods.	Section 23(1) is applicable for warehoused goods also [as goods transferred to warehouse are not 'cleared for home consumption'].

Abatement of duty on damaged goods - Section 22

Meaning of damage

- The term 'damage' denotes physical damage to the goods. This implies that the goods are not fit to be used for the purpose for which they are meant.

Meaning of deterioration

- Deterioration is reduction in quality of goods due to natural causes

Reduction in duty, if goods are damaged or deteriorated

Reduction in duty will be allowed, if goods are damaged or deteriorated in any of the following cases:

- Damaged before or during unloading in India
- Damaged by accident after unloading but before examination of goods for assessment by Customs Officer
- Damaged by accident in warehouse before clearance of goods
- The accident is not due to willful act, negligence or default of importer, his employee or agent
- The customs duty chargeable will be in proportion to the value of damaged good to value of goods before damage or deterioration

- Amount of duty chargeable after abatement can be explained with help of an example. If the value of goods is Rs. 1,00,000 and rate of duty is 10% and after damage the value is Rs. 70,000, then duty payable is Rs. 7,000, i.e., 10% on Rs. 70,000. Rs. 30,000 i.e., the proportionate abatement is 30% (30,000/1,00,000)
- AC may decide the value of damaged goods, or if the owner agrees, the damaged goods may be sold by auction and gross sale proceeds of the auction will be deemed to be the value of goods.
- Willful negligence on the part of the assessee is not permissible for abatement, as held in *Super Chemical Corporation vs. CC* 2003 (156) ELT 248 (Tri-Chen).
- The remission of duty under section 22 could not be granted if the claim thereof has not been made before the Assessing Authority. Held in *Udayani Ship Breakers Ltd.* 2006 (195) ELT 3 (SC).

Denaturing or mutilation of goods - Section 24

- An importer can request the Central Government to make rules for permitting to denature/mutilate the imported goods, which are ordinarily used for more than one purpose, so as to render them unfit for one or more of such purpose.
- If any imported goods can be used for more than one purpose and duty is leviable on the basis of its purpose of utilisation, then denaturing or mutilation of such goods is useful.
- After denaturing process, goods can be used only for one purpose and accordingly duty can be levied.
- For example, Ethyl Alcohol, which is not denatured, attracts a higher rate of customs duty whereas denatured ethyl alcohol attracts lower rate of duty.

EXEMPTION FROM CUSTOMS DUTY ON IMPORTED GOODS USED FOR INWARD PROCESSING OF GOODS [SECTION 25A]

Power to exempt	CG by notification in the interest of public whole or part customs duty
Type of goods	Goods imported for purposes of repair, further processing or manufacture, as may be specified
Conditions for exemption	Goods re-exported after repair/further processing within one year from the date of order of clearance of import
	Goods are identifiable at the time of export
	Any other conditions as may be prescribed

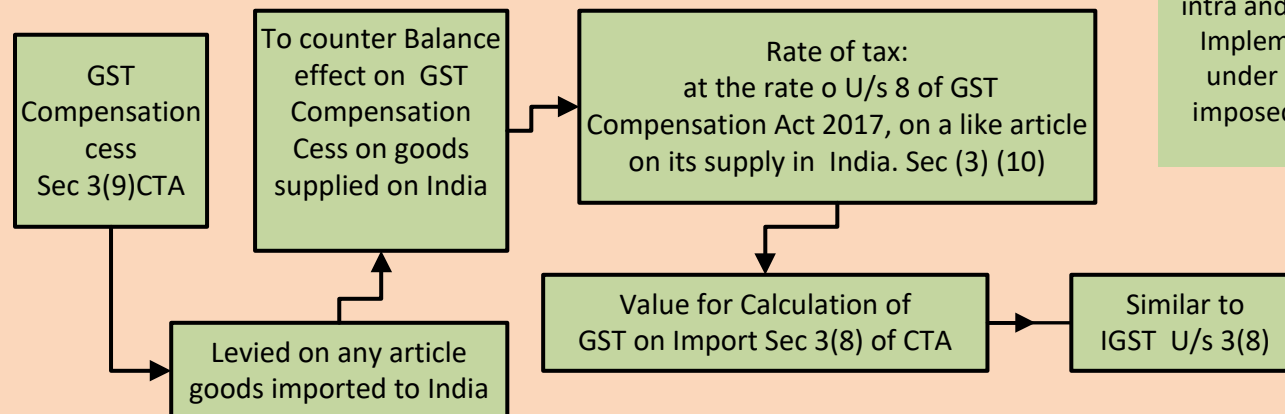
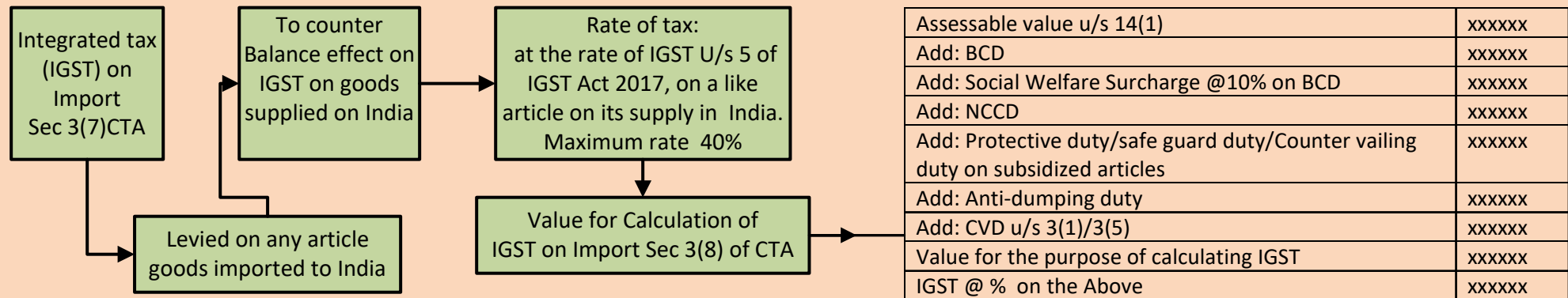
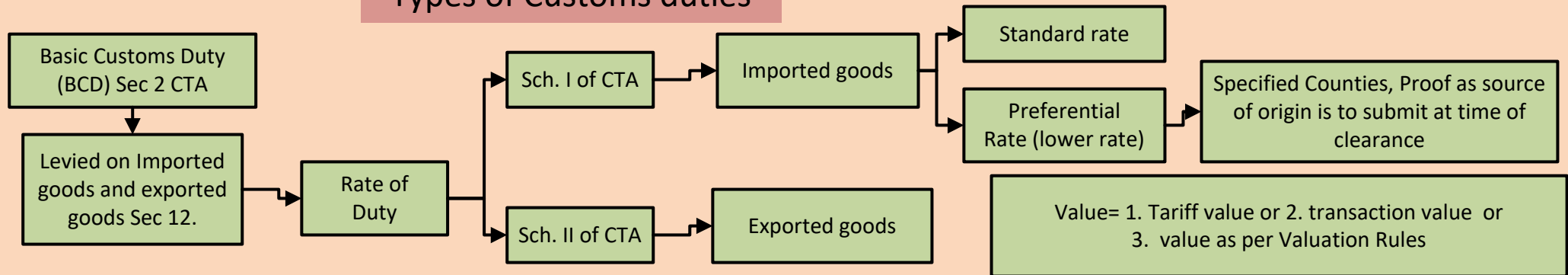
Exemption of goods manufactured in India and re-imported for repairs / reconditioning / reprocessing / refining / remaking etc. Notification No. 60/2018 Cus dated 11.09.2018

SN	Particulars	Time limit for re importation	Other conditions
1	Goods manufactured in India and re-imported for Repairs or for reconditioning	3 years., In case of export to Nepal -10 years.	• Goods must be re-exported within six months (extendable till one year) of the date of re- importation. • The Assistant Commissioner/Deputy Commissioner of Customs is satisfied as regards identity of the goods. • The importer at the time of importation executes a bond.
2	Goods manufactured in India and re-imported for (a)reprocessing (b)refining (c) re-making (d) Subject to any process similar to the process referred in (a),(b) and (c)	1 year	

EXEMPTION FROM CUSTOMS DUTY ON RE-IMPORTED GOODS USED FOR OUTWARD PROCESSING. Overriding section of Sec 20 [SECTION 25B] FA 2018

Power to exempt	CG by notification in the interest of public whole or part customs duty
Type of goods	Goods which are re-imported after being exported for the purposes of repair, further processing or manufacture, as may be specified therein
Conditions for exemption	goods shall be re-imported into India after such repair, further processing or manufacture within one year the date of order of clearance for export
	Goods are identifiable at the time of import
	Any other conditions as may be prescribed

Types of Customs duties



GST Compensation cess is compensation paid to Government on intra and inter state supply of goods due to loss of revenue on Implementation of GST The duty or tax or cess chargeable under this section shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.

Additional Customs duty or Countervailing duty U/s 3(1) and 3(5) of CTA

CVD u/s 3(1)	Levied only on goods which are not covered under GST Like Alcoholic Liquor for Human Consumption
	Levied at the rates of goods manufactured/Produced sold in India
	Valuation is to be as per excise law like tariff value, transaction value or MRP
CVD u/s 3(5)	Levied on the goods notified by CG subject to maximum 4%
	Value will be BCD+SWS 10%+CVD +NCCD+ Protective duties

Additional customs duty on goods sold from Warehouse before clearance for Home consumption or export Sec (8A)/Sec 10(A)

SNo	Particulars	U/s 8A- IGST	U/s 10A- GST Compensation cess
1	When levy	Goods sold before clearance for home consumption or before export	Goods sold before clearance for home consumption or before export
2	Value	Determine as per sec 3(8) or transaction value (WEH)	Determine as per sec 3(10) or transaction value (WEH)
		If more than one sale last transaction value is taken	If more than one sale last transaction value is taken
		When proportionate goods are sold proportionate value should be considered.	When proportionate goods are sold proportionate value should be considered.
		Transaction value means amount payable as consideration for sale of goods	Transaction value means amount payable as consideration for sale of goods
3	Rate	Rate of IGST	Rate of GST Compensation cess

Protective Duties

Countervailing duty on subsidized articles [Section 9 of the Customs Tariff Act]		
1	Circumstances for Impose	Any country or territory, directly or indirectly, pays subsidy for exportation of goods to India. Such subsidy relates to export performance.
		The importation may direct from country or indirect through other country
		The article may be in the same condition or change by manufacture
2	Amount of duty	Up to the amount Equal to subsidy paid
4	Period of duty	Up to 5 years + Extension another 5 years
5	Provisional duty	Same as safe guard duty under sec 8B

POWER OF CENTRAL GOVERNMENT TO APPLY SAFEGUARD MEASURES [Section 8B of the Customs Tariff Act (CTA)]			
1	Circumstances for safe guard measures to impose	Any article is imported into India in increased quantities ; Such increased importation is causing or threatening to cause serious injury to domestic industry	
2	Objective of safeguard measures	The safeguard measures are imposed for the purpose of protecting the interests of any domestic industry in India aiming to make it more competitive	
3	Safeguard measures to protect domestic industry	(a)	imposition of duty; safeguard or
		(b)	application of tariff-rate quota; or
		(c)	Other measures as the Central Government deems appropriate
4	Points merit Consideration	(a)	The Central Government may allocate tariff-rate quota to supplying countries having a substantial interest in supplying the article in the prescribed manner
		(b)	The safeguard duty is in addition to any other duty in respect of such goods levied under this Act or any other law for the time being in force.
		(c)	The Central Government may, by notification in the Official Gazette, exempt such quantity of any article as it may specify in the notification, when imported from any country/territory into India, from payment of the whole/part of the safeguard duty leviable thereon.
		Minimum level of tariff rate quota	Average level of imports in the last three representative years for which statistics are available, unless a different level is deemed necessary to prevent/remedy serious injury
5	Duration of safe guard measures	Shall be 4 years from the date of first imposition	
6	Extention of measures if CG is of opinion that	(a)	Domestic industry has taken measures to adjust to such injury or as the case may be to such threat and
		(b)	It is necessary that the safeguard measures should continue to be imposed.
		the total period of levy of safeguard measures is restricted to 10 years.	
7	Provisional Measures	This provisional safeguard measures may be imposed on the basis of preliminary determination that increased imports have caused or threatened to cause serious injury to a domestic industry.	
		Provisional measures was in force for maximum 200 days	
		Upon final determination if CG is of opinion, there is no injury to domestic industry, the duty collected will be refunded	

8	Example	X Ltd imported a chemical from a developing country value about Rs. 50 crores. Whether SG can be imposed. (1) if imports from developing country is (a) 3000 crores (b) Rs. 100 crores	
	Answer	(1) Percentage of Imports = $50/3000 = 1.67\%$ No SG measures	
		(2) Percentage of Imports = $50/100 = 50\%$ = SG measures applicable	
9	Exemption from SG measures	Developing Country sharing $\leq 3\%$ Share of Total Imports to India from that country	
		More than one Developing Country sharing each $\leq 3\%$ & All countries together $\leq 9\%$ Share of Total Imports to India from that country	
		Goods imported by 100% EOU/SEZ if not cleared to DTA	
10	Duty on 100% EOU/unit in a SEZ	Section 8B(2A) of CTA, 1975, provides for levy of safeguard duty on articles imported by an 100% EOU/unit in a SEZ that are cleared as such into DTA. In such cases, safeguard duty shall be levied on that portion of the article so cleared as was leviable when it was imported into India	
11	Meaning of terms	Domestic industry	the producers— (i) as a whole of the like article or a directly competitive article in India; or (ii) whose collective output of the like article or a directly competitive article in India constitutes a major share of the total production of the said article in India
		Serious injury	An injury causing significant overall impairment in the position of a domestic industry;
		Threat of serious injury	a clear and imminent danger of serious injury.
		Developing country	means a country notified by the Central Government in the Official Gazette;

Anti-dumping duty [Section 9A of the Customs Tariff Act]	
Circumstances for Impose	When a large manufacturer from abroad may export goods to India at very low prices compared to the prevailing prices in his domestic market.
	Such dumping may be with intention to cripple the domestic industry or to dispose of their excess stock
	Indian industry which produces —like articles when compared to the allegedly dumped imported goods.
Amount of duty	dumping margin or injury margin, whichever is lower
	Dumping margin means - Normal value in the exporting market- Export price
	injury margin means - fair selling price of domestic industry – landed cost of imported goods.
Period of duty	Up to 5 years + Extension another 5 years
Provisional duty	Same as safe guard duty under sec 8B

Other points	The Central Government will make rules and notify the articles liable for duty
	The Central Government will determine and ascertain the margin of dumping from time to time after carrying out necessary inquiry
	If importer proves he pays duty more than the margin, he is entitled to refund of duty

Example:

An importer imported article from People's Republic of China. Assessable Value as per customs is Rs. 8,88,800/- Total customs duty payable including education cess other than anti-dumping duty is Rs. 2,74,639/- The anti-dumping duty will be equal to the difference between amount calculated @ US \$ 27.97 per kg and 'landed value' of goods. Compute anti-dumping liability.

Solution

Computation of landed value

Assessable Value Under Customs Act,	Rs.	8,88,800.00
Add: All Duties of Customs	Rs.	2,74,639.00
Landed Value as per Anti-Dumping Notification	Rs.	11,63,439.00

Computation of anti-dumping duty

Rate of article as per Anti-Dumping Notification (US \$ 27.97 per kg)	US \$	27,970
Value @ Rs. 44 = 1 US \$	Rs.	12,30,680.00
Less:		
Landed Value as per Anti-Dumping Notification	Rs.	11,63,439.00
Anti-Dumping Duty payable	Rs.	67,241.00

Section 8 - Emergency power of Central Government to increase or levy export duties

- Where, in respect of any article, whether included in the Second Schedule or not, and that circumstances exist which render it necessary to take immediate action, the Central Government may, by notification in the Official Gazette, direct an amendment of the Second Schedule to be made so as to provide for an increase in the export duty leviable or, as the case may be, for the levy of an export duty, on that article.
- The duty will be valid till the date prescribed in the notification.
- The duty can be rescinded, reduced or increased by a notification.
- Such notification should also be placed before Parliament for approval in the next session.

No levy under section 9 or section 9A in certain cases [Section 9B of the Customs Tariff Act]	
1	No article shall be subjected to both countervailing and anti-dumping duties to compensate for the same situation of dumping or export subsidization.
2	These duties shall not be levied on imports from member country of WTO or from a country with whom the GOI has a most favoured nation agreement. This duties can be levied only if import of article threatens to material injury to established industry.
3	The provisional countervailing and anti-dumping duties shall not be levied on any article imported from specified countries unless preliminary findings injury to domestic industry.

Common points for duties from Sec 8B protective duty to Anti-dumping duty u/s 9A	
1	All the duties will be levied through notification by Central Government in Official Gazette
2	Education cess or higher secondary education cess is not payable on these duties.
3	This duties are not applicable to 100% EOU or SEZ unless specifically mentioned in the notification
4	The Act, rules and regulations made under the Customs Act with regard to, demand, refund, assessment, interest, penalty, offences and appeals will also be applicable to these duties

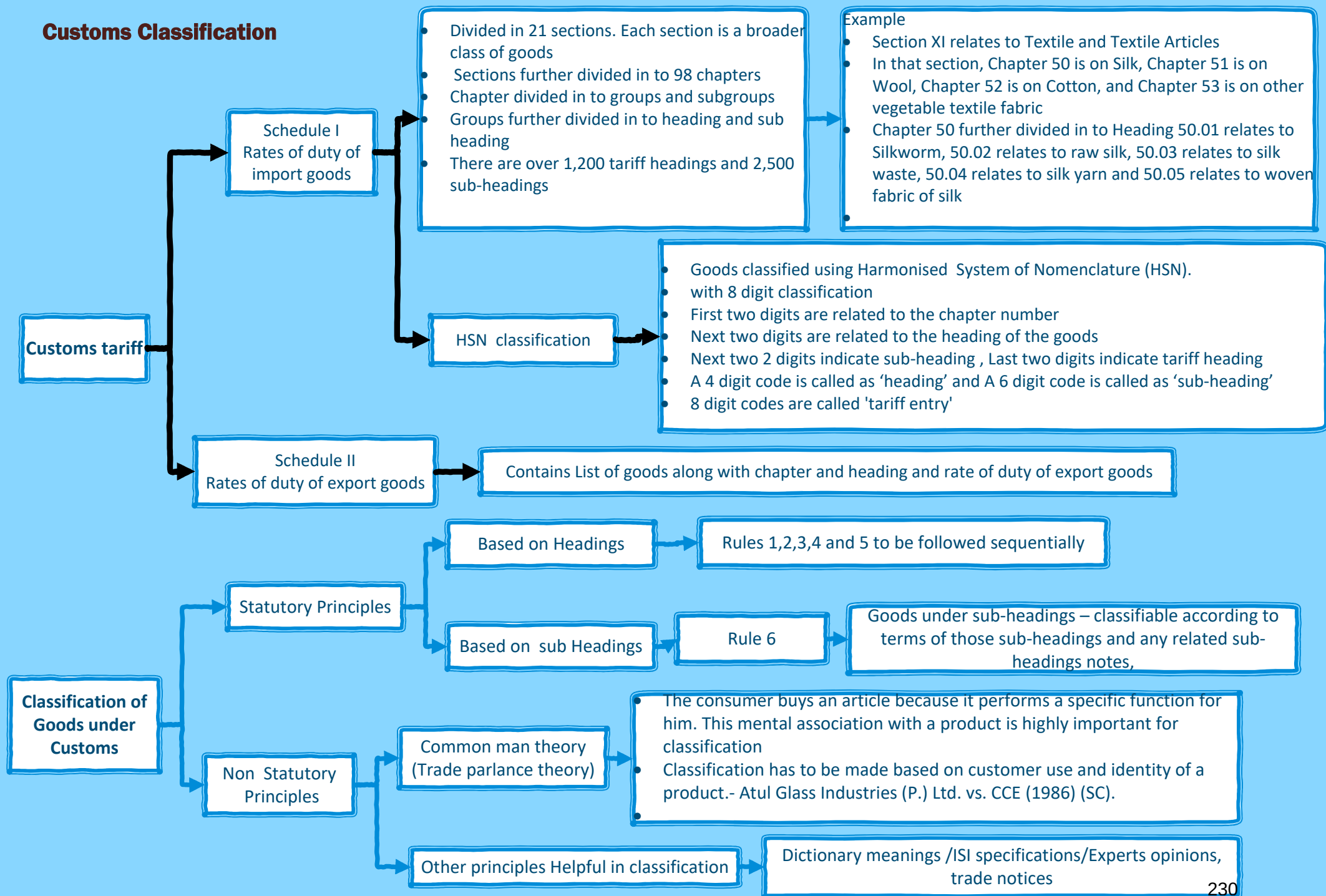
Note:

- Basic customs duty, all other duties are attracted only on imported goods.
- Basic customs duty is only applicable for export goods.

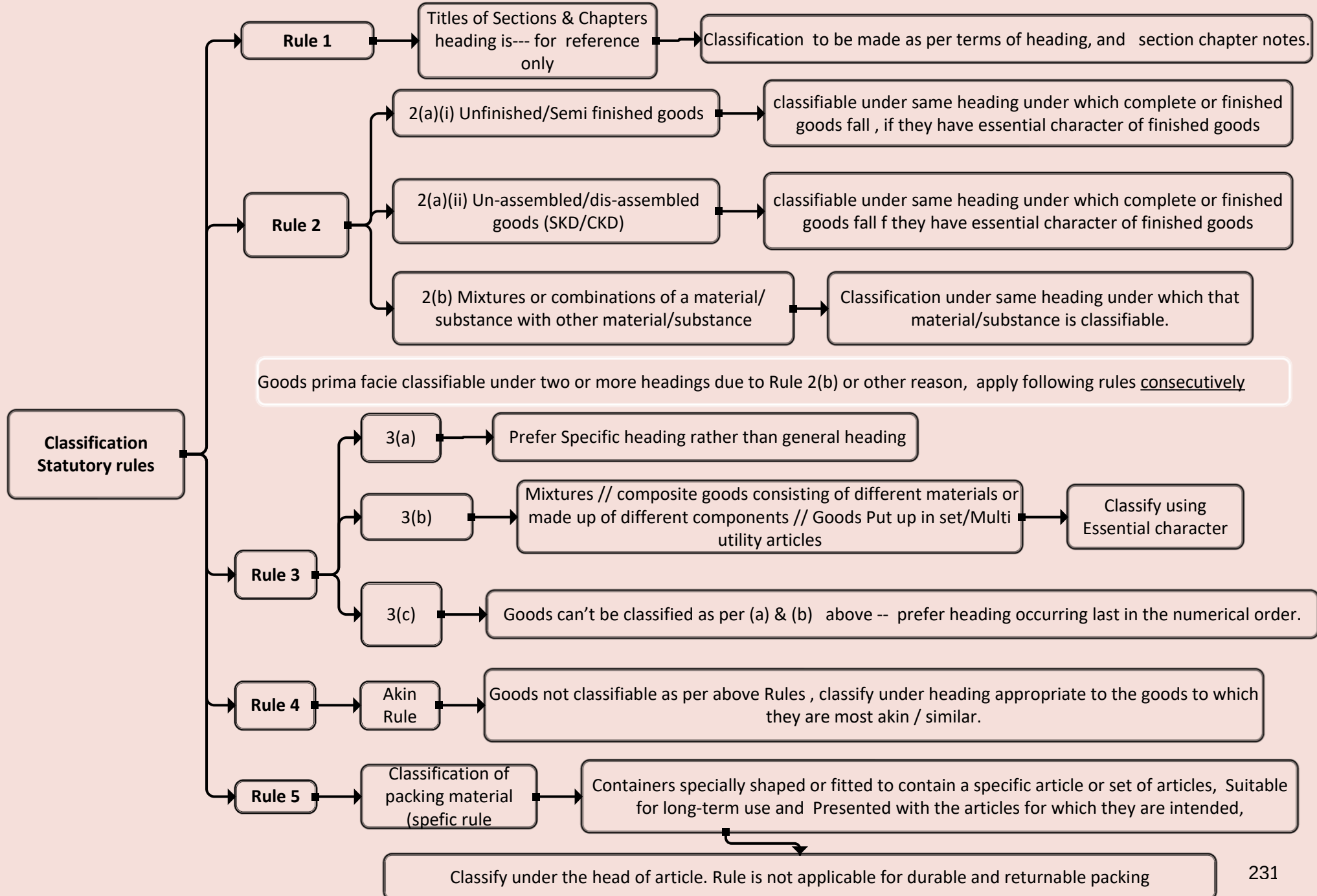
Section 5 - Levy of a lower rate of duty under a trade agreement

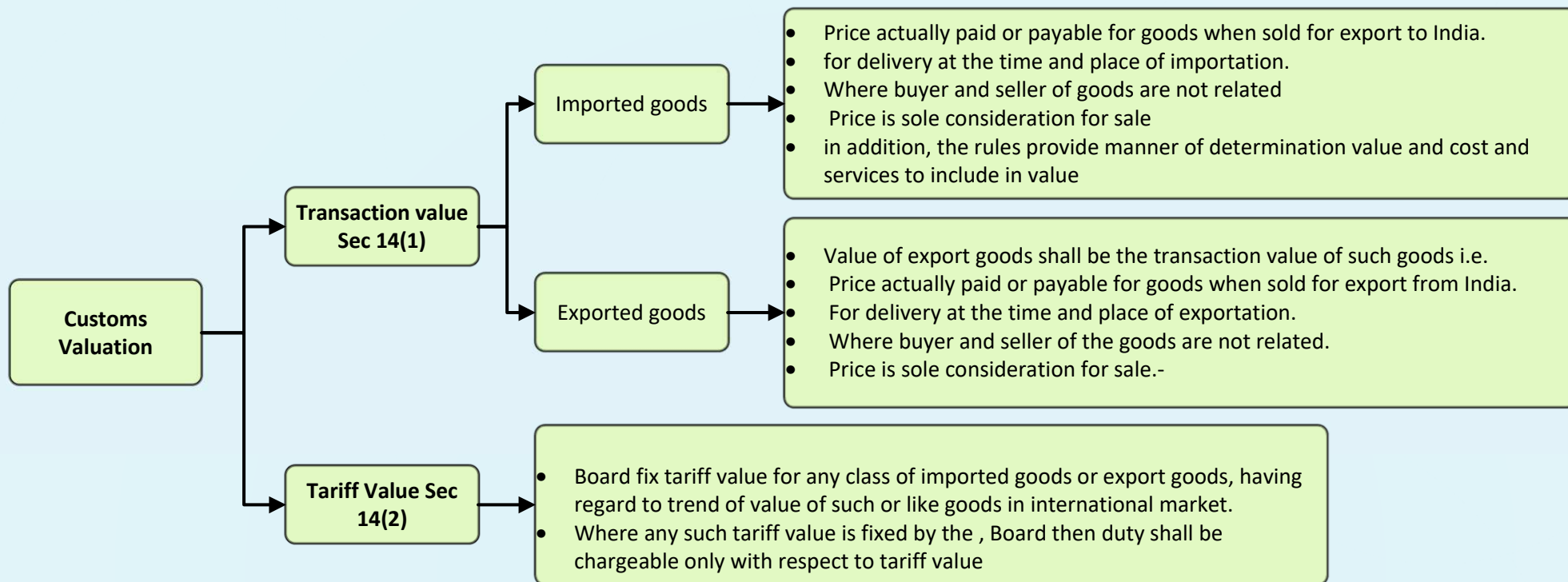
- If Government of India enters into a trade agreement with Government of a foreign country or territory, duty is levied at a rate lower than rate of first schedule for import of goods/ articles which are the produce or manufacture of such foreign country or territory.
- The owner is required to make a claim at the time of importation, supported by such evidence as may be prescribed in the said rules, for assessment at the appropriate lower rate under such agreement.
- If any question arises whether any trade agreement applies to any country or territory, or whether it has ceased to apply to India or any foreign country or territory, it shall be referred to the Central Government for decision, and the decision of the Central Government shall be final and shall not be liable to be questioned in any court of law.

Customs Classification

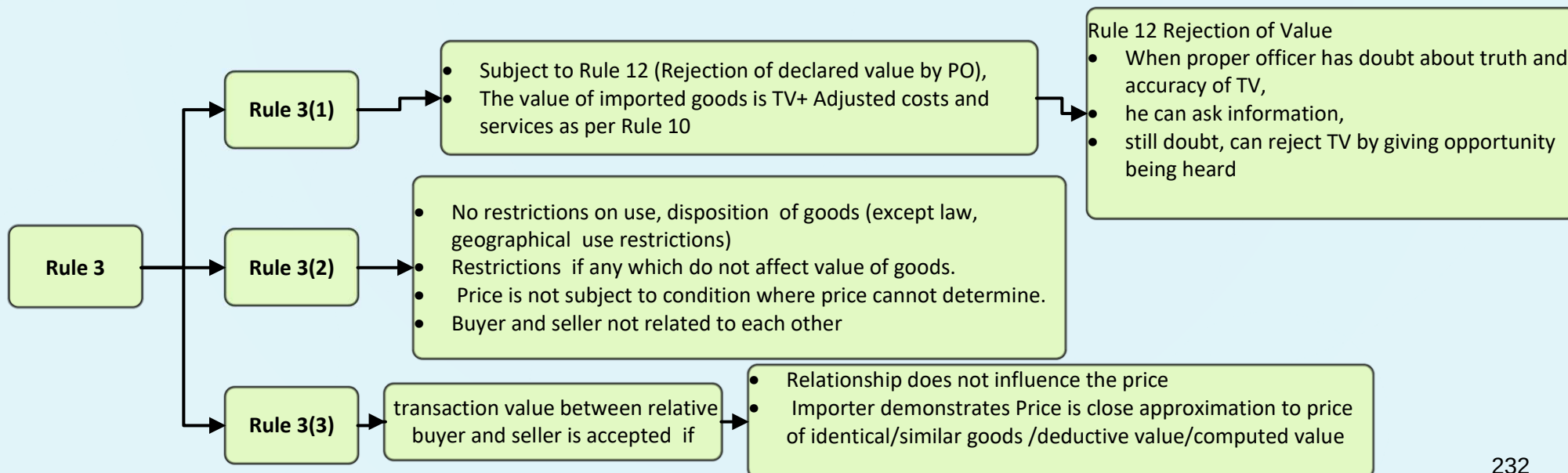


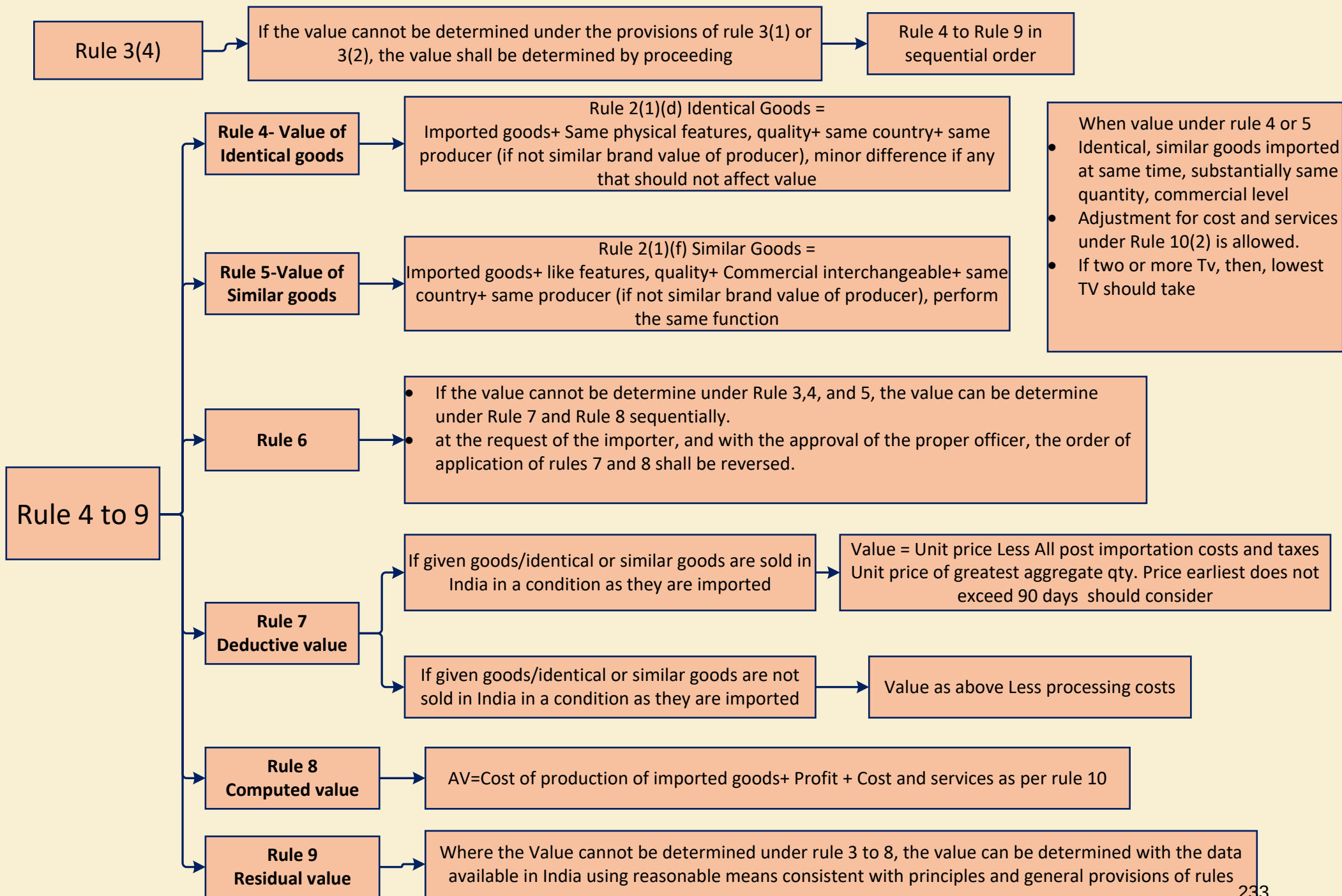
Rules for Classification of Goods





Customs Valuation (Determination of Value of Imported Goods) Amendment Rules, 2017





Costs and Services includible in valuation under Rule 10			
SNO	Particulars	Rs.	Remarks
	FOB Value	xxxxxxxx	
	Add: Adjustments under rule 10(1)		
	Include if they are not included in price		
1	Commissions and brokerage,	xxxxxxxx	Buying commissions not includible
2	Cost of containers	xxxxxxxx	Cost of durable & Returnable container is not includible
3	Cost of packing (Labour and Material)	xxxxxxxx	
4	Free Assistance given by buyer	xxxxxxxx	<u>Conditions for additions</u> 1.Supplied directly or Indirectly by buyer 2.Use in production of imported goods. <u>Not to be added</u> Engineering, development work, art work, plan & sketches undertaken in India
	Material Component parts	xxxxxxxx	
	Tools dies, moulds and similar items	xxxxxxxx	
	Engineering, development work, art work, plan & sketches undertaken outside India.	xxxxxxxx	
5	Royalties & Licence Fees	xxxxxxxx	<u>Conditions for additions</u> 1.Related to imported goods 2.Payable by buyer as conditions of sale. Not includible: "Charges for Right of Reproduction of Imported Goods in India
6	Proceeds of Subsequent Resale disposal or Use- occurring to seller.	xxxxxxxx	Dividends from the buyer to the seller not called as proceeds of subsequent sale& not includible in T.V
7	Other payments - paid by the buyer as a condition of sale	xxxxxxxx	It does not include Interest or Financial Charges.
	Sub Total	xxxxxxxx	
8	The cost of transport, Actual or 20% of FOB Whichever is less If Actual not available 20% of FOB, In case of Air, actual or 20% FOB WEL	xxxxxxxx	Cost of transport, loading and unloading include Ship demurrage charges of Chartered vessels & Lighterage / Barge Charges (Separately added as cost of transportation)
9	Cost of loading, unloading and handling charges associated with the delivery (loading port in the country of export) of the imported goods	xxxxxxxx	
10	Cost of Insurance Ascertainable – Actual, Not Ascertainable - 1.125% of FOB	xxxxxxxx	
	CIF Value for duty calculation	xxxxxx	

Cost and services to exclude not to add (post importation costs)

- Charges for Construction, Erection, Assembly, Maintenance or Technical assistance, Undertaken after importation
- The cost of transport after importation
- Duties and taxes in India
- Interest on Delayed Payments
- costs related to transshipment of goods (from ports to ICDs; port to port, port to CFS, Airport to Airport, etc.) within India will be excluded,
- goods imported by sea or air and transshipped to another customs station in India, the cost of insurance, transport, loading, unloading, handling charges associated with such transshipment s

Meaning of Relative Rule 2(2)

1.They are ❖ Officer/Director in each other's business ❖ Legally Recognized partner ❖ Employer & Employee; ❖ Members of same family;	2. Both of them ❖ Are controlled by a third person; ❖ Control a third person; <u>ONE OF THEM</u> ❖ Control the other	3.Any person ❖ Owns/controls 5% or more of voting power/shares in both of them
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Valuation of Export goods

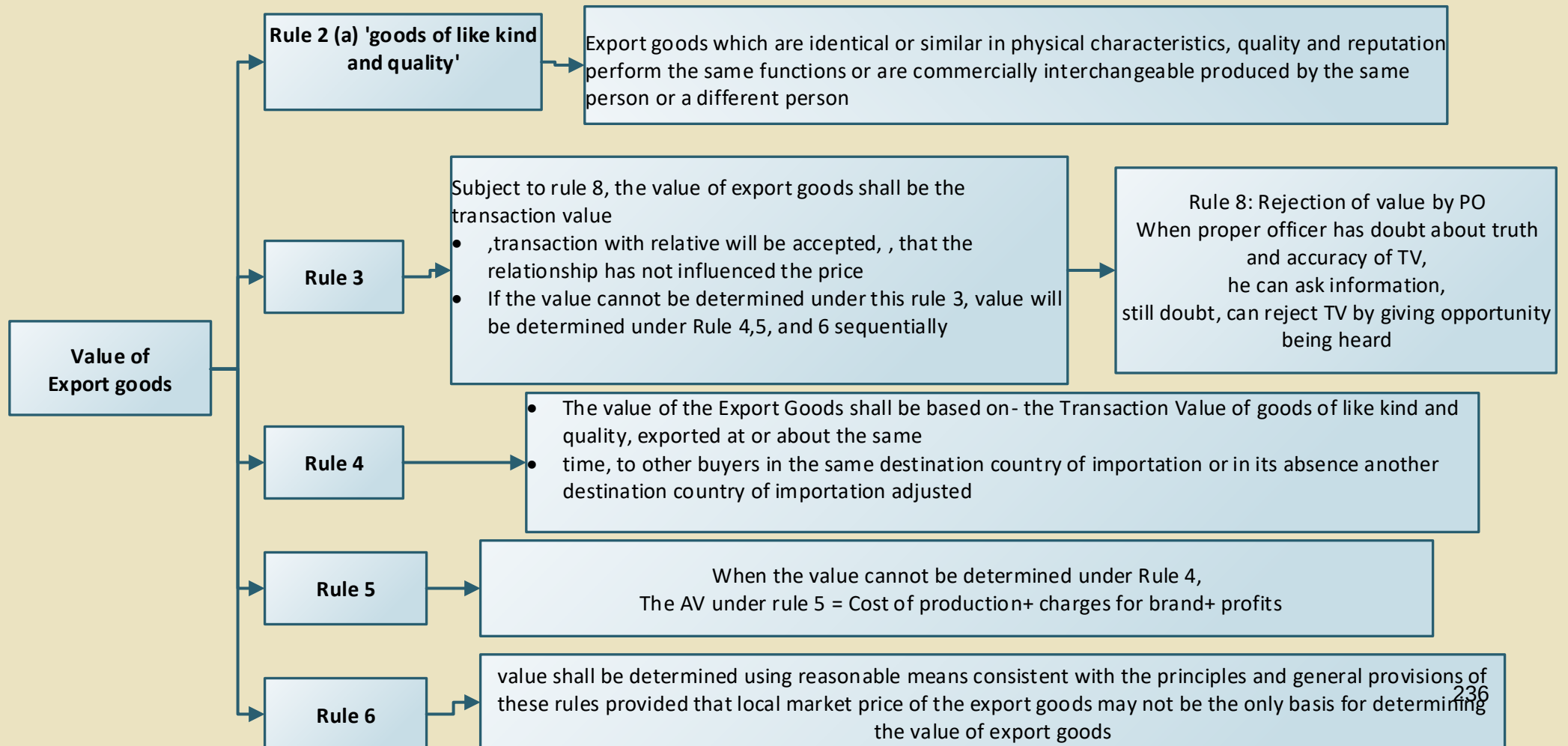
Sec 14(1) Value of export goods shall be the transaction value of such goods that to say:

Price actually paid or payable for goods when sold for export from India.

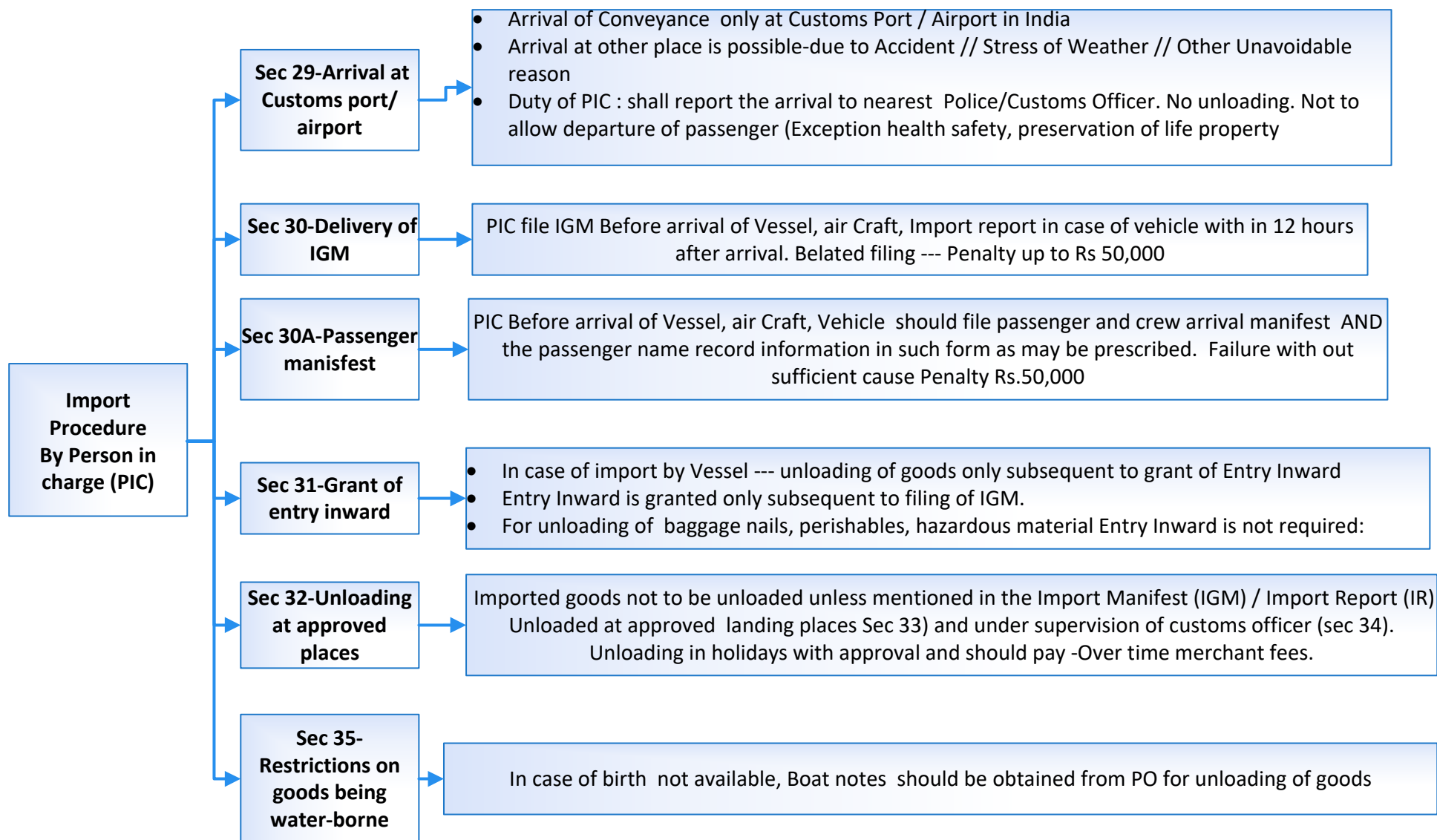
- For delivery at the time and place of exportation.
- Where buyer and seller of the goods are not related.
- Price is sole consideration for sale.

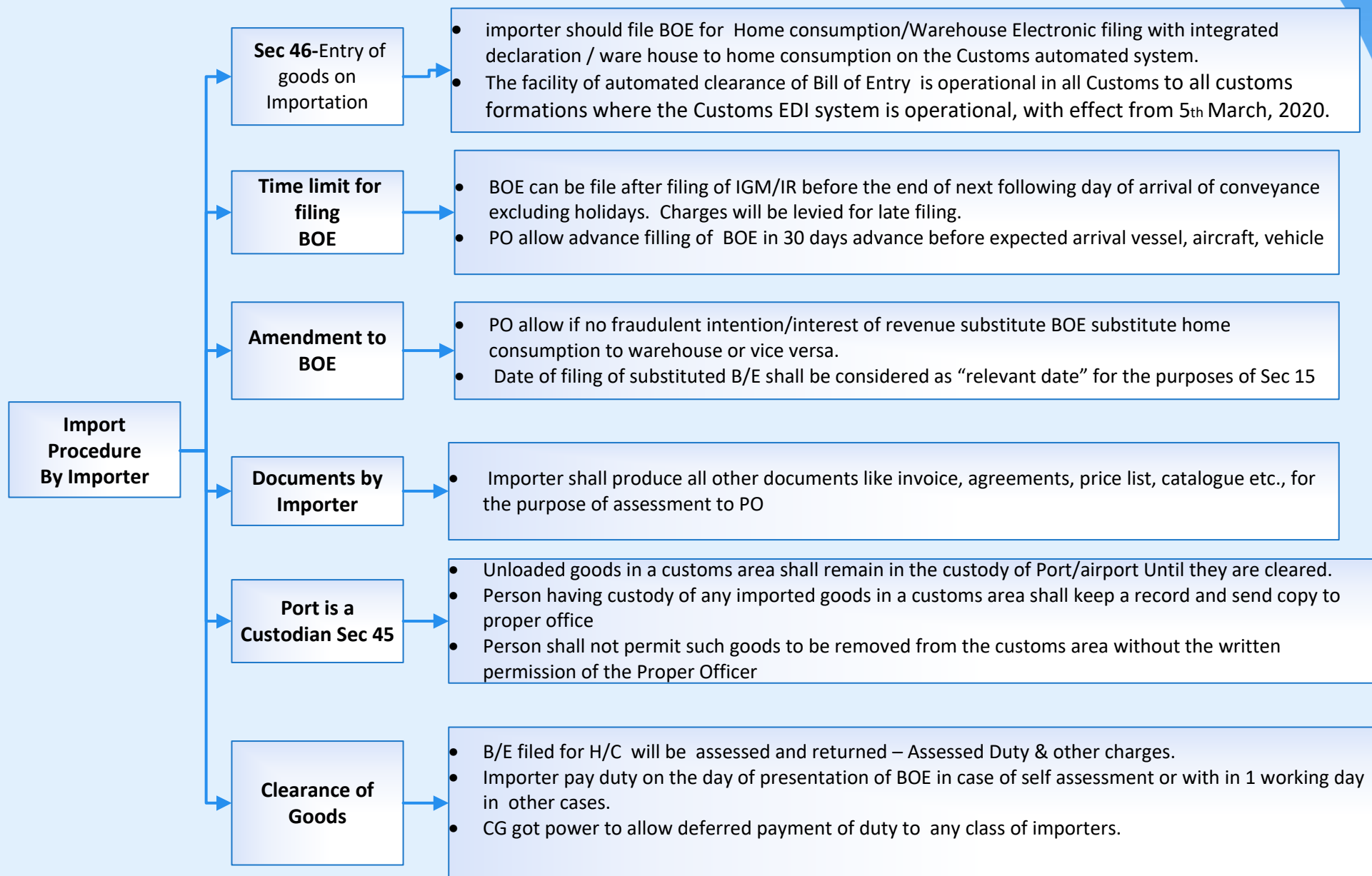
The value normally will be the FOB Value

CUSTOMS VALUATION (DETERMINATION OF VALUE OF EXPORT GOODS) RULES, 2007



Important definitions in Import and export procedures	
Conveyance [Section 2(9)]	Includes a vessel, an aircraft and a vehicle.
Vehicle [Section (42)]	Means conveyance of any kind used on land and includes a railway vehicle.
Exporter [Section 2(20)]	In relation to any goods at any time between their entry for export and the time when they are exported, includes any owner or any person holding himself out to be the exporter.
Importer [Section 2(26)]	In relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner or any person holding himself out to be the importer.
	Person who has not caused the actual import but clears the goods from warehouse would be an importer within the meaning of this section.
	When the goods are transferred to a petitioner, the petitioner holding the document of title to be regarded as an 'Importer'.
Customs Stations/Customs Areas Sec 7	Section 7 of Customs Act provides CBEC (Board) to appoint by notification Customs ports, Customs airports, Places for inland container depots/Air freight station, Coastal ports – where the goods can be transported
Entry [Section 2(16)]	Entry' in relation to goods means an entry made in a Bill of Entry, Shipping Bill or Bill of Export and it includes
	label or declaration accompanying the goods, which contains description, quantity and value of the goods, in case of postal articles
	Entry to be made in case of goods to be exported
	Entry with respect to goods imported which are not accompanied by label or declaration made as per provisions of section 84.
'Person in charge Sec 2(31)	In case of vessel – its master, In case of aircraft – its commander or pilot-in-charge, In case of train – its conductor or guard and, In case of vehicle or other conveyance – its driver or other person in charge
Customs area" Sec 2(11)	the area of a customs station and Includes any area in which imported goods or export goods are ordinarily kept before clearance by Customs Authorities
Customs station" Sec 2(13)	Means any customs port, customs airport or land customs station





Clearance of goods and Time limit to pay duty and deferred payment of duty [SECTION 47]

The importer shall pay the import duty—

- ❖ on the date of presentation of the bill of entry in the case of self- assessment; or
- ❖ within one day (excluding holidays) from the date on which the bill of entry is returned to him by the proper officer for payment of duty in the case of assessment, reassessment or provisional assessment;

MANDATORY ELECTRONIC PAYMENT OF DUTY

- ❖ The Central Government has notified that Importers registered under Accredited Clients Programme, Importers paying customs duty of Rs. 1 lakh or more per bill of entry has to make mandatory electronic payment.

Clearance of goods

When the proper officer has satisfied the goods are not prohibited goods, the appropriate import duty and any charges payable thereon has been paid, he can make an order permitting clearance of the goods for home consumption. Such order may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria

Deferred payment of duty (Deferred Payment of Import Duty Rules, 2016 read with Circular No. 52/2016- Cus dated 15.11.2016)

- ❖ Central Government may permit certain class of importers to make deferred payment of said duty or any charges in such manner as may be provided by rules
- ❖ Central Government has permitted importers certified under Authorized Economic Operator programme as AEO (Tier-Two) and AEO (Tier-Three) to make deferred payment of import duty and Authorised Public undertaking (eligible importers)
- ❖ Directorate General of Performance Management under CBEC makes an order, which is popularly known as “pass out of customs charge order” the bill of entry (duplicate) copy is produced to the custodian who delivers the goods to the importer.
- ❖ An eligible importer intending to avail the benefit of deferred payment shall intimate to the Principal Commissioner/Commissioner of Customs, having jurisdiction over the port of clearance, his intention to avail the said benefit who on being satisfied with the eligibility of the importer allow him to pay the duty by due dates.

Due dates of deferred payment of duty

SN	Goods corresponding to Bill of Entry returned for payment from	Due date of payment of duty, inclusive of the period (excluding holidays) as mentioned in section 47(2)
1	1st day to 15th day of any month	16th day of that month
2	16th day till the last day of any month other than March	1st day
3	16th day till the 31st day of March,	31st March

- ❖ The Importer fails to pay the duty either in full or in part within the time so specified, shall pay interest on the duty not paid or short-paid @ 15% p.a. till the date of its payment.
- ❖ Electronic payment of duty: The eligible importer shall pay the duty electronically: However, the Assistant/Deputy Commissioner of Customs may for reasons to be recorded in writing, allow payment of duty by any mode other than electronic payment.
- ❖ Deferred payment not to apply in certain cases: If there in default in payment of duty by due date more than once in three consecutive months, this facility of deferred payment will not be allowed unless the duty with interest has been paid in full.
- ❖ The benefit of deferred payment of duty will not be available in respect of the goods which have not been assessed or not declared by the importer in the entry.
- ❖ The benefit of deferred payment of duty is also applicable when duty is payable in case of exports.

PASSENGER AND CREW DEPARTURE/ARRIVAL MANIFEST AND PASSENGER NAME RECORD INFORMATION

SN	Particulars	Imports Sec 30A	Exports Sec 41A
1	Who should file	Person in charge or specified Person	Person in charge or specified Person
2	When to file	Before arrival of vessel/air craft Upon arrival in case of Vehicle	Within such time prescribed (before leaving the conveyance)
3	Failure to deliver without a proper sufficient cause	Penalty Rs. 50,000	Penalty Rs. 50,000

Disposal if goods are not cleared within 30 days [Section 48]

- ❖ Goods must be cleared within 30 days after unloading.
- ❖ Customs Officer can grant extension.
- ❖ If not cleared, goods can be sold after giving notice to importer.
- ❖ There is no time limit on clearance thereof for sensitive goods like animals, perishable goods and hazardous goods.
- ❖ Arms and ammunition can be sold only with the permission of CG.

Sec 37: Power to Board Conveyance

Proper officer may, if he thinks it necessary, board any conveyance carrying imported goods.

Sec 38: Power to require production of documents and ask questions

Any document may be demanded from PIC --- Questions may also be asked by the Proper officer

Relinquishment of title of goods by Importer

- ❖ Importer can relinquish title of goods before an order for clearance of the goods for home consumption or to deposit into a warehouse. /In case of WH goods before order for H/C
- ❖ Owner of any such imported goods shall not be allowed to relinquish his title to such goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force.
- ❖ Relinquishment is done by endorsing the document of title, viz. Bill of Lading, Airway Bill, etc. in favour of the Commissioner of Customs along with the invoice. If the importer does so, he will not be required to pay the duty amount.

Reasons for relinquishment

- ❖ goods are in much deteriorated condition and it is not worthwhile to pay duty. /assessment at higher side
- ❖ If the importer decides to abandon the goods, he shall not be liable to pay any duty [section 23(2) of Customs Act].
- ❖ In case of relinquishment of warehouse goods, the importer will be required to pay rent, interest, other charges and penalties that may be payable, but duty will not be payable

51A. Payment of duty, interest, penalty, etc. through electronic Cash Ledger

Every deposit made towards duty, interest, penalty, fee or any other sum payable by a person under Customs ACT/CTA 1975 or under any other law/rules and regulations authorised mode of payment shall, be credited to the electronic cash ledger of such person, to be maintained in such manner, as may be prescribed.

Electronic Cash Ledger (ECL)	
Debit Amount (DR)	Credit Amount (CR)
Credit amount of this ledger may be used for payment of tax, interest, fees etc.	Any deposit made towards tax, interest, penalty, late fee etc. via internet banking, RTGS, fund transfer etc.
Remaining credit balance amount after payment of above tax etc. will be refunded to taxable person	

If the Board is satisfied and it is necessary may exempt all or any conditions of ECL to any class of persons/class of goods by notification.

LEDGER FOR DUTY CREDIT [SECTION 51B]

The Central Government may specify the manner in which it shall issue duty credit vide notification in the official gazette —

(a) in lieu of remission of any duty/tax/levy, chargeable on any material used in the manufacture/processing of goods or for carrying out any operation on such goods in India that are exported; or

(b) in lieu of such other financial benefit subject to specified conditions and restrictions.

The duty credit shall be maintained in the customs automated system in the form of an electronic duty credit ledger of the person who is the recipient of such duty credit, in the prescribed manner.

The duty credit available in the electronic duty credit ledger may be used by the person to whom it is issued or the person to whom it is transferred, towards making payment of duties payable under the Customs Act or under the Customs Tariff Act, 1975 in the prescribed manner and time.

Duty Credit Ledger will enable credit in lieu of duty remission to be given in respect of exports or other such benefit in electronic form for its usage, transfer, etc. For instance, reward scrips issued under MEIS Scheme that are usable against payment of customs duties, can be credited to this ledger for usage or transfer.

Duty Credit Ledger is a step in the right direction to streamline the processes of availment of export benefits by removing the physical interface and also usher transparency by avoiding fraudulent claims. Also, the said move is in line with the earlier reforms under the Customs Law in the form of introduction of the electronic cash ledger, phasing out of physical MEIS, etc.

Sec 109A Power to undertake controlled delivery New section FA 2018. Overriding provision of Customs Act

'Controlled delivery' means the procedure of allowing consignment of such goods to pass out of, or into, the territory of India with the knowledge and under the supervision of proper officer for identifying the persons involved in the commission of an offence or contravention under this Act.'

the proper officer or any other officer authorised by him in this behalf, may undertake controlled delivery of any consignment of such goods and in such manner as may be prescribed, to"

(a) any destination in India; or

(b) a foreign country, in consultation with the competent authority of such country to which such consignment is destined.

153. Modes for service of notice, ordered. Amended Section 153 FA 2018

(1) An order, decision, summons, notice or any other communication under this Act or the rules made thereunder may be served in any of the following modes, namely:'

(a) by giving or tendering it directly to the addressee or importer or exporter or his customs broker or his authorised representative including employee, advocate or any other person or to any adult member of his family residing with him;

(b) by a registered post or speed post or courier with acknowledgement due, delivered to the person for whom it is issued or to his authorised representative, if any, at his last known place of business or residence;

(c) by sending it to the e-mail address as provided by the person to whom it is issued, or to the e-mail address available in any official correspondence of such person;

(d) by publishing it in a newspaper widely circulated in the locality in which the person to whom it is issued is last known to have resided or carried on business; or

(e) by affixing it in some conspicuous place at the last known place of business or residence of the person to whom it is issued and if such mode is not practicable for any reason, then, by affixing a copy thereof on the notice board of the office or uploading on the official website, if any.

(2) Every order, decision, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed or uploaded in the manner provided in sub-section (1).

(3) When such order, decision, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.'

Import procedures -3

Import and export through courier

- Import/export through courier is permitted only through specified cities Mumbai, Delhi, Calcutta, Chennai, Bangalore, Hyderabad, Ahmedabad, Jaipur, Trivandrum and land customs station.
- Courier Agency should register with the Commissioner of customs and should be financially viable.
- Courier Agency should execute a bond/security, if any.
- Registration can be cancelled for misconduct or failure to comply with regulations.
- Agency should advise the client about rules and regulations.
- Agency should disclose all the information to the Assessing Officer.
- It is not necessary that the goods should carry by the Courier Agency itself. The person-in-charge can carry the goods.
- Some goods like animals, pets, maps perishables, chemicals, depicting boundaries etc. should not be imported/exported.
- Weight of each packet in courier should not exceed 70 kg.
- All goods should be classified into documents, free gifts, samples and dutiable goods.
- The Authorized Courier also has to file 'Courier Bill of Entry'/Courier Shipping bill in a prescribed form.
- The courier bags should be kept separately and shall be dealt with only as per directions of the Commissioner of Customs.
- Dutiable goods should be packed separately with appropriate labels.
- These goods must be accompanied by a declaration by the sender with respect to the contents of the package and its value.
- Samples upto `Rs. 50000 in respect of exports and `Rs.10000 for imports and free gifts upto `Rs. 25000 in respect of exports and `10000 for imports per consignment is allowed.
- Import/export of Jewellery/diamond, each consignment should not exceed Rs. 25 lakhs.
- Authorized Courier has to submit a declaration in the prescribed form.
- If imported goods are not cleared within 30 days, these will be disposed of.
- Goods brought in customs area must be exported within 7 days.
- If not exported within 7 days, these will be disposed of. The period can be extended by Assistant Commissioner in deserving cases.

Import and export through post

- Separate provisions are given for import/export through post.
- Label and declaration are the entry for purpose of postal articles. (section 82)

- Filing of separate Bill of Entry or Shipping Bill is not necessary for import/export.
- Regulations for import/export by post – section 84
- Board makes regulations for procedures for examination and assessment of duty and transit/transshipment of goods imported by post.

Accordingly, CBEC has made rules as follows:

- The parcel bill/letter mail bill will show details like Serial number assigned by office of posting, name of office of posting, Destination, weight, local number, contents as ascertained by Customs; Declared value in foreign currency, rupee value, rate of duty, amount of duty and remarks;
- Postal parcels will be allowed to pass from port/airport to Foreign Parcel Department of Post Offices without payment of customs duty;
- Postmaster will hand over the packets to the Principal Appraiser;
- The mailbag will be opened and scrutinized by the Postmaster under supervision of the Principal Postal Appraiser of Customs;
- Customs Appraiser will mark the parcels that are required to be detained as
 - necessary particulars are not available or
 - misdeclaration or under-valuation is suspected or
 - goods are prohibited for import;
- Other parcels will be assessed without opening on the basis of details given in the parcel bill or dispatch notes;
- The duty will be assessed and will be entered on parcel bill;
- These will be audited and returned to the Postmaster;
- The Postmaster will hand over the parcel to the addressee only after collecting the customs duty;
- Customs duty collected by the postal department will be periodically credited to Customs department.

Boat Notes/Restrictions on goods being water-borne [Section 35]

- There are certain customs ports where the ships cannot come to the shore for unloading or loading. In these places the cargo is ferried from the ships anchored at mid-sea to the port in boats, otherwise known as lighter.
- Sometimes if a vessel has to unload only a small cargo, it may not spend time in having berth in the port.
- In some cases, not all ships arriving in the port get a berth. They have to wait for some time before they get allotment of berth. At times the ships have tight itinerary. In such cases the import cargo is taken from the ship to the shore and the export cargo is taken from the shore to the ship in boats.
- If the small cargo is to be sent to shore, it may be loaded in a small boat and sent to shore.
- Such small boat must be accompanied by a 'Boat Note'.

- Boat Notes Regulations provide that Customs Officer will issue such Boat Notes.
- It will be maintained in duplicate and should be serially numbered.
- Boat Note should be in a prescribed form.
- Loading in to a small boat from a ship should be done only when such a small boat is carrying a boat note.
- Unloading from a small boat to a ship for export should not require a boat note, when a small boat is carrying shipping bill. Otherwise a boat note is required.
- Boat Note is also required for transshipment of cargo, i.e. transfer from one ship to another or for re-shipment
- Board may, by notification, relax these conditions to any class of goods.

Provisions relating to stores (Sections 85 to 90)

Meaning of stores [Section 2(38)]

- Goods for use in a vessel or aircraft and include diesel and spare parts and other articles of equipment, whether or not they are required for immediate fitting.

Examples:

- Food, beverages, crockery cutlery, fuel
- Consumables, tools, equipment, spare parts

Duty liability on stores [Sections 85 to 90]

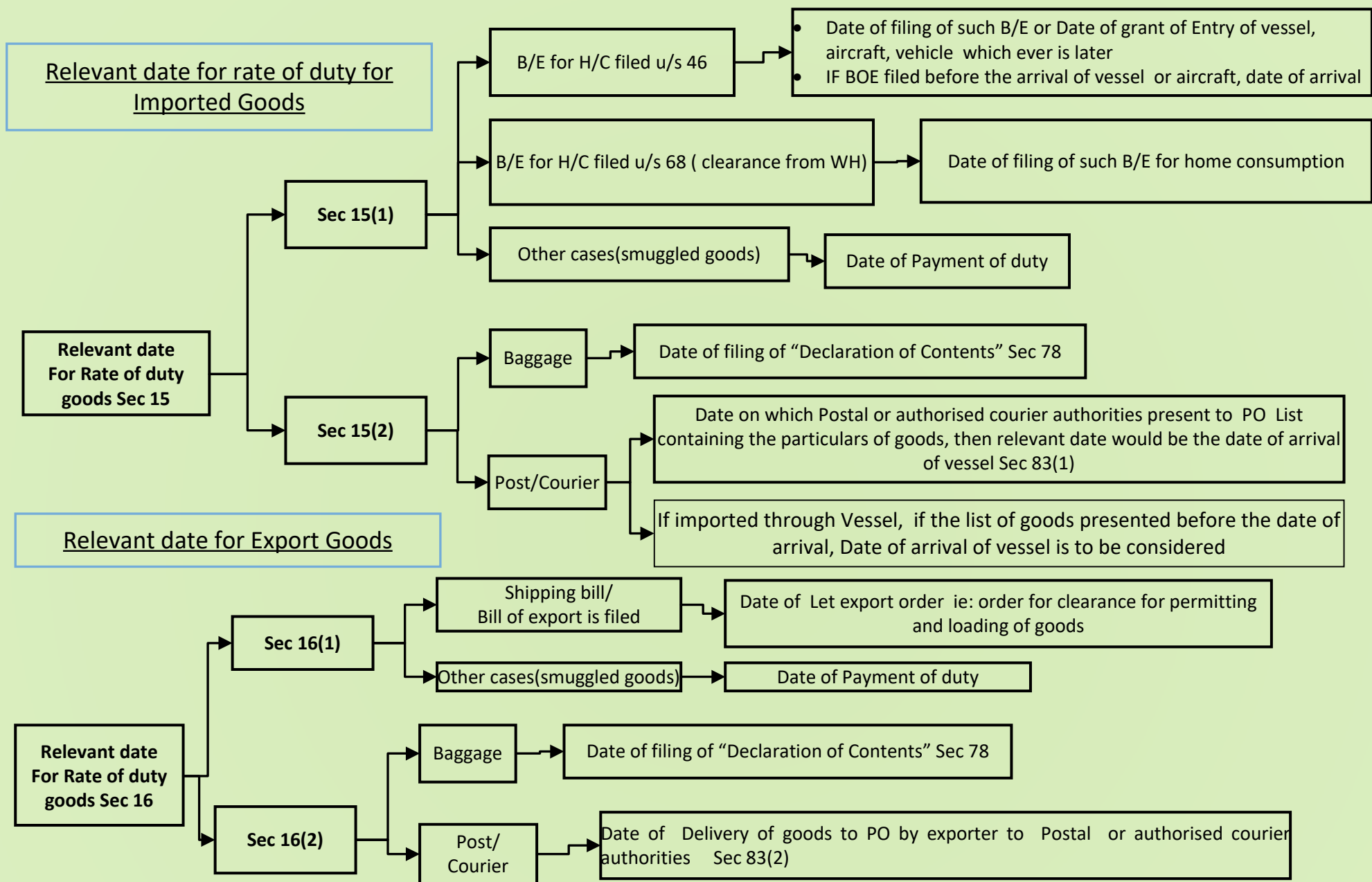
- Imported stores on board a vessel or aircraft can be consumed as stores without payment of customs duty as long as the vessel or aircraft is a foreign-going vessel or aircraft.
- The stores can be removed from warehouse without payment of duty to be taken back on a foreign-going vessel. Only a 'shipping bill' has to be submitted in this case.
- Warehouse rent and other penalties etc., if applicable, are payable before removal of stores.
- Imported stores can be kept in warehouse, without assessment/without payment of duty for supply to ships/aircraft.
- Stores can remain on Board of vessel or aircraft while in India.
- Imported goods can be transferred to another vessel or aircraft with permission of Customs Officer, without payment of duty, if the vessel is a foreign going vessel.
- If stores are to be removed for home consumption, Bill of Entry has to be filed; duty, penalties, rent and interest must be paid, if any.

- Import duty paid stores can be supplied as 'stores' to foreign-going vessel. Drawback can be claimed.
- Stores manufactured or produced in India may be exported without payment of export duty as stores on any foreign-going vessel with permission of Customs Officer.
- Customs Officer will determine the requirement based on the size of vessel or aircraft, length of journey etc. Since the supply is treated as 'export' it will be eligible for duty drawback.
- The provisions with regard to stores regarding supply to foreign-going vessel drawback provisions will also apply to stores supplied to Indian Navy Vessel.

Transportation of goods (Through Foreign Territory) Regulations, 2020

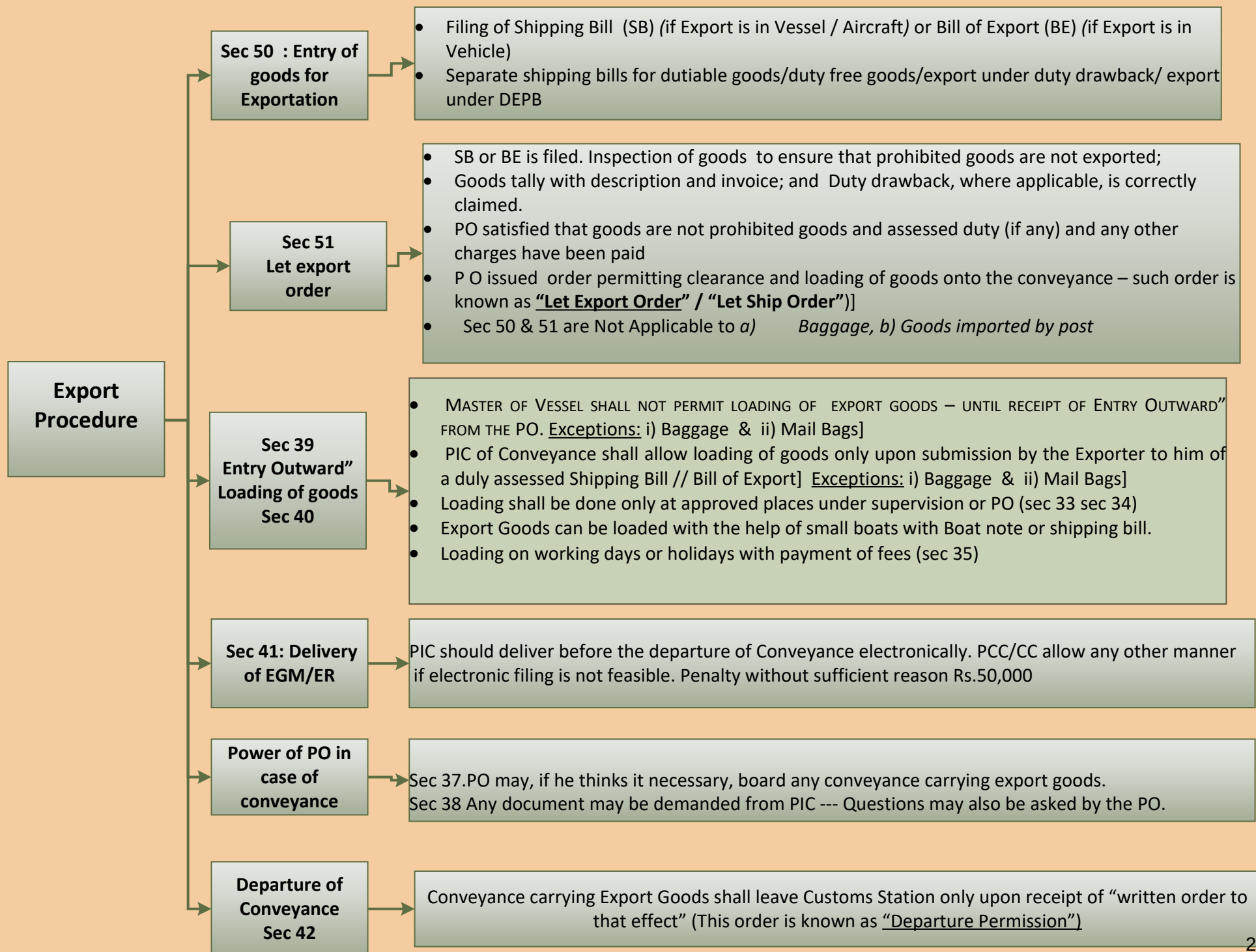
Notification No 16/2020 (Customs) dated, 21 February 2020

- Movement of goods from one part of India to another through Bangladesh under the ACMP (Agreement on the Use of Chattogram and Mongla Ports) and the PI WTT (People's Republic of Bangladesh and the Republic of India);
- Movement of goods from one part of India to another through land route which lies partly over the territory of a foreign country.
- Further, CBIC vide Circular No. 14/2020-Customs dated 21st February, 2020 has also clarified the procedure for each movement in detail.
May not be relevant for Exam



Rate of duty if the goods are not removed from warehouse within the permissible period

- Goods which are not removed within the permissible period are deemed to be improperly removed on the day it should have been removed.
- Thus, duty applicable on such date i.e. last date on which the goods should have been removed is relevant and not the date on which the goods were actually removed.

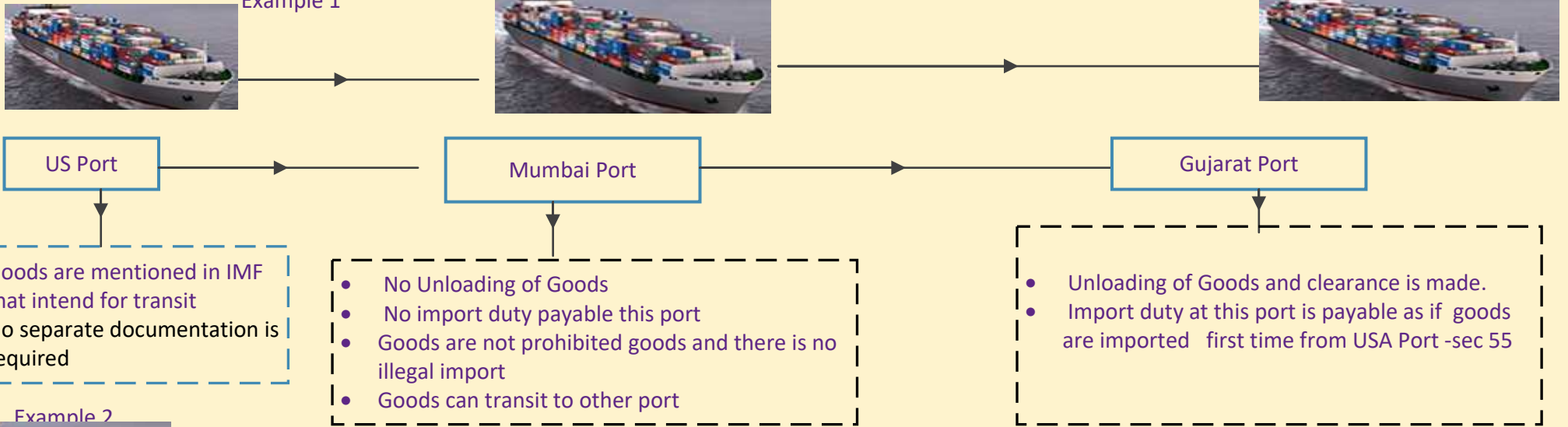


Transit and transshipment of goods Sec 53, Sec54 and Sec 55

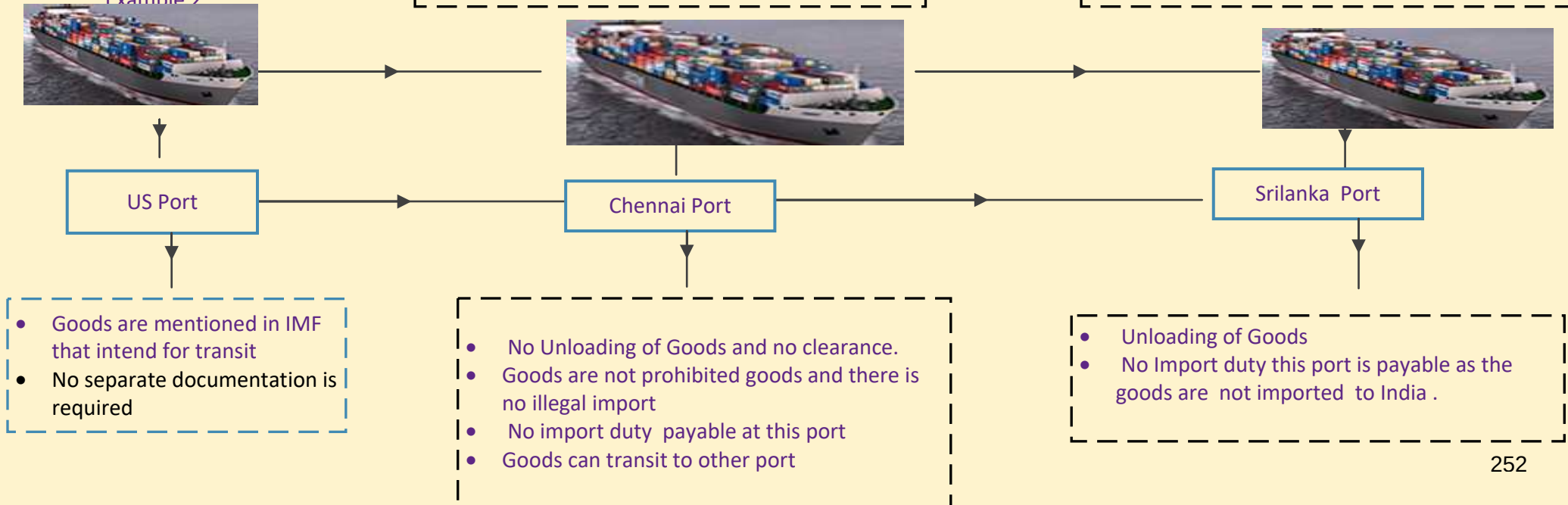
Transit of goods sec 53

- Any vessel, aircraft or Vehicle coming out of India, reaches any port, airport customs station in India, the goods may be allowed to transit any port or airport, customs station in India /Outside India without payment of duty, if such goods are mentioned in IMF for transit

Example 1



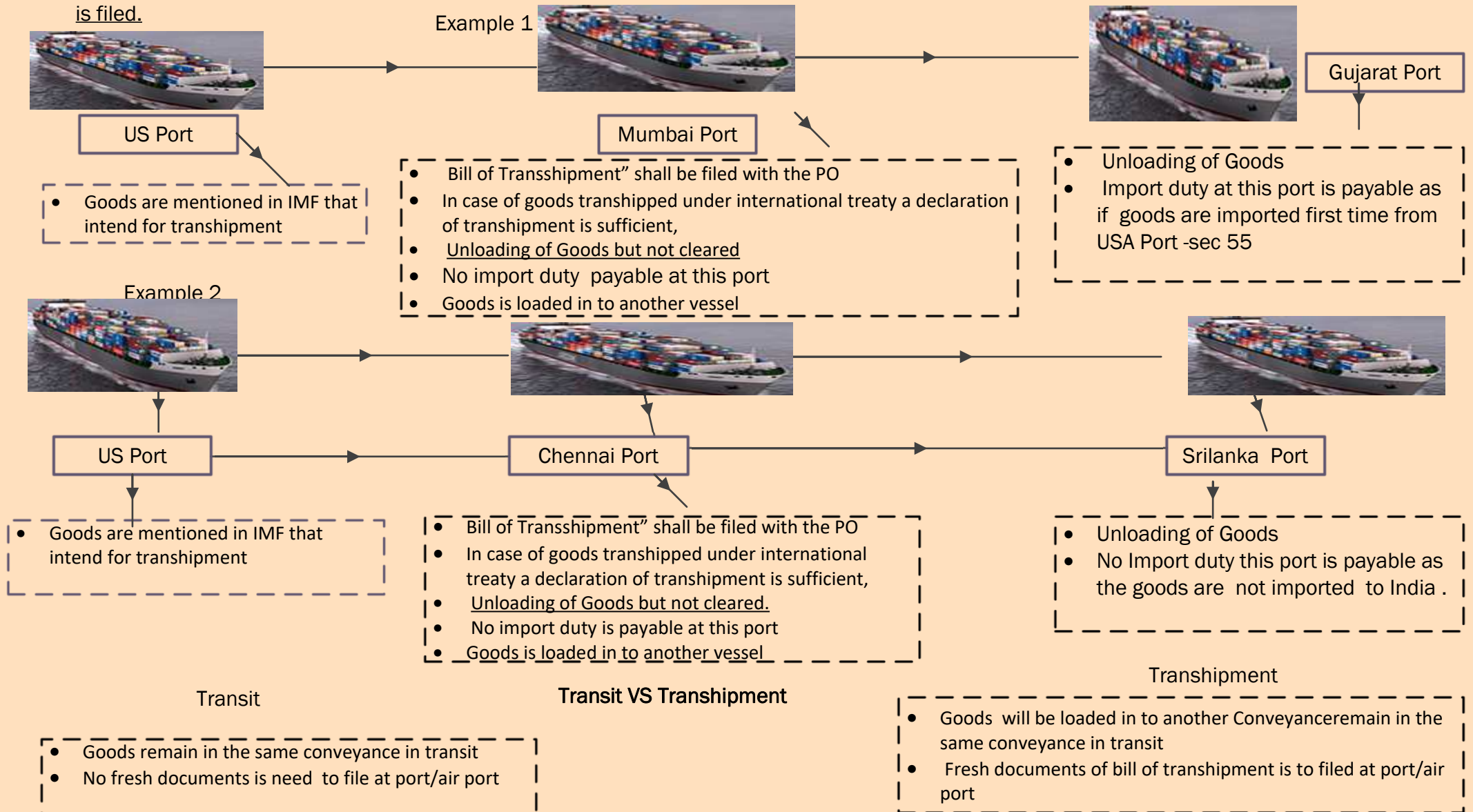
Example 2



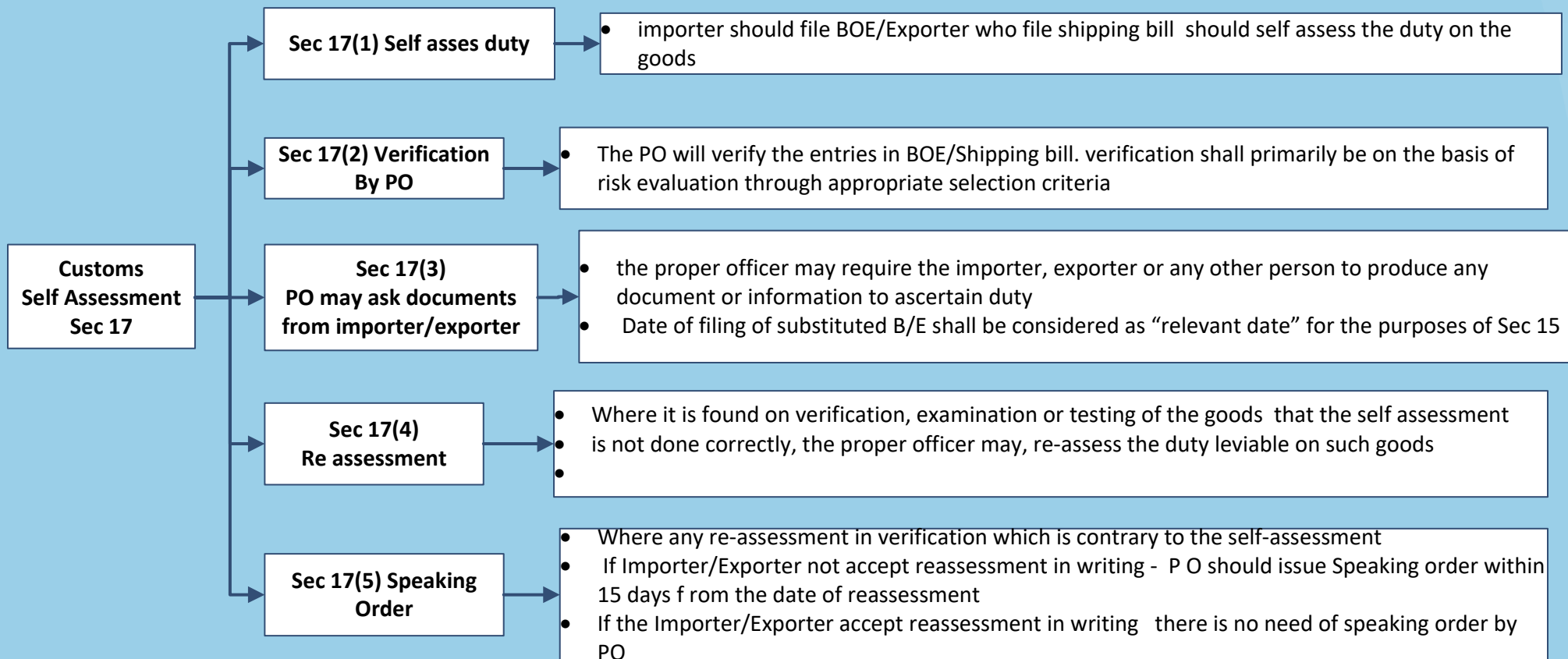
Transit and transshipment of goods-2, Sec 53, Sec54 and Sec 55

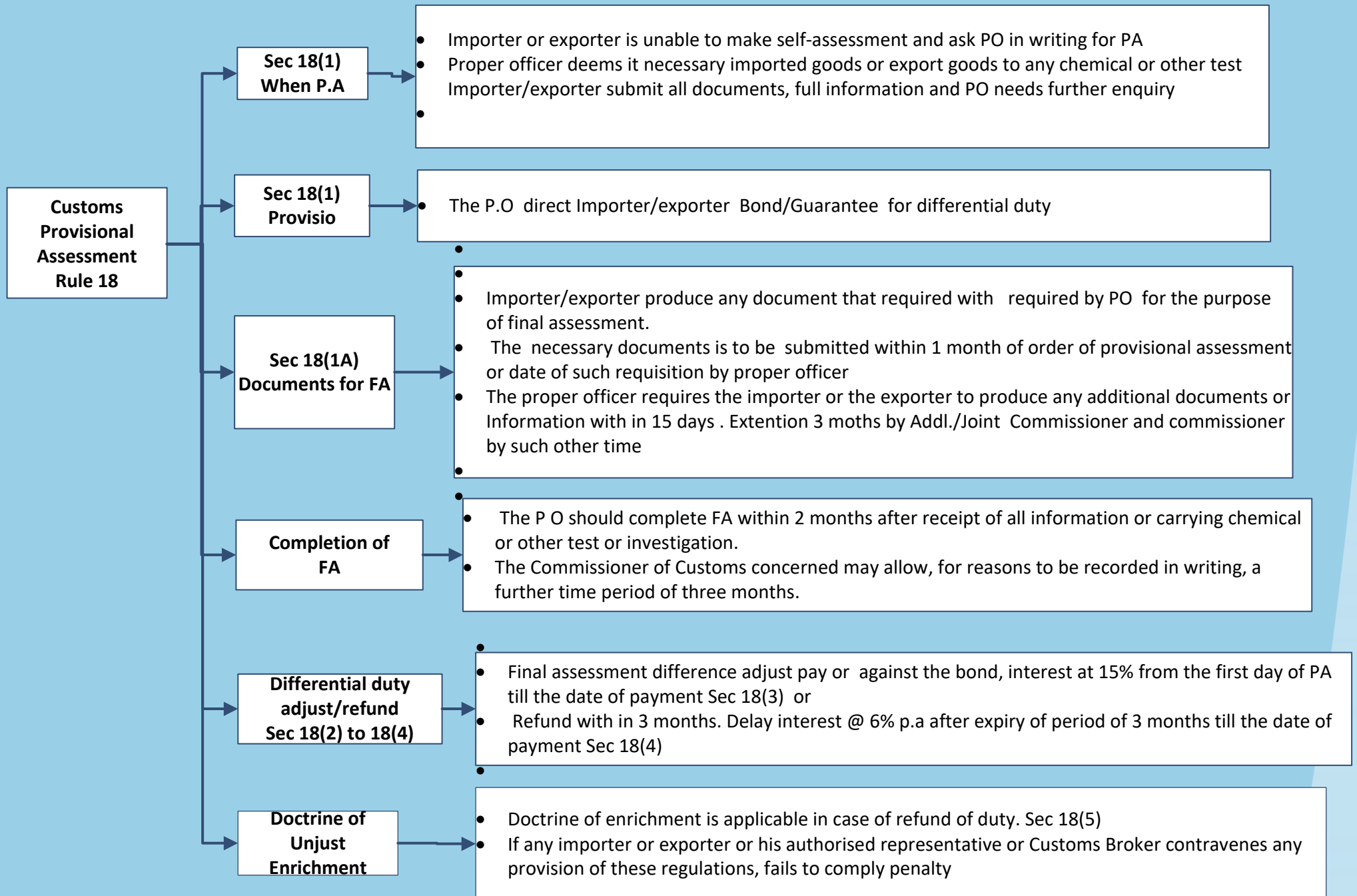
Transshipment of goods sec 54

- Any vessel, aircraft or Vehicle coming out of India, reaches any port, airport customs station in India, the goods may be allowed for transshipment to any other port or airport, customs station in India /Outside India without payment of duty, if such goods are mentioned in IMF, A bill of transshipment is filed.



Transit and transshipment provisions are not applicable for goods imported through baggage, post and courier





Customs Audit Sec 99A and Customs Audit Regulations 2018

1	Definitions	
	Audit	includes examination or verification of declaration record, entry, document, import or export licence, authorisation, scrip, certificate, permission etc. book of account, test or analysis, report, and any other document relating to imported goods or export goods or dutiable goods, and may include inspection of sample and goods, if such sample or goods are available and where necessary, draw of samples
	Auditee	includes an importer or exporter or custodian approved under section 45 or licensee of a warehouse and any other person concerned directly or indirectly in clearing, forwarding, stocking, carrying, selling or purchasing of imported goods or export goods or dutiable goods
	Audit report"	includes the audit finding in the report prepared after the audit containing details about objections raised by the proper officer and explanation given by the auditee, if any
	Books of account	" includes ledgers, day -book, cashbooks, account books, other accounts related record whether kept in written or printed form or stored electronically
	Electronic record"	"means data or record stored in any form and manner relevant for the purpose of Audit under section 99A of the Act
	Premises"	includes the registered office, branch office, warehouses, factory, or any other premises at which, imported goods or export goods or dutiable goods or books of account or records of transaction or other related documents, in relation to the said goods are ordinarily kept for any purpose by an auditee
2	Selection for Audit	The selection of auditee is based on risk evaluation though appropriate selectively criteria. Directorate General of Analysis and Risk Management has been entrusted the responsibility of identifying the potential focus areas and entities for various types of audit.
3	Types of audit	TRANSACTION BASED AUDIT (TBA) AND PREMISE BASED AUDIT (PBA). Under TBA, transactions are audited. TBA may subsequently be converted into a Premises based Audit (PBA). Premises Based Audit by including other entities who are concerned with imports or exports. PBA would enable the department to bridge the communication divide and usher in a new era of partnership with trade. Further, Board may also select any criteria or Theme for the audit.
4	Auditee to provide documents	Auditee shall preserve and make available in a timely manner, for audit, true and correct information, records including electronic records, documents or accounts maintained in compliance of the provisions of Act, maintained for a minimum period of five years in relation to imported goods or export goods or dutiable goods.
		he auditee shall render assistance and shall in no case refuse or abstract the proper officer or his team of officer in discharge of their official duty

5	Manner of conducting audit	The Proper officer may conduct audit either in his office or in certain cases at the premises of an auditee and ask auditee to furnish documents and information
		The proper officer shall give not less than fifteen days advance notice to the auditee to conduct audit at the premises of the auditee.
		the proper officer may, where considered necessary, inspect the imported goods or export goods or dutiable goods at the premises of the auditee or request the auditee to produce sample, if available, with him.
		PBA, customs would review the import and export over a given period and check all relevant commercial records, including financial statements and contracts to verify the particulars given in a goods declaration.
		where the proper officer has asked the auditee to furnish information, documents record or sample for the purposes of audit, it shall be mandatory for the proper officer to inform outcome of such audit to the auditee
		The proper officer shall inform the auditee of the objections, if any before preparing the audit report to provide him an opportunity to offer clarifications with supporting documents.
		Based on the findings, auditee may accept the liabilities and voluntarily discharge the duty, interest and penalty, as applicable
5	Assistance of Professionals	If the proper officer, having regard to the nature and complexity of the audit, is of the opinion that the audit has to be done with the assistance of a professional or expert like CA, CMA, IT professionals may do so, with the previous approval of the Principal Commissioner/Commissioner of Customs
6	Penalty	Any auditee, who contravenes, shall be liable to a penalty which may extend to Rs. 50,000/-

Verification of identity and compliance thereof Sec 99B New Section FA 2019

The proper officer, authorised in this behalf by the Principal Commissioner of Customs or the Commissioner of Customs, may, for the purposes of ascertaining compliance of the provisions of this Act or any other law for the time being in force, require a person, whose verification he considers necessary for protecting the interest of revenue or for preventing smuggling, to do all or any of the following, namely:"

- (a) undergo authentication, or furnish proof of possession of Aadhaar number, in such manner and within such time as may be prescribed;
- (b) submit such other document or information, in such manner and within such time as may be prescribed:

Provided that where such person has not been assigned the Aadhaar number, or where so assigned, but authentication of such person has failed due to technical reasons or for reasons beyond his control, then, he shall be provided an opportunity to furnish such other alternative and viable means of identification in such form and manner and within such time as may be prescribed.

(2) The provisions of sub-section (1) shall not apply to such person or class of persons as may be prescribed.

(3) Notwithstanding anything contained in any other provisions of this Act, where the Principal Commissioner of Customs or the Commissioner of Customs concludes, based on reasons to be recorded in writing, that the person referred to in sub-section (1) has"

(i) failed to comply with the requirements of the said sub-section or submitted incorrect documents or information under the said sub-section, he may, by order, suspend"

(a) clearance of imported goods or export goods;

(b) sanction of refund;

(c) sanction of drawback;

(d) exemption from duty;

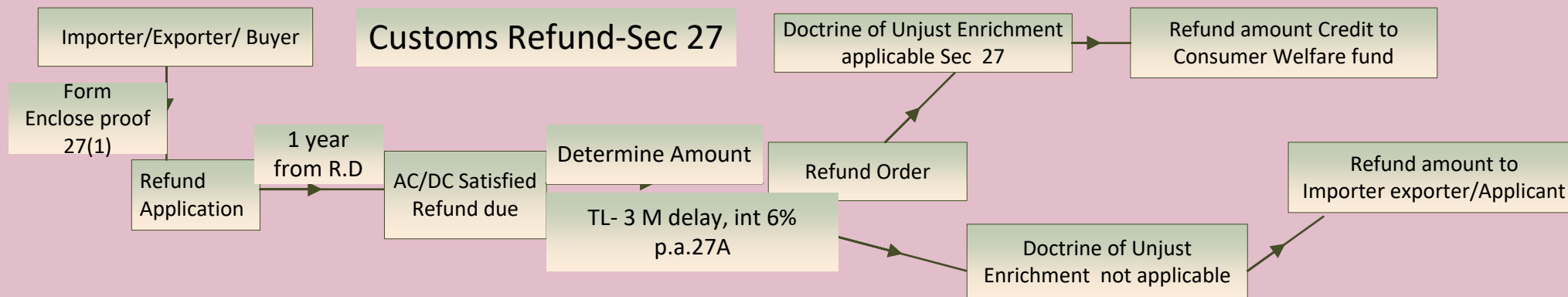
(e) licence or registration granted under this Act; or

(f) any benefit, monetary or otherwise, arising out of import or export, relating to such person, subject to such conditions as may be prescribed;

(ii) failed authentication as required under the said sub-section, he may, by order, direct that such person shall not have the benefit of any of the items specified in sub-clauses (a) to (f) of clause (i).

(4) The order of suspension under sub-section (3) shall remain in force until the person concerned complies with the requirements of sub-section (1) or furnishes correct document or information thereunder

Certain other amendments made in sec 103, sec 104, sec 110, sec 110A, Sec 114, sec 125 etc., are relating to search, seizure, confiscation, Penalties are not relevant for exam.



Relevant Date:

- **In case of Export Rebate**
 - Export through aircraft/vessel-Date of leaving aircraft/ Vessel Export through vehicle-Date of leaving custom frontier Export through post-Date of dispatch of article
- In Case of Exemption u/s 25 -Date of exemption order
- In Case of Provisional Assessment-Date of final adjustment of duty
- In case of Buyer Date of Purchase of goods
- In case of Order of court/Appellate authority-Date of order
- In any other case-Date of payment of duty

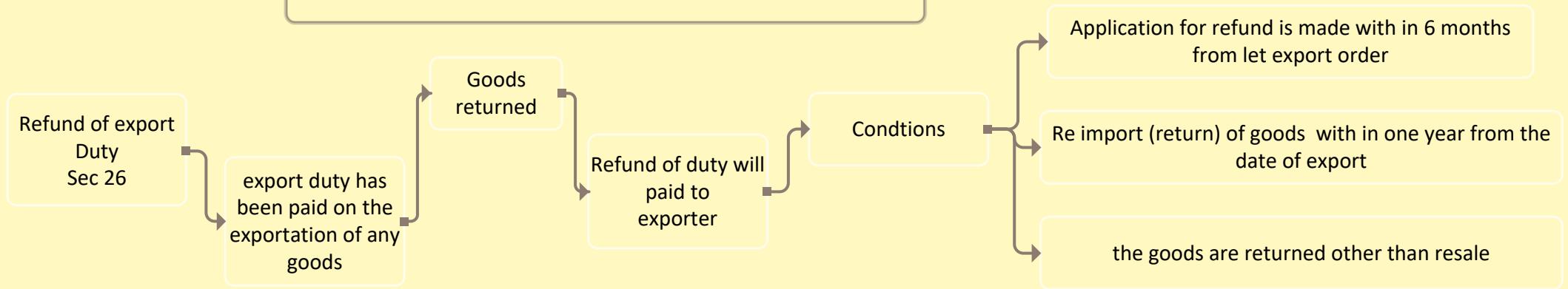
Doctrine of Unjust Enrichment/Refund credit to consumer welfare fund

- It is always assumed unless contrary proved by manufacturer that excise Duty burden normally fully passed on to buyer
- In such cases, refund of excess duty paid to the manufacturer will amount to excess and un-deserved profit to him.
- He will get double benefit – One from consumer and again from the Government.
- At the same time, the duty is illegally collected and hence cannot be retained by Government, it will be credited to Consumer welfare fund
- The fund may be used for activities of protection and benefit of consumers.
- Provisions of Unjust enrichment will apply to all types of refund, (Provisional Assessment, Captive consumption Duty paid under protest etc)

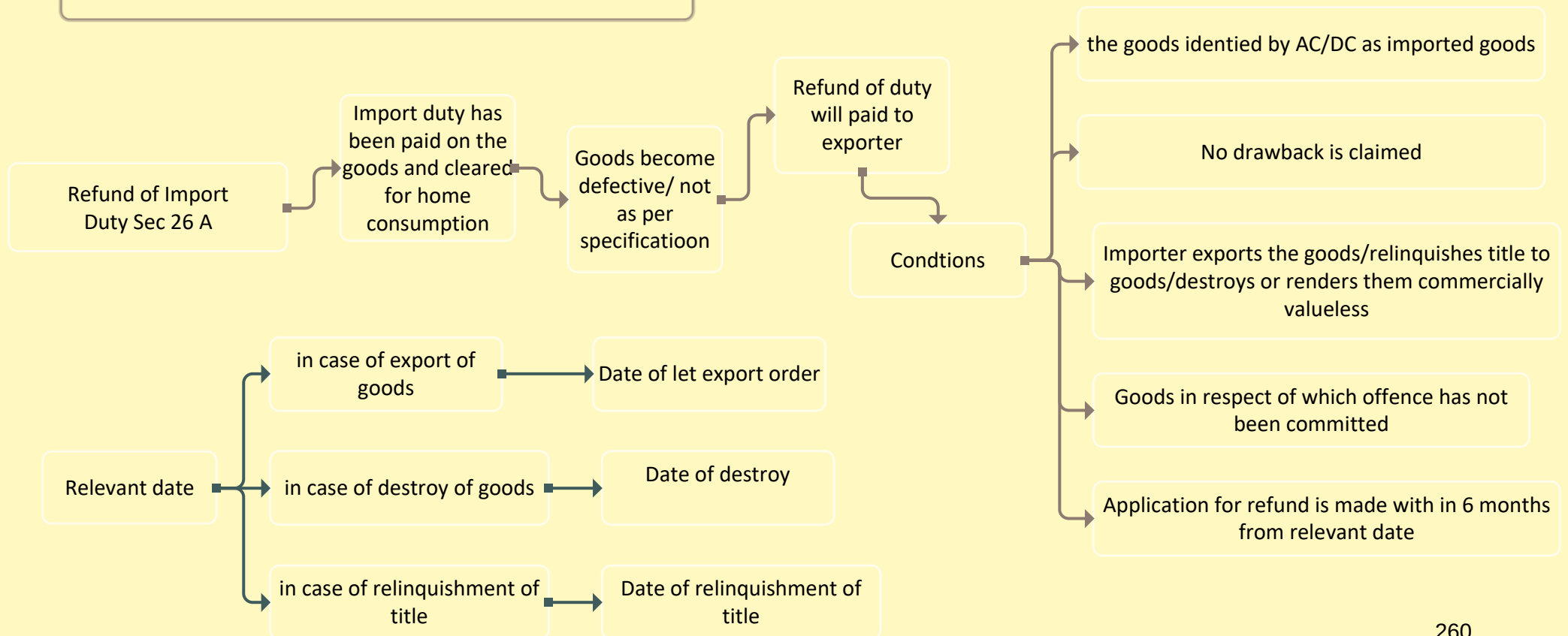
Non Applicability of Doctrine of Unjust enrichment (Refund paid to manufacturer / buyer)

- if the importer has not passed on the incidence of such duty and interest to any other person;
- if imports were made by an individual for his personal use;
- if the buyer who has borne the duty and interest, has not passed on the incidence of such duty and interest to any other person;
- if amount found refundable relates to export duty paid on goods which has returned to exporter as specified in section 26;
- if amount relates to drawback of duty payable under section 74 and 75;
- if the duty or interest was borne by a class of applicants which has been notified for such purpose in the Official Gazette by the Central Government.
- if the duty paid in excess by the importer before an order permitting clearance of goods for home consumption is made where—
 - such excess payment of duty is evident from the bill of entry in the case of self-assessed bill of entry; or
 - the duty actually payable is reflected in the reassessed bill of entry in the case of reassessment.

REFUND OF EXPORT DUTY IN CERTAIN CASES [SECTION 26]



REFUND Of Import DUTY IN CERTAIN CASES [SECTION 26 A]



Duty Drawback (Refund of duty on exports)

Types of duty drawback

Drawback u/s 74

imported goods on which Customs Duty, and IGST paid is exported. Exporter eligible of refund of Customs duty (BCD), SWS, IGST and GST Compensation CESS

Drawback u/s 75

Duty paid imported inputs Used in manufacture of Final product., manufactured product is exported. Exporter eligible of refund of customs duty (BCD), SWS and excise duty on Non GST goods

Duty draw back u/s sec. 74

- Goods have been import in to India
- Import duty on goods customs and IGST is paid

- Same imported goods Is entered for Export
- General export of cargo, baggage export, export by post is eligible

- Shipping bill/Bill of export is filed by exporter
- AC/DC examined goods and Ensure that there is no prohibition/restriction for export Of goods

CG fixes Two types of rates
1. Rates for business goods
2. Rates for personal goods

- Refund of import duty up to 98% of duty paid
- Proportionate Reduction of % of refund in case of delay in export by usage of goods

- Export is made With in 2 years from date of payment of duty
- CBIC has power to extend time
- Let export order issued u/s 51 for clearance of goods.

Rates of drawback u/s 74

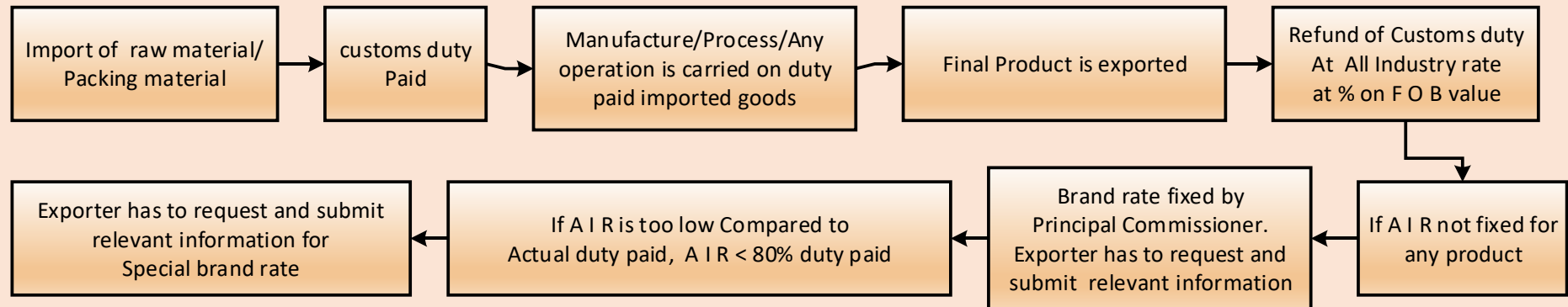
SNo	Usage time	Rate of DBK	Usage time	Rate of DBK : For personal goods including motorcar imported by individual
1	< 3 months	95%	1st year	100% -(4% per quarter of part of quarter)
2	> 3months<= 6 months	85%	2 nd year	100% -(16%+ 3% per quarter of part of quarter)
3	> 6 months<= 9 months	75%	3 rd Year	100% -(28%+ 2.5% per quarter of part of quarter)
4	> 9 months<= 12 months	70%	4 th year	100% -(38%+ 2% per quarter of part of quarter)
5	> 12 months<= 15 months	65%	More than 4 years	NIL. No DBK
6	> 15 months<= 18 months	60%	<u>No DBK for used</u> --- i) Wearing Apparel; ii) Tea; iii) Exposed Cinema Film; iv) Unexposed Photographic films/Paper Plates/X-ray films Note: If the above are not used after import, drawback u/s 74(1) is eligible @ 98%	
7	> 18 months	NIL		

Procedure for claiming drawback U/s 74

Re-Export of Imported Goods (Drawback of Customs Duties) Rules, 1995

Rule 2	Drawback in relation to any goods exported out of India, means the refund of duty or tax or cess as referred to in the Customs Tariff Act, 1975 paid on importation of such goods
Rule 3	Export by Post:
	❖ outer packing shall carry the words "DRAWBACK EXPORT ❖ exporter shall deliver to the DBK claim to competent Postal Authority ❖ date of filing of drawback claim is considered for one-month calculation for interest ❖ Deficiencies if any rectify within 15 days. Deficiency rectification memo acknowledgement date is considered for DBK claim
Rule 4	Export by other than Post:
	❖ Exporter at the time of export declaration to be made in the shipping bill/Bill of export about imported goods, duty paid/ whether used or nor after importation. ❖ To furnish documents as proof of import/duty payment & Export invoice packing list etc.,
Rule 5	❖ A Claim for DBK to be filed within 3 months from the date of let export order ❖ Application for extension of time can be made by exporter by payment of application fees ❖ Extension of time another 3 months by AC/DC 1% of FOB/Rs. 1000 WEL ❖ Extension of time further 6 months by Com., /Principal Com., 2% of FOB/Rs. 2000 WEL ❖ Extension of time may be given or refused by writing reasons
(a) Time limit	
(b) Documents to file	❖ Triplicate copy of shipping bill, BOE, import invoice, Export invoice, packing list ❖ Other documents if any mentioned in deficiency memo. Deficiencies if any rectify within 15 days. ❖ Deficiency rectification memo acknowledgement date is considered for DBK claim
Rule 6 Payment of drawback	❖ The drawback under these rules and interest, if any, shall be paid by the officer of Customs to the exporter or to his authorised agent ❖ The date of payment of drawback and interest shall be deemed to be, date of cheque or date of credit to the exporter account in customs house
Rule 7 Recovery of Excess DBK paid	❖ Where an amount of drawback and interest, if any, has been paid erroneously or excess than entitlement, the claimant shall, on demand by an officer of customs repay the amount so paid erroneously or in excess, as the case may be, and where the claimant fails to repay the amount it shall be recovered

Drawback under sec 75



Drawback not allowed 75(1)

- ❖ The export value of the finished goods is less than the value of the imported material used in manufacture (i.e. There shall NOT BE (-ve) Value Addition,
- ❖ The (+ve) Value Addition shall exceed the minimum notified % of Value Addition
- ❖ Export sale proceeds are not received in with in time as per FEMA
- ❖ However, Central Government is empowered to prescribe the circumstances under which duty drawback would not be disallowed even though the export remittances are not received within the period allowed under FEMA

More import material used 75 (1A)

- ❖ Where it appears to the Central Government that the quantity of a particular Material imported into India, is more than the total quantity of like material that has been used in the goods manufacture, Central Government, by notification declare that material is deemed to be import material for drawback

Power to frame Drawback Rules 75(2)

CG has power to notify DBK rules for Payment of DBK, / procedure for claim DBK/ Documents for DBK/DBK disallowance/inspection of factory/recovery of DBK etc. are as follows

Customs, Central Excise Duties and Service Tax-(DBK) Rules, 2017 Notification No. 88/ 2017 Cus (NT) dated 21.09.2017 Effective
from 01.10.2017

Rule 2	❖ 'drawback' in relation to any goods manufactured in India and exported, means the rebate of duty <u>excluding IGST u/s 3(7) and GST Compensation cess u/s 3(9)</u> chargeable on any imported materials or excisable materials used in the manufacture of such goods				
Rule 3	❖ Where the duty is not paid on the portion of goods or duty is given credit, duty is rebated or refunded, drawback will be reduced to that extent ❖ Drawback will be paid based on the percentage of FOB as per All Industry Rates notified by the CBEC. By considering the following ❖ Fixed considering <u>average quantity and value of each class of inputs</u> imported or manufactured in India. ❖ Average amount of duties paid imported material indigenous material/ waste produced in manufacture ❖ any other information which the Central Government may consider relevant or useful for the purpose ❖ These rates are fixed for broad categories of products. The rates include drawback on packing materials No drawback in certain cases: (i) Packing materials for export of tea, except tea chests. (ii) Goods manufactured out of duty-free materials. (iii) Jute batching oil used in manufacture jute yarn, twine etc. (iv) Packing material used for jute yarn, fabrics etc.				
Rules 4	The Central Government will revise these rates and specify the period in which the rates will be in force				
Rule 5	Determination of relevant date for application of amount or rate of DBK i) The Central Government will specify the period of validity for the drawback. (ii) Retrospective effect – from the date of notification The relevant date shall be: <table border="1"> <tr> <td>In case of Goods exported by filing Shipping Bill / Bill of Export</td><td>Date of issuance by “Let Export Order</td></tr> <tr> <td>In case of Goods Exported by Post</td><td>Date of delivery of Export Goods to the Postal Authority</td></tr> </table>	In case of Goods exported by filing Shipping Bill / Bill of Export	Date of issuance by “Let Export Order	In case of Goods Exported by Post	Date of delivery of Export Goods to the Postal Authority
In case of Goods exported by filing Shipping Bill / Bill of Export	Date of issuance by “Let Export Order				
In case of Goods Exported by Post	Date of delivery of Export Goods to the Postal Authority				
Rule 6	Brand rate ❖ Brand rate is fixed if it is not possible to fix All Industry Rate in case of some special products. I.e. Where no amount or rate of drawback has been determined in respect of any goods, ❖ The manufacturer has to apply with all the details within three months to relevant date to Principal Commissioner of Customs of exporter jurisdiction. Extension of time 3/ 6 moths possible by making application with prescribed fee. ❖ The exporter can also make an application for provisional drawback, pending determination of final rate. He has to execute bond not exceeding full amount of drawback. ❖ The final draw back amount is adjusted against provisional amount released. The excess if any paid shall be refunded by exporter.				

Rule 7)	Special brand rate: Cases where amount or rate of drawback determined is low ❖ A particular manufacturer may find that the actual duty paid on inputs is higher than the All Industry Rate fixed for his product. ❖ In such cases, he can apply for fixation of Special Brand Rate, within 3 months/ extension, from relevant date of applicability of amount to principal commissioner/Commissioner of Customs of his jurisdiction ❖ The conditions of eligibility are that the fixed All Industry Rate should be less than 80% of the duties paid by him. ❖ CG if necessary to do so, with draw or revoke the rate of draw back ❖ The manufacturer can also file an application for provisional drawback as per Rule 6
Rule 8]:	Cases where no amount or rate of drawback is to be determined: ❖ No amount or rate of drawback shall be determined in respect of any goods or class of goods under rule 6 or rule 7, as the case may be, if the export value of each of such goods or class of goods in the <u>bill of export or shipping bill is less than the value of the imported materials used in the manufacture of such goods or</u> ❖ not more than such percentage of the value of the imported materials used in the manufacture of such goods or class of goods as the Central Government
Rule 9	The drawback amount or rate determined under rule 3 shall not exceed one third of the market price of the export product.
Rule 10	Any officer of the CG Authorised in this behalf by an AC/DC, may require any manufacturer or exporter of goods or any other person likely to be in possession of the same to furnish such information and to produce such books of account and other documents as are considered necessary by such officer. For the purpose of ❖ determining the class or description of materials or components used in manufacture ❖ verifying the correctness or otherwise of any information/ drawback ❖ obtaining any other information considered useful by PC/C of customs
Rule 11	Access to manufactory: Officer of CG Authorised by AC/DC of customs as the case may be, considers it necessary, inspect the premises of factory, manufacturing process so as to enable materials or components used for the manufacture of such goods, entitlement of the goods for drawback or for a particular amount or rate of drawback
Rule 12	Export by Post ❖ Mention “DBK Export” on outer package ❖ Prepare DBK claim separately ❖ Submit to the postal authorities along with the package ❖ Deficiency if any by memo with 15 days, rectification within 30 days by exporter, the acknowledge will be issued. ❖ The date of claim of drawback will be the date of filing of to the customs by the postal authorities
Rule 13 & 14	Procedure Export other than by Post ❖ Declaration by exporter on shipping bill that all duties paid. Additional declaration in case of brand rates

	❖ Submit other documents ARE 1/Insurance certificate/invoice/LC ❖ Electronic shipping bill in Electronic Data Interchange (EDI) under the claim of drawback or triplicate copy of the shipping bill for export of goods under a claim of drawback shall be deemed to be a claim for drawback filed ❖ If the said claim for drawback is incomplete in any material particulars or is without the documents specified above, shall be returned to the claimant with a deficiency memo by PC of C of customs ❖ Where the exporter resubmits the claim for drawback after complying with the requirements specified in the deficiency memo, the same will be treated as a claim filed
Rule 15	Payment of drawback and interest The drawback under these rules and interest, if any, shall be paid by the proper officer of Customs to the exporter or to the agent specially authorised by the exporter to receive the said amount of drawback and interest. One or more claims can be combined and adjustments of all dues can be made and cheque issued or amount credited to exporter.
Rule 16	Supplementary claim ❖ DBK sanction is found to be less than what the exporter is entitled to ❖ Supplementary claims can be made in Form Annexure III within 3 months from ▪ Date of publication of such rate in case of revised rate granted ▪ Date of communication of the said rate in case of brand rate (rule 6 & 7) ▪ Date of payment of original drawback in other cases.
[Rule 17]	Repayment of erroneous or excess payment of drawback and interest It shall be repaid upon demand by the PO. /recovered u/s 142
[Rule 18]:	Recovery of amount of drawback where export proceeds not realised ❖ AC/DC will send notice to exporter to bring evidence of sale proceeds (30 days' time given) ❖ failure to bring the evidence, AC/DC shall pass recovery orders --- exporter r shall pay within next 30 days (<i>Failure will attract recovery Procedures u/s 142</i>) ❖ However, as and when foreign exchange is brought in India --Proof can be submitted and then, recovered DBK shall be repaid to the importer.

Safeguard duties are rebatable as duty drawback [Circular No. 23/2015 Cus dated 29.09.2015]

- ❖ AIR u/75 are not includes safe guard duty paid u/s 8B/8C, hence exporter can apply for brand rate who pays safe guard duties at the time of importation
- ❖ Similarly, exporter can claim drawback u/s 74 in who pays safe guard duties at the time of importation

Distinction/Comparison between Drawback u/74 and 75

SN	Situation	Drawback u/s74	Drawback u/s 75
1	When admissible	Imported goods exported as such (without being used) or after use	Imported goods used in manufacture of goods which are exported
2	Related rules	Re-export of Imported Goods (DBK of Customs Duties) Rules, 1995	Customs, Central Excise Duties and Drawback Rules 2017
3	Means of export	General Export of Cargo/ Baggage Export;/ Export by Post	General Export of Cargo/ Baggage Export;/ Export by Post
4	Duty refund	Customs duty, + SWS+ IGST+GST Compensation cess	Customs duty, + SWS+ IGST+GST Compensation cess + Excise duty on Non-GST Goods
5	Rates of DBK	Flat rates up to 98% and reduced rates over a period of time for usage	All industry Rates on % of FOB value, brand rates/special brand rates
6	Time limit for export	2 years from the date of import + extention by CBIC	No specific time limit
7	Identification of goods	Goods must be capable of being easily identified	No such identification, as manufacture/ process takes place
8	Value addition	There is NO requirement of Minimum Value Addition	There should not be negative value addition
9	Foreign exchange	There is no condition that export proceeds received in convertible foreign exchange	There is a condition that export proceeds received in convertible foreign exchange within time specified in FEMA
10	Mode of export	Goods can be export as baggage	Goods can be export as baggage

Common provisions for DBK u/s 74 and 75

Interest for Delay payment of drawback 75 A	
	Failure to pay DBK due to the exporter within 1 Month from the date of filing of DBK Claim
	Exporter shall be entitled to interest @ 6% p.a. for the period of delay beyond 1 Month
	DBK granted erroneously to Exporter, SCN served for recovery of such DBK –
	Exporter shall pay interest @ 15% p.a. from the date the DBK was erroneously granted till the date of actual payment
	Failure of to pay the demand within 2 Month from date of demand, recovery action shall be initiated
PROHIBITION & REGULATION OF DBK- Sec 76	
	No DBK if DBK due is less than Rs., 50/- / Market Price (of Export Goods) is < the DBK Due
	Goods likely to be smuggled back into India: CG (by Notification)
	Prohibit allowance of DBK on export of such goods; or
	Impose restrictions and conditions as to allowance of DBK on export of such goods

BAGGAGE

BAGGAGE Sec 2(3):

- It includes – unaccompanied baggage but it doesn't include Motor Vehicle.
- Baggage normally means the luggage of a passenger accompanied or unaccompanied,
- Baggage comprises of trunks or bags and the personal belongings of the passenger.

The statutory provisions relating to Baggage are covered by sections 77 to 81 of the Customs Act as below

Sec 77	Entry of Baggage/Declaration by Owner of the Baggage ❖ The owner of the baggage has to make a declaration of its contents to the proper officer of customs, for the purpose of clearing (for import/export) it. ❖ This is known as Baggage Declaration Form.
Sec 78	<u>Relevant Date for determination of AV & RoD</u> ❖ Relevant Date = Date of filing of Declaration of its contents ❖ All dutiable Articles <u>when imported as Baggage</u> shall be classifiable into Entry No. 98.03 [they shall be assessed collectively under this Heading --- & not to their individual Heading. The effective rate is 38.5% (BCD 35%+ SWS 10% on BCD= 3.5%) This rate is not applicable for cigar tobacco, fire arms in excess of prescribed quantity and goods imported through courier
Sec 79	<u>Bonafide Baggage Exempt from Customs Duty</u> Subject to <u>LIMITS & CONDITIONS</u> as specified in the BAGGAGE RULES, 1998 --- PO will allow clearance of baggage without charging any customs duty as below ❖ Articles in use for minimum period by passenger/crew member the Baggage, Any Quantity (which appears reasonable keeping in mind status of the passenger) ❖ Unused Articles in the Baggage: for passenger/ his family members up to limit ❖ A Bonafide gift or souvenir up to limit ❖ The CG will make rules for the minimum period article used and maximum value articles passed without duty.
Sec 80	<u>Temporary detention of baggage</u> ---- [Dutiable // Prohibited Article + True Declaration about the article has been made u/s 77] ❖ Passenger may request PO to detain (keep in custody) such article with him for the purpose of returning him said article at the time of his leaving India ❖ If passenger is not able to collect the article at the time of his leaving India, he can claim return of his articles in either of the following modes: ❖ He can authorize any other passenger (who is also leaving India) to collect the detained baggage on his behalf; or ❖ He can make a request to PO to later on send the baggage as cargo consigned in his name.
Sec 81	<u>Regulations in respect of baggage</u> Board may make regulations in the following matters: a) providing for the manner of declaring the contents of any baggage;

	b) providing for the custody, examination, assessment to duty and clearance of baggage; c) providing for transit or transshipment of baggage from one customs station to another or to a place outside Indi
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Valuation of Baggage: there is no separate rules. Price tags, online prices are not relevant. Value is to be made as per Customs Valuation Rules.

Bonafide Baggage: Baggage declaration form prescribed that 'bona fide baggage' includes - wearing apparel / personal and household effects meant for personal use of passenger or family members travelling with him and not for sale or gift /.Jewellery including articles made wholly or mainly of gold, in reasonable quantity according to status of passenger '/Tools of draftsman /Instruments of physician or surgeon.Import of consumer goods in commercial quantity is not permissible as per Foreign Trade policy and it cannot be treated as 'bona fide baggage

Baggage Rule 1998

Amended with notification No. 30/2016 Cus (NT) dated 01.03.2016 and Notification No. 43/2016 Cus (NT) dated 31.03.2016). New rules are applicable from 01.04.2016

Type of passengers and Classification:

Tourists can be broadly classified as	Accordingly, 'Baggage Rules, 1998' contain different provisions for
(a) Indian persons going abroad and coming back	a) Residents from India
(b) Foreign Tourists visiting India for sightseeing or business purpose	b) Foreigners residing in India
	c) Infants
	d) Tourists visiting India and
	e) Persons transferring their residence

General Free Allowance:

In addition to personal effects (excluding jewellery), a passenger is allowed general free allowance of up to Rs. 50,000/-. The limit for Rs. 50,000/- is reduced up to Rs.15,000/- for various category of persons depending upon different circumstances

Annexure I: Following cannot be accommodated in General free allowance. I.e. this item is dutiable

1. Fire Arms	2. Tobacco > 125 g
3. Cartridges of fire arms > 50 units	4. Alcoholic Liquor > 2 lt
5. Cigarettes > 100 no	6. Gold or silver, in any form, other than ornaments
7. Cigar>25 no.	8. Flat Panel (LCD/LED/Plasma) Television

Personal effects: Departmental clarification - Following will be covered in 'personal effects. Only used personal effects are permitted. However, as long as it is not prima facie new goods in their original pickings which can be disposed of off hand, it will be permitted. The list as given in MF(DR) circular No. 72/98-Cus dated 24-9-1998 is as follows

Personal Jewellery	One computer (laptop/note book) [Laptop/note book computer has been exempted from customs duty vide notification No. 11 /2004-Cus dated 8-1-2004]
One camera with film-rolls not exceeding 20	One electronic diary
One video camera/camcorder with accessories and with video cassettes not exceeding 12	One portable wireless receiving set (transistor radio)
• One pair of binoculars	Professional equipment, instruments and apparatus of appliances including professional audio/ video equipment's
One portable colour TV (not exceeding 15 cms in size)	Sports equipment such as one fishing outfit, one sporting firearm with 50 cartridges, one non- powered bicycles, one canoe or ranges less than

One music system including compact disc player	5 meters long, one pair of skids, two tennis rackets, one golf set (14 pieces with a dozen of golf balls)
One portable typewriter	One cell phone

Important Definitions

Resident" means a person holding a valid passport issued under the Passports Act and normally residing in India;

tourist" means a person not normally resident in India, who enters India for a stay of not more than six months in the course of any twelve months' period for legitimate non-immigrant purposes,

For example: such as touring, recreation, sports, health, family reasons, study, religious pilgrimage or business;

"Family" includes all persons who are residing in the same house and form part of the same domestic establishment;

Personal effects" means things required for satisfying daily necessities but does not include Jewellery.

Infant" means a child not more than two years of age

Rule 3: Passengers arriving from countries other than Nepal, Bhutan, Myanmar

An Indian resident or a foreigner residing in India, Tourist of foreign origin returning from any country other than Nepal, Bhutan, Myanmar shall be allowed clearance free of duty articles in his bona fide baggage as below:

Class of Passenger	Origination Country	Articles allowed free of duty
Indian resident or Foreigner residing in India or Tourist of Indian origin, <u>excluding an infant</u>	Any country other than Nepal, Bhutan or Myanmar	Used personal effects, excluding jewellery, required for satisfying daily necessities of life
		Articles other than those mentioned in Annex. I up to a value of Rs. 50,000/- if these are carried on the person or in the accompanied baggage of the passenger
Tourist of foreign origin <u>excluding infant</u>	Any country other than Nepal, Bhutan or Myanmar	Used personal effects, excluding jewellery, required for satisfying daily necessities of life
		Articles other than those mentioned in Annex. I up to a value of Rs. 15000/- if these are carried on the person or in the accompanied baggage of the passenger -

In case of infant only used personal effects excluding Jewellery will be allowed as duty free

Note: Old slabs like age of passenger and duration of stay abroad by passengers was removed from 01.04.2016. The free allowance under this rule and rule 4 shall not be allowed to be pooled with the free allowance of any other passenger. e.g. husband and wife bringing one item of Rs.1,00,000 will not be permitted duty free.

Rule 4: Passengers arriving from countries Nepal, Bhutan, Myanmar

Class of Passenger	Origination Country	Articles allowed free of duty
Indian resident or Foreigner residing in India or Tourist, excluding an infant	Nepal, Bhutan, Myanmar	Used personal effects, excluding jewellery, required for satisfying daily necessities of life
		Articles other than those mentioned in Annex. I up to a value of Rs. 15,000/- if these are carried on the person or in the accompanied baggage of the passenger

In case of infant only used personal effects excluding Jewellery will be allowed as duty free

In case of arrival by land only used personal effects excluding Jewellery will be allowed as duty free

Note: Old slabs like age of passenger and duration of stay abroad by passengers was removed from 01.04.2016.

Rule 5 Jewellery.

A passenger returning to India shall be allowed clearance free of duty Jewellery in his bona fide baggage as below

Type of Passenger	Duration of Stay in abroad	Articles allowed free of duty
Any Passenger coming from Any Country	Over 1 year	Gentleman: Jewellery up to a weight of 20 grams with a value cap of Rs.50,000
		Lady Passenger: Jewellery up to a weight of 40 grams with a value cap of Rs.1,00,000

Rule 7 Currency

The import and export of currency under these rules will be governed in accordance with the provisions of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, and the notifications issued thereunder.

Rule 8 Transfer of residence to India

A person who is engaged in profession abroad or transferring his residence to India shall be allowed clearance free of duty, in addition to what he is eligible under rule 3 or rule 4

S NO	Duration of Stay	Articles Allowed free of duty	Condition
<u>1</u>	From 3 months up to 6 months	Used personal and household articles, other than those mentioned in Annexure I or Annexure II but including articles mentioned in Annexure III up to an aggregate value of Rs. 60,000/-	Indian Passenger

<u>2</u>	From 6 months up to 12 months	Used personal and household articles, other than those mentioned in Annexure I or Annexure II but including articles mentioned in Annexure III up to an aggregate value of Rs. 1,00,000/-	Indian Passenger
<u>3</u>	Minimum stay of one year during the preceding two years.	Used personal and household articles, other than those mentioned in Annexure I or Annexure II but including articles mentioned in Annexure III up to an aggregate value of Rs. 2,00,000/-	The Indian passenger should not have availed this concession in the preceding three years.
<u>4</u>	<u>Minimum stay of two years or more.</u>	Used personal and household articles, other than those mentioned in Annexure I or Annexure II but including articles mentioned in Annexure III up to an aggregate value of Rs. 5,00,000/-	(i) Minimum stay of two years abroad, immediately preceding the date of his arrival on transfer of residence; (ii) Total stay in India on short visit during the two preceding years should not exceed six months; and (iii) Passenger has not availed this concession in the preceding three years.
Relaxation for Sl. No. 4 (a) For condition (i), shortfall of up to two months in stay abroad can be condoned by Deputy Commissioner of Customs or Assistant Commissioner of Customs if the early return is on account of - (i) terminal leave or vacation being availed of by the passenger; or (ii) any other special circumstances for reasons to be recorded in writing. (b) For condition (ii), the Principal Commissioner or Commissioner of Customs may condone short visits in excess of six months in special circumstances for reasons to be recorded in writing. (c) For condition (iii)- No relaxation.			

Rule 9. Provisions regarding unaccompanied baggage

- ❖ Provisions of these Rules are also extended to unaccompanied baggage except where they have been specifically excluded.
- ❖ The unaccompanied baggage had been in the possession abroad of the passenger and is dispatched within one month of his arrival in India or within such further period as the AC/DC may allow.
- ❖ The unaccompanied baggage may land in India up to 2 months before the arrival of the passenger or within such period, not exceeding one year, as the AC/DC may allow, for reasons to be recorded, if he is satisfied that the passenger was prevented from arriving in India within the period of two months due to circumstances beyond his control such as sudden illness of the passenger or a member of his family, or natural calamities or disturbed conditions or disruption of the transport or travel arrangements in the country or countries concerned or any other reasons, which necessitated a change in the travel schedule of the passenger.

Rule 10 Members of the crew.

- ❖ These baggage rules are applicable to the members of the crew engaged in foreign going vessels, when they are finally paid off on termination of their engagement.
- ❖ However, a crew member of a vessel and aircraft shall be allowed to bring items like chocolates cheese, cosmetics and other petty gift items for their personal or family use which shall not exceed the value of Rs.1500

Annexure II:	Annexure III:
1. Colour Television	1. Video Cassette Recorder or Video Cassette Player or Video Television Receiver or Video Cassette Disk Player.
2. Video Home Theatre System	2. Digital Video Disc player.
3. Dish Washer	3. Music System.
4. Domestic Refrigerators of capacity above 300 litres or its equivalent	4. Air-Conditioner.
5. Deep Freezer	5. Microwave Oven.
6. Video camera or the combination of such video camera with one or more of the following goods viz.	6. Word Processing Machine.
(a)Television receiver.	7. Fax Machine.
(b)Sound recording or reproducing apparatus.	8. Portable Photocopying Machine.
(c)Video reproducing apparatus.	9. Washing Machine.
7. Cinematographic films of 35 mm and above	10. Electrical or Liquefied Petroleum Gas Cooking Range
8.Gold or silver in any form other than ornaments	11. Personal Computer (Desktop Computer)
	12. Laptop Computer (Note book Computer)
	13. Domestic Refrigerators of capacity up to 300 litres or its equivalent

Notification No. 31/2016 Cus (NT) 01.03.2016: the baggage declaration will have to be filed only by those passengers who carry dutiable or prohibited goods or have anything to declare.

Notification No. 26/2016 Cus dated 31.03.2016. The rate of duty, on baggage remains at 35%. +SWS 10%. This rate of duty is not applicable to fire arms, cartridges of fire arms exceeding 50, cigarettes, cigars or tobacco in excess of the quantity prescribed for importation free of duty under the relevant baggage rules and goods imported through a courier service.

Domestic passengers who board international flights in the domestic leg are not required to file the Customs Baggage Declaration **Form. [Circular No. 08/2016 Cus dated 08.03.2016]**