

# Anti-Profiteering

under

Goods and Services Tax (GST)

## Anti-Profiteering Measure (as per Sec.171 of the CGST Act,2017)

**171. (1) Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.**

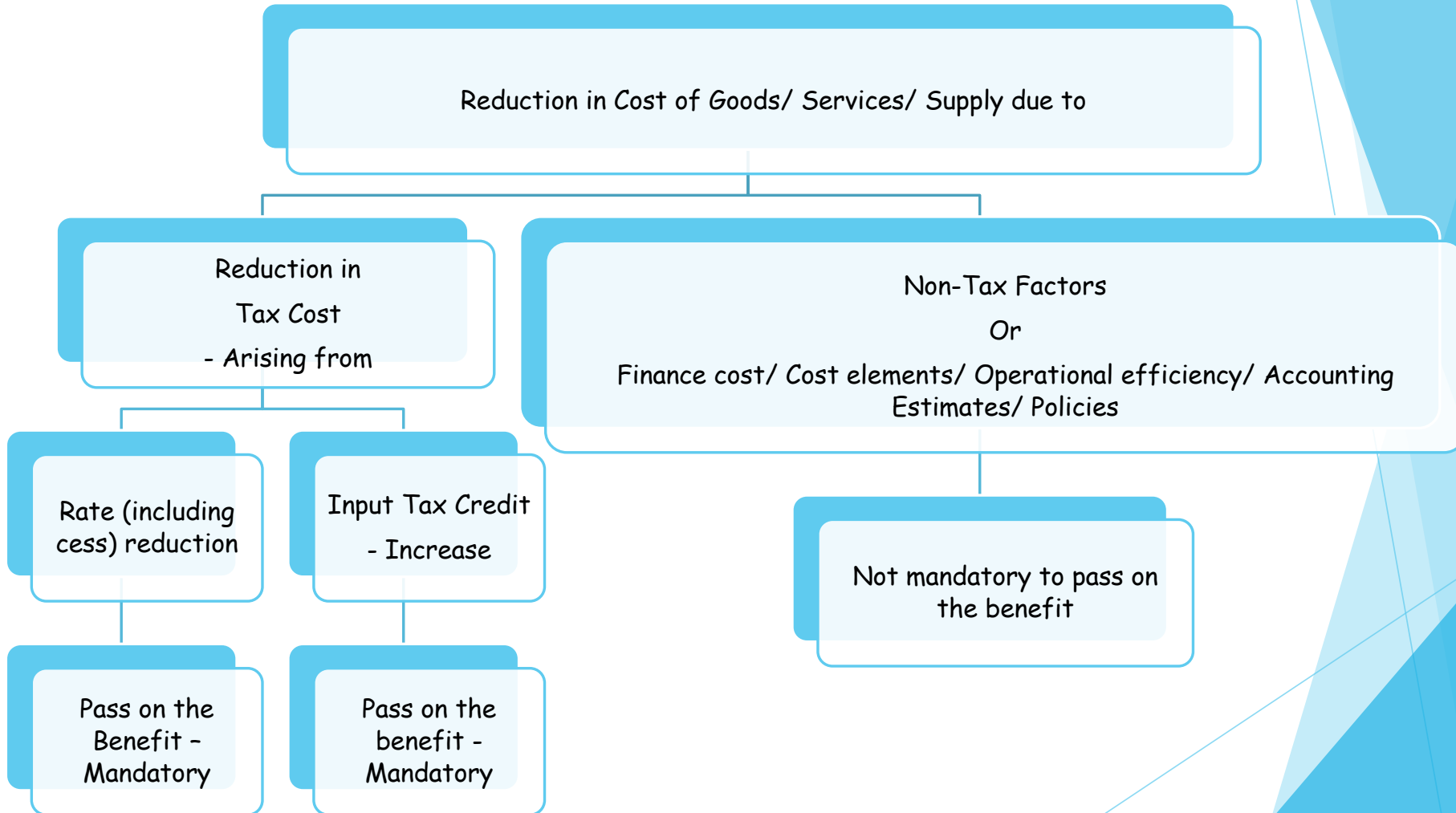
(2) The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, **to examine** whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

(3) The Authority referred to in sub-section (2) shall exercise such powers and discharge such functions as may be prescribed.

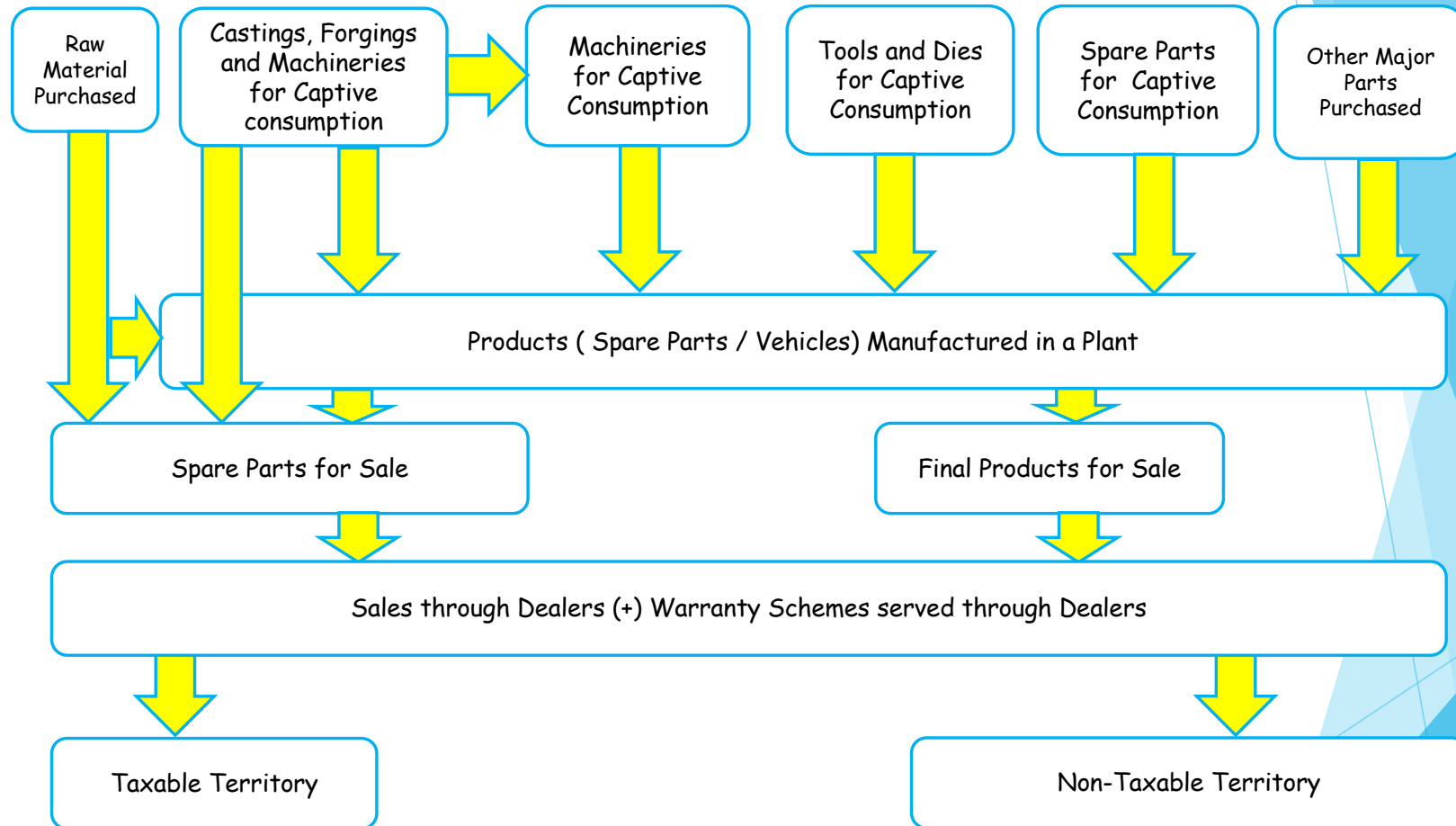
### Expected actions from the Revenue (i.e. GST Authorities)

- ❖ Prepare Product-wise Cost Statements
- ❖ Review Cost Statements in relation to analyse impact of tax rate changes and / or increased benefits in input tax credit on Cost Structure
- ❖ Analyse Pricing Policy during the Pre-GST & Post-GST era
- ❖ Mandatory APC (Anti-Profiteering Compliance) or APA (Anti-Profiteering Audit) ?

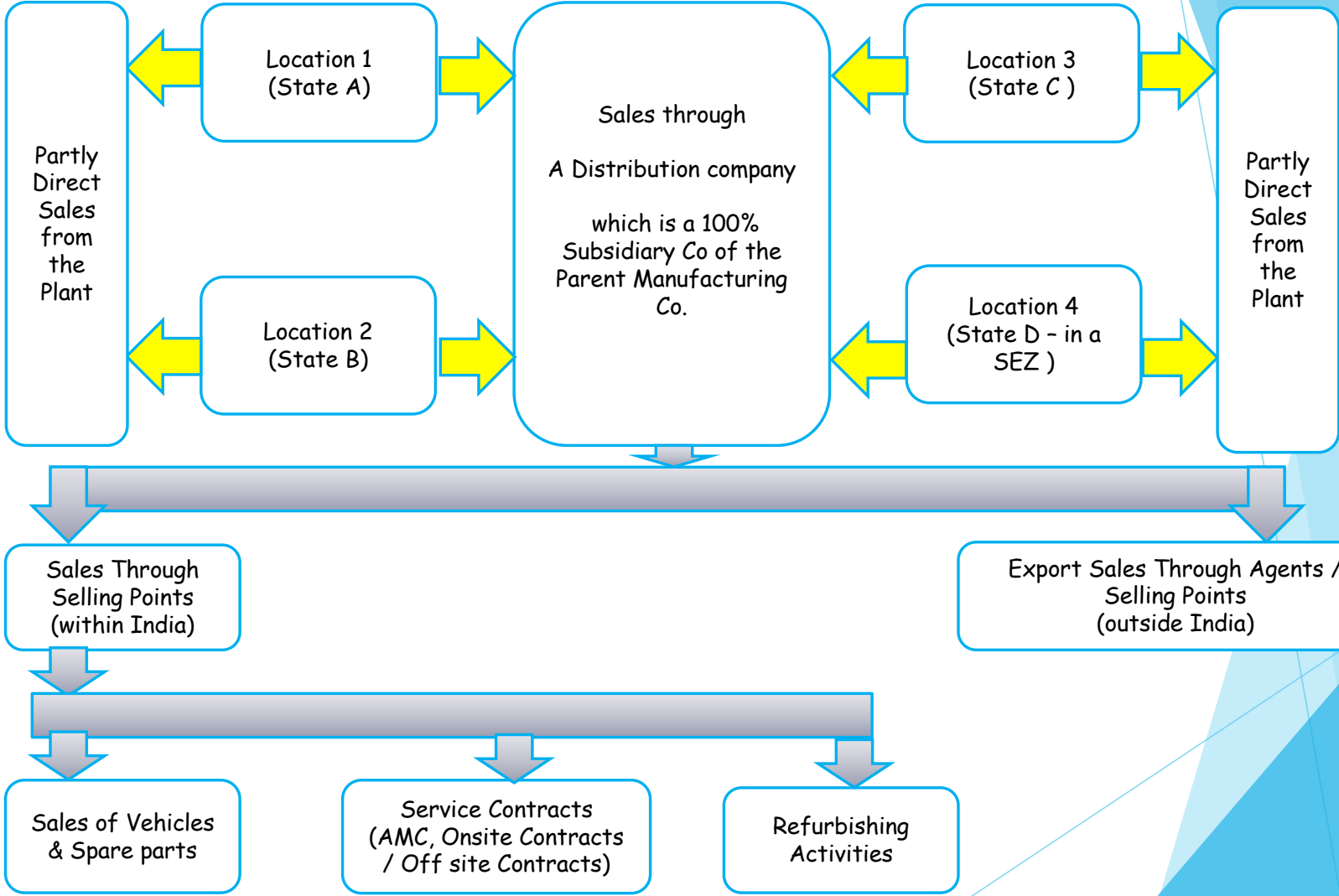
## Identifiable factors contributing in reduction in Cost of Goods / Services



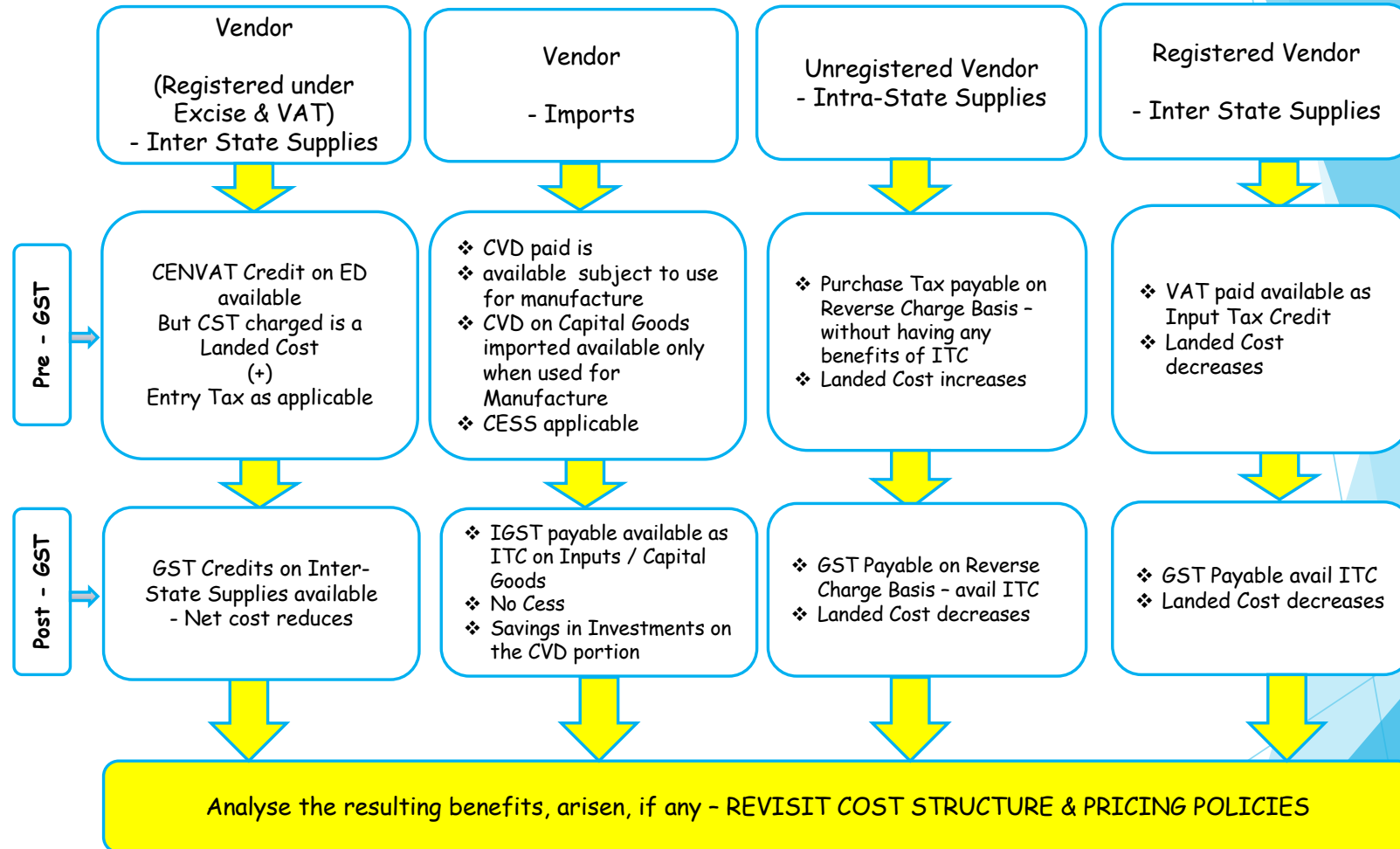
Model : Procurement ( for Manufacturing / Sale) , Manufacturing ( for Captive Consumption / Sale)



Model - Multi- Location Sales [from Plant / Sales Points (domestic/ overseas)]



Mapping the Vendor Model vis-à-vis Probable Savings due to Tax Rate Change/ Increase in Input Tax Credit



## Mapping Indirect Tax Variables - to analyse the resulting benefits / losses

Tax Variables	Effect in Pre-GST era	Impact Post-GST	Analysis
Entry Tax paid (non-creditable)	Increases landed cost of Materials	Abolished	Net decrease in cost
Entry Tax paid (creditable)	No Impacts	No Impacts	No Impacts
CST paid (non-creditable)	Increases landed cost of Materials	- Abolished - Replaced with IGST on Inter-State, which is creditable	Net decrease in cost due to IGST credits
Duty cascading	Due to levy of Excise Duty on increased landed cost ( Inter-State) on CST (+) Entry Tax Paid	CST , Entry Tax abolished IGST applicable, which is creditable	Net decrease in cost due to IGST credits
Tax cascading	Due to levy of VAT on ( Landed Cost + Excise Duty)	Landed cost reduces due to CST, Entry Tax abolition Excise Duty cascading abolished	Net decrease in costs
Cess (non-creditable)	Increases cost	Abolished	Net decrease in costs
Cess (creditable)	No Impacts	No Impacts	No Impacts
Special Exemptions enjoyed under EXCISE / VAT	Reduces effective costs	Exemptions may continue or abolish	Impact of change to be analysed
Service Tax paid on Reverse Charge Basis	No Credit available in case of some specific services. Hence, becomes a cost	Credit available even when paid on reverse charge	Impact of change to be analysed to pass on credits

REVISIT COST STRUCTURE & PRICING POLICIES

## Mapping Indirect Tax Variables

<p>Sale through the Subsidiary Distribution Co. Vis-à-vis Direct Sales</p>	<p>Absorption of Selling Expenses / Increase in Costs due to Value Addition - hence value of Supply may differ vis-à-vis as compared with the Direct Sales</p>	<p>Check the impact - for strategic decision making</p>
<p>Annual Maintenance Contracts (AMCs) Onsite Contracts / Offsite Contracts</p>	<p>Presently, materials removed from factory to honour such AMCs.</p> <ul style="list-style-type: none"> <li>- Excise Duty paid</li> <li>- VAT not paid / CST not levied since not sale ( say stock transfer to depot against Form F)</li> <li>- Unless registered even under Service Tax, ITC may get blocked subject to such specified conditions &amp; restrictions, since used for providing output services &amp; not used for the purpose of manufacture</li> </ul>	<p>GST era, supply inter-state would attract levy of IGST</p> <p>-taxable Event is Supply ( of either goods and / or services )</p> <ul style="list-style-type: none"> <li>- <b>IGST paid would be an additional impact on Working Capital</b></li> <li>- <b>To be mapped with existing Central Excise paid on such materials/ spare</b></li> <li>- <b>IGST paid is available as credit</b></li> <li>- <b>Impact analysis necessary, as this is a change due to INPUT TAX CREDIT</b></li> </ul>

In this case, No benefits identified due to tax factors. Hence, Passover of benefits does not arise



## Impact of benefits of new investments & benefits from various Trade Promotion Measures under Direct Taxation

### Direct Tax Variables

Location of Plant in SEZ/ EOU Holiday	<ul style="list-style-type: none"> <li>- Tax benefits enjoyed due to the tax treaties/ social contracts entered into with the Government / provided by the Government</li> <li>- Whether such tax savings is affecting price/ costs</li> </ul>
Plant enjoying Tax Holiday	<ul style="list-style-type: none"> <li>- Investment linked deductions are available</li> <li>- Whether 'Weighted Deduction' &gt; 100% of the eligible investments, affects 'cost structure' or enjoyed by the organisation</li> </ul> <p>Say, in case, where Investment linked deduction u/s 32AB is extended @ 150% of the eligible investments, whether, such additional 50% affects costs or not.</p>
Special Exemptions enjoyed under scheme of Central / State Government	<ul style="list-style-type: none"> <li>- Whether the entity enjoys any other special exemptions, which are specific to that respective entity, effective by notification or otherwise</li> <li>- To study impact of such exemptions</li> <li>- Study impact on cost, benefits if any, not to be passed on</li> </ul>
Subsidy / Subsidies enjoyed, if any	<ul style="list-style-type: none"> <li>- Subsidies if received from the Government would be adjusted downwards from 'Value of Supply' in the GST era.</li> <li>- Accordingly, benefit shall have to be passed on through such reduced prices</li> </ul>
Additional / Accelerated Depreciation benefits u/s 32(2) of the Income Tax Act, 1961 on eligible investments	<ul style="list-style-type: none"> <li>- Analyse the additional benefits of accelerated / additional depreciation</li> <li>- Study the impact on cost structure</li> <li>- Benefits, if any, not to be passed on</li> </ul>

Analyse the resulting benefits, arisen, if any - REVISIT COST STRUCTURE & PRICING POLICIES

## Impact of JOB work : Comparative Impact Study - Pre & Post-GST era

Pre-GST	Post-GST
On furnishing of declaration, job worker is exempted from excise duty	Concept of manufacturing becomes irrelevant & supplying of goods for job work is taxable
Irrelevant of status (registered/ unregistered) of principal manufacturer	If belongs to unregistered person cannot be considered as job work
Time period for availing ITC on goods / capital goods removed for job work six months/ eighteen months	Time period for availing ITC on goods / capital goods removed for job work one year / three years

PRINCIPAL has the option to supply goods from the place of job worker on payment of tax, (without payment of tax in case of exports), permitted only if the principal has declared job workers place of business as principal's additional place of business.

- Revisiting existing Contracts with the Job Worker
- Declaration not required if job worker is registered separately
- Process of job worker is classified as Supply of Service
- GST will be chargeable on processing charges charged by the job worker
- Removes complexity to distinguish between the labour and material cost (specially in case of composite billing)
- **TAX CASCADING AVOIDED**
- **BENEFIT OF INTEREST COST ON ITC for the extended time period may be analysed, however, need not be passed on**

Analyse the resulting benefits, arisen, if any - REVISIT COST STRUCTURE & PRICING POLICIES

## Mapping other Important Variables - its probable contribution in reduction in cost

### Cost & Operational Variables

Reduction in Transportation Cost	Entry Tax subsumed - to be passed on CST to be subsumed - to be passed on Way bills to be replaced with e-way bills Transportation Time to get reduced Transportation cost should also get reduced in accordance.
Reduction in Holding Cost	Identify reduction in costs. Not necessary to be passed on.
Reduction in Lead Time for delivery of goods	Identify reduction in costs. Not necessary to be passed on.
Increase in Operational efficiency e.g. Cost reduction, Value engineering, etc.	Identify reduction in costs. Not necessary to be passed on.
Change in Capacity Utilisation	Identify reduction in costs. Not necessary to be passed on.
Decrease/Increase in Scrap & Wastages	Identify reduction in costs. Not necessary to be passed on.

Benefits of Entry Tax & CST - to be mapped with IGST

Other, than Entry Tax & CST, REMAINING are arising due to Non-Tax Factors.

HENCE, BENEFITS to such extent to be ASCERTAINED BUT NOT NECESSARY TO BE PASSED.

Analyse the impact resulting arisen - REVISIT COST STRUCTURE & PRICING POLICIES

## Impact of Business Organisation Structure/ Restructuring on Cost

- Channel Partners / Vendors - are either 100% Subsidiaries / Joint Ventures (JVs) / Other Vendors

### Impact analysis :

- Intra-State Supplies attracts levy of Tax, since different PAN and different Registration
- Cost of Goods / Services to include increase in interest on working capital.
- Compliance burden would increase under GST due to multiple channel partners

- Business Restructuring - Amalgamation / Absorption ( in all possible / probable cases, based on viability) ,especially in case of Location of Provider and Receiver are Intra-State
- Intra-State Transfer of Materials would not attract GST
- Reduced Compliance burden
- Probable Reduction in overhead costs/ administration costs
- **Analyse reduction in cost of goods / services due to business restructuring**

Analyse the resulting benefits, arisen, if any - REVISIT COST STRUCTURE , NOT COMPULSORY under APM since this is not due to TAX RATE CHANGE OR INCREASE IN INPUT TAX CREDITS

## Way ahead - Suggested Actions

### (1) Mapping of Product/ Services or both with its related accounting treatment vis-à-vis tax in relation thereto.

The following structure is represented as an indicative format only. This may be modified subject to the nature of the business/ goods/ services/ supply

Goods / Services	HSN / SAC	Central & State Taxes (Pre-GST) Including CESS	GST	Change in Taxes (in Pre & Post GST era)	Benefits of Input Tax Credits	Cost reduction due to non-tax factors	Action

- Product wise/ HSN Code wise mapping required
- Variables contributing to increase/ decrease to be analysed
- Variables to be classified into tax-factors / non-tax factors
- Impact analysis
- Strategic decision-making

## Way ahead - Suggested Actions

### **(2) Identify the Non-tax Factors / Accounting Factors : (indicative list only)**

- ❖ Quantity discount received
- ❖ Reduction in carriage inward/ inward transportation cost ( as supplier delivers goods at the place of business/ manufacture, vis-à-vis earlier such goods were to be collected from the suppliers' place of business)
  
- ❖ JIT (Just in Time) purchases - leading to reduction in stock-holding cost (interest cost, obsolescence cost, other carrying/ holding costs)
  
- ❖ **Impact of IND -AS on Cost Structure** : due to
  - Asset- Reclassification
  - Depreciation cost ( due to decrease in amount of depreciation)
  - Depreciation based on 'Components' - 'Componentisation' of Assets and charging depreciation accordingly.
  - Recognition of Initial Costs/ Subsequent Costs
  - Measurement at Recognition
  - Measurement after Recognition / De-recognition
  - Changes in Existing Decommissioning, Restoration and Similar Liabilities
  - Impact of Lease
  - Measurement of Revenue ( Sale of Goods and / or Rendering of Services)
  - Interest and Royalties / Other Income

## Way ahead - Suggested Actions

### **(3) Identify the Indirect Tax Factors:**

- ❖ Product/ Service - classification as per Taxation ( Taxable ( at what rates) / Exempted/ Nil rated/ zero-rated)
- ❖ Exemptions availed by the Assessee, if any vis-à-vis its position in the GST era

### **(4) Impact of Decentralised Registration ( in other words, State-wise Registration - Centralised / Decentralised) on Financing and its resulting impact on Costs**

- ❖ Abolition of Form 'F' - which allowed inter-state transfers without payment of taxes
- ❖ Impact of IGST (Integrated Goods and Services Tax), as cost of financing such tax, for such period, until ITC is availed, in case of inter-state transfer between two units of the same company, without consideration, as they would be treated as separate taxable persons under GST
- ❖ Business restructuring costs, say state wise registration, for which state-wise business set-up may be required for strategic advantages - whether recovered as part of cost of product/ services

### **(5) Review Transactions between Related Parties - check ALP (Arms' Length Price) - its impact on Cost Structure - on Job Work Basis ( if not supplied from the place of the Job Worker / on Full Supply Basis**

### **(6) Review Vendor's Model - whether tax benefits arising out of ITC now available / impact of Reverse Charge Mechanism - its impact on cost structure**

### **(7) Review of Pricing Policies - for strategic decision making**

## Relevance of Cost Information / Cost Records under GST - with special reference to Anti-Profiteering Measures

- ❖ **Justify Cost Structure and act as a material evidence**
- ❖ **Strategic Pricing Policies - can be framed**
- ❖ **Evaluate the benefit which should be passed on to the consumer**
- ❖ **Suggest Management to decide upon the probable pricing policy, which, they may like to pass on, aroused out of non-tax factors**
- ❖ **Tool to prevent / mitigate litigation**
- ❖ **Trade Remedy / Safeguard measure**



## Role of CMAs in the GST era

- ❖ **Advisor to the Industry to frame strategic pricing policies & optimum business models**
- ❖ **Advisor to the Revenue Authorities - to frame guidelines - to promote Ease of Doing Business in India**
- ❖ **Authenticate Cost information & cost records - which would act as an important tool for making reference in cases of litigation**
- ❖ **Facilitating in Advance Ruling - under Direct Taxation, Customs and GST - so as to prevent litigation**
- ❖ **Authentication of records during the course of Internal Audit, which leads a taxpayer to be GST compliant**
- ❖ **Audit / Certification under GST**
- ❖ **Advisory & Authentication for preparation of Reconciliation Return under GST - which would be in line with the prescribed provisions laid down under Direct Taxation Records, Statutory Audits under Companies Act**

