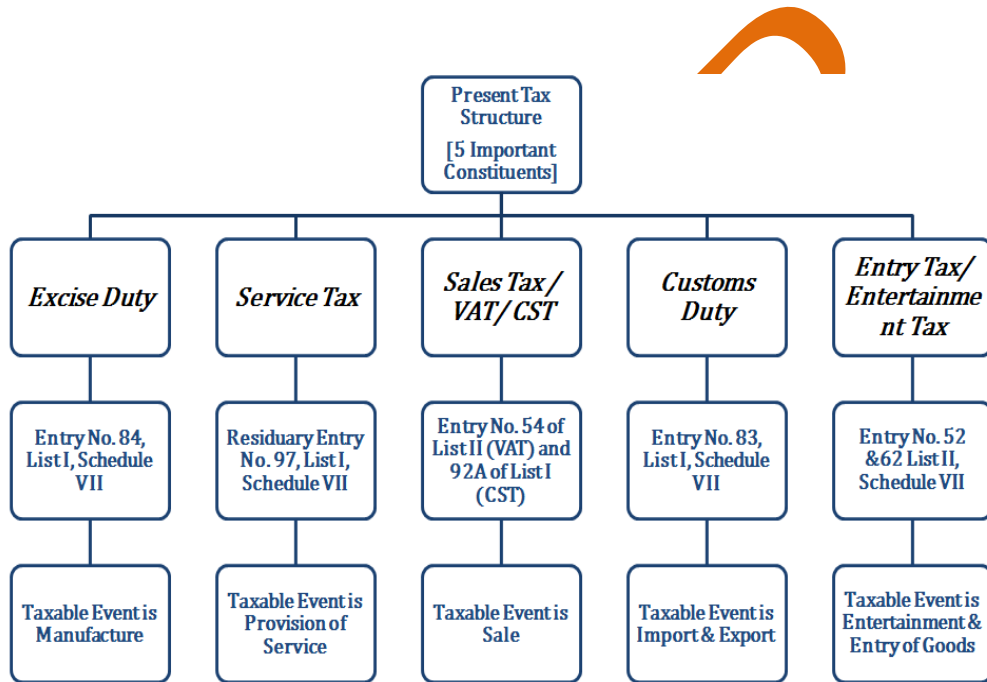


## Chapter 2 – Introduction to Goods and Service Tax (GST)

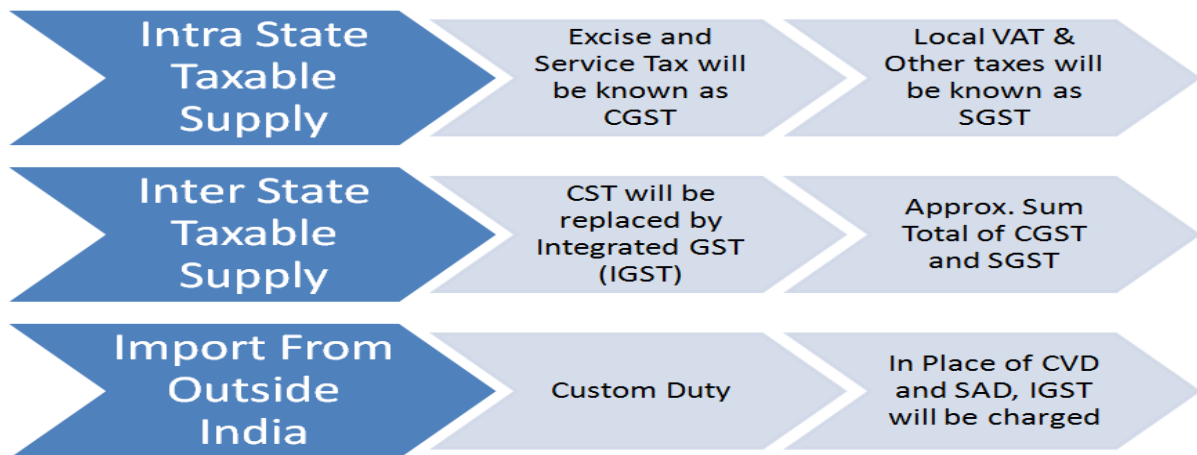
### 2.1 Need for GST

On account of the inherent limitations of existing indirect tax laws; Goods and Service Tax was needed in India.

### 2.2 Indirect Tax Structure Prior to GST



### 2.3 Indirect Tax Structure under GST



**2.4 Advantages of Goods and Service Tax**

- a) Reduction in multiplicity of taxes.
- b) Mitigation of cascading / double taxation.
- c) More efficient neutralization of taxes especially for exports.
- d) Development of common national market.
- e) Simpler tax regime.
- f) Simpler Tax system.
- g) Broadening of Tax base.
- h) Improved compliance & revenue collections (tax booster).
- i) Efficient use of resources.

**2.5 Features of Goods and Service Tax**

- a) Destination based Taxation.
- b) Apply to all stages of the value chain.
- c) Apply to all taxable supplies of goods or services (as against manufacture, sale or provision of service) made for a consideration; subject to exceptions.
- d) Dual GST having two concurrent components –
  - i) Central GST levied and collected by the Centre
  - ii) State GST levied and collected by the States
- e) CGST and SGST on intra-State supplies of goods or services in India.
- f) IGST (Integrated GST) on inter-State supplies of goods or services in India levied and collected by the Centre.

## Chapter 3 – Constitutional Amendments

**3.1** Goods and Service tax is enacted with the help of **101<sup>st</sup> amendment** to the Constitution of India.

### **3.2 Insertion of new article 246A**

- After article 246 of the Constitution, the following article shall be inserted, namely:—

Special provision with respect to goods and services tax

"246A.(1)Notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.

(2) Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

Explanation.—The provisions of this article, shall, in respect of goods and services tax referred to in clause (5), of article 279A, take effect from the date recommended by the Goods and Services Tax Council.”.

- Amendment of article 248

In article 248 of the Constitution, in clause (1), for the word "Parliament", the words, figures and letter "Subject to article 246A, Parliament" shall be substituted.

- Amendment of article 249

In article 249 of the Constitution, in clause (1), after the words "with respect to", the words, figures and letter "goods and services tax provided under article 246A or" shall be inserted.

- Amendment of article 250

In article 250 of the Constitution, in clause (1), after the words "with respect to", the words, figures and letter "goods and services tax provided under article 246A or" shall be inserted.

- Amendment of article 268

In article 268 of the Constitution, in clause (1), the words "and such duties of excise on medicinal and toilet preparations" shall be omitted.

- Omission of article 268A

Article 268A of the Constitution, as inserted by section 2 of the Constitution (Eighty- eighth Amendment) Act, 2003 shall be omitted.

- Amendment of article 269

In article 269 of the Constitution, in clause (1), after the words "consignment of goods", the words, figures and letter "except as provided in article 269A" shall be inserted.

- Insertion of new article 269A

After article 269 of the Constitution, the following article shall be inserted, namely:—

Levy and collection of goods and services tax in course of inter-State trade or commerce.

“269A. (1) Goods and services tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

Explanation.—For the purposes of this clause, supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.

(2) The amount apportioned to a State under clause (1) shall not form part of the Consolidated Fund of India.

(3) Where an amount collected as tax levied under clause (1) has been used for payment of the tax levied by a State under article 246A, such amount shall not form part of the Consolidated Fund of India.

(4) Where an amount collected as tax levied by a State under article 246A has been used for payment of the tax levied under clause (1), such amount shall not form part of the Consolidated Fund of the State.

(5) Parliament may, by law, formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.”.

- Amendment of article 270

In article 270 of the Constitution,—

(i) in clause (1), for the words, figures and letter "articles 268, 268A and article 269", the words, figures and letter "articles 268, 269 and article 269A" shall be substituted;

(ii) after clause (1), the following clause shall be inserted, namely:—

“(1A) The tax collected by the Union under clause (1) of article 246A shall

also be distributed between the Union and the States in the manner provided in clause (2).

(1B) The tax levied and collected by the Union under clause (2) of article 246A and article 269A, which has been used for payment of the tax levied by the Union under clause (1) of article 246A, and the amount apportioned to the Union under clause (1) of article 269A, shall also be distributed between the Union and the States in the manner provided in clause (2).”.

- Amendment of article 271

In article 271 of the Constitution, after the words “in those articles”, the words, figures and letter “except the goods and services tax under article 246A,” shall be inserted.



- Insertion of new article 279A

After article 279 of the Constitution, the following article shall be inserted, namely:—

Goods and Services Tax Council

“279A. (1) The President shall, within sixty days from the date of commencement of the Constitution (One Hundred and First Amendment) Act, 2016, by order, constitute a Council to be called the Goods and Services Tax Council.

**(2) The Goods and Services Tax Council shall consist of the following members, namely:—**

**(a) the Union Finance Minister..... Chairperson;**

**(b) the Union Minister of State in charge of**

**Revenue or Finance..... Member;**

**(c) the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government..... Members.**

(3) The Members of the Goods and Services Tax Council referred to in sub-clause

(c) of clause (2) shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide.

(4) The Goods and Services Tax Council shall make recommendations to the Union and the States on—

(a) the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax;

(b) the goods and services that may be subjected to, or exempted from the goods and services tax;

(c) model Goods and Services Tax Laws, principles of levy, apportionment of Goods and Services Tax levied on supplies in the course of inter-State trade or commerce under article 269A and the principles that govern the place of supply;

(d) the threshold limit of turnover below which goods and services may be exempted from goods and services tax;

(e) the rates including floor rates with bands of goods and services tax;

(f) any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;

(g) special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and

(h) any other matter relating to the goods and services tax, as the Council may decide.

(5) The Goods and Services Tax Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.

(6) While discharging the functions conferred by this article, the Goods and Services Tax Council shall be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.

(7) One half of the total number of Members of the Goods and Services Tax Council shall constitute the quorum at its meetings.

(8) The Goods and Services Tax Council shall determine the procedure in the performance of its functions.

(9) Every decision of the Goods and Services Tax Council shall be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the members present and voting, in accordance with the following principles, namely:—

(a) the vote of the Central Government shall have a weightage of one-third of the total votes cast, and

(b) the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast, in that meeting.

(10) No act or proceedings of the Goods and Services Tax Council shall be invalid merely by reason of—

(a) any vacancy in, or any defect in, the constitution of the Council; or

(b) any defect in the appointment of a person as a member of the Council; or

(c) any procedural irregularity of the Council not affecting the merits of the case.

(11) The Goods and Services Tax Council shall establish a mechanism to adjudicate any dispute —

(a) between the Government of India and one or more States; or

(b) between the Government of India and any State or States on one side and one or more other States on the other side; or

(c) between two or more States,

- Amendment of article 286

In article 286 of the Constitution,—

(i) in clause (1),—

(A) for the words "the sale or purchase of goods where such sale or purchase takes place", the words "the supply of goods or of services or both, where such supply takes place" shall be substituted;

(B) in sub-clause (b), for the word “goods”, at both the places where it occurs the words “goods or services or both” shall be substituted;

(ii) in clause (2), for the words "sale or purchase of goods takes place", the words "supply of goods or of services or both" shall be substituted;

(iii) clause (3) shall be omitted.

- Amendment of article 366

In article 366 of the Constitution,—

(i) after clause (12), the following clause shall be inserted, namely:—

‘(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;’;

(ii) after clause (26), the following clauses shall be inserted, namely:— ‘(26A) “Services” means anything other than goods;

(26B) “State” with reference to articles 246A, 268, 269, 269A and article 279A includes a Union territory with Legislature;’.

- Amendment of article 368

In article 368 of the Constitution, in clause (2), in the proviso, in clause (a), for the words and figures “article 162 or article 241”, the words, figures and letter “article 162, article 241 or article 279A” shall be substituted.

- Amendment of Sixth Schedule

In the Sixth Schedule to the Constitution, in paragraph 8, in sub-paragraph (3),—

(i) in clause (c), the word "and" occurring at the end shall be omitted;

(ii) in clause (d), the word "and" shall be inserted at the end;

(iii) after clause (d), the following clause shall be inserted, namely:— "(e) taxes on entertainment and amusements."

- Amendment of Seventh Schedule.

In the Seventh Schedule to the Constitution,—

(a) in List I — Union List,—

(i) for entry 84, the following entry shall be substituted, namely:—

"84. Duties of excise on the following goods manufactured or produced in India, namely:—

(a) petroleum crude;

(b) high speed diesel;

- (c) motor spirit (commonly known as petrol);
- (d) natural gas;
- (e) aviation turbine fuel; and
- (f) tobacco and tobacco products.";
- (ii) entries 92 and 92C shall be omitted;
- (b) in List II — State List,—
- (i) entry 52 shall be omitted;
- (ii) for entry 54, the following entry shall be substituted, namely:—

"54. Taxes on the sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption, but not including sale in the course of inter-State trade or commerce or sale in the course of international trade or commerce of such goods.";

- (iii) entry 55 shall be omitted;
- (iv) for entry 62, the following entry shall be substituted, namely:—

"62. Taxes on entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District Council."

- Compensation to States for loss of revenue on account of introduction of goods and services tax Parliament may, by law, on the recommendation of the Goods and Services Tax Council, provide for compensation to the States for loss of revenue arising on account of implementation of the goods and services tax for such period which may extend to five years.
- Transitional provisions

Notwithstanding anything in this Act, any provision of any law relating to tax on goods or services or on both in force in any State immediately before the commencement of this Act, which is inconsistent with the provisions of the Constitution as amended by this Act shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until expiration of one year from such commencement, whichever is earlier.

- Power of President to remove difficulties

(1) If any difficulty arises in giving effect to the provisions of the Constitution as amended by this Act (including any difficulty in relation to the transition from the provisions of the Constitution as they stood immediately before the date of assent of the President to this Act to the provisions of the Constitution as amended by this Act), the President may, by order, make such provisions, including any adaptation or modification of any provision of the Constitution as amended by this Act or law, as appear to the President to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of three years from the date of such assent.

(2) Every order made under sub-section (1) shall, as soon as may be after it is made, be laid before each House of Parliament.

**HERAMB**

## Chapter 4 – Important Definition

**4.1 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. [Sec. 2(52) of CGST Act].

**4.2 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** [Section 2(5) of CGST Act].

**4.3 Business:** includes –



- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
- (b) any activity or transaction in connection with or incidental or ancillary to (a) above;
- (c) any activity or transaction in the nature of (a) above, whether or not there is volume, frequency, continuity or regularity of such transaction;
- (d) supply or acquisition of goods including capital assets and services in connection with commencement or closure of business;
- (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members, as the case may be;
- (f) admission, for a consideration, of persons to any premises; and
- (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- (h) services provided by a race club by way of totalisator or a licence to book maker
- (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities

**4.4 Principal:** means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both [Section 2(88) of CGST Act].

**4.5 Consideration:** in relation to the supply of goods or services or both includes:

- 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**,
- 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**.

**However, 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.** [Section 2(31) of CGST Act].

**4.6 Actionable claim:** shall have the same meaning as assigned to it in section 3 of the Transfer of Property Act, 1882.

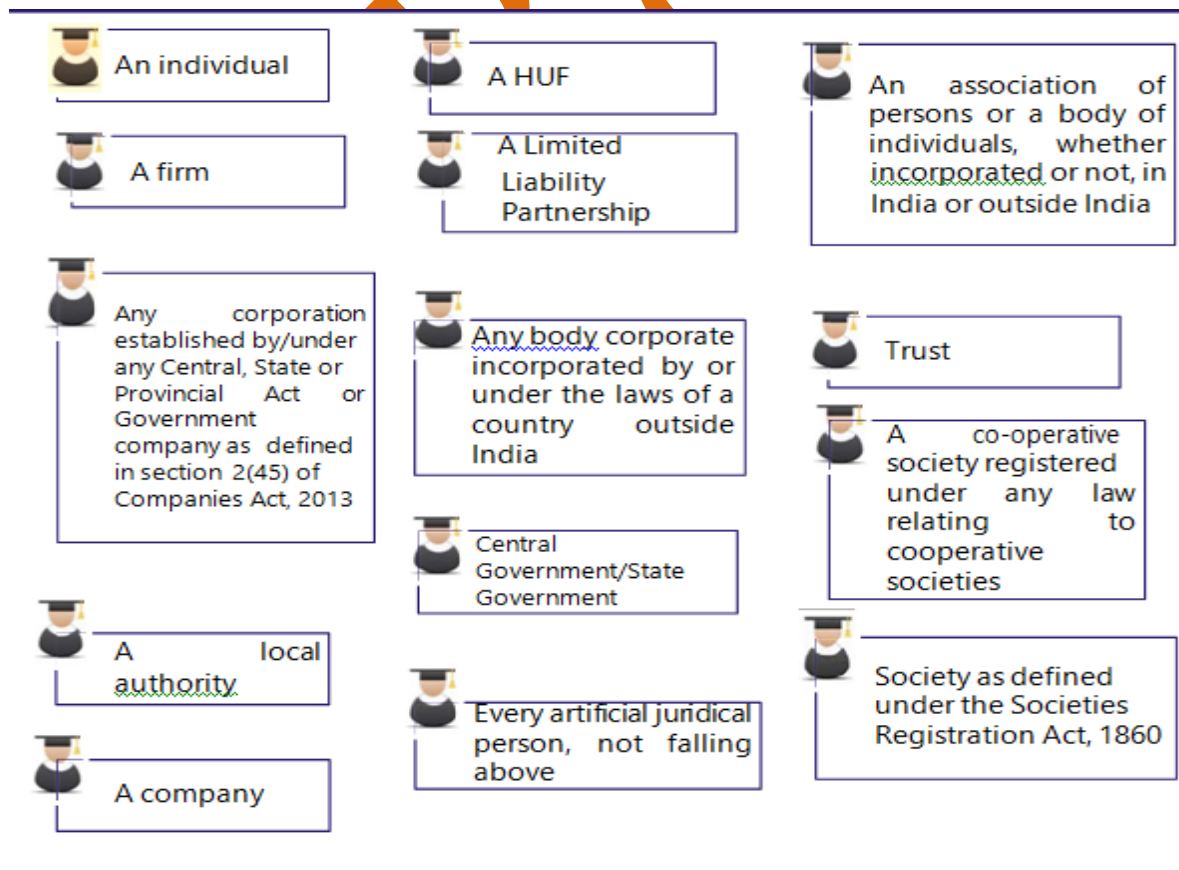
As per section 3 of the Transfer of Property Act, 1882, actionable claim means a claim to any debt, other than a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property, or to any beneficial interest in movable property not in the possession, either actual or constructive, of the claimant, which the civil courts recognise as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent [Section 2(1) of CGST Act].

**4.7 Manufacture:** means processing of raw material or inputs in any manner that results in **emergence of a new product** having a distinct name, character and use and the term “manufacturer” shall be construed accordingly [Section 2(72) of CGST Act].

**4.8 Taxable supply:** means a supply of goods or services or both which is **leviable to tax** under this Act [Section 2(108) of CGST Act].

**4.9 Taxable territory:** means the territory to which the **provisions of this Act apply** [Section 2(109) of CGST Act].

**4.10 Person:** includes [Section 2(84) of CGST Act]-



**4.11 Recipient: of supply of goods and/or services means-**

- (a) Where a consideration is payable for the supply of goods or services or both, the person who is **liable to pay that consideration**,
- (b) **Where no consideration is payable** for the supply of goods, **the person to whom the goods are delivered or made available**, or to whom possession or use of the goods is given or made available, and
- (c) Where **no consideration is payable** for the supply of a service, the person to **whom the service is rendered**,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply

and shall **include an agent** acting as such on behalf of the recipient in relation to the goods or services or both supplied. [Section 2(93) of CGST Act]

**4.12 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. [Section 2(102) of CGST Act].

**4.13 Supplier:** in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied [Section 2(105) of CGST Act].



## Chapter 5 – Concept of Supply

**5.1 Taxable Event:** Taxable event under GST is SUPPLY of goods or services or both.



**5.2 Relevant provisions of the Act to be studied**

<b>Section 7</b>	Meaning and scope of supply
<b>Section 8</b>	Taxability of composite and mixed supplies
<b>Schedule I</b>	Matters to be treated as supply even if made without consideration
<b>Schedule II</b>	Matters to be treated as supply of goods or as supply of services
<b>Schedule III</b>	Matters or transactions which shall be treated neither as <u>supply</u> of goods nor as supply of services.

**5.3 Statutory Provisions:**



## STATUTORY PROVISIONS

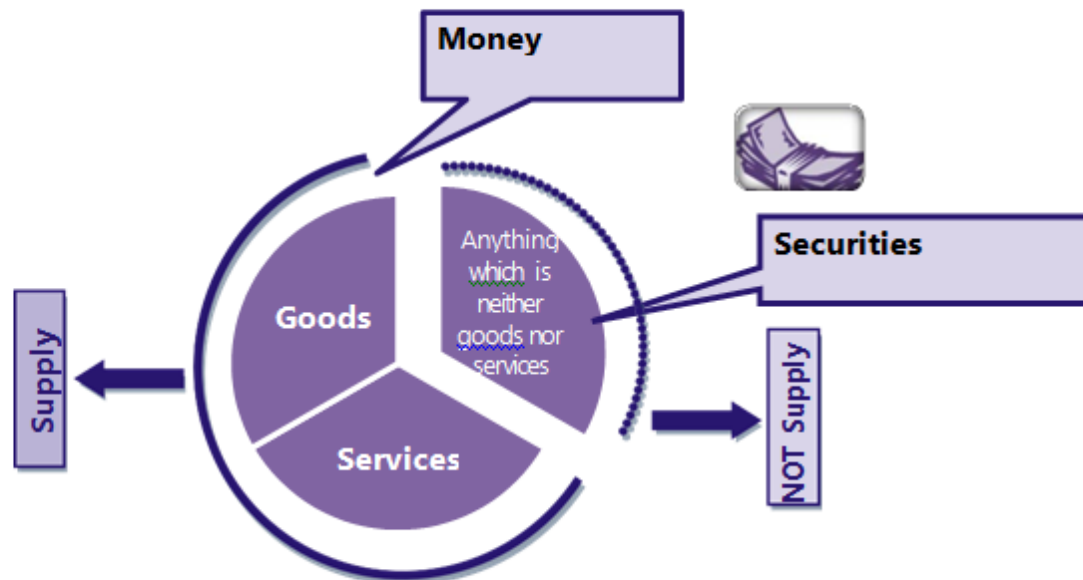
Section 7		Meaning and Scope of Supply
Sub Section	Clause	Particulars
(1)	<b>Supply includes -</b>	
	(a)	all forms of supply of goods or services or both such as sale, transfer, barter, exchange, <u>licence</u> , rental, lease or disposal made or agreed to be made for a <b>consideration</b> by a person in the <b>course or furtherance of business</b>
	(b)	<b>importation of services</b> , for a consideration whether or not in the course or furtherance of business,
	(c)	the <b>activities</b> specified in <b>Schedule I</b> , made or agreed to be made <b>without a consideration</b> ,
	(d)	the activities to be treated as supply of goods or supply of services as referred to in <b>Schedule II</b> .
(2)	Notwithstanding anything contained in sub-section (1),	

	(a)	activities or transactions specified in <b>Schedule III</b> ; 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 by the Government on the recommendations of the Council
<u>shall</u> be treated neither as a supply of goods nor a supply of services.		
(3)	Subject to sub-sections (1) & (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.

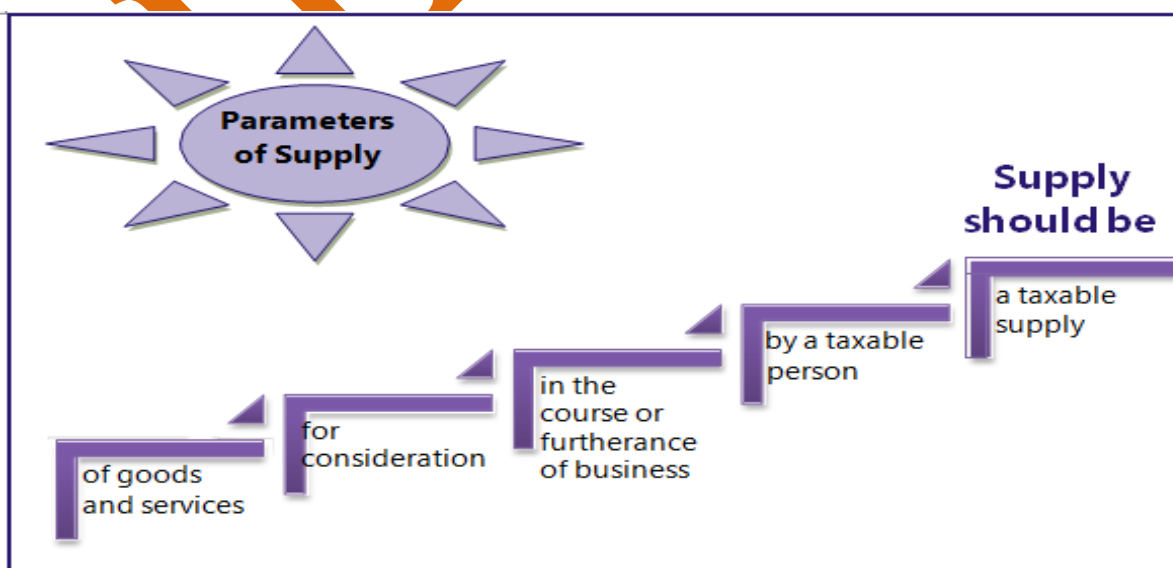
### 5.4 Analysis:

- The meaning and scope of supply taxable under GST can be understood in terms of following parameters, which can be adopted to characterize a transaction as supply:

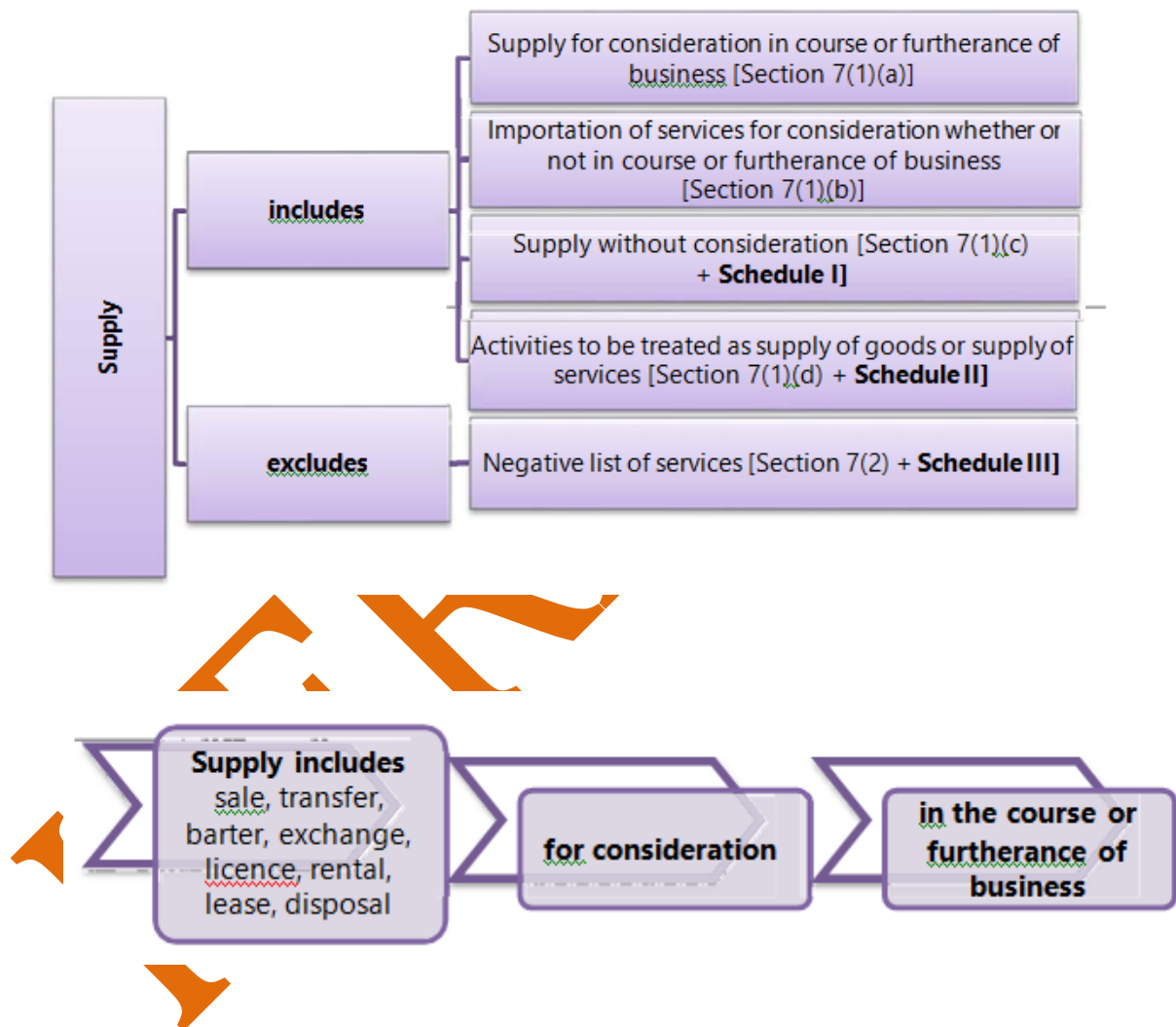
1. Supply should be of goods or services. Supply of anything other than goods or services like money, securities etc. does not attract GST.



- Supply should be made for a consideration.
- Supply should be made in the course or furtherance of business.
- Supply should be made by a taxable person.
- Supply should be a taxable supply.

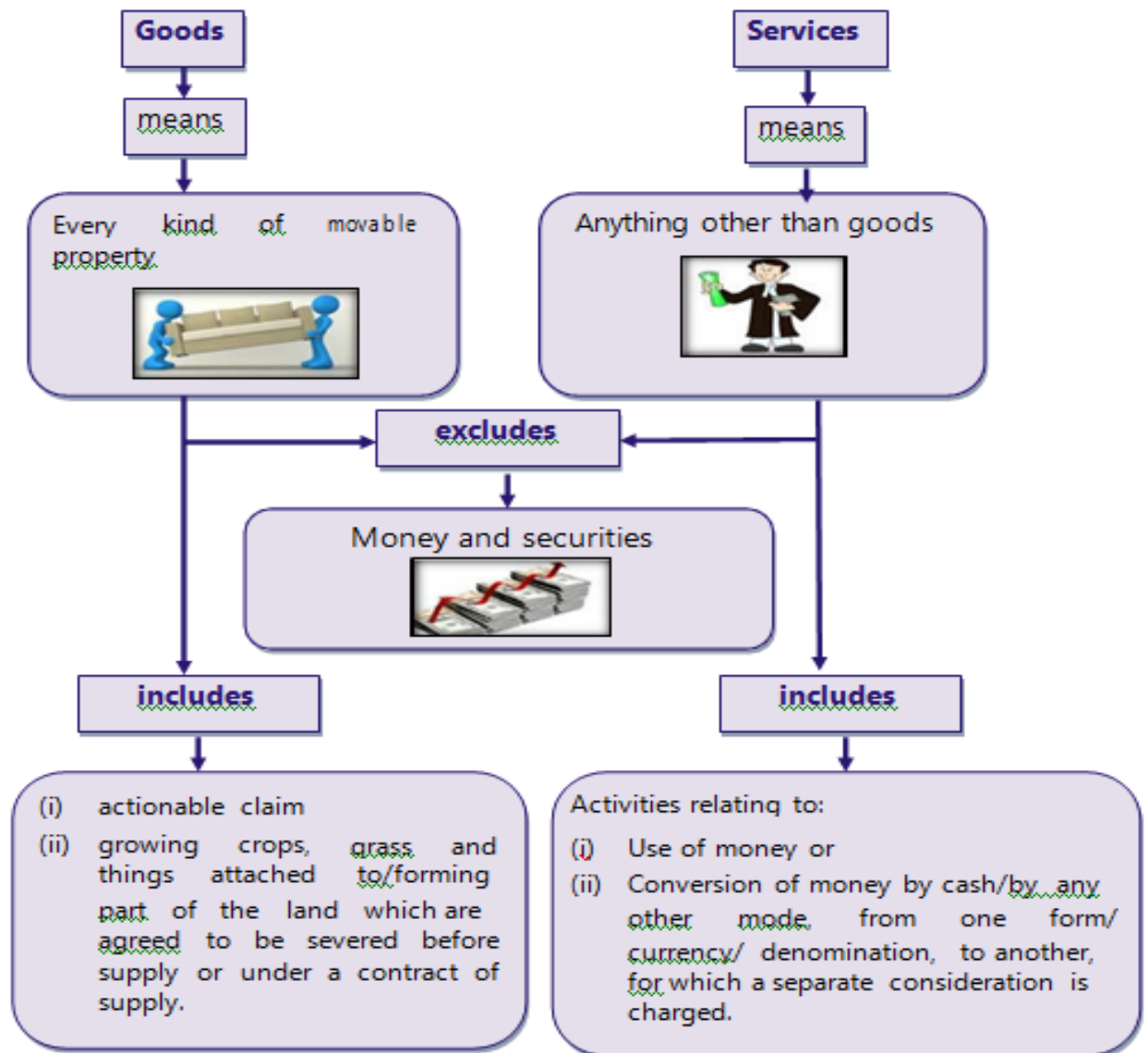


- Some exceptions have been carved out where a transaction is **deemed to be a supply even without consideration**. Similarly, **import of services for a consideration, whether or not in the course or furtherance of business is treated as supply**.
- List of activities shall be treated as **neither supply of goods nor supply of services**. In other words, they are outside the scope of GST.
- Government is also empowered to notify transactions that are to be treated as a supply of goods and not as a supply of services, or as a supply of services and not as a supply of goods.



### 5.5 Modes of Supply:

- Supply includes all forms of supply of goods or services or both. Supply of anything other than goods or services does not attract GST. Let us analyse the terms goods and services as defined under the Act:

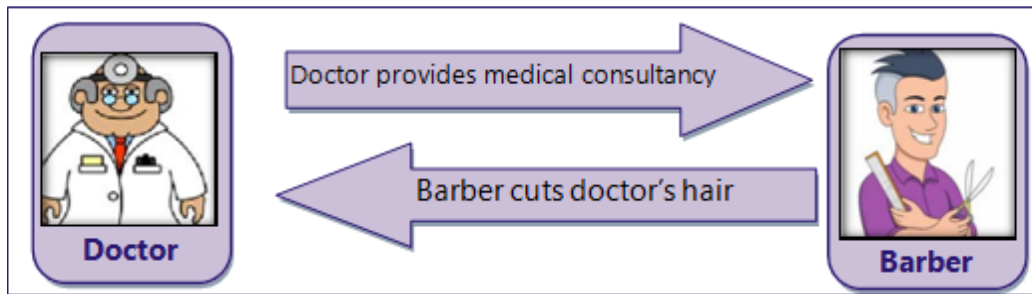


- Sale and Transfer:** Earlier, VAT was levied by the State on the sale of goods which was defined under most State VAT laws as transfer of property in goods for consideration. Under the CGST Act, although sale has been treated as a form of supply leviable to GST, the definition of 'sale' has not been provided. Further, the term 'transfer' which has also been included as a form of supply is also not defined.
- Barter and Exchange:** While barter may deal with a transaction which only includes an exchange of goods/services, exchange may cover a situation where the goods are partly paid for in goods and partly in money. When there is a barter of goods or services, same activity constitutes supply as well as consideration.
 

By making a specific inclusion in the definition of supply, all barter and exchanges would be leviable to GST.

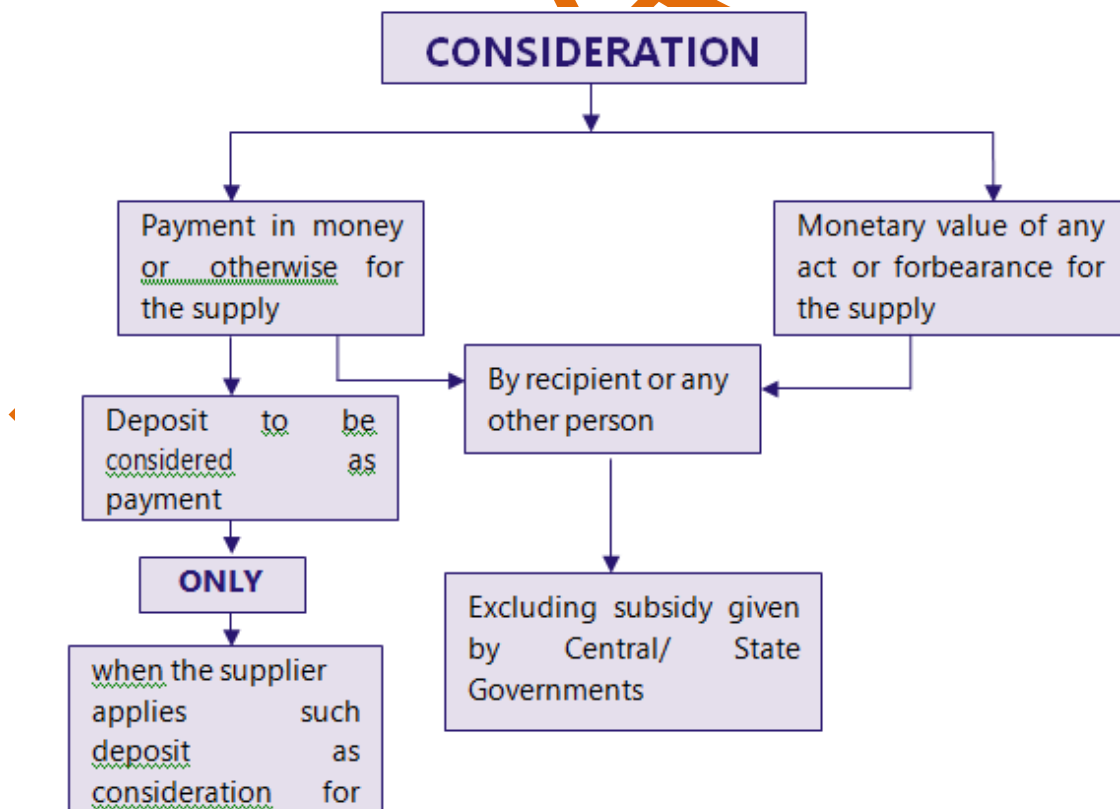
Ex 1: When a new car worth Rs. 5,00,000 is purchased in exchange of an old car along with the monetary consideration of Rs. 4,00,000 paid for the said purchase.

Ex 2:

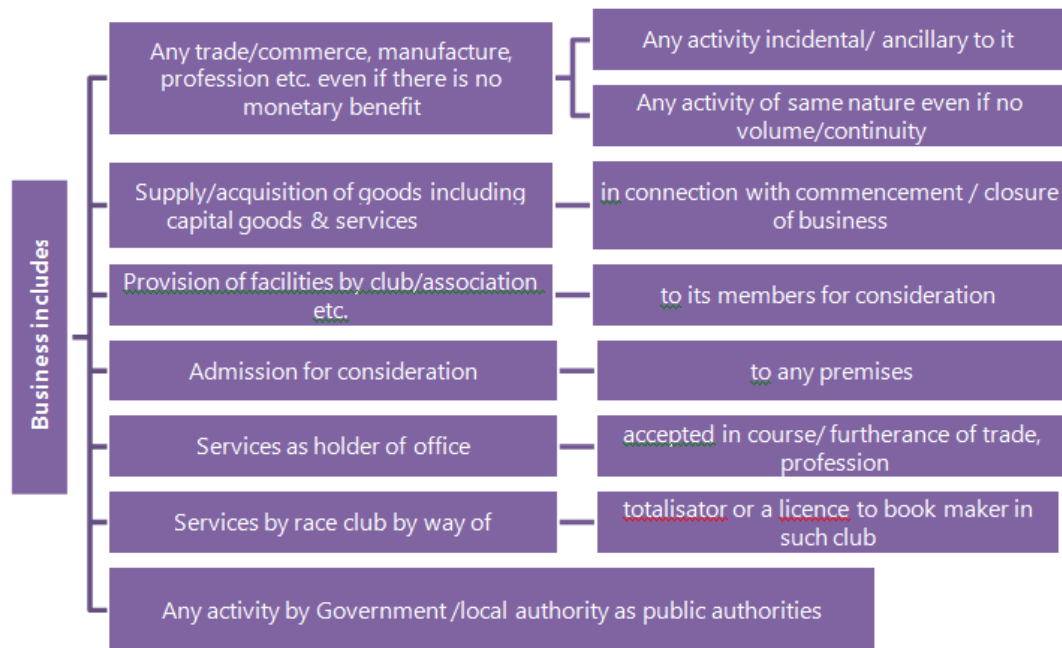


- Licence, Lease, Rental etc.:** Licenses, leases and rentals of goods were earlier treated as services where the goods were transferred without transfer of right to use (effective possession and control over the goods) and were treated as sales where the goods were transferred with transfer of right to use. Under the GST regime, such licenses, leases and rentals of goods with or without transfer of right to use are covered under the supply of service because there is no transfer of title in such supplies. Such transactions are specifically treated as supply of service in Schedule-II of CGST Act.

5.6 Consideration:



## 5.7 In course or furtherance of business:



Ex 1: Sundaram Acharya, a famous actor, paints some paintings and sells them. The consideration from such sale is to be donated to a Charitable Trust – 'Kind Human'. The sale of paintings by the actor qualifies as supply even though it is a one-time occurrence.

Ex 2: Services provided by the club/association to its members for consideration is a supply. A Resident Welfare Association provides the service of depositing the electricity bills of the residents in lieu of some nominal charges. Provision of service by a club or association or society to its members is treated as supply as this is included in the definition of 'business'.



There is one exception to this 'course or furtherance of business' rule i.e., import of services for a consideration.



### 5.8 Supply by a Taxable Person:

- **A supply to attract GST should be made by a taxable person. Hence, a supply between two non-taxable persons does not constitute taxable supply under GST.**



It is important to note that supply can be made to a non-taxable person also.

- **Meaning of taxable person:** A “taxable person” is a person who is **registered or liable to be registered** under section 22 or section 24. Hence, even an unregistered person who is liable to be registered is a taxable person. Similarly, a person not liable to be registered, but has taken **voluntary registration** and got himself registered is also a taxable person.

### 5.9 Taxable Supply:

- Taxable supply has been broadly defined and means any supply of goods or services or both which, is leviable to tax under the GST Law.
- Importation of services for a consideration whether or not in the course or furtherance of business. This is the only exception to the condition of supply being in course or furtherance of business.

Ex 1: Ramaiyaa, a proprietor, has received the architect services for his house from an architect located in New York at an agreed consideration of \$ 5,000. The import of services by Ramaiyaa is supply under section 7(1)(b) though it is not in course or furtherance of business.

### 5.10 Supply without consideration deemed as supply:

- This includes all supplies made by a taxable person to a taxable/ non-taxable person, even if the same is without consideration. These are specifically mentioned in **Schedule I** appended to the CGST Act.
- As per Schedule I, in the following four cases, supplies made without consideration will be treated as supply under section 7 of the CGST Act:

**I) Permanent Transfer/Disposal of Business Assets:** Any kind of disposal or transfer of business assets made by an entity on permanent basis even though without consideration qualifies as supply. This clause is wide enough to cover transfer of business assets from holding to subsidiary company for nil consideration. However, it is important to note that this provision would apply **only if input tax credit has been availed on such assets.**



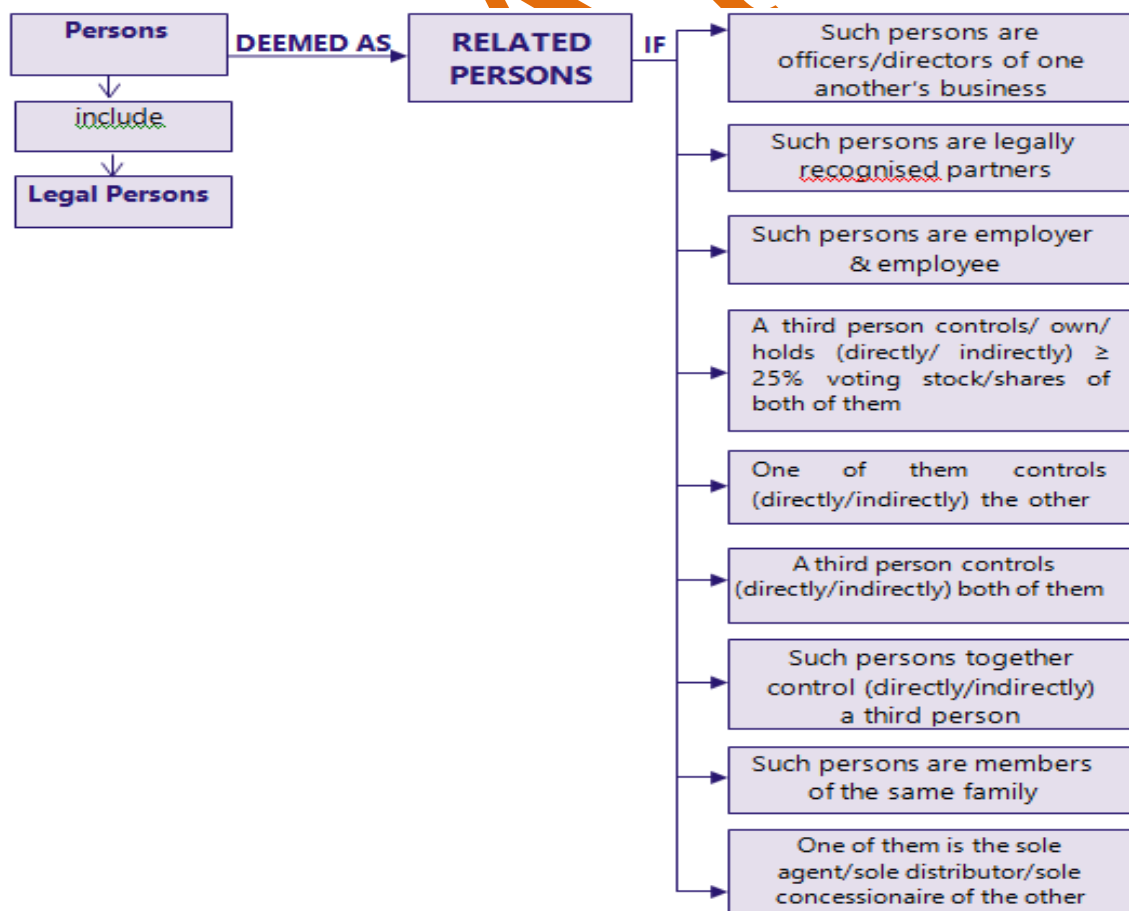
Ex 1: XYZ & Co. donates old laptops to Charitable Schools when new laptops are purchased by business will qualify as supply provided input tax credit has been availed by XYZ & Co. on such laptops.

Ex 2: A cloth retailer gives clothes from his business stock to his friend free of cost. In this case, transfer of business stock would amount to 'supply' if he had claimed input tax credit on his purchase of the business asset.

Ex 3: A dealer of air-conditioners permanently transfers an air conditioner from his stock in trade, for personal use at his residence. The transaction will constitute a supply as it is a permanent transfer/ disposal of business assets. The only condition is that input tax credit should have been availed on such assets.

**II) Supply between related person or distinct persons:** Supply of goods or services or both between related persons or between distinct persons as specified in section 25, will qualify as supply **provided it is made in the course or furtherance of business.**

○ **Related Person**



○ **Distinct Persons specified under section 25**

A person who has obtained/is required to obtain **more than one registration, whether in one State/Union territory or more than one State/Union territory shall, in respect of each such registration, be treated as distinct persons.** Further, 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.

Ex 1: Mohan, a Chartered Accountant, has a registered head office in Delhi. He has also obtained registration in the State of West Bengal in respect of his newly opened branch office. Mohan shall be treated as distinct persons in respect of registrations in West Bengal and Delhi.

○ **Stock transfers or branch transfers:** In view of the aforesaid discussion, transactions between different locations (with separate GST registrations) of same legal entity (eg., stock transfers or branch transfers) will qualify as 'supply' under GST which is in contrast to the earlier regime.

Ex 1: Raghubir Fabrics transfers 1000 shirts from his factory located in Lucknow to his retail showroom in Delhi so that the same can be sold from there. The factory and retail showroom of Raghubir Fabrics are registered in the States where they are located. Although no consideration is charged, supply of goods from factory to retail showroom constitutes supply.

○ **Supply of goods or services or both between an employer and employee:** By virtue of the definition of related person given above, employer and employee are related persons. **However, services provided by an employee to the employer in the course of or in relation to his employment are not treated as supply of services** [Schedule III of CGST Act]

**Gifts by employer to employee:**

Further, Schedule I provides that gifts not exceeding Rs. 50,000 in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both. However, gifts of value more than Rs. 50,000 made without consideration are subject to GST, when made in the course or furtherance of business.

**III) Principal – Agent:** Supply of goods by a principal to his agent, without consideration, where the agent undertakes to supply such goods on behalf of the principal is considered as supply.

Similarly, supply of goods by an agent to his principal, without consideration, where the agent undertakes to receive such goods on behalf of the principal is considered as supply.

**Only supply of goods is covered here.**

Ex 1: ABC Manufacturers Ltd. engages Raghav & Sons as an agent to sell goods on its behalf. For the purpose, ABC Manufacturers Ltd. has supplied the goods to Raghav & Sons located in Haryana. Supply of goods by ABC Manufacturers Ltd. to Raghav & Sons will qualify as supply even though Raghav & Sons has not paid any consideration yet.

**IV) Importation of services:** Import of services **by a taxable person from a related person** or from his establishments **located outside India**, without consideration, in the course or furtherance of business shall be treated as “supply”.



**Only supply of Services is covered here.**

Ex 1: ABC Associates received legal consultancy services from its head office located in Malaysia. The head office has rendered such services free of cost to its branch office. Since ABC Associates and the branch office are related persons, services received by ABC Associates will qualify as supply even though the head office has not charged anything from it.


Ex 2: Sumedha, a proprietor registered in Delhi, has sought architect services from his brother located in US, with respect to his newly constructed house in Delhi. Although services have been received by Sumedha without consideration from a related person, yet it will not qualify as supply since the same has not been received in course or furtherance of business.



#### 5.11 Certain transactions to be treated as Supply of Goods or Services:

S.No.	Transaction	Type	Nature of Supply
1.	Transfer	Title in goods	Supply of Goods
		Right in goods/ undivided share in goods without transfer of title in goods	Supply of Services
		Title in goods under an agreement which stipulates that property shall pass at a future date.	Supply of Goods

2.	Land and Building	Lease, tenancy, easement, <u>licence to occupy land</u>	Supply of Services
		Lease or letting out of building including a commercial, industrial or residential complex for business or commerce, wholly or partly Lease rentals collected shall be taxable as supply of services under GST.	Supply of Services
3.	Treatment or Process	Applied to another person's goods  'Job Work' performed by a job worker like dyeing of fabric in various <u>colours</u> .	Supply of Services
4.	Transfer of Business Assets	Goods forming part of business assets are transferred or disposed <u>off</u> by/under directions of person carrying on the business so as no longer to form part of those assets, whether or not for consideration	Supply of Goods
		Goods held/used for business are put to private use or are made available to any person for use for any purpose other than business, by/under directions of person carrying on the business, whether or not for consideration  A director using car provided by the company for <u>personal travels</u> .	Supply of Services
		Goods forming part of assets of any business carried on by a person who ceases to be a taxable person,	Supply of Goods
		<u>shall</u> be deemed to be supplied by him, in the course or furtherance of his business, immediately before he ceases to be a taxable person. A, a trader, is <u>winding up</u> his business. Any goods left in stock shall be <u>deemed</u> to be supplied by him and GST shall be payable. <b>Exceptions:</b> Business is transferred as a going concern to another person. Business is carried on by a personal representative who is deemed to be a taxable person.	

5.	<p>(a) Renting of immovable property</p> <hr/> <p><b>(b) Construction of complex, building, civil structure, etc.</b>  Construction of a complex, building, civil structure or a part thereof, <u>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.</u></p> <hr/> <p>The term <b>construction</b> includes additions, alterations, replacements, or remodeling of any existing civil structure.</p>	Supply of Services
	<p>The expression <b>competent authority</b> means the Government or any authority <u>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:—</u></p> <p>(i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972; or</p> <p>(ii) a chartered engineer registered with the Institution of Engineers (India); or</p> <p>(iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority.</p> <hr/> <p><b>(c) Temporary transfer or permitting use or enjoyment of any intellectual property right</b></p> <hr/> <p><b>(d) Development, design, programming, <u>customisation, adaptation, upgradation, enhancement, implementation of IT software</u></b>  Supply of GST related software to businesses for smooth processing of returns and accounts is supply of <u>service.</u></p>	

	(e) Agreeing to obligation to <u>refrain</u> from an act, or to tolerate an act or situation, or to do an act.	
	(f) Transfer of right to use any goods for any purpose	
6.	Following <b>composite supplies</b> :-  Works contract services. <b>Works contract:</b> means a contract for building, construction, fabrication, completion, erection,	Supply of Services

	<i>installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of <b>any immovable property</b> wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract [Section 2(119) of CGST Act].</i>  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.	
7.	Supply of goods by an unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.  A local club supplies snacks etc. to its members during its monthly meeting for a nominal payment.	Supply of Goods

### 5.12 Negative List under GST (Schedule III):

1)

S.No.	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.
2.	Services by any court or Tribunal established under any law for the time being in force. Explanation – The term " <b>Court</b> " includes District Court, High Court

	and Supreme Court.
3.	(a) Functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities; (b) Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or (c) 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 funeral, burial, crematorium or mortuary including transportation of the deceased.
5.	Sale of land and, subject to paragraph 5(b) of Schedule II, sale of building.
6.	Actionable claims, other than lottery, betting and gambling.


### IMAGE - FC

I	Immovable Property (Merely Transfer)
M	Money
A	Actionable Claims
G	Goods Trading
E	Employees
F	Fees (Court & Tribunal)
C	Constitutional Duties (Including MPs/MLAs etc)

**2) Activities/transactions notified by the Government:** Such activities/ 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 by the Government on the recommendations of the Council shall be treated neither as a supply of goods nor a supply of services. *Notification No. 14/2017 CT (R) dated 28.06.2017* has notified the services by way of any activity in relation to a function entrusted to a Panchayat under article 243G of the Constitution for the said purpose.



## 5.13 Composite and Mixed Supplies (Section 8):

 <b>STATUTORY PROVISIONS</b>	
<b>Section 8</b>	<b><i>Tax liability on composite and mixed supplies</i></b>
<b>Cluses</b>	<b><i>Particulars</i></b>
	<i>The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:-</i>
<b>(a)</b>	<b><i>a composite supply</i></b> comprising two or more supplies, one of which is a principal supply, shall be treated as a <b><i>supply of such principal supply</i></b> ; and
<b>(b)</b>	<b><i>a mixed supply</i></b> comprising of two or more supplies shall be treated as supply of that particular <b><i>supply that attracts highest rate of tax.</i></b>

- Composite supply means a supply made by a taxable person to a recipient and:
  - comprises two or more taxable supplies of goods or services or both, or any combination thereof.
  - are **naturally bundled and supplied in conjunction with each other, in the ordinary course of business**
  - one of which is a principal supply [Section 2(30) of the CGST Act].

This means that in a composite supply, goods or services or both are bundled owing to **natural necessities**. The elements in a composite supply are dependent on the 'principal supply'.

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

- **How to determine the tax liability on composite supplies?:** A composite supply comprising of two or more supplies, **one of which is a principal supply, shall be treated as a supply of such principal supply.**

Ex 1: Suvarna Manufacturers entered into a contract with XYZ Ltd. for supply of readymade shirts packed in designer boxes at XYZ Ltd.'s outlet. Further, Suvarna Manufacturers would also get



them insured during transit. In this case, supply of goods, packing materials, transport & insurance is a composite supply wherein supply of goods is principal supply.

Ex 2: When a consumer buys a television set and he also gets warranty and a maintenance contract with the TV, this supply is a composite supply. In this example, supply of TV is the principal supply, warranty and maintenance services are ancillary.

Ex 3: A travel ticket from Mumbai to Delhi may include service of food being served on board, free insurance, and the use of airport lounge. In this case, the transport of passenger, constitutes the pre-dominant element of the composite supply, and is treated as the principal supply and all other supplies are ancillary.

- How to determine whether the services are bundled in the ordinary course of business?
- 1) The perception of the consumer or the service receiver.
  - 2) Majority of service providers in a particular area of business provide similar bundle of services.
  - 3) Nature of the various services in a bundle of services.
  - 4) There is a single price or the customer pays the same amount, no matter how much package they actually receive or use.
  - 5) The elements are normally advertised as a package.
  - 6) The different elements are not available separately.
  - 7) The different elements are integral to one overall supply. If one or more is removed, the nature of the supply would be affected.

#### 5.14 Mixed Supplies:

##### Mixed supply means:

- Two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person.
- For a single price where such supply does not constitute a composite supply [Section 2(74) of the CGST Act].

**The individual supplies are independent of each other and are not naturally bundled.**



Description	Composite Supply	Mixed Supply
Naturally bundled	Yes	No
Supplied together	Yes	Yes
Can be supplied separately	No	Yes
One is predominant supply for recipient	Yes	No
Other supply is not 'aim in itself' of recipient	Yes	No
Each supply priced separately	No	No
All supplies are goods	Yes	Yes
All supplies are services	Yes	Yes
One supply is goods and other supply is services	Yes	Yes

Section 3 - Meaning and scope of supply			
Section 7(1)(a)	Section 7(1)(b)	Section 7(1)(c)	Other matters – Section 8
All forms of supply of goods and/ or services,	Import of service, • for a consideration	Supplies specified* To be treated as supplies <b>made</b>	• Composite Supply • Mixed Supply
<ul style="list-style-type: none"> <li>• for a consideration</li> <li>• in the course or</li> <li>• furtherance of business</li> <li>• such as:</li> <li>• sale,</li> <li>• transfer,</li> <li>• barter,</li> <li>• exchange,</li> <li>• license,</li> <li>• rental,</li> <li>• lease or</li> <li>• disposal</li> </ul>	<ul style="list-style-type: none"> <li>• whether or not in the course or furtherance of business</li> </ul>	<ul style="list-style-type: none"> <li><b>without a consideration</b></li> <li>*Schedule I:</li> <li>1. <b>Permanent transfer/ disposal</b> of business assets for which ITC availed on such assets</li> <li>2. Supplies between <b>related persons/ distinct persons (as specified in section 25)</b> in the course or furtherance of business</li> <li>3. Supply of goods by <b>principal (or agent) to agent (or principal)</b></li> <li>4. <b>Import of service from a related person</b> in the course or furtherance of business.</li> </ul>	

**5.15 Reverse Charge Mechanism:**

- Central Government on the recommendation of the Council has notified the category of supply of services on which GST shall be paid by the recipient on reverse charge basis (Notification No. 13/2017- Central Tax (Rate) dated 28.06.2017)

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
(1)	(2)	(3)	(4)
1	Supply of Services by a goods transport agency (GTA) who has not paid central tax @ 6% in respect of transportation of goods by road to- (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; or	Goods Transport Agency (GTA)	(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; or (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and
	(d) any 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; or (e) anybody corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person.		Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or (e) anybody corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person; located in the taxable territory.

2	Services supplied by an individual advocate Including A senior advocate by way of representational services before any court, tribunal or authority, directly or indirectly, to any business entity located in the taxable territory, including where contract for provision of such service has been entered through another advocate or a firm of advocates, or by a firm of advocates, by way of legal services, to a business entity.	An individual Advocate including a Senior advocate or firm of advocates.	Any business entity located in the taxable territory.
3	Services supplied by An arbitral tribunal to a business entity.	An arbitral tribunal.	Any business entity located in the taxable territory.
4	Services provided by way of sponsorship to anybody corporate or partnership firm.	Any person	Any body corporate or partnership firm located in the taxable territory.
5	Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding, - (1) renting of immovable property, and (2) services specified below- (i) services by the Department of posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority; (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers.	Central Government State Government Union territory or local authority	Any business entity located in the taxable territory.
6	Services supplied by a director of a company or a body corporate to the said company or the body corporate.	A director of a company or a body corporate	The company or a body corporate located in the taxable territory.
7	Services supplied by an insurance agent to any person carrying on insurance business.	An Insurance agent	Any person carrying on insurance business, located in the taxable territory.

8	Services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company.	A recovery agent	A banking company or a financial institution or a non-banking financial company, located in the taxable territory.
9	Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to	Author or music composer, photographer, artist, or the like	Publisher, music company, producer or the like, located in the taxable territory.
	original literary, dramatic, musical or artistic works to a publisher, Music company, producer or the like.		

**Questions:**

Q 1) A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juices when supplied for a single price is a mixed supply or a composite supply.

Q 2) Is the reverse charge mechanism applicable only to services?

Q 3) What will be the implications in case of purchase of goods from unregistered dealers?

Q 4) In respect of exchange of goods, namely gold watch for restaurant services, will the transaction be taxable as two different supplies or will it taxable only in the hands of the main supplier?

Q 5) Whether money is included in service?

Q 6) What are examples of 'disposals' as used in 'supply'?

Q 7) Will a not-for-profit entity be liable to tax on any supplies effected by it – e.g.: supply of assets received as donation?

Q 8) As per Section 9, which of the following would attract levy of CGST?

- (a) Inter-state supplies
- (b) Intra-state supplies
- (c) Any of the above
- (d) None of the above

Q 9) Which of the following forms of supply are included in Schedule I?

- (a) Permanent transfer of business assets on which input tax credit has been claimed
- (b) Agency transactions
- (c) Barter

Q 10) Who can notify a transaction to be supply of 'goods' or 'services'?

- (a) Board
- (b) Central Government
- (c) GST Council
- (d) None of the above

Q 11) Which of the following is not a supply as per section 7 of the CGST Act?

- (a) Management consultancy services not in course or furtherance of business
- (b) Import of service for consideration not in course or furtherance of business
- (c) Both (a) and (b)
- (d) None of the above

Q 12) \_\_\_\_\_ specifies the activities to be treated as supply even if made without consideration.

- (a) Schedule I of CGST Act
- (b) Schedule II of CGST Act
- (c) Schedule III of CGST Act
- (d) All of the above

Q 13) Which of the following activity is outside the scope of supply and not taxable under GST?

- (a) Services by an employee to the employer in the course of or in relation to his employment
- (b) Services of funeral
- (c) Actionable claims, other than lottery, betting and gambling.
- (d) All of the above

Q 14) Which of the following supplies are naturally bundled?

- (a) Rent deed executed for renting of two different floors of a building-one for residential and another for commercial purpose to same person
- (b) Pack of watch, tie and belt
- (c) Package of canned food such as burger, chocolates, sweets, cake etc.
- (d) None of the above

Q 15) A \_\_\_\_\_ supply comprising of two or more supplies shall be treated as the supply of that particular supply that attracts highest rate of tax.

- (a) Composite
- (b) Mixed
- (c) Both (a) and (b)
- (d) None of the above

Q 16) What is the taxable event under GST?

Q 17) What is the tax treatment of composite supply and mixed supply under GST?

Q 19) Supply of all goods and/or services is taxable under GST. Discuss the validity of the statement.

Q 20) Whether transfer of title and/or possession is necessary for a transaction to constitute supply of goods?

Q 21) Examine whether the following activities would amount to supply under section 7 of the CGST Act:

- (a) Damodar Charitable Trust, a trust who gets the eye treatment of needy people done free of cost, donates clothes and toys to children living in slum area.
- (b) Sulekha Manufacturers have a factory in Delhi and a depot in Mumbai. Both these establishments are registered in respective States. Finished goods are sent from factory in Delhi to the Mumbai depot without consideration so that the same can be sold.
- (c) Raman is an Electronic Commerce Operator in Chennai. His brother who is settled in London is a well-known lawyer. Raman has taken legal advice from him free of cost with regard to his family dispute.
- (d) Would your answer be different if in the above case, Raman has taken advice in respect of his business unit in Chennai?

Q 22) State whether the following supplies would be treated as supply of goods or supply of services as per Schedule II of the CGST Act:

- (a) Renting of immovable property
- (b) Goods forming part of business assets are transferred or disposed of by/under directions of person carrying on the business, whether or not for consideration.
- (c) Transfer of right in goods without transfer of title in goods.
- (d) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date.

Q 23) Determine whether the following supplies amount to composite supplies:

- (a) A hotel provides 4 days-3 nights package wherein the facility of breakfast and dinner is provided alongwith the room accommodation.
- (b) A toothpaste company has offered the scheme of free toothbrush alongwith the toothpaste.

Q 24) Whether goods supplied on hire purchase basis will be treated as supply of goods or supply of services? Give reason.



## Chapter 6 – Time of Supply

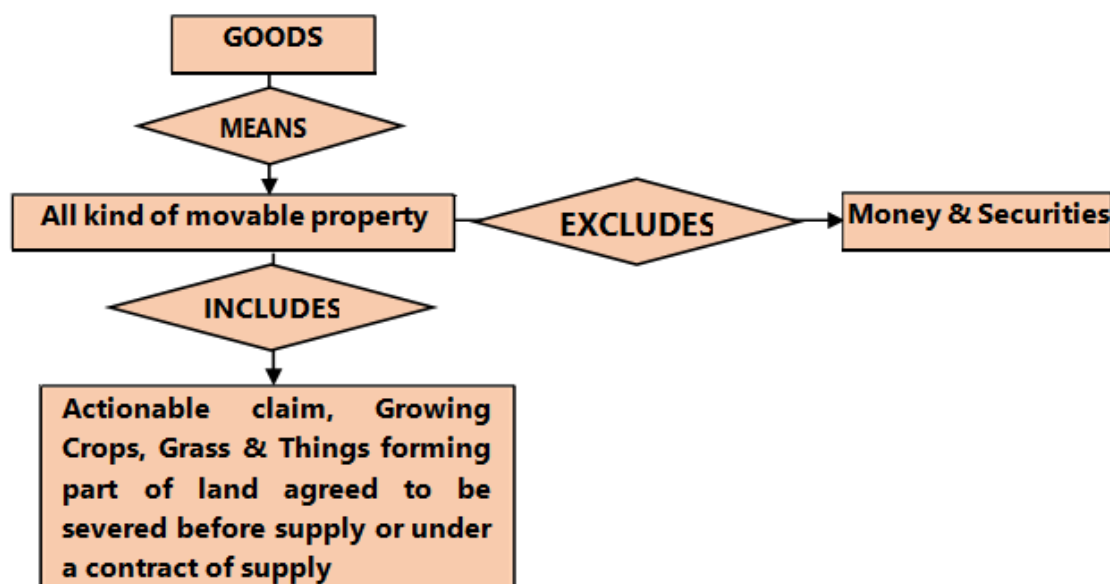
**6.1** Taxable event under GST is Supply; supply of goods or services or both. Point in time when liability to pay taxes arises is Time of Supply.

### 6.2 Relevant Definitions:

**a) Associated enterprises** shall have the same meaning as assigned to it in section 92A of the Income-tax Act, 1961 [Section 2(12)].

**b) Document** includes written or printed record of any sort and electronic record as defined in clause (t) of section 2 of the Information Technology Act, 2000 [Section 2(41)].

**c) 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 [Section 2(52)].



**d) Prescribed** means prescribed by rules made under this Act on the recommendations of the Council [Section 2(87)].

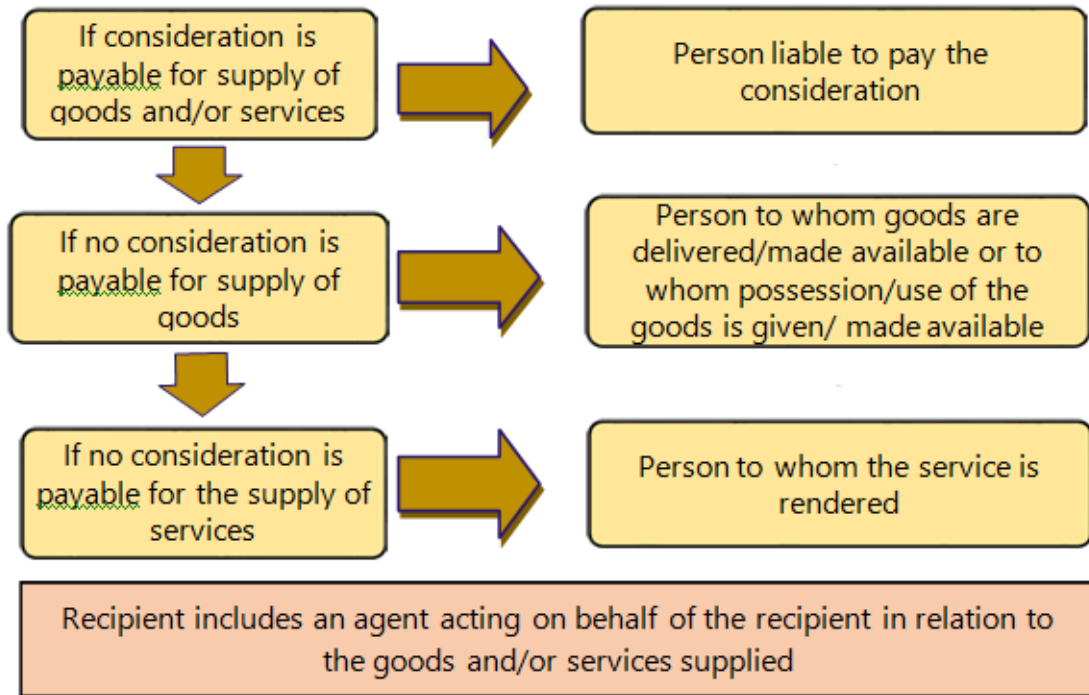
**e) Recipient of supply of goods or services or both, means—**

(a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;

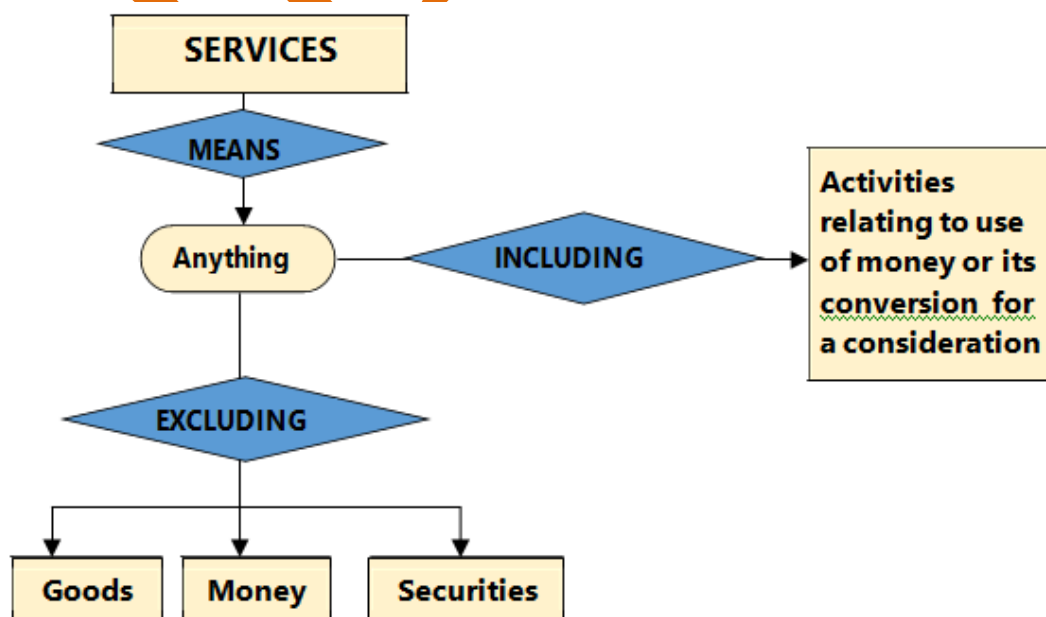
(b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and

(c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied [Section 2(93)].



f) **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 [Section 2(102)].



**g) Supplier** in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied [Section 2(105)].


**h) Reverse charge** means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9, or under sub-section (3) or sub-section (4) of section 5 of the Integrated Goods and Services Tax Act [Section 2(98)].

**i) Voucher** means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument [Section 2(118)].

### **6.3 Time of Supply Rules:**

- 1) Forward Charge
- 2) Reverse Charge
- 3) Vouchers
- 4) Residuary
- 5) Special Cases
- 6) Changes in the Tax Rates
- 7) New Levy
- 8) Others

### **6.3 Statutory Provisions Section 12 (Time of Supply of GOODS):**

 <b>STATUTORY PROVISIONS</b>		
<b>Section 12</b>	<b>Time of supply of goods</b>	
<b>Sub-section</b>	<b>Clause</b>	<b>Particulars</b>
(1)		The liability to pay tax on goods shall arise at the time of supply as determined in terms of the provisions of this section.
(2)		The time of supply of goods shall be the earlier of the following dates, namely:-
	(a)	the date of issue of invoice by the supplier or the last date on which he is required, under sub-section (1) of section 31, to issue the invoice with respect to the supply; or
	(b)	The date on which the supplier receives the payment with respect to the supply;
		Provided that where the supplier of taxable goods receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount.
		<i>Explanation 1.</i> For the purposes of clauses (a) and (b), the "supply" shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.
		<i>Explanation 2.</i> For the purpose of clause (b), "the date on which the supplier receives the payment" shall be the date on which the

		supplier receives such addition in value.
<b>Section 31</b>	<b>Tax invoice (to the extent relevant to time of supply)</b>	
(1)		A registered person supplying taxable goods shall, before or at the time of,—
	(a)	removal of goods for supply to the recipient, where the supply involves movement of goods; or
	(b)	delivery of goods or making available thereof to the recipient, in any other case,
		issue a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed:
		Provided that the Government may, on the recommendations of the Council, by notification, specify the categories of goods or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed.
(4)		In case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received.
(7)		Notwithstanding anything contained in sub-section (1), where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.

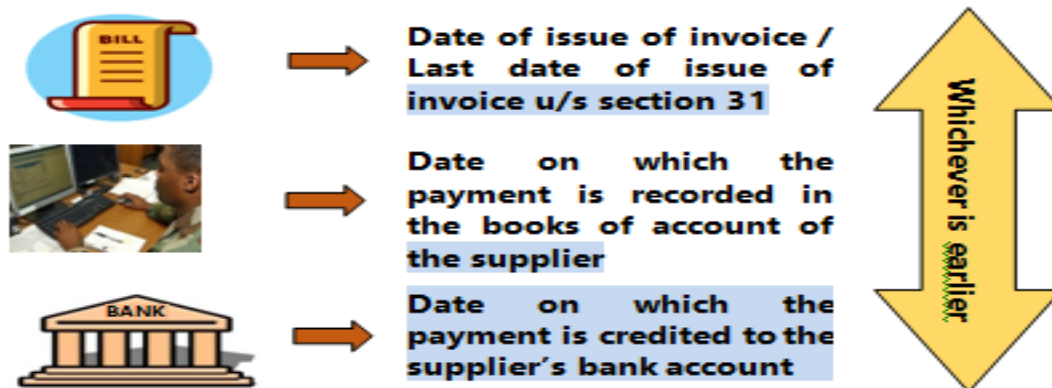
**N1]** Section 12 must be read with section 31, which prescribes in detail the date on which tax invoice must be issued in various situations.

**6.4 Supply of goods where supplier is liable to pay tax (Forward charge) [Section 12(2) read with sub-sections (1), (4) & (7) and section 31]**

- The above principle is derived from section 12(2)(a) and (b), under which the time of supply of goods by a person who is liable to pay GST on the supply, is the **earlier of the following two dates**:
  - a) Date of **issue of tax invoice or the last date on which invoice ought to have been issued** in terms of section 31, or
  - b) Date of **receipt of payment**, to the extent the payment covers the goods.
- Meaning of “Date of receipt of payment”: “Date of receipt of payment” in the above situation refers to the **date on which the payment is recorded in the books of account of the entity (supplier of goods) that receives the payment, or the date on which the payment is credited to the entity’s bank account, whichever is earlier.**
- Significance of “to the extent the payment covers the goods”: Suppose, a part of the consideration is paid in advance or invoice is issued for part payment, the time of supply will not cover the full supply. The supply shall be deemed to have been made to the extent it is covered by the invoice or the part advance payment.
- **Time limit for issuance of invoice for supply of goods**
  - As per section 31(1), the invoice needs to be issued either **before or at the time of removal (where supply involves movement of goods)** of goods/ delivery of goods/ making goods available to recipient.
  - In case of **continuous supply of goods**, the invoice should be issued before or at the time of **issuance of periodical statement/receipt of periodical payment** [Section 31(4)].
  - In case of **goods sent or taken on approval** for sale or return, invoice should be issued **before or at the time of supply or 6 months from the date of removal, whichever is earlier** [Section 31(7)].
- **Removal”, in relation to goods 2(96), means**
  - (a) Despatch of the goods for delivery by the supplier thereof or by any other person acting on behalf of such supplier, or
  - (b) collection of the goods by the recipient thereof or by any other person acting on behalf of such recipient

**Exception to above rule:**

- 1) when amount in excess of Rs. 1000 is received, the time of supply in respect of such excess at the option of the supplier shall be the date of such invoice
- 2) supply shall be deemed to have been made to the extent the value of supply indicated in the invoice or the value of payment received by the supplier
- 3) date of receipt of payment shall be the date on which the payment is accounted in the books of the supplier or the date reflected in the bank account of the supplier, whichever is earlier

**TIME OF SUPPLY OF GOODS UNDER FORWARD CHARGE**

**Q 1)** A machine has to be supplied at site. It is done by sourcing various components from vendors and assembling the machine at site. The details of the various events are as under, determine the time of supply:

17 <sup>th</sup> October	Purchase order with advance of Rs. 50,000 is received for goods worth Rs. 12 lakh and entry duly made in the seller's books of account
20 <sup>th</sup> November	The machine is assembled, tested at site, and accepted by buyer
23 <sup>rd</sup> November	Invoice raised
4 <sup>th</sup> December	Balance payment of Rs. 11,50,000 received

**Q 2)** Gas is supplied by a pipeline. Monthly payments are made by the recipient as per contract. Every quarter, invoice is issued by the supplier supported by a statement of the goods dispatched and payments made, and the recipient has to pay the differential amount, if any. The details of the various events are:

August 5, September 5, October 6	Payments of Rs. 2 lakh made in each month
October 3	Statement of accounts issued by supplier, with invoice for the quarter July –
October 17	Differential payment of Rs. 56,000 received by supplier for the quarter July – September as per statement of accounts

Determine the time of supply.

**Q 3)** Whether invoice is to be issued at the time of receipt of money?

**Q 4)** What do you mean by receipt of money?

**Q 5)** Whether the person making the advance payment is eligible for input tax credit on the advance payments made by him?

**Q 6)** Company Z receives an advance of Rs. 60,000 on 30th April, against which it despatches goods worth Rs. 59,200 under invoice dated 5th May

**N1]** If neither the date of invoice nor the date of payment is available, the residual provisions under sub-section (5) of section 12 become applicable.

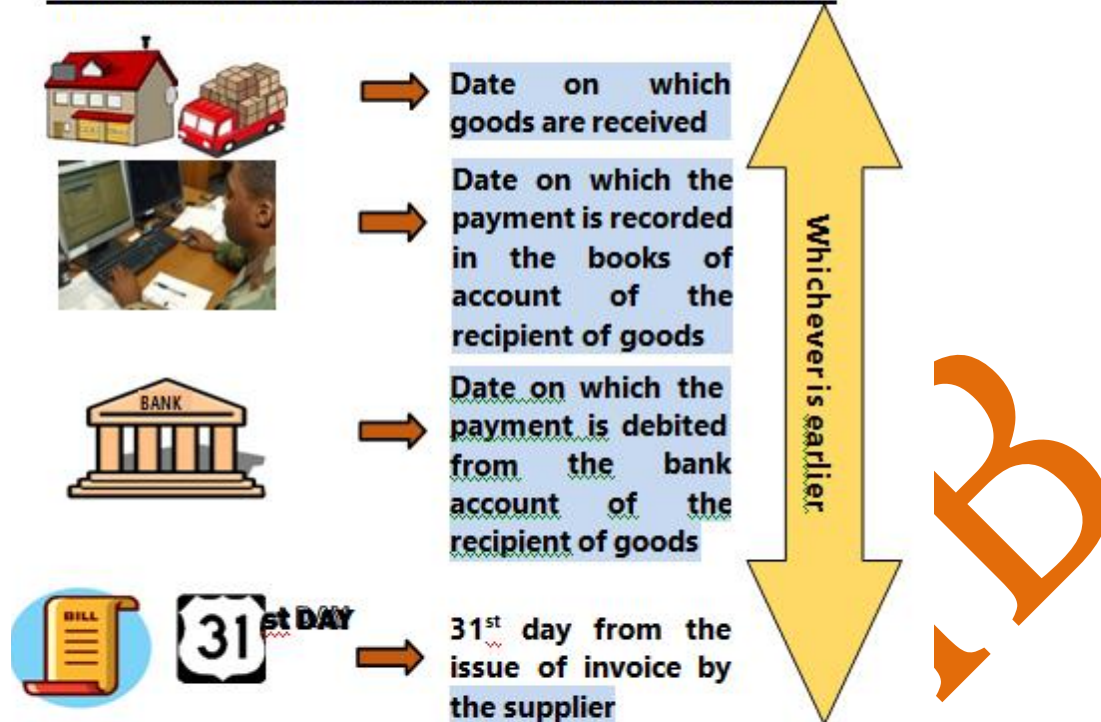
#### 6.5 Receipt of goods that are taxable under reverse charge [Section 12(3)]

- The time of supply for such goods will be the **earliest of the following dates**:
  - Date on which the **goods are received**, or
  - Date on which **payment is recorded** in the books of account of the entity that receives the goods, or the date on which it is debited from the entity's bank account, whichever is earlier, or
  - Date **immediately following 30 days from the date of issue of invoice** (or document by some other name in lieu of invoice) by the supplier.

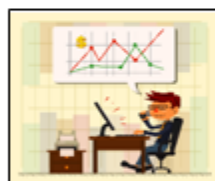
**If it is not possible to determine the time of supply by using these parameters, then the time of supply will be the date of entry of goods in the books of account of the recipient of supply.**



### TIME OF SUPPLY OF GOODS UNDER REVERSE CHARGE



If it is not possible to determine the time of supply through above parameters,  
THEN  
TIME OF SUPPLY WILL BE



→ Date on which goods are recorded in the books of account of the recipient of supply

**Q 7)** Determine the time of supply from the given information.

June 4	Supplier invoices goods taxable on reverse charge basis to Bridge & Co. (30 days from the date of issuance of invoice elapse on June 3)
June 12	Bridge & Co receives the goods
June 30	Bridge & Co makes the payment



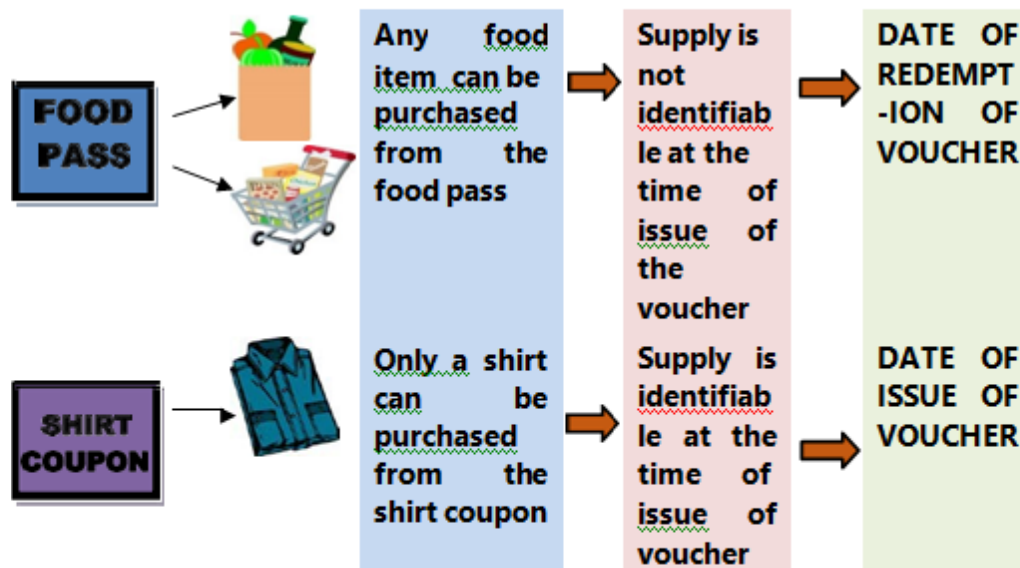
**Q 8)** Determine the time of supply from the given information.

May 4	Supplier invoices goods taxable on reverse charge basis to Pillar & Co. (30 days from the date of issuance of invoice elapse on June 3)
June 12	Pillar & Co receives the goods, which were held up in transit
July 3	Payment made for the goods

### 6.6 Vouchers [Section 12(4)]

- Vouchers are instruments that can be exchanged as payment for goods or services of the designated value.
- They are instruments that certain persons (potential suppliers) are obliged to accept as consideration, part or full, for goods and/or services; the instrument or its related documentation sets out the terms and conditions of use, the goods / services covered, and the identity of the potential suppliers of these
- Time of Supply in the case of vouchers is:
  - Date of issue of the voucher, if the supply that it covers is identifiable at that point, or
  - Date of redemption of the voucher in other cases.

### TIME OF SUPPLY OF VOUCHERS EXCHANGEABLE FOR GOODS



**Q 9)** A Ltd. sells food coupons to a company, which gives these to its employees as part of the agreed prerequisites. The coupons can be redeemed for purchase of any item of food /provisions in the outlets that are part of the program, determine the time of supply?

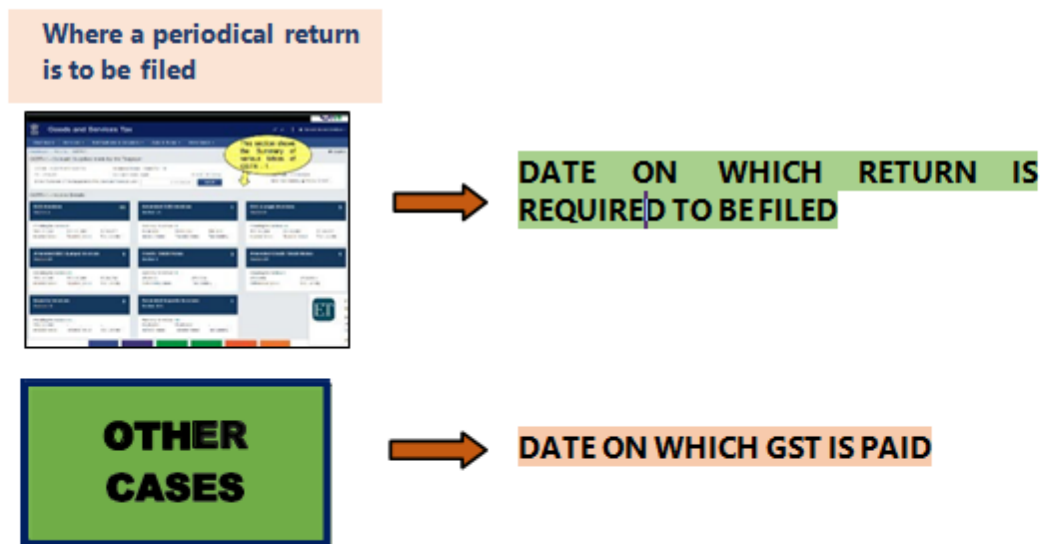
**Q 10)** With each purchase of a large pizza during the Christmas week from Perfect Pizza, one can buy a voucher for Rs. 20 which will be redeemable till 5 Jan for a small pizza, determine the time of supply.

### 6.7 Residual case [Section 12(5)]

If the situation is not covered by any of the provisions discussed above, the time of supply is fixed under sub-section (5) of section 12, in the following manner:

- Due date for filing of the periodical return, or
- In any other case, date on which GST is paid.

### TIME OF SUPPLY OF GOODS UNDER RESIDUAL CASE



**Q 11)** Investigation reveals clandestine removal of goods by a supplier who is not registered under GST. The evidence is in the form of noting, often undated, and some corroborative material. The supplier voluntarily pays tax during the investigation, to close the case, determine the time of supply.

### 6.8 Enhancement in value on account of interest/late fee etc. for delayed payment of consideration [Section 12(6)]:

Section 12(6) prescribes that time of supply in case of addition in value by way of interest/ late fee/penalty for delayed payment of consideration for goods is the **date on which the supplier receives such addition in value.**

**Q 12)** Determine time of supply from below information:

	Concept illustrations Section 12(2)	Invoice date	Invoice due date	Payment entry in supplier's books	Credit in bank account
1	Invoice raised before removal	10-Oct-17	20-Oct-17	26-Oct-17	30-Oct-17
2	Advance received	30-Oct-17	20-Oct-17	10-Oct-17	30-Oct-17

**Q 13)** Determine time of supply from below information:

	Supply involves movement of goods Section 12(2) r/w Section 31(1)(a)	Invoice/document date	Removal of goods	Delivery of goods	Receipt of payment
3	Delayed issue of invoice	26-Oct-17	20-Oct-17	26-Oct-17	26-Oct-17
4	Inter-State stock transfer	10-Oct-17	20-Oct-17	26-Oct-17	-
5	Advance received, invoice for full amount issued on same day (40% advance, 60% post supply payment)	30-Oct-17	10-Nov-17	14-Nov-17	30-Oct-17 20-Nov-17

**Q 14)** Determine time of supply from below information:

	Supply otherwise than by involving movement of goods Section 12(2) r/w Section 31(1)(b)	Invoice date	Receipt of invoice by recipient	Delivery of goods	Receipt of payment
6	Delayed issue of invoice	30-Oct-17	05-Nov-17	26-Oct-17	10-Nov-17
7	Invoice issued prior to delivery	20-Oct-17	10-Nov-17	26-Oct-17	10-Nov-17

**Q 15)** Determine time of supply from below information:

	Continuous supply of goods Section 12(2) r/w Section 31(4)	Invoice date	Removal of goods	SoA/ payments due date	Receipt of payment
8	Contract provides for Successive statements of account/ successive Payments	01-Nov-17	15-Oct-17	05-Nov-17	01-Nov-17
			25-Oct-17		
9		11-Dec-17	08-Nov-17	05-Dec-17	11-Dec-17
	30-Nov-17				
10		08-Jan-18	14-Dec-17	05-Jan-18	01-Jan-18
			23-Dec-17		

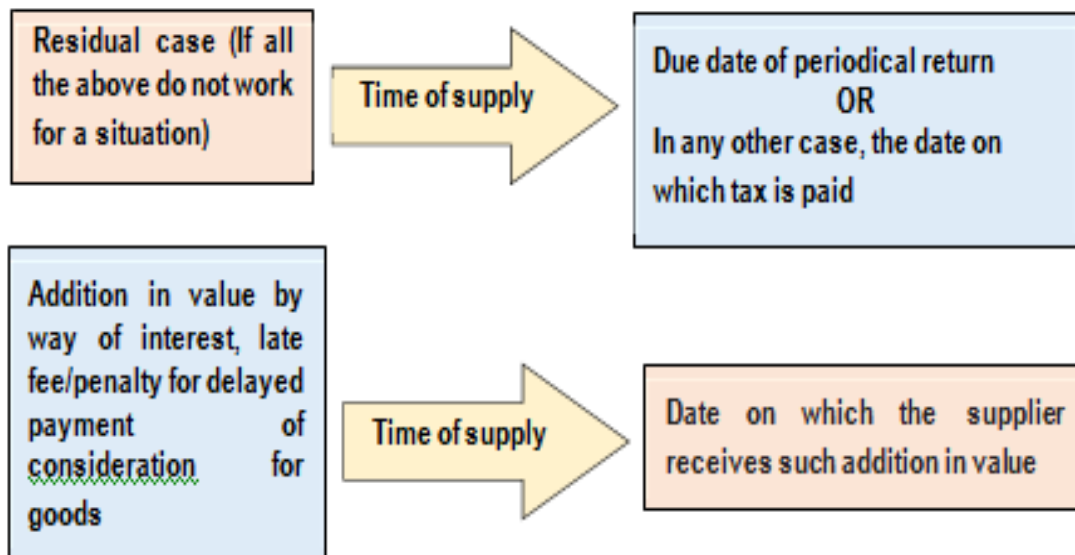
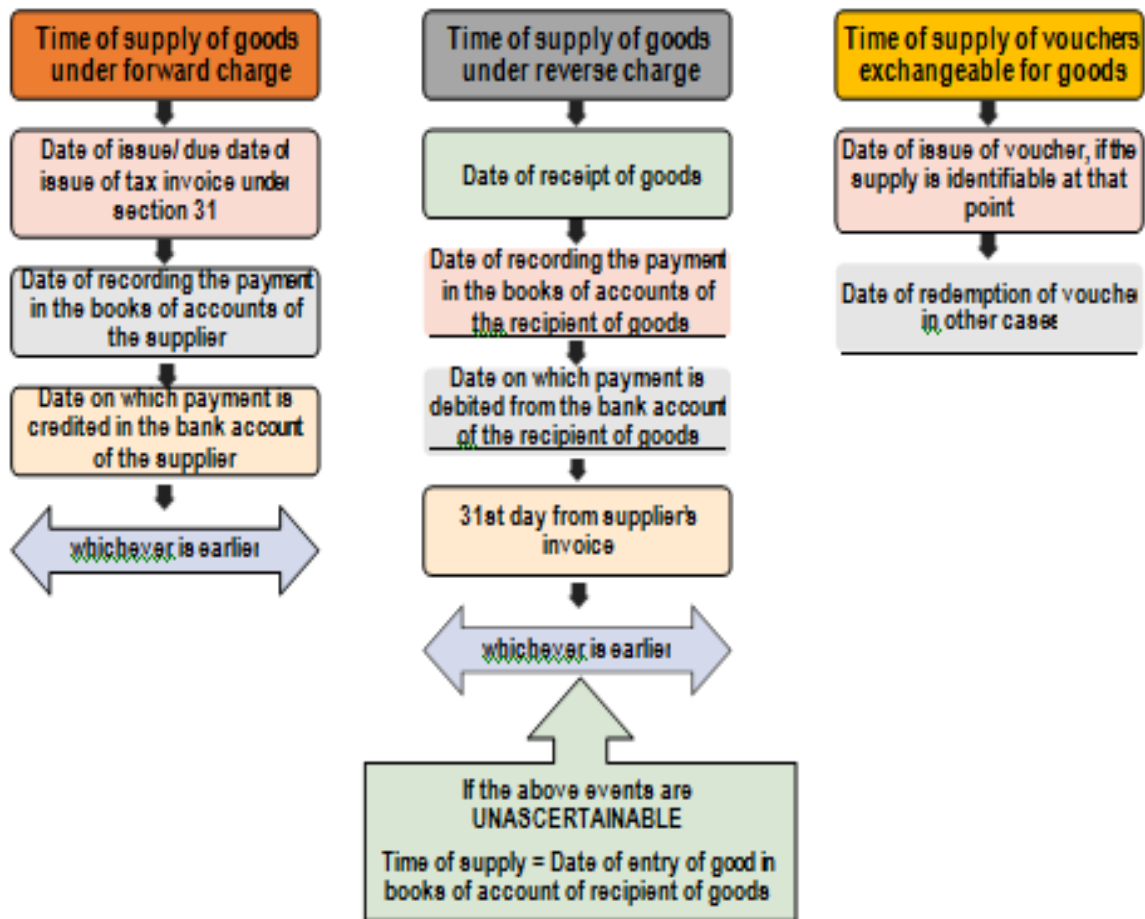
**Q 16)** Determine time of supply from below information:

	Reverse charge Section 12(3)	Date of invoice issued by supplier	Removal of goods	Receipt of goods	Payment by recipient
11	General	31-Oct-17	31-Oct-17	20-Nov-17	30-Nov-17
12	Advance paid	31-Oct-17	31-Oct-17	20-Nov-17	05-Nov-17
13	No payment made for the supply	31-Oct-17	30-Dec-17	05-Jan-18	-

**Q 17)** Determine time of supply from below information:

	Sale on approval basis Section 12(2) r/w Section 31(7)	Removal of goods	Issue of invoice	Accepted by recipient	Receipt of payment
14	Acceptance communicated within 6 months of removal	01-Nov-17	25-Nov-17	15-Nov-17	25-Nov-17
15	Amount paid to supplier before informing acceptance	01-Nov-17	25-Nov-17	15-Nov-17	12-Nov-17
16	Acceptance not communicated within 6 months of removal	01-Oct-17	15-May-18	15-May-18	02-May-18

## **6.9 TIME OF SUPPLY OF GOODS [SECTION 12]: SUMMARISED PROVISIONS**



6.10 Statutory Provisions Section 13 (Time of Supply of SERVICES):

## STATUTORY PROVISIONS

Section 13	<i>Time of supply of services</i>	
Sub-section	Clause	Particulars
(1)		<i>The liability to pay tax on services shall arise at the time of supply, as determined in terms of the provisions of this section.</i>
(2)		<i>The time of supply of services shall be the earliest of the following dates, namely:-</i>
	(a)	<i>the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or</i>
	(b)	<i>the date of provision of service, if the invoice is not issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or</i>
	(c)	<i>the date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause (a) or clause (b) do not apply:</i>
		<i>Provided that where the supplier of taxable service receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice relating to such excess amount.</i>
		<i>Explanation - For the purposes of clauses (a) and (b) -</i>
	(i)	<i>the supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.</i>
	(ii)	<i>"the date of receipt of payment" shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.</i>

<b>(3)</b>	<i>In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earlier of the following dates, namely-</i>	
	<i>(a)</i>	<i>the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or</i>
	<i>(b)</i>	<i>the date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier;</i>
	<i>Provided that where it is not possible to determine the time of supply under clause (a) or (b), the time of supply shall be the date of entry in the books of account of the recipient of supply:</i>	
<i>Provided further that in case of supply by 'associated enterprises', where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.</i>		
<b>(4)</b>	<i>In case of supply of vouchers by a supplier, the time of supply shall be-</i>	
	<i>(a)</i>	<i>the date of issue of voucher, if the supply is identifiable at that point; or</i>
	<i>(b)</i>	<i>the date of redemption of voucher, in all other cases;</i>
<b>(5)</b>	<i>Where it is not possible to determine the time of supply of services in the manner specified in sub-sections (2), (3) or (4), the time of supply shall</i>	
	<i>(a)</i>	<i>in a case where a periodical return has to be filed, be the date on which such return is to be filed; or</i>
	<i>(b)</i>	<i>in any other case, be the date on which the tax is paid.</i>

<b>(6)</b>	<i>The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.</i>
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<b>Section 31</b>	<b>Tax invoice (to the extent relevant to time of supply)</b>						
<b>(2)</b>	<p>A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed:</p> <p>Provided that the Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, specify the categories of services in respect of which—</p> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;">(a)</td> <td>any other document issued in relation to the supply shall be deemed to be a tax invoice; or</td> </tr> <tr> <td style="text-align: center;">(b)</td> <td>tax invoice may not be issued.</td> </tr> </table>	(a)	any other document issued in relation to the supply shall be deemed to be a tax invoice; or	(b)	tax invoice may not be issued.		
(a)	any other document issued in relation to the supply shall be deemed to be a tax invoice; or						
(b)	tax invoice may not be issued.						
<b>(5)</b>	<p>Subject to the provisions of clause (d) of sub-section (3), in case of continuous supply of services,—</p> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;">(a)</td> <td>where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment;</td> </tr> <tr> <td style="text-align: center;">(b)</td> <td>where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment;</td> </tr> <tr> <td style="text-align: center;">(c)</td> <td>where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event.</td> </tr> </table>	(a)	where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment;	(b)	where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment;	(c)	where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event.
(a)	where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment;						
(b)	where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment;						
(c)	where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event.						
<b>(6)</b>	In a case where the supply of services ceases under a contract before the completion of the supply, the invoice shall be issued at the time when the supply ceases and such invoice shall be issued to the extent of the supply made before such cessation.						

### Chapter VI: Tax Invoice, Credit and Debit Notes of CGST Rules

<b>Rule 47</b>	<b>Time limit for issuing tax invoice</b>
	<p>The invoice referred to in rule 46, in case of taxable supply of services, shall be issued within a period of thirty days from the date of supply of service:</p> <p>Provided that where the supplier of services is an insurer or a banking company or a financial institution, including a non-banking financial company, the period within which the invoice or any document in lieu thereof is to be issued shall be forty five days from the date of supply of service:</p> <p>Provided further that an insurer or a banking company or a financial institution, including a non-banking financial company, or a telecom operator, or any other class of supplier of services as may be notified by the Government on the recommendations of the Council, making taxable supplies of services between distinct persons as specified in section 25, may issue the invoice before or at the time such supplier records the same in his books of account or before the expiry of the quarter during which the supply was made.</p>



**6.11 Supply of service where supplier is liable to pay tax (Forward charge) [Section 13(2) read with sub-sections (2), (5) & (6) of section 31 and rule 47 of CGST Rules]**

- For supply of service on which the supplier is liable to pay tax, the time of supply will be the **earlier** of the dates arrived at by methods (A) and (B), as follows:

(A) Date of **invoice or date of receipt of payment** (to the extent the payment covers the services), **whichever is earlier**, if the invoice is issued in time as per section 31;

(B) **Date of provision of service or date of receipt of payment** (to the extent the payment covers the services), whichever is earlier, **if the invoice is not issued in time as per section 31,**

**If these two methods are not applicable, the time of supply will be the date on which the recipient of service shows receipt of the service in his books of account.**

- **Meaning of “date of receipt of payment”**

“Date of receipt of payment” in the above situation refers to the date on which the payment is recorded in the books of account of the entity (supplier of service) that receives the payment, or the date on which the payment is credited to the entity’s bank account, whichever is earlier.

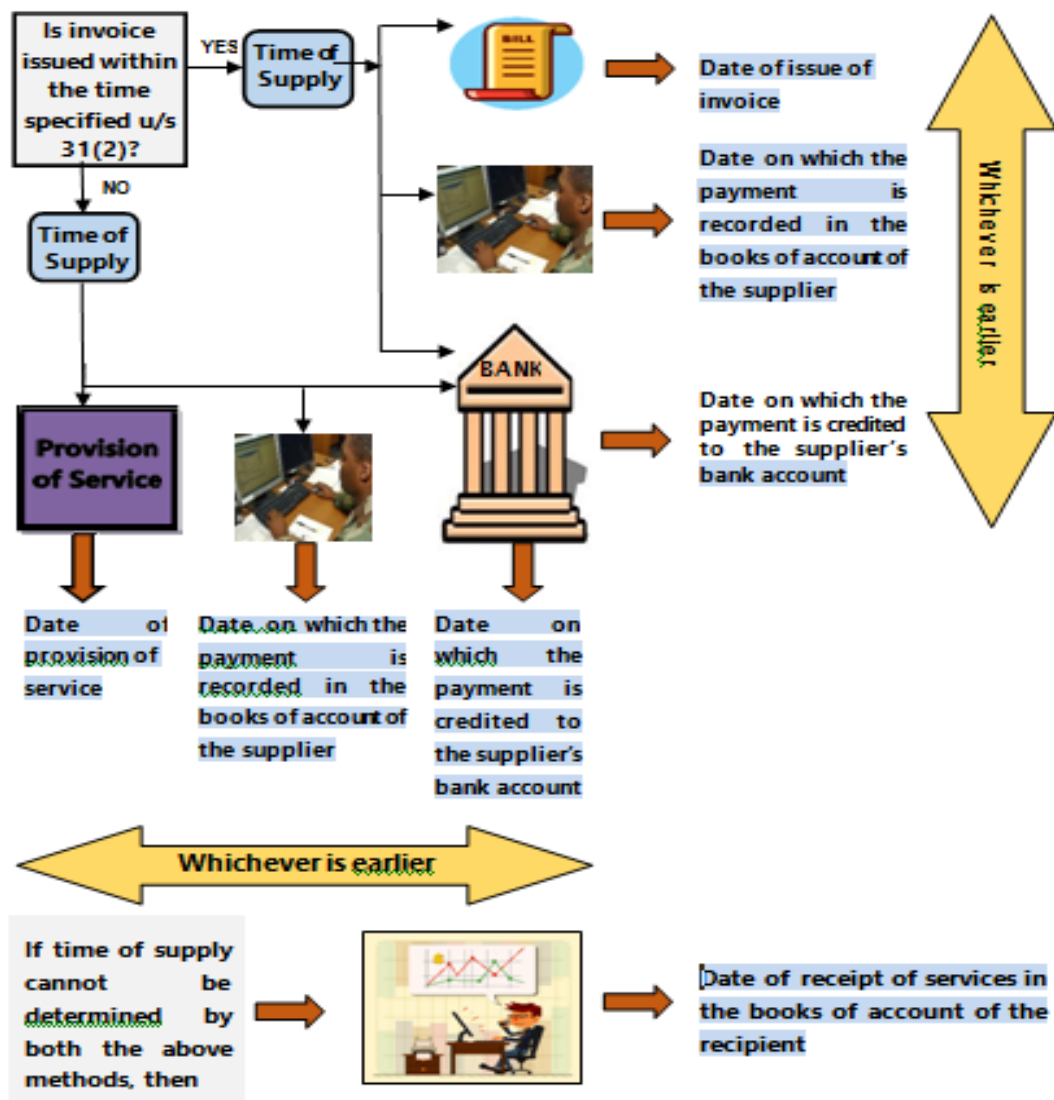
- **Significance of “to the extent the payment covers the services”**

Suppose, a part of the consideration is paid in advance or invoice is issued for part payment, the time of supply will not cover the full supply. The supply shall be deemed to have been made to the extent it is covered by the invoice or the part payment.

- **Time limit for issuance of invoice for supply of services**

- As per section 31(2) read with rule 47 of CGST Rules, the tax invoice needs to be issued either **before the provision of service or within 30 days** (45 days in case of insurance companies/ banking companies/ financial institutions including NBFCs) **from the date of supply of service.**
- In case of **cessation of supply of services before completion of supply**, the invoice (to the extent of the supply made before such cessation) should be issued at the time **when the supply ceases.**
- In case of **continuous supply** of services, the invoice should be issued either (i) on/ before the due date of payment or (ii) before/ at the time when the supplier of service receives the payment (iii) on/ before the date of completion of the milestone event when the payment is linked to completion of an event.
- In case of **insurance companies/ banking companies/** financial institutions including NBFCs/ telecom companies/ notified supplier of services making taxable supplies between distinct persons as specified in section 25, invoice may be issued before or at the time of recording such supply in the books of account or before the expiry of the quarter during which the supply was made.

**TIME OF SUPPLY OF SERVICES UNDER FORWARD CHARGE**



**Q 18)** Determine the time of supply from following information:

6 <sup>th</sup> June	Booking of convention hall, sum agreed Rs. 15000, advance of Rs. 3000 received
15 <sup>th</sup> October	Function held in convention hall
27 <sup>th</sup> November	Invoice issued for Rs. 15000, indicating balance of Rs. 12000 payable
3 <sup>rd</sup> December	Balance payment of Rs. 12000 received

**Q 19)** Investigation shows that ABC & Co carried out service of cleaning and repairs of tanks in an apartment complex, for which the Apartment Owners' Association showed a payment in cash on 4th April to them against work of this description. The dates of the work are not clear from the records of ABC & Co. ABC & Co have not issued invoice or entered the payment in their books of account.

**Exception to above rule:**

- 1) when amount in excess of Rs. 1000 is received, the time of supply in respect of such excess at the option of the supplier shall be the date of such invoice
- 2) supply shall be deemed to have been made to the extent the value of supply indicated in the invoice or the value of payment received by the supplier
- 3) date of receipt of payment shall be the date on which the payment is accounted in the books of the supplier or the date reflected in the bank account of the supplier, whichever is earlier

**Q 20)** A telephone company receives Rs. 5000 against an invoice of Rs. 4800. The excess amount of Rs. 200 can be adjusted against the next invoice.

**6.12 Receipt of services that are taxable under reverse charge [Section 13(3)]**

- The time of supply of service on which GST is payable on reverse charge basis (except on services received from associated enterprises located outside India) under sub-sections (3) and (4) of section 9 is determined in terms of section 13(3)(a) and (b) as follows:

The time of supply for such service will be the **earlier** of the following:

- a) Date of payment, or
- b) Date immediately following 60 days since issue of invoice (or any other document in lieu of invoice) by the supplier.

**If it is not possible to determine the time of supply by using these parameters, then the time of supply will be the date of entry of the service in the books of account of the recipient of supply.**

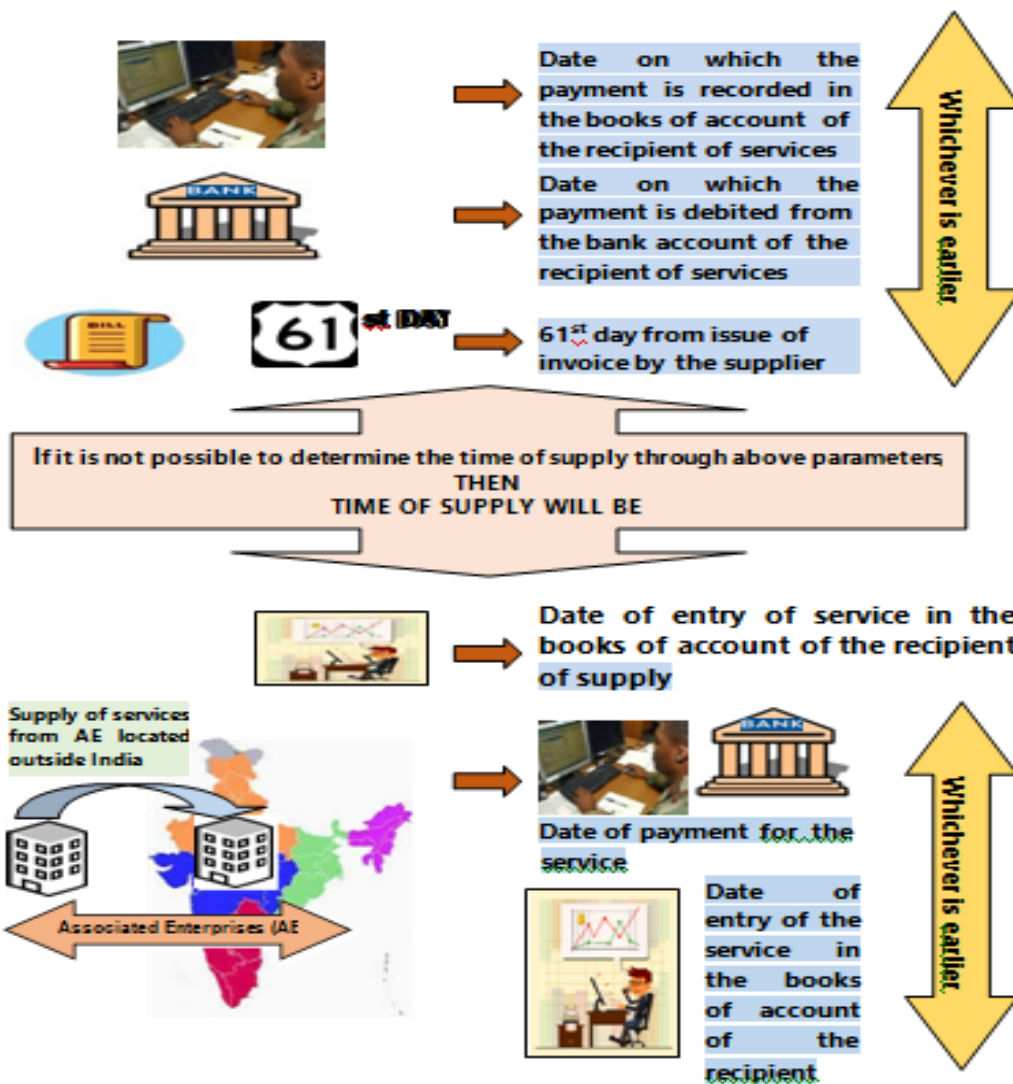
- **Meaning of “Date of payment”**

“Date of payment” in the above situation refers to the date on which the payment is recorded in the books of account of the entity that receives the service (recipient of service), or the date on which the payment is debited from the entity’s bank account, whichever is earlier.

- **Import of services between associated enterprises**

In the case of service received from an associated enterprise located outside India, the time of supply will be the date of payment for the service, or the date of entry of the service in the books of account of the recipient, whichever is earlier.

**TIME OF SUPPLY OF SERVICES UNDER REVERSE CHARGE**



**Q 21)** Determine the time of supply from below information, assuming that the supply is taxable under reverse charge basis.

May 4	The supplier of service issues invoice for service provided. There is a dispute about amount payable, and payment is delayed.
August 21	Payment made to the supplier of service

**Q 22)** Determine the time of supply from the information given below.

May 4	A German company issues email informing its associated company ABC Ltd. of the cost of technical services provided to it.
July 2	ABC Ltd transfers the amount to the account of the German company

**6.13 Vouchers [Section 13(4)]**

The time of supply of vouchers that are exchangeable for services is stipulated as the date of issue of the voucher, if the supply is identifiable at that point, or the date of redemption of the voucher in other cases.

**Q 23)** Best Hospitality Services enters into agreement with Drive Marketing Ltd by which Drive Marketing Ltd. markets Best Hospitality Services' hotel rooms and sells coupons / vouchers redeemable for a discount against stay in the hotel, determine the time of supply.

**6.14 Residual case [Section 13(5)]**

If the situation is not covered by any of the provisions discussed above, the time of supply is fixed under sub-section (5) of section 13, in the following manner:

- Date on which periodical return for the period is required to be filed, or
- In any other case, date on which GST is paid.

**6.15 Enhancement of value on account of interest/late fee etc. for delayed payment of consideration [Section 13(6)]**

The provisions for time of supply in case of addition in value by way of interest, late fee/penalty for delayed payment of consideration are same for goods and services. Section 13(6) prescribes that time of supply in case of addition in value by way of interest/ late fee/penalty for delayed payment of consideration for a service is the date on which the supplier receives such addition in value.

**6.16 Special Charges (Illustrative):**

Special Charges 'are' Supply	Special Charges 'are not' Supply
Special charges are also supply being agreeing to an act or forbear an act or to tolerate an act (entry 5(e) of sch II) read with sec 2(31)	There is no 'supply' in the case of interest, late fee or penalty as these special charges are a consequence of a departure from the agreed terms of contract and not in fulfilment thereof
Interest, late fee or penalty are illustrations only and such special charges by any other name would also be liable to GST but on receipt-basis	By accepting such an expansive interpretation, damages awarded by a Court, LD imposed in a contract, forfeiture of a EMD, etc. can become liable to GST as these are all in some way 'in the course or furtherance of business'

Special charges paid is liable to GST whether agreed before or agreed subsequently as satisfaction of the limited non-performance	Other than the three special charges listed, any other charges arising from a transaction is not liable to GST as it is not contemplated in the arrangement of supply all though not imposed in all cases
Delay in payment is a primary deviation that gives rise to special charges but even	Only 'delay in payment' gives rise to GST incidence on the special charges. Any other
deviation in time or quantity of supply can entail some other form of special charges, GST on those cannot be avoided as the these listed are only illustrative	deviation would be a variation of contract to be independently examined if it satisfies definition of 'supply'
Special charges are 'linked' to an underlying supply (original supply) and therefore all forms of special charges would also be liable to GST	Special charges are 'linked' to an original supply as such GST cannot be imposed on special charges without an original supply

➤ From above, several necessary conclusions need to be reached, namely:

- Whether the three listed charges are exhaustive or only illustrative?
- Whether delay in payment is the only occasion when this provision is attracted or special charges imposed for any other default linked to the original supply will also attract this provision?
- Whether special charges imposed for any other default (not delay in payment) is liable to GST but not on receipt basis but accrual basis or are special charges for these cases not at all liable to GST?

**Q 24)** Determine the time of supply from below information:

S. No.	Concept illustrations Section 13(2)	Invoice date	Invoice due date	Payment entry in supplier's books	Credit in bank account
1	Invoice raised before completion of service	10-Oct-17	20-Oct-17	26-Oct-17	30-Oct-17
2	Advance received	30-Oct-17	20-Oct-17	10-Oct-17	30-Oct-17

**Q 25)** Determine the time of supply from below information:

	Based on due date for invoicing Section 13(2) r/w Section 31(2) r/w Rule – 47 related to invoice	Invoice date	Commencement of service	Completion of service	Receipt of payment
3	Delayed issue of invoice	26-Dec-17	20-Oct-17	16-Nov-17	28-Jan-18
4	Advance received, invoice for full amount issued on same day (40% advance, 60% post supply payment)	30-Oct-17	30-Oct-17	30-Dec-17	30-Oct-17 04-Dec-17

**Q 26)** Determine the time of supply from below information:

	Continuous supply of services Section 13(2) r/w Section 31(5)	Invoice date	Date as per contract	Receipt of payment	Entry of provision of services in books
5	Section 31(5)(a) Contract provides for payments monthly on the 10 <sup>th</sup> of succeeding month	02-Nov-17	10-Nov-17	15-Nov-17	31-Oct-17
		17-Dec-17	10-Dec-17	15-Dec-17	30-Nov-17
		10-Jan-18	10-Jan-18	06-Jan-18	31-Dec-17
6	Section 31(5)(c) Contract provides for payments on completion of event. Recipient to pay within 1 month from date of completion	12-Nov-17	10-Nov-17	25-Nov-17	12-Nov-17
		24-Apr-18	24-Apr-18	20-Apr-18	24-Apr-18

**Q 27)** Determine the time of supply from below information:

	Reverse charge Section 13(3)	Date of invoice issued by supplier	Date of completion of service	Payment by recipient	Entry of receipt of services in recipient's books
7	General	31-Oct-17	31-Oct-17	20-Nov-17	30-Nov-17
8	Advance paid	31-Oct-17	31-Oct-17	05-Nov-17	31-Oct-17

**Q 28)** Determine the time of supply from below information:

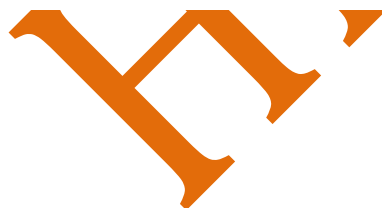
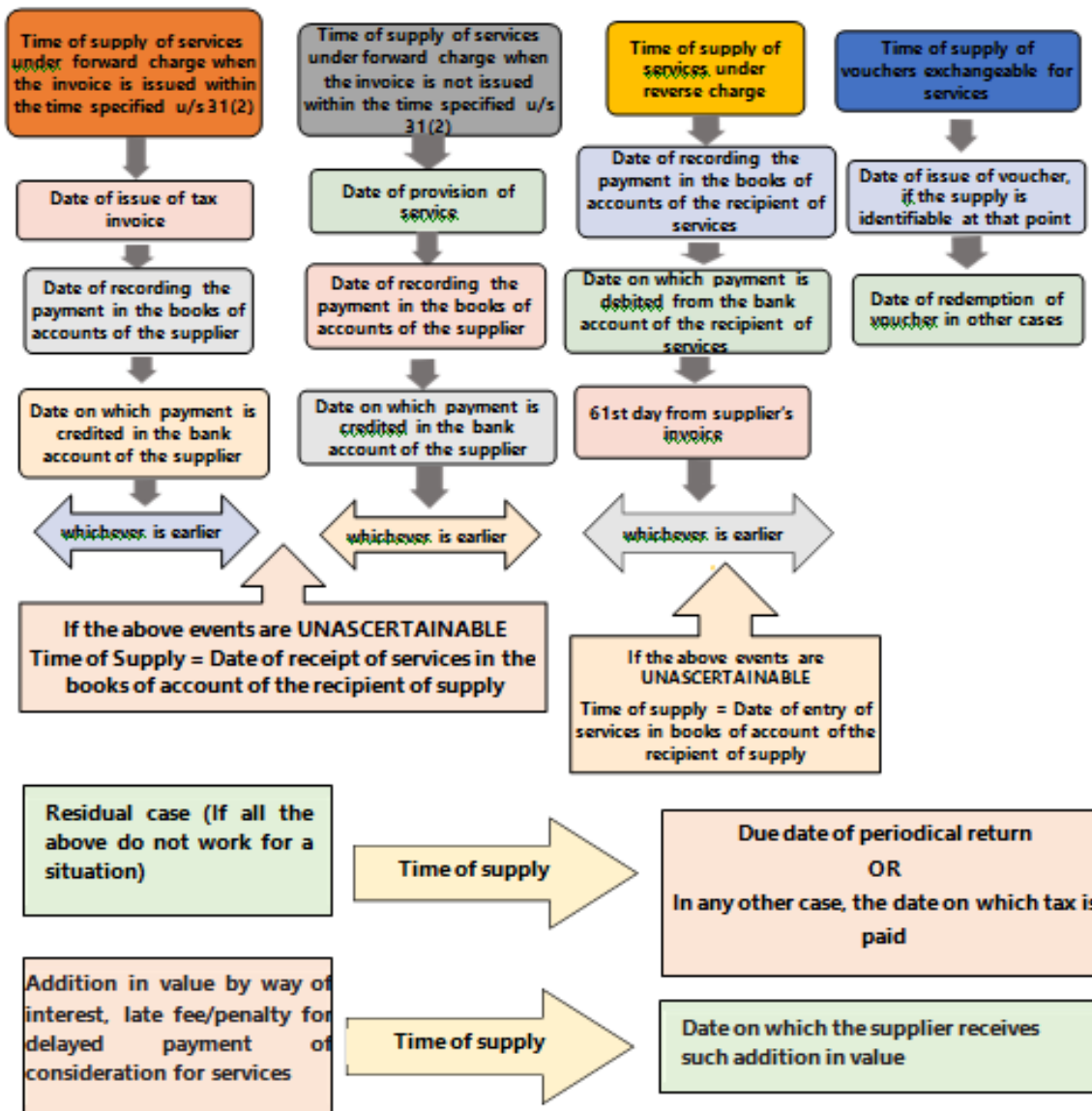
9	Delay in payment (Max. 60 days from date of invoice)	31-Oct-17	31-Oct-17	10-Jan-18	31-Oct-17
10	Service received from associated enterprise located outside India (No time extension allowed)	31-Oct-17	30-Nov-17	05-Apr-18	31-Mar-18
11	Service by unregistered person, no payment made	-	30-Nov-17	-	05-Dec-17

**Q 29)** Determine the time of supply from below information:

	Issue of vouchers Section 13(4) [or Section 12(4)]	First service/delivery of goods	Issue of voucher	Redemption of voucher	Last date for acceptance of voucher
12	Voucher issued to a recipient after supply of a service [or specific goods], for the same service - valid for 1 year	01-Nov-17	01-Nov-17	14-Dec-17	30-Oct-18
13	Voucher issued to a recipient of machinery along at the time of delivery, for availing repair services [or specific goods] worth Rs. 5,000 - valid for 1 year	01-Nov-17	01-Nov-17	14-Dec-17	30-Oct-18
14	Voucher issued to a recipient after supply of a service, for any other services or goods across India, - valid for 1 year	01-Nov-17	01-Nov-17	14-Dec-17	30-Oct-18
15	Gift voucher for Rs. 1,500 for services [or goods]- valid for 6 months	-	01-Nov-17	25-Dec-17	31-Mar-18



**6.17 TIME OF SUPPLY OF SERVICES [SECTION 13]: SUMMARISED PROVISIONS**



## 6.18 Statutory Provisions Section 14 (Change in the rate of tax in case of supply of Goods or Services):

Section 14	Change in rate of tax in respect of supply of goods or services
Clause	Particulars
Notwithstanding anything contained in section 12 or section 13, the time of supply, where there is a change in the rate of tax in respect of goods or services or both, shall be determined in the following manner, namely:—	
(a)	in case the goods or services or both have been supplied before the change in rate of tax,—
	(i) where the invoice for the same has been issued and the payment is also received after the change in rate of tax, the time of supply shall be the date of receipt of payment or the date of issue of invoice, whichever is earlier; or
	(ii) where the invoice has been issued prior to the change in rate of tax but payment is received after the change in rate of tax, the time of supply shall be the date of issue of invoice; or
	(iii) where the payment has been received before the change in rate of tax, but the invoice for the same is issued after the change in rate of tax, the time of supply shall be the date of receipt of payment;
(b)	in case the goods or services or both have been supplied after the change in rate of tax,—
	(i) where the payment is received after the change in rate of tax but the invoice has been issued prior to the change in rate of tax, the time of supply shall be the date of receipt of payment; or

	(i)	where the invoice has been issued and payment is received before the change in rate of tax, the time of supply shall be the date of receipt of payment or date of issue of invoice, whichever is earlier; or
	(ii)	where the invoice has been issued after the change in rate of tax but the payment is received before the change in rate of tax, the time of supply shall be the date of issue of invoice;
Provided that the date of receipt of payment shall be the date of credit in the bank account if such credit in the bank account is after four working days from the date of change in the rate of tax.		
Explanation — For the purposes of this section, “the date of receipt of payment” shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.		

**6.19 Analysis:**

When the rate of tax is changed, and a transaction of supply of goods or services is not yet completed in all its documentary and financial aspects, the law makes specific provisions for fixing the time of supply of the goods or service for the purpose of payment of tax.

The three markers for identifying time of supply are actual supply, invoice and payment. These can occur in differing sequences. Their distribution before and after the change of effective rate of tax determines the time of supply of the service.

Of the three markers (supply, invoice, payment), -

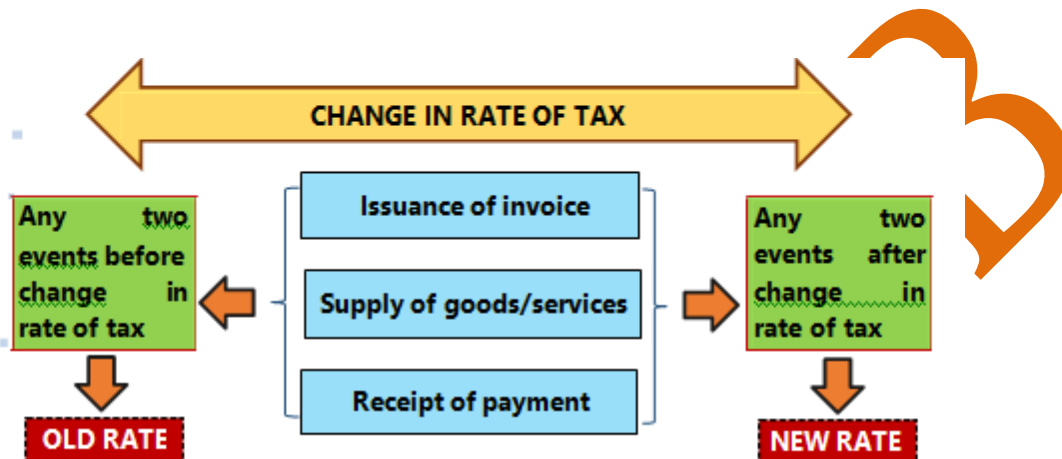
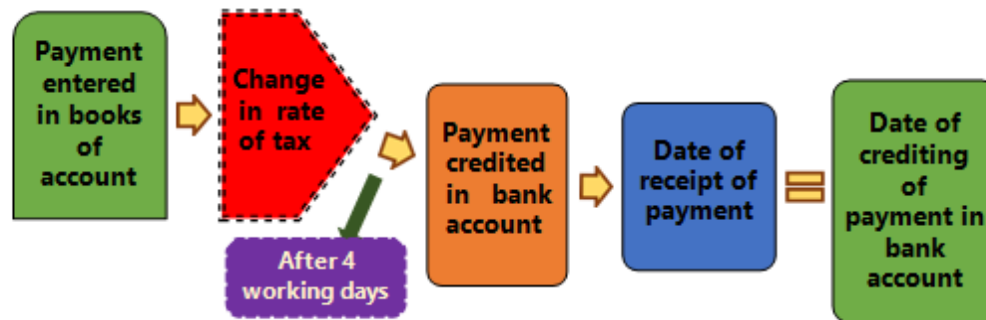
- **if issue of invoice and receipt of payment are both before the change in rate, the time of supply is the date of the earlier of these two events;**
- **if supply and issue of invoice are before the change in rate, the date of issue of invoice is the time of supply;**
- **if supply and receipt of payment are before the change in rate, the date of receipt of payment is the time of supply.**
- **If supply and receipt of payment are after the change in rate, the date of receipt of payment is the time of supply;**
- **If issue of invoice and receipt of payment are after the change in rate, the date of the earlier of these two events is the time of supply;**
- **If supply and issue of invoice are after the change in rate, the date of issue of invoice is the time of supply.**
  
- **Meaning of “Date of receipt of payment”**

Here, “date of receipt of payment” refers to the date on which the payment is entered in the books of accounts of the supplier, or the date on which the payment is credited in his bank account, whichever is earlier.

- **Date of crediting of payment in bank account to be the “date of receipt of payment” if such crediting takes place after 4 working days of change in rate of tax**

Where the payment is credited in the bank account after 4 working days from the date of change in the rate of tax, the date of receipt of payment will be the date of credit in the bank account. In other words, in such a case, the date of recording the payment in the books of account will not be considered as the date of receipt of payment even though if the same precedes the date of crediting of payment in the bank account.

**Q 30)** Rate of tax is changed on 10<sup>th</sup> July. Receipt of payment is recorded in the books of account of the supplier on 8<sup>th</sup> July. The payment is credited in the supplier’s bank account on 15<sup>th</sup> July. The Bank was open all days between 10<sup>th</sup> and 15<sup>th</sup> July. Determine the date of receipt of payment?



**Q 31)** An interior decorator designs and renovates the office of XYZ in June. The invoice is to be raised after approval of the work. In the meantime, the rate of tax is changed on 5th July. Invoice is raised and payment made later in July. Determine the time of supply.

**Q 32)** Vulcan Tools Pvt Ltd makes custom-made precision tools for which it takes the full advance with the purchase order. One such order is received on 13th April, and full amount paid with the order. The tools are manufactured and delivered on 21<sup>st</sup> May. Tools of this description got exemption from GST on 25<sup>th</sup> May. Invoice is not raised yet. Determine the time of supply.

**Q 33)** Assume that the rate of GST prior to 1<sup>st</sup> August was 18% and thereafter it is changed to 12%

Sl. No.	Case	Date of supply of goods/ services	Invoice date	Payment by recipient	Time of supply	Applicable tax rate
1	Case I	10-Jul-18	20-Jul-18	10-Aug-18	20-Jul-18	18%
2	Case II	10-Jul-18	05-Sep-18	25-Jul-18	25-Jul-18	18%
3	Case III	10-Jul-18	05-Aug-18	10-Aug-18	05-Aug-18	12%
4	Case	10-Aug-18	25-Jul-18	05-Aug-18	05-Aug-18	12%
5	Case V	10-Aug-18	05-Sep-18	25-Jul-18	05-Sep-18	12%
3	Case	10-Aug-18	20-Jul-18	25-Aug-18	20-Jul-18	18%

## 6.19 SUMMARY:

### A) TIME OF SUPPLY WHERE TAX IS PAYABLE UNDER FORWARD CHARGE:

Time of supply of goods [Section 12(2)]	Time of supply of services [Section 13(2)]
<p><b>Earliest of the following:</b></p> <p>(a) Date of <b>issue of invoice</b> by the supplier or the <b>last date on which he is required, to issue the invoice</b> under section 31(1) with respect to the supply</p> <p>(b) Date on which the supplier <b>receives the payment</b> (entering the payment in books of account or crediting of payment in bank account, whichever is earlier) with respect to the supply</p>	<p>(a) <b>Invoice issued within the time period prescribed under section 31(2)</b></p> <p><b>Earliest of the following:</b></p> <ul style="list-style-type: none"> <li>→ Date of issue of invoice by the supplier</li> <li>→ Date of receipt of payment (entering the payment in books of account or crediting of payment in bank account, whichever is earlier)</li> </ul> <p>(b) <b>Invoice not issued within the time period prescribed under section 31(2)</b></p>

	<p><b>Earliest of the following:</b></p> <ul style="list-style-type: none"> <li>→ Date of provision of service</li> <li>→ Date of receipt of payment (entering the payment in books of account or crediting of payment in bank account, whichever is earlier)</li> </ul> <p>(c) <b>When the above events are unascertainable</b></p> <ul style="list-style-type: none"> <li>→ Date on which the recipient shows the receipt of services in his books of account</li> </ul>
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**B) GENERAL TIME LIMIT FOR RAISING INVOICES:**

Supply of goods [Section 31(1)]	Supply of services [Section 31(2)]
<p><b>Before or at the time of,-</b></p> <p>(a) <b>removal of goods</b> for supply to the recipient, where the supply involves movement of goods, or</p> <p>(b) <b>delivery of goods or making available thereof to the recipient</b>, in any other case</p>	<p><b>Before or after the provision of service</b> but within 30 days [45 days in case of insurance cos./banking and financial institutions including NBFCs] from the date of supply of services</p>

**C) TIME OF SUPPLY WHERE TAX IS PAYABLE UNDER REVERSE CHARGE:**

Time of supply of goods [Section 12(3)]	Time of supply of services [Section 13(3)]
<p><b>Earliest of the following:</b></p> <p>(a) Date of <b>receipt of goods</b>, or</p> <p>(b) Date of <b>payment</b> as entered in the books of account of the recipient or the date on which the payment is debited to his bank account, whichever is earlier, or</p> <p>(c) <b>31<sup>st</sup> day from the date of issue of invoice</b></p>	<p><b>Earliest of the following:</b></p> <p>(a) Date of <b>payment</b> as entered in the books of account of the recipient or the date on which the payment is debited to his bank account, whichever is earlier, or</p> <p>(b) <b>61<sup>st</sup> day from the date of issue of invoice</b></p>
<p><b>Where the above events are not ascertainable</b>, the time of supply shall be the date of entry in the books of account of the recipient of supply</p>	
-	<p><b>Import of service from associated enterprise</b> Date of entry in the books of account of the recipient or the date of payment, whichever is earlier</p>

**D) TIME OF SUPPLY OF VOUCHERS EXCHANGEABLE FOR GOODS AND SERVICES:**

Supply of vouchers exchangeable for goods and services [Sections 12(4) and 13(4)]
<p>(a) Supply of goods or services is identifiable at the time of issue of voucher → Date of issue of the voucher</p> <p>(b) Other cases → Date of redemption of the voucher</p>

**E) TIME OF SUPPLY OF GOODS AND SERVICES IN RESIDUAL CASES:****Supply of goods and services in residual cases [Sections 12(5) and 13(5)]**

(a) Where a periodical return is required to be filed  
→ Due date of filing such return

(b) Other cases  
→ Date of payment of tax

**F) TIME OF SUPPLY FOR ADDITION IN VALUE BY WAY OF INTEREST / LATE FEE / PENALTY FOR DELAYED PAYMENT OF CONSIDERATION:**

Addition in value by way of interest, late fee/penalty for delayed payment of consideration  
Time of Supply → Date on which the supplier receives such addition in value



**G) CHANGE IN RATE OF TAX:**

In case of change in rate of tax, determination of rate of tax depends upon three events namely,-

- Date of supply of goods or services,
- Date of invoice; and
- Date of receipt of payment

If any two of the above events occur before the change of rate, the time of supply is before the change of rate. If any two of them occur after the change of rate, the time of supply is after the change of rate and the new rate becomes applicable to the supply. Using this principle, time of supply, in case of change in rate of tax, can be determined as under:

Supply	Issue of invoice	Receipt of payment	Time of supply
BEFORE	BEFORE	AFTER	Date of issue of invoice
BEFORE	AFTER	BEFORE	Date of receipt of payment

BEFORE	AFTER	AFTER	Date of issue of invoice or date of receipt of payment, whichever is earlier
AFTER	AFTER	BEFORE	Date of issue of invoice
AFTER	BEFORE	AFTER	Date of receipt of payment
AFTER	BEFORE	BEFORE	Date of issue of invoice or date of receipt of payment, whichever is earlier

H) The provisions relating to time of supply of vouchers that are exchangeable for goods are same as that of the vouchers that are exchangeable for services. Similarly, the provisions relating to time of supply of goods falling in the residual category are same as that of the time of supply of services falling in the residual category. Also, provisions relating to time of supply for addition in value by way of interest, late fee/penalty for delayed payment of consideration are same for goods and services.

Furthermore, concepts like option of taking invoice date as time of supply in case of excess payment upto Rs. 1000, meaning of "Date of receipt of payment", significance of words "to the extent the payment covers the services" are also same for goods and services.



**Q 34)** Date on which the supplier receives the payment as per section 12 of CGST Act is

- (a) Date entered in books of accounts
- (b) Date of credit in bank account
- (c) Date entered in books of accounts or date of credit in bank account, whichever is earlier
- (d) Date on which receipt voucher is issued by supplier

**Q 35)** What is time of supply of goods liable to tax under reverse charge mechanism?

- (a) Date of receipt of goods
- (b) Date on which the payment is made
- (c) Date immediately following 30 days from the date of issue of invoice by the supplier
- (d) Earlier of (a) or (b) or (c)

**Q 36)** What is the time of supply of vouchers when the supply with respect to the voucher is identifiable?

- (a) Date of issue of voucher
- (b) Date of redemption of voucher
- (c) Date of entry in books of accounts
- (d) Earlier of (a) or (b) or (c)

**Q 37)** What is the time of supply of vouchers when the supply with respect to the voucher is not identifiable?

- (a) Date of issue of voucher
- (b) Date of redemption of voucher
- (c) Date of entry in books of accounts
- (d) Earlier of (a) or (b) or (c)

**Q 38)** What is the time of supply of service if the invoice is issued within 30 days from the date of provision of service?

- (a) Date of issue of invoice
- (b) Date on which the supplier receives payment
- (c) Date of provision of service
- (d) Earlier of (a) & (b)

**Q 39)** What is the time of supply of service if the invoice is not issued within 30 days from the date of provision of service?

- (a) Date of issue of invoice
- (b) Date on which the supplier receives payment
- (c) Date of provision of service
- (d) Earlier of (b) & (c)

**Q 40)** What is the time of supply of service in case of reverse charge mechanism?

- (a) Date on which payment is made to the supplier
- (b) Date immediately following 60 days from the date of issue of invoice
- (c) Date of invoice
- (d) Earlier of (a) and (b)

**Q 41)** What is the time of supply of service where services are received from an associated enterprise located outside India?

- (a) Date of entry of services in the books of account of recipient of service
- (b) Date of payment
- (c) Earlier of (a) & (b)
- (d) Date of entry of services in the books of the supplier of service

**Q 42)** What shall be time of supply in the following situation? Supply - before change in rate of tax;

Issue of invoice and receipt of payment - after change in rate of tax

- (a) Date of supply
- (b) Date of receipt of payment
- (c) Date of issue of invoice
- (d) Earlier of (b) or (c)

**Q 43)** What shall be time of supply in the following situation? Supply and issue of invoice - before change in rate of tax; Receipt of payment - after change in rate of tax

- (a) Date of supply
- (b) Date of receipt of payment
- (c) Date of issue of invoice
- (d) Earlier of (b) or (c)

**Q 44)** What shall be time of supply in the following situation? Supply and receipt of payment - before change in rate of tax; Issue of invoice - after change in rate of tax

- (a) Date of supply
- (b) Date of receipt of payment
- (c) Date of issue of invoice
- (d) Earlier of (b) or (c)

**Q 45)** What shall be time of supply in the following situation? Supply and receipt of payment – after change in rate of tax; Issue of invoice – before change in rate of tax

- (a) Date of supply
- (b) Date of receipt of payment
- (c) Date of issue of invoice
- (d) Earlier of (b) or (c)

**Q 46)** What shall be time of supply in the following situation? Supply– after change in rate of tax;

Issue of invoice and receipt of payment – before change in rate of tax

- (a) Date of supply
- (b) Date of receipt of payment
- (c) Date of issue of invoice
- (d) Earlier of (b) or (c)

**Q 47)** What shall be time of supply in the following situation? Supply and issue of invoice– after change in rate of tax; Receipt of payment – before change in rate of tax

- (a) Date of supply
- (b) Date of receipt of payment
- (c) Date of issue of invoice
- (d) Earlier of (b) or (c)

**Q 48)** Determine the time of supply in the following cases assuming that GST is payable under reverse charge:

S. No.	Date of receipt of goods	Date of payment by recipient of goods	Date of issue of invoice by supplier of goods
	(1)	(2)	(3)
(i)	July 1	August 10	June 29
(ii)	July 1	June 25	June 29
(iii)	July 1	Part payment made on June 30 and balance amount paid on July 20	June 29
(iv)	July 5	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1
(v)	July 1	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29
(vi)	August	August 10	June 29

**Q 49)** Determine the time of supply in the following cases assuming that GST is payable under reverse charge:

S. No.	Date of payment by recipient for supply of services	Date of issue of invoice by supplier of services
	(1)	(2)
(i)	August 10	June 29
(ii)	August 10	June 1
(iii)	Part payment made on June 30 and balance amount paid on September 1	June 29
(iv)	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1
(v)	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29

**Q 50)** Determine the time of supply in the following cases assuming that rate of GST changes from 18% to 20% w.e.f. June 1:

S. No.	Date of supply of goods or services	Date of issue of invoice	Date of receipt of payment
(i)		June 9	July 25
(ii)	May 28	May 28	July 25
(iii)		June 9	May 26
(iv)		May 28	June 25
(v)	June 10	May 28	May 16
(vi)		June 9	May 28

**Q 51)** Kabira Industries Ltd engaged the services of a transporter for road transport of a consignment on 17th June and made advance payment for the transport on the same date, i.e., 17th June. However, the consignment could not be sent immediately on account of a strike in the factory, and instead was sent on 20th July. Invoice was received from the transporter on 22nd July. What is the time of supply of the transporter's service? Note: Transporter's service is taxed on reverse charge basis.

**Q 52)** Raju Pvt Ltd. receives the order and advance payment on 5th January for carrying out an architectural design job. It delivers the designs on 23rd April. By oversight, no invoice is issued at that time, and it is issued much later, after the expiry of prescribed period for issue of invoice. When is the time of supply of service?

**Q 53)** Investigation shows that 150 cartons of ceramic capacitors were despatched on 2nd August but no invoice was made and the cartons were not entered in the accounts. There was no evidence of receipt of payment. What is the time of supply of the 150 cartons?

**Q 54)** An order is placed on Ram & Co. on 18th August for supply of a consignment of customised shoes. Ram & Co. gets the consignment ready and informs the customer and issues the invoice on 2nd December. The customer collects the consignment from the premises of Ram & Co. on 7th December and hands over the payment on the same date, which is entered in the accounts on the next day, 8th December. What is the time of supply of the shoes?

**Q 55)** Sodexo meal coupons are sold to a company on 9th August for being distributed to the employees of the said company. The coupons are valid for six months and can be used against purchase of food items. The employees use them in various stores for purchases of various edible items on different dates throughout the six months. What is the date of supply of the coupons?

**Q 56)** A firm of lawyers issues invoice for services to ABC Ltd. on 17th Feb. The payment is contested by ABC Ltd. on the ground that on account of negligence of the firm, the company's case was dismissed by the Court for non-appearance, which necessitated further appearance for which the firm is billing the company. The dispute drags on and finally payment is made on 3rd November. Identify the time of supply of the legal services.

Note: Legal services are taxable on reverse charge basis.

**Q 57)** Modern Security Co. provides service of testing of electronic devices. In one case, it tested a batch of devices on 4th and 5th September but could not raise invoice till 19th November because of some dispute about the condition of the devices on return. The payment was made in December. What is the method to fix the time of supply of the service?

**Q 58)** An income-tax and money laundering case against Mr. XYZ, working in a multi-national company, reveals a large volume of undisclosed assets, which he claims as service income. On this basis, the GST authorities investigate the GST liability. Dates of provision of service, whether in the first half or the second half of the financial year being scrutinised by income-tax authorities, are not known. Mr. XYZ voluntarily pays GST during the investigation. What is the time of supply of the services?

**Q 59)** I buy a set of modular furniture from a retail store. Invoice is issued to me and I make the payment. The furniture is to be delivered to me later in the week when a technician is available to assemble and install it. The next day the rate of tax applicable to modular furniture is revised upward, and the store sends me a supplementary invoice with the delivery note accompanying the furniture to collect the differential amount of tax. Is this correct on store's part?

**Q 60)** An online portal, Best Info, raises invoice for database access on 21st February on Roy & Bansal Ltd. The payment is made by Roy & Bansal Ltd. by a demand draft sent on 25th February, which is received and entered in the accounts of Best Info on 28th February. Best Info encashes the demand draft and thereafter, gives access to the database to Roy & Bansal Ltd from 3rd March. In the meanwhile, the rate of tax is changed from 1st March 2017. What is the time of supply of the service of database access by Best Info?

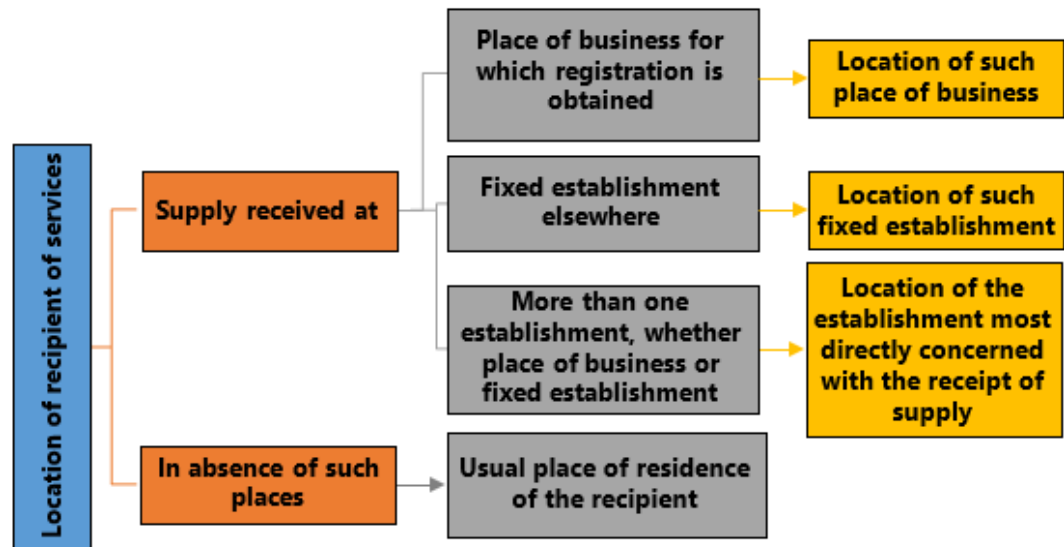
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## 7. PLACE OF SUPPLY

1. Chapter V of the IGST Act [Sections 10 to 13] prescribes the provisions relating to place of supply of goods and services in cross border transactions as well as domestic transactions.
2. **Separate rules for place of supply in respect of B2B and B2C transactions:**
  - a. B2B means business to business transaction. In such type of transactions, the recipient is also a registered supplier and hence, takes ITC.
  - b. B2C means business to consumer transaction. In such type of transactions, the recipient is consumer or unregistered and hence, will not take or cannot take ITC.
3. **Continuous journey** means a journey for which a single or more than one ticket or invoice is issued at the same time, either by a single supplier of service or through an agent acting on behalf of more than one supplier of service, and which involves no stopover between any of the legs of the journey for which one or more separate tickets or invoices are issued.
4. **Export of goods** with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India; [Section 2(5)]. This definition is similar to the definition of 'export' given under Customs Act, 1962.
5. **Export of services** means the supply of any service when
  - a. the supplier of service is located in India,
  - b. the recipient of service is located outside India,
  - c. the place of supply of service is outside India,
  - d. the payment for such service has been received by the supplier of service in convertible foreign exchange, and
  - e. the supplier of service and recipient of service are not merely establishments of a distinct person in accordance with explanation 1 of section 8 [Section 2(6)].
6. **Import of goods** with its grammatical variations and cognate expressions, means bringing goods into India from a place outside India [Section 2(10)].
7. **Import of services** means the supply of any service, where
  - a. the supplier of service is located outside India,
  - b. the recipient of service is located in India, and
  - c. the place of supply of service is in India [Section 2(11)].
8. **Location of the recipient of services means:**
  - a. where a supply is received at a place of business for which registration has been obtained, the location of such place of business;
  - b. where a supply is received at a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere, the location of such fixed establishment;

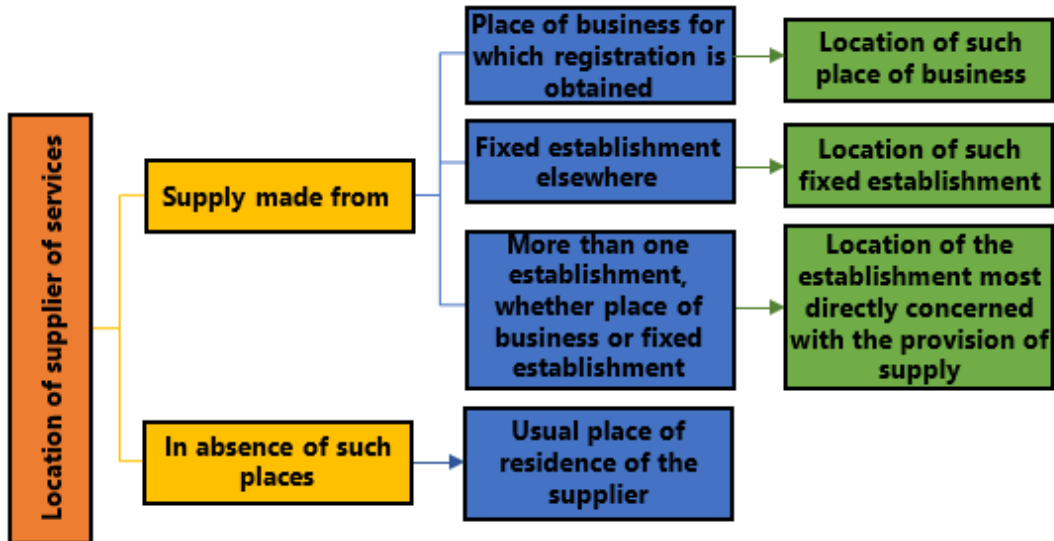
- c. where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and
- d. in absence of such places, the location of the usual place of residence of the recipient [Section 2(17)].



#### 9. Location of the supplier of services means:

- a. where a supply is made from a place of business for which registration has been obtained, the location of such place of business;
- b. where a supply is made from a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere, the location of such fixed establishment;
- c. where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and
- d. in absence of such places, the location of the usual place of residence of the supplier [Section 2(18)]

\*TERM LOCATION OF SUPPLIER OF GOODS IS NOT DEFINED IN THE ACT.



**10. Recipient of supply of goods or services or both, means:**

- a. where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;
- b. where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and
- c. where no consideration is payable for the supply of a service, the person to whom the service is rendered,
- d. and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied [Section 2(93) of the CGST Act].

**11. PLACE OF SUPPLY OF GOODS OTHER THAN SUPPLY OF GOODS IMPORTED INTO, OR EXPORTED FROM INDIA [SECTION 10]:**

 <b>STATUTORY PROVISIONS</b>							
<b>Section 10</b>	<b>Place of supply of goods other than supply of goods imported into, or exported from India</b>						
<b>Sub-section</b>	<table border="1"> <thead> <tr> <th>Clause</th> <th>Particulars</th> </tr> </thead> <tbody> <tr> <td>(1)</td> <td>The place of supply of goods, other than supply of goods imported into, or exported from India, shall be as under,—</td> </tr> <tr> <td>(a)</td> <td>where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient;</td> </tr> </tbody> </table>	Clause	Particulars	(1)	The place of supply of goods, other than supply of goods imported into, or exported from India, shall be as under,—	(a)	where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient;
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(1)	The place of supply of goods, other than supply of goods imported into, or exported from India, shall be as under,—						
(a)	where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient;						

	(b)	where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person;
	(c)	where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient;
	(d)	where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly;
	(e)	where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board.
Where the place of supply of goods cannot be determined, the place of supply shall be determined in such manner as may be prescribed.		

**12. Section 10 prescribes the provisions for determining the place of supply of goods in domestic transactions i.e., within India. Sub-section (1) of section 10 sets out five rules to provide the place of supply of goods in the following specific situations:**

- a. Supply involving movement of goods
- b. Goods delivered on bill to ship to model
- c. Supply not involving movement of goods
- d. Goods assembled/installed at site
- e. Goods supplied on board a conveyance

Provisions of section 10 hereunder all are related to the domestic supply.

**13. Supply involving movement of goods [Section 10(1)(a)]:**

In case of supply involving movement of goods, the place of supply is the location of the goods at the time when the movement of goods terminates (ends) for delivery to the recipient.

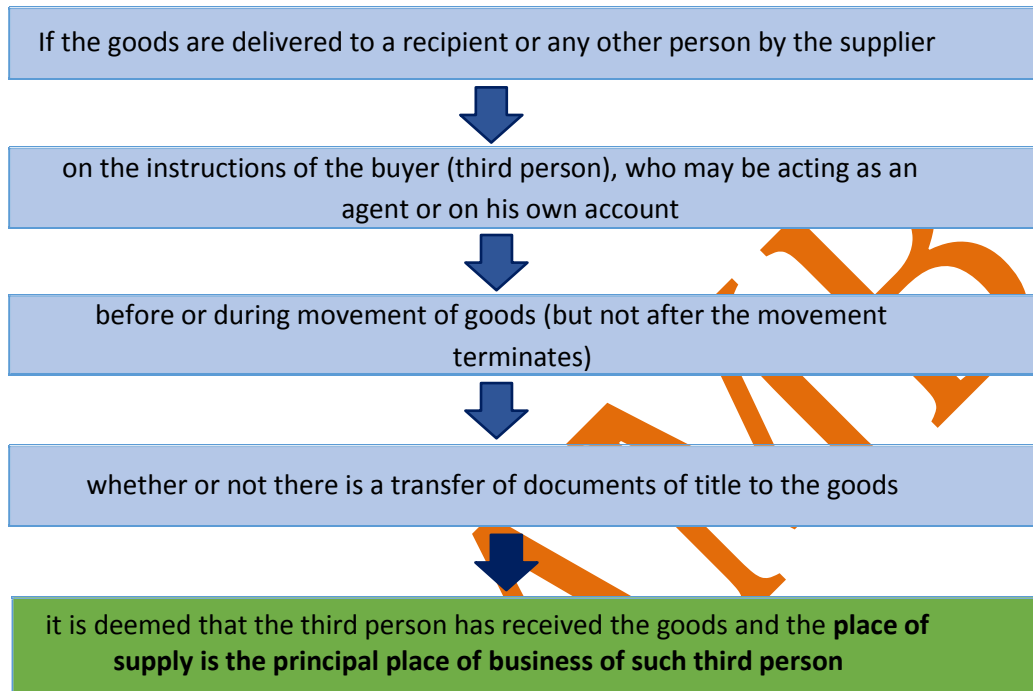
N 1: It is important to understand that this provision does not apply in cases where there is no movement of goods. Also, the provision does not link itself to transfer of property in goods but to the movement of the goods.

Q 1: Mr. A of Nasik, Maharashtra sells 10 refrigerators to Mr. B of Pune, Maharashtra for delivery at Mr. B's place of business in Pune. Determine the place of supply?

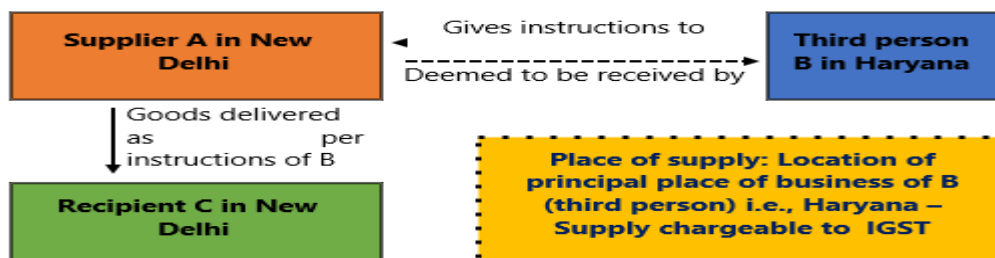
Q 2: (ii) Mr. A of Nasik, Maharashtra sells 20 refrigerators to Mr. C of Ahmedabad, Gujarat for delivery at Mr. C's place of business in Ahmedabad. Determine the place of supply?

**14. Supply involving movement of goods delivered to recipient on the instruction of third person – Bill to Ship to Sale [Section 10(1)(b)]:**

Clause (b) of section 10(1) lays down the provisions to determine the place of supply in cases where there is a tripartite arrangement of supply, commonly known as bill to ship to transactions or where there is a sale of goods in transit by the original buyer/ agents.



In simple words, where goods are delivered by the supplier to the recipient at the instruction of a third person, the place of supply is the principal place of business of such third person and not of the actual recipient.



Even though section 2(93) of CGST Act defines recipient, inter alia, as the 'payer of the consideration'; in this provision, recipient is the one who actually collects the goods and the third person is the one who enjoys privity with the supplier to be able to direct him to deliver the goods.

Q 3: Mr. X (a supplier registered in Uttar Pradesh having principal place of business at Noida) asks Mr. Y of Ahmedabad, Gujarat to deliver 50 washing machines to his buyer Mr. Z at Jaipur, Rajasthan. Determine the place of supply?

**15. Supply not involving movement of goods [Section 10(1)(c)] : If the supply does not involve movement of goods, the place of supply is the location of goods at the time of delivery to the recipient.**

Q 4: Mr. A (New Delhi) has leased his machine (cost Rs 8,00,000) to Mr. B (Noida, Uttar Pradesh) for production of goods on a monthly rent of ` 40,000. After 14 months Mr. B requested Mr. A to sell the machine to him for Rs 4,00,000, which is agreed to by Mr. A. Determine the place of supply?

Q 5: XZ Ltd. (Mumbai, Maharashtra) opens a new branch office at Gurugram, Haryana. It purchases a building for office from KTS Builders (Gurugram) along with pre-installed office furniture and fixtures. State the GST applicability and also determine the Place of supply?

**16. Supply involving installation or assembly of goods [Section 10(1)(d)]: If the supply involves goods which are to be installed or assembled at site, the place of supply is the place of such installation or assembly.**

Q 6: Mr. A (New Delhi) purchases a machine from Mr. B (New Delhi) for being installed in his factory at Noida, Uttar Pradesh. Determine the place of supply?

Q 7: Pure Refineries (Mumbai, Maharashtra) gives a contract to PQ Ltd. (Ranchi, Jharkhand) to assemble a power plant in its Kutch, Gujarat refinery. Determine the place of supply?

**17. Goods supplied on board a conveyance [section 10(1)(e)]: Section 10(1)(e) lays down that place of supply of goods supplied on a board a conveyance like aircraft, train, vessel, motor vehicle is the location where such goods have been taken on board.** Place of supply of goods supplied on board a conveyance is determined under this provision even if the supply has been made by any of the passenger on board the conveyance and not by the carrier of the conveyance.


Q 8: Mr. X (New Delhi) boards the New Delhi-Kota train at New Delhi. He sells the goods taken on board by him (at New Delhi), at Jaipur during the journey. Determine the place of supply?

Q 9: Mr. W, an unregistered person, purchases coffee and snacks on board a Airjet Mumbai-New Delhi flight. The food items were loaded into the aircraft at Mumbai. Determine the place of supply?

Q 10: Ms. P (New Delhi) boards a New Delhi-Kolkata flight to attend a business meeting at Kolkata. She buys lunch in the flight. The food items were loaded into the aircraft at New Delhi. The Airlines is registered in New Delhi and Kolkata. Determine the place of supply?

Q 11: Ms. S, an unregistered person, (New Delhi) is travelling from New Delhi to Kanpur, Uttar Pradesh in a train. The train starts at New Delhi and stops at three stations before reaching Kanpur. The food items were loaded into the train at Aligarh (Uttar Pradesh) – 2nd Station. Ms. S buys dinner on board the train. Determine the place of supply?

**18. PLACE OF SUPPLY OF GOODS IMPORTED INTO, OR EXPORTED FROM INDIA [SECTION 11]**

 <b>STATUTORY PROVISIONS</b>		
<b>Section 11</b>	<b>Place of supply of goods imported into, or exported from India</b>	
	<b>Clause</b>   <b>Particulars</b>	
	<i>The place of supply of goods,—</i>	
	(a)	<i>imported into India shall be the location of the importer;</i>
	(b)	<i>exported from India shall be the location outside India.</i>

**section 11 discussed hereunder are all in relation to cross border supply of goods.**

Under the GST Law, export of goods has been treated as:

- inter-State supply
- 'zero rated supply' i.e., the goods or services exported shall be relieved

19. The place of supply in case of export of goods is the place where they have been exported i.e., the destination outside India.

20. Import of goods [Section 11(b)]: If the goods have been imported in India, the place of supply of goods is located.

21. PLACE OF SUPPLY OF SERVICES WHERE LOCATION OF SUPPLIER OF SERVICE AND THE LOCATION OF THE RECIPIENT OF SERVICE IS IN INDIA [SECTION 12]

i. **General Rule [Section 12(2)]:**

The rule is applicable only if the supply of service does not fall in any of the specific cases provided under section 12.

The rule provides that the place of supply of **services made to a registered person is the location of the person receiving the services**. Since the supplier has the GSTIN of the person receiving the service, the location of such GSTIN is the place of supply.

However, **if the services is supplied to an unregistered person, the place of supply is:**

- a) the location of such unregistered person, if the address of the unregistered person is available in the records of the supplier
- b) the location of the supplier of services in other cases The

Q 12.: Mr. A (a Chartered Accountant registered in New Delhi) makes a supply of service to his client Mr. B of Noida, Uttar Pradesh (registered in Uttar Pradesh). Determine the place of supply?

Q 13: Mr. A, a barber in Gurugram, Haryana, (registered in Haryana) provides hair cutting services to his client Mr. C who is a resident of New Delhi but is not registered under GST. Determine the place of supply?

ii. **Services in relation to an immovable property/boat/vessel [Section 12(3)]:**

- (a) **Services provided directly in relation to an immovable property including those by**
  - architect,
  - interior decorator,
  - surveyor,
  - engineer and other related experts,
  - estate agent
- (b) **Service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work**
- (c) **Services provided by way of lodging, accommodation by a**
  - hotel
  - inn
  - guest house
  - homestay
  - club
  - campsite
  - house boat



- vessel

**Note:** If the immovable property or boat or vessel is located outside India, the location of recipient of the service is place of supply.

- (d) **Services provided by way of accommodation in an immovable property for organizing**
- any marriage/reception or matters related thereto,
  - official, social, cultural, religious or business functions
  - including services provided in relation to such function at such property.

(e) **Services ancillary to the above-mentioned services** In all above cases, location of the immovable property or the boat or the vessel is the place of supply.

If the services have been supplied for an immovable property which is yet to be constructed/developed (e.g. architect's services for drawing the plan of a building), the place where such immovable property is intended to be located is the place of supply.

Q 14: KTS Builders (Mumbai) is constructing a factory building for PLM Pvt. Ltd. (Kolkata), in New Delhi. Determine the place of supply?

Q 15: Shah and Shah, an architectural firm at Kolkata, has been hired by MKF Builders of Mumbai to draw up a plan for a high rise building to be constructed by them in Ahmedabad, Gujarat. Determine the place of supply?

Q 16: Mr. X, a consulting engineer based in Mumbai, Maharashtra renders professional services in respect of an immovable property of Mr. Y (Bangalore) located in Australia. Determine the place of supply?

**(f) Immovable property/Boat/Vessel located in more than one State/Union Territory:** In such cases, i.e., where the immovable property or boat or vessel is located in more than one State/Union territory, the service is deemed to have been supplied in each of the respective States/Union territories, proportionately in terms of the value of the services.

The provision can be summarized as under:

Nature of Supply	Location of immovable property/ boat/ vessel	Place of Supply
Supply of services relating to immovable property/boat/vessel including accommodation therein	In India	Location of such immovable property/ boat/ vessel
	Outside India	Location of the recipient

**iii. Restaurant service, personal grooming/fitness/ beauty and health services [Section 12(4)]:**

The place of supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery is the **location where such services are actually performed.**



Q 17: Mr. A, a business man from Pune dines in a restaurant at Mumbai while on a business trip, determine the place of supply?

Q 18: Mr. Timmy Ferreira, a makeup artist at Kolkata, goes to Jaipur, Rajasthan for doing the makeup of Ms. Simran Kapoor, a Bollywood actress based in Mumbai. Determine the place of supply?

#### **iv. Training and performance appraisal services [Section 12(5)]:**

The place of supply of services in relation to training and performance appraisal depends upon whether the supply is B2B or B2C.

**In B2B supply i.e., where the recipient of service is a registered person, the place of supply is the location of such person.**

**However, in case of B2C supply i.e., where the recipient of service is unregistered, the place of supply is the place where the service is actually performed.**

Q 19: DEO Consultants (Kolkata) impart GST training to accounts and finance personnel of Sun Cements Ltd. (Guwahati, Assam) at the company's Kolkata office. Determine the place of supply?

Q 20: Mr. Suresh (unregistered person based in Noida) signs up with Excellent Linguistics (New Delhi) for training on English speaking at their New Delhi Centre. Determine the place of supply?

#### **v. Services by way of admission to events/amusement park/other places [Section 12(6)]:**

The place of supply of following services-

- (i) services provided by way of admission to following types of events:

- a. Cultural
  - b. Educational
  - c. Sporting
  - d. Scientific
  - e. Artistic
  - f. Entertainment
- (ii) services provided by way of admission to amusement park or any other place
- (iii) services ancillary to the above- mentioned services

is the place where the event is actually held or where the park or such other place is located.

Q 21: Mr. A, a resident of Ghaziabad, Uttar Pradesh, buys a ticket for a circus organized at Gurugram, Haryana by a circus company based in New Delhi. Determine the place of supply?

Q 22: Mr. B of New Delhi buys a ticket for an amusement park located in Noida, Uttar Pradesh. Determine the place of supply?

**vi. Organisation of events [Section 12(7)]:**

For supplies related to organization of events or assigning sponsorship to such events, the place of supply depends on whether the supply is made to a registered person or an unregistered person.

**When such service is provided to a registered person, the place of supply is location of recipient. When it is provided to an unregistered person, the place of supply is the location where the event is actually held and if the event is held outside India, the place of supply is the location of recipient.**

The event can be a cultural, artistic, sporting, scientific, educational or entertainment event. It can also be a conference, fair, exhibition, celebration or other similar event. Place of supply of services ancillary to organisation of such type of events or assigning of sponsorship to such events is also determined under sub-section (7) of section 12 i.e., in the manner described above.

**If the event is held at more than one state or union territory:** If the event is held in more than one State/union Territory and a consolidated amount is charged for services relating to such event, the place of supply of such services is deemed to be in each of the respective States/Union territories in proportion to the value for services.

The provision can be summarized as under:

Nature of Supply	Place of Supply	
	Recipient is registered	Recipient is unregistered
Organisation of events or services ancillary to the same or assigning of sponsorship to such events	Location of recipient	Location where the event is held
Organisation of events outside India		Location of recipient

Q 23: Mega Events, an event management company at New Delhi, organizes an award function for Shah Diamond Merchants of Ahmedabad (registered in Gujarat), at Mumbai. Determine the place of supply?

Q 24: Mega Events, an event management company at New Delhi, organizes an award function for Shah Diamond Merchants of Ahmedabad (registered in Gujarat), at Mauritius. Determine the place of supply?

Q 25: Grand Wedding Planners (Chennai) is hired by Mr. Ramesh (unregistered person based in Hyderabad) to plan and organise his wedding at New Delhi. Determine the place of supply?

Q 26: Grand Wedding Planners (Chennai) is hired by Mr. Ramesh (unregistered person based in Hyderabad) to plan and organise his wedding at Seychelles. Determine the place of supply?

**vii. Transportation of goods including mails [Section 12(8)]:**

The place of supply of services by way of transportation of goods, including by mail or courier, etc. **provided to a registered person, is the location of such person.**

However, where such services are provided **to an unregistered person**, the place of supply is the **location at which such goods are handed over for their transportation.**



Q 27: M/s XYZ Pvt. Ltd. is a registered company in New Delhi. It sends its courier to Pune through M/s Brue Air Courier Service. Determine the place of supply?

Q 28: Mr. Y, an unregistered person, of New Delhi sends a courier to his brother in Amritsar, Punjab. Determine the place of supply?

Q 29: PR Pvt. Ltd., a Goods Transportation Agency based in Kanpur, Uttar Pradesh, is hired by Hajela Enterprises (registered supplier in Kanpur) to transport its consignment of goods to a buyer in New Delhi. Determine the place of supply?

Q 30: ST Pvt. Ltd., a Goods Transportation Agency based in Noida, Uttar Pradesh, is hired by Chhaya Trade Links (registered supplier in New Delhi) to transport its consignment of goods to a buyer in Kanpur, Uttar Pradesh. Determine the place of supply?

Q 31: Mr. Srikant, a manager in a Bank, is transferred from Bareilly, Uttar Pradesh to Bhopal, Madhya Pradesh. Mr. Srikant's family is stationed in Kanpur, Uttar Pradesh. He hires Goel Carriers of Lucknow,

Uttar Pradesh (registered in Uttar Pradesh), to transport his household goods from Kanpur to Bhopal. Determine the place of supply?

**viii. Passenger transportation service [Section 12(9)]:**

Nature of Supply	Place of Supply	
	Recipient is registered	Recipient is unregistered
Passenger transportation	Location of the recipient	Location where the passenger embarks on the conveyance for a continuous journey [See definition]
Issue of right to passage for future use*-point of boarding not known at the time of issue of right		a) If the address of the unregistered person is available in the records of the supplier, the location

		of such unregistered person. b) In other cases, the location of the supplier of services
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**\* The return journey is treated as a separate journey, even if the tickets for onward and return journey are issued at the same time.**

Q 32: Mr. Amar (registered person in New Delhi) travels from Mumbai to Bangalore in Airjet flight. Mr. Amar has bought the tickets for the journey from Airjet's office registered in New Delhi. Determine the place of supply?

Q 33: Mr. C (unregistered person in Chennai) has come to Delhi on a vacation. He buys pre-paid Delhi Metro Card from Delhi Metro (New Delhi) for hassle free commute in the National Capital Region. Determine the place of supply?

Q 34: Mr. Shyam, an unregistered person, based in Gurugram, Haryana books a two-way air journey ticket from New Delhi to Mumbai on 5th December. He leaves New Delhi on 10th December in a late-night flight and lands in Mumbai the next day. He leaves Mumbai on 14th December in a morning flight and lands in New Delhi the same day. Determine the place of supply? Whether return journey will be treated as separate journey and place of supply will be determined separately for the same?

**ix. Service supplied on board a conveyance [Section 12(10)]:**

Nature of Supply	Place of Supply
Service supplied on board a conveyance*	Location of the first scheduled point of departure of that conveyance for the journey

\* Note - Conveyance includes a vessel, an aircraft, a train or a motor vehicle.

Q 35: Mr. X is travelling from Delhi to Mumbai in an Airjet flight. He desires to watch an English movie during the journey by making the necessary payment. Determine the place of supply?

**x. Telecommunication service [Section 12(11)]:**

Telecommunication services include the services of telephone, data transfer (internet), cable, DTH (Direct to home) services, etc. Section 12(11) classifies the telecommunication services into 3 categories for the purpose of determining the place of supply as under:

- Services provided using a fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna
- Post-paid mobile connection and post-paid internet services
- Pre-paid mobile connection and pre-paid internet and DTH services

The place of supply of the various types of telecommunication services is tabulated as under:

Nature of Supply	Place of Supply	Recipient
<input type="checkbox"/> Fixed telecommunication line <input type="checkbox"/> Leased circuits <input type="checkbox"/> Internet leased circuit <input type="checkbox"/> Cable or dish antenna	Location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services	<b>ANY PERSON</b>
Post-paid mobile connection and internet services	<ul style="list-style-type: none"> <li>• Location of billing address of the recipient of services in the records of the supplier of services</li> </ul>	

	Location of the supplier of services, if the address is not available
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Pre-paid mobile connection, internet services and DTH services (recharge coupon, vouchers, net pack etc.)	Address of the selling agent/ re-seller/ distributor at the time of supply
Services provided through a selling agent re-seller distributor of subscriber identity module card or recharge voucher	
Services provided by any person to final subscriber	Location where such pre- payment is received or such vouchers are sold
Pre-paid services, the payment for which is made through internet banking/other electronic mode of payment	Location of the recipient of services in the records of the supplier of services
Other cases	The address of the recipient as per the records of the supplier of services Location of the supplier of services if the address is not available

**Leased circuit is installed in more than one State/Union territory:** If the leased circuit is installed in more than one State/Union territory and a consolidated amount is charged for supply of services, the place of supply is deemed to be in each of the respective States/Union territories in proportion to the value of services.

Q 36: Mr. X (Kolkata) gets a landline phone installed at his home from Skybel Ltd. Determine the place of supply?

Q 37: Mr. Y (Mumbai) gets a DTH installed at his home from RT Ltd. Determine the place of supply?

Q 38: Mr. D (Mumbai) takes a post-paid mobile connection in Mumbai from Skybel Ltd. Determine the place of supply?

Q 39: Mr. E (New Delhi) gets his post-paid bill paid online from Goa. The payment being made through electronic mode. Determine the place of supply?

Q 40: Mr. C (Pune) purchases a pre-paid card from a selling agent in Mumbai. Determine the place of supply?

Q 41: Mr. F (Puducherry) gets a pre-paid recharged from a grocery shop in Chennai. Determine the place of supply?

**xi. Financial and stock broking services [Section 12(12)]:**



The place of supply of banking and other financial services, including stock broking services to any person is the location of the recipient of services on the records of the supplier of services.

However, if the location of recipient of services is not on the records of the supplier, the place of supply is the location of the supplier of services.

Q 42: Mr. A (Chennai) buys shares from a broker in BSE (Mumbai). Determine the place of supply?

Q 43: Mr. B (New Delhi) withdraws money from Best Bank's ATM in Amritsar. Mr. B has crossed his limit of free ATM withdrawals. Determine the place of supply?

Q 44: Mr. C, an unregistered person from Varanasi, Uttar Pradesh, visits a bank registered in New Delhi for getting a demand draft made. Determine the place of supply?

### **xii. Insurance services [Section 12(13)]:**

The place of supply of insurance services is the location of recipient when provided to a registered recipient.

If such services are provided to a person other than a registered person, the place of supply is the location of the recipient of services in the records of the supplier of services.

Q 45: Mr. A, CEO of XY Ltd., Mumbai (a company registered in Maharashtra) buys insurance cover for the inventory stored in company's factory located at Mumbai, from Excellent Insurers, Chennai (registered in Tamil Nadu). Determine the place of supply?

Q 46: Ms. B (unregistered resident of Kolkata) goes to her native place Patna, Bihar and buys a medical insurance policy for her parents there from Safe Insurers, Patna (registered in Bihar). Determine the place of supply?

### **xiii. Advertisement service to the Government [Section 12(14)]:**

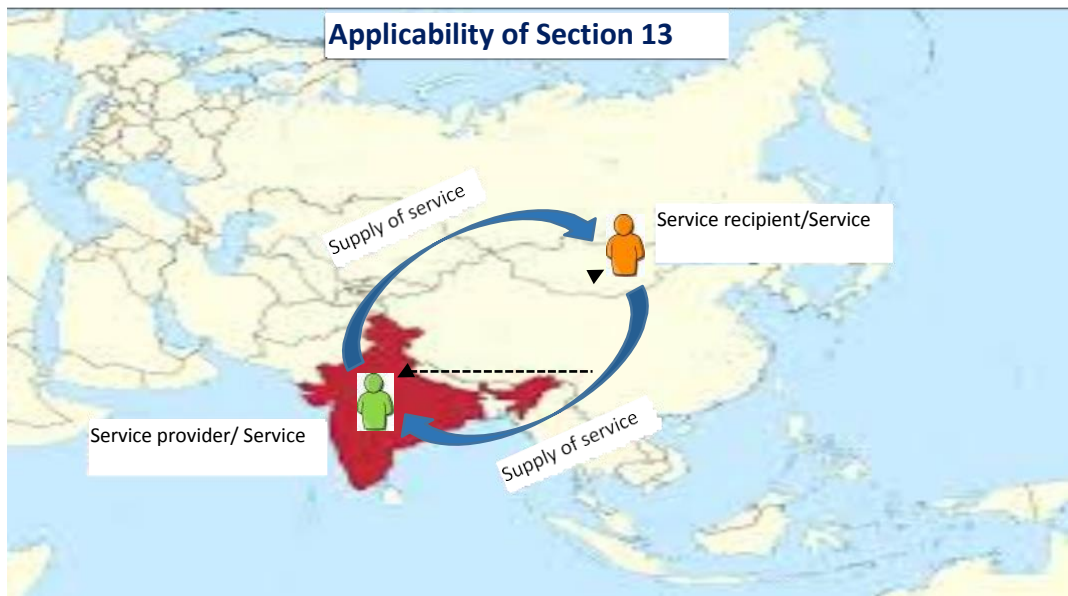
Nature of Supply	Place of Supply
Advertisement service to the Central Government/ State Government/ Statutory body/ Local authority meant for the State or Union Territory identified in contract or agreement	Each of such States or Union territories where the advertisement is broadcasted/ run /played.

Note: The value of such supplies is in proportion to the services provided by way of dissemination in the respective States or Union territories.

Q 47: Gujarat Government gives an advertisement contract to an advertising agency (registered in Ahmedabad) to promote Gujarat tourism throughout the country. Determine the place of supply?

Q 48: Delhi Government gives an advertisement contract to an advertising agency registered in Delhi to promote its 'Every Child Can Read' campaign in Delhi. Determine the place of supply?

## 22. PLACE OF SUPPLY OF SERVICES WHERE LOCATION OF SUPPLIER OR LOCATION OF RECIPIENT IS OUTSIDE INDIA [SECTION 13]:



Section 13 provides for determination of place of supply of services in cases where either the location of the supplier of services or the recipient of services is outside India. Thus, this section provides the place of supply in relation to international or cross-border supply of services. Place of supply of a service is one of the factors which determines as to whether a service can be termed as import or export of service.

Similar to section 12, section 13 also lays down a general rule to determine the place of supply of services as well as few other rules to determine place of supply of certain specific services. Thus, place of supply is determined as per general rule in respect of services other than the ones covered by the specific rules.

Further, sub-section (13) of section 13 empowers the Central Government to notify services or circumstances for which the place of supply will be the place of effective use and enjoyment of service so as to prevent double taxation/non-taxation of the supply of a service.

### i. **General Rule [Section 13(2)]:**

The rule is applicable only if the supply of service does not fall in any of the specific cases provided in section 13.

The rule provides that the place of supply of services is the location of the person receiving the services.

However, if the location of the recipient of services is not available in the ordinary course of business, the place of supply is the location of the supplier of services.

**The provision can be summarized as under:**

Nature of Supply	Place of Supply	
	Location of recipient is available	Location of recipient is not available
Supply of services other than the ones specified in sub-sections (3) to (13) of section 13	Location of the recipient of services	Location of the supplier of services


**The principal exceptions to the above general rule relating to place of supply of cross border services are:**

- Performance-based services
- Services directly in relation to immovable property
- Admission to and/or organization of events, celebrations etc.
- Services supplied by a banking company, financial institution, non-banking financial company (NBFS) to account holders
- Intermediary services
- Hiring of means of transport other than aircrafts and vessels except yachts, up to a period of one month.
- Transportation of goods, other than by way of mail or courier
- Passenger transportation services
- Services on board a conveyance during the course of a passenger transport operation
- Online information and database access or retrieval services.

ii. **Performance based services [Section 13(3)]:**

Nature of Supply	Place of Supply
(i) Services requiring physical presence of goods <b>Exceptions:</b>	Location where the service is actually performed
Services supplied in respect of goods, that are temporarily imported into India for repairs and are exported after repairs, without being put to any other use in India	<input type="checkbox"/> Location of the recipient <input type="checkbox"/> Location of the supplier, if location of recipient is not available

	Services supplied in respect of goods, that are provided from a remote location by electronic means	Location where goods are situated at the time of supply of services
(ii)	Services supplied to an individual, which require the physical presence of the recipient	Location where the service is actually performed

(iii)	Services at (i) and (ii) above supplied at more than one location including a location in the taxable territory  	Location in the taxable territory
(iv)	Services at (i) and (ii) supplied in more than one State/Union Territory	Each of State/Union Territory

Q 49: Mr. X (New Delhi) imports a machine from Germany for being installed in his factory at New Delhi. To install such machine, Mr. X takes the service of an engineer who comes to India from Germany for this specific installation. Determine the place of supply?

Q 50: A software company located in United States of America (USA) takes services of a software company located in Bangalore to service its software in USA. The Indian software company provides its services through electronic means from its office in India. Determine the place of supply?

Q 51: ABC Ltd., Hyderabad has exported a machine to a company in Indonesia. The machine stops functioning and is thus, imported by ABC Ltd. for free repairs in terms of the sale contract. The machine is exported after repairs. Determine the place of supply?

Q 52: Mr. X, a hair stylist registered in New Delhi, travels to Singapore to provide his services to Ms. Y, a resident of Singapore. Determine the place of supply?

Q 53: PQR Consultants, New Delhi, bags a contract for doing a market research for a vehicle manufacturing company based in South Korea, in respect of its upcoming model of a car. The research is to be carried out in five countries including New Delhi. Determine the place of supply?

iii. **Services in relation to immovable property [Section 13(4)]:**

Nature of Supply	Place of Supply
Services supplied <b>directly</b> in relation to an immovable property like <ul style="list-style-type: none"> <li><input type="checkbox"/> Services of experts and estate agents</li> <li><input type="checkbox"/> Accommodation by a hotel, inn, guest house, club or campsite</li> <li><input type="checkbox"/> Grant of rights to use immovable property</li> <li><input type="checkbox"/> Construction and related services</li> <li><input type="checkbox"/> Services of architects or interior decorators</li> </ul>	Location of immovable property
Above services supplied at more than one location, including a location in the taxable territory	Location in the taxable territory
Above services supplied in more than one State/Union Territory	Each of State/Union Territory

Q 54: Mr. C, an architect (New Delhi), provides professional services to Mr. Z of New York in relation to his immovable property located in Pune. Determine the place of supply?

Q 55: Mr. C, an architect (New Delhi), enters into a contract with Mr. Z of New York to provide professional services in respect of immovable properties of Mr. Z located in Pune and New York. Determine the place of supply?

iv. **Services by way of admission to and/or organization of events or celebrations etc. [Section 13(5)]:**




Nature of Supply	Place of Supply
Services supplied by way of admission to or organisation of following: <ul style="list-style-type: none"> <li><input type="checkbox"/> Cultural, artistic, sporting, scientific, educational, entertainment events</li> <li><input type="checkbox"/> Celebration, conference, fair, exhibition</li> <li><input type="checkbox"/> Similar events</li> </ul>	Place where the event is actually held
Services ancillary to such admission or organization of event	
Above services supplied at more than one location, including a location in the taxable territory	Location in the taxable territory
Above services supplied in more than one State/Union Territory	Each of State/Union Territory

Q 56: A circus team from Russia organizes a circus in New Delhi. Determine the place of supply?

Q 57: An event management company registered in New Delhi organises an art exhibition displaying works of an international painter based in Dubai. The exhibition is organised in 3 countries including New Delhi. Determine the place of supply?

v. **Banking and financial services, Intermediary services and Hiring of means of transport [Section 13(8)]:**



Nature of Supply	Place of Supply
Services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders [See definition of these terms in Explanation to sub-section (8) of section 13]	Location of the supplier of services
Intermediary [See definition] services	
Services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of 1 month 	

Q 58: Mr. C, a foreign tourist, on a visit to Varanasi (Uttar Pradesh) uses his international debit card to withdraw money from an ATM of a local Bank registered in Uttar Pradesh. Determine the place of supply?

Q 59: A travel agent registered in New Delhi books a tour of famous Indian cities for a Dubai resident. Determine the place of supply?

Q 60: Mr. D, an unregistered person based in New Delhi, leaves for a European holiday. He hires a car from London, UK for 20 days. Determine the place of supply?

vi. **Transportation services [Sub-sections (9) (10) and (11) of section 13]:**

Nature of Supply	Place of Supply
Transportation of goods, other than by way of mail or courier	Destination of such goods
Passenger transportation services	Place where the passenger embarks on the conveyance for a continuous journey [See definition]
Services provided on board a conveyance during passenger transportation including services intended to be wholly or substantially consumed while on board	First scheduled point of departure of that conveyance for the journey

Q 61: A shipping line, Mumbai, Maharashtra transports a shipment of flowers from Mumbai to Paris, for an event management company based in Paris. Determine the place of supply?



Q 62: Mr. A, a foreign tourist, has booked a ticket for New Delhi-Sri Lanka flight from an airline registered in New Delhi for a continuous journey without any stopover. Determine the place of supply?

**vii. Online information and database access or retrieval services (OIDAR) [Section 13(12)]:**

The place of supply of OIDAR is the location of the recipient of services. It is difficult to determine the location of the recipient in case of OIDAR as such recipients normally access the services online and are not required to disclose their location. The explanation to sub-section (12) lays down 7 conditions. On satisfying any 2 non-contradictory conditions out of such seven conditions, the service recipient is deemed to be located in the taxable territory i.e., India.

The seven conditions are:

- (a) the recipient gives an Indian address through internet;
- (b) the payment is settled by an Indian credit card/debit card/other card;
- (c) the recipient has an Indian billing address;
- (d) the computer used by the recipient has an Indian IP address;
- (e) the recipient uses an Indian bank account for payment;
- (f) the country code of the subscriber identity module card used by the recipient of services is of India;
- (g) the recipient receives the service through an Indian fixed land line.

**SUMMARY**

**A. Place of supply of goods other than import and export [Section 10]:**

S. No.	Nature of Supply	Place of Supply
1.	Where the supply involves the movement of goods, whether by the supplier or the recipient or by any other person	Location of the goods at the time at which, the movement of goods terminates for delivery to the recipient
2.	Where the goods are delivered to the recipient, or any person on the direction of the third person by way of transfer of title or otherwise, it	The principal place of business of such third person

	shall be deemed that the third person has received the goods	
3.	Where there is no movement of goods either by supplier or recipient	Location of such goods at the time of delivery to the recipient
4.	Where goods are assembled or installed at site	The place where the goods are assembled or installed
5.	Where the goods are supplied on-board a conveyance like a vessel, aircraft, train or motor vehicle	The place where such goods are taken on-board the conveyance
6.	Where the place of supply of goods cannot be determined in terms of the above provisions	It shall be determined in such manner as may be prescribed

**B. Place of supply of goods imported into, or exported from India [Section 11]**

S. No.	Nature of Supply of Goods	Place of Supply
1.	Import	Location of importer
2.	Export	Location outside India

**C. Place of supply of services where location of supplier AND recipient is in India [Section 12]:**

- i) In respect of the following 12 categories of services, the place of supply is determined with reference to a proxy; rest of the services are governed by the default provision:

S. No.	Nature of Service	Place of Supply
1.	Immovable property related-services including accommodation in hotel/boat/vessel	<input type="checkbox"/> Location at which the immovable property or boat or vessel is located or intended to be located <input type="checkbox"/> If located outside India: Location of the recipient
2.	Restaurant and catering services, personal grooming, fitness, beauty treatment and health service	Location where the services are actually performed
3.	Training and performance appraisal	<input type="checkbox"/> B2B: Location of such registered person <input type="checkbox"/> B2C: Location where the services are actually performed

4.	Admission to an event or amusement park	Place where the event is actually held or where the park or the other place is located
5.	Organisation of an event	<input type="checkbox"/> B2B: Location of such registered person <input type="checkbox"/> B2C: Location where the event is actually held <ul style="list-style-type: none"><li>• If the event is held outside India: Location of the recipient</li></ul>
6.	Transportation of goods, including mails	<input type="checkbox"/> B2B: Location of such registered person <input type="checkbox"/> B2C: Location at which such goods are handed over for their transportation
7.	Passenger transportation	<input type="checkbox"/> B2B: Location of such registered person <input type="checkbox"/> B2C: Place where the passenger embarks on the conveyance for a continuous journey

8.	Services on board a conveyance	Location of the first scheduled point of departure of that conveyance for the journey
9.	Banking and other financial services	<input type="checkbox"/> Location of the recipient of services on the records of the supplier <input type="checkbox"/> Location of the supplier of services if the location of the recipient of services is not available
10.	Insurance services	<input type="checkbox"/> B2B: Location of such registered person <input type="checkbox"/> B2C: Location of the recipient of services on the records of the supplier
11.	Advertisement services to the Government	<input type="checkbox"/> Each of States/Union Territory where the advertisement is broadcasted/displayed/run <input type="checkbox"/> Proportionate value in case of multiple States
12.	Telecommunication services	<input type="checkbox"/> Services involving fixed line, circuits, dish etc: Location of such fixed equipment <input type="checkbox"/> Mobile/ Internet post-paid services: Location of billing address of the recipient <input type="checkbox"/> Sale of pre-paid voucher: Place of sale of such vouchers <input type="checkbox"/> Other cases: Address of the recipient in records

- (ii) For the rest of the services other than those specified above, the default provision has been prescribed as under:

Default rule for the services other than the 12 specified services		
S. No.	Description of Supply	Place of Supply
1.	B2B	Location of such registered person
2.	B2C	<input type="checkbox"/> Where the address on record exists: Location of the recipient <input type="checkbox"/> Other cases: Location of the supplier of services

**D. Place of supply of services where location of supplier OR location of recipient is outside India [Section 13]:**

- (i) In respect of the following categories of services, the place of supply is determined with reference to a proxy; rest of the services are governed by the default provision.

S. No.	Nature of Service	Place of Supply
1.	Services supplied in respect of goods which are required to be made physically available	Location where the services are actually performed
	Services supplied in respect of goods but from a remote location by way of electronic means	Location where the goods are situated at the time of supply of services
	<i>Above provisions are not applicable in case of goods that are temporarily imported into India for repairs and exported after repairs</i>	
2.	Services which require the physical presence of the recipient	Location where the services are actually performed

3.		Place where the immovable property is located or intended to be located
4.		Place where the event is actually held
<p>If the above services are supplied at more than one locations. i.e.,</p> <p>(i) Goods &amp; individual related</p> <p>(ii) Immovable property-related</p> <p>(iii) Event related</p>		
At more than one location, including a location in the taxable territory		Location in the taxable territory
In more than one State		Each such State in proportion to the value of services provided in each State
5.	Services supplied by a banking company, or a financial institution, or a NBFC to account holders	Location of the supplier of services
	Intermediary services	
	Services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month	
6.	Transportation of goods, other than by way of mail or courier	Place of destination of such goods
7.	Passenger transportation	Place where the passenger embarks on the conveyance for a continuous journey
8.	Services provided on-board A conveyance	First scheduled point of departure of that conveyance for the journey

9.	Online information and database access or retrieval services	Location of recipient of service
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- ii) For the rest of the services other than those specified above, a default provision has been prescribed as under:

Default rule for the cross-border supply of services other than nine specified services		
S. No.	Description of supply	Place of Supply
1.	Any	<input type="checkbox"/> Location of the recipient of service <input type="checkbox"/> Location of the supplier of service, if location of recipient is not available in the ordinary course of business

### ANSWER BELOW QUESTIONS:

1. What is the place of supply where goods are removed?



2. *What will be the place of supply if the goods are delivered by the supplier to a person on the direction of a third person?*
3. *What is the place of supply where the goods or services are supplied on board a conveyance, such as a vessel, an aircraft, a train or a motor vehicle?*
4. *The place of supply in relation to immovable property is the location of immovable property. Suppose a road is constructed from Delhi to Mumbai covering multiple states.*

*What will be the place of supply of construction services?*

5. *What would be the place of supply of services provided by an event management company for organizing a sporting event for a Sports Federation which is held in multiple States?*
6. *What is the place of supply of goods services by way of transportation of goods, including mail or courier?*
7. *What will be the place of supply of passenger transportation service, if a person travels from Mumbai to Delhi and back to Mumbai?*
8. *What is the place of supply for mobile connection? Can it be the location of supplier?*
9. *A person from Mumbai goes to Kullu-Manali and takes some services from ICICI Bank in Manali.*

*What is the place of supply?*

10. *An unregistered person from Gurugram travels by Air India flight from Mumbai to Delhi and gets his travel insurance done in Mumbai. What is the place of supply of insurance services*