SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Source: sooperkanoon.com/act/37090

Central Excise Act, 1944

Section 4 - Valuation of Excisable Goods for Purposes of Charging of Duty of Excise

---

1[4. Valuation of excisable goods for purposes of charging of duty of excise

(1) Where under this Act, the duty of excise is chargeable on any excisable goods with reference to their value, then, on each removal of the goods, such value shall-

(a) in a case where the goods are sold by the assessee, for delivery at the time and place of the removal, the assessee and the buyer of the goods are not related and the price is the sole consideration for the sale, be the transaction value;

(b) in any other case, including the case where the goods are not sold, be the value determined in such manner as may be prescribed.

2[Explanation.-For the removal of doubts, it is hereby declared that the price-cum-duty of the excisable goods sold by the assessee sh all be the price actually paid to hi m for the goods sold and the money value of the additional consideration, if any, flowing directly or indirectly from the buyer to the assessee in connection with the sale of such goods, and such price-cum-duty, excluding sales tax and other taxes, if any, actually paid, sh all be deemed to include the duty payable on such goods.]

(2) The provisions of this section shall not apply in respect of any excisable goods for which a tariff value has been fixed under sub-section (2) of section 3.

(3) For the purposes of this section,-

(a) "assessee" means the person who is liable to pay the duty of excise under this Act and includes his agent;

(b) persons shall be deemed to be "related" if-

(i) they are inter-connected undertakings;

(ii) they are relatives;

(iii) amongst them the buyer is a relative and a distributor of the assessee, or a sub-distributor of such distributor; or

(iv) they are so associated that they have interest, directly or indirectly, in the business of each other.

Explanation .-In this clause-

(i) "inter-connected undertakings" shall have the meaning assigned to it in clause (g) of section 2 of the Monopolies and Restrictive Trade Practices Act, 1969 (64 of 1969); and

(ii) "relative" shall have the meaning assigned to it in clause (41) of section 2 of the Companies Act, 1956 (1 of 1956);

(c) "place of removal" means-

(i) a factory or any other place or premises of production or manufacture of the excisable goods;

(ii) a warehouse or any other place or premises wherein the excisable goods have been permitted to be deposited without3[payment of duty;] from where such goods are removed;

2[(iii) a depot, premises of a consignment agent or any other place or premises from where the excisable goods are to be sold after their clearance from the factory,]

2[(cc) "time of removal", in respect of the excisable goods removed from the place of removal referred to in sub-clause (iii) of clause (c), shall be deemed to be the time at which such goods are cleared from the factory;]

(d) "transaction value" means the prices actually paid or payable for the goods, when sold, and includes in addition to the amount charged as price, any amount that the buyer is liable to pay to, or on behalf of, the assessee, by reason of, or in connection with the sale, whether payable at the time of the sale or at any other time, including, but not limited to, any amount charged for, or to make provision for, advertising or publicity, marketing and selling organization expenses, storage, outward handling, servicing, warranty, commission or any other matter; but does not include the amount of duty of excise, sales tax and other taxes, if any, actually paid or actually payable on such goods.]

---

1. Section 4 substituted by Act 22 of 1973, sec. 2, (w.e.f. 1-10-1975) and again substituted by Act 10 of 2000, section 94 (w.e.f. 1-4-2000).

2. Inserted by Act 32 of 2003, section 136 (w.e.f. 14-5-2003).

3. Substituted by Act 32 of 2003, section 136, for "payment of duty", (w.e.f. 14-5-2003).

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com