

**VALUATION, ABATEMENT AND  
REVERSE CHARGE**



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**WESTERN INDIA REGIONAL COUNCIL OF  
INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**

# Valuation



# Valuation – how done ?



## Three scenarios

**Consideration  
in money**

**Value = Gross  
amount charged**

**Consideration not  
wholly / partly in  
money**

**Value = Money +  
Money's worth +  
service tax  
charged**

**Consideration for  
provision of  
service not  
ascertainable**

**Value = As per  
Rules**



# Valuation – Consideration not ascertainable

## Two rules



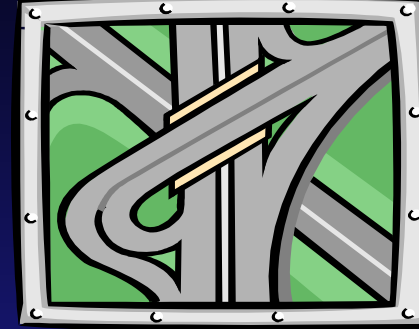
### Gross amount charged –

- by SP to provide ***similar services*** to others in ordinary course of trade and
- is the sole consideration

***Equivalent money value*** of consideration determined by service provider but not less than cost of provision of service

Recovery of reimbursements liable unless as a *pure agent* & **all** other conditions satisfied :

- SP pays as a *pure agent*
- SR uses the goods /services
- SR liable to pay
- SR authorises SP to make payment
- SR knows goods / services shall be provided by the third party
- SP indicates payment separately in his invoice
- No profit
- Payments in addition to own services [C+R]



**[SP = Service provider; SR = Service recipient]**



“Pure agent” means an agent who -

- Contracts with SR for incurring expenditure
- Holds no title to the goods / services procured
- Does not use such goods / services
- Receives only actual amount charged



## Other Provisions

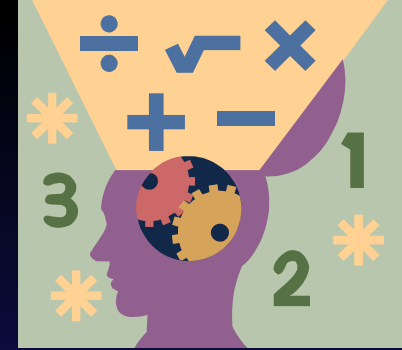
- Service tax to be paid on advances
- Where bill is inclusive of service tax

$$\text{Value} = \frac{100}{100+R} \times \text{Total amount charged}$$

$$\text{Service tax} = \frac{R}{100+R} \times \text{Total amount charged}$$

where R is the rate of service tax

Rule 4A and section 12A of CE Act ?



## Power of CEO to question valuation

- CEO has power to question valuation
- If value not as per rules – CEO can determine value
- Power to be used sparingly – written instructions from AC / DC required for verification
- SCN to be issued before determination of value after concurrence of Commissioner





# Specific Inclusions

- sub-brokerage paid by a stock broker to be included in his brokerage
- Adjustments from initial deposits for telephone/ lease circuit etc. by a telegraph authority
- insurance premium
- commission received from airline by air travel agent
- commission received by actuary / intermediary / insurance intermediary /agent from insurer
- reimbursement by manufacturer to authorised service station
- commission received by rail travel agent from railways / customer
- remuneration for services by C & F agent
- *Demurrage or any other sum relatable to the provision of service*

# Specific Exclusion

- initial deposit at the time of application for telephone/ lease circuit etc.
- air-fare collected by air travel agent
- rail-fare collected by rail travel agent
- interest on delayed payment of any consideration
- taxes levied by any government on passengers travelling by air if shown separately on ticket/ on invoice
- *accidental damages due to unforeseen action relatable to provision of service*
- *Subsidies /grants disbursed by govt. not directly affecting value of service*

# Service portion of a "Works Contract" [Section 66E(h)]

Works Contract

```
graph TD; A[Works Contract] --> B[Transfer of property in goods leviable to VAT/Sales tax]; A --> C[Construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, alteration or similar activity of];
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Transfer of property in goods leviable to VAT/Sales tax

Construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, alteration or similar activity of

- Movable property
- Immovable property


- Contract for 'movables' also included now.
- Labour contracts not covered – liable to tax on full value

# Service portion of a "Works Contract"

## Valuation Options

Value = Gross amount less materials

No Composition scheme. But presumptive scheme for reckoning value of services

Full value  maybe  
• Earlier possible  
• Now deemed sale excluded. Hence not possible

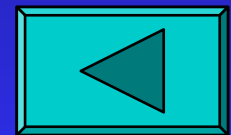
Original works – 40%   
M&R of goods – 70%  
Others – 60%

of 'total amount'

***No Credit on inputs but credit allowable in input services and capital goods***

## Value to include

- labour charges
- sub-contractor payments
- charges for planning, designing & architect fees
- hire charges for machinery, tools etc.
- cost of consumables water, electricity, fuel etc.
- cost of establishment / expenses/ profit relatable to supply of labour & services



## 'total amount' means -

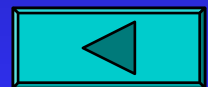
- gross amount charged

*plus*

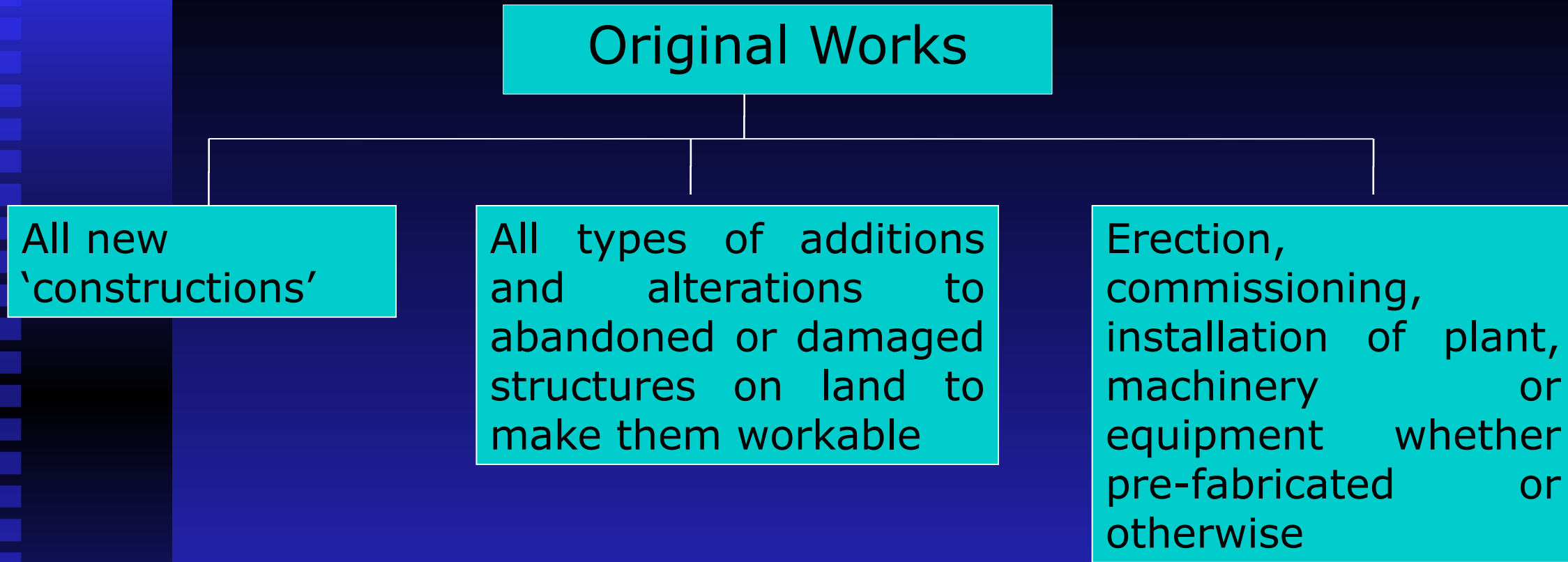
- fair market value of all goods & services (determined as per GAAP) supplied by service receiver under same or separate contract (e.g. free supplies);



*minus*

- amount charged for such goods and services by the service recipient;
- VAT levied thereon.



# Service portion of a "Works Contract"



- Construction of 'movables' e.g. bus-body – whether original works 
- Fabrication/ carpentry e.g. shelves, cabinets, tables - whether original works 



# Telecommunication service

Value of telecommunication Services is the gross amount paid by the subscriber of the service



Telco

50



Distributor

55



Subscriber

Telco to pay tax on Rs. 55/-



# Money Changing Services

Value as per rule 2B of  
Valuation Rules

OR

Composition Scheme  
[Rule 6(7B) of STR,1994]

## Value as per Valuation Rules

- Value = (RBI Ref. Rate – Buy/Sell Rate) x FX Amount
- If RBI rate not available, How to Convert ?  
Value = 1% of INR paid / received
- If Fx exchanged for Fx, say USD for GBP  
Value = 1% of (INR value at RBI reference rate of USD or GBP whichever is less)
  - Fx to Fx exchange – whether one or two transactions - Issue?
  - Fx to Fx – No RBI rate available – How to Convert ?
    - For one
    - For both



## Value as per Composition Scheme

Gross amount of currency exchanged.	Amount of Tax applicable
Upto Rs. 1,00,000/-	0.12% of gross amount of currency exchanged subject to a minimum tax of Rs. 30/-.
Rs. 1,00,001 to Rs. 10,00,000/-	Rs. 120 + 0.06% of gross amount of currency exchanged in excess of Rs.1,00,000/-.
Rs. 10,00,001 and above	Rs. 660 + 0.012% of gross amount of currency exchanged in excess of Rs.10,00,000/- subject to a maximum tax of Rs. 6,000/-.

- Tax computed – exclusive of Education cess and SHE Cess
- Option once exercised – not to be withdrawn for remaining part of the Financial year

# Catering Contracts

- Supply of food or drink *by way of, or as part of,* service – deemed sale.
- Service portion of supply of food or drink is declared service.
- Restaurant/ outdoor catering – service portion liable.
- Restaurants not having air-conditioning/ heating – exempt.
- Valuation

Description	Value of Service
Restaurants	40% of Total amount
Outdoor Catering	60% of Total amount

# Composition schemes for life insurance business

SI No	Particulars	Rate of tax
(i)	On gross premium less amount allotted for investment/ savings, if such amount intimated to policy holder	12%
(ii)	In the other cases – (a) On First year premium (b) On Subsequent year premium	3% 1.5%

# Composition scheme for air travel agents

<b>Domestic bookings</b>	<b>0.6% of “Basic Fare”</b>
<b>International bookings</b>	<b>1.2% of “Basic Fare”</b>

“Basic Fare” means that part of the air fare on which commission is normally paid to the air travel agent by the airline.



## Composition schemes for the selling agent of lottery tickets

SI No	Rate	Condition
1	Rs. 7,000/- on every Rs. 10 lakh (or part of Rs. 10 lakh) of aggregate face value of lottery tickets printed by the organizing State for a draw	If the lottery or lottery scheme is one where the guaranteed prize payout is more than 80%
2	Rs. 11,000/- on every Rs. 10 lakh (or part of Rs. 10 lakh) of aggregate face value of lottery tickets printed by the organizing State for a draw	If the lottery or lottery scheme is one where the guaranteed prize payout is less than 80%

In case of online lottery aggregate face value of the tickets sold shall be taken instead of aggregate face value of lottery tickets printed.

# LIST OF ABATEMENTS

SI No	Nature of service	Abate-ment	Taxable	Conditions
1	Financial leasing including hire purchase	90%	10%	Nil
2	Transport of goods by Rail	70%	30%	Nil
3	Transport of passengers by Rail	70%	30%	Nil
4	Bundled service by way of Supply of food / drink in a premises (including hotel, convention centre, club, pandal, shamiana or any place specifically arranged for organizing a function) together with renting of such premises.	30%	70%	No cenvat credit on inputs (Chapter 1 – 22)

<b>Sl No</b>	<b>Nature of service</b>	<b>Abate-ment</b>	<b>Taxable</b>	<b>Conditions</b>
<b>5</b>	<b>Transport of passengers by Air</b>	<b>60%</b>	<b>40%</b>	<b>No Cenvat Credit on inputs &amp; Capital goods.</b>
<b>6</b>	<b>Renting of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential /lodging purposes.</b>	<b>40%</b>	<b>60%</b>	<b>No Cenvat Credit on inputs &amp; Capital goods.</b>
<b>7</b>	<b>GTA services</b>	<b>75%</b>	<b>25%</b>	<b>No Cenvat Credit on inputs, capital goods and input Services</b>
<b>8</b>	<b>Chit Fund Services</b>	<b>30%</b>	<b>70%</b>	
<b>9</b>	<b>Renting of Passenger Motor vehicles</b>	<b>60%</b>	<b>40%</b>	
<b>10</b>	<b>Transportation of goods by sea</b>	<b>50%</b>	<b>50%</b>	



SI No	Nature of service	Abate-ment	Taxable	Conditions
11	<b>Tour operator providing</b> <ul style="list-style-type: none"> <li>· <b>Package tour [i.e. accommodation cum transport, part of tour]</b></li> <li>· <b>Non-package tour [say transport]</b></li> <li>· <b>Only accommodation booking forming part of a tour</b></li> </ul>	<b>75%</b>  <b>60%</b>  <b>90%</b>	<b>25%</b>  <b>40%</b>  <b>10%</b>	<b>No Cenvat Credit on inputs, capital goods and input Services</b>
12	<b>Sale of flats/offices under construction (incl. value of Land)</b> <b>(a) for a residential unit satisfying both the following conditions, namely:–</b> <b>(i) the carpet area of the unit is less than 2000 square feet; and</b> <b>(ii) the amount charged for the unit is less than rupees one crore;</b> <b>(b) for other than the (a) above</b>	          <b>75%</b>          <b>70%</b>	          <b>25%</b>          <b>30%</b>	

# REVERSE CHARGE

## Person liable to pay post 1.7.12

Sl. No.	Description of taxable service	% of service tax payable	
		SP	SR
<b>1</b>	<b>Insurance agent's services to Insurers</b>	<b>Nil</b>	<b>100%</b>
<b>2</b>	<b>GTA services for specified consignors/consignees</b> - person liable to pay freight located in TT - person liable to pay freight located in non TT	<b>Nil</b> <b>100%</b>	<b>100%</b> <b>Nil</b>
<b>3</b>	(a) <b>Sponsorship services to Corporates /Firms/LLPs located in TT</b> (b) <b>Sponsorship services to other Indian entities</b> (c) <b>Sponsorship services to overseas entities</b>	<b>Nil</b> <b>100%</b> <b>100%</b> [subject to PoP Rules]	<b>100%</b> <b>Nil</b> <b>Nil</b>

## Reverse Charge post 1.7.12

Sl. No.	Description of taxable service	% of service tax payable	
		SP	SR
4	Advocate's/Legal firm's/Arbitral Tribunal's services to business entities [T/O > 10L in preceding F.Y.] located in TT	Nil	100%
5	(a) Support services (except renting of immovable property) to business entities by Government or local authority	Nil	100%
	(b) renting by Govt. to any entity	100%	Nil

Sl. No.	Description of taxable service	% of service tax payable	
		SP	SR
6	<b>Services provided to corporate business entities located in TT by Individuals /HUF/Firm/LLP/AOP located in TT</b>		
	<b>(a) Motor Vehicle renting services</b>		
	<b>☎&gt;⓪ Abatement claimed</b>	<b>Nil</b>	<b>100%</b>
	<b>☎&gt;⓪ Abatement not claimed</b>	<b>60%</b>	<b>40%</b>
	<b>(b) Supply of Manpower</b>	<b>25%</b>	<b>75%</b>
	<b>(c) Works Contract Services [SP and SR can follow their own valuation methods available under law]</b>	<b>50%</b>	<b>50%</b>
	<b>(d) Security services</b>	<b>25%</b>	<b>75%</b>

Sl. No.	Description of taxable service	% of service tax payable	
		SP	SR
7	Service provided by director of a company to the said company	Nil	100%
8	Services provided by any person located in non-TT and received by any person located in TT	Nil	100%
9	In all other cases	100%	Nil

Note : Reverse charge on services by mutual fund distributors to Mutual funds / asset management companies has been deleted in view of exemption provided to the services of the Mutual Fund Agents/ Mutual Fund Distributors.

# **DATE FOR PAYMENT OF SERVICE TAX UNDER RCM**

**Payment of service tax to be made by 5th/ 6th of the month immediately following the month (for corporates) in which the service is deemed to be provided as per Point of Taxation Rules, 2011 [Rule 6(1) of STR Rules, 1994]**

# PoT in case of transactions with overseas non-associated enterprises under RCM



Payment date

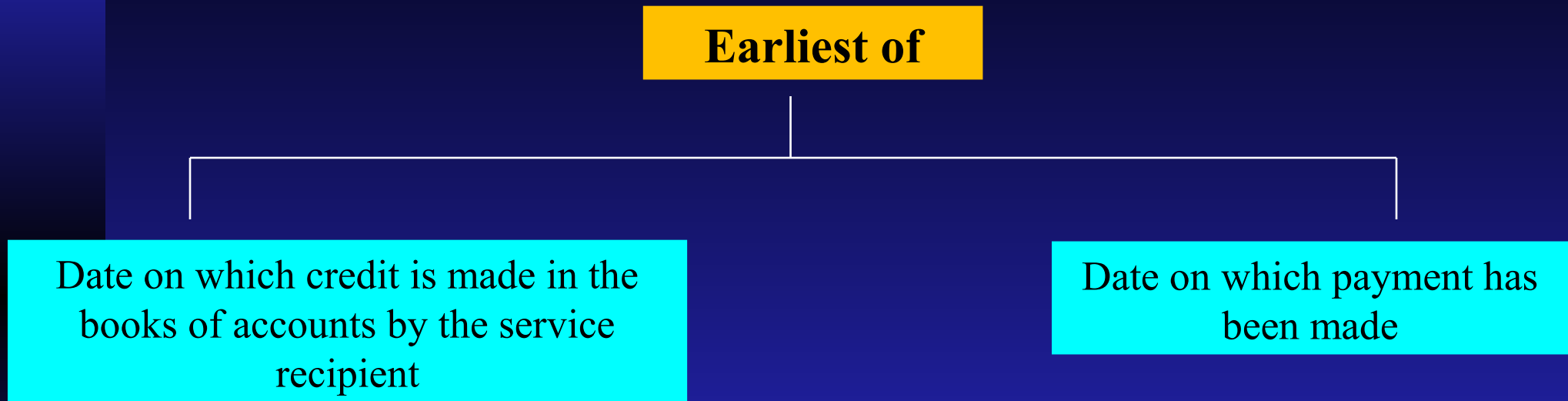
Not paid within 6 months of date of invoice

Invoice date /  
completion date

SR to pay interest for the back period



# PoT in case of transactions with overseas associated enterprises under RCM



The exemption scheme for small service providers upto Rs. 10 lakhs not available for RCM



# VALUATION, ABATEMENT AND REVERSE CHARGE



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*29th June, 2013*



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