

**In the Court of Chief Commissioner for Persons with Disabilities
Department of Empowerment of Persons with Disabilities
Ministry of Social Justice & Empowerment. GOI**

In the matter of:

16 Apr 2016

Dr Satendra Singh

Coordinator, Enabling Unit (persons with disabilities)
University College of Medical Sciences & GTB Hospital,
Delhi-110095

.....Complainant

versus

- 1) **Chairman, Maruti Suzuki India Limited,**
1, Nelson Mandela Road, Vasant Kunj
New Delhi-110070Respondent 1
- 2) **Secretary, Dept of Heavy Industries**
Udyog Bhawan, New DelhiRespondent 2
- 3) **Chairman, Central Board of Excise & Customs**
North Block, Defence Headquarters, New DelhiRespondent 3
- 4) **Secretary, Dept of Empowerment of PwD**
MSJE 5th Floor, Paryavaran Bhawan, Lodhi Rd, New Delhi.....Respondent 4

The facts relating to complaint and when and where it arose:

The Ministry of Finance has allowed a concessional rate of excise duty (a) on cars being able to be driven by the physically disabled; or (b) on cars which has been suitably designed to be able to be driven by physically disabled; or (c) on cars meant for physically disabled. The Department of Heavy Industry has framed guidelines for issue of such certificates. As per the guidelines, the applicants are required to submit a medical certificate, an affidavit and a manufacturer's certificate.

I am a person with locomotor disability (70% PPRP) in right leg and already driving Alto (retrofitted with hand controls). I already have medical certificate & affidavit and I booked auto transmitted Baleno Delta CVT from Nexa, Akshardham. When I asked the procedure for availing the manufacturer certificate, Maruti Suzuki India Limited (MSIL) showed me there discriminatory guidelines that such facility only exists for customers with left leg disability (Annex-1) The GOI circulars do not mention between right and left leg disability. The issue was broadly highlighted by Times of India on 4th April 2016 (Annex-2). After this story, many disabled customers contacted me who are facing the same harassment from MSIL.

In a similar matter ([Vijay Raj Khariwal vs Union of India & Ors. CW Case No. 2697 of 2005](#)), Hon'ble High Court of Rajasthan granted relief to the petitioner who also had right leg disability & who was denied excise duty concession on Maruti Esteem (Annex3). Hon'ble Judge said:

“As pointed out earlier, it is not in dispute that the petitioner is a physically handicapped person and he has also produced the certificate to that effect. Once the policy is framed to give exemption to the physically handicapped person, it would be absolutely unjust to deny him such benefit on a pretext that he is physically handicapped only in connection with right leg and not the left one. Such type of distinction drawn by the Department is unjust, arbitrary and uncalled for; and appears nothing less than malice in law as it stands contrary to the policy framed by the Department for giving exemption to the physically handicapped persons. The stand taken by the Department in denying just claim of the petitioner in the matter of concession on payment of Excise Duty is absolutely arbitrary. At the time of considering the exemption application, the certificate issued by the Ministry of Industries has been totally ignored and clarification circular of the Department has also been ignored by the concerned officer. In our view, the officer has acted in absolutely unjust and improper manner in denying the just claim of the petitioner in the matter of getting rebate on Excise Duty. The stand of the Department is unsustainable and the writ petition filed by the petitioner is required to be allowed.”

Moreover, the circular issued from Central Board of Excise & Customs (Dept of Revenue) further clarifies that (Annex 4):

The description of the goods which is allowed concessional rate of duty as per Sl.No.216 of notification No.6/2002 dated 01.03.2002 (and its predecessor notifications) is 'cars for physically handicapped persons' subject to condition '54' of the notification... This condition does not require or state that the particular car should be specially designed or manufactured for use by the physically handicapped persons. In fact, the whole emphasis appears to be more on the end-use rather than the nature of the product itself. Just because normal persons can also drive these vehicles there is no ground for denying the concession... It is clarified that the concession should not be denied in respect of any motor vehicle with special features (like auto transmission) which is capable of being used by a handicapped person and for which necessary certificate from the Ministry of Industry is produced in this regard

Documents in support of the allegations contained in the complaint;

Annex 1- Guidelines by Maruti for customers with left leg disability

Annex 2 - TOI coverage of the issue

Annex 3- Vijay Raj Khariwal vs Union of India & Ors. CW Case No. 2697 of 2005 (HC of Raj)

Annex 4-CBEC Clarification Circular No. 640/31/2002-CX F.No.156/11/2001-CX.4 dated 24 June 2002

Annex 5- Letter to Secretary, Heavy Industries against discrimination by MSIL

The relief that the complainant claims:

The Chief Commissioner under the powers conferred under Section 59 of the Persons with Disabilities Act, 1995 has the power to “take steps to safeguard the rights and facilities made available to persons with disabilities”. I request Hon’ble Court to take action on this and

Direct MSIL (Respondent 1) to:

- i) Issue manufacturer certificate to me and all customers with right and/or left leg disability
- ii) To submit a written apology for harassing customers with disabilities
- iii) To remove the clause of submit a photo ‘showing’ disability as its against the Disability Amendment Rules, 2009
- iv) To expedite the cases of booking of cars for customers with disabilities on top priority
- v) To make special vehicles for customers with disabilities as no car manufacturer does this social responsibility and we have to request the local fabricators to do the same. Being the largest manufacturer of Cars in India, MSIL owe this responsibility

Direct Department of Heavy Industries (Respondent 2) to:

- i) Revise the guidelines for availing excise duty concessions by removing the clause of obtaining manufacturer’s certificate. The same can be done by the RTO office
- ii) Remove the word ‘handicapped’ from the circular as CCPD order has banned this expression vide No.10-4/CCD/2012 dated 7 Feb 2012
- iii) Modify the medical certificate annexure by asking photo of face only and not photo ‘showing’ disability as currently in use.
- iv) The excise duty concession should be given to a disabled person using a driver; a disabled person who can drive car as well as to disabled persons who can drive cars after suitably modified (retrofit, hand operated).
- v) The affidavit should go and self-certification only should be used.

Direct Central Board of Excise & Customs (Respondent 3) to:

- i) Instruct manufacturers and especially MSIL to be disabled friendly and modify there guidelines.
- ii) To sought explanation from MSIL on not following there Circular No. 640/31/2002-CX F.No.156/11/2001-CX.4 dated 24 June 2002 and take appropriate action.

Request Deptt. of Empowerment of PwDs (Respondent 4) to:

- i) Modify the word “Invalid Carriage” since it is derogatory & improper for people with disabilities. I request the Ministry to change it to “**Adapted/Altered Carriage**”.
- ii) Despite Disability Amendment Rules, 2009 many Ministries & Deptt are still asking candidates with disabilities photo ‘showing disability’. I myself approached CCPD on two occasions (UPSC and IITJEE) whereby the discriminatory proforma was withdrawn. I request Department to issue a fresh and strong reminder to States/UT to follow the rules strictly.

I declare that I’m a person with 70% mobility impairment. (Disability Certificate attached as Annexure 6)

Sd/-

Dr Satendra Singh