

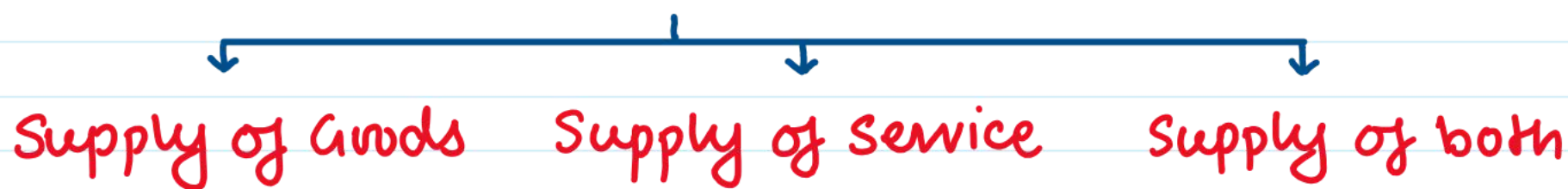


Chapter 2 - Supply under GST

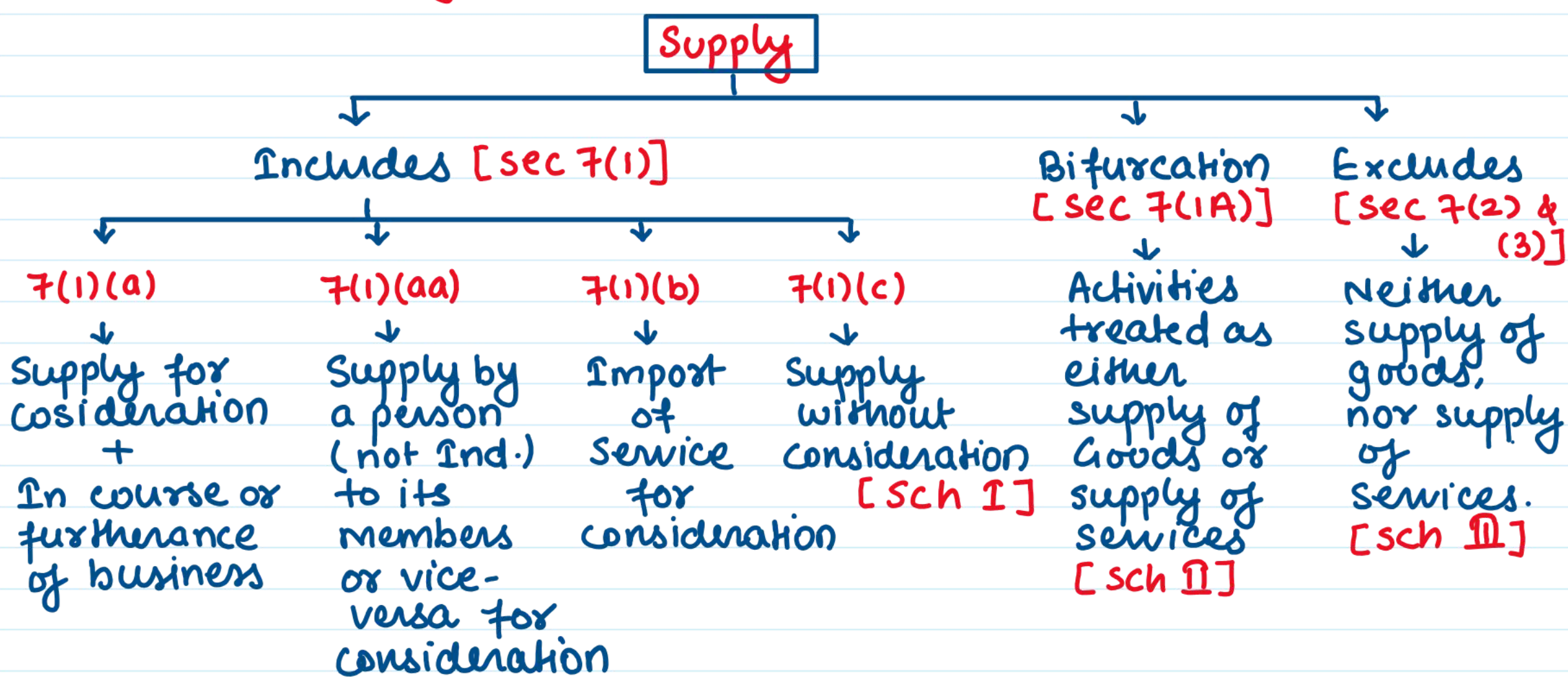
TP:1 Concept of Taxable Event

Any transaction or occurrence that results in a tax consequence
 In other words, it means trigger point of taxability.

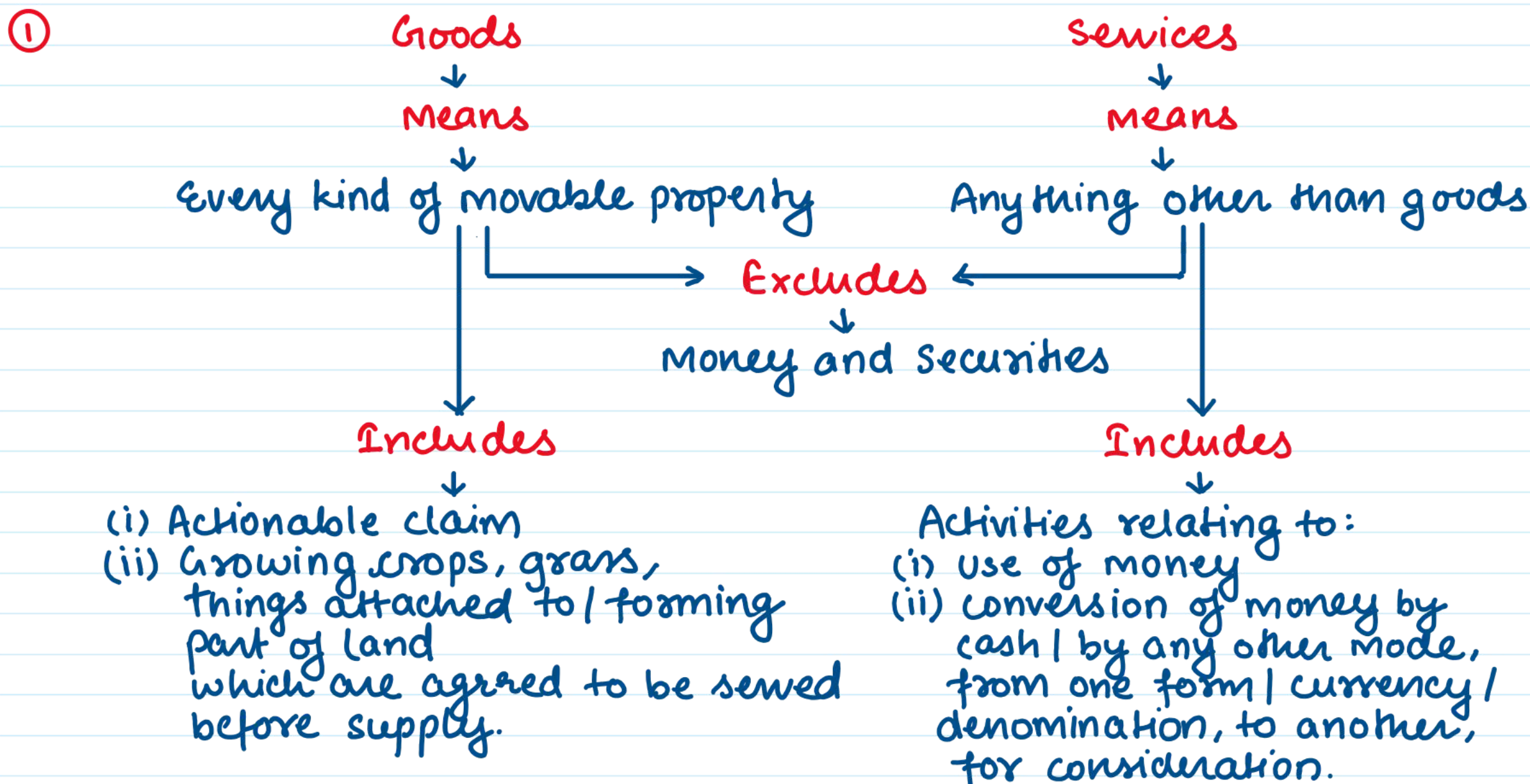
Under GST, Taxable event is 'SUPPLY'



TP:2 Concept of Supply [section 7]



TP:3 Some important concepts

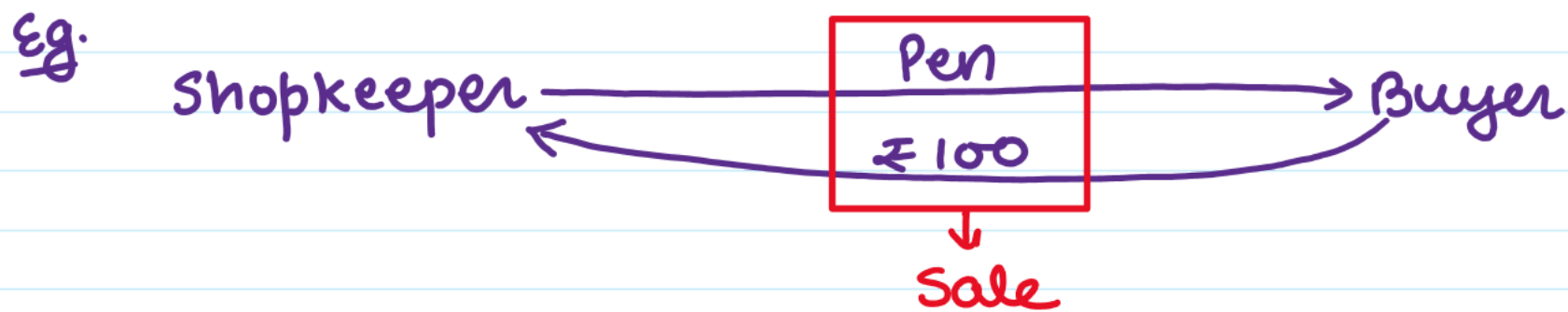




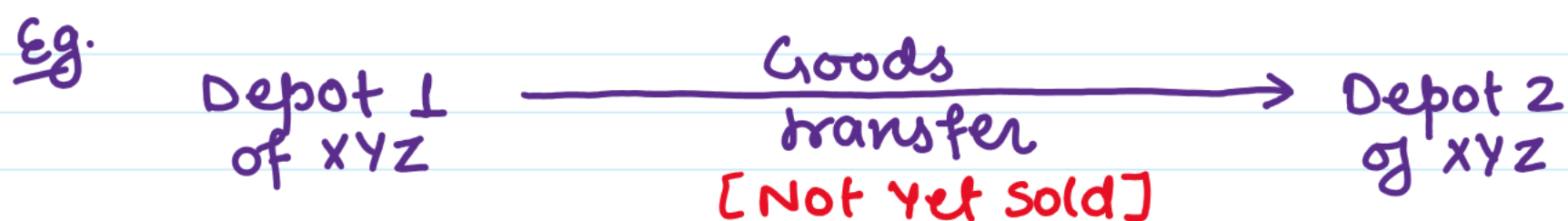
② Supply shall include all forms of supply

i) Sale and Transfer

Sales means transfer of ownership of and title to property from one person to another for a price.



Transfer means to convey or remove from one place, person etc. to another; handover from one to another, to take possession or control of.

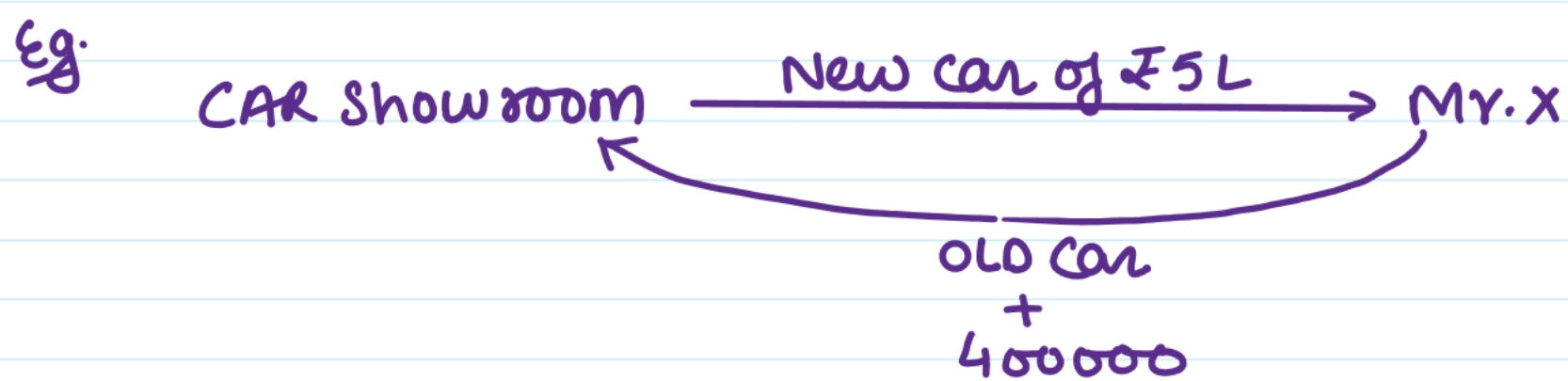


ii) Barter and Exchange

Barter means exchange of goods or services for other goods or services [no money]



Exchange may cover a situation where goods are paid for partly in goods & partly in money.



iii) Licence, lease, rental and disposal

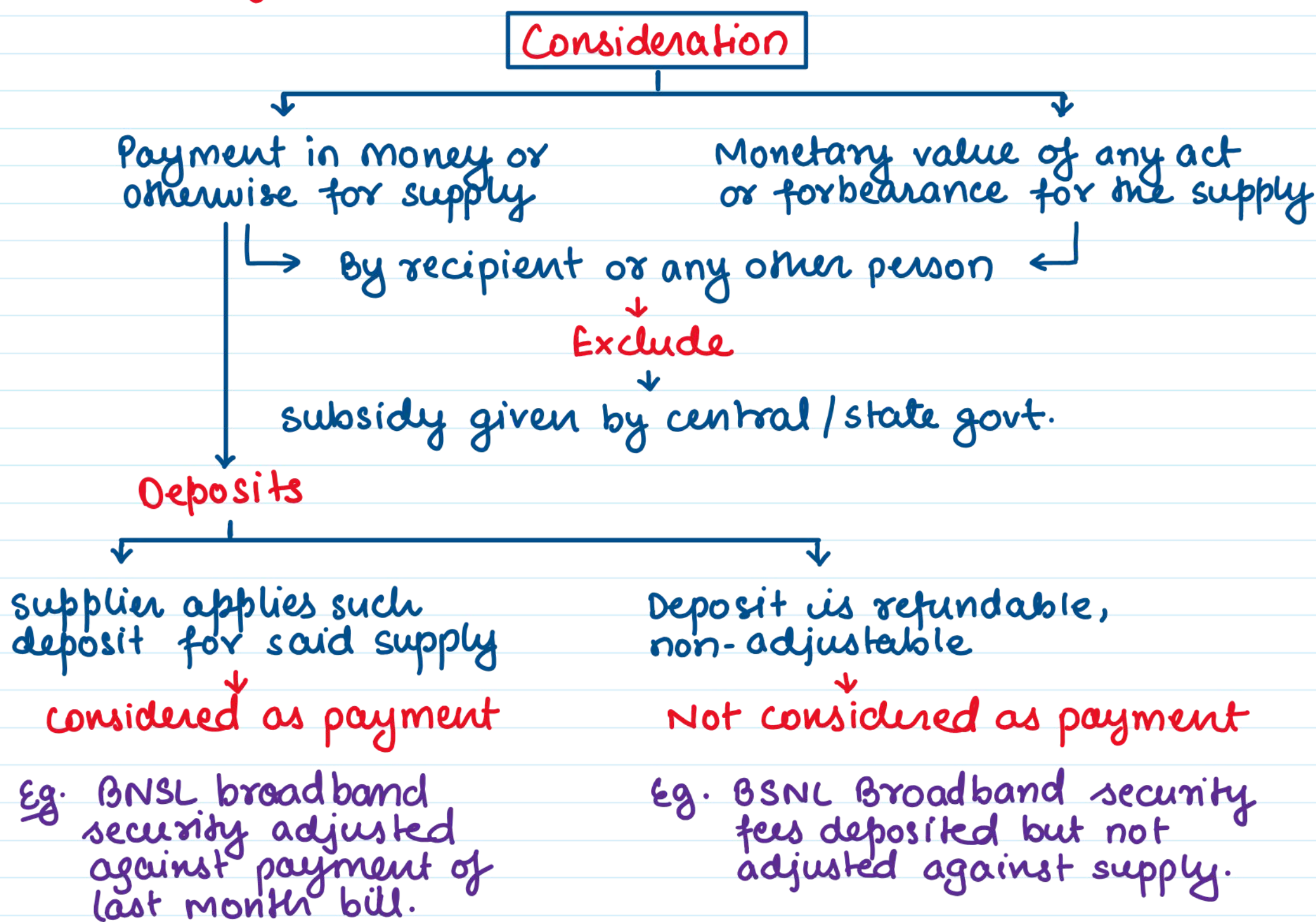
↓
permission granted by competent authority

↓
Agreement to rent, use something

↓
sale, pledge, giving away, use, consumption or any other disposition of a thing



③ Concept of 'consideration'



Let us examine the existence of consideration in following three scenarios:

(i) Donation received by charitable institutions from individual donors, without quid pro quo [CN 116/35/2019 GST dated 11.10.2019]

means obligation on part of recipient of donation to do anything (supply of service)

No obligation → No supply

Display of name of donor

Name of Individual for gratitude and public recognition of act

Not aimed at giving publicity in manner of advertisement or promotion of business

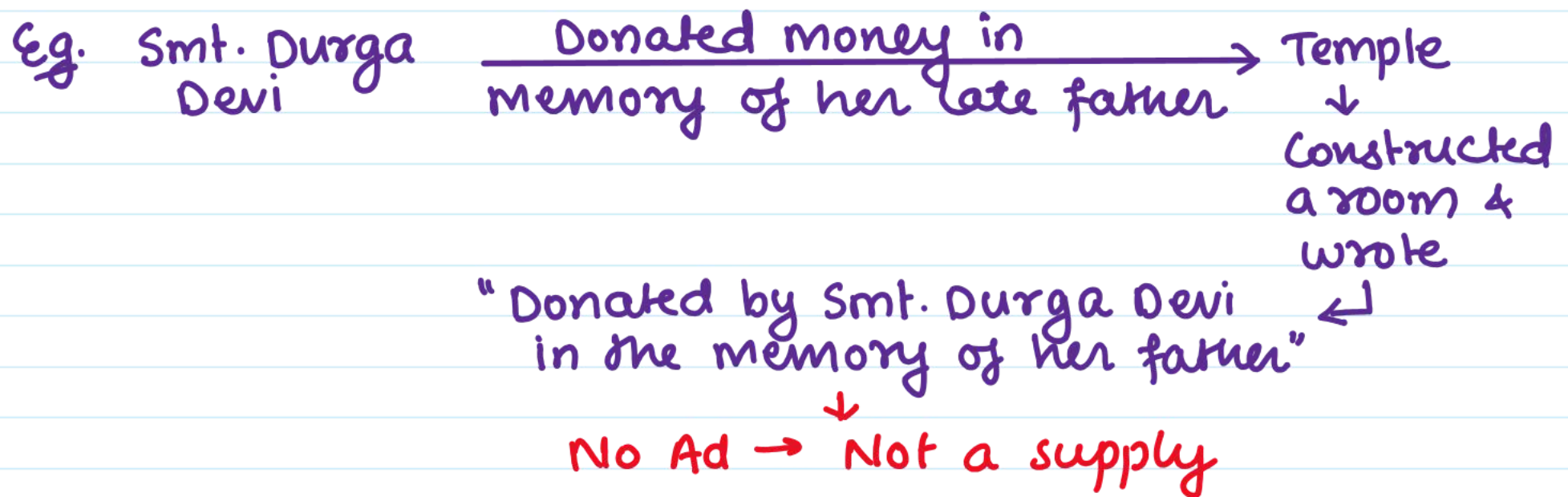
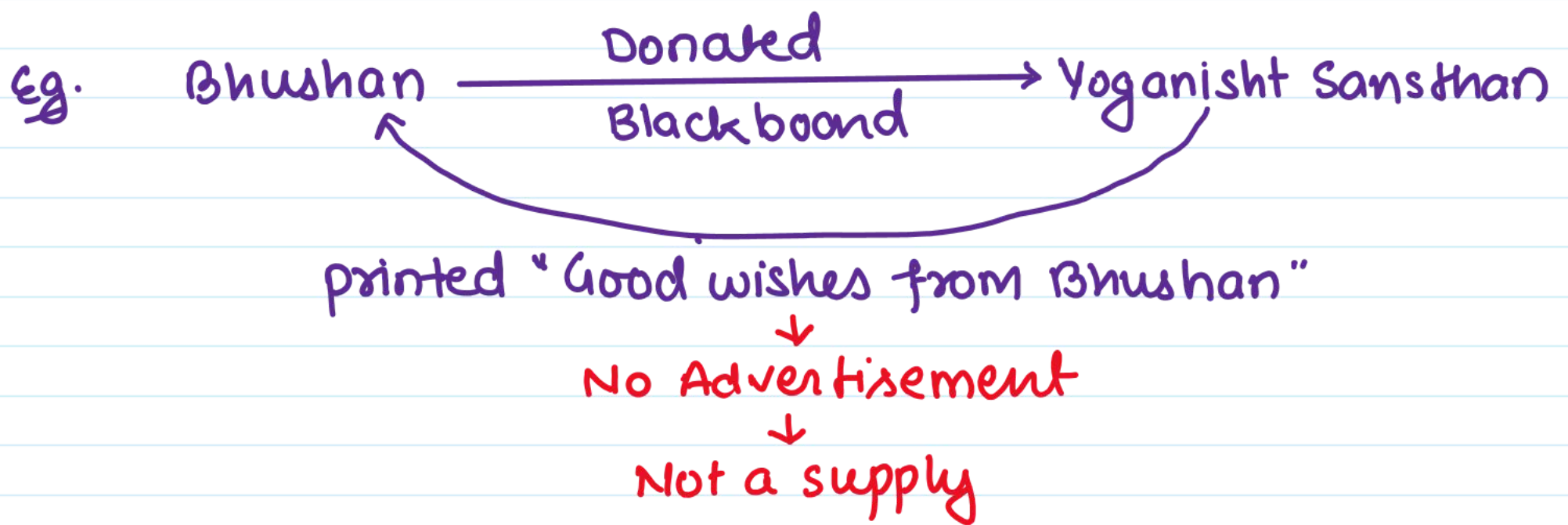
No quid pro quo

No supply of service

Name of business

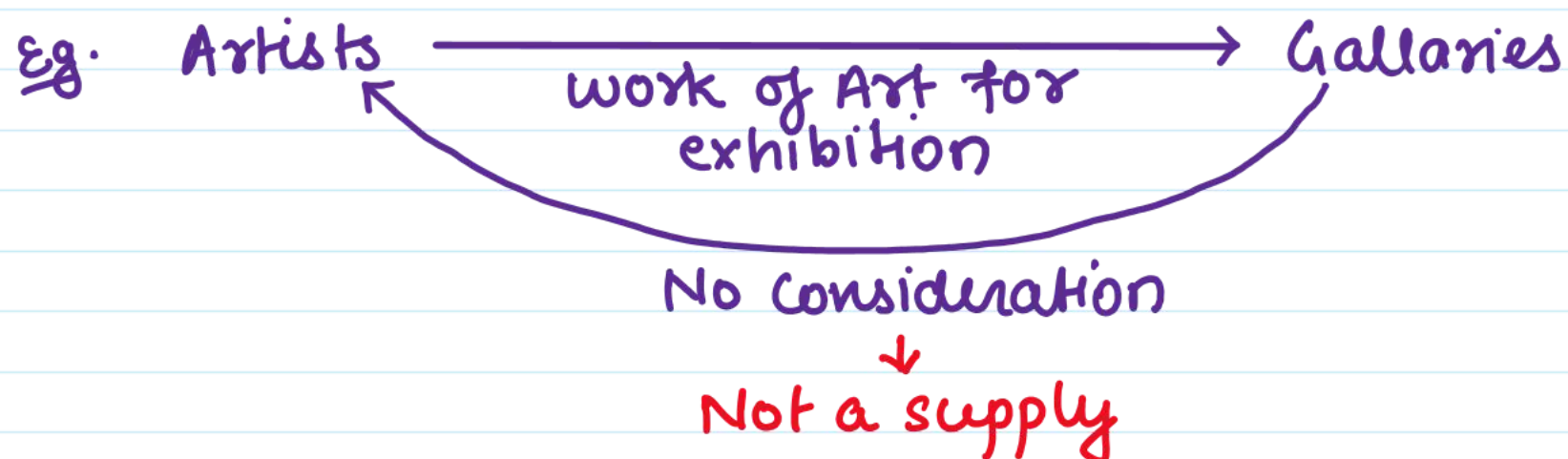
Aimed at providing advertisement or promotion of business

Supply of service



(ii) Art work sent by artists to galleries for exhibition
↓ [CN 22/22/2017 GST dated 21.12.2017]

Not a supply as no consideration flows from the gallery to the artists



Note: when buyer purchases anything from gallery, then the actual supply takes place.

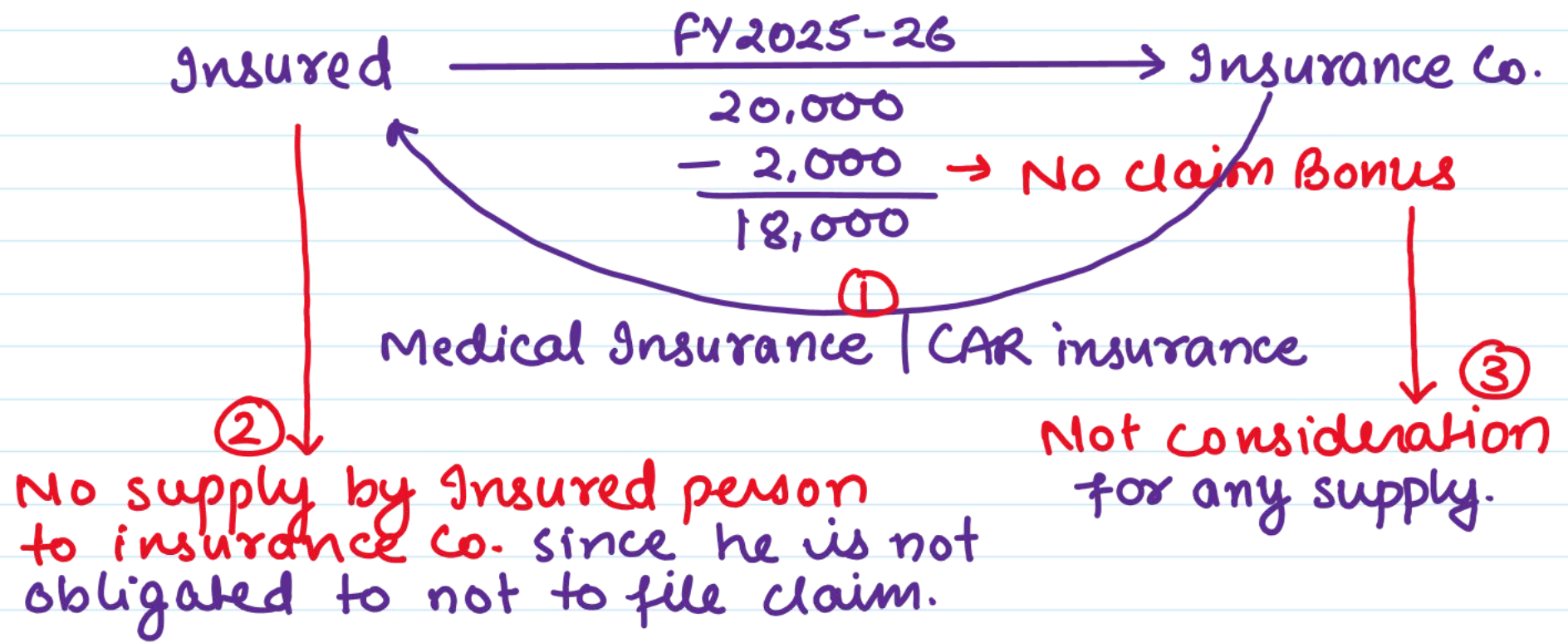
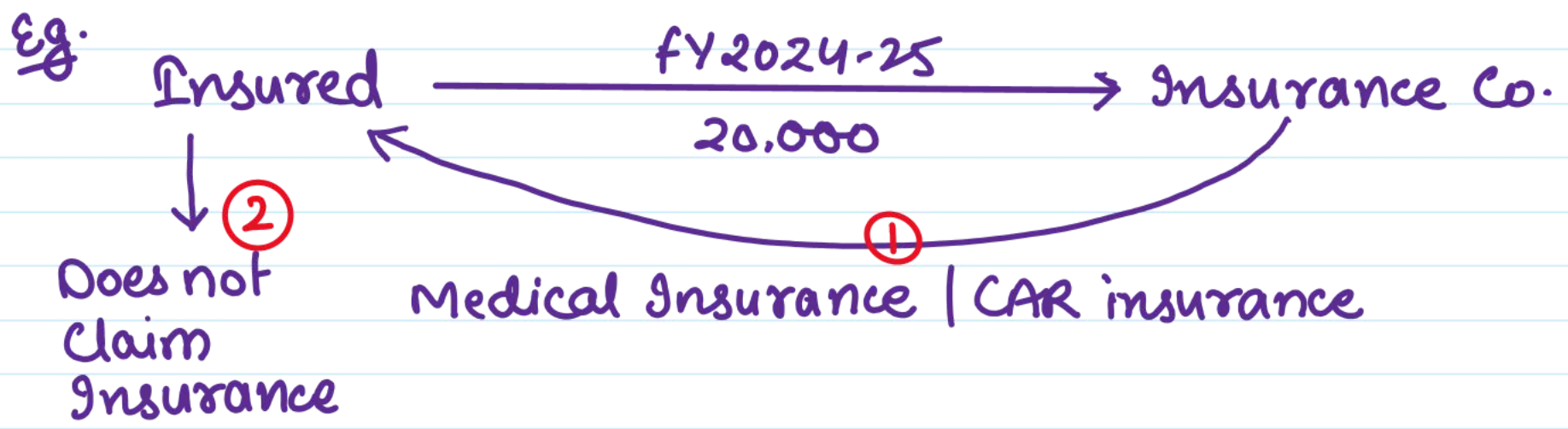
↓
GST applicable

(iii) No supply of service by insured to insurance company in lieu of 'No claim Bonus' [CN 186/18/2022 GST dated 27.12.2022]

↓
Some times, when an insured person (i.e. medical insurance, general insurance) does not claim insurance during a year, then the insurance co. reduces 'No claim Bonus' from gross premium of current year

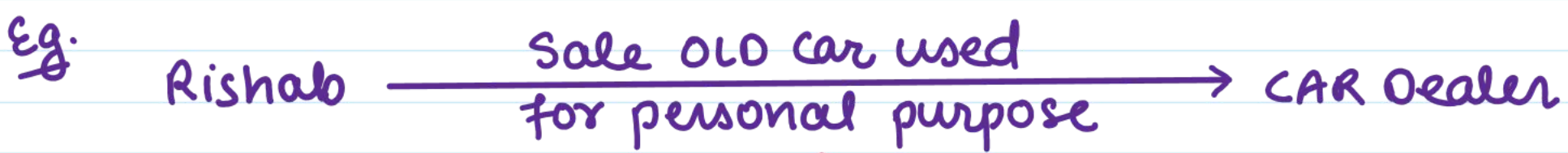
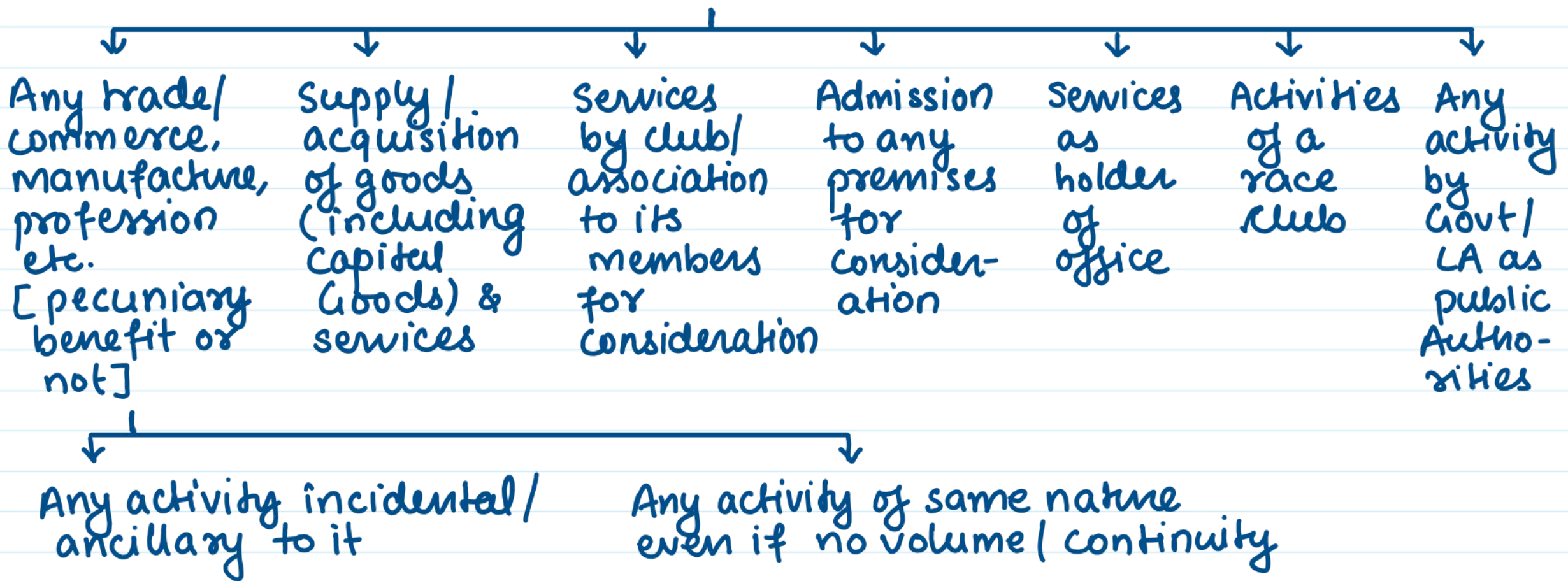
↓
No supply provided by the insured to insurance co. in form of agreeing to the obligation to refrain from the act of lodging insurance claim

No claim bonus (NCB) is not consideration for any supply.

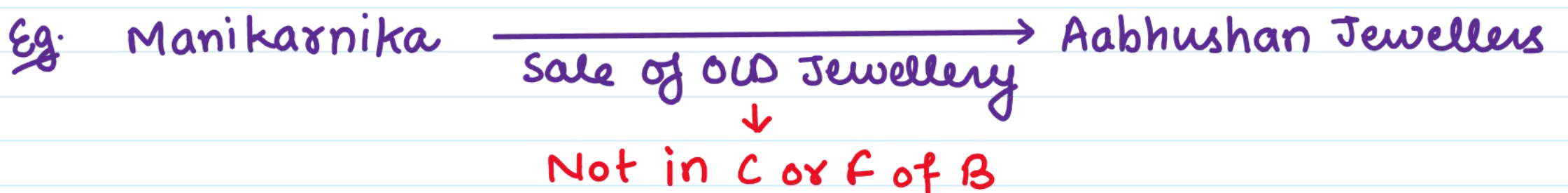


④ Meaning of supply made in the course or furtherance of Business:

Business includes



Not in the course or furtherance of business





Eg. Sundaram (Actor) → Sales painting for consideration (1) → Customer
 ↓
 Donate to charitable trust (2)
 ↓
 Qualify as supply in C or F of B

Eg. Residential Welfare Association [RWA] → service of depositing electricity bill → Members
 ↓
 nominal charges
 ↓
 Qualify as supply in C or F of B

Eg. Circus, Cinema halls, amusement parks etc → service by way of admission for consideration → Mr. X
 ↓
 Qualify as supply

Eg. Royal Turf Race Club → facilitating the wagering (betting) transactions on horses through totalisator → Customer / bettor / member
 ↓
 Commission deducted & retained by club from total bet value
 ↓
 Qualify as business

TP:4 Supply under section 7(1)

↓
 It can be studied under 4 clauses

① Section 7(1)(a): Supply of goods or services or both for a consideration in the course or furtherance of business.

[Imp Points: Consideration + Business]

② Section 7(1)(aa): Activities or transactions by a person (other than individual) to its members for consideration.

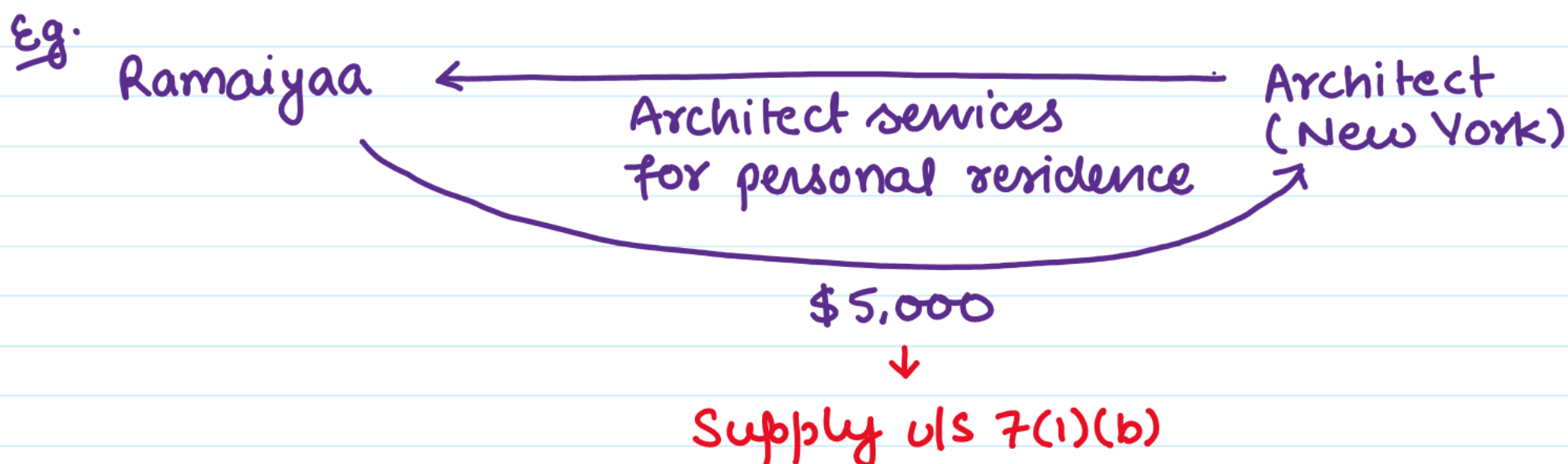
[Imp Points: To members + consideration]

Note: Person & its members shall be deemed to be distinct person.



③ Section 7(1)(b): Importation of services for a consideration whether or not in the course or furtherance of business.

[Imp. Point: Import of service + consideration]



④ Section 7(1)(c): Activities specified in schedule I without consideration [Deemed supply]

[Imp. Point: Schedule I + No consideration]

TP: 5 Supply u/s 7(1)(c): Deemed supply

↓

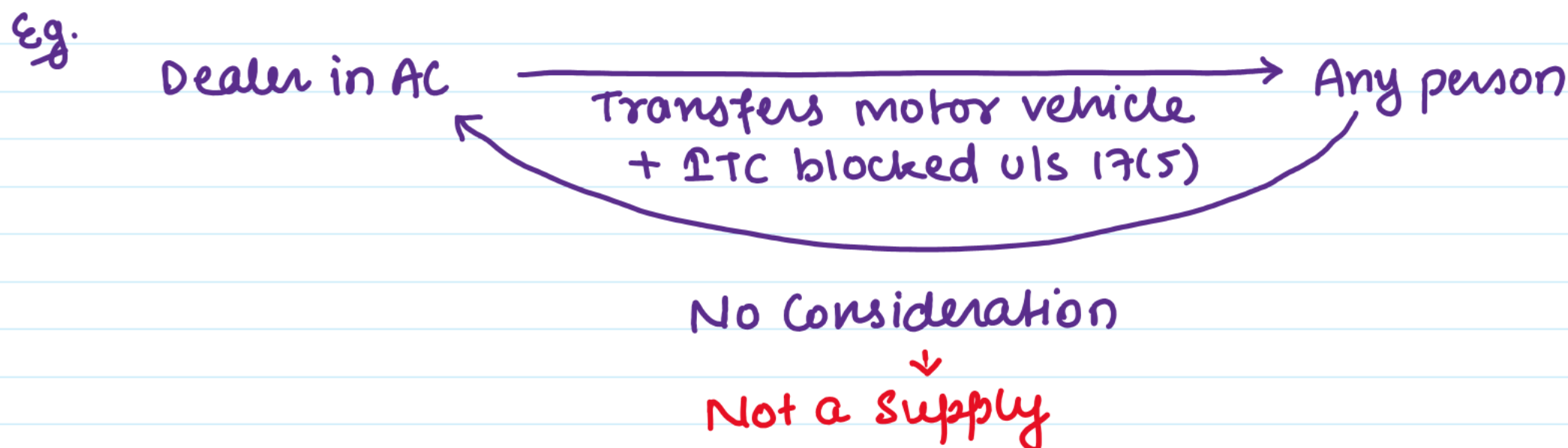
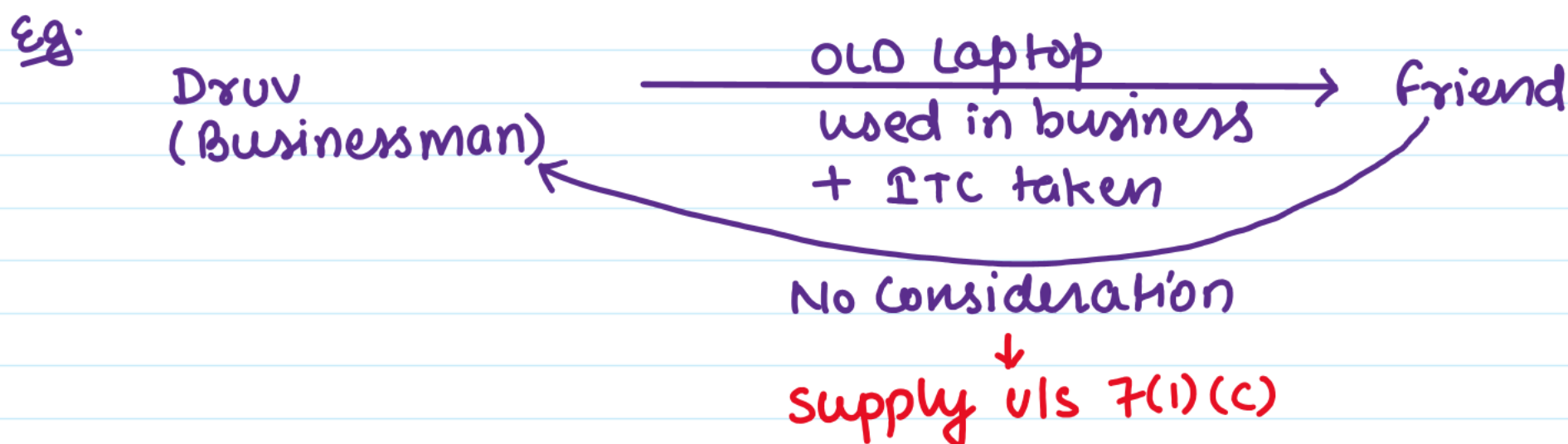
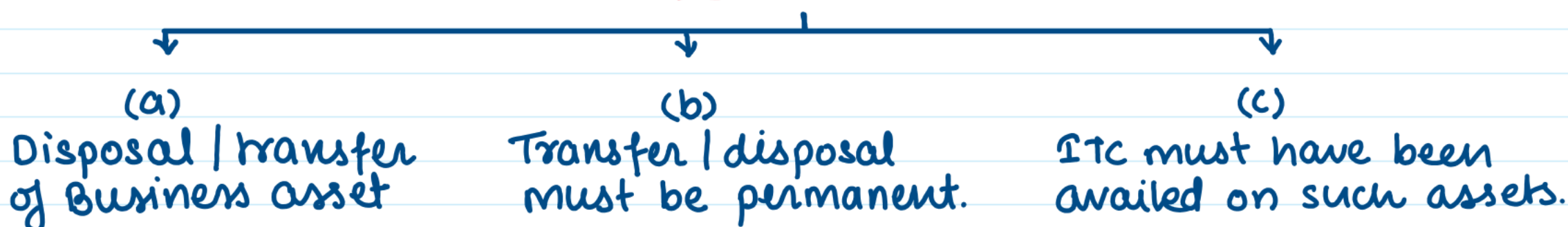
Activities without consideration

↓

Schedule I

Para No. 1 - Permanent transfer or Disposal of Business Asset

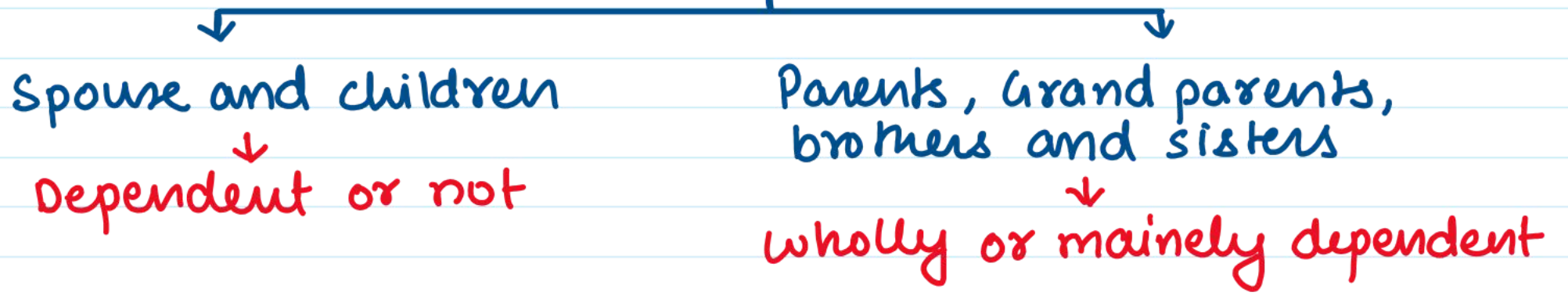
Conditions





⑨ Such persons are members of same family

Family means [section 2(49)]



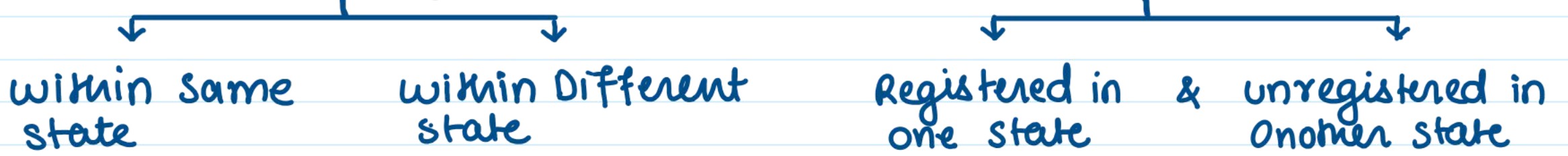
Distinct Person [section 25]

Distinct Person [sec 25(4)]

Establishments of distinct person [sec 25(5)]

separate GST Registration

Establishment



GSTIN 1 → Jaipur
GSTIN 2 → Alwar

GSTIN 1 → Jaipur
GSTIN 2 → Delhi

Eg. Rishabh Enterprises

Registered supplier of AC in Maharashtra → opens liquor shop in Uttarakhand [unreg]

Eg. Mohan (CA)
Registered office in Delhi → opens branch is west Bengal
↑ DP ↑

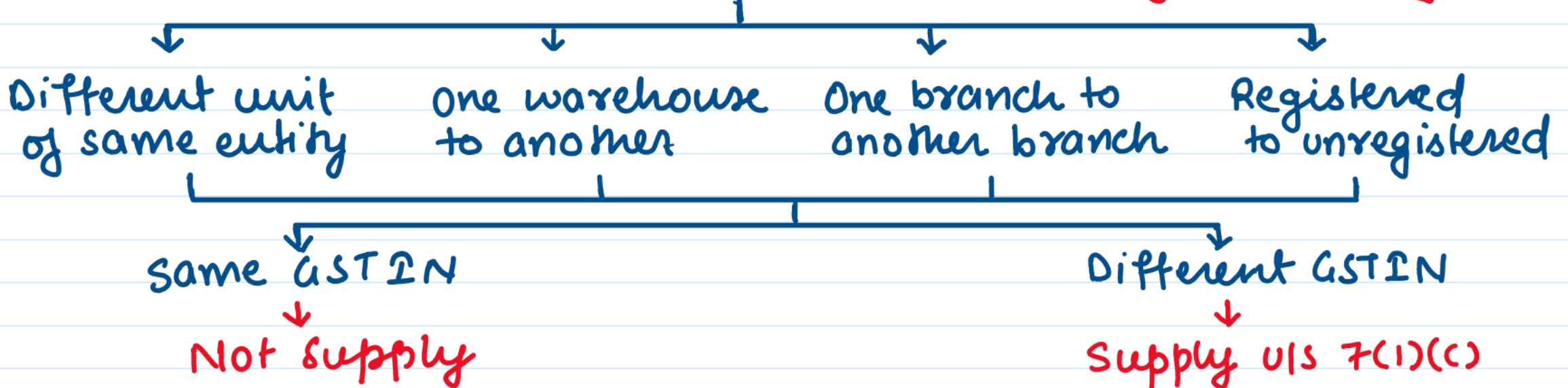
↑ E of DP ↑

Eg. Ms. Priya holds 30% shares → ABC Ltd. ← RP
holds 35% shares → XYZ Ltd. ← RP

Eg. Q Ltd. → R Ltd. Deciding role in policy, operation management, quality control
↑ RP ↑

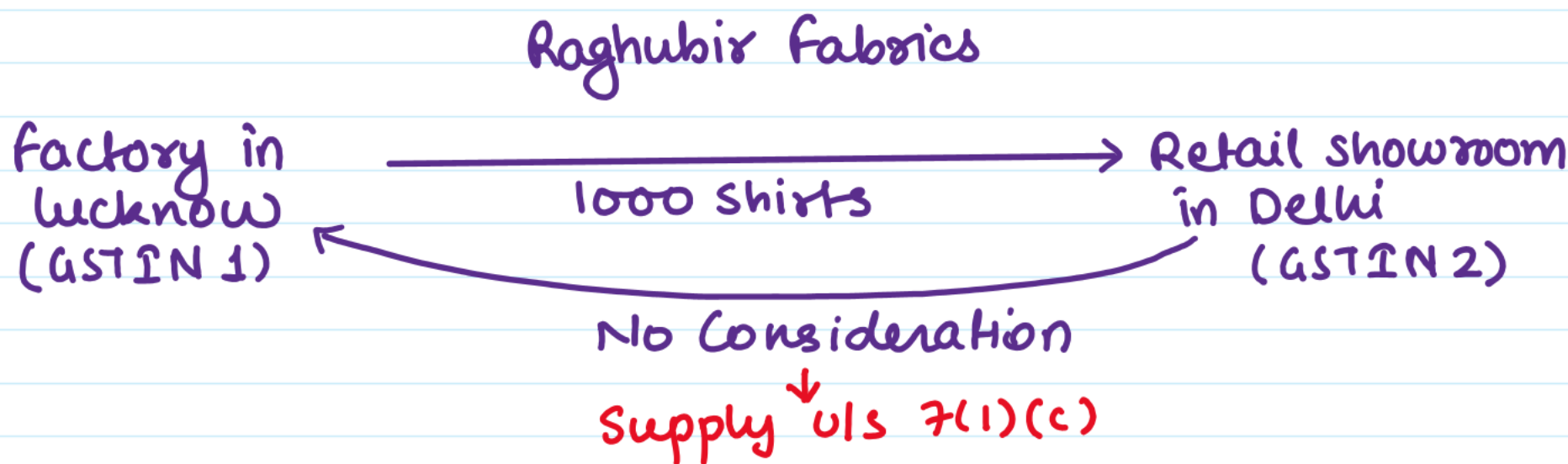
Some special points to remember for exams:

Note 1: Stock transfer or branch transfer qualify as supply

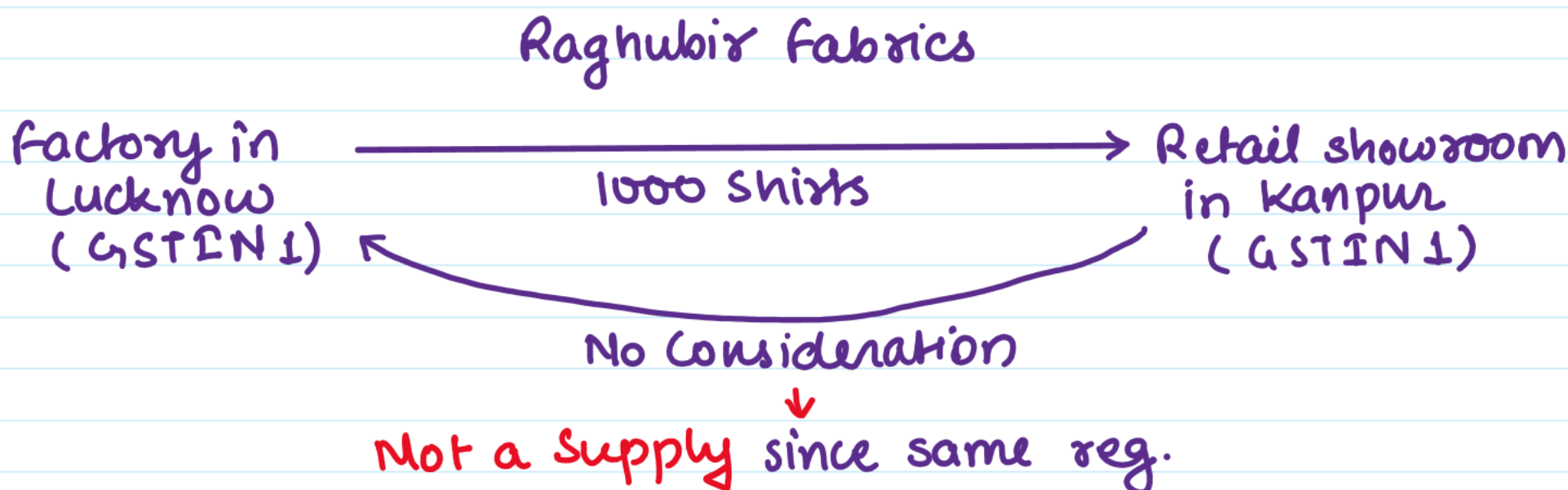




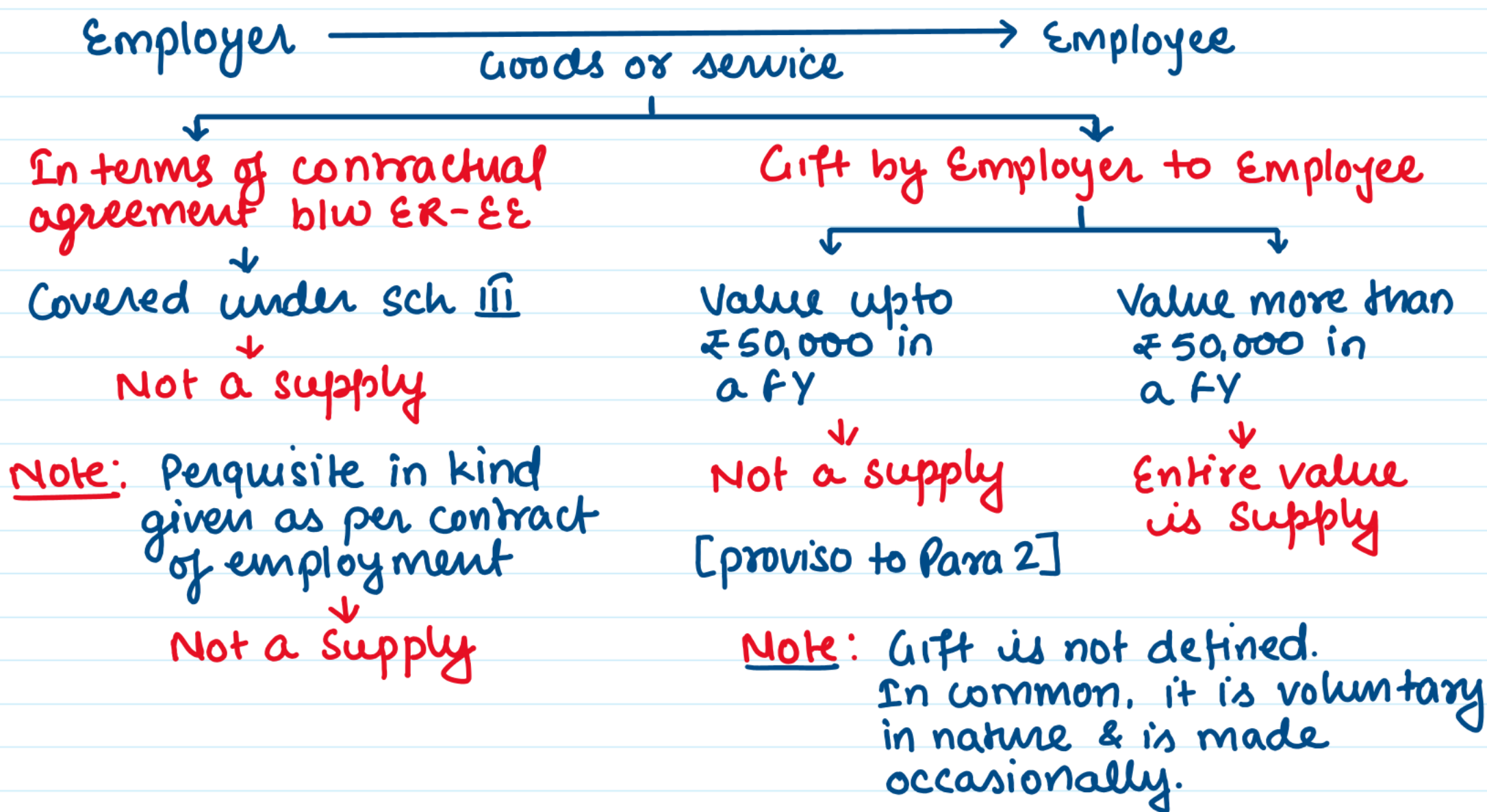
Eg.



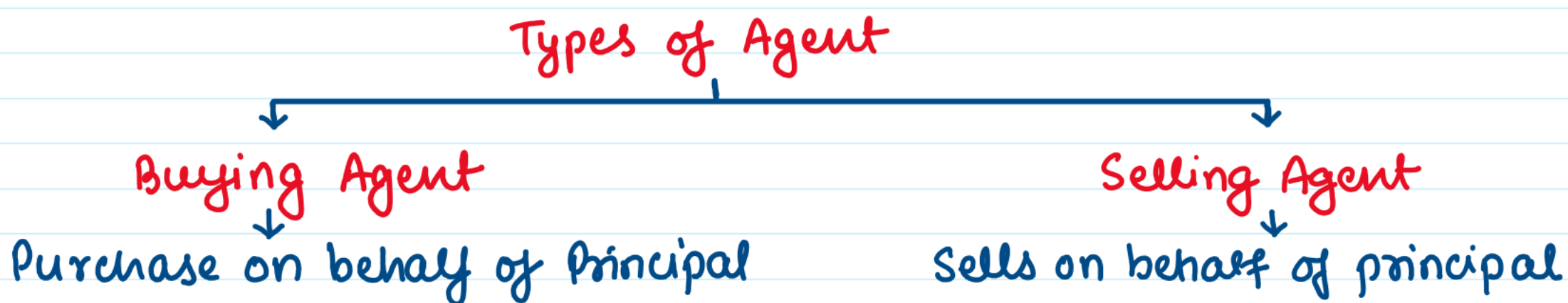
Eg.



Note 2: Supply of Goods or services or both between employer and employee

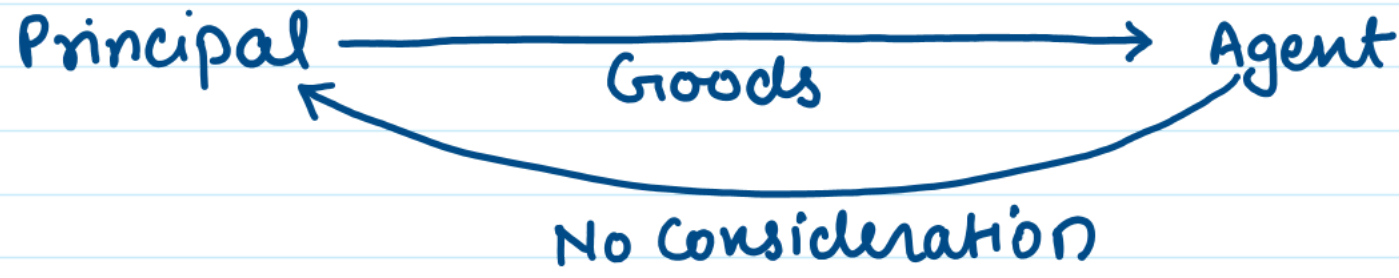


Para No. 3 - Supply of Goods by Principal to Agent or vice-versa
 ↓
 Not service





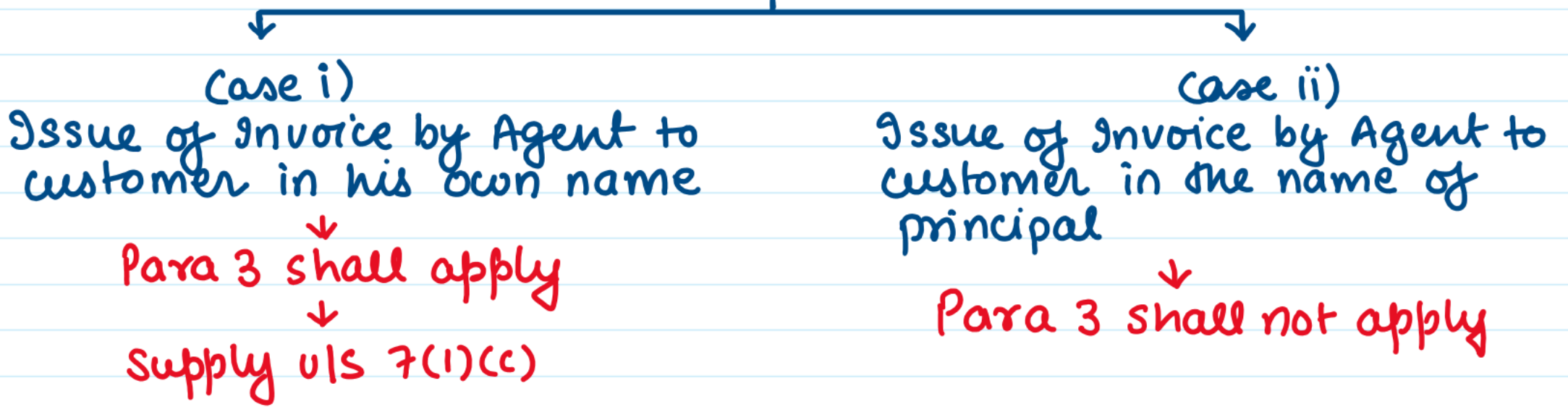
Selling Agent



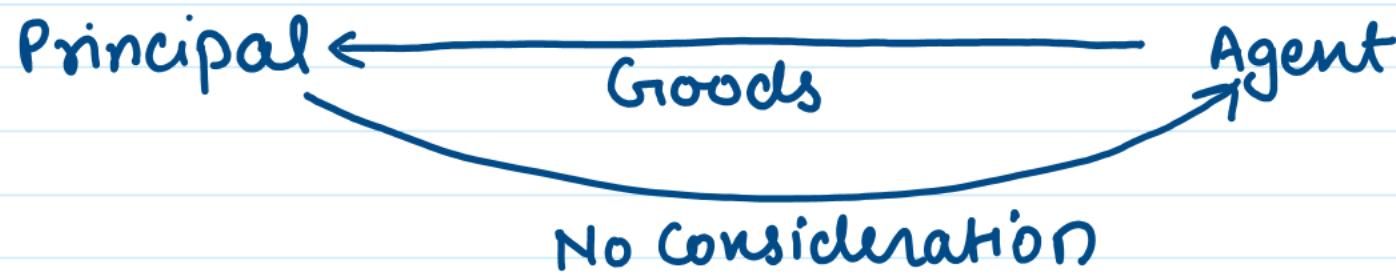
whether Para 3 of Schedule I apply or not?

Depends on

Issue of Invoice



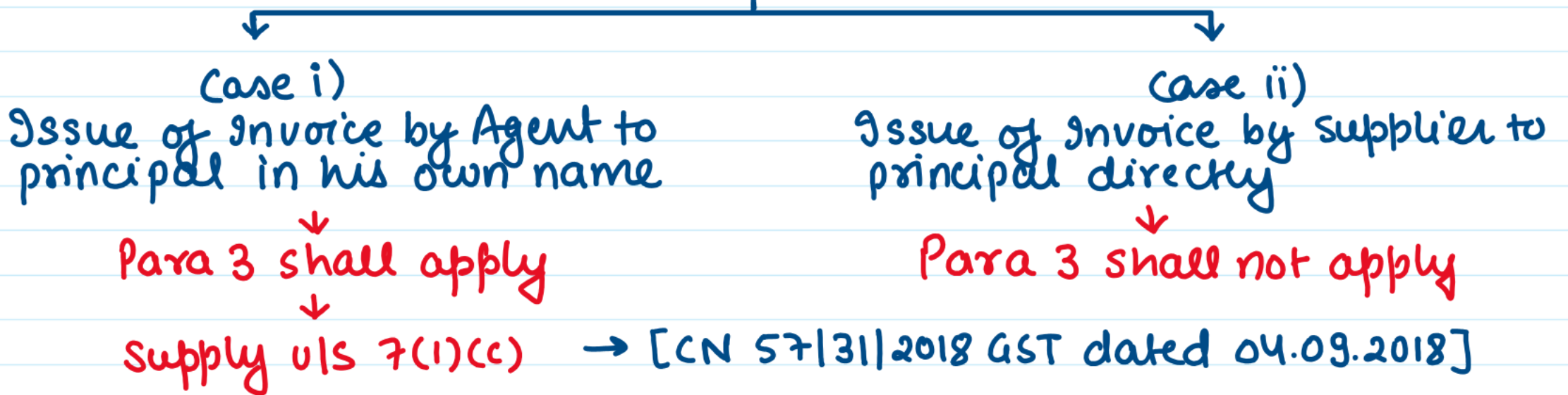
Buying Agent



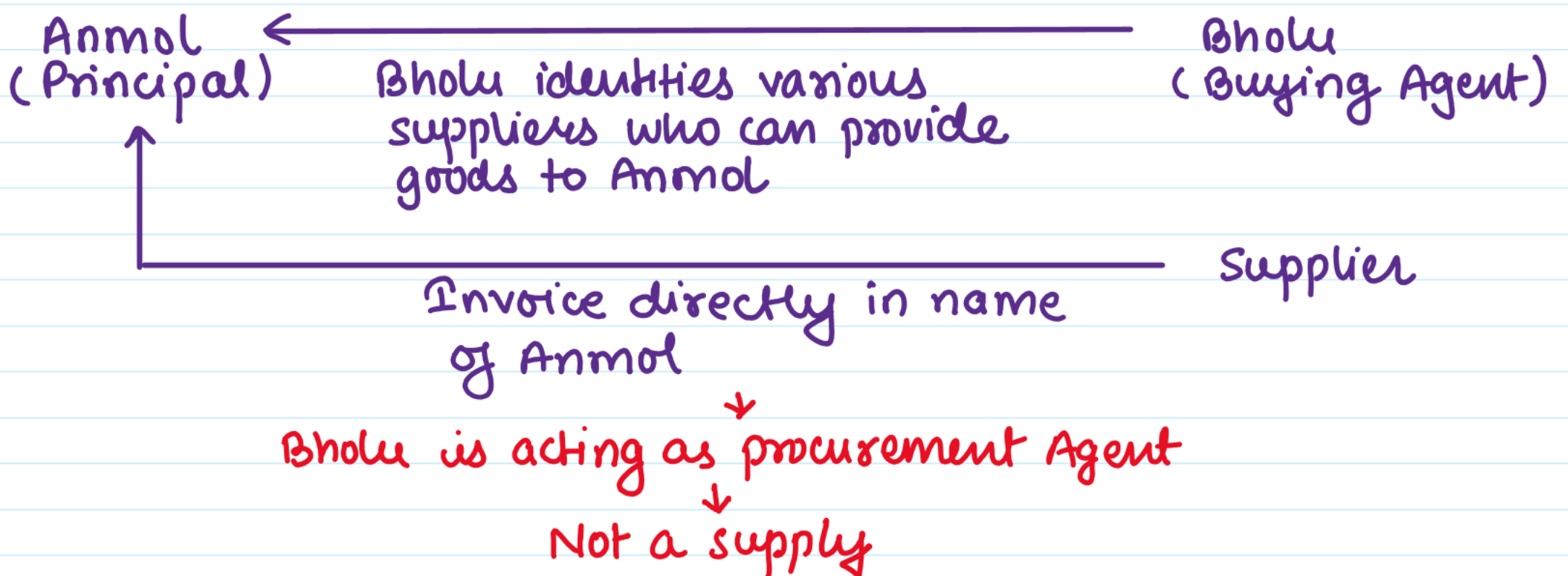
whether Para 3 of Schedule I apply or not?

Depends on

Issue of Invoice

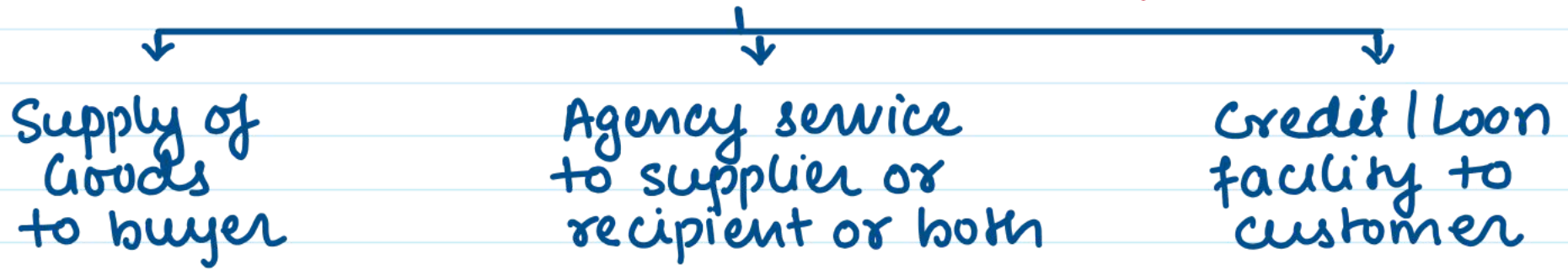


Eg.

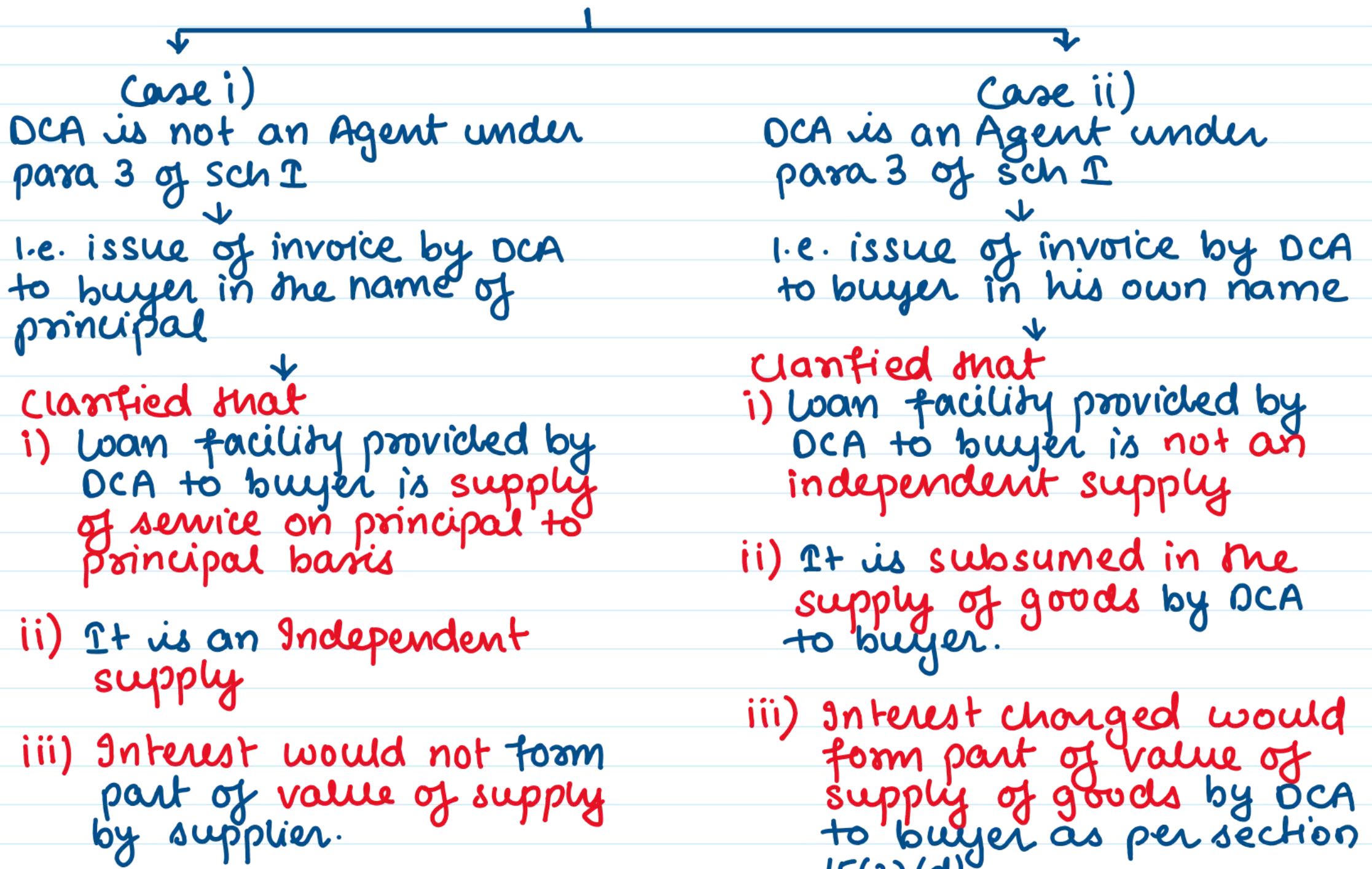




When an agent acts as DCA, there are 3 supplies as follows:

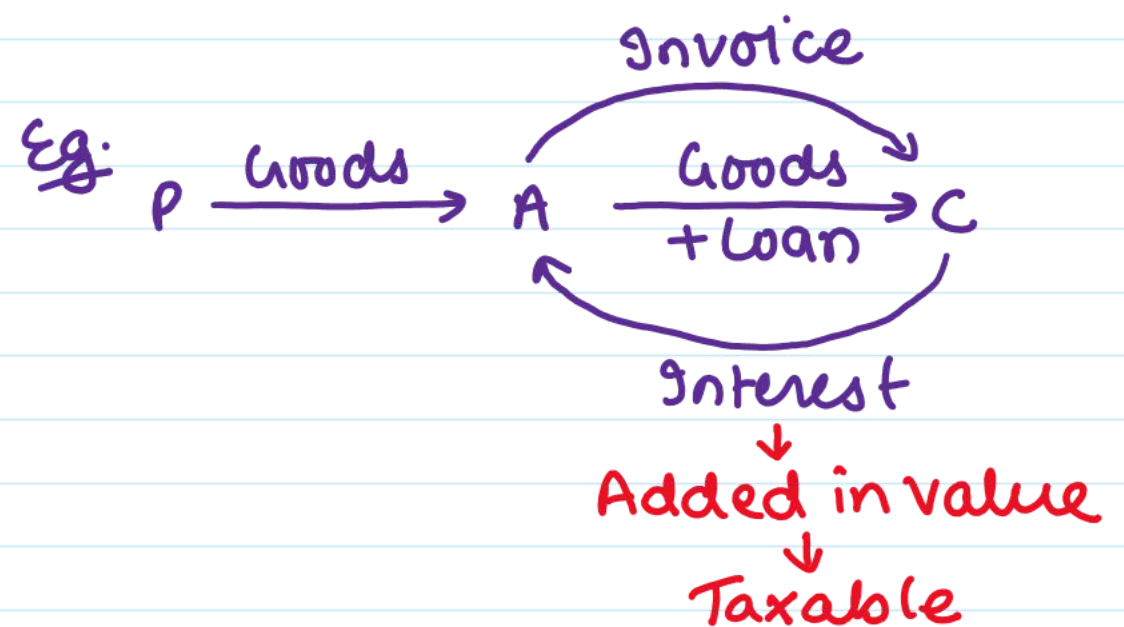
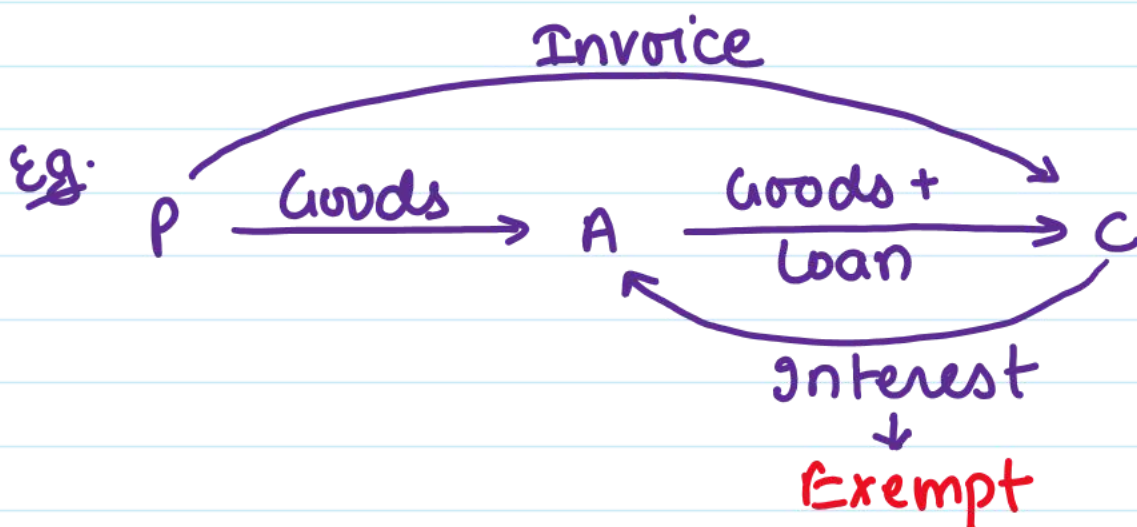


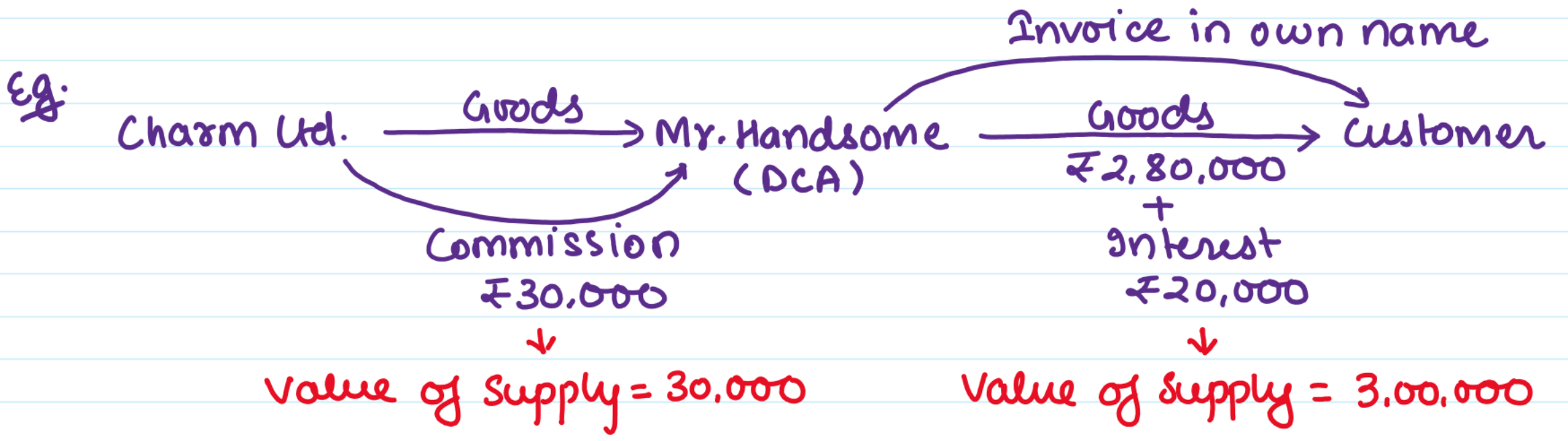
Clarification on whether interest is included in value of supply
[CN 73/47/2018 GST dated 05.11.2018]



Important Note: Service by way of extending deposits, loans etc. is exempt supply.

Not exempt. 😞 wow

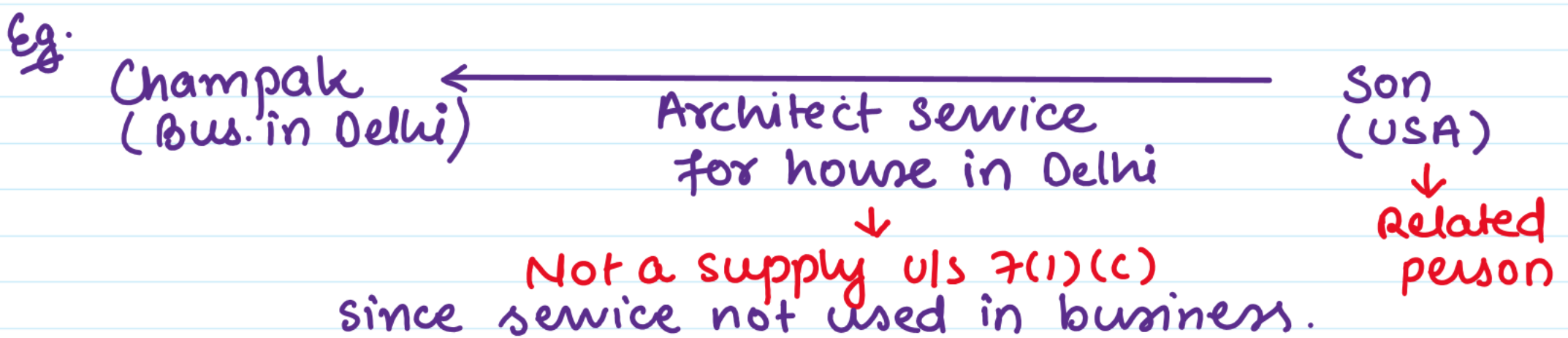
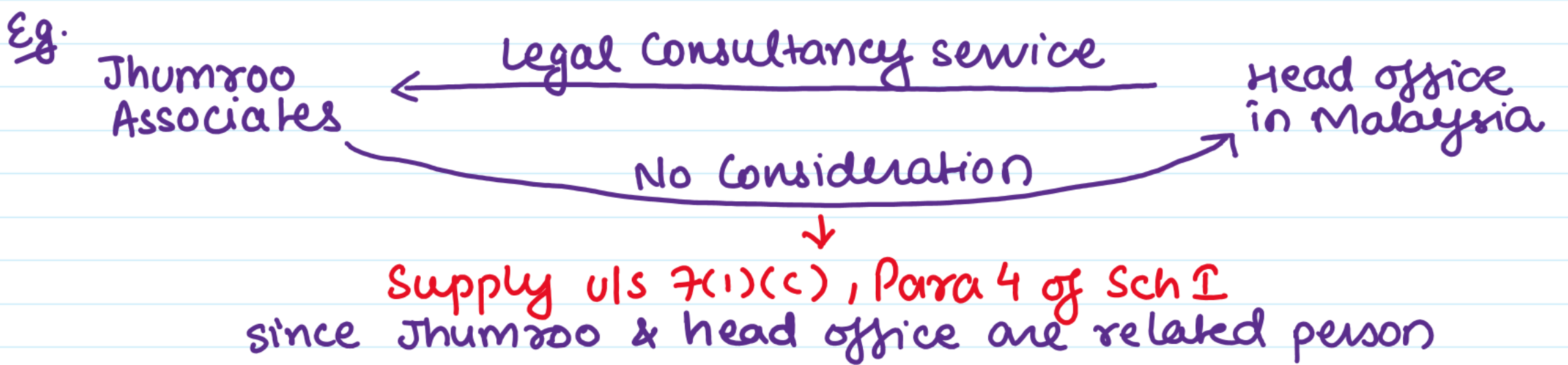
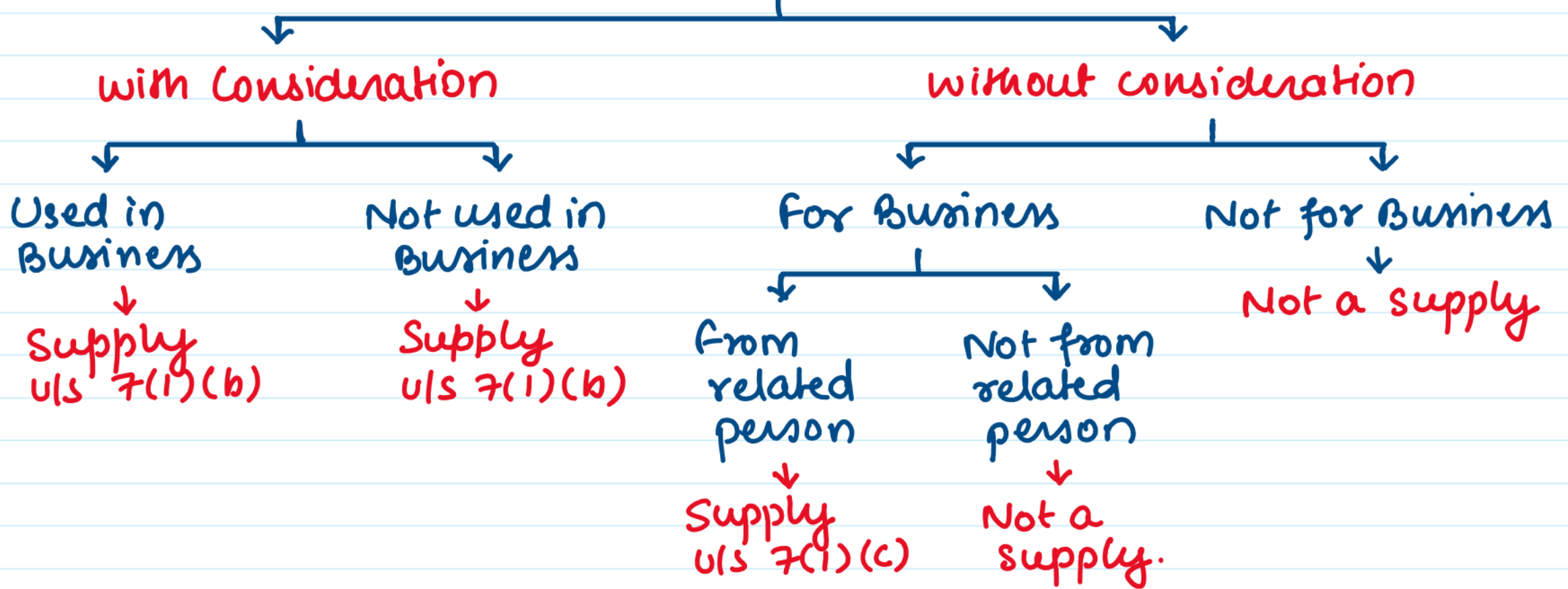




Para No. 4 - Importation of Service + from related person or from his establishment outside India + used in course or furtherance of business + without consideration

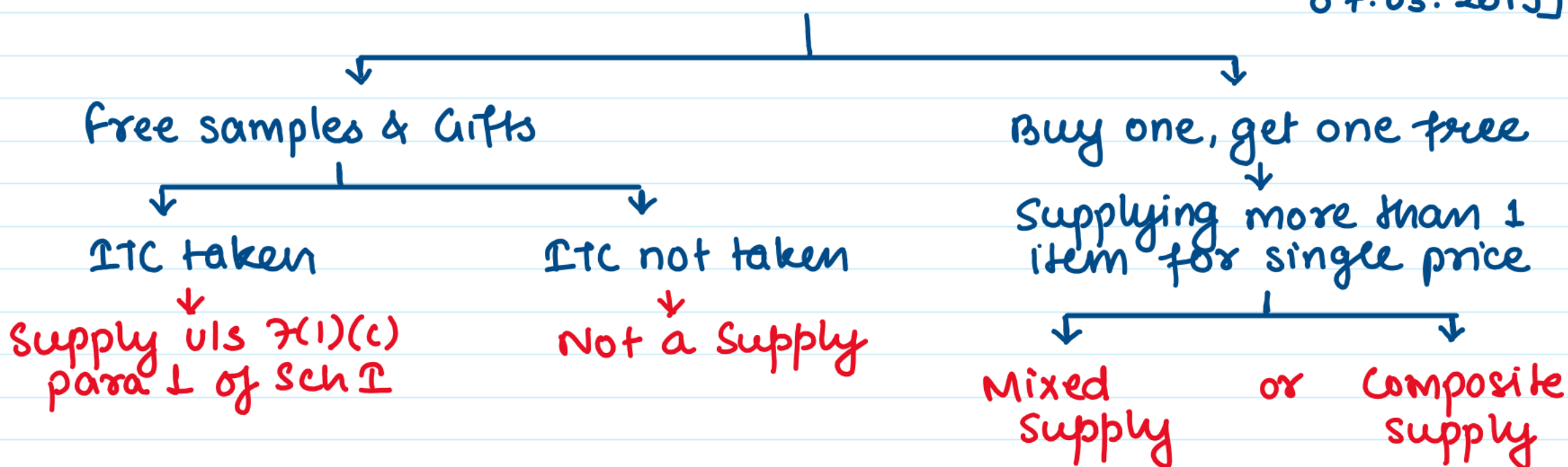
Supply u/s 7(1)(c)

Import of service





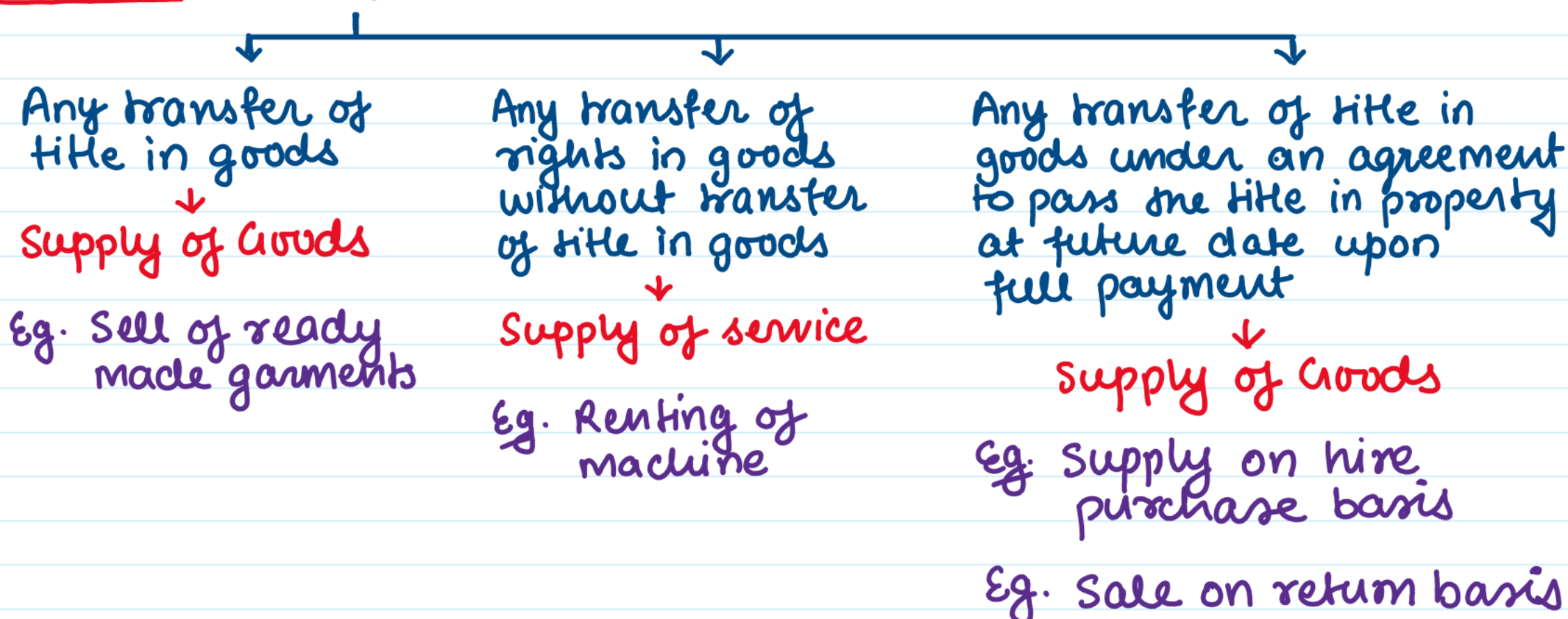
Classification on sale promotion schemes [CN 92/11/2019 GST dated 07.03.2019]



TP:6 Activities | transactions to be treated as supply of goods or supply of services [sec 7(1A)]

Schedule II

Para No. 1 Transfer



Para No. 2 Land and building





Taxability of 'Tenancy Rights' under GST

↓
Also known as Pagadi System

↓
Tenant acquires tenancy rights (i.e. right to sublet) in the property against payment of tenancy premium (i.e. pagadi)

Clarification: ① Although stamp duty & registration charge have been levied on transfer of tenancy rights, it shall be still subject to GST

↓
Not treated as sale of land / Building under sch III

↓
Supply of service

② Renting of residential dwelling to unreg. person is exempt. Therefore, grant of tenancy rights in a residential dwelling for use of residence (letout to unreg. person) is **Exempt**.

③ Surrender of tenancy rights by outgoing tenant against consideration

↓
Liable to GST

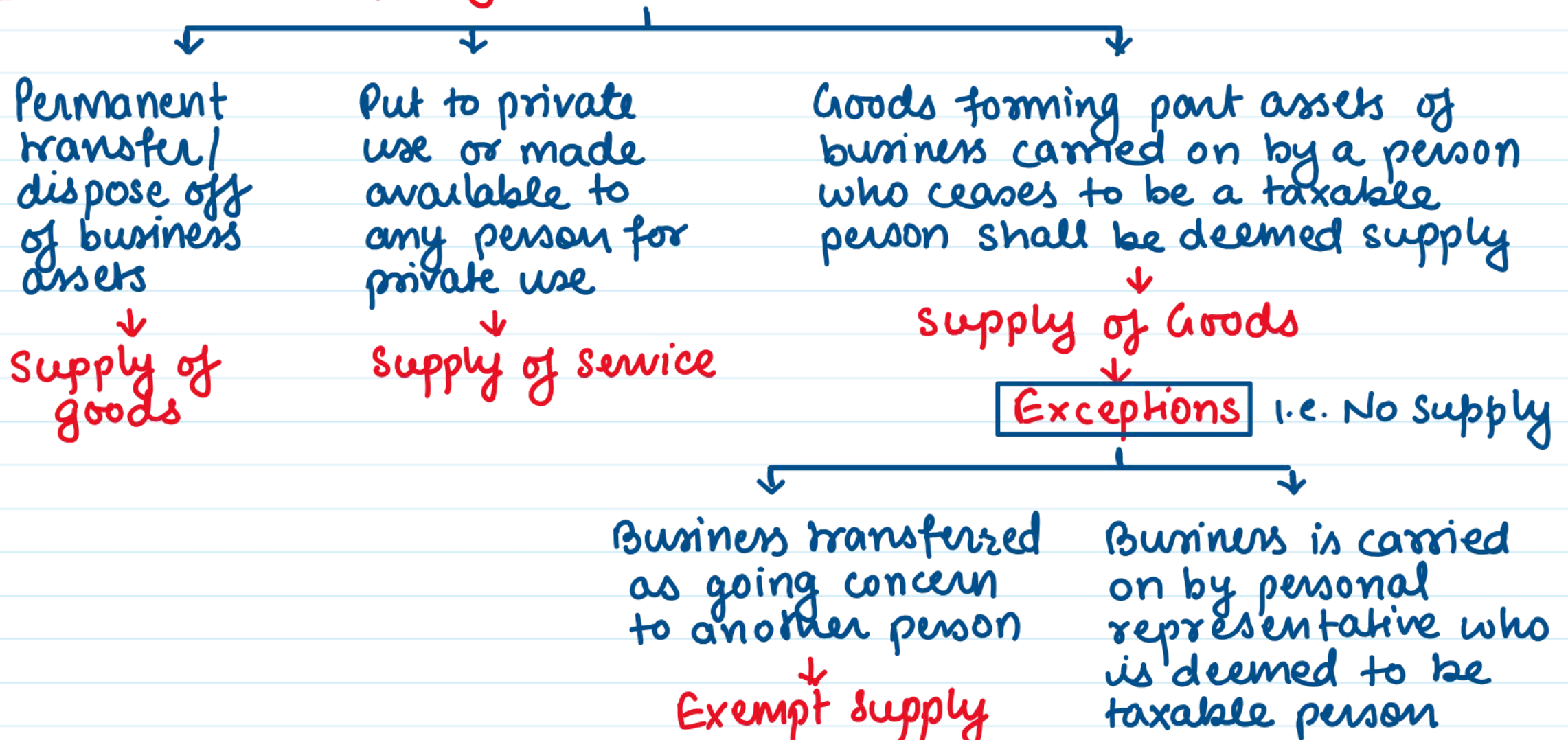
Para No.3 - Treatment or process

↓
applied on another person's goods

↓
Supply of service

Eg. Dying of clothes given by customer on job work basis

Para No.4 - Transfer of Business Asset





Para No. 5(a) - Renting of Immovable property

For commercial purpose

↓
Supply of service

- eg. Renting of commercial complex
- Renting of precincts of a religious place.
 - Renting of property to edu. institute.
 - Permitting use of immovable property for placing vending / dispensing machines.

For residential purpose

↓
Exempt

(Detailed discussion in exemption chapter)

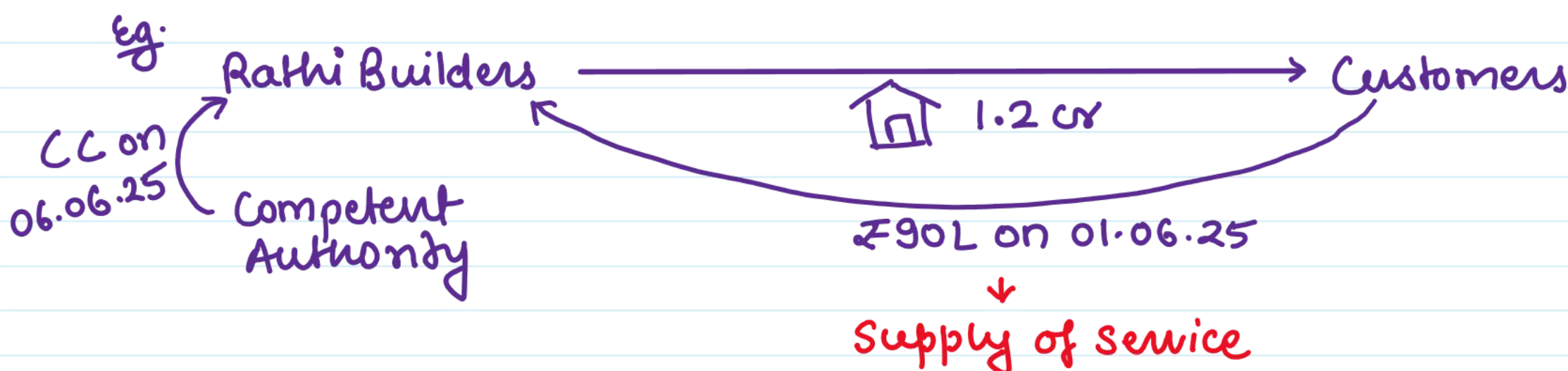
Para No. 5(b) - Construction of complex, building, civil structure, etc. for sale to buyer

Entire consideration is received after issue of completion certificate by competent authority or after its first occupation whichever is earlier

↓
Not a Supply [sch III]

Part of the consideration is received before issue of CC by competent authority or before first occupation

↓
Supply of service



Note: Construction includes additions, alterations, replacement etc.

Para No. 5(c) - Transfer or permitting use or enjoyment of any intellectual property right

Sale of IPR

↓
Supply of goods

Temporary transfer

↓
Supply of services

Para No. 5(d) - Development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of IT software

↓
Supply of services

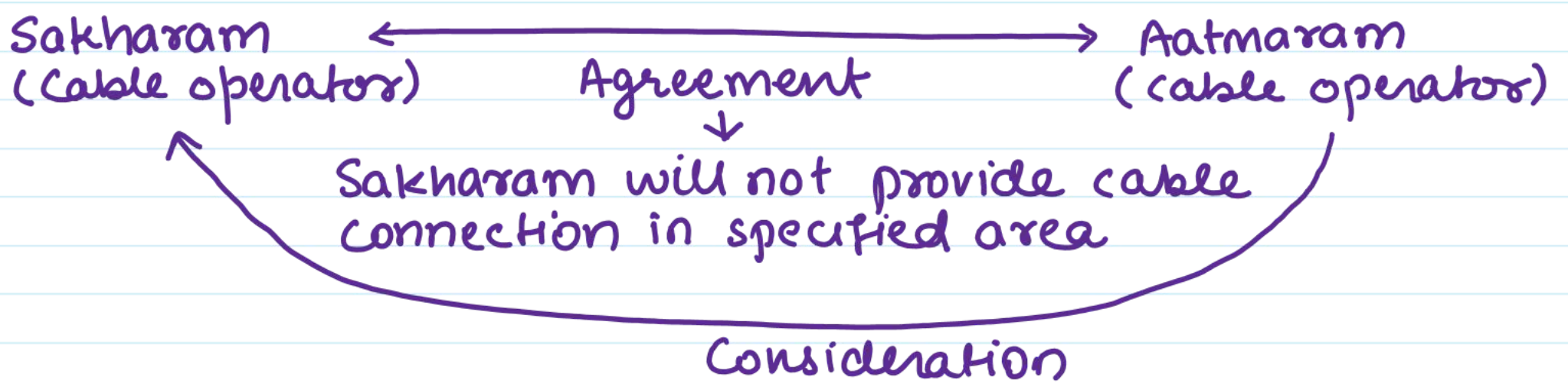
means prepackaged software → supply of goods.



Para No. 5(e) - Agreeing to obligation (i) to refrain from an act, or (ii) to tolerate an act or situation, or (iii) to do an act.

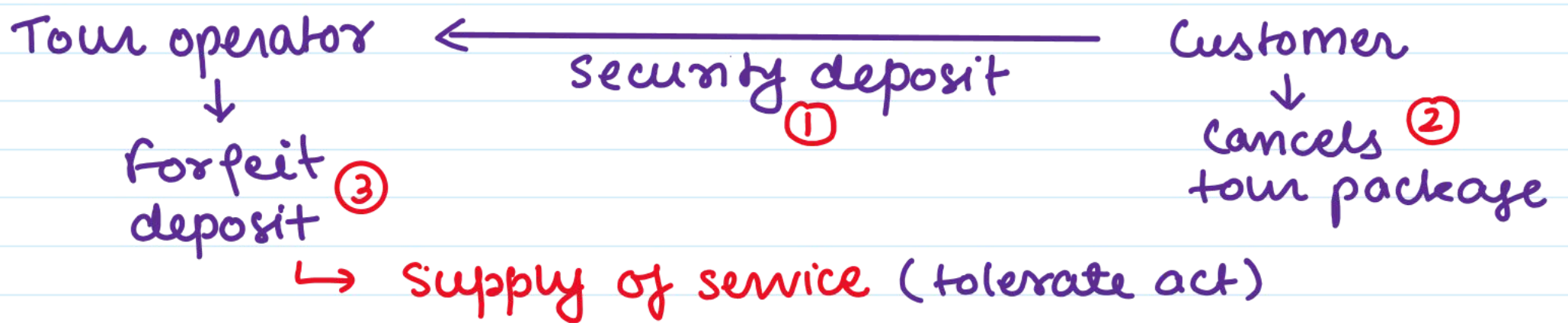
↓
Supply of service

Eg:



↓
Supply of service

Eg:



ICAI Examples of above 3 points

Agreeing to the obligation to **REFRAIN** from an act

Eg. Non-Compete agreement

Eg. Builder refraining from constructing more than a certain number of floor even though permitted by authority, against consideration by neighbouring society

Eg. Industrial unit refraining from manufacturing activity during school hours, against consideration

Agreeing to the obligation to tolerate an act or a situation

Eg. Shopkeeper allowing a hawker to operate from common pavement in front of his shop, against monthly payment

Eg. RWA tolerating use of loud speakers for early prayers by school, against consideration.

Agreeing to the obligation to do an act

Eg. Industrial unit agrees to install equipment for zero emission at the behest of neighbouring society, against consideration even though emission was within permitted limit.

Note: Above three activities must comply with following conditions:

- ① There must be an expressed or implied agreement or contract.
- ② Consideration must flow in return.

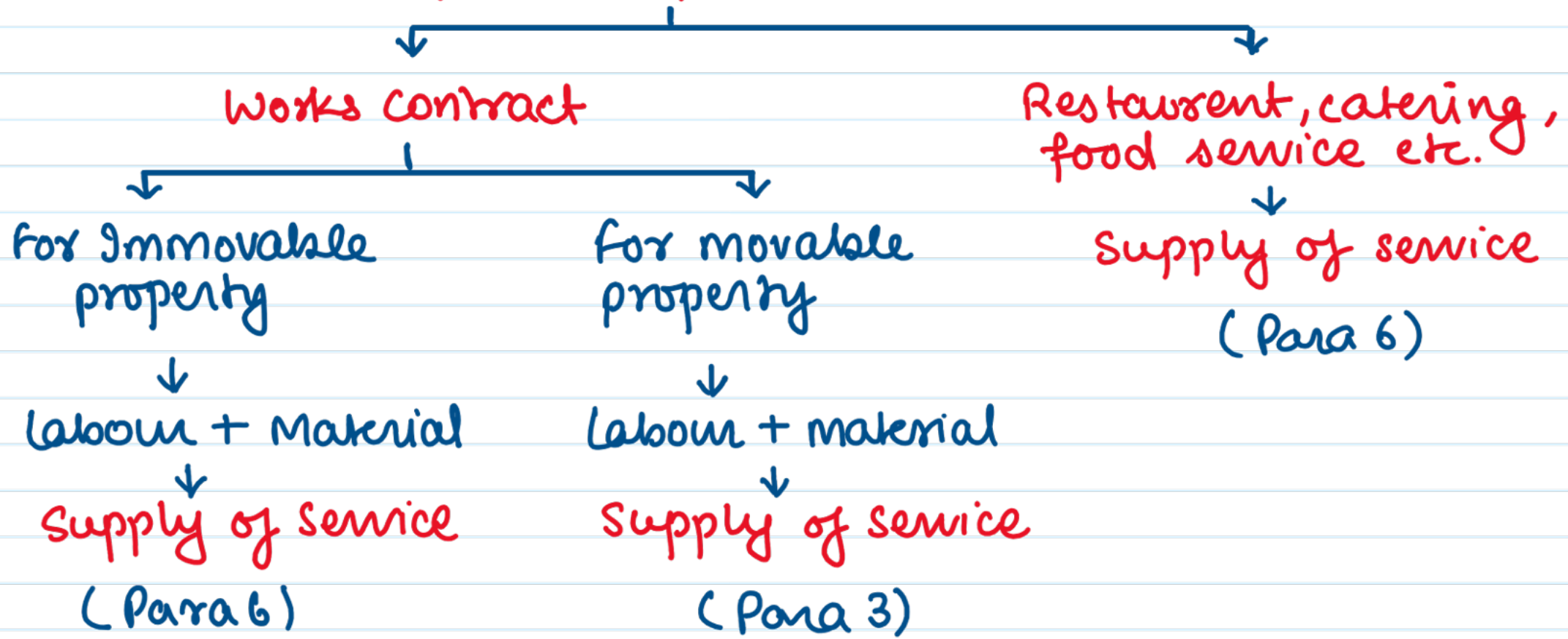


Para No. 5(f) - Transfer of right to use any goods for any purpose for consideration

↓
Supply of service

Eg. Machinery given on hire

Para No. 6 - Composite supplies



Eg. Construction



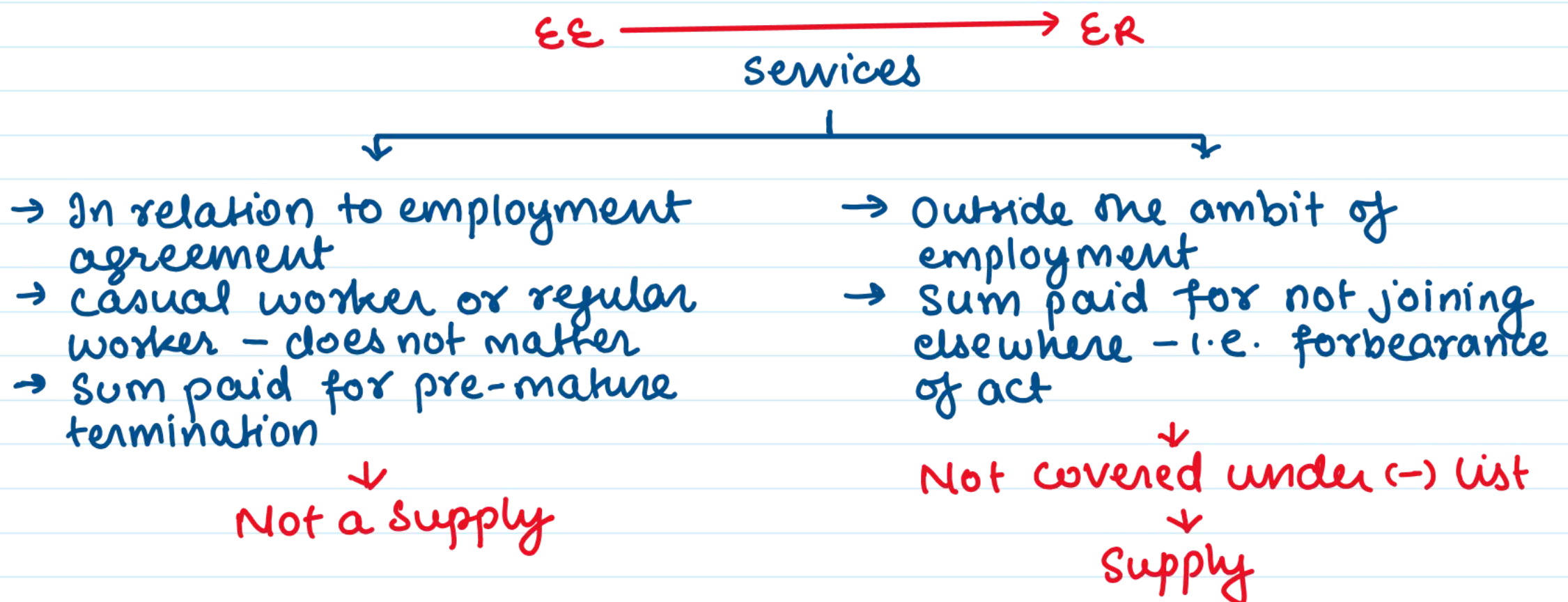
TP:7 Non-Supplies under GST [sec 7(2) / 7(3)]

A. Non-supplies listed in Schedule II [sec 7(2)(a)]

↓
Activities or transaction which shall not be treated as supply of goods or supply of service.

↓
NEGATIVE LIST

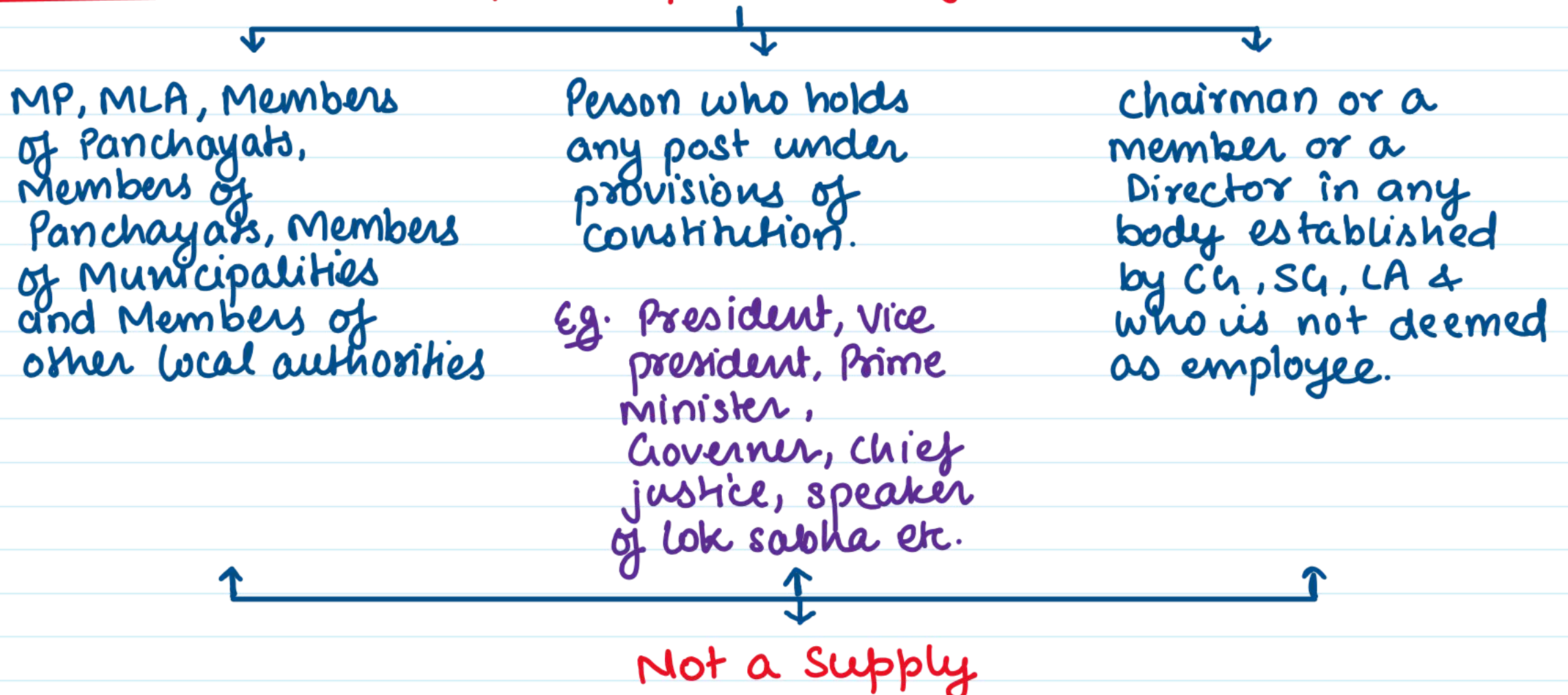
Para No. 1 - Services by Employee to the Employer in the course of employment



Para No. 2 - Service by any court (includes District court, High court, supreme court) or tribunal established under any law

↓
Not a supply

Para No. 3 - Functions / duties performed by

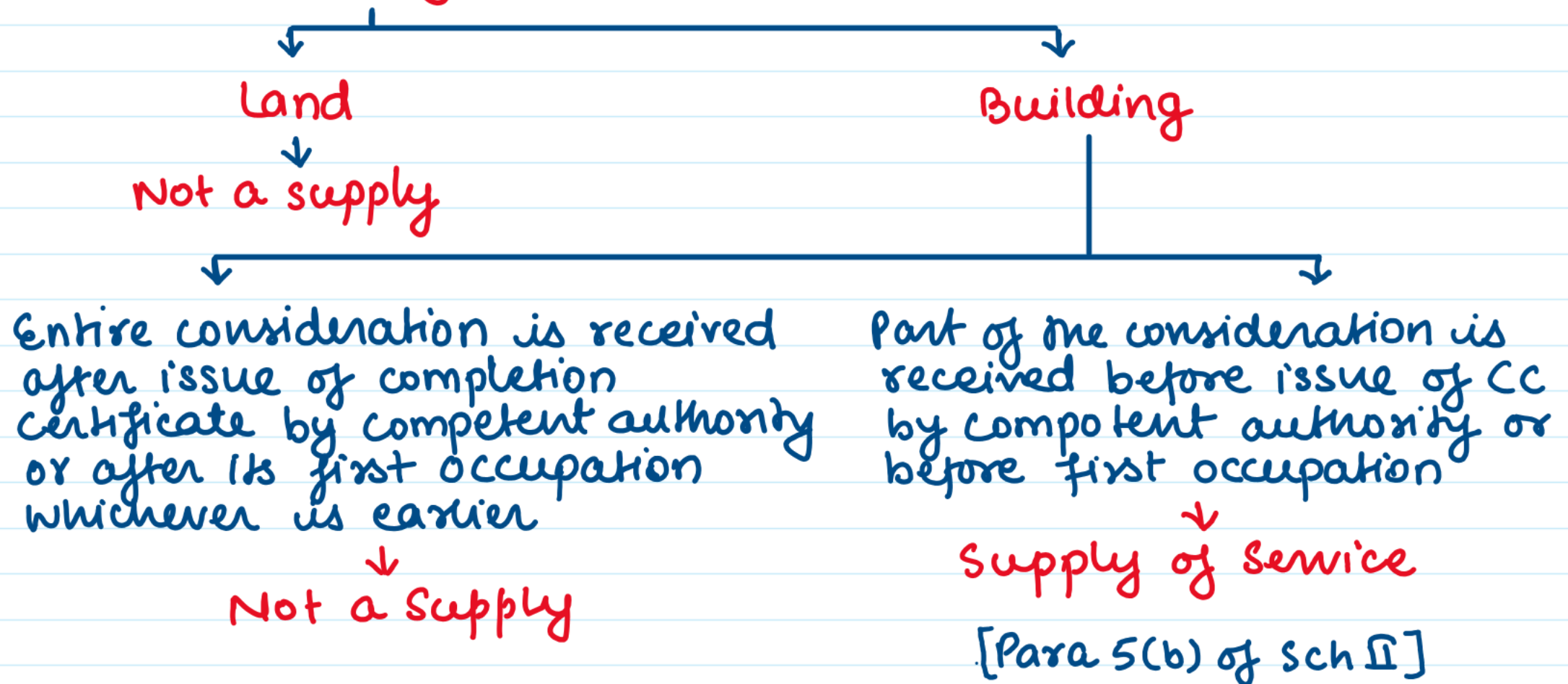


Para No. 4 - Services of funeral, burial, crematorium or mortuary including transportation of deceased.

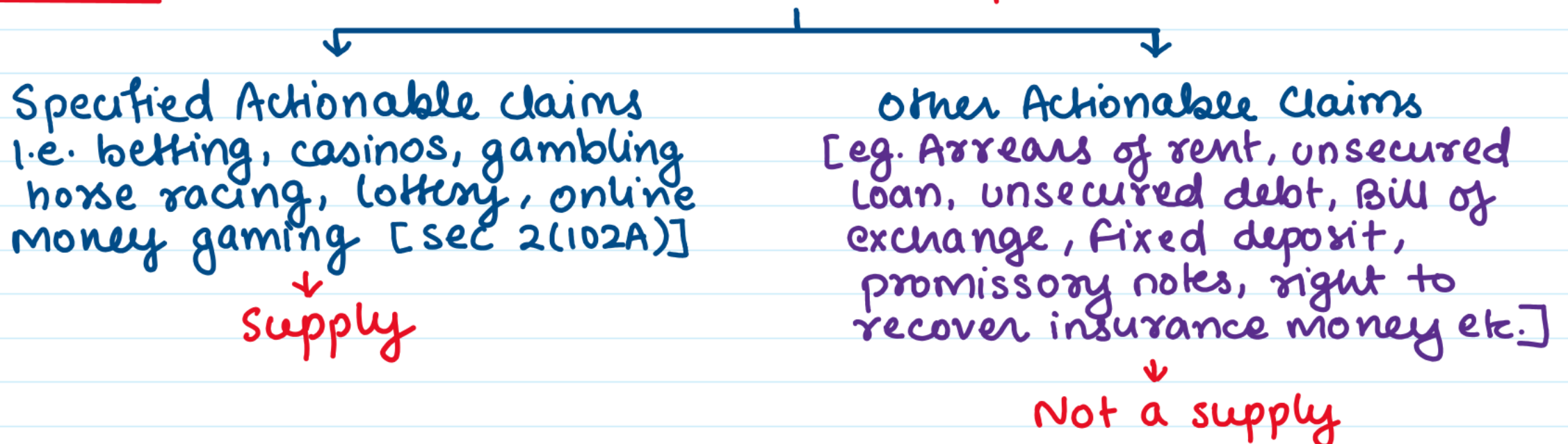
↓
Not a Supply



Para No. 5 - Sale of

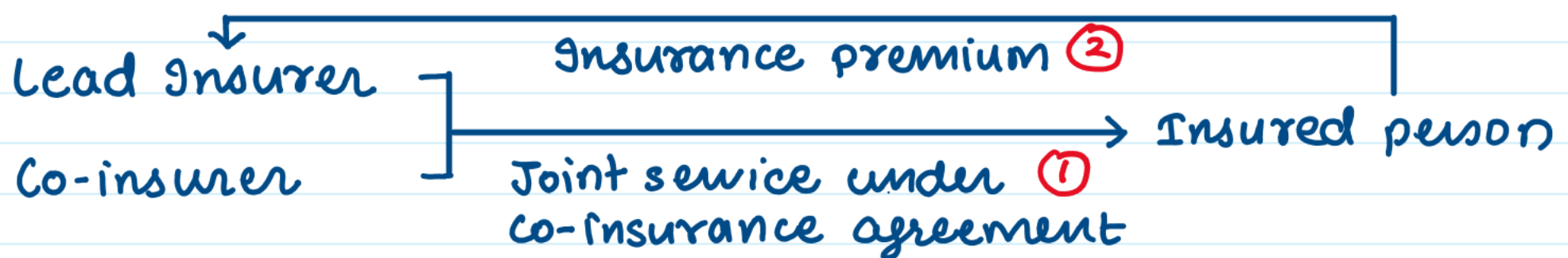


Para No. 6 - Actionable claims, other than Specified actionable claims



Para No. 9 - Apportionment of co-insurance premium by the lead insurer to the co-insurer

(A) Amendment



And, Lead Insurer pays CGST, SUST/UTGST, IGST on entire amount of premium paid by Insured. (3)

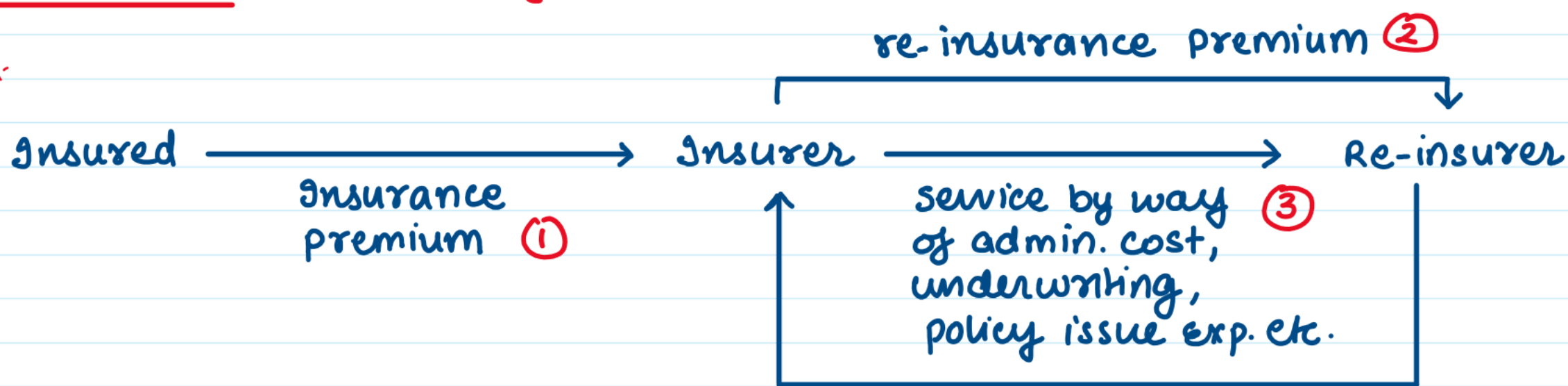


Not a Supply



Para No. 10 - Services by insurer to reinsurer

(A) Amend-ment



condition - CAST, SGST/UTGST, IGST is paid by re-insurer on the gross re-insurance payable by the insurer to the reinsurer, including re-insurance commission.

Re-insurance commission (4)
 ↓
 (payment by way of deduction from premium payable by insurer to re-insurer).
 ↓
Not a supply

B. Non-supplies notified vide notification [sec 7(2)(b)]

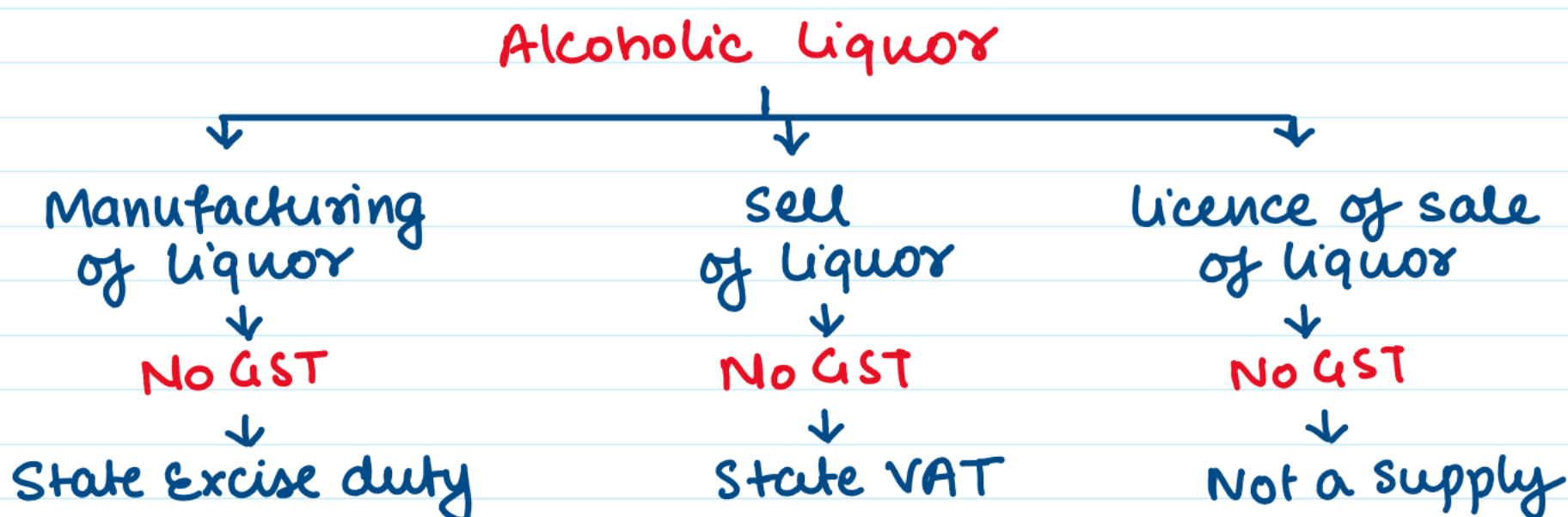
① Activity in relation to Panchayat / Municipality functions

Services in relation to function entrusted to panchayat under article 243G or to Municipality under article 243W of the constitution

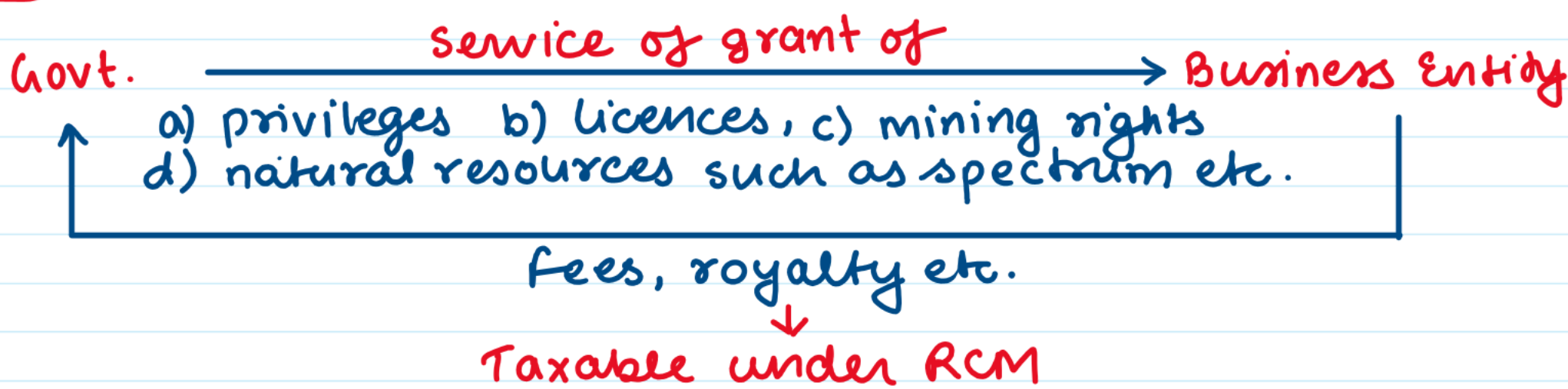
↓
Not a supply

② Grant of alcoholic liquor licence by the SA

↓
Not a supply



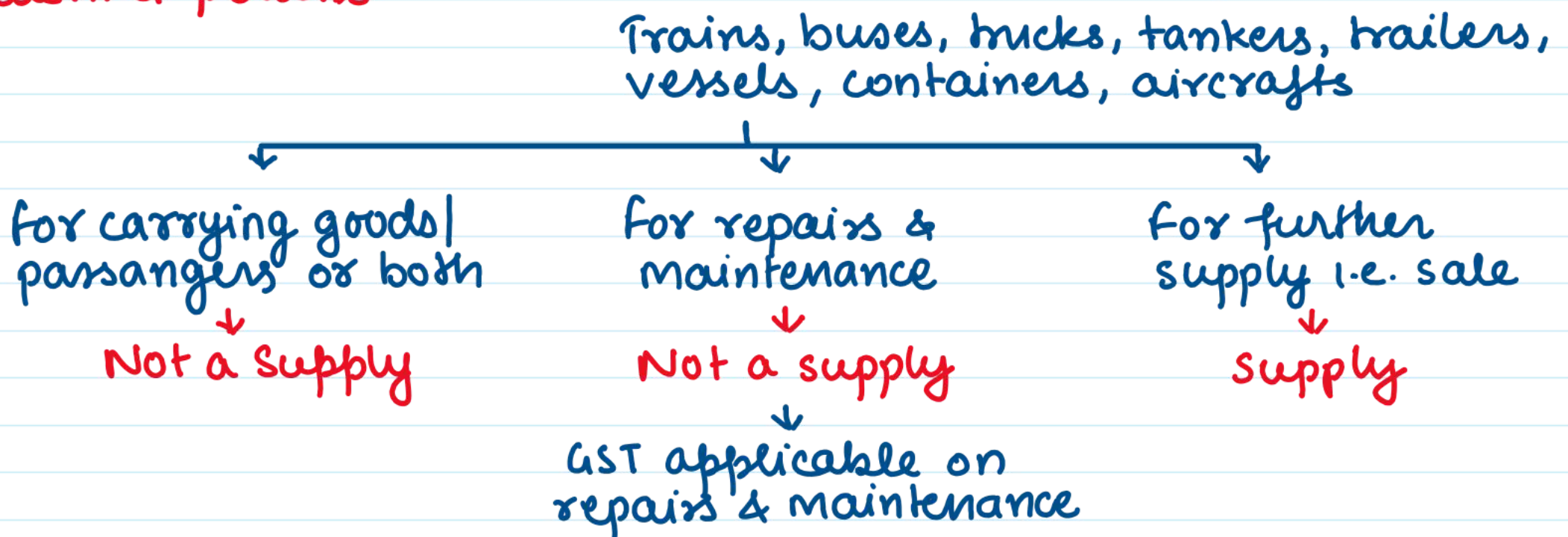
Note :





C. Non-supplies clarified by way of circular [sec 7(3)]

① Inter-state movement of various modes of conveyance between distinct persons



② Inter state movements of rigs, tools and spares, and all goods on wheels [like cranes]



③ Services in relation to shares held by holding company in subsidiary company
↳ Not in updated ICAI Mat

Amend

④ Clarification regarding transactions in vouchers [CN 243/37/2024 GST dated 31.12.2024]

(i) Vouchers

Pre-paid instruments (PPIs)
means payment instruments that facilitate purchase of goods / services against the value stored on such instruments.
↓
considered as 'Money' which is excluded from definition of Goods and services.



Transaction in voucher would be considered **neither as a supply of goods nor as a supply of services.**

Not a PPI
means an instrument which obligates supplier to accept it as consideration and assure the voucher holder to claim certain goods and / or services as specified on the voucher.
↓
considered as 'actionable claim'



Actionable claims, other than specified actionable claims, is **neither supply of goods, nor supply of services.**

amp

However, supply of underlying goods and / or services, for which vouchers are used, taxable under GST.



(ii) Transactions in vouchers by distributors / sub-distributors / dealers / agents etc.

Vouchers distributed on Principal-to-principal (P2P) basis

↓
Distributors / Sub-distributors / Dealers (DSDs)

↓
Purchase vouchers at discount & sold to

↓
Sub-distributors, corporates or end customers.

↓
DSDs earning = Trading Margin (i.e. SP - PP)

↓
Thus, DSDs own the vouchers, retaining full ownership & control of the vouchers throughout the process

↓
This amounts to trading of voucher.

↓
Not leviable to GST as per section 9(1).

Vouchers distributed on Principal-to-Agent (P2A) basis

↓
Voucher issuer [Principal] & the Distributors / sub-distributors / Agents (DSAs) [Agent] operates on a principal-agency basis.

↓
DSAs do not own vouchers, but act as an agent of voucher issuer & operates under specified obligations set by him (e.g. for marketing, promotion, other support services).

↓
DSA earning = commission / fees

↓
Treated as supply of services

↓
GST applicable on the commission / fees or any other amount

Additional Services (e.g. advertisement, co-branding, customization services, support services etc.)

↓
provided by DSAs to voucher issuer

↓
DSAs earning = service fees / service charges / affiliate charge or any other amount

↓
GST applicable in hands of DSAs.

(iii) Unredeemed vouchers (breakage) → vouchers unused / unredeemed at the end of the expiry period.

↓
No supply of underlying goods and/or services on account of such unredeemed vouchers (breakage)

↓
Such amount would not be leviable to GST as per sec 9(1).



TP:8 Concept of Composite & Mixed Supply [sec 8]

Composite Supply

- Two or more supplies of goods or services or both
- which are naturally bundled
- supplied in conjunction with each other, in ordinary course of business
- one of which is Principal supply [sec 2(30)]

Principal supply means supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply is ancillary [sec 2(90)]

Eg. Mobile phone with charger
↳ Principal supply

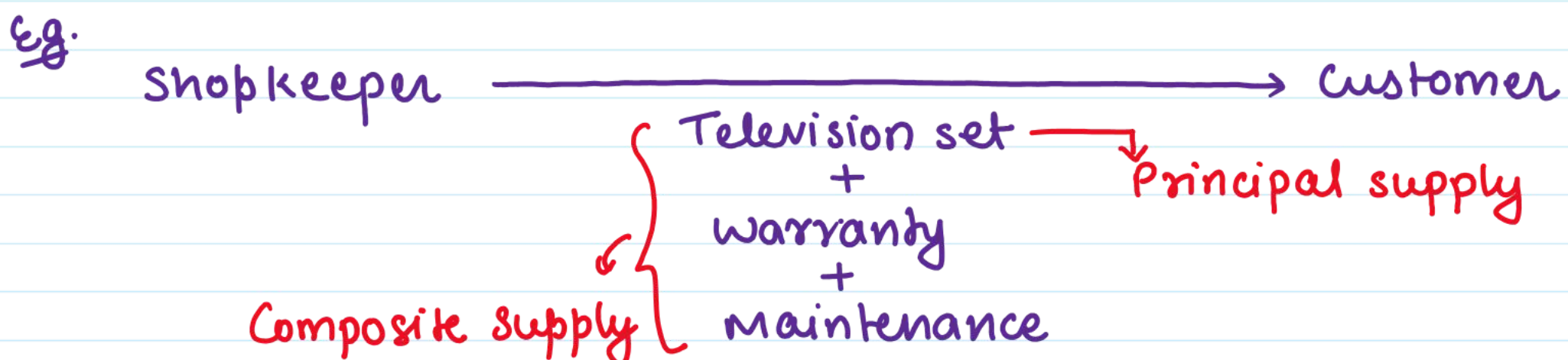
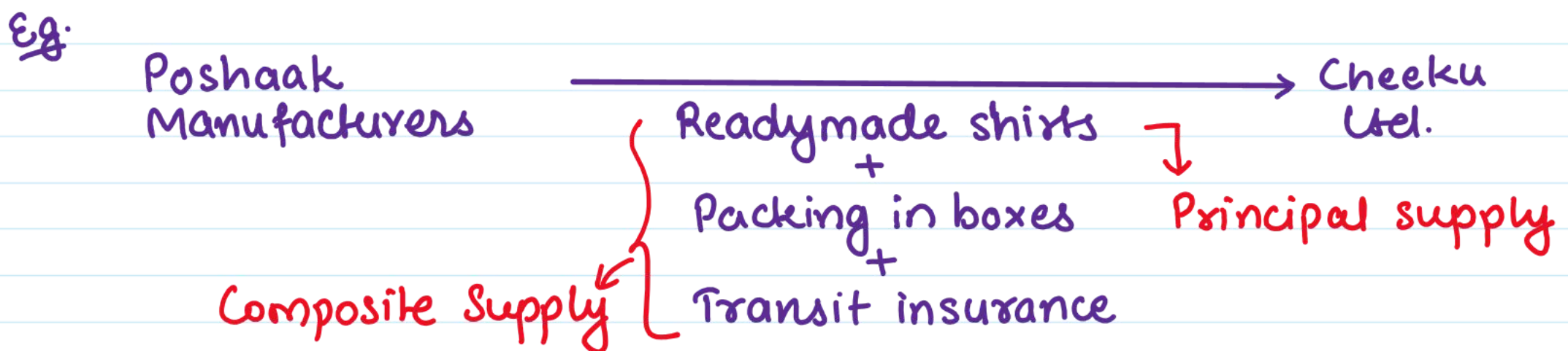
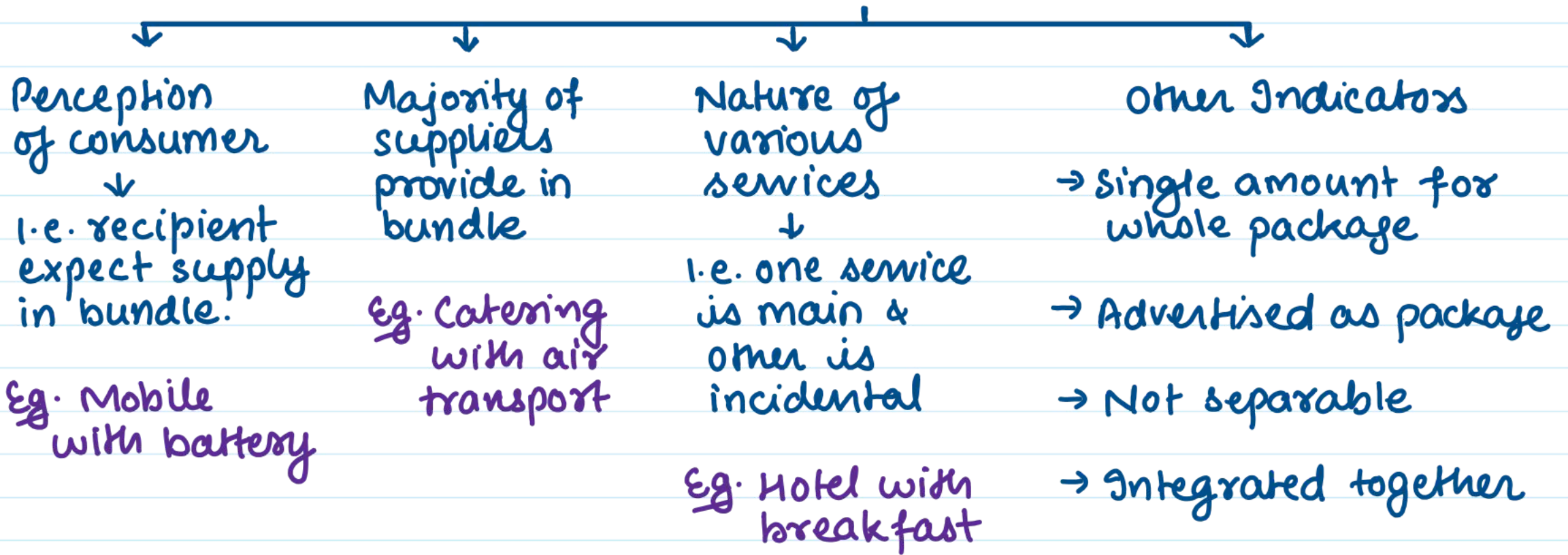
Eg. T.V. with warranty
↳ Principal supply

Eg. Catering service on board
Principal supply

Eg. Goods with insurance
↳ Principal supply

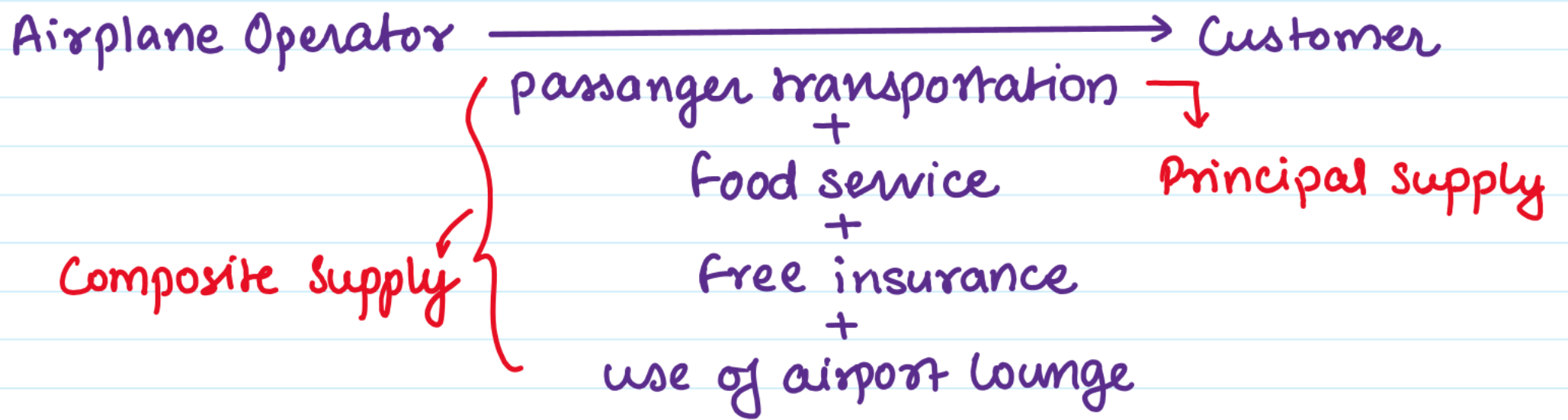
How to determine whether the services are bundled in the ordinary course of business?

Indicators

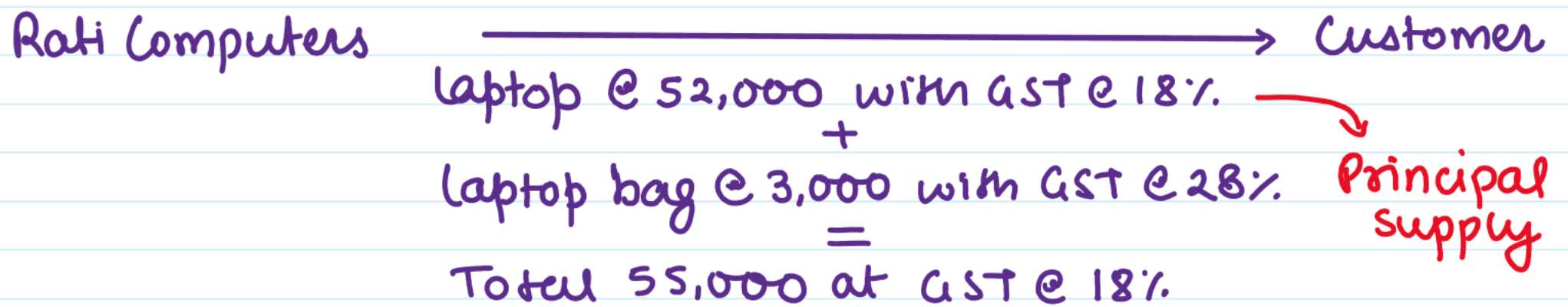




eg.

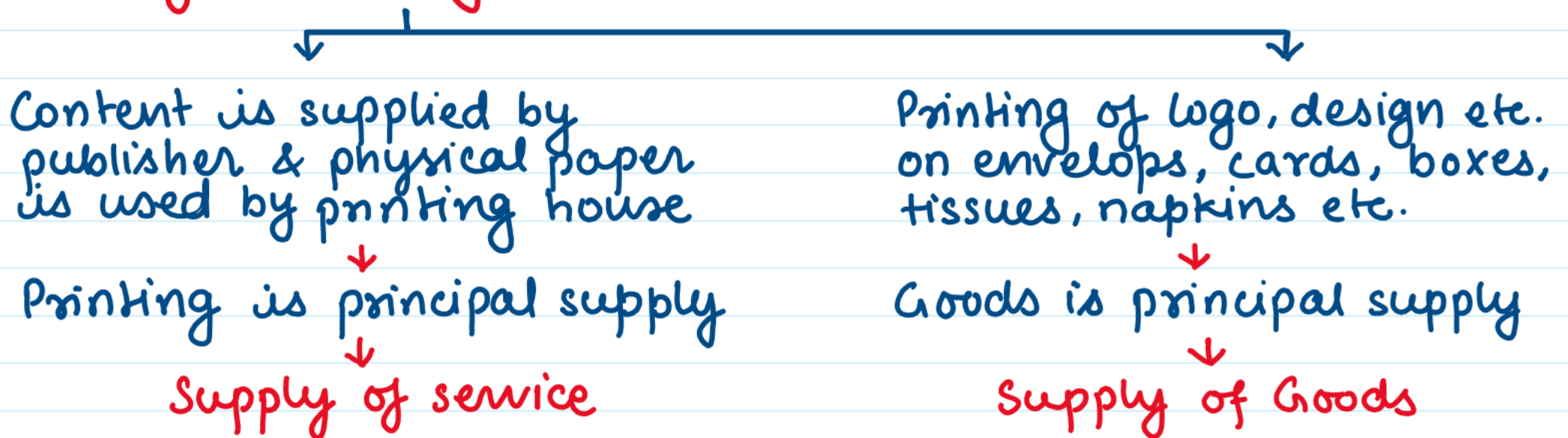


eg.

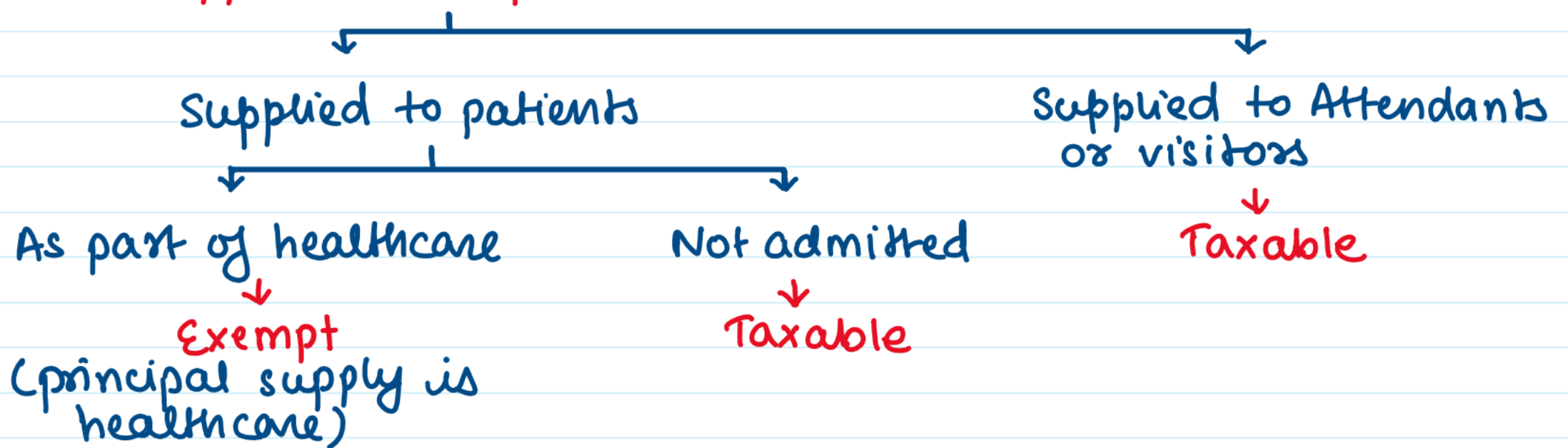


Clarification by CBIC as to what constitute principal supply

① Printing Industry Issue



② Food supplied to the patients



③ Activity of bus body building

It is a composite supply and principal supply shall be determined on case to case basis.



④ Retreading of tyres

means revamping of old tyres

Old tyre is supplied by customer

+ revamping of tyre

↓
Supply of service

Old tyre is supplied by supplier

+ revamping of tyre

↓
Supply of Goods

⑤ Supply of food and beverages at cinema halls by cinema operator or 3rd party

(a) Food or beverages are supplied as a part of service

and

(b) Supplied independent of cinema service

↓
Supply of restaurant service

↓
GST @ 5%

Supply of food & beverages are clubbed together

+
Single price for combo

↓
Cinema is principal supply

↓
GST @ 28%

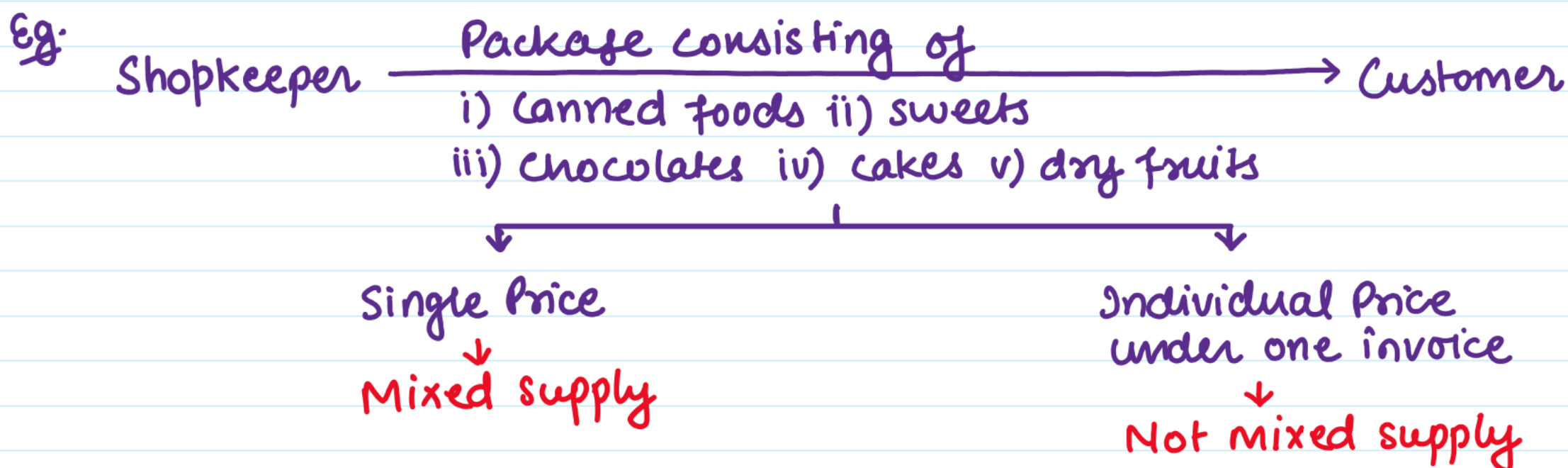
Mixed Supply

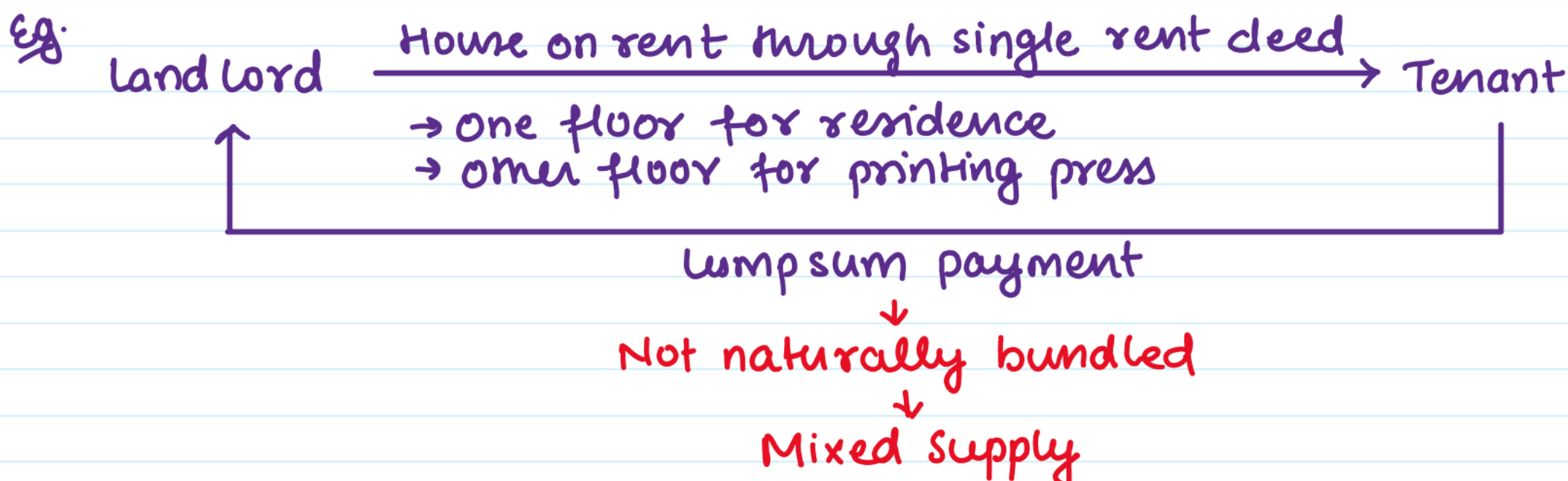
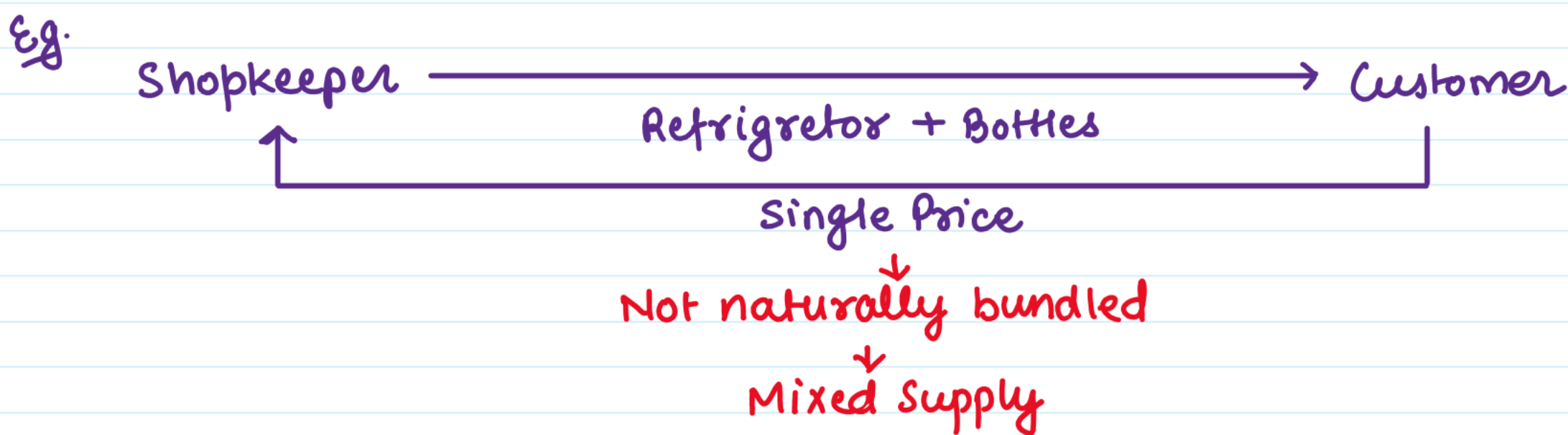
- Two or more supplies of goods or services or both
- made in conjunction with each other
- for a single price
- not a composite supply

Eg. Dove shampoo + Dove hair conditioner

How to determine if a particular supply is a mixed supply?

- ① First requisite is to rule out that the supply is a composite supply. i.e. not naturally bundled in ordinary course of business.
- ② A single consideration is charged for entire supply.





How to determine tax rate under Composite / Mixed Supply

