

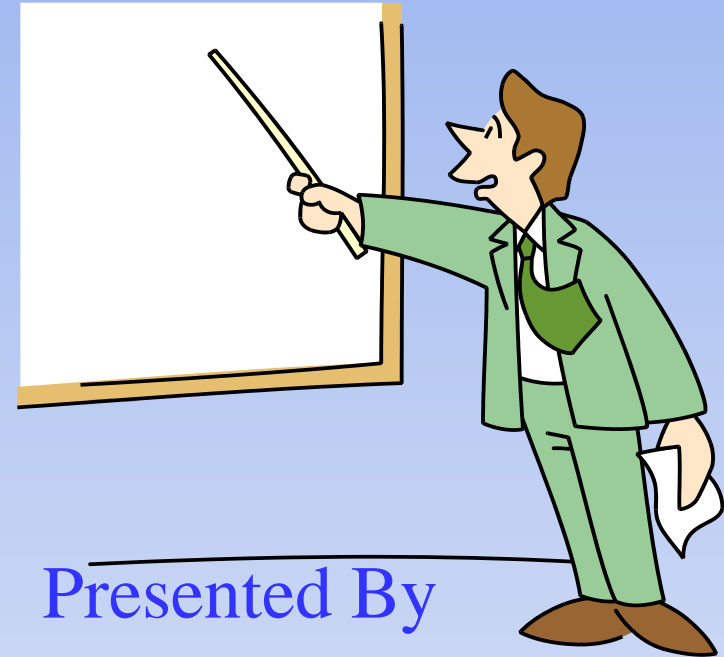
SEMINAR/WORKSHOP ON SERVICE TAX, TDS & NPA

Organised
by

**BOMBAY GOODS TRANSPORT
ASSOCIATION**

Coverage

- Service Tax implications on GTA Service



Presented By



RAJIV LUTHIA

A CANDLE LOSES NOTHING BY LIGHTING ANOTHER CANDLE

Service Tax implications upto 30th June,2012



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- ❖ W.e.f. 1st January,2005
- ❖ Section 65 (50b).... “Goods Transport Agency” means any person who provides service in relation to transport of goods **by road & issues consignment note**, by whatever name called.
- ❖ **Issuance of consignment note mandatory by Rule 4B of the STR, 1994.**
- ❖ **Non issuance of consignment is liable for penalty upto Rs.10,000/- for every instance.**
- ❖ **Hon’ble Bangalore CESTAT in the case of Bharathi Soap Works Vs CCE, Guntur (2008) 9 STR 80...Non issuance of consignment note by transporter is violation of law on the part of GTA...does not absolve recipient of service from it’s liability to pay Service Tax.**
- ❖ Section 65(105)(zzp)...“Taxable Service” means any service provided or to be provided to any person, by a goods transport agency, in relation to transport of goods by road **in a goods carriage**.
- ❖ Section 2(14) of The Motor Vehicles Act, 1988..... “**Goods Carriage**” means any motor vehicle constructed or adapted for use **solely for the carriage of goods**, or any motor vehicle not so constructed or adapted when used for the carriage of goods
- ❖ **Transport in taxi & auto not liable to service tax**

Goods Transport Agency



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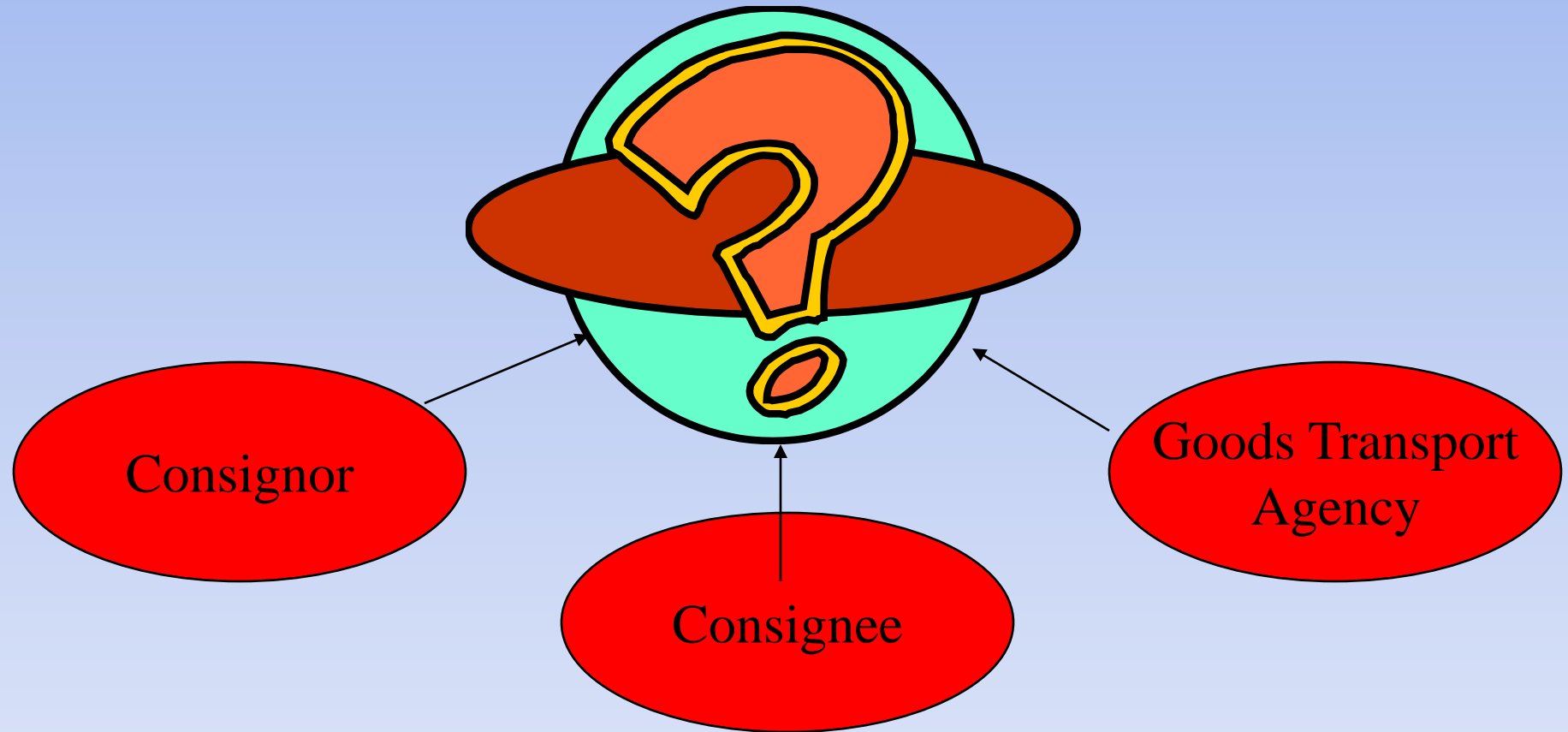
Notification no.35/2004-ST dated 03/12/2004.....

- ❖ Where consignor or consignee is one falls into following 7 categories, **it is the person who pays or is liable to pay freight** (either himself or through his agent) is liable to pay service tax.
 - ❖ Factory registered or governed by The Factories Act, 1948
 - ❖ Company formed or registered under The Companies Act, 1956
 - ❖ Any Corporation established by or under any law
 - ❖ Any society registered under societies Registration Act, 1860
 - ❖ Any Co-operative society established by or under any law
 - ❖ Any Dealer of excisable goods, who is registered under CE Act, 1994
 - ❖ Any Body corporate established or partnership firm registered under any law

Goods Transport Agency

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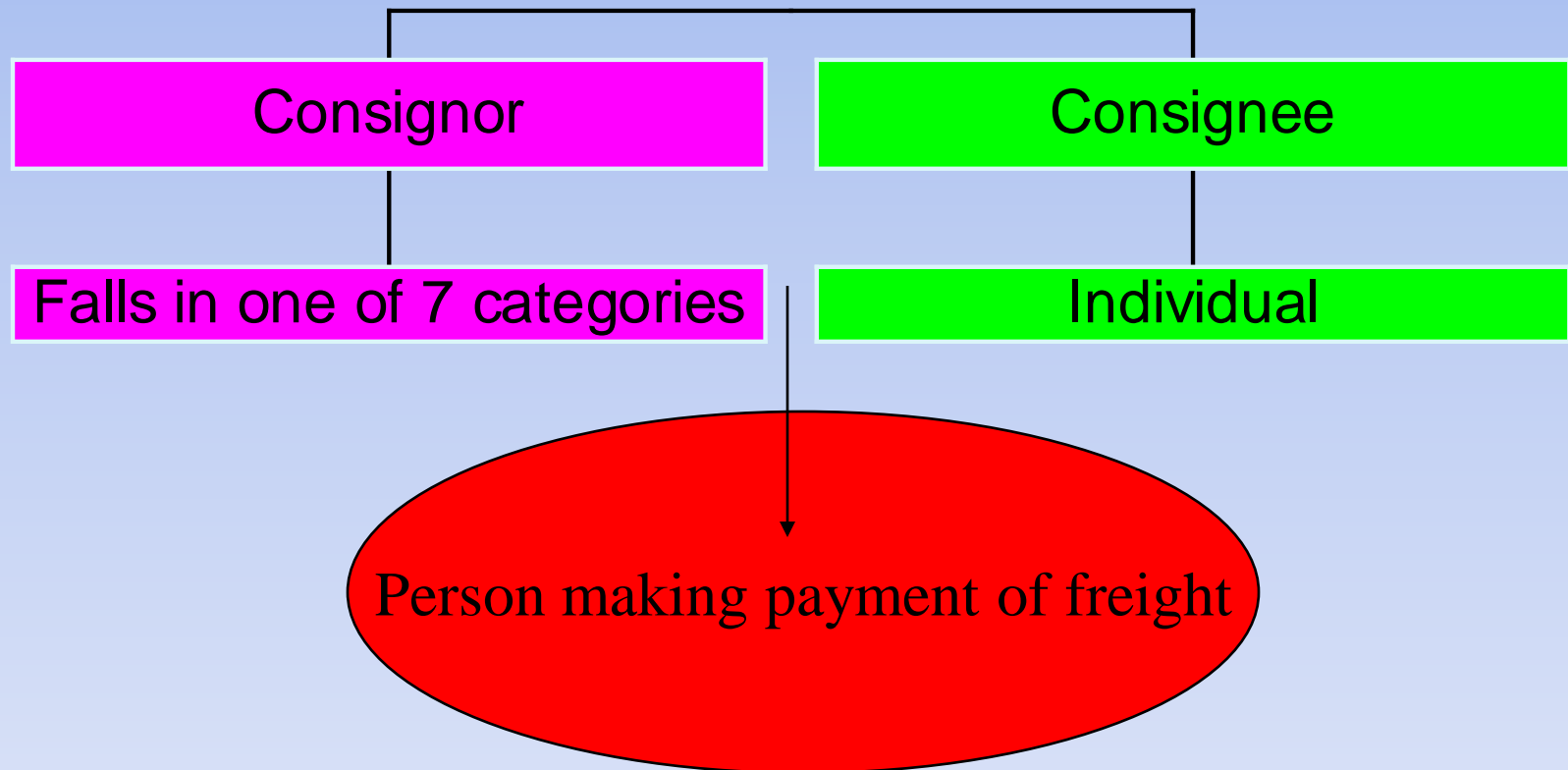
Person Liabli To Pay Tax



Goods Transport Agency

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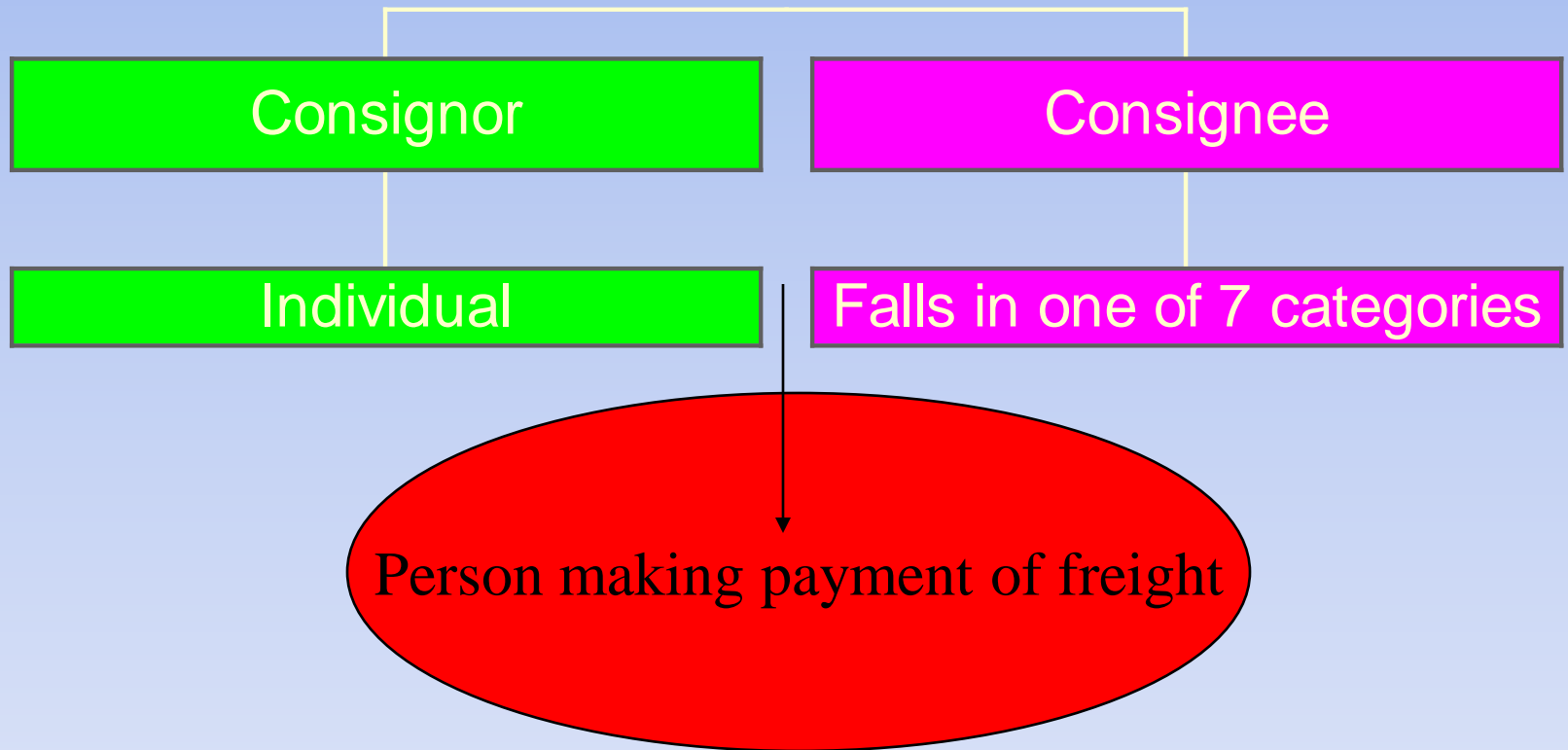
Person Liable To Pay Tax



Goods Transport Agency

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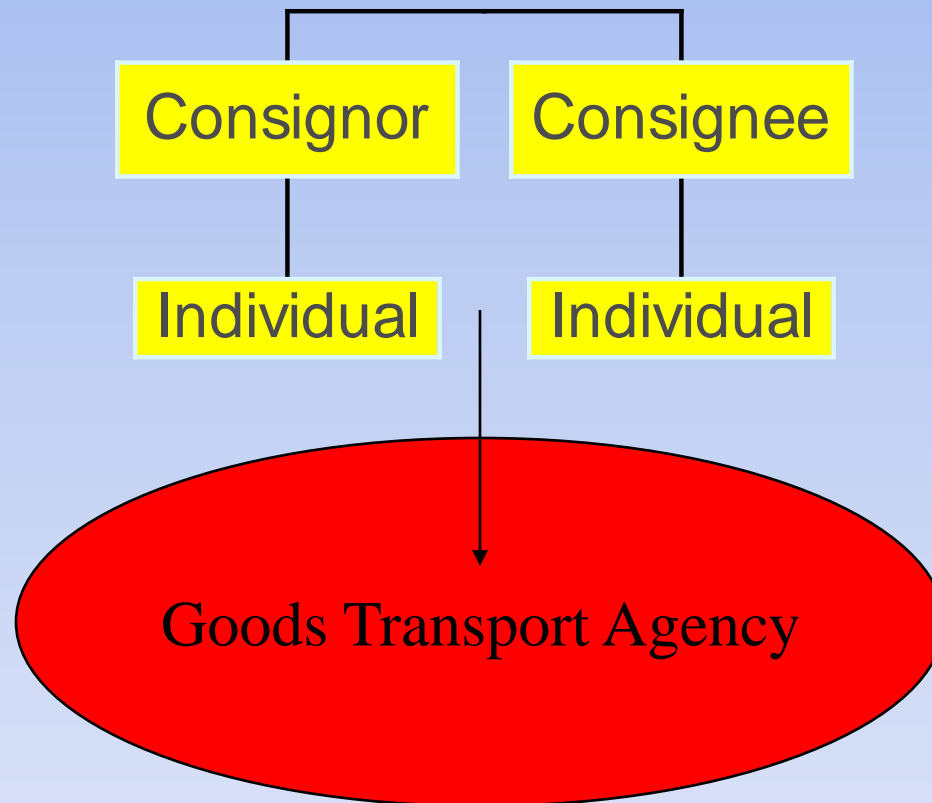
Person Liable To Pay Tax



Goods Transport Agency

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Person Liable To Pay Tax



Goods Transport Agency...Liability to pay ST

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- Mr. A paid freight of Rs.5,000/- to M/s. Kangaroo Transport for transportation of refrigerator purchased from M/s. Godrej Ltd.... Who is liable to pay Service Tax?
- In this case, since the consignor M/s. Godrej Ltd. is a Company, Mr. A, although Individual, is liable to pay Service Tax since he has made payment of the freight to the transporter.
- Recipient of Service not eligible to take threshold benefit of Rs.10 Lacs.
- GTA is eligible for threshold exemption of Rs.10 Lacs....For calculating threshold benefit, GTA is not required to include the value on which recipient is liable to pay Service Tax.

Goods Transport Agency...When to pay Tax

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- ST liability is required to be discharged before the due date of the month/quarter in which the **payment is made to the GTA.**
- As per Rule 7 of POTR, Point of Taxation shall be the **date on which payment is made.** Where payment is not made within a period of 6 month of the date of invoice, the POT shall be :-
 - time when invoice for service provided or to be provided is issued.
 - in case the invoice is not issued within 30 days of completion of service, Point of Taxation shall be the date of the completion of such service.
- **If payment is made for GTA services beyond the period of 6 months from the date of invoice, the assessee will end up paying interest U/s 75**

Goods Transport Agency...Abatements

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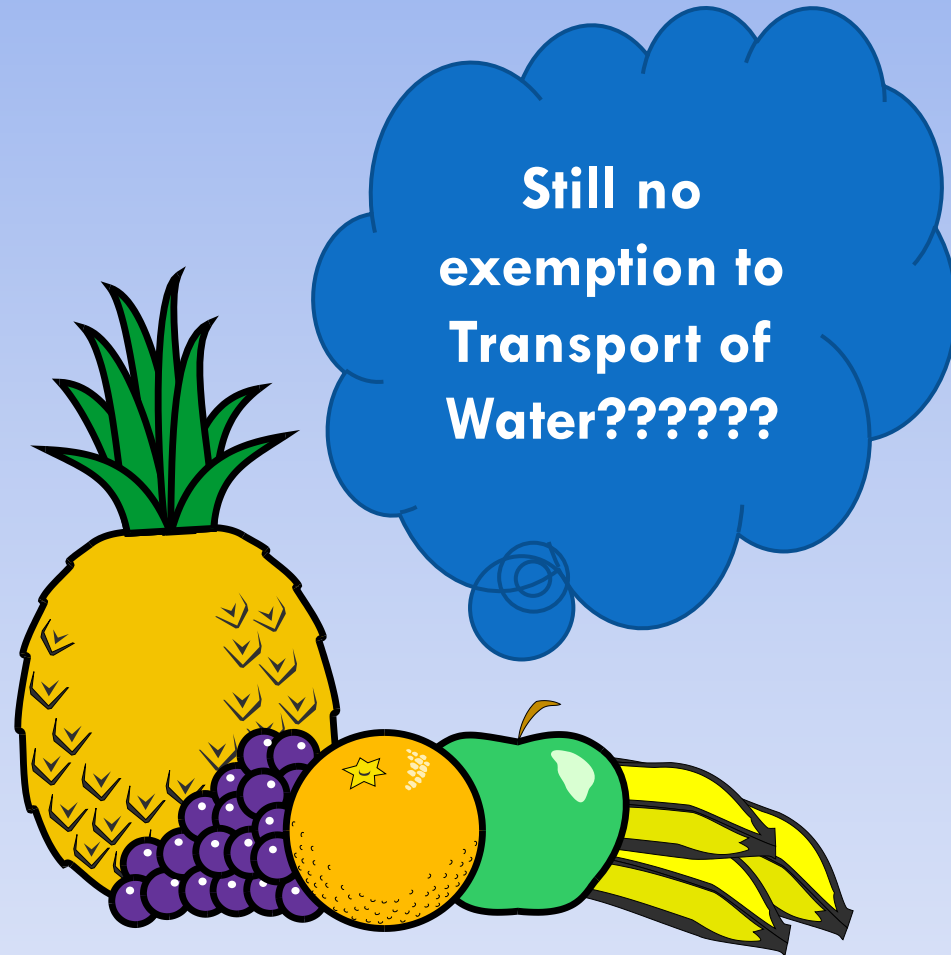
- Notification No.13/2008-ST dated 1st March,2008

Exemption granted to taxable service provided by GTA in relation to transport of goods by road in goods carriage to the tune of **75% of gross amount charged.**

Goods Transport Agency...Exemptions

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- **Notification No.33/2004-ST dt. 03/12/2004.....Exemption to services in relation to transport of fruits, vegetables, eggs or milk. Exemption extended to food grains & pulses vide Notification No.04/2010-ST dt. 27/02/2010.**



Goods Transport Agency...Exemptions

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- **Notification No.34/ 2004-ST Dt. 03/12/2004**
Exemption to services where gross amount charged on consignments transported in a goods carriage does not exceed Rs.1,500/-



Goods Transport Agency...Exemptions

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- **Notification No.34/ 2004-ST Dt. 03/12/2004**
Exemption to services where gross amount charged on an **individual consignment** transported does not exceed Rs.750/- **for a consignee.**



Goods Transport Agency...Clarifications

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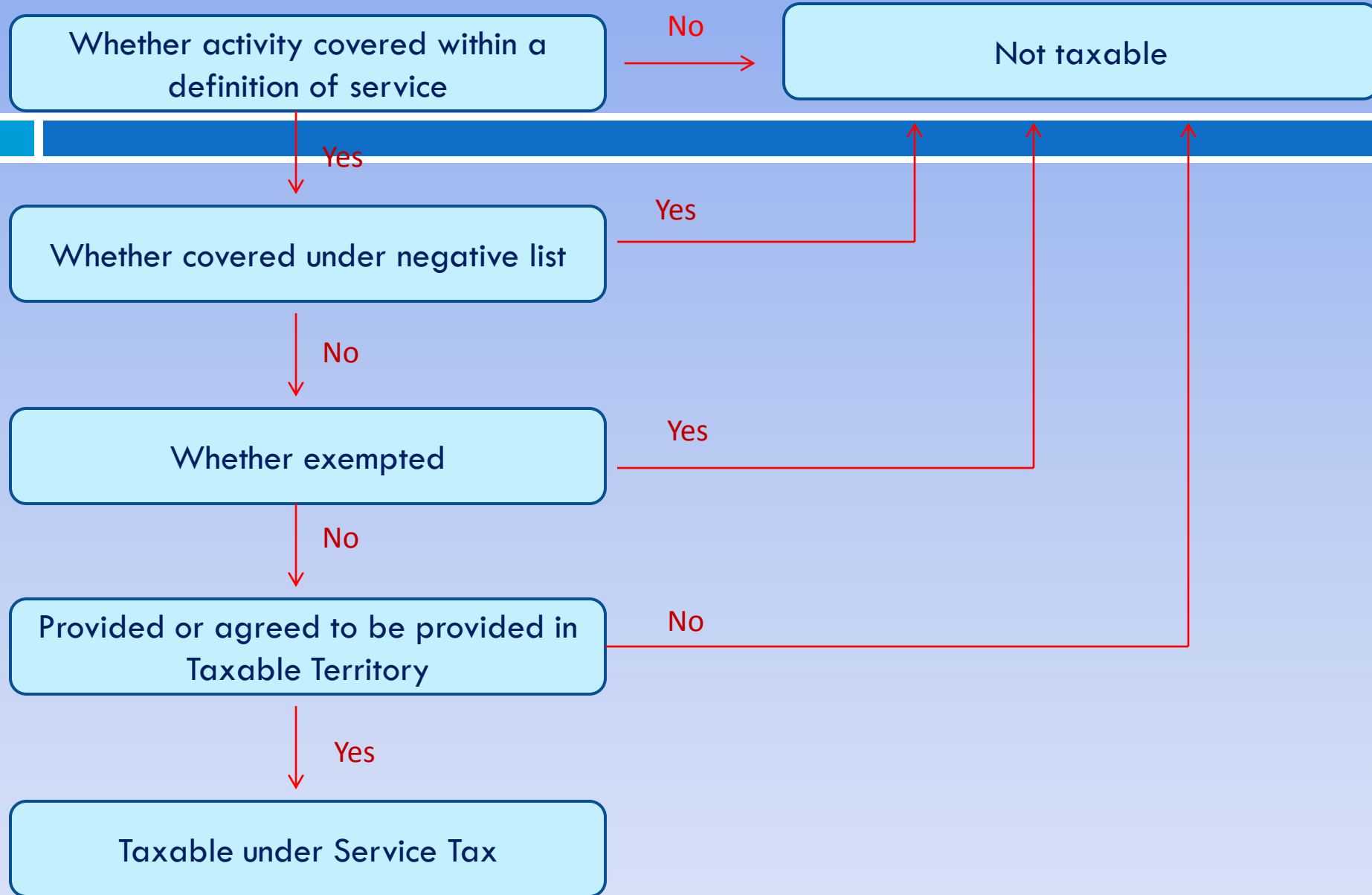
- **Notification No.1/2009-ST dt. 05/01/2009**....exemption to specified services provided by any person to GTA for use to provide GTA services subject to condition that invoice issued by SP to mention name & address of GTA & name & date of consignment note issued.
 - **Clearing & Forwarding Services**
 - **Manpower Recruitment or Supply Agency's Services**
 - **Cargo Handling Services**
 - **Storage & Warehousing Services**
 - **Business Auxiliary Services**
 - **Packaging Services**
 - **Business Support Services**
 - **Supply of Tangible Goods for Use**

Goods Transport Agency...Clarifications

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- **Circular 104/07/2008-ST dt.06/08/2008**
 - ▣ Services such as loading, unloading, packing, transshipment etc. provided in relation to transportation and charges for same are included in the invoices of GTA..... Such service would form part of GTA service.... 75% abatement available.
 - ▣ If GTA charges amount for transportation inclusive of packing charges, the entire service shall be treated as GTA service and not Cargo handling Service.
 - ▣ Time sensitive transportation of **goods** by road by GTA shall be classified under GTA services and not courier services if entire transportation is by road

NEGATIVE LIST REGIME....POST 1st JULY,202



GTA...Post 1st July,2012

- Section 65B (25) – “Goods” means every kind of movable property.....
- Section 65B (26) – “GTA” means any person who provides service in relation to transport of goods by road & issues consignment note, by whatever name called.
- Rule 10 of PPSR....Place of Provision is **location of the “person liable to pay Service Tax”... Section 68(2) & Rule 2(1)(d).**
- Negative List –
 - Section 66D (p) (i) – Services except GTA or Courier Agency
 - Section 65B (20) – “Courier Agency” means....engaged in door-to-door transportation of time sensitive documents, goods or articles utilizing the services of a person...to carry or accompany such goods.....

Exemptions...from 01/07/2012 to 31/03/2013

- Fruits, vegetables, eggs, milk, food grains or pulses in a goods carriage
- Goods where gross amount charged for the transportation of consignment transported in a single goods carriage does not exceed Rs.1,500/-
- Goods where gross amount charged for transportation of all such goods for a single consignee in the goods carriage does not exceed Rs.750/-

Exemptions...from 01/04/2013 to 10/07/2014

- Agricultural produce
- Goods where gross amount charged for the transportation of goods on a consignment transported in a single carriage does not exceed Rs.1,500/-
- Goods where gross amount charged for transportation of all such goods in a goods carriage for a single consignee does not exceed Rs.750/-
- Foodstuff including flours, tea, coffee, jaggery, sugar, milk products, salt & edible oil, excluding alcoholic beverages
- Chemical fertilizer & oilcakes
- Newspaper or magazines registered with the Registrar of Newspapers
- Relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap
- Defence or military equipments
- **Section 65B (5)** – “Agricultural produce”....No further processing or such process not altering essential character....**Pototo Vs Potato Chips, Tomato Vs Tomato Ketchup**

Exemptions...from 11/07/2014 to 31/03/2015

- Agricultural produce
- Goods where gross amount charged for the transportation of goods on a consignment transported in a single carriage does not exceed Rs.1,500/-
- Goods where gross amount charged for transportation of all such goods in a goods carriage for a single consignee does not exceed Rs.750/-
- Foodstuff including flours, tea, coffee, jaggery, sugar, milk products, salt & edible oil, excluding alcoholic beverages
- Chemical fertilizer, **organic manure** & oilcakes
- Newspaper or magazines registered with the Registrar of Newspapers
- Relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap
- Defence or military equipments
- **Cotton, ginned or baled**

Exemptions...from 01/04/2015 & onwards

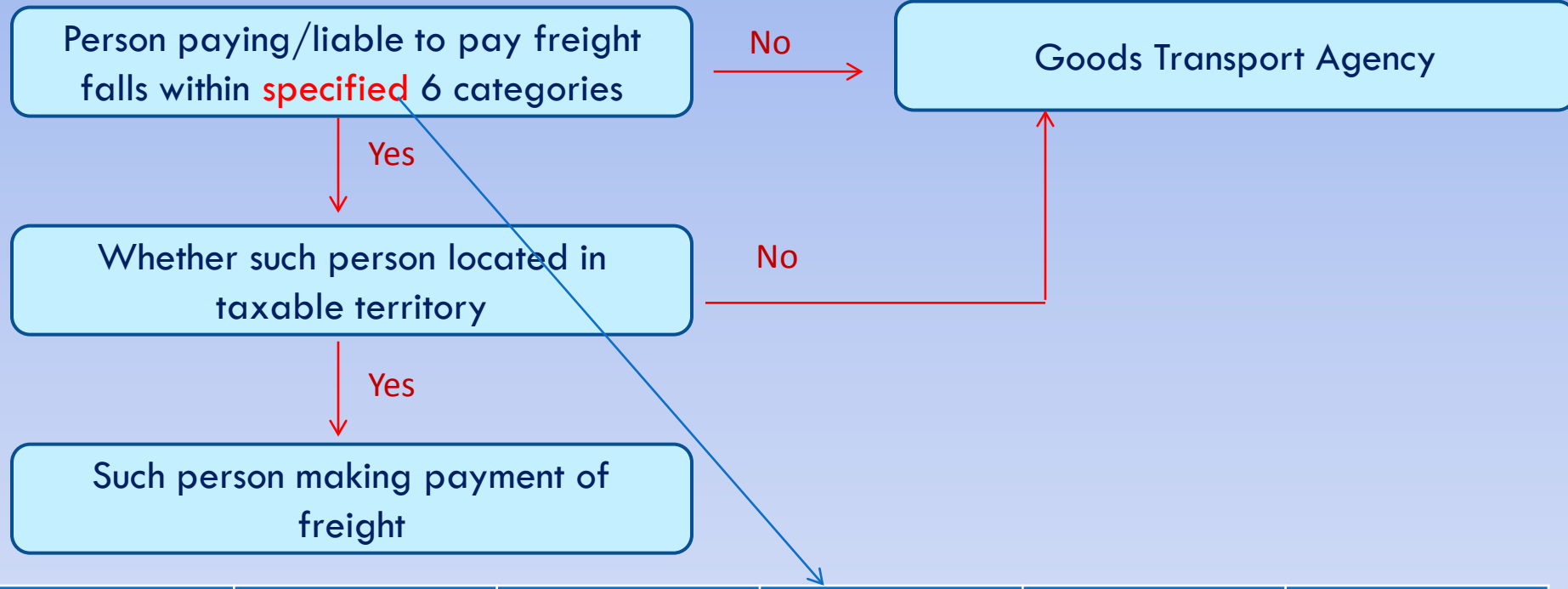
- Agricultural produce
- Goods where gross amount charged for the transportation of goods on a consignment transported in a single carriage does not exceed Rs.1,500/-
- Goods where gross amount charged for transportation of all such goods for a single consignee does not exceed Rs.750/-
- Milk, salt and food grain including flours, pulses & rice
- Chemical fertilizer, organic manure & oilcakes
- Newspaper or magazines registered with the Registrar of Newspapers
- Relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap
- Defence or military equipments
- Cotton, ginned or baled

Abatements...Notification No.26/2012-ST

- 75% of the gross value...Tax payable on balance 25%
- W.e.f. 1st April,2015, abatement reduced to 70% hence Tax payable on 30% of the gross value
- Abatement subject to non availment of CENVAT by Service Provider

GTA....Who has to pay Service Tax

Person liable to pay Service Tax



Factory	Society	Co-op. Society	Dealer of Excisable Goods	Body Corporate	Partnership Firm / AOP
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GTA....Who has to pay Service Tax

Kangaroo Transport Pvt Ltd (GTA) of Mumbai has provided services of GTA that of dispatching and delivering cupboards from “Godrej & Boyce Ltd” (Consignor) of Vikhroli to “Mr. Suresh (Individual) of Pune on 19th August,2014. The freight Rs. 12,000/- is paid by Consignee Mr. Suresh to GTA Kangaroo Transport Pvt Ltd.

Who is liable to pay service tax under the category of “Goods Transport Agency Services”?

- Kangaroo Transport Pvt Ltd themselves are liable to pay ST on the GTA services of Rs. 12,000/-
- No consignor – consignee concept post July,2012.
- W.e.f 1st July,2012 , Only if person liable to pay freight falls under 6 categories, then liable to pay ST under RCM.
- Mr. Suresh being individual , does not fall under the 6 categories
- However, if the transaction is pre July,2012 , then Mr. Suresh liable to pay ST under RCM , since consignor M/s Godrej & Boyce Ltd falls within 6 categories.

CA Rajiv Luthia

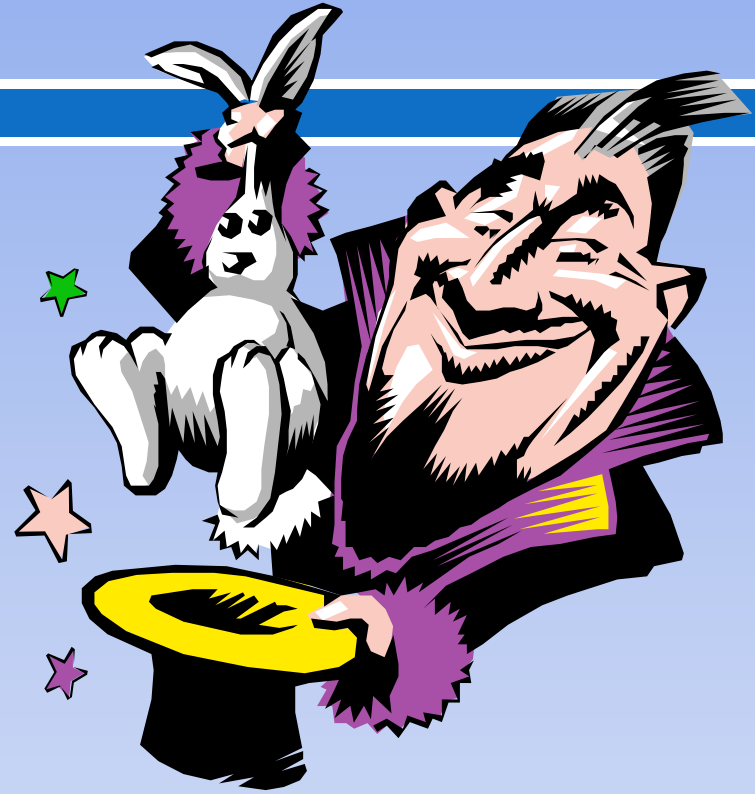
Goods Transport Agency...When to pay Tax

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- ST liability is required to be discharged before the due date of the month/quarter in which the **payment is made to the GTA.**
- As per Rule 7 of POTR, Point of Taxation shall be the **date on which payment is made.** W.e.f. 01/10/2014, where payment is not made within a period of 3 month of the date of invoice, the POT shall be the immediate subsequent date when 3 months are completed.
- **If payment is made for GTA services beyond the period of 3 months from the date of invoice, the POT shall be the date of completion of 3 months from the invoice failing which the assessee will end up paying interest U/s 75.**

Any questions ????????

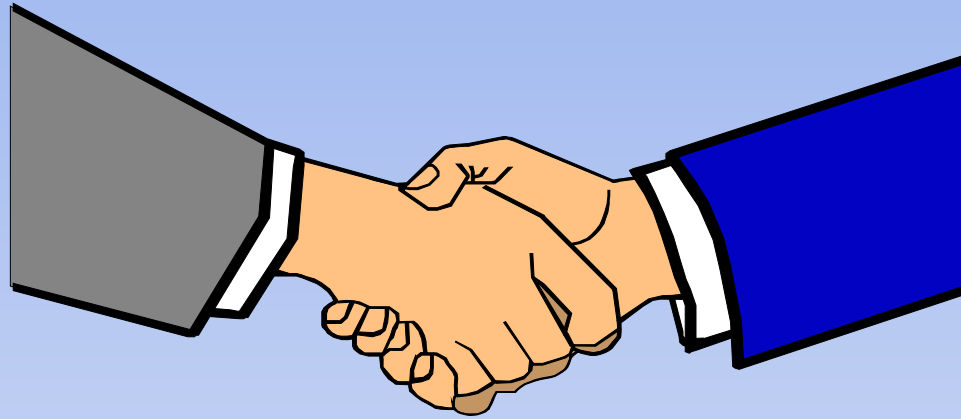
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Opinions or views are like wrist watches. Every watch shows different time from others. But every one believes that their time is right!

Thanks

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