

# Valuation of Taxable Services

## **Consideration**' includes-

- Any amount that is payable for the taxable services provided or to be provided;
- Any reimbursable expenditure or cost incurred by the service provide and charged , in the course of providing or agreeing to provide a taxable services,
- Any amount retained by the lottery distributor or selling agent from gross sale amount of lottery tickets in addition to the fee or commission, if any, or, as the case may be, the discount received, that is to say , the difference in the face value of lottery ticket and the price at which the distributor or selling agent gets such ticket.

“Gross amount charged” includes payment by cheque, credit card, deduction from account and any form of payment by issue of credit notes or debit notes and

*[book adjustment, and any amount credited or debited , as the case may be , to any account, whether called “ Suspense account” or by any other name, in the books of accounts of a person liable to pay service tax , where the transaction of taxable service is with any associated enterprise]*

“Total amount” means the sum total of the gross amount charged for the works contract and the fair market value of all goods and services supplied in or in relation to the execution of the works contract, whether or not supplied under the same contract or any other contract, after deducting-

(i) the amount charged for such goods or services, if any; and

(ii) the value added tax or sales tax, if any, levied thereon:

Provided that the fair market value of goods and services so supplied may be determined in accordance with the generally accepted accounting principles.

- Value of taxable service shall be determined in accordance with Section 67 read with Service Tax (Determination of Value) Rules, 2006
- Service tax is payable on gross amount charged for taxable service provided or to be provided for a consideration in money.
- Where the provision of service is for a consideration not wholly or partly consisting of money,  
Valuation of taxable service will be such amount in money as, with the addition of service tax charged , is equivalent to the consideration, (Section 67)

Provision of service is for a consideration, which is, not ascertainable, the amount as may be determined as per Rule 3 of service tax, (Determination of value) Amendment Rules, 2014.

(a) the value of such taxable service shall be equivalent to the gross amount charged by the service provider to provide similar service to any other person in the ordinary course of trade and the gross amount charged is the sole consideration;

(b) where the value cannot be determined in accordance with the above clause the service provider shall determine the equivalent money value of such consideration which shall, in no case be less than the cost of provision of such taxable service.

- Where the gross amount charged by a service provider, is inclusive of service tax payable, the value of such taxable service shall be such amount as, with the addition of tax payable, is equal to the gross amount charged.
- The gross amount charged for the taxable service shall include any amount received towards the taxable services before, during or after provision of such service.
- No service tax on free services, if the complete services are free of cost.

❖ ***"works contract" means a contract wherein transfer of properties.***

- Transfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods and
- Such contract is for the purpose of carrying out construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, alteration of any movable or immovable property or
- For carrying out any other similar activity or a part thereof in relation to such property.



# Valuation of Services under Works Contract – Option 1

- ❖ **Actual method:** As per rule 2A(i) of service tax (Determination of value) Rules, 2006, inter alia, provides that the value of service portion in the execution of a works contract is the gross amount charged for the works contract less the value of transfer of property in goods involved in the execution of the said works contract. Accordingly, taxable value of service portion in execution of a works contract can be determined in following manner:

A	Gross amount charged for the works contract (Note 1)
B	Less: value of property in goods transferred in execution of works contract (Note 2)
C	Net amount chargeable for service Tax (A-B)
D	Service Tax on 'C' above
E	Less Input Service and Capital Goods CENVAT credit
F	Net Service Tax payable (D-E)

# Valuation of Services under Works Contract – Option 1

**Note 1: Gross amount of works contract shall include:**

- I. labour charges for execution of the works;
- II. amount paid to a sub-contractor for labour and services;
- III. charges for planning, designing and architect's fees;
- IV. charges for obtaining on hire or otherwise, machinery and tools used for the execution of the works contract;
- V. cost of consumables such as water, electricity, fuel used in the execution of the works contract;
- VI. cost of establishment of the contractor relatable to supply of labour and services;
- VII. other similar expenses relatable to supply of labour and services; and
- VIII. profit earned by the service provider relatable to supply of labour and services;

**Note 2:** value adopted for the purposes of payment of value added tax or sales tax, shall be taken as the value of property in goods transferred in the execution of the said works contract

- “original works” means-
  - (i) all new constructions;
  - (ii) all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable;
  - (iii) erection, commissioning or installation of plant, machinery or equipment or structures, whether pre-fabricated or otherwise;

# Valuation of Services under Works Contract – Option 2

**Abetment for goods portion:** As per rule 2A(ii) of service tax (Determination of value) Rules, 2006, taxable value of service portion in execution of a works contract can be determined in following manner:

A	Total amount charged for works contract (Note 1)
B	Value of Taxable amount for Service tax: For Original works – 40% of value of 'A' For maintenance or repair or reconditioning or restoration or servicing of any goods and any other case – 70% of value of 'A'
C	Service Tax on value 'B'
D	Less Input Service and Capital Goods CENVAT credit
E	Net Service Tax payable (C-D)

# Valuation of Services under Works Contract – Option 2

## Note: 1 Total amount charged for works contract means:

A	Gross amount charged for the works contract
B	Fair market value of all goods and services supplied in or in relation to the execution of the works contract (@)
C	Less: (i) the amount charged for such goods or services, if any; and (ii) the value added tax or sales tax, if any, levied thereon
D	Amount charged for the works contract (A+B-C)

(@) Fair market value of goods and services so supplied may be determined in accordance with the generally accepted accounting principles.

**Valuation of service portion for construction of complex, building, civil structure or part thereof:** According to notification no. 26/2012 dated 20-6-2012 & 2/2013 dated 1<sup>st</sup> March, 2013, with effect from 1<sup>st</sup> March, 2013, in respect of construction of complex, building, civil structure or a part thereof which is intended for a sale to a buyer, wholly or partly, service tax is payable on the following part of the amount charged by such service provider:

Description of taxable service	Tax to be levied on percentage of taxable value
<p>Construction of a complex, building, civil structure or a part thereof, intended for a sale to a buyer, wholly or partly except where entire consideration is received after issuance of completion certificate by the competent authority,-</p> <p>(i) for residential unit having carpet area up to 2000 square feet or where the amount charged is less than rupees one crore</p> <p>(ii) for other than the (i) above</p>	<p>25%</p> <p>30%</p>
<p><i>** Subject to Cenvat Credit on inputs has not been availed and the value of Land is included in the amount charged from the Service Receiver.</i></p>	

## **Amount to include fair market value of material supplied by Service Receiver.**

### **❖ Inclusions of other amounts collected by Builder / developer from Customer:**

- i. Preferential Location Charges.
- ii. Additional charges for modifications suggested by Customers.
- iii. Maintenance during the construction period.
- iv. Covered parking charges ext.

### **❖ Exclusions of other amounts collected by Builder / developer from Customer not to considered for abetment:**

- i. Charges payable to Government Authorities.
- ii. Deposits for Society Activities, Electricity, Connection charges.
- iii. Club membership fee.
- iv. Maintenance provided after construction.

Determination of value of service in relation to money changing.-

For a currency, when exchanged from, or to, Indian Rupees (INR), the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency.



**Example I:** US\$100 are sold by a customer at the rate of Rupees 45 per US\$.

RBI reference rate for US\$ is Rupees 45.50 for that day.

The taxable value shall be Rupees 500.

**Example II:** INR70000 is changed into Great Britain Pound (GBP) and the exchange rate offered is Rupees 70, thereby giving GBP 1000.

RBI reference rate for that day for GBP is Rupees 69.

The taxable value shall be Rupees 1000.

Provided that in case where the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received, by the person changing the money:

Provided further that in case where neither of the currencies exchanged is Indian Rupee, 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 Indian Rupee on that day at the reference rate provided by RBI;

Where any expenditure or costs are incurred by the service provider in the course of providing taxable service, all such expenditure or costs shall be treated as consideration for the taxable service provided or to be provided and shall be included in the value for the purpose of charging service tax on the said service.

- Principle is that if the service cannot be provided without those expenses, these are includible
- Travelling Expenses, hotel expenses by consultant, auditor, repair mechanic
- Out of pocket expenses includible
- Reimbursement of expenses incurred by service receiver includible if part of value of service

“Pure agent” means a person who–

- enters into a contractual agreement with the recipient of service to act as his pure agent to incur expenditure or costs in the course of providing taxable service;
- neither intends to hold nor holds any title to the goods or services so procured or provided as pure agent of the recipient of service;
- does not use such goods or services so procured; and
- receives only the actual amount incurred to procure such goods or services

- Expenses incurred by service provider which are not part of service
- Liability of payment is of service receiver, but expenses incurred by service provider for administrative convenience and recovered from customer (service receiver)
- These are not part of value of taxable service and not includible even if all requirements of pure agent not satisfied.
- Payment to third party on behalf of service provider under authority
- Amount to be separately indicated in Invoice
- Only actual amount should be recovered
- Title in goods and services not held by pure agent

- Ticket charges paid by air/rail travel agent
- Customs duty, transport, warehousing charges paid by CHA
- Parking fees, toll naka charges by rent-a-cab operator
- Stamp duty and Security Transaction tax paid by stock broker
- Rent, telephones, transport expenses incurred by C&F Agent

- Subject to the provisions of section 67, the value of the taxable services shall include,—
- the commission or brokerage charged by a broker on the sale or purchase of securities including the commission or brokerage paid by the stock-broker to any sub-broker;
- the adjustments made by the telegraph authority from any deposits made by the subscriber at the time of application for telephone connection or for leased circuit;
- the amount of premium charged by the insurer from the policy holder;
- the commission received by the air travel agent from the airline;
- the commission, fee or any other sum received by an actuary, or intermediary or insurance intermediary or insurance agent from the insurer;

- the reimbursement received by the authorized service station, from manufacturer for carrying out any service of any motor car, light motor vehicle or two wheeled motor vehicle manufactured by such manufacturer.
- the commission or any amount received by the rail travel agent from the Railways or the customer;
- the remuneration or commission, by whatever name called, paid to such agent by the client engaging such agent for the services provided by a clearing and forwarding agent to a client rendering services of clearing and forwarding operations in any manner;
- the amount realized as demurrage for beyond the period originally contracted relating to the provision of service.

Subject to the provisions contained in sub-rule (1), the value of any taxable service, as the case may be, does not include–

- Initial deposit made by the subscriber at the time of application for telephone connection or for leased circuit;
- the air fair collected by air travel agent
- the rail fare collected by rail travel agent
- interest on delayed payment of any consideration for the provision of services or sale of property, whether moveable or immoveable;
- the taxes levied by any Government on any passenger travelling by air, if shown separately on the ticket, or the invoice for such ticket, issued to the passengers
- accidental damages due to unforeseen actions not relatable to the provision of service and
- subsidies and grants disbursed by the Government, not directly affecting the value of service.



- Rejection of Value
  - Central Excise Officer empowered to call for information and documents to satisfy himself regarding the value determined by service provider
  - SCN may be issued by the Central Excise Officer subject to quantification of the value by him
  - Opportunity of Personal Hearing to be Granted before determining the final value

Thank  
you



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