

# **GST MODEL LAW**

## **Topics**

**CHAPTER-IV**  
**TIME AND**  
**VALUE OF**  
**SUPPLY**

**GST VALUATION**  
**(DETERMINATION**  
**OF THE VALUE OF**  
**SUPPLY OF GOODS**  
**AND SERVICES)**  
**RULES, 2016**

## CHAPTER IV:TIME AND VALUE OF SUPPLY

### Section 12

- Time of supply of goods

### Section 13

- Time of supply of services

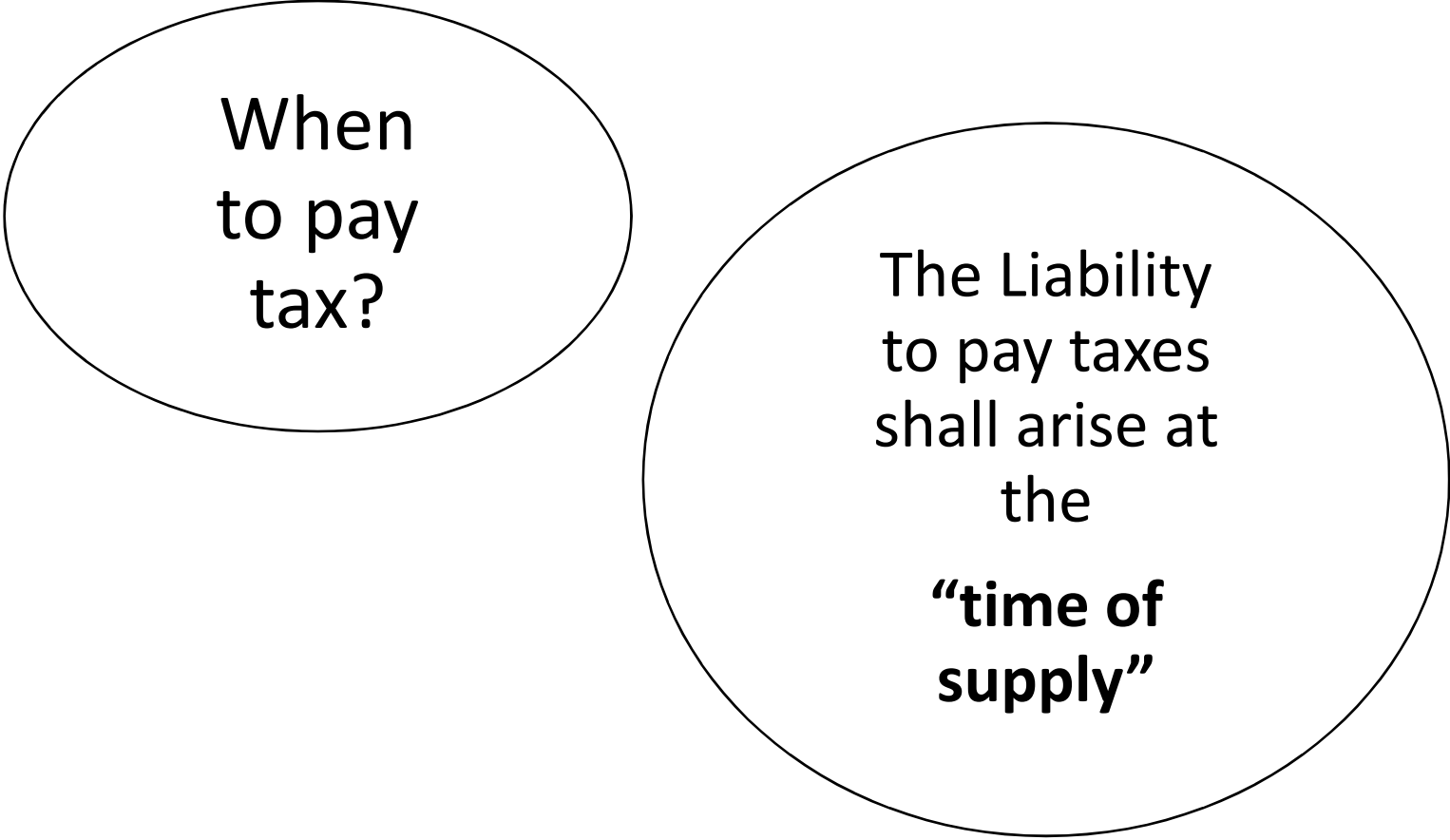
### Section 14

- Change in rate of tax in respect of supply of services

### Section 15

- Value of taxable supply

# Time of supply

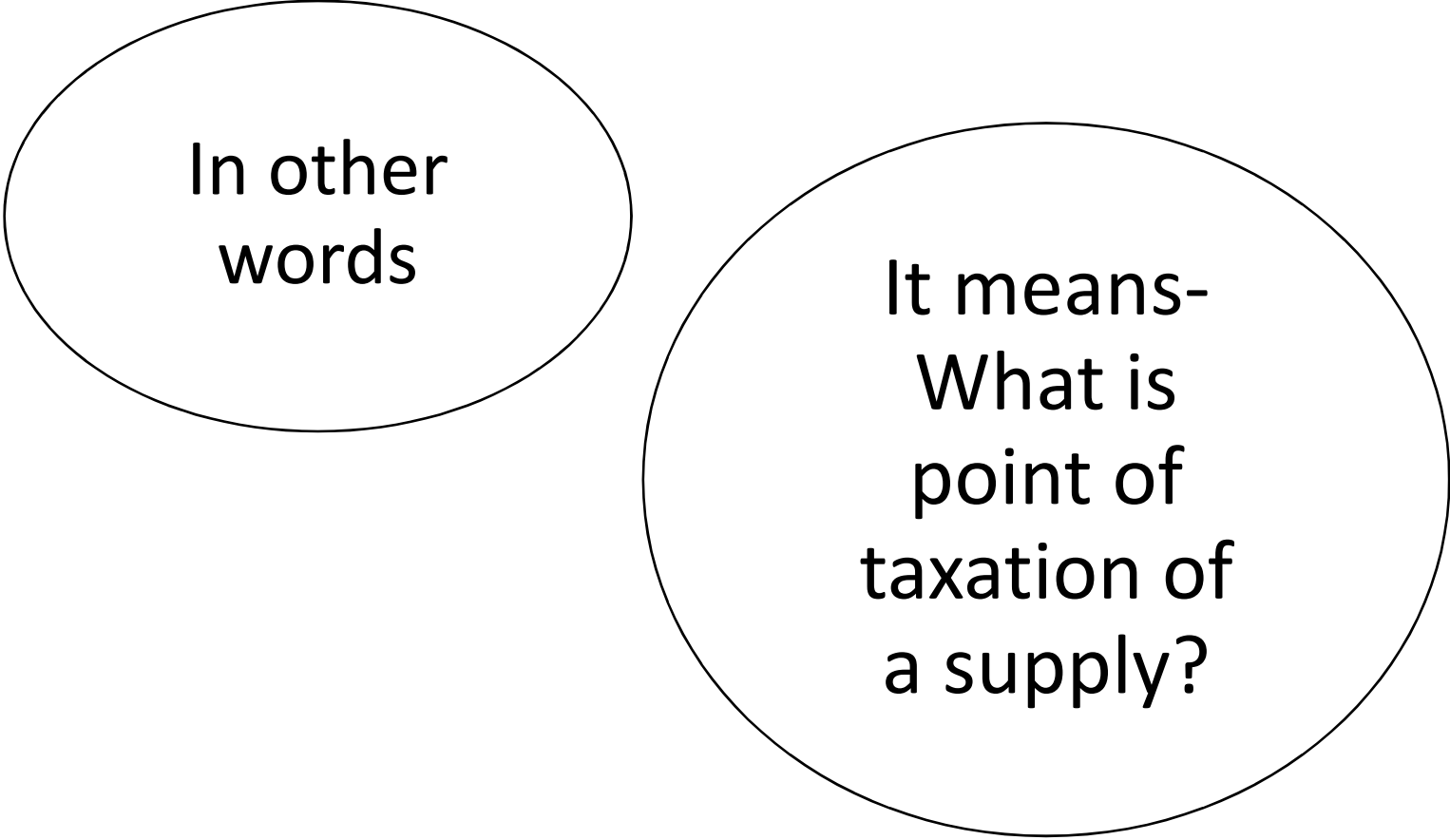


When  
to pay  
tax?

The diagram consists of two ovals. The left oval contains the text 'When to pay tax?'. The right oval contains the text 'The Liability to pay taxes shall arise at the' followed by '“time of supply”' in bold. The two ovals are positioned side-by-side, with the right oval being larger than the left one.

The Liability  
to pay taxes  
shall arise at  
the  
**“time of  
supply”**

# Time of supply



In other  
words

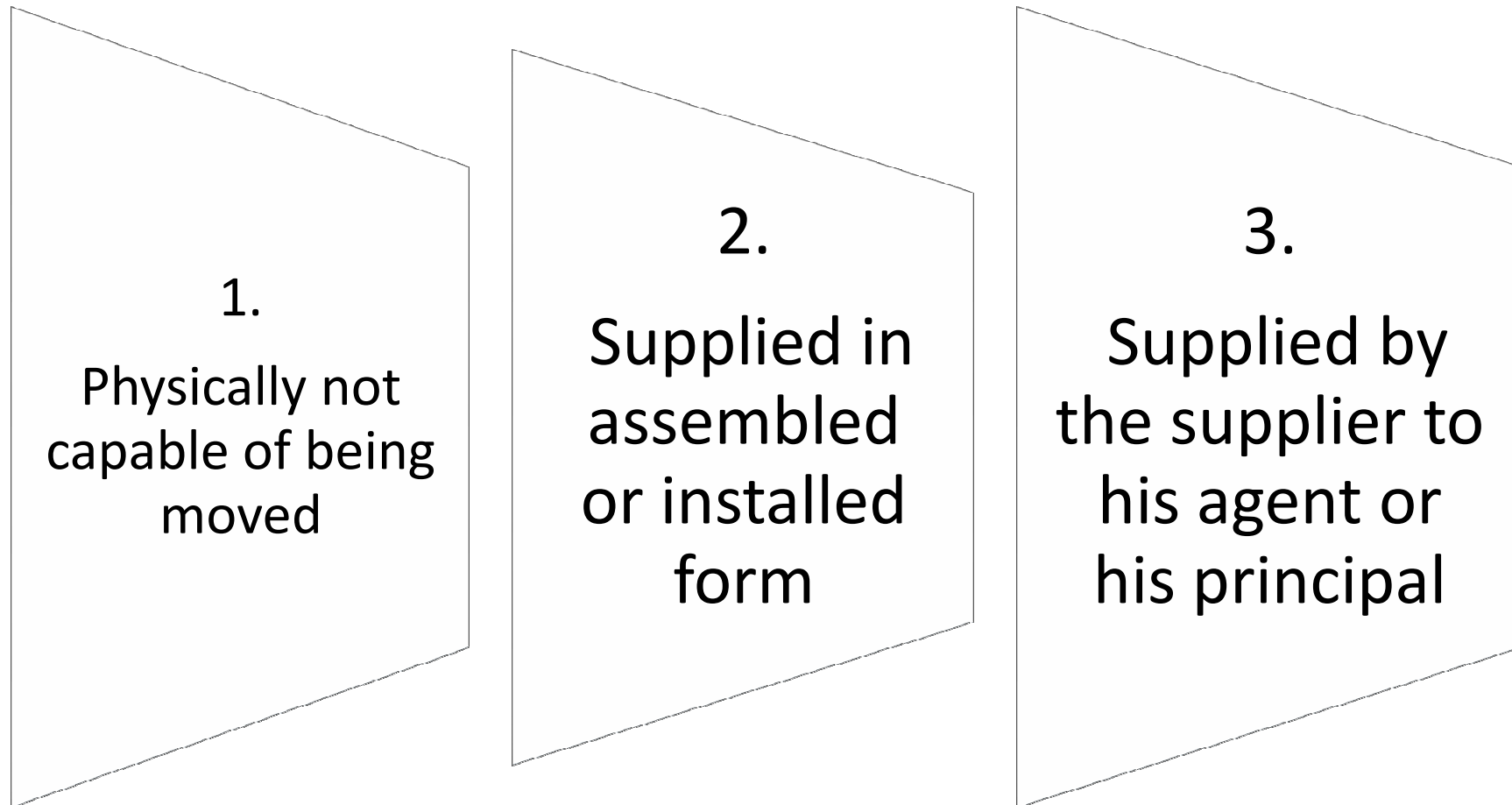
It means-  
What is  
point of  
taxation of  
a supply?

## Section 12(2):Time of supply of GOODS

**Earliest of the following dates:-**

Date on which the goods are removed	Date on which the goods are made available to the recipient	Date of issue of invoice	Date of receipt of payment	Date on which recipient shows the receipt of the goods in his books of accounts
-------------------------------------	---	--------------------------	----------------------------	---

## Explanation 1: Situations where goods are not required to be removed



Section 12(3) & (4):  
Continuous supply of goods

Date of milestone

Else,  
(a) Date of invoice  
or  
(b) Date of payment  
  
whichever is earlier.

## Section 12(5): Reverse Charge

**Earliest of the following dates:**

**Date of  
receipt  
of goods**

**Date of  
payment**

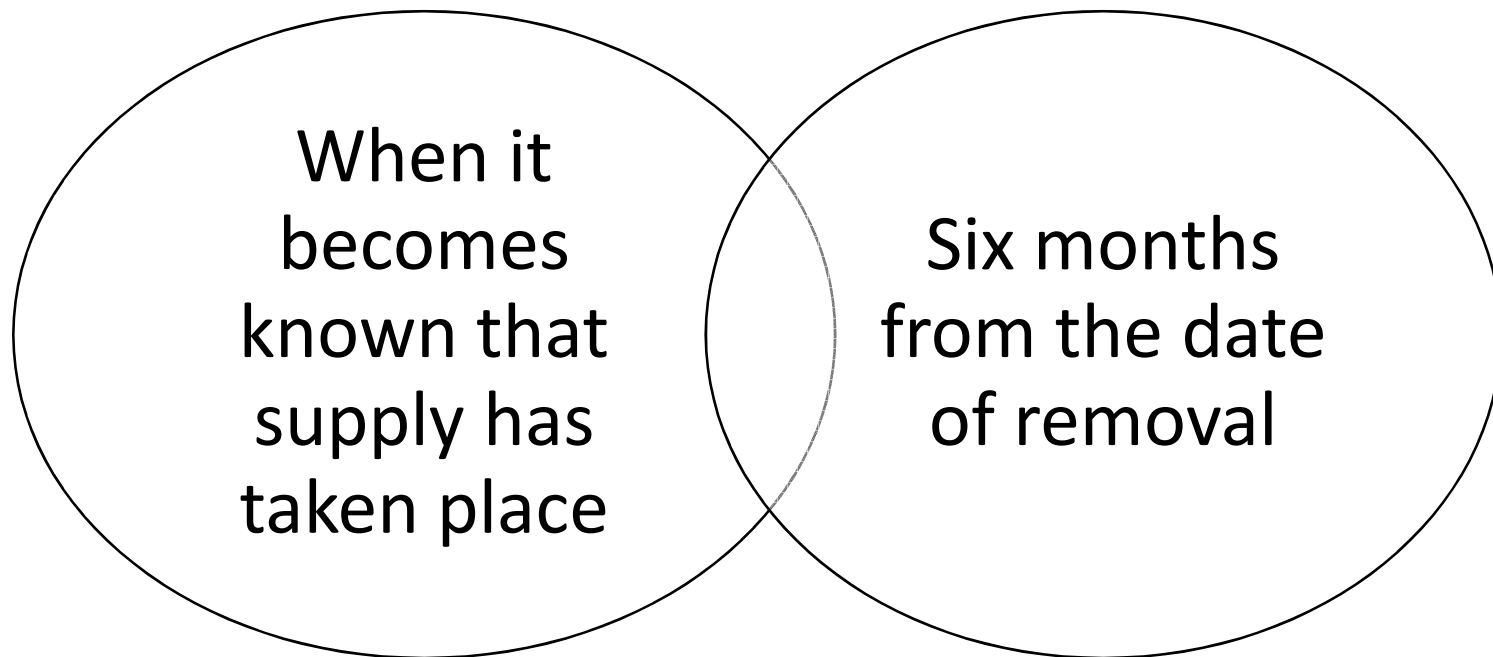
**Date of  
receipt  
of  
invoice**

**Date of  
debit in  
the  
books of  
accounts**



## Section 12(6): Goods sent on approval

- Earlier of following :-



# Section 12(7): Residuary Rule

## Situation 1

Date on which return  
is to be filed-when the  
tax payer is liable to  
file return

## Situation 2

Date on which the CGST/  
SGST is paid

## Section 13(2):Time of supply of SERVICES

(A) If invoice is issued in time-

(i) Date of invoice

Or

(ii) Date of payment

Whichever is earlier

(B) If invoice is not issued in time-

(i) Date of completion of service

Or

(ii) Date of payment

Where (A) & (B) do not apply

(i) Date on which the recipient shows the receipt of service in his books of a/cs

Section 13(3) & (4):  
Continuous supply of services

Date of  
milestone

Else,  
Earlier of  
Date of  
invoice  
or  
Date of  
payment

Date of  
completion  
of event

## Section 13(5): Reverse charge

**Earliest of the following dates:**

Date of  
receipt  
of  
services

Date of  
payment

Date of  
receipt  
of  
invoice

Date of  
debit in  
the  
books of  
a/cs

# Section 12(7): Residuary Rule

## Situation 1

Date on which return  
is to be filed-when the  
tax payer is liable to  
file return

## Situation 2

Date on which the CGST/  
SGST is paid

## Section 14: Change in rate of tax

Rendition before the cut-off date

<b>S no.</b>	<b>Rendition</b>	<b>Invoice</b>	<b>Payment</b>	<b>Point of taxation</b>
1	25.5.2016	<u>1.6.2016</u>	<u>5.6.2016</u>	1.6.2016
2	<u>25.5.2016</u>	<u>26.5.2016</u>	5.6.2016	26.5.2016
3	<u>25.5.2016</u>	1.6.2016	<u>27.5.2016</u>	27.5.2016

## Section 14: Change in rate of tax

### Rendition after the cut-off date

S no.	Rendition	Invoice	Payment	Point of taxation
1	<u>1.6.2016</u>	25.5.2016	<u>5.6.2016</u>	5.6.2016
2	1.6.2016	<u>25.5.2016</u>	<u>26.5.2016</u>	25.5.2016
3	<u>1.6.2016</u>	<u>2.6.2016</u>	26.5.2016	2.6.2016



## Section 15(1) Value of taxable supply

(1) The value of a supply of goods and services shall be the transaction value,

- Where the supplier and the recipient of the supply are not related
- The price is the sole consideration for the supply.

## Section 15(2): Transaction Value to include

### **Section 15(2)(a):**

The transaction value under sub-section(1) shall include:

- ☐ any amount that the supplier is liable to pay
- ☐ in relation to such supply
- ☐ but which has been incurred by the recipient of the supply
- ☐ and not included in the price actually paid for the goods /services

Ex.1 Demurrage charges paid by the purchaser on behalf of supplier

Ex.2 Freight/ insurance paid by the purchaser in case of CIF supply

## Section 15(2)(b): Transaction Value to include

- ☐ The value of such goods/ services as are supplied by the recipient of the supply free of charge, or
- ☐ At reduced cost
- ☐ For use in connection with the supply of goods/ services
- ☐ To the extent such value has not been included in the price actually paid

Ex.1 Free supplies by the contractee like cement, steel, electricity and water

Ex.2 Packing material supplied by the recipient

## Section 15(2)(c): Transaction Value to include

- ✓ Royalties and license fees
- ✓ Related to the supply of goods/ services
- ✓ Being paid by the recipient
- ✓ To the extent that such royalties and fees are not included in the price actually paid

Ex.1 Liquor companies-the purchaser pays the license fee which forms part of sale price of the seller

Ex.2 License fees of a software paid by the recipient of a machine

Ex.3 Lease rent paid by the recipient of services for a show in a mall

## Section 15(2)(d): Transaction Value to include

Any taxes, duties, fees and charges levied under any statute

Other than the SGST Act or the CGST Act or the IGST Act

Ex.1 Any municipal taxes not subsumed in GST

Ex.2 Excise duty on Tobacco

## Section 15(2)(e): Transaction Value to include

- ✓ Incidental expenses, such as, commission and packing, charged by the supplier
- ✓ To the recipient of a supply,
- ✓ Including any amount charged for anything done by the supplier
- ✓ At the time of, or before delivery/ supply of the goods/ services

Ex.1 Car seller providing services like Number plate, registration, handling charges etc. before the delivery of the car

Ex.2 Packing charges, commission, freight, insurance, handling charges like loading and unloading, demurrage charges, C&F expenses, bailment charges, local levies like municipal taxes etc.

## Section 15(2)(f): Transaction Value to include

- ✓ Subsidies provided in any form or manner
- ✓ Linked to the supply

Ex.1 Subsidy given on water purifier by the State/ Central Govt.

Ex.2 Subsidy given by a State/ Central Govt. to any local authority

Ex.3 PNG/ LPG subsidy given to oil companies

## Section 15(2)(g): Transaction Value to include Reimbursement Issues

Any reimbursable expenditure or cost incurred by or on behalf of the supplier and charged in relation to the supply of goods and/or services;

Ex.1 Bank Audit done by a CA-Fees plus reimbursement of expenses

Ex.2 Architects fee includes expenses on account of material, conveyance, telephone, visiting fees, travel, lodging and boarding charges

Ex.3 This clause is in line with explanation to S.67 of the Finance Act, 1994 (amended w.e.f. 14-5-2015) which says any reimbursable expenditure shall be part of consideration.



## Section 15(2)(h): Transaction Value to include

Any discount or incentive that may be allowed after the supply has been effected:

Provided that such post-supply discount which is established as per the agreement and is known at or before the time of supply and specifically linked to relevant invoices shall not be included in the transaction value.

Ex.1 Target incentives and discounts will be hit since they are not linked with invoices and normally cannot be inked in advance. The FMCG companies normally announce them from time to time to motivate their distributors just before the target dates.

Ex.2 Cash discounts

Q.1 Agreement can be oral also. It will give rise to litigation.

## Section 15(3): Transaction Value not to include

(3) The transaction value under sub-section (1) shall not include any discount allowed before or at the time of supply provided such discount is allowed in the course of normal trade practice and has been duly recorded in the invoice issued in respect of the supply.

Ex.1 Happy hours discount in a bar or discount on free home delivery food

Ex.2 Quantity discount offered by a supplier

Q.1 The words and letters “in the course of Normal trade Practice”-will give rise to litigation-Every time the supplier has to think in a new way to penetrate market. [Fiat India Ltd. (SC)]

## Section 15(4): Value-As per Rules

(4) The value of the supply of goods and/or services in the following situations which cannot be valued under sub-section (1), shall be determined in such manner as may be prescribed in the rules.

(i) the consideration, whether paid or payable, is not money, wholly or partly;

Ex.1 Exchange of old jewellery with car

(ii) the supplier and the recipient of the supply are related;

Ex.1 Supplies made to Associated Enterprises

## Section 15: Value of taxable supply

(iii) there is reason to doubt the truth or accuracy of the transaction value declared by the supplier;

Ex.1 The supplier is found to have given inaccurate particulars about the description, quality, quantity, year of manufacture of the supplies.

(iv) business transactions undertaken by a pure agent, money changer, insurer, air travel agent and distributor or selling agent of lottery;

Ex.1 Rule 8 will determine the value of supply in such specific cases

(v) such other supplies as may be notified by the Central or a State Government in this behalf on the recommendation of the Council.

Q.1 The words and letters “which cannot be valued under sub-section (1)” may be deleted

## Section 15: Queries

Q.1 S.15(1) poorly drafted to compare with S.14(1) of the Customs Act, 1962. It should enable to apply on CGST, SGST and IGST.

Q.2 There should be a proviso to S.15(1) so that the section can be linked to the rules so as to determine the transaction value.

Q.3 S.15(4) should be a non-obstante sub-section.

Q.4 S.15(4)(iii) is giving a plenary powers to the proper officer. 'Doubt' is a subjective and arbitrary word. This clause may be removed. No such provisions are there in Excise/ Service Tax Laws.

# GST Valuation (Determination of the Value of Supply of Goods and Services) Rules, 2016

Rule 1: Title and Commencement

Rule 2: Important Definitions

2(1)(b) “goods of like kind and quality” means goods which are-

- identical in physical characteristics,
- quality and reputation as the goods being valued,
- and perform the same functions, or
- are commercially interchangeable with the goods being valued and supplied by the same person or
- by a different person

# GST Valuation (Determination of the Value of Supply of Goods and Services) Rules, 2016

2(1)(c) “services of like kind and quality” means-

- services which are identical or similar in nature,
- quality and reputation as the services being valued and supplied by the same person, or
- by a different person;

## Valuation Rules-Rule 3

### **3. Methods of determination of value**

- (1) Subject to rule 7, the value of goods and/or services shall be the transaction value.
- (2) The “transaction value” shall be the value determined in monetary terms.
- (3) Where the supply consists of both taxable and non-taxable supply, the taxable supply shall be deemed to be for such part of the monetary consideration as is attributable thereto.
- (4) The transaction value shall be accepted even where the supplier and recipient of supply are related, provided that the relationship has not influenced the price.



## Valuation Rules-Rule 3

(5) Where goods are transferred from—

(a) one place of business to another place of the same business,

(b) the principal to an agent or from an agent to the principal,

whether or not situated in the same State, the value of such supply shall be the transaction value.

(6) The value of supplies specified in sub-section (4) of section 15 of the Act shall be determined by proceeding sequentially through rules 4 to 6.

## Valuation Rules-Rule 3

Q.1 Rule 3(1) should be drafted as-“For the purposes of S.15, value of goods and/ or services shall, subject to Rule 7 be the transaction value”

Q.2 Rule 3(4) and Rule 3(6) are conflicting-Ambiguity should be removed-In fact Rule 3(4) is not required and Rule 3(6) should itself state that in case the proper officer has reasons to believe that in cases stated in section 15(4) the relationship has influenced the value then he can apply Rules 4 to 6.

Q.3 Rule 3(4) is using the term “price” should be replaced with the term “value”

## Valuation Rules-Rule 4

Rule 4: Determination of value of supply by comparison considering the following factors-

(a) difference in the dates of supply, (Should be time)

(b) difference in commercial levels and quantity levels,

(c) difference in composition, quality and design between the goods and/or services being valued and the goods and/or services with which they are compared,

(d) difference in freight and insurance charges depending on the place of supply.

## Valuation Rules-Rule 5

### Rule 5: Computed Value Method

A sum total of-

- (a) The cost of production
- (b) General expenses
- (c) Design or brand expenses
- (d) Profit

## Valuation Rules-Rule 6

### Rule 6: Residual Method

Where the value of the goods and/or services cannot be determined under the provisions of rule 5, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules.

Q. Rule 6 is not properly enacted and redundant

## Valuation Rules-Rule 7

### Power to Question Value

Rule 7: Rejection of declared value in the following cases:

- (i) Comparable supply of goods/ services assessment made at higher value
- (ii) Comparable supply of goods/ services are there at high value
- (iii) Any mis-declaration of goods-Quality, description, quantity, manufacturing date etc

Q.1 Substantive law should not be taken care of through rules.

## Valuation Rules-Rule 8

Rule 8: Valuation in certain cases:

1. Pure Agent
2. Money Changer

## Rule 8: Concept of Money Changing

- It shall be determined by the service provider in the following manner-
- For a currency (say USD), when
- Exchanged from/ to (INR),
- The value shall be equal to the difference in the buying rate or the selling rate, as the case may be,
- and the RBI reference rate for that currency at that time,
- multiplied by the total units of currency



## Rule 8: Concept of Money Changing

- Where the RBI reference rate for a currency is not available,
- The value shall be 1% of the gross amount of INR provided or received, by the person changing the money
- Where neither of the currencies exchanged is INR, 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 INR on that day at the reference rate provided by RBI

# GST Valuation Rules: Queries

## **Law require clarity on issues-**

- (i) Circumstances to reject transaction value between unrelated parties
- (ii) Valuation of captive consumption
- (iii) Transaction between head office and branch office
- (iv) Cost allocation of common goods/ services
- (v) Volume discounts and marketing-like strategies [Fiat's Case (SC)]
- (vi) MRP based transactions
- (vii) Comparison more challenging for services

**GST**  
**An**  
**OCEAN OF**  
**OPPORTUNITIES**

# Ocean of Opportunities

## **1. Global Opportunities**

- Tax Advisory Services
- International Research Issues
- Knowledge Process Outsourcing
- Information & Knowledge Sharing
- Capacity Building Services
  - "process of developing and strengthening the skills, instincts, abilities, processes and resources that organizations and communities need to survive, adapt, and thrive in the fast-changing world."
- Technology Support Services

# Ocean of Opportunities

## **2. Audit and Assurance Service**

- Internal Review of Change Management
- Internal Controls
- Internal Audit of Compliance
- Checklist for Statutory Audit
- Assistance in Department Audit

# Ocean of Opportunities

## **3. Operational Consultancy**

- Legislation Impact Analysis, Place of Supply Rules
- Analysis of Costs and Price/ Margin Restructuring
- Restructuring Supply Chain Management
- Comparative Study of Laws
- Understanding Principle of Destination
- Financial Management & Competition Analysis
- Review of Existing Contracts

# Ocean of Opportunities

## **4. Network Support and Infrastructure**

- Synchronising IT Systems & Old Data
- Strong Management Information System
- System Reconciliations
- Data Integration between Centre & States
- Automation of Returns and other Utilities at Centre as well as States
- Updating Amendments in IT Systems
- Data Management for State Jurisdiction

# Ocean of Opportunities

## **5. Accounting and Taxation Services**

- Treatment of Incentives
- Process Documentations & Accounting Manuals
- Branch Transfers
- Budgetary Controls
- Control & Dispute Settlement
- Refunds, Appeals and Adjudications
- Point of Taxation



# Ocean of Opportunities

## **6. Compliance Requirements**

- Compliances under State Jurisdictions
- Registration under New Scheme
- Online Filing of Return for each State Jurisdiction
- Evaluation of Tax Liability with credit set off
- Statutory Compliances and Record Keeping
- Filing of Declarations
- Export Management

# Ocean of Opportunities

## **7. Transitional Support**

- Deregistration from existing laws
- Managing Pending Litigations
- Review and Certification of stock on date of Transition
- Knowledge Sharing & Capacity Building
- Credit Analysis & Utilization
- Comparative Valuation under GST

# Ocean of Opportunities

## **8. Centre/State Support Service**

- Conscripting Legislation & Rules/Procedures
- Reconciliation with Clearing House
- Monitoring Transactions & Revenues
- Coordination between Centre/States
- Cross-Verification with Other Acts
- Training and Education
- Fixing rate based on RNR and Review

# Ocean of Opportunities

- GST Implementation Sessions for you and your team continuously
- Impact study of GST on your business.
- Crafting business plans in the changed environment w.r.t. supply chain, marketing and sales promotion, logistics and distribution, manufacturing, finance, services, ERP System, Accounting System, etc. etc.

# Ocean of Opportunities

- Suggesting best possible alternative for Working Capital Management
- Transaction Structuring by mapping existing business model.
- Developing SOPs for your business in the changed tax regime.
- Contract Review for Cost Reduction / Price Revision
- Focus on GST Module, which enhances net and is more akin with Excise & VAT Module.

# Thanking You

**By:**

**CA Virender Chauhan**

**CA Kanchan Grover**

**98101-37128**

**[vkc.smile@gmail.com](mailto:vkc.smile@gmail.com)**

**Searching For Excellence**

8/29/2010