Case Laws in the Supreme Court Relating to CENTRAL EXCISE DUTY

S.No	Case Law Name	Facts & Decision
1	**Ratan Melting & Wire Industries**	The Circulars are not binding on the court they are not binding on the assessee,but always department is bound by the circulars, also there can be no circular that can contradict Law .
2	**Union Carbide India Ltd Vs Union of India and Others**	Articles in Crude and elementary form, which is by product if of some process cannot be levied with duty ,since MARKETABILITY should be established.
3	**Bansal Industrial Gases Bihar Ltd**	Sludge is not liable for duty since marketability for that cannot be proven
4	**Marfed Vanaspati & Allied Industries Ltd**	Mere entry in central excise tariff act, does not make it dutiable, Marketability and Manufacturing is essential
5	**Delhi Cloth & General Mills Company Ltd**	The assessee manufactured oil, during the process a substance known as Vegetable non essential oil emerged. The Department demanded Duty. The assessee Processing of oil is not manufacture and further the oil is not fit for human consumption The court Held that Manufacture implies change but every change does not imply manufacture and apart from change of article as a result of treatment of labour, manipulation something more is necessary to call it manufacture and that is " Transformation". A New article which is different and being distinct should emerge.
6	**Narne Tulaman Manufacturers Ltd**	Loading of Cells in platforms amounts to Manufacture
7	**Sheth Computers**	Tribunal held that Assembling of Computers Amounts to Manufacture
8	**Brakes India Ltd**	The company purchased brake linings and processes it for usage to Automobile industries but used the same name brake linings in invoice ,but court held its a scientific process and involves technical work and hence it is manufacture
9	**Prachi Industries**	Swagging Amounts to Manufacture
10	**Union of India Vs Ahmadabad Electricity Company**	Cinder residue is not a manufactured product
11	**Crane Betel nut Powder works**	Process of cutting betel nuts into small pieces is not manufacture.
12	**Sirpur Paper Mills Vs Collector of Central Excise**	Equipment embedded to for Operational efficiency cannot be called as immovable Property
13	**TTG Industries Ltd**	Drilling Machines & Mud guns are generally immovable as their not Moved Frequently
14	**Damodar Ropeway and Construction co pvt Ltd**	Ropeway Erection is not manufacturing
15	**virdhi Brothers**	Cold Storage Plant /AC Plants are not covered under Excise Duty since they are immovable
16	**Craft Interiors Pvt Ltd**	Cannibalizing is the key point, if yes not Movable, if No Then Duty Leviable
17	**Laminated packaging P Ltd**	RM & FG Same Chapter head or not doesn't matter for Levy of duty
18	**Johnson & Johnson Ltd**	The Activity of just sticking stickers to product to make it marketable cannot be Manufacturing
19	**Citabul Ltd**	Citabul Ltd entered into agreement with associate co for selling its products after using trade mark,dept contended buyer should be charged with duty considering him as manufacturer, held NO
20	**M.M Khambatwala**	When there is there no Control over production process/employees making them, the company is not the manufacturer
21	**Wallace Flour Mills Company Ltd**	The Rate of Duty Prevalent on the Date of removal is applicable rate of duty. Taxable event is manufacture and duty must be paid only when they are removed from the factory
22	**Vazir Sultan Tobacco co Ltd**	~ to Judgement in above case law
23	**Kuil Fireworks Industries**	The Delay in removal of goods and consequently duty raised. Now All this caused due to DEPT Act and therefore Assessee is not liable for the increased rate of duty
24	**Suresh synthetics**	The duty payable by 100% EOU where their products are brought to Domestic Tariff Area, it is nature of Excise duty only and not Customs duty.
25	**Dhariwal Industries Ltd Vs Union of India**	The Constitutional validity of section 3A of Central Excise act,1944 is being questioned in this case
		Classification Case Laws
26	**Sprint RPG India Ltd**	Computer software loaded in a hard disk drive , is classifiable as software only
27	**Geep Flash light Industries**	Plastic Torches are not articles made out of plastic but only torches
28	**Atul Glass industries**	Glass Mirrors cannot be Classified as Glassware/Glass
29	**Dabur India Ltd**	Hajmola is not a candy but ayurvedic medicine,cos contains 85% sugar and15% Medicine
30	**Colfax Laboratories**	OLD SPICE is Cosmetic and not a Medicine,cos Medicine is only for Disease and shaving is not a disease
31	**Swastik Udyog**	PAN Chatney is not a food so does not come under chapter containing Sauces/Ketchup etc
32	**Carrier Aircon Ltd**	Function Test/end use theory Explained but has no relevance for classification, Chillers are primarily used for refrigeration purpose, additional use it air conditioning , and so just coos they are used for air conditioning they cant be classified under AC's
33	**North West Switchgears Ltd**	Fan Regulators are classified as accessories and not under FANS
34	**Tarai Food Ltd**	Branded and unbranded foods cannot be categorized and one and the same, Branded attracts duty and unbranded doesn't
35	**Pragati Silicons P Ltd**	Name Plates are considered to be accessories to Vehicles
36	**Calcutta Springs Ltd**	Liners used in Railway Track are not electrical insulators
	Valuation Case Laws	
37	**Nilkamal Plastics**	Additional Discounts allowed to customers at time of clearance for not claiming damaged goods is allowed as discount
38	**Volvo India Ltd**	Preventive Maintenance Charges is not forming part of Value
39	**Maruthi Dog Ltd**	Extended Warranty does not form Part of Value
40	**TATA STEEL**	Dharmada Charges are includable in Value
41	**Acer India Ltd**	Value of Operating Software cannot be included in Assessable Value of Computer
42	**Khaitan Electricals Ltd**	FAN Regulators value includable in value of FANS#
43	**Mysore Kirloskar Ltd**	Charges of Design & Drawings includable in Assessable Value according to Rule 6
44	**IFGL Refractories Ltd**	Surrender of Advance license in favour of Supplier is also a mode of additional Consideration
45	**Aquamall Water solutions Ltd**	Rule 9 or 10 is not applicable when goods are transferred to Related Persons and they inturn capitevely consume for their Production
46	**Alembic Glass Industries Ltd**	Common Shareholders/Directors Doesnt Mean there is Mutuailty of Business Interest
47	**Kanchan Industries**	Entire Produce/ Sales to other party doesnt Estabilish Mutuality in Business Interest
48	**ITC Ltd**	The Central Excise Officer has no right to enquire correctness of MRP Printed on Package
49	**Hindustan Coca Cola Beverages P Ltd**	Actual Sale even if higher than MRP, Cannot be substituted for Valuation Under Sec 4A

	Case Laws in Exemptions/Notifications Etc / Penalty	
50	**Inter Continental India**	Department through board circular cannot add any futher/restrict Condition laid down by the Notification
51	**Sandur Micro Circuits**	Circular cannot take away benefits granted by the notification
52	**R.C Tobacco P Ltd**	The Apex Court upheld Constitutional Validity of Retrospective withdrawal of Exemption notification
53	**ONGC Ltd**	Non compliance of condition of producing a certificate given by the director of hydro carbon,due to their department delay should not deny the benefit to the assessee for want of producing the certificate
54	**Union of India Vs Dharmendra Textile processors**	Sec 11AC in mandatory, mens ria is not essential and hence penalty is not discretionary
55	**Sahara India (firm) Vs CIT**	before ordering For Special Audit a opportunity to the assessee should be given , Principle of naturaj Justice is Given importance
56		
57	**Small Scale industries Exemption**	
58	**Rukmani Pakkwell Traders**	SSI Exemption is not available even if the brand name used is not registered or not
59	**Kohinoor elastics P Ltd**	The Exemption is not availaible even if brand name is engraved for customer use. In this case brand name is affixed on the elasitic manufactured for customer who manufactures under garments.
60	**Superex Industries**	The Benefit of SSI is lost only when Brand name of another is affixed in Product and not on Invoice.
61	**Golden hill Estates**	For Remission Theft cannot be considered equal to damage of goods
62	**Jain Irrigation Systems**	Scrap lying inisde the factory was kept for recycling, cannot be confisticated by the dept

Case Laws in Service Tax

S.no	Case	Facts & Decision
1	All India Federation of Tax Practitioners Vs Union of Ind	The supreme court has upheld the levy of service tax on Chartered Accountants
2	Unitech Ltd Vs CST	Any commercial Concern engaged in any manner whether directly or indirectly in rendering the service in this field of architecture are also liable for Service tax
3	CCE Vs Bajaj Auto Finance Ltd	The supreme court held that service tax is not leviable on hire purchase finance since the company is only providing finance for vehicle purchase
4	Andhra pradesh Federation of chit Funds Vs union Of ind	There is no specific provision for leving service tax on chit funds and cannot be imposed based on a circular
5	Medro Pharma Private Ltd	C & F Operation cannot be segeragated into Clearing and Forwarding
6	Larsen & Tubro Ltd	The activity of Procuring orders would fall under Business Auxiliary Services and not Under Clearing & forwarding Services
7	Dr V Shanmugavel	The Valuers of Plant and Machinery are consulting Engineers
8	Aviat Chemicals Private Ltd	Service Tax is not payable in respect of royalty receipts under agreement allowing use of trademark to other manufacturers as it cannot be considered as consulting engineer services
9	Sunrise Associates	The Supreme court in the context of sales tax law held that lottery Tickets are not goods but they are actionable claims and hence not laible for sales tax
10	Martin Lottery Agencies Vs Union of India	There is no service tax on lottery tickets because they are actionable claims

Case Laws in Cenvat Credit Rules

S.no	Case	Facts & Decision
1	Ballarpur Industries Ltd	The Test for Availing Cenvat is not Presence of Inputs in Outputs but dependence of Final Product on the inputs for its existence
2	Jay Engineering Works	Name Plates affixed on Fans essential for marketability and hence credit allowed
3	Ponds India Ltd	Plastic Granule used for Making Jars are essential for Packing the Final Product and therefore Credit is allowed
4	Seshasayee Paper Boards Ltd	Chemicals used for generating Steam, Credit Allowed
5	Solaris Chem Tech Ltd	LSHS & Furnace oil used to Generate Electricity used for Production of Final Products and therefore credit is allowed
6	Asmaco Plastic Industries	Inputs destroyed after crossing one stage of Production ,Credit Available
7	Maruthi Udyog Ltd	Air Conditioners and Tyres Destroyed before put to use, Credit is not available
8	J.K Udaipur Udyog Ltd	Mine Blast not eligible for Cenvat
9	Vikram Cements	Mine Blast are Eligible for Cenvat credit
10	CCE VS SAIL	Welding Electrodes,Formatic Flux,Welding alloys used for Repairs & maintenance are not eligible for Credit
11	Coco Cola India P Ltd	**Credit is allowed for advertisement expenditure incurred/ (Latest)***
12	CCE VS MDS Switchgear	The Quantum of duty already determined by the jurisdictional Officers cannot be Contested by the officers in charge of recipient unit

Case Laws in Customs Act

S.No	Case Law Name	Facts & Decision
1	Associated Cements	The Supreme Court held that all tangible articles are goods for the purpose of Customs Act, irrespective what they may contain
2	Gujarat Perstorp Electronics Ltd	The Supreme Court held that Designs , Drawings & plans in the form of Frontend Engineering Packages imported under knowhow and basic engineering agreements should be considered as drawings & Designs and not Printed Text books
3	Pentamedia Graphics Ltd	Data imported was on tapes & in a Machine Readable format and therefore it can be called as computer software and therefore is eligible for exemption
4	Relax Safetey Industries	The manufacturer in United states found that ear plugs & Respirators did not conform to local Standards and hence imported into india. Just because it was not confirming to local standards , it does not mean that no one else can use that article, therefore Import Duty can be levied
5	Aban Loyd Chiles Offshore Ltd Vs Union Of India	Oil Rigs in Exclusive Economic Zones, Continental Shelf outside the territorial waters of india are not Foreign Goin Vessels and hence the benefits available to the Foreign Goin Vessels are not Available
6	Hyderabad Industries Ltd	Since Extraction of Aluminium fibre does not amount to Manufacture in India , There is no Excise Duty levied, Therefore when such goods are imported into India from Elsewhere there cannot be Countervailing Duty Imposed
7	Caprihans India P Ltd	The Principle of Unjust Enrichment does not apply to Anti Dumping Duty
8	Apar Private Ltd	The rate of duty that prevails on date of presentation of Bill of Entry is applicable
9	Kiran Spinning Mills	The Taxable event is Completed only whren the goods crosses customs Barriers and not date of Landing or date of entry , and inrespect of warehoused goods the customs barriers are crossed only when taken out form the warehouse
10	Dhirajlal Vohra	The Supreme Court held that when Bill of entry is filed in advance , the date of grant of entry inwards is relevant and therefore rate prevelant on that date is the applicable rate for duty
11	Sun Exports	The Supreme Court held that Exports are complete once goods leave Indian water and the Property Passes to the Purchaser
12	Sneh Enterprises	Section 15 of Customs Act cannot be applied for Leving Anti Dumping Duty
13	Asian Food Industries	The Supreme Court held that what is relevant is the actual permission of the proper officer granting clearance and loading of goods for export.The Procedures are complete once the permission of the Proper officer is granted.The Vested or accrued right to Export cannot be taken away by notification subsequently ,laid down.

14	Acer India Private Ltd	Desktops & Laptops are entirely different and therefore additional duty of 7% under Computers (Additional Duty) Rules cannot be Levied
15	Phoenix International Ltd	A Subterfuge has been created to show that there are two independent companies importing seperate parts of footwear inorder to get our EXIM policy requirement and thefore guilty of violating. Higher Duties was Imposed
16	Apollo Tyres Ltd	The commission paid to the purchasing agent abroad is not includible
17	J.k Corporation Ltd	There was PART A & PART B agreements made to Foreign Collabarator for Technical Know-how And Supply of Foreign equipment. The value of Know-how cannot be included in the value of goods
18	Hyderabad Industries Ltd	The Service Charges payable to Canalising agency is includible
19	Hewlett Pacakard India Sales Private Ltd	Pre loaded Operating System recorded in Hard disc drive laptop forms integral part of Laptop
20	Galaxy Entertainment India Private Ltd	The Assessee imported Bowling Alley from US at a price of US $15000 as against normal Price of US $30000.The Supreme court held that earlier transactions were less than 8 lane bowiling alley was imported after hectic bargain at a cost of US $15000.Post clearance agreement was revenue generation and the technical installation charges cannot be added to the value of the equipment.
21	Matsushita Television and Audio India Ltd	The Supreme Court held that in terms of the agreement the net ex factory sales price is defined to mean the sales price to customers including the cost of bought out components and the cost of imported goods.In terms of Rule 9 of valuation rules only royalty relatable to imported goods and which is a condition of sale of such goods can be added to the declared price.
22	CC VS J.D Orgochem Ltd	The importer filed a bill of entry for an item declaring the value as USD 13.2 per Kg.Apparently the importer had imported the same goods from the same supplier earlier at rate USD 18.7 per k.g.The Department was view that $18.7 should be considered as value. The Assessee contented that the reduction was due to fall in international Price. The Supreme court held that onus to prove that lies with Dept and since it has not produced any evidence. Therefore that value cannot be taken into account
23	M.S Shoe East Ltd	Post import Depreciation cannot be taken into account
24	Indian Organic Chemicals	Section 19 is not applicable to additional duty under customs tariff act
25	Udayani Ship Breakers Ltd	The Party Claiming abatement under section 22 has to satisfy the assessing authority that a case has been made out under section 22 for abatement of duty on damaged or deteriorated goods
26	Tullow India operations	A notification under section 25 provided for exemption subject to production of certificate from director of hydro carbon at the time of importation. where there is a delay in obtaining the certificate from authority it does not mean that exemption is not available.
27	BPL Display Devices Ltd	The Supreme court held that Benefit of exemption cannot be denied just because inputs intended for use in the manufacture of final products could not be used due to Shortage/Leakage/Damage.
28	CCC VS Reliance Petroleum	Crane fitted on a vehicle for the purpose of mobility is eligible for exemption
29	Commissioner of Customs Vs organan (India) Ltd	The Supreme Court has confirmed the decision of tribunal wherein it was held that when the invoice clearly shows that the sale price does not include customs duty and there is no change in the price post levy duty and there is no auditors certificate certifying that duty is not been passed on,then refund is to be granted.
30	Lucas TVS Ltd	The goods loaded in vessel that were about to be exported got destoryed in the port itself. The Madras high court held that once the export are completed the benefits are to be granted
31	Rajindra Dyeing and spinning Mills	The cargo was destroyed inside the territorial waters of india and hence drawback cannot be granted
32	Biecco Lawrie Ltd	When Warehousing without Warehousing is resorted to in accordance with section 49,Additional duty implemented mean while cannot be demanded.