

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 2326/2005

COMMISSIONER OF CENTRAL EXCISE, JAIPUR

Appellant(s)

VERSUS

M/S. NATIONAL ENGG. INDUSTRIES

Respondent(s)

(with appln. (s) for ex-parte stay and permission to place addl. documents on record and office report)

WITH

C.A. No. 5700/2005

(With Office Report)

Date : 07/05/2015 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Appellant(s) Mr. Jaideep Gupta, Sr. Adv.  
Ms. Binu Tamta, Adv.  
Mr. Rupesh Kumar, Adv.  
Ms. Sushma Manchanda, Adv.  
Mr. B. Krishna Prasad, Adv.

For Respondent(s) Ms. Meenakshi Arora, Sr. Adv.  
Mr. Rahul Narayan, Adv.  
Mr. Mohit Singh, Adv.  
Ms. Vandana Gogna, Adv.  
Ms. Mahima Sareen, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

The appeals are disposed of in terms of the signed order.

(SUMAN WADHWA)

AR-cum-PS

(SUMAN JAIN)

COURT MASTER

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2326 OF 2005

Commnr. Of Central Excise, Jaipur Appellant(s)

VERSUS

M/s. National Engg. Industries Respondent(s)

WITH

CIVIL APPEAL NO. 5700 OF 2005

O R D E R

The respondent assessee is engaged in the manufacture of Ball and Taper-Rollers Bearings falling under Chapter Heading no.84.82 of the Schedule to the Central Excise Tariff Act, 1985. It had availed sales tax benefits in the sense that the sales tax was paid at concessional rates under the sales tax incentive scheme which was floated by the State of Rajasthan. The question arose as to whether the benefit of sales tax which was availed by the respondent would be included while fixing the value of the product for the purpose of payment of excise duty. This issue squarely stands covered by the judgment of this Court in Commissioner of Central Excise, Jaipur-II vs Super Synotex India Limited 2014 (301) ELT 273 SC. In that case this Court has taken the view that assessee would be entitled to claim deductions towards sales tax from the assessable value of the sales tax which is retained by the assessee. The

Court also pointed out that this position had changed after the amendment in Section 4 w.e.f. 1.7.2000 and in arriving 'transaction value' said sales tax benefit which was retained by the assessee, would be included while fixing the 'transaction value'. Counsel for both the parties would not dispute that the matter is covered by the aforesaid judgment.

In these appeals the period involved is from 1st April 1998 to 31<sup>st</sup> March, 2002. Thus, insofar as the period up to 1.7.2000 is concerned, case has to be decided in favour of the assessee and for the period from 1.7.2000 the benefit availed under the sales tax has to be included while arriving at the transaction value.

The appeals are disposed of in the aforesaid manner with direction to the assessing authority to compute the transaction value in the manner above.

In the aforesaid facts and also going by the ratio of Super Synotax insofar as penalty is concerned, the same is set aside.

.....J.  
(A.K.SIKRI)

.....J.  
(ROHINTON FALI NARIMAN)

New Delhi;  
Date: 7.5.2015.