



- आयुक्तालय (अपील-1) केंद्रीय उत्पादन शुल्क *
सातमाँ तल, केंद्रीय उत्पाद शुल्क भवन,
पोलिटेकनिक के पास, आमबाबाडि,
अहमदाबाद – 380015.

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : V2(84)/35/Ahd-I/2016-17 14817-4821
Stay Appl.No. NA/2016-17

ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-EXCUS-001-APP-062-2016-17
दिनांक 30.01.2017 जारी करने की तारीख Date of Issue 02/02/2017

श्री उमा शंकर आयुक्त (अपील-1) द्वारा पारित
Passed by Shri. Uma Shanker, Commissioner (Appeal-I)

ग Deputy Commissioner, Div-V केंद्रीय उत्पाद शुल्क, Ahmedabad-I द्वारा जारी मूल आदेश सं
MP/17&18/Dem/2015-16 दिनांक: 3/29/2016, से सृजित

Arising out of Order-in-Original No. MP/17&18/Dem/2015-16 दिनांक: 3/29/2016 issued by Deputy
Commissioner, Div-V Central Excise, Ahmedabad-I

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent

M/s. Anup Engineering Limited
Ahmedabad

कोई व्यक्ति इस अपील आदेश से असंतोष अनुभव करता है तो वह इस आदेश के प्रति यथास्थिति नीचे बताए गए सक्षम अधिकारी को
अपील या पुनरीक्षण आवेदन प्रस्तुत कर सकता है।

Any person aggrieved by this Order-In-Appeal may file an appeal or revision application, as
the one may be against such order, to the appropriate authority in the following way :

भारत सरकार का पुनरीक्षण आवेदन :
Revision application to Government of India :

(1) केंद्रीय उत्पादन शुल्क अधिनियम, 1994 की धारा अतत नीचे बताए गए मामलों के बारे में पूर्वोक्त धारा को उप-धारा के प्रथम परन्तुक
के अंतर्गत पुनरीक्षण आवेदन अधीन सचिव, भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, चौथी मंजिल, जीवन दीप भवन, संसद मार्ग, नई दिल्ली
: 110001 को की जानी चाहिए।

(i) A revision application lies to the Under Secretary, to the Govt. of India, Revision Application Unit
Ministry of Finance, Department of Revenue, 4th Floor, Jeevan Deep Building, Parliament Street, New
Delhi - 110 001 under Section 35EE of the CEA 1944 in respect of the following case; governed by first
proviso to sub-section (1) of Section-35 ibid :

(ii) यदि माल की हानि के मामले में जब ऐसी हानि कारखाने से किसी भण्डागार या अन्य कारखाने में या किसी भण्डागार से दूसरे
भण्डागार में माल ले जाते हुए मार्ग में, या किसी भण्डागार या भण्डार में चाहे वह किसी कारखाने में या किसी भण्डागार में हो माल की प्रकिया के
दौरान हुई हो।

(ii) In case of any loss of goods where the loss occur in transit from a factory to a warehouse or to
another factory or from one warehouse to another during the course of processing of the goods in a
warehouse or in storage whether in a factory or in a warehouse.

(b) In case of rebate of duty of excise on goods exported to any country or territory outside India of
on excisable material used in the manufacture of the goods which are exported to any country
or territory outside India.

(ग) यदि शुल्क का भुगतान किए बिना भारत के बाहर (नेपाल या भूटान को) निर्यात किया गया माल हो।

... 2 ...



(ख) भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित माल पर या माल के विनिर्माण में उपयोग शुल्क कच्चे माल पर उत्पादन शुल्क के रिबेट के मामलों में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित है।

(b) In case of rebate of duty of excise on goods exported to any country or territory outside India of on excisable material used in the manufacture of the goods which are exported to any country or territory outside India.

(ग) यदि शुल्क का भुगतान किए बिना भारत के बाहर (नेपाल या भूटान को) निर्यात किया गया माल हो।

(c) In case of goods exported outside India export to Nepal or Bhutan, without payment of duty.

अंतिम उत्पादन की उत्पादन शुल्क के भुगतान के लिए जो ड्यूटी क्रेडिट मान्य की गई है और ऐसे आदेश जो इस धारा एवं नियम के मुताबिक आयुक्त, अपील के द्वारा पारित वो समय पर या बाद में वित्त अधिनियम (नं.2) 1998 धारा 109 द्वारा नियुक्त किए गए हो।

(d) Credit of any duty allowed to be utilized towards payment of excise duty on final products under the provisions of this Act or the Rules made there under and such order is passed by the Commissioner (Appeals) on or after, the date appointed under Sec.109 of the Finance (No.2) Act, 1998.

(1) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 के नियम 9 के अंतर्गत विनिर्दिष्ट प्रपत्र संख्या इए-8 में दो प्रतियों में, प्रेषित आदेश के प्रति आदेश प्रेषित दिनांक से तीन मास के भीतर मूल-आदेश एवं अपील आदेश की दो-दो प्रतियों के साथ उचित आवेदन किया जाना चाहिए। उसके साथ खाता इ. का मुख्यशीर्ष के अंतर्गत धारा 35-इ में निर्धारित फी के भुगतान के सबूत के साथ टीआर-6 चालान की प्रति भी होनी चाहिए।

The above application shall be made in duplicate in Form No. EA-8 as specified under Rule, 9 of Central Excise (Appeals) Rules, 2001 within 3 months from the date on which the order sought to be appealed against is communicated and shall be accompanied by two copies each of the OIO and Order-in-Appeal. It should also be accompanied by a copy of TR-6 Challan evidencing payment of prescribed fee as prescribed under Section 35-EE of CEA, 1944, under Major Head of Account.

(2) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रुपये या उससे कम हो तो रुपये 200/- फीस भुगतान की जाए और जहाँ संलग्न रकम एक लाख से ज्यादा हो तो 1000/- की फीस भुगतान की जाए।

The revision application shall be accompanied by a fee of Rs.200/- where the amount involved is Rupees One Lac or less and Rs.1,000/- where the amount involved is more than Rupees One Lac.

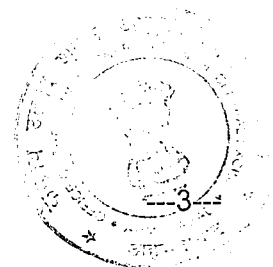
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण के प्रति अपील:-
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35-बी/35-इ के अंतर्गत:-

Under Section 35B/ 35E of CEA, 1944 an appeal lies to :-

(क) वर्गीकरण मूल्यांकन से संबंधित सभी मामले सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण की विशेष पीठिका वेस्ट ब्लॉक नं. 3. आर. के. पुरम, नई दिल्ली को एवं

(a) the special bench of Custom, Excise & Service Tax Appellate Tribunal of West Block No.2, R.K. Puram, New Delhi-1 in all matters relating to classification valuation and.



The appeal to the Appellate Tribunal shall be filed in quadruplicate in form EA-3 as prescribed under Rule 6 of Central Excise(Appeal) Rules, 2001 and shall be accompanied against (one which at least should be accompanied by a fee of Rs.1,000/-, Rs.5,000/- and Rs.10,000/- where amount of duty / penalty / demand / refund is upto 5 Lac, 5 Lac to 50 Lac and above 50 Lac respectively in the form of crossed bank draft in favour of Asstt. Registrar of a branch of any nominate public sector bank of the place where the bench of any nominate public sector bank of the place where the bench of the Tribunal is situated.

- (3) यदि इस आदेश में कई मूल आदेशों का समावेश होता है तो प्रत्येक मूल आदेश के लिए फीस का भुगतान उपर्युक्त ढंग से किया जाना चाहिए इस तथ्य के होते हुए भी कि लिखा पढी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केन्द्रीय सरकार को एक आवेदन किया जाता है।

In case of the order covers a number of order-in-Original, fee for each O.I.O. should be paid in the aforesaid manner notwithstanding the fact that the one appeal to the Appellant Tribunal or the one application to the Central Govt. As the case may be, is filled to avoid scriptoria work if excising Rs. 1 lacs fee of Rs.100/- for each.

- (4) न्यायालय शुल्क अधिनियम 1970 यथा संशोधित की अनुसूची-1 के अंतर्गत निर्धारित किए अनुसार उक्त आवेदन या मूल आदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रति पर रू.6.50 पैसे का न्यायालय शुल्क टिकट लगा होना चाहिए।

One copy of application or O.I.O. as the case may be, and the order of the adjournment authority shall a court fee stamp of Rs.6.50 paise as prescribed under scheduled-I item of the court fee Act, 1975 as amended.

- (5) इन ओर संबंधित मामलों को नियंत्रण करने वाले नियमों की ओर भी ध्यान आकर्षित किया जाता है जो सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (कार्याविधि) नियम, 1982 में निहित है।

Attention is invited to the rules covering these and other related matter contended in the Customs, Excise & Service Tax Appellate Tribunal (Procedure) Rules, 1982.

- (6) सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट), के प्रति अपील के मामले में कर्तव्य मांग (Demand) एवं दंड (Penalty) का 10% पूर्व जमा करना अनिवार्य है। हालांकि, अधिकतम पूर्व जमा 10 करोड़ रुपए है। (Section 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

केन्द्रीय उत्पाद शुल्क और सेवा कर के अंतर्गत, शामिल होगा "कर्तव्य की मांग"(Duty Demanded) -

- (i) (Section) खंड 11D के तहत निर्धारित राशि;
- (ii) लिया गलत सेनवैट क्रेडिट की राशि;
- (iii) सेनवैट क्रेडिट नियमों के नियम 6 के तहत देय राशि.

⇒ यह पूर्व जमा 'लंबित अपील' में पहले पूर्व जमा की तुलना में, अपील दाखिल करने के लिए पूर्व शर्त बना दिया गया है।

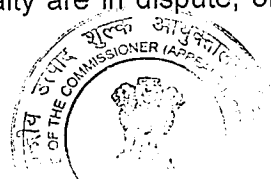
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (Section 35 C (2A) and 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

Under Central Excise and Service Tax, "Duty demanded" shall include:

- (i) amount determined under Section 11 D;
- (ii) amount of erroneous Cenvat Credit taken;
- (iii) amount payable under Rule 6 of the Cenvat Credit Rules.

इस इस आदेश के प्रति अपील प्राधिकरण के समक्ष जहाँ शुल्क अथवा शुल्क या दण्ड विवादित हो तो माँग किए गए शुल्क के 10% भुगतान पर और जहाँ केवल दण्ड विवादित हो तब दण्ड के 10% भुगतान पर की जा सकती है।

In view of above, an appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute."



ORDER-IN-APPEAL

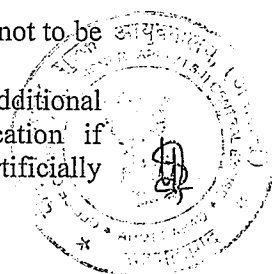
This appeal is filed by M/s. The Anup Engineering Ltd., situated behind 66 KVA Substation, Odhav Road, Odhav, Ahmedabad- 382415 (for short "appellant") against OIO No. MP/17 & 18/Dem/2015-16 dated 29.3.2016 passed by the Deputy Commissioner, Central Excise, Division V, Ahmedabad-I Commissionerate.

2. The facts briefly are that two show cause notices dated 21.09.2015 and 15.01.2016, were issued to the appellant, *inter alia*, seeking inclusion of the additional consideration collected towards *third party inspection charges*, in the transaction value for the period from October 2014 to November 2015; demanding duty on the additional consideration so collected along with interest and further proposing penalty under Rule 25 of the Central Excise Rules, 2002 read with Section 11AC of the Central Excise Act, 1944. This notice was issued in terms of the provisions of section 11A(7A) of the Central Excise Act, 1944. Five notices for the past period have been issued to the appellant on this same issue, based on an audit objection.

3. Vide impugned OIO dated 29.3.2016, supra, the adjudicating authority ordered inclusion of the amount received as additional consideration towards third party inspection charges in the transaction value; confirmed the duty on the additional consideration along with interest and also imposed penalty equivalent to duty under Section 11AC of the Central Excise Act, 1944 read with Rule 25 of the Central Excise Rules, 2002. It is against this order that the present appeal is filed.

4. The grounds raised in the appeal are:-

- the demand is not made on actual recovery but on presumptive basis;
- it has been the consistent stand of the appellant that since they had not charged nor recovered third party inspection charges, the same cannot be included the assessable value on notional basis;
- the buyer undertakes at his own cost and desire, third party inspection, such cost has no relation to manufacture and sale by appellant & cannot form part of assessable value;
- the first reason for inclusion of third party inspection charges into assessable value is that it imparts marketability; that the goods are marketable even without third party inspection; the marketability/sale of the goods does not depend upon third party inspection;
- third party inspection is neither a condition for sale nor has any effect on the manufacturing process undertaken by the appellant;
- the goods are ready for delivery after which inspection is done; thus the goods are marketable even before the inspection;
- that when such inspection is not done by the appellant, the cost of it is not to be borne by the appellant;
- the second ground is that the third party inspection charges are additional consideration is also not correct; this concept may have application if independently such charges were to be incurred by the appellant and artificially such charges were shown as separate and payable by buyer.



5. Personal hearing in the matter was held on 17.01.2017. Shri S. J. Vyas, Advocate, appeared on behalf of the appellant. He reiterated the submissions already advanced in the grounds of appeal. He further relied upon three case laws (i) Lubi Submersibles [2015(317) ELT 299], Johnson Pumps [2010(251) ELT 560] and Lubi Industries LLP [2016(337) ELT 179] and provided the copies of the same.

5. I have gone through the facts of the case, the grounds mentioned in both the appeals and the oral averments, raised during the course of personal hearing. The main issue to be decided is whether as alleged by the department, third party inspection charges would form part of the transaction value, for computing Central Excise duty.

6. The legal/statutory provisions, on which the case revolves, is reproduced below for ease of reference:

CENTRAL EXCISE ACT, 1944

Section [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)....

(3)....

(d) "transaction value" means the price 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.

Central Excise Valuation (Determination Of Price Of Excisable Goods) Rules, 2000

Rule 6. Where the excisable goods are sold in the circumstances specified in clause (a) of sub section (1) of section 4 of the Act except the circumstance where the price is not the sole consideration for sale, the value of such goods shall be deemed to be the aggregate of such transaction value and the amount of money value of any additional consideration flowing directly or indirectly from the buyer to the assessee.

[Provided that where price is not the sole consideration for sale of such excisable goods and they are sold by the assessee at a price less than manufacturing cost and profit, and no additional consideration is flowing directly or indirectly from the buyer to such assessee, the value of such goods shall be deemed to be the transaction value.]

7. I find that the appellant is a manufacturer of large tailor-made machineries like heat exchangers, pressure vessels, etc. used in industries like petroleum refining, pharmaceutical manufacturing, power generation. Buyers had specified in the purchase orders that on completion of the manufacturing process of their machinery, a third party inspection and certification should be carried out, only after which delivery would be taken

and it is on this account that the inspection was organized by the appellant and the payment at the first instance was made by the appellant and thereafter, reimbursed by the buyer.

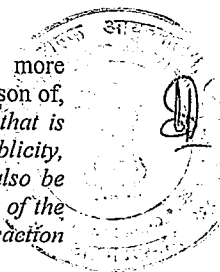
8. Valuation, in respect of manufactured goods, is governed by Section 4 of the Central Excise Act, 1944. In case of sale of goods, wherein delivery is at the time and place of removal and where the buyer and seller are not related and price is the sole consideration of the sale, the value of such goods would be the '*transaction value*'. However, in other cases, resort is to be taken to Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000. Rule 6 of the said rule states that where the price is not the sole consideration for sale, the value of such goods shall be deemed to be the aggregate of such transaction value and the amount of money value of any additional consideration flowing directly or indirectly from the buyer to the assessee.

9. What is significant in such cases is the product in question. The appellant's products viz. heat exchangers, pressure vessels, are used in sensitive industries and hence critical. The buyer, through third party inspection, ensures that the tailor-made product is according to the specification sought and adheres to safety standards. It is not a case wherein the product manufactured is of general nature, produced in mass, not tailor-made wherein the buyers insist on a third party inspection. The difference between a general product and a tailor-made product of such nature also negates the averment raised that even without the third party inspection the goods were marketable/saleable. It is difficult to comprehend the argument that [a hypothetical situation] even if a third party during the course of inspection would not grant a clearance, the product would be saleable. It would not only be difficult to find a new buyer on account of the product being tailor-made, but such sale could also result in mishaps.

10. The appellant has relied on the case laws of (i) Lubi Submersibles [2015(317) ELT 299], and Lubi Industries LLP [2016(337) ELT 179]. In the case of M/s. Lubi Submersibles and Johnson Pumps [2010(251) ELT 560] supra. The Tribunal in the aforementioned two cases, has held that pre-inspection charges incurred at the instance of the buyer, paid to third party and reimbursed from the buyer is not includible in the transaction value. However, I find that in both the cases the goods involved do not appear to be tailor made products like the goods produced by the appellant.

11. CBEC vide Circular dated 12.5.2000, which was issued contemporaneously with the amendment in Section 4, has clarified as follows :

"2.2 Definition of 'transaction value' has also been modified to make it more transparent. Any amount paid by the buyer himself or on his behalf to the assessee by reason of, or in connection with the sale, would form part of the transaction value. *Any amount that is charged or recovered from the buyer on account of factors like advertising or publicity, marketing and selling organization expenses, storage and outward handling etc. will also be part of the transaction value. In fact, most of the charges that are recovered on account of the specific activities by advertising or publicity, etc. mentioned in the definition of transaction*



value are includable in the computation of 'value' under the existing section.

4. As such, the definition of transaction value does not seem to be divergently wider in content and scope from the interpretation of 'value' under existing Section 4. The definition of 'transaction value' should help set at rest any doubt regarding amounts that *are charged or recovered from the buyer in respect of specific kind* of operations done by the assessee. In essence, whatever is recovered from the buyer by reason of, or in connection with the sale, whether payable at the time of sale or at any other time is included in the transaction value.

11.1. Subsequently, Board vide its circular issued from F. No. 354/81/2000-TRU, dated 30-6-2000 which gives clause by clause explanation of the Section, has stated as follows :

"6. ...It may also be noted that where the assessee charges an amount as price for his goods, the amount so charged and paid or payable for the goods will form the assessable value. If, however, in addition to the amount charged as price from the buyer, the assessee also recovers any other amount by reason of sale or in connection with sale, then such amount shall also form part of the transaction value for valuation and assessment purposes. Thus if assessee splits up his pricing system and charges a price for the goods and separately charges for packaging, the packaging charges will also form part of assessable value as it is a charge in connection with production and sale of the goods recovered from the buyer ...

7. It would be seen from the definition of 'transaction value' that any amount which is paid or payable by the buyer to or on behalf of the assessee, on account of the factum of sale of goods, then such amount cannot be claimed to be not part of the transaction value. In other words, if, for example, *an assessee recovers advertising charges or publicity charges from his buyers*, either at the time of sale of goods or even subsequently, the assessee cannot claim that such charges are not includable in the transaction value. The law recognizes such payment to be part of the transaction value that is assessable value for those particular transactions."

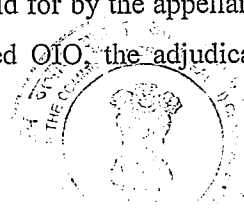
11.2 Further, the Hon'ble Supreme Court in the case of TVS Motors Co. Ltd. [2016(331) ELT 3(SC)] has in the case of addition of pre delivery inspection charges in the transaction value, stated as follows :

10. The position in respect of unamended provision, thus, is very clear. Coming to the amendment in Section 4 of the Act, in the year 2000, it may be noted in the first instance that definition of 'transaction value' as per Section 4(3)(d) is exhaustive and covers within its purview, the price of goods and various other amounts *charged by the assessee* by reason of sale or in connection with sale. This provision reads as follows :

"(d) "transaction value" means the price 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."

11. The expression 'any amount that the buyer is liable to pay to' is of significance. This expression shows that, apart from the price of the goods, the buyer should also be liable to pay an additional amount to the manufacturer/seller. In other words, the sale of the goods would not be made unless the buyer is also to pay an additional amount to the manufacturer, apart from the price of the goods. This is also supported by use of expression 'by reason or' or 'in connection with the sale' of the goods. The expression 'in connection with the sale of the goods' would only mean that but for the payment of the additional amount, the sale of the goods would not take place.

12. The test therefore, is whether the third party inspection charges, sought by the department to be added to the transaction value, is an amount that the buyer is liable to pay to the appellant. The appellant's contention is that it is on the request of the buyer that the inspections were carried out and paid for by the appellant and thereafter reimbursed by the buyer. I find that in the impugned OIO, the adjudicating authority has stated that the

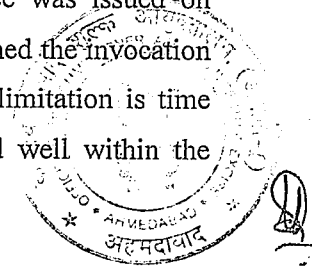


purchase orders had inbuilt condition, which stated that the goods when ready or on completion of manufacturing process, the purchaser will hire the services of a third party inspection agency for inspection of the final products and only on receipt of third party inspection certification, the buyer will take the delivery of the goods. The important element, is not that the buyer pays for the third party inspection charges. Any prudent manufacturer would have collected the third party inspection charges, in case he would have carried out the inspection, whether on the request of the buyer or otherwise. I find that the buyer has only imposed the third party who will carry out the inspection. The goods, being used in sensitive industry, it was incumbent on the buyer to take steps/precautions, to ensure that the goods meet the standards that are required. However, what comes out is that the sale of the goods would not be made unless the third party inspection is carried out on the product. As the sale would not materialize till the third party inspection is done which would make the buyer liable to pay the amount to the manufacturer, I find that the amount so collected is required to be added to the transaction value as additional consideration. Hence, I find that the appellant has collected *third party inspection charges* and has not included it in the assessable value. Hence, the amount so collected is an additional consideration and would fall within the purview of Rule 6 of the Valuation Rules, 2000, supra.

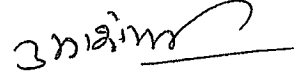
13. The appellant has also raised a plea, both in the appeal papers, that the third party inspection charges computed @ 0.5 % is not based on any documents; that it is based on assumption. Five notices have already been issued, in the matter. In all likelihood, no averments were raised before the original adjudicating authority questioning the computation of third party inspection charges. If the amount computed by the department was based on assumption, the appellant should have come forward with the correct figures as it is an admitted fact that the third party inspection charges have been paid by the appellant and thereafter reimbursed by the buyer. Failure to share the data readily available with them and thereafter questioning the computation methodology adopted by the department, does not help the appellant's case. The argument questioning the computation, therefore, lacks coherence and is therefore rejected.

14. The demand in the impugned OIO pertains to the period from October 2014 to March 2015 for which the show cause notice was issued on 21.9.2015 and for the period from April 2015 to November 2015 for which the show cause notice was issued on 15.1.2016. It is on this factual background that the appellant has questioned the invocation of extended period and argued that the demand beyond the period of limitation is time barred. The argument is factually incorrect as the demand was issued well within the normal period.

15. In view of the foregoing, the appeal is rejected.



16. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।
 16. The appeal filed by the appellant stands disposed of in above terms.



(उमा शंकर)

आयुक्त (अपील्स - I)

Date: 30/01/2017.

Attested



(Vinod Lukose)
 Superintendent (Appeal-I)
 Central Excise, Ahmedabad.

BY R.P.A.D

M/s. The Anup Engineering Ltd.,
 Behind 66 KVA Substation,
 Odhav Road,
 Odhav,
 Ahmedabad- 382 415

Copy to:-

1. The Chief Commissioner, Central Excise Zone, Ahmedabad.
2. The Principal Commissioner, Central Excise, Ahmedabad-I
3. The Addl./Joint Commissioner, (Systems), Central Excise, Ahmedabad-I
4. The Dy. / Asstt. Commissioner, Central Excise, Division- V, Ahmedabad-I
5. Guard file.
6. P.A

