

# Valuation under GST

By CA Milind Kale

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Section 15(1) of Model GST Act, 2016 provides for valuation of taxable supply as-

*'The value of a supply of goods and/or services shall be the transaction value that is the price actually paid or payable for the said supply of goods and/or services where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.'*

In simple words to have transaction value i.e. price actually paid or payable for taxable supply of goods and/or services as a value of taxable supply following two conditions shall be fulfilled:

1. Supplier & Recipient are not related
2. Price is the sole consideration

Section 15(2) prescribes inclusions to transaction value mentioned in section 15(1) as under –

1. Amount incurred by recipient in relation to supply on behalf of supplier to the extent not included in price actually paid or payable
2. Value of goods and/or services that are supplied directly or indirectly by recipient of supply for free of charge or at reduces cost in relation to supply of goods and/or services being valued to the extent not included in the price actually paid or payable.  
For this purpose if value of goods and/or services supplied by recipient required to be apportioned then it shall be done on appropriate basis.
3. Royalties and license fees that the recipient of supply must pay either directly or indirectly as a condition to the supply of goods and/or services being valued to the extent that such royalties and license fees are not included in the price actually paid or payable.
4. Any taxes, duties, fees and charges levied under any other statute other than CGST Act, SGST Act & IGST Act
5. Incidental expenses such as commission, packing including any amount charged by supplier to the recipient of supply for anything done by him in relation to supply of goods and /or services at the time of or before delivery of goods or supply of services.
6. Subsidies linked to supply provided in any form or manner
7. Any reimbursable expenditure or cost incurred by or on behalf of supplier in relation to supply

8. Any discount or incentive allowed after supply. If such discount is as per agreement and is known at the time of supply & specifically linked to relevant invoices shall not be included in transaction value.

Also section 15(3) specifically states that transaction value under section 15(1) shall not include any discount allowed before or at the time of supply subject to a condition that such discount shall be in course of normal business practice and has been duly mentioned in the relevant invoice of respective supply.

Section 15(4) of Model GST Act, 2016 prescribes list of situation where transaction value cannot be determined under section 15(1) as follows—

1. The consideration, whether paid or payable is not money either wholly or partly
2. The supplier & recipient are related parties
3. There is reason to doubt the truth and accuracy of the transaction value declared by supplier
4. Business transactions undertaken by pure agent, money changer, insurer, air travel agent and distributor or selling agent of lottery
5. Such other supplies as may be notified by Central or State Government to this regard on recommendation of council i.e. GST Council

For situations mentioned under section 15(4) where transaction value of supply cannot be considered as value of taxable supply, the same shall be determined by GST Valuation (Determination of the Value of Supply of Goods and Services) Rules, 2016.

GST Valuation (Determination of the Value of Supply of Goods and Services) Rules, 2016 shall come into force on a day the Act comes into force i.e. CGST Act, IGST Act or SGST Act as the case may be.

**Rule 2** of GST Valuation Rules 2016 has defined two important terms as under—

1. **"goods of like kind and quality"** means goods which are identical or similar in physical characteristics, quality and reputation as the goods being valued, and perform the same functions or are commercially interchangeable with the goods being valued and supplied by the same person or by a different person;
2. **"services of like kind and quality"** means services which are identical or similar in nature, quality and reputation as the services being valued and supplied by the same person or by a different person;

**Rule 3** of GST Valuation Rules, 2016 prescribes general rules and methods for valuation of supply as under—

1. Subject to Rule 7 the value of goods supply of goods and/or services shall be the transaction value.
2. Transaction value shall be determined in monetary terms
3. Where supply consist of both taxable and non-taxable supply, the value of taxable supply shall be deemed to be such part of monetary consideration which is attributable to the taxable supply

4. The transaction value shall be accepted as value of supply even though the supplier and recipient are related provided that their relationship has not influenced the price.
5. Where a goods are transferred from—
  - i. One place of business to another place of same business or
  - ii. The principal to agent or agent to principal

within the same state or not, transaction value of supply shall be the value of such supply

6. For situations mentioned under section 15(4) of Model GST Act, 2016 transaction value shall be determined by applying Rule 4 to Rule 6 of GST Valuation Rules, 2016 sequentially.

As per **Rule 4** value of supply shall be determined by comparison. The rule 4(1) states as under—

*Where the value of a supply cannot be determined under rule 3, the value shall be determined on the basis of the transaction value of goods and/or services of like kind and quality supplied at or about the same time to other customers, adjusted in accordance with the provisions of sub-rule (2).*

As per sub rule 2, the proper officer shall make reasonable adjustment as appear him by taking into consideration the relevant factors. The relevant factors as mentioned in the same rule are—

- a. Difference in the dates of supply
- b. Difference in commercial level or quantity level
- c. Difference in composition, quality and design between goods and or services being valued and goods and or services which are considered for comparison
- d. Difference in freight & insurance charges depending upon place of supply

**Rule 5** states that if the value of supply cannot be determined as per rule 4 then it shall be based on computed value. The computed value shall include following—

1. Cost of production, manufacture or processing of goods or the cost of provision of service
2. Charges for design & brand if any
3. An amount towards profit margin and general expenses equal to that is charged by other supplier for supplying goods of like kind and quality or services of like kind and quality as the case may be.

**Rule 6** is a residual rule states that if the value of supply cannot be determined under rule 5 then it shall be determined using reasonable means consistent with principles & general provisions of these rules.

**Rule 7** empower a proper officer to reject the declared value of supply subject to condition that he has a reason to doubt the truth and accuracy of value declared in

relation to supply of goods and/or service. Rule 7 provides comprehensive list down the reasons to doubt the truth and accuracy of value declared as under—

1. Significantly higher value of the supply of goods and/or services of like kind and quantity supplied at or before the same time in comparable quantities in a comparable commercial transaction assessed.
2. Significantly higher or lower value of the supply of goods and/or services compared to market value of goods and/or services of like kind and quantity supplied at the same time of supply
3. any mis-declaration of goods and/or services in parameters such as description, quality, quantity, year of manufacture or production

The proper officer shall intimate to supplier in writing the grounds for doubting the truth and accuracy of value declared and may ask to furnish further information, including documents or other evidence and provide opportunity of being heard. If after hearing the supplier and receiving such documents the proper officer continues to doubt about truth and accuracy of value of supply then it shall be deemed that the value cannot be determined under Rule 3(1) and the officer shall himself proceed to determine the value in accordance with the provisions of rule 4 to rule 6 of GST Valuation Rule, 2016 sequentially.

The explanation to rule 7 states that this rule does not provide method for determination of value of supply but it provides mechanism and procedure to reject declared value in cases where declared value does not represent transaction value.

**Rule 8** of GST Valuation Rules, 2016 provides basis for valuation in certain cases i.e. pure agent & money changer.

### **1. Pure Agent**

The term pure agent is defined in the explanation to Rule 8 sub rule 1 as under—

*"Pure agent" means a person who—*

- (a) Enters into a contractual agreement with the recipient of service to act as his pure agent to incur expenditure or costs in the course of providing taxable service;*
- (b) Neither intends to hold nor holds any title to the goods and/or services so procured or provided as pure agent of the recipient of service;*
- (c) Does not use such goods and/or services so procured; and*
- (d) Receives only the actual amount incurred to procure such goods and/or services.*

The expenditure & cost incurred by service provider as a pure agent of the recipient shall be excluded from the value of taxable service provided all the following conditions shall be satisfied:

- a. At the time of making payment to third party for goods and/or services the service provider acts as a pure agent of service recipient
- b. The recipient of service receives and uses goods and/or services procured by the service provider in the capacity of pure agent of the recipient of service

- c. The recipient of service is liable to make payment to the third party
- d. The recipient of service authorize the service provider to make payment on his behalf
- e. The recipient knows that the goods and/or services for which payment has been made by service provider shall be provided by third party
- f. The payment made by service provider on behalf of service recipient has been separately indicated in the invoice of service provider
- g. Service provider recovers only such amount from service recipient which is paid by him to third party on behalf of service recipient
- h. Goods and/or service procured from third party by a service provider as a pure agent shall be in addition to the service that he provides on his own as a pure agent.

## **2. Money Changer**

Value of a taxable service provided for a service provider in relation to purchase and sale of foreign currency including money changing shall be determined as follows—

### **1. When a currency is exchanged from or to INR**

- a. For Buying of Foreign Currency

Value of taxable service = (Buying Rate – RBI reference Rate) X Units of Currency

- b. For Selling of Foreign Currency

Value of taxable service = (Selling Rate – RBI reference Rate) X Units of Currency

### **2. In case where RBI reference rate is not available**

Value of Taxable Supply = 1% x Gross amount of INR provided or received

### **3. In case where neither currency exchanged is INR**

**Value of taxable supply = 1% x** Foreign Currency-A x RBI reference rate  
**OR**  
Foreign Currency-B x RBI reference rate  
**WHICHEVER IS LESS**

## **Conclusion**

When supplier & recipient are not related and price is sole consideration then price actually paid or payable for the supply shall be considered as Transaction Value. For other cases transaction value shall be determined by applying Rule 4 to Rule 6 of GST Valuation (Determination of value of supply of goods & services) Rules, 2016 sequentially. The rules in nutshell are as under:

<b>Rule</b>	<b>Description</b>
<b>Rule 4 Comparison Method</b>	TV shall be determined by comparing value of goods and/or services of like kind and quantity supplied at or about same time to other customer subject to adjustments w.r.t— a. Difference in time b. Difference in commercial level & quantity level c. Difference in composition, quality and design d. Difference between freight & insurance charges
<b>Rule 5 Computed Value Method</b>	TV shall be determined as under: a. The cost of production, manufacturing or processing of goods and/or provision of service b. Charges for design & brand c. Normal margin for general expenses and profit
<b>Rule 6 Residual Method</b>	TV if not determined by any of the rule, it should be determined by using reasonable means consistent with rules.
<b>Rule 8 <u>Valuation in certain cases</u></b> <b>1) Pure Agent</b>	The expenditure & cost incurred by service provider as a pure agent of the recipient shall be excluded from the value of taxable service subject to certain conditions
<b>2) Money Changer</b>	<b>a) For currency exchanged in INR:</b> (Buying/Selling Rate – RBI reference rate) X Total Units of currency exchanged If reference Rate is not available the valuation shall be at 1% of the Gross Amount of Indian Rupees Provided or received by person exchanging the money.  <b>b) For currency NOT exchanged in INR:</b> 1% of the lesser of the two amounts the person changing the money would have received by converting any two currencies into Indian Rupee on that day at the reference rate provided by RBI.

