

Value of Supply under GST

Introduction:-

GST Law is the biggest Indirect Tax reforms in India after Independence which is going to impact one and all, right from the business fraternity to a common man. The Model GST Law is already released which gives us an opportunity to analyse various draft provisions beforehand and give suggestions for a better law.

It is expected that GST (Goods and Services Tax) will bring about marked changes in the tax scenario in the Country. The various aspects of Product Pricing, Valuation of Goods and Services, and others will experience significant transformation as the tax system is simplified.

The **Model GSTL issued in June, 2016** includes GST Valuation (Determination of the Value of Supply of Goods and Services) Rules, 2016 (hereinafter referred as 'the Valuation Rules'). The 'Valuation' is an important aspect because of its significant financial implications it creates because of the fact that litigation that so far it has been prone area.

Section 15 of the Model GST Law read with the Valuation Rules provides for valuation of supply of goods and services based on '**Transaction Value**' and the Valuation Rules to be referred in specified cases or in cases where 'transaction value' cannot be applied. A brief of the same is as under.

Transaction Value as per Section 15 of Model GST Law:-

Generally the transaction value shall be the value of taxable supply which is the price actually paid or payable, **if the supplier and recipient is not related person and the price is sole consideration for the supply.**

Both conditions should be satisfied by the Supplier, then the Transaction Value is accepted for the Supply made by the Supplier.

The word "Related Person" has been Defined under MGSTL:-

Related persons has been defined under Section 2(84) of MGSTL as, 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 recognized 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
- (h) 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.

Consideration:

- Payment made for the inducement of, the supply of goods and/or services
- The monetary value of any act or forbearance
- Deposit, whether refundable or not, not be considered unless applied

The transaction value shall be accepted in case the supplier and the recipient are related person but the relationship has not influenced the price. (Rule 4 of GSTVR)

Included in Transaction Value as per Section 15 of Model GST Law:-

Following amounts shall be included to ascertain the transaction value:

- a. **Amount incurred by recipient and not included** in price which the supplier is liable to pay;
- b. Appropriate **value of goods, services supplied by recipient free of charge** or at a reduced cost to the extent that such value is not included in the price;
- c. **Royalty and licence fees related to the supply** which the recipient must pay as a condition in connection with the subject supply to the extent not included in the price;
- d. **Any duties, taxes, fees and charges** other than under the SGST Act, CGST Act or IGST Act;
- e. **Incidental expenses** like commission and packing, etc, charged by supplier.
- f. **Subsidies** in any form with respect to Supply;
- g. **Any reimbursable expenditure or cost incurred** by or on behalf of supplier and charged in relation to the supply.
- h. Any discount or incentive that may be allowed **after the supply has been effected**. However, the post-supply discount as per the agreement which is known at or before the time of supply and specifically linked to relevant invoices **shall not be included**.

Exclusions: Any discount allowed before or at the time of supply as a normal trade practice and duly recorded in the invoice shall be excluded in valuation.

Central Government or State Government has powers on the recommendations of GST Council to determine the **Value of Supply** apart from value determined under Section 15 of MGSTL or Value determined under GST Valuation Rules.

If value of supply cannot be determined under Section 15 of MGSTL, value will be determined under Valuation Rules.

Incurred By Recipient:

- Not included in the price
- The value of such goods and/ or services as are supplied directly or indirectly by the recipient of the supply free of charge or at reduced cost
- Royalties and license fees

Taxes:

- Shall include all taxes other than SGST or the CGST or the IGST

Incidental Expenses:

- Commission and packing
- 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

Subsidies:

- Which is linked to supply

Reimbursement:

- All reimbursement shall be included

Discount Before Time of Supply:

- Allowed only if it is in the course of normal trade practice
- And has been duly recorded in the invoice

Discount After Time of Supply:

- Allowed only if such post supply discount is established as per the agreement and is known at or before the time of supply | Specifically linked to relevant invoices
- Specifically linked to relevant invoices Provisions related to valuations will invite lots of confusion. In case of discount before the time of supply, same shall be allowed only if the same is as per the normal trade practice.

Determination of Value of Supply as per Valuation Rules:-**Supply consist of both Taxable & Non-Taxable Supply:-**

In case the supply consist of both taxable and non-taxable supply, the consideration attributable to the taxable supply shall be the value of supply.

Supply of Goods from one place to another of the same business or to its agent:-

In case the goods are transferred from one place of business to another place of same business or from principal to agent or vice versa, the value of supply shall be the transaction value. Here it is pertinent to note that stock transfer does not involve consideration and presently it is liable to excise duty but not sales tax. However, provisions under Section 3 (1) (c) read with Schedule I of the Model GST Law brings the transactions of Stock Transfer under the ambit of 'Supply'.

Under following situations the valuation shall be determined under the rule 4 to 6 of the Valuation Rules according to the valuation methods discussed below.

- i. The consideration is not monetary, wholly or partly.
- j. Supplier and recipient are related.
- k. There is a reason to doubt accuracy of transaction value declared by the supplier
- i. Business transactions by a pure agent and money changer.
- m. Other supplies as may be notified.

Method of Valuation as per GST Valuation Rules

- Transaction Value (Rule -3)
- Value by Comparison (Rule -4)
- Computed Value Method (Rule -5)
- Residual Method (Rule-6)
- Rejection of declared value (Rule-7)

Valuation Rules, 2016 provides for four methods for doing the valuation in cases other than where supplier and receiver are not related and price is the sole consideration of sale. The transaction value can even be rejected as per Rule 7 if the officer has reason to doubt about the truth or accuracy of the value declared.

Current Tax Regime:-

The value of all the goods and services consumed in an economy is arrived at based on certain metrics. In the current tax regime in India, this value is calculated in different ways. An overview is provided in the table below:

Tax	Value of goods/services
Excise	Based on transaction value or quantity of goods or MRP
VAT	Based on sale value
Service Tax	Based on taxable value of service rendered

Valuation of goods and services

Let us look at how the value of goods and services is calculated in the current regime, with the help of an example:

Super Cars Ltd, a car manufacturer, sells spare parts to Ravindra Automobiles, their dealers for Rs 6,000. The MRP of the spare parts is Rs 10,000. The invoice that is issued to Ravindra Automobiles is illustrated below:

Current Tax Regime



Invoice					
S.No.	Description of goods	Quantity	Rate	Per	Amount
1	Spare Parts	1	6,000	No.	6,000
	Excise (On MRP)				856
	VAT @ 14.5%				994
	Total	1			7,850

On spare parts, excise is charged on MRP less abatement. Here, Excise is charged @ 12.5% on MRP Rs 10,000 less abatement @ 31.5%.

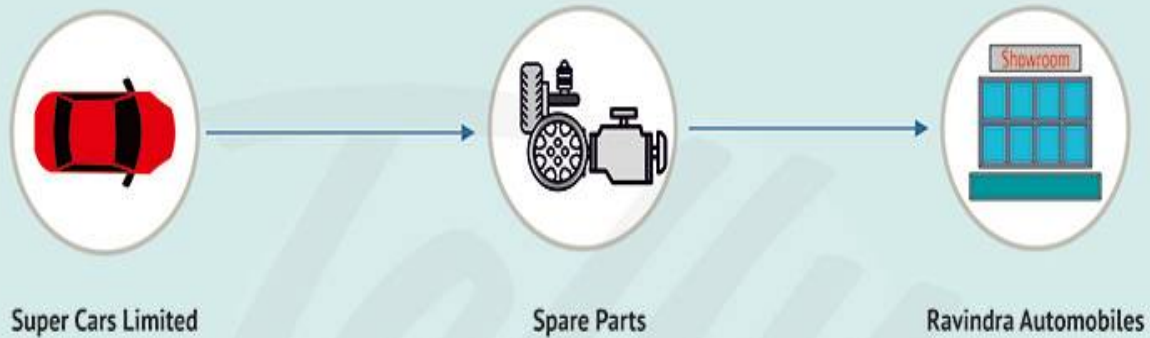
- MRP = Rs 10,000
- Abatement = 31.5% of Rs 10,000 = Rs 3,150
- Value to levy Excise Duty (Rs 10,000 - Rs 3,150) = Rs 6,850
- Excise Duty @ 12.5% on Rs 6,850 = Rs 856

VAT @ 14.5% is charged on the sub total of Rs 6,856 (Spare parts price Rs 6,000 + Excise Rs 856)

Under GST Regime

We have used the same example as above to illustrate the method of valuation of goods and services in the GST regime:-

GST Regime



MRP = Rs 10,000
Selling Price = Rs 6,000

Invoice					
S. No.	Description of goods	Quantity	Rate	Per	Amount
1	Spare Parts	1	6,000	No.	6,000
	GST @ 18%*				1,080
	Total	1			7,080

On spare parts, GST is charged on the price payable, i.e. Rs 6,000. On this value, GST @ 18% (Assuming GST of 18% on spare parts) is charged.

*Assuming GST of 18% on automobile spare parts

In the GST regime, the **value of goods &/or services supplied is the transaction value, i.e. the price paid/payable**, which is Rs 6,000 in the example.

Additional Charges and Expenses – in the GST Regime

How are additional charges and expenses such as discount, packing charges treated in the GST regime? Should they be included or excluded from the transaction value?

Let us consider this illustration.

Super Cars Ltd sells a car worth Rs 4,00,000 to Ravindra Automobiles.

- They incur packing charges of Rs 5,000 on the car
- They provide a discount of 1% on the price, as part of Diwali scheme
- Super Cars Ltd agree to provide a further discount of 0.5% if Ravindra Automobiles makes payment by 31st of the month via net banking. Ravindra Automobiles makes the payment by 31st of the month using net banking.

The invoice issued to Ravindra Automobiles, under GST, will look like this:

Invoice					
S.No.	Description of goods	Quantity	Rate	Per	Amount
1	Car	1	4,00,000	No.	4,00,000
	Packing charges				5,000
	Discount@ 1%	1			(-) 4,000
	GST@18%*				72,180
	Total	1			4,73,180

1% of price Rs 4,00,000

18% on transaction value of Rs 4,01,000 (4,00,000 + 5,000 - 4,000)

* Assuming GST of 18% on car

In the invoice,

- Packing charge of Rs 5,000 is included in the transaction value. Packing charges or any incidental expenses charged before or at the time of supply of goods or services must be included in the transaction value.
- Discount of 1% is deducted from the transaction value. Discount given before or at the time of supply, and which is recorded in the invoice, can be deducted from the transaction value.

- Discount of 0.5% is not deducted in the invoice. As discount of 0.5% is given after the supply, it will not be shown in the invoice. However, since the discount was known at the time of supply, and can be linked to this specific invoice, the discount amount can be reduced from the transaction value. For this, Super Cars Ltd will issue a credit note to Ravindra Automobiles for Rs 2,360 (0.5% of Rs 4,00,000 = Rs 2,000+ GST@ 18% on Rs 2,000 = Rs 360), and the same must be linked to the relevant tax invoice.
- Discount given after supply but agreed upon before or at the time of supply and can be specifically linked to relevant invoices, can be deducted from the transaction value.

What are the exceptions to this rule?

Answer: Discount given after supply, and not known at the time of supply.

Let us understand this with an illustration.

Super Cars Ltd sells a car to Ravindra Automobiles for Rs 4,00,000. As per the standing agreement, a credit period of 30 days is allowed for payment. However, due to a severe cash crunch, Super Cars Ltd requests Ravindra Automobiles to make the payment within 2 days, promising a discount of 2% on doing so. Ravindra Automobiles makes the payment within 2 days.

In this scenario, since the discount was not known at the time of supply, it cannot be claimed as a deduction from the transaction value for GST calculation.

A summary of the effect of discount on transaction value is given below-

Type of discount	Effect on transaction value
If the discount is given before or at the time of supply, and is recorded in the invoice	Can be claimed as deduction from transaction value
If the discount is given after supply, but agreed upon before or at the time of supply, and can be specifically linked to relevant invoices	Can be claimed as deduction from transaction value
If the discount is given after supply, and not known at the time of supply	Cannot be claimed as deduction from transaction value

Effect of various charges/expenses of supply on transaction value is shown below-

Charges/expenses related to supply	Effect on transaction value
Incidental expenses such as commission and packing	Included in transaction value
Interest/late fee/penalty charged by supplier for delayed payment	Included in transaction value
Subsidies excluding those provided by the Central and State governments	Included in transaction value
Any tax other than GST	Included in transaction value
Any amount payable by supplier, but	Included in transaction value

incurred by receiver	
----------------------	--

a. Comparison Method (Rule 4)

Under the comparison method of valuation the value is determined based on transaction value of supply **of identical nature, quality, kind and reputation** at the same time to other customers as adjusted reasonably by taking into consideration the relevant factors like difference in dates of supply, difference in commercial or quantity levels, difference in composition, quality, design of the subject supply with the supply with whom it is compared.

b. Computed Method (Rule 5)

Where the value cannot be determined under the comparison method, the computed value shall be used which means, the value is computed by adding

- i) the cost of production, manufacture, processing of goods or provision of services;
- ii) Charges for design or brand;
- iii) An amount of profit and general expenses usually reflected in the supply of the same class.

c. Residual Method (Rule 6)

Where the valuation cannot be determined as per above referred methods, the value shall be determined using reasonable means consistent with the principles and provisions under the Valuation Rules.

Valuation in case of Pure Agent:

Pure Agent is a person who –

- a) Enters into **contractual agreement with the recipient** of service to act as his pure agent to incur costs in course of providing taxable service
- b) **Neither intends to hold nor holds any** title to goods or services, nor uses the same.
- c) **Receives only the actual amount incurred** to procure the goods or services.

From the value of supply, the expenditure or costs incurred by a Pure Agent (service provider) shall be excluded if following conditions are satisfied –

- a. The service provider **acts as a pure agent of the recipient** of service when he makes payment to third party for the goods or service procured
- b. The **recipient of service receives and uses the goods or services so procured** by the service provider in his capacity as a 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 authorises the service provider to make payment** on his behalf.
- e. The **recipient of service knows** that the services shall be provided by third party.
- f. The payment made by the service provider on behalf of recipient has been **separately indicated in invoice** issued by the service provider.
- g. The service provider **recovers from the recipient only such** amount equal to the payment made by him to third party.
- h. The goods or **service procured by the service provider from the third party as a pure agent of the recipient are in addition to the services** he provides on his own account.

Valuation in case of Money Changer services:

In case of sale and purchase of foreign currency the consideration of money changer is included in the selling / buying rates. Valuation of the services in such cases shall be determined as under –

- i. Value of services shall be equal to the difference between selling / buying rate and the RBI reference rate multiplied by total units of currency.
- ii. If RBI reference rate is not available, value shall be 1% of gross amount of Indian rupees provided or received by the person changing the money.
- iii. If neither of the currencies exchanged in Indian rupees, the value shall be equal to 1% of the lesser of the two amounts the person would have received by converting any of two currencies into Indian Rupees on that day at the reference rate provided by RBI.

As is expected from the new GST regime that it will bring uniformity, simplification to tax management and eventually higher GDP growth, yet there seems to be so many challenges ahead in view the vast applicability of GST law and diversified administrative agencies across the states