CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

NEW DELHI

PRINCIPAL BENCH – COURT NO. I

EXCISE APPEAL NO. 50668 OF 2025

(Arising out of Order-in-Original No. UDZ-EXCUS-000-COM-22-27-2024-25 dated 26.06.2024 passed by the Commissioner, Central Excise & Central Goods and Service Tax Commissionerate, Udaipur)

M/s Hindustan Zinc Ltd., ...**Appellant**
Zawar Mines,
District- Udaipur (Raj)

VERSUS

The Commissioner, ...**Respondent**
Central Goods and Service Tax Commissionerate,
Udaipur (Rajasthan)

WITH

E/50679/2025 E/50680/2025 E/50701/2025
E/50702/2025 AND E/50703/2025

APPEARANCE:

Ms. Sukriti Das, Advocate for the Appellant

Shri Bhagwat Dayal, Authorized Representative of the Department

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

DATE OF HEARING: 06.01.2026
DATE OF DECISION: 15.01.2026

FINAL ORDER NO's. 50064-50069/2026

JUSTICE DILIP GUPTA:

M/s Hindustan Zinc Limited[1] has filed these six appeals to assail the order dated 26.06.2024 passed by the Commissioner, Central Excise and Central Goods and Service Tax Commissionerate, Udaipur[2] adjudicating six show cause notices. The Commissioner has disallowed CENVAT credit availed by the appellant and, accordingly, confirmed the demand of CENVAT credit with interest under rule 14 of the CENVAT Credit Rules 2004[3] read with section 11A and 11AB/11AA of the Central Excise Act,

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1. **the appellant**
2. **the Commissioner**
3. **the 2004 Credit Rules**

1944[4]. The Commissioner has also imposed penalty upon the appellant under rule 15(1) of the 2004 Credit Rules. However, the demand relating to electricity wheeled out to the sister concerns of the appellant has been dropped.

2. The period involved, the demand of duty, the interest levied and the penalty imposed in the six appeals is as follows:

Appeal No.	**Impugned order date**	**Show Cause Notice Date**	**Period of dispute**	**Demand (in Rs.)**	**Interest**	**Penalty (in Rs.)**
50668/2025	26.06.2024 read with corrigendum issued on 05.07.2024	30.01.2012	January 2011 to October 2011	4,98,187	Under section 11AA of the Central Excise Act read with rule 14 of the 2004 Credit Rules	4,98,187
50679/2025		27.11.2012	November 2011 to July 2012	8,40,405		8,40,405
50680/2025		27.11.2015	November 2014 to June 2015	2,40,275		2,40,275
50701/2025		27.01.2015	January 2014 to October 2014	36,28,448		36,28,448
50702/2025		29.01.2015	January 2014 to October 2014	16,53,688		16,53,688
50703/2025		22.11.2015	November 2014 to June 2015	2,74,611		2,74,611

3. The appellant is engaged in the manufacture of Zinc Ingots and Leads falling under Chapters 78 and 79, respectively, of the First Schedule to Central Excise Tariff Act, 1985. The appellant claims to have availed CENVAT credit of duty paid on inputs, capital goods and input services in terms of the provisions of the 2004 Credit Rules.

4. During the course of audit of records of the appellant, it was observed by the internal audit wing of the Central Excise Commissionerate, Jaipur-II that the appellant had availed CENVAT credit of duty paid on inputs and input services used in the Captive Power Plant of the appellant for generating power. This power was partly consumed in

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4. the Central Excise Act

the factory of the appellant and was also not only partly transferred to the sister concerns of the appellant but was also partly sold to M/s. Ajmer Vidyut Vitran Nigam Limited[5]. The department objected to the availment of CENVAT credit by the appellant of duty paid on inputs and input services attributable to that portion of electricity that was wheeled out to the sister concerns of the appellant and also sold to the State Electricity Board. The appellant claimed that it had correctly availed CENVAT credit on the portion of electricity wheeled out to the sister concerns of the appellant and that the appellant was suo motu reversing CENVAT credit on electricity supplied to the State Electricity Board.

7. However, six show cause notices were issued to the appellant proposing recovery CENVAT credit on the irregularly availed credit on inputs and input services attributable to the portion of electricity wheeled out to the sister units of the appellant as well as electricity sold to the State Electricity Board as the said electricity was not used in the manufacture of dutiable excisable goods from the factory of the appellant. Imposition of penalty was also proposed under rule 15(1) of Credit Rules.

8. The appellant denied the allegations made in the show cause notices.

9. The Commissioner adjudicated all the aforesaid six show cause notices by a common order dated 26.06.2024. The demand for recovery of total CENVAT credit amounting to Rs. 71,35,614 on account of non-furnishing of details pertaining to reversal of credit attributable to electricity sold to the State Electricity Board was confirmed but the balance proposed demand of CENVAT credit in respect of inputs and input services attributable to electricity wheeled out to the sister units was

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5. the State Electricity Board

dropped by relying on the decision in the own case of the appellant in **CCE, Jaipur-II** vs. **Hindustan Zinc Limited**[6] decided by the Tribunal on 06.04.2017, which decision was upheld by the Rajasthan High Court in DBCA No. 185/2017 dated 10.07.2023 and this decision of the High Court was accepted by department on merits.

10. Six appeals have been filed by the appellant before the Tribunal against the impugned order dated 26.06.2024 to the extent it has confirmed the demand on the electricity sold to the State Electricity Board and imposed penalty.

11. According to the appellant, the CENVAT credit attributable to inputs and input services used in generation of electricity sold to the State Electricity Board was reversed by the appellant on monthly basis at the end of each month and details of reversal of CENVAT credit have been provided:

Sl. No.	SCN	Period	Credit Reversed	Credit details	Appeal No.
1.	27.1.2015	January 2014 to October 2014	Rs.41,75,462	Inputs	50701/2025
2.	29.1.2015		Rs.17,87,711	Input services	50702/2025
3.	27.11.2015	November 2014 to June 2015	Rs. 2,40,274	Inputs	50680/2025
4.	22.11.2015		Rs. 2,74,612	Input services	50703/2025
5.	27.11.2012	November 2011 to July 2012	Rs. 7,61,378	Input services	50679/2025
6.	30.1.2012	January 2011 to October 2011	Rs.5,24,084	Input services	50668/2025
TOTAL CREDIT			**Rs. 77,63,521**		

12. The appellant also claims that reversal of CENVAT credit attributable to power sold to the State Electricity Board is corroborated from the self-certified worksheet enclosed with the replies filed in response to each of

6. Excise Appeal No. 60055 of 2013 decided on 06.04.2017

the show cause notices and the same was also duly indicated in the corresponding ER-1 returns filed for the respective months.

13. Ms. Sukriti Das, learned counsel for the appellant submitted that the Commissioner committed an error in holding that the appellant had not furnishing details pertaining to reversal of credit inasmuch as the details of proportionate reversal of credit was provided by the appellant in the replies filed to the show cause notice. Learned counsel pointed that the amount of credit reversed had been computed in Annexure-A to the show cause notice, which is the exact amount that was reversed by the appellant. The contention, therefore, that has been advanced is that once the appellant had reversed CENVAT credit on inputs and input services attributable to electricity sold to the State Electricity Board, it would tantamount to not taking of credit at all. Learned counsel, therefore, submitted that the impugned order to this extent is liable to be set aside and penalty could not have been imposed under rule 15(1) of the 2004 Credit Rules. In support of this contention learned counsel placed reliance upon the decision of the Tribunal in the own case of the appellant on similar issues in **M/s. Hindustan Zinc Ltd.** vs. **The Commissioner, Central Goods and Service Tax, Udaipur**[7].

14. Shri Bhagwat Dayal, learned authorized representative appearing of the department, however, supported the impugned order and submitted that it does not call for any interference in this appeal.

15. The submissions advanced by the learned counsel for the appellant and the learned authorised representative appearing for the department have been considered.

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7. Excise Appeal No. 50298 of 2025 decided on 24.11.2025

16. The fact of reversal of CENVAT credit attributable to inputs and input service used in generation of electricity sold to the State Electricity Board has been provided by the appellant in the present appeal and it was also provided by the appellant to the Commissioner in the replies filed to the show cause notices, but the Commissioner has failed take notice of this fact in the impugned order. This fact was also indicated by the appellant in the corresponding ER-1 returns filed for the respective months. Thus, the finding recorded by the Commissioner that the appellant did not provide details or reversal of CENVAT credit is against the records and has to be set aside.

17. It is settled law that if CENVAT credit availed on inputs and input services attributable to electricity sold out to the State Electricity Board is reversed on monthly basis, even at a later stage, it would tantamount to not availing credit at all as was observed by the Supreme Court in **Chandrapur Magnet Wires (P) Ltd.** vs. **Collector of C. Excise, Nagpur**[8] and **Commissioner of Central Excise & Customs** vs. **Precot Meridian Ltd**[9]. This issue was also examined at length by the Tribunal in the own case of the appellant in Excise Appeal No. 50298 of 2025 connected with five more excise appeals which were decided on 24.11.2025.

18. The demand raised in the impugned order in respect of inputs and input services attributable to electricity sold to the State Electricity Board, therefore, has to be set aside.

19. Penalty imposed upon the appellant under rule 15(1) of the 2004 Credit Rules read with section 11AC of the Central Excise Act cannot also

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8. 1996 (81) E.L.T. 3 (S.C.)
9. 2015 (325) E.L.T. 234 (S.C.)

be imposed because rule 15(1) is applicable only in a situation where the assessee has taken or utilized CENVAT credit in respect of input or input services wrongly. In the instant case, as noticed above, the appellant had not utilized CENVAT credit wrongly. Therefore, imposition of penalty upon the appellant is not justified.

20. Recovery of interest under section 11AA of the Central Excise Act read with rule 14 of the 2004 Credit Rues cannot also be sustained as reversal of input and input service credit amounts to not taking credit at all. This issue was also examined by the Tribunal in favour of the appellant in the own case of the appellant decided on 24.11.2025.

21. Thus, for all the reasons stated above, the impugned order dated 26.06.2024 passed by the Commissioner deserves to be set aside and is set aside. All the six appeals are, accordingly, allowed.

(Order Pronounced on **15.01.2026**)

**(JUSTICE DILIP GUPTA)
PRESIDENT**

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

Shreya, Jyoti