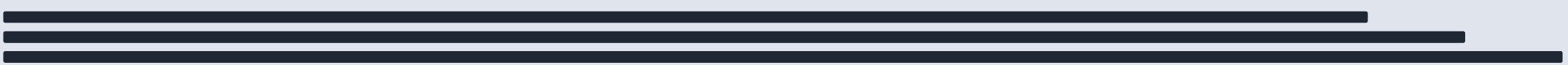

Ernakulam Branch of SIRC of ICAI

Zero Rated Supplies and Exempted Supplies – Compliances and Treatment

- CA. Shaikh Abdul Samad. A





V / s.





ZERO RATED SUPPLY

Sec. 16 of the IGST Act, 2017

Sec. 16 of the IGST Act, 2017 | Zero rated supply



export of goods

supply to SEZ U/D

export of services

Supplier is eligible for:

- Avail ITC notwithstanding that such supply may be an exempt supply. (subject to Sec. 17 (5) of the CGST Act, 2017)
- Claim refund of the taxes paid/ITC availed as per Sec. 54 (3) of the CGST Act, 2017.



Supplier of exempted supply is eligible for:

- Avail ITC. (subject to Sec. 17 (5) of the CGST Act, 2017)
- furnishing a bond or LUT = ?
- Claim refund of ITC availed as per Sec. 54 (3) of the CGST Act, 2017.
- PARA No. 49 of the Clarification No. 125/44/2019 – GST dated 18.11.2019



EXPORT OF GOODS

Sec. 2 (5) of the IGST Act, 2017

Sec. 2 (5) of the IGST Act, 2017 | export of goods



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

Compliance:

- Rule 89 (2) (b) of the CGST Rules, 2017
- Rule 96 (10) of the CGST Rules, 2017.
- Rule 96 A of the CGST Rules, 2017
- Section 16 of IGST Act, 2017 read with rule 96 B of the CGST Rules, 2017.

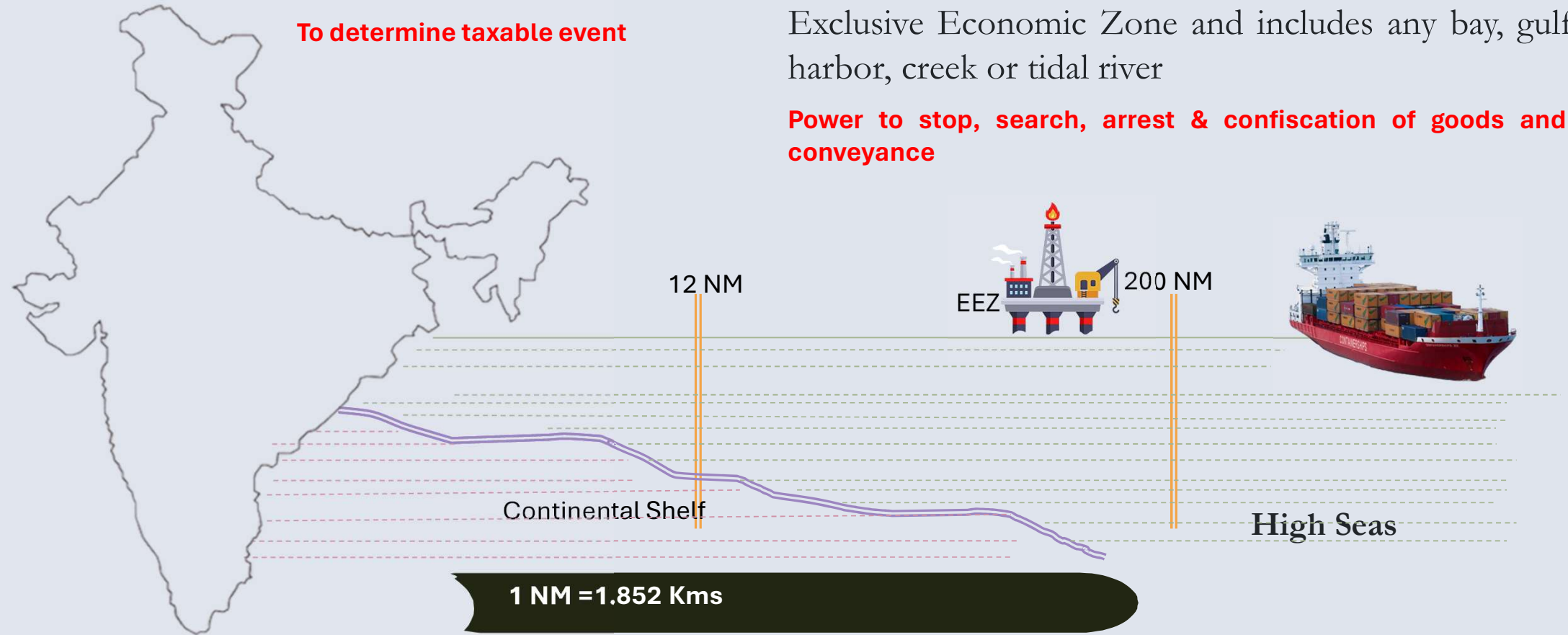
India & Indian Customs Water

India Includes Territorial water of India (i.e., up to 12 NM)

To determine taxable event

Indian Customs Waters Includes waters extending into the sea up to 200 NM including Continental Shelf, Exclusive Economic Zone and includes any bay, gulf, harbor, creek or tidal river

Power to stop, search, arrest & confiscation of goods and conveyance



1 NM = 1.852 Kms



- Sending/taking the goods out of India for exhibition or on consignment basis for export promotion, except when such activity satisfies the tests laid down in Schedule I of the CGST Act (hereinafter referred as “exported goods”), **do not constitute supply** as the said activity does not fall within the scope of section 7 of the CGST Act, 2017 as there is **no consideration at that point in time.**
- Since such activity is not a supply, the same cannot be considered as ‘Zero rated supply’.



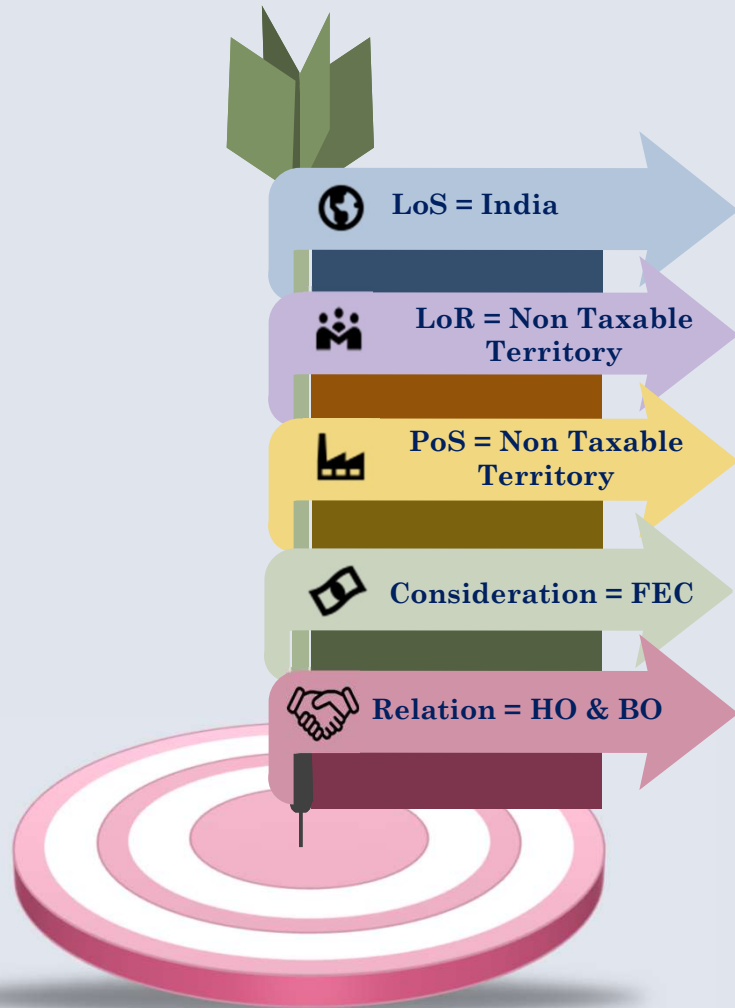
EXPORT OF SERVICES



Sec. 2 (6) of the IGST Act, 2017



Sec. 2 (6) of the IGST Act, 2017 | export of services:



Compliance:

- Rule 89 (2) (c) of the CGST Rules, 2017
- Rule 96 A of the CGST Rules, 2017

Instruction & by the C.B.I.&C

- **03/2022-GST** dated 14th June, 2022 – FIRC/other related documents evidences receipts.
- **202/14/2023-GST** dated 27.10.23 – export proceeds in INR from the Special Rupee Vostro Accounts of correspondent bank(s) of the partner trading country.
- **78/52/2018-GST** dated 31.12.18 – Net Receipt allowed.
- **161/17/2021-GST** dated 20.09.21 – HO & BO relationship.
- **159/15/2021-GST** dated 20.09.21 - Sub-contracting for a service.

Sec. 2 (14) location of the recipient of services -

- (a) where a **supply is received at a place of business** for which the registration has been obtained, the location of such place of business;
- (b) 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;
- (c) 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
- (d) in absence of such places, the location of the **usual place of residence of the recipient**;

Sec. 2 (15) location of the supplier of services -

- (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 provision of the supply; and
- (d) in absence of such places, the location of the **usual place of residence of the supplier**;



SUPPLY TO SEZ UNIT/DEVELOPER

Sec. 51 (1) of the SEZ Act, 2005



Sec. 2 (19) of the IGST Act, 2017 | Special Economic Zone (SEZ):



“**Special Economic Zone**” shall have the same meaning as assigned to it in clause (za) of Section 2 of the Special Economic Zones Act, 2005.

In Simple Words, A Special Economic Zone (SEZ) is a dedicated zone wherein businesses enjoy **simpler tax** and **easier legal compliances**. SEZs are located within a country's national borders. However, they are treated as a foreign territory for tax purposes.

Sec. 2 (c) of the SEZ Act, 2005 | authorised operations:

The CBIC vide Circular No. **48/22/2018** dated 14.06.2018 clarifies when a transaction qualifies as Supply to SEZ .

The supplies to a SEZ developer or a SEZ unit shall be **zero rated** and the supplier shall be eligible for refund of unutilized input tax credit or integrated tax paid, as the case may be, only if such supplies have been received by the SEZ developer or SEZ unit for authorized operations.

As per section 17(5) of the CGST Act, if event management services, hotel, accommodation services, consumables etc. are received by a SEZ developer or a SEZ unit for authorised operation, the benefit of zero-rated supply shall be available in such cases to the **supplier**.



INPUT TAX CREDIT

vis-a-vis

GST REFUND

ATC Tires (P.) Ltd. [2022] 138 taxmann.com 2 (Madras)

SE Forge Ltd. [2023] 148 taxmann.com 37 (Gujarat)

Zero Rated Supply

Export of Goods U/s. 2 (5) of IGST Act, 2017

Circular No. 108/27/2019-GST dt 18.07.2019

Export of Services U/s. 2 (6) of IGST Act, 2017

Circular No. 161/17/2021-GST dt 20.09.2021

Supply of goods or services or both to developer of / unit in SEZ - U/s. 2 (m) of SEZ Act, 2017

Circular No. 48/22/2018-GST dt 14.06.2018

Rule 89(4)

Execute LUT and claim refund of accumulated ITC (subject to rule 96A & 96B)

(Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) X Net ITC
Adjusted Total Turnover



EXEMPTION

Sec. 2 (44) of the GST Act, 2017



“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.

No Supply
?

NO SUPPLY



Definition of

Goods / Service

- Securities
- Money

Schedule III

- Employee Services under Employment Agreement. ...
- Services by Court or Tribunal. ...
- MP or Person in a constitutional post or government post. ...
- Funeral and related services. ...
- Sale of land and/or completed building. ...



TYPE OF EXEMPTIONS



Sec. 2 (44) of the GST Act, 2017



NIL RATED SUPPLY

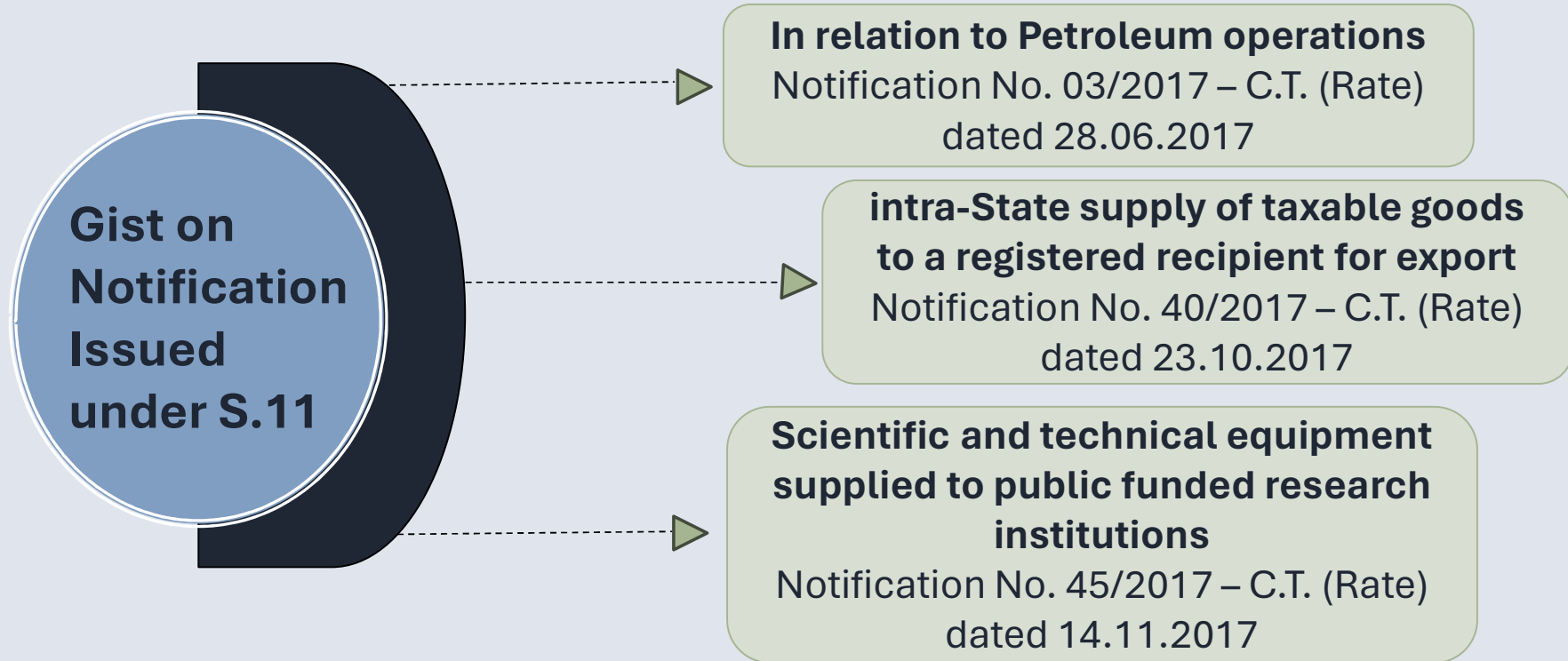
Sl. No.	Heading	Description of Service
(1)	(2)	(3)
16	9972	<p>(i) Services by the Central Government, State Government, Union territory or local authority to governmental authority or government entity, by way of lease of land.</p> <p>(ii) Supply of land or undivided share of land by way of lease or sub-lease where such supply is a part of composite supply of construction of flats, etc. specified in the entry in column (3), against serial number 3, at items (i), (ia), (ib), (ic), (id), (ie) and (if) : Provided that nothing contained in this entry shall apply to an amount charged for such lease and sub-lease in excess of one third of the total amount charged for the said composite supply. Total amount shall have the same meaning for the purpose of this proviso as given in paragraph 2 of this notification.</p>
24	9986	(i) Support services to agriculture, forestry, fishing, animal husbandry.

NIL RATED SUPPLY

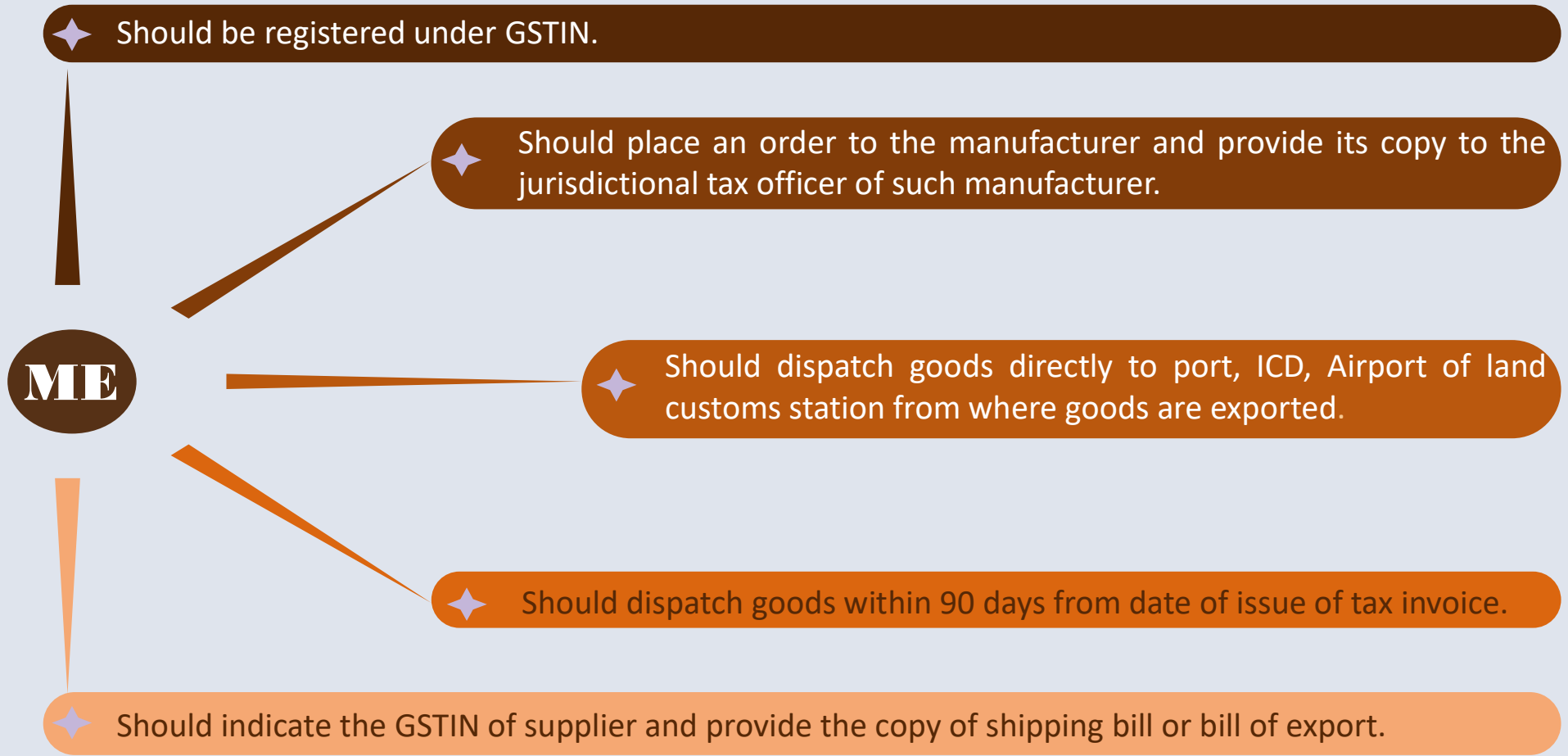
Explanation.—"**Support services to agriculture, forestry, fishing, animal husbandry**" mean

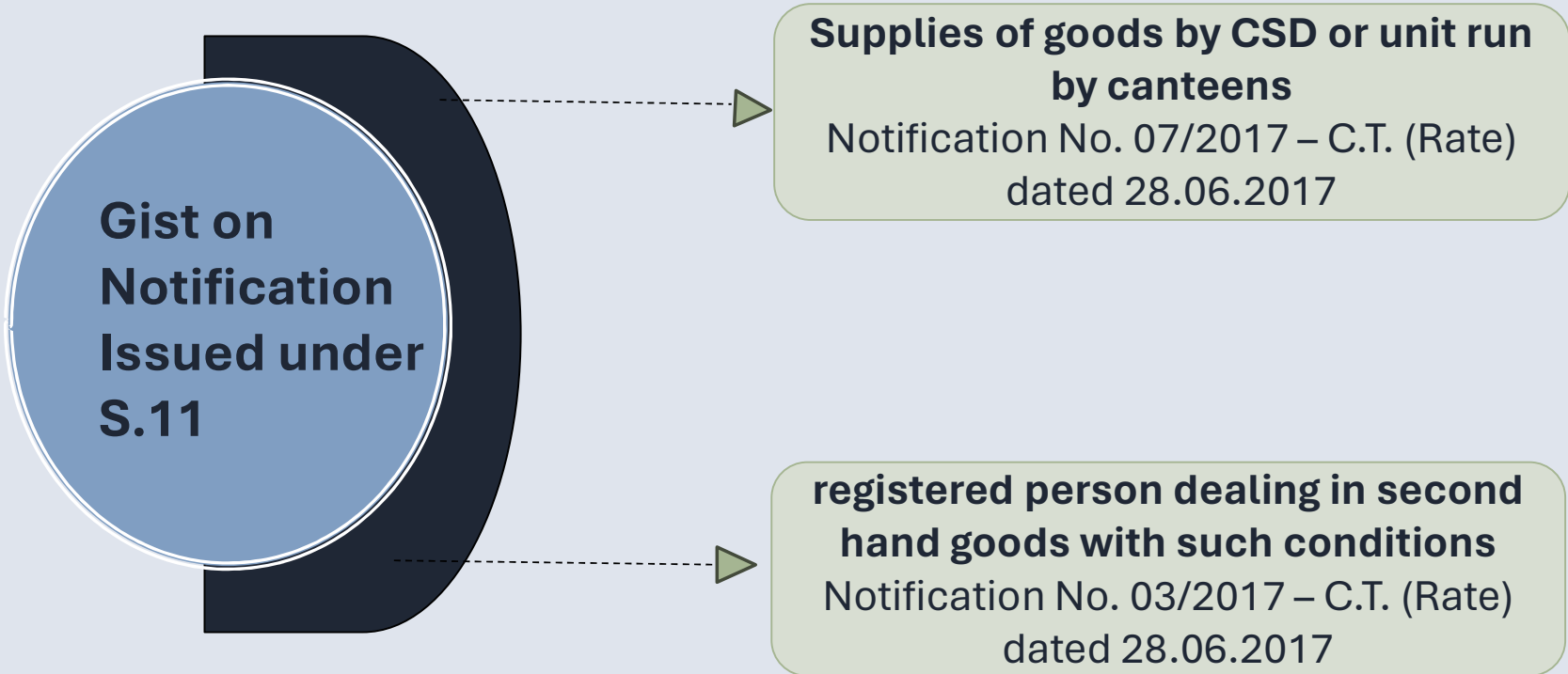
- | | |
|-------|---|
| (i) | Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of— |
| | (a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;
(b) supply of farm labour;
(c) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;
(d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;
(e) loading, unloading, packing, storage or warehousing of agricultural produce;
(f) agricultural extension services;
(g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce. |
| (ii) | Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables. |
| (iii) | Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce. |

Exempted Rate with ITC



MERCHANT EXPORTS





**Gist on
Notification
Issued under
S.11**

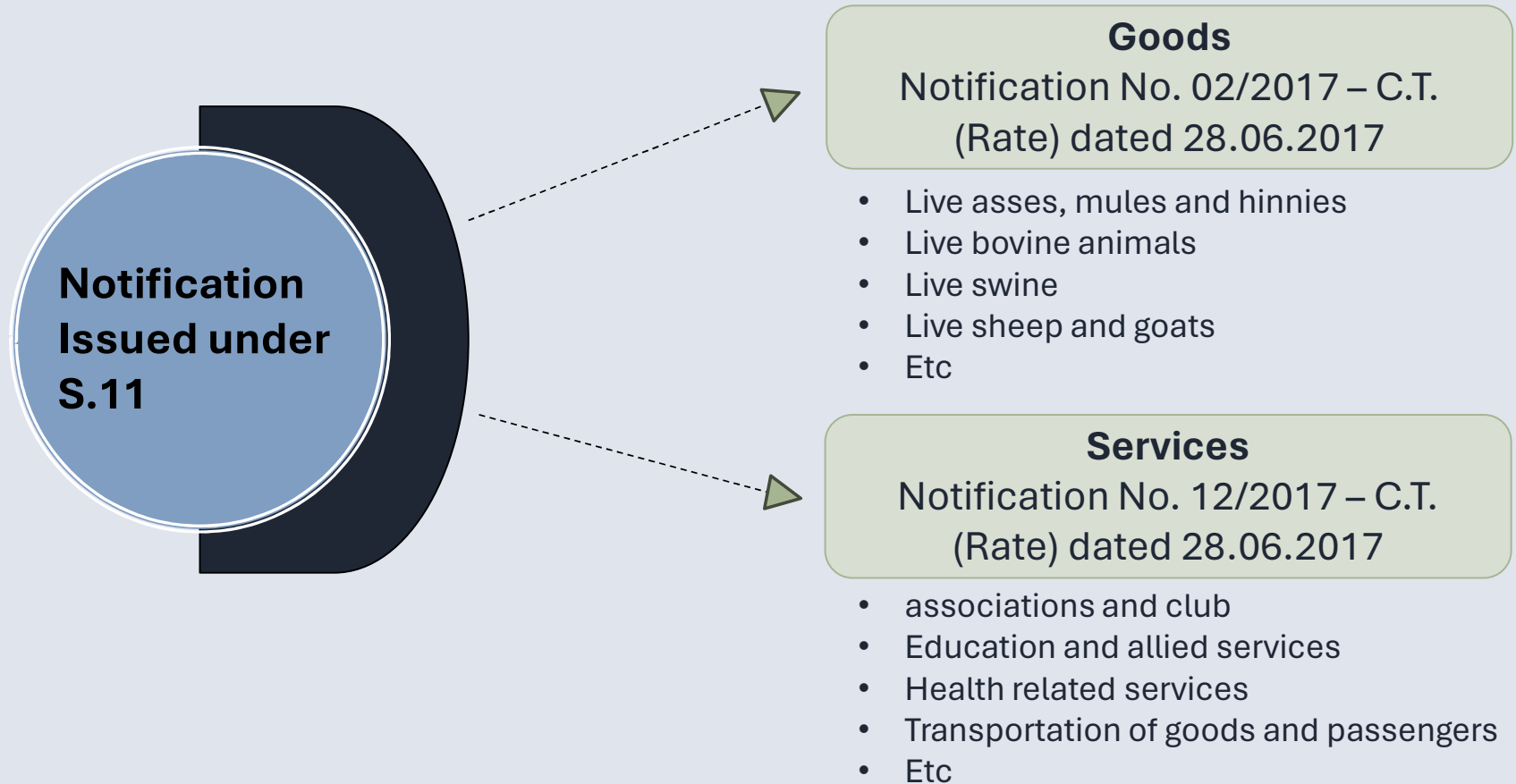
**Supplies of goods by CSD or unit run
by canteens**

Notification No. 07/2017 – C.T. (Rate)
dated 28.06.2017

**registered person dealing in second
hand goods with such conditions**

Notification No. 03/2017 – C.T. (Rate)
dated 28.06.2017

Wholly Exempted



EXEMPTION

vis-a-vis

REVERSE CHARGE



Apportionment **of credit**

Section 17 of the CGST Act, 2017
Rule 42 to 43 of the CGST Rules, 2017

Section 17 – Apportionment of credit

→ Partly for the purpose of any **Business** and partly for **Other Purposes**

→ Credit permissible proportionate to **Taxable Turnover** when compared with **Exempted Turnover**.

→ **Value of Exempt Supply** to be computed in accordance with Rule 42 and 43 of CGST Rules, 2017, AND

INCLUDES

- (1) supplies on which the recipient is liable to pay tax on reverse charge basis,
- (2) transactions in securities,
- (3) sale of land and,
- (4) subject to clause (b) of paragraph 5 of Schedule II, sale of building.

For the purpose of “**Exempt Supply**” **Schedule III items will not qualify** except the clause no. 5 as given above (sale of land & building).

Computation of the ITC to be reversed under section 17 of the CGST Act, 2017 read with rule 42 of the CGST Rules, 2017

PARTICULARS	IGST	CGST	SGST
Credit as per Books	XXXXX.XX	XXXXX.XX	XXXXX.XX
Less :			
→ used for purpose other than Business	XXXXX.XX	XXXXX.XX	XXXXX.XX
→ used for Exempted Supply	XXXXX.XX	XXXXX.XX	XXXXX.XX
→ listed U/s. 17 (5)	XXXXX.XX	XXXXX.XX	XXXXX.XX
→ used for Business (Incl. Zero Rated)	XXXXX.XX	XXXXX.XX	XXXXX.XX
Common Credit	XXXXX.XX	XXXXX.XX	XXXXX.XX

Computation of the ITC to be reversed under section 17 of the CGST Act, 2017 read with rule 42 of the CGST Rules, 2017

Common ITC availed during the tax period _____	AMOUNT (Rs. Pc.)	
→ IGST	YYYYY.YY	
→ CGST	YYYYY.YY	
→ SGST	YYYYY.YY	YYYYY.YY
Calculation of the Exempted Ratio as per Chapter V of the CGST Rules, 2017		
PARTICULARS	TURNOVER	
	As per GSTR 9	For Rule 42
Taxable Turnover (Inc. Zero Rated)	XXXXX.XX	XXXXX.XX
→ Nil Rated Turnover	XXXXX.XX	XXXXX.XX
→ Exempted Turnover (Interest & Govt. Scripts)	XXXXX.XX	-
→ Exempted Turnover (Excluding Interest & Govt. Scripts)	XXXXX.XX	XXXXX.XX
→ Exempted Turnover (RCM)	XXXXX.XX	XXXXX.XX
→ Non GST Supply	XXXXX.XX	XXXXX.XX
→ Value of Land (i.e. value adopted to pay stamp duty)	XXXXX.XX	XXXXX.XX
→ Value of Security (i.e. 1% of sale value)	XXXXX.XX	1% of Sale Value
TOTAL (A)		XXXXX.XX
RATIO (R)		ET / (A)
Amount to be reversed (Incl. Ineligible)		
→ IGST	YYYYY.YY X (R)	
→ CGST	YYYYY.YY X (R)	
→ SGST	YYYYY.YY X (R)	



**Do not pray for an easy life,
pray for the strength to
endeavor.**

- Bruce Lee

Thank You

CA. Shaikh Abdul Samad. A
WhatsApp : +91 93623 03408
Mobile No. : +91 76670 77467
samad@ssaca.in