Issues in valuation under GST

July 2026

#GTBharat
SHAPING VIBRANT INDIA

Contents

“

Tax follows value. Get the value wrong, and everything downstream is wrong

”

STATUTORY FRAMEWORK

Section 15 of CGST Act: Valuation cornerstone under GST

Value of supply = Transaction Value i.e., the price actually paid or payable when two conditions are met

Parties are NOT related

Supplier and recipient are unrelated and not distinct persons under Section 25

Price is the SOLE consideration

Nothing of value flows in addition to the money price i.e. no barter, exchange or hidden inducement

If either condition fails → the transaction value is set aside and the Valuation Rules 27–35 are applied, in the order prescribed.

ADDITIONS TO VALUE

What must be added to transaction value?

Section 15(2) of the CGST Act

Non-GST taxes & cesses

Any taxes, duties, cesses and fees under laws other than GST, if charged separately

Recipient-borne liabilities

Amounts the supplier is liable to pay but which the recipient has incurred

Incidental expenses

Commission, packing, and any incidental expenses charged by the supplier at or before delivery

Interest, late fee, penalty

Charged for delayed payment of consideration - added to value [15(2)(d)]

Price-linked subsidies

Subsidies directly linked to price, excluding Central/State Government subsidies.

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EXCLUSIONS

Treatment of Discounts

Section 15(3) of the CGST Act

Pre-supply discount [15(3)(a)]

Excluded from value of supply if:

- Given before or at the time of supply, and
- Duly recorded in the invoice issued for the supply
- No ITC reversal condition

Example: 10% trade discount shown on the tax invoice → excluded from value.

Post-supply discount [15(3)(b)]

- Must flow through a credit note under Section 34, and
- Recipient must reverse the attributable ITC
- Pursuant to 56th GST council meeting recommendation and Finance Act 2026, pre-agreement & invoice-linkage condition has been omitted (To be notified)

Example: Volume/target-based discounts arrangements

Area of litigation :

- Existing arrangements still tested on the pre-agreement and invoice-link conditions.
- 'Secondary' / target & volume discounts must be a genuine price reduction and not a service rendered back to the supplier.

STATUTORY FRAMEWORK

Valuation Rules

Rule 27
Consideration not wholly in money i.e. barter & exchange

Rule 28
Distinct or related persons (other than via an agent)

Rule 29
Supplies made or received through an agent

Rule 30
Cost-plus basis i.e. 110% of cost of supply

Rule 31
Residual mechanism - reasonable means, best judgment

Rule 32
Specific cases — forex, air travel, insurance, second-hand

Rule 33
Pure agent — pass-through costs excluded

Rule 35
Value inclusive of tax — back-calculation

RULE 27

Barter and exchange transactions

- **Consideration ≠ only money:** Consideration as per Section 2(31) includes non-monetary value; barter is a supply
- **Two taxable legs:** Each party makes a supply and each issues a tax invoice
- **Rule 27 applicable:**
  OMV → money + money-equivalent of the non-monetary part or;
  → like kind and quality goods; or
  → cost / residual method

Area of Litigation

Discharging GST only the cash/monetary leg understates taxable value which could attract litigation.

EXAMPLES

- Exchange offers: Replace old-for-new
- Advertising barter deals
- Equipment supplied for services
- Old-gold / jewellery exchange

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RULE 28

Related party transactions

Parties are related if they are:

- Officers/ directors of each other's businesses
- Legal business partners
- Employer and employee
- Commonly owned/controlled with 25% or more voting shares
- One controls the other
- Both are controlled by a third person
- Together control a third person
- Members of the same family

a **Open Market Value (OMV)**

Full money value an unrelated buyer would pay for such supply

b **Like kind and quality**

Value of similar goods/services if OMV is not available

c **Rule 30 / Rule 31**

Cost + 10% or if not possible, then by residual reasonable means

First proviso — goods for further supply

Supplier may opt to value at 90% of the price the recipient charges its unrelated customer.

Second proviso — full ITC to recipient

Where the recipient is eligible for full ITC, the value declared in the invoice is DEEMED to be the open market value.

Why the second proviso matters:

In revenue-neutral intra-group/ cross-charge/ related party supplies, any invoiced value (even a nominal one) is accepted as OMV avoiding any further litigation.
Examples: Secondment of employees, Brand name licensing etc.

RULE 28(2)

Related party transactions: Corporate Guarantee (CG)

Pre-26 Oct 2023

Circular 204/16/2023-GST confirmed CG as supply; no specified valuation mechanism

26 Oct 2023

Notification 52/2023-CT inserted Rule 28(2) to provide value of CG as 1% of guarantee OR actual, whichever is higher

10 July 2024

Notification 12/2024-CT introduced retrospective amendment w.e.f. 26 Oct 2023 to provide 'per annum' clause and full-ITC proviso

11 July 2024

Circular 225/19/2024-GST issued to provide key landmark clarifications

FY 24 onwards

Challenge before Bombay, P&H, Delhi HCs on retrospectivity & 'per annum' aspect; matter is currently sub judice

Area of Litigation

- Ongoing guarantee arrangements undergoing from service tax era
- Difference in value of guarantee vs loan availed by related party
- Time of supply related issues

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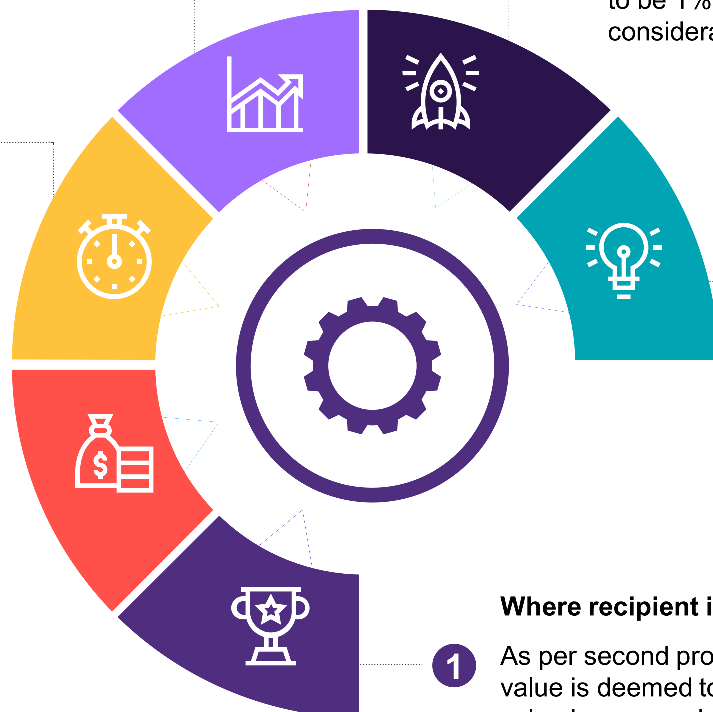
Clarifications around related party transactions



1 Where recipient is eligible for full ITC

As per second proviso to Rule 28, invoice value is deemed to be open market value. NIL value in case no invoice raised.

2 Personal guarantee by directors

Circular No. 204/16/2023-GST: Where no consideration is paid or payable for the guarantee, the value of such supply may be treated as Nil.

3 Import of services from foreign related parties

Circular No. 210/4/2024-GST: Self-invoice value shall be deemed OMV where full ITC available; NIL value may be accepted where no invoice raised.

4 Transactions between distinct persons

Circular No. 199/11/2023-GST: Head office may cross-charge branch office (BO), and where BO has full ITC, invoice value is deemed open market value; if no invoice is raised, Nil value may also be accepted.

5 Corporate guarantee

Circular No. 225/19/2024-GST: Value shall be deemed to be 1% p.a. of the guaranteed amount or the actual consideration charged, whichever is higher.

6 Loans between group entities

Circular No. 218/12/2024-GST: Mere lending / borrowing where consideration is only interest or discount generally falls within exempt financial service.

However, separate charges such as processing fee, facilitation fee, administrative charges, service fee, etc., would be taxable.

EXCLUSION

Free supplies

Schedule I deemed supply

Supplies between related or distinct persons made without consideration are taxable even when free.

Section 7 r/w Schedule I

Free samples & gifts

No GST is payable when supplied without consideration, however, ITC is blocked under Section 17(5)(h).

Circular 92/11/2019

Buy-one-get-one offers

Not a free supply: Constitutes two items for a single price, with full ITC available on both.

Circular 92/11/2019

FOC tools, moulds & dies

Free-issue tooling given to a job worker need not be amortised into job charges where the contract so provides.

Circular 47/21/2018

Warranty replacements

Free parts or repairs during the warranty period carry no separate GST and related ITC need not be reversed.

Circular 195/07/2023

FOC supply to related party

Valued under Rule 28; the full-ITC proviso accepts the invoice value, which may even be Nil.

Rule 28 proviso

EXCLUSION

Credit Note vs Financial Adjustments

Parameter	GST Credit Note	Commercial / Financial Credit Note
Legal provision	Section 34 of CGST Act	Pure contractual / accounting
GST impact	Reduces output tax liability of supplier	No effect on GST already paid
Time limit	30 Nov of following FY or date of filing annual return, whichever earlier	No statutory time limit
Reporting requirement	• Reflect in GSTR-1 • Auto-flows to recipient's 2A/2B	Not reported in GST returns
ITC status of recipient	Reverse proportionate ITC	No ITC reversal required
Use case	Genuine reduction in taxable value / tax	Post-sale discount failing 15(3)(b)

Area of litigation :

- Pursuant to amendment in Section 34(2), supplier can reduce output tax ONLY if recipient has reversed ITC
- IMS acceptance/rejection by the recipient is now the *de facto* evidence layer

RULE 33

Pure Agent vs Ancillary Cost

ALL FOUR CONDITIONS MUST BE MET TO EXCLUDE THE COST

1

Acts on authorisation

Payment to the third party is made on the recipient's authority

2

Separately indicated

Reimbursed amount is shown separately on the invoice

3

Actual cost only

Actual recovery exactly what was paid without any no mark-up or value addition

4

In addition to own supply

Third-party supply is over and above the agent's own services

Conflicting views

- **SC in Intercontinental Consultants** held reimbursements are not taxable unless backed by statute.
- **Karnataka AAR in Arivu Educational:** Exam fees collected & remitted to universities qualifies as pure agent.
- **Maharashtra AAR in E-Square Leisure:** Electricity/water in theatre operation is on own account and not a pure agent.

Area of litigation :

- In practice, documentary evidence is critical to exclude from taxable value
- No written authorisation, lump-sum billing, or a markup may sink the pure-agent claim

Pure Agent

- Has a contractual agreement to act on behalf of the recipient
- Does not own or take title of the goods/services procured
- Does not use those goods/services for personal benefit
- Recovers only the actual amount spent, separately from charges for his own supply

RULE 32

Special valuation framework for specified supplies

Foreign Currency Exchange

Rule 32(2): tax the spread over the RBI reference rate or opt for 1% of the amount exchanged.

Air Travel Agents

Rule 32(3): Deemed value is 5% of the basic fare on domestic tickets and 10% on international.

Life Insurance Premiums

Rule 32(4): Gross premium less the savings portion or 25% in year one, 12.5% on renewals.

Second-Hand Goods

Rule 32(5): Margin scheme taxes only sale minus purchase price provided no ITC availed, negative margins ignored.

Vouchers & Tokens

Rule 32(6): Value equals the money value of the goods or services redeemable against it.

Notified Supplies

Rule 32(7): value between related or distinct persons may be taken as nil where full ITC is available.

Valuation in case of lottery, betting, online gaming & casino

31A

Lottery

Value deemed as 100/140 of face value of ticket or notified Organising State price, whichever is higher.

31A

Betting, gambling & horse racing

Value equals 100% of the face value of the bet or the amount paid into the totalisator.

31B

Online gaming including money gaming

Value equals total amount paid/ payable or deposited by or on behalf of the player, including money's worth/ virtual digital assets; refunds are not deductible.

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Casino

Value equals amount paid/payable for tokens, chips, coins, tickets or participation; returned/refunded amounts are not deductible.

EXCLUSION

Job Work

- **Tax the service, not the goods:** GST is payable on job worker's value i.e. job charges (labour + own materials), not on value of material supplied by principal.
- **Timelines:** Track the 1-year (inputs) and 3-year (capital goods) return period to avoid deemed supply implications.
- **Free-issue materials:** Clearly define the treatment of FOC materials, tools, dies and moulds to minimise valuation disputes.
- **Scrap & waste:** Determine ownership, valuation and GST liability on scrap retained or sold by the job worker.

Area of Litigation

- **FOC tools & dies**
- **Scrap ownership & value**
- **Mould / tooling amortisation**

SECTORAL LENS

Industry specific valuation flashpoints

Automobile & FMCG

Dealer incentives, target discounts, free schemes

Manufacturing

Free-issue tools/moulds, job work, recovered freight & packing

IT / shared services

Cross charge of HO functions, ISD migration, intra-group software

Pharma & healthcare

Free samples, bonus stock, patient-cost reimbursements.

Infra & EPC

Composite vs works contract, deemed 70:30 splits, liquidated damages

E-commerce & retail

Coupons, cashbacks, exchange offers, platform incentives.

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TAKEAWAY

Preparedness for taxpayer

Valuation governance framework

- Map supplies against Section 15, Rules 27–35 and industry-specific valuation rules.
- Maintain a transaction-wise valuation matrix covering discounts, reimbursements, barter, job work and related-party supplies.

Contract and documentation hygiene

- Review agreements to identify pricing clauses, incidental charges, reimbursements, dealer incentives and post-supply adjustments.
- Ensure invoices, credit notes, commercial notes and supporting documents clearly reflect the intended GST treatment.

Related party and cross-charge readiness

- Evaluate HO–BO, distinct person and related-party transactions under Rule 28, including full ITC and non-full ITC scenarios.
- Maintain cross-charge / ISD position papers, cost allocation workings and management approvals for audit defence.

Discounts and credit note controls

- Segregate GST credit notes from financial / commercial credit notes to determine valuation and ITC impact.
- Build controls for post-supply discounts, recipient ITC reversal, secondary discounts and dealer incentive arrangements.

Recovery and cost-allocation filter

- Classify recoveries as pure agency exclusions or ancillary / own-account costs forming part of taxable value.
- Review interest, late fees, penalties, freight, utilities, travel and administrative recoveries for Section 15 valuation exposure.

High-risk transaction playbook

Prepare issue-wise notes for barter, free supplies, job work material, promotional schemes and industry-specific valuation rules.

Q&A

Contact Us

Manoj Mishra

Partner, Tax Controversy Management Leader,
Grant Thornton Bharat

Manoj.Mishra@in.gt.com

+91 9810327691