

Latest developments in GST with special reference to landmark case laws (Supreme Court and High Courts)



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Latest Development in GST



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S. No	Topic
1	IMS
2	Mandatory ISD Registration from Apr 25
3	Biometric Authentication Now Mandatory for Company Directors
4	Advisory to file pending returns before expiry of three years (July 2022 Returns)

Latest Development in GST

S. No	Topic
5	30-Day Time Limit for E-Invoice Reporting Extended to More Taxpayers with an Annual Aggregate Turnover of Rs 10 crore and above, effective April 1, 2025
6	Functioning of GST Tribunals
7	Reporting of HSN codes in Table 12 and list of documents in table 13 of GSTR-1/1A (B2B as well as B2C)

Decisions of High Court and Supreme Court



PROVISIONAL ATTACHMENT OF BANK ACCOUNTS

- **Kesari Nandan Mobile v. Office of Assistant Commissioner of State Tax (2025) 33 Centax 224 (S.C.) - Decided on 14-08-2025**
- **Brief Facts:**
 - Provisional attachment orders of assessee's bank accounts were issued in **Oct 2023** under **Section 83 CGST Act, 2017**.
 - Assessee filed objections u/s **Rule 159(5), CGST Rules, 2017**, but objections were not disposed.
 - Under **Section 83(2)**, attachments automatically ceased after one year (Oct 2024).
 - Department, instead of fresh proceedings, issued —renewal attachment orders in **Nov & Dec 2024**.
 - Gujarat High Court upheld renewal citing fraud (₹18.97 crores ITC misuse).
 - Assessee appealed to Supreme Court.

PROVISIONAL ATTACHMENT OF BANK ACCOUNTS

Issue Involved:

Whether renewal/re-issuance of provisional attachment orders after expiry of one year is permissible under **Section 83(2) of CGST Act, 2017**.

Relevant Section / Provision Discussed:

- **Section 83(1) & (2), CGST Act, 2017** – Provisional attachment to protect revenue; ceases after 1 year.
- **Rule 159, CGST Rules, 2017** – Procedure for attachment and objections.
- Comparison with **Section 11DDA, Central Excise Act, 1944** & **Section 28BA, Customs Act, 1962**, which allow extensions (not present in CGST Act).

PROVISIONAL ATTACHMENT OF BANK ACCOUNTS

- **Case Law Relied / Cited:**

- **Radha Krishan Industries v. State of Himachal Pradesh (2021) 48 G.S.T.L. 113 (SC)**

– followed.

- **Outcome / Ratio Decidendi:**

- **Supreme Court allowed the appeal. Held that renewal or re-issuance of provisional attachment beyond one year has no statutory backing.**
- **Section 83(2) expressly limits the life of attachment to one year; permitting renewal would defeat legislative intent. Bank accounts to be de-frozen forthwith.**
- **Investigation may continue, but attachment cannot be extended/renewed without statutory amendment**

PROCEEDINGS STAND CONCLUDED U/s 129(5) WITHOUT AN ORDER

- **ASP Traders v. State of Uttar Pradesh Citation: (2025) 32 Centax 446 (S.C.) - Date: 24 July 2025**
- **Brief Facts:**
 - Appellant, a registered dealer in Red Arecanut, consigned goods to Delhi with proper e-way bill.
 - Vehicle was detained by Mobile Squad at Jhansi; detention order (MOV-06) and notice under Section 129(3) (MOV-07) issued alleging discrepancies.
 - Assessee filed reply denying allegations but, due to business exigencies, paid tax & penalty of ₹7,20,440 through DRC-03 to secure release of goods (MOV-05 issued).
 - No final order under Section 129(3) (MOV-09) was passed. Repeated representations for order were ignored. Authorities claimed proceedings concluded under Section 129(5). High Court dismissed writ, upholding Revenue's view.

PROCEEDINGS STAND CONCLUDED U/s 129(5) WITHOUT AN ORDER

Issue Involved:

- Whether after payment of tax and penalty (voluntarily or otherwise) under Section 129(1), the proper officer is still **mandatorily required to pass a formal order in Form GST MOV-09** under Section 129(3), or whether proceedings stand concluded under Section 129(5) without such an order.

Relevant Section / Provision Discussed:

- Section 129(1), (3), (4), (5) of the CGST Act, 2017.
- Rule 142(3) & (5) of CGST Rules, 2017.
- CBIC Circular No. 41/15/2018-GST dated 13.04.2018.
- Article 265 of the Constitution of India.

PROCEEDINGS STAND CONCLUDED U/s 129(5) WITHOUT AN ORDER

- **Outcome / Decision:**

- Every SCN must culminate in a **reasoned final order**; adjudication is mandatory once objections are filed.
- Payment under DRC-03 cannot be treated as voluntary since portal has no option to pay - under protest.
- Section 129(5) does not dispense with officer's duty to pass a speaking order; deeming fiction cannot take away right of appeal.
- Absence of MOV-09 & DRC-07 deprives taxpayer of statutory appellate remedy.

Telecommunication towers rightly held movable property; ITC admissible as section 17(5)(d) not attracted – Supreme Court



Commissioner, CGST Appeal-1, Delhi V/s Bharti Airtel Ltd. – (2025) 33 Centax 302 (S.C.) - Decided on 08-08-2025

Telecommunication towers for Period 1-7-2017 to 31-3-2024. High Court by impugned order held that Supreme Court in ***Bharti Airtel Ltd. v. Commissioner of Central Excise 2025 (391) E.L.T. 3/(2024) 24 Centax 266 (S.C.)***, has conclusively held that telecommunication towers cannot be construed as immovable property. Telecommunication towers would not qualify as immovable property as they neither qualify test of permanency nor can they be said to be attached to earth. Mobile towers can be dismantled and moved and they were never erected with an intent of conferring permanency.

In favour of Assessee

Telecommunication towers rightly held movable property; ITC admissible as section 17(5)(d) not attracted – Supreme Court



Commissioner, CGST Appeal-1, Delhi V/s Bharti Airtel Ltd. – (2025) 33 Centax 302 (S.C.) - Decided on 08-08-2025

Their placement on concrete bases was only to enable those towers to overcome vagaries of nature. Mere specific exclusion of telecommunication towers from scope of phrase 'plant and machinery' would not lead one to conclude that statute contemplates or envisages telecommunication towers to be immovable property. Application of generic principles to concept of immovable property would, in explicit terms, conclude that telecommunication towers are liable to be treated as movable. Telecommunication towers would not fall within ambit of section 17(5)(d). Thus, denial of input tax credit, consequently, would not sustain.

HELD: Instant Court was not satisfied that these are fit cases to exercise discretion under Article 136 of Constitution of India. Instant petitions were to be dismissed [Sec 17 of CGST Act, 2017]

In favour of Assessee

Writ dismissed due to factual dispute; assessee allowed to pursue appellate remedy against order – Delhi High Court



Gurbani Exports V/s Principal Comm. of CGST, Delhi North – (2025) 33 Centax 95 (Del.) - Decided on 22-07-2025

Assessee was accused of availing input tax credit without any supply of goods or services through various firms floated by him and his family members. Impugned order was passed demanding tax, interest and penalty. Assessee filed instant petition against impugned order

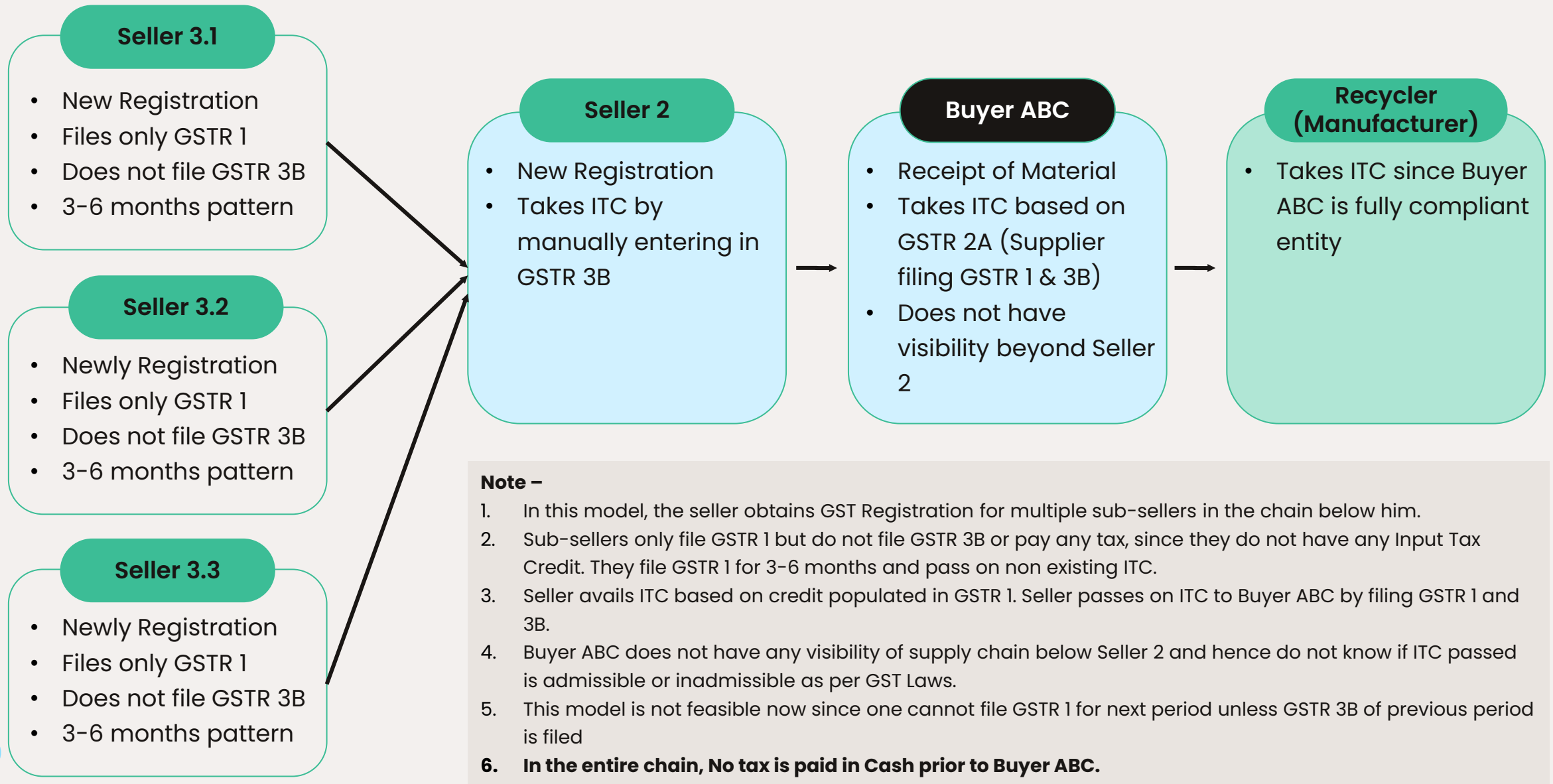
HELD: Writ petition could not be entertained in matter relating fraudulent availment of ITC, however liberty was to be granted to assessee to avail appellate remedy under section 107. Appeal could be filed by assessee along with relevant pre-deposit [Sec 16, r/w Sec 107, of CGST Act, 2017]

In favour of Assessee

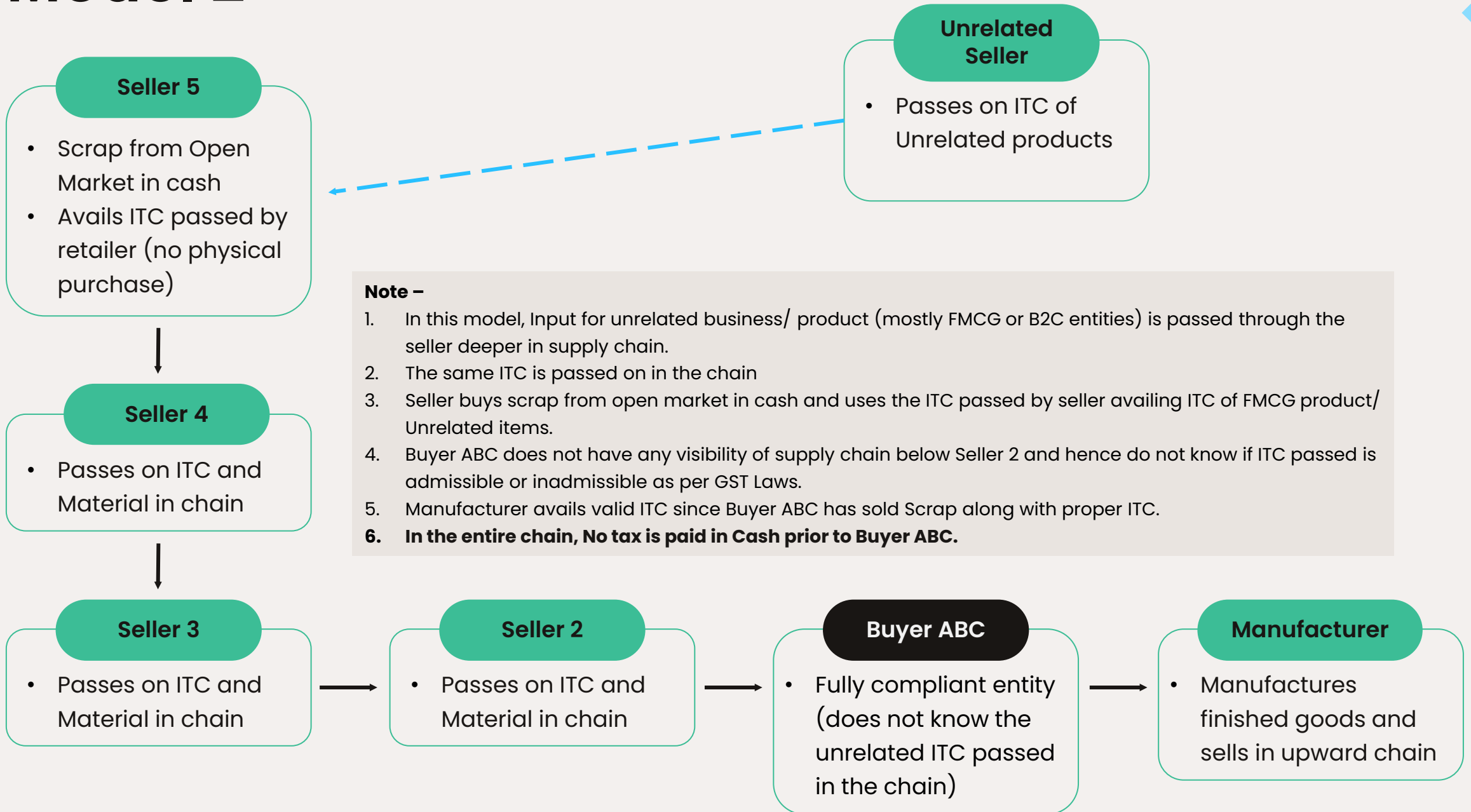
Understanding ITC Fraud Modus Operandi



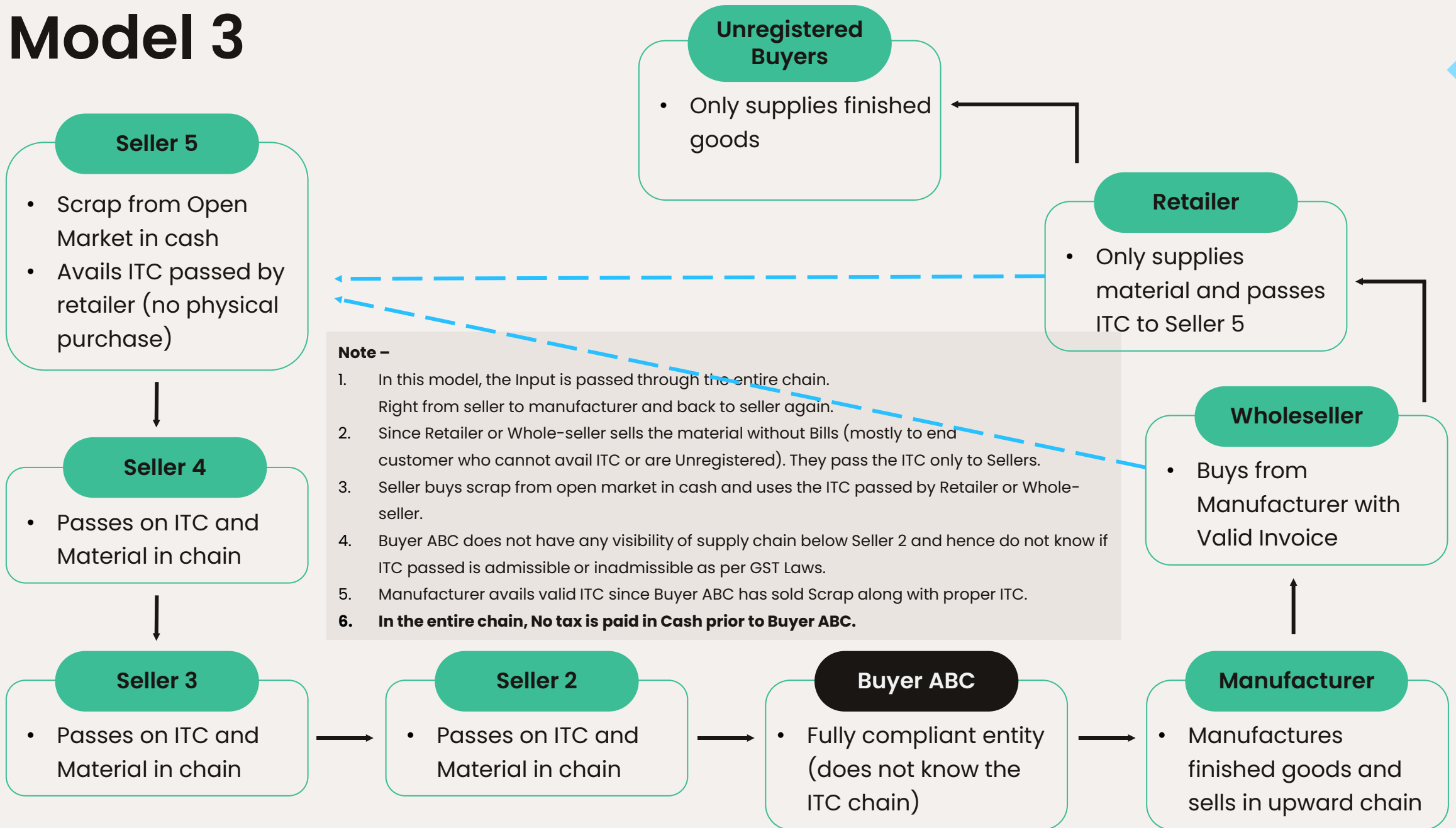
Model 1



Model 2



Model 3



Thank you

Thanks for your Patience and Time

