

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE  
TRIBUNAL, KOLKATA**

REGIONAL BENCH – COURT NO. 2

**Excise Appeal No. 79087 of 2018**

(Arising out of Order-in-Original No.05/AC/CGST&CE/CGR/2017-18 dated 20.11.2017  
passed by Commissioner of CGST & Central Excise, Chandannagar Division)

**M/s Jupiter Wagons Ltd.**

(G.T. Road, Sahaganj, Keota Hooghly-712104)

**...Appellant**

*VERSUS*

**Commr. of CGST & CX, Howrah Commissionerate**

(15/1, Strand Road, M.S. Building, Kolkata-700 001)

**...Respondent**

**APPEARANCE :**

Mr. K.S. Chakraborty, Advocate for the Appellant

Mr. P.K. Ghosh, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE MR. R. MURALIDHAR MEMBER(JUDICIAL)**

**FINAL ORDER No. 76137/2023**

DATE OF HEARIN:28.06.2023

DATE OF DECISION:28.06.2023

**PER R. MURALIDHAR :**

The Appellant Jupiter Wagons Limited has two units namely Jupiter Wagons Limited with Central Excise Registration No. AABCJ 7146GXM001 operating from Sahaganj, Hooghly, and another unit named as M/s Jupiter Alloys & Steel (India) Limited with Central Excise Registration No. AABCJ3670PXM001. In the month of October, 2015 while making Excise Duty payment vide e-Challan No. 00397 dated 26.11.2015, by mistake they have mentioned the assessee code as AABCJ3670PXM001 which is the Central Excise Registration Number of Jupiter Alloys and Steel India limited (their sister concern). The Appellant on noticing this mistake, has intimated the Commissioner of Central Excise Kolkata-IV, Commissionerate on 02.12.2015. They submitted that by mistake, that Assessee Code has been given that of their sister concern. However, the Department issued Show Cause Notice on the ground that the Appellant Jupiter Wagons Limited with ECC No. AABCJ7146GXM001 has not discharged the duty liability of Rs.37,47,289/- for the moth of October, 2015. After due process the lower authorities have confirmed the demands. Being aggrieved, the Appellant is before the Tribunal.

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2. The Ld. Consultant submits that only on account of typographical error, in the GAR Challan the Registration number was shown as AABCJ3670PXM001 pertaining to their sister concern, instead of showing correct Assessee Code AABCJ3670PXM001 which pertains to the Appellant. For making the payment, the bank account of Jupiter Wagons Limited (the present Appellant) only was used. Therefore, he submits that confirmed demand may be set aside.
3. The Ld. AR reiterates the findings of the Lower Authorities.
4. On going through the documentary evidence produced by the Appellant, it is observed that the Appellant has used their bank account while remitting the payment. They have by mistake mentioned the ECC code of their sister concern M/s Jupiter Allays and Steel India Limited. Since, this is a genuine mistake and the party also has immediately informed the concerned Commissionerate on 02.12.2015, the officials should have verified and closed the issue at that stage itself. It is seen that the officials have not taken any action for the next more than one and half years and have issued a Show Cause Notice on 19.04.2017 i.e. after one and half years after the Appellant has brought this issue to their knowledge.
5. Based on the documentary evidence produced by the Appellant, I hold that the issue is of only typographical error. Therefore, the Appeal is allowed on merits. Further, though the Appellant has voluntarily pointed out this mistake on 02.12.2015, the Department has issued the Show Cause Notice only on 19.04.2012 by alleging suppression. As the party has disclosed the mistake himself and no action was initiated to address the same, no suppression can be alleged in this case. Therefore, I hold that the Appeal succeeds even on account of limitation.
6. The Ld. Consultant has also produced Order dated 19.03.2018 passed by NCLT wherein, the Jupiter Alloys and Steel India Limited has been amalgamated with the present Appellant i.e. Jupiter Wagons Limited. Therefore, even on this ground, the impugned OIA does not survive.
7. The Appellant's stand allows thus.

Sd/-

**(R. Muralidhar)**  
**Member (Judicial)**

Pinaki