

Bimal Jain

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

- [Interest earned on deposits received by assessee from customers does not form part of assessable value where prices of goods are market driven and not determined on cost plus basis](#)

Commissioner of Central Excise, Delhi – III Vs. Hero Honda Motors Ltd. [2015 (64) taxmann.com 270 (SC)]

Facts:

Hero Honda Motors Ltd. (“**the Respondent**”) was engaged in the manufacturing of motorcycles and has been paying the Excise duty at ad valorem basis. The Department has alleged that the Respondent had not declared correct value of motorcycles in price lists as the Respondent was taking a deposit of Rs. 500 per motorcycle at the time of booking of motorcycle from the customers and that deposit was an additional consideration.

Period Involved: Year 1985-86 to 1990-91

Held:

The Hon’ble Supreme Court after considering every aspect of the issue examined by the Tribunal has observed that the price of motorcycle manufactured by the Respondent were market driven and the Respondent did not follow cost of production plus reasonable profit pricing policy. Hence, deposit was not a relevant factor in pricing and thereby, any income in the form of interest, etc., arising from the use of deposit amount will not form part of the excisable value.

- [Excise duty not to be paid on transportation charges which are borne by buyers](#)

The Paper Products Ltd. Vs. CCE, Mumbai-III [2016-TIOL-73-CESTAT-MUM]

Facts:

The Paper Products Ltd. (“**the Appellant**”) was engaged in the manufacture of paper products, mainly packaging products. The transportation has been arranged by the Appellant on buyers' request and recovered from buyer through debit notes as it was separately mentioned in the purchase order that the freight and insurance are to the account of the buyer. However, the Department alleged that because delivery is not made at the factory gate, valuation is to be done as per the provisions of Section 4(1)(b) of the Excise Act read with Rule 5 of the Excise Valuation Rules (i.e. delivery at a place other than the place of removal). Thus, recovery of the transportation and insurance charges, which were not shown separately in the invoice is leviable to Excise duty in terms of Rule 5 of the Excise Valuation Rules.

Held:

Bimal Jain

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

The Hon'ble CESTAT, Mumbai relied upon the following cases:

- ***Commissioner of Central Excise, Nashik Vs. Garware Enterprises Ltd. [2014 (301) ELT 349 (Tri. - Mumbai)];***
- ***Commissioner of Central Excise, Nashik Vs. General Metallisers Ltd. [2014 (300) ELT 534 (Tri.-Mumbai)];***
- ***Commissioner of Central Excise, Nashik Vs. Techno Force (I) Pvt. Ltd. [2014 (310) ELT 951 (Tri. - Mumbai). = 2014-TIOL-1943-CESTAT-MUM];***
- ***Goodyear India Ltd. Vs. Commissioner of Central Excise Delhi-IV [2014 (301) ELT 410 (Tri.-Del)].***

and held that when freight charges are to the buyer's account, merely because these are not mentioned separately is no reason to conclude that sale is not complete at the factory gate. Further, transport charges recovered from buyer through debit notes cannot be a ground for denying substantial benefit under the law laid down in Section 4 of the Excise Act. Therefore, as per the provisions laid down, duty is not required to be paid on the transportation charges which are borne by the buyers.

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,

Bimal Jain

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

[Author of a book on GST, titled, "GOODS AND SERVICES TAX – INTRODUCTION AND WAY FORWARD" \(1st Edition\)](#)

A2Z TAXCORP LLP

Tax and Law Practitioners

Delhi:

Flat No. 34B, Ground Floor,

Pocket – 1, Mayur Vihar Phase-1

Delhi – 110091 (India)

Tel: +91 11 22757595/ 42427056

Allahabad:

B2-3/4-31 Sarojani Apartments

Mobile : +91 9810604563 ; E-mail : bimaljain@hotmail.com

Bimal Jain

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

Sarojani Naidu Marg
Allahabad - 211001

Chandigarh:

H. No. 908, Sector 12-A,
Panchkula, Haryana – 134115

Kolkata:

Ist Floor, 10 R G Kar Road
Shyambazar, Kolkata – 700 004

Email: bimaljain@hotmail.com

Web: www.a2taxcorp.com

LinkedIn: <https://in.linkedin.com/pub/bimal-jain/14/601/4b4>

Face book: <https://facebook.com/bimal.jain.90>

Twitter: <https://twitter.com/JainTax>

YouTube: <https://www.youtube.com/channel/UCp0tT5ShjB4KHJRSIPc3t5w>

Disclaimer: *The contents of this document are solely for informational purpose. It does not constitute professional advice or recommendation of firm. Neither the authors nor firm and its affiliates accepts any liabilities for any loss or damage of any kind arising out of any information in this document nor for any actions taken in reliance thereon.*

Readers are advised to consult the professional for understanding applicability of this newsletter in the respective scenarios. While due care has been taken in preparing this document, the existence of mistakes and omissions herein is not ruled out. No part of this document should be distributed or copied (except for personal, non-commercial use) without our written permission.