

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.1742 OF 2004

COMMNR. OF CENTRAL EXCISE NAGPURAPPELLANT

VERSUS

M/S ISPAT INDUSTRIES LTD.RESPONDENT

WITH

CIVIL APPEAL No.658 OF 2005

O R D E R

The respondent herein is the manufacturer of cold rolled/galvanized products of Iron and steel falling under Chapter 72 of the first schedule to the Central Excise Tariff Act, 1985. The issue for consideration is as to the includibility of the cost of transportation charges from the factory gate to the depot which was the place of removal in the transaction value of the goods, under the Central Excise Valuation (Determination of price of Excisable Goods) Rules, 2000. The assessee were engaged in clearance of their final product directly to the customers at the factory gate as well as stock transfer to their various depots. The assessee had filed price declarations with the department under Rule 173 of the erstwhile Central Excise Rules, 1944 declaring that their stock transfer price as given in the said declaration was inclusive of freight from factory gate to the depot. The revenue department issued 3 show cause notices to the assessee amounting to Rs.38,53,000/-, Rs.46,24,660/- and Rs.24,48,700/- for the period from April, 2001 to June, 2001, July, 2001 to September, 2001 and

October, 2001 to December, 2001 respectively. The Commissioner of Central Excise, Nagpur confirmed the total demand of Rs.1,09,26,360/- vide order dated 27.05.2003. The Commissioner imposed a penalty of Rs.10,00,000/- under Rule 25 and a penalty of Rs.1,09,26,360/- under 11AC of the Central Excise Act, 1944. Aggrieved by the order of the Commissioner, the respondent filed an appeal before the Customs, Excise and Service Tax Appellate Tribunal (for short, 'the Tribunal') . The Tribunal allowed the appeal filed by the assessee vide order dated 01.12.2003 relying upon the circular No.354/81/2000-TRU dated 30.06.2000.

While allowing the appeal of the respondent herein, the Tribunal has arrived at a categorical finding that the respondent is not responsible to pay the cost of transport from the place of removal to the place of delivery i.e. from the factory gate to the depot separately. In terms of Rule 5 of the Central Excise Valuation (Determination of price of Excisable Goods) Rules, 2000, such a cost of transport which is also separately shown, is not includable in the valuation for the purpose of excise duty.

We find no error in the judgment of the Tribunal.

The appeals are accordingly dismissed.

.....J.
(A.K. SIKRI)

.....J.
(ROHINTON FALI NARIMAN)

NEW DELHI;
MARCH 25, 2015.

ITEM NO.110

COURT NO.15

SECTION III

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s).1742/2004

COMMNR. OF CENTRAL EXCISE NAGPUR

Appellant(s)

VERSUS

M/S ISPAT INDUSTRIES LTD.

Respondent(s)

(With appln.(s) for stay and office report)

WITH

C.A. No.658/2005

(With Office Report)

Date : 25/03/2015 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Appellant(s) Mr.K.Radhakrishnan, Sr.Adv.
 Mr.Rupesh Kumar, Adv.
 Ms.Sadhna Sandhu, Adv.
 Mr.R.K.Verma, Adv.
 Mr. B. Krishna Prasad, Adv.

For Respondent(s) Mr.S.K.Bagaria, Sr.Adv.
 Ms. Praveena Gautam, Adv.
 Mr.K.Ajit Singh, Adv.
 Ms.Tuhina, Adv.

Upon hearing the counsel the Court made the following
O R D E R

The appeals are dismissed in terms of the signed order.

(SATISH KUMAR YADAV)
COURT MASTER

(SUMAN JAIN)
COURT MASTER

(Signed order is placed on the file)