

No Tax Breaks on Discounted Sales

The message from the taxman is clear: Just because times are tough and companies are selling their products at a discount does not mean the Government will let go of its rightful share.

However, the authorities have made it clear that no manufacturing unit, including an auto maker, will be picked upon in an arbitrary manner, especially after the Supreme Court ruled in the Revenue Department's favour in the matter.

Car-maker Fiat had challenged the Revenue Department levying excise duty on its official ex-factory price, even though the discounted sale price was lower. The apex court upheld the Department's view of levying excise duty on the manufactured cost and not at the discounted sale price.

The Central Board of Excise and Customs (CBEC), the policy making body on indirect taxes such as Customs/excise duties and service tax, called a meeting of Chief Commissioners to discuss the implementation of the court verdict. The meeting was chaired by CBEC chairperson Pravin Mahajan and attended by Chief Excise Commissioners of various regions.

"The Government has apparently decided not to amend the law so no relief is possible. However, a group of Chief Commissioners have been formed to prepare a set of guidelines on this issue," a senior government official disclosed. It has also been agreed upon that matters similar to the Fiat case will be taken up for further action only after proper enquiry and inspection, he informed.

"The message is clear — 'do not harass any one'," he said. This move is significant as post the Supreme Court verdict revenue authorities issued show-cause notices to a number of auto-makers, asking them to pay additional duty, as computation was done on the basis of discounted price.

In fact, the authorities have also started using this verdict for companies producing consumer goods such as TV sets and refrigerators, which sell their products at discounted prices to beat competition.

FIAT CASE

The apex court had in the Fiat India case ruled that the car manufacturer had to fork out excise on the basis of cost of production plus a notional mark-up. Fiat India had paid excise on the sale price charged from distributors for the complete/semi-knocked down kits of Uno cars. This sale price was below the production cost.

The tax authorities rejected the price declared by Fiat and demanded payment of excise on a value including the cost of production along with reasonable profits. The apex court later upheld the contention of the tax authorities. There was apprehension among industry that the apex court judgment may usher in an element of subjectivity in excise valuation.

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