

Union Of India & Others

v.

Bombay Tyres International Pvt. Ltd

(Supreme Court Of India)

HON'BLE JUSTICE P. N. BHAGWATI HON'BLE JUSTICE A. N. SEN  
HON'BLE JUSTICE RANGANATH MISRA

Civil Appeal No. 2269/80, 2619/77 And 10206/83, Slp Civil 6841/82 & Ca  
2796/79 | 14-11-1983

SLP Civil No. 6841/82 is dismissed as far as it is directed against the  
interlocutory order only.

CA No. 2796/79 is stated to have already been disposed of.

As a result of further arguments in regard to certain specific matters on which  
our judgment dated 7th October, 1983 was not specific we pass the following :

**ORDER:**

1. Trade Discounts. - Discounts allowed in the Trade (by whatever name such discount is described) should be allowed to be deducted from the sale price having regard to the nature of the goods, if established under agreements or under terms of sale or by established practice, the allowance and the nature of the discount being known at or prior to the removal of the goods. Such Trade Discounts shall not be disallowed only because they are not payable at the time of each invoice or deducted from the invoice price.

2. Taxes.- Additional Sales Tax, Surcharge on Sales Tax, and Turnover Tax should be allowed to be deducted from the sale price in order to arrive at the assessable value, and also octroi where payable/paid by the manufacturer. These taxes if proved to have been paid, should be allowed even if they are paid

periodically to the relevant taxing authorities in accordance with the relevant provisions of taxing statutes/rules.

3. It is clarified that the cost of insurance mentioned in the judgment as part of the cost of transportation which is to be included as a deduction is the transit transport insurance covering transportation of the goods from the factory gate to the place or places of delivery.

4. Where a company has more than one factory located at different places and the prices at the depots is the same irrespective of the lack of identification of the goods from a particular factory of production, the deductions as set out in this judgment and as explained in this order shall be computed and allowed on the basis of such price.

5. This order shall be by way of clarification of the judgment delivered on 7th October, 1983.

6. The matters shall also be listed on 18th November, 1983 and shall be heard in court at 2 p.m.