



TIME AND VALUE OF SUPPLY

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WESTERN INDIA REGIONAL COUNCIL

Wednesday : 16th June, 2021

GST LEVY AND COLLECTION-SECTION 9 OF GST ACT

GST to be levied on all **supplies** of goods and/or services
(Except alcoholic liquor for human consumption)
[Shift from “manufacture” “sale” and “provision of service”]

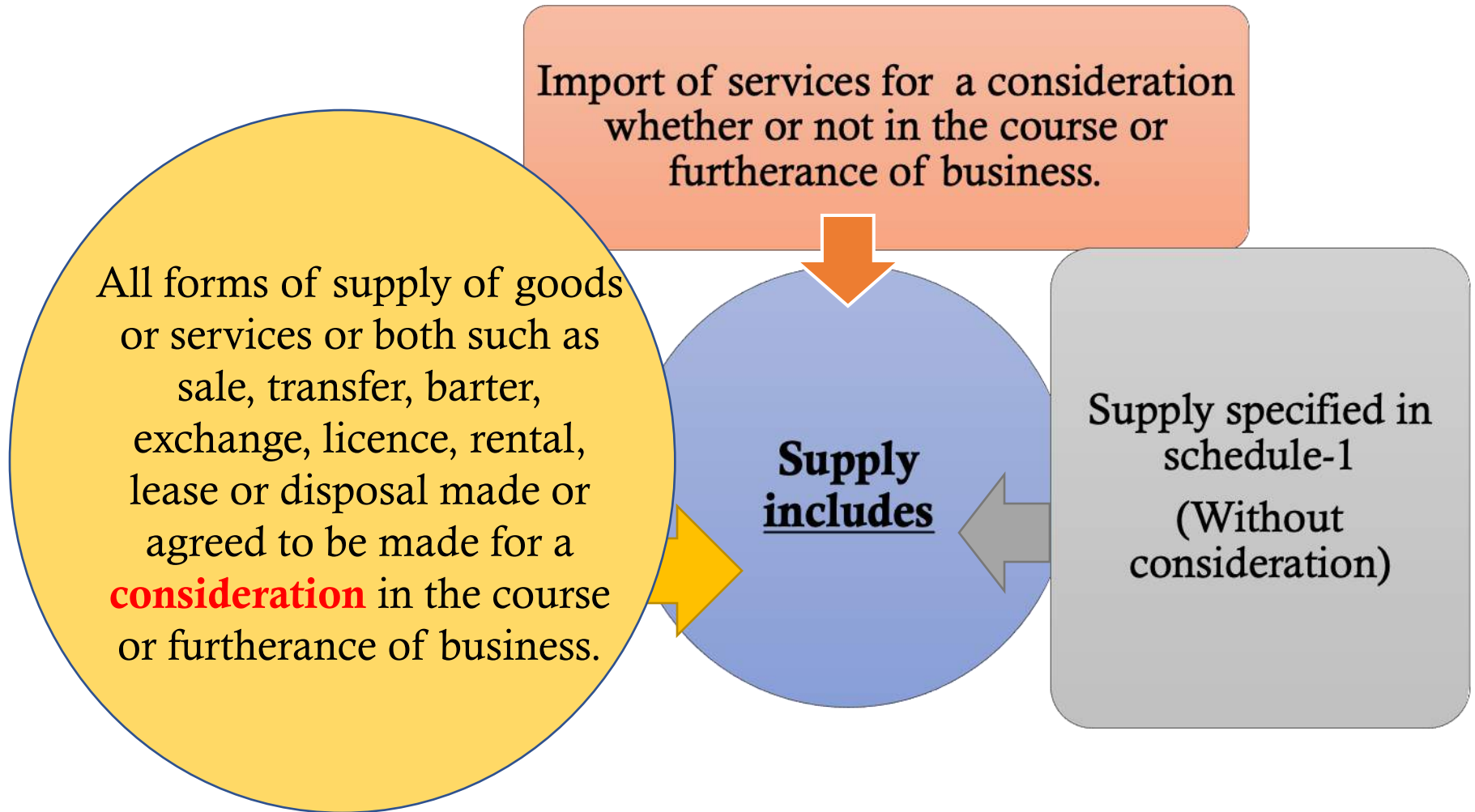
On the value determined under **section 15** of the GST Act

At a rate not exceeding **20%**

Paid by every **taxable person**

Specific categories of goods/services-Reverse Charge Mechanism

MEANING AND SCOPE OF **SUPPLY**-Section 7 of the GST Act



SCHEDULE-I SUPPLIES WITHOUT CONSIDERATION

1. **Permanent transfer or disposal of business assets** where ITC has been availed on such assets.
2. Supply of goods and/or services between **related or distinct persons** when made **in the course or furtherance of business**.

[Provided that gifts not exceeding Rs 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.]

3. **Supply of goods**

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

[The clause does not cover a pure commission agent working only for commission.]

4. **Import of services** by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

CONSIDERATION

Section 2(31) of the GST Act: consideration **includes:**

- any payment made or to be made
 - Whether in money or otherwise
 - Monetary value of any act or forbearance
- In respect of, in response to, or for inducement of a supply whether by recipient or by any other person
- Deposit shall not be considered unless the supplier applies such deposit as consideration for the said supply.
 - **Excludes:** subsidy given by the Central Government or a State Government.

VALUE OF SUPPLY

[Section 15 of the GST Act]

VALUE OF A TAXABLE SUPPLY

Value of Taxable Supply of
Goods and/or Services

Supplier and Recipient are
not related

Price is the sole
consideration

Transaction Value (Section 15)

Price is **not** the
sole consideration

Supplier and Recipient are
related or distinct

GST Valuation Rules

VALUE OF TAXABLE SUPPLY-SECTION 15

Transaction Value

[price actually paid or payable for the supply]

Supplier and Recipient are not related and price is the sole consideration

Includes

Taxes, duties, cesses, fees and charges under any law other than under the GST Act, if **charged** separately by the supplier

Amount that supplier is **liable** to pay but incurred by the recipient.

Incidental expenses charged in respect of the supply and any amount charged for anything done by the supplier in respect of the supply.

Interest or late fee or penalty for **delayed payment** of consideration.

Subsidies directly linked to the price excluding subsidies provided by government.

INCLUSION OF TAX IN VALUE OF SUPPLY

POSERS

- Whether **custom duty** paid by a clearing agent at the port and recovered from the importer is **includible in the value of supply** of the clearing agent?
- Whether **registration fees** paid to the registrar of companies by a company secretary and recovered from the client is **includible in his value of supply?**
- Whether **property tax** recovered by the owner from the tenant is includible in the value of renting of immovable property service.

VALUE OF TAXABLE SUPPLY-SECTION 15

Whether a broker is required to charge GST on charges levied on the contract notes like STT, stamp duty, SEBI fees etc?

FAQ's on Banking, Insurance and Stock Brokers Sector (27.12.2018)

*GST is not payable by the stock brokers on these recoveries as long as the conditions of **pure agent** as provided in Rule 33 of the CGST Rules, 2017 are met. If not, then valuation will be done as per section 15 of the CGST Act, 2017 read with Rule 27 of CGST Rules, 2017.*

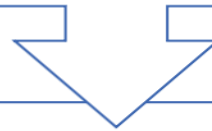
PURE AGENT

Pure agent means a person who-

- (a) Enters into a contractual arrangement 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 supplied 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.

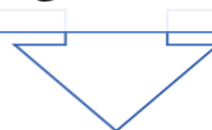
PURE AGENT

Expenditure or costs incurred by the supplier as a pure agent of the recipient of supply of services to be **excluded** from value provided the **following conditions are satisfied**



Supplier acts as a pure agent when he makes the payment to the third party on **authorization by the recipient**

The payment made by the pure agent is separately indicated in the invoice



Services procured by the supplier from the third party are in addition to the supply he provides on his own account.

REIMBURSEMENTS

Sri Bhagavathy Traders Vs. Comm of C.Ex, Cochin [2011(24) STR 290 (Tri.-LB)

Held: The claim for reimbursement towards rent for premises, telephone charges, stationery charges etc. amounts to a claim by the service provider that they can render such services in vaccum. What are costs for input services and inputs used in rendering services cannot be treated as reimbursable costs. **There is no justification or legal authority to artificially split the cost towards providing services partly as cost of services and the rest as reimbursable expenses. [para 6.4].**

Scope of the term “reimbursements”

If the buyer enters into a contract for supply of raw materials after negotiating prices from the supplier for the raw materials and the raw materials are received by the manufacturer and the manufacturer pays the amounts to the supplier of raw materials and recovers the same from the buyer, **it can certainly be considered as reimbursements.** In such case the manufacturer has no role about choosing the source of the materials procured or the price at which the materials procured and the manufacturer is not under any legal or contractual obligation to pay the amount to the supplier.

REIMURSEMENTS

Intercontinental Consultants & Technorats (P.) Ltd V. Union of India [2012] 28 taxmann.com 213 (Delhi)

Held: Rule 5 (1) which provides for inclusion of the expenditure or costs incurred by the service provider in the course of providing the taxable service in the value for the purpose of charging service tax is **ultra vires sections 66 and 67** and travels much beyond the scope of those sections. To that extent it has to be struck down as bad in law. [Para 11].

The **Supreme Court** has validated the decision of the Delhi High Court reported at **[2018] 91 taxmann.com 67 (SC)**

EXCLUSIONS TO THE VALUE OF SUPPLY

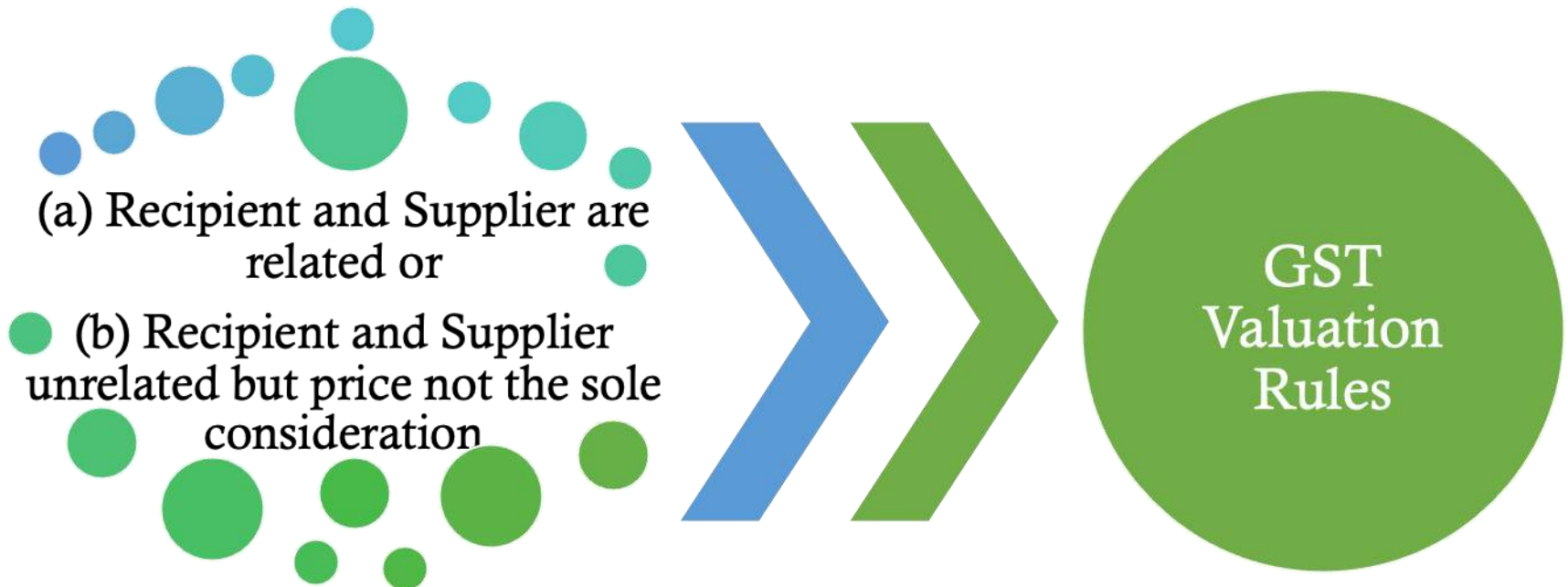
Transaction Value
[price actually paid or payable for the supply]

Excludes

Discounts if

- (a) Recorded in the invoice issued in respect of the supply
or
- (b) After the supply is effected if:
 - (i) Established in terms of agreement and specifically linked to relevant invoices;
 - (ii) ITC is reversed by the recipient of supply

GST VALUATION RULES



GST VALUATION RULES

Rule 27: Consideration not wholly in money

- (a) Open market value of **such** supply;
- (b) If open market value not available, sum total of consideration in money and such further amount in money which is equivalent to the consideration not in money **if such amount is known at the time of supply;**
- (c) Value not determinable as above, the value of supply of goods and/or services of **like kind and quality;**
- (d) Value not determinable under clause (a) or (b) or (c), sum total of consideration in money and such further amount in money which is equivalent to the consideration not in money to be determined by **application of rule 30 or rule 31 in that order.**

GST VALUATION RULES

Open market value

Means full value in money excluding integrated tax, central tax, state tax, union territory tax and the cess payable by a person in a transaction, where the supplier and recipient are not related and price is the sole consideration, to obtain such supply at the same time when the supply being valued is made.

Supply of like kind and quality

Means supply of goods and/or services 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.

GST VALUATION RULES

Rule 30 – Based on Cost

Value to be **110% of the cost of production/manufacture** or **cost of acquisition** of such goods or the **cost of provision** of such services

Rule 31- Residual Method

- Reasonable means consistent with section 15
- Supplier of Service may opt for this Rule ignoring Rule 30.

GST VALUATION RULES

Rule 28: Supplies between **distinct or related persons** other than through agent

- (a) Open market value of such supply;
- (b) If open market value not available, value of supply of goods or services of like kind and quality
- (c) Value not determinable under clause (a) or (b), value as determined by **application of rule 30 or rule 31 in that order.**

What will be the value of supply in case of invoices raised on branch offices?



GST VALUATION RULES

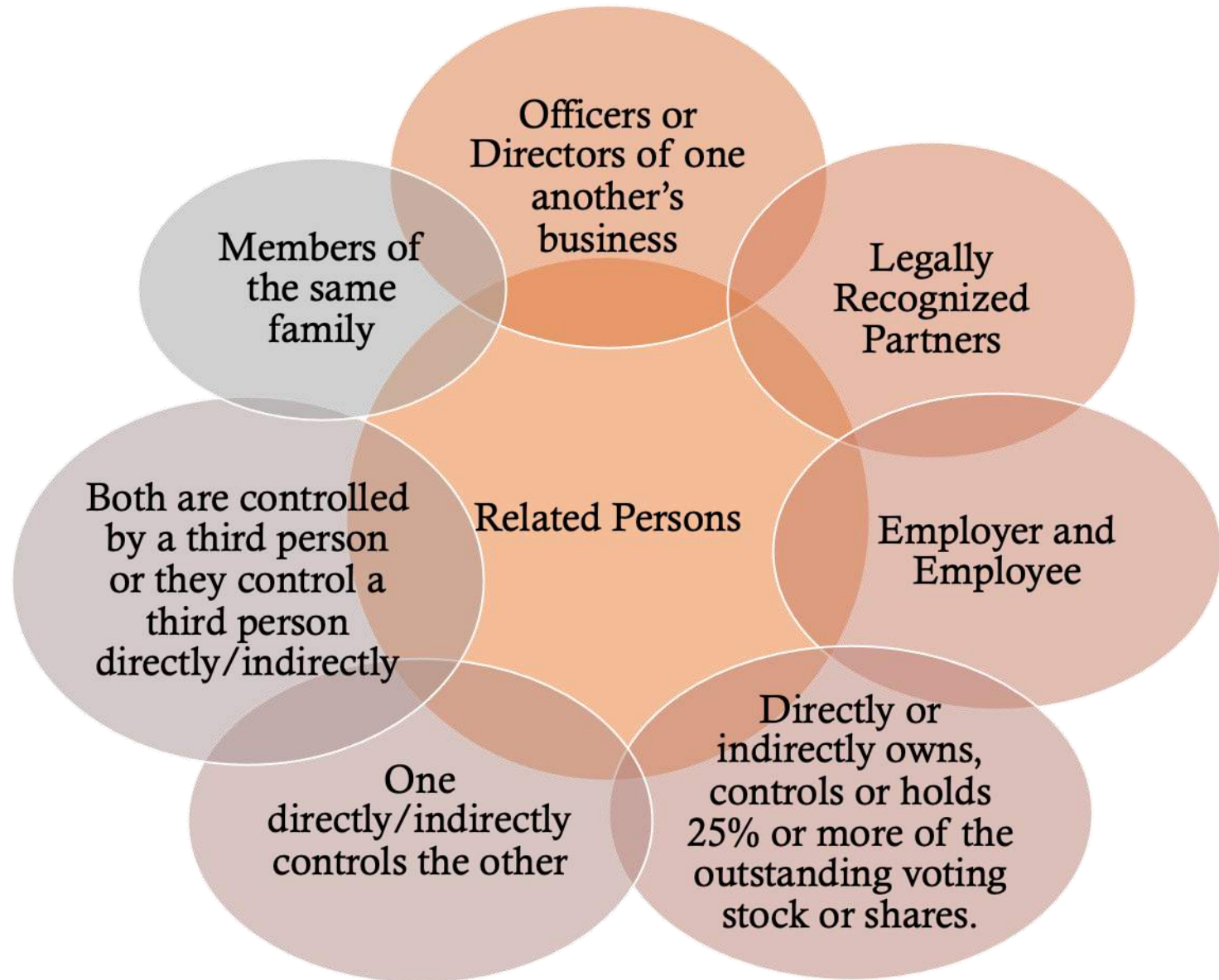
Proviso to Rule 2 of the Valuation Rules

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.

Where goods are intended for further supply as such by the recipient, the **value may be 90%** of the price charged for the supply of like and quality by the recipient to his customer who is unrelated.



RELATED PERSONS-Explanation to Section 15 of the GST Act



DISTINCT PERSONS

(Explanation 1 to section 8 of the IGST Act and section 25(4) and (5) of the CGST Act)

Person having an establishment in India and any other establishment outside India

Establishment in a State or UT and any other establishment outside that State; or

Establishment in a State or UT and other establishment being a business vertical **registered** within that State or UT

GST VALUATION RULES

Rule 29: Supply of Goods made or received through an agent

- (i) Open Market Value of the goods being supplied or at the option of the supplier -
- (ii) 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 goods are intended for further supply by the said recipient.
- (iii) Where value cannot be determined as above, than to be determined by following Rule 4 or Rule 5 in that order.

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.

GST VALUATION RULES

Rule 32(2): Valuation of Specific Services

Sr.No.	Particulars	Value
A.	Purchase or Sale of foreign currency including money changing [Option 1]	
(i)	Currency exchanged from or to INR	Difference in the buying rate or selling rate and the RBI reference rate multiplied by total units of currency.
(ii)	RBI reference rate not available	1% of gross amount of Indian Rupees provided or received by the person changing the money.
(iii)	Where neither of the currency exchanged is Indian rupees	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 RBI reference rate.

GST VALUATION RULES

Rule 32(2): Valuation of Specific Services

Sr.No.	Particulars	Value
	Purchase or Sale of foreign currency including money changing [Option 2]	
(i)	Gross amount of currency exchanged for an amount upto Rs 100,000 subject to minimum of Rs 250.	1% of the gross amount
(ii)	Gross amount of currency exchanged for an amount of rupees exceeding Rs. 100,000 and upto Rs. 10,00,000/-	Rs 1000 + 0.5% of the gross amount of currency
(iii)	Gross amount of currency exchanged for an amount of rupees exceeding Rs 10,00,000/-	Rs 5000 + 1/10th of the gross amount of currency. [maximum Rs 60,000/-]

Note: option once selected cannot be withdrawn during the remaining part of that financial year.

GST VALUATION RULES

Rule 32(3) – Air Travel Agent

Sr.No.	Particulars	Value
B.	Air Travel Agent	
(i)	Domestic bookings	5% of the basic fare
(ii)	International bookings	10% of the basic fare

Basic Fare: Part of the air fare on which commission is normally paid to the air travel agent by the airline.

GST VALUATION RULES

Rule 32(4): Life Insurance Business

Sr.No.	Particulars	Value
C.	Life Insurance Business	
(i)	Gross Premium charged reduced by the amount allocated for investment or savings on behalf of the policy holder, if the amount is intimated to the policy holder at the time of supply of service	
(ii)	Single premium annuities other than (a)	10% of the single premium charged from the policy holder
(iii)	In other cases	(a) 25% of the premium charged from the policy holder in the 1 st year and (b) 12.5% of the premium charged in subsequent years.

The above shall not be applicable where the entire premium paid is only towards risk cover in life insurance.

GST VALUATION RULES

Rule 32(5): Dealer in second hand goods

Sr.No.	Particulars	Value
D.	Dealers dealing in buying and selling of second hand goods	
	No input tax credit availed on purchase of such goods	Difference between the selling price and purchase price. Where the value is negative it will be ignored.

GST VALUATION RULES

Rule 32(5): Value of a Token/Voucher redeemable against supply of goods and/or services

Sr.No.	Particulars	Value
E.	Value of a token or voucher or a coupon or a stamp (other than postage stamp)	
	Redeemable against supply of goods or services	Value of goods and/or services redeemable against such token, voucher, coupon or stamp

TIME OF SUPPLY

[Section 12 and 13 of the GST Act]

The point of time at which the liability to pay tax arises on a taxable supply

POINT OF TAX UNDER THE EXISTING LAWS

VAT/CST

- Sale of Goods

Service Tax

- **Earlier** of:
 - Issue of Invoice
 - Receipt of Payment

Excise

- Removal of Goods

TIME OF SUPPLY OF GOODS–SECTION 12 (2)

Earlier of the following:

- A. Date of Issue of Invoice;
- B. Last date on which Invoice is required to be issued under section 31(1);
- C. Date of receipt of payment.
[Date on which payment is entered in the books of accounts or credit in bank account whichever is earlier]

Notification 66/2017 – Central Tax dated 15.11.2017

Exempts all tax payers from payment of tax on advances received in case of supply of goods.

LAST DATE OF ISSUANCE OF INVOICE: SECTION 31

Section	Situation	Last Date of issue of invoice
31(1)(a)	<p>Goods are required to be removed, supply involves movement Eg: Sale of Goods, Branch Transfers etc.]</p> <p>[Removal: Section 2(96)]</p> <ul style="list-style-type: none"> • Despatch of Goods for delivery by the supplier • Collection of Goods by the recipient 	before or at the time of removal.
31(1)(b)	<p>Any other case: Date of delivery or making available to the recipient.</p> <p>Eg: Where the goods are supplied in assembled or installed form at customers premises, sale and lease back transactions etc.</p>	Before or at the time of delivery or making available

LAST DATE OF ISSUANCE OF INVOICE: SECTION 31

Situation

Continuous supply of goods:

- Supply of goods continuously or on recurrent basis;
- whether or not by means of wire, cable, pipeline or conduit;
- on a regular or periodic basis

Eg: Gas Supply, Agreement for supply of products continuously for a specified period. Etc.

LAST DATE OF ISSUANCE OF INVOICE: SECTION 31

Section	Situation	Last Date of issue of invoice
31(4)	Successive statement of account or successive payments are involved.	Before or at the time each such statement is issued.
	Successive statement of account or successive payments not involved.	No such date provided. Time of Supply: General Rule to apply

LAST DATE OF ISSUANCE OF INVOICE: SECTION 31

Section	Situation	Last Date of issue of invoice
31(7)	Sale on Approval basis	Earlier of: <ul style="list-style-type: none">• Before or at the time when it becomes known that the supply has taken place.• 6 months from the date of removal

TIME OF SUPPLY OF GOODS-REVERSE CHARGE MECHANISM [Section 12(3)]

Reverse Charge Mechanism: Section 2(98)

Liability to pay tax by the person **receiving goods and/or service.**

- (a) Date of **receipt of goods** by the recipient, or
- (b) Date on which **payment is made** by the recipient, [Earlier of date of payment entered in the books or debit in his bank account]
- (c) date **immediately following 30 days from the date of issue** of invoice by the supplier.

If it is not possible to determine the time of supply under above clauses-**Date of entry in the books of recipient.**

TIME OF SUPPLY OF GOODS-SECTION 12

**Sale of vouchers
(Section 12(4))**

Supply is identifiable	Date of issue of voucher
In all other cases	Date of redemption

**Any other case
(Section 12(5))**

- Date on which return is filed
- Date on which tax is paid.

Whichever is earlier

TIME OF SUPPLY OF SERVICES-SECTION 13(2)

Situation	Time of Supply
If Invoice is issued within the period prescribed (Section 31)	Date of issue of invoice or Date of receipt of payment } Whichever is earlier
If invoice not issued within the prescribed period	Date of provision of service or Date of receipt of payment } Whichever is earlier
In all other cases	Date on which the recipient shows receipt of services in his books of accounts.

Date of receipt of payment: Date on which payment is entered in the books of accounts of the supplier or the date of credit in the bank account.

LAST DATE OF ISSUANCE OF INVOICE: SECTION 31

Section	Situation	Last Date of issue of invoice
31(2)	General Rule	Before or within 30 days of provision of service.

LAST DATE OF ISSUANCE OF INVOICE: SECTION 31

Situation

Continuous Supply of Service – Section 2(31)

- Provided continuously or on a recurrent basis under a contract;
- Period exceeding 3 months
- Periodic payment obligations.

Eg: Construction Contracts, Renting of Immovable property, Insurance Contracts, telecommunication services etc.

The Central Government/State Government may specify by notification the supply of goods or services to be treated as continuous supply.

LAST DATE OF ISSUANCE OF INVOICE: SECTION 31

Section	Situation	Last Date of issue of invoice
31(5)(a)	Due Date of Payment is ascertainable [Date on which payment is due is specified in the contract/agreement]	On or before the due date of payment
31(5)(b)	Due Date not ascertainable	Before or at the time the supplier receives payment.
31(5)(c)	Payment linked to completion of an event	On or before the completion of that event.

CASE STUDY

Membership of a Club is renewable yearly and is due on 30th July, 2020. Mr Y. has failed to renew the membership. On continuous reminders the membership is renewed on 25/09/2020. The club has discharged GST considering the actual date of renewal i.e. 25/09/20. Whether the club has complied with the provisions of Time of Supply under GST?

Due Date of Renewal	Date of Renewal/Date of Receipt
30/07/2020	25/09/2020

ILLUSTRATION

Mr Y. has entered into an agreement with a builder for purchase of an under- construction flat. The Agreement specifies that payment is to be made as follows:

- A. On completion of the plinth: 10%
- B. On completion of 2nd floor : 25%
- C. On completion of 5th Floor: 50%
- D. On completion of paint and wiring: 15%

Determine the date when invoice is required to be issued and the time of supply?

LAST DATE OF ISSUANCE OF INVOICE: SECTION 31

Section	Situation	Last Date of issue of invoice
31(6)	Supply of Service ceases under a contract before its completion	At the time when the supply ceases to the extent of the supply effected before its cessation

TIME OF SUPPLY OF SERVICES-Section 13

Reverse
Charge
Mechanism
[Section 13(3)]

- **Earlier of**
- Date on which **payment is made**
- Date **immediately following 60 days from the date of issue of invoice.**
- If the date cannot be determined as above: Date of entry in the books of the recipient.

Any other case
[Section 13(5)]

- Date on which return is filed
 - Date on which tax is paid.
- Which ever is earlier

TIME OF SUPPLY OF SERVICES-SECTION 13

Associated Enterprises – Proviso to Section 13(3)-Meaning as per section 92A of the Income Tax Act, 1961

- Supplier is located outside India: Tax payable under reverse charge mechanism by the recipient in India

Earlier of:

- Date of entry in the books of accounts of the recipient
- Date of Payment

Provisional entries made at the end of the year in the books of the recipient in respect of supplies to be made from outside India by associated enterprise-liable for GST at that point of time.

TIME OF SUPPLY OF SERVICES-Section 13

1.	Supply of Vouchers	If the supply is identifiable at that point of time [Eg:Prepaid mobile/internet vouchers]	Date of issue of voucher
		In all other cases	Date of redemption of voucher.
2.	Addition in Value [by way of interest, late fee or penalty for delayed payment of any consideration]		Date on which supplier receives addition in value.

OVERVIEW-TIME OF SUPPLY-SECTION 12 and 13

Particulars	Time of Supply for Goods	Time of Supply for Services
General Rule	<p><u>Earliest of:</u></p> <ul style="list-style-type: none"> ▶ Date of issue of invoice; ▶ Date on which invoice is required to be issued under section 28; ▶ Date of receipt of payment; 	<p><u>Earliest of:</u></p> <ul style="list-style-type: none"> ▶ Invoice issued as per section 31 <ul style="list-style-type: none"> (a) Date of issue of invoice or receipt of payment. ▶ Invoice not issued as per section 31 <ul style="list-style-type: none"> (a) Date of provision of service or receipt of payment.
Reverse charge	<p><u>Earliest of:</u></p> <ul style="list-style-type: none"> ▶ Date of receipt of goods ▶ Date of making payment ▶ Date immediately following 30 days from the date of invoice. <p>In other Cases: Date of entry in the books of the recipient.</p>	<p><u>Earlier of:</u></p> <ul style="list-style-type: none"> ▶ Date of making payment ▶ Date immediately following 60 days from the date of invoice. <p>In other Cases: Date of entry in the books of the recipient.</p>

OVERVIEW-TIME OF SUPPLY-SECTION 12 and 13

Particulars	Time of Supply for Goods	Time of Supply for Services
Sale of Vouchers	<ul style="list-style-type: none"> ▶ If the supply is identifiable: Date of issue of voucher ▶ In all other case: Date of redemption. 	<ul style="list-style-type: none"> ▶ If the supply is identifiable: Date of issue of voucher ▶ In all other case: Date of redemption.
Associated Enterprise [Supplier is located outside India]	<ul style="list-style-type: none"> ▶ No specific Rule 	<p><u>Earliest of:</u></p> <ul style="list-style-type: none"> ▶ Date of entry in the books of the recipient; ▶ Date of Payment
Residuary	<ul style="list-style-type: none"> ▶ Date on which periodical return is to be filed ▶ In any other case, the date on which the CGST/ SGST is paid 	<ul style="list-style-type: none"> ▶ Date on which periodical return is to be filed ▶ In any other case, the date on which the CGST/ SGST is paid

CHANGE IN RATE OF TAX-Section 14

Sr. No	Goods or Services supplied	Invoice w.r.t. rate change	Payment w.r.t change	Rate Applicable
1	Before Rate Change	After	After	New
2	-do-	Before	After	Old
3	-do-	After	Before	Old
4	After rate change	Before	After	New
5	-do-	Before	Before	Old
6	-do-	After	Before	New

Similar to Rule 4 of the POTR