GST

GOODS AND SERVICES TAX

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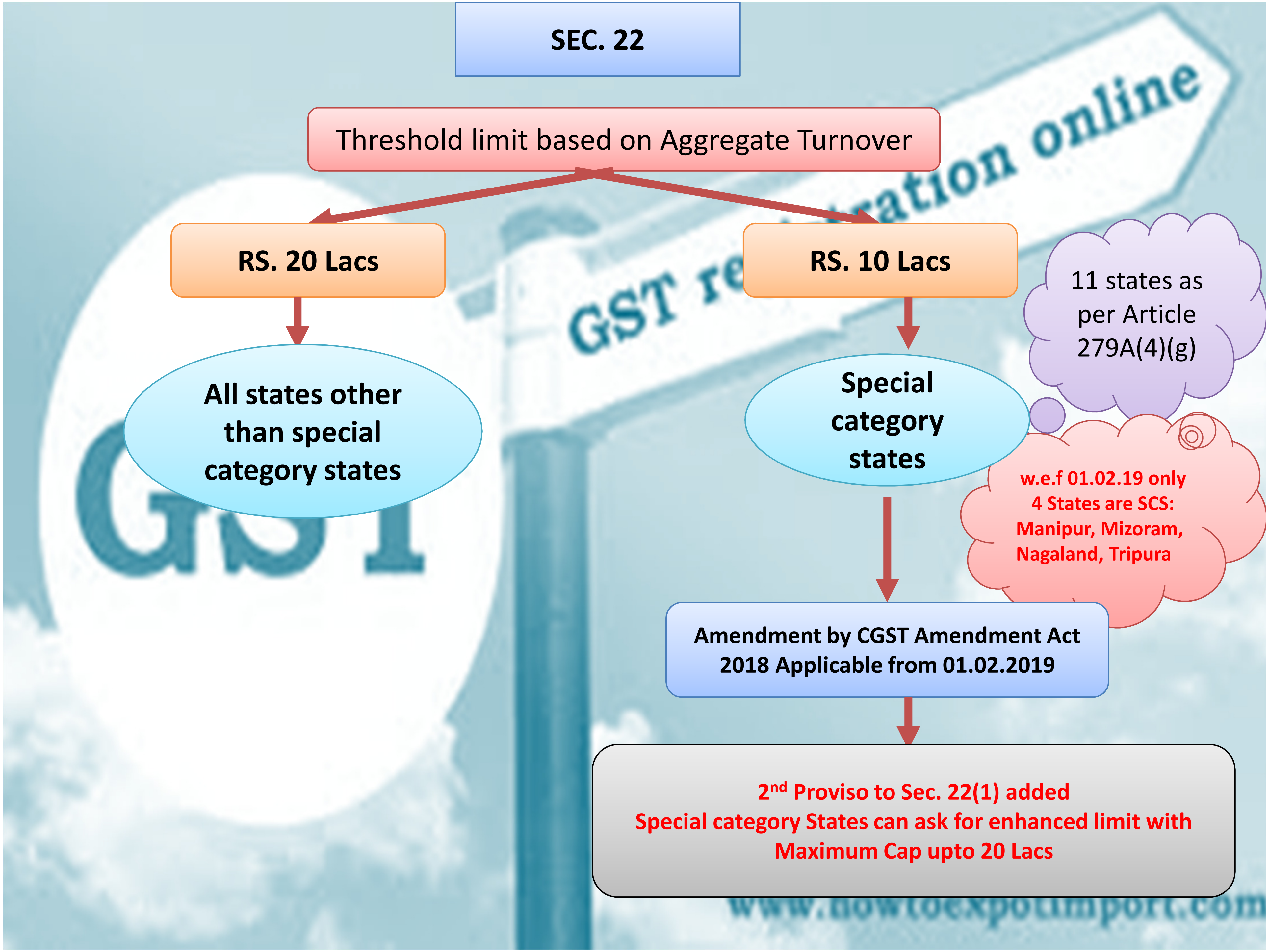

SEC. 22
Threshold limit based on Aggregate Turnover
RS. 20 Lacs
RS. 10 Lacs
All states other than special category states
Special category states
11 states as per Article 279A(4)(g)
w.e.f 01.02.19 only 4 States are SCS: Manipur, Mizoram, Nagaland, Tripura
Amendment by CGST Amendment Act 2018 Applicable from 01.02.2019
2nd Proviso to Sec. 22(1) added
Special category States can ask for enhanced limit with Maximum Cap upto 20 Lacs
GST registration online
GST
www.howtoexportimport.com

Meaning of Aggregate Turnover **Sec. 2(6)**

Particulars	**Amt**
All Taxable Supplies **2(108)**	XXX
Exempt Supply **2(47)** Means • Nil Rated • Wholly Exempt • Non Taxable Supply **2(78)**	 XXX XXX XXX
Exports	XXX
Inter state Supply (made to persons with same PAN) e.g Branch Transfer	XXX
Supply made on behalf of principal**(Exp i to sec. 22)**	XXX
Exclude:-	
CGST, SGST, UTGST,. IGST and Cess	XXX
Inward Supply on which tax is payable by a person under RCM	XXX
Supply of Goods after completion of job work by a registered job worker treated as supply of goods by principal and not to be included in turnover of job worker**(Expl ii to sec. 22)**	XXX
Net Total(Aggregate Turnover)	XXX

Other Issues

- Registration is required in the state from where supply is made. GST although a destination based law but for registration, it is required in the state of **ORIGIN.**

- Rs. 20 Lacs/ 10 Lacs is registration limit and not an Exemption limit . Once registered, after Registration assessee is mandatorily required to collect & pay Tax. 20 Lacs / 10 LACS exemption limit is only in the first year before Registration.

Sec. 23(1) Persons not liable for registration

- **Exclusively** engaged in supply of **exempt/not liable to tax** goods or services or both.
- Agriculturist to the extent of supply of produce out of cultivation of land
- Persons **exclusively** making reverse charge supply(Not. 5/2017 CT)

EXAMPLES

Delhi Sales (Rs. In Lakhs)	Punjab Sales (Rs. In Lakhs)	Manipur Sales (Rs. In Lakhs)	Reg. Required
5	5	5	Yes (As Manipur is Special category State, limit will be Rs.10 Lacs. Hence, Reg. required in all states.)
10	11	0	Yes in both the states from where Taxable supply is made.
20(Exempt)	10(Exempt)	0	No Reg. Required. Sec 23(1)
20 Exempt	10 Taxable	0	Registration required in Punjab only

Sec. 23(2)

The Government may, on the recommendations of the council , by notification, specify the category of persons who may be exempted from registration under this Act.

This Section is used by Govt. to bring enhanced limit of 40 lacs for supplier of goods by way of Notification No. 10/2019-CT dated 07-03-2019 w.e.f. 01-04-2019

Exemption granted from obtaining registration

Eligible

- Exclusive supplier of goods.
- Aggregate turnover in F.Y. <= 40 Lacs

Not Eligible

- Persons required to get compulsory registration
- Supplier of Ice cream, Pan Masala, Tobacco
- Persons Engaged in making intra state supply in Arunanchal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Pondicherry, Sikkim, Telangana, Tripura, Uttarakhand.
- Persons Exercising options of voluntary reg. Sec. 25(3)
- Registered persons who intend to continue with their registration.

OTHER POINTS

1. As it is a PAN based Registration, **Transfer of business** as a going concern on account of succession or otherwise:

   Fresh registration to be applied from the date of such transfer (Section 22(3))

   i. ITC -02 required for transfer of credit
   ii. Schedule II entry 4(c) states that it will not amount to supply

2. In case of transfer pursuant to **amalgamation or demerge**r of companies pursuant to order of HC / Tribunal:

   Transferee liable to be registered w.e.f. date in which ROC issues a certificate of incorporation giving effect to order of HC/ Tribunal.

3. Requirement of registration in respect of **construction works** undertaken outside the state: Works Contractors, having a principal place of business in 1 state may undertake execution of works across India in many states. **The registration provisions** require the work contractor to **obtain registration in each such** state even though he has no place of business in those States and the administration and control of such person lies in the principal state itself. It is also possible that the person will not have a fixed establishment in each such state.

4. Mr A is a real estate having its office located in Haryana. He rented the premises located in Delhi to M/s XYZ enterprises for commercial purposes at a rental of INR 100000/- per month. In this case, though the place of supply of services will be Delhi i.e. where the immovable property is located, but the location of supplier will continue to be Haryana and accordingly IGST will be levied. But at the same time, it has to be borne in mind that Mr. A may not be able to avail input tax credit of certain services availed for the property located in Delhi from the service providers of Delhi as they would be charging CGST and SGST (Delhi GST) for which credit will not be available at Haryana registration of Mr.A. Alternatively, depending upon business scenarios, registration in Delhi may be taken and corresponding credit may also be availed.

OTHER POINTS

5) **Exemption to Charitable organisations:** Pursuant to Notification No. 12/2017 CT dated 28th June 2017, the Govt. has exempted services by way of charitable activities, provided by charitable organisations from levy of GST. Thus charitable organisations engaged exclusively in charitable activities are exempted from obtaining registration. However, charitable organisations are compelled to register where they have receipts on account of ancillary activities like providing shop on rent to outsider(so that the visitors get tea and food), charitable hospitals running pharmacy and providing medicines at concessional rate or free etc.
6) If inward supplies liable to reverse charge under sec. 9(3) of CGST Act is attracted, then notwithstanding sec. 22 or the exclusion under section 23, registration will need to be obtained compulsorily under sec. 24.

e.g GTA service taken by a person dealing in liquor.

7) Time period for apply registration = within 30 days
   Consequences of delay= **Credit Denial.** (As per Sec. 18(1))

Sec. 24 Compulsory Registration

Notwithstanding anything contained in Sec. 22(1), the following categories of persons shall be required to be registered under this Act:

Threshold benefit will not be available

I. Persons making any inter state taxable supply(except covered by N. No. 7,8 and 10.of IT 2017)
II. Casual taxable person making taxable supply(Except NN. 32, 38/ 2017)
III. Persons who are required to pay tax under reverse charge
IV. Persons who are required to pay tax under sec. 9(5)
V. Non Resident Taxable person
VI. Persons who are required to deduct tax u/s 51, whether or not separately registered under this Act
VII. Persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise.
VIII. Input Service Distributor, whether or not separately registered under this Act
IX. Persons who supply goods & services through ECO(other than 9(5)), who is required to collect TCS u/s 52.
X. Every Electronic Commerce operator who is required to collect tax at source u/s 52.
XI. Every person supplying OIDAR from a place outside India to person in India
XII. Such Other person or Class of persons as may be notified.

I. EXEMPTIONS THROGH NOTIFICATION

PERSONS MAKING ANY INTER STATE TAXABLE SUPPLY

- Notification 7/2017-IT dated 14.09.2017 regarding exemption from registration to **job worker** making inter state supply of services to registered person. (ExCeption to Sec. 24 clause i)
- Notification 8/2017-IT dated 14.09.2017 regarding exemption from registration to a person making inter- state taxable supply of ***handicraft goods***.(ExCeption to Sec. 24 clause i)
- Notification No. 10.2017-IT dated 13.10.2017 regarding exemption from registration to a person making inter state taxable **services** where turnover is not exceeding Rs. 20 Lacs. (ExCeption to Sec. 24 clause i)

Examples

Mr. A has Garment shop in Delhi with turnover of Rs.18 Lacs

Case 1:- Supplies Readymade garments to person in Gurgaon worth Rs. 10000/-

Answer:- Registration required due to inter state supply

Case 2:- Supplies stitching services worth Rs 10000 to Gurgaon

Answer:- No registration required. Benefit of 10/17- IT available

Case 3 :- Supplies exempted goods worth Rs 1,80,000 to Gurgaon

Answer:- No registration required as inter state supply is exempt.

II. Casual Taxable Persons making Taxable Supply Sec 2(20)

- No Fixed place of business in state but occasionally undertakes transactions
- Liability to register at least 5 days prior to commencement of business (Sec 25(1) Proviso)
- No mandatory registration supplying specified handicraft goods Not. 32/17-CT dated 15.09.2017 superseded vide Not. 56/18-CT dated 3.10.2018

III. Persons who are required to pay tax under RCM

Goods –Not 4/2017 - CT (Rate) Not. 4/17-IT (Rate)
Services-Not 13/2017 –CT(Rate) Not 10/17 –IT (Rate)
Example

- M/s XYZ is running a consumer durables shop in Delhi. His turnover in a financial year is INR 15 Lakhs. He takes services of a GTA worth INR 30,000/- to deliver a consignment on which he is required to pay GST under reverse charge.

Here, even though aggregate turnover of M/s XYZ is only INR 15 lakhs i.e. within threshold limit, but compulsory registration shall be required in GST as GTA services are availed on which tax is payable under reverse charge.

- RCM to be paid in cash.
- Tax paid under RCM available as ITC.
- Now Mr. XYZ also liable to pay GST on Rs. 15 Lacs as he is now required to get compulsory registration.

- **Benefit of threshold limit shall continue to be available in case of inward supply of advocate services (Sr. No. 45 of 12/2017- (CT Rate))**

Example

M/s XYZ is running a departmental store in Delhi. His turnover in a financial year is INR 15 lakhs. He takes services of an advocate worth INR 30,00/- to litigate a department's notice.

Here, even though advocate services are under reverse charge, but supply of such services to business entity having aggregate turnover less than INR 20 lahs(INR 10 lakhs for special category states) are exempt from GST. Thus no liability to pay tax under reverse charge shall arise and hence no compulsory registration is required.

IV. E- Commerce Operator supplying specified services 9(5)

- Not. 17/2017 (CT Rate) , Not. 23/2017 CT (Rate), NN. 14/2017 IT (Rate)

Services specified u/s 9(5)

- Cab operators
- Accommodation in Hotels, Inn, Guest house, except where the person supplying such services through E-commerce Operator is liable for Registration in GST
- Services by way of House- keeping e.g Urban Clap

Example 1:- Rooms Booked Through MMT. MMT shall be liable to pay GST.

Example 2:-Mr. X provides homestay through MMT (E- Commerce) and his turnover is INR 23 Lacs. In this Case, Mr. X shall be liable to get GST registration and pay GST and MMT is not required to pay GST on the same vide NN. 17/2017

- In 9(5), No provision of TCS applies.

V. Non Resident Taxable Persons 2(77)

Making Taxable Supply

NRTP shall apply for registration at least 5 days prior to commencement of business. Section 25(1) Proviso

(It is basically the Extension of concept of casual taxable person to Non-Residents)

VI. Persons who are required to deduct tax u/s 51, whether or not separately registered under this Act

- **Example**:- M/s XYZ Ltd., a public sector undertaking which is also notified as one of the person liable to deduct TDS, has INR 15 Lacs aggregate turnover in financial year. Here, M/s XYZ Ltd. may not require registration as normal taxable person in GST for not crossing the threshold limit, but it is mandatorily required to take registration as tax deductor without any threshold limit.

- It may be noted that although GST registrations for entities mandated to collect and deduct TDS started from 18.09.2017, the date from which TDS will be deducted is notified later vide notification no. 50/2018- Central tax dated 13.09.2018 as applicable only from 01.10.2018.

Vii. Persons who make taxable supply of goods or services or both on behalf of other taxable persons as an Agent Sec. 2(5)

Agent is understood to be a person who receives goods from principal for further supply to customer.

Eg. LIC agents not covered by compulsory registration.

Circular No. 57/31/2018 dated 04.09.2018

Mr. A, an artist, appoints M/s B (auctioneer) to auction his painting. M/s B arranges for the auction and identifies the potential bidders. The highest bid is accepted and the painting is sold to the highest bidder. The invoice for the supply of the painting is issued by M/s B on the behalf of Mr. A but in his own name and the painting is delivered to the successful bidder. In this scenario, M/s B is not merely providing auctioneering services, but is also supplying the painting on behalf of Mr. A to the bidder, and has the authority to transfer the title of the painting on behalf of Mr. A. This scenario is covered under Schedule I.

A similar situation can exist in case of supply of goods as well where the C&F agent or commission agent takes possession of the goods from the principal and issues the invoice in his own name. In such cases, the C&F/commission agent is an agent of the principal for the supply of goods in terms of Schedule I. The disclosure or non-disclosure of the name of the principal is immaterial in such situations.

VIII. Input Service Distributor Whether or not separately registered under this Act

- **ISD Concept is for services only borrowed from Service Tax.**
- **Facility to business having a large share of <u>common input service</u> & billing / Payment is done from centralized location**
- **It enables <u>proportionate distribution of common input service</u> amongst all consuming units.**

IX. Persons who supply goods or services or both, other than supplies specified under sub section5 of sec. 9, through ECO who is required to collect TCS u/s 52

Bcoz in 9(5), Ecom is the Deemed Supplier

Exception to above: N.N. 65/2017 : This not. Is applicable only on Services, to take person out of compulsory registration provision.

Example : Restaurant with turnover less than 20 Lacs supplying food through Swiggy.

Benefit of N.N. 65/2017 will be available and no mandatory registration.

X. Every Electronic Commerce Operator , <u>who is required to collect tax at source u/s 52</u>

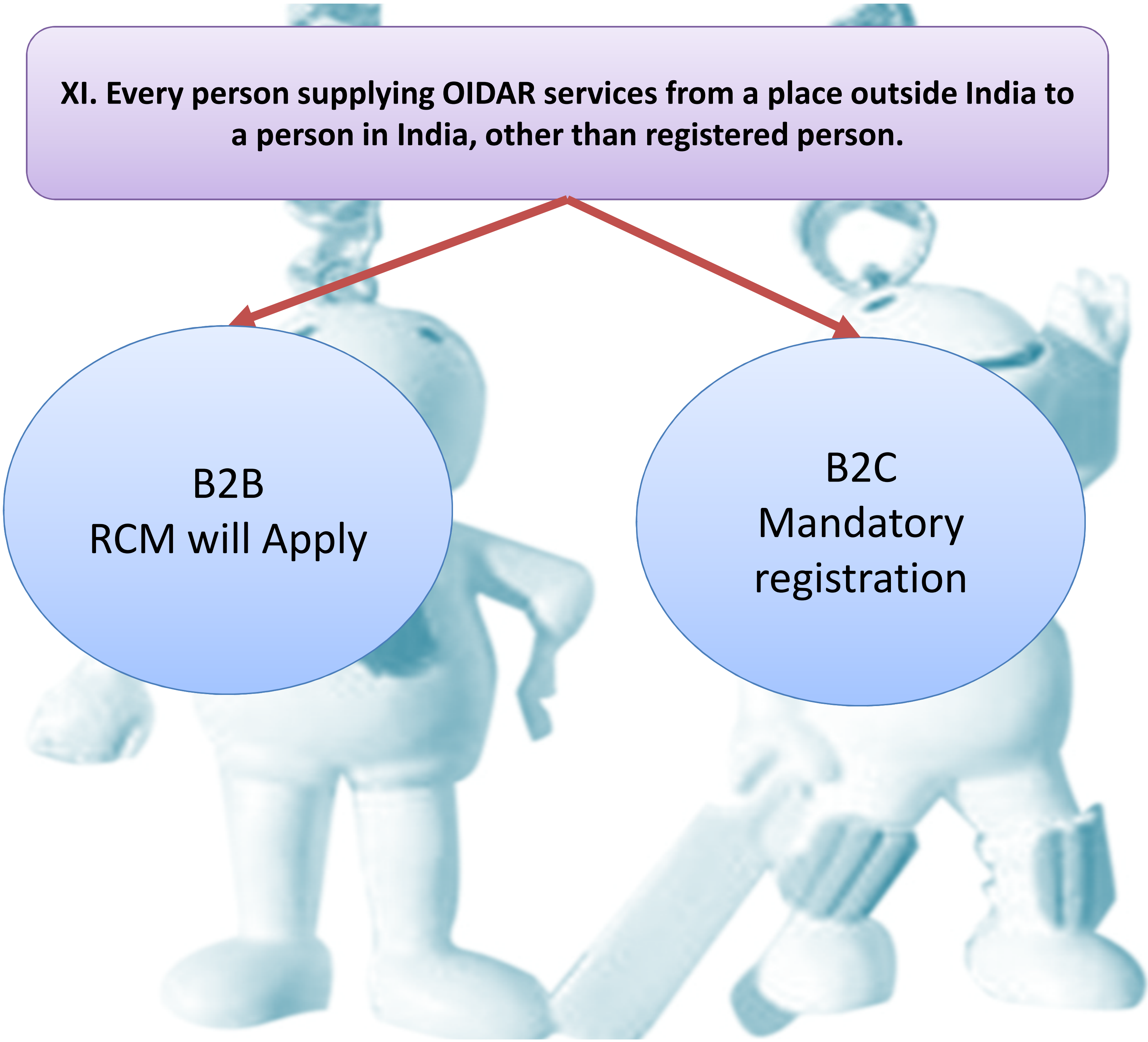
Amendment by amendment Act 2018 W.e.f. 1.2.2019

Previously all E-Com Operators were covered, even if they were providing market place for Exempt Goods. But now they will be out for Mandatory Registration.

XI. Every person supplying OIDAR services from a place outside India to a person in India, other than registered person.

B2B
RCM will Apply

B2C
Mandatory registration



Section 25(1)

Person liable to be registered u/s 22 & 24

Apply for registration

Within 30 days

In every state/UT

No Centralised Registration

From which he makes taxable supply

Explanation:- Person making supply from territorial waters of India→ Register in coastal state where the nearest point of appropriate baseline is located

Amendment: Proviso inserted

SEZ or SEZ Developer shall have to apply for a separate registration

Section 25(2)

Single Registration in a State or UT

Amendment proviso added

Provided that a person having multiple **places of business** in a state or UT may be granted a separate registration for each such place of business subject to such conditions as may be prescribed

~~Multiple Business Vertical~~ → **Multiple places of business**

BENEFIT:- Even if same work is carried out at different places , separate registrations can be taken based on place

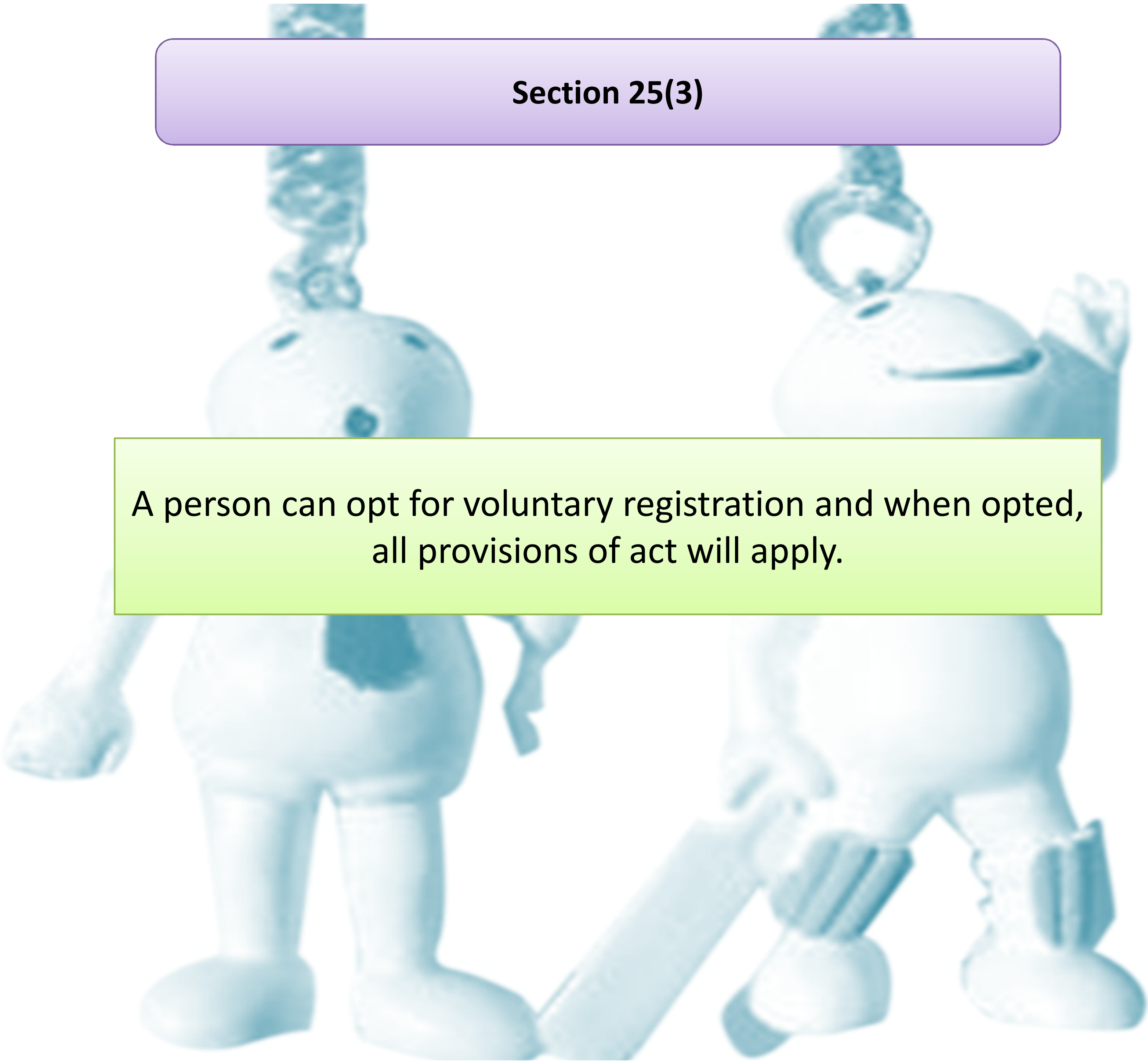
Drawback:-

If two different types of work at a single place then separate registration cannot be taken

For Example:- Mr. K Factory at Batala road

Yarn- Fabric   Job Work

Now , separate registration cannot be taken because one place and not multiple places



Section 25(3)

A person can opt for voluntary registration and when opted, all provisions of act will apply.

Section 25(4) & (5)

Every Registration under the same PAN = DISTINCT PERSONS

IMPLICATION:- Stock Transfer → GOODS / SERVICES → SUPPLY

Although without consideration

Schedule I Entry II

Section 25(6)

Every Person other than required to deduct u/s 51 & Non Resident Taxable Person → PAN

Required for registration

Person required to deduct u/s 51 → PAN/TAN

Non Resident Taxable Person 25(7) → Tax Identification Number or Unique Number of that country

Section 25(8)

Person Liable

Fails to obtain registration

Proper Officer may without prejudice to any action may be taken, **proceed to register** such person in such manner as may be prescribed

Section 25(9)

Agency of United nations or any Multilateral Financial Institution and Organisation , Consulate or Embassy

SHALL BE GRANTED

UNIQUE IDENTITY NUMBER

Section 25(12)

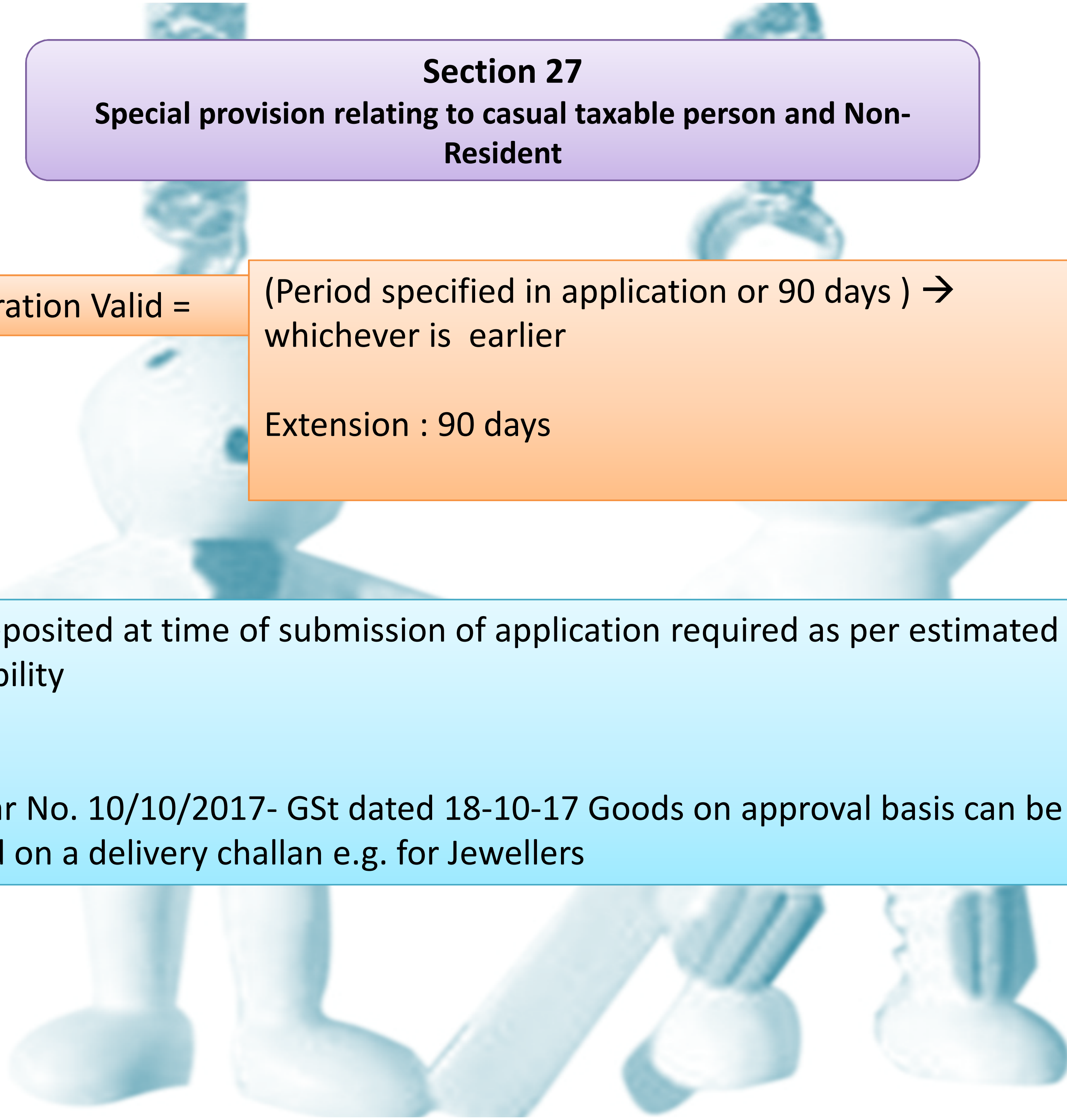
UNIQUE IDENTITY NUMBER/ REGISTRATION

After due verification

Accept:-
RC is issued

Reject
Rejected by state
=
Deemed Rejected by centre

No Communication
Deemed registration u/s sec 26



Section 27
Special provision relating to casual taxable person and Non-Resident

- Registration Valid =

(Period specified in application or 90 days) → whichever is earlier

Extension : 90 days

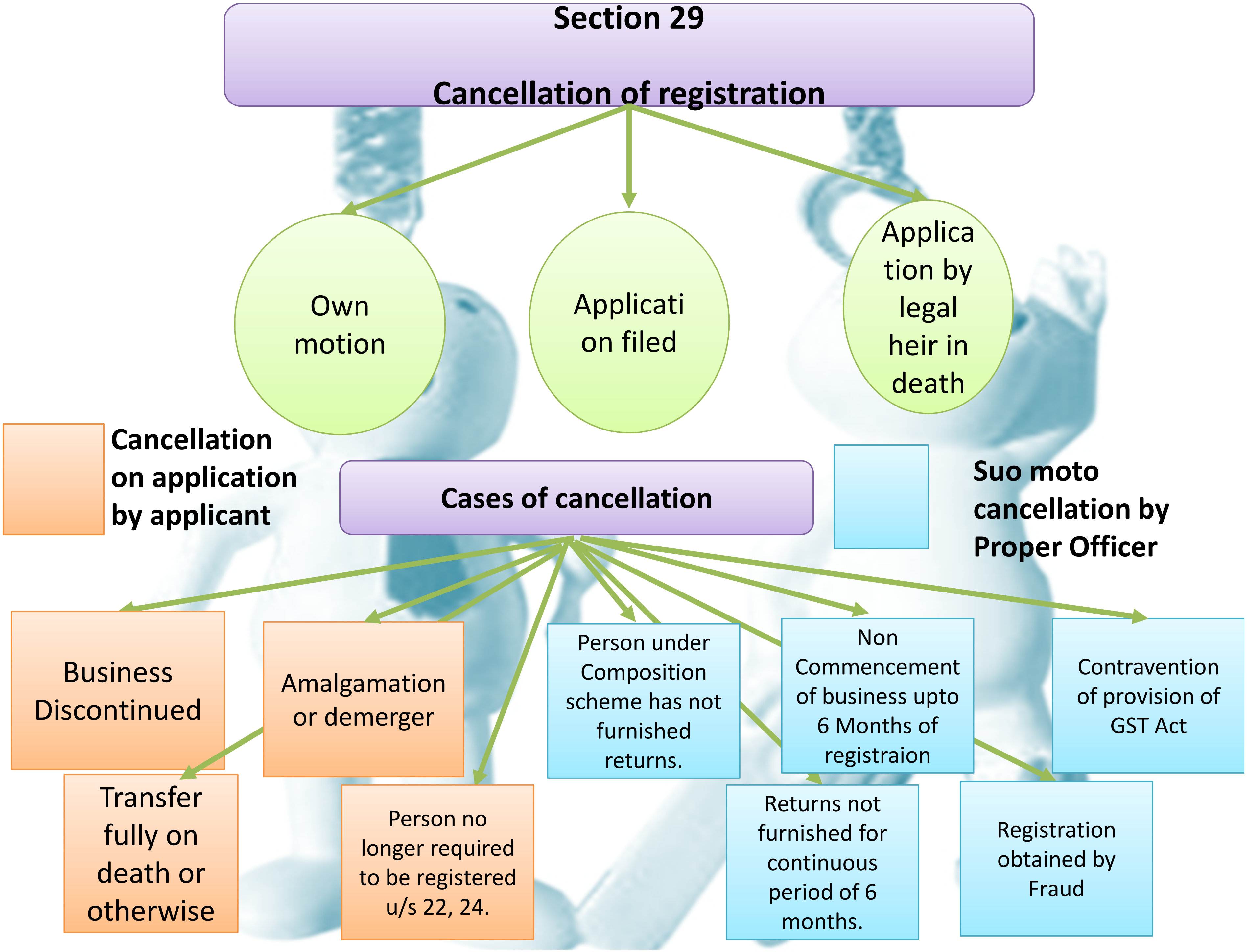
- Pre Deposited at time of submission of application required as per estimated tax liability
- Circular No. 10/10/2017- GSt dated 18-10-17 Goods on approval basis can be moved on a delivery challan e.g. for Jewellers

Section 28

Amendment of registration
15 days time period (RULE 19 is applicable)

↓

Form GST REG-14


Section 29
Cancellation of registration
Own motion
Application filed
Application by legal heir in death
Cancellation on application by applicant
Cases of cancellation
Suo moto cancellation by Proper Officer
Business Discontinued
Amalgamation or demerger
Person under Composition scheme has not furnished returns.
Non Commencement of business upto 6 Months of registraion
Contravention of provision of GST Act
Transfer fully on death or otherwise
Person no longer required to be registered u/s 22, 24.
Returns not furnished for continuous period of 6 months.
Registration obtained by Fraud

Amendment

PROVISION TO SUSPEND REGistration PROVIDED IN THE ACT
2 provisos added in 29(1) and 29(2)

- Cancellation by proper officer can be done from any retrospective date in case of fraud etc. Sec 29(2)
- Cancellation will not affect liability to pay Sec 29(3)
- Cancellation in SGST = Deemed cancellation in CGST
- On cancellation of registration= pay an amount

Cash

Credit

Whichever is higher

Input tax in respect of inputs held in stock & inputs contained in semi finished/ finished goods and capital goods **or**
Output tax payable

In case of Capital goods= pay an amount= ITC – 5% per quarter **or**
Tax or Transaction value **whichever is higher**

Sec 30: Revocation of cancellation.

If registration cancelled by proper officer on his own motion

Apply revocation within 30 days from the date of service of cancellation orders.

Cancellation under SGST deemed cancellation under CGST.

Display of registration certificate and Goods and Services Tax Identification Number on the name board

1. Every registered person shall **display his certificate of registration** in a prominent location at his principal place of business and at every additional place or places f business.

2. Every registered person shall display **the Goods and Services Tax Identification Number** on the **name board** exhibited **at the entry** of his principal place of business and at every additional pace or places of business.

Important FAQ’s

Q. What will be the effective date of registration?

Ans. Where the application for registration has been submitted within thirty days from the date on which the person becomes liable for registration, the effective date of registration shall be the date on which he become liable for registration.

Where an application for registration has been submitted by the applicant after thirty days from the date of his becoming liable to registration, the effective date of registration shall be the date of grant of registration.

In case of the person taking registration voluntarily while being within the threshold exemption limit for paying tax, the effective date of registration shall be the order of registration.

Q. Whether the registration granted to any person is permanent?

Ans. Yes, the registration certificate once granted is permanent unless surrendered, cancelled, suspended or revoked.

Q. What is suspension of registration?

Ans. Section 29 of the CGST Act has been amended by the CGST(Amendment) Act, 2018 to provide for “Suspension” of registration. The intent of the said amendment is to ensure that a taxpayer is freed from the routine compliances, including filing returns, under GST Act during the pendency of the proceedings related to cancellation. (This would be brought into force from the date law amendment is notified)


Thank
you