

**Treatment of reimbursement of expense under GST****Relevant provision of the GST Act & Rules**

1. Section 7(1) of CGST Act: Reimbursement is supply or not.
2. Section-15- Value of supply
3. Rule-33 of CGST Rule : Value of supply of services in case of pure agent.
4. How to show in GSTR-1
5. Sec 2(47) of CGST Exempted supply
6. Sec 2(78) of Non-taxable supply

**Lets we start with an illustration as given under rule-33 of CGST Rule 2017**

<i>Situation -1</i>			<i>Situation-2</i>		
If a professional took a assignment for pleading a case before Income tax authority.			If a professional took a assignment for pleading a case before Income tax authority.		
Sr.No	Particular	Amount	Sr.No	Particulars	Amount
1.	Professional Fee	100000.00	1.	Professional Fee (Consolidated Fee)	1,40,000.00
2.	Travelling & Hotel Expense( Actual bill)	15000.00	2.	Total	1,40,000.00
3.	Third Party expert opinion( Actual-10000)	25000.00			
4.	Total	140000.00			

**Now we will elaborate the provisions of GST Law.**

Section 7(1) of CGST Supply: *the expression "supply" includes-*

- ❖ *all forms of supply of **goods or services** or both*
- ❖ *made or **agreed to be made***
- ❖ *for a **consideration** (Sec,2(31) of CGST Act)*
- ❖ *by a **person** (Section 2(84) of CGST Act)*
- ❖ *in the course or furtherance of **business**; (Sec.2(17) of CGST Act )*

**Analysis:**

So if we look into the reimbursement of expense incurred on behalf of the service recipient and claim of those expense, will be considered as consideration received in the course or furtherance of business and this satisfied the five essential condition of supply.

Now we will move into the next step what would be "value of supply".

**Section-15. (1) The value of a supply of goods or services or both shall be**

- the transaction value,
- which is the price actually **paid or payable**
- for the said supply of goods or services or both
- where **the supplier and the recipient of the supply are not related** and
- the price is the sole consideration for the supply.

**Further Section 15 (2) says that the above value of supply shall include –**

- a- any taxes, duties, cesses, fees and charges levied under any law other than GST Act
- b- any amount that the supplier is liable to pay but incurred by recipient and not included while deciding sole consideration of supply.
- c- Any incidental expenses charged by supplier at the time of, or before delivery of goods or supply of services
- d- interest or late fee or penalty for delayed payment of consideration
- e- subsidies directly linked to the price

- **excluding** subsidies provided by the CG and SG.

**Further Again Section 15 (4) CGST Act says that-**

- where the value of the supply of goods or services or both cannot be determined under sub-section (1),
- the same shall be determined in such manner as may be prescribed. (It means if the value of supply is not sole consideration then refer CGST rules)

**Analysis of section 15(1):**

The transaction value of supply must be decided on the below factor

- Transaction must fall under the definition of supply
- Price is actually **paid or payable**
- Supplier and recipient **are not related party** and
- The price is **sole consideration** for such supply

**If the above conditions are not satisfied, then we will refer to the valuation rules under CGST rules. Which are as under.**

**Rule 33 of CGST Rule: Value of supply of services in case of pure agent.-**

- Notwithstanding anything contained in the provisions of this Chapter,
- **the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded** from the value of supply,

if all the following conditions are satisfied, namely,-

- the supplier acts as a pure agent** of the recipient of the supply,
  - when he makes the payment to the third party **on authorisation by such recipient;**
- the payment made** by the pure agent on behalf of the recipient of supply
  - **has been separately indicated in the invoice**
  - issued by the pure agent to the recipient of service; **and**
- the supplies procured** by the pure agent
  - from the third party as a pure agent of the recipient of supply
  - **are in addition to the services** he supplies on his own account.

*Explanation.*- For the purposes of this rule, the expression —pure agent **means a person who-**

- enters into a contractual agreement** with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;
- neither intends to hold nor holds any title to the goods or services** or both so procured or supplied as pure agent of the recipient of supply;
- does not use for his own interest** such goods or services so procured; and
- receives only the actual amount incurred to procure such goods or services** in addition to the amount received for supply he provides on his own account.

**Now we analyse the above example:**

Situation -1				Situation-2			
If a professional took an assignment for pleading a case before Income tax authority.				If a professional took an assignment for pleading a case before Income tax authority.			
Sr.No	Particular	Amount	Remarks	Sr.No	Particulars	Amount	Remarks
1.	Professional Fee	1,00,000.00	As per Section -7 & 15 this is Chargeable to GST	1.	Professional Fee (Consolidated Fee)	1,40,000.00	Consolidated invoice and GST is to be charged on full amount
2.	Travelling & Hotel	15,000.00	Rule-33 and Explanation thereof says that	2.	Total	1,40,000.00	

	Expense( Actual bill)		he has to collect <b>only the actual amount</b> incurred so Actual Reimbursement amount not to be chargeable under GST as non-taxable supply.	- <b>Conclusion: when a pure agent procures any goods/service from the third party, he shall collect the actual expenses he has incurred. Any margin charged on the amount as availed from the third party shall disqualify to be called as pure agent transaction. if the Corporate service firm charges extra for which is not actual reimbursement of expense on behalf of his client then such transaction shall be subject to GST.</b>
3.	Third Party expert opinion( Actual-10000)	25,000.00	Recovered more than actual expense and GST is to be Charged	
4.	Total	1,40,000.00		
<p><i>Note: So it is suggested for sr.no-1 and 3 raise a separate tax invoice and for Sr.no -2 raise a separate bill of supply as non-taxable supply and show in GSTR-1 &amp; 3B accordingly in there relevant column prescribed therein.</i></p> <p><b><u>Below section are for relevant how to treat a non-taxable supply in GST</u></b></p> <p><b><u>Sec.2(47) of CGST Act: “exempt supply”</u></b> means supply of any goods or services or both which attracts <i>nil</i> rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes <b><u>non-taxable supply</u></b>;</p> <p><b><u>Sec. 2(78) of CGST act: “non-taxable supply”</u></b> means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act;</p>				