



GST

GOODS AND SERVICES TAX

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IGST ACT

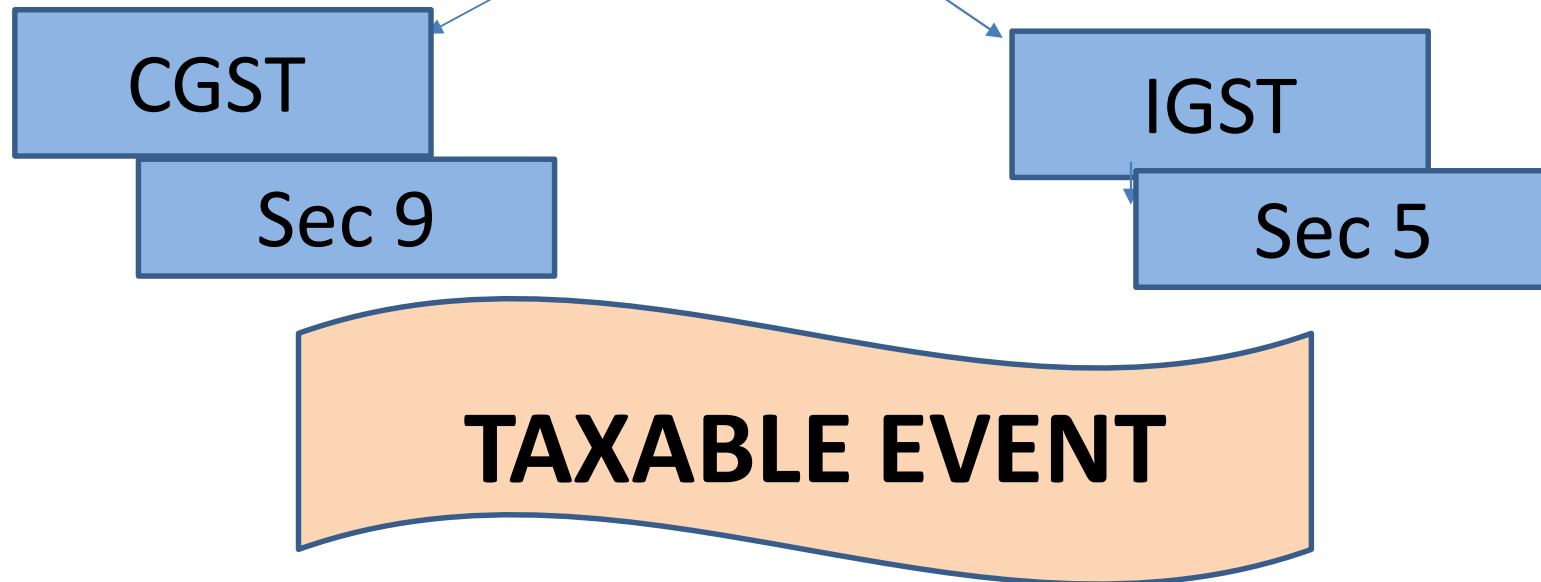
- **Section – 1 Short title, extent and commencement**
- **Section - 2 Definitions**
- **Section - 3 Appointment of officers**
- **Section - 4 Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances**
- **Section – 5 Levy and collection**

CGST ACT

- **Section – 1 Short title, extent and commencement**
- **Section - 2 Definitions**
- **Section - 3 Officers under this Act**
- **Section - 4 Appointment of officers**
- **Section – 5 Powers of officers**
- **Section - 6 Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances**
- **Section-7 Scope of supply**
- **Section-8 Tax liability on composite and mixed supplies**
- **Section -9 Levy & Collection**

LEVY & COLLECTION

(CHARGING SECTION)



- **SUPPLY (GOODS AND/OR SERVICES) SEC. 7**
- **SCHEDULES**
 - I **SUPPLY WITHOUT CONSIDERATION**
 - II **SUPPLY----- WHETHER GOODS OR SERVICES**
 - III **NEITHER SUPPLY OF SERVICES NOR GOODS**

GOODS

2 (52)

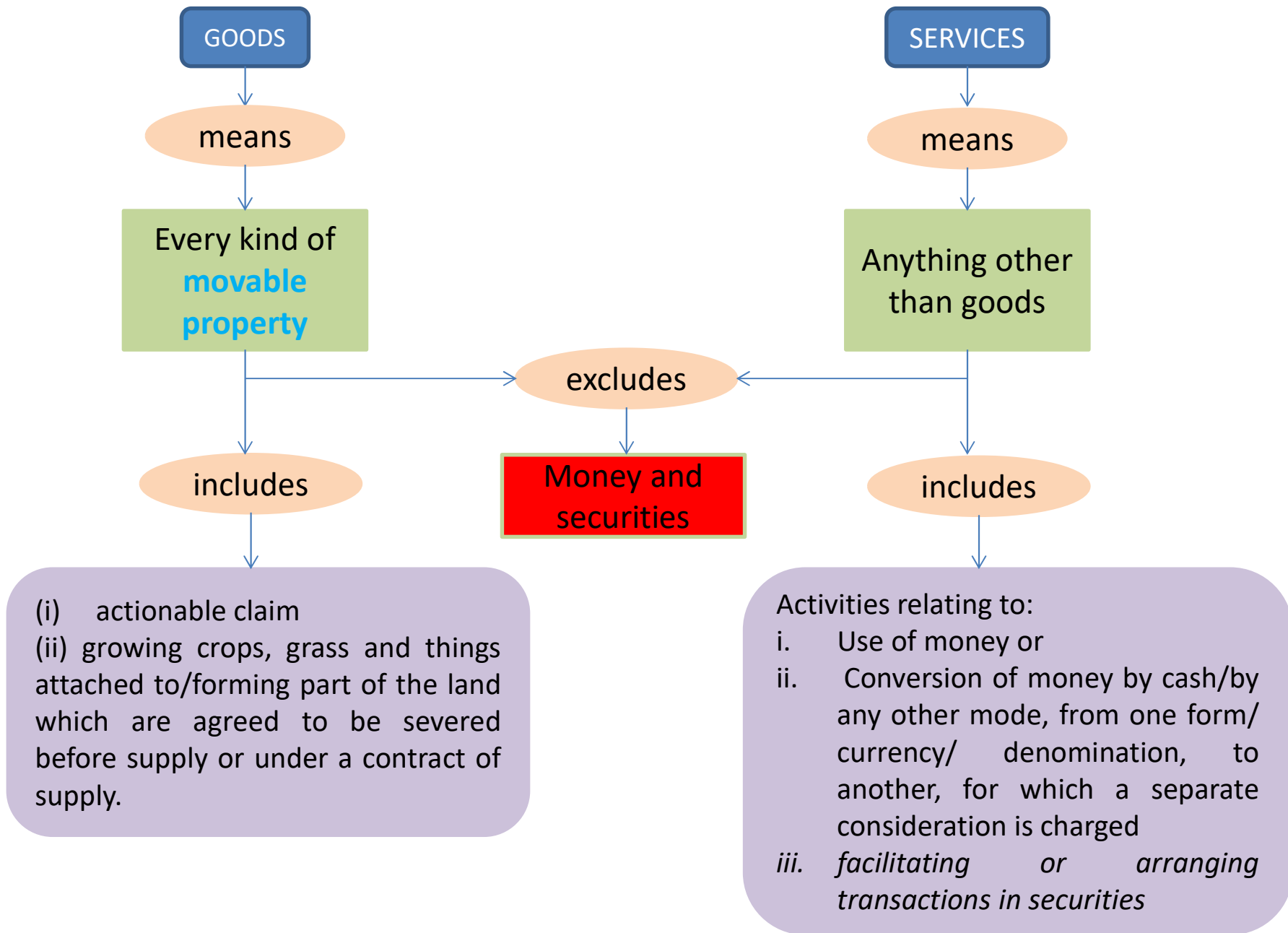
"goods" means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply

SERVICES

2 (102)

"services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.

[Explanation.—*For the removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities;*]



Sec. 7 (Scope of Supply)

1. **For the purposes of this Act**, the expression "supply" **includes**—

- a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration **by a person in the course or furtherance of business**;
- b) import of services for a consideration whether or not in the course or furtherance of business; ³⁶[and]
- c) the activities specified in **Schedule I**, made or agreed to be made without a consideration ³⁷

³⁹[(1A) Where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in **Schedule II**.]

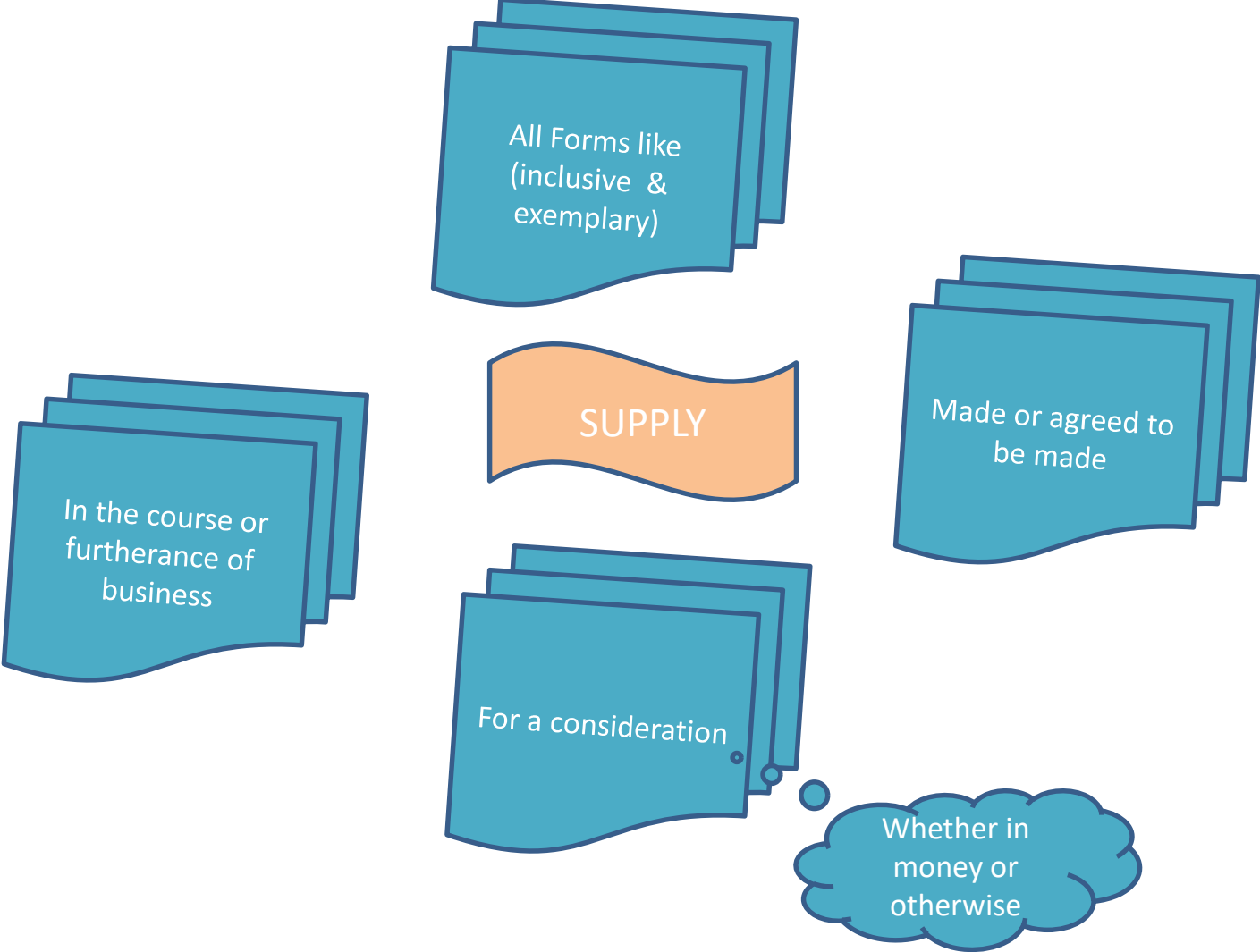
(2) Notwithstanding anything contained in sub-section (1),—

- a) activities or transactions specified in **Schedule III**; or
- b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified^{39a} by the Government on the recommendations of the Council,

shall be treated neither as a supply of goods nor a supply of services

(3) Subject to the provisions of 40[sub-sections (1), (1A) and (2)], the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as—

- a) a supply of goods and not as a supply of services; or
- b) a supply of services and not as a supply of goods.



Sec. 7 (Scope of Supply)

For the purpose of this Act


All forms of supply all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal

Made or agreed to be made for a consideration
by a person

In the course or furtherance of business;

Exception:-

Activities in schedule 1 made or agreed to be made even if **without consideration** will be considered as supply



Course/ Furtherance= Commercial Motive

Profitmay or may not

Regular/ Onetime

Eg. Exhibition/ trade fair

- The definition of business 2(17) has been summarised in the diagram below:



Course or furtherance of business

Means
advancement

Advance Ruling:- [2018] 98 taxmann.com 355 (AAAR-KERALA)(APPELLATE AUTHORITY FOR ADVANCE RULING, KERALA **Caltech Polymers (P.) Ltd.**, *In re*, where it is held that:-

“Section 7, read with section 2(83), of the Central Goods and Services Tax Act, 2017/Section 7, read with section 2(83), of the Kerala State Goods and Services Tax Act, 2017 - Supply - Scope of (NR) - Whether supply of food items to employees for consideration in canteen run by company would come under definition of 'outward supply' as defined in section 2(83) and hence taxable as supply of service under GST - Held, yes [Para 17]

Circulars and Notifications: Notification No. 25 of 2012-ST, dated 20-6-2012 and Notification No. 14 of 2013-ST, dated 22-10-2013”

Summary of ruling

Recovery of food expenses from employees for canteen facility

Outward supply

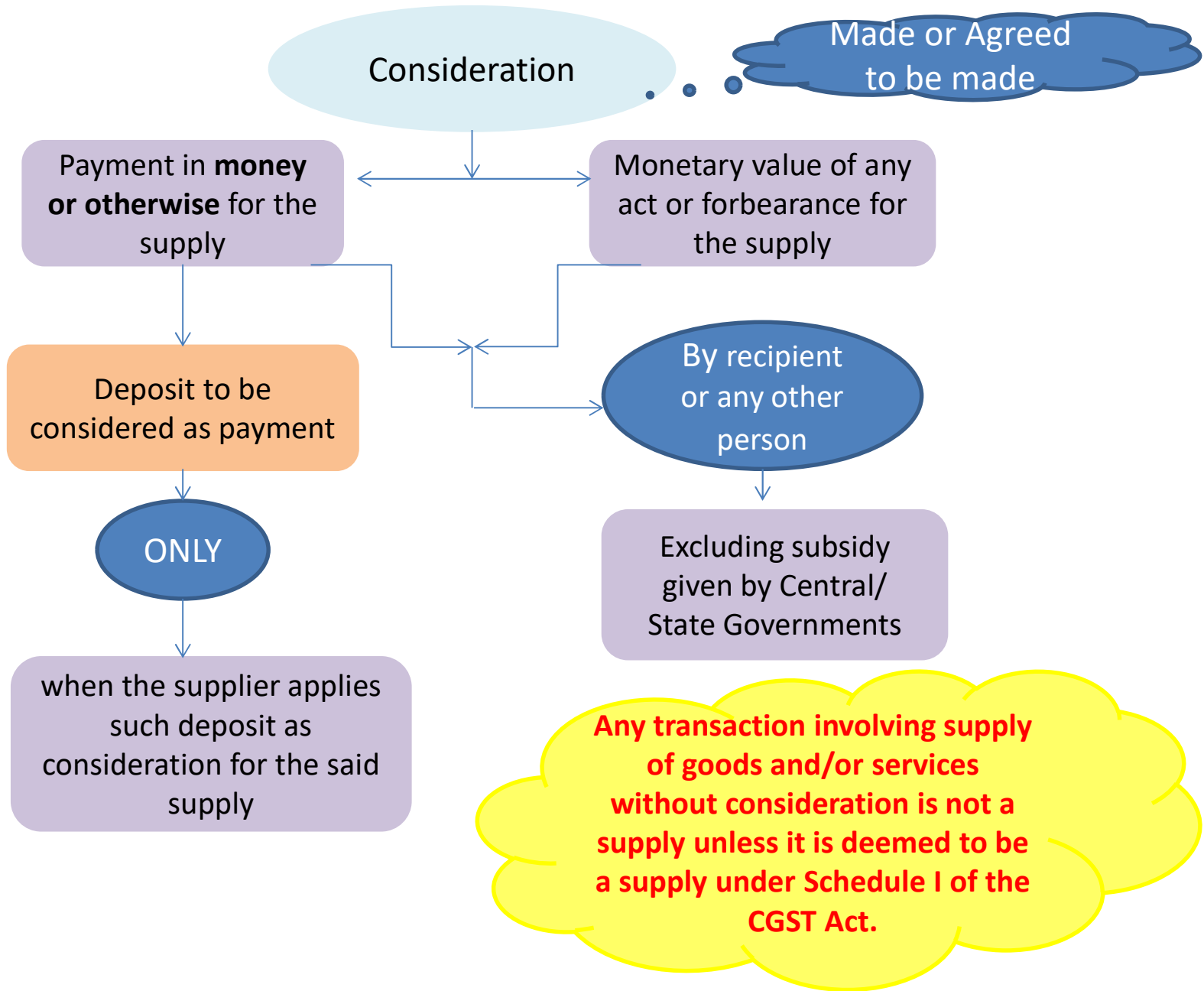
Taxable

Sec. 2(31) Consideration

"consideration" in relation to the supply of goods or services or both includes—

- a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;
- b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;



SCHEDULE I

[See section 7]

ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE **WITHOUT** CONSIDERATION

1. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
2. Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business:
Provided that gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.
3. Supply of goods—
 - a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or
 - b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.
4. Import of services by a [35a](#)[*person*] from a related person or from any of his other establishments outside India, in the course or furtherance of business.

[35a](#). Substituted for "taxable person" by the Central Goods and Services Tax (Amendment) Act, 2018, w.e.f. **1-2-2019**.

Schedule 1
ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION

Entry 1
PERMANENT TRANSFER OR DISPOSAL OF BUSINESS ASSETS WHERE INPUT TAX CREDIT HAS BEEN AVAILED

Permanent transfer

or

**Disposal
of**

Business Assets

where

**Input tax credit has been
availed**

✓ Course or
furtherance
of business

✓ Other
elements
of supply

X
Consideration

Transfer or disposal

TRANSFER====Moving something from one hand to another
Disposal= Discard (No Two persons required)

Two persons required

ITC eligible + Aailed

Entry No. 1 N.A.

Not eligible

Entry No. 1 N.A.

Not aailed

If Consideration then its Normal supply
 Whether ITC taken or not

Eg. 1 Donation of assets to NGO	→	ITC Claimed	→	GST	Entry 1
2. Discarding old business assets	→	Supply	→	GST	Entry 1
3. Old car disposed off	→	Supply Because No ITC			
4. Put to Private use permanently	→	Supply	→	GST	Entry 1
5. Ceases to be taxable person	→	Supply	→	GST	Entry 1

Sec. 7 (Scope of Supply)

Disposal

On intervention by
Hon'ble HC, on
31.10.2019, AAAR
passed Order
allowing credit on
Cash Carry Vans

Advance Ruling:- [2018] 96 taxmann.com 292 (AAAR-MAHARASHTRA)(APPELLATE AUTHORITY FOR ADVANCE RULING, MAHARASHTRA **CMS Info Systems Ltd.**, *In re*, where it is held that,
" Section **17** of the Central Goods and Services Tax Act, 2017/Section **17** of the Maharashtra Goods and Services Tax Act, 2017 - Input tax credit - Credit and blocked credits, apportionment of (NR) - Applicant is engaged in transportation of cash from currency chest to bank branches - For this purpose, it **purchased a cash carry van after payment of GST** - When said cash carry van could not be used further, applicant sold it as scrap - Whether since money being transported by applicant in cash carry van is not certainly goods, input tax credit of **GST paid on purchase of said van is not available to applicant** - Held, yes [Paras 36 and 37]
Circulars and Notifications : Notification No. 1/2017 - Central Tax (Rate), dated 28-6-2017, Notification No. 2/2017 - Central Tax (Rate), dated 28-6-2017"

Issue

Motor vehicle as scrap
Consideration = sale

Attract GST
Without consideration ?

Schedule 1 if Credit availed

Valuation

Transaction Value ~~X~~ Not there because without consideration

Sec. 18(6) r.w. Rule 44

ITC on Capital Goods or Plant & machinery for Remaining Life of Asset on PRO RATA BASIS

Eg. ITC on useful remaining life on pro rata basis= $100000 * 5 / 60 = 8333$
Used 4 years 6 months & 15 days
 $100000 / 60 * 5 = 8333$

For remaining life take full remaining months

To be calculated for each head separately

ITC reversed or pay an amount equal to

OTHER ISSUES

a) Schedule 1 Entry No. 1 **by**

Schedule II Entry No. 4 **FOR GOODS AS BUSINESS ASSETS** is taken as **Supply of goods.**

b) This provision does not apply to supply of mould, tools etc. to job work (Circular 38/12/2018)

c) Business assets can be services also. Eg. Unexpired Right in Franchise , permanently transferred.

Schedule 1
ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT
CONSIDERATION

Entry 2

Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in course or furtherance of business.

Provided that gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of Goods or services or both.

Explanation.—For the purposes of this Act,—

(a) persons shall be deemed to be "related persons" if—

- (i)** such persons are officers or directors of one another's businesses;
- (ii)** such persons are legally recognised partners in business;
- (iii)** such persons are employer and employee;
- (iv)** any person directly or indirectly owns, controls or holds twenty-five per cent or more of the outstanding voting stock or shares of both of them;
- (v)** one of them directly or indirectly controls the other;
- (vi)** both of them are directly or indirectly controlled by a third person;
- (vii)** together they directly or indirectly control a third person; or
- (viii)** they are members of the same family;

(b) the term "person" also includes legal persons;

(c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

Meaning of Distinct persons

Meaning of Distinct Persons

Sec. 25 of CGST Act deals with the procedure of registration by a taxable person. As regards the concept of distinct persons in GST, sec. 25(4) and sec. 25(5) provides as under:

Sec. 25(4):- A person who has obtained or is required to obtain more than one registration, whether in one state/ union territory or more than one state or union territory shall, in respect of each such registration, be treated as distinct persons for the purpose of GST Act.

Sec. 25(5):- A person who has obtained or is required to obtain in a state or union territory in respect of an establishment, has an establishment in another state/ union territory, then such establishments shall be treated as establishments of distinct persons for the purpose of GST Act.

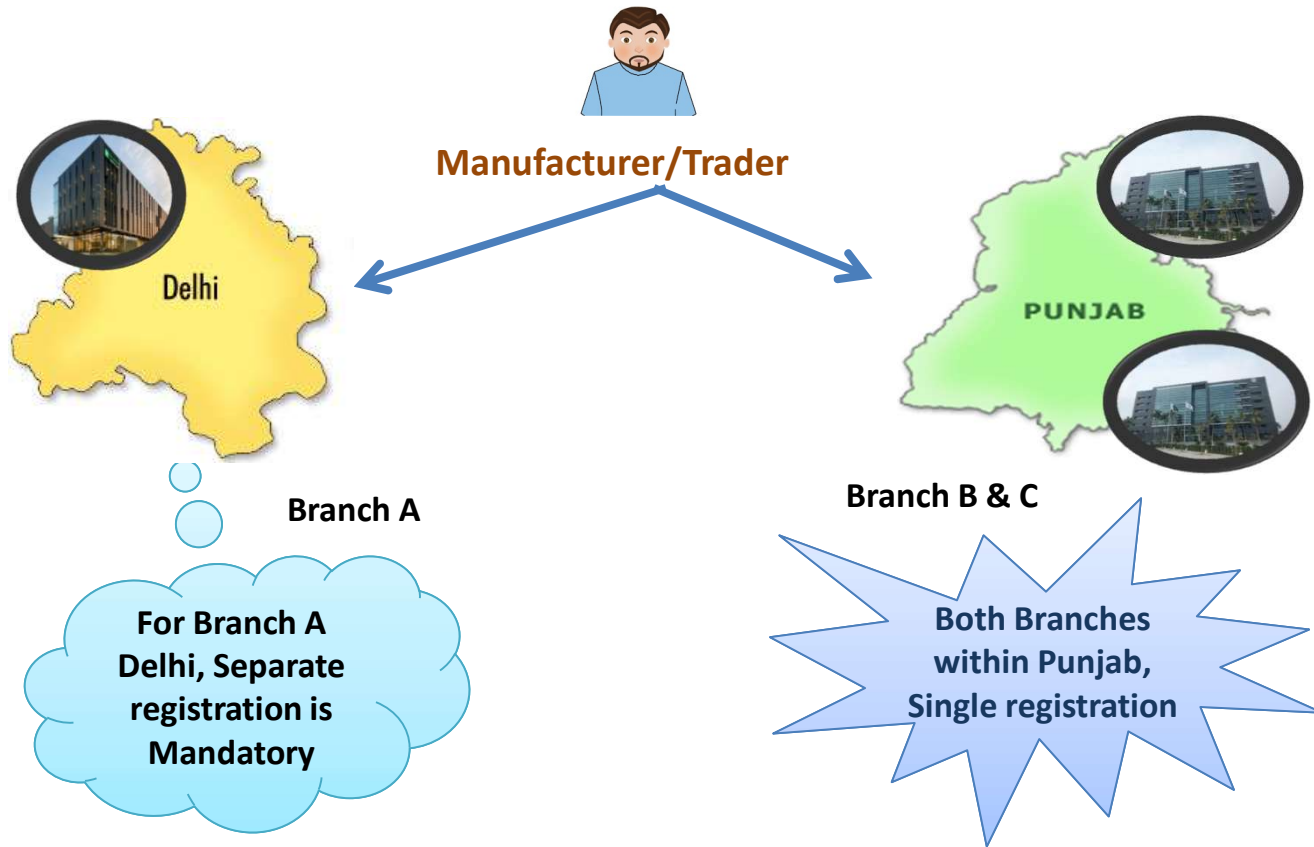
in nutshell, section 25 categorises following as distinct persons in GST:-

- Each registration of a person in more than one state/ union territory
- Each registration of a person in respect of an establishment in one or more state/ union territory.

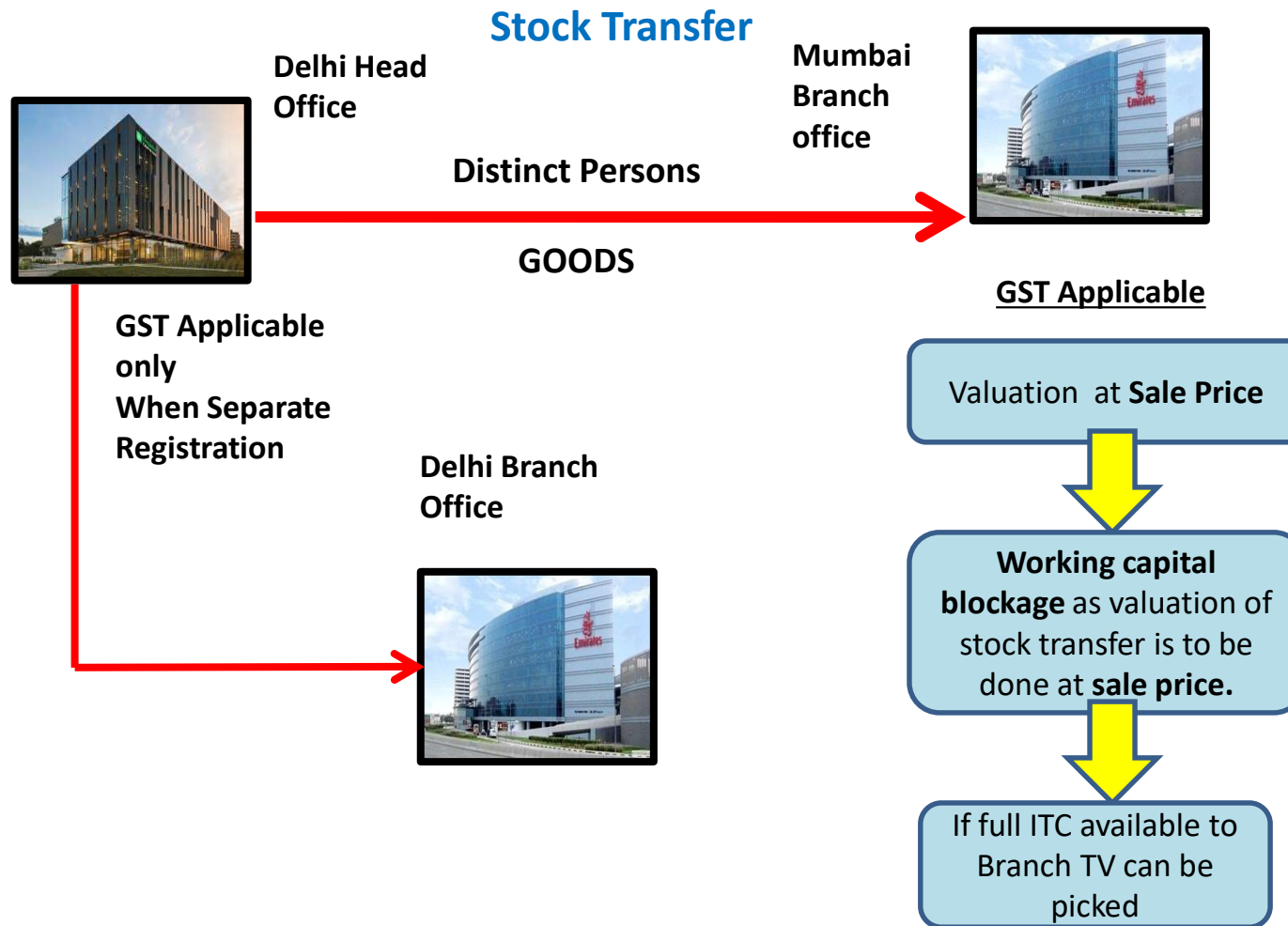
Example:-

- a) **ABC Ltd. Is having operations in five states/ union territories Viz. Delhi, Mumbai, Chandigarh, Haryana and UP. Each registration of ABC Ltd. In these five states/ union territories will be considered as distinct persons among themselves even though under same PAN in GST**

Separate Registration Concept in GST



NOTE: BRANCH INCLUDES EVEN IF IT IS A GODOWN OR WAREHOUSE etc.



ISSUES

Branch stock transfer (without consideration)



Transfer from Branch 1 to Branch 2 ~~Supply~~
Same state..... No separate registration.....Sch 1 entry 2 N.A.



Transfer from Branch 1 to Branch 2
Same state separate registration.....Supply ✓ Entry 2 applicable



Transfer from Branch 1 to Branch 2
Separate state.....Supply ✓ Entry 2 applicable

DEBATABLE ISSUE:

ALLOCATION OF SERVICES between distinct persons

Transaction between two firms with common partners without controlling right in other firm

➤ Supply of services (Inter related persons)

- Identification of transactions.
- It can be from Branch to HO or HO to Branch

AAR Calcutta ([2018] 96 taxmann.com 245 (AAR - KARNATAKA)) (AUTHORITY FOR ADVANCE RULINGS, KARNATAKA, Columbia Asia Hospitals (P.) Ltd., In re where it is held that:-

"Section 15 of the Central Goods And Services Tax Act, 2017 - Supply - Taxable supply, value of (NR) - Applicant is a private limited company and is an international healthcare group operating a chain of modern hospitals across Asia - Applicant has its corporate office in Karnataka and some activities for all units with respect to accounting, administration and maintenance of IT system are carried out by employees from corporate office - Whether corporate office is covered under one registration in State of Karnataka and units are covered under different registrations and units being controlled by corporate office, they both are related persons - Held, yes - Whether supply of goods from corporate office to separately registered units would amount to supply of goods and services - Held, yes - Whether however since employees of corporate office have no relationship of employee-employer with other units, hence, corporate office and units are distinct persons under CGST Act - Held, yes - Whether thus, activities performed by employees at corporate office in course of or in relation to employment such as accounting, other administrative and IT system maintenance for units located in other States as well, i.e., distinct persons, as per section 25(4) of CGST Act shall be treated as supply as per Entry 2 of schedule I of CGST Act - Held, yes [Para 9]"

Summary of AAR

Allocation of expenses to other registered units registered units by Corporate Office as per Entry No. 2 to Schedule I to CGST Act.



Supply

Schedule III

ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES

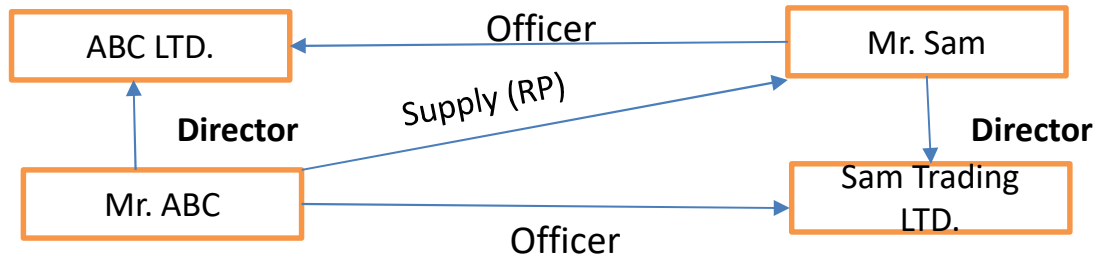
- **1.** Services by an employee to the employer in the course of or in relation to his employment.

Employer to Employee transactions

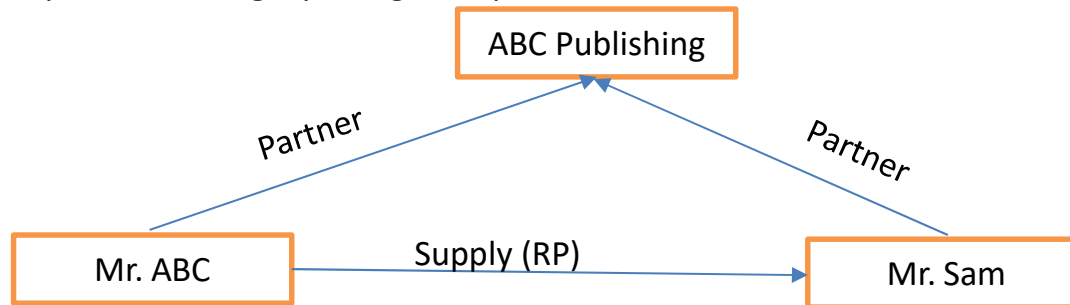
- Related persons as per schedule 15
- Services by employee to employer in course or in relation to employment-----is as per schedule III.... Not a Supply
- Gifts below Rs. 50000/- in value in a F.Y. by an employer to an employee is not a supply. If exceeding Rs. 50000, the entire amount will be taxable.
- Supply of services/ goods from employer to employee
 - ❖ Employee pays- sch-1 entry II N.A.
 - ❖ Employee does not pay and shows as Gift and Amount>50000/-= Sch. I Entry II applicable
- Eg. Perks—part of CTC--- not covered in GST
- Gifts to employees--- press release July, 2017--- Not a matter of Right
- Canteen services to employees (AAR discussed in previous slides), ITC Amendment--- if food obligatory credit allowed.
- NOTICE RECOVERY PAY when paid by Employee—TAX can be demanded

Explanation to section 15

- a) persons shall be deemed to be "related persons" if—
i. such persons are officers or directors of one another's businesses

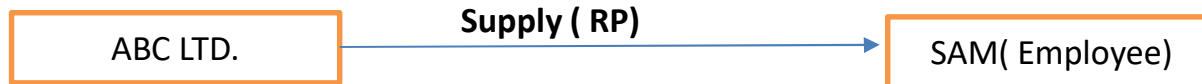


- ii. such persons are legally recognised partners in business;



Explanation to section 15

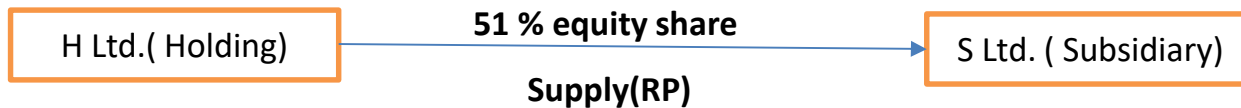
(iii) such persons are employer and employee;



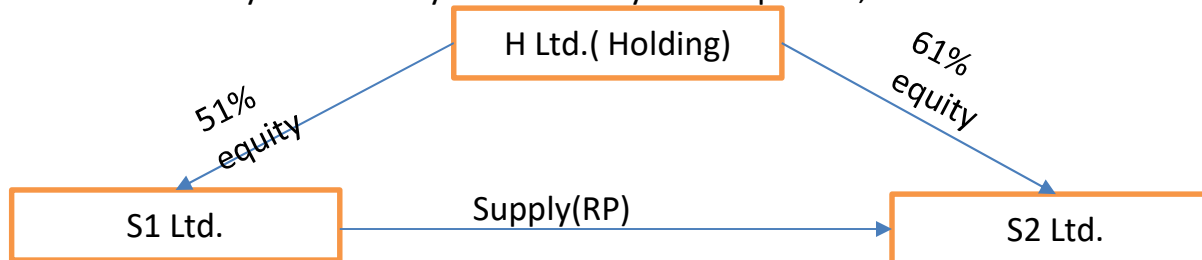
(iv) any person directly or indirectly owns, controls or holds twenty-five per cent or more of the outstanding voting stock or shares of both of them;

For Eg. The recipient holds 25 % of equity in supplier business.

(v) one of them directly or indirectly controls the other;

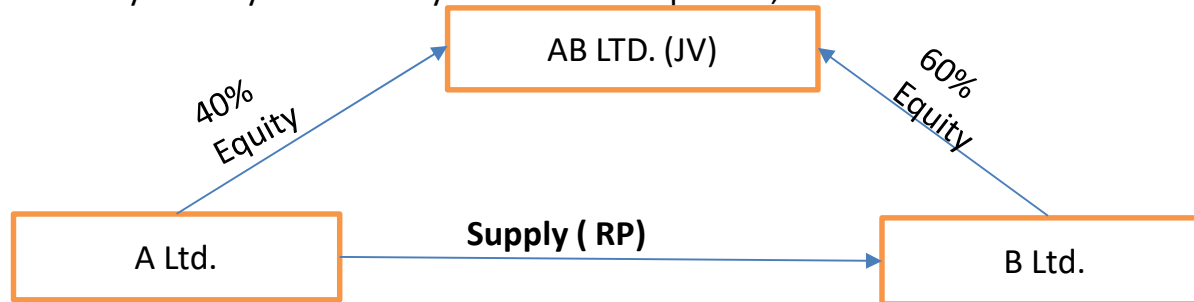


vi) both of them are directly or indirectly controlled by a third person;



Explanation to section 15

(vii) together they directly or indirectly control a third person; or

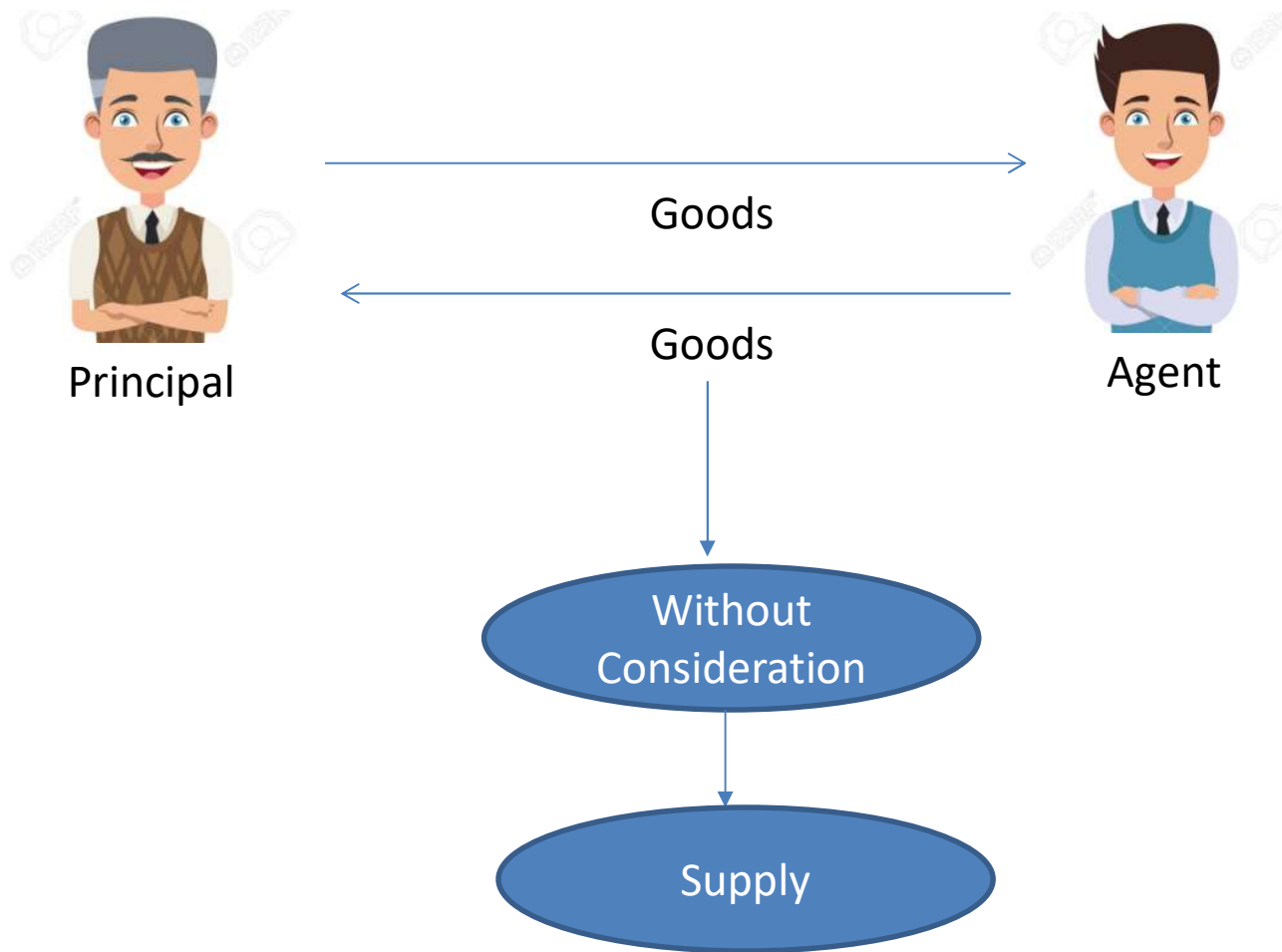


(viii) they are members of the same family;

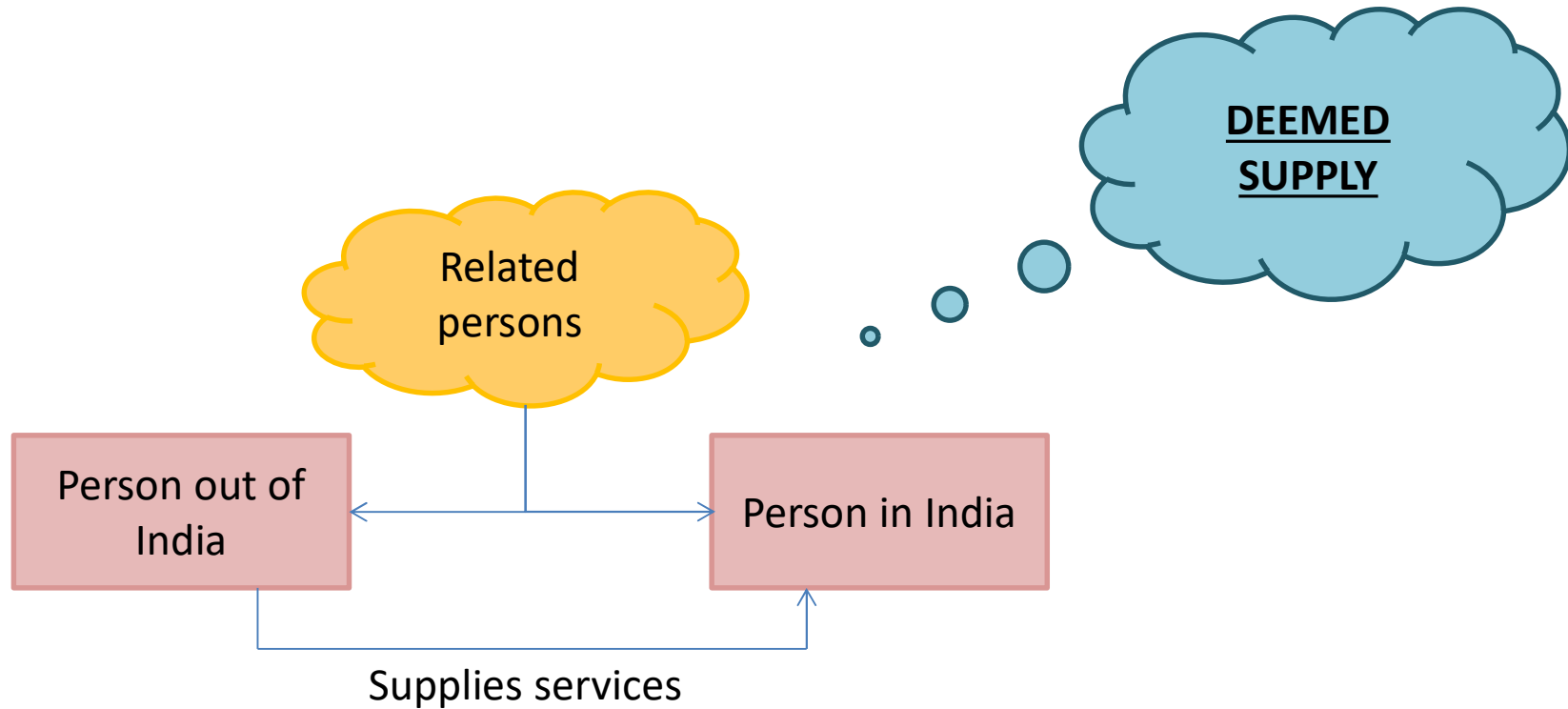
"family" means,

- i. the spouse and children of the person, and
- ii. the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person;

Principal- Agent

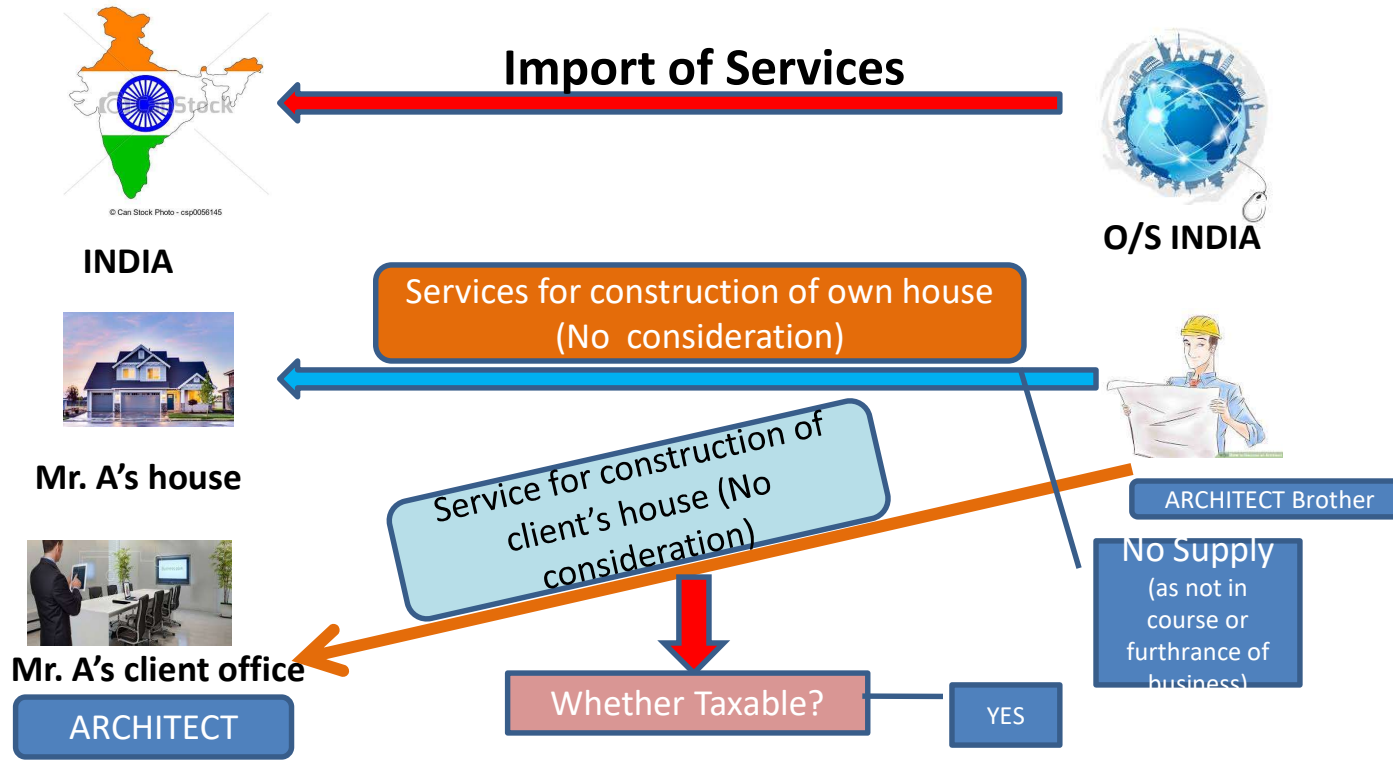


Import of services (Sec 2(11) of IGST ACT)

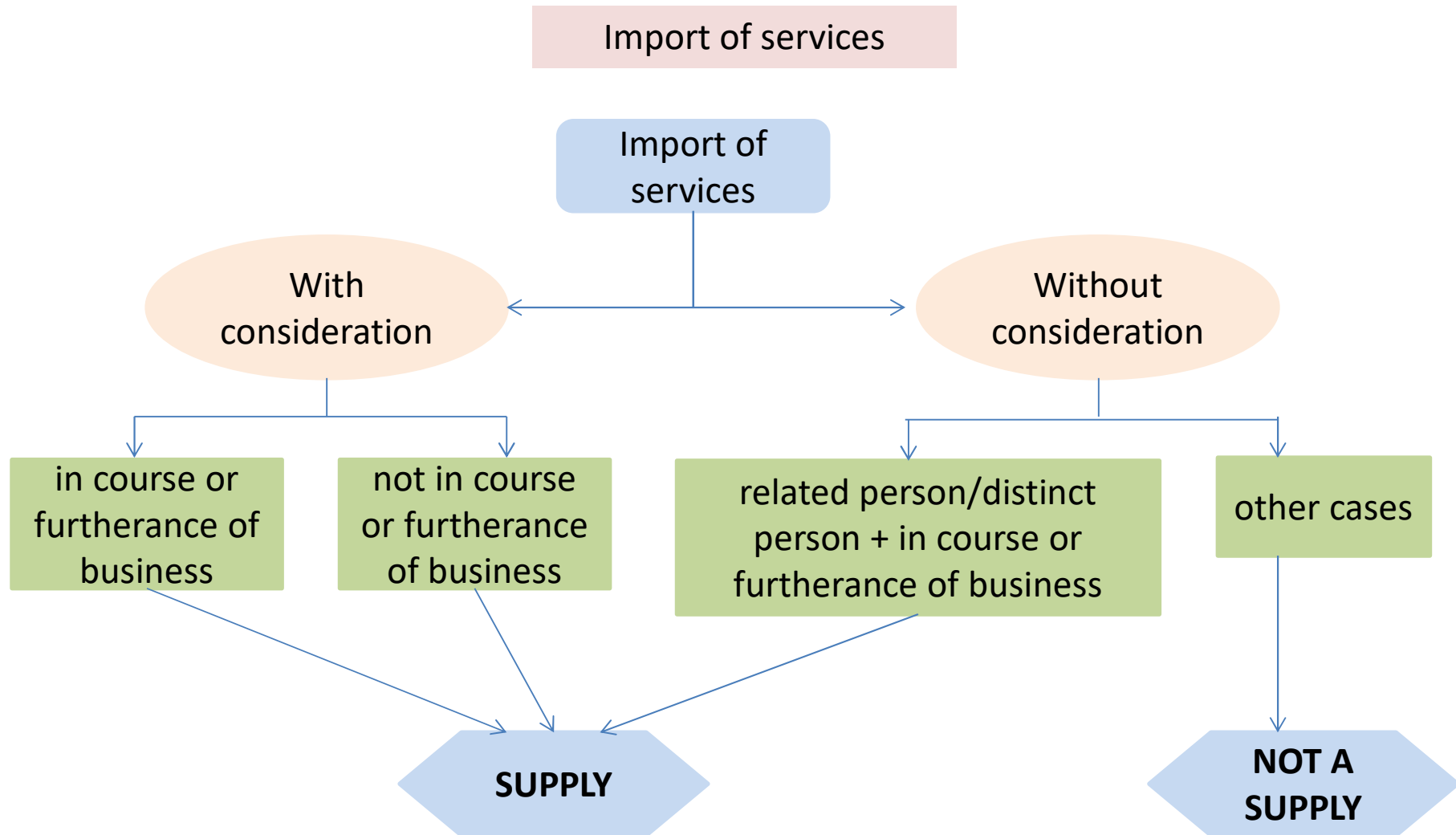


in course or furtherance of business

Import of services



- The combined provisions of relating to import of services [as stipulated under under section 7(1)(b) and section 7(1)(c) read with Schedule I



SCHEDULE II

ACTIVITIES [OR TRANSACTIONS] TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

Schedule II Entry no. 1. Transfer

- (a) any transfer of the title in goods is a supply of goods;
- (b) any transfer of right in goods or of undivided share in goods without the transfer of title thereof, is a supply of services;
- (c) any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed, is a supply of goods.

Hire
Purchase,
Leasing

Schedule II Entry no. 2. Land and Building

- (a) any lease, tenancy, easement, licence to occupy land is a supply of services;
- (b) any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.

Schedule II Entry no. 3. Treatment or process

Any treatment or process which is applied to another person's goods is a supply of services

JOB WORK

Schedule II Entry no. 4. Transfer of business assets

(a)	where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, such transfer or disposal is a supply of goods by the person;
(b)	where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, the usage or making available of such goods is a supply of services ;
(c)	where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, <u>unless—</u>
(i)	the business is transferred as a going concern to another person; or
(ii)	the business is carried on by a personal representative who is deemed to be a taxable person.

Schedule II Entry no. 5. Supply of services

	The following shall be treated as supply of services , namely:—
(a)	renting <u>of immovable property</u> ;
(b)	construction of a 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 after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. Explanation.—For the purposes of this clause—
(1)	the expression "competent authority" means the Government or any authority authorised to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely:—
	(i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972) ; or
	(ii) a chartered engineer registered with the Institution of Engineers (India); or
	(iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority;
(2)	the expression "construction" includes additions, alterations, replacements or remodelling of any existing civil structure;
(c)	temporary transfer or permitting the use or enjoyment of any <u>intellectual property right</u> ;
(d)	development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology <u>software</u>
(e)	agreeing to the obligation <u>to refrain from an act</u> , or to tolerate an act or a situation, or to do an act; and (LIQUIDATED DAMAGES , Penalties, Non Compete Fee)
(f)	transfer of the <u>right to use any goods for any purpose</u> (whether or not for a specified period) for cash, deferred payment or other valuable consideration.

Schedule II Entry no. 6. Transfer

The following composite supplies shall be treated as a supply of services, namely:—

(a) works contract as defined in clause (119) of section 2; and

Immovable
Property

Solar Power Plant,
Railway Track

(b) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.

Schedule II Entry no. 7. Supply of Goods


The following composite supplies shall be treated as a supply of services, namely:—

Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.

SCHEDULE III

ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES

- | | |
|-----|---|
| (1) | Services by an <u>employee to the employer</u> in the course of or in relation to his employment. |
| (2) | Services by <u>any court or Tribunal</u> established under any law for the time being in force. |
| (3) | (a) The functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats , Members of Municipalities and Members of other local authorities; |
| | (b) The duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or |
| | (c) The duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause. |

(4)	Services of <u>funeral, burial, crematorium</u> or mortuary including transportation of the deceased.
(5)	<u>Sale of land and, subject to clause (b) of paragraph 5</u> of Schedule II, sale of building.
(6)	<u>Actionable claims</u> , other than lottery, betting and gambling
(7)	Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India. 
(8)	(a) Supply of warehoused goods to any person before clearance for home consumption;
	(b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.
	<i>Explanation</i>
	(i) <i>For the purposes of paragraph 2, the term "court" includes District Court, High Court and Supreme Court.</i>
	(ii) <i>For the purposes of paragraph 8, the expression "warehoused goods" shall have the same meaning as assigned to it in the Customs Act, 1962 (52 of 1962).]</i>

(CHAPTER VI) SETIONS 22-30	(CHAPTER III) RULES 8-26
Sec. 22 Persons liable for registration	R-8 Application for Registration
Sec. 23 Persons not liable for registration	R-9 Verification of the application and approval
Sec 24 Compulsory reg. in certain cases	R-10 Issue of Registration Certificate
Sec. 25 Procedure for registration	R-11 Separate reg for multiple places of business within a State or UT
Sec. 26 Deemed Registration	R-12 Reg. of persons required to deduct/collect TDS/TCS
Sec 27 Special Provisions relating to casual taxable persons and non resident taxable person	R-13 Reg. to Non resident taxable persons
	R-14 Registration to OIDAR
	R-15 Extension of period of operation by CTP or NRTP
	R-16 Suo- moto Registration
	R-17 Assignment of Unique Identity Number
	R-18 Display of Reg Certificate on board
	R-25 Physical verification of business premises in certain cases
	R-26 Method of authentication

Need for Registration
To collect Tax on behalf of Govt. legally
and avail ITC

Amendment in Act

Act is amended only three times as follows:-

- Amendment by CGST Amendment Act 2018 passed in Aug. 2018:-
Effective from 01.02.2019
- Finance Act (No. 2) of 2019:- Effective from 01.01.2020
- Finance Act 2020 passed on 27 March 2020
- Ordinance Passed to insert Sec. 168A to provide Blanket Exemption.

SEC. 22
REGISTRATION ⁹⁸

Persons liable for registration.

⁹⁹ 22. (1) Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees:

Provided that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees:

¹ [**Provided further** that the Government may, at the request of a special category State and on the recommendations of the Council, enhance the aggregate turnover referred to in the first proviso from ten lakh rupees to such amount, not exceeding twenty lakh rupees and subject to such conditions and limitations, as may be so notified:]

^{1a} [**Provided also** that the Government may, at the request of a State and on the recommendations of the Council, enhance the aggregate turnover from twenty lakh rupees to such amount not exceeding forty lakh rupees in case of supplier who is engaged exclusively in the supply of goods, subject to such conditions and limitations, as may be notified.

Explanation.—For the purposes of this sub-section, a person shall be considered to be engaged exclusively in the supply of goods even if he is engaged in exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.]

(2) Every person who, on the day immediately preceding the appointed day, is registered or holds a license under an existing law, shall be liable to be registered under this Act with effect from the appointed day.

(3) Where a business carried on by a taxable person registered under this Act is transferred, whether on account of succession or otherwise, to another person as a going concern, the transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.

(4) Notwithstanding anything contained in sub-sections (1) and (3), in a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, demerger of two or more companies pursuant to an order of a High Court, Tribunal or otherwise, the transferee shall be liable to be registered, with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court or Tribunal.

Explanation.— For the purposes of this section,—

- i. the expression "aggregate turnover" shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals;
- ii. the supply of goods, after completion of job work, by a registered job worker shall be treated as the supply of goods by the principal referred to in section 143, and the value of such goods shall not be included in the aggregate turnover of the registered job worker;
- iii. the expression "special category States" shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the ²Constitution ³[except the State of Jammu and Kashmir] ⁴[and States of Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand].

98. See [rules 8 to 26](#) and [Form Nos. GST-REG 1 to GST-REG 30](#) of the CGST Rules, 2017.

99. Enforced with effect from 22-6-2017.

1. Inserted by the Central Goods and Services Tax (Amendment) Act, 2018, w.e.f. **1-2-2019**.

1a. Inserted by the Finance (No. 2) Act, 2019, w.e.f. **1-1-2020**.

2. For text of [article 279A\(4\)\(g\)](#) of the Constitution of India, see **Appendix**.

3. Inserted by the Central Goods and Services Tax (Extension to Jammu and Kashmir) Act, 2017, w.r.e.f. 8-7-2017.

4. Inserted by the Central Goods and Services Tax (Amendment) Act, 2018, w.e.f. **1-2-2019**.

SEC. 22

Threshold limit based on Aggregate Turnover

RS. 20 Lacs

All states other than special category states

RS. 10 Lacs

Special category states

11 states as per Article 279A(4)(g)

w.e.f 01.02.19 only 4 States are SCS: Manipur, Mizoram, Nagaland, Tripura

Amendment by CGST Amendment Act 2018 Applicable from 01.02.2019

By Finance Act(2) of 2019

3RD Proviso to Sec. 22(1) added
States can ask for enhanced limit on recommendation of council enhance Aggregate Turnover from 20 lakhs with Maximum Cap upto 40 Lacs for Suppliers EXCLUSIVELY IN SUPPLY OF GOODS.

EXPLANATION: EXCLUSIVELY IN SUPPLY OF GOODS even if engaged in Supply of Services by way of Deposits, Loans or Advances as consideration by way of Interest or Discount.

2ND Proviso to Sec. 22(1) added
Special category States can ask for enhanced limit with Maximum Cap upto 20 Lacs

Meaning of Aggregate Turnover **Sec. 2(6)**

Computed on All India Basis

Particulars	Amt
All Taxable Supplies 2(108)	XXX
Exempt Supply 2(47) Means <ul style="list-style-type: none"> • Nil Rated • Wholly Exempt • Non Taxable Supply 2(78) 	XXX XXX XXX
Exports of Goods or Services	XXX
Inter State Supplies	XXX
Supplies made to persons with same PAN having different GSTN numbers e.g Branch Transfer	XXX
Supply made on behalf of principal(Exp i to sec. 22)	XXX
Exclude:-	
CGST, SGST, UTGST,. IGST and Cess	XXX
Inward Supply on which tax is payable by a person under RCM	XXX
Supply of Goods after completion of job work by a registered job worker treated as supply of goods by principal and not to be included in turnover of job worker(Expl ii to sec. 22)	XXX
Net Total(Aggregate Turnover)	XXX

Sec. 2(6) "aggregate turnover" means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess;

Sec. 2(47) "exempt supply" means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply;

Sec. 2(78) "non-taxable supply" means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act;

Sec. 2(108) "taxable supply" means a supply of goods or services or both which is leviable to tax under this Act

Sec. 2(85) "place of business" includes-

(a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or

(b) a place where a taxable person maintains his books of account; or

(c) a place where a taxable person is engaged in business through an agent, by whatever name called;

Other Issues

- Registration is required in the state from where supply is made. GST although a destination based law but for registration, it is required in the state of **ORIGIN**.
- Rs. 20 Lacs/ 10 Lacs/ 40 Lacs, as the case may be, is registration limit and not an Exemption limit . Once registered, after Registration assessee is mandatorily required to collect & pay Tax. 20 Lacs / 10 LACS/40 Lacs exemption limit is only in the first year before Registration.

Sec. 23(1) Persons not liable for registration

Exclusively engaged in supply of **exempt/not liable to tax** goods or services or both.

Agriculturist (Sec. 2(7)) to the extent of supply of produce out of cultivation of land

Sec. 2(7):- agriculturist" means an individual or a Hindu Undivided Family who undertakes cultivation of land—
(a) by own labour, or
(b) by the labour of family, or
(c) by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family;

Sec. 23(2)

The Government may, on the recommendations of the council , by notification, specify the category of persons who may be exempted from registration under this Act.

Persons **exclusively** making reverse charge supply(**Not. 5/2017 CT**) e.g
Advocates, GTA

Not. 65/2017 CT dated 15.11.2017
Person supplying thru E-Com &
Not. 56/18 CT for CTP

Not. 10/2019 CT dated 07.03.2019
Threshold Rs. 40 lacs

Sec. 23(2)

The Government may, on the recommendations of the council , by notification, specify the category of persons who may be exempted from registration under this Act.

This Section is used by Govt. to bring enhanced limit of 40 lacs for supplier of goods by way of **Notification No. 10/2019-CT** dated 07-03-2019 w.e.f. 01-04-2019

Exemption granted
from obtaining
registration

Eligible

- **Exclusive** supplier of goods.
- Aggregate turnover in F.Y. \leq 40 Lacs

Not Eligible

- Persons required to get compulsory registration
- Supplier of Ice cream, Pan Masala, Tobacco
- Persons Engaged in making intra state supply in Arunanchal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Pondicherry, Sikkim, Telangana, Tripura, Uttarakhand.
- Persons Exercising options of voluntary reg. Sec. 25(3)
- Registered persons who intend to continue with their registration.

EXAMPLES

Delhi Sales (Rs. In Lakhs)	Punjab Sales (Rs. In Lakhs)	Manipur Sales (Rs. In Lakhs)	Reg. Required
5	5	5	Yes (As Manipur is Special category State, limit will be Rs.10 Lacs. Hence, Reg. required in all states.)
10	11	0	Yes in both the states from where Taxable supply is made.
20(Exempt)	10(Exempt)	0	No Reg. Required. Sec 23(1)
20 Exempt	10 Taxable	0	Registration required in Punjab only
30 (Exclusively Goods)	5 (Exclusively Goods)	0	Aggregate Turnover is less than 40Lacs, he can take Benefit of Not. 10/2019 and not liable to Register.

OTHER POINTS

1. As it is a PAN based Registration, **Transfer of business** as a going concern on account of succession or otherwise:
 - Fresh registration to be applied from the date of such transfer (**Section 22(3)**)
 - i. ITC -02 required for transfer of credit
 - ii. Schedule II entry 4(c) states that it will not amount to supply
2. (**Section 22(4)**) In case of transfer pursuant to **amalgamation or demerge** of companies pursuant to order of HC / Tribunal:
 - Transferee liable to be registered w.e.f. date in which ROC issues a certificate of incorporation giving effect to order of HC/ Tribunal.
3. Requirement of registration in respect of **construction works** undertaken outside the state: Works Contractors, having a principal place of business in 1 state may undertake execution of works across India in many states. **The registration provisions** require the work contractor to **obtain registration in each such** state. other place, where a taxable person stores his goods or receives goods or services..." Hence, in case the taxable person stores his goods at the construction site, it will be considered as his place of business and he will be liable to take registration at the construction site. (**Based on Concept of Place of Business(Sec2(85))**).

Separate Reg: Jaimin Engineering (P.) Ltd., In re vs (AAR)([2018] 97 taxmann.com 195 (AAR - RAJASTHAN)/[2018] 69 GST 876 (AAR - RAJASTHAN))

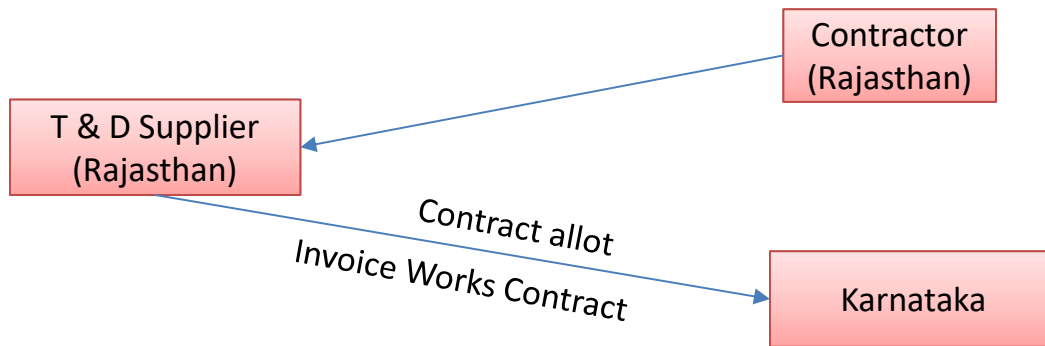
No Separate Reg: 2020] 116 taxmann.com 390 (AAR - KARNATAKA) T & D Electricals

3. Mr A is a dealer having its premises/office located in Haryana. He rented the premises located in Delhi to M/s XYZ enterprises for commercial purposes at a rental of INR 100000/- per month. In this case, though the place of supply of services will be Delhi i.e. where the immovable property is located, but the location of supplier will continue to be Haryana and accordingly IGST will be levied. (**Based on Concept of Location of Supplier of Service (Sec2(71))**). But at the same time, it has to be borne in mind that Mr. A may not be able to avail input tax credit of certain services availed for the property located in Delhi from the service providers of Delhi as they would be charging CGST and SGST (Delhi GST) for which credit will not be available at Haryana registration of Mr.A. Alternatively, depending upon business scenarios,

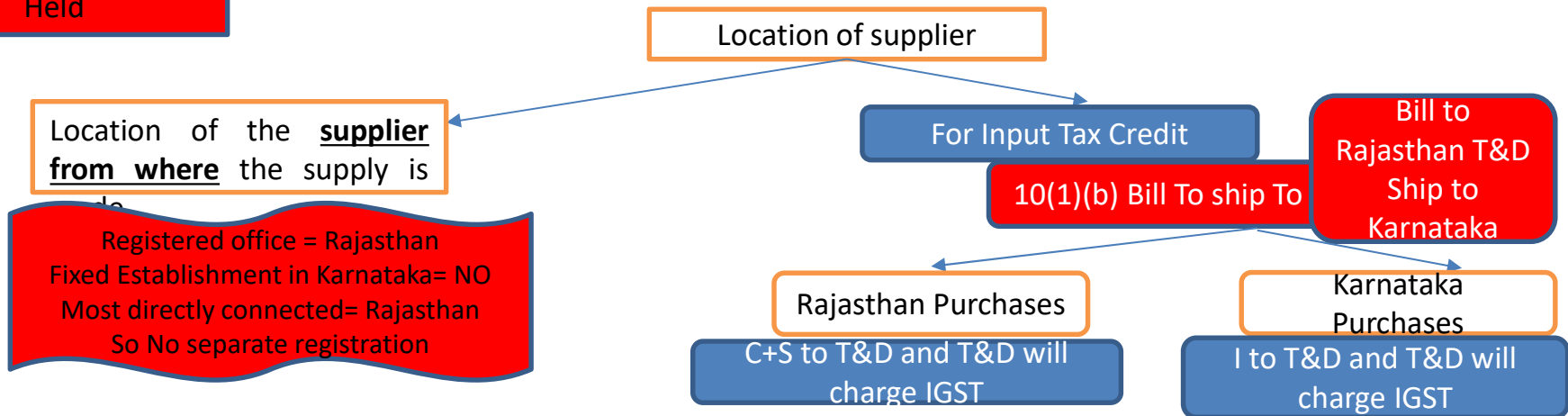
Other View – Single Registration

2020] 116 taxmann.com 390 (AAR - KARNATAKA) T & D Electricals

Que 1:- Separate Registration required for Karnataka?
 Que 2:- Purchases at Rajasthan, whether CGST/SGST or IGST leviable?
 Que3:- Purchases at Rajasthan, whether CGST/SGST or IGST leviable?



Held



Registered office = Rajasthan
 Fixed Establishment in Karnataka= NO
 Most directly connected= Rajasthan
 So No separate registration

OTHER POINTS

5) Exemption to Charitable organisations: Pursuant to Notification No. 12/2017 CT dated 28th June 2017, the Govt. has exempted services by way of charitable activities, provided by charitable organisations from levy of GST. Thus charitable organisations engaged exclusively in charitable activities are exempted from obtaining registration. However, charitable organisations are compelled to register where they have receipts on account of ancillary activities like providing shop on rent to outsider(so that the visitors get tea and food), charitable hospitals running pharmacy and providing medicines at concessional rate or free etc.(Donations Excluded: Sponsorship, Consultancy, Sales included)

Acharya Shree Mahashraman Chaturmas Pravas Vyavastha Samiti Trust, In re vs. (AAR)(2019] 110 taxmann.com 282 (AAR - KARNATAKA)/[2019] 31 GSTL 138

Rajiv Gandhi Centre For Aquaculture, In re vs. AAR([2019] 108 taxmann.com 465 (AAAR - TAMILNADU)/[2019] 76 GST 71

6) If inward supplies liable to reverse charge under sec. 9(3) of CGST Act is attracted, then notwithstanding sec. 22 or the exclusion under section 22, registration will need to be obtained compulsorily under sec. 24. However, it does not exclude Section 23. A litigative view can be taken, that in case a person is exempted from obtaining registration u/s. 23 (and its notifications), he cannot be made liable for registration u/s. 24 till the time he continues to satisfy the conditions of section 23. Further, a person who only supplies exempted goods cannot be covered by section 22(1), because section 22(1) mandate registration in the state, from where a person makes taxable supply of goods or services.

e.g GTA service taken by a person dealing in liquor.

Jalaram Feeds, In re vs (AAR)([2019] 106 taxmann.com 241 (AAR - MAHARASHTRA)/[2019] 26 GSTL 546 (AAR - MAHARASHTRA))

Medivision Scan and Diagnostic Research Centre (P.) Ltd., In re vs(2019] 105 taxmann.com 226 (AAR - KERALA)/[2019] 74 GST 172 (AAR - KERALA)

Important case laws

- **Aarel Import Export (P.) Ltd., In re vs**[(2019] 106 taxmann.com 292 (AAR - Section 22 of the Central Goods and Services Tax Act, 2017/Section 22 of the Maharashtra Goods and Services Tax Act, 2017/Sections 7 and 11 of the Integrated Goods and Services Tax Act, 2017 - Registration - Persons liable for - Assessee, a company having its head office at Mumbai, Maharashtra and also registered under GST Act in State of Maharashtra, wishes to import coal from Indonesia at Paradip Port in State of Odisha - Further it wishes to sell coal directly from Paradip Port Warehouse (Ex-BOND) to customers in Odisha by raising bills from Mumbai office - Whether applicant can clear goods on basis of bills issued by Mumbai Head Office and it need not take separate registration in State of Odisha - Held, yes - Whether assessee can do transaction on Mumbai Head Office GSTIN and can mention GSTIN of Mumbai Head Office in E-way Bill and dispatch place as Customs Warehouse, Odisha, Paradip Port - Held, yes [Para 5] [In favour of assessee]**GST: Where applicant, a company having its head office at Mumbai, Maharashtra and also registered under GST Act in State of Maharashtra, wishes to import coal from Indonesia at Paradip Port in State of Odisha and sell same directly from Paradip Port Warehouse (Ex-BOND) to customers in Odisha by raising bills from Mumbai office, applicant can clear coal on basis of bills issued by Mumbai Head Office and it need not take separate registration in State of Odisha and further it can do transaction on Mumbai Head Office GSTIN**
- **Kardex India Storage Solution Private Limited**((GST AAR Karnataka)

Sec. 24 Compulsory Registration

***Notwithstanding anything contained in Sec. 22(1), the following categories of persons shall be required to be registered under this Act:**

Threshold benefit will not be available

- I. Persons making any inter state taxable supply(except covered by N. No. 7,8 and 10.of IT 2017)
- II. Casual taxable person making taxable supply(Except NN. 32, 38/ 2017)
- III. Persons who are required to pay tax under reverse charge
- IV. Persons who are required to pay tax under sec. 9(5)
- V. Non Resident Taxable person making taxable supply
- VI. Persons who are required to deduct tax u/s 51, whether or not separately registered under this Act
- VII. Persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise.
- VIII. Input Service Distributor, whether or not separately registered under this Act
- IX. Persons who supply goods & services through ECO(other than 9(5)), who is required to collect TCS u/s 52.
- X. Every Electronic Commerce operator who is required to collect tax at source u/s 52.
- XI. Every person supplying OIDAR from a place outside India to person in India
- XII. Such Other person or Class of persons as may be notified.

I. EXEMPTIONS THROUGH NOTIFICATION

PERSONS MAKING ANY INTER STATE TAXABLE SUPPLY. • • •

Including Exports

- **Notification 7/2017-IT** dated 14.09.2017 regarding exemption from registration to **job worker** making inter state supply of services to registered person. (Exception to Sec. 24 clause i)
- **Notification 3/2018**(Supercedes Not 8/2017-IT) dated 22.10.2018 regarding exemption from registration to a person making inter- state taxable supply of **handicraft goods** upto the **Threshold Limit**(Exception to Sec. 24 clause i)
- **Notification No. 10/2017-IT** dated 13.10.2017 regarding exemption from registration to a person making **inter state taxable services** where turnover is not exceeding Rs. 20 Lacs. (Exception to Sec. 24 clause i)

Examples

Mr. A has Garment shop in Ludhiana with turnover of Rs.18 Lacs

Case 1:- Supplies Readymade garments to person in Gurgaon worth Rs. 10000/-

Answer:- Registration required due to inter state supply

Case 2:- Supplies stitching services worth Rs 10000 to Gurgaon

Answer:- No registration required. Benefit of 10/17- IT available

Case 3 :- Supplies exempted goods worth Rs 1,80,000 to Gurgaon

Answer:- No registration required as inter state supply is exempt.

II. Casual Taxable Persons making Taxable Supply

Sec. 2(20) "casual taxable person" means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business;

- No Fixed place of business in state but occasionally undertakes transactions (Based on Two state concept)
 - Liability to register at least 5 days prior to commencement of business (Sec 25(1) Proviso)
 - No mandatory registration supplying specified handicraft goods Not. 32/17-CT dated 15.09.2017 superseded vide Not. 56/18-CT dated 3.10.2018
-
- Casual Taxable Person Traders (especially Jewellers) registered in one State carry goods to another State and upon receipt of approval from the customers, sell the goods to such customers. The issue that arises for consideration is whether such jewellers are required to register as casual taxable persons in the State of the buyer. In this context, Circular No.10/10/2017-GST, dated 18.10.2017 has been issued to clarify that in the given case, Supplier is not able to ascertain the actual supplies beforehand and ascertainment of tax liability is a mandatory requirement for registration as a casual trader, Hence they are not liable to register as CTP. Goods on approval basis can be moved on a delivery challan e.g. for Jewellers.

III. Persons who are required to pay tax under RCM

Goods –Not 4/2017 - CT (Rate) Not. 4/17-IT (Rate)

Services-Not 13/2017 –CT(Rate) Not 10/17 –IT (Rate)

Example

- M/s XYZ, partnership Firm , is running a consumer durables shop in Ludhiana. His turnover in a financial year is INR 15 Lakhs. He takes services of a GTA worth INR 30,000/- to deliver a consignment on which he is required to pay GST under reverse charge.

Here, even though aggregate turnover of M/s XYZ is only INR 15 lakhs i.e. within threshold limit, but compulsory registration shall be required in GST as GTA services are availed on which tax is payable under reverse charge.

- RCM to be paid in cash.
 - Tax paid under RCM available as ITC.
 - Now M/s XYZ also liable to pay GST on Rs. 15 Lacs as he is now required to get compulsory registration.
 - Please Refer Sr. No. 21A of Not. 12/2017 for GST Exemption to Unregistered Individual & HUF.
- **Benefit of threshold limit shall continue in case of inward supply of advocate services in some cases (Sr. No. 45 of 12/2017- (CT Rate))**

Example

M/s XYZ is running a departmental store in Ludhiana. His turnover in a financial year is INR 15 lakhs. He takes services of an advocate worth INR 3000/- to litigate a department's notice.

Here, even though advocate services are under reverse charge, but supply of such services to business entity having aggregate turnover less than INR 20 lakhs(INR 10 lakhs for special category states) are exempt from GST. Thus no liability to pay tax under reverse charge shall arise and hence no compulsory registration is required.

- **Entry No. 21A*(Inserted by Notification No. 32/2017-Central Tax (Rate), dated 13-10-2017, w.e.f. 13-10-2017.) of Notification 12/2017**

Services provided by a goods transport agency to an unregistered person, including an unregistered casual taxable person, other than the following recipients, namely:

- a) any factory registered under or governed by the Factories Act, 1948 (63 of 1948); or
- b) any Society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or
- c) any Co-operative Society established by or under any law for the time being in force; or
- d) any body corporate established, by or under any law for the time being in force; or
- e) any partnership firm whether registered or not under any law including association of persons;
- f) any casual taxable person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act.

• **Entry No. 45 of Notification No. 12/2017:-**

Services provided by-

(a) an arbitral tribunal to –

- i. any person other than a business entity;
- ii. a business entity with an aggregate turnover up to ¹[*such amount in the preceding financial year as makes it eligible for exemption from registration under the Central Goods and Services Tax Act, 2017 (12 of 2017)*]; or
- iii. the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity;]

b) a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to-

- i. an advocate or partnership firm of advocates providing legal services
- ii. any person other than a business entity;
- iii. a business entity with an aggregate turnover up to ¹[*such amount in the preceding financial year as makes it eligible for exemption from registration under the Central Goods and Services Tax Act, 2017 (12 of 2017)*]; or
- iv. the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity;]

c) a senior advocate by way of legal services to-

- i. any person other than a business entity;
- ii. a business entity with an aggregate turnover up to ¹[*such amount in the preceding financial year as makes it eligible for exemption from registration under the Central Goods and Services Tax Act, 2017 (12 of 2017)*]; or
- iii. the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.]

A Ltd. started E- Commerce Portal

Supply his own goods/ services through E- Commerce portal;

No Que. Of TCS
(Registration if Agg. TO exceeds 10/20/40 lakh)

Only Information Portal .
No Supply of goods/ services through E- Commerce portal;

No Que. Of TCS

Supply other person goods/ service through his E- Commerce portal

Service

Goods

3 notified services 9(5)
ECO pay GST , ECO take registration , Deemed Supplier

Other service

TCS collected, ECO registration mandatory

If unregistered service provider having TO < 20/10L(Not. 65/17) NoTCS

If above threshold TCS applicable

IV. E- Commerce Operator supplying specified services 9(5)

➤ Not. 17/2017 (CT Rate) , Not. 23/2017 CT (Rate), NN. 14/2017 IT (Rate)

Services specified u/s 9(5)

- Cab operators e.g OLA
- Accommodation in Hotels, Inn, Guest house, except where the person supplying such services through E-commerce Operator is liable for Registration in GST e.g MMT
- Services by way of House- keeping e.g Urban Clap

Example 1:- Rooms Booked Through MMT. MMT shall be liable to pay GST.

Example 2:-Mr. X provides homestay through MMT (E- Commerce) and his turnover is INR 23 Lacs. In this Case, Mr. X shall be liable to get GST registration and pay GST and MMT is not required to pay GST on the same vide NN. 17/2017

➤ In 9(5), No provision of TCS applies.

V. Non Resident Taxable Persons 2(77)

Sec. 2(77) ""non-resident taxable person" means

- **any person**
- **who occasionally undertakes transactions**
- involving **supply of goods or services or both,**
- whether as **principal or agent** or in any other capacity,
- but who **has no fixed place of business or residence** in India;

NRTP shall apply for registration at least 5 days prior to commencement of business.
Section 25(1) Proviso

Max validity 90 days

(It is basically the Extension of concept of casual taxable person to Non-Residents)

VI. Persons who are required to deduct tax u/s 51,
whether or not separately registered under this Act

- **Example:-** M/s XYZ Ltd., a public sector undertaking which is also notified as one of the person liable to deduct TDS, has INR 15 Lacs aggregate turnover in financial year. Here, M/s XYZ Ltd. may not require registration as normal taxable person in GST for not crossing the threshold limit, but it is mandatorily required to take registration as tax deductor without any threshold limit.
- It may be noted that although GST registrations for entities mandated to collect and deduct TDS started from 18.09.2017, the date from which TDS will be deducted is notified later vide notification no. 50/2018- Central tax dated 13.09.2018 as applicable only from 01.10.2018.

VII. Persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise.

Sec. 2(5) "agent" means a person, including a factor, broker, commission agent, *arhatia*, *del credere* agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another;

Agent is understood to be a person who receives goods from principal for further supply to customer.
Eg. LIC agents not covered by compulsory registration.

Circular No. 57/31/2018 dated 04.09.2018

- **Procurement Agents are not covered in terms of Schedule I**
- **Mere Auctioneers are not covered in terms of Schedule I**
- Mr. A, an artist, appoints M/s B (auctioneer) to auction his painting. M/s B arranges for the auction and identifies the potential bidders. The highest bid is accepted and the painting is sold to the highest bidder. **The invoice for the supply of the painting is issued by M/s B** on the behalf of Mr. A but in his own name and the painting is delivered to the successful bidder. In this scenario, M/s B is not merely providing auctioneering services, but is also supplying the painting on behalf of Mr. A to the bidder, and has the authority to transfer the title of the painting on behalf of Mr. A. This scenario is covered under Sch I.
- A similar situation can exist in case of supply of goods as well where the C&F agent or commission agent takes possession of the goods from the principal and issues the invoice in his own name. In such cases, the C&F/commission agent is an agent of the principal for the supply of goods in terms of Schedule I. The disclosure or non-disclosure of the name of the principal is immaterial in such situations.

Circular 57/31/2018

Scenario 4

Mr A sells agricultural produce by utilizing the services of Mr B who is a commission agent as per the Agricultural Produce Marketing Committee Act (APMC Act) of the State. Mr B identifies the buyers and sells the agricultural produce on behalf of Mr. A for which he charges a commission from Mr. A. As per the APMC Act, the commission agent is a person who buys or sells the agricultural produce on behalf of his principal, or facilitates buying and selling of agricultural produce on behalf of his principal and receives, by way of remuneration, a commission or percentage upon the amount involved in such transaction.

In cases where the invoice is issued by Mr. B to the buyer, the former is an agent covered under Schedule I. However, in cases where the invoice is issued directly by Mr. A to the buyer, the commission agent (Mr. B) doesn't fall under the category of agent covered under Schedule I.

- In respect of commission agents in Scenario 4, notification No. 12/2017 Central Tax (Rate) dated 24.06.2017 has exempted "services by any APMC or board or services provided by the commission agents for sale or purchase of agricultural produce" from GST. Thus, the 'services' provided by the commission agent for sale or purchase of agricultural produce is exempted. Such commission agents (even when they qualify as agent under Schedule I) are not liable to be registered according to sub-clause (a) of sub-section (1) of section 23 of the CGST Act, if the supply of the agricultural produce, and/or other goods or services supplied by them are not liable to tax or wholly exempt under GST. *[Further, according to clause (vii) of section 24 of the CGST Act, a person is liable for mandatory registration if he makes taxable supply of goods or services or both on behalf of other taxable persons. Accordingly, the requirement of compulsory registration for commission agent, under the said clause shall arise when both the following conditions are satisfied, namely: -*
- a) *the principal should be a taxable person; and*
 - b) *the supplies made by the commission agent should be taxable.* Generally, a commission agent under APMC Act makes supplies on behalf of an agriculturist. Further, as per provisions of clause (b) of sub-section (1) of section 23 of the CGST Act an agriculturist who supplies produce out of cultivation of land is not liable for registration and therefore does not fall within the ambit of the term „taxable person“. Thus a commission agent who is making supplies on behalf of such an agriculturist, who is not a taxable person, is not liable for compulsory registration under clause (vii) of section 24 of the CGST Act. However, where a commission agent is liable to pay tax under reverse charge, such an agent will be required to get registered compulsorily under section 24 (iii) of the CGST Act.]

VIII. Input Service Distributor Whether or not separately registered under this Act

- ISD Concept is for services only borrowed from Service Tax.
- Facility to business having a large share of common input service & billing / Payment is done from centralized location
- It enables proportionate distribution of common input service amongst all consuming units.

IX. Persons who supply goods or services or both, **other than supplies specified under sub section 5 of sec. 9, through ECO who is required to collect TCS u/s 52**

Bcoz in 9(5), Ecom is the Deemed Supplier

Exception to above: N.N. 65/2017 : This not. Is **applicable only on Services, to take person out of compulsory registration provision.**

Example : Restaurant with turnover less than 20 Lacs supplying food through Swiggy. Benefit of N.N. 65/2017 will be available and no mandatory registration.

X. Every Electronic Commerce Operator , **who is required to collect tax at source u/s 52**

Amendment by amendment Act 2018
W.e.f. 1.2.2019

Previously all E-Com Operators were covered, even if they were providing market place for Exempt Goods. But now they will be out for Mandatory Registration.

XI. Every person supplying OIDAR services from a place outside India to a person in India, other than registered person.

B2B
RCM will Apply

B2C
Mandatory
registration

Section 25(1)

⁹25(1) Every person who is liable to be registered under section 22 or section 24 shall apply for registration in every such State or Union territory in which he is so liable within thirty days from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed¹⁰: (Rule 8 & Rule 9)

Provided that a casual taxable person or a non-resident taxable person shall apply for registration at least five days prior to the commencement of business:

¹¹ **[Provided further** that a person having a unit, as defined in the Special Economic Zones Act, 2005 (28 of 2005), in a Special Economic Zone or being a Special Economic Zone developer shall have to apply for a separate registration, as distinct from his place of business located outside the Special Economic Zone in the same State or Union territory.]

Explanation.—Every person who makes a supply from the territorial waters of India shall obtain registration in the coastal State or Union territory where the nearest point of the appropriate base line is located.

⁹ Enforced with effect from 22-6-2017.

¹⁰ See "Chapter III - Registration" of the CGST Rules, 2017.

¹¹ Inserted by the Central Goods and Services Tax (Amendment) Act, 2018, w.e.f. 1-2-2019.

Section 25(1)

Person liable to be registered u/s 22 & 24

Apply for registration

Within 30 days

No Centralised Registration

In every state/UT

From which he makes taxable supply

Explanation:- Person making supply from territorial waters of India → Register in coastal state where the nearest point of appropriate baseline is located

Amendment: Proviso inserted
SEZ or SEZ Developer shall have to apply for a separate registration

Section 25(2):- A person seeking registration under this Act shall be granted a single registration in a State or Union territory:

¹² **[Provided** that a person having multiple places of business in a State or Union territory may be granted a separate registration for each such place of business, subject to such conditions as may be prescribed.

Single Registration in a State or UT

Amendment
proviso added

Provided that a person having multiple **places of business** in a state or UT may be granted a separate registration for each such place of business subject to such conditions as may be prescribed

~~Multiple Business Vertical~~



Multiple places of business

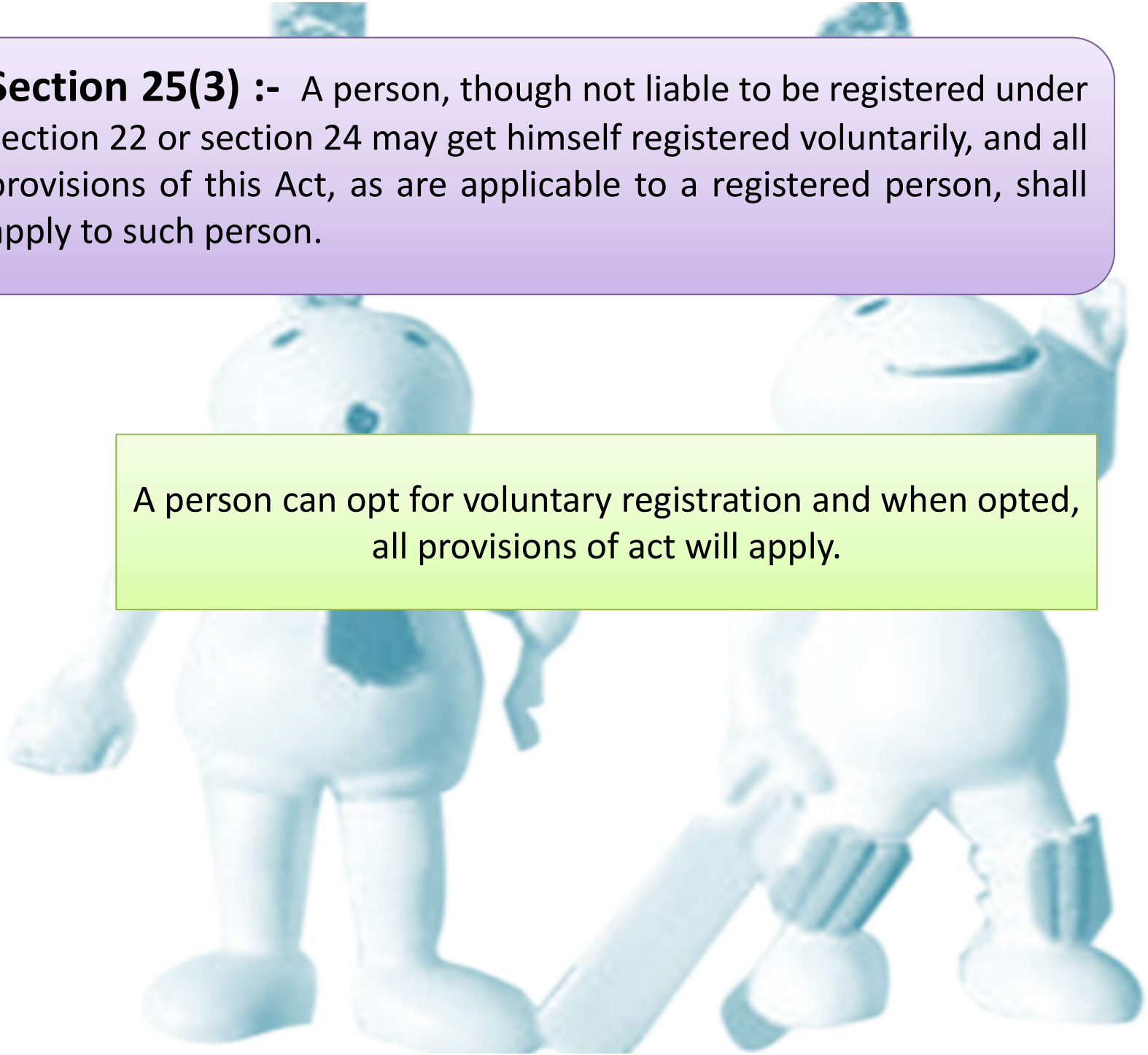
BENEFIT:- Even if same work is carried out at different places , separate registrations can be taken based on place

Drawback:-

If two different types of work at a single place then separate registration cannot be taken
For Example:- Mr. K Factory at One Location

Yarn- Fabric Job Work

Now , separate registration cannot be taken because one place and not multiple places

The background of the slide features two stylized, light blue cartoon characters. They have round heads with small eyes and are holding hands. The character on the left is wearing a dark blue tie, and the character on the right is wearing a dark blue vest. They are standing on a white surface.

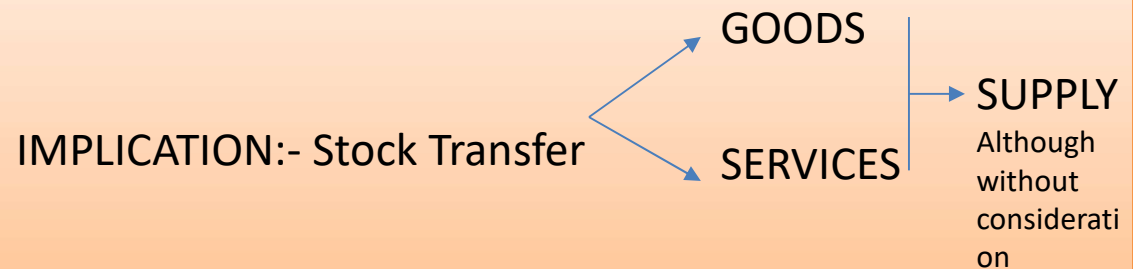
Section 25(3) :- A person, though not liable to be registered under section 22 or section 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered person, shall apply to such person.

A person can opt for voluntary registration and when opted, all provisions of act will apply.

Section 25(4) A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.

25 (5) Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.

Every Registration under the same PAN = DISTINCT PERSONS



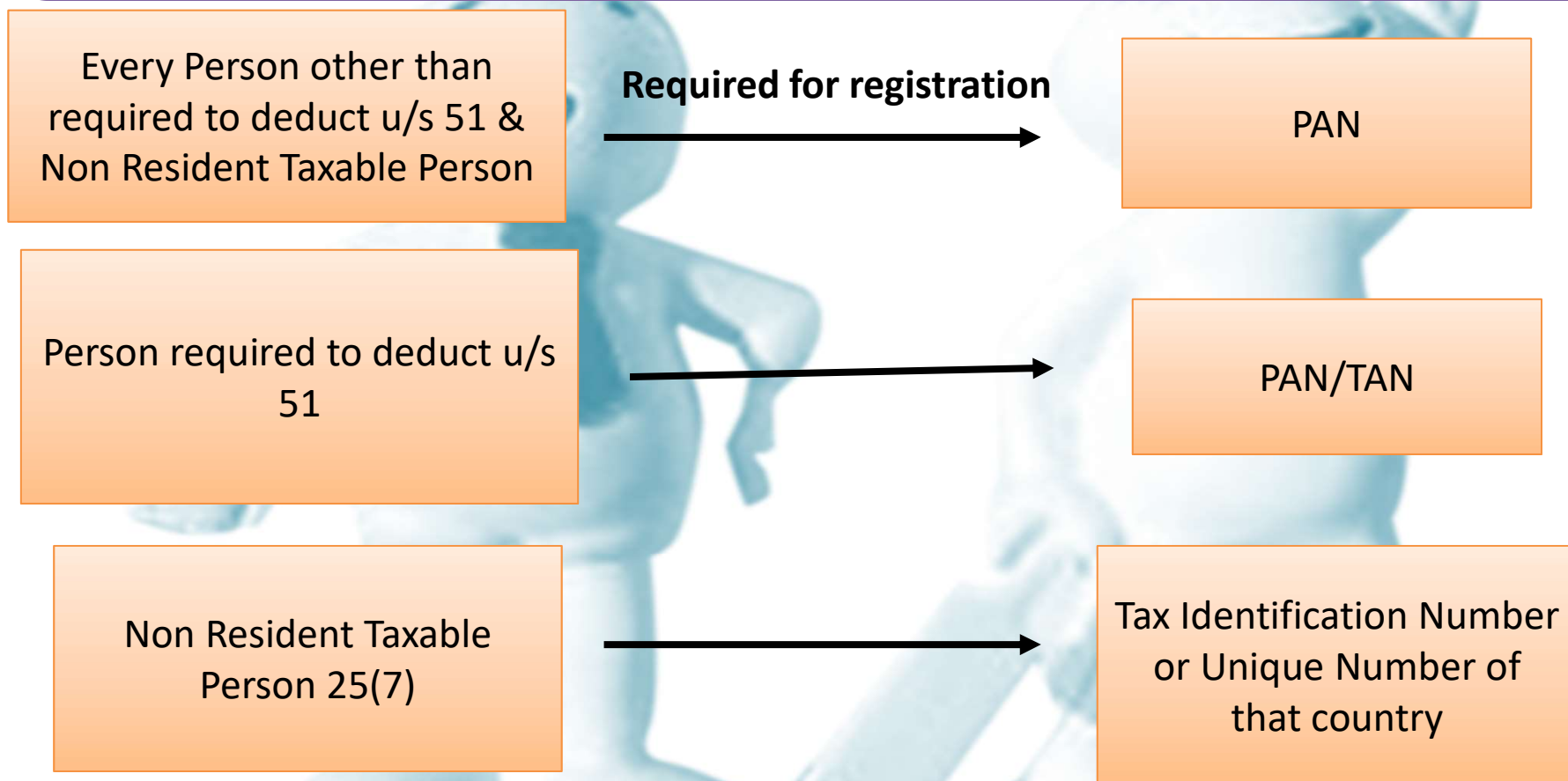
Schedule I Entry II

Intercharge/Cross charge of Services is also worth considering

Section 25(6) Every person shall have a Permanent Account Number issued under the Income- tax Act, 1961 (43 of 1961) in order to be eligible for grant of registration:

Provided that a person required to deduct tax under section 51 may have, in lieu of a Permanent Account Number, a Tax Deduction and Collection Account Number issued under the said Act in order to be eligible for grant of registration.

Section 25(7) Notwithstanding anything contained in sub-section (6), a non-resident taxable person may be granted registration under sub-section (1) on the basis of such other documents as may be prescribed¹⁴. (Rule 13 of the CGST Rules, 2017)



Finance Act (No. 2 of 2019 w.e.f 01.01.2020

[(6A) **Every registered person** shall undergo authentication, or furnish proof of possession of Aadhaar number, in such form and manner and within such time as may be prescribed:

Provided that if an Aadhaar number is not assigned to the registered person, such person shall be offered alternate and viable means of identification in such manner as Government may, on the recommendations of the Council, prescribe:

Provided further that in case of failure to undergo authentication or furnish proof of possession of Aadhaar number or furnish alternate and viable means of identification, registration allotted to such person shall be deemed to be invalid and the other provisions of this Act shall apply as if such person does not have a registration.

(6B) On and from the date of notification, **every individual shall, in order to be eligible for grant of registration**, undergo authentication, or furnish proof of possession of Aadhaar number, in such manner as the Government may, on the recommendations of the Council, specify in the said notification:

Provided that if an Aadhaar number is not assigned to an individual, such individual shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

(6C) On and from the date of notification, **every person, other than an individual, shall, in order to be eligible for grant of registration**, undergo authentication, or furnish proof of possession of Aadhaar number of the Karta, Managing Director, whole time Director, such number of partners, Members of Managing Committee of Association, Board of Trustees, authorised representative, authorised signatory and such other class of persons, in such manner, as the Government may, on the recommendation of the Council, specify in the said notification:

Provided that where such person or class of persons have not been assigned the Aadhaar Number, such person or class of persons shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

(6D) The provisions of sub-section (6A) or sub-section (6B) or sub-section (6C) shall not apply to such person or class of persons or any State or Union territory or part thereof, as the Government may, on the recommendations of the Council, specify by notification.

Explanation.—For the purposes of this section, the expression "Aadhaar number" shall have the same meaning as assigned to it in clause (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016).]

Notification No. 16/2020 dated 23.03.2020

Rule 8(4A) inserted after Rule 8(4):-

Rule 8:- Application for Registration

(4A) The applicant shall, while submitting an application under sub-rule (4), with effect from 01.04.2020, undergo **authentication of Aadhaar number** for grant of registration.”

Not. 17/2020
(CT)

Proviso to Rule 9(1) inserted (Rule 9 :- Verification of application and approval)

“Provided that where a person, other than those notified under **sub-section (6D) of section 25**, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8, then the registration shall be granted only after **physical verification** of the principle place of business in the presence of the said person, **not later than sixty days** from the **date of application**, in the manner provided under rule 25 and the provisions of sub-rule (5) shall not be applicable in such cases.”

Rule 25 substituted with following:-

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

25(8) Where a person who is liable to be registered under this Act fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under this Act or under any other law for the time being in force, proceed to register such person in such manner as may be prescribed:-

Person Liable

Fails to obtain
registration

(1) Proper Officer may without prejudice to any action may be taken, **proceed to register** on a temporary basis and issue an order in **FORM GST REG12**.
(**Rule 16 of the CGST Rules, 2017**)

Section 25(9) Notwithstanding anything contained in sub-section (1),—

- a) any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries ; and
- b) any other person or class of persons, as may be notified by the Commissioner, shall be granted a **Unique Identity Number in such manner** and for such purposes, including refund of taxes on the notified supplies of goods or services or both received by them, as may be prescribed **(Rule 17 of the CGST Rules, 2017)**

Agency of United nations or any Multilateral Financial Institution and Organisation
, Consulate or Embassy

SHALL BE GRANTED

UNIQUE IDENTITY NUMBER

Section 25(10) The registration or the Unique Identity Number shall be granted or rejected after due verification in such manner and within such period as may be prescribed¹⁷. (Rule 9 of the CGST Rules, 2017)

25(11) A certificate of registration shall be issued in such form¹⁸ and with effect from such date as may be prescribed. Form GST REG-06 and Rule 10 of the CGST Rules, 2017

25(12) A registration or a Unique Identity Number shall be deemed to have been granted after the expiry of the period prescribed²⁰ under sub-section (10), if no deficiency has been communicated to the applicant within that period. Rule 9 of the CGST Rules, 2017

Section 26(1) Deemed registration

The grant of registration or the Unique Identity Number under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be a grant of registration or the Unique Identity Number under this Act subject to the condition that the application for registration or the Unique Identity Number has not been rejected under this Act within the time specified in sub-section (10) of section 25.

(2) Notwithstanding anything contained in sub-section (10) of section 25, any rejection of application for registration or the Unique Identity Number under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be a rejection of application for registration under this Act.

UNIQUE IDENTITY NUMBER/ REGISTRATION

After due verification
(Rule 9 of the CGST Rules,
2017)

Accept:-
RC is issued

Reject/Accept
Accepted/Rejected by Centre
=
Deemed Accepted/ Rejected by
State

No
Communication
of Deficiency
Deemed
registration

Form GST REG-06 and Rule
10 of the CGST Rules, 2017

Waives the
requirement of
Multi Reg under
Different Acts

Section 27
Special provision relating to casual taxable person and Non-Resident

- Registration Valid = (Period specified in application or 90 days) → whichever is earlier
Extension : 90 days

- Pre Deposited at time of submission of application required as per estimated tax liability
- Rule 15 of the CGST Rules, 2017.
- Circular No. 10/10/2017- GSt dated 18-10-17 Goods on approval basis can be moved on a delivery challan e.g. for Jewellers
- Circular No. 71/2018-GST, dated 26-10-2018 for clarification on issues pertaining to registration as a casual taxable person.

Important FAQ's

Q. What will be the effective date of registration?

Ans. Where the application for registration has been submitted within thirty days from the date on which the person becomes liable for registration, the effective date of registration shall be the date on which he become liable for registration.

Where an application for registration has been submitted by the applicant after thirty days from the date of his becoming liable to registration, the effective date of registration shall be the date of grant of registration.


In case of the person taking registration voluntarily while being within the threshold exemption limit for paying tax, the effective date of registration shall be the order of registration.

Q. Whether the registration granted to any person is permanent?

Ans. Yes, the registration certificate once granted is permanent unless surrendered, cancelled, suspended or revoked.

Form	Particulars
GST REG 01	Application for registration
GST REG 02	Acknowledgement
GST REG 03	Notice for seeking additional information/ clarification/ documents relating to application for registration/ amendment/ cancellation
GST REG 04	Clarification/ additional information/ document for registration/ amendment/ cancellation
GST REG 05	Order of rejection of application for registration/ amendment/ cancellation
GST REG 06	Registration Certificate
GST REG 07	Application for Registration as Tax Deductor at source u/s 51 or Tax Collector at source u/s 52
GST REG 08	Order of cancellation of registration as Tax deductor at source or Tax collector at source
GSTREG-09	Application for Registration of Non-Resident Taxable Person
GSTREG-10	Application for registration of person supplying online information and data base access or retrieval services from place outside India to a person in India, other than a registered person
GSTREG-11	Application for extension of registration period by casual taxable person or non-resident taxable person
GSTREG-12	Order of Grant of Temporary registration/Suo Moto Registration
GSTREG-13	GSTREG-13 Application/ Form for grant of Unique Identity Number (UIN) to UN Bodies/ Embassies/ others
GSTREG-14	Application for Amendment in Registration Particulars (For all types of registered persons)

Form Name	Particulars
GSTREG-15	Order of Amendment
GSTREG-16	Application for Cancellation of Registration
GSTREG-17	Show Cause Notice for Cancellation of Registration
GSTREG-18	Reply to the Show Cause Notice issued for cancellation for registration
GSTREG-19	Order for Cancellation of Registration
GSTREG-20	Order for dropping the proceedings for cancellation of registration
GSTREG-21	Application for Revocation of Cancellation of Registration
GSTREG-22	Order for revocation of cancellation of registration
GSTREG-23	Show Cause Notice for rejection of application for revocation of cancellation of registration
GSTREG-24	Reply to the notice for rejection of application for revocation of cancellation of registration
GSTREG-25	Certificate of Provisional Registration
GSTREG-26	Application for Enrolment of Existing Taxpayer
GSTREG-27	Show Cause Notice for cancellation of provisional registration
GSTREG-28	Order for cancellation of provisional registration
GSTREG-29	Application for cancellation of registration of migrated taxpayers
GSTREG-30	Form for Field Visit Report



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