

Valuation rules when Transaction Value cannot be applied

Introduction

Excise Duty is payable on one of the following basis:

- MRP based duty [section 4A],
- Compounded levy,
- tariff value [section 3(2)],
- Production capacity [section 3A] or
- Ad valorem basis or Transaction Value [section 4]

While calculating duty under transaction value, all the following conditions need to be satisfied, otherwise valuation has to be done by resorting to the rules [Section 4(1)(b) of Central Excise Act and Valuation Rule 3]:

- There should be sale of goods
- The goods sold should be for delivery at the time and place of removal
- The assessee and the buyer of the goods are not to be related persons
- The price should be the sole consideration for the sale.

Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000

RULE - 4. Value of goods when not sold by assessee

It may so happen that goods are not sold but distributed as a free sample, supplied as donation free of cost etc. The value of the excisable goods in such case shall be based on the value of such goods sold by the assessee for delivery at any other time nearest to the time of the removal of goods under assessment, subject, if necessary. The Central Excise Officer may carryout necessary adjustments if he considers it to be necessary and reasonable to do so.

RULE - 5 When delivery is given at a place other than place of removal

Where the excisable goods are sold for delivery at a place other than the place of removal, then the value of such excisable goods shall be deemed to be the transaction value, excluding the cost of transportation from the place of removal up to the place of delivery of such excisable goods.

Explanation 1 –“cost of transportation” includes-

- The actual cost of transportation; and
- in case where freight is averaged, the cost of transportation is calculated in accordance with generally accepted principles of costing.

Explanation 2- For removal of doubts, it is clarified that the cost of transportation from the factory to the place of removal, where the factory is not the place of removal, shall not be excluded for the purpose of determining the value of excisable goods.

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RULE - 6. When Price is not sole consideration

Where the price is not the sole consideration for sale, the value of such goods shall be deemed to be the aggregate of such transaction value and the amount of money value of any additional consideration flowing directly or indirectly from the buyer to the assessee.

Explanation1 - For removal of doubts, it is hereby clarified that the value, apportioned as appropriate, of the following goods and services, whether supplied directly or indirectly by the buyer, free of charge or at reduced cost for use in connection with the production and sale of such goods, to the extent that such value has not been included in the price actually paid or payable, shall be treated to be the amount of money value of additional consideration flowing directly or indirectly from the buyer to the assessee in relation to sale of the goods being valued and aggregated accordingly. -

- value of materials, components, parts and similar items relatable to such goods;
- value of tools, dies, moulds, drawings, blue prints, technical maps and charts and similar items used in the production of such goods;
- value of material consumed, including packaging materials, in the production of such goods;
- value or engineering, development, art work, design work and plans and sketches undertaken elsewhere than in the factory of production and necessary for the production of such goods.

Explanation 2- Where an assessee receives any advance payment from the buyer against delivery of any excisable goods, no notional interest on such advance shall be added to the value unless the Central Excise Officer has evidence to the effect that the advance received has influenced the fixation of the price of the goods by way of charging a lesser price from or by offering a special discount to the buyer who has made the advance deposit.

RULE - 7. When goods sold from depot/ consignment agent

Where the excisable goods are not sold by the assessee at the time and place of removal but are transferred to a depot, premises of a consignment agent or any other place or premises (hereinafter referred to as "such other place") from where the excisable goods are to be sold after their clearance from the place of removal and where the assessee and the buyer of the said goods are not related and the price is the sole consideration for the sale, the value shall be the **normal transaction value** of such goods sold from such other place at or about the same time and, where such goods are not sold at or about the same time, at the time nearest to the time of removal of goods under assessment.

As per Rule 2) "normal transaction" means the transaction value at which the greatest aggregate quantity of goods are sold

RULE - 8. Captive Consumption

Where the excisable goods are not sold by the assessee but are used for consumption by him or on his behalf in the production or manufacture of other articles, the value shall be one hundred and ten per cent of the cost of production or manufacture of such goods.

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RULE - 9. If sale to related person other than Interconnected undertaking

When the assessee so arranges that the excisable goods are not sold by an assessee except to or through a person who is related in the manner specified in either of sub-clauses (ii), (iii) or (iv) of clause (b) of sub-section (3) of section 4 of the Act, the value of the goods shall be

- the normal transaction value at which these are sold by the related person at the time of removal, to buyers (not being related person); or
- where such goods are not sold to such buyers, buyers (being related person), who sells such goods in retail;

Provided that in a case where the related person does not sell the goods but uses or consumes such goods in the production or manufacture of articles, the value shall be determined in the manner specified in rule 8.

RULE - 10. Sale through interconnected undertaking

Except to or through an inter-connected undertaking, the value of goods shall be determined in the following manner, namely:-

- If the undertakings are so connected that they are also related in terms of sub-clause (ii) or (iii) or (iv) of clause (b) of sub-section (3) of section 4 of the Act (i.e. relative, relative and distributor, mutual interest in business) or the buyer is holding company or subsidiary company, then the value shall be determined in the manner prescribed in rule 9.
- in any other case, the value shall be determined as if they are not related persons for the purpose of sub-section (1) of section 4.

Rule - 10A. Where the excisable goods are produced or manufactured by a job-worker

Where job worker produces/ manufactures good on behalf of a person (hereinafter referred to as principal manufacturer), then,-

- i. In a case where the goods are sold by the principal manufacturer for delivery at the time of removal of goods from the factory of job-worker, where the principal manufacturer and the buyer of the goods are not related and the price is the sole consideration for the sale, the value of the excisable goods shall be the transaction value of the said goods sold by the principal manufacturer;
- ii. In a case where the goods are not sold by the principal manufacturer at the time of removal of goods from the factory of the job-worker, but are transferred to some other place from where the said goods are to be sold after their clearance from the factory of job-worker and where the principal manufacturer and buyer of the goods are not related and the price is the sole consideration for the sale, the value of the excisable goods shall be the normal transaction value of such goods sold from such other place at or about the same time and, where such goods are not sold at or about the same time, at the time nearest to the time of removal of said goods from the factory of job-worker;
- iii. in a case not covered under clause (i) or (ii), the provisions of foregoing rules, wherever applicable, shall mutatis mutandis apply for determination of the value of the excisable goods:

Provided that the cost of transportation, if any, from the premises, from where the goods are sold, to the place of delivery shall not be included in the value of excisable goods.

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Explanation. - For the purposes of this rule, job-worker means a person engaged in the manufacture or production of goods on behalf of a principal manufacturer, from any inputs or goods supplied by the said principal manufacturer or by any other person authorised by him.

RULE - 11. Residual Value Method

If the value of any excisable goods cannot be determined under the rules given above, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules and sub-section (1) of section 4 of the Act.