CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH - COURT No. III

Excise Appeal No. 40488 of 2018

(Arising out of Order-in-Original No.10/2017-Commr. dated 29.11.2017 passed by Commissioner of GST & Central Excise, 6/7, ATD Street, Race Course Road, Coimbatore 641 018)

M/s.Sri Selvi Weld Mesh **.... Appellant**
Ramaswamy Gounder Thottam,
Pannikampatti,
Palladam,
Tirupur 641 664.

VERSUS

The Commissioner of GST &
Central Excise **... Respondent**
6/7, A.T.D. Street, Race Course Road,
Coimbatore 641 018.

APPEARANCE :

Shri Vikaram Katariya, Chartered Accountant for the Appellant
Shri M. Selvakumar, Authorized Representative
for the Respondent

CORAM :

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. M. AJIT KUMAR, MEMBER (TECHNICAL)

FINAL ORDER No.40919/2026

DATE OF HEARING : 10.03.2026
DATE OF DECISION : 04.08.2026

Per: Shri P. Dinesha

The dispute in this Appeal involves classification. The Assessee who is the Appellant before us is engaged in the manufacture of Weld Mesh which are parts of Poultry Battery Cages i.e. Upper Portion, Bottom Part and Side Portions of different sizes and specifications, which is manufactured using Tata Steel Wire Rolls by using Wire Welding Machines for which, Galvanized wires are specifically purchased. There is no dispute that the Assessee manufactured and cleared the above goods which were used to construct Poultry Battery Cages and also for replacement of parts of Battery Cages. While clearing the goods in question, it appears that the Assessee adopted classification under CETH 84369100 – as parts of Poultry Keeping Machinery or Poultry Incubators and Brooders, which appears to have not been accepted by the Revenue. There were exchange of letters, recording of statements etc. and finally a Show Cause Notice dated 07.07.2017 was issued covering the period 01.04.2012 to 30.06.2017 proposing *inter alia* the rejection of declared classification and re-classify the goods in question under CETH 73089090 as 'Others'.

2. It appears that the Assessee filed a detailed reply along with photographs of the goods in question and also relying on various judicial pronouncements. Not satisfied with the explanation filed, the Adjudicating Authority viz. the Commissioner of GST & Central Excise, Coimbatore *vide* impugned Order-in-Original No.10/2017 dated 29.11.2017 proceeded to confirm the proposals as made in the SCN; the said findings in the Order-in-Original have been assailed by the Appellant in this Appeal before us.

3. Heard Shri Vikram Katariya, learned Chartered Accountant for the Appellant and Shri M. Selvakumar, learned Departmental Representative defended the Commissioner's order; we have carefully considered the rival contentions, we have also perused the documents, explanations, and other judicial pronouncements relied on during the course of arguments. Upon hearing the rival contentions, the following issues arise for our consideration: –

(i) *Whether the Revenue is justified in disturbing / rejecting the declared classification of the goods under dispute ?*

(ii) *Whether the Revenue has proved its case in so far as they attempted classification under CETH 73089090? and*

(iii) *Whether the Revenue has justified the invoking of extended period of limitation for demanding the duty liability ?*

4. The competing entries are CETH-84369100 and CETH–73089090: 8436 refers to 'parts of Poultry Keeping Machinery or Poultry Incubators and Brooders', whereas 7308 in general refers to 'Structures and parts of Structures – for example, bridges and bridge-sections, lock–gates, towers, lattice masks, roofs, roofing framework, doors & windows and their frames, thresholds for doors, shutters, balustrades, pillars, and columns – of iron or steel; plates, rods, angles, shapes, sections, tubes, and like, prepared for use in structures of iron or steel'. Both these headings, according to us, are user specific or industry specific; at the very outset they give an idea as to the nature of and use of the items that could be classified under those Chapter Headings.

5. Strange feature in the SCN as well as the impounded Order-in-Original is that while the classification declared by the Assessee has been elaborately discussed

only to be rejected, however, the lower authority has not at all felt it proper to discuss and justify as to how the proposed classification under CETH 7308 is the most appropriate classification. But in any case, we will examine in the context of material facts placed before us, to decide the appropriate classification.

6. Facts are not in dispute and also the claim of the Appellant as to the nature of its business. Both the SCN as well as the impugned Order-in-Original record the fact that the Appellant was engaged in the manufacture and clearance of excisable goods viz. Weld Mesh of Iron or Steel for Poultry Battery Cages. The raw material used for manufacture of the above goods is **G.I. wire (Galvanized Wire) of size 2mm to 4mm**. It is undisputed that they manufactured Top Mesh Part, Side Partition Part, Bottom Mesh Part, Door Part and Centre Partition Part for Poultry Battery Cages. The process of manufacture as explained is that: the GI wire in coils (which forms the length of the cage part) are placed in the wire stand and fed into wire welder machine; The GI wire is straightened and cut and fed into wire welder machine according to the required width of the Battery Cage part; the welded mesh of the cage part comes out of the wire

welder machine and cut according to determined design. The manufactured parts of Poultry Cages are cleared to clients who want to set up Poultry Farms in Tamilnadu and Karnataka. Based on the oral work order given by poultry farms, they manufactured parts of the Poultry Battery cages and sent them under invoice mentioning the description as "Parts of the Poultry Battery Cages made from the GI Wire'. This is the factual finding recorded in the order which is challenged before us.

7. In the impugned order, the Adjudicating Authority has observed that Rule 6 of Central Excise Rules, 2002 casts an obligation on the Assessee to correctly determine the rate of duty and assess the duty payable on the excisable goods manufactured and cleared by them and that the claim of the Appellant in its ER-3 returns classifying the goods under dispute under CETH 84369100 and claiming 'Nil' rate of duty under Tariff Notification No.31/2011-CE which is not at all relevant; the other Notification relied upon by the Appellant i.e. No.32/2008-CE (NT) (Sl.No.31) is also not relevant as the goods are totally different, apart from claiming *bonafides.* In this regard, the Appellant also appears to have relied on the

decision of the Hon['ble Supreme Court in the case of **CCE Vs H.M.M. Ltd**. [1995 (76) ELT 497 (SC)] and Tribunal's decision in **Rama Paper Mills vs CCE Meerut** [2011 (22) STR 19 (Tri.-Del.) in their support. The lacuna if at all, is the observation of the Commissioner that from the replies filed by the Appellant they had not submitted any copy of their invoices, nor did they communicate that they charged 'Nil' rate of duty through their letters as claimed by them, which was not acceptable for the officer. Further reliance on **Continental Foundation Jt. Venture Vs CCE** [2007 (216) ELT 177 (SC)], **Kerala Footwear Products Vs CCE** [2009 (248) ELT 749 (Tri.-Bang.)], **Hindustan Construction Co. Ltd. Vs CCE** [1997 (89) ELT 123 (Tri.-LB), **CCE Hyderabad Vs ITW Signode India Ltd**. [2004-TIOL-799-CESTAT Bang.), **Amco Batteries Ltd. Vs CCE Bangalore** [2003-TIOL-50-SC-CX] and **Weld Fuse Pvt. Ltd. Vs CCE** [2007 (208) ELT 564 (Tri.-Bang.)] have not been accepted and the Commissioner has held that the Appellant should have followed the decision of Delhi High Court in the case of **Azra Poultry Equipments Vs Union of India** [2015 (323) ELT 88 (Del.)], which prevails over the orders of CESTAT. The Commissioner has thus come to the conclusion that the Appellant had deliberately '*suppressed the fact of manufacture of identifiable parts of poultry cages, which are nothing but structures of Iron and Steel and resorted to willful misstatement by classifying the impugned goods under CETH : 84369100*…..'

8. We also find that the proceedings under dispute were initiated as an offshoot of the decision of Delhi High Court in the case of **Azra Poultry Equipments Vs UOI** (*supra*) which decision was later on challenged before the Supreme Court, wherein the Hon'ble Supreme Court allowed the S.L.P to be withdrawn and permitted the matter to be agitated before the Commissioner (Appeals) [2015 (323) ELT A21 (SC)]; and as observed by the Chandigarh Bench of the Tribunal in the case of **Shiva Poultry Equipments Vs CCE & ST Chandigarh** [2017 (7) GSTL 243 (Tri.-Chan.)], in the subsequent proceedings, the Commissioner (Appeals) has accepted with classification of the goods as 84369100. Hence, the reliance in the impugned Order-in-Original on the decision of Delhi High Court in **Azra Poultry Equipments** (*supra*) is clearly misplaced.

9. From a careful reading of the impugned order, following facts emerge:

> “2……the Officers of HPU visited the registered factory premises of Selvi Weld Mesh located at Ramasamy Gounder Thottam, Pannikkampatti, Palladam, on 30.5.17 and verified the manufacturing process of the excisable goods manufactured by them. Selvi Weld Mesh are engaged in the manufacture of Weld Mesh which are parts of Poultry Battery Cages i.e. Upper Portion, Bottom Part and Side Portions of different size and specifications. The construction of weld mesh in the bottom part is closely spaced and vary, depending upon the cate meant for chicks or chicken. The top part contains door to lift out the chicken from the box.
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> 5. As narrated in the facts above, the GI Wire in coils (which forms the length of the Cage part) are placed in the wire stand and fed into wire welder machine; the GI Wire is straightened and cut and fed into wire welder machine according to the required width of the Battery Cage part; the welded mesh of the cage part comes out of the wire welder machine and cut according to determined design and the manufactured parts of Poultry Battery Cages viz. Top Mesh Part, Side Partition Part, Bottom Mesh Part, Door Part and Centre Part for Poultry Battery Cages are cleared to clients who want to set up Poultry Farms in Tamilnadu and Karnataka.
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> 6. As stated by Shri V.R. Prabhu, Proprietor of Selvi Weld Mesh, they have been manufacturing Top

Mesh Part, Side Partition Part, Bottom Mesh Part, Door Part and Centre Partition part for Poultry Battery Cages and **these weld mesh made of Galvanized Iron and Steel are used only in the Poultry Battery Cages and it cannot be used for general purposes**. The above parts are used in Poultry Battery Cages in three stages viz. 1. Chick Cages 2. Grower Cages and 3. Layer Cages. The Chick Cages is the first stage of Battery Cage system wherein new born day one chicks are placed and Water system, feeding system and lighting arrangements to maintain temperatures are also arranged by the poultry farmers in the battery cages. The second stage is Grower cages where birds between 6th week to 16th week are grown in this cages; and the third and the last stage is Layer cages where eggs laid by the birds are collected and the birds from 16th week to 65th week are grown.

6.1 .....In other words, all the parts or structures required for assembly of Poultry Cags are manufactured and supplied to Poultry Farmers where they are assembled to form Battery Cages........

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6.3. In this case, the impugned goods are Top Mesh Part, Side Partition Part, Bottom Mesh Part, Door Part and Centre Partition part for Poultry Battery Cages made from GI Wires and the above goods are supplied to clients to set up Poultry Farms. A sample Purchase Order dated 23.2.17 revealed that the Order was for supply of Weldmesh with Setting – Front and Top; Back & Centre Piece; Partition; Single Bottom with specified sheet size and Doors. It is also observed that the above parts are for Box Size (F:24", D:18". Ht.20") – 4728 Boxes and the Cage length of 394 feet x 2 sheds.

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7.1 Selvi Weld Mesh manufactured and cleared Top Mesh Part, Side Partition part, Bottom Mesh part, Door Part and Centre Partition part in unassembled or disassembled form and after assembly, they become Poultry Cage and Battery Cage in the Poultry Farm. The above goods are identifiable parts of poultry cages which has also been admitted in the invoices issued by Selvi Weld mesh and they are used for construction of poultry cages or battery cages. It is also an admitted fact that the Battery Cages is not machinery as it does not have any mechanical functions of its own.......

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<u>20.1 Clasification of Weld Mesh of Iron and Steel for Poultry Cages:</u>

1) M/s.Sri Selvi Weld Mesh are engaged in the manufacture and clearance of excisable goods viz. Weld Mesh of Iron or Steel for Poultry Battery Cages. The raw material used for manufacture of the above goods is G.I. Wire (Galvanized Wire) of size 2mm to 4 mm. They manufacture Top Mesh part, Side partition Part, Bottom Mesh Part, Door Part and Centre Partition part for Poultry Battery Cages. .... The manufactured parts of Poultry Cages are cleared to clients who want to set up Poultry Farms in Tamilnadu and Karnataka. Based on the oral work order given by poultry farms, they manufactured parts of the Poultry Battery Cages and sent them under invoice mentioning the description as "Parts of the Poultry Battery Cages made from the GI Wire" and

specified the relevant name of the part. The above facts are detailed in mahazar dated 30.5.17 and confirmed by the Proprietor of Selvi Weld Mesh in his statement date 19.6.17.

2) The pictures of Top Mesh Part, Side Partition Part, Bottom Mesh Part, Door Part and Centre Partition Part have been given in Para-4 (supra) and hence not reproduced here. It was stated that the above goods are exclusively used in the Poultry Cages. It was also admitted by assesee that the Battery cage as such is not a machinery as it does not have any mechanical functions of its own but the Battery Cage is an equipment meant only for Poultry keeping and rearing and the Water Systems, Feeding Systems, Egg Collectors, Temperature Control are fixed in the Battery Cages only and hence they classified the above goods manufactured by them under "CETH: 84369100 as Parts of Poultry Keeping Machinery or Poultry Incubators and Brooders".

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11.2) The assessee is engaged in the manufacture and clearance of Weld Mesh of Iron or Steel alone and the scope of its assembly as Battery Cages is beyond their scope, though the goods are exclusively used for assembly of Battery Cages. It is not compulsory to install various systems mentioned by the assessee in the battery cages assembled by the poultry farmers. What is to be determined here is that whether the Weld Mesh manufactured by them, though identifiable part of Poultry Cages can be classified as Parts of Poultry Keeping machinery."

(emphasis added)

10. After observing thus, the Commissioner has concluded at para-16 as under :

> "16. From the above detailed analysis of facts and various case laws, I hold that the product viz. Weld mesh of Iron & Steel manufactured and cleared by Selvi Weld Mesh are simple structures and do not merit classification as parts of Poultry Keeping Machinery under CETH: 84369100 of the Central Excise Tariff."

11. The only reason as could be observed from the impugned order for rejecting the declared classification is that the goods in question are only parts of Poultry Battery Cages in poultry farms without any mechanical functions of its own, however the Authority does not dispute the factual matrices that Galvanized Iron Wire (G.I. wire) of size 2 mm to 4 mm are used. There is absolute no dispute regarding the fact that the disputed goods in question are exclusively used only in the poultry cages as reproduced in the above paragraphs. This leads us to seriously doubt as to how a **G.I. wire of size 2 mm to 4 mm** could be used in constructing structures like, bridges, bridge-sections, lock–gates, towers, lattice masks, roofs, roofing framework, doors & windows and

their frames, thresholds for doors, shutters, balustrades, pillars and columns - of iron or streel; plates, rods, angles, shapes, sections, tubes wherein high Kgs. of Iron Rods are used. We have also observed elsewhere in the earlier part of this order that other than the claim to reject the declared classification, the Revenue has not made any attempt in placing on record conceivable and convincing reasons as to how the goods under dispute could become structures or parts etc. under CETH 7308.

12. Viewed thus, we are also of the opinion that the Department has seriously erred in rejecting the declared classification without proper justification and hence, the impugned order calls for interference.

13. Resultantly, the Impugned Order is set aside and the Appeal is allowed with consequential benefits, if any, as per law.

(Order pronounced in open court on 04.08.2026)

sd/-	sd/-
(M. AJIT KUMAR)	**(P. DINESHA)**
Member (Technical)	Member (Judicial)

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