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

REGIONAL BENCH – COURT NO. 1

Excise Appeal No. 731 of 2011

(Arising out of Order-in-Appeal No. 30RAN/2011 dated 13.05.2011 passed by the Commissioner (Appeals), Central Excise & Service Tax, 605, Mahabir Tower, Main Road, Ranchi-834001)

M/s. Katras Ceramics & Refractories Pvt. Ltd., : Appellant
Tilatand, P. O. Chandore (Via-Sijua),
Dhanbad, Jharkhand.

VERSUS

Commissioner (Appeals) Central Excise & Service Tax, Ranchi : Respondent
605, Mahabir Tower, Main Road,
Ranchi-834001

WITH

Excise Appeal No. 75385 of 2015

(Arising out of Order-in-Original No. BSR-Excus-002-Com-019-14-15 dated 30.01.2015 passed by the Commissioner of Central Excise Customs & Service Tax, Bhuaneswar-II Central Revenue Building, Rajaswa vihar, Bhubaneswar 751007, Odisha)

Commissioner Central Excise, Customs & Service Tax, Bhubaneswar-II Commissionerate, : Appellant
C. R. Building, Rajaswa Vihar,
Bhubaneswar-751007 (Odisha)

VERSUS

M/s. Orissa Sponge Iron & Steel Ltd., : Respondent
At/ P. O.-Palaspanga, Dist- Keonjhar, Odisha-758031

AND

Excise Appeal No. 75420 of 2015

(Arising out of Order-in-Appeal No. Rou-Excus-000-Com-034-14-15 dated 30.01.2015 passed by the Commissioner of Central Excise & Customs & Service Tax, Rourkela Central Revenue Building, Rajaswa vihar, Bhubaneswar 751007)

Commissioner of Central Excise, Customs & Service Tax, : Appellant
Rourkela Commissionerate,
Rourkela-769010, Odisha

VERSUS

M/s. Kalinga Sponge Iron Ltd., : Respondent
Plot No. 82, IDC Kalunga, Kalunga,
Dist.- Sundergarh, Odisha 770031,

APPEARANCE:

Shri Sailesh Agarwal, A.R. (Appeal No. E/731/2011)
None for the Assessee (Appeal No. E/75385, 75420/2015)

Shri S. Dey,
Shri S. K. Dikshit, Authorized Representative for the Revenue

CORAM:

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

FINAL ORDER NOs.77239-77241/2025

DATE OF HEARING / DECISION: 01.08.2025

Order: [PER SHRI ASHOK JINDAL]

All the appeals are having a common issue and therefore, all are disposed of by a common order.

2. The issue involved in these matters is whether, for violation of Rule 8(3A) of the Central Excise Rules, 2002, utilization of CENVAT Credit for payment of duty can be considered as admissible or not.

3. In these cases, the assessees have utilized CENVAT Credit to pay duty, during the default period. Therefore, demands were raised against the assessees, along with interest and penalties were also imposed.

4. After hearing the parties, we find that the issue involved in the matter has been resolved by the Hon'ble High Court of Gujarat in the case of *M/s. Indsur Global Ltd. v. Union of India 2014 (310) E.L.T. 833 (Guj.)*

5. Wherein the Hon'ble High Court has held that proviso to Rule 8(3A) of the Central Excise Rules are

ultra vires and therefore for violation of Rule 8(3A) demands cannot be raised against an assessee for utilization of CENVAT Credit for payment of duty paid during the default period. The said view has been affirmed by the Hon'ble Apex Court as reported in *Union of India v. Indsur Global Ltd. 2018 (362) E.L.T. A67 (S.C.)*

6. As the issue has been resolved by the Hon'ble Apex Court, therefore, following the decision of the Hon'ble Apex Court (supra), we hold that no demands can be raised against the appellant-assessee for utilizing CENVAT Credit for the payment of duty during the default period.

7. Consequently, we also hold that no penalties are imposable on the assessees-appellants.

8. In view of this, the appeal filed by the assessee is allowed, with consequential relief, if any and the appeals filed by the Revenue are rejected.

(Operative part of Order was pronounced in Open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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