REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
OLD RED BUILDING, 38,M.G.Marg,CIVIL LINES, ALLAHABAD

Dated: 24/11/2015

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/ 70071/2015- dated 01/10/2015

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 35-C(1) of the **Central Excise and Salt Act, 1944.**

SPS 27/11 Asstt. Registrar

Application	Appeal	Name and Address of Appellant
	E/55500/2014SM	RANA ROLLING MILLS PVT LTD RANA CHOWK, BYE PASS ROAD, MUZAFFARNAGAR(UP)

Name and Address of Respondent	CCE MEERUT I MAGAL PANDEY NAGAR OPP CCS UNIVERISTY,MEERUT I

Other Appellants and Respondents as per Annexure

Copy To

3Advocate(s) / Consultant(s): MS. RINKI ARORA,ADV
82- MISSION COMPOUND
SAHARANPUR, UP

4 Bar Association, CESTAT, Delhi
5 Director Publications, Customs, Excise. I.P. Estate, Delhi
6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3
7 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17
8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005
9 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15
10 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)
11 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi – 110070

12 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

13 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082
14 C.D.R. 15 Office Copy 16 Guard File

Asstt. Registrar
Regional Bench, Allahabad

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, REGIONAL BENCH : ALLAHABAD

Ex.Appeal No.55500/14

Arising out of O/A No.29-CE/APPL/MRT-I/2014 dated 22.04.2014 passed by Commissioner (Appeals) Central Excise & S.Tax, Meerut I.

For approval and signature:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

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1. Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982? :
2. Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? :
3. Whether His Lordship wishes to see the fair copy of the Order? :
4. Whether Order is to be circulated to the Departmental Authorities? :

A.C.

M/s Rana Rolling Mills Pvt. Ltd. ...APPELLANT(S)

VERSUS

Commissioner of Central Excise, Meerut I RESPONDENT (S)

APPEARANCE

Ms. Rinki Arora, Adv. for the Appellant (s)
Shri Dipak Kumar Deb, A.C. (D.R.) for the Department

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

DATE OF HEARING & PRONOUNCEMENT : 01. 10. 2015

Final ORDER NO. 70071/2015

Per Mr. Anil Choudhary :

The Appellant, M/s Rana Rolling Mills Pvt. Ltd., is in Appeal against Order-in-Appeal No. 29-CE/APPL/MRT-I/2014 dated 22.04.2014 passed by Commissioner (Appeals) Central Excise & S.Tax, Meerut I.

2. Brief facts are that the due date for payment of duty for the month of December, 2011, was January 5, 2012. The Appellant made e-payment on 19.01.12 for the total amount of Rs.2,31,588/-. It is further case of the Appellant that there was a problem in the Internet and other adaptability problem, being comparatively new to the e-payment system, error occurred in the break-up of the Challan as follows :

Sl. No.	Actually Deposited in Head	Amount (Rs.)	To be deposited in Head	Amount (Rs.)
1.	Basic Excise duty	20,000/-	Basic Excise duty	2,00,000/-
2.	Primary Education Cess	1588/-	Primary Education Cess	20,000/-
3.	Secondary & Higher Education Cess	2,00,000/-	Secondary & Higher Education Cess	10,000/-
4.	Other Receipts	10,000/-	Other Receipts	1588/-
	Total	**231588/-**		**231588/-**

On noticing the error subsequent to the payment, the Appellant prayed to the Range Office by addressing a letter to the Assistant Commissioner dated 23.01.2012 for allowing rectification for the break up in the payment as noticed hereinabove. Without any reply to the Appellant for the said rectification as prayed for, a show-cause notice was issued taking note of the mistake committed thereby demanding duty short-paid Rs.1,98,412/- (Rs.1,80,000/- + BED + Rs.18,412/-

Ed.Cess) along with interest and penalty under Rule 25 of the Central Excise Rules, 2002. The Appellant contested by filing reply to SCN stating that proceeding under SCN be kept in abeyance till disposal of their rectification application dated 23.01.12. Without any further notice, the adjudicating authority confirmed the proposed demand observing that the Appellant should approach before the Office of the Chief Account Officer, Central Excise, Meerut, for rectification of the said mistake, in the Office of the Assistant Commissioner. Further, relying on the Trade Notice No.53/2001 dated 16.07.2001 issued by Commr. of Central Excise, Madurai, the ld. Commr. has categorically stated that the Appellant had not deposited the demand of duty of Rs.1,98,412/- along with interest and penalty under Rule 25 of the Central Excise Rules, 2002.

3. Being aggrieved, the Appellant preferred an Appeal before the ld.Commissioner (Appeals), who was pleased to reject the Appeal upholding that the Order-in-Original dt. 29.11.2013, after taking notice of the fact that the Appellants have moved the office of the Chief Account Officer for rectification by filing a Representation dated 06.03.2014.

4. Being aggrieved, the Appellant is before this Tribunal. Hence, the present Appeal.

5. Heard the ld.Counsel for the Appellant. The ld.Counsel has admitted that the Appellants have deposited the total amount of duty liability with interest. Further, in view of the mistake, which was totally un-intentional and due to inadvertence being new to e-payment procedure and as such, the authorities below has erred by not

advising the Appellant properly and confirmed the demand in hot haste. In this view of the matter, it is prayed that the appeal be allowed with direction to the authority to allow the rectification application as prayed for.

6. The ld. D.R. for the Revenue, relies on the impugned order and prays for dismissal of Appeal.

7. Having heard the rival contentions and perusal of records, I find that whatever mistake had occurred in depositing of tax/duty is due to inadvertence and not a case of deliberate mistake committed. Further, I take judicial notice that the e-payment procedure was made applicable to small assessee, sometimes during the year, 2010 & 2011. Thus, the impugned order is set aside. I further direct the Chief Accounts Officer, Central Excise Commissionerate, Meerut I, to make the rectification as prayed for by the Appellant vide their Representation dated 06.03.2014 within a period of 30 days from the date of receipt of this Order. I further direct the appellant assessee to appear with a copy of this order and their Representation dated 06.03.2014 along with other supporting documents before the concerned Chief Accounts Officer to facilitate the rectification. The Chief Accounts Officer, on completion of rectification, shall give intimation to the Appellant.

8. Appeal is allowed with direction as indicated above.

(Dictated and pronounced in the open Court)

Sd/-

(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

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