

CIRCULAR NO

923/13/2010-CX., Dated: May 19, 2010

Subject: Clarification regarding inclusion of cost of return fare of vehicles in assessable value – reg

Attention is invited to clarification given at S. No 2(b) vide the Board's Circular No. 634/34/2002-CX dated 1 st July 2002 as amended by the Circular No 827/4/2006 dated 12 th April 2006 in terms of which the cost of return fare of vehicles was to be included in the value.

2 The Tribunal has in case of *DCW Ltd . v. CCE [2007 (217) ELT 541 (Mad.)]* = [\(2007-TIOL-2028-CESTAT-MAD\)](#) held that " where onward freight was not includible in the assessable value of the excisable goods, there was no question of return freight being included in the assessable value, whether or not the return freight was mentioned in the relevant invoices. The principle stated by the Tribunal in the cited decision is squarely applicable in respect of such return freight also".

3 Further, the tribunal has in case of *Haldia Petrochemicals Limited Vs Commissioner of Central Excise Haldia [2009 (233) E.L.T. 344 (Tri. - Kolkata)]* = [\(2009-TIOL-360-CESTAT-KOL\)](#) held that in case where the transaction value of the goods being cleared is available at the factory gate value will be determined in accordance with Section 4(1)(a) of the Central Excise Act,1944 without any reference to Rule 5 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000. The appeal filed by the department against this order of the tribunal has been dismissed by the Supreme Court vide its order in Civil Appeal D No 9262 of 2009 dated 12 th August 2009

4 Tribunal has in case of *Commissioner of Central Excise Vadodara-II Vs. Gujarat Fluorochemicals Ltd. [2009 (248) E.L.T. 885 (Tri. - Ahmedabad.)]* = [\(2009-TIOL-608-CESTAT-AHM\)](#) followed the aforesaid order in case of Haldia Petrochemicals.

5 The Board has accepted the order of tribunal in case of Haldia Petrochemicals. Accordingly the clarification issued by the Board vide circular no 634/34/2002-CX dated 1 st July 2002 as amended at point No 2(b) is withdrawn and it is clarified that cost of return fare of vehicles is not required to be added for determining value. All the pending cases may be decided in accordance with the aforesaid decision of the Tribunal.

6 Trade and Industry may be informed.

7 Receipt of this circular may be acknowledged

8 Hindi version would follow.

F No. 6/3/2010 – CX.1

MADAN MOHAN
Under Secretary (CX. 1)