

Valuation of Taxable Supply

10. Introduction

Determination of 'Value of taxable supply' is significant under GST law as it will determine the amount of tax to be paid by the supplier of goods or services or both. It is the value on which tax will be computed and paid under GST laws. In the case of some suppliers such as traders purchase price shall always be available to the revenue authorities as a guiding benchmark. Whereas in the case of manufacturer or provider of service quality of product/service or brand name under which such goods or services are supplied shall also have to be considered, besides the cost of such goods/services. In general, 'value of taxable supply' shall be 'transaction value' subject to satisfaction of the following two conditions, namely:

(a)	The supplier and the recipient of the supply are not related; and
(b)	The price is the sole consideration for the supply.

Valuation has always been subject matter of dispute between the assessee and revenue as it determines the amount of tax to be paid on supply of goods or services or both to the department. Assessee always tries to find out ways and means to minimise the value and department will always suspect the value adopted by the assessee. Position is not going to be different in GST regime rather will be more complicated as GST rates are likely to be higher because of seamless credit mechanism and representing all indirect taxes in one rate.

10.1 Valuation of taxable supply - Section 15

Section	Details
15(1)	<p><u>The value of a supply of goods or services or both shall be the transaction value</u></p> <p>In terms of Section 15(1), the value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both. However, "transaction value" shall be considered as value of taxable supply of goods or services or both when the following conditions are satisfied cumulatively:</p>
	(a) Supplier and the recipient of the supply are not related; and
	(b) The price is the sole consideration for the supply.
	<p>Assessee always tries to find out ways and means to minimise the value and Department will always suspect the value adopted by the assessee. Therefore, various checks and balances are needed to minimise the litigation on this subject. What is transactional value can be a question in the minds of the readers. It is the price which is actually paid or payable by the recipient of supply to the supplier of supply in exchange for receipt of goods or services or both. Section 15 of the CGST/SGST Act further elaborates various inclusions and exclusions from the ambit of transaction value. When the price of supply is influenced by factors like relationship of parties or where certain transactions are deemed to be supply, which do not have a price, the value has to be determined in accordance with the GST Valuation Rules. Transaction value declared under section 15(1) can be accepted by the department if all the conditions specified therein have been fulfilled.</p>

<u>Specific inclusions in the value of supply</u>	
The value of supply shall include the following:	
(a)	<p><u>Any taxes, duties, cesses, fees and charges levied under any law other than GST Acts</u></p> <p>Any taxes, duties, cesses, fees and charges levied under any law for the time being in force shall be include in the value for the purpose of calculation of tax liability. These taxes, duties etc. to be included in the value of taxable supply if charged separately by the supplier to the recipient. If these taxes etc. are not charged separately and is included in the consolidated amount it goes without saying that in such case consolidated amount shall be the value of taxable supply. It is important to note that exemption has been provided to taxes levied under GST Laws i.e. CGST/SGST/IGST etc. however inclusion of aforesaid taxes, duties, cesses, fees etc. will have cascading effect wherever applicable.</p> <p>For the purpose of determination of value of supply under GST, tax collected at source (TCS) under the provisions of the Income Tax Act, 1961 would not be includible as it is an interim levy not having the character of tax. Further if any TDS is deducted from the value of supply it has to be grossed up to determine the value of supply under GST.</p>
	<p><u>Any amount supplier is liable to pay but incurred by recipient of supply</u></p> <p>Any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both.</p> <p>Any amount to be included in the value of supply in addition to the price paid or payable must satisfy the following three conditions cumulatively: -</p>
(a)	Such amount was liable to be paid by the supplier of goods in terms of agreement entered to between the supplier of goods and recipient of goods;
(b)	Such amount is incurred by the recipient of goods and has not claimed back from the plier of goods; and
(c)	Such amount has not been charged in the invoice raised by the supplier of goods.
(c)	<p><u>Incidental expenses and amount charged for anything done by the supplier in respect of supply of goods or services</u></p> <p>Incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services.</p> <p>Any sum charged by the supplier of goods from the recipient for doing anything in relation to the goods which is subject matter of supply will be included to arrive at the value of supply. It may include commission, cost of packing material and packing charges, design charges, alteration charges or any other charges of similar nature. Such charges must be charged for something done at the time of or before the delivery of such goods and not after the delivery of such goods. Any amount charged for doing anything after the delivery of goods shall not form part of sale price. Road Tax, Insurance charges and Registration cost being post-delivery expenses, thus, not to be included in the sale price of Motor Vehicle.</p>
	<p><u>Interest, late fee or penalty for delayed payment of consideration</u></p> <p>As per the provisions of this clause, interest or late fee or penalty for delayed payment of any consideration for any supply shall be included in the value of supply of goods or services or both. It is a matter of common knowledge that recipient is supposed to make payment to the supplier of goods as per agreed terms. In case of default by the recipient some penal amount in the nature of</p>
(d)	

		<p>interest, late fee, penalty or delayed payment charges are charged by the supplier from the recipient in order to compensate his financial cost. This issue has been subject matter of litigation in the past under erstwhile indirect taxes. All the judicial pronouncement were in favour of assessee holding that indirect taxes were not to be levied on such amount of interest, penalty etc. Not only that in service tax, department issued circular clarifying that delayed payment charges collected by the stock broker are not subject to service tax as the amounts of delayed payment charges are to compensate the financial cost of the stock broker and is not a consideration for provision of services.</p> <p>In GST regime those judicial pronouncements, clarification and circulars etc. shall have no value/significance as there is a specific provision in this clause of sub-section (2) of Section 15 of CGST Act, 2017. In practical life you have to pay these charges whenever you make delayed payment to the supplier of goods or services for the value of such goods/services. Some of the examples in this regard are telephone bill, credit card payments, electricity bill etc. where if you do not make payment by specified date you have to pay value of goods or services or both along with delayed payment charges and such amount is also specified in such bills. After due date, a huge amount is charged which is much more than the market rate of interest being penal in nature and now the same shall form part of value of supply and will be subject to GST.</p>			
	(e)	<p><u>Subsidy directly linked to the supply shall be included in the value of supply of the supplier who receives the subsidy</u></p> <p>Subsidies directly linked to the price shall be included in the value of supply. Further, in terms of Explanation to Section 15(2) (e), the amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy. However, it is also to be noted carefully that subsidies provided by the Central and State Governments shall not be included in the value of supply.</p> <p>To say it differently subsidies (except Government Subsidies) received by the supplier of goods/services shall form part of the value of supply if such subsidies are directly linked to the price of such supply of goods or services or both. A question may come to the mind of readers why subsidies provided to buyer are not included whereas subsidies provided to the supplier are included in the value of supply. It is because of the simple reason that if subsidy is provided to recipient/buyer seller/supplier shall charge normal transaction value from the buyer/recipient which shall be subject to GST.</p>			
15(3)		<p><u>Value of discount to be deducted under specified situations</u></p> <p>The value of the supply shall not include any discount which is given:</p>			
	(a)	<p><u>Discount to be deducted given before or at the time of supply and duly recorded in the invoice</u></p> <p>Any discount allowed before or at the time of supply shall not be included in the value of supply for the purpose of calculating the tax liability. However, the aforesaid discount shall be excluded only when the said discount has been duly recorded in the invoice issued by the supplier in respect of such supply.</p>			
	(b)	<p><u>Discount given after the supply subject to conditions</u></p> <p>Any discount given after the supply has been affected shall not be included in the value of the supply of goods or services or both subject to the satisfaction of the following two cumulative conditions:</p> <table border="1"> <tr> <td>(i)</td> <td>Such discount is established in terms of an agreement. The aforesaid agreement has been entered into at or before the time of such supply. Further, such discount is specifically linked to relevant invoices; and</td> </tr> <tr> <td>(ii)</td> <td>Input Tax Credit has been reversed by the recipient of the supply to the extent it is attributable to the discount on the basis of document issued by the supplier.</td> </tr> </table>	(i)	Such discount is established in terms of an agreement. The aforesaid agreement has been entered into at or before the time of such supply. Further, such discount is specifically linked to relevant invoices; and	(ii)
(i)	Such discount is established in terms of an agreement. The aforesaid agreement has been entered into at or before the time of such supply. Further, such discount is specifically linked to relevant invoices; and				
(ii)	Input Tax Credit has been reversed by the recipient of the supply to the extent it is attributable to the discount on the basis of document issued by the supplier.				

15(4)	<p><u>Situations when value of supply shall be determined in the prescribed manner</u></p> <p>Where the value of supply of goods or services or both cannot be determined as provided for in Section 15(1), the same shall be determined in the prescribed manner i.e. as per the Rules framed in this regard. Thus, value of taxable supply of goods shall be determined as per Rule 27 to Rule 35 of CGST Rules, 2017 when supplier and the recipient of the supply are related or the price is not the sole consideration for the supply or the declared transactional value is doubtful.</p>
15(5)	<p><u>Value of notified supplies</u></p> <p>Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be notified by the Government on the recommendations of the Council shall be determined in such manner as may be prescribed.</p> <p>This sub-section empowers the Government, on the recommendations of the Council, to prescribe the manner in which value of specified supplies shall be determined.</p>

10.2 Value of supply of goods or services where the consideration is not wholly in money - Rule 27

Rule	Details
27(a)	<p><u>Value of supply shall be the open market value of such supply;</u></p> <p>This rule provides that where the supply of goods or services is for a consideration not wholly in money, the value of the supply shall be the open market value of such supply. In terms of explanation to Rule 35 of CGST Rules, 2017, “open market value” of a supply of goods or services or both means the full value in money, excluding the Integrated tax, Central tax, State tax, Union territory tax and the cess payable by a person in a transaction, where the supplier and the recipient of the supply are not related and the price is the sole consideration, to obtain such supply at the same time when the supply being valued is made.</p>
27(b)	<p>If open market value is not available, value of supply shall be the sum total of consideration in money and monetary value, if known at the time of supply, of non-monetary consideration.</p>
27(c)	<p>If the value of supply is not determinable under clause (a) or clause (b), be the value of supply of goods or services or both of like kind and quality. In terms of explanation to Rule 35 of CGST Rules, 2017, “supply of goods or services or both of like kind and quality” means any other supply of goods or services or both made under similar circumstances that, in respect of the characteristics, quality, quantity, functional components, materials, and the reputation of the goods or services or both first mentioned, is the same as, or closely or substantially resembles, that supply of goods or services or both.</p>
27(d)	<p>It provides that if value is not determinable under clause (a) or clause (b) or clause (c), be the sum total of consideration in money and such further amount in money that is equivalent to consideration not in money as determined by application of Rule 30 or Rule 31 in that order.</p>

10.3 Value of supply of goods or services or both between distinct or related persons, other than through an agent - Rule 28

Rule	Details

28(a)	The value of the supply of goods or services or both between “distinct persons” or where the supplier and recipient are related, (other than where the supply is made through an agent) Value of Supply = Open market value of such supply
28(b)	If open market value is not available Value of Supply = Value of supply of goods or services of like kind and quality
28(c)	If the value of supply is not determinable under Rule 28 (a)/ Rule 28(b) Value of Supply = Value as determined by the sequential application of Rule 30 or Rule 31 . In simple words, Rule 30 shall be applied first for ascertaining the value of supply. If said value cannot be ascertained by application of Rule 30, then Rule 31 shall be applied. The headings of aforesaid Rules 30 and 31 are given below for ready reference:
	Rule 30 Value of supply of goods or services or both based on cost
	Rule 31 Residual method for determination of value of supply of goods or services or both
First proviso to Rule 28	Where 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 90% 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.
Second proviso to Rule 28	Where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of goods or services- Second Proviso to Rule 28

10.4 Value of supply of goods made or received through an agent - Rule 29

Rule	Details
29(a)	The value of supply of goods between the principal and his agent shall, be the open market value of the goods being supplied, or at the option of the supplier, be 90%(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, where the goods are intended for further supply by the said recipient.
29(b)	Where the value of a supply is not determinable under clause (a), the same shall be determined by application of Rule 30 or Rule 31 in that order as discussed hereunder .

10.5 Value of supply of goods or services or both based on cost - Rule 30

Rule	Details
30	Where the value of a supply of goods or services or both is not determinable by any of the preceding rules, the value shall be 110 % (one hundred and ten percent) of the cost of production or manufacture or cost of acquisition of such goods or cost of provision of such services. This rule shall be applicable if value cannot be

	determined as prescribed in Rule 27 to Rule 29 as discussed above. Plain reading of this rule makes it very simple but how to calculate the cost of production or manufacture or cost of acquisition of such goods or cost of provision of such services.
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10.6 Residual method for determination of value of supply of goods or services or both

Rule	Details
31	Where the value of supply of goods or services or both cannot be determined under Rules 27 to 30, the same shall be determined using reasonable means consistent with the principles and general provisions of section 15 and these rules. In case of supply of services, the supplier may opt for this rule, disregarding Rule 30. This rule provides an option to the supplier of services to follow this rule directly when such supplier are not able to calculate the value of services in terms of Rule 27 to Rule 29. This is the most generic rule and litigation cannot be avoided if the valuation is determined in terms of this Rule.

10.7 Special valuation rules for specified supplies

Rule	Details	
31A	Value of Supply in Case of Lottery, Betting, Gambling and Horse Racing Inserted with effect from 23.01.2018 vide [N. No. 03/2018-Central Tax, Dated 23.01.2018]. Value of supply in respect of the following:	
	(a) Lottery (b) Betting, Gambling and Horse Racing in a race club	
31A(2)	Value of Supply in case of Lottery	
	(a) Lottery run by State Governments Higher of the following two amounts:	
	(i) 100/112 of the face value of ticket; or	
	(ii) 100/112 of the price as notified in the Official Gazette by the organizing State	
	(b) Lottery authorized by State Governments Higher of the following two amounts:	
	(i) 100/128 of the face value of ticket; or (ii) 100/128 of the price as notified in the Official Gazette by the organizing State	
Rule 31A(3)	Value of Supply in case of Betting, Gambling and Horse Racing	
	Form of Actionable Claim	Deemed Value of Supply
	Chance to win in Betting, Gambling or Horse Racing in a race club	100% of the face value of the bet or the amount paid into the totalizator

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

According to Explanation to Rule 33 of CGST Rules "pure agent" means a person who satisfies the following essential conditions cumulatively:-

S.No.	Essential Conditions
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(a)	<p><u>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;</u> There should be a contractual agreement between the supplier and the recipient wherein supplier is allowed to incur such expenditure or costs for which exclusion is claimed by the supplier. In the absence of specific condition that agreement shall be in writing such agreement may be in writing or otherwise.</p>
(b)	<p><u>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;</u> This is one of the most important conditions which need to be satisfied to become or act as pure agent of the recipient. Supplier shall 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. It means that title to the goods or services or both should be transferred to the recipient of supply directly by the third party from whom such goods or services or so procured. Once such goods or services or both are supplied title to such goods or services or both are transferred by the recipient directly to the third person to whom such goods or services are supplied by the supplier.</p>
(c)	<p><u>Does not use for his own interest such goods or services so procured;</u> Supplier shall not use such goods are services or both (claims to be procured or supplied as pure agent) for his own interest; and</p>
(d)	<p><u>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;</u> Supplier shall receive only the actual amount incurred to procure such goods or services or both which are claimed to have been procured or supplied as pure agent. There should not be any margin or mark up to cover administrative cost or financial cost. Such amount shall be in addition to the amount received for supply he provides on his own account. To illustrate a chartered accountant providing tax consultancy services to its client when pay income tax deducted at source to the bank on behalf of its client he shall claim the amount of tax paid on actual basis and in addition he shall also receive his fees from its client for his professional services.</p>

10.9 Cumulative Conditions to be satisfied by a pure agent - Rule 33

<p>Once a supplier satisfies the above conditions and qualify as pure agent he shall further have to satisfy the following conditions cumulatively so that such expenditure or cost shall not be included in the value of supply for discharge of tax liability. To say it differently, expenditure or costs incurred by the supplier as a pure agent shall be excluded from the value of the taxable supply only if all the following conditions are satisfied: -</p>	
(i)	<p><u>The supplier acts as a pure agent of the recipient of the supply, when he makes payment to the third party on authorization by such recipient;</u> It implies that in case of procurement of goods or services or both payments shall be made to third party on authorization of recipient. If payment is made to the staff or any other person working for supplier of goods or services or both such payment shall be included in the value of supply for discharge of payment of tax.</p>
(ii)	<p><u>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;</u> Payment made to the third party on behalf of recipient on his authorization should be claimed from the recipient on actual basis and such amount shall be shown separately in the invoice issued by the supplier to the recipient of such goods or services or both.</p>

(iii)	<p>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 supplied on his own account.</p> <p>As per this condition supply of goods or services or both procured by the supplier as pure agent from the third party shall be in addition to the services supplied on his own account.</p>
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10.10 Rate of exchange of currency, other than Indian rupees, for determination of value - Rule 34

With effect from 27.07.2017- Principal N.No.10/2017-CT, Dated 19.06.2017 [As amended vide N. No. 17/2017-CT, Dated 27.07.2017]

Rule 34(1)	<p>The rate of exchange for determination of value of taxable goods shall be the applicable rate of exchange as notified by the Board under section 14 of the Customs Act, 1962 for the date of time of supply of such goods in terms of section 12 of the Act.</p> <p>Separate rule for rate of exchange for determination of value of taxable goods and taxable services has been made with effect from 27.07.2017. Rule 34(1) deals with the rate of exchange for determination of value of taxable goods and Rule 34(2) deals with the rate of exchange for determination of value of taxable services.</p> <p>Rate of exchange for determination of value of taxable goods shall be the applicable rate of exchange as notified by the Board under section 14 of the Customs Act, 1962 for the date of time of supply of such goods in terms of section 12 of the CGST Act. It is worth mentioning here that section 12 deals with the time of supply of goods.</p>
Rule 34 (2)	<p>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 in terms of section 13 of the CGST Act. 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 in terms of section 13 of the CGST Act, 2017.</p>

For the period 01.07.2017 to 26.07.2017-N.No. 10/2017-CT, dated 28.06.2017

Rule 34	<p>The rate of exchange for determination of value of taxable goods or services or both shall be the applicable reference rate for that currency as determined by the Reserve Bank of India on the date of time of supply in respect of such supply in terms of section 12 or, as the case may be, section 13 of the Act</p> <p>The rate of exchange for determination of value of taxable goods or services or both shall be the applicable reference rate for that currency as determined by the Reserve Bank of India on the date of time of supply in respect of such supply. Date of time of supply shall be determined in terms of section 12 or, as the case may be, section 13 of the CGST Act, 2017. Section 12 deals with the time of supply of goods and section 13 deals with the time of supply of services.</p>
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10.11 Value of supply inclusive of integrated tax, central tax, state tax, union territory tax - Rule 35

This rule provides the formula to calculate the amount of tax wherein value of supply has been quoted inclusive of tax. However this formula shall be applicable in such cases only where value of supply includes the amount of tax.

10.12 Manner of valuation in certain other cases

(a)	Corrigendum to N.No.08/2017-Integrated Tax (Rate) dated 30.06.2017	
	<u>Valuation of Services by way of transportation of goods by vessels from a place outside India upto the customs station of clearance in India</u>	
	Where the value of taxable service provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India is not available with the person liable for paying integrated tax, the same shall be deemed to be 10 % of the CIF value (sum of cost, insurance and freight). Following cumulative conditions are required to be satisfied for invoking the provision of deemed valuation of services:	
	(a)	Services are provided by a person located in non-taxable territory to a person located in non-taxable territory and the person liable to pay tax is importer in India;
	(b)	Services are provided by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India .
(c)	Value is not available with the person liable for paying integrated tax.	
If the above conditions are satisfied the same shall be deemed to be 10 % of the CIF value (sum of cost, insurance and freight) of imported goods.		
(b)	Paragraph 2 of N. No. 11/2017-CT(R), dated 28.06.2017	
	<u>Value of services of construction of a complex, building, civil structure or a part thereof</u>	
	(i)	Activity of construction of a complex, building etc. shall be treated as supply of services - Paragraph 5(b) of Schedule II to the CGST Act, 2017, Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate or after its first occupation, whichever is earlier shall be treated as supply of services.
	(ii)	<u>Valuation</u> Value of supply of construction services in above supply shall be computed as under:- Total amount charged for such supply (Less) value of transfer of land or undivided share of land Where :-
	1.	Value of transfer of land or undivided share of land shall be deemed to be one third of the total amount charged for such supply.
2.	“ Total amount ” means the sum total of, - (a) Consideration charged for aforesaid service; and (b) Amount charged for transfer of land or undivided share of land, including by way of lease or sublease.	

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