

Basic Concepts, Levy, Composition, Time of Supply, Value of Taxable Supply Reverse Charge Mechanism in GST

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GST Course for CA Students

WICASA of WIRC of ICAI

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Agenda

Principles for Interpretation of Law

Basic Concepts in GST

Important Definitions

Concept of Supply

Levy, Composition, Exemption

Reverse Charge Mechanism

Time of Supply of Goods & Services, Invoicing

Value of Taxable Supply



Principles for
Interpretation
of Law

Imp Principles of Interpretation of Law

- Analysing a definition

A definition could either be of 3 categories

- Exhaustive definition

- Such definition generally employs the word “mean” which shall imply that any interpretation of such term should be within the 4 corners of such definition

- Illustrative Definition

- Such definition employs the words “includes” which only implies that the term is not exhaustively defined and therefore resort shall be made to its general meaning

- Exhaustive & Expanding/Contracting

- Such definition employs the words “means and includes” or “means but does not include” respectively. It means that the definition is exhaustive and expanding or exhaustive and reducing

Imp Principles of Interpretation of Law

- **Generalia specilibus non derogant**
 - If on a particular issue, if there exists a general provision and a special provision then the special provision shall override the general provision
- **Doctrine of Eiusdem Generis**
 - denoting a rule for interpreting statutes and other writings by assuming that a general term describing a list of specific terms denotes other things that are like the specific elements. Inference is to be given to the immediately preceding terms.
- **Non obstantate Clause**
 - Such causes uses the word “**notwithstanding**” and overrides the provisions listed in the text / references immediately following it. Such Conditions of independent of the general conditions

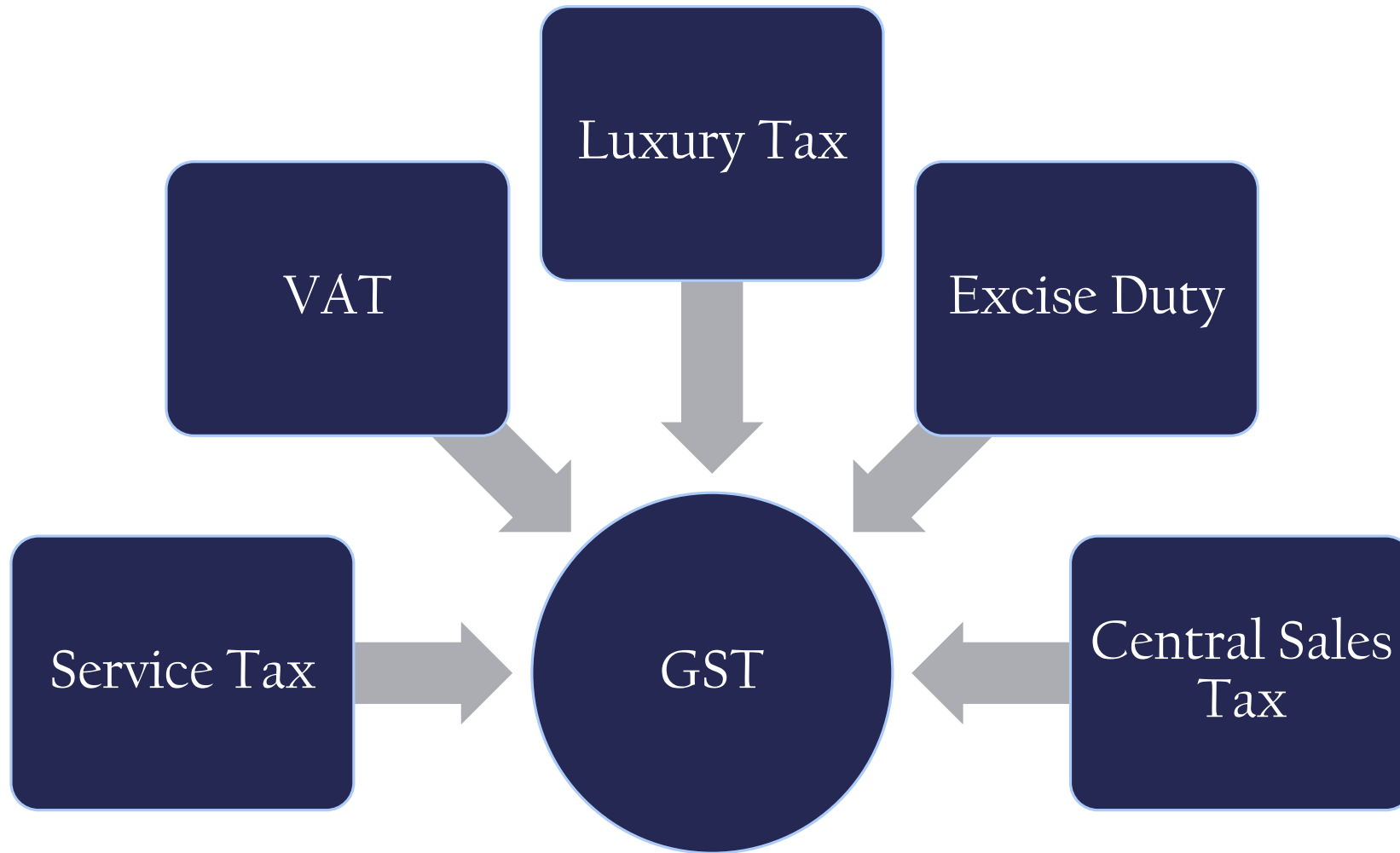
Imp Principles of Interpretation of Law

- **May Vs. Shall**
 - Normally, the word “may” means discretion and is not mandatory
 - Courts do not interpret the word “may” as “shall” unless such interpretation is necessary and required to void absurdity, inconvenient consequence or is mandated by the intent of the legislature which is collected from other parts of the statute.
 - While examining the third aspect, the courts examine the purpose, object, design and scope of the statute
 - the words “may” and “shall” are distinct in meaning. While one confers a discretionary power, the latter one pelts out mandatory directions. These words are not synonymous but may be used interchangeably if the context requires such interpretation

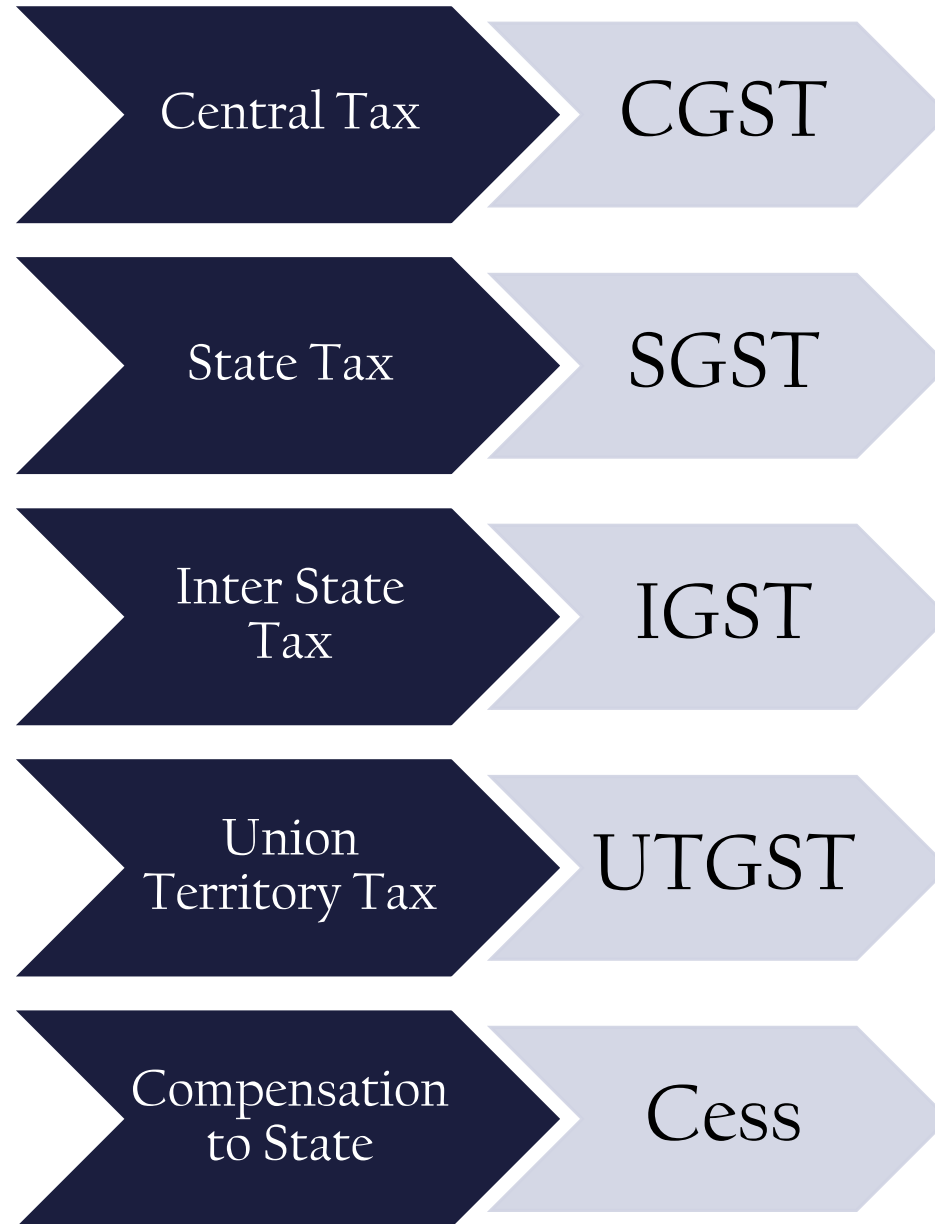


Overview of GST

Current Major Taxes Subsumed in GST



Various Taxes in GST



Determination of Intra/ Inter State Transaction

Location of Supplier	Place of Supply	Type of Transaction	Levy
State A	State A	Intra State	CGST + SGST
State A	State B	Inter State	IGST
UT A	UT A	Intra State	CGST + UTGST
UT A	State A	Inter State	IGST
UT A	UT B	Inter State	IGST



Important
Definitions

Important Definitions

sec 2(17) of CGST

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 sub-clause (a);
- ✓ (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
- ✓ (d) supply or acquisition of goods including capital goods 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;
- ✓ (f) admission, for a consideration, of persons to any premises;
- ✓ (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 in such club ; and
- ✓ (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;

Important Definitions

sec 2(85) of CGST

Place of Business INCLUDES –

- ✓ A place FROM where the *business is ordinarily carried on*, and includes a warehouse, a godown or any other place where a taxable person stores his goods, provides or receives goods and/or services
- ✓ A place where a taxable person maintains his books of accounts
- ✓ A place where a taxable person is engaged in business through an agent, by whatever name called

sec 2(50) of CGST

Fixed Establishment MEANS

- ✓ A place other than the place of business which is characterized by a sufficient degree of permanent and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs

Important Definitions

sec 2(105) of CGST

Supplier

- ✓ In relation to any goods and/or services SHALL MEAN the person supplying the said goods and/ or services and SHALL INCLUDE and *agent acting as such on behalf of such supplier in relation to the goods and/or services supplied*

sec 2(15) of IGST

Location of Supplier of Services

- ✓ Where supply is *MADE FROM* a place of business for which registration has been obtained, the location of such place of business
- ✓ Where a supply is *MADE FROM* a place *OTHER THAN* the place of business for which registration has been obtained, i.e say a Fixed Establishment elsewhere, the location of such fixed establishment
- ✓ Where a supply is *MADE FROM* more than one establishment, whether place of business/ fixed establishment, location of establishment most directly concerned with the provision of supply
- ✓ In absence of such places, the location of usual place of residence of the supplier

Important Definitions

sec 2(93) of CGST

Recipient

- ✓ Where the consideration is payable for the supply of goods and/or services, the **person who is liable to pay that consideration**
- ✓ 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,
- ✓ Where no consideration is payable for the supply of a service, the **person to whom service is rendered**,
- ✓ Any reference to whom a supply is made shall be construed as a reference to the recipient of the supply
- ✓ The expression recipient also includes an agent acting as such on behalf of the recipient in relation to such goods and/or services supplied

Important Definitions

sec 2(14) of IGST

Location of Recipient of Services

- ✓ Where supply is **RECEIVED AT** a place of business for which registration has been obtained, the location of such place of business
- ✓ Where a supply is **RECEIVED AT** a place **OTHER THAN** the place of business for which registration has been obtained, i.e say a Fixed Establishment elsewhere, the location of such fixed establishment
- ✓ Where a supply is **RECEIVED AT** more than one establishment, whether place of business/ fixed establishment, location of establishment **MOST DIRECTLY** concerned with the recipient of supply
- ✓ In absence of such places, the location of usual place of residence of the recipient

Important Definitions

sec 2(5) of IGST

“export of goods”

- ✓ with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India;

sec 2(6) of IGST

“export of services”

- ✓ means the supply of any service when,—
 - ✓ (i) the supplier of service is located in India;
 - ✓ (ii) the recipient of service is located outside India;
 - ✓ (iii) the place of supply of service is outside India;
 - ✓ (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange; and
 - ✓ (v) 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

Important Definitions

sec 2(10) of IGST “import of goods”

- ✓ with its grammatical variations and cognate expressions, means bringing goods into India from a place outside India;

sec 2(11) of IGST “import of services”

- ✓ means the supply of any service, where--
- ✓ (i) the supplier of service is located outside India;
- ✓ (ii) the recipient of service is located in India; and
- ✓ (iii) the place of supply of service is in India



Concept of
Supply

Introduction

Determining the nature of transaction to be taxed under GST 3 aspects needs to understood

- Whether supply in question is of Goods or Services ?
- What is meaning of Supply of Goods?
- What is meaning of Supply of Services?



Goods – sec 2(49)

MEANS

every kind of
movable property

INCLUDES

1. Actionable Claims
2. growing crops
3. grass and things attached to or forming part of land which are agreed to be severed before supply or contract of supply

DOES NOT INCLUDE

1. Money
2. Securities

Services – sec 2(92)

MEANS Anything
other than
goods

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

DOES NOT INCLUDE

1. Money
2. Securities

Meaning – sec 7

All forms of supply of goods and/or services; made or agreed to be made; for a consideration; by a person;

IN THE COURSE OR FURTHERANCE OF BUSINESS such as

1. Sale
2. Transfer
3. Barter
4. Exchange
5. License
6. Rental
7. Lease
8. disposal

Importation of service for a consideration

And

WHETHER OR NOT

in the course or furtherance of business



Specified in Schedule I
Made or agreed to be made
Without Consideration

Exemptions

Sec 11 of CGST

Power to Grant Exemptions

- ✓ Necessary in public interest & on Recommendation of Council
- ✓ Exceptional Circumstances
- ✓ By a notification
- ✓ 2/2017 – Central Tax (Rate)
- ✓ 12/2017 – Central Tax (Rate)
- ✓ Refer Amendments to above notifications
- ✓ Refer corresponding Notifications in SGST / UTGST / IGST



Reverse
Charge
Mechanism

Reverse Charge Mechanism

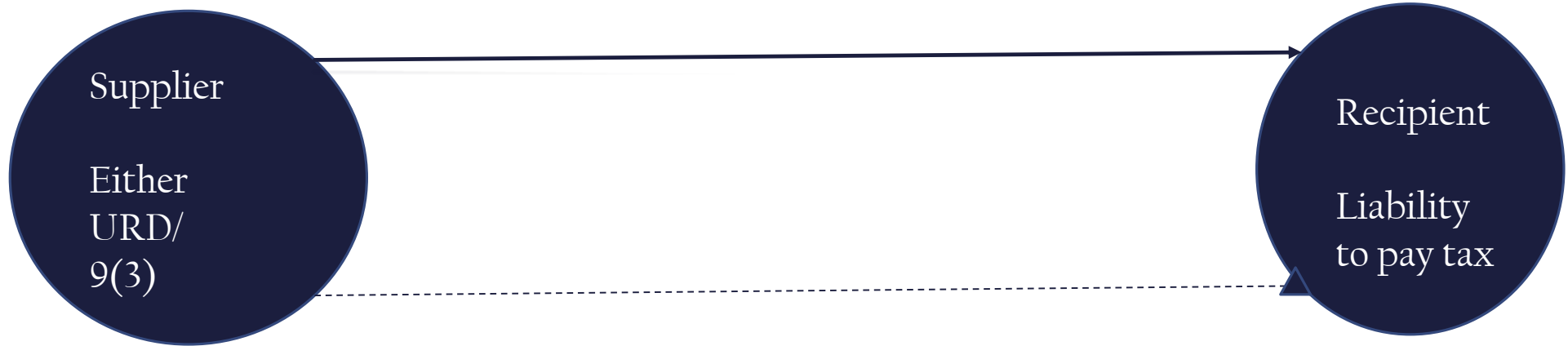
❖ The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both

Specified Tax Shift -
[sec 9(3)]

❖ The central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

Inward Supply from
Unregistered Taxable
Person - [sec 9(4)]

Reverse Charge Mechanism



Reverse Charge Mechanism – 4/2017 CT(Rate)

Description of supply of Goods	Supplier of goods	Recipient of supply
Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
Bidi wrapper leaves (tendu)	Agriculturist	Any registered person
Tobacco leaves	Agriculturist	Any registered person
Silk yarn	Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn	Any registered person
Supply of lottery	State Government, Union Territory or any local authority	Lottery distributor or selling agent.

Reverse Charge Mechanism – 13/2017 CT(Rate)

Category of Supply of Services	Supplier of service	Recipient of service
Supply of Services by a goods transport agency (GTA) 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	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

Reverse Charge Mechanism – 13/2017 CT(Rate)

Category of Supply of Services	Supplier of service	Recipient of service
Supply of Services by a goods transport agency (GTA) in respect of transportation of goods by road to- (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 Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or	Goods Transport Agency (GTA)	(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 Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or

Reverse Charge Mechanism – 13/2017 CT(Rate)

Category of Supply of Services	Supplier of service	Recipient of service
Supply of Services by a goods transport agency (GTA) in respect of transportation of goods by road to- (e) any body 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.	Goods Transport Agency (GTA)	(e) any body 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.

- ❖ “Goods Transport Agency” means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called
- ❖ The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification.

Reverse Charge Mechanism – 13/2017 CT(Rate)

Category of Supply of Services	Supplier of service	Recipient of service
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.

The business entity located in the taxable territory who is litigant, applicant or petitioner, as the case may be, shall be treated as the person who receives the legal services for the purpose of this notification

Reverse Charge Mechanism – 13/2017 CT(Rate)

Category of Supply of Services	Supplier of service	Recipient of service
Services supplied by an arbitral tribunal to a business entity.	An arbitral tribunal.	Any business entity located in the taxable territory.
Services provided by way of sponsorship to any body corporate or partnership firm.	Any person	Any body corporate or partnership firm located in the taxable territory.
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.

Reverse Charge Mechanism – 13/2017 CT(Rate)

Category of Supply of Services	Supplier of service	Recipient of service
<p>Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding, -</p> <ul style="list-style-type: none">(1) renting of immovable property, and(2) services specified below-<ul style="list-style-type: none">(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.	<p>Central Government, State Government, Union territory or local authority</p>	<p>Any business entity located in the taxable territory.</p>

Reverse Charge Mechanism – 13/2017 CT(Rate)

Category of Supply of Services	Supplier of service	Recipient of service
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.
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

Reverse Charge Mechanism – 13/2017 CT(Rate)

Category of Supply of Services	Supplier of service	Recipient of service
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 original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like.	Author or music composer, photographer, artist, or the like	Publisher, music company, producer or the like, located in the taxable territory.

Reverse Charge Mechanism – 8/2017 CT(Rate)

Intra State Exemption upto ₹ 5,000/-

- ❖ intra-State supplies of goods or services or both
- ❖ received by a registered person
- ❖ from any supplier, who is not registered
- ❖ Exempted from whole of the levy
- ❖ Provided, If inward supplies from any or all the suppliers, who is or are not registered, exceeds five thousand rupees in a day, then said exemption not allowed

Reverse Charge Mechanism – Invoices, Payments & Filing

Law at Glance

- ❖ Whether Tax is payable on Reverse Charge Basis must be specifically mentioned on Invoice
- ❖ Issue a self Invoice u/s 31(3)(f) for Reverse Charge u/s 9(3) & (4) if supplier is not registered under GST
- ❖ Issue of Payment Voucher u/s 31(3)(g) for Reverse Charge u/s 9(3) & (4) while making payment to such supplier
- ❖ Due Date for Tax Payment is along with respective due date for filing of return for the tax period
- ❖ Outward Supplies Attracting Tax on Reverse Charge Basis u/s 9(3), to be disclosed under Table 4B of GSTR – 1 (It shall reduce tax liability)
- ❖ Inward Supplies attracting Tax on Reverse Charge Basis u/s 9(3) & (4), to be disclosed under Table 4 of GSTR – 2 (This shall increase the liability)

Reverse Charge Mechanism – Issues in ITC

Included in Exempt Supply

- ❖ Explanation to sec 17(2)- For the purposes of this sub-section, exempt supplies shall include supplies on which recipient is liable to pay tax on reverse charge basis under subsection (3) of section 9.
- ❖ (3) The value of exempt supply under sub-section (2) shall be such as may be prescribed, and *shall include supplies on which the recipient is liable to pay tax on reverse charge basis*
- ❖ For the supplier whose taxable service is under tax shift unnecessary loss of credit even if he is registered

Input Tax Credit Claim sec 41



Input Tax Credit Claim shall be matched with outward supplies filed in GSTR-1 by corresponding tax payer after filing of return

The reversal can be at invoice level by marking ineligible in GSTR – 2 or computation of proportionate amount in Table 11 of GSTR 2

Matching, Reversal, Reclaim of ITC sec 42 / Reduction in Output Tax Liability sec 43

Matching

Match in GSTR2A as filed by corresponding supplier

Claim those which are matched in same or preceding tax period

Reversal

GSTN shall intimate both supplier and recipient about unmatched supplies / duplication of invoices

Details unmatched, communicated but not rectified / duplicate claim shall be added back in Output Tax Liability

Reclaim

Reduce the Output tax liability if supplier rectifies in his VALID returns within the time period sub sec (9) of sec 39

Matching shall be after due date of GSTR-3 and intimated accordingly.
Interest on reclaim allowed subject to supplier paying it

Reverse Charge Mechanism – Issues in ITC

Cases Study 1

Mr. A who is a Life Insurance Agent of LIC of India, is also a Mutual Fund Agent of HDFC Mutual Fund. His turnover with LIC of India is 7 lakhs, while turnover with HDFC Mutual Fund is 15 lakhs. What are the implications for Reverse Charge under GST?

Case Study 2

A, an agriculturist, cultivates Soyabean and Cotton. A sales this product to M/s Soya Oil Mills & M/s Star Yarn Mills respectively. A, being an agriculturist is not registered, Is reverse Charge Mechanism applicable?

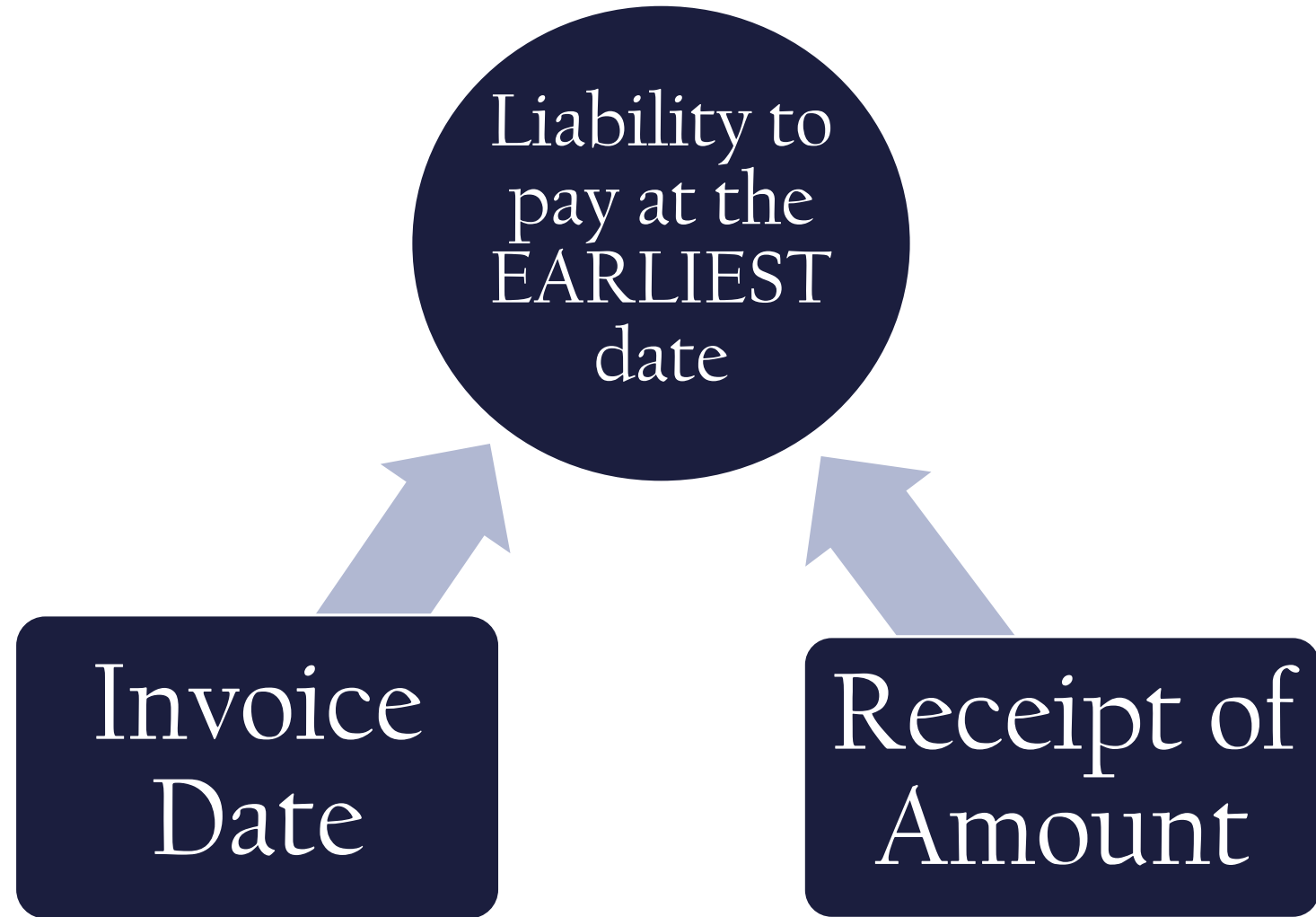
Case Study 3

Will sec 24(iii), i.e. Compulsory registration be applicable for person engaged exclusively in wholly exempt / on which GST is not liable?

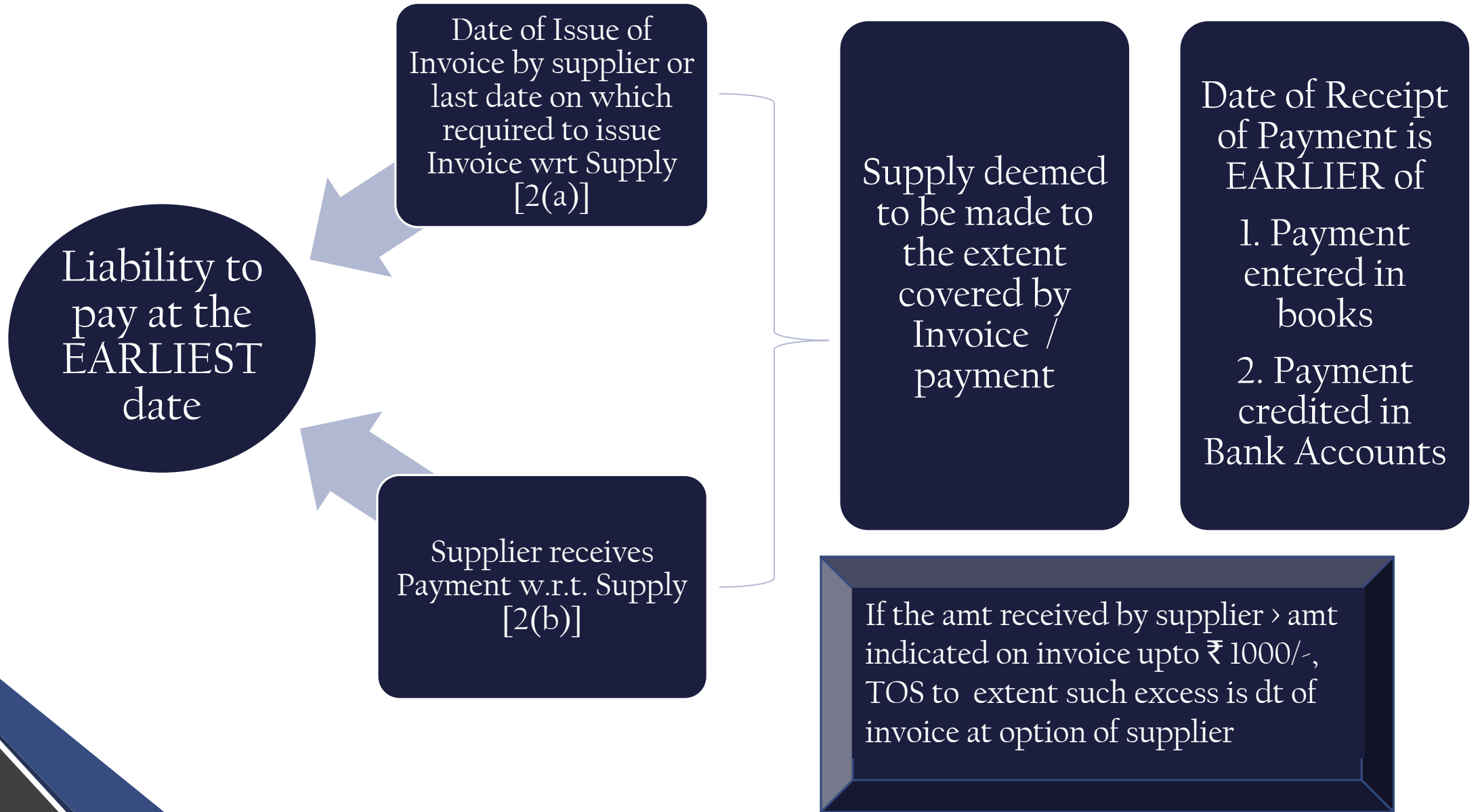


Time of Supply of
Goods & Services

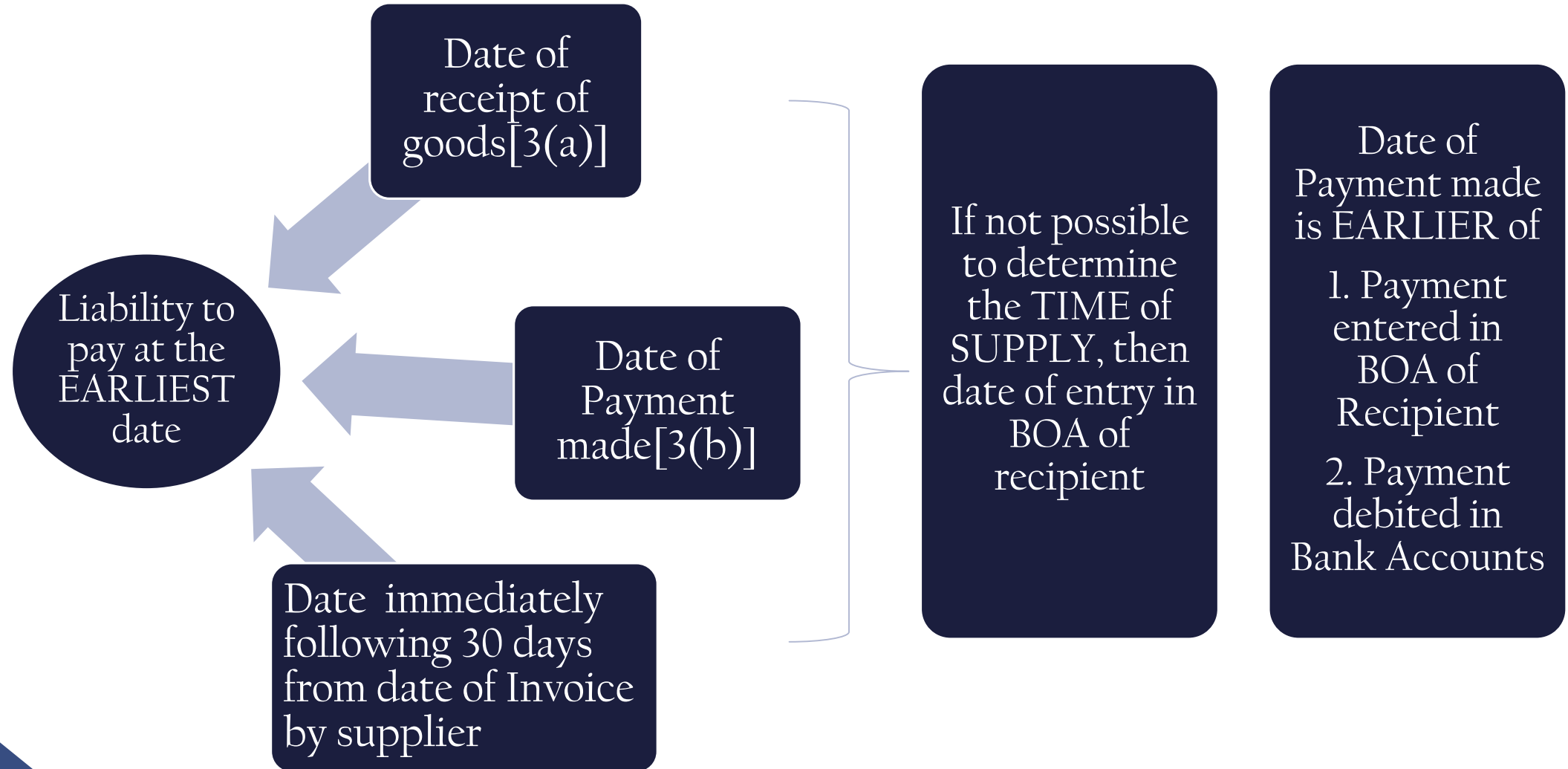
Time of Supply – Generally



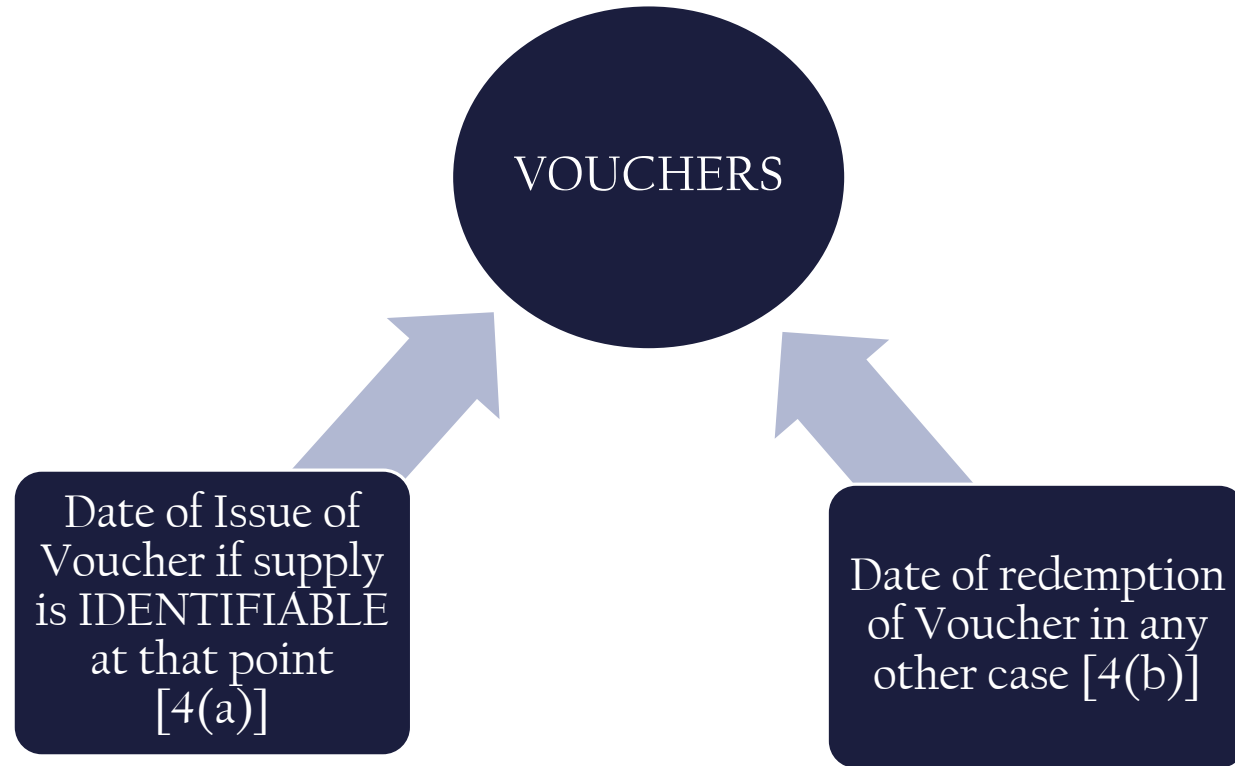
Time of Supply of Goods – sec 12(2)



Time of Supply of Goods under RCM – sec 12(3)

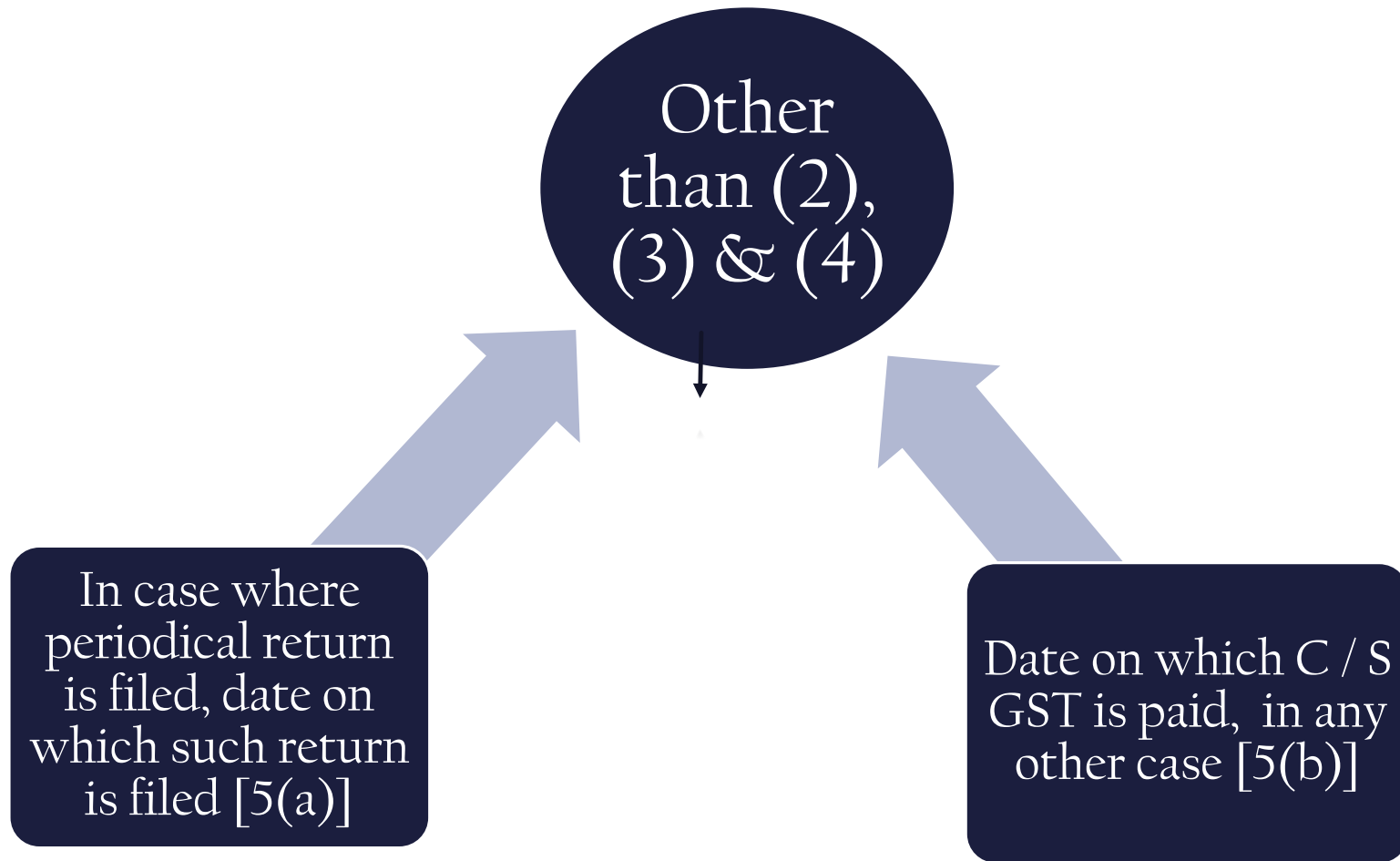


Time of Supply of Goods (Vouchers) – sec 12(4)



2(118) “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;

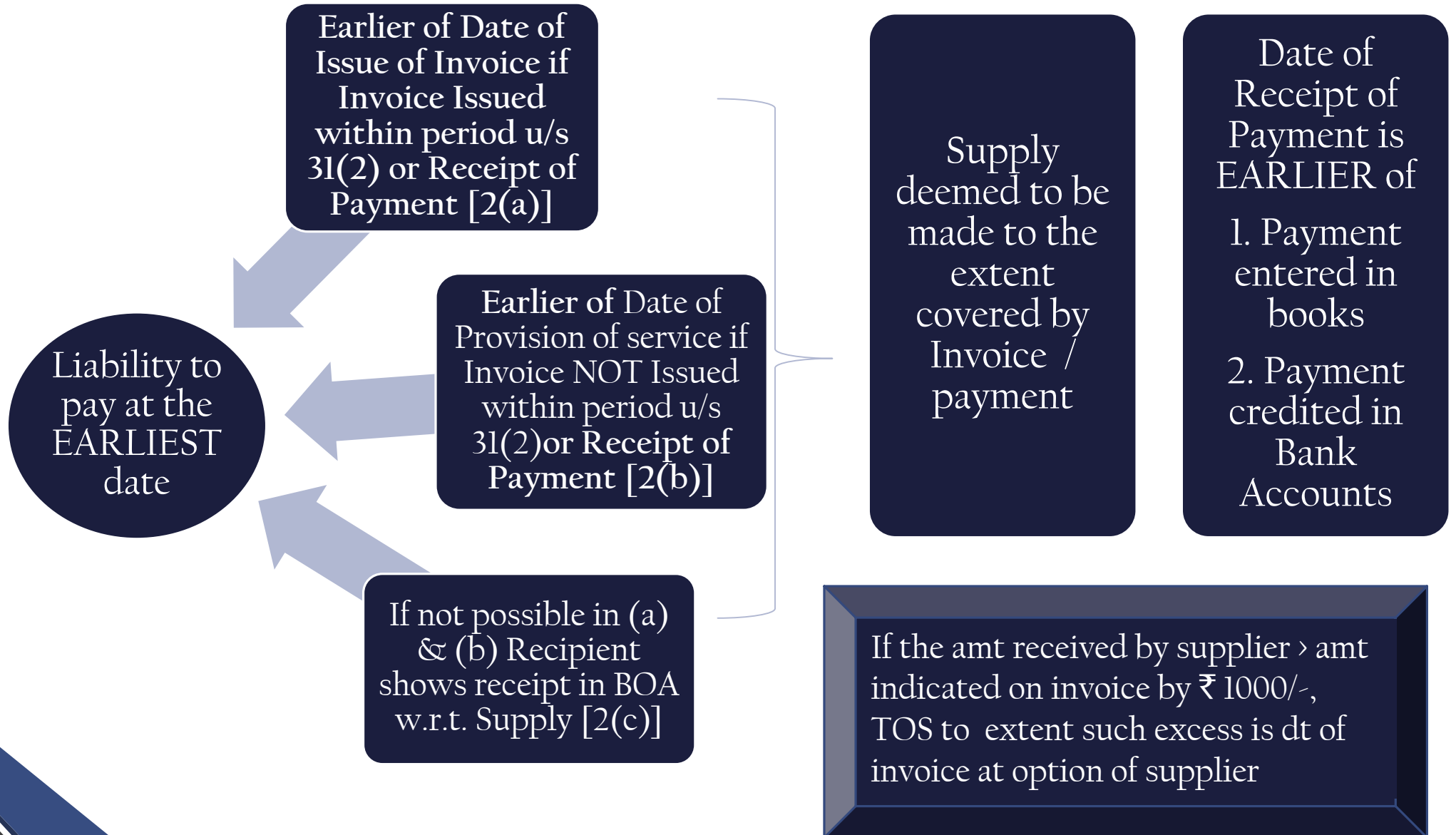
Time of Supply of Goods – sec 12(5)



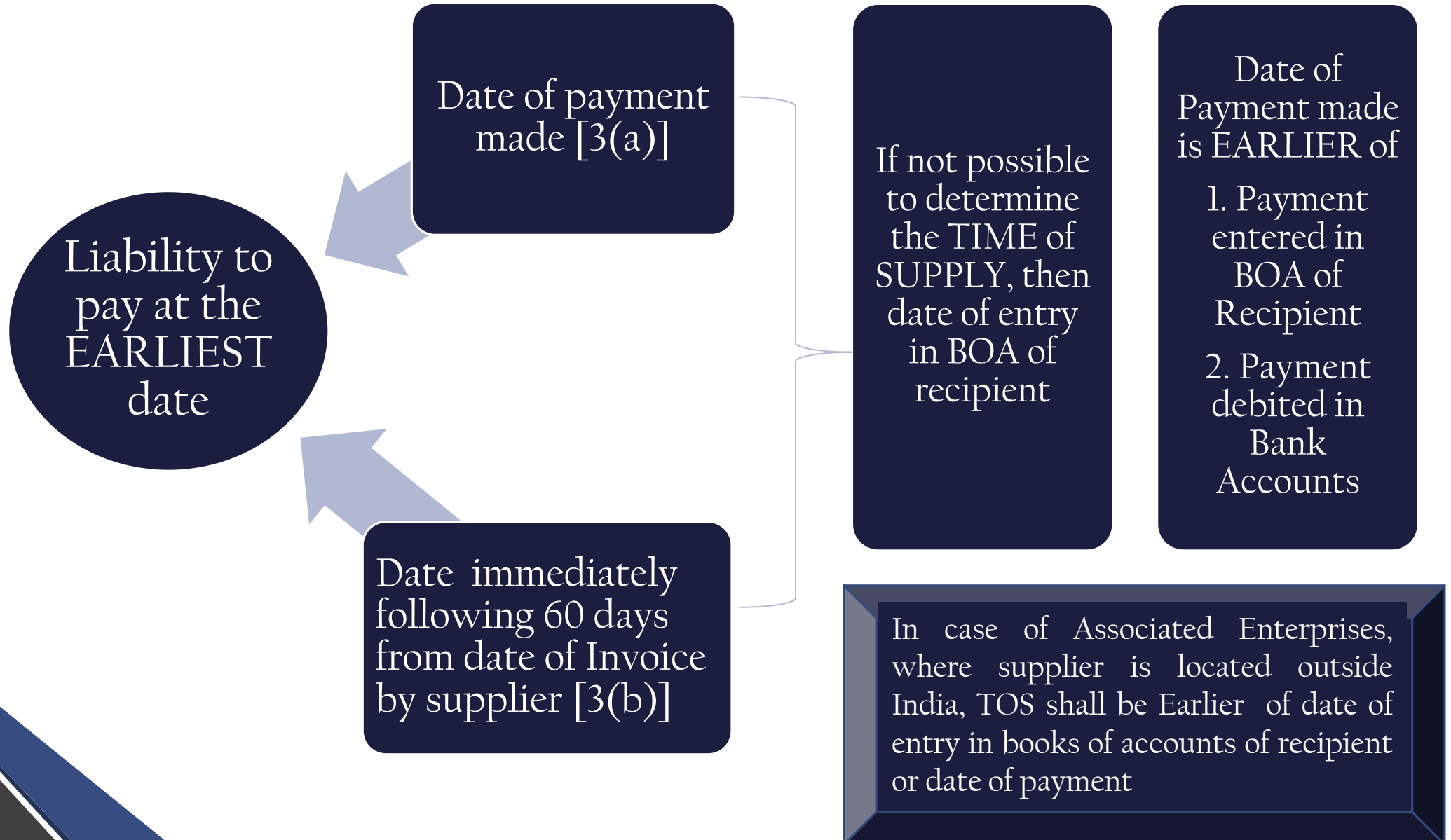
Time of Supply of Goods – sec 12(6)

- The time of supply to the extent it relates to an addition in the value of supply by way of
 - Interest
 - late fee
 - penalty for delayed payment of any consideration
- shall be the date on which the supplier receives such addition in value

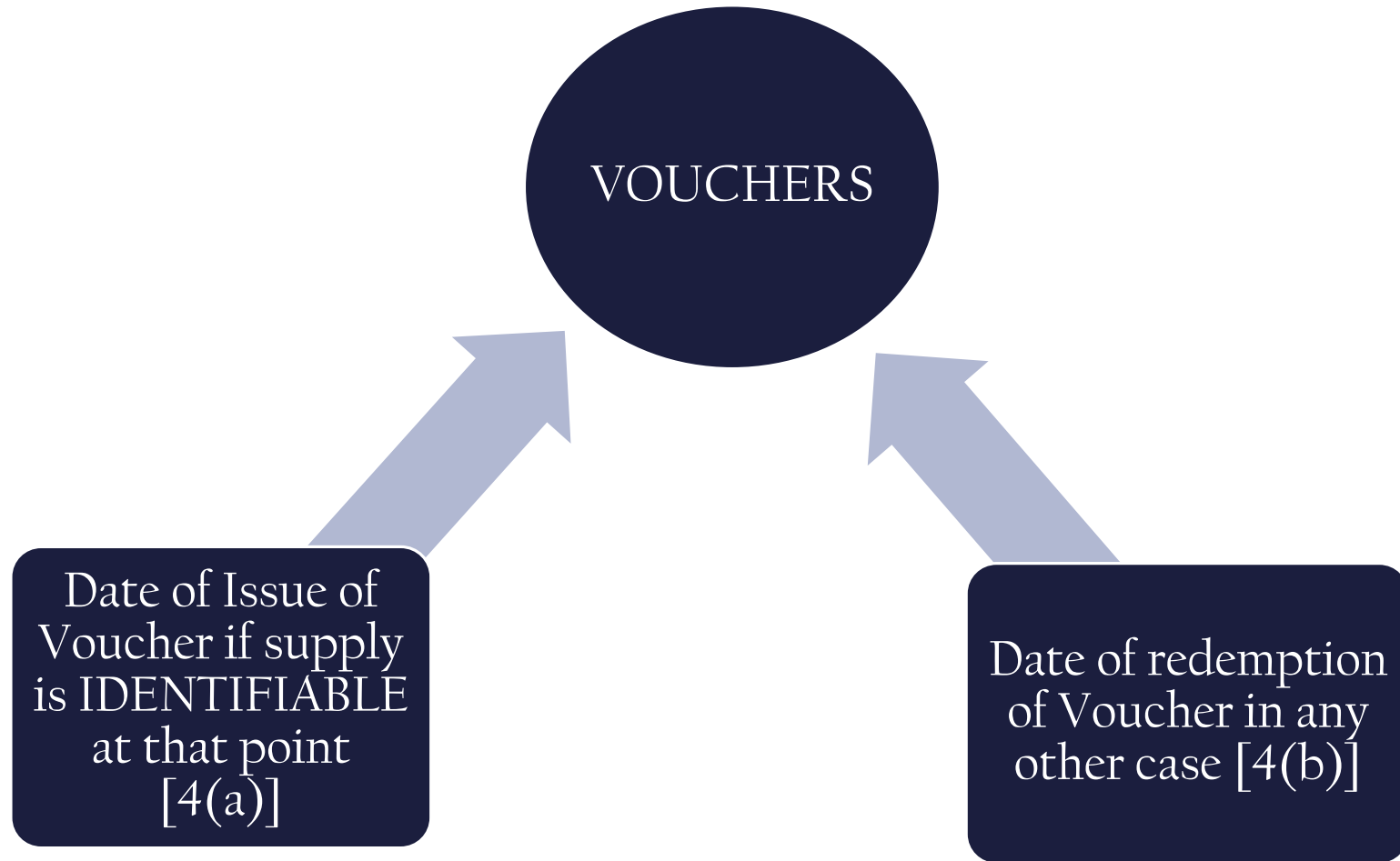
Time of Supply of Services – sec 13(2)



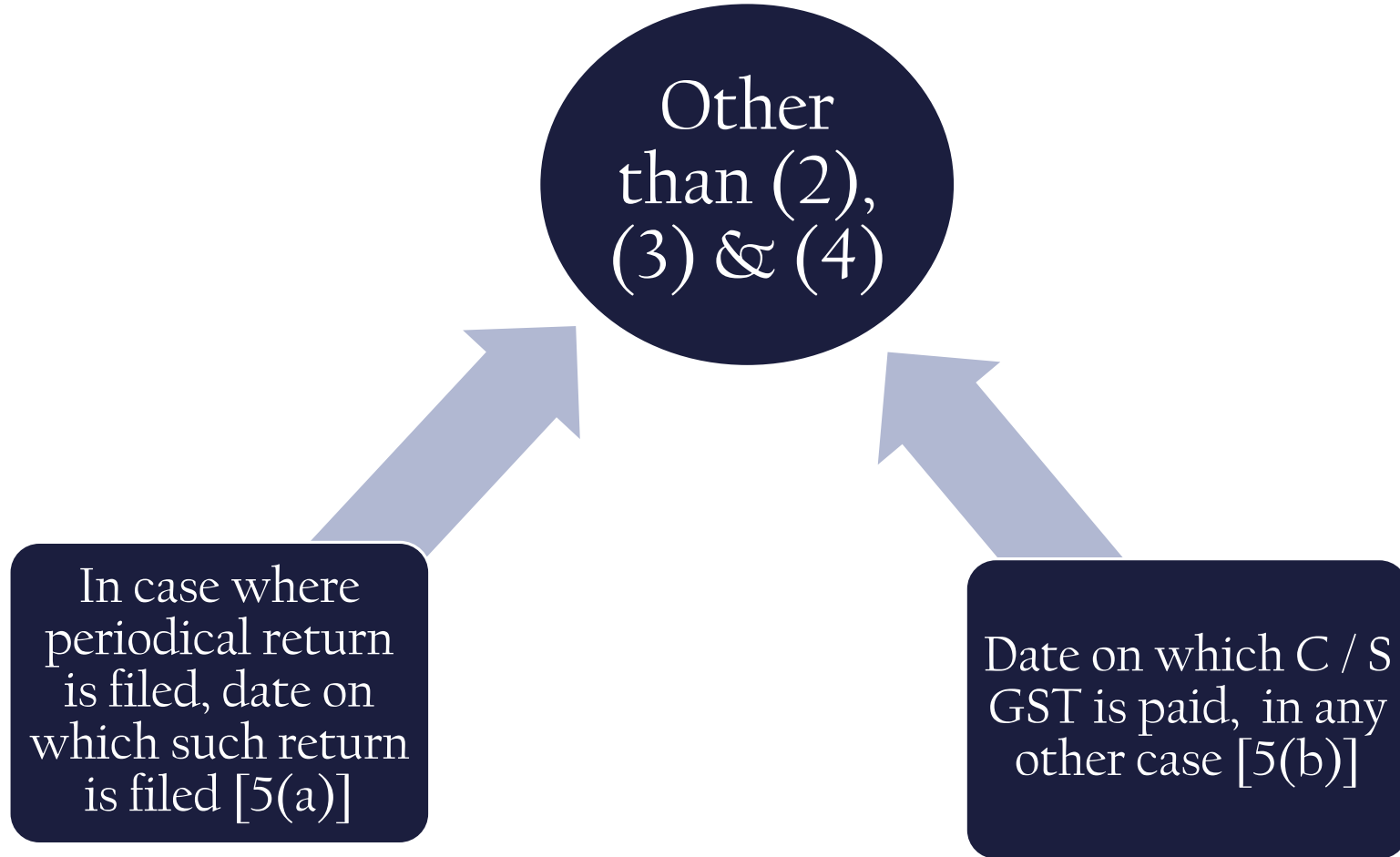
Time of Supply of Services on RCM – sec 13(3)



Time of Supply of Services (Vouchers) – sec 13(4)



Time of Supply of Services – sec 13(5)



Time of Supply of Services – sec 13 (6)

- The time of supply to the extent it relates to an addition in the value of supply by way of
 - Interest
 - late fee
 - penalty for delayed payment of any consideration
- shall be the date on which the supplier receives such addition in value

Time of Supply of Goods / Services – Rate Changes

- Supplies made BEFORE Change in rate

Issue of Invoice	Receipt of Payment	Point of Taxation
After	After	Earliest Date
Before	After	Date of Issue of Invoice
After	Before	Date of Receipt of Payment

Time of Supply of Goods / Services – Rate Changes

- Supplies made AFTER Change in rate

Issue of Invoice	Receipt of Payment	Point of Taxation
Before	After	Date of Receipt of Payment
Before	Before	Earliest Date
After	Before	Date of Issue of Invoice

Time of Supply of Goods / Services – Rate Changes

- Date of receipt of payment shall be EARLIER of date on which
 - the payment is entered in the BOA or
 - payment is credited to Bank account
- Date of Receipt of payment shall be date credited to bank account if credited after 4 working days from date of change of rate of tax



Invoices & Rules

Tax Invoice / Bill of Supply

- Every TxP SHALL issue a TAX invoice for supply of
 - taxable goods
 - taxable services
- Revised Tax Invoice for taxable supply against original invoice for period starting effective date of reg to issuance of reg certificate
- Registered TxP supplying NON Taxable Supply / Paying tax under composition shall issue “BILL OF SUPPLY” instead of a tax invoice for supply > Rs. 200

Tax Invoice / Bill of Supply

- Document issued by ISD u/s 20 shall be deemed to be tax invoice
- Supplementary Tax Invoice for any changes effected
- Receipt Voucher or any other prescribed document to be issued in case of advance receipt against supply of goods /services
 - where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment
- a registered person who is liable to pay tax under RCM, shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both
 - shall issue a payment voucher at the time of making payment to the supplier.

Contents of Tax Invoice

- name, address and GSTIN of the supplier
- a CONSECUTIVE SERIAL NUMBER in one or multiple series, containing only alphabets and/or numerals or specified special characters, unique for a financial year
- date of its issue
- name, address and GSTIN/ Unique ID Number, if registered, of the recipient
- name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is unregistered and where the taxable value of supply is fifty thousand rupees or more

Contents of Tax Invoice

- HSN code of goods or Accounting Code of Services(SAC)
- description of goods or services
- quantity in case of goods and unit or Unique Quantity Code thereof
- total value of goods or services
- taxable value of goods or services taking into account discount or abatement, if any
- rate of tax (CGST, SGST or IGST)
- amount of tax charged in respect of taxable goods or services (CGST, SGST or IGST) should be prominently disclosed

Contents of Tax Invoice

- place of supply along with the name of State, in case of a supply in the course of inter-State trade or commerce
- place of delivery where the same is different from the place of supply
- whether the tax is payable on reverse charge
- the word “Revised Invoice” or “Supplementary Invoice”, as the case may be, indicated prominently, where applicable along with the date and invoice number of the original invoice
- signature or digital signature of the supplier or his authorized representative

Manner of Issuing Tax Invoice

- For supply of taxable goods in TRIPLICATE
 - ORIGINAL for Recipient
 - DUPLICATE for Transporter
 - TRIPLICATE for Supplier
- DUPLICATE for transporter not required if supplier has obtained Invoice Reference No (which is valid for 30 days from date of uploading) by uploading supply details in Form GST INV – 1
- For supply of taxable services in DUPLICATE
 - ORIGINAL for Recipient
 - DUPLICATE for Supplier
- Serial No of all Invoices issued shall be furnished electronically on GSTN portal in FORM GSTR-1

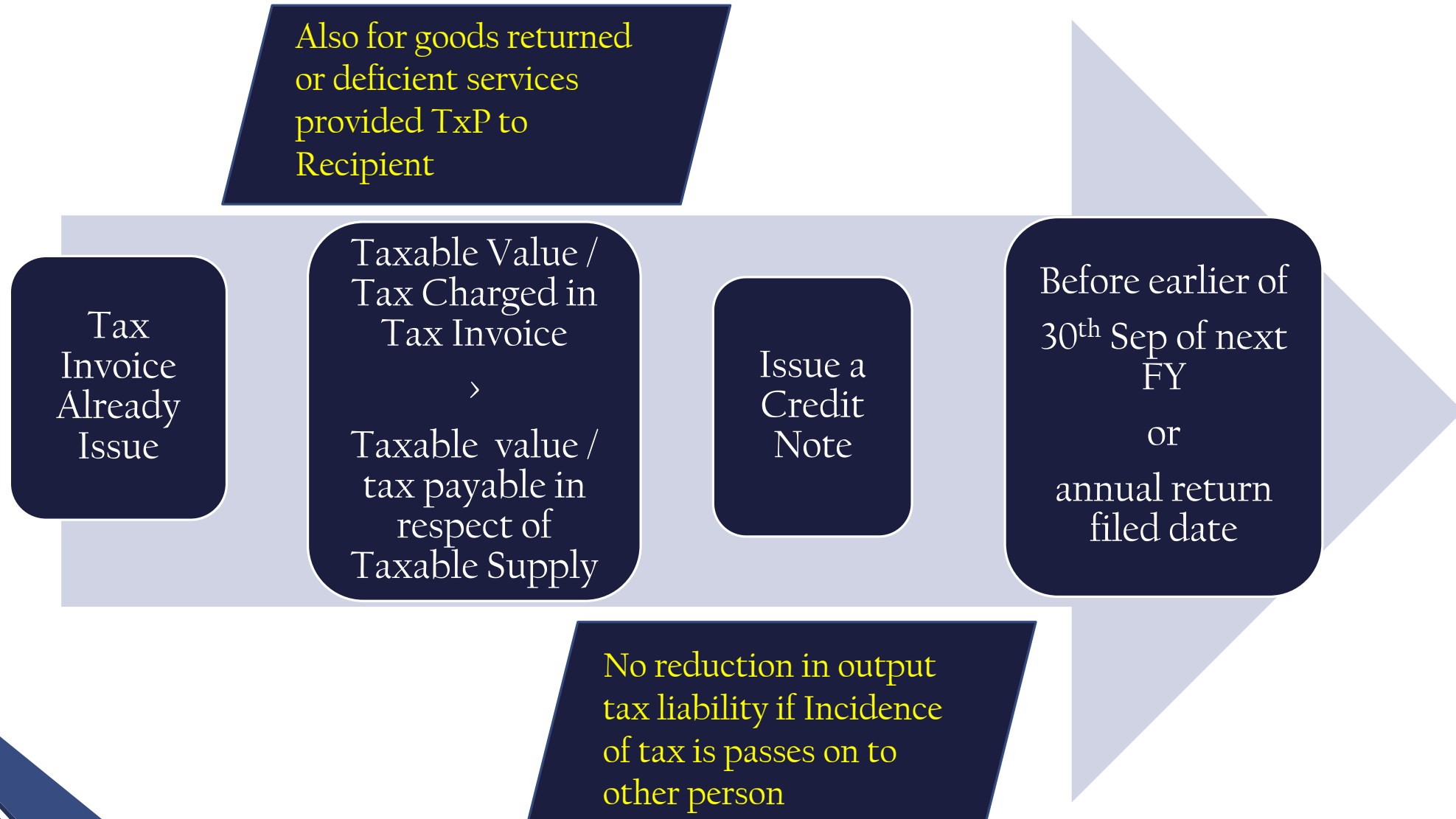
Time limit of Issuing Tax Invoice

- Tax Invoice / Bill of Supply can be issued prior to or within 30 days from date of supply of service
- Insurer, Banking Co, FI or NBFC can issue invoice or other document in lieu of the same within 45 days of supply of service.
- Banking Co, FI or NBFC or Telecom Operator or other specified person making taxable supply to their own unit with different GSTIN, 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
- Revised Invoice to issued within 1 month of registration
- 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

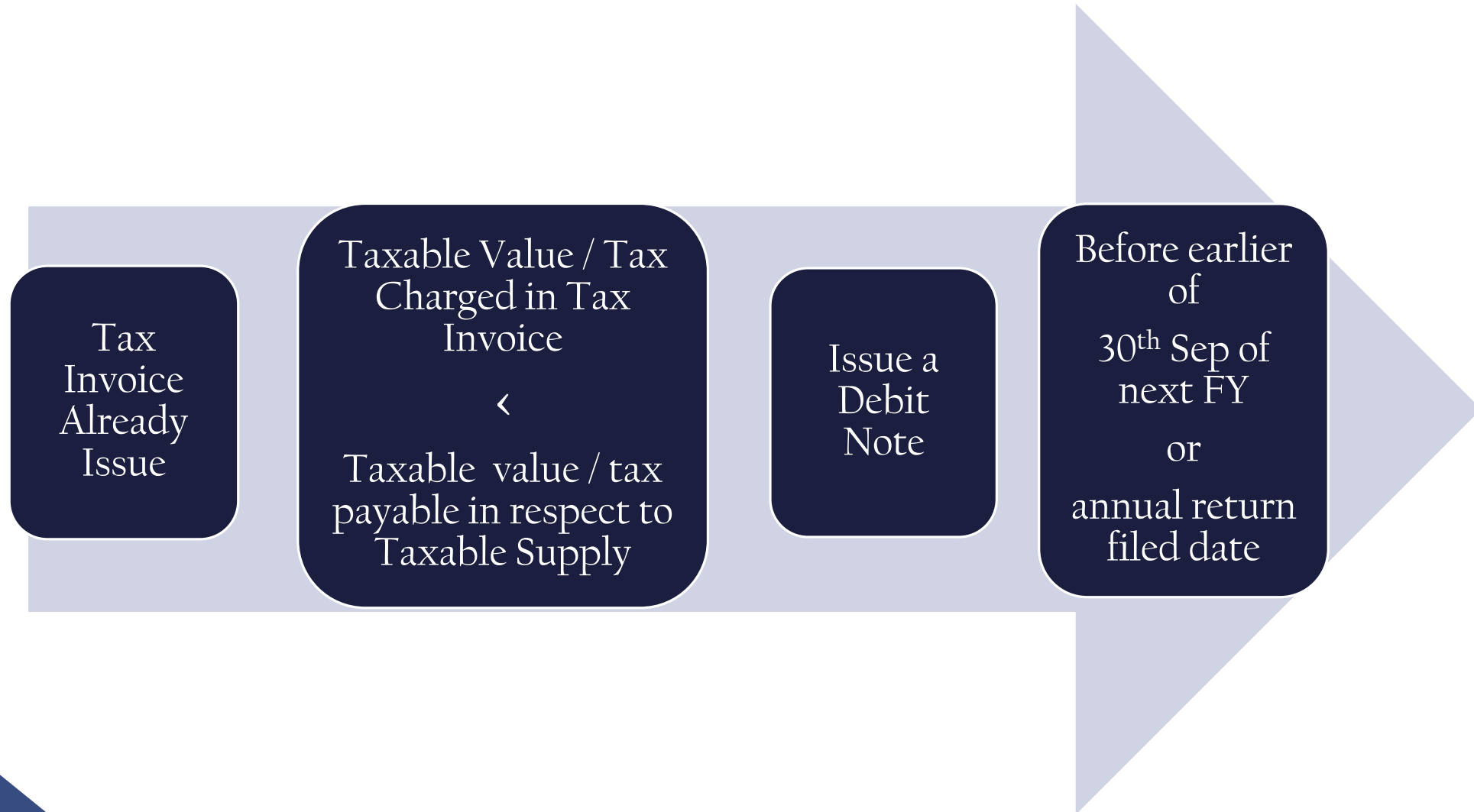
Time limit of Issuing Tax Invoice

- Subject to advance receipt provisions, In case of continuous supply of services,–
 - (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.
- (6) 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.
- (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.


Credit Notes



Debit Notes



Credit / Debit Notes



Taxable person receives / issues Credit / Debit Note



Disclose in the return of period in which it is Received / Issued



Allowed to disclose in subsequent month also



But not later than 30th Sep of Next FY or Filing of Annual Return,
whichever earlier

Credit / Debit Notes

Reference of specific Invoice No is MUST



Cannot be without reference MERELY for
Tax Adjustment



Mandatory to disclose in periodic returns

Tax Invoice, Credit & Debit Note Rules

Rule No	Particulars	Purpose
46	Tax invoice	Taxable Supply
47	Time limit for issuing tax invoice	Statutory time
48	Manner of issuing invoice	
49	Bill of supply	Supply by Taxable Person under Composition Scheme
50	Receipt voucher	Receipt of Advance for Supply
51	Refund voucher	Refund of advance without supply
52	Payment voucher	Payment made for inward supply liable on reverse charge
53	Revised tax invoice and credit or debit notes	For supplies covered between effective date and date of grant of registration
54	Tax invoice in special cases	ISD, Insurer, Bank, GTA, Passenger Transport
55	Transportation of goods without issue of invoice	Liquid Gas, Job Work, Other than supply, as notified

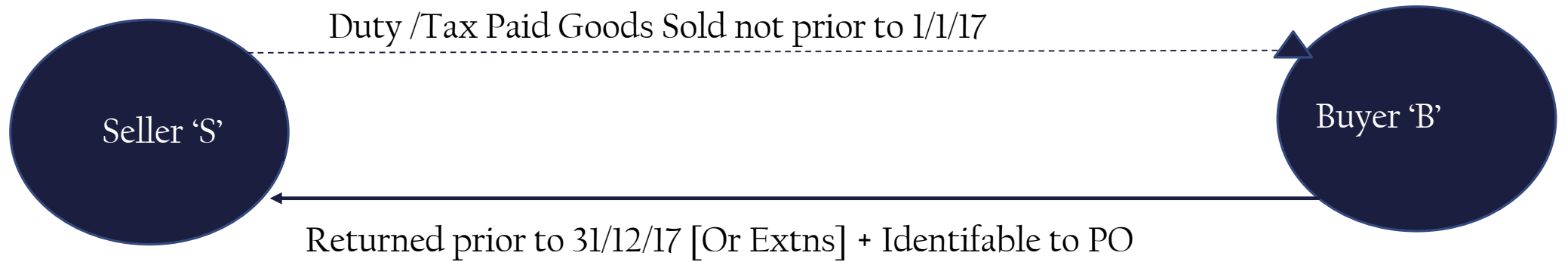


Related
Transitional
Provisions

Sec 142(1) Duty / Tax Paid goods returned to the place of business on or after the appointed day

- Where any goods on which Duty / Tax had been paid under the earlier law
 - At the time of removal / Sale thereof
 - not being earlier than 6 months prior to the appointed day
 - are returned to any place of business on or after the appointed day
- the registered taxable person shall be eligible for refund of the duty paid under the earlier law where such goods are returned by a person, other than a Reg TxP
 - if such goods are returned to the said place of business within a period of 6 months from the appointed day and such goods are identifiable to the satisfaction of the PO
- PROVIDED that if the said goods are returned by a Reg TxP, the return of the goods shall be deemed to be a supply under GST

Sec 142(1) Return of Duty Paid Goods



Situation	Tax Proposition
Returned by Reg TxP	Considered Supply under GST
Returned by other than Reg TxP	Seller Eligible to Claim Refund

Transitional Provision – sec 142(2)

Issue of supplementary invoices, debit or credit notes where price is revised in pursuance of contract

Downward
Revision

- Issue Supplementary Invoice / Credit Note
- Within 30 days
- Deemed in respect of outward supply in GST Act
- TxP allowed to reduce tax liability provided recipient reduces his corresponding Input Tax Credit

- Issue Supplementary Invoice / Debit Note
- Within 30 days
- Deemed in respect of outward supply under GST Act

Upward
Revision

Provided that the registered person shall be allowed to reduce his tax liability on account of issue of the credit note only if the recipient of the credit note has reduced his input tax credit corresponding to such reduction of tax liability

Contract entered PRIOR TO APPOINTED date & change in effect of price after the appointed date IN PURSUANCE of such contract

Sec 142 – Time of Supply

- Sec 142(10) Treatment of Long Term Construction / Works Contract

IN Pursuance of Contract entered into prior to appointed date



Goods / Services Supplied ON or AFTER Appointed Date



Taxable in GST Acts

Sec 142 – Time of Supply

- *Sec 142(11) (a)* notwithstanding anything contained in section 12, no tax shall be payable on goods under this Act to the extent the tax was leviable on the said goods under the Value Added Tax Act of the State;
- *(b)* notwithstanding anything contained in section 13, no tax shall be payable on services under this Act to the extent the tax was leviable on the said services under Chapter V of the Finance Act, 1994;
- *(c)* where tax was paid on any supply both under the Value Added Tax Act and under Chapter V of the Finance Act, 1994, tax shall be leviable under this Act and the taxable person shall be entitled to take credit of value added tax or service tax paid under the existing law to the extent of supplies made after the appointed day and such credit shall be calculated in such manner as may be prescribed.

Sec 142(11) – Illustration

- Agreement Date = 01/02/2017
- Agreement Value = ₹ 1 crore
- Advance Received = ₹ 60 lakhs
- Works Completed upto 30/06/2017 = 40%
- MVAT Paid on Reg = 1% of ₹ 1 crore = ₹ 1 lakh

[Even if not registered as per MVAT 1517/C.R.57/Taxation. 1]

- Service Tax paid on Advance = 4.5% of ₹ 60 lakhs = ₹ 270000/-

Figures in ₹

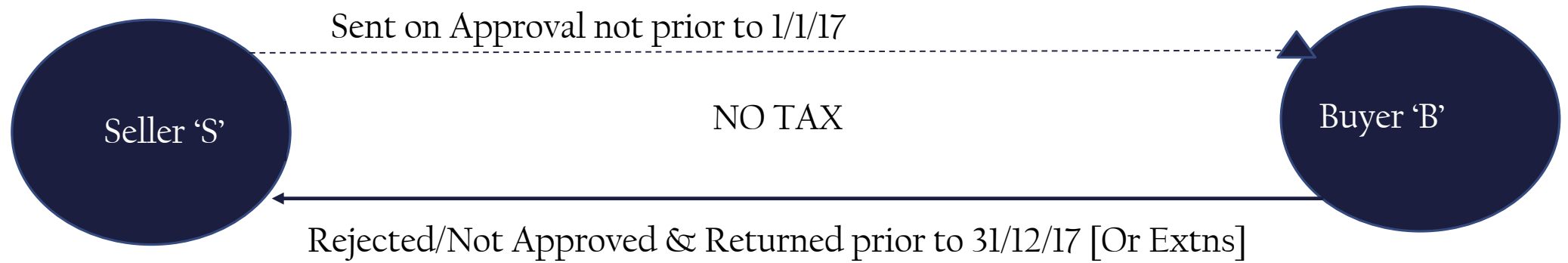
Supply Made	Installment	Date of Installment	GST @ 12% (Net of Abatement)	Credit of MVAT	Credit of Service Tax	Net GST Liability
20%	20,00,000	31/07	2,40,000	20,000	90,000	1,30,000
20%	20,00,000	25/09	2,40,000	20,000	NIL	2,20,000
20%	20,00,000	15/11	2,40,000	20,000	NIL	2,20,000

- Rule 118 Transitional Provs – 10/2017 – CT: Filing of Trans 01 is Mandatory

142(12) Sale on Approval

- **Sec 142(12)** Where any goods sent on approval basis, not earlier than six months before the appointed day, are rejected or not approved by the buyer and returned to the seller on or after the appointed day, no tax shall be payable thereon if such goods are returned within six months from the appointed day:
- Provided that the said period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:
- Provided further that the tax shall be payable by the person returning the goods if such goods are liable to tax under this Act, and are returned after a period specified in this subsection:
- Provided also that tax shall be payable by the person who has sent the goods on approval basis if such goods are liable to tax under this Act, and are not returned within a period specified in this sub-section.

Sec 142(12) Sale on Approval

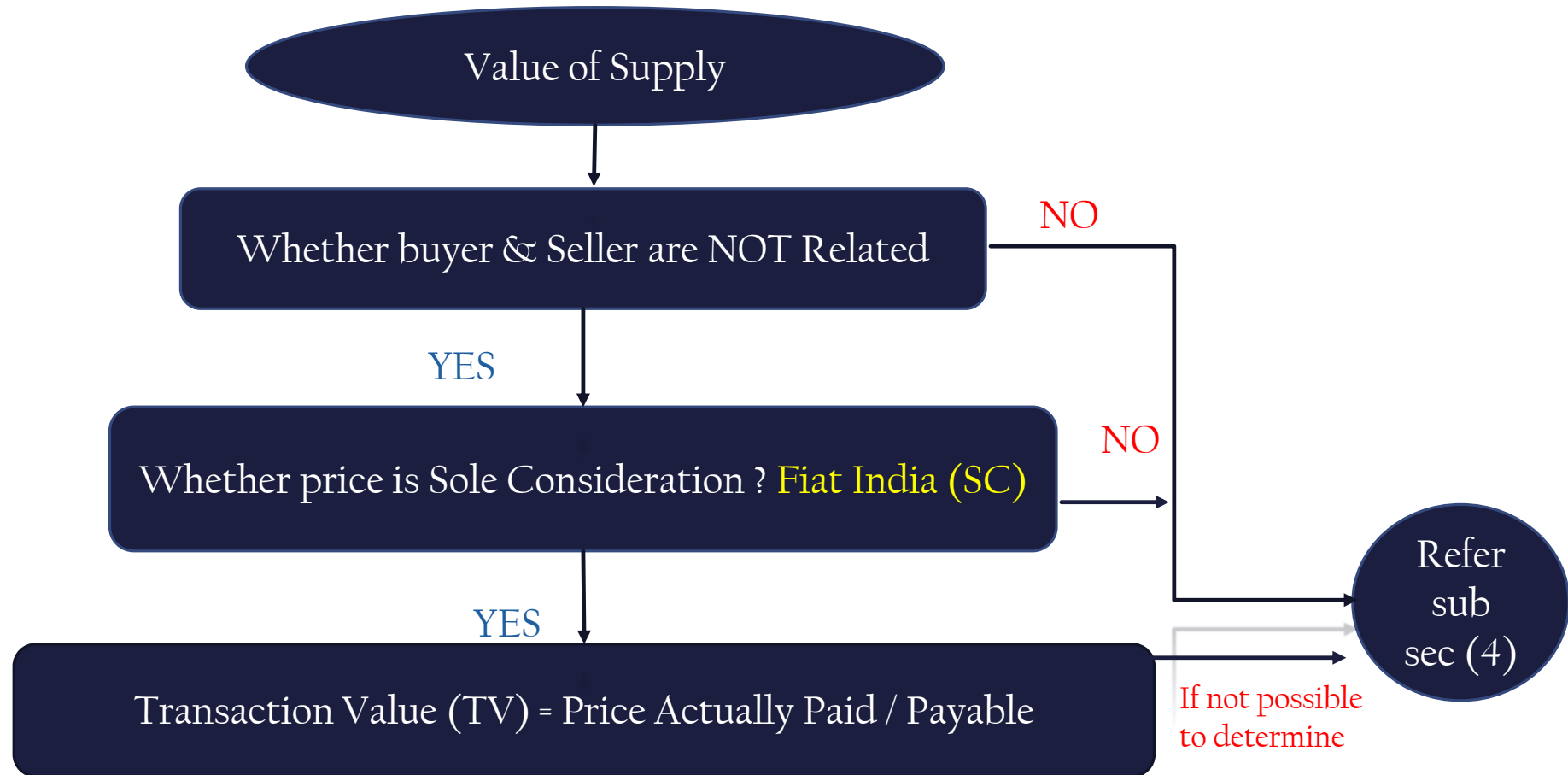


Situation	Tax Proposition
Returned after 31/12/17 or Extns	Tax payable by B
Not Returned after 31/12/17	Tax payable by S



Value of Taxable
Supply

Value of Supply –sec 15(1)



Value of Supply – sec 15(4) & (5)

- As per PRESCRIBED Valuation Rules if cannot be determined under sub sec (1)
- Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be notified by the Government on the recommendations of the Council shall be determined in such manner as may be prescribed.
- *Explanation.*—For the purposes of this Act,—
 - (a) persons shall be deemed to be “related persons” if—
 - (i) such persons are officers or directors of one another’s businesses;
 - (ii) such persons are legally recognised partners in business;
 - (iii) such persons are employer and employee;
 - (iv) any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them;
 - (v) one of them directly or indirectly controls the other;
 - (vi) both of them are directly or indirectly controlled by a third person;
 - (vii) together they directly or indirectly control a third person; or they are members of the same family;
 - (b) the term “person” also includes legal persons;
 - (c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

Value of Supply –sec 15(2)

Transaction Value (TV) Shall INCLUDE

- All taxes under any OTHER statute, except under S / UT / C / IGST, GST (Compensation to States) Act if charged separately
- Amt incurred by Recipient → supplier liable to pay → not included in price paid or payable
- Incidental Expenses, e.g. Commission / Packing / Anything incurred by supplier in connection with Supply → At time of / before delivery + Charged to recipient
- Interest / Late Fee / Penalty for delayed payment of any consideration for supply
- Subsidies directly linked to price, excluding CG / SG subsidies included in Value of Supply of supplier who receives it

Different Supply Concepts for Incidental Expenses

- 2 or more taxable supplies
- Combination thereof
- Naturally bundled
- Supplied in Conjunction with each other
- In ordinary course of business
- One of which is principal Supply

Composite
Supply

- Supply which constitutes predominant element of Composite Supply
- Any other supply as part of composite supply is ANCILLARY to such supply
- Does not Constitute an aim BUT a means for better enjoyment of principal supply for the recipient

Principal Supply

- 2 or more Individual Supplies
- Made in Conjunction
- Single Price
- Not a composite

Mixed Supply

Value of Supply – sec 15(3)

Transaction Value (TV) Shall NOT INCLUDE Discount

- Discount allowed BEFORE / AT the time of SUPPLY, Provided such discount is Duly recorded in Invoice for Supply
- AFTER supply is effected, such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices + ITC has been reversed as is attributable to the discount on basis of document issued by Supplier

Value of Supply – sec 15(4) & (5)

- As per Valuation Rules by proceeding sequentially → If not determined as per sub sec (1), i.e if any of the following condition is hit
 - Consideration paid is wholly or partly NOT in money
 - Price is NOT the SOLE Consideration
 - Supplier & Recipient are related parties
 - Business transaction undertaken by pure agent / money changer / insurer / air travel agent / distributor or selling agent of lottery
 - Such other supplies as may be notified by CG / SG on RECOMMENDATION of Council

Interpretation of Rate Schedules

Principles of Classifications

- ❖ Definition given in statute or chapter note/section note etc.
- ❖ Commercial / Trade Parlance
- ❖ Description in HSN has persuasive value
- ❖ Most specific description to be preferred over general description
- ❖ Functional use of the product / Services
- ❖ Essential characteristics of goods or service
- ❖ Importance of expert opinion and other evidentiary value
- ❖ Importance of ISI specification
- ❖ Importance of Finance Ministers speech
- ❖ Importance of trade notice, circulars etc.
- ❖ Chemical examination only provides content and not classification
- ❖ Provision of relevant timeBurden to prove classification on department
- ❖ Exemption notification cannot interpret tariff heading or sub heading
- ❖ Beneficial classificationJurisdiction to decide classification



GST Valuation
Rules

GST (Determination of Value of Supply) Rules - 10/2017-CT

Rule No	Particulars
27	Value of supply of goods or services where the consideration is not wholly in money
28	Value of supply of goods or services or both between distinct or related persons, other than through an agent
29	Value of supply of goods made or received through an agent
30	Value of supply of goods or services or both based on cost
31	Residual method for determination of value of supply of goods or services or both
32	Determination of value in respect of certain supplies
33	Value of supply of services in case of pure agent
34	Rate of exchange of currency, other than Indian rupees, for determination of value
35	Value of supply inclusive of integrated tax, central tax, State tax, Union territory tax

GST (Determination of Value of Supply) Rules - 10/2017-CT

- **Explanation.-** For the purposes of this Chapter,-
 - (a) “open market value” of a supply of goods or services or both means the full value in money, excluding the integrated tax, central tax, State tax, Union territory tax and the cess payable by a person in a transaction, where the supplier and the recipient of the supply are not related and price is the sole consideration, to obtain such supply at the same time when the supply being valued is made.
 - (b) “supply of goods or services or both of like kind and quality” means any other supply of goods or services or both made under similar circumstances that, in respect of the characteristics, quality, quantity, functional components, materials, and reputation of the goods or services or both first mentioned, is the same as, or closely or substantially resembles, that supply of goods or services or both

GST (Determination of Value of Supply) Rules - 10/2017-CT

- Rule 27. Value of supply of goods or services where the consideration is not wholly in money
- Where the supply of goods or services is for a consideration not wholly in money, the value of the supply shall,
 - (a) be the open market value of such supply;
 - (b) if open market value is not available, be the sum total of consideration in money and any such further amount in money as is equivalent to the consideration not in money if such amount is known at the time of supply;
 - (c) if the value of supply is not determinable under clause (a) or clause (b), be the value of supply of goods or services or both of like kind and quality;
 - (d) if value is not determinable under clause (a) or clause (b) or clause (c), be the sum total of consideration in money and such further amount in money that is equivalent to consideration not in money as determined by application of rule 4 or rule 5 in that order.

GST (Determination of Value of Supply) Rules - 10/2017-CT

Illustration:

(1) Where a new phone is supplied for Rs.20000 along with the exchange of an old phone and if the price of the new phone without exchange is Rs.24000, the open market value of the new phone is Rs. 24000.

(2) Where a laptop is supplied for Rs.40000 along with a barter of printer that is manufactured by the recipient and the value of the printer known at the time of supply is Rs.4000 but the open market value of the laptop is not known, the value of the supply of laptop is Rs.44000.

GST (Determination of Value of Supply) Rules - 10/2017-CT

- Rule 28. Value of supply of goods or services or both between distinct or related persons, other than through an agent
- The value of the supply of goods or services or both between distinct persons as specified in sub-section (4) and (5) of section 25 or where the supplier and recipient are related, other than where the supply is made through an agent, shall,-
- (a) be the open market value of such supply;
- (b) if open market value is not available, be the value of supply of goods or services of like kind and quality;
- (c) if value is not determinable under clause (a) or (b), be the value as determined by application of rule 4 or rule 5, in that order:
- Provided that where goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to ninety percent of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person
- *Provided further that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of goods or services*

GST (Determination of Value of Supply) Rules - 10/2017-CT

- Rule 29. Value of supply of goods made or received through an agent
- The value of supply of goods between the principal and his agent shall,
 - (a) be the open market value of the goods being supplied, or at the option of the supplier, be ninety percent of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person, where the goods are intended for further supply by the said recipient;

Illustration: Where a principal supplies groundnut to his agent and the agent is supplying groundnuts of like kind and quality in subsequent supplies at a price of Rs.5000 per quintal on the day of supply. Another independent supplier is supplying groundnuts of like kind and quality to the said agent at the price of Rs. 4550 per quintal. The value of the supply made by the principal shall be Rs. 4550 per quintal or where he exercises the option the value shall be 90% of the Rs.5000 i.e. is Rs. 4500 per quintal.

- (b) where the value of a supply is not determinable under clause (a), the same shall be determined by application of rule 30 or rule 31 in that order

GST (Determination of Value of Supply) Rules - 10/2017-CT

- **Rule 30. Value of supply of goods or services or both based on cost**
 - Where the value of a supply of goods or services or both is not determinable by any of the preceding rules, the value shall be one hundred and ten percent of the cost of production or manufacture or cost of acquisition of such goods or cost of provision of such services.
- **Rule 31. Residual method for determination of value of supply of goods or services or both**
 - Where the value of supply of goods or services or both cannot be determined under rules 27 to 30, the same shall be determined using reasonable means consistent with the principles and general provisions of section 15 and these rules:
 - Provided that in case of supply of services, the supplier may opt for this rule, ignoring Rule 30

GST (Determination of Value of Supply) Rules - 10/2017-CT

- Rule 32. Determination of value in respect of certain supplies
- (1) Notwithstanding anything contained in these rules, the value in respect of supplies specified below shall, at the option of the supplier, be determined in the manner provided hereinafter.
- (2) The value of supply of services in relation to purchase or sale of foreign currency, including money changing, shall be determined by the supplier of service in the following manner:-
 - (a) For a currency, when exchanged from, or to, Indian Rupees (INR), the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency:
 - *Provided* that in case where the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received by the person changing the money:
 - *Provided* further that in case where neither of the currencies exchanged is Indian Rupee, the value shall be equal to 1% of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at the reference rate provided by RBI.
 - *Provided* also that a person supplying the services may exercise option to ascertain value in terms of clause (b) for a financial year and such option shall not be withdrawn during the remaining part of that financial year.

GST (Determination of Value of Supply) Rules - 10/2017-CT

- Rule 32. Determination of value in respect of certain supplies
- (2) The value of supply of services in relation to purchase or sale of foreign currency, including money changing, shall be determined by the supplier of service in the following manner:-
 - (b) At the option of supplier of services, the value in relation to supply of foreign currency, including money changing, shall be deemed to be
 - (i) one per cent. of the gross amount of currency exchanged for an amount up to one lakh rupees, subject to a minimum amount of two hundred and fifty rupees;
 - (ii) one thousand rupees and half of a per cent. of the gross amount of currency exchanged for an amount exceeding one lakh rupees and up to ten lakh rupees; and
 - (iii) five thousand and five hundred rupees and one tenth of a per cent. of the gross amount of currency exchanged for an amount exceeding ten lakh rupees, subject to maximum amount of sixty thousand rupees.
- (3) The value of supply of services in relation to booking of tickets for travel by air provided by an air travel agent, shall be deemed to be an amount calculated at the rate of five per cent. of the basic fare in the case of domestic bookings, and at the rate of ten per cent. of the basic fare in the case of international bookings of passage for travel by air.
- *Explanation* - For the purposes of this sub-rule, the expression “basic fare” means that part of the air fare on which commission is normally paid to the air travel agent by the airline.

GST (Determination of Value of Supply) Rules - 10/2017-CT

- Rule 32. Determination of value in respect of certain supplies
- (4) The value of supply of services in relation to life insurance business shall be:
 - (a) the gross premium charged from a policy holder reduced by the amount allocated for investment, or savings on behalf of the policy holder, if such amount is intimated to the policy holder at the time of supply of service;
 - (b) in case of single premium annuity policies other than (a), ten per cent. of single premium charged from the policy holder; or
 - (c) in all other cases, twenty five per cent. of the premium charged from the policy holder in the first year and twelve and a half per cent. of the premium charged from policy holder in subsequent years:
 - *Provided* that nothing contained in this sub-rule shall apply where the entire premium paid by the policy holder is only towards the risk cover in life insurance.

GST (Determination of Value of Supply) Rules - 10/2017-CT

- Rule 32. Determination of value in respect of certain supplies
- (5) Where a taxable supply is provided by a person dealing in buying and selling of second hand goods i.e. used goods as such or after such minor processing which does not change the nature of the goods and where no input tax credit has been availed on purchase of such goods the value of supply shall be the difference between the selling price and purchase price and where the value of such supply is negative it shall be ignored:
 - Provided that the purchase value of goods repossessed from a defaulting borrower, who is not registered, for the purpose of recovery of a loan or debt shall be deemed to be the purchase price of such goods by the defaulting borrower reduced by five percentage points for every quarter or part thereof, between the date of purchase and the date of disposal by the person making such repossession.
- (6) The value of a token, or a voucher, or a coupon, or a stamp (other than postage stamp) which is redeemable against a supply of goods or services or both shall be equal to the money value of the goods or services or both redeemable against such token, voucher, coupon, or stamp.
- (7) The value of taxable services provided by such class of service providers as may be notified by the Government on the recommendations of the Council as referred to in paragraph 2 of Schedule I between distinct persons as referred to in section 25, where input tax credit is available, shall be deemed to be NIL.

GST (Determination of Value of Supply) Rules - 10/2017-CT

- Rule 33 – Value of supply of services in case of pure agent
- Pure Agent
 - Enters into contractual agreement with Recipient of Service to act as his PURE AGENT to incur Expenses or Costs in course of providing services
 - Neither holds nor intends to hold title to goods and / or services so procured as Pure Agent of recipient of supply
 - Does not use such goods / services so procured
 - Receives only actual amount incurred to procure such goods / services

GST (Determination of Value of Supply) Rules - 10/2017-CT

- Rule 33 – Value of supply of services in case of pure agent
- Expenditure / Costs incurred as Pure Agent shall be excluded from TV of Services if ALL conditions satisfied
 - Supplier acts as pure agent when he makes payment to third parties on authorization by such recipient
 - Payment made on behalf of recipient has been separately indicated by pure agent in his invoice
 - Goods / services procured are in addition to services which pure agent provides on his own account
- *Illustration.* Corporate services firm A is engaged to handle the legal work pertaining to the incorporation of Company B. Other than its service fees, A also recovers from B, registration fee and approval fee for the name of the company paid to Registrar of the Companies. The fees charged by the Registrar of the companies registration and approval of the name are compulsorily levied on B. A is merely acting as a pure agent in the payment of those fees. Therefore, A's recovery of such expenses is a disbursement and not part of the value of supply made by A to B

GST (Determination of Value of Supply) Rules - 10/2017-CT

- Rule 34. Rate of exchange of currency, other than Indian rupees, for determination of value
- The rate of exchange for determination of value of taxable goods or services or both shall be
 - the applicable reference rate for that currency as determined by the Reserve Bank of India on the date of time of supply in respect of such supply in terms of section 12 or, as the case may be, section 13 of the Act.

GST (Determination of Value of Supply) Rules - 10/2017-CT

- Rule 35. Value of supply inclusive of integrated tax, central tax, State tax, Union territory tax
- Where the value of supply is inclusive of integrated tax or, as the case may be, central tax, State tax, Union territory tax, the tax amount shall be determined in the following manner,
- Tax amount= (Value inclusive of taxes X tax rate in % of IGST or as the case may be CGST, SGST or UTGST) / (100+ sum of tax rates, as applicable, in %)



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