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C.A.No. 3548-3549 OF 2000  
.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp  
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ITEM NO.116 COURT NO. 1 SECTION III

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Civil Appeal Nos.3548-3549/2000 @@  
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Commnr. of Central Excise, Chennai Appellant (s)

VERSUS

Hindustan Lever Ltd. Respondent (s)  
(With office report)

Date : 04/04/2002 This appeal was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE N. SANTOSH HEGDE  
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For Appellant (s) Mr. Soli J.Sorabjee, A.G.  
Mrs. Nisha Bagchi, Adv.  
Mr. B.K. Prasad, Adv.

For Respondent (s) Mr. S. Ganesh, Sr.Adv.  
Ms. Sonu Bhatnagar, Adv.  
Ms. Vandana Chugh, Adv.  
Ms. Puja Sharma, Adv.  
Mr. Ranjan Narain, Adv.

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

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Heard Mrs.Nisha Bagchi, learned counsel appearing for  
the appellants, and Mr.Ganesh, learned counsel appearing for  
the respondents, for about half an hour.  
The appeal is ordered in terms of the signed order.  
No order as to costs.

.SP1 (N. Annapurna) (Shelly Sengupta)  
Court Master Court Master

(Signed order is placed on the file.)

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IN THE SUPREME COURT OF INDIA@@  
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CIVIL APPELLATE JURISDICTION@@

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CIVIL APPEAL NOS.3548-3549 OF 2000@@  
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Commnr. of Central Excise, Chennai ...Appellant(s)

versus

Hindustan Lever Ltd. ...Respondent(s)

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The appeals are pressed by the Revenue only insofar as they relate to quantity discount and free units.

Quantity discount, to put it simply, works thus: a dealer receives from the assessee a stated extra quantity if he buys a certain other quantity. That this will happen is known and agreed at the time the transaction is entered into. It is, therefore, a trade discount and the authorities below have correctly allowed it as such.

Insofar as free units are concerned, it seems to us that the factual position needs to be ascertained.

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How and when free units are given by the assessee to authorised dealers as replacements for damaged stock has not been sufficiently explained. It is, therefore, necessary to remand the matter to the assessing authority in this regard and give liberty to the assessee and the Revenue to place before it further evidence. To effectuate this, the order of the Tribunal, to the extent that it relates to free units, needs to be set aside.

Order on the appeals accordingly.

No order as to costs.

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.....CJI.@@  
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.....J.@@  
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(N. SANTOSH HEGDE) @@  
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.....J.@@  
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(D.M. DHARMADHIKARI)@@  
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New Delhi, @@

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April 04, 2002. @@

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