



FCA Vishal G Poddar
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National Award: Distinguished GST Trainer, 2018

For being involved with Training of Professional Students, Professionals, Corporates & GST Officials.

Conducted: **500+** Sessions &

100+ webinars on GST Across India

Awarded 'Tejas Puraskar 2020' – Jury Award

Background

- ▶ Mr. Vishal is a Partner with S.S.Mutha & Company in the Tax & Assurance Practice with special focus on indirect taxes since 2003
- ▶ He is a Post Graduate in Commerce from Pune University and a member of the Institute of Chartered Accountants of India.
- ▶ He has been empanelled as a **GST trainer by ICAI** for undertaking GST related trainings.
- ▶ He is a regular speaker with Industry Forums on budget, regulatory, GST related Issues.

Skills

- ▶ Mr. Vishal is an experienced resource on matters relating to Excise, Service Tax, State VAT/CST and Goods and Service Tax(GST)
- ▶ Mr. Vishal has significant experience in providing advisory service to clients for combination of various indirect taxes as well as on providing review and compliance support.
- ▶ **Faculty (For GST Officer) at NACIN**
- ▶ He is also an eminent speaker in various forums such as **SRTEPC, SIMA, SISPA, GSTPAM, Texprocil, MACCIA, CREDAI, WMPA**, Maharashtra Sales Tax Practitioners, Institute of Chartered Accountants of India etc.

Professional experience

- ▶ Mr. Vishal has been involved in various **GST, Excise, Sales Tax, Service Tax related advisory and compliance work.**
- ▶ He has advised clients on **transaction structuring** to avail the concessions/benefits on imports, incentives on exports, minimise outflow of GST, Excise, Sales Tax and Service Tax
- ▶ Mr. Vishal has also **handled legal disputes/ representations** for various clients before various GST Commissionerate. He is also involved in due-diligence exercises and Indirect tax Health check assignment
- ▶ He has **advised** various developers and **clients in setting up of SEZs**, and has provided advisory services in SEZ related regulations.
- ▶ He is also involved in imparting trainings for its clients covering all their supply chains to make them aware about the changes brought by the GST legislations and its subsequent impact on the business
- ▶ **Functional Expertise** include:
 - **GST and its impact;**
 - Central Excise – **Classification, Valuation;**
 - Service Tax – Applicability, Valuation/Sales tax advisory

Professional achievement

- ▶ He has **completed Chartered Accountancy Course** at an early age of 21
- ▶ He is also engaged in **tutoring various professional students**; till date 2000 students have been qualified in professional courses out of **which 63 Students have secured All India Rank**
- ▶ Served as Member of Indirect Tax Committee of WIRC, ICAI

Professional Acumen

- ▶ He has developed **GST Audit Manual** for Professionals and GST Officers
- ▶ He is expertised in **Business Process Reengineering** to develop models for aligning GST, Income Tax & IND AS compliances.
- ▶ He is involved in **Transaction Restructuring** for different sensitive sectors
- ▶ Contributes Articles to Leading Newspapers, Online Taxation Websites, Chamber's/Association's Journals.
- ▶ **Personal Attributes**
 - ▶ Represented School & College in Cricket & Football
 - ▶ Completed YOGA Level II
 - ▶ Participating in Dramatics & Stage Performances
 - ▶ Won Awards in Elocution Competitions & Debates



PLACE OF SUPPLY

CHAP V OF IGST ACT

Virtual CPE Meeting on
Indirect Tax Refreshers Course

Pune Branch of WIRC of ICAI

Date: 12th June 2021

Deliberation by :

FCA Vishal.G.Poddar

Tri Dev of Taxation

- Brahma - Parliament - Law Maker
- Vishnu - Consultants / Department Officials - Implementing
- Mahesh - Judiciary - Interpretiting/Amending laws

Agenda for Discussion

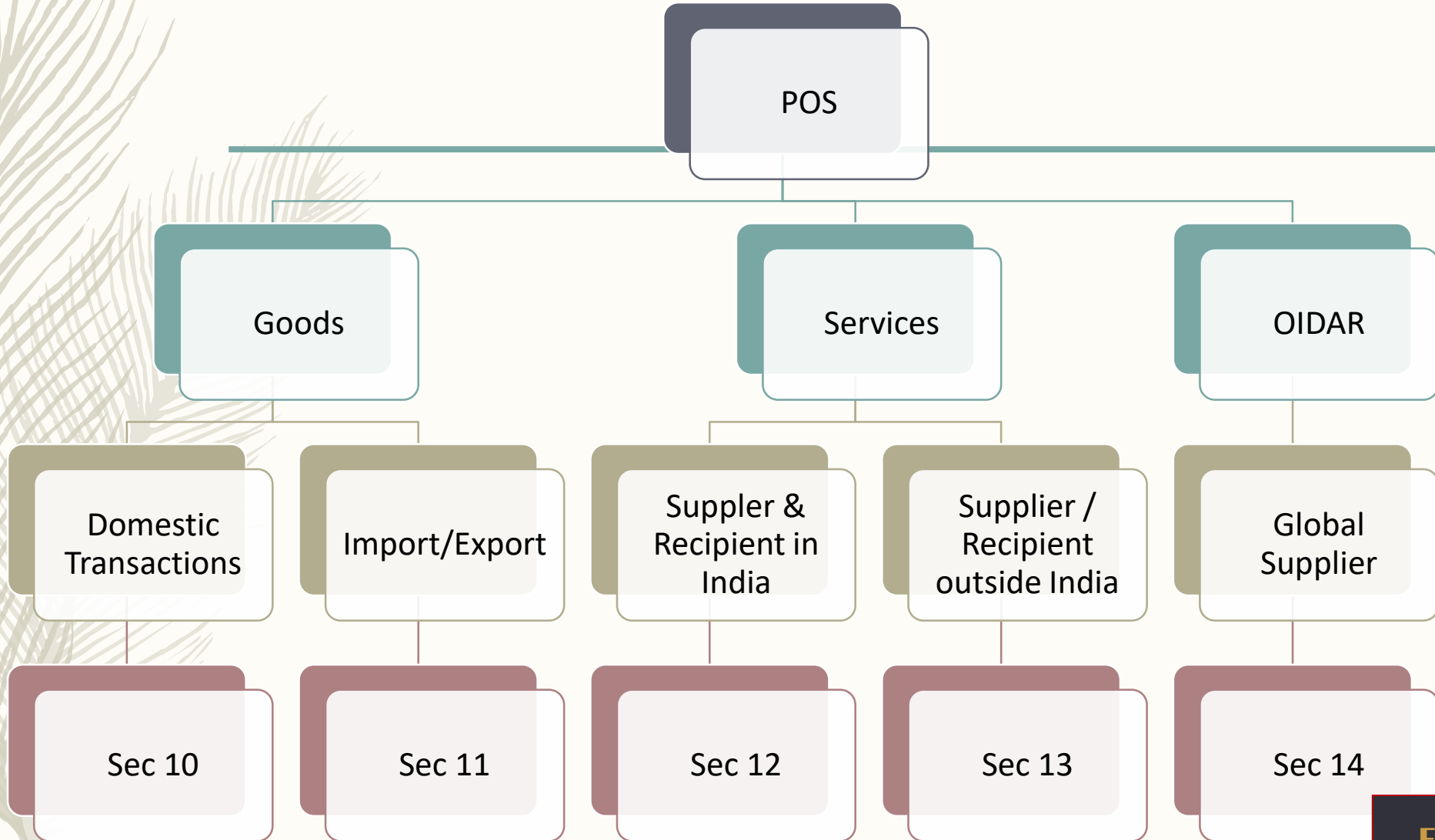
Place of Supply Goods – Sec 10

Place of Supply Goods – Sec 11

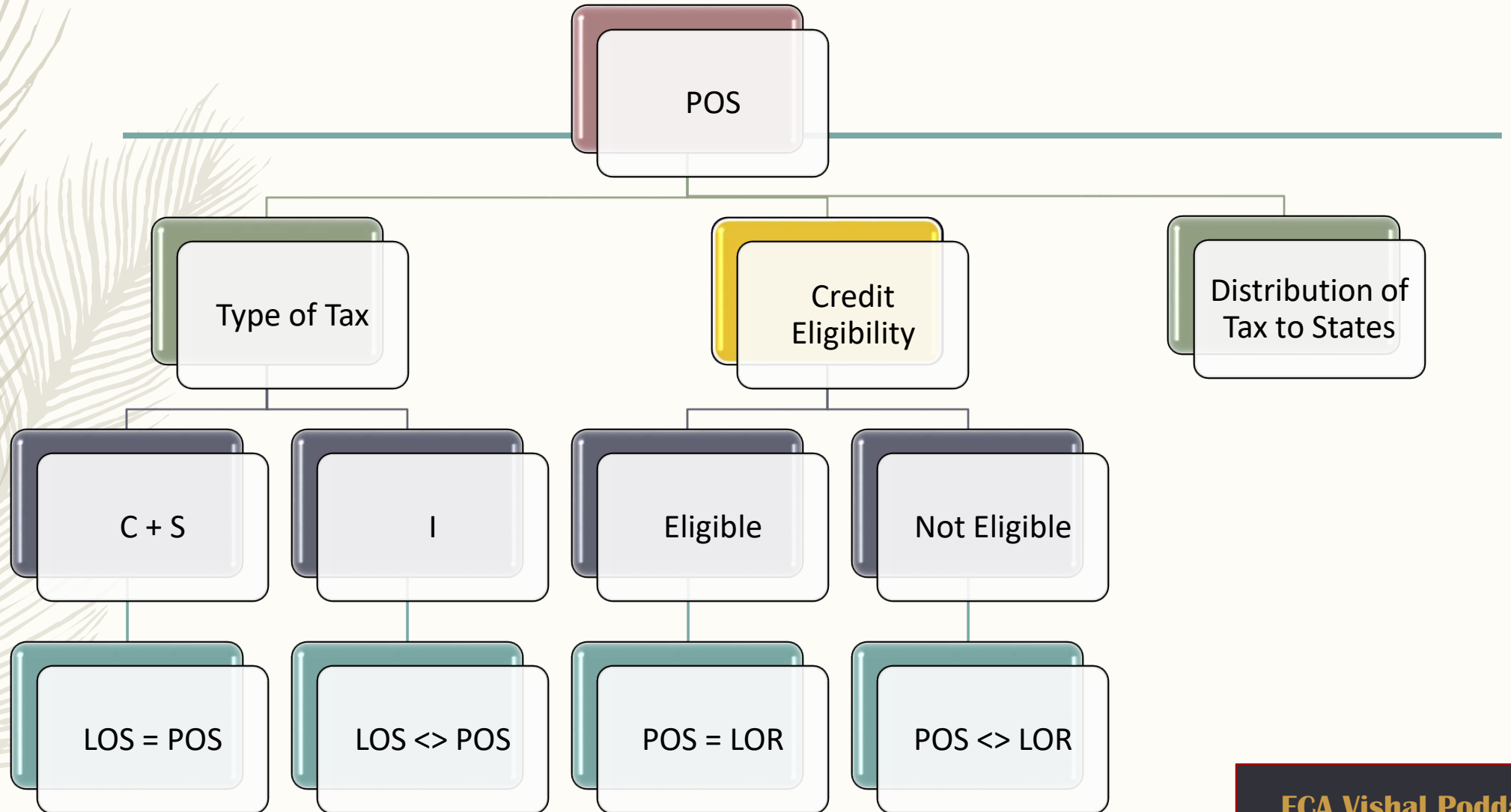
Place of Supply Services – Sec 12

Place of Supply Services – Sec 13

POS IGST ACT



Relevance of POS in GST



Error in Place of Supply (IGST paid as C +S or)

- **Section 77 (1)** : Refund of Wrongly paid Tax

- A registered person who has paid the C+S / C+UT
- but which is subsequently held to be an IGST,
- shall be refunded the amount of taxes so paid
- in such manner and subject to such conditions as may be prescribed.

- **Section 77 (2)** : No Interest

- A registered person who has paid IGST
- but which is subsequently held to be an intra-State supply,
- shall NOT be required to pay any interest on the amount C+S payable.



POS of Goods
Domestic
Transactions
Sec 10 – IGST
Act

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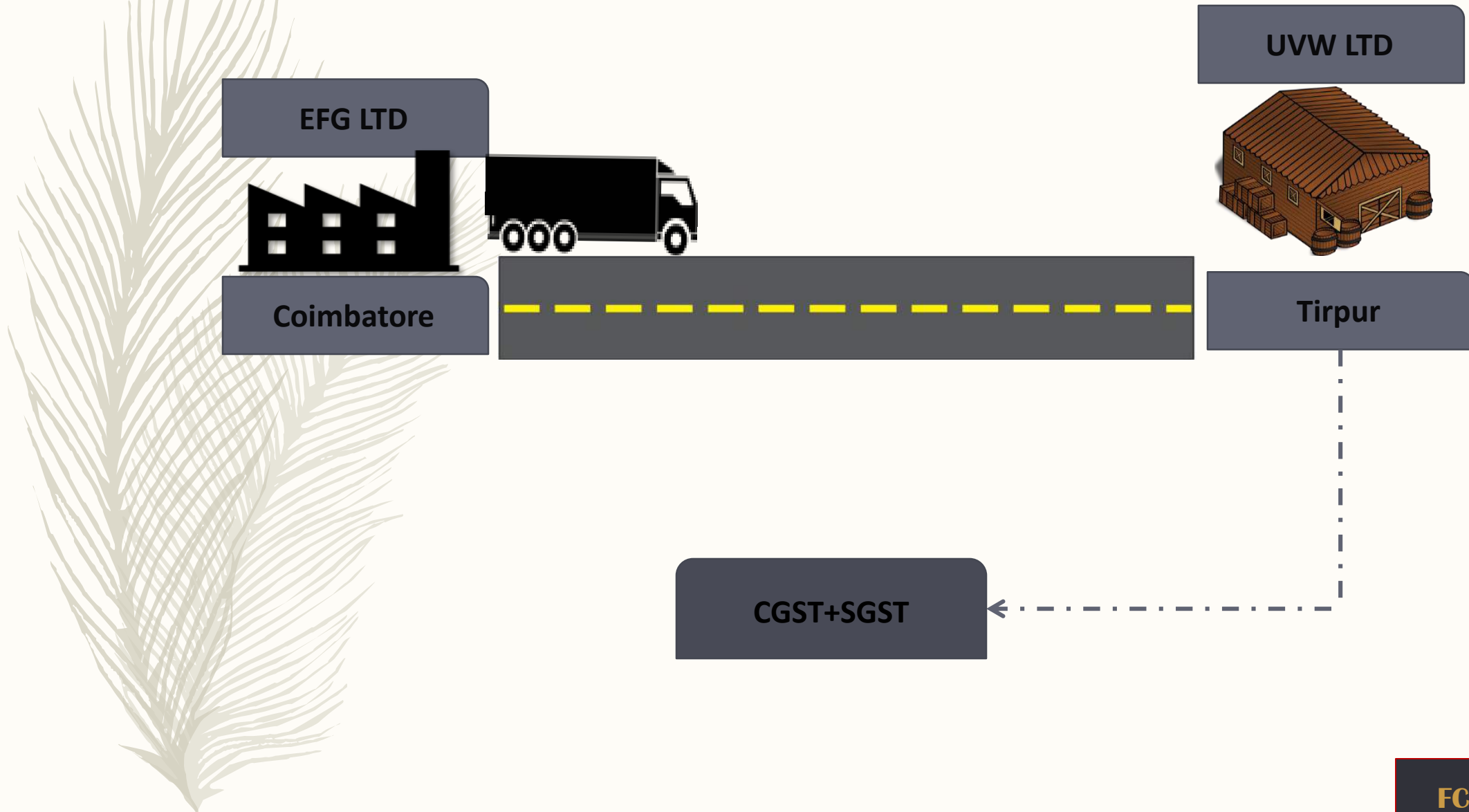
Place of Supply(POS) of GOODS (Sec 10 – IGST)

Section 10(1)(a)

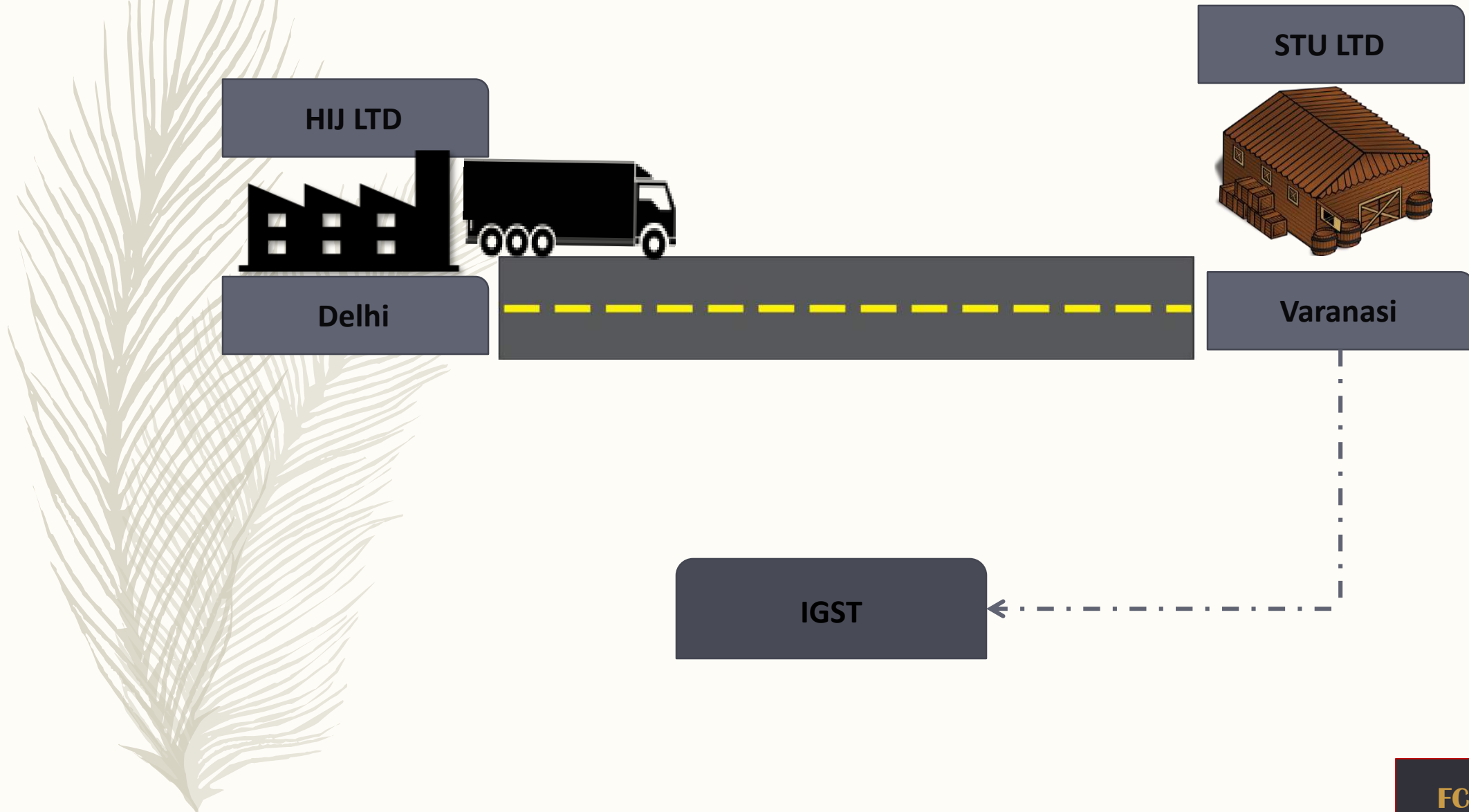
Supply involves
movement of Goods

Location of goods
at the time at
which movement
terminates for
delivery to
recipient

When Supply involves movement of Goods



When Supply involves movement of Goods



Place of Supply(POS) of GOODS (Sec 10 – IGST)

Section 10(1)(a)

Supply involves movement of Goods

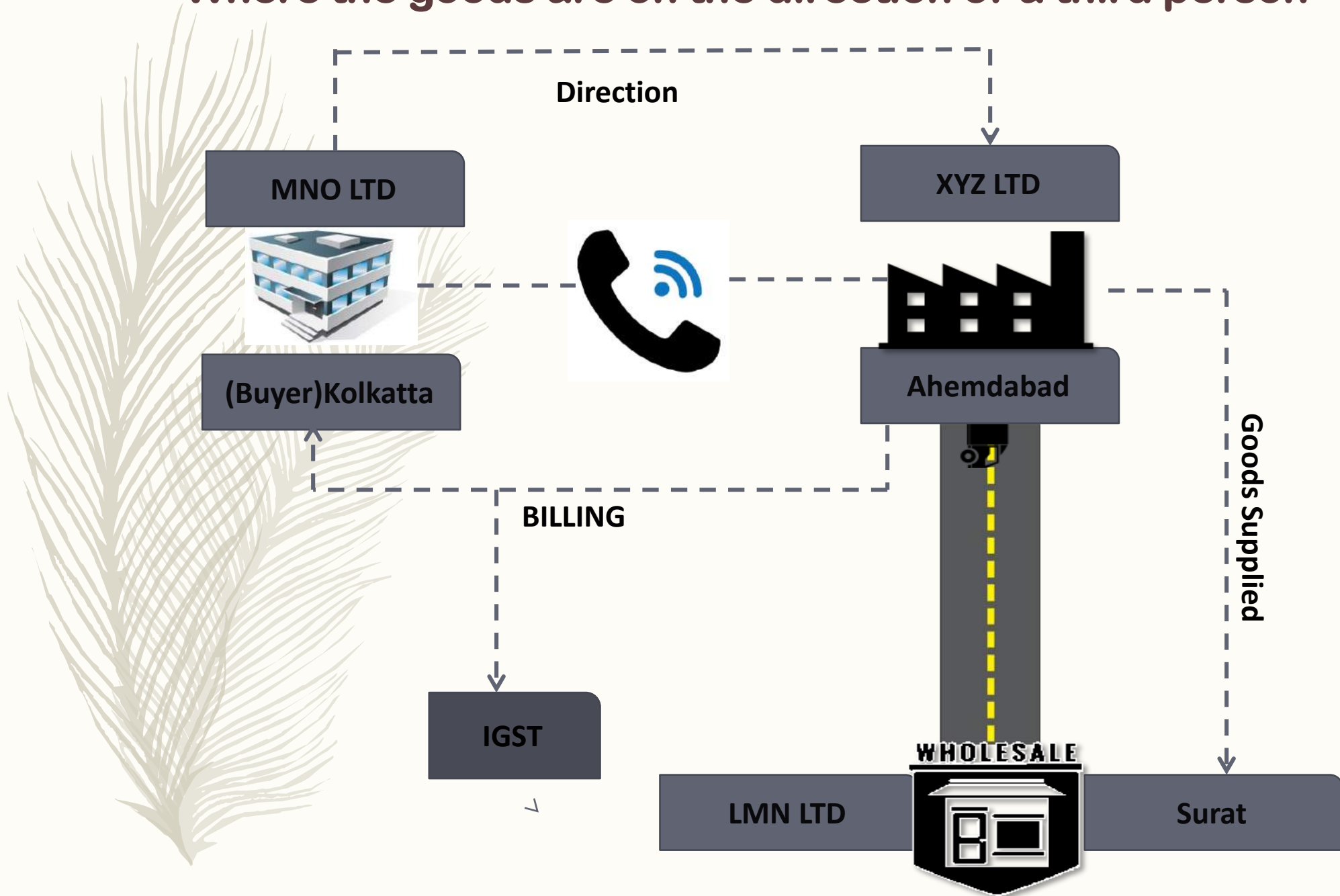
Location of goods at the time at which movement terminates for delivery to recipient

Section 10(1)(b)

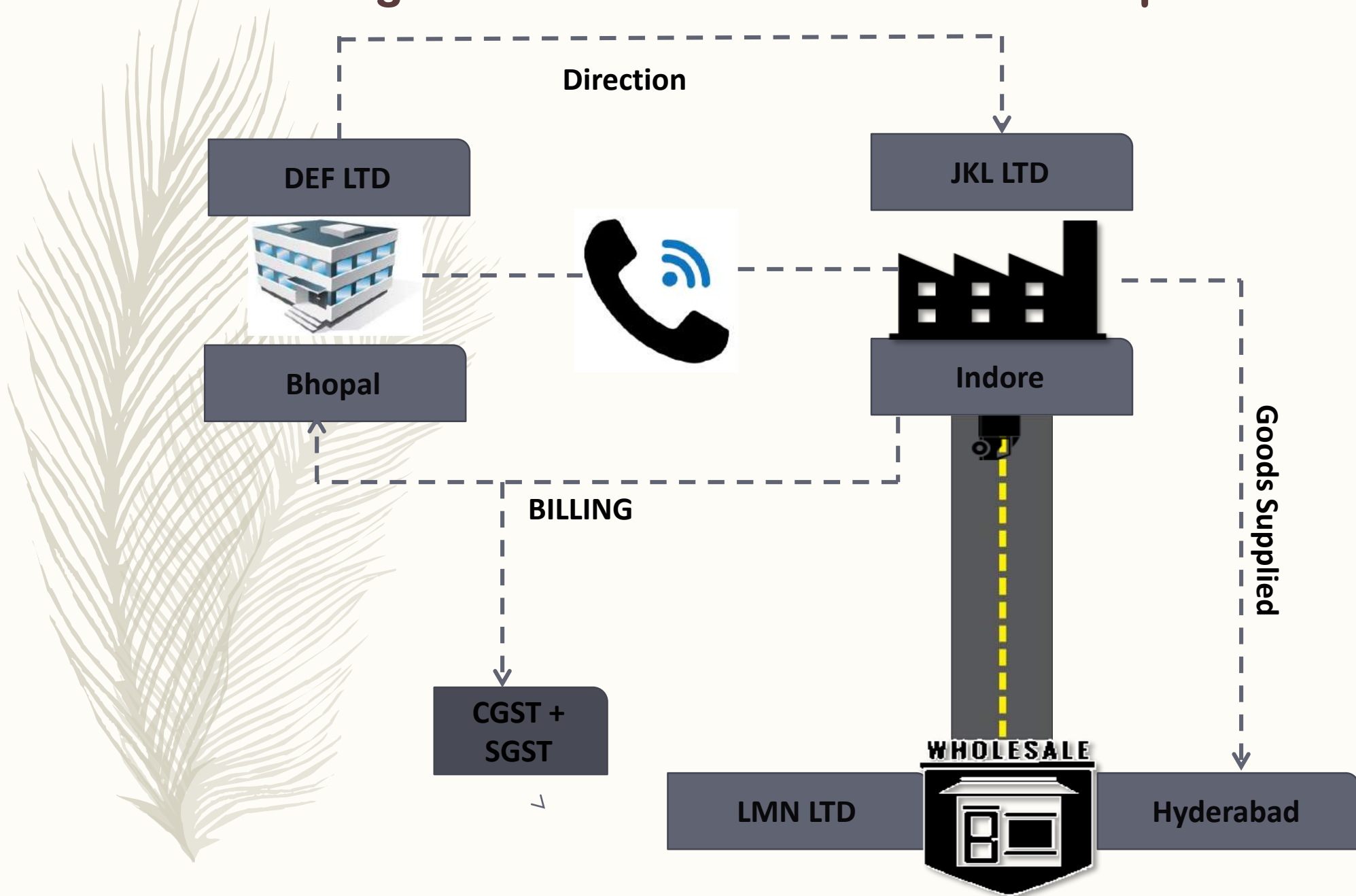
Goods supplied on direction of the third person(buyer)

Principal Place of Business of the third person (i.e., address in Registration Certificate)

Where the goods are on the direction of a third person



Where the goods are on the direction of a third person



Place of Supply(POS) of GOODS (Sec 10 – IGST)

Section 10(1)(a)

Supply involves movement of Goods

Location of goods at the time at which movement terminates for delivery to recipient

Section 10(1)(b)

Goods supplied on direction of the third person

Principal Place of Business of the third person (i.e., address in Registration Certificate)

Section 10(1)(c)

Supply does not involve movement of Goods

Location of goods at the time of delivery to the recipient

Section 10(1)(d)

Goods are assembled or installed at site

Place of installation or assembly

Section 10(1)(e)

Goods supplied on board a conveyance e.g. vessel, aircraft, train, vehicle etc.

Location at which such goods are taken on board



POS of Goods
International
Transactions
Sec 11 – IGST
Act

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Place of Supply(POS) of GOODS imported into India or Exported from India (Sec 11 – IGST)

Import of Goods

- location of the importer

Export of Goods

- location outside India



POS of
Services
Sec 12 & 13 –
IGST Act

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Domestic Transactions

Sec 12 >>> LOS & LOR in India

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2(15) :Location of the supplier of services

where a supply is made from a place of business for which the registration has been obtained,

- **the location of such place of business;**

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;**

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**

All others

- in absence of such places, the **location of the usual place of residence of the supplier;**

2(7) : Fixed Establishment

- **“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

2 (14): Location of the recipient of services

Where a supply is received at a place of business for which the registration has been obtained,

- **The location of such place of business;**

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;**

Where a supply is received at more than one establishment, whether the place of business or fixed establishment,

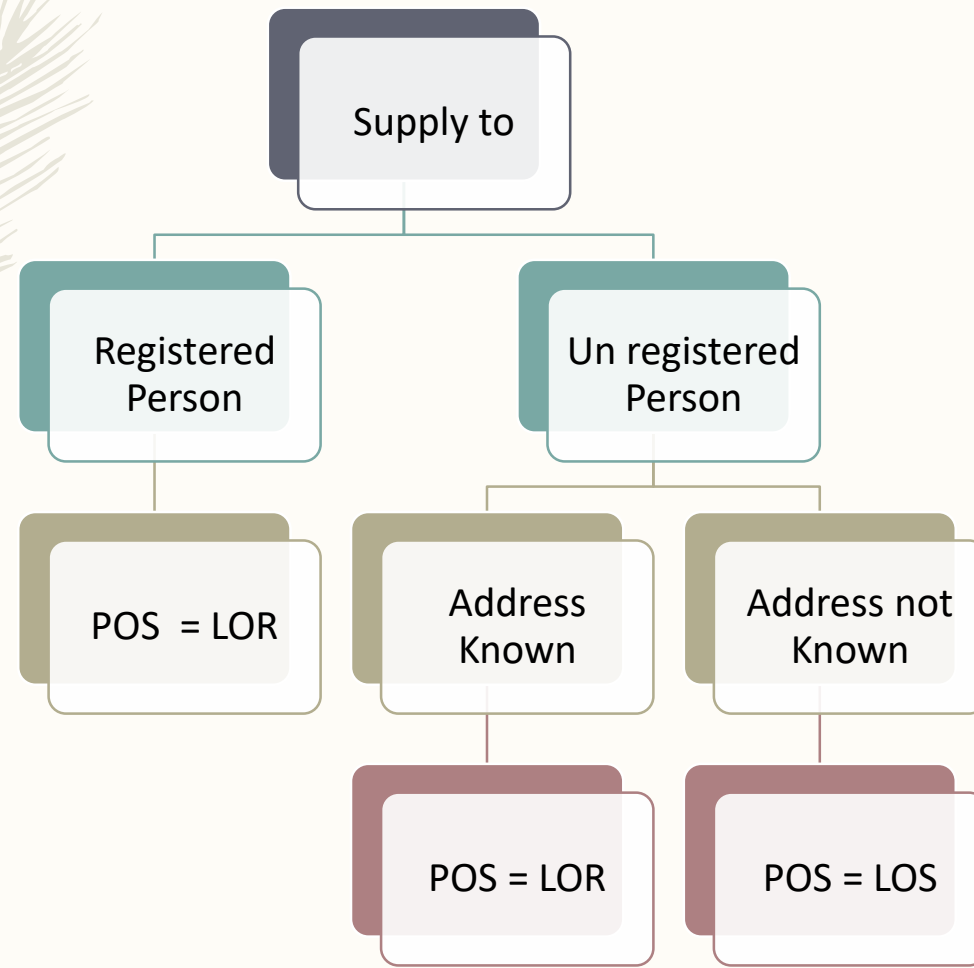
- **The location of the establishment most directly concerned with the receipt of the supply; and**

In absence of such places

- **The location of the usual place of residence of the recipient**

12(2) : General Rule for Services

The place of supply of services, except the services specified in sub-sections (3) to (14),



12(3) : Location of the immovable property

Location at which the immovable property or boat or vessel, as the case may be, is located or intended to be located:

- directly in relation to an immovable property Architects, interior decorators, surveyors, engineers...
- accommodation by Hotel, Guest House, home stay, club or campsite, house boat...
- renting
- Service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work
- accommodation for organizing any marriage or reception or matters related thereto, official, social, cultural, religious or business function

POS = Location of Property

If the location of the immovable property or boat or vessel is located or intended to be located outside India,

POS = LOR



Notes for Immovable Property

Where the immovable property or boat or vessel is located in more than one State or Union territory,

- ✓ the supply is treated as made in each of the respective States or Union territories,
- ✓ in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or,
- ✓ in the absence of such contract or agreement, on such other basis as may be prescribed

12(4) : Performance based Service

Location where the services are actually performed

1. restaurant and catering services,
2. personal grooming,
3. fitness,
4. beauty treatment,
5. health service including cosmetic and plastic surgery.

POS = Place of Performance

12(5) : Training and Performance Appraisal

– The place of supply of services in relation to training and performance appraisal to,—

a) a registered person, shall be the location of such person;

POS=LOR

b) a person other than a registered person, shall be the location where the services are actually performed.

POS = Place of Performance

12(6) : Event Based – Entry / Admission

- Where the event is actually held or where the park or such other place is located, in the case of
 - *admission to*
 - a cultural, artistic, sporting, scientific, educational, entertainment event or
 - amusement park or any other place and services ancillary thereto.

POS= Place where event held

12(7) : Event Based – Conducting / Organising

– The place of supply of services provided by way of,—

a) *organisation* of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of services in relation to a conference, fair, exhibition, celebration or similar events; or

b) *services ancillary to organisation* of any of the events or services referred to in clause (a), or assigning of sponsorship to such events,

i. to a registered person - **POS=LOR**

ii. to a person other than a registered person, shall be the **POS= Place where event held** and

iii. if the event is held outside India, the place of supply shall be the **POS=LOR**

12(7) : Explanation

- Where the event is held in
 - more than one State or Union territory and
 - a consolidated amount is charged for supply of services relating to such event,
- the place of supply of such services shall be taken as being in each of the respective States or Union territories
 - in **proportion to the value** for services separately collected or determined in terms of the contract or agreement entered into in this regard or,
 - in the absence of such contract or agreement, on such other basis as may be prescribed.

12(8) : Goods Transportation Service

- The place of supply of services by way of transportation of goods, including by mail or courier to,
 - a) a registered person, shall be the location of such person;

POS = LOR

- b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation.'

POS= location of handover of goods

If the goods are transported outside India, the destination of such goods is the place of supply.

12(9) : Passenger Transportation Service

- The place of supply of passenger transportation service to,—
 - a) a registered person, shall be the **location of such person; POS = LOR**
 - b) a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey:

POS= Place of Embarkment of the passenger.

Provided where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined u/s 12(2). Season Tickets

Explanation: For the purposes of this sub-section, the return journey shall be **treated as a separate journey**, even if the right to passage for onward and return journey is issued at the same time.

12(10) : Supply of Services on Board a Conveyance

If any service is provided on board a conveyance including

- A vessel,
- An aircraft,
- A train or
- A motor vehicle

POS = First scheduled point of departure of that conveyance for the journey.

- Eg:- Train depart from Delhi to Bombay. The food is loaded in train at Delhi. The food is supplied to the passenger at different stations. As per this section the place of supply will be the first schedule point i.e. Delhi

12(12) : Banking Services

- **Banking** and other financial services,
 - including Stock broking services to any person
-

➤ The POS is the location of the recipient of services on the records of the supplier of services.

POS=LOR

➤ If Location of recipient of services is not available on records location of supplier, the POS shall be LOS

POS = LOS

Export & Import

Place of supply of services where location of supplier or location of recipient is outside India

Import / Export of Service

2(11) : **“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;
-

2(6): **“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; and
- v. the supplier of service & the recipient of service are NOT merely establishments of a distinct person in accordance with Explanation 1 in Sec 8;

13(2) : General Rule – POS Services - International

- Place of supply of services except the services specified in sub-sections (3) to (13) shall be the location of the recipient of services

POS = LOR

- Where the location of the recipient of services is not available in the ordinary course of business,
 - the place of supply shall be the location of the supplier of services.

POS = LOS

13(3) : Service on Goods made physically available

- services supplied in respect of goods which are required to be made physically available
 - by the recipient of services
 - to the supplier of services,
- OR
- to a person acting on behalf of the supplier of services
 - in order to provide the services:

POS = Location where the services are actually performed:

Exceptions to Sec 13(3)

- When such services are provided from a remote location by way of **electronic** means, the place of supply shall be the **location where goods are situated** at the time of supply of services
- nothing contained in this clause shall apply in respect of goods which are **temporarily imported** into India **for repairs** and are exported after repairs without being put to any other use in India, than that which is required for such repairs; then **ref 13(2)**

13(3) : Services to Individual

If services supplied to an individual,

- represented either as the recipient of services or
- a person acting on behalf of the recipient,
- which require the physical presence of the recipient or the person acting on his behalf, with the supplier for the supply of services.

POS = location where the services are actually performed

13(4) : Services in Relation to Immovable Property

Similar to 12(3)

- The place of supply of services supplied directly in relation to an immovable property, including services supplied in this regard by experts and estate agents,
- supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called, grant of rights to use immovable property,
- services for carrying out or co-ordination of construction work, including that of architects or interior decorators

POS = Location of Immovable property

13(5) : Event based

Similar to 12(6&7)

- The place of supply of services supplied by way of
- admission to, or organization of
- a cultural, artistic, sporting, scientific, educational or entertainment event, or a celebration, conference, fair, exhibition or similar events, and of services ancillary to such admission or organisation,
- shall be the place where the event is actually held.
- **POS = Place where event is actually held**

13(6) : Multi Country provision

- Where any services referred to in sub-section (3) or sub-section (4) or sub-section (5) is supplied at more than one location, including a location in the taxable territory

POS = Location in the **taxable territory**

13(7) : Service supplied more than one State or Union territory

- Where the services referred to in sub-section (3) (4) (5) are supplied in more than one State or Union territory, then
- POS = value of such supplies specific to each State / UT shall be in proportion to the value for services separately collected or determined as per contract
- in the absence of such contract or agreement, on such other basis as may be prescribed.

13(8) : Banking and others ~12(12)

- a) services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders;
- b) intermediary services;
- c) services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month.

The place of supply of the following services shall be the location of the supplier of services, namely:— **(POS = LOS)**

Transportations Services

– 13 (9) POS= **Destination of Goods**

- The place of supply of services of transportation of goods, other than by way of mail or courier, shall be the place of destination of such goods.

– 13 (10) POS = **Where Passenger Embarks**

- The place of supply in respect of passenger transportation services shall be the place where the passenger embarks on the conveyance for a continuous journey.

– 13 (11) POS = **First Scheduled Point**

- The place of supply of services provided on board a conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board, shall be the first scheduled point of departure of that conveyance for the journey.



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Thank You

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