

## Government looks to maximize excise collection

Government has dashed off excise recovery notices worth several hundred crores of rupees to scores of manufacturing entities, mainly in the automobile sector, and is eyeing many other industries, following a Supreme Court order in a central excise dispute with Fiat India.

The tax department's move, which includes sending cost auditors to several companies, comes against companies that sold goods at a discount. Even cola companies are said to be on the radar as the government is trying to maximize tax collections to bridge the fiscal deficit.

The rush to collect tax follows an order by the apex court a few months ago in a dispute involving central excise and Fiat India where the tax department had argued that the car company should pay duty on the "normal value" of the car or the price at which the car is usually manufactured instead of the discounted price. Fiat was selling cars to distributors at a price which was lower than the production cost to "penetrate the market". The court ruled in favour of the tax department and said the commercial cost of manufacturing the cars was not being reflected in the assessable value and, therefore, it cannot be accepted as the "normal price".

The court ruling covers the period starting 2007 until the time the government introduced concept of transaction value, which is the price actually paid for the goods and includes any amount liable to be paid by the buyer to the company. While several car makers - including Tata Motors **BSE -1.93 %** and Mahindra & Mahindra - have already been approached by the excise department, officials said the order would apply to the entire manufacturing sector. "There is no problem wherever there is MRP-based sales. But in case there is a discount involved, then we will have to look at it," said a commissioner-rank officer. Tax consultants too said that the ruling is being applied to the entire manufacturing sector.

When contacted, several auto companies, including Mahindra & Mahindra, confirmed that the tax department had approached them to recover additional taxes. "Requested data in respect of this matter has been furnished," a spokesperson for M&M said. Auto industry lobby Society of Indian Automobile Manufacturers (Siam) has raised the matter with the finance ministry, while expressing reservations over the move. "This may lead to a lot of hardships, and may increase litigation. The auto industry has already made a representation to the government, and we are in favour of the transaction value method as the basis for working out the excise duty. This is mainly the cost at which a vehicle is billed to the dealer," said Shekar Viswanathan, vice chairman (external affairs) at Toyota Kirloskar Motor, who is also leading the Siam committee on indirect taxes.

Viswanathan said the new rule also seeks to find out the profit margins on a model, and for all this the excise department is in the process of appointing cost auditors to look into internal workings of companies. "We fear that this might compromise competitiveness of individual companies as internal cost data holds sensitive details. The government should bring about an Ordinance or a clarification in the Budget to have clarity on the matter."

M&M also expressed uncertainty over the move. "We do not know yet what view the excise dept will take in this regard and hence cannot comment on fairness of it. So far the excise assessment was very straight-forward because it was done on the basis of invoice, so there was no ambiguity. If the excise is levied on the basis of cost, reams of data will have to be shared and yet there will be no clarity on which cost is allocated to which vehicle and in what proportion because all costs are not direct costs," the company spokesperson said.

Among the cola players, **Coca-Cola** did not respond to a questionnaire, while **Pepsi** said it had not received a communication from the tax department. "We have not received any communication from the excise department in the said matter and hence will not be able to comment. However, we would like to reiterate that PepsiCo as a responsible corporate citizen adheres to all Indian laws and regulations including **taxation**," a PepsiCo India spokesperson said.

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