

Chapter ____

Determination of Value of Supply

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

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

- (a) be the open market value of such supply;
- (b) if open market value is not available, be the sum total of consideration in money and any such further amount in money as is equivalent to the consideration not in money if such amount is known at the time of supply;
- (c) if the value of supply is not determinable under clause (a) or clause (b), be the value of supply of goods or services or both of like kind and quality;
- (d) if value is not determinable under clause (a) or clause (b) or clause (c), be the sum total of consideration in money and such further amount in money that is equivalent to consideration not in money as determined by application of rule 4 or rule 5 in that order.

Illustration:

(1) *Where a new phone is supplied for Rs.20000 along with the exchange of an old phone and if the price of the new phone without exchange is Rs.24000, the open market value of the new phone is Rs 24000.*

(2) *Where a laptop is supplied for Rs.40000 along with a barter of printer that is manufactured by the recipient and the value of the printer known at the time of supply is Rs.4000 but the open market value of the laptop is not known, the value of the supply of laptop is Rs.44000.*

2. 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 sub-section (4) and (5) of section 25 or where the supplier and recipient are related, other than where the supply is made through an agent, shall,-

- (a) be the open market value of such supply;
- (b) if open market value is not available, be the value of supply of goods or services of like kind and quality;
- (c) if value is not determinable under clause (a) or (b), be the value as determined by application of rule 4 or rule 5, in that order:

Provided 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.

3. Value of supply of goods made or received through an agent

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

- (a) be the open market value of the goods being supplied, or at the option of the supplier, be ninety percent 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;

Illustration: Where a principal supplies groundnut to his agent and the agent is supplying groundnuts of like kind and quality in subsequent supplies at a price of Rs.5000 per quintal on the day of supply. Another independent supplier is supplying groundnuts of like kind and quality to the said agent at the price of Rs.4550 per quintal. The value of the supply made by the principal shall be Rs.4550 per quintal or where he exercises the option the value shall be 90% of the Rs.5000 i.e. is Rs.4500 per quintal.

- (b) where the value of a supply is not determinable under clause (a), the same shall be determined by application of rule 4 or rule 5 in that order.

4. Value of supply of goods or services or both based on cost

Where the value of a supply of goods or services or both is not determinable by any of the preceding rules, the value shall be one hundred and ten percent of the cost of production or manufacture or cost of acquisition of such goods or cost of provision of such services.

5. Residual method for determination of value of supply of goods or services or both

Where the value of supply of goods or services or both cannot be determined under rules 1 to 4, the same shall be determined using reasonable means consistent with the principles and general provisions of section 15 and these rules:

Provided that in case of supply of services, the supplier may opt for this rule, disregarding rule 4.

6. Determination of value in respect of certain supplies

(1) Notwithstanding anything contained in the Act or in these rules, the value in respect of supplies specified below shall be determined in the manner provided hereinafter.

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

(a) For a currency, when exchanged from, or to, Indian Rupees (INR), the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency:

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

Provided further that in case where neither of the currencies exchanged is Indian Rupee, the value shall be equal to 1% of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at the reference rate provided by RBI.

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

- (b) At the option of supplier of services, the value in relation to supply of foreign currency, including money changing, shall be deemed to be
- (i) one per cent. of the gross amount of currency exchanged for an amount up to one lakh rupees, subject to a minimum amount of two hundred and fifty rupees;
 - (ii) one thousand rupees and half of a per cent. of the gross amount of currency exchanged for an amount exceeding one lakh rupees and up to ten lakh rupees; and

(iii) five thousand rupees and one tenth of a per cent. of the gross amount of currency exchanged for an amount exceeding ten lakh rupees, subject to maximum amount of sixty thousand rupees.

(3) The value of supply of services in relation to booking of tickets for travel by air provided by an air travel agent, shall be deemed to be an amount calculated at the rate of five percent. of the basic fare in the case of domestic bookings, and at the rate of ten per cent. of the basic fare in the case of international bookings of passage for travel by air.

Explanation - For the purposes of this sub-rule, the expression “basic fare” means that part of the air fare on which commission is normally paid to the air travel agent by the airline.

(4) The value of supply of services in relation to life insurance business shall be:

(a) the gross premium charged from a policy holder reduced by the amount allocated for investment, or savings on behalf of the policy holder, if such amount is intimated to the policy holder at the time of supply of service;

(b) in case of single premium annuity policies other than (a), ten per cent. of single premium charged from the policy holder; or

(c) in all other cases, twenty five per cent. of the premium charged from the policy holder in the first year and twelve and a half per cent. of the premium charged from policy holder in subsequent years:

Provided that nothing contained in this sub-rule shall apply where the entire premium paid by the policy holder is only towards the risk cover in life insurance.

(5) 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 purchase of such goods, the value of supply shall be the difference between the selling price and purchase price and where the value of such supply is negative it shall be ignored.

(6) 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.

(7) 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 Entry 2 of Schedule I between distinct persons as referred to in section 25, other than those where input tax credit is not available under sub-section (5) of section 17, shall be deemed to be NIL.

7. Value of supply of services in case of pure agent

Notwithstanding anything contained in these rules, the expenditure or costs incurred by the supplier as a pure agent of the recipient of supply of services shall be excluded from the value of supply, if all the following conditions are satisfied, namely:-

(i) the supplier acts as a pure agent of the recipient of the supply, when he makes payment to the third party for the services procured as the contract for supply made by third party is between third party and the recipient of supply;

- (ii) the recipient of supply uses the services so procured by the supplier service provider in his capacity as pure agent of the recipient of supply;
- (iii) the recipient of supply is liable to make payment to the third party;
- (iv) the recipient of supply authorises the supplier to make payment on his behalf;
- (v) the recipient of supply knows that the services for which payment has been made by the supplier shall be provided by the third party;
- (vi) the payment made by the supplier on behalf of the recipient of supply has been separately indicated in the invoice issued by the supplier to the recipient of service;
- (vii) the supplier recovers from the recipient of supply only such amount as has been paid by him to the third party; and
- (viii) the services procured by the supplier from the third party as a pure agent of the recipient of supply are in addition to the supply he provides on his own account.

Explanation . - For the purposes of this rule, “pure agent” means a person who -

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

Illustration. Corporate services firm A is engaged to handle the legal work pertaining to the incorporation of Company B. Other than its service fees, A also recovers from B, registration fee and approval fee for the name of the company paid to Registrar of the Companies. The fees charged by the Registrar of the companies registration and approval of the name are compulsorily levied on B. A is merely acting as a pure agent in the payment of those fees. Therefore, A’s recovery of such expenses is a disbursement and not part of the value of supply made by A to B.

8. Rate of exchange of currency, other than Indian rupees, for determination of value

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

Explanation.- For the purposes of this Chapter,-

- (a) “open market value” of a 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.
- (b) “supply of goods or services or both of like kind and quality” means any other supply of goods or services or both made under similar circumstances that, in respect of the characteristics, quality, quantity, functional components, materials, and reputation of the goods or services or both first mentioned, is the same as, or closely or substantially resembles, that supply of goods or services or both.
