CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Excise Tax Appeal No. 57201 of 2013

[Arising out of Order-in-Appeal No. 10/CE/APPL/LDH/2013 dated 06.02.2013 passed by the Commissioner (Appeals), Central Excise, Chandigarh-I]

M/s Thapar Ispat ltd. **……Appellant**
B-47, Phase-VII, Focal Point,
Ludhiana, Punjab-141010

VERSUS

Commissioner of Central Excise, Ludhiana **……Respondent**
GST Bhawan, F-Block, Rishi Nagar,
Ludhiana, Punjab-141001

WITH

Excise Tax Appeal No. 50443 of 2014

[Arising out of Order-in-Appeal No. LUD-EXCUS-000-APP-456-13-14 dated 12.08.2013 passed by the Commissioner (Appeals), Central Excise, Chandigarh-I]

M/s Thapar Ispat ltd. **……Appellant**
B-47, Phase-VII, Focal Point,
Ludhiana, Punjab-141010

VERSUS

Commissioner of Central Excise, Ludhiana **……Respondent**
GST Bhawan, F-Block, Rishi Nagar,
Ludhiana, Punjab-141001

AND

Excise Tax Appeal No. 52536 of 2015

[Arising out of Order-in-Appeal No. LUD-EXCUS-000-APP-355-14-15 dated 17.04.2015 passed by the Commissioner (Appeals), Central Excise, Chandigarh-I]

M/s Thapar Ispat ltd. **……Appellant**
B-47, Phase-VII, Focal Point,
Ludhiana, Punjab-141010

VERSUS

Commissioner of Central Excise, Ludhiana **……Respondent**

GST Bhawan, F-Block, Rishi Nagar,
Ludhiana, Punjab-141001

APPEARANCE:

Shri Sudeep Singh Bhangoo, Advocate for the Appellant
Shri Yashpal Singh, Authorized Representative for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 60153-60155/2026

DATE OF HEARING: 03.02.2026
DATE OF DECISION: 16.02.2026

P. ANJANI KUMAR:

M/s Thapar ISPAT Ltd are engaged in the manufacture and clearance of 'wire'; during the course of audit of the records of the appellants, it appeared to the Revenue that the appellants had sold their entire production to a single buyer i.e. M/s Hindustan Overseas Ltd (up to 9/2005) and thereafter to M/s Thapar Finance Ltd at a price of Rs. 21,971 PMT whereas the cost of production itself was Rs. 22,874 PMT and that M/s Thapar Finance Ltd and M/s Hindustan Overseas Ltd are controlled by the initial promoters of M/s Thapar ISPAT Ltd and they are purchasing most of the goods produced by the appellants; it appeared that the value declared by the appellants is not transaction value in terms of Section 4 of Central Excise Act, 1994 and therefore, the value requires to be re-determined in terms of Rule 11 of Central Excise Valuation Rules, 2010. Accordingly, show cause notices were issued to the appellants and orders-in-original/appeal are issued as follows which are appealed against.

Appeal No.	SCN dated	Impugned period	OIO/ OIA dated
E/57201/2013	21.04.2009	2004-05 to 2008-09	06.02.2013
E/50443/2014	04.11.2010	February 2009 to July 2010	12.08.2013
E/52536/2015	29.08.2011	August 2010 to April 2011	17.04.2015

2. Shri Sudeep Singh Bhangoo, learned counsel for the appellants submits that though the show cause notice alleges that M/s Thapar Finance Ltd and M/s Hindustan Overseas Ltd are alleged to be controlled by the initial promoters of the appellants, the show cause notices do not specify who are those initial promoters; even if assuming, without accepting that the buyer companies were promoted by the said persons, the said companies would not become related for the purpose of Section 4; therefore, the show cause notice is vague and without any legal backing.

3. Learned Counsel further submits that though M/s Thapar Finance Ltd and M/s Hindustan Overseas Ltd hold 12.85% and 7.7% of the shares of the appellant, there are no common directors in the purchasing companies and the appellants; learned Commissioner wrongly holds that the appellants are their purchasers are inter-connected undertakings in terms of clauses (i) & (iv) of Section 4 (3) (b) of Central Excise Act, 1944 read with Section 2 (g) of Monopolies and Restrictive Trade Practices Act, 1969; according to the MRTP Act, two body corporates can be treated as inter-connected only when they are under same management; two body corporates can be considered to be under the same management only when they have one-fourth of equity shares in one another;

moreover, there should be mutuality of interest in the business of each other. Neither the show cause notices nor the impugned orders explain as to how the interest is forth-coming.

4. Learned counsel submits also that though the Revenue seeks to recover duty @ 110% of the cost of production, in terms of Rule 8 of Central Excise Valuation Rules, 2000, cost of production has not been ascertained by the department but selling cost was taken as cost of production and duty was charged on 110% of the cost of production. He submits that this Bench while granting stay vide Final Order No.59162/2013 dated 02.09.2013 referred to the Hon'ble Apex Court's decision in the case of Alembic Glass Industries – 2002 (143) ELT 244 (SC) held that purchasers and sellers having some shares in each other and having common chairman and directors would not be a sufficient reason to hold the companies to be related. He submits that in view of the same, the demands and accordingly the penalties impose are liable to be set aside.

5. Shri Yashpal Singh, learned Authorized Representative for the Revenue reiterates the findings of the impugned orders and relies on Denso India Ltd. – (2025) 28 Centax 20 (Tri. All.).

6. Heard both sides and perused the records of the case. We find that though the Revenue alleges that the appellants and their purchasers i.e M/s Thapar Finance Ltd and M/s Hindustan Overseas Ltd are related, it is not clearly brought out in the impugned orders as to how they are related. The only allegation made by the Revenue against the appellants appears to be that the original

promoters of the appellants are also the promoters in M/s Thapar Finance Ltd and M/s Hindustan Overseas Ltd. We find that Revenue did not specify as to who were such initial promoters; therefore, we find that the show cause notice attempts to shoot in the dark.

7. Though the impugned order concludes that the appellants and their buyers i.e M/s Thapar Finance Ltd and M/s Hindustan Overseas Ltd are inter-connected undertakings in terms of Section 4 (3) (b) (i) & (iv), it is not shown that they are under the same management. Therefore, we find that Revenue did not establish that the companies involved are related. We further find that there are no findings in the impugned orders about the submission by the appellants that the entire production was sold to these two buyers. We find that learned counsel for the appellants submits that it is factually incorrect to say that 100% of the production was sold to these buyers and therefore, the show cause notice is not on a firm legal backing.

8. We further find that the appellants and their buyers i.e M/s Thapar Finance Ltd and M/s Hindustan Overseas Ltd are private limited companies. We find that the Tribunal in the case of Sarita Steel Industries Ltd. 2011 (272) ELT 572 (Tri. Bang.) decide a similar case in favour of the appellants therein relying on Hon'ble Supreme Court's decision in the case of M/s Alembic (supra). We find that Hon'ble Supreme Court held that:

> "6. Both sides relied upon the judgment of this Court in the case of *Union of India & Ors.* v*. Atic Industries Limited* [1984 (17) E.L.T. 323 (S.C.)]. Briefly put, the assessee in

that case was a limited company that manufactured dyes. Its share capital was held by two companies. The assessee had sold its dyes to the two companies. The question was whether it could be said that the sales had been made to "related persons". In this regard, this Court said :

"There are two points of view from which the relationship between the assessee and Atul Products Limited may be considered. First, it may be noted that Atul Products Limited is a shareholder of the assessee to the extent of 50 per cent of the share capital. But we fail to see how it can be said that a limited company has any interest, direct or indirect, in the business carried on by one of its shareholders, even though the shareholding of such shareholder may be 50 per cent." (Emphasis supplied)

7. In our view, this is the heart of the matter. The shareholders of a public limited company do not, by reason only of their shareholding, have an interest in the business of the company. Equally, the fact that two public limited companies have common Directors does not mean that the one company has an interest in the business of the other. It is, therefore, not possible to uphold the conclusion of the Tribunal that the assessee and the chemical company were related persons. This being so, it is unnecessary to go into the alternate arguments advanced on behalf of the assessee.

8. At this stage of the judgment, learned Counsel for the Revenue draws our attention to the judgment of a Bench of two learned Judges of this Court in *Calcutta Chromotype Limited* v. *Collector of Central Excise, Calcutta* [1998 (99) E.L.T. 202 (S.C.)]. It does not appear to us that the judgment carries the case of the Revenue any further, nor does learned Counsel so suggest. He says that he has referred to it because of this sentence therein : "The principle that a company under the Companies Act, 1956 is a separate entity and, therefore where the manufacturer and the buyer are two separate companies, they cannot, than (sic) anything more, be 'related persons' within the meaning of clause (c) of sub-section (4) of Section 4 of the Act is not the universal application. "We have difficulty, for the reasons already stated, in accepting as correct this sentence. It appears to have been so stated in relation to and in the context of facts of that case. Therefore, the learned Judges, it should be added, remanded the matter for further inquiry into the facts."

9. In view of the above, we find that Revenue has not made out any case to show that the appellants and M/s Thapar Finance Ltd and M/s Hindustan Overseas Ltd are related being inter-connected undertakings. The impugned orders do not conclusively establish that the appellants have sold 100% of the production to M/s Thapar Finance Ltd and M/s Hindustan Overseas Ltd. We also find that Revenue has not made any efforts to arrive at the costing data of the product and have simply assumed the sale price to be costing and thereafter, proceeded to recover duty @ 110% of such price. We also find that the appellants and their alleged buyers are limited companies and hence cannot be held to be related.

10. In view of the above, we find that the impugned orders cannot be sustained. Accordingly, we set aside the impugned order and allow all the three appeals with consequential relief, if any, as per law.

(Order pronounced in the open court on 16/02/2026)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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