

GST - Valuation of Supply of Goods & Services



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Content for Discussion :

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Rules for Valuation

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Along
with the
Circular ,
Notifications ,
FAQS,
Illustrations &
Case studies

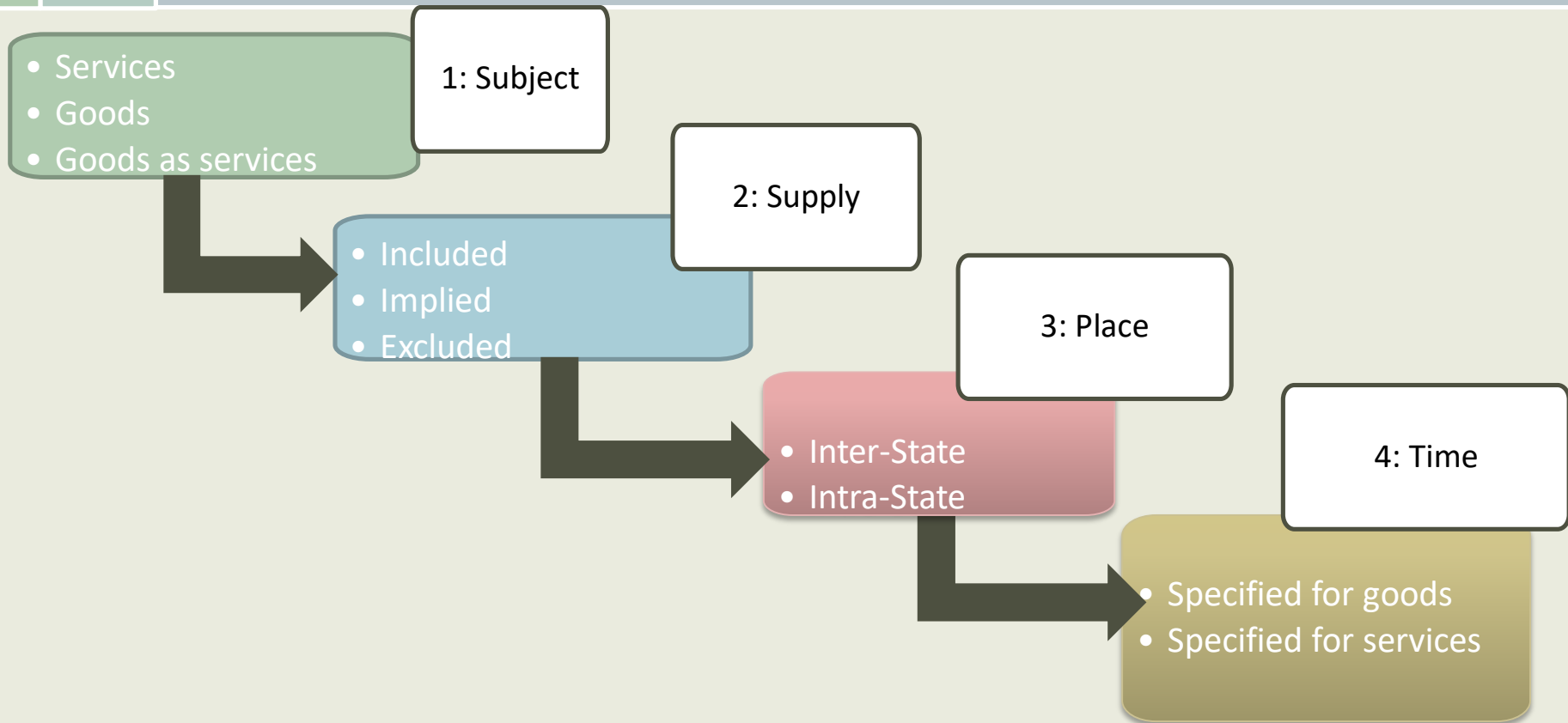
Content for Discussion :

Rules for Valuation

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Along
with the
Circular ,
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Flow of Transaction - GST Regime



Why valuation of Supply is Needed ?

CGST ACT-SECTION 9. Levy and collection.

— (1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

IGST ACT -SECTION 5. Levy and collection. —

(1) Subject to the provisions of sub-section (2), there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the Central Goods and Services Tax Act and at such rates, not exceeding forty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person :

Why valuation of Supply is Needed ?

THE GOODS AND SERVICES TAX (COMPENSATION TO STATES) ACT, 2017

SECTION 8. Levy and collection of cess. — (2) The cess shall be levied on such supplies of goods and services as are specified in column (2) of the Schedule, **on the basis of value, quantity or on such basis at such rate not exceeding the rate set forth in the corresponding entry in column (4)** of the Schedule, as the Central Government may, on the recommendations of the Council, by notification in the Official Gazette, specify :

Provided that where the **cess is chargeable on any supply of goods or services or both with reference to their value**, for each such supply the value shall be determined under section 15 of the Central Goods and Services Tax Act for all intra-State and inter-State supplies of goods or services or both :

Section-15 Valuation of Supply

(1)

- Transaction Value

(2)

- Inclusion

(3)

- Exclusion

(4)

- Rules (where TV cannot be used)

(5)

- may be notified

Section-15 (1) Valuation of Supply

Value of taxable supply. — (1) The value of a supply of goods or services or both shall be the **transaction value**,

where the supplier and the recipient of the supply are **not related**

and

which is the price actually **paid or payable** for the said supply of goods or services or both

the **price is the sole consideration** for the supply.

Section-15 Valuation of Supply

Case A sells certain goods to B for Rs.5.00 Lakhs, where as the similar goods were sold to C for Rs.11 Lakhs on the same day. Will the transaction value be accepted in case of A selling the goods to B for –Rs.10Lakh. It is to be noted that A & B are not related party & there is no consideration other than price in the given case.

Please advice what should be the Valuation of the Goods sold from A- B for the purpose of charging GST.

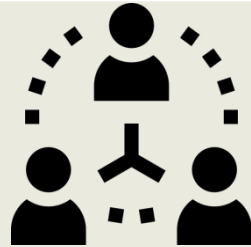
Section-15 Valuation of Supply

Case -A enters into agreement with B for supply of legal service for total of Rs.10 Lakhs. However, B only pays Rs.8.5 Lakhs to A. A is of the view that only Rs.8.5 Lakh which is paid ,is to be considered as Value of service since B has defaulted in the payment of Rs.1.5 Lakh.

Please advice what should be considered as valuation for the supply of said service.

Section-15 - Related Person

where the supplier and the recipient of the supply are **not related**



Criteria	Description
Officers or Directors	Persons who are officers or directors of one another's businesses.
Partners in Business	Persons who are legally recognized partners in a business.
Employer-Employee	An employer and employee relationship.
Significant Ownership	Any person directly or indirectly owns, controls, or holds <u>25% or more</u> of the outstanding voting stock or shares of both entities.
Control by One Party	One person directly or indirectly controls the other.

Note: The term "person" includes individuals, HUFs, companies, firms, LLPs, co-operative societies, government, local authorities, or artificial juridical persons, including entities incorporated outside India.

Section-15 - Related Person

where the supplier and the recipient of the supply are **not related**



Criteria	Description
Common Control	Both persons are directly or indirectly controlled by a third person.
Joint Control	Together, they directly or indirectly control a third person.
Family Members	Persons who are members of the same family (as defined under Section 2(49) of CGST Act: spouse, children, [parents, grandparents, siblings, if wholly/mainly dependent]).
Sole Agents/Distributors	Persons associated in business where one is the sole agent, sole distributor, or sole concessionaire of the other.

Note: The term "person" includes individuals, HUFs, companies, firms, LLPs, co-operative societies, government, local authorities, or artificial juridical persons, including entities incorporated outside India.

Section-15 - Related Person - Case Study

Determine the transaction are between related party or not.

Case A - Mr A supplies goods to Mr. B who is the husband of A's Sister.

Case B - Sony Limited Japan has appointed its sole selling agent Sony India limited for its Indian Operations.

Case C - Mr A & Mr B holds 25% of Shares of C Limited . Mr A sells the goods to MR.B.

Case D – Mr A is director in B limited & C Limited . C Limited sells the goods to B limited.

Section-15 - the price is the sole consideration ? What is consideration

(31) “consideration” in relation to the supply of goods or services or both 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 or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

Case – Mr.A buys a Mobile phone in exchange of the his old phone. The new phone which was of Rs. 50K was sold for Rs.45K in exchange of the old phone. Determine the valuation for GST Purpose.

Case – BAIL Ltd , a PSU gives a contract to Mr. A for dismantling its old plant and retain all the scrap out of the activity. It should be noted that no monetary consideration will be payable to Mr. A .

Section-15 - the price is the sole consideration ? What is consideration

(31) “consideration” in relation to the supply of goods or services or both includes —

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

NMDC Ltd (P.K. Mahapatra), In re [2022] 139 taxmann.com 293 (AAAR-Chhattisgarh)/[2022] 62 GSTL 53 (AAAR-Chhattisgarh)[04-06-2019]

Whether contributions made to District Mineral Foundation (DMF) and National Mineral Exploration Trust (NMET) as per Mines and Minerals (Development and Regulation) Act (MMDR Act) are subject to GST under reverse charge basis.

Contribution made would be considered as consideration for forbearance - **Appellant agrees to perform obligation i.e., to do an act and to contribute specified percentage of royalty to DMF and NMET in addition to royalty paid under MMDR Act.**

Deposit Vs Advance



- Are Deposit and Advances are same and includable in the Value.
- Mobilisation Advance V/s Retention money.

(31) “consideration” in relation to the supply of goods or services or both includes —

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 such deposit as consideration for the said supply;

Case A- A tenant is required to pay a three-month deposit to the landlord in an eleven-month contract. Upon default of the rent of any one month, the deposit is partly deducted as the rental for that month.

Case B -Recipient withholds a certain part of the consideration payable to a supplier and keeps a part of that amount as deposit with himself. Supplier contention is the amount withheld as retention money will not form part of the consideration. Since it is a deposit.

Section -15(2) – Inclusion in the Values



2) The value of supply shall include —

(a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;

Example- On import of goods IGST is charged not only on the value of goods but the basic customs duty paid under the Customs law.

Kerala Flood Cess – enforced 01-08-2019

Section -15(2) – Inclusion in the Values



2) The value of supply shall include —

(b) 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;

Circular No. 47/21/2018-GST, dated 8-6-2018 F. No. CBEC/20/16/03/2017-GST

Q-1 Whether moulds and dies owned by Original Equipment Manufacturers (OEM) that are sent free of cost (FOC) to a component manufacturer is leviable to tax and whether OEMs are required to reverse input tax credit in this case?

Section -15(2) – Inclusion in the Values



Circular No. 47/21/2018-GST, dated 8-6-2018 F. No. CBEC/20/16/03/2017-GST

Answer – 1.2 clarified that while calculating the value of the supply made by the component manufacturer, the value of moulds and dies provided by the OEM to the component manufacturer on FOC basis **shall not be added to the value of such supply** because the cost of moulds/dies **was not to be incurred by the component manufacturer and thus, does not merit inclusion** in the value of supply in terms of section 15(2)(b) of the Central Goods and Services Tax Act, 2017 (CGST Act for short).

1.3 However, if the contract between OEM and component manufacturer was for supply of components **made by using the moulds/dies belonging to the component manufacturer, but the same have been supplied by the OEM to the component manufacturer on FOC basis**, the amortised cost of such moulds/dies **shall be added to the value** of the components. In such cases, the OEM will be required to reverse the credit availed on such moulds/dies, as the same will not be considered to be provided by OEM to the component manufacturer in the course or furtherance of the former's business.

Section -15(2) – Inclusion in the Values



Shree Jeet Transport vs. Union of India [2023] 156 taxmann.com 128 (Chhattisgarh)/[2023] 100 GST 768 (Chhattisgarh)/[2023] 79 GSTL 172 (Chhattisgarh)[17-10-2023]

GST : Section 15(2)(b) says that value of supply shall include any amount that supplier is liable to pay in relation to such supply; **said provision cannot be by-passed by GTA by agreement with service receiver wherein diesel was agreed to be supplied free of cost by service recipient to GTA** and diesel provided free of cost by service recipient would nevertheless be added to value for purpose of GST

New Jai Hind Transport Service vs. Union of India [2024] 167 taxmann.com 133 (Uttarakhand)/[2024] 90 GSTL 242 (Uttarakhand)[27-09-2024]

GST : Where as per agreement between Petitioner, a Goods Transport Agency (GTA), and service recipient, **cost of fuel has to be procured and supplied by service recipient, value of fuel cannot be added to value** of freight charges charged by service provider

Section -15(2) – Inclusion in the Values



2) The value of supply shall include —

(c) **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;

Cases-

Home delivery charges in the supply of food by a restaurant to a customer's home.

Extra bed charges in Hotel accommodation.

Special packing charges by a gift shop while selling a show piece

Section -15(2) – Inclusion in the Values



2) The value of supply shall include —

(d) interest or late fee or penalty for delayed payment of any consideration for any supply; and

Case-

Mr. X enters into a contract for supply of goods worth Rs. 2,00,000 on 15th March 2018. As per the said contract, a payment of the said amount was required to be made within 2 months of the sale. If the complete payment is not made within this time period, a late penalty of Rs. 10,000 will be chargeable. Let us assume that the payment is not made within the said period.

Will the penalty is included in the valuation & what would be time of supply ?

Section -15(2) – Inclusion in the Values



2) The value of supply shall include —

(e) subsidies directly **linked to the price** excluding subsidies provided by the Central Government and State Governments.

Explanation. — For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the **supplier who receives the subsidy**.

Case- A cafeteria in X Ltd (a corporate office) provides lunch at Rs 120 per plate to the employees of the company. However, the vendor in the cafeteria receives an amount of Rs 80 per plate in the form of subsidy from X Ltd for providing the food at a lower rate.

Will you answer change if the subsidy of Rs.80 is provided by State Government for supplying fertilizer to farmer at concessional rate.

Section -15(3) –Exclusion in the Values



- (3) The value of the supply shall not include any discount which is given —
- (a) **before or at the time** of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and
 - (b) **after** the supply has been effected, if —
 - (i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and
 - (ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

Section -15(3) –Exclusion in the Values

Different cases for Discount.

- 1) Trade Discount – mentioned on the Invoice
- 2) Cash Discount – for Prompt Payment – Policy
- 3) Quantity Discount –after crossing a specific limit
- 4) Special discounts –Incentive for Aggressive marketing
- 5) Discount in Kind – Extra Quantity or Gifts.
- 5) Commercial Discount -no impact on GST in the form of commercial credit note.



Section -15(3) –Exclusion in the Values



C.B.I. & C. Circular No. 92/11/2019-GST, dated 7-3-2019
F. No. CBEC-20/16/04/2018-GST

C. Discounts including ‘Buy more, save more’ offers :

- i. Sometimes, the supplier offers staggered discount to his customers (increase in discount rate with increase in purchase volume). For example - Get 10% discount for purchases above Rs. 5000/-, 20% discount for purchases above Rs. 10,000/- and 30% discount for purchases above Rs. 20,000/-. Such discounts are shown on the invoice itself.
- ii. Some suppliers also offer periodic/year ending discounts to their stockists, etc. For example - Get additional discount of 1% if you purchase 10000 pieces in a year, get additional discount of 2% if you purchase 15000 pieces in a year. Such discounts are established in terms of an agreement entered into at or before the time of supply though not shown on the invoice as the actual quantum of such discounts gets determined after the supply has been effected and generally at the year end. In commercial parlance, such discounts are colloquially referred to as “volume discounts”. Such discounts are passed on by the supplier through credit notes. .

Section -15(3) –Exclusion in the Values

C.B.I. & C. Circular No. 92/11/2019-GST, dated 7-3-2019



C. Discounts including 'Buy more, save more' offers :

- ii. It is clarified that discounts offered by the suppliers to customers (including staggered discount under 'Buy more, save more' scheme and post-supply/volume discounts **established before or at the time of supply**) **shall be occluded to determine the value of supply provided they satisfy the parameters laid down in sub-section (3) of section 15** of the said Act, including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document(s) issued by the supplier.

D. Secondary Discounts

- i. These are the discounts which are not known at the time of supply or are offered after the supply is already over. For example, M/s. A supplies 10000 packets of biscuits to M/s. B at Rs. 10/- per packet. Afterwards M/s. A re-values it at Rs. 9/- per packet. Subsequently, M /s. A issues credit note to M/s. B for Rs. 1/- per packet.

It is further clarified that such secondary discounts **shall not be excluded while determining the value of supply as such discounts** are not known at the time of supply and the conditions laid down in clause (b) of sub-section (3) of section 15 of the said Act **are not satisfied**.

CREDIT NOTE & REVERSAL OF ITC_EVIDENCE

Key Highlights of CBIC Circular No. 212/6/2024-GST (Dated June 26, 2024):

1. Discounts After Supply & GST Impact:

Post-supply discounts can be excluded from taxable value only if:

- The discount was agreed upon before the sale.
- It is clearly linked to a specific invoice.
- The recipient reverses the ITC claimed on the discounted amount



2. Verification and Compliance Process:

As the GST portal does not facilitate online verification of ITC reversals, suppliers must obtain documentary evidence from buyers. This evidence must be in the form of a certificate from a Chartered Accountant (CA) or Cost Accountant (CMA) confirming the ITC reversal.

CREDIT NOTE & REVERSAL OF ITC_EVIDENCE

Key Highlights of CBIC Circular No. 212/6/2024-GST (Dated June 26, 2024):



The certificate should include invoice details, the amount of ITC reversed, and supporting documentation such as FORM GST DRC-03 or relevant GST returns.

3. Simplified Process for Smaller Amounts:

For cases where the total tax amount involved in the discount is ₹5,00,000 or less in a financial year, a self-certification or undertaking from the buyer (instead of a CA/CMA certificate) will suffice.

Section -15(4) – Rules

(4) Where the value of the supply of goods or services or both cannot be determined **under sub-section (1)**, the same shall be determined in such manner as may be prescribed.

Recourse to the Valuation Rules is permitted only in the following circumstances:

- Supplies not covered by section 7(1)(a); (without consideration –Schedule-I)
- Supplies covered by section 7(1)(a) but between related persons;
- Price is not the sole consideration.

Valuation Rules are prescribed under Chapter IV of the Central Goods & Services Tax Rules, 2017 from Rule 27 to Rule 35.

Section -15(4) – Rule 27

Value of supply of goods or services where the consideration is not wholly in money

Where the supply of goods or services is for a consideration **not wholly in money**, the value of the supply shall, -

- (a) be the **open market value** of such supply;
- (b) if the open market value is not available under clause (a), be the sum total of **consideration in money** and any such **further amount in money** as is equivalent to the consideration not in money, if **such amount is known at the time of supply**;
- (c) 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**;
- (d) if the 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 the application of rule 30 or rule 31 in that order.

Section -15(4) – Rule 27

Value of supply of goods or services where the consideration is not wholly in money

Explanation. — For the purposes of the provisions of this Chapter, the expressions –

- (a) **“Open market value” (OMV)** 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;
- (b) **“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.

Section -15(4) – Rule 27

Value of supply of goods or services where the consideration is not wholly in money

Illustration & Case:

(1) Where a new phone is supplied for **twenty thousand rupees** along with the exchange of an old phone and if the price of the new phone without exchange is **twenty four thousand rupees**, the open market value of the new phone is as per rule 27(a)
_____ rupees.

(2) Where a laptop is supplied for **forty thousand rupees** along with the barter of a printer that is manufactured by the recipient and the value of the printer known at the time of supply is **four thousand rupees** but the open market value of the laptop is not known, the value of the supply of the laptop is _____. Rule 27(b)

Section -15(4) – Rule 27

Value of supply of goods or services where the consideration is not wholly in money

Illustration & Case:

(3) A customised air conditioning unit whose open market value is not available is installed at an office wherein the consideration is paid in the form of money of Rs. 40,000 and an old air conditioning unit whose price is not available at the time of supply.

A similar air conditioning unit in terms of characteristics, quality, quantity, functional components, materials and reputation etc. has been installed by the company at another client's premises for Rs. 60,000. The valuation of the customised air conditioning unit as per rule 27(c) can be _____.

Section -15(4) – Rule 28

Value of supply of goods or services or both between distinct or related persons, other than through an agent.

The value of the supply of goods or services or both between **distinct persons** as specified in **sub-section (4) and (5) of section 25** or where the **supplier and recipient are related**, other than where the supply is made through an agent, shall –

- (a) be the open market value of such supply;
- (b) if the open market value is not available, be the value of supply of goods or services of like kind and quality;
- (c) if the value is not determinable under clause (a) or (b), be the value as determined by the application of rule 30 or rule 31, in that order :

Section -15(4) – Rule 28

Value of supply of goods or services or both between distinct or related persons, other than through an agent.

Provided that 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 :

Case :

Mr A supplies a goods to Mr. B for Rs 50,000/-, MR A & Mr. B are related Person.
Mr. A supplies similar goods to Mr X for Rs. 60,000/- at same time.

Mr. B supplies goods receive from MR A to Mr. C as such for Rs. 65,000/-.
You are required to suggest the option of Valuation which Mr.A has for the transaction with Mr.B (who is related party).

Section -15(4) – Rule 28

Value of supply of goods or services or both between distinct or related persons, other than through an agent.

Provided further that 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 the goods or services.

Case :

Mr A supplies a goods to Mr. B for Rs 5000/-, MR A & Mr. B are related Person.
Mr. A supplies similar goods to Mr X for Rs. 60,000/- at same time.

Mr. B supplies goods receive from MR A to Mr. C as such for Rs. 65,000/-.
You are required to suggest the option of Valuation which Mr.A has for the transaction with Mr.B (who is related party). It should be noted that Mr. B is eligible to claim for full input tax credit.

Section -15(4) – Rule 28

Value of corporate guarantee - between distinct or related persons, other than through an agent. (w.e.f. 26-10-2023)



(2) Notwithstanding anything contained in sub-rule (1), the value of supply of services by a supplier to a recipient who is a related person [located in India],

by way of providing corporate guarantee to any banking company or financial institution on behalf of the said recipient,

shall be deemed to be one per cent of the amount of such guarantee offered [per annum] , or the actual consideration, whichever is higher:]

[Provided that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the value of said supply of services.]

Inserted with retrospective effect 26-10-2023 vide Notification No. 12/2024, dated 10th July 2024.

Section -15(4) – Rule 28

Value of corporate guarantee - between distinct or related persons, other than through an agent.

CIRCULAR NO. 204/16/2023-GST [F.NO. 20/06/22/2023-GST-CBEC], DATED 27-10-2023

Whether the activity of providing corporate guarantee by a person on behalf of another related person, or by the holding company for sanction of credit facilities to its subsidiary company, to the bank/ financial institutions, even when made without any consideration will be treated as a taxable supply of service or not, and if taxable, what would be the valuation of such supply of services.

- It is to be treated as a supply of service as per provisions of Schedule I of CGST Act.
- The taxable value of such supply of services, will henceforth be determined as per the provisions of the sub-rule (2) of Rule 28 of CGST Rules, **irrespective of whether full ITC is available to the recipient of services or not.**

Section -15(4) – Rule 28

Value of corporate guarantee - between distinct or related persons, other than through an agent.

CIRCULAR NO. 225/19/2024-GST [F. NO. CBIC-20001/4/2024 - GST], DATED 11-07-2024

Whether sub-rule (2) of rule 28 of CGST Rules will apply to the corporate guarantees issued prior to insertion of the said sub-rule on 26th October 2023? Also, where intra-group corporate guarantees have been issued before 26th October 2023, which are still in force today, would they be liable to pay GST on "1% of the amount of such guarantee offered" on such guarantees?

- It was taxable even before the insertion of sub-rule (2) in rule 28 of CGST Rules
- if the corporate guarantee is issued or renewed on or after 26th October 2023, then the valuation of the said supply will be required to be done as per Rule 28(2) of CGST Rules.

Section -15(4) – Rule 28

Value of corporate guarantee - between distinct or related persons, other than through an agent.

CIRCULAR NO. 225/19/2024-GST [F. NO. CBIC-20001/4/2024 - GST], DATED 11-07-2024

In cases where the corporate guarantee is provided for a particular amount, whereas the loan is only partly availed or not availed at all by the recipient, what will be the value of supply of corporate guarantee. Also, whether the recipient would be eligible to avail full ITC (Input Tax Credit) even before total loan is disbursed?

- Value of supply of the service of providing a corporate guarantee will be calculated based on the amount guaranteed
- Recipient of the service of providing corporate guarantee shall be eligible to avail the ITC.

Section -15(4) – Rule 28

Value of corporate guarantee - between distinct or related persons, other than through an agent.

CIRCULAR NO. 225/19/2024-GST [F. NO. CBIC-20001/4/2024 - GST], DATED 11-07-2024

In the case of takeover of existing loans, since there is merely an assignment of an already issued corporate guarantee, whether GST would be applicable again?

- There will be no impact on GST, unless there is issuance of fresh corporate guarantee or there is a renewal of the existing corporate guarantee.
- if the takeover of the loan is followed/ accompanied by issuance of fresh corporate guarantee, then GST would be payable on the same.

Section -15(4) – Rule 28

Value of corporate guarantee - between distinct or related persons, other than through an agent.

CIRCULAR NO. 225/19/2024-GST [F. NO. CBIC-20001/4/2024 - GST], DATED 11-07-2024

Where corporate guarantee is provided by more than one entity / co-guarantor, what is the amount on which GST is payable by each co-guarantor?

- GST shall be payable by each co-guarantor proportionately on one per cent of the amount guaranteed by them.
- Two co-guarantors, A and B, who jointly provide a corporate guarantee to a banking/ financial institution on behalf a related recipient C for Rs. 1 crore, then A and B shall each pay GST on 0.5% of the amount guaranteed

Section -15(4) – Rule 28

Value of corporate guarantee - between distinct or related persons, other than through an agent.

CIRCULAR NO. 225/19/2024-GST [F. NO. CBIC-20001/4/2024 - GST], DATED 11-07-2024

Whether the discharge of tax liability on corporate guarantee @ 1% of such guarantee offered is to be done one time or on yearly basis or on monthly basis and when issued for a fixed term of say, five years or ten years as per tenure of the loan?

- For a particular number of years shall be one per cent of the amount of such guarantee offered multiplied by the number of years for which the said guarantee is offered or the actual consideration whichever is higher.
- Where the corporate guarantee is provided for a period less than a year,, then in those cases as well, the valuation may be done on proportionate basis for the said period.
- if a corporate guarantee is issued, say for a period of one year and is renewed five times, then tax would be payable on one per cent of the amount

Section -15(4) – Rule 28

Value of supply of goods or services or both between distinct or related persons, other than through an agent.

FAQ on Banking, Insurance and Stock Brokers Sector

Will the second proviso to Rule 28 apply in the case of a banking company that selects the 50% option to avail input tax credit set out in Section 17(4) of the CGST Act, 2017?

The second proviso to Rule 28 of the CGST Rules, 2017 states that where the recipient is eligible for full input tax credit, the value as declared in the invoice shall be deemed to be the Open Market Value of the goods or services. In view of the second proviso to Section 17(4) of CGST Act, 2017, banks claiming input tax credit under the 50% option will be covered under the scope of the second proviso to Rule 28 relating to valuation, where services are provided between the branches of the bank.

How about restaurants , real estate who cannot claim input tax credit for the services .

Section -15(4) – Rule 29

Value of supply of goods made or received through an agent.

The value of supply of goods between the principal and his agent shall -

- (a) be the **open market value of the goods** being supplied, or at the **option of the supplier, be ninety per cent.** 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.
- (b) where the **value of a supply is not determinable** under clause (a), the same shall be determined by the application of rule 30 or rule 31 in that order.

Illustration : 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 **five thousand rupees per quintal on the day of the supply.** Another independent supplier is supplying groundnuts of like kind and quality to the said agent **at the price of four thousand five hundred and fifty rupees per quintal.**

Suggest –The valuation for the given transaction.

Section -15(4) – Rule 30

Value of supply of goods or services or both based on cost

RULE 30. Value of supply of goods or services or both based on cost. —

Where the value of a supply of goods or services or both is not determinable by any of the preceding rules of this Chapter, the value shall be **one hundred and ten percent of the cost** of production or manufacture or the cost of acquisition of such goods or the cost of provision of such services.

Cost Accounting Standards may be relied upon to determine cost for purposes of this rule. CAS-4 enumerates various costs to be included in determining the cost of raw materials. Challenging in case of services.

Section -15(4) – Rule 31

Residual method for determination of value of supply of goods or services or both.

RULE 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 the general provisions of section 15** and **the provisions of this Chapter** :

Provided that in the case of supply of services, the supplier may opt for this rule, ignoring rule 30.

Section -15(4) – Rule 31 A

Value of supply in case of lottery, betting, gambling and horse racing.

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

[(2) The value of supply of lottery 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.

Explanation : - For the purposes of this sub-rule, the expression “Organising State” has the same meaning as assigned to it in clause (f) of sub-rule (1) of rule 2 of the Lotteries (Regulation) Rules, 2010.]

(3) 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.

Section -15(4) – 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.

Section -15(4) – Rule 32

Determination of value in respect of certain supplies

(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 :

Section -15(4) – Rule 32

Determination of value in respect of certain supplies

(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 :

US \$	Buying Rate	Selling Rate
Price of Agency	₹74.278	₹75.10
Price of RBI	₹74.578	₹74.80
Difference	0.30	0.30

Case –

A customer sells 1 Lakh US\$ to the indian forex agency for getting the Indian INR. He receives Rs. 74,27,800/- for giving US\$. You are required to calculate Taxable value & GST Payable by him on the transaction.

Section -15(4) – Rule 32

Determination of value in respect of certain supplies

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 :

US \$	Buying Rate	Selling Rate
Price of Agency	₹74.278	₹75.10
Price of RBI	Not available	Not available
Difference	NA	NA

Case –

A customer sells 1 Lakh US\$ to the indian forex agency for getting the Indian INR. He receives Rs. 74,27,800/- for giving US\$. You are required to calculate Taxable value & GST Payable by him on the transaction.

Section -15(4) – Rule 32

Determination of value in respect of certain supplies

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 :

Example - Exchanging US\$ with Singapore \$ - Value 1% of lower of converting either singapore \$ or US\$ into Indian Rupee at RBI Rate.

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.

Section -15(4) – Rule 32

Determination of value in respect of certain supplies

(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 -

	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;	Let say US\$ converted of Rs.20,000/- then Taxable value – Rs.250/-
	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	Let say US\$ converted of Rs.7,75,000/- then Taxable value – Rs.1000/- + Rs. 3375/- = Rs. 4375/-
	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.	Let say US\$ converted of Rs.16,75,000/- then Taxable value – Rs.5000/- + Rs. 6750/- = Rs. 11,750/-

Section -15(4) – Rule 32

Determination of value in respect of certain supplies

(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 per cent. 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.**

Fare Summary		
Airfare Charges	INR	3,590.00
ASF	INR	177.00
CGST for Rajasthan	INR	90.00
SGST for Rajasthan	INR	90.00
User Development Fee	INR	447.00
Total Fare	INR	4,394.00

Case : -

R taken flight from Jaipur to Raipur, total amount charged Rs. 4394/- , Basic Fare –Rs.3600/-, determine –Taxable value & GST on the same.

Section -15(4) – Rule 32

Determination of value in respect of certain supplies

- (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.

Section -15(4) – Rule 32

MARGIN SCHEME -32(5)

(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.

Section -15(4) – Rule 32

MARGIN SCHEME -32(5)

(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 :

Silent Features –

Unregistered person to a registered taxable person dealing in used-goods.

Registered sellers cannot avail this margin-method

Section -15(4) – Rule 32

MARGIN SCHEME -32(5)

Case –

XYZ limited is in the business of selling used second hand cars. XYZ sells a used BMW for Rs. 15.00Lakh , they have purchased the CAR from unregistered seller for Rs. 13.00 Lakh .

You are required to determine the taxable value of the Car.

What will be your answer , if XYZ has purchased the CAR completely damaged in an accident for Rs. 5.00 Lakh & after complete repairing sold it for Rs.10.00 Lakhs.

Section -15(4) – Rule 32

MARGIN SCHEME -32(5)

Margin Scheme for Selling of Old Motor Vehicle by other than person dealing in such used Goods [Notification No. 8/2018-C.T. (Rate), dated 25-1-2018]

- The Government has reduced the rate of GST to 18% and 12% on the sale of old and used motor vehicles.
- Further, the Cess payable on sale of old and used motor vehicle has also been exempted vide notification no. 1/2018-Compensation Cess(Rate) dated 25.01.2018.
- The major change as per the said notification was the valuation mechanism under GST
- **Depreciation Is claimed** - Difference between the consideration received for supply of such goods and the depreciated value (Sec.32 of IT act) of such goods on the date of supply, and where the margin of such supply is negative, it shall be ignored.

Section -15(4) – Rule 32

MARGIN SCHEME -32(5)

Margin Scheme for Selling of Old Motor Vehicle by other than person dealing in such used Goods [Notification No. 8/2018-C.T. (Rate), dated 25-1-2018]

- **Depreciation is not claimed** - the difference between the selling price and the purchase price and where such margin is negative, it shall be ignored.

Case -

Mr. X, a registered person in GST had purchased a motor car on 1st June, 2016 for Rs. 10,00,000. The said car was sold on 25th February 2018 by him for:

- a) Rs. 9,00,000
- b) Rs. 7,00,000

Determine the valuation under GST , given that depreciation charged on the date of supply in income tax is Rs. 150,000.

Section -15(4) – Rule 32

MARGIN SCHEME -32(5)

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.

Case - Mudra Limited is NBFC Company in the business of funding plant & Machinery. The company has repossessed a JCB machine from a defaulting borrower for the recovery of Rs. 7.00 Lakh on 20th August 2018. Mudra limited have sold the repossessed JCB on 2nd January 2019 for Rs. 6.50 Lakhs. You are required to calculate the Taxable value of the JCB Sold.

Reduction in the value – July -18 (20th August) to September -18 – I Quarter -5%
October -18 to December-18- II Quarter-5%
January -19 (2nd January) to March-19 –III Quarter -5%

Section -15(4) – Rule 32

Token, or a voucher, or a coupon, or a stamp -32(6)

(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.

Case –

Mr. X had purchased a voucher for Rs 200 which was redeemable against purchase of a wallet worth Rs. 500 from Shopper's stop. Here, the valuation that should be taken here is the redemption value of _____.

Section -15(4) – Rule 32 Others -32(7)

((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.

No notification has been issued as yet, in this regard.

Section -15(4) – Rule 33

PURE AGENT

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 authorisation 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.**

Section -15(4) – Rule 33

PURE AGENT

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.

Section -15(4) – Rule 34

PURE AGENT

Illustrations :

- (a) Ticket in railways is booked by a travel agent on behalf of the customer and the charges for such ticket are recovered by the agent along with the commission by showing them separately.
- (b) Customs duty, dock dues, transportation, port clearance charges etc. are paid by the customs broker on behalf of the importer and are recovered along with his commission from the importer.
- (c) Advertisement charges to the newspaper are paid by Advertising agency on behalf of the customer and are recovered separately along with commission.
- (d) In an ex-factory delivery contract, if the transportation charges are paid by the supplier on behalf of the recipient and are recovered separately from the recipient along with the price of the goods.

Section -15(4) – Rule 34

Exchange Rates

[RULE 34. Rate of exchange of currency, other than Indian rupees, for determination of value. —

(1) 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.

(2) 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 Act.]

Section -15(4) – Rule 35

Value of supply inclusive

RULE 35. Value of supply inclusive of Integrated tax, Central tax, State tax, Union territory tax. — Where the value of supply is inclusive of Integrated tax or, as the case may be, Central tax, State tax, Union territory tax, the tax amount shall be determined in the following manner, namely, -

Tax amount = (Value inclusive of taxes × tax rate in % of IGST or, as the case may be, CGST, SGST or UTGST) ÷ (100 + sum of tax rates, as applicable, in %)

THANK YOU



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