

EXCUS (E) ME!
(By an Eavesdropper)

March 20, 2010. 6.00 a.m. Kamaraj Domestic terminal, Chennai Airport.

Flight No. 9W 822. The entry was given through the aerobridge and almost all the passengers have boarded and taken their respective seats. The craft was almost full and the door was about to be closed. Suddenly a tall and a well built gentleman, rushed inside the flight. Dressed in a black tuxedo, he seemed to be quite sweating and obviously tensed. He searched for his seat, stumbled on another passenger and finally got seated in the row where I was seated at the window. After the formalities of in-flight instructions and safety puppet shows, the flight shrugged its engine and started taxiing onto the runway. The tuxedo man seated in the aisle seemed to be still tensed and started searching for something in his hand bag.

Between us, in the middle seat, there was a young and a cool guy, who was curiously looking at our friend's gestures. The flight took off and pierced the sky in style. After some time, the young guy, who was sitting between us, introduced himself as Mr. Janakaraj and a practicing advocate to the tuxedo man. In turn, our tuxedo friend introduced himself as Mr. Mehta. Then they started chatting between each other and the exact conversation is....

Mr. Janakaraj (Mr. Jana for short): Hello Sir, I saw you rushing inside the lounge at the last minute!

Mr. Mehta: Yes, Sir. It was a close call. I just got into this craft through my nose! Unfortunately my car tyre got punctured in the mid way!

Mr. Jana: Oh! That's really unfortunate! By the way, are you from Chennai or from Delhi?

Mr. Mehta: Neither. Actually, I am from U.P. I am heading the Finance of a manufacturing company! What about you? Do you practice civil laws or criminal laws?

Mr. Jana: Neither! I practice in tax laws!

Mr. Mehta: That's interesting! What type of tax laws?

Both exchange their business cards.

Mr. Jana: Indirect tax laws like, Central Excise, Customs, Service tax....

Mr. Mehta: Achcha! First time I am seeing an advocate, that too a youngster, specializing in taxation! Is there enough scope?

Mr. Jana: Scope? Unlimited Sir! That too after the introduction of levy on services, sky is the limit! It is not only on litigations but there is scope for proper consultation and interpretation.

Mr. Mehta: Yeah! Earlier we had only general physicians. Now we have specialists. ENT, Ortho, Neuro.... It's always good to have specialists!

Mr. Jana: What about your company?

Mr. Mehta: We are manufactures of various auto components for OE manufacturers like, Maruti, Ford, TATA. We have manufacturing units at seven places including Chennai and Gurgaon. In fact, I am rushing to Delhi because of a very serious Central Excise problem.

Mr. Jana: Excise problem? What is it, Sir? If you don't mind...!

Mr. Mehta: A team of Central Excise officers had visited our Gurgaon unit yesterday. It seems they are from some preventive wing. They are alleging that we have not paid appropriate Central Excise duty on certain supplies made to Maruti. They have estimated the duty involvement to be around 5 crores. They are alleging that we have intentionally evaded the duty and are pressurizing the Company to make an immediate payment of around 5 crores. It seems they are contemplating extreme steps like arresting our Chairman and the Managing Director. Our top management is very upset and that's why I am rushing to Delhi.

Mr. Jana: Oh! That's really unfortunate! Ok! What is the issue all about?

Mr. Mehta: As I said, we are manufacturing and supplying various components to automobile manufacturers. In this case, we supply pumps to Maruti. For the manufacture of the pumps, Maruti supplies a special meter to us, which will be mounted on our product, which in turn, will be supplied back to Maruti. While invoicing our pumps, we will not bill the cost of the meter supplied by Maruti, as it is supplied free of cost by them. We have also not paid the Excise duty on the free supply meters given by Maruti. Now the department alleges that we should include the value of such free supplies in our invoice value and pay duty on the value of the free supplies also! Is it correct? How can we pay duty on a value of a free supplied product?

Mr. Jana: How do Maruti send the meters to you, at the first place? Is it on payment of duty? And what does Maruti do with your pumps?

Mr. Mehta: No. They send them to us on a challan without any duty. Once the meters are mounted on our product and sent as pumps, we close their challans and send them back to Maruti along with our invoices. Maruti uses our pumps in the manufacture of their four wheelers.

Mr. Jana: Ok. I think there is no issue in it. I remember to have seen a Supreme Court judgement, very recently, on this subject. Just one second...

Mr. Jana pulls out his laptop and boots it. He inserts violet color hardware on the USB drive. The hardware blinks in red and then he opens a program called "EXCUS" in the desktop, while our Mr. Mehta was watching it in surprise!

Mr. Mehta: Sir, by the way, what is this all about?

Mr. Jana: Have you ever heard of a journal called "EXCISE LAW TIMES". It is a very popular weekly journal in the indirect law domain.

Mr. Mehta: Oh! Yes! I know it for so long. If I am right, it is popularly referred to as the ELT!

Mr. Jana: Exactly! This is an electronic library of the ELT.

Mr. Mehta: Means?

Mr. Jana: This "Excus" is a software program consisting of all the case laws in the ELT, published till date. It contains more than 48000 case laws reported in the ELT, over a period of around 30 years.

Mr. Mehta: Great! Does it contain the full text of all the judgements?

Mr. Jana: Yes, Sir! It contains the entire text with the head notes. More than that, it also contains all the Notifications issued and the Circulars on Excise, Customs, and Service tax issued by the Central Board of Excise and Customs from 1986 till date. It also has over 350 statutes on Excise, Customs, Service Tax and Allied laws, including the Finance Acts, FM's Budget speeches from 1986.

Mr. Mehta: That's lovely! An entire library on your thumbnails! Ok. Is it user friendly or only pundits like you can operate it?

Mr. Jana: It's so very user friendly that anyone can operate. I can bet on earth that it has one of the best search engines, matching the Google!

Mr. Mehta: Achcha! Can you just show me how to use it?

Mr. Jana: Why not? It's so simple!

Mr. Jana moves the cursor to the icon reading "EXCUS" in his desktop and double clicks it. A multi colour screen appears with an animated "Aladdin", who speaks out "Welcome to R. K. Jain's Excus". He clicks OK to the welcome board and a tabulated window appears on the screen. He then clicks the option reading "Search" in the toolbar and a sub screen, pops up on the screen!

Mr. Jana: Sir, now it's ready!

Mr. Mehta: *(Curiously looking at Mr. Jana)* Good! Now how to select the relevant judgments?

Mr. Jana: Sir, once you get into this search engine, you have to just type the words you are looking for! For example, let us search for a case, where you had originally cleared some goods on payment of duty and subsequently you understand that there is no need to pay the duty. You issue credit notes to your customer for the duty collected earlier and seek refund of such duty with the department. Now the department denies the refund stating that it is hit by "unjust enrichment". Shall we search for an appropriate case law for this?

Mr. Mehta: Oh! Really interesting! Please carry on!

Mr. Jana: As the case is basically relating to refunds, first let me type "refund" in the window of the search engine and then click OK!

After Mr. Jana clicks the OK button, within a few seconds, a result window appears. A list of several judgements, circulars, and notifications are listed in the screen. On seeing more than 7000 judgements, Mr. Mehta gets a bit bewildered.

Mr. Mehta: Oh! So many judgements!!! How to get the right one?

Mr. Jana: Don't worry, Sir! It is only a first selection. See here is an option called "Refine". You have to click it and then type another relevant word in this window. Now the second word will get filtered within the 7000 cases and you narrow down to finer results! For example, let us look for the cases relating to "unjust enrichment".

Mr. Jana clicks the "Refine" button in the tool bar and types the word "unjust enrichment" in the window and clicks OK. Now a list of around 1000 judgements appears in the screen. Mr. Mehta is still bemused.

Mr. Mehta: Arey baba! Still its 1000!

Mr. Jana: Cool Sir! It's not yet over! You can further narrow down the selection by refining the search once more. Now let me type the word "credit notes" in the window. The selection is now within the already selected 1000 cases.

Mr. Jana once again clicks the Refine button in the tool bar and types the word "credit notes" in the window and then clicks OK. In fraction of a second a screen appears with just 35 cases being listed. Mr. Mehta is too excited now.

Mr. Mehta: That is great work. Now only 35 cases and anyone can read them and find his relevant judgement. But how to read the text of the cases.

Mr. Jana: Having narrowed down to 35 cases, now you can choose one by one, by clicking the left side panel and the entire text along with the head notes will appear in the right side panel, as it appears in the print editions of the ELT!

Mr. Jana clicks one Supreme Court judgement on the left panel and within a wink of the eyes, the entire text of the judgement appears on the right panel.

Mr. Jana: Not only that! Your choice of words like "refunds" and "credit notes" would be highlighted in the text, so that you go to the relevant portion of the judgement very easily!

Mr. Mehta: That's fantastic! All these years I have been wondering how these tax consultants read and remember so many case laws. That too tax laws being a bit dry, I always stayed away from taxes. That too particularly from indirect ones! With this miracle, I am so tempted that if you don't mind, shall I give a try?

Mr. Jana: Sure Sir! It's my pleasure!

Mr. Mehta gets the laptop from Mr. Jana and clicks the "Search" button. On the screen he types the word, "inputs" and clicks OK. In few seconds the screen lists around 6500 judgements. He then clicks the Refine button in the tool bar and types the word "supplied by" and clicks OK. Immediately a screen listing 441 judgements appear. Again he clicks the Refine button and types the word "final product manufacturer" and clicks OK. Now on the screen only 2 judgements appear. Mr. Mehta becomes so nervous whereas Mr. Jana appears to be so cool and smiling.

Mr. Mehta: Shall I click this Supreme Court judgement?

Mr. Jana: Carry on Sir!

Mr. Mehta clicks on the left hand side panel relating to a Supreme court judgement in the case of International Auto Limited and immediately the entire judgement appears in the right hand side panel, with the words typed by Mr. Mehta being highlighted. Mr. Mehta reads the text of the judgement and as he goes on reading he was getting excited. After reading the judgement Mr. Mehta

seems to be in ecstasy as if he has found his lost child!! On top of his euphoria, he turns to Mr. Jana and gives him a bear hug.

Mr. Mehta: Wareh Wah! It is top class! I just can't believe it! It is an exact judgement to my issue and the best part of it is that I found it myself! It is one of the proudest moments in my life! I feel that I have saved my Company from a big fiasco!

Mr. Jana: Well done, Sir! You have a sound logic and have understood the "Excus" magic! In those days, one has to have a sharp memory to remember all the case laws, to survive as a good tax consultant. Gone are those days! Now you leave your worry to this "Excus" and use your memory for concentrating on other things. As Boost is the secret of Sachin's energy; Excus is the secret of mine!

Mr. Mehta: Oh! Unbelievable! You have made me to get the apt judgement for my own problem. While boarding, I was so upset about the issue. In fact my Chairman was so concerned and upset with the issue. Now having read the judgement I feel on top of the world!

Mr. Jana: Incidentally we are now really on top of the world!

Mr. Mehta bursts into a big laughter and Mr. Jana joins him happily.

Mr. Jana: Now let me ask you one on your domain? What do you think would be the price of this "Excus"?

Mr. Mehta: Arey! It's priceless dear! Now I feel it has saved this Company! But anyway, for the content and facility, it should be priced anywhere between Rs.20000 to Rs.30000. Am I right?

Mr. Jana: Sorry Sir, You are wrong for once! This Excus is priced at Rs.6000/- along with the ELT subscription for a calendar year and Rs. 6750/- along with the yearly subscription of both ELT and the all new journal "Service Tax Review"! First time buyers may have to pay Rs. 750/- extra, maybe for this hardware dongle. For this price, you also get an updated CD, every quarter, promptly at your doorsteps.

Mr. Mehta: What! So low priced? I just can't believe it! Anyway, it is a real treasure hunt for the users!

Meanwhile the flight descends and touches the runway of Delhi airport and halts in its parking bay. Mr. Mehta is yet to come out of the hangover and profoundly thank Mr. Jana. Everyone starts to deplane.

Mr. Jana: Are you going to Gurgaon straight. If so, I can drop you. I am also going there only!

Mr. Mehta: No dear! I am going straight to CENTAX Publications to buy an "EXCUS".

Thanks for everything and see you later!

Mr. Jana: Ok, Sir, See you and all the best!

Before Parting...

A Confession: In my life I have never overheard. The topic was so interesting that I was not able to resist lending my ears to the conversation. I found the topic very constructive and useful that I thought I shall share the same with the readers of ELT, just changing their names for etiquette. More than that, as I know now, both Mr. Jana and Mr. Mehta would read ELT regularly, I thought I shall apologise to them for my eavesdropping, by writing this piece!