

## **Valuation in GST**

### **Q 1. What is the value of taxable supply to be adopted for the levy of GST?**

Ans. The value of taxable supply of goods and services shall ordinarily be 'the transaction value' which is the price paid or payable, when the parties are not related and price is the sole consideration. Section 15 of the CGST/SGST Act further elaborates various inclusions and exclusions from the ambit of transaction value. For example, the transaction value shall not include refundable deposit, discount allowed subject to certain conditions before or at the time of supply.

### **Q 2. What is transaction value?**

Ans. Transaction value refers to the price actually paid or payable for the supply of goods and or services where the supplier and the recipient are not related and price is the sole consideration for the supply. It includes any amount which the supplier is liable to pay but which has been incurred by the recipient of the supply.

### **Q 3. Are there separate valuation provisions for CGST, SGST and IGST and for Goods and Services?**

Ans. No, section 15 is common for all three taxes and also common for goods and services.

### **Q 4. Is contract price not sufficient to determine valuation of supply?**

Ans. Contract price is more specifically referred to as 'transaction value' and that is the basis for computing tax.

However, when the price 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.

### **Q 5. Is reference to GST Valuation Rules required in all cases?**

Ans. No. Reference to GST Valuation Rules is required only in cases where value cannot be determined under sub-section (1) of Section 15.

### **Q 6. Can the transaction value declared under section 15(1) be accepted?**

Ans. Yes, if all the conditions specified therein have been fulfilled.

### **Q 7. Whether post-supply discounts or incentives are to be included in the transaction value?**

Ans. Yes. However, where the post-supply discount is established as per the agreement which is known at or before the time of supply and where such discount specifically linked to the relevant invoice and the recipient has reversed input tax credit attributable to such

discount, the discount is allowed as admissible deduction under Section 15 of the CGST Act.

**Q 8. Whether pre-supply discounts allowed before or at the time of supply are includible in the transaction value?**

Ans. No, provided it is allowed in the course of normal trade practice and has been duly recorded in the invoice.

**Q 9. When are the provisions of the Valuation Rules applicable?**

Ans. Valuation Rules are applicable when (i) consideration either wholly or in part not in money terms; (ii) parties are related or supply by any specified category of supplier; and (iii) transaction value declared is not reliable.

**Q 10. What are the inclusions specified in Section 15(2) which could be added to Transaction Value?**

Ans. The inclusions specified in Section 15 (2) which could be added to transaction value are as follows:

- a) Any taxes, duties, cesses, fees and charges levied under any statute, other than the SGST/CGST Act and the Goods and Services Tax (Compensation to the States for Loss of Revenue) Act, 2016, if charged separately by the supplier to the recipient;
- 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 and/or services;
- c) Incidental expenses, such as commission and packing, charged by the supplier to the recipient of a supply, including any amount charged for anything done by the supplier in respect of the supply of goods and/or services at the time of, or before delivery of the goods or as the case may be supply of the services;
- d) Interest or late fee or penalty for delayed payment of any consideration for any supply; and
- e) Subsidies directly linked to the price excluding subsidies provided by the Central and State Government.

**Q 11. How will value be determined where supply is made by a dealer dealing in second hand goods?**

Ans. As per Rule 32(5) of the CGST Rules, 2017, 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

**Q 12. How will goods re-possessed from defaulting borrowers be valued?**

Ans. The proviso to Rule 32(5) of the CGST Rules provides that in case of the purchase value of goods repossessed from an unregistered defaulting borrower, 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.

**Q 13. How will works contract service provided by a builder/developer to a prospective flat buyer be valued under GST?**

Ans. In case of supply of construction service (works contract), involving transfer of property in land or undivided share of land, as the case may be, the value of supply of service and goods portion in such supply shall be equivalent to the total amount charged for such supply less the value of land or undivided share of land, as the case may be, and the value of land or undivided share of land, as the case may be, in such supply shall be deemed to be one third of the total amount charged for such supply.

“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, as the case may be

**Q 14. How will supply of lottery tickets be valued under GST?**

Ans. Lotteries are sold as goods and can be of following two types:

(a) “lottery run by State Governments” means a lottery not allowed to be sold in any State other than the organizing State. The rate of GST on these is 12% and the face value of the lottery is inclusive of taxes. Therefore, value of supply of lottery shall be  $100/112$  of the face value or the price notified in the Official Gazette by the organising State, whichever is higher.

(b) “lottery authorised by State Governments” means a lottery which is authorised to be sold in State(s) other than the organising State also. The rate of these is 28% and the face value of the lottery is inclusive of taxes. Therefore, value of supply of lottery shall be  $100/128$  of the face value or the price notified in the Official Gazette by the organising State, whichever is higher. (Rule 31A (2) of the CGST Rules, 2017).

**Q 15. How will betting and gambling be valued?**

Ans. As per rule 31A (3) of the CGST Rules, 2017, 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 totalizator. The prize money shall not be deducted for the purposes of valuation.

**Q 16. How will imports be valued?**

Ans. As per proviso to Sec. 5(1) of IGST Act, Customs Law will be applicable for valuation of imported goods.

However, for valuation of import of services, section 15 of the CGST Act read with Chapter IV of the CGST Rules, 2017 will apply.

**Q 17. What is an open market value for the purpose of GST?**

Ans. "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 price is the sole consideration, to obtain such supply at the same time when the supply being valued is made.

**Q 18. When will open market value become relevant under GST?**

Ans. Open market value will be relevant in cases where consideration for the supply is not wholly in money. The open market value will be particularly relevant in cases where supply is between related persons, or between distinct persons (entities having same PAN but different GSTIN) and between principal and agent.

**Q 19. How will value be determined in cases where the consideration for supply is not wholly in money?**

Ans. Value of supply where the consideration is not wholly in money will be: -

- a) Open market value of such supply
- b) if open market value is not available, value shall 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 value cannot be determined as above, it shall be the value of supply of goods or services or both of like kind and quality.
- d) if value is not determinable under clause (a) or clause (b) or clause (c), value shall 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 of Valuation Rules in that order.

**Q 20. What is meant by supply of goods or services of like kind and quality?**

Ans. "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 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.

**Q 21. What does the valuation based on cost mean?**

Ans. Where the value of a supply of goods or services or both is not determinable by any of the provisions prescribed in Rule 27, 28 and 29 of the CGST Rules, 2017, then, cost based valuation is applied to determine value of supply. In other words, when a supply does not have money as sole consideration and neither open market value nor consideration involved can be ascertained, then, cost based rule as prescribed in Rule 30 of CGST Rules, 2017 is applied. In such cases, the value shall be 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.

**Q 22. What does residual method mean in valuation of supply?**

Ans. Rule 31 of CGST Rules, 2017 is also known as the residual method of Valuation. Where the value of supply of goods or services or both cannot be determined under Rule 27 to 30, then, the value of supply shall be determined using reasonable means consistent with the principles and general provisions of section 15 and these rules.

**Q 23. Does the Supplier of service must use the cost method if Rule 27 to 29 are not applicable?**

Ans. No, supplier of service can directly opt for residual method as prescribed in Rule 31 instead of cost based method as specified in Rule 30.

**Q 24. Who is a related person for the purpose of valuation rules?**

Ans. As per Explanation below Section 15 of the CGST Act, Persons shall be deemed to be “related persons” if—

- (i) such persons are officers or directors of one another’s businesses;
- (ii) such persons are legally recognised partners in business;
- (iii) such persons are employer and employee;
- (iv) any person directly or indirectly owns, controls or holds twenty-five per cent or more of the outstanding voting stock or shares of both of them;
- (v) one of them directly or indirectly controls the other;
- (vi) both of them are directly or indirectly controlled by a third person;
- (vii) together they directly or indirectly control a third person; or
- (viii) they are members of the same family;

(ix) Persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

It may be noted that the term “person” also includes legal persons.

**Q 25. How will value be arrived at when supply is between related persons or distinct persons as specified in sub-section (4) and (5) of section 25 (other than an agent)?**

Ans. The value of the supply of goods or services or both in such cases shall, -

(a) be the open market value of such supply;

(b) if open market value is not available, be the value of supply of goods or services of like kind and quality;

(c) if value is not determinable under clause (a) or (b), be the value as determined by application of rule 30 or rule 31, in that order:

In case the goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to ninety percent of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person

Further, in case 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.

**Q 26. Who is an agent for the purposes of GST?**

Ans. “Agent” means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another. The meaning of the term and the relationship with principal and agent has been clarified vide circular no. 57/31/2018-GST dated 04th September, 2018.

**Q 27. How will supplies between principal and agent and vice versa be valued under GST?**

Ans. 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 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;

Illustration: Where a principal supplies groundnut to his agent and the agent is supplying groundnuts of like kind and quality in subsequent supplies at a price of Rs.5000 per quintal on the day of supply. Another independent supplier is supplying groundnuts of like kind



and quality to the said agent at the price of Rs.4550 per quintal. The value of the supply made by the principal shall be Rs.4550 per quintal or where he exercises the option the value shall be 90% of the Rs.5000 i.e. is Rs.4500 per quintal.

(b) where the value of a supply is not determinable under clause (a), the same shall be determined by application of cost based method as prescribed in Rule 30 or residual method as prescribed in Rule 31 in that order.

**Q 28. What is a del-credere agent?**

Ans. A del-credere agent is a selling agent who is engaged by a principal to assist in supply of goods or services by contacting potential buyers on behalf of the principal. The factor that differentiates a DCA from other agents is that the DCA guarantees the payment to the supplier.

In such scenarios where the buyer fails to make payment to the principal by the due date, DCA makes the payment to the principal on behalf of the buyer (effectively providing an insurance against default by the buyer), and for this reason the commission paid to the DCA may be relatively higher than that paid to a normal agent. In order to guarantee timely payment to the supplier, the DCA can resort to various methods including extending short-term transaction-based loans to the buyer or paying the supplier himself and recovering the amount from the buyer with some interest at a later date.

**Q 29. Whether the temporary short-term transaction based loan extended by the DCA to the recipient (buyer), for which interest is charged by the DCA, is to be included in the value of goods being supplied by the supplier (principal) where DCA is not an agent under Para 3 of Schedule I of the CGST Act?**

Ans. If the DCA being not an agent under Para 3 of Schedule I of the CGST Act, the temporary short-term transaction based loan being provided by DCA to the buyer is a supply of service by the DCA to the recipient on Principal to Principal basis and is an independent supply. Therefore, the interest being charged by the DCA would not form part of the value of supply of goods supplied (to the buyer) by the supplier. (CBIC Circular No. 73/47/2018-GST dated 5th November, 2018)

**Q 30. Where DCA is an agent under Para 3 of Schedule I of the CGST Act and makes payment to the principal on behalf of the buyer and charges interest to the buyer for delayed payment along with the value of goods being supplied, whether the interest will form a part of the value of supply of goods also or not?**

Ans. If the DCA being an agent under Para 3 of Schedule I of the CGST Act, the temporary short-term transaction based credit being provided by DCA to the buyer no longer retains its character of an independent supply and is subsumed in the supply of the goods by the DCA

to the recipient. The activity of extension of credit by the DCA to the recipient would not be considered as a separate supply as it is in the context of the supply of goods made by the DCA to the recipient. Therefore, the value of the interest charged for such credit would be required to be included in the value of supply of goods by DCA to the recipient as per section 15(2)(d) of the CGST Act. (CBIC Circular No. 73/47/2018-GST dated 5th November, 2018)

**Q 31. How will supply of services in relation to purchase or sale of foreign currency, including money changing, be determined under the Valuation Rules?**

Ans. The value of supply of services in relation to purchase or sale of foreign currency, including money changing, shall be determined by the supplier of service in the following manner:-

(a) For a currency, when exchanged from, or to, Indian Rupees (INR), 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 (RBI) reference rate for that currency at that time, multiplied by the total units of currency.

In case where the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received by the person changing the money. In cases where neither of the currencies exchanged is Indian Rupee, the value shall be equal to 1% 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 RBI.

(b) The person supplying the services can also exercise below mentioned option instead of valuation method mentioned as (a) to ascertain the value: -

At the option of supplier of services, the value in relation to 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 rupees and one tenth of a per cent. of the gross amount of currency exchanged for an amount exceeding ten lakh rupees, subject to maximum amount of sixty thousand rupees.

If the above option is given, such option shall not be withdrawn during the remaining part of that financial year.

**Q 32. What would be the value of supply of services provided by an Air Travel Agent?**

Ans. The value of 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 5% of the basic fare in the case of domestic bookings, and at the rate of 10% of the basic fare in the case of international bookings of passage for travel by air.

The expression “basic fare” means that part of the air fare on which commission is normally paid to the air travel agent by the airline.

**Q 33. How will services in relation to Life Insurance business be valued?**

Ans. 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 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 policy holder in subsequent years:

It is to be noted that the above rule will not apply where the entire premium paid by the policy holder is only towards the risk cover in life insurance. That means if the policy is a pure life insurance policy with only life being covered and no part of the premium being allocated towards some investment by the provider of service, the above rules will not apply.

**Q 34. How will supplies being made by a person dealing in second hand goods be valued under GST?**

Ans. 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 purchase of such goods, the value of supply shall be the difference between the selling price and purchase price and where the value of such supply is negative it shall be ignored.

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.

**Q 35. How will supply of vouchers be valued under GST?**

Ans. 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.

**Q 36. Who is a pure agent for the purpose of GST Valuation?**

Ans. “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 provided 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.

Illustration. Corporate services firm A is engaged to handle the legal work pertaining to the incorporation of Company B. Other than its service fees, A also recovers from B, registration fee and approval fee for the name of the company paid to Registrar of the Companies. The fees charged by the Registrar of the companies registration and approval of the name are compulsorily levied on B. A is merely acting as a pure agent in the payment of those fees. Therefore, A’s recovery of such expenses is a disbursement and not part of the value of supply made by A to B.

**Q 37. Will expenditure and costs incurred by a supplier as a pure agent of the recipient be included in the value of supply made by such supplier to recipient?**

Ans. No. The expenditure or costs incurred by the supplier as a pure agent of the recipient of supply of services 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.