

THE PUNK WHO SOLD HIS SUZUKI

(S. Jaikumar, Advocate, Swamy Associates)

Prologue: *It was when, I was working as an Inspector of Central Excise and was contemplating a huge case on classification and the assessee requested me to visit their counsel's office to discuss the matter before making it as a show cause notice. When I entered the counsel's office, I could see a workshop, where a bunch of men-in-b/w, very busily working on piles of files in conjunction with fat and huge volumes of legal books! The advocate ushered me to his cabin and started explaining the issue with the aid of those golden pleated – vintage bound legal books, which made me wonder and feel that there exists another world, surreal-yet-so-real! The time I left the shores of that office, I was thoroughly convinced on two things, one, not to pursue with my idea of the case as it had no merits and two, to pursue law immediately as it had every merit in it!*

As it is said, nothing could stop an idea whose time has come and after completion of law degree, I could not stay in the department, any further! The idea from being a trouble maker to becoming a trouble shooter has, by now, developed its roots deep inside my heart and mind and by 2001, I resigned and started my own consultancy!

Though I knew that I had ventured into a deep sea, I never thought it would be so tough! As days passed, I clearly understood that, sacrificing a Government job and starting a consultancy firm, from nowhere and being a no-one, is definitely not a dream-come-true maybe a nightmare-come-true!

Setting up an office from the scratch was both time consuming as well as money consuming. Though I had enough of the former but

was scarce of the latter. Already I was running out of my reserves after the initial and minimum investment on basic infrastructure and now I had to provide for the library. In fact, the very thought of such an ornamental showcase made me go dizzy! I knew it's going to cost me a fortune, but do I have any option?

On a sunny morning, I gathered all my nerves and verve and picked up the phone to call the Editor of the legendary CENTAX publications at New Delhi. After a few minutes of waiting, the lion came on line. I briefed him about me, my credentials, my firm and enquired about the cost of the past volumes of ELT and, leaving shame, explained my pathetic financial condition. Considerate Editor-in-Chief gave me the most sensible and valuable advice of my life. Instead of going for all the past volumes of ELT, he suggested that I should go for the EXCUS CD, which was a novelty from the house of CENTAX. He told me that, it would be both affordable and would meet all my needs. He also gave it as a package with the ELT subscription for the current year. The advice was, to me, was absolutely fatherly, nay, Godly.

My situation was such, even for this affordable necessity, I had to sell my old Suzuki bike, the only luxury left with me. I sold off my bike and purchased the EXCUS CD and with it my profession modestly kickstarted. With a desktop computer loaded with EXCUS, my office was ready to serve many...

Through one of my well-wisher's reference I got my first case after a loooong wait of over six months and the referred client hesitantly landed at my office. He was having an excise case, wherein, there was a demand of excise duty and the case was before the Tribunal. The order in original had been passed in the year 1996 and it had been handled by one of the most eminent advocates, who then became the Advocate General of the State. Evidently, the client had

come to meet me only due to the insistence of the reference, as an obligation and I knew that he had no idea of giving the case to me.

When he entered my office and after seeing a vacuum of any conventional showcase, I could visibly see his hesitancy consolidating into an aversion. I could sense that he was cursing the reference to have pushed him to me wasting his precious time. I initiated the conversation for which he curtly responded " By the way, do you have a separate place for your library?" Showing the EXCUS CD, I smiled and replied that all the golden pleated volumes of law books he had been looking for are inside this platinum disc! Virtually he did not believe a word!

Then I asked him to brief the case and the case was all about clandestine removal of excisable goods, namely, photocopiers, which were imported in CKD condition and assembled in India and cleared without payment of appropriate duty. The demand had been based on the statements of various buyers.

After the briefing and a careful study of the case file, I understood that, *prima facie*, the case had to be approached by arguing that there is no "manufacture" involved in the case at all to attract any excise duty and there had been very serious violation of principles of natural justice and also the witnesses, whose statements had been heavily relied in the show cause notice, had not been produced for cross examination.

Once I stated all these defences, I saw the first smile in the client's face but the ray of hope was not complete. I assured him that we shall get a legal support for these defences and switched on the EXCUS in my desktop. After loading, the search page appeared in which I typed, "*manufacture*" in the search bar and clicked "Enter". Within seconds around 5000 cases got listed. Though the client got impressed he remained skeptical as to how to search for our specific

issue in such a voluminous database. I then refined the search by the word "*photocopiers*" and there appeared **Indian Xerographic System Ltd vs Collector of Customs, Bombay {1995 (80) ELT 337}**, which was exactly to the point that assembly of imported photocopiers in CKD condition would NOT amount to manufacture and shall not warrant any excise duty. The client jumped off his seat in joy. I again went on to the judicial analysis and found the same had been affirmed by the Supreme Court **{1997 (93) ELT A68(SC)}** and on seeing all these coming in a flash the client seemed to have tasted elixir and rejoicing.

Then I proceeded with my searches on principles of natural justice as well as the evidentiary value of the statements of the witnesses who had not appeared for the cross examination and found handsome references.

Seeing all this happen in a jiffy, the client went ecstatic and literally hugged me. He went on to say that, "Come what may Sir, you are going to appear in this case and where is your vakalatnama?"

Thus I appeared in my first case as an advocate and the fitting climax was that, sometime later, I found the very own case got reported in the same EXCUS as **Nu-Trend Business Machines (P) Ltd vs Commr. of C. EX, Chennai {2002 (141) ELT 119}**

True to my heart, I had to confess that, if at all, I along with my firm had grown from a seed to a sapling, in these dozen years, then much of the credit should go to the fantabulous EXCUS CD, which changed my professional life like the evergreen Cinderella story! I, among many, wish this less-price-yet-priceless utility, a great and a grand future!

Thank you EXCUS!

Epilogue...

If this piece sounds like an autobiography, I am sorry, its not. Actually, it is a tribute to a novelty, which made this punk to sell his Suzuki in 2001 only to buy a Volvo SUV in 2011!