

## Treading the GST Path – XVII

### Valuation

#### (G. Natarajan, Advocate, Swamy Associates)

1.0 There are some significant changes in the valuations provisions contained in section 16 of the revised model GST law when compared to the erstwhile model law. .

2.0 The following inclusions, which were part of the old model Act are conspicuously absent in the new model Act.

(b) the value, apportioned as appropriate, of such goods and/or services as are supplied directly or indirectly by the recipient of the supply free of charge or at reduced cost for use in connection with the supply of goods and/or services being valued, to the extent that such value has not been included in the price actually paid or payable;

(c) royalties and licence fees related to the supply of goods and/or services being valued that the recipient of supply must pay, either directly or indirectly, as a condition of the said supply, to the extent that such royalties and fees are not included in the price actually paid or payable.

(g) any reimbursable expenditure or cost incurred by or on behalf of the supplier and charged in relation to the supply of goods and/or services.

3.0 Is omission of the above clause (b) an end of “amortisation”? Under the present Central Excise Valuation Rules, the value of tools, moulds, dies, etc. supplied by the buyer of the goods to the supplier have to be amortised in the value of goods manufactured by using such tools, moulds, dies, etc. on the basis of their life, which often becomes a difficult exercise as it involves estimation of the life of the moulds, dies, etc. It appears that conscious omission of the above provision under the new model Act is intended to end the era of amortisation.

3.1 But, the issue is not completely free from doubt. Current clause (b) of Section 15 (2) (which was clause (a) under old model Act) reads as below.

*(a) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods and/or services.*

3.2 It may be observed that the above provision can cover such supply of tools, moulds and dies by the buyers also. Such tools, moulds and dies have to be bought by the supplier, if not supplied by the buyer. In that view, the same can be covered in the above clause also. It would be better if the legislative wisdom behind these provisions is made clear, to avoid future litigation.

4.0 Any interest, late fee or penalty which is charged for delayed payment of consideration is also included in the value of supply. Any such amounts charged for the delayed payment of price, would become part of the value of the goods / services and appropriate GST shall be payable thereon. It may be noted that claims would be made, after the normal period allowed for making the payment is over. Will there be any interest liability also on the GST payable on such interest / fee / penalty for late payment, by linking it to the due date for payment of duty on the basis of time of supply of such goods?

5.0 While the earlier model Act seeks to include all subsidies linked to the supply in the value of supply, the current model Act, excludes the subsidies provided by the Central Government and State Governments from the value and only other subsidies would be includible in value.

6.0 The old model law, sought to include any reimbursable expenses incurred by the supplier and claimed from the buyer as part of the value, which is absent in the new model Act. One such example could be the freight incurred for despatching the goods upto the buyers' place and claiming reimbursement of such freight. In the absence of any provision to include the same, in the value it appears that there cannot be any levy of GST by considering such freight as part of value of the goods. But, at the same time, undertaking to transport the goods, upto the buyers' place may amount to a supply of service by the seller and would be a "composite supply" of goods and services as defined under Section 2 (27) of the model Act and since the "principal supply" being supply of goods, the GST applicable on goods should be paid for the freight also, as per Section 3 (5) (a).

7.0 Since no new model Valuation Rules have been published now, it can be presumed that the draft Valuation Rules released along with the earlier model Act, still holds good.

(Published in [www.taxindiaonline.com](http://www.taxindiaonline.com) on 16.12.2016)