

F.NO. 383/124/99-JC  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise & Customs

New Delhi, the 24th, May, 2000

**Subject: Place of removal --- Section 4 of CEA, 1944 ; and Penalty leviable --- Section 11AC of CEA, 1944**

Kindly find enclosed a copy of CEGAT final order No. 1222/99A dated 24.8.99 in case of M/s Escorts (JCB) Ltd. which has given a new dimension to the term "place of removal" used in Sec. 4 of Central Excise Act and point of time when the goods can be said to have been sold, which is in favour of revenue. You are requested to bring this to the notice of field officers, including Commissioners (Appeals) for their guidance.

Further it may be noted that the CEGAT has given an interpretation of Section 11AC taking a view that the penalty equivalent to the duty determined. Provided therein is the maximum limit and it is not mandatory that in all such cases maximum penalty should be imposed, is not acceptable to the Department. A civil appeal against this part of this order has been filed in the Supreme Court. The said CA of the department (bearing No. D. 21121/1999) has also been admitted. (It is understood that the assessee M/s Escorts, JCB has also challenged this decision vide their CA No. 230/99).