



Time of Supply, Value of Supply & Related Transitional Provision

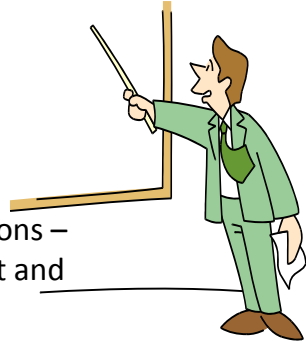


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COVERAGE

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- Time of Supply of Goods & Services
- Value of Taxable Supply
 - Valuation Rules
- Related transitional provisions – Section 160, 161 of GST Act and Section 31 of IGST Act




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WHAT IS GST ??


• GOODS & SERVICES TAX •



Marwadi
• **G**hano **S**aro **T**ax



Doctor
• **G**lucose **S**timulation **T**est



Alia Bhatt
• **G**ood night, **S**weet dream, **T**ake care

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Constitution of India

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246A

- Notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.
- Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

269A

- Parliament may, by law, formulate the principles for determining the place of supply, and **when a supply of goods, or of services,** or both takes place in the course of inter-State trade or commerce.

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Time of Supply



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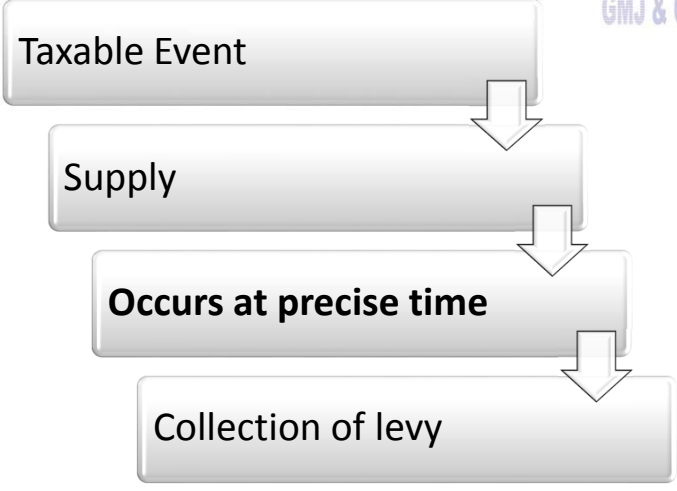
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Point of Taxation

- Excise**
 - Removal of Goods
- VAT**
 - Transfer of Property in Goods
- Service Tax**
 - As per Point of Taxation
- GST**
 - **Section 12, 13 & 14**

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graph TD
    A[Taxable Event] --> B[Supply]
    B --> C[Occurs at precise time]
    C --> D[Collection of levy]
  
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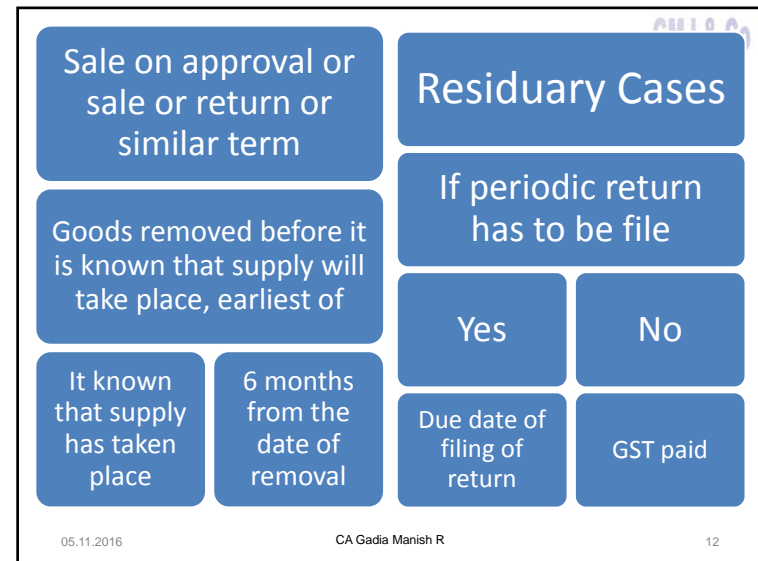
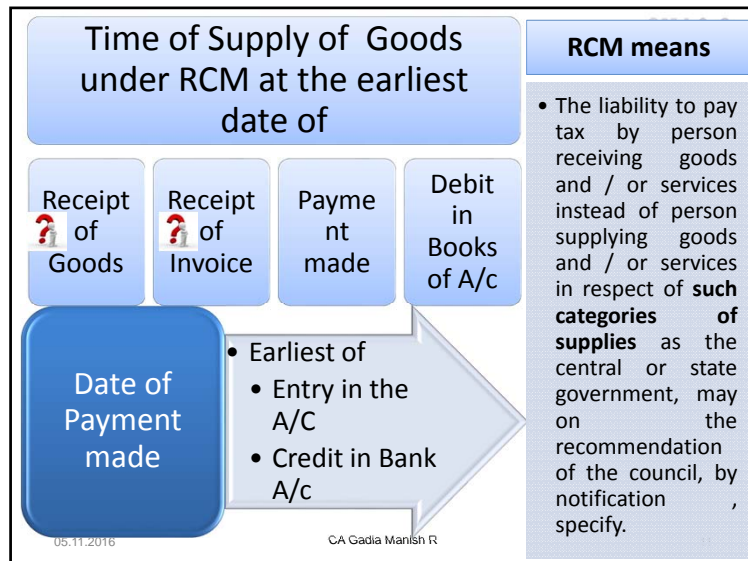
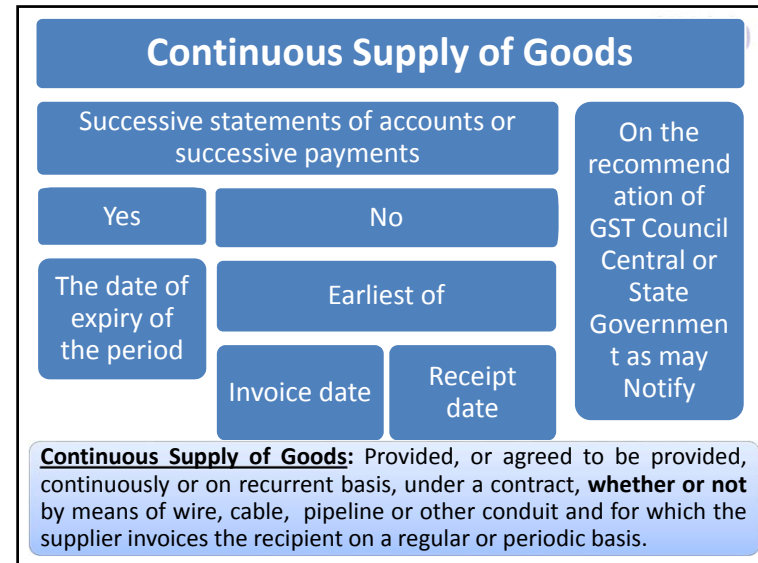
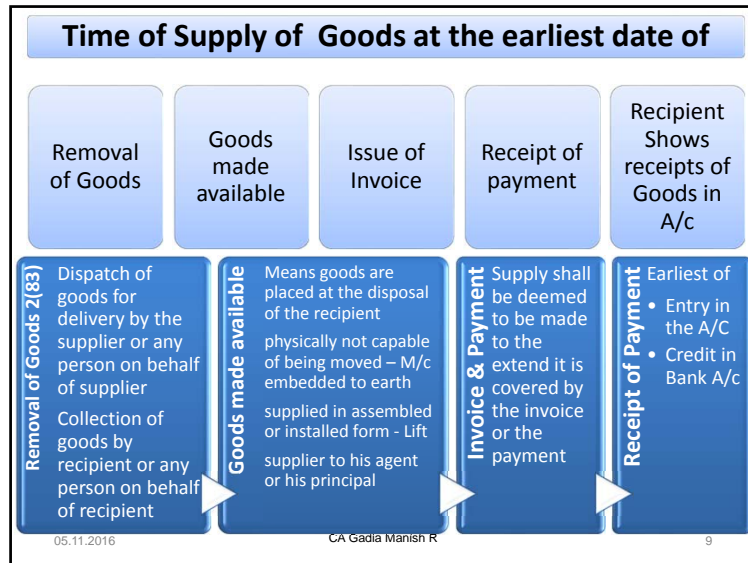
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FAQ

What is Time of Supply? Fixes the point when the liability to charge GST arises

Indicates when a supply is deemed to have been made

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Time of Supply of Service at the earliest of	Invoice is issued in time	Date of Invoice
	Invoice is not issued in time	Date of Receipt of payment
	Other cases	Date of Completion of Service Date of Receipt of Payment

Invoice & Payment <ul style="list-style-type: none"> Supply shall be deemed to be made to the extent it is covered by the invoice or the payment 	Receipt of Payment <ul style="list-style-type: none"> Earliest of <ul style="list-style-type: none"> Entry in the A/C Credit in Bank A/c
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Continuous Supply of service

Due date of payment is ascertainable

Payment is linked to the completion of an event

Government may notify

Yes

No, earliest of

Time of completion of that event

Date on which the payment is liable to be made

Supplier of service receives the payment

or issues an invoice

Continuous Supply of Service

- Provided or agreed to be provided continuously or on recurrent basis, under a contract, for a period exceeding 3 months with periodic payment obligation and as may be notified

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ST POT at the earliest of

Invoice is issued in 30/45 days

Invoice is **not** issued in 30/45 days

Date of Invoice

Date of Receipt of payment

Date of Completion of Service

Date of Receipt of Payment

Date of Completion of service in case of Continuous Supply of Service

- Date of Completion of event in terms of a contract,
- which requires the service receiver to make any payment to service provider

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Time of Supply of Services under RCM at the earliest date of

Receipt of Service

Receipt of Invoice

Payment made

Debit in Books of A/c

Date of Payment made

- Earliest of
 - Entry in the A/C
 - Credit in Bank A/c

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Supply of Services Ceases under a contract before completion of supply

Residuary Cases

If periodic return has to be file

Yes No

Supply deemed to provided at the time when the supply ceases

Due date of filing of return GST paid

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Change in the effective Rate of Tax

PROVISION OF SERVICE	ISSUE OF INVOICE	RECEIPT OF PAYMENT	TIME OF SUPPLY OF SERVICE
Before	After	After	Date of Invoice or Receipt of Payment, whichever is earlier.
Before	Before	After	Date of Issue of Invoice
Before	After	Before	Date of Receipt of Payment
After	Before	Before	Date of Invoice or Receipt of Payment, whichever is earlier.
After	Before	After	Date of Receipt of Payment
After	After	Before	Date of Issue of Invoice

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Date of Payment

normal course earlier of

- date of entry in BOAs
- date of credit in bank

change in rate of tax

- Date of Cr in Bank, if not within 4 working days
- Otherwise date of deposit

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Present: Copyrights, etc.

Amount is ascertainable

Amount is not ascertainable

Time of Supply for Copyright / IPR in GST?

At the time of Performance Receipt Issue of Invoice

Which ever is earlier

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Transitional Provisions

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Goods Exempted under earlier law

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graph TD
    A[Removal within 6 months before applicability of GST] --> B[Returned to place of business within 6 months from the date of applicability of GST]
    A --> C[Returned to place of business after 6 months from the date of applicability of GST]
    B --> D[No Tax if goods are identifiable to the satisfaction of the proper officer]
    C --> E[Tax payable by person returning goods]
  
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Duty Paid goods under earlier law

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graph TD
    A[Removal within 6 months before applicability of GST] --> B[Returned to place of business within 6 months from the date of applicability of GST]
    A --> C[Returned to place of business after 6 months from the date of applicability of GST]
    B --> D[No Tax will be payable]
    C --> E[Tax payable by person returning goods]
    D --> F[Credit of Tax paid under earlier laws may be claimed on receipt of goods]
  
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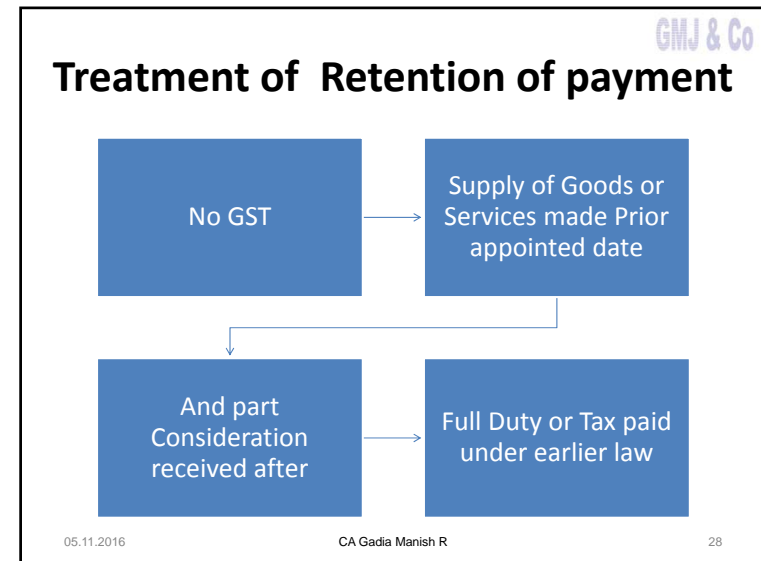
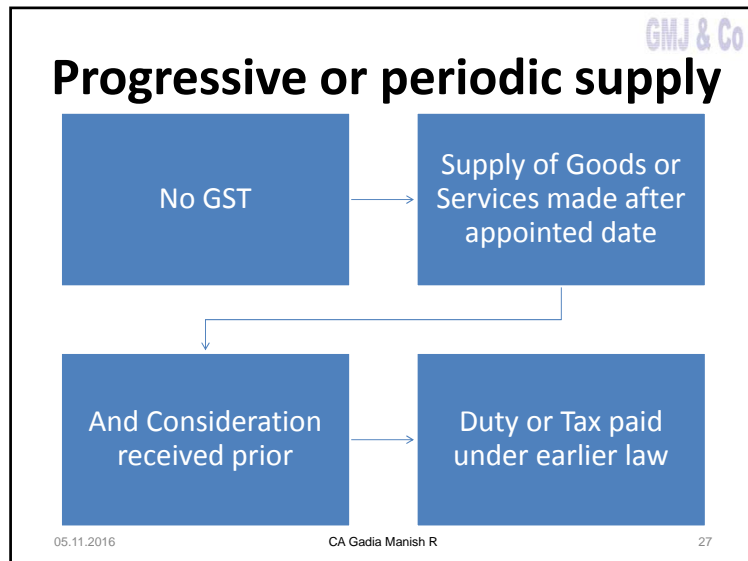
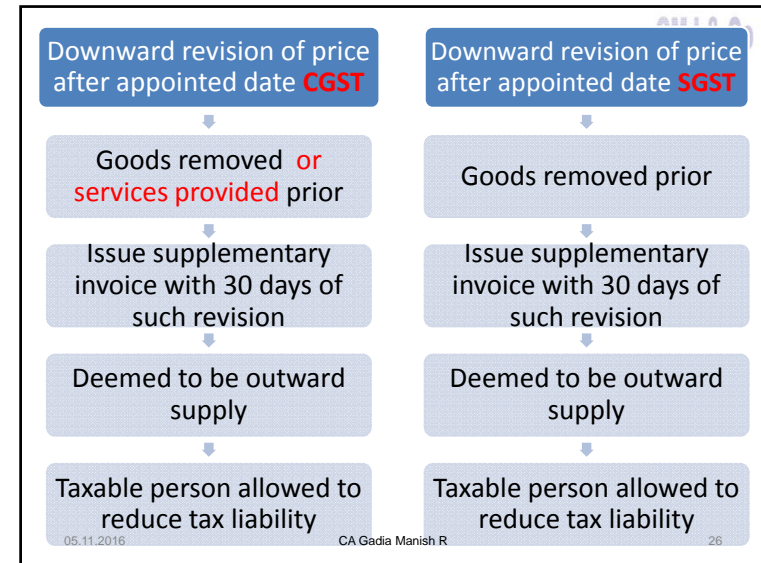
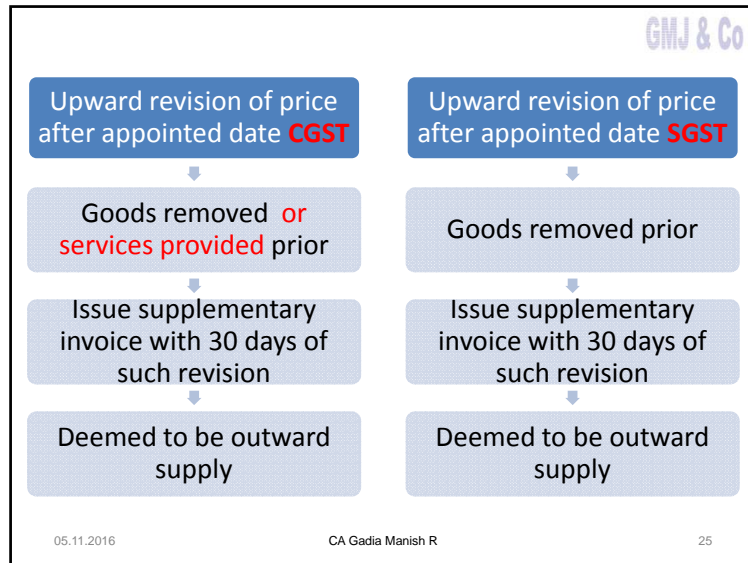
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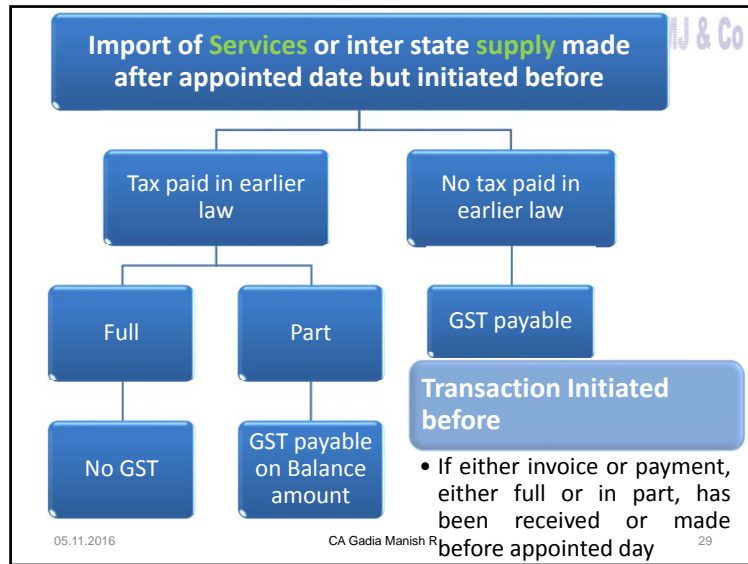
Revision of price after appointed date

Issue invoice/Dr. note within 30 days of revision. This will be treated as outward supply

Issue invoice/Cr. note within 30 days of revision. This will be treated as outward supply.

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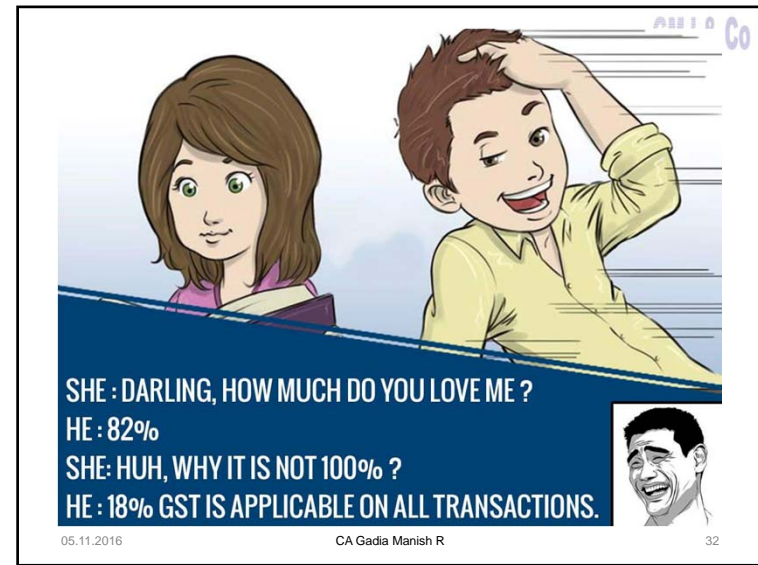
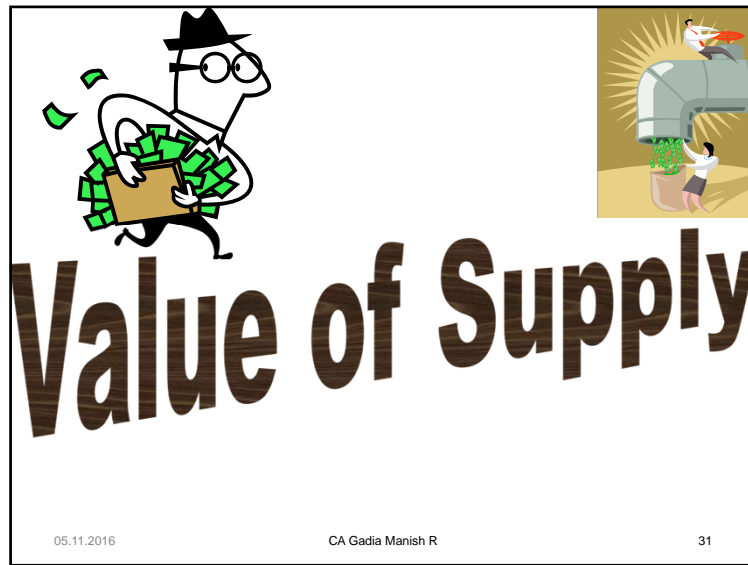


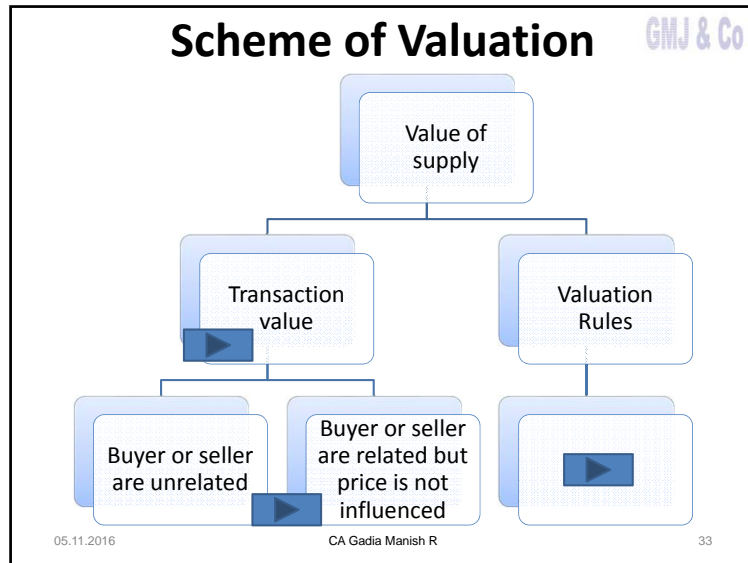
Import of Service and interstate supply

PROVISION OF SERVICE	ISSUE OF INVOICE	RECEIPT OF PAYMENT	TIME OF SUPPLY OF SERVICE
Before	After	After	GST (Transaction not initiated)
Before	Before	After	ST
Before	After	Before	ST
After	Before	Before	ST
After	Before	After	ST
After	After	Before	ST

Above table is depend on ST paid and not on payable.

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- ### Transaction Value
- Price actually paid or payable for the supply where parties are:
 - un-related and
 - the price is sole consideration
- ### Transaction Value shall include:
- Amount that supplier is liable to be incurred but incurred by recipient
 - Value of goods/services supplied by recipient free or at a reduced rate. – Electricity, water, etc.
 - Royalty/license fee as condition to supply that recipient of supply must pay.
 - Taxes levied other than GST Acts.
 - Incidental expenses such as commission or packaging and subsidies linked to the supply.
 - Reimbursable expenditure or cost incurred by or on behalf of supplier and charged in relation to the supply.
 - Any discount or incentive given post supply not agreed to before but does not include trade discount except post supply discount known at or before supply **specifically linked to relevant invoice**
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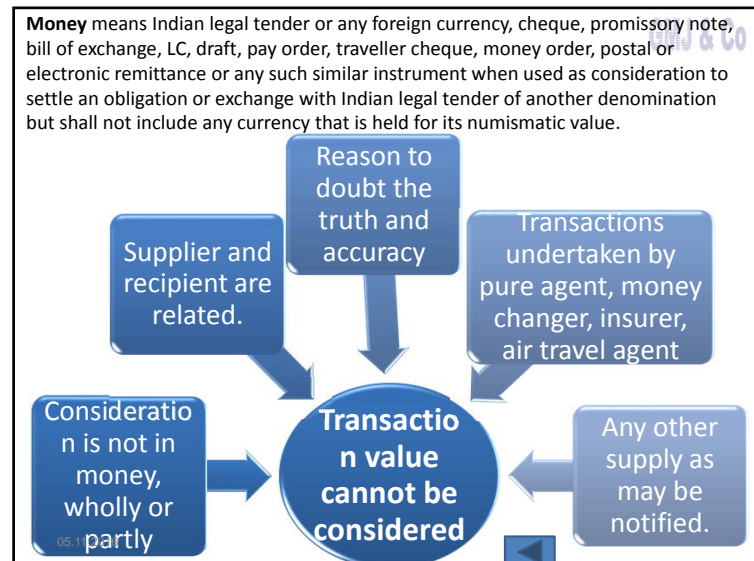
Transaction Value FAQ GMJ & Co

Q 2. What is transaction value?

Ans. Transaction value refers to the **price actually paid or payable for the supply** of goods and or services where the supplier and the recipient are not related and price is the sole consideration for the supply.

It includes any amount which the supplier is liable to pay but which has been incurred by the recipient of the supply.

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Related person 2(82) GMJ & Co

they are officers or directors of one another's businesses

- Officers not defined

they are legally recognized partners in business

- If persons are partners in a business entity, they are related persons for all transactions?
- Whether they should be partner on the date of supply or not?

they are employer and employee

- Supply of service from Employee to Employer – out of GST ambit
- Supply of goods from employee to employer or vice versa

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Any person directly or indirectly owns, controls or holds five per cent or more of the outstanding voting stock or shares of both of them

- Holding as on date of supply?
- B and C are also related?

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graph TD
    A[A Ltd. Holds 5% share in] --- B[B Ltd.]
    A --- C[C Ltd.]
    B <--> C
            
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one of them directly or indirectly controls the other

• Meaning of Control?

both of them are directly or indirectly controlled by a third person;

• Meaning of Control?

together they directly or indirectly control a third person

• Meaning of Control?

they are members of the same family

• Term of family?

- The term "person" also includes legal persons
- Sole agent or sole distributor or sole concessionaire, howsoever described, of the other are related persons

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Relationship not influenced the price GMJ & Co

- Relationship may not be relevant if the transaction **value** for contemporaneous import of **identical good is the same** [Siemens Ltd vs. CC 2000 (126 ELT 134(Tri)]
- Where the importer has adduced evidence, department should produce contemporaneous import values at higher prices to discard transaction value [CC vs. Nipon Bearings P. Ltd 1996 (82) ELT 3(SC)]
- When the prices of products are fixed **on the basis of market driven prices** and based on OECD transfer pricing guidelines, it was held that relationship has not influenced the price - [Gemplus India Pvt. Ltd. Vs. CC 2005 (185) ELT 269 (T-Bang)]

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Consideration includes

- Payment in money or otherwise,
- The money value of any act or forbearance, whether or not voluntary
- in respect of, in response to, or for the inducement of, the supply of goods and/or services, whether by the said person or any other person
- **The deposit, whether refundable or not**, given in respect of the supply of goods and / or services shall not be considered as payment made of supply unless the supplier applies the deposit as consideration for supply

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Transaction value shall be accepted in case of related person , if it has not influenced the price

Transaction value shall be considered In case of branch transfer or principal and agent

Taxable or non taxable supply, then taxable supply shall be such part of monetary consideration as is attributable

Rule 3

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Supply

- Supply specified in schedule-1 (Without consideration)
- Sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business
- Importation of service [irrespective of consideration and business use]
- Transactions between principal and agent
- Supply by an aggregator of a branded service under his brand name-deemed supply by the aggregator

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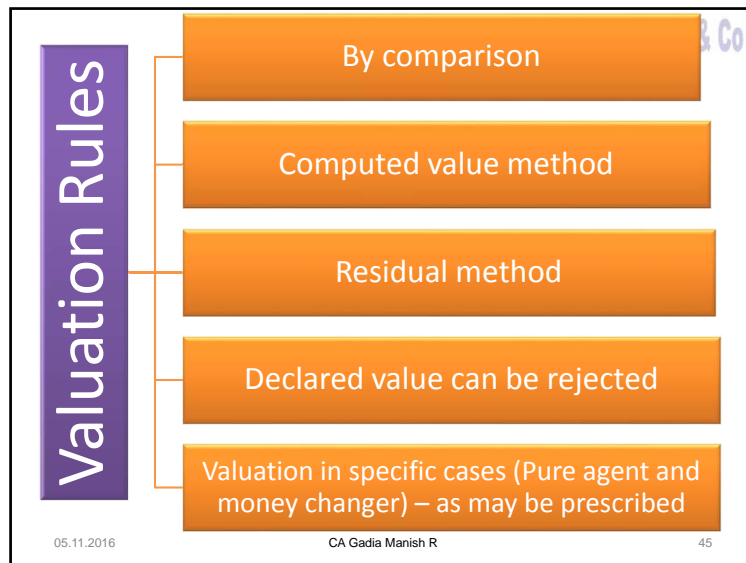
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SUPPLY WITHOUT CONSIDERATION

- Permanent transfer/disposal of business assets.
- Temporary application of business assets to a private or non-business use.
- Services put to a private or non business use.
- Assets retained after deregistration.
- Supply of goods and/or services by a taxable person to another taxable or non-taxable person in the course or furtherance of business. – whether includes branch transfers, stock transfers, free samples etc.?

Sch I Supply of goods by a registered taxable person to a job-worker shall not be treated as supply of goods

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Comparison Method

- Value to be determined on the basis of transaction value of goods/services of “**like kind and quality**” supplied at or about the same time to other customers
- Adjustments by proper officer taking into consideration relevant factors including:
 - Difference in dates of supply
 - Difference in commercial levels and quantity levels
 - Difference in composition, quality and design
 - Difference in freight and insurance charges depending on place of supply

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Like kind and quality – Rule 2(1)

b) goods of **like kind and quality** means goods

- which are identical or similar 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

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

➤ If more than one value of identical goods is available, then the lowest of such value should be taken [Resina Combination vs CC 1999 (114) E.L.T 860 (Tri.)]

➤ Comparison of goods must be of identical goods at the same commercial level [Sandip Agarwal vs CC 1992 (62) E.L.T 528 (Cal)]

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Computed Value Method

Value based on computed value which shall include the following:

- Cost of production, manufacture or processing of the goods or, the cost of provision of services
- Charges, if any, for the design or brand
- An amount towards **profit and general expenses** equal to that usually reflected in supply of good/services of the **same class or kind** as the goods/services being valued which are **made by other suppliers**

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Residual Method GMJ & Co

- Value shall be determined using reasonable means consistent with the principles and general provision of these Rules
- Cases:
 - The residual method should be adopted only if valuation is not possible by any other method [Sanjay Chandiram v. CC 1995 (77) E.L.T 241(S.C.)]
 - Before resorting to valuation under residuary Rule, applicability of other Rules will have to be exhausted [Polyvinyl Industrial Corporation vs CC 1994 (74) ELT 426]

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Rejection of Declared Value GMJ & Co

- When Proper officer has reasons to doubt the truth or accuracy, he may ask the supplier to submit further documents and information
- After considering the document or in the absence of response from supplier, Proper office still has reasonable doubt about the truth or accuracy then:
 - Value of such goods cannot be taken as the transaction value
 - Proper officer shall intimate in writing to supplier the grounds for doubting truth or accuracy; and
 - provide reasonable opportunity of being heard
- If not satisfied, proper officer may proceed to determine the value afresh in accordance with provisions of Rule 4, 5 or 6 proceeding sequentially

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Reasons to doubt GMJ & Co

- The reasons for proper officer to doubt the truth or accuracy of the value of the supply declared by the supplier shall include but not limited to the following:
 - **Significantly** higher value at which goods or services of like kind or quality supplied at or about the same time
 - **Significantly** lower or higher value of the supply of goods or services compared to the market value of the goods or services of like kind or quality supplied at the time of supply
 - Mis-declaration of goods and/ or services in parameters such as description, quality, quantity, year of manufacture or production

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Valuation in Specific cases GMJ & Co

- Pure Agent – Similar to Rule 5(2) of present regime
- Money Changer – Similar to Rule 2B of present regime
- Insurer – Yet to be prescribed
- Air Travel Agent – yet to be prescribed
- Lottery – yet to be prescribed

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Pure Agent



- enters into a contractual agreement
- neither intends to hold nor holds any title to the goods or services
- does not use such goods or services so procured
- receives only the actual amount

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Exclusion from Value

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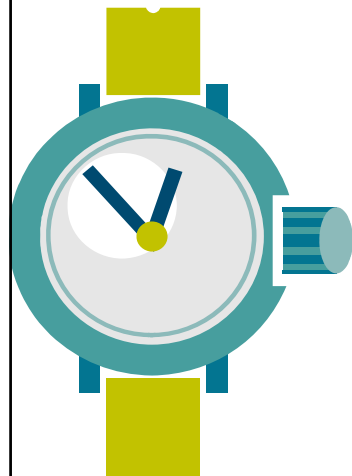
- **Conditions for exclusion from the value**
 - ⇒ acts as a pure agent while making payment
 - ⇒ recipient of service receives and uses the goods or services so procured
 - ⇒ recipient of service is liable to make payment to the third party
 - ⇒ authorises
 - ⇒ knows payment has been made
 - ⇒ separately indicated in the invoice
 - ⇒ actual amount to be recovered
 - ⇒ are in addition to the services he provides



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Opinions or views
are like wrist
watches.

Every watch shows
different time from
others.

But every one
believes that their
time is right!

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Thanks

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