



GST & WORKS CONTRACT

Definition of Works Contract under Section 2(119) of CGST Act, 2017

There is a “Contract” for

- - Building , construction
 - Fabrication, Erection
 - Installation
 - Fitting out
 - Improvement
 - Modification
 - Repair
 - Renovation or commissioning
- of **“any immovable property”**
- wherein **transfer of property in goods** is involved in the execution of contract.

Definition of Goods and Services

GOODS :

Means every kind of **MOVABLE** property

For example: TDR is a **movable** certificate which makes it taxable as it is Supply of **GOODS**.

SERVICES :

Means anything **other than Goods**

For Example: **Land** is an **Immovable** property thus it does not come under the definition of Goods but at the same time Services means anything other than Good thus Land transfer comes under the definition of **Services**.

As per Schedule III **LAND** Transfer is **not taxable** under GST

Classification into Goods or Service?

Nature of activity	Classification
Works Contract (Material +Labour)	Service
Sale of Building [Subject to Schedule II para 5 clause (b)]	Service
Labour Supply	Service
Land Sale	Not a Supply as per Schedule III
Renting of Property	Service
Sale of TDR	Goods

Scope of Supply

As per
Schedule II
Para 5 Clause
(b)-
**Building &
Development
is Service**

- **Construction of a complex, building, civil structure or a part thereof including a complex or building intended for sale to a buyer**
- **GST will not be applicable if the entire sale has been processed after issuance of completion certificate or First occupancy whichever is Earlier.**

Scope of Supply

As per
Schedule II
Para 6
Clause (a)-
**Works
Contract is
service**

- **Works contract including transfer of property in goods**
- **Whether as goods or in some other form**
- **Involved in the execution of a works contract**

Summarization of Scope of Supply

Real Estate / Works Contract

Which Involve Supply of Land and Building

Supply after completion of construction

It is sale of Immovable Property

NO GST

Supply before completion of construction

It is Supply of service

GST Leviable

Construction Services

Supply before or after work

It is Supply of service

GST Leviable

Tax Rate for Real Estate and Contractor in GST

Particulars	Tax Rate
Sale of Under Construction of Flat/ Unit Value (Affordable units) Note: Option to Pay Tax on uncomplete project as on 31 st March 2019 at 5% without taking ITC	18% (abatement 1/3 rd of Land available)
Works Contract	18%
Sale of Completed Flat after getting Occupancy Certificate	Not Taxable
Redevelopment of Society	18%
Labour Contract	18%
TDR Certificate	18%

Composite Supply

What is Composite Supply?

- Supply contains two or more goods/services which are **naturally bundled** in the ordinary course of business,
- one of which is a **principal supply**.

Taxability under GST

- The tax rate of the **principal supply** will apply on the entire supply

Example

In construction of building various products/services like cement, bricks, labour, marble, granite, architect, engineering etc. are all utilized and the rate applicable for whole contract will be the rate applicable for construction of building.

Mixed Supply

What is Mixed Supply?

- A combination of two or more individual supply of goods or services for a **single price** and the supply does not constitute composite supply.
- Each of these items can be supplied separately and is not dependent on any other.

Taxability under GST

A mixed supply will have the tax rate of the item which has the **highest rate** of tax.

Examples

A Diwali gift box consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink supplied for a **single price** is a mixed supply.

Reverse Charge Mechanism

RCM Means the liability to pay tax by the recipient of goods or services or both instead of the supplier of such goods or services or both

Cases where RCM Applies in case of works contract

Services supplied by any person by way of transfer of TDR or FSI

Long term lease of land (30 years or more)

Renting of immovable property from government

Cement purchase from unregistered person

Example of Reverse Charge:

1. Mr. A a Builder purchases TDR/ FSI for construction of building from Mr. B for Rs 10 Lakhs, in such a case Mr. B would not collect tax from Mr. A but Mr. A would pay GST @18% on Rs 10 Lakhs to Government in the return of the month in which TDR/ FSI is purchased.

Journal Entry:

TDR/ FSI A/c	Dr.	10 Lakhs	
	To, Mr A		10 Lakhs

GST on Reverse charge A/c	Dr.	1.8 Lakhs	
	To, Bank		1.8 Lakhs

ITC of tax paid under reverse charge can be utilized as soon as it is actually paid in cash.

Composition Scheme Under GST

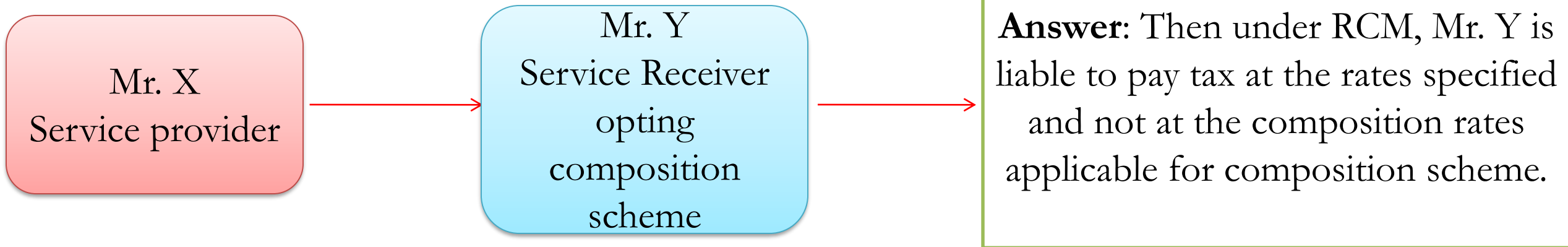
Who can opt for composition scheme?

- Trader or Manufacturer having aggregate turnover upto Rs 150 Lakhs in a preceding financial year and rate applicable is 1%
- Service Provider having aggregate turnover upto Rs 50 Lakhs in preceding Financial year and rate applicable is 6%

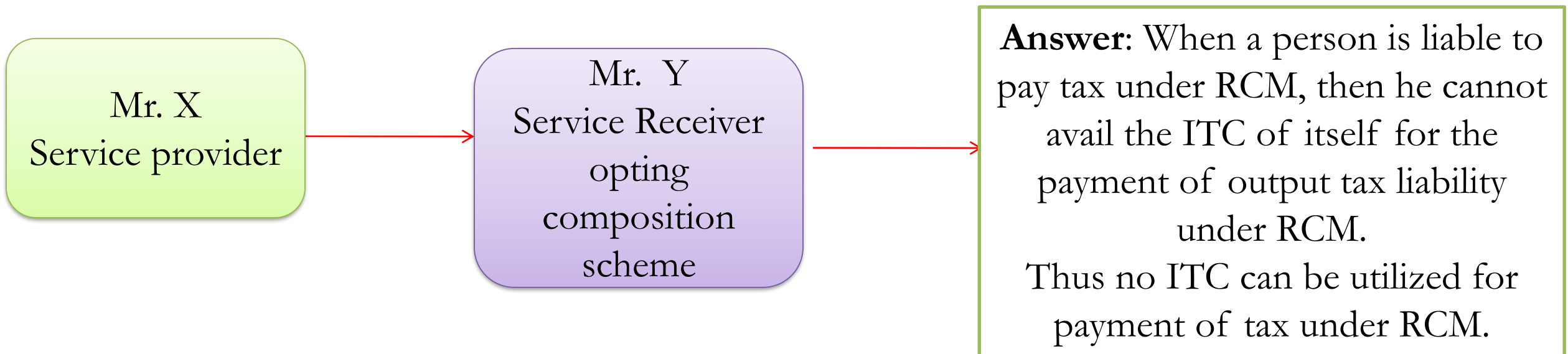
Works contract & Real Estate supply are treated as supply of services under GST and hence Composition scheme for Service provider is applicable.

Reverse Charge Mechanism along with composition scheme

Q Mr. A who is liable to pay tax under reverse charge mechanism & is opting for composition scheme, has to pay tax whether at the composition rates or at the normal rates applicable for such services?



Q Whether Mr.. Y liable to pay tax under RCM can avail its ITC for payment of RCM tax liability?



Exemptions

***Pure Labour**
Services for
construction or
enhancement under
“**Housing for All
(urban) Mission**” or
“**Pradhan Mantri
Awas Yojana**”

***Pure Labour**
Services of
Construction,
erection,
commissioning or
installation of a
**Single Residential
unit** not being a
residential Complex

RCM on purchase of
**TDR, FSI, Long
term lease of land**
are exempt subject to
condition that
Building or Flat
constructed are **sold
before** issuance of
completed certificate

Renting of
Residential property
for residential
Purpose

*Pure Labour: Which includes only
labour and no Material supply

Other Taxability to Builders

Service	Analysis	Taxability
Renting of Residential property for residential Purpose	Exempted by entry no.12 of exemption notification 12/2017	Not taxable
Renting of Residential property for commercial purpose or renting of commercial property	It is covered in renting service	Taxable @18%
Renting of terrace	It is covered in renting service	Taxable @18%
Hording/ advertisement	It is advertisement service	Taxable @18%
Repair of flat/ building	It is works contract service	Taxable @18%
Sale of waste scrap of Material	Scrap sale is supply of goods and liable to tax	Taxable @18%

Services Supplied
as “Pure Agent”
are not taxable
under GST Act

PURE AGENT

Agreement with recipient of supply to act as pure agent to incur expenditure or costs

Neither intends to hold nor holds any title to the goods or services so supplied to recipient of supply

Does not use for his own interest such goods or service so procured

Receives only the actual amount incurred to procure such goods or services

Example of Pure Agent :

1. Mr A a contractor provides full maintenance services of a society for a yearly fees of Rs 10,000. In relation to such services he purchased a lift of Rs 5 lakhs for the purpose of fitting to society. Thus Rs 5 Lakhs charge in the invoice will not be taxable.

Bill to be provided shall be as under:

Particulars	Amount
Taxable Value	10,000
CGST @9%	900
SGST @9%	900
Goods procured as Pure Agent:	
Lift	5,00,000
TOTAL	5,18,000

TDS



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Government Department shall deduct TDS @ 1% each of CGST and SGST if the value of contract exceeds 2,50,000.

Note: Limit of 2,50,000 shall not include GST amount and shall not include exempt supplies



ITC of such TDS deducted will be available in Cash Ledger

Examples of Supplies which a Contractor/Builder can provide

Supply	Analysis	Taxable/non taxable
Society membership fees	Membership Fees from its own members(above Rs 1,000)	Taxable @18%
Maintenance of building	If Received by Builder	Taxable @18% (Treated as supply of Service)
Maintenance charges	Received by society (above Rs 7,500)	Taxable @18%
Municipal tax collected	If no additional charges are collected	Not taxable as pure agent service
Flat cancellation charges	It falls under the definition of service	Taxable @18%
Parking Charges collected separately	It falls under the definition of service	Taxable @18%
TDR	It is an transfer of movable asset (subject to exemption notification)	Taxable @18% (Treated as supply of Goods)

Input Material Rate in GST

Material	Rate of GST
Cement	28%
Iron and Steel	18%
Ready Mix concrete	18%
Red Bricks	5%
Cement Bricks	18%
Sand lime Bricks	12%
Fly ash Bricks	5%
Refractory Bricks, Blocks, Tiles, Ceramic goods	18%
Façade Tough Glass	28%
Paint, Varnish, Putty, Wall Fillings, Ceramic Tiles	28%
Marble, Granite, etc	18%

Input Service Rate in GST

Service	Rate of GST
Works Contract Service	18%
Contract for Plumbing (With or Without Material)	18%
Contract for Labour Supply	18%
GTA	5%
Architect Service	18%
Engineer Service	18%
Advocate service	18%
Advertisement in print Media	5%
Advertisement from other	18%
Commission to Agent	18%
Renting of Machinery	18%

Input Tax Credit

Meaning

- Proper tax invoice or debit note issue
- Should received goods/ services
- Tax on input paid to govt.
- Has filed GST return

At the time of paying tax on output, you can reduce the tax you have already paid on inputs.

Condition

How to avail credit

**To pay
IGST**

Take input tax credit from IGST → CGST → SGST paid on output of goods or services.

**To pay
CGST**

Take input tax credit from IGST → CGST paid on output of goods or services.

**To pay
SGST**

Take input tax credit from IGST → SGST paid on output of goods or services.



When IGST is levied?

Interstate transfer means when **Location of Supplier** and **Place of Supply** is in 2 Different State or Union Territories.

Location of Supplier means **Principal Place of Business** of Supplier.

Special Cases of **Place of Business** relating to Works Contract and Real Estate:



Maharashtra

1. Supply Involving Assembly or Installation of **Goods** in Different State or Union Territory → Place of Supply will be the place where **actual installation takes place**.
2. Supply involving Renting or Sale of Immovable property → Place of Supply will be the **location of such Immovable property**



Gujarat

INTERSTATE WORK CONTRACT SERVICE

Example : High-tech company provides services of works contract in Maharashtra. It gets a new work in Gujarat. ITC provisions is explained as follows



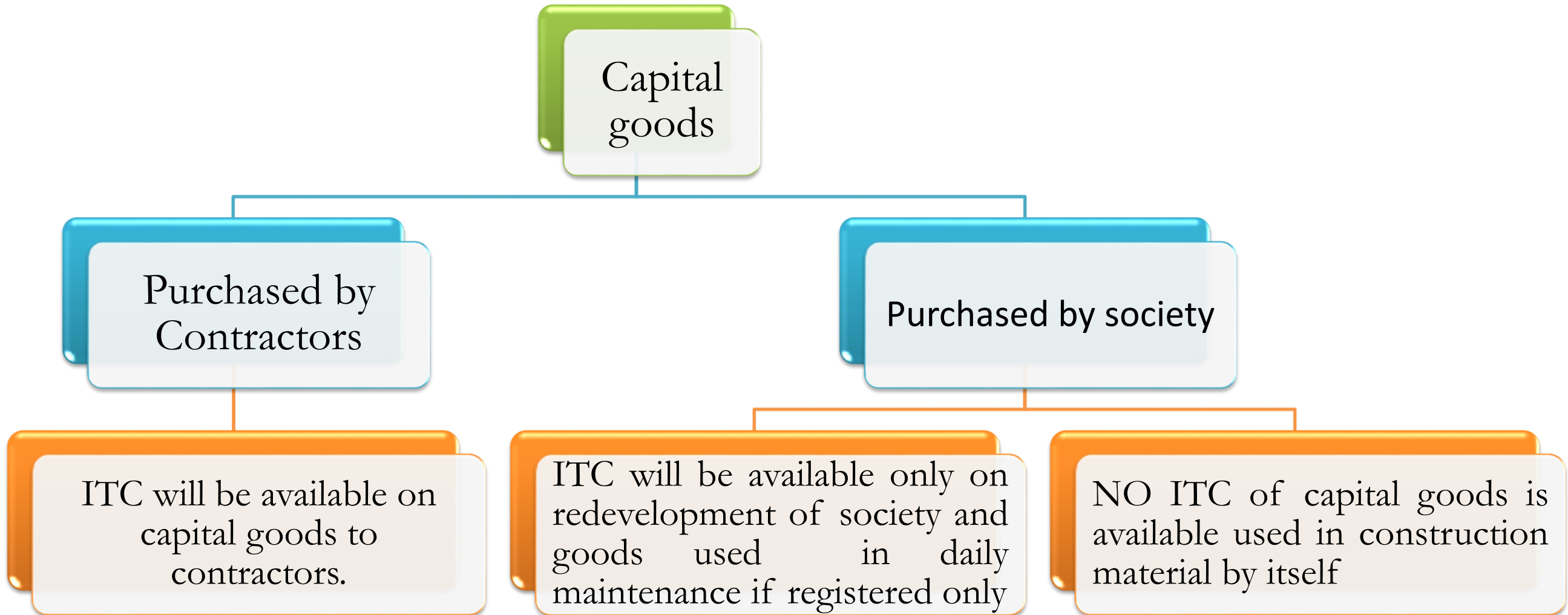
- Company can claim IGST set off easily while purchasing material in Maharashtra but could not get CGST & SGST setoff on material purchase from Gujarat itself.
- For this purpose of claiming input tax credit, it is required to take registration in Gujarat also.



Input Tax Allowed

Particulars	ITC allowed
Input Material	Full ITC Allowed
Input Service	Full ITC Allowed
Capital Goods	Full ITC Allowed
Tax Paid on RCM	Full ITC Allowed
TDS Deducted by Government Agency (in case of government contract only)	Full ITC in Electronic Cash Ledger

Capital Goods purchase



BLOCK CREDIT

Works Contract Services when supplied for Construction of an **Immovable Property EXCEPT** when it is an **Input Service** for Further Supply.

Goods or Services or both utilized for construction of Immovable Property on **his own account** (i.e. for personal purpose)

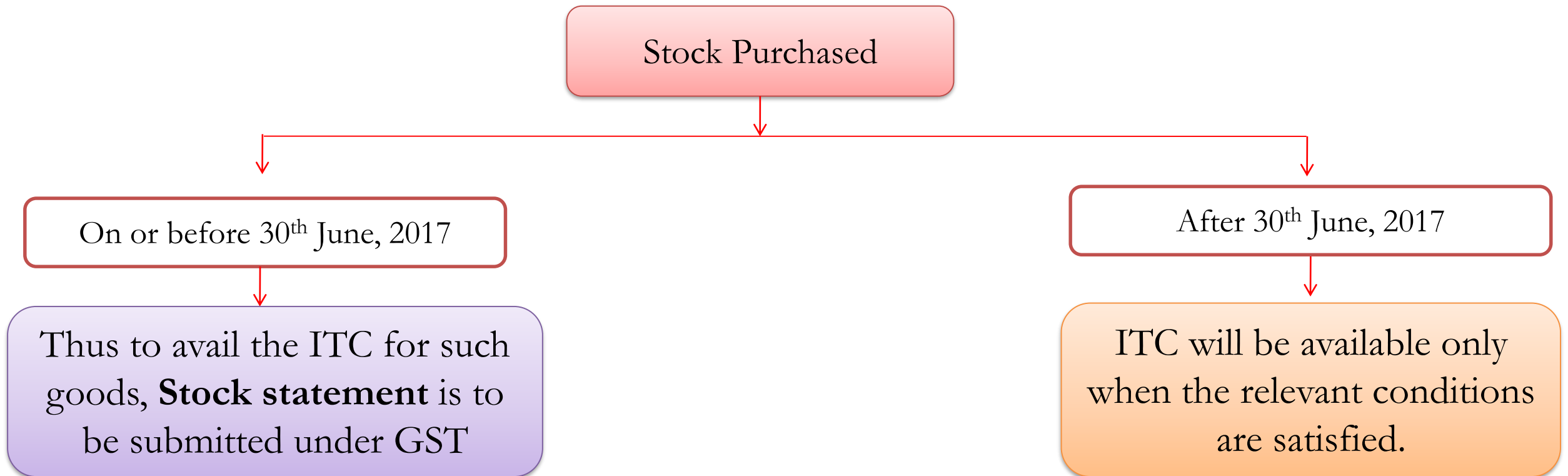
Thus a contractor or even a real estate builder can take **seamlessly ITC** of **all the inputs services or goods** procured/ utilized for construction services

ITC for Ongoing Construction

Illustration:

Mr. X is in providing Work Contract services and the construction of building is ongoing as on 30th June, 2017. Total Construction is of Rs.200 Lakhs and he has received Rs.50 Lakhs for the same. Thus the VAT paid on such 50 Lakhs is @ 5%. Thus the remaining amount that will be received on or after 30th June,2017 will attract **GST @ 18%**.

The ITC for the same will be dealt as follows





What is subcontract

- *One who takes a portion of a contract or a project as a whole from the principal contractor or from another subcontractor.*
- *In building construction ,subcontractors may include such trades as plumbing ,electrical ,roofing ,cement works and plastering.*

Sub-Contracting of Services (Input-service)

Example :- Mr. A took a construction contract from Mr. B for Rs 50 Lakhs+ GST @18%. Now suppose Mr. A subcontract the activity to Mr. C and Mr. C charges Rs 40 Lakhs+ GST @18% for such service.

**Contractor/
Builders
(Mr. A)**

Agreement between contractor and sub-contractor for
Rs 40 Lakhs + GST @18%

**Sub-contract of
Complete Building
(Mr. B)**

**Contractor/Builder
(Mr. A)**

Mr. A will take the **ITC** of Rs 7.20 Lakhs paid to Mr. C and total GST liability for Mr. A will be Rs 1.80 Lakhs i.e. 18% on margin of Rs. 10 Lakhs

**Sub-contractor
(Mr. B)**

**State
Government
GST= 0.90
Lakhs**

**Central
Government
GST= 0.90
Lakhs**

**Central
Government
GST=3.6 lakhs**

**State
Government
GST= 3.60
Lakhs**

Sub-Contracting of Various services

Following are the main services which are the input services liable for credit to the builder :

Painting	Fencing	Plumbing
Glassing	Decorator/ Architecture	Flooring
Insulating	Plastering	Installing/ Fixing furniture
Electrification	Piping	Excavating the foundation

Sub-contract (including material)

Material purchase by sub-contractor

Builder/Contractor will pay GST @18% on contract value

Sub-contract (excluding material)

Material purchase by builder

Builder/Contractor will pay GST on material purchase according to rates applicable and 18% on contract value (Labour supply)

Summary

No	PARTICULAR	CONDITION	PROVIDER	RECEIVER	GST	
					CGST	SGST
1	Construction services	Construction of complex, building , whole or in part intended for sale wholly or in part.	Contractor	Any person	9%	9%
2	Pure Labour Services	Providing only contractual Labour for construction	Contractor	Any person	9%	9%
3	Works contracts by way of construction , erection and other such services.	a) Supply for - <ul style="list-style-type: none"> • A historic monument • Archaeological site • Canal dam or other irrigation works. • Pipeline ,conduit or plant used for water supply or treatment. 	Contractor	Government	6%	6%
			Sub-contractor	Contractor	6%	6%

NO	CONTRACTS	CONDITION	PROVIDER	RECEIVER	GST	
					CGST	SGST
		b) Supply for – <ul style="list-style-type: none"> • A road , bridge, tunnel for road transportation for use by public. • Civil structure under PMAY*, JNNURM* or RAY* • Civil structure for existing slum dwellers, pollution control. • Structure meant for funeral, burial etc. Note: Improvement and Modification not included above.	Contractor	Any Person	6%	6%
		c) Supply for – <ul style="list-style-type: none"> • Educational, Clinical, art or cultural Civil structure • Residential complex 	Contractor	Government	6%	6%
			Subcontractor	Contractor	6%	6%

NO	CONTRACTS	CONDITION	PROVIDER	RECEIVER	GST	
					CGST	SGST
4	Composite supply Of works contracts	a) Earth Work i.e. constituting more than 75 % of the value of works contract.	Contractor	Government	2.5%	2.5%
			Sub-contractor	contractor	9%	9%
		b) Supply for offshore works contract relating to oil & gas exploration and production in the offshore area beyond 12 nautical miles from base line.	Contractor	Other than government	9%	9%
5	Works contracts by way of construction	Supply for – Pure Labour services for construction, erection, commissioning, installation, repair under PMAY or Housing for All (Urban) Mission	Contractor	Government	Exempt	Exempt
			Sub Contractor			

NO	CONTRACTS	CONDITION	PROVIDER	RECEIVER	GST	
					CGST	SGST
5	Construction services	Other	Contractor	Any	9%	9%
6	Real Estate	a) Sale of under construction Flat or Building (1/3 rd abatement of Land Value)	Builder	Any	9%	9%
		b) Sale of under construction Flat or Building after 31 st March 2019 without taking ITC (OPTIONAL)	Builder	Any	2.5%	2.5%
7	Real Estate	Sale of TDR (RCM payable) [Subject to exemption notification]	Any person	Builder	9%	9%

Abbreviations :

- 1) **PMAY** - Pradhan Mantri Awas Yojana ,
- 2) **JNNURM** - Jawaharlal Nehru National Urban Renewal Mission ,
- 3) **RAY** - Rajiv Awaas Yojana.



Q. 1) The builders receive refundable deposits and other charges under the agreement such as electricity deposit, water charges, etc. Whether such receipts will also form part of sale price for GST?

Answer - The amounts which are received as refundable deposits will be a taxable only when it is set off against the consideration actually payable.

Q. 2) Can the GST applicable in above cases be collected by raising a debit note or the same should be mentioned in the agreement itself? Whether GST should be collected on each installment or at one go upon execution of the agreement?

Answer - Yes. It can be collected by raising a debit note. Specific mention in the agreement is a choice of the contracting parties. GST will be payable when it is set off.



Q. 3) What will be the GST implications where mere advances are received from buyers and agreement for sell is not executed with the buyer?

Answer – Advance received for **services** is **taxable** when it is actually received but advance received for **Goods** are **not taxable** as per NN. 66/2017. Since works contract is supply of Service thus advance received is taxable.

Q. 4) GST has been charged to customer and deposited with department. Later, customer surrenders the booking and refund is made to him. What are the implications in GST?

Answer – Total refund has to be given to customer and in next month we are required to pay GST amount reduced by that amount paid to department early.

Q. 5) Whether GST is payable on tenancy premium received on which Stamp Duty had already been paid?

Answer – Tenancy premium received is a Supply and is Taxable whether or not Stamp Duty had been paid or not.



Thank
you



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