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THE ROLE OF CMAS IN VALUATION UNDER THE GOODS & SERVICE TAX LAW

In many respects, the Goods and Service Tax legislation (GST) marks a significant transition from the erstwhile indirect tax regime. The major transformation is in the form of having a combined indirect tax levy on goods as well as services. This has posed several challenges for the service sector of which one important aspect has been that of valuation of services when not supplied to independent recipients. In other words, the concept of “related persons” has been introduced for services also.

In the earlier indirect tax regime, the central excise law prescribed the following basis of valuation for sale to related persons.:

1. In terms of Rule 9 of the Central Excise Valuation Rules, 2000, where whole or part of the excisable goods are sold by a person to or through a related person as defined under the central excise law, it was specified that the value of such goods shall be the price at which these are sold by a related person to independent buyers or where such goods are not sold to such buyers, to buyers (being related person) who sells such goods in retail.
2. In the case where the related person does not sell the goods but uses or consumes such goods in the production or manufacture of other articles, the value shall be determined in terms of Rule 8 of the Central Excise Valuation Rules, 2000, that is to say, at one hundred and ten percent of the cost of production or manufacture of such goods.

Cost Accounting Standard 4 (CAS 4) was prescribed as the basis for determining the one hundred and ten percent of the cost of production or manufacture.

Under the GST law, in terms of the Valuation Rules, it

has been specified that the value of supply of goods or services or both between “related persons” or “distinct persons” shall be the open market value of such supply or if such open market value is not available, be the value of supply of goods or service of the like kind and quality and where such values are not determinable. The value shall be one hundred and ten percent of the cost of production or manufacture or the cost of acquisition of such goods or the cost or provision of such services.

The basis of valuation of supply to “related persons” or “distinct persons” under the GST law has therefore been adapted from the central excise law with the added significance of applicability to the valuation of service. The concept of service, by itself, being intangible, the valuation thereof poses a challenge in valuing a service at the cost of provision of service in as much what elements of costs would constitute the cost of provision of service require precise and appropriate determination.

In the interest of revenue, a model of valuation for the supply of goods or services or both between “related persons” or “distinct persons” similar to the one in the central excise law be also adopted in the GST law, particularly keeping in view the aspect that for transactions between “related persons” or “distinct persons,” GST is required to be discharged by the supplier even if no consideration is charged.

The Institute of Cost Accountants of India can play a significant role in determining an appropriate model for correct valuation in line with the general principles of costing, for the supply of goods or services or both between “related persons” or “distinct persons” to minimise the occurrence of undervaluation with the resultant loss of revenue to the exchequer.