

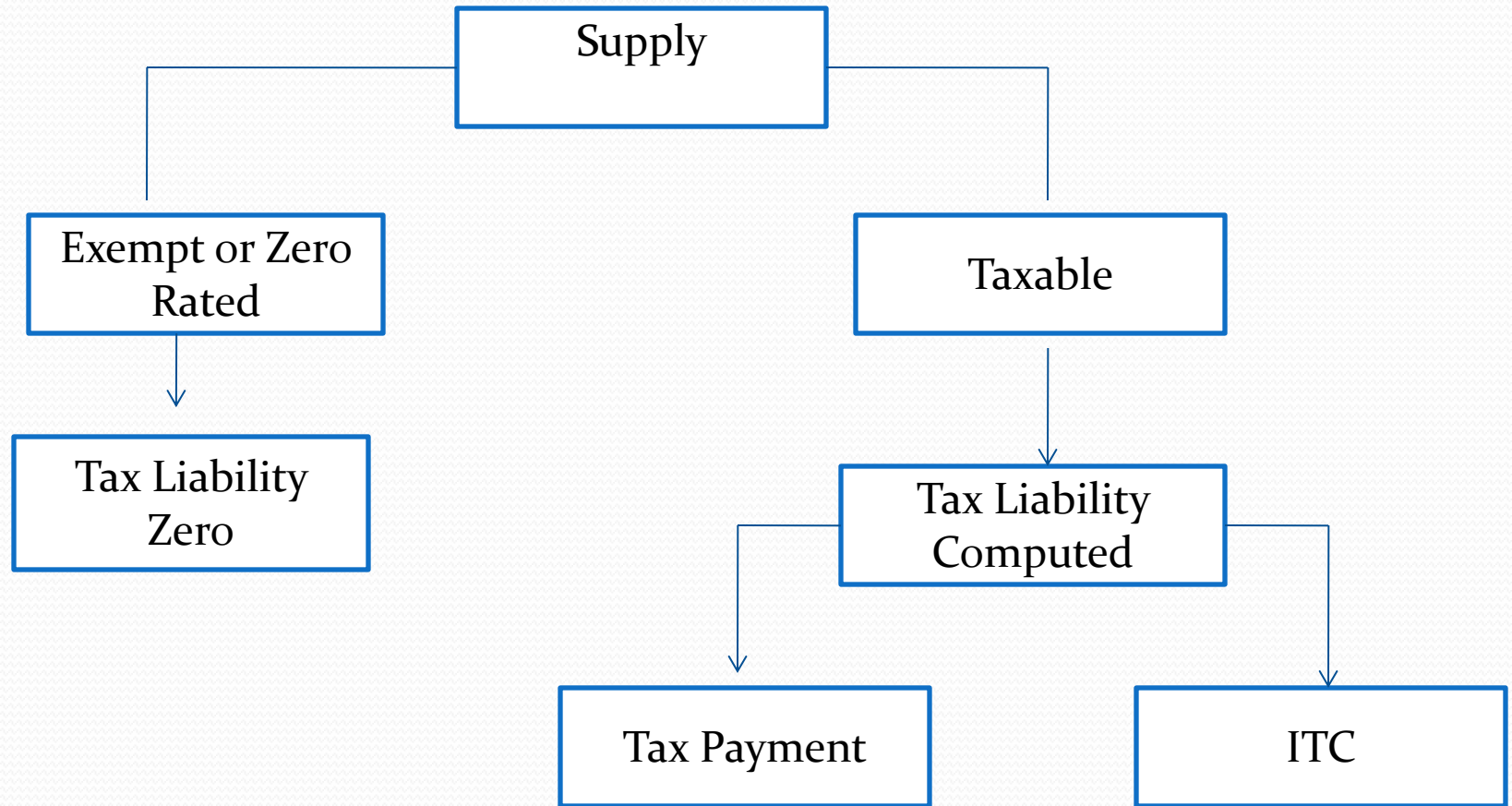
Refresher Course on GST WIRC of ICAI

*CA. Hrishikesh Wandrekar
Wandrekar & Co.*

Basic Concept of GST

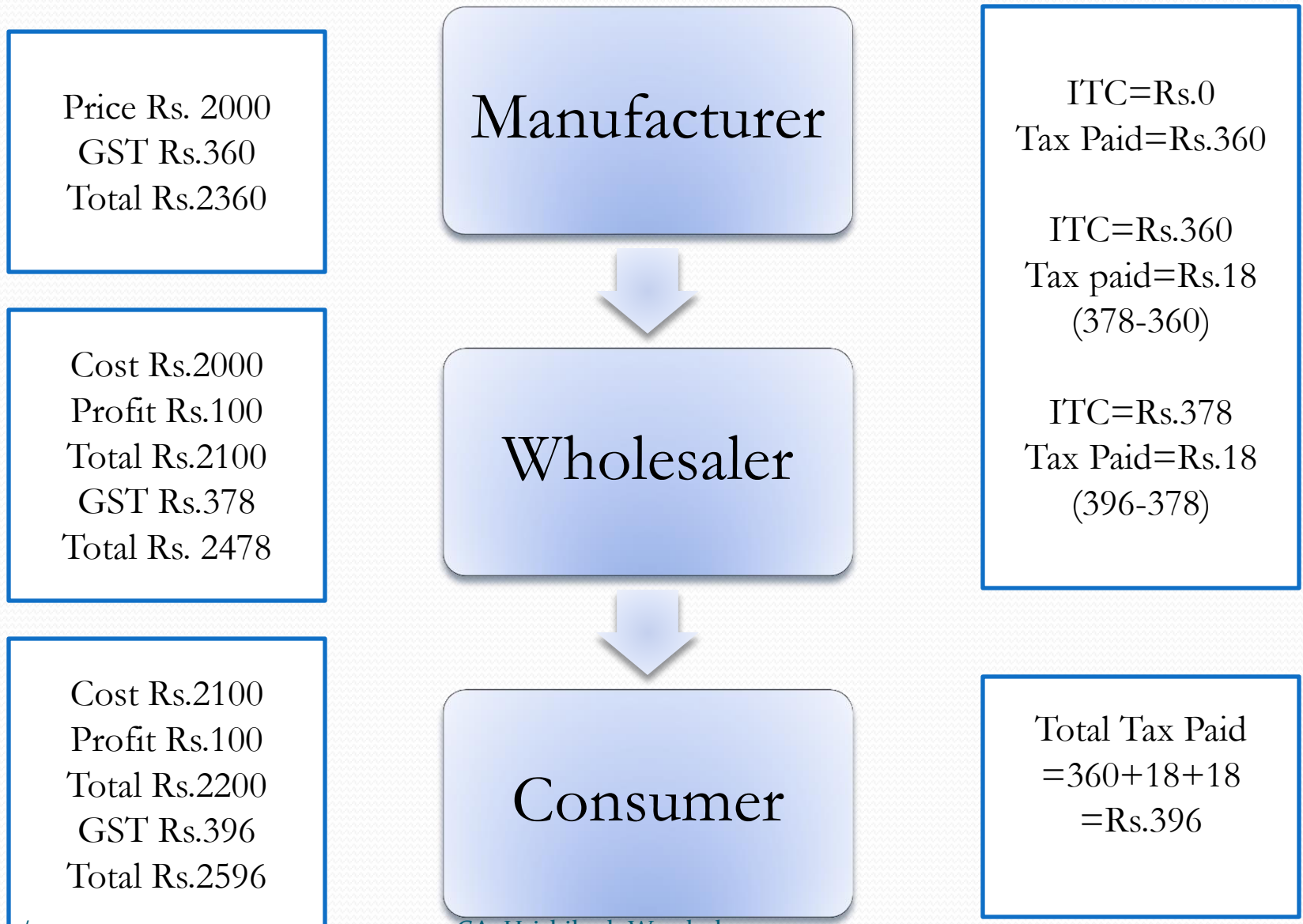
- Destination Based Consumption Tax
- Tax leviable on value added in the transaction chain
- Tax on goods & services borne by the ultimate consumer
- Input tax credit available on goods and services consumed

Determination of GST Liability



INPUT TAX CREDIT

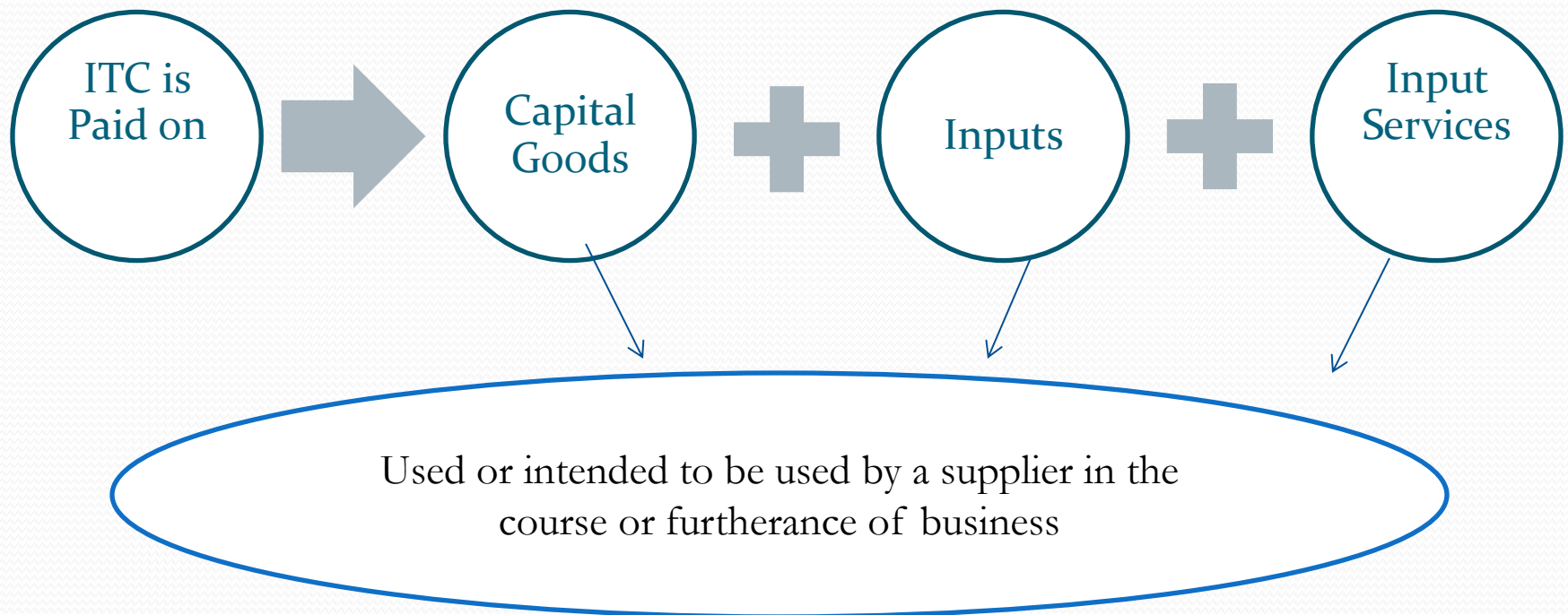
Transaction Chain



Objectives of GST ITC Mechanism

- Ensure fungibility of tax credit
- Ensure levy of tax on value addition by respective suppliers in transaction chain
- To eliminate double taxation
- To eliminate or minimize cascading effect of indirect taxes
- To minimize tax incidence on ultimate consumer of goods / services

Availability of ITC [Sec 16]



ITC Business & other purposes [Section 17(1)]

Goods & Services or Both

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graph TD; A[Goods & Services or Both] --> B[Business Purpose]; A --> C[Other Purpose]; B --> D[Input tax attributable to business purpose allowable]; C --> E[Input tax attributable to other purpose NOT allowable];
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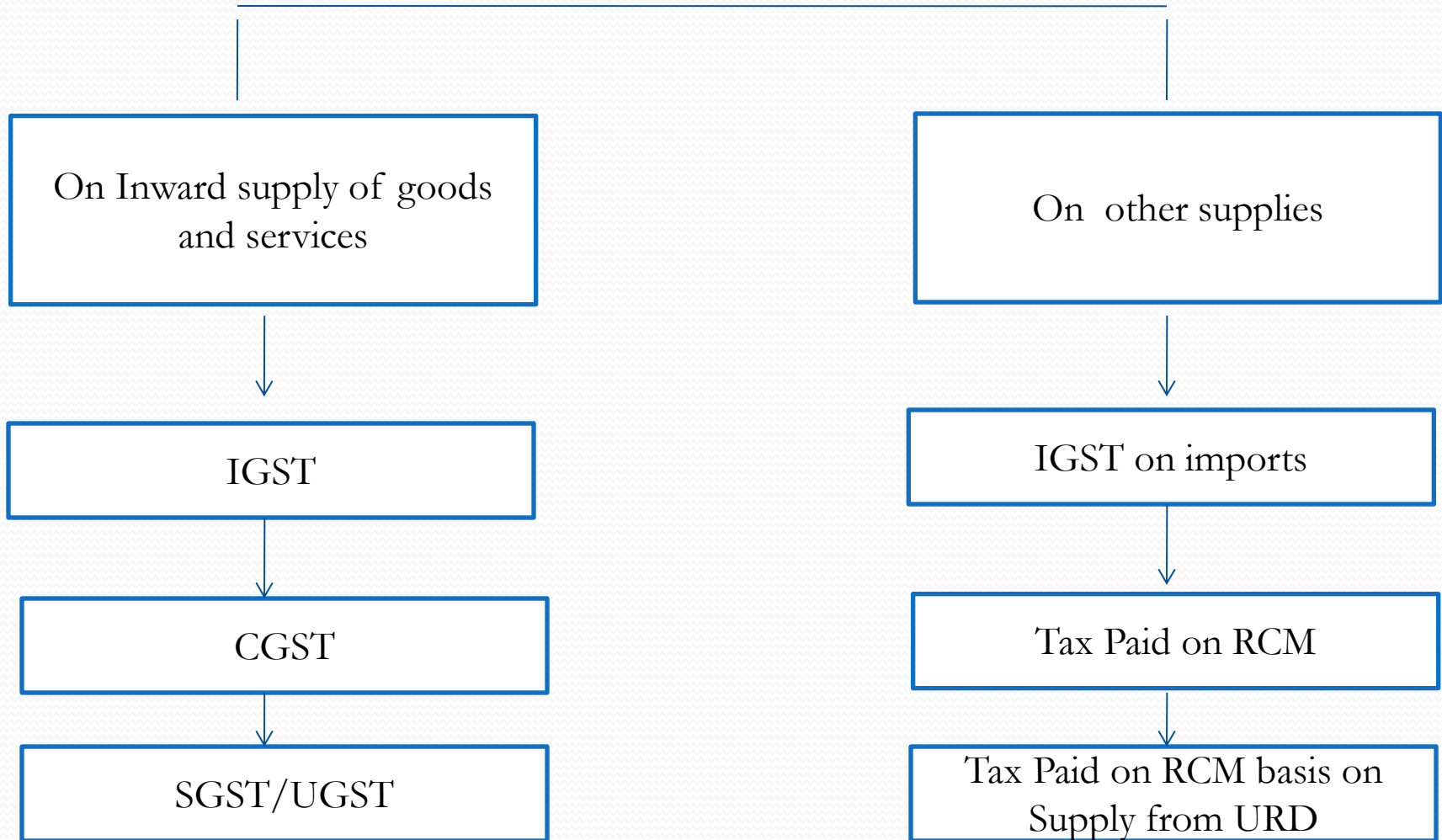
Business Purpose

Input tax attributable to business purpose allowable

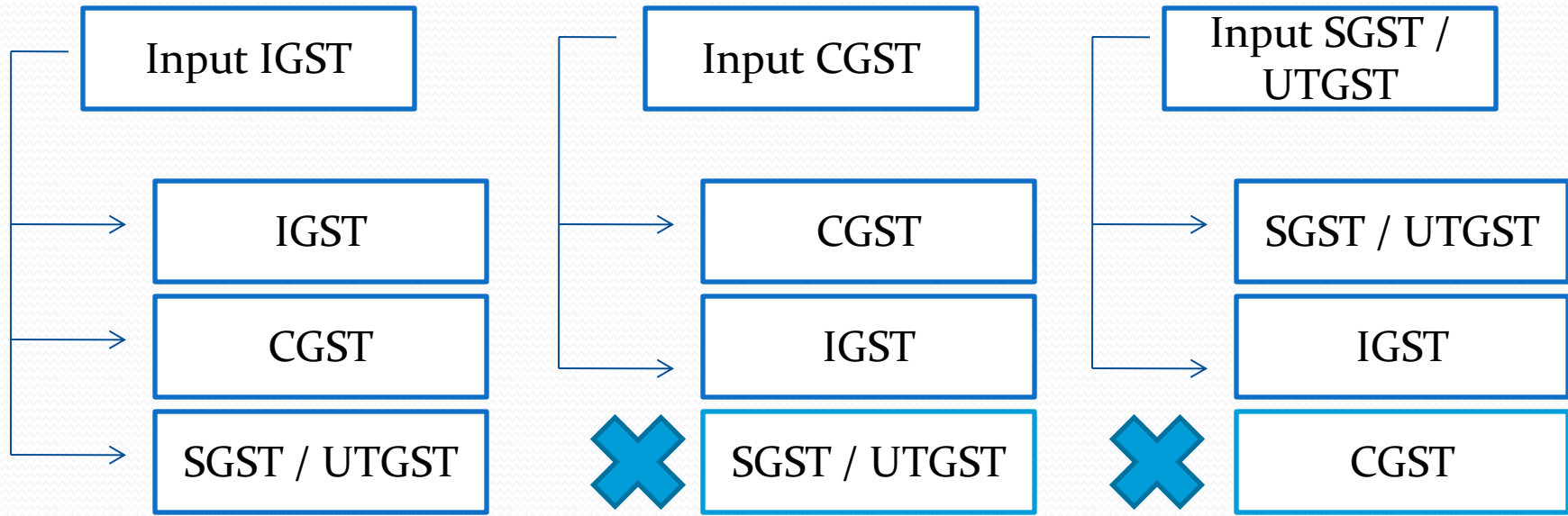
Other Purpose

Input tax attributable to other purpose **NOT** allowable

ITC Available



Manner of Utilization-ITC



GST credited can be utilized for payment of tax on supply

GST cannot be for payment of : interest, penalty, fees, tax under RCM

GST balance in one state/ union territory cannot be utilized against output liability of GST in other states/union territories

Manner of availment of ITC-[Sec 16(1)]

- ❑ Every registered person
 - subject to such conditions and restrictions as maybe prescribed; and in the manner specified in section 49
- ❑ Entitled to take ITC charged on any supply of supply of goods and/or services
- ❑ used or intended to be used in course or furtherance of business
- ❑ Said amount to be credited to the electronic credit ledger of such person

Persons Eligible for ITC

- **Person Eligible to take ITC:**

- Registered Taxable person
- Person making zero rated supplies

- **Person Not Eligible to take ITC:**

- Non-registered taxable person
- Person having aggregate turnover below threshold limit
- Supplier under Composition Scheme
- Supplier exclusively engaged in making exempt or non-taxable supplies
- Agriculturist

Conditions for availing ITC-[Section 16(2)]

- Registered person shall not be entitled to take credit of any input tax in respect of any supply of goods and/or services to him unless:

He is possession of:

- Tax invoice
- Debit note
- Bill of entry
- Invoice by receiver paying under RCM
- Document issued by ISD

Issued by supplier registered under the Act

- Receipt of goods and / or services
- ITC cannot be claimed on tax paid on advance

Payment of tax charged in respect of such supply to credit of government in:

- Cash; or
- Utilization of ITC admissible in respect of said supply

Furnished return u/s 39
- Return to be filed by both Vendor and Assesse

- Where goods against an invoice are received in installments / lots – ITC will be available only after receipt of last lot / installment [1st proviso to Section 16(2)]

Conditions for availing ITC

Where recipient fails to pay the supplier of goods and/or services within 180 days from the date of issuance of invoice by the supplier:

- Amount of ITC credit taken proportionate to amount not paid to supplier shall be added to recipient's output tax liability for the month immediately following the period of 180 days from date of issue of invoice ;
- Interest thereon will have to be discharged for the period starting from date of availing credit on such supplies till date when such added output tax liability is paid
- Recipient will be entitled to avail ITC on payment made by him towards value of supply along with tax payable thereon
- Value of supplies made without consideration as specified in Schedule I shall be deemed to have been paid

INPUT TAX CREDIT RESTRICTIONS

Negative List of ITC on which ITC is not allowed- [Sec 17]

No.	Nature of Goods and Services	Exceptions
1	Motor Vehicles and other means of Conveyance	Used for further supply of vehicles or conveyance, or transportation of passengers, or imparting training of driving etc or, for transportation of goods
2	Food & Beverages, outdoor catering, beauty treatment, health services, cosmetic & plastic surgery	Used in outward taxable supply of same category of goods or services
3	Membership of a club, health and fitness centre	
4	Rent-a-cab	Used in outward taxable supply of same category of goods or services
5	Life and health insurance	or services made obligatory by Govt. Notification under any law

6	Travel benefits to employees on vacation or home travel concession	
7	Works contract services for construction of immovable property (except plant & machinery)	Used as input service for further supply of works contract service
8	Goods or services received for construction of immovable property.	
9	Goods or services on which tax has been paid by dealer on composition basis	
10	Goods or services by a non-resident taxable person	
11	Goods or services used for personal consumption	
12	Goods lost, stolen, destroyed, written off, or disposed by way of gift or free samples	
13	Any tax paid on account of adjudication, confiscation of goods etc.	

WHETHER ITC AVAILABLE?

- Company purchased Motor car for use of its Director
- Gift items purchased during Diwali for clients and staff
- Stock stored in godown destroyed by fire
- Material for construction of immovable property other than P&M
- Company paid membership fee to MCA Cricket Club Rs. 10,00,000 – GST is @ 28% is 2,80,000
- Mr X is a director of X Ltd, he hired a Cab / Taxi to visit customers. He pays Rs. 10,000 plus GST Rs. 1,800
- A Ltd took up Mediclaim on its employees as a welfare measure not obligatory to any law Rs. 15,00,000. GST paid @ 18% is Rs. 2,40,000

WHETHER ITC AVAILABLE?

- X Ltd paid towards Gratuity Fund of employees as per Coal Mines Act Rs. 10,00,000. GST paid @ 18% is Rs. 1,80,000
- Major repairs of factory building capitalised Rs. 25 Lakhs, GST paid on the same @ 18% Rs. 4,50,000
- Supply of food and beverages to its staff members and guest Rs. 5,00,000. GST @ 18% is Rs. 90,000
- Mr. A runs a canteen in State Bank of India. He paid for supply of sweets Rs. 10,000, GST @ 18% is Rs. 1,800. The sweets are later sold by him to the staff members and others in State Bank of India.
- A Ltd event management company got a contract for marriage ceremony at Hindu Gymkhana Mumbai. They hired services of Taj Caterers for Rs. 20,00,000, GST @ 10% Rs. 2,00,000.
- A Ltd hires services of Mr B composition dealer of Rs. 1,00,000. He charged GST Rs. 1,000

Denial of ITC and Time limit-[Sec 16(3) & 16(4)]

- Input tax credit will not be allowed to the registered person on the tax component who has already claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of Income Tax Act, 1961
- A taxable person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods and/or services after:
 - Due date of filing of the return u/s 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains; or
 - Furnishing of the relevant annual return; whichever is earlier

ITC – Exempt Supplies [Sec17(2) &17(3)]

➤ Goods or services or both used for:

-Taxable Supplies

-Zero Rated Supplies

Input tax credit to the above allowable

➤ Goods or services or both used for:

-Exempt Supplies

Input tax credit NOT allowable

ITC attributable to above not allowable

➤ For Exempt supplies

It shall include following supplies:

➤ Where recipient is liable to pay tax under RCM

➤ Transactions in securities

➤ Sale of land

➤ Sale of building

Manner of determination of ITC and reversal of Inputs and Input services - Rule 7 of ITC Rules

	Total Input tax credit involved on inputs and inputs services (T)	65,000
Less:	Input tax attributable to Input and input services used exclusively for purposes other than business (T1)	5,000
Less:	Input tax attributable to Input and input services used exclusively for effecting exempt supplies (T2)	5,000
Less:	Input tax attributable to Input and input services on which credit not available u/s 17(5) (T3)	1,000
	Input tax credited to electronic credit ledger (C1)	45,000
Less:	Input tax attributable to Input and input services used exclusively for effecting taxable and zero rated supplies (T4)	30,000
	Common credit (C2)	15,000
	Registered person will have to declare T1, T2, T3 and T4 at invoice level in form GSTR-2	

Manner of determination of ITC and reversal of Inputs and Input services - Rule 7 of ITC Rules

- Amount of common credit (C2) attributable to exempt supplies to calculated as per formula = $E/F \times C2$

Aggregate value of exempt supplies during tax period (E)	2,00,000
Total turnover in the State during tax period (F)	10,00,000
Amount to be reversed [$2,00,000 / 10,00,000 \times 15,000$] [D1]	3,000
Amount of C2 attributable to non-business purpose shall be 5% of C2 = 5% of 15,000 [D2]	750
Eligible ITC [C3] = $C2 - D1 - D2 = 15000 - 3000 - 750$	11,250
GST Payable = Output GST - T4 - C3 = 90000 - 30000 - 11250	48,750

ITC – Banking company, Financial institution and NBFC

Banking company or a financial institution including a non banking financial company – ITC available as under:

- Avail ITC under normal provisions u/s 17(2); or
- Avail an amount equal to 50% of the eligible input tax credit in that month relating to Inputs, Capital goods and Input services
- Once option is exercised, it cannot be withdrawn during the remaining part of financial year
- Restriction of 50% shall not apply to the tax paid on supplies made by a registered person to another registered person having same PAN

ITC – Banking company, Financial institution and NBFC-[Section 17(4)]

Banking company or a financial institution opting to follow the option of 50% reversal has to follow following procedure (Rule 3 of ITC Rules):

- It shall not avail the credit of tax paid on inputs and input services that are used for non-business purposes and the credit attributable to supplies in negative list
- It shall avail full credit of tax paid on inputs and input services in respect of its transactions between different branches having same PAN and which are not for non-business purposes or not in negative list
- 50% of the remaining input tax shall be the input tax credit admissible to the company/institution

ITC availability - Summary

Nature of Supply made by taxable person	Credit Admissible
Wholly taxable supplies	Yes
Wholly zero-rated supplies	Yes
Both taxable and zero-rated supplies	Yes
Wholly non-taxable or exempt supply	No
Wholly for non-business purpose	No
Both business and non-business purpose	Proportionate credit
Both taxable and non-taxable supply	Proportionate credit

INPUT TAX CREDIT – SPECIAL CONSIDERATIONS

ITC-Change in constitution of taxable person-[Section 18(3)]

Where there is change in constitution of registered taxable person
On account of sale, merger, demerger, amalgamation, lease or
transfer of business with specific provision of transfer of liabilities

- Said registered taxable person shall be allowed **to transfer** unutilized input tax credit in his electronic credit ledger account
- to such sold , merged, demerged, amalgamated, leased, or transferred business

ITC - New Registration-[Sec 18 (1)(a) & (b)]

- **Fresh Registration** – Person applying within 30 days on becoming liable to registration – Entitled to ITC of inputs in stock, semi-finished or finished goods on the day immediately preceding the date from which he becomes liable to pay tax
- **Voluntary Registration** -Entitled to ITC in stock, semi-finished or finished goods on the day immediately preceding the **date of grant of registration**
- No ITC available in respect of any supply of goods/ services made to him after expiry of 1 year of date of issue of invoice

New Registrant – ITC availment

[Sec 18 (1)(c) & (d)]

Registered person ceases to pay tax u/s. 10 i.e. Composition Levy

Supplier of exempt goods/services becomes a taxable supply

Entitled to take ITC in respect of input held in:

- stock semi- finished or finished goods; and
- capital goods (after reducing the tax paid on capital goods by 5% points per quarter of a year or a part thereof from the date of invoice on which capital goods were received by taxable person)

Reversal/ payment of ITC under special circumstances- [Section 18(4)]

Registered person who has availed ITC opts to pay tax u/s10 or where goods or services both supplied by him become wholly exempt:

- Pay an amount equal to Input tax credit-on inputs lying in stock, semi / finished goods & on capital goods (subject to reduction) by including it in output liability
- On the day immediately preceding to the date of exercising such option/ date of exemption
- By debit in electronic cash / credit ledger
- • Balance of ITC lying in credit ledger shall lapse
- ITC of IGST, CGST & SGST be determined separately
- Input tax to be determined on basis of tax invoices
- If tax invoices not available, then on basis of market price of goods

Reversal/ payment of ITC under special circumstances-Rule 9 of ITC Rules

Supply of capital goods or plant and machinery on which ITC has been taken

Registered taxable person shall pay an amount equal to ;

- ITC availed as reduced by Specified % points; or
 - Tax on transaction value u/s 15
- } Whichever is higher

In case of refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on transaction value u/s 15



TRANSITIONAL PROVISIONS

Carry forward of input tax credit under existing law- [Sec 140(1)]

- Registered person, other than person paying tax under composition, is entitled to input credit of:
 - Cenvat credit balance carried forwarded in return relating to period immediately preceding appointed day
 - VAT and Entry tax credit carried forwarded in return relating to period immediately preceding appointed day, furnished not later than 90 days from the appointed day

- No credit in following circumstances:
 - Credit not admissible as ITC under GST Act
 - Returns not furnished under existing law for period of 6 months immediately preceding appointed day
 - Credit relates to goods manufactured and cleared under exemption notifications as notified by Central Government
 - Unit is a PSI Unit as per Rule 79 of MVAT Rules, 2005
 - Credit not available or partially available u/r 53 or 54 of MVAT Rules

Unavailed Cenvat credit on capital goods- [Sec 140(2)]

Registered person, other than person paying tax under composition, is entitled to credit of:

- Un-availed credit in respect of capital goods
- not carried forward in the return furnished under earlier law
- Immediately preceding the appointed day

Registered taxable person shall not be allowed to take such credit unless:

- Said credit was admissible under earlier law; and
- It is also admissible as input tax credit under GST

Registered taxable person shall disclose:

- Amount of tax or duty availed or utilized, and
- Amount of tax or duty yet to be availed or utilized

Credit in respect of inputs held in stock-[Sec140(3) & (6)]

Following registered persons are entitled to take credit of Eligible Duties / VAT and Entry tax:

- Not liable to be registered under existing law
- Manufacture or sale of exempted goods or providing exempted services
- Providing works contract service – availing benefit under Notification 26/2012 of Service Tax
- Goods which suffered tax at first point of sale and subsequent sale were not taxable but are liable to tax under GST
- Either paying tax at fixed rate or paying fixed amount in lieu of tax payable
- First stage or second stage dealer under excise law
- Registered importer
- Depot of manufacture

Credit in respect of inputs held in stock-[Sec140(3) & (6)]

- Not liable to be registered under existing law; or
- Sale of exempted goods or tax free goods; or
- Goods which suffered tax at first point of sale and subsequent sale were not taxable but are liable to tax under GST
- Either paying tax at fixed rate or paying fixed amount in lieu of tax payable

Credit in respect of inputs held in stock-[Sec140(3) & (6)]

- Registered person is entitled to take credit of “Eligible Duties” / VAT and Entry tax in respect of:
 - Inputs held in stock on appointed day;
 - Inputs contained semi-finished goods on appointed day;
 - Inputs contained in finished goods on appointed day

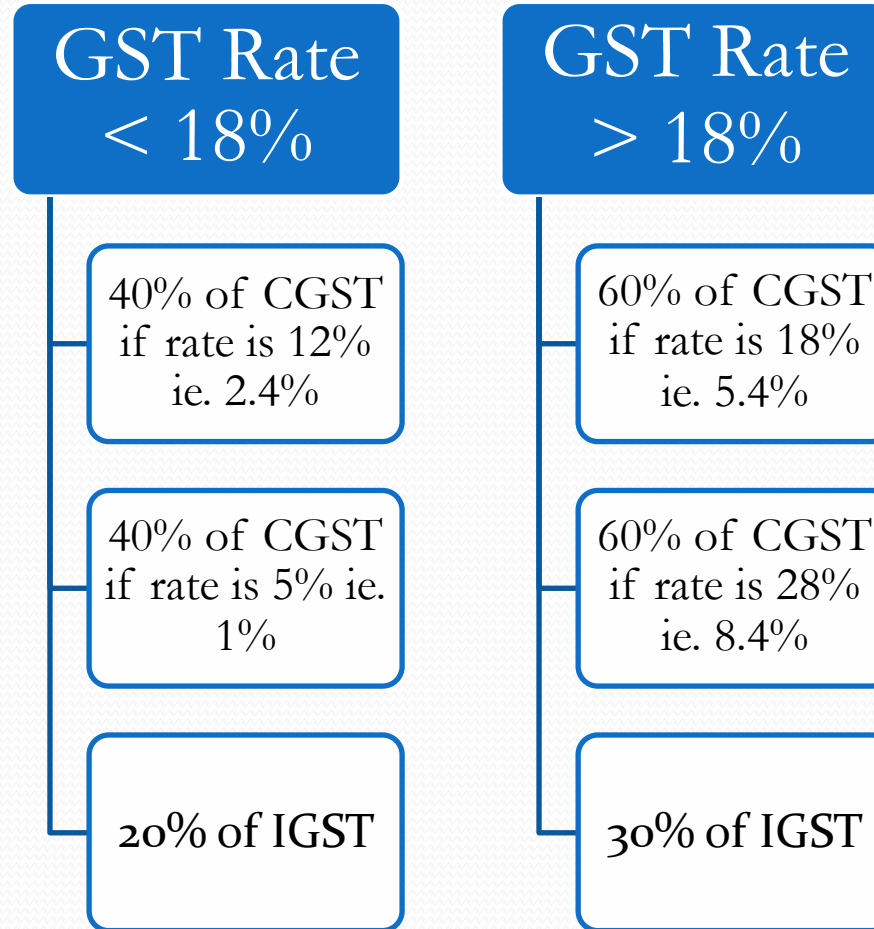
- “Eligible Duties” for the purpose of section 140(3), 140(4) and 140(6):
 - Duty of excise in the First and Second Schedule to the Central Excise Tariff Act, 1985
 - Additional duty of excise
 - Service Tax
 - National Calamity Contingent Duty u/s 136 of Finance Act, 2001
 - Additional duty u/s 3(1) and u/s 3(5) of Customs Tariff Act, 1975

Credit claim by Un-registered dealer- [Sec 140(3)]

Registered taxable person, other than a manufacturer or supplier of service, not registered under old law:

- Does not possess invoice / any document evidencing payment of duty in respect of inputs
- Document of procurement of material available
- Be allowed to take credit as per rate and manner prescribed
- Provided, dealer passes benefit of such credit by way of reduced prices to the recipient
- Credit allowed of central tax / state tax applicable on supply of such goods after appointed day after payment of respective tax on such supply
- Goods not exempt / NIL rated under Excise Duty
- Scheme available for 6 tax periods from appointed day

Credit claim without duty paying document -[Sec 140(3)]



Credit in respect of inputs or input services during transit

Registered taxable person entitled to take input credit of

Excise duty, other eligible duty, Service tax, VAT, Entry tax paid before appointed day

On input and input services received on or after appointed day

Conditions for claiming ITC in respect goods and services in transit:

- Invoice / duty paying document is recorded in books of account within 30 days from appointed day
- Period of 30 days may be extended by Commissioner for a further period not exceeding 30 days
- Claimant should furnish statement of credit in the manner prescribed

Credit distribution of Service tax by ISD- [Section 140(7)]

ISD is eligible to distribute credit of service tax where:

- Services are received prior to appointed day
- Invoices relating to such services are received on or after appointed day

Centralized registration – Credit carry forward-[Section 140(8)]

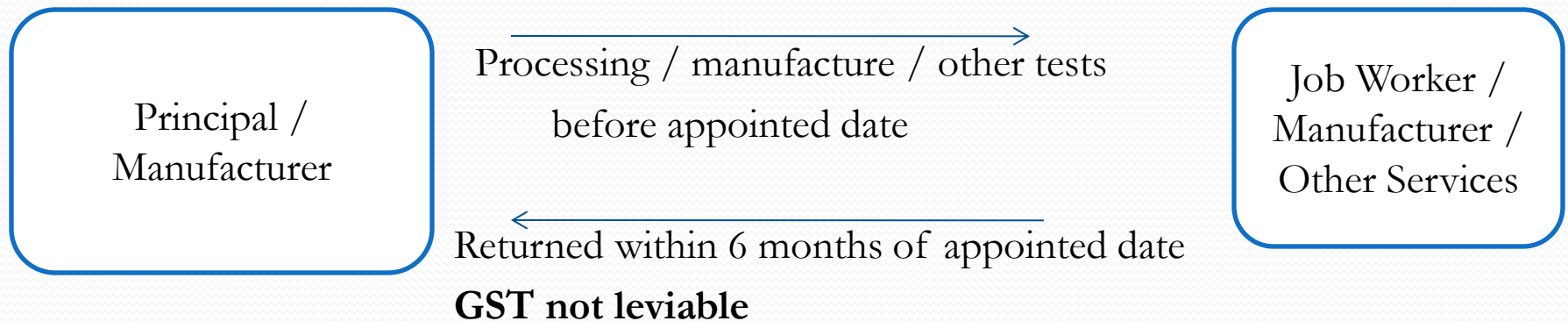
- Amount of unutilized ITC credit under existing law carried forward in the last return under existing law
- Unutilized Cenvat credit can be transferred to any registered person (branch or units) having same PAN for which centralized registration was obtained in existing law
- Taxable person should file return within 3 months from appointed day to claim ITC
- Revision of return allowed only if amount of ITC is reduced
- Credit allowed provided it is admissible as ITC under GST

Reclaim of Service tax due to non-payment- [Sec 140(9)]

- Registered person is entitled to reclaim credit in respect of:
 - Service tax on input services provided under existing law reversed due to non payment for service consideration within a period of 3 months
 - Payment for consideration for such supply of services is made within a period of 3 months from appointed day
 - Credit reversed at any time before appointed date can be reclaimed on payment of consideration within 3 months from appointed date

Job Work [Sec 141]

Inputs / Semi-finished goods / Excisable goods



If goods returned after 6 months from appointed date – Input tax credit recoverable u/s 142(8)(a)

Manufacturer / Job worker to declare details of inputs / goods held in stock as on appointed date

Goods lying with Agent [Sec 142(14) of SGST Act]

Agent entitled to take credit of goods / capital goods lying at his premises on appointed date:

- Agent is registered taxable person
- Both principal & agent declare details of goods / capital goods
- Invoices issued not earlier than 12 months preceding appointed date
- Principal has reversed ITC availed, if any

Tax paid under VAT & Service Tax [Sec 142(11)(c)]

Registered person entitled to ITC on:

- Tax paid on supplies under both VAT & Service Tax
- Supplies made after appointed date
- ITC of VAT entitled as SGST credit
- ITC of Service Tax entitled as CGST credit
- GST leviable on outward supplies

Sale on Approval [Sec 142(12)]

Registered Person

→
Goods sent on approval basis not more than 6 months before appointed date

Buyer

←
Rejected / Not approved and returned within 6 months of appointed date

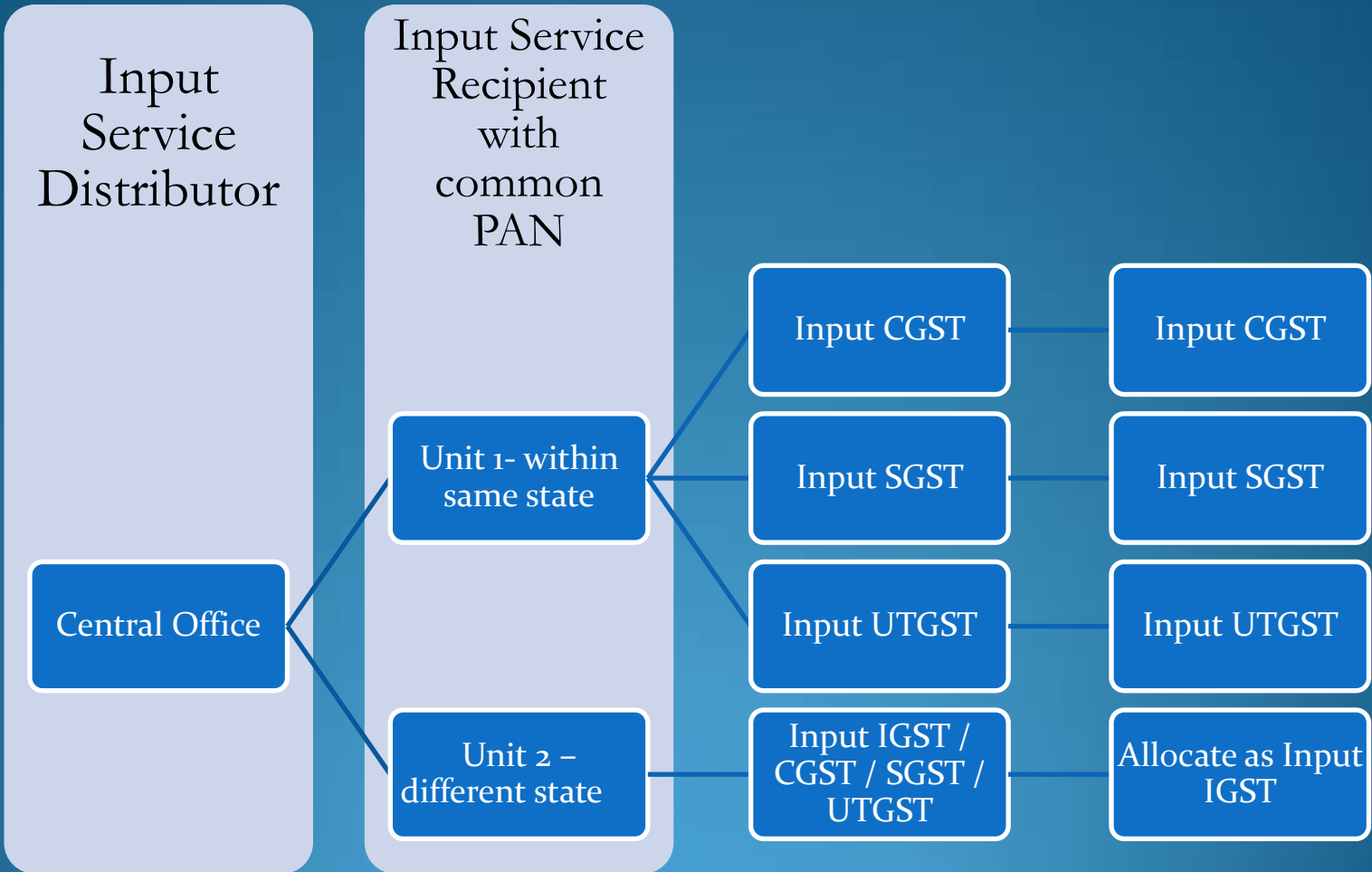
GST not leviable

If goods returned after 6 months from appointed date – Tax payable by Buyer

If goods NOT returned after 6 months from appointed date – Tax payable by Registered Person

INPUT SERVICE DISTRIBUTOR

INPUT SERVICE DISTRIBUTOR- [Sec 20]



Input Service Distributor - Provisions

- Against document containing prescribed details
- Amount shall not exceed total credit available for distribution
- Credit attributable to specific recipient to be allocated only to that recipient
- Credit to multiple recipients to be distributed on pro-rata basis in the ratio of 'Turnover'
- 'Turnover' implies turnover of recipient in previous FY
- If new recipient, then 'turnover' in last quarter
- Excess credit distributed to be recovered with interest

REFUNDS

Refund Procedure

- Refund application to be made before expiry of 2 years from relevant date along with documentary evidence as prescribed
- Where refund claim is below Rs. 2 Lakhs no documentary evidence to be submitted provided that incidence of tax is not passed on to any other person
- Application of refund to be forwarded to proper officer who shall within 15 days scrutinize the application for its completeness
- If application found complete an acknowledgement in Form GST RFD-02 to be made available to applicant and Refund order to be made within 60 days of such acknowledgement
- If officer is satisfied that refund is not admissible, a notice shall be issued to applicant requiring him to furnish the reply within 15 days of receipt of such notice
- After considering the reply, he may sanction the refund or reject the refund
- Refund to be sanctioned after adjusting following amounts:
 - Outstanding demand under GST Act
 - Outstanding demand under existing law
- Refund to be credited to bank account of applicant
- No refund to be granted if amount is less than Rs. 1000

Provisional Refund

- Provisional refund of 90% of refund claimed to be granted in case of zero rated supply of goods or services or both made by registered person
- Such refund amount to exclude the amount of ITC provisionally accepted
- **Provisional refund to be granted by proper officer subject to following conditions:**
- GST compliance rating is not less than 5 on a scale of 10
- Person claiming refund is not prosecuted under CGST Act or existing law during any period of 5 years preceding appointed day
- No pendency of any appeal / review / revision on any of the issues which form basis for refund claim
- Provisional refund to be granted within 7 days from the date of acknowledgement

Documentary Evidence for filing refund

Particulars	Documents required
Where refund is on account of export of goods	<ul style="list-style-type: none">• a statement containing the number and date of shipping bills or bills of export• Number and date of relevant export invoices
Where refund is on account of export of services	<ul style="list-style-type: none">• a statement containing the number and date of invoices• Bank realization certificate or Foreign Inward Remittance Certificate
Supply to SEZ unit or SEZ developer	<ul style="list-style-type: none">• A statement containing number and date of invoices as prescribed in Rule 1 of Invoice Rules• Evidence regarding supply of goods or receipt of services by for authorized operations as endorsed by specified officer of the zone• In case supply of services, details of payment along with proof thereof made by recipient to supplier of services for authorized operations

Documentary Evidence for filing Refund

Particulars	Documents required
Deemed exports	<ul style="list-style-type: none">•A statement containing number and date of invoices along with other evidence as may be prescribed
Refund on account of inverted duty rate structure	<ul style="list-style-type: none">•A statement in Annex 1 of Form GSTRFD-01 containing the number and date of invoices received and issued during tax period
Refund on account of finalization of provisional assessment	<ul style="list-style-type: none">•Reference number of final assessment order and a copy of the said order

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