



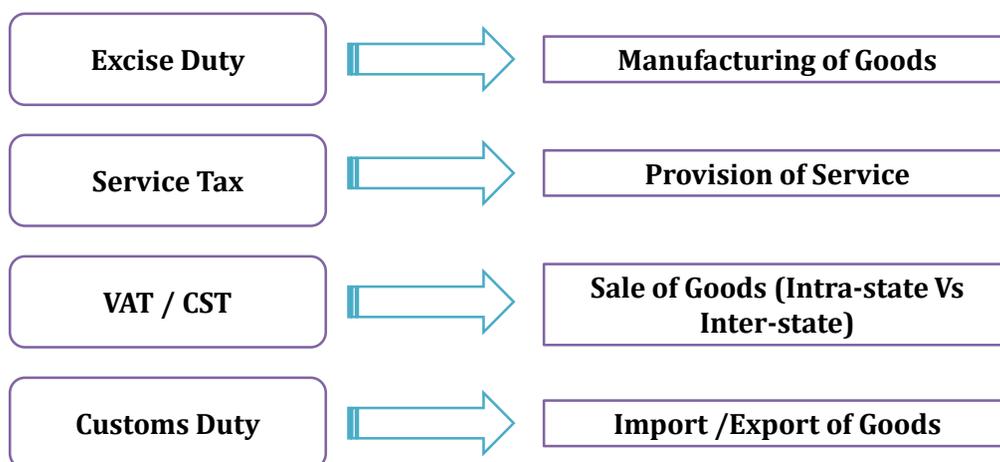
Basic Concepts of GST Law

March 13, 2019

The Chamber of Tax Consultants

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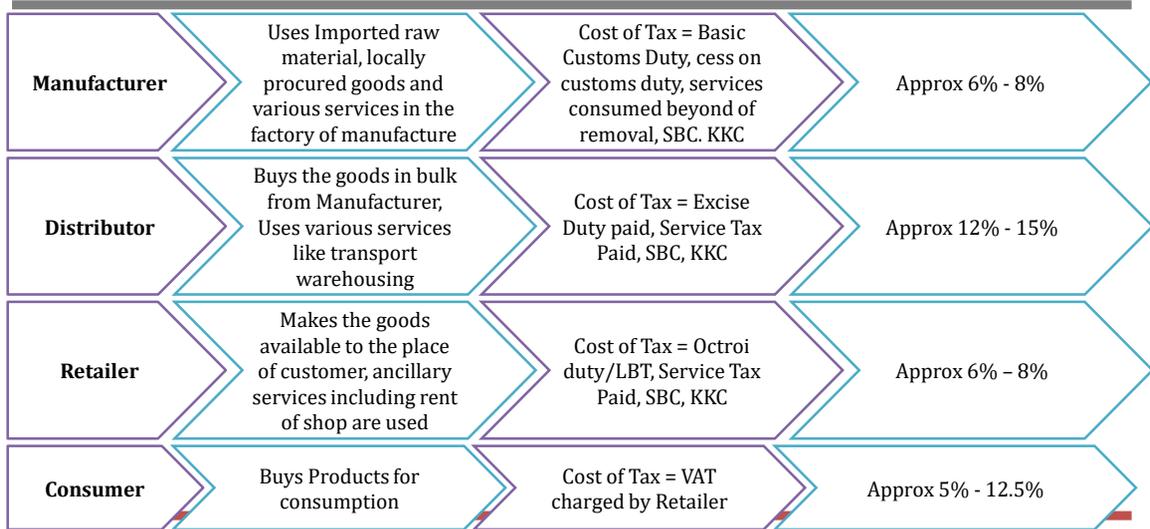
Current Indirect Tax Structure



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Maze of Taxes resulting in “COST OF TAX”



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Pitfalls of present indirect tax system

- Multiple regime of taxes such as Central or State Excise, Service Tax, Value Added Tax, Entry Tax, Luxury Tax, Entertainment Tax, Octroi, etc.
- Double Taxation on various Industries such as Software/Restaurants/IPR etc.
- Disharmonious VAT rate across the States
- CST – A disruption of credit mechanism

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Goods and Services Tax – “GST”

- ❑ GST stands for “Goods and Services Tax” and is proposed to be a comprehensive indirect tax levy on manufacture, sale and consumption of goods as well as services. The main objective is to consolidate all indirect tax levies into a single “value added tax” base.
- ❑ Features and Advantages under GST –
 - ❑ Avoids multiplicity of taxes/returns/assessments/audits as compared to current tax structure
 - ❑ Seamless flow of credits of taxes and accordingly reducing the cascading effect
 - ❑ Bringing uniformity in taxation across the country
 - ❑ Reducing the overall cost of product or services

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Ideal Model of GST

Transaction	A – B	B – C	C – D	Total
Sale Price / Service Value	100	200	300	
GST Collected (10%)	10	20	30	
Total Invoice Value	110	220	330	
Output GST	10	20	30	60
Input GST Credit	0	(-) 10	(-) 20	(-) 30
GST to Pay to the Govt.	10	10	10	30

**Distributed
between
Centre &
State**



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GST : Indian Perspective

- In India there is a Federal Structure of the Economy and there being inability of either the States or Centre to forego autonomy, revenue, etc., Dual GST is the only way forward:
 - Central GST (“CGST”) – To be administered and collected by Central Government
 - State GST (“SGST”) – To be administered and collected by Respective State Government
 - Union Territory GST (“UTGST”) -To be administered and collected by Central Government
 - Integrated GST (“IGST”) (For inter-state transactions) – To be administered and collected by Central Government. However, the proceeds to be distributed between Centre and the States

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GST : “Dual” Model : Example

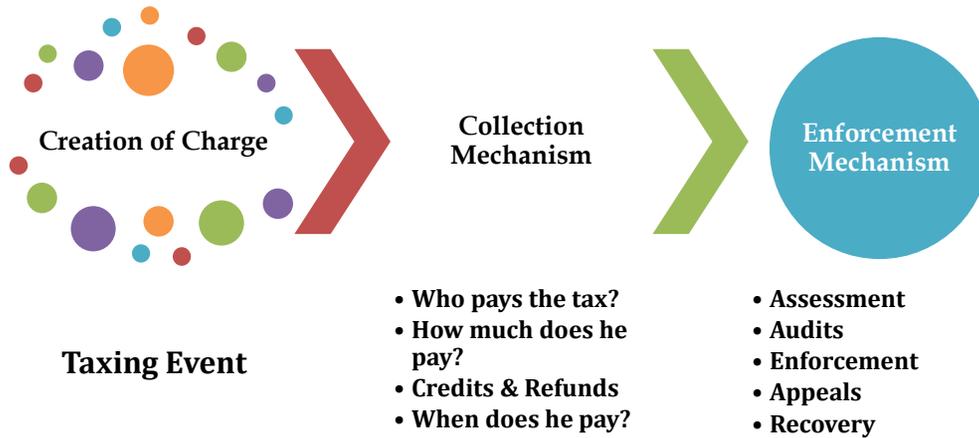
Transaction	A - B	B - C	C - D	Net Effect
Sale Price	100	200	300	300
CGST Collected	10	20	30	30
SGST Collected	10	20	30	30
Output CGST	10	20	30	60
Input CGST	0	(-) 10	(-) 20	(-) 30
CGST to Pay	10	10	10	30
Output SGST	10	20	30	60
Input SGST	0	(-) 10	(-) 20	(-) 30
SGST to Pay	10	10	10	30

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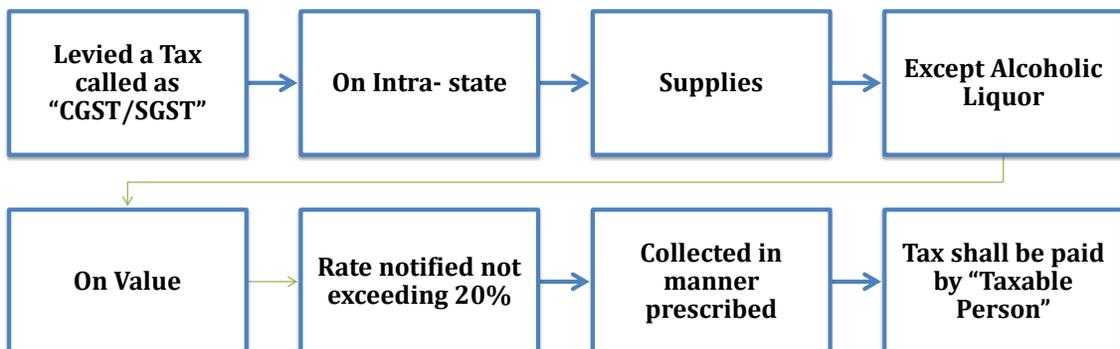
Study of Indirect Tax Law

Broad Steps



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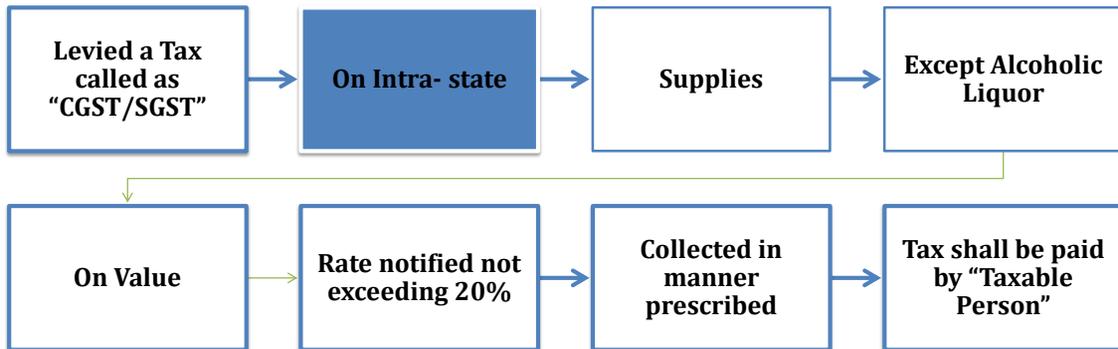
Dissection of Charge... CGST/SGST Act



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Dissection of Charge... CGST/SGST Act



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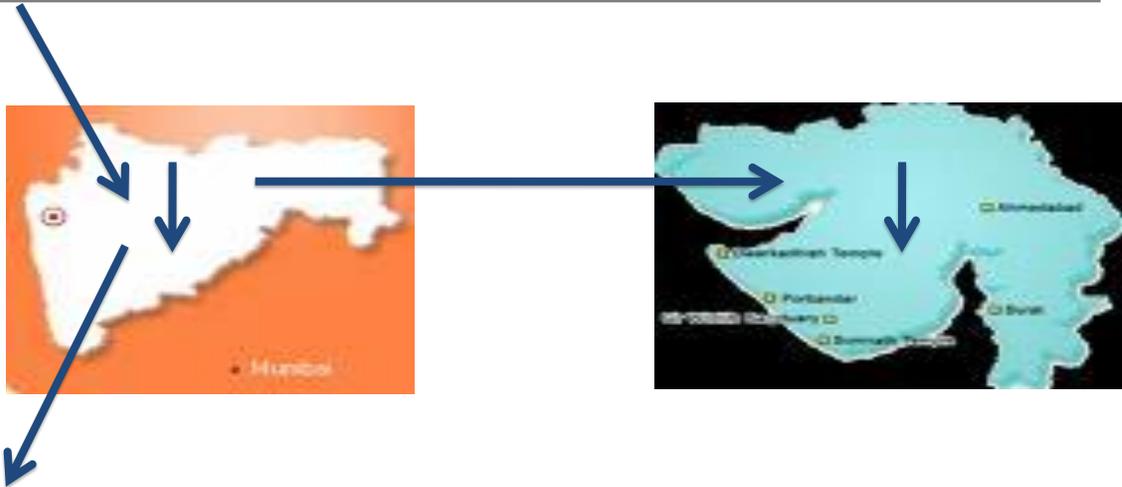
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Origination Vs Consumption Based Taxation

- An architect in India e-mails a design of a building to a builder in Dubai for constructing a building in Dubai? (the design is prepared in India)
- Sachin Tendulkar provides coaching to Virat Kohli for matches to be played in Australia? (coaching is provided in Australia)
- An Event Management company incorporated outside India organizes an Event for an Indian company outside India?
- An airline provides movies on demand in the aircraft. The aircraft is travelling from Mumbai to New York?

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Origin Based Principle



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Place of Supply Rules..

Description of Tax	Place of Supply
Central Excise Duty	Consumption Based Principle
Service Tax	Consumption Based Principle
Value Added Tax	Origin Bases Principle
Central Sales Tax	Origin Bases Principle



Goods and Service Tax

Consumption Based Tax

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GST on Exports

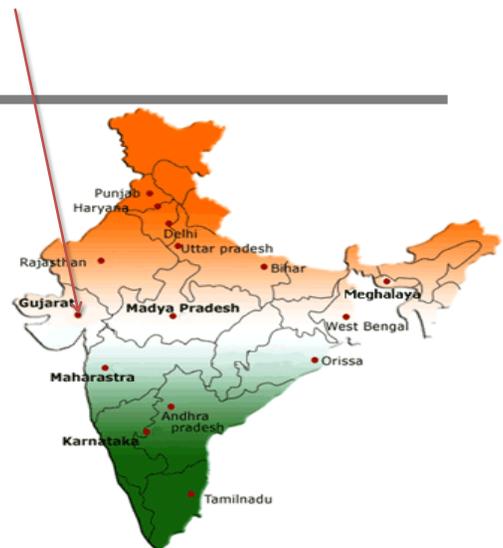
- Export of Goods will be zero rated
 - Special case for penultimate exports @ 0.1%
- Export of Services will be zero rated



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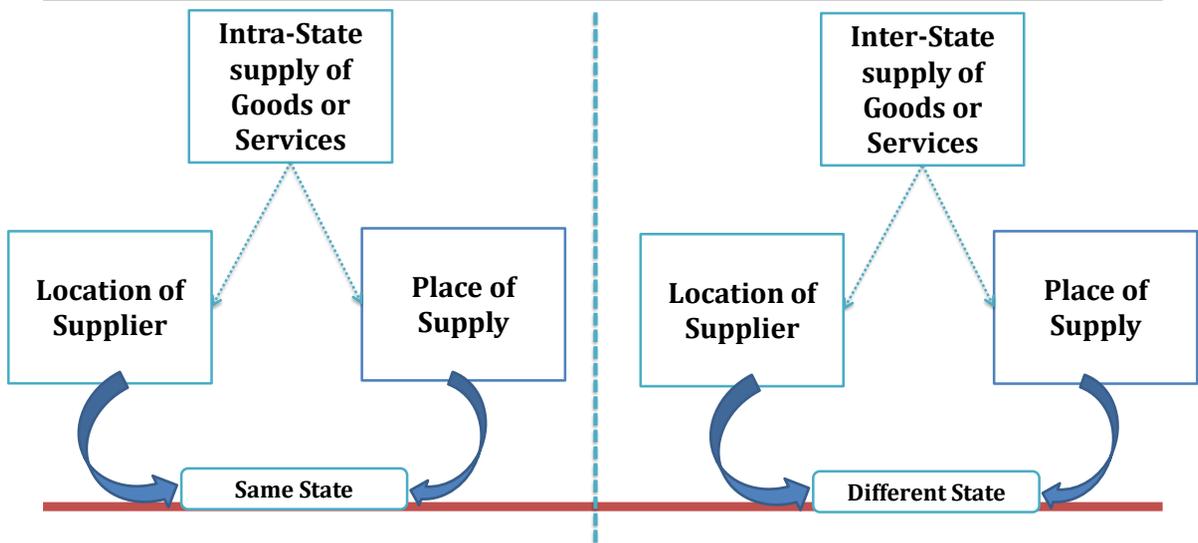
GST on Imports

- Import of Goods will attract IGST which will be a part of the ITC Chain & will be collected in terms of Customs Act.
- Import of Services will attract reverse charge mechanism



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Intra-State transaction Vs Inter-State transaction



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Place of 'Supply' for Goods

Particulars	Place of Supply
Movement of Goods	Delivery of Goods
In case delivery is taken by someone else on instruction of third party	Deemed as if third party has taken delivery
Movement not required	Location of goods at time of delivery
Goods requiring assembling	Site where assembling is made
Goods sold on board	Location where boarding of such goods happen

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Place of 'Supply' for Services

Particulars	Place of Supply
Immovable Property	Location of Immovable Property
Restaurant, personal services	Performance of service
Admission to an event or park/location	Place of location of such park/event
Services provided on Board	First scheduled point of departure

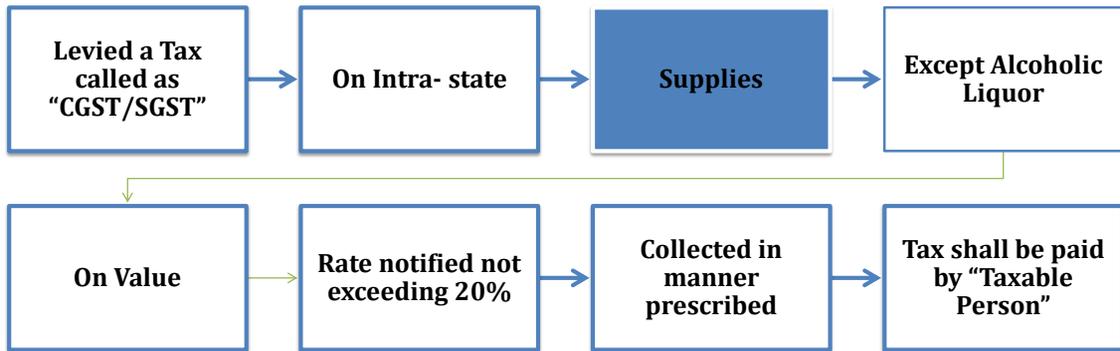
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Place of 'Supply' for Services

Particulars	Place of Supply
Training Services	In case Registered Person – Location of Registered Person
	In case Un-Registered Person – Location where training is provided
Transport of Goods	In case Registered Person – Location of Registered Person
	In case Un-Registered Person – Location where goods are handed for transportation
Transport of Passengers	In case Registered Person – Location of Registered Person
	In case Un-Registered Person – Location where the passenger embarks on the journey
Other Services	B to B – Location of Recipient
	B to C – Address on Record of the Assessee
	B to C – In case no address available on record, then location of supplier

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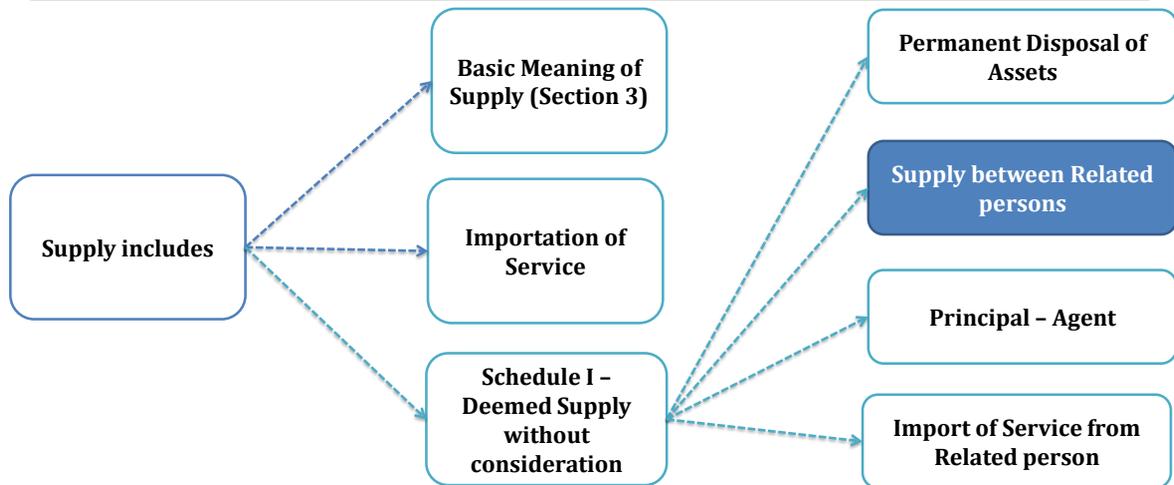
Dissection of Charge... CGST/SGST Law



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Definition of Supply as per Model Law



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Meaning of Supply....Supply “includes”

All forms of Supply of Goods/Services

Such as sale,
transfer,
barter,
exchange,
license, rental,
lease or
disposal

Made or
agreed to be
made

For a
consideration

By a person

In the course
or furtherance
of business

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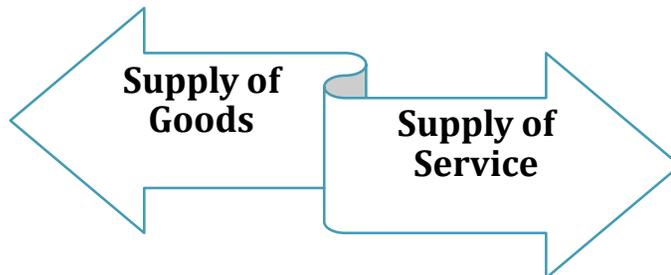
Illustrations to Brain storm

- Sale of Personal Car/Jewellery
- Exchange Offer – Old Mobile with New Mobile
- Scraping of Goods

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Determination of Supply



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Supply of Goods

Goods



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

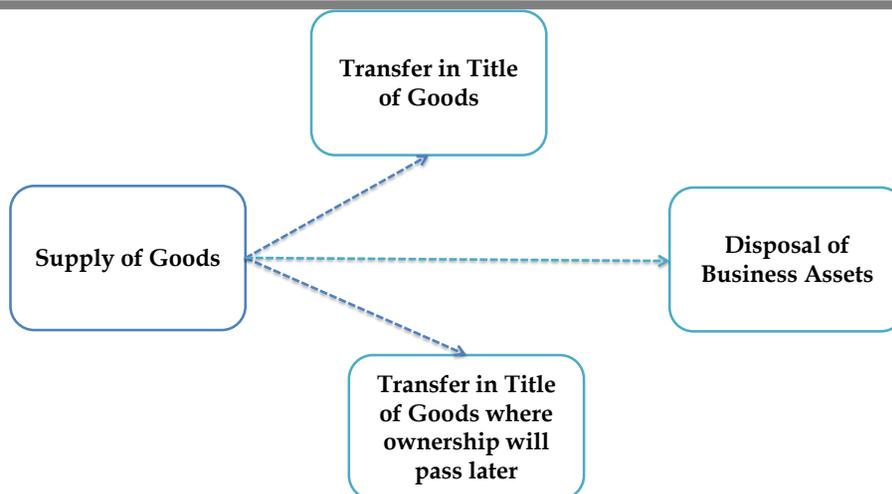
Services



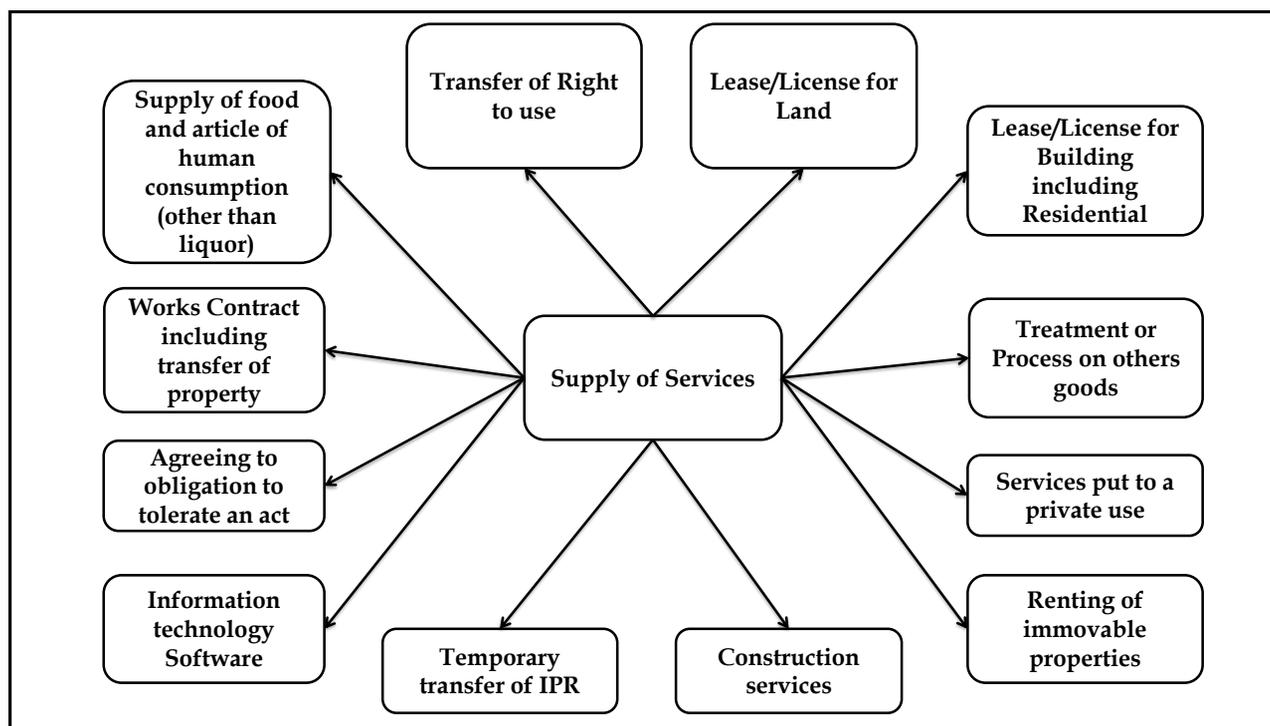
(102) "services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode;

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Supply of Goods

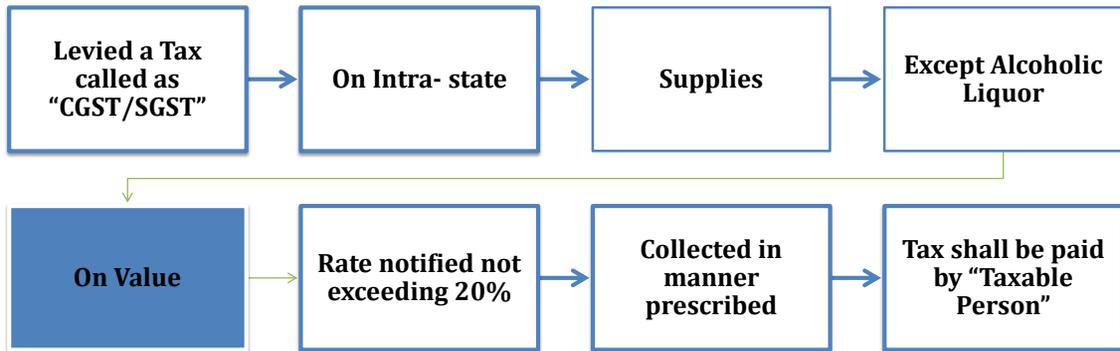


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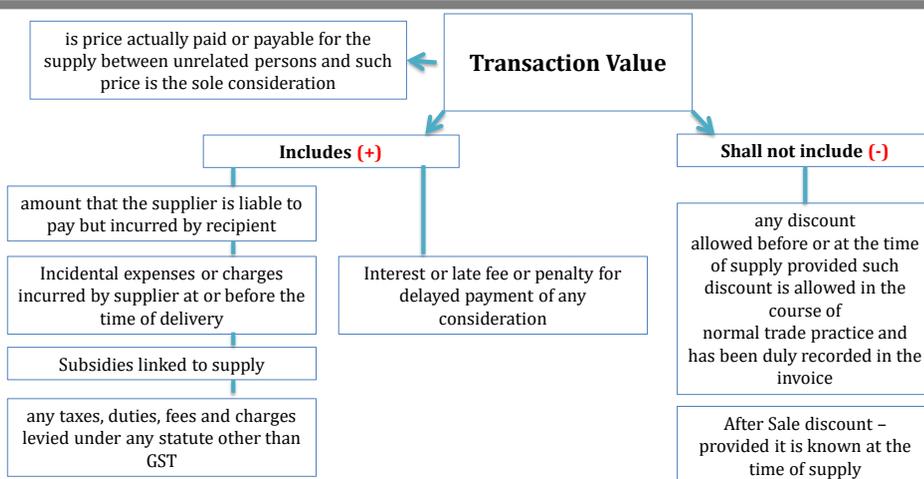
Dissection of Charge... Model CGST/SGST Law



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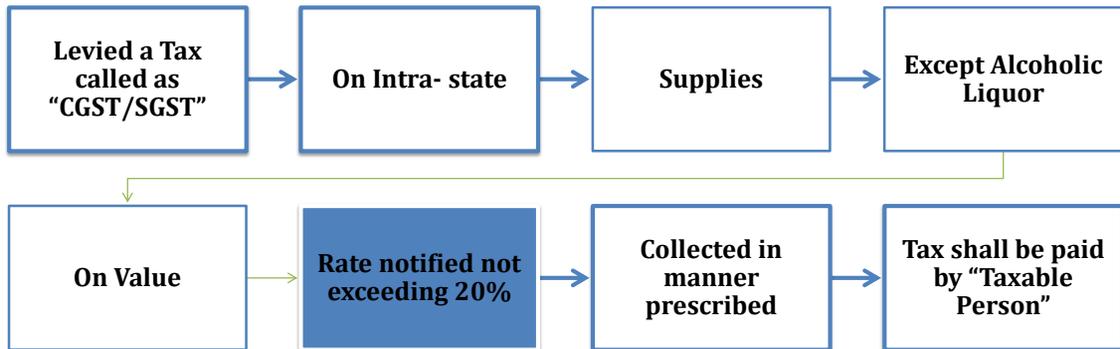
Transaction Value of Supply



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Dissection of Charge... Model CGST/SGST Law



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Rate of Tax

Description of Tax	Rate of Tax
Central Excise Duty	12.50%
Service Tax	14% + 0.5% + 0.5%
Value Added Tax	Multiple Rates ranging from Nil to 20% RNR of 12.5/13.5% Large range of products in 5/6% Range Specific States have adopted higher rates
Central Sales Tax	2% for B2B transactions / local rate in other cases



Description of Tax	Rate of Tax
Goods and Service Tax	How to bridge these?

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Bridging the “Rates” : Principles

- ▶ Revenue Neutrality at Centre and State
 - ▶ Possibility of Inflation / Recession being attributed to GST
 - ▶ Proposed:
 - Uniform Rates to be agreed upon
 - Power to exempt products/services of local importance
 - A lower rate for commodities of general importance
 - Services may attract a different rate structure
 - A revenue neutral rate
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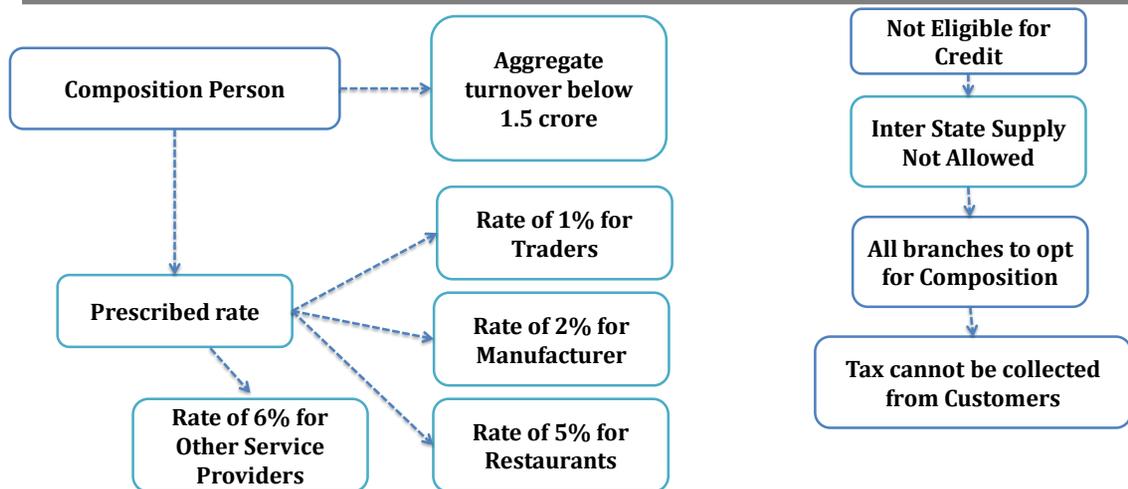
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Rates as finalized by GST Council

Description of Goods / Service	Rate of Tax
Jewellery, Diamonds, Imitation Jewellery	3.00%
Lower Rate for Products meant for mass consumption	5.00%
Standard Rate 1 : Industrial Products meant for mass consumption	12.00%
Standard Rate 2 : Most of the products/Services	18.00%
De-merit rate	28.00%

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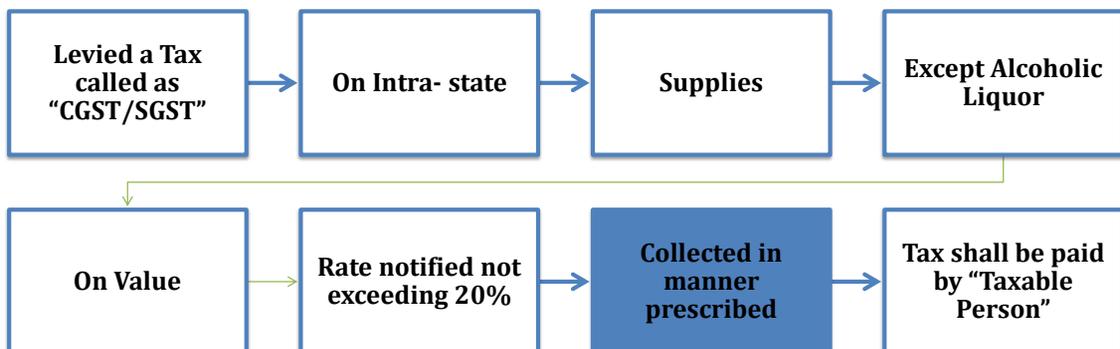
Composition Scheme



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Dissection of Charge... CGST/SGST Act



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Reverse Charge Mechanism

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Person Liable to pay Service Tax

General				
Description of Service	Liability of Supplier		Liability of Recipient	
	Component	Effective Rate	Component	Effective Rate
Import of Services	NIL	NIL	100%	18.00%
Goods Transport Agency Services	NIL	NIL	100%	5.00%
Individual Advocates or Firm of Advocates other than Senior Advocate	NIL	NIL	100%	18.00%
Arbitral Tribunal	NIL	NIL	100%	18.00%

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Person Liable to pay Service Tax

Description of Service	Liability of Supplier		Liability of Recipient	
	Component	Effective Rate	Component	Effective Rate
Sponsorships	NIL	NIL	100%	18.00%
Services (Other than renting) by Government or Local Authority	NIL	NIL	100%	18.00%
Services provided by a Director of a Company (Other than Employee)	NIL	NIL	100%	18.00%
Supply of Goods or Service by Unregistered supplier to a Registered Supplier	NIL	NIL	100%	Depends

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Time of Supply of Goods

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Time of Supply of Goods – Under GST

Particulars	Time of Supply
Goods (Forward Charge Mechanism) [Section 12(2)]	Earliest of – <ol style="list-style-type: none"> i) Date of issuance of invoice; or ii) Last date on which invoice is required to be issued (in case invoice is not issued as per time lines provided); or iii) Date of receipt of payment (earlier of entry in books or credit in bank account); (Deferred at this point in time) (** - Advance up to Rs. 1000 can be ignored at the option of supplier)

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Time of Supply of Goods – Under GST

Particulars	Time of Supply
Goods (Reverse Charge Mechanism) [Section 12(3)]	Earliest of – <ol style="list-style-type: none"> i) Date of receipt of goods; or ii) Date on which payment is made; or iii) Date following thirty days from the date of issue of invoice of invoice by supplier; or <p>In case it is not possible to determine the time of supply as per above, the entry in books of accounts of recipient of supply</p>

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Time of Supply of Services

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Time of Supply of Services – Under GST

Particulars	Time of Supply
Services (Forward Charge Mechanism) [Section 13(2)]	Earliest of – <ol style="list-style-type: none"> i) Date of issuance of invoice; or ii) Last date on which invoice is required to be issued (in case invoice is not issued as per time lines provided); or iii) Date of receipt of payment (earlier of entry in books or credit in bank account); (** - Advance up to Rs. 1000 can be ignored at the option of supplier)

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Time of Supply of Services – Under GST

Particulars	Time to raise an Invoice
In case of continuous supply of service <i>Sec. 2(33) “continuous supply of services” means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such service as the Central or a State Government may, whether or not subject to any condition, by notification, specify;</i>	i) In case where Due Date of Payment is ascertainable from contract then invoice shall be issued before or after payment is liable to be made by the recipient ii) Where Due Date of Payment is NOT ascertainable from contract then invoice shall be issued before or after each time payment is received. iii) Where payment is linked to completion of event then invoice shall be issued on or before completion of such event

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Time of Supply of Services – Under GST

Particulars	Time of Supply
Services (Reverse Charge Mechanism) [Section 13(3)]	Earliest of – i) Date on which payment is made; or ii) Date following sixty days from the date of issue of invoice of invoice by supplier; or In case it is not possible to determine the time of supply as per above, the entry in books of accounts of recipient of supply. In case of “associated enterprises” located outside India, the time of supply will be entry in books of recipient of supply or payment, whichever is earlier

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Input Tax Credit

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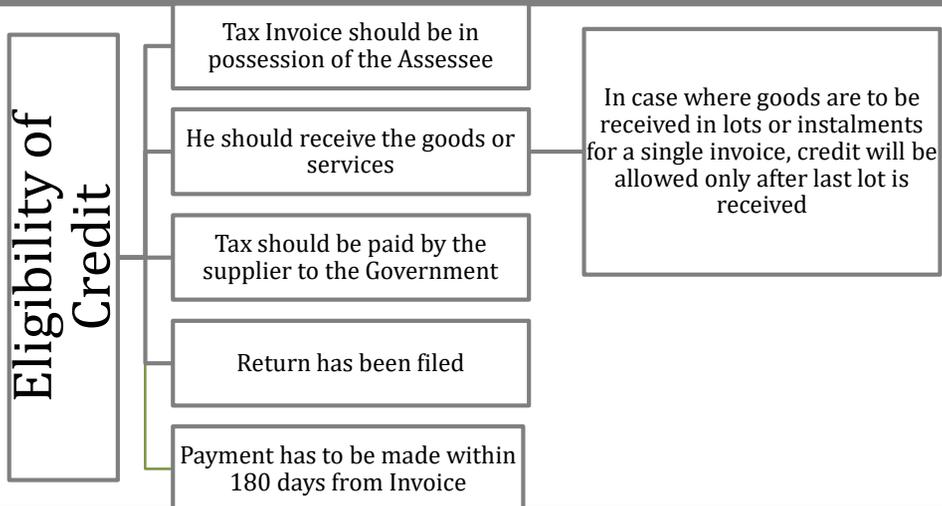
Electronic Credit Ledger

- Input Tax Credit in the for of Electronic Credit Ledger can be visualized as a pass-book system.
 - Any eligible tax on input/Capital Goods/Input Services will accumulate in Electronic Ledger Balance
 - This balance will be periodically used for payment of taxes
 - In case credit is higher than tax liability, the same shall be carried forward without any lapse
- Registration is a must for claim of Input Tax Credit
- In case a person is providing taxable as well as non taxable supplies, proportionate credit shall be allowed with specific prescribed rules

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Important Conditions to be complied



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Specific Credits not allowed

Motor Vehicles/Vessels/ Aircrafts including insurance, servicing, repairing and maintenance

Except

Supplier of such Motor Vehicles/ Vessels/ Aircraft

Transportation of passengers

Training on Driving skills

Transportation of goods

- **Food & Beverages**
- **Outdoor Catering**
- **Beauty Treatment**
- **Health Service**
- **Cosmetic & Plastic surgery**

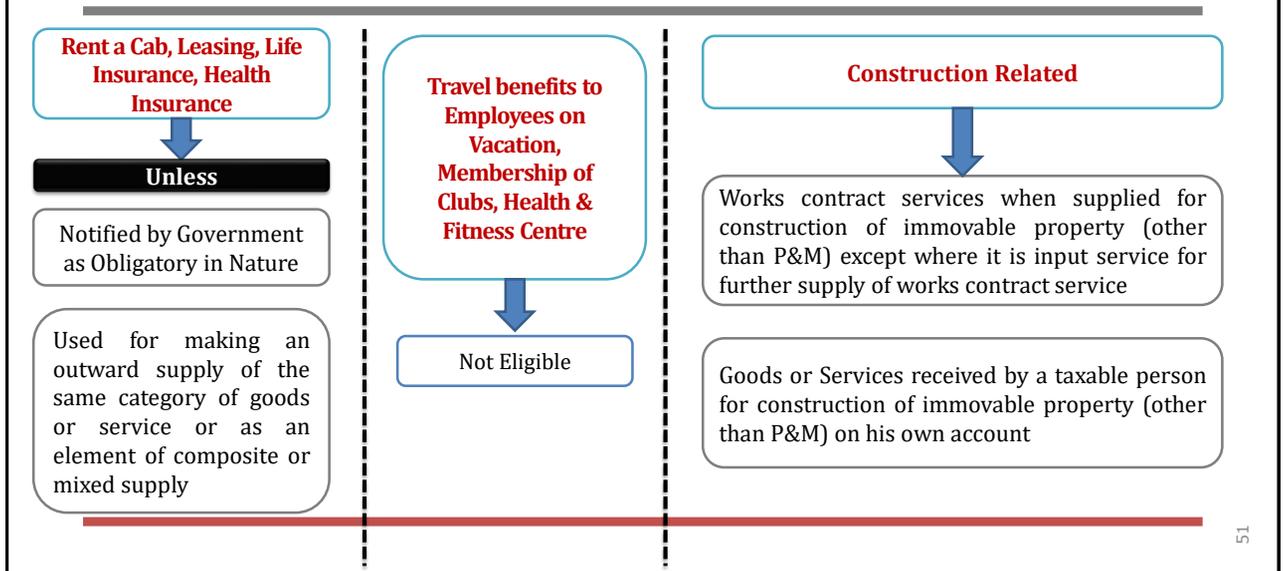
Except

Used for making an outward supply of the same category of goods or service or as an element of composite or mixed supply

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Specific Credits not allowed



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Reversal of credit of input and input services - Method

- Identification of credits on Invoice level basis whether used for the following -
 - Exclusively non-business use
 - Exclusively exempted use
 - Ineligible credits
 - Exclusively used for other than exempt supplies but including zero rated supplies
 - Balance will be common credits
- Proportionate credit based on exempted turnover ratio to be identified
- 5% ad hoc - Credits attributable to non-business use should be identified

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Reversal of credit of input and input services - Method

- ❑ Calculation to be done on a monthly basis for credits pertaining to the said month
- ❑ After the year end a final calculation for proportionate credit needs to be identified and the following impact needs to be taken by the September return of the next financial year
 - ❑ In case credits already claimed are less than the credits eligible in the final working – to take differential credits
 - ❑ In case credits already claimed are more than the credits eligible in the final working – to consider difference as output liability and pay the same along with interest from 1st April till the date of payment

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Example

- ❑ SEBI Ltd is broker engaged in broking of securities and pro-trade of securities. The inward supplies for the company are as follows -

Details of Invoice	Value	GST	Remarks
Sub-broker Charges	1,00,000/-	18,000/- (CGST+SGST)	Specific
Analyst Fee (Professional Service)	10,00,000/-	1,80,000/- (CGST+SGST)	Common
Personal Tour of Director	2,50,000/-	40,000/- (CGST+SGST)	Non-business
Lease Charges for Computers	1,00,000/-	18,000/- (CGST+SGST)	2 computers are dedicated for pro-trade out of 10
Mobile Charges (Senior Management)	1,00,000/-	18,000/- (CGST+SGST)	Allowed to make personal calls

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Example

- ❑ SEBI Ltd's income for tax period stood at –

Nature of Income	Amount	Ratio Purpose T/O	Proportion
Brokerage Revenue	40,00,000/-	40,00,000/-	80%
Sales Value of Securities – Pro-trade	10,00,00,000/-	10,00,000/-	20%

- ❑ Input Tax Credit to be added to Electronic Credit Ledger –

Nature of Income	Amount	Remarks
Specific Credits	18,000/-	Sub-broker
Common Credit	2,16,000/-	Analyst, Leasing & Mobile

- ❑ Proportion of Input tax be reversed by way of addition to Output tax –

Nature of Income	Amount	Remarks
Non-business	10,800/-	Mobile (5% ad-hoc of 2,16,000/-)
Common Credit	43,200/-	Analyst & Leasing (20% of 2,16,000/-)

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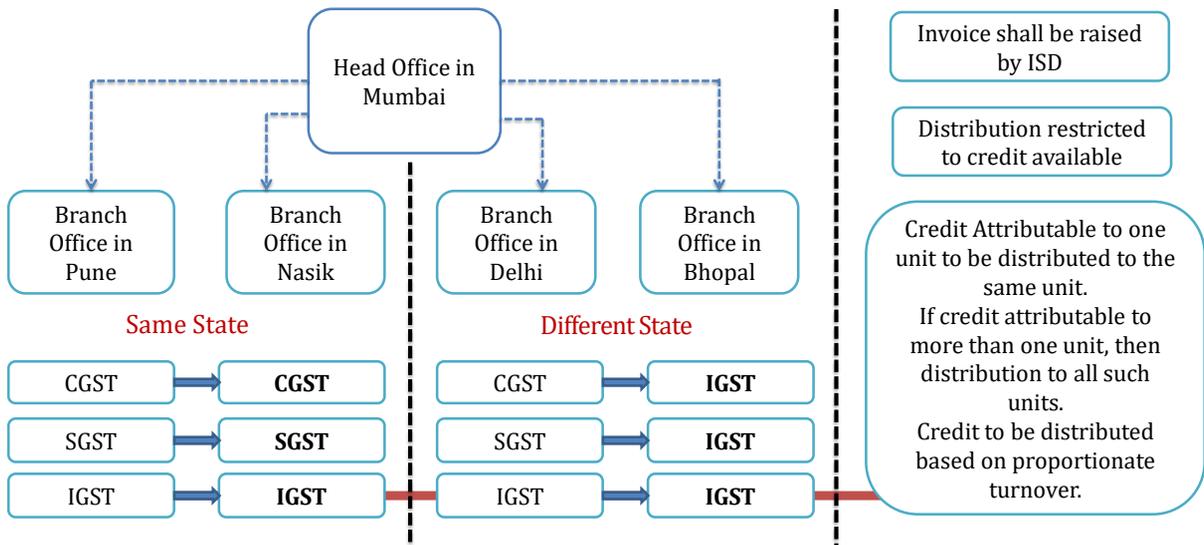
Input Service Distributor

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ISD Concept

Conditions



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Other relevant provisions

- Credits available for distribution shall be distributed in the same month based on turnover for previous financial year
- Credits for Central, State, Union and Integrated tax shall be distributed separately
- Ineligible credits also to be transferred
- In case of reduction in any credit on account of credit note, the same shall be apportioned to each unit in the ratio in which the credit was taken
 - The same will be adjusted in the month in which credit note is taken

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Example

- ❑ CNB Ltd has 3 branches (Pune, Delhi & Chennai) and a Head Office (Mumbai) with centralized accounting system where all its service suppliers sends invoices for processing. The HO of the company is in receipt of following invoices for July 2017 –

Details of Invoice	Value	GST	Remarks
Stock Audit Verification	1,00,000/-	18,000/- (IGST)	Relates to Pune Unit
Auditor Invoice	10,00,000/-	1,80,000/- (CGST+SGST)	Common
Rent-a-cab Service	10,00,000/-	50,000/- (CGST+SGST)	Common

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Example

- ❑ The details of turnover in previous FY is as follows –

Details of Invoice	Turnover	Specific Credit	Common Credit Distribution
Head Office	1 Cr	Nil	15,333/- (2,30,000 x 1/15) [CGST + SGST]
Pune	5 Cr	18,000/- (IGST)	76,667/- (2,30,000 x 5/15) [CGST + SGST]
Delhi	7 Cr	Nil	1,07,333/- (2,30,000 x 7/15) [IGST]
Chennai	2 Cr	Nil	30,667/- (2,30,000 x 2/15) [IGST]
TOTAL	15 Cr	18,000/-	2,30,000 /-

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Thank You 😊

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Q & A

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