IMMORTAL AMORTISATION

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Additional consideration in Central Excise valuation is a pot pourri. It can be a monetary consideration, a material consideration or an intellectual consideration. Whatever it may be, Rule 6 of the Valuation Rules requires such consideration to form part of the assessable value if such consideration is in addition to the price, flows directly or indirectly from the buyer to the assessee.

In cases of monetary consideration, it is relatively easy to calculate the additional consideration and arrive at the assessable value. A probable menace in such addition of monetary consideration is "Notional interest on advances" - which is no longer *res integra* and a well-settled issue now.

In cases of material consideration, it is two fold:

1. There can be a material consideration in the nature of an input or a packing material which goes comprehensively and absolutely into the manufacture of the final product and the value of such material consideration can be directly included to the assessable value of the final product being cleared. In other words, if the buyer supplies any goods either free of cost or at reduced cost, which goes into the manufacture of the final products, then either the cost or the difference in cost, as the case may be, shall be added to the assessable value as per Rule 6 of the Valuation Rules.

2. There can also be a material consideration, which will not go fully into manufacture of the final products but will be consumed / utilised in the manufacture, on continuous basis. Capital goods in the nature of tools, dies, moulds, etc. and similar goods will fall into the ambit of such "apportionable additional consideration" (hereinafter referred to as AAC goods). Explanation 1 to Rule 6 of the Valuation Rules clarifies that, in such cases the value shall be "apportioned as appropriate" and included for arriving at the assessable value. Time immemorial, a concept called "amortisation" is in vogue, for dealing with such instances. Amortisation, is a method of arriving at a value for such AAC goods, by simple mathematics, whereby the intrinsic value of the AAC goods forms part of the numerator, the life expectancy of such AAC goods forms part of the denominator. Putting it illustratively, if the value of an AAC goods supplied free of cost by the buyer to the assessee is Rs.1 Lakh and if such AAC goods can produce 10,000 components in its life, then the amortisation value of such AAC goods shall be Rs.10 per component (Rs.1. Lakh ÷ 10000 = Rs.10). In such cases, the buyer is bound to give the value and life of such AAC goods to the assessee for arriving at the amortisation value. Generally, the value is evidenced through Invoices / CA certificate and the life is certified by a Chartered Engineer.

This age old method of amortisation has its own practical issues like :

1. The department disputing the life of the AAC goods,
2. Such AAC goods losing its life before its estimate life expectancy due to breakage, theft or dispensing with the manufacture, etc, or
3. Shifting of AAC goods from one assessee to another.

Such amortisation also require a meticulous accountal / tracking of the number of components produced and yet to be produced, which creates a practical enigma. To avoid this hunchback, there exists a self-devised concept called "one time amortisation" which is prevalent among the trade. This unwritten rule has been accepted by the department across the nation, as it suits the revenue design. By this "one time amortisation" the assessee pays excise duty on the total value of such AAC goods, at one stroke. Such one time amortised AAC goods are not amortised any further. The trade front is happy because they need not linger with such amortisation and whatever excise duty paid on such one time amortisation is available as Cenvat credit at the other end. The revenue front is also comfortable because some how duty is recovered on such AAC goods. Though absurd logic, till date, the apple cart travels without getting toppled.

Now let us move to the intellectual consideration, which is the crux of this article. Let us first understand what do we mean by an intellectual consideration? These are brainware in the nature of designs / drawings / software, etc. For example, to manufacture a very delicate and a crucial printed circuit board, the essential ingredient would be a circuit diagram, which is a brainware. Physically, the diagram could be in a medium like paper, film or a floppy but the intrinsic value of such brainware could be much more. Such brainware could be an output of squeezed cerebrum of experts / individuals / professionals / technocrats, etc. Evaluating such brainware could be a mission impossible. If valuing such an intellectual consideration (being the numerator of the amortisation ratio) would lead to a arithmetic cobweb, on the other hand, determining its life (being the denominator of the amortisation ratio) will lead to an *ad infinitum.* It is a layman logic that, any brainware such as a design / drawing, scripted in a paper or film or a floppy can be utilised umpteen number of times in the manufacture. This being the case, how to amortise such intellectual consideration? We feel that Einstein's theory of relativity would be relatively easier to understand than this theory of amortisation.

P.S. : Despite the catena of judgements requiring the additional consideration (be it monetary / material / intellectual) to be included in the assessable value, we came across a striking judgement in the case of CCE Pune Vs Bharat Forge Ltd. as reported in 2001 (42) RLT 934 (CEGAT), wherein it has been held that the cost of drawings supplied by the customers need not be included in the assessable value .