

## Commissioner of Central Excise, Jaipur - Appellant @HASH National Engg. Industries

**Court:** SUPREME COURT OF INDIA

**Date of Decision:** May 7, 2015

**Citation:** (2015) 320 ELT 27 : (2015) 14 SCC 762

**Hon'ble Judges:** A.K. Sikri and Rohinton Fali Nariman, JJ.

**Bench:** Division Bench

**Advocate:** S/Shri Jaideep Gupta, Senior Advocate, Ms. Binu Tamta, Rupesh Kumar, Ms. Sushma Manchanda and B. Krishna Prasad, Advocates, for the Appellant; Ms. Meenakshi Arora, Senior Advocate, Rahul Narayan, Mohit Singh, Ms. Vandana Gogna and Ms. Mahima Sareen, Advocates, for the Respondent

**Final Decision:** Allowed

### Judgement

@JUDGMENTTAG-ORDER

1. The respondent-assessee is engaged in the manufacture of Ball and Taper-Rollers Bearings falling under Chapter Heading No. 84.82 of the

Schedule to the Central Excise Tariff Act, 1985. It had availed sales tax benefits in the sense that the sales tax was paid at concessional rates under

the sales tax incentive scheme which was floated by the State of Rajasthan. The question arose as to whether the benefit of sales tax which was

availed by the respondent would be included while fixing the value of the product for the purpose of payment of Excise duty. This issue squarely

stands covered by the judgment of this Court in Commissioner of Central Excise, Jaipur-II v. Super Synotex India Limited - 2014 (301)

E.L.T. 273 (SC). In that case this Court has taken the view that assessee would be entitled to claim deductions towards sales tax from the

assessable value of the sales tax which is retained by the assessee. The Court also pointed out that this position had changed after the amendment

in Section 4 w.e.f. 1-7-2000 and in arriving  $\frac{1}{2}$  transaction value  $\frac{1}{2}$  said sales tax benefit which was retained by the assessee, would be included

while fixing the  $\frac{1}{2}$  transaction value  $\frac{1}{2}$ . Counsel for both the parties would not dispute that the matter is covered by the aforesaid judgment.

2. In these appeals the period involved is from 1st April, 1998 to 31st March, 2002. Thus, insofar as the period up to 1-7-2000 is concerned,

case has to be decided in favour of the assessee and for the period from 1-7-2000 the benefit availed under the sales tax has to be included while

arriving at the transaction value.

3. The appeals are disposed of in the aforesaid manner with direction to the assessing authority to compute the transaction value in the manner

above.

4. In the aforesaid facts and also going by the ratio of Super Syntax insofar as penalty is concerned, the same is set aside.