



Updates

in

GST

Nagpur Branch of WIRC
18th Oct 2019

Discussion on

1. GST Then and NOW
2. Divergent views in the Industry

Agenda

GST Frame Work

Changes over Time

Industry Specific Discussion

Coverage

1. Supply

1. Time of Supply
2. Determination of Value of Supply
3. Reverse Charge Mechanism

2. Composition

3. Input Tax Credit and Job Work

4. Registration

5. Returns

6. Tax Invoice, Credit and Debit Notes

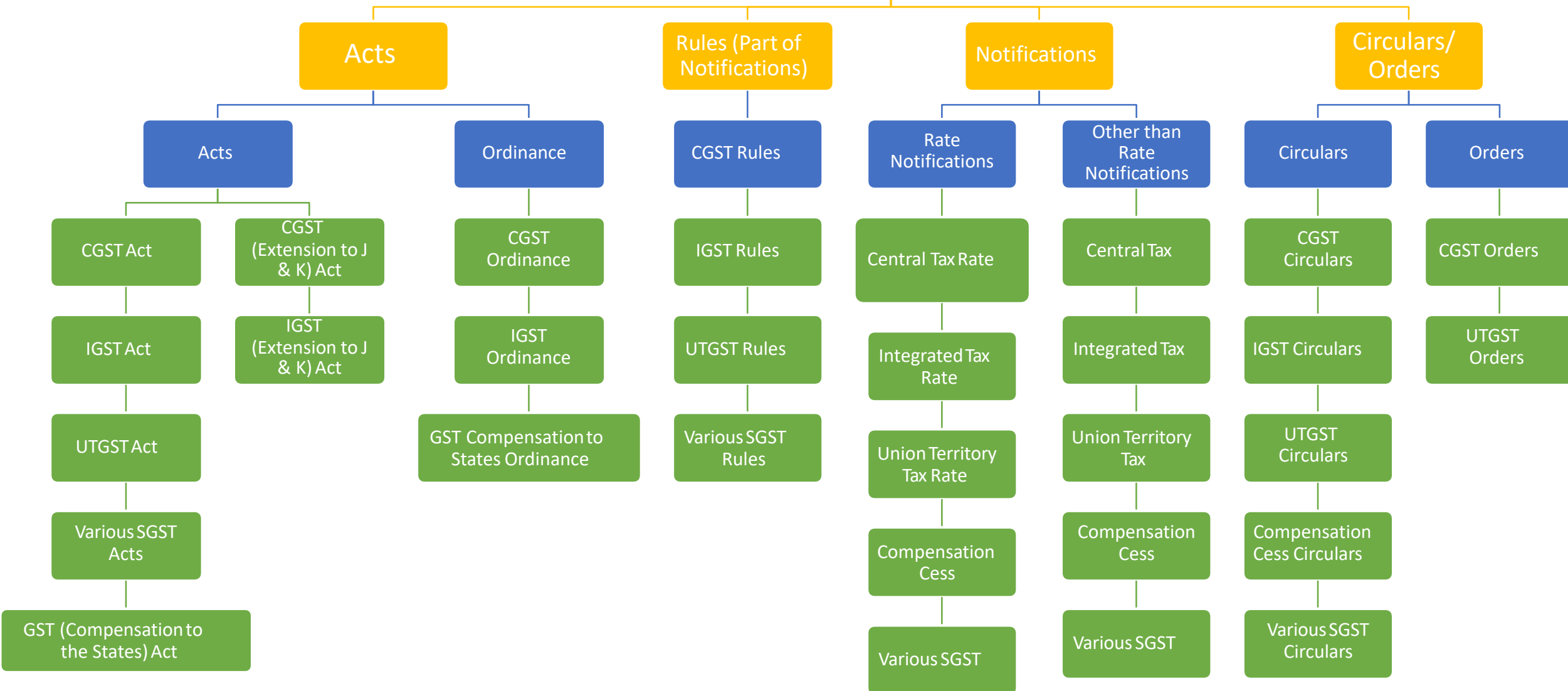
7. Electronic Commerce Operator

8. Payment of Tax

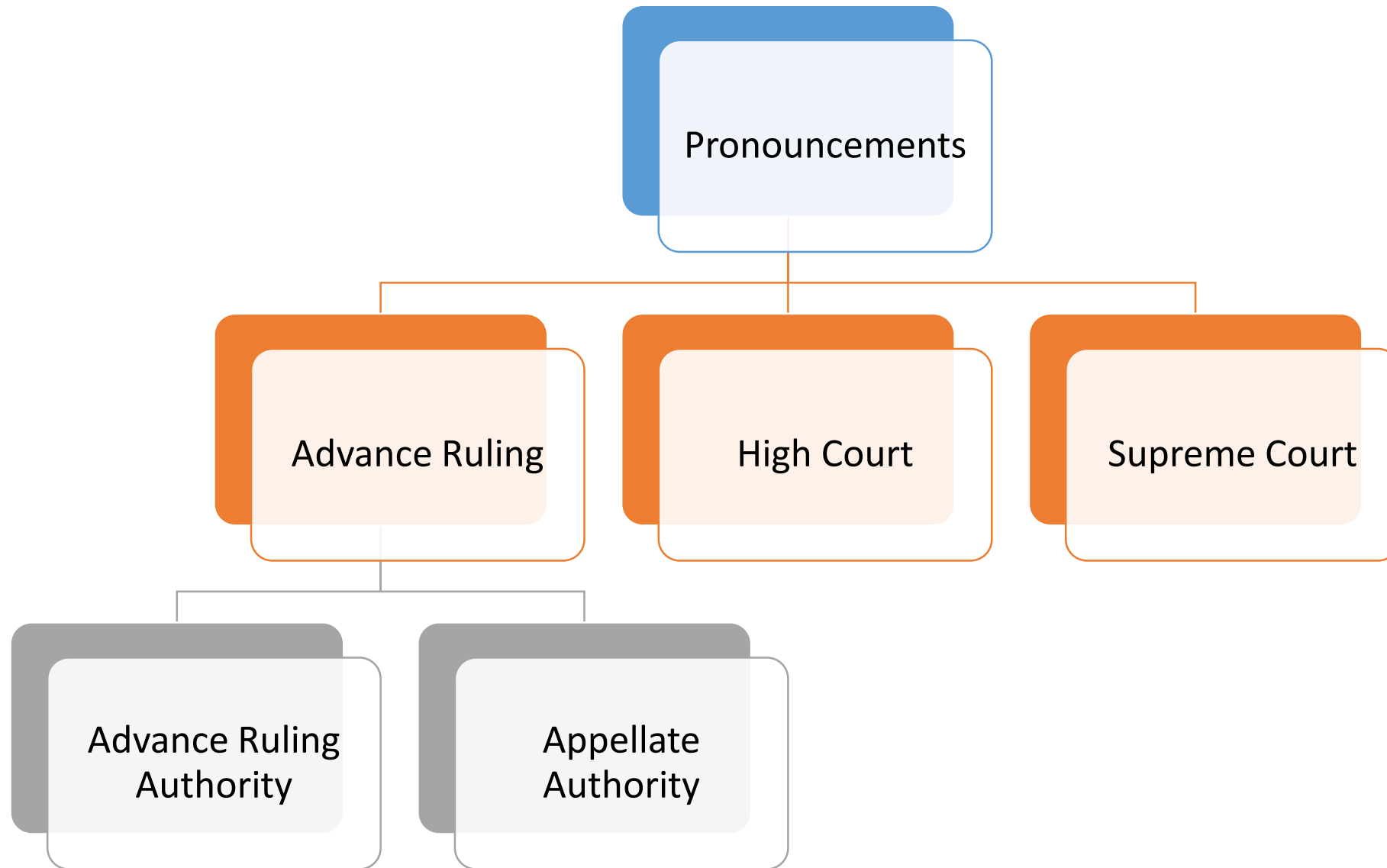
9. E-Way Bill

Legal Framework

GST



What's Next >>



Types of Notifications

Rate

- Rate Schedule for goods, services
- Exempt goods & services
- Exemption of tax in case of certain supplies to specific class of persons
- Concessional rates
- Refund of ITC - Specifications & Prohibitions
- Reverse charge specifications & exemptions

Other than Rate (Procedural Aspects)

- Rules & its related amendments
- Effective date of certain provisions
- Jurisdiction & Power & Cross empowerment of Officers/ Directors
- Exemption from Registration
- Modes of Verification
- Specification of Turnover Limits
- HSN, Interest Rates prescription

Types of Notifications

Rate

- Notifying Not a Supply Transactions
- Reduction/Increase in the Rates of tax
- Notifying the payer of tax in case of certain supplies

Other than Rate (Procedural Aspects)

- LUT/Bond Compliances
- Fixation of due-dates
- Extension of due-dates (Around 25 in CGST plus few extension through orders)
- Waiver of Late fees
- Exemption from certain provisions to certain class of persons
- Prescription of certain types of returns

Notification | Circular | Order

- Notification

- Notification is said to be the part of the statute itself
- Has the force equal to the statutory provisions i.e., it is issued to amend any provision in the act

- Circular – Sec 168

- Circular is said to be binding upon the department / office falling under the jurisdiction of issuing authority
- A circular which is beneficial to the assessee can avail the benefit of circular
- But if it is against the interest of assessee, it can not restrict options of the assessee

Date from which changes shall be effective

- Sec 11(1)- grants power to exempt from the such date as may specified in the notification
 - Effective Date = Date specified in the Notification
- If the Date is not specifically mentioned in the Notification
 - Effective date = Date on which Notification is issued

Supply Related Changes

7(1)(d) – Sch II – Retrospective Amendment

Then

Part of Supply Definition

Now

Separated from subsection(1) to (1A)

Certain activities or transactions, when constituting a supply in accordance with the provisions of sub-section (1), shall be treated either as supply of goods or supply of services as referred to in Schedule II.

Effect

The intent of the Act was only for classification between goods or services once it was held to be a supply as per the first three clauses. To carry out this intention, a retrospective amendment was made in the definition of supply with effect from 1st July 2017

Sch I : Deemed Supply – Widened

Then

Import of services by a **taxable** person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

Now

Import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

Effect

The provision has been amended so as to **bring any unregistered person involved in import of services under the purview of GST** if carried out in the course or furtherance of business from a related person or an or any of their other establishments outside India. Such person is now liable to register and pay taxes on such import of services

Sch III : NO Supply – Widened

Then

Clause 1-6

Now

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 the taxable territory.

8.(a) Supply of warehoused goods to any person Then clearance for home consumption.

(b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, Now the goods have been dispatched from the port of origin located outside India but Then clearance for home consumption.

Effect

- Earlier, these transactions were covered vide the definition of supply. However, they were not leviable to tax under the IGST Act which requires the chargeability only as per the Customs law. So, they were considered as Non-GST supply.
- These resulted in reversal of input tax credit as the outward supply was considered as exempt in nature (exempt covers Non-GST supply)

Liquor License

No. 25/2019-Central Tax (Rate)

- 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

Reverse Charge Mechanism

9(3)

RCM – Basic Provisions

Sec 9(3) – Then

- The government
- on the recommendation of the council
- by notification
- specify categories of Supply of goods or services

the tax on which shall be **paid by the recipient** of the goods or services or both on reverse charge basis

Sec 9(3) – NOW

- a) Increase in List of services
- b) Different Implementation Dates

Refer updated Notification

04/2017 CTR for Goods

13/2017 CTR for Services

RCM – Notn 13/2017 -Now

| Service | Provider | Receiver | Original/Amended |
|---|---|--|--|
| GTA(Goods transport agency) | GTA not making payment in forward charge @6%. | Specified persons | Amended 22/2017 – 22 nd Aug 17 |
| Legal | <ul style="list-style-type: none"> • Individual advocate • Senior advocate • Firm of advocates | Business entity | Amended Corrigendum to 13/2017 |
| Services by arbitral tribunal | Arbitral tribunal | Business entity | Original |
| Sponsorship | Any person | Body Corporate or Partnership Firm (Including LLP) | Original |
| Services by Government | CG, SG, UT, local authority | Business entity | Original |
| Renting of immovable property | CG, SG, UT, local authority | Registered person | Added 3/2018 - 25 th Jan 18 |
| Transfer of development rights or FSI for construction of a project | Any person | Promoter | Added 4/2019 - 1 st Apr 19 |

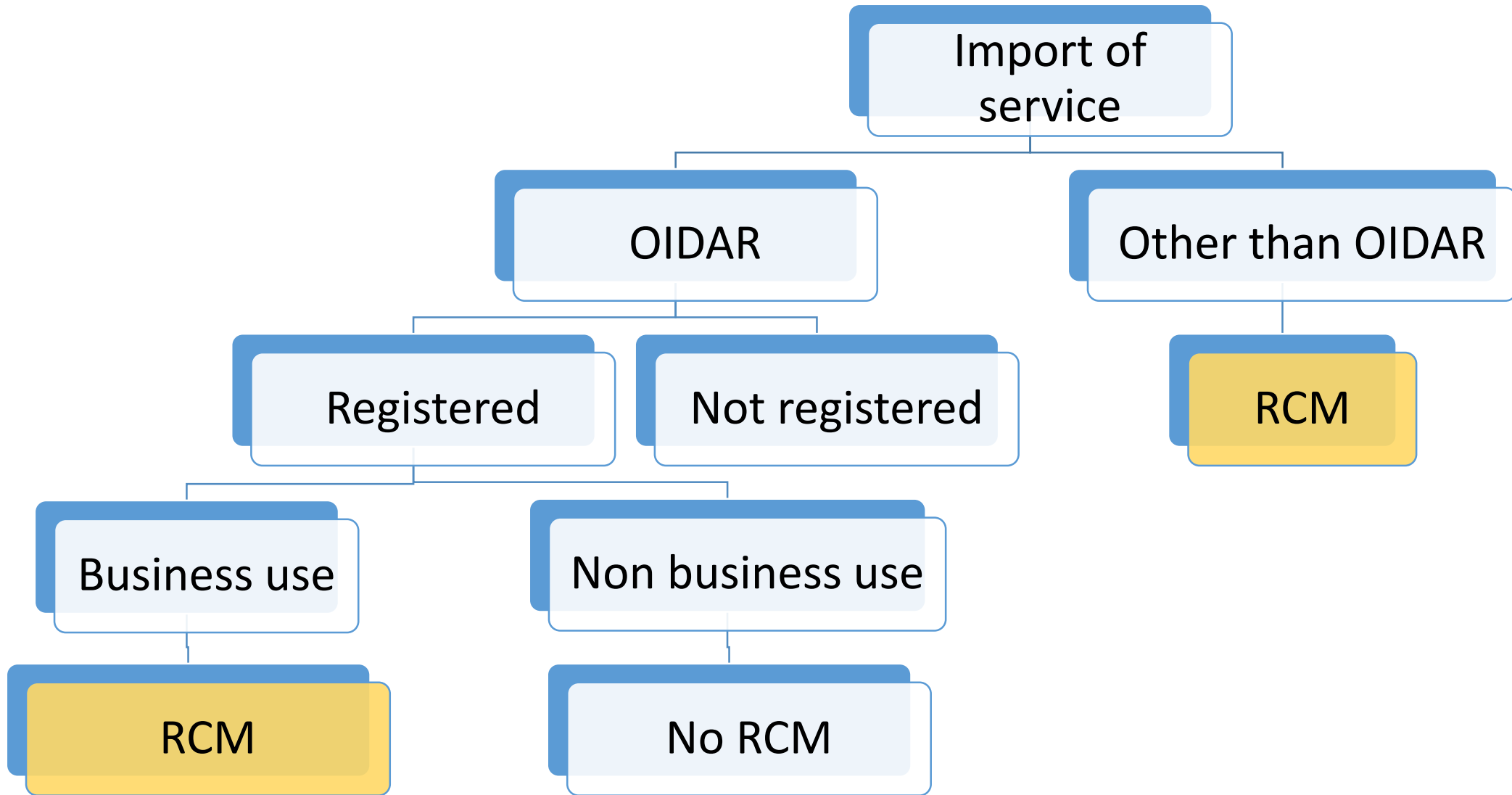
RCM – Notn 13/2017 -Now

| Service | Provider | Receiver | Original/Amended |
|--|--|--|--|
| Services by Director of Company | Director | Body corporate | Original |
| Insurance agent | Insurance agent | Any person carrying on insurance business | Original |
| Recovery Agent / DSA | Recovery agent | Banking company or financial institution or NBFC | Original |
| Transfer or permitting the use or enjoyment of Copyright | Music composer, photographer, artist or the like | Music company, producer or the like | Original |
| Transfer or permitting the use or enjoyment of a Copyright | Author (optional RCM) | Publisher | Amended |
| All services by members of the overseeing the committee | Members of the overseeing committee constituted by RBI | RBI | Added 33/2017-13 th Oct 17 |

RCM – Notn 13/2017 -Now

| Service | Provider | Receiver | Original/Amended |
|---|--|------------------------|--|
| Business Facilitator | Business facilitator | Banking company | Added 29/2018 – 31 st Dec 18 |
| Agency | Agent of BC | BC | Added 29/2018 – 31 st Dec 18 |
| Security service | Any person is other than a body corporate | Registered person | Added 29/2018 – 31 st Dec 18 |
| Renting of motor vehicle | Any person other than a body corporate, paying CGST @ of 2.5% on renting of motor vehicles with ITC only in same line of business. | Any body corporate | Added 22/2019– 30 th Sep 19 |
| Services of lending of securities under Securities Lending Scheme of SEBI | Lender | Borrower | Added 22/2019– 30 th Sep 19 |
| Import of services – other than OIDAR | Importer | Supplier outside India | Original |
| Import of OIDAR | Registered business entity | Supplier outside India | Original |

Import of service 5(3) – Notification 10/2017 ITR



RCM on security services - Not

Security Services

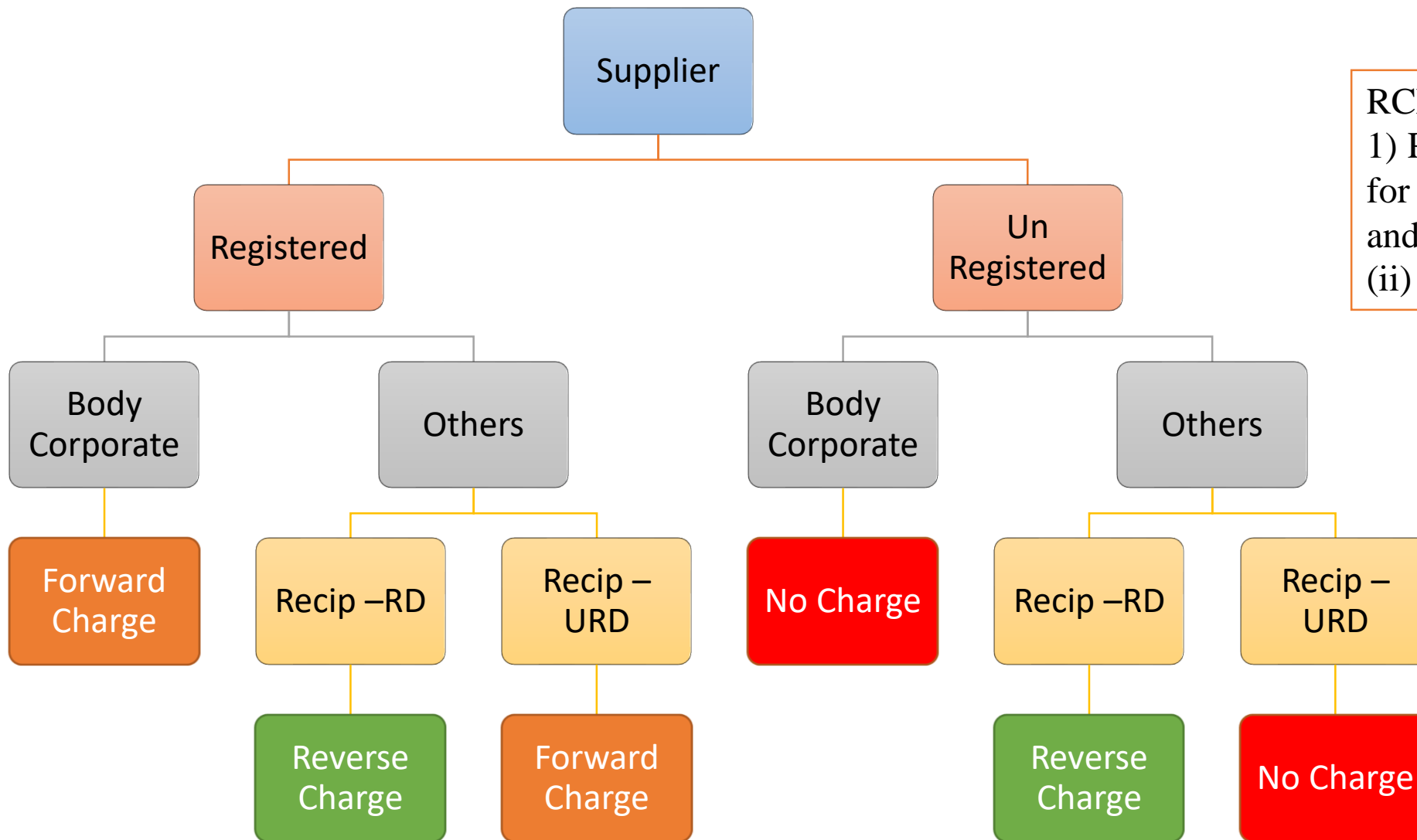
Supplier - Any person other than a body corporate

Recipient - A registered person, located in the taxable territory

Provision not applicable to –

1. Government Departments ; Local Authority ; Governmental agencies; who have taken registration only for deducting TDS u/s 51
 2. Composition Dealers
-

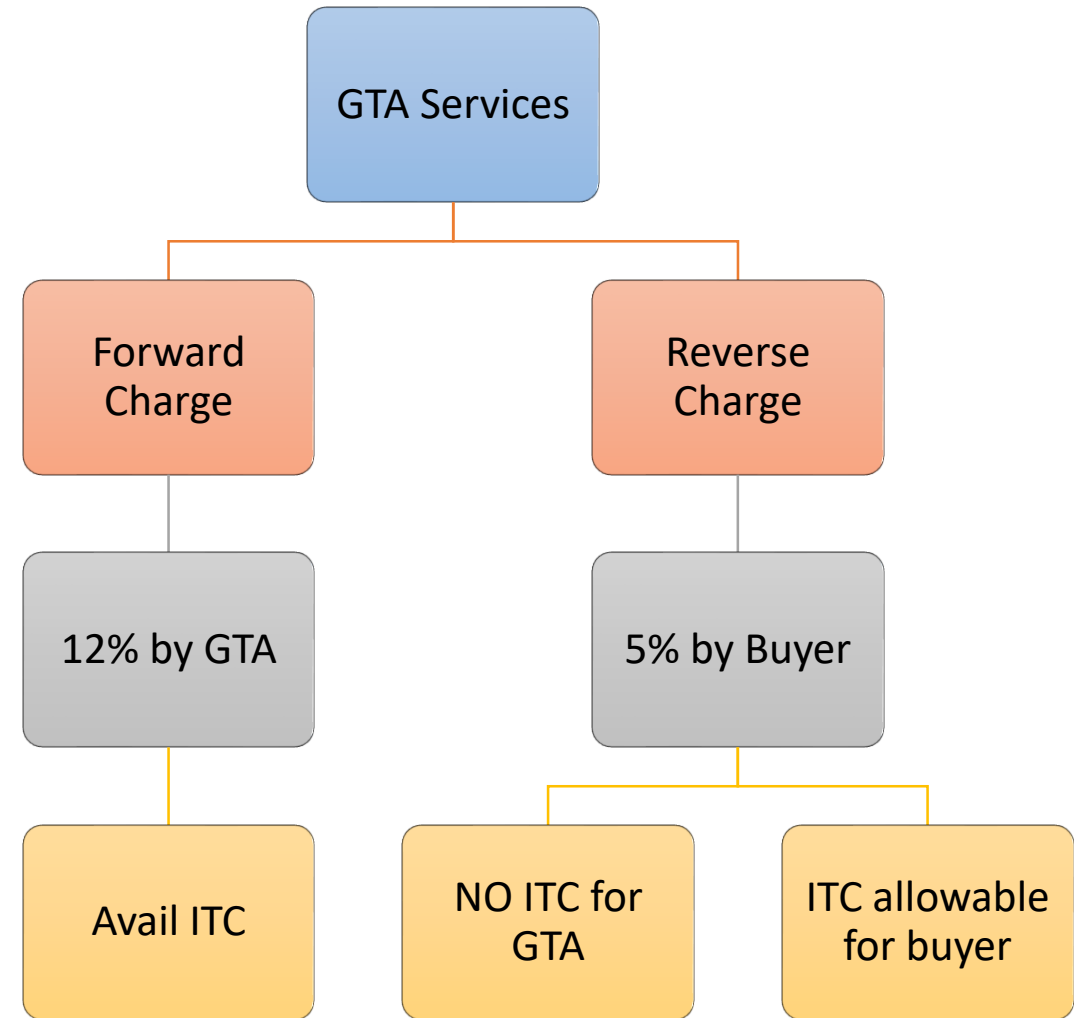
Security Services : 29/2018 CTR



RCM is not applicable :
1) Person taken Registration only for the purpose of TDS u/s 51 and no Taxable Supply.
(ii) Composition Dealer

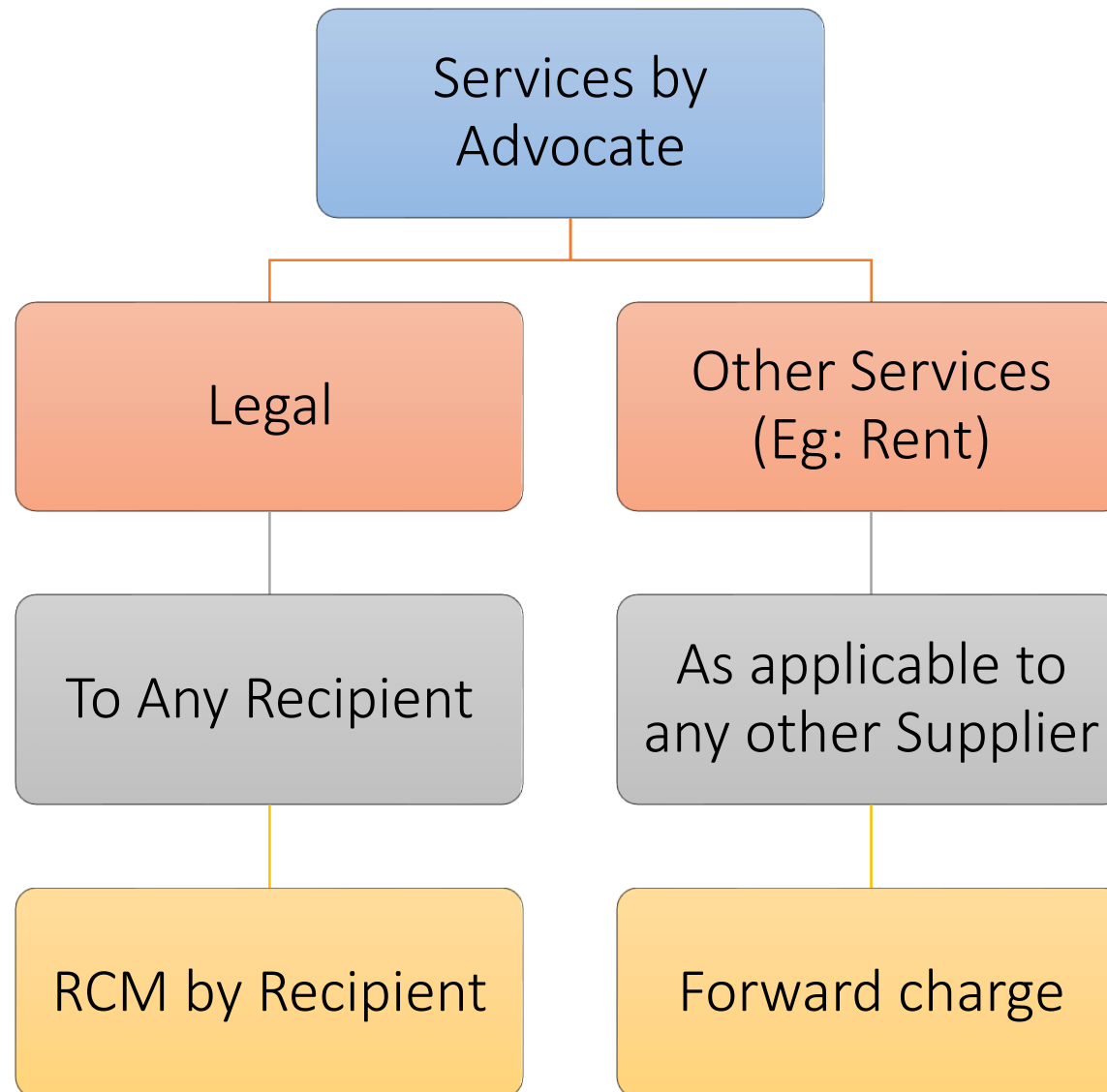
GTA : CTR 22/2017-22nd Aug 2017

- No reverse charge applicable in case of goods transport agency charging taxes at the rate of 12%
- GTA will be allowed to avail ITC on goods and services procured
- **Effective from - 22nd August 2017** for forward charge



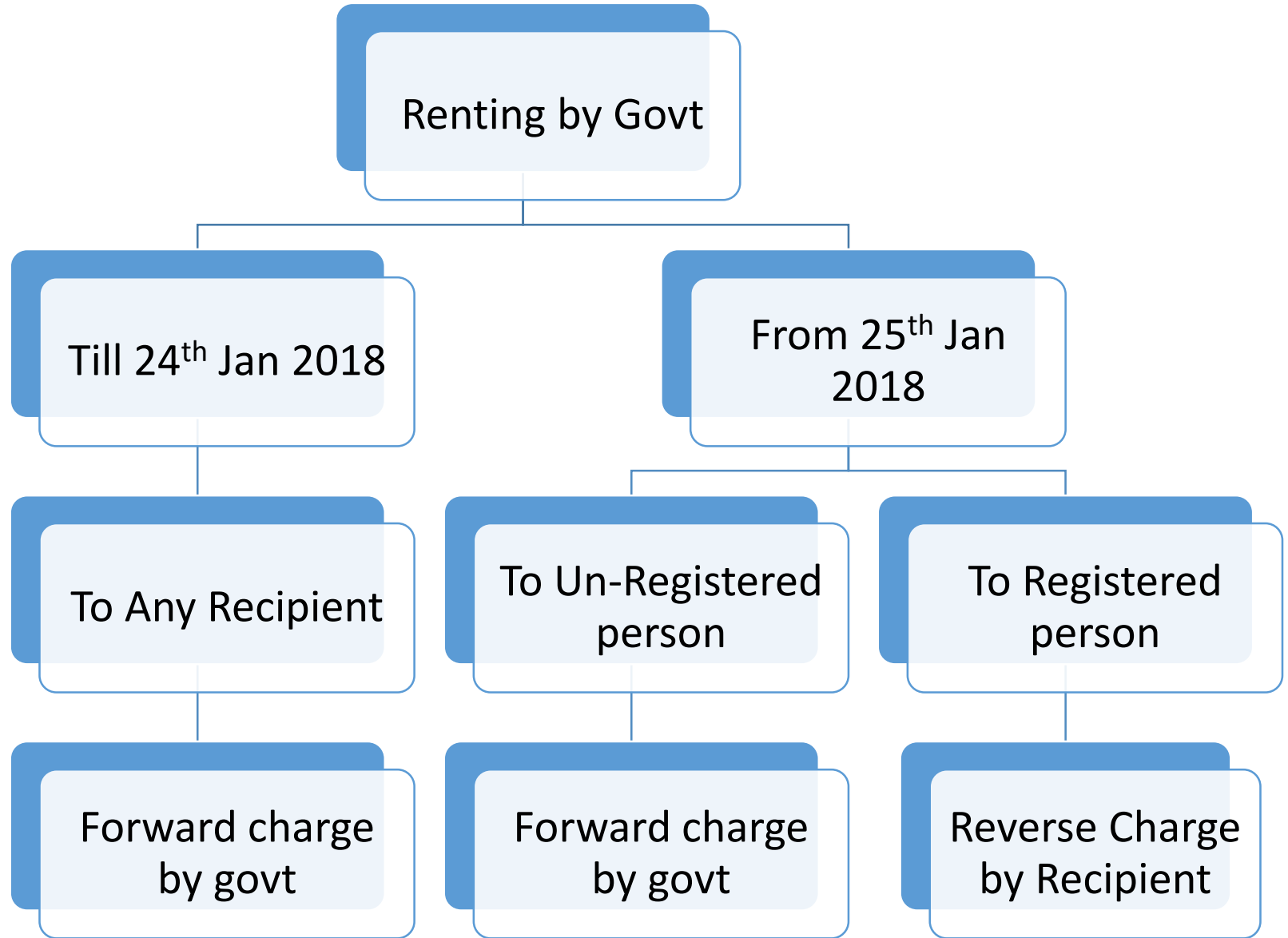
RCM - Advocate

- Coverage
 - Originally : Only representational services provided by advocates/senior advocates to any business entity located in the taxable territory were liable to tax under reverse charge
 - Extended : coverage of all legal services provided by individual advocate including a senior advocate or firm of advocates under reverse charge mechanism
- **Effective date of applicability-**
 - 1st July 2017
- Subject to exemption in Notification No. 12/2017-Central Tax (rate) dated 28th June 2017.



RCM - Renting

Notification no.
3/2018 –CTR
25th January 2018



RCM Goods : CTR 4/2017

List of goods taxed
under Reverse
charge

- Cashew nuts, not shelled or peeled
- Bidi wrapper leaves (Tendu)
- Tobacco leaves
- Silk yarn
- Raw cotton
- Supply of lottery
- Used vehicles seized and confiscated goods, old and used goods, waste and scrap
- Priority Sector Lending Certificate

Priority Sector Lending Certificates

- Through the release of Circular No. 62/2018 dated 12.09.2018, clarification has been issued by the government regarding Priority Sector Lending Certificates (PSLC).
- GST rate of 12% will be applicable on the supply
- GST on PSLCs for the period 1.7.2017 to 27.05.2018 will be paid by the seller bank on forward charge basis.

Reverse Charge Mechanism

9(4)

RCM – 9(4)

Then

- Supply of taxable goods or services or both
 - by a supplier, who is **not registered**,
 - to a registered person
- shall be **paid by such person** on reverse charge basis as the recipient.

Now

- By notification
- Specify a **class of registered persons**
- In respect of **specified categories** of goods or services of both
- Received from **unregistered supplier**
- Pay tax on reverse charge basis

Interim changes

- 1) CTR 8/2017 – Inward Supplies up to Rs.5000 is exempt
- 2) Notification No. 38/2017 – Central Tax (Rate) – Suspended 9(4)
- 3) Amendment Act 2018 w.ef. 1st Feb 2019 change in Act

9(4) : 07/2019 CT(R)

| S.No | Category of supply of goods and services | Recipient of goods & services |
|------|---|-------------------------------|
| 1 | Goods and services or both [other than TDR & upfront premium] which constitute the shortfall of 80% | Promoter |
| 2 | Cement falling in chapter heading 2523 | Promoter |
| 3 | Capital goods falling under any chapter in the first schedule to the Customs Tariff Act, 1975 | Promoter |

Goods RCM 9(4) -08/2019 R

- Goods

| Sl No | Chapter | Description | Rate of Tax |
|-------|-------------|---|-------------|
| 452Q | Any chapter | Supply of any goods other than capital goods and cement, by an unregistered person to a promoter for construction of the project on which tax is payable by the promoter U/s 9(4) Overrides the any specific chapter or heading which is covered | 9% |

- Capital Goods and Cement

- Respective Chapter and respective rate of Tax

Services under RCM 9(4) - Services

- Notn No 03/2019 CT(R)-

| Sl No | Chapter | Description | Rate of Tax |
|--|---------|--|-------------|
| 39 | 99 | Supply of Input services other than TDR, FSI, Upfront Premium- to the extent of 80%. | 9% |
| Overrides the any specific chapter or heading which is covered | | | |

Composition Scheme

Composition Supplier Sec 10

Then

- Turnover limit up to 1cr
- the composition dealers cannot supply service other than restaurant services

Now

- Turnover limit 1.5cr
- composition dealers shall be eligible to supply services of value not exceeding
 - 10% of their turnover in the preceding financial year in a State/ Union Territory or
 - Rs 5 lakhs,
 - **whichever is higher.**

Effect

Criteria for composition scheme relaxed. Will help ease compliance burden and cost of small businessmen.

Threshold Limit Composition Scheme

- Notn No. 14/2019 – Central Tax dated 7th March, 2019
 - Threshold Limit for the composition scheme enhanced to Rs. 1.5 crore, for all States
 - Except Rs. 75 lacs for (i) Arunachal Pradesh, (ii) Manipur, (iii) Meghalaya, (iv) Mizoram, (v) Nagaland, (vi) Sikkim, (vii) Tripura, (viii) Uttarakhand
- This shall come into force on the 1st of April 2019.

Composition Rates

Rates

Originally defined in the Act for

1%

• Manufacturer

2.5%

• Restaurant

0.5%

• Others

New Rates : Notification 01/2018-CTR 1st Jan 2018

Uniform rate
of tax at 1% for
manufacturers
and Traders

TURNOVER

Manufacturers

- Taxable turnover
- +
- Exempt turnover

Traders

- Taxable turnover

Relaxation for Interest income

- Sec 10 of CGST Act 2017
 - Person engaged in supply of services cannot opt for composition scheme
 - Exception is person who supplies services in the nature of restaurant services, outdoor catering etc. can opt for composition scheme
- Impact :
 - The following person will not be ineligible for composition scheme simply because of the reason they earn consideration in the form of
 - interest or discount against services by way of extending { loans, deposits or advances }

Services Composition Scheme : 2/2019-CTR 7th Mar 19

• Applicability

- First supplies of goods or services or both
- up to an aggregate turnover of fifty lakh rupees made
- on or Now the 1st day of April in any financial year,
- by a registered person shall be liable to pay @3% CGST and 3%SGST

“First supplies of goods or services or both” shall, for the purposes of determining eligibility of a person to pay tax under this notification, include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the said Act but for the purpose of determination of tax payable under this notification **shall not** include the supplies from the 1st April to the date from which he becomes liable for registration under the Act.

Composition Scheme for Services

Conditions:

1. Not engaged in making any supply which is not leviable to tax under the CGST Act – No NON TAXBLE Supplies
2. Not engaged in making any Inter-State outward supply
3. Neither a casual taxable person nor a non-resident taxable person
4. Not engaged in making any supply through an electronic commerce operator who is required to collect tax at source under section 52
5. Shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.
6. Shall Issue Bill of Supply mentioning the following words at the top of it :-
'Taxable person paying tax in terms of notification No. 2/2019-Central Tax (Rate) dated 07.03.2019, not eligible to collect tax on supplies'
7. Shall also be liable to RCM under Section 9(3) or 9(4) at Regular Rates.

Turnover Calculation – Exclude Interest Income

- Order no. 1/2017-Central Tax dated 13th October 2017
 - Providing ANY Exempt SERVICES including extending loans/ advances for which consideration is interest /discount will not lead to ineligibility of composition scheme
 - Such value not to be included in calculation of aggregate turnover for determining eligibility limit

The above order applicable for person who supplies goods/services referred to in Schedule II Para 6 Clause b i.e., restaurant services

Recent change

- **Composition scheme not applicable to persons supplying aerated water**
 - The composition tax rate of 6% as notified w.e.f 1.4.2019 for persons with aggregate turnover of up to Rs. 50 lakhs, would not be applicable in case where the registered person is engaged in the supply of aerated water as covered by entry 2202 10 10 of the Tariff.
- (Notification 18/2019-CT(R) dated 30.09.2019)

Composition returns

- Then

- GSTR 4 – quarterly

- Now

- GSTR 4 is annual
- PMT 08 – payment of tax is quarterly

Time of supply

Rationalization of Time of supply provisions

- Time of Supply of goods and services
 - In Section 12(2)(a) & 13(2), the words, brackets and figure “sub-section (1) of ” shall be omitted
 - To ensure that the invoice is required Then removal of goods in **all** possible situations envisaged in Section 31 and not just 31(1) or 31(2) {12(2) & 13(2) of the CGST Act.}

Documents to know Sec 31

| Documents | Section and Rule | Applicable to |
|-------------------------------|---------------------------------|-------------------------------------|
| Tax Invoice Goods | Section 31(1) Rule 46 47 and 48 | Taxable supplies of goods |
| Tax Invoice Service | Section 31(2) Rule 46 47 and 48 | Taxable supplies of services |
| Tax Invoice | Section 31(4) | Continuous Supply of Goods |
| Tax Invoice | Section 31(5) | Continuous Supply of Services |
| Tax Invoice | Section 31(6) | Per-Termination of Service Contract |
| Consignment Sale | Section 31(7) | Sale or Approval |

| Documents | Section and Rule | Applicable to |
|----------------------|----------------------------|---|
| Revised Invoice | Section 31(3)(a) – Rule 53 | New Registration under this Act |
| Consolidated Invoice | Section 31(3)(b) – Rule 53 | Value < 200 |
| Bill of Supply | Section 31(3)(c) – Rule 49 | Exempt Supplies/Composite Dealer |
| Receipt Voucher | Section 31(3)(d) – Rule 50 | Receipt of Advance Money |
| Refund Voucher | Section 31(3)(e) – Rule 51 | Advance Money Received but no supply made |
| Self-Invoice | Section 31(3)(f) – Rule 46 | Reverse Charge Mechanism for tax payment |
| Payment Voucher | Section 31(3)(g) – Rule 52 | Reverse Charge Mechanism for making payment to the supplier |

TOS – Goods :: Advances Received

TOS Provisions **Earlier** of the following dates:

- 12(2)(a) Date of issue of invoice or
- 31(1) last date on which he is required to issue the invoice for that supply
- 12(2)(b) Date on which supplier **receives the payment** - *Now omitted*

Advance Not Taxable - CT 66/2017 15th Nov 2017

- Date of payment **not to** be considered in case of supply of goods
- Receipt of advance led to the time of supply to arise under GST
- All persons making supply of goods need to pay taxes considering only with Invoice provisions

This provision is applicable only for

- a) supply of goods and **NOT** supply of services
- b) Regular Dealer and NOT Composition Supplier

Value of Supply

Lottery

- Rule 31A inserted Notn 03/2018 - CT

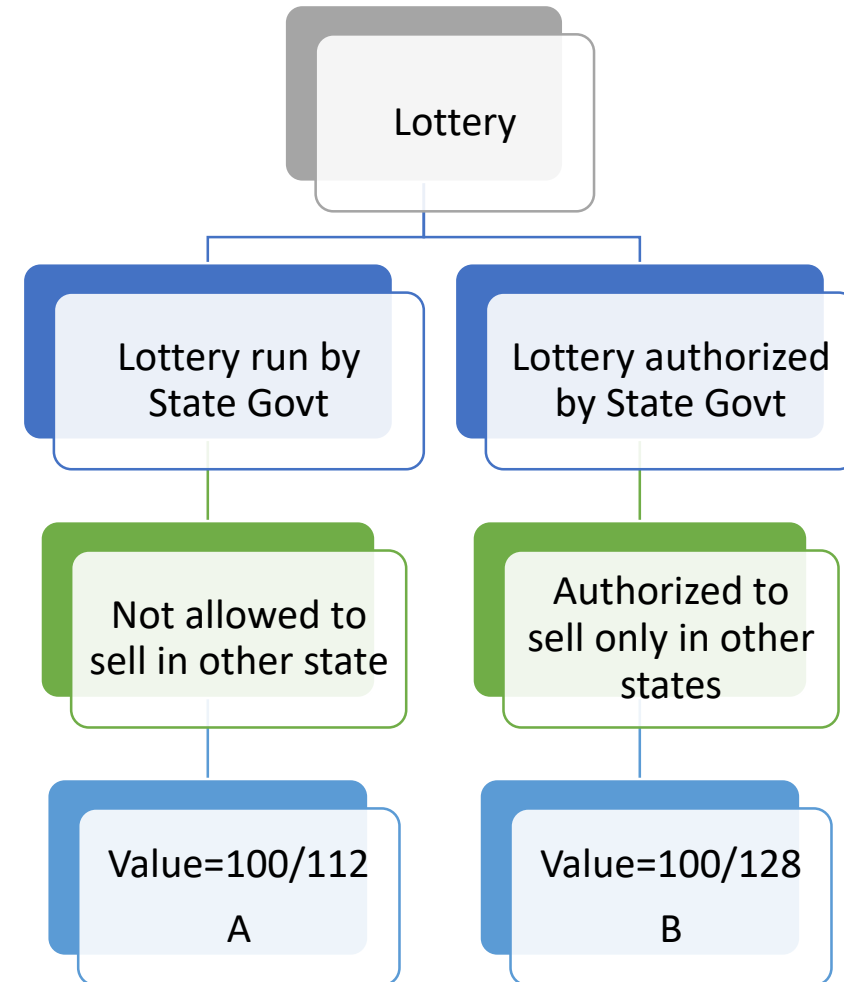
Value will be 'A' or 'B'

- of the face value of
ticket

or

- of the price as notified in the
Official Gazette by the organizing
state

WHICHEVER IS HIGHER



Betting, gambling or horse racing

Rule 31A inserted Notn 03/2018 - CT

The value of supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club will be

- 100% of the face value of the bet or
- the amount paid into the totalizator

Exchange Rate of currency for INR value

THEN

- Earlier, rate of exchange was simply stated to be the applicable reference rate for that currency as determined by RBI of the date of time of supply of goods or services

NOW

- **Taxable Goods –**
 - The rate of exchange notified by CBEC time to time under section 14 of the Customs Act.
 - The date of such rate of exchange is to be taken based on the time of supply of such goods
- **Taxable Services –**
 - value will be as per the applicable rate of exchange determined as per GAAP for the time of supply of such services

Vide Notification No. 17/2017

Lease & Sale of Old Used Vehicles

CTR Notification 37 /2017 – 13th Oct 2017 – Leasing

- Vehicle purchased before GST and not availed ITC not availed – given on lease
- 65% of central tax rate applicable otherwise on such goods

Notification 8 /2018 – 25th Jan 2018

- Sale of Motor Vehicles on which ITC Not availed
- Partly exempted
 - WDV or Book Value- Exempt
 - Balance margin(if positive) taxable at regular rate

Input Tax Credit

'Bill to Ship to' – Extended to Service

Then

- In case of “Bill to Ship to” model it is assumed that goods are deemed to be received by the recipient even though received by a third person – only in case of goods

Now

- Such deemed received has now been extended to services. It is enabling service providers to claim credit. [**Explanation to Section 16(2)**]
- Services provided by “A” to “C” on direction of “B”. B can take the credit of A’s invoice inspite of not having received the service due to the this deeming fiction

Effect

- To avail ITC the registered person must be in receipt of goods or services
- In Bill-to-ship-to model, it is deemed that goods are received when the supplier delivers the goods to any other person on direction of the recipient
- This deemed assumption shall now be applicable in case of services as well.
- So, ITC will be allowed to a person on whose direction and account, the third person receives the services.

ITC on Payment of Tax

- Section 16(2)(c) Second Proviso

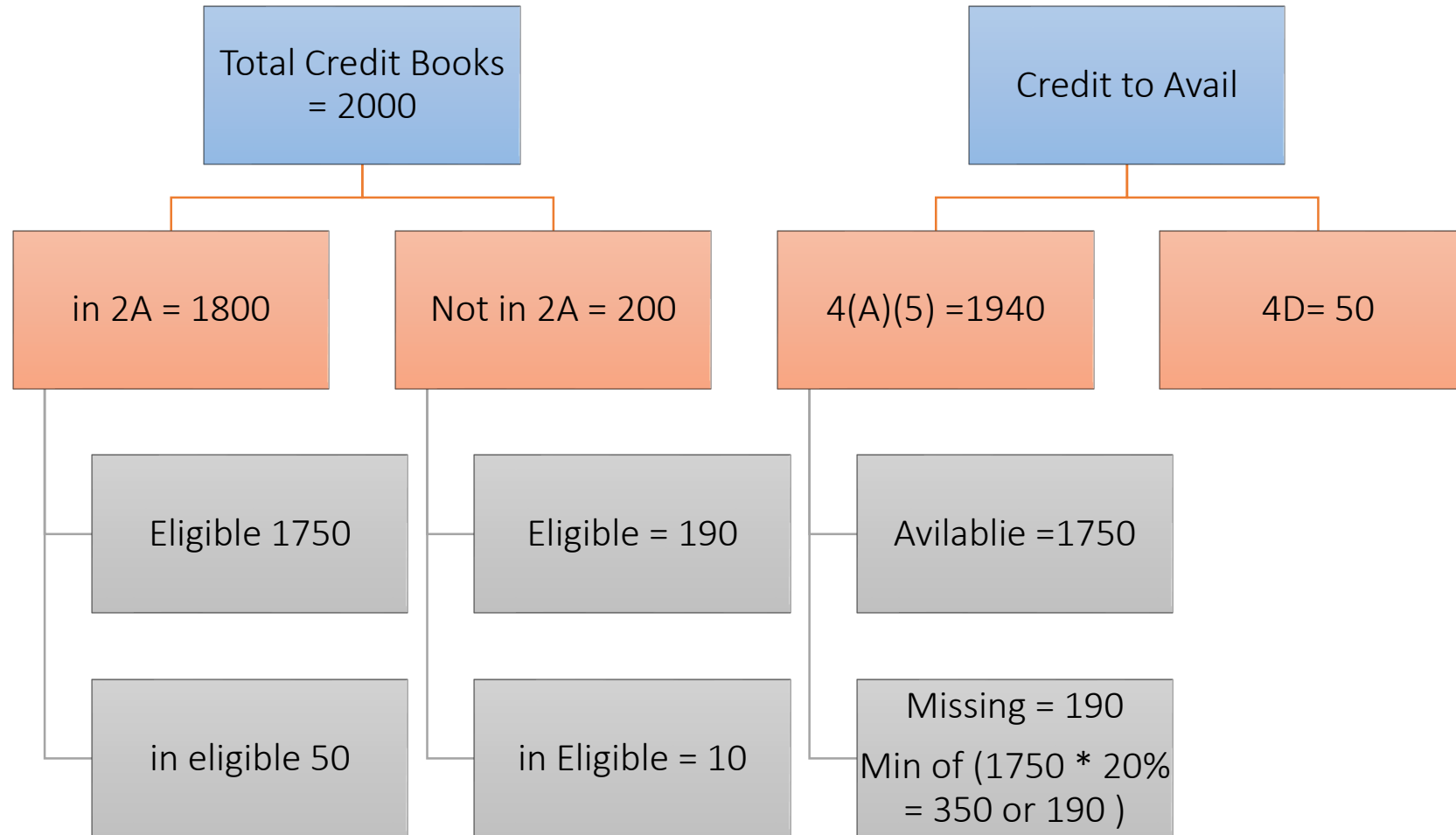
- subject to the provisions of section 41 or 43A, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply;

- Impact

1. One of the conditions for availing input tax credit is that the payment of tax should have been made by the supplier
2. The new return filing mechanism may allow taking of input tax credit to the recipient in certain situations and subject to certain conditions even if the payment of tax is not made by the supplier
3. So, this condition of requirement of payment of tax by the supplier has been made subject to the procedure in the new return filing mechanism

ITC on Missing Invoices - Rule 36(4)

Value of Credit on document Not uploaded \leq 20% of Uploaded credits which are eligible



ITC on SCH III Supplies

- Section 17(3) Exempt Supply include...
 - **Explanation:** “Value of exempt supply” shall not include the value of activities or transactions (other than sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building) specified in Schedule III.
- Impact
 1. The new provision has been inserted so as to allow ITC on activities mentioned in Schedule III (other than sale of land and subject to clause(b) of paragraph 5 of Schedule II, sale of building) by removing it from the ambit of exempt supplies. Hence, these clauses will not entail any reversal of credit.
 2. Excluding of supplies covered under Schedule III from the scope of exempt supplies under Section 17(3) will result in lower reversal of credit particularly in case of high sea sales, merchant trade transactions and supply of warehoused goods Then clearance for home consumption

Expansion of Scope of ITC on motor vehicles

New

- (a) motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver) except when they are used—.....A,B,C

Impact : the words 'other conveyances' have been removed.

1. ITC would now be available in respect of dumpers, work-trucks, fork-lift trucks and other **special purpose** motor vehicles.
2. All Passenger Vehicles: ITC shall not be available in respect of motor vehicles having capacity of not more than 13 persons (including the drivers), vessels and aircrafts if they are used for personal purpose.
3. Goods Vehicle : No Conditions attached on usage

Expansion of Scope of ITC on motor vehicles

Repairs n Maintenance

*ITC in respect of services of general insurance, servicing, repair and maintenance in respect of those motor vehicles, vessels and aircraft on which ITC is **not available** under clause (a) or (aa)*

- In respect of vessels and aircrafts, ITC will be blocked except if it is used for A, B, C
- **For an insurance company** for supply of insurance services, ITC will be available in respect of motor vehicles, vessels or aircraft insured by him.
- For all other conveyances, Input tax credit will be freely available (e.g. motor vehicles for transportation of persons > 13 persons)

17(5)(b) Food, Health, Travel etc.

| Then | Now |
|---|---|
| <p>(b) the following supply of goods or services or both—</p> <p>(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;</p> | <p>(b) the following supply of goods or services or both—</p> <p>(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance: Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;</p> |

17(5)(b) Food, Health, Travel etc.

| Then | Now |
|--|--|
| <p>(ii) membership of a club, health and fitness centre;</p> <p>(iii) rent a cab, life insurance and health insurance except where</p> <p>(A) the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or (B) such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply; and</p> <p>(iv) travel benefits extended to employees on vacation such as leave or home travel concession;</p> | <p>(ii) membership of a club, health and fitness centre; and</p> <p>(iii) travel benefits extended to employees on vacation such as leave or home travel concession: Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide to its employees under any law for the time being in force.</p> |

17(5)(b) Food, Health, Travel etc.

- ITC not eligible,
 - in accordance with the provisions of Section 17(5)(b), ITC is not available in respect of food and beverages, health services, travel benefits to employees etc...
- Exception,
 - ITC in respect of food and beverages, health services, renting or hiring of motor vehicles, vessels and aircraft, travel benefits to employees etc..., can be availed where the provision of such goods or services is obligatory for an employer to provide to its employees under any law for time being in force.
 - Renting or hiring of motor vehicles, vessels and aircraft are blocked only if the purchase of such motor vehicles, vehicles and aircrafts are blocked as per clause (a) of (aa)

Sales Promotion Schemes

- Circular No. 92/11/2019-GST dated 7th March 2019
- Free samples and gifts
 - Samples which are supplied free of cost, without any consideration, do not qualify as “supply” under GST, except where the activity falls within the ambit of Schedule I of the said Act.
 - Further as per section 17(5)(h) of the CGST Act, 2017, ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples.

Exclusion from the value of exempt supplies for the reversal of Common Credit :: Rule 42 n 43

- ~~Supplies to Nepal or Bhutan is exempt but not considered as exempt supply for reversing ITC~~
- Value of services **by way of extending loans, advances or deposits** wherein the consideration is earned (other than banks) in the form of interest or discount are considered as exempt supplies
- Services of transportation of goods by vessel at the time of export from the customs clearance station in India to a place outside India have been specifically exempted under law

Registration

Basic Provisions - THEN

Aggregate Turnover – Sec 22

- Exceeds 20Lakhs
- Exceeds 10Lakhs in case of special category states

Registered under existing law

- Should migrate to GST regime

Business Transfer

- Transfer from a registered person to another
- Liable to register from the day of succession

Amalgamation/Merger

- Liable to register from the day of Certificate of Incorporation

Sec 24 – Mandatory Registration

- Person making interstate taxable supply
- Casual Taxable person/ Non resident Tax payer
- Required to pay tax under reverse charge
- person who are required to pay tax under sub-section (5) of section 9
- persons who are required to deduct tax under section 51/required to collect tax at source under section 52
- Agent
- Input service Distributor
- E-comm operator
- OIDAR from a place outside India
- Class of persons notified by the central government on the recommendation of the council

Registration Provisions - Now

Finance Bill 2019 has increased the threshold Limit 40 lacs for Goods :

- Exceptions to Registration Requirement in the above Notification,
 - Persons engaged in making intra-State supplies in the States of
 - Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand
 - Persons required to take compulsory registration u/s 24
 - Suppliers of Ice cream and other edible ice, whether or not containing cocoa; Pan masala; Tobacco and manufactured tobacco substitutes

Services

- The threshold for registration for **service providers** would continue to be Rs 20 lakhs and in case of Special category States Rs 10 lakhs
- 40 lacs applicable only for those exclusively in in the supply of goods

Registration Threshold

| Threshold Limit | Only Goods | Goods and Services |
|-----------------------------------|---|-------------------------------------|
| A) Rs.40 Lacs | All states except (B) & (C) | NOT Applicable |
| B) Rs.20 Lacs 6 States 1 UT | Not Opted by Regular States : Telangana, UT : Puducherry, North East : Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand | All states except (C) |
| C) Rs.10 Lacs 4 States | Manipur, Mizoram, Nagaland, Tripura | Manipur, Mizoram, Nagaland, Tripura |

Sec 23: Person Not Liable for Registration - THEN

- Engaged exclusively in supplying goods or services that are not liable to tax, wholly exempt under CGST / IGST
 - What are partly Exempt Supplies
- An agriculturist for the purpose of agriculture- Individual / HUF
- Specified category of persons notified
 - *The Government may, on the recommendations of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act*

Notified for Non Registration - NOW

Central Tax Notification

1. Person making only reverse charge supplies exempted from obtaining registration (5/2017 CT)
2. CTP persons making supplies of handicraft goods or persons making interstate supplies of specified handicraft goods up to Rs. 20lacs (32/2017 CT, 8/2017-IT, 56/2018)
3. Persons making supplies of services through ECO [other than 9(5)] with aggregate turnover up to Rs. 20lacs (Notn 65/2017-CT)

IGST Notifications

1. Job workers making inter-state supplies to a registered person (Notn 7/2017 IT)
2. Persons making interstate supplies of services up to Rs. 20lacs (10/2017 IT)

Procedures for registration Sec:25,26,27

Then

- While registering compulsory to
 - Provide bank account number & IFSC Code
 - Upload the Bank statement or front page of passbook
 - Address of bank

Now : 31/2019 – Central Tax

- Bank Account Details to be furnished within forty five days of grant of registration or the date on which the return required under section 39 is due to be furnished, whichever is earlier

Aadhar authentication Sec 25(6A...6D)

New Registration

- Along with application for new registrations

Existing Registrations

- KYC within prescribed timelines for existing RTPs
 - For directors, partners, karta, trustee, authorised persons
- Alternate for Aadhar – any other viable means ... to be notified
- *Failure means registration is invalid and deemed not registered*

eCom Registration

- **Mandatory Registration only if TCS is applicable:**
 - Clause (x) of Section 24 is being amended to provide that only those e-commerce operators who are required to collect tax at source under Section 52 of the CGST Act would be required to take compulsory registration.
 - Other e-commerce operators who are not required to collect tax at source under Section 52 would henceforth not be required to take registration if their aggregate turnover in a financial year did not exceed Rs. 20 lakhs.
- **SEZ registration as distinct person for DTA unit**
 - Provision inserted for separate registration of a person having a unit(s) in a SEZ or being a SEZ developer as a business vertical distinct from his other units located outside the SEZ. This provision is already contained in Rule 8 of the CGST Rules, 2017.

Section 29 “Cancellation or Suspension of registration.”

- Inserted

- Sec 29(1), 29(2) ... Provided that during pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed.

- Effect

1. The new proviso ensures that once the registration has been sought to be cancelled, the proper officer may suspend the registration till the procedural formalities have been completed
2. The suspension will only be for the period and the manner as may be prescribed in the rules
3. The registration suspended will not be required to file returns till the suspension is in effect
4. This can be a double edged sword because a person who applied for cancellation and stopped collection and payment of taxes may face extreme hardships if the application for cancellation is rejected. He may not have any recourse as to collect the tax and paying the taxes out of his own pocket may be a huge burden for him.

Registration Rules

- Effective date of amendment of application for registration can be only prospective
- Cancellation of voluntary registration
 - Earlier : Not possible until 1 year,
 - Now : The provision is removed

Tax Invoice, Credit and Debit Notes

HSN - Amendment

- Number of digits of HSN code on the invoice

| Sl. No. | Annual turnover in the preceding financial year | Number of digits of HSN code |
|---------|--|------------------------------|
| 1. | Upto Rs. 1 crore fifty lakhs | Nil |
| 2. | more than Rs. 1 crore fifty lakhs and up to Rs. 5 crores | 2 |
| 3. | more than Rs. 5 crores | 4 |

- HSN for New Returns – Suppliers With

- annual aggregate turnover > Rs. 5 crore Report HSN code at six digit level for goods and services.
- Other taxpayers (turnover up to Rs. 5 crore) – Optional Reporting

Issue of consolidated credit note in a financial year.

- **New Provision**

- 34(1). Where one or more tax invoice have been issued for supply of any goods or services or both and the taxable value or tax charged in that invoice is found to exceed the taxable value or 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, the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.
- Same for Debit note also

- **Impact**

- The suppliers are now not required to link Credit / Debit notes with individual invoices.
- The supplier may now issue a consolidated Credit/ Debit note in respect of multiple invoices issued in the financial year.

Tax Invoice Rules - Amendment

- Invoice for Supply to SEZ Developer / SEZ Unit for authorized operations –
 - Invoice to be endorsed with
 - *'SUPPLY TO SEZ UNIT OR DEVELOPER FOR AUTHORISED OPERATIONS ON PAYMENT OF INTEGRATED TAX'*
 - *'SUPPLY TO SEZ UNIT OR DEVELOPER FOR AUTHORISED OPERATIONS UNDER BOND OR LETTER OF UNDERTAKING WITHOUT PAYMENT OF INTEGRATED TAX'*
- Similar to export invoice should also contain the following particulars:
 - a) Name and address of the recipient
 - b) Address of delivery
 - c) Name of the country of destination

Invoice - Amendment

- Invoice cum bill of supply – B2C Transactions ONLY
 - For supply of taxable goods/services, a tax invoice is to be issued
 - supply of exempted goods/services, a bill of supply needs to be issued
 - When both taxable and exempted goods / services are provided as part of the same invoice, an **invoice cum bill of supply** may be issued – Rule 46A

Consolidated tax invoice for Insurer/banks/Financial Institutions/ NBFCs

THEN

- Earlier, they were to mandatorily issue invoices each time a supply was made
- Then suppliers were mandated to issue consolidated tax invoice for supply of services made during the month at the end of the month

NOW

- However, this mandatory requirement is changed **to optional**
- For instance, bank charges may be deducted several times during a particular month
- The bank can issue a consolidated tax invoice for the total amount of bank charges and the recipient may receive input tax credit on the basis of the said consolidated tax invoice

Documents for movement without eWay Bill

Rule 55A

- Tax invoice or bill of supply to accompany transport of goods
 - Where it is not required to carry e-way bill (when consignment value is below threshold limit)
 - It is mandatory to carry relevant tax invoice or bill of supply depending on the nature of supply

Returns

Filing of Returns

THEN

- GSTR 1
- GSTR 2
- GSTR 3

NOW

- GSTR 1
- GSTR 3B

Proposed new return

Normal Return (GST RET-1)

Shall be to declare all types of outward and inward supplies and take credit on missing invoices

Sahaj Return (GST RET-2)

Outward under B2C Category and Inward liable under RCM

Sugam Return (GST RET-3)

Outward under B2C and B2B Category and inward liable under RCM & shall not take credit on missing invoices

Circular for correction in 3B :: 26/2017

- Correction of erroneous details furnished in FORM GSTR-3B
 - to amend any outward supply details furnished in FORM GSTR-3B, it may be done in the FORM GSTR-1
 - to amend any Inward supply details furnished in FORM GSTR-3B, the net impact of amendment may be considered in filing next GSTR-3B

Reporting of B2C Inter-state Supplies in 3B – Table 3.2

Circular No. 89/08/2019-GST dated 18th February, 2019

1. A registered supplier is required to mention the details of inter -state supplies made to unregistered persons, composition taxable persons and UIN holders in Table 3.2 of FORM GSTR-3B. Further, the details of all inter-State supplies made to unregistered persons where the invoice value is up to Rs 2.5 lakhs (rate-wise) are required to be reported in Table 7B of FORM GSTR-1
2. Accordingly, instructions have been issued to registered persons making inter-State supplies to unregistered persons to report the details of such supplies along with the place of supply in Table 3.2 of FORM GSTR-3B and Table 7B of FORM GSTR–1 as mandated by the law.
3. Contravention of any of the provisions of the Act or the rules made there under attracts **penal action u/s125** of the CGST Act.

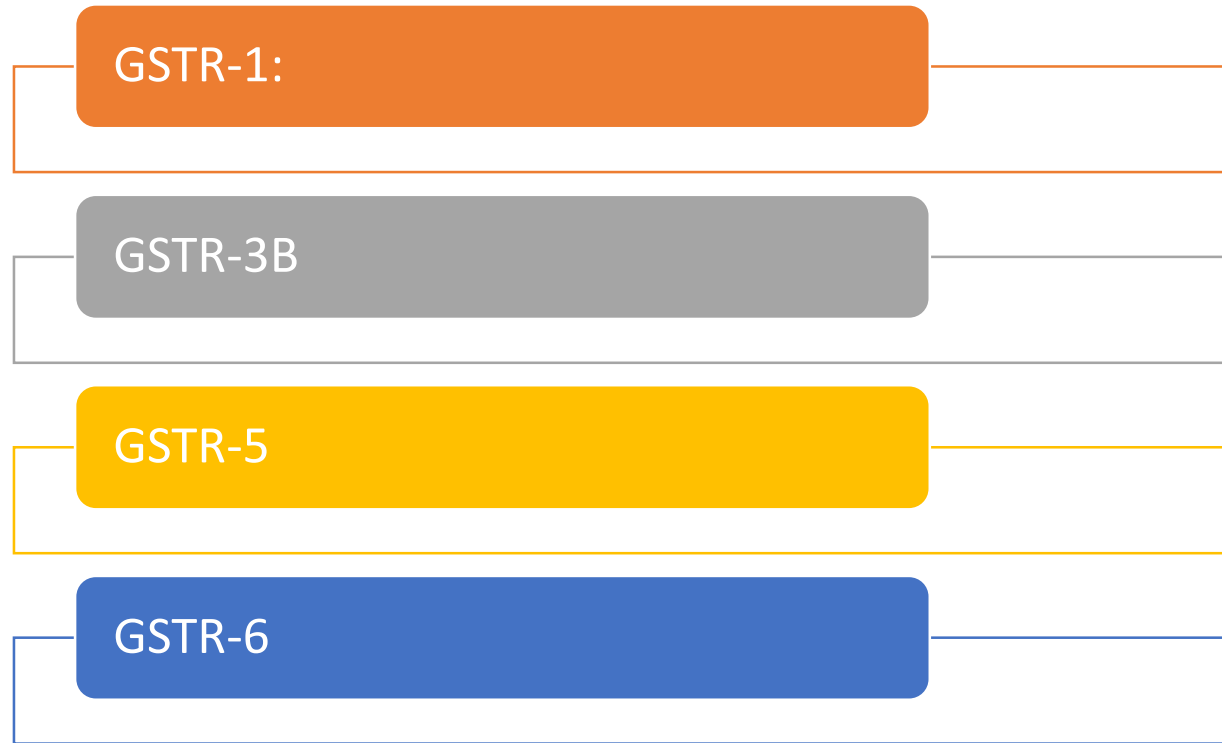
Return filing periodicity

- Change to Section 39(1) of the CGST Act 2017
- Impact
 - Earlier the provisions of the Act required a person to file their GSTR 3/GSTR 3B by 20th of the next month. So, even though the government wished to make this return quarterly for a select group of taxpayers, it could not circumvent the provisions of the Act
 - Through this amendment, the **periodicity and time for filing of this return is now allowed to be prescribed through the rules**
 - Further, an enabling proviso has been inserted to allow the Government to notify **certain category** of taxpayers who will be allowed to file this return on a **quarterly basis**.

Revised Return

- Sec 39(9) - Subject to the provisions of sections 37 and 38,
 - if any registered person Now furnishing a return under sub-section (1), he shall rectify such omission or incorrect particulars **in such form and manner as may be prescribed** subject to payment of interest under this Act:
- **Effects of the amendment**
 1. Earlier, any mistake or omission could be corrected through the return of the month in which the mistake/omission is noticed
 2. Now, the process of correction of such mistakes will be notified through the rules.
 3. It is proposed to introduce amendment return as per the new return filing mechanism for correction of past mistakes.
 4. So, the complete mechanism for correction may be notified through the rules

Late fees



NIL RETURNS :
Rs.10 per day per
Act

Else
Rs.25 per day per
Act

Earlier
Rs. 100 per day per Return per Act

Late fees waiver

| Notification | Late fee for filing GSTR-3B |
|---------------------|--|
| 28/2017 – CT | for the month of July waived |
| 50/2017 – CT | for the month of Aug and Sep waived |
| 64/2017 – CT | Late fee for filing GSTR-3B from October and onwards: <ul style="list-style-type: none">• In case of NIL liability – 20/day (Rs.10 per Act)• Other cases – 50/day (Rs.25 per Act) |

43A

Procedure for furnishing return and availing input tax credit.

Inward Receipts Validation : 43A(1) & (2)

- 43A(1)
 - Notwithstanding anything contained in sub-section (2) of section 16, section 37 or section 38, every registered person shall in the returns furnished under sub-section (1) of section 39 **verify, validate, modify or delete** the details of supplies furnished by the suppliers
- 43A(2)
 - Notwithstanding anything contained in section 41, section 42 or section 43, the procedure for availing of input tax credit by the recipient and verification thereof shall be such as may be prescribed.
- Inference
 - Mandatory Action to be taken by Recipient
 - Modus operandi Similar to GSTR 2
 - Deemed acceptance provision would be made available in Simplified form

ITC Availment and Matching : 43A (3)

- 43A (3)
 - The procedure for furnishing the details of outward supplies by the supplier on the common portal, for the purposes of availing input tax credit by the recipient shall be such as may be prescribed.
- Inference
 - ITC Availment on furnishing by supplier only
 - However Cut of Timelines would be made available in rules
 - As per the SRF supplies declared up to 10th would be available as credit

Availment of missing/Adhoc Credit : 43A (4)

- 43A(4)

The procedure for availing input tax credit in respect of outward supplies not furnished under sub-section (3) shall be such as may be prescribed and such procedure may include the maximum amount of the input tax credit which can be so availed, not exceeding twenty per cent. of the input tax credit available, on the basis of details furnished by the suppliers under the said sub-section.

- Inference

- Missing Credits not uploaded by supplier
- Recipient can take credit manually
- Maximum availment is restricted 20% ITC available

Liability to Pay Taxes Declared :: 43A(5) & (6)

- **43A(5) – liability declared = liability payable**

The amount of tax specified in the outward supplies for which the details have been furnished by the supplier under sub-section (3) shall be deemed to be the tax payable by him under the provisions of the Act.

- **43A(6) – Joint liability**

- The supplier and the recipient of a supply shall be jointly and severally liable to pay tax or to pay the input tax credit availed, as the case may be, in relation to outward supplies for which the details have been furnished under sub-section (3) or sub-section (4) but return thereof has not been furnished.

- **Inference**

- General Liability to pay taxes is Supplier
- Specified Cases Joint Liability

Proposed Joint Liability

- Primary Liability

- In case of default in payment of tax by the supplier, recovery shall be first made from the supplier.

- Exceptional circumstances like

- missing taxpayer,
- closure of business by the supplier or
- supplier not having adequate assets or
- in cases of connivance between recipient and the supplier, etc.

recovery of input tax credit from the **recipient** shall be made through a due process of service of notice and issue of order.

- 43A(7)

For the purposes of sub-section (6), the recovery shall be made in such manner as may be prescribed and such procedure may be provided for non-recovery of an amount of tax or input tax credit wrongly availed not exceeding one thousand rupees

Supply Side Control : 43A(8)

- 43A(8)

- The procedure, safeguards and threshold of the tax amount in relation to outward supplies, the details of which can be furnished under sub-section (3) by a registered person,—

- (i) within six months of taking registration; (pre-deposit?)

- (ii) who has defaulted in payment of tax and where such default has continued for more than two months from the due date of payment of such defaulted amount

shall be such as may be prescribed.

- Inference

- Specified Supplier, when upload their Sales, would not be Auto Populated to Recipient
- recipient would not be able to avail input tax credit on such invoices till the default in payment of tax by the supplier for the past period is made good

49A and 49B

Order and manner of utilisation of the input tax credit

Order of ITC Utilisation 49(5)

- 49(5)(c)

- the State tax shall first be utilised towards payment of State tax and the amount remaining, if any, may be utilised towards payment of integrated tax;

Provided that the input tax credit on account of State tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;

- Inference

- This amendment is required since the GST common portal has placed this restriction in the utilization of input tax credit of State tax/Union territory tax towards payment of integrated tax.
- So, SGST Credit can be used for IGST payment only when CGST Credit is NIL
- Similar Provision applicable for UTGST Credit also

Sections 49A and 49B-Method of utilisation of ITC - IGST

- **Change**

- Utilisation of input tax credit subject to certain conditions and Order of utilisation of input tax credit
- The input tax credit on account of CGST/SGST/UTGST shall be utilised towards payment of I/C/S/U, as the case may be, **only Now** the input tax credit available on account of IGST has **first been** utilised fully towards such payment.

- **Impact**

- The new process of utilization requires the utilization of IGST first against payment of any output tax liability in the form of CGST/SGST/UTGST/IGST
- The balance of CGST/SGST/UTGST can be used only when the balance of IGST is exhausted
- This proviso has been inserted to minimise fund settlement on account of IGST
- This has been amended to restrict the utilisation of SGST/UTGST credit available against payment of IGST only when the balance in CGST credit is not available for payment of IGST.

Example

Facts

| Description | Tax Liability (Rs.) | Input Tax Credit (Rs.) |
|-------------|---------------------|------------------------|
| IGST | 500 | 1000 |
| CGST | 500 | 250 |
| SGST | 500 | 250 |

Utilization as per Section 49

| Description | Tax | Paid through ITC | | | Tax paid in Cash |
|-------------|-----|------------------|------|------|------------------|
| | | IGST | CGST | SGST | |
| IGST | 500 | 500 | - | - | NIL |
| CGST | 500 | 250 | 250 | | NIL |
| SGST | 500 | 250 | | 250 | NIL |

Tax payment and utilization as per Section 49A

| Description | Tax | Paid through ITC | | | Tax paid in Cash |
|-------------|-----|------------------|------|------|------------------|
| | | IGST | CGST | SGST | |
| IGST | 500 | 500 | - | - | NIL |
| CGST | 500 | 500 | - | | (250) |
| SGST | 500 | - | | 250 | 250 |



Order of Payment of Tax

- Reasoning for Amendment

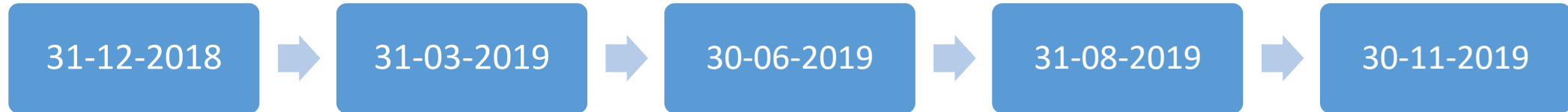
- This is being done to minimise fund settlement on account of IGST.
- Hence registered person would be able to utilize ITC of CGST, SGST/UTGST Now he has exhausted all the ITC on account of IGST.
- It is proposed to take an enabling power for the Government to prescribe any specific order of utilization of input tax credit of any of the taxes viz., integrated tax, central tax, State tax or Union territory tax for the payment of the said taxes

Matching concept – Ecom Operators

- Sec 52(9).
 - Where the details of outward supplies furnished by the operator under subsection (4) do not match with the corresponding details furnished by the supplier under section 37 or section 39, the discrepancy shall be communicated to both persons in such manner and within such time as may be prescribed.
- Impact
 - Due to the continuation of GSTR 3B under Section 39, the concept of matching against GSTR 2 could not be put in place.
 - The provision to carry out matching between the following has been enabled:
 - Return by Ecommerce operator under GSTR 8
 - Statement of outward supplies under GSTR 1 or Monthly return as per GSTR 3 / GSTR 3B

GSTR 9 and 9C

- Due date for the FY 17-18 has been extended several times as below:



- **Optional Filing:** Notn 47/2019 CT: filing of annual return under section 44 (1) of CGST Act for F.Y. 2017-18 and 2018-19 **optional** for small taxpayers whose aggregate turnover is less than Rs 2 crores as against originally compulsory for all registered persons.

Refund Restricted

THEN

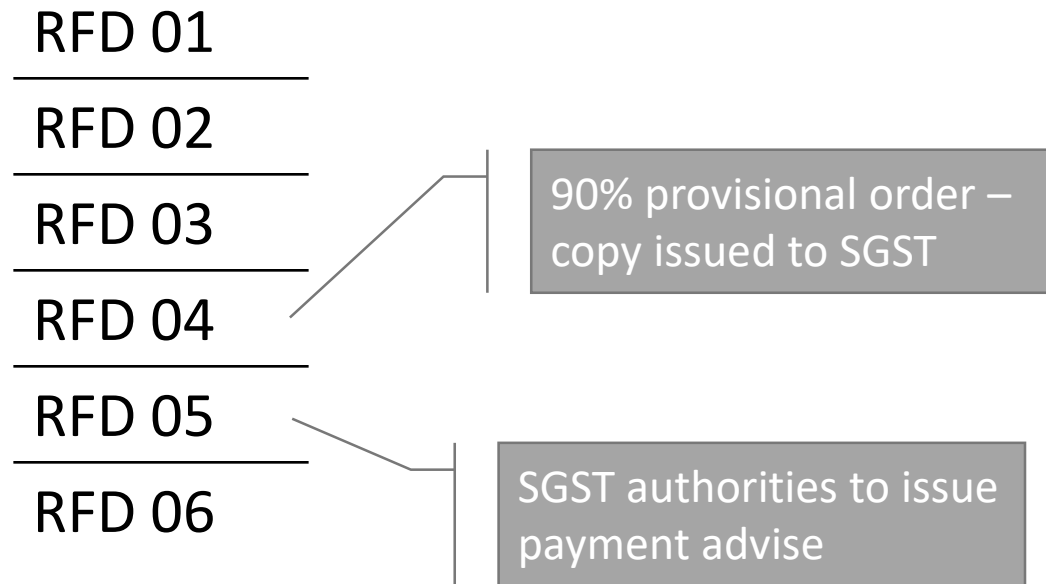
- Supplies of goods in respect of which no refund of unutilized input tax credit shall be allowed under Section 54 (3) – CTR 5/2017
 - Chapter 54 & 55 : Woven Fabrics
 - Chapter 60 : Knitted Fabric
 - Chapter 86 : Railway Locomotive & Related Supplies

• NOW

IDS Refund allowed for Chapter 54,55,60 : Notification 20/2018 CTR

- Subject to reversal of credit standing as on 31st Jul 2018

Single Disbursal of refunds



- SGST portion also to be processed by CGST authorities
- SGST ~ CGST to be adjusted through inter-State settlements

Relevant date in case of refund of unutilised credit – 54(2)

- GST Refunds:

- Relevant date for filing refunds in case of unutilized ITC –
 - in the case of refund of unutilised ITC arising out of inverted duty structure, shall be the **due date for furnishing of return under section 39** for the period in which such claim for refund arises. (instead of end of FY)

- Impact

- As per this amendment the relevant date for calculation of time period for refund of unutilised ITC shall henceforth be the due date for furnishing the return under section 39 for the period in which the claim arises
- This amendment has been brought to remove the contradiction involved between section 54(3) and explanation 2(e) of Section 54 which used to earlier provide two different time periods for calculation of relevant date.

Service Exports in INR

- Refunds in case of export of services –
 - Explanation 2(c) to Section 54 of the CGST Act **allows receipt of payment in Indian rupees, where permitted, by the RBI** in case of export of services since particularly in the case of exports to Nepal and Bhutan, the payment is received in Indian rupees as per RBI regulations.
- In this respect, the provisions of Section 2(6)(iv) of the IGST Act are also being amended to provide that services shall qualify as exports even if the payment for the services supplied is received in Indian rupees as per RBI regulations.

LUT

- Furnishing of Letter of Undertaking (LUT) for Zero rated supplies
 - To export without payment of integrated tax
 - Validity of LUT – LUT is valid for the whole financial year in which it is ten
- Supply of services not eligible for refund of unutilized input tax credit
 - construction of complex,
 - building,
 - civil structure or a part thereof including a complex or building intended for sale to a buyer,
 - wholly or partly except where the entire consideration has been received Now issuance of completion certificate where required by the competent authority or Now its first occupation whichever is higher will be considered supply of services

Inverted Duty Structure – No Refund of IS & CG

- Rule 89(5) substituted w.e.f. 01.07.2018– Formula for calculation of ITC to be refunded in cases of inverted tax structure –
 - Maximum Refund Amount = $\{(\text{Turnover of inverted rated supply of goods and services}) \times \text{Net ITC} \div \text{Adjusted Total Turnover}\}$ - tax payable on such inverted rated supply of goods and services.
- Net ITC shall mean
 - input tax credit availed on **inputs** during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both; and
- Adjusted Total turnover means
 - the turnover in a State or a Union territory, as defined under clause (112) of section 2, 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) [deemed exports] or (4B) [sales for exports taxable at 0.05%] or both, if any, during the relevant period;

Refund for Fabric Processors (job workers)

- Whether independent fabric processors (job workers) in the textile sector supplying job work services are eligible for refund of unutilized input tax credit on account of inverted duty structure u/s 54(3)

Answer:

- Notification No. 5/2017- CTR specifies the goods in respect of which refund of unutilized ITC on account of inverted duty structure u/s 54(3) of the CGST Act shall not be allowed where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies of such goods. However, in case of fabric processors, the output supply is the supply of job work services and not of goods (fabrics).
- Hence fabric processors shall be **eligible for refund** of unutilized ITC on account of inverted duty structure under section 54(3) of the CGST Act even if the goods (fabrics) supplied to them are covered under notification No. 5/2017-CTR dated 28.06.2017.

Nil Refund – Wrongly Filed

- Registered person who has wrongly filed NIL refund claim in FORM GST RFD-01A/RFD-01 for a given period under a particular category, may again apply for refund for the said period
- Registered persons satisfying the conditions (Circular No.110/2019) may file the refund claim under “Any Other” category
- Refund claim should pertain to the same period for which the NIL application was filed.
- Application shall also be accompanied by all the supporting documents which would be required to be otherwise submitted with the refund claim.

Online Processing of Refund Applications and Single Authority Disbursement

- Online refund processing (End to End) has been deployed by GSTN. Consequently, refund ARNs generated from 26.09.2019 onwards would be processed online, including issuance of GST RFD-04, GST RFD-06 orders and disbursement of all tax heads like CGST/IGST/Cess and SGST/UTGST throughout India
- Single authority disbursement has been implemented.

Transition Provisions

This amendment is retrospective and in applicable w.e.f 1st July 2017.

Transitional Credits

- Amendment to Sec 140

- As per the CGST Act transitional credit of cesses like Krishi Kalyan Cess, Education Cess, Secondary and Higher Education Cess etc.. would be available.
- However through a retrospective amendment, such credit has now been barred.
- If KKC already availed?

- Amendment to Sec 143(1)

- New proviso has been inserted to allow the extension of the time limit for receiving back the goods sent on job work.
- The time period of 1 year or 3 years may be extended on approval of the Commissioner for a further period not exceeding one year or two years respectively.

Trans Return filing Extended

- Amendment to Sec 140 – Rule 117 – CT 49/2019
 - **wherein technical difficulties** are there and the Council recommends for extension,
 - the time limit for Form GST **TRAN 1** and **TRAN 2** can be **extended** up to 31st December 2019 and 31st January 2020 respectively.

Payment of Tax

Rate of Interest

| Sl. No. | Particulars | Rate of Interest |
|---------|---|------------------|
| 1. | Delay in payment of Tax | 18% |
| 2. | Undue or excess claim of Input Tax Credit | 24% |
| 3. | Delay in Refund by department | 6% |
| 4. | Delay in Refund (Order passed by Appellate Authority) | 9% |

Interest for delayed payment on NET TAX

THEN : Interest to be paid on this amount for delay in filing of returns

| | | |
|-----------------|--------|--------|
| Output tax | 10,000 | 10,000 |
| Less: Input tax | 3,000 | 15,000 |
| Net tax payable | 7,000 | NIL |

| | | |
|-----------------|--------|--------|
| Output tax | 10,000 | 10,000 |
| Less: Input tax | 3,000 | 15,000 |
| Net tax payable | 7,000 | NIL |

NOW : Interest to be paid on this amount for delay in filing of returns

Delayed filing of return, suo motu

Filing of return after proceedings are initiated under S. 73 or 74

Tax Recovery and Pre-Deposit

79 (4) Recovery of Taxes determined:

- Can be made from distinct persons of the defaulter.

Pre-deposits for filing an appeal to Appellate Authority and Appellate Tribunal:

- Appeal to the appellate authorities = 10% of the disputed tax amount subject to maximum limit of Rs.25 crores.
- Appellate authority to appellate tribunal = 20% of the disputed tax amount subject to maximum of Rs. 50 crores.

Increase in Time Limit for Penalty u/s129

- Detention, seizure and release of goods and conveyances in transit:
 - Increase in the time limit Then which proceedings under Section 130 can be initiated from seven to fourteen days.

IGST Changes

- Goods Transportation Sec 12

- place of supply of service of transportation of goods in case of export of goods from India shall be the place of **destination of such goods**.

earlier

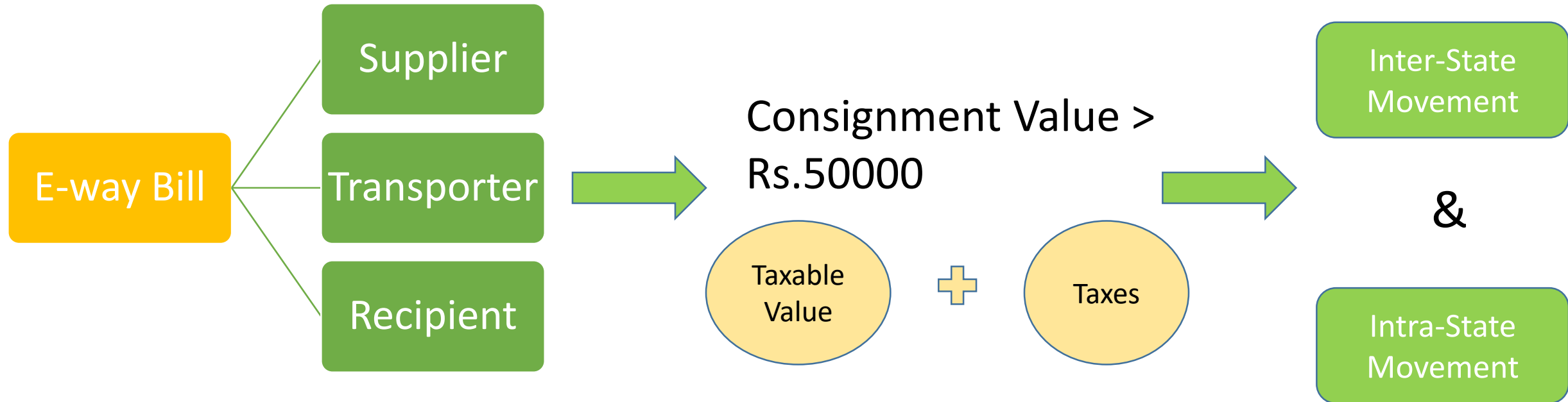
- the place of supply is the location of the recipient.

- Deemed Forex Payment

- It is proposed to allow acceptance of receipts in Indian currency for export of services, wherever it is permitted by RBI u/s. 2 (6) (iv).

E-way Bill

Generate an e-way Bill



When eWAY Bill Not MANDATORY : Rule 55A

- Tax Invoice or bill of supply to accompany transport of goods.-
 - 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
- Inter State E-way bill shall come into force from
 - 1st April 2018
- Intra State E-way bill shall come into force from
 - Respective State Notification Dates

Notification No. 26/2018

- 26/2018 :: Rule 138(14) – non-requirement of e-Waybill –
 - where empty cylinders for packing of liquefied petroleum gas are being moved for reasons other than supply
- 28/2018 :: inserted of Rule 58 (1-A) (enrolment of a transporter)
 - For the purposes of Chapter XVI – transporter who is registered in more than one state with the same PAN – may apply in FORM GST ENR-02 for a PAN India unique common enrolment number using any one of his GSTIN and he shall be granted one. He cannot use any of the GSTINs throughout the country and has to use only this Common Enrolment Number.
 - FORM GST ENR-02 is inserted
- Rule 138C inserted – final report of inspection of goods in movement
 - The Commissioner - extend the time for recording of the final report in Part B of FORM EWB-03, for a further period not exceeding three days
 - Reckoning of time limit is from 00.00 hours to 00.00 hours

Other Updates

- Where goods move from a DTA unit to a SEZ unit or vice versa located in the same State, Is e-way bill required ? Circular 47
 - Not required to generate e-way bill if the same is exempted

Miscellaneous

NAAAR

Will have 3 members

- 1 – President
- 2 – Technical Member (Centre)
- 3 – Technical Member (State)

- President – with consultation from the CJI (IRS with at least 15 years in Group A)
- Members – on recommendations of the Selection Committee (Adcom or above with min 3 years of admn experience)

Eligibility:

2 or more AAARs from different States are conflicting

Applicant:

Distinct person only

New Impact

1. NAAAR may pass such orders ... as it thinks fit .. Confirm OR Modify the rulings
2. Differing options amongst members ... majority to prevail
3. Ruling to be issued within 90 days (*as far as possible*)
4. Binding of the applicant and concerned officers (same PAN)

Timelines:

To be filed within 30 days (+ 30 days) from date of the CONFLICTING ruling

Government: 90 days (+ 30 days)

HC continues to be the next step, where they are not conflicting orders for a distinct person

NAAAR is not automatic authority if aggrieved by an order of AAAR

Industry Specific Changes

Job work

Job work – rate change

| Job Worker | Principal | GST Rate* | Remarks |
|--------------|-----------------------------|-----------|---|
| Registered | Registered | 12% | W.e.f. 1st Oct 2019 as per Notification No.- 20/2019-CT (R) Dated: 30 Sep 2019 |
| Registered | Unregistered | 18% | The benefit of Notification No-20/2019- CT (R) not available as not covered by definition of Job work# under GST |
| Unregistered | Registered/ Unregistered | NA | GST is not applicable as Job worker is not liable for registration |

Job worker

Simplification of sending of goods on job work basis

- (a) The challan may be issued **either** by the principal or the job worker for sending goods to another job worker
- (b) The challan issued by the principal may be endorsed by the job worker indicating the quantity and description of goods where the goods are sent by one job worker to another or are returned to the principal
- (c) The challan endorsed by the job worker may be further endorsed by another job worker, indicating therein the quantity and description of goods where the goods are sent by one job worker to another or are returned to the principal

Time Limit for Jobwork Returns.

- 143(1)

- Provided that the period of one year or three years, as the case may be, may, on sufficient cause being shown, be **extended** by the Commissioner for a further period not exceeding **one year and two** years respectively

- Impact

- New proviso has been inserted to allow the extension of the time limit for receiving back the goods sent on job work.
- The time period of 1 year or 3 years may be extended on approval of the Commissioner for a further period not exceeding one year or two years respectively.
- The proviso has been inserted because some job work processes cannot be completed within 1 year (such as hull construction, fabrication of vessels etc.)

ITC 04 - Goods Sent & Received Back on Jobwork

• Then

Quarterly – 25th of succeeding quarter

• Now

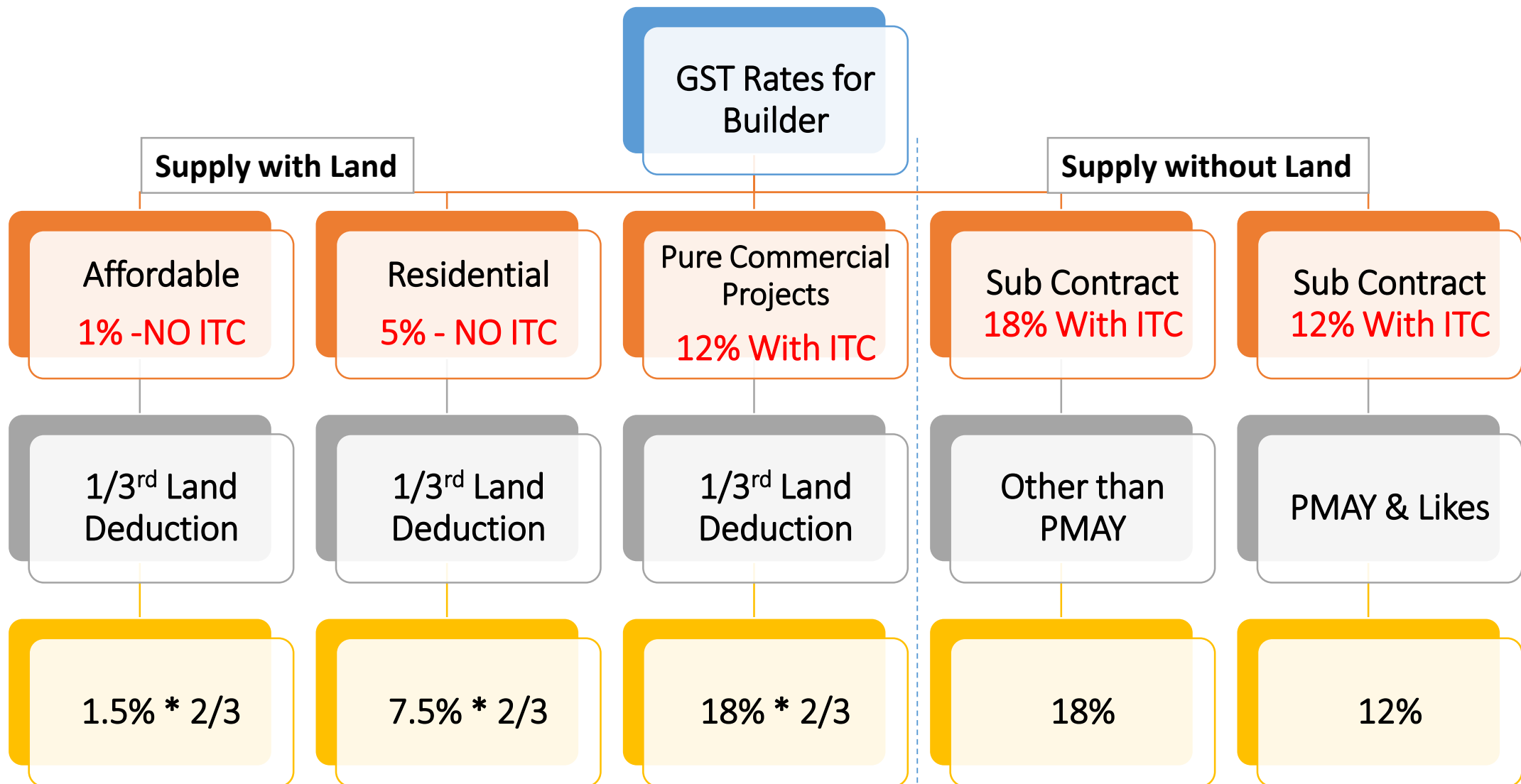
- Due date extended multiple times
- is waived off for the period July, 2017 to March, 2019
- Details of goods sent but not yet received for the period July, 2017 to March, 2019 shall be furnished for quarter April –June 2019

Real Estate

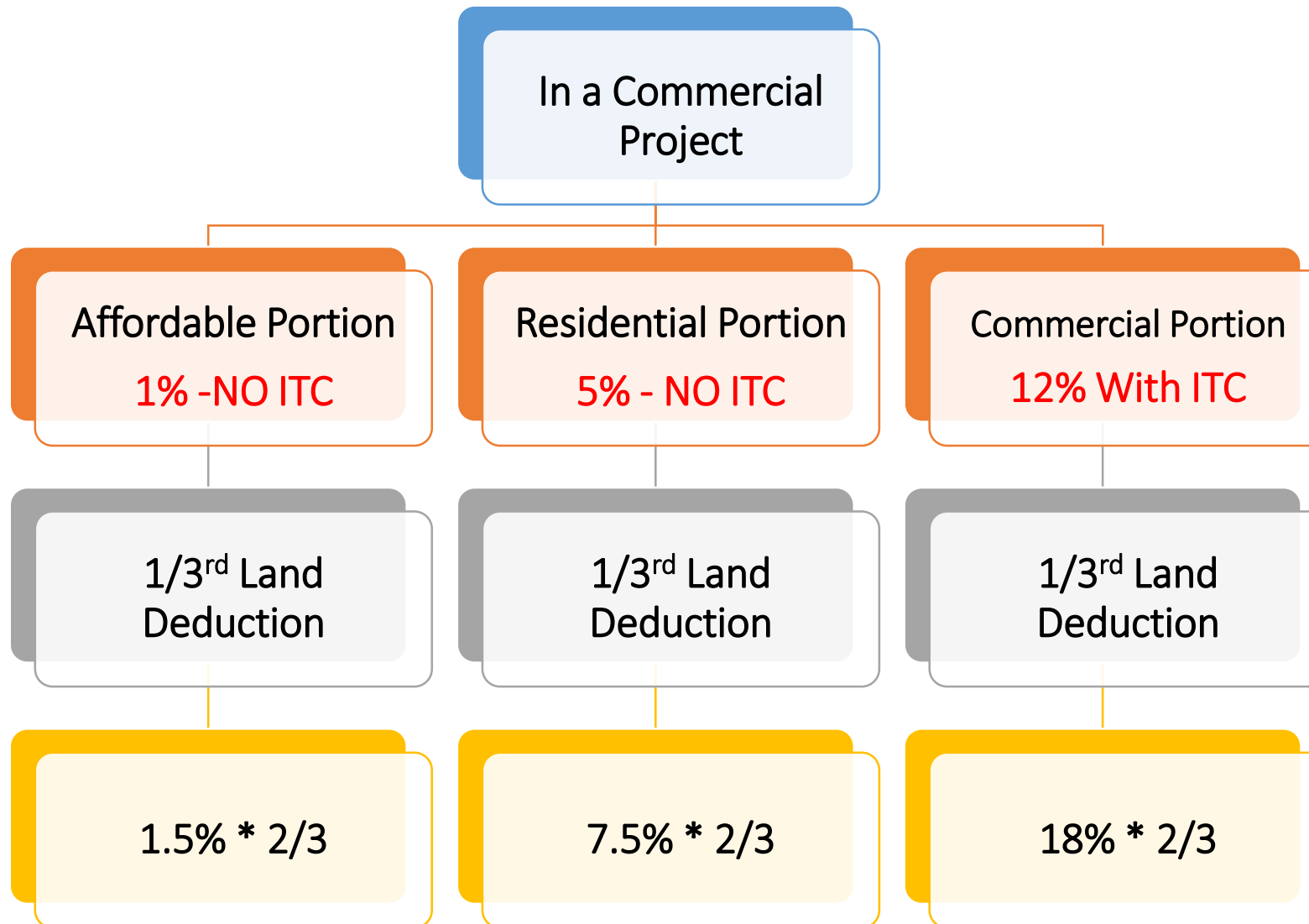
Notifications 29th March 2019

| Not. No. | Particulars |
|---------------------|---|
| 3/2019 | Changes in GST rates – Real Estate |
| 4/2019 | Exemption to TDR, FSI and Premium -Long Term Lease |
| 5/2019 | RCM for TDR, FSI and Premium for Long Term Lease |
| 6/2019 | Time of Supply for JDA ~ CTR 04/2018 Notification |
| 7/2019 | RCM Rate for Services + 80% criteria 9(4) Purchases |
| 8/2019 | New Rate 18% for Un registered purchase of Goods |
| 16/2019 (CT) | Changes in GST Rules (Rule 42 and Rule 43) |
| 4/2019 (ROD) | Credit attributable to be determined based on carpet area |

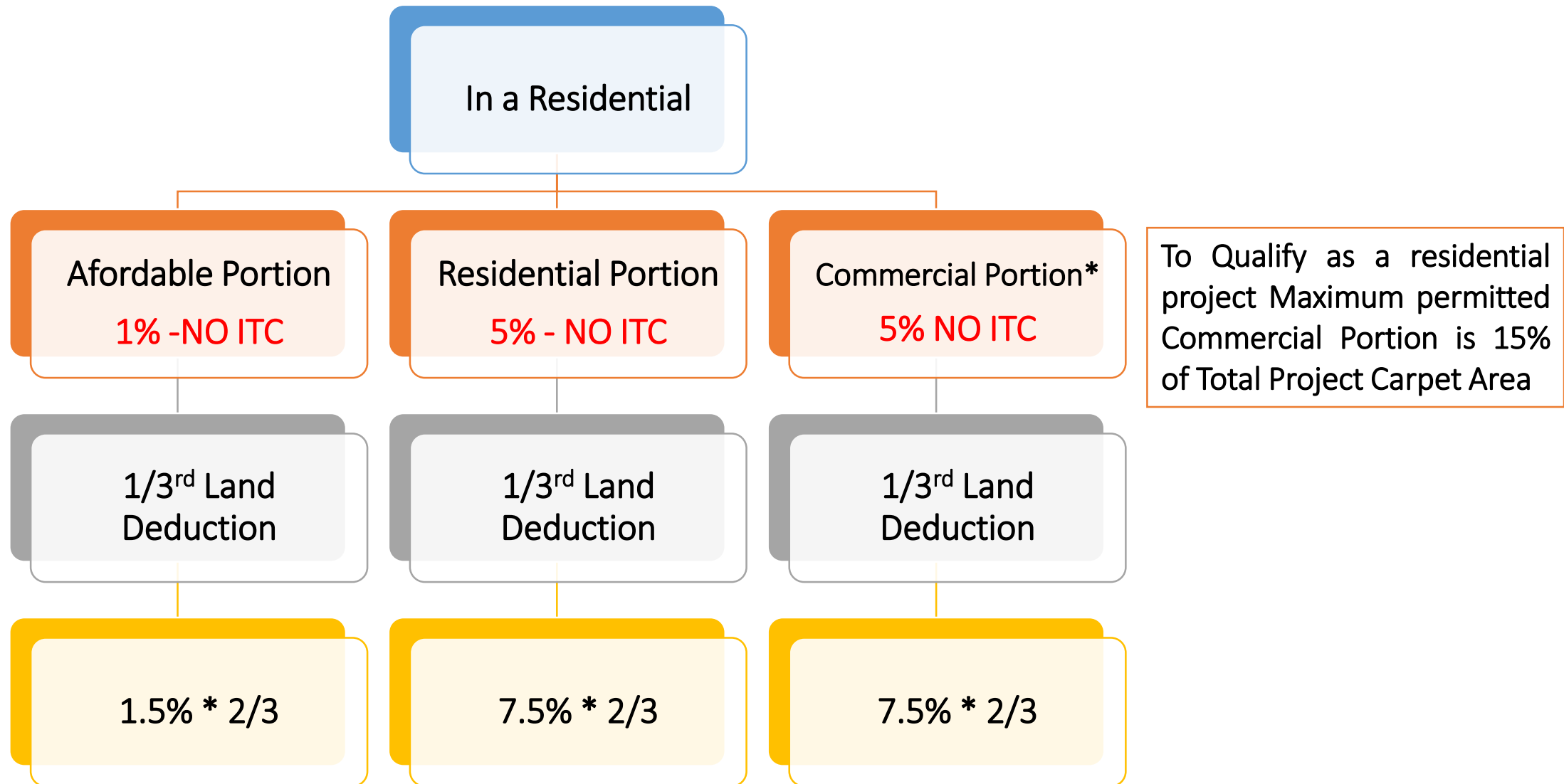
For New Projects wef 1st April



New Mixed Projects (Commercial + Residential)



New Mixed Projects (Commercial + Residential)



Conditions for the New Rates without ITC

1. **Tax Payment** : Paying of GST is only in cash and use of ITC is not permitted
2. **ITC**:
 - Not to avail of ITC on the future purchases
 - Report ITC not availed as ineligible credit in GSTR-3B [No. 4 (D)(2)]
 - Reversal/Availment of Excess ITC as on 31st March 2019 as per
Annexure I in the case of REP other than RREP and in Annexure II in the case of RREP;
3. **JDA TAX** : Tax on Development Rights to be paid by Builder on RCM basis.
4. **Purchases**
 - Procure 80% inputs and input services from registered vendors other than
 - TDR, long term lease premium, salami, FSI , electricity, high speed diesel, motor spirit, natural gas
 - RCM Payments made are deemed as Registered Purchase
 - Purchases <80% from RP to be paid tax at 18%,
 - Short fall Tax to be assessed and paid **project** wise by **JUNE** of next Financial YEAR
 - CEMENT Purchased from URD to be paid under RCM irrespective of % threshold on monthly basis at the applicable rates.(Currently 28%)

Reverse Charge Liability

04/2019 – TDR,

Joint Development Agreements 4/2018 - THEN

- Landowner Share is taxable under GST – Forward charges
- Time of payment of tax is earliest of
 - Allotment letter
 - Conveyance Deed
 - Any other Similar Instrument.
- Liability to pay GST is on Builder @18% on the Construction value without any deduction of 1/3rd for land.
- Value : Open Market value of UDS transferred or Apartments Transferred

Tax on Land owner Share – RCM -9(3)

- In case **transfer of development right** against consideration, wholly or partly, in the form of construction of apartments, **developer shall pay tax on supply of construction** of apartments to the **landowner**.
- **Landowner** shall be **eligible for credit of taxes charged** from him **by the developer** towards the supply of construction of apartments by developer to him, **provided** the **landowner** further supplies such apartments to his buyers and **pays tax** on the same which is **not less than the amount of tax charged** from him on construction of such apartments by the developer.

Calculation of RCM – By Promoter

Carpet area of the residential apartments **un-booked** on the date of issuance of completion certificate or first occupation

GST payable on TDR *

Total carpet area of the residential apartments in the project

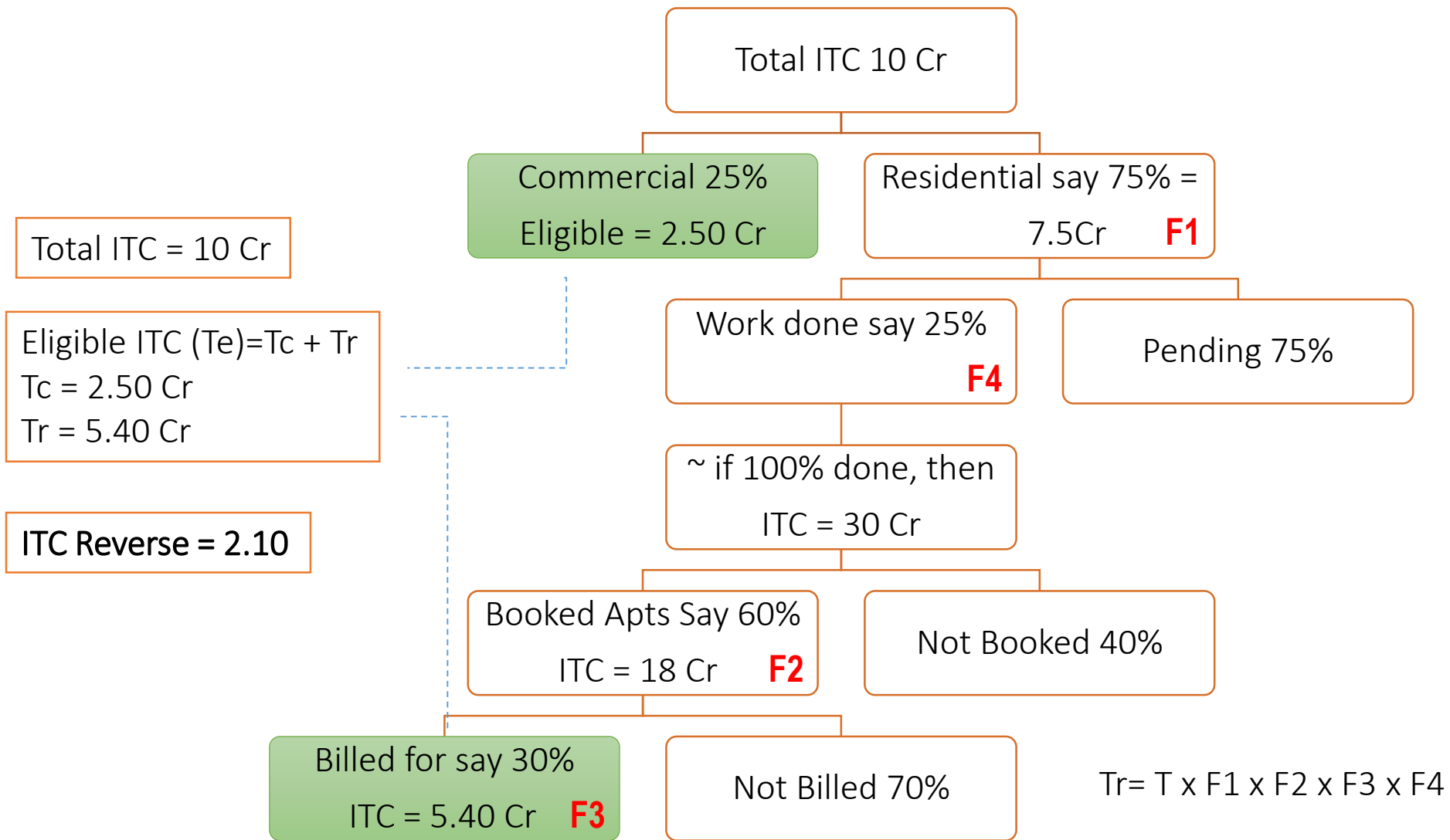
Subject to Maximum of

- Value of un sold Apartments * (5% or 1%)
 - remaining un- booked on the date of issuance of completion certificate or first occupation

Purchases from Un Registered Dealers

- **80%** of value of **input and input services**, used in supplying the service shall be received from **REGISTERED SUPPLIER** only.
- Where **value** of input and input services received from registered suppliers **during the financial year falls short** of the said threshold of **80%**., **tax shall be paid** by the **developer** on value of input and input services comprising such shortfall at the rate of **18%** on **RCM** basis.
- Notwithstanding anything contained herein above, where **CEMENT** is received from an **unregistered person**, the **developer** shall **pay tax** on supply of such cement at the applicable rates on **RCM basis**. (Sec 9(4))

ITC Reversal – On going Projects



Addition to Rule 42(4)

- Common credit on commercial portion in the project shall be

$$D1 = C2 \times (E / F)$$

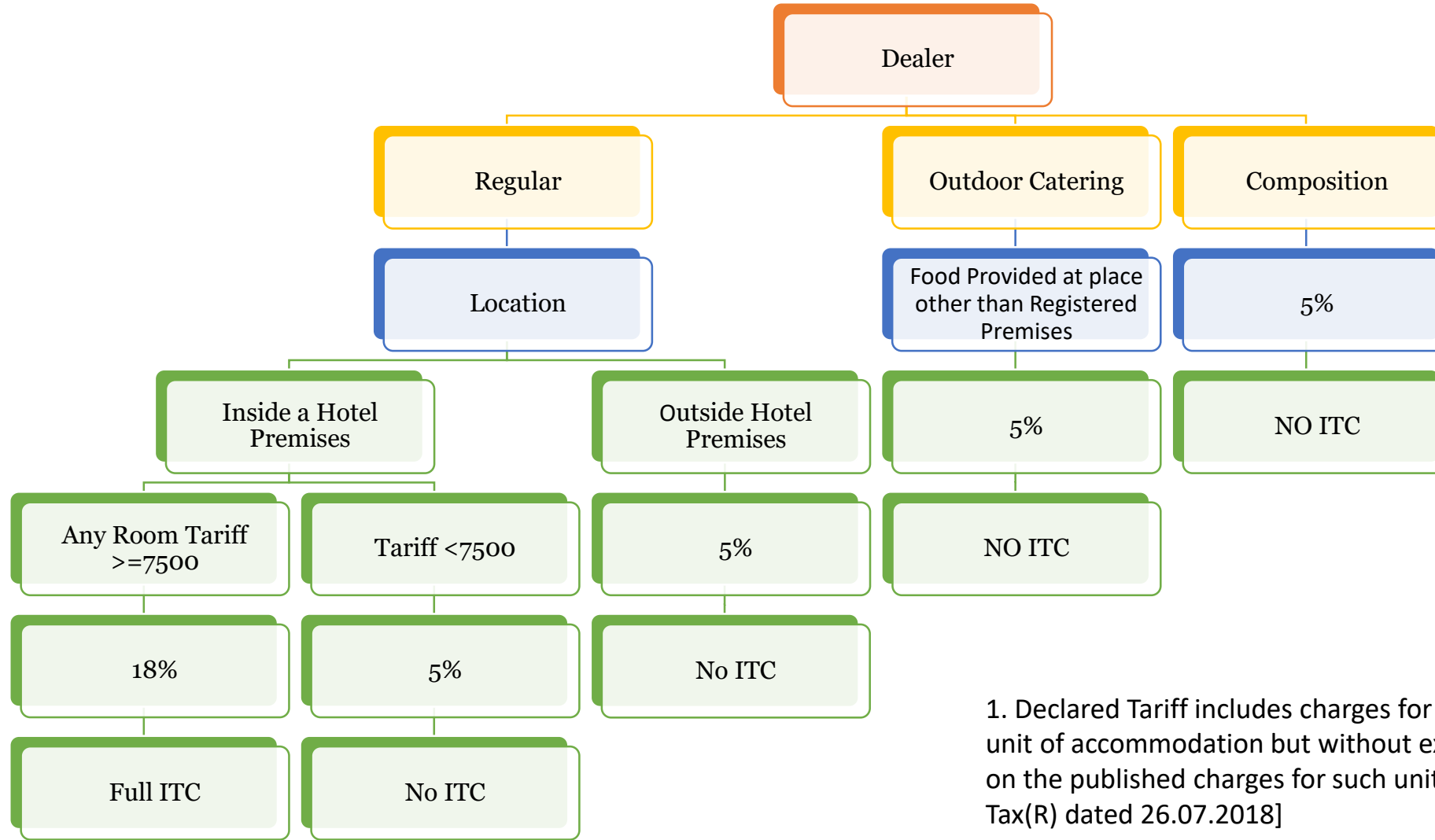
E = **Unsold** commercial apartments **Carpet Area** on the date of OCT

F = AC (**Total carpet area** of the commercial apartments in the project)

- If $C3_{\text{final_comm}} > C3_{\text{aggregate_comm}}$
 - Re claim the difference in 3B till sept of Subsequent year of OC
- If $C3_{\text{final_comm}} < C3_{\text{aggregate_comm}}$
 - Reverse thru GSTR 3B or pay through DRC 03
 - Interest u/s 50(1) is also applicable

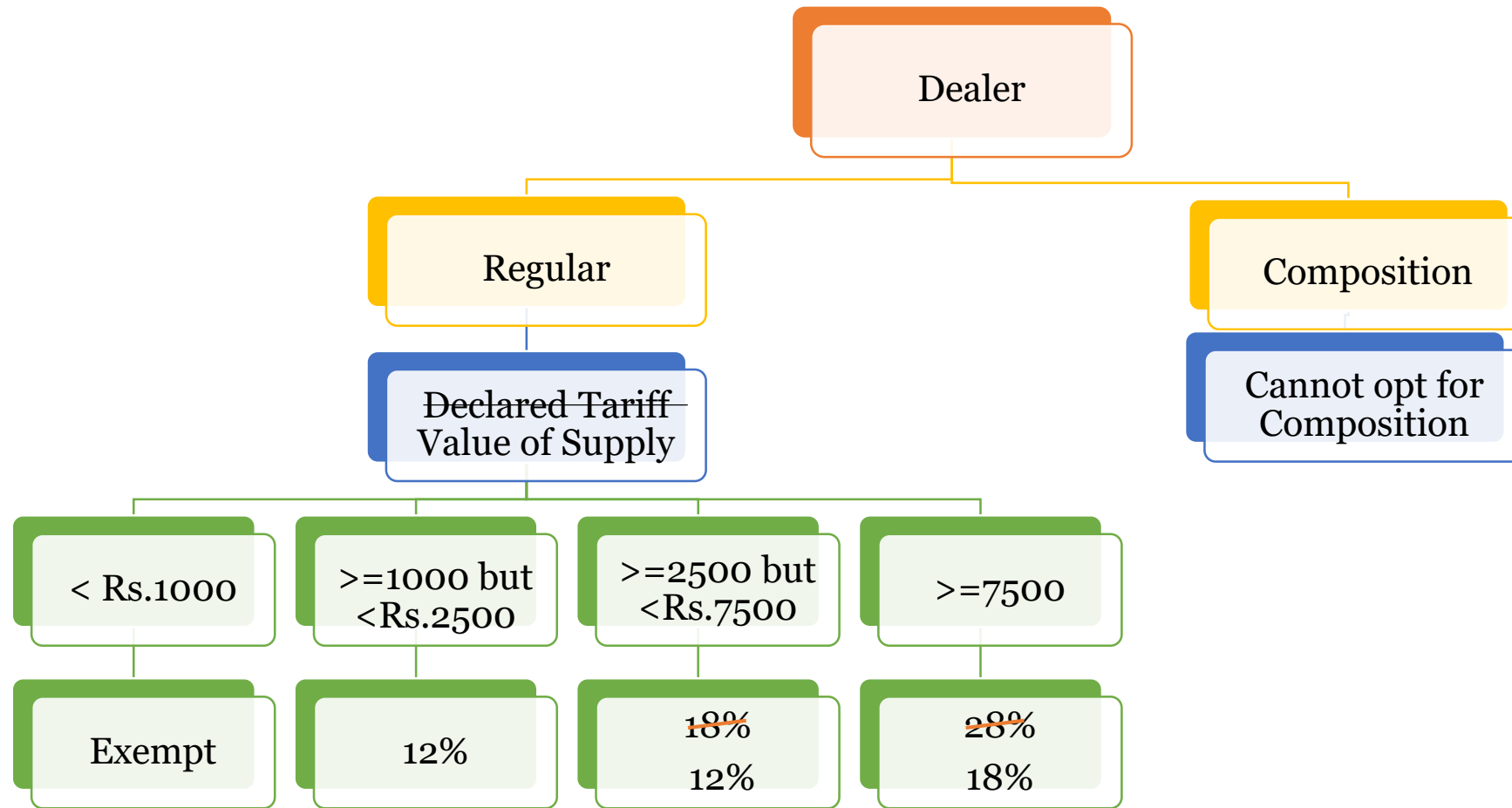
Restaurants/Hotel

GST Tax Rates Applicable for Restaurants



1. Declared Tariff includes charges for all amenities provided in the unit of accommodation but without excluding any discount offered on the published charges for such unit. [Notification 13/2018- Central Tax(R) dated 26.07.2018]

GST Tax Rates Applicable for Hotels



Notes:

1. Notification 13/2018 Central Tax (Rate) dated 26th July 2018 replaces the words Declared Tariff by the words “Value of Supply”.
2. Notification 14/2018 Central Tax (Rate) dated 26th July 2018 exempts Hotel service having value of supply less than Rs. 1000.
3. Notification 20/2019 Central Tax (Rate) dated 30th Sep 2019 amends rates for Room transaction value Rs.1000 to Rs.7500 – 12% and More than 7501 – 18%

Clarifications – Supply

Incidence of GST on providing catering services in train

THEN

- Different modes of serving food in Indian Railways
 - Mobile & Static
 - Pre-paid (without option)
 - Pre-paid (with option)
 - Pot-paid
- Different GST rates were being applied

NOW

- GST rate on supply of food and/or drinks by
 - the Indian Railways or
 - Indian Railways Catering and Tourism Corporation Ltd. or
 - their licensees,whether in trains or at platforms (static units), will be **5% without ITC**

Accommodation Service to SEZ

- Whether services of short-term accommodation, conferencing, banqueting etc. provided to a Special Economic Zone (SEZ) should be treated as an **inter-State supply**
- Answer:
 - As per section 7(5) (b) of the IGST Act, the supply of goods or services or both to a SEZ developer or a SEZ unit shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce.
 - Whereas, as per section 12(3)(c) of the IGST Act, the place of supply of services by way of accommodation in any immovable property for organising any functions shall be the location at which the immovable property is located. Thus, in such cases, if the location of the supplier and the place of supply is in the same State/ Union territory, it would be treated as an intra-State supply.

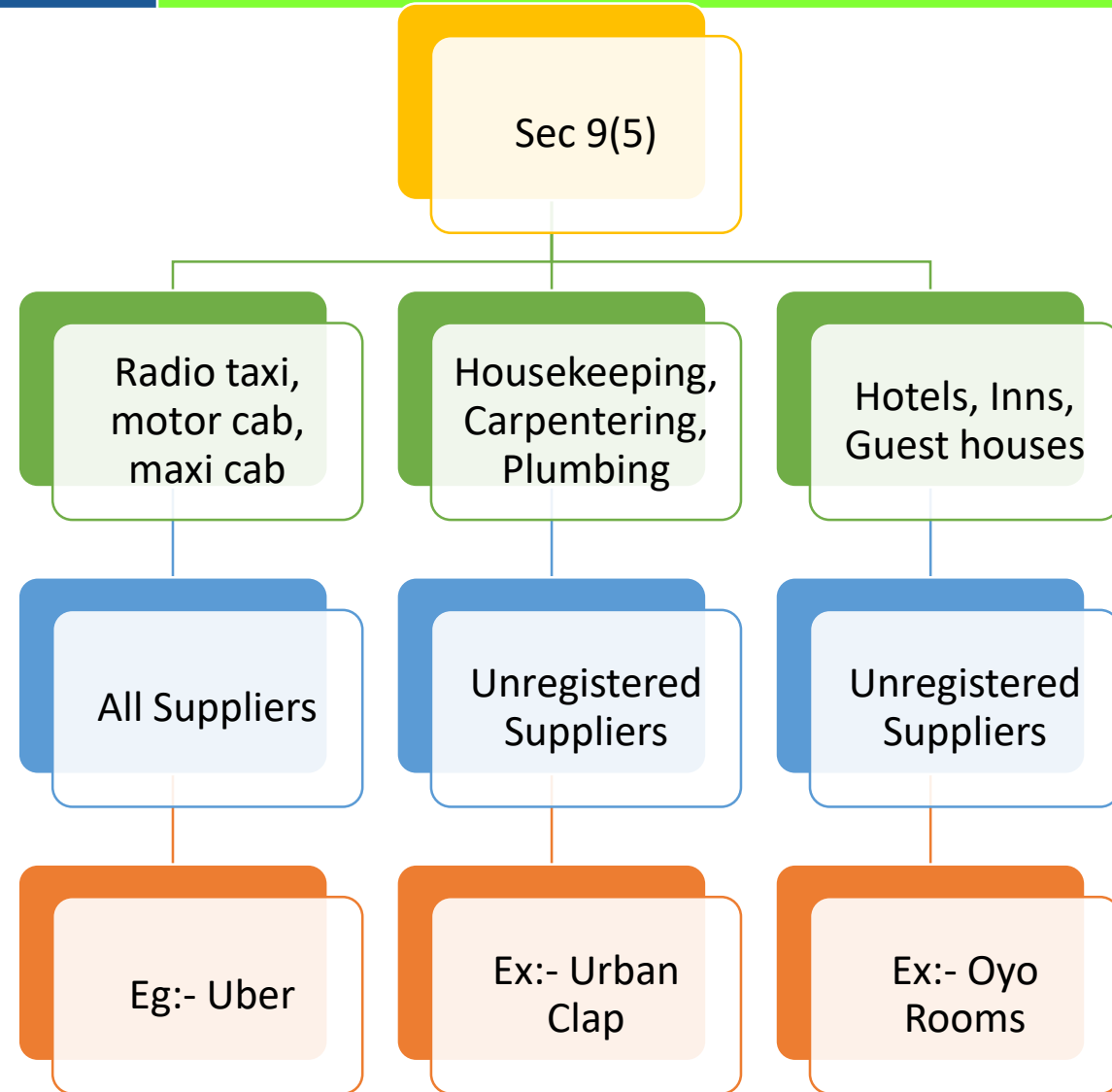
It is an established principle of interpretation of statutes that in case of an apparent conflict between two provisions, the specific provision shall prevail over the general provision.

- In the instant case, section 7(5)(b) of the IGST Act is a specific provision
- It is therefore, clarified that 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.**

E-Commerce Operator

Government has notified certain category of services on which tax is not payable by service provider but by e-commerce operator

Notification no. 17/2017-Central Tax (Rate) dated 28th June 2017



GST Ver 2.0

Future Release - Trialers

- E-Invoice
- New Returns
- Data Analytics
- Notices and Appeals
- MOV forms

Thank You