

Chapter 15: Value of Supply

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15.0 Value of Supply in common terms is nothing but the amount paid by the recipient of supply to the supplier as consideration for supply (also known as transaction value). It means Value of supply is the figure upon which tax is levied and collected.

It is important to know to ascertain correct value of supply for correct levy of GST.

Valuation rules determine value of goods or services or both on which tax under GST has to be charged. Valuation rules have been prescribed under CGST Rules, 2017 for the purpose of determination of fair market value of goods or services or both supplied by the registered person. It means valuation rules are helpful to determine the value of supply where value not determined under section 15(1) as mentioned under section 15(4) of CGST Act, 2017.

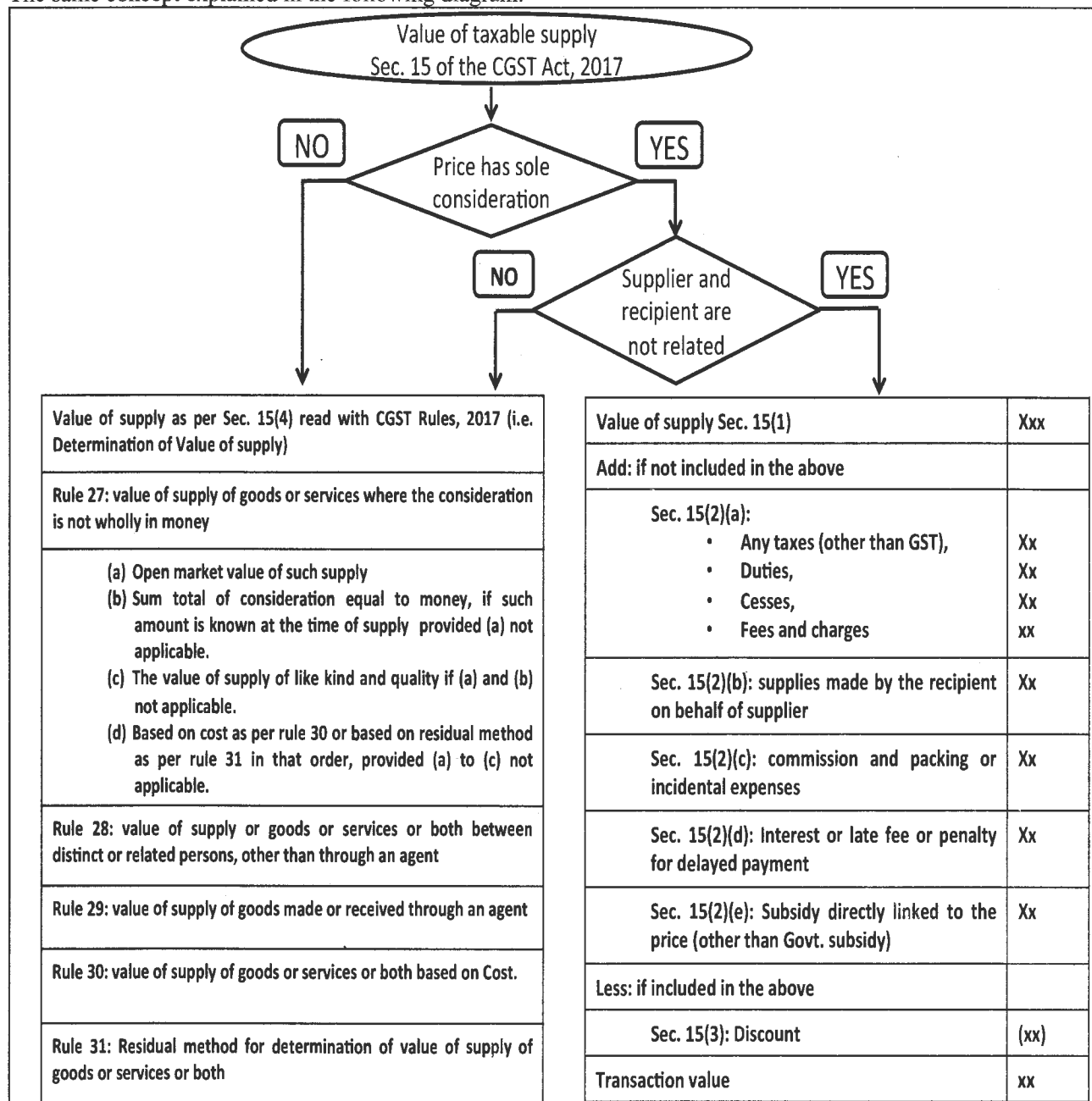
Example: Mr A goes to shop of Mr. B and purchases television. He pays amount of ₹50,000 as consideration for 52 inches LED TV Purchased plus GST. MRP of the product ₹65,000. Discount offered to all buyers ₹15,000. As per section 15(1) of the CGST Act, 2017 the valuation will be as per transaction value basis. Assume applicable rate of CGST 14% and SGST 14%. Invoice will be prepared as follows:

Invoice	
Particulars	Value in ₹
Transaction value	50,000
Add: CGST 14%	7,000
Add: SGST 14%	7,000
Invoice price	64,000

Note: Invoice price should not increase the Maximum Retail Price (MRP)

If Mr. A not maintained sole consideration for such sale or they are related persons then valuation will based on determination of value of supply rules (i.e. CGST Rules, 2017).

The same concept explained in the following diagram:



Explanation: For the purpose of the CGST Act, 2017:

(a) persons shall be deemed to be “related persons” if—

- (i) such persons are officers or directors of one another’s businesses;
- (ii) such persons are legally recognized partners in business;
- (iii) such persons are employer and employee;
- (iv) any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them;
- (v) one of them directly or indirectly controls the other;
- (vi) both of them are directly or indirectly controlled by a third person;
- (vii) together they directly or indirectly control a third person; or
- (viii) they are members of the same family;

(b) the term “person” also includes legal persons;

(c) 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.

15.1 Section 15(1): the price is sole consideration for sale

Under GST, the valuation is done based on the transaction value only if price is a sole consideration where supplier and the recipient are not related.

Sole consideration means by paying GST on such consideration there is no revenue loss to the department.

15.1.1 Value of a supply of goods and/or services shall be:

“Transaction Value (TV), 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.

15.1.2 Payment of taxes, duties, cesses, fees and charges [Section 15(2)(a) of CGST Act, 2017]

Any taxes, duties cesses, fees and charges levied under any law for the time being in force other than CGST/SGST/UTGST/IGST/Compensation Cess shall be added to the value of supply.

Example: Admission to True Theatre is ₹90 per ticket for a Tamil Movie as well as for a Hindi Movie plus entertainment tax 10% on Tamil Movie and 20% on other languages. In the month of November, True Theatre sold 2000 tickets of Tamil Movie and 1500 tickets of Hindi Movie. Find the value of taxable supply of service. Applicable rate of GST 18% & 28%. Find the GST liability if any?

Answer: Statement showing value of taxable supply of service and GST liability:

Value of taxable services:				
Tamil Movie	₹1,98,000	(₹99 x 2000 tickets)		
Hindi Movie	₹1,62,000	(₹108 x 1500 tickets)		
Particulars	9% CGST	9% SGST	14% CGST	14% SGST
GST liability (₹)	17,820	17,820	22,680	22,680

Working note:

Particulars	Tamil Movie (₹)	Hindi Movie (₹)
Rate per ticket	90	90
Add: Entertainment tax	9	18
Value of taxable supply	99	108
Applicable GST rate	18%	28%

15.1.2a Supplies made by recipient on behalf of supplier [Section 15(2)(b) of CGST Act, 2017]

The transaction value will include the amount which the supplier is so liable to pay but it has been paid by the recipient of supply.

Example: Mr. Ram sold goods to Mr. Lakshman for ₹2,50,000. As per the contract of sale, Mr. Ram is required to deliver the goods in the premises of Mr. Lakshman. Mr. Ram hires transporter for transportation for delivery of goods. However, the freight paid by Mr. Lakshman to transporter. Freight paid ₹2,500.

Find the transaction value of supply of goods.

Answer:

Particulars	Value in ₹
Value of supply of goods	2,50,000
Add: Freight paid by recipient of supply (which the supplier is so liable to pay)	2,500
Taxable value of supply of goods	2,52,500

TCS would not be includible in the value of supply under GST:

The Central Government vide *Corrigendum to Circular No. 76/50/2018-GST, dated 31st December, 2018* has clarified that Tax collection at source (TCS) is not a tax on goods but an interim levy on the possible “income” arising from the sale of goods by the buyer and to be adjusted against the final income- tax liability of the buyer. Accordingly, for the purpose of determination of value of supply under GST, Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961 would not be includible as it is an interim levy not having the character of tax.

Question 1: What is the correct valuation methodology for ascertainment of GST on Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961?

Answer:

1. Section 15(2) of CGST Act specifies that the value of supply shall include "any taxes, duties cesses, fees and charges levied under any law for the time being in force other than this Act, the SGST Act, the UTGST Act and the GST (Compensation to States) Act, if charged separately by the supplier."
2. For the purpose of determination of value of supply under GST, Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961 would not be includible as it is an interim levy not having the character of tax.

Question 2: Motor vehicle worth ₹20 lakh is sold by M/s Sundar Pvt. Ltd. to a customer in retail market and for which ₹ 5 lakh has been paid in cash and balance amount by way of cheque.

Find the following:

- (a) TCS under section 206C of the Income Tax Act, 1961 is applicable in the given case?
- (b) who is required to collect TCS?
- (c) value TCS if any?
- (d) value of taxable supply under section 15 of CGST Act, 2017?
- (e) Invoice Price of M/s Sunder Pvt. Ltd.?

Note: Assume applicable TCS is @1% and GST 28%.

Answer:

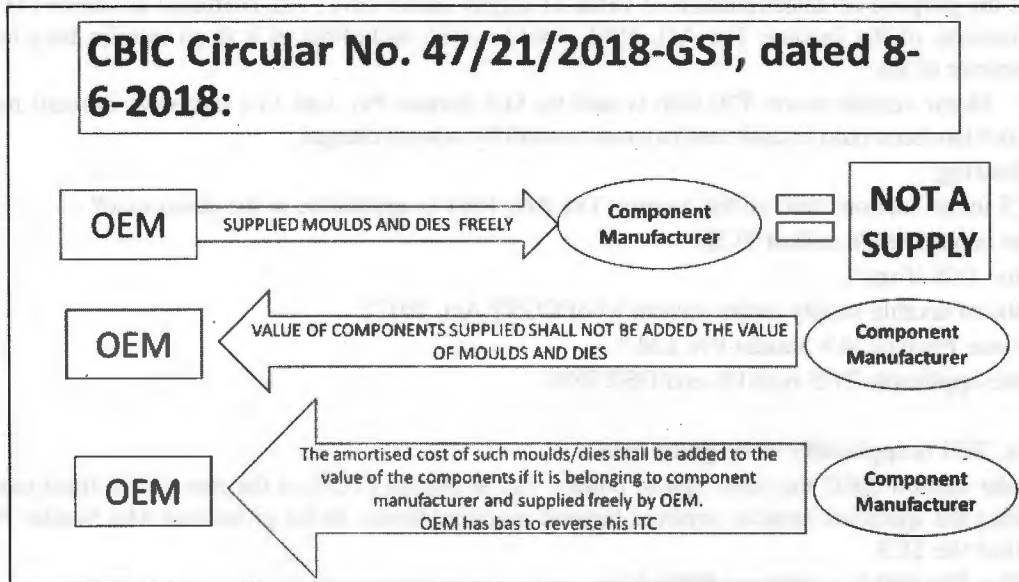
- (a) Yes, TCS is applicable in the given case.
- (b) Under section 206C the seller has to collect Tax at Source (TCS) at the rate of 1% from purchaser while selling the specified items or services beyond specified limits. In the given case M/s Sundar Pvt. Ltd. must collect the TCS.
- (c) TCS = ₹20,000 (i.e. @1% on ₹20 lakh)
- (d) Value of taxable supply under Section 15 of CGST Act, 2017 is ₹20 lakh only.
- (e) *Invoice price*

Particulars	Value in ₹
Cost of Motor Vehicle	20,00,000
Add: TCS under Sec 206C of IT Act, 1961	20,000
Sub-total	20,20,000
Add: GST 28% on ₹20 lakh	5,60,000
Invoice price	25,80,000

CBIC Circular No. 47/21/2018-GST, dated 8-6-2018:

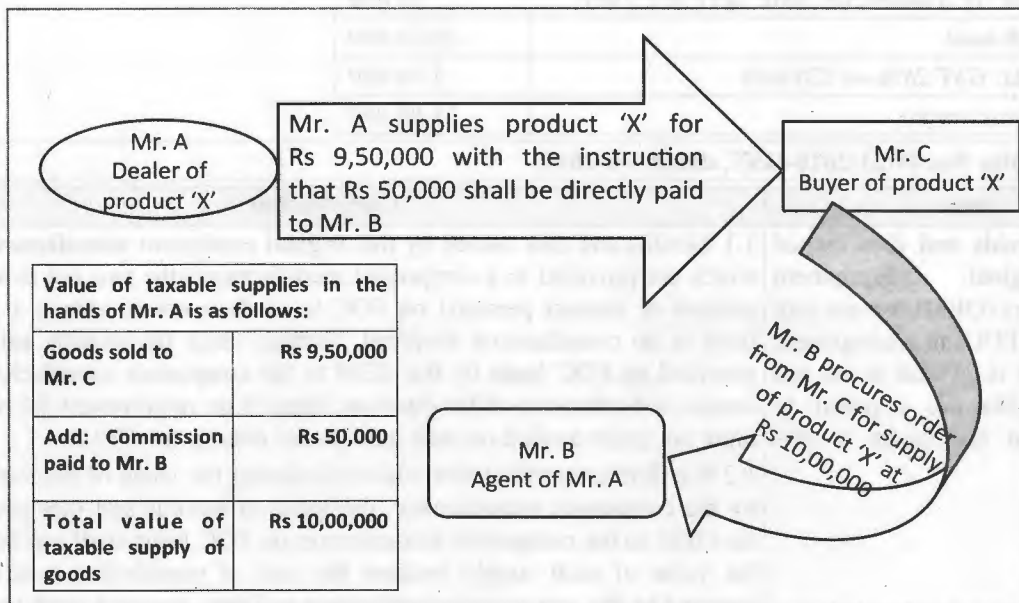
Issue	Clarification
Whether moulds and dies owned by Original Equipment Manufacturers (OEM) that are sent free of cost (FOC) to a component manufacturer is leviable to tax and whether OEMs are required to reverse input tax credit in this case?	<p>1.1 Moulds and dies owned by the original equipment manufacturer (OEM) which are provided to a component manufacturer (the two not being related persons or distinct persons) on FOC basis does not constitute a supply as there is no consideration involved. Further, since the moulds and dies are provided on FOC basis by the OEM to the component manufacturer in the course or furtherance of his business, there is no requirement for reversal of input tax credit availed on such moulds and dies by the OEM.</p> <p>1.2 It is further clarified that while calculating the value of the supply made by the component manufacturer, the value of moulds and dies provided by the OEM to the component manufacturer on FOC basis shall not be added to the value of such supply because the cost of moulds/dies was not to be incurred by the component manufacturer and thus, does not merit inclusion in the value of supply in terms of section 15(2)(b) of the Central Goods and Services Tax Act, 2017 (CGST Act for short).</p> <p>1.3 However, if the contract between OEM and component manufacturer was for supply of components made by using the moulds/dies belonging to the component manufacturer, but the same have been supplied by the OEM to the component manufacturer on FOC basis, the amortised cost of such</p>

Issue	Clarification
	moulds/dies shall be added to the value of the components. In such cases, the OEM will be required to reverse the credit availed on such moulds/ dies, as the same will not be considered to be provided by OEM to the component manufacturer in the course or furtherance of the former's business.

SUMMARY:**15.1.2b Commission and packing charges [Section 15(2)(c)]**

The transaction value will include commission and packing charges charged by the supplier to the recipient of supply and transaction value to include any amount charged by the supplier for anything done in respect of supply either at the time or before delivery of goods or services.

Example:



Example 2: Mr. A is a seller of furniture. He supplied the furniture for ₹5,75,000 to Mr. B with the condition that to remove old furniture from the premises of Mr. B by charging ₹5,000. Find the value of taxable supply of goods in the hands of Mr. A.

Answer: The value of taxable supply of goods is ₹5,80,000.

15.1.2c Interest or late fee or penalty for delayed payment [Section 15(2)(d) of the CGST Act, 2017]

It is specifically provided that interest or late fee or penalty for delay in payment of any consideration for supply will form part of the value of supply.

Example 1: Penal interest charged by the supplier of goods for delay in payment of dues is subject to GST.

Example 2: As per CBIC Circular No. 102/21/2019-GST, dated 28-6-2019, Penal interest against loan repayment is also treated as interest and covered under entry no. 27 of the Notification No. 12/2017 C.T. Therefore, exempted from GST.

15.1.2d Subsidy directly linked to the price (other than Govt. Subsidies) [Section 15(2)(e) of CGST Act, 2017]

Subsidy provided in any form or manner **linked to the supply** will also be included in the transaction value.

Example 1: Bharat Gas sells cooking gas cylinders. Subsidy directly transferred to the account of the customer. Selling price per cylinder is ₹800. Customer received subsidy ₹200 directly from Government to his bank account. Net outflow of the buyer is ₹600. Find the value of supply of goods (per cylinder) in the hands of Bharat Gas.

Answer: Since, the amount of subsidy is directly credited to the account holder and not received by the Bharat Gas making the supply. Therefore, such subsidy will not be considered as part of transaction value as it is not received by the Bharat Gas making the supply.

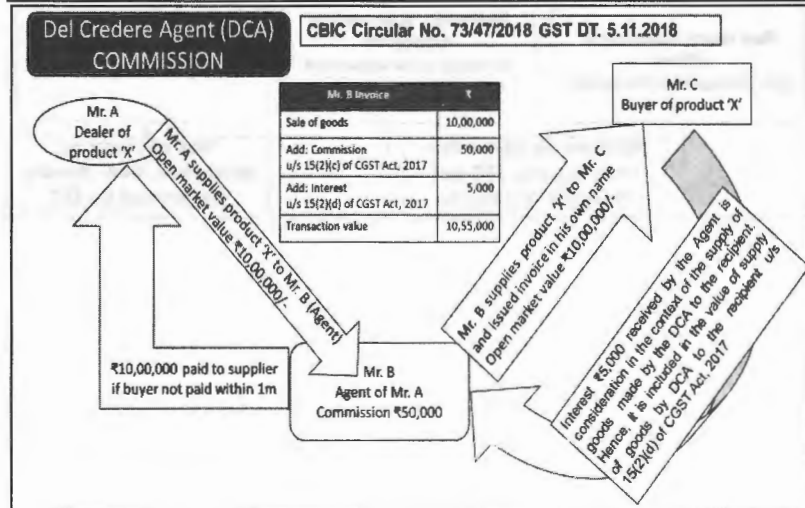
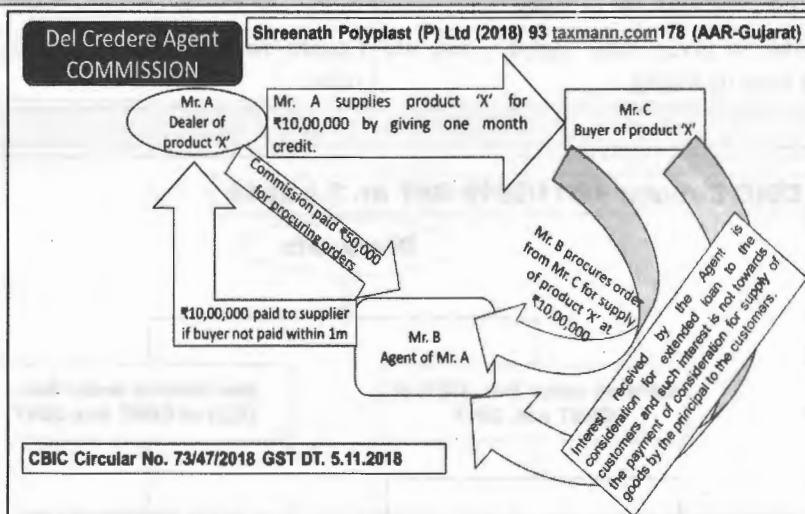
Hence, transaction value is ₹800 per cylinder.

Example 2: The Government provides subsidy, for the benefit of farmers but it is given to the manufacturer of fertilizers. Such subsidy will form part of value of supply.

Answer: The buyer of goods does not provide subsidy, but the Government as per the scheme provides it.

Therefore, this will not form part of value of supply as it is specifically specified that such subsidy provided by the Government will not form part of the value of supply.

Del Credere Agent Commission - GST



Donation or gifts from individual donors – Levy of GST on service display of name plates or donor in premises of charitable organisation (CBIC Circular No. 116/35/2019 GST, dated 11-10-2019):

Individual donors provide financial help or any other support in the form of donation or gift to institutions such as religious institutions, charitable institutions, schools, hospitals, orphanages, old age homes etc. the recipient institutions place a name plate or similar such acknowledgement in their premises to express gratitude.

When the name of the donor is displayed in recipient institution premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation). There is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no **GST liability** on such consideration.

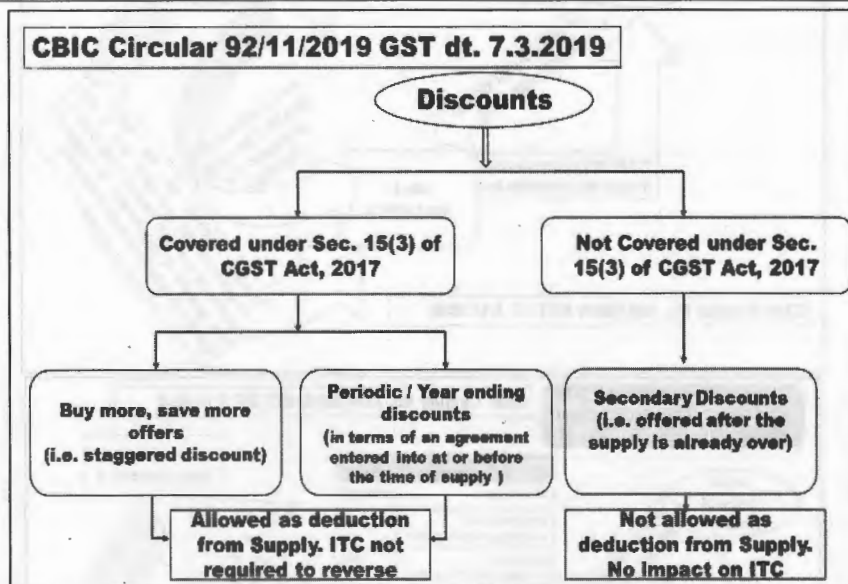
Example 1: "Good wishes from Mr. Rajesh" printed underneath a digital blackboard donated by Rajesh to a charitable Yoga institution.

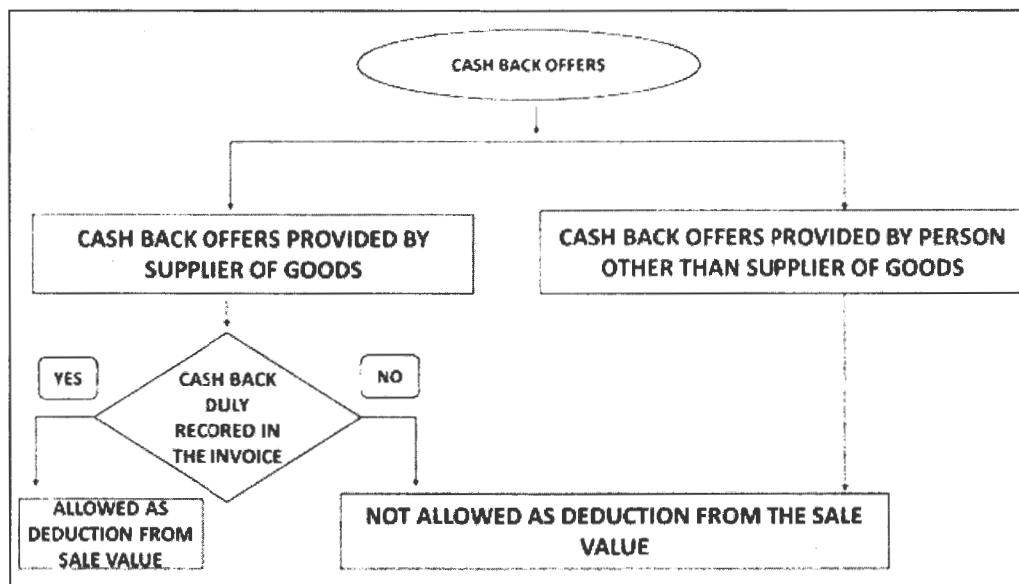
Example 2: "Donated by Smt. Malati Devi in the memory of her father" written on the door or floor of a room or any part of a temple complex which was constructed from such donation.

15.2 Discount under GST [Section 15(3) of the CGST Act, 2017]

S. No.	Nature of Discount	Treatment in GST	
1	If the discount is given before or at the time of supply and is recorded in the invoice.	Value of goods Less: Discount Transaction value	Xxxx (xx) xxx
2	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	
3	If the discount is given after supply, and not known at the time of supply	Cannot be claimed as deduction from transaction value	

Discounts:





Example 1: M/s Ashok Enterprise sells mineral water bottles, with MRP ₹20 per bottle. However, customers availing discount of ₹4 per bottle. In the month of Oct 2017, M/s Ashok Enterprise sold 2,000 bottles. Applicable rate of GST 18%. Find the tax liability.

Answer:

₹

Transaction value	= 32,000
Add: CGST 9% on ₹32,000	=2,880
Add: SGST 9% on ₹32,000	=2,880
Invoice price	= 37,760

Working note:

₹

MRP value (₹20 x 2000 pcs)	= 40,000
Less: Discount (₹4 x 2000 pcs)	= (8,000)
Transaction value	= 32,000

Example 2: Best Cars Ltd sells a car worth ₹5,00,000 to Sundar Automobiles. Best Cars Ltd. incurred packing charges of ₹6,000 on the car. Best Cars Ltd provided a discount of 1% on the car price, as part of Diwali scheme.

Best Cars Ltd agreed to provide a further discount of 0.5% if Sundar Automobiles makes payment by 31st of the month via net banking. Sundar Automobiles makes the payment by 31st of the month using net banking. Find the Net GST liability in the hands of Best Cars Ltd. Applicable rate of GST 18%.

Answer:

Particulars	Value in ₹
Value of the product	5,00,000
Add: packing charges	6,000
Sub-total	5,06,000
Less: Discount 1% on ₹5 lakh	(5,000)
Transaction value	5,01,000
Add: CGST 9%	45,090
Add: SGST 9%	45,090
Invoice price	5,91,180

Note: 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, Best Cars Ltd will issue a credit note to Sundar Automobiles for ₹2,500 (0.5% of ₹5,00,000 = ₹2,500+ GST@ 18% on ₹2,500 = ₹450), 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.

Example 3: However, due to a severe cash crunch, Best Cars Ltd requests Sundar Automobiles to make the payment within 2 days, promising a discount of 2% on doing so. Sundar Automobiles makes the payment within 2 days.

Answer: Since, the discount was not known at the time of supply, it couldn't be claimed as a deduction from the transaction value for GST calculation.

Example 4: M/s Nambiar & Co., an Audit firm based in Cochin undertake an audit assignment of his client based in Chennai. The Contract mentioned about the audit fees of ₹5,00,000 and arrangement of taxi by the Clint which may be worth ₹15,000.

Find the transaction value on which M/s Nambiar and Co., is liable to pay GST.

Answer: Transaction value in the hands of M/s Nambiar & Co., is ₹5,15,000.

Note: Not only audit fees but also the expenditure incurred in connection with the taxi ₹15,000 constitutes the sole consideration.

Example 5: M/s X Ltd is engaged in doing job work for M/s Y Ltd. M/s Y Ltd supplies raw material for ₹2,00,000 and packing material for ₹22,500 to M/s X Ltd. for completion of job work. M/s X Ltd has agreed to supply job-work services for the purpose of performing the activities as specified by M/s Y Ltd. Job worker labour charges ₹1,00,000, profit of ₹70,000 and material consumed for ₹3,500. Find transaction value (i.e. sole consideration) to levy GST in the hands of M/s X Ltd.

Answer:

Particulars	Value in ₹
Service charges	1,00,000
Add: Material consumed	3,500
Add: Jobworker profit	70,000
Transaction value (i.e. taxable value of supply of service in the hands of M/s X Ltd.)	1,73,500
Note: "Although, it includes materials worth ₹3,500, still the entire supply including value of material would be treated as services.	

Example 6: Asha Ltd. supplies raw material to a job worker Kareena Ltd. After completing the job-work, the finished product of 5,000 packets are returned to Asha Ltd. putting the retail sale price as ₹20 on each packet. The product in the packet is covered under MRP provisions. Determine the transaction value in the hands of Kareena Ltd. under GST law from the following details:

Particulars	Value in ₹
Cost of raw material supplied	30,000
Job worker's charges including profit	10,000
Transportation charges for sending the raw material to the job worker	3,000
Transportation charges for returning the finished packets to Asha Ltd.	4,500
Asha Ltd. paid certain technology transfer fees to 'Reena Ltd', so that 'Kareena Ltd' can use the said technology in the given job-work operation. This technology owned by Asha Ltd. for subsequent use as well.	22,500

Note: Kareena Ltd offered discount ₹2,000, provided full payment is made at the time of raising invoice and the same is mentioned in the invoice. Asha Ltd. made full payment at the time of issue of invoice.

Answer:

Statement showing transaction value of Kareena Ltd.	
Particulars	Value in ₹
Cost of raw material supplied	Exempted supply
Job worker's charges including profit	10,000
Transportation charges for sending the raw material to the job worker	Exempted supply
Transportation charges for returning the finished packets to Asha Ltd. [Section 15(2)(b) of the CGST Act, 2017]	4,500
Technology fee	not addable
Sub-total	14,500
Less: Discount [Section 15(3) of CGST Act, 2017]	(2,000)
Transaction value (i.e. sole consideration)	12,500

Note:

- (1) It is very clear that principal to jobworker and jobworker to principal cannot be treated as supply as per section 143 of the CGST Act, 2017.
- (2) CBIC Circular No. 47/21/2018-GST, dated 8-6-2018:
Technology owned by the recipient which are provided to a job worker (the two not being related persons or distinct persons) on FOC basis does not constitute a supply. It is further clarified that while calculating the value of the supply made by the job worker, the value of technology provided by the recipient to the job worker on FOC basis shall not be added to the value of such supply because the cost of technology was not to be incurred by the job worker and thus, does not merit inclusion in the value of supply in terms of section 15(2)(b) of the Central Goods and Services Tax Act, 2017 (CGST Act for short).
- (3) Therefore, if 'Asha Ltd.' paid certain technology transfer fees to 'Reena Ltd', so that 'Kareena Ltd' can use the said technology in the job-work operation that is performing for 'Asha Ltd', the value of such technology transfer fee may also be included in transaction value of job-work services.

Example 7: Mr. Bhanu makes supply of ₹2,00,000 to Mr. Renu. The contract provides that Mr. Renu will pay ₹50,000 to Mr. Bhanu and ₹1,50,000 to Mr. Venu to settle the debt of Mr. Bhanu. Find the transaction value and GST liability in the hands of Mr. Bhanu. Applicable rate of CGST and SGST 9% each.

Answer:

Answer: Statement showing transaction value and GST liability:	
Particulars	Value in ₹
Payment from Renu to Bhanu	50,000
Payment from Renu to Venu for settling the debt of Bhanu	1,50,000
Transaction value (i.e. Sole consideration)	2,00,000
CGST 9%	18,000
SGST 9%	18,000

Case law:

Smt. A. Vijaya v Commissioner of Central Excise, Salem (2016) 64 taxmann.com 77 (Chennai-CESTAT)

Facts of the case:

Multi-Level Marketing (MLM) is a marketing strategy in which the distributor is compensated for the sales of the other salespeople that they recruit. This recruited sales force is referred to as the participant's "downline", and can provide multiple levels of compensation. In this model, distributors sell products directly to consumers by means of relationship referrals or by encouraging others to join the company as a distributor. In this model, usually three kinds of incentives/rewards are earned by the distributor-

- Profit margin earned on sale of goods purchased from the MLM company (hereafter referred to as "company");
- Incentive received for buying certain quantum of goods; and
- Consideration for identification of persons who can further be appointed as distributors.

Decision: Recently, honorable tribunal held that:

- (a) **Profit margin:** Sale of goods by distributors to the seller is not in the nature of service but is in the nature of sale of goods, on which VAT is applicable because after sale, those products cease to belong to the company, but belong to the Distributor. Hence Tax is not applicable. However, after GST it is treated as supply of goods which will attract GST.
- (b) **Buying Commission (i.e. Discount):** Incentive received for quantum of goods purchased by the distributor from the company is in the nature of voluble discount. Hence, outside the ambit of Tax.
- (c) **Downline Marketing:** The activity of a Distributor of identifying distributors is considered as Business Auxiliary service on which tax will apply.

This case law is whole good under GST Law also.

Issues related to GST on monthly subscription/contribution charged by a Residential Welfare Association from its members. (CBIC Circular No. 109/28/2019-GST, dated 22nd July, 2019)		
S.No.	Issue	clarification
1	Are the maintenance charges paid by residents to the Resident Welfare	Supply of service by RWA (unincorporated body or a non-profit entity registered under any law) to its own members by

S.No.	Issue	clarification															
	Association (RWA) in a housing society exempt from GST and if yes, is there an upper limit on the amount of such charges for the exemption to be available?	way of reimbursement of charges or share of contribution up to an amount of ₹7500 per month per member for providing services and goods for the common use of its members in a housing society or a residential complex are exempt from GST. Prior to 25th January 2018, the exemption was available if the charges or share of contribution did not exceed ₹5000/- per month per member. The limit was increased to ₹7500/- per month per member with effect from 25th January 2018. [Refer clause (c) of Sl. No. 77 to the Notification No. 12/2018-Central Tax (Rate), dated 28.06.2019]															
2	A RWA has aggregate turnover of ₹20 lakh or less in a financial year. Is it required to take registration and pay GST on maintenance charges if the amount of such charges is more than ₹7500/- per month per member?	<p>No. If aggregate turnover of an RWA does not exceed ₹20 Lakh in a financial year, it shall not be required to take registration and pay GST even if the amount of maintenance charges exceeds ₹7500/- per month per member. RWA shall be required to pay GST on monthly subscription/ contribution charged from its members, only if such subscription is more than ₹7500/- per month per member and the annual aggregate turnover of RWA by way of supplying of services and goods is also ₹20 lakhs or more.</p> <table> <tr> <th>Annual turnover of RWA</th><th>Monthly maintenance charge</th><th>Whether exempt?</th></tr> <tr> <td>More than ₹20 lakhs</td><td>More than ₹7500/-</td><td>No</td></tr> <tr> <td></td><td>₹7500/- or less</td><td>Yes</td></tr> <tr> <td>₹20 lakhs or less</td><td>More than ₹7500/-</td><td>Yes</td></tr> <tr> <td></td><td>₹7500/- or less</td><td>Yes</td></tr> </table>	Annual turnover of RWA	Monthly maintenance charge	Whether exempt?	More than ₹20 lakhs	More than ₹7500/-	No		₹7500/- or less	Yes	₹20 lakhs or less	More than ₹7500/-	Yes		₹7500/- or less	Yes
Annual turnover of RWA	Monthly maintenance charge	Whether exempt?															
More than ₹20 lakhs	More than ₹7500/-	No															
	₹7500/- or less	Yes															
₹20 lakhs or less	More than ₹7500/-	Yes															
	₹7500/- or less	Yes															
3	Is the RWA entitled to take input tax credit of GST paid on input and services used by it for making supplies to its members and use such ITC for discharge of GST liability on such supplies where the amount charged for such supplies is more than ₹7,500/- per month per member?	RWAs are entitled to take ITC of GST paid by them on capital goods (generators, water pumps, lawn furniture etc.), goods (taps, pipes, other sanitary/hardware fillings etc.) and input services such as repair and maintenance services.															
4	Where a person owns two or more flats in the housing society or residential complex, whether the ceiling of ₹7500/- per month per member on the maintenance for the exemption to be available shall be applied per residential apartment or per person?	As per general business sense, a person who owns two or more residential apartments in a housing society or a residential complex shall normally be a member of the RWA for each residential apartment owned by him separately. The ceiling of ₹7500/- per month per member shall be applied separately for each residential apartment owned by him. For example, if a person owns two residential apartments in a residential complex and pays ₹15000/- per month as maintenance charges towards maintenance of each apartment to the RWA (₹7500/- per month in respect of each residential apartment), the exemption from GST shall be available to each apartment.															
5	How should the RWA calculate GST payable where the maintenance charges exceed ₹7500/- per month per member? Is the GST payable only on the amount exceeding ₹7500/- or on the entire amount of maintenance charges?	The exemption from GST on maintenance charges charged by a RWA from residents is available only if such charges do not exceed ₹7500/- per month per member. In case the charges exceed ₹7500/- per month per member, the entire amount is taxable. For example, if the maintenance charges are ₹9000/- per month per member, GST @18% shall be payable on the entire amount of ₹9000/- and not on [₹9000 - ₹7500] = ₹1500/-															

15.3 Transaction value not available [Section 15(4) read with CGST Rules, 2017 (i.e. Determination of value of supply)]

Rule 27: value of supply of goods or services where the consideration is not wholly in money

- (a) Open market value of such supply
- (b) Sum total of consideration equal to money, if such amount is known at the time of supply provided (a) not applicable.
- (c) The value of supply of like kind and quality if (a) and (b) not applicable.
- (d) Based on cost as per rule 30, if not as per residual method rule 31 in that order, provided (a) to (c) not applicable.

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

Rule 29: value of supply of goods made or received through an agent

Rule 30: value of supply of goods or services or both based on Cost.

Rule 31: Residual method for determination of value of supply of goods or services or both

15.3.1 Rule 27: value of supply of goods or services where the consideration is not wholly in money:

Valuation based on open market value of such supply.

- (a) **“Open market value”** of 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 price is the sole consideration, to obtain such supply at the same time when the supply being valued is made.

Example: 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 1: Mr. A being a registered person sells TVs to all customers at ₹45,000. He supplied new TV for ₹42,000 along with the exchange of an old TV. Find the open market value of TV.

Answer: Open market value is ₹45,000.

Example 2: M/s X Ltd is a manufacturer of car and sells the car in the open market at a price of ₹11,00,000. M/s X Ltd provided the car to his company auditor is only for ₹9,00,000. In return auditor provided auditing services to M/s X Ltd and charged ₹5,000 with the condition that company will be provided the car at the price of ₹9,00,000. Find the value as per Rule 27(a), Determination of value of supply.

Answer: Open market value of the car is ₹11,00,000.

Therefore, M/s X Ltd transaction value should be ₹11,00,000 on which GST will be levied.

- (b) **Sum total of consideration equal to money, if such amount is known at the time of supply provided open market value is not available.**

The value of consideration which is non-monetary terms shall be determined in monetary terms. The said value shall be added to the value in monetary terms in determination of value of supply.

Example 1: M/s X Ltd. is supplier of security services provided such services to M/s Y Ltd. as per the contract M/s Y Ltd is to pay monthly ₹1,00,000. In the month of November M/s Y Ltd. supplied uniforms to all employees of M/s X Ltd. by spending ₹20,000. As a result M/s X Ltd. raised the bill for ₹80,000 in the month of November. In the given case M/s X Ltd. received consideration for security service is partially in terms of money ₹80,000 and partially in kind (i.e. uniforms). Find the taxable value of service on which GST will be levied.

Answer: GST will be levied on the value of ₹1,00,000 (₹80,000 + uniforms equal to monetary value of ₹20,000) in the hands of M/s X Ltd.

Example 2: Rafi Academy normally charge ₹10,000 for teaching the commerce students. A merit student approaches the management of Rafi Academy and narrates his financial position. Rafi Academy management considering his financial position agrees to charge only ₹5,000 from such student. Find the value of taxable supply of service.

Answer: Since, Rafi Academy has not received any consideration from the student in any other form, ₹5,000 itself is the sole consideration. GST will be levied on ₹5,000.

- (c) **The value of supply of like kind and quality if (a) and (b) not applicable:**

If the value of supply is not determinable as per open market value and monetary value of non-monetary values, the values of supply shall be of like kind and quality.

Factors facilitating to determine value of supply:

- Goods or services of same kind and quality
- Identical or Similar nature
- Similar circumstances
- Comparison of various factors and so on...

Example 1: Rafi Academy teaching or coaching budding CA's Tuition fee of Rafi Academy can be compared with another academy of **same kind** and nature. It means we should not compare with home tuition of a faculty to 4th Standard students.

Example 2: Feather light chairs price compare with **identical or similar nature** product. It means feather light product compare with Godrej chair products.

Example 3: Value of product in Chennai will be on higher than the product in Sikkim or Assam. Therefore, the rule provides that the supply of goods or services shall be in **similar circumstances**. It means that if the supply of goods or services which value is required to be determined has been made in Chennai, supply of goods or services which is considered as base shall be made in Chennai.

Example 4: Canon heavy duty machines cannot be **compared** with ordinary laser Jet printer. Likewise, interior decorator completed interior decoration of a residential house measuring 1000 sq. ft. cannot be considered as similar service for doing interior decoration of 1000 sq. ft. of office area.

(d) Based on cost as per rule 30 or based on residual method as per rule 31 in that order, provided (a) to (c) not applicable.

As per rule 30 of the CGST Rules, 2017 value of supply of goods or services or both on cost. The value shall be 110% of the cost of production or manufacture or the cost of acquisition of such goods or the cost of provision of such services.

Example: Raj & Co. furnishes the following expenditure incurred by them to find the transaction value for the purpose of paying GST.

(i) Direct material cost per unit inclusive of IGST at 18%	₹944
(ii) Direct wages	₹250
(iii) Other direct expenses	₹100
(iv) Indirect materials	₹75
(v) Factory overheads	₹200
(vi) Administrative overhead (25% relating to production capacity)	₹100
(vii) Selling and distribution expense	₹150
(viii) Quality control	₹25
(ix) Sale of scrap realised	₹20
(x) Actual profit margin	15%

Find the value for the purpose of payment of GST as per Rule 30 of the CGST Rules, 2017.

Answer:	
Statement showing value of supply of goods as per Rule 30 of the CGST Rules, 2017:	
Particulars	Value in ₹
Direct material cost (944 x 100/118)	800
Direct wages	250
Other direct expenses	100
Indirect materials	75
Factory overheads	200
Administrative overhead (25% of ₹100)	25
Quality control	25
Sub-total	1475
Less: Sale of scrap	(20)
Cost of production	1,455
Add: 10% profit margin as per Rule 30 of the CGST Rules, 2017	145.50
Value of taxable supply of goods	1,600.50

Cost Accounting Standard (CAS)-4 issued by the Institute of Cost Accountants of India enumerates various costs to be included in determining the cost of production of goods. CAS-4 principles are also applicable for determining the cost of supply of service.

Thus, cost of acquisition will include cost of transportation, any local taxes, insurance, other expenditure like commission, fee and so on paid on procurement of goods.

However, GST element will not be considered for the purpose of determining the cost of acquisition.

Example 2: Determine the cost of production of the under mentioned product for the purpose of valuation in terms of Rule 30 of the Central Goods and Services Tax Rules, 2017. Direct Material ₹11,800, Direct wages and Salaries ₹8,400, Works overheads ₹6,200, Quality control costs ₹3,500, Research and Development Costs ₹2,400, Administration Overheads ₹4,100, Selling and Distribution Costs ₹1,600, Realisable value of scrap ₹1,200.

Administrative overheads are in relation to production activities. Material cost includes IGST ₹1,800. [CA Final May 2004 modified].

Answer: Calculation of Cost of Production and value:

Direct Material Cost	₹11,800
Less: IGST	₹ (1,800)
	₹10,000
Direct Wages	₹ 8,400
Works overheads	₹ 6,200
Quality control costs	₹ 3,500
Research and Development cost	₹ 2,400
Administrative O.H. relating to production	₹ 4,100
Less: Realisable value of scrap	₹(1,200)
Cost of Production	₹33,400
Add: 10% profit margin	₹ 3,340
Transaction Value (i.e. Assessable Value)	₹36,740

Example 3: Compute the cost of production and valuation for the under mentioned product as per Rule 30 of the CGST Rules, 2017:

	₹
1. Cost of material (Inclusive of CGST & SGST at 12%)	1,12,000
2. Direct wages	47,000
3. Other direct materials	13,500
4. Computer use for office purpose	41,000
5. Quality control test incurred for production process	17,000
6. Engineer charges paid for installation of machinery	12,750
7. Other factory overhead	27,000
8. Salary of staff appointed for office duty	84,000
9. Sale of scrap realized	1,800
10. Actual profit margin	15%
11. Administrative overhead (100% related to administrative Works)	1,00,000
12. Selling and distribution overhead	30,000

Answer: Statement showing Transaction Value as per Rule 30 of the CGST Rules, 2017:

Transaction cost	Assessable value ₹	Remarks
Cost of material	1,00,000	1,12,000 x 100/112
Direct wages	47,000	
Other direct material	13,500	
Computer office	Nil	Not addable
Quality control test	17,000	
Engineering charges for installation of machinery	Nil	Not addable
Other factory overheads	27,000	
Salary	Nil	Not addable
Sale of scrap	-1,800	
Cost of production	2,02,700	
Add: 10% profit margin	20,270	2,02,700 x 10%
Assessable value	2,22,970	

Example 4: From the following particulars, compute the transaction value as per Rule 30 of the CGST Rules, 2017 for GST purpose. Out of 1,000 units manufactured, 800 units have been cleared to a sister unit for further production of taxable goods on assessee's behalf, the balance 200 units are lying in the stock:

Particulars	₹
Direct material consumed (inclusive of IGST @ 18%)	2,36,000
Direct labour and direct expenses	1,60,000
Works overheads	40,000
Research and development costs	25,000
Administration overheads (75% related to production)	80,000

Particulars	₹
Input received free of cost from sister units	35,000
Abnormal losses (not included above)	24,000
Advertisement and selling costs	36,000
VRS compensation to employee (not included above)	1,20,000
Realisable value of scrap/wastage	20,000

Answer: Statement showing Assessable Value for 800 units:

Transaction cost	Assessable value ₹	Remarks
Material cost	2,00,000	2,36,000 x 100/118
Labour cost	1,60,000	
Overheads	40,000	
Research and Development	25,000	
Administrative overheads	60,000	80,000 x 75%
Input received from sister unit	35,000	
Abnormal loss	Nil	Not considered
VRS compensation	Nil	Not considered
Resale value of scrap	-20,000	
Cost of production for 1000 u	5,00,000	
Transaction value of 800 units	4,40,000	(5,00,000 x 800u/1000u) x 110%

Example 5: Alpha Ltd., a manufacturer of taxable goods. Assuming that there is no opening and closing inventory, compute its value as per Rule 30 of the CGST Rules, 2017 for the purpose of GST from the following information provided by Alpha Ltd:

Particulars	₹
Cost of direct materials (inclusive of IGST 28%)*	25,600
Cost of direct salaries (includes house rent allowance of ₹12,000)	30,000
Consumable stores and repairs	8,400
Depreciation of machinery	500
Quality control cost	4,300
Research & development cost	2,700
Administrative cost:	
Production related	2,000
Project management related	1,800
Interest and financial charges	2,400
Cost incurred due to break down of machinery	1,300
Amortised cost of moulds and tools received free of cost from the recipient of goods	600
Selling and distribution cost	4,600
Scrap value realized	1,500

*Note: ITC of the IGST so paid is available.

Answer: Statement showing assessable value for M/s Alpha Ltd.		
Particulars	Value ₹	Working note
Cost of direct materials	20,000	25,600 x 100/128
Cost of direct salary	30,000	
Consumables	8,400	
Depreciation of Machine	500	
Quality control cost	4,300	
Research and development	2,700	
Particulars	Value ₹	Working note
Administrative cost Production	2,000	
Add: amortisation cost	600	
Less: sale of scrap	-1,500	
Cost of production	67,000	
add: profit	6,700	67,000 x 10%
Transaction value	73,700	

As per Rule 31 of the CGST Rules, 2017 Residual method for determination of value of supply of goods or services or both

It is provided that where the value of supply of goods or services or both cannot be determined under rule 27 to rule 30 of the CGST Rules, 2017, value shall be determined by using reasonable means consistent with the principles and the general provisions of section 15 and the provisions of this Chapter IV of the CGST Rules, 2017.

Value of service can be on basis of rule 31 instead of on cost plus 10% basis: -

In case of supply of services, the supplier may opt for rule 31 ignoring rule 30 (as per proviso to Rule 31 of CGST and SGST Rules, 2017).

It means to say that efforts should be made by proper officer to determine the by using his best judgment assessment.

CASE LAW:

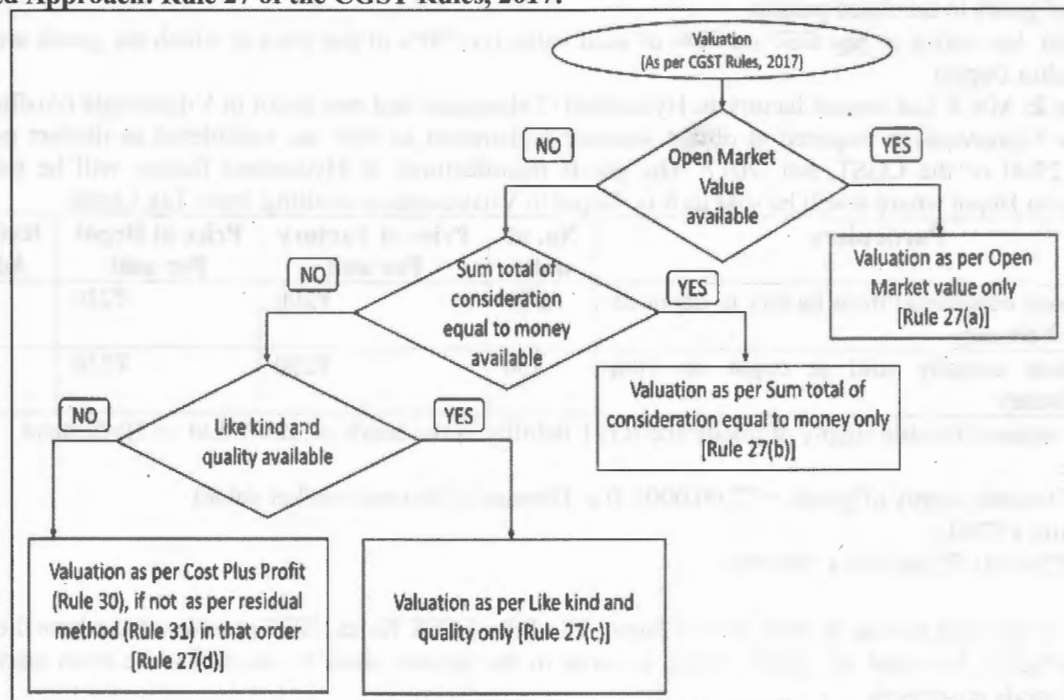
CCEx. Mumbai v Fiat India Pvt. Ltd. 2012 (283) ELT 161 (SC):

Assessee Claim: Fiat UNO model cars for the past five years consistently selling at below manufacturing cost to non-relative buyers for meeting demand in the market. Therefore, such selling price (i.e. transaction value) itself has sole consideration for the purpose of GST.

Department Contention: The extra commercial consideration was involved in this case an additional consideration should be added to the price for the purpose of duty. Therefore, Best Judgment Assessment has been invoked.

Decision: Full commercial cost of manufacturing and selling was not reflected in the price as it was deliberately kept below the cost of production. Thus, price could not be considered as the sole consideration for sale. No prudent businessperson would continuously suffer huge loss only to penetrate market. Therefore, Best Judgment Assessment of the department was proper said by the Hon'ble Supreme Court of India in the case of **CCEx. Mumbai v Fiat India Pvt. Ltd. 2012 (283) ELT 161 (SC).**

Simplified Approach: Rule 27 of the CGST Rules, 2017:



15.3.2 Rule 28 of the CGST Rules 2017 value of supply of goods or services or both between distinct or related persons other than through an agent

The value of the supply of goods or services or both between distinct persons as specified in section 25(4) and section 25(5) of the CGST Act, 2017 or where the supplier and recipient are related, other than where the supply is made through an agent, shall—

- be Open market value of such supply
- if the open market value is not available, be the value of supply of goods or services of like kind and quality.
- 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 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 90% of the price charged of 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.

Example 1: M/s X Ltd owned factory in Chennai (Tamil Nadu) and one depot in Cochin (Kerala). Depot in Cochin is required to obtain separate registration as they are considered as distinct person under Section 25(4) of the CGST Act, 2017. The goods manufactured in Chennai factory will be transferred to Cochin Depot where it will be sold as it is.

Particulars	No. of units	Price at Factory Per unit	Price at Depot Per unit	Rate of IGST Advalorem
(i) Goods transferred from factory to depot on 8th February	1,000	₹200	₹220	18%
(ii) Goods actually sold at depot on 18th February	750	₹220	₹250	12%

Find the value of taxable supply of goods and IGST liability in the hands of M/s X Ltd. of Chennai.

Note: Depot in Cochin is not availing input tax credit.

Answer: Value of taxable supply of goods = ₹1,98,000

(₹220 x 1,000 units) x 90%

IGST = ₹35,640 (i.e. ₹1,98,000 x 18/100)

Note: It means at the time of transfer of goods from Chennai Factory to Cochin Depot, M/s X Ltd. will have to determine the price at which depot will sell the goods to his customers.

As per 1st proviso to Rule 28 of Chapter IV of the CGST Rules, 2017 provides that such price should be the price for sale of goods to unrelated person.

M/s X Ltd. has option to pay GST on 90% of such value (i.e. 90% of the price at which the goods are being sold from Cochin Depot).

Example 2: M/s Y Ltd owned factory in Hyderabad (Telangana) and one depot in Vijayawada (Andhra Pradesh). Depot in Vijayawada is required to obtain separate registration as they are considered as distinct person under Section 25(4) of the CGST Act, 2017. The goods manufactured in Hyderabad factory will be transferred to Vijayawada Depot where it will be sold as it is. Depot in Vijayawada is availing Input Tax Credit.

Particulars	No. of units	Price at Factory Per unit	Price at Depot Per unit	Rate of IGST Advalorem
(i) Goods transferred from factory to depot on 8th February	1,000	₹200	₹220	18%
(ii) Goods actually sold at depot on 18th February	750	₹220	₹250	12%

Find the value of taxable supply of goods and IGST liability in the hands of M/s Y Ltd. of Hyderabad.

Answer:

Value of taxable supply of goods = ₹2,00,000/- (i.e. Deemed to be open market value)

(1000 units x ₹200)

IGST = ₹36,000 (₹2,00,000 x 18/100)

Note:

- As per 2nd proviso to Rule 28 of Chapter IV of the CGST Rules, 2017 provides that where the recipient is eligible for input tax credit, value declared in the invoice shall be deemed to be open market value of goods or services.
- Integrated Tax Department has right to reject the valuation if the value is not full fill the open market value. It should meet the requirement of sole consideration.

Example 3: Kamal & Co. manufactures customized products at its unit situated in Rajasthan. Cost of production for Kamal & Co for 1000 products is ₹20,00,000. These products require further processing before sale, and for this purpose products are transferred from its Rajasthan unit to its another unit in Punjab. The Punjab unit, apart from processing its own products, engages in processing of similar products of other persons who supply the products of the same kind and quality and thereafter sells these processed products to wholesalers. There are no other factories in the neighboring area which are engaged in the same business as that of its Punjab unit. Products of the same kind and quality are supplied in lots of 1000 each time by another manufacturer located in Punjab. The price of such goods is ₹19,00,000. Determine the value of 1000 products supplied by Kamal & Co. to its Punjab unit as per the provisions of CGST Act, 2017.

(CA Final IDT May 2018 – New)

Answer: Value of supply for Kamal & Co., Rajasthan: The value of the supply of goods or services or both between distinct persons as specified in section 25(4) and section 25(5) of the CGST Act, 2017 or where the supplier and recipient are related, other than where the supply is made through an agent, shall—

- (a) be 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 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 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 90% of the price charged of the supply of goods of like kind and quality by the recipient to his customer not being a related person:

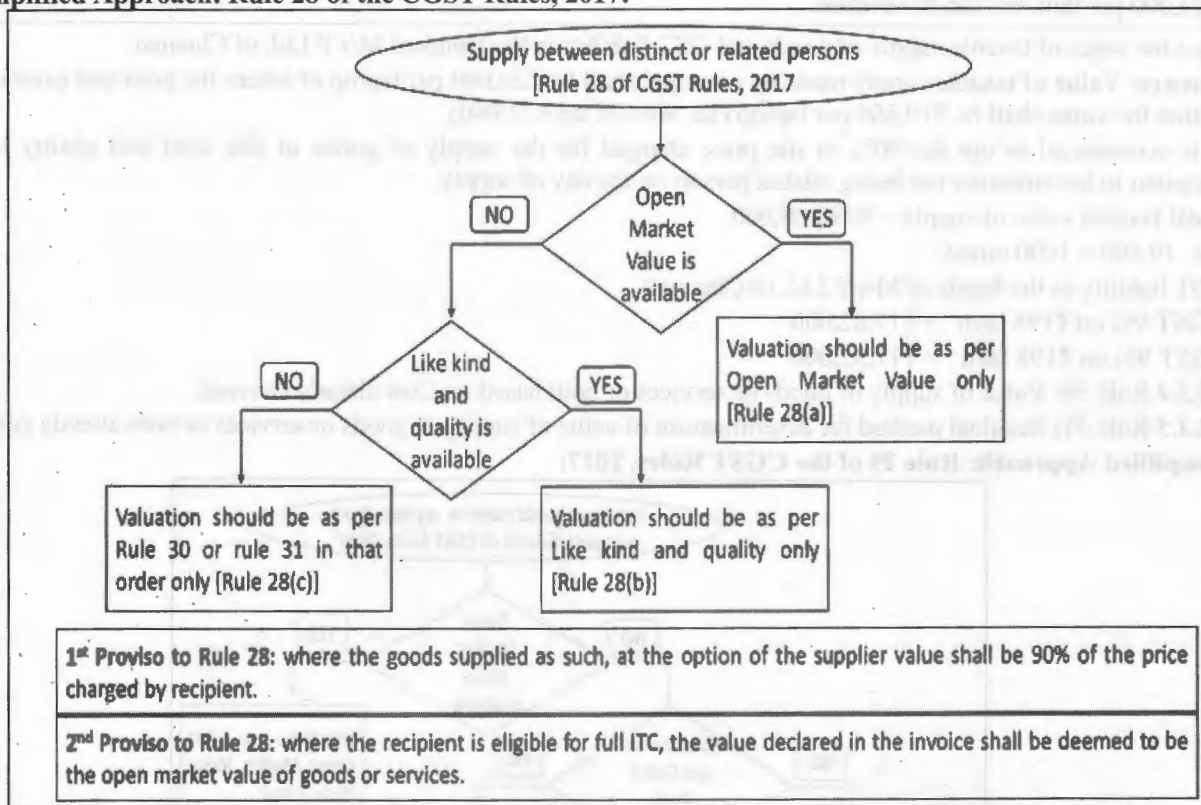
Provided further that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of goods or services.

In the given case, open market value of the 1000 products being supplied to Punjab unit is not available since the supplier manufactures customised products. Therefore, value of 1000 products supplied by Rajasthan unit of Kamal & Co. to Punjab unit will be the value of the goods of like kind and quality supplied to Punjab unit by other customers which is ₹19,00,000.

Since goods are not supplied as such by the Punjab unit, goods cannot be valued @ 90% of the price charged for the supply of like goods by the Punjab unit to its unrelated customers in terms of first proviso to rule 28 of CGST Rules, 2017.

Further, if Punjab unit is entitled for full ITC, the value declared in the invoice of Rajasthan unit will be deemed to be the open market value of the goods vide second proviso to rule 28 of CGST Rules, 2017.

Simplified Approach: Rule 28 of the CGST Rules, 2017:



15.3.3 Rule 29 of the CGST Rules 2017 value of supply of goods made or received from an agent:

As we are aware of that as per clause 3 of **Schedule I** of the CGST Act 2017:

SCHEDULE I

ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION

3. Supply of goods—

- (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or
- (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

As per Rule 29 of the CGST Rules, 2017 provides the manner in which value shall be determined in such cases.

- (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;
- (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 of Chapter IV of the CGST Rules 2017 in that order.

Example 1: 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 the supply. Another independent supplier is supplying groundnuts of like kind and quality to the said agent at the price of ₹4,550 per quintal.

Find the value of taxable supply in the hands of principal as per Rule 29(a) of the CGST Rules, 2017.

Answer: The value of taxable supply made by the principal shall be ₹4,550 or where he exercises the option, the value shall be ₹4,500 (i.e. 90% of ₹5,000) per quintal.

Example 2: M/s P Ltd being a principal supplies laptop to his agent and the agent is supplying laptops of like kind and quality in subsequent supplies. M/s P Ltd incorporated in Chennai (Tamil Nadu). Agent is located in Nagercoil (Tamil Nadu). Goods supplied on 15th November by the Principal to his Agent.

Particulars	No. of units	Price at which principal supplies to agent	Price at which agent supplies to his customer not being a related person	Rate of GST Advalorem
(i) Selling price on 15th November	1,000	₹Nil	₹22,000	18%
(ii) Goods procured by agent from other independent supplier supplying laptops of like kind and quality at ₹20,000 per unit on 15th November.				

Find the value of taxable supply of goods and GST liability in the hands of M/s P Ltd. of Chennai.

Answer: Value of taxable supply made by principal shall be ₹20,000 per laptop or where the principal exercise the option the value shall be ₹19,800 per laptop (i.e. 90% of the ₹22,000).

It is economical to opt the 90% of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being related person on the day of supply.

Total taxable value of supply = ₹198,00,000

(i.e. 19,800 x 1000 units).

GST liability in the hands of M/s P Ltd. of Chennai:

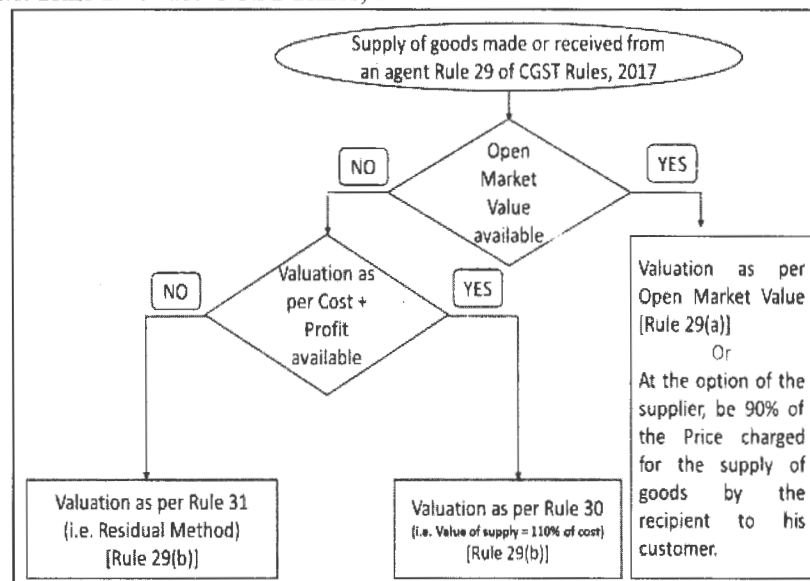
CGST 9% on ₹198 lakh = ₹17,82,000

SGST 9% on ₹198 lakh = ₹17,82,000

15.3.4 Rule 30: Value of supply of goods or services or both based on Cost already covered.

15.3.5 Rule 31: Residual method for determination of value of supply of goods or services or both already covered.

Simplified Approach: Rule 29 of the CGST Rules, 2017:



15.3.6 Value of supply in case of lottery, betting, gambling and horse racing

(1) Notwithstanding anything contained in the provisions of this Chapter, the value in respect of supplies specified below shall be determined in the manner provided hereinafter.

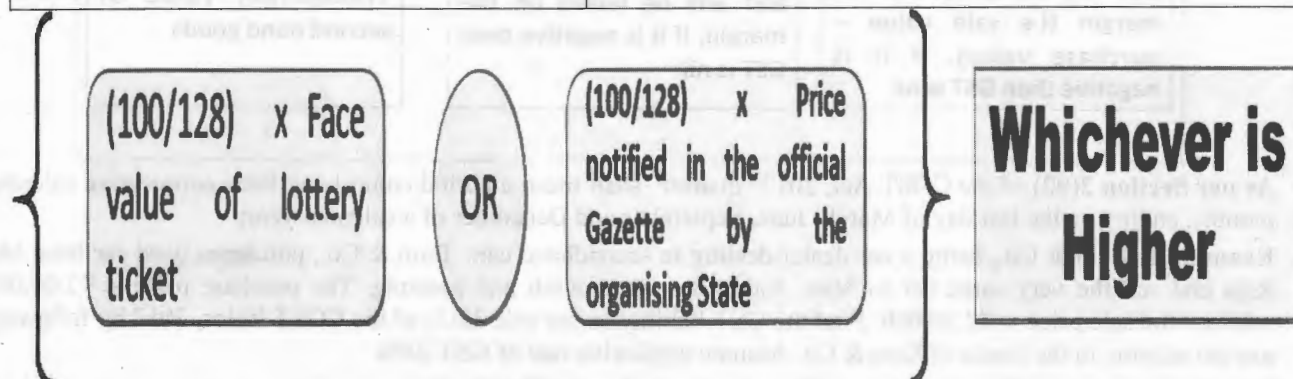
Explanation.—For the purposes of this sub-rule, the expressions—

- (a) “lottery run by State Governments” means a lottery not allowed to be sold in any State other than the organizing State;
- (b) “lottery authorised by State Governments” means a lottery which is authorised to be sold in State(s) other than the organising State also; and
- (c) “Organising State” has the same meaning as assigned to it in clause (f) of sub-rule (1) of rule 2 of the Lotteries (Regulation) Rules, 2010.

(2) The value of supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club shall be 100% of the face value of the bet or the amount paid into the totalisator.”;

Rule 31A. Value of supply in case of lottery, betting, gambling, and horse racing

Supply	Value
W.E.F. 1.3.2020 Supply of lottery run by State Govt. (OR) Supply of lottery authorised by State Govt.	Higher of the two amounts to be deemed as value: 100/128 of the face value of ticket OR 100/128 of the price as notified in the official Gazette by the organising State.
Supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club	100% of the face value of the bet or the amount paid into totalisator

**15.4 Determination of value in respect of certain supplies (Rule 32 of Chapter IV of the CGST Rules, 2017):**

Rule 32(1): 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.

Rule 32(2): Money changing services	Already covered
Rule 32(3): Air travel agent of passenger transport	
Rule 32(4): Life insurance business	

15.4.1 Rule 32(5): Buying and Selling of second hand goods:

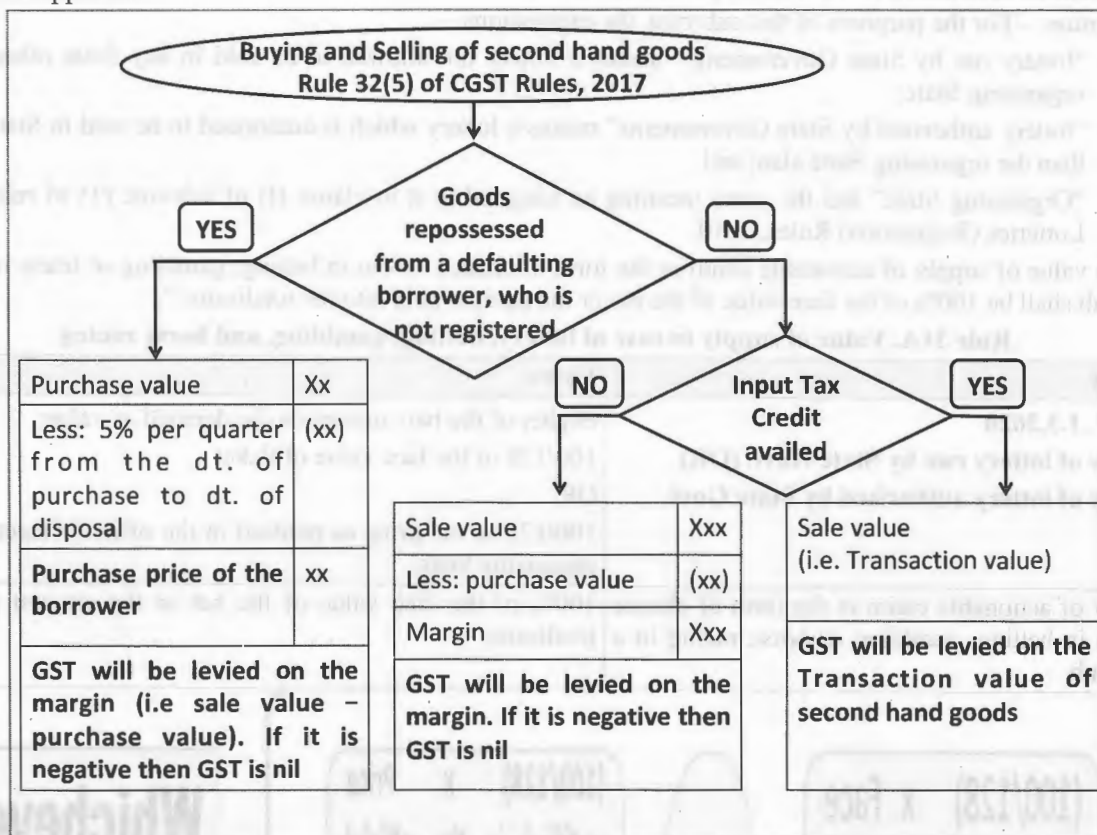
Where a taxable supply is provided by a person dealing in buying and selling of second hand goods i.e. used goods as such or after such minor processing which does not change the nature of the goods and where no input tax credit has been availed on the purchase of such goods, the value of supply shall 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.e. goods are sold at loss then tax will not be payable).

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 5% points for every quarter or part thereof, between the date of purchase and the date of disposal by the person making such repossession.

When a registered second-hand goods dealer supplies second-hand goods, the dealer is liable to charge GST on the second-hand goods. For this, 2 options have been given to the dealers:

Charge GST on the full transaction value. Here, the dealer is eligible to claim input tax credit of the tax paid on purchase of the used goods.

Simplified approach:



As per Section 2(92) of the CGST Act, 2017 “quarter” shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year;

Example 1: Ram & Co., being a car dealer dealing in secondhand cars. Ram & Co., purchases used car from Mr. Raja and sell the very same car to Miss. Rani after water wash and painting. The purchase price is ₹2,00,000 whereas the sale price is ₹2,50,000. Find the GST liability as per rule 32(5) of the CGST Rules, 2017 by following margin scheme in the hands of Ram & Co. Assume applicable rate of GST 28%.

Ram & Co., is not availing input tax credit on purchase of second hand cars.

Whether your answer is different if the sale of secondhand car for ₹1,80,000.

Note: Ram & Co., and Miss. Rani are located within the State of Tamil Nadu.

Answer: GST net liability is as follows:

Particulars	Value ₹	14% CGST ₹	14% SGST ₹	Remarks
Output supply	2,50,000			
Less: purchase price	2,00,000			
Difference known as margin	50,000	7,000	7,000	Charge GST on the margin or profit earned on the goods (₹50,000 x 28%)

Yes. Our answer different in case of sale price is ₹1,80,000:

Sale price	= ₹1,80,000
Less: purchase price	= ₹(2,00,000)
Margin	= ₹(20,000)
GST liability	= ₹Nil

Note: For a dealer who has opted for the margin scheme, there can be a scenario where the second-hand goods are sold at zero margins or for a lesser price than the purchase price. In this case, no GST will be applicable on the supply.

Example 2: Mr. D being a dealer in goods sells new brand cars at ₹11,00,000. He advertises that customers can sell their old car if they buy new car from him. One customer exchanged his old car for ₹2,00,000. Mr. D sold new car to that customer for ₹9,00,000. The Central Tax Department demanded to pay GST on ₹11,00,000 whereas Mr. D argues that he is eligible to pay GST on the difference namely margin of ₹9,00,000 as per Rule 32(5) of the CGST Rules, 2017. Discuss and decide the correct approach.

Answer: Rule 32(5) of the CGST Rules, 2017 is applicable only when person is dealing in buying and selling of secondhand goods.

In the given case Mr. D is not eligible for margin scheme as referred in rule 32(5). Since, dealer sold new car and therefore, provisions of rule 32(5) will not apply.

Therefore, from the above it is evident that the Central Tax Department view is correct.

Example 3: M/s X Ltd, a registered person under GST, being a dealer dealing with second-hand goods. M/s X Ltd. supplies a used camera to a consumer in Chennai for selling price of ₹15,000. The used camera (i.e. second hand) was purchased for ₹10,000 from a registered dealer in Mumbai, on which CGST + SGST of ₹1,400 each was charged (i.e. GST rate applicable to cameras is 28%).

M/s X Ltd. charged IGST 28% on inter State supply.

Find the net GST liability in the following independent cases:

- if input tax credit availed.
- if input tax credit not availed.

Answer:

(i) Net GST liability in case of input tax credit availed:		
Particulars	Value ₹	28% IGST ₹
Output supply	15,000	4,200
Less: ITC	10,000	
CGST 14%		(1,400)
SGST 14%		(1,400)
Net GST liability		1,400

(ii) Net GST liability in case of input tax credit not availed:			
Particulars	Value ₹	28% IGST ₹	Remarks
Output supply	15,000		
Less: purchase price	12,800		GST will form part of cost.
Difference known as margin	2,200	616	Charge GST on the margin or profit earned on the goods (₹2,200 x 28%)

Repossession of goods in case of default by the unregistered borrower:

Example 4: Mr. C has taken a loan from the bank on 15th July 2017 worth ₹2 crore and purchased a machine. Subsequently Mr. C defaulted in paying the loan amount along with interest. Subsequently bank repossessed the machine from Mr. C on 1st Jan 2018. The banker sells the said goods on 26th April 2018.

Find the value of taxable supply of goods in the hands of banker in the following two independent cases:

Case 1: machine sold for ₹1,90,00,000.

Case 2: machine sold for ₹1,70,00,000.

Note: Applicable rate of IGST 18%.

Answer: Determination of purchase value:		
Particulars	Value in ₹	Working note
Purchase value of the banker	2,00,00,000	Purchase value for the lending company will be the purchase price of the defaulter.
Less: 5% per quarter for 2 quarters	(20,00,000)	From 1st Jan 2018 to 26th April 2018 = 2 quarters
Purchase value at the time of disposal by the bank	1,80,00,000	

Value of taxable supply in the hands of banking company:			
Particulars	Case 1	Case 2	Remarks
Sale price	1,90,00,000	1,70,00,000	
Less: purchase price	(1,80,00,000)	(1,80,00,000)	In case the sale price is below ₹1,80,00,000, banker will not be liable to pay GST as value is nil.
Taxable value or Margin	10,00,000	Nil	
IGST 18%	1,80,000	Nil	₹10 lacs x 18%

15.4.2 Redeemable voucher/coupons/stamp (other than postage stamp) Rule 32(6) of the CGST Rules, 2017

There are many companies who issue vouchers, coupons, stamp and so on and on the basis of which goods or services can be procured by the holder of such vouchers/coupons/stamps etc.

Valuation:

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.

Time of Supply of Vouchers for Goods & Services (Section 12(4) & 13(4) of CGST Act, 2017)

If the supplies is identifiable at that point:

- Time of supply = Date of issue of voucher.

If the supplies is not identifiable at that point:

- Time of supply = The date of redemption of voucher.

Example 1: A voucher has face value of ₹5,000. The holder of voucher can purchase goods or services of equivalent value of ₹5,000. When the holder of voucher receives the goods or services against the voucher it is termed as redemption of voucher.

Example 2: X Ltd. being a cloth merchant sold gift voucher to customer for ₹2,000 on 10th November to purchase specific cloth from its showroom. Goods actually purchased by customer on 15th November for ₹2,400. Find the time of supply and value of supply with regard to gift voucher in the hands of X Ltd.

Answer: Time of supply is at the time issue of voucher i.e. 10th November.

Value of supply = ₹2,000 for gift voucher.

Example 3: Ram & Co., being dealer in electronics and electrical items, issued gift voucher to its customer for ₹2,000 on 15th November. Customer can use gift voucher to purchase anything which is available. Customer purchased goods worth ₹1,400 on 20th Nov. 2017. Applicable CGST and SGST 9% each.

Find the following

- time of supply
- value of supply
- GST liability in the hands of Ram & Co.

Answer:

- Time of supply is 20th November 2017.
- Value of supply is ₹1,400.
- GST liability:
 - CGST is ₹126
 - SGST is ₹126

Working Note: ₹1,400 x 9% = ₹126m

Example 4: Mr. & Ms. Kapoor purchase 10 gift vouchers for ₹500 each from Crossword, and 5 vouchers from a reputed Spa costing ₹1,000 each. The vouchers from a reputed Spa had a special offer for couples, where in services for both persons at the price chargeable to one. Find the value of supply in the hands of Crossword and reputed Spa.

Answer: statement showing value of taxable supply:			
Particulars	Crossword Value in ₹	Reputed Spa value in ₹	Remarks
Value of taxable supply	5,000	10,000	10 gits x 500 = ₹5,000. (5 vouchers x ₹1,000) x 2 = ₹10,000

15.4.3 Value of service provided by one distinct person to another distinct person Rule 32(7) of the CGST Rules, 2017:

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 CGST Act, 2017 between distinct persons as referred to in section 25, where input tax credit is available, shall be deemed to be NIL.

SCHEDULE I

ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION

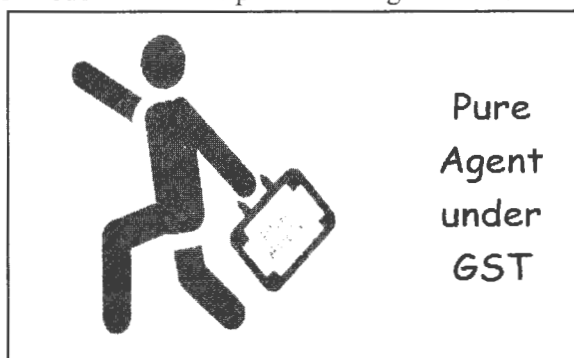
2. Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business:

Provided that gifts not exceeding ₹50,000/- in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

15.5 Value of supply of services in case of pure agent Rule 33 of the CGST Rules, 2017

Pure Agent means a person who:

- enters into a contractual agreement with the recipient of supply to act on their behalf and incur expenditure or costs in the course of supply of goods or services or both;
- neither intends to hold nor holds any title to the goods or services (or both) procured on behalf of or provided to the recipient of supply;
- does not use the goods or services so procured for his own interest; and
- receives only the actual amount incurred to procure such goods or services.



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: —

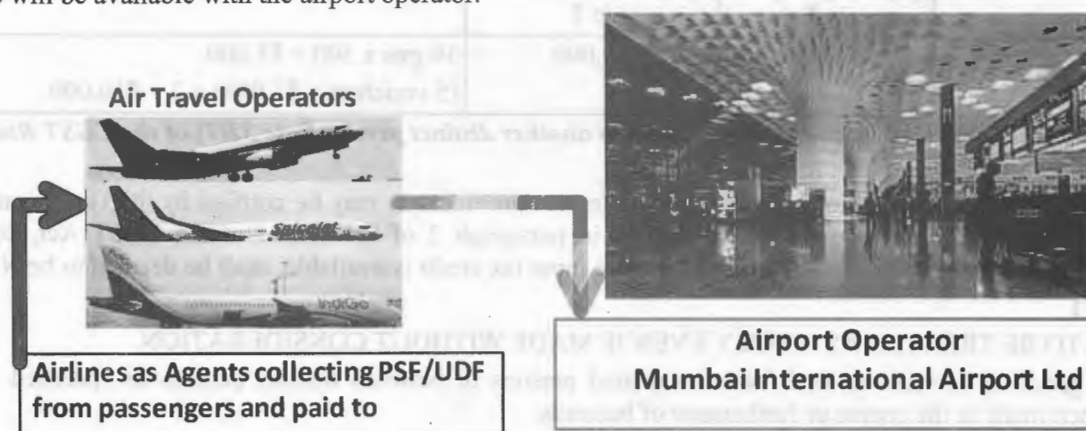
- the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorization by such recipient;
- the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient 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.

Airport levies under GST (CBIC Circular No. 115/34/2019-GST, dated 11-10-2019):

Passenger Service Fee (PSF) or User Development Fee (UDF) levied by airport operator for services provided to passengers, are collected by the air lines as an agent and is not a consideration for any service provided by the airlines. Airlines may act as a pure agent for the supply of airport services in accordance with rule 33 of the CGST Rules, 2017.

The airport operators (like Mumbai International Airport Ltd., or Airport Authority of India or Delhi International Airport Ltd. etc) shall pay GST on the PSF and UDF collected by them from the passengers through the airlines. Since, the airport operators are collecting PSF and UDF inclusive of GST, there is no question of their not paying GST collected by them to the Government.

Collection charges paid by the airport operator to airlines are a consideration for the services provided by the airlines to the airport operator and airlines shall be liable to pay GST on the same under forward charge. ITC of the same will be available with the airport operator.



Example 1: 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 (ROC). The fees charged by the Registrar of Companies for the registration and approvals of the name are compulsorily levied on B. A is merely acting as 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.

Example 2: Mr. Ram is a registered dealer under GST Law. He sold furniture to a customer for ₹51,000 with free delivery. In such case Mr. Ram availing the service of the transporter for his own interest and therefore, transport charges is included in selling price of ₹51,000 and he would be not considered as pure agent in this case.

Example 3: Mr. X is 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 charges in invoice	Amount in ₹
1	Agency income	10,000
2	Travelling expenses	5,500
3	Hotel expenses	9,500
4	Customs duty	55,000
5	Dock dues	2,500

Find the value of taxable supply of service in the hands of Customs Broker.

Answer: statement showing taxable value of supply of service:

S.No.	Particulars	Amount in ₹	Remarks
1	Agency income	10,000	Addable into the value
2	Travelling expenses	5,500	-do-
3	Hotel expenses	9,500	-do-
4	Customs duty	Not addable	Pure agent reimbursement
5	Dock dues	Not addable	Pure agent reimbursement
	Total	25,000	

Example 4: Determine the value of supply and the GST liability, to be collected and paid by the owner, with the following particulars:

	₹
Rent on the commercial building	18,00,000
Maintenance charges collected by local society from the owner and reimbursed by the tenant	2,50,000
Owner intends to charge GST on refundable advance, as GST is applicable on advance	6,00,000
Municipal taxes paid by the owner	3,00,000

GST rates applicable on renting of business premises is as follows:

CGST 9% and SGST 9%

Provide suitable explanations where required.

4 Marks (CA Final (Old) May 2018)

Answer: Statement showing taxable supply and GST liability:

	₹
Rent on the commercial building	18,00,000
Maintenance charges collected by local society from the owner and reimbursed by the tenant	2,50,000
Owner intends to charge GST on refundable advance, as GST is applicable on advance (GST not applicable on refundable advance)	Nil
Municipal taxes paid by the owner (assumed the same recovered from the tenant)	3,00,000
Taxable supply	23,50,000
GST liability	
CGST 9% on ₹23,50,000	2,11,500
SGST 9% on ₹23,50,000	2,11,500

Example 5: Rolly Polly Manufacturers Ltd., registered in Mumbai (Maharashtra), is a manufacturer of footwear. It imports a footwear making machine from USA. Rolly Polly Manufacturers Ltd. avails the services of Rudra Logistics, a licensed customs broker with its office at Ahmedabad (Gujarat), in meeting all the legal formalities for getting the said machine cleared from the customs station.

Rolly Polly Manufacturers Ltd. also authorises Rudra Logistics to incur, on its behalf, the expenses in relation to clearance of the imported machine from the customs station and bringing the same to its warehouse at Mumbai. These expenses would be reimbursed by Rolly Polly Manufacturers Ltd. to Rudra Logistics on actual basis. In addition, Rolly Polly Manufacturers Ltd. will also pay the agency charges to Rudra Logistics for the services rendered by it.

Rudra Logistics raised an invoice in July, 20XX as follows:

S.No.	Particulars	Amount* (₹)
(i)	Agency charges	5,00,000
(ii)	Unloading of machine at Kandla port, Gujarat	50,000
(iii)	Charges for transport of machine from Kandla port, Gujarat to Rudra Logistics' godown in Ahmedabad, Gujarat	25,000
(iv)	Charges for transport of machine from Rudra Logistics' Ahmedabad godown to the warehouse of Rolly Polly Export Import House in Mumbai, Maharashtra	28,000
(v)	Customs duty on machine	5,00,000
(vi)	Dock dues	50,000
(vii)	Port charges	50,000
(viii)	Hotel expenses	45,000
(ix)	Travelling expenses	50,000
(x)	Telephone expenses	2,000

**exclusive of GST wherever applicable*

Compute the value of supply made by Rudra Logistics with the help of given information. Would your answer be different if Rudra Logistics charges ₹ 13,00,000 as a lump sum consideration for clearing the imported machine from the customs station and bringing the same to the warehouse of Rolly Polly Manufacturers Ltd.?

Answer: Statement showing taxable supply of Rudra Logistics for the month of July 20XX:

S.No.	Particulars	Amount* (₹)
(i)	Agency charges	5,00,000
(ii)	Unloading of machine at Kandla port, Gujarat	Pure agent expenditure
(iii)	Charges for transport of machine from Kandla port, Gujarat to Rudra Logistics' godown in Ahmedabad, Gujarat	Pure agent expenditure
(iv)	Charges for transport of machine from Rudra Logistics' Ahmedabad godown to the warehouse of Rolly Polly Export Import House in Mumbai, Maharashtra	Pure agent expenditure
(v)	Customs duty on machine	Pure agent expenditure
(vi)	Dock dues	Pure agent expenditure
(vii)	Port charges	Pure agent expenditure
(viii)	Hotel expenses	45,000
(ix)	Travelling expenses	50,000
(x)	Telephone expenses	2,000
	Total taxable supply	5,97,000

However, if Rudra Logistics charges ₹13,00,000 as a lumpsum consideration for getting the imported machine cleared from the customs station and bringing the same to the warehouse of Rolly Polly Manufacturers Ltd., Rudra Logistics would incur expenses (ii) to (vii) for its own interest (as the agreement requires it to get the imported machine cleared from the customs station and bring the same to the Rolly Polly Manufacturers Ltd.'s warehouse). Thus, Rudra Logistic would not be considered as a pure agent of Rolly Polly Manufacturers Ltd. for said services. Consequently, in that case, value of supply will be ₹13,00,000/-

15.6 Rate of exchange of currency for determination of value Rule 34 of the CGST Rules, 2017

The rate of exchange for the determination of the 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 (RBI) 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.

Notification No. 17/2017-CT, New Delhi, the 27th July 2017

for rule 34, the following shall be substituted, namely:

“34. Rate of exchange of currency, other than Indian rupees, for determination of value.—(1) 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.

(2) 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”;

Example: Compute the duty payable under the Customs Act, 1962 for imported equipment based on the following information:

- (i) Assessable value of the imported equipment US \$10,100.
- (ii) Date of Bill of Entry 25.10.2017 exchange rate notified by the Central Board of Excise and Customs US \$ 1 = ₹65.
- (iii) Date of Entry inwards 01.11.2017 exchange rate notified by the Central Board of Excise and Customs US \$ 1 = ₹60.

Find the taxable value of imported goods.

Answer: Statement showing taxable value of imported goods:		
Particulars	Value in ₹	Remarks
Assessable value of imported goods	6,56,500	10,100 USD x ₹65 Exchange rate as on the date of submission of bill of entry is relevant as per section 14 of the Customs Act, 1961.

15.7 Value of supply inclusive of integrated tax, State tax, Union territory tax Rule 35 of the CGST Rules, 2017

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: —

$$\boxed{\text{Tax Amount}} = \left(\frac{\text{Value inclusive of tax}}{100 + \text{GST}} \right) \times \boxed{\text{Rate of GST}}$$

This formula is very useful in case where supplier may treat the particular supply as exempted from GST and therefore will not indicate the tax amount separately in the bill of supply prepared by him. In fact it is taxable supply with GST. In such case transaction value will be determined with help of rule 35.

Example: An assessee was under impression that his product is exempt from GST and hence sold the goods @₹100 per piece without charging GST. Later, it was found that actually, the product was chargeable with IGST 18%. Department claimed that since goods were removed without GST, transaction value should be ₹100 and GST is payable accordingly. Assessee contended that price of ₹100 should be taken as inclusive of GST and actual GST payable should be calculated by back calculations. Determine the correct GST payable per piece.

(ICWAI Final Dec. 2003 model)

Answer: As per rule 35 of the CGST Rules, 2017 transaction value and GST liability is as follows:

The Transaction value should be taken, as cum-tax-price and tax payable should be calculated by making back calculations. Hence, the transaction value is as follows:

The transaction value = ₹100 x 100/118 = ₹84.75

IGST = ₹100 x 18/118 = ₹15.25

Total invoice price = ₹100.00

[CCE v Maruti Udyog Ltd. (2002) 141 ELT 3 (SC)]

15.8 Construction service vs works contract service – valuation

w.e.f. 25.1.2018: Construction service or works contract service:

S.No.	Description of Services	GST Rate						
1.	Construction of a complex, building, civil structure or a part thereof, intended for sale to a buyer, wholly or partly. The value of land is included in the amount charged from the service recipient.	12% with full ITC but no refund of overflow of ITC.						
2	Composite supply of works contract as defined under section 2(119) of CGST Act, 2017 read with clause 5(b) of Schedule II	18% with full ITC						
3	<p>w.e.f. 25.1.2018, Houses constructed under three components of the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban) –</p> <p>(i) In-situ redevelopment of existing slums using land as a resource component;</p> <p>(ii) Affordable housing in partnership and</p> <p>(iii) Beneficiary-led individual house construction/enhancement.</p> <p>The Council extended this tax benefit to CLSS, for Economically Weaker Sections (EWS)/Lower Income Group (LIG)/Middle Income Group-1/Middle Income Group-2 (MIG-2) under the PMAY (Urban) programme.</p> <p>Further the GST Council extend the concessional rate of 12% (i.e. effective rate 8%) to services by way of construction of low cost houses upto a carpet area of 60sqm in a housing project which has been given infrastructure status.</p> <p>In addition to the above, GST Council decided to give exemption to leasing of land by Government to Governmental Authority or Government entity.</p>	<p>8% (i.e. after deducting 1/3 of the amount charged for house, flat etc., towards the cost of land or undivided share of land, as the case may be).</p> <p>Summary:</p> <table><tr><td>Normal rate of GST</td><td>12%</td></tr><tr><td>Less: 1/3rd of 12%</td><td>- 4%</td></tr><tr><td>Effective rate of GST</td><td>8%</td></tr></table>	Normal rate of GST	12%	Less: 1/3rd of 12%	- 4%	Effective rate of GST	8%
Normal rate of GST	12%							
Less: 1/3rd of 12%	- 4%							
Effective rate of GST	8%							

Example 1: Mr. A agrees to undertake a works contract for M/s B Ltd. for maintenance and repair or reconstruction of machine for ₹50,00,000. The breakup of the gross value charged by Mr. A to B Ltd., is as under:

- Value of material ₹30,00,000
- Labour charges ₹15,00,000
- Cost of consumables ₹2,00,000
- Profit margin on labour and service ₹3,00,000

Find the value of supply and GST liability?

Answer:

Particulars	Value in ₹
Value of material	30,00,000
Labour	15,00,000
Cost of consumables	2,00,000
Profit margin	3,00,000
Composite supply of works contract	50,00,000
GST @18% on ₹50,00,000	9,00,000

Example 2: ME Ltd. has entered into a contract for construction of a building with SC Ltd. As per the agreement, the amount payable (excluding all taxes and land value) by ME to SCL is ₹100,00,000 inclusive of the steel and cement to be supplied by ME for which it charged ₹5,00,000 from SCL. Fair market value of the steel and cement (excluding taxes) is ₹10,00,000. Compute the 'total amount charged' pertaining to the said works contract for execution of 'original works'. Also find the GST liability.

Answer:

Particulars	Value in ₹
Composite supply of works contract	1,00,00,000
Add: Fair market value of material supplied by recipient of supply	10,00,000
Less: value of steel and cement charged by supplier at nominal value	5,00,000
Value of taxable supply of service	1,05,00,000
GST 18%	18,90,000

Example 3: M/s. Beta Construction Co. Ltd. expects a gross turnover of ₹2,500 crores during the coming year 2018-19 from various commercial/industrial constructions (inclusive of land value ₹1000 crores). It furnishes following additional information –

The company is in a dilemma whether to opt for works contract supply or construction supply. Advise.

Answer:

Particulars	Works contract service (land value excluded)	Construction contract service (land value included)
GST Rate	18%	12%
Value of supply	₹1,500 crores	₹2,500 crores
GST liability	₹270 crores	₹300 crores

Advice: works contract service is economical.

Example 4: JE Engineers, a partnership firm, registered under GST for supplying Works Contract services. JE Engineers agreed to supply works contract services. Accordingly, company quoted an amount of ₹100 lakhs for a construction work. It is agreed that if B Ltd. supplied the steel and cement, the contract amount will be reduced on the agreed basis. B Ltd. supplied steel and cement of ₹10 lakh for use in the construction activities as a result the contract amount reduced to ₹90 lakhs. Further JE Engineers had billed and supplied goods to B Ltd. worth ₹2 lakhs under a separate agreement which was also used while providing above works contract service.

B Ltd. provided canteen facilities, electricity and water to JE Engineers free, without charge while providing the works contract service. Cost of such services was ₹1,50,000.

Find out the taxable supply and GST liability?

Note: contract value excludes land value.

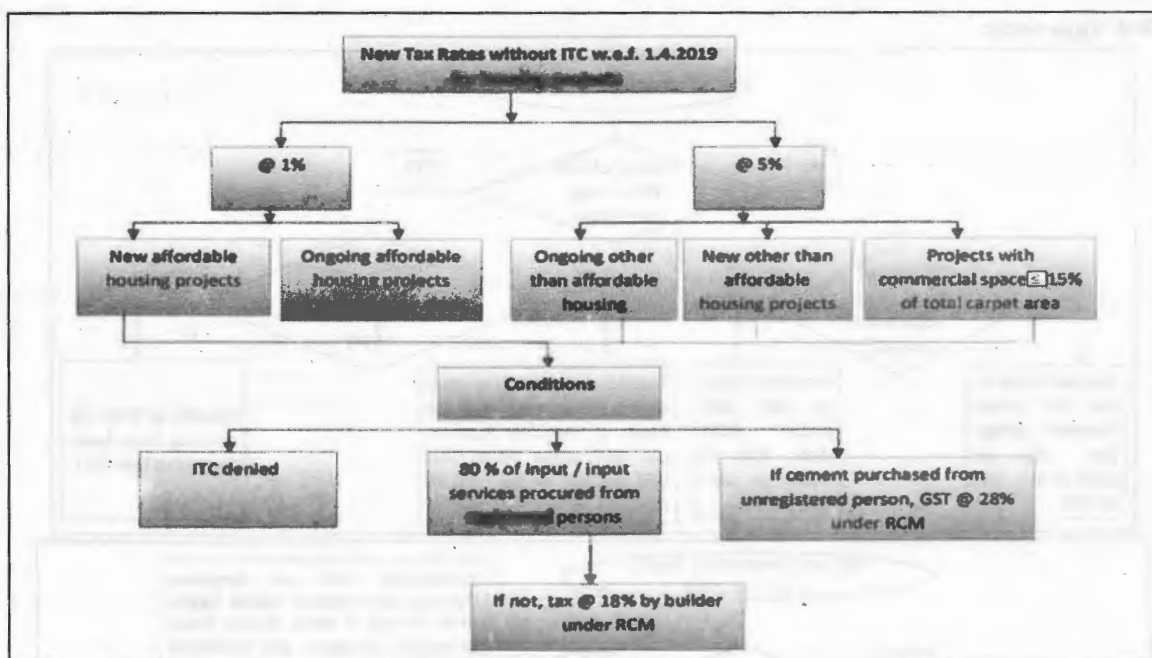
Answer:

Particulars	Value in ₹ in lakhs	Remarks
Works contract supply	90.00	
Add: Material supplied free of cost by recipient of service	10.00	As per Sec. 15(2)(b) of the CGST Act, 2017.
Add: consumables	2.00	Composite works contract service includes cost of consumables
Add: Electricity and water	1.50	Monitory values of non-monitory value should be included as per Rule 27(b) of the CGST Rules, 2017.
Value of supply	103.50	
GST 18%	18.63	

W.e.f. 1-4-2019 REAL ESTATE SECTORS are summarized as under:

Conditions for the new tax rates:

- At least 80% of the material to be procured from registered dealers. Further, on shortfall of purchases from 80%, tax shall be paid by the builder @ 18% on RCM basis.
- However, Tax on cement purchased from unregistered person shall be paid @ 28% under RCM, and on capital goods under RCM at applicable rates.
- Input tax credit shall not be available.



Applicability of new tax rates:

The new tax rates which shall be applicable as follows:

1% without input tax credit (ITC) on construction of affordable houses shall be available for:

- Houses having area of 60 sqm in metros/90 sqm in non-metros and value upto ₹45 lakhs
- Under construction affordable houses presently eligible for concessional rate of 8% GST (after 1/3rd land abatement)

5% without input tax credit shall be applicable on construction of:

- Under construction houses other than affordable houses presently booked prior to or after 01.04.2019. For houses booked prior to 01.04.2019, new rate shall be available on instalments payable on or after 01.04.2019.
- Commercial apartments having carpet area of not more than 15% of total carpet area of all apartments.

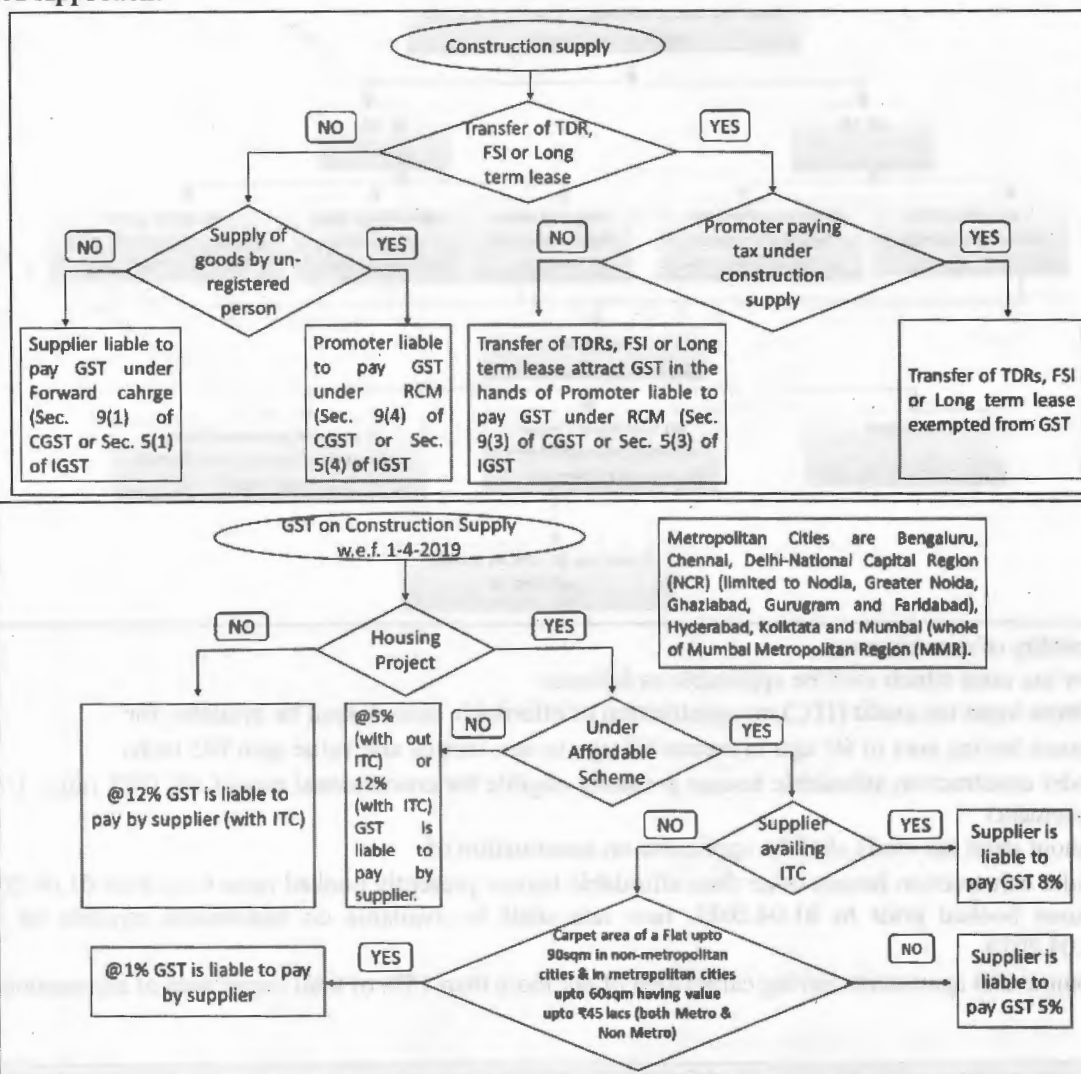
The following treatment shall apply to TDR/FSI and Long term lease for projects commencing after 1-4-2019:

The supply of TDR, FSI, long term lease (premium) of land by a land owner to a developer shall be exempted subject to the condition that the constructed flats are sold before issuance of completion certificate and tax is paid on them. Exemption of TDR, FSI, long term lease (premium) shall be withdrawn in case of flats sold after issue of completion certificate, but such withdrawal shall be limited to 1% of value in case of affordable houses and 5% of value in case of other than affordable houses.

The liability to pay tax on TDR, FSI, long term lease (premium) shall be shifted from landowner to builder under the Reverse Charge Mechanism (RCM).

The date on which builder shall be liable to pay tax on TDR, FSI, long term lease (premium) of land under RCM in respect of flats sold after completion certificate is being shifted to date of issue of completion certificate.

The liability of builder to pay tax on construction of houses given to land owner in a JDA is also being shifted to the date of completion.

Simplified Approach:**Example 1: Does a promoter or a builder has option to pay tax at old rates of 8% & 12% with ITC?**

Answer: Yes, but such an option is available in the case of an ongoing project. In case of such a project, the promoter or builder has option to pay GST at old effective rate of 8% and 12% with ITC.

To continue with the old rates, the promoter/builder has to exercise one time option in the prescribed form and submit the same manually to the jurisdictional Commissioner by the 10th of May, 2019.

However, in case where a promoter or builder does not exercise option in the prescribed form, it shall be deemed that he has opted for new rates in respect of ongoing projects and accordingly new rate of GST i.e. 5%/1% shall be applicable and all the provisions of new scheme including transitional provisions shall be applied.

There is no such option available in case of projects which commence on or after 01.04.2019. Construction of residential apartments in projects commencing on or after 01.04.2019 shall **compulsorily attract new rate of GST @ 1% or 5% without ITC.**

Example 2: What is the rate of GST applicable on construction of commercial apartments [shops, godowns, offices etc.] in a real estate project?

Answer: With effect from 01-04-2019, effective rate of GST, after deduction of value of land or undivided share of land, on construction of commercial apartments [shops, godowns, offices etc.] by promoter in real estate project are as under:

Description	Effective rate of GST
Construction of commercial apartments in a Residential Real Estate Project (RREP), which commences on or after 01-04-2019 or in an ongoing project in respect of which the promoter has opted for new rates effective from 01-04-2019	5% without ITC on total consideration.

Description	Effective rate of GST
Construction of commercial apartments in a Real Estate Project (REP) other than Residential Real Estate Project (RREP) or in an ongoing project in respect of which the promoter has opted for old rates	12% with ITC on total consideration.

Example 3: What is a Residential Real Estate Project?

Answer: A "Residential Real Estate Project" means a "Real Estate Project" in which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the project.

Example 1: GK Developers Limited (i.e. Developer) enters into an agreement with land owner Mr. Nagarajan where Transfer Development Rights (TDRs) of the land transferred but ownership in land continues with the landowner (i.e. license to occupy land) on 31st May, 20XX. After entering to TDRs/Joint Development Agreements, the flats meant for landowner and builder are identified and a Supplementary Agreement (i.e. conveyance deed) is entered into for this purpose on 15th June, 20XX. In pursuit of this agreement a total of 10 residential units will be constructed by GK Developers Limited on the land provided by Mr. Nagarajan, whereas 40% of the units shall be given to Mr. Nagarajan.

Answer the following:

- Transfer of TDRs is taxable supply? If so, who is liable to pay GST? Find the Time of supply for transfer of TDRs?
- Whether GST is payable on the owner's share of the flats/houses/portion of the building constructed by the builder or developer given to the landowner as per development agreement? If so, find the Time of Supply?
- Find the time of supply for the consideration received by the builder from other buyers?
- Re-work, where TDRs of the land transferred permanently and irrevocably transferred by the landowner to the developer (i.e. sale/transfer of land). If so, transfer of TDRs is taxable supply in the hands of landowner?

Note: All 10 residential units constructed under the category of other than affordable housing project and sold only after obtaining completion certificate.

Answer:

- TDRs transferred by land owner is taxable supply in the hands of promoter under RCM (Section 9(3) of CGST Act, 2017).
Time of supply = Date of completion certificate
- Flats allotted under JDA is before obtaining completion certificate and hence, it is taxable supply.
Time of supply = Date of completion certificate.
- Allotment of Flats after completion certificate is not supply of goods or services. Hence, GST does not arise.
- Since, ownership on land is transferred, which is not a supply of goods nor supply of service. Therefore, GST is not applicable.

Example 2: ABC Constructions Ltd. has provided the following details with respect to individual residential units constructed by it at various cities as part of residential apartments:

Flat type	Capet area (sq.ft.)	Amount charged (₹)	
A	1980	1,10,00,000	Part of consideration received before issuance of completion certificate by the competent authority. Commercial apartments having carpet area of not more than 15% of total carpet area of all apartments.
B	2000	1,00,00,000	-do-
C	2500	1,05,00,000	-do-
D	2400	99,50,000	Entire consideration received before issuance of completion certificate by the competent authority. Commercial apartments having carpet area of more than 15% of total carpet area of all apartments
E	2100	1,00,00,000	-do-
F	1600	80,00,000	-do-

Flat type	Capet area (sq.ft.)	Amount charged (₹)	
G	1940	90,00,000	Entire consideration received after issuance of completion certificate by the competent authority
LIG	60 sq. Mtrs.	45,00,000	Under affordable houses 34 Flats constructed and ITC not availed. Project commenced from 1st April 2019 under Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana (Urban). Construction value includes land value.
EWS	400 sqfts	1,25,00,000	Pure labour service contracts of construction to the beneficiary-led individual house construction under Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana (Urban).

Following details are also available:

Type of building	Amount charged ₹	
Multi-level parking for local authority	3,10,00,000	Part of consideration received before issuance of completion certificate by the competent authority
Office Complex	12,20,00,000	Entire consideration received before issuance of completion certificate by the competent authority
Shopping Mall	30,00,00,000	Entire consideration received after issuance of completion certificate by the competent authority

Find the GST liability if any?

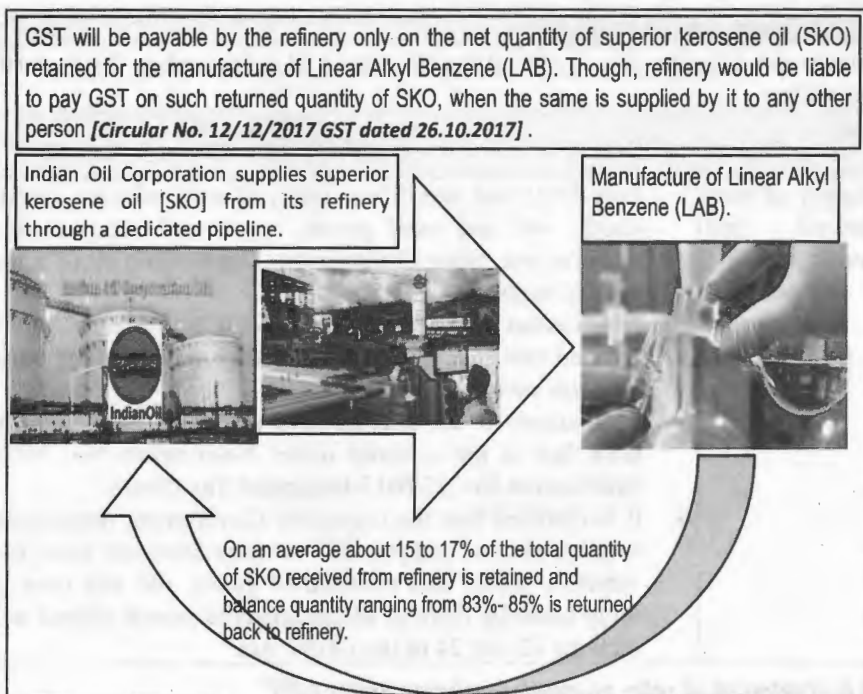
Answer:

Flat type	Amount charged (₹)	Taxability	GST Rate	GST in ₹
A	1,10,00,000	Taxable supply	5% Assumed that ITC not availed	5,50,000
B	1,00,00,000	-do-	-do-	5,00,000
C	1,05,00,000	-do-	-do-	5,25,000
D	99,50,000	Taxable supply	12% ITC allowed	11,94,000
E	1,00,00,000	-do-	-do-	12,00,000
F	80,00,000	-do-	-do-	9,60,000
G	90,00,000	Not a supply	-NA-	Nil
LIG	45,00,000	Taxable supply	1%	45,000
EWS	1,25,00,000	Exempted supply	Nil	Nil
Multi-level parking for local authority	3,10,00,000	Taxable supply	12%	37,20,000
Office Complex	12,20,00,000	Taxable supply	12%	1,46,40,000
Shopping Mall	30,00,00,000	Not a supply	-NA-	Nil

Important points:

- Whether GST is applicable on the superior kerosene oil [SKO] retained for the manufacture of Linear Alkyl Benzene [LAB]?

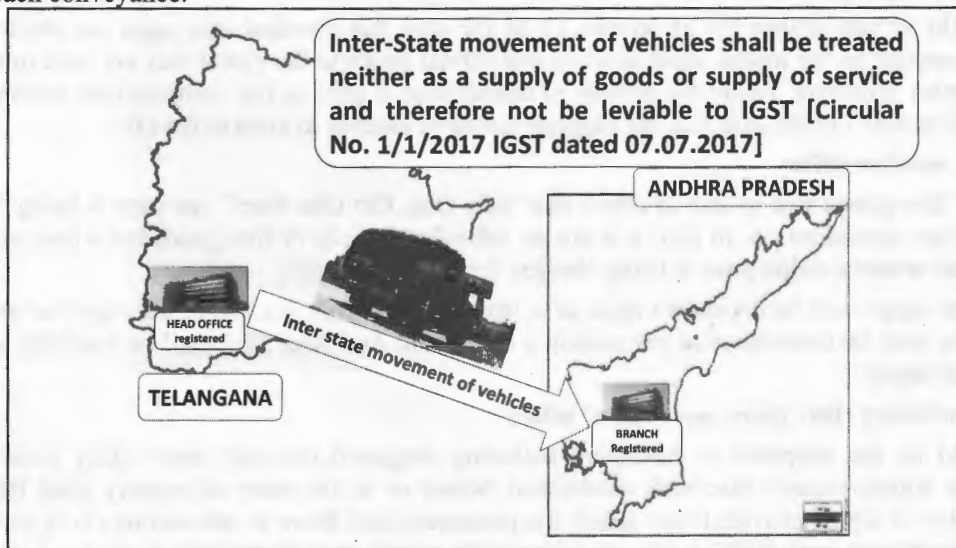
Facts of the case: Linear Alkyl Benzene (LAB) manufacturers have stated that they receive superior Kerosene oil (SKO) from, a refinery, say, Indian Oil Corporation (IOC). They extract n-Paraffin from SKO and return back the remaining of SKO to the refinery. In this context, the issue has arisen as to whether in this transaction GST would be levied on SKO sent by IOC for extracting n-paraffin or only on the n-paraffin quantity extracted by the LAB manufactures. Further, doubt have also been raised as to whether the return of remaining Kerosene by LAB manufactures would separately attract GST in such transaction.



2. Clarification on Inter-state movement of various modes of conveyance, carrying goods or passengers or for repairs and maintenance:

It is hereby clarified that the inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the CGST Act, may not be treated as supply and consequently IGST will not be payable on such supply.

However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance.



1. Inter-State Movement of Goods do not constitute Supply:

To clarify that inter-state movement of goods like rigs, tools, spares and goods on wheel like cranes, not being in the course of furtherance of supply of such goods, does not constitute a supply. This clarification gives major compliance relief to industry as there are frequent inter-state movement of such kind during providing services to customers or for the purposes of getting such goods repaired or refurbished or for any self-use. Service provided using such goods would in any case attract applicable tax.

2. ITC Available on Inter-state supply of Aircraft engines, Parts & Accessories:

It is being clarified that credit of GST paid on aircraft engines, parts & accessories will be available for discharging GST on inter-state supply of such aircraft engines, parts & accessories by way of inter-state stock transfers between distinct persons as specified in section 25 of the CGST Act.

Clarification on certain issues related to GST

The Central Government vide Circular No. 76/50/2018-GST, dated 31st December, 2018 clarified certain issues under the GST Law as under:—

Sl. No.	Issue	Clarification
	Whether the supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap by Government departments are taxable under GST?	<ol style="list-style-type: none"> 1. Intra-State and inter-State supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap made by the Central Government, State Government, Union territory or a local authority is a taxable supply under GST. 2. Notification No. 36/2017-CT(R) and Notification No. 37/2017-IGST(R) notified that such supply to any registered person would be subject to GST on reverse charge basis. 3. Such supply to an unregistered person is also a taxable supply under GST but is not covered under Notification No. 36/2017-CT (R) and Notification No. 37/2017-Integrated Tax (Rate). 4. It is clarified that the respective Government departments shall be liable to get registered and pay GST on intra-State and inter-State supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap made by them to an unregistered person subject to the provisions of sections 22 and 24 of the CGST Act.

Clarification related to treatment of sales promotion scheme under GST

The Central Government vide Circular No. 92/11/2019-GST, dated 07th March, 2019 clarified the following issues raised with respect to tax treatment of sales promotion schemes under GST:-

1. Free samples and gifts

Since the consideration is an important element of the definition supply, therefore the samples which are supplied free of cost, without any consideration, do not qualify as “supply” under GST, except where the activity falls within the ambit of Schedule I of the said Act.

Further, clause (h) of sub-section (5) of section 17 of the said Act clarified that input tax credit shall not be available to the supplier on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples. However, where the activity of distribution of gifts or free samples falls within the scope of “supply” as per Schedule I of the said Act, the supplier would be eligible to avail of the ITC.

2. Buy one get one free offer

It may appear at first glance that in case of offers like “Buy One, Get One Free”, one item is being “supplied free of cost” without any consideration. In fact, it is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply.

Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per section 8 of the said Act. And, ITC shall be available to the supplier in relation to such supply.

3. Discounts including ‘Buy more, save more’ offers

Discounts offered by the suppliers to customers including staggered discount under „Buy more, save more” scheme and post supply/volume discounts established before or at the time of supply) shall be excluded to determine the value of supply provided they satisfy the parameters laid down in sub-section (3) of section 15 of the said Act, including the reversal of ITC by the recipient of the supply as is attributable to the discount. Further, the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply.

4. Secondary Discounts

Value of supply shall not include any discount by way of issuance of credit note(s), except in cases where the provisions contained in clause (b) of sub-section (3) of section 15 of the said Act are satisfied. There is no impact on availability or otherwise of ITC in the hands of supplier.