

Valuation under GST

SECTION 15 : VALUE OF TAXABLE SUPPLY[RULE 27 TO RULE 35]

As GST is payable as percentage of the value of supply, it is thereby important to determine the value of taxable supply as per the GST Law. **Section 15 of CGST** act deals with the same along with several inclusions and deductions. However, when the same cannot be determined by section 15, **Rules of Chapter IV i.e. Rules 27 to 35** of the CGST act is used for such valuation.

Section reference	Condition	Value of supply
15(1)	Where the Supplier and the Recipient Of the Supply are <ul style="list-style-type: none"> • Not Related Person and • Price is the Sole Consideration for the Supply 	Transaction value i.e. the price actually paid or payable for the said supply

Note :

- ❖ The term **related person** would include the following :-
 - Such persons are **officers or directors of one another's businesses**;
 - Persons **legally recognised** as partners in business;
 - Such persons are **employer and employee**;
 - 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;
 - One of them directly or indirectly **controlsthe other**;
 - A **third person** directly or indirectly **controls both of them**;
 - **Together they** directly or indirectly **control a third person**;
 - They are **members of the same family**;
- ❖ The term **person** includes **legal persons**
- ❖ Persons who are **associated in the business of one another** would also deem to be related

Section reference	Additions to value determined as per section 15(1)
15(2)	(a) Any taxes, duties, cesses, fees and charges levied under any statute except GST, if they have been separately charged (b) Any amount which the supplier is liable to pay but the same has been incurred by the recipient. (c) Any incidental expenses , such as, commission and packing and any other amount

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	<p>charged by the supplier at or before such supply is rendered</p> <p>(d) interest or late fee or penalty for delayed payment of a consideration</p> <p>(e) Any subsidies directly linked to the price excluding subsidies provided by the Government</p>
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Note :

- ❖ Any incidental expenses, such as, commission and packing and any other amount charged by the supplier **after** such supply is rendered is **not to be included**. The same is to be dealt separately through a **separate tax invoice**. In case of a debit note, the same is to be treated as a separate transaction.
- ❖ A subsidy not linked to price is **not to be added** to the value of supply.

Section reference	Deductions to value determined as per section 15(1)
15(3)	<p>(a) Any discount given before or at the time of supply duly identified in the Invoice.</p> <p>(b) Any discount given after the time of supply only if the same was agreed upon anytime before such supply and ITC on the same has been reversed by the recipient</p>

$$\text{Assessable value} = \text{Transaction value} + \text{Adjustment of 15(2)} - \text{Deduction of 15(3)}$$

For clarity and better understanding, let us understand the above sections with one of the best examples we have come across-

ABC Ltd has provided the following details regarding sale of machinery supplied by it to XYZ Ltd :

Particulars	Amount
List price of goods (excluding taxes and discounts)	70000
Packing charges at the request of customer	5000
Municipal taxes levied on such sale	2000
Subsidy received from Central Government	1000
Freight and insurance from place of removal to the supplier's premises	750

A cash discount of 1% on the list price was agreed to be offered to XYZ Ltd if it agreed to make immediate payment. As XYZ makes the payment, determine the value of such supply.

Solution :

Particulars	Section reference	Amount
List price of goods (excluding taxes and discounts)	15(1)	70000
Add: Packing charges at the request of customer	15(2)(c)	5000
Municipal taxes levied on such sale	15(2)(a)	2000
Subsidy received from Central Government	15(2)(e)	Nil
Freight and insurance to the supplier's premises	15(2)(c)	750
Less: Cash discount @ 1% on list price	15(3)(a)	(700)
		<u>77050/-</u>

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- ❖ Section 15(4) of the CGST act talks about the case where the value of supply of goods or services **cannot be** determined under Section 15(1) - the same shall be determined as per **Chapter IV of CGST Rules,2017**
- ❖ In case of a supply notified under **section 15(5)**, the value of the same shall be determined as per **Chapter IV of CGST Rules,2017 [Refer Rule 32 below]**

Now lets discuss the rules that are prescribed to be followed u/s 15(4) & 15(5) as referred above -

Rule No.	Condition	Value of supply	
27	Where the consideration is not wholly in money i.e. consideration is in the form of an act, forbearance or otherwise	Open market value	
		If the open market value is not available	Sum of Consideration in Money and amount as is equivalent to consideration not in money [if known at time of supply]
		If the open market value and equivalent monetary value is not available	Value of both like kind and quality
	If the none of the above is determinable	Value determine by Rule 30 or Rule 31, as the case maybe	

Note:

- ❖ **Open market value** means the **full value in money**, excluding GST payable by a person in a transaction, in a case where the supplier and the recipient of the supply are not related and the price is the sole consideration, to obtain the same supply at the same time when the supply being valued is made.

Illustration :

Mr. A sold LED to Mr. B for Rs 15,000/- provided Mr. B:

Situation I: Will supply Radio worth of Rs 3,000/- Mr. A or any other person never sold any such LED before in India.

Situation II: Will supply Radio worth of Rs 3,000/- Mr. C is selling similar LED of different brand for Rs 22,000/-

Situation III: Mr. A earlier in the day sold this LED for Rs 20,000/-

Situation I	Situation II	Situation III
Rs. 18,000/- (15000+3000)	Rs. 18,000/-	Rs. 20,000/-
Under Rule 1(b) *Open market value is not available	Under Rule 1(b) • If Rule 1(b) is applicable then Rule 1(c) cannot be considered	Under Rule 1(a) – Open Market value is available

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Rule No.	Condition	Value of supply	
28	Value of Supply of Goods or Services or Both between Distinct or Related Persons, other than through an Agent	Open market value	
		If the open market value is not available	Value of both like kind and quality
		If the open market value and value of both like and quality is not available	Value determine by Rule 30 or Rule 31, as the case maybe
		If such goods are intended for further supply as such by the recipient	90% of value of both like kind and quality, that the recipient would charge from his customer (not being a related party)
		If the recipient is eligible for full ITC	Value declared in tax invoice will be deemed to be the open market value

Note:

- ❖ The above rule shall be applicable for supply made with consideration or without consideration.
- ❖ In accordance with the provisions of **section 25(4)** 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.

Illustration

Mr. Ram proprietor of Sri Krishna Manufactures supplied certain goods costing Rs. 75,000/- to it's employees at Rs. 60,000/-. In such a case, as both the assessee and it's employee come under the definition of related parties under the GST Act, **open market value** as per **Rule 28** if available will be applicable. The open market value of the goods were Rs. 75,000/- which would constitute to be the **value of supply in such a case.**

Rule No.	Condition	Value of supply	
29	Value of Supply of Goods made or received through an Agent	<ul style="list-style-type: none"> • Open market value, or • 90% of value of both like kind and quality, that the recipient would charge from his customer (not being a related party) 	
		If the open market value and value of both like and quality is not available	Value determine by Rule 30 or Rule 31, as the case maybe

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Note:

- ❖ The above rule shall be applicable for supply made only when selling or buying agent issues his own invoice or when the agent receives supply on behalf of the principal.

For better understanding let us consider the following :

Whirlpool Ltd, a manufacturer of washing machines, had several selling agents across the country. It supplied the washing machines on the basis of orders received from its agents. The agents further supplied the machines under their own name at an MRP of Rs. 70000 per unit. Whirlpool received an order of 20 machines from one of its agents based in Kolkata. Whirlpool also supplies the same machines to its retailers in Bangalore at Rs. 90000 per unit.

In the above scenario, as the agents are supplying machines in their own name and issues its own invoice, it would constitute to be supply. Thus, Whirlpool Ltd, has 2 options :-

Open market value=Rs. 90000*20 =Rs. 18,00,000/-

90% of value of both like kind and quality that the recipient would charge from his customer = **90% *70000*20** = Rs. 12,60,000/-

Rule No.	Condition	Value of supply
30	Where the value of a supply of goods or services or both is not determinable under rules 27 to 29	Cost method i.e. <ul style="list-style-type: none">• 110 % of Cost of production or manufacture, or• 110 % of Cost of acquisition, or• 110 % of Cost of provision of such service

Illustration:

XYZ Private Limited has 2 establishments. One in Delhi and another in West Bengal. It manufactured product 'X' with customizations as required for Kolkata Branch. 'X' being a customized product, the same was not sold to the public at large. Thus, open market value of the same is not determinable. However, cost of production for product 'X' would be Rs. 15000. The establishment at the Kolkata branch would sell the same after further customization as demanded by the consumers.

Thus, in the above scenario, value is determinable **as per Rule 28**. However, due to absence of open market value and value for like kind and quality, Valuation as per **Rule no. 30 would be adopted**.

Value = 110% of Cost of production i.e. 110% * 15000 = Rs. 16,500

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Rule No.	Condition	Value of supply
31	Where the value of a supply of goods or services or both is not determinable under rules 27 to 30	<p>Residual method i.e, Value determined using reasonable means consistent with the principles and general provisions of the GST Law</p> <p>However, in case of supply of service the supplier may opt for this rule, ignoring rule 30</p>

Rule No.	Condition	Value of supply
31A	Value of supply in case of lottery, betting, gambling and horse racing	Irrespective of the above mentioned rules and other provisions of the act, the value shall determined be as follows :-
		<p>If Lottery organized/ authorised by State Governments</p> <p>100/128 of higher of :-</p> <ul style="list-style-type: none"> • Face value of ticket or • Price as notified in the Official Gazette by the organising State <p>[Substituted by the Central Goods and Services Tax (Second Amendment) Rules, 2020, w.r.e.f. 1-3-2020.]</p>
		<p>Actionable claim in the form of chance to win in betting, gambling or horse racing in a race club</p> <p>100% of</p> <ul style="list-style-type: none"> • Face value of the bet , or • The amount paid into the totalisator

For better understanding let us consider the following :

A lottery was organized by West Bengal Government. The ticket price was Rs. 500 per ticket as notified in the Gazette by the organizing State as authorized by the government.

Thus, value of supply of lottery as **authorized by State Governments** = $100 \times 500 / 128 = \text{Rs. } 390.50/-$

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❖ Valuation in special cases

Rule No.	Condition	Value of supply	
32(2)	Value of supply of services in relation to the purchase or sale of foreign currency , including money changing	Irrespective of the above mentioned rules and other provisions of the act, the value at the option of the supplier shall determined be as follows:-	
		Option 1	
		When exchanged from, or to, Indian Rupees	<ul style="list-style-type: none"> Where RBI reference rate is available :- Difference in the buying rate or the selling rate, and the Reserve Bank of India reference rate for that currency at that time, multiplied by the total units of currency. Where RBI reference rate is not available :- 1% of the gross amount of Indian Rupees given or received
		When exchanged from one foreign currency to another.	1% of lower of :- <ul style="list-style-type: none"> Converting foreign currency 1 with RBI reference rate into Indian Rupee Converting foreign currency 2 with RBI reference rate into Indian Rupee
		Option 2	
		When exchanged from, or to, Indian Rupees or from one foreign currency to another.	<ul style="list-style-type: none"> Amount up to 1 lacs: 1% of the gross amount of currency exchanged subject to a minimum amount of Rs. 250/- Amount above 1 lacs up to 10 lacs : Rs. 1000 + 0.5% of the gross amount of currency exchanged on such excessive amount Amount above 10 lacs : Rs. 5500 + 0.1% of the gross amount of currency exchanged on such excessive amount Subject to a maximum of Rs. 60000

- ❖ Once option 2 has been exercised for a financial year, such option **shall not be withdrawn** during the remaining part of that financial year.

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For better understanding let us consider the following illustration:

Mr X, exchanged 100000 peso to Indian Rupees @ 1.50 per peso. Mr X has 2 options for the valuation-

Option 1 : As RBI reference rate is not available, 1% of gross amount = $1\% * 1.50 * 100000 = \text{Rs.}1500/-$

Option 2 : Amount above 1 lacs up to 10 lacs : $\text{Rs.} 1000 + 0.5\% \text{ of } (150000-100000) = \text{Rs.} 1,250/-$

Rule No.	Condition	Value of supply	
32(3)	Value of supply in case of booking of tickets for travel by air provided by an air travel agent	Domestic bookings	5% of Basic fare
		International bookings	10% of Basic fare

Note:

- ❖ **Basic fare** means that **part of the air fare** on which **commission is normally paid** to the air travel agent by the airlines.
- ❖ Other charges and taxes are not to be included in the calculation of basic fare.

Rule No.	Condition	Value of supply	
32(4)	Value of supply in case of life insurance business	If savings amount is separately Intimated , at the time of supply	The gross premium charged from a policy holder reduced by the amount allocated for investment, or savings
		In case of single premium annuity policies	10% of single premium charged
		If entire premium is towards risk cover	Total premium charged

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		Any other case	<ul style="list-style-type: none"> • First year : 25% of premium charged • Subsequent year : 12.5% of premium charged
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For better understanding let us consider the following Illustration :

LIC has provided the following details of various policy holders for the month of March'2020.

Particulars	Amount
In case of Risk cover policy ,premium collected	50000
General Insurance ,Total premium (including 5000 for subsequent years)	25000
Premium for single premium annuity policies	10000

Value of Supply as determined in the above case would be :

Particulars	Amount
In case of Risk cover policy ,premium collected	50000
General Insurance ,1 st year[25% of Rs. 20,000/-]	5000
General Insurance subsequent year[12.5% of Rs. 5,000/-]	625
Premium for single premium annuity policies[10% of Rs. 10,000/-]	1000
	56,625/-

Rule No.	Condition	Value of supply	
32	Value of supply in case of a person dealing in buying and selling of second hand goods	No ITC has been taken by the Person	Selling price -Purchase price Ignore if negative.
		ITC has been taken	Transaction value u/s 15
		In case of selling of repossessed goods from a defaulting unregistered borrower	Purchase price as reduced by 5% for every quarter or part thereof, between the date of purchase and the date of disposal.

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For better understanding let us consider the following :

Mr. Honey a dealer in second hand cars purchases the cars and sells them after painting and some repair. He does not take credit of any of the purchases. He sold one car at Rs. 90000 which was purchased by him at Rs. 85000.

In the above scenario, value of supply would be Rs. 90000-85000 = Rs. 5000/-. However if in the above scenario, the purchase price would have been Rs. Above 90000, value of supply would be **Nil**.

Rule No.	Condition	Value of supply
32	Value of supply in case of a value of a token, or a voucher, or a coupon, or a stamp (other than postage stamp) which is redeemable	Money value of the goods or services or both redeemable against such token, voucher etc
	Value of taxable services, where input tax credit is available provided <ul style="list-style-type: none">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 u/s 25.	NIL

❖ As per **Rule 33**, Irrespective of any provisions of this Chapter, the **expenditure or costs** incurred by a **supplier** as a **pure agent** of the recipient of supply will be **excluded** from the value of Supply, if **all** the following conditions are satisfied :-

- 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;
- 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
- 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**.

Meaning of Pure Agent

(a) *enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;*

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- (b) *neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;*
- (c) *does not use for his own interest such goods or services so procured; and*
- (d) *receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.*

For better understanding let us consider the following :

Mr. Ram (a CA) makes payment of GST, TDS and ROC on behalf of it's clients. He later recovers the same from his client in addition to this service charges.

Accordingly, as Mr. Ram is acting as a pure agent, the same would not be added to the value of supply in the invoice made by Mr. Ram.

Rule No.	Condition	Value of supply
34	Rate of Exchange of Currency, other than Indian Rupees	Supply of Goods : <ul style="list-style-type: none">• 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.
		Supply of Service : <ul style="list-style-type: none">• 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.

- ❖ As per **Rule 35**, 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 :

$$\text{Tax amount} = (\text{Value inclusive of taxes} \times \text{tax rate in \% of such Tax}) \div (100 + \text{sum of tax rates, as applicable, in \%})$$

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