



VALUE OF SUPPLY



The section numbers referred to in the Chapter pertain to CGST Act, unless otherwise specified. For the sake of brevity, the term input tax credit has been referred to as ITC in this Chapter.

LEARNING OUTCOMES

After studying this Chapter, you will be able to –

- ❑ comprehend and analyse as to what constitutes the value of a taxable supply of goods / services when the supply is made to an unrelated person and price is the sole consideration for the supply
- ❑ identify the various inclusions in/exclusions from the value of taxable supply
- ❑ comprehend and analyse the various rules providing the mechanism to value a supply in situations where transaction value cannot be adopted and in respect of certain special supplies
- ❑ compute the value of a taxable supply in different scenarios

1. INTRODUCTION

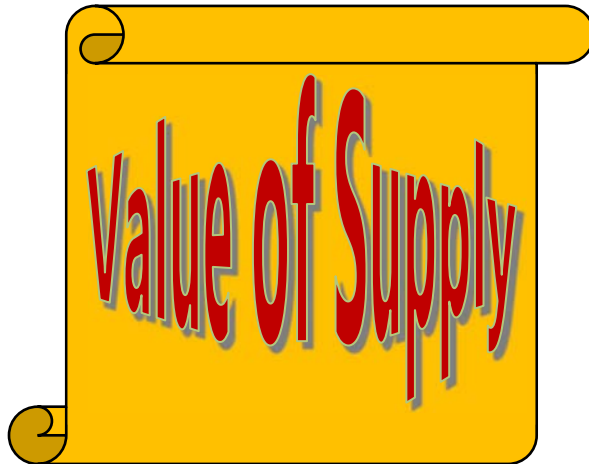
Every fiscal statute makes provision for the determination of value as tax which is normally payable on *ad-valorem* basis. In GST also, tax is payable on *ad-valorem* basis i.e., percentage of value of the supply of goods or services.

Thus, it becomes important to know how to arrive at the value on which tax is to be paid. Provisions relating to 'value of supply' set out the mechanism to compute such value basis which CGST and SGST/UTGST (intra-State supply) and IGST (inter-State supply) should be paid.

Section 15 of the CGST Act supplemented with the Chapter IV: Determination of Value of Supply of CGST Rules prescribes the provisions for determining the value of supply of goods and services made in different circumstances and to different persons.

Section 15 of the CGST Act provides common provisions for determining the value of goods and services. It provides the mechanism for determining the value of a supply which is made between unrelated persons and when price and only the price is the sole consideration of the supply.

In most of the cases of regular normal trade, the invoice value is the taxable value. However, when value cannot be determined under section 15 and for certain specific transactions, the value is determined using Chapter IV: Determination of Value of Supply of CGST Rules.

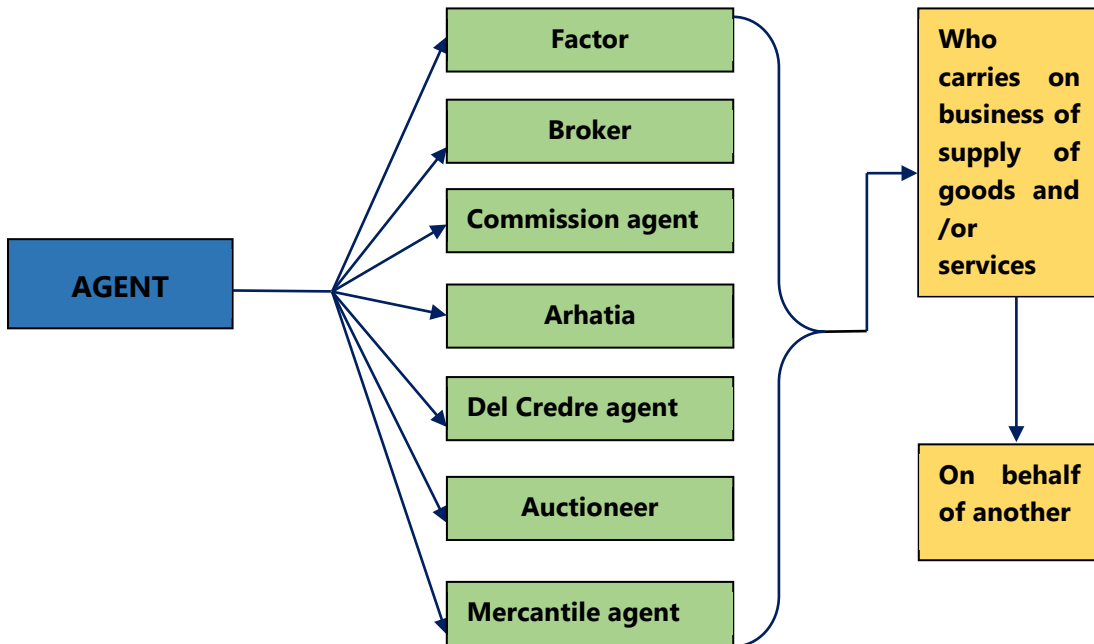


Provisions of value of supply under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

2. RELEVANT DEFINITIONS



- ❖ **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 [Section 2(5)].

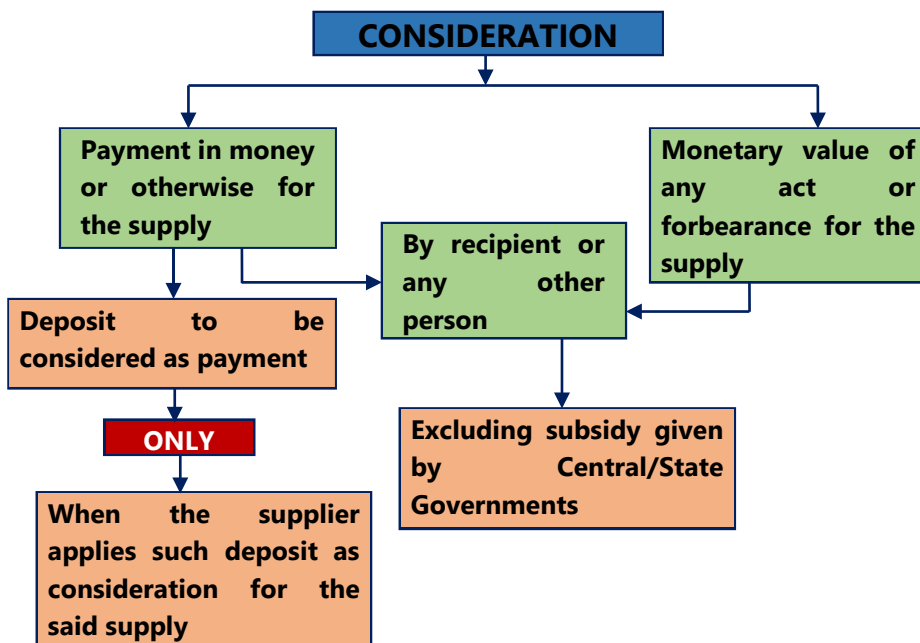


- ❖ **Cess** shall have the same meaning as assigned to it in the Goods and Services Tax (Compensation to States) Act [Section 2(22)].
- ❖ **Consideration** in relation to the supply of goods or services or both includes –
 - (a) any payment made or to be made, whether in money or otherwise, in respect 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;

- (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;

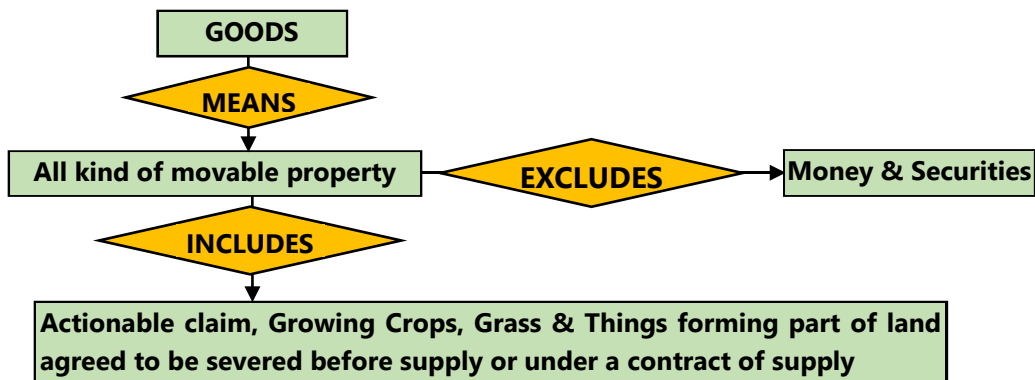
Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies the deposit as consideration for the said supply [Section 2(31)].



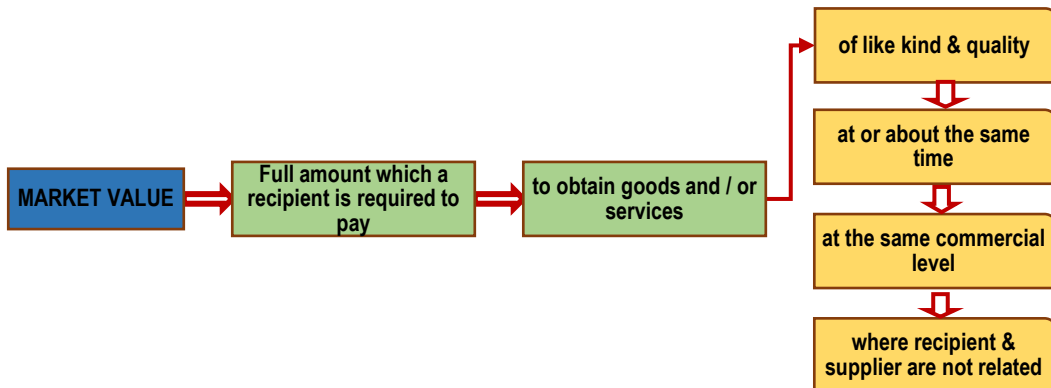
❖ **Family** means,—

- (i) the spouse and children of the person, and
- (ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person [Section 2(49)].

❖ **Goods** means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply [Section 2(52)].



- ❖ **Market value** shall mean the full amount which a recipient of a supply is required to pay in order to obtain the goods or services or both of like kind and quality at or about the same time and at the same commercial level where the recipient and the supplier are not related [Section 2(73)].

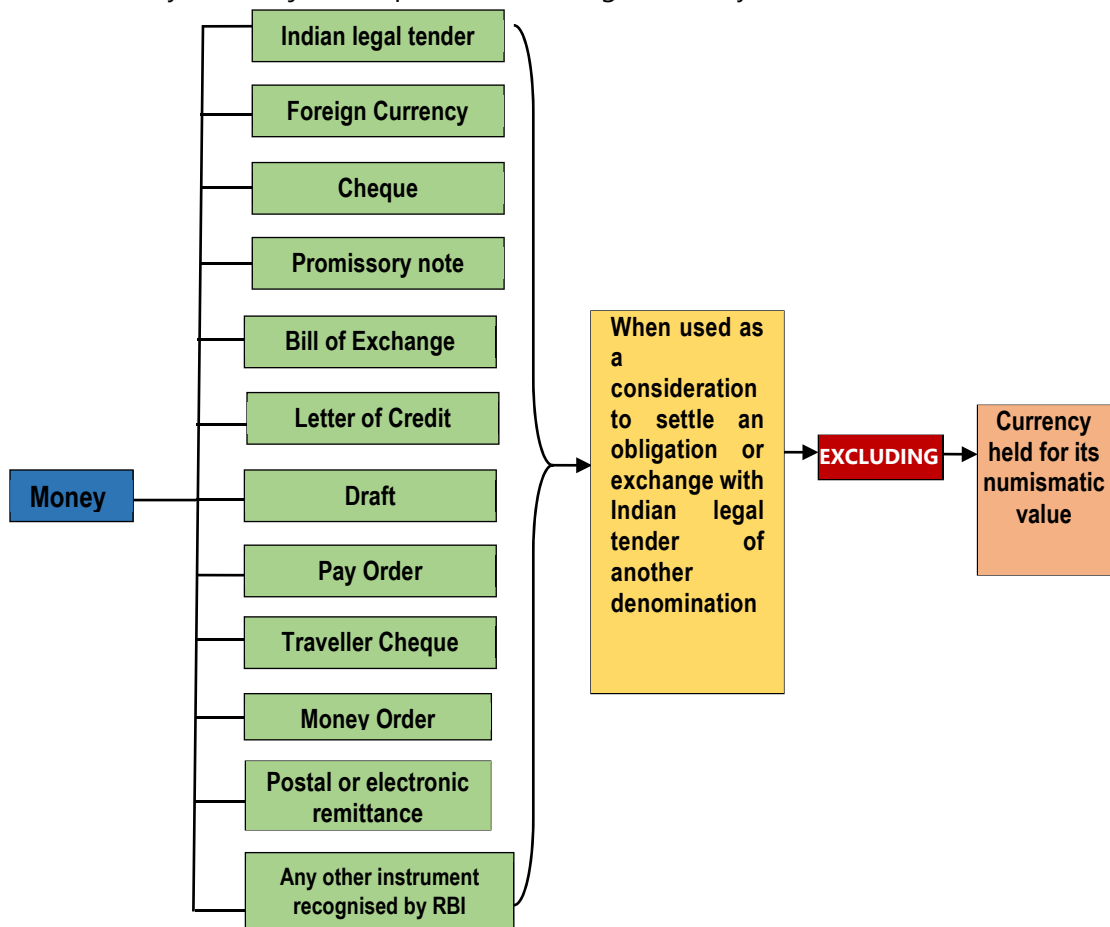


- ❖ **Money** means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognised by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value [Section 2(75)].

The definition of money has been depicted by way of a diagram at the next page.

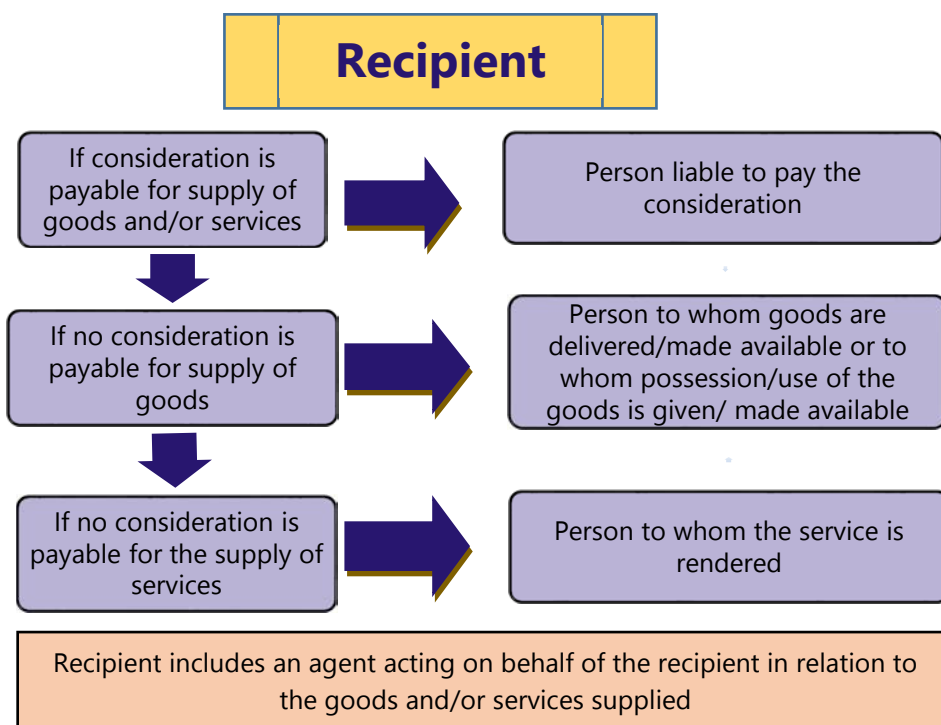
- ❖ **Person** includes-
 - an individual;
 - a Hindu Undivided Family;
 - a company;
 - a firm;

- (e) a Limited Liability Partnership;
- (f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;
- (g) any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in section 2(45) of the Companies Act, 2013;
- (h) any body corporate incorporated by or under the laws of a country outside India;
- (i) a co-operative society registered under any law relating to cooperative societies;
- (j) a local authority;
- (k) Central Government or a State Government;
- (l) society as defined under the Societies Registration Act, 1860;
- (m) trust; and
- (n) every artificial juridical person, not falling within any of the above [Section 2(84)].

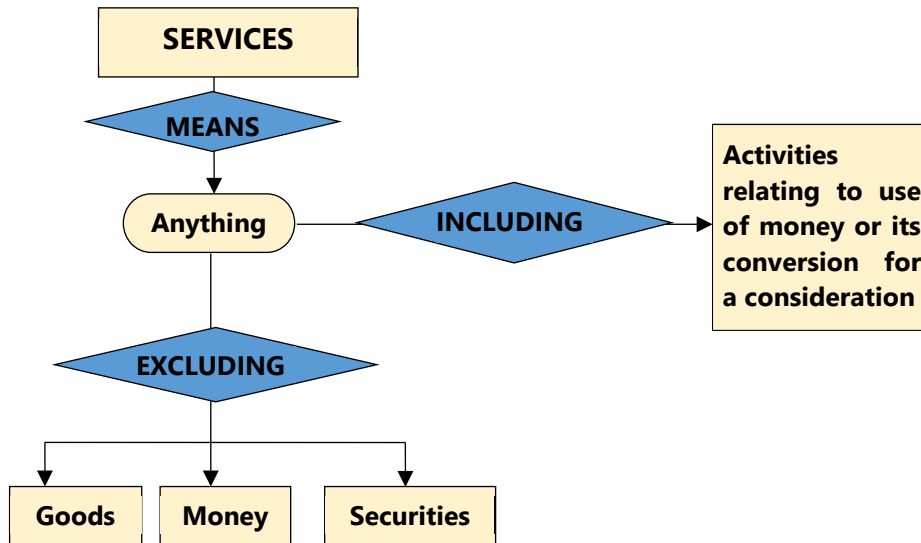


- ❖ **Prescribed** means prescribed by rules made under this Act on the recommendations of the Council [Section 2(87)].
- ❖ **Recipient** of supply of goods or services or both, means—
 - (a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;
 - (b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and
 - (c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

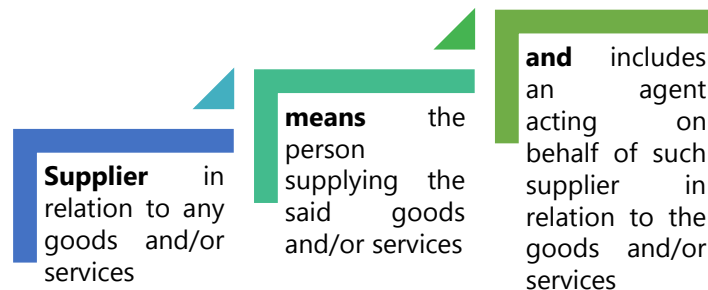
and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied [Section 2(93)].



- ❖ **Services** means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged [Section 2(102)].




- ❖ **Supplier** in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied [Section 2(105)].



- ❖ **Voucher** means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument [Section 2(118)].



3. VALUE OF SUPPLY [SECTION 15]

|  STATUTORY PROVISIONS | | |
|---|---------------|---|
| Section 15 | | Value of taxable supply |
| Sub-section | Clause | Particulars |
| (1) | | <i>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 where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.</i> |
| (2) | | <i>The value of supply shall include-</i> |
| | (a) | <i>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;</i> |
| | (b) | <i>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;</i> |
| | (c) | <i>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;</i> |
| | (d) | <i>interest or late fee or penalty for delayed payment of any consideration for any supply; and</i> |
| | (e) | <i>subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.</i> |

| | |
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| | <i>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.</i> |
| (3) | <i>The value of the supply shall not include any discount which is given</i> |
| | <i>(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</i> |
| | <i>(b) after the supply has been effected, if—</i> |
| | <i>(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</i> |
| | <i>(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.</i> |
| (4) | <i>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.</i> |
| (5) | <i>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.</i> |
| Explanation—For the purposes of this Act,— | |
| (a) | <i>persons shall be deemed to be “related persons” if—</i> |
| | <i>(i) such persons are officers or directors of one another's businesses;</i> |
| | <i>(ii) such persons are legally recognised partners in business;</i> |
| | <i>(iii) such persons are employer and employee;</i> |

| | | |
|------------|-------|---|
| | (iv) | <i>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;</i> |
| | (v) | <i>one of them directly or indirectly controls the other;</i> |
| | (vi) | <i>both of them are directly or indirectly controlled by a third person;</i> |
| | (vii) | <i>together they directly or indirectly control a third person; or they are members of the same family;</i> |
| (b) | | <i>the term "person" also includes legal persons;</i> |
| (c) | | <i>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</i> |



ANALYSIS

The CGST law has different provisions for determining the taxable value of a supply of goods / services in the following situations:

- ➔ Supplies made for a price in money (monetary consideration), to unrelated persons → Sub-sections (1) to (3) of section 15;
- ➔ Supplies made for non-monetary consideration, or for part monetary consideration and part other, or involving additional consideration, or to related persons, or for specific classes of supply → Sub-sections (4) and (5) of section 15 read with the Chapter IV: Determination of Value of Supply of CGST Rules.

The 'Explanation' to section 15 defines 'related person' to cover various situations of control, including sole agent, sole distributor and sole concessionaire.

A. Supplies to unrelated persons where price is the sole consideration


(i) Transaction value [Section 15(1)]

When a transaction of supply of goods / services is made

- between two persons (see definition of “person”) who are not related to each other (see definition of “related person” in ‘Explanation’ to section 15), and
- price is the sole consideration (see definition of consideration) for the supply,

the **“transaction value” PLUS certain elements** as enumerated, will be the value on which tax is to be worked out.



 *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 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.*

(ii) Inclusions in transaction value [Section 15(2)]

Under assessment based on “transaction value”, the taxable value includes certain elements in addition to price. The ingredients of “taxable value” based on transaction value are enumerated and discussed below.

- Price actually paid or payable for the supply (“transaction value”)
- Any taxes, duties, fees and charges levied under any statute other than the CGST Act or the SGST Act or the UTGST Act and the GST (Compensation to States) Act, if charged separately [Transaction value under IGST will include taxes other than IGST and the compensation cess in terms of third proviso to section 20 of IGST Act]

- (c) Payments to third parties → Any amount that the supplier is liable to pay but which has been incurred by the recipient of the supply and not already included in the price.
- (d) 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/services at the time of, or before delivery of the goods /supply of the services
- (e) Interest or late fee or penalty for delayed payment of consideration
- (f) Subsidies, provided in any manner, linked to the price, other than subsidies given by the State or Central Governments

The above ingredients are discussed below.

(a) Price actually paid or payable for the supply

Under section 15(1), the transaction value which is applicable between unrelated persons where price is the sole consideration for the supply is -

the price actually paid or payable for the said supply of goods or services or both.

This is the price for the specific supply that is being valued. It includes the amount already paid at the time the supply is being valued for tax, as well as the amount payable and not yet paid at that time. The word 'payable' refers to price that is agreed to be paid for the goods / services.



Contracted price for 1 MT of cement from X Ltd to Y: ₹ 7000.

Advance payment before despatch: ₹ 700.

Payable after credit period of 30 days: ₹ 6300.

Base taxable value: ₹ 7000. (*Additions as further discussed below may also have to be made.*) This would be so even though only ₹ 700 has been received at the time of payment of GST on the supply.

(b) Taxes other than GST, if charged separately by the supplier [Section 15(2)(a)]

GST and GST cess are not part of taxable value, but other taxes/cesses/fees etc. will form part of the value of taxable supply, if separately billed. For instance, if a supplier of goods pays a municipal tax in relation to the goods being supplied and bills the same separately, such tax will form part of the value of

taxable supply. In the same situation, if the supplier pays the municipal tax but does not charge the same separately, even then such tax will form part of the value of taxable supply as the supplier would have factored such tax while computing the cost of the goods.

(c) Payments made to third parties by the recipient on behalf of the supplier in relation to the supply [Section 15(2)(b)]

A supplier may need to incur various expenses in order to make a particular supply of goods / services. In the normal course, he would pay these amounts and they would form part of the value that he charges from the customer (recipient of supply).

However, even if the customer makes direct payment of some of such liabilities (of the supplier) to the third parties, and the supplier does not include this amount in his bill, it would still form part of the value of the taxable supply.



Grand Biz contracts with ABC Co. to conduct a dealers' meet. In furtherance of this, Grand Biz contracts with vendors to deliver goods / services, like water, soft drinks, audio system, projector, catering, flowers etc. at the venue on the stipulated dates at the stipulated prices. Grand Biz is liable to make these payments as contracted.

The soft drinks supplier wants payment upon delivery; ABC Co. agrees to pay the bill raised by the soft drinks vendor on Grand Biz on receiving the crates of soft drinks. This amount is not billed by Grand Biz to ABC Co. However, it would be added to the value of service provided by Grand Biz to ABC Co. for payment of GST.

(d) Incidental expenses [Section 15(2)(c)]

Incidental expenses, such as, commission and packing charged by the supplier or anything else done by the supplier in relation to the supply at the time of or before the delivery of goods or supply of services must be added to value.

Few examples of such incidental expenses are-



Commission: This may be paid to an agent and recovered from the buyer of the goods / services; this is part of the value of the supply.

Packing, if charged by the supplier to the recipient, is similarly part of the value of the supply.

Inspection or certification charges are another element that may be added to the value, if billed to the recipient of supply.

Installation and testing charges at the recipient's site will also be added, being an amount charged for something done by the supplier in respect of the supply at the time of making the supply.

(e) Interest, late fee and penalty for delayed payment [Section 15(2)(d)]

The value for a taxable supply will include not only the base price but also the charges for delay in payment.



A supply priced at ₹ 2,000 is made, with a credit period of 1 month for payment. Thereafter interest of 12% is charged. The payment is received after the lapse of two months from the date of supply. The amount of 12% p.a. (i.e. 1% per month) on ₹ 2,000 for one month after the free credit period is ₹ 20. Such interest will be added to the value and thus, the value of taxable supply will work out to be ₹ 2,020.

(f) Subsidies [Section 15(2)(e)]

Subsidy is a sum of money given to keep the price of a service or commodity low. If the subsidy is given by the State or Central Government; the lower price, after adjusting the subsidy, is the taxable value. If the subsidy is given by a person or entity other than the State or Central Government, it does not lower the taxable value. The subsidy is added to the value of supply of the supplier who receives the subsidy.



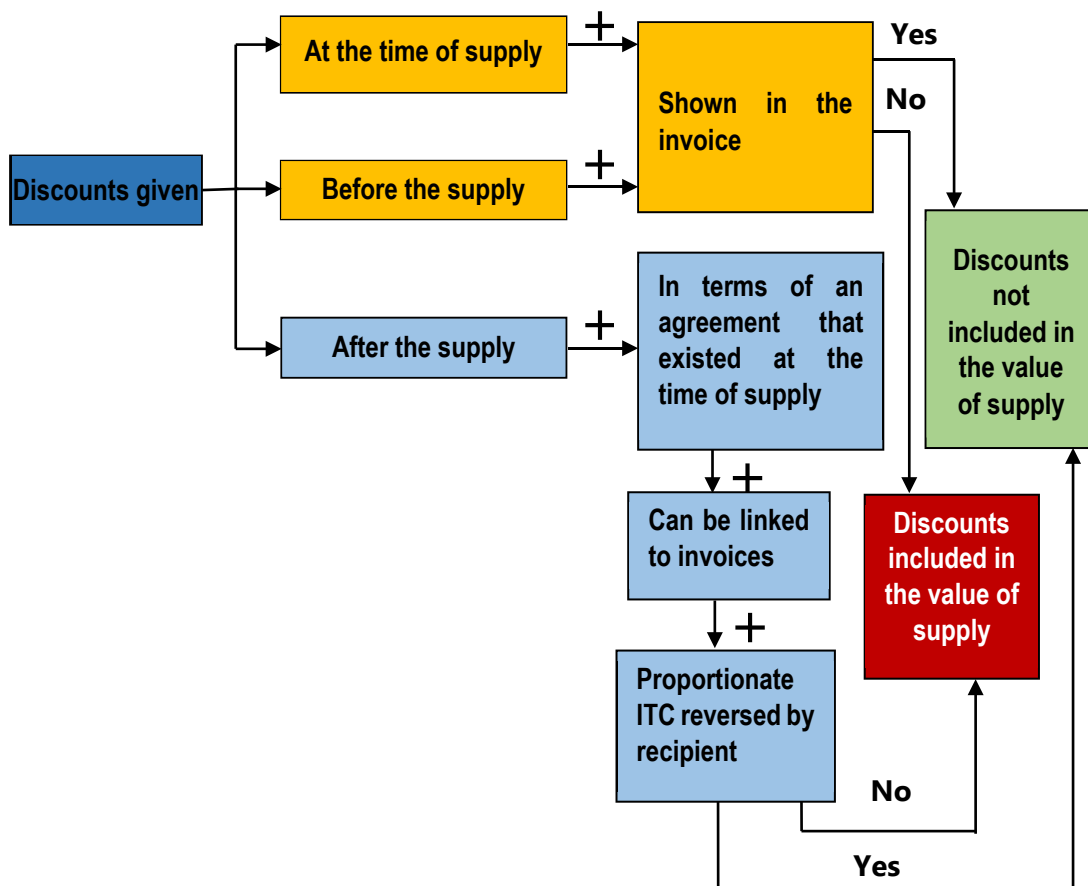
The selling price of a notebook is ₹ 50. For notebooks sold to students in Government schools, a company uses its CSR funds to pay the seller ₹ 30, so that the students pay only ₹ 20 per notebook. The taxable value of the notebook will be ₹ 50, as this is a non-government subsidy. If the same subsidy is paid by the Central Government or State Government, the taxable value of the notebook would be ₹ 30.

(iii) Exclusion of discounts from transaction value [Section 15(3)]

The principle here is that price as established at the time of supply forms the basis of taxable value. Discounts that are allowed are as follows:

- ❖ Discounts that are allowed before or at the time of supply and shown in the invoice e.g., pre-supply discounts like trade discount, quantity discount etc. recorded in the invoice;

- ❖ Discounts that are allowed after supply in terms of an agreement that existed at the time of supply and are worked out invoice-wise and the proportionate input tax credit is reversed by the recipient.



Examples of discount deductible from value of supply

Royal Biscuit Co. gives a discount of 30% on the list price to its distributors. Thus, for a carton of Spicebisk, in the invoice the list price is mentioned as ₹ 200, on which a discount of 30% is given to arrive at the final price of ₹ 140. The taxable value is ₹ 140, as the discount is allowed at the time of supply and shown in the invoice.



The agreement of Raju Electrical Appliances with its dealers is that sale of rice cookers over 100 pieces in the Diwali month will entitle them to discount of 5% per cooker sold in the next month. The next month's stock has already been despatched when the sales figures for the Diwali month are worked out. However, as the agreement was in existence at the time of supply, and the discount can be worked out for each invoice, the taxable value will be billed price minus 5%. The dealer must reverse the proportionate input tax credit on the relevant stock to bring it in line with the reduced tax.



Example of non-deductible discount

A company announces turnover discounts after reviewing dealer performance during the year. The discounts are based on performance slabs and are given as cash-back. As these discounts were not known at the time of supply of the goods, they will not be deducted from taxable value of those goods.

ILLUSTRATION 1

Black and White Pvt. Ltd. has provided the following particulars relating to goods sold by it to Colourful Pvt. Ltd.

| Particulars | ₹ |
|--|---------------|
| <i>List price of the goods (exclusive of taxes and discounts)</i> | <i>50,000</i> |
| <i>Tax levied by Municipal Authority on the sale of such goods</i> | <i>5,000</i> |
| <i>CGST and SGST chargeable on the goods</i> | <i>10,440</i> |
| <i>Packing charges (not included in price above)</i> | <i>1,000</i> |

Black and White Pvt. Ltd. received ₹ 2000 as a subsidy from a NGO on sale of such goods. The price of ₹ 50,000 of the goods is after considering such subsidy.

Black and White Ltd. offers 2% discount on the list price of the goods which is recorded in the invoice for the goods.

Determine the value of taxable supply made by Black and White Pvt. Ltd.

ANSWER**Computation of value of taxable supply**

| Particulars | ₹ |
|--|---------------|
| List price of the goods (exclusive of taxes and discounts) | 50,000 |
| Tax levied by Municipal Authority on the sale of such goods [Includible in the value as per section 15(2)(a)] | 5,000 |
| CGST and SGST chargeable on the goods [Not includible in the value as per section 15(2)(a)] | |
| Packing charges [Includible in the value as per section 15(2)(c)] | 1,000 |
| Subsidy received from a non-Government body [Since subsidy is received from a non-Government body, the same is included in the value in terms of section 15(2)(e)] | <u>2,000</u> |
| Total | 58,000 |
| Less: Discount @ 2% on ₹ 50,000 [Since discount is known at the time of supply, it is deductible from the value in terms of section 15(3)(a)] | <u>1,000</u> |
| Value of taxable supply | 57,000 |

ILLUSTRATION 2

Samridhi Advertisers conceptualised and designed the advertising campaign for a new product launched by New Moon Pvt Ltd. for a consideration of ₹ 5,00,000. Samridhi Advertisers owed ₹ 20,000 to one of its vendors in relation to the advertising service provided by it to New Moon Pvt Ltd. Such liability of Samridhi Advertisers was discharged by New Moon Pvt Ltd. New Moon Pvt Ltd. delayed the payment of consideration and thus, paid ₹ 15,000 as interest.

Determine the value of taxable supply made by Samridhi Advertisers.

ANSWER**Computation of value of taxable supply**

| Particulars | ₹ |
|---|-----------------|
| Service charges | 5,00,000 |
| Payment made by New Moon Pvt. Ltd to vendor of Samriddhi Advertisers [Liability of the supplier being discharged by the recipient, is includible in the value in terms of section 15(2)(b)] | 20,000 |
| Interest for delay in payment of consideration [Includible in the value in terms of section 15(2)(d)] | 15,000 |
| Value of taxable supply | 5,35,000 |

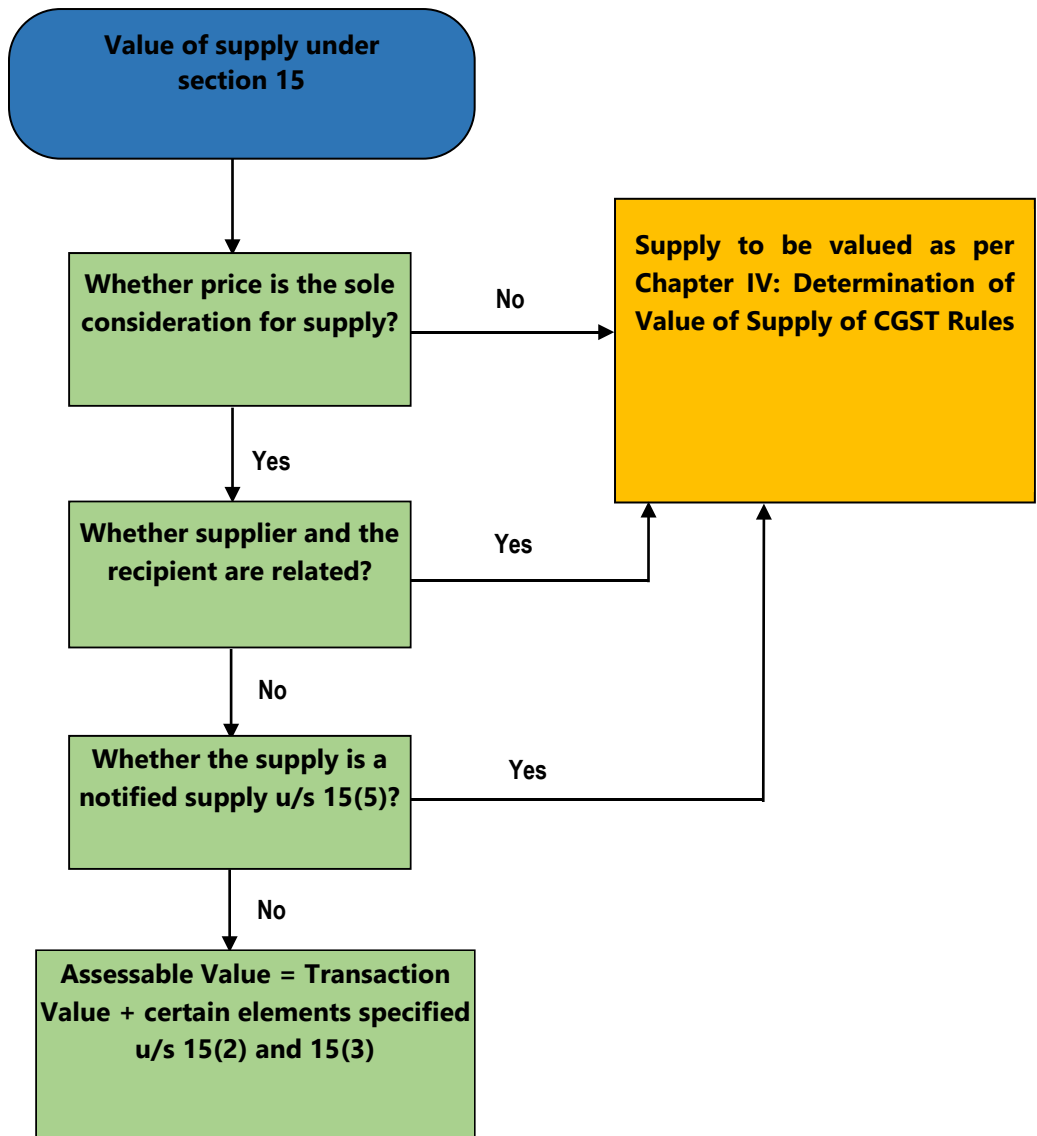
B. Supplies where value cannot be determined u/s 15(1) and notified supplies [Sub-sections (4) and (5) of section 15]

Section 15(4) lays down that where sub-section (1) is not applicable, that is, if the transaction is with a related party, and/or price is not the sole consideration for the supply of goods / services, then the value will be determined in the manner as prescribed (see the definition of 'prescribed'), which means as stipulated in the rules for valuation i.e., Chapter IV: Determination of Value of Supply of CGST Rules.

Further, section 15(5) lays down that in respect of certain notified supplies also, the value will be determined in the manner as stipulated in the rules for valuation. Thus, the methodology of transaction value, deduction of discounts and other provisions of sub-sections (1) to (4) of section 15 will not apply for such notified categories of transactions; instead the rules will prescribe a different method of determining value for these notified transactions. At present, the rules have prescribed a different valuation method for


- (i) the service of purchase or sale of foreign currency including money changing,
- (ii) the service of booking air tickets by an air travel agent,
- (iii) life insurance service
- (iv) buying and selling of second hand goods,

- (v) vouchers, tokens, coupons or stamps (other than postage stamps) redeemable against goods or services;
- (vi) services provided without consideration between distinct persons under GST laws that are different units of the same legal entity.





4. RULES FOR VALUATION OF SUPPLY OF GOODS AND/OR SERVICES

|  CHAPTER IV: DETERMINATION OF VALUE OF SUPPLY OF CGST RULES | | |
|---|--|--|
| Rule 27 | Value of supply of goods or services where the consideration is not wholly in money.- | |
| Sub-rule | Clause | Particulars |
| | | <i>Where the supply of goods or services is for a consideration not wholly in money, the value of the supply shall,-</i> |
| | (a) | <i>be the open market value of such supply;</i> |
| | (b) | <i>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;</i> |
| | (c) | <i>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;</i> |
| | (d) | <i>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.</i> |
| | | <i>Illustration:</i> |
| | | <i>(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</i> |

| | | |
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| | <p>without exchange is twenty four thousand rupees, the open market value of the new phone is twenty four thousand rupees.</p> <p>(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 forty four thousand rupees.</p> | |
| Rule 28 | <p>Value of supply of goods or services or both between distinct or related persons, other than through an agent.-</p> | |
| | <p>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-</p> | |
| | (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: |
| | <p>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:</p> | |
| <p>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.</p> | | |

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| Rule 29 | Value of supply of goods made or received through an agent.- | |
| | <i>The value of supply of goods between the principal and his agent shall-</i> | |
| | (a) | <i>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.</i> |
| | <i>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. The value of the supply made by the principal shall be four thousand five hundred and fifty rupees per quintal or where he exercises the option, the value shall be 90 per cent. of five thousand rupees i.e., four thousand five hundred rupees per quintal.</i> | |
| (b) | <i>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.</i> | |
| Rule 30 | Value of supply of goods or services or both based on cost.- | |
| | <i>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.</i> | |

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| Rule 31 | Residual method for determination of value of supply of goods or services or both.- | |
| | <i>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:</i> | |
| | <i>Provided that in the case of supply of services, the supplier may opt for this rule, ignoring rule 30.</i> | |
| Rule 32 | Determination of value in respect of certain supplies.- | |
| Sub-rule | Clause | Particulars |
| (1) | | <i>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.</i> |
| (2) | | <i>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:-</i> |
| | (a) | <i>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:</i> |
| | | <i>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:</i> |
| | | <i>Provided also that a person supplying the services may exercise the option to ascertain the value in terms of clause (b) for a</i> |

| | | |
|-----|--|--|
| | | <i>financial year and such option shall not be withdrawn during the remaining part of that financial year.</i> |
| | (b) | <i>at the option of the supplier of services, the value in relation to the supply of foreign currency, including money changing, shall be deemed to be-</i> |
| | (i) | <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;</i> |
| | (ii) | <i>(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</i> |
| | (iii) | <i>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.</i> |
| (3) | <i>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.</i> | |
| | <i>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.</i> | |
| (4) | <i>The value of supply of services in relation to life insurance business shall be,-</i> | |
| | (a) | <i>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;</i> |

| | | |
|-----|-----|--|
| | (b) | <i>in case of single premium annuity policies other than (a), ten per cent. of single premium charged from the policy holder; or</i> |
| | (c) | <i>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:</i> |
| | | <i>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.</i> |
| (5) | | <i>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:</i> |
| | | <i>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.</i> |
| (6) | | <i>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.</i> |
| (7) | | <i>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.</i> |

| | |
|----------------|---|
| Rule 33 | Value of supply of services in case of pure agent. |
| | <i>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> |
| (i) | <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;</i> |
| (ii) | <i>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</i> |
| (iii) | <i>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.</i> |
| | <i>Explanation.- For the purposes of this rule, the expression "pure agent" means a person who-</i> |
| (a) | <i>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;</i> |
| (b) | <i>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;</i> |
| (c) | <i>does not use for his own interest such goods or services so procured; and</i> |
| (d) | <i>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.</i> |

| | |
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| | <p><i>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 the Registrar of Companies. The fees charged by the Registrar of Companies for the 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.</i></p> |
| Rule 34 | Rate of exchange of currency, other than Indian rupees, for determination of value.- |
| Sub-rule | Particulars |
| (1) | <i>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.</i> |
| (2) | <i>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.</i> |
| Rule 35 | Value of supply inclusive of integrated tax, central tax, State tax, Union territory tax.- |
| | <i>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,-</i> |
| | <i>Tax amount = (Value inclusive of taxes X tax rate in % of IGST or, as the case may be, CGST, SGST or UTGST) ÷ (100+ sum of tax rates, as applicable, in %)</i> |

Explanation.- For the purposes of the provisions of this Chapter, the expressions-

- | | |
|------------|--|
| (a) | <i>"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;</i> |
| (b) | <i>"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.</i> |



ANALYSIS

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

If the consideration for a supply of goods and /or services is non-monetary in nature, either wholly or partly, the supply is valued by any of the following methods: **[The methods are to be used in order of sequence; the one coming later in the sequence is applicable only if the previous method(s) are not applicable.]**

- (a) The open market value of such supply;
- (b) If open market value of the supply is not known, the consideration in money plus the money equivalent of the non-money consideration, if such amount is known at the time of supply;
- (c) If the value cannot be determined under the previous two clauses, the value of supply of goods and/or services of like kind and quality;

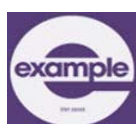
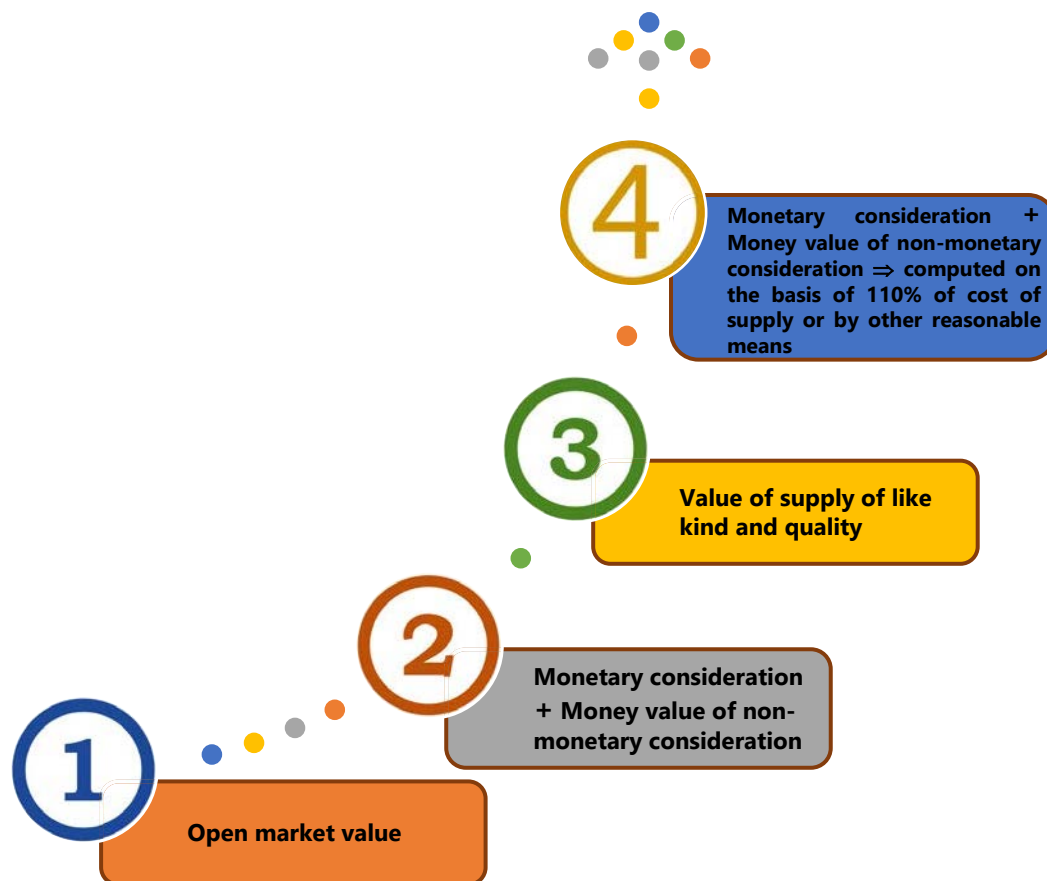
- (d) Finally, if the other methods are not applicable, the consideration in money plus the money equivalent of the non-money consideration, as worked out based on cost of the supply plus **10%** mark-up [*Rule 30 regarding cost-based valuation has been discussed in subsequent pages of this Chapter*] or by other reasonable means [Best Judgement Method], in that sequence [*Rule 31 regarding reasonable means has been discussed in subsequent pages of this Chapter*]).



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



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



(i) Exchange value of old phone lowers the price of a new phone. The known market value of the new phone (without exchange of old phone) is its taxable value.

(ii) Laptop is manufactured and supplied for ₹ 40,000. Part value is received in barter in the form of a printer valued at ₹ 4000. Market value of the laptop is not known. Its taxable value will be ₹ 44,000.



A company procures and modifies a machine and supplies it to its unrelated customer. Since, it is a customised machine, the open market value of the machine is not available as also the value of any other machine of the like kind and quality is also not available.

Therefore, the value should be worked out by adding the cost of modification to the cost of acquisition of the machine and adding thereto 10% of the sum of these costs.

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

A person who is under influence of another person is called a related person like members of the same family or subsidiaries of a group company etc. Under GST law various categories of related persons have been specified and as relation may influence the price between two related persons therefore, special valuation rule has been framed to arrive at the taxable value of transactions between related persons.

Rule 28 deals with transactions between related persons [See definition of related person in Explanation to section 15] and between 'distinct persons' as specified under section 25, which means different registrations/establishments of the same entity [Refer Chapter 9: Registration for a detailed discussion on the concept of 'distinct persons']. **This rule, however, does not provide the value of the supply made through an agent.**

It may be recollected that a supply between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business is treated as supply even if made without consideration in terms of paragraph 2 of Schedule I of CGST Act. **Thus, rule 28 provides the value of such kind of supplies when the same are made for a consideration as well as when the same are made without consideration.**

The concept of related person has been explained by way of diagram given in the next page.



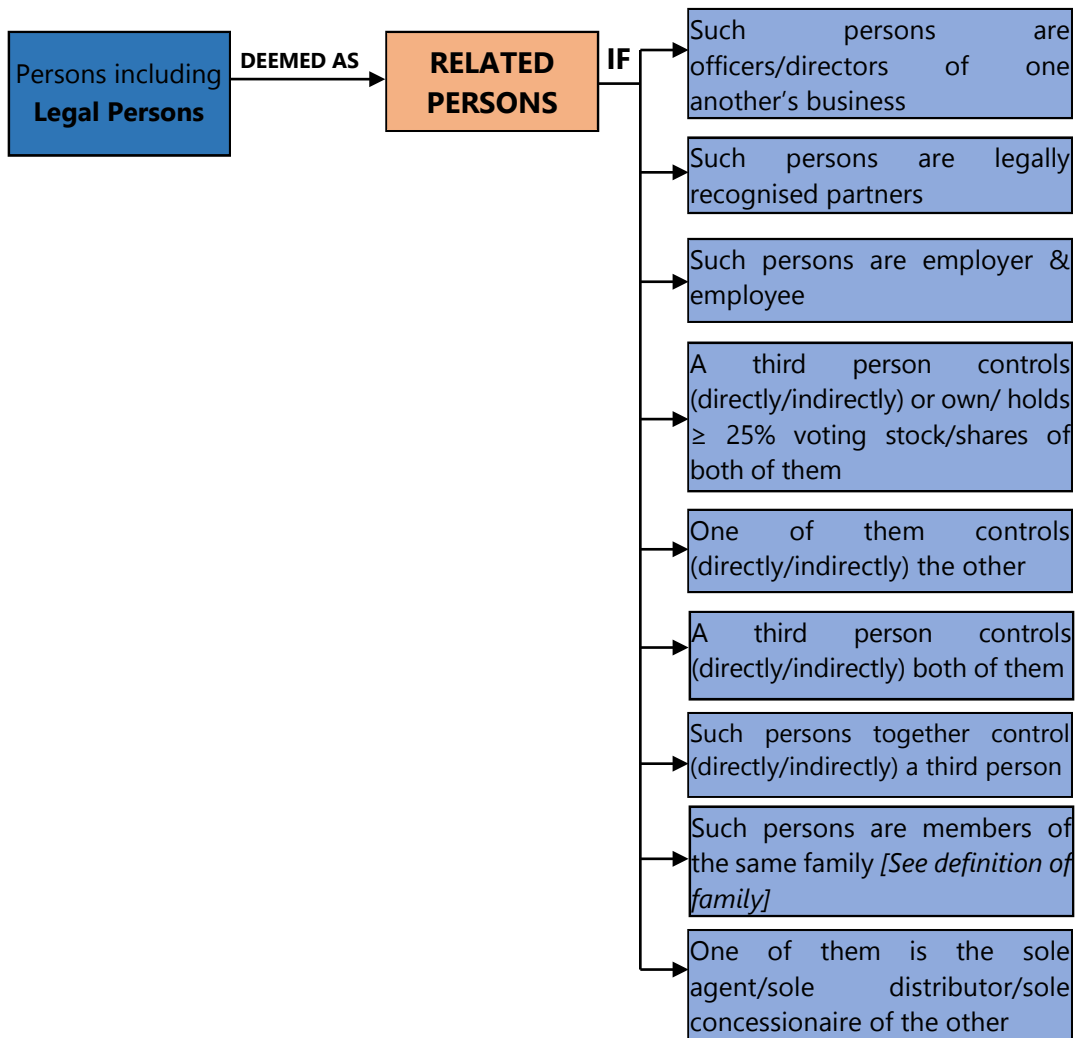
(i) Mr. A and Mr. B are partners in the partnership firm A&B Co. Mr. A & Mr. B are related persons. Thus, a transaction of supply between Mr. A & Mr. B in the course or furtherance of business is treated as supply even if made without consideration.


(ii) Ms. Priya holds 30% shares of ABC Ltd. and 35% shares of XYZ Ltd. ABC Ltd. and XYZ Ltd. are related.

(iii) Q Ltd. has a deciding role in corporate policy, operations management and quality control of R Ltd. It can be said that Q Ltd. controls R Ltd. Thus, Q Ltd. and R Ltd. are related.

(iv) Alpha Ltd. controls the composition of Board of directors of Beta Ltd. and Gama Ltd. It is said to control both Beta Ltd. and Gama Ltd. Beta Ltd. and Gama Ltd. are related persons.

(v) Brita Ltd. and Grita Ltd. together control Margarita Ltd. Brita Ltd. and Grita Ltd. are related persons.

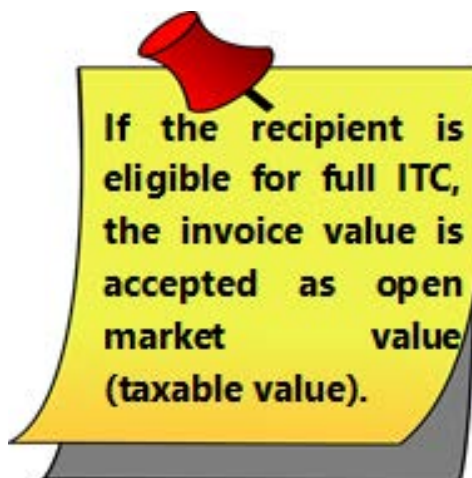


 A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act [Section 25(4)].

Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act. [Section 25(5)].

The methods of valuation of transactions between related persons and between distinct persons, **in the sequence in which they are to be applied, are as follows:**

- (a) the open market value of such supply;
- (b) if open market value is not available, the value of supply of goods or services of like kind and quality;
- (c) if value cannot be determined under the above methods, it must be worked out based on the cost of the supply plus **10%** mark-up [*Rule 30 regarding cost-based valuation has been discussed in subsequent pages of this Chapter*] or by other reasonable means, in that sequence [*Rule 31 regarding reasonable means has been discussed in subsequent pages of this Chapter*].



If the goods are intended to be supplied AS SUCH by the recipient

Value = 90% of the price charged for the supply of goods of like kind and quality by the recipient to his unrelated customer

However, it is not mandatory for the supplier to adopt this method of valuation. He can opt to value his goods in accordance with the valuation methods prescribed in clause (a), (b) or (c) above.

Rule 32 has been discussed in detail in subsequent pages of this Chapter.

It is important to note that as per valuation rule 32(7), the value of taxable services provided by notified class of service providers, without any consideration, between distinct persons is NIL, if ITC thereon is available.

The valuation mechanism prescribed in rule 28 read with rule 32(7) has been explained by way of a flow diagram given at the page no. 7.37.

Rule 29 – Value of supply of goods or received through an agent


Supply of goods between principal and agent is valued by the following methods, **applied in sequence:**

- (a) Open market value of goods being supplied

OR

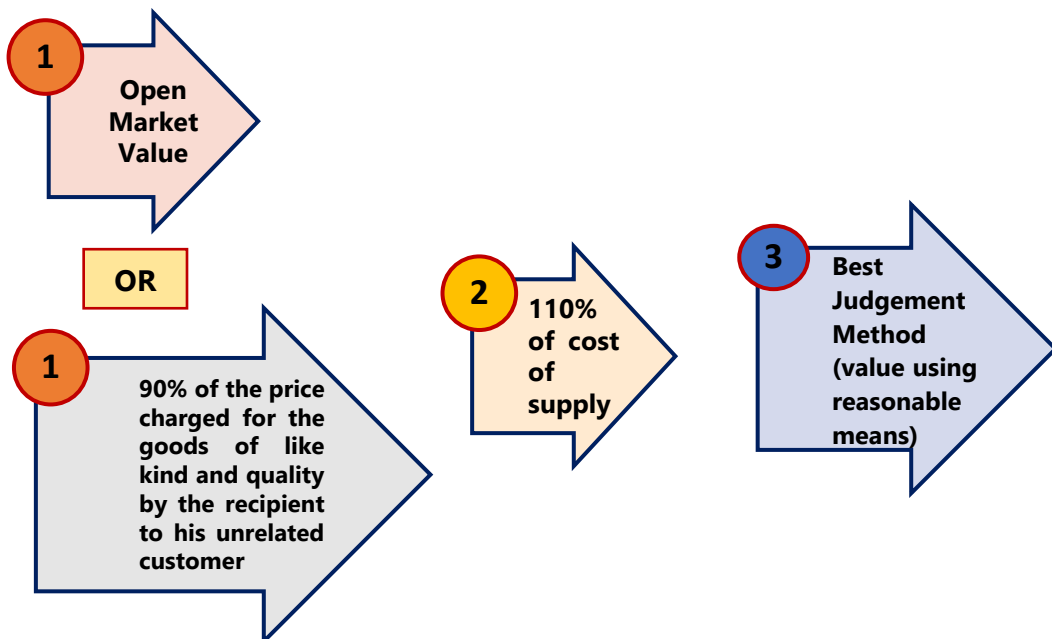
90% of the price charged for the supply of goods of like kind and quality by the recipient to his unrelated customer

[Supplier has the option to choose either of the two methods]



This rule is applicable only for supply of goods.

- (b) In case value cannot be determined under (a) then following values have to be considered sequentially to determine the taxable value:
- i. Value of supply based on cost i.e. cost of supply plus 10% mark-up
 - ii. Value of supply determined by using reasonable means consistent with principles & general provisions of GST law (Best Judgement Method)



**Example of clause (a)**

P (principal) supplies groundnuts to A (agent). A in turn sells groundnuts at ₹ 5000 per quintal. Another independent supplier sells groundnuts at ₹ 4550 per quintal.

Thus, the open market value of groundnuts is ₹ 4550 per quintal. 90% of A's selling price in the normal course of trade is ₹ 4500 per quintal.

P has the option to adopt the open market price (₹ 4550) or 90% of A's onward selling price (₹ 4500) as the taxable value of the groundnuts supplied by him to A.

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

If the value of a supply of goods and/or services cannot be worked out by the foregoing methods, its value will be 110% of the cost of production/ manufacture/acquisition of such goods or cost of provision of such services.

Service providers have the option to directly move to rule 31 by-passing rule 30.

Rule 31 – Residual method for determination of value of supply of goods or services or both [Best Judgement Method]

The supplier of goods needs to sequentially follow rules 27 to 30 before valuing goods as per this residual rule 31. Service providers, however, have the option of valuing services as per rule 30 or rule 31 after sequentially following rules 27 to 29.

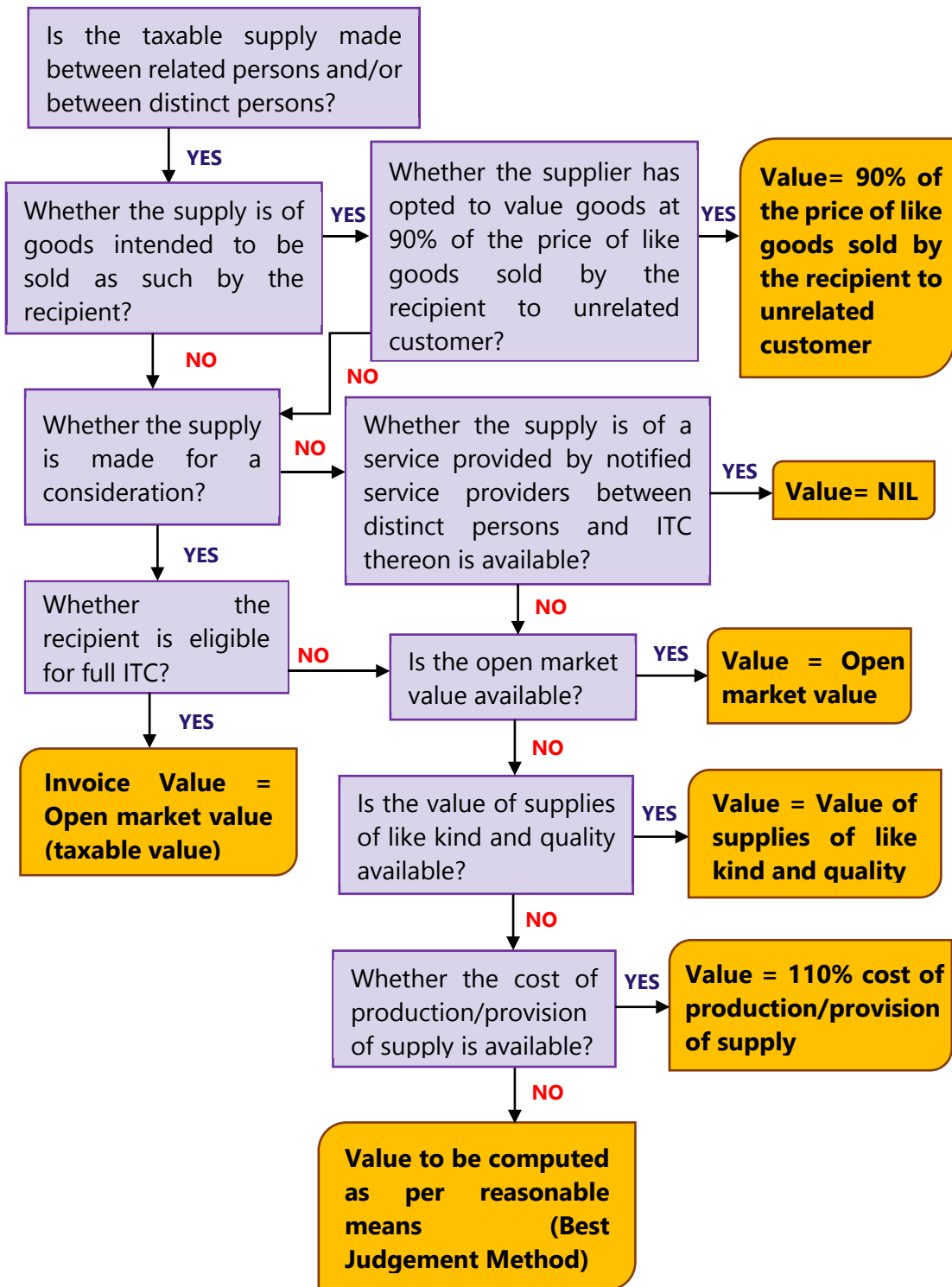
The residual method consists of determination of value by using reasonable means consistent with the principles and general provisions of section 15 and these Rules.

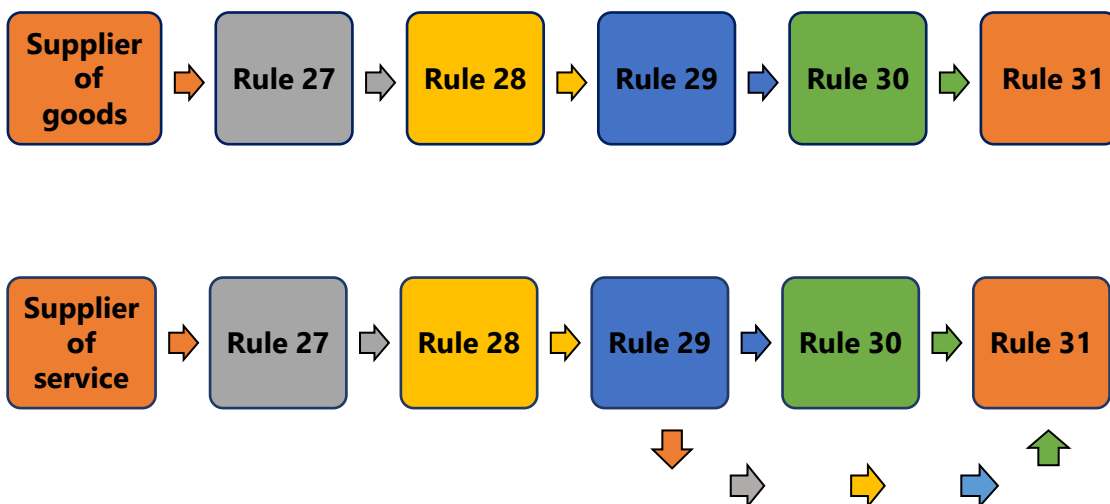


A cosmetics company buys its products from a subcontractor, who supplies "testers" of each product, to be placed in retail outlets, free of charge. These are of different size from the product that is sold.

The company and the sub-contractor are related persons. As none of the methods in rules 27 to 30 will work for valuing these testers, the value will have to be determined by using reasonable means consistent with the principles and general provisions of section 15 and the Rules.

A possible method may be *pro rata* reduction of the price based on difference in size from the product that is sold.





Rule 32 – Determination of value in respect of certain supplies



- ✦ This rule provides the valuation methods for five specific supplies.
- ✦ This rule overrides other rules of valuation. Thus, the supplies prescribed in this rule need not be valued by sequentially following rules 27 to 31.
- ✦ The valuation methods prescribed under this rule are optional; the supplier can use them if he so desires. He can also opt to value his supplies in accordance with other valuation rules.

The special provisions related to determination of value of such specific supplies are discussed below:

(i) Special provision relating to determination of value of service of purchase or sale of foreign currency including money changing [Sub-rule (2)]

The value of service in relation to purchase or sale of foreign currency, including money changing, is determined by either of the two methods:

Method-1

Case 1: Transaction where one of the currencies exchanged is Indian Rupees



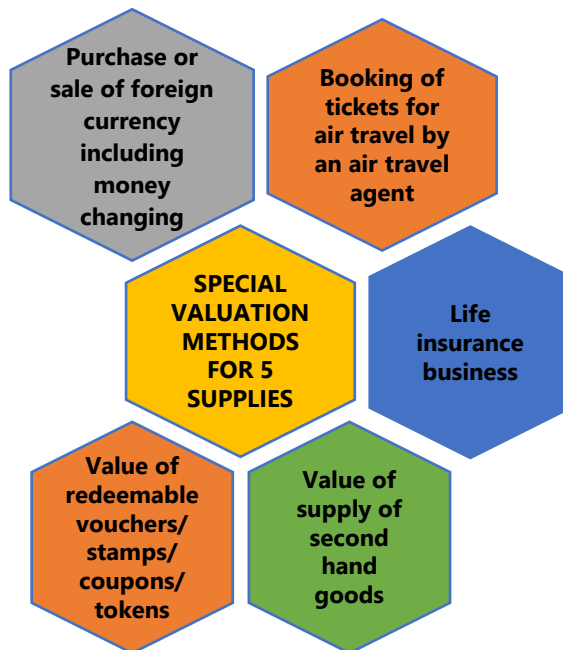
The value of supply is difference between buying rate or selling rate of currency and RBI reference rate for that currency at the time of exchange multiplied by total units of foreign currency.

However, if RBI reference rate for a currency is not available then value of supply is **1%** of the gross amount of Indian Rupees provided/ received by the person changing the money.



On 10th May, Mr. Doshi converted USD \$ 100 into ₹ 6,400 @ ₹ 64 per USD through Eastern Money Changers. RBI reference rate on 10th May for US \$ is ₹ 63 per US \$. The value of supply in this case is $(₹ 63 - ₹ 64) * \$ 100 = ₹ 100$ and GST will be levied on this amount.

If the RBI reference rate is not available, then 1% of ₹ 6,400 i.e., ₹ 64 will be the value of supply of service.



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

The value of supply is 1% of the lesser of the two amounts the person changing the money would have received by converting (at RBI reference rate) any of the two currencies in Indian Rupees.



US \$ 9,000 are converted into UK £ 4,500. RBI reference rate at that time for US \$ is ₹ 63 per US dollar and for UK £ is ₹ 82 per UK Pound. In this case, neither of the currencies exchanged is Indian Rupee.

Hence, in the given case, value of taxable service would be 1% of the lower of the following:-

- (a) US dollar converted into Indian rupees = \$ 9,000 × ₹ 63 = ₹ 5,67,000
 (b) UK pound converted into Indian rupees = £ 4,500 × ₹ 82 = ₹ 3,69,000
 Value of taxable service = 1% of ₹ 3,69,000 = ₹ 3,690

Method-2

The person supplying the service may also exercise the following option (based on slab rates) to ascertain the value of service, however, once opted he cannot withdraw it during the remaining part of the financial year:

| S. No. | Currency exchanged | Value of supply |
|--------|---|---|
| 1. | Upto ₹ 1,00,000 | 1% of the gross amount of currency exchanged OR ₹ 250 whichever is higher |
| 2. | Exceeding ₹ 1,00,000 and upto ₹ 10,00,000 | ₹ 1,000 + 0.50% of the (gross amount of currency exchanged - ₹ 1,00,000) |
| 3. | Exceeding ₹ 10,00,000 | ₹ 5,500 + 0.1% of the (gross amount of currency exchanged - ₹ 10,00,000) OR ₹ 60,000 whichever is lower |

ILLUSTRATION 3

Mr. X, a money changer, has exchanged US \$ 10,000 to Indian rupees @ ₹ 64 per US \$. Mr. X wants to value the supply in accordance with rule 32(2)(b) of CGST Rules.

Determine the value of supply made by Mr. X.

ANSWER

As per rule 32(2)(b) of CGST Rules, the value in relation to the supply of foreign currency, including money changing, is deemed to be-

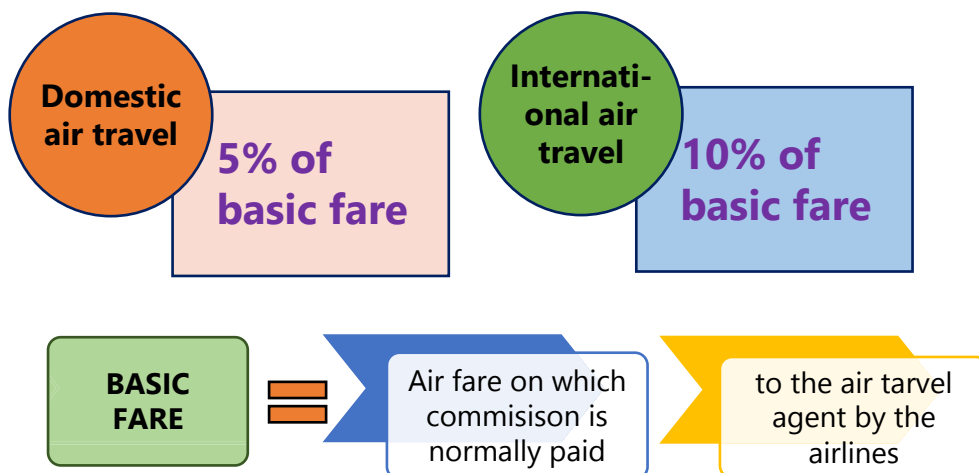
- (i) 1% of the gross amount of currency exchanged for an amount up to ₹ 1,00,000, subject to a minimum amount of ₹ 250;
- (ii) ₹ 1,000 and 0.5% of the gross amount of currency exchanged for an amount exceeding ₹ 1,00,000 and up to ₹ 10,00,000.

Therefore, the value of supply, made by Mr. X, under rule 32(2)(b) of CGST Rules is computed as under:

| Particulars | ₹ | ₹ |
|--|--------------|--------------|
| Value of currency exchanged in Indian rupees [₹ 64 x US \$ 10,000] | 6,40,000 | |
| Upto ₹ 1,00,000 | 1,000 | |
| For ₹ 5,40,000 [0.50% x ₹ 5,40,000] | <u>2,700</u> | |
| Value of supply | | 3,700 |

(ii) Special provision relating to determination of value of service of booking of tickets for air travel by an air travel agent [Sub-rule (3)]

Value of service of booking of tickets for air travel by an air travel agent is 5% of basic fare in case of domestic travel and 10% of basic fare in case of international travel.

**ILLUSTRATION 4**

Mr. U is an air travel agent. Compute the value of supply of service made by him during a month with the help of following particulars furnished by him:

| Particulars | Basic fare (₹) | Other charges and fee (₹) | Taxes (₹) | Total value of tickets (₹) |
|------------------------|----------------|---------------------------|-----------|----------------------------|
| Domestic Bookings | 1,00,900 | 9,510 | 4,990 | 1,15,400 |
| International Bookings | 3,16,880 | 20,930 | 15,670 | 3,53,480 |

ANSWER**Computation of value of supply of services made by Mr. U in a month**

| Particulars | ₹ | ₹ |
|--|----------|-------|
| Basic fare in case of domestic bookings | 1,00,900 | |
| Value of supply @ 5% [A] Refer Note below | | 5,045 |
| Basic fare in case of international bookings | 3,16,880 | |

| | | |
|--|--|---------------|
| Value of supply @ 10% [B] Refer Note below | | 31,688 |
| Value of supply [A] + [B] (rounded off) | | 36,733 |

Note:

As per rule 32(3) of CGST Rules, the value of the supply of services in relation to booking of tickets for travel by air provided by an air travel agent is 5% of the basic fare in the case of domestic bookings, and 10% of the basic fare in the case of international bookings.

(iii) Special provision relating to determination of value of service in relation to life insurance business [Sub-rule (4)]

Value of life insurance service varies with nature of insurance policy. The details are as follows:

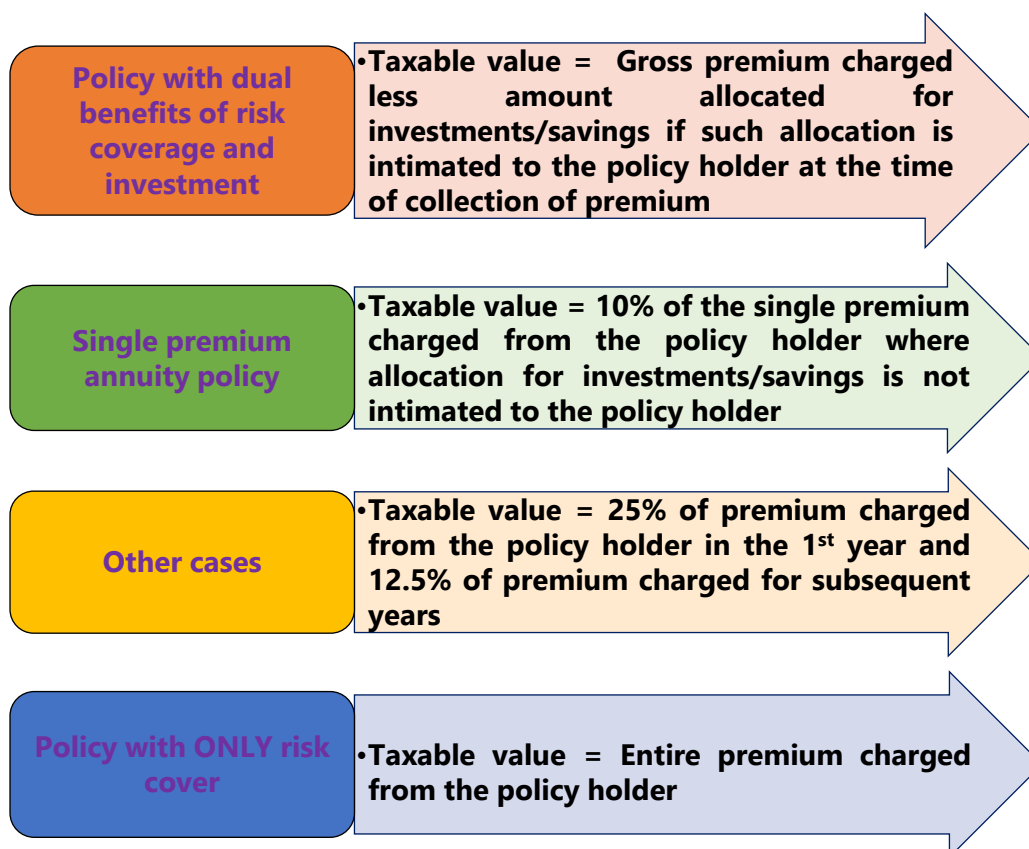


ILLUSTRATION 4

Arihant Life Insurance Company Ltd. (ALICL) has charged gross premium of ₹ 180 lakh from policy holders with respect to life insurance policies in the 2017-18; out of which ₹ 100 lakh have been allocated for investment on behalf of the policy holders.

Compute the value of supply of life insurance services provided by ALICL:

- (i) if the amount allocated for investment has been intimated by ALICL to policy holders at the time of supply of service.*
- (ii) if the amount allocated for investment has not been intimated by ALICL to policy holders at the time of providing of service.*
- (iii) if the gross premium charged by ALICL from policy holders is only towards risk cover.*

Note: ALICL has started its operations in the year 2017-18. Thus, the entire gross premium of ₹ 180 lakh is the premium for the first year of all the policies. ALICL has not issued any single premium annuity policy.

ANSWER

As per rule 32(4), of the CGST Rules, value of supply of services in relation to life insurance services is

- (a) the gross premium reduced by the amount allocated for investment 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 all other cases, 25% of the premium in the 1st year and 12.5% of the premium in subsequent years

However, where the entire premium paid by the policy holder is only towards risk cover, such gross premium is the value of supply of life insurance services.

In the light of the aforesaid provisions, value of supply of life insurance services provided by ALICL in financial year 2017-18 will be computed as follows:

- (i) Amount allocated for investment intimated to policy holder at the time of supply of service

Value of service = ₹ (180-100) lakh = ₹ 80,00,000

- (ii) Amount allocated for investment not intimated to policyholders at the time of supply of service

Value of service = 25% of ₹ 180 lakh = ₹ 45,00,000

(iii) Gross premium received is only towards risk cover

Value of service = ₹ 180 lakh

(iv) Special provision relating to determination of value of second hand goods – Margin Scheme [Sub-rule (5)]

Normally GST is charged on the transaction value of the goods. However, in respect of second hand goods, a person dealing in such goods may be allowed to pay tax on the margin i.e., the difference between the value at which the goods are supplied and the price at which the goods are purchased.



If there is no margin, no GST is charged for such supply.



The purpose of the margin scheme is to avoid double taxation as the goods, having once borne the incidence of tax, re-enter the supply chain.

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



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

Intra-State supplies of second hand goods by an unregistered supplier to registered second hand goods dealer exempt from CGST

It may be noted that w.e.f. July 1, 2017, the CGST leviable on intra-State supplies of second hand goods received by a registered second hand goods dealer [who pays CGST on the value of outward supply of such second hand goods under margin scheme] from any unregistered supplier, has been exempted vide

Notification No. 10/2017 CT (Rate) dated

28.06.2017. Similar exemptions are also there in respective SGST Acts.

**GOODS EXEMPT CGST
SUPPLIER
HAND SECOND
UNREGISTERED**

VALUE OF SECOND HAND GOODS

When ITC is not availed [Margin Scheme]

- Value = Selling price - Purchase price
- Selling price < Purchase price
⇒ Ignore negative value
- CGST on second hand goods received from unregistered supplier exempt

When ITC is availed

- Normal valuation as per other applicable provisions



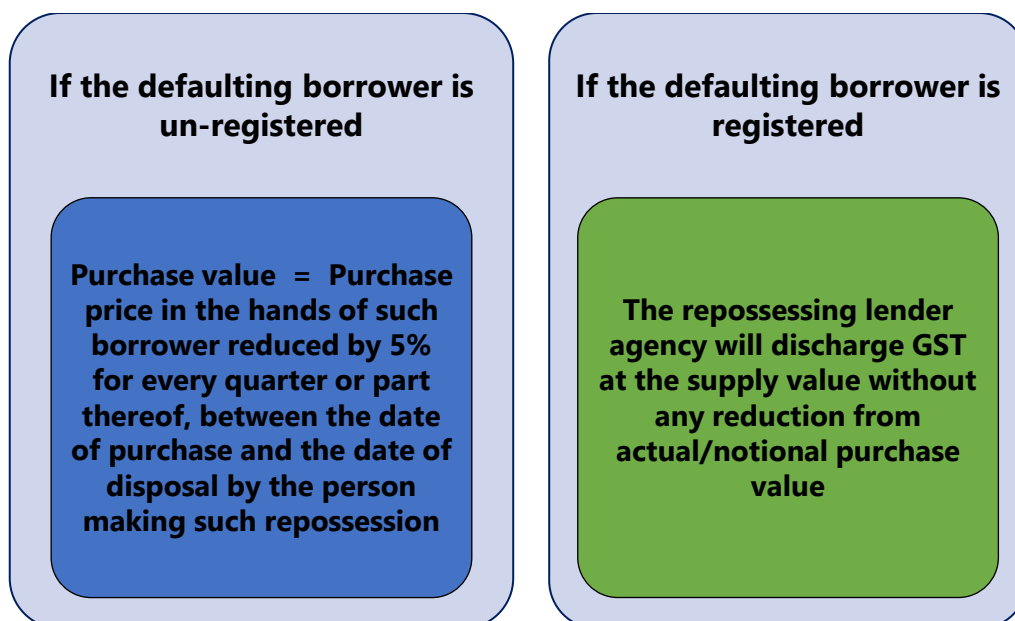
A company X Ltd, which deals in buying and selling of second hand cars, purchases a second hand Maruti Alto Car of March, 2014 make (Original price ₹ 5 lakh) for ₹ 3 lakh from an unregistered person and sells the same after minor refurbishing for ₹ 3,50,000. The supply of the car to the company for ₹ 3 lakh shall be exempted, and the supply of the same by the company to its customer for ₹ 3.5 lakhs shall be taxed.

The value for GST purpose shall be ₹ 50000/ i.e., the difference between the selling and the purchase price of the company. In case any other value is added by way of repair, refurbishing, reconditioning etc., the same shall also be added to the value of goods and be part of the margin.

If margin scheme is opted for a transaction of second hand goods, the person selling the car to the company shall not issue any taxable invoice and the company purchasing the car shall not claim any ITC.

Purchase value of supply of goods repossessed from a defaulting borrower

Many a times goods taken on loan are repossessed by the lender in the event of default in payment of the loan. The purchase value of such repossessed asset is-



(v) Special provisions relating to determination of value of redeemable vouchers/stamps/coupons/tokens [Sub rules (6)]

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



If ₹ 1,500 worth of Sodexo is supplied by the taxable person, the value of supply under GST law will also be ₹ 1,500.

(vi) Special provisions relating to determination of value of services provided by notified service providers between distinct persons [Sub rules (7)]

Value of taxable services provided by notified class of service providers, without consideration, between distinct persons [as referred to in Para 2 of Schedule 1 of CGST Act], **is deemed to be NIL if ITC is available**

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

Broadly speaking, a pure agent is one who while making a supply to the recipient, also receives and incurs expenditure on some other supply on behalf of the recipient and claims reimbursement (as actual, without adding it to the value of his own supply) for such supplies from the recipient of the main supply. While the relationship between them (provider of service and recipient of service) in respect of the main service is on a principal to principal basis, the relationship between them in respect of other ancillary services is on pure agent basis.



A is an importer and B is a custom broker. A approaches B for customs clearance work in respect of an import consignment. The clearance of import consignment and delivery of the consignment to A would also require taking service of a transporter. So A, also authorises B, to incur expenditure on his behalf for procuring the services of a transporter and agrees to reimburse B for the transportation cost at actuals.

Here, B is providing customs brokers service to A, which would be on a principal to principal basis. The ancillary service of transportation, is procured by B on behalf of A as a pure agent and expenses incurred by B on transportation should not form part of value of customs broker service provided by B to A. This, in sum and substance is the relevance of the pure agent concept in GST.

The important thing to note is that a pure agent does not use the goods or services so procured for his own interest and this fact has to be determined from the terms of the contract. In the illustration of importer and customs broker

given above, assuming that the contract was for clearance of goods and delivery to the importer at the price agreed upon in the contract, the customs broker would be using the transport service for his own interest (as the agreement requires him to deliver the goods at the importers place) and thus, would not be considered as a pure agent for the services of transport procured.

Another important fact is that, the person who provides any service as a pure agent receives only the actual amount for the services provided. Coming back to our example of importer and customs broker, the agreement provides reimbursement of transport services utilised at actuals.

In this case, let's say the value of transport service was ₹10,000/-. If the customs broker charges any amount more than ₹10,000/-, then he will not be considered as a pure agent for the services of transport and the value of transport service will be included in the value of his customs broker service.

Relevance of pure agent under GST: Expenditure/costs incurred as pure agent excluded from value of supply

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

The preceding paras explained who is considered as a pure agent. The valuation rules provide that expenditure incurred as pure agent, are excluded from the value of supply, and thus, also from aggregate turnover. However, such exclusion of expenditure incurred as pure agent is possible only and only if all the conditions required to be considered as a pure agent and further conditions stipulated in the rules are satisfied by the supplier in each case.

Expenditure or costs incurred by the supplier of services ('S') as pure agent of the recipient of services ('R') is excluded from the value of supply, if all the following conditions (in addition to the conditions required to be satisfied to be considered as a pure agent) are satisfied:

- The payment arises out of a contract between 'R' and a third party, and 'S' acts as pure agent of 'R' when he makes the payment;
- 'R' authorizes 'S' to make payment on his behalf;
- 'S' shows the payment separately in the invoice issued by him to 'R';
- The supplies procured by 'S' from the third party as pure agent of 'R' are in addition to the services that he provides on his own account.

'Pure agent' here means a person 'S' who -



- enters into contractual agreement with 'R' to act as his pure agent to incur expenditure/costs in the course of supply of goods and /or services;
- does not hold or intends to hold any title to the goods and / or services so procured or supplied as pure agent of 'R';
- does not use for his own interest such goods or services so procured; and
- receives only the actual amount incurred to procure such goods or services

(apart from the amount for the services provided on his own account)

The supplier needs to fulfil **ALL** the above conditions in order to qualify as a pure agent. In case the conditions are not satisfied, such expenditure incurred is included in the value of supply under GST.

The following illustration will make the concept clearer:



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 for 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.



Some examples of expenditure/costs incurred as pure agent are:

1. Port fees, port charges, custom duty, dock dues, transport charges etc. paid by customs broker on behalf of the owner of goods.
2. Expenses incurred by C&F agent and reimbursed by principal such as freight, godown charges.



Suppose a customs broker issues an invoice for reimbursement of a few expenses and for consideration towards agency service rendered to an importer. the amounts charged by the customs broker are as below:

| S.No. | Component charged in invoice | Amount |
|-------|------------------------------------|------------|
| 1 | Agency income | ₹ 10000/- |
| 2 | Traveling expenses; Hotel expenses | ₹ 15,000/- |
| 3 | Customs duty | ₹ 55,000/- |
| 4 | Docks dues | ₹ 5000/ |

In the above situation, agency income and travelling/ hotel expenses shall be added for determining the value of supply by the customs broker whereas docks dues and the customs duty shall not be added to the value, provided the conditions of pure agent are satisfied.

The pure agent concept is very important for businesses as it has direct implications on the value of taxable supply. It has direct bearing on the amount of GST charged on a particular supply. It also has bearing on the aggregate turnover of the supplier and therefore, on calculating the threshold limit for registration.

Whenever the supplier intends to act as a pure agent, care should be taken to ensure that the conditions specified for such pure agents and other conditions given in the valuation rules are also met so that only the real value of the service provided is subjected to GST.

Rule 34 – Rate of exchange of currency, other than Indian rupees, for determination of value

Goods: The relevant rate of exchange for determining the value of taxable goods is the rate notified by CBEC under section 14 of the Customs Act, 1962, prevalent on the date of time of supply of said goods.

Services: The relevant rate of exchange for determining the value of taxable service is the rate determined as per GAAP, prevalent on the date of time of supply of said service.

Rule 35 – Value of supply inclusive of integrated tax, central tax, State tax, Union territory tax

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

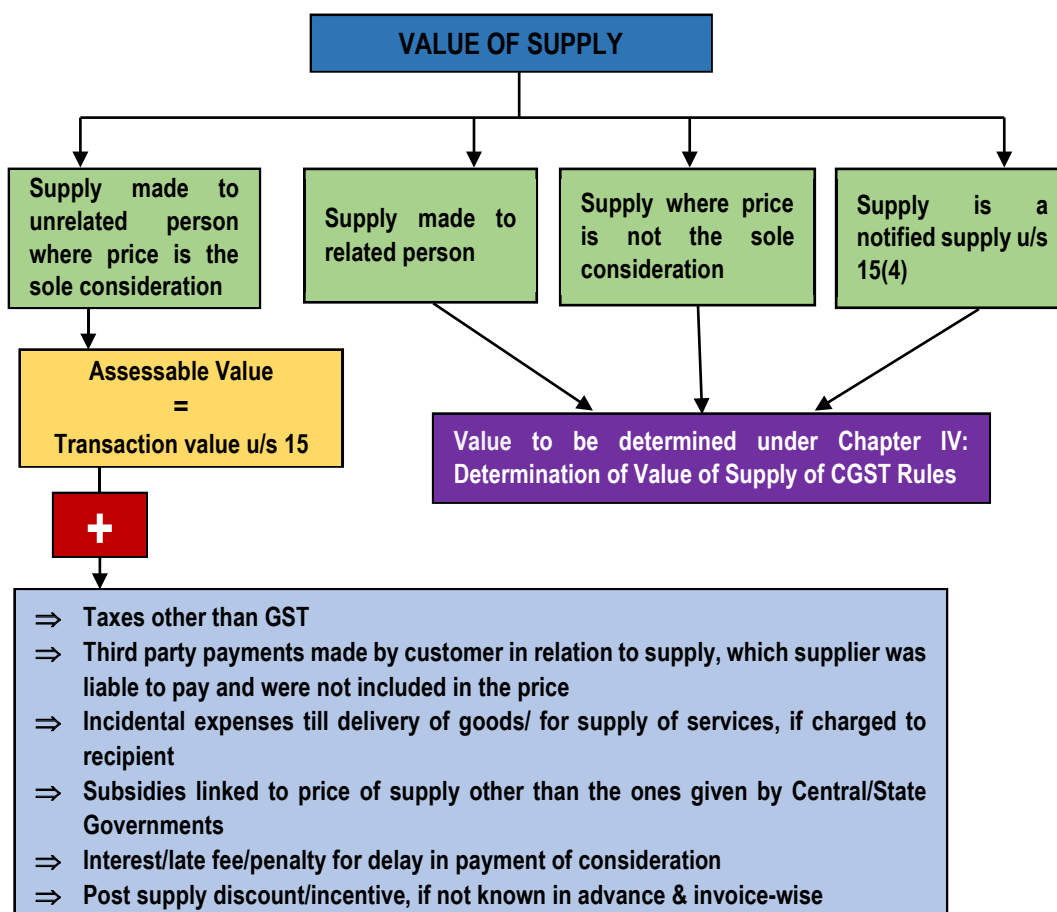
$$\text{Tax amount} = (\text{Value inclusive of taxes} \times \text{GST rate in \%}) [\text{IGST or CGST, SGST/UTGST}] / (100 + \text{sum of GST rates in \%})$$



If the value inclusive of tax is ₹ 100/- and applicable GST rate is 18% [IGST or CGST, SGST/UTGST] then,

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

LET US RECAPITULATE



VALUATION RULES

| | | | |
|--|---|--|---|
| <p>RULE 27: Consideration not wholly in money Value shall be either of the following in the given order:</p> <ul style="list-style-type: none"> • open market value • total of consideration in money + amount equal to the consideration not in money • value of supplies of like kind and quality • consideration in money + money value of consideration as per rule 30 or 31 in that order. | <p>RULE 28: Supply between distinct/related persons, other than agent Value shall be either of the following in the given order:</p> <ul style="list-style-type: none"> • open market value • value of supplies of like kind and quality • value as per rule 30 or 31 in that order. ♦ Option to supplier to value goods sold as such by recipient ⇒ Value = 90% of price charged by recipient to its unrelated customer ♦ Recipient eligible for ITC ⇒ invoice value = open market value (taxable value) | <p>RULE 29: Supply made/received through an agent Value shall be either of the following in the given order:</p> <ul style="list-style-type: none"> • open market value or 90% of price charged by recipient to his unrelated customer for supplies of like kind and quality; • value as per rule 30 or 31 in that order. | <p>RULE 31: Residual method (Best Judgement Method) Value shall be determined using reasonable means consistent with the principles and general provisions of section 15 & valuation rules. For services, rule 31 can be adopted before rule 30.</p> |
| <p>RULE 33: Supply as a pure agent Costs incurred by the supplier as a pure agent of recipient shall be excluded from value</p> | | <p>RULE 30: Value based on cost Value shall be 110% of cost of production/acquisition/provision of goods or services</p> | <p>RULE 34: Rate of exchange for determination of value Goods = Rate notified by CBEC under Customs Act on the date of time of supply of such goods; Services = Rate as per GAAP on the date of time of supply of such services</p> |

Rule 35: Value inclusive of taxes

Where value of supply is inclusive of CGST, SGST/UTGST or IGST, the tax amount is calculated by making back calculations. Tax amount = (Value inclusive of GST x GST rate in % of IGST or CGST, SGST/UTGST)/100 + sum of applicable GST rates in %)

RULE 32: Value of in respect of certain specific supplies

⇒ **Purchase/sale of foreign currency:** 1st method-Value = [Buying/Selling rate - RBI reference rate at that time] x total units of currency. If no RBI reference rate, value = 1% of INR received/provided. If the currencies exchanged are not in INR, value = lesser of the 2 amounts that would have been received by converting any of currencies into INR at RBI reference rate **OR** 2nd method

| Currency | Value |
|-----------------------------|---|
| Upto ₹ 1,00,000 | 1% or ₹ 250 whichever is higher |
| From ₹1,0001 to ₹ 10,00,000 | ₹ 1,000 + 0.5% |
| From ₹ 10,00,001 | ₹ 5,500 + 0.1% subject to maximum of ₹ 60,000 |

⇒ **Booking of tickets by air travel agent:** Value = 5% of basic fare for domestic bookings and 10% of the basic fare for international bookings.

⇒ **Life insurance business:** If amount allocated for investment is intimated - Value = Gross premium less amount allocated for investment; Single premium annuity policies where amount allocated for investment is not intimated - Value = 10% of single premium; Other cases – Value = 25% of premium in 1st year and 12.5% of premium in subsequent years; Policy only towards risk cover – Value = Entire premium

⇒ **Buying & selling of second hand goods:** Value = Selling price – Buying price (ignore if value is negative); Purchase value of goods repossessed from unregistered borrower = Purchase price- 5% per quarter or part thereof from date of purchase till the date of disposal by the person making repossession

⇒ **Coupon/voucher:** Value = money value of supplies redeemable against such voucher/ coupon

⇒ **Notified services between distinct persons without consideration:** Value = Nil, if ITC is available

TEST YOUR KNOWLEDGE

1. *AKJ Foods Pvt. Ltd. gets an order for supply of processed food from a customer. The customer wants the consignment tested for gluten or specified chemical residues. AKJ Foods Pvt. Ltd. does the testing and charges a testing fee for the same from the customer. AKJ Foods Pvt. Ltd. argues that such testing fess should not form part of the consideration for the sale as it is a separate activity.*

Is his argument correct in the light of section 15?

2. *A philanthropic association makes a substantial donation each year to a reputed private management institution to subsidise the education of low income group students who have gained admission there. The fee for these individuals is reduced thereby, coming to ₹3 lakh a year compared to ₹5 lakh a year for other students.*

What would be the taxable value of the service of coaching and instruction provided by the institution?

3. *Mezda Banners, an advertising firm, gives an interest-free credit period of 30 days for payment by the customer. Its customer ABC paid for the supply 32 days after the supply of service. Mezda Banners waived the interest payable for delay of two days.*

The Department wants to add interest for two days as per contract. Should notional interest be added to the taxable value?

4. *Crunch Bakery Products Ltd sells biscuits and cakes through its dealers, to whom it charges the list price minus standard discount and pays GST accordingly. When goods remain unsold with the dealers, it offers additional discounts on the stock as an incentive to push the sales.*

Can this additional discount be reduced from the price at which the goods were sold and concomitant tax adjustments made?

5. *Rajesh & Co. provides financial and management consultancy to a group of companies for an annual retainership fee of ₹15 lakh. It is given a room in the head office of the group for its exclusive use. Rajesh & Co. pays GST on the amount of ₹15 lakh.*

Is the value for the service provided by Rajesh & Co., correct under GST laws? If not, please elaborate.

6. *Rare Polymers Private Ltd. was the only Indian company making and selling a polymer 'x' to companies, who used this as a raw material. However, the international*

prices of 'x' dropped, and the companies began to import it rather than buying from Rare Polymers.

The promoters then set up another company, which had a manufacturing unit that could use 'x', with common directors and senior management for better integration of functionality. Rare Polymers began to supply 'x' to this related concern at low margins. The related concern was not eligible for full ITC. GST was paid on the price charged.

Was the value adopted by Rare Polymers for supply of 'x' to its related concern, correct? Elaborate.

7. The supplies of commodity 'y' to the market are channelled through a State Marketing Corporation which conducts an auction each day to arrive at the price. Gupta and Co. supplies commodity 'y' through the State Marketing Corporation.

How will this supply of 'y' by Gupta and Co. be valued for paying tax?

8. Easy Coupons Ltd. sells coupons that are redeemable against specified luxury food products at retail outlets. Each coupon has a face value of ₹ 900 but is redeemable for supplies worth ₹ 1000.

What is the value of supply of such coupon under GST laws?

9. A pharmaceutical company supplies a drug intermediate to its own unit in another State for conversion into formulations. These supplies are taxable as per Schedule I of the CGST Act. The product is exclusive to this company, and there is no market sale in India of this drug intermediate.

How will the value of the supply of this drug intermediate be determined under GST laws?

ANSWERS/HINTS

1. Section 15(2) mandates the addition of certain elements to transaction value to arrive at taxable value. Clause (c) of section 15(2) specifies that amount charged for anything done by the supplier in respect of the supply at the time of or before delivery of goods or supply of services shall be included in taxable value.

Since AKJ Foods Pvt. Ltd. does the testing before the delivery of goods, the charges therefor will be included in the taxable value. Therefore, AKJ Foods Pvt. Ltd.'s argument is not correct. The testing fee should be added to the price to arrive at taxable value of the consignment.

2. As per section 15(2)(e), the value of a supply includes subsidies directly linked to the price, excluding State Government and Central Government subsidies. In this case, the subsidy is not from the Government but is from a philanthropic association. Therefore, the subsidy is to be added back to the price to arrive at the taxable value, which comes to ₹ 5 lakh a year.
3. This is a supply that is valued as per transaction value under section 15(1) as the price is the sole consideration for the supply and the supply is made to unrelated person. The concept of transaction value has been expanded to include certain elements like interest which are actually payable. Once waived, the interest is not payable and is therefore, not to be added to transaction value.
4. The discounts were not known or agreed at the time of supply of goods to the dealers. Therefore, such discounts cannot be reduced from the price on which tax had been paid in terms of section 15(3).
5. Rajesh & Co. gets an office room free of cost, which is an additional non-monetary consideration for its services. The market value of the rent of the room must be added to the retainer fee (₹ 15 lakh) in order to arrive at the value of the taxable service provided by Rajesh & Co, as per rule 27 of the CGST Rules relating to valuation.
6. The value was not correct. The invoice value could not be the basis of valuation for a supply made to a related person if the recipient is not eligible for full ITC. Under rule 28(a) of the CGST Rules relating to valuation, the open market value of polymer 'x' should be the value of the taxable supply of 'x' to the related concern. In this particular case, the open market value is likely to be the price of imported 'x' plus customs duties, which should be adopted for valuation after excluding the component of IGST on import as per the definition of open market value in explanation (a) to the CGST Rules relating to valuation.
7. The State Marketing Corporation is an 'agent' in the meaning of the expression as defined in section 2(5), which includes an auctioneer. Therefore, the value of supply of 'y' will be determined in terms of rule 29 of CGST Rules relating to valuation.

There is no open market for the first supply of commodity 'y', as it is compulsorily supplied to the State Marketing Corporation. Therefore, the choice before Gupta & Co. for valuing the supply of 'y' is between the open market value at which 'y' is sold by the State Marketing Corporation or 90% of price of goods of like kind and quality sold by the State Marketing Corporation to its unrelated customers.

If the value cannot be determined by either of the two methods, it needs to be determined on the basis of the cost plus 10% mark up as per rule 30 or on the basis of Best Judgement Method as per rule 31, in that order.

8. In terms of rule 32(6) of the CGST Rules relating to valuation, the value of a coupon is the money value of the goods redeemable against it. Therefore, though the coupon is sold for ₹ 900, its value is ₹ 1000.
9. Since the supply is made to a distinct person, the same will be valued in accordance with rule 28 of CGST Rules relating to valuation.

There is no open market value of the drug intermediate as also there are no like goods. Therefore, value of supply of such drug intermediate will be determined in terms of clause (c) of rule 28 i.e., by using rule 30. Thus, the value of supply of such drug intermediate will be 110% of its cost of production or manufacture.

However, if the recipient unit is eligible for full ITC, the value declared in the invoice will be deemed to be the open market value of the drug intermediate and thus, the invoice value will be the value of taxable supply.

