



# Central Board of Indirect Taxes & Customs

Department of Revenue, Ministry of Finance, Government of India



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Circular No. 545/41/2000-CX

**F.No. 139/4/98-CX.4**

Government of India

Ministry of Finance

Department of Revenue

Central Board of Excise & Customs

Dated : 6-9-2000

## Subject : Classification of Steel Tubular Poles, commercially Known as Transmission Poles - Clarification regarding

I am directed to refer to Board's Circular No. 28/90.CX.4 dated 20.7.90 based recommendation of Tariff Conference, issued from F.No. 139/23/90-CX.4 dated 20.7.90 regarding classification of Steel Tubular Poles and to say that the matter has been re-examined on dismissal of Department's appeal by the Supreme Court filed against CEGAT decision in the case M/s Quality Steel Products Pvt. Ltd. [1993 (65) ELT 513 (T)]. The Hon'ble Supreme Court in the case of Indian Metals & Ferro Alloys Ltd. [1991 (21) ELT 165(SC)] on which the aforesaid CEGAT decision is based, had occasion to examine the various aspects relevant for classification purposes. It had inter alia held as follows :

"The sum and substance of the description given by the Assistant Commissioner in the assessment order is only (a) that the poles produced by the appellants are not ordinary pipes and tubes which convey a fluid from one place to another and (b) that they are manufactured by a very elaborate sophisticated process. So far as the first point is concerned it will be appreciated that just as pipes and tubes are generally intended to carry fluid from one place to another the poles with which we are concerned enable wires to be passed through them for the transmission of electric energy, a function not very very different in nature from that of other ordinary pipes and tubes. That apart, even tubes and pipes are not always necessarily used for such purpose. They can be used as flag masts or for purposes of scaffolding or other purposes which do not serve as a medium for the transmission of the fluid. This is not therefore a sound objection. In regard to the second point, it is perhaps sufficient to point out that sub-item (iv) to item 26AA refers to pipes and tubes (including blanks therefore) all sorts, whether rolled, forged, spun, cast, drawn, annealed welded or extruded. It is comprehensive enough to take in all sorts of pipes and tubes and even those obtained by the processes of forging, drawing and so on. The ultimate product in the present case is merely a set of pipes or tubes of different diameters attached to one another by different methods. The so called manufacture is nothing but the putting together of a number of pipes or tubes by one or other of the processes mentioned in the Tariff item. The goods produced, therefore, do not cease to be iron and steel products or pipes and tubes of the description mentioned in item 26AA(IV). It may not be also correct to characterise them as different commercial commodity. Some of them are called poles, an expression which means a long slender piece of metal or wood commonly tapering and more or less rounded. Electric poles, being hollow one, are not much different from piles and tubes. The statement that they are commercially distinct commodities is merely based on their being called "poles". They are also available in the same market in which normally pipes and tubes are otherwise available. Neither the circumstances that certain processes to the "mother" pipes or tubes nor the fact that in order to identify the particular type of tubes or pipes one needs, one may use different names is sufficient to treat the article as commercially different commodity."

2. Following the detailed reasoning by the Apex Court in aforesaid decision, the CEGAT in case Quality Steel Products held that the goods in question are assessable to duty under sub-heading 7306.90. After the dismissal of Department's appeal, the said decision of CEGAT has attained finality.

3. In view of above, the Board has accepted the decision affirmed by the Apex Court holding that the Steel Tubular poles are correctly classifiable under heading 73.06. As a result Board's Circular no. 28/90, dated 20.7.90 stands rescinded. Pending assessments may be decided accordingly.

4. The Trade and field formations may please be informed accordingly.

5. Receipt of the Circular may please be acknowledged.

6. Hindi version follows.

S.C. Bhatia

Under Secretary to the Government of India

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