

BASIC CONCEPTS OF GST



Dual Model of GST, Taxes subsumed and not subsumed, Taxable event in GST Regime vs Existing Regime, Applicability of GST , Important definitions and concepts, charging provisions of GST, Levy, meaning & scope of supply including Composition Levy.

By

A. R. Krishnan

May 7th, 2017

Organized by Western India Regional Council of ICAI

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What is GST

- GST is one indirect tax for the whole nation – make India one unified common market (*FAQ on GST, Press Information Bureau dated 03.08.2016 and 21.09.2016*)
 - A destination based tax on consumption of goods and services
 - Single tax on supply of goods and services, right from the manufacturer to the consumer.
 - Essentially a tax only on value addition at each stage with set – off benefits– seamless credit – consumer not burdened with cascading of taxes.

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Areas Covered

[in this Session]

- Basic Concepts – Concepts of CT, ST and IT; Concept of Destination based tax
- Taxes subsumed and not subsumed
- Taxable event in GST Regime vs Existing Regime
- Applicability of GST
- Important definitions and concepts
- Charging Provisions of CT/ST/IT
- ***Meaning and Scope of Supply including deemed supplies***
- Composition Levy of GST

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BASIC CONCEPTS OF GOODS & SERVICES TAX ['GST']

[N.B.: While explaining Basic Concepts only significant taxes subsumed is taken but list of taxes subsumed and not subsumed is enumerated at a later slide]

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EXISTING SIGNIFICANT TAXES

➤ Central Taxes

- ✓ Excise Duty
- ✓ Service Tax

➤ State Taxes

- ✓ VAT
- ✓ CST ¹
- ✓ Luxury tax
- ✓ Entry Tax




¹ Revenue assigned by Union to States

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Downsides in Existing Tax Structure

- Multiple Taxes / Levies
- Lack of uniformity in rates and structure
- Cascading Effect – VAT on Excise Duty/ CVD– Tax on Tax
- Lack of seamless credit –
 - Trader does not get credit of service tax/ Excise duty/ CVD
 - CST – No credit for manufacturer/ trader/ service provider
- Stock Transfers  Cumbersome & Costs
- *Entry Tax* – *barriers* to free movement of goods

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GST

Government's answers to these problems

- *One Nation One Tax*
- Tax only on Value Addition
- Benefits of GST





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Benefits of GST

- **For Business & Industry**
 - Easy Compliance – A robust and Comprehensive IT system available to the tax payers online.
 - Uniformity of tax rates and structures – No need for State shopping 
 - Removal of cascading – system of seamless tax-credits throughout the value chain and across States ensuring minimal cascading of taxes; reduce hidden cost of doing business 

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Benefits of GST

▪ For Business & Industry [contd...]

- Improved Competitiveness – Reduction in transaction cost of doing business
- Gain to manufacturers and exporters - Reduction in cost of manufacture – subsuming of major Centre and State taxes in GST - comprehensive set off of input goods and services.

Benefits of GST

▪ For the Consumers

- Single & transparent Tax proportionate to the value of goods & services
- Reduction in prices of goods & services due to relief in overall tax burden 

▪ For Centre & State Governments

- Simple & easy to administer
- Better control on revenue leakages – IT infrastructure and seamless credit will incentivize tax compliance
- Higher Revenue efficiency – Decrease in cost of collection

Ultimate Agenda 



- Check evasion and
- boosts Revenue of Centre as well as States by expanding respective fiscal space

TAX ADMINISTRATION 

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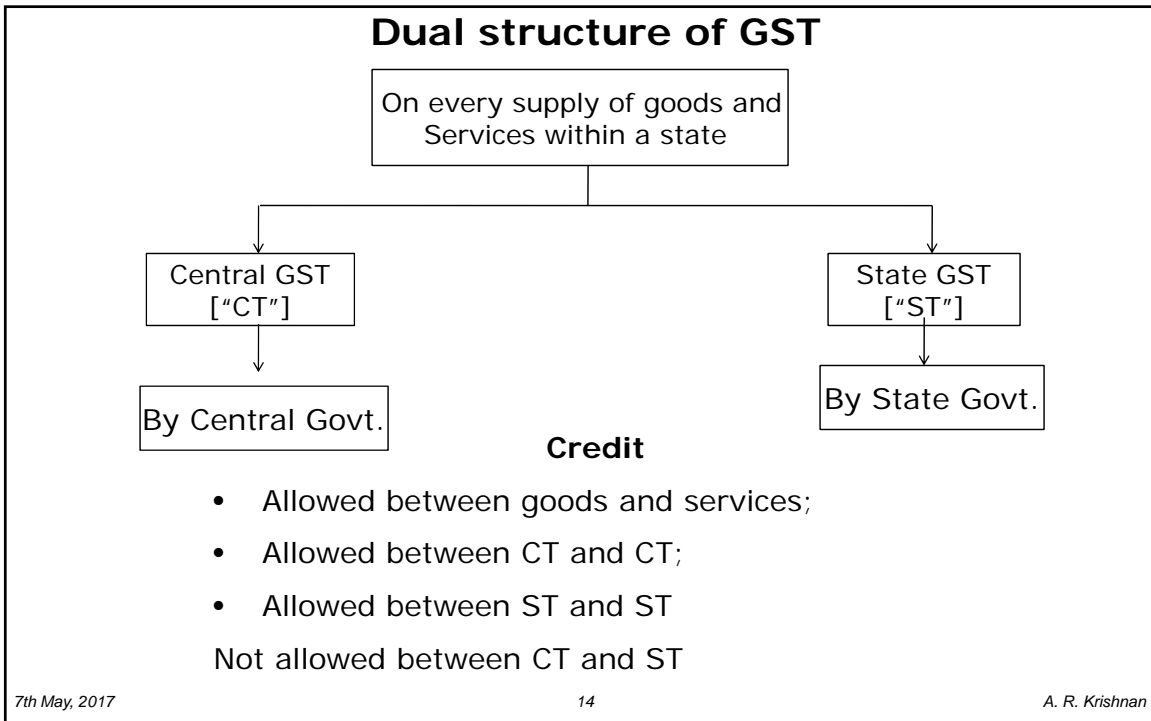
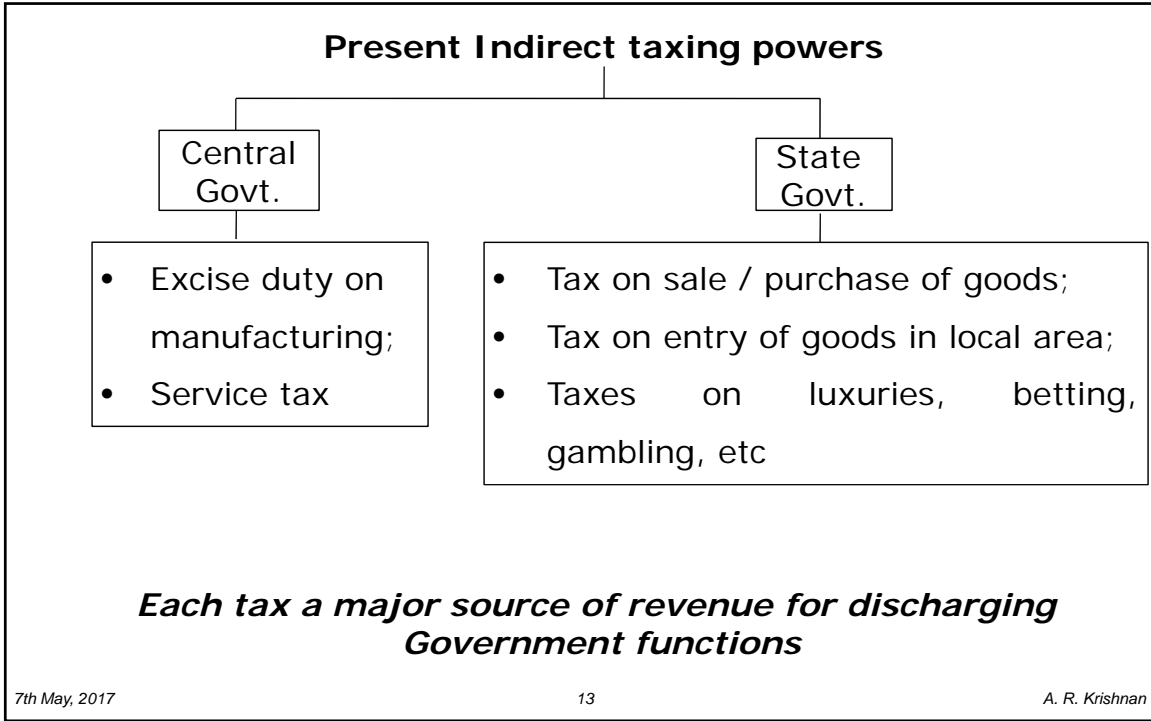
GST IN INDIA

- Philosophy – One GST rate on goods and services collected by one agency across India
- India – Always gives a different flavour to everything – Chinese dishes, Italian dishes - Indian spices – Indian curry- world famous
- Federal structure – Union and States
- **Dual Structure - Dual Levy - Dual Control**

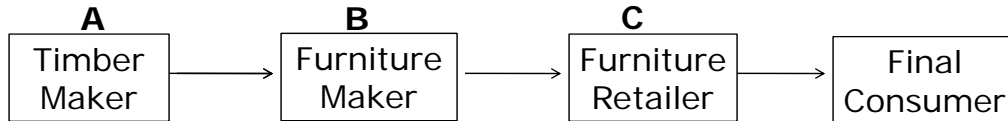
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DUAL GST WITHIN STATE Working Example



	Tax Invoice A	Tax Invoice B	Tax Invoice C
Cost of Goods	100	200	300
SGST @10%	10	20	30
CGST @10%	10	20	30
TOTAL	120	240	360

B will get the credit of CT and ST paid by him to **A**.

C will get the credit of CT and ST paid by him to the **B**

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Inter – State Transactions of goods and services

- Centre to collect IT [Integrated Goods & Services Tax]
- $IT = CT + ST$ [ST to be uniform across all states !]
- Philosophy of GST – The tax to accrue to taxing authority which has jurisdiction over the place of consumption

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- GST mechanism to provide for seamless credit mechanism

	Utilization matrix		
Credit in	IT	CT	ST
IT	1 st	2 nd	3 rd
CT	2 nd	1 st	Not allowed
ST	2 nd	Not allowed	1 st

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Apportionment Mechanism of IT

	State A	State B	
	Manufacturer	Wholesaler	Retailer
Value	200	250	300
CT @10%	-	25	30
IT@20%	40	-	-
ST @10%	-	25	30
Total	240	300	360

Centre will transfer Rs.15/- from IT to State B

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Apportionment Mechanism of IT

	State A	State B	State C
	Manufacturer	Wholesaler	Manufacturer
Value	200	250	300
CT @10%	-		30
IT@20%	40	50	-
ST @10%	-		30
Total	240	300	360

Centre will transfer Rs.20 IT to State C

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Integrated GST ["IT"]

- Novel Concept
- Facilitates the continuity of cenvat credit without break
- Avoids distortion in taxation
- Facilitates the philosophy of consumption based tax
- Scrapping of all forms

Pay and get credit

instead of

upfront pay less

Finance cost may go up

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DUAL CONTROL - FEATURE OF GST

- Dual GST – to be implemented through multiple statute – CGST law by Central Government and SGST by each State Government- Basic features like chargeability; taxable event; valuation; classification to be uniform *as far as practicable*
- Taxes to be collected separately
- Concurrent jurisdiction-
 - CGST to be administered by Centre
 - SGST to be administered by State



'Dual Monitoring– if one fails other may not fail'



But is it necessary?

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TAXES SUBSUMED AND NOT SUBSUMED

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TAXES SUBSUMED/NOT SUBSUMED

Central Taxes	Subsumed	Not subsumed
Central Excise Duty (<i>except on specified petroleum items ¹ & tobacco and its products</i>)	✓	
Additional Excise Duties	✓	
Addl. Custom Duty (CVD)	✓	
Spl. Addl. Duty of Custom (SAD)	✓	

¹ May be subsumed at a later date on GSTC's recommendation

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TAXES SUBSUMED/NOT SUBSUMED

Central Taxes	Subsumed	Not subsumed
<i>Basic Custom duties</i>		✓
Central Sales Tax (CST)	✓	
Service Tax	✓	
Cesses	✓	

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TAXES SUBSUMED/NOT SUBSUMED

State Taxes	Subsumed	Not subsumed
VAT / Sales tax [except on sale of specified petroleum items ¹ & alcoholic liquor]	✓	
Purchase Tax	✓	
Tax on Entertainment / Amusement (other than levied by local body)	✓	
Luxury tax	✓	
Taxes on lottery, betting and gambling	✓	
Entry tax /Octroi	✓	

¹ May be subsumed at a later date on GSTC's recommendation

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TAXES SUBSUMED/NOT SUBSUMED

State Taxes	Subsumed	Not subsumed
Excise on liquor		✓
Tax on advertisement other than in Press/ TV/ Radio	✓	
Property tax		✓
Tax on sale / consumption of electricity		✓
Stamp duties		✓

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CHANGE IN TAXABLE EVENT

Only significant taxes considered

Taxes / Duty	Existing Taxable event	GST Taxable event
Excise duty	Manufacture	Supply of goods / services
VAT	Sale	
Service tax	Provision of service	

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LEVY OF GST, SUPPLY AND COMPOSITION

[Based on CGST Act and IGST Act as enacted on 12-04-2017]

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Levy of GST

- CT / ST to be levied on all *intrastate* **supply of goods and / or services** except alcoholic liquor for human consumption at rate notified
- IT to be levied on all *inter-state* **supply of goods and / or services** except alcoholic liquor for human consumption at rate notified
- Tax to be paid by **taxable person**
- Specified categories of supply - tax to be paid under RCM by recipient of supply

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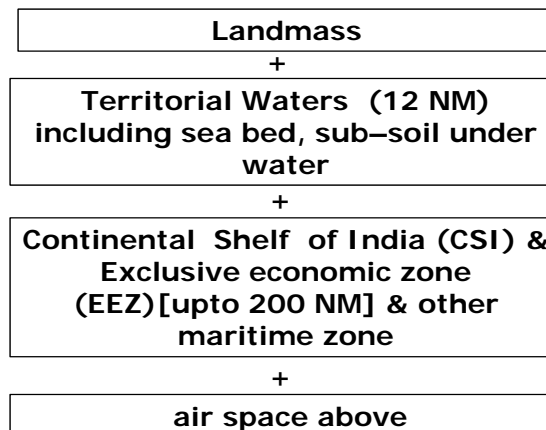
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- CT & IT applies to whole of India
- ST applies to States

INDIA

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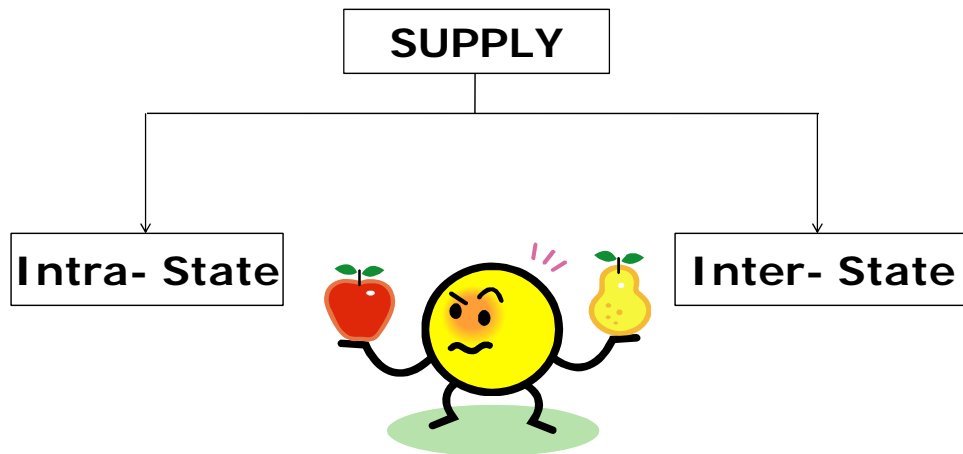


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TYPES OF SUPPLY



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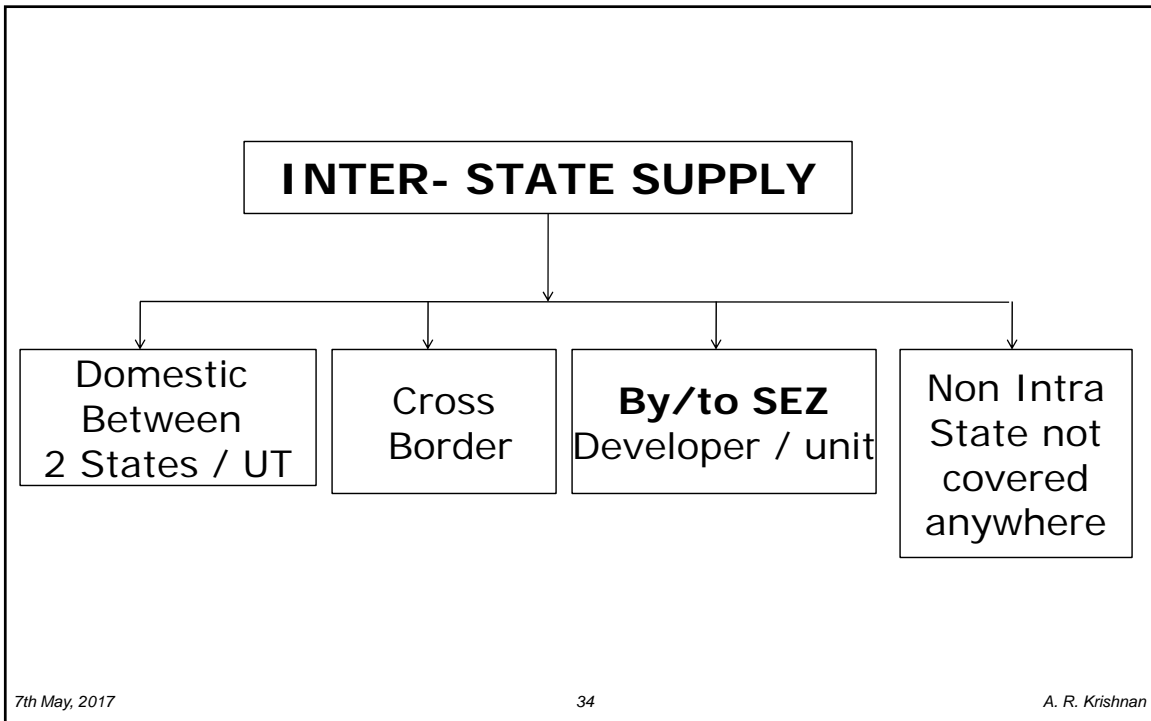
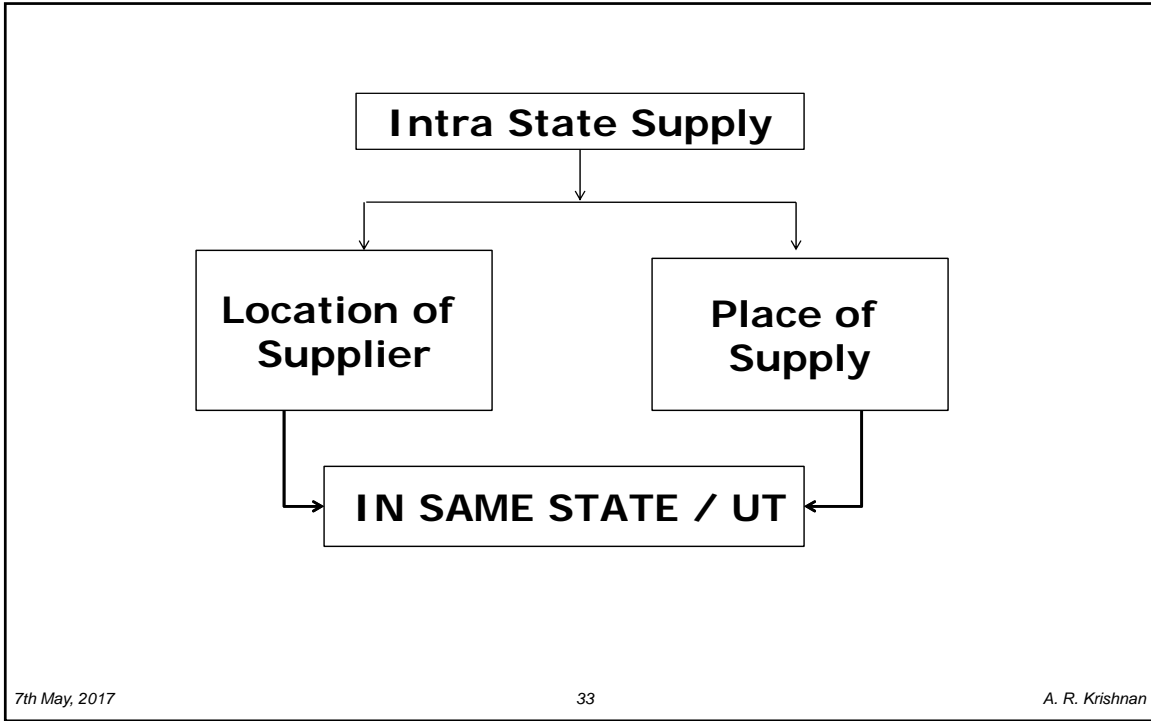
Inter-state/ Intra-state

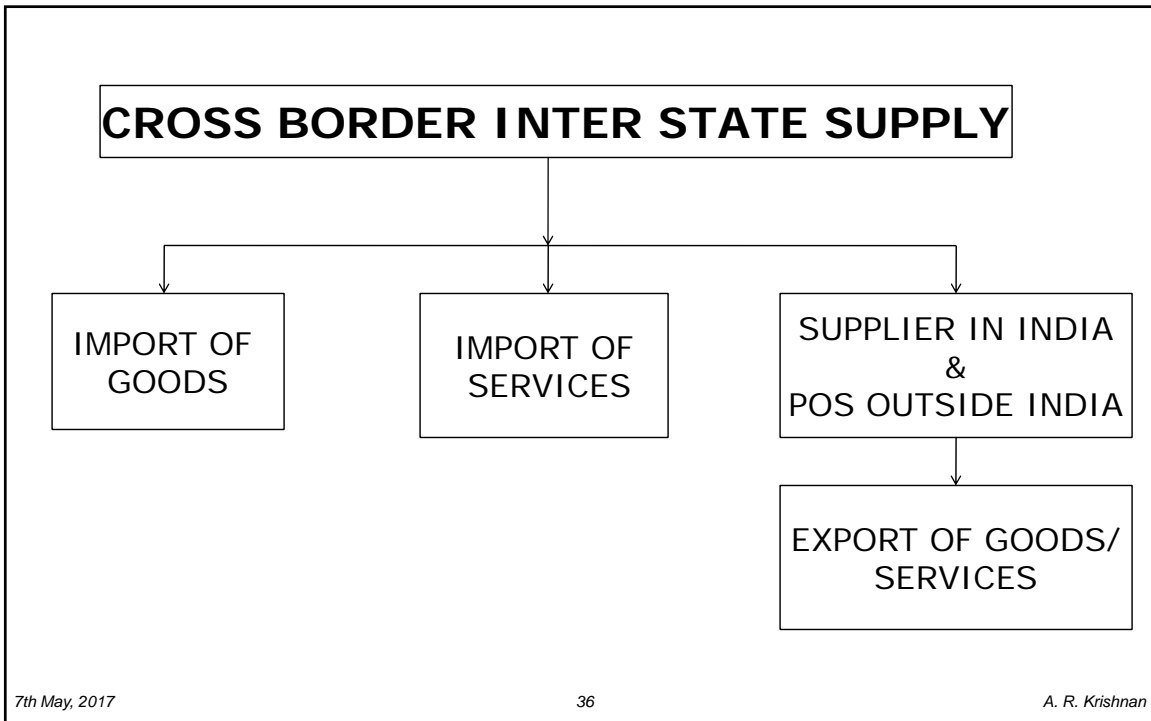
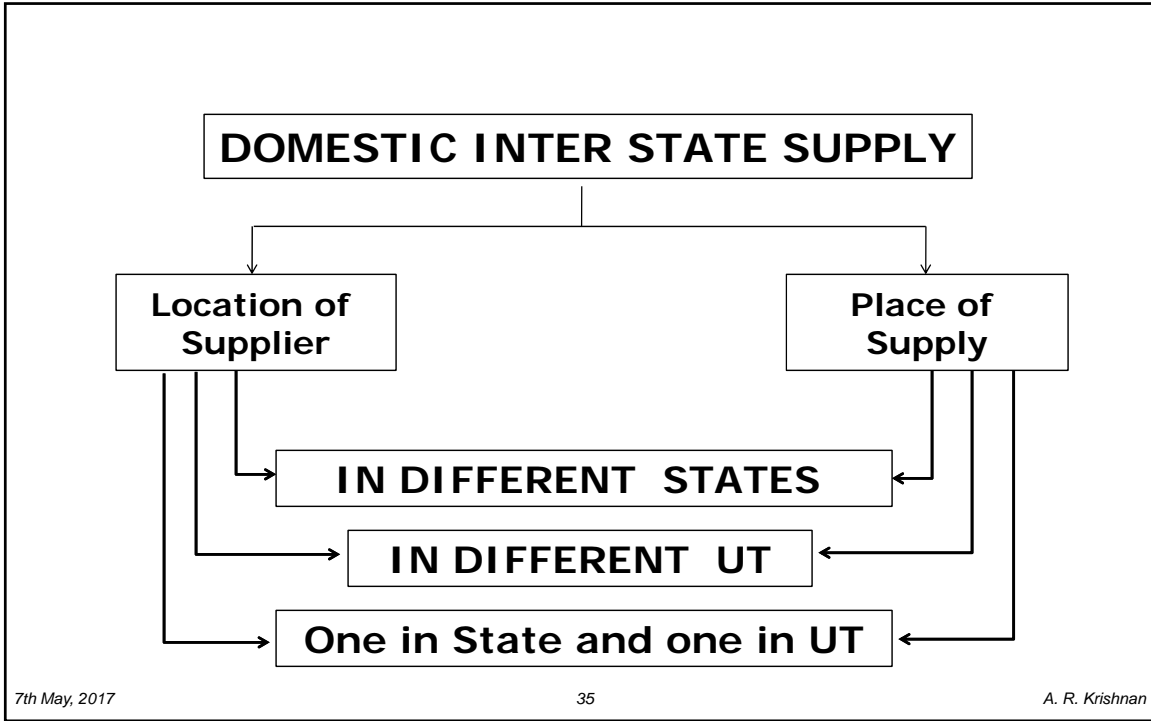
Type of supply	Levy attracted
Intra state	CT+ST
Inter-State	IT

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Meaning and Scope of Supply

Supply of goods and / or services



Supply



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Goods



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Services

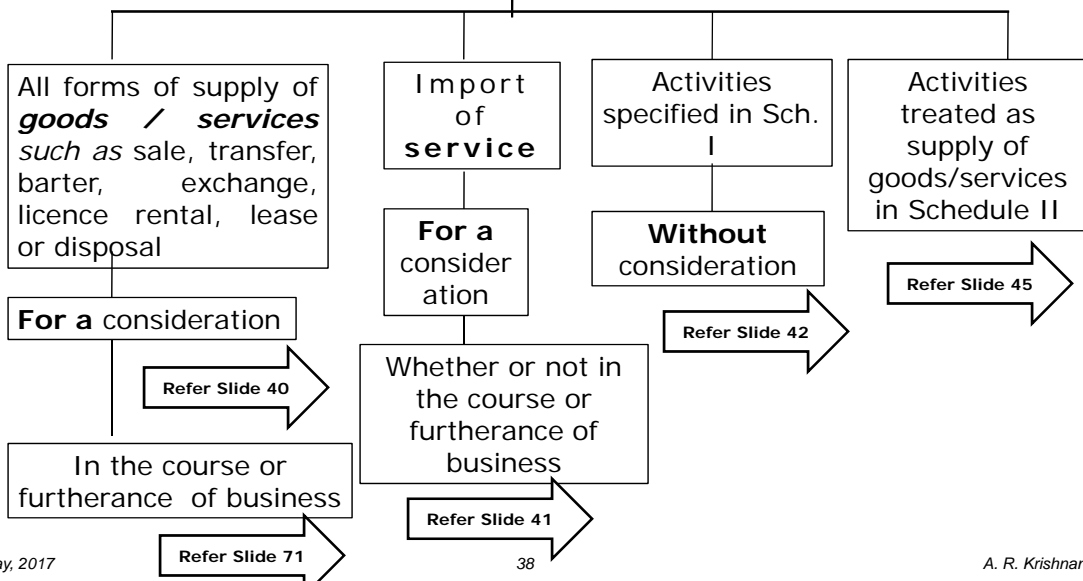


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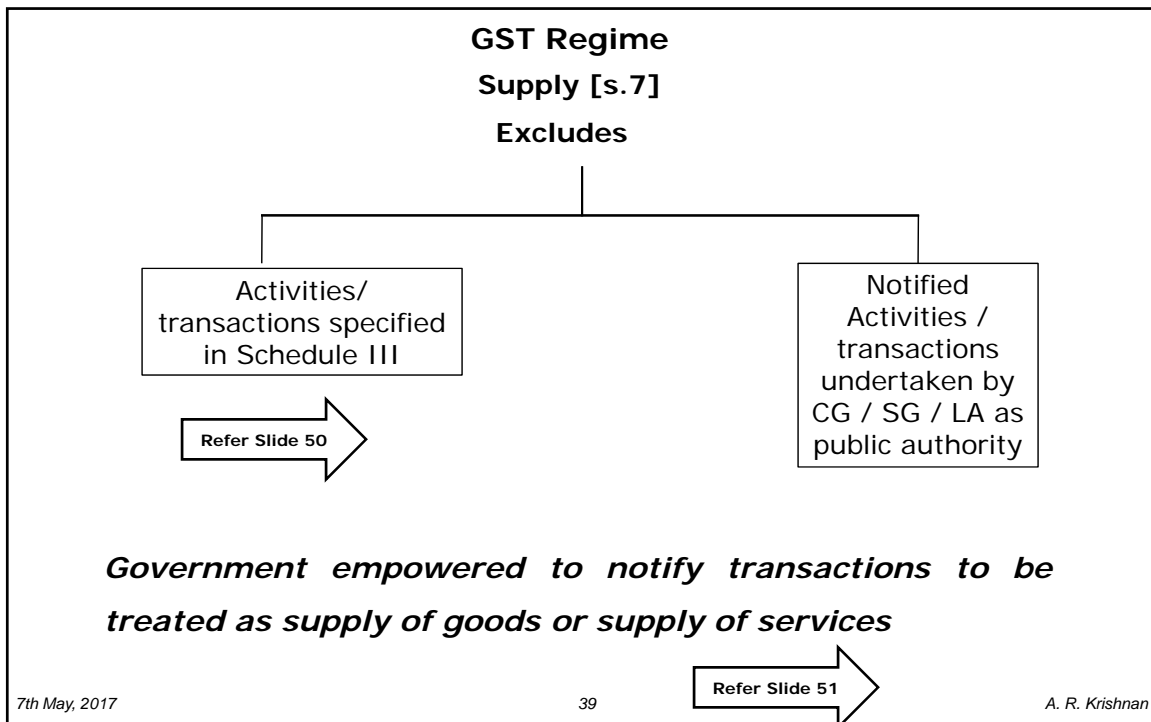
GST Regime Supply [s.7] Includes



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Consideration [Sec.2(31)]

- Consideration = Any payment made in money/ otherwise
+
Monetary value of any act/ forbearance
(voluntary / otherwise)
In response to / for inducement of supply
whether by recipient or *by any other person*
- Subsidy given by C. Govt / S. Govt not to be included in consideration
- Refundable deposits excluded unless applied by supplier as consideration for supply

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IMPORTATION OF SERVICES

Three conditions to be satisfied for attracting levy

- Supplier of service located outside India
- Recipient of service located in India
- Place of supply of service in India
 - Establishment outside India and Establishment in India treated as separate persons
 - branch/ agency/ representational office in any territory outside India & establishment in India treated as establishment of distinct persons



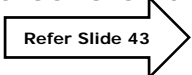

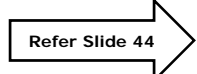
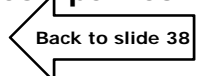
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SCHEDULE I

MATTERS TO BE TREATED AS SUPPLY WITHOUT CONSIDERATION

1. Permanent transfer / disposal of business assets where ITC availed on such assets. e.g. – sale of CG / input covered;
2. **Supply between related persons or distinct person in course / furtherance of business** 
3. Supply of *goods* between principal and agent -  
4. **Importation of services by Taxable person from related person or any of his establishment outside India in the course or furtherance of business. – Valuation Issues where 'free supplies' may be received – Overseas companies providing overseas services** 

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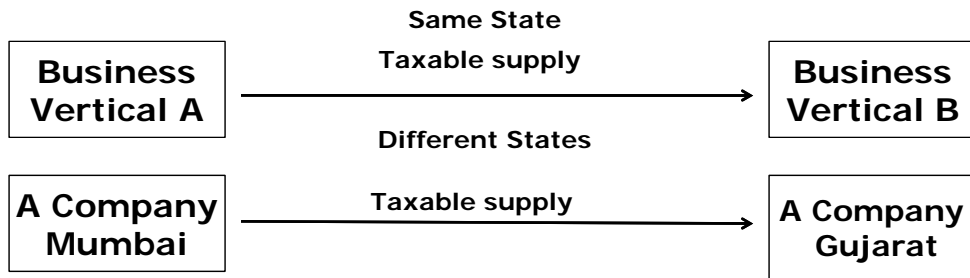
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Supply between related person / distinct person

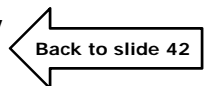
Distinct person [Sec 25(4) & 25(5)]

Person having –

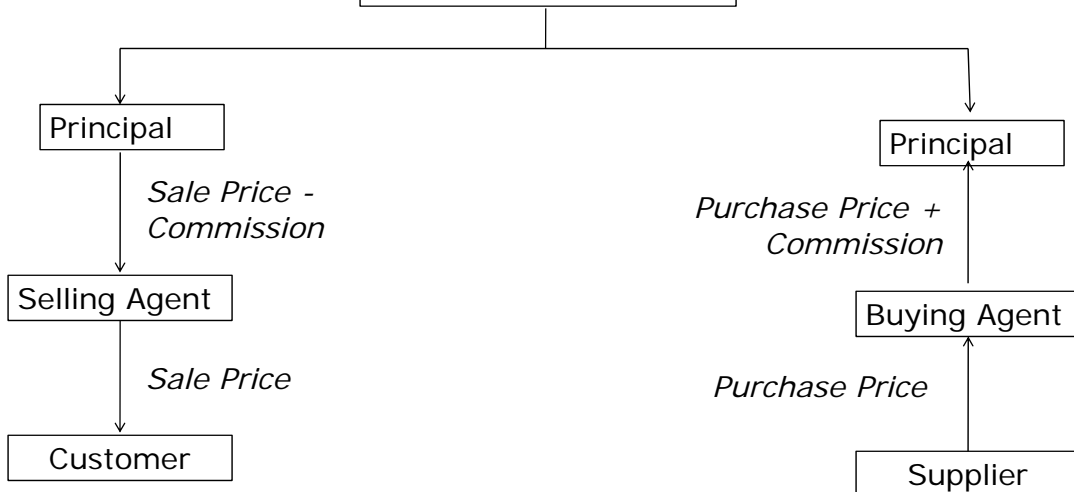
- More than one registration in a state (Business verticals)
- Registration in more than one state



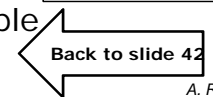
Gifts not exceeding Rs. 50,000/- in value by employer to employee not a supply



Agent Transactions



If intermediary – only Commission Taxable



Deemed supply under Schedule II

Sr. No	Transaction	Nature of Supply
1	(i) Transfer of title in goods	Goods
	(ii) Transfer of goods/ right in goods or share in goods without transfer of title	Service
	(iii) Hire Purchase / installment sale	Goods
2	(i) Lease, tenancy, easement, license to occupy land	Service
	(ii) Leasing, letting of any building (commercial or residential) for business or commerce	Service
3	Treatment or processing of other's goods (<i>job work</i>)	Service

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Deemed supply under Schedule II (contd...)

Sl.	Transaction	Nature of Supply
4	Transfer of goods forming part of business assets:	
(i)	Permanent transfer / disposal whether or not for consideration	Goods
(ii)	Application of business goods to private/ non-business use (with or without consideration)	Service
(iii)	retention of goods after ceasing to be a TP except <ul style="list-style-type: none"> • trf. As going concern; • carrying on business by legal representative as deemed taxable person 	Goods [before ceasing to be taxable person]

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Deemed Supply of services [captured from Declared service (section 66E)]

- Renting of immovable property.
- Construction related services – sale of under-construction flats etc.
- Temporary transfer or permitting the use of IPR
- IT Software Service – development, design, customization etc. of IT software
- Agreeing to the obligation-
 - To Act
 - Not to act e.g. – Non Compete
 - Tolerate an act
- Transfer of right to use goods (even if control and possession is transferred) supply of services
- Works Contract [w.r.t. immovable property] - entire contract value is composite supply of service
- Restaurant /Catering supply- entire contract value is composite supply of service

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DECLARED SERVICES PRESENT SCENARIO – NOT SPECIFICALLY DECLARED UNDER GST

- Hiring, leasing or licensing of goods **without transfer of effective control & possession.**
- **'Activities related'** to delivery of goods by hire purchase/ payment by installments.
- **Service portion** of Works Contract.
- **Service portion** of Catering contract.

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Deemed Supply under Schedule II (Contd...)

Deemed Supply of Goods

**Supply of goods by unincorporated association
/ body of persons to its members –Sl. No. 7**

**Supply of Services by unincorporated association /
body of persons to its members - *not specified*** 

However, 'business' definition [s.2(17)] includes

*“(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”*

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Refer Slide 38

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SCHEDULE-III

Activities or Transactions treated neither as a supply of goods
nor as supply of services

- Services by an Employee to Employer in course of / relation to employment
- Services by any Court / Tribunal established under any law for the time being in force
- Functions / duties performed by certain specified persons- MPs, MLAs etc.
- Services of funeral, burial, crematorium or mortuary including transportation of the deceased
- Sale of land, sale of building where entire consideration received after obtaining completion certificate or after its first occupation whichever is earlier
- Actionable claims, other than lottery, betting and gambling

Refer Slide 39

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Composite and Mixed Supply

A. Composite Supply

Composite Supply comprises of:

- Two or more supplies
- Naturally bundled
- One of which is a 'principal supply'
- **Tax liability based on 'principal supply'**

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B. Mixed Supply

- Two or more 'individual' supplies combined
- for a single price
- Not a composite supply
- **Tax liability based on supply attracting highest rate of tax**

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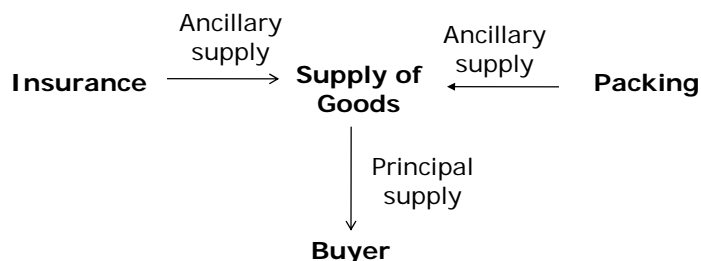
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Principal Supply

- Predominant element of composite supply
- Other element is Ancillary



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GOODS/ SERVICE

- In the CGST & IGST Act, 'supply' envisaged is that of 'goods' or 'service'.

GOODS

- "goods" means every kind of movable property other than money and **securities** but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply; [S.2(52)]

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SERVICE

As defined in Article 366(26A) of the Constitution Amendment Act

- "Services" means anything other than goods;

As defined in CGST law [s.2(102)]

- 'Services' means **anything** other than goods, money and **securities** but 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

NOTE: Issue of securities neither goods nor services.

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➤ Service

means – **anything** other than goods money and securities; and

Includes – any activity related use of money or its conversion for which separate consideration is charged

➤ But what **thing** is this 'anything'



New Zealand [Section 2(1) of GST Act]

'Services means anything which is not goods or money'

UK [Section 5 of UK VAT Act, 1994]

"5(1)

(2)

- a) "supply" in this Act includes all forms of supply, but not anything done otherwise than for a consideration;
- b) anything which is not a supply of goods but is done for a consideration (including, if so done, the granting, assignment or surrender of any right) is a supply of services"

Australia

- Section 9-10 of the Australian GST Act *inter alia* States:
 - '(1) A supply is any form of supply whatsoever'
- Australian GST Act also recognizes the concept of a 'thing'.
Section 195-1 defines 'Thing' as –
 - 'thing means anything that can be supplied or imported'

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- 'Anything' means 'everything' but in the context of 'supply' it must mean 'something' done *'for'* the recipient not *'against'* him. Otherwise it would lead to absurd *'things'*.

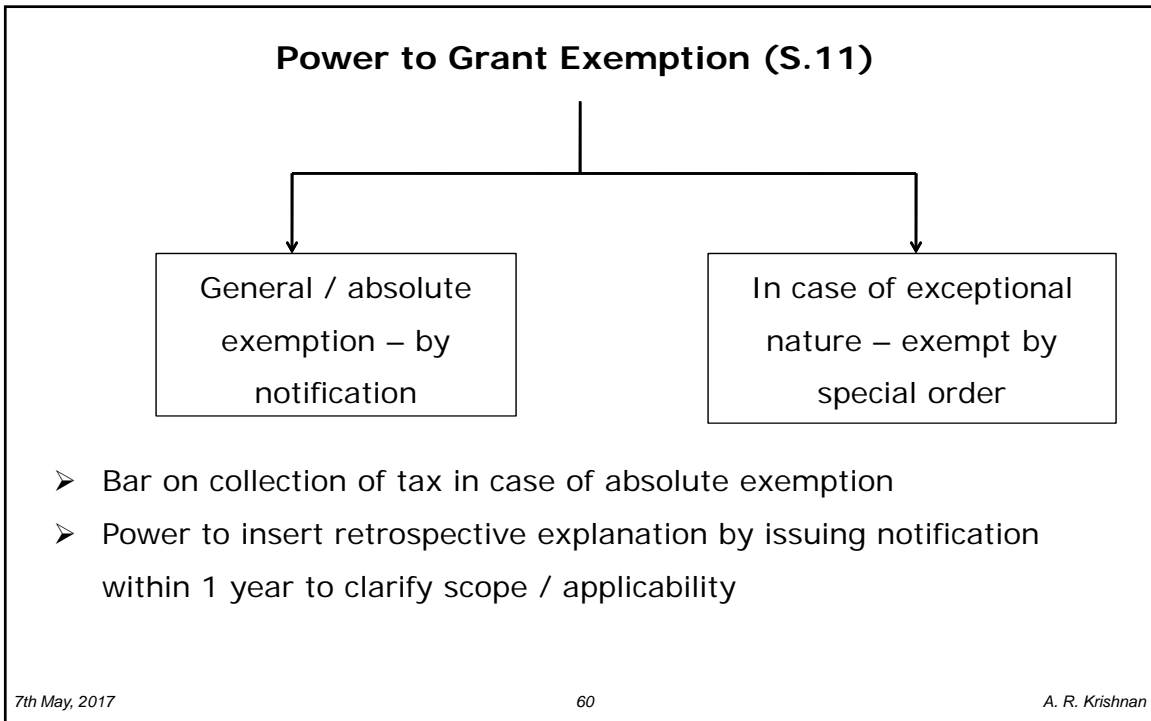
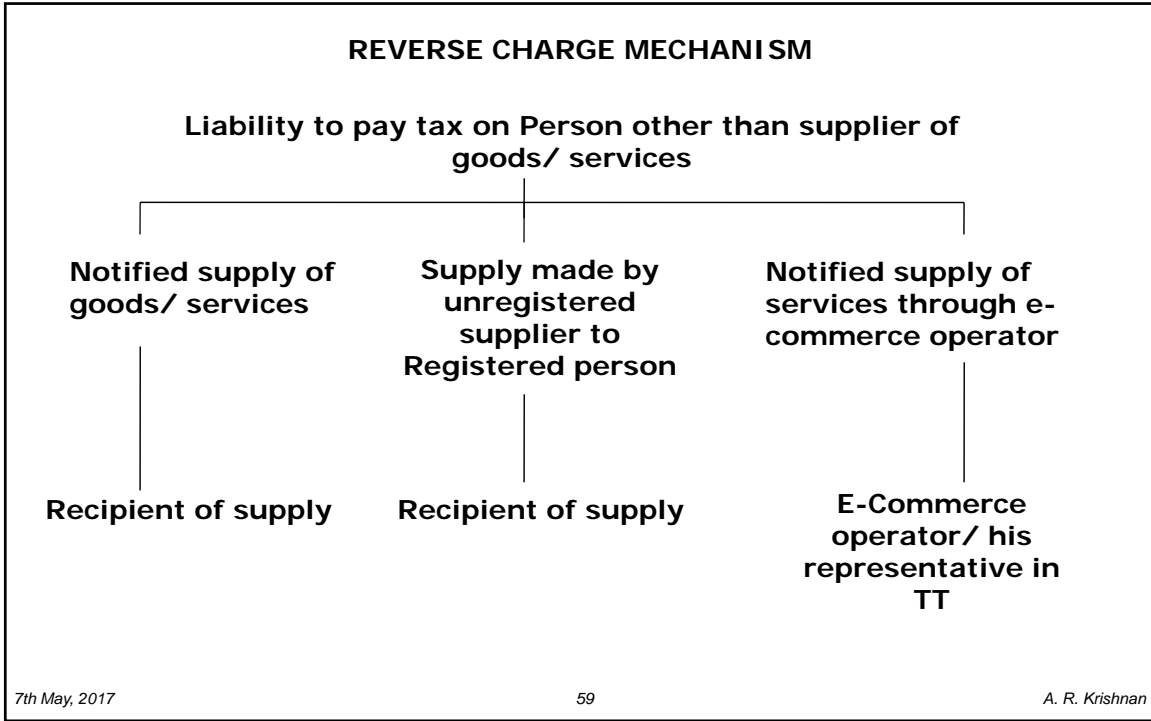


- Amount received by a law society from a solicitor as costs under an order of a Disciplinary Tribunal was held not be for a supply of services by the Law Society to the Solicitor [Case S65 (1996) 17 NZTC 7408]

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COMPOSITION LEVY

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COMPOSITION LEVY

- Specified registered **person** to have Option to pay an 'amount in lieu of **tax**' if **aggregate turnover of preceding F.Y.** < 50 Lacs
- 'Amount in lieu of tax' to be calculated at prescribed rate not greater than

Category of RP	% of turnover	
	CT	ST
Manufacturer	1	1
Restaurants/ Catering	2.5	2.5
Other Suppliers	0.5	0.5

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Conditions of eligibility to opt for composition levy

- Not to be engaged in supply of services other than catering / restaurant services
- Not to be engaged in making non-taxable supply
- Not to be engaged in inter-state outward supply of goods
- Not to be engaged in supply of goods through e-commerce operator
- Not to be engaged in manufacturing of notified goods
- Not eligible unless all Registered Person having same PAN opt for payment for composition levy

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- Option to lapse on day aggregate T.O exceeds 50 lacs
- Not to collect tax from recipient nor entitled for ITC
- If not eligible for composition levy but yet claimed tax to be recovered from such person plus penalty
- RP who has availed ITC in normal course opts for composition levy – ITC of goods held in stock to be reversed and balance credit in Electronic Cr. ledger to lapse
- RP ceases to pay composition levy – entitled to ITC of inputs contained in stock/SFG/FG on day preceding the date supply becomes taxable & also entitled to ITC on CG computed in prescribed manner

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Aggregate turnover = Value of
taxable supplies
(+) exempt supplies
(+) export supplies
(+) ***Inter-State supplies***
on all India basis *qua* each PAN

excludes

CT/ST/UT/IT /Cesses & inward supplies where tax
payable under RCM

SOME CHALLENGES IN THE IMPLEMENTATION OF GST

SOME CHALLENGES

- Uniformity
- Increase in compliance cost for business
- Avoidance of cascading effect cornerstone of GST– Seamless Credit– *But I 'See less credit'*
 - ✓ RCM pressure
 - ✓ legal restrictions
 - ✓ Discretionary disallowance
- Exemption/ threshold may distort RNR & GST
- Effectiveness of GST Council and adherence to its recommendations
- Efficacy of GSTN

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SOME CHALLENGES

- Tax administration no mention in any policy docs. [refer Shome Committee's 1st Report, 2014]
- GST = Excise law + Service tax + VAT laws

Intention to get best of all 3!

But does it carry the worst of all 3?

Wait & Watch



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BASIC CONCEPTS OF GST

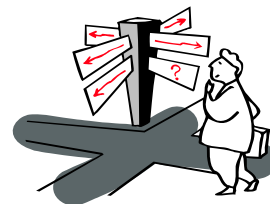
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“business” includes—

- (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;

