

F.No.6 / 27 /2001-CX.I
Government of India
Ministry of Finance
(Department of Revenue)

Subject:- Inclusion of PDI and cost of after sales services in the assessable value of the vehicle.

I am directed to invite your attention to Board's Circular No. 355/71/97-CX dated 19.11.97 and subsequent Circular No. 435/1/99-CX dated 12.1.99 on the subject noted above.

2. The appeal filed by the Board against CEGAT Judgement in the case of M/s.Mahindra & Mahindra Ltd. [1998 (103) ELT 606 (T)] alongwith similar matters in the case of M/s.Hindustan Motors Ltd. [1998 (101) ELT 198 (T)] and M/s.Escorts Tractors Ltd. [1999 (078) ECR 342 (T)] have been dismissed by the apex court on 27.1.2000.
3. Apart from the above three cases all other department's appeals (list enclosed) before the Supreme Court on this issue have also been dismissed either on merits or otherwise.
4. In view of the above facts Board withdraws Circular No. 355/71/97-CX dated 19.11.97 and subsequent Circular No. 435/1/99-CX dated 12.1.99 referred to above. In other words, PDI (Pre-Delivery Inspection) and free after sales service provided by the dealer of vehicle, during the warranty period will not be included in the assessable value.
5. The withdrawal of these Circulars will apply to past cases only as the provisions of the new section 4 introduced w.e.f. 1.7.2000 were not the subject matter of dispute before the Apex court. Moreover, for the period from 01/7/2000, the Board has already clarified the position regarding PDI and free after sale service vide Sl. No. 7 of Circular No.643/34/2002-CX dt.1/7/2002.
6. This Circular may be brought to the notice of the field formations.
7. Suitable Trade Notice be issued for the benefit of the Trade.
8. Hindi version will follow.
9. Receipt of these instructions may be acknowledged.

**POSITION OF APPEALS FILED ON THE ISSUE OF PDI AND AFTER SALES SERVICE CHARGES
AND DECISIONS OF THE SUPREME COURT**

SI No..	PARTY'S NAME / CEGAT ORDER No.	F.NO./C.A.NO.	OUTCOME OF APPEAL IN SUPREME COURT
01	MAHINDRA & MAHINDRA & MARUTI UDYOG LTD./ 191-197/98-A DT. 13-02-98	383/18/98-JC/ 4881-87/98	One line order dated 15.3.99 `Civil appeals are dismissed`` (appeal dismissed at admission Stage).
02	HINDUSTAN MOTORS LTD./ 344/98-A DT.03-03-98	383/25/98-JC/ 4165/98	Appeal dismissed vide detailed combined order dated 27.1.2000. ``Additional collector of Central Excise Mumbai-II Vs.Mahindra and Mahindra.``
03	HERO HONDA MOTORS LTD./ 719/98-A	383/32/98-JC/ 1064/99	Dismissed vide common order in the case of CCE Delhi Vs. Pratap Steel dated 18.1.2001. The Court in this order clearly stated that ``the Tribunal was right in following the judgement of this Court in Philips India Ltd. Vs. CCE Pune (1997(6) SC-31)``
04	M/S.PRATAP STEEL LTD./ 878/98-A DT.25.6.98	383/47/98 JC/ D 19871/98 CA NO. 2207/99	-DO-

05	-DO- 783-739/98-A DT. 13.5.98	383/48/98-JC/ D-8981/99	Dismissed on 23.7.99 on the ground of delay.
06	-DO 988-89/98-A DT. 15.7.98	383/55/98-JC/ 2905/99	As at 3 above
07	M/S.ESCORTS TRACTORS LTD./ 1042/98-A DT. 31.7.98	383/58/98-JC/ 2905/99	As at 2 above
08	MAHINDRA & MAHINDRA LTD./ 998/98-A	383/62/98-JC/ D 3132/ 2206/99	As at 2 above
09	M/S.ESCORTS TRACTORS LTD./ 755/98-A DT. 15.5.98	383/1/99-JC/ D 8643/99	Dismissed on 14.7.99 One line order ``Civil appeal dismissed``.
10	M/S.PRATAP STEEL LTD./ 734/98-A DT. 5.5.98	383/11/99-JC/ 3637/99	One line order of dismissal dated 13.7.99.
11	PUNJAB TRACTORS LTD. / 115-116/99-A DT. 5.2.99	383/21/99-JC/ D 9016/99	Dismissed on 9.8.99
12	M/S. P.N.DHOOT INVESTMENT CO. LTD. C-II/261-262/ WZB/99 DT. 28.1.99	387/51/99-JC/ D 8683/99	Dismissed
13	M/S. TELCO LTD. C-II/1380/2000-WZB DT.8.5.2000	387/289/2000 JC/ 53/2001	Dismissed on 13.3.2001