**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL**
**EASTERN ZONAL BENCH: KOLKATA**

REGIONAL BENCH – COURT NO. 1

**Excise Appeal No. 75067 of 2016**

(Arising out of Order-in-Original No. 11-12/Central Excise/Commr/2015 dated 07.10.2015 passed by the Commissioner, Central Excise & Service Tax 5-A Main Road Ranchi-I-831001)

**M/s. Steel Authority of India Limited,** **: Appellant**
Sail Refractories Unit,
Ranchi Road Plant

**VERSUS**

**Commissioner of Central Excise & Service TAX, Ranchi-I** **: Respondent**
5-A Main Road Ranchi-I-831001
Jharkhand

**APPEARANCE:**

Shri Deepro Sen & Ms. Tania Roy, Both Advocate for the Appellant

Shri S. K. Jha, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)**
**HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)**

**FINAL ORDER NO.75642/2025**

DATE OF HEARING / DECISION: 06.03.2025

**Order: [PER SHRI K. ANPAZHAKAN]**

The present appeal has been filed against the impugned orders-in-original No. 11-12/Central Excise/Commr/2015 dated 07.10.2015, passed by Commissioner of Central Excise & Service Tax, Ranchi, wherein the Ld. Commissioner has confirmed the demand of excise duty of Rs. 13,02,24,660/- along with interest and equal amount of duty as penalty.

2. M/s. Steel Authority of India Limited, SAIL Refractories Unit, Ranchi Road Plant(hereinafter

referred to as the 'Appellant'/SAIL) are engaged in the manufacture of refractory materials like Magnesia Carbon Bricks and Magnesia Masses falling under the tariff items 69021040 and 38160000 of the First Schedule to the Central Excise Tariff Act, 1985. During the underlying period, the Appellant upon payment of excise duty supplied refractory bricks and magnesia masses to units of SAIL as well as to independent customers. The price charged in both the cases were more or less same. The department had initiated investigation against the Appellant in 2012 regarding the manner of valuation of the final products cleared to SAIL.

2.1. A Show Cause Notice dated 04.08.2014 was issued by invoking the extended period of limitation, by alleging that the Appellant while stock transferring the goods to its related units, undervalued the same. The crux of the allegation in the underlying Show Cause Notice is that the excise duty paid by the Appellant under Section 4(1) (a) of the Excise Act was lower than the amount payable under Rule 8/9 of the Valuation Rules as the Appellant ought to have adopted 110% of cost of production of such goods to be determined as per the CAS-4. Another SCN dated 01.05.2015 was also issued to the Appellant on similar grounds. The summary of the Show Cause Notices with their proposed demand and periods are as follows:

| **Date of issuance of Show Cause Notice** | **Period** | **Proposed demand** |
|---|---|---|

| | | |
|---|---|---|
| 04.08.2014 | July 2009 to March 2014 | 12,48,78,653/- |
| 01.05.2015 | April 2014 to March 2015 | 53,46,007/- |

2.2. The said notices were adjudicated and a common Order dated 07.10.2015, was issued by the Ld. Commissioner of Central Excise, Ranchi, wherein he has confirmed the demand of Central Excise duty of Rs. 13,02,24,660/- along with applicable interest and equivalent duty as penalty. The impugned order was passed based on the finding that the Appellant had undervalued the goods during inter-unit transfer for the underlying period. The amounts paid by the Appellant was brought to the attention of the Ld. Commissioner but has not been appropriated in the impugned order.

2.3. Being aggrieved by the impugned order, the Appellant has preferred the instant appeal before this Tribunal.

3. The appellant submits that the entire demand is not sustainable on the ground of revenue neutrality. The final product cleared from the Appellant’s factory to their other units are used by the other factories in the manufacture of their dutiable finished products which are cleared by them on payment of applicable excise duty. The other factories of the Appellant are availing the credit of duty paid by the Appellant and utilizing the same for payment of duty on the final product cleared. Thus, the Appellant submits that the differential duty

confirmed shall be available as credit to the Appellant's other factories/units. Hence, demand of differential duty is clearly revenue neutral.

3.1. The appellant further submitted that this Tribunal in the Appellant's own case **Steel Authority of India v. Commissioner of Central Excise & Service Tax, Ranchi I, vide Final Order No. 75435/2025 in Excise Appeal No. 75523 of 2016** pertaining to a different unit of the same assessee and concerning the same issue pertaining to valuation of inter-unit transfer of refractory material had held that no demand is sustainable since the issue is revenue neutral. The appellant submitted that the same proposition was upheld by this Tribunal in the case of **Hindalco Industries Ltd. v. Commissioner of Central Excise, Bhubaneswar-II – 2023 (5) TMI 720 – CESTAT Kolkata** . Accordingly, he submits that the issue is no longer *res integra* and hence he submits that the demand confirmed in the impugned order is not sustainable.

4. The ld. A.R. reiterated the findings in the impugned order.

5. Heard both sides and perused the appeal records.

6. We observe that the issues to be decided in this appeal are as under:

(i) Whether the demand for short payment of excise duty is sustainable in cases of inter-unit transfer where such duty paid would be eligible as credit to the recipient unit, leading to a revenue neutral situation?

(ii) Whether the Appellant is liable to pay excise duty at the value of Cost of production plus 10% under Rule 8 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 for inter-unit transfer of refractory materials used by the other factories in the manufacture of their dutiable finished products and the same products are also sold by the Appellant to unrelated buyers.

6.1. We observe that the issue is no longer *res integra*, as this Tribunal has already decided this issue in the Appellant's own case **Steel Authority of India v. Commissioner of Central Excise & Service Tax, Ranchi I, vide Final Order No. 75435/2025 in Excise Appeal No. 75523 of 2016** pertaining to a different unit of the same assessee and concerning the same issue pertaining to valuation of inter-unit transfer of refractory material had held that no demand is sustainable since the issue is revenue neutral. The relevant paragraph of the said decision is extracted below for ready reference –

> *"3. The Ld. Counsel for the appellant submits that the entire excise if revenue neutral as the final products cleared from the Appellant's factory to their other sister unit, are used by the other factories in the manufacture of dutiable finished goods, which is cleared by them on payment of applicable Excise duty. Therefore, whatever duty is payable by the appellant, the same is entitled to take the cenvat credit by the appellant's unit only. Therefore, it is revenue neutral situation. To support his contention, he*

*relies on the decision of this Tribunal in the case of Hindalco Industries Limited Vs. Commissioner of Central Excise, Bhubaneswar II reported in 2023 (5) TMI 720 – CESTAT Kolkata.*

*7. 7. In that circumstances, it is the case of revenue neutrality as held by this Tribunal in the case of M/s Hindalco Industries Limited (supra) wherein this Tribunal has held as under*

*… Accordingly, relying on the decision of this Tribunal in the case of Hindalco Industries (supra), we hold that it is a revenue neutral situation."*

6.2. We observe that the same proposition has been held by this Tribunal in the case of **Hindalco Industries Ltd. v. Commissioner of Central Excise, Bhubaneswar-II – 2023 (5) TMI 720 – CESTAT Kolkata.** The relevant paragraph of the said decision is extracted below for ready reference –

*"15. The Appellant has argued that the entire exercise is revenue neutral as the duty paid by them will be available as credit for their sister unit. We agree with this view of the Appellant. The duty paid by the Appellant would be available as credit to their sister unit. This the entire exercise is revenue neutral…..*

*16. We find the above decisions are squarely applicable to the Appellant. As the entire exercise would be revenue neutral, there is no loss of revenue to the exchequer."*

6.3. In view of the above discussions and by relying upon the decisions cited supra we hold that the demand confirmed in the impugned order is not sustainable and accordingly, we set aside the same. Since the demand of duty is not sustained, the question of demanding interest and imposition of penalty does not arise.

7. In view of the above discussions, we set aside the impugned order and allow the appeal filed by the appellant.

(Operative part of Order was pronounced in Open court)

**(ASHOK JINDAL)**
MEMBER (JUDICIAL)

**(K. ANPAZHAKAN)**
MEMBER (TECHNICAL)

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