# CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

## Excise Appeal No. 86063 of 2018

(Arising out of Order-in-Appeal No. PUN-EXCUS—001-APP-916 & 917 dated 19.12.2017 passed by the Commissioner of Central Tax (Appeals-I), Pune)

**M/s Mahindra & Mahindra Ltd.** **.... Appellant**
128/A, Sanghavi Compound,
Mumbai Pune Road, Chinchwad,
Pune – 411 019

Versus

**Commissioner of Central Excise, Pune-I** **.... Respondent**
ICE House, 41/A, Sassoon Road,
Opp. Wadia College,
Pune – 411 001

**WITH**

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APPEARANCE:

Shri Kiran Chavan, Advocate for the Appellants

Shri Rajiv Ranjan, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)**
**HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)**

**FINAL ORDER NO. A/85850-85851/2026**

Date of Hearing: 02.07.2026

Date of Decision: 02.07.2026

***PER: S.K. MOHANTY***

Heard both sides and perused the case records.

2. The appellants herein are engaged *inter alia*, in the manufacture of Prototype commercial vehicles (trucks) falling under Chapter sub-heading 8704 2319 of the First Schedule to the Central Excise Tariff Act, 1985. During the disputed period, the appellants had removed the said goods to their other manufacturing unit under the cover of the tax invoices on payment of appropriate Central Excise duty. The said goods were removed to their other units for the purpose of testing of such prototype vehicles. For removal of the goods, the appellants had computed the Central Excise duty liability in terms of Section 4(1)(b) of the Central Excise Act, 1944 read with Rule 4 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000. However, the Department had alleged that since the goods were removed by the appellants' unit to themselves for commercial purpose, the value of the clearance would be calculated in terms of Rule 8 of the Central Excise Valuation Rules, 2000 @ 110% of the cost of production. On the basis of such interpretation, show-cause proceedings were initiated against the appellants, which culminated into the adjudication order dated 26.12.2016 passed by the Assistant Commissioner of Central Excise, Pune-I Commissionerate, in dropping the proposals made in the show-cause notices. On appeal against the said original orders dated 26.12.2016 & 28.02.2017 by Revenue, the learned Commissioner (Appeals-I), Central Tax, Pune vide the impugned order dated 19.12.2017 has set aside the original orders and allowed the appeals in favour of the Revenue. Against the said impugned order dated 19.12.2017, the appellants have filed these appeals before the Tribunal.

3. We find that an identical issue with regard to determination of the value for the purpose of payment of central excised duty came up for consideration by the Tribunal in the case of the appellants themselves. Upon consideration of the rival contentions, the Co-ordinate Bench has held that the contention of the Revenue that the case of the appellant should fall under the scope and purview of Rule 11 r/w Rule 8 of the Valuation Rules, 2000 cannot be sustained. The relevant paragraph recorded in the said order is quoted herein below: -

*"4. We have carefully considered the submissions made by both sides and perused the records. The fact which is not under dispute is that the appellant have manufactured prototype vehicle and cleared for various testing on self consumption basis, the said motor vehicle was not used for consumption by the appellant or on his behalf for manufacture of any other article which is prime condition to invoke Rule 8. Therefore Rule 8 clearly not applicable to the facts of the present case this Tribunal considering the same issue in the case of Mahindra & Mahindra Ltd. (supra) held that the value of comparable vehicle shall apply in terms of Rule 4 of Central Excise Valuation Rules,2000. The said judgment is reproduced below:*

> *'6. As pointed out by Ld. AR, since there is no appeal filed by the respondents, the issue with regard to excisability and marketability of the prototypes does not require any further analysis. The issue that has to be looked into is only with regard to the valuation of the prototypes. The department contends that the valuation under Section 4(1)(b) r/w Rule 11 and Rule 8 should be applied. It is pertinent to note that when the respondent was asked to submit CAS-4 statement, the assessable value has been arrived to be Rs. 71,14,198/- for one motor vehicle. At no stretch of imagination, the assessable value of similar model vehicle can be Rs. 71,14,198/-. It is to be noted that under Rule 126 of Central Motor Vehicle Rules, 1989, a prototype of every motor vehicle shall be subject to testing by designated Government Departments or Research Associations or Testing Institutes to ascertain the compliance of provisions of the Act and Rules. The said Act itself uses the word 'prototypes'. Only after certification by such authorities can the manufacturer of motor vehicles manufacture and market the motor vehicles. The similar model vehicles which are commercially manufactured can be said to be copies of the prototypes. It cannot be then said that these prototypes are consumed in further manufacture of motor vehicles. Thus Rule 8 of Central Excise Valuation Rules, 2000 will not apply to such a situation. We find that the Commissioner has gone deeply into the analysis of what is prototype and the valuation to be adopted for such prototypes. He has also relied upon the Order-in-Original No. 18/2010, dated 28-10-2010 passed by the Commissioner of Central Excise, Pune in the appellant's own case, wherein the proceedings were dropped. We find that the department having accepted the decision passed by the Commissioner in the said Order-in-Original as well as the decision passed in Order-in-Appeal dated 21-2-2015, they cannot insist that Rule 11 r/w Rule 8 has to be applied in the present proceedings.'*

*From the above judgment, it can be seen that the facts are identical accordingly, the value determined under Rule 4 of the Central Excise Valuation Rules, i.e. price of comparable goods shall apply, accordingly, the valuation arrived by the appellant in the facts of the present case is correct and legal and hence, the impugned order is not sustainable. Accordingly, the impugned order is set aside and the appeal is allowed."*

4. In view of the fact that the issue arising out of the present dispute is no more *res integra,* as per the Order (supra) passed by the Co-ordinate Bench, we are of the considered opinion that different interpretation cannot be placed at this juncture, since the issue is identical in both the cases. Therefore, we do not find any merits in the impugned order, insofar as it has confirmed the adjudged demands on the appellants.

5. In view of the above, the impugned order is set aside and the appeals are allowed in favour of the appellants.

(Dictated and pronounced in open court)

**(S.K. MOHANTY)**
**MEMBER (JUDICIAL)**

**(M.M. PARTHIBAN)**
**MEMBER (TECHNICAL)**

Sinha