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A VIEW ON PRE-REQUISITE FOR ACCEPTANCE OF VALUATION ASSIGNMENT (PRE-ENGAGEMENT PHASE)

A quote from a Supreme Court judgement on Valuation in Duncans Industries Ltd. v. State of U.P

“The question of valuation is basically a question of fact and this Court (Supreme Court of India) is normally reluctant to interfere with the finding on such a question of fact if it is based on relevant material on record”

Valuation exercise involves the services of a professional i.e. a Valuer. Valuer is engaged by the clients for the specific purpose of Valuation assignment. This assignment or engagement of Valuer for Valuation has three phases:

1. Pre-engagement
2. Execution
3. Closure

At pre-engagement stage, certain requisites are advised to be visited which broadly involves:-

- Selection of Valuer for assignment by the client considering in terms of his competency, integrity, reliability and responsivity.
- Providing sufficient information and data as required by the Valuer.
- Finalising scope of works, time-lines, and fees along with other conditions with the Valuer.

At this stage, Valuer is required to observe utmost caution and obtain & evaluate information and documents for the purpose of:-

- 01** Observing any conflict of interest relating to client and the property.
- 02** Defining scope of works including client's requirements, extracting maximum information from the client.
- 03** Self deliberation of competency to deliver the assignment and that too in time given in terms of qualification, experience, and resources.
- 04** Assessing the threats and risk in undertaking the assignment which may arise due to client's legal and financial integrity including the ability to pay Valuer's fees etc.

It is vital that valuer identifies and obtain necessary consents from client regarding confidential information. The means of communication between a Valuer and the client becomes very important, where the Valuer's accessibility is unquestionable. It is rather in the interest of both the parties to establish and formalize the means of communication, so that any information shared becomes documentable. The following may be some of the decisive factors for accepting or declining the valuation assignments:

- Conduct, background check of the clients.
- Valuation subject and counter parties to assess assignment risk
- Financial and reputation risk
- Any potential impairment to the Valuer's brand by associating with the engaging client, valuation subject or counter parties.
- Any independence issues
- Perceived conflict of interest
- Time limitation
- Absence of reliable information to complete the assignment
- Fee contingent on the valuation outcome.
- Capacity limitation.

The acceptance of the valuation assignment may be based on the outcomes of the above mentioned criteria, but not limiting. A valuation opinion is time, situation and purpose specific, the same entity when valued at another time, in another situation or another purpose may potentially have a different value.

When valuing an asset, the valuer shall take all necessary precautions to ensure that there exists no direct or indirect interest to him or his company, relatives, friends or partners in the subject asset. Indirect interest includes all that is affected by the valuation of the subject asset. When such conflict exists, it shall be disclosed.

The valuer must handle client's affairs with precaution and confidentiality. He shall not disclose any sensitive factual data obtained from the client, or assignment outcomes reached in the client's favour to any person or third party, until and unless required by the authorities.

A valuer may be forced to use the technical expertise of a specialized person in a certain aspect of the valuation or hire the services of a peer, as well as rely on public information or data provided by third parties such as data vendors. The valuer must agree with the client at the outset about his intention to employ the services of such experts. It is thus crucial that the valuer carefully selects a reputable and appropriately qualified expert and take full responsibility for his services.

The bidding process of authorities, desirous of taking valuer's opinion, may require pre bid assertion for inclusion of certain missing requisites. The above description of the pre-engagement phase is an opinion, which is general in nature for the purpose of information to the intended user and may vary and include asset specific issues.

