

VALUE OF TAXABLE SUPPLY

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VALUE OF TAXABLE SUPPLY

- ▶ Introduction : Goods and service tax or GST will be one tax to subsume all taxes. It will bring in “One nation one tax” regime.
- ▶ Currently, GST will be charged on the ‘**Transaction Value**’. Transaction value is the price actually paid(or payable) for the supply of goods/services between un-related parties (i.e., price is the sole consideration)

Transaction Value

“Transaction Value” is the basis for Valuation for supply of goods and/or services under the GST Regime. For the levy of tax i.e. GST first we have to determine the transaction value. **‘Transaction Value’ is the price actually paid or payable for supply of goods and/or services.**

This is subject to dual condition as mentioned below:

Supplier and recipient of the supply are **not related**; and

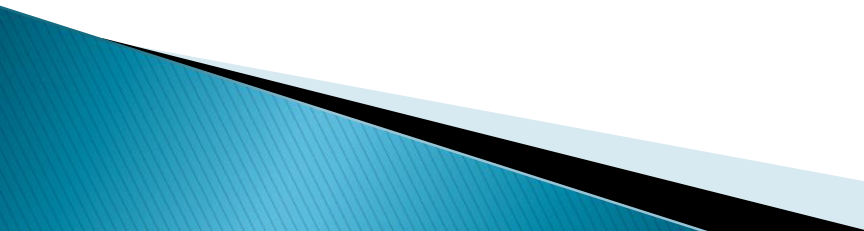
Price is the sole consideration for the supply

Transaction Value cannot be based on MRP

Under Section 4A of the Central Excise Act, the central Government has the power to notify the goods which shall be valued on the basis of MRP less Abatement permitted. However, GST Act there is **no provision** for determination of value on the **MRP basis**. Thus, in all cases liability of GST will be determined based on the **transaction value**.

Conditions for accepting transaction value for valuation

The conditions for accepting transaction value are –

- (a) supplier and recipient should not be related
 - (b) price is sole consideration.
 - (c) Price actually paid or payable in future dates
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Who is a related person under GST?

- ❖ Persons shall be deemed to be related if they fall under any of the categories below:
- ❖ Officer/ director of one business is the officer/ director of another business
- ❖ Businesses are legally recognized as partners
- ❖ An employer and an employee
- ❖ Any person holds at least 25% of shares in another company either directly or indirectly
- ❖ One of them controls the other directly or indirectly
- ❖ They are under common control or management
- ❖ The entities together control another entity
- ❖ They are members of the same family
- ❖ Persons include a legal person who can be individuals, HUF, company, firm, LLP, co-operative society, body of individuals, local authority, government etc or an artificial juridical person. It also includes entities incorporated outside India.
- ❖ Persons who are associated with one another's business or is a sole agent or sole distributor or sole concessionaire shall be deemed to be related.

What is the taxability of supply made between related persons?

- ❖ Supplies between the related persons with consideration in arm's length shall constitute as 'Supply' like any other transaction.
- ❖ Whereas, the supply made between related persons for inadequate or no Consideration is covered under Schedule I of the GST Act. Such transactions shall be treated as 'Supply' only if it happens in course or furtherance of business.
- ❖ Further, when an entity makes an import of service from a related person or establishment outside India (without consideration) but for furtherance of business, it shall be considered as a supply.
- ❖ Exception: Relief has been given in a case where an employer gifts his employee and the value of gift is less than Rs. 50,000. It is not considered as Supply.

Valuation of transactions between related persons?

Value of supply between related persons (other than where the supply is made through an agent) is determined as below:

- ▶ Open market value of such supply- Open market value is the value of the supply between two unrelated entities. When a supply is between two related entities, there is a high possibility that the prices will be influenced by their relationship.
- ▶ For example, A Ltd sells goods to B Ltd (related entity) at Rs. 1000 and to C Ltd (unrelated entity) at Rs. 1500. In this case we can say that the relationship has influenced the pricing of A Ltd. Hence, for the purpose of valuation, Rs. 1500 will be considered.
- ▶ If the open market value cannot be determined, then, value of goods of like kind and quality shall be considered.
- ▶ If A Ltd was making entire sales to B Ltd, then the above method of valuation would not be appropriate. Then, we could consider D Ltd who sells similar goods as A Ltd at Rs. 1200. Hence, the valuation for this purpose would be Rs. 1200.
- ▶ If both the above methods do not give an appropriate value, then a value based on cost (total cost of production) or under the residual method.

Supply of Goods via Agent

1. By a principal to his agent and the agent will supply them on behalf of the principal.
 - ▶ *For example*, a company based in Mumbai employs an agent in Pune (Maharashtra) and sends goods to him. GST is applicable.
2. By an agent to his principal when the agent receives these goods on behalf of the principal.
 - ▶ *For example*, a company in the suburbs employs an agent in the city. The agent buys goods from the city and sends them to the principal to sell in the suburbs.
 - ▶ Any supplies between agent and principal will be liable to GST. Both agent and principal will be liable to pay GST jointly & severally. The person paying GST can later claim input tax credit.
 - ▶ The value of supply to an agent is also based on the above provisions in for related persons.

Taxable Person Importing Services From a Related Person

- ▶ Import of services by a taxable person from a related person or from any of his other establishments outside India, for business purposes, will be treated as supply.
- ▶ For example, ABC Inc. is incorporated in the US by A Ltd. along with B Ltd. in India. Services are imported by B Ltd from ABC Inc. without any consideration, the import will be deemed to be a supply. GST will be paid by B Ltd. on reverse charge basis.

CONSIDERATION 2(31) of CGST ACT, 2017

Consideration in relation to the supply of goods or services includes

(a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

(b) the monetary value of any act or forbearance, **whether or not voluntary**, in respect of, in response to, or for the inducement of, the supply of goods or services, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:

PROVIDED that a deposit, given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies the deposit as consideration for the said supply;

INCLUSIONS IN VALUE OF SUPPLY

Currently, GST will be charged on the 'transaction value'. Transaction value is the price actually paid(or payable) for the supply of goods/services between un-related parties (i.e., price is the sole consideration)

The value of supply under GST shall include:

- ▶ Any taxes, duties, cess, fees, and charges levied under any act, except GST. GST Compensation Cess will be excluded if charged separately by the supplier.
- ▶ Any amount that the supplier is liable to pay which has been incurred by the recipient and is not included in the price.
- ▶ The value will include all **incidental expenses** in relation to sale such as packing, commission etc.
- ▶ Subsidies linked to supply, except Government subsidies will be included.
- ▶ Interest/late fee/penalty for delayed payment of consideration will be included.

Exclusions in the Value of supply

There are two types of discount which is required to be excluded from the value of supply.

Discounts details are given as under:-

Discount given on or before supply :- Any discount which is duly recorded in the invoice and given before the time of supply is required to be excluded from the value of taxable supply.

Discount given after the supply (Post supply discount):- Any discount which is given after the supply however such discount is already decided as per the agreement between supplier and the recipient before the time of supply and recipient has reversed the input tax credit on the value of discount then such discount value is required to be excluded from the value of taxable supply.

Value of taxable supply where the consideration is not wholly in money (Rule 27)

Where the consideration is not wholly in money then the value of supply is

- ▶ Open market value
- ▶ If the open market value is not available then the sum total of consideration in money and any further amount in money as is equivalent to the consideration not in money.
- ▶ If the value of supply is not determinable as per above points then the value of supply of goods or services of like kind and quality
- ▶ If the value of supply is not determinable as per above points then the value of supply of goods or services will be calculated as per rules 30 that means the consideration in money plus money equivalent of the non money consideration plus 10% mark up or
- ▶ As per rule 31 other reasonable methods.

Value of taxable supply where supply between distinct or related persons other than agent (Rule 28)

The value of taxable supply between distinct persons or where the recipient and supplier are related other than in case of supply being made through agent then value is

- ▶ Open market value
- ▶ If the open market value is not available then the value of supply of goods or services of like kind and quality
- ▶ If the value of supply is not determinable as per above points then the value of supply of goods or services will be calculated as per rules 30 or 31
- ▶ However if the goods are as such supplied by the recipient then the supplier has an option to take 90% of the price charged by the recipient from his unrelated customers as value of goods

Value of taxable supply where supply made through an agent (Rule 29)

Where supply is made through an agent then value of supply is

- ▶ Open market value of goods
- ▶ Or supplier has an option to take 90% of the price charged for the supply of goods of like kind and quality by the recipient from his unrelated customers as value of goods.
- ▶ If the value of supply is not determinable as per above points then the value of supply of goods or services will be calculated as per rules 30 or 31

Value of supply as per rule 30

Where value of taxable supply is not determinable as per rules 27,28,29 than it will be calculated as per Rule 30. As per this rule the value shall be 110% of the

- ▶ Cost of production
- ▶ Cost of acquisition
- ▶ Cost of provision of such service

However service provider has an option to take rule 31 by passing rule 30.

Residual Method of Valuation

- ▶ As per the residual method, where the value of supply of goods or services or both cannot be determined under the cost method, the same shall be determined using **reasonable means consistent** with the principles and general provisions of the Goods and Services Tax law.
- ▶ A simple interpretation of this rule suggests that supplier can use any method to determine the value of supply under GST, provided such method is justifiable in the case of inquiry. The registered taxable person should not exploit this method to displace the GST liability as the penal provisions are strict under the new indirect tax regime.

Rule 32 - Determination of value in respect of certain supplies

(1) Notwithstanding anything contained in the provisions of this Chapter, the value in respect of supplies specified below shall, at the option of the supplier, be determined in the manner provided hereinafter.


(2) The value of supply of services in relation to the purchase or sale of foreign currency, including money changing, shall be determined by the supplier of services in the following manner, namely:-

(A) for a currency, when exchanged from, or to, Indian Rupees, the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India reference rate for that currency at that time, multiplied by the total units of currency: Provided that in case where the Reserve Bank of India reference rate for a currency is not available, the value shall be one per cent. of the gross amount of Indian Rupees provided or received by the person changing the money:

Provided further that in case where neither of the currencies exchanged is Indian Rupees, the value shall be equal to one per cent. of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at the reference rate provided by the Reserve Bank of India.

Provided also that a person supplying the services may exercise the option to ascertain the value in terms of clause (b) for a financial year and such option shall not be withdrawn during the remaining part of that financial year.

(b) at the option of the supplier of services, the value in relation to the supply of foreign currency, including money changing, shall be deemed to be-

- (I) one per cent. of the gross amount of currency exchanged for an amount up to one lakh rupees, subject to a minimum amount of two hundred and fifty rupees;
- (ii) one thousand rupees and half of a per cent. of the gross amount of currency exchanged for an amount exceeding one lakh rupees and up to ten lakh rupees; and
- (iii) five thousand and five hundred rupees and one tenth of a per cent. of the gross amount of currency exchanged for an amount exceeding ten lakh rupees, subject to a maximum amount of sixty thousand rupees.
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(3) The value of the supply of services in relation to booking of tickets for travel by air provided by an air travel agent shall be deemed to be an amount calculated at the rate of five percent. of the basic fare in the case of domestic bookings, and at the rate of ten per cent. of the basic fare in the case of international bookings of passage for travel by air.

Explanation.– For the purposes of this sub–rule, the expression “basic fare” means that part of the air fare on which commission is normally paid to the air travel agent by the airlines.

(4) The value of supply of services in relation to life insurance business shall be,–

- (a) the gross premium charged from a policy holder reduced by the amount allocated for investment, or savings on behalf of the policy holder, if such an amount is intimated to the policy holder at the time of supply of service;
- (b) in case of single premium annuity policies other than (a), ten per cent. of single premium charged from the policy holder; or
- (c) in all other cases, twenty five per cent. of the premium charged from the policy holder in the first year and twelve and a half per cent. of the premium charged from the policy holder in subsequent years: Provided that nothing contained in this sub–rule shall apply where the entire premium paid by the policy holder is only towards the risk cover in life insurance.

(5) Where a taxable supply is provided by a person dealing in buying and selling of second hand goods i.e., used goods as such or after such minor processing which does not change the nature of the goods and where no input tax credit has been availed on the purchase of such goods, the value of supply shall be the difference between the selling price and the purchase price and where the value of such supply is negative, it shall be ignored: Provided that the purchase value of goods repossessed from a defaulting borrower, who is not registered, for the purpose of recovery of a loan or debt shall be deemed to be the purchase price of such goods by the defaulting borrower reduced by five percentage points for every quarter or part thereof, between the date of purchase and the date of disposal by the person making such repossession.

(6) 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.

- ▶ (7) The value of taxable services provided by such class of service providers as may be notified by the Government, on the recommendations of the Council, as referred to in paragraph 2 of Schedule I of the said Act between distinct persons as referred to in section 25, where input tax credit is available, shall be deemed to be NIL.

Rule 33 - Value of supply of services in case of pure agent

Notwithstanding anything contained in the provisions of this Chapter, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely,-

- (i) the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorization by such recipient;
- (ii) the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and
- (iii) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

Explanation.- For the purposes of this rule, the expression “pure agent” means a person who-

- (a) enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;
- (b) neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;
- (c) does not use for his own interest such goods or services so procured; and
- (d) receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

THANK YOU