FAX : 0532-2400149 REGISTERED / AD

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

Dated: 19/04/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70376-70377/2017-EX[DB] dated 05/04/2017

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
1	E/2682/2009	**JINDAL PIPES LTD.** P.O.JINDAL NAGAR, DELHI HAPUR ROAD, GHAZIABAD.
2	E/2683/2009	**JINDAL PIPES LTD.** P.O.JINDAL NAGAR, DELHI HAPUR ROAD, GHAZIABAD.
		Name and Address of Respondent
3		-C.C.E. MEERUT II Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP)
4		-C.C.E. MEERUT II Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP)

Other Appellants and Respondents as per Annexure

Copy To

5 Advocate(s) / Consultant(s):

Rajesh chibber
FA-9, KAVI NAGAR,
GHAZIABAD,
UP

6 Bar Association, CESTAT, Allahabad

7 Director Publications, Customs, Excise. I.P. Estate, Delhi

8 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

9 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

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

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

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

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

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

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

16 C.D.R. 17 Office Copy 18 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

REGIONAL BENCH : ALLAHABAD

COURT No. I

APPEAL No. E/2682 & 2683/2009-EX[DB]

(Arising out of Order-in-Appeal No. 186 & 192-CE/MRT-II/2009 dated 20/05/2009 & 19/06/2009 passed by Commissioner of Central Excise & Customs (Appeals), Meerut-II)

M/s Jindal Pipes Ltd. — **Appellant**

Vs.

Commissioner of Central Excise, Meerut - II — **Respondent**

Appearance:

Shri Rajesh Chhibber, Advocate, for Appellant

Shri Rajeev Ranjan, Joint Commissioner (AR), for Respondent

CORAM:

Hon'ble Mr. Anil Choudhary, Member (Judicial)

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing & Date of Decision : 05/04/2017

FINAL ORDER NO. 70376-70377/2017

Per: Anil G. Shakkarwar

The above stated two appeals are involving the same question of law, therefore they are taken together for decision.

2. The brief facts of the case are that appellant were engaged in the manufacture of Pipes & Tubes. The goods manufactured were both sold at the factory gate and were also transferred to consignment agent. In respect of the goods transferred to consignment agent the goods were assessed provisionally at time of clearance from the factory gate and on the basis of actual consideration received the assessment was

finalized. In respect of provisional assessment for the period from 01/04/2005 to 31/03/2006 finalization was ordered through Orders-in-Original No. 180-181/ Provisional-Assessment/JPL/2008 dated 14/08/2008, Finalization of Provisional Assessment for the period from 01/04/2005 to 31/03/2006, was through Order-in-Original No. 180/Provisional-Assessment/JPL/2008 dated 14/08/2008. Through the said Order-in-Original No. 180/Provisional-Assessment/JPL/2008 dated 14/08/2008, the appellants were directed to pay differential duty amounting to Rs.16,13,175/- & through said Order-in-Original No. 181/Provisional-Assessment/JPL/2008 dated 14/08/2008, the appellants were directed to pay differential duty amounting to Rs.1,70,464/-. Both the above stated Orders-in-Original were challenged by Revenue and appeals were filed before Commissioner (Appeals) on the ground that the valuation was required to be done under Rule 7 of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 and that the value should have been normal transaction value of such goods sold from such other place i.e. the place of consignment agent at or about the same time of removal of goods. The appeals were decided through Order-in-Appeal No. 186-CE/MRT-II/2009 dated 20/05/2009 & Order-in-Appeal No. 192-CE/MRT-II/2009 dated 19/06/2009. The ld. Commissioner (Appeals) allowed the appeals by way of remand to Original Authority with direction to re-finalize the provisional assessment by finalizing the provisional assessments consignment agent wise in accordance with said Rule 7 of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000. Aggrieved by the said order of ld. Commissioner (Appeals) appellant is before this Tribunal.

3. Heard the ld. Counsel, Shri Rajesh Chhibber, for the appellant, he has drawn attention to the brief facts recorded by Commissioner (Appeals) wherein it has been stated that the appellant was selling their goods partly at the factory gate and partly through their consignment agent and submitted that this Tribunal through Final Order No. 71113/2016 dated 29/11/2016 has held that said Rule 7 is applicable only when all the goods manufactured by a manufacturer are sold only through depots and further contended that since in the present case all the goods are not sold through depot, therefore, the order passed by ld. Commissioner (Appeals) may be set aside.

4. Heard the ld. D. R., Shri Rajeev Ranjan, for Revenue who supported the impugned Order-in-Appeal.

5. Having considered the rival contentions and on perusal of the records, we find that this Tribunal has held in the above stated Final Order No. 71113/2016 dated 29/11/2016, that the provisions of Rule 7 of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 are applicable only when the entire quantity of goods

manufactured by an assessee is transferred to depots or premises of consignment agent and the goods are not at all sold by asseassee at the factory gate i.e. the place of removal then only provisions of said Rule 7, are applicable. Admittedly, some of the goods were sold by the appellant at the factory gate. We, therefore, hold that provisions of Rule 7, were not applicable in the present case. We, therefore, set aside both the impugned Orders-in-Appeal and restore the Orders-in-Original both dated 14/08/2008. In above terms, the appeals are allowed. The appellant shall be entitled to consequential relief, if any, in accordance with law.

(Dictated and pronounced in Court)

-Sd/-
(ANIL CHOUDHARY)
Member (JUDICIAL)

-Sd/-
(ANIL G. SHAKKARWAR)
Member(TECHNICAL)

Ansari

प्रमाणित प्रति / Certified True Copy
03/05/2017
सहायक पंजीयक / Asstt. Registrar
सीमाशुल्क, उत्पाद शुल्क एवं सेवा कर
अपील अधिकरण / (C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001