



Intensive Study Course on GST

Job Work, Transitional Provisions, E-Commerce – TCS,
Registration including Schedule V, Payment of Taxes

Presented By:

CA Rajat Talati

Talati & Co.

At

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rajat@talatico.com

Agenda

- Job worker
- E-Commerce transactions



Job-Work

CA Rajat Talati, Mumbai

Job-work - Definition

- Definition -Section 2(68) -Job work means
 - undertaking any treatment or process
 - on goods
 - belonging to another **registered taxable person**

Job-work procedure (Sec 143)

- Supply from Principal —→ Job-worker – **Not taxable, if**
 - Inputs – **Returned** within 1 year/ CG – Returned within 3 years or
 - Inputs –after completion of job work or otherwise
 - **Supplied from Job-worker premises – on payment of tax** within 1yr(inputs) & 3yr(CG) **or non-payment of tax for exports – Unless** Principal declares the unregistered job workers premise as his additional place of business -**Except**
 - If job worker is registered u/s 25 or
 - Principal is engaged in the supply of such goods notified by Commissioner
- Accountability & Responsibility of inputs/CG – with the principal
- CG doesn't include **moulds and dies, jigs and fixtures, or tools**

Inputs/CG not returned - Job-work supply by Job-worker

- If inputs not returned/supplied as per S 143(b)(i) or (ii) within 1 year for sending
 - **Deemed Supply**
 - inputs supplied by principal **on day of goods were sent out**
- If CG not returned/supplied S 143(b)(i) or (ii) within 3 years for sending
 - **Deemed supply**
 - CG supplied by principal on day of goods were sent out
- Supply of goods after completion JW by a Registered JW- treated as supply by Principal [Expln (ii) to Sec 22(4)]
- Manufacturer and the job worker to declare stock on the appointed date

ITC Rule 11

- Inputs or CG to be sent to JW to be issued under challan (as per Rule- Invoice 8) by Principal
 - Including cases where inputs/CG directly sent directly to JW
- Challans of goods dispatched and /or received to/from JW to be reported in Form GSTR -1
- If inputs/CG not returned in time – Challan will be deemed to be invoice
- Capital good shall include PI & Mach

Some issues

- Job-work
 - does it require to result in 'Manufacture'?- No, broad definition
 - What if goods are belonging to 'URD'? Would it be still a job-work?
 - What if the person becomes taxable persons at a later date?
- Can the job-worker supply/transfer goods to another job-work? If yes, would it be taxable? – Also consider expln (ii) to Sec 22(4)
- Should the Principal and JW be located in same state/UT? No – refer FAQ 16
- CG doesn't include moulds and dies, jigs and fixtures, or tools
 - **Is it, supply of moulds and dies, jigs and fixtures, or tools to Job-worker – TAXABLE?**
 - **refer FAQ 10**

Supply of scrap/Waste

- Supply of waste/scrap
 - Generated during job-work
 - May be supplied from job-worker premises
 - **On payment of tax** by job-worker(if registered)
 - **Or on payment of tax** by principal
- What if scrap is returned back to Principal?
 - Is it taxable? If yes, in whose hands? Principal or Job-worker
 - What if job-worker is not registered? RCM?

Transitional provisions

- Inputs/ semi-finished goods **removed** in Old regime – returned in GST regime
 - Not taxable – if returned within 6m from **appointed day**. Can be extended for another 2m by the Commissioner
 - And only if principal & job worker declare the details of inputs held in stock
 - If above conditions not met – ITC liable to be recovered u/s 142(8)(a)
 - The manufacturer may transfer the goods from said other premises **on payment of tax in India or without payment of tax for Export** within the specified period
- What about Capital goods sent/ removed to JW under existing law?
 - What about Dies, Moulds, Jigs, fixture or tools?
- Value of goods held by registered job-worker of principal not to be included in aggregate turnover of the job-worker [expln- to Sec 22(4)]



Implications of GST on E-Commerce

Agenda

- Concepts governing taxation of E-commerce under the present tax laws
- Definition of Electronic Commerce and Electronic commerce operator. Aggregator definition removed.
- Chapter XIV – Sec 52 deals with Collection of Tax at Source for E-commerce operators.
- Separate Registration provisions.

E-Commerce – present Sales tax laws

Concepts – 3 Pillars

- Appropriate State
 - which state to levy & collect tax
- Taxable Event
 - Sale of goods Act
 - Transfer of property in goods.
- Sale of right to use
 - SC – 20th Century Leasing
- Situs of sale
 - Seat of sale transaction

Some litigation –VAT /CST

- **VAT/CST**
- Kerala VAT Dept. – VAT on goods hosted on web-portals
 - Demand quashed by Kerala HC [Filpkart Internet (P) Ltd. v/s State of Kerala W P 5348 & 6916 of 2015 dt.31.10.2015]
- Karnataka VAT Dept. – VAT on goods sold from godowns of e-trailers.

E-Commerce – present Service Tax laws

- Rendition of services
- Place of Provision of Services Rules, 2012
- Point of taxation Rules, 2011
- Valuation Rules- Service Tax (Determination of Value) Rules, 2006
- Cenvat Credit Rules

Some provisions under Service tax

- Rendition of service – from one to other person for consideration – taxable - unless covered by
 - Negative list u/s 66D
 - Mega Exemption Notification no. 25/2012 dt.20.6.12
- Service tax is also applicable on
 - Access of online information
 - Database access & retrieval services
 - Development & supply of digital content and software.
 - E-commerce transaction on aggregator model w.e.f. 1.3.2015
- Cases of Dual taxation VAT/CST & service tax

Some other levies

Entry tax

- Some states like WB, Orissa charge E-commerce companies additional taxes for delivering product to customers in their states.

Equalization levy

- On **income** they earn on a/c of soliciting advertisements and from Indian advertisers

Current Models in E-Commerce

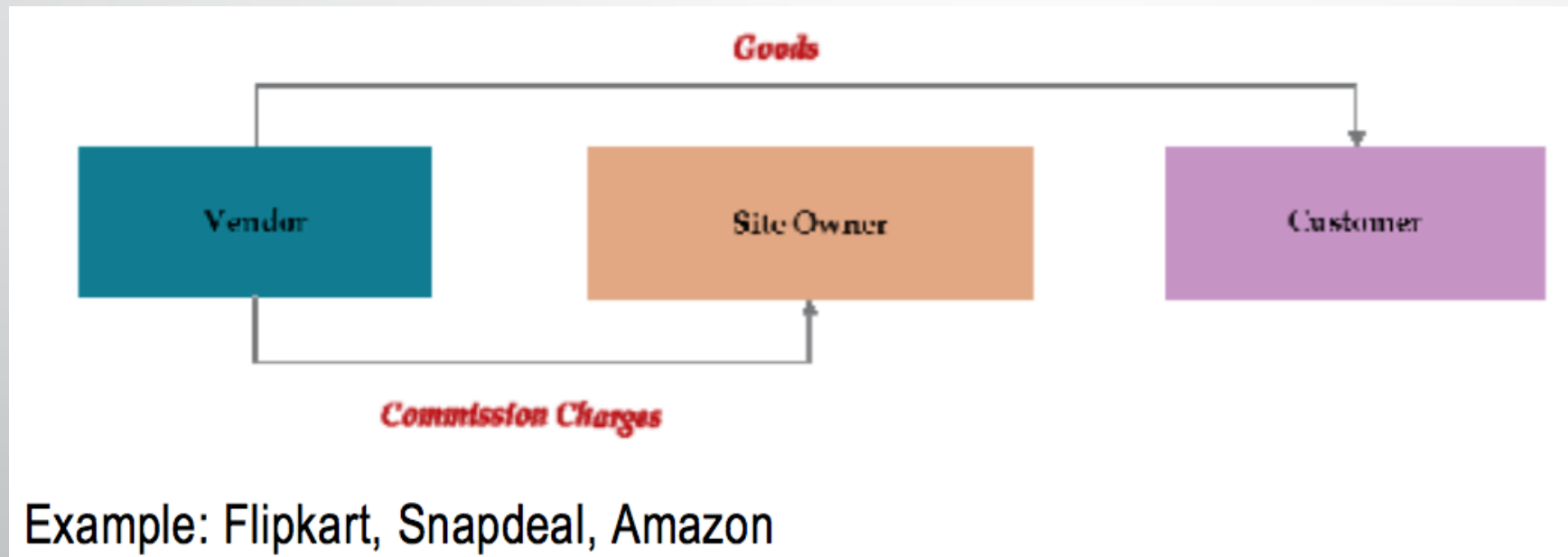
Principal to Principal Model



Example: Urbanladder

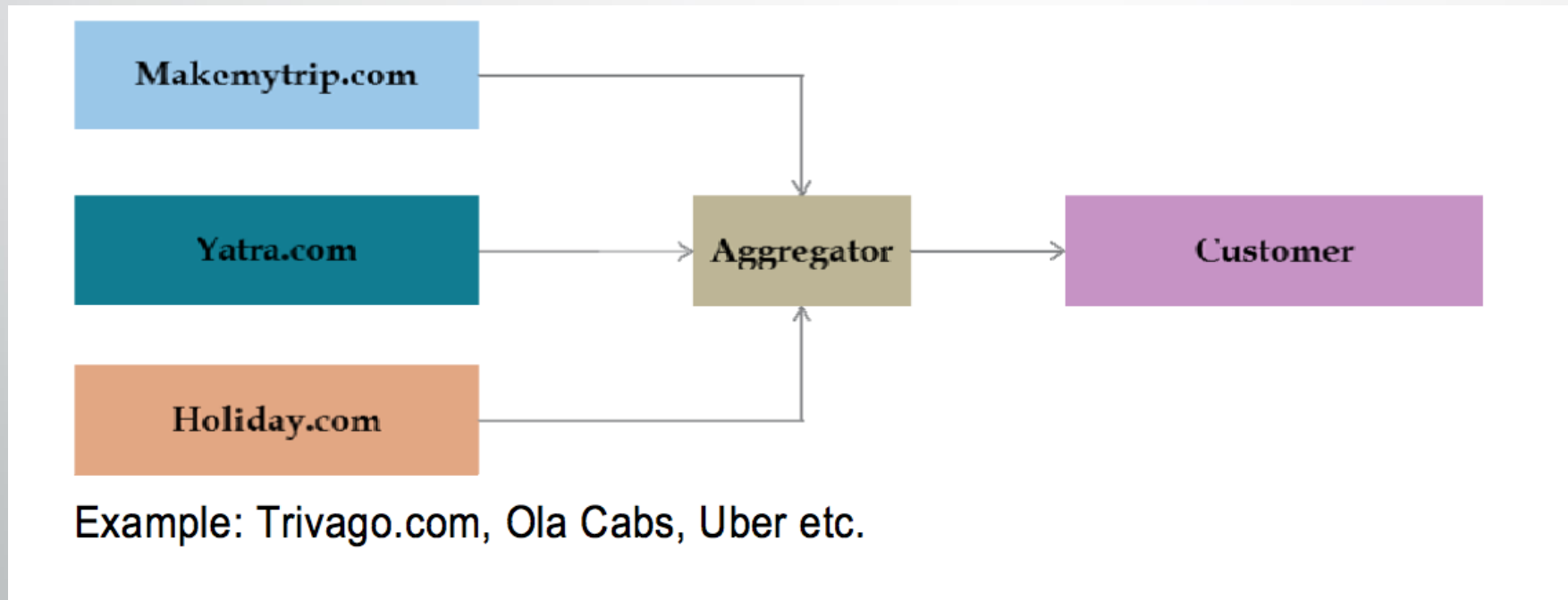
Current Models in E-Commerce (Cont.)

Principal to Agent Model



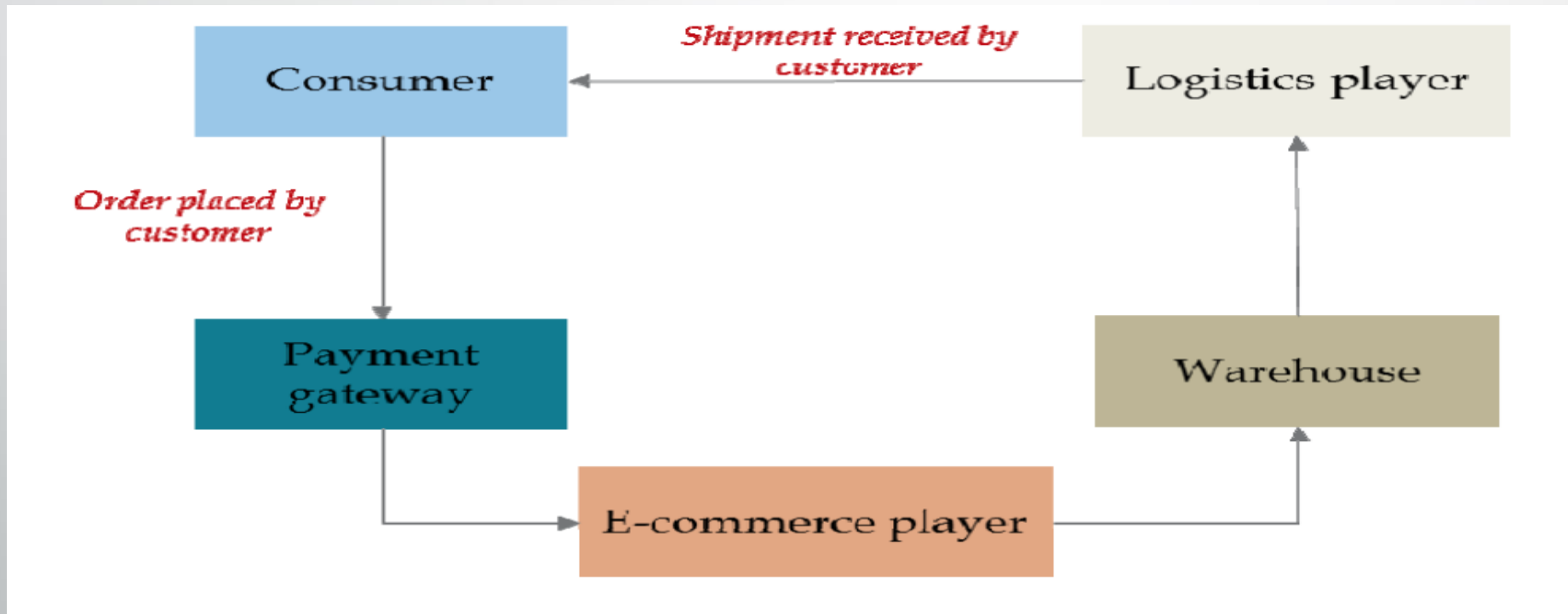
Current Models in E-Commerce (Cont.)

Aggregator Model



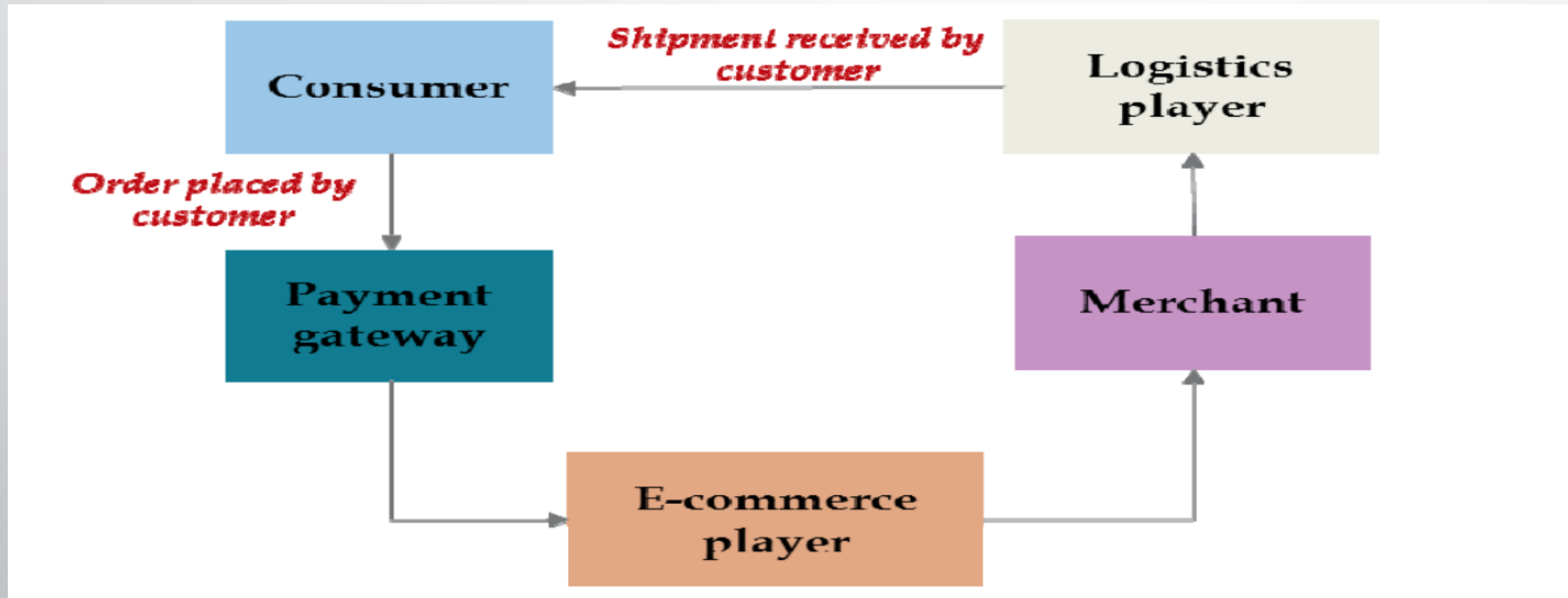
Current Models in E-Commerce (Cont.)

Inventory Model



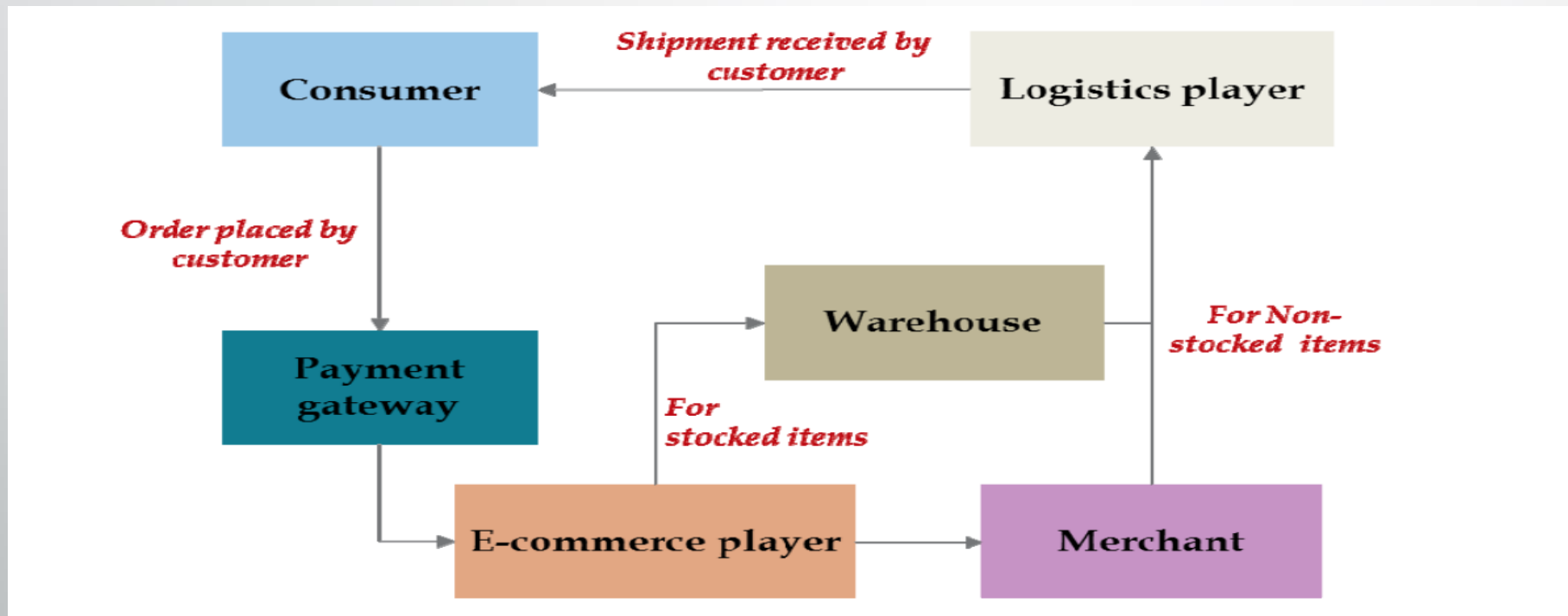
Current Models in E-Commerce (Cont.)

Open Market Place Market Model (OMM)



Current Models in E-Commerce (Cont.)

Managed Market Place (MMP)



Definitons

- Sec 2(44) - electronic commerce
 - means supply of goods and/or services or both
 - including digital products
 - over digital or electronic network
- Sec 2(45) - electronic commerce operator
 - means any person who owns, operates or manages
 - digital or electronic facility or platform
 - for electronic commerce
- Issue - Does Tele-shopping fall under the term electronic network?

E Commerce operator- Liable to tax [Section 9(5)]

- Central State Govt on council's recommendation, notify and specify **categories of services** – tax to be paid by E-commerce operator
- **Provided** – if operator does not have physical presence in taxable territory -Any person representing the Operator is liable to pay GST
- **Provided further** – where operator does not have a representative in such a territory – operator shall appoint a taxable person in the taxable territory for the purposes of paying tax

TCS by Electronic Commerce Operator

- TCS @ 1% -Section 52
 - Of the net value of taxable supplies -net of returns and other than Sec 8(4)
 - where the consideration collected by the operator.
- **exemption from TCS –Sec 52(1)**
 - Services provided – as notified u/s 8(4) by which operator is liable to pay tax
 - If the operator is acting as an 'Agent' (logistic provider)
 - (COD) transactions – where consideration is paid directly by the recipient to the supplier.
- Will under CGST/UTGST act also 1% TCS applicable? Refer Sec 21(xi) of UTGST Act
 - Act and rules**relating to** tax deducted at source

Procedural provisions

- E-commerce operator
 - If collects TCS
 - needs to get himself compulsorily registered
- Pay to Govt within 10 days of end of the month
- Separate TCS Return in Form GSTR-8 along with normal return
 - Mis match – query on both. Not rectified by supplier – deemed as supply & added to his outward supply where short reported
 - May rectify by the due date of filing Sept next of the FY. i.e. by 20h Oct.
- File Annual statement of outward supplies through it , returned , amount of tax collection by 31st Dec for the FY

Procedural provisions (cont..)

- Supplier to claim credit of the TCS in electronic cash ledger
 - Will get auto populated from statement filed by E operator
- DC or above ranking officer may require E Operator to furnish in 15 days
 - Supplies of goods/services or both
 - Stock of goods held by suppliers in G/Ds managed by E Operator and declared a POB by such suppliers

Registration

- Chapter VI – Sections 23 & 24
 - THRESHOLD LIMIT: **NIL** i.e. Compulsory Registration for
 - Electronic Commerce Operator – Sec 24(iv) – for notified services u/s 9(5)
 - Electronic Commerce Operator – Sec 24(x)
 - Person collecting TCS –earlier reference removed
 - **Every Person who supplies goods and/or service through electronic commerce operator – Sec 24(ix)**
 - Every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than registered taxable person- Sec 24(xi)
- Issues
 - Will even artisans/one time dealer need to get themselves registered?
 - What about person selling personal effects on OLX, Quikr? He is not taxable person but registration compulsory?

Place of Supply

- **Services Provided by E-comm Operator to supplier**
 - Place of Supply of Service – Gen Rule will apply – Always location of Service receiver – since compulsory registration.
- **Services Provided by E-comm Operator to supplier for transportation of goods**
 - Place of Supply of Service – Sec 12(9) of IGST Act
 - location of Service receiver(if registered) or
 - location at which such goods are handed over for their transportation
 - Is this supply of services in respect of transportation – a composite supply?
- **Supply of goods/Provision of Service by supplier to customer**
 - For Goods: Place of Supply - Where movement of goods terminates for delivery.
 - For Services: to registered person(**B2B**) : Registered address of recipient
: to unregistered person(**B2C**): Address on record of person

Branch Transfer by E-Comm Operator

- Branch Transfer is Supply as per Sch 1(2)
- Branch Trf by E-comm from one depot/warehouse to other – Taxable
- ITC Available on such transactions – leads to cash flow issues- blockage of funds- enhanced compliance cost

Logistics/Warehousing by E-comm Operator & Auction

- Logistics/Warehousing Services offered by E-Comm operators to vendors –
 - Reference to 'incidental service' in E-comm operator definition – 'for electronic commerce'
 - Taxable under GST? Liable to deduct TCS?
- Auction by Sites like ebay: ebay facilitates supply of goods – comes under definition of E-commerce operator

Income streams – E-Commerce platform

- Convenience fees
- Internet handling charges
- Recovery of advertising / promotions cost
- Cost sharing arrangement
- Listing fees
- Refund process fees
- Payment handling fee
- Gift wrap fees
- Storage fees
- Weight handling fees

Issues to ponder

Loss borne by E-commerce platform

- Cost of product Rs.100/-
- Customer buys / pays only Rs.80/-
- Loss – Debit note raised by supplier for Rs.20/- on Electronic Platform
- What is taxable? How much is taxable?

Cash back by credit card company

Loyalty Points, Cash Backs & Exchanges

- Loyalty Points
 - Loyalty points received on purchases of goods from one franchisee shop ; redeemed at other franchisee shop
 - Discount reimbursed by the company
 - Loyalty points entitles discount/ encashment
- from sites like MakeMyTrip/Yatra on certain transactions or cash backs

Issues to ponder (Cont)

Aggregator

Pure agent...

- Toll charges collected – e.g. OLA...pure agent?
- Airport tax collected – e.g. airline ticket booking agent
- Entertainment / event booking services
- Convenience fees, internet handling fees
- Commission from theatre , event manager
- Advt. revenue from production house
- Consultancy fees
- Software solution – ticket printing by customer
- Payment handling fees

Issues to ponder (Cont)

Online data / information retrieval e.g. Just Dial, TIOL, VATonline

- Subscription
- Commission
- Advt

Online money / wallets

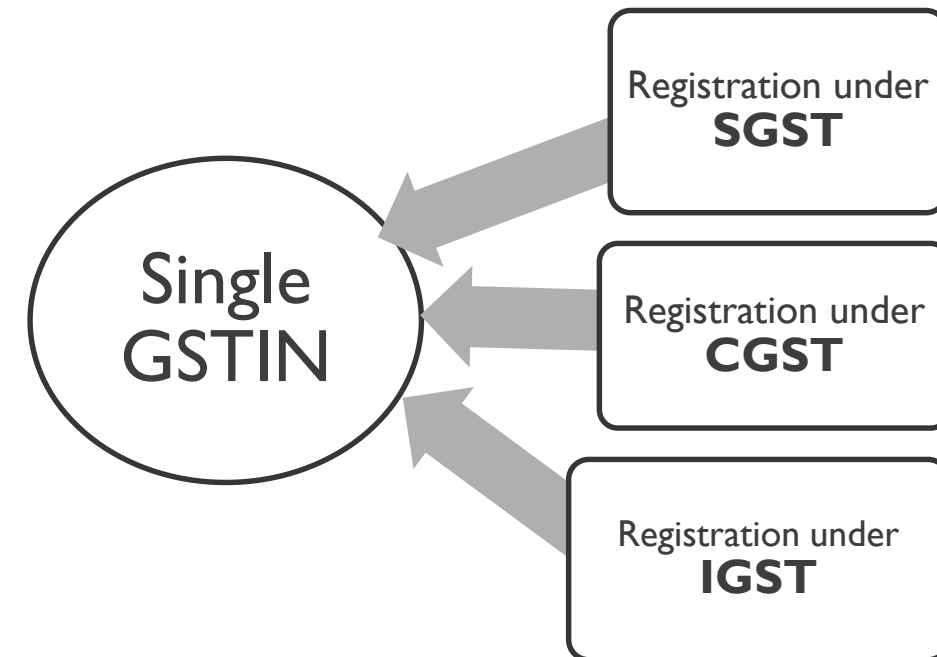
- Advt
- Subscription
- AMC from vendor registered
- commission



Registration

REGISTRATION STRUCTURE UNDER GST

- Three Acts applicable on every Person under GST – Central GST Act, (State) GST Act, Integrated GST Act.
- Registrations required by every person:
 - Simultaneous registration under CGST, SGST & IGST
- Separate registration required for each State
- Total possible registrations for one PAN
- Possible separate registrations for each **business vertical** within a State as defined u/s 2(18)



WHO IS REQUIRED TO TAKE REGISTRATION

As per Sec.22 :-

- ❑ Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover (pan India basis) in a financial year exceeds twenty lakh rupees (Rs 20,00,000)
- ❑ If the supplier is providing supply from any of the special category states, he will be required to take registration if his aggregate turnover exceeds Ten lakh rupees. (Rs 10,00,000)

States in the Special Category States.

- *Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh, Uttarakhand.*
- ❑ On account of transfer of a business, the successor is required to take registration
- ❑ In the situation of amalgamation or demerger of business in accordance to an order of the High Court or Tribunal, the transferee is liable to take registration.

WHO IS REQUIRED TO TAKE REGISTRATION (CONTD)

As per Sec 24:-

- persons making any inter-State taxable supply;
- casual taxable persons* making taxable supply;
- persons who are required to pay tax under reverse charge;
- non-resident taxable persons making taxable supply;
- persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise;
- Input Service Distributor, whether or not separately registered under this Act;
- every electronic commerce operator
- Every person supplies goods/services on a **through an E commerce operator**;
- every person supplying online information and data base access or retrieval services from a place outside India to a person in India, other than a registered person;

WHO IS REQUIRED TO TAKE REGISTRATION (CONTD)

- ❑ person who are required to pay tax under sub-section (5) of section 9
 - Tax payable by the electronic service operator.
- ❑ persons who are required to deduct tax under section 51.
 - Department of Central or State Government, local authority, Government agencies requiring to deduct 1% from the payment made or credited to the supplier.

WHO IS NOT REQUIRED TO TAKE REGISTRATION

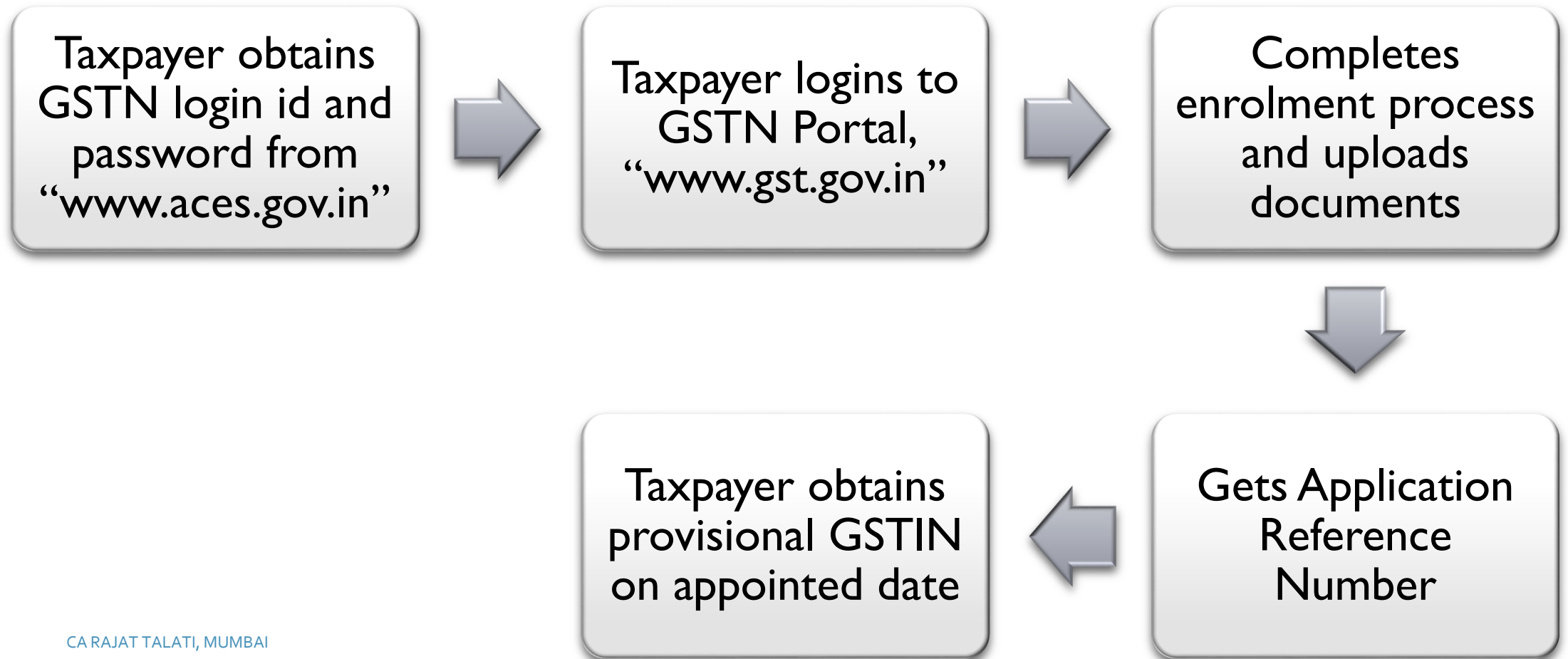
- ❑ Person engaged exclusively in the supply of goods or services or both **that are not liable to tax or wholly exempt from tax.**
- ❑ an **agriculturist**, to the extent of supply of produce out of cultivation of land.

*There is no restriction on voluntary Registration

■ WHEN TO REGISTER

- Every person who is liable to be registered as per Sec 22 or 24 shall apply for registration within 30 days from the date on which he becomes liable for registration.
- Application for registration shall be made in all such states from which he makes taxable supply.

GSTN ENROLLMENT PROCESS-TRANSITION



AMENDMENTS IN REGISTRATION

- ❑ Changes in the information furnished at the time of registration, should be informed to the proper officer
- ❑ The proper officer would accept or reject the amendments in such manner and within such period as prescribed.
- ❑ An opportunity of being heard should shall be given to the registered person, before rejecting such request for amendment.

CANCELLATION OF REGISTRATION

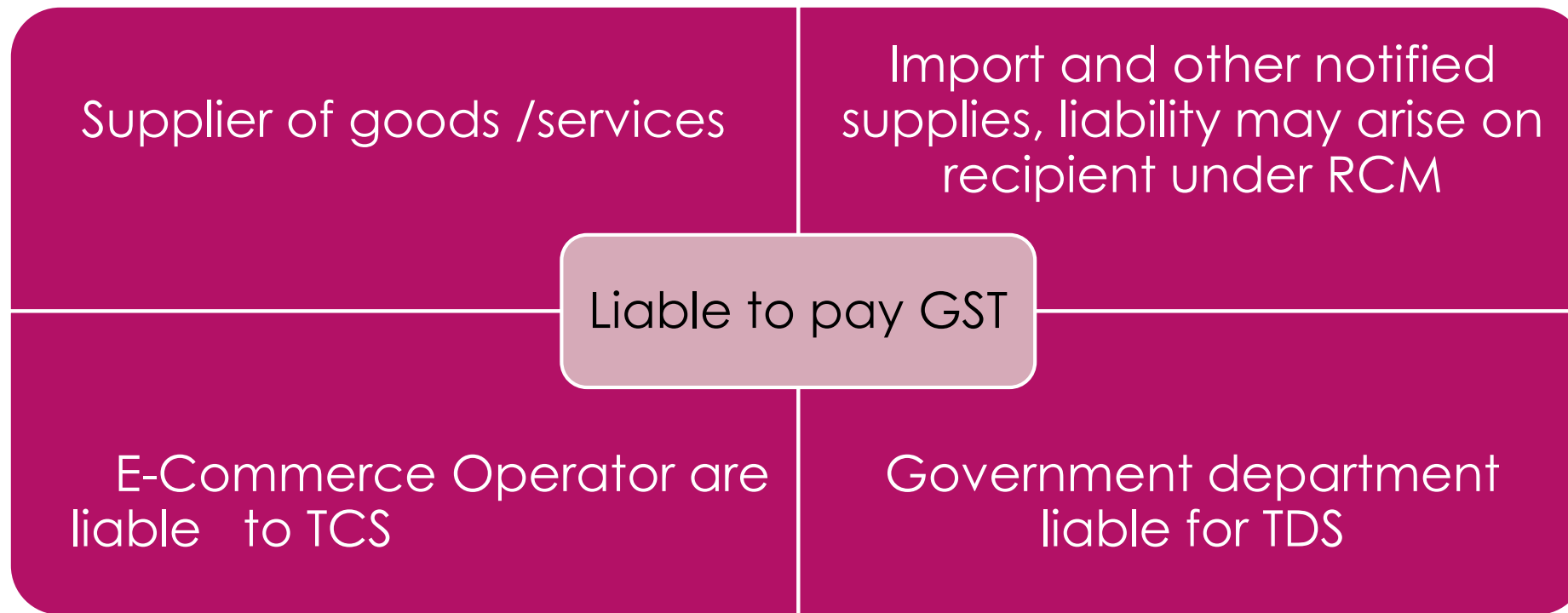
- ❑ **Can be cancelled voluntary by Registered taxable person or by Proper Officer**
- ❑ Transfer of business or discontinuation of business
- ❑ Change in the constitution of business.
- ❑ Persons no longer liable to be registered under Section 22 or 24 (Except when he is voluntarily registered)
- ❑ Where registered taxable person has contravened provisions of the Act
- ❑ A **composition** supplier has **not furnished** returns for 3 consecutive tax periods/ **any other person** has not furnished returns for a continuous period of **6 months**
- ❑ Non-commencement of business within 6 months from date of registration by a person who has registered voluntarily.
- ❑ Where registration has been obtained by means of fraud, willful statement or suppression of facts, the registration may be cancelled with retrospective effect.

CANCELLATION OF REGISTRATION (CONTD)

- ❑ Cancellation can be done by Proper Officer suo motu or on application made by the registered taxable person
- ❑ Retrospective cancellation in case of fraud, wilful misstatement or suppression of fact
- ❑ Liability to pay tax before the date of cancellation will not be affected
- ❑ **Cancellation under CGST Act will be deemed cancellation under SGST Act and vice-versa**
- ❑ Substantial penalty in case registration obtained with fraudulent intentions
- ❑ Notice of hearing and opportunity of being heard is a MUST before cancellation.

Payment of Tax

Who is liable to pay GST:



Main Features & procedure under GST:

1. Electronic payment process - no generation of paper at any stage.
2. Single point interface for challan generation.
3. Common challan form with auto population features.
4. Use of single challan and single payment instrument.
5. Common set of Authorised bank.
6. Common Accounting codes.
7. No ITC on account of CGST shall be utilized towards payment of SGST and vice versa. The credit of IGST would be permitted to be utilized for payment of IGST, CGST and SGST in that order.
8. A Unique Identification Number shall be generated at the common portal for each debit or credit to the electronic cash or credit ledger. The UID relating to discharge of any liability shall be indicated in the corresponding entry in the electronic tax liability register. A UID shall be generated at the common portal for each credit in the electronic tax liability register for reasons other than the above.

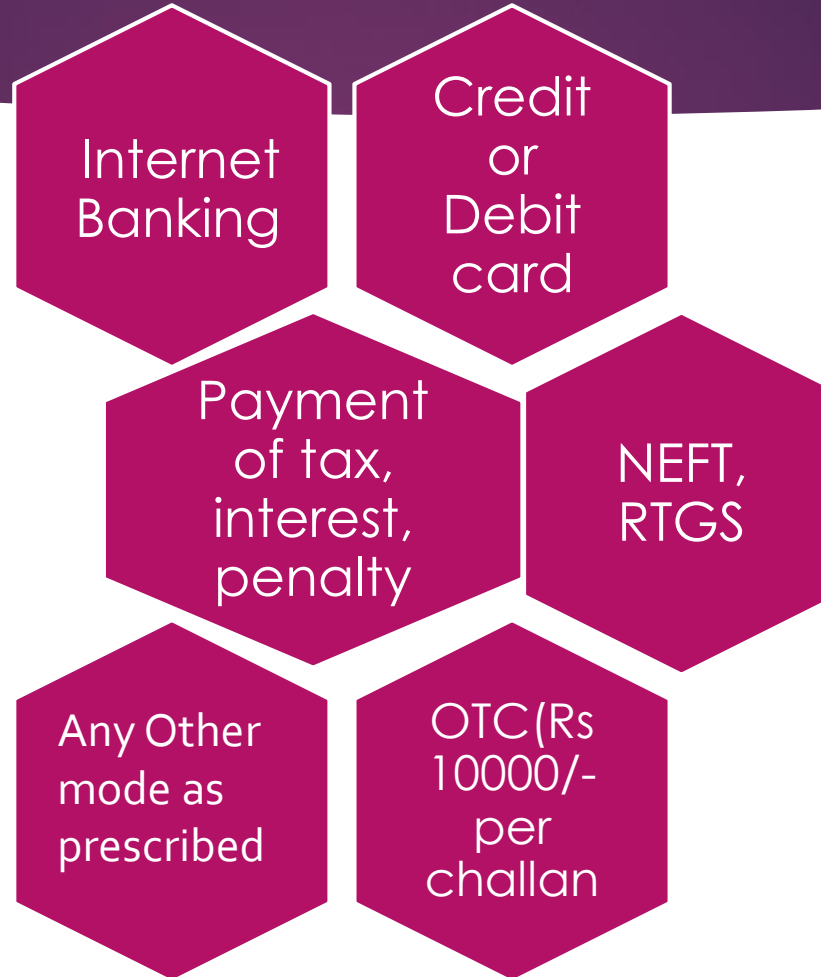
What are the payment to be made in GST regime?

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- ❑ Intra state supply – CGST (account CG)
SGST (account SG)
- ❑ Interstate supply- IGST component both CGST & IGST
- ❑ Certain categories of taxable person will be required to pay TDS (Tax deducted at source) and TCS (Tax collected at source).
- ❑ Wherever applicable Interest, Penalty, Fees or other payment will also require to be made.

Mode of payment

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Electronic tax liability register

Sec.49(7):

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- ▶ Electronic tax liability register means the tax liability register which will reflect the total tax dues (Net of ITC) of a taxpayer for the particular month.
- ▶ Maintained in form GST PMT 01.
- ▶ The electronic tax liability register of the person shall be debit by:
 - The amount towards tax, interest, late fees or any other amount payable as per return furnished.
 - The amount of tax, interest, penalty or any other amount payable determined by proper officer in respect of any proceeding under the act.
 - The amount of tax, interest in respect of mismatch u/s.42, u/s.43 and u/s.50.
 - Any amount of interest that may accrue from time to time.

Electronic credit ledger Sec 49(1):

Means the input tax credit (ITC) ledger in electronic form maintained at the common portal for each registered taxable person.

- ▶ Maintained in form GST PMT 02.
- ▶ As per Sec49(4), the amount available may be used for making payment towards under GST and IGST Act on the common portal shall be debited to the extent of discharge the liability.
- ▶ The unutilised ITC i.e. refund claim by the registered person shall be debited in the said ledger.
- ▶ If refund so filed is rejected fully or partly, the amount debited to the extent of rejection shall be re-credited in the said ledger by the authorised officer by an order made in form GST PMT 03.
- ▶ If registered person found any discrepancies in his electronic credit ledger, through the common portal he communicates the same to the jurisdictional officer in GST PMT-04.

Electronic cash ledger Sec 49(1):

Cash ledger register will reflect all deposit in cash and TDS/TCS made on account of the taxpayer.

- ▶ Maintained in form GST PMT 05.
- ▶ The amount towards tax, interest, late fees or any other amount payable, on the common portal, by crediting the amount deposit and debiting the payment towards tax, interest, late fees or any other amount.
- ▶ The taxable person shall generate challan in form GST PMT 06.

Tax deducted at source(TDS) Sec.51:

- ▶ Tax payer to deduct @ 1% from the payment made to supplier of taxable goods and service or both.
- ▶ If the total value of supply under a contract exceeds 2,50,000/-, then tax to be deducted by:
 - Central/State government
 - Local authority
 - Government agencies
- ▶ Notified person
- ▶ TDS shall be paid to the Government by deductor within 10 days after the end of the month in which such deduction is made.
- ▶ Deductor shall furnish certificate to the deductee within 5 days of crediting the amount to the appropriate government.
- ▶ Failure to issued TDS certificate will attract late fees of Rs.100/- per day subject to the maximum of RS.5000/-.

Tax collected at source(TCS):

- ▶ It is applicable only for E-commerce operator.
- ▶ 1% TCS to be deducted from the net value of taxable supplies notified by the government on the recommendation of the council.
- ▶ TCS shall be paid to the Government by operator within 10 days after the end of the month in which such collection is made.

Thank you