IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH : KOLKATA
REGIONAL BENCH - COURT NO.1

Excise Appeal No.75803 of 2017
(Arising out of Order-in-AppealNo.22/RAN-I/2017 dated17.02.2017 passed by Commissioner(Appeals), Central Excise& Service Tax, Ranchi.)

M/s. Central Coalfields Limited
(Shri Deepak Kumar Verma, Area Finance Manager, Magadh Amrapali Area, AFM Office Dakra, District-Ranchi, Jharkhand.)

...Appellant

VERSUS

Commissioner of CGST & CX, Ranchi Commissionerate
.....Respondent
(Central Revenue Building, Main Road, Ranchi-834001.)

APPEARANCE
Shri S.K.Barthwal, Chartered Accountant for the Appellant (s)
Shri S.Dey, Authorized Representative for the Revenue

CORAM:HON'BLE SHRI R. MURALIDHAR, MEMBER(JUDICIAL)
HON'BLE SHRI RAJEEV TANDON, MEMBER(TECHNICAL)

FINAL ORDER NO. 76493/2025

DATE OF HEARING :21.05.2025
DATE OF DECISION :21.05.2025

Per :R. MURALIDHAR :

The Appellant is aggrieved by the rejection of refund claim by the lower authorities.

2. The Ld.Consultant appearing on behalf of the Appellant submits that the Appellant was charging Rs.100/- towards crushing and sizing charges. At the time of clearance, they were paying the Excise Duty by adding the value of Rs.100/- towards crushing and sizing charges. The bills were raised on the power generation companies for such supplies who paid the full value of such invoices to the appellant. After sometime,a Committee was constituted to go through the facilities available at Appellant's place. It was found that the Appellant had no facility towards crushing and sizing. Therefore, the Committee held that

the Appellant could not charge Rs.100/- from various companies on account of crushing and sizing. After this, the Appellants have raised supplementary invoices thereby granting the refund of Rs.100/-plus Excise Duty on this account to the buyers on whom Rs.100 plus Excise Duty was charged earlier.

3. Subsequently, the Appellants have filed arefund claim seeking refund of basic amount of Rs.100/- + Excise Duty thereon. The lower authorities have rejected the refund application on the ground that the Appellant has not proved that the Excise Duty burden has not been passed on to the customer, thereby attracting the unjust enrichment clause under Section 11B of the Central Excise Act 1944. Being aggrieved, the appellant has filed the present appeal before the Tribunal.

4. The Ld.Counsel submits that all the recipients of the goods have separately given Certificates stating that they have received the refund from the appellant inclusive of the Excise Duty initially charged. They have also certified that since they are power generation companies, no Cenvat Credit has been taken by them for the Invoices raised by the appellant earlier. Therefore, he submits that these documents prove that the unjust enrichment clause is not attracted. He prays that the Appeal may be allowed.

5. The Ld.AR for the department reiterates the findings of the lower authorities and submits that the Appellant has not provided enough documentary evidence to the effect that unjust enrichment clause is overcome by the Appellant.

6. Heard both sides. Perused the appeal papers and submissions made by both the sides.

7. We find that the Appellant has submitted enough documentary evidence since the recipients have certified that they have received the entire refund inclusive of Excise Duty. These buyers have also certified that they have not availed any Cenvat Credit as they are in the business of power generation. We find that these two factors themselves may be sufficient evidence on the part of the appellant to prove that the Excise Duty burden has not been passed on to the buyers.

8. Being a reputed Public Sector Undertaking , they have returned the crushing and sizing charges on their own after the Committee has found that they did not have such facility. Therefore, we feel that they should be given another opportunity to bring in enough documentary evidence to the effect that the duty burden has not been passed on. The Appellant would be required to furnish appropriate evidence/certificate confirming that no duty burden has been passed on to the buyers. After this, the Appellant is directed to approach the Adjudicating authority who should give due consideration to the Chartered Accountant's Certificate and all other corroborative evidence like supplementary invoice, credit notes, letters from the buyers etc., to be produced by the Appellant and decide the issue.

9. The Adjudicating authority is directed to decide the issue within three months from the date when the Appellant approaches him along with Chartered Accountant's Certificate and other corroborative evidence.

10. Appeal stands disposed of thus.

(Dictated and pronounced in the open Court.)

Sd/	Sd/
(RAJEEV TANDON)	**(R. MURALIDHAR)**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

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