



## NITYA'S INSIGHT

*Excise Alert | Supreme Court judgment holding differential excise duty not payable on account of retrospective price increase*

October 14, 2015

Dear Reader,

This is to update you on a recent ruling of the Supreme Court in the case of ***Hitkari Fibres Limited***.

In this case, the assessee was supplying non-woven carpets to Maruti Udyog Ltd. On clearance of goods, the assessee paid excise duty on the sale price. The assessee received additional amount on account of retrospective price escalation for the period 1996-97 to 2000-01. The department demanded differential duty from the assessee relying on the decision of Supreme Court in the case of ***International Auto Limited***.

The Supreme Court held that no additional excise duty shall be payable on the additional amount received by the assessee. The Court observed that the decision of ***International Auto Limited*** relied upon by the department will not be applicable in this case as the same dealt with the issue of levy of interest on differential excise duty. Further, the Supreme Court held that even after amendment in Section 11A of the Central Excise Act, 1944 in 2001, excise duty is payable on the price payable at the place and time of clearance of goods. The Supreme Court also observed that no records were found to show that the assessee deliberately understated or depressed the price at the time of clearance and thereafter received the additional amount.

It is pertinent to note that interest is a function of excise duty and if no excise duty is payable, interest will also not be payable. This is an important Supreme Court that can support the proposition for non-applicability of excise duty as well as interest on the retrospective price increase received by the manufacturers.

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

Regards,

Team NITYA



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