

**Universal Information, Vs. Commissioner of Central Excise**

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**SooperKanoon Citation :** [sooperkanoon.com/20845](http://sooperkanoon.com/20845)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

**Decided On :** Feb-09-2001

**Reported in :** (2001)(75)ECC802

**Judge :** S T Gowri, J S Murthy

**Appellant :** Universal Information,

**Respondent :** Commissioner of Central Excise

**Judgement :**

1. The application by the manufacturer is for waiver of deposit of duty of Rs. 3.87 lakhs, and a penalty of Rs. 50,000. The other application is by the Managing Director of the manufacturer, on whom a penalty of Rs. 10,000 has been imposed.
2. The manufactured and cleared uninterrupted power supply system (UPSS). The duty has been demanded, and penalties imposed, on the finding of the Additional Commissioner, confirmed by the Commissioner (Appeals), that the applicant did not include charges towards batteries, and another heads of account such as maintenance charges, installation charges etc., which were nothing other than the cost of these machines.
3. The common contention for both the applicants is that maintenance and other such charges were optional, and hence not includible in the assessable value. Further, the department was aware of levy of these charges and the supply of batteries. Records were available to the department to the officers and auditors

etc.

4. The Additional Commissioner records that none of the numerous customers, whose statements were recorded, was aware that he was being billed for maintenance charges and that they were optional, and that collection of these charges was not disclosed to the department. The invoices submitted to the department did not indicate the levy of any such charges.

5. Mr. M. Ramalingam was unable to show us evidence, despite our repeated requests, in support of his contention that these charges were in reality optional. He was also unable to cite evidence to show that the department had been informed of the partum of the supply of batteries and all these charges.

6. We are, at this stage, not convinced that merely because the records in the applicants possession might have been indicated the position, the department automatically ought to be aware of these facts.

7. Accordingly, we direct deposit of Rs. 2.00 lakhs towards duty by the manufacturer within a month from the receipt of this order, thereupon we waive deposit of the remaining duty and penalties on both the applicants.

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