

# UNDERSTANDING THE GST LAW



**Nashik Branch of ICAI of WIRC**

**23-05-2017 | By CA Dinesh Burad**



**CA Dinesh Burad**

- Chartered Accountant passed out in May 2012 with additional qualifications of Company Secretary & LLB.
- Experience of working with Consulting Firm - SKP in Mumbai and construction industry for over 5 years.
- Have extensively worked in the field of assurance practice, implementation of internal financial controls and tax litigations of the clients including Listed Companies, MNCs, Mutual Funds, Real Estate, etc
- ICAI appointed faculty for GST
- **Been GST speaker recently at various forums like CREDAI, Chemist Think Tank, Car Dealers Association, Various Industrial Association, Corporate Trainings, etc.**
- Regular contributor to the GST Knowledge Portal "[www.gstnashik.com](http://www.gstnashik.com)"
- Proprietor of D P Burad & Associates and Partner of BCS and Associates LLP.

# LAW OF LAND



**5 Legislations, 3 Schedules and 14 Chapter of Rules**

## **GST ACT**

**CGST  
IGST  
SGST  
UTGST  
GST Compensation**

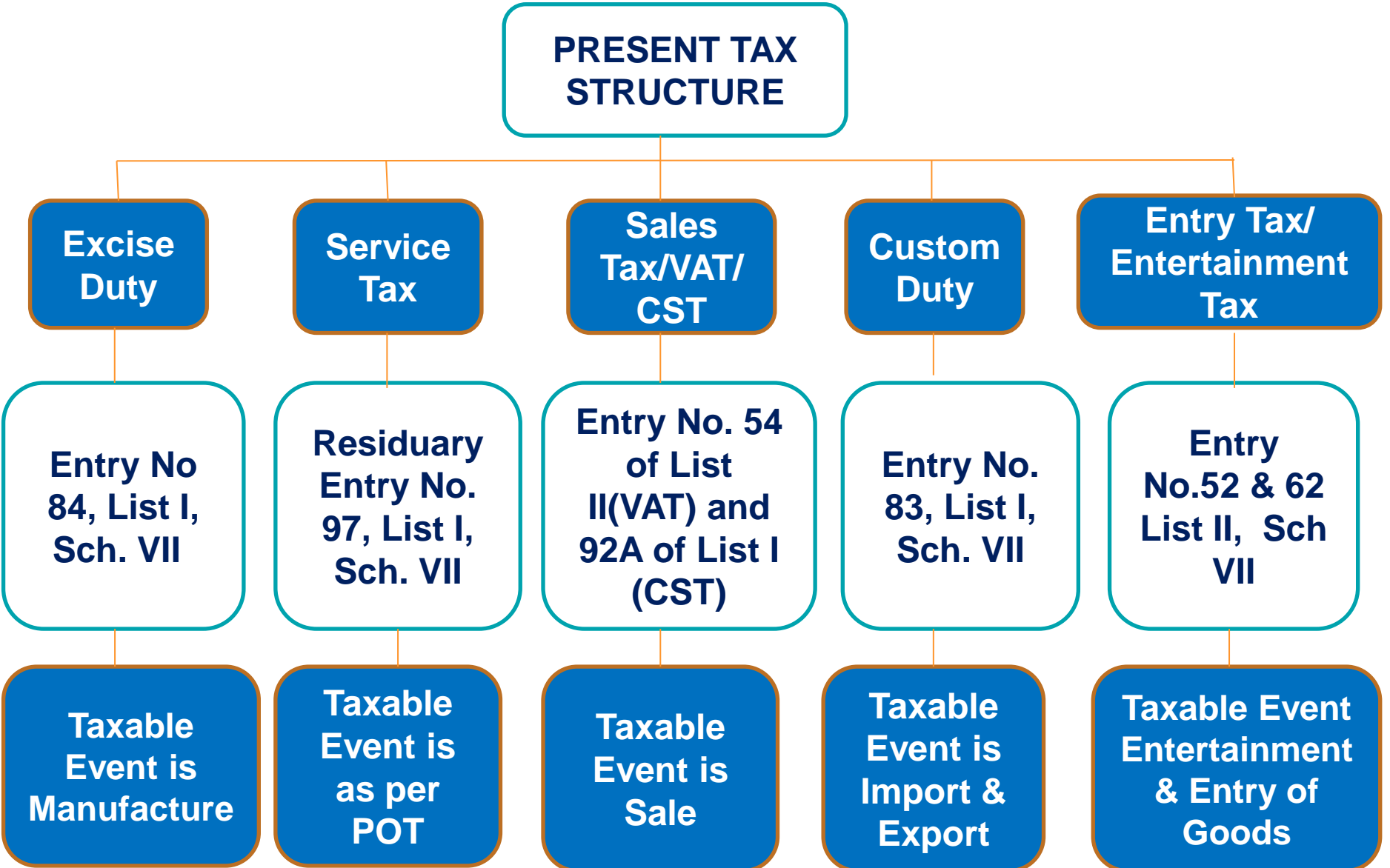
## **GST RULES**

**Registration, Valuation, Refund,  
Appeals, E-Way Bills, Audit, ITC,  
Payments, Advance Ruling,  
Tax Invoice, Transitional,  
Accounts, Composition, Returns**

# COVERAGE

- ❖ **Constitutional Amendment**
- ❖ **Basic Concept of GST & Dual Model of GST**
- ❖ **Levy incl. Composition Levy**
- ❖ **Important Definitions**

# PRESENT INDIRECT TAX STRUCTURE



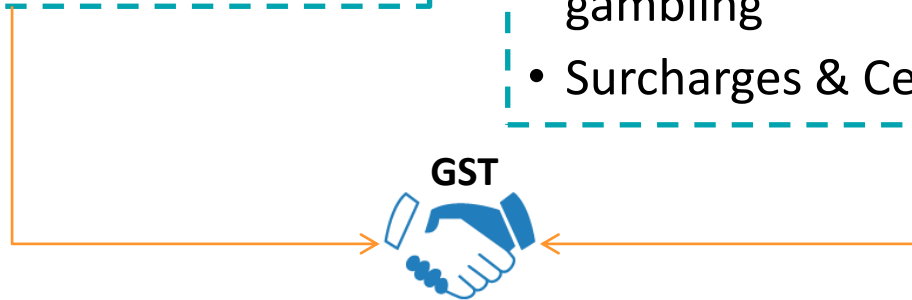
# Existing Indirect Tax Structure in India

## 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



**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)**



**What is GST**  
and why we  
**should care?**



# GST across globe

- ❖ First country to introduce GST – France in 1954.
- ❖ GST is rolled out in 160 countries with 40 different models
- ❖ Latest country to implement GST – Malaysia w.e.f 1 April, 2015
- ❖ World over, GST rates are typically between 5 per cent and 20 per cent.
- ❖ Only two countries have dual system (Central & State Level) – Australia & Canada. Now India..

*In this world nothing can be said to be certain, except death and taxes – Benjamin Franklin*



# GST in India

- ❖ GST, which was first mooted by the Vajpayee government in the year 2000 by setting up the empowered committee for GST.
- ❖ Budget 2006 – PC proposed GST from 01 April, 2010
- ❖ The Constitutional Framework
- ❖ Concurrent Powers for GST | GST Council
- ❖ Compensation to states for 5 years

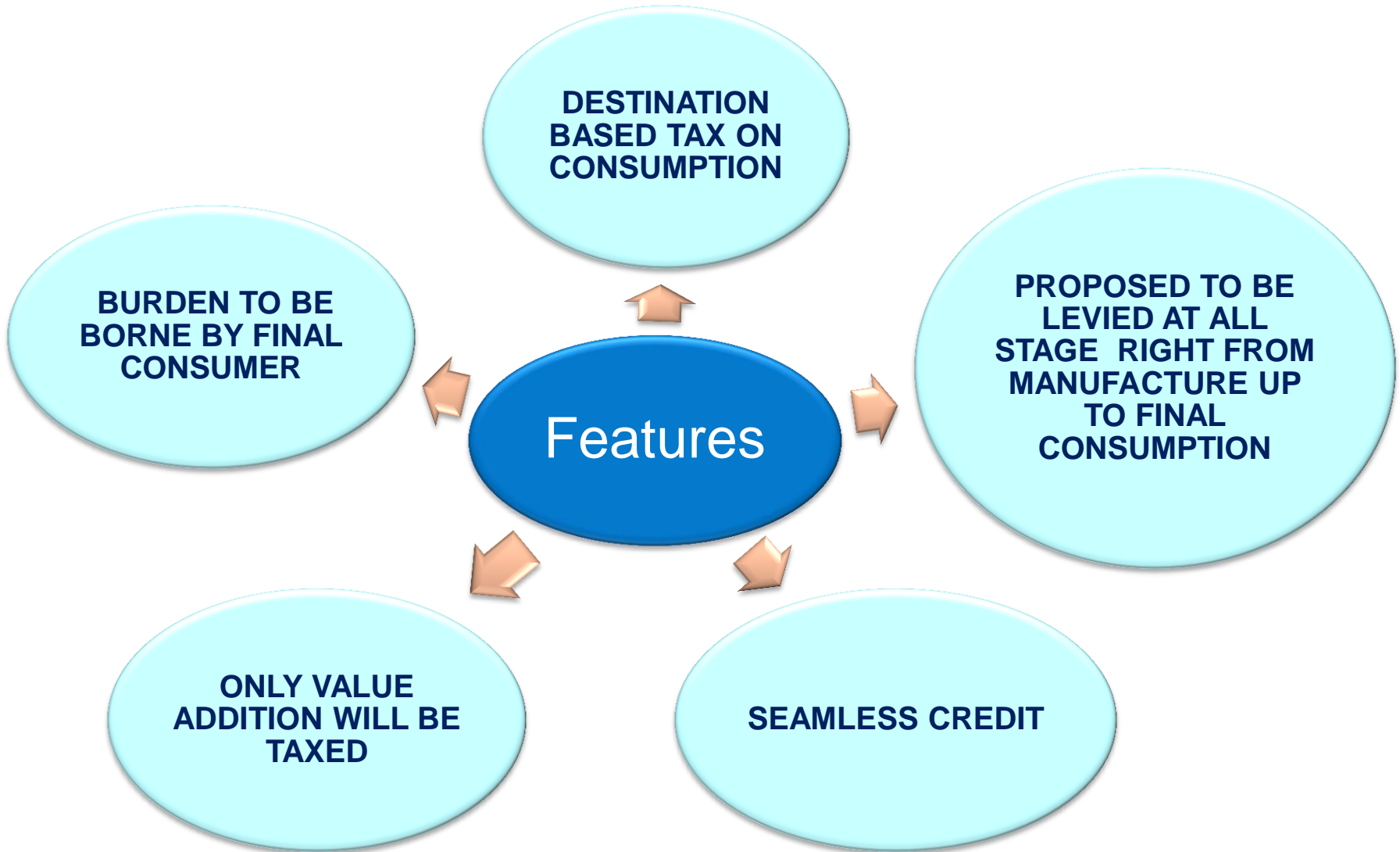
# GST EVOLUTION

- ❖ 101<sup>st</sup> amendment to Constitution of India
- ❖ Clause 12A inserted in Article 366.... “**goods & service tax**” means any tax on **supply** of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption.
- ❖ The power to tax on supply of all goods and services would be vested in the hands of both, the State and the Centre.
- ❖ India being federal country, both center & state have distinct responsibilities.

# GST EVOLUTION

- ❖ GST will be governed by 3 Central laws and 29 State laws.
- ❖ Following Central laws received assent from the president on 12th April 2017.
  - ❖ Central Goods and Services Tax Act, 2017 (**CGST**)
  - ❖ Integrated Goods and Services Act, 2017 (**IGST**)
  - ❖ Union Territory Goods and Services Act, 2017 (**UTGST**)
- ❖ The state government need to pass SGST in their respective state assemblies.

# GST - FEATURES



# GST – Snap shot



**Constitutional  
Amendment Bill**

**GST – Benefits to  
India..**

**Taxes subsumed**

**GST – Across Globe**

**Destination based  
consumption tax**

# Taxes to be subsumed in GST

## Central Taxes



- Excise Duty, Excise Duty levied under the Medicinal and Toiletries Preparation Act
- Countervailing Duty in lieu of Excise Duty
- Special Additional Duty of Customs
- Service tax
- CST
- Surcharges & Cesses (relating to supply of goods & services)

CGST



## State Taxes

- VAT
- Entry tax/ LBT/ Octroi
- Luxury tax
- Tax on entertainment and amusement, lottery, betting and gambling
- State Cesses & surcharges (relating to supply of goods & services)

SGST

# Taxes not to be subsumed in GST

## Central Taxes



- Basic Customs Duty and Export Duties
- Terminal taxes on goods or passengers, carried by railway, sea or air; taxes on railway fares and freights



## State Taxes

- Stamp Duties
- Taxes on lands and buildings
- Taxes on consumption or sale of electricity
- Taxes on goods and passengers carried by road or on inland waterways
- Taxes on vehicles (Road tax)
- Toll Tax
- Profession Tax
- Tax on Petrol, Liquor for human consumption, etc.

**These taxes will continue under the GST regime..**



# **COMMODITIES OUT OF GST PURVIEW**

- ❖ ALCOHOL FOR HUMAN CONSUMPTION
- ❖ PETROLEUM PRODUCTS
  - PETROLEUM CRUDE
  - PETROL
  - HIGH SPEED DIESEL
  - NATURAL GAS
  - AVIATION TURBINE
- ❖ ELECTRICITY

# Need for GST

**1. Multiple taxes lead to double taxation & cascading effect**

**2. Structure involving multiple taxes / rates not in sync with global practices**

**3. High cost of tax compliance and double taxation leads to higher prices of goods & services**

**4. Lack of uniformity in provisions of different law and interpretations**

**5. High cost of tax collection leads to lower tax yield to the Government**



# Key Features

Origin based tax to  
destination based tax

All stages of value chain –  
Primary/Secondary  
/Tertiary including retail

Taxable event is  
'supply'

Centre GST & State GST to  
operate concurrently

CGST & SGST on intra  
state supplies in India

IGST on inter state  
supplies in India.

Exports – zero rated

Imports – [BCD + IGST]

# Benefits of GST (1/2)

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1 Reduction in Cascading of Taxes

2 Overall Reduction in Prices

3 Common National Market

4 Benefits to Small Taxpayers

5 Self-Regulating Tax System

6 Non-Intrusive Electronic Tax System

Decrease in  
Inflation

Ease of Doing  
Business

Decrease in “Black”  
Transactions



# Benefits of GST (2/2)

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7 Simplified Tax Regime

8 Reduction in Multiplicity of Taxes

9 Consumption Based Tax

10 Abolition of CST

11 Exports to be Zero Rated

12 Protection of Domestic Industry - IGST

More informed  
consumer

Poorer States  
to Gain

Make in India

# Components of GST

## CGST

- • CGST stands for Central GST
- This is applicable on supplies within the State
- Tax collected will be shared to Centre

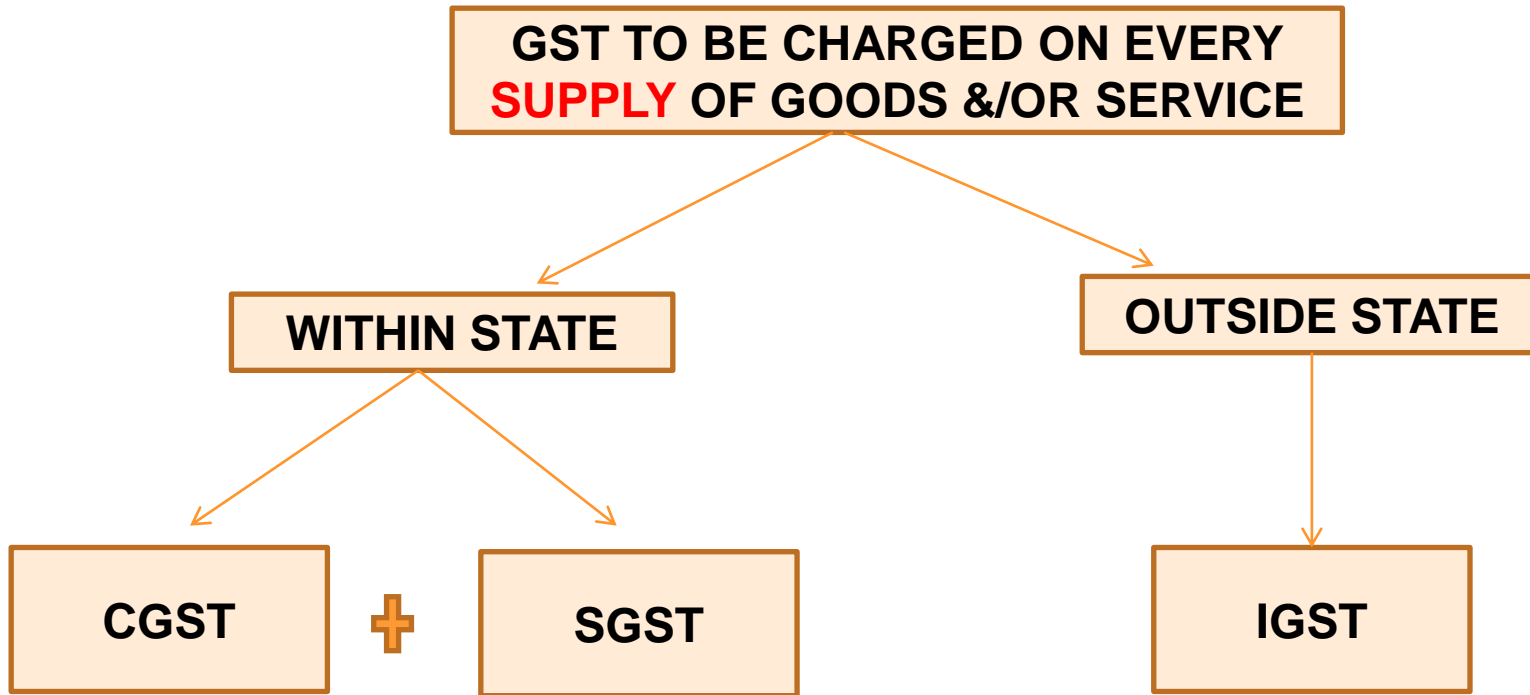
## SGST

- • SGST stands for State GST
- This is applicable on supplies within the State
- Tax collected will be shared to State

## IGST

- • IGST stands for Integrated GST
- This is applicable on interstate and import transactions
- Tax collected is shared between Centre and State

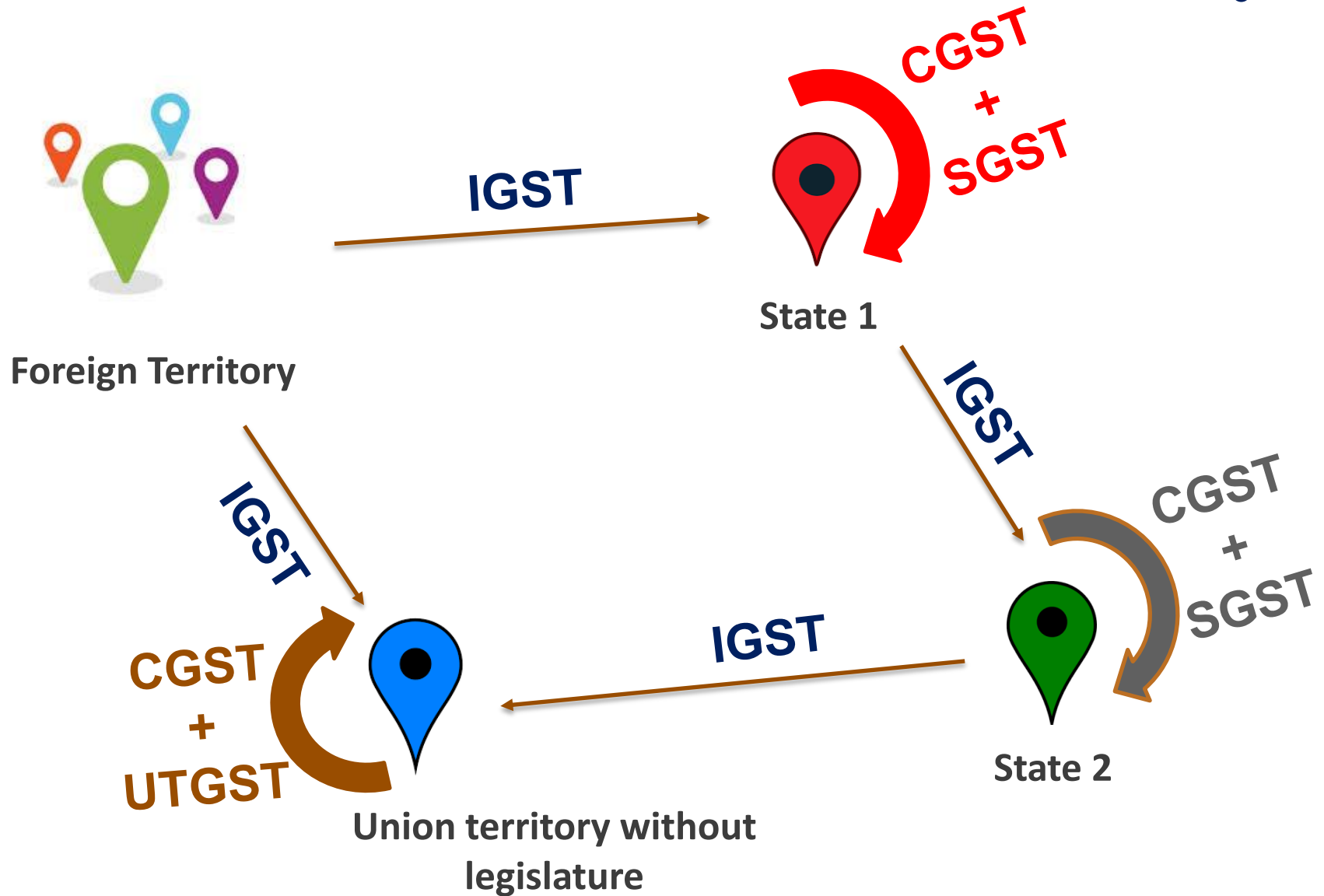
# GST CONCEPT



- ❖ Rate recommended by GST council are 0%, 5%, 12%, 18% & 28%.
- ❖ **Maximum rate is 40%**



# Understanding CGST, SGST, UTGST & IGST





# **Levy – Chapter III**

## **Charging Section**

# LEVY OF CGST/SGST

- ❖ Section 2(21)... “Central Tax” means the central goods & services tax levied under section 9.
- ❖ Section 2(104)... “State Tax” means the tax levied under any State Goods & Services Tax Act.
- ❖ Section 9....Levy of CGST/SGST on all **intra-state** supplies of goods/services, except on supply of Alcoholic Liquor for human consumption, on value determined under section 15 at rate not exceeding 20% by a taxable person.
- ❖ Section 5 of IGST Act....Levy of IGST on all **inter-state** supplies of goods/services, except on supply of Alcoholic for human Consumption, on value determined under section 15 at rate not exceeding 40% by a taxable person.

# LEVY OF IGST

- ❖ Section 7(1)/7(3) of IGST.. “ Where location of the supplier & place of supply are in –
  - ✓ Two different State;
  - ✓ Two different union territories
  - ✓ A state and a union territory
  - ✓ Shall be treated as a supply of goods/service in the course of **inter-state trade or commerce**
  
- ❖ Supply of goods/service shall deemed to be “Inter –State Supply” if
  - ✓ Supply of Services imported into territory of India
  - ✓ Supply of goods imported into India in course of import till they cross custom frontiers (**i.e. high sea Sale liable for IGST**)
  - ✓ When the supplier is located in India & Place of Supply is outside India
  - ✓ Supply to or by a SEZ developer/SEZ unit
  - ✓ Supply in taxable territory not being Intra state supply & not covered else where (**E.g. Supply in EEZ, Continental Shelf**)

# LEVY OF CGST/SGST

- ❖ Section 8(1)/8(3) of IGST.. “ Where the location of Supplier & place of Supply are in **same State or same union territory** shall be treated as Intra –State Supply
  
- ❖ “Intra state Supply” shall not include
  - ✓ Supply of goods/service to or by a SEZ developer/SEZ unit
  - ✓ Supply of goods brought into India in course of import till they cross custom frontiers (**i.e. high sea Sale liable for IGST**)
  - ✓ Supplies made to a Tourist referred to in section 15

# LEVY OF CGST/SGST

- ❖ Tax on **Petroleum Product** – To be levied with effect from such date as may be notified by the Government on the recommendations of the Council.
- ❖ RCM on specified categories of goods or services to be notified.
- ❖ RCM on supply of taxable goods or services by the **unregistered person**.
- ❖ Specified categories of services by the **electronic commerce operator**. (Physical Presence in taxable territory – Appoint Representative)

# Levy - Summary



CGST and SGST is payable on intra-state supply of goods/ services and  
IGST on Inter-state supply  
On Value as per Section 15  
On Rates as may be prescribed

## Payable by:

Every Taxable Person

Taxable person is one registered under the Act

**Once registered – GST payable**



Certain goods/ services would be taxable under **reverse charge mechanism (RCM)**

**Supplies from URD are taxable under RCM**



EASY COME  
EASY GO

**Composition Scheme**

# Composition Scheme



Aggregate Turnover below Rs.50 lakhs  
Rate of tax 1% / 2% / 5%  
Only for Traders / Manufacturers / Restaurants

## No eligible for:

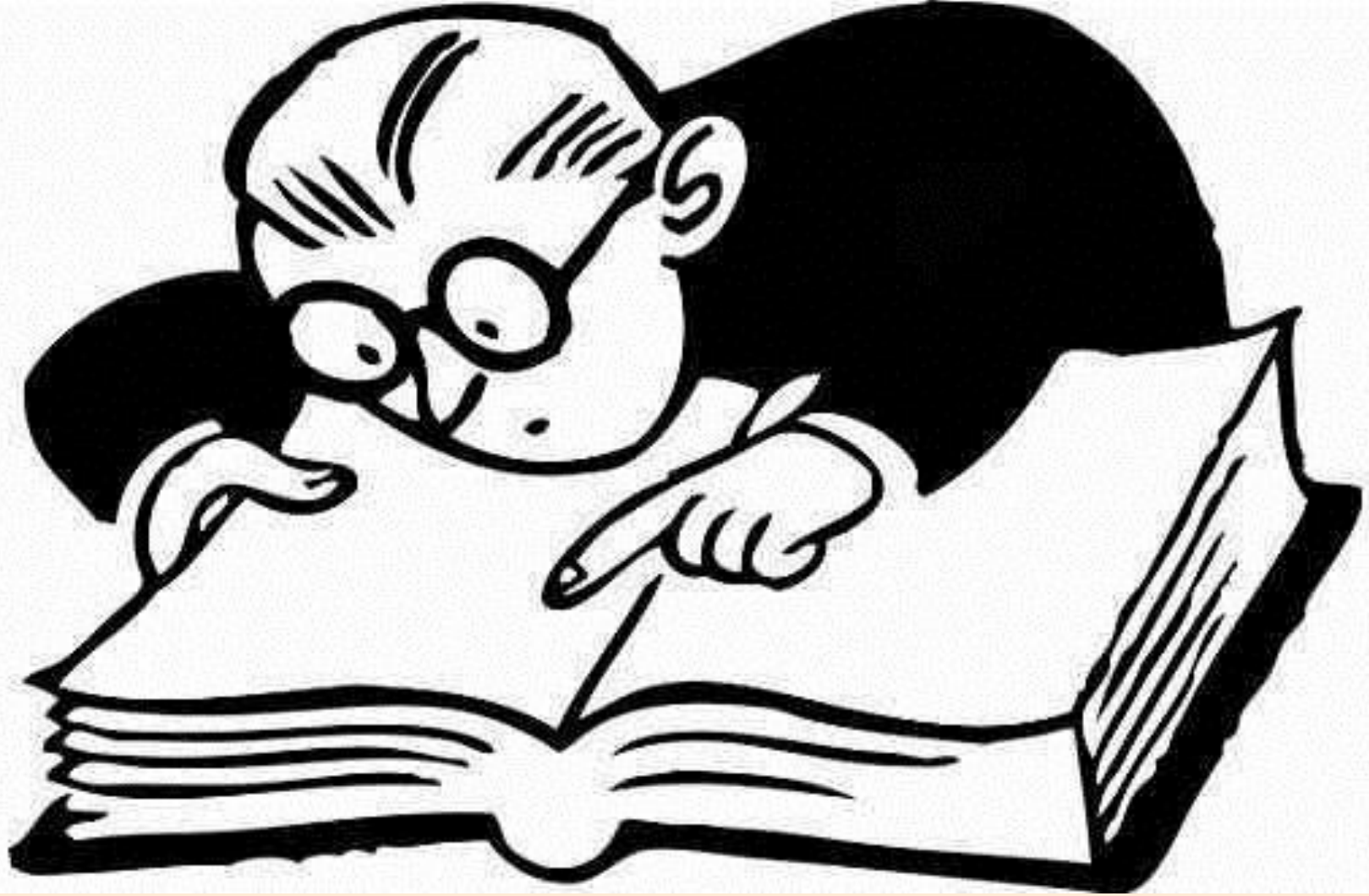
Service Providers

Inter-state outward supplies of goods

Supply through E-Commerce Operator



Mandatory for All India Turnover - same Pan  
Cannot avail credit or issue tax invoice  
Cannot collect tax from recipient.



# **Important Definitions**

# Important Definitions

“Aggregate Turnover” means the **aggregate value** of **all taxable supplies** (excluding the value of inward supplies on which tax is payable under RCM), **exempt supplies**, **exports of goods or services or both** and **inter-State supplies of persons** having the same PAN, to be **computed on all India basis** but excludes CGST, SGST, UTGST, IGST and cess;

Aggregate Turnover is relevant for:

- Levy
- Registration (with more inclusions)

“casual taxable person” means a person who **occasionally undertakes transactions** involving supply of goods or services or both **in the course or furtherance of business**, whether as principal, agent or in any other capacity, **in a State or a Union territory where he has no fixed place of business**

# Important Definitions

“capital goods” means goods, the value of which is capitalized in the books of account of the person claiming the input tax credit and which are *used or intended to be used in the course or furtherance of business*.

“input” means any goods other than capital goods *used or intended to be used by a supplier in the course or furtherance of business*

“input service” means any service *used or intended to be used by a supplier in the course or furtherance of business*

“input tax credit” means the credit of input tax

**Relevant for ITC Sections and Rules**

# Important Definitions

“input tax” in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and **includes** –

- (a) the integrated goods and services tax charged on import of goods;
- (b) *the tax payable under the provisions of sub-sections (3) and (4) of section 9;*
- (c) *the tax payable under the provisions of sub-section (3) and (4) of section 5 of the Integrated Goods and Services Tax Act;*
- (d) *the tax payable under the provisions of sub-section (3) and sub-section (4) of section 9 of the respective State Goods and Services Tax Act; or*
- (e) *the tax payable under the provisions of sub-section (3) and sub-section (4) of section 7 of the Union Territory Goods and Services Tax Act,*

but does **not** include the tax paid under the composition levy;

# Important Definitions

“exempt supply” means supply of any goods or services or both which attracts **nil rate of tax** or which may be **wholly exempt from tax** under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and **includes non-taxable supply**

“non-taxable supply” means a supply of goods or services or both which is **not leviable to tax** under this Act or under the Integrated Goods and Services Tax Act

**Relevant under ITC availment and apportionment of credits**



# Important Definitions

“location of the supplier of services” means,—

- (a) where a supply is made from a **place of business for which the registration** has been obtained, the location of such place of business;
- (b) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the **location of such fixed establishment**;
- (c) where a supply is made from **more than one establishment**, whether the place of business or fixed establishment, the location of the **establishment most directly concerned** with the provisions of the supply; and
- (d) in **absence** of such places, the **location of the usual place of residence** of the supplier;

*Similar definition for “location of the recipient of services”*

**Relevant to determine whether registration is required in a particular state or not**

# Important Definitions

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

“services” means **anything other than goods**, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged

**These definitions need to be read with Schedule II of Supply**

# Important Definitions

“zero rated supply” means any of the following supplies of goods or services or both, namely:

- (a) export of goods or services or both; or
- (b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit

- **ITC will be available for making zero rated supplies**
  - even if the supply may qualify as exempt supply
- **A person making zero rated supply may claim refund either:**
  - Supply under bond (without payment of output tax) and claim refund of ITC
  - Supply with payment of output tax and claim refund of the same

# Important Definitions

“export of goods” with its grammatical variations and cognate expressions, means **taking goods out of India to a place outside India**

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

“export of services” means the supply of any service when,

- (i) the supplier of service is located in India;
- (ii) the recipient of service is located outside India;
- (iii) the **place of supply of service is outside India**;
- (iv) **the payment for such service has been received by the supplier of service in convertible foreign exchange**; &
- (v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8

“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**

# THANK YOU!!

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**Are you  
ready  
for  
GST?**



## Disclaimer:

- Our comments are based on GST Act assented on 12<sup>th</sup> April 2017 and various updates (available in public domain)
- This publication contains information in summary form and is therefore intended for general guidance only. It is not intended to be a substitute for detailed research or the exercise of professional judgment. On any specific matter, reference should be made to the appropriate advisor.
- This presentation is prepared for the purpose of GST Workshop for organized by Nashik Branch of WIRC of ICAI only