



सत्यमेव जयते

GST

(GOODS AND SERVICES TAX)

Valuation in GST

Value of Supply

VAT statutes make provisions for determination of value of a transaction, as normally tax is payable on ad-valorem basis. In GST law also tax is payable on ad-valorem basis i.e. percentage of value of the supply of goods or services. Section 15 of the CGST Act and CGST Rules, 2017 (Chapter-IV Determination of Value of Supply) contains provisions related to valuation of supply of goods or services made in different circumstances and to different persons.

Transaction Value

Under GST law taxable value is the transaction value i.e. price actually paid or payable, provided the supplier and the recipient are not related and price is the sole consideration. In most of the cases of regular normal trade, invoice value will be the taxable value. However, to determine value of certain specific transactions, specific provisions have been provided under Chapter-IV of the CGST Rules, 2017.

Compulsory Inclusions

Any taxes, fees, charges levied under any law other than GST law, expenses incurred by the recipient on behalf of the supplier, incidental expenses like commission & packing incurred by the supplier, interest or late fees or penalty for delayed payment and direct subsidies (except government subsidies) are also to be added to the price (if not already added) to arrive at the taxable value.

Exclusion of Discounts

Discounts like trade discount, quantity discount etc. are part of the normal trade and commerce, therefore pre-supply discounts i.e. discounts recorded in the invoice have been allowed to be excluded while determining the taxable value.

Discounts provided after the supply can also be excluded while determining the taxable value provided two conditions are met namely (a) discount is established in terms of a pre-supply agreement between the supplier and the recipient and such discount is linked to relevant invoices and (b) input tax credit attributable to the discounts is reversed by the recipient.

Two Circulars namely Circular No. 92/11/2019-GST dated 07.03.2019 and Circular No. 105/24/2019-GST dated 28.06.2019 have been issued to clarify various aspects of exclusions or otherwise of discount from the value to arrive at the taxable value.

Taxable value when consideration is not solely in money (Rule 27 of CGST Rules)

In some cases, where consideration for a transaction is not solely in money, taxable value has to be determined as per prescribed Valuation Rule. In such cases following values have to be taken sequentially to determine the taxable value:

- Open Market Value of such supply.
- Total money value of the supply i.e. monetary consideration plus money value of the non-monetary consideration.
- Value of supply of like kind and quality.
- Value of supply based on cost i.e. cost of supply plus 10% mark-up.

- Value of supply determined by using reasonable means consistent with principles & general provisions of GST law. (Best Judgement method)

Open Market Value means the full value of money excluding taxes under GST laws, payable by a person to obtain such supply at the time when supply being valued is made, provided such supply is between unrelated persons and price is the sole consideration for such supply.

Supply of like kind & quality means any other supply made under similar circumstances, is same or closely resembles in respect of characteristics, quality, quantity, functionality, reputation to the supply being valued.

Illustration:

- Where a new phone is supplied for Rs.20000/- along with the exchange of an old phone and if the price of the new phone without exchange is Rs.24000/-, the open market value of the new phone is Rs. 24000/-.
- Where a laptop is supplied for Rs.40000/- along with a barter of printer that is manufactured by the recipient and the value of the printer known at the time of supply is Rs.4000/- but the open market value of the laptop is not known, the value of the supply of laptop is Rs.44000/-.

Value of supply between distinct or related persons (excluding Agents) (Rule 28 of CGST Rules).

A person who is under influence of another person is called a related person like members of the same family or subsidiaries of a group company etc. The term "person" also includes legal persons.

Under GST law, following persons have been deemed as related persons;

- such persons are officers or directors of one another's businesses;
- such persons are legally recognised partners in business;
- such persons are employer and employee;
- any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them;
- one of them directly or indirectly controls the other;



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- (vi) both of them are directly or indirectly controlled by a third person;
- (vii) together they directly or indirectly control a third person; or
- (viii) they are members of the same family;

Further, persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, are also deemed to be related.

Above categories of related persons have been specified and as relation may influence the price between two related persons therefore a Special Valuation Rule has been framed to arrive at the taxable value of transactions between distinct or related persons. In such cases following values have to be taken sequentially to determine the taxable value:

- i. Open Market Value.
- ii. Value of supply of like kind and quality.
- iii. Value of supply based on cost i.e. cost of supply plus 10% mark-up.
- iv. Value of supply determined by using reasonable means consistent with principles & general provisions of GST law. (Best Judgement method)

However, where the goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to ninety percent of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person. Further, if the recipient is eligible for full input tax credit, the invoice value is deemed as open market value and is accepted as taxable value.

Value of supply of goods made or received through an agent (Rule 29 of CGST Rules)

In such cases, the value of supply shall be:

- (a) Open market value of goods being supplied, or, at the option of the supplier, 90% of the price charged for the supply of goods of like kind and quality by the recipient to his unrelated customer.

Illustration:

Where a principal supplies groundnut to his agent and the agent is supplying groundnuts of like kind and quality in subsequent supplies at a price of Rs.5000/- per quintal on the day of supply. Another independent supplier is supplying groundnuts of like kind and quality to the said agent at the price of Rs.4550/- per quintal. The value of the supply made by the principal shall be Rs.4550/- per quintal or where he exercises the option the value shall be 90% of the Rs.5000/- i.e. Rs.4500/- per quintal.

- (b) In case value cannot be determined under (a) then following values have to be taken sequentially to determine the taxable value:

- i. Value of supply based on cost i.e. cost of supply plus 10% mark-up.
- ii. Value of supply determined by using reasonable means consistent with principles & general provisions of GST law. (Best Judgement method)

Value of supply of services in case of a Pure Agent (Rule 29 of CGST Rules)

Subject to fulfilment of certain conditions, the expenditure and costs incurred by the supplier as a pure agent of the recipient of supply of service has to be excluded from the value of supply.

Illustration:

Corporate services firm A is engaged to handle the legal work pertaining to the incorporation of Company B. Other than its service fees, A also recovers from B, registration fee and approval fee for the name of the company paid to Registrar of the Companies. The fees charged by the Registrar of the company's registration and approval of the name are compulsorily levied on

B. A is merely acting as a pure agent in the payment of those fees. Therefore, A's recovery of such expenses is a disbursement and not part of the value of supply made by A to B.

Value of Supply in case of lottery (Rule 31A of CGST Rules)

- (a) The value of supply of lottery run by State Governments (lottery not allowed to be sold in any State other than the organizing State) shall be deemed to be 100/112 of the face value of ticket or of the price as notified in the Official Gazette by the organising State, whichever is higher.
- (B) The value of supply of lottery authorised by State Governments (a lottery which is authorised to be sold in States other than the organising State) shall be deemed to be 100/128 of the face value of ticket or of the price as notified in the Official Gazette by the organising State, whichever is higher.

Value of Supply in case of betting, gambling and horse racing (Rule 31A of CGST Rules)

The value of supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club shall be 100% of the face value of the bet or the amount paid into the totalisator.

Determination of value in respect of seven specific supplies (Rule 32 and 32A of CGST Rules)

Methods to determine Taxable value of following seven specific supplies have also been prescribed under Chapter-IV of the CGST Rules, 2017:

- (a) Purchase or sale of foreign currency including money changing;
- (b) Booking of tickets for air travel by an air travel agent;
- (c) Life insurance business;
- (d) Value of supply of Second hand goods;
- (e) Value of redeemable vouchers/Stamps/Coupons/tokens;
- (f) Value in case of notified supplier of services;
- (g) Value of supplies where Kerala Flood Cess is applicable.

The special provisions related to determination of these supplies are as follows:

(A) Special provision related to determination of value of service of purchase or sale of foreign currency including money changing (optional on the part of supplier)

Case 1: Transaction where one of the currencies exchanged is Indian Rupees Taxable value is difference between buying rate or selling rate of currency and RBI reference rate for that currency at the time of exchange multiplied by total units of foreign currency. However, if RBI reference rate for a currency is not available then taxable value is 1% of the gross amount of Indian Rupees provided/received by the person changing the money.

Case 2: Transaction where neither of the currencies exchanged is Indian Rupees

Option 1:

Taxable value will be 1% of the lesser of the two amounts the person changing the money would have received by converting (at RBI refer-

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ence rate) any of the two currencies in Indian Rupees.

The person supplying the service may also exercise the following option to ascertain the taxable value, however once opted then he cannot withdraw during the remaining part of the financial year.

Option 1: At the option of the supplier of services, the value of supply shall be:

- One percent of the gross amount of currency exchanged for an amount up to one lakh rupees, subject to minimum amount of two hundred and fifty rupees;
- One thousand rupees and half of a percent of the gross amount of currency exchanged for an amount exceeding one lakh rupees and up to ten lakh rupees; and
- Five thousand rupees and one tenth of a percent of the gross amount of currency exchanged for an amount exceeding ten lakhs rupees' subject to a maximum amount of sixty thousand rupees.

(B) Special provision related to determination of value of service of booking of tickets for air travel by an air travel agent (optional on the part of supplier)

Taxable value is 5% of basic fare in case of domestic travel and 10% of basic fare in case of international travel. Basic fare means that part of the air fare on which commission is normally paid to the air travel agent by the airline.

(C) Special provision related to determination of value of service in relation to life insurance business (optional on the part of supplier)

Taxable value varies with nature of insurance policy and is determined as follows:

- Where policy has dual benefits of risk coverage and investment – Taxable value is gross premium charged less amount allocated for investments or savings if such allocation is intimated to the policy holder at the time of supply of service (i.e. collection of premium);
- Single premium annuity policy where allocation for investments and savings is not intimated to the policy holder – taxable value is ten percent of the single premium charged from the policy holder;
- Other cases- Twenty five percent of premium charged from the policy holder in the first year and twelve and a half percent of premium charged for subsequent years.

However, where insurance policy has benefit of risk coverage only then taxable value is entire premium charged from the policy holder.

(D) Special provision related to determination of value of second hand goods (optional on the part of supplier)

The taxable value of second hand goods i.e. used goods as such or after such minor processing which does not change the nature of goods shall be the difference between the purchase price and the selling price, provided no input tax credit has been availed on purchase of such goods. However, if the selling price is less than purchase price, that negative value will be ignored.

Persons who purchase second hand goods after payment of tax to supplier of such goods will be governed by this valuation rule only when they do not avail input tax credit on such input supply. If Input tax credit is availed, then such supply will be governed by normal GST valuation rules.

Value of supply of goods repossessed from a defaulting borrower

If the defaulting borrower is not registered person, the purchase value

will be purchase price in the hands of such borrower reduced by five percentage points for every quarter or part thereof, between the date of purchase and date of disposal by the person making such repossession. However, if the defaulting borrower is not registered, the repossessing lender agency will discharge GST at the supply value without any reduction from actual/notional purchase value.

(E) Special provisions related to determination of value of redeemable vouchers/ Stamps/ Coupons/ tokens (optional on the part of supplier)

The value of a token, or a voucher, or a coupon, or a stamp (other than postage stamp) which is redeemable against a supply of goods or services or both shall be equal to the money value of the goods or services or both redeemable against such token, voucher, coupon, or stamp.

(F) Valuation rules, in case of transactions between distinct persons (optional on the part of supplier) :

Value of taxable services provided by a notified class of service providers as referred to in para 2 of schedule I between the distinct persons

The taxable value, of taxable services provided by such class of service providers as may be notified by the Government between distinct persons, is deemed to be Nil wherever input tax credit is available. It may be noted, however, that no such notification has been issued so far.

(G) Value of supply in cases where Kerala Flood Cess is applicable Rate of exchange of currency, other than Indian rupees, for determination of value

The value of supply of goods or services or both on which Kerala Flood Cess is levied under clause 14 of the Kerala Finance Bill, 2019 shall be deemed to be the value determined in terms of section 15 of the CGST Act, but shall not include the said Cess.

Rate of exchange of currency, other than Indian rupees, for determination of value (Rule 34 of CGST Rules)

- For Goods

The rate of exchange for determination of value of taxable goods shall be the applicable rate of exchange as notified by the CBIC under section 14 of the Customs Act, 1962 for the date of time of supply of such goods, as determined under section 12 of the CGST Act.

- For Services

The rate of exchange for determination of value of taxable services shall be the applicable rate of exchange determined as per the generally accepted accounting principles for the date of time of supply of such services, as determined under section 13 of the CGST Act.

Value of supply inclusive of Integrated Tax, Central Tax, State Tax, Union Territory Tax (Rule 35 of CGST Rules)

Where the value of supply is inclusive of GST, the tax amount shall be determined in the following manner,

Tax amount = (Value inclusive of taxes X GST tax rate in %) / (100+ sum of GST tax rates in %)

For example - If the value inclusive of tax is Rs.100 / - and applicable GST tax rate is 18% then

Tax amount = $(100 \times 18) / (100 + 18) = 1800 / 118 = \text{Rs. } 15.25$

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