G S T

Goods & Services Tax

“One Nation One Tax”

Speaker
CA Dr Srinath N G
Partner - Srinath & Associates
M.com, FCA,Concurrent Auditor, FAFD, IBC

Comparison of Old and New Law

A manufacture's certain goods whose basic price is Rs 1000. Excise Duty @ 12%, VAT @ 14.5%, GST @ 28% is leviable

Old Law	Amount (Rs)	GST Law	Amount (Rs)
Cost of Goods	1000	Cost of Goods	1000
Add: Excise Duties	120		0
Cost incl. Excise Duty	1120		1000
Add: VAT @ 14.5%	162.4		0
	0	Add: GST @ 28%	280
Total Cost of the Goods to consumer	1282.4	Total Cost of the Goods to Consumer	1280

The Journey to GST

2006

Announcement of GST for the first time was made by the then Union Finance Minister, during budget of 2006-07 that it would introduced from 1 April 2010

2009

First Discussion Paper was released by the Empowered Committee

2011

Constitution (115th Amendment) Bill introduced and subsequently lapsed

2014

The Constitution (122nd Amendment) Bill was introduced in the Lok Sabha

Aug 2016

The Constitution (One Hundred and First Amendment) Act was enacted

Sep 2016

1st GST Council Meeting

March 2017

GST Council Recommends the CGST, SGST, IGST, UTGST and Compensation Cess Act

April 2017

CGST, IGST, UTGST and Compensation Cess Acts passed

May 2017

GST Council recommends all the rules

30th June 2017

All States except J&Kexcept passed their SGST Act

1st July 2017

GST Launched

8th July 2017

SGST Act passed by J&K; CGST and IGST Ordinances promulgated to extend GST to J&K

True Economic Integration of India

- Notifying and amending rules
- Dealing with IT related issues
- Revision of Rates
- Clarification and communication with taxpayers

GST Law from a Constitutional Perspective (1/2)

Article 366(12A)

Definition of GST

"Goods and services tax" means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption

Sl No	Definition	Article	Definition
1.	Goods	366(12)	Includes all materials, commodities, and articles [Pre Existing Definition]
2.	Service	366 (26A)	Anything other than goods [Introduced vide 101st Constitutional Amendment Act]
3.	State	366(26B)	With reference to articles 246A, 268, 269,269A and Article 279A includes a Union territory with Legislature. [Introduced vide 101st Constitutional Amendment Act]

"Goods and Services tax" law while having unique principles, has significant elements of prior Central and State laws; and is also inspired by VAT/GST legislation of EU, Australia, Malaysia etc. along with International VAT/GST guidelines of OECD

GST Law from a Constitutional Perspective (2/2)

- Bill passed by Rajya Sabha on 03.08.2016 & Lok Sabha on 08.08.2016
- Notified as Constitution (101st Amendment) Act, 2016 on 08.09.2016
- Key Features:
  - Concurrent jurisdiction for levy & collection of GST by the Centre & the States – Article 246A
  - Centre to levy & collect IGST on supplies in the course of inter-State trade or commerce including imports – Article 269A
  - Compensation for loss of revenue to States for five years on recommendation of GSTC – Clause 19
  - GST on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas & aviation turbine fuel to be levied from a later date on recommendations of GSTC

Previous Indirect Tax Structure in India

Central Taxes

- Central Excise duty
- Additional duties of excise
- Excise duty levied under Medicinal & Toilet Preparation Act
- Additional duties of customs (CVD & SAD)
- Service Tax
- Surcharges & Cesses

State Taxes

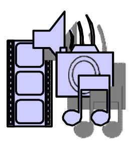
- State VAT / Sales Tax
- Central Sales Tax
- Purchase Tax
- Entertainment Tax (other than those levied by local bodies)
- Luxury Tax
- Entry Tax (All forms)
- Taxes on lottery, betting & gambling
- Surcharges & Cesses

GST

Constitution amended to provide concurrent powers to both Centre & States to levy GST

(Centre to tax sale of goods and States to tax provision of services)

Outside GST !

	Alcohol for human consumption	Power to tax remains with the State
	Five petroleum products – crude oil , diesel, petrol, natural gas and ATF	GST Council to decide the date from which GST will be applicable
	Tobacco	Part of GST but power to levy additional excise duty with Central Government
	Entertainment tax levied by local bodies	Power to tax remains with local bodies

GST Council – Constitution (Article 279A of the Constitution)

- Chairperson – Union FM
- Vice Chairperson - to be chosen amongst the Ministers of State Government
- Members - MOS (Finance) and all Ministers of Finance / Taxation of each State
- Quorum is 50% of total members
- States - 2/3 weightage and Centre - 1/3 weightage
- Decision by 75% majority
- Council to make recommendations on everything related to GST including laws, rules and rates etc.


LEVY & COLLECTION OF TAX
GST

Extent & Commencement

- "CGST Act" extends to whole of India including J&K – Sec 1
- "India" includes the Territory of India, Territorial waters, Sea bed and sub soil underlying the water, Continental Shelf, Exclusive Economic Zone, Maritime Zone, Air space above its territory and territorial waters. Sec 2(56)
- "SGST Act" extends to the respective states and Union Territory with State Legislatures
- "UTGST Act" extends to the Union Territories like Anadaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu, Chandigarh, New Delhi and Pondicherry
- "IGST Act" applies to whole of India including J&K – Sec 1 of IGST Act

Levy & Collection – Sec 9

1. There shall be levied CGST/SGST/UTGST on all Intra State Supplies of goods or services or both except on alcoholic liquor for human consumption.

- Intra state supplies means supply of goods or services or both within the same state.

Intra State Supply → CGST/SGST/UTGST

2. There shall be levied IGST on all Inter State Supplies of goods or services or both except on alcoholic liquor for human consumption.

- Inter State supplies means supply of goods or services or both from one state to another state.

Inter State Supply → IGST

- **IGST on goods 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 determined under the said Act at the point when duties of customs are levied under Section 12 of The Customs Act,1962.**
- **Note: Value for this purpose means Transaction Value as per Sec 15 of CGST Act**

Levy & Collection – Sec 9

- **However, CGST on supply of the following items has not been levied immediately but shall be levied with effect from the date notified by Central Government on the recommendations of GST Council**

- **Petroleum Crude**
- **High Speed Diesel Oil**
- **Motor Spirit (Commonly Known as Petrol)**
- **Natural Gas**
- **Aviation Turbine Fuel**

Levy & Collection – Sec 9

3. Tax shall be paid by recipient of goods or services or both if supply of goods or services or both, notified by the Government on recommendations of GST Council.

4. Tax shall be paid by recipient of goods or services or both if supply of goods or services or both is by an unregistered supplier to a registered supplier.

Notifications on RC

- **Not. No 5/2017 exempts persons from obtaining registration under GST: Persons only engaged in making taxable supplies, total tax on which is liable to be paid on reverse charge are exempted from obtaining GST registration**
- **Not. No 8/2017 exempts intra state supplies of goods or services or both received by a registered person from any supplier from whole of Central Tax u/s 9(4) provided aggregate value of all such supplies does not exceed Rs 5,000 in a day.**

Composition Scheme – Sec 10

- **This is an optional scheme**
- **Eligible taxpayer who wants to opt this scheme needs to intimate the Government.**
- **Failure to inform the Government will make automatic applicability of regular scheme.**
- **There is an option to switch over to the regular scheme from composition scheme during the year but no option to switch over to composition scheme from regular scheme during the year.**
- **In case of change over from regular scheme to composition scheme, the tax payer will forego the input credit on opening stock lying with the tax payer.**
- **In case of change over from composition scheme to regular scheme, the tax payer can avail the input credit on opening stock lying with the tax payer.**

Applicability

Only Registered Tax Payer

A.T.O in P.F.Y.< 1.5Cr/ 75L*

Needs to file application

Aggregate Turnover includes value of Taxable Supplies, Exempted and Export Supplies but does not include Value of Inward supplies on which GST is payable on RCM, GST Tax

ATO includes Value of Exempted Supplies but does not include Interest on loans or deposits or advances

Other points on “CS”

- **The Composition Scheme is applicable not only for supply of goods but also for services including Restaurant Service*****
- **The limit of Rs 75 Lakhs is applicable to 8 special Category states as follows:**

8 Special Category States for Composition Scheme	
1. Uttarakhand	2. Arunachal Pradesh
3. Manipur	4.Meghalaya
5. Nagaland	6. Tripura
7. Sikkim	8. Mizoram

Other points on “CS”

- **The tax payer cannot make Inter state supplies but can have Inter state purchases.**
- **The tax payer can render services other than restaurant also upto certain limits*****
- **The tax payer cannot sell on E Commerce Portal**
- **This scheme is not available for manufacturer of tobacco and substitutes of tobacco, pan masala, ice cream and other edible ice whether or not containing cocoa and aerated water w.e.f 01.10.2019. <u>Also manufacturers of fly ash bricks, fly ash, fly ash blocks, Bricks of Fossil meals or similar siliceous earth, Building Bricks, Earthen or roofing tiles are ineligible w.e.f 01.04.2022.</u>**
- **The tax payer cannot collect GST from the recipient rather it has to be borne by him & shall not be eligible to avail Input Credit**
- **The tax payer having different establishments with same PAN must opt for CS for all the units**
- **The tax payer has to pay GST on Reverse Charge on purchases made by him**

Other points on “CS”

- **The tax payer who renders other services other than restaurant service can opt for Composition Scheme upto specified value not exceeding the higher of the following**

✓ **10% of the turnover of Preceding FY**

or

✓ **Rs 5,00,000**

Benefits of “CS”

- **A Small rate of tax shall be levied**

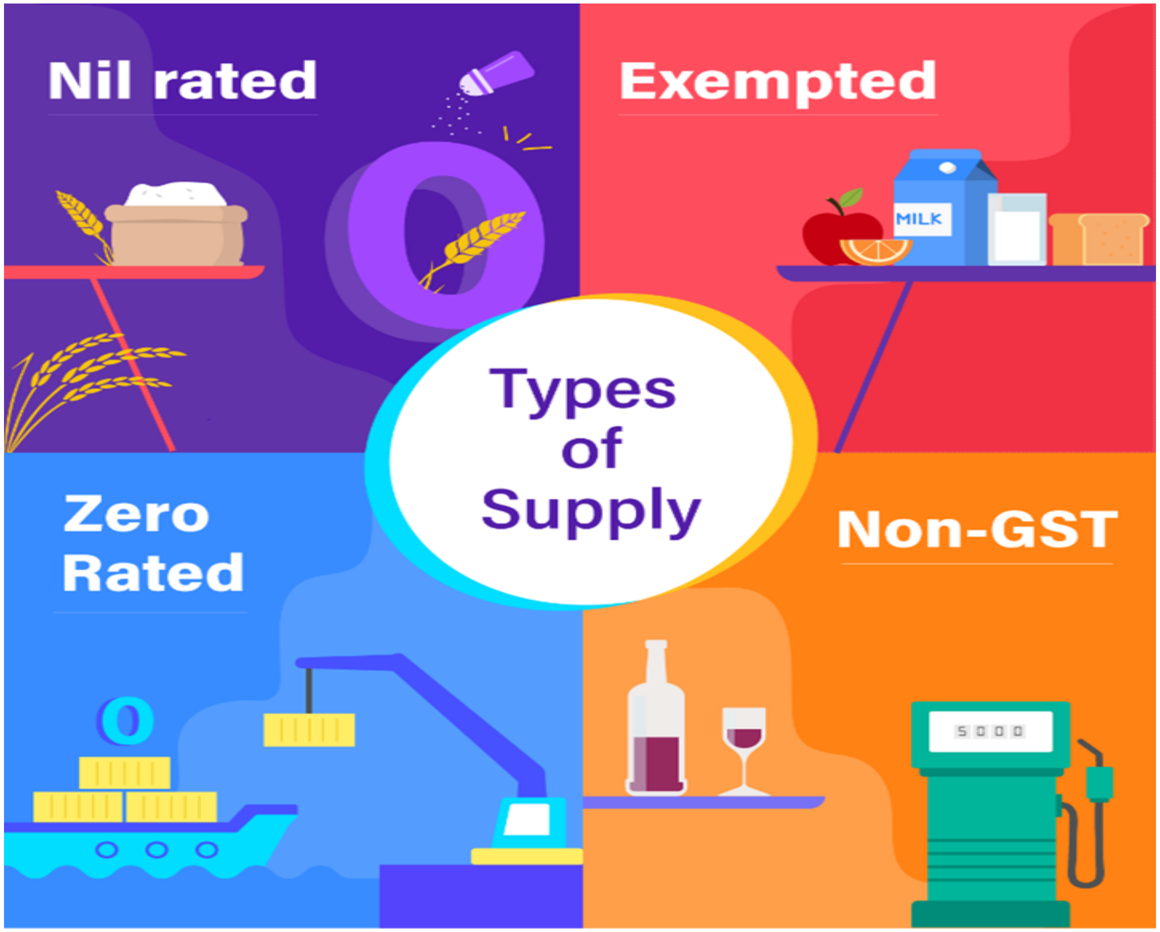
Supplier	CGST Rate	SGST Rate	Total
Manufacturer & Traders	0.5%	0.5%	1%
Restaurant Services	2.5%	2.5%	5%

- **It is sufficient if the tax payer files annual returns instead of monthly/quarterly returns**
- **The tax payer need not issue Tax Invoices. It is enough if he issues a Bill of Supply**

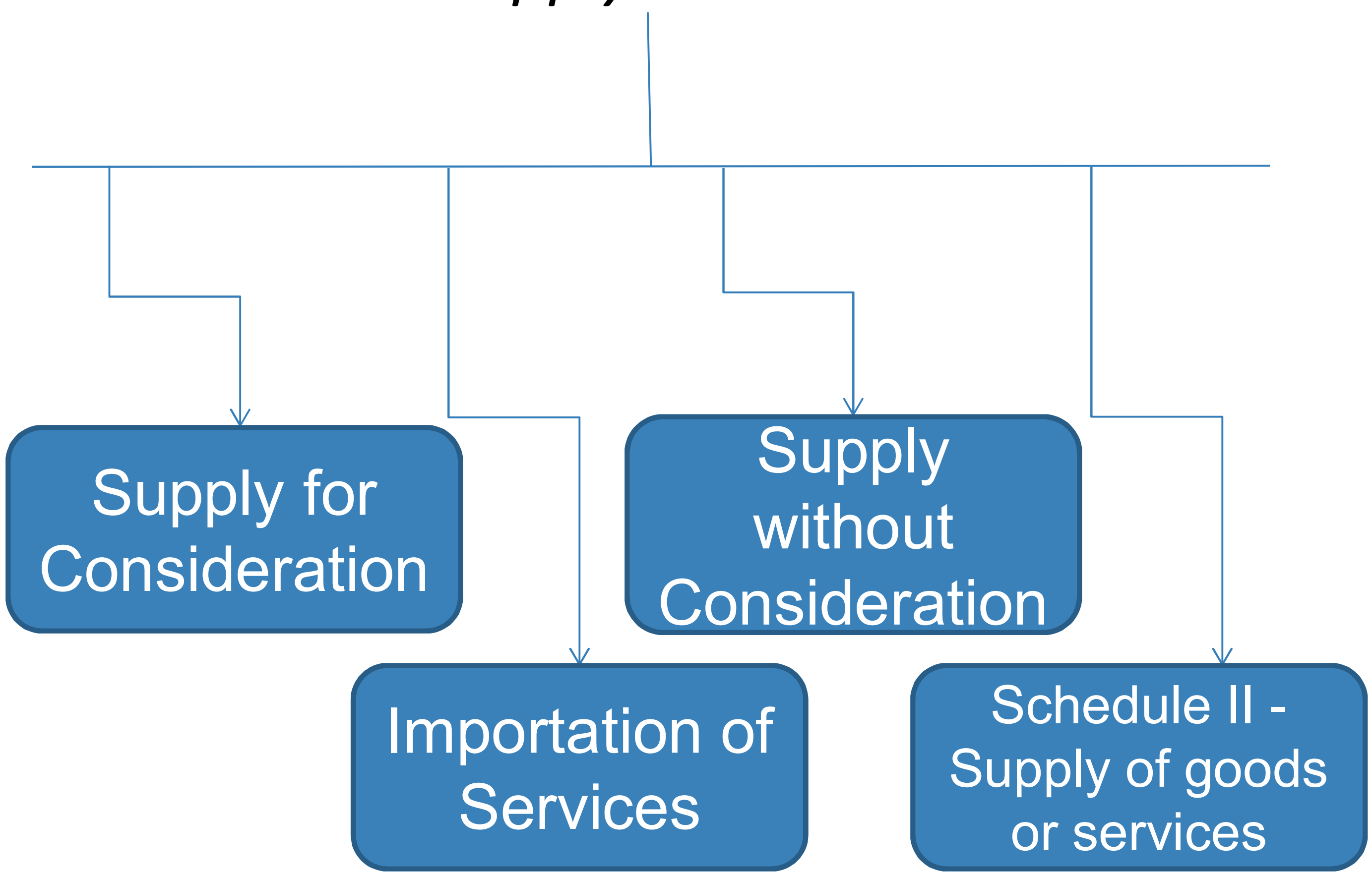
Concept of Supply

Old Laws	GST Laws
Manufacture of Goods (Excise Duty) Sale of Goods (VAT/CST) Rendering of Service (Service Tax)	Supply of Goods or Supply of Services or Both

Taxable Event in GST regime


Nil rated
0
Exempted
MILK
Types of Supply
Zero Rated
0
Non-GST
5000

Supply – Sec 7


Supply for Consideration
Importation of Services
Supply without Consideration
Schedule II - Supply of goods or services

Taxability of Composite & Mixed Supplies – Sec 8

- **Composite Supply** means a supply made by a taxable person to a recipient and
  - ✓ Comprises of two or more taxable supplies of goods or services or both
  - ✓ Which are naturally bundled and supplied in conjunction with each other in the ordinary course of business. Sec 2(30)

Note: The elements in Composite Supply are dependent on "Principal Supply"

Taxability of Composite & Mixed Supplies – Sec 8

❖ **Mixed Supply** means

- ✓ Two or more individual supplies of goods or services or any combination thereof, made in conjunction with each other by a taxable person
- ✓ For a single price were such supply doesnot constitute a Composite Supply – Sec 2(74)

Note: The individual supplies are independent of each other and are not naturally bundled unlike in case of composite supply

Taxability of Composite & Mixed Supplies – Sec 8

- Tax Liability of Composite Supply shall be Supply of Principal Supply

Ex: Supply of food complimentarily along with accomodation in a hotel

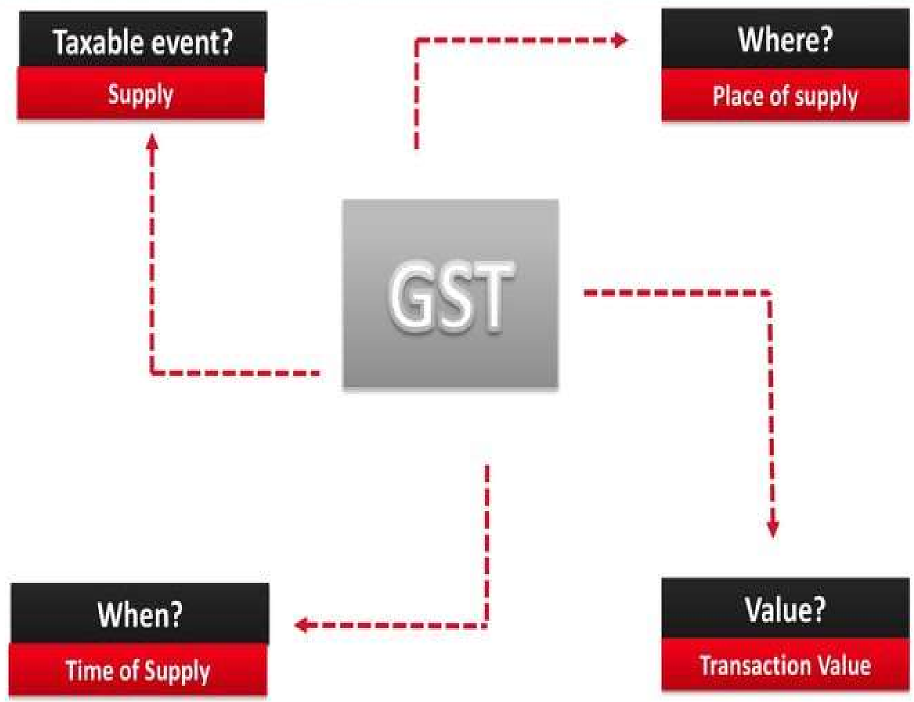
- Tax Liability of Mixed supply shall be Supply of that particular supply which attracts highest tax liability

Ex: Supply of Package consisting of Sweets, Chocolates, Cakes, Dry Fruits in which every element can be sold separately

Note: Taxability of “buy one get one” or free samples depends on whether it is composite or mixed supply


Time of Supply

Four point analysis



Key concepts set out as under the CGST, IGST, UTGST Acts and the Rules issued

Time of Supply of Goods – Sec 12

- The time of supply of goods shall be
- ✓ The date of issue of invoice by supplier or **last date on which he is required to issue the invoice as per Sec 31**

or

- ✓ The date of receipt of payment by supplier

“**Whichever is earlier”**

Note: If the supplier receives excess amount upto Rs 1000, the time of supply shall at the option of supplier be the date of issue of invoice in respect of such excess amount.

Points to be noted

- Supply shall be deemed to have been made to the extent of Invoice amount or the payment as the case may be
- The date of payment shall be the date when payment is credited in the books of account or the date on which the payment is credited to the bank whichever is earlier.

Supplies of Reverse Charge – Sec12(3)

- Where the tax liability is to be paid on reverse charge, the time of supply shall be

✓ The date of receipt of goods or

✓ The date of payment or

✓ The date immediately following **30 days** from the date of issue of invoice or any other document

"Whichever is earlier"

Note: If it is not possible to determine the time based on 2 or 3 above, then the time of supply shall be the date of credit in the books of account

Supplies of Vouchers – Sec12(4)

- In case of supply of vouchers by a supplier, the time of supply shall be

✓ The date of issue of voucher, if the supply is identifiable or

✓ In all other cases, the date of redemption of voucher

Ex: Oyo rooms markets various hotels and sells vouchers redeemable for a discount

Residuary Clauses – Sec 12(5)&(6)

- If it is not possible to determine supply in any of the above cases, then the time of supply as per Sec 12(5) shall be
  - ✓ The date of filing the return if it is filed or
  - ✓ In any other case, the date of payment of tax

- In case of any addition in the value of supply due to interest, late fee or penalty, time of supply shall be the date on which supplier receives such additional amounts – Sec12(6)

Time of Supply of Services– Sec 13

- The time of supply of services shall be
- If invoice is <u>issued within the time limit</u>

✓ The date of issue of invoice by supplier

or

✓ The date of receipt of payment by supplier

"**<u>Whichever is earlier</u>**"

<u>Note:</u> If the supplier receives excess amount upto Rs 1000, the time of supply shall at the option of supplier be the date of issue of invoice in respect of such excess amount.

- If invoice is <u>not issued within the time limit</u> then, time of supply shall be

✓ The date of provision of service

or

✓ The date of receipt of payment

"Whichever is earlier"

Note: If above cases do not apply, time of supply of services shall be the **date on which the recipient shows the receipt of services** in his books of accounts

Time Limit for Issue of Invoice – Sec 31(2)

- Supplier of services is required to issue the Invoice
  - Before Provision of the service

or

  - After Provision of Services but within a specified time (30/45 days from date of provision of service)
- **In case of continuous supply of services**, invoice is required to be issued
  - ✓ On or before the due date of payment where **payment date is ascertainable** or
  - ✓ On or before the time of receipt of payment where **payment date is not ascertainable**
  - ✓ On or before the date of Completion of event where **payment is linked to completion of an event**

Supplies of Reverse Charge – Sec13(3)

- Where the tax liability is to be paid on reverse charge, the time of supply shall be
  - ✓ The date of payment or
  - ✓ The date immediately following **60 days** from the date of issue of invoice or any other document

"Whichever is earlier"

Note: If it is not possible to determine the time of supply based on 1 or 2 above, then the time of supply shall be the date of credit in the books of account

In case of supply between associated enterprises, supplier located outside India, the time of supply shall be **the date of entry in books or date of payment WEE**

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- In case of supply of vouchers by a supplier, the time of supply shall be

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Ex: Oyo rooms markets various hotels and sells vouchers redeemable for a discount

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  - ✓ The date of filing the return if it is filed or
  - ✓ In any other case, the date of payment of tax

- In case of any addition in the value of supply due to interest, late fee or penalty, time of supply shall be the date on which supplier receives such additional amounts – Sec13(6)

Change in rate of tax – Sec 14

- In case the goods or services or both have been supplied **before** the change in rate of tax
  - Where invoice and payment is received **<u>after</u>** change in rate, time of supply shall be

Date of Receipt of Payment

Or

Date of Issue of Invoice

"**Whichever is earlier**"

Change in rate of tax – Sec 14

- Where invoice is issued **before** but payment is received **after** change in rate, time of supply shall be

"**Date of invoice**"

- Where invoice is issued **after** but payment is received **before** change in rate, time of supply shall be

"**Date of Receipt of Payment**"

Change in rate of tax – Sec 14

- In case goods or services or both are supplied <u>**after**</u> change in rate of tax
  - Where invoice is issued **before** but payment is received **after** change in rate, time of supply shall be

    "**Date of Receipt of Payment**"
  - Where invoice is issued **after** but payment is received **before** change in rate, time of supply shall be

    "**Date of Issue of Invoice**"

Change in rate of tax – Sec 14

- Where invoice and payment is received **before** change in rate, time of supply shall be

Date of Receipt of Payment

Or

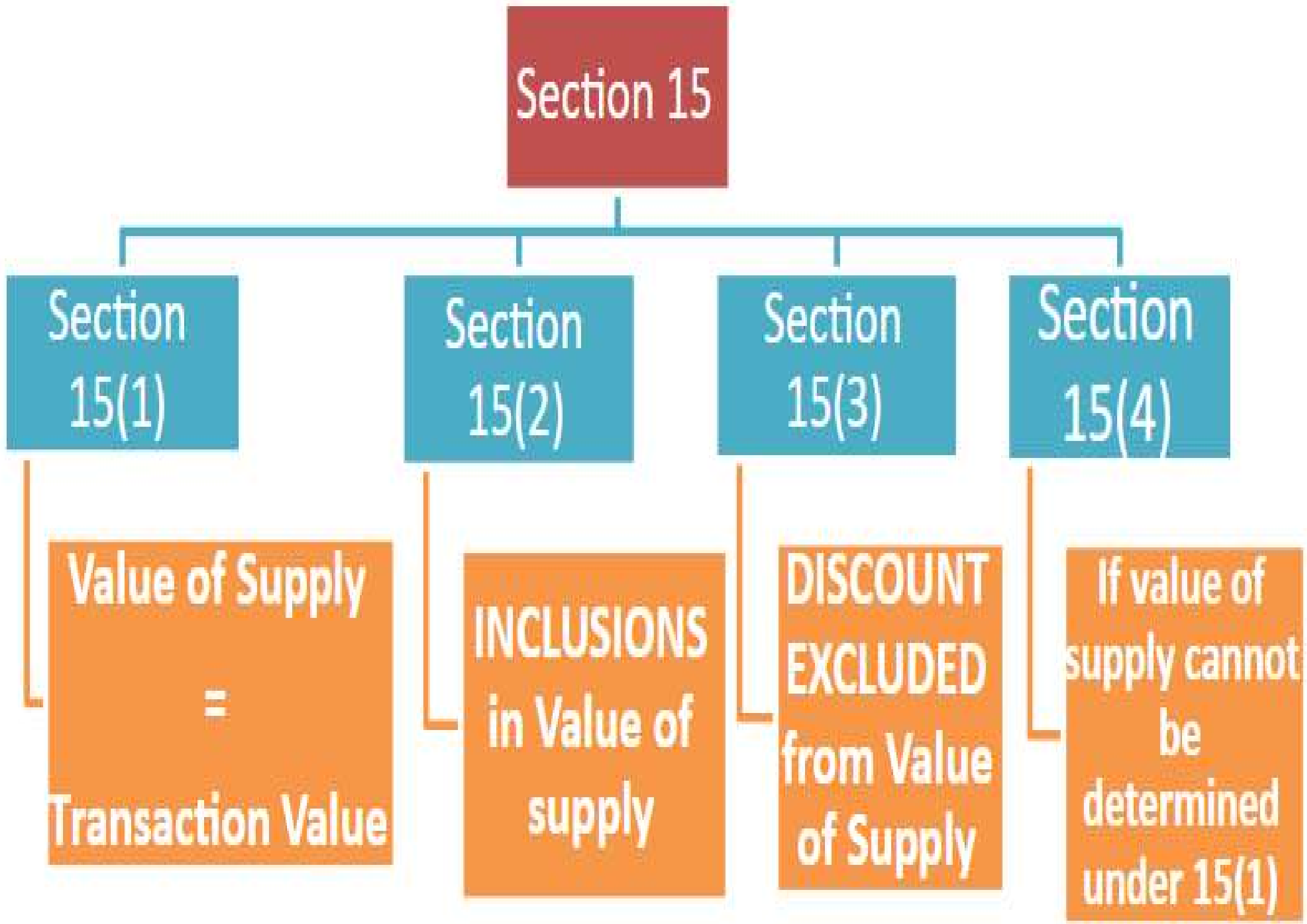
Date of Issue of Invoice

"**Whichever is earlier**"

Illustration 7 – Supply before or after change in rate of tax

Supply Provided	Invoice Issued	Payment Received	GST Rate
Before	After	After	New
Before	Before	After	Old
Before	After	Before	Old
After	Before	After	New
After	Before	Before	Old
After	After	Before	New


value


Section 15
Section 15(1)
Value of Supply = Transaction Value
Section 15(2)
INCLUSIONS in Value of supply
Section 15(3)
DISCOUNT EXCLUDED from Value of Supply
Section 15(4)
If value of supply cannot be determined under 15(1)

Value of Taxable Supply – Sec 15(1)

- The value of supply is the "Transaction Value"
- Transaction Value means the price paid or payable for the said supply of goods or services or both, provided:

✓ The Supplier and Recipient must not be related

✓ The price must be the sole consideration for the supply

Inclusions to the Value – Sec 15(2)

- The Value of supply shall include the following:
  - Any taxes, duties , cesses, fees and charge levied under any law except GST
  - Any amount the supplier is liable to pay in relation to such supply which was incurred by recipient
  - All incidental expenses before the delivery of goods or supply of services
  - Interest or late fee or penalty for delayed payment of consideration for supply
  - Subsidies except subsidies provided by CG/SG <u>only if linked to price of the machine</u>

Exclusions to the Value – Sec15(3)

- Value of supply shall not include any discounts which is given -
  - Before or at the time of supply if it is recorded in the invoice
  - After the supply has been effected provided:
- The discount is established in terms of an agreement entered at or before the time of supply
- Input tax credit attributable to discount part is to be reversed by the recipient of supply
  - TCS collected under the Income Tax Act, 1961
  - No Claim bonus issued by Insurance Companies

Other Sections – Sec 15(4) & 15(5)

- If the value of supply cannot be determined under 15(1), then the same shall be determined in such manner as may be prescribed.[Determination of Value of Supply of CGST Rules] - Sec15(4)
- Notwithstanding anything contained in Sec 15(1) & 15(4), value of supplies as notified by the Government may be determined in the manner as may be prescribed


INPUT TAX
CREDIT


Input Tax Credit
TAXES
CGST - SGST - IGST

How to avail ITC

To Pay IGST

- First utilize IGST Credit
- Secondly utilize CGST Credit
- Lastly utilize SGST Credit

To Pay CGST

- First utilize the balance of IGST
- Next utilize the CGST Credit

To Pay SGST

- First utilize the balance of IGST
- Next utilize the SGST Credit

"This is most important in GST"

Person Eligible to avail ITC

- It is only a registered person who is eligible to avail ITC on supply of goods or services or both to him
- Which are intended to be used in the course or furtherance of business.
- The ITC so availed shall be credited to "Electronic Credit Ledger"

Conditions for availing ITC

- ✓The recipient has received the goods or services or both.
- ✓The goods or services must be used in the course or furtherance of business
- ✓The ITC can be availed on the basis of following documents:

1. An invoice issued by supplier of goods or services or both
2. A debit note issued by supplier
3. A Bill of Entry
4. A document issued by an input service distributor

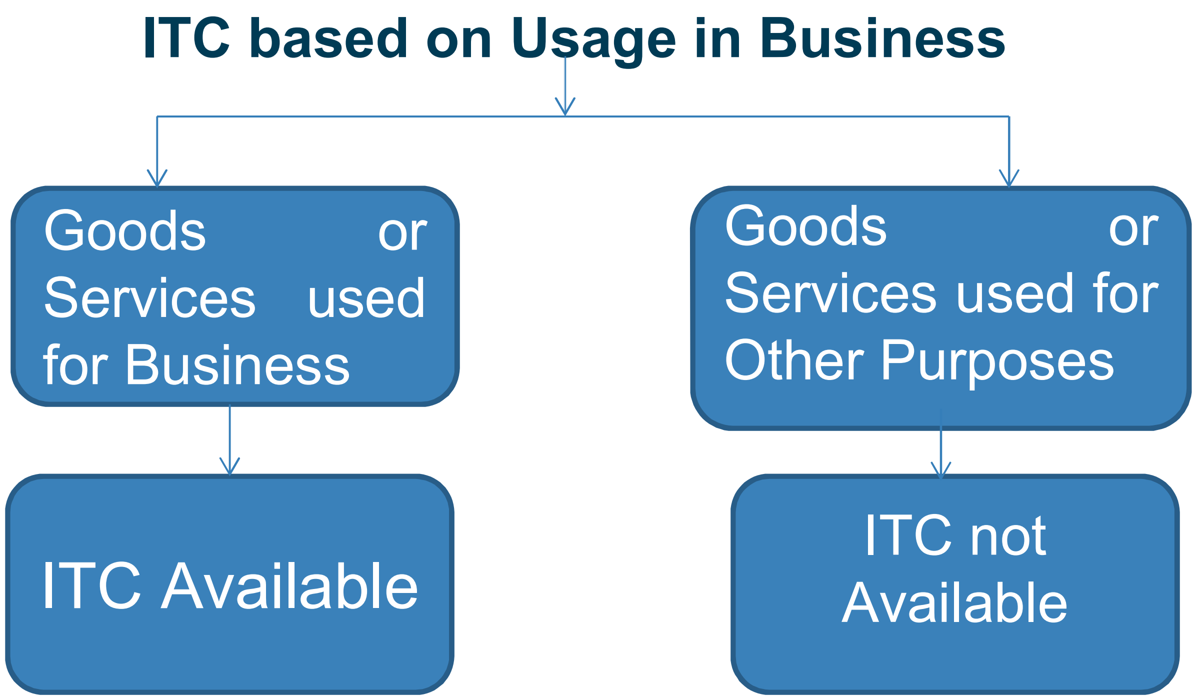
Conditions for availing ITC

- ✓The above said document must contain all the particulars as prescribed by Invoice Rules
- ✓The invoice can contain additional information other than those prescribed but not less information
- ✓The supplier must have paid the tax to the Govt.
- ✓The supplier must upload the details of such document in the GSTN portal using GSTR 1
- ✓If the goods are received in instalments, then the credit in available on receipt of last instalment of goods
- ✓If recipient doesn’t pay the amount of supply to the supplier within 180 days, the ITC taken shall be reversed (pay the amount to Govt)

Conditions for availing ITC

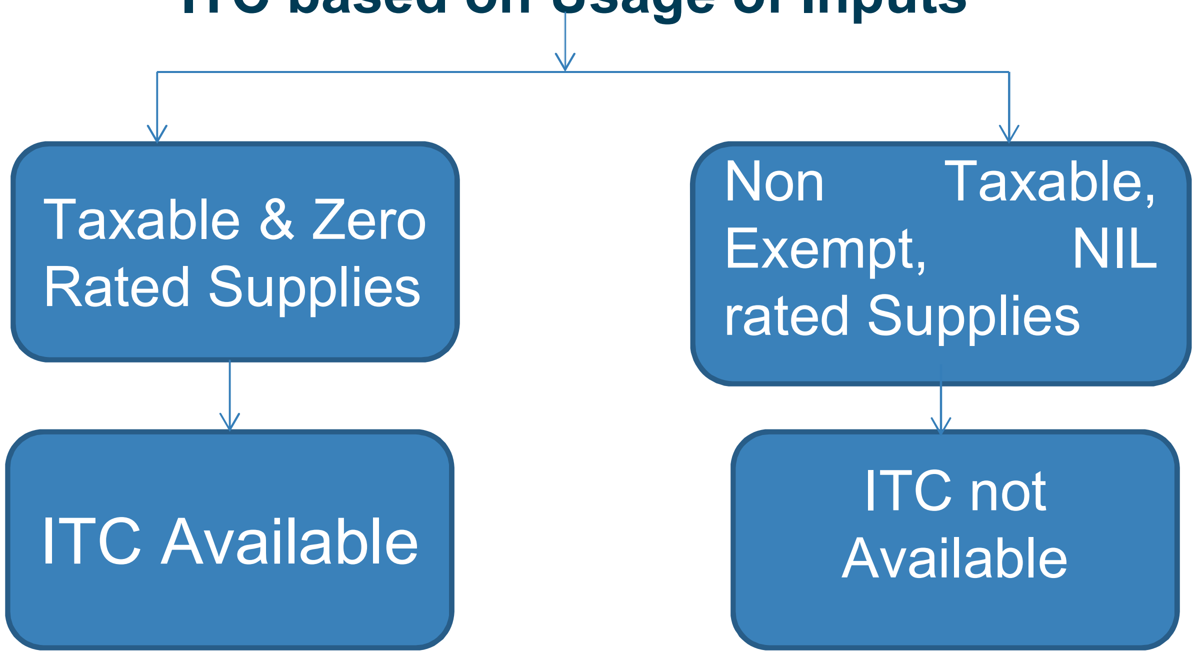
- The said ITC can be availed again on payment of value of supply to the supplier
- No ITC shall be allowed if the registered person has availed depreciation on the tax component of Capital Goods like P&M.
- A registered person cannot avail the ITC after 30th November of subsequent financial year to which such invoice pertains or submission of annual return whichever is earlier.
- No ITC can be availed by registered person in pursuant of order of demand on account of fraud, collusion, willful misstatement, suppression.

Apportionment of Credit & Blocked Credit – Sec 17



Apportionment of Credit & Blocked Credit – Sec 17

ITC based on Usage of Inputs



Blocked Credits – Sec 17(5)

- ITC is not available in following cases:
  - Motor Vehicles for transportation of persons with seating capacity ≤ 13 persons including driver except when used for
    - Transportation of Passengers or
    - Imparting Motor driving skills or
    - Further supply of such vehicles or conveyances or
    - For transportation of goods.
  - Membership of a club, health and fitness Centre

Blocked Credits – Sec 17(5)

- ✓ Foods and Beverages, Outdoor catering, Beauty Treatment, Health Services, Cosmetic & Plastic Surgery except when
  - The inward supply of these is used for making an outward taxable supply of same category or as an element of taxable composite or mixed supply
- ✓ Rent a Cab, Life Insurance and Health Insurance except
  - When the Government has made it obligatory for the employer to provide any of these services to its employees or
  - Where Inward supply of these services is used for making an outward taxable supply of the same category or as an element of a taxable composite or mixed supply.

Blocked Credits – Sec 17(5)

- ✓ Works Contract services for construction of Immoveable property except when
  - It is input service for further supply of works contract
  - Immoveable property is Plant & Machinery
- ✓ Inward supplies received by a taxable person for construction of immoveable property other than P&M on his own account
- ✓ Inward supplies on which tax is paid under composition scheme
- ✓ Inward supplies of <u>**Services**</u> received by a non resident taxable person <u>**except goods imported by him**</u>

Blocked Credits – Sec 17(5)

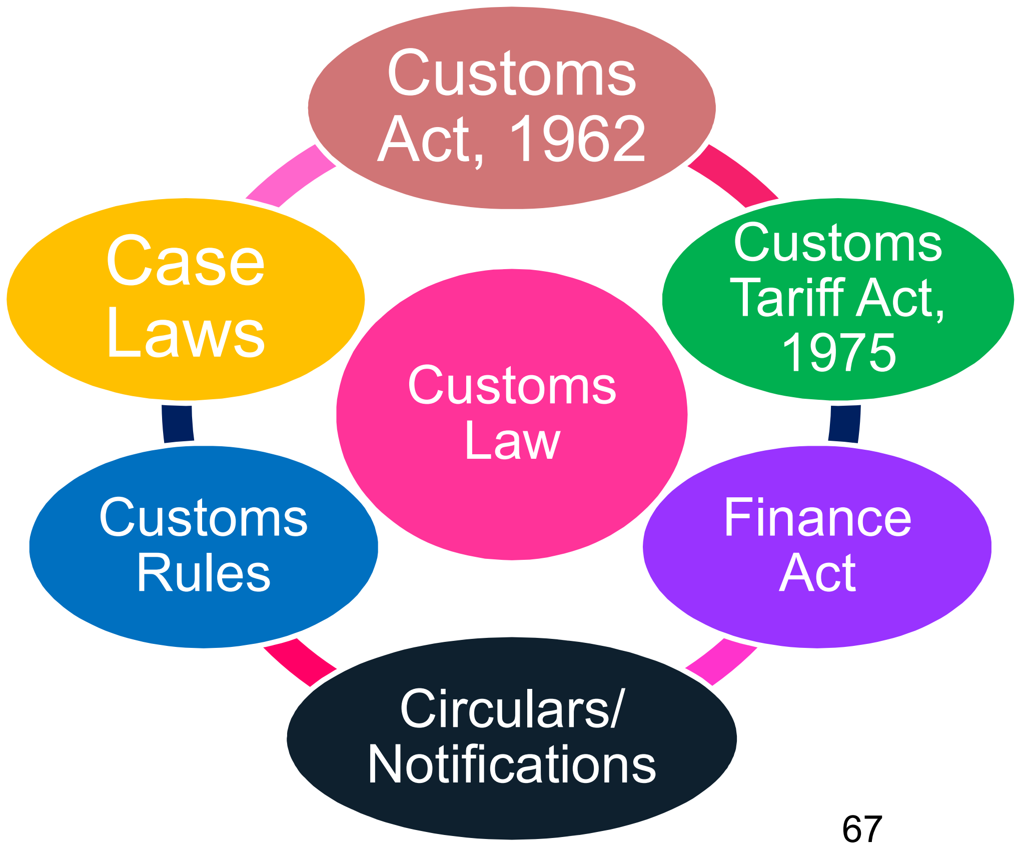
- Goods or services used for personal consumption
- Goods that are lost or stolen or destroyed or written off or disposed off by way of gift or free samples
- Tax paid as a result of evasion of tax or upon detention of goods or conveyances in transit or towards redemption of confiscated goods or conveyances

Customs Act, 1962

Short Title, Extent & Commencement

- This Act is called as The Customs Act.
- It is levied vide Entry no 83 of List I of Schedule VII of Constitution
- It is applicable w.e.f 01.02.1963
- It is applicable to whole of India including the territorial waters of India which extend upto 12 nautical miles into the sea.
- It is further extended to notified designated areas in the continental shelf of India, Exclusive Economic Zone of India & whole of CSI & EEZ for the purpose of processing for extraction or production of mineral oils and supply of any goods.

Sources of Customs Law



Definitions

- Goods – Sec2(22): It includes vessels,aircraft,vehicles,stores,baggage, currency & negotiable instruments, any other kind of movable property.
- Export – Sec 2(18):It means taking out of India to a place outside India.
- Export Goods – Sec2(19): It means any goods which are to be taken outside India.
- Exporter – Sec2(20): It includes any owner or person holding the goods for the purpose of export

- Import – Sec2(23): It means bringing into India from a place outside India
- Imported Goods – Sec2(25): It means any goods brought into India from a place outside India but doesn’t include any good cleared for home consumption
- Importer – Sec2(26): It means the owner of any goods which are imported into India.

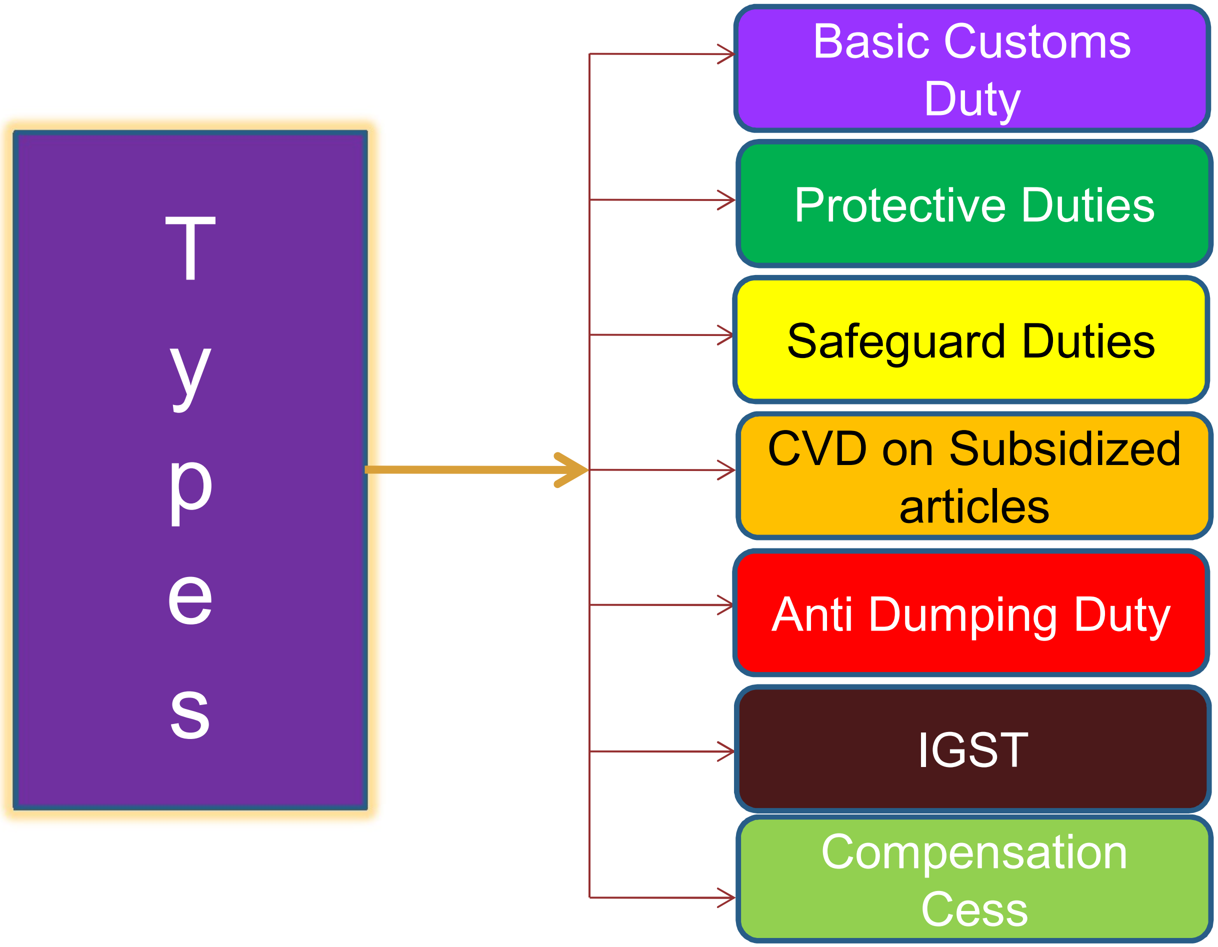
Chargeability – Sec 12

- This section provides for levy of Customs Duty.
- The following conditions must be satisfied
  - ✓ There must be Import of the goods or
  - ✓ There must be export of the goods

Note:Even goods belonging to the Government will be liable for Customs duty.

However, imports by Indian Navy, Specific equipment by police, Ministry of Defence, Coastal Guard are fully exempt from Duty

- Customs duty is on goods and not on person.
- Levy of duty is subject to other sections like Sec 13,22,23
- The rates of duty shall be specified in the First & Second Schedule of Customs Tariff Act,1975.
- First schedule – Goods liable to import duty
- Second Schedule - Goods liable to export duty
- Goods imported from preferential areas shall be subject to a lower rate termed as preferential rate of duty. All others are at Standard Rate.


T y p e s
Basic Customs Duty
Protective Duties
Safeguard Duties
CVD on Subsidized articles
Anti Dumping Duty
IGST
Compensation Cess

Basic Customs Duty

- It is levied under section 12 @ 10%
- It is leviable on imported/exported goods
- The rate of duty is as specified in First & Second Schedules of The CTA1975
- The assessable value for computing BCD is the “Transaction value” or “Tariff value”
- Social Welfare Surcharge is levied on imported goods apart from BCD. It is charged on BCD @ 10%.
- Effective rate of BCD will be 11%

Protective Duties – Sec 6(1)

- It is duty imposed on Imported Goods
- This is levied in order to protect the interest on Industry established in India on the recommendation of Tariff Commission

Safeguard Duty – Sec 8B

- It is levied if the Central Government is satisfied any article is imported into India in large quantities and such importation is causing serious injury to domestic industry
- This is product specific i.e. on certain articles. It is in addition to any other duty.
- The duty imposed shall be in force for 4yrs
- This is not applicable to articles imported by 100% EOU or SEZ or FTZ

CVD on Subsidized Articles Sec 9

- It is on subsidized articles if any country or territory, directly or indirectly pays or bestows subsidy upon the manufacture or production or exportation of any article.
- Such goods must be imported into India.
- It may or may not be from the country of manufacture/ production
- The article may or may not be in the same form.
- This duty shall be in force for 5 years.

Antidumping Duty – Sec 9A

- With an intention to cripple the domestic market, many exporters export huge quantity of goods at a price lower than the prevailing market price.
- This is an unfair trade practice.
- In order to avoid such dumping, this duty is levied by the CG which shall be for 5yrs
- Levy of this duty is permissible under WTO agreement also.
- Duty = Normal price in India – Export Price

IGST – Sec 3(7)

- It is levied on goods being imported to India
- It has subsumed two old taxes CVD & SAD
- It is levied on cargo that arrives on or after 01.07.2017.
- It is levied on cargo arrived before 01.07.2017 also if Bill of entry is filed on or after 01.07.2017
- IGST is calculated on AV+BCD+SWS

Compensation Cess – Sec 3(9)

- It is levied on luxury & Sin goods like Panmasala, Tobacco, Aerated drinks , high end cars for 5 years.
- It is levied on cargo that arrives on or after 01.07.2017.
- It is levied on cargo arrived before 01.07.2017 also if Bill of entry is filed on or after 01.07.2017
- The value on which it shall be charged is AV+BCD+SWS+Anti Dumping Duty+ Safe guard duties +EC+HEC

Duty to be paid - Sec 21

- Any goods derelict, Jetsam, Flotsam, Wreck brought or coming into India shall be chargeable to duty as if they are imported in India.

➢ Derelict refers to any cargo, vessel abandoned in the sea with no hope of recovery.

➢ Jetsam refers to goods Jettisoned from the vessel to save it from Sinking

➢ Flotsam refers to goods floating in the sea

➢ Wreck refers to cargo or vessel or any property cast ashore by tides after ship wreck

Derelict

Jetsam

Flotsam

Ship Wreck

Customs Duty not leviable –Special Cases

Sec 13
- Pilfered Goods

Sec 22
- Damaged Goods – Reduced duty

Sec 23(1)&(2)
- Remission of duty on damaged goods
- Relinquishment of title to the goods

Explanation

- The term Pilferage implies petty theft after unloading the goods but before clearance for home consumption. No duty to be levied on goods pilfered but if the goods are restored back to the importer then he becomes liable to duty.
- If any goods have been **damaged or deteriorated** at the time of unloading or after unloading but before examination or at any time before clearance for home consumption or due to any unforeseen accidents then the importer shall be liable to pay duty at the reduced rate as determined by the AC/DC – Sec 22

- For the purpose of sec 22 damage means physical damage. Deterioration means reduction in quality of goods due to natural causes.
- The value of such goods shall be the value ascertained by proper officer or the sale proceeds of those goods when sold through public auction by the officer.
- Abatement Rate = $\frac{\text{Value of damaged goods} \times 100}{\text{Total value of goods before damage or destruction}}$

Remission of duty – Sec 23(1)

- If the AC/DC is satisfied that the goods have been lost otherwise than by pilferage at any time before clearance for home consumption, he shall remit the duty on such goods.
- Such remission is possible only in case of total loss of goods which is forever.
- Here restoration of goods to importer is not possible as in case of pilferage.
- Importer has to prove to the AC/DC

Relinquishment – Sec 23(2)

- If the owner relinquishes the title to goods at any time before clearance for home consumption, he shall not be liable to duty
- Relinquishment may happen if the goods are damaged or deteriorated during voyage or are not as per the specifications or there might be a breach of contract.
- Importer cannot relinquish his title to goods if any offence appears to have been committed under any Act or law.

Classification of Imported/Exported Goods

- It means determining the headings or sub headings of the Customs Tariff Act,1975
- It is required to determine the rate of applicable duty, benefits of duty exemption notification. This is applicable only for imports.
- There are 98 chapters in the First Schedule to CTA 1975.
- Classification of goods is based on HSN

Valuation of Imported & Exported Goods – Sec 14

- Two methods of Valuation are

✓ **<u>Valuation based on Transaction Value:</u>**

➢ The value of goods shall be the transaction value. Transaction value shall be

- The price actually paid or payable for the goods when sold for **<u>Export to/Export From</u>** India for delivery at the time & place of **Importation/Exportation.**
- The buyer & seller should not be related
- Price must be the sole consideration for sale

Valuation based on Tariff Value: Sec14(2)

- The Tariff values may be fixed by the Central Government for imported/exported goods by a notification in the official gazette.
- Presently Tariff values have been fixed for Crude Palm Oil, Crude Palmolein, Crude Soya bean Oil, Brass Scrap, Poppy Seeds.

Determination of AV for Imported Goods

- Assessable Value = FOB + Insurance + Freight

Determination of FOB Price

Particulars	**Amount**
Value of Material	XXX
Add: CIF upto port of shipment	XXX
Loading charges at the port of shipment	XXX
Commission and brokerage except buying commission	XXX
Packing Cost except durable and returnable packing	XXX
Cost of Engineering & Design	XXX
Royalties & Licence fee	XXX
Value of Subsequent resale and material provided by buyer free of cost	XXX
FOB Value as per Customs	**XXX**

Particulars	Amount
FOB Price as per Customs	XXX
Add: Cost of freight @ 20% of FOB if not specified	XXX
Ship demurrage charges	XXX
Lighterage or Barge Charges	XXX
Insurance @ 1.125% of FOB if not specified	XXX
Assessable Value or CIF Value	**XXX**

Relevant date for determination of Rate of Exchange

Rate of Exchange means the rate as determined by the Board or Ascertained in such manner the board may direct for conversion of INR to Foreign Currency or Foreign Currency to INR

Imported Goods

CBIC Rate on the date of Filing Bill of entry

Exported Goods

CBIC Rate on the date of Filing Bill of Export/ Shipping Bill

Date for determining rate of duty & Tariff Valuation of Imported Goods – Sec 15

Goods Cleared for Home Consumption

- Date of presenting the Bill of Entry or arrival of vehicle whichever is later

Goods Cleared from Warehouse for HC

- Date of Presenting BOE for HC

Any other Goods

- Date of Payment of Duty

Date for determining rate of duty & Tariff Valuation of Exported Goods – Sec 16

Goods entered for export

- Date of making an order by the proper officer permitting clearance and loading of goods for exportation

Any other goods

- Date of Payment of Duty

THANK YOU!!


9885624246
9885199788
SRINATH & ASSOCIATES
Chartered Accountants
Services: All Tax & Audit related works
H.No. 3-3-21, Bagh Ameeri, Kukatpally, Hyderabad-72
Email: srinath1112@gmail.com