

Levy, Collection, RCM

goods  
&  
service  
tax

-CA. Prasanna Krishnan. V

**GST –**

**Which is the Principle adopted by India –**

- **Principle of Origin Based GST?**
- **Principle of Destination Based GST?**



**Dual-tax method in intra-State trade...**

**Single IGST in case of Intra State Supply...**

**What is CGST? SGST? UTGST? IGST?**



# Concept of Credit

Should a learner jump to (hyper) technical matters immediately now?

Ex: The nuances of –

CGST Credits

SGST Credits

UTGST Credits

IGST Credits

# Concept of ITC utilization

Till 31.01.2019 -

<i>Payment for</i>	<i>First set off from</i>	<i>Then set off from</i>
<b>SGST</b>	<b>SGST</b>	<b>IGST</b>
<b>CGST</b>	<b>CGST</b>	<b>IGST</b>
<b>IGST</b>	<b>IGST</b>	<b>CGST and SGST</b>

# Concept of ITC utilization

Till 01.02.2019 (Ref: Sec 49A of the CGST Act 2019)-

<i>Payment for</i>	<i>First set off from</i>	<i>Then set off from</i>
SGST	IGST	SGST
CGST	IGST	CGST
IGST	IGST	CGST and SGST

# Concept of ITC utilization

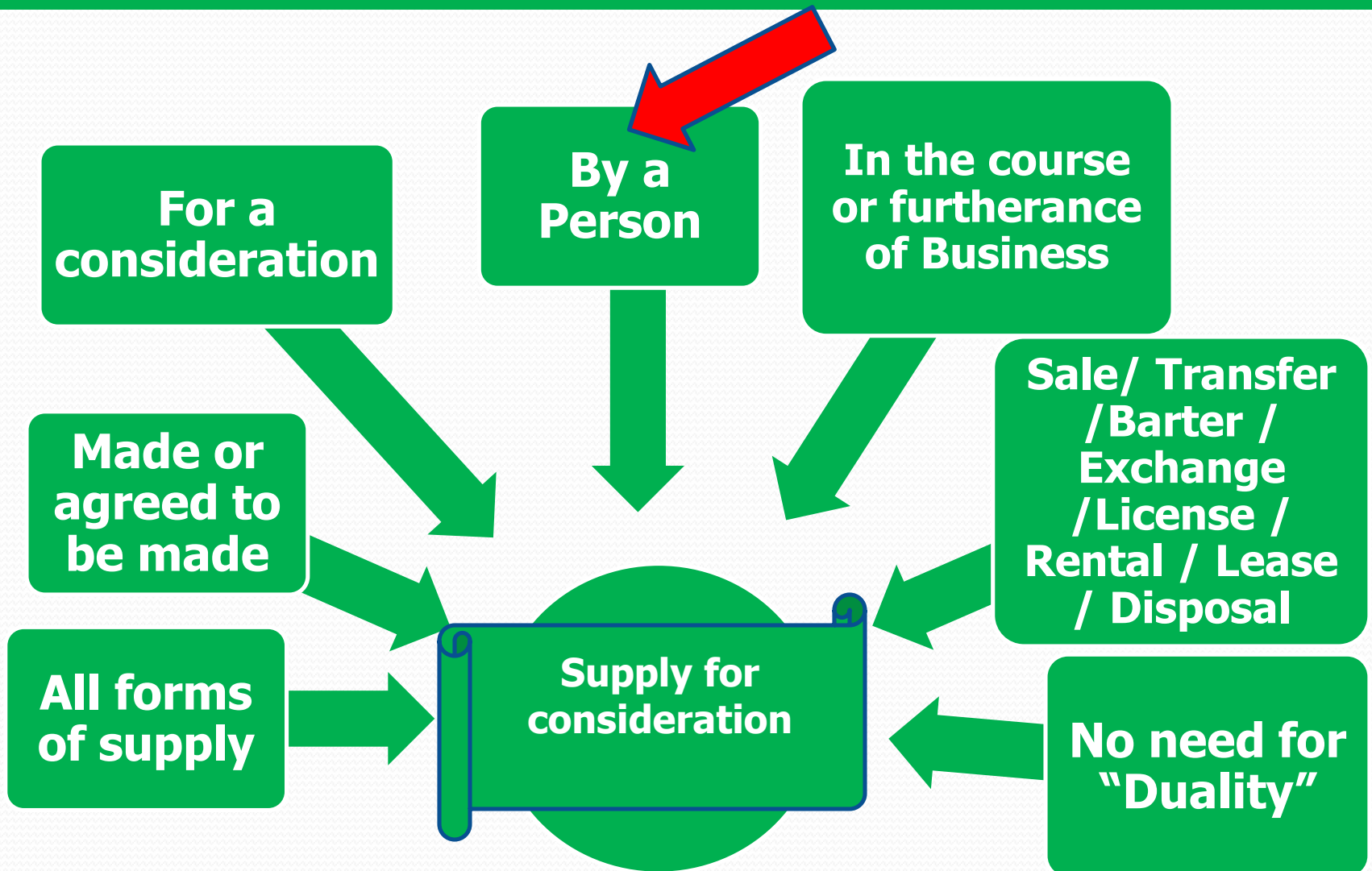
Till 29.03.2019 (Ref: Rule 88A of the CGST Act 2019 – Notfn 16/2019-CT)-

First exhaust IGST ITC against IGST due; if balance IGST ITC is there use it for CGST due, S/UT GST due. Then,

<i><b>Set off ITC</b></i>	<i><b>Towards payment of (no specific order)</b></i>
S/UT GST	S/UT GST / IGST
CGST	CGST / IGST



# TAXABLE EVENT (SUPPLY)





*\* Words used herein for easy understanding;  
Not in fine text of law*



**Supply 7(1)**



**(+) All forms of  
supplies  
(+) Import of  
services#  
(+) Schedule I  
(Free Transactions)\*  
(+) Schedule II  
(Deemed Supplies)\***

**Neither  
Nor Supply  
7(2)**



**(-) Schedule  
III  
(Negative  
List)\***

**Either or  
Supply 7(3)**



**(-) Notified  
Negative List  
supplies\***

# Schedule I – Deemed Supply (without consideration)

## Schedule I

Permanent transfer/ disposal of business assets  
*where input tax has been availed* on such assets

Supply between *related persons or distinct persons specified in section 25*, when made in the course or furtherance of business

[Gift up to Rs 50,000 p.a. to a employee not considered as supply at all]

### **Supply of goods**

1. By principal to agent where agent undertakes to supply such goods 2. By agent to principal where agent undertakes to receive goods on behalf of principal

**Importation of services** by taxable# person from related person or any of his establishments outside India, in the course or furtherance of business

# SCHEDULE II

## Activities To Be Treated As Supply Of Goods Or Supply Of Services

- ♦ Renting of immovable property (No specific nature of property referred herein)
- ♦ construction of a complex, building, civil structure or a part thereof – wholly or partly [sale of completed building/flat does not fall under this\*]



# SCHEDULE II

## Activities To Be Treated As Supply Of Goods Or Supply Of Services

- ♦ temporary transfer or permitting the use or enjoyment of any intellectual property right
- ♦ development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software

- ♦ agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and
- ♦ Transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration
- ♦ Any treatment or process which is applied to another person's goods is a supply of services

## **Transfer**

- ◆ Any transfer of title/right in goods
- ◆ Any transfer of right in undivided share in goods (without transfer of right in
- ◆ Any transfer where property in goods will pass on as per an agreement at a future date upon payment of full consideration

[] Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.



## **Land & Building -**

- (a) any lease, tenancy, easement, licence to occupy land is a supply of services;
- (b) any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.



## **Transfer of Business Assets -**

- ✓ Transfer of business assets, by or as directed by person carrying on the business...
- ✓ Transfer of business assets, by or as directed by person carrying on the business, for personal use or for purpose other than business...
- ✗ No transfer of goods forming part of business assets (though transferred effectively) – if sold as a going concern or business continued by a personal representative

## Goods

- Movable property, actionable claims
- Includes growing crops/grass to be severed

**Excludes** Money, Securities

## Services

- Anything other than goods
- Includes just the transaction in money in relation to currency conversion done for a consideration

**Excludes** Money, Securities

## Whether goods or service?

- ▶ Actionable Claims?
- ▶ Software?
- ▶ Immovable property?



# SCHEDULE III

Activities – not Supply at all

## Employment

- Services by an employee to an employer in the course of or in relation to his employment

## Courts

- Services by any court or tribunal established under law for the time being in force

## Land

- Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building

## Funeral

- Services of funeral, burial, crematorium or mortuary including transportation of the deceased

# SCHEDULE III

Activities – not Supply at all

## **Elected Representatives/ Government officials**

- Functions performed by an MP, MLA, members of panchayats, municipalities and local authorities
- Person who hold post under constitution
- Duty by any person as chairman/ member/director in a body established by CG/ SG or local authorities

## **Actionable Claims**

- Actionable claims, other than lottery, betting and gambling

# SCHEDULE III

Activities – not Supply at all

## Supply of goods - NTT

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

## Warehouse sales

### High sea sales

Supply of warehoused goods to any person before clearance for home consumption

Endorsement sales – after goods dispatched from foreign country but before clearance for home consumption

## **Composite supply**

The following composite supplies shall be treated as a supply of services, namely:—

(*a*) works contract as defined in clause (119) of section 2; and

(*b*) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.

# Composite & Mixed Supply

## Composite Supply

A composite supply comprising two or more taxable supplies, one of which is a principal supply, shall be treated as a supply of such principal supply



## Mixed Supply

A mixed supply comprising two or more supplies shall be treated as supply of that particular supply which attracts the highest rate of tax





# Continuous Supply of Goods

Sec 2 (32) -

Means - a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify

# Continuous Supply of Services

Sec 2 (33) -

Means - a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify

# Concept of Credit

The nuances of –

CGST Credits

SGST Credits

UTGST Credits

IGST Credits

# Concept of ITC utilization

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<i><b>Set off ITC</b></i>	<i><b>Towards payment of</b></i>
S/UT GST	S/UT GST / IGST
CGST	CGST / IGST

# Reverse Charge – Liability to pay GST is in the hands of Recipient of Supply





**Reverse Charge?  
Joint Charge?  
Tax liability discharge?**

**I know 'Recharge' for  
mobile... What is this -  
Reverse Charge?**



**Reverse Charge?  
Joint Charge?  
Tax liability discharge?**



**I know only one  
charge – LATHI  
CHARGE!!**

# Sec 2 (98) of CGST Act - “reverse charge”

—

means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9, or under sub-section (3) or sub-section (4) of section 5 of the Integrated Goods and Services Tax Act



**What is the serious effect of Section 9 (3) and Section 9 (4) RTW relevant provisions of IGST Act?**

**Recipient of Supply is responsible .**



*What does Sec 9 (3) say?*

*The Government may notify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and...*



*What does Sec 9 (4) say?*

*(4) The central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and...*



*... all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both*





What do you know about service tax liability arising in respect of GTA Service?

=> Generally GTA will not pay!!

Jokes apart...

Specified persons who happen to be service recipients shall pay GTA related service tax if they pay freight.

**GTA Service rendered to-**  
Registered Factory  
Registered Society  
Registered Co Op Society  
Registered GST Assessee  
Any registered body corporate  
Registered or unregistered Firm  
Any Casual Taxable Person



# Who has to pay to GTA Related GST to Government??

Registered Factory

Registered Society

Registered Co Op Society

Registered GST Assessee

Any registered body corporate

Registered or unregistered Firm

Any Casual Taxable Person

- located in taxable territory



# *Reverse Charge mechanism -*



*Sponsorship Service by any  
person to any body corporate or  
partnership firm*

**Services provided or agreed to be provided by,-**

- an arbitral tribunal**
- an individual advocate (including senior advocate) or a firm of advocates by way of legal services / by way of representational services to**

**a business entity**

**(Should you note seriously anything from exemption**

**Notification 12/2017**

**CT (R)?)**



**Who shall pay for services of Arbitral Tribunal or advocate?**

**Any business entity located in the taxable territory**



***I don't understand the meaning  
of the terms 'business entity' or  
'body corporate'. Please  
explain...***





## **Which is a business entity?**

**Sec 2 (17) reads the definition for the term business in length to encompass all possible activities**

**(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 sub-clause (a);**

**(c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction...**

**Ref: Notification 13/2017 - CTR –**

**“body corporate” has the meaning assigned to it in clause (11) of section 2 of the Companies Act, 2013**



***Whether services by the Government to a business entity is causing reverse charge?***

***Yes.***

***But, not the following...***



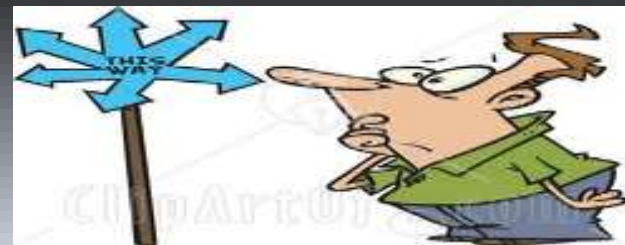
- Other specified services –

(i) by Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority;

(ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;

(iii) transport of goods or passengers.

***Note: Rent paid to CG/SG/LA causes RCM liability to registered person.***



*Services supplied by a director of a company or a body corporate to the said company or the body corporate –*

*GST to be paid by such company or body corporate*



**Directors services to the company –  
whether salary or not  
Whether taxable or not ?**



A service recipient, who has to meet his GST liability on reverse charge basis, pays by mistake the entire GST to the supplier. Anyhow, the entire tax has been remitted to the credit of the Government. Is there any trouble to the supplier yet?



Category of Supply of Services	Supplier of service	Recipient of Service
Services supplied by an insurance agent to any person carrying on insurance business.	An insurance agent	Any person carrying on insurance business, located in the taxable territory.
Services supplied by a recovery agent to a banking company or a financial institution or a nonbanking financial company.	A recovery agent	A banking company or a financial institution or a non-banking financial company, located in the taxable territory.





Category of Supply of Services	Supplier of service	Recipient of Service
Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Any person	Promoter
Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter	Any person	Promoter
Security services (from 01.01.2019)	Other than body corporate	Registered recipient in TT

Category of Supply of Services	Supplier of service	Recipient of Service
Services provided by way of renting of a motor vehicle provided to a body corporate (From 01 10 2019)	Any person other than a body corporate, paying central tax at the rate of 2.5% on renting of motor vehicles with input tax credit only of input service in the same line of business	Any body corporate located in the taxable territory
Security lending (From 01 10 2019)	Lender	Borrower
Individual Direct Selling Agent service (27.07.2018)	Individual direct selling agent	Banking or NBFC in TT
Business Facilitator (01.01.2019)/ Business correspondent agent service	Business Facilitator / Agent of Business Correspondent	Banking company / Busi. Corre

Category of Supply of Services	Supplier of service	Recipient of Service
<p>Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like.</p>	<p>Author<sup>^</sup> or music composer, photographer, artist, or the like</p> <p><b><sup>^</sup>Note the change from 01.10.2019</b></p>	<p>Publisher<sup>^</sup>, music company, producer or the like, located in the taxable territory.</p>



# Whether GST credit can be used for paying GST reverse charge?

No.

Why?

Refer Sec 49 (4) and Sec 2 (82)



*QUESTIONS?*







# Point of Taxation (Time of Supply)

goods  
&  
service  
tax

-CA. Prasanna Krishnan. V



**Time and Tide wait for None**

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**Time of  
Supply of  
Goods  
(Sec 12)**



**Date of/  
Last date for  
issue of Invoice  
Ref: Sec 31 ~~(1)~~**

**Date of payment  
received by  
Supplier**

Excess Amt Recd  $\leq$  Rs 1000, when  
compared with Invoice value, supplier  
may opt to TOSG to be Date of Invoice  
for such amount



**Time and Tide wait for None**



**Tax too!**

# What does Sec 31 say?

31. (1) A registered person supplying taxable **goods** shall, before or at the time of,—

(a) removal of goods for supply to the recipient, where the supply involves movement of goods; or

(b) delivery of goods or making available thereof to the recipient, in any other case, issue a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed

# What does Sec 31 say?

Government may notify the categories of goods or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed

# Few Explanations

- ◆ Explanation 1.—For the purposes of clauses (a) and (b), “supply” shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.
- ◆ Explanation 2.—For the purposes of clause (b), “the date on which **the supplier** receives the payment” shall be the date on which the payment is entered in his books of account or the date on which the payment is credited to his bank account, whichever is earlier.



## TOSG in case of **Reverse Charge** –

(a) the date of the receipt of goods; or

(b) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or



# TOSG in case of **Reverse Charge** (Contd) –

(c) the date immediately following thirty days from the date of issue of invoice (??) or any other document, by whatever name called, in lieu thereof by the supplier:



## TOSG in case of **Reverse Charge** (Contd) –

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b) or clause (c), the time of supply shall be the date of entry in the books of account of the recipient of supply



## **Supply of Vouchers -**

- a) the date of issue of voucher, if the supply is identifiable at that point; or
- (b) the date of redemption of voucher, in all other cases





## **TOSG when above mentioned could not be determined -**

- (a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or
- (b) in any other case, be the date on which the tax is paid



## **TOSG in respect of Interest / Late Fee / Penalty for late payment of consideration -**

The date on which the supplier receives such addition in value.



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**Time of  
Supply of  
Services  
(Sec 13)**



**Date of Invoice - If  
issued as per Sec  
31\***

**Date of Provision  
of Service if invoice  
not issued as per  
Sec 31\***

**If both do not apply, Date of Receipt of  
service as recorded by recipient**

Excess Amt Recd  $\leq$  Rs 1000, when compared  
with Invoice value, supplier may opt to TOSS  
to be Date of Invoice for such excess amount

# What does Sec 31 say as to Services?

A registered person supplying **taxable services** shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed

# What does Sec 31 say as to Services?

The Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, specify the categories of services in respect of which—

- (a) any other document issued in relation to the supply shall be deemed to be a tax invoice; or
- (b) tax invoice may not be issued

# Few Explanations

- ♦ (i) the supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment;
- ♦ (ii) **“the date of receipt of payment”** shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, **whichever is earlier.**



## TOSS in case of **Reverse Charge** –

- (a) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or
- (b) the date immediately following **sixty days** from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier

## TOSS in case of **Reverse Charge** –

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b), the time of supply shall be the date of entry in the books of account of the recipient of supply:





## TOSS in case of **Reverse Charge** –

Provided further that in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.



## Supply of Vouchers -

- (a) the date of issue of voucher, if the supply is identifiable at that point; or
- (b) the date of redemption of voucher, in all other cases



## **TOSS when above mentioned could not be determined -**

- (a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or
- (b) in any other case, be the date on which the tax is paid



## **TOSS in respect of Interest / Late Fee / Penalty for late payment of consideration -**

The date on which the supplier receives such addition in value.



## **Change in the rate of Goods / Services / Both –**

(a) in case the goods or services or both have been supplied before the change in rate of tax,—

(i) where the invoice for the same has been issued and the payment is also received after the change in rate of tax, the time of supply shall be the date of receipt of payment or the date of issue of invoice, whichever is earlier; or

(ii) where the invoice has been issued prior to the change in rate of tax but payment is received after the change in rate of tax, the time of supply shall be the date of issue of invoice; or

(iii) where the payment has been received before the change in rate of tax, but the invoice for the same is issued after the change in rate of tax, the time of supply shall be the date of receipt of payment



**Shall we quickly try to tabulate and simplify thereby –**

**For example**

**Old rate of GST – till 30.06.2018**

**New rate of GST – From 01.07.2018**



<b>Situat ions</b>	<b>Supplied on</b>	<b>Invoice Raised</b>	<b>Payment Received by Supplier</b>	<b>Point of Taxation (TOS)</b>
<b>A</b>	<b>28-06-2018</b>	<b>03-07-2018</b>	<b>10-07-2018</b>	<b>03-07-2018</b>
<b>B</b>	<b>28-06-2018</b>	<b>30-06-2018</b>	<b>10-07-2018</b>	<b>30-06-2018</b>
<b>C</b>	<b>28-06-2018</b>	<b>03-07-2018</b>	<b>30-06-2018</b>	<b>30-06-2018</b>
<b>D</b>	<b>03-07-2018</b>	<b>28-06-2018</b>	<b>05-07-2018</b>	<b>05-07-2018</b>
<b>E</b>	<b>03-07-2018</b>	<b>28-06-2018</b>	<b>30-06-2018</b>	<b>28-06-2018</b>
<b>F</b>	<b>03-07-2018</b>	<b>04-07-2018</b>	<b>28-06-2018</b>	<b>04-07-2018</b>

# What is the date of payment

The date on which the payment is entered in the books of account of the supplier **or** the date on which the payment is credited to his bank account, whichever is earlier.



# When to refer bank account?

Provided that the date of receipt of payment shall be the date of credit in the bank account if such credit in the bank account is after four working days from the date of change in the rate of tax

# What is the date of payment

The date on which the payment is entered in the books of account of the supplier **or** the date on which the payment is credited to his bank account, whichever is earlier.

*QUESTIONS?*



**THANK YOU!**

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