

Excise Valuation

- After the product is correctly classified, and duty liability is established,
- The next question is 'determination of Excise Duty payable.
- Valuation deals with the value on which rate of duty to be applied
- Value is the amount on which excise duty is payable
- Value also known as Assessable value (A.V)
- Excise duty payable = Assessable Value x Rate of excise duty

Excise duty is payable on one of the following basis:

- Specific duty / Tariff Value Section 3(2)
- Duty payable based on Annual Capacity Production (Applicable for pan masala)
- Compound levy Scheme Rule 15
- Duty based on Maximum Retail Price
- Duty as % based on *Assessable Value* fixed under Section 4- Transaction value valuation (*ad valorem duty*)

Specific Duty:

- It is the duty payable on the basis of certain unit like weight, length, volume, etc. of a product
- The disadvantage of this duty is that even if selling price of the product increases, revenue earned by Government does not increase correspondingly. The Government will keep on revising the rates

Presently, specific rates have been specified for:

- cigarettes -on the basis of length
- matches- per 100 boxes or packs
- sugar -on the basis of quintal
- marble slabs and tiles- on the basis of square meter
- colour TV (only when MRP is not marked on the package or it is not the sale consideration) - on the basis of screen size in cm
- cement clinkers –on the basis of per tone
- molasses –on the basis of per ton

For example,

- Cigarettes less than 60 mm –Rs. 168 per thousand
- Cigarettes greater than 60 mm less than 70mm –Rs. 546 per thousand
- Filter cigarette ranging from Rs. 1260 to 2163 Per thousand
- Molasses, Rs. 1000 per Ton

Tariff Value:

Government from time to time fixes tariff value. This is a "Notional Value" for purpose of calculating the duty payable. Once 'tariff value for a commodity is fixed, duty is payable as percentage of this 'tariff value' and not the Assessable Value fixed u/s 4. This is fixed u/s 3(2) of Central Excise Act. Government can fix different tariff values for different classes of goods or goods manufactured by different classes or sold to different classes of buyers.

- When tariff value is prescribed under the law, that value will form the basis for assessment (and not any other value)

Example on tariff value

If retail sale price is printed on the retail pack (Pan masala) and having betel nut content not exceeding 15%, - 78% of the printed retail sale price

Compound Levy Scheme Notification No 34/2001

Applicable only for steel pattas Pattis, Aluminum Circles process under cold rolling

- Scheme is only optional
- Duty payable based on the basis of per cold rolling machine (steel pattas Rs. 30000/ Aluminum Circles Rs. 12000 per machine per month (Approx)
- No Cenvat Credit
- Assessee has to make an application for availing of the scheme
- Assessee should avail the scheme for consecutive 12 months.
- Lesser period may be permitted by AC/DC by recording reasons
- Assessee can extend the period by making application before the expiry of period. If he does not make application for extension of period it is deemed he has opted out of the scheme.
- Any proposed change in the number of machines should be intimated to Superintendent before such change and assessee should get approval
- Central government has got powers to notify the rates of duty for compound levy scheme

Value based on Retail Sale Price/MRP Valuation

- MRP provisions are overriding provisions of transaction value . (Sec 4 A). If MRP provision applicable valuation is to be done as per MRP basis only and not under transaction value or under valuation rules.
- MRP Valuation is applicable only when goods are sold or intended to sold in retail. For example when MRP covered goods issued as free samples, MRP valuation not applicable.

Meaning of MRP

- Retail sale price' means the maximum price at which the excisable goods in packaged form may be sold to the ultimate consumer and
- MRP includes all taxes local or otherwise, freight, transport charges, commission payable to dealers, and all charges towards advertisement, delivery, packing, forwarding and the like, as the case may be, and the price is the sole consideration for such sale. - -
- In certain cases of Drugs – Retail price means price excluding local taxes

Valuation in case of MRP Provisions

- MRP Printed on the packet xxxxxxxx
- Less Abatement % xxxxxxxx
- Value for Excise to pay duty xxxxxxxx

The abatement % will be notified by Central Government ranging from 20% to 50%

Salient features of MRP Valuation

- The goods should be covered under provisions Both Standards of Weights and Measures Act, and Central excise notification (Schedule III).
- MRP printed on the packet less abatement notified by Central Government will be the valuation
- If more than one 'retail sale price' is printed on the same packing, the maximum of such retail price will be considered
- Different prices are printed on different packages; each such price will be 'retail price'.
- If retail price declared on the package at the time of removal is subsequently altered to increase the price, such increased retail price will be retail price for purpose of section 4 A
- When assessee declares two MRP on the packet, and if higher MRP is scored out to show saving, scored out MRP is ignored even it is visible. (CBEC Circular No 673/64 dated 28.10.02)
- If goods covered under MRP provisions are imported, CVD will be payable on basis of valuation u/s 4A i.e. on basis of MRP printed on carton.
- If retail price not indicated or wrongly indicated at the time of removal, the goods are liable to confiscation. In such case, the 'retail sale price' will be ascertained as per MRP Valuation rules in the

prescribed manner and duty will be payable as per the rules. (Market MRP Price/identical goods MRP is considered. More than one MRP highest MRP is considered)

- MRP provision is applicable even goods manufactured on job work basis.
- When some goods are sold partly in whole sale and partly retail, for whole sale goods MRP not applicable. For Retail sale MRP Valuation to be done.

CVD duty rate on imported goods when product covered under MRP –

- If goods covered under MRP provisions are imported, CVD will be payable on basis of valuation u/s 4A i.e. on basis of MRP printed on carton.
- If imported goods are printed with MRP if they are not sold, but used for process CVD payable based on transaction value

Some of the situations where MRP cannot be printed are and No MRP Valuation.

Bulk supplies for personal as well as industrial use, however some cases goods supplied for industrial use, MRP applicable example. Cement supplied to industrial construction. (upto 50 Kg pack)

Bulk supplies against contract, ex ice cream sold to hotel bulk, not for resale.

Supplies to canteen store depots of defence,

Item supplied free with another consumer item,

Items supplied free as marketing strategy or market response,

Items meant for export.

In the above cases MRP valuation will not be applicable. CBE&C circular No. 625/16/2002-CX dated 28-2-2002. – followed in *Bharti Systel v. CCE* 2002(145) ELT 626 (CEGAT).

MRP not applicable as per Standard weights and measures Act

Items weighing more than 25 kgs (Except Cement),

Items weight less than 10 g, 10 ml-

Packed fast food items-

Domestic LPG Gas,

Agricultural products above 50 Kgs (Any how it will cover under above 25 Kg category)

Free samples where Samples covered under MRP

The valuation should be done on the basis of MRP valuation u/s 4A. Circular No. 915/05/2010-CX dated 19.02.2010. If samples not covered under MRP they should be valued under valuation Rule No 4.

Circular No. 813/10/2005-CX dated 25.4.2005

MRP in case of Multiple and Combination Packages

(CBEC Circular No 673/64 dated 28.10.02)

• In case of multiple piece packages consisting of 2 or more items of same kind, valuation is to be done as below:

MRP printed on Multiple packet will be considered valuation when

- Individual items cannot be sold separately/marked should not sell separately
- If individual items supplied free and no MRP printed on individual items –for example face gel supplied free along with anti dandruff shampoo, MRP printed on shampoo to be considered when only one MRP is indicated. No need to add Market MRP of face gel.
- If individual items have MRP printed but scored out to show shaving

Aggregate of MRP of individual packets will be considered when

- Individual items capable of sold separately and no restriction on the sale of individual items
- Department cannot challenge the MRP printed on the packet- Held in ITC Ltd case (Sc)

Clarification regarding Quantity discounts, bonus quantities, etc. cleared without payment of duty under MRP based assessment - reg.- A larger bench of CESTAT in the case of Indica Laboratories Vs CCE, Ahmedabad 2007(213) ELT 0020(T-LB), has held that quantity discount, bonuses etc. are applicable for the valuation of goods under section 4 of the Central Excise Act, 1944 and not in case of goods valued under Section 4A.(MRP Value) Circular No. 938/28/2010-CX Dated 29/11/2010

Assessment based on Value (Invoice Price)/ Transaction Value

- Where Central Excise is payable on the basis of value, it is known as “advalorem duty”.- Sec 4
 - It is Duty charged based on Value (Invoice) with certain additions and deductions.
- When the duty of excise is chargeable with reference to value, the 'transaction value' on each removal of goods, considered for the purpose of valuation if all the following conditions are satisfied –
- The goods should be sold at the time and place of removal.
 - Buyer and assessee should not be related to each other
 - Price should be the *sole consideration* for the sale.

1. The goods should be sold at the time and place of removal.

The Price of Goods sold at the time and place of removal is only relevant .Any increase or decrease after the removal of goods is not relevant Section 4(1)(a). Example delivered to another buyer after removal at different price is not relevant for valuation. However where the agreement provide escalation clause, Price realized as per escalation clause after removal is the value and should be considered for valuation.

Place of removal -' means

- a factory or any other place or premises of production or manufacture of the excisable goods from where such goods are removed *or*
- (ii) A warehouse or any other place or premises wherein the excisable goods have been permitted to be deposited without payment of duty from where such goods are removed
- (iii) A depot, premises of a consignment agent or any other place or premises from where excisable goods are to be sold after their clearance from factory. [Section 4(3)(c)].

Time of removal - As per section 4(3)(cc),

- In case of sale from depot/place of consignment agent, ‘time of removal’ shall be deemed to the time at which the goods are cleared from factory.

Examples when there is no sale at factory- Depot sales, samples, FOR contracts etc., in these case transaction value not applicable

2. Buyer and seller should not be related to each other

Persons shall be deemed to be "related" if,

- They are inter-connected undertakings as per MRTTP Act (ICU will be treated relative only When they become ICU by virtue of Holding and Subsidiary Company)
- They are so associated that they have interest, directly or indirectly, in the business of each other.
- Amongst them the buyer is a relative and a distributor of the assessee, or a sub-distributor of such distributor; or
- They are relatives as per Clause 41 of Sec 2 of Companies Act
- Except the above four category none of the other persons are treated as relatives. For example same management companies, Common director companies, common partners firms, one side interest etc are not treated as relative persons

Relative as per Clause 41 of Section 2 of the Companies Act

A person shall be deemed to be a relative of another if, and only if, —

- They are members of a Hindu undivided family; or

- They are husband and wife; or
- Father, Mother,
- Brother, sister, son and daughter and their spouses
- Grand father and grand mother Both maternal and paternal
- Grand son grand daughter and their spouses
- Under this clause a natural living person can only treated as relative. A Company, a firm and HUF cannot treat as relatives.

Price must be sole consideration –

- Price should be sole consideration of sale.
- Price is the consideration given for purchase of a thing

If the Price is not sole Consideration

- The price is to be adjusted for by adding,
- Cost of raw material supplied by buyer at free or reduced cost
- Cost of tools, design drawing, moulds supplied by buyer
- Interest free deposits received from buyer, if the price is reduced

Meaning of Transaction Value

- Price actually paid or payable for goods by buyer to Seller or to third person on behalf of
- The payment should be 'by reason of, or in connection with the sale'. The amount may be payable may be before or after sale. (Price should quantifiable at the time of removal,)
- Any amount charged By Seller for, or to make provision for, advertising or publicity, marketing and selling organization expenses, storage, outward handling, servicing, warranty, commission or any other matter is includible

However, these expenses are includible only when following conditions are satisfied i.e.

- (a) The amount should be paid or payable to assessee or on behalf of assessee and
- (b) Payment should be by reason of sale or in connection with sale.

Each removal will be treated as a separate transaction and 'value' for each removal will be separately fixed. For example. Sale to industrial use, sale to Govt, sale in whole sale and sale in retail etc., In each price the value of goods is taken separately.

Inclusions in Transaction Value
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Packing charges:

- All Packing Primary, Secondary. Or special, will form part of the transaction value. Packing supplied by buyer should also be includible; .Packing which is normally used at whole sale trade at factory gate is only includible in valuation.
- Durable and Returnable packing includible only if the audit report reveals that cost was not amortised - circular No. 643/34/2002-CX dated 1-7-2002.
- Durable and returnable packing supplied by buyer not includible in valuation. (Ex cylinder for sulphur dioxide-TCP Ltd-- Cestat
- Design and Engineering Charges of product- includable
- Consultancy charges relating to manufacturing - includable
- Compulsory after Sales Service / service in warranty period - includable
- Loading and handling charges within the factory -includable
- Commission to Selling Agents- includable

Free after Sales Service Warranty includible in valuation- they are includible whether they are optional or compulsory- **-CBEC Circular NO 354/81/2000 dated 30.06.2000.**

After-sale Service and Pre-delivery Inspection charges were to be included in the assessable value 'These services are provided free by the dealer on behalf of the assessee, the cost towards this is reimbursed to him and thus is a consideration to him for the sale of the goods, therefore will be includible in the assessable value'. **Circular No. 936/26/2010-CX dated 27.10.2010**

Exclusions in Transaction Value

Local Taxes: sales tax; Excise duty and other taxes payable on finished product- Equalized deduction of taxes not permissible – Since each clearance is a separate transaction for assessment, that taxes are deductible only on actual basis and not on average basis. **CBE&C, vide its circular No. 643/34/2002-CX dated 1-7-2002**

Outward handling, - not includible in valuation

Freight and transit insurance charges from factory to buyer place,

Processing cost after removal if such process does not amount to 'manufacture' – CBE&C circular No. 138/08/2000-CX.4 dated 3.1.2001.

•Notional Interest on security deposit/advances – Includible only when the price is reduced because of deposit

Interest on Receivables and on Delayed payment — CBE&C circular No. 643/34/2002-CX dated 1-7-2002.

Shall not be regarded as part of the assessable value provided that:

- The interest charges are clearly distinguished from the price actually paid or payable for the goods;
- The financing arrangement is made in writing; and
- Where required, assessee demonstrates that such goods are actually sold at the price declared as the price actually paid or payable

Installation and Erection Expenses – CLARIFICATION BY CBE&C

- The Board has clarified with regard to erection an commission charges is as follows
- If final product is not excisable, question of including erection and commissioning charges does not arise.
- If a machine is cleared from a factory on payment of appropriate duty and later taken to premises of the buyer for installation/erection and commissioning into an immovable property, no further duty will be payable
- If parts/components are brought to site and the machine is erected/installed and commissioned, if the product is excisable commodity, cost of erection, installation and commissioning would be included in assessable value. -**CBE&C circular No. 643/34/2002-CX dated 1-7-2002.**

Bank charges for collection of sale proceeds- not includible in valuation

Training charges to customer –

•Training charges to customer will be includible if they are in connection with sale or by reason of sale. If the transaction of providing training to employees of customer is an independent transaction, it may be 'in relation to sale', but not 'in connection with sale'

Inspection charges / addition testing charges paid by buyer

- Assessee carries out his own inspection- includable
- Customer carries out additional inspection borne by the buyer. Not includible
- If such testing is a mandatory requirement, it should be includible whether borne by assessee or buyer.
- This is because there is no sale without such testing.

Subsidy / Rebate obtained by assessee from Government

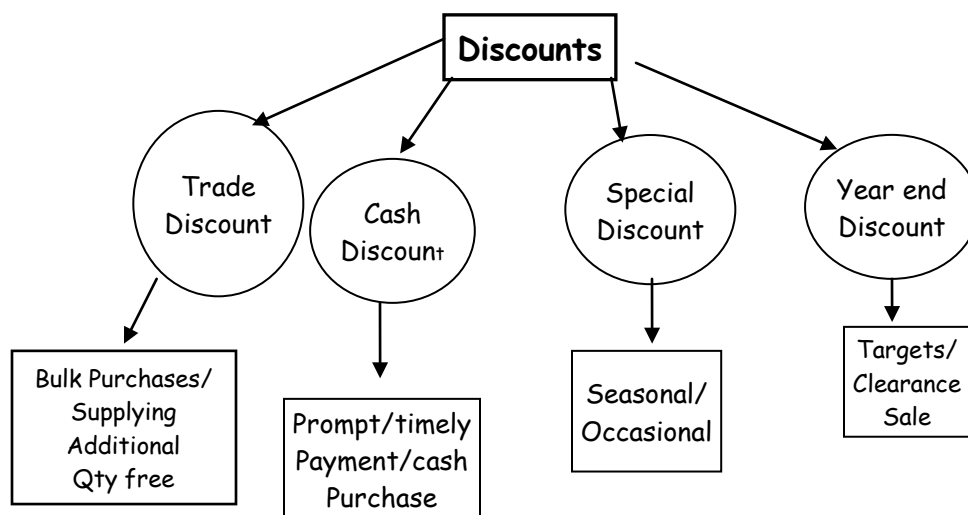
•A general subsidy / rebate are obviously not being includible as it has no connection with individual clearances of goods.

Profit earned on post removal activity –

Profit earned on post removal activity is not to be added unless there is any deliberate attempt to divert a part of the genuine price and show it as other charges

Advertisement and sale promotion Expenses- incurred by buyer if done on his own, are not to be includable,

Discounts



- All discounts are deductible if benefit passes on to buyer.
- Discount need not be uniform. Different discounts to be given to different persons
- There is no condition or provision that amount of such discount should be known at the time of removal of goods from factory. Differential discount is also permissible. Cash discount will be deductible only if actually passed on to buyer,. CBE&C circular No. 643/34/2002-CX dated 1-7-2002
- Discounts can be given at any time -. For example year-end discount or turnover discount.

Valuation Rules

- Rules applicable when any of the conditions of transaction value not fulfilled

Valuation in case if goods are not sold: (Rule 4)

- Examples Samples, free warranty claims
- value will be Value of identical similar goods sold by Assessee at Same time
- If does not sell the goods on the same time Value at the nearest date subject to adjustment for price variance in dates of delivery.

Example on sample valuation

- Case- 50 pieces of Samples are removed on 1.7.2010

Alternative 1

- 50 pieces also sold on 1.7.2010 at Rs. 120 per Piece. Value for sample- Rs. 120 per piece

Alternative 2

- 50 pieces are not sold on the same day, but different quantities are sold at different price on 1.7.2010. Value for sample can be taken on price at which Highest qty sold (Whole sale price/Normal transaction value) can be taken.

Alternative 3

- There is no sales on 1.7.2010
- Value will be taken at nearest date sale price, subject to adjustment for price variance if any between nearest date and samples removed date.

Value in case of new product issued as sample-

- Where the value is not determinable at the time of removal and value can be known at subsequent date- request can be made for Provisional Assessment/Alternatively Cost + 10% can be considered for valuation.

Value in case of old sample

- Old sample different qty, size, and Different character. Value can be made under rule 11 (BOJ)

Valuation of samples - CBE&C, vide circular No. 813/10/2005-CX dated 25-4-2005 has clarified that in case of samples distributed free, valuation should be done on basis of rule 4. If the samples covered under MRP they should be valued under MRP Valuation.

Goods sold at different place /other than place of removal (Rule 5)

- Ex FOR delivery contract
- Value will be FOR price minus freight .The actual cost of transportation from place of removal up to place of delivery of the excisable goods will be allowable as deduction. Cost of transportation can be either on actual basis or on equalized basis.
- The deduction of Freight will be allowable only if the invoice indicates; the transportation cost does not include freight for return/empty journey- Circular No.827/4/2006-CX dated 12.04.2006

Clarification by CBEC on exclusion of return fare :As per Rule 5 the actual cost of transportation from the place of removal up to the place of delivery is only to be excluded. [Cost of return fare of vehicles is not required to be added for determining value. 'Tribunal held that where onward freight was not includible in the assessable value of the excisable goods, there was no question of return freight being included in the assessable value, whether or not the return freight was mentioned in the relevant invoices(Circular No. 923/13/2010-CX dated 19.5.2010)

Example on Valuation under Rule 5

Factory at Chennai (Place of removal). Buyer place At Bangalore (Place of delivery). No sale at Factory. Sale at buyer place in Bangalore. FO R price up to Bangalore Rs. 120 per unit. freight from Chennai to Bangalore per unit Rs. 10 . Value per unit will be Rs. 110 (120-10)

Factory at Chennai. Depot at Bhuvaneswar (Place of removal). Buyer place At Kolkatta (Place of delivery). No sale at Factory. No sale at Depot .Sale at buyer place in Kolkotta.. FO R price up to Kolkotta. Rs. 200 per unit. freight from Chennai to Bhuvaneswar Rs. per unit Rs. 20 . freight from Bhuvaneswar to Kolkotta . Rs. 10 Per unit Value per unit will be Rs. 190 (200-10) . and not 170 (200-20-10) . No deduction for freight as Chennai is not a place of place of removal

Value when price is not the sole consideration [Rule 6]

- Assessable Value' will be the price charged by assessee, plus money value of the additional consideration received.

Example

- The buyer may supply any of the following directly or indirectly, free or at reduced cost.
- Materials, components, parts and similar items including packaging materials
- Tools, dies, moulds, drawings, blue prints, technical maps and charts and similar items used
- Engineering, development, artwork, design work and plans and sketches u
- In case of interest free advances received by seller, notional interest will be added only when the price was reduced because of interest free advance.

Example on price is sole consideration

Example 1

- A seller sell a unit at price of Rs. 100
- Assume, Buyer supplies material worth Rs. 60 per unit
- Design and drawing worth Rs. 10 per unit
- Buyer will pay only balance Rs. 30 (100-60-10).
- Here the Rs. 30 paid by buyer is not sole consideration for sale.
- Value will be $30 + 10 + 60 = 100$ is the value

Example 2

- A seller normally sell a unit at price of Rs. 100
- Assume , the buyer paid price in advance and also some deposit
- The Seller reduces the price to Rs. 80 because of advance payment and deposit
- Here the price Rs. 80 is not sole consideration for sale
- Rs. 20 to be added to Rs. 80 to arrive the value

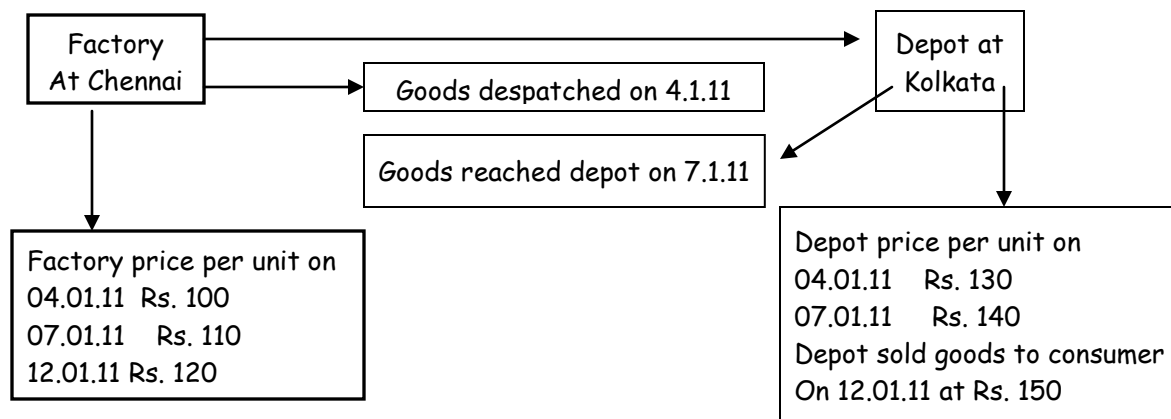
Valuation for Sale at depot / consignment agent place [Rule 7]

- Place of removal includes depot/ place of consignment agent,
- Time of removal in case of depot is time when such goods are removed from factory.
- Value is price (Normal transaction value) prevailing at the depot as on date of removal from factory.
- Price at which such goods are subsequently sold to buyer from the depot is not relevant for purpose of excise valuation
- No deduction for freight from factory to depot
- One day different prices. Price at highest qty sold is the value ('normal transaction value')
- If the price of depot on the date of removal is not available depot price at nearest date can be taken subject to adjustment for variance if any
- Freight and insurance from depot onwards to buyer place is not includible in value.

Meaning of 'normal transaction value'

• As per Valuation Rule 2(b), "normal transaction value" means the transaction value at which the greatest aggregate quantity of goods is sold. The term 'greatest aggregate quantity' is used in rule 7 of Customs Valuation Rules. For example if 65 units are sold @ Rs. 1000, 55 units are sold @ Rs. 950 and 80 units are sold @ Rs. 900; then greatest aggregate quantity is 80 which is sold @ Rs. 900 per unit, which will be the basis for valuation.

Example on depot valuation:



**AV is Price of depot on the date of removal
From Factory i.e. on 04.01.11 Rs. 130**

Valuation in case of captive consumption (Rule 8)/

- Captive consumption means goods are not sold but consumed within the factory.
- Valuation shall be done on basis of cost of production plus 10%. Cost of production is to be determined as per CAS 4

Cost of production as per CAS 4

Material consumed (Cost should be exclusive of local taxes and excise)	xxxxxxx
Direct labour/wages	xxxxxxx
Direct expenses	xxxxxxx
Works overheads	xxxxxxx
Quality control costs	xxxxxxx
Research and development costs	xxxxxxx
Administration overheads relating to production	xxxxxxx
Less: Sale of scrap	xxxxxxx
Cost of production	xxxxxxx
Add: 10%	xxxxxxx
Value for excise (Assessable value)	xxxxxxx

Selling and distribution costs to be ignored

CBEC has clarified that if same goods are partly sold by assessee and partly consumed captively, goods sold have to be assessed on basis of transaction value and goods captively consumed should be assessed on basis of rule 8. **CBE&C, vide its circular No. 643/34/2002-CX dated 1-7-2002**, the reason is, as per

new section 4, transaction value has to be determined separately for each removal. In case of captive consumption, cost calculation should be as per CAS-4 issued by ICWAI

Valuation in case of Sale to/through related person Rule 9/ Sale through ICU (Holding and Subsidiary company) Rule 10

Rule 9 and 10 applicable only

- When all goods are sold only to or through related persons. Or
- When there is a substantial sale to related persons and minor amount of sale to unrelated person.

Relative person valuation rule not applicable

- When the goods are sold partly to related persons and partly to unrelated persons (Applicable rule is rule 11 BOJ)
- When the price of RP and URP is same. i.e. sale to RP at market whole sale price

Value will be price at which the relative person sold to unrelated person.

Example on relative person valuation

Mr. A Sell goods to Mr. B @ Rs 100 per Unit. The same goods was Sold by Mr. B to Mr.C at Rs. 110 per Unit. A and B are related persons, B and C are unrelated persons. The Assessable for Mr. A removal will be Rs. 110 per unit. If B and C are related persons, the price of C to unrelated person will be the value. If B or C are not sold the goods and consumed captively. Valuation to be done as per rule 8 (Captive consumption basis)

Value in Case of Job Work- Rule 10 A (Applicable from 01.04.2007)

- Where the goods are sold from the place of job worker, the principal manufacturer (the person who supplies material to jobworker) transaction value (selling price) will be value, where the buyer and principal manufacturer are not related and Price is sole consideration.
- Where the goods are not sold from the place of job worker, removed from goods from job worker place and sold at some other place, Price of such goods at nearest place of removal is the value, where the buyer and principal manufacturer are not related and Price is sole consideration.
- Where the value cannot be determined as above two cases, the value will be determined as per other valuation rules
- With this new rule, profit margin of principal manufacturer is brought in to tax net.

Example for Job work value

- Cost of the leather supplied by principal manufacturer for making a pair of leather shoes Rs. 500
- Job worker charges Rs. 150 per pair towards labour charges and his profit
- Cost of transport from raw material supplier to jobworker place Rs. 10
- Jobworker finish the work and principal manufacturer wants to sell the shoes from the job worker place at Rs. 999-95.
- The A V will Rs. 999-95

Valuation in case of body building of a vehicle

When automobile manufacturer send chasis to independent body builder under stock transfer on payment of duty. The body builder availed the CENVAT credit of the duty paid on the chassis and cleared the same on payment of duty to the Depot/Sales Office/Distributor of the Motor Vehicle (MV) manufacturer. The duty was discharged by the body builder on the assessable value comprising the value of Chassis and the job charges i.e. cost construction method. The Depot/Sales office of the MV manufacturer sold the vehicles at a higher price than the price on which duty had been paid. Accordingly, after the insertion of rule 10A, the practice of discharging the duty on cost construction method by the body builder is not legally correct. Hence value should be done as per rule 10 A.

Best judgment Assessment Valuation [Rule 11]

BOJ only when it not possible to value from Rule 4 to 10A

- The value shall be determined using reasonable means consistent with the principles and general provisions of these rules and of section 4(1) of the Act. . It is mixture and combination of rule 4 to 10 A.
- This rule is applicable when the goods are sold partly to related and partly to unrelated persons, as there is no specific provision made.

Valuation in case of Computer Software

• Value of preloaded operational software not includible of valuation in case of computer; even computer cannot function without software. Software is not a part of Computer. Computer is complete without software. CCE Vs Acer India Ltd (2004) (SC) 172ELT289

Cum Duty price

- When the price is not sole consideration and if any Additional Consideration is added to arrive Assessable Value it should be treated, as cum duty price - If Assessee removes goods without payment of duty by mistake (treating dutiable goods as exempted goods), the price should be treated as cum duty price CCE Vs Maruthi Udyog Ltd (2002) (SC). If the goods are covered under MRP, abatement deduction will not available
- If the information is specific (in exam question) it should be cum duty price
- And calculation should be made backwards-
- $A V = (\text{Cum duty price minus-permissible deduction} \times 100 / 100 + \text{rate of duty})$

Valuation in case of Bought out goods / spare parts /Consumables/ Accessories
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Bought out spares, parts fitted and delivered and along with main product includible in valuation

Valuation in case of accessories

Cost of Accessories, which are optional whether fitted, or not to the main product will not be includible in the Valuation.

Cost of Consumable is not includible in the valuation; even the main product cannot function with out such consumable.

Example, ribbon in case of typewriter, cassette in case of tape recorder and needle in case of gram phone.

Valuation application Chart

Step 1

First check whether duty is payable based on Annual capacity production, if yes pay duty based on annual capacity production

Step 1

If Annual capacity Production valuation not applicable check whether duty payable based on tariff values , if yes value as per tariff values

Step 2

If tariff values does not apply, check whether MRP Valuation applicable, and MRP printed goods are sold or intended to sold , if yes value as per MRP provision

Step 3

If MRP Valuation does not apply, check whether 4 conditions of Transaction value is satisfied, if yes value as per transaction value

Step 4

If 3 conditions of transaction value not satisfied, value as per valuation rules.