IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI
COURT NO. II

Appeal No. C/248 & 249/2010

(Arising out of Order-in-Original No. 164/2009/CAC/CC/RBT dated 17.11.2009 passed by the Commissioner of Customs (Export), Mumbai).

Commissioner of Customs (Export), Mumbai	Appellant

Vs.

M/s Sanvijay Rolling & Engineering Ltd. M/s Prakash Ispat Udyog	Respondent

Appearance:

Shri K.M. D'Souza, Asstt. Commissioner (AR)	for Appellant
Shri T. Vishwanathan, Advocate	for Respondent

CORAM:

HON'BLE SHRI RAMESH NAIR, MEMBER (JUDICIAL)
HON'BLE SHRI RAJU, MEMBER (TECHNICAL)

Date of Hearing: 20.03.2018

Date of Decision: 20.03.2018

ORDER NO. **A/85812 - 85813/2018**

Per: Ramesh Nair

These are the Revenue's appeal against Order-in-Original No. 164/2009/CAC/CC/RBT dated 17.11.2009 whereby the learned Commissioner confirmed the duty demand of Rs.2,89,42,135/- along with interest thereon and imposed penalty of Rs.2,89,42,135/- under Section 114A of the Customs Act, 1962 against M/s Sanvijay Rolling & Engineering Ltd. In addition, penalty of Rs.30 lakhs on Shri Sanjay Aggarwal and Rs.10 lakhs on

Shri Janaki Prasad Shah were imposed. The Revenue filed the present appeal for not imposing the penalty under Section 112(b) of the Customs Act, 1962 on M/s Maharashtra Steel Rolling Mills (P) Ltd., who was one of the noticee.

2. Shri K.M. D'Souza, learned Asstt. Commissioner (AR) appearing on behalf of the Revenue reiterates the grounds of appeal.

3. Shri T. Vishwanathan, learned Counsel appearing on behalf of the respondents submits that in the case of M/s Sanvijay Rolling & Engg. Ltd. and others, this Tribunal remanded the matter to the adjudicating authority for fresh decision. Since the issue whether the penalty under Section 112(b) of the Customs Act, 1962 should be imposed on M/s Maharashtra Steel Rolling Mills Pvt. Ltd. is consequential to the demand against Sanvijay Rolling & Engg. Ltd., this matter also deserves to be remanded to the adjudicating authority.

4. On careful consideration of the submissions made by both sides, we find that against the same impugned order in the case of M/s Sanvijay Rolling & Engg. Ltd. and others, this Tribunal vide Order No. A/89097-89101/17/CB remanded the matter to the Commissioner for passing a fresh order. Since the present appeal is on the issue which is consequential to the main outcome of the case against the Sanvijay Rolling & Engg. Ltd., it is in the interest of justice that this matter should also be reconsidered by the adjudicating authority.

5. Accordingly, the appeals are disposed of by way of remand to the adjudicating authority for passing a fresh order.

(Operative portion of the order pronounced in Court)

(Raju) **Member (Technical)**	**(Ramesh Nair)** **Member (Judicial)**

Sinha