

GST - Gyan Satra

Organized jointly by WIRC and Lokmat

- Subject** : GST - concepts, Gains, pains and challenges
- Date & Day** : Tuesday, 18th April 2017
- Venue** : ICAI Tower, Plot no. C-40,
'G' Block, Bandra Kurla Complex,
Bandra (E), Mumbai- 400051
- Presented by** : CA Naresh Sheth

Goods and Services Tax ('GST')

Welcome GST

Are you really prepared
for GST??



GST - Government Preparedness

- 101st Constitutional Amendment Act was notified and made effective from **16.09.2016** empowering Central and State to levy GST on common base value of transaction
- GST Council started functioning from **12.09.2016** and held 13 meetings till date
- GST Council recommended broad contours of the GST rate structure
- Migration of registration and enrolment under GST started in various states from **November 2016**
- CBEC released 2nd edition of FAQ on GST **on 31st March, 2017**
- Legislations already enacted on **12.04.2017**:

Central GST Act (CGST Act)	Integrated GST Act (IGST Act)
Union Territory GST Act (UTGST Act)	GST (Compensation to States for Loss of Revenue) Act

- Above Acts (except Compensation Act) applies to whole of India except Jammu & Kashmir

GST- Government Preparedness

- Telangana state enacted SGST Act on **15.04.2017**
- Draft Rules on public domain:

Composition Rules	Valuation Rules	Transition Rules	Input tax credit Rules
Invoice Rules	Payment Rules	Refund Rules	Registration Rules
Assessment and Audit	Electronic way Bill		

- Preparation of IT system i.e. full-fledged IT Backbone (GSTN) is on schedule
- Government seriously intends to roll out GST by **01st July 2017**

GST – Way forward for Government

- All other states to enact SGST Act
- Agenda for the next GST Council meeting to be held on **16th May, 2017**:
 - Re-consideration of Rules put in the public domain
 - Finalization and fitment of rates
- Constitution of National Appellate Tribunal for GST
- Re-alignment for Bureaucratic hierarchy
- Consequences of any State not enacting SGST Act before roll out date?
- How J & K will come in GST purview?



Present Indirect Tax Regime and its shortcomings

Present - Major Indirect Tax Levies

Central Taxes

- Central Excise Duty
- Excise under M&TP Act
- Additional duties of excise
- Custom Duty
 - Basic
 - CVD
 - SAD
- Service Tax

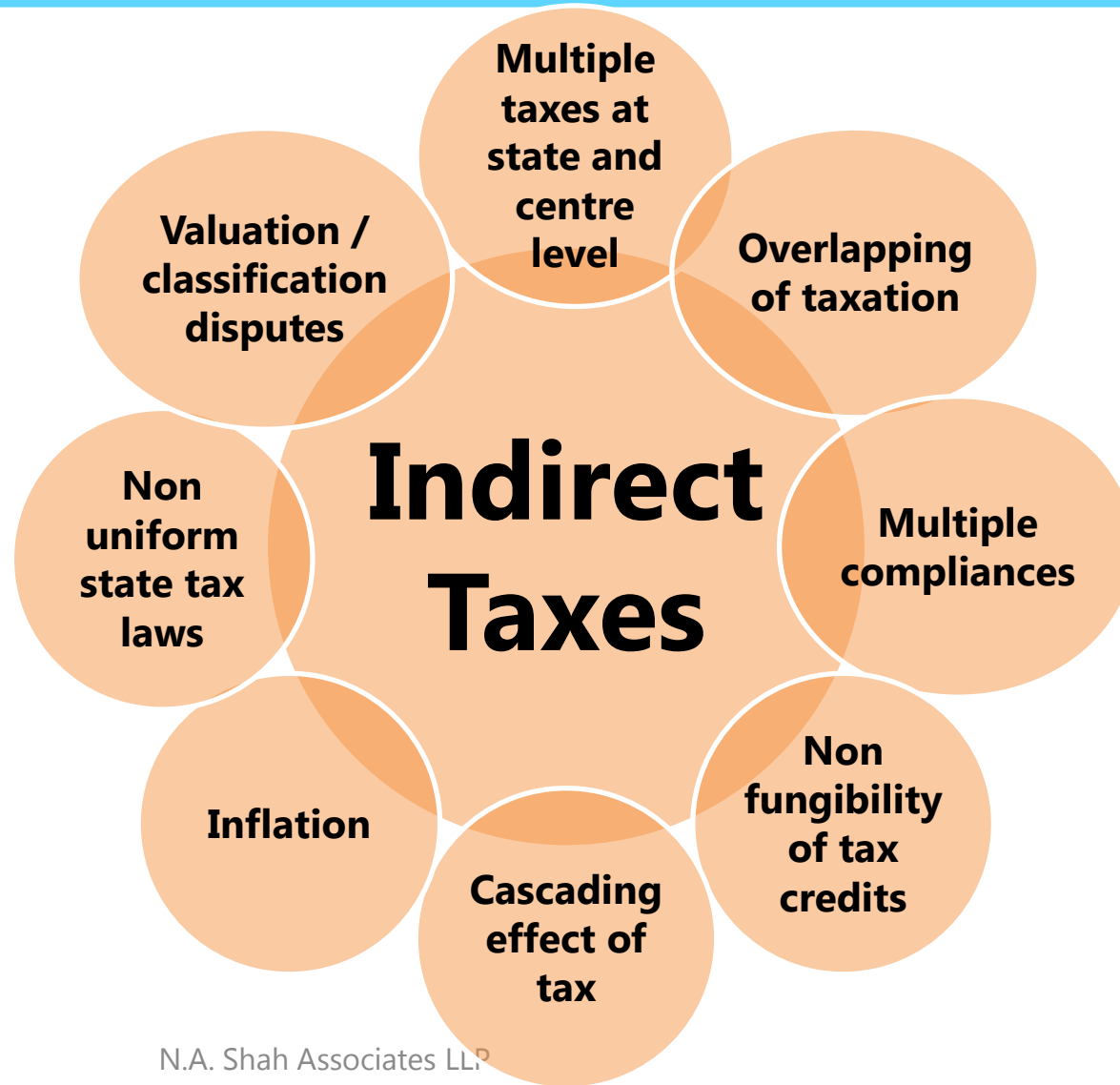
State Taxes

- VAT/Sales Tax & CST
- State Excise duty
- Entertainment Tax
- Luxury Tax
- Taxes on lottery, betting and gambling
- Entry tax
- Stamp Duty
- Electricity Duty
- Profession Tax

Local body Taxes

- Octroi
- LBT
- Property Tax
- Entertainment Duty
- Gram Panchayat Tax

Present Taxation System - Complexities & Issues



Present Indirect Tax Structure – Cascading effect of taxes

Particulars	Value	Tax
Manufacture of Goods	1,00,000	
Add: Excise Duty (12.5% of 1,00,000)	12,500	12,500
Ex-factory value	1,12,500	
Add: Vat (13.5% of 1,12,500)	15,188	15,188
Taxable Amount before Octroi is charged	1,27,688	
Add: Octroi / Entry Tax (5.5% of 1,27,688)	7,023	7,023
Total Transaction Cost	1,34,711	34,711

Percentage of tax to transaction value = $34,711/1,00,000 * 100 = 34.71\%$ (Rs.34,711)

Aggregate of all taxes = $12.5\% + 13.5\% + 5.5\% = 31.50\%$ (Rs.31,500)

Cascading effect of tax i.e. tax on tax = 3.21% (Rs.3,211)



GST Glimpses

Taxable event in GST Regime vs. Existing regime

Tax	Taxable Event in Existing laws	Taxable Event in GST Regime
Service Tax	Provision of Service	Supply of goods/services
Excise Duty	Manufacture of excisable goods	
VAT/Sales Tax	Transfer of title in goods within state	
CST	Transfer of title in goods outside state	
Purchase Tax	Purchase of specified goods	
CVD	On import in lieu of excise duty	
SAD	On import in lieu of VAT	
Entry Tax/ LBT	Entry of specified goods in the State for sale, use or consumption	
Entertainment tax	Provision of entertainment	

Major Taxes subsumed in GST

Central Taxes

- Central Excise Duty
- Additional Excise Duty
- Excise under M&TP Act
- Countervailing Duty
- Special Additional Duty
- Service Tax

State Taxes

- VAT/Sales Tax & CST
- Purchase tax
- Entertainment Tax
- Luxury Tax
- Taxes on lottery, betting and gambling
- Entry tax

Local Body Taxes

- Octroi
- Local Body tax ('LBT')

Major Taxes retained Post-GST

Central Taxes

- Central Excise on:
 - Tobacco products
 - **Petroleum Products**
- **Basic Custom Duty**

State Taxes

- State Excise on Alcohol liquor
- State VAT on:
 - Alcohol liquor
 - **Petroleum Products**
- **Stamp Duty**
- **Electricity Duty**
- Profession tax
- Road tax
- Taxes on Mineral Rights

Local Body Taxes

- Property Tax
- Entertainment Duty
- Gram Panchayat Tax

GST – Proposed Rate Structure

- Proposed Rates in GST Council Meeting held on 03rd – 04th October 2016:

Description	Rates
Exports, Deemed Exports, Essential items (vegetables, food grains)	0%
Common use items / necessity items (bulk drugs, etc)	5%
Standard rates	12% and 18%
Demerit rate (tobacco products, luxury item, aerated beverages)	28% (Act provides 40%)

- No abatement prescribed till date
- No special tax rate prescribed till date
- The Council has proposed a broad rate of 15 % as cess on demerit goods.

GST –Important features

Meaning	<ul style="list-style-type: none">• Broad based and comprehensive levy on goods and services consumed in economy
Dual Model	<ul style="list-style-type: none">• Central GST (CGST) to be levied on intra state supplies by Central Government• State GST (SGST) to be levied on intra state supplies by State Government• Union Territory GST (UTGST) to be levied on intra state supplies by Union Territory• CGST & SGST or CGST & UTGST would be levied simultaneously on intra-state supply• Integrated GST (IGST) to be levied on inter state supplies by Central Government and to distributed between Centre and States
Destination Based Consumption Tax	<ul style="list-style-type: none">• At present VAT is collected and retained by originating state• Under GST, tax to accrue to the taxing authority which has jurisdiction over the place of consumption also termed as place of supply• Supplies imported into country to attract GST• Supplies exported outside country not to attract GST

GST – Important Features

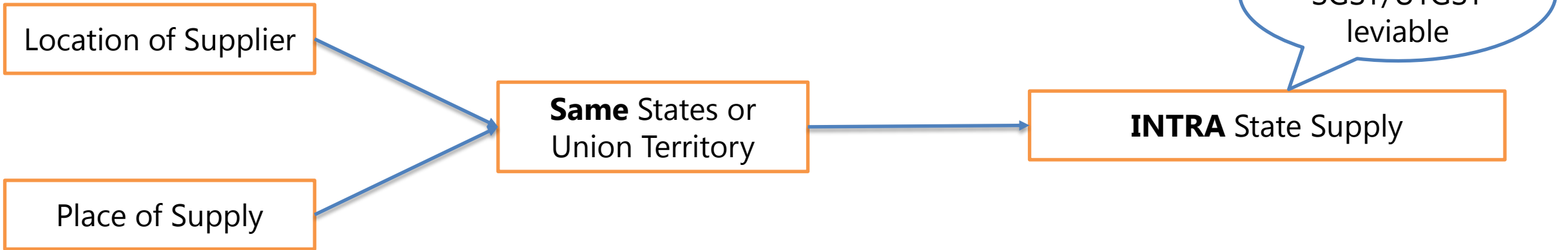
Registration	<ul style="list-style-type: none">• Branches / units of taxable person in different states are regarded as distinct person• Separate registration for branches / units in different states are to be obtained• No concept of centralized registration
TDS	<p>Specified recipient of goods and services of contract value exceeding Rs.2,50,000 will be obliged to:</p> <ul style="list-style-type: none">• Deduct TDS @ 2% (1% CGST + 1% SGST) on amount paid or credited to supplier's account• Pay such amount before 10th of subsequent month• Issue TDS certificate within 5 days from payment of tax• File monthly TDS returns on 10th of subsequent month
Reverse Charge	<ul style="list-style-type: none">• Reverse charge to be prescribed (goods and service)• Reverse charge on supplies received from unregistered persons
Exemptions	<ul style="list-style-type: none">• Yet to be notified by GST council

GST – Important Features

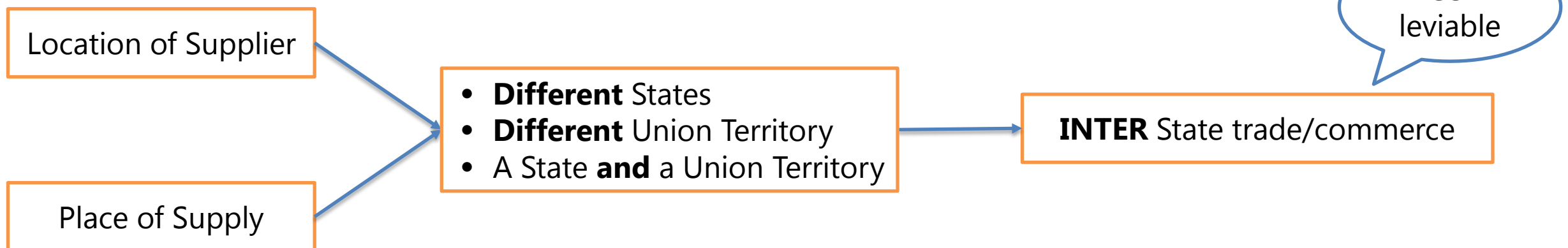
<p>Export of Goods and Services</p>	<ul style="list-style-type: none">• It will be zero rated• Supplier will have 2 options:<ul style="list-style-type: none">▪ Supply goods or services or both without payment of GST and claim refund of unutilised Input tax credit; or▪ Supply goods or services on payment of GST (in cash or from ITC balance) and claim refund of GST paid on exports
<p>Supply to SEZ unit and SEZ Developer</p>	<ul style="list-style-type: none">• It will be zero rated• Supplier will have 2 options:<ul style="list-style-type: none">▪ Supply goods or services or both without payment of GST and claim refund of unutilised Input tax credit; or▪ Supply goods or services on payment of GST (in cash or from ITC balance) and claim refund of GST paid on such supplies
<p>Sale of Land/ building</p>	<ul style="list-style-type: none">• It is neither supply of goods nor supply of services (Schedule III) and hence not liable to GST

'Intrastate' and 'Interstate'

Intrastate:



Interstate:



Tax levies in GST regime for Supply of Goods/Services

- Relevant extract of tax invoice

Intra-State Supply

Particulars	Amount (Rs.)	Amount (Rs.)
Value of Goods / Services		100,000
CGST(9% of 100,000)	9,000	
SGST/ UTGST (9% of 100,000)	<u>9,000</u>	18,000
Total Amount		<u>118,000</u>

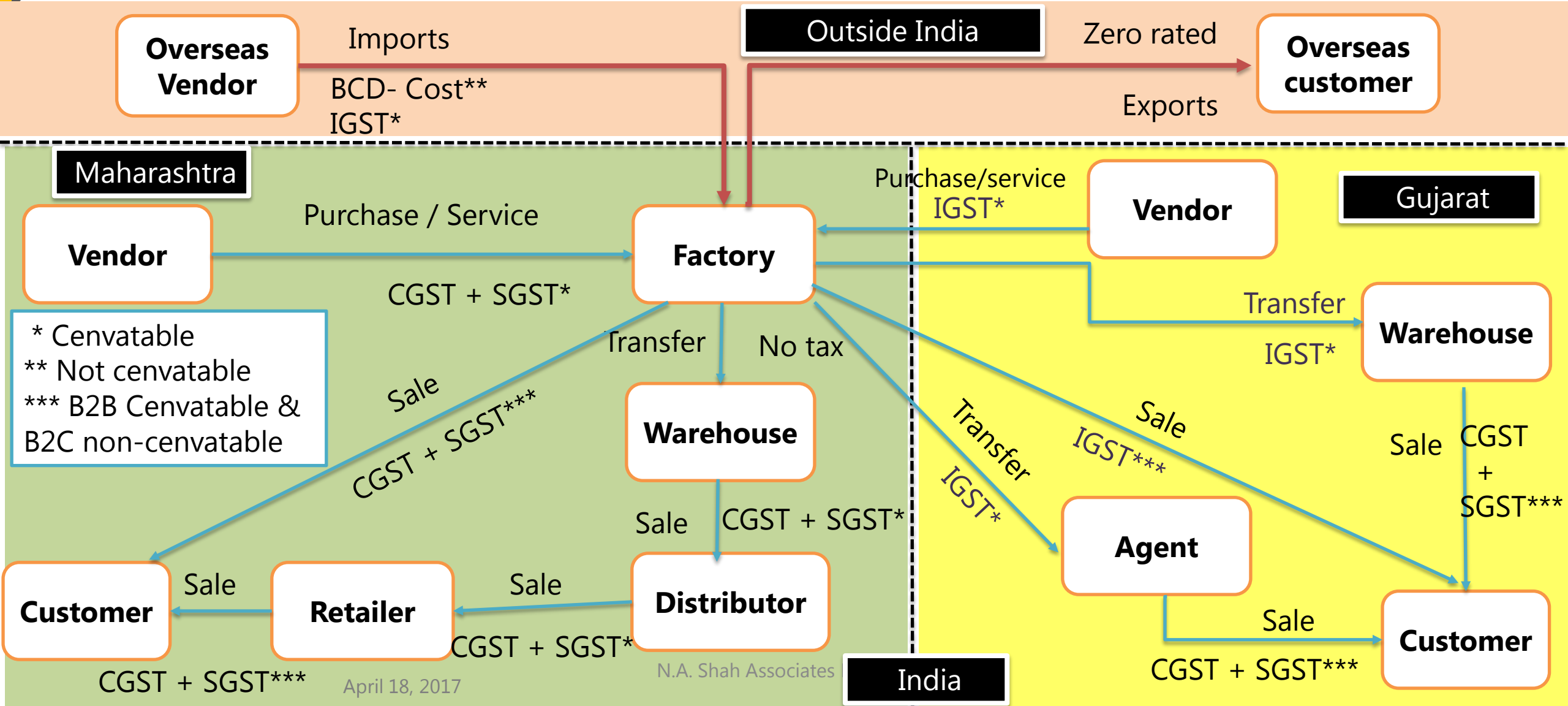
Inter-State Supply

Particulars	Amount (Rs.)	Amount (Rs.)
Value of Goods / Services		100,000
IGST (18% of 1,00,000)		18,000
Total Amount		<u>118,000</u>

Few mandatory details:

1. Name and address of Supplier
2. Name and address of Buyer
3. 15 digit GST Identification no. of dealer as well as buyer
4. HSN Code of goods supplied / SA code of services supplied

Post GST - Supply chain





GST Obligations

Persons liable to be registered

- Every supplier if his **aggregate Turnover** in a financial year exceeds **Rs. 20 lakhs (Rs 10 lakhs** in case of special category states)
- Aggregate Turnover to include:
 - all supplies made by taxable person on his own account
 - All supplies made on behalf of all his principals
- Value of goods returned by registered job-worker after completion of job-work is not to be included in aggregate Turnover of registered job worker
- Existing assesses under Excise, service tax, VAT and other laws which are to be subsumed in GST liable to be registered w.e.f appointed day
- Transferee or successor where business is transferred as a going concern w.e.f. date of such transfer or succession

Aggregate Turnover [Sec. 2(6)]

Means

Aggregate value of:

- All taxable supplies
- **Exempt supplies**
- **Export of goods or services or both**
- Interstate supplies

Considering turnover of person:

- Having same PAN; and
- On all India basis

Excludes

Taxes paid under:

- CGST Act
- IGST Act
- UTGST Act
- SGST Act

- Value of inward supplies on which tax is payable under reverse charge basis

- Not all taxes, cesses levies (other than GST) are excluded:
 - Property Tax
 - State cess, if any

Persons required to be compulsorily registered

Persons making inter-state supply	Casual taxable person	Persons required to pay tax under RCM
Electronic commerce operator [sec 9(5)]	Non resident taxable person	Persons required to deduct tax u/s 51
Agent selling or buying goods on behalf of principal	Input service distributor	Person who supplies through E-commerce operator
every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered taxable person	Every E-commerce operator	such other person or class of persons as may be notified by CG or SG on recommendation of Council

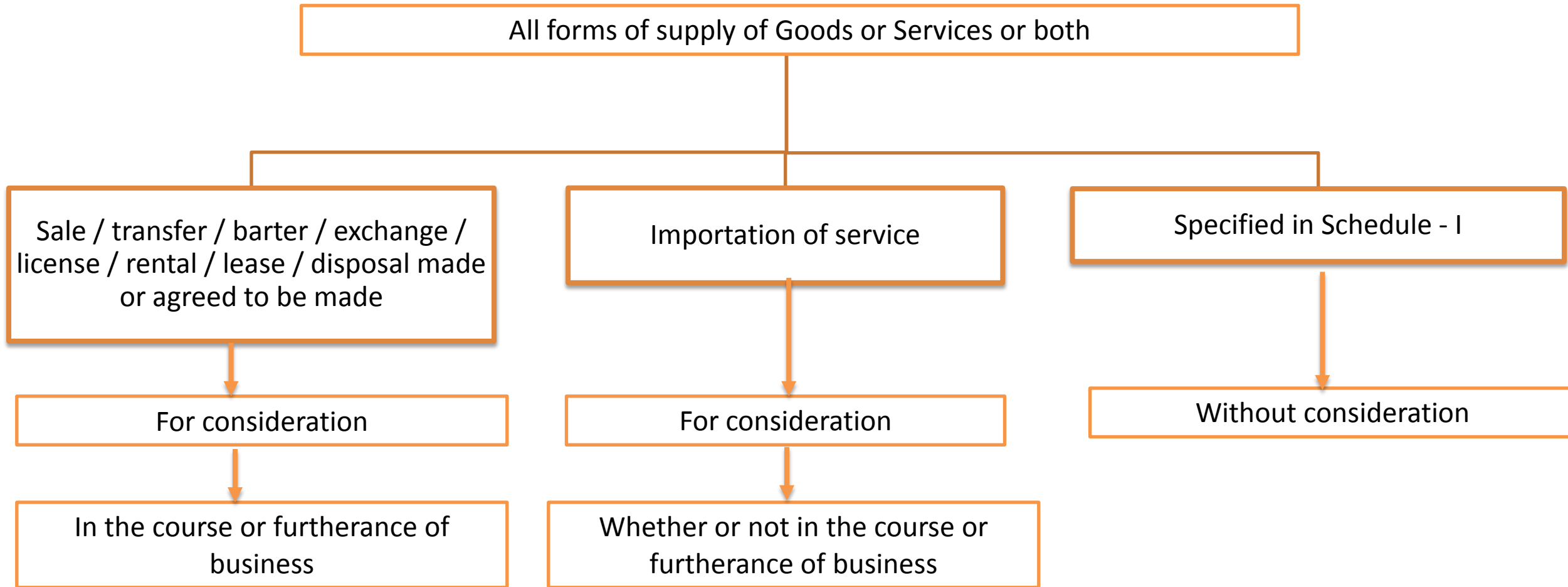
Composition Levy

- Composition levy is prescribed for:
 - Trader having turnover less than Rs. 50 lakhs
 - Specified manufacturers having turnover less than Rs. 50 lakhs
 - Restaurant and caterers having turnover less than Rs.50 lakhs
- service providers (other than restaurant and catering) are not eligible for composition scheme
- Prescribed rate for composition would not be less than:
 - 2% (1% CGST + 1% SGST/ UTGST) of turnover for manufacturer
 - 5% (2.5% CGST + 2.5% SGST/ UTGST) of turnover for restaurant and catering service providers
 - 1% (0.5% CGST + 0.5% SGST/ UTGST) of turnover for others

Composition Levy

- All registered persons having same PAN should opt for composition scheme
- **Supplier engaged in following supply are not eligible for composition:**
 - supply of services (other than restaurant and catering)
 - Supply of goods not leviable to GST
 - Interstate supply of goods
 - Supply of goods through an E-commerce operator
- Composition supplier is not entitled to avail input tax credit
- Composition dealer cannot charge GST on supplies made by him
- Composition dealer buying goods/ services from unregistered supplier will have to discharge GST under RCM and such tax will not be available as ITC

Supply u/s 7(1) of CGST/SGST Act



Taxability of transaction without consideration

- **Levy of GST on permanent transfer / disposal of business assets (on which ITC claimed) without consideration:**
 - Proprietor/ partner transferring goods for personal use
 - Disposal of computer to charitable organization
- **Supply of goods without consideration:**
 - by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal, or
 - by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.
- **Importation of services by a taxable person from:**
 - a related person or
 - from any of his other establishments outside India

in the course or furtherance of business.

Taxability of transaction without consideration

➤ **Following Intercompany and related parties transactions(without consideration) will have GST implications:**

- Branch/ warehouse/ depot transfer (inter state)
- Material/ capital goods sent for job work to group companies (if related persons)
- Processed goods received from job worker (group company being related persons)
- Corporate office/ head office expenses such as IT support, HR, marketing etc.
- Corporate guarantee

➤ **GST implications in respect of facilities provided to employees :**

- Free pick up and drop services
- Canteen services
- Staff quarter provided
- Uniforms/ kits provided

Provided 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

Scheme of valuation– Section 15

Section 15 (1)

Value of a supply of goods/and services shall be

Section 15 (4), 15(5) & Rules

Where

Buyer and seller are not related

Price is sole consideration

Transaction Value i.e. **price actually paid or payable for the supply**

Value as per Valuation Rules

Consideration not wholly in money

Buyer and seller are related / distinct persons

Agent

- Pure agent
- Money changer
- Air Travel agent

Redeemable token, voucher, coupon, stamp

Dealer of second hand goods where ITC not availed

Notified Services between distinct persons

Value of Taxable Supplies of Goods or Services

Transaction Value shall include:

- a) taxes, duties, cess levied under statute other than GST if charged separately by the supplier
- b) Amount which supplier is liable to pay in relation to supply but has been incurred by recipient and not included in the price of goods or services
- c) Incidental expenses:
 - Charged by supplier to recipient (such as commission, packing)
 - **Including any amount charged for anything done by supplier in respect of supply at the time of / before delivery of goods or supply of services**
- d) Interest or late fee or penalty for delayed payment of any consideration for any supply

Carry forward of ITC balance under present law

- ITC balance (excise, service tax, VAT, entry tax, etc.) as reflected in last return prior to effective day
- Unavailed tax credit on capital goods
- Credit of duties and taxes in respect of input or input services in transit
- Credit of duties and taxes in respect of inputs held in stock:
 - Manufacturer of exempted goods
 - Service provider of exempted services
 - Works contractor availing abatement
 - First stage dealer / second stage dealer / registered importer
 - Person not liable to be registered under the earlier law
 - Person switching over from composition scheme
- Agent can carry forward credit in respect of goods / capital goods belonging to principal lying with him

Persons Eligible for ITC

➤ **Person Eligible to take ITC:**

- Registered Taxable person [Section 16(1) of CGST Act]
- Person making **zero rated supplies** [Section 16(2) of IGST Act]

➤ **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
- Government or any local authority making such supplies as may be notified in which they are engaged as public authorities

Conditions for availing ITC

- 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 appropriate government in:

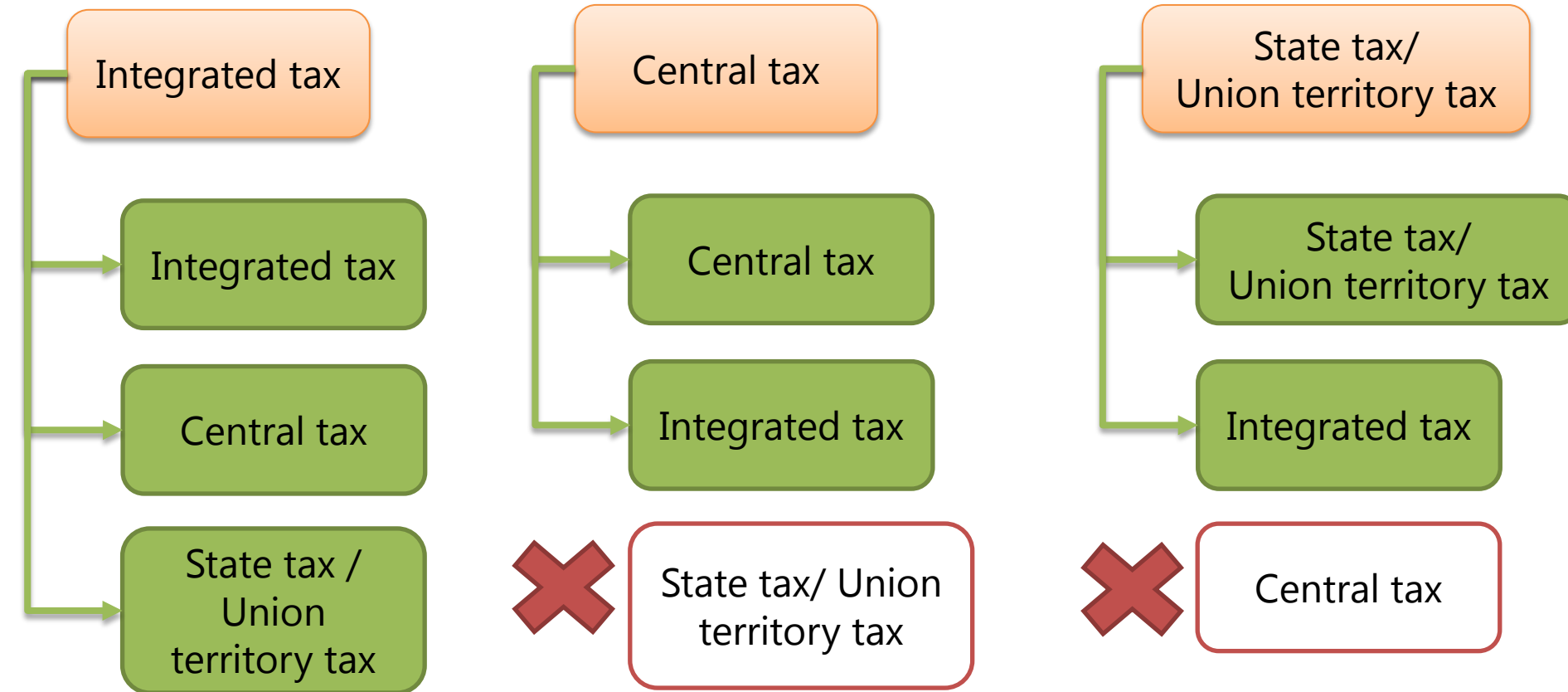
- Cash; or
- Utilization of ITC admissible in respect of said supply

Furnished **return** u/s 39

- Return to be filed by both:
 - Vendor ; and
 - Assesse

****** Where goods against an invoice are received in instalments / lots – ITC will be available only after receipt of last lot / instalment

Manner of Utilization – ITC



- GST Credit can be utilised for payment of tax on Supply
- GST cannot be utilised for payment of:
 - interest
 - penalty
 - fees
 - tax under RCM

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

Blocked credits and reversal of Input tax credit

- Motor vehicles and other conveyance
- Specified supply of goods or services:

Food and beverages	Outdoor catering	Beauty treatment
Travel benefits to employees on vacation	Cosmetic and plastic surgery	Membership of a club, Health and fitness center
Health services	Rent-a-cab	Life insurance and Health insurance

- Works contract service or goods/ services used for construction of immovable property on his own account
- Non-payment to supplier within 180 days
- Goods or services used for exempt supplies or non-taxable supplies
- Goods or services used for personal consumption
- Goods which are lost, stolen, destroyed, written off or disposed of by way of gift or free samples



Comparison of Entitlement and Obligation under GST and present laws

Entitlement/Obligations - Present laws and GST

Particulars	VAT	Excise	Service Tax	GST
Allowance of Input tax credit of pre-registration period	No	Yes	Yes	No
Allowance of Input tax credit when supplier does not discharge his liability	No	Yes	Yes	No
Allowance of Input tax credit of tax paid on inter-state transactions	No	NA	NA	Yes
Refund of accumulated input tax credit for exporters	Yes	Yes	Yes	Yes
Refund of accumulated input tax credit in case of inverted rate structure	Yes	No	No	Yes
Provisional refund of 90% of total refund claim for exporters	No	No	No	Yes
Revision of returns without time limit and more than once	Yes	No	No	No
Mandatory Audit by CA/ Cost Accountant for assessee having prescribed turnover	Yes	No	No	Yes

Entitlement/Obligations - Present laws and GST

Particulars	VAT	Excise	Service Tax	GST
TDS in respect of purchase of goods/services above Rs. 2.5 lacs	No	No	No	Yes
- TDS in respect of works contract	Yes	NA	No	Yes
Matching of Invoices of purchasers and suppliers of goods/services	Yes	No	No	Yes
Recovering tax from purchasers in case of mismatch	Yes	No	No	Yes
Reverse charge mechanism for goods in prescribed cases	No	No	NA	Yes
Reverse charge mechanism for services	NA	NA	Yes	Yes
Tax on advance receipts	No	No	Yes	Yes
Centralised registration	No	No	Yes	No
Levy of tax on late fees, interest and penalty on delayed payment	No	No	No	Yes



GST – Perceived advantages

GST – Perceived advantages

- Higher threshold for traders and service providers
- Benefit to end consumers on account of reduction of tax incidence on commodities:

Present Tax Incidence		GST Tax Incidence
Excise Duty / CVD	12.5%	18%
VAT / SAD	13.5%	
Octroi	5.5%	
Aggregate Tax	31.5%	
Effective Tax Burden (considering cascading effect)	34.71%	

- Elimination of multiple taxation on same transaction
- Removal / minimization of cascading effect of taxes

GST – Perceived advantages

- Reduce cost of production resulting into:
 - Making Indian goods and services competitive in global market
 - boosting exports
 - Expanding manufacturing activity leading to increased GDP and employment
- Minimizing ambiguities in taxation laws
- Seamless flow and fungibility of input tax credits throughout the value chain
- Uniform tax rates and structures across the country
- One Nation One Tax
- Harmonization of laws, procedures and rates of tax
- Discourage unhealthy competition amongst the states to attract the business

GST – Perceived advantages

- Smooth and better tax compliance with the help of robust infrastructure
- Automated procedures for various processes such as registration, payment, return, refund etc.
- Interaction to be through common GSTN portal so less public interface between assessee and tax authorities
- Electronic matching of ITC thus making process more transparent and accountable
- Widening taxation base with minimum exemptions
- Tax buoyancy
- Refund of unutilised credit on account of zero rated supplies of goods, services or both to be granted as under:
 - provisional refund of 90% of claim amount without detailed verification
 - Balance 10% to be granted after due verification within 60 days



Challenges & Perceived disadvantages

Compliance burden in respect of Returns

Section	Type of Return	Form	Period for filing Return
32	Outward supplies	GSTR -1	10th of next month
33	Inward supplies	GSTR-2	15th of next month
34(1)	Consolidated return	GSTR-3	20th of next month
34(2)	Composition supplies	GSTR-4	18th of next month following end of quarter
34(3)	Person paying TDS	GSTR-7	10th of next month
34(4)	Input Service Distributor (ISD)	GSTR-6	13th of next month

Compliance burden in respect of Returns

Section	Type of Return	Form	Period for filing Return
39	Annual Return	GSTR-8	31st December following Financial Year
40	Final Return	-	3 months from date of cancellation or order of cancellation whichever is later

- Assessee (of reasonable size) having ISD facility will have to file 61 returns in a year
- If assessee has branches in all 29 states from which goods are supplied or services are provided, there would be 49 returns per branch, 12 ISD returns i.e. 1433 returns only

GST – Perceived Disadvantages

- **Exclusion of following crucial sector from GST resulting into cascading effect of taxes:**
 - Petroleum
 - Electricity
 - Real Estate (stamp duty and property tax)
- Non adjustment of erroneous payment of tax to other government
- Small manufacturers having turnover in the range of Rs. 20 lakhs to Rs. 1.50 crore will be in tax net
- Effective rate of tax on services will be 18% as compared to earlier rate of 15%
- Reverse charge in respect of supplies procured from unregistered dealer
- TDS compliances and blockage of funds
- Taxes on advances
- System of E-way will in respect of movement of goods exceeding Rs.50,000

GST – Perceived Disadvantages

- Dual Control by State and Centre – two assessments, etc.:
 - multi-state businesses may be assessed by State Government authorities in some States and by Central Government authorities in some other State
 - This will lead to different authorities taking different view on same transaction
- Registration in multiple states
- Low and negligible threshold
- Voluminous and Burdensome Compliances
- Multiple proceedings such as:
 - Scrutiny assessments
 - Summary assessments
 - Revision power of Commissioner
 - Departmental audit

GST – Perceived Disadvantages

- Inspection of records and accounts
 - Access to business premises
 - Inspection of goods in movement
- Business houses may not pass on ITC to ultimate customers – will trigger inflation
- GST will be inflationary at least in short run



GST preparedness for business entity

GST impact on Business Drivers

Sourcing

Manufacturing

**Distribution
and Logistics**

Sales

**IT and
Software
systems**

**Accounts and
Record
keeping**

GST – Way forward for business entity

Pre-GST Implementation

GST Study/ Impact analysis

Reviewing/ upgrading accounting, documentation & Software systems

Structuring business transactions

Smooth migration and transition

Employees Training

Post-GST Implementation

Gearing up for voluminous compliances

Checks and balances on compliance

Gearing up for GST Audit

Formulation of tax policies

Building up internal and external team of tax professionals

Immediate action plan for business entity

- GST study analysis
 - Assess financial impacts on the company
 - Address issues arising out of GST
 - Reorient various business functions to leverage on GST
- Cross functional core team to drive GST implementation
- Training and support to operation groups and business partners
- Engage with Software team for smooth changeover and to ensure proper compliance

THANK YOU