

# Bimal Jain

FCA, FCS, LLB, B.Com (Hons)

Dear Professional Colleagues,

## Cash discounts deductible while determining Transaction value of excisable goods

We are sharing with you an important judgement of the Hon'ble Supreme Court in the case of *Purolator India Ltd. Vs. Commissioner of Central Excise, Delhi – III [2015 (8) TMI 1014 - SUPREME COURT]* on the following issue:

### Issue:

**Whether the Cash discounts offered by manufacturer of excisable goods are allowed as deduction while determining value of excisable goods on the basis of Transaction value?**

### Facts & Background:

Purolator India Ltd. (“**the Appellant**”) is engaged in the manufacture of excisable goods, namely Filter Elements, Inserts, and Cartridges and Components. These goods are either cleared by the Appellant to various vehicle manufacturers or stock transferred to depots from where they are further stock transferred to clearing and forwarding agents.

For effecting stock transfers, the Appellant filed declarations under Rule 173C of the erstwhile Central Excise Rules, 1944 with the Excise Department. In these declarations, the Appellant claimed deduction towards Cash discount on Excise duty payable to arrive at the assessable value under Section 4 of the erstwhile Central Excise and Salt Act, 1944 (“**the Excise Act**”).

The Department alleged that the Appellant is not eligible for the deduction claimed on account of Cash discount. Later on, the Ld. Commissioner relying upon the decision in the case of *Commissioner of Central Excise, Jaipur-II Vs. Super Syntex (India) Ltd. and Ors. [2014 (301) ELT 273 (SC)]* (“**Syntex Case**”), dropped the duty demand on the issue of Cash discount for the period prior to July, 2000. However, on the remaining issues, the Commissioner confirmed duty demand of Rs. 44,66,247/- with equivalent penalty on the ground that the introduction of ‘Transaction value’ into Section 4 of the Excise Act as amended in 2000 makes a world of difference and that therefore only what is ‘actually paid’ ultimately is to be looked at for the purpose of valuation of the Appellant’s goods.

Thereafter, the Tribunal upheld the decision of the Ld. Commissioner. Being aggrieved, the Appellant preferred an appeal before the Hon'ble Supreme Court.

### Held:

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The Hon'ble Supreme Court relying upon the decision in the case of ***Union of India Vs. Bombay Tyre International Limited [1984 (17) ELT 329 (SC)]*** and ***Government of India Vs. Madras Rubber Factory Ltd. [1995 (77) ELT 433 (SC)]*** held as under:

- Section 4 of the Excise Act as amended introduces the concept of 'Transaction value' so that on each removal of excisable goods, the 'Transaction value' of such goods becomes determinable. Whereas previously, the value of such excisable goods was the price at which such goods were ordinarily sold in the course of wholesale trade, post amendment each transaction is looked at by itself;
- 'Transaction value' as defined in Section 4 of the Excise Act has to be read along with the expression "for delivery at the time and place of removal";
- It is therefore clear that what is paramount is that the value of the excisable goods even on the basis of 'Transaction value' has only to be at the time of removal, that is, the time of clearance of the goods from the Appellant's factory or depot as the case may be;
- The basis of 'Transaction value' is therefore the agreed contractual price;
- Cash discount is something which is 'known' at or prior to the clearance of the goods, being contained in the Agreement of sale between the assessee and its buyers, and must therefore be deducted from the sale price in order to arrive at the value of excisable goods "at the time of removal".
- In Synotex case, this Court did not deal with Section 4(1)(a) of the Excise Act as amended in the year 2000 insofar as it speaks of delivery of goods at the time and place of removal. This judgment does not in any manner deviate from the settled legal position so far as Cash discounts are concerned.

Thus, the Hon'ble Supreme Court decided the matter in favour of the Appellant by allowing deduction of Cash discount from Transaction value.

*Hope the information will assist you in your Professional endeavours. In case of any query/information, please do not hesitate to write back to us.*

Thanks & Best Regards,

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