

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.**

PRINCIPAL BENCH,
COURT NO. I

EXCISE APPEAL NO. 50838 OF 2025

[Arising out of the Order-in-Original No. UDZ-EXCUS-000-COM-45-2024-25 dated 12/12/2024 passed by The Commissioner, Central Excise & CGST Commissionerate, Udaipur (Rajasthan).]

M/s Hindustan Zinc Ltd.Appellant
Rampura, Agucha, Gulabpura,
Dist. Bhilwara (Raj.)

Versus

The Commissioner, Central Excise & CGST Commissionerate,Respondent
GST Bhawan, H Block, 100 Ft. Road,
Sector – 14, Hiran Magri,
Udaipur (Rajasthan).

AND

EXCISE APPEAL NO. 50839 OF 2025

[Arising out of the Order-in-Original No. UDZ-EXCUS-000-COM-46-2024-25 dated 18/12/2024 passed by The Commissioner, Central Excise & CGST Commissionerate, Udaipur (Rajasthan).]

M/s Hindustan Zinc Ltd.Appellant
Rampura, Agucha, Gulabpura,
Dist. Bhilwara (Raj.)

Versus

The Commissioner, Central Excise & CGST Commissionerate,Respondent
GST Bhawan, H Block, 100 Ft. Road,
Sector – 14, Hiran Magri,
Udaipur (Rajasthan).

APPEARANCE:

Ms. Sukriti Das, Advocate for the appellant.
Shri Rakesh Agarwal, Authorized Representative for the
Department

CORAM:

**HON'BLE JUSTICE MR. DILIP GUPTA, PRESIDENT
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)**

FINAL ORDER NO. 51874-51875/2025

DATE OF HEARING : 01.08.2025
DATE OF DECISION: 12.12.2025

P.V. SUBBA RAO

M/s Hindustan Zinc Ltd.¹ filed these two appeals to assail the orders-in-original dated 12.12.2025 and 18.12.2025² passed by the Commissioner of Central Excise & CGST, Udaipur. The details are as follows :-

Appeal Nos.	E/50838/2025 (Rampur Agucha Mines)	E/50839/2025 (Rampur Agucha Mines)
Impugned Order-in-Original No.	UDZ-EXCUS-000-COM-45-2024-25 dated 12.12.2024 passed by the Ld. Commissioner, Central Excise & CGST, Udaipur	UDZ-EXCUS-000-COM-46-2024-25 dated 18.12.2024 passed by the Ld. Commissioner, Central Excise & CGST, Udaipur
SCN date	27.10.2017	26.10.2018
Period of dispute	October 2015 to September 2016	October 2016 to June 2017
Credit demand	Rs. 5,32,72,595/-	Rs. 1,24,42,096/-
Penalty	Rs. 53,27,259/-	Rs. 12,44,210/-
Issue	Demand of Cenvat credit in respect of input service by alleging contravention of Rule 4 (7) of the Cenvat Credit Rules, 2004.	

2. We have heard learned counsel for the appellant and learned authorized representative for Revenue and perused the records.

3. The appellant is a manufacturer of led and zinc and it availed the services of various service providers. As per the contract entered into with these service providers an amount of 5% to 10% was deducted by the appellant from the payments due to the service providers as detention amount. Subsequently, these amounts were also paid to the service

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1. Appellant
 2. impugned orders

providers. Show cause notices were issued to the appellant seeking to deny CENVAT credit to the appellant invoking rule 4 (7) of CENVAT Credit Rules, 2004³ which reads as follows :-

“(7) The CENVAT credit in respect of input service shall be allowed, on or after the day on which the invoice, bill or, as the case may be, challan referred to in rule 9 is received :

Provided that in respect of input service where whole or part of the service tax is liable to be paid by the recipient of service, credit of service tax payable by the service recipient shall be allowed after such service tax is paid :

Provided further that in case the payment of the value of input service and the service tax paid or payable as indicated in the invoice, bill or, as the case may be, challan referred to in rule 9 is not made within three months of the date of the invoice, bill or, as the case may be, challan, the manufacturer or the service provider who has taken credit on such input service, shall pay an amount equal to the CENVAT credit availed on such input service, except an amount equal to the CENVAT credit of the tax that is paid by the manufacturer or the service provider as recipient of service, and in case the said payment is made, the manufacturer or output service provider, as the case may be, shall be entitled to take the credit of the amount equivalent to the CENVAT credit paid earlier subject to the other provisions of these rules :”

4. The case of the Revenue is the appellant did not pay the full value of the input service to the service providers and, therefore, CENVAT credit is inadmissible. The case of the appellant is that full payment was made and only an amount of 5 to 10% was retained as detention amount which are also paid subsequently and, therefore, it was entitled to CENVAT credit on the invoices.

5. We find that identical issue in respect of the same appellant was decided by this Bench by Final Order No. 56669 of 2017 in Excise Appeal No. 54357 of 2015 on 01.09.2017 allowing the CENVAT credit for the previous period. Aggrieved,

3. CCR

Revenue filed Central Excise Appeal No. 567 of 2018 before the Rajasthan High Court and by order dated 18.09.2023, the High Court dismissed the appeal, as follows :-

“7. This Court is of the opinion that the argument of the Revenue that performance guarantee amounts withheld by the assessee are not *per se* covered by the circular, is incorrect. A clear reference to amounts withheld towards various counts including security, in the opinion of the Court, comprehends the withholding of amounts towards performance guarantee.

8. The question of law is answered against the Revenue.

9. The appeal is accordingly dismissed”.

6. In view of the above, we find that the issue is no longer *res integra* and it has been decided in the appellant’s own case by this Tribunal in favour of the appellant which decision has been affirmed by Rajasthan High Court.

7. Accordingly, we allow both the appeals and set aside the impugned orders.

(Order pronounced in open court on 12/12/2025.)

**(JUSTICE DILIP GUPTA)
PRESIDENT**

**(P.V. SUBBA RAO)
MEMBER (TECHNICAL)**