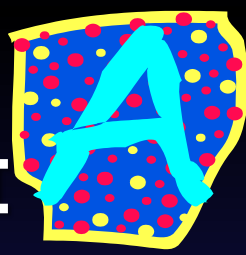


**GST Relearn Refresher Series (Virtual) – Part II**



# **Media & Entertainment**

***C.A. A. R. Krishnan***

***Thursday, 20<sup>th</sup> April, 2023***

***Organized by***

***Western India Regional Council of ICAI***

# Case Studies in

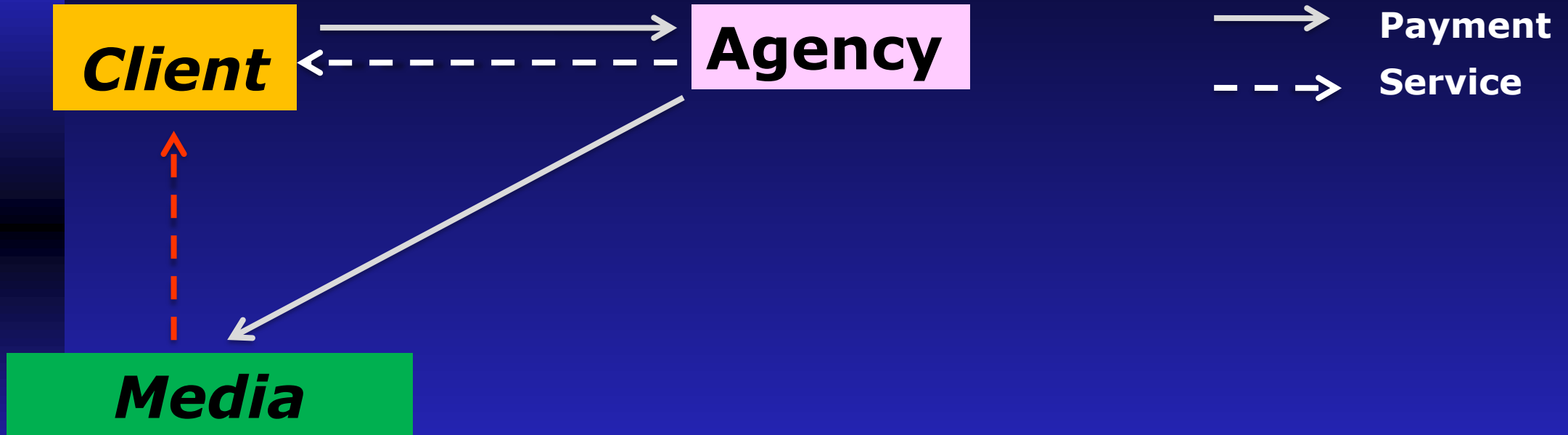
1. Ad Agency business
2. OOH Media business
3. Sponsorship by ad-agency
4. Film content processing
5. Music Copyright Business

# **Case Study - 1**

## **Ad Agency Business**

# TRADITIONAL MEDIA DOMESTIC SCENARIO

PRE-GST – Service tax scenario



- Historically acting as agent
- contracts also specifies acts as an agent

## BILL RAISED BY MEDIA ON AGENCY

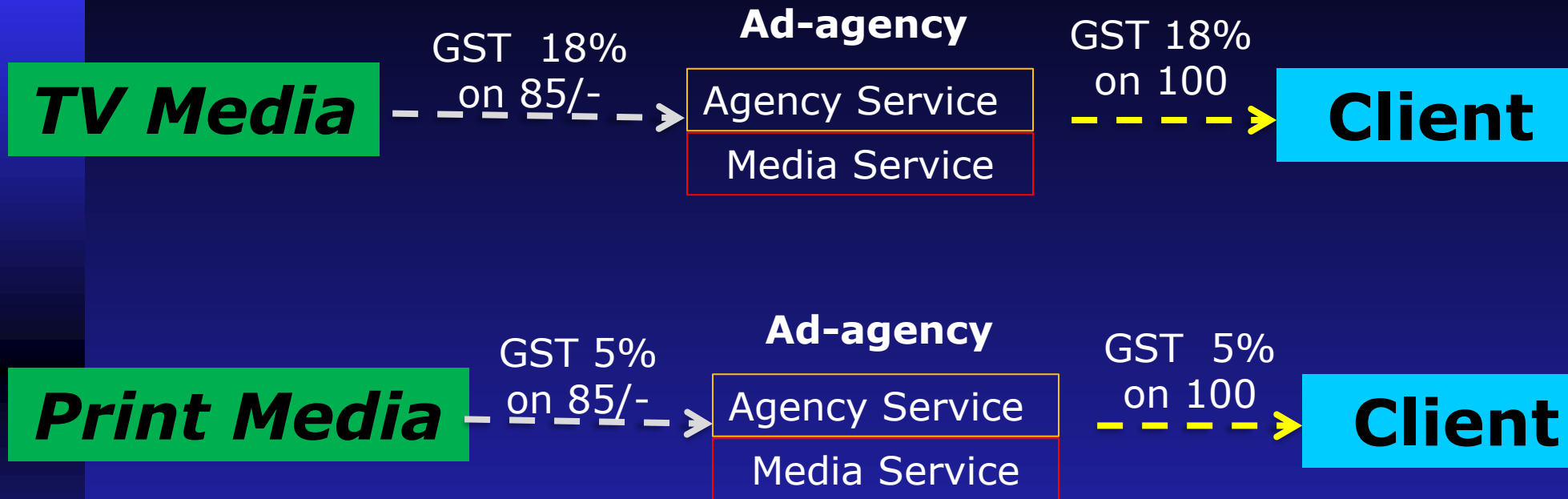
	TV	PRINT
Towards media charges (Gross spend)	100.00	100.00
Less: Discount @ 15%	15.00	15.00
Net Chargeable	85.00	85.00
Add: Service tax@ 15%	12.75	-
<b>TOTAL</b>	<b>97.75</b>	<b>85.00</b>

## BILL RAISED BY AGENCY ON CLIENT

<b>Reimbursement of media cost</b>	TV	PRINT
Media Cost	85.00	85.00
Add: Media Service tax @ 15%	12.75	-
<b>TOTAL - A</b>	<b>97.75</b>	<b>85.00</b>
Value for Agency – commission – 2.5% of Rs.100/-/Sale of space	2.50	2.50
Service tax on Ag. commission @15% / Sale of space	0.38	0.38
<b>TOTAL – B</b>	<b>2.88</b>	<b>2.88</b>
<b>TOTAL (A +B)</b>	<b>100.63</b>	<b>87.88</b>

# GST Scenario

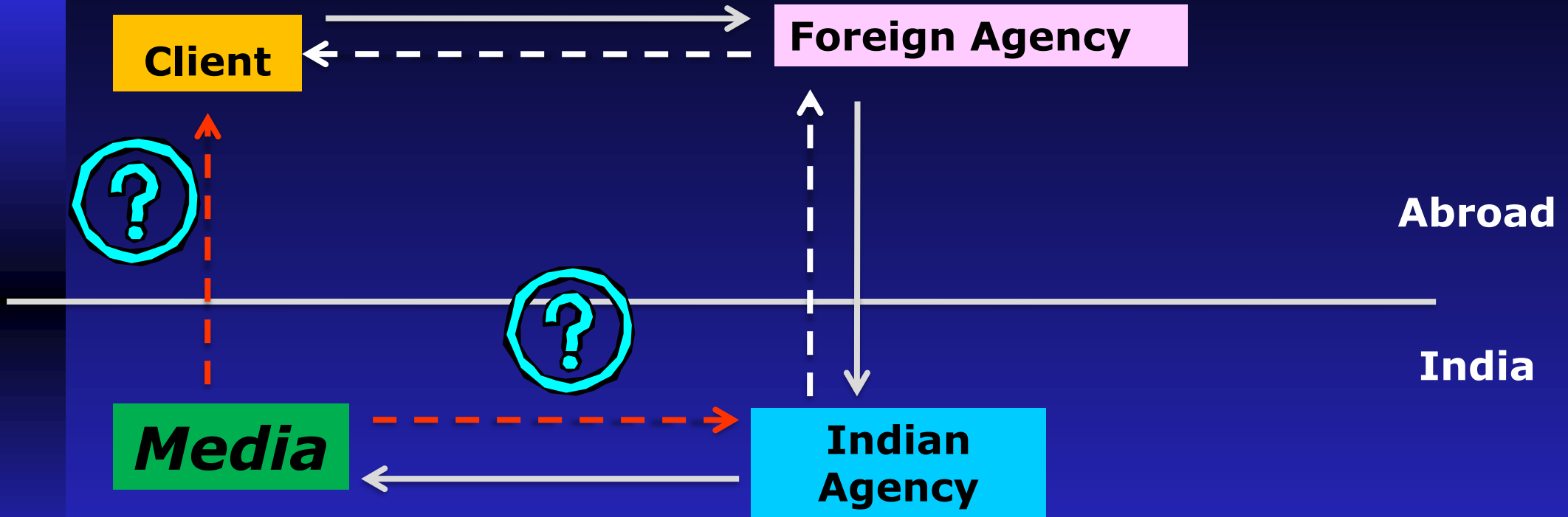
Some Challenges in Invoicing, GSTN Portal and ITC. Hence



## Nature of Contract – From P2A to P2P

Client's perspective – display of advt. on television / in print media is predominant objective; good case media services is the Principal Supply –*Reliance on Press release dated 23.8.2017*

# TRADITIONAL MEDIA CROSS BORDER SCENARIO



Role of Agency - Whether Intermediary 

 Payment  
 Service

- Nature of Contract & Documentation
- Conduct of parties
- Accountability
- ***If P2P – Advertising Services***
- ***If P2A – then split or whole – Intermediary ?***



# **Case Study - 2**

# **OOH Media Business**

# OOH Media– Nature of Supply



**ISSUE**

**Whether to charge CT + ST or IT**



# **Case Study – 3**

# **Sponsorships by Ad**

# **Agency**

# Sponsorship in event on behalf of advertiser by Ad agency



## ISSUE

- ✓ Outward supply by Agency – exempt supply since tax thereon discharged under RCM – Agency unable to utilise ITC on inward supply as it gets reversed u/s. 17(3) r.w.r. 42 – ITC chain broken

**Any way out**



# **Case Study - 4**

# **Film Content Processing**

# Film Content



Overseas Production House

Film Content

Special effects

Outside India

India



SP  
(Content Processing)

## ISSUE

Place of supply - whether online content is goods and hence work upon goods – POS in India and hence not Exports?



## ISSUE

### PLACE OF SUPPLY – section 13(2) or 13(3) (?)

For s.13(3)(a) to apply [work 'in respect of' goods] – 4 conditions are necessary :

- ❑ **'Goods'** must be given by the service recipient.
- ❑ Goods are required to be **physically** made available to the supplier.
- ❑ Service must be in respect of 'goods'.
- ❑ It must not be a case where – Goods are imported temporarily for repairs or other treatment or process and exported after such repairs, treatment or process without being put to use in India.

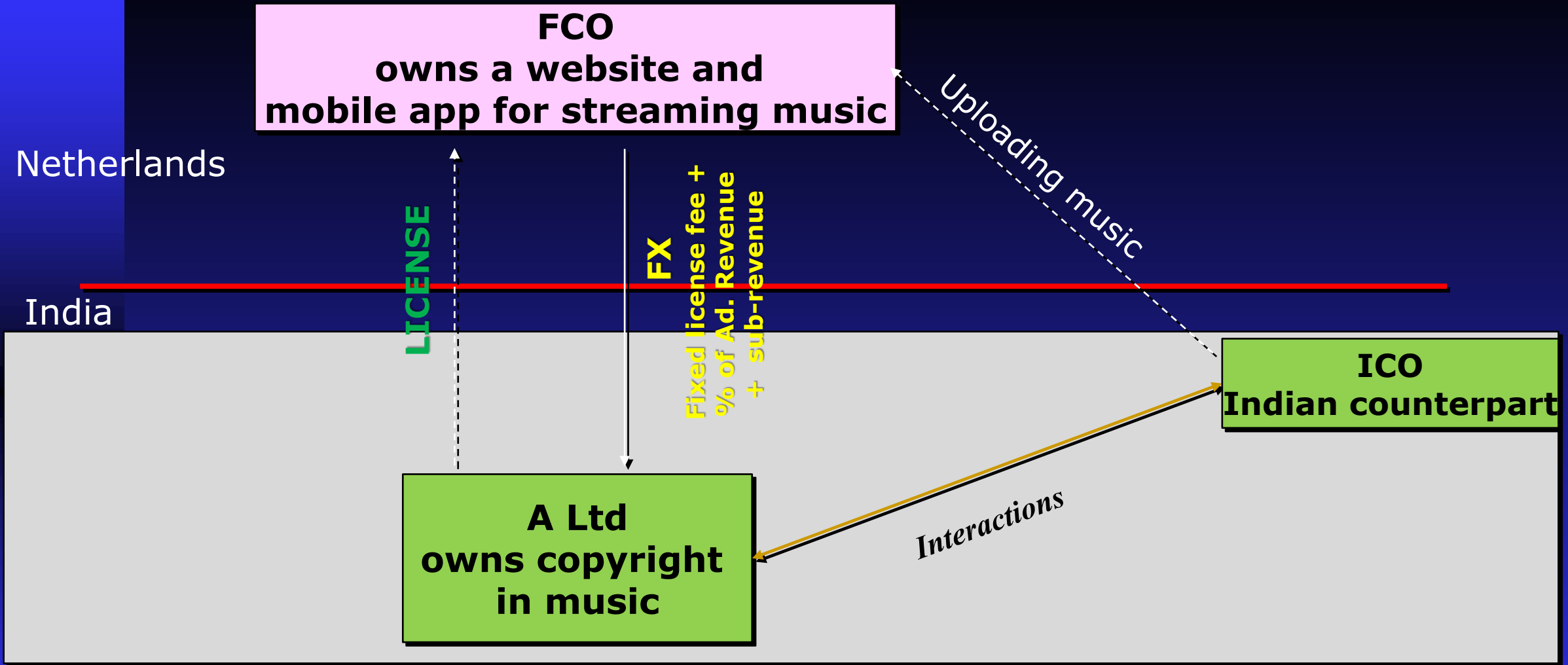


# Case Study - 5

# Music Copyrights Business







FootFalls



service



payment

## ISSUE



1. Footfalls of licences is in India.
2. All interactions is with ICO who is also situated in India
  - ❖ Agreement stage
  - ❖ Working mechanism Log management

Whether supply made by A Ltd. is zero-rated or liable to GST?

# Levy of GST

- CGST / SGST to be levied on all *intrastate* **supply of goods and / or services** at rate notified
- IGST to be levied on all *inter-state* **supply of goods and / or services** at rate notified
- Tax to be paid by **taxable person**

# CROSS BORDER INTER STATE SUPPLY

```
graph TD; A[CROSS BORDER INTER STATE SUPPLY] --> B[IMPORT OF GOODS]; A --> C[IMPORT OF SERVICES]; A --> D[SUPPLIER IN INDIA & POS OUTSIDE INDIA]; D --> E[EXPORT OF GOODS/ SERVICES];
```

IMPORT OF  
GOODS

IMPORT OF  
SERVICES

SUPPLIER IN INDIA  
&  
POS OUTSIDE INDIA

EXPORT OF GOODS/  
SERVICES

# The INTEGRATED GOODS AND SERVICES TAX ACT, 2017

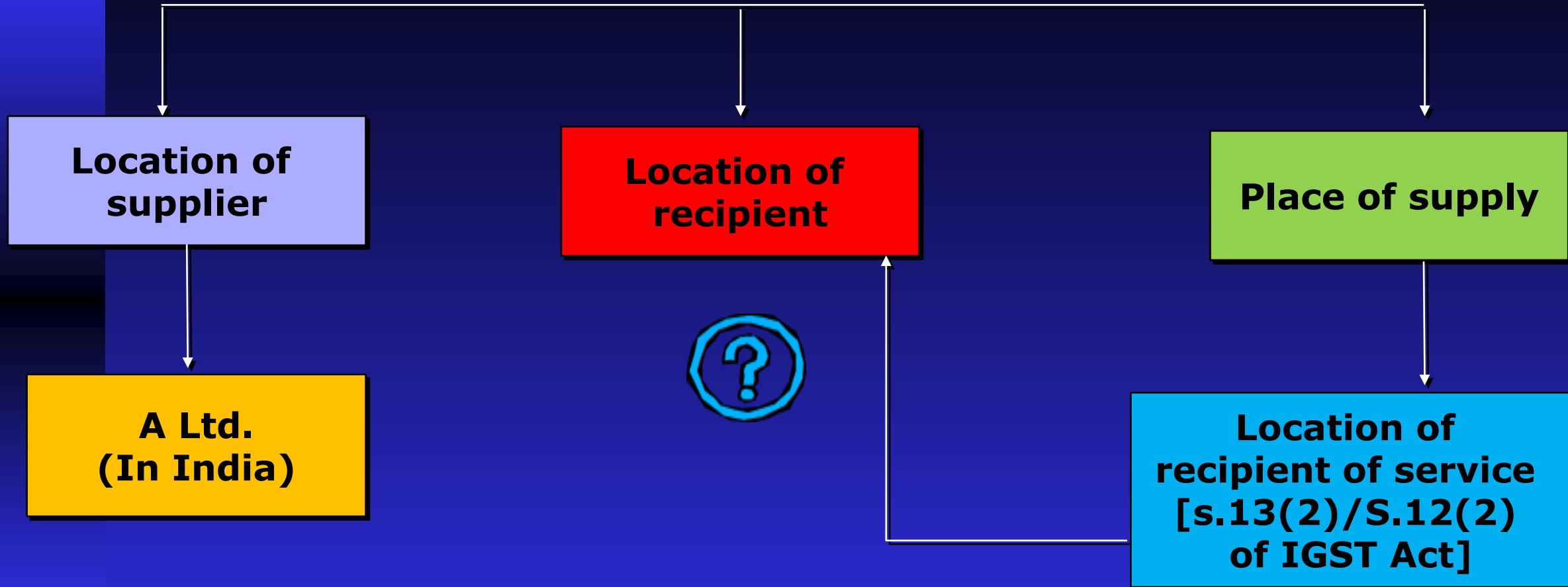
Section 2:

- (6) "export of service" 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;

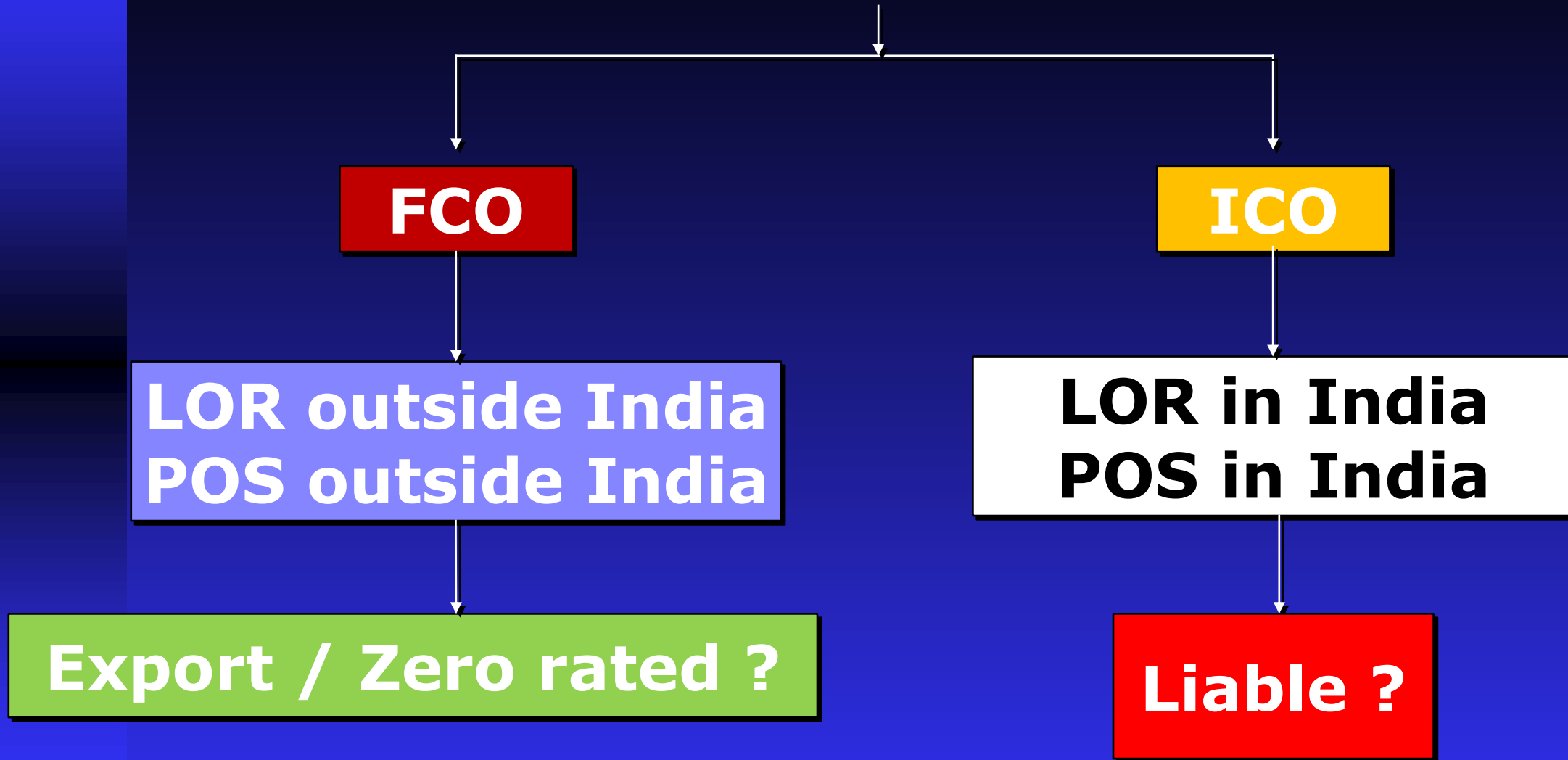
## Whether Tony Ltd.'s services will be considered as exports – s.2(6) of IGST Act.

Sl. no.	Conditions for supply to be considered as exports	Whether Satisfied
1.	the supplier of service is located in India	Yes
2.	the recipient of service is located outside India	?
3.	the place of supply of service is outside India	?
4.	the payment for such service has been received by the supplier of service in convertible foreign exchange; and	Yes
5.	the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8	Not Applicable

# Cross border transactions : Three important factors



# Who is the recipient of supply?





# Location of Service Receiver [S.2(14) of IGST Act 2017]

*Clause(i):* Supply received at Registered POB – Registered POB

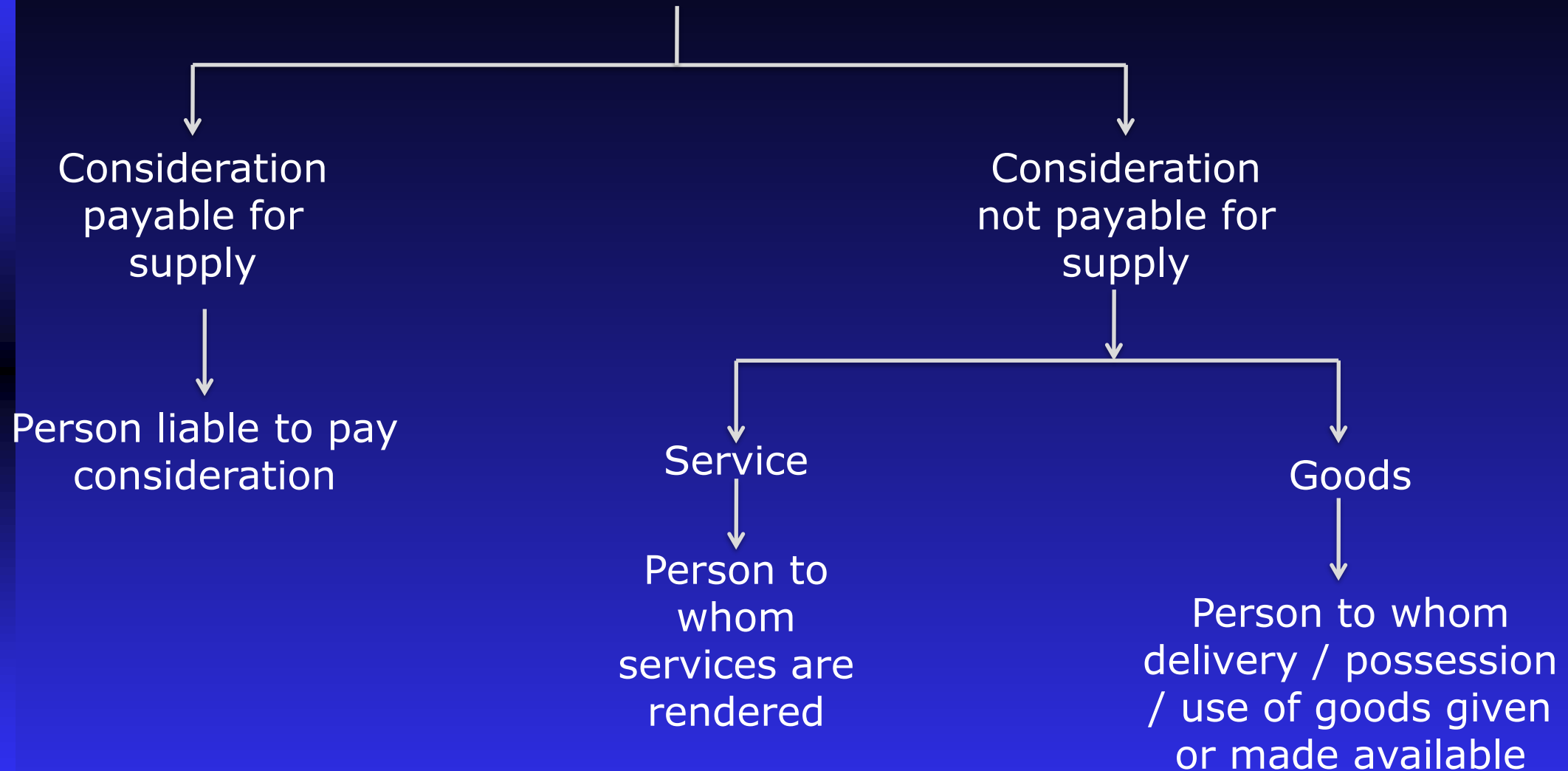
*Clause(ii):* Supply received at FE (other than Reg. POB) – Location of Fixed Establishment

*Clause(iii):* If supply received at > 1 POB/FE – POB/FE directly concerned in receiving supply

*Clause(iv):* If no POB/FE – usual place of residence

# Recipient of supply of goods / Services

s. 2(93) of CGST Act 2017



*Recipient includes agent*

# CONCLUSION

- ✓ Since FCO has establishment in Netherlands and A Ltd. has contracted with FCO qua its establishment in Netherlands and is obligated to render its licensing services to OMN;
- ✓ The benefit of A Ltd.'s services accrue mainly to FCO located outside India
- ✓ Only FCO legally obligated to make payment of consideration for supply by A Ltd.;
- ✓ ICO only a communication conduit between A Ltd. & FCO - not a beneficiary of A Ltd.'s service *qua* agreement with A Ltd.;

Good case to say that the location of service recipient is outside India & hence POS also outside India.

***Supply by A Ltd. would be zero rated***

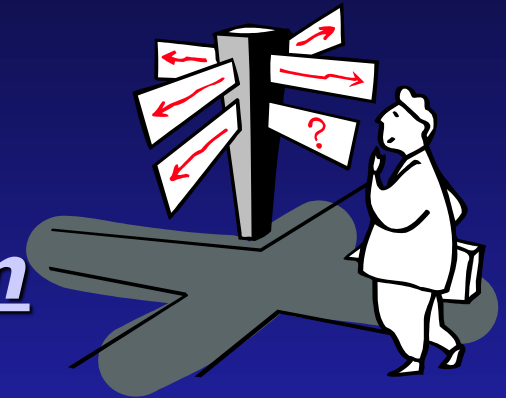
# **GST Relearn Refresher Series (Virtual) – Part II**

## **Media & Entertainment**



***C.A. A. R. Krishnan***

***Email : [arkandco@gmail.com](mailto:arkandco@gmail.com)***



***Organized by***

***Western India Regional Council of ICAI***