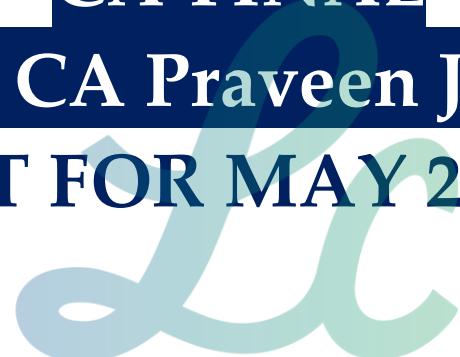




**GST
CA-FINAL
By CA Praveen Jain**

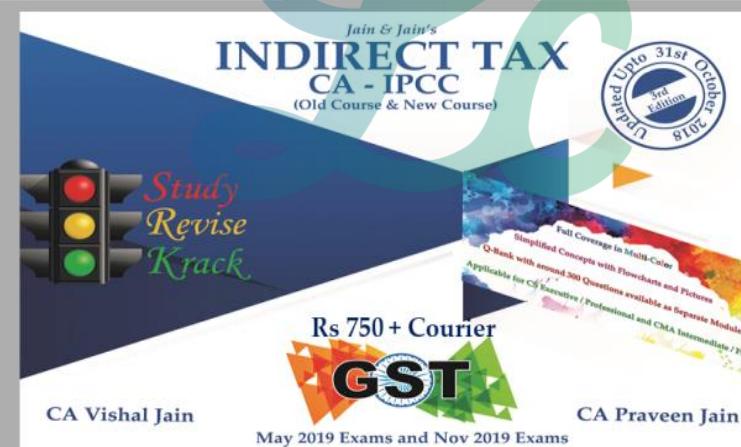
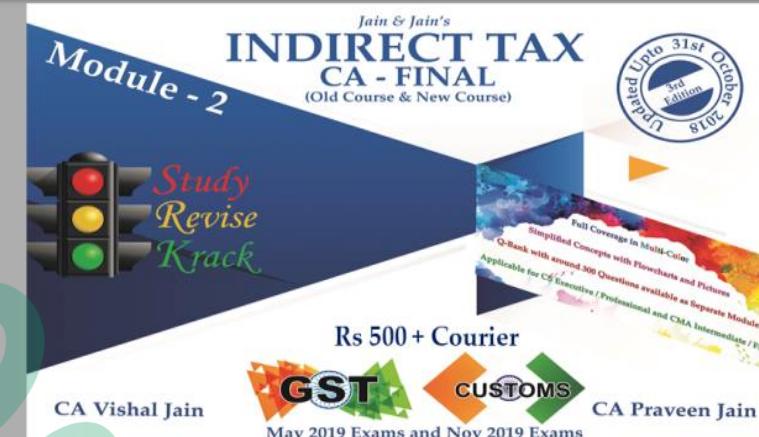
(RELEVANT FOR MAY 2019 EXAMS)



**ALL AMENDMENTS FROM 1ST MAY 2018 TO 31ST OCTOBER 2018 APPLICABLE FOR MAY 2019 EXAMS
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ABC ANALYSIS

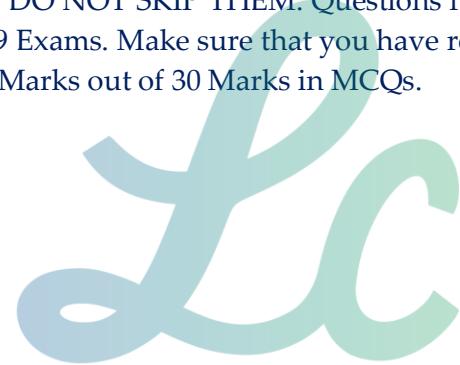
CA FINAL – MAY 2019 EXAMS



**Refund****Recent Amendments (May 2019)****Assessment & Audit****Exemption**

(Govt. Services, Education Services, Health Care Services, Transportation of Goods / Passengers Services, Legal Services, Import of Services and Recent Amendments)

Important Note: The above ABC Analysis is based on questions asked in Past Exam Questions, Revision Test Papers and Mock Test Papers. Though, there are few topics in "C" of ABC Analysis, DO NOT SKIP THEM. Questions from those topics can now be asked in Multiple Choice Questions (MCQs) which is applicable from May 2019 Exams. Make sure that you have read those Chapters once and revised from the angel of attending MCQs to be very confident of securing 28+ Marks out of 30 Marks in MCQs.





GST – CA FINAL

AMENDMENTS IN GST [OTHER THAN EXEMPTIONS] – MAY 2019

LEVY OF GST

SUPPLY – SECTION 7

Clarification regarding applicability of GST on the petroleum gases retained for the manufacture of Petrochemical and Chemical Products – CBIC Circular 53/27/2018 – CGST

Issue	Applicability of GST on the petroleum gases retained for the manufacture of petrochemical and chemical products during the course of continuous supply, such as Methyl Ethyl Ketone (MEK) feedstock, petroleum gases etc.?
Clarification	GST will be payable by the refinery ONLY on the <i>net quantity of petroleum gases retained by the recipient</i> manufacturer for the manufacture of petrochemical and chemical products. Though, the refinery would be liable to pay GST on such returned quantity of petroleum gases, when the same is supplied by it to any other person. It is reiterated that this clarification would be applicable <i>mutatis mutandis</i> on other cases involving <i>supply of goods</i> , where <i>feed stock is retained by the recipient</i> and remaining <i>residual material is returned back</i> to the supplier. The net billing is done on the amount retained by the recipient.

DEEMED SUPPLY – SECTION 7 READ WITH SCHEDULE I

Clarification on Scope of Principal-Agent Relationship in context of Schedule I of CGST Act, 2017 – CBIC Circular 57/31/2018 – CGST

Clarification s	In terms of Schedule I of The CGST Act, 2017 the supply of goods by an agent on behalf of the principal without consideration has been deemed to be a supply.	
	Who is an Agent – Indian Contract Act, 1872?	As per Section 182 of the Indian Contract Act, 1872, an “agent” is a person employed to do any act for another, or to represent another in dealings with third person. The crucial element here is the <i>representative character</i> of the agent which enables him to carry out activities <i>on behalf of the principal</i> .

	Who is an Agent – CGST Act, 2017?	<p>As per Section 2(5) of the CGST Act, an “agent” means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who <i>carries on the business</i> of supply or receipt of goods or services or both <i>on behalf of another</i>.</p> <p>The following two key elements emerge from the above definition of agent:</p> <ul style="list-style-type: none"> (a) the term “agent” is defined in terms of the various activities being carried out by the person concerned in the principal-agent relationship; and (b) the supply or receipt of goods or services has to be <i>undertaken by the agent on behalf of the principal</i>.
	Who is an Agent – Crucial Factor?	<p>The crucial component for covering a person within the ambit of the term “agent” under the CGST Act is corresponding to the <i>representative character</i> identified in the definition of “agent” under the Indian Contract Act, 1872.</p>
	Para 3 Schedule I of CGST Act, 2017	<p>“Supply of goods—</p> <ul style="list-style-type: none"> (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.” <p>It is worth noticing that all the activities between the principal and the agent and vice versa do not fall within the scope of the said entry.</p> <ul style="list-style-type: none"> ➔ Firstly, the supply of services between the principal and the agent and vice versa is outside the ambit of the said entry, and would therefore require “consideration” to consider it as supply and thus, be liable to GST. ➔ Secondly, the element identified in the definition of “agent”, i.e., “supply or receipt of goods on behalf of the principal” has been retained in this entry.
	How to determine whether the Agent is Representative? (i.e. wearing the representative hat)	<p>The key ingredient for determining relationship under GST would be whether the Invoice for the further supply of goods on behalf of the principal is being issued by the agent or not.</p> <ul style="list-style-type: none"> ➔ Where the <i>invoice for further supply</i> is being issued <i>by the agent in his name</i> then, any provision of goods from the principal to the agent would fall within Schedule I. ➔ However, in cases where the <i>invoice is issued by the agent</i> to the customer <i>in the name of the principal</i>, such agent shall NOT fall within the ambit of Schedule I.

		<p>→ Similarly, where the goods being procured by the agent on behalf of the principal are invoiced in the name of the agent then further provision of the said goods by the agent to the principal would be covered in Schedule I.</p> <p>The crucial point is whether or not the <i>agent has the authority to pass or receive the title of the goods</i> on behalf of the principal.</p> <p>Example: Carrying & Forwarding Agent (<i>C&F Agent</i>) or <i>Commission Agent</i> takes possession of the goods from the principal and issues the <i>invoice in his own name</i>. In such cases, the C&F Agnet / Commission Agent is an agent of the principal for the supply of goods in terms of Schedule I. The <i>disclosure or non-disclosure</i> of the name of the <i>principal is immaterial</i> in such situations.</p>
POSSIBLE SCENARIOS		
Scenario 1		<p>Mr. A appoints Mr. B to procure certain goods from the market. Mr. B identifies various suppliers who can provide the goods as desired by Mr. A, and asks the supplier (Mr. C) to send the goods and issue the invoice directly to Mr. A.</p> <p>→ Supply as per Schedule I: In this scenario, Mr. B is only acting as the <i>procurement agent</i>, and has in no way involved himself in the supply or receipt of the goods. Hence, in accordance with the provisions of this Act, Mr. B is not an agent of Mr. A for supply of goods in terms of Schedule I.</p> <p>→ Registration: Mr. B is NOT liable for <i>compulsory registration</i> in terms of Section 24(vii) of the CGST Act. However, he would be liable for registration under Section 22 if his aggregate turnover of supply of taxable services exceeds the threshold.</p>
Scenario 2		<p>Lena Bank, a banking company, appoints Mr. B (auctioneer) to auction certain goods. The auctioneer arranges for the auction and identifies the potential bidders. The highest bid is accepted and the goods are sold to the highest bidder by Lena Bank. The invoice for the supply of the goods is issued by Lena Bank to the successful bidder.</p> <p>→ Supply as per Schedule I: In this scenario, the auctioneer is merely providing the auctioneering services with no role played in the supply of the goods. Even in this scenario, Mr. B is not an agent of Lena Bank for the supply of goods in terms of Schedule I.</p> <p>→ Registration: Mr. B is NOT liable for <i>compulsory registration</i> in terms of Section 24(vii) of the CGST Act. However, he would be liable for registration under Section 22 if his aggregate turnover of supply of taxable services exceeds the threshold.</p>

	Scenario 3	<p>Mr. Hussain, an artist, appoints M/s B (auctioneer) to auction his painting. M/s B arranges for the auction and identifies the potential bidders. The highest bid is accepted and the painting is sold to the highest bidder. The invoice for the supply of the painting is issued by M/s B on the behalf of Mr. Hussain but in his own name and the painting is delivered to the successful bidder.</p> <p>→ Supply as per Schedule I: In this scenario, M/s B is not merely providing <i>auctioneering services</i>, but is also <i>supplying the painting on behalf of Mr. Hussain</i> to the bidder, and has the <i>authority to transfer the title</i> of the painting on behalf of Mr. A. This scenario is covered under Schedule I.</p> <p>→ Registration: Mr. B is liable for <i>compulsory registration</i> in terms of Section 24(vii) of the CGST Act.</p>
	Scenario 4	<p>Mr. A sells agricultural produce by utilizing the services of Mr. B who is a commission agent as per the Agricultural Produce Marketing Committee Act (APMC Act) of the State. Mr. B identifies the buyers and sells the agricultural produce on behalf of Mr. A for which he charges a commission from Mr. A.</p> <p>As per the APMC Act, the commission agent is a person who <i>buys or sells the agricultural produce on behalf of his principal</i>, or <i>facilitates buying and selling of agricultural produce on behalf of his principal</i> and receives, by way of remuneration, a commission or percentage upon the amount involved in such transaction.</p> <p>Author's Note: Even though as per <i>APMC Act</i>, commission agent is a person who <i>buys or sells on behalf of principal</i>, still under <i>GST</i> the person will be regarded as an agent only if he <i>invoices in his own name</i>.</p> <p>→ Supply as per Schedule I:</p> <ul style="list-style-type: none"> ▪ In cases where the invoice is issued by Mr. B to the buyer, the former is an agent covered under Schedule I. ▪ However, in cases where the invoice is issued directly by Mr. A to the buyer, the commission agent (Mr. B) doesn't fall under the category of agent covered under Schedule I. <p>→ Registration:</p> <ul style="list-style-type: none"> ▪ In cases where the invoice is issued by Mr. B to the buyer, <ul style="list-style-type: none"> ✓ <i>If the supply of agricultural produce is exempted from tax:</i> He is NOT liable for <i>registration</i> as by virtue of Section 23(1)(a) a person engaged in <i>purely making exempt supplies</i> is not liable to get registered ✓ <i>If the supply of agricultural produce is not exempted from tax:</i> He is liable for <i>compulsory registration</i> in terms of Section 24(vii). ▪ In cases where the invoice is issued directly by Mr. A to the buyer,

		<ul style="list-style-type: none"> ✓ Mr. B is NOT liable for <i>compulsory registration</i> in terms of Section 24(vii) ✓ Mr. B is NOT liable for <i>registration even if his aggregate turnover of supply of taxable services exceeds the threshold</i> as by virtue of Section 23(1)(a) a person engaged in <i>purely making exempt supplies</i> is not liable to get registered. EN 12/2017-CT (Rate) and EN 9/2017-IT (Rate) has exempted “services provided by the commission agents for sale or purchase of agricultural produce” from GST.
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NOT SUPPLY – SECTION 7

Transactions undertaken by Central Government / State Government / Union Territory / Local Authority in which they are engaged as Public Authorities – Notified by Government on recommendation of GST Council

- Services by way of any activity in relation to a function entrusted to a Municipality under *Article 243W* of Constitution (i.e. change of land use, commercial building approval, utility services)

NATURE OF SUPPLY – SECTION 7 READ WITH SCHEDULE II

Section 7(1A) – Nature of Supply as per Schedule II

Where certain activities or transactions constitute a supply in accordance with the provisions of Section 7(1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II as per Section 7(1A). A transaction or an activity CANNOT be treated as supply merely by an entry Schedule II of CGST Act, 2017.

Clarification on issue related to taxability of ‘Tenancy Rights’ under GST – CBIC Circular 44/18/2018 – CGST

Meaning of Pagadi System	<ul style="list-style-type: none"> ▪ In this system the tenant acquires, tenancy rights in the property against payment of tenancy premium (pagadi). The landlord may be owner of the property but the possession of the same lies with the tenant. The tenant pays periodic rent to the landlord as long as he occupies the property. ▪ The tenant also usually has the option to sell the tenancy right of the said property and in such a case has to share a percentage of the proceeds with owner of land, as laid down in their tenancy agreement. Alternatively, the landlord pays to tenant the prevailing tenancy premium to get the property vacated. Such properties in Maharashtra are governed by Maharashtra Rent Control Act, 1999. ▪ For transfer of tenancy rights registration is done & applicable stamp duty is paid.
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Issues & Clarifications	<p>(i) Whether transfer of tenancy rights to an incoming tenant, consideration for which is in form of tenancy premium, shall attract GST when stamp duty and registration charges are levied on the said premium? If yes, what would be the applicable rate?</p> <ul style="list-style-type: none">▪ The activity of transfer of tenancy right against consideration in the form of <i>tenancy premium</i> is a <i>supply of service</i> liable to GST. It is a form of lease or renting of property and such activity is specifically declared to be a service in Para 2 of <i>Schedule II</i> i.e. any lease, tenancy, easement, licence to occupy land is a supply of services.▪ The transfer of tenancy rights <i>cannot be treated as sale of land or building</i> declared as neither a supply of goods nor of services in Para 5 of Schedule III to CGST Act, 2017. The contention that <i>stamp duty and registration charges</i> are levied on such transfers of tenancy rights, and such transaction thus should not be subjected to GST, is <i>not relevant</i>. Merely because a transaction or a supply involves execution of documents which may require registration and payment of registration fee and stamp duty, would not preclude them from the scope of supply of goods and services and from payment of GST.▪ However, <i>renting of residential dwelling for use as a residence is exempt</i> vide EN 12/2017-CT (Rate) read along with EN 9/2017-IT (Rate). Hence, grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both is exempt. <p>(ii) In case of transfer of tenancy rights by the outgoing tenant to the landlord or to another tenant where a part of the consideration for such transfer accrues to the outgoing tenant, whether such supplies will also attract GST?</p> <ul style="list-style-type: none">▪ Services provided by <i>outgoing tenant</i> by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is also <i>liable to GST</i>.
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VALUATION

INCLUSION / EXCLUSION IN VALUE – SECTION 15

Clarification regarding Valuation in case of Free of Cost Supply by Original Equipment Manufacturer (OEM) to Component Manufacturer – CBIC Circular 47/21/2018 – CGST

Issue	Whether moulds and dies owned by Original Equipment Manufacturers (OEM) say <i>Tata Ltd.</i> that are sent free of cost (FOC) to a component manufacturer say <i>MRF Tyres Ltd.</i> is leviable to tax and whether OEMs are required to reverse input tax credit in this case?
Clarification	<ul style="list-style-type: none"> ▪ Component Manufacturer was NOT under obligation to use his Moulds / Dies and they have supplied FOC by OEM <ul style="list-style-type: none"> (a) <i>Reversal of ITC by OEM:</i> Moulds and dies <i>owned by OEM</i> which are provided <i>to a component manufacturer</i> (the two not being related persons or distinct persons) on FOC basis does NOT constitute a <i>supply</i> as there is no consideration involved. Further, since the moulds and dies are provided on FOC basis by the OEM to the component manufacturer in the <i>course or furtherance of his business</i>, there is <i>no requirement for reversal of input tax credit</i> availed on such moulds and dies by the OEM. (b) <i>Valuation of Component supplied by Component Manufacturer:</i> It is further clarified that while calculating the value of the supply made by the component manufacturer, the <i>value of moulds and dies</i> provided by the OEM to the component manufacturer on FOC basis shall <i>NOT be added</i> to the value of such supply because the cost of moulds/dies was not to be incurred by the component manufacturer and thus, does not merit inclusion in the value of supply in terms of Section 15(2)(b) of the CGST Act. ▪ Component Manufacturer was under obligation to use his Moulds / Dies but they have supplied FOC by OEM <ul style="list-style-type: none"> (a) <i>Valuation of Component supplied by Component Manufacturer:</i> If the contract between OEM and component manufacturer was for supply of components made by using the moulds/dies belonging to the component manufacturer, but the same have been supplied by the OEM to the component manufacturer on FOC basis, the <i>amortised cost of such moulds/dies</i> shall be <i>added</i> to the value of the components. (b) <i>Reversal of ITC by OEM:</i> In such cases, the OEM will be required to <i>reverse the credit</i> availed on such moulds/ dies, as the same will NOT be considered to be provided by OEM to the component manufacturer in the course or furtherance of the former's business. <p><u>Author's Note:</u> Reversal of ITC by OEM on moulds / dies supplied FOC by OEM on the logic that it is NOT used by OEM in the course or furtherance of business seems to be illogical.</p>

REVERSE CHARGE MECHANISM

REVERSE CHARGE MECHANISM CASES

Notified Categories of Goods or Services Section 9(3) of CGST Act, 2017

→ For Supply of *Notified Categories of Goods or Services* (notified by Govt. on recommendation of GST Council), *Recipient* shall be liable to pay tax in relation to supply of such goods or services or both

Exemption from Registration:

NN 5/2017 – CT: *Suppliers* who are *only engaged* in making supplies of taxable goods or services or both, the total tax on which is liable to be paid on *reverse charge basis by the Recipient* are exempted from obtaining *registration*

Supply by Unregistered Person to Registered Person Section 9(4) of CGST Act, 2017

→ Supply of any goods or services by *an Unregistered Person to a Registered Person, Recipient* shall be liable to pay tax in relation to such supply.

Exemption from Payment under RCM:

- (i) NN 8/2017 – CT (Rate): *Intra-state supply* of taxable goods and services or both by an Unregistered Supplier to a *Registered Recipient* is exempt from *payment* of CGST/SGST provided that Aggregate Value of such supplies of goods and services *received by a Registered Recipient from all the Unregistered Suppliers* does not exceed *Rs.5,000 / day*. This exemption is **ONLY** for *intra-state supply* and **NOT** for *inter-state supply*.
- (ii) NN 9/2017 – CT (Rate): *Intra-state supply* of goods or services by an Unregistered Supplier to a *TDS Registered Person* is exempt from *payment* of CGST/SGST. This exemption is **ONLY** for *intra-state supply* and **NOT** for *inter-state supply*.
- (iii) NN 10/2017 – CT (Rate): *Intra-state supply* of second hand goods by an Unregistered Supplier to a *Registered Recipient* is exempt from *payment* of CGST/SGST provided that such registered recipient is operating under Margin Scheme (Rule 32 of CGST Rules, 2017). This exemption is **ONLY** for *intra-state supply* and **NOT** for *inter-state supply*.
- (iv) NN 38/2017 – CT (Rate) & NN 32/2017 – IT (Rate): It is also important to note that *intra-state supply or inter-state supply* of taxable goods and services or both by an *Unregistered Supplier* to a *Registered Recipient* are exempt from *payment* of CGST/SGST and IGST till **30th September 2019** (i.e. RCM in case of supply from URD to RD is suspended till 30th September 2019 and thus, all the above exemptions are of no use till 30th September 2019)



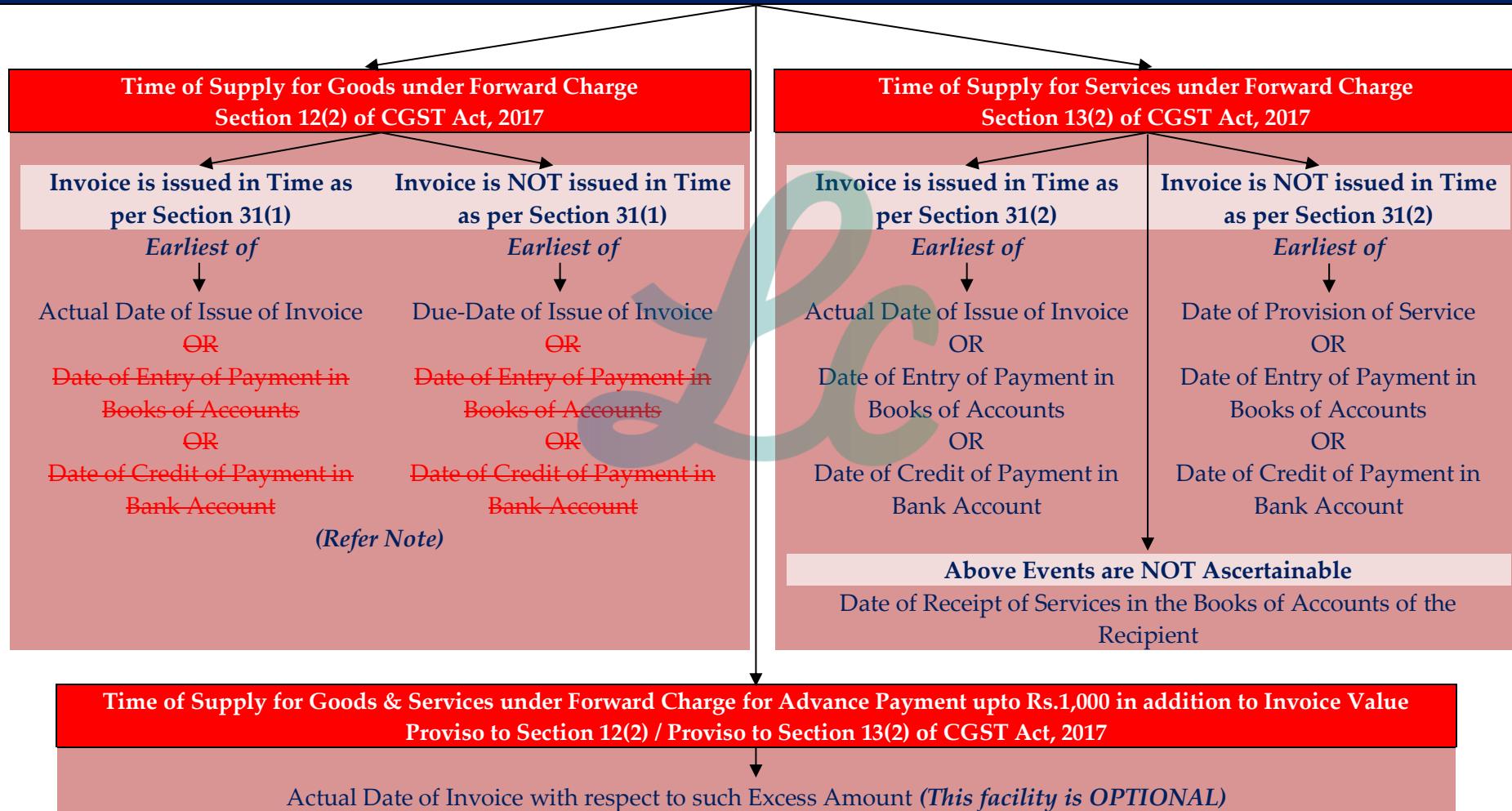
**REVERSE CHARGE MECHANISM FOR NOTIFIED SERVICES
SECTION 9(3) OF CGST ACT, 2017 OR SECTION 5(3) OF IGST ACT, 2017**

CATEGORY OF SUPPLY OF SERVICE	SUPPLIER OF SERVICE (BY)	RECIPIENT OF SERVICE (TO)
Direct Selling Agent Services  Direct Selling Agent	<i>Individual</i> Direct Selling Agents (DSAs) other than a Body Corporate, Partnership Firm / LLP	<ul style="list-style-type: none">▪ A Banking Company or a Non-Banking Financial Company located in <i>Taxable Territory</i>



TIME OF SUPPLY

TIME OF SUPPLY FOR GOODS & SERVICES UNDER FORWARD CHARGE SECTION 12 & SECTION 13 OF CGST ACT, 2017





Example: JIO telecommunication receives Rs.5,000 against an invoice of Rs.4,800. The excess amount of Rs.200 can be adjusted against the next invoice. JIO has the option to take the date of the next invoice as the time of supply of service in relation to the amount of Rs.200 received in excess against the earlier invoice

Notes:

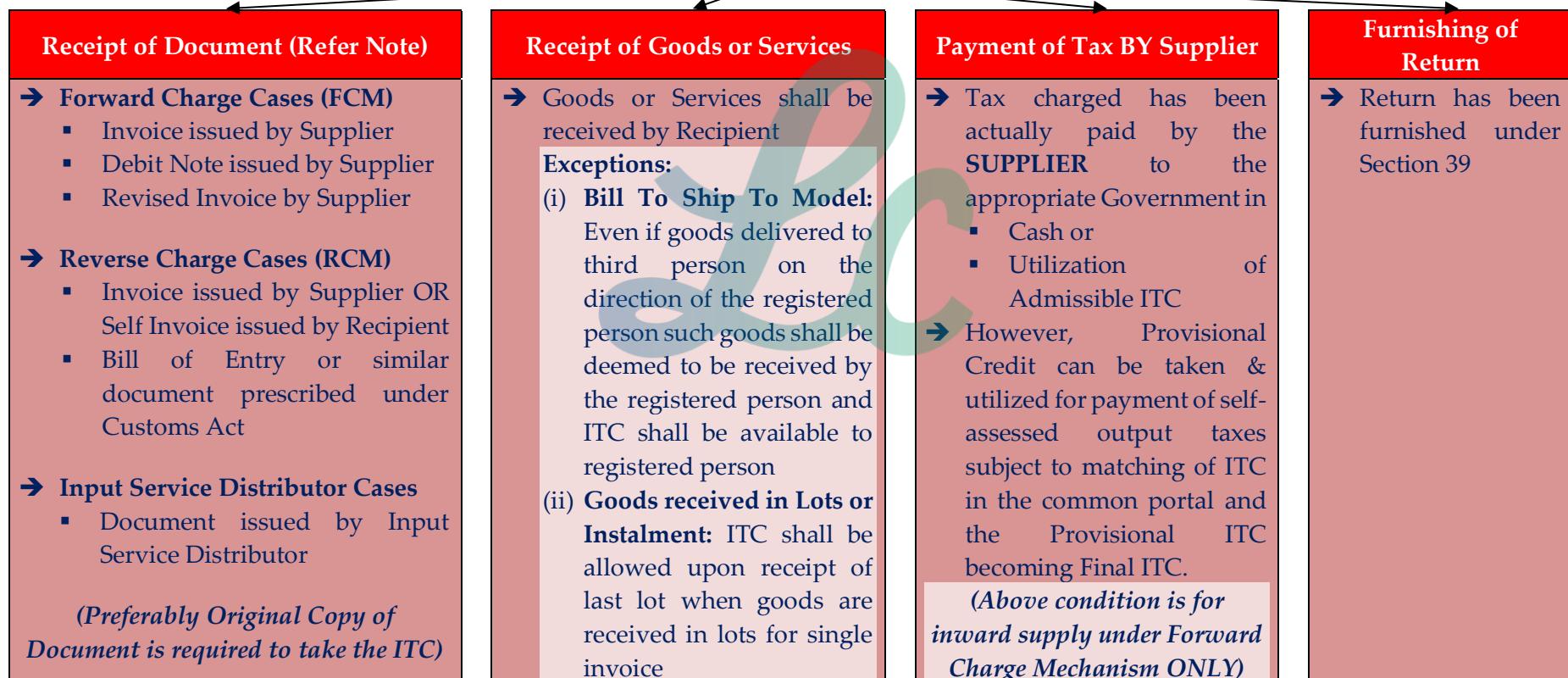
- Supply shall be deemed to have been made to the extent it is covered by invoice or part advance payment.
- A registered person who is supplying **GOODS** and who did not opt for the composition levy under Section 10 shall *NOT pay GST on receipt of advance payment for SUPPLY OF GOODS*. In simple words, for supplier of goods, except for person opting for composition levy, time of supply shall be either date of invoice or last date on which invoice is to be raised, as the case may be. (NN 66/2017 – CT)
- As per Section 10 of CGST Act, 2017 read along with Rule 7 of CGST Rules, 2017, even **Composition Taxable Person** shall *NOT pay GST on receipt of advance payment*. This is due to the fact that they have to pay certain percentage of their Turnover in the State or the Union Territory as Composition Tax and Turnover in the State or the Union Territory does not includes receipt of advance payment. In simple words, even for person opting for composition levy and who is supplying goods, time of supply shall be either date of invoice or last date on which invoice is to be raised, as the case may be.



INPUT TAX CREDIT

ELIGIBILITY & CONDITIONS FOR AVAILMENT OF INPUT TAX CREDIT SECTION 16 OF CGST ACT, 2017 READ WITH RULE 36 & RULE 37 OF CGST RULES, 2017

Every REGISTERED PERSON can avail credit of ITC on inward supply of goods or services to him which are used or intended to be used in the course or furtherance of his BUSINESS and the said amount will be credited to the ELECTRONIC CREDIT LEDGER



Note: The details on the credit availing document which are **SUFFICIENT** for claiming credit are (a) GSTIN of the supplier and recipient, (b)

place of supply in case of inter-State supply, (c) *description* of goods or services, (d) *total value* of supply and (e) amount of *tax charged*.



Note: As per Section 2(94) of CGST Act, 2017, Registered Person

Means	→ A person who is registered under <i>Section 25</i>	Does not include	→ A person having a <i>Unique Identity Number</i>
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**Example 1:** Registration by Recipient

Particulars	ITC by Rec.
Case 1: Recipient is NOT registered at the time of receipt of goods / services	✗
Case 2: Recipient is registered at the time of receipt of goods / services	✓

Example 3: Receipt of Goods + Receipt of Documents

Particulars	ITC by Rec.
Date of Invoice by Supplier – 9 th April	
Date of Removal of Good by Supplier – 10 th April	
Date of Receipt of Invoice by Recipient – 15 th April	17 th April
Date of Receipt of Goods by Recipient – 17 th April	

Example 5: Receipt of Goods in Lots + Receipt of Documents

Particulars	ITC by Rec.
Date of Invoice by Supplier – 9 th April	
Date of Removal of First Lot of Goods – 20 th April	
Date of Removal of Last Lot of Goods – 28 th Nov.	
Date of Receipt of Invoice – 15 th April	2 nd December
Date of Receipt of First Lot of Goods – 26 th April	
Date of Receipt of Last Lot of Goods – 2 nd Dec.	

Note: Supplier has to pay entire output tax of all lots together in April month's GST Return (i.e. on or before 20th May)

Example 7: Depreciation charged on GST portion of Capital Goods

Particulars	ITC by Rec.
Purchase of Machinery (GST @ 18%) – Basic Price - Rs.1 Crore + GST – Rs.18 lakhs. Depreciation under Income Tax is charged on Rs.1.18 Crores	✗

Example 2: Usage by Recipient

Particulars	ITC by Rec.
Case 1: Recipient does NOT uses the goods / services in course / furtherance of business	✗
Case 2: Recipient uses the goods / services in course / furtherance of business	✓

Example 4: Receipt of Goods + Receipt of Documents

Particulars	ITC by Rec.
Date of Invoice by Supplier – 9 th April	
Date of Removal of Good by Supplier – 10 th April	
Date of Receipt of Invoice by Recipient – 15 th April	15 th April
Date of Receipt of Goods by Recipient – 13 th April	

Example 6: Receipt of Goods by 3rd Party + Receipt of Documents

Particulars	ITC by Rec.
Date of Invoice by Supplier – 9 th April	
Date of Removal of Goods by Supplier – 20 th April	
Date of Receipt of Goods by Job Worker – 2 nd May	
Date of Receipt of Invoice by Principal – 15 th April	2 nd May

Note: Though the goods are received by Job-Worker, ITC can be claimed ONLY by Principal (Recipient) on such goods

Example 8: Depreciation not charged on GST portion of Capital Goods

Particulars	ITC by Rec.
Purchase of Machinery (GST @ 18%) – Basic Price - Rs.1 Crore + GST – Rs.18 lakhs. Depreciation under Income Tax is charged on Rs.1 Crore	✓

**Example 9: Time Limit for taking ITC**

Particulars	ITC by Rec.
Date of Receipt of Invoice by Recipient – 15 th April 2019 / 15 th March 2020	
Date of Receipt of Goods by Recipient – 17 th April 2019 / 15 th March 2020	
Assessee did not claim ITC on 17 th April 2019 / 15 th March 2020 and thus, he wants to claim it on 15 th September 2020.	X (Last Date for claiming ITC was 1 st September 2020)
Note: Annual Return for FY 2019-20 is filed on 1 st September 2020	

Example 11: Advance Payment is made to Supplier

Particulars	ITC by Rec.
Date of Advance Payment to Supplier – 10 th January	
Date of Receipt of Invoice by Recipient – 15 th April	
Date of Receipt of Goods by Recipient – 17 th April	17 th April

Example 10: Time Limit for taking ITC

Particulars	ITC by Rec.
Date of Receipt of Invoice by Recipient – 15 th April 2019 / 15 th March 2020	
Date of Receipt of Goods by Recipient – 17 th April 2019 / 15 th March 2020	
Assessee did not claim ITC on 17 th April 2019 / 15 th March 2020 and thus, he wants to claim it on 15 th September 2020.	
Note: Annual Return for FY 2019-20 is not filed and will be filed in December 2020.	✓ (Last Date for claiming ITC is 20 th October 2020)

Example 12: Payment to Supplier is made within 180 days

Particulars	ITC by Rec.
Date of Receipt of Invoice by Recipient – 15 th April	
Date of Receipt of Goods by Recipient – 17 th April	
Date of Payment to Supplier – 20 th September	17 th April

Example 13: Payment to Supplier is made after 180 days

Stage 1 – Availment of ITC	Availment
Date of Invoice by Supplier – 9 th April 2019	
Date of Removal of Good by Supplier – 10 th April 2019	
Date of Receipt of Invoice by Recipient – 15 th April 2019	
Date of Receipt of Goods by Recipient – 17 th April 2019	
Date of Payment to Supplier – 25 th November 2020	17 th April 2019

Stage 2 – Reversal of ITC	Reversal
180 days from 9 th April 2019 (i.e. Date of Invoice) ends on 6 th October 2019	7 th October 2019

Note: Reversal of ITC has to be done along with interest @ 18% computed from the date of availment of ITC (i.e. 17th April 2019) till the date of actual reversal of ITC (i.e. payment to Government)

Stage 3 – Re-availment of ITC	Re-Availment
Payment is made to supplier is made 25 th November 2020	25 th November 2020

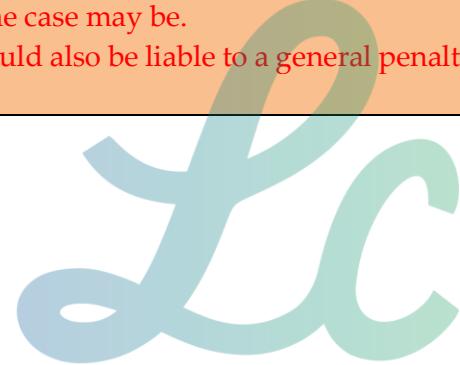
Note: Time limit for availment of ITC is not applicable for Re-Availment of ITC i.e. once ITC is availed within time, then it can be re-availed at any time thereafter.



INPUT SERVICE DISTRIBUTOR
SECTION 20 OF CGST ACT, 2017 READ WITH RULE 39 OF CGST RULES, 2017

Clarification regarding Recipient receiving excess ITC from ISD – CBIC Circular 71/45/2018 – CGST

Issue	Manner of recovery of excess credit distributed by an Input Service Distributor (ISD) in contravention of the provisions contained in Section 20 of the CGST Act.
Clarification	<ul style="list-style-type: none">▪ Action against Recipient: The recipient unit(s) who have received excess credit from ISD may deposit the said excess amount <i>voluntarily</i> along with <i>interest</i> if any by using FORM GST DRC-03. If the said recipient unit(s) does NOT come forward voluntarily, necessary <i>proceedings may be initiated</i> against the said unit(s) under the provisions of <i>Section 73</i> or <i>Section 74</i> of the CGST Act as the case may be.▪ Action against ISD: The ISD would also be liable to a general penalty under the provisions contained in <i>Section 122(1)(ix)</i> of the CGST Act.





DOCUMENTS

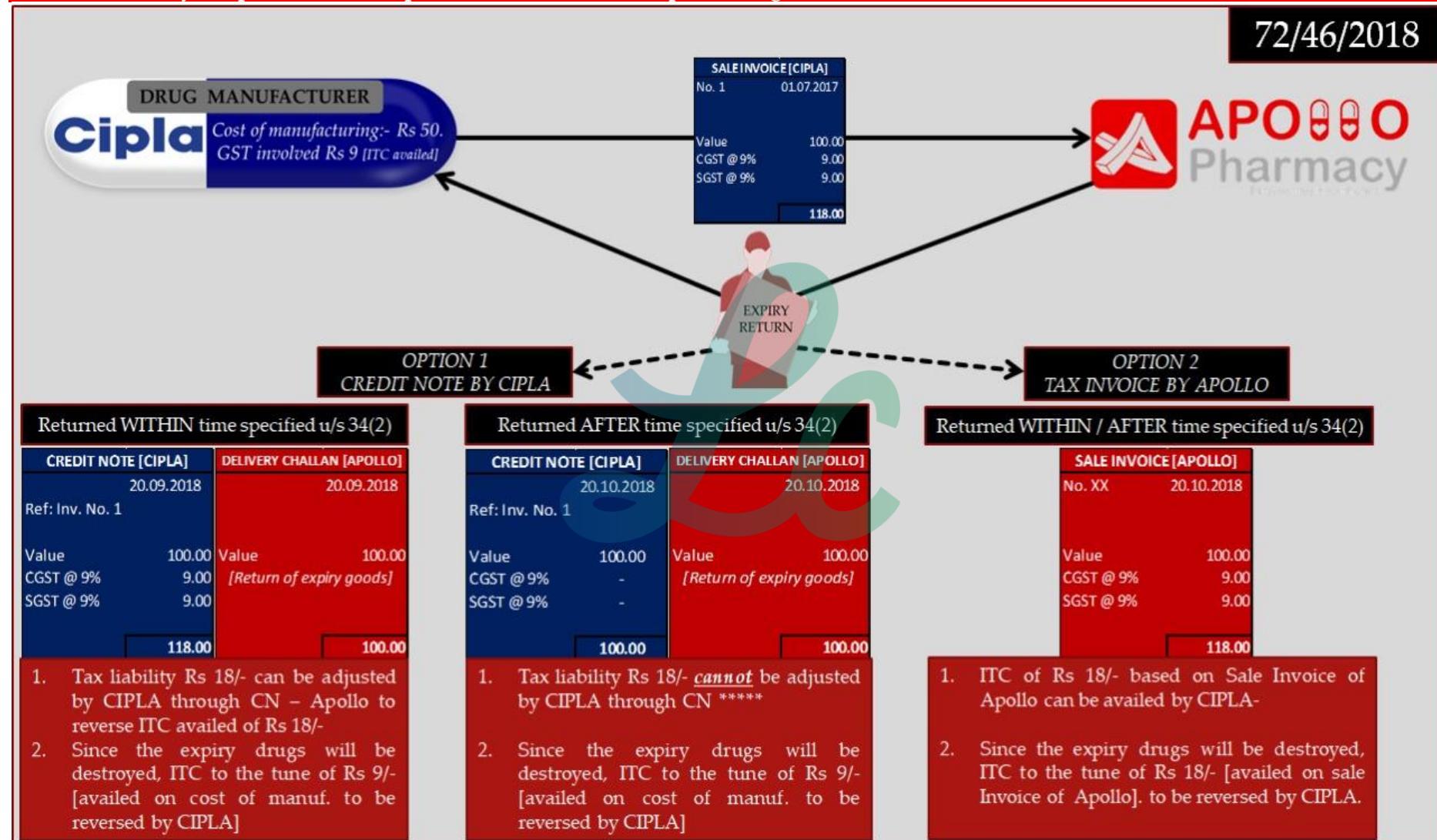
DELIVERY CHALLAN RULE 55 OF CGST RULES, 2017

→ *Transportation of Goods in Semi-Knocked Down / Complete-Knocked Down condition / Batches / Lots:*

Particulars	Document
<ul style="list-style-type: none">▪ Documents before Dispatch of Goods▪ Documents at the time of Dispatch of Goods in Consignments (SKD or CKD condition / Batches / Lots)	<ul style="list-style-type: none">▪ Issuance of complete Tax Invoice <i>before</i> dispatch of the first consignment▪ <i>Delivery Challan with Certified Copy of Tax Invoice</i> at the time of First Consignment and Subsequent Consignments▪ <i>Original Copy of Tax Invoice</i> at the time of Last Consignment



Circular to clarify the procedure in respect of Return of Time Expired Drugs or Medicines – Circular No. 72/46/2018 – CGST



***** Author's Note: Still Apollo has to reverse ITC availed of Rs.18 as per Section 16 of CGST Act, 2017 (though the same is not addressed by Circular).

REGISTRATION

CASUAL TAXABLE PERSON & NON-RESIDENT TAXABLE PERSON

Clarification regarding Casual Taxable Person – CBIC Circular 71/45/2018 – CGST

Issue	Whether the amount required to be deposited as <i>Advance Tax</i> while taking registration as a Casual Taxable Person (CTP) should be 100% of the <i>estimated gross tax liability</i> or the <i>estimated tax liability payable in cash</i> (i.e. calculated after deducting the due eligible ITC which might be available to CTP)?
Clarification	Application of registration for a CTP i.e. FORM GST REG-1 (S. No. 11) seeks information regarding the " <i>estimated net tax liability</i> " only and not the gross tax liability. Hence advance tax to be deposited after deducting the eligible ITC.

Issue	Period of operation by Casual Taxable Person (CTP) is <i>90 days</i> with provision for <i>extension</i> of same by the proper officer for a further period not exceeding <i>90 days</i> . Various representations have been received for <i>further extension</i> of the said period beyond the period of <i>180 days</i> , as mandated in law.
Clarification	<p>It is clarified that in case of <i>long running exhibitions</i> (for a period more than 180 days), the taxable person cannot be treated as a CTP and thus such person would be required to obtain registration as a <i>Normal / Regular Taxable Person</i>.</p> <ul style="list-style-type: none"> ▪ While applying for <i>normal registration</i> the said person should upload a <i>copy of the allotment letter</i> granting him permission to use the premises for the <i>exhibition</i> and the allotment letter / consent letter shall be treated as the proper document as a <i>proof for his place of business</i>. ▪ In such cases he would NOT be required to pay <i>Advance Tax</i> for the purpose of registration. ▪ He can <i>surrender</i> such registration once the <i>exhibition is over</i>.



Clarification regarding Processing of Applications for Cancellation of Registration submitted in FORM GST REG-16 – CBIC Circular
26/10/2018 – CGST

Issues & Clarifications	<p>Time limit for Application of Cancellation:</p> <p>(i) Rule 20 of the CGST Rules provides that the taxpayer applying for cancellation of registration shall submit the application in FORM GST REG-16 on the common portal within a period of 30 days of the “occurrence of the event warranting the cancellation”.</p> <p>(ii) It might be difficult in some cases to exactly identify or pinpoint the day on which such an event occurs. For instance, a business may be transferred/disposed over a period of time in a piece meal fashion. In such cases, the 30-day deadline may be liberally interpreted and the taxpayers’ application for cancellation of registration may not be rejected because of the possible violation of the deadline.</p> <p>Acceptance of Application by the Proper Officer and Order for Cancellation:</p> <p>(i) Since the cancellation of registration has no effect on the liability of the taxpayer for any acts of commission/omission committed before or after the date of cancellation, the proper officer should accept all such applications within a period of 30 days from the date of filing the application, except in the following circumstances [hereinafter called as notified circumstances]:</p> <ul style="list-style-type: none">▪ The application in FORM GST REG-16 is incomplete.▪ In case of transfer, merger or amalgamation of business, the new entity in which the applicant proposes to amalgamate or merge has not got registered with the tax authority before submission of the application for cancellation. <p>(ii) In all other cases the application for cancellation of registration should be immediately accepted by the proper officer and the order for cancellation should be issued in FORM GST REG-19 with the effective date of cancellation being the same as the date from which the applicant has sought cancellation in FORM GST REG-16. In any case the effective date cannot be a date earlier to the date of application for the same.</p> <p>(iii) In notified circumstances the proper officer shall inform the applicant in writing about the nature of the discrepancy and give a time period of seven working days to the taxpayer, from the date of receipt of the said letter, to reply.</p>
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- If no reply is received within the specified period of seven working days or if reply to the query is found to be not satisfactory, the proper officer may reject the application on the system, after giving the applicant an opportunity to be heard, recording reasons for rejection
- If reply to the query is received and the same on examination is found satisfactory, the Proper Officer may approve the application for cancellation and proceed to cancel the registration by issuing an order in FORM GST REG-19.

Final Return – Purpose:

- (i) Section 45 of the CGST Act requires every registered person (other than an ISD or a NRTP or a Composition Taxable Person or a Tax Deductor u/s 51 or Tax Collector u/s section 52) whose registration has been cancelled, to file a final return in FORM GSTR-10, within three months of the effective date of cancellation or the date of order of cancellation, whichever is later. [notification No. 58/2018 dated 26.10.2018 has extended the last date of furnishing GSTR-10 till 31.12.2018 for registrations cancelled upto 30.09.2018]
- (ii) The purpose of the final return is to ensure that the taxpayer discharges any liability that he/she may have incurred u/s 29(5) of the CGST Act.
- (iii) S. 29(5) read with Rule 20 of the CGST Rules states that the taxpayer seeking cancellation of registration shall have to pay, by way of debiting either the electronic credit or cash ledger, the input tax contained in the stock of inputs, semi-finished goods, finished goods and capital goods or the output tax payable on such goods, whichever is higher. For the purpose of this calculation, the stock of inputs, semi-finished goods, finished goods and capital goods shall be taken as on the day immediately preceding the date with effect from which the cancellation has been ordered by the proper officer i.e. the date of cancellation of registration. However, it is clarified that this requirement to debit the electronic credit and/or cash ledger by suitable amounts should not be a prerequisite for applying for cancellation of registration. This can also be done at the time of submission of final return in FORM GSTR-10.
- (iv) In any case, once the taxpayer submits the application for cancellation of his/her registration from a specified date, he/she will not be able to utilize any remaining balances in his/her electronic credit/cash ledgers from the said date except for discharging liabilities under GST Act upto the date of filing of final return in FORM GSTR-10.

Final Return – If not filed:

- (i) In case the final return in FORM GSTR-10 is not filed within the stipulated date, then notice in FORM GSTR-3A has to be issued to the taxpayer.



- (ii) If the taxpayer still fails to file the final return within 15 days of the receipt of notice in FORM GSTR-3A, then an assessment order in FORM GST ASMT-13 under section 62 of the CGST Act read with rule 100 of the CGST Rules shall have to be issued to determine the liability of the taxpayer under S. 29(5) on the basis of information available with the proper officer.
- (iii) If the taxpayer files the final return within 30 days of the date of service of the order in FORM GST ASMT-13, then the said order shall be deemed to have been withdrawn. However, the liability for payment of interest and late fee shall continue.

Filing of Returns – Intervening Period – Application of cancellation till Order of Cancellation:

- (i) Rule 68 of the CGST Rules requires issuance of notices to registered persons who fail to furnish returns under Section 39, Section 44 & Section 45.
- (ii) It is clarified that issuance of notice would not be required for registered persons who have not made any taxable supplies during the intervening period (i.e. from the date of registration to the date of application for cancellation of registration) and has furnished an undertaking to this effect.

Author's Note: As per amended Section 29(5) of CGST Act, 'Suspension' of registration serves the same purpose. However, this amendment is not yet brought into force and will be applicable for November 2019 Exams.

SUO-MOTO CANCELLATION BY DEPARTMENT – SECTION 29 OF CGST ACT, 2017 READ WITH RULE 21 & RULE 22 OF CGST RULES, 2017

REASONS FOR CANCELLATION – RULE 21 OF CGST RULES, 2017

- A registered person:
 - does *not conduct any business* from the declared place of business; OR
 - issues invoice or *bill without supply* of goods or services OR
 - violates the provisions of Section 171 (*Anti-Profiteering Clause*)
- Registration has been obtained by means of
 - *Fraud* OR
 - Willful *Misstatement* OR
 - *Suppression* of Facts
- Any person who has taken *voluntary registration* has *not commenced* business within *6 months* from the date of registration
- Any registered person has not furnished *returns* for a *continuous* period of
 - *6 months* for regular dealer OR
 - *3 quarters* for composition scheme dealer

PROCESS OF CANCELLATION – RULE 22 OF CGST RULES, 2017

Proper Officer shall serve SCN to Assessee before suo-moto cancellation

Assesse shall reply within 7 days of SCN

If reply is satisfactory, then Proper Officer shall drop the proceedings and pass an order in prescribed form

- If SCN for cancellation is for Non-Filing of Returns, then Assessee may instead of replying to SCN, shall furnish Pending Returns along with Payment of Tax, Interest & Late Fee.
- Proper Officer shall drop the proceedings.

If reply is NOT satisfactory, then Proper Officer shall issue an order of cancellation within 30 days of reply to SCN.

- Cancellation shall be effective from a date determined by Proper Officer
- Proper Officer shall direct the taxable person to pay pending arrears of tax, interest, penalty, etc.
- If PO has NOT cancelled registration within 30 days, it shall NOT be deemed to be cancelled.



RETURN

GOODS & SERVICE TAX PRACTITIONER (GSTP)

SECTION 48 OF CGST ACT, 2017 READ WITH RULE 83, RULE 83A & RULE 84 OF CGST RULES, 2017

STP	Particulars			
Validity	<p>→ Enrolment generally will remain <i>valid until cancelled</i>. However, to keep the enrollment valid, the GSTP has to <i>pass examinations</i> conducted in such periods as may be <i>notified</i> by the <i>Commissioner</i> on the recommendations of <i>Council</i>.</p>			
	Conduct of Examination	National Academy of Customs, Indirect Taxes and Narcotics (<i>NACIN</i>), Department of Revenue, Ministry of Finance, Government of India, shall conduct the examination.		
	Frequency of Examination	The examination shall be conducted <i>twice in a year</i> as per the schedule of the examination published by NACIN every year on the official websites of the Board, NACIN, Common Portal, GST Council Secretariat and in the leading English and regional newspapers.		
	Registration for Examination and Payment of Fees	<ul style="list-style-type: none"> (i) A person who is required to pass the examination shall <i>register online</i> on a website specified by NACIN. (ii) A person who registers for the examination shall <i>pay examination fee</i> as specified by NACIN, and the amount for the same and the manner of its payment shall be specified by NACIN on the official websites of the Board, NACIN and common portal. 		
	Examination Centres	The examination shall be held across <i>India</i> at the <i>designated centers</i> . The candidate shall be given an <i>option</i> to choose from list of centers as provided by NACIN.		
	Passing of Examination and No. of Attempts	<table border="1" style="width: 100%;"> <tr> <td style="padding: 5px;">Generally</td> <td style="padding: 5px;">A person enrolled as a GSTP is required to pass the examination within <i>2 years of enrolment</i>. However, if such person is enrolled as a GSTP before <i>1st of July 2018</i>, he shall get <i>1 more year</i> to pass the examination:</td> </tr> </table>	Generally	A person enrolled as a GSTP is required to pass the examination within <i>2 years of enrolment</i> . However, if such person is enrolled as a GSTP before <i>1st of July 2018</i> , he shall get <i>1 more year</i> to pass the examination:
Generally	A person enrolled as a GSTP is required to pass the examination within <i>2 years of enrolment</i> . However, if such person is enrolled as a GSTP before <i>1st of July 2018</i> , he shall get <i>1 more year</i> to pass the examination:			



		<p>STP or TRP (more than 5 Years)</p> <p>A person enrolled as a GSTP on his eligibility criteria that he was enrolled as a <i>Sales Tax Practitioner</i> (STP) or <i>Tax Return Preparer</i> (TRP) under the existing law for a period of not less than 5 years shall remain eligible to be enrolled ONLY if he <i>passes</i> the said examination within a period of 1 year 18 months from the appointed date.</p> <p>Notes:</p> <ul style="list-style-type: none"> (i) A person required to pass the examination may avail of <i>any number of attempts</i> but these attempts shall be <i>within the period</i> as specified above. (ii) A person shall <i>register</i> and <i>pay</i> the requisite fee <i>every time</i> he intends to appear at the examination. (iii) In case the GSTP having applied for appearing in the examination is <i>prevented</i> from availing one or more attempts due to <i>unforeseen circumstances</i> such as critical illness, accident or natural calamity, he may make a <i>request</i> in writing to the <i>jurisdictional Commissioner</i> for granting him <i>one additional attempt</i> to pass the examination, within <i>30 days</i> of conduct of the said examination. NACIN may consider such requests on <i>merits</i> based on <i>recommendations</i> of the jurisdictional <i>Commissioner</i>.
		<p>Nature of Examination</p> <p>The examination shall be a <i>Computer Based Test</i>. It shall have one question paper consisting of <i>Multiple Choice Questions</i>.</p>
		<p>Qualifying Marks</p> <p>A person shall be required to secure 50% of the total marks</p>
		<p>Guidelines for the Candidates</p> <p>NACIN shall issue examination guidelines covering issues such as procedure of registration, payment of fee, nature of identity documents, provision of admit card, manner of reporting at examination center, prohibition on possession of certain items in the examination center, procedure of making representation and the manner of its disposal.</p>
		<p>Disqualification of Person using Unfair Means or Practice</p> <p>If any person is or has been found to be indulging in use of unfair means or practices, NACIN may, after considering his representation, if any, declare him <i>disqualified</i> for the examination. An illustrative list of use of unfair means or practices by a person is as under:</p> <ul style="list-style-type: none"> (a) obtaining support for his candidature by any means; (b) impersonating; (c) submitting fabricated documents;

		<ul style="list-style-type: none"> (d) resorting to any unfair means or practices in connection with the examination or in connection with the result of the examination; (e) found in possession of any paper, book, note or any other material, the use of which is not permitted in the examination center; (f) communicating with others or exchanging calculators, chits, papers etc. (on which something is written); (g) misbehaving in the examination center in any manner; (h) tampering with the hardware and/or software deployed; and (i) attempting to commit or, as the case may be, to abet in the commission of all or any of the acts specified in the foregoing clauses.
	Declaration of Result	<p><i>NACIN</i> shall declare the results within <i>1 month</i> of the conduct of examination on the official websites of the Board, <i>NACIN</i>, GST Council Secretariat, Common Portal and State Tax Department of the respective States or Union territories, if any.</p> <p>The results shall also be communicated to the applicants by <i>e-mail</i> and/or by <i>post</i>.</p>
	Handling Representations	<p>A person <i>not satisfied</i> with his result may represent in <i>writing</i>, clearly specifying the reasons therein to <i>NACIN</i> or the <i>jurisdictional Commissioner</i> as per the procedure established by <i>NACIN</i> on the official websites of the Board, <i>NACIN</i> and Common Portal.</p>
	Power to Relax	<p>Where the <i>Board or State Tax Commissioner</i> is of the opinion that it is necessary or expedient to do so, it may, on the recommendations of the Council, <i>relax</i> any of the provisions of this rule with respect to any <i>class or category</i> of persons.</p>



E-WAY BILL

E-WAY BILL

SECTION 68 OF CGST ACT, 2017 READ WITH RULE 138 OF CGST RULES, 2017

Exemption from Generation of E-Way Bill (EWB)	Goods-Based Exemption	<ul style="list-style-type: none"> (i) where the goods being transported are <i>specified</i> as follows: <ul style="list-style-type: none"> (a) Liquefied Petroleum Gas (<i>LPG</i>) for supply to <i>household</i> customers and <i>non-domestic exempted category</i> (NDEC) customers (b) <i>Empty Cylinders</i> for packing of Liquefied Petroleum Gas (<i>LPG</i>) are being moved for <i>reasons other than supply</i> (c) <i>Kerosene oil</i> sold under <i>Public Distribution System</i> (PDS) (d) <i>Postal baggage</i> transported by Department of Posts (e) Used <i>personal and household</i> effects (for example shifting of furniture to new home) (f) <i>Currency</i> (g) <i>Coral</i> (unworked – 0508 or worked - 9601) (h) Natural or cultured <i>pearls</i> and <i>precious or semi-precious stones; precious metals</i> and metals clad with precious metal – Chapter 71 (i) <i>Jewellery</i>, goldsmiths' and silversmiths' wares and other articles - Chapter 71 (ii) where the supply of goods being transported is treated as <i>no supply</i> under <i>Schedule III</i> of the Act; (iii) where the goods being transported are <ul style="list-style-type: none"> (a) <i>Alcoholic Liquor for Human Consumption</i>, (b) <i>Petroleum Crude, High Speed Diesel, Motor Spirit</i> (commonly known as petrol), <i>Natural Gas or Aviation Turbine Fuel</i>; (iv) where <i>empty cargo containers</i> are being transported;
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		(v) where the goods, <i>other than de-oiled cake</i> , being transported, are <i>specified</i> in the Schedule appended to NN 2/2017-CT(Rate) – General Exemption Notification on Goods (vi) where the goods being transported are <i>exempt from tax</i> under NN 7/2017-CT (Rate) and NN 26/2017-CT (Rate) – Special Exemption Notification on Goods
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Clarification regarding E-Way Bill – CBIC Circular 47/21/2018 – CGST

Issue	In case of transportation of goods by <i>railways</i> , whether goods can be delivered even if the <i>E-Way Bill</i> is NOT produced at the time of <i>delivery</i> ?
Clarification	Railways shall NOT deliver the goods <i>unless the E-Way Bill</i> is produced at the time of delivery

Issue	(i) Where goods <i>transit through another State</i> while moving from <i>one area in a State to another area in the same State</i> ? (ii) Where goods move from a <i>DTA unit to a SEZ unit</i> or vice versa located in the <i>same State</i> ?
Clarification	E-Way Bill generation is NOT dependent on whether a <i>supply is inter-State or not</i> , but on whether the <i>movement</i> of goods is <i>inter-State or not</i> . (i) If consignment value > <i>Rs.50,000 for inter-State movement</i> in first case, then E-Way Bill is required to be generated. (ii) If consignment value > <i>prescribed threshold for intra-State movement</i> in second case in respective State, then E-Way Bill is required to be generated.

E-Way Bill in “Bill To Ship To” Model – CBIC Press Release dated 23-04-2018

Issue	In a “Bill To Ship To” model of supply, there are three persons involved in a transaction, namely: 'A' is the person who has ordered 'B' to send goods directly to 'C'. 'B' is the person who is sending goods directly to 'C' on behalf of 'A'. 'C' is the recipient of goods.
Clarification	In this complete scenario, two supplies are involved and accordingly two tax invoices are required to be issued: Invoice -1: which would be issued by 'B' to 'A'. Invoice -2: which would be issued by 'A' to 'C'. It is clarified that as per the CGST Rules, 2017, either A or B can generate the E-Way Bill but it may be noted that only one E-Way Bill is required to be generated.



(1) Documents and Devices to be carried by a Person-In-Charge (PIC) of a Conveyance – Rule 138A of CGST Rules, 2017

S. No.	Documents to Carry	Alternatively
1.	<p>BASE DOCUMENT</p> <ul style="list-style-type: none"> → Invoice OR Bill of Supply (in case where movement is for <i>Supply</i>) → Delivery Challan (in case where movement is for reasons <i>other than Supply</i>) → Bill of Entry (in case of where movement is of <i>Imported Goods</i>) 	<ul style="list-style-type: none"> → A <i>registered person</i> may upload the Tax Invoice issued by him in FORM GST INV-1 and obtain an <i>Invoice Reference Number</i> (IRN) and produce the same <i>in lieu of the Tax Invoice</i> and such number shall be valid for a period of <i>30 days</i> from the date of uploading. → Where the <i>registered person</i> uploads the invoice, the information in Part A of FORM GST EWB-01 shall be auto-populated by the common portal on the basis of the information furnished in FORM GST INV-1.
2.	<p>SUPPORTING DOCUMENT</p> <ul style="list-style-type: none"> → Copy of the E-Way Bill OR the E-Way Bill Number, either <ul style="list-style-type: none"> ▪ physically OR ▪ mapped to a Radio Frequency Identification Device embedded on to the conveyance <p>Note: However, the above is NOT required in case of movement of goods <i>by railways or air or vessel</i>.</p>	<ul style="list-style-type: none"> → Commissioner may, by notification, require a <i>class of transporters</i> to obtain a <i>Unique Radio Frequency Identification Device</i> and get the said device <i>embedded</i> on to the <i>conveyance</i> and <i>map</i> the <i>E-Way Bill</i> to the Radio Frequency Identification Device <i>prior</i> to the movement of goods. → Where circumstances so warrant, the Commissioner may, by notification, require the <i>person-in-charge</i> of the conveyance to transport the goods <i>without e-way bill</i> but along with the following <i>documents</i>: <ul style="list-style-type: none"> ▪ Tax Invoice / Bill of Supply, where the goods are <i>supplied</i> OR Bill of Entry, where the goods are <i>imported</i>; or ▪ Delivery Challan, where the goods are transported for reasons <i>other than by way of supply</i>.

(2) Verification of Documents & Conveyance, Inspection & Verification of Goods and Detention of Vehicle – Rule 138B, Rule 138C & Rule 138D of CGST Rules, 2017

S. No.	Head	Particulars	
1.	Verification of E-Way Bill	<i>Manual</i>	→ <i>Authorized Proper Officer</i> can intercept any conveyance to verify the <i>e-way bill OR the e-way bill number</i> for all inter-State and intra-State movement of goods.
		<i>Electronic</i>	→ <i>Radio Frequency Identification Device Readers</i> shall be installed at certain identified areas. → Verification of movement of vehicles shall be done through such device readers where the <i>e-way bill has been mapped</i> with the said device.
2.	Physical Verification of Conveyance	<i>General Cases</i>	→ <i>Authorized Proper Officer</i> (authorized by Commissioner) or an officer authorized by him in this behalf, can carry out <i>physical verification</i> of conveyances
		<i>On receipt of specific information on evasion of tax</i>	→ <i>Any officer</i> after obtaining necessary approval of the Commissioner OR an officer authorized by him in this behalf
3.	Reporting of Verification of Goods by the Proper Officer	<i>Summary Report</i>	→ <i>Summary Report</i> of every inspection of goods in transit shall be recorded <i>online</i> by the proper officer in Part A of FORM GST EWB-03 within <i>24 hours of inspection</i> .
		<i>Final Report</i>	→ <i>Final Report</i> in Part B of FORM GST EWB-03 shall be recorded within <i>3 days</i> of such inspection which can further be <i>extended</i> by the <i>Commissioner</i> for another <i>3 days</i> . It is important to note that <i>day</i> shall be counted from the <i>midnight of the date</i> on which vehicle was intercepted.
<p>Note: Where the <i>physical verification</i> of goods being transported on any conveyance has been done <i>during transit</i> at one place</p> <ul style="list-style-type: none"> ▪ within the State OR in any other State, ▪ <i>no further physical verification</i> of the said conveyance shall be carried out again in the State, <i>unless a specific information</i> relating to evasion of tax is made available <i>subsequently</i>. 			

4.	Reporting by the Transporter	Where a vehicle has been <i>intercepted and detained</i> for a period <i>exceeding 30 minutes</i> , the transporter may upload the said information in FORM GST EWB-04.
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Clarification regarding E-Way Bill – CBIC Circular 49/23/2018 – CGST

Issue	As per Rule 138C(2), where the <i>physical verification</i> of goods being transported on any conveyance has been done during transit at <i>one place within a State</i> or Union territory or in any other State or Union territory, <i>no further physical verification</i> of the said conveyance shall be carried out again in the State or Union territory, <i>unless a specific information</i> relating to evasion of tax is made available subsequently. Since the requisite FORMS are <i>not available</i> on the common portal currently, any <i>action</i> initiated by the <i>State Tax Officers</i> is NOT being <i>intimated</i> to the <i>Central Tax Officers</i> and vice-versa, doubts have been raised as to the procedure to be followed in such situations.
Clarification	<ul style="list-style-type: none"> ➔ It is clarified that the <i>hard copies</i> of the notices / orders issued in the specified FORMS by a tax authority may be shown as <i>proof of initiation of action</i> by a tax authority by the transporter / registered person to another tax authority as and when required. ➔ Further, it is clarified that ONLY such <i>goods and / or conveyances</i> should be <i>detained / confiscated</i> in respect of which there is a <i>violation</i> of the provisions of the GST Acts or the rules made thereunder. Illustration: Where a conveyance carrying 25 <i>consignments</i> is intercepted and the person-in-charge of such conveyance produces <i>valid e-way bills</i> and/or other relevant documents in respect of 20 <i>consignments</i>, but is <i>unable to produce</i> the same with respect to the remaining 5 <i>consignments</i>, <i>detention / confiscation</i> can be made only with respect to the 5 <i>consignments</i> and the <i>conveyance</i> in respect of which the <i>violation</i> of the Act or the rules made thereunder has been <i>established</i> by the proper officer.



(3) Consequences of Non-Generation of E-Way Bill (EWB) – Section 122 & Section 129 of CGST Act, 2017

S. No.	Head	Particulars									
1.	Penalty as per Section 122(1)(xiv)	As per Section 122(1)(xiv) of CGST Act a taxable person who <i>transports</i> any taxable goods <i>without</i> the cover of specified documents (EWB is one of the specified document) shall be liable to a penalty of Rs.10,000 or tax to be evaded , whichever is greater.									
-2.	Penalty as per Section 129	<p>Further, in case any goods are moving <i>without EWB</i> or where the details are <i>partially declared</i>, the proper officer has proper authority to <i>detain or seize such conveyance or goods</i>, and such shall be released after the payment of applicable tax or penalty as provided under Section 129 of CGST Act, 2017.</p> <table border="1"> <thead> <tr> <th>Description</th><th>Taxable Goods</th><th>Exempted Goods</th></tr> </thead> <tbody> <tr> <td>Owner of goods comes forward for payment</td><td>Payment of applicable tax AND penalty equal to <i>100% of tax payable</i> on such goods</td><td><i>Penalty of 2% of the value of goods</i> or Rs.25,000, whichever is less</td></tr> <tr> <td>Owner of goods does not come forward for payment</td><td>Payment of applicable tax AND penalty equal to <i>50% of value of goods reduced by tax amount paid</i> thereon</td><td><i>Payment of 5% of the value of goods</i> or Rs.25,000, whichever is less</td></tr> </tbody> </table>	Description	Taxable Goods	Exempted Goods	Owner of goods comes forward for payment	Payment of applicable tax AND penalty equal to <i>100% of tax payable</i> on such goods	<i>Penalty of 2% of the value of goods</i> or Rs.25,000 , whichever is less	Owner of goods does not come forward for payment	Payment of applicable tax AND penalty equal to <i>50% of value of goods reduced by tax amount paid</i> thereon	<i>Payment of 5% of the value of goods</i> or Rs.25,000 , whichever is less
Description	Taxable Goods	Exempted Goods									
Owner of goods comes forward for payment	Payment of applicable tax AND penalty equal to <i>100% of tax payable</i> on such goods	<i>Penalty of 2% of the value of goods</i> or Rs.25,000 , whichever is less									
Owner of goods does not come forward for payment	Payment of applicable tax AND penalty equal to <i>50% of value of goods reduced by tax amount paid</i> thereon	<i>Payment of 5% of the value of goods</i> or Rs.25,000 , whichever is less									

Example 1: Payment when Owner comes forward for Payment for Taxable Goods

Particulars	Payment
Value of Goods – Rs.10,00,000 & GST @ 5% Rs.50,000	Tax – Rs.50,000 Penalty – Rs.50,000

Example 3: Payment when Owner comes forward for Payment for Exempt Goods

Example 2: Payment when Owner does NOT comes forward for Payment for Taxable Goods

Particulars	Payment
Value of Goods – Rs.10,00,000 & GST @ 5% Rs.50,000	Tax – Rs.50,000 Penalty – Rs.4,50,000 $((50\% * 10,00,000) - Rs.50,000)$

Example 4: Payment when Owner does NOT comes forward for Payment for Exempt Goods

Particulars	Payment	Particulars	Payment
Value of Goods – Rs.10,00,000	Penalty – Rs.20,000 ((2% * 10,00,000) OR Rs.25,000, whichever is less)	Value of Goods – Rs.10,00,000	Penalty – Rs.25,000 ((5% * 10,00,000) OR Rs.25,000, whichever is less)

Clarification regarding Proceedings under Section 129 – CBIC Circular 64/38/2018 – CGST

Issue	<p>It has been informed that proceedings under Section 129 of the CGST Act are being initiated for every mistake in the documents.</p>
Clarification	<p>→ Proceedings under Section 129: In case a consignment of goods is accompanied by an Invoice / Bill of Supply / Delivery Challan / Bill of Entry and NOT an <i>E-Way Bill</i>, proceedings under Section 129 of the CGST Act may be initiated.</p> <p>→ Proceedings under Section 125: In case a consignment of goods is accompanied with an Invoice / Bill of Supply / Delivery Challan / Bill of Entry and a <i>valid E-Way Bill</i>, proceedings under <i>Section 129</i> of the CGST Act may NOT be initiated, <i>inter alia</i>, in the following situations:</p> <ul style="list-style-type: none"> (a) <i>Spelling mistakes</i> in the <i>name</i> of the consignor or the consignee but the <i>GSTIN</i>, wherever applicable, is <i>correct</i>; (b) Error in the <i>PIN code</i> but the <i>address</i> of the consignor and the consignee mentioned is <i>correct</i>, subject to the condition that the error in the PIN code should NOT have the effect of <i>increasing the validity</i> period of the e-way bill; (c) Error in the <i>address</i> of the <i>consignee</i> to the extent that the <i>locality and other details</i> of the consignee are <i>correct</i>; (d) Error in <i>4 or 6 digit</i> level of <i>HSN</i> where the <i>first 2 digits</i> of HSN are <i>correct</i> and the <i>rate of tax</i> mentioned is <i>correct</i>; (e) Error in <i>1 or 2 digits</i> of the <i>document number</i> mentioned in the e-way bill; (f) Error in <i>1 or 2 digits/characters</i> of the <i>vehicle number</i>. <p>In case of the above situations, penalty to the tune of <i>Rs.500/- each</i> under <i>Section 125</i> of the CGST Act and the respective State GST Act should be imposed (<i>Rs.1000/- under the IGST Act</i>) in FORM GST DRC-07 for every consignment. A record of <i>all such consignments</i> where proceedings under <i>Section 129</i> have NOT been invoked in view of the situations listed above shall be sent by the <i>proper officer to his controlling officer</i> on a <i>weekly basis</i>.</p>

TDS & TCS

TAX DEDUCTED AT SOURCE & TAX COLLECTED AT SOURCE SECTION 51 & SECTION 52 OF CGST ACT, 2017

Particulars	Tax Deducted at Source (TDS) Section 51	Tax Collected at Source (TCS) Section 52
Who has to pay TDS / TCS?	<p>(a) Department / Establishment of the Central Government / State Government (However, TDS provisions are applicable ONLY to <i>Notified Authorities under Ministry of Defense</i>)</p> <p>(b) Local Authority</p> <p>(c) Governmental Agencies</p> <p>(d) Other Notified Persons as follows</p> <ul style="list-style-type: none"> (i) Authority or Board or any other body, - <ul style="list-style-type: none"> a. set up by an Act of Parliament or a State Legislature; or b. established by any Government, with 51% or more participation by way of equity or control, to carry out any function; (ii) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860; (iii) Public Sector Undertakings 	<p>Electronic Commerce Operator – ECO (not being an agent) in a case where:</p> <ul style="list-style-type: none"> → Goods or services are supplied through an ECO and → the payment for such supply is collected by the ECO.
Applicability of TDS / TCS	Where the Total Value of Supply under a contract exceeds Rs.2.50 lakhs (Value <i>excludes</i> GST and Cess). Although,	“Net Value of Taxable Supplies” of the other suppliers are <i>collected</i> by ECO.



	<p>individual supplies may be less than Rs.2.50 lakhs but if Total Value of Supply under a single contract is more than Rs.2.50 lakhs, TDS will have to be deducted by notified recipients as mentioned in above point.</p> <p>Note: TDS needs to be deducted even if the supplier is unregistered, but for taxable supplies.</p>	<p>Net Value of Taxable Supplies = Aggregate Value of all Taxable Supplies of the month <i>minus</i> Supplies under Section 9(5) of the month <i>minus</i> Supplies Returned to the Supplier during the month</p>
Non-Applicability of TDS / TCS	<p>No deduction of TDS is required when:</p> <ul style="list-style-type: none"> → Location of Supplier and Place of Supply are in State / UT 'A' (say Maharashtra) and → Location of Recipient is in State / UT 'B' (say Bihar) 	-
Rate of TDS / TCS	<ul style="list-style-type: none"> → 1% CGST + 1% SGST (Intra-State Supplies) → 2% IGST (Inter-State Supplies) 	<ul style="list-style-type: none"> → Maximum Rate: 1% CGST + 1% SGST (Intra-State Supplies) Notified Rate: 0.5% CGST + 0.5% SGST (Intra-State Supplies) → Maximum Rate: 2% IGST (Inter-State Supplies) Notified Rate: 1% IGST (Inter-State Supplies)
Payment on Accrual basis / Payment basis	<p>Deduction to be made on Payment basis i.e. when payment is made to the supplier (NOT on Accrual Basis like Income Tax)</p>	<p>Collection to be made on Accrual basis i.e. when supply is made through ECO during the month</p>
Registration by TDS Deductor / TCS Collector	<ul style="list-style-type: none"> → TDS Deductor has to compulsorily register <i>without any threshold limit</i>. → TDS Deductor can obtain registration under GST even without a PAN. He can obtain registration using his Tax Deduction and Collection Account Number (TAN) issued under the Income Tax Act, 1961. <p>Note: TDS Registration / TCS Registration shall be taken as a separate registration apart from Normal Registration taken by the assessee.</p>	<ul style="list-style-type: none"> → ECO as well as the supplier supplying goods or services through an operator need to compulsorily register under GST. → The threshold limit of Rs.20 lakhs (Rs.10 lakhs for Special Category States) is NOT applicable to them.
Due date for Payment of TDS / TCS	<p>TDS has to be paid <i>within 10 days</i> after the end of the <i>month</i> in which deduction was made</p> <p>NN 9/2017 – CT (Rate): Intra-State Supply of Goods / Services from Unregistered Supplier to TDS Registered Person is exempted from RCM under Section 9(4) of CGST</p>	<p>TCS has to be paid <i>within 10 days</i> after the end of the <i>month</i> in which collection was made</p>

	Act, 2017. This exemption is ONLY for <i>intra-state supply</i> and NOT for <i>inter-state supply</i> .	
Certificate	<p>TDS Certificate to be furnished in FORM GSTR-7A within 5 days of crediting the amount to Government containing the following particulars:</p> <ul style="list-style-type: none"> → Contract Value, → Rate of Deduction, → Amount Deducted and → Amount Paid to the Government 	-
Filing of Monthly Return / Monthly Statement	<p>Monthly Return</p> <p>→ Deductor shall furnish Monthly Return in FORM GSTR-7 within 10 days after the end of the <i>month</i> in which deductions have been made.</p> <p>Notes:</p> <ul style="list-style-type: none"> ▪ The details of TDS furnished by the deductor in FORM GSTR-7 shall be made available electronically to each of the suppliers in Part C of FORM GSTR-2A (Regular Dealer) / FORM GSTR-4A (Composition Scheme Dealer) on the common portal after the due date of filing of FORM GSTR-7. ▪ The said supplier may include the same in its FORM GSTR-2 (Regular Dealer) / FORM GSTR-4 (Composition Scheme Dealer). ▪ The supplier can take this amount as credit in his Electronic Cash Register and use the same for payment of tax or any other liability. 	<p>Monthly Statement</p> <p>→ ECO shall furnish a Monthly Statement in FORM GSTR-8 within 10 days after the end of the month in which tax has been collected, containing the details of:</p> <ul style="list-style-type: none"> ▪ supplies of goods or services effected <i>through</i> ECO, ▪ the supplies of goods or services or both returned through it and the ▪ amount of tax collected at source <p>Notes:</p> <ul style="list-style-type: none"> ▪ The details of TCS furnished by the ECO in FORM GSTR-8 shall be made available electronically to each of the suppliers in Part C of FORM GSTR-2A on the common portal after the due date of filing of FORM GSTR-8. ▪ Such suppliers may include the same in their FORM GSTR-2. ▪ The supplier can take this amount as credit in his Electronic Cash Register and use the same for payment of tax or any other liability.



Filing of Statement	-	E-statement <i>before 31st December</i> following the end of FY containing details of: <ul style="list-style-type: none"> → Outward Supplies of goods or services or both effected through it, → Supplies of goods or services or both returned through and → Amount collected
Rectification	-	After furnishing the monthly statement if any omission or incorrect particulars therein are discovered <i>other than as a result of</i> <ul style="list-style-type: none"> → scrutiny, → audit, → inspection or → enforcement activity by the tax authorities, such omission or incorrect particulars shall be rectified in the statement to be furnished for the <i>month during which such omission or incorrect particulars</i> are noticed, subject to payment of interest Rectification shall NOT be allowed after <ul style="list-style-type: none"> → the due date for furnishing of statement for the month of September following the end of the Financial Year or → the actual date of furnishing of the relevant annual statement, whichever is earlier.
Interest	Interest (Maximum 18%) under Section 50(1)	-
Late Fees for CGST (Equal Amount for SGST)	<p style="text-align: center;"><i>Delay in Filing of Return:</i></p> Rs.100 / day during which failure continues (<i>Maximum Late Fees – Rs.5,000</i>) <p style="text-align: center;"><i>Delay in Furnishing of Certificate:</i></p>	<p style="text-align: center;"><i>Delay in Filing of Return:</i></p> Rs.100 / day during which failure continues (<i>Maximum Late Fees – Rs.5,000</i>) (As per CBIC FAQs) <p style="text-align: center;"><i>Delay in Furnishing of Certificate:</i></p>

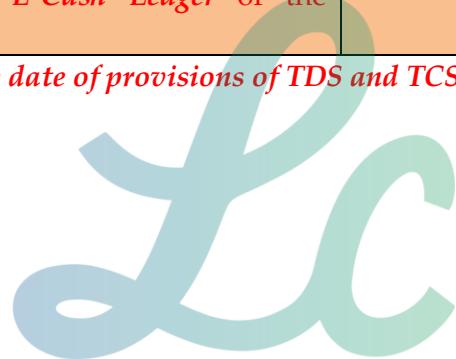




	Rs.100 / day for non-furnishing of Certificate to Deductee within 5 days of crediting the amount so deducted to Government (<i>Maximum Late Fees – Rs.5,000</i>)	No concept of Certificate and thus, no Late Fees is NO applicable.				
Consequences of not deducting TDS / not collecting TCS	<p>Section 122: Penalty for Non-Deduction / Short-Deduction / Non-Payment of Deducted Amount is <i>higher of</i></p> <ul style="list-style-type: none"> ▪ Rs.10,000 OR ▪ TDS not deducted / TDS short deducted / TDS deducted but not paid 	<p>Section 122: Penalty for Non-Collection / Short- Collection / Non-Payment of Collected Amount is <i>higher of</i></p> <ul style="list-style-type: none"> ▪ Rs.10,000 OR ▪ TCS not collected / TCS short collected / TCS collected but not paid 				
Claim by Deductee / Supplier	TDS so deducted shall reflect in <i>E-Cash Ledger</i> of the deductee after the deductor has filed his TDS Returns	TCS so collected shall reflect in <i>E-Cash Ledger</i> of the supplier after ECO has furnished the Statement				
Matching – Rule 78 & Rule 79	-	<p>The details of supplies furnished by every ECO shall be matched with the corresponding details of <i>outward supplies</i> furnished by the <i>concerned supplier</i>.</p> <p>Where the details do NOT match, the discrepancy shall be communicated to both persons and if discrepancies are not rectified in the month of communication:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center; padding: 5px;">Where ECO Statement > Supplier Return</th> <th style="text-align: center; padding: 5px;">Where ECO Statement < Supplier Return</th> </tr> </thead> <tbody> <tr> <td style="text-align: left; padding: 5px;"> <ul style="list-style-type: none"> ▪ Added to the <i>Output Tax liability</i> of the said <i>Supplier</i>. ▪ Supplier to discharge the above amount with <i>interest</i> </td> <td style="text-align: center; padding: 5px;">-</td> </tr> </tbody> </table>	Where ECO Statement > Supplier Return	Where ECO Statement < Supplier Return	<ul style="list-style-type: none"> ▪ Added to the <i>Output Tax liability</i> of the said <i>Supplier</i>. ▪ Supplier to discharge the above amount with <i>interest</i> 	-
Where ECO Statement > Supplier Return	Where ECO Statement < Supplier Return					
<ul style="list-style-type: none"> ▪ Added to the <i>Output Tax liability</i> of the said <i>Supplier</i>. ▪ Supplier to discharge the above amount with <i>interest</i> 	-					
Calling for Information	-	<p>→ Any authority not below the rank of <i>Deputy Commissioner</i> may serve a notice requiring ECO to furnish the details relating to:</p> <ul style="list-style-type: none"> ▪ <i>supplies effected through such ECO</i> during any period; ▪ stock of goods held in the <i>godowns or warehouses managed by such ECO</i> and declared as <i>additional</i> 				

		<p><i>places of business by suppliers supplying through such ECO.</i></p> <ul style="list-style-type: none"> → ECO to furnish the above information in 15 days → In case of failure on part of ECO to furnish required information, penalty may extend upto Rs.25,000.
Demand & Refund	<ul style="list-style-type: none"> → Demand and Refund shall be dealt with corresponding provisions (i.e. Section 73 / 74 and Section 54) → In case of <i>excess / erroneous deductions, refund</i> shall be granted to the Deductor / Deductee. → <i>No refund</i> shall be granted to the Deductor, if the amount is <i>credited</i> to the <i>E-Cash Ledger</i> of the Deductee. 	-

The effective date of provisions of TDS and TCS is 01/10/2018





IGST ACT, 2017

Clarification regarding SEZ – CBIC Circular 48/22/2018 – CGST

Issue	Whether services of <i>short-term accommodation</i> , conferencing, banqueting etc. provided TO a Special Economic Zone (SEZ) developer or a SEZ unit should be treated as an <i>inter-State supply</i> (under Section 7(5)(b) of the IGST Act, 2017) or an <i>intra-State supply</i> (under Section 12(3)(c) of the IGST Act, 2017)?
Clarification	<ul style="list-style-type: none"> ▪ As per <i>Section 7(5)(b)</i> of IGST Act, 2017, the <i>supply of goods or services</i> or both TO a <i>SEZ</i> developer or a <i>SEZ</i> unit shall be treated to be a supply of goods or services or both in the course of <i>inter-State</i> trade or commerce. ▪ As per Section 12(3)(c) of IGST Act, 2017, the <i>place of supply</i> of services by way of <i>accommodation</i> in any immovable property for organising any functions shall be the location at which the <i>immovable property</i> is located. Thus, in such cases, if the <i>location of the supplier</i> and the <i>place of supply</i> is in the <i>same State / Union territory</i>, it would be treated as an <i>intra-State supply</i>. ▪ It is an established principle of interpretation of statutes that in case of an apparent conflict between two provisions, the <i>specific provision</i> shall prevail over the <i>general provision</i>. In the instant case, <i>Section 7(5)(b)</i> of the IGST Act is a <i>specific provision</i> relating to supplies of goods or services or both made TO a <i>SEZ</i> developer or a <i>SEZ</i> unit, which states that such supplies shall be treated as <i>inter-State supplies</i>. ▪ It is therefore, clarified that services of short term accommodation, conferencing, banqueting etc., provided to a <i>SEZ</i> developer or a <i>SEZ</i> unit shall be treated as an <i>inter-State supply</i>.
Issue	Whether the benefit of <i>zero rated supply</i> can be allowed to all <i>procurements by a SEZ developer or a SEZ unit</i> such as event management services, hotel and accommodation services, consumables etc?

Clarification	<ul style="list-style-type: none">▪ As per <i>Section 16(1)</i> of the IGST Act, “zero rated supplies” means supplies of goods or services or both TO a SEZ developer or a SEZ unit.▪ Section 16(3) of the IGST Act provides for <i>refund to a registered person making zero rated supplies</i> under Bond / LUT OR on payment of integrated tax, subject to such conditions, safeguards and procedure as may be prescribed.▪ As per the second proviso to <i>Rule 89(1)</i> of the CGST Rules, 2017, in respect of supplies TO a SEZ developer or a SEZ unit, the <i>application for refund</i> shall be filed by the:<ol style="list-style-type: none">(a) <i>supplier of goods</i> after such goods have been admitted in full in the <i>SEZ for authorized operations</i>, as endorsed by the <i>specified officer</i> of the Zone;(b) <i>supplier of services</i> along with such evidences regarding receipt of services for <i>authorized operations</i> as endorsed by the <i>specified officer</i> of the Zone.▪ A conjoint reading of the above legal provisions reveals that<ol style="list-style-type: none">(a) the supplies TO a SEZ developer or a SEZ unit shall be <i>zero rated</i> and(b) the supplier shall be <i>eligible for refund</i> of unutilized input tax credit OR integrated tax paid, as the case may be, ONLY if such supplies have been received by the SEZ developer or SEZ unit for <i>authorized operations</i>. An <i>endorsement</i> to this effect shall have to be issued by the specified officer of the Zone.▪ Therefore, subject to the provisions of Section 17(5) of the CGST Act, if event management services, hotel, accommodation services, consumables etc. are received by a SEZ developer or a SEZ unit for authorised operations, as endorsed by the specified officer of the Zone, the benefit of zero rated supply shall be available in such cases to the supplier.
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ACCOUNTS & RECORDS

ACCOUNTS & RECORDS

SECTION 35 & SECTION 36 OF CGST ACT, 2017 READ WITH RULE 56, RULE 57 & RULE 58 OF CGST RULES, 2017

Maintenance of Accounts & Records by Unregistered Person and their Enrolment	The following persons , <i>whether or not registered</i> , need to maintain prescribed records:	
	Class of Persons	Records to be Maintained
	Owner or operator of Warehouse / Godown / Any Place used for storage of goods	<p>Details of</p> <ul style="list-style-type: none"> → consignor → consignee → goods <p>(a) the <i>period</i> for which particular goods remain in the <i>warehouse</i>, including the particulars relating to <i>dispatch, movement, receipt and disposal</i> of such goods.</p> <p>(b) the goods to be stored in such manner that they can be identified <i>item-wise and owner-wise</i> and shall facilitate any <i>physical verification or inspection</i> by the <i>proper officer</i> on demand.</p>
	Transporter	<p>At each of its <i>branches</i>, the details of goods:</p> <ul style="list-style-type: none"> → transported, → delivered and → goods stored in transit

	along with <i>GSTIN</i> of the <i>registered</i> consigner and consignee.
Enrollment Process:	
(1) <i>Unregistered Transporter / Unregistered Warehouse-keeper – Mandatory Centralized Enrollment</i>	<ul style="list-style-type: none"> → Above persons SHALL submit the details regarding their <i>business electronically</i> on common portal in FORM GST ENR-01. Upon validation of details furnished, a <i>Unique Enrolment Number</i> shall be generated and communicated. → Person enrolled in <i>any other State / Union Territory</i> shall be <i>deemed</i> to be enrolled in the <i>State / Union Territory</i> i.e. Unique Enrolment Number is common for all States. → Every person enrolled shall, where required, amend the details furnished in FORM GST ENR-01 electronically on the common portal.
(2) <i>Registered Transporter (Registered in Multiple States) – Optional Centralized Enrollment</i>	<ul style="list-style-type: none"> → For the purposes of E-Way Bill, a transporter who is registered in more than one State or Union Territory having the same Permanent Account Number, he MAY apply for a <i>Unique Common Enrolment Number</i> by submitting the details in FORM GST ENR-02 using any <i>one</i> of his <i>GSTIN</i>, and upon validation of the details furnished, a <i>Unique Common Enrolment Number</i> shall be generated and communicated to the said transporter: → Where the said transporter has obtained a <i>Unique Common Enrolment Number</i>, he shall NOT be eligible to use any of the <i>GSTIN</i> for the purposes of the <i>E-Way Bill</i> i.e. he shall use ONLY his <i>Unique Common Enrolment Number</i> for E-Way Bill.

Clarification on maintenance of Books of Accounts relating to Additional Place of Business in case of Private Treaty –CBIC Circular 47/21/2018 – CGST

Issue	In case of auction of tea, coffee, rubber etc., whether the books of accounts are required to be maintained at <i>every place of business by the principal and the auctioneer?</i>
Clarification	The principal and the auctioneer for the purpose of <ul style="list-style-type: none"> (a) <i>auction</i> of tea, coffee, rubber etc., or (b) supply of tea through a <i>private treaty</i>, shall <i>intimate their jurisdictional officer</i> in writing about the maintenance of <i>books</i> of accounts relating to the additional place(s) of business at their <i>principal place of business</i> .

Note: Circular 23/23/2017 allowed the above facility only for supply through auction, now the same facility is extended to private treaties as well.

Storing of Goods in Godown of Transporter – CBIC Circular 61/35/2018 – CGST

Issue	<p>Textile traders use <i>transporters' godown</i> for <i>storage</i> of their goods due to their weak financial conditions. The transporters providing such <i>warehousing facility</i> will have to get themselves <i>registered under GST</i> and maintain <i>detailed records</i> in case where the transporter takes <i>delivery</i> of the goods and <i>temporarily stores</i> them in his warehouse for <i>further transportation</i> of the goods till the consignee / recipient taxpayer's premises (i.e. additional responsibility as a warehouse-keeper under Rule 58). The transport industry is facing difficulties due to the same and a request has been made to treat these godowns as transit godowns.</p>	
Clarification	<i>Place of Business</i>	Section 2(85) of the CGST Act, 2017 defines the “place of business” to include “a place from where the business is ordinarily carried out, and includes a <i>warehouse, a godown or any other place</i> where a taxable person stores his goods, supplies or receives goods or services or both”
	<i>Additional Place of Business</i>	The place of business from where taxpayer carries out business related activities <i>within the State</i> , in addition to the principal place of business.
	<i>Declaration of Additional Place of Business</i>	<ul style="list-style-type: none"> ▪ In case the <i>consignee / recipient taxpayer</i> stores his goods in the godown of the transporter, then the <i>transporter's godown</i> has to be declared as an <i>additional place of business</i> by the recipient taxpayer. ▪ In such cases, <i>mere declaration</i> by the <i>recipient taxpayer</i> to this effect with the concurrence of the <i>transporter</i> in the said declaration will suffice (i.e. Rental agreement etc. is not required as a document for declaring “additional place of business”)
	<i>E-Way Bill</i>	<p>(a) Where the <i>transporter's godown</i> has been declared as the <i>additional place of business</i> by the <i>recipient taxpayer</i>,</p> <ul style="list-style-type: none"> ▪ the transportation under the <i>e-way bill</i> shall be <i>deemed to be concluded</i> once the goods have reached the <i>transporter's godown</i> (i.e. recipient taxpayer's additional place of business). ▪ Also, e-way bill validity in such cases will NOT be required to be extended. <p>(b) Whenever the goods <i>move</i> from the <i>transporter's godown</i> (i.e. recipient taxpayer's additional place of business) to the recipient taxpayer's any other place of business or <i>elsewhere</i>,</p> <ul style="list-style-type: none"> ▪ a <i>valid e-way bill</i> shall be required, as per the extant State-specific e-way bill rules.



	<i>Accounts & Records by Transporter cum Warehouse-keeper</i>	The obligation of the transporter to maintain accounts and records as specified in Section 35 of the CGST Act, 2017 read with Rule 58 of the CGST Rules, 2017 shall continue as a warehouse-keeper (i.e. No relaxation provided for Accounts and Records to be maintained)
	<i>Accounts & Records by Recipient Taxpayer</i>	<ul style="list-style-type: none"> ▪ Maintain accounts and records as required under Rule 56 and Rule 57 of the CGST Rules, 2017. ▪ Furthermore, as per Rule 56 (7), books of accounts in relation to <i>goods stored</i> at the <i>transporter's godown</i> (i.e., the recipient taxpayer's additional place of business) by the recipient taxpayer may be <i>maintained</i> by him at his <i>principal place of business</i>. (Similar to goods stored by principal / auctioneer / buyer in case of supply of tea, coffee, rubber etc. through auction / private treaty)
	<i>Conclusion</i>	<p>It may be noted that the facility of declaring additional place of business by the recipient taxpayer is in <i>no</i> way putting any <i>additional compliance</i> requirement on the <i>transporters</i>.</p> <p><u>Author's Note:</u></p> <ul style="list-style-type: none"> ▪ Even though there is no additional compliance on the transport sector due to declaration as an additional place of business by the recipient taxpayer, the <i>transporter</i> has to maintain <i>records</i> that of a <i>warehouse-keeper</i> since he is now acting in two capacities i.e. <i>Transporter and Warehouse-keeper</i>. ▪ The transporters' request to allow them to treat their godowns as transit-godown (and NOT as a warehouse-keeper) has not been accepted.



INSPECTION, SEARCH & SEIZURE AND ARREST

IMPORTANT ASPECTS OF SEARCH AND SEIZURE – SECTION 67 READ WITH RULE 140 AND RULE 141

Manner of release of Seized Goods	<p>Release of Goods on Provisional Basis:</p> <p>The <i>seized goods</i> shall be released on a <i>provisional basis</i>,</p> <ul style="list-style-type: none">▪ on execution of <i>bond</i> and furnishing of prescribed amount of <i>security</i> OR▪ on payment of applicable tax, interest and penalty. <p>Return of Goods:</p> <ul style="list-style-type: none">▪ In case of seizure of goods, a notice has to be issued within <i>6 months</i> and if <i>no notice</i> is issued within a period of <i>6 months</i>, then all such goods shall be <i>returned</i>.▪ However, this period of 6 months can be <i>extended by Commissioner</i> for another <i>6 months</i> on sufficient cause. <p>Disposal of Goods:</p> <p><i>Government</i> may, having regard to</p> <ul style="list-style-type: none">▪ the <i>perishable or hazardous</i> nature of any goods,▪ <i>depreciation</i> in the value of the goods with the <i>passage of time</i>,▪ constraints of <i>storage space</i> for the goods or▪ any other relevant considerations, <p><i>notify the goods</i>, which shall be <i>disposed</i> by the proper officer in the prescribed manner. The inventory of such goods shall also be prepared in the prescribed manner.</p> <p>Note: Notified Goods are</p>
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|--|--|---|
| | <ul style="list-style-type: none">→ Salt and Hygroscopic Substances,→ Raw Hides & Skins,→ Newspapers & Periodicals,→ Mentol, Camphor, Saffron→ Re-fills for Ball-Point Pens,→ Lighter Fuel, not having arrangement for refilling→ Cells / Batteries / Rechargeable Batteries,→ All taxable goods falling within Chapter 1 to Chapter 24 of the First Schedule to the Customs Tariff Act, 1975 | <ul style="list-style-type: none">→ Petroleum Products,→ Dangerous Drugs & Psychotropic Substances,→ Bulk Drugs & Chemicals,→ Pharmaceutical Products,→ Fireworks,→ Red Sander,→ Sandalwood→ All unclaimed/abandoned goods which are liable to rapid depreciation in value on account of fast change in technology or new models etc |
|--|--|---|

Any goods seized by the proper officer, which are to be *provisionally released* but provisional release has *not been taken* by the concerned person within *1 month from the date of execution of the bond* for provisional release





REFUND

ELIGIBILITY OF REFUND SECTION 54 & SECTION 55 OF CGST ACT, 2017

**"REFUND OF ITC IN ELECTRONIC CREDIT LEDGER IN CASE OF ZERO-RATED SUPPLIES"
RULE 89(4), RULE 89(4A) & RULE 89(4B) OF CGST RULES, 2017**

CASE 1 – GENERAL CASE OF ZERO-RATED SUPPLIES – RULE 89(4)

Zero-Rated Supplies without Payment of Tax under Bond or Letter of Undertaking (LUT)	
Refund of ITC shall be granted as per the following formula:	
Maximum Refund =	$\frac{\text{Net ITC} * (\text{Turnover of Zero-Rated Supply of Goods} + \text{Turnover of Zero-Rated Supply of Services})}{\text{Adjusted Total Turnover}}$
Where,	
"Net ITC"	Input Tax Credit availed on <i>Inputs and Input Services</i> during the relevant period <i>other than</i> Input Tax Credit availed for which <i>refund is claimed under Rule 89(4A) or Rule 89(4B)</i> or both
"Turnover of Zero-Rated Supply of Goods"	Value of Zero-Rated Supply of Goods made during the Relevant Period without payment of tax under <i>Bond or Letter of Undertaking (LUT)</i> <i>other than</i> the turnover of supplies in respect of which refund is claimed <i>under Rule 89(4A) or Rule 89(4B)</i> or both

"Turnover of Zero-Rated Supply of Services"	Aggregate of (a) <i>Payments received</i> during the relevant period for Zero-Rated Supply of Services and (b) <u>Add:</u> Zero-Rated Supply of Services where <i>supply has been completed</i> for which <i>payment had been received in advance in any period prior</i> to the relevant period (c) <u>Less:</u> <i>Advances received</i> for Zero-Rated Supply of Services for which the <i>supply of services has not been completed</i> during the relevant period;
"Adjusted Total Turnover"	Sum Total of Value of below during the relevant period (a) Turnover of <i>Goods</i> (Zero-Rated Supply as well as Non-Zero-Rated Supply) in a <i>State / Union Territory</i> , as defined u/s 2(112) excluding Turnover of Services (b) <u>Add:</u> Turnover of <i>Zero-Rated Supply of Services determined as above</i> and <i>Non-Zero-Rated Supply of Services</i> (c) <u>Less:</u> Value of <i>Exempt Supplies other than Zero-Rated Supplies</i> , and (d) <u>Less:</u> Turnover of supplies in respect of which refund is claimed <i>under Rule 89(4A) or Rule 89(4B)</i> or both
"Relevant period"	Period for which the claim has been filed. Circular 37/11/2018 – CGST: The relevant period is not linked to a tax period. The exporter, at his option, may file refund claim for <i>one calendar month / quarter</i> or by clubbing <i>successive calendar months / quarters</i> . The calendar month(s) / quarter(s) for which refund claim has been filed, however, <i>cannot spread across different financial years</i> .

Note: Electronic Credit Ledger shall be debited by the applicant by an amount equal to the refund so claimed.

Clarification on refund of unutilized ITC of GST paid on inputs by exporters of fabrics – Circular 18/18/2017 – CGST

Notification No. 5/2017-CT (Rate) as amended has been issued under clause (ii) of the proviso to Section 54(3) of the CGST Act, 2017 *restricting refund of unutilised input tax credit* (ITC) of GST paid on inputs in respect of certain specified goods on account of *inverted duty structure* (e.g. fabrics falling under specific chapters and headings), including ITC of GST paid on inputs.

However, the aforesaid notification having been issued under clause (ii) of the proviso to Section 54(3) of the CGST Act, 2017, *said restriction* on refund of unutilised ITC of GST paid on inputs will *not be applicable to zero rated supplies*, i.e. (a) exports of goods or services or both; or (b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

Accordingly, as regards *export of fabrics* it is clarified that, subject to the provisions of Section 54(10) of the CGST Act, 2017, a *manufacturer of such fabrics* will be eligible for *refund of unutilized ITC* of GST paid on *inputs and input services* [other than the ITC of GST paid on capital goods] in respect of *fabrics manufactured and exported* by him.

Notes:

The persons (*exporter*) claiming refund of *unutilized ITC under Rule 89(4)* on export of GOODS / SERVICES should NOT have

(a) *received supplies* on which the supplier (*penultimate exporter*) has availed the benefit of following notifications:

→ NN 48/2017-CT (*Deemed Exports as per Section 147 of CGST Act, 2017*) EXCEPT so far it relates to receipt of Capital Goods by such person against *Export Promotion Capital Goods Scheme* OR

Comment:

- ✓ In above cases, exporter can ONLY claim refund of *unutilized ITC under Rule 89(4A)*. Exporters CANNOT claim *refund of IGST paid on zero-rated supply under Rule 96*. Also, exporters CANNOT claim refund of *unutilized ITC under Rule 89(4)*.
- ✓ However, as far as receipt of *Capital Goods* by such person against *Export Promotion Capital Goods Scheme*, exporters can either opt to claim *refund of IGST paid on zero-rated supply under Rule 96* OR can opt to claim *refund of unutilized ITC under Rule 89(4)*.

The persons (*exporter*) claiming refund of *unutilized ITC under Rule 89(4)* on export of GOODS / SERVICES should NOT have

(a) *received supplies* on which the supplier (*penultimate exporter*) has availed the benefit of following notifications:

→ NN 40/2017-CT (Rate) OR NN 41/2017-IT (Rate) (*Concessional Rate of CGST @ 0.05% and SGST @ 0.05% OR IGST @ 0.1% by Pen-Ultimate Exporter to Actual Exporter*)

(b) *availed* the benefit under the following notifications:

→ NN 78/2017-Customs (*Exemption from IGST & Compensation Cess on Goods imported by 100% EOU till 31-03-2019*) OR

→ NN 79/2017-Customs (*Exemption from IGST & Compensation Cess on Goods imported against Advance Authorization Scheme or Export Promotion Capital Goods Scheme till 31-03-2019*) EXCEPT so far it relates to receipt of Capital Goods by such person against *Export Promotion Capital Goods Scheme*

Comment:

- ✓ In above cases, exporter can ONLY claim refund of *unutilized ITC under Rule 89(4B)*. Exporters CANNOT claim *refund of IGST paid on zero-rated supply under Rule 96*. Also, exporters CANNOT claim refund of *unutilized ITC under Rule 89(4)*.
- ✓ However, as far as receipt of *Capital Goods* by such person against *Export Promotion Capital Goods Scheme*, exporters can either opt to claim *refund of IGST paid on zero-rated supply under Rule 96* OR can opt to claim *refund of unutilized ITC under Rule 89(4)*.

Example: Compute refund of ITC in case of ZRS without payment under Bond / LUT:

Particulars	Amount (Rs.)
1. ITC on Inputs (out of which ITC i.r.t. Inputs under Rule 89(4A) & Rule 89(4B) is Rs.2 lakhs)	Rs.10 lakhs
2. ITC on Input Services (out of which ITC i.r.t. Input Services under Rule 89(4A) & Rule 89(4B) is Rs.1 lakhs)	Rs.4 lakhs
3. ITC on Capital Goods	Rs.1 lakhs
4. Turnover in State of Outward Supply which is Zero-Rated Supply (i.e. Export + Supply to SEZ) under Bond / LUT	Rs.50 lakhs
5. Turnover in State of Outward Supply covered under Rule 89(4A) and Rule 89(4B)	Rs.20 lakhs

6. Turnover in State of Other Outward Supplies (chargeable @ 18%)	Rs.30 lakhs
7. Turnover in State of Outward Supply which is Zero-Rated Supply (i.e. Export + Supply to SEZ) on Payment of IGST without Bond / LUT	Rs.10 lakhs
8. Refund of ITC in case ZRS = $[(10 \text{ lakhs} - 2 \text{ lakhs} + 4 \text{ lakhs} - 1 \text{ lakh}) * 50 \text{ lakhs} / (110 \text{ lakhs} - 20 \text{ lakhs})] - [(50 \text{ lakhs} * 0\%)]$	Rs.6.11 lakhs

CASE 2 – SPECIAL CASE OF ZERO-RATED SUPPLIES WHERE EXPORTER HAS RECEIVED SUPPLIES WHERE BENEFIT OF EXEMPTION HAS BEEN AVAILED UNDER NN 48/2017-CT – RULE 89(4A)

**Zero-Rated Supplies where Exporter has received Supplies where benefit of Exemption has been availed under NN 48/2017-CT
(Deemed Exports under Section 147)**

In the case of supplies *received* on which the *supplier* has availed the benefit of NN 48/2017-CT (*Deemed Exports as per Section 147 of CGST Act, 2017*), refund of

→ input tax credit, availed in respect of *other inputs or input services* used in making *zero-rated supply* of goods or services or both, shall be granted.

Note: Electronic Credit Ledger shall be debited by the applicant by an amount equal to the refund so claimed.

Deemed Exports of Goods – Section 147 of CGST Act

Deemed Exports	Particulars
What are Deemed Exports?	<p><i>Government</i> may, on the recommendations of the <i>Council</i>, notify:</p> <ul style="list-style-type: none"> ▪ certain supplies of goods as <i>deemed exports</i>, ▪ where <i>goods</i> supplied <i>do not leave India</i>, and ▪ <i>payment</i> for such supplies is received either in Indian rupees or in convertible foreign exchange, ▪ if such goods are <i>manufactured in India</i>. <p>Note: Normally, a supply is considered as an export only when the goods leave India and only then export benefits are given. However, based on the principles of <i>Foreign Trade Policy</i>, certain transactions although do <i>not qualify for exports</i> under normal meaning shall <i>deemed to be exports</i> and thus, <i>export benefits</i> be extended to them too.</p>

What are Deemed Export Transactions?	<p>The following supplies of goods are <i>notified</i> as Deemed Exports as per NN 48/2017-CT:</p> <ul style="list-style-type: none"> (i) Supply of <i>goods</i> by a registered person against <i>Advance Authorization</i> (ii) Supply of <i>capital goods</i> by a registered person against <i>Export Promotion Capital Goods Authorization</i> (iii) Supply of <i>goods</i> by a registered person TO <i>Export Oriented Unit</i> (iv) Supply of <i>gold</i> by a <i>Bank or notified Public Sector Undertakings</i> against <i>Advance Authorization</i> 								
Refund to Deemed Exports	<p>It is to be noted that in case of deemed exports, <i>refund</i> can be applied by the <i>supplier</i> or the <i>recipient</i> as well. The following are the evidences required to be produced by <i>supplier</i> of deemed export to claim refund:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center; background-color: #ffccbc;">Category of Recipient</th> <th style="text-align: center; background-color: #ffccbc;">Evidence to be produced by Supplier</th> </tr> </thead> <tbody> <tr> <td style="padding: 5px;">Advance Authorization Holder and EPCG Authorization Holder</td> <td style="padding: 5px;"><i>Acknowledgment</i> by the <i>jurisdictional tax officer</i> that the said deemed export supplies has been <i>received</i>.</td> </tr> <tr> <td style="padding: 5px;">Export Oriented Unit</td> <td style="padding: 5px;">A copy of deemed export supply <i>invoice</i> duly signed by <i>EOU</i>.</td> </tr> <tr> <td style="padding: 5px;">All recipients</td> <td style="padding: 5px;"> <i>A declaration</i> to the effect that: <ul style="list-style-type: none"> ▪ Recipient has NOT claimed <i>ITC</i> ▪ Recipient shall NOT apply for <i>refund</i> and supplier may claim the refund. </td> </tr> </tbody> </table>	Category of Recipient	Evidence to be produced by Supplier	Advance Authorization Holder and EPCG Authorization Holder	<i>Acknowledgment</i> by the <i>jurisdictional tax officer</i> that the said deemed export supplies has been <i>received</i> .	Export Oriented Unit	A copy of deemed export supply <i>invoice</i> duly signed by <i>EOU</i> .	All recipients	<i>A declaration</i> to the effect that: <ul style="list-style-type: none"> ▪ Recipient has NOT claimed <i>ITC</i> ▪ Recipient shall NOT apply for <i>refund</i> and supplier may claim the refund.
Category of Recipient	Evidence to be produced by Supplier								
Advance Authorization Holder and EPCG Authorization Holder	<i>Acknowledgment</i> by the <i>jurisdictional tax officer</i> that the said deemed export supplies has been <i>received</i> .								
Export Oriented Unit	A copy of deemed export supply <i>invoice</i> duly signed by <i>EOU</i> .								
All recipients	<i>A declaration</i> to the effect that: <ul style="list-style-type: none"> ▪ Recipient has NOT claimed <i>ITC</i> ▪ Recipient shall NOT apply for <i>refund</i> and supplier may claim the refund. 								

Procedure regarding procurement of supplies of goods from DTA by EOU under Deemed Export benefits under Section 147 of CGST Act, 2017 – Circular 14/14/2017 – CGST

- (a) **Prior Intimation by EOU before procuring Supply:** The recipient EOU unit shall give prior intimation in a in "Form-A" bearing a running *serial number* containing the *goods to be procured*, as pre-approved by the Development Commissioner and the details of the supplier before such deemed export supplies are made. The said intimation shall be given to
 - (i) the registered supplier;
 - (ii) the jurisdictional GST officer in charge of such registered supplier; and
 - (iii) its jurisdictional GST officer.
- (b) **Supply by Supplier under Tax Invoice:** The registered supplier thereafter will supply goods under tax invoice to the recipient EOU unit.
- (c) **Endorsement of Tax Invoice by EOU and submission of copy:** On receipt of such supplies, the EOU unit shall endorse the tax invoice and send a copy of the endorsed tax invoice to
 - (i) the registered supplier;
 - (ii) the jurisdictional GST officer in charge of such registered supplier; and
 - (iii) its jurisdictional GST officer.

- (d) **Endorsed Tax Invoice is Proof of Deemed Export:** The endorsed tax invoice will be considered as proof of deemed export supplies by the registered person to EOU unit.
- (e) **EOU shall maintain records of Deemed Export Supplies:** The recipient EOU unit shall maintain records of such deemed export supplies in digital form, based upon data elements contained in "Form-B". Form B to be maintained by EOU for receipt, use and removal of goods received under Deemed Export benefit.
- (f) **Duty Exemption Notification conditions to be complied additionally:** The above procedure and safeguards are in addition to the terms and conditions to be adhered by EOU unit in terms of Foreign Trade Policy 2015-20 and the duty exemption notification being availed by such unit.

CASE 3 – SPECIAL CASE OF ZERO-RATED SUPPLIES WHERE EXPORTER HAS RECEIVED SUPPLIES WHERE BENEFIT OF EXEMPTION HAS BEEN AVAILED UNDER NN 40/2017-CT (RATE) / NN41/2017-IT (RATE) OR NN 78/2017-CUSTOMS / NN79/2017-CUSTOMS – RULE 89(4B)

Zero-Rated Supplies where Exporter has received Supplies where benefit of Exemption has been availed under NN 40/2017-CT(Rate) / 41/2017-IT(Rate) OR NN 78/2017-Customs / NN 79/2017-Customs

Where the person (i.e. exporter) claiming *refund of unutilized ITC* on account of *zero rated supplies without payment of tax* has

(a) *received supplies* on which the supplier (i.e. penultimate exporter) has availed the benefit of following notifications:

→ NN 40/2017-CT (Rate) OR NN 41/2017-IT (Rate) (*Concessional Rate of CGST @ 0.05% and SGST @ 0.05% OR IGST @ 0.1% by Pen-Ultimate Exporter to Actual Exporter*)

(b) *availed* the benefit under the following notifications:

→ NN 78/2017-Customs (*Exemption from IGST & Compensation Cess on Goods imported by 100% EOU till 31-03-2019*) OR

→ NN 79/2017-Customs (*Exemption from IGST & Compensation Cess on Goods imported against Advance Authorization Scheme or Export Promotion Capital Goods Scheme till 31-03-2019*)

refund of

→ ITC availed in respect of *inputs received* under the *said notifications* for export of goods and

→ ITC availed in respect of *other inputs or input services* to the extent used in making *such export of goods*, shall be granted

Note: Electronic Credit Ledger shall be debited by the applicant by an amount equal to the refund so claimed.

Concessional Payment of CGST @ 0.05% and SGST @ 0.05% on Intra-State Supply OR IGST @ 0.10% on Inter-State Supply of taxable goods by a Registered Supplier (Pen-Ultimate Exporter) to a Registered Recipient (Actual Exporter) for Export – NN 40/2017 (CT) – Rate & NN 41/2017 (IT) – Rate

The rate of CGST & SGST for supply of goods shall be 0.05% + 0.05% (rate of IGST shall be 0.10%) in case the following conditions are satisfied:

- (a) The *registered recipient* shall be registered with an *Export Promotion Council* or a *Commodity Board* recognized by the Department of Commerce
- (b) The registered recipient shall place an *order* on registered supplier for procuring goods at concessional rate and a *copy* of the same shall also be provided to the *jurisdictional tax officer of the registered supplier*;
- (c) The *registered supplier* shall supply the goods to the *registered recipient* on a *tax invoice*
- (d) The *registered recipient* shall *move* the said goods from *place of registered supplier*
 - directly to the *Port, Inland Container Depot, Airport or Land Customs Station* from where the said goods are to be exported; or
 - directly to a *registered warehouse* from where the said goods shall be move to the *Port, Inland Container Depot, Airport or Land Customs Station* from where the said goods are to be exported;
- (e) If the registered recipient intends to aggregate supplies from *multiple registered suppliers* and then export, the goods from each registered supplier shall move to a *registered warehouse* and *after aggregation*, the *registered recipient* shall move goods to the *Port, Inland Container Depot, Airport or Land Customs Station* from where they shall be exported;
 - In the above case the registered recipient shall *endorse receipt of goods on the tax invoice* and also obtain *acknowledgement* of receipt of goods in the registered warehouse from the *warehouse operator*. The *endorsed tax invoice and the acknowledgment* of the warehouse operator shall be provided to the *registered supplier* as well as to the *jurisdictional tax officer of such supplier*; and
- (f) The *registered recipient* shall export the said goods within a period of *90 days* from the date of issue of a tax invoice by the registered supplier. The *registered supplier* shall **NOT** be eligible for the above mentioned exemption if the registered recipient fails to export the said goods within a period of 90 days from the date of issue of tax invoice.
- (g) The *GSTIN* of the registered supplier and the *tax invoice number* issued by the *registered supplier* in respect of the said goods shall appear in the *shipping bill or bill of export*,
- (h) When goods have been exported, the *registered recipient* shall provide copy of *shipping bill or bill of export* containing details of *GSTIN* and *tax invoice* of the *registered supplier* along with proof of *export general manifest or export report* having been filed to the registered supplier as well as *jurisdictional tax officer* of such supplier.

Circular 37/11/2018 – CGST: It has been clarified that the *exporter receiving goods* at concessional rate of tax @ 0.1% (0.05% CGST + 0.05% SGST & 0.1% IGST) will be *eligible to take credit* of the concessional tax so paid by him. The *supplier* who supplies goods at the concessional rate will be *eligible for refund on account of inverted tax structure* as per the provisions of Section 54(3)(ii) of the CGST Act. However, it may be noted that the exporter of such goods can export the goods only under LUT / bond and cannot export on payment of integrated tax.

SECTION 147 + RULE 89(4A) VS. NN 40/2017-CT(Rate) / NN 41/2017-IT(Rate) + RULE 89(4B)



Particulars	Section 147 read with Rule 89(4A)	NN 40/2017-CT(Rate) / NN 41/2017-IT(Rate) read with Rule 89(4B)
(1) Supplier (Pen-Ultimate Exporter)	Any person → Charging GST @ applicable rate	Any person → Charging GST @ 0.1%
(2) Recipient (Actual Exporter)	EOU, etc. being Trader / Manufacturer → Not claiming ITC on such inward supply of such inputs as the same will be claimed as refund either by supplier or recipient → Receiving such goods and then exporting	Any person being Trader ONLY → Claiming ITC on such inward supply charged @ 0.1% → Not receiving such goods and exporting (directly goods are supplied by supplier to Customs Station / Registered Warehouse in case of aggregation)
(3) Export by Actual Exporter	Export should be only under Bond / LUT (Export on payment of IGST is not allowed)	Export should be only under Bond / LUT (Export on payment of IGST is not allowed)
(4) Refund by Actual Exporter	Refund of ITC of OTHER inputs or input services used in making such zero-rated supply	Refund of ITC of ALL inputs or input services used in making such zero-rated supply

REFUND ORDER & INTEREST ON REFUND

SECTION 56 OF CGST ACT, 2017 READ WITH RULE 94 OF CGST RULES, 2017

Clarification regarding Treatment of Refund Applications where amount claimed is less than Rs.1000 – CBIC Circular 04/09/2018 – CGST

Issue	Section 54(14) of the CGST Act provides that no refund under Section 54(5) or Section 54(6) shall be paid to an applicant, if the amount is less than Rs.1,000.
Clarification	<ul style="list-style-type: none"> ▪ It is clarified that the limit of Rs.1,000 shall be applied for <i>each tax head separately</i> and <i>not cumulatively</i>. The limit would <i>NOT apply</i> in cases of refund of <i>excess balance in the Electronic Cash Ledger</i>. ▪ All refund claims below the limit shall be rejected & shall electronic credit ledger shall be re-credited such amount.

CONSUMER WELFARE FUND

SECTION 57 & SECTION 58 OF CGST ACT, 2017 READ WITH RULE 97 OF CGST RULES, 2017

Credit of Amount in Consumer Welfare Fund (CWF)		Utilization of Amount from Consumer Welfare Fund (CWF)
Amount Debited in CWF	Amount Credited in CWF	(a) All sums credited to CWF shall be utilized by the Government

<p>Any amount, having been credited to the CWF, <i>ordered as payable to any claimant</i> by orders of</p> <ul style="list-style-type: none"> (a) Proper Officer, (b) Appellate Authority, Appellate Tribunal / Court, shall be paid from the Fund 	<ul style="list-style-type: none"> (a) Refund <i>NOT</i> given to the Applicant (50% of tax in case tax is <i>IGST and Compensation Cess</i>) (b) Any <i>income</i> from investment of the amount credited to the Fund and (c) Such other monies received by it 	<p>for the <i>welfare</i> of the consumers particularly in <i>rural areas</i>.</p> <p>(b) <i>Government</i> shall, by an order, constitute a <i>Standing Committee</i> who shall make <i>recommendations</i> for <i>proper utilization</i> of the money credited to the Fund (<i>Refer Note</i>)</p>
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APPEALS & REVISION

APPEALS / APPLICATION TO APPELLATE AUTHORITY

SECTION 107 OF CGST ACT, 2017 READ WITH RULE 108 TO RULE 109A & RULE 113 OF CGST RULES, 2017

As per Rule 109A (Appointment of Appellate Authority)

- (a) If adjudication order is passed by *Deputy Commissioner or Assistant Commissioner or Superintendent*, then Appeal lies before *Officer not below Joint Commissioner (Appeals)* within 3 months (appeals by Assessee) or within 6 months (appeals by Department) of order or decision, as the case may be.
- (b) If adjudication order is passed by *Additional Commissioner or Joint Commissioner*, then Appeal lies before *Commissioner (Appeals)* within 3 months (appeals by Assessee) or within 6 months (appeals by Department) of order or decision, as the case may be.



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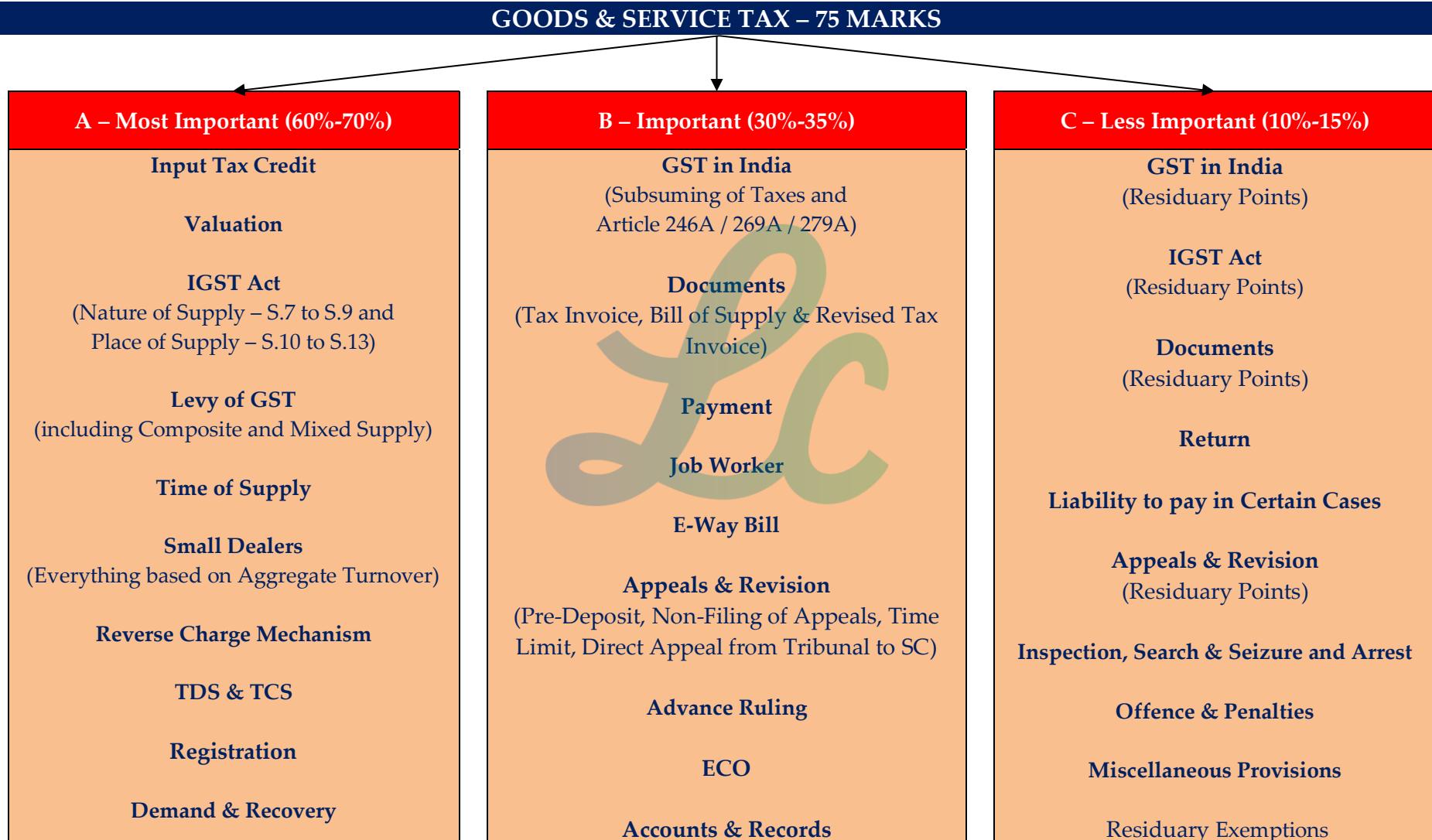
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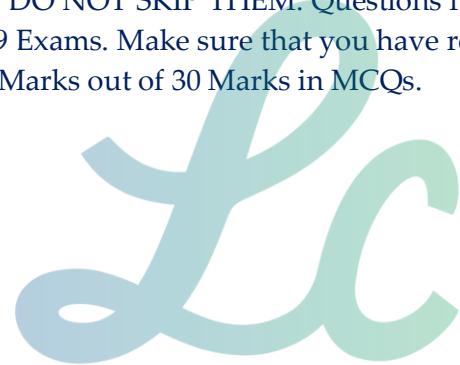
CA FINAL – MAY 2019 EXAMS



**Refund****Recent Amendments (May 2019)****Assessment & Audit****Exemption**

(Govt. Services, Education Services, Health Care Services, Transportation of Goods / Passengers Services, Legal Services, Import of Services and Recent Amendments)

Important Note: The above ABC Analysis is based on questions asked in Past Exam Questions, Revision Test Papers and Mock Test Papers. Though, there are few topics in "C" of ABC Analysis, DO NOT SKIP THEM. Questions from those topics can now be asked in Multiple Choice Questions (MCQs) which is applicable from May 2019 Exams. Make sure that you have read those Chapters once and revised from the angel of attending MCQs to be very confident of securing 28+ Marks out of 30 Marks in MCQs.



GST – CA FINAL

AMENDMENTS IN EXEMPTIONS – MAY 2019

CLASSIFICATION

COMPOSITE SUPPLY & MIXED SUPPLY – SECTION 8

Clarification regarding classification of activity of bus body building – CBIC Circular 52/26/2018 – CGST

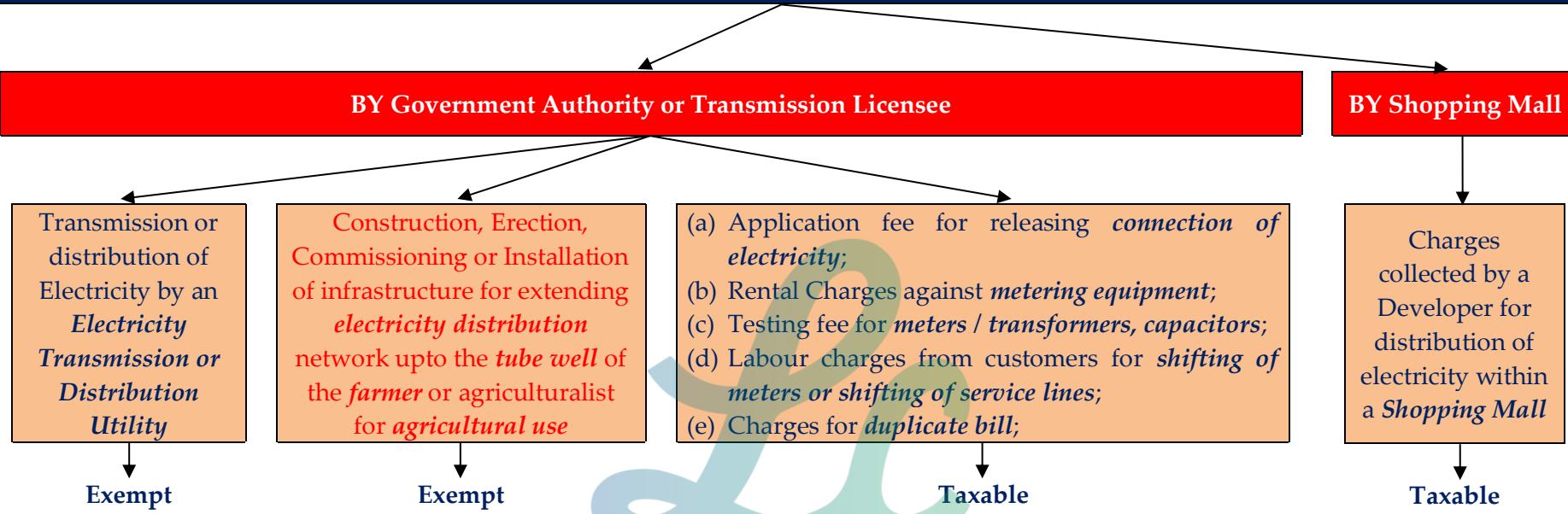
Issue	Whether activity of bus body building, is a supply of goods or services?
Clarification	<p>Fabrication of buses may involve the following two situations:</p> <ul style="list-style-type: none"> (a) Bus body builder builds a bus, working on the <i>chassis owned by him</i> and supplies the built-up bus to the customer, and charges the customer for the value of the bus. The <i>supply made is that of bus</i>, and accordingly supply would attract GST rate that of the bus treating it as <i>supply of goods</i>. (b) Bus body builder builds body on <i>chassis provided by the principal</i> for body building, and charges <i>fabrication charges</i> (including <i>certain material that was consumed</i> during the process of job-work). Fabrication of body on chassis provided by the principal (not on account of body builder), the supply would merit classification as service, and GST rate as applicable for service will be charged treating it as <i>supply of services</i>.

Clarification regarding classification in case of service of vehicles – CBIC Circular 47/21/2018 – CGST

Issue	How is servicing of cars involving both supply of goods (<i>spare parts</i>) and services (<i>labour</i>), where the value of goods and services are shown separately, to be treated under GST?
Clarification	The goods and services would be liable to tax at the <i>rates</i> as applicable to such <i>goods and services separately</i> .

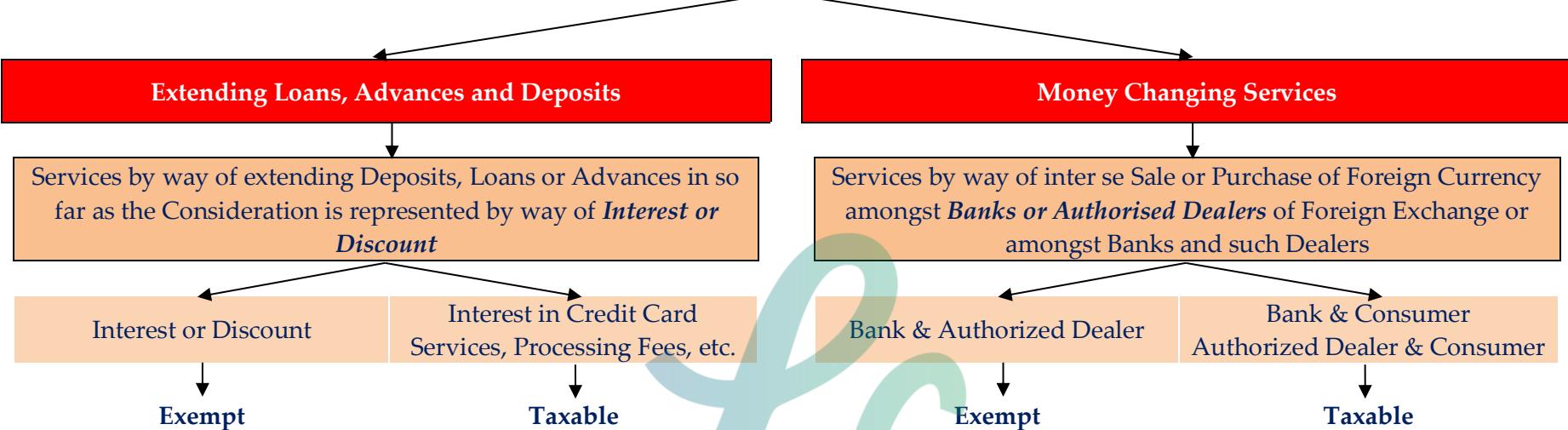
EXEMPTION NOTIFICATION – EN 12/2017-CT(RATE) READ WITH EN 9/2017-IT(RATE)

(1) ELECTRICITY TRANSMISSION OR DISTRIBUTION

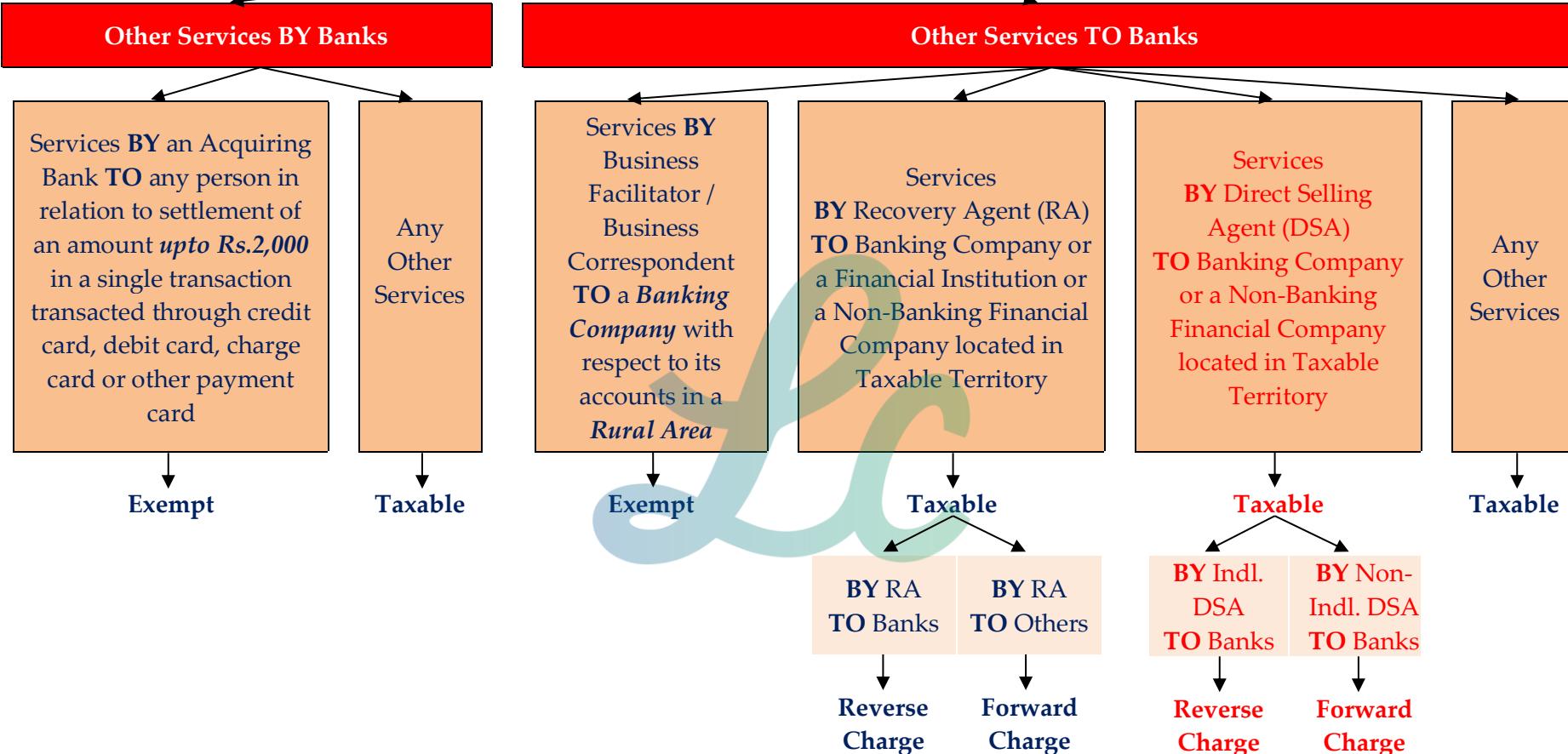


(2) BANKING & FINANCIAL SERVICES

(I) PRIMARY BANKING & FINANCIAL SERVICES BY BANKING COMPANIES & OTHER COMPANIES



(II) OTHER BANKING & FINANCIAL SERVICES BY / TO BANKING COMPANIES

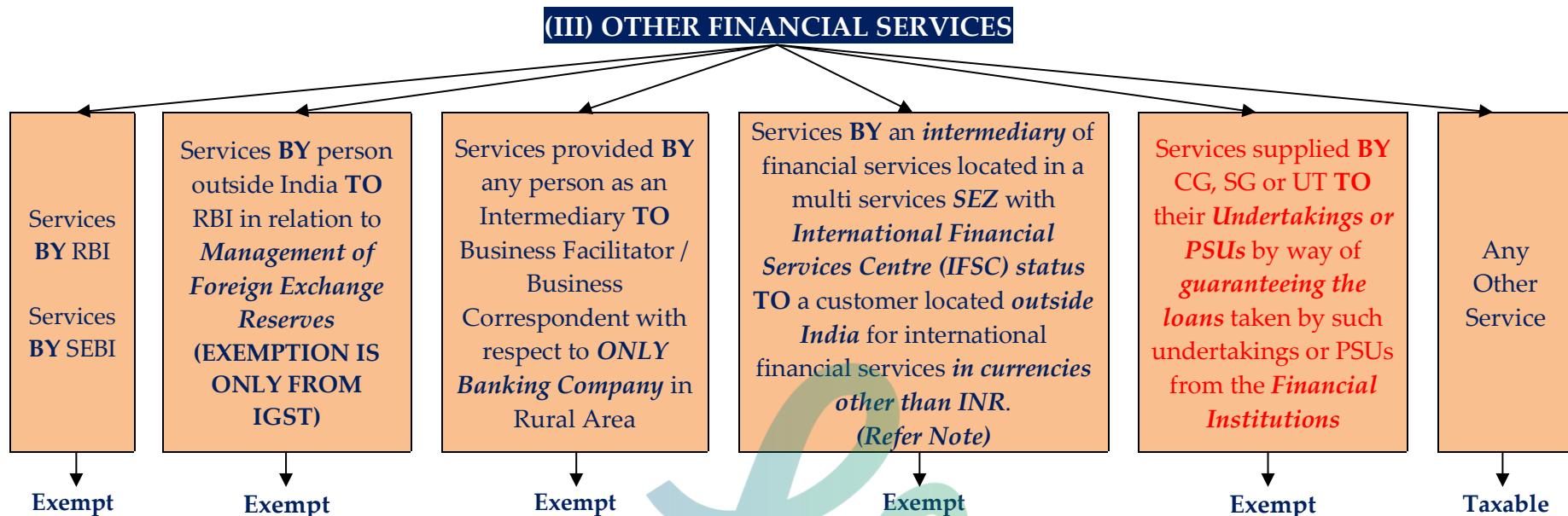


Example 1: Bank Charges for Payment through Card

Particulars	GST
Bank Charges – Rs.50 for Wallet Purchase for Rs.1,800 (including GST) by making payment through Credit Card	

Example 2: Bank Charges for Payment through Card

Particulars	GST
Bank Charges – Rs.50 for Wallet Purchase for Rs.3,800 (including GST) by making payment through Credit Card	

**Notes:**

- (1) "Business Facilitator or Business Correspondent" means an *intermediary* appointed under the Business Facilitator Model or the Business Correspondent Model by a *Banking Company or an Insurance Company* under the *guidelines* issued by the *Reserve Bank of India*;
- (2) Intermediary of Financial Services in IFSC is a person,-
 - (a) who is *permitted or recognised as such by the Government* of India or any Regulator appointed for regulation of IFSC; or
 - (b) who is treated as a person *resident outside India under the FEMA* (International Financial Services Centre) Regulations 2015; or
 - (c) who is *registered under the IRDA* (International Financial Service Centre) Guidelines, 2015 as IFSC Insurance Office; or
 - (d) who is *permitted as such by SEBI* under the SEBI (International Financial Services Centres) Guidelines, 2015

(3) INSURANCE SERVICES

(I) SERVICES BY INSURANCE COMPANIES

Specified General Insurance Services

Services of General Insurance Business (*including re-insurance*) under following schemes:

- Hut Insurance Scheme
- Cattle Insurance under Swarnajayanti Gram Swarozgar Yojna
- Scheme for Insurance of Tribals
- Janata Personal Accident Policy and Gramin Accident Policy
- Group Personal Accident Policy for Self-Employed Women
- Agricultural Pumpset and Failed Well Insurance
- Premia collected on Export Credit Insurance
- Restructured Weather Based Crop Insurance Scheme (RWCIS)
- Jan Arogya Bima Policy
- Pradhan Mantri Fasal Bima Yojana (PMFBY)
- Pilot Scheme on Seed Crop Insurance
- Central Sector Scheme on Cattle Insurance
- Universal Health Insurance Scheme
- Rashtriya Swasthya Bima Yojana
- Coconut Palm Insurance Scheme
- Pradhan Mantri Suraksha Bima Yojna
- Niramaya' Health Insurance Scheme

Exempt

Specified Life Insurance Services

Services of Life Insurance Business (*including re-insurance*) under following schemes:

- Janashree Bima Yojana
- Aam Aadmi Bima Yojana
- Life Micro-Insurance product having maximum amount of cover of **Rs.2,00,000**
- Varishtha Pension Bima Yojana
- Pradhan Mantri Jeevan Jyoti Bima Yojna
- Pradhan Mantri Jan Dhan Yojna
- Pradhan Mantri Vaya Vandana Yojna

Services by way of Collection of Contribution under *Atal Pension Yojna* OR under any *Pension Scheme of the State Government*

Services of Life Insurance Business provided by way of *annuity* under the *National Pension System*

Services of Life Insurance Business **BY the Army, Naval and Air Force** Group Insurance Funds **TO their members** under the *Group Insurance Schemes* of the Central Government

Services of Life Insurance Business **BY the Naval** Group Insurance Fund **TO the personnel of Coast Guard** under the *Group Insurance Schemes* of the Central Government

Exempt

Other Insurance Services

Any Other Life Insurance Services **BY Life Insurance Company**
OR

Any Other General Insurance Services **BY General Insurance Company**

Services provided TO Government under *Any Insurance Scheme* (*including re-insurance*) for which *Total Premium* is paid by Government

Any Other Case

Exempt

Taxable

(II) SERVICES TO INSURANCE COMPANIES

Services **BY** Business Facilitator / Business Correspondent **TO** a **Insurance Company** with respect to its accounts in a **Rural Area**

Exempt



Any Other Services

Taxable

Services
BY Insurance Agent (having
License under Section 42 of
Insurance Act)
TO Insurance Company

Services
BY Any Other Person (such as
Actuary, Surveyor, etc.)
TO Insurance Company

Reverse Charge

Forward Charge

Note: Services provided **BY** any person as an Intermediary **TO** Business Facilitator / Business Correspondent with respect to **Insurance Company** in Rural Area is Taxable.

Example 1: Banking Company in Rural Area

Particulars	GST
Service by BF / BC to such Banking Company in Rural Area	✗
Service by Intermediary to such above BF / BC	✗

Example 3: Non-Exempted Insurance Schemes by Insurance Company

Particulars	GST
Total Premium paid by Govt.	✗
Total Premium paid by other than Govt.	✓

Example 2: Insurance Company in Rural Area

Particulars	GST
Service by BF / BC to such Insurance Company in Rural Area	✗
Service by Intermediary to such above BF / BC	✓

Example 4: Services to Insurance Company

Particulars	GST
Services by Insurance Agent to Insurance Co.	✓ (RCM)
Services by Actuary / Surveyor to Insurance Co.	✓ (FCM)

(4) UNINCORPORATED BODY OR NON-PROFIT ENTITY

Service BY an *Unincorporated Body / Registered Non-Profit Entity* TO its **own members** by way of reimbursement of charges or share of contribution:

- as a *Trade Union* (No limit of amount for exemption)
- for the provision of carrying out *any activity* which is *exempt* from levy of GST (No limit of amount for exemption)
- up to an amount of *Rs.7,500 / Month / Member* for sourcing of Goods / Services from a Third Person for the *Common Use* of its Members in a *Housing Society / Residential Complex*

Exempt

Service BY an *Unincorporated Body / Registered Non-Profit Entity*, engaged in

- (a) activities relating to the *welfare of Industrial or Agricultural Labour or Farmers;*
- (b) *promotion of*
 - Trade, Commerce, Industry,
 - Agriculture,
 - Art, Science, Literature, Culture, Sports, Education,
 - Social Welfare, Charitable Activities and Protection of Environment,

TO its own members against consideration in the form of *Membership Fee* upto an amount of *Rs.1,000 / Year / Member*

Exempt

Any Other Case

Taxable

Example 1: Charges collected by Trade Union from its Members

Particulars	GST
<u>Case 1:</u> Charges – Rs.6,000 / Month / Member	✗
<u>Case 2:</u> Charges – Rs.10,000 / Month / Member	✗

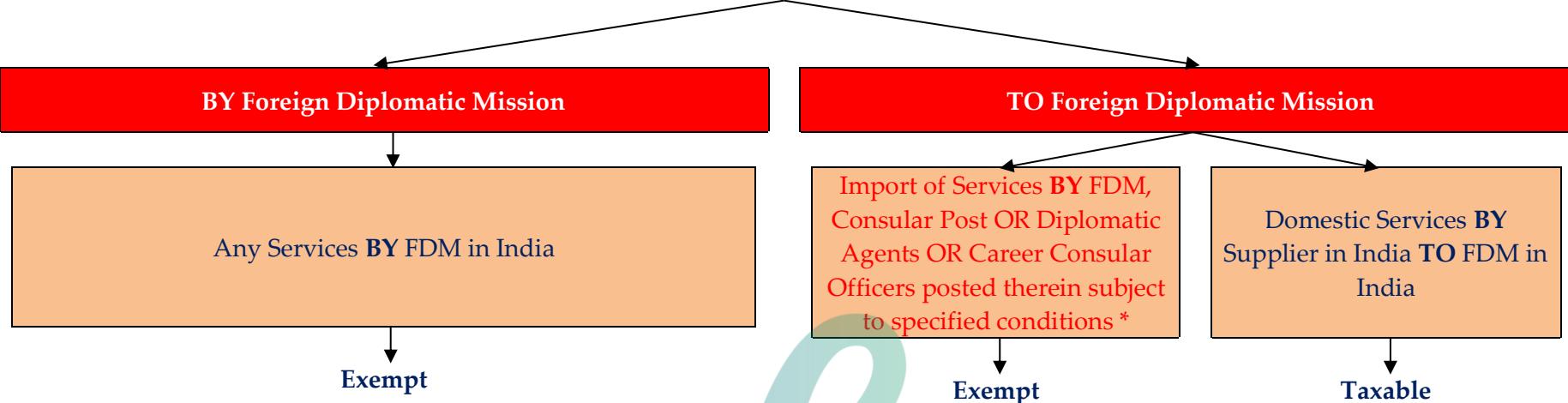
Example 3: Membership Fees collected by Unincorporated Body for Welfare of Agricultural Farmers from its Members

Particulars	GST
<u>Case 1:</u> Membership Fees – Rs.1,000 / Year / Member	✗

Example 2: Charges collected by RWA from its Members

Particulars	GST
<u>Case 1:</u> Charges – Rs.6,000 / Month / Member	✗
<u>Case 2:</u> Charges – Rs.10,000 / Month / Member	✓

(5) FOREIGN DIPLOMATIC MISSION SERVICES

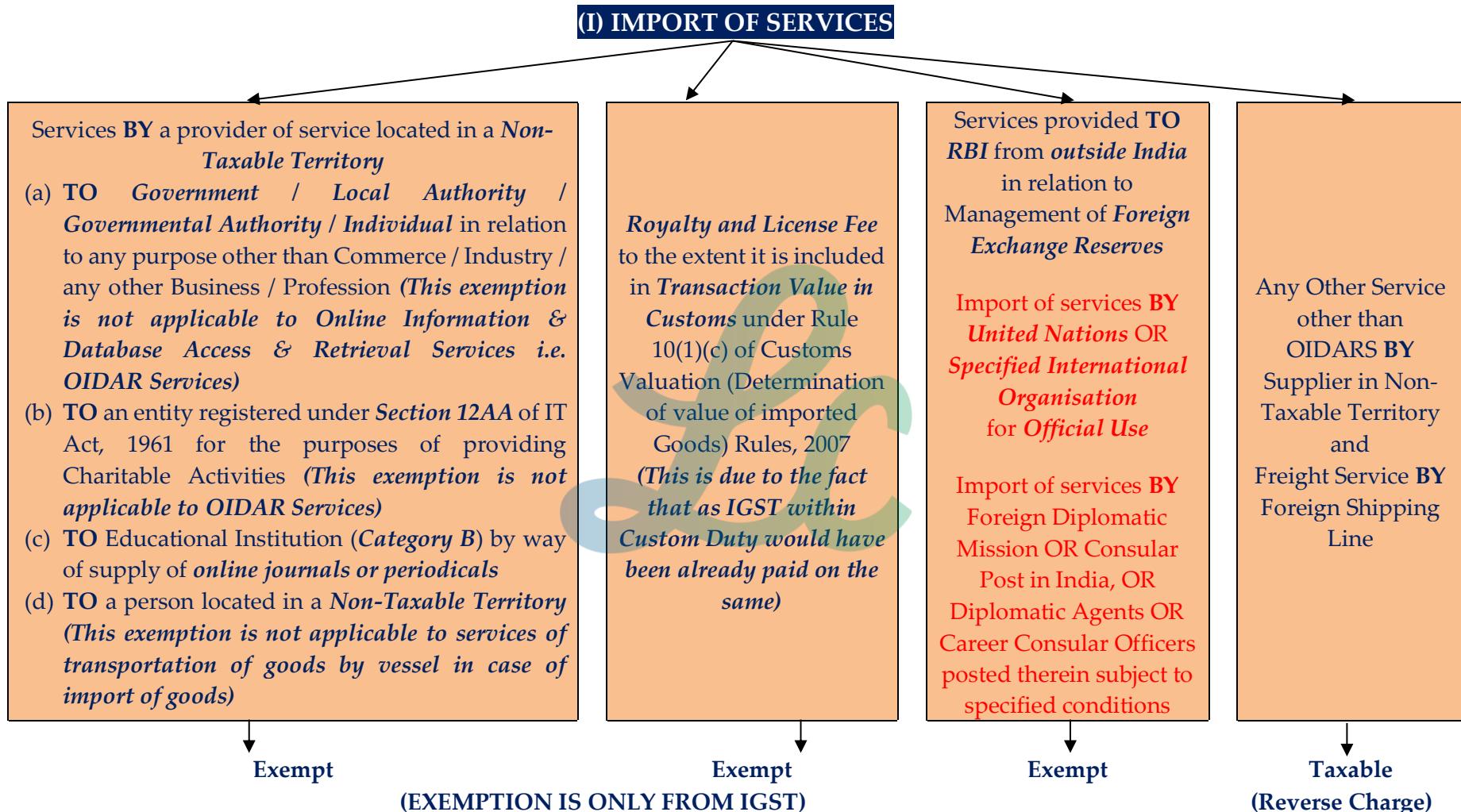


* **Note:** Specified Conditions for exemption are as follows:

- (a) Exemption is available based on *Certificate* issued by the *Protocol Division of the Ministry of External Affairs*, based on the principle of reciprocity and exemption is available *till the Certificate is withdrawn*.
- (b) Exemption is available if service is imported for *official purpose* of the said *FDM or CP*; OR for *personal use* of the said *Diplomatic Agent or Career Consular Officer* or members of his or her *family*.

Note: FDM having UIN Registration can apply for Refund of GST on such Inward Supplies under Section 55 of CGST Act, 2017.

(6) IMPORT OF SERVICES & EXPORT AKIN SERVICES



Note: Specified International Organization means International Organization declared by Central Government in pursuance of Section 3 of United Nations (Privileges and Immunities) Act, 1947, to which the provisions of the Schedule to the said Act apply.

**Example 3: Import of OIDARS from India**

Particulars	GST
<u>Case 1:</u> Import by A & Co., a CA Firm (Business Entity)	✓ (FCM)
<u>Case 2:</u> Import by Mr. B., a Student (Non-Business Entity)	✓ (FCM)

Example 4: Import of OIDARS from USA

Particulars	GST
<u>Case 1:</u> Import by A & Co., a CA Firm (Business Entity)	✓ (RCM)
<u>Case 2:</u> Import by Mr. B., a Student (Non-Business Entity)	✓ (FCM)

Example 5: Import of Freight Services by Importer at the time of Import of Goods in Foreign Shipping Line of USA

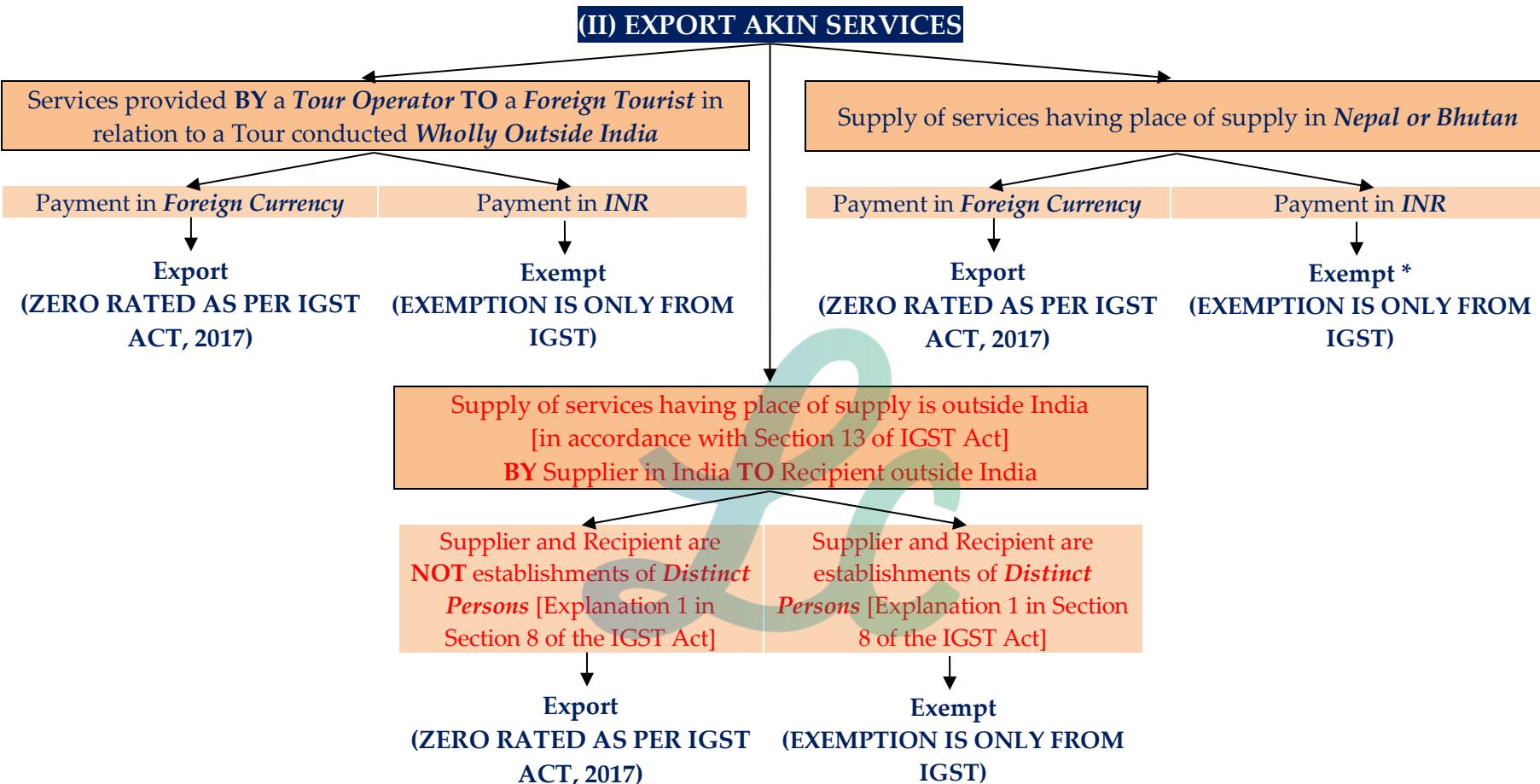
Import of goods is by Mr. A for Personal Use (Baggage)	Import Duty and GST
Import Duty (BCD + SWS + IGST) on CIF Value of Goods (Baggage) after General Free Allowance	✓ (Importer)
IGST on Freight Charges on Freight Value by Foreign Shipping Line	✗

Import of goods is by B Ltd. for Business Use (Commercial Cargo)	Import Duty and GST
Import Duty (BCD + SWS + IGST) on CIF Value of Goods (Commercial Cargo)	✓ (Importer)
IGST on Freight Charges on Freight Value by Foreign Shipping Line	✓ (RCM)

Example 6: Import of Freight Services by Importer at the time of Import of Goods in Indian Shipping Line of USA

Import of goods is by Mr. A for Personal Use (Baggage)	Import Duty and GST
Import Duty (BCD + SWS + IGST) on CIF Value of Goods (Baggage) after General Free Allowance	✓ (Importer)
IGST on Freight Charges on Freight Value by Indian Shipping Line	✓ (FCM)

Import of goods is by B Ltd. for Business Use (Commercial Cargo)	Import Duty and GST
Import Duty (BCD + SWS + IGST) on CIF Value of Goods (Commercial Cargo)	✓ (Importer)
IGST on Freight Charges on Freight Value by Indian Shipping Line	✓ (FCM)



*** Note:** In case of supply of services having place of supply in Nepal and Bhutan and payment is received in INR, though it is exempt as per EN 9/2017-IT (Rate), it is not considered in value of exempt supply for computing proportionate ITC as per Rule 42 and Rule 43 of CGST Rules.

Example 1: Heena Tours supplies tour services to Mr. Modi (Indian)

Particulars	GST
Tour is in India	✓
Tour is in China	✓

Example 2: Heena Tours supplies tour services to Mr. Trump (USA)

Particulars	GST
Tour is in India	✓
Tour is in China	✗





➔ Renting of *precincts of a religious place* meant for general public, owned or managed by an entity registered as a charitable or religious trust under *Section 12AA* or *Section 10(23C)(v)* or *Section 10(23BBA)* of IT Act, 1961, where

- (a) Charges are *less than Rs.1,000 per day* for *Renting of Rooms*
- (b) Charges are *less than Rs.10,000 per day* for *Renting of Premises, Community Halls, Kalyanmandapam* or open area, and the like
- (c) Charges are *less than Rs.10,000 per month* for *Renting of Shops* or other spaces for business or commerce

Exempt

➔ Any other case

Taxable



(II) RENTING / HIRING OF MOVABLE PROPERTY

Service by way of giving on hire of a Motor Vehicle meant to carry more than 12 passengers **TO a State Transport Undertaking**

Service by way of giving on hire of a Means of Transportation of Goods **TO a Goods Transport Agency**

Service by way of giving on hire Motor Vehicle for **Transport of Students, Faculty and Staff, TO a person who in turn is providing services of transportation of students, faculty and staff TO Category A of Education Institution – Pre-School Education and Education up to Higher Secondary School or equivalent.**

Renting or Leasing of **Agro Machinery** with or without a structure incidental to its use in relation to Agricultural Produce

Services of Leasing of **Assets** (rolling stock assets including wagons, coaches, locos)
BY the Indian Railways Finance Corporation
TO Indian Railways.

Any Other Service

Exempt



Exempt



Taxable

Example 1: Hiring of Goods Transportation Vehicle

Particulars	GST
Hiring of such vehicle is to Goods Transport Agency	✗

Example 2: Hiring of Passenger (> 12) Transportation Vehicle

Particulars	GST
Hiring of such vehicle is to State Transport Undertaking	✗

Hiring of such vehicle is to Courier Agency

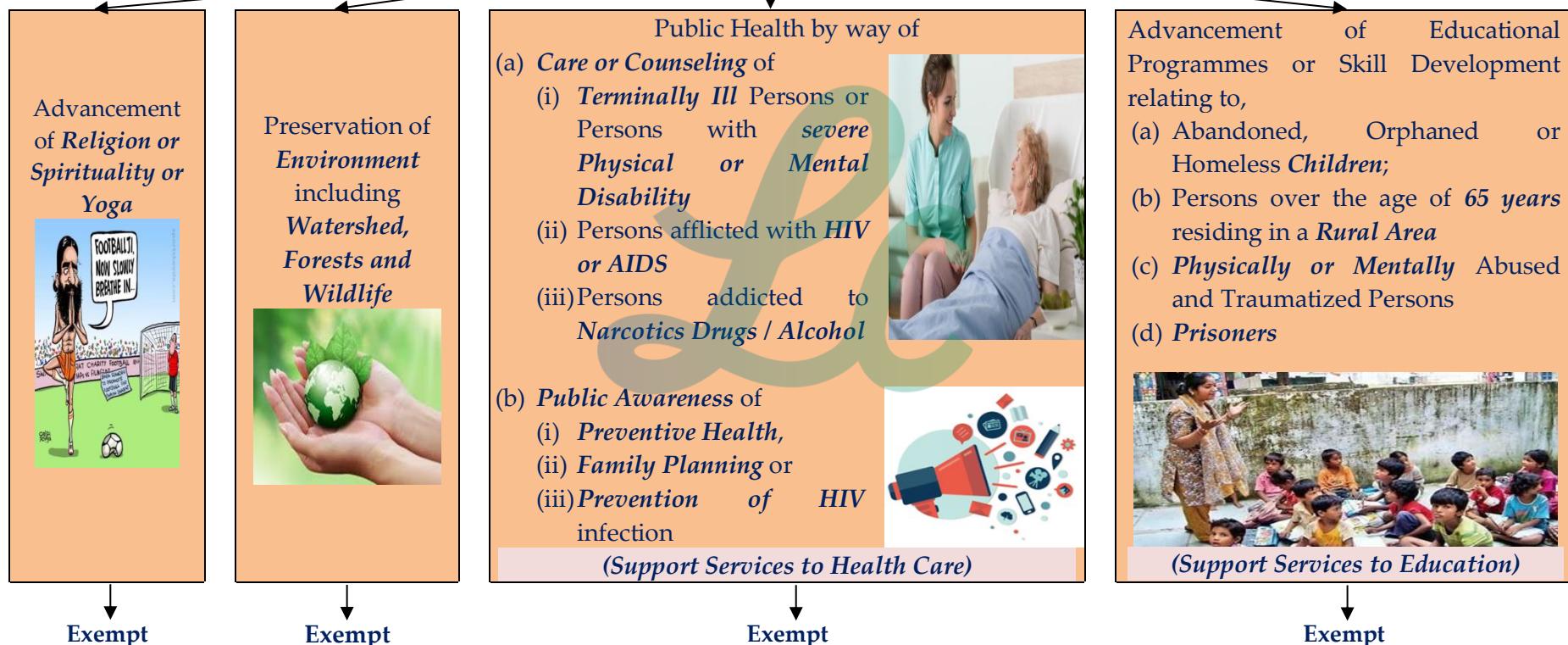
Hiring of such vehicle is to Private Undertaking

(8) SERVICES BY / TO ENTITY REGISTERED UNDER SECTION 12AA, IT ACT, 1961

(I) PRIMARY SERVICES BY SECTION 12AA ENTITY

Services by Section 12AA Entity by way of Charitable Activities

Charitable Activities MEANS activities relating to

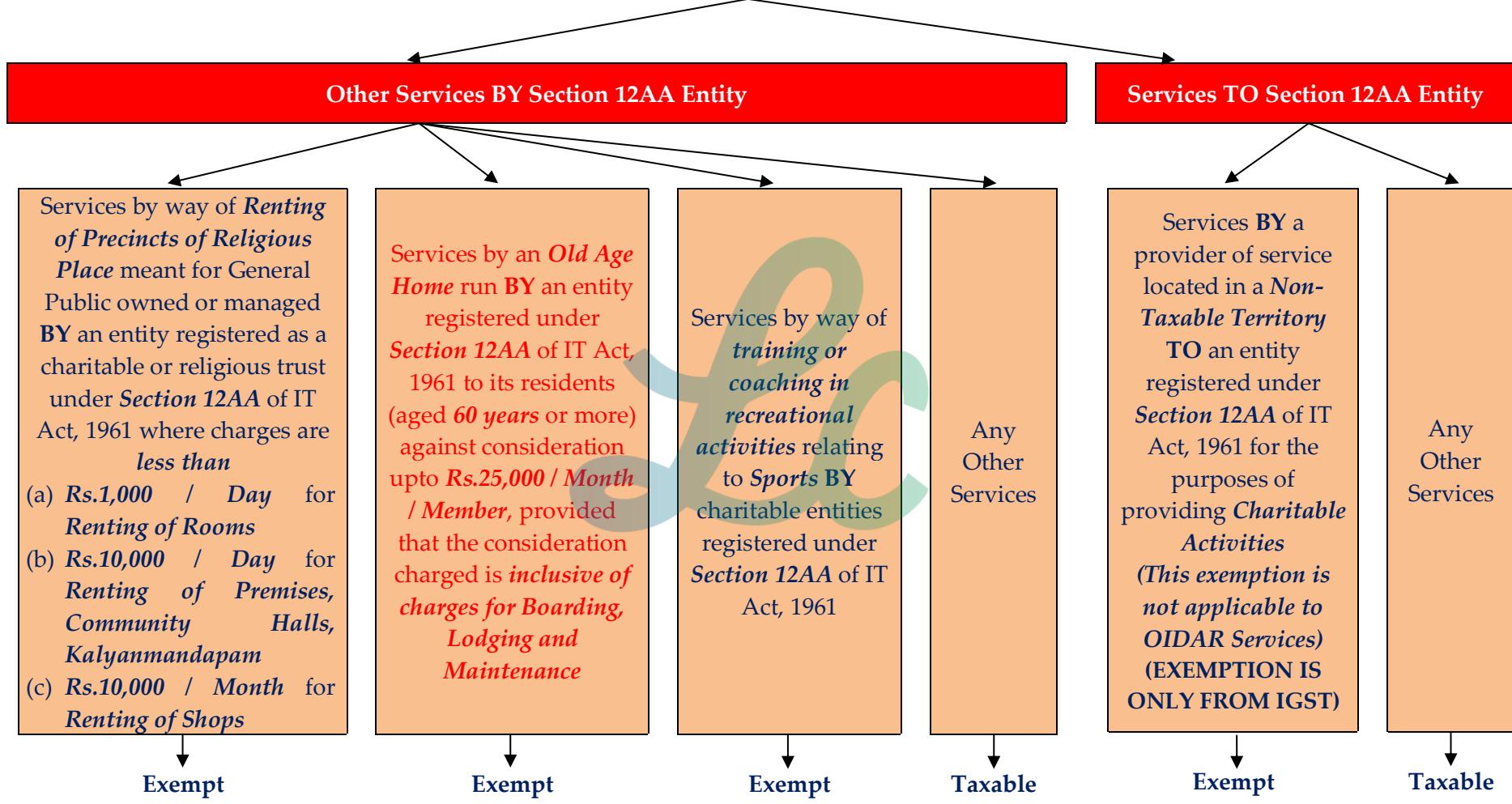


Notes: Rural Area

→ MEANS the area comprised in a *village* as defined in *land revenue records*,

→ EXCLUDING the area under any municipal committee, municipal corporation, town area committee, cantonment board or notified area committee; or any area that may be notified as an *urban area* by the *Central Government or a State Government*;

(II) OTHER SERVICES BY SECTION 12AA ENTITY & SERVICES TO SECTION 12AA ENTITY



Example: Supply of Architect Services to Isha Yoga (S.12AA Entity) for Charitable Activities

Particulars	GST	Particulars	GST
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Case 1: Supply is by Mr. Simbu of India

✓ (FCM)

Case 2: Supply is by Ms. Melina of USA

✗

Notes:

(1) Clarification on Hostel Accommodation provided by Trusts to Students – CBIC Circular 32/06/2018 – CGST

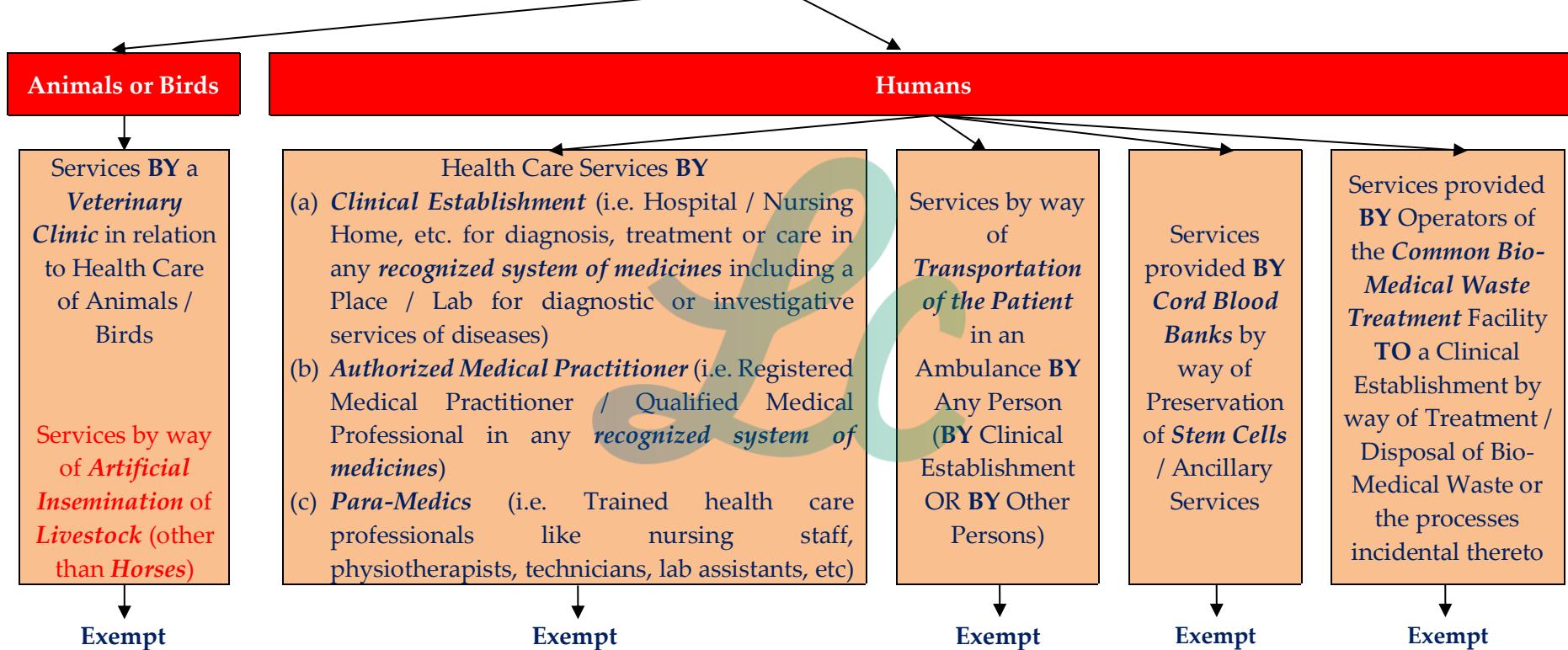
Issue	Is hostel accommodation provided by Trusts to students covered within the definition of charitable activities and thus, exempt under EN 12/2017-CT (Rate)?
Clarification	Hostel accommodation services do <i>not fall within the ambit of charitable activities</i> as defined in EN 12/2017-CT(Rate). However, <i>services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having tariff of a unit of accommodation below Rs.1,000 per day or equivalent are exempt</i> . Thus, accommodation service in <i>hostels including by Trusts</i> having declared tariff <i>below Rs.1,000 day is exempt</i> .

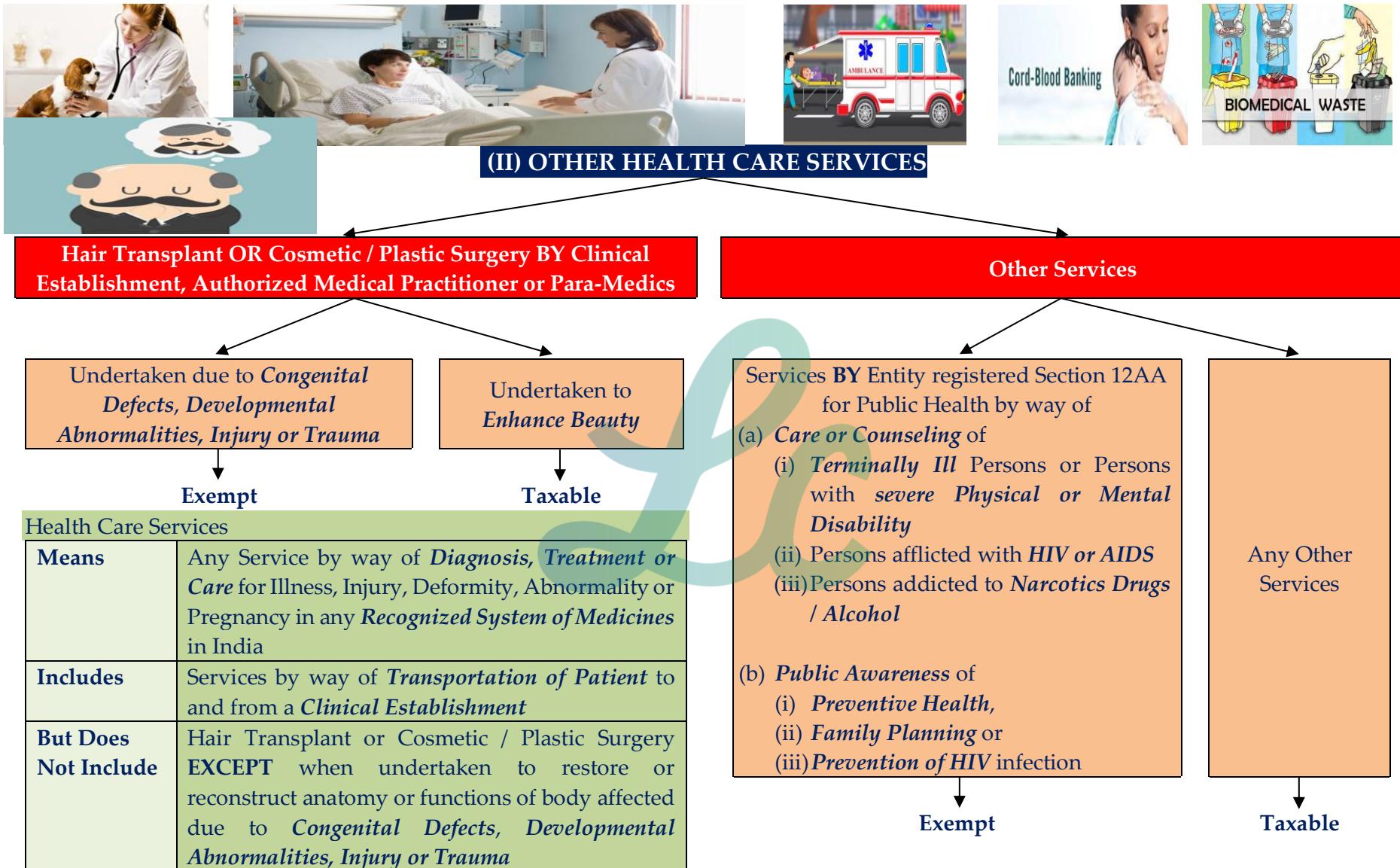
(2) Clarification on GST on Residential Camps by Religious and Charitable Trusts – CBIC Circular 66/40/2018 – CGST

Issue	GST on Residential Programmes or <i>Residential Camps</i> meant for advancement of <i>Religion, Spirituality or Yoga</i> by Religious and Charitable Trusts?
Clarification	<p>The services provided by entity registered under Section 12AA of the Income Tax Act, 1961 by way of advancement of religion, spirituality or yoga are exempt.</p> <ul style="list-style-type: none"> ▪ <i>Fee or consideration charged in any other form</i> from the participants for participating in a <i>Religious, Yoga or Meditation Camp</i> meant for advancement of religion, spirituality or yoga shall be <i>exempt</i>. ▪ Residential programmes or camps where the <i>fee charged includes cost of lodging and boarding</i> shall also be <i>exempt</i> as long as the <i>primary</i> and predominant activity, objective and purpose of such residential programmes or camps is <i>advancement of religion, spirituality or yoga</i>. ▪ However, if charitable or religious trusts <i>merely or primarily provide accommodation or serve food and drinks</i> against consideration in any form including donation, such activities will be <i>taxable</i>. ▪ Similarly, activities such as <i>holding of fitness camps or classes</i> such as those in <i>aerobics, dance, music etc.</i> will be <i>taxable</i>.

(9) HEALTH CARE SERVICES

(I) PRIMARY HEALTH CARE SERVICES





Note: In terms of Section 2(h) of Clinical Establishments Act, 2010, Recognized Systems of Medicines in India includes *Allopathy, Yoga, Naturopathy, Ayurveda, Homeopathy, Siddha, Unani* or any other system that may be recognized by Central Government. It is important to note that *Reiki, Colour Therapy, Accupuncture, Pranic Healing Treatments* etc. are NOT recognized systems of medicines.

Notes:

(1) Clarification on Health Care Services – CBIC Circular 32/06/2018 – CGST

Issue	Hospitals hire senior doctors/consultants/ technicians independently, without any contract of such persons with the patient; and pay them consultancy charges, without there being any employer-employee relationship. Will such consultancy charges be exempt from GST? Will revenue take a stand that they are providing services to hospitals and not to patients and hence must pay GST?
Clarification	Health care services provided by a clinical establishment, an authorised medical practitioner or para-medics are exempt. Thus, services provided <i>by senior doctors/consultants/ technicians hired by the hospitals, whether employees or not</i> , are healthcare services which are <i>exempt</i> .

(2) Clarification on Health Care Services – CBIC Circular 32/06/2018 – CGST

Issue	Hospitals charge the patients, say, Rs.10,000/- and pay to the consultants/ technicians only Rs.7500/- and keep the balance for providing ancillary services which include nursing care, infrastructure facilities, paramedic care, emergency services, checking of temperature, weight, blood pressure etc. Will GST be applicable on such money retained by the hospitals?
Clarification	Healthcare services have been defined to mean any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India. Therefore, hospitals also provide healthcare services. The <i>entire amount charged by them from the patients including the retention money</i> and the <i>fee / payments made to the doctors</i> etc., is towards the healthcare services provided by the hospitals to the patients and is <i>exempt</i> .

(3) Clarification on Health Care Services – CBIC Circular 32/06/2018 – CGST

Issue	Health care services provided by the clinical establishments will include food supplied to the patients; but such food may be prepared by the canteens run by the hospitals or may be outsourced by the Hospitals from outdoor caterers. What will be the GST implication?
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Clarification	When <i>outsourced</i> , there should be no ambiguity that <i>suppliers shall charge tax</i> as applicable and <i>hospital will get no ITC</i> . If hospitals have their <i>own canteens</i> and prepare their own food; then <i>no ITC</i> will be available on inputs including capital goods and in turn if they supply <i>food to doctors and their staff</i> ; such supplies, <i>even when not charged</i> , may be subjected to <i>GST</i> . Food supplied to the <i>in-patients as advised by the doctor/nutritionists</i> is a part of <i>composite supply</i> of healthcare and not separately taxable. Other <i>supplies of food by a hospital to patients (not admitted)</i> or their attendants or visitors are <i>taxable</i> .
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(4) Clarification on Ambulance Services – CBIC Circular 51/25/2018 – CGST

Issue	Whether supply of services by way of transportation of patients BY Government / BY Private Service Providers PSP's is exempt?
Clarification	Yes. EN 12/2017 CT(Rate) specifically exempts services provided by way of <i>transportation of a patient</i> in an ambulance.

Issue	Whether services provided BY PSP's TO the State Governments by way of transport of patients on behalf of State Governments against consideration charged from the State government under National Health Mission also exempt?
Clarification	<p>Yes.</p> <p>(i) EN 12/2017 CT(Rate) specifically exempts services provided by way of <i>transportation of a patient</i> in an ambulance.</p> <p>(ii) Also, EN 12/2017 CT(Rate) specifically exempts pure services (excluding works contract service or other composite supplies involving supply of any goods) provided TO the Central Government, State Government or Union Territory or Local Authority or a Governmental Authority or an Government Entity by way of any activity in relation to any function entrusted to a <i>Panchayat under Article 243G</i> of the Constitution or in relation to any function entrusted to a <i>Municipality under Article 243W</i> of the Constitution.</p> <ul style="list-style-type: none"> ▪ Functions of '<i>Health & Sanitation</i>' is entrusted to <i>Panchayats</i> under Article 243G read along with Eleventh Schedule. ▪ Functions of '<i>Public Health</i>' is entrusted to <i>Municipality</i> under Article 243W read along with Twelfth Schedule. ▪ Ambulance services are an activity in relation to the functions entrusted to Panchayats and Municipality.

(10) EDUCATIONAL SERVICES

(I) PRIMARY EDUCATIONAL SERVICES

Any Service BY Educational Institution

(a) TO Students, Faculty & Staff &

(b) by way of conduct of Entrance Examination against *Entrance Fee*

Education Institution MEANS an institution providing services by way of

(A) *Pre-School Education and Education up to Higher Secondary School or equivalent*

(B) *Education as a Part of a Curriculum for obtaining a Qualification Recognized by Any Law for the time being in force*

(C) *Approved Vocational Educational Course*

International Schools OR Boarding Schools *Private Tuitions*

Qualification recognized by Indian Law (UGC / AICTE) *Qualification NOT recognized by Indian Law*

Courses offered BY *Industrial Training Institutes / Industrial Training Centre* affiliated to *National Council for Vocational Training* or *State Council for Vocational Training* in respect of *designated trades* under *Apprenticeship Act, 1961* (*Refer Note 1*)

OR
Modular Employable Skill Course approved BY *NCVT* run by a person registered with *Director General of*



Training

↓
Exempt↓
Taxable

Explanation: For removal of doubts, it is clarified that the *Central Educational Board and State Educational Board* shall be treated as *Educational Institution* for the *limited purpose* of providing services by way of *conduct of examination to the students*.

(II) OTHER EDUCATIONAL SERVICES

Specified Cases

- ➔ Services provided **BY** the following:
 - (a) Services provided **BY National Skill Development Corporation (NSDC)** or **BY Sector Skill Council (SSC)** approved by the NSDC or **BY Assessment Agency / Training Partner** approved by the NSDC or SSC in relation to National Skill Development Programme or Vocational Skill Development Course or other scheme implemented by NSDC
 - (b) Services of **Assessing Bodies** empanelled centrally **BY Directorate General of Training, Ministry of Skill Development and Entrepreneurship** by way of assessments under **Skill Development Initiative (SDI) Scheme**;
 - (c) Services provided **BY Training Providers (Project Implementation Agencies)** under Deen Dayal Upadhyaya Grameen Kaushalya Yojana under the Ministry of Rural Development by way of offering skill or vocational training courses certified by **National Council for Vocational Training**.

- ➔ Services provided **BY** the *Indian Institutes of Management*, as per the guidelines of the Central Government, to their students, by way of the following educational programmes, **EXCEPT Executive Development Programme, -**

Other Cases

Any services other than
specified cases

Exempt

Taxable

Exempt

- (a) 2 year full time Post Graduate Programmes in Management (residential or non-residential) for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT), conducted by IIMs;
- (b) Fellow Programme in Management;
- (c) 5 years Integrated Programme in Management.



→ Services provided TO an Educational Institution by way of Services relating to *Admission to or Conduct of Examination*

This exemption is for **ALL Categories** of Education Institutions – Category A, Category B and Category C.

Exempt

→ Services provided TO an Educational Institution by way of

- (a) *Transportation* of Students, Faculty and Staff
- (b) *Catering*, including any Mid-Day Meals Scheme sponsored by Government
- (c) *Security / Cleaning / House-Keeping* Services in such Educational Institution

This exemption is **ONLY** for *Category A* of Education Institution – Pre-School Education & Education up to Higher Secondary School / equivalent. (*Refer Note 2*)

Exempt

→ Service by way of giving on *hire* motor vehicle for *Transport of Students, Faculty and Staff*, TO a person who in turn is providing services of transportation of students, faculty and staff **TO Category A** of Education Institution – Pre-School Education and Education up to Higher Secondary School or equivalent.

→ Services provided TO an Educational Institution by way of Supply of *online educational journals* or periodicals

This exemption is **ONLY** for *Category B* of Education Institution – Education as a part of a curriculum for obtaining a Qualification recognized by any law for the time being in force

Exempt

- Services provided TO an Educational Institution FROM provider of service located in Non-Taxable Territory by way of Supply of *online educational journals* or periodicals

This exemption is **ONLY** for *Category B* of Education Institution – Education as a part of a curriculum for obtaining a Qualification recognized by any law for the time being in force.

(EXEMPTION IS ONLY FROM IGST)

- Services provided TO Government administration under any *Training Programme* for which *Total Expenditure* is borne by Government administration

Exempt

- Services provided BY the *National Centre for Cold Chain Development* under the Ministry of Agriculture, Cooperation and Farmer's Welfare by way of *cold chain knowledge dissemination*

Exempt

- Services of *public libraries* by way of lending of books, publications or any other knowledge- enhancing content or material



Exempt

- Services by way of *training or coaching in recreational activities* relating to-
- Arts or Culture*, or
 - Sports* by charitable entities registered under *Section 12AA* of IT Act, 1961

Exempt

- Services BY an entity registered under *Section- 12AA* of IT Act, 1961 by way of advancement of educational programmes / skill development relating to
- Abandoned, Orphaned or Homeless *Children*
 - Physically or Mentally *Abused and Traumatized* Persons
 - Prisoners*
 - Persons over the age of *65 years* residing in Rural Area

Exempt



→ Service BY an <i>Unincorporated Body / Registered Non-Profit Entity</i> , engaged in <i>promotion</i> of Education, TO its own members against consideration in the form of <i>Membership Fee</i> upto an amount of <i>Rs.1,000 / Year / Member</i>	Exempt
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Example 1: Lalit Kalashetra Academy providing training in Painting

Particulars	GST
Lalit Kalashetra Academy is registered under S.12AA	✗
Lalit Kalashetra Academy is not registered under S.12AA	✗

Example 2: Dravid Academy providing training in playing cricket

Particulars	GST
Dravid Academy is registered under S.12AA	✗
Dravid Academy is not registered under S.12AA	✓

Notes:

(1) Clarification on Taxability of services provided by Industrial Training Institutes – CBIC Circular 55/29/2018 – CGST

Issue	Whether GST is payable on vocational training provided by private ITIs in designated trades and in other than designated trades?

(2) Clarification on services provided by a College Hostel Mess – CBIC Circular 28/02/2018 – CGST

Issue	Whether services provided by a <i>COLLEGE Hostel Mess</i> are exempt from GST?
Clarification	<p>It has been clarified that the educational institutions have <i>mess facility</i> for providing food to their students and staff. Such facility is either run by the <i>institution</i> / students themselves or is <i>outsourced to a third person</i>.</p> <p>(i) If the <i>catering services</i> is one of the services provided <i>by an educational institution to its students, faculty and staff</i> and the said educational institution is covered by the definition of 'educational institution' as given above, then the same is <i>exempt</i>.</p> <p>(ii) If the <i>catering services</i>, i.e., supply of food or drink in a mess or canteen, is provided <i>by anyone other than the educational institution</i>, then it is a supply of service to the concerned educational institution and <i>attracts GST</i>.</p>

Example 1: Supply of Service BY Educational Institution

Particulars	Category A – EI	Category B – EI	Category C – EI
(1) Any Service to Students / Faculty / Staff	✗	✗	✗
(2) By way of conduct of examination against Entrance Fees	✗	✗	✗
(3) Any Other Service (For example supply of manpower service to Companies)	✓	✓	✓

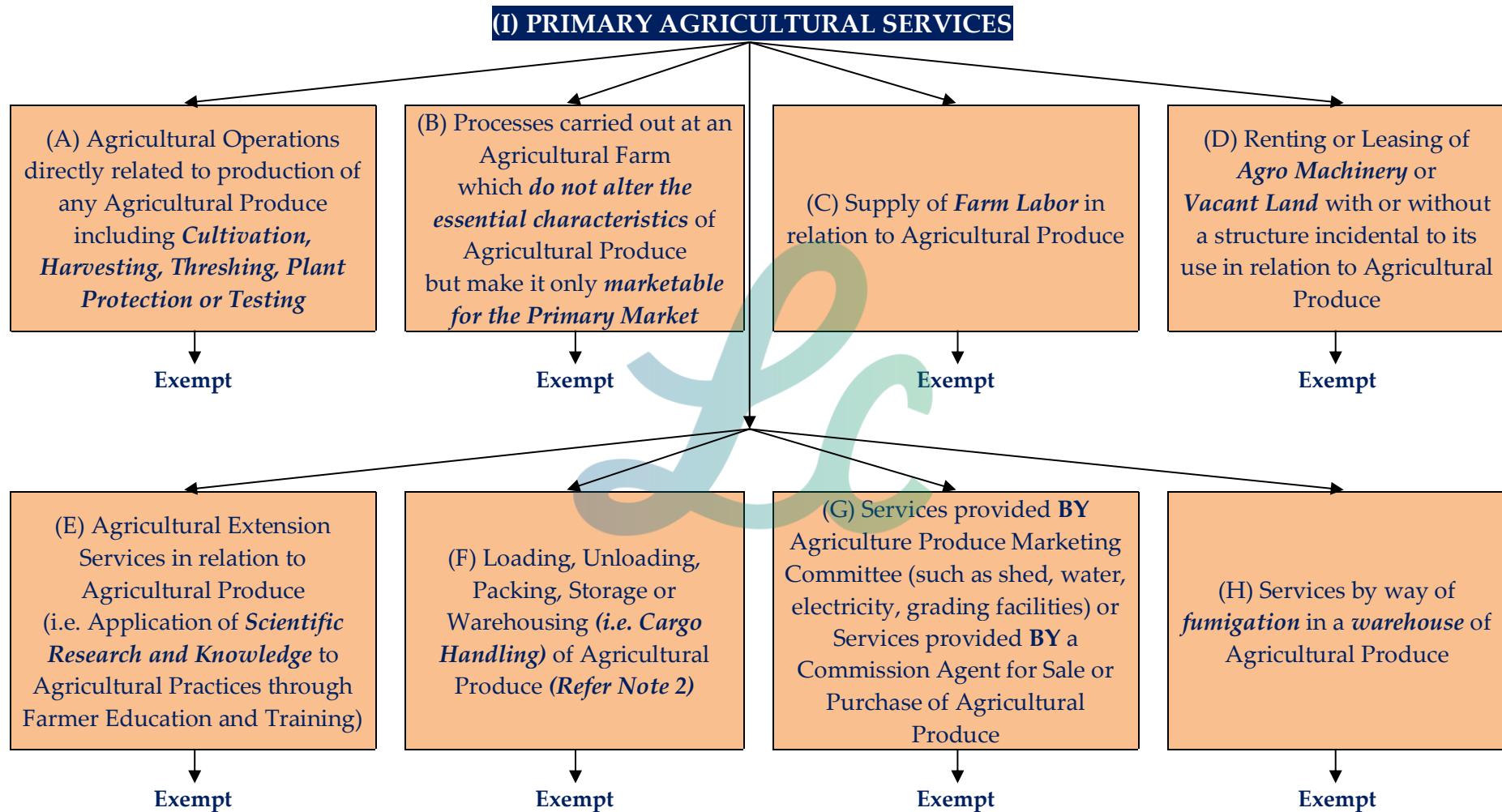
Example 2: Supply of Service BY 3rd Party TO Educational Institution

Particulars	Category A – EI	Category B – EI	Category C – EI
(1) Service relating to Admission / Conduct of Examination	✗	✗	✗
(2) Transportation Service of Students / Faculty / Staff Catering Service including Mid-Day Meals Scheme sponsored by Government Security / Cleaning / House-Keeping Service	✗	✓	✓
(3) Online Education Journal / Periodicals Service	✓	✗	✓
(4) Any Other Service	✓	✓	✓

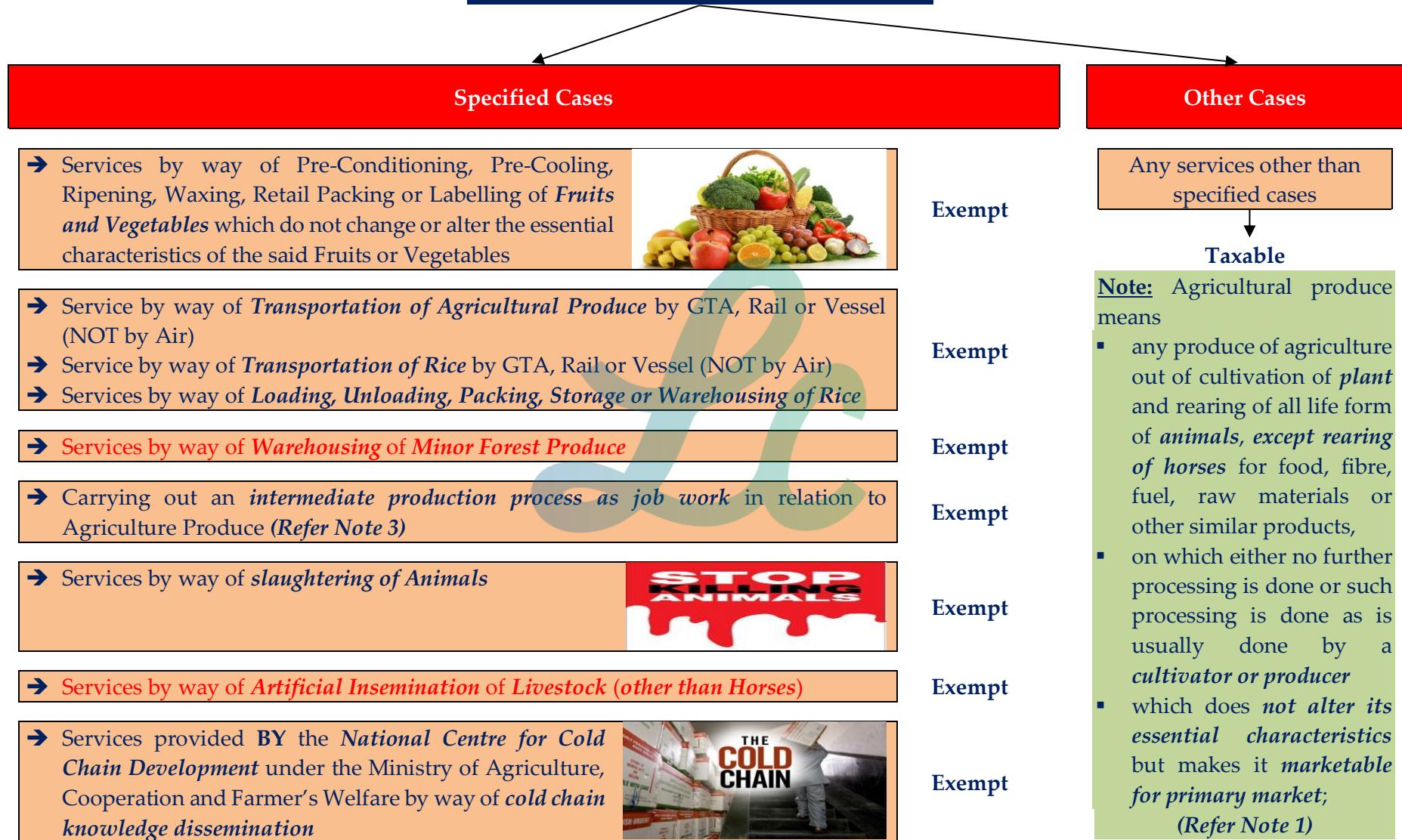
Example 3: Supply of Service BY 4th Party TO 3rd Party (providing services TO Educational Institution)

Particulars	Category A – EI	Category B – EI	Category C – EI
(1) Hiring of Motor Vehicle for Transportation Sr. of Students / Faculty / Staff	✗	✓	✓
(2) Any Other Service	✓	✓	✓

(11) AGRICULTURAL SERVICES



(II) OTHER AGRICULTURAL SERVICES



- | | |
|--|---|
| <p>→ Services by way of <i>licensing, registration and analysis</i> or testing of <i>food samples</i> supplied BY the Food Safety and Standards Authority of India (FSSAI) TO Food Business Operators</p> | Exempt |
| <p>→ Service by way of Assignment of <i>Right to Use Natural Resources</i> TO <i>an Individual Farmer</i> for the purposes of Agriculture</p> | 
Exempt |
| <p>→ Services supplied BY Electricity Distribution Utilities by way of construction, erection, commissioning, or installation (ONLY Primary Construction Work) of infrastructure for extending <i>electricity distribution</i> network upto the <i>tube well</i> of the <i>farmer</i> or agriculturalist for <i>agricultural use</i></p> | Exempt |
| <p>→ Service BY an <i>Unincorporated Body / Registered Non-Profit Entity</i>, engaged in
 (a) activities relating to the <i>welfare of Agricultural Labour or Farmers</i>;
 (b) <i>promotion</i> of Agriculture, TO its own members against consideration in the form of <i>Membership Fee</i> upto an amount of <i>Rs.1,000 / Year / Member</i></p> | Exempt |

Notes:

(1) Agricultural Produce or not

S. No.	Particulars	Agricultural Produce	S. No.	Particulars	Agricultural Produce
1	Tea Leaves		9	Paddy	
2	Tea		10	Rice	
3	Coffee Beans		11	Wheat	
4	Coffee		12	Wheat Biscuits	
5	Sugar Cane		13	Potato	
6	Jaggery		14	Potato Chips	
7	Whole Pulses		15	Tomato	
8	De-husked Pulse		16	Tomato Ketchup	



(2) Clarification on Warehousing of Agricultural Produce – CBIC Circular 16/16/2018 – CGST

Issue	Is GST applicable on warehousing of agricultural produce such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (de-husked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts?
Clarification	<p>GST rate on loading, unloading packing, storage or warehousing of agricultural produce is Nil. Agricultural produce in the notification has been defined to mean any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market.</p> <p>(i) Processed Tea and Coffee: Tea used for making the beverage, such as <i>black tea, green tea, white tea</i> is a processed product made in tea factories after carrying out several processes, such as drying, rolling, shaping, refining, oxidation, packing etc. on green leaf and is the processed output of the same. Thus, <i>green tea leaves and not tea is the "agricultural produce"</i> eligible for exemption available for loading, unloading, packing, storage or warehousing of agricultural produce. Same is the case with coffee obtained after processing of coffee beans.</p> <p>(ii) Jaggery: Similarly, processing of <i>sugarcane into jaggery</i> changes its essential characteristics. Thus, jaggery is also not an agricultural produce.</p> <p>(iii) Pulses: Pulses commonly known as <i>dal</i> are obtained <i>after dehusking or splitting</i> or both. The process of dehusking or splitting is usually <i>not carried out by farmers</i> or at farm level but by the pulse millers. Therefore pulses (dehusked or split) are also <i>not agricultural produce</i>. However, <i>whole pulse grains</i> such as <i>whole gram, rajma</i> etc. are covered in the definition of <i>agricultural produce</i>.</p> <p>In view of the above, it is hereby clarified that <i>processed products</i> such as <i>tea</i> (i.e. black tea, white tea etc.), <i>processed coffee beans or powder, pulses (dehusked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts</i> etc. fall outside the definition of agricultural produce and therefore the <i>exemption from GST is not available</i> to their loading, packing, warehousing etc. and that any clarification issued in the past to the contrary in the context of service tax or VAT / Sales Tax is no more relevant.</p>

(3) Clarification on Custom Milling of Paddy – CBIC Circular 19/19/2018 – CGST

Issue	Whether custom milling of paddy by Rice Millers for Civil Supplies Corporation is liable to GST or is exempted under Entry 55?
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Clarification	Milling of paddy is <i>not an intermediate production process</i> in relation to cultivation of plants. It is a process carried out after the process of cultivation is over and paddy has been harvested. Further, processing of paddy into rice is <i>not usually carried out by cultivators</i> but by rice millers. Milling of paddy into rice also changes its <i>essential characteristics</i> . Therefore, milling of paddy into rice cannot be considered as an intermediate production process in relation to cultivation of plants for food, fibre or other similar products or agricultural produce. In view of the above, it is clarified that <i>milling of paddy into rice is not eligible for exemption</i> under Entry 55 of the Notification and corresponding notifications issued under IGST and UTGST Acts
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Example 1:

Particulars	GST
Cleaning of Apples (Not changing character of Agri. Produce + Marketable for Primary Market)	✗
Bulk Packing of Apples in Sack (Not changing character of Agri. Produce + Marketable for Primary Market)	✗
Retail Packing of Apples (Not changing character of Agri. Produce + Marketable for Retail Market but for Fruits)	✗
Converting Apple to Apple Juice (Changing character of Agri. Produce + Marketable for Retail Market)	✓

Example 3:

Particulars	GST
Rearing of all life forms of Animals (Agriculture)	✗
Rearing of Horses (NOT Agriculture)	✓
Artificial Insemination of Lifestock	✗
Artificial Insemination of Horses	✓

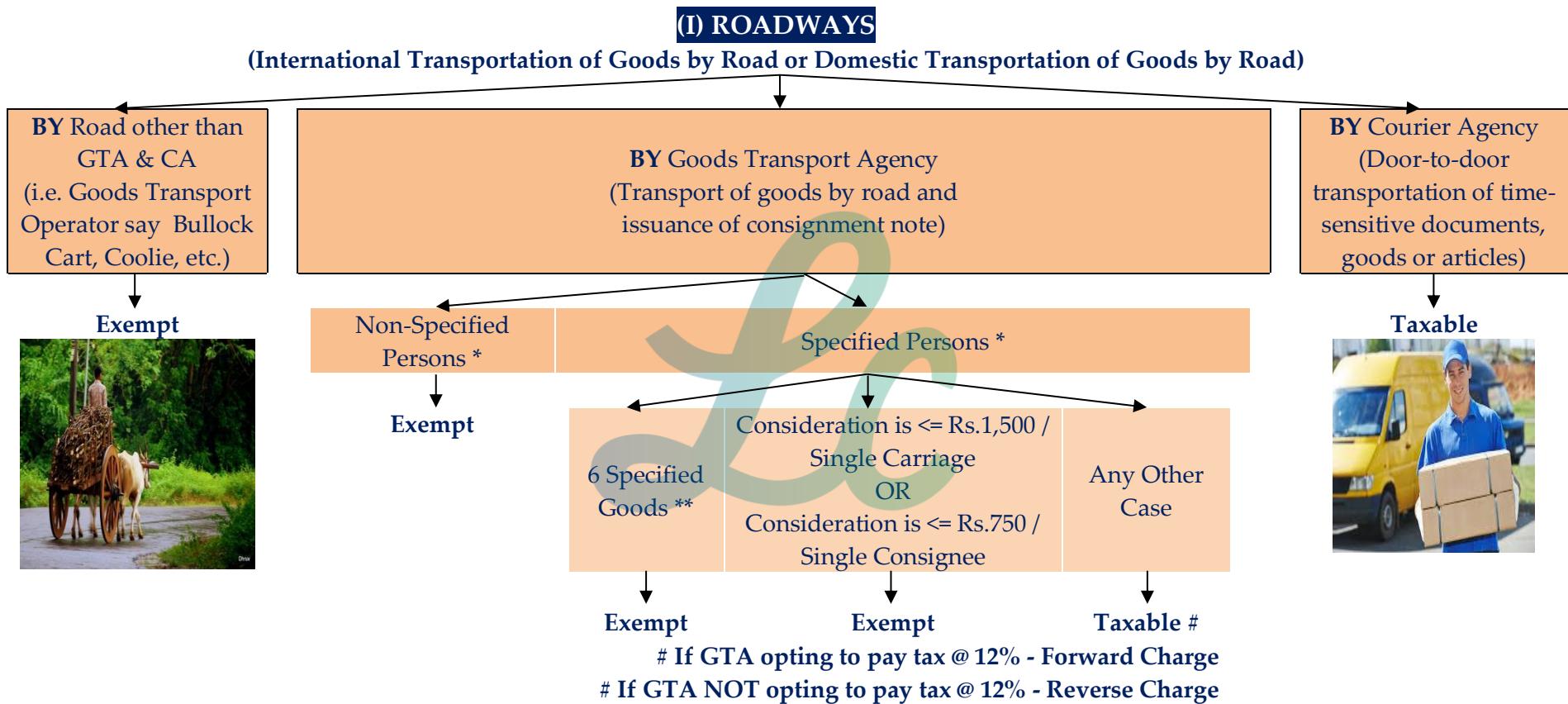
Example 2:

Particulars	GST
Processes on Paddy (including Cargo Handling Services & Transportation Services by Rail, GTA and Vessel)	✗
Intermediate Production Process as Job-Work for converting Paddy to Rice	✓
Processes on Rice (including Cargo Handling Services & Transportation Services by Rail, GTA and Vessel)	✗

Example 4:

Particulars	GST
Transportation of Agri. Pro. & Rice by GTA, Rail & Vessel	✗
Transportation of Agri. Pro. & Rice by Air	✓
Right to use Natural Resources to Individual Farmer	✗
Right to use Natural Resources to Agricultural Company	✓

(12) SERVICE BY WAY OF TRANSPORTATION OF GOODS



**Notes:**

→ * Non-Specified Persons are **Unregistered Person** including **Unregistered Casual Taxable Person**. Specified Persons are the following:

- | | |
|--|--|
| (i) Factory registered under Factories Act, 1948 | (iv) Co-operative Society established by or under any law |
| (ii) Society registered under Societies Registration Act, 1860 | (v) Partnership Firm / LLP, including Association of Person, whether registered or not |
| (iii) Body Corporate established by or under any law | (vi) Registered Casual Taxable Person |

→ ** 6 Specified Goods are as follows:

- | | |
|--|--|
| (i) Agriculture Produce | (iv) Newspaper or Magazines registered with the Registrar of Newspapers |
| (ii) Milk, Salt, Food Grains including Flours, Pulses and Rice | (v) Relief Materials meant for victims of Natural or Man-Made Disasters, Calamities, Accidents or Mishap |
| (iii) Organic Manure | (vi) Defence or Military Equipments |

Example 1: A GTA (NOT opting to pay GST @ 12%) is charging following amounts from its customers

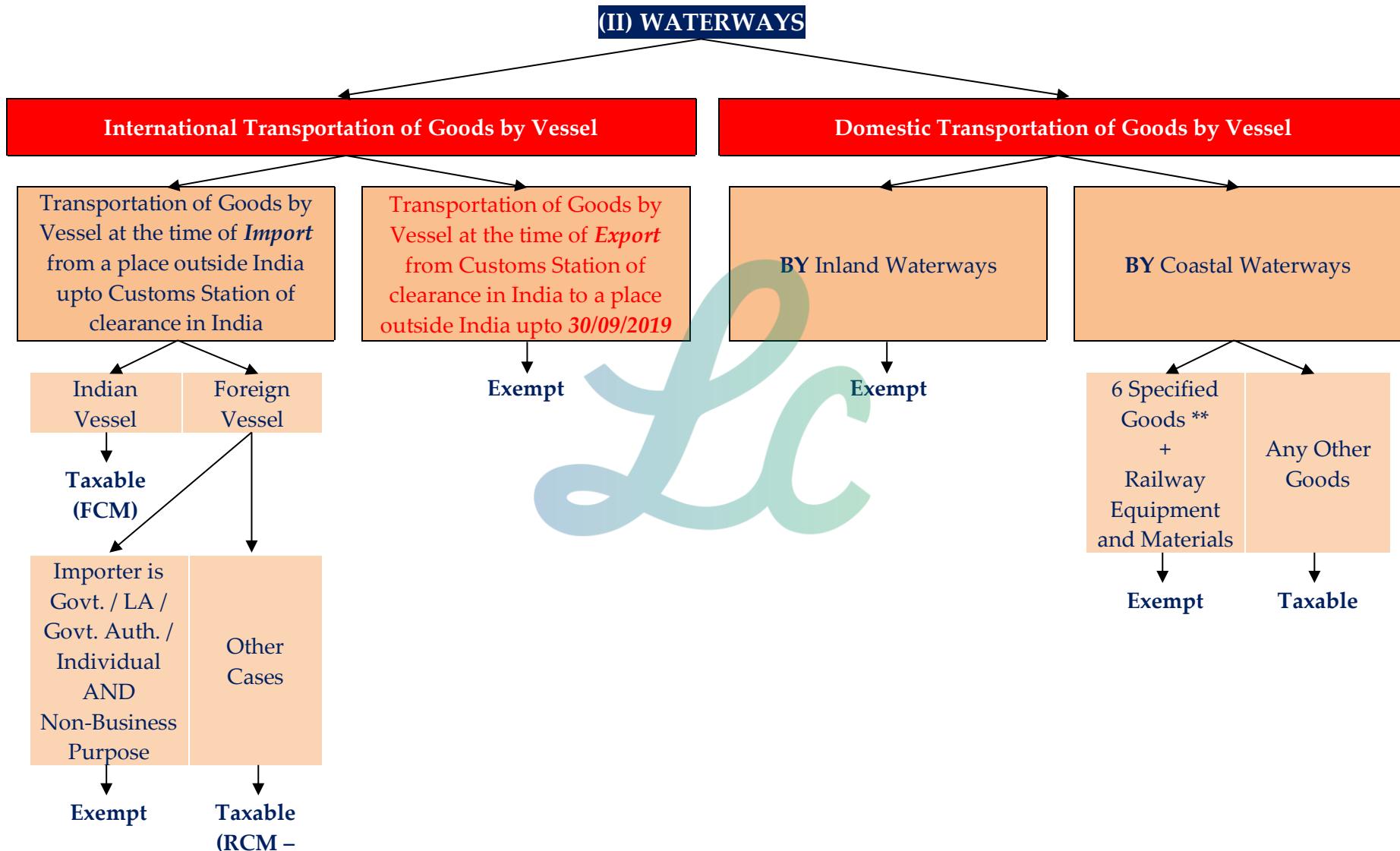
Particulars	GST
(i) Charging Rs.5,000 for Transportation of Plywood from Mr. A (Unregistered)	X
(ii) Charging Rs.4,000 for Transportation of Agricultural Produce from B Ltd. (Registered / Unregistered)	X
(iii) Charging Rs.700 for Transportation of Plywood from C & Co. (Registered / Unregistered)	X
(iv) Charging Rs.1,400 for entire truck for Transportation of Plywood from DEF & Co. (Registered / Unregistered)	X
(v) Charging Rs.900 for Transportation of Plywood from E Ltd. (Registered)	✓ (RCM)
(vi) Charging Rs.3,000 for Transportation of Plywood from F & Co., a partnership firm (Unregistered) (Refer Note)	✓ (RCM)

Note: F & Co., a partnership firm, has to apply for compulsory registration under Section 24 for paying GST under RCM. Also, it is important to know that GTA will not be required to take registration irrespective of its turnover as per Section 23.

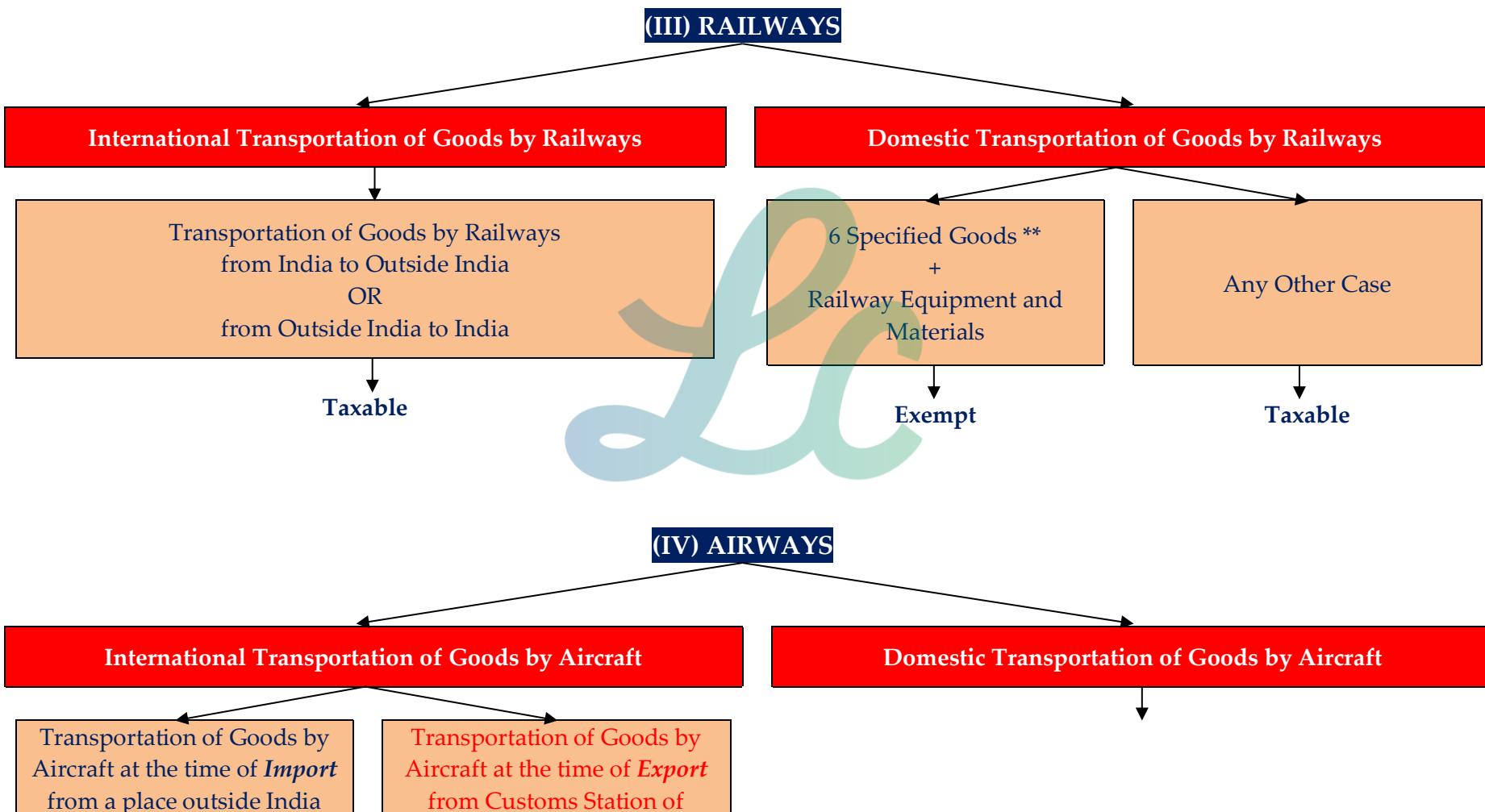
Example 2: What if in Example 1 GTA has opted to pay GST @ 12%?

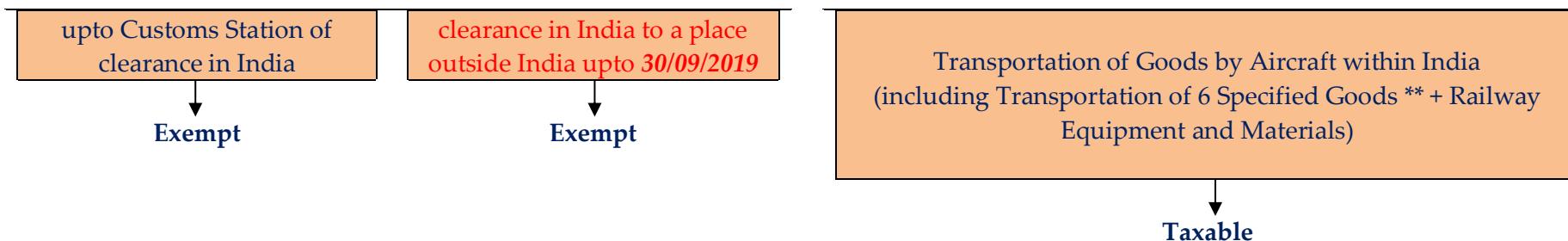
Particulars	GST
(i) to (iv)	X
(v) Charging Rs.900 for Transportation of Plywood from E Ltd. (Registered)	✓ (FCM)
(vi) Charging Rs.3,000 for Transportation of Plywood from F & Co., a partnership firm (Unregistered) (Refer Note)	✓ (FCM)

Note: F & Co., a partnership firm, need NOT apply for compulsory registration under Section 24 as RCM is not applicable.



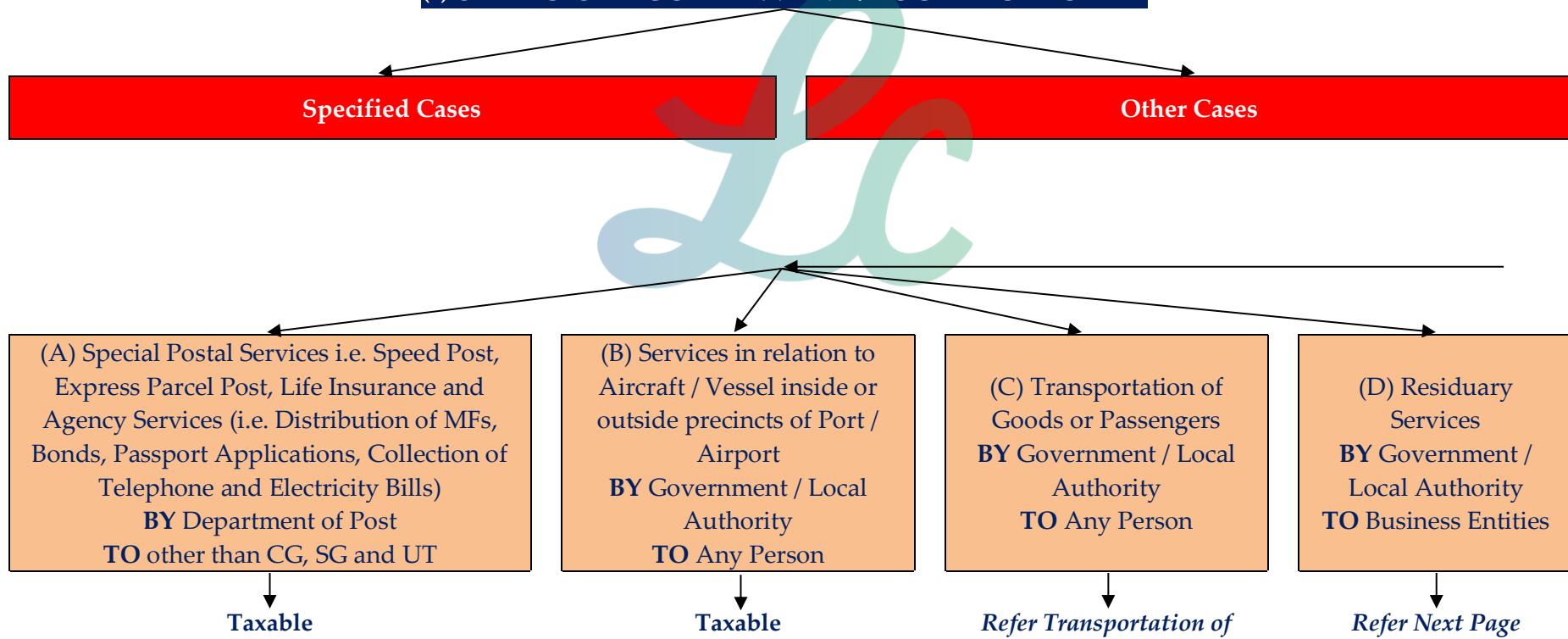
(Importer)





(13) GOVERNMENT SERVICES

(I) SERVICES BY GOVERNMENT / LOCAL AUTHORITY



(Forward Charge)

(Forward Charge)

*Goods and Transportation
of Passengers*
(Forward Charge)

ANY SERVICES BY GOVERNMENT / LOCAL AUTHORITY TO BUSINESS ENTITIES

Specified Cases

Other Cases

Exemption based on Govt. to Govt.

- Any Services BY Government / Local Authority TO Another Government / Local Authority (*Exemption is ONLY for services covered under D & NOT for services covered under B & C. Services covered under A when provided BY Post Dept. TO Govt. is already exempted*)

Exempt

Renting of Immovable Property to Unregistered Person

Taxable (Forward Charge)

Exemption based on Nature of Services

- Services by way of issuance of *Passport, Visa, Driving Licence, Birth Certificate or Death Certificate*
- Services by way of *tolerating Non-Performance* of a Contract for which Consideration in the form of Fines / Liquidated Damages is payable to Government or Local Authority under such contract
- Services by way of *Registration* required under any law
- Services by way of *Testing, Calibration, Safety Check or Certification* relating to Protection or Safety of Workers, Consumers or Public at large, including fire license, required under any law

Exempt

Any Other Services other Renting of Immovable Property TO Business Entity in Non-Taxable Territory

Taxable (Forward Charge)

Any Other Services other Renting of Immovable Property

Taxable (Reverse Charge)

- Services by way of deputing officers after office hours or on holidays for *Inspection or Container Stuffing* or such other duties in relation to Import Export Cargo on payment of *Merchant Overtime Charges* (MOT)
- Services by an *Old Age Home* run BY Central Government or State Government to its residents (aged *60 years* or more) against consideration upto *Rs.25,000 / Month / Member*, provided that the consideration charged is *inclusive of charges for Boarding, Lodging and Maintenance*
- Services supplied BY Central Government or State Government or Union Territory TO their *Undertakings or Public Sector Undertakings* (PSUs) by way of *guaranteeing the loans* taken by such undertakings or PSUs from the Financial Institutions
- Services supplied BY a State Government TO Excess Royalty Collection Contractor (ERCC) by way of *assigning the right to collect royalty on behalf of the State Government* on the mineral dispatched by the *mining lease holders*.
Provided that at the end of the contract period, ERCC shall submit an account to the SG and certify that the amount of GST deposited by mining lease holders on royalty is more than the GST exempted on the service provided by SG to the ERCC of assignment of right to collect royalty. Where such amount of GST paid by mining lease holders is less than the amount of GST exempted, the exemption shall be restricted to such amount as is equal to the amount of GST paid by the mining lease holders and the ERCC shall pay the difference between GST exempted on the service provided by SG to the ERCC of assignment of right to collect royalty and GST paid by the mining lease holders on royalty.
- Services BY Central Government by way of grant of *License / Lease to explore or mine Petroleum Crude / Natural Gas* or both where the consideration paid to Central Government in the form of *Central Government's share of profit petroleum* as defined in contract entered into by Central Government (*Refer Note*)

TO Business Entity in
Taxable Territory



- Services by way of Assignment of *Right to Use Natural Resources TO an Individual Farmer* for the purposes of Agriculture
- Services by way of Assignment of *Right to Use any Natural Resource* where such Right to Use was assigned by the Government or the Local Authority *before the 1st April, 2016*.
- Services by way of allowing a Business Entity to operate as a Telecom Service Provider or use *Radiofrequency Spectrum* during the period before *1st April 2016* on payment of Licence Fee or Spectrum User Charges

Exemption based on Amount

- Services provided **BY** Government or a Local Authority **TO** a Business Entity with an *Aggregate Turnover up to Rs.20 lakhs* (Rs.10 lakhs in case of Special Category States) in the Preceding Financial Year (*Exemption is ONLY for services covered under D other than Renting of Immovable Property and NOT for services covered under A, B, C and Renting of Immovable Property*)
- Services provided **BY** Government or a Local Authority where the Gross Amount Charged does not exceed *Rs.5,000/- per Contract* for a Normal Service OR *Rs.5,000/- per FY* for Continuous Supply of Service (*Exemption is ONLY for services covered under D and NOT for services covered under A, B & C*)

Exempt

Notes:

Clarification on taxability of Cost Petroleum – CBIC Circular 32/06/2018 – CGST

Clarification	As per the <i>Production Sharing Contract</i> (PSC) between the <i>Government and the oil exploration & production contractors</i> , in case of a commercial discovery of petroleum, the <i>contractors</i> are entitled to <i>recover</i> from the sale proceeds <i>all expenses</i> incurred in exploration, development, production and payment of royalty. Portion of the value of petroleum which the contractor is entitled to take in a year for recovery of these contract costs, is called " <i>Cost Petroleum</i> ". The relationship of the oil exploration and production contractors with the Government is <i>not that of partners</i> but that of <i>licensor/lessor and licensee/lessee</i> in terms of the Petroleum and Natural Gas Rules, 1959. Having acquired the right to explore, exploit and sell petroleum in lieu of <i>royalty and a share in profit petroleum</i> , <i>contractors</i> carry out the <i>exploration and production</i> of petroleum for <i>themselves</i> and not as a service to the Government. Para 8.1 of the Model Production Sharing
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	<p>Contract (MPSC) states that subject to the provisions of the PSC, the <i>Contractor</i> shall have <i>exclusive right</i> to carry out Petroleum Operations to <i>recover costs and expenses</i> as provided in this Contract. The oil exploration and production contractors conduct all petroleum operations at their sole risk, cost and expense. Hence, cost petroleum is <i>not a consideration for service to GOI</i> and thus not taxable per se.</p> <p>However, <i>cost petroleum</i> may be an indication of the <i>value of mining or exploration services</i> provided by <i>operating member to the joint venture</i>, in a situation where the operating member is found to be supplying service to the oil exploration and production joint venture.</p>
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Supplier = CG / SG / UT / LA Services = Panchayat / Municipal Functions + Post, Port / Airport & Transport Services	
Services	Exempt / Taxable
(I) Panchayat Functions (Article 243G) OR Municipality Functions (Article 243 W)	Not Supply
(II) Any Other Functions	Supply
(1) Postal Services <ul style="list-style-type: none"> (a) Normal Postal Services – Post Card, Inland Letter, Book Post, Registered Post, Opening of Savings Account, Money Order, Postal Order, Pension Payments, etc. (b) Special Postal Services – Speed Post, Express Parcel Post, Life Insurance and Agency Services (i.e. Distribution of MFs, Bonds, Passport Applications, Collection of Telephone and Electricity Bills) <ul style="list-style-type: none"> → TO Government (CG, SG and UT) → TO Others (Business Entity or Non-Business Entity) 	Exempt Exempt Taxable (Forward Charge)
(2) Port / Airport Services – Services in relation to Aircraft / Vessel inside or outside precincts of Port / Airport TO Any Person (Government / Business Entity / Non-Business Entity)	Taxable (Forward Charge)
(3) Transport Services – Transportation of Good and Transportation of Passengers TO Any Person (Government / Business Entity / Non-Business Entity) <ul style="list-style-type: none"> (a) Exempt Category (b) Taxable Category 	Exempt Taxable (Forward Charge)
(4) Residuary Services – Any Other Services other than above 3 Services	

(a) TO Non-Business Entity	Exempt
(b) TO Business Entity	<i>Refer Next Chart</i>
Supplier = CG / SG / UT / LA	
Residuary Services = Any Services – Panchayat / Municipal Functions – Post, Port / Airport & Transport Services	
Recipient	Exempt / Taxable
(I) Service supplied TO Non-Business Entity	Exempt
(II) Service supplied TO Business Entity	
(1) BE = CG / SG / UT / LA	Exempt (<i>Even Renting of Imm. Pro. is exempt</i>)
(2) Any Other BE	
(a) BE having Previous Year's TO upto Rs.20 lakhs / Rs.10 lakhs	Exempt (<i>However, Renting of Imm. Pro. is NOT exempt</i>)
(b) BE having Previous Year's TO more than Rs.20 lakhs / Rs.10 lakhs	
(i) Consideration is upto Rs.5,000 / Contract <i>(In case of continuous supply of services, Rs.5,000 / Year shall be considered)</i>	Exempt
(ii) Consideration is more than Rs.5,000	
➔ Passport, Visa, Driving License, Birth Certificate or Death Certificate	Exempt
➔ Tolerating Non-Performance of a Contract (Fines / Liquidated Damages)	Exempt
➔ Statutory Functions of	Exempt
▪ Registration	
▪ Testing, Calibration, Safety Check or Certification	
➔ Deputation of officers after office hours or on holidays (for inspection or container stuffing, etc.) on payment of Merchant Overtime Charges (MOT)	Exempt
➔ Old Age Home BY CG or SG to ≥ 60 years residents upto consideration of Rs.25,000 / Month / Member (including Boarding, Lodging & Maintenance)	Exempt
➔ Services supplied BY CG, SG or UT TO their <i>Undertakings or PSUs</i> by way of <i>guaranteeing the loans</i> taken by them from Financial Institutions	Exempt
➔ Services supplied BY a SG TO Excess Royalty Collection Contractor by way of assigning the right to collect royalty on behalf of the SG on the mineral dispatched by the mining lease holders	Exempt

<ul style="list-style-type: none"> ➔ Services BY CG by way of grant of License / Lease to explore or mine Petroleum Crude / Natural Gas (CG's share of profit petroleum) ➔ Right to Use Natural Resources TO an Individual Farmer for Agriculture ➔ Any other service <ul style="list-style-type: none"> ▪ Renting of Immovable Property to Unregistered Recipient ▪ Renting of Immovable Property to Registered Recipient ▪ Any Other Services to Recipient in Non-Taxable Territory ▪ Any Other Services to Recipient in Taxable Territory 	<p>Exempt</p> <p>Exempt</p> <p>Taxable</p> <ul style="list-style-type: none"> ▪ Forward Charge ▪ Reverse Charge ▪ Forward Charge ▪ Reverse Charge
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Example 1: Government is supplying following services:

Particulars	GST
(i) Municipality Services and Panchayat Services – Rs.3,000	✗
(ii) Inland Letter Services – Rs.3,000	✗
(iii) Speed Post Services to Income Tax Department (Govt.) – Rs.3,000	✗
(iv) Speed Post Services to Tata & Co. – Rs.3,000	✓ (FCM)
(v) Port Fees / Airport Fees / Demurrage Charges / Repair & Maintenance Charges from Aircraft and Vessels – Rs.3,000	✓ (FCM)
(vi) Transportation Services (Exempted Category) – Rs.3,000	✗
(vii) Transportation Services (Taxable Category) – Rs.3,000	✓ (FCM)
(viii) Services to Mr. A (a Student) – Rs.3,000	✗
(ix) Services to Maharashtra Government – Rs.3,000	✗

Example 2: Government is providing sponsorship service to following business entities:

Particulars	GST
(i) TO A Ltd., unregistered company - Rs.8,000 (Previous Yr. Turnover is Rs.9 lakhs)	✗
(ii) TO BCD & Co., registered partnership firm - Rs.4,000 (Previous Yr. Turnover is Rs.50 lakhs)	✗
(iii) TO E & Co., registered proprietorship concern - Rs.10,000 (Previous Yr. Turnover is Rs.1.5 crores)	✓ (RCM)

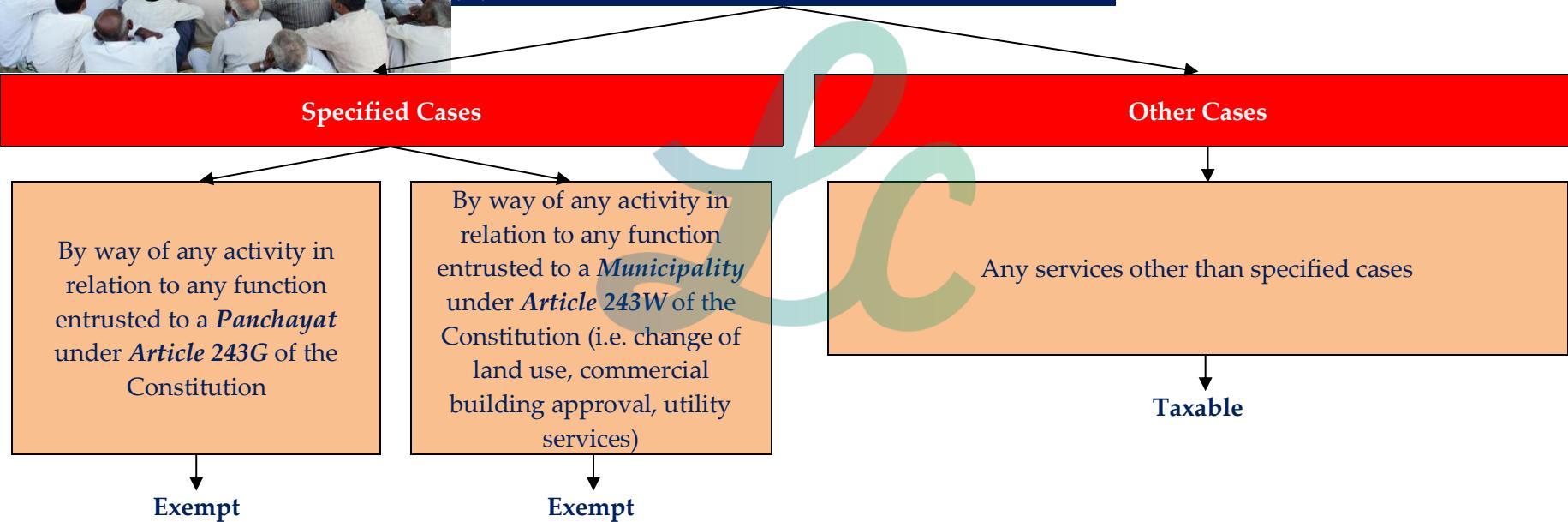
Example 3: Government is providing renting of immovable property to following business entities:

Particulars	GST
(i) TO A Ltd., unregistered company - Rs.8,000 (Previous Yr. Turnover is Rs.9 lakhs)	✓ (FCM)
(ii) TO BCD & Co., registered partnership firm - Rs.4,000 (Previous Yr. Turnover is Rs.50 lakhs)	✗
(iii) TO E & Co., registered proprietorship concern - Rs.10,000 (Previous Yr. Turnover is Rs.1.5 crores)	✓ (RCM)

Note: It is assumed that above rental amount is per annum.



(II) SERVICES BY GOVERNMENTAL AUTHORITY



(III) SERVICES BY GOVERNMENT ENTITY

Supply of service **BY** a Government Entity **TO** Central Government, State Government, Union Territory, Local Authority or any person specified by Central Government, State Government, Union Territory or Local Authority *against consideration received from Central Government, State Government, Union territory or local authority, in the form of grants*

Exempt

Any Other Service

Taxable

(IV) SERVICES TO GOVERNMENT / LOCAL AUTHORITY / GOVERNMENTAL AUTHORITY / GOVERNMENT ENTITY

Specified Cases

Other Cases

→ *Pure Services* (excluding Works Contract Service or other Composite Supplies involving supply of any goods) provided **TO** Government or Local Authority or Governmental Authority or **Government Entity** by way of any activity in relation to any function entrusted to a *Panchayat under Article 243G* or in relation to any function entrusted to a *Municipality under Article 243W* of Constitution

Exempt

Any services other than specified cases

Taxable

→ *Composite Supply* of goods and services in which the *value of supply of goods* constitutes *not more than 25%* of the value of the said composite supply provided **TO** Government or Local Authority or Governmental Authority or **Government Entity** by way of any activity in relation to any function entrusted to a *Panchayat under Article 243G* or in relation to any function entrusted to a *Municipality under Article 243W* of Constitution

Exempt

→ Services provided **BY** an Arbitral Tribunal **TO** Government or Local Authority or Governmental Authority or Government Entity

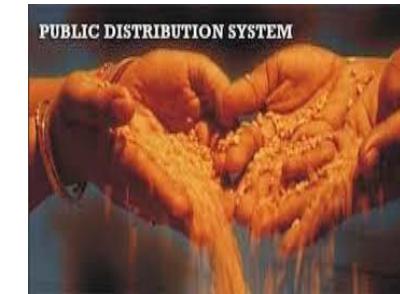
Exempt

- Services provided **BY** a Partnership Firm of Advocates or **BY** an Individual Advocate other than a Senior Advocate by way of legal services **TO** Government or Local Authority or Governmental Authority or Government Entity
- Services provided **BY** a Senior Advocate by way of legal services **TO** Government or Local Authority or Governmental Authority or Government Entity

- Services **BY** service provider located in *Non-Taxable Territory* **TO** Government or Local Authority or Governmental Authority or an *Individual* in relation to any purpose *other than commerce, industry or any other business or profession* (However, this exemption is NOT applicable to Online Information or Database Access or Retrieval Services)

(EXEMPTION IS ONLY FROM IGST)

Exempt



- Services provided **TO** Government under any *Insurance Scheme* for which *Total Premium* is paid by Government (*Refer Note*)

Exempt

- Services provided **TO** Government administration under any *Training Programme* for which *Total Expenditure* is borne by Government administration

Exempt

- Services provided **TO** Central Government by way of Transportation of Passengers **BY** Air *embarking from or terminating at* RCS Airports against consideration in form of *Viability Gap Funding* (This exemption is *ONLY upto 3 Yrs.* of commencement of operations of RCS Airport)

Exempt

- Service provided **BY** Fair Price Shops **TO** Central Government or State Governments or Union Territories by way of sale of *food grains, kerosene, sugar, edible oil*, etc. under *Public Distribution System* (PDS) against consideration in the form of *commission or margin*

Exempt



Note: Meaning of "Governmental Authority" and "Government Entity"

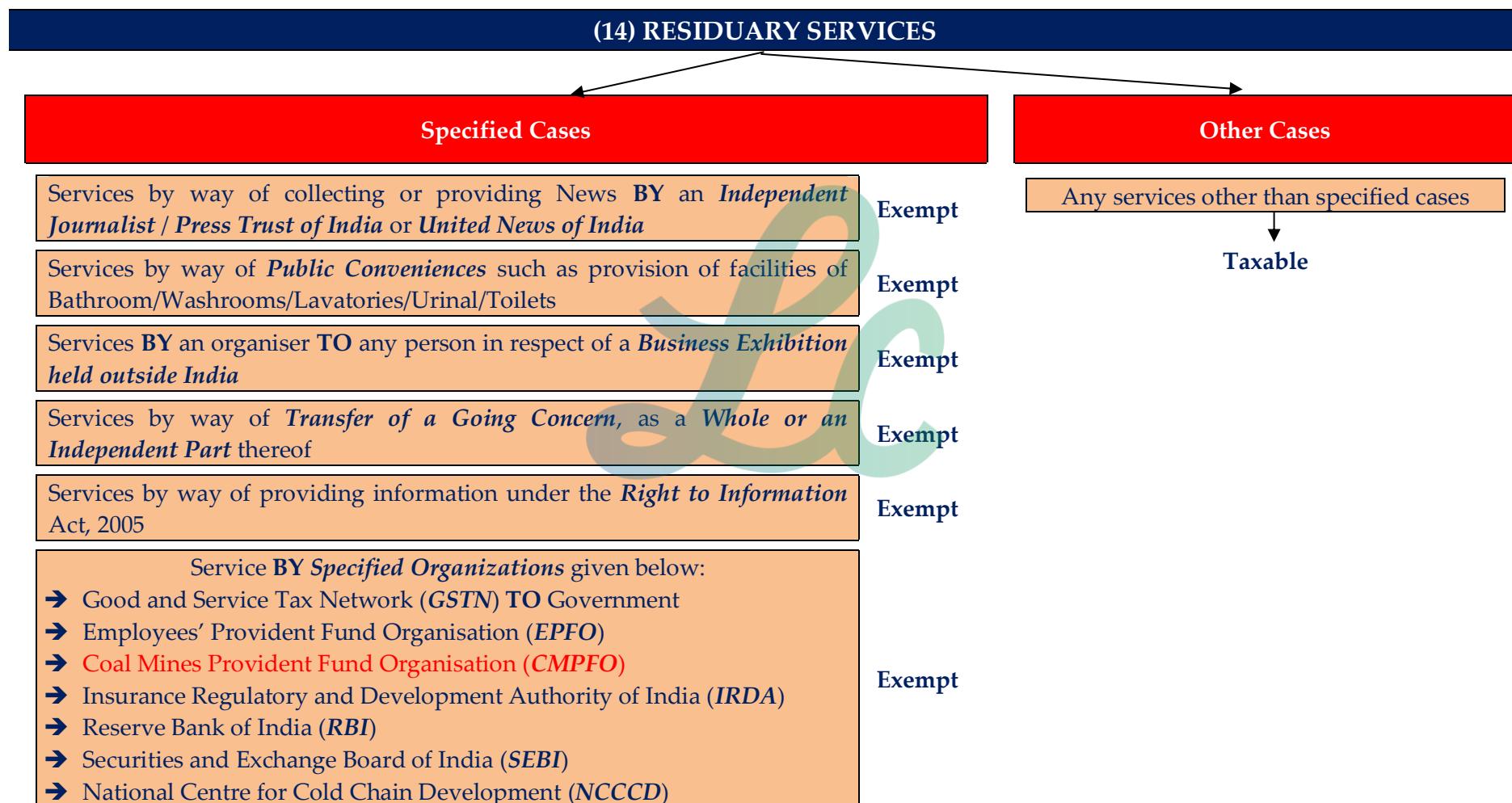
Governmental Authority		Government Entity
Means	<p>An authority or a board or any other body,</p> <p>(i) set up by an Act of <i>Parliament or a State Legislature</i> OR</p> <p>(ii) established by <i>any Government</i>, with 90% or more participation by way of equity or control, to carry out any <i>function</i> entrusted to a <i>Municipality</i> under Article 243 W OR to a <i>Panchayat</i> under Article 243 G of Constitution.</p>	<p>An authority or a board or any other body including a society, trust, corporation,</p> <p>(i) set up by an Act of <i>Parliament or a State Legislature</i> OR</p> <p>(ii) established by <i>any Government</i>, with 90% or more participation by way of equity or control, to carry out a <i>function</i> entrusted by the <i>Central Government, State Government, Union Territory or a Local Authority</i>.</p>

Notes:

Clarification on General Insurance Policies provided by a State Government to employees of the State Government / Police Personnel, Employees of Electricity Department or Students of Colleges / Private Schools etc. – CBIC Circular 16/16/2018 – CGST

Issue	Whether GST is leviable on general insurance policies provided by a State Government to employees of the State Government/ Police personnel, employees of Electricity Department or students of colleges/private schools etc: (a) where premium is paid by State Government and (b) where premium is paid by employees, students etc.
Clarification	It is hereby clarified that services provided to the Central Government, State Government, Union Territory under any <i>insurance scheme</i> for which <i>total premium</i> is paid by the <i>Central Government, State Government, Union Territory</i> are exempt from GST under Entry 40 of EN 12/2017-CT (Rate).

Further, services provided by State Government by way of general insurance (managed by Government) to employees of the State Government / Police Personnel, Employees of Electricity Department or students are exempt vide Entry 6 of EN 12/2017-CT (Rate) which exempts services *by Central Government, State Government, Union Territory or Local Authority to individuals.*





- Food Safety and Standards Authority of India (*FSSAI*) TO Food Business Operators
- National Pension System (*NPS*) Trust TO its members against consideration in the form of *Administrative Fee*

