IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. IV

Excise Cross Appeal No. E/Cross/54230/2014-E[SM]
Excise Appeal No. E/52794/2014-E[SM]
[Arising out of Order-In-Appeal No. 48/RPR-I/2014 dated 13.02.2014 passed by Commissioner (Appeals) Raipur]

For approval and signature:
Hon'ble Mr. S.K. Mohanty, Member (Judicial)

1	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	
2	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	
3	Whether Their Lordships wish to see the fair copy of the Order?	
4	Whether Order is to be circulated to the Departmental authorities?	

C.C.E. & S.T., Raipur ...Appellant(s)

Vs.

M/s Jindal Steel And Power Limited …Respondent(s)

Appearance:
Mrs. Kanu Verma Kumar (DR) for the Appellant
Mr. H.V. Girnikar (Consultant) for the Respondent

CORAM:
Hon'ble Mr. S.K. Mohanty, Member (Judicial)

Date of Hearing/ Decision. 02.11.2015

Final Order No. 54340 /2015

Per S K Mohanty:

Revenue has filed this appeal against the impugned order dated 13.02.2014 passed by the Commissioner, Central Excise and Customs (Appeals) Raipur. The grievance of Revenue in this appeal is that without endorsing the invoice, proportionate Cenvat credit cannot be taken and that doctrine of unjust enrichment aspect has to be strictly followed for sanction of refund claim.

2. I have heard the Ld. Counsel for both sides and perused the records.

3. I find that the recipient unit which is a sister concern of the appellant has taken the cenvat credit based on the actual duty liability attributable to the removal of goods. Such fact is evident from the certificate issued by the Range Superintendent, Sector 3 & 4, Ramgarh (Jharkhand) wherein, upon verification of the books of accounts he has certified that cenvat credit taken by the assessee on the disputed invoices are according to the actual duty liability and not on the basis of the inadvertent figure mentioned in the invoices. The said fact prove beyond any shadow of doubt that the incidence of excess paid excise duty has not been passed on to the buyer of the goods. Hence, if the subject refund is sanctioned in favour of the respondent, it will not fall under the ambit and scope of the doctrine of unjustly enriched. I find that both the authorities below after proper analysis of the facts of the case and upon examination of the documents have granted the refund benefit to the respondent.

4. Therefore, I do not find any merits in the appeal filed by Revenue. Accordingly, the same is dismissed. The Respondent is eligible for the consequential benefit of refund.

(Dictated and pronounced in open court)

(S. K. Mohanty)
Member(Judicial)

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