

**C.C.E. Vs. Goetze (India) Ltd.**

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

**Decided On :** Mar-09-2005

**Reported in :** (2005)(186)ELT229TriDel

**Judge :** J Balasundaram, Vice, N T C.N.B.

**Appellant :** C.C.E.

**Respondent :** Goetze (India) Ltd.

**Judgement :**

1. The Deputy Commissioner of Central Excise allowed the assessment of the goods manufactured by the respondent herein provisionally, subject to the condition that no deduction on account of turnover discount is permitted at the time of clearances of goods from their factory to their depots as the admissibility of such turnover discount is determined at the end of the year. He held that admissibility of the turnover discount will be considered as when the contingency arises, subject to the execution of proper bond equal to three times of differential duty involved on the goods proposed to be cleared during the financial year 2004-05 backed with security of 25% of the bond value. The assessee succeeded in appeal before the Commissioner (Appeals) who set aside the condition imposed in the provisional assessment order by the Deputy Commissioner. Hence the appeal by the Revenue.

2. We have heard both sides. There is no dispute that the assessee are allowed turnover discount during the past three years. The turnover discount was being

regularly allowed to the respondent by the competent authority at the time of clearances of the goods. There is no legal provision for imposing the condition that no deduction on account of turnover discount is permitted at the time of clearance of goods from the factory of the assessee to their depots or from the depots to their ultimate buyers. Therefore, there is no reason to interfere with the impugned order of the Commissioner (Appeals) which is correct in law. Accordingly, we uphold the impugned order and reject the appeal.

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