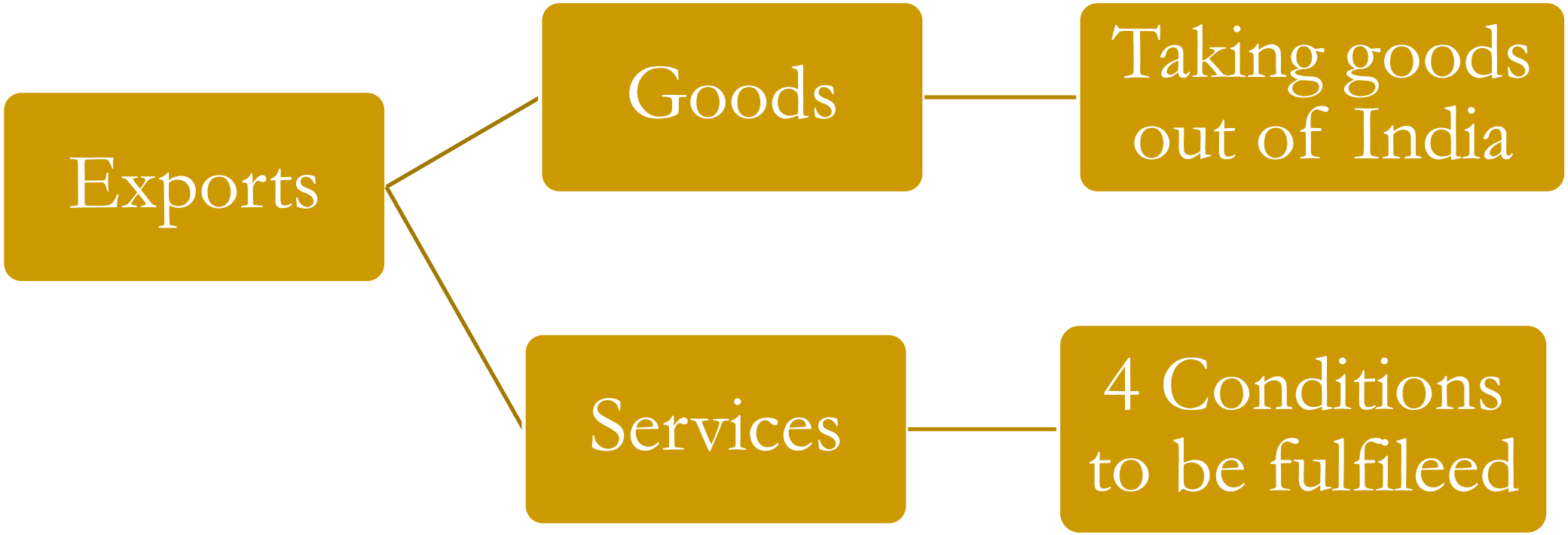
GST

EXPORTS REFUND AND ASSESSMENT

EXPORTS


Exports
Goods
Taking goods out of India
Services
4 Conditions to be fulfileed

Export of services

- Recipient located outside India
- Provider located in India
- Place of provision is outside India
- Receipt of consideration in Con. Forex
- Supplier and recipient are not establishments of distinct persons

Zero rated supply	
Meaning	(a) export of goods or services or both
	b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit
Benefits	a) No Tax on supplies based on Letter of Undertaking or could be supplied on tax b) Credit of input tax could be availed c) Refund of input tax credit (if no tax is paid on exports) or tax so paid
Procedure	Provisions relating to Section 54 of CGST would apply

REFUNDS

Reasons for Refund

1. Excess payment of tax for various reasons

2. Accumulation of credit on account of
   a) Zero rated supplies
   b)Inverted tax structure (higher rate of tax on inputs and lesser on FG)

3. Refunds to :
   a) International Tourists
   b) Embassies and UN Organizations

3. On assessments:
   a) On provisional Assessments
   b) Discounts passed at later point of time

Refund – Sec. 54	
Time Limit: within 2 years from relevant date	
Relevant date:	
Refund relates to export of goods (tax paid on goods or input tax)	Date on which conveyance carrying such goods leaves India
Deemed export of goods	Date on which return relating to such deemed export is filed
Export of services	Date of receipt of consideration. If the consideration is received in advance, then date of invoice
Refund based on the order of the Appellate authority/ Tribunal	Date of communication of the order

Refund – Sec. 54	
Time Limit: within 2 years from relevant date	
Relevant date:	
Refund of unutilised input tax	End of the FY in which such claim arises
Provisional Assessment	Date of adjustment of tax after final assessment
In case of claim by a person other than supplier	Date of receipt of goods or services
Other cases	Date of payment of tax

Refund – Sec. 54

Refund of unutilized input tax credit -54(3)
Refund is eligible only under below to circumstances: a) Zero rated supplies b) Inverted structure of rate tax (except on goods or services notified)
Where export duty is applicable on any goods, refund of accumulated credit is not permissible
No refund of accumulated credit where tax on exports is claimed as refund or rebate is claimed

Refund – Sec. 54

Refund of unutilized input tax credit – Other aspects

Provisions relating unjust enrichment is not applicable [54(8)(b)]

Withholding and adjustment of refund against due is allowed where:

a) a registered person (person claiming refund) defaults filing of any return

b) is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority by last date for filing of return

Provisional refund of 90% of the total amount claimed (excluding provisionally accepted credit) within 7 days of date of acknowledgment towards claim of refund. This is subject to conditions, limitations as prescribed. Principles of Unjust enrichment would not apply

Refund – Sec. 54 –Unjust enrichment
Any refund eligible shall be credited to Consumer welfare fund
Exceptions:
(a) refund of tax paid on zero-rated supplies (including input tax refund)
(b) refund of unutilised input tax credit under sub-section (3);
(c) refund of tax paid on a supply which is not provided,
(d) refund of tax in pursuance of section 77 (taxes wrongly paid as IGST instead of SGST+CGST etc.)
(e) Taxes/interest paid where it is proved that the incidence is not passed on to other person
(f) the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.

Refund – Sec. 54 –Other aspects
Refund on account of order of the Tribunal / Court etc shall be subject to principles of unjust enrichment
Refund of advance tax deposited by a casual taxable person or a non-resident taxable person: No refund, unless such person has, in respect of the entire period for which the certificate of registration granted to him had remained in force, furnished all the returns required under section 39.
No refund shall be granted where amount claimed is less than Rs. 1000

Refund – Sec. 54 –withholding of refund	
Under what circumstances	a) Order giving rise to refund is subject matter of appeal / further proceedings/where any other proceedings under this Act; b) Commissioner is of the opinion that grant of refund would likely to affect the matter (so pending) adversely, on account of malfeasance or fraud
Recourse	After giving opportunity for hearing may withhold the refund
	Person claiming refund would be entitled to interest from the date of sanction of the order till date of actual refund

Refund procedure (Draft Rules)	
GST RFD-01	Application for claiming refund (except for UN agencies etc.)
For claiming refund of amount in Electronic cash ledger, the claim could be made through the periodical returns	
In case of refund on account of export of goods – claim shall be filed only after obtaining export manifest or export report	
In case of refund on account of supply of goods to SEZ, refund claim shall be made only after such goods have been admitted in full and endorsed by the special officer of SEZ	
In case of refund on account of supply of services to SEZ, refund claim shall be made along with evidence showing receipt of services by SEZ	
In case of refund on account of deemed export of goods , refund claim shall be made only after such goods have been admitted in full and endorsed by the special officer of SEZ	
In case of refund claim by casual taxable person, the same shall be claimed through his last return	

Refund procedure (Draft Rules)- Documents to be enclosed	
Refund based on order of court etc	Reference number of the Order and a copy of the order based on which refund is being claimed.
Export of goods	a statement containing the number and date of shipping bills or bills of export and the number and date of relevant export invoices
Export of service	a statement containing the number and date of invoices and the relevant BRC(Bank Realization Certificates) or FIRC(Foreign Inward Remittance Certificates)
Supply of goods to SEZ	a statement containing the number and date of invoices along with the evidence regarding endorsement by special officer of SEZ
Supply of services to SEZ	a statement containing the number and date of invoices, the evidence regarding endorsement specified in the fourth proviso to sub-rule (1) and the details of payment, along with proof of payment
Deemed export	a statement containing the number and date of invoices along with such other evidence as may be notified in this behalf,

Refund procedure (Draft Rules)- Documents to be enclosed	
Refund of unutilized credit	a statement in Annex 1 of FORM GST RFD-01 containing the number and date of invoices received and issued during a tax period
Provisional assessment	the reference number of the final assessment order and a copy of the said order in a case
Declaration	a declaration to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed does not exceed 2 lakh rupees: [except in case of zero rated supply / unutilized credit/ excess payment on account of no supply/ wrong payment]
CA Certificate	In Annex 2 of FORM GST RFD-01to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed exceeds two lakh rupees:

Refund procedure (Draft Rules)- Procedure	
Credit Reversal	Where the application relates to refund of input tax credit, the electronic credit ledger shall be debited by the applicant in an amount equal to the refund so claimed
Refund on zero rated supply	Computation of eligible refund where zero rated supplies are against Bond: Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC /Adjusted Total Turnover
	Net ITC" means input tax credit availed on inputs and input services during the relevant period
	Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking
	"Turnover of zero-rated supply of services= consideration for services received during tax period and invoices issued for services where consideration is received in advance
	"Adjusted Total turnover" means the turnover in a State or a Union territory, as defined under sub-section (112) of section 2, excluding the value of exempt supplies other than zero-rated supplies, during the relevant period;

Refund procedure (Draft Rules)- Procedure –	
Refund from the electronic cash ledger –Acknowledgement in Form GST RFD 02 through common portal electronically	
Other cases	
Application is forwarded to proper officer	
Within 15 days of filing of application he has to scrutinize the claim if found complete acknowledgement in Form GST RFD02 shall be issued clearly indicating date of filing of refund claim	
If deficiencies are noticed	He shall communicate the deficiencies to the applicant in FORM GST RFD-03 through the Common Portal electronically, requiring him to file a refund application after rectification of such deficiencies.

Refund procedure (Draft Rules)- Procedure-Grant of Provisional refund

Provisional refund shall be subject to following conditions:

a) the person claiming refund has, during any period of five years immediately preceding the tax period to which the claim for refund relates, not been prosecuted for any offence under the Act or under an existing law where the amount of tax evaded exceeds two hundred and fifty lakh rupees;

b) the GST compliance rating, where available, of the applicant is not less than five on a scale of ten;

(c) no proceedings of any appeal, review or revision is pending on any of the issues which form the basis of the refund and if pending, the same has not been stayed by the appropriate authority or court

After scrutiny, the proper office shall provisionally sanction refund in GST RFD-04,

Payment advice shall be issued in GST RFD -05- electronically credited to any of the bank accounts of the applicant

Refund procedure (Draft Rules)-Procedure- Sanction of refund

Order for sanction of refund shall be in GST RFD-06. Order shall mention:
i) the amount, if any, refunded to him on a provisional basis
ii) amount adjusted against any outstanding demand under the Act or under any existing law and
iii) the balance amount refundable:

In cases where the amount of refund is completely adjusted against any outstanding demand under the Act or under any existing law, an order giving details of the adjustment may be issued in FORM GST RFD-07

Where claim is not admissible:
-Record reason for non admissibility in writing
-Issue Notice in GST RFD-08 requiring to furnish reply in GST RFD-09 within 15 days of receipt of the notice.
-After considering the reply and **PH** make order in GST RFD-06- sanctioning full or part or rejecting full. If
- The said order shall be made available to the applicant electronically

Refund procedure (Draft Rules)-Procedure- Sanction of refund

✓Where the condition of unjust enrichment satisfied – payment advice in GST RFD -05 and amount shall be credited to bank account through electronic transfer to the applicants account

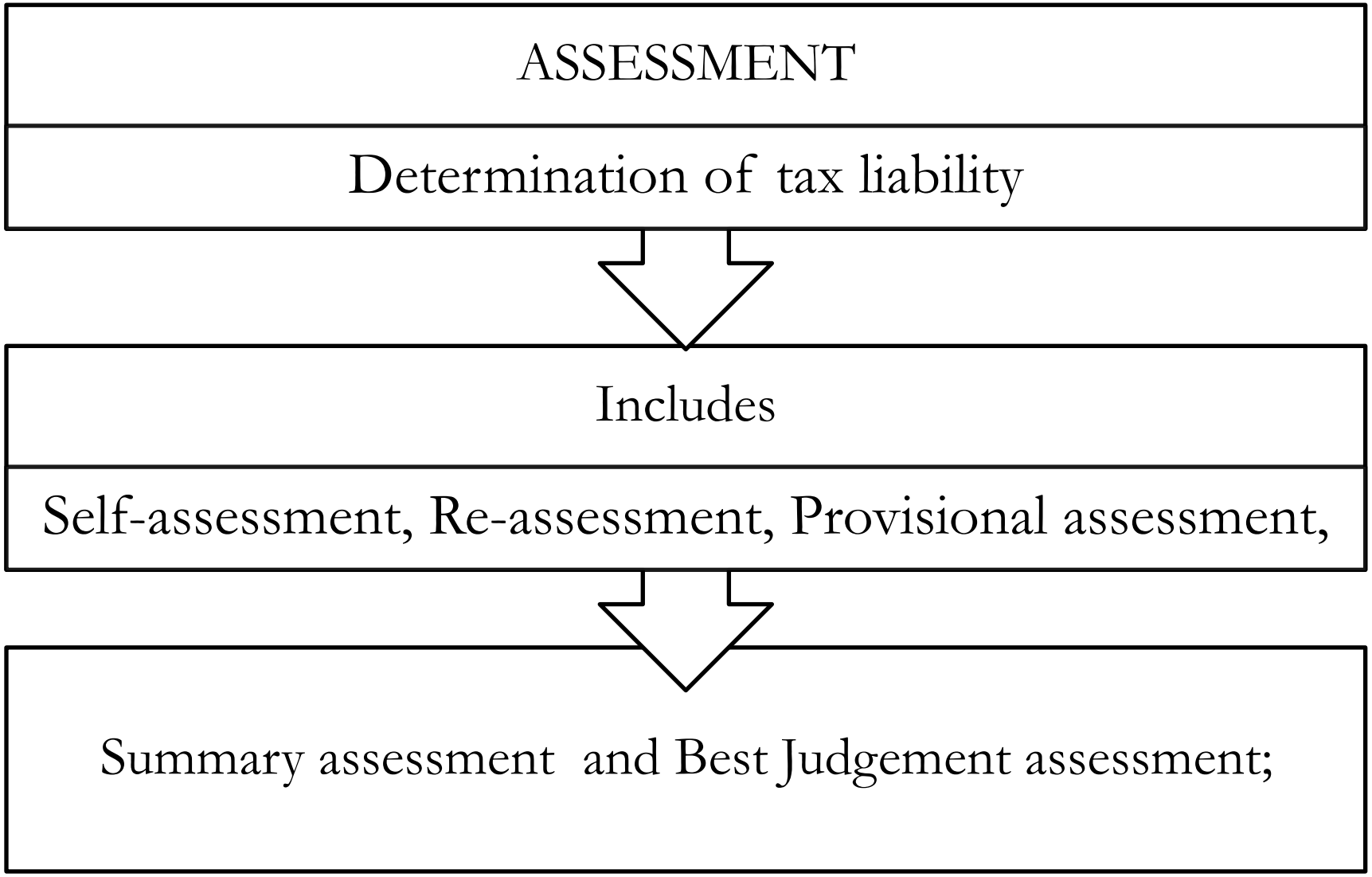
✓Where the condition of unjust enrichment is **not satisfied** – payment advice in GST RFD -05 and amount shall be credited to Consumer Welfare Fund

✓ where refund has been rejected, amount of credit reversed (to the extent of rejection) shall be re-credited to the Electronic Credit Ledger

Refund – Sec. 54(2) & 55–refund to UN agencies and Embassies
Refund of tax paid on inward supply of goods by
Notified UN agencies and embassy of a foreign country
Time Limit: within 6 months from last day of the quarter in which such supply was received
Format: Form GST RFD-10 for application seeking refund Form GST RFD-11 format of statement of inward supplies to be submitted along with refund application Acknowledgement for receipt of the application in GST RFD 02
Procedure: File application and the enclosure through electronically

Refund – Sec. 56– Interest on refund	
When the payment of interest would arise	Refund sanctioned but not refunded within 60days from the date of receipt of application for refund
Rate of interest	To be notified by Government but subject to Max 6%
How to compute delay	To be computed from after completion of 60 days from date of application till date of refund
Refund based on order	Max 9% To be computed from date of receipt of the application for refund
Form GST RFD-05	

ASSESSMENT


ASSESSMENT
Determination of tax liability
Includes
Self-assessment, Re-assessment, Provisional assessment,
Summary assessment and Best Judgement assessment;

BY ASSESSEE

- SELF ASSESSMENT
- PROVISIONAL ASSESSMENT

DEPARTMENT

- SCRUTINY OF RETURNS
- SUMMARY ASSESSMENT IN CERTAIN SPECIAL CASES

DEPARTMENT

- ASSESSMENT OF NON-FILERS OF RETURNS
- ASSESSMENT OF UNREGISTERED PERSONS

SELF ASSESSMENT- Sec.59
Every taxable person
Self assess his taxes
file return for each tax period as specified under section 39

Section 39
Every taxable person Other than ISD, Non resident taxable person
On monthly basis file returns –Quarterly for composition dealers

PROVISIONAL ASSESSMENT

When	Unable to determine the value of goods or services /rate of tax applicable
What to do	Request proper officer in writing giving reason for Prov. Asst.
What the officer should do	May pass an order allowing taxable person for Prov. Asst. within 90 days from the date of receipt of request
Conditions?	executes a bond – alongwith such surety or security as the proper officer may deem fit.
When to finalise	within a period not exceeding 6 months from the date of the communication of the order allowing Prov. Asst.
Could this period be extended	Yes. Where sufficient cause is shown; Not exceeding further 6 months

PROVISIONAL ASSESSMENT

On finalisation if there is any tax due , whether interest is applicable	Yes. Interest would be applicable from the due date of payment till the date of actual payment on the shortage
On finalisation if there is any excess tax paid , whether interest is paid on the same	Yes, subject to a) Principles of unjust enrichment b) If refund is not granted within 60 days from date of application for refund[refer section 50]

PROVISIONAL ASSESSMENT

Procedure (Draft Rules)	
GST ASTM-01	Form for requesting for Prov. Asst. to be filed electronically along with documents
GST ASTM-02	Notice to Assessee to submit details and appear
GST ASTM-03	Assessee to submit details
GST ASTM-04	Order of the officer
GST ASTM-05	Format for execution of Bond and security
GST ASTM-06	Format for calling of information for finalization
GST ASTM-07	Format for issue of finalization order
GST ASTM-08	Format of application for release of security
GST ASTM-09	Format for release of security which shall be released within 7 working days of application in ASTM-08

SCRUTINY ASSESSMENT

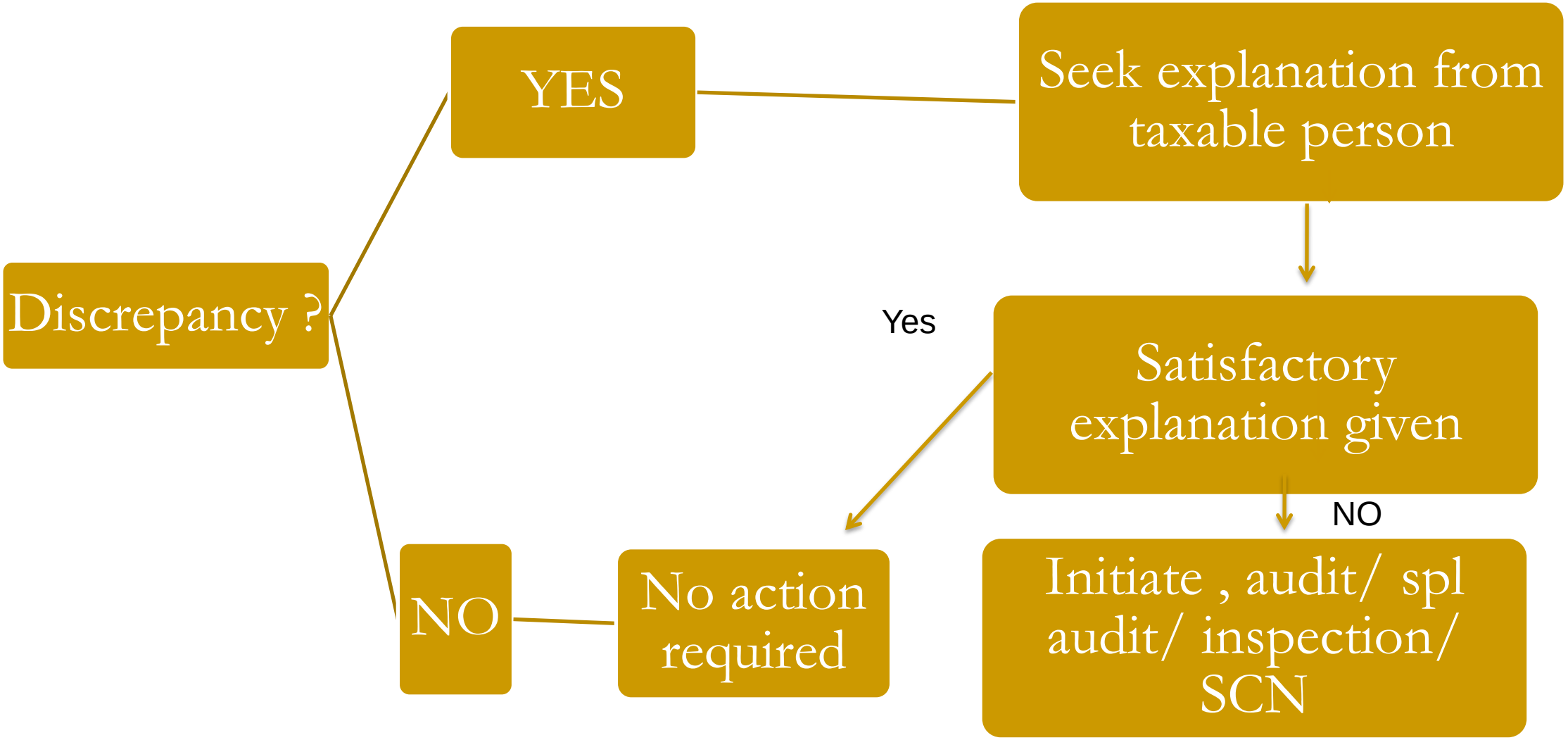
TAXABLE PERSON

- To File Returns

PROPER OFFICER

- Scrutinize the return
- Related particulars to verify correctness of the returns

SCRUTINY ASSESSMENT



SCRUTIRNY ASSESSMENT

Procedure (Draft Rules)	
GST ASTM-10	Notice to Assessee informing him about the discrepancies and seeking explanation / information
Time limit to reply	15 days from the date of receipt of the notice
GST ASTM-11	Explanation to the officer / intimation about details of payment where discrepancy is accepted
GST ASTM-12	Intimation about acceptance of the explanations

ASSESSMENT OF NON FILERS

When	➢ A **registered person** fails to furnish the return- periodical(39)/Final(45) ➢Even after issue of NOTICE u/s 46 to file
Who	Proper officer
What	To do **best Judgment Assessment**
Based on	all the relevant material which is available or which he has gathered and
Within	Issue an assessment order within 5 years from the end of the due date for filing annual return[31.12]. Order format GST ASTMT-13
Where return is filed after order	Where taxable person furnishes a valid return within thirty days of the service of the assessment order under sub-section (1), the said assessment order shall be deemed to have been withdrawn.

ASSESSMENT OF UNREGISTERED PERSON

When	**A Taxable person fails to obtain registration even though he is required to obtain / whose registration is cancelled but failed to pay GST on the stocks**
Who	The proper officer
What	To do best Judgment Assessment
Based on	???
Within	Issue an assessment order within 5 years from the end of the due date for filing annual return
Natural justice	Yes. Without issue of SCN and PH no such assessment shall be made
GST ASMT-14 GST ASMT-15	Format for issue of Notice - Assessee Format for issue of order

SUMMARY ASSESSMENT

Who	Proper officer with previous permission from Adl.C/JC
When	On any evidence showing a tax liability of a person coming to his notice
What	Proceed to assess the tax liability of such person to protect the interest of revenue and issue an assessment order, if he has **sufficient grounds to believe** that any delay in doing so will adversely affect the interest of revenue. [GST ASMT-16]
Where taxable person is not traceable	such liability pertains to supply of goods, the person in charge of such goods shall be deemed to be the taxable person liable to be assessed and pay tax and amount due under this section
Natural justice	???
What if Asst. order is erroneous	Within 30 days from date of receipt of the order - -taxable person or on his own motion -- withdraw such order [Form GST ASMT-18] Procedure for demand and recovery u/s 73/74 to continue

THANK YOU

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