

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38, MG Marg Civil Lines, Old Red Building, Allahabad-211001
Regional Branch, Allahabad

Dated: 07/12/2016

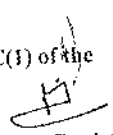
To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71113/2016-EX[DB] dated 29/11/2016

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.


 Asstt. Registrar

Application	Appeal	Name and Address of Appellant
	E/3036/2007	STEEL & METAL TUBES (I) LTD. JINDAL NAGAR, GHAZIABAD
		Name and Address of Respondent
		-C.C.E. MEERUT II Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP)

Copy To

3 Advocate(s) / Consultant(s):

RAJESH CHHIBBER, ADV
 FA-9, KAVI NAGAR
 GHAZIABAD

4 Bar Association, CESTAT, Allahabad

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), Vaidhyaram Street, T. Nagar, Chennai-17

8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

9 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

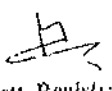
10 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

11 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad - 38

12 The ICFAI society, 52, Nagarjuna Hill, Punjagutta Hyderabad.-500082

13 M/S Knowledge Processing Pvt. Ltd.(taxmanagementindia.com), FF-19, 1st Floor, Cross River Mall, CBD Ground, Near Karkardooma Court, Delhi-110032

14 C.D.R. 15 Office Copy 16 Guard File


 Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No. E/3036/2007-EX[DB]

(Arising out of Order-in-Appeal No. 197-CE/MRT-II/2007 dated
27/08/2007 passed by Commissioner of Central Excise & Customs
(Appeals), Meerut-II)

M/s Steel & Metal Tubes (I) Ltd.

Appellant

Vs.

Commissioner of Central Excise, Meerut-II

Respondent

Appearance:

Shri Rajesh Chhibber, Advocate,
Shri Rajeev Ranjan, Joint Commissioner (AR),

for Appellant
for Respondent

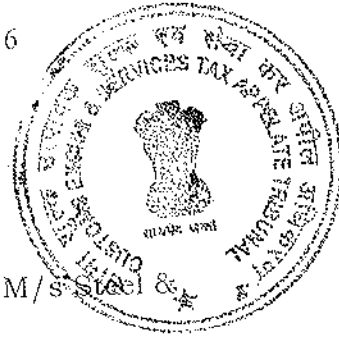
CORAM:

Hon'ble Shri Justice Dr. Satish Chandra, President
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing & Date of Decision: 29/11/2016

FINAL ORDER NO. 71113/2016

Per: Justic (Dr.) Satish Chandra:

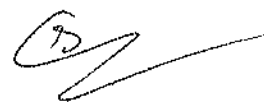


The present appeal is filed by the appellant, M/s Steel & Metal Tubes (I) Ltd., against the Order-in-Appeal No. 197-CE/MRT-II/2007 dated 27/08/2007 passed by Commissioner of Central Excise & Customs (Appeals), Meerut-II.

2. The brief facts of the case are that the appellant, M/s Steel & Metal Tubes (I) Ltd., is engaged in the manufacture of Steel Tubes & Pipes falling under Sub-heading No. 73063090

of the First Schedule to the Central Excise Tariff Act, 1985. The appellant is selling their product partly at factory gate and partly through consignment agents by stock transferring of the goods on payment of duty as mentioned (para 2) in the impugned Order-in-Appeal. The Commissioner (Appeals) has remanded the matter back to the Original Authority to reassess the goods by following Rule 7 of Central Excise (Valuation) Rules, 2000. Being aggrieved the appellant has filed the present appeal.

3. Heard learned counsel for the appellant Shri Rajesh Chhibber. He submits that in the impugned Order-in-Appeal, it has been observed that the appellant is selling their product partly at factory gate; and partly through consignment agents by stock transferring the goods on payment of duty. The learned counsel also submits that he has paid the duty at factory gate and differential duty is also paid by him as per the assessment Order. He has submitted that provisions of Rule 7 of Central Excise (Valuation) Rules, 2000, are not squarely applicable in the instant case as Rule 7 is exclusively for the circumstances where all the goods are transferred to a depot and not where the goods are partly sold at factory gate. Ld. Counsel relied on the ratio laid down in the case of *Bharat Petroleum Corporation Ltd Versus Commissioner of Central Excise, Chennai*, 2010 (261) E.L.T. 695 (Tri - Chennai).

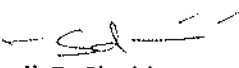


4. On the other hand, learned D.R., Rajeev Ranjan, Joint Commissioner, has relied on the impugned order.

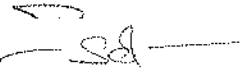
5. Having Considered the rival contentions, we note that the ratio laid down by the Tribunal in the case of Bharat Petroleum Corporation Ltd. *Versus* Commissioner of Central Excise, 2010 (261) E.L.T. 695 (Tri. - Chennai) is squarely applicable in the instant case as facts and circumstances are identical. Accordingly, when the goods are not sold at the factory gate but removed exclusively to a depot, premises of a consignment agent or any other place or premises from where the excisable goods are to be sold, the rule 7 is applicable.

6. In the instant case, it is evident that the goods were partly sold at factory gate and duty was paid. Remaining goods were transferred to the Depot. Therefore, Rule 7 of Central Excise (Valuation) Rules, 2000, is not applicable in the instant case. Hence, we set aside the impugned order and allow the appeal and with consequential relief, if any, as per law.

(Dictated and pronounced in Court)


(Anil G. Shakkarwar)

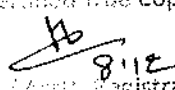
Member (Technical)


(Justice Dr. Satish Chandra)

President

Ansari

प्रमाणित प्रति / Certified True Copy


सहायक पंजीयन / Asst. Registrar
सीमा शुल्क, उदयपुर / Asst. Registrar
अपील अधिकरण / (C.E.S.T.A.T.)
33, एन. जी. मार्ग, इलाहाबाद-211001
33, M. G. MARG, ALAHAABAD-211001