

Transaction Value of Goods & Services under GST (Valuation Rule)



Section 15 of the Central Goods and Services Tax (CGST) Act, 2017, is a very important provision which deals with “Value of Taxable Supply”. In the present article, the author has deliberated upon detailed provisions of Transaction Value u/s 15 of the CGST Act as well as Valuation Rules with the help of elaborate and practical examples. Read on to know more.....

To determine the value on which GST would be levied has been described in Chapter IV of CGST Act, 2017. The provision says that there are five items such as taxes under other statutes, interest or late fee for the delayed payment of consideration, incidental expenses, subsidy etc., which should be included in the transaction value. There is one exclusion i.e. Discount which should be excluded from the

Transaction Value. However, there are certain transactions (such as barter, exchange, transaction with related parties, transaction between principal and agent) for which we have to refer to the valuation rule prescribed under GST Act.

Detailed provisions of Transaction Value u/s 15 of the CGST Act are as under:

1. Valuation of Goods and/or Service [Section 15(1)]

“Transaction Value” is the basis for valuation for supply of goods and/or services under the GST Regime. For the levy of tax i.e. GST, first we have to determine the transaction value. “Transaction Value” is the price actually paid or payable for supply of goods and/or services.



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This is subject to dual condition as mentioned below:

- Supplier and recipient of the supply are not related; and
- Price is the sole consideration for the supply.

Transaction Value cannot be based on MRP

Under Section 4A of the Central Excise Act, the Central Government has the power to notify the goods which shall be valued on the basis of MRP less abatement permitted. However, under the GST Act there is no provision for determination of value on the MRP basis. Thus, in all cases, liability of GST will be determined based on the transaction value.

Analysis of the term “Price actually paid or payable for supply of goods and/or services”

Section 15(1) clearly speaks that transaction value shall be the price actually paid or payable for the supply of goods and services. It shows that there should be some nexus between supply of goods/services and the amount received by the supplier of goods and services. The contract will indicate the amount payable by the recipient for the supply of goods and services.

2. Inclusions in the Transaction Value [Section 15(2)]

The transaction value shall include the following:

(a)	Taxes under other statute	Any taxes, duties, cess, fees and charges levied under any statute other than GST Act/IGST Act, if charged separately by the supplier to the recipient.
<p>Example-3: As per rent contract, tenant required to pay local tax directly to the local body or to owner of the premise. Such local tax may form part of consideration for the supply of renting service.</p>		
<p>Example-4: Levy of entertainment tax by local authority is not subsumed in the GST. Therefore right to levy is still available with local authority and consequently it appears that any entertainment tax charged by the local authority will form part of transaction value.</p>		
(b)	Any amount for which supplier is liable to pay	Any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods and/or services.
<p>Example-5: Mr. X, purchaser, has placed an order to supply a product “Packed in Carton” to Mr. Y (supplier). As per the contract Mr. Y is required to deliver the goods in the premises of Mr. X. Thereafter Mr. Y hires a transporter for transportation of goods. The lorry receipt of which indicates that freight is payable by receiver of goods (Mr. X). In this case, Mr. Y was required to make the payment to the transporter as it is the obligation of Mr. Y to deliver the goods to the premises of Mr. X. Here in lieu of Mr. Y, payment is being made by Mr. X. Therefore, such payment will form part of transaction value of product. Thus, in a contract, the obligation undertaken by the supplier for making supply of goods needs to be determined. All the expenses in respect of such obligation must be incurred by the supplier. But here the supplier was under obligation for which receiver has made the payment and therefore, the payment in connection with the supply i.e. Transportation will form part of transaction value.</p>		
<p>Example-6: A Chartered Accountant conducts an audit at client's premises out of the state and hotel payment is made by the client. Here the payment made to hotel by the client will be included in the transaction value.</p>		

Example-1:

An audit firm based in Delhi undertakes an audit assignment of its client based in Gurgaon. The contract mentioned about the audit fees of ₹1,00,000 and arrangement of taxi by the client which may be worth ₹5,000.

Thus here the price payable by the client which is towards audit is ₹1,05,000 (not only audit fees but also the expenditure incurred in connection with the taxi, i.e., ₹5,000).

Example-2:

Take the example of Custom House Agent (CHA). In the course of clearance of the goods Mr. X, a CHA incurred an amount of ₹50,000 as custom duty. Such type of expenses is paid by the agent, in order to avoid the delay in clearance, which are subsequently reimbursed by the importer. Such type of expenses cannot form part of transaction value as these are the reimbursement but such reimbursement is not for the service rendered. Therefore, ₹50,000 will not form part of transaction value.

(c)	Incidental expenses	1. Incidental expenses, such as commission and packing, charged by the supplier to the recipient of a supply, including 2. Any amount charged for anything done by the supplier in respect of the supply of goods and /or services at the time of, or before delivery of the goods or, as the case may be, supply of the services;
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Example-7: Packing

Mr. X goes to an outlet and buys dryfruit worth ₹2,000. Mr. X asks for the special packing for which ₹500 is charged for packing. Here, the transaction value will be ₹2,500.

The amount for special packing is separately payable by the recipient to the supplier. The cost of such packing will be included in the value of supply even if the cost of packing is separately paid by the recipient.

Example-8: Commission

A company appoints an agent to procure order of goods from buyer. Agent procures an order @ ₹100. Now seller company asks the buyer to pay only to supplier @ ₹98 only and pay ₹2 directly to the agent. Here GST will be charged on full ₹100 as the ₹2 is the commission for this transaction.

Example-9: Anything done Before sale

A company advertises for sale of installed plant and machinery to sell the same on "as is where basis". In this case, cost of dismantling the plant will also be included in the transaction value as the dismantling activity has nexus before sale of goods.

(d)	Interest or late fees	Interest/late fee/penalty for delay in payment of consideration for supply will form part of value.
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Example-10:

Mr. X has supplied goods to Mr. Y on credit of 30 days. The contract provides that interest will be charged at the rate of 18% for delay in making payment of supply. It specifically provides that such interest will form part of consideration and GST will be payable.

Comments: This provision is likely to have litigation as in most of the cases supplier is unable to recover the interest although it is mentioned in the contract.

(e)	Subsidies	Subsidies directly linked to the price. (Except subsidies provided by the Central and State Governments). Explanation: The amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.
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Example-11:**Subsidy Linked to the price**

Suppose, C sells goods and gets price support from its manufacturer. The subsidy so received will form part of transaction value.

Example-12:**Subsidy not Linked to the price**

Tisco General Office Recreation Club vs. State of Bihar (2002) 126 STC 547 (SC), appellant, a dealer, was running a canteen for employees of the company. The prices were below cost price. However, TISCO, without any statutory obligation, as a staff welfare measure, was making good the excess of expenditure over income. The subsidy was not relatable to any item of food. It was held that the lump sum subsidy made *ex-gratia* cannot form part of sale price and not to be included in transaction value.

Example-13:**Subsidy provided by CG or SG (not linked to price)**

Government gives subsidy on supply of cooking gas cylinder to poor families. Nowadays, such subsidy is transferred to the bank account of poor family directly and the company making supply of cylinder sells the goods at a fixed price and not at the subsidised rate. The amount of subsidy is directly credited to the bank account and the same is not received by the said company. Therefore, such subsidy will not be considered as part of transaction value, because this is not linked to the price and also the same is provided by the Government.

Example-14:**Subsidy provided by CG or SG (linked to the price)**

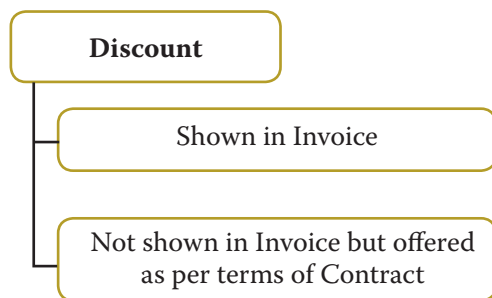
Sale of urea by the manufacturer at the recommended price by the Government (i.e. at cheaper price) to make urea at a cheaper price. The supplier is paid the subsidy directly by the Government. Here, the subsidy is not to be included in the transaction value. Though it is related to the price but the same is provided by the Government. Therefore, subsidy will not be included in the transaction value.

3. Exclusions from the Transaction Value [Section 15(3)]

The value of the supply shall not include any discount that is given:

- (a) Discount given before or at the time of the supply provided such discount has been duly recorded in the invoice issued in respect of such supply; and
- (b) Discount given after the supply has been effected but:
 - (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 invoice; and
 - (ii) Input tax credit has been reversed by the recipient of the supply as is attributable to the discount issued by the supplies.

The Discount which can be excluded from the transaction value can be summarised as below:



Example-15: Discount shown in invoice

In many cases company offers trade discount to dealers depending upon the volume of supply. Such discount is reflected on the face of invoice and therefore, transaction value will be the price after discount.

Say, for instance, price of a car is ₹5,00,000 and a discount of 5% is given being the year end sale. Here, the transaction value will be ₹4,75,000 i.e. after discount which will not be included in transaction value.

Example-16: Discount not shown in invoice

Mr. A purchases an air conditioner from Mr. B for ₹20,000 on credit on July 1, 2017. On August 1, 2017, Mr. A gives discount of ₹5,000 to Mr. B and Mr. B makes payment of Rs. 15,000. Here, if the discount is not known before or at the time of supply, then transaction value will be ₹20,000. But if discount is based on terms of contract or terms of payment then transaction value will be ₹15,000 only.

Section 15(4) provides that where the value of supply of goods or services cannot be determined under Section 15(1), the same shall be determined in the manner as may be prescribed.

Section 15(5) states that, notwithstanding anything contained in Section 15(1) or Section 15(4), the value of such suppliers as may be notified by the Central or a State government in this behalf on the recommendation of the GST council, shall be determined in such manner as may be prescribed.

4. Definition of important terms used in this chapter

1. Related person

As given in the explanation to the Section 15 of GST Act, "persons shall be deemed to be 'related persons' if only -

- a) they are officers or directors of one another's businesses;
- b) they are legally recognised partners in business;
- c) they are employer and employee;
- d) 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;
- e) one of them directly or indirectly controls the other;
- f) both of them are directly or indirectly controlled by a third person;
- g) together they directly or indirectly control a third person or they are members of the same family;

Explanation I - The term "person" also includes legal persons.

Explanation II - 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.

Thus, if transaction is with the related person then the supplier has to substantiate that the value of supply is not influenced because of relationship. How the value of supply of services will be substantiated will be a very difficult and cumbersome task.

2. Consideration

The value on which GST is to be charged primarily depends upon the consideration received for taxable supply of goods and/or services, which is defined under Section 2(31) of the CGST/SGST Act, as under.

"Consideration" in relation to the supply of goods or services 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, 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, whether or not voluntary in respect of, in response to, or for the inducement of, the supply of goods or services, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government.

In simple words, Consideration may have following features:

- (i) It can be monetary or non-monetary.
- (ii) It can be given to/by third person.
- (iii) It should be lawful.
- (iv) Forbearance/abstinence can be consideration.
- (v) Compromise or composition is consideration.
- (vi) It should be certain.

3. Deposit cannot be considered as Consideration

Deposit, whether refundable or not, given in respect of the supply of goods or services shall not be considered as payment made for the supply unless the supplier applies the deposit as consideration for the supply.

4. Fines and penalty cannot be considered as Consideration

The amount received as fines or penalty for violation of statutory provision will not be considered as consideration. This has been clarified in Para No. 2.3.1 to 2.3.3 of CBEC Education Guide.

5. Meaning of “price is the sole consideration for supply”

Section 15(1) further provides that price should be the sole consideration for supply. If any additional consideration, whether monetary or non-monetary terms is received, the value of such consideration shall be added to the consideration to arrive at the transaction value. Interpretative Notes provide that payment made directly or indirectly by the recipient to the supplier will constitute the price actually paid or payable.

Example-17: Indirect payment

Settlement by buyer whether in whole or in part of debt owned by the seller. This can be elaborated with an example. Mr. X makes a supply of ₹2 lakh to Mr. Y and contract provide that Mr. Y will pay ₹50,000 to Mr. X and ₹1,50,000 to Mr. Z to settle debt of Mr. X. In this case the price of ₹50,000 is not the sole consideration for sale. The amount of ₹1,50,000 payable by Mr. Y to Mr. Z is also part of consideration for supply of goods. Therefore, GST will be paid on entire amount of ₹2 lakh not only on ₹50,000.

Valuation Rules (Rule 27 to 35)

(Determination of Value when value is not ascertainable as per Section 15(1)).

The value of supply of goods or services or both which cannot be valued as per Section 15 (1), shall be determined as per rules [Section 15(4)]. Such valuation may be required in the following situation:

- I. Value of supply of goods or services where the consideration is not wholly in money
- II. the supplier and recipient of the supply are related

Valuation rules for valuation in the different scenario

1. Value of supply of goods or services where the consideration is not wholly in money (Rule 27)

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

- (a) Be the open market value of such supply;
- (b) If open market value is not available, be the sum total of consideration in money and any such further amount in money as is equivalent to the consideration not in money if such amount is known at the time of supply;
- (c) If the value of supply is not determinable under clause (a) or clause (b), be the value of supply of goods or services or both of like kind and quality;
- (d) If 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 application of Rule 30 or Rule 31 in that order.

Value in case of exchange or barter

Example-18 Where a new phone is supplied for ₹20,000 along with the exchange of an old phone and if the price of the new phone without exchange is ₹24,000, the open market value of the new phone is ₹24,000.

(Example of exchange)

Example-19 Where a laptop is supplied for ₹40,000 along with a barter of printer that is manufactured by the recipient and the value of the printer known at the time of supply is ₹4,000 but the open market value of the laptop is not known, the value of the supply of laptop is ₹44,000.

(Example of barter)

2. Value of supply of goods or services or both between distinct or related persons, other than through an agent (Rule 28)

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

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

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

Provided that where 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 90% 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:

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 goods or services:

The above provisions have been included to safeguard the transactions done during the normal course of business between related persons, in good faith.

Example-20 Taking our aforementioned example of related person under GST Law, let us say that TATA Steel supplies goods worth ₹2,50,000 (which is the OMV of the goods) to TATA Motors for ₹2,00,000; and TATA Motors claims the full amount of GST charged in the invoice which is ₹36,000 (@18% of ₹2,00,000) as input tax credit, then this invoice value will hold true for valuation purpose. Eventually, when TATA Motors sell their products to their end consumers, they will only get input credit of what was paid earlier as tax i.e. ₹36,000 (and not the tax that should have been paid if the goods were sold at OMV).

Therefore the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of goods or services.

Section 25(4) and 25(5) of CGST Act covers those cases where the same person has taken separate registration in different state or even in the same state.

3. Value of supply of goods made or received through an agent (Rule 29)

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

(a) be the open market value of the goods being supplied, or at the option of the supplier, be 90% 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;

Example-21 Where a principal supplies groundnut to his agent and the agent is supplying groundnuts of like kind and quality in subsequent supplies at a price of ₹5,000 per quintal on the day of supply.

Another independent supplier is supplying groundnuts of like kind and quality to the said agent at the price of ₹4,550 per quintal. The value of the supply made by the principal shall be ₹4,550 per quintal or where he exercises the option, the value shall be 90% of the ₹5,000 i.e. is ₹4,500 per quintal.

b) Where the value of a supply is not determinable under clause (a), the same shall be determined by application of Rule 30 or Rule 31 in that order.

4. Value of supply of goods or services or both based on cost (Rule 30)

Where the value of a supply of goods or services or both is not determinable by any of the preceding rules, the value shall be 110% of the cost of production or manufacture or cost of acquisition of such goods or cost of provision of such services.

Example-22 Suppose Peacock Limited is manufacturing office chairs and the cost of manufacturing is ₹4,000 per chair. Similar chair in open market is valued at ₹4,500. These chairs are supplied to a furniture showroom at the rate ₹3,000 and balance in non-monetary consideration. Now since the open market value is available, ₹4,500 will be considered for valuation of supply. However in case if Open Market Value is not available, the value of supply as per cost method will be followed which as per the rule will be 110% of the cost of manufacturing i.e. ₹4,000*110% = ₹4,400.

Thus, GST will be charged on ₹4,400 in this case.

5. Residual method for determination of value of supply of goods or services or both (Rule 31)

Where the value of supply of goods or services or both cannot be determined under Rules 1 to 4, the same shall be determined using reasonable means consistent with the principles and general provisions of Section 15 and these rules: Provided that in case of supply of services, the supplier may opt for this rule, disregarding Rule 30.

In spite of these rules, if a registered person supplying goods or services under GST is still not

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In a case, where an organisation is engaged in more than one business, the dominant source of revenue will determine the category to which the organisation belongs. Turnover will be determined on the basis of standalone financial accounts.

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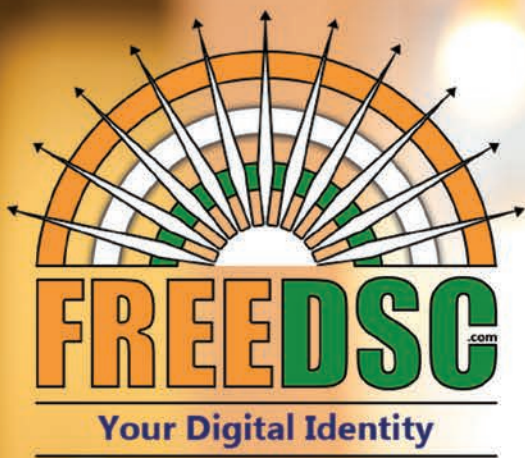
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able to determine the value, he may choose to follow the Residual Method of Valuation.

As per the residual method, where the value of supply of goods or services or both cannot be determined under the cost method (i.e. Rule 30), the same shall be determined using reasonable means consistent with the principles and general provisions of the Goods and Services Tax law.

Value of service can be on the basis of Rule 31 instead of on cost plus 10% basis as per Rule 30. Therefore for the supply of service the supplier may opt for this rule, disregarding Rule 30 (Proviso to Rule 31).

A simple interpretation of this rule suggests that supplier can use any method to determine the value of supply under GST, provided such method is justifiable in the case of inquiry. The registered taxable person should not exploit this method to displace the GST liability as the penal provisions are strict under the new indirect tax regime.

Example-23: For example, when it is not being able to determine the cost of production, then number of man hours required to complete a job can be taken as a basis under the residual method for the valuation of supply of goods or services.

6. Determination of value in respect of certain supplies (Rule 32)

(1) Value of service towards exchange of foreign currency [(Rule 32(2))]

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

(a) For a currency, when exchanged from, or to, Indian Rupees (INR), the value shall be equal to the difference in the buying rate or the selling rate, for that currency at that time, multiplied by the total units of currency:

In case where the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received by the person changing the money:

In case where neither of the currencies exchanged is Indian Rupee, the value shall be equal to 1% of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies

into Indian Rupee on that day at the reference rate provided by RBI.

Provided also that a person supplying the services may exercise option to ascertain value in terms of clause (b) for a financial year and such option shall not be withdrawn during the remaining part of that financial year.

- (b) At the option of supplier of services, the value in relation to supply of foreign currency, including money changing, shall be deemed to be:
- 1% of the gross amount of currency exchanged for an amount up to ₹1,00,000, subject to a minimum amount of ₹250;
 - ₹1,000 and ½% of the gross amount of currency exchanged for an amount exceeding ₹1,00,000 and up to ₹10,00,000; and
 - ₹5,000 and ₹500 and 1/10% of the gross amount of currency exchanged for an amount exceeding ₹10,00,000, subject to maximum amount ₹60,000.

(2) Value of service of booking of air travel ticket [(Rule 32(3))]:

The value of supply of services in relation to booking of tickets for travel by air provided by an air travel agent shall be deemed to be an amount calculated at the rate of:

5% of the basic fare in the case of domestic bookings, and 10% of the basic fare in the case of international bookings.

(3) The value of supply of services in relation to life insurance business [(Rule 32(4))]:

- the gross premium charged from a policy holder reduced by the amount allocated for investment, or savings on behalf of the policy holder, if such amount is intimated to the policy holder at the time of supply of service;
- in case of single premium annuity policies other than (a), ten per cent of single premium charged from the policy holder; or
- in all other cases, 25% of the premium charged from the policy holder in the first year and 12.5% of the premium charged from policy holder in subsequent years:

GST in case if policy is towards risk cover only: 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. This means that entire policy is towards

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risk coverage and no amount is towards investment. Therefore entire premium will be subject to GST.

(4) Valuation in respect of buying & selling of 2nd hand goods [(Rule 32(5)): When goods as such or after such minor processing which does not change the nature of the goods and where no input tax credit has been availed on purchase of such goods, the value of supply shall be the difference between the selling price and purchase price and where the value of such supply is negative it shall be ignored.

(5) The value of a token, or a voucher, or a coupon, or a stamp (other than postage stamp) [(Rule 32(6)): The value of voucher etc. 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.

(6) The value of taxable services shall be deemed to be Nil [(Rule 32(7)): 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 between distinct persons as referred to in Section 25, where input tax credit is available, shall be deemed to be NIL.

7. Value of supply of services in case of pure agent (Rule 33)

If the expenditure or costs has been incurred by a supplier as a pure agent of the recipient of supply then the same shall be excluded from the value of supply, if all the following conditions are satisfied, namely:-

1. the supplier acts as a pure agent of the recipient of the supply, when he makes payment to the third party on authorisation by such recipient;
2. 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
3. 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.



Example-24 Corporate services firm A is engaged to handle the legal work pertaining to the incorporation of Company B. Other than its service fees, A also recovers from B, registration fee and approval fee for the name of the company paid to Registrar of the Companies. The fees charged by the Registrar of the companies registration and approval of the name are compulsorily levied on B.

A is merely acting as a pure agent in the payment of those fees. Therefore, A's recovery of such expenses is a disbursement and not a part of the value of supply made by A to B. Therefore, no GST will be applicable on these two charges incurred as pure agent.

8. Rate of exchange of currency, other than Indian rupees, for determination of value (Rule 34)

The rate of exchange for determination of value of taxable goods or services or both shall be the applicable reference rate for that currency as determined by the Reserve Bank of India on the date of time of supply in respect of such supply in terms of Section 12 or, as the case may be, Section 13 of the Act.

9. Value of supply inclusive of integrated tax, central tax, state tax, union territory tax (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,

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 %). ■