

## **Excise investigation in Auto Sector**

Insights and way forward

February 2019

# Presenters

## Subject matter experts



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# Key issue

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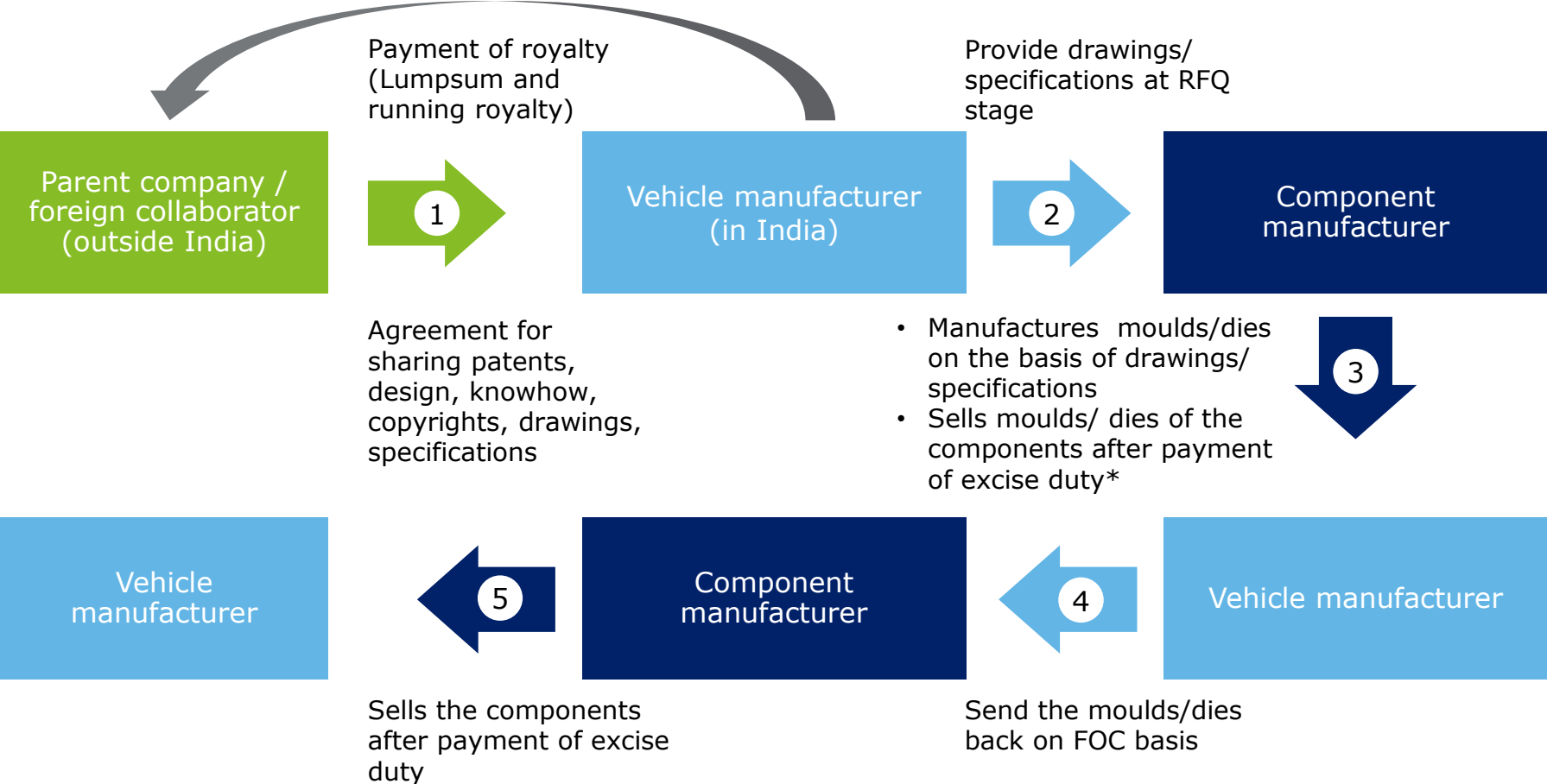
- Recently investigations have been initiated by the Director General of Goods & Service Tax Intelligence ('DGGI') against various components manufacturers alleging under valuation under Central Excise
- The issue is -  
***"whether the value of drawings/ specifications provided free of cost by vehicle manufacturer to component manufacturers should be added to the transaction value of the components for levy of excise duty"***





# Background

# Transaction overview



**Note\*** - Excise duty paid on value of moulds/ dies does not include value of drawings/ specifications

# Allegations

01

Value of the drawings to be added in the cost of moulds/dies (Rule 6 of Excise Valuation Rules)

02

The intention of vehicle and component manufacturer is to suppress the value of moulds/ dies/ components causing short payment of excise duty

03

Extended period of limitation stands invoked as the component manufacturer deliberately declared the incorrect assessable value

04

Value of the drawings will be determined based on both running and lumpsum royalty paid to foreign collaborator by vehicle manufacturer



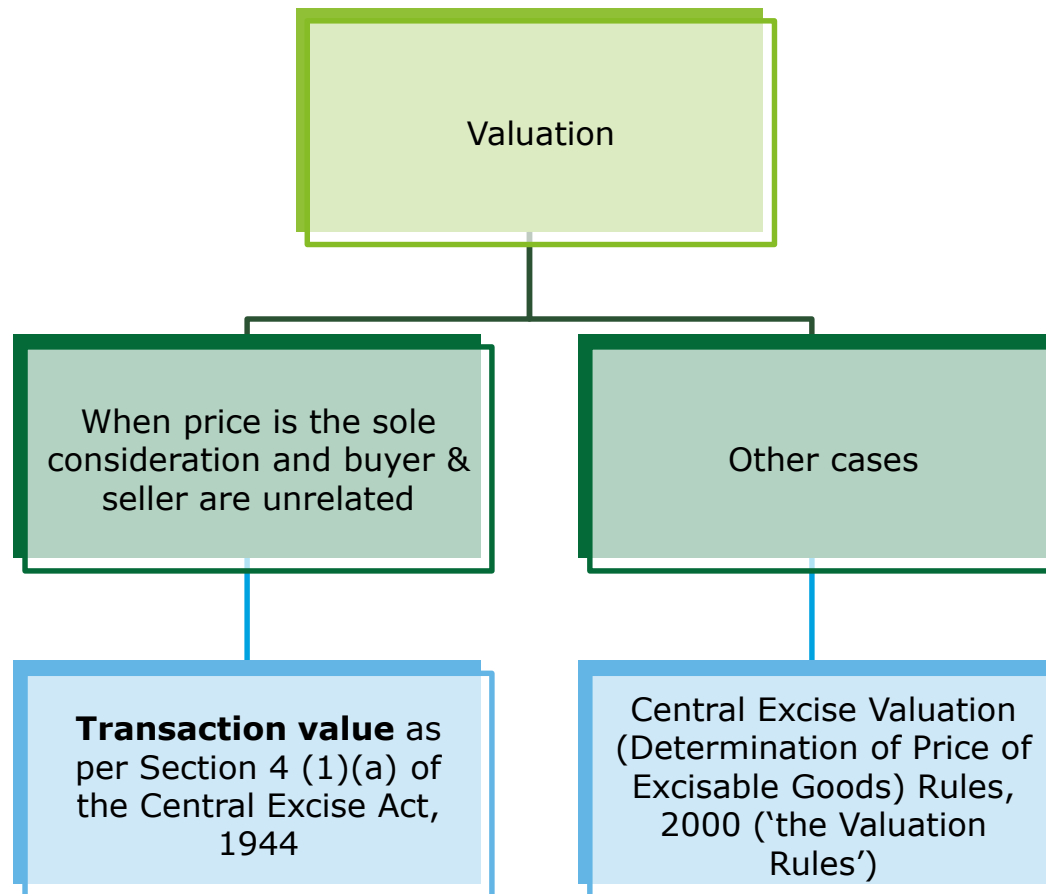


# Legal provisions



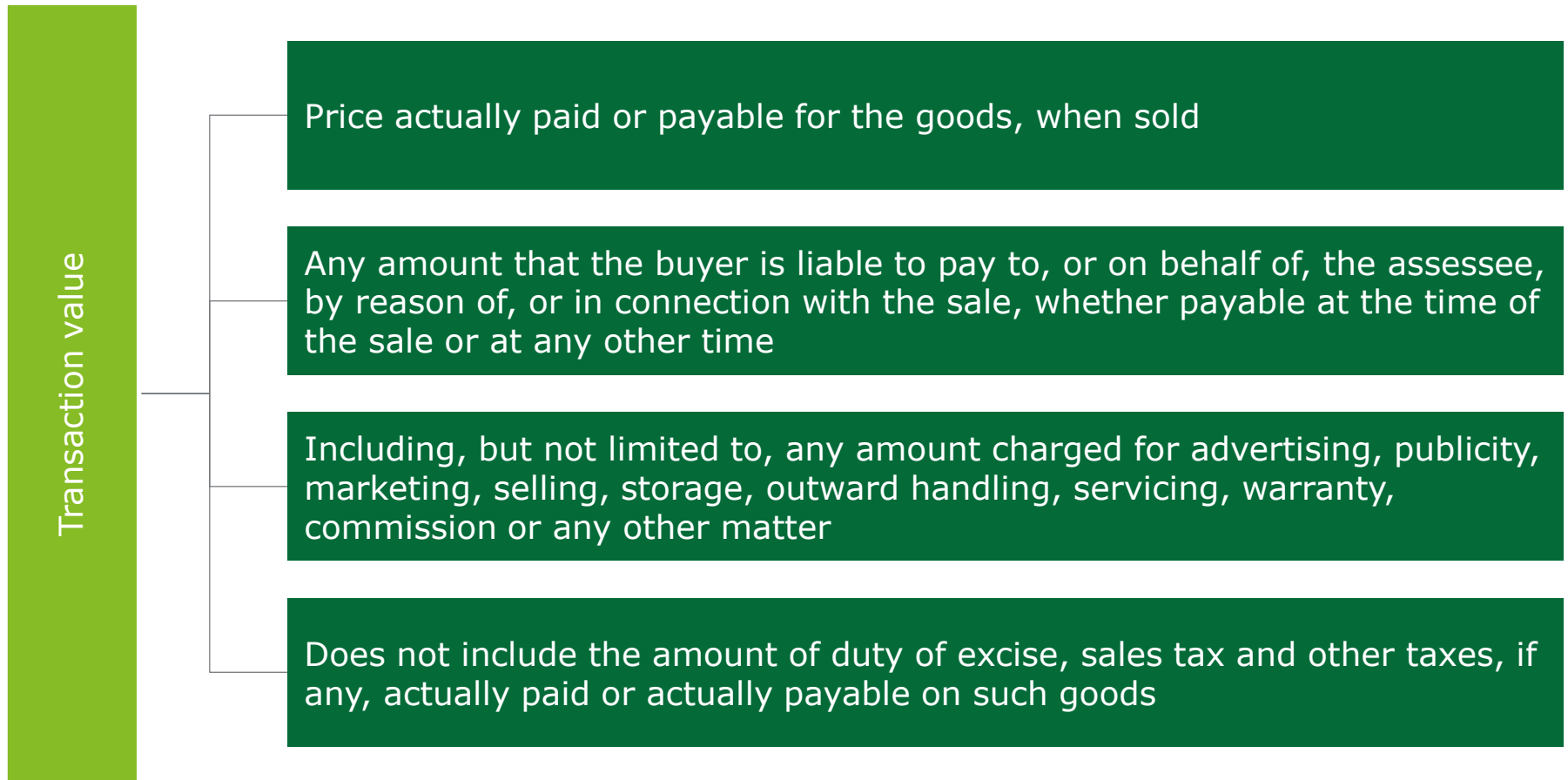
# Legal provisions

How to determine the assessable value?



# Legal provisions

What is transaction value under central excise laws?



# Legal provisions

When price is not the sole consideration – Valuation rules

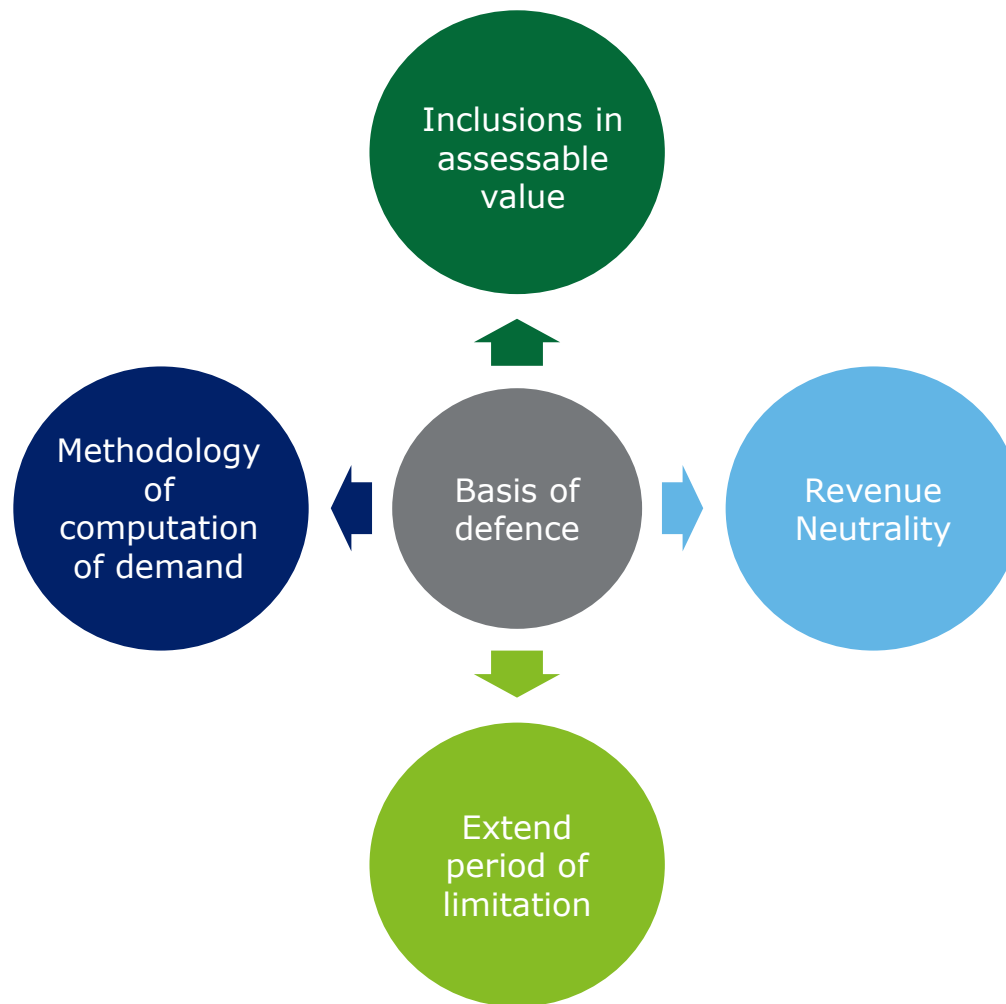


\*Only relevant for subject matter. For detailed rules, refer the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000



# Judicial precedents

# Judicial precedents



# Judicial ground – Inclusions in assessable value\*

Commissioner v. Mysore Kirloskar Ltd.  
(Supreme Court of India)

Value of drawing and designing charges to be added in the assessable value however, nexus of considerations with the negotiated price of the assessable goods under clearance need to be established

Commissioner of Central Excise,  
Jamshedpur v. Tata Motors  
(Tribunal - Kolkata)

Value of design and drawing is includible in transaction value

\*Inclusion or otherwise of the drawing and design charges in the assessable value will depend on the facts of each case

# Judicial ground – Methodology of computation of demand

Bachmaan Inds. v. Commissioner of Central Excise, Delhi  
(Tribunal - Chandigarh)

Royalty paid by customers to their foreign collaborators for using their goodwill in connection with the marketing and sale of products is not includible in the assessable value

# Judicial ground – Revenue neutrality

Demand is not sustainable on account of revenue neutrality

Commissioner of C. EX.,  
Pune v. Coca-cola India  
Pvt. Ltd. (Supreme Court)

Commissioner Vs Anglo  
French (Supreme Court)

Commissioner v. Indeos  
ABS Ltd. (High Court -  
Gujarat)



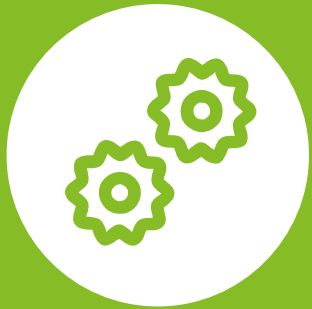
# Judicial ground – Extended period of limitation

Larsen & Toubro Ltd. v.  
Commissioner of Central  
Excise, Chennai (Tribunal  
Chennai)

Commissioner v. Motherson  
Sumi Systems Ltd.  
(Supreme Court)

Commissioner of Central  
Excise, Jamshedpur v. Tata  
Motors (Tribunal - Kolkata)

- No evidence of suppression of facts with intention to evade duty
- If appellant had paid duty, CENVAT credit would have been availed by principal manufacturer
- Extended period of limitation not invocable.



# Key points for consideration

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Prevalent trade practice

Is your product proprietary or standard?

Is royalty paid by vehicle manufacturer to foreign collaborator the correct base to determine the cost of the drawings?

Whether risk and reward of the design of components remain with the components manufacturer?

Whether Department has raised any issue on such transactions in past?

What is the scope of services under License/royalty agreements?

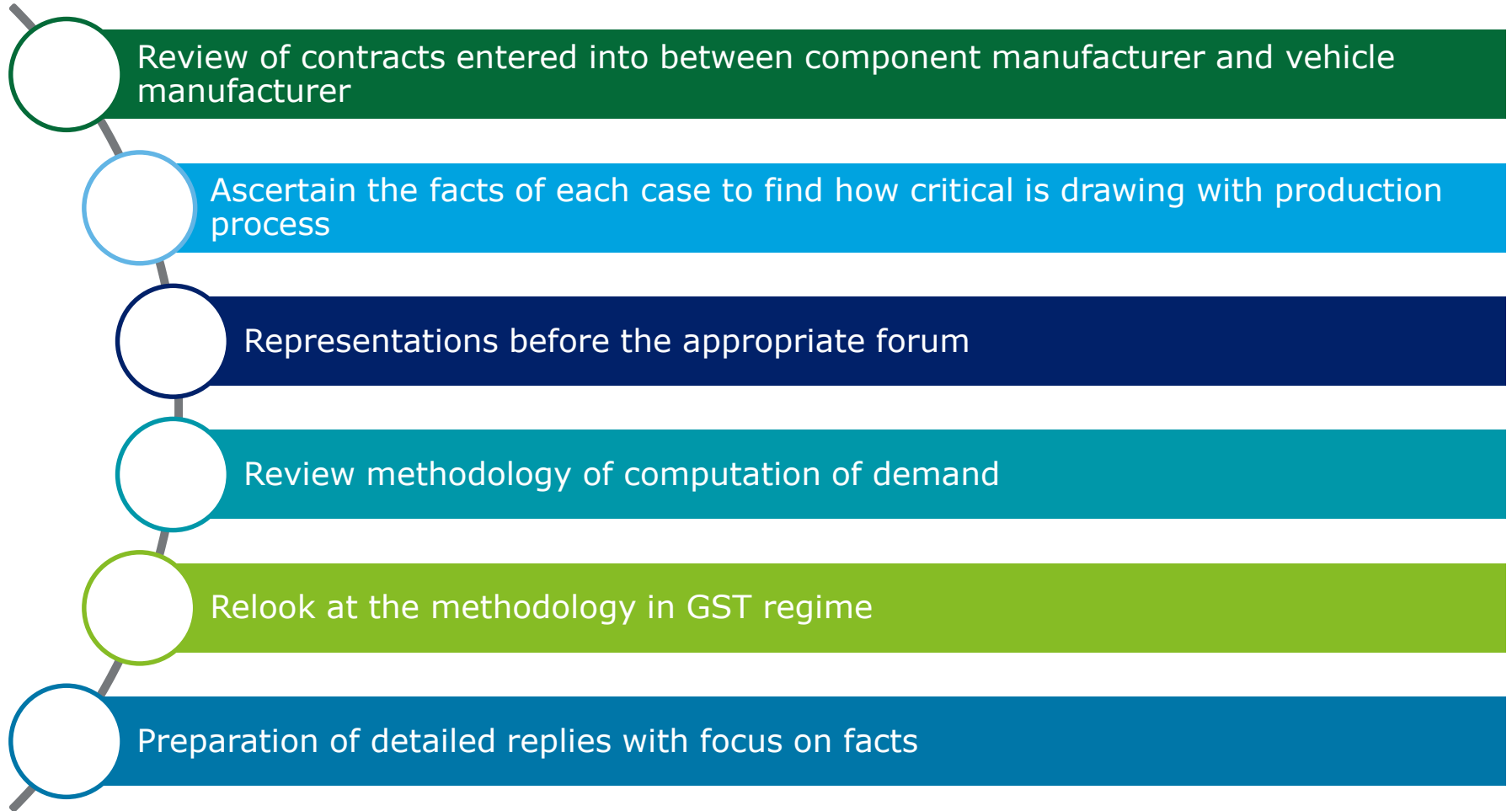
Does the component manufacturer get only broad specifications or detailed drawings?

\*In deciding this case on merits, facts of the transaction will play a crucial role



# Way forward

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