

B.COM(Hons.) 3rd Year
GST & Customs Law

Week 2 : Value of Supply sec 15(4) & 15(5)
Source : Bansal, K.M. 4th Ed. 2020 Taxmann's Pub.

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Solution	
Computation of value of taxable supply	
Particulars	₹
List price of the goods (exclusive of taxes and discounts)	1,00,000
Add: Corrugated Boxes used for packing the machine [Includible in the value as per section 15(2)(c)]	1,000
Add: Subsidy received from Delhi Government on sale of such machine [Subsidy received from State Government is not included in the value in terms of section 15(2)(e)]	—
Total	1,01,000
Less: Discount @ 2% on List Price i.e. ₹ 1,00,000 [Since discount is known at the time of supply, it is deductible from the value in terms of section 15(3)(a)]	(2,000)
Value of taxable supply	99,000

9.4 DETERMINATION OF VALUE OF TAXABLE SUPPLY WHERE SECTION 15(1) IS NOT APPLICABLE [SECTION 15(4)]

The section 15(4) provides that where the value of the supply of goods and/or services cannot be determined as per section 15(1), the same shall be determined in such manner as may be prescribed. It means if the transaction is with a related party and/or price is not the sole consideration for the supply of goods and/or services, then the value will be determined as per valuation principles prescribed in CGST Rules, 2017.

9.4.1 Valuation Principles in CGST Rules, 2017

As regards the determination of value of supply, the rules are given under Chapter IV of CGST Rules, 2017. The following are the related rules:

Rule 27 : Consideration is not wholly in money

Rule 28 : Supply between distinct or related persons

Rule 29 : Supply through an Agent

Rule 30 : Valuation based on cost

Rule 31 : Residual Method

9.4.2 Valuation Rule Where the Consideration is Not Wholly in Money [Rule 27]

Where the supply of goods or services is for a consideration not wholly in money, the value of the supply shall be the open market value of such supply. However, if the open market value is not available, then the value of the supply shall be the sum total of consideration in money and monetary equivalent of non-monetary consideration provided such amount is known at the time of supply. If this method does not work, then the value of "like kind and quality" shall be used. If this method also fails, then the sum total of consideration in money and such further amount in money that is equivalent to consideration not in money as determined by the application of rule 30 or rule 31 in that order.

This Rule 27 may be tabulated for more conceptual clarity in the following manner:

Order of Application	Situation	Manner in which Value of supply will be determined
A	When the open market value of supply is available	The open market value
B	If the open market value of supply is not available (i.e. the situation 'A' is not applicable)	Consideration in money PLUS Monetary equivalent of non-monetary consideration (Provided such amount is known at the time of supply)
C	When both the above situations are not applicable. (i.e. the situation 'A' and 'B' are not applicable)	The value of supply of goods and/or services of "like kind and quality" shall be used.
D	When all the above situations are not applicable. (i.e. the situation 'A', 'B' and 'C' all are not applicable)	Consideration in money PLUS Monetary equivalent of non-monetary consideration (As determined by the application of Rule 30 or Rule 31 in that order.)

Example 9.9 (Given in CGST Rules, 2017)

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 9.10 (Given in CGST Rules, 2017)

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

Meaning of "Open Market Value" as per Explanation (a) to Rule 35

"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 the price is the sole consideration, to obtain such supply at the same time when the supply being valued is made;

Meaning of "Supply of goods or services or both of like Kind and Quality" as per Explanation (b) to Rule 35

"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 the 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.

9.4.3 Value of Supply of Goods or Services or Both Between Distinct or Related Persons, Other than Through an Agent [Rule 28]

The rule 28 is applicable in the following cases:

- When the supply is between distinct persons or
- Where the supplier and recipient are related

Note: These cases do not cover supplies made through an agent.

The rules 28 prescribe that in above cases, the value of the supply shall be the open market value of such supply. However, if the open market value is not available, then the value of "like kind and quality" shall be used. If this method fails, then the value is determined by the application of rule 30 or rule 31 in that order.

FURTHER SUPPLY BY THE RECIPIENT

- (i) The first proviso to rule 28 provides 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 for the supply of goods of like kind and quality by the recipient to his customer not being a related person:
- (ii) The second proviso to this rule provides 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 the goods or services.

The following is the tabular presentation of Rule 28.

Order of Application	Situation	Manner in which Value of supply will be determined
A	When the open market value of supply is available .	The open market value is taken as the value of supply of goods and/or services.
		Deemed Open Market Value: If the recipient is eligible to take full Input Tax credit then the value declared in the invoice shall be deemed to be the open market value of goods or services.
B	If the open market value of supply is not available . (i.e. the situation 'A' is not applicable)	The value of supply of goods and/or services of "like kind and quality" shall be used.
C	When both the above situations are not applicable. (i.e. the situation 'A' and 'B' are not applicable)	The value is determined by the application of rule 30 or rule 31 in that order.

Example 9.11 [Supply between related persons]

X Limited and Y Limited are owned and controlled by Ms. Anjali in a manner that the companies are related person as per explanation to section 15 of CGST Act, 2017. X Limited gets a contract for ₹ 10 Lakhs which it passes on to Y Limited for ₹ 8,00,000. Similar services are provided by Y limited to outsiders for ₹ 9,50,000. The value of supply by Y Limited to X Limited shall be based on the open market price i.e. ₹ 9,50,000.

9.4.4 Value of Supply of Goods Made or Received Through an Agent [Rule 29]

When the supply of goods is made or received through an agent, then Rule 29 is applicable. It is important to note that this rule **cannot be applied in case of services**. The rule has prescribed two cases:

(a) Where Open Market Value of supply of goods is available.	<p>The value of supply of goods between the principal and his agent shall be any one of the following:</p> <ol style="list-style-type: none"> 1. The open market value of the goods being supplied. <p style="text-align: center;">OR</p> <ol style="list-style-type: none"> 2. The 90 per cent 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. <p>(The choice between the two is left at the option of the supplier)</p>
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(b)	Where Open Market Value of supply of goods is NOT available.	The value is determined by the application of rule 30 or rule 31 in that order.
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Example 9.12 (Given in CGST Rules, 2017)

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

9.4.5 Value of Supply of Goods or Services or Both Based on Cost [Rule 30]

Where the value of a supply of goods or services or both is not determinable by any of the preceding rules of this Chapter, 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 9.13 [Based on Rule 30]

Suppose X and Y are related parties and X sold goods to Y. The market value of 'Like and Kind Goods' is not available. The cost of production to X was ₹ 2,50,000 as per Cost Accounting Standard 4. In this case, rule 30 will be applicable and the value of supply will be 110% of cost of production i.e. ₹ 2,75,000 (₹ 2,50,000 plus 10%).

9.4.6 Residual Method for Determination of Value of Supply of Goods or Services or Both [Rule 31]

Where the value of supply of goods or services or both cannot be determined under rules 27 to 30, the same shall be determined using reasonable means consistent with the principles and the general provisions of section 15 and the provisions of Chapter IV of CGST Rules, 2017. The first proviso provides that in the case of supply of services, the supplier may opt for this rule 31 directly, ignoring rule 30.

9.5 VALUE OF SUPPLY IN CASE OF LOTTERY, BETTING, GAMBLING AND HORSE RACING [RULE 31A]

In respect of specific Supplies, the Rule 31A has been inserted by Central Government in CGST Rules *vide* Notification No. 03/2018-CT dated 23/01/2018.

- (1) As per Sub-Rule (1) of Rule 31A, "Notwithstanding anything contained in the provisions of this Chapter, the value in respect of supplies specified shall be determined in the specified manner." These Supplies are

- (a) Lottery,
- (b) Betting,
- (c) Gambling
- (d) Horse racing

- (2) This Rule 31A is over-riding rule as no other rule can be applied in respect of supplies specified under this rule.

Note: The Rule has been discussed in detail in Para 9.5.1 and 9.5.2.

9.5.1 Value of Supply in case of lottery:

In respect of lottery, there are two cases:—

(a) Lottery run by State Government:

It is a lottery not allowed to be sold in any State other than the organizing State. In this case, the value of Supply shall be deemed to be 100/112 of the face value of the ticket or the price notified in the official Gazette, whichever is higher.

Example 9.14 (Lottery run by State Government)

During April 2018, Sikkim Government issues 840 lottery tickets to a distributor. The face value per ticket is ₹ 5,000, whereas the price notified by official Gazette is ₹ 4,200. This lottery cannot be sold by the distributor outside Sikkim. GST rate is 12%. The location of recipient of Supply is Rangpo, East district of Sikkim. Calculate value of Supply and also find out the amount of GST.

Solution:

Nature	: The nature of Supply is Intra-State
GST	: Since it is Intra-State in Sikkim, CGST and SGST are applicable.
Nature of Lottery	: Since this lottery is not allowed to be sold in any State other than the organizing State (i.e. Sikkim), it is lottery run by the State Government.
Value of Supply	: As per Rule 31A(2)(a), the value of Supply shall be calculated as under:
Value of Supply	= No. of Tickets × Face Value × 100/112
	= 840 × ₹ 5,000 × $\frac{100}{112}$
	= ₹ 37,50,000
CGST Payable	= 6% of ₹ 37,50,000 = ₹ 2,25,000
SGST Payable	= 6% of ₹ 37,50,000 = ₹ 2,25,000

(b) Lottery authorised by State Government:

As per the explanation to Rule 31A (2), "the lottery authorised by State Government" is a lottery which is authorised to be sold in State(s) other than the organizing State also.

As per Rule 31A(2)(b), in this case the value of Supply shall be deemed to be $\frac{100}{128}$ of the face value of ticket or of the price as notified in the Official Gazette by the organizing States, whichever is higher.

Example 9.15 (Lottery authorised by State Government)

Goa Government has issued 1,600 tickets of Mahalakshmi weekly lottery (Face Value per ticket is ₹ 1,000 whereas the price as notified by official Gazette is ₹ 800) to Bhuvan Limited, who is one of its lottery distributor. This lottery can be sold by Bhuvan Limited even outside Goa. The applicable GST rate is 28%. The recipient of Supply is Head Office of Bhuvan Limited located at Pune, Maharashtra. Determine the value of Supply as per relevant sub-rule of Rule 31A of CGST Rules, 2017.

Solution:-

Nature	: The nature of Supply is Inter-State
GST	: Being Inter-State Supply, IGST is applicable.
Value of Supply	: As per Rule 31A(2)(a), the value of Supply shall be deemed to be $\frac{100}{128}$ of the face value of ticket or of the price as notified in the Official Gazette by the organizing States, whichever is higher.
	Value of Supply = No. of Tickets × Face Value × $\frac{100}{128}$
	= 1600 × ₹ 100 × $\frac{100}{128}$
	= ₹ 1,25,000
IGST Payable	: = 28% of the Value of Supply
	= 28% of ₹ 1,25,000
	= ₹ 35,000