



Conditions as per rule 3(2) - As per rule 3(2) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 [Earlier rule 4(2) of Customs Valuation Rules], transaction value can be accepted only if following requirements are satisfied –

No restriction on buyer for disposal of goods - There are no restriction on buyer on disposition or use of goods *except* the following: (a) restrictions prescribed by public authorities in India (b) restriction on geographical area within which goods may be resold e.g. goods should not be sold outside particular State or outside India *or* (c) restriction that does not materially affect value of goods - e.g. exporter puts a condition to importer of automobile that car should not be exhibited before a particular date – illustration given in Interpretative Note to rule 3(2)(a)(iii). [rule 3(2)(a)] [earlier rule 4(2)(e) upto 10-10-2007]

Sale not subject to conditions of which value cannot be determined - The sale or price should not be subject to a condition or consideration for which value cannot be determined. Examples given in interpretative note to rule 3(2)(b) are – (a) Price is subject to condition that buyer buys some other goods in specified quantities from seller (b) price is dependant on price at which buyer of imported goods sells other goods to seller (c) Price is based on form of payment extraneous the imported goods. However, (i) buyer furnishing engineering and plans undertaken in India to seller (ii) Buyer undertaking activities of marketing of imported goods in India will not form part of value of imported goods [rule 3(2)(b)] [earlier rule 4(2)(f) upto 10-10-2007].

No further consideration to seller of which adjustment cannot be made - Seller should not be entitled to further consideration like part of subsequent resale, disposal or use of goods by the buyer will accrue directly or indirectly to seller, unless proper adjustment in value terms can be made as per rule 10 e.g. if the importer is a trader and the condition is that after he sells the goods in India, the foreign exporter will get a fixed amount after the sale, that extra amount can be added for Customs Valuation [rule 3(2)(c)] [earlier rule 4(2)(g)]

Unrelated buyer and seller, except when price acceptable under rule 3(3) - Buyer and seller are not be related, unless the transaction value is acceptable under rule 3(3) [rule 3(2)(d)] [earlier rule 4(2)(h) upto 10-10-2007].

If any of the aforesaid requirement is not satisfied, 'transaction value' cannot be accepted for valuation purposes.

6.4.2 Illustrations of Method of Valuation

Question : An importer 'WR Importers Ltd.' imported 1,000 Kgs of 'X' goods from a manufacturer-exporter 'AB Inc.' in USA in April 2008 and presented Bill of Entry indicating value of US \$ 10,000 CIF. Customs Appraiser found from his records as follows :

- (a) AB Inc, USA had supplied 150 Kgs of 'X' to another importer in India @ 16 \$ CIF per Kg in March 2008.
- (b) Same exporter had supplied 1,200 Kgs of X to an importer in India @ 18 US \$ in September 2007.
- (c) Price of 'AB Inc' for sale of that product in USA is 20 US \$ per Kg.