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

REGIONAL BENCH – COURT NO.2

Excise Appeal No. 75260 of 2016

(Arising out of Order-in-Original No.03/COMMR/CE/KOL-II/Adjn/2015-16 dated 16.12.2015 passed by Commissioner of Central Excise, Kolkata-II)

M/s. Skipper Limited,
(Uluberia, N. H.-6, P. O.- Mahisrekha, Howrah-711303)

Appellant

VERSUS

Commr. of Central Excise, Kolkata-II
(M. S. Building, Customs House, 15/1, Strand Road, Kolkata-700001)

Respondent

APPEARANCE :

Mr. Kartik Kurmy & Ms. Ritika kurmy, both Advocate for the Appellant
Shri S. Dey, Authorized Representative for the Respondent

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

FINAL ORDER No.76983/2025

Date of Hearing : 25.06.2025
Date of Pronouncement : 22.07.2025

PER R. MURALIDHAR

The Appellant is engaged in the manufacture of Power Transmission Lines, Towers and Pipes Ch. 72 and 73 of the Central Excise Act, 1944. A search of the factory of the Appellant was conducted on 27-11-2013 to 02-12-2013. In the course of search and seizure, physical stock of raw materials i.e. Blooms, Billets, HR Coil, Skelp, CR Strip was taken and 842.250 MT of Billets/Blooms and 145.586 MT of HR Coil/Skelp/CR Strip was found short. After verification of the documents like Goods Receipt Notes, Gate Entries etc. for the period 2010 to 2013, it was alleged that the appellant has not received the raw materials like M S Billets and C R Steel strips to the tune of 6119.97 MT. A Show Cause Notice was issued on 14.10.2014 demanding Rs.2,26,73,265 and Rs.39,92,678 on these counts. Before the Adjudicating authority the appellant refuted the allegations and submitted documentary evidence for having received and utilized the raw materials. The Adjudicating authority after due process confirmed the demand. Being aggrieved, the appellant is before the Tribunal.

2. The Ld Counsel appearing on behalf of the appellant makes the following submissions :

2.1 During the period under dispute i.e. 2010-11, 2011-12 and 2012-13, the Appellant purchased following quantities of raw materials and received the same in their factory, accounted for the same in the inventory and books of accounts and made payments to the suppliers through proper banking channel.

Sl.No.	**Suppliers**	**Items**	**Qty. (in MT)**	**CENVAT Credit**
1.	M/s Ankit Metal & Power Ltd. (Regn.No.AAFCA5230BXM001)	M.S. Billet	3515.57	1,18,60,928/-
2.	M/s Super Smelters Pvt. Ltd. (Unit-III) (Regn.No.AAFCS1116FXM003)	M.S. Billet	999.28	35,81,835/-
3.	M/s Braham Alloys P. Ltd. (Regn.No.AACCB4367LXM001)	M.S. Ingot	666.72	15,47,158/-
4.	M/s Shri Bihariji Cold Rollers P. Ltd. (Regn.No.AAFCS4734DXM001)	C.R. Steel Strips	938.4	56,83,344/-
	TOTAL		**6119.97**	**2,26,73,265/-**

2.2 The impugned raw materials have been consumed by them in the manufacture of their finished goods on which duty of excise is paid at the time of clearance.

2.3 The impugned goods are received by the Appellant –

(i) under cover of Excise Invoices (Page 758 to 938, Page 986 to 1020, Page 1049 to 1104 and Page 1126 to 1165, Vol. - III),

(ii) Transporting Bills raised by Transporters for transport & Transport Ledger (Page 979 to 985, Page 1045 to 1048, Page 1121 to 1125, Vol.- III).

2.4 The payment made to Suppliers through proper Banking Channel which are reflected in Vendor's Ledger (Page 939 to 940, Page 958 to

968, Page 1021 to 1025, 1032, Page 1043 to 1044, Page 1105 to 1107) & Bank Statement (Page 947-957, Page 969-978, Page 1025 – 1032, Page 1036-1042, Page 1108-1120, Vol.- III of Paper Book)

2.5. The vehicles which transported the impugned goods are all Heavy Motor Vehicles (Please see Page 440 - 757 Vol. - II of Paper Book).

2.6 The receipt of impugned raw materials are disclosed in the –

(i) Inventory Register (Page 435 to Page 439, Vol.-I);

(ii) monthly returns filed under Rule 7 of the CENVAT Credit Rules, 2004 (RG-23A-Part-I) (Page 125 – 133, Page 169 – 177, Page 214 – 221, Page 254 – 265, Page 312 – 315, Page 346 – 356, Page 400-407 of Vol.-I);

(iii) Entry Book of Duty Credit (RG-23A-Part-II) (Page 134-155, Page 178-198, Page 222-240, Page 260-297, Page 316-331, Page 357-385, Page 408-430 of Vol.-I);

(iv) ER-1 returns (Page 114, Page 157, Page 200, Page 243, Page 300, Page 334, Page 387 of Vol.-I).

2.7 The Appellant has filed Annual Financial Information Statement in Form ER-4 return for 2010-11, 2011-12, 2012-13 under Rule 12(2)(a) of the CENVAT Credit Rules, 2004 (Page 100-113 of Vol.-I) disclosing inventory of raw materials, freight paid on raw materials, details of CENVAT Credit claimed.

2.8 The EA-2000 Audit of the books of accounts of the Appellant was conducted by the department for the year 2010-11, 2011-12, 2012-13 vide letter dated 09-09-2011, dated 07-05-2012, dated 01-08-2012 and dated 17-05-2013 (Page 95, Page 96, Page 99, Page 97, Vol. – I) and no discrepancy was noticed/pointed as regards claim of CENVAT Credit on the impugned goods.

2.9 The CENVAT Credit is denied on unwarranted "inferences" and "supposition" that impugned inputs were not received as there was no mention of GRN No. or no Gate entry stamp or non-availability of gate report or weighment slip (Please see Para 5.5 of the impugned Order, Page 22).

2.10 It is submitted that the impugned goods are duly entered in RG-23A-Part-I, RG-23A-Part-II which are authentic document to prove receipt of impugned inputs.

2.11 The GRN, Gate Entry Stamp, Gate Entry Report, Weighment Slip are not prescribed document under CENVAT Credit Rules, 2004, hence, non-maintenance thereof cannot discentile CENVAT Credit.

2.12 It is submitted that substantive benefit of CENVAT Credit cannot be denied for non-statutory violations and technical reasons.

2.13 The Appellant purchased impugned raw materials and received the same in their factory, accounted for the same in the inventory and books of accounts and made payments to the suppliers through proper banking channel.

2.14 All the suppliers are large scale manufacturers and registered under the Central Excise Act, 1944 and are paying duty on clearance of their manufactured excisable goods which is accepted by the department without any demur.

2.15 During the disputed period, they purchased & received 367437.764 MT of raw materials, out of which, receipt of 6119.970 MT is brought into question which constitutes negligible 1.66%. It is unreasonable to believe that such a large manufacturer they would have resorted to suppression of fact to the extent of 1.66% of its purchases.

2.16 No enquiry / investigation was conducted at the end of the suppliers M/s Ankit Metal & Power Ltd., M/s Super Smelters Ltd. (Unit-III), M/s Brahm Alloys P. Ltd. and M/s Shri Bihariji Cold Rollers P. Ltd.

2.17 It is not the department's case that the impugned goods were not dispatched from the factory of the suppliers and that the impugned goods were not duty paid *[Modular Auto Ltd. Vs. CCE reported in 2018-VIL-541-MAD-ST]*.

2.18 It is also not the case of the department that the impugned goods not transported by the transporters.

2.19 It is also not the case of the department that the impugned goods were sold to some other parties by the Appellant.

2.20 It is also not the case of the department that the finished goods were manufactured by the Appellant without the impugned goods.

2.21 In the case of Veer-O-Metals Pvt. Ltd. vs. CCE reported in 2016(331) ELT 475 (Tri.-Bang.), it is held that GRN etc. are not prescribed document / records under CENVAT Credit and non-maintenance thereof does not prove non-receipt of goods .

2.22 In the case of Bhawani Press Metal & Body Building P. Ltd. Vs. CCE reported in 2019 (369) ELT 1656 (Tri.-Kolkata), it is held that Gate Register maintained by Security Guard is not a prescribed document in terms of CENVAT Credit Rules, 2004. Denial of Credit merely on the basis of non-recording of entries in the so-called gate register not justifiable. (Para 9, 10).

2.23 In the case of CCE Vs. Sethi Industrial Corp. reported in (2014) 309 ELT 159 (Tri.-Del.), it is held that inputs not reflected in private records would not disentile the assesse to avail credit. Substantive right of CENVAT Credit cannot be denied on an objections of technical nature (Para 4, 5).

2.24 In the case of Kobain Electronic P. Ltd. Vs. CCE reported in (2016) 343 ELT 545 (Tri.-Ahmd***.),*** it is held that RG-23A-Part-I & RG-23A-Part-II are statutory records and the only authentic documents to establish receipt of inputs/capital goods.

2.25 Search & seizure in the factory of the Appellant was conducted on 27-11-2013 to 02-12-2013. In the course of search and seizure, physical stock of raw materials i.e. Blooms, Billets, HR Coil, Skelp, CR Strip was taken and 842.250 MT of Billets/Blooms and 145.586 MT of HR Coil/Skelp/CR Strip was found short. Excise Invoices for purchase and in-house GRN, weighment slip etc. prepared by the Appellant was verified.

2.26 The Appellant vide letter dated 23-12-2013 (Page 86, Vol.-I) did not accept the stock differences and explained the stock difference on the ground that it relates accumulated invisible losses.

2.27 In the instant case, except purported shortage, there is no evidence of clandestine removal of short found goods and flow back of funds etc. CENVAT Credit cannot be denied on account of purported shortage alone. The Appellant relies on the following cases-

> ***CCE Vs. Nissan Thermoware P. Ltd. (2011) 266 ELT 45 (Guj.) (Para 7);***
>
> ***Sumangal Ispat Pvt. Ltd. Vs. CCE reported in 2024-VIL-1418-CESTAT-KOL-CE (Para __).***

2.28 During the period under dispute, the Appellant purchased 367437.764 MT of raw materials and consumed approximately 333256.490 MT of raw material. The purported total shortage of 987.836 MT constitutes just 0.26% of the total raw materials purchased and just 0.29% of the raw material consumed, which is just negligible and no adverse inference can be drawn when such large scale manufacturing process is invoked.

2.29 The Entire demand is barred by normal period of limitation. In the instant case the entire sets of facts are disclosed in the RG-23A-Part-I & RG-23A-Part-II, ER-4 return submitted with the department which were scrutinized. Further, the books of accounts and statutory records have been regularly audited under EA-2000, hence, the entire sets of facts were in the knowledge of the department and there was no suppression of facts. The EA-2000 Audit of the books of accounts of the Appellant was conducted by the department for the year 2010-11, 2011-12, 2012-13 vide letter dated 0-09-2011, dated 07-05-2012 and dated 01-08-2012 and no discrepancy was noticed/pointed as regards claim of CENVAT Credit on the impugned goods.

2.30 The Appellant relies on the following judgments-

> ***Sara Bhai M. Chemicals Vs. CCE reported in 2005 (179) ELT 3(SC) (Para 27);***
>
> ***Vandana Global Ltd. Vs. CCE, reported in 2022 (12) TMI 450-CESTAT New Delhi (Para 15, 16, 17)***

3. In view of the above submissions, the Ld Counsel prays that the impugned order may be set aside both on merits as well as on account of limitation.

4. The Ld A R representing the Revenue reiterates the detailed findings of the Adjudicating authority. He submits that the officials have conducted detailed investigation. It has been found that in several cases, the materials said to have been received from the four Vendors in question under their invoices, have not been entered in the Gate Entry Register, Goods Receipt Notes and in many cases, the weighment slips are missing. This shows that only the Invoices are being received without the actual receipt of the materials. Hence, he justifies the confirmed demand. He further states that the shortage found during the stock-taking has not been disputed for the method adopted therein by the appellant. Since, they are not in a position to account for the shortage of stock, he submits they are liable to pay the Cenvat availed by them on such stock. In view of these submissions, he prays that the appeal may be set aside

5. We have heard both the sides and perused the appeal papers submitted in three volumes and synopsis filed by the appellant.

6. We find that the main issue in this case on the allegation that the appellant has not received the raw materials under the Invoices, on which the Cenvat Credit has been claimed by the appellant. The allegation is on account of the following four Vendors :

Sl.No.	Suppliers	Items	Qty. (in MT)	CENVAT Credit
1.	M/s Ankit Metal & Power Ltd. (Regn.No.AAFCA5230BXM001)	M.S. Billet	3515.57	1,18,60,928/-
2.	M/s Super Smelters Pvt. Ltd. (Unit-III) (Regn.No.AAFCS1116FXM003)	M.S. Billet	999.28	35,81,835/-
3.	M/s Braham Alloys P. Ltd. (Regn.No.AACCB4367LXM001)	M.S. Ingot	666.72	15,47,158/-
4.	M/s Shri Bihariji Cold Rollers P. Ltd. (Regn.No.AAFCS4734DXM001)	C.R. Steel Strips	938.4	56,83,344/-
	TOTAL		**6119.97**	**2,26,73,265/-**

7. We have perused the documentary evidence placed before us by the appellant. We find the appellant has filed the entire bunch of Invoices raised by these parties and the account of the same in the statutory records. We find that the Invoices raised by these parties are accounted for in the RG 23 A Part I for the stocks received and in Part II for the Cenvat Credit taken. For the convenience of ready reference the Entries of one of the parties Brahm Alloys for the month of November 2011 is reproduced below :

ICE	8234	29.11.10	RELIANCE INDUSTRIES LTD	MFG	AAACR5055KXD076	29.11.10	519456.00	45574.00		912.00	456.00	PVC RESIN	39041090	8.000	MT.
ICE	8240	29.11.10	RELIANCE INDUSTRIES LTD	MFG	AAACR5055KXD076	29.11.10	25973.00	2279.00		46.00	23.00	PVC RESIN	39041090	0.400	MT.
ICE	8241	29.11.10	RELIANCE INDUSTRIES LTD	MFG	AAACR5055KXD076	29.11.10	51946.00	4557.00		91.00	46.00	PVC RESIN	39041090	0.800	MT.
ICE	8242	29.11.10	RELIANCE INDUSTRIES LTD	MFG	AAACR5055KXD076	29.11.10	399332.00	35035.00		701.00	360.00	PVC RESIN	39041090	6.150	MT.
ICE	8243	29.11.10	RELIANCE INDUSTRIES LTD	MFG	AAACR5055KXD076	29.11.10	42206.00	3703.00		74.00	37.00	PVC RESIN	39041090	0.650	MT.
ICE	8244	29.11.10	RELIANCE INDUSTRIES LTD	MFG	AAACR5055KXD076	29.11.10	516456.00	45574.00		912.00	456.00	PVC RESIN	39041090	8.000	MT.
ICE	8246	30.11.10	RELIANCE INDUSTRIES LTD	MFG	AAACR5055KXD076	30.11.10	516456.00	45574.00		912.00	456.00	PVC RESIN	39041090	8.000	MT.
ICE	8285	30.11.10	RELIANCE INDUSTRIES LTD	MFG	AAACR5055KXD076	30.11.10	516456.00	45574.00		912.00	456.00	PVC RESIN	39041090	8.000	MT.
CE	3130997	29.11.10	INDIAN OIL CORPORATION LTD.	DEL.	AAACI1681GXD239	30.11.10	316615.00	35906.00		718.00	369.00	FO. OIL	27101950	10.000	KL.
CE	3167708	30.11.10	INDIAN OIL CORPORATION LTD.	DEL.	AAACI1681GXD239	30.11.10	316615.00	35906.00		718.00	359.00	FO. OIL	27101950	10.000	KL.
CE	657	29.11.10	SHYAM ISPAT UDYOG	MFG	AAMFS2715GXM001	30.11.10	615361.00	63644.00		1073.00	537.00	M.S.CHANNEL	72165000	19.230	MT.
CE	220	24.11.10	KITCHEN CARE	DEL.	AFWPG7274FXD001	30.11.10	17784.00	1026.00		21.00	10.00	LPG GAS	27111900	0.380	MT.
CE	222	26.11.10	KITCHEN CARE	DEL.	AFWPG7274FXD001	30.11.10	17784.00	1072.00		21.00	11.00	LPG GAS	27111900	0.380	MT.
CE	397	03.11.10	RAJESH ENTERPRISES	DEL.	ABRPT1553HXD001	30.11.10	1083.00	162.00		3.00	2.00	TOOLBIT	82074090	4	SET
CE	431	26.11.10	RAJESH ENTERPRISES	DEL.	ABRPT1553HXD001	30.11.10	2267.00	227.00		5.00	2.00	TOOLBIT	82075000	1	NO
CE	8319	30.11.10	ELLENBARRIE INDUSTRIAL GAS LTD.	MFG	AAACE5770EXM003	30.11.10	5716.00	462.00		9.00	5.00	OXYGEN	28044090	420	CUM
CE	8347	30.11.10	ELLENBARRIE INDUSTRIAL GAS LTD.	MFG	AAACE5770EXM003	30.11.10	3949.00	308.00		6.00	3.00	OXYGEN	28044090	280	CUM
CE	1221	25.11.10	BRAHM (ALLOYS) PVT. LTD.	MFG	AACCB4367LXM001	30.11.10	405048.00	35310.00		706.00	353.00	M.S.INGOT	72071920	16.050	MT.
CE	1222	25.11.10	BRAHM (ALLOYS) PVT. LTD.	MFG	AACCB4367LXM001	30.11.10	406815.00	35464.00		709.00	355.00	M.S.INGOT	72071920	16.120	MT.
CE	1223	25.11.10	BRAHM (ALLOYS) PVT. LTD.	MFG	AACCB4367LXM001	30.11.10	404796.00	35288.00		706.00	353.00	M.S.INGOT	72071920	16.040	MT.
E	1224	25.11.10	BRAHM (ALLOYS) PVT. LTD.	MFG	AACCB4367LXM001	30.11.10	403535.00	36178.00		704.00	352.00	M.S.INGOT	72071920	15.990	MT.
E	1225	25.11.10	BRAHM (ALLOYS) PVT. LTD.	MFG	AACCB4367LXM001	30.11.10	409086.00	35662.00		713.00	357.00	M.S.INGOT	72071920	16.210	MT.
E	1226	25.11.10	BRAHM (ALLOYS) PVT. LTD.	MFG	AACCB4367LXM001	30.11.10	407319.00	35508.00		710.00	356.00	M.S.INGOT	72071920	16.140	MT.
E	1227	25.11.10	BRAHM (ALLOYS) PVT. LTD.	MFG	AACCB4367LXM001	30.11.10	401767.00	36024.00		700.00	350.00	M.S.INGOT	72071920	15.920	MT.
E	1228	25.11.10	BRAHM (ALLOYS) PVT. LTD.	MFG	AACCB4367LXM001	30.11.10	403786.00	35200.00		704.00	352.00	M.S.INGOT	72071920	16.000	MT.
E	1229	25.11.10	BRAHM (ALLOYS) PVT. LTD.	MFG	AACCB4367LXM001	30.11.10	404038.00	35222.00		704.00	352.00	M.S.INGOT	72071920	16.010	MT.
E	1236	25.11.10	BRAHM (ALLOYS) PVT. LTD.	MFG	AACCB4367LXM001	30.11.10	401010.00	34958.00		699.00	350.00	M.S.INGOT	72071920	15.890	MT.
E	1237	26.11.10	BRAHM (ALLOYS) PVT. LTD.	MFG	AACCB4367LXM001	30.11.10	405048.00	35310.00		706.00	353.00	M.S.INGOT	72071920	16.050	MT.
E	1238	26.11.10	BRAHM (ALLOYS) PVT. LTD.	MFG	AACCB4367LXM001	30.11.10	410096.00	35750.00		715.00	358.00	M.S.INGOT	72071920	16.250	MT.
E	1239	26.11.10	BRAHM (ALLOYS) PVT. LTD.	MFG	AACCB4367LXM001	30.11.10	404796.00	35288.00		706.00	353.00	M.S.INGOT	72071920	16.040	MT.
E	1240	26.11.10	BRAHM (ALLOYS) PVT. LTD.	MFG	AACCB4367LXM001	30.11.10	406815.00	35464.00		709.00	355.00	M.S.INGOT	72071920	16.120	MT.
E	1241	26.11.10	BRAHM (ALLOYS) PVT. LTD.	MFG	AACCB4367LXM001	30.11.10	400253.00	34892.00		698.00	349.00	M.S.INGOT	72071920	15.880	MT.
E	1242	26.11.10	BRAHM (ALLOYS) PVT. LTD.	MFG	AACCB4367LXM001	30.11.10	408329.00	35596.00		712.00	356.00	M.S.INGOT	72071920	16.180	MT.
E	1243	26.11.10	BRAHM (ALLOYS) PVT. LTD.	MFG	AACCB4367LXM001	30.11.10	402776.00	35112.00		702.00	351.00	M.S.INGOT	72071920	15.960	MT.
E	1244	26.11.10	BRAHM (ALLOYS) PVT. LTD.	MFG	AACCB4367LXM001	30.11.10	409086.00	35662.00		713.00	357.00	M.S.INGOT	72071920	16.210	MT.
E	4613	25.11.10	BALMER LAWRIE & CO. LTD.	MFG	AABCB0984EXM011	30.11.10	19060.00	2055.00		41.00	21.00	LUBRICANT OIL	27101990	210	LTR.
E	185	26.11.10	BALASORE CHEMICALS	MFG	ABYPB7185QXM001	30.11.10	430336.00	38250.00		765.00	383.00	STABILISER	38123090	4.500	MT.
E	172	19.11.10	BALASORE CHEMICALS	MFG	ABYPB7185QXM001	27.11.10	143446.00	12750.00		255.00	128.00	STABILISER	38123090	1.500	MT.
							28347168.00	268021.00	566953.00	283484.00					

whether manufacturer, first stage dealer,
stage dealer or importer
full value of the goods covered by the document
calls with respect to the item with maximum duty
by the invoice.

A. INPUTS CREDIT

	Opening Balance	Credit Taken During the Month	Credit Utilised During the Month	Credit reverse	Closing Balance
CENVET	50465058.00	28605179.00	14502397.00		
ADDL.DUTY					64567840.00
AED(TTA)					
Edu.cess	1004060.00	566953.00	290064.00		
S&H Ed.Cess	501919.00	283484.00	145031.00		1280949.00
					640372.00

PLACE: HOWRAH
DATE: 30.11.2010

For SKIPPER LTD. (U-ULUBERIA)

Authorised Signatory

ANNEX.- I Contd.

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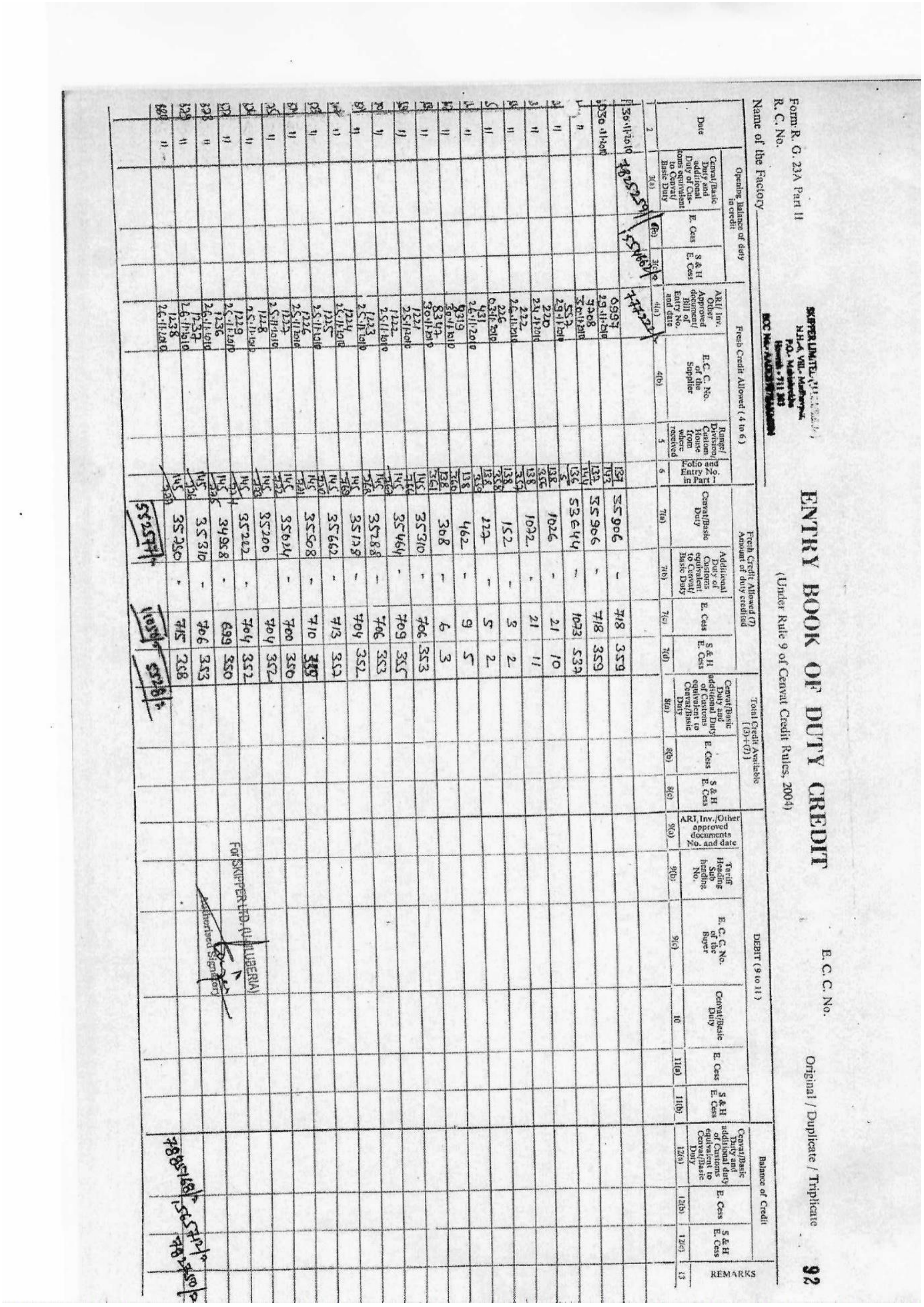


Form R. G. 23A Part II
R. C. No.
Name of the Factory SKIPPER LIMITED, N.H.-6, Vill.- Madhavpur, P.O.- Mahiskrekha, Howrah - 711 303, ECC No.- AADCS[illegible]

ENTRY BOOK OF DUTY CREDIT

(Under Rule 9 of Cenvat Credit Rules, 2004)

E. C. C. No. Original / Duplicate / Triplicate 92

Date (2)	Opening Balance: Cenvat/Basic Duty (3(a))	Opening Balance: E. Cess (3(b))	Opening Balance: S & H E. Cess (3(c))	ARI/Inv./Other Approved document/Bill of Entry No. and date (4(a))	E.C.C. No. of the Supplier (4(b))	Range/Division/Custom House from where received (5)	Folio and Entry No. in Part I (6)	Cenvat/Basic Duty (7(a))	Additional Duty of Customs equivalent to Cenvat/Basic Duty (7(b))	E. Cess (7(c))	S & H E. Cess (7(d))
30-11-2010	7825259	155466/-	777222/-								
30-11-2010				6997 29-11-2010			137/143	35906	-	718	359
"				7208 30-11-2010			137/144	35906	-	718	359
"				557 29-11-2010			136/5	53644	-	1073	537
"				220 24-11-2010			138/356	1026	-	21	10
"				222 26-11-2010			138/357	1072	-	21	11
"				226 03-11-2010			138/358	152	-	3	2
"				431 26-11-2010			138/359	127	-	5	2
"				9319 30-11-2010			138/360	462	-	9	5
"				8347 30-11-2010			138/361	308	-	6	3
"				1221 25-11-2010			145/766	35310	-	706	353
"				1222 25-11-2010			145/767	35464	-	709	355
"				1223 25-11-2010			145/768	35288	-	706	353
"				1224 25-11-2010			145/769	35178	-	704	352
"				1225 25-11-2010			145/770	35662	-	713	357
"				1226 25-11-2010			145/771	35508	-	710	355
"				1227 25-11-2010			145/772	35024	-	700	350
"				1228 25-11-2010			145/773	35200	-	704	352
"				1229 25-11-2010			145/774	35222	-	704	352
"				1236 26-11-2010			145/775	34958	-	699	350
"				1237 26-11-2010			145/776	35310	-	706	353
"				1238 26-11-2010			145/777	35250	-	715	358
								552577/-		11039/-	5528/-

Total Credit Available [(3)+(7)]: Cenvat/Basic Duty and additional Duty of Customs equivalent to Cenvat/Basic Duty 8(a) | E. Cess 8(b) | S & H E. Cess 8(c)

DEBIT (9 to 11): ARI, Inv./Other approved documents No. and date 9(a) | Tariff Heading Sub heading No. 9(b) | E. C. C. No. of the Buyer 9(c) | Cenvat/Basic Duty 10 | E. Cess 11(a) | S & H E. Cess 11(b)

Balance of Credit: Cenvat/Basic Duty and additional duty of Customs equivalent to Cenvat/Basic Duty 12(a): 7885468/- | E. Cess 12(b): 156571/- | S & H E. Cess 12(c): 782750/- | REMARKS 13

For SKIPPER LTD. (ULUBERIA)
Authorised Signatory

8. We find that the Invoices Numbers given in the RG 23 A Part I for stocks are matching with the details given in Part II for the Cenvat Credit taken.

9. Coming to the accounting of the receipt by way of Goods Receipt Notes, we have extracted some of such GRNs in respect of the above Vendors.

ANNEX.-'C' Contd. -73-

-171-

Display Material Document 5000030654 - Biseswar Senapati ULB MM Store-

how Overview | Hold | Check | Post | Help

Vendor | Doc. info | DMS Attachment List

Document Date	01.03.2013	Delivery Note	JAM\11413	Vendor	SUPER SMELTERS LTD.
Posting Date	06.03.2013	Bill of Lading	JAM\11413	HeaderText	
Individual Slip					

ne	Item	Mat. Short Text	Qty in UnE	EUn	Del. Note Qty	Busi...	Del...	SLoc	Stock Type	Requisitioner	Material
1	10	BILLET 125X125 MS	25,310	KG	25,310	SULB	KG	Strp Mill RM	Unrestricted		1000000:

Material | Quantity | Where | Purchase Order Data | Partner | Account Assignment | Additional Data

Purchase order No	4500011756			
Transporter Name				SAIL Deport
Truck No	WB39/2395	Container/Wagon No		
CIP No		Loading Place		
Weigh bridge Weight/UOM	0.000	/	MIC NO	
Transporter Weight/UOM	0.000	/	E-Way Bill	

Approval Request ID

SKIPPER LTD. ★ HOWRAH ★ ULUBERIA

ANNEX.-'C' Contd.

-73-

-171-

Display Material Document 5000030654 - Biseswar Senapati ULB MM Store-

how Overview | Hold | Check | Post | Help

Vendor | Doc. info | DMS Attachment List

Document Date	01.03.2013	Delivery Note	JAM\11413	Vendor	SUPER SMELTERS LTD.
Posting Date	06.03.2013	Bill of Lading	JAM\11413	HeaderText	
Individual Slip					

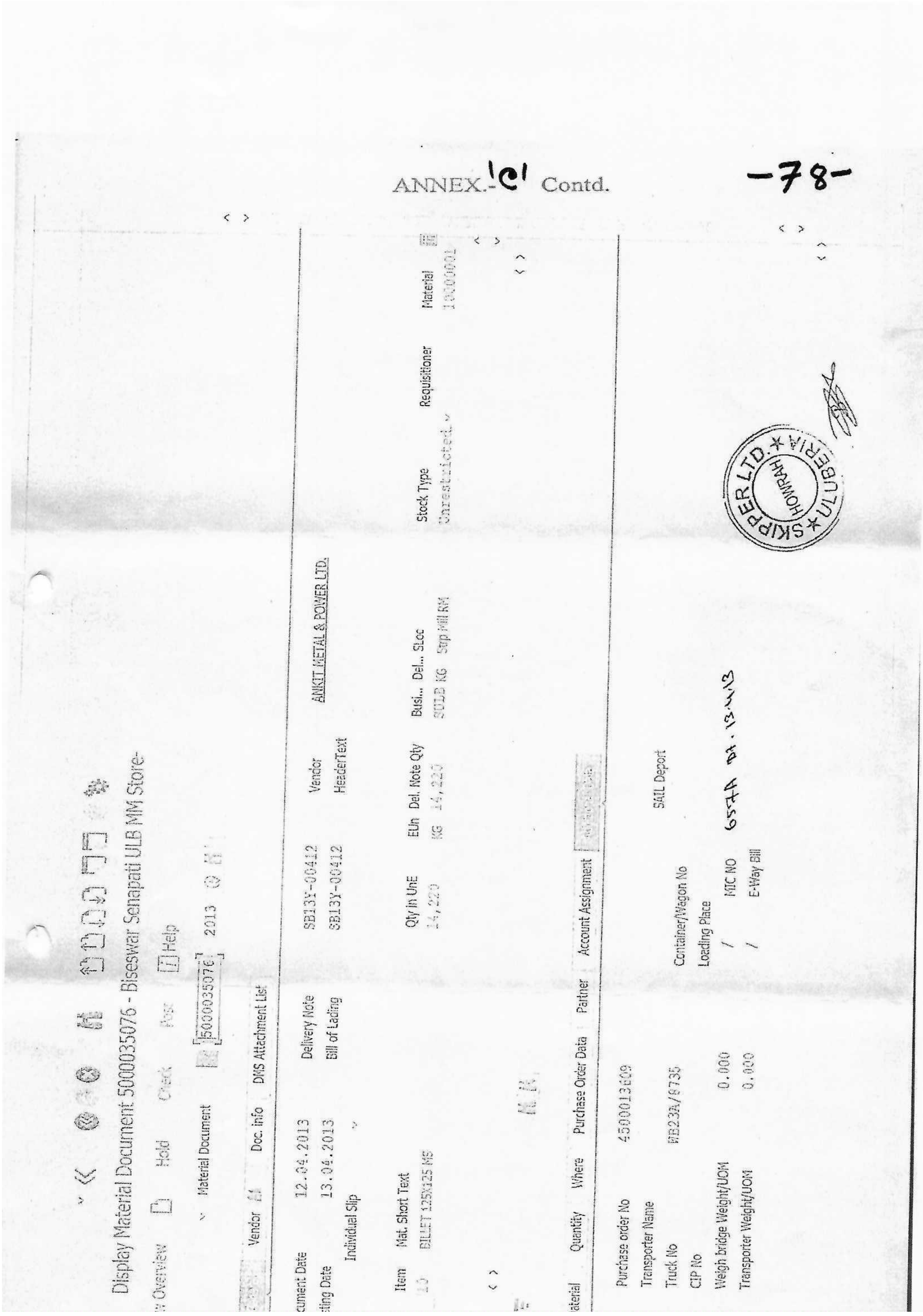
ne	Item	Mat. Short Text	Qty in UnE	EUn	Del. Note Qty	Busi...	Del...	SLoc	Stock Type	Requisitioner	Material
1	10	BILLET 125X125 MS	25,310	KG	25,310	SULB	KG	Strp Mill RM	Unrestricted		1000001

Material | Quantity | Where | Purchase Order Data | Partner | Account Assignment | Additional Data

Purchase order No	4500011756		
Transporter Name			SAIL Deport
Truck No	WB39/2395	Container/Wagon No	
CIP No		Loading Place	
Weigh bridge Weight/UOM	0.000	/	MIC NO
Transporter Weight/UOM	0.000	/	E-Way Bill

Approval Request ID

SKIPPER LTD. ★ HOWRAH ★ ULUBERIA



ANNEX.-'C' Contd. -78-

Display Material Document 5000035076 - Bisesswar Senapati ULB MM Store-

Overview | Hold | Check | Post | Help

Material Document 5000035076 2013

Vendor | Doc. info | DMS Attachment List

Document Date	12.04.2013	Delivery Note	SB13Y-00412	Vendor	ANKIT METAL & POWER LTD.
Posting Date	13.04.2013	Bill of Lading	SB13Y-00412	HeaderText	
Individual Slip					

Item	Mat. Short Text	Qty in UnE	EUn	Del. Note Qty	Busi...	Del...	SLoc	Stock Type	Requisitioner	Material
10	BILLET 125X125 MS	14,220	KG	14,220	SULB	KG	Stp Mill RM	Unrestricted		10000001

Quantity | Where | Purchase Order Data | Partner | Account Assignment

Purchase order No	4500013609		
Transporter Name			SAIL Depot
Truck No	WB23A/8735	Container/Wagon No	
CIP No		Loading Place	
Weigh bridge Weight/UOM	0.000 /	MIC NO	657A Dt. 13.4.13
Transporter Weight/UOM	0.000 /	E-Way Bill	

SKIPPER LTD. ★ HOWRAH ★ ULUBERIA

10. The above Good Receipt Notes pertain to the consignments received from Super Smelters and Ankit Metal. All the details like P O number, Item, Qty, Vehicle Numbers etc. are given, showing accounting of the goods received.

11. We have also gone through the Ledger Copies pertaining to these Vendors wherein the Invoices are accounted for and payment through banking channels are recorded. Some sample documents are reproduced below :

Vol-3

ANNEXURE - 'S'

-758-

Tax Invoice Cum Excise Invoice — Duplicate for Transporter

ANKIT METAL & POWER LIMITED

P.O. - Jorehira, P.S. - Chhatna, Dist. - Bankura (W.B.), Pin : 722 137

Phone : (03242) 201594

Regd. Office : 35, Chittaranjan Avenue, 4th Floor, Kolkata-700 012, Tel.: (033) 2211 9805/9806, Fax : 91 33 2225 6143

For Clearance of Excisable Goods from a Factory or Warehouse under Rule 11 of Central Excise Rules 2002

FOR HOME CONSUMPTION/EXPORT

Invoice No. : AMPL / 797

Date 24.4.11

Range : DGP-IV/4, Circus Maidan, Natun Chati, P.O. & Dist. : Bankura (W.B.) — Code : 33 11 04

Division : DGP-IV, Satyajit Roy Sarani, City Centre, Durgapur-16, Dist. Burdwan (W.B.) — Code : 33 11

Commissionerate : Bolpur, Sian Central Excise Complex, Nanoor, Chandidas Road., P.O.-Sian, Dist : Birbhum (W.B.) — Code : 33

PAN No.	: AAECA5230B
I. E. C. No.	: 0203024044
B. I. N. No.	: AAECA5230BXFT001
C. E. R. C. No.	: AAECA5230BXM001
E. C. C. No.	: AAECA5230BXM001
P. L. A. No.	: AAECA5230BXM001
W. B. VAT No.	: 19531869076
C. S. T. No.	: 19531869270
Notification No.	:

Commodity	Chapter Heading No.	Commodity	Chapter Heading No.	Commodity	Chapter Heading No.	Freight
Sponge Iron (Lumps/Fines)	7203-10-00	TMT Bars & M.S. Round	7214-10-90	H.C. Ferro Manganese	7202-11-00	EX-WORKS / FOR
M.S. Billets (Non Alloy Steel)	7207-19-20	Angle & Channel	7216-50-00	Missed Roll/Scrap	7204-49-00	
Silico Manganese	7202-30-00	Ferro Silicon	7202-21-00	Mill Scale	2619-00-90	
TMT Cutting & Short Length	7214-10-90	Pig Iron	7201-10-00	Stainless Steel (Billets)	7218-99-10	
		Wire Rod in Coil	7213-91-90			

Name & Address of Consignee :
M/s. Skipper Ltd (Unit- Uluberia)
Vill- Madhab pur
P.O. - Mahishrekha
Uluberia
Howrah 711303

P. O. No. & Date :
P.O. Amned. No. & Dt :
E.C.C. No.
C.E. Regn. No. } AADCS7272AXM001
Range
Division
Commissionerate
W.B. VAT / C.S.T. No. : 19460350006
L. C. No./Tin No.

Sl. No.	Description of Goods	No. & Description of Packages (Bags / Loose)	Net Weight in MT	Rate Per MT (Rs.)	Assessable Value (Rs.)
	M.S Billets 100x100x 6 Mtrs	43Pcs	13.240	22000/-	291280.00

CENVAT Credit Taken Rs. 29128/- 583/- 291/- Dt. 26.04.2011
G-23A (Pt-II) Entry Sl. No. 147 Fol. 24 Date 26.04.2011

Transporter : Ex-Factory / F.O.R.
(Name :)
Truck No. WB37A-6035
Container No. :
Challan No. & Date : AMPL / 797 dt. 24.4.11
Excise Duty (in words) Twenty nine thousand one hundred twenty eight only
EDU. Cess (in words) Five hundred eighty three only
S. & H. E. Cess (in words) Two hundred ninety one only
Duty paid / Payable : Inputs/Capital Goods/Input Service/P.L.A.
Vide Entry Sl. No.

Total Assessable Value	291280.00
Add : Excise Duty @ 10%	29128.00
Add : Edu. Cess @ 2% on E.D.	583.00
Add : S. & H. E. Cess 1%	291.00
Add : Frieght / Other Charges	
Total (Before Tax)	321282.00
Add : W.B. VAT/CST @ 4%	12851.00
Round Off	
GRAND TOTAL	334133.00

Amount (in words) : Rupees Three lacs thirty four thousand one hundred thirty three only

Date of Removal : 24.4.11
Time of Removal : 11.00 hrs

Declaration : Certified that the particulars given above are true & correct and the above amount indicated represents the price actually charged and that there is no flow of additional consideration directly or indirectly from the buyer.

Prepared by

Checked by

For ANKIT METAL & POWER LIMITED

Ankit Metal & Power Ltd.

Authorised Signatory

ANNEXURE 'T'

-939-

SKIPPER LIMITED
UNIT· ULUBERIA
3A, LOUDON STREET
1ST FLOOR,
KOLKATA-700017

ANKIT METAL & POWER LTD.(PUR)
Ledger Account
35, CHITTARANJAN AVENUE
4TH FLOOR
KOLKATA-700012

1-Apr-11 to 31-Mar-12

Page 1

Date		Particulars	Vch Type	Vch No.	Debit	Credit
26-Apr-11	To	SKIPPER LIMITED (MAIN - HO)	Journal		90,00,000.00	
28-Apr-11	To	SKIPPER LIMITED (MAIN - HO)	Journal		90,00,000.00	
29-Apr-11	To	SKIPPER LIMITED (MAIN - HO)	Journal		90,00,000.00	
30-Apr-11	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E609/1112		5,70,096.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E610/1112		5,47,635.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E611/1112		5,47,130.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E612/1112		5,69,086.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E613/1112		5,55,458.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E614/1112		5,70,096.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E615/1112		5,69,339.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E616/1112		5,45,869.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E617/1112		5,73,124.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E623/1112		4,34,323.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E624/1112		4,54,511.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E625/1112		4,43,661.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E647/1112		4,51,231.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E648/1112		4,49,465.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E649/1112		4,51,231.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E650/1112		4,34,827.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E651/1112		4,41,137.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E652/1112		4,42,146.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E653/1112		4,45,680.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E654/1112		4,54,511.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E655/1112		4,45,680.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E435/1112		5,49,654.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E436/1112		5,51,420.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E437/1112		5,57,477.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E438/1112		5,49,149.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E439/1112		5,55,963.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E440/1112		5,54,954.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E441/1112		5,51,420.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E442/1112		5,55,458.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E443/1112		5,56,973.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E444/1112		5,45,111.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E445/1112		5,49,654.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E446/1112		5,51,420.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E447/1112		5,45,364.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E448/1112		3,97,729.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E794/1112		5,00,443.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E795/1112		5,01,704.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E796/1112		5,05,237.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E797/1112		3,34,133.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E777/1112		5,03,471.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E778/1112		4,76,468.00
	By	RAW MATERIAL FOR STRUCTURE MILL	Purchase	AMPL/E779/1112		5,03,723.00

12. The Invoice towards the purchase along with value for the same has been reflected along with the payment through banking channels to the respective ledger of the Vendor is shown in the Ledger.

13. The inputs and output details for the Financial Year is required to be filed by the assessee under E R 4 Return. We find that the appellant has filed the Returns. The relevant portions are extracted below :

ANNEXURE - 'H' -100-

CENTRAL BOARD OF EXCISE AND CUSTOMS

Ministry of Finance - Department of Revenue

RETURN - FORM ER - 4

ANNUAL FINANCIAL INFORMATION STATEMENT FOR THE FINANCIAL YEAR 2010-2011

Registration Number :	AADCS7272AXM004		Assessee's Name :	SKIPPER LTD (UNIT-ULUBERIA)	
Address of Registered Unit :	MADHABPUR SKIPPER LIMITED NATIONAL HIGHWAY NO-6 BAGNAN ULUBERIA MAHISREKHA HOWRAH WEST BENGAL 711303				
Commissionerate :	HALDIA	Division :	HOWRAH WEST-II	Range :	V OF HOWRAH WEST-II OF HALDIA

All figure relating to value and amount is in Rs. Lakhs

Return Number.: AADCS7272AXM004_ER4_2010

DETAILS OF EXPENDITURE

DETAILS OF INPUTS INCLUDING PACKING MATERIAL AND COMPONENTS USED FOR MANUFACTURE

Total Value Of Inputs Including Packing Materials And Components Used For Manufacturing On Which CENVAT Credit Availed (Value As Per Purchase Invoice Or Import Document Excluding All Taxes).	19792.59
Total value of inputs including packing materials used for manufacturing on which CENVAT credit not availed.	253.23
Value of raw material including packing material and components consumed as per Profit and loss account	20035.82

RAW MATERIAL CONSUMED IN THE MANUFACTURE OF GOODS

Sl. No.	CETSH Number	Raw Material Description	UOQ	Description of Final Product
1	72083740	HR COILS,STRIPS,SKELPS	MT	ERW M S BLACK PIPES

	Quantity	Value (Rs. in Lakhs)
Opening Stock Of Raw material :	395.49	116.78
(+) Purchase Of Raw Material :	6868.5	2429.61
(-) Closing Stock Of Raw Material :	2570.83	928.31
Raw Material Consumption :	4693.16	1618.08

Sl. No.	CETSH Number	Raw Material Description	UOQ	Description of Final Product
2	72071920	M S BILLETS,BLOOMS	MT	M S ANGLES,CHANNELS

	Quantity	Value (Rs. in Lakhs)
Opening Stock Of Raw material :	1122.26	250.41
(+) Purchase Of Raw Material :	40607.74	10828.93
(-) Closing Stock Of Raw Material :	1911.6	595.35
Raw Material Consumption :	39818.4	10483.99

Sl. No.	CETSH Number	Raw Material Description	UOQ	Description of Final Product
3	73061919	GALVANISED PIPES	MT	STRUCTURAL FABRICATION,TOWER

	Quantity	Value (Rs. in Lakhs)
Opening Stock Of Raw material :	0	0.0
(+) Purchase Of Raw Material :	210.33	89.93
(-) Closing Stock Of Raw Material :	24.11	10.31
Raw Material Consumption :	186.22	79.62

Sl. No.	CETSH Number	Raw Material Description	UOQ	Description of Final Product
4	39041090	PVC RESINS	MT	PVC PIPES

	Quantity	Value (Rs. in Lakhs)
Opening Stock Of Raw material :	103.84	47.55
(+) Purchase Of Raw Material :	3340	1848.18
(-) Closing Stock Of Raw Material :	343.83	212.21
Raw Material Consumption :	3100.01	1683.52

Sl. No.	CETSH Number	Raw Material Description	UOQ	Description of Final Product
5	79011100	ZINC	MT	GALVANISED PIPES,G I POLES

	Quantity	Value (Rs. in Lakhs)
Opening Stock Of Raw material :	140.5	169.43
(+) Purchase Of Raw Material :	362.69	449.66
(-) Closing Stock Of Raw Material :	179.05	116.48
Raw Material Consumption :	324.14	502.61

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ANNEX.- H Contd.

CENTRAL BOARD OF EXCISE AND CUSTOMS

Ministry of Finance - Department of Revenue

RETURN - FORM ER - 4

ANNUAL FINANCIAL INFORMATION STATEMENT FOR THE FINANCIAL YEAR 2011-2012

Registration Number :	AADCS7272AXM004	**Assessee's Name :**	SKIPPER LTD (UNIT-ULUBERIA)
Address of Registered Unit :	MADHABPUR SKIPPER LIMITED NATIONAL HIGHWAY NO-6 BAGNAN ULUBERIA MAHISREKHA HOWRAH WEST BENGAL 711303		

Commissionerate :	HALDIA	**Division :**	HOWRAH WEST-II	**Range :**	V OF HOWRAH WEST-II OF HALDIA

All figure relating to value and amount is in Rs. Lakhs

Return Number : AADCS7272AXM004_ER4_2011

DETAILS OF EXPENDITURE

DETAILS OF INPUTS INCLUDING PACKING MATERIAL AND COMPONENTS USED FOR MANUFACTURE

Total Value Of Inputs Including Packing Materials And Components Used For Manufacturing On Which CENVAT Credit Availed (Value As Per Purchase Invoice Or Import Document Excluding All Taxes).	35162.86
Total value of inputs including packing materials used for manufacturing on which CENVAT credit not availed.	345.32
Value of raw material including packing material and components consumed as per Profit and loss account	35343.94

RAW MATERIAL CONSUMED IN THE MANUFACTURE OF GOODS

Sl. No.	CETSH Number	Raw Material Description	UOQ	Description of Final Product
1	72083740	H R COIL,STRIPS	MT	ERW MS PIPES

	Quantity	Value (Rs. in Lakhs)
Opening Stock Of Raw material :	2187.73	790.13
(+) Purchase Of Raw Material :	35469.13	12681.52
(-) Closing Stock Of Raw Material :	6139.81	2311.94
Raw Material Consumption :	31517.05	11159.71

Sl. No.	CETSH Number	Raw Material Description	UOQ	Description of Final Product
2	72071920	MS BILLETS,BLOOMS	MT	MS ANGLES,HR STRIPS

	Quantity	Value (Rs. in Lakhs)
Opening Stock Of Raw material :	1911.6	595.35
(+) Purchase Of Raw Material :	62368.24	19550.12
(-) Closing Stock Of Raw Material :	1445.74	595.63
Raw Material Consumption :	62834.1	19549.84

Sl. No.	CETSH Number	Raw Material Description	UOQ	Description of Final Product
3	73061919	G I PIPES	MT	STRUCTURAL FABRICATION, SCAF-FOLDING

	Quantity	Value (Rs. in Lakhs)
Opening Stock Of Raw material :	24.11	10.31
(+) Purchase Of Raw Material :	0	0.0
(-) Closing Stock Of Raw Material :	0	0.0
Raw Material Consumption :	24.11	10.31

Sl. No.	CETSH Number	Raw Material Description	UOQ	Description of Final Product
4	39140090	PVC RESIGNS	MT	PVC PIPES

	Quantity	Value (Rs. in Lakhs)
Opening Stock Of Raw material :	343.83	212.21
(+) Purchase Of Raw Material :	2956	2097.51
(-) Closing Stock Of Raw Material :	92.51	64.81
Raw Material Consumption :	3207.32	2244.91

Sl. No.	CETSH Number	Raw Material Description	UOQ	Description of Final Product
5	79011100	ZINC	MT	G I PIPES

	Quantity	Value (Rs. in Lakhs)
Opening Stock Of Raw material :	179.05	226.48
(+) Purchase Of Raw Material :	895.47	1093.8
(-) Closing Stock Of Raw Material :	171.26	208.24

Page 1 of 5

14. From the above ER 4 filed by the appellant, it gets clarified that as per the statutory requirement, the appellants were filing the details of input raw materials received and the finished goods manufactured by them.

15. From the above documentary evidence, it gets clarified that the appellant is properly accounting for the materials received from these vendors in the statutory records like RG 23 A Part I, Part II and ER 4. The same are also recorded in the respective Vendor's ledger towards the receipt and payment made to them through banking channels. The Invoices are also recorded in the GRNs.

16. The allegation of non-receipt of the goods stems from the fact that the receipts are not properly reflected in the Goods Receipt Note, Gate Entry, Weighment Slips etc. We note these are the internal-private documents of the assessee and not documents specified under the statute. The appellant has also explained that they are ERP compliant unit, using the SAP software, which captures all the entries on a realtime basis. As per them, since they were in the initial stage of implementation of this system, some entries might not be fully reconciled. The appellant being a Public Ltd company, the payments made by them through the Banking channels could not have been made, unless there is proper backing by way of documents towards their receipt. We have also perused the ledger copies showing the receipt value and payments made to the Vendor.

17. The allegation is in respect of four vendors. As per the Table given towards the transactions with these vendors, the value of purchase would be to the tune of more than Rs.25 crores. No documentary evidence has been brought towards any cash transaction between the appellant and the vendors. No enquiry has been made from these Vendors about the alleged non-receipt of the goods despatched by them. If the Revenue alleges that the Cenvat has been taken on account of paper transaction, then the Vendors should have been made co-noticee and put to notice about this contravention, holding them responsible for such paper transactions. This has also not been made, since they are not made co-noticees in the SCN. The GRNs show the details of the Vehicles. No enquiry has been made with the vehicle owners about movement / non-movement of these vehicles. This shows that the entire proceedings have been undertaken with a lackadaisical approach without any proper back-up evidence, merely relying on non-entering of the inputs in some private records.

18. Now we take up a look at some of the cited case laws :

2015 (316) E.L.T. 374 (Guj.)
COMMISSIONER
Vs MOTABHAI IRON AND STEEL INDUSTRIES

19. From the findings recorded by the Tribunal, it is apparent that payment to M/s. Vasmin Corporation in respect of purchases was made through banking channels. Under the circumstances, the Tribunal has lightly held that the demand cannot be confirmed against the assessee. The Tribunal has further found that it is an undisputed fact that all the purchases were duly recorded in the statutory books of the assessee and the goods were also found to be entered in its statutory records. That the Department had not made any investigation at the unit of the assessee, which could have supported the findings of the adjudicating authority. None of the consignors of the goods have denied the clearance of goods to the assessee. There was no evidence on record to show that the records maintained by the assessee were not correct. The Tribunal, was accordingly, of the view that on the basis of statements of some transporters which were not corroborated by any material on record, a huge credit could not be disallowed. It is under these circumstances that the Tribunal has set aside the demands and the penalties imposed upon the assessee and the co-noticees.

20. In light of the findings of fact recorded by the Tribunal upon a detailed appreciation of the evidence on record, as discussed hereinabove, it is not possible to state that the conclusion arrived at by the Tribunal is in any manner perverse to the record of the case. On behalf of the appellant, nothing has been pointed out to indicate that the Tribunal has placed reliance upon any irrelevant material or that any relevant material has been ignored. The learned Counsel for the appellant is not in a position to point out any material to the contrary so as to dislodge the finding of facts recorded by the Tribunal. Under the circumstances, in absence of any perversity in the findings recorded by the Tribunal, the impugned order does not give rise to any question of law, much less, a substantial question of law so as to warrant interference.

2012 (282) E.L.T. 206 (Guj.)
COMMISSIONER
Vs DHANLAXMI TUBES & METAL INDUSTRIES

5…………..The statement of the partner of the assessee, Shri Umesh Shah, also indicates that it was the categorical case of the assessee that it had received central excise invoices issued by the dealers through the truck driver who brought the consignments to its premises. In fact, from the statement of Shri Heda, it is apparent that M/s. Pranav Metal Mart, Nadiad, had even shown receipts of copper consignments and entered such receipts in the RG 23D registers. Likewise, the assessee had also recorded receipts of the raw materials in RG 23A Part-I record.

7. As can be seen from the impugned order of the Tribunal, the Tribunal after appreciating the evidence on record has recorded that there is no evidence to reflect upon the fact that the inputs were not actually received by the assessee; there was no dispute that the LRs were issued by the transporter showing that the assessee is the consignee of the goods; the case of revenue was based on the goods registers maintained by the transporter which indicates the description of the goods as "miscellaneous". According to the Tribunal, this fact, by itself, could not be held to be sufficient for arriving at the conclusion that the inputs were never transported to the assessee's factory. The Tribunal found as a matter of fact that all documentary evidence on record supported the assessee's case about the receipt of inputs, whereas there was no independent corroborative evidence produced on record by the revenue in support of its case.

8. From the facts noted hereinabove, it is apparent that the Tribunal has appreciated the facts of the present case in proper perspective and upon appreciating the evidence on record, has as a matter of fact, recorded that except for the goods registers maintained by the transporter, there is no other evidence on record to indicate that the assessee has in fact not received the goods in question. In the circumstances, in the absence of any evidence to the contrary being pointed out on behalf of the revenue, the conclusion arrived at by the Tribunal being based upon findings of fact recorded by it upon proper appreciation of the evidence on record, cannot be said to be unreasonable or perverse.

9. For the foregoing reasons, there being no infirmity in the impugned order of the Tribunal, the same does not give rise to any question of law, as proposed or otherwise, much less a substantial question of law so as to warrant interference. The appeal is, accordingly, dismissed.

2016 (343) E.L.T. 545 (Tri. - Ahmd.)
KOBAIN ELECTRONICS PVT. LTD.
Vs COMMISSIONER OF C. EX. & S.T., VAPI

2. Shri Anand Nainawati (Advocate) appearing on behalf of the appellant argued that out of total credit amount of Rs. 3 Lakh pertains to Cenvat credit taken on capital goods and the remaining pertains to credit taken on the inputs. That the issue involved was taking credit of capital goods and inputs in appellant's Unit III when the invoices were in the name of Unit Nos. I and II of the appellant. That in the original rounds of litigation it was discussed that for minor clerical mistakes Cenvat credit cannot be denied to the appellant. That the credit has been denied on the presumption that inputs and capital goods were never received in Unit No. III. It was his case that the entire credit is proposed to be denied on the ground that as per report of JRO, the capital goods/inputs were not received by the appellant. That copy of said report was never given to the appellant. It was also the case of the learned advocate that neither the audit report nor the show cause notice dated 4-1-2008 raised an iota of evidence that the capital goods/inputs were not received by the appellant. That copies of RG-23 Parts I & II of inputs and capital goods were made available along with accounts maintained for consumption of raw material were made available to the department. It was his case that credit was correctly availed by the appellant.

4……………..Appellant did produce copies of RG-23 Part I & II of the credit taking registers to establish that capital goods and inputs were received in the factory of the appellant. The details of the raw material consumption were also made available by the appellant. It is not coming out of the discussion of the adjudicating authority as to why the records maintained by the appellant are not acceptable. The statutory Cenvat credit taking records are the only authentic documents to establish that capital goods and inputs were received by the appellant, when manipulation of records or diversion of inputs/capital goods are not alleged in the show cause notice. Under the above facts and circumstances appellant has brought on record the fact of receipt and utilisation of capital goods and inputs in the factory premises of the appellant. Minor procedural lapses cannot be made the basis of denying the Cenvat credit when the name of other units of the appellant in the documents was also condoned. Extended period is also not invocable in this case.

5. In view of the above observations, appeal filed by the appellant is allowed.

2016 (331) E.L.T. 475 (Tri. - Bang.)
VEER-O-METALS PVT. LTD.
Vs COMMISSIONER OF C. EX., BANGALORE-III

> **6.** After considering the submissions made by both the sides, I find that the credit availed by the appellant in respect of 11 invoices stands denied on the sole ground that there are no corresponding GRNs and BIN cards. The appellants have explained that out of the huge number of invoices being received by them, such non-maintenance or non-availability of GRNs and BIN cards cannot be held to be leading to the conclusive findings of non-receipt of inputs. I find force in the above contention of the learned advocate. The Revenue has not made any enquiries from the sender of the inputs, as reflected in the invoice. The appellants have recorded the invoices, inputs along the available Cenvat credit in their statutory records. I also find force in the appellant's contention that in the absence of the inputs in question, corresponding final products could not have been manufactured by them. The non-availability of the said documents which are not even the prescribed documents in terms of the Cenvat Credit Rules and the purpose of which is only to show the receipt of the materials at the factory gate, cannot be held to be conclusive evidence so as to arrive at a finding of the non-receipt of the goods. In the absence of any corroborative evidence, I find no merits in the Revenue's stand. Accordingly, the impugned orders are set aside and the appeal is allowed with consequential relief to the appellant.

19. The above case laws clearly hold that the accounting of the goods in the statutory records would prevail over the private records, payments through banking channels have to be duly considered and the allegations of the Revenue should be backed with proper corroborative evidence. In all these cases, the positive documentary evidence brought in by the assessee cannot be negated. We find that to the factual matrix of the present case, the ratio laid down in the discussed case laws are squarely applicable.

20. In view of the foregoing discussions we set aside on merits the demand of Rs.2,26,73,265 on the allegation of non-receipt of the goods.

21. Coming to the shortage of 842.250 MT of Billets/Blooms and 143.586 MT of HR Coils/Skelp/CR Strips found short in physical stock taking, on which the duty of Rs.39,92,678/- has been confirmed, we find that the appellant has taken the objection about the method adopted for arriving at the shortage. It may not be possible for us to get into the depth the allegation and counter allegation from both the sides. However, we find force in the appellant's submission that during the period under question they have purchases to the tune of 367437.764 MT of raw materials and consumed approximately 333256.490 MT of raw material. This pointed out shortage of 987.836 MT constitutes to just 0.26% of the total raw materials purchased and therefore, no adverse inference can be drawn when such large scale manufacturing process is invoked. In case of shortage, it is an assumption that the same has been removed clandestinely. No evidence has been brought in by the Revenue that they have come across about selling of these goods clandestinely on cash basis to any buyer. This Bench, in the case of **Sumangal Ispat Pvt Ltd Vs CCE & ST Durgapur, vide Final Order No.77207-77209/2024 dated 24.10.2024**, has held as under :

> 11………..We find no valid reason for assuming the charge of clandestine removal merely on the factum of shortages noticed which have been attributed to lack of weighment facility and therefore the burning losses accounted on the basis of an assumed estimate. The department is required to establish its case with tangible information and data to lend support to the allegation of clandestine removal of raw material/finished goods. While shortages in physical stocks could be a starting point leading to the presumption of clandestine clearance it cannot conclusively establish the same. In the absence of any other valid proposition/evidence and the argument other than physical shortages for which too the appellant has made out meaningful expressions to account for, cannot be sustained.

22. In view of the foregoing, we set aside even the confirmed demand of Rs.39,92,678 on merits.

23. Coming to the arguments of the appellant on account of limitation, we find from the above extracts that the appellant has been recording the receipts in the RG 23 A Part I and Part II, they have been filing their ER 1 Returns. The non-receipt of the inputs alleged by the Revenue, would result in mis-match of the input vis-à-vis output. It is on record that the appellant has been filing the ER 4 Returns showing the record for the financial year towards the receipt and output details. It is also on record that multiple audits were carried out during the period [September 2011, May 2012, August 2012, August 2012 and May 2013] and no issue was raised about non-receipt of the goods in respect of the four vendors in question. In such circumstances, we are unable to subscribe to the view of the Revenue that the appellant has suppressed with an intent to evade Duty. Since none of the factual details discussed point to any suppression on their part, we hold that the confirmation of demand towards the extended period is legally not sustainable. Therefore, we set aside the same on account of time-bar.

24. To summarize :

(a) The entire demand is set aside on merits.

(b) The extended period demand is also aside on account of time bar.

25. The impugned order is thus set aside and Appeal stands allowed. The appellant would be eligible for consequential relief, if any, as per law.

(Pronounced in the open court on 22.07.2025)

Sd/-
(Rajeev Tandon)
Member (Technical)

Sd/-
(R. Muralidhar)
Member (Judicial)

Pooja