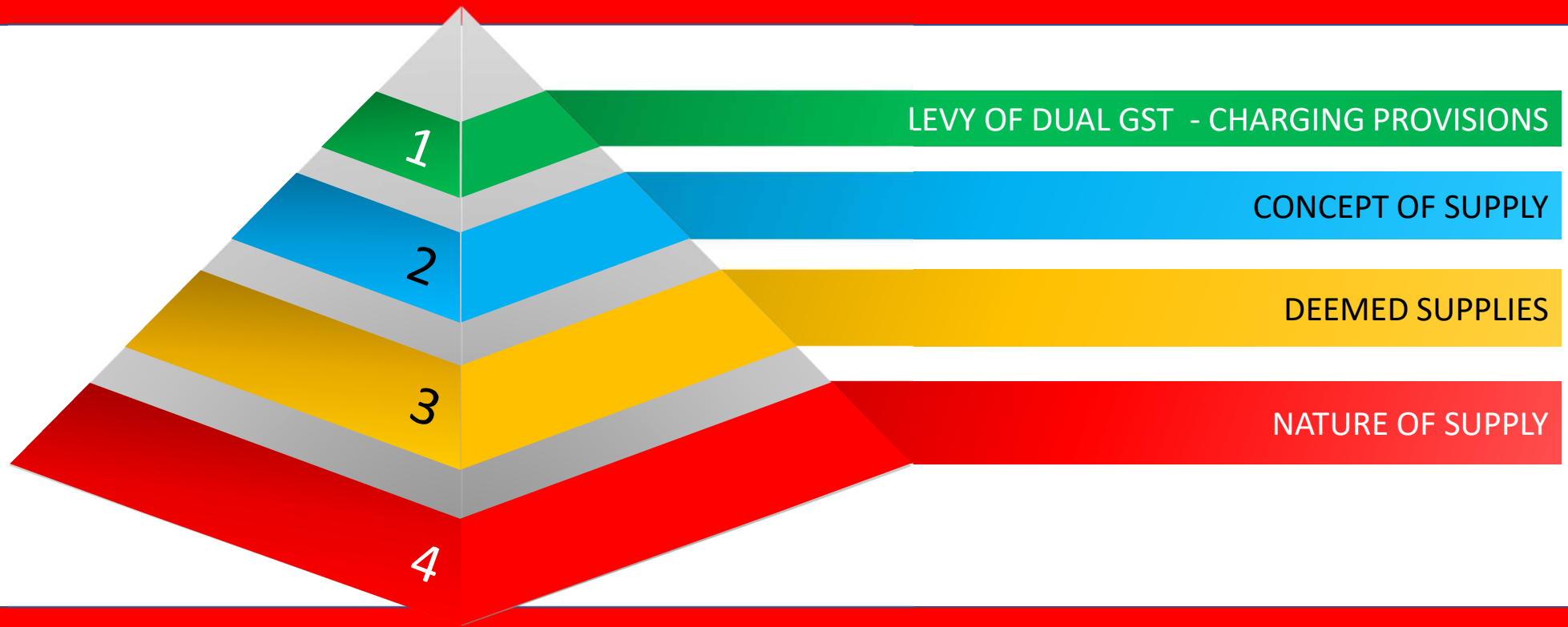


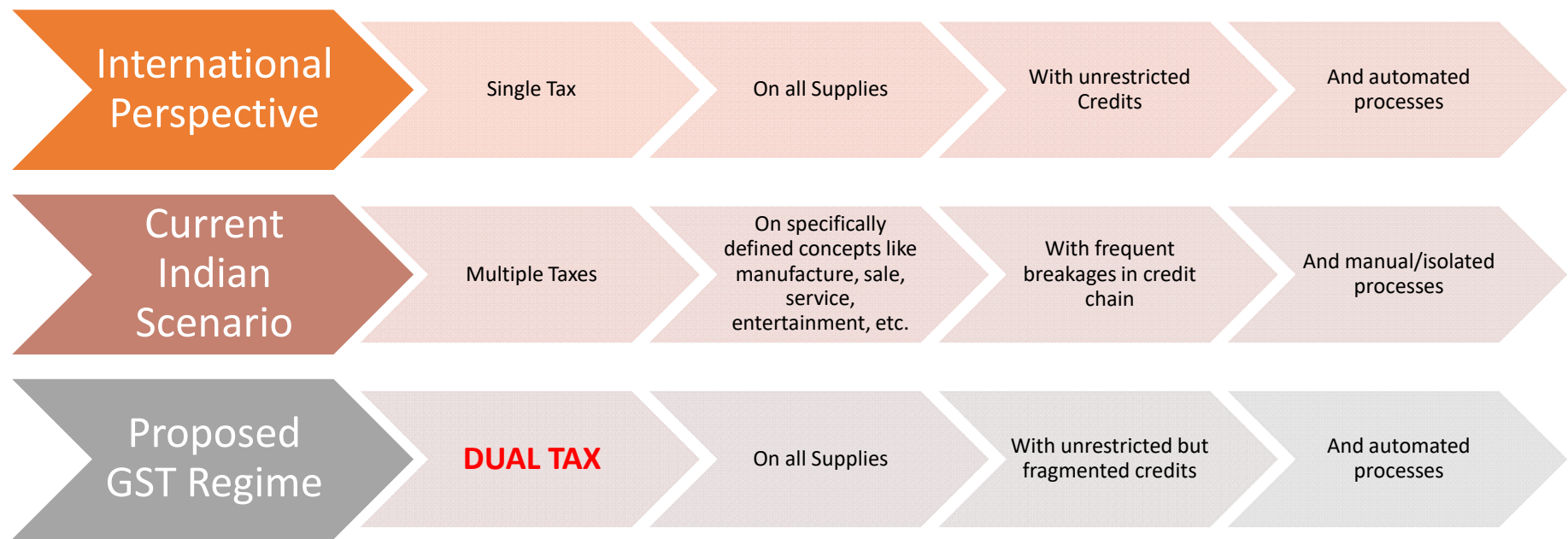


S. B. GABHAWALLA & CO.
CHARTERED ACCOUNTANTS

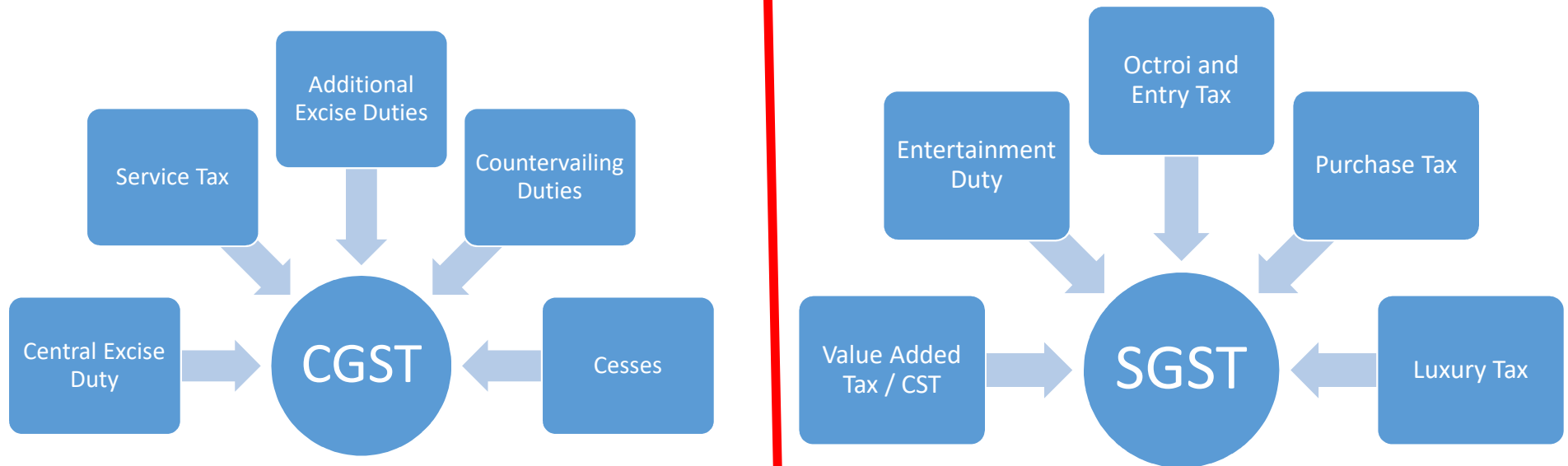
What shall we talk about?



Indirect Tax : Quick Comparison



Important Taxes subsumed..



IGST instead of CGST and SGST for Interstate Transactions – Destination Based

Taxes which are not subsumed

- **Alcoholic liquor for human consumption**
- Petroleum crude, high speed diesel, motor spirit, **natural gas**, aviation turbine fuel

Excluded
Products

- Entertainment and Amusement tax levied and collected by panchayat/ municipality/ district council
- Basic Custom Duty
- Stamp Duty
- **Electricity Duty**

Excluded
Duties

- Securities Transaction Tax/
Commodities Transaction Tax
- Toll Tax
- Property Tax

Other than
Indirect Taxes

Dual GST : Scenarios



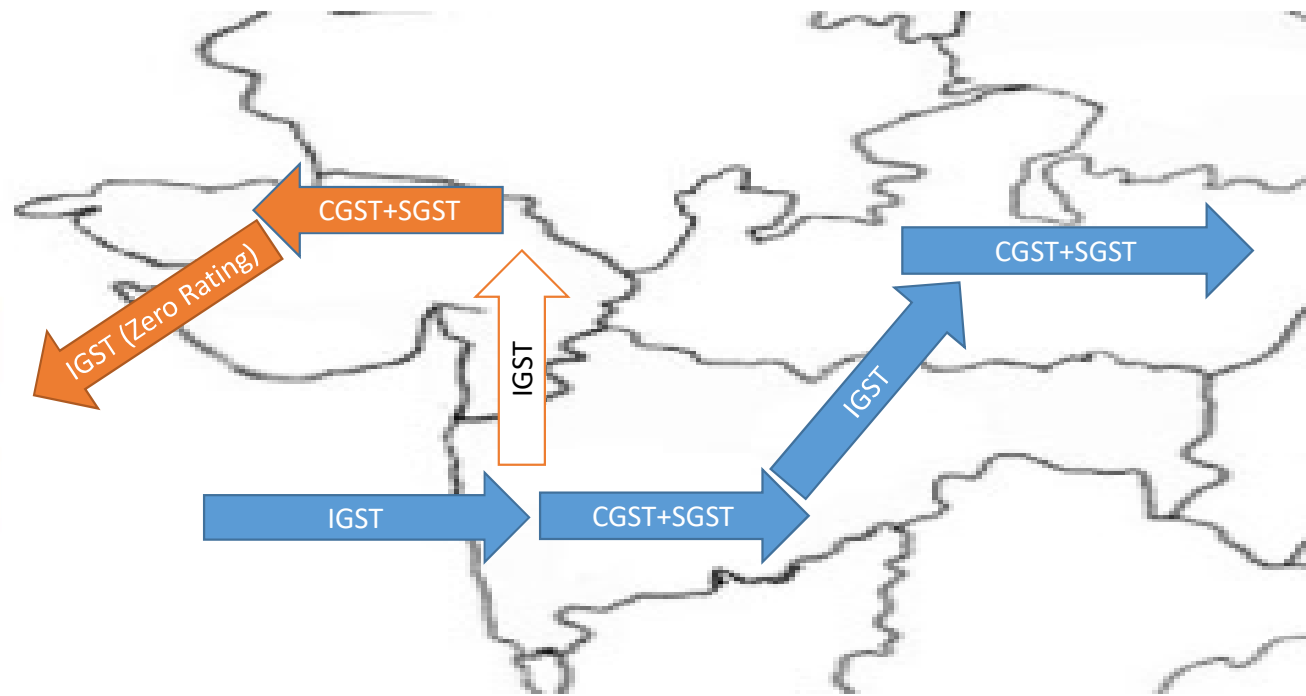
Imports Liabe for IGST

Intra-State Supplies Liabe for CGST & SGST

Inter-State Supplies Liabe for IGST

Branch Transfers Liabe for IGST

Exports entitled for Zero Rating



Levy of Tax:

- Section 9(1) of the CGST Act
 - Subject to the provisions of sub section (2), there shall be levied a tax called the Central Goods and Services Tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates not exceeding twenty percent, as may be notified by the Government on the recommendation of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person
- Similarly worded provisions
 - Section 5(1) of the IGST Act
 - Section 7(1) of UTGST Act
 - SGST Act....

Inter-State Supplies - Sec. 7 (IGST)

S.S.	Situation	Condition
1	Location of Supplier and Place of Supply in different States / UT or State & UT (Goods)	Inter-State (IGST)
2	Supply of Goods imported into the territory of India till they cross customs frontiers	Imports (CVD)
3	Location of Supplier and Place of Supply in different States/ UT or State & UT (Services)	Inter-State (IGST)
4	Supply of Services imported into India	Imports (RCM)
5 (a)	Location of Supplier in India and Place of Supply outside India	Exports (Zero Rated)
5 (b)	Supply of Goods and/or Services to/by SEZ Unit/Developer	Deemed Interstate (Zero Rated)
5 (c)	Supply within taxable territory which is not intra-state	Deemed Interstate*

Intra-State Supplies - Sec. 8 (IGST)

(1) Subject to the provisions of section 10, supply of goods where the location of supplier and the place of supply of goods are in the same State or same Union Territory shall be treated as Intra-State Supply

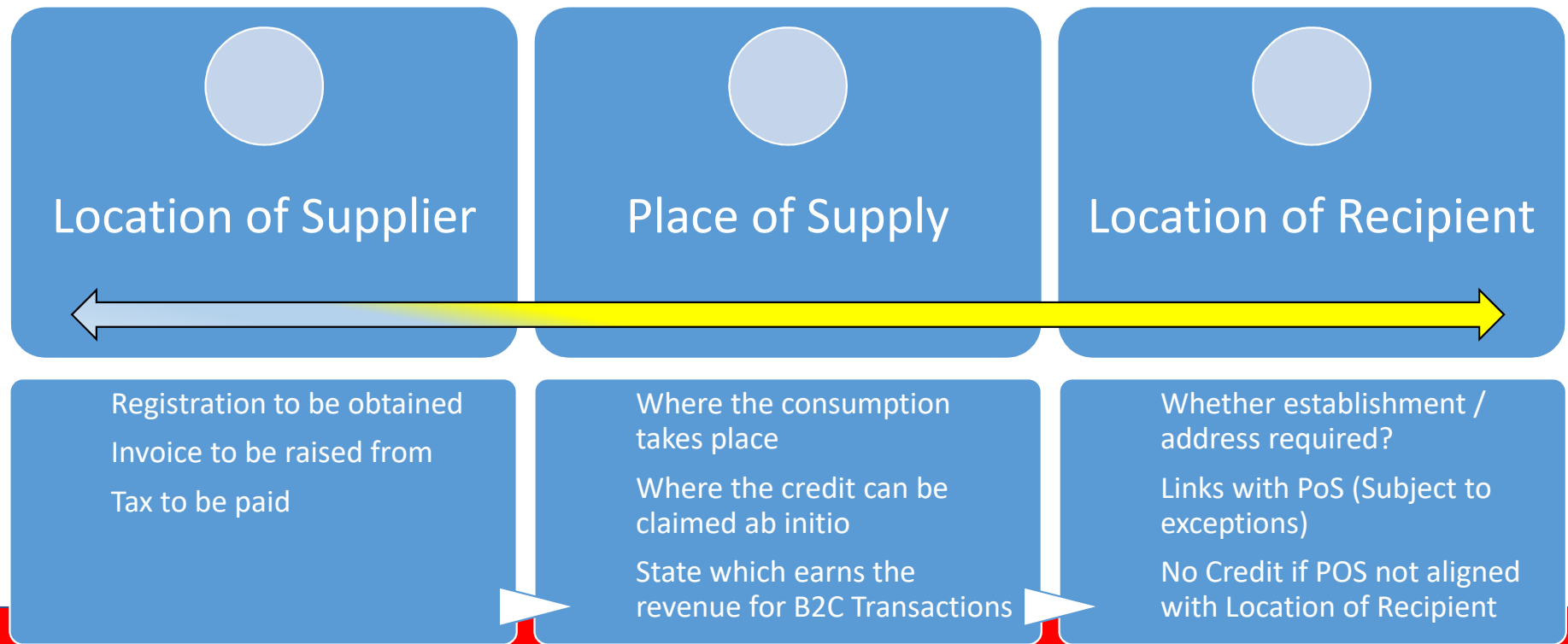
PROVIDED that the intra-State supply of goods shall not include:

- (i) supply of goods to or by a SEZ developer or to or by an SEZ unit;
- (ii) goods imported into the territory of India till they cross the customs frontiers of India.
- (iii) Supplies made to a tourist referred to in section 15

(2) Subject to the provisions of section 12, supply of services where the location of the supplier and the place of supply are in the same State or same Union Territory shall be treated as Intra-State supply.

PROVIDED that the intra-State supply of services shall not include supply of services to or by a SEZ developer or to or by an SEZ unit.

Complex Inter-dependencies



Location of Supplier – Case Study

- CA firm has head office in Mumbai and branch offices in Ahmedabad and Delhi. The Mumbai office has entered into an audit engagement with a client located in Kolkatta. The junior members for the engagement will be deputed from Ahmedabad branch office to the client location in Kolkatta. The audit report will be reviewed by senior members located in Mumbai and ultimately signed off by an audit partner located in Delhi.
- What is the location of supplier?

Location of Supplier

... Place of Supply

Ahmedabad

Mumbai

Kolkatta

Delhi



Kolkatta

Supplier / Location of Supplier

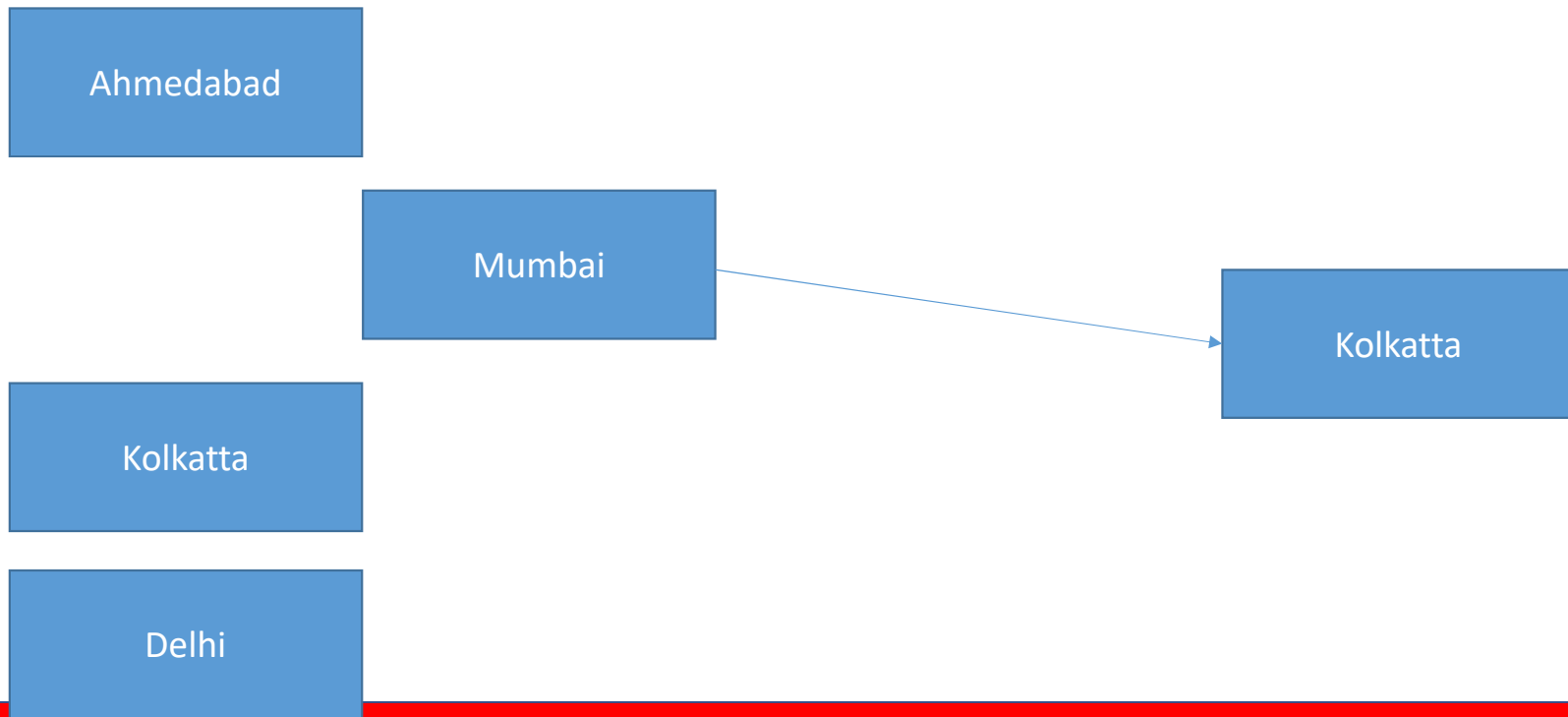
- Section 2(105) of the CGST Act
 - “**supplier**” in relation to any goods or services or both shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied
- Section 2(71) of the CGST Act
 - “**location of supplier of service**” means:
 - (i) where a supply is made from a **place of business** for which registration has been obtained, the location of such place of business ;
 - (ii) 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;
 - (iii) 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 provision of the supply; and
 - (iv) in absence of such places, the location of the usual place of residence of the supplier;

Some Related Definitions...

- Fixed Establishment – Section 2(50)
 - “**fixed establishment**” means a place (other than the registered place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs;
- Place of Business – Section 2(85)
 - **place of business**” includes
 - (a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or
 - (b) a place where a taxable person maintains his books of account; or
 - (c) a place where a taxable person is engaged in business through an agent, by whatever name called;

Location of Supplier

... Place of Supply



Location of Recipient – Case Study

- In the earlier example, the client has corporate office in Kolkatta, factory in Guwahati and registered office is located in Indore
- What is the location of recipient?

LoS ...

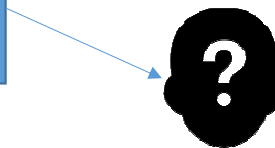
Location of Recipient

Ahmedabad

Mumbai

Kolkatta

Delhi



Kolkatta

Guwahati

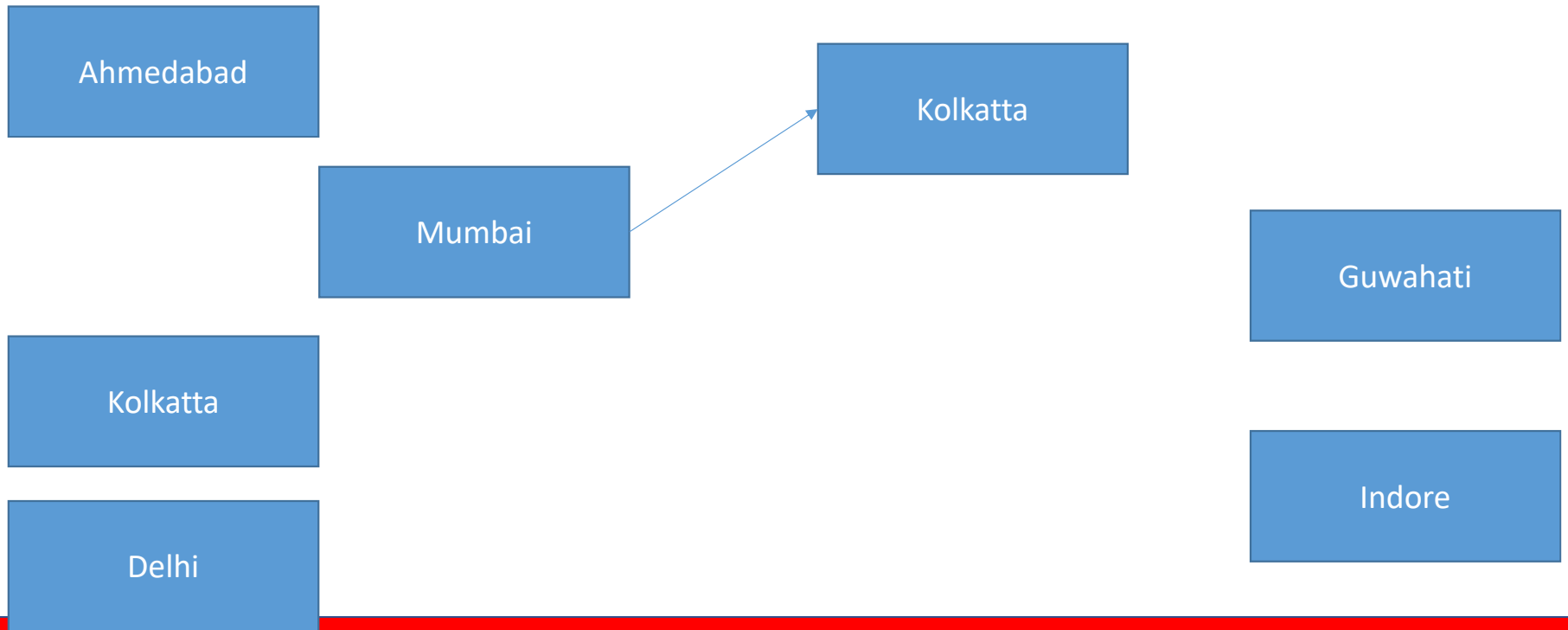
Indore

Recipient / Location of Recipient

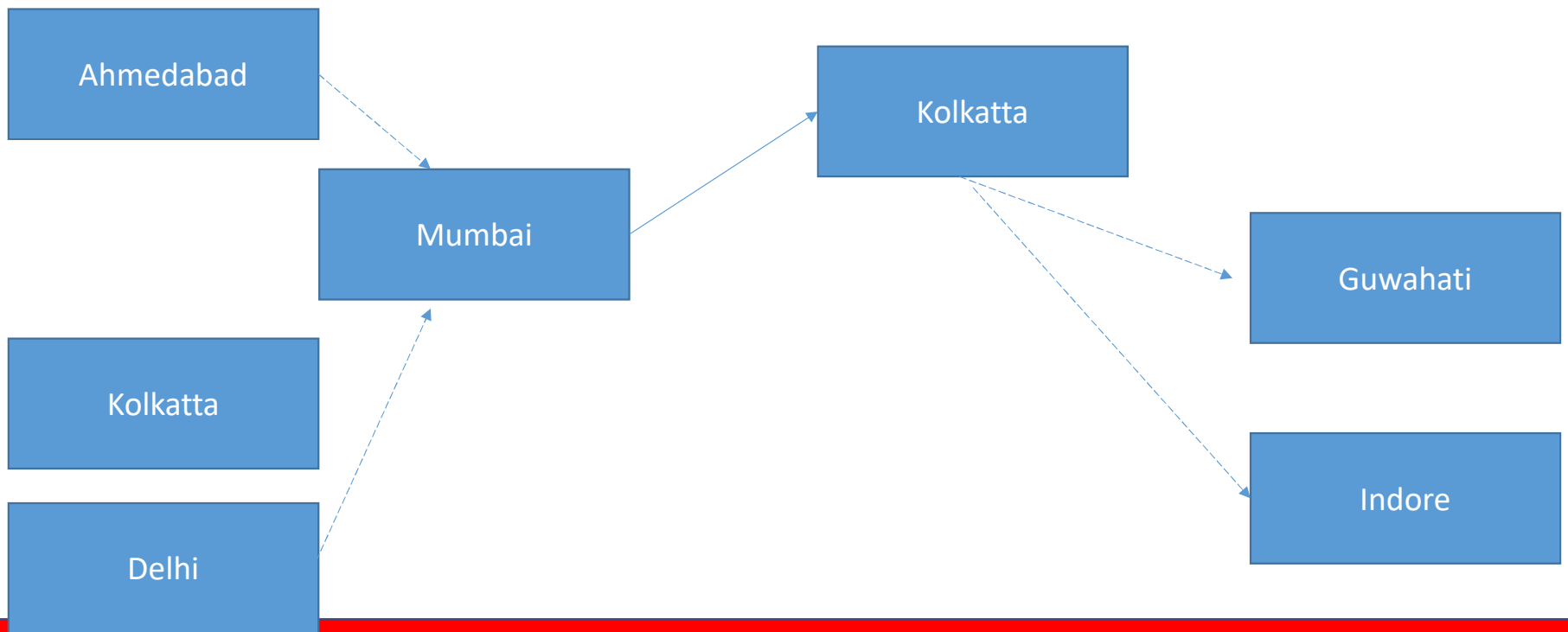
- Section 2(93) of CGST Act, “**recipient**” of supply of goods or services or both means-
 - (a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration,
 - (b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available, and
 - (c) where no consideration is payable for the supply of a service, the person to whom the service is rendered, and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied
- Section 2(70) of CGST Act, “**location of recipient of services**” means:
 - (i) where a supply is received at a place of business for which registration has been obtained, the location of such place of business;
 - (ii) where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;
 - (iii) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and
 - (iv) in absence of such places, the location of the usual place of residence of the recipient;

LoS ...

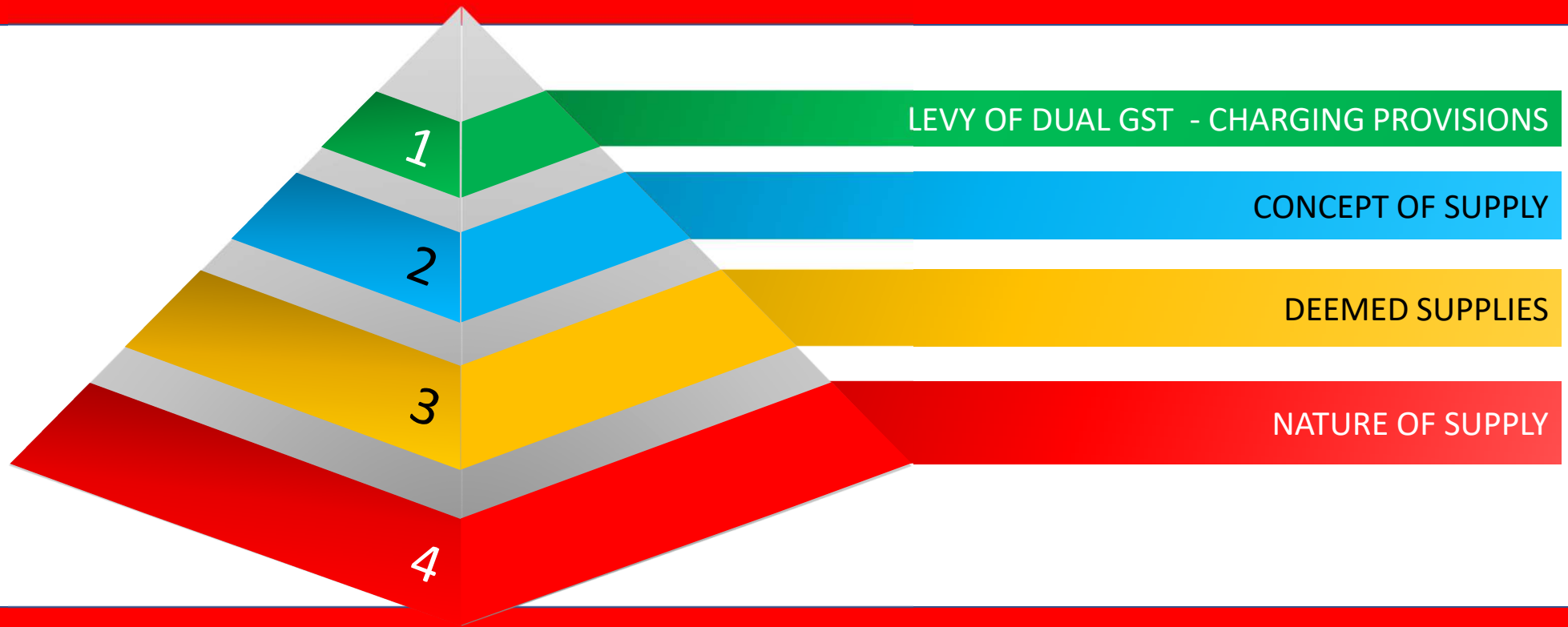
Location of Recipient



Supply of services between distinct persons – Creating the dots....



What shall we talk about?



Supply – Section 7(1)

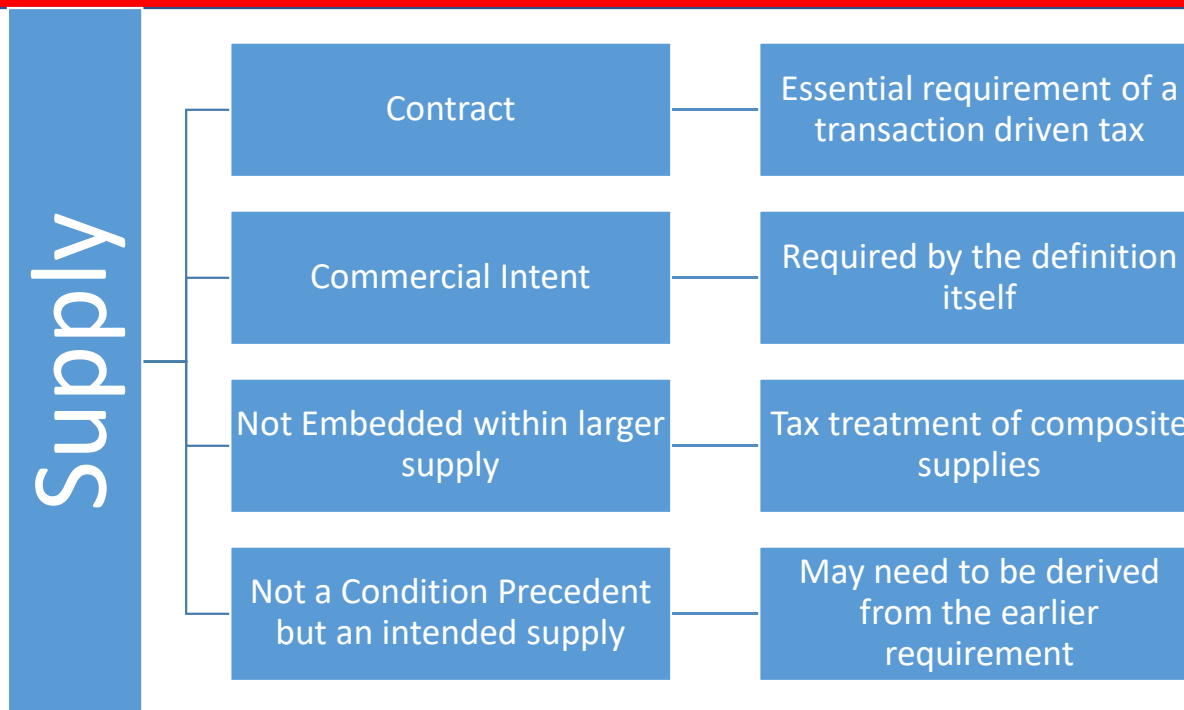
- Supply **includes**

- (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made **for a consideration** by a person in the course or furtherance of business,
- (b) **import of service, for a consideration** whether or not in the course or furtherance of business
- (c) The activities specified in **Schedule I**, made or agreed to be made **without a consideration** and
- (d) The activities to be treated as supply of goods or supply of services as referred to in **Schedule II**

Supply - Structure

- Structurally Defective?
 - Supply includes all forms of supply
 - Can services be supplied? Can all services be made?
 - Some examples – training, insurance, consultancy
- What is meant by supply?
 - All forms of supply of goods and/or services
 - Made or agreed to be made
 - For a consideration
 - By a person
 - In the course or furtherance of business

Purposive Interpretation...



Supply- Examples

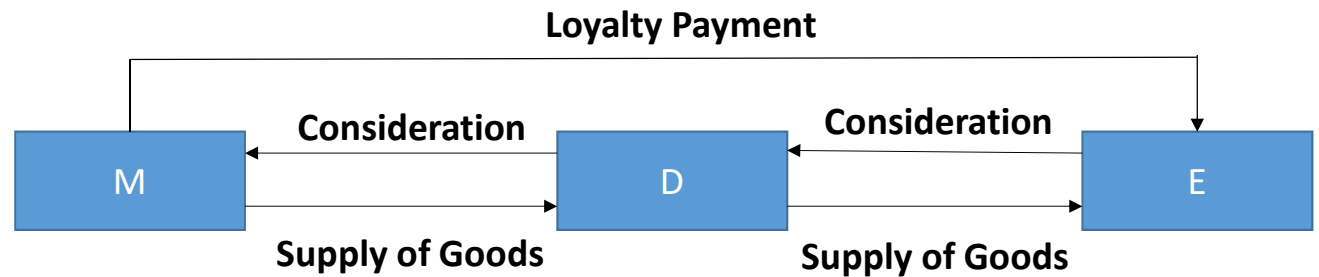
Grandma's flowers

Key:
A- Individual
B- Florist
C- A's Grandmom



Loyalty Payment

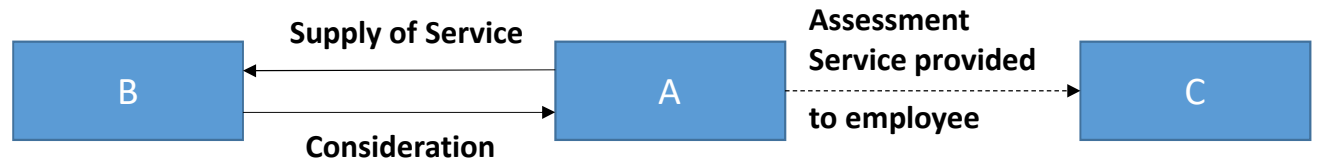
Key:
M- Manufacturer
D- Distributor
E- Customer



Supply- International Perspective

Key:
A- Therapist
B- Company
C- Employee

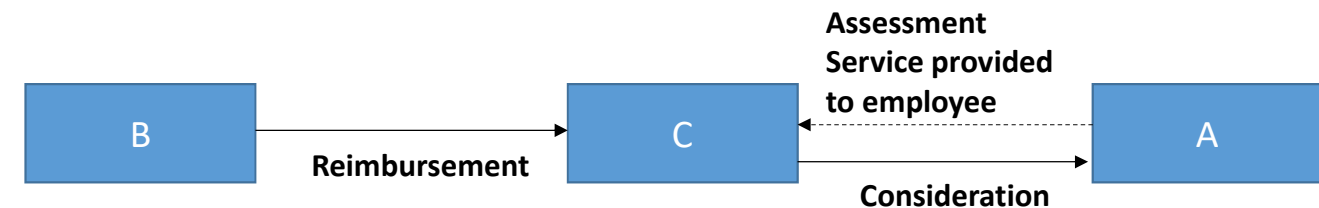
Direct Contract



Direct Payment

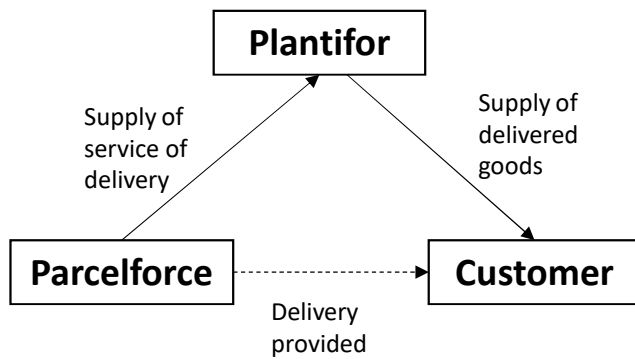


Reimbursement

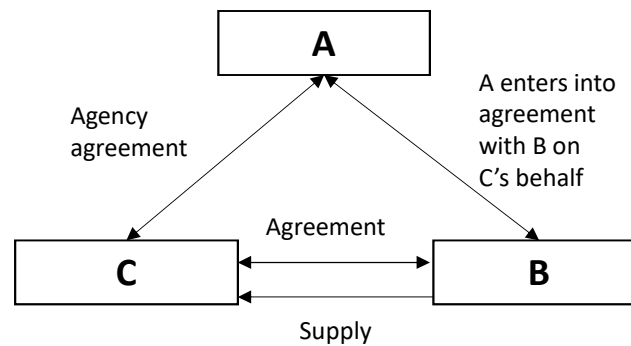


Supply- International Perspective

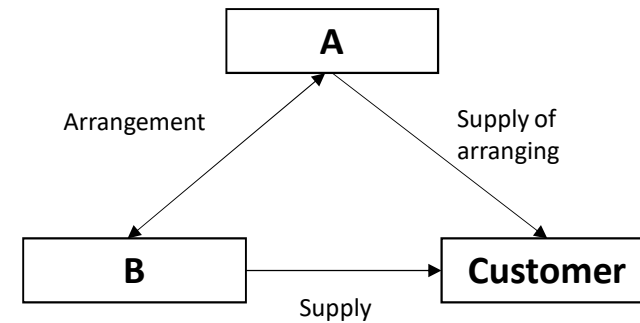
Sub-Contracting Principle



Agency Principle



Arranging Service



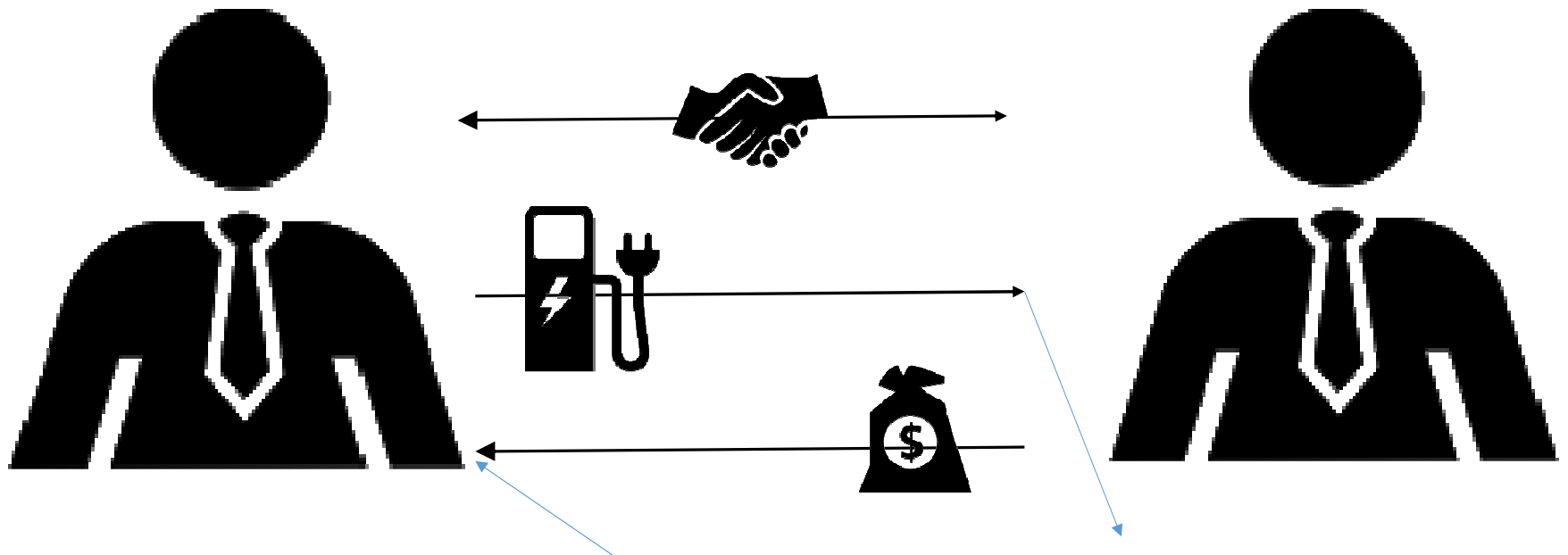
Supply – Some Propositions...

Sr.	Proposition
1	For every supply there is a supplier
2	Generally, for every supply there is a recipient and an acquisition
3	A supply may be mixed, composite or neither
4	A transaction may involve two or more supplies
5	To 'make a supply' an entity must do something
6	'Supply' usually, but not necessarily, requires something to be passed from one entity to another
7	An entity cannot make a supply to itself
8	A supply cannot be made by more than one entity

Supply – Some Propositions...

Sr.	Proposition
9	Creation of expectations alone does not establish a supply
10	It is necessary to analyse the transaction that occurs, not a transaction that might have occurred
11	The agreement is the logical starting point when working out the entity making the supply and the recipient of that supply
12	Transactions that are neither based in an agreement that binds the parties in some way nor involve a supply of goods, services, or some other thing, do not establish a supply
13	When A has an agreement with B for B to provide a supply to C, there is a supply made by B to A (contractual flow) that B provides to C (actual flow)
14	A third party may pay for a supply but not be the recipient of the supply
15	One set of activities may constitute the making of two (or more) supplies
16	The total fact situation will determine the nature of a transaction, the entity that makes a supply and the recipient of the supply

Process Steps



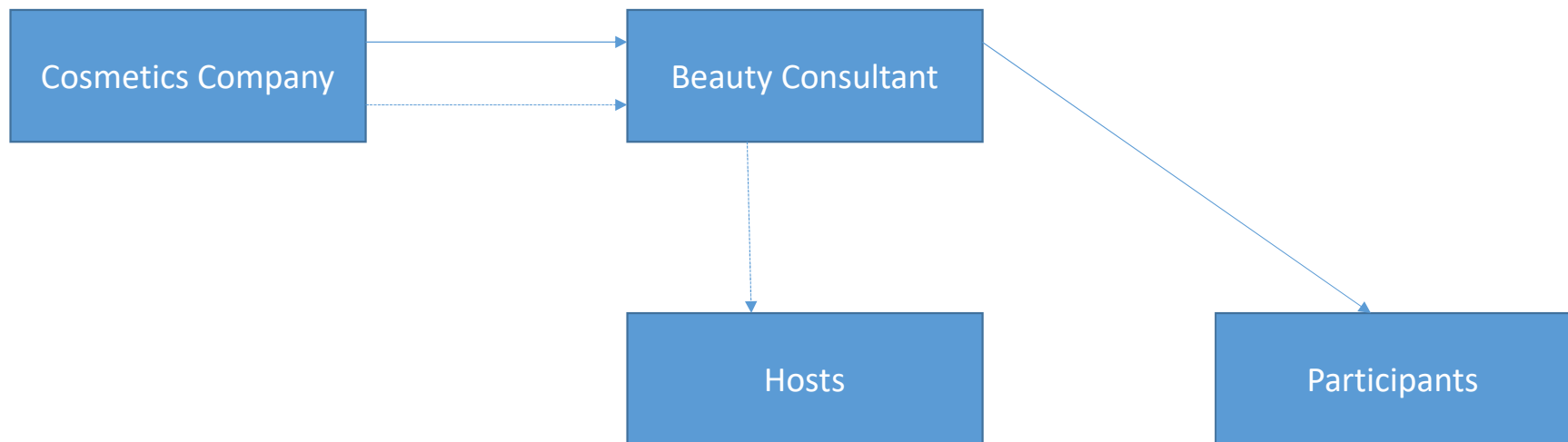
For a consideration – Section 2(28)

- “**consideration**” in relation to the supply of goods or services includes
 - (a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;
 - (b) the monetary value of any act or forbearance, whether or not voluntary, in respect of, in response to, or for the inducement of, the supply of goods or services, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:

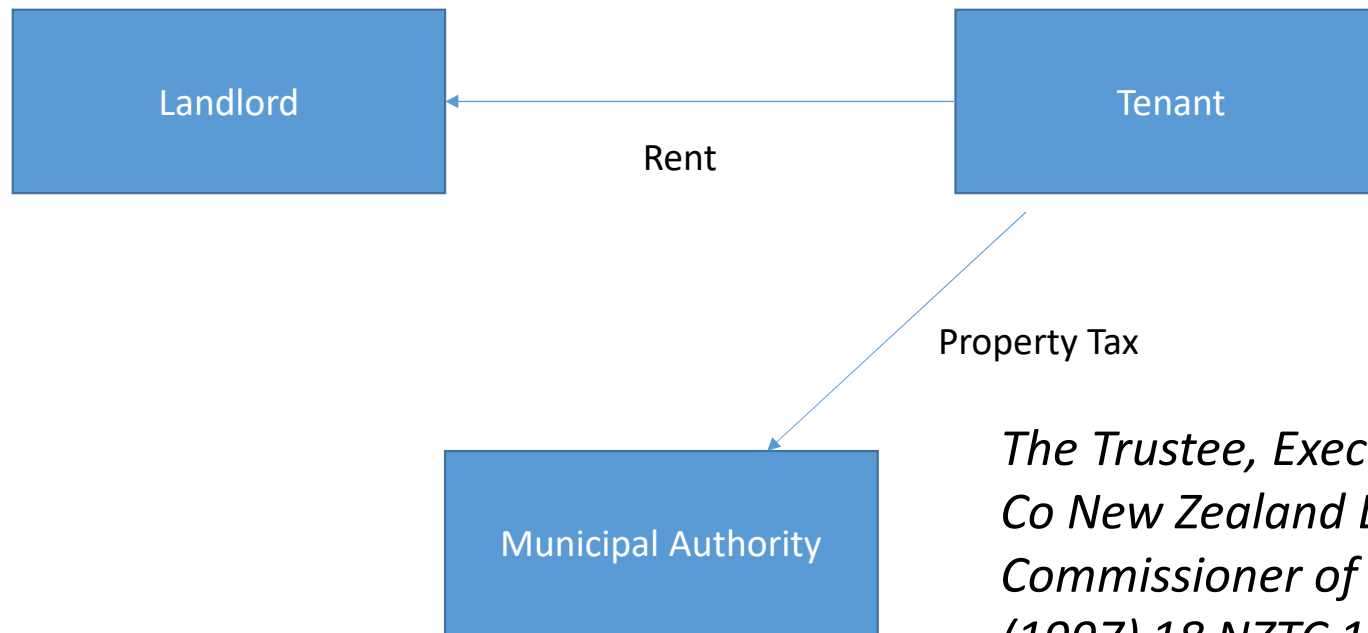
Provided that a deposit, whether refundable or not, given in respect of the supply of goods or services shall not be considered as payment made for the supply unless the supplier applies the deposit as consideration for the supply;

Consideration – International Precedents

Naturally Yours Cosmetics Ltd v . Customs and Excise Commissioners (1988) 3 BVC 428

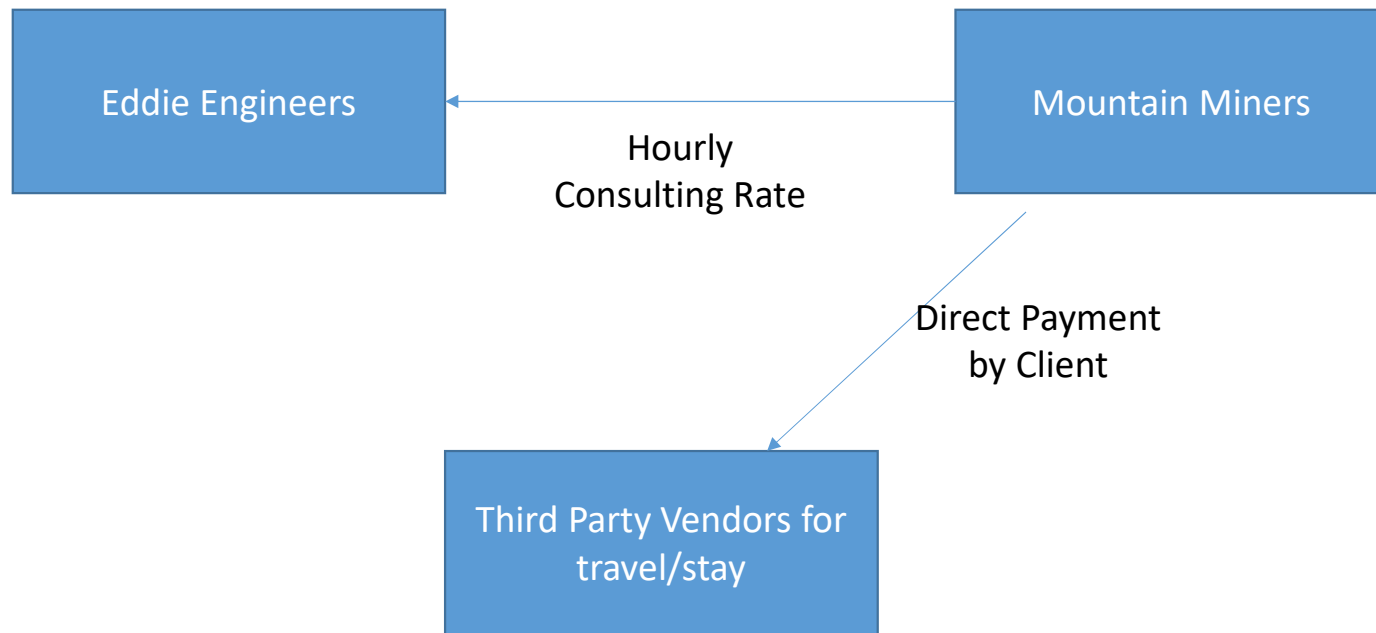


Obligations that define a supply



*The Trustee, Executors and Agency
Co New Zealand Ltd v .
Commissioner of Inland Revenue
(1997) 18 NZTC 13,076*

Obligations that define a supply



Some more principles

Principle	Example
Check the transaction that occurs	Lease of property without obligation to repair
Dependent Services	Accountant provided premises by client
Dependent Goods	Painter provided paint by client
Traded in Goods – Classification/Valuation	Supply of refashioned jewellery by adding some own metal content as well
Traded in Goods – Buy Back	Buy Back of Laptop
No Economic Value when transaction entered into	Waste Oil while repairing a car
Associated Promotional Activities	Wholesaler deputing a salesman at a retailer's outlet
Acknowledgement of a Free Supply	School acknowledging free supply in its' magazine
Unconditional Promotional Give Aways	Resort providing complimentary stay to travel agents in expectation of future recommendations

In the course or furtherance of business

“**business**” includes –

(a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;

(b) any activity or transaction in connection with or incidental or ancillary to (a) above;

(c) any activity or transaction in the nature of (a) above, whether or not there is volume, frequency, continuity or regularity of such transaction;

(d) supply or acquisition of goods including capital assets and services in connection with

commencement or closure of business;

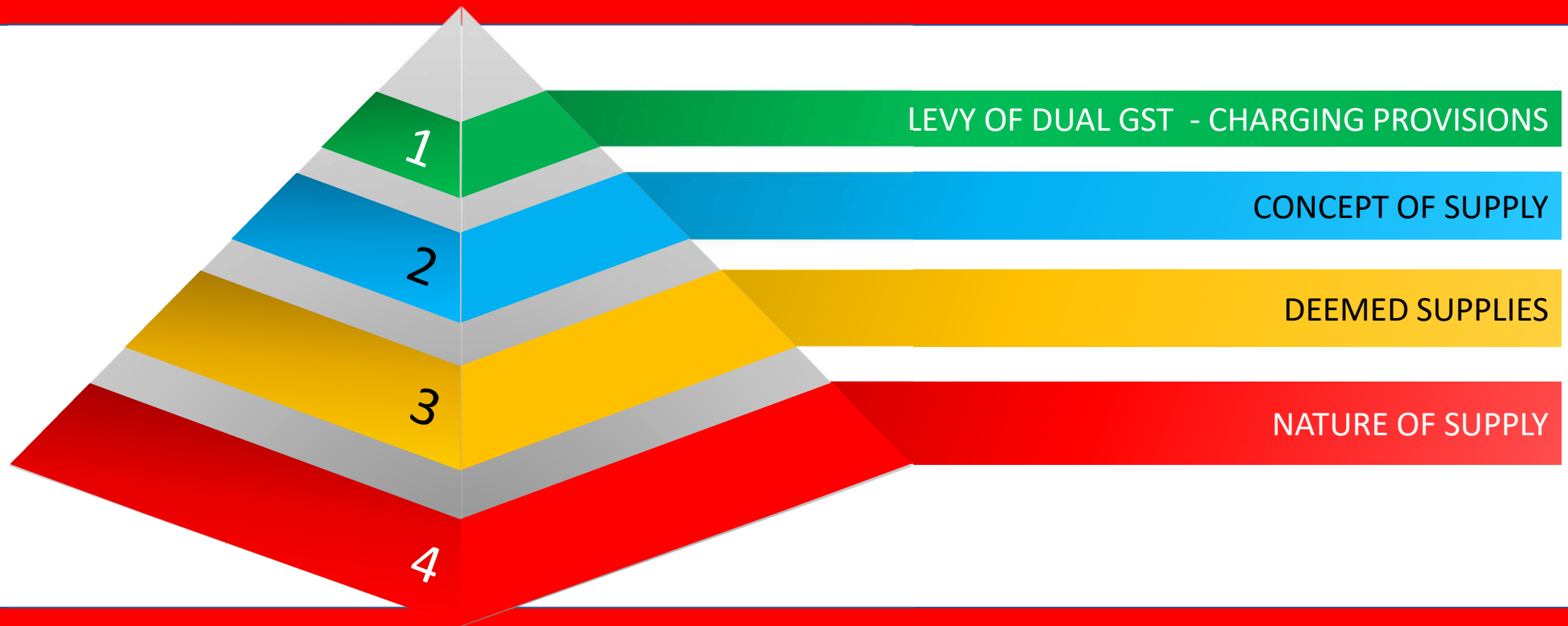
(e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members, as the case may be;

(f) admission, for a consideration, of persons to any premises; and

(g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation

(h) Services provided by a race club by way of totalisator or a licence to book maker in such club

What shall we talk about?



Schedule I : Deemed Supplies

Sr. No.	Relevant Provisions	Scope
1	Permanent transfer/disposal of business assets where input tax credit has been availed on such assets	<ul style="list-style-type: none"> • Business Assets
2	<p><u>Supply of goods or services or both between related persons, or between distinct persons as specified in section 25</u>, when made in the course or furtherance of business</p> <p>Provided that gifts not exceeding Rs. 50000 by employer to employee shall not be treated as supply.....</p>	<p>Free Supplies to</p> <ul style="list-style-type: none"> • Related Persons • Branch Transfer
3	<p><u>Supply of goods: -</u></p> <ul style="list-style-type: none"> • by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal, or • by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal 	<p>Only covers supply of goods</p> <ul style="list-style-type: none"> • From Principal to Agent • From Agent to Principal
4	Import of services by a taxable person from a related person or from any of his other establishments outside India , in the course or furtherance of business	<ul style="list-style-type: none"> • Import of Services

Supplies through Agents..

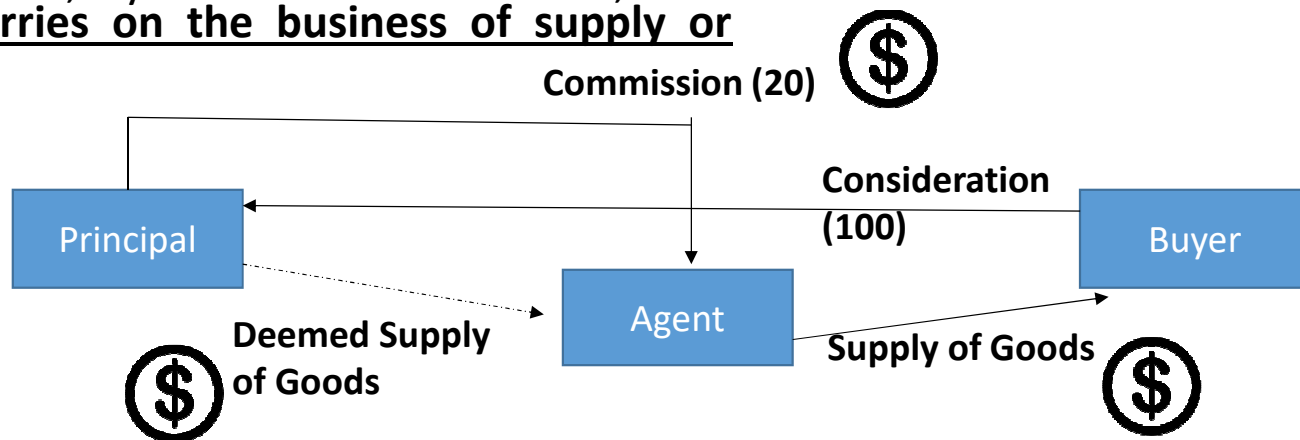
- Section 2(5)

- “agent” means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or

receipt of goods or services on behalf of another, whether disclosed or not;

- Schedule I – Entry 3

- Supply of Goods by principal to agent or agent to principal



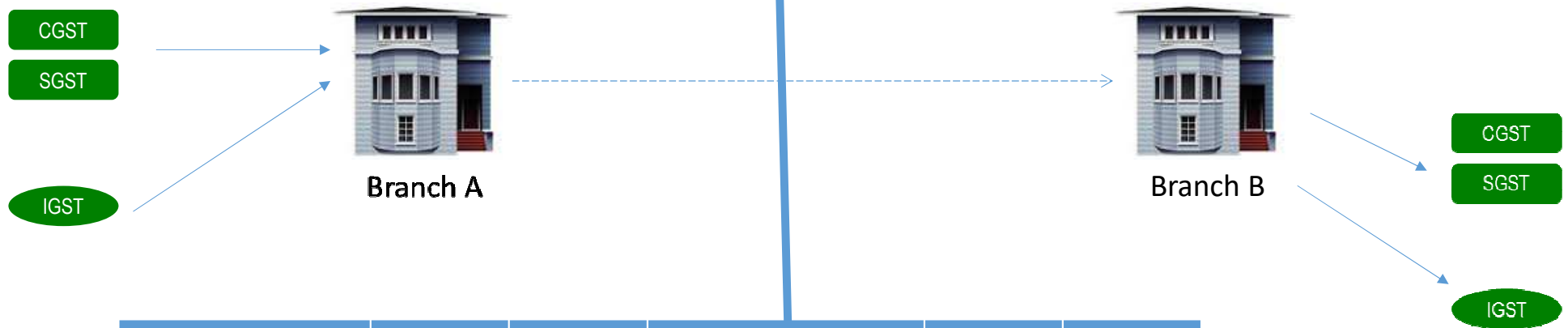
Supplies through Agents : Implications

- What is the scope of this deeming fiction?
 - Carries on business of supply or receipt of goods
 - Facilitation of the contract
 - Raising of Invoices
 - Delivery of Product
 - Collection of Consideration

Tax Treatment of Branch Transfers – Section 25

- **A person** who has obtained or is required to obtain more than one registration, whether in one State or UT or more than one State or UT , shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.
- **Where a person** who has obtained or is required to obtain registration in a State or UT in respect of an establishment, has an establishment in another State or UT, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.

Branch Transfers – Economic Aspect

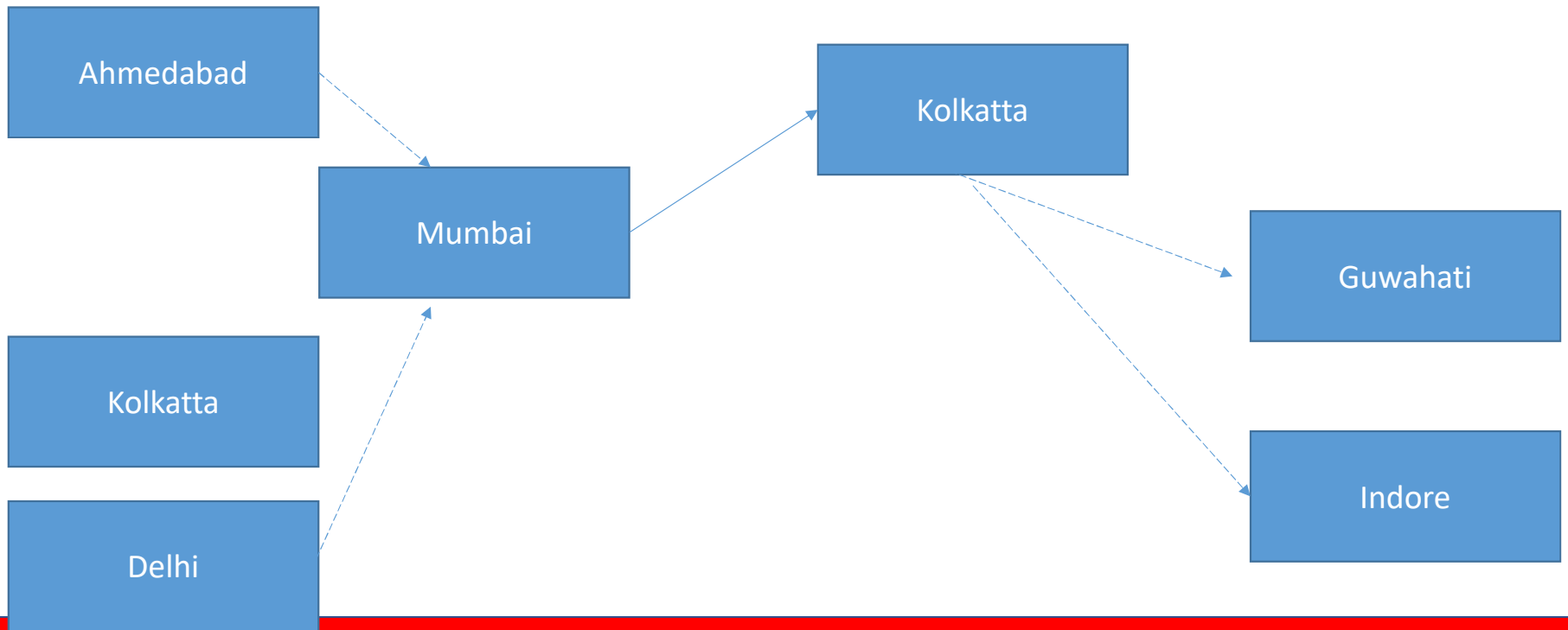


Branch Transfers	Input	Output	Net	Input	Output	Net
No GST	- 100	0	-100	0	150	150
GST Applicable	- 100	120	20	- 120	150	30

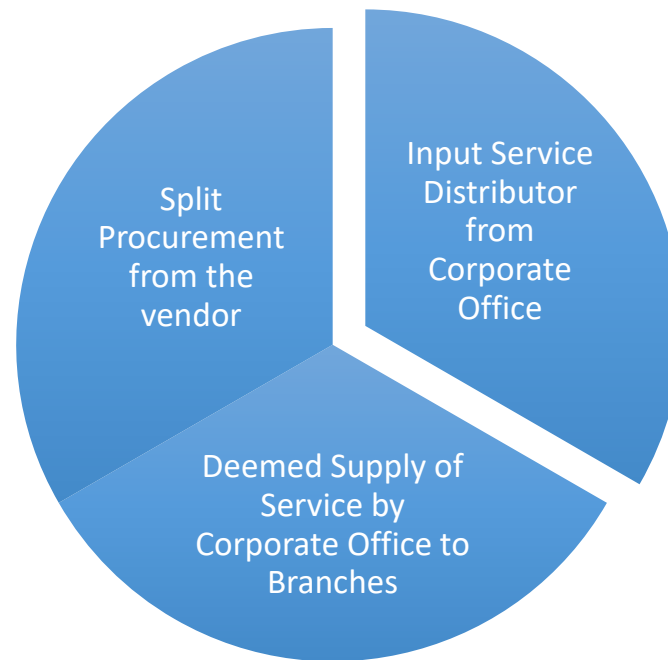
Branch Transfer - Scope

- Movement of goods for further trade
- Movement of other goods (laptops, promotional materials, furniture, stationery, uniforms, etc.)
- Movement of fixed assets (dumpers, aircraft, buses, transport vehicles)
- Provision of Service (Corporate to Factory/Branch – Audit, Inspection, Marketing, Management, Branding, Banking, etc.)

Case Study – Creating the dots....



Consolidated Service Procurement – Possible Resolutions



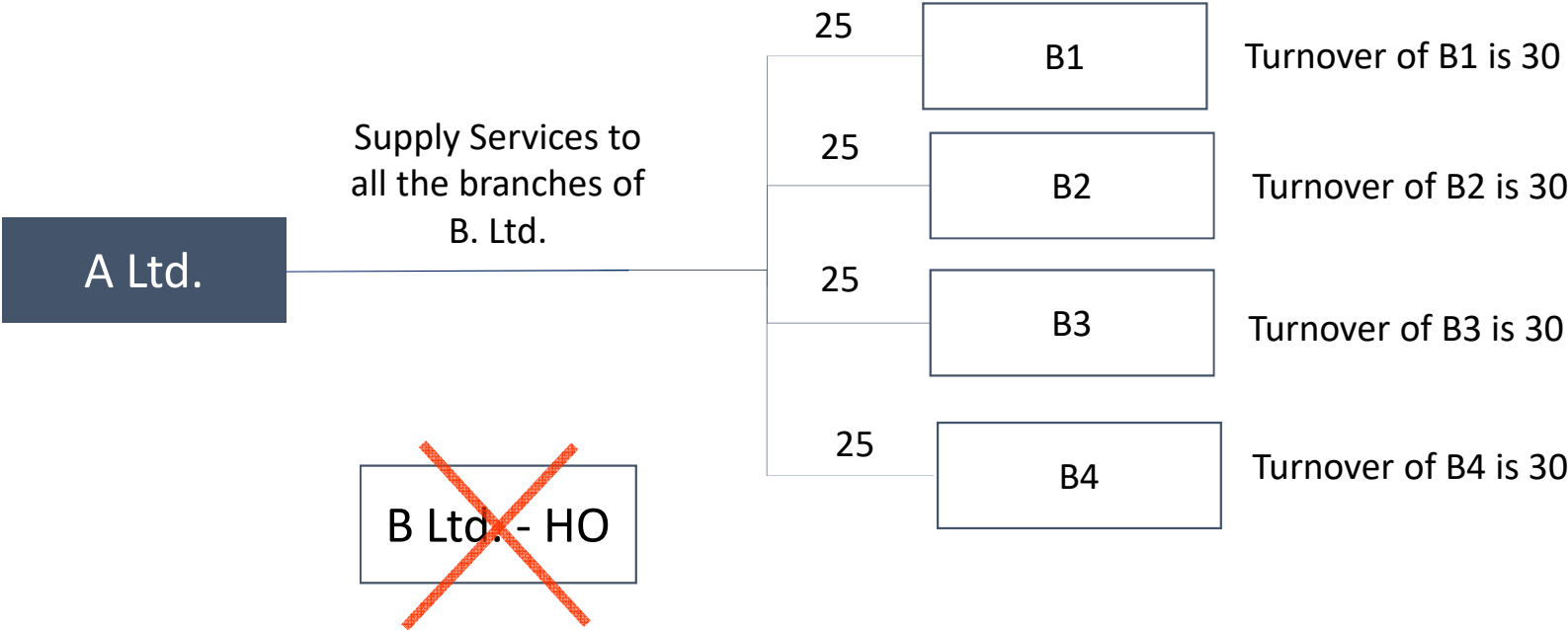
Input Service Distributor



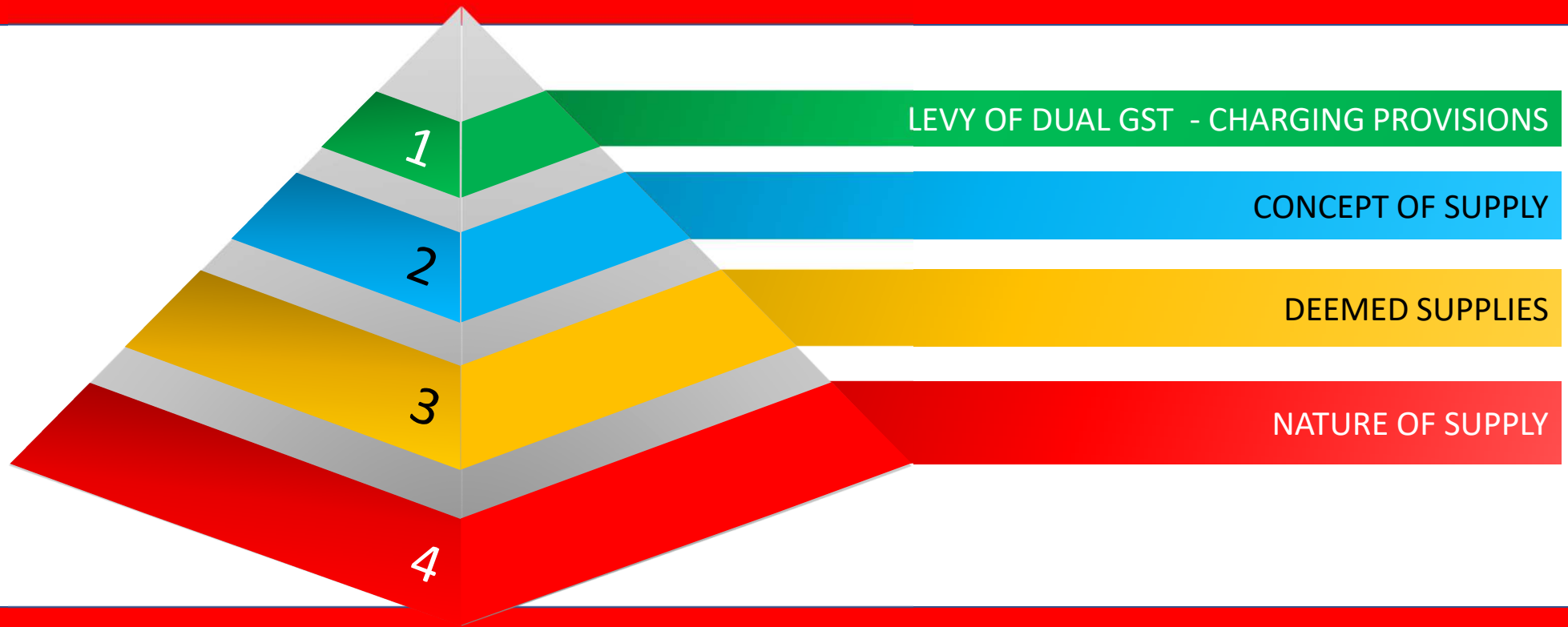
Deemed Supply by HO to Branches



Direct Split Invoicing by vendor



What shall we talk about?



Nature of Supply

- Relevance
 - Distinct Place of Supply Rules – Domestic & International
 - Distinct Time of Supply Rules
 - Input Credit – ISD / Reversal
 - Deeming Fiction for P2A and A2P Supplies
 - Classification and Rate of Tax
- Structure
 - Definitions provided
 - Article 366(29A) continues to exist
 - Principles to determine tax treatment of composite and mixed supplies provided

Relevant Definitions

- **Section 2(52):**

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

- **Section 2(102):**

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

Nature of Supply – Section 7(2) & 7(3)

- Section 7(2):

- Notwithstanding anything contained in sub-section (1),

- (a) activities or transactions specified in schedule III; or

- (b) activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities as may be notified by the Government on the recommendations of the Council

Shall be treated neither as a supply of goods nor a supply of services.

- Section 7(3):

- Subject to the provisions of sub-section (1) and sub-section (2), the Government may, upon recommendation of the Council, specify, by notification, the transactions that are to be treated as—

- (a) a supply of goods and not as a supply of services; or

- (b) a supply of services and not as a supply of goods; or

Principles of Interpretation

- Section 8:
 - The tax liability on a composite or a mixed supply shall be determined in the following manner —
 - (a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply;
 - (b) a mixed supply comprising two or more supplies shall be treated as supply of that particular supply which attracts the highest rate of tax.

Supply : Principles of Interpretation

Variation of Supply	Description	Tax Treatment
Composite Supply	Two or more supplies of goods or services, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply	Shall be treated as a supply of such Principal Supply <i>[“principal supply” means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary and does not constitute, for the recipient an aim in itself, but a means for better enjoyment of the principal supply]</i>
Mixed Supply	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 where such supply does not constitute a composite supply	Shall be treated as a supply of that particular supply which attracts highest rate of tax

Implementation
Support

Advisory
Services

Compliance &
Retainer-ship

Audit &
Assurance

Litigation &
Representation

Training &
Helpdesk

GST @ SBGCO . IN

Full Day Paid
Workshops

Complimentary
GST Fest

Simple
Publications

Implementation
Checklists

Youtube
Channel

Website

Android App

Complimentary
Acclimatisation
Meetings

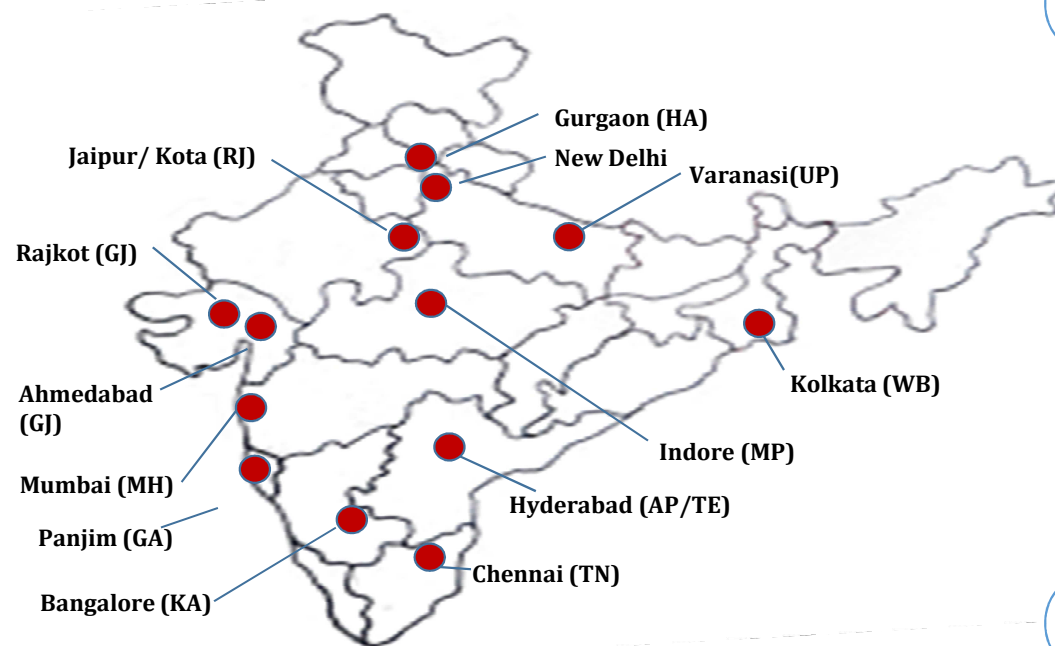
Mailing Lists

Whatsapp
Groups

Email Helpdesk

GST World[®]

One Nation One Tax One Advisor



1 All-India Network

2 One-Stop Destination

3 Industry Specific Expertise

4 Experience of 3 decades

5 Extensive Knowledge Pool

6 Vibrant Professionals

danke 感謝
thank you
gracias
merci
obrigado
dziękuję
sukriya
go raibh maith agat
teşekkür ederim
tişirabonja