

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI**

REGIONAL BENCH – COURT No. III

Excise Appeal No. 40785 of 2018

(Arising out of Order-in-Original No. 68/2017 (C)(C.EX.)(*Denovo*) dated 29.12.2017 passed by Commissioner of GST and Central Excise, No. 1, Goubert Avenue, Puducherry – 605 001)

M/s. Kannappan Iron and Steel Co. (P) Ltd.

...Appellant

R.S. No. 10/1, Vanjore,
Nagore Main Road,
T.R. Pattinam P.O.,
Karikal – 609 606.

Versus

Commissioner of GST and Central Excise

...Respondent

Puducherry Commissionerate,
No. 1, Goubert Avenue,
Puducherry – 605 001.

APPEARANCE:

For the Appellant : Mr. M. Karthikeyan, Advocate

For the Respondent : Mr. N. Satyanarayana, Authorized Representative

CORAM:

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)

HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

FINAL ORDER No. 40483 / 2026

DATE OF HEARING : 12.01.2026

DATE OF DECISION : 10.04.2026

Per Mr. VASA SESHAGIRI RAO

This appeal is directed against Order-in-Original No. 68/2017 (C.Ex.) (Denovo) dated 29.12.2017 passed by the Commissioner of GST & Central Excise, Puducherry, whereby the adjudicating authority has confirmed a demand of Central Excise duty amounting to Rs.30,61,199/- along with interest and equal penalty by rejecting the transaction value adopted by the appellant in respect of clearances made

to certain alleged related persons and by re-determining the assessable value under Rule 9 read with Rule 11 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000.

1.2 The facts, briefly stated, are that M/s. Kannappan Iron & Steel Company (Pvt) Ltd., Puducherry (hereinafter referred to as "the Appellant") is engaged in the manufacture of M.S. Ingots, CTD Bars and TMT Bars falling under Chapter 72 of the Central Excise Tariff Act, 1985 and is duly registered with the Central Excise Department. During the course of audit conducted by the Central Excise Revenue Audit (CERA), it was observed that the appellant had effected clearances not only to independent buyers but also to certain entities, namely M/s. Kannappan & Co. and M/s. Kannappan Iron Traders, who were found to be related persons within the meaning of Section 4 of the Central Excise Act, 1944. The Department formed a view that the transaction value adopted by the appellant in respect of such clearances to related persons could not be accepted under Section 4(1)(a) of the Act and that the valuation was required to be determined in terms of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000, particularly Rule 9 read with Rule 11. Consequently, a show cause notice was issued proposing demand of

differential duty amounting to Rs.2,83,25,041/- for the period October 2007 to December 2010 along with interest and penalty, which came to be confirmed vide Order-in-Original No.06/2013-C.Ex dated 20.12.2013.

1.3 The matter had earlier travelled to this Tribunal, which remanded the case directing the adjudicating authority to redetermine the value in accordance with Rules 4 to 7 of the Valuation Rules after informing the methodology to the appellant. In the de novo proceedings, the adjudicating authority adopted Rule 9 and confirmed the demand to the extent of Rs.30,61,199/- along with interest and penalty.

2. Aggrieved by the Denovo order, the appellant is before this Tribunal.

3. The Ld. Advocate Shri Karthikeyan appeared on behalf of the Appellant. The Ld. Authorized Representative Shri N. Satyanarayana appeared for the Revenue.

4.1 The Ld. Counsel for the Appellant submitted that the entire demand is premised on the assumption that the transaction value between the appellant and the alleged related buyers is not acceptable. It was contended that even in the case of related party transactions, the transaction

value is to be accepted unless it is demonstrated that the relationship has influenced the price.

4.2 The appellant placed strong reliance on the decision of the Tribunal in the case of *ITC Ltd., 2018 (2) TMI 478*, wherein it has been held that transaction value cannot be rejected merely on the ground of relationship unless price influence is established. It is further submitted that the variation in prices between sales to related parties and independent buyers is marginal, being around 1%, and therefore cannot be considered as evidence of price manipulation.

4.3 The appellant also relied upon the judgment of the Hon'ble Supreme Court in *Commissioner of Central Excise vs Bharti Telecom*, wherein it has been held that even where the buyer and seller are related, the transaction value must be accepted if the relationship has not influenced the price. The appellant submits that this principle continues to hold good even under the post-2000 Valuation Rules.

4.4 It was further argued that the methodology adopted by the Department is arbitrary and not in accordance with the Valuation Rules. The show cause notice itself does not clearly explain the basis on which the

differential duty has been computed. The appellant also submits that even assuming Rule 9 is applicable, the demand has been incorrectly computed and the actual differential duty, if any, would be substantially lower.

5.1 *Per Contra*, the Authorized Representative for the Revenue Mr. N. Satyanarayana has reiterated the findings of the adjudicating authority and submitted that the appellant and the buyers are clearly related persons as defined under Section 4(3)(b) of the Central Excise Act, 1944. It was contended that once the relationship is established, the transaction value cannot be accepted and valuation has to be done in terms of the Valuation Rules.

5.2 It was further submitted that the appellant has sold goods to related parties at prices lower than those charged to independent buyers and that such differential pricing clearly establishes that the relationship has influenced the price. Therefore, Rule 9 is correctly invoked and the valuation adopted by the Department is in accordance with law.

6. We have carefully heard the submissions advanced by both sides, examined the appeal records in

detail, and considered the statutory provisions and the case laws cited.

7. Upon consideration of rival submissions and the record, the following questions arise:

- i. Whether the transaction value adopted by the appellant in respect of clearances to related persons is liable to be rejected and valuation is required to be determined under Rule 9 of the Central Excise Valuation Rules, 2000.
- ii. Whether the demand of differential duty, interest and penalty confirmed in the impugned order are sustainable in law.

8. Before we proceed to examine the issues on merits, it would be appropriate to briefly advert to the scheme of valuation under the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000, particularly Rules 4 to 9. The said rules provide a structured and sequential mechanism for determination of assessable value. Rule 4 provides for valuation based on transaction value of identical goods sold to independent buyers, while Rule 5 deals with clearances of similar goods. Rules 6 and 7 provide for alternative methods such as deductive value and computed value respectively. Rule 8 governs cases of captive

consumption, whereas Rule 9 deals with valuation in cases where goods are sold to or through related persons.

It is thus evident that the Valuation Rules are intended to be applied sequentially, and recourse to Rule 9 arises only upon proper examination of the applicability of the preceding rules and satisfaction of the conditions prescribed therein.

ISSUE (i) Whether the transaction value is liable to be rejected and invoking Rule 9 is whether correct or not?

9.1 The core controversy that arises for consideration is whether the mere existence of relationship between the appellant and certain buyers is sufficient to reject the transaction value declared under Section 4(1)(a) of the Central Excise Act, 1944 and to invoke Rule 9 of the Central Excise Valuation Rules, 2000. Section 4 places primacy on transaction value, and even in cases of related party transactions, such value cannot be rejected unless it is established that the relationship has influenced the price. In the present case, the show cause notice proceeds primarily on the basis of relationship and does not bring on record any substantive material to demonstrate price influence. The allegation of undervaluation is founded merely on comparison of prices without examining the commercial context or producing any evidence of extra-commercial consideration.

9.2 The appellant has consistently contended that the variation in price is marginal being around 1% and attributable to commercial considerations such as quantity, market conditions and contractual terms. The Department has not produced any evidence of flow back of funds, mutuality of interest affecting pricing or any arrangement indicating that the price was influenced by relationship.

9.3 It is also not in dispute that the appellant has effected sales both to the alleged related persons as well as to independent buyers. This factual position assumes significance in determining the applicability of the Valuation Rules.

9.4 The appellant has placed reliance on judicial precedents to contend that mere existence of relationship is not sufficient to reject the transaction value unless it is demonstrated that such relationship has influenced the price. In particular, reliance has been placed on the judgment of the Hon'ble Supreme Court in *CCE, Chandigarh vs Bharti Telecom Ltd.*, 2008 (224) E.L.T. 506 (S.C.), wherein the Hon'ble Court, in paragraphs 5 & 6 has held that: -

"5. Learned senior counsel appearing for the revenue did not dispute the fact that the BTL sold the goods to STL at or about the same price at which it sold the goods to DOT and MTNL. Even if the STL is taken to be a related person to BTL (we are not holding so), it has not influenced the price at which goods are sold by BTL to STL. Under the circumstances, transaction value has to be accepted.

6. Without recording any finding as to whether BTL or STL are related persons and leaving the said question open, since the product is being sold to STL at or about the same price at which it was sold to DOT and MTNL, the relationship of BTL and STL did not influence the price and, therefore, the transaction value between BTL and STL has to be accepted in the facts and circumstances of this case."

9.5 The appellant has also relied upon the decision of the Larger Bench of the Tribunal in *Ispat Industries Ltd. vs CCE, 2007 (209) E.L.T. 185 (Tri.-LB)*, wherein in paragraph 7 it has been observed as given below: -

"7. We also agree with the submission of the assessee that even if both the rules, i.e. Rule 4 and Rule 8, were applicable, it would only be logical to read and apply the various rules in the Central Excise Valuation Rules in a sequential manner. Though the Central Excise Valuation Rules, 2000 do not specifically prescribe such sequential application of various rules, the same, in our view, is the only reasonable way to read these rules. Any other interpretation would only lead to confusion and chaos. Since the applicability of Rule 4 is not really in dispute, there was no need to look further and regardless of the applicability or otherwise of Rule 8, the assessable value should have been determined in terms of Rule 4 of the Valuation Rules."

9.6 The appellant has also relied upon the decision of the Tribunal in *ITC Ltd., 2018 (2) TMI 478*, wherein in paragraph 7.6 it has been held that: -

"7.6. The Tribunal in the remand order had alluded to the Hon'ble Supreme Court's judgement in Commissioner of Central Excise, Chandigarh Vs Bharti Telecom and Others [2008-TIOL-124-SC-CX], wherein it was held that even if the assessee and the buyers were related, the transaction value should be accepted if the relation did not influence the price at which the goods were sold; that the said ratio would continue to hold good even for Valuation Rules for post-1.7.2007 since both the Rules embody the same principle. No appeal has been filed by the department against the said Tribunal remand order dt. 23.7.08. Hence the adjudicating authority is bound by this finding of the Tribunal. Nonetheless, we find that the impugned order is only a rehash of the earlier adjudication order dt.

10.03.2008. We therefore are of the opinion that in the de novo proceedings, the adjudicating authority has not appreciated or complied with the directions of the Tribunal vide remand order dt. 23.07.2008. On this count also, the impugned order dt. 28.10.2009 (relating to E/67//2010) cannot sustained."

The above decisions, relied upon by the appellant, lay down the settled legal position which squarely applies to the facts of the present case.

9.7 At this juncture, it is necessary to examine whether the adjudicating authority has complied with the directions of this Tribunal in the earlier round of proceedings, wherein it was specifically directed to determine the assessable value in accordance with Rules 4 to 7 of the Valuation Rules.

9.8 On a careful perusal of the impugned order, we find that there is no examination of the applicability of Rules 4 to 7 in a sequential manner, nor are any reasons recorded for discarding these rules or for holding them to be inapplicable. Instead, the adjudicating authority has proceeded directly to invoke Rule 9 solely on the basis of relationship. Such an approach is contrary to the sequential scheme of the Valuation Rules and also amounts to disobedience to and non-compliance with the remand directions of this Tribunal.

9.9 It is also relevant to note that the present impugned order is a de novo adjudication order passed pursuant to the remand directions of this Tribunal. A de novo order is required to strictly adhere to the directions of the appellate authority. However, in the present case, the adjudicating authority has failed to follow the directions to examine Rules 4 to 7 and has instead proceeded directly under Rule 9. Such non-compliance vitiates the impugned order.

9.10 We further find from the records that even the methodology adopted by the Department for quantification of demand suffers from serious inconsistencies. As brought out in the impugned order itself, the basis of computation of differential duty in the show cause notice is not clearly forthcoming and no supporting documents were produced by the Department for arriving at the assessable value. It is observed that the assessable value adopted in the notice differs significantly from the value declared in the returns, without any clear explanation.

9.11 It is also seen that the Department appears to have treated the cum-duty price reflected in the dealer invoices as the assessable value, which is legally incorrect. Further, the quantity of clearances considered in the notice

includes sales made directly to independent buyers, which ought to have been excluded. The records indicate that the entire quantity reflected in ER-1 returns was taken into account without segregating sales to related and unrelated buyers, thereby inflating the demand.

9.12 On the other hand, the appellant has produced detailed workings based on actual dealer invoices showing sales to unrelated buyers at or about the same time and has computed the differential duty at Rs.30,61,199/-. The adjudicating authority has verified these workings with reference to the invoices and has not found any discrepancy therein. This itself demonstrates that the demand proposed in the show cause notice was not based on proper application of valuation principles.

9.13 It is further observed that the appellant has effected sales not only to related persons but also to independent buyers. In such circumstances, the availability of contemporaneous independent sales assumes significance in the context of valuation. We find that the Tribunal, in the case of *Denso India Ltd. [2025 (28) CENTAX 20 (Tri.-All.)]* has held that where comparable sales to independent buyers are available, the same ought to be considered in preference to resorting to Rule 9. The said view has been affirmed by

the Hon'ble Supreme Court [*2025 (28) CENTAX 21 (S.C.)*]. The consistent judicial view, including that of the jurisdictional High Court and the Tribunal, is that valuation should, as far as possible, be based on actual transaction values, and recourse to Rule 9 can be taken only upon proper examination of such comparable data and satisfaction of the conditions prescribed therein. In the present case, no such exercise has been undertaken by the adjudicating authority.

9.14 The impugned order does not demonstrate that the statutory conditions for invoking Rule 9 stand satisfied, nor does it establish that Rules 4 to 7 were inapplicable. In view of the foregoing discussion and applying the ratio of the decisions of higher judicial forum, we hold that the transaction value cannot be rejected merely on the ground of relationship in the absence of evidence to establish that such relationship has influenced the price, and that the invocation of Rule 9 is not sustainable. The burden to justify such invocation lies on the Department, which has not been discharged.

9.15 Accordingly, the valuation adopted by the adjudicating authority under Rule 9 is liable to be set aside

and the transaction value declared by the appellant is required to be accepted.

ISSUE (ii) Whether demand, interest and penalty are sustainable

10.1 Having held that the rejection of transaction value and adoption of Rule 9 are not sustainable, the very basis of the demand fails, as the entire demand of differential duty is founded on re-determination of value under Rule 9. Once the foundation of valuation is set aside, the consequential demand of duty cannot survive, and it is legally well settled that when the basis of demand is set aside, all consequential liabilities including interest and penalty must also be set aside. Further, the issue involved is interpretational in nature, relating to the application of valuation provisions, and the appellant has disclosed all relevant facts and maintained proper records. In the absence of any evidence of suppression of facts or intent to evade payment of duty, the demand is not sustainable on this ground as well.

10.2 Accordingly, the demand of duty, interest and penalty is not sustainable and is hereby set aside.

11.1 In view of the foregoing discussion and findings, and applying the ratio of the decisions of the Hon'ble

Supreme Court we hold that the transaction value adopted by the appellant cannot be rejected merely on the ground of relationship in the absence of evidence to establish that such relationship has influenced the price, and that the invocation of Rule 9 is not sustainable, particularly when sales to independent buyers exist and Rules 4 to 7 have not been examined.

11.2 Consequently, the demand of differential duty, interest and penalty confirmed in the impugned order is not sustainable in law and is liable to be set aside.

12. The impugned Order-in-Original No. 68/2017 (C)(C.EX.)(Denovo) dated 29.12.2017 is set aside, and the appeal is allowed with consequential relief, if any, in accordance with law.

(Order pronounced in open court on 10.04.2026)

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

MK

Sd/-
(P. DINESHA)
MEMBER (JUDICIAL)