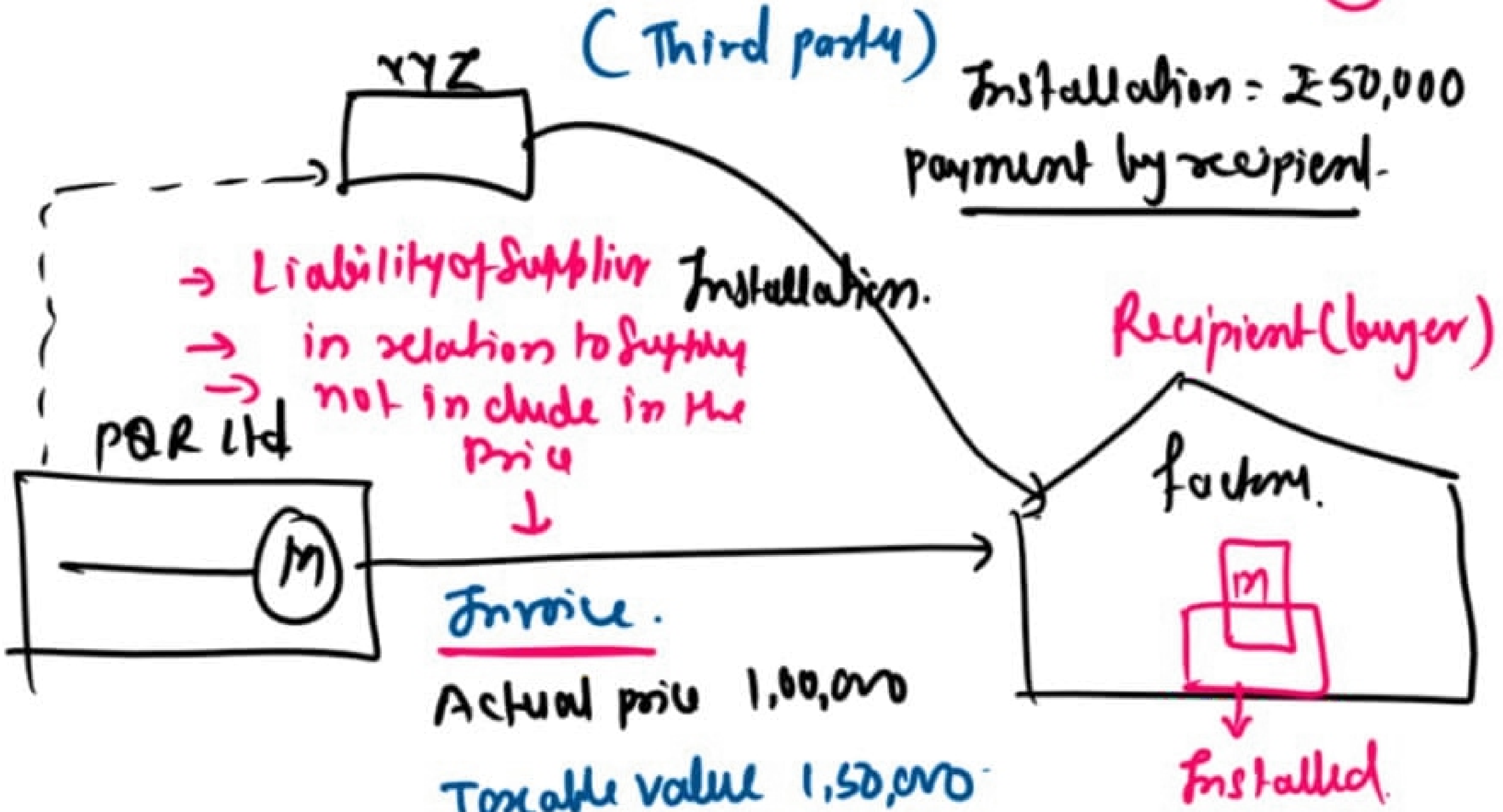
CHAPTER - 7

Value of supply

Sec 15(2)(b) : Third party payment by (R)



Invoice.

Actual price 1,00,000

Taxable value 1,50,000
(1,00,000 + 50,000)

GST @ 28%. 42000
[1,50,000 x 28%]

Circular no 47/21/2018

Supplier

Not a supply

ITC - taken on mould by Tata.

Free FOC

Tata Motor (OEM).

Mould V E

(1) Whether Tr of mould is a supply? = NO.

(2) Whether ITC allowed to Tata? Yes

No need to reverse

Component manufactur (POR)

M V

SOG.

component

(3) Whether value of mould is includible in value of component manufactured.? ⇒ NO

But if Contract specifies that mould should be owned by component manufacturer then it is includible in VOS U/S 15(2)(b)

15(2)(c)

&

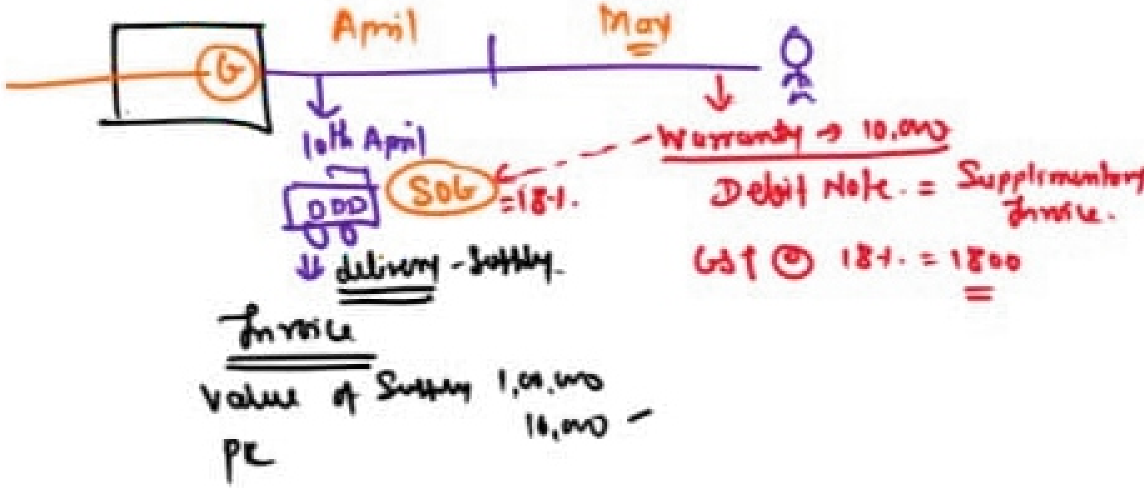
incidental Expenses
including
— commission or
— packing
⇓
charged by supplier to
recipient.

Any Amt
charged for anything
done
⇓
by supplier in respect
of supply.

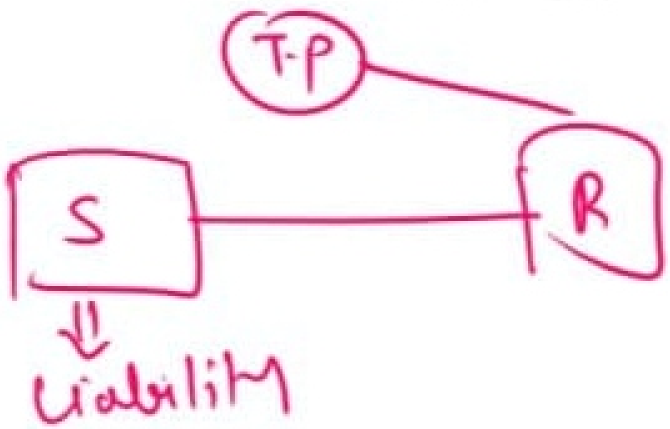
at the time of
delivery of G/S

or

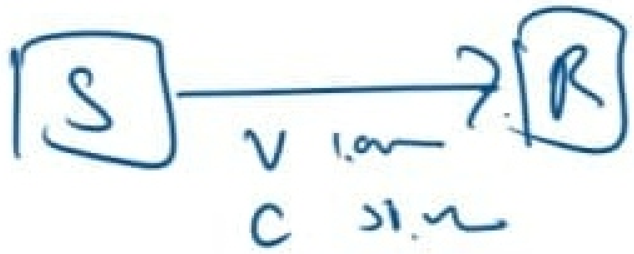
before delivery
of G/S.



Sec 15(2)(b)



15(2)(c)



15(2)(d) Interest.

Interest, late fee or Penalty for delay payment of Consideration

⇓

to be added in VOS of G/S u/s 15(2)(d)

Interest on Loan/Advances/deposits

⇓

SOS = Exempt

Important Comments

1) As per Sec 12(6) or 13(6) TOS = Date when such value addition received.

2) Normally Interest would be treated as inclusive of GST

S — April — May — June — July — B

Credit Sale

Value 1,00,000

GST @ 12% 12000

If payment is not made till may end then interest is payable.

Sec 12(6) TOS = July

Interest ₹5000

payment done by buyer in July.

GST

$$\left(\frac{5000 \times 12}{112}\right)$$

536

Sec 15(2)(d) treated as part of value.

sec 15(2)(e): Subsidy.

- Subsidy provided by Govt.
  - ⇓
  - not to be added/included in value of supply.
- Subsidy provided by others. (Pvt body or any person other Govt)
  - If it is directly linked to the price.
    - ⇓
    - To be added/included in value of supply.
  - If is not linked to the price (lumpsum)
    - ⇓
    - ✱ Not to be added/included in value of supply.

Sec 15(3): Discounts

⇓

Any discount is deductible from value of supply

(a) Discount given at the time or before supply.

⇓

deduction is available if it is recorded in Invoice.

(b) Discount given after supply.

- It is agreed at the time of supply.

  ⇓

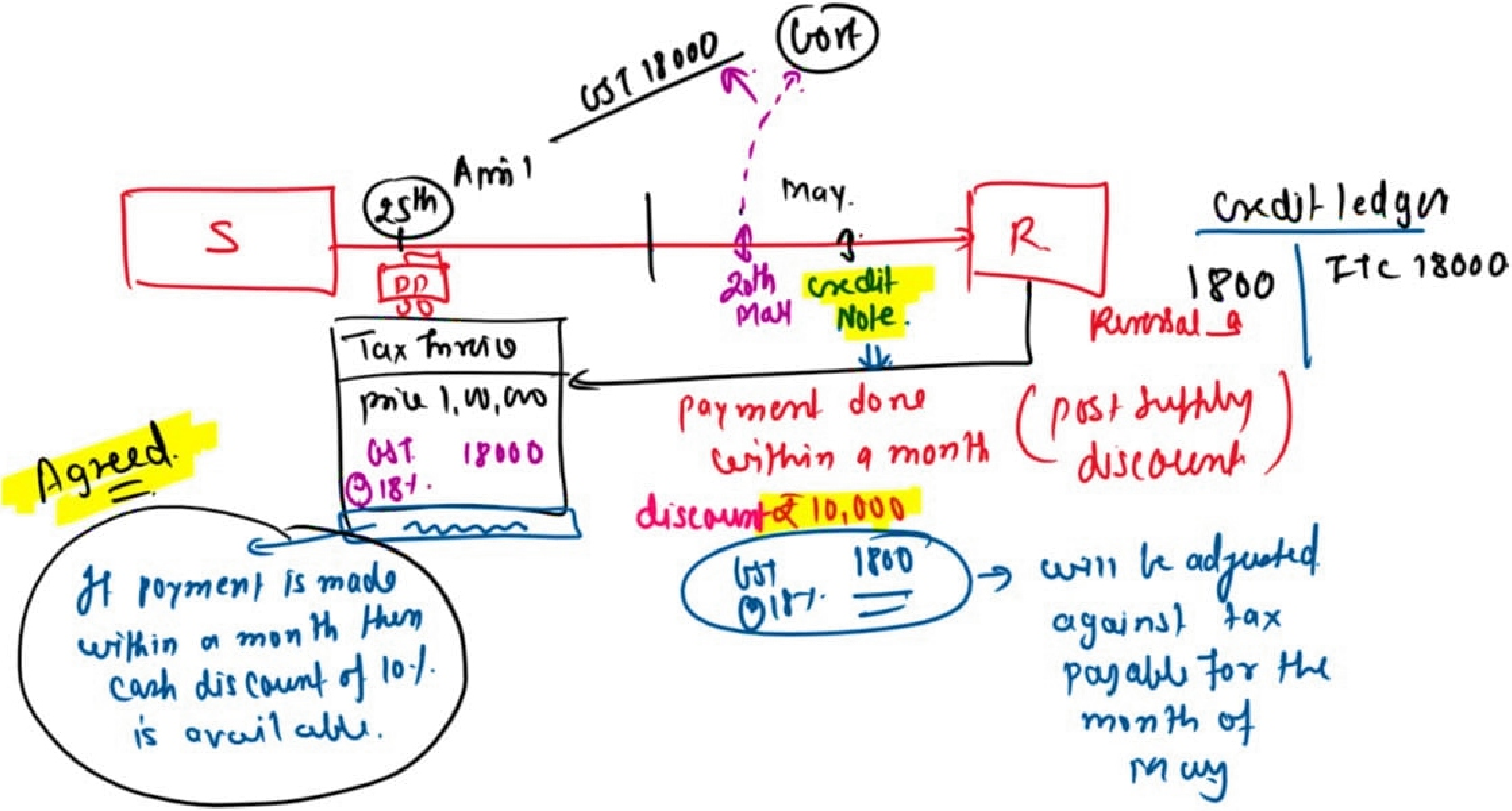
  Discount deductible
  → linked to Invoice
  &
  → ITC reversed by recipient

- It is not agreed at the time of supply.

  ⇓

  No deduction of discount is available.

Sec 15 (3) (b) : Post Supply discount.



Sec 15

- 15(1)
  - V = T.V
    - price actually paid or payable
  - → Not related
  - → Sole consideration
- 15(2) Addition
  - (a)
  - (b)
  - (c)
  - (d)
  - (e)
- 15(3) Discount
  - (a) before
  - (b) other
    - Agreed
    - not [illegible]

- 15(4)
  1) Supply without consideration (Sch - I)
  2) Related party transaction
  3). Other Considerations

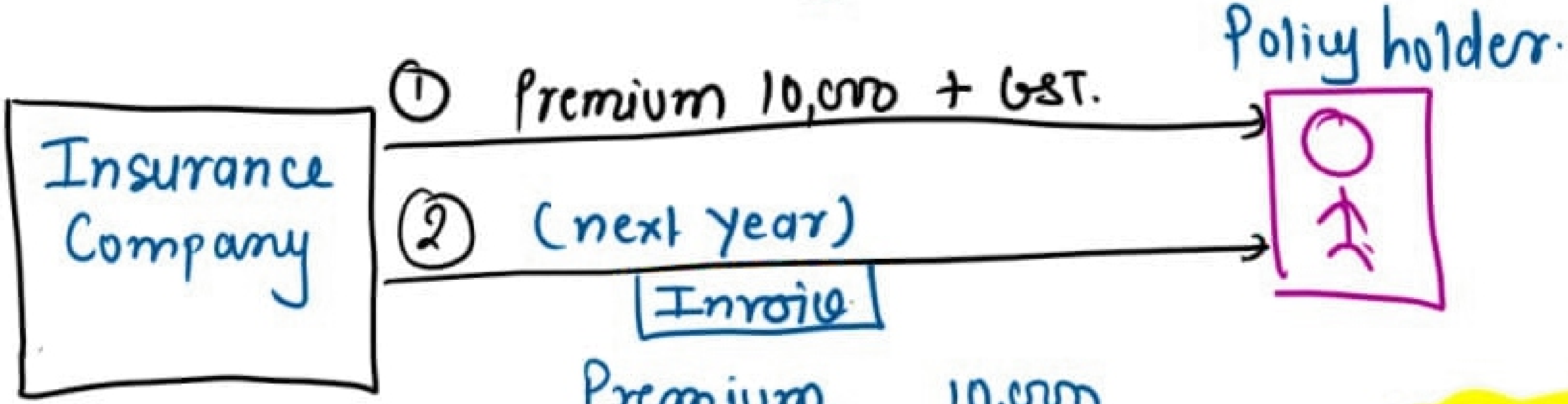
  Sec 15(1) not applicable.

  ⇓

  C.GST Rules.
  - Rule 27
  - 28
  - 29.
  - 30
  - 31
- 15(5)

No claim bonus (NCB)

By Insurance Company.



Premium 10,000

Less: No claim bonus 2000

Net premium 8000

↓

GST payable

Allowed as deduction as discount u/s 15(3) & GST is payable on net premium

Rule 28

T.V: 10,000

S —— Supply to Related person —— R

Sec 7(1)(a) with consideration
- Wholly Money ⇓ T.V. Exist
- not wholly or partly in money

Sec 7(1)(c) - para-2 (Sch I) without consideration

→ Rule 28

Supply to	T.V. 15(1)	28(a) OMV	28(b) like kind & Quality
⇒ Related Party	×	① ✓	② ✓
→ T.V. exist	–	✓	✓
→ other consideration	–	✓	✓
→ without Consideration	–	✓	✓
⇒ DDP	–	✓	✓

Proviso - 1

[Further supplied as such]

Applicable to goods only

× OMV = 70,000

S — Supply of goods → R [Related] → Further supply as such → C

Value 50,000 ×

Value 60,000 [like kind] → not related

T. Value = 54000 [90% of 60,000]

×

OMV = 2,00,000

Proviso - 2

[Applicable to goods & Services]

[Recipient eligible for full ITC]

S — Supply of goods / Services → Goods → Used in process OR → Supplied as such

R → Related → DDP

Value declared in Invoice 80,000 ⇓ OMV

GST

⇓ Eligible for full ITC

Taxability of Specified actionable claims

① Old provisions

Online gaming
- Skill → 18% (Rummy | Dream11) [HSN 998439]
- chance → 28% (betting | gambling | Horse racing) [HSN 999692]

Lottery → 28%

② Schedule III [Sec 7(2)(a)]

Supply does not include
Para 6: Actionable claims ⇒ other than lottery, betting & gambling

③ Gameskraft Technologies pvt Ltd ⇒ H.C

1. **Distinction Between Skill and Chance:** The court confirmed the established legal distinction between games of skill and games of chance, noting that games of skill are legitimate business activities protected under Article 19(1)(g) of the Constitution of India.
2. **Definition of 'Gambling and Betting':** The court clarified that the terms "lottery, betting and gambling," as mentioned in Entry 6 of Schedule III of the CGST Act, should be interpreted in a legal context which does not include games of skill.
3. **Taxability:** It was determined that games of chance, such as lotteries, betting, and gambling, would be taxable. In contrast, games of skill fall outside the scope of 'supply' in the CGST Act and, therefore, should not be taxed under the current GST framework.
4. **Games of Skill with Stakes:** The court held that playing a game of skill with stakes does not constitute gambling, thus such games should not be subject to the GST implications that apply to gambling or betting activities.

⇓

Amendments — F.A 2023

① Schedule III [Sec 7(2)(a)]

Supply does not include
Para 6: Actionable claims other than ~~lottery, betting & gambling~~ Specified actionable claims

New Def^n Inserted

Sec 2(102A): Specified Actionable claims.
- ⇒ betting
- ⇒ casinos
- ⇒ gambling
- ⇒ horse racing
- ⇒ lottery
- ⇒ online money gaming.

Sec 2(105):- Supplier

"Supplier" in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied.

Proviso inserted:- Provided that (Newly inserted by F.A. 2023)
- ⊃ a person who organises or arranges, directly or indirectly, supply of specified actionable claims,
- ⊃ including a person who owns, operates or manages digital or electronic platform for such supply, shall be deemed to be a supplier of such actionable claims,
  - ⊃ whether such actionable claims are supplied by him or through him and
  - ⊃ whether consideration in money or money's worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and

all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims.

Sec 2(80A):- Online gaming

means offering of a game on the internet or an electronic network and includes online money gaming.

Sec 2(80B):- Online money gaming

means online gaming in which including
- ⊃ players pay or deposit money or money's worth,
- ⊃ virtual digital assets,
- ⊃ in the expectation of winning money or money's worth, including virtual digital assets,
- ⊃ in any event including game, scheme, competition or any other activity or process,
- ⊃ whether or not its outcome or performance is based on skill, chance or both and
- ⊃ whether the same is permissible or otherwise under any other law for the time being in force.

GST Rate increased

All Specified Actionable claims.
GST = 28%
⇓
Value
- Rule 31A
- Rule 31B
- Rule 31C

Direct & Indirect Taxes ⇓

Contest Entry Amount
100 → 28% GST deduct

- → Contribution to Prize Pool (GST=28%)
  100% of Prize Pool distributed back of users
  - Income Tax @30%
  - TDS @30% on every withdrawal (new regime and on balance at year end if not withdrawn
  - No deductions allowed
  - Basic Exemption limit not applicable
  - Losses can not be carried forward
- → Platform Fees/Gross Gaming Revenue (GGR)
  - GST @28% currently

3

Gamescroft Technologies pvt Ltd. → H.C

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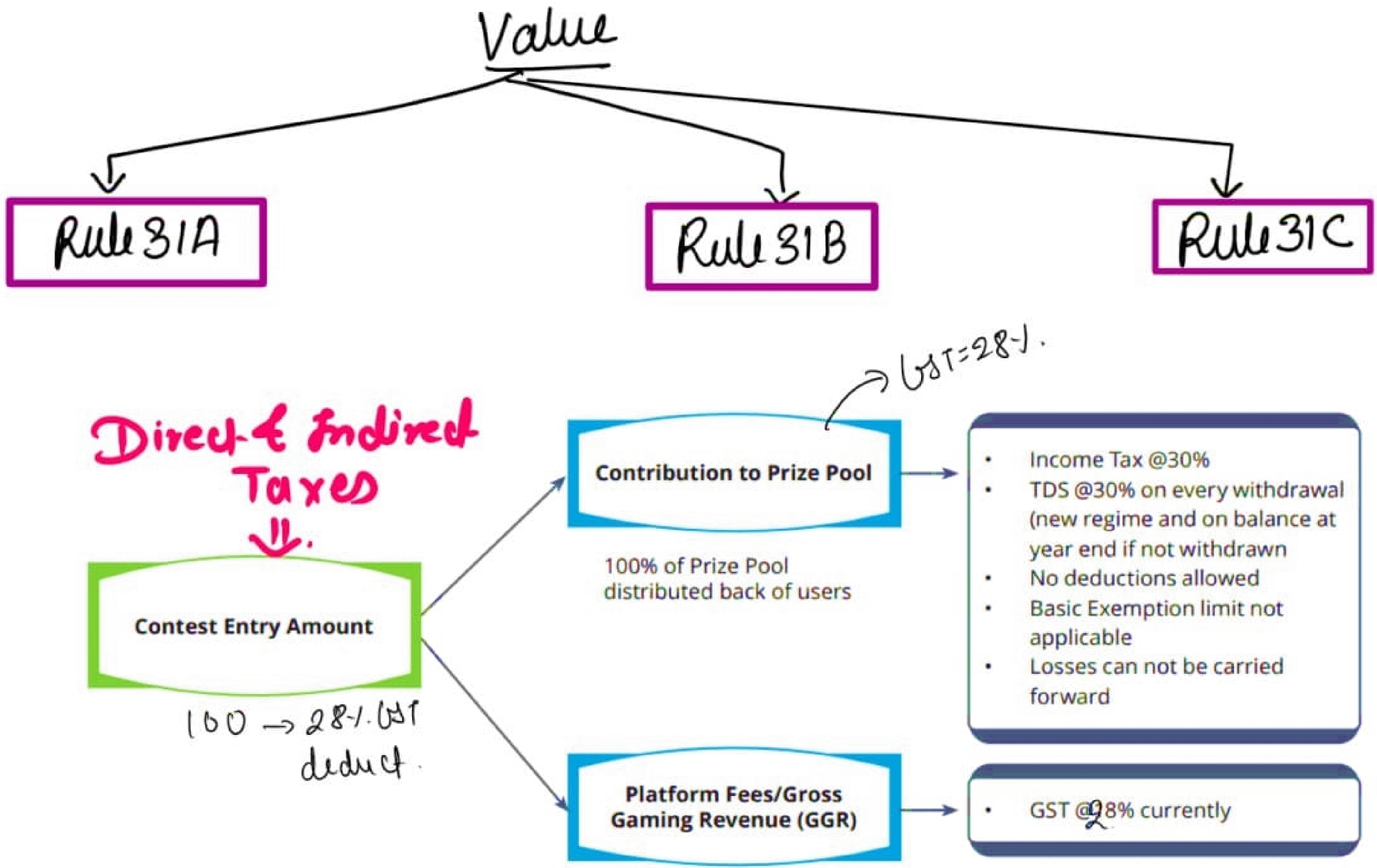

Value
Rule 31A
Rule 31B
Rule 31C
Direct & Indirect Taxes
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GST @28% currently

Valuation in special cases [Rule 32]

32(2) :Purchase or sale of foreign currency

> **Note :**
> FC= Foreign currency
> EV = Exchange Value

or

Option 1

FC to ₹

- **RBI Ref. rate is availabe**
  - $\boxed{\text{Value} =}$ (Dealers buying or selling rate − RBI base rate) × Total unit of currency
- **RBI Ref. not availabe**
  - $\boxed{\text{Value} =}$ 1% of gross amount of currency exchanged in ₹

FC to FC

- convert both the currencies in Indian ₹ by applying RBI rate
- $\boxed{\text{Value}}$ = 1% of lower of above amount

Option 2

(a) Exchange value up to ₹ 1,00,000.
Value = 1% of gross amount exchange value but min ₹ 250

(b) Exchange value more than 1 Lac but below 10Lac
Value = 1000+ 0.5% of (E.V. - 1,00,000)

(c) Exchange Value above 10 L
Value = 5500+ 0.1% of (E.V. - 10,00,000) but max 60,000

Insurance [Special Scheme]

32 (4) : Life insurance business

- **Saving policy**
  - Investment or saving intimated to policy holder
    - Value = gross Premium Less Investment
  - Investment not intimated to policy holder -
    - (a) 1st year
      value = 25% of premium charged
    - (b) 2nd & subsequent year
      value = 12.5% of premium charged
- **Single Annual Policy**
  - Value = 10% of single premium charged
- **Risk Policy**
  - value shall be determined asper Sec15(1) i.e. gross premium charged

Note : If this option is exercised it can't withdrawn in the same financial year

General Insurance

V = Gross premium

Valuation in special cases [Rule 32]

32(2) :Purchase or sale of foreign currency

Note :
FC= Foreign currency
EV = Exchange Value

or

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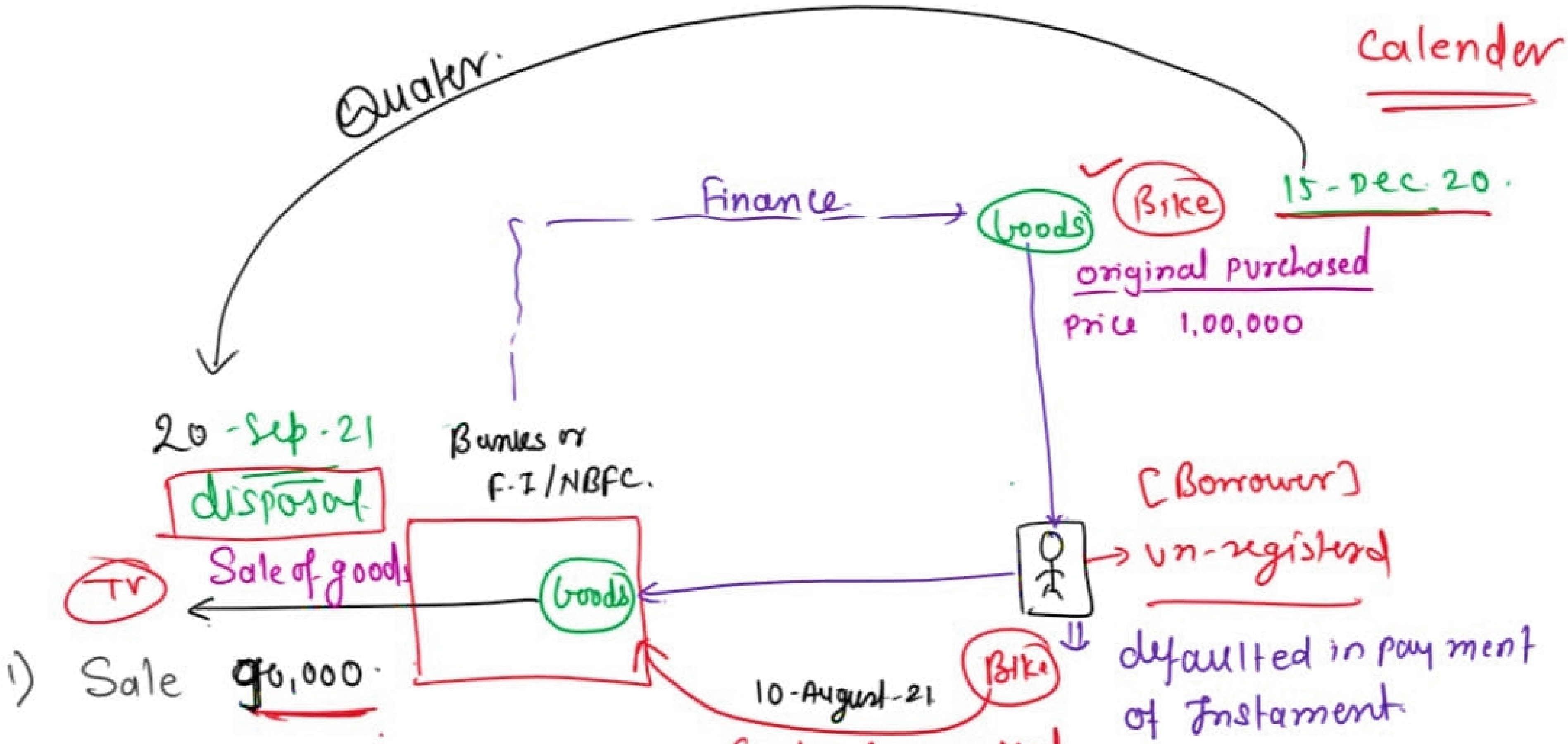
Purchase value of Re-possessed goods



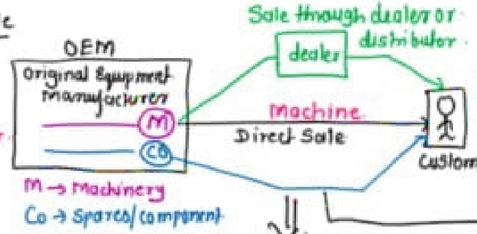
GST @ 18% 1800
[90000 - 80,000)

$$\text{Purchase value} = 1,00,000 - 4 \times 5\%\,[1,00,000]$$
$$= 1,00,000 - 20,000$$
$$= 80,000$$

Applicability of GST on goods or Services Supplied on warranty - repairs or replacement

Basic principle

M
Manufacturer



free Supply of Co/Service under warranty → Not Liable to GST as warranty cost already included in price of original Sale on which GST Paid.

Supply of goods/Services under Normal warranty

Supply directly by manufacturer (M) to customer

If goods/Service Supplied free under warranty

→ No GST on Supply of Goods/Services [as warranty cost already included in price]

→ No need to reverse ITC of such component supplied free under warranty.

If Separate [Extra] consideration charged for Such goods or Services

↓

→ GST is payable on such consideration

→ ITC on Such Component allowed.

Supply of goods/Services under Warranty through distributor

Supply of goods

If supply of goods/Services by distributor under warranty on the behalf of manufacturer (M) & No extra Cost charged to manufacturer.

↓

No GST is payable in the absence of Consideration

If supply of goods/Services by distributor under warranty on the behalf of manufacturer (M).

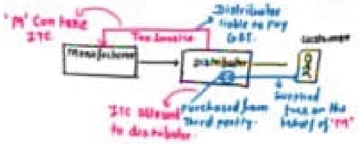
↓

when would amount to Supply between manufacturer or distributor?

If distributor replacing the part under warranty by using his stock or purchased from third party & issue tax invoice to Manufacturer.

⇓

⇒ GST is payable on Amt charged to Manufacturer.



If distributor replacing the part under warranty by using his stock & raised requisition to 'M' for such part.

↓

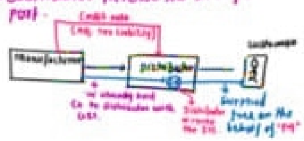
No GST payable for parts Supplied by 'M' to distributor.

If distributor replacing the part under warranty out of Supply already Purchased with GST.

⇓

⇒ 'M' will issue credit note & adjust the tax from his output Tax

⇒ distributor Reverse the ITC of Such part.



Supply of Services (Repairs)

If no extra Amt is charged to 'M'

↓

No GST is payable.

If Extra amt Charged to M.

↓

GST is payable.

Supply of goods/Services under Extended warranty

If extended warranty is taken at the time Supply

↓

→ warranty is treated as a part of Composite Supply.

→ Rate of principle Supply is applicable.

e.g. If extended warranty taken with luxury Car then Such warranty also subject to GST 28% with GST cess

If extended warranty is taken after Supply.

→ warranty treated as Separate contract.

→ Rate of warranty Service is applicable

→ In the Same example GST is payable as follows

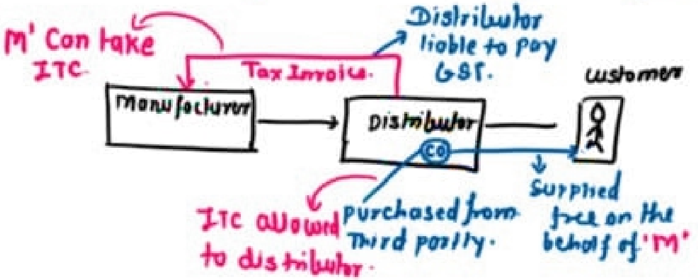
(a) Car → GST @ 28% with cess.

(b) warranty → GST @ 18%.

If distributor replacing the part under warranty by using his stock or purchased from third party & issue tax invoice to Manufacturer.

⇓

⇒ GST is payable on Amt charged to Manufacturer.



If distributor replacing the part under warranty by using his stock & raised requisition to 'M' for such part.

⇓

No GST payable for parts Supplied by 'M' to distributor.

If distributor replacing the part under warranty out of supply already purchased with GST.

⇓

⇒ 'M' will issue credit note & adjust the tax from his output Tax.

⇒ distributor Reverse the ITC of such part.