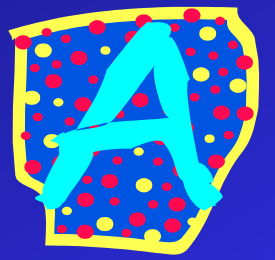


# **Relevance of GST in business decisions**



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***March 10<sup>th</sup>, 2021***

***Organized by***

***MPR Committee & Indirect Taxes Committee***

***Of***

***Chamber of Tax Consultants***

# Curtain Raiser – About GST

## Relevance of GST in Business

### Decision

- A. Broad Perspective
- B. Sector-wise
- C. Alternatives



# Factors affecting Business Decisions

- Domestic Markets
- Country Specific
- International events
- Economic scenario
- Technology Absorption

+ GST =

**Business  
decision**

GST 



# Curtain Raiser about GST



# What is GST

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



# Philosophy of GST

- *One Nation One Tax*
- Tax only on Value Addition
- It is a Transaction Tax
- Benefits to Business, Consumer & Govt.



# Significant Benefits of GST – Govt's perspective



## For Business & Industry

- Easy Compliance – A robust and Comprehensive IT system available to the tax payers online. **PORTAL IS IMMORTAL**
- Uniformity of tax rates and structures – No need for State shopping [rates 5%, 12%, 18% and 28% + Cess]
- Removal of cascading – system of seamless tax- credits throughout the value chain and **across States ensuring minimal cascading of taxes**; reduce hidden cost of doing business

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## ▪ For Centre & State Governments

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

### Ultimate Agenda

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



## **TAX ADMINISTRATION**



# **Philosophy of International VAT/GST Guidelines issued by Organisation for Economic Co-operation and Development (OECD)**

VAT rules should be framed in such a way that they are not the primary influence on business decisions -

- It is recognized there are a number of factors that can influence business decisions, including financial, commercial, social environmental and legal factors. Whilst VAT is also a factor that is likely to be considered it should not be primary driver for business decisions.
- In addition to support neutrality principle, the VAT rules should be accessible, clear and consistent

# GST IN INDIA

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



# TYPES OF TAX – QUA REGISTRATION IN EACH STATE

CT = **Central Tax** levied and collected by Centre

ST = **State Tax** levied and collected by State

IT = **Integrated Tax** levied and collected by Centre but shared with State where consumption of the goods / service takes place



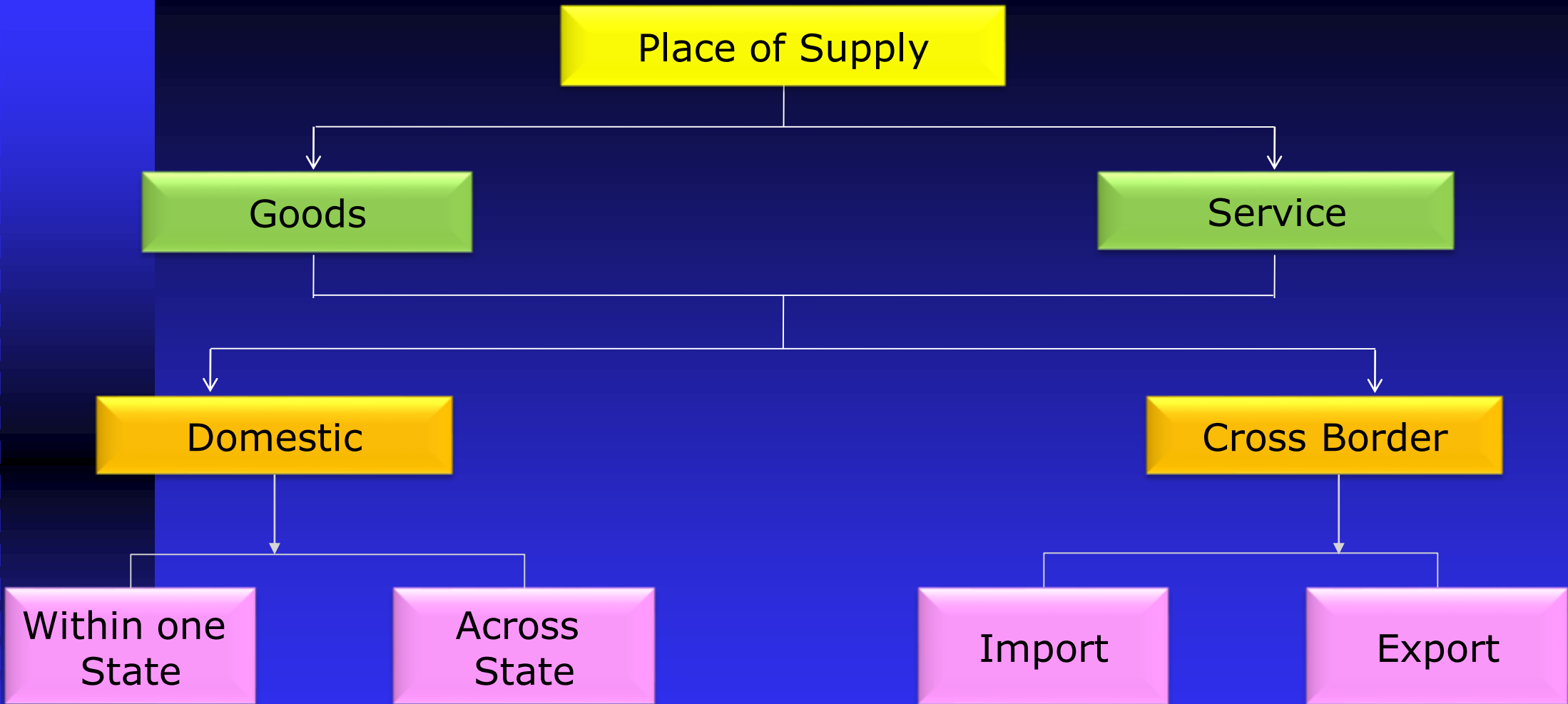
# Inter-state/ Intra-state

Type of supply	Levy attracted	Tax Rate
Intra state [Within the state]	CT+ST	= 9% + 9%
Inter-State [Across the State or Cross Border]	IT	= 18%

# Place Of Supply

- Important key – identify taxing jurisdiction for a supply
- These principles will identify the place where a supply shall be deemed to have been supplied
- Basic Philosophy - Consumption based tax
- Consumption criterion – nearest 'proxies' adopted to reduce controversies e.g. location of supplier / recipient, place of performance, place of consumption, place where or person to whom benefit flows.





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# Dual structure of GST

On every supply of goods and services within a state



Central GST  
["CT"]

State GST  
["ST"]

By Central Govt.

By State Govt.

## Credit

- Allowed between goods and services;
- Allowed between CT of one State and CT of the same State;
- Allowed between ST of one State and ST of the same State

**NOT ALLOWED AT ALL - (i) BETWEEN CT AND ST,**

**(ii) CT OF ONE STATE WITH CT OF ANOTHER STATE**

**LEAVING PERSON IN A SORRY STATE !**



# Important concepts of GST

## Substantive Provisions


- Levy - Tax on supply of goods / services
- Time of Supply - could be earlier of either date of invoice / receipt of advances / supply of goods or services.
- Place of supply – most complicated and challenging as it is the heart of GST - helps in determining place of consumption and the taxing jurisdiction. The tax has been **ring-fenced** within the State – some challenges – cascading effect - Distortion
- Valuation – Even if supply for no consideration - rules prescribed for ascertaining of value - Distortion.
- Input tax credit – to avoid cascading effect of taxes. However, ITC is **ring fenced** to each State registration and also in certain cases legitimate inward supplies are considered as block credit.
- Anti-profiteering laws to ensure benefit of - reduction in rate of tax / input tax credit is to be passed on to customer by way of commensurate reduction in price.

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# Important concepts of GST

## Procedural Provisions

- Stringent deadlines – payment, returns (monthly / Annual), audits etc.
- E-way Bill – affects movement of goods 
- E-invoicing mandatory for B2B transactions Agg.TO >100 Crs.  
W.e.f. 1.4.21 e-invoicing mandatory for Agg. T.O. > 50 Crs.
- Stringent penalties for failure to pay tax, failure to issue invoice, failure to furnish returns, failure to furnish statistics etc.
- Certain offences may attract even prosecution



**Rule: NOT A PENNY MORE  
NOT A PENNY LESS**



# Relevance of GST in business decision



# Business



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Profits

Sales / Turnover

Purchase

Expenses

GST

RCM

Vendor Payout

Go to Slide 22

Applicable?  
On what?  
Rate?  
Classification?

Go to Slide 20

Anti-Profiteering?

Impacts consumer demand

Claim credit

Go to Slide 23

Impact on Cost

KYS

Vendor Validation

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# Challenges in determining supply

- Though Goods & Services Tax treat the supply of goods and supply of services at par, certain distinction is still maintained.
- Rate of tax different for different goods and services.
- Time of supply different.
- Manner of ascertaining Place of Supply different.
- Invoicing rules different.
- Treatment for imports different.



Hence, need to properly classify the output supply so that correct tax is charged.

**Software** 

**Intangibles** 

# Customer validation

- Profiling of customers very crucial especially location of customer etc. Customer location essential for ascertaining place of supply and also for determining the nature of tax to be levied – (Central Tax + State Tax) / Integrated Tax.
- GST – a transaction based tax - tax to be collected at the point when transaction takes place if wrong tax collected / less tax collected – company or its customers maybe out of pocket.
- No deduction / reduction in tax if supply turns out to be a **bad debt** – **MOST IMPORTANT** – Business are bleeding!

← Back to slide 19

# RCM – Reverse Charge Mechanism


- Usually the tax liability is to be discharged by the supplier of goods / services. However, in certain notified cases the liability has to be discharged by the recipient of supply. This is known as Reverse Charge Mechanism (RCM).
- Some of such notified services on which the recipient has to pay tax are –
  - (i) Payment made to lawyers for rendering legal services
  - (ii) Payment made to Govt. for services received from them
  - (iii) Services supplied by Director of the Company to the government
  - (iv) Importation of services

**For Service Provider – Exempt Service**




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# INPUT TAX CREDIT

- ITC is back bone of GST – one of the objective of GST was to give seamless credit across the board for goods and services – [But actually SEE LESS CREDIT  ]
- ITC is the basic feature of a value added tax – by allowing business to take ITC the burden of tax is passed on to the ultimate consumer
- ITC is as good as money that business can use for payment of its tax liability
- If ITC not availed judiciously - may become cost affecting the bottom line
- Need for every person in the value chain of organization to know importance of ITC



# INPUT TAX CREDIT (Contd.)

- ITC under GST has some unique features
  - ITC **ring fenced** to *qua* registration in each state – ITC of your Bombay Office registration no . Cannot be used for discharging output tax liability of your Delhi Office – **Working Capital impaired**
  - Input Service Distributor mechanism has its own challenges
  - Artificial disallowances of certain legitimate business expenses by way of blocked credits – **Block Credits Blocks Business** 
  - Ensuring proper documentation of tax invoice for supply on which credit is taken – however credit restricted to the extent reflected in auto populated summary in GSTR 2A – **Highly dependent on extraneous factors**



# Input tax credit - Analysis

Sl. no.	Particulars	Value	Tax @ 18%	Total	Remarks
1.	Sales	100	18	118	<b>Recovered from customers</b>
2.	Cost / Purchases	80	14	94	<b>Paid to suppliers</b>
3.	<b>Difference</b>	<b>20</b>	<b>4</b>	<b>24</b>	-
4	<b>Less: Tax paid in cash</b>		<b>4</b>	<b>4</b>	
5	<b>Net Profit</b>	<b>20</b>		<b>20</b>	



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# Input tax credit - Analysis

Sl. no.	Particulars	Value	Tax @ 18%	Total	Remarks
1.	Sales	100	18	118	Recovered from customers
2.	Cost / Purchases	80	14	94	Paid to suppliers
	ITC Disallowed		+4		
3.	<b>Difference</b>	<b>20</b>	<b>8</b>	<b>24</b>	-
4	<b>Less: Tax paid in cash</b>		<b>4</b>	<b>4</b>	<b>Paid to Govt.</b>
5	<b>Net</b>	<b>20</b>	<b>4</b>	<b>20</b>	
6	<b>Less: Extra paid to Govt.</b>		<b>4</b>	<b>4</b>	<b>On account of disallowance</b>
7	<b>Net Profit</b>		<b>-</b>	<b>16</b>	

# Vendor Validation

- A must - affects the input tax credit of business.
- Input tax credit (“ITC”) - backbone for product pricing in competitive market. If ITC not available, cost of product goes up.
- ITC conditional upon you making payment to your vendor within stipulated time of 180 days.
- If vendor not compliant with law, your ITC will be rejected and ITC if already availed and utilized, liable to pay tax alongwith interest.
- Obtain credentials of your vendor and also to review the same on a periodic basis.
- If ITC not reflected in Form GSTR-2A, you may not be entitled to claim the same for discharging output tax liability, resulting in requiring additional cash outflows – **PORTAL IS IMMORTAL**

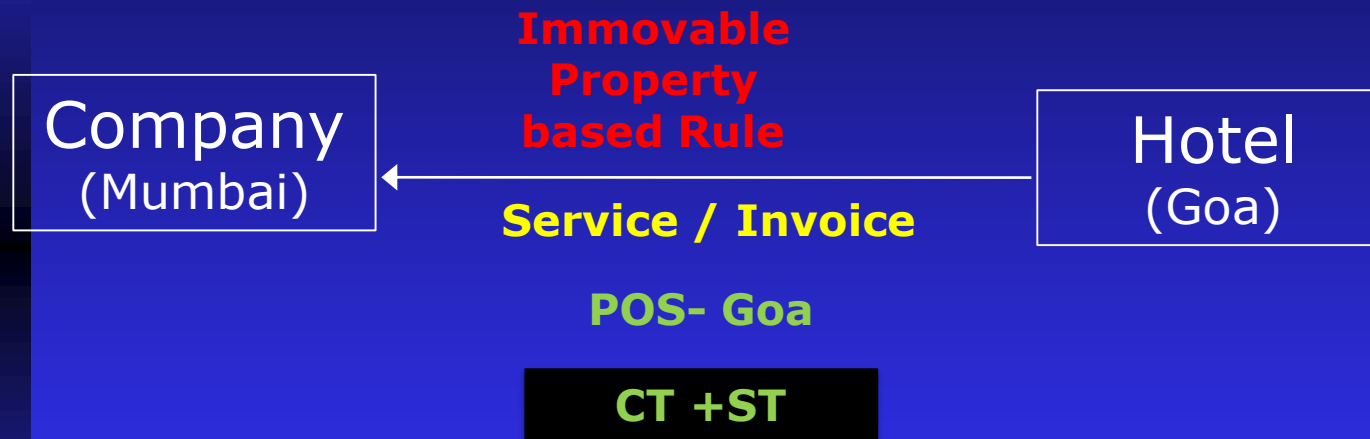
# Vendor Validation

- Before entering into the transactions to do **KYS (Know Your Supplier)**
- Educate the production personnel and marketing personnel about importance of **KYS**
- To make a business policy to deal only with GST compliant suppliers – Indemnities?



# Ring Fencing

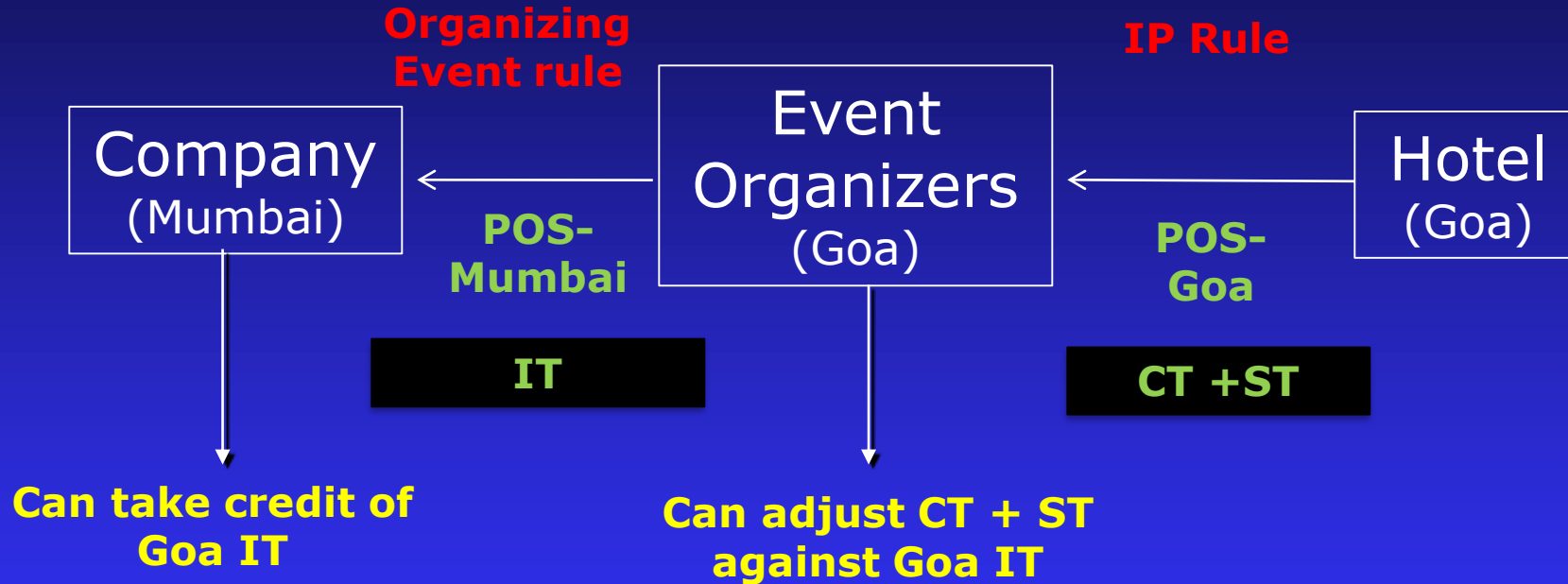
A Company located in Mumbai organizes a conference for various professionals in a Hotel situated in GOA



However since Company not registered in GOA ITC (CT + ST of GOA) cannot be availed by Company registered in Mumbai – Hence has cascading effect



# Ring Fencing

However if transaction routed through outsourcing



Transaction planning / contract structuring very essential at the drawing board stage itself

# Challenges in cross-border transactions

- Export of services – if money not received in convertible foreign exchange within a period of one year from date of invoice, supplier liable to pay tax and then claim refund on realization of export proceeds – Fund blockage issue. 
- No deduction for bad debts if the overseas customer fails to pay Value – May also result in violation of FEMA law.
- Import of services from related person even if made without consideration deemed to be a supply.
- Export of services through an establishment located outside may be considered as export for Income tax purpose – but may not be considered exports under GST law – Thus, attracting tax liability. 

# Compliances

- Returns are proposed to undergo further changes.
- If deadlines are missed :-
  - i. May attract interest, late fees and penalties.
  - ii. Customer/clients may lose ITC on your supplies. May affect business image amongst customers/clients.
- Delays can be on account of :-
  - i. Inherent internal inefficiency to meet the deadline.
  - ii. Inefficiency of the outsourced service provider.
  - iii. System (common portal) failure due to heavy traffic of data due to last minute rush.
- Need to have in place a robust software to enable generating correct data for uploading through above statements/returns.



# Pull – Push Pressure

Suppliers

Customers

GST authorities

Other Regulatory authorities

Company's Tax Personnel

Internal personnel  
(Production manager,  
Operations manager)

Un-popular



**PULL PUSH TAX PRESSURES**

To be sensitized

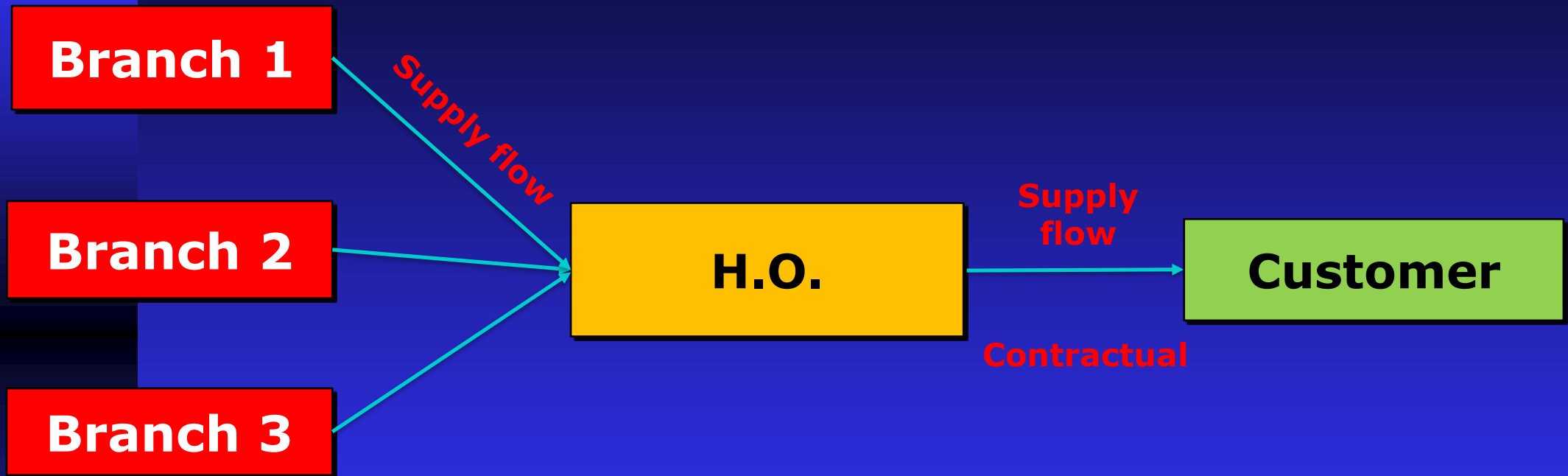
## Transactions between H.O. and Branch

- Transactions between HO and Branch are liable for GST if they are in different states.
- Recipient of such supply entitled to take credit of tax paid on such supply but cashflow issues.
- Need to ascertain the direction in which supply flows – From branch to HO or HO to branch – to be determined based on who generates revenue – MOST IMPORTANT

**SALARY COST** 

# Head Office – Branch

Billing Model where revenue generated at the Head Office

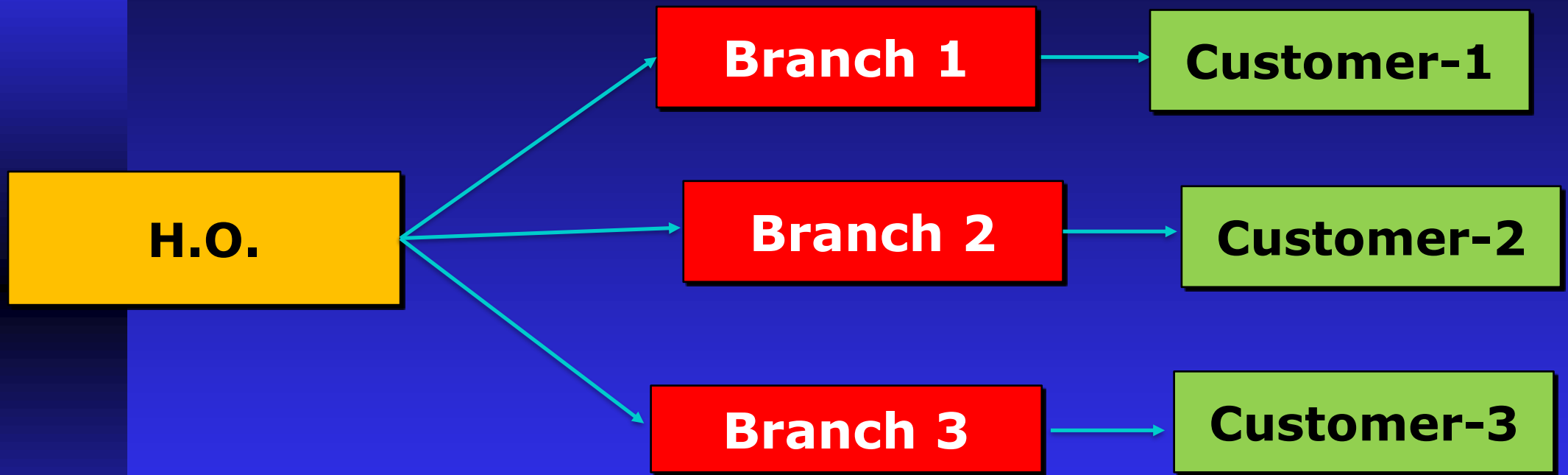


*Model Followed in certain service industry*

Head Office allocation of cost?

# Head Office – Branch

Billing Model where revenue generated at the Branches



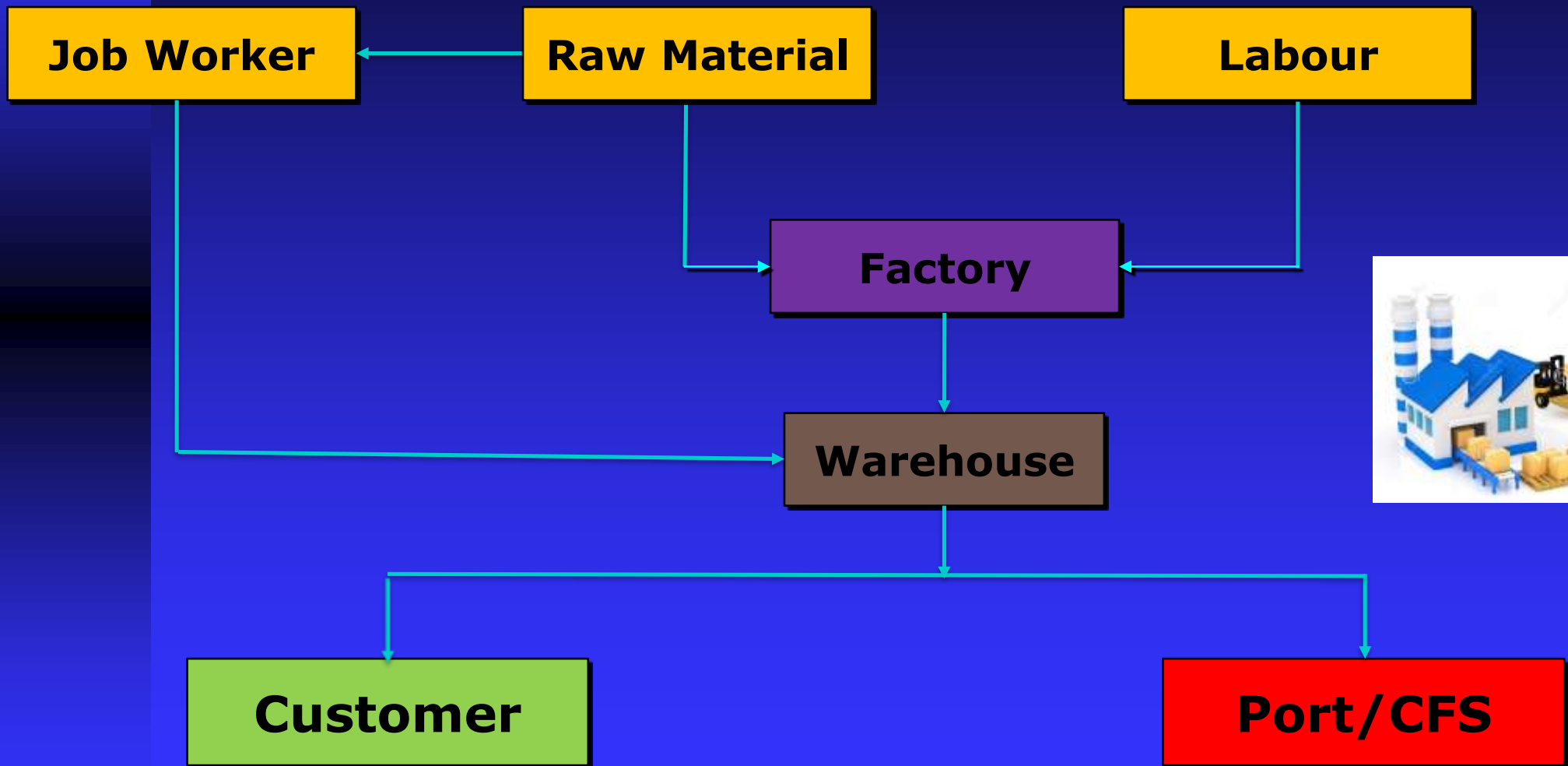
*Head office allocation of cost?*

*Model Followed by Authorised Distributors of retail products*

# SOME SECTOR WISE CHALLENGES



# Manufacturing sector

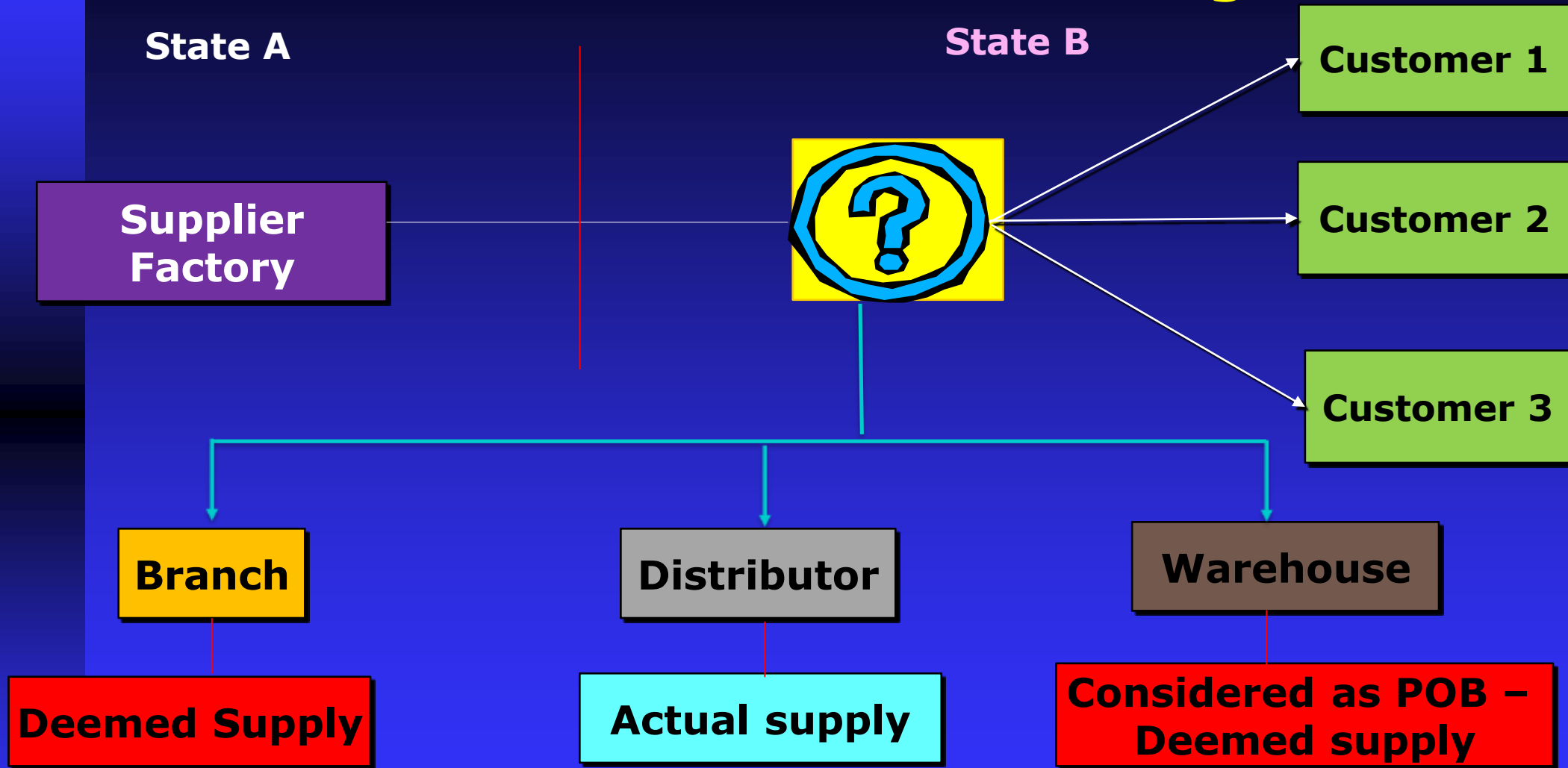


# Manufacturing Sector – Some Issues

- **Cost benefit analysis –**
  - i. Whether to produce in-house/outsource to job worker?
  - ii. Whether to acquire Capital good or lease them?
  - iii. Whether to own premises or rent it?
- If outsourced to Job worker – Procedure under GST law to be complied with viz.,
  - i. Bring back inputs/capital goods within prescribed period or make supply of same from job worker's premises?
  - ii. Maintaining proper accounts.
  - iii. To pay tax if required on failure to get back goods.
  - iv. To add Job worker place as additional place of business – risk associated with it .
- If decided to produce in house – ITC available, blocked ITC, reversal of ITC attributable to exempt supply.

# Supply Chain Management

## GST relevant for decision making



**Valuation of supply changes when made under a deemed supply**



# Challenges in Real Estate Sector



- Compulsory rate of tax (5%) Tax for the builder
- Arbitrary restriction on availment of ITC – not in sync with objective of seamless credits
- No clarity on taxability – whether land / development rights taxable.
- if inward supply procured from registered suppliers is less than 80% of total value of inward supply, Builder liable to pay tax under reverse charge on the shortfall [ i.e. 80% *minus* actual % of inward supply from registered suppliers] @ 18% except in case of inward supply of cement where tax payable on shortfall under RCM at applicable rates

# Restaurant Services



- Rate of tax restricted to 5%.
- No ITC allowed.
- ITC on all costs such as rent, inputs and input services to form part of cost – bottom line margin get narrower.
- No option to pay tax at higher rate and claim ITC.



# Distortion in some Sectors



## Oil & Gas Sector



**GST is cost**

## Road Sector (Toll)



**GST is cost**



# Turnkey Contracts


Earlier

	<b>Goods</b>	<b>Services</b>
Onshore	VAT	Service Tax
Offshore	Customs	Service Tax

Now

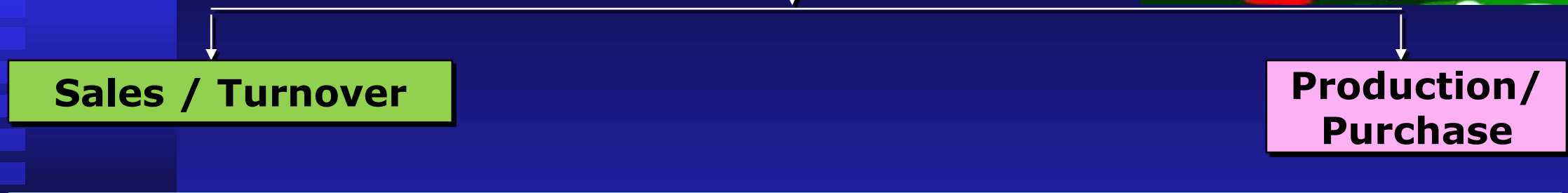
	<b>Goods</b>	<b>Services</b>
Onshore	GST	GST
Offshore	Customs <i>plus</i> GST	GST

# Alternatives

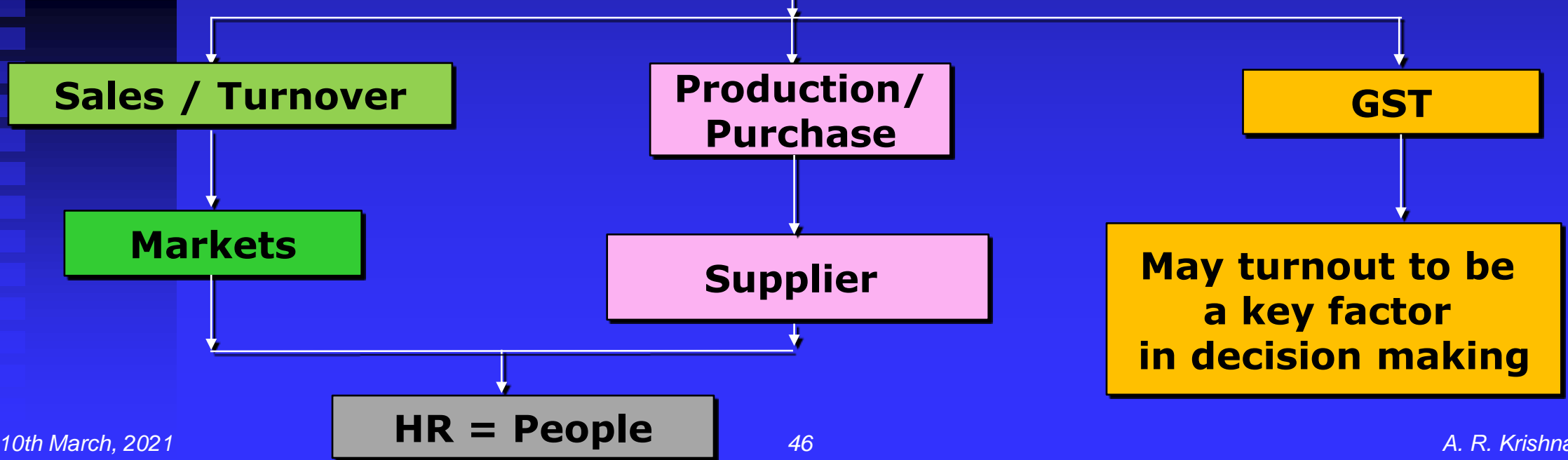
- Contract Labour vs. Employees
- Buy vs. Make
- New business in same entity or Separate Company
- Demerger vs. Amalgamation 



## Earlier Business Risk



## Present Business Risk



# WAY FORWARD FOR BUSINESS

## Preventive Validation of Business Models from GST perspective

- Entire Organization to be GST oriented
- A very proactive internal GST Department with qualified persons so as to be GST sensitive to all business decision and stakeholders
- A robust software and systems
- Regular upgradation and education at all levels on the GST front



**Then – All Okay? – Toss a Coin – Pray to God – WAIT AND WATCH**



# GST – GOOD, BAD AND/OR UGLY





# Relevance of GST in business decisions

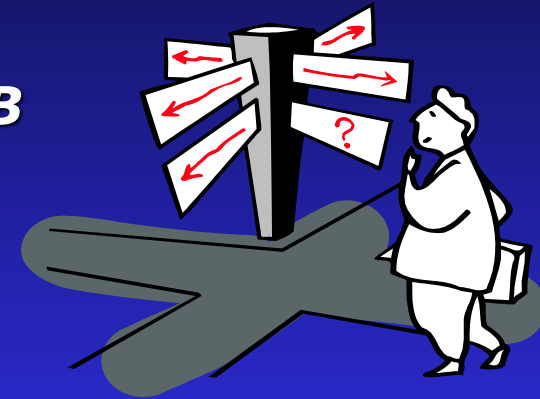
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# Anti-Profiteering

- “Profiteering” means the amount determined on account of **not passing the benefit of reduction in rate of tax on supply of goods or services or benefit of input tax credit** to the recipient by way of commensurate reduction in price of goods or services.
- **Objectives:**
  - i. Benefit of GST to be passed on to consumer;
  - ii. Avoid GST related inflationary pressure;
  - iii. Not to use tax system as opportunity to exploit consumers;
  - iv. Curb price exploitation.
- Government to recover Profiteered amount and also impose penalty
- Other countries – Period for which Authority exist is couple of years – India may be for a longer period.

 **Back to slide 16**

# E-way bill

- The Central / State government empowered to intercept any conveyance carrying consignment of goods exceeding prescribed value to check whether it is carrying documents and devices as may be prescribed.
- Rule requires a person who causes movement of goods of consignment value exceeding fifty thousand rupees to furnish information electronically on common portal and generate an e-way bill – before movement of goods onerous task of compliance.
- Conveyance on interception if found to be not carrying prescribed documents, the conveyance and the goods carried therein shall be liable for detention and seizure.
- The goods and the conveyance can also be confiscated and fine shall be leviable

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# BLOCKED INPUT TAX CREDIT [Sec 17(5)]

**Input Tax Credit** not available on:

- Motor Vehicle for transportation of persons having specified seating capacity **except** when used for making certain supplies
- Vessels and aircraft **except** when used for making certain supplies
- General insurance services, servicing, repairs and maintenance related to motor vehicles, vessels or aircraft
- Work Contracts used in relation to immovable property

# BLOCKED INPUT TAX CREDIT [Sec 17(5)]

**Input Tax Credit** not available on:

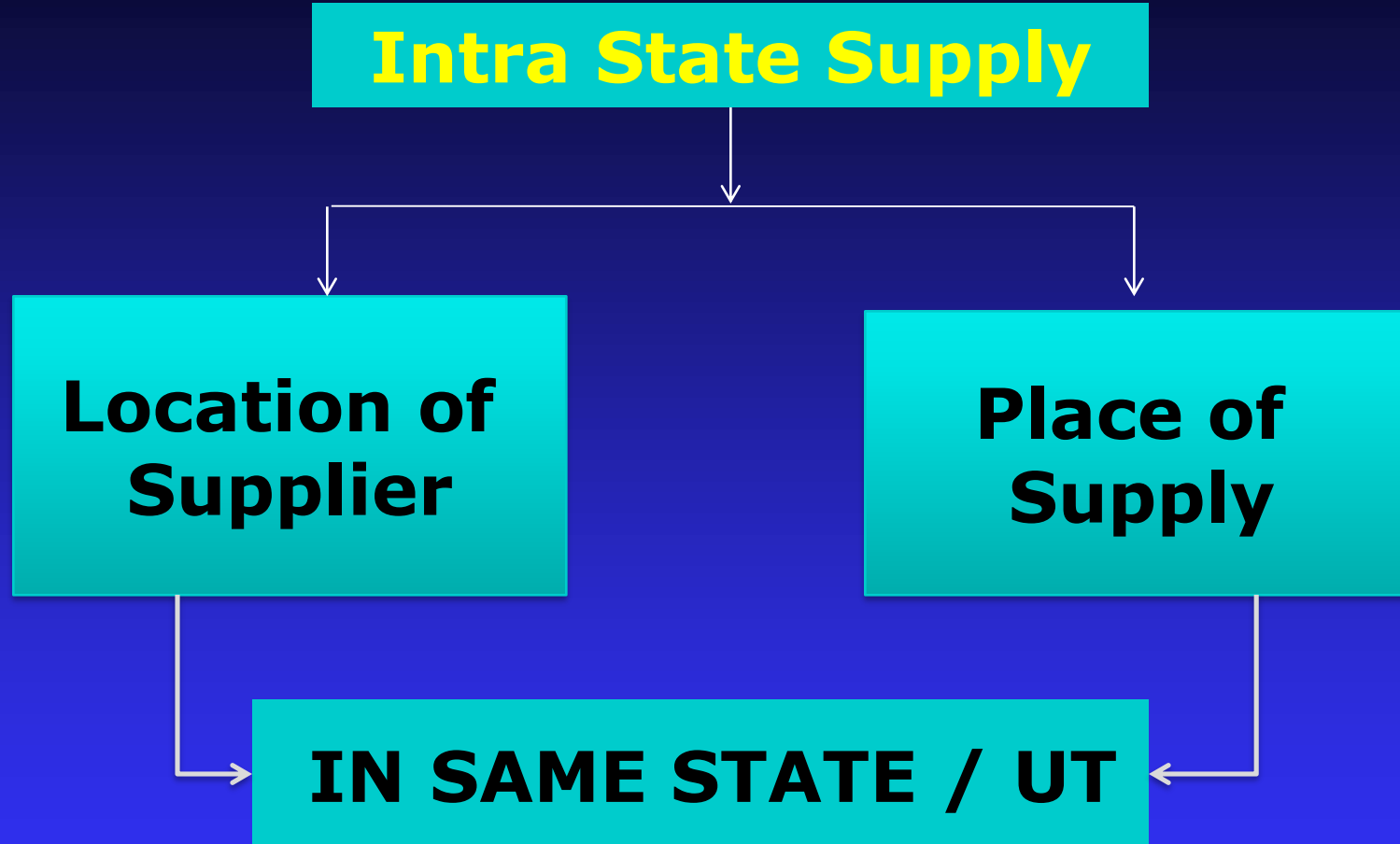
- Food and beverages, outdoor catering, beauty treatment, health service, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels/aircraft
- Membership of club, health and fitness Centre.
- Travel benefits extended to employees such as leave travel concession except where the same is notified by govt. as being obligatory under any law to be provided by employer to employee.

# BLOCKED INPUT TAX CREDIT [Sec 17(5)]

## Input Tax Credit not available on:

- goods/services used for personal consumption
- Goods lost, stolen, destroyed, written off, disposed off by way of gift / free samples
- Any tax paid by supplier pursuant to determination of demand on account of
  - (i) fraud / wilful misstatement / suppression of facts;
  - (ii) Detention seizure and confiscation of goods and conveyance.then the service recipient will not get credit

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# INTER- STATE SUPPLY

```
graph TD; A[INTER- STATE SUPPLY] --> B[Domestic Between 2 States / UT]; A --> C[Cross Border]; A --> D[By/to SEZ Developer / unit]; A --> E[Non Intra State not covered anywhere];
```

Domestic  
Between  
2 States / UT

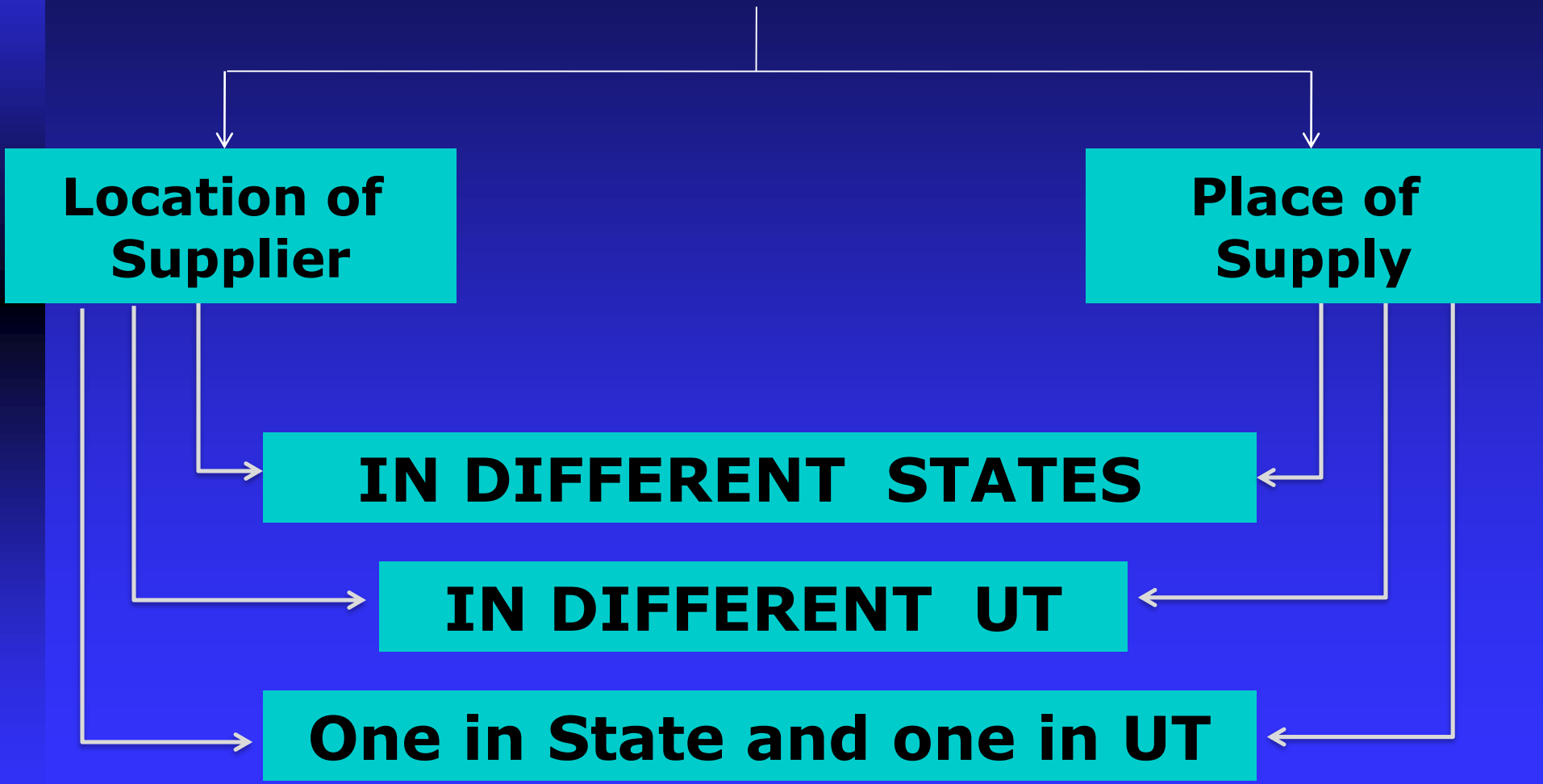
Cross  
Border

**By/to SEZ**  
Developer / unit

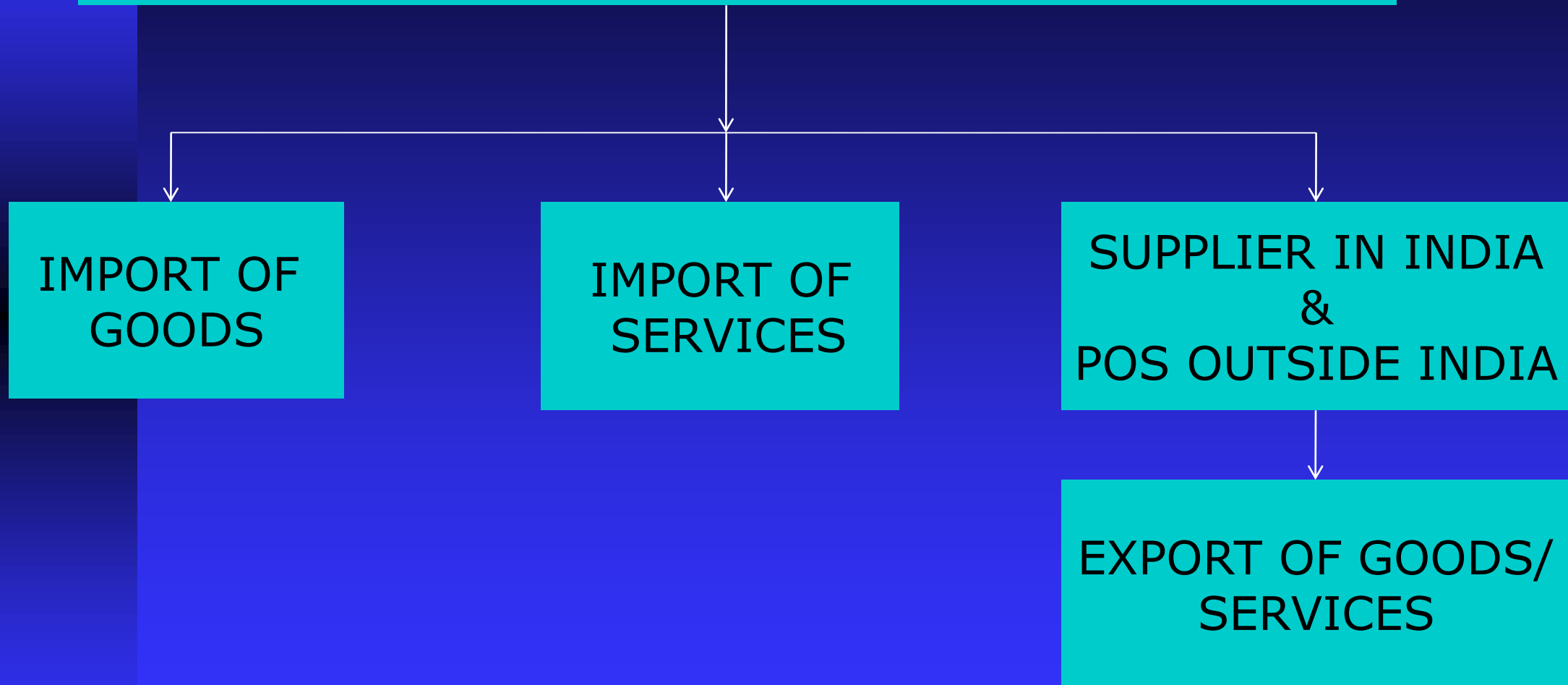
Non Intra  
State not  
covered  
anywhere



# DOMESTIC INTER STATE SUPPLY



# CROSS BORDER INTER STATE SUPPLY



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