



NITYA'S INSIGHT

Judgment update | Rebate of automobile cess eligible as of duty of excise

July 14, 2015

Dear Reader,

This is to update you on a recent ruling of the Karnataka High Court in the case of TVS Motor Co. Ltd. vs UOI. In this judgment, the Karnataka High Court held that rebate on Automobile cess (including education cess and secondary and higher education cess) could be claimed under Section 11B of the Central Excise Act, 1944 ('the Act').

In this case, the assessee was engaged in manufacture of two wheelers and had cleared the goods upon payment of the excise duty and had thereafter exported the consignments. Subsequently, the assessee claimed rebate of the excise duty paid (including Automobile cess). The rebate claim attributable to Automobile cess was disallowed by the Authorities on ground that Automobile cess did not find mention in definition of the term 'duty' as provided in Explanation 1 of Notification No. 19/2004 (NT) ('Rebate Notification') read with Rule 18 of the Central Excise Rules, 2002.

The High Court observed that the term 'duty of excise' would invariably include cesses leviable under various Acts which were subject to the machinery provisions of the Act and the rules thereunder. The court referred Section 2A of the Act and observed that terms 'Duty of Excise' and 'Duties of Excise' were used interchangeably and also included within its ambit cesses levied as duty of excise. Furthermore, the Court mentioned that Rule 3 of Automobile Cess Rules, 1984 provides that the provisions of the Act and the rules thereunder including those relating to refund of duty shall apply on Automobile cess. It was therefore held that Automobile cess was statutorily levied as 'Duty of Excise' along with excise duty, and the assessee was eligible to claim rebate of the Automobile cess paid, even though it did not specifically find mention in the Rebate Notification.

We hope that you will find this update useful. For any clarification, please feel free to revert.

Regards,

Team NITYA



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