



Overview of GST Supply Value of Supply

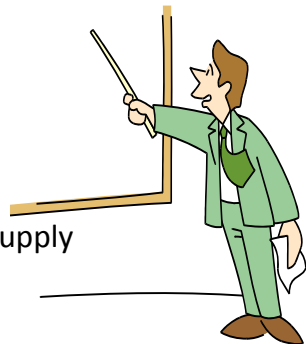


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COVERAGE

GMJ & Co

- Overview of GST
- Taxable Person
- Levy & Collection
- Meaning and Concept of Supply
- Valuation




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Marwadi

- Ghano Saro Tax



Doctor


- Glucose Stimulation Test




Alia Bhatt

- Good night, Sweet dream, Take care

WHAT IS GST ??



GOODS & SERVICES TAX

Source: 

FAQ : It is a **destination based tax** on **consumption of goods and services**. It is proposed to be levied at all stages right from manufacture up to final consumption with **credit of taxes paid at previous stages available as setoff**. In a nutshell, only value addition will be taxed and burden of tax is to be borne by the final consumer.

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CHANGE BRINGS OPPORTUNITY.
-NIDO QUBEIN

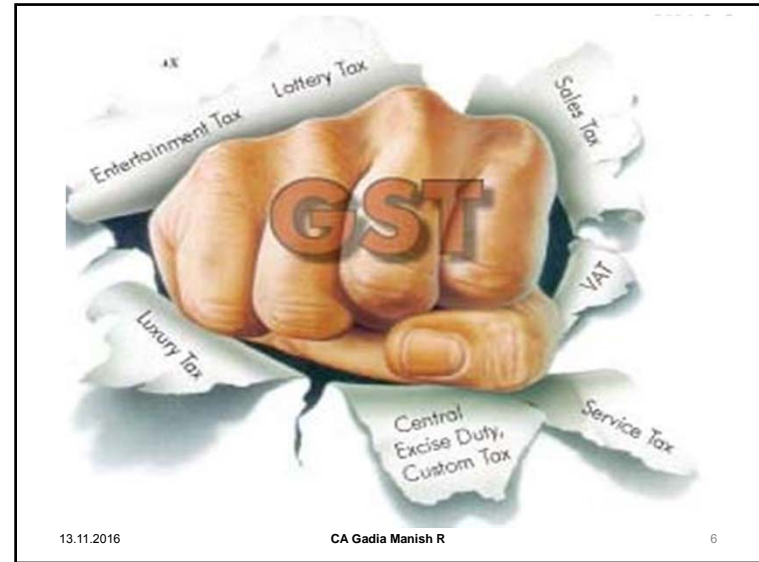
Photo by: Duncan Harris

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Preparatory Steps for Smooth Transition

Training	Impact analyses	Agreement advisory
Transaction structuring	Supply Chain management	Assistance in software
Pricing advisory	Creation of Master	Various account head

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Key Features – Proposed GST Model

► Ideally it should be one GST rate on all goods and services across India with few exemptions for basic necessities and reduced rate for some goods and services like readymade garments etc.

Dual-GST

► Centre and States to levy GST on common base (CGST & SGST)

Minimum exemptions

► Potentially aligned to current VAT exemptions

Proposed Indian GST

Dual

Inter-state supplies / import of goods & services

► Integrated-GST (IGST) on inter-state supplies / import of goods and services

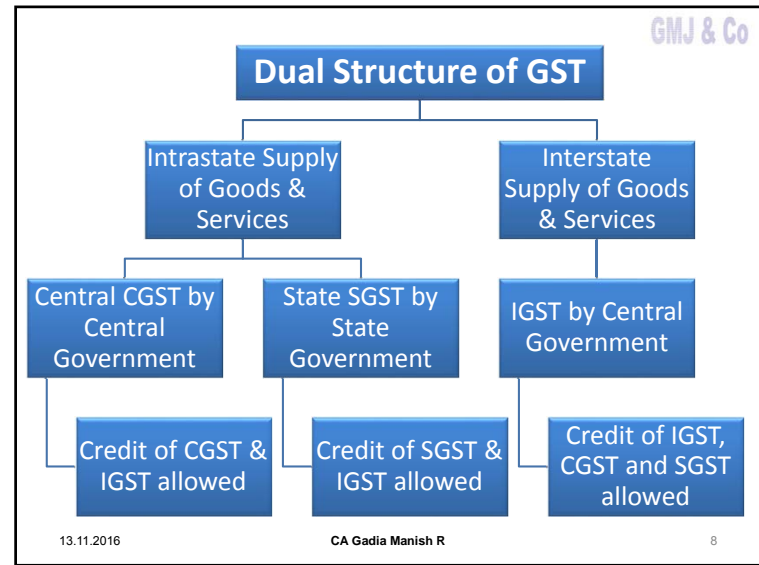
Up to 1.5Cr. Only State GST Council 23.9.16

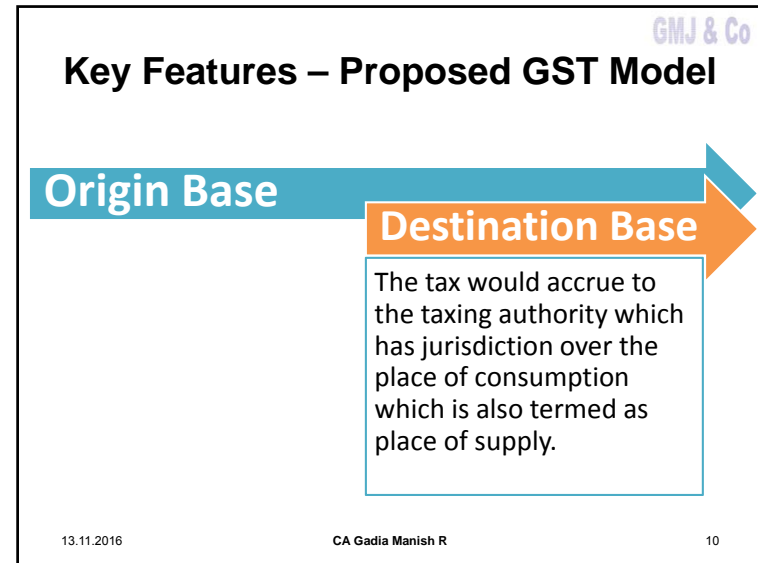
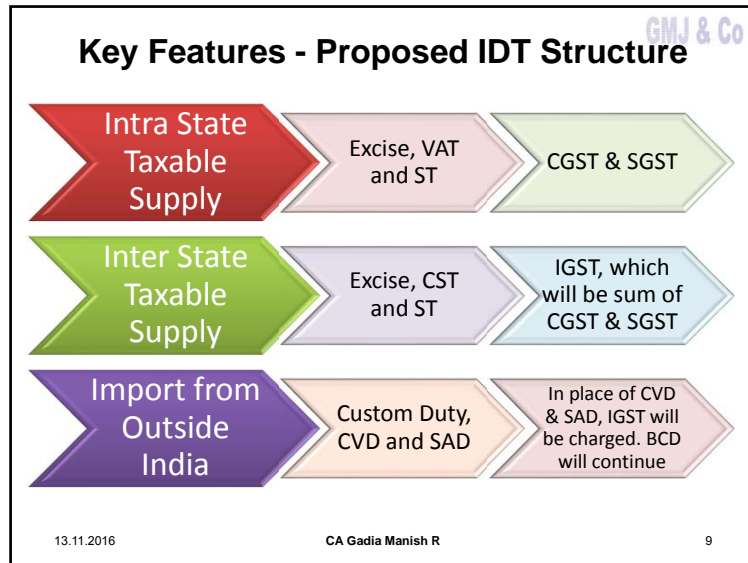
Dual Structure

Dual Levy

Dual Control above Rs 1.5 Cr.

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MODEL GST LAW

SOME IMPORTANT ASPECTS

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Goods

every kind of movable property other than actionable claim and money but includes securities, growing crops, grass and things attached to or forming part of the land agreed to be severed before supply or under the contract of supply. [Movable property shall not include any intangible property]

Services

anything other than goods. [includes intangible property and actionable claim but does not include money]

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LEVY & COLLECTION OF GST GMJ & Co

- GST to be levied on all supplies of goods and/or services
- Deemed supply of Goods/Services
- Paid by every taxable person
- Place of Supply
- Time of Supply
- Specific categories of goods/services – RCM

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Taxable Person

Who Carries on Business and is registered or require to be register under schedule III

Government or Local Authorities i.r.o. activities or transaction other than as specified in Schedule IV

Not Taxable Person

Agriculturist

Turnover upto Rs. 10 Lakhs

In case of NE Rs. 5 Lakhs

Employee to employer in the course of employment

Exclusively supply non taxable goods/services

Import of Service up to certain limit for personal use

GST Council 23-9-16 increased to 20 lakhs NE 10 Lakhs

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Taxable Event GMJ & Co

- Excise
- Manufacture of Goods
- VAT
- Sale of Goods
- Service Tax
- Provision of Service
- GST
- Supply

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Dictionary Meaning of Supply GMJ & Co

- Oxford Dictionary
 - Make (something needed or wanted) available to someone
- Cambridge Dictionary
 - An amount of something that is available for use
- Merriam Webster
 - To make (something) available to be used
- Black Law Dictionary
 - The total amount of a goods or service that is available to be purchased at any set period of time

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Extract of Definition of Supply in other countries

➤ Australia GST Act u/s 9 and 10 defines "Supply" to mean:

- 1) A supply is any form of supply whatsoever
- 2) Without limiting subsection (1), supply includes any of these.....

➤ United Kingdom u/s 5(2) of VAT Act, 1994:

- Subject to any provisions made by that Schedule and to Treasury orders under sub-sections (3) to (6) below-
- a) "supply" in this Act includes all forms of supply,

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Extract of Definition of Supply in other countries

➤ Malaysian GST Act u/s 4 defines "Supply" to mean:

- All forms of supply, including supply of imported services, done for a consideration and anything which is not a supply of goods but is done for a consideration is a supply of services

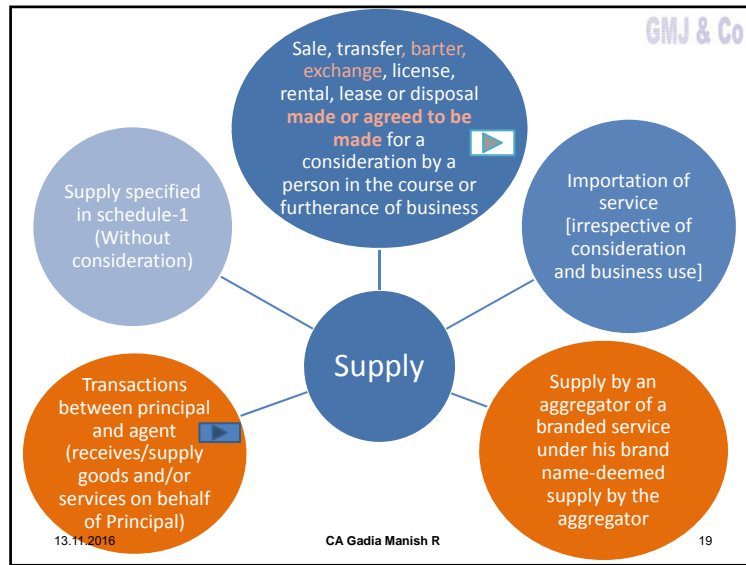
➤ Canadian GST Act defines "Supply to mean:

- Subject to sections 133 and 134, the provisions of **property or a service in any manner**, including sale, transfer, barter, exchange, license, rental, lease, gift or disposition

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Central or State Government upon Recommendation of Council, specify, by Notification

- A supply of Goods and not as a supply of Service
- A supply of Service and not as a supply of Goods
- Neither a supply of Goods nor a supply of Service

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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.

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

Sch I

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Schedule I GMJ & Co

- **Permanent transfer / disposal of business assets**
 - Assets transferred on succession of business,
 - conversion of entity,
 - Amalgamation or merger,
 - Disposal of computer to charitable organization
 - Proprietor/ partners transferring goods for personal use
- **Temporary application of business assets to a private or non business use**
 - Incidental usage of cars, telephones, office infrastructure (business assets) by promoters, directors, etc.
 - Sharing of common infrastructure between group concerns


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Schedule I GMJ & Co

- **Services put to a private or non business use :**
 - A CA filing his own returns or returns
 - Rent a cab operator using vehicle for his family
 - Hotelier giving accommodation to personal guests
 - Restaurant owner offering tea, snacks, lunch etc. to its guests/ Employee
- **Assets retained after deregistration:**
 - Business assets retained by partners / proprietor on closure of business, retirement, dissolution, etc.
 - Business assets retained in the business after deregistration

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Schedule I GMJ & Co

- **Supply of goods and / or services by a taxable person to another taxable or non taxable person in the course of furtherance of business**
 - Branch / Depot transfer? 
 - Services provided by Head Office/ corporate office to its Branch offices or regional offices
 - Articles distributed in sales promotion schemes/ business gifts
 - Free samples distributed– physician samples in pharma industry
 - Articles supplied under schemes such as “buy one get one”, etc.
 - Accessories supplied free or at concessional rate along with machine
 - Free Warranties
 - Gifts given to clients, business associates on social occasions
 - Free facilities given to employees
 - Free Tax Advise / Lecture by a Professional
 - Water Bottles distributed at Marathon Run
 - Donation in kind to charitable trust or NGO’s under CSR

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Matters to be treated as Supply of Goods or Service Sch II

Transfer

- Any transfer of the title in goods is a **supply of goods**.
- Any transfer of goods or of right in goods or of undivided share in goods without the transfer of title thereof, is a **supply of services**.
- Any transfer of title in goods under an agreement which stipulates that property in goods will pass at a future date upon payment of full consideration as agreed, is a **supply of goods**.

Land & Building

- Any lease, tenancy, easement, licence to occupy land is a **supply of services**.
- Any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a **supply of services**.

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Treatment or process

- Any treatment or process which is being applied to another person's goods is a **supply of services**.

Transfer of business assets

- Disposal or Transfer of Business Assets not in use: **Supply of Goods**
- Application of business assets for private use: **Supply of Service**.
- Sale of business assets by a person to recover any debt [Auction, etc.]: **Supply of goods**
- Any Business Assets on ceases of Taxable person: **Supply of Goods**, unless:
 - the business is transferred as a going concern to another person; or
 - the business is carried on by a personal representative who is deemed to be a taxable person

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Deemed Supply of Services GMJ & Co

- **Renting of immovable property;**
- **Construction of a complex**, except where entire consideration has been received after issuance of BCC, where required, by the competent authority or **before its first occupation, whichever is earlier.**
- **Temporary** transfer or permitting the use or enjoyment of **IPR**
- Development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of **information technology software;**
- **Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act**
- **Works contract**
- **Transfer of the right to use any goods**
- **Catering Contract.**

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Deemed Supply of goods GMJ & Co


The following shall be treated as supply of goods

- supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.

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Value of Supply




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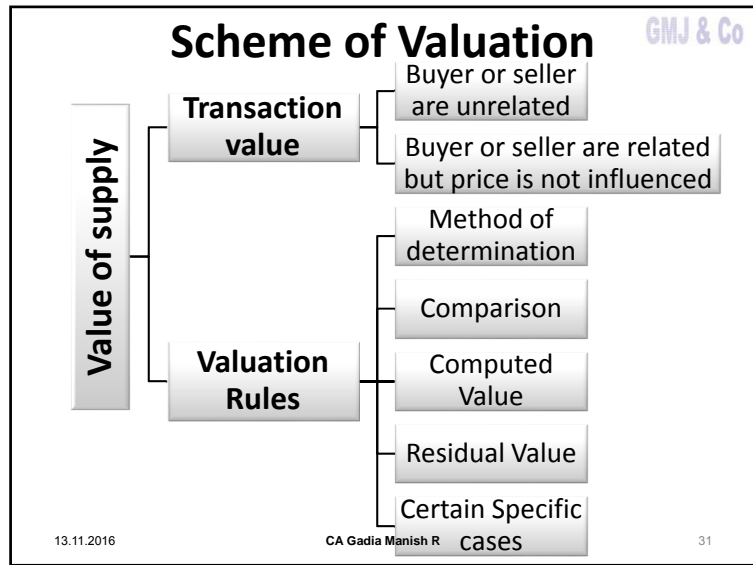


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SHE : DARLING, HOW MUCH DO YOU LOVE ME ?
 HE : 82%
 SHE: HUH, WHY IT IS NOT 100% ?
 HE : 18% GST IS APPLICABLE ON ALL TRANSACTIONS.



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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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Money means Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, LC, draft, pay order, traveller cheque, money order, postal or electronic remittance or any such similar instrument when used as consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value.

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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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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?**

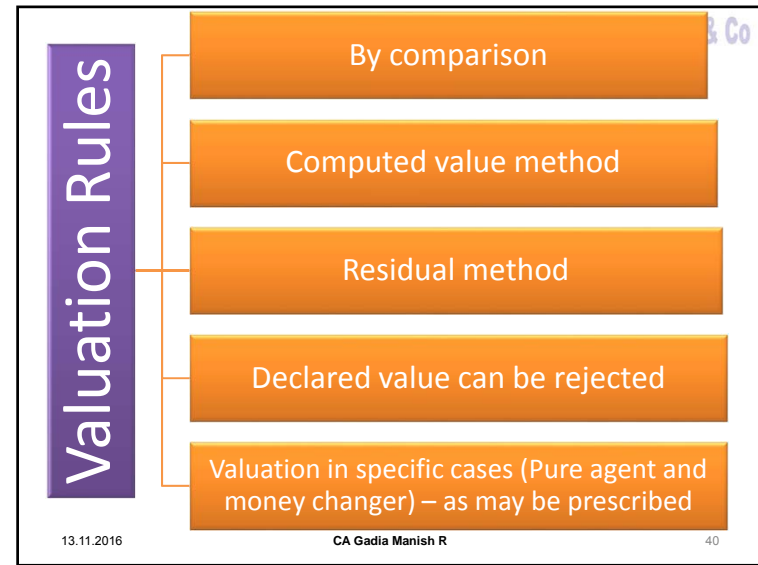
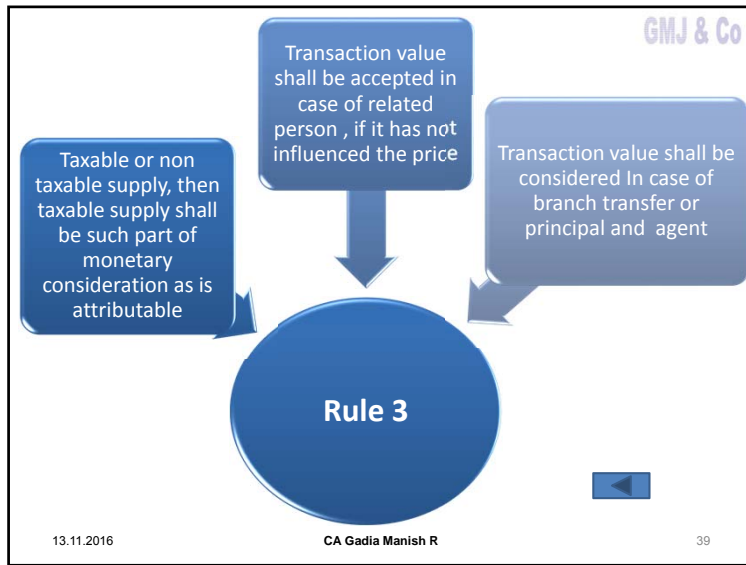
- The term "person" also includes legal persons
- Sole agent or sole distributor or sole concessionaire, howsoever described, of the other are related persons

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Relationship not influenced the price

- 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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Comparison Method GMJ & Co

- 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) GMJ & Co

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 GMJ & Co

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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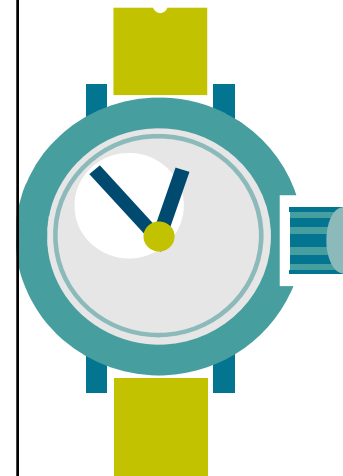
Valuation in Specific cases GMJ & Co

- 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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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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