

GOODS AND SERVICE TAX (GST)



PRESENT TAXATION IN A FEDERAL STRUCTURE



- Indian Constitution based on federal structure / system.
- Residual legislative powers remain with Central Government.
- Constitution also provides for comprehensive lists bifurcating the powers, duties, responsibilities between the Central and States Governments.
- Both the Central and States Governments require funds at their own disposal for discharging their respective duties and responsibilities and to fund their budgets.
- Central Government through the union legislature empowered to levy taxes with respect to the matters enumerated in List I (Union List) in the Seventh Schedule of the Constitution.
- State Legislatures have exclusive power to levy taxes with respect to any of the matters enumerated in List II (State List) of the said Seventh Schedule.
- For the matters stated in List III (Concurrent List), legislatures of both Central and State Governments are empowered to levy taxes.

EXISTING CONSTITUTIONAL MANDATE FOR INDIRECT TAXATION

- Present Indirect Tax structure of India includes various levies and taxable events in respect of such levies vary, depending upon the nature of tax. The four major constituents of present Indirect Tax structure and taxable events can be described as under:

Nature of Levy	Taxable Event	Respective Entry under Schedule VII of Constitution
Excise Duty	Manufacture / Deemed Manufacture	Entry No. 84- List I
Service Tax	Provision of Service	Residuary Entry 97- List I
Sales Tax / VAT / CST	Sale	Entry No. 54- List II (VAT) and 92A of List I (CST)
Entry tax/ Entertainment tax	Entertainment & Entry of Goods	Entry No. 52 and 62- List II

122ND CONSTITUTIONAL AMENDMENT BILL, 2014

- It provides for both Central and States legislatures to levy goods and services tax.
- Article 366(12A) inserted vide the Constitutional Amendment Bill, which defines goods and services tax to mean a tax on supply of goods or services or both and excludes alcoholic liquor for human consumption.
- Is a positive development towards India's progress into a nationwide unified market
- GST will remove tax on tax, which is known as cascading effect. For e.g. under the existing indirect tax regime a manufacturer has to pay VAT on a value inclusive of Central Excise Duty
- Central Government tabled the 122nd Constitution Amendment Bill, 2014 ('Bill') on the introduction of **Goods and Services Tax ('GST')** before Lok Sabha on December 19, 2014.
- Lok Sabha passed the said Constitution Amendment Bill on May 06, 2015
- Introduced in Rajya Sabha in July 2015
- Select Committee of Rajya Sabha submitted its report on the Bill
- Rajya Sabha passed the Constitutional Amendment Bill on August 03, 2016 with minor amendments
- Lok Sabha once again passed the amended Bill on August 08, 2016

122ND CONSTITUTIONAL AMENDMENT BILL, 2014

- The Bill now awaits approval by atleast 16 States and Presidential assent
- A GST Council to be constituted within sixty days from the date of commencement of 122nd Constitutional Amendment.
- GST Council shall be chaired by the Finance Minister and will have Union Ministers of State in charge of Revenue or Finance and the respective Finance or Taxation Minister of each State Government
- The GST Council shall make recommendations on the following:
 - taxes, cesses and surcharges levied by Union, States and local Authorities which may be subsumed in the GST;
 - the goods and services subjected to or exempted from GST;
 - Model GST Laws, principles of levy, apportionment of IGST, principles regarding the place of supply,
 - Threshold limit of turnover below which GST will be exempted;
 - Rates including floor rates with bands of GST;
 - The date on which the petroleum products will attract the levy of GST
- Once the Constitutional amendment gets through all the legs, the GST Bills would be introduced in the Parliament as well as State legislatures

TAXES TO BE SUBSUMED UNDER GST

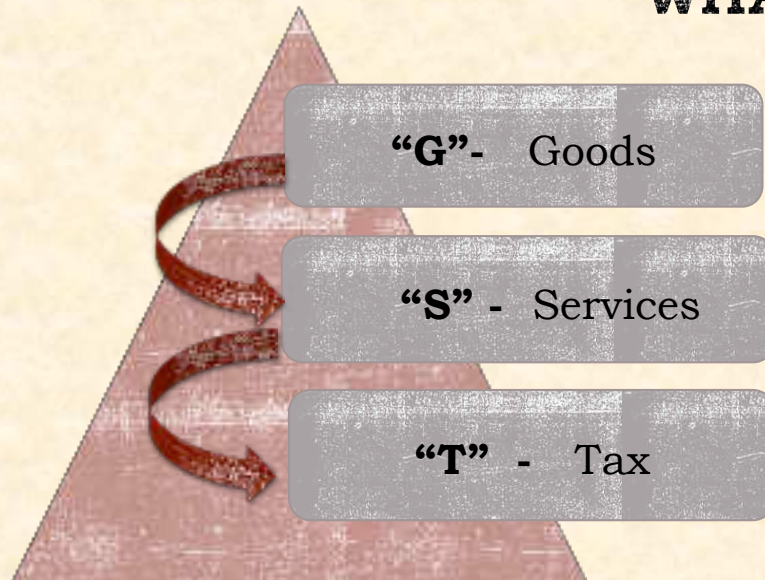
CENTRAL TAXES TO BE SUBSUMED

- (i) Central Excise Duty (CENVAT)
- (ii) Duties of Excise (Medicinal and Toilet Preparations)
- (iii) Additional Duties of Excise (Goods of Special Importance)
- (iv) Additional Duties of Excise (Textiles and Textile Products)
- (v) Additional Duties of Customs (commonly known as CVD)
- (vi) Special Additional Duty of Customs (SAD)
- (vii) Service Tax
- (viii) Central Sales Tax
- (ix) Cesses and surcharges insofar as far as they relate to supply of goods or services

STATE TAXES TO BE SUBSUMED

- (i) State VAT
- (ii) Purchase Tax
- (iii) Luxury Tax
- (iv) Entry Tax (All forms)
- (v) Entertainment Tax (not levied by the local bodies)
- (vi) Taxes on advertisements
- (vii) Taxes on lotteries, betting and gambling
- (viii) State cesses and surcharges insofar as far as they relate to supply of goods or services

WHAT IS GST?



- In the GST regime specified Indirect taxes will be subsumed into one destination based tax levied on supply of goods and services.
- Set-off will be available at each stage along the value chain.
- GST will be applicable on supply of both goods and services.

LEVIABILITY OF GST



- A new clause (12A) in Article 366 sets out the meaning of GST as under:

(12A) “goods and services tax” means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption.”

- From the above it can be inferred that GST would be levied on supply of goods and services except alcoholic liquor for human consumption.
- Keeping in mind the federal structure of India, both Centre and States will simultaneously levy GST across the value chain
- Tax will be levied on supply of goods and services.
- Further, an IGST will be applicable on inter-state trade and commerce
- The availability of input tax credit and utilization thereof has been discussed in the subsequent slides.

In India the existing indirect taxation regime on goods and services is plagued by several bottlenecks and difficulties

There is an enormous tax cascading due to the multiple and independent taxes throughout the value chain

There are multiple agencies, which administer such taxes on goods and services, leading to overlapping administrative domain

NEED OF GST

There are multiple taxes for different goods and services

The benefit of input credit utilization is not uniformly available for all taxes paid by the taxpayer

The IGST would be collected by the Centre so that the credit chain is not disrupted

GST would be applicable on supply of goods or services

GST would be a destination-based tax as against the present concept of origin-based tax.

**SALIENT
FEATURES OF
GST**

The GST to be levied by the Centre would be called Central GST (CGST) and that to be levied by the States would be called State GST (SGST)

It would be a dual GST with the Centre and the States simultaneously levying it on a common base

Full tax credit to be available on inputs

An Integrated GST (IGST) would be levied on inter-State supply (including stock transfers) of goods or services

Import of goods or services would be treated as inter-State supplies and would be subject to IGST in addition to the applicable customs duties (in case of goods only)



Both CGST and SGST would be levied on the same price or value unlike State VAT, which is presently levied on the value of the goods inclusive of CENVAT (Excise Duty)

This is against the present concept of indirect taxes primarily on the manufacture of goods or on sale of goods or on provision of services (i.e. different taxable events for different taxes)



GST TIMELINE



“GST” TIMELINES

YEAR	PARTICULARS
2006	In Budget 2006-2007, the Finance Minister proposed introduction of GST from April 1, 2010.
2007	<ul style="list-style-type: none">➤ Phasing out of CST began from April 2007 with reduction in CST rates from 4 to 3 per cent➤ Empowered Committee (“EC”) of State Finance Ministers constituted Joint working Group in May, 2007➤ Study paper on GST by Dr. Parthasarthy Shome released
2008	<ul style="list-style-type: none">➤ EC finalized its views on GST structure as a form of dual (Central & State GST) destination based taxation system➤ CST rate was further reduced from 3 to 2 per cent w.e.f June 2008

“GST” TIME LINES

YEAR	PARTICULARS
2009	<ul style="list-style-type: none">➤ First Discussion Paper on GST released by the EC➤ 13th Finance Commission released its report on GST in December, 2009
2011	Constitutional Amendment Bill on GST tabled in the parliament
2013	<ul style="list-style-type: none">➤ Standing Committee on finance tabled its report on GST bill in August 2013➤ EC rejected Central Government proposal to include petroleum products under GST

“GST” TIME LINES

YEAR	PARTICULARS
2014	Constitutional amendment bill introduced in Lok Sabha on 19th December 2014 and taken up for discussion in the second half of the budget session
2015	<ul style="list-style-type: none">➤ 14th Finance Commission Report released its report on GST➤ Lok Sabha passes the Constitutional Amendment bill on 6th May, 2015 and the same was introduced with minor amendments in the Rajya Sabha.➤ 236th Session of Rajya Sabha commenced on July 21, 2015.➤ The Select Committee submitted its report proposing amendments in Constitution (122nd Amendment) Bill, 2014 to Rajya Sabha on July 22, 2015➤ Draft papers on Payment process, Registration and refund process released to elicit public opinion

“GST” TIME LINES

YEAR	PARTICULARS
2016	<ul style="list-style-type: none">➤ The Rajya Sabha on August 03, 2016 passed the Goods and Services Tax (GST) Constitutional Amendment Bill➤ The Lok Sabha on August 08, 2016 passed the amended Goods and Services Tax (GST) Constitutional Bill

INPUT TAX CREDIT

- The CGST and SGST are to be treated separately
- Taxes paid against the input CGST shall be allowed to be taken as input tax credit and could be utilized only against the payment of output CGST
- The same principle will be applicable for SGST.
- Cross utilization of credit of CGST between goods and services would be allowed.
- Similarly, cross utilization of credit of SGST between goods and services would also be allowed.
- An IGST will be applicable on inter-state trade and commerce
- The scope of IGST Model is that Centre would levy IGST, which would be CGST plus SGST on all inter-State transactions of taxable goods and services
- In the IGST Model there will be an appropriate provision for consignment or stock transfer of goods and services.

INPUT TAX CREDIT

- Utilization of credit of CGST and SGST would be permitted for the payment of IGST and the credit of IGST can be utilized for the payment of IGST, CGST and SGST
- For ease of understanding, different scenarios of input tax credit utilization under GST can be tabulated as under:

Credit of	To be adjusted with
IGST	IGST, CGST and SGST
CGST	IGST and CGST both
SGST	IGST and SGST both

COVERAGE OF THE GST MODEL LAW

Empowered Committee of State Finance Ministers has released two drafts;

(A) The Central/State Goods and Services Tax Act, 2016 (CGST Act/SGST Act);

(B) The Integrated Goods and Services Tax Act, 2016;

and,

(C) The Valuation Rules to be adopted under GST regime.



CGST / SGST comprise the following:

➤ **(A) 25 Chapters;**

➤ **(B) 162 Sections;**

➤ **(C) 4 Schedules**

➤ IGST comprises the following:

➤ **(A) 11 Chapters;**

➤ **(B) 33 Sections**



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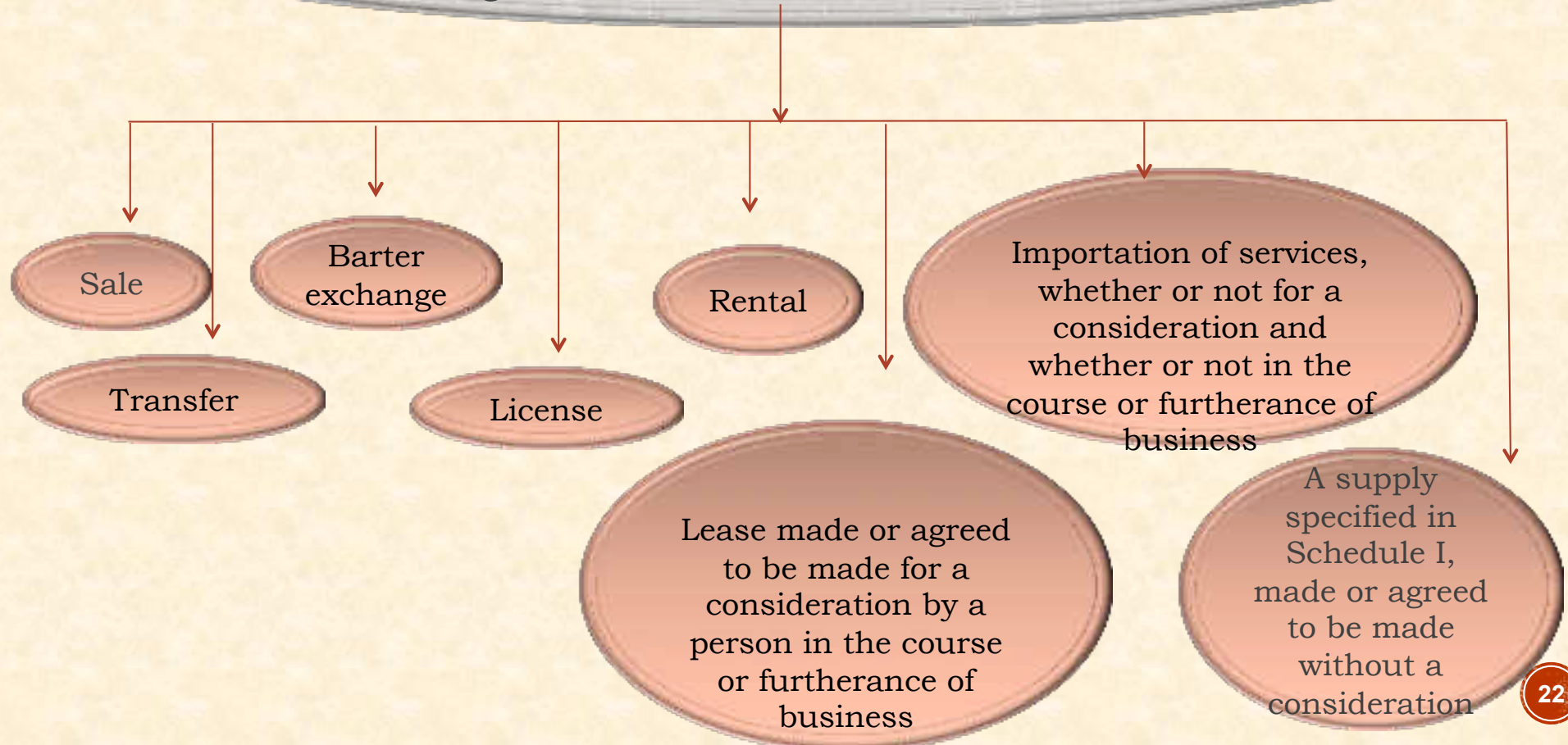
ANALYSIS OF DRAFT GST MODEL LAW



[A]MEANING AND SCOPE OF SUPPLY (SECTION 3) OF THE CGST / SGST ACT]

- Under the existing Indirect Tax regime, the main point of taxation (taxable event) is the provision of service, sale, manufacture etc.
- In the proposed GST regime, all the said different scenarios/taxable events will become irrelevant and will be replaced by the term '**Supply**'.
- The definition of the term 'Supply' is an exhaustive one and includes a large number of transactions in its ambit.

Supply includes all forms of supply of goods and/or services such as



MEANING AND SCOPE OF SUPPLY (SECTION 3) OF THE CGST / SGST ACT] (CONTD...)

Where a person who is acting as an agent and supplying goods or services on behalf of principal, the transaction between such principal and agent shall deemed to be supply.

MEANING AND SCOPE OF SUPPLY (SECTION 3) OF THE CGST / SGST ACT] (CONTD...)

The said section further provides Schedule- II, in respect of matters mentioned therein, shall apply for determining what is, or is to be treated as a supply of goods or a supply of service. Various transactions and their prescribed treatment are illustrated in the next slide.

[A] MEANING AND SCOPE OF SUPPLY (SECTION 3) OF THE CGST / SGST ACT] (CONTD...)

Nature of Transaction	Treatment
Transfer of the title in goods or transfer of title through an agreement at a future date upon payment of full consideration	Supply of goods
Renting of immovable property including lease tenancy, easement, license to occupy, land etc.	Supply of service
Treatment or process applied to goods belonging to another person	Supply of service
Construction of a complex, building, civil structure or a part thereof intended for sale to a buyer	Supply of service
Temporary transfer or permitting the use or enjoyment of any intellectual property right	Supply of service
Development, design, programming, customization, adaptation, upgradation, enhancement, implementation of information technology software	Supply of service
Works contract including transfer of property in goods involved in the execution of a works contract	Supply of service
Transfer of the right to use any goods for any purpose	Supply of service

[B] TIME AND SUPPLY OF GOODS AND SERVICES [SECTION 12 AND 13 OF THE CGST / SGST ACT]



The liability to pay CGST/SGST shall arise at the time of supply of goods or services.

**The
time
of
supply
of
goods**



Earliest of the date of
the following

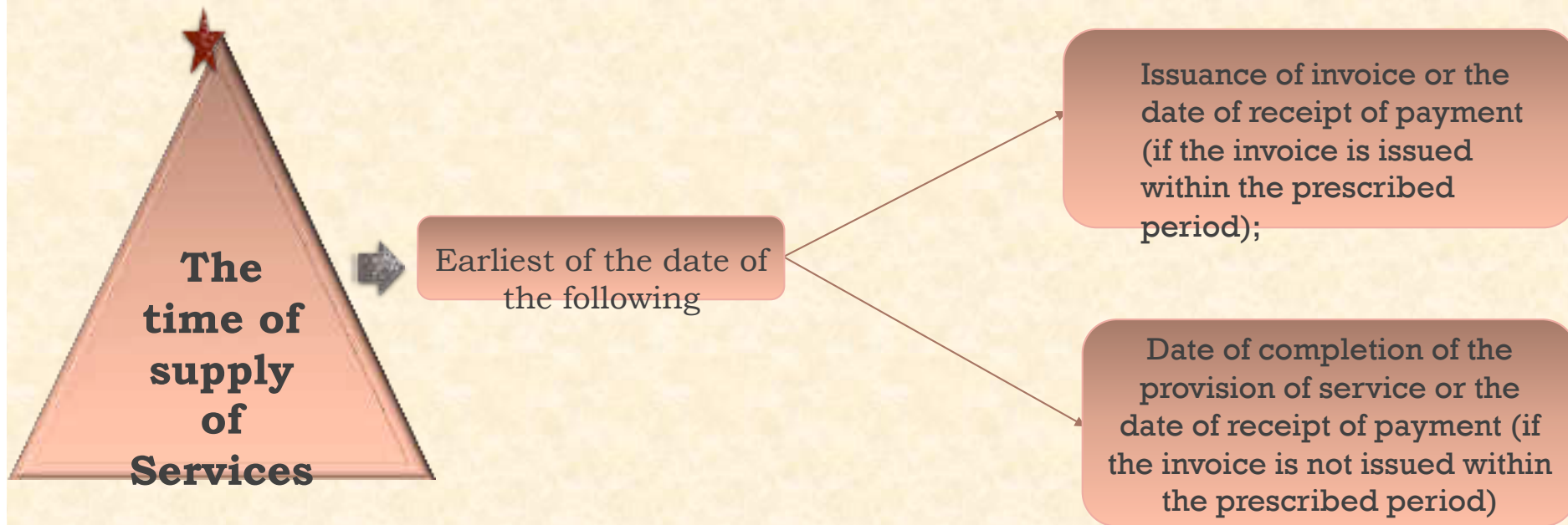
Removal of goods

Making the goods available, if
the same are not required to
be removed

Receipt of payment

Date on which the buyer
shows Receipt of goods in
his books of accounts

[B] TIME AND SUPPLY OF GOODS AND SERVICES [SECTION 12 AND 13 OF THE CGST / SGST ACT]



[B] TIME AND SUPPLY OF GOODS AND SERVICES [SECTION 12 AND 13 OF THE CGST / SGST ACT]

The time of supply will be the due date of payment to supplier in case it is ascertainable from the contract.

If such due date is not ascertainable from the contract, each time when the supplier of service receives the payment or issues an invoice, whichever is earlier.

Also, where the payment is linked to the completion of an event, the time of completion of that event is the time of supply.

**In case of
continuous
supply of
services**

[B] TIME AND SUPPLY OF GOODS AND SERVICES [SECTION 12 AND 13 OF THE CGST / SGST ACT]

The time of supply, in case of payment of tax on reverse charge basis,



Earliest of the date of the following

The date of receipt of good

The date on which the payment is made

The date of receipt of invoice

The date of debit in the books of accounts

[C] VALUE OF TAXABLE SUPPLY [SECTION 15 READ WITH VALUATION RULES]

GST would be payable on the transaction value

The transaction value is the price, actually paid or payable for the respective supply of goods and/or services between unrelated parties.

The transaction value is also said to include all expenses in relation to sale such as packing, commission, goods/services supplied free of cost, royalties/license fees payable as a condition of sale, etc. Even subsidies linked to supply would be includable in the transaction value.

As regards discounts/ incentives, it will form part of 'transaction value' if it is allowed after supply is effected. However, discounts/ incentives agreed to be given before or at the time of supply will be permissible as deduction from transaction value.

The value of supply of goods and/or services in specific cases including in the case of supply between related parties shall be governed by the rules framed by the government.

[D] INPUT TAX CREDITS [SECTION 16 TO 18 OF THE CGST / SGST ACT]

The draft GST law sets out the provisions for availing and utilizing of the input tax credit subject to such conditions and restrictions as may be prescribed.

Credit would be payable once the vendor pays GST and at the same time also files the return.

Time limit of one year akin to Excise Law and Finance Act has been proposed under the GST draft law for taking the input tax credit in the books.

Input tax credit shall not be available in respect of the inputs and inputs services as mentioned under sub-section (9) of Section 16 of the GST draft law.

The amount of credit shall be restricted to so much of the input tax is attributable to the taxable supplies including zero-rated supplies (i.e. on proportionate basis) when the goods/services are used for taxable as well as non- taxable supplies.

[E] REGISTRATION [SECTION 19 TO 22 OF THE CGST / SGST ACT]

- Thresholds for registration under GST have been provided in Schedule III.
- For all the suppliers of goods and services, the threshold limit for registration will be INR 9 lakhs on an all India basis (aggregate turnover in a financial year).
- However, for suppliers who conduct business in any of the North Eastern states including Sikkim, the threshold limit will be INR 4 lakhs.
- Persons making any inter-state taxable supply shall be required to obtain registration irrespective of the threshold specified above.
- No threshold limit has been prescribed for persons required to pay tax under reverse charge (akin to the present situation under the Finance Act, 1994), Input Service Distributor, Casual Dealers etc.
- Every person shall have a Permanent Account Number (PAN) issued under the Income Tax Act, in order to be eligible for grant of registration under GST Law.

[F] RETURNS [SECTION 25 TO 34 OF THE CGST / SGST ACT]

- Every registered taxable person shall furnish, a return, in electronic form, of inward and outward supplies of goods and/or services, input tax credit availed, tax payable, tax paid within twenty days after the end of the month [Section 27(1)].
- The registered taxable person shall pay to the credit of the appropriate Government the tax due as per respective return not later than the last date on which he is required to furnish such return.

Illustration:

If M/s XYZ a registered taxable person has to file the return for the month of April 2018, then such return shall be filed on or before May 20, 2018. Simultaneously, tax due with regard to the month ended April 2018 shall also be paid on or before May 20, 2018.

[F] RETURNS [SECTION 25 TO 34 OF THE CGST / SGST ACT] (Contd...)

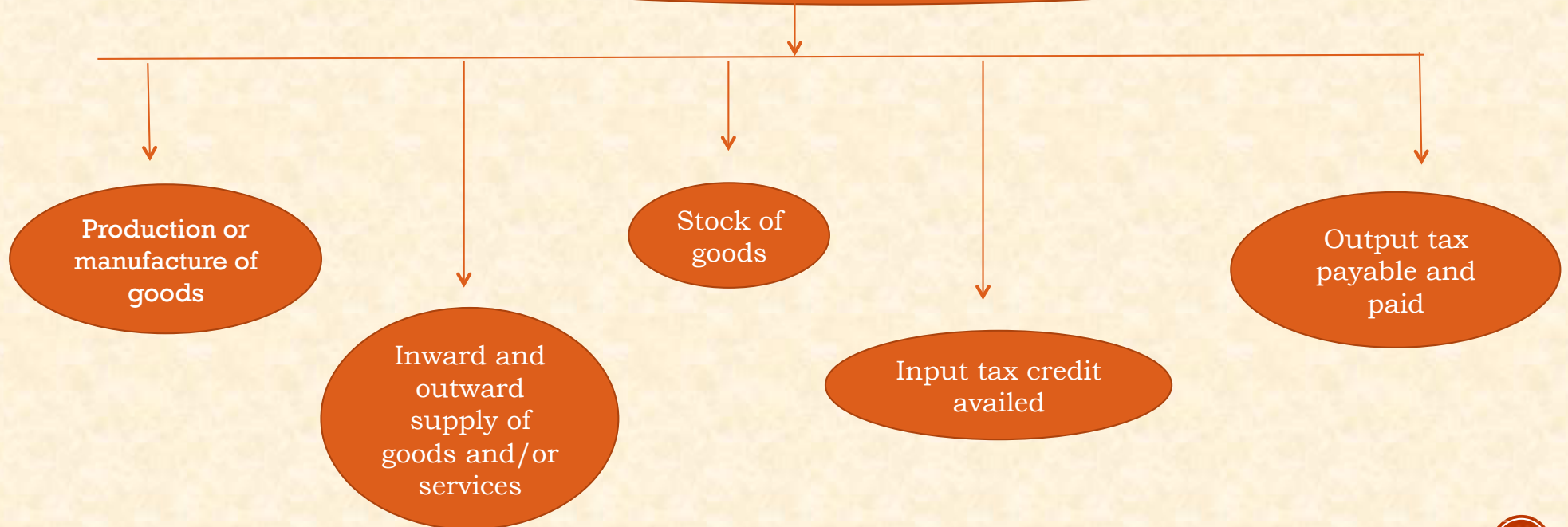
- Return filed by a registered taxable person shall not be considered as a valid return unless full tax payment is made for the relevant month. Also, he shall not be allowed to furnish subsequent returns unless the tax is paid.
- Under composition levy, taxable person is required to furnish, a quarterly return, within eighteen days after the end of the quarter.
- Registered taxable person who is required to deduct the TDS, shall furnish, a return, for a month in which such deduction has been made along with payment within ten days after the end of such month [Section 27(5)]. In other words, no return is required to be filed if deduction has not been made.

[F] RETURNS [SECTION 25 TO 34 OF THE CGST / SGST ACT] (Contd...)

- The registered taxable person shall furnish First Return relating to outward and inward supplies, from date he became liable to registration till the end of the month in which the registration has been granted. [Section 27A].
- Annual Return for every financial year shall be furnished by every registered taxable person, on or before 31st December following the end of such financial year [Section 30].
- Final Return shall be furnished by the taxable person who has applied for cancellation of registration within three months of the date of cancellation or date of cancellation order, whichever is later [Section 31].

[G] ACCOUNTS AND RECORDS [SECTION 42 & 43 OF THE CGST / SGST ACT]

Every registered person shall keep and maintain the following Accounts, at his principal place of business:



[G] ACCOUNTS AND RECORDS [SECTION 42 & 43 OF THE CGST / SGST ACT]

- Commissioner can notify class of taxable persons who need to maintain specified additional account or documents
- Every registered taxable person whose turnover is above the taxable limits to get his accounts audited
- Accounts shall be retained until the expiry of sixty months i.e. Five years, from the last date of filling of Annual Return for the year pertaining to such accounts and records.
- In case of any appeal or revision or any proceeding, the records pertaining to such matter shall be retained for a period of one year after the final disposal of such appeal or revision or any proceeding or five years from the last date of filing of Annual return whichever is later.

[H] TRANSITIONAL PROVISIONS [CHAPTER XXV OF CGST / SGST ACT]

- On the appointed day, every person registered under the earlier laws shall be issued a registration certificate on provisional basis for 6 months, within which specified information needs to be filed and the final registration obtained
- Every registered taxable person, shall be entitled to carry forward the amount of cenvat credit and/or Value Added Tax shown in the return furnished as per the old law to their electronic credit ledger, in such a manner as may be prescribed.
- Carry forward to the electronic credit ledger of the unavailed cenvat credit / input tax credit on capital goods (which is available in the second year) is also allowed even if it is not carried forward in the return

[H] TRANSITIONAL PROVISIONS [CHAPTER XXV OF CGST / SGST ACT] (Contd...)

- Commissioner can notify class of taxable persons who need to maintain specified additional account or documents
- Every registered taxable person whose turnover is above the taxable limits to get his accounts audited
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- In case of any appeal or revision or any proceeding, the records pertaining to such matter shall be retained for a period of one year after the final disposal of such appeal or revision or any proceeding or five years from the last date of filing of Annual return whichever is later.

[H] TRANSITIONAL PROVISIONS [CHAPTER XXV OF CGST / SGST ACT] (Contd...)

- The carry forward of the above credits shall be allowed only if the same was admissible under the old as well as the new law respectively
- In respect of newly taxable assesseees / goods (assesseees were not liable for registration / goods were exempt, under the earlier law), credit of eligible duties and taxes in respect of inputs held in stock will be allowed on satisfaction of certain conditions:
 - ✓ Such inputs and/or goods are used for making taxable supplies;
 - ✓ Taxable person was eligible for cenvat credit under earlier law (but for the exemption or not being liable for registration);
 - ✓ Eligible for input tax credit under this law;
 - ✓ Possession of supporting documents in respect of payment of duty and/or tax under the earlier law;
 - ✓ Such documents should not be issued later than twelve months immediately preceding the appointment date.

[H] TRANSITIONAL PROVISIONS [CHAPTER XXV OF CGST / SGST ACT] (Contd...)

- Transitional provisions also made for switchover from composition scheme under the old law to regular scheme by taking input credit on the stock and vice versa (i.e. switch over from regular scheme to composition scheme under the new law) by debiting the credit available in the records.
- Different other situations also covered in the Transitional provisions

[I] THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016 (IGST ACT)

- IGST will be levied on all supplies of goods and/or services made in the course of inter-state trade or commerce.
- The place of supply of goods and services is specified in IGST Act to ensure that the same is consistently followed across India without any deviation by any state.

[I] THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016 (IGST ACT) (Contd...)

TRANSACTION OF SUPPLY OF GOODS	PLACE OF SUPPLY
Supply of goods involving movement of goods	Location of the goods at which the movement of goods terminates for delivery to the recipient
Supply of goods by way of transfer of title documents of the goods to a person	The principal place of business of such receiver
If supply does not involve movement of goods	The location of such goods at the time of delivery to the receiver
Assembly or installation of goods at site	Place of such installation or assembly
Goods supplied on board or conveyance	The location at which such goods are taken on record

[I] THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016 (IGST ACT) (Contd...)

TRANSACTION OF SUPPLY OF SERVICES	PLACE OF SUPPLY
Supply of all services (unless specified* otherwise) to a registered person	Location of the service recipient
Supply of all services (unless specified otherwise) to any person	Location of the service recipient if available on record or else location of the service provider

[I] THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016 (IGST ACT) (Contd...)

*Specific provisions have been made to determine the place of supply of services for the following services:

- (a) relating to immovable property,
- (b) performance based services,
- (c) event related services,
- (d) telecommunication services, (e) advertising service,
- (f) insurance services,
- (g) banking and financial services, etc.

[I] THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016 (IGST ACT) (Contd...)

The place of supply of telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person shall-

In case of services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna,	The location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services
In case of mobile connection for telecommunication and internet services provided on post-paid basis	The location of billing address of the recipient of services on record of the supplier of services
In cases where mobile connection for telecommunication and internet service are provided on pre-payment through a voucher or any other means	The location where such pre-payment is received or such vouchers are sold

[I] THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016 (IGST ACT) (Contd...)

- IGST credit can be utilized for payment of IGST, CGST and SGST in sequence by Importing dealer for supplies made by him.
- The objective behind providing seamless credit chain to tax payer located across States.
- The Exporting State will transfer to the Centre the credit of SGST used for payment of IGST.
- The Centre will transfer to the importing State the credit of IGST used for payment of SGST.
- The Central Government will act as a clearing house and transfer the funds across the States.



Thank you!

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