

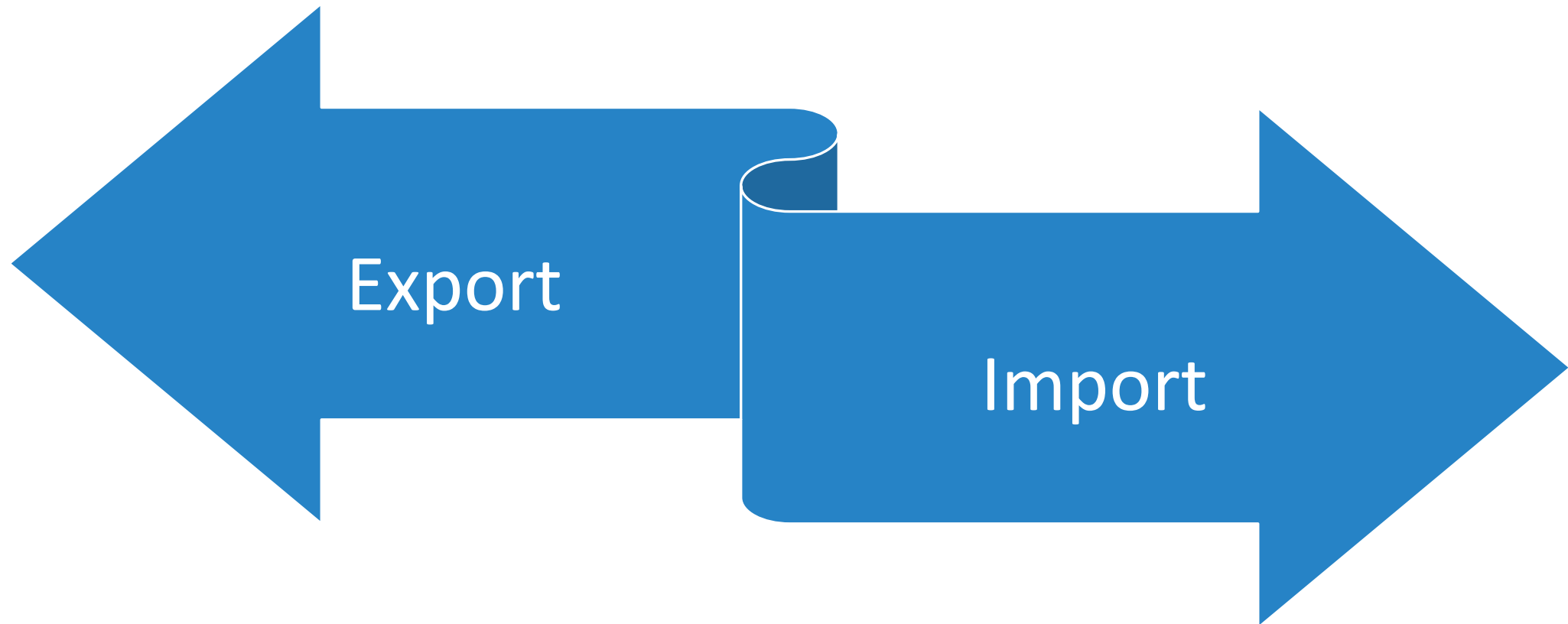
# GST IMPLICATIONS ON IMPORT AND EXPORT

CA Sajana Kumavat

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# SESSION AGENDA!



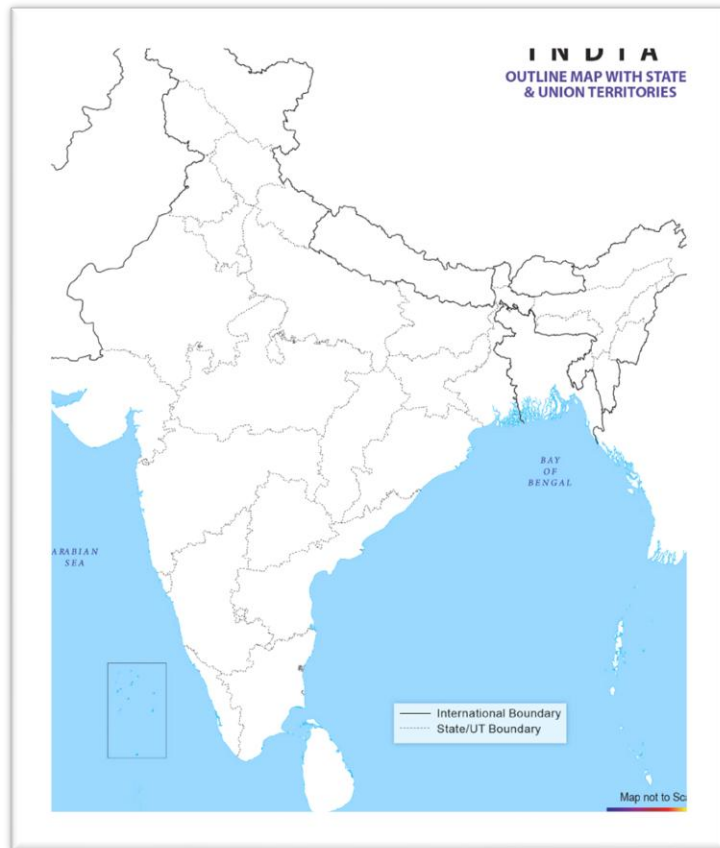




IMPLICATIONS ON EXPORT |

# EXPORT?

FROM



TO



# TYPES EXPORT?

Export

Goods

Services

Both

Special  
cases(Deemed  
Export or  
Merchant  
Export)

# SCENARIOS OF EXPORT

Direct Export by  
Manufacturer

Export through  
Merchant  
Exporter

Job Work for  
Export

Export under AA

# WHY EXPORTS ?



Economies of Scale



Convertible Foreign Exchange



Local vs Global

# RELEVANT PROVISIONS!

## Act

- Section 2 (5) [EoG]
- Section 11 (b) [POS-G]
- Section 2 (6) [EoS]
- Section 13 (2/3) [POS-S]
- Section 2 (23) [ZR]
- Section 7 (5) [IGST]
- Section 16 [ZR]
- Section 54 [CGST Act]
- Section 147 [CGST Act]

## Rules

- Rule 89 to 96B

## Notifications

- Not. No. 40/2017-CT
- Not. No. 41/2017-IT
- Not. No 10/2017-IT

## Circulars

- Numerous



# HOW ARE EXPORTS TREATED UNDER GST LAW?

Supply of goods or services or both when

- supplier is in India **and**

- the place of supply is outside India

is **Inter-State supply**

Section 7 (5) (a)

Export of goods or services or both are  
to be regarded as “Zero rated supplies”

Section 16

# SEC. 16 IGST – ZERO RATED SUPPLIES

## Sub-Section (1)

- export of goods or services or both; or
- supply of goods or services or both for **authorised operations** to a SEZ developer or a SEZ unit (w.e.f. 01/10/2023).

## Sub-Section (2)

- Subject to Sec. 17(5), ITC available irrespective of whether the supply may be Exempt

## Sub-Section (3)

- Eligible to claim Refund of unutilised ITC u/s 54 under Letter of Undertaking (LUT)
- Provided that RP making Zero Rated Supply of Goods in case of non-realisation deposit the refund with applicable interest within 30 days after expiry time-limit under FEMA

EXEMPT AND ZERO-RATED!



# EXEMPTED GOODS EXPORTED!



# REGISTRATION!

## Section 22(1) of CGST Act

- Threshold exceed above 20 L (Goods) or 40L (Service)

## Section 23(1)(a) of CGST Act

- Any person engaged exclusively in business that not liable to tax or wholly exempt

## Section 24 of CGST Act – Mandatory Registration

- person making any inter-state taxable supply

## Export of Goods or Service

- Mandatory Registration being inter-state supply?

# REGISTRATION!

Export of goods

Mandatory Registration  
being inter-state supply

Export of Service

Notif. No 10/2017, IT dated  
13<sup>th</sup> Oct 2017 u/s 23(2) of  
CGST Act– Exempt from  
Registration till cross  
threshold limit



SERVICE PROVIDER BE LIKE!



# FAQ ON COMPULSORY REGISTRATION

**Question 15 :** M/s XYZ is engaged in export of **goods** only having exports of approx. Rs. 5 crores and no clearances for home consumption are affected. M/s XYZ was not required to be registered under Central Excise. Whether M/s XYZ would be required to get itself registered under GST?

**Answer :** Yes, because exports have been treated as inter-State supplies under IGST Law.

# E-INVOICE APPLICABILITY?

1

Supply to  
Registered  
person (B2B)

2

Deemed Supply

3

SEZ **Developer**

4

**Export, Deemed  
Export**

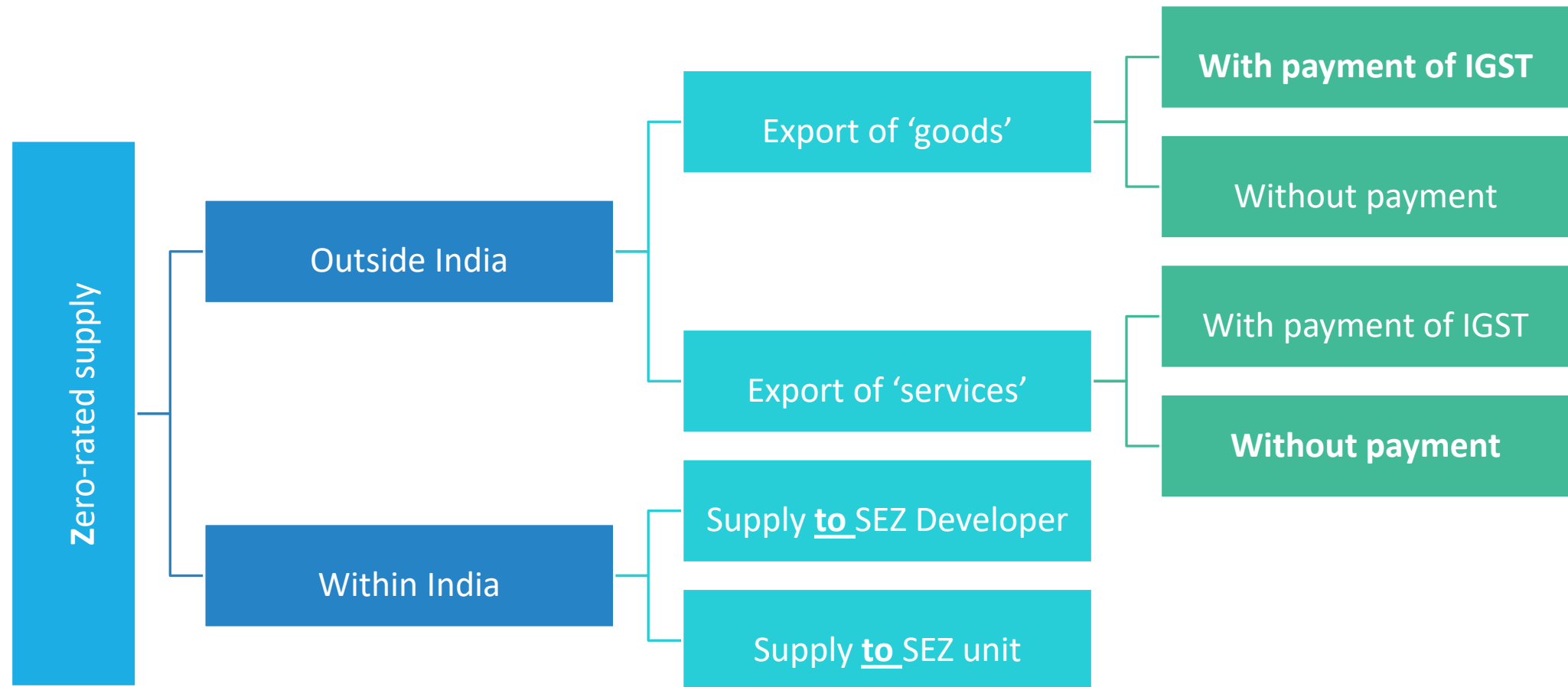
5

Supply to  
Government PSU

6

Credit /Debit  
Note

# ZERO RATED SUPPLY



# WHAT IS EXPORT OF GOODS?

## Section 2(5) of IGST Act 2017

- “Export of goods” means taking goods out of India to a place outside India

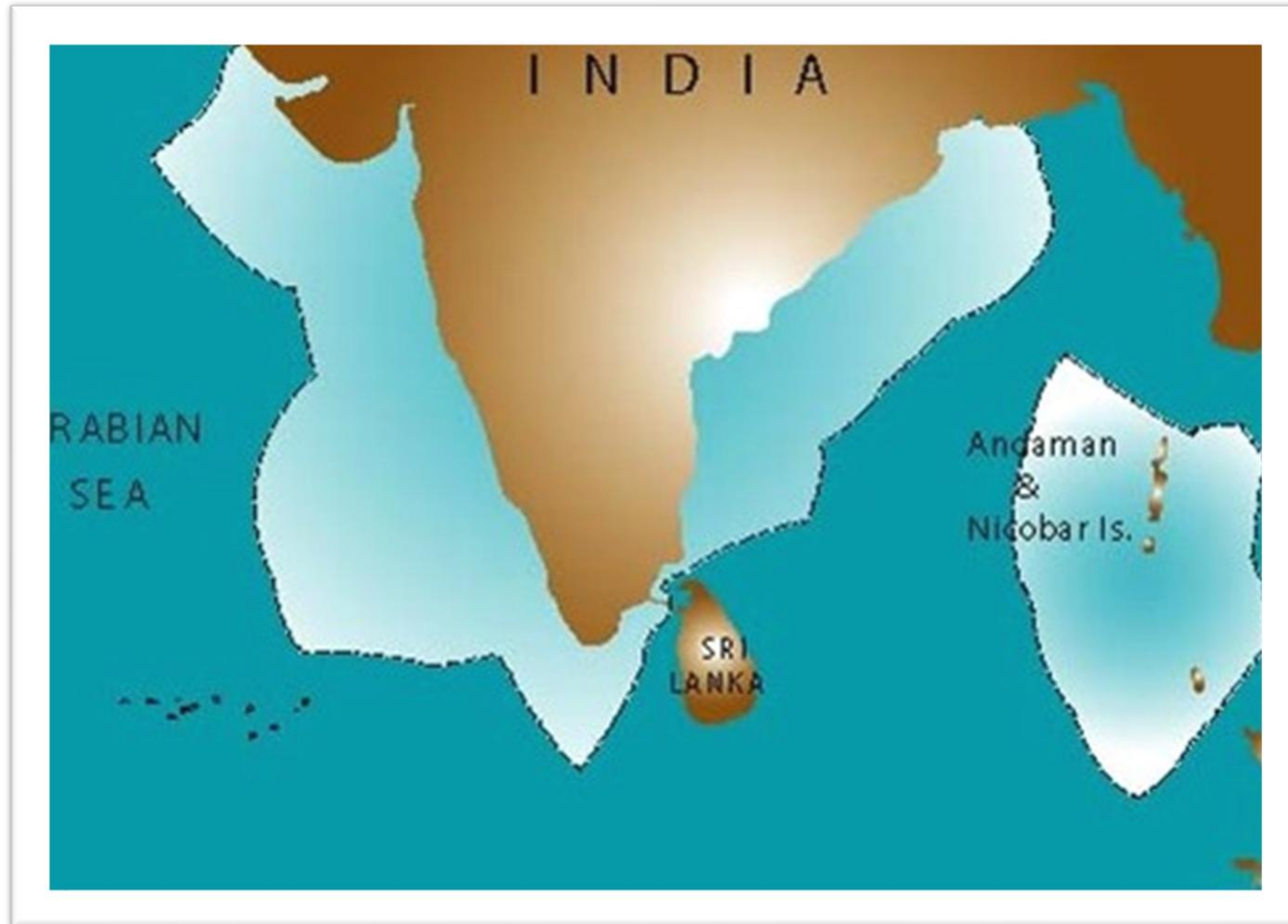
# INDIA?

## Section 2(56) of the CGST Act

- *“India” means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and sub-soil underlying such waters, continental shelf, **exclusive economic zone** or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976), and the air space above its territory and territorial waters;*



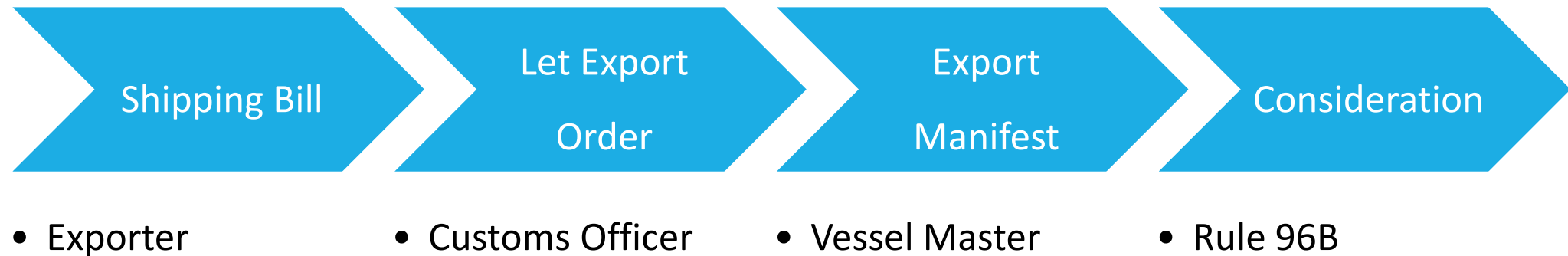
EEZ



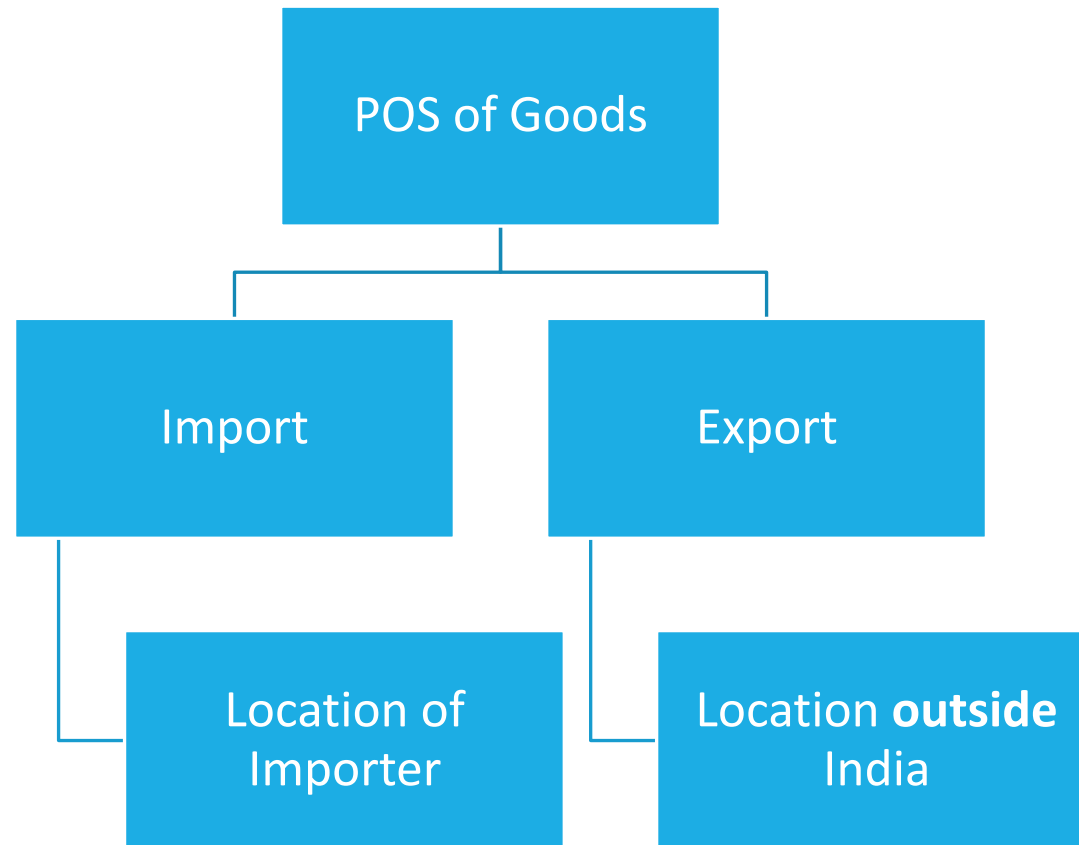
# PROVISO TO SEC. 5(1) – IGST ACT!

*Provided that the **integrated tax** on goods [other than the goods as may be notified by the Government on the recommendations of the Council w.e.f 01/10/2023] imported into India shall be **levied and collected** in accordance with the **provisions of section 3 of the Customs Tariff Act, 1975** on the value as determined under the said Act at the point when **duties of** on the said goods under section 12 of the Customs Act, 1962.*

# EXPORT PROCESS



# SEC.11 OF IGST ACT – POS OF GOODS



GOVERNMENT BE LIKE!



# EXPORT UNDER LUT – RULE 96A!

## Export of Goods

- 15 days after expiry of 3 month from date of Invoice if goods not exported
- LUT can be withdrawn and amount can be recovered u/s 79 in case of goods not exported

## Export of Service

- 15 days after expiry of 1 year or allowed in FEMA including extension by RBI whichever later from date of Invoice of Export (Substituted by 10/07/2024)



# EXPORTER ON NON-REALISATION!



# NON-REALISATION OF EXPORT OF GOODS PROCEEDS – RULE 96B!

Unutilised ITC or IGST paid  
on Export of goods

Non-Realisation as per  
FEMA (9 months) including  
extension

Deposit the refund within  
30 days after expiry of  
period with applicable  
interest

Also if RBI write off the  
requirement, refund not to  
recover

Amount recovered to be  
refunded on subsequent  
realisation and informed  
within 3 month provided;  
permitted by RBI

No condition of Foreign  
receipt till 23<sup>rd</sup> march  
clarified by Circular No  
37/11/2018

# CRITICAL ASPECTS TO KNOW!

Rule 10B - Aadhar  
Authentication for Refund  
of Export of Goods

Rule 46 - Tax Invoice  
explicitly carry  
endorsement

Invoice Value equal to  
Taxable Value

EoS – Invoice Date not  
exceed 3 month from  
shipping dates

Invoice = Shipping Bill

# EXPORT OF SERVICES U/S 2(6)

The supplier of service is located in India;

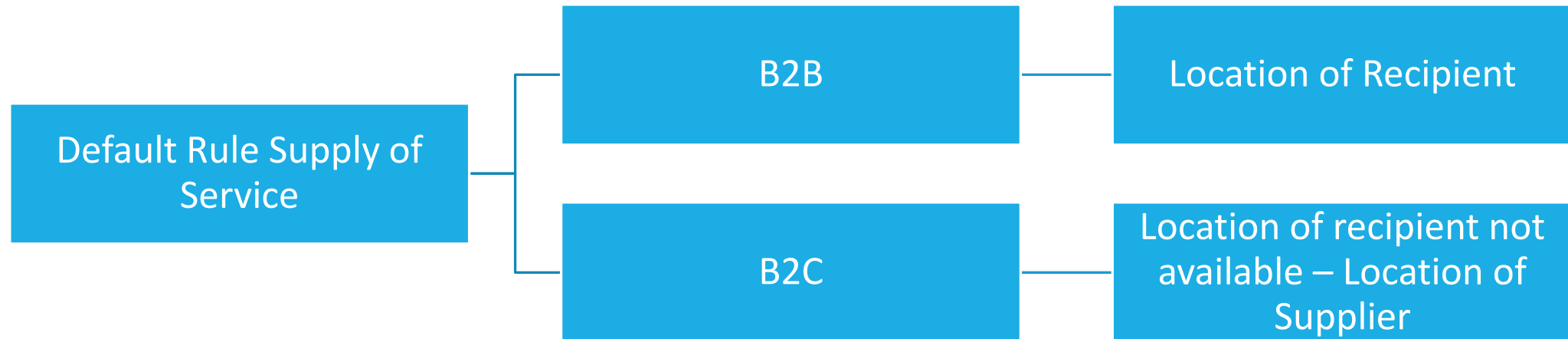
The recipient of service is located outside India

The place of supply of service is outside India;  
(Sec. 13 of IGST)

Payment received by the supplier in convertible foreign exchange; and

The supplier and the recipient are not merely establishments of a distinct person in accordance with *Explanation 1* in section 8;

## SEC. 13(2) IGST - PLACE OF SUPPLY FOR SERVICE



## SEC. 13(3) IGST - PLACE OF SUPPLY FOR SERVICE

### Services relation to an immovable property

- Place where the immovable property is located or intended to be located.

### Supply of accomd. by a hotel, inn, etc.

- Place where the immovable property is located or intended to be located.

### Intermediary services

- Location of supplier of service

### Performance Based Service

- Goods - Location where services actually performed (If Electronic means then location where goods are situated)

# GOODS SUPPLIED ARE PROCESSED OR REPAIRED AND REEXPORTED – QUALIFY EXPORT?

MANOJ BHAGWA  
N MANSUKHANI  
[2021 (53)  
G.S.T.L. 345  
(A.A.R. - GST -  
Guj.)]  
Para 23

- *...services of stevedoring, transportation, storage, bagging, stuffing and again transportation of the goods which are temporarily imported, would not be considered as 'Export of service' for the period prior to 1-2-2019 but would be considered as 'Export of service' w.e.f. 1-2-2019 onwards.*

# JOB WORK SERVICE ?

Job work service to  
Foreign party on  
goods supplied by  
Foreign Party



Performance based  
service or Default  
Rule apply?



Synthite Industries  
[2018 (19) G.S.T.L.  
142 (A.A.R. - GST)]



# REALISATION OF EXPORT PROCEED

Export proceeds should be received in foreign convertible currency

All export invoices and contracts shall be denominated either in (RBI Circular No. 10 dated 11<sup>th</sup> July 2022) and Para 2.52(a) of FTP

- Freely Convertible Currency or
- Indian rupees

However, in certain cases export proceeds can be received in Indian Currency if supply made to

- Nepal or
- Bhutan or
- Supplies to SEZ

# REALISATION OF EXPORT PROCEED OF GOODS & SERVICE



Realisation within the time-period of **1 year** for export of service or extended period by FEMA

In case of **non-realisation**, deposit the refund amount along with interest within 30 days of expiry.

If RBI write off the requirement of realisation then refund paid not recoverable

In recovery made due to realisation within time period and applicant produce evidence of realisation within 3 months then amount recovered shall be refunded.

Receipt of payment in Rupees in Vostro account qualifies as 'export' of services- Circular No. 202/14/2023-GST, dated 27-10-2023

# ESTABLISHMENT OF DISTINCT PERSON

Person has an establishment in India and any other establishment outside India

Set up as branch or liaison office

Wholly owned subsidiary

Distinct person

Not treated as Distinct person

# MEANING OF DISTINCT PERSON!

## Explanation 1 to Section 8(1) of IGST Act

- (i) an establishment in India and any other establishment outside India, or
- (ii) an establishment in a State and any other establishment outside that State or
- (iii) an establishment in a State and any other establishment (\*) registered within that State or Union Territory -

# OPEN END ISSUES IN EOS!

Netting of Import &  
Export

Intermediary Vs  
Principal service  
provider

Bad Debts then Zero  
rated Supplies ?

Single Contract  
whereas supplies  
from Multiple  
Location

Gross Up TDS

Sales Promotion  
activity in India for  
Foreign party or  
Agency Commission  
(FAQ)

# NETTING OFF OF EXPORT WITH IMPORT!

KUEHNE  
PLUS NAGEL  
PVT LTD  
[(2025) 32  
Centax 176  
(Guj.) [26-03-  
2025]  
Para 12 & 13

- *The Hon'ble Supreme Court in case of Union of India Versus Mangal Textile Mills Private Limited reported in 2011 (269) E.L.T. 3 (S.C.) has held that the **Certificate** issued by the **Chartered Accountant** is required **to be considered** by the Authority as an **authentic document***
- *On perusal of the above certificate, it is clear that the petitioner has **received the convertible foreign exchange** for the **export of the services** and therefore, only on the ground that the petitioner has submitted the FIRC as required by the Circular No.125/44/2019 issued by the CBIC, the respondent Authorities were **not justified in rejecting the refund claim.***

# INTERMEDIARY VS PRINCIPAL SUPPLY - BOOK KEEPING, PAYROLL & ACCOUNTING?

**Boks Business  
Services Pvt. Ltd.**

**[(2023) 10  
Centax 44 (Del.)]  
Para 10 to 13**

- ...although the *agreement does use the word 'agent'* but is clear that the petitioner is not acting as an agent for procurement of services for the service recipient. It is, in fact, providing the principal service of "Bookkeeping, Payroll, and accounts, through the use of cloud technology". The fact that such services may be for the clients of the petitioner's affiliate, Boks Business Services Limited, *does not make the petitioner an "intermediary"*.
- ...is *squarely covered* by the decision of this Court in M/s Ernst & Young Ltd. v. Additional Commissioner, CGST Appeals-II, Delhi And Anr.: 2023:DHC:2116-DB/[2023] 148 taxmann.com 461/2023 (73) G.S.T.L. 161/97 GST 820/4 Centax 440 and M/s Cube Highways and Transportation Assets Advisor (P.) Ltd. v. Assistant Commissioner CGST Division & Ors.: 2023:DHC:5822-DB/[2023] 153 taxmann.com 541/[2023] 9 Centax 290 = 2023 (77) G.S.T.L. 387 (Delhi).

# RECEIPT FROM INTERMEDIARY IN INR SAY PAYPAL, QUALIFY FOR EXPORT ?

Afortune Trading  
Research Lab  
LLP  
[(2024) 15  
Centax 520  
(Mad.)]  
Para 40/41/

- ...The *Paypal merely acts as an intermediary* who receives the remittances in freely convertible foreign exchange and in as much required *to comply with the requirements of the foreign exchange*.
- Merely because the receipts are routed through the intermediary and received in Indian currency *ipso facto would not mean* that the *petitioner* has *not exported services* within the meaning of Section 2(6) of the IGST Act, 2017.
- *Regulation 3(3)* of the Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2016 *makes it clear* that the *authorized dealers* have been permitted to *allow receipts* for export of goods/software to be received from a Third Party (a party other than the buyer) as per the *guidelines* issued by the *Reserve Bank*.



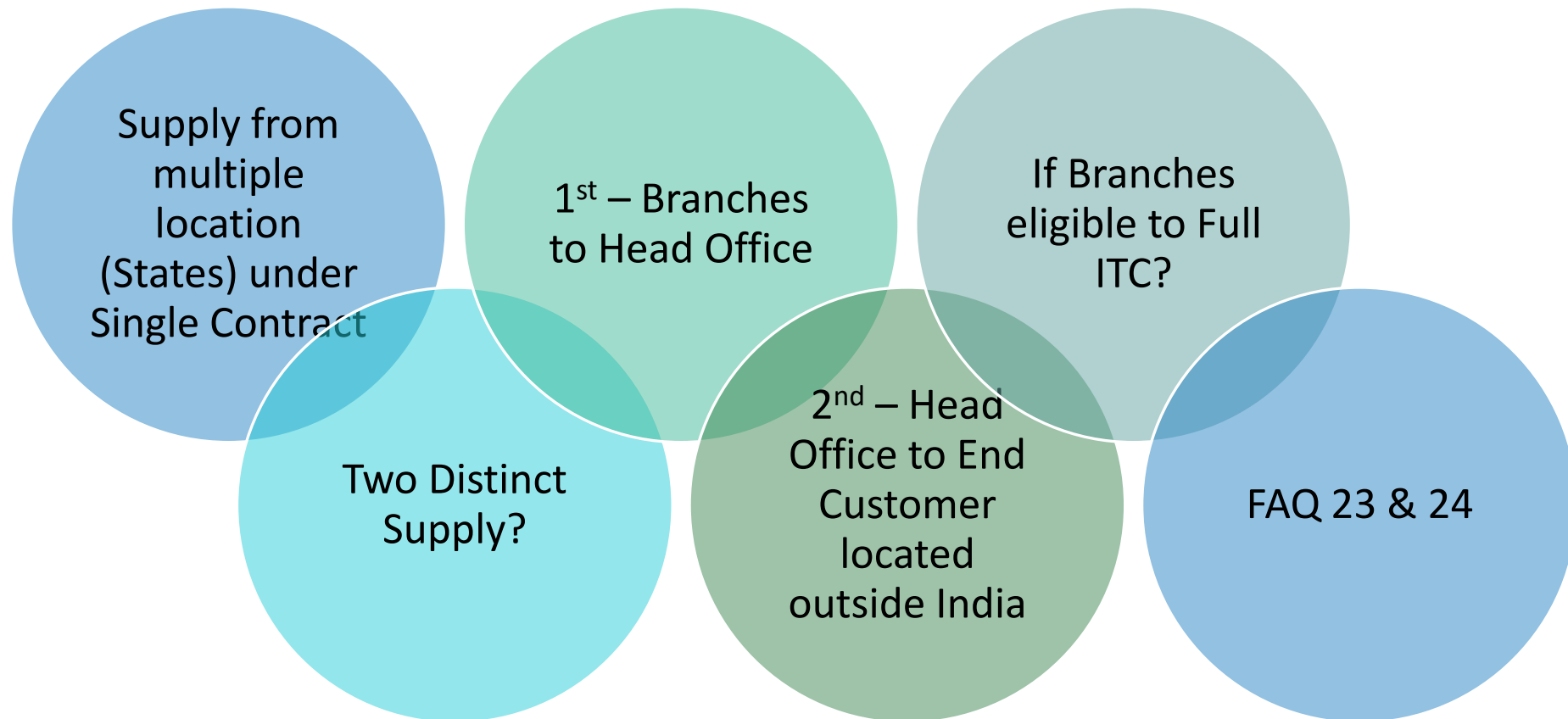
# DENIAL OF EXPORT WITH E-INVOICE AND E-WAY BILL

## Athiyan Exports

[(2025) 32  
Centax 265  
(Mad.)]  
Para 40/41

- ...The *Paypal merely acts as an intermediary* who receives the remittances in freely convertible foreign exchange and in as much required *to comply with the requirements of the foreign exchange*.
- Merely because the receipts are routed through the intermediary and received in Indian currency *ipso facto would not mean* that the *petitioner* has *not exported services* within the meaning of Section 2(6) of the IGST Act, 2017.
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# MULTIPLE LOCATION FROM SINGLE CONTRACT



# SALES PROMOTION /AGENCY COMMISSION

Sumitomo Corporation of India Pvt. Ltd. [2017 (50) S.T.R. 299 (Tribunal)]

- Para 8 - The **recipient** of service **are foreign entities**, and they are the consumers of these services. It is the **person who requested for the said service** and is liable to make payment for the same, who has to be **treated as recipient of service** and **not the person affected by the performance of the service**. The **destination** has **to be decided** based on **place of consumption not the place of performance of service** in the case of Category III, Business Auxiliary Service.

COPERION IDEAL PVT. LTD. 2020 (34) G.S.T.L. 523 (Tri. - All.)

# SALES PROMOTION /AGENCY COMMISSION

**Question 22 : Is GST payable on Agency Commission earned by buying agents of foreign buyers?**

**Answer :** Yes. Since commission is received by agents in India, and the place of supply of service is in India, GST will be payable.

# E-WAY BILL NON-COMPLIANCE FOR EXPORT!

MARCOWAGON  
RETAIL PVT LTD  
AND ANR Vs

UOI & ORS  
[2025-TIOL-971-  
HC-AHM-GST]  
Para 58/ 70/ 81

- *Refund is a matter of a **statutory prescription***
- *A claim to refund is **governed by statute**.  
There is no constitutional entitlement to seek a refund.*
- *The Court while interpreting the provisions of Section 54(3) must give **effect to its plain terms**. The Court **cannot redraw legislative boundaries** on the basis of an ideal which the law was intended to pursue*

# REFUND



JAKE-CLARK.TUMBLR

# NON-FILLING OR DELAY IN LUT?

## Circular No. 37/11/2018 - GST

- 4.1. *In this regard, it is emphasised that the substantive benefits of zero rating **may not be denied** where it has been established that exports in terms of the relevant provisions have been made. The delay in furnishing of LUT in such cases may be **condoned** and the facility for export under LUT may be allowed on **ex post facto basis** taking into account the facts and circumstances of each case.*

## Circular No. 125/44/2019 - GST

- 44. *...The delay in furnishing of LUT in such cases may be **condoned** and the facility for export under LUT may be allowed on **ex post facto basis** taking into account the facts and circumstances of each case.*

## Circular No. 45/19/2018-GST

- 6.2. *However, in case of **zero rated supply of exempted or non-GST goods**, the requirement for **furnishing a bond or LUT cannot be insisted upon**. It is thus, clarified that in respect of refund claims on account of export of non-GST and exempted goods without payment of integrated tax; LUT/bond is not required.*

# REFUND PROVISIONS – SECTION 54

1. Refund of tax paid on **zero-rated supplies** of goods or services or both or

2. On **inputs or input services** used in making such zero-rated supplies, or

“Refund” includes

3. Refund of tax on the supply of goods regarded as **deemed exports**, or

4. Refund of unutilised input tax credit as provided under **subsection (3)**



# REFUND OF ITC NOT AVAILABLE

## Export duty

- Provided further that **no refund of unutilised ITC** shall be allowed in cases where the goods exported out of India are subjected to **export duty** [Proviso to Sec. 54 (3)]

## Drawback

- Provided also that **no refund of ITC** shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies [Proviso to Sec. 54 (3)]

# SEC. 54 (8) – REFUND OF WHAT?

(a)

- Refund of tax paid
  - On export of goods or services or both or
  - On inputs or input services used in making such exports

(b)

- Refund of unutilised input tax credit under sub-section (3);

# REFUND OF?

Inputs

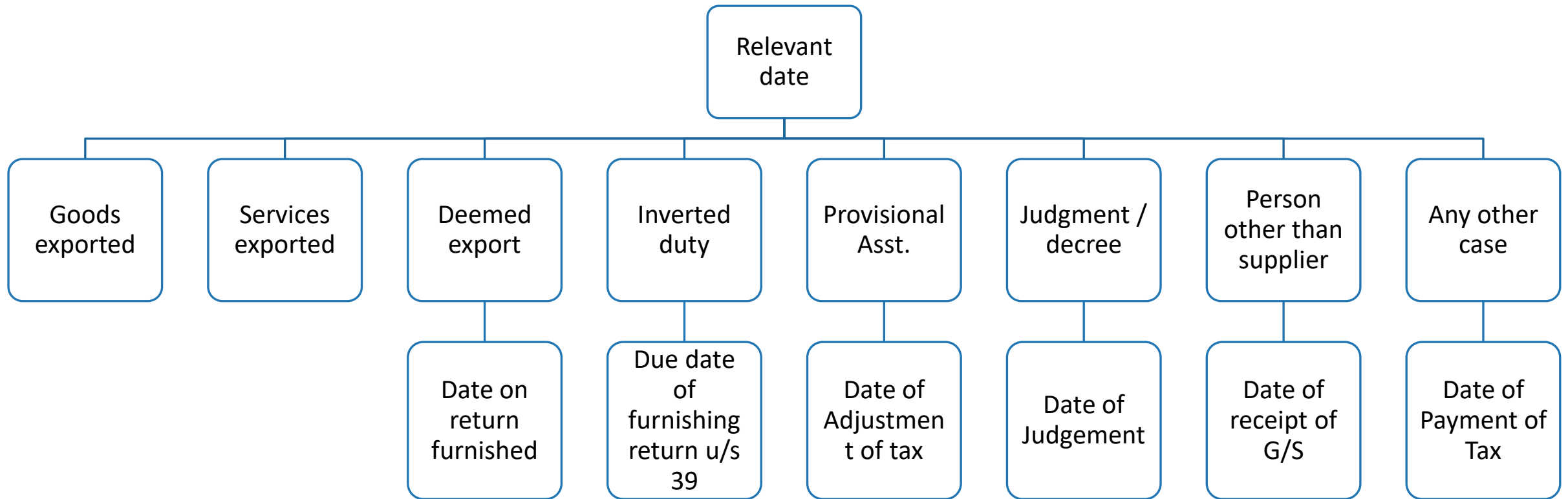
Input services

Capital goods?

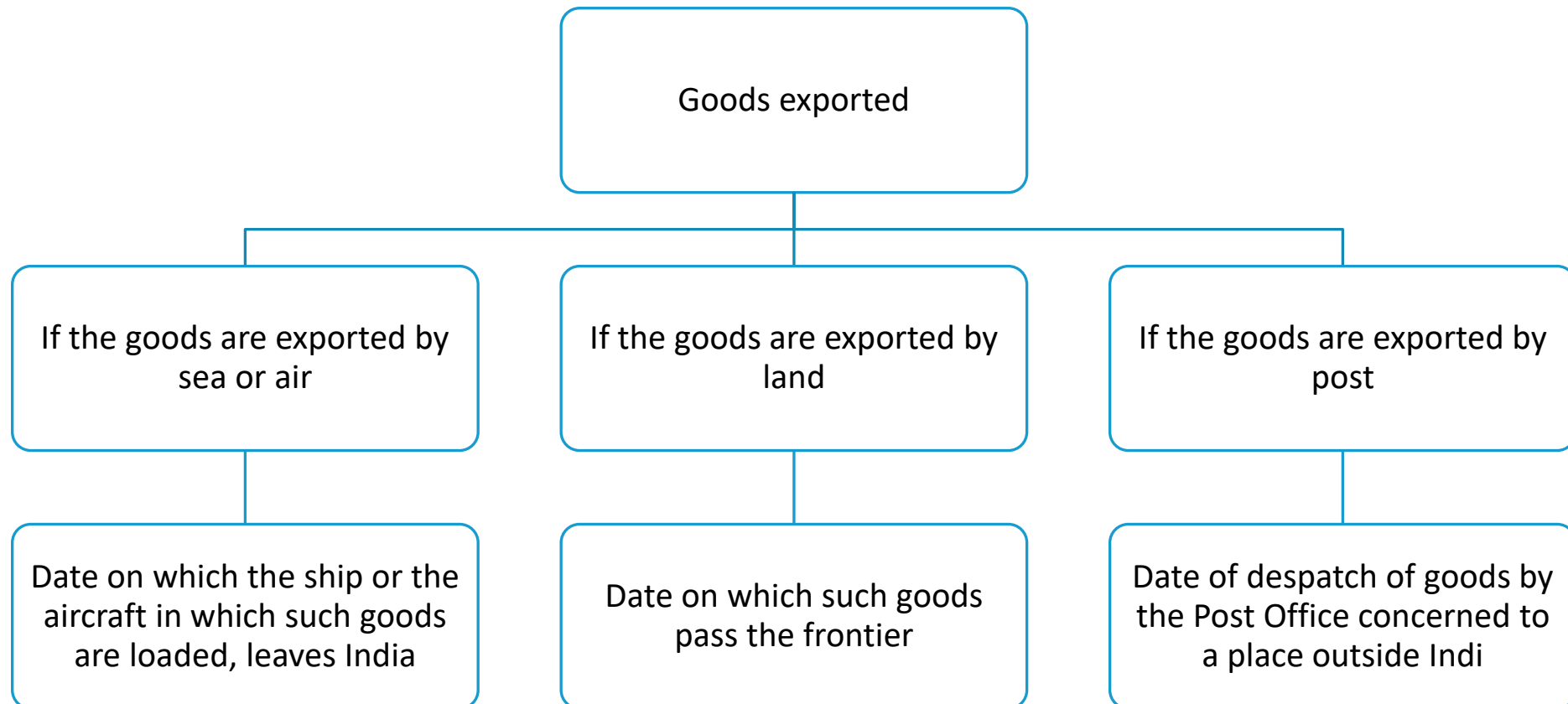
# RELEVANT DATE

(1) Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application **before the expiry of two years** from the **relevant date** in such form and manner as may be prescribed

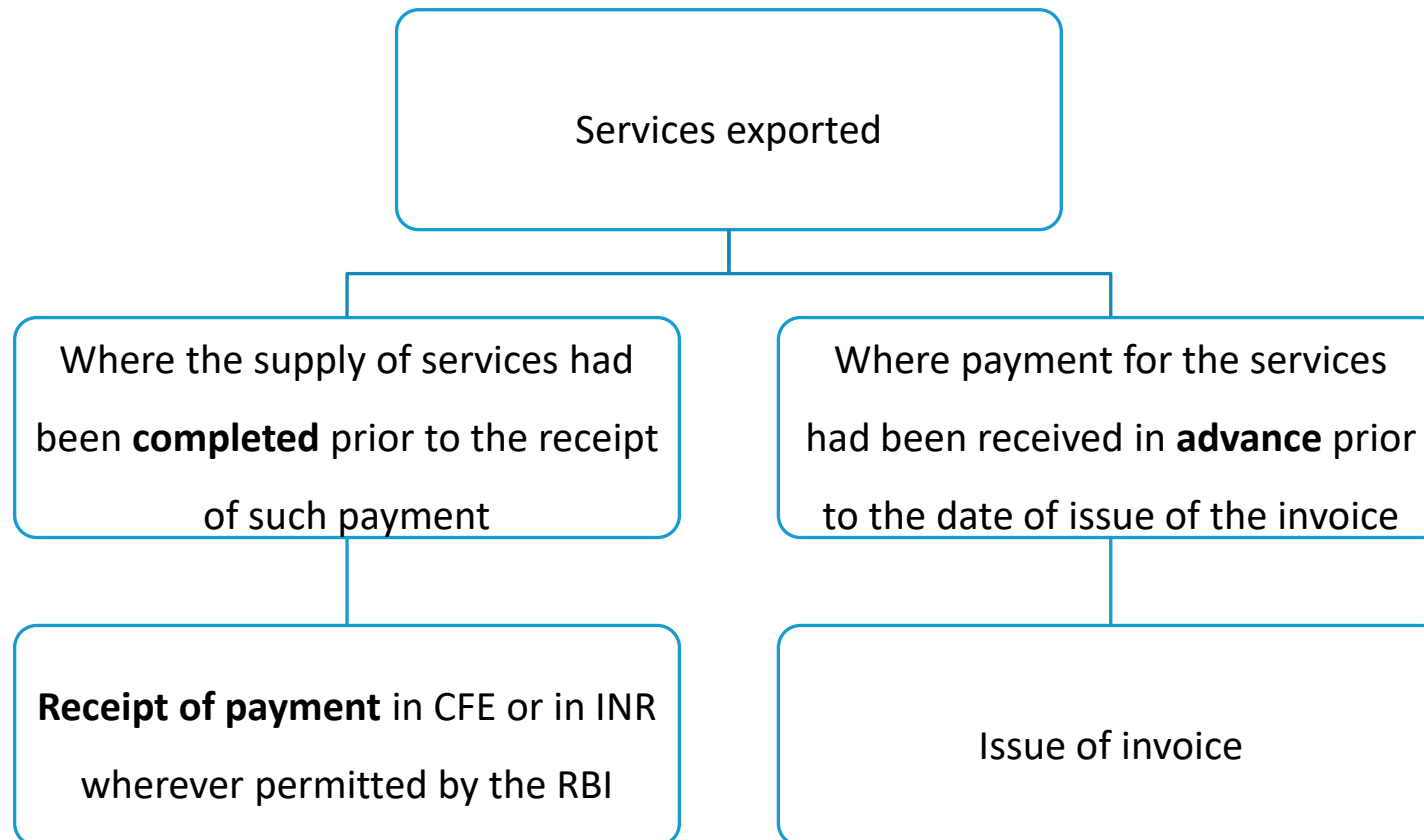
# RELEVANT DATE



# GOODS EXPORTED



# SERVICES EXPORTED



# THINGS TO KNOW – REFUND!

Amount received in  
other account other  
than recipient – Export

Invoice Value – Taxable  
Value Mismatch –  
Refund will stuck

Re-assess in account of  
other law- then when  
to claim ITC

Proviso to Rule 96(1) –  
Refund on Upward  
Revision w.e.f **10-7-  
2024.**





# DECODING CALCULATIONS |

# MAXIMUM REFUND PERMISSIBLE IN CASE OF UNUTILIZED ITC AS PER RULE 89

## Numerator

- Zero-Rated  
Turnover of Goods  
and Services

## Denominator

- Adjusted Total  
Turnover

## Multiplier

- Net ITC

# ZERO-RATED TURNOVER OF SERVICES

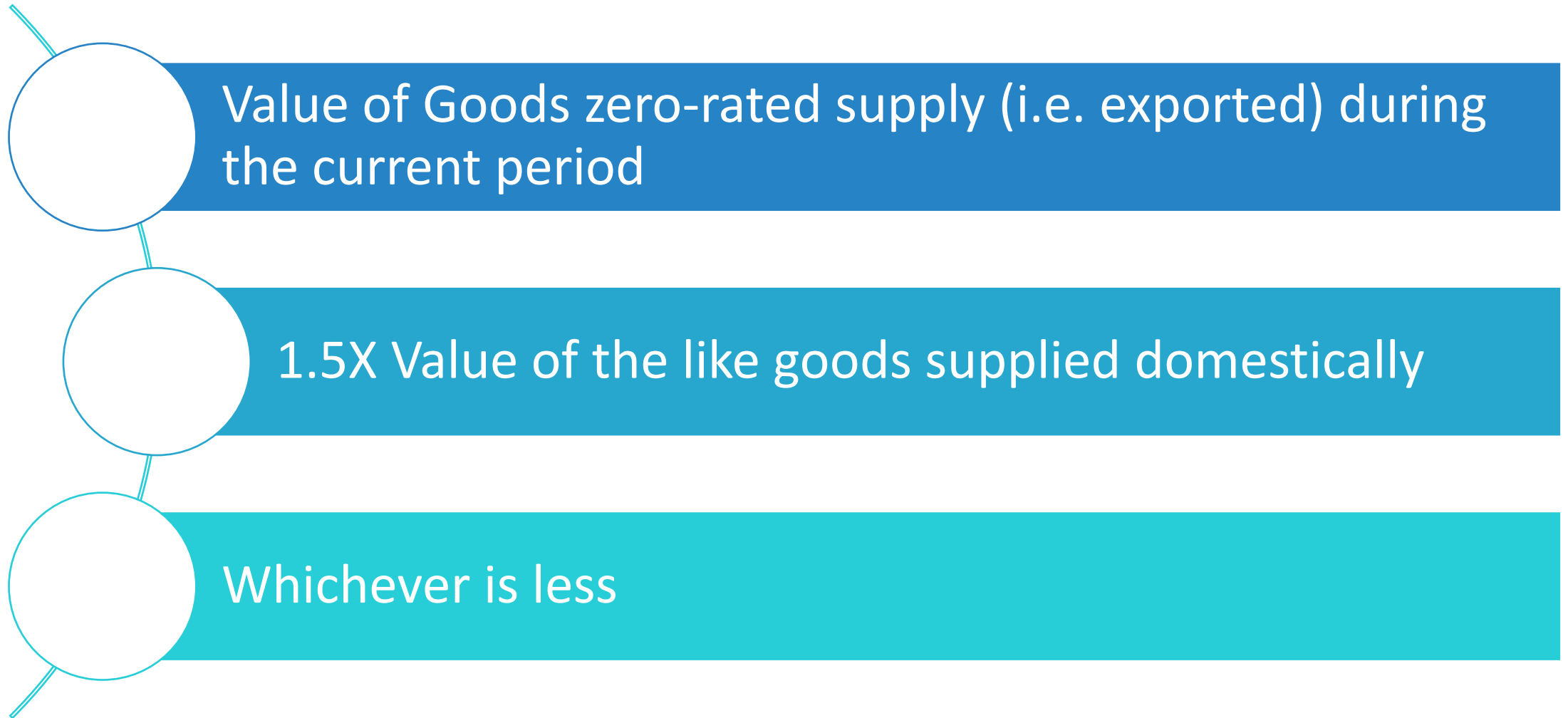
Money received in current period

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graph TD; A[Money received in current period] --> B[Add: Services completed in the current period for which advance was received in earlier period]; B --> C[Less: Advances received in the current period for services to be given in future];
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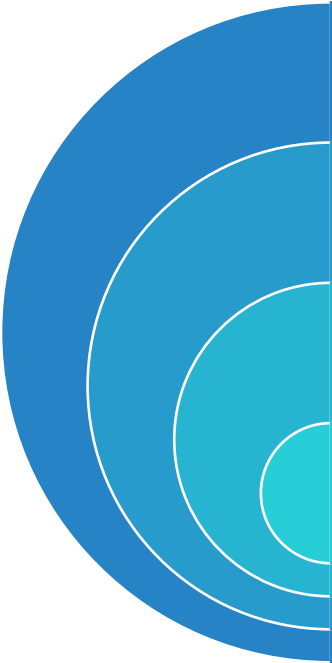
Add: Services completed in the current period for which advance was received in earlier period

Less: Advances received in the current period for services to be given in future

# ZERO-RATED TURNOVER OF GOODS

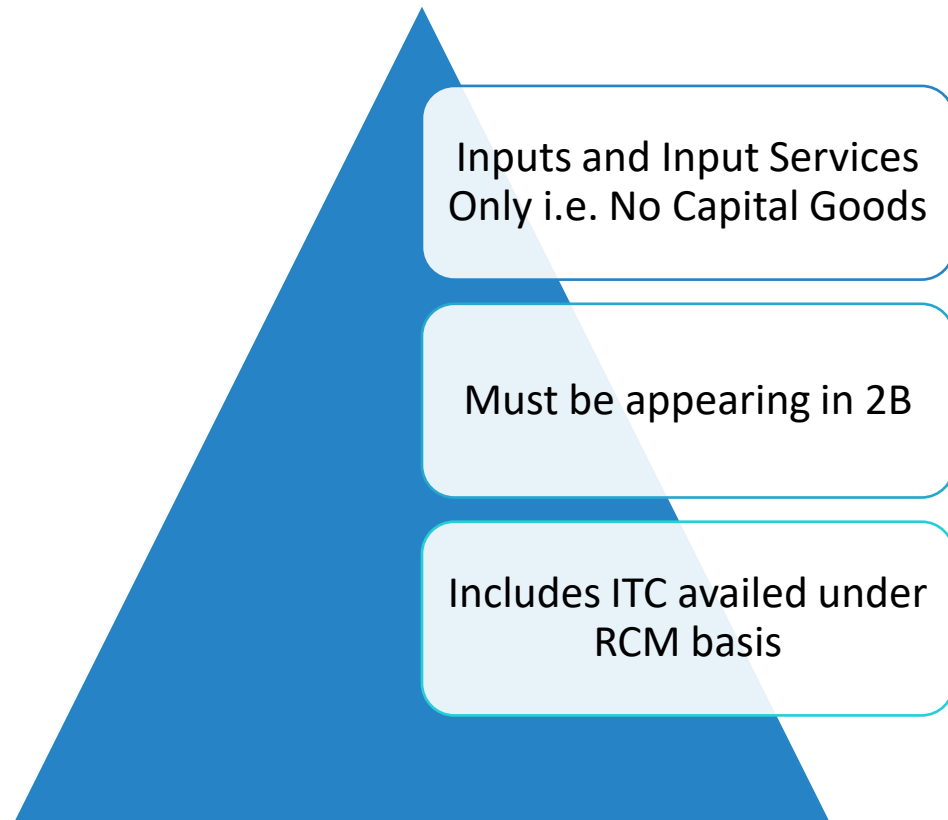


# ADJUSTED TOTAL TURNOVER

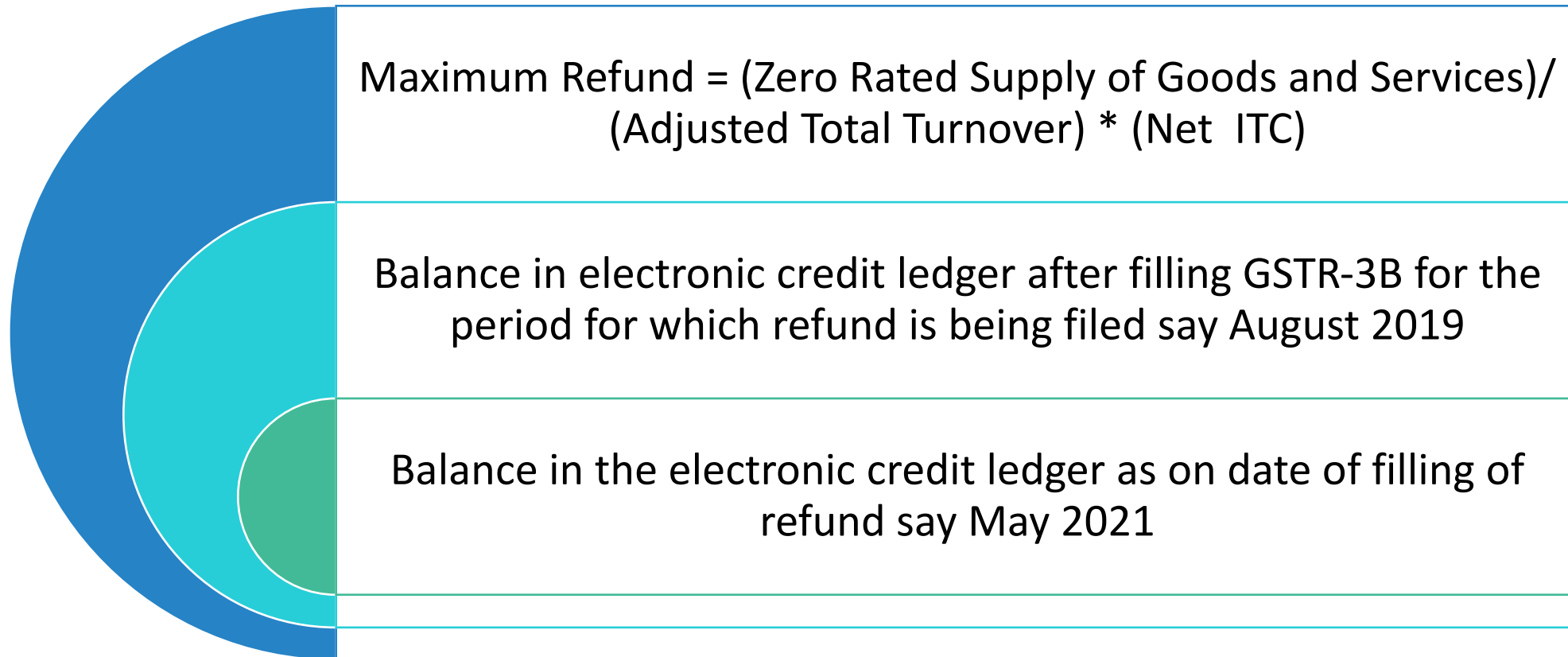


Turnover in State u/s 2(112) excluding services
Add: Local supply of Services
Add: Zero-Rated Supply of Services as calculated above
Less: Exempt Supplies

# NET ITC



# FINAL REFUND AMOUNT IS LOWER OF THE BELOW 3 (AS PER CIRCULAR 59/33/2018- GST)



# SPECIAL CASES

Situation	Description	Refund Mechanism
Supplies to SEZ	Supply of goods or services or both to a <b>Special Economic Zone</b> developer/unit will be considered to be a zero-rated supply.	1)Refund of IGST -Available subject to the principle of unjust enrichment 2) Accumulated ITC Refund - Available
Deemed export (against advance authorization / EOU)	Goods supplied do not leave the country and the payment for such supplies is received either in Indian rupees or in free foreign exchange.	Option for the supplier or recipient to file a refund application Disclaimer Certificate to be obtained
Inverted duty structure	Where the credit has accumulated on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies)	Available only for inputs & Capital goods but not for input services



# SOME SPECIAL CASES

Situation	Meaning	Refund Mechanism
Good exported subject to Export duty		No Refund of unutilised ITC
Supplier avails Drawback (Central or integrated tax)	<p>when duty paid on imported goods are re-exported within two years, the importer may claim refund of import duty up to maximum 98% of the customs duty paid..</p> <p>The following conditions to be satisfied in this regard:</p> <ul style="list-style-type: none"><li>a. Goods should be those which were imported</li><li>b. The goods are entered for export within two years from the date of payment of duty on the importation thereof.</li></ul>	No Refund of ITC if avail drawback for Central tax and claim refund of integrated tax

# HIGH SEA SALES OR WAREHOUSED GOODS – SCHEDULE III

## Para 7 (Inserted via FB 2023 w.e.f 1<sup>st</sup> July 2017)

- Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.

## Para 8 (a) & (aa)

- Supply of warehoused goods or goods warehoused in a SEZ or in a Free Trade Warehousing Zone to any person before clearance for home consumption or for exports or DTA

## Circular 33/2017-Cus dated 1-8-2017

- Value added at each stage will form part of value on which IGST need to be paid or Customs Valuation in case of rejection

# OTHERS

IGST at time of Importation  
i.e. clearance

Sec 17(2) – No reversal of  
Common ITC on Exempted  
Zero rated Supply

Merchant Export –  
Condition Fulfilment (Not.  
40/2017 & 41/2017)

E-way Bill [Rule 138(14)(h)]  
ICD to port – Exempt

# BILL TO SHIP TO MODEL UNDER MERCHANT EXPORT!

Time  
Technoplast Ltd  
[(2022) 92 GST  
238 = 139  
taxmann.com  
110 (AAAR-Karn)]  
Para 15

- The *option may or may not be availed* by the supplier and/or recipient and the goods may be procured at the normal applicable rate of tax. Therefore, we *agree* with the ruling passed by the lower Authority that the Appellant is *not eligible for the benefit of the concessional rate of tax in terms of Notification No 41/2017*





IMPLICATIONS ON IMPORT

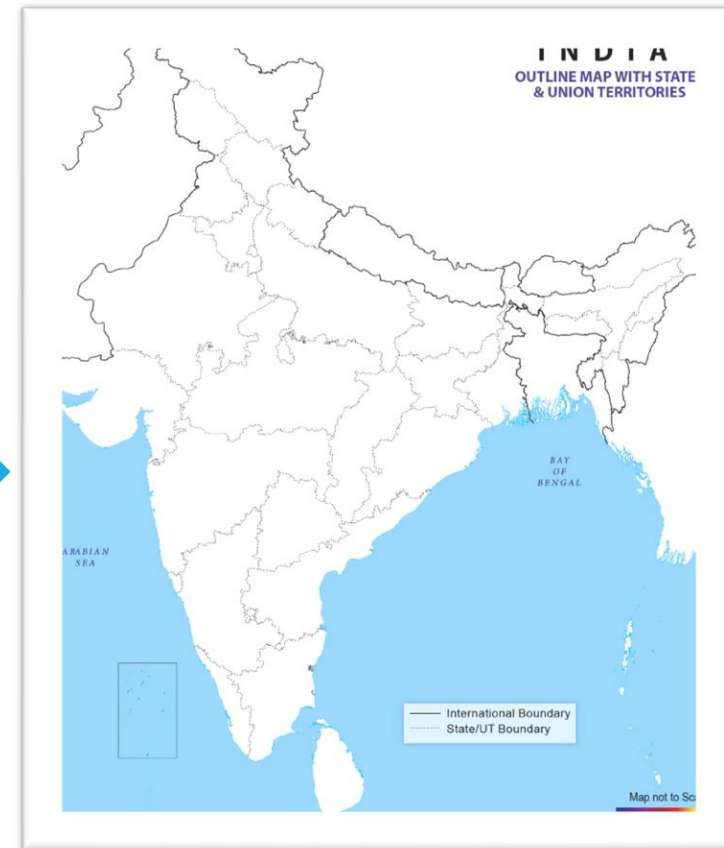


# IMPORT?

FROM



TO



# WHAT IS IMPORT OF SERVICE?

**Section 2(11) of IGST Act 2017 “import of services” means the supply of any service, where—**

- (i) the supplier of service is located outside India;
- (ii) the recipient of service is located in India; and
- (iii) the place of supply of service is in India; (*Section 13 of IGST*)

# NOTI. NO. 10/2017 – IT(R) – ENTRY 1

S. No	Description of Service	Supplier of Service	Recipient of Service
1.	<b><i>Any service</i></b> supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient.	<b><i>Any person</i></b> located in a non-taxable territory	<b><u>Any person</u></b> located in the taxable territory <b><u>other than</u></b> non-taxable online recipient.



# REGISTRATION!

## Section 22(1) of CGST Act

- Threshold exceed above 20 L (Goods) or 40L (Service)

## Section 24 of CGST Act – Mandatory Registration

- persons who required to pay tax under reverse charge (iii)

## Import of Service

- Mandatory Registration irrespective of threshold limit?

# EXEMPTION – NOTI. NO 09/2017-IT (R)!

Sr. No 10

- Service received by CG/SG/UT/LA/GA/ or Individual for purpose other than commerce, industry, business or profession
- Entity registered u/s 12AA of Income Tax for providing charitable activities

Sr. No 10F

- Services supplied by an establishment of a person in India to any establishment of that person outside India, which are treated as establishments of distinct persons in accordance with Explanation 1 in section 8 of the Integrated Goods and Services Tax Act, 2017.

Sr. No 12AA

- Services provided by an **intermediary** when location of both supplier and recipient of **goods** is outside the taxable territory (w.e.f 01.10.2019 via Not. 20/2019 – IT(R)) Subject to documents maintained for 5 years

# EXEMPTION – NOTI. NO 09/2017-IT (R)!

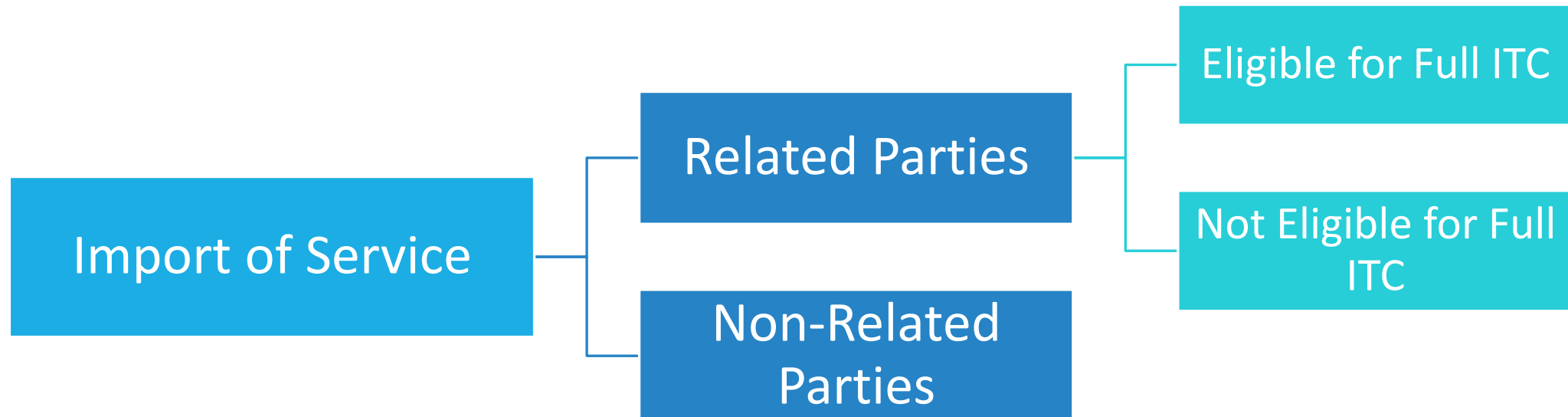
Sr. No 55

- Services by an organiser to any person in respect of a business exhibition held outside India.

Sr. No 54 & 54A

- Services provided by a tour operator to a foreign tourist in relation to a tour conducted wholly outside India.
- Partly performed in India and Partly outside India (w.e.f 18.07.2022 via Not. 04/2022 – IT(R))

# IMPORT



# IMPORT FROM RP – CIR.210/4/2024 (26/06/2024)

Sr.N 4 of Schd. I

Import by a registered  
person from RP

2<sup>nd</sup> Proviso to Rule 28 –  
Recipient Eligible for Full  
ITC and Issuance of Self-  
Invoices u/s 31(3)(f)

If no invoice issued,  
deemed to be declared  
as 'Nil'

# TRANSACTION OF LOAN RP

Loan by an overseas affiliates to its Indian affiliates or by person

- No GST payable
- Loan processing fee charged – GST applicable
- Circular No. 218/12/2024-GST dated 26-6-2024

# TYPES OF FOREIGN REMITTANCE

## Professional Service

Technical Service

Manpower Service  
(Secondment)

## Software and IT Service

Physical Form  
(Goods) – HSN  
8523 80 20

Non-physical  
form – Service

## Royalty and License Fee

Patent or  
Trademark

Franchise and  
Brand  
Licensing

## Banking/ Financial Service

Conversion  
Fee

Letter of  
Credit

# CLASSIFICATION AND RATE

No IGST on Import of Service if Royalty & License Fee include in Custom Valuation

Not. No. 06/2018 – IT (Rate) & FAQ Chapter 21 Q.No 21

Classification Software Import – Goods Vs Service determination (GST Vs Customs)

- Para 5(c) of Sch. II – **Temporary** transfer or **permitting** the use or enjoyment of any IPR
- Permanent Transfer of IPR – Supply of Goods

Service tax applicability on banking charges

- *Commissioner v. State Bank of Bikaner and Jaipur* - 2022 (57) G.S.T.L. J65 (S.C.)



# EMERGING ISSUES

Software in paper media

Outbound Tour Expenses

Foreign Government  
charges

GST on Forex Conversion  
charges by Banking

Artificial Intelligence  
service

Cross border data  
services

# WHAT IS IMPORT OF GOODS?

## Section 2(10) of IGST Act 2017

- “*import of goods*” with its grammatical variations and cognate expressions, means **bringing goods into India** from a place outside India;

# PROVISO TO SEC. 5(1) – IGST ACT!

*Provided that the **integrated tax** on goods [other than the goods as may be notified by the Government on the recommendations of the Council w.e.f 01/10/2023] imported into India shall be **levied and collected** in accordance with the **provisions of section 3 of the Customs Tariff Act, 1975** on the value as determined under the said Act at the point when **duties of** on the said goods under section 12 of the Customs Act, 1962.*

# REGISTRATION!

## Section 22(1) of CGST Act

- Threshold exceed above 20 L (Goods) or 40L (Service)

## Section 24 of CGST Act – Mandatory Registration

- persons who required to pay tax under reverse charge (iii)

## Import of Goods

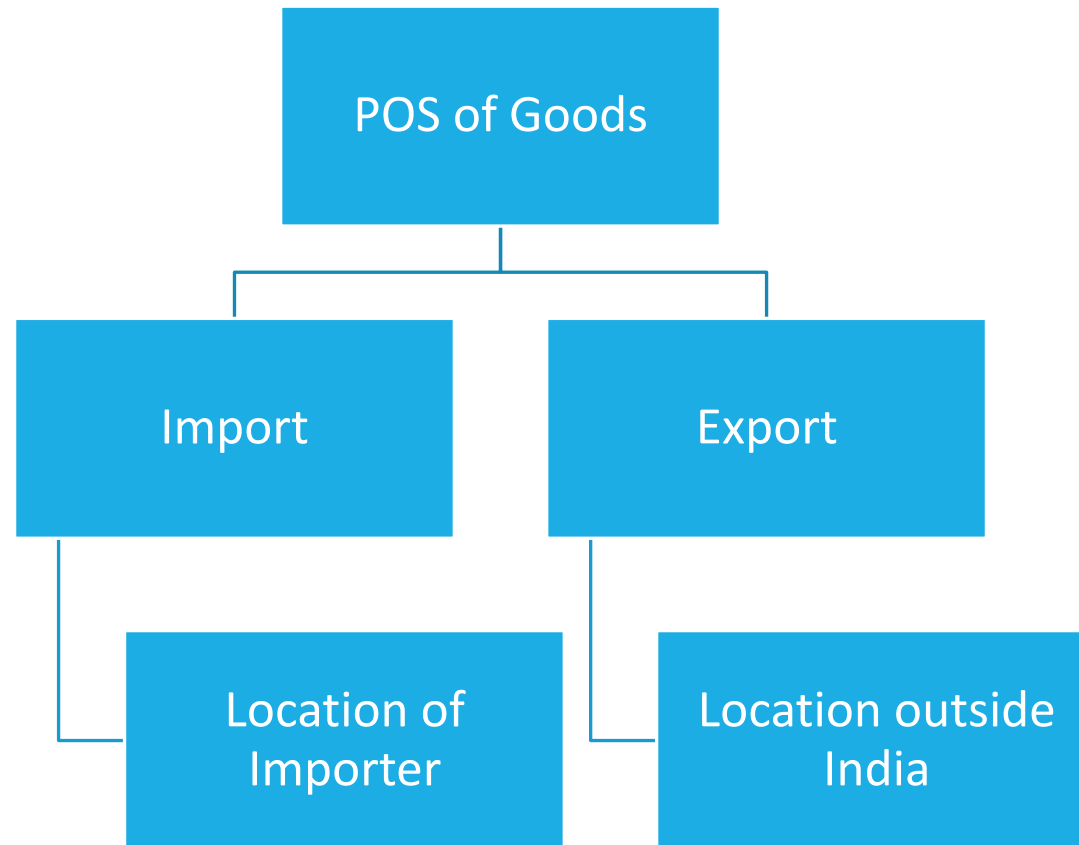
- Mandatory Registration for claiming IGST on Import [Sec. 16(1) of CGST Act]

# REG. REQUIRED WHEN IMPORTED GOODS CLEARED FROM UN-REGISTERED STATE !

KAMDHENU  
AGROCHEM  
INDUSTRIES LLP  
[2021-TIOL-248-  
AAR-GST]  
Para 5.6.3/4

- .... the *place of supply* shall be the *location of the importer*. In the present case since the importer is *registered in Mumbai*, the *place of supply* will be *Mumbai, Maharashtra*.
- Since the applicant will be *selling the goods before clearing* the same for home consumption from the port of import, the place of supply shall be the *place from where the applicant makes a taxable supply of goods* which, in this case will be the *Maharashtra Office..... therefore, they need not take separate registration in the State of Import.*

# SEC.11 OF IGST ACT – POS OF GOODS



# NO PHYSICAL MOVEMENT OF GOODS !

**DOLPHIN DIE CAST (P) LTD.**  
**[2020 (37) G.S.T.L. 380 (A.A.R. - GST - Kar.)]**  
Para 22(1)

- In the case of *manufacture of Die* by the applicant and invoiced to the recipient, *without moving the goods*, the applicant has to *raise the tax invoice* addressed to the foreign buyer. Since *it is an intra-State supply*, he has to collect the CGST and SGST and discharge the liability. The applicant is *not eligible to claim* said payment *as input tax credit* on the invoice raised by him as *he is not the recipient*. Further if the said steel die is scrapped at applicant's end as per the instruction of the overseas customer without moving out of the country, while supplying the die scrap to the third party, the applicant has to issue intra/inter-State tax invoice depending upon the nature of the transaction and collect and pay the applicable tax as per the provisions of the GST Acts

# REFUND - IS A STATUTORY PRESCRIPTION!

VKC Footsteps  
India Pvt Ltd  
[2021 (52)  
GSTL  
513 (SC)]  
Para 58/ 70/  
81

- *Refund is a matter of a **statutory prescription***
- *A claim to refund is **governed by statute**.  
There is no constitutional entitlement to seek a refund.*
- *The Court while interpreting the provisions of Section 54(3) must give **effect to its plain terms**. The Court **cannot redraw legislative boundaries** on the basis of an ideal which the law was intended to pursue*



# THINGS TO KNOW!

IGST on Reimport of  
goods for Repairs – Cir.  
No. 16/2021 dated  
19/07/2021

Post Importation  
Charges – Service or  
Goods?

Re-assessed BoE

Interest 15% Vs 18%

Non-reflection of BOE in  
GSTR 2B

No reversal of ITC on  
Duty Scrip – Explan. 1(d)  
to Rule 43(c)

# CIRCULARS

226/20/2024-GST - Upward revision for EoG and refund

202/14/2023-GST – Export of Services and VOSTRO account

175/07/2022-GST – Export of electricity and refund

160/16/2021-GST – Debit note, e-invoicing and export duty refund

78/52/2018-GST – Export and import of services

37/11/2018-GST – Export refund

45/19/2018-GST dated 30-5-2018 – GST Compensation cess covered in Zero rated and Refund of ITC cess can be claimed

14/2018-Cus dated 4-6-2018 – Export through E-Commerce Post

# CIRCULARS

108/27/2019-GST dated 18-07-2019 – Removal of goods for Exhibition or consignment

21/2019-Cus. dated 24 7-2019. – No IGST payable on Reimport of goods sent for exhibition

103/22/2019-GST dated 28-6-2019. – Tempopary Import of Diamond for cutting and polishing

**\$00000**

**ANY QUESTIONS???**



CA Pritam Mahure and Associates

Happy to Discuss!



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[E-books on GST](#)

[E-books on How to be Future Proof](#)

# THANK YOU!