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## The Old Man

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He was an old man wearing stainless white Kurta & Pyjama. His age would be little more than sixty. He looked tired. He looked sad. His eyes showed signs of tears, though he had not literally wept. I was looking at the old man. His son was sitting on his right side looking intently at his father. The old man was one of the industry wallahs who used to visit me for discussing problems relating to central excise or for seeking opinions. He had a manufacturing unit of PVC compound in Delhi, the National Capital. He had just narrated the happenings during the visit by central excise staff.

The staff had beaten the watchman, manhandled his son, threatened with consequence of arrest, taken away the records and had demanded a cheque of Rs. Twenty lakhs towards the assumed duty evasion, which was to be detected (manipulated) later on.

According to the version of the old man he was running his factory for last about thirty years. That he was not engaged in any duty evasion. That all his clearances were on record and that his past had been as stainless as his white Kurta & Pyjama. To me, his version might be correct and might not be correct but the manner he narrated the whole incidence and the look on his face gave me no reason to doubt the version of the old man.

The old man who sat before me that day further said that he would close down his factory. That he cannot sustain the behaviour of the excise staff. He said that he was not worried about his son, who would take care of himself and his family and that he would advise his son not to engage in manufacturing any more. He himself decided to join a goshalla [the place where cows are kept and fed]. He told me that he would prefer to take responsibility of four cows and live rest of his life like that i.e. serving the cows.



The old man and his son left. As usual I forgot about them. He was like any other client. Many months have passed since then. I happened to come across the brother of the old man, who told me that the old man had closed down the factory forever and has retired to serve the cows. I suddenly remembered the earlier visit. It was shocking. It was saddening. It was frightening. I thought over the whole thing and now I had all the reasons to believe the version as told by the old man.

At this age of his life, he was forced to close down his factory. Who is responsible? Is it the inspector Raj? Is it the system? Or it is the Policy? It may not be easy for his next generation to think of starting a new factory.

What is the moral of the story? None. Because it is neither the story nor it has any morality. It is a hard fact and conveys only immorality that is in the system. We talk of liberalization. We talk of simplification of law and procedure. We talk of healthy and conducive atmosphere in the country. But we do not want to see the ground realities. We choose to ignore these. The above incidence is not the only one of its kind. It happened in Delhi, the National Capital. It is happening elsewhere. It is happening everywhere. The central excise staff would visit a manufacturing unit and on their priorities is the agenda of obtaining a Cheque for duty evasion at that stage only. Their seniors are given the targets. The targets are to be achieved. How legal is the collection of Cheque at the stage of visit? [Even if there is an actual duty evasion] In case of *Abhishek Fashions Pvt. Ltd. Vs. U.O.I.* [2006 (202) ELT-762 (Guj.)]. Hon'ble High Court of Gujarat held that

“The authorities must bear in mind that they are creatures of statute and are bound by statutory law; the powers that they exercise are granted to them by the statute and there are no powers debar the statute. Therefore as authorities are bound to act as provided by the provisions under which they can exercise powers. The revenue is not an organization, which is entitled to retain money without sanction of law. The revenue has failed to point out a provision which empowers the authorities to collect and retain cheques in this manner.”

The above observations assume more importance in view of the new notification no. 32/2006 – CE (N.T.) dt. 30.12.2006, which lays down the provisions for withdrawing facilities and imposition of restrictions in cases where the duty or CENVAT Credit alleged to be involved, is more than Rs. 10 lakhs. Any Cheque of



an amount more than Rs. 10 Lakhs collected from a manufacturer would mean a definite allegation of duty evasion inviting the restrictions mentioned in the notification. The restrictions are to the extent of clearance on an invoice countersigned by the inspector of central excise. In other words it is physical removal, a concept of Stone Age.

Let us not forget the old man, the honest man. There are others like him. The healthy and conducive atmosphere is required. Only then the liberalization and simplification have the meaning. The enactment of laws relating to restrictions as were there in the beginning of Central Excise Rules is in the nature roadblock to the process of liberalization and simplification. It is to be ensured that such restrictions do not become another matter of routine.

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