

# Value of Supply [Section 15 of CGST Act read with Rules] (1/3)

## BACKDROP OF VALUE OF SUPPLY

GST shall be calculated as a percentage of value of Supply; thus, it is quite relevant to note the provisions of value of supply. In this chapter we will learn how to compute value of supply in various conditions, inclusions and exclusions in value of supply & CGST Rules governing value of supply.

By CA Keval Mota

## Value of Supply (VOS) S. 15 of CGST Act

This section is applicable only when below conditions are **CUMULATIVELY SATISFIED**:

1. Unrelated Party; **AND**
2. Price is sole consideration

This means if (i) & (ii) are satisfied, Value of supply is **transaction value** i.e. **price actually paid / payable in respect of supply**.

## INCLUSIONS & EXCLUSIONS IN VALUE OF SUPPLY

Section 15(2)	Description & Analysis
(a)	<b>Taxes, duties, cesses, fees and charges</b> levied <b>other than GST &amp; GST Cess</b> if separately charged. ❖ TCS under income tax <b>SHALL NOT BE INCLUDIBLE</b> in value of supply as it is interim levy
(b)	Amount <b>paid by recipient on behalf of supplier</b> not included in price. (Seller obligation settled by recipient)
(c)	<b>Incidental Expenses (including commission &amp; packing) and any amount charged at the time of delivery of goods or supply of services</b> ❖ If contract of supply is on ex-factory basis where buyer pays the outward freight & insurance, the same will not be included in VOS.
(d)	<b>Interest</b> or late fee or penalty for <b>delayed payment of any consideration</b>
(e)	<b>Price linked Subsidies</b> excluding subsidies provided by the <b>CG &amp; SG</b>
	Notes: <ul style="list-style-type: none"> <li>• Included only when received to supplier. (<b>Note: Capital Subsidy - Not to be added</b>)</li> <li>• Incentives paid by MeitY to acquire banks are subsidy, thus not taxable.</li> </ul>
<b>Departmental Clarification</b>	While computing value of supply for component manufacturer, value of Free of Cost Moulds & Dies supplied by Original Equipment Manufacturer shall not be added. However, if provided under obligation, only amortised cost shall be added. (Circular 47/21/2018-GST). Thus, <b>Responsibility of OEM &amp; provided by OEM: Not to be added</b> <b>Responsibility of Component Mfg. &amp; provided by OEM: To be added (Amortised cost)</b>

### EXCLUSIONS (Also refer discussion at right side corner)

- ❖ Pre - Supply discounts shall be reduced if recorded in invoice.
- ❖ **Cash Discount** to be **reduced** if offered at time of supply (provided afterwards not to be reduced)
- ❖ Post - supply discount shall be reversed by issuing credit note:
  - (i) discount is established in terms of an **agreement** entered into at or before the time of supply
  - (ii) **Specifically linked** to relevant invoices and **ITC be reversed** by recipient of supply

**Circular on Post supply discount:** If the tax on discount > ₹5,00,000 in a financial year, the supplier must obtain a CA/CMA certificate confirming that the recipient has reversed proportionate ITC, with details of credit notes, invoices, ITC reversal method (DRC-03, return, etc.), and UDIN. If the tax amount is upto ₹5,00,000, a self-declaration/undertaking from the recipient is sufficient, containing CN and invoice details and confirming ITC reversal.

Related Party

- Such persons are officers or directors of one another's business
- Legally recognised partners of business
- Employer & Employee

- Third person holds, controls, owns ≥ 25% of voting power/shares of both
- One of them controls the other
- A third person controls both of them
- Together control a third person

- Such persons are members of same family. (Spouse and children – Always part of family, brother, sister, parents and grandparents – Would be “Family” only when wholly or mainly dependent)

**Person who are associated in the business of one another in that one is the sole agent or distributor, shall be deemed to be related.**

## 2) Value of Supply (VOS) (applicable when parties related or price is not the sole consideration wholly or partially) Rule 27 to Rule 31 r/w Section 15(4) of CGST

- Rule 27: - Consideration not wholly in money
- Rule 28: - Related persons or distinct persons (same PAN) other than through Agent
- Rule 29: - Supply **OF GOODS (not services)** between principal & agent
- Rule 30: - Value of supply based on cost – 110% of Cost of Supply
- Rule 31: - Residual method

The following points from (i) to (v) in Table shall be applied in below order only meaning thereby if (i) is not available then move on to (ii), if (i) & (ii) not available then (iii) & so on.

Parameter	Rule 27	Rule 28	Rule 29
(i) Open Market Value	✓	✓	✓
(ii) Consideration in Money + non-monetary consideration	✓	X	X
(iii) Value of like kind and quality	✓	✓	X
(iv) Consideration in Money + non-monetary consideration as per Rule 30 or 31 in order (i.e., Rule 30/ 31 for consideration in kind “received”)	✓	X	X
(v) Rule 30 (110% of cost of production / manufacture / acquisition) (i.e., Rule 30 for what is “supplied”)	X	✓	(Refer Note 2)
(vi) Rule 31 (Residual) (i.e., Rule 31 for what is “supplied”) ❖ Reasonable means consistent with the principles & general provisions of sec 15 & provisions of this chapter) ❖ Service provider can directly go for Rule 31 without applying Rule 30)	X	✓	(Refer Note 2)
At the option of supplier, 90% of the price charged for goods of like kind and quality by recipient to his unrelated customer (For R. 28 this is applicable if goods are further supplied as such by recipient. For R. 29 it is applicable without “as such” restriction. (Nevertheless, agent always sells as such)	X	✓	✓
If recipient is Eligible for Full ITC, any value in invoice is VOS	X	✓	X

- ❖ **Staggered Discounts** are excluded from Value of supply (buy more save more offers)
- ❖ **Periodic / year ending discounts**/volume discounts are excluded only when they satisfy the post supply discount conditions

**Secondary discounts:** These are the discounts which are not known at the time of supply or are offered after the supply is already over. (example: - revaluation of price). Such secondary discounts shall not be excluded while determining the value of supply as they were not known at time of supply

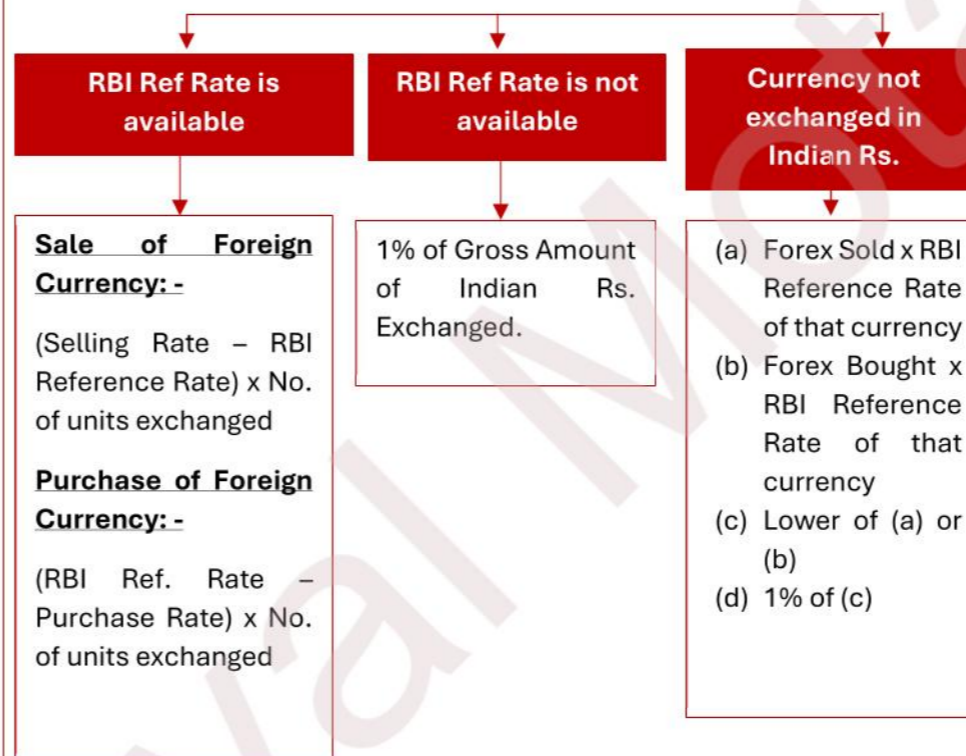
# Value of Supply [Section 15 of CGST Act read with Rules] (2/3)

## NOTES ON RULE 27 TO 31

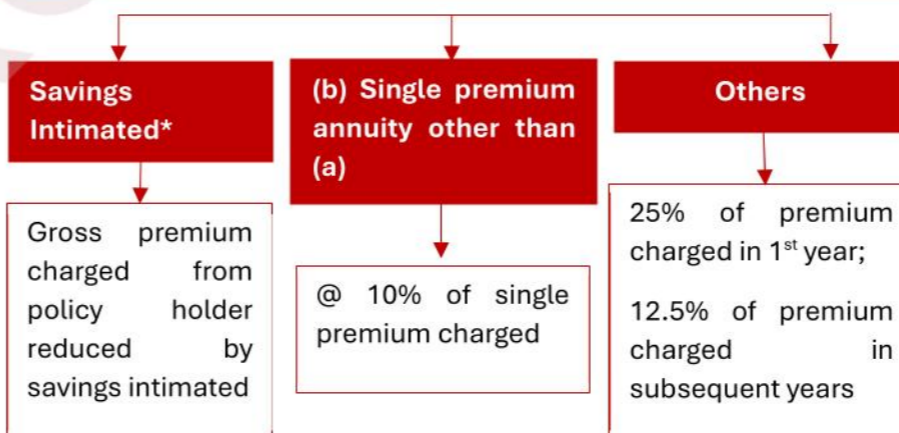
- 1) **"Open Market Value"** of a supply of goods or services or where the **supplier and the recipient of the supply are not related** and the **price is the sole consideration (supplier's price)**
- 2) **Rule 29:** For the purpose of rule 29, we have to take OMV or 90% whichever is beneficial.
- 3) **Clarification on Personal Guarantee by Directors:** As per circular 204/16/2023 dated 26<sup>th</sup> October 2023 it has clarified that the personal guarantee given by directors to company without a consideration is not leviable to GST.
- 4) **Clarification on Corporate Guarantee given by Company:**
  - ❖ A **corporate guarantee** by a holding company to a bank for its related subsidiary is treated as a **supply of service**, even without consideration, under **Schedule I of CGST Act**.
  - ❖ **Rule 28(2)** (inserted via Notification No. 52/2023) governs valuation of such guarantees between **related persons in India**.
  - ❖ Valuation = **1% per annum of guarantee amount or actual consideration, whichever is higher**.
  - ❖ This rule **does not apply to personal guarantees** by directors.
  - ❖ If the recipient is eligible for **full ITC**, **invoice value** will be deemed as the correct value.
  - ❖ **Rule 28(2)** applies to corporate guarantees **issued or renewed on or after 26th Oct 2023**, based on the **guaranteed amount**, not the disbursed loan.
  - ❖ If **loan takeover** includes a **new or renewed guarantee**, GST is payable; otherwise, no GST impact.
  - ❖ For **multiple guarantors**, GST is payable proportionately based on the amount guaranteed.
  - ❖ **Domestic intra-group guarantees** follow **forward charge**, while **overseas guarantor cases** attract **reverse charge**.
  - ❖ **"Per annum"** means 1% per year; for multi-year guarantees, total % is calculated upfront; **exported guarantees** (recipient outside India) are **excluded** from this rule.
- 5) DCA Guarantees payment to supplier. Following scenarios are pertinent with respect to advance credit given to customer to enable him to make payment to principal. These situations have been clarified vide **Circular No. 73/47/2018-GST dated 05-11-2018**: -
  - (a) **If DCA issues invoice in his own name:**  
**Interest charged will be added in value of supply and chargeable to GST**
  - (b) **If DCA issues invoice in name of principal:**  
**Interest charged by DCA to customer is an independent supply & shall not be added in VOS of goods. Further, such interest is exempt in terms of notification 12/2017-CTR.**
- 6) Import of services from a related party without consideration is treated as a supply under GST and is taxable under the RCM. Since it's a related party transaction, Rule 28 applies. If the recipient is eligible for full input tax credit (ITC), the invoice value (even if Nil) is deemed to be the open market value as per the second proviso to Rule 28(1) [Circular No.210/4/2024-GST]

## 3. SPECIAL VALUATION RULES [RULE 32]

### Purchase / Sale of Foreign incl. Money Changing [R. 32(2)(a)]



### Value of Supply for Life Insurance business [R. 32(4)]



**\*Policy with dual benefits of risk coverage & investment**

**If entire premium is for risk cover – 100% of premium is VOS**

**Circular:** The portion of life insurance premium not included in taxable value under Rule 32(4) is not exempt or non-taxable, as no exemption is notified under Section 11 of CGST Act. Since it's excluded by statutory valuation and not treated as exempt supply, no ITC reversal under Rule 42 or 43 is required for this portion of premium.

### Value of Supply for money changing business (optional) [R. 32(2)(b)]

For an Amount (Rs.)	Value of Supply (Not Tax)
1. Upto 1,00,000	1% of Gross Amount Exchanged or Rs. 250 Whichever is higher (i.e., minimum Rs. 250)
2. 1,00,001 – 10,00,000	Rs. 1000 + 0.5% of Gross Amount Exchanged (in excess of Rs. 1,00,000)
3. 10,00,001 & above	Rs. 5500 + 0.1% of Gross Amount Exchanged (in excess of Rs. 10,00,000) or Rs. 60,000/- whichever is lower. (i.e., maximum Rs. 60,000)

**Option shall not be withdrawn during financial year**  
Please note these limits are to be taken on basis of per transaction and not aggregate of whole day or month.

### Value of Supply for Online Money Gaming (R. 31B)

The value of supply of online gaming, including supply of actionable claims involved in

- ❖ **R. 31B – Online money gaming** shall be the total amount paid or payable to or deposited with the supplier by way of money or money's worth, including virtual digital assets, by or on behalf of the player.
- ❖ **R. 31C – Casino shall be:**
  - (i) purchase of the tokens, chips, coins or tickets, by whatever name called, for use in casino; or
  - (ii) participating in any event, including game, scheme, competition or any other activity or process, in the casino, in cases where the token, chips, coins or tickets, by whatever name called, are not required:

However, any amount returned or refunded shall not be deductible from the value of supply of online money gaming.

(It is imp to note that, if winnings are used to play another game, then GST would not be levied)

# Value of Supply [Section 15 of CGST Act read with Rules] (3/3)

## Margin Scheme under GST [R. 32(5) of CGST Rules, 2017]

### MARGIN SCHEME FOR SECOND HAND DEALERS:

Normally GST is charged on the transaction value of the goods. However, where person is

- ❖ Selling second-hand goods i.e., used goods as such (minor processing & repairs are allowed) or after minor processing and
- ❖ where no input tax credit has been availed on the purchase of such goods

**Tax shall be paid on Selling Price (-) Purchase Price = Margin**

If Negative Margin then no GST.

### Margin Scheme applicability (Summary)

**If ITC is availed by Second Hand Dealer:** Margin Scheme is not available, normal provisions will apply.

**ITC is not availed by Second Hand Dealer:** - Margin scheme is available, VoS = Selling Price (-) Purchase Price (Where VoS is negative ignore)

### Taxability of Re-possession of Assets from Defaulting Borrower

**VoS for Lender: - Selling Price (-) Purchase Price**

#### Defaulting borrower is URP: -

Purchase price for borrower (-) 5% per quarter or part thereof, from date of purchase by borrower to date of disposal by lender. (Quarter – Jan to Mar, Apr to June and so on.)

#### Defaulting borrower is Registered Person: -

No reduction as purchase price.

**Sale of Old & Used Motor Vehicle:** In case of sale of old and used motor vehicle (where ITC was not availed), GST shall be paid on difference between Sale value (-) Depreciated Value as per Income Tax Act. However, if difference is negative then no GST shall be payable. (NN 8/2018 – CT (R))

**R. 32 (6)** The value of a token, or a **voucher, or a coupon, or a stamp** shall be equal to the money value of the goods or services or both redeemable against such token, voucher, coupon, or stamp.

**R. 32(3): - Air Travel Agent: -**

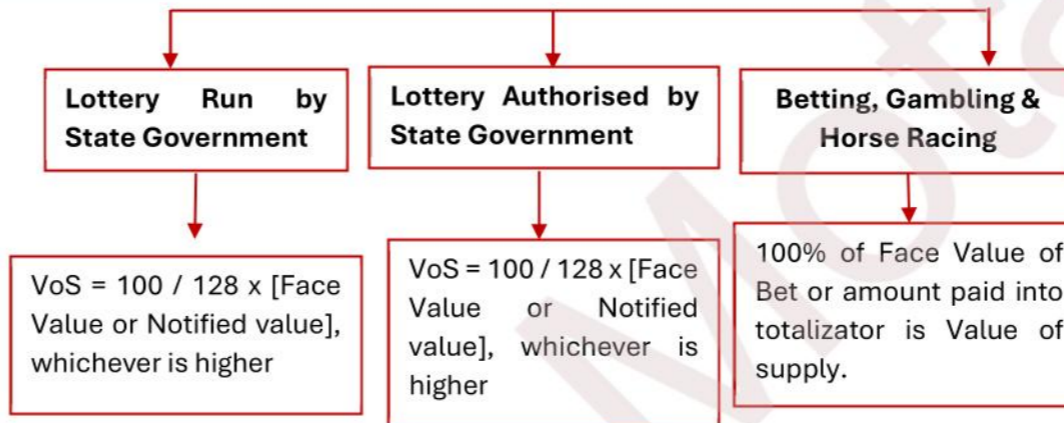
**The value of the supply of services in relation to booking of tickets for travel by air provided by an air travel agent**

In case of Domestic Bookings: - Basic Fare x 5%

In case of International Bookings: - Basic Fare x 10%

Rule 31A is not optional rule. It supersedes other rules

### Rule 31A: - VOS in case of Lottery Tickets, Betting, Gambling & Horse Racing



## 5. Pure Agent (R. 33 of CGST Rules)

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- **[CODE: - ASA & CIT(A)]**

- The **supplier acts as a pure agent of the recipient on authorisation** by such recipient. **(A)**
- The **payment has been separately indicated in the invoice; and, (S)**
- The **supplies procured by the pure agent are in addition** to the services he supplies on his own account. **(A)**

**Pure Agent means: -**

- Enters into a **contractual agreement with the recipient** to incur expenditure **(C)**
- Neither intends to hold nor holds any title** G/S procured; **(T)**
- Does **not use for his own interest; (I)** and
- Receives only the actual amount incurred (A)**

**Examples of Pure Agent are: -**

- Port fees, Port charges, Custom duty, dock dues, transport charges etc. paid by Customs Broker on behalf of owner of goods.
- Expenses incurred by C&F agent and reimbursed by principal such as freight, godown charges.
- It is clarified that whenever electricity is being supplied bundled with renting of immovable property and/or maintenance of premises, as the case may be, it forms a part of composite supply and shall be taxed accordingly.

## 6. Rate of Exchange (R. 34 of CGST Rules)

**For Import of Goods: -**

Relevant rate for import of goods is rate notified by CBIC u/s 14 of Customs Act, 1962

**For Import of Services: -**

Rate of exchange shall be as per the **generally accepted accounting principles for the date of time of supply** of such services in terms of **section 13 of CGST Act.**

## 7. Price cum Tax (R. 35 of CGST Rules)

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-

*(Example: - Supplier forgets to charge & recover tax from customer, he has to pay as per below. Further, Interest, penalty for delayed consideration shall be generally considered as inclusive of tax.)*

Tax amount = (Value inclusive of taxes X tax rate in % of IGST or, as the case may be, CGST, SGST or UTGST) ÷ (100+ sum of tax rates, as applicable, in %)

## 8. Circular on Salvage Value

**(i) When Salvage Value is Deducted:** If the insurance company deducts salvage value from the claim as per the contract, it is not a supply of goods or services. Hence, **no GST is payable** on such deducted salvage value.

**(ii) When Full IDV is Paid (No Deduction):** If the insurer pays the full claim without deducting salvage, the salvage becomes insurer's property. In this case, **GST is payable** when the insurance company **sells/disposes** of the salvage.