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

REGIONAL BENCH - COURT NO.1

Excise Appeal No.75671 of 2017

(Arising out of Order-in-OriginalNo.14/COMMR/BOL/2017 dated13.01.2017 passed by Commissioner of Central Excise& Service Tax, Bolpur.)

M/s.Super Smelters Ltd.
(Rajaram Danga, Jamuria Industrial Area, P.O. Ikra, Jamuria, Toposi, Burdwan, Pin-713336.)

...Appellant

VERSUS

Commissioner of Central Excise & Service Tax, Bolpur
.....Respondent
(Nanoor Chandidas Road, Sian, Bolpur, Dist: Birbhum, West Bengal.)

WITH

Excise Appeal No.75672 of 2017

(Arising out of Order-in-Original No.14/COMMR/BOL/2017 dated 13.01.2017 passed by Commissioner of Central Excise& Service Tax, Bolpur.)

Sri Sanjay Agarwal, Vice President (Commercial)
M/s. Super Smelters Ltd.
(Rajaram Danga, Jamuria Industrial Area, P.O. Ikra, Jamuria, Toposi, Burdwan, Pin-713336.)

...Appellant

VERSUS

Commissioner of Central Excise & Service Tax, Bolpur
.....Respondent
(Nanoor Chandidas Road, Sian, Bolpur, Dist: Birbhum, West Bengal.)

APPEARANCE

Shri V.K.Puri, Advocate for the Appellant (s)
Shri S.K.Dikshit, Authorized Representative for the Revenue

CORAM:HON'BLE SHRI R. MURALIDHAR, MEMBER(JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER(TECHNICAL)

FINAL ORDER NO. 77382-77383/2025

DATE OF HEARING :11.08.2025
DATE OF DECISION :11.08.2025

Per :R. MURALIDHAR :

The Appellant No.1 is manufacturer of MS Billet, Sponge Iron, MS Pipe etc. In the course of manufacturing activity, they buy coal which is used in their furnaces. On the ground that the Appellants have received only invoices from M/s.Ajay Trading, Dankuni, West Bengal without having received the coal from them and they have taken Cenvat credit thereon, a Show Cause Notice was issued seeking to know as to why an amount of Rs.54,23,267/- should not be recovered on account of contravention of Cenvat Credit Rules, 2004. The Show Cause Notice was issued on 24.06.2015 for the Cenvat credit taken during the period 2011-12 and 1012-13 by invoking the extended period provisions. After due process, the Adjudicating authority has confirmed the demand along with interest and penalty. Being aggrieved, the Appellant is before the Tribunal.

2. The Ld.Counsel appearing on behalf of the Appellants submits that during the period under consideration, M/s.Ajay Trading Corporation Pvt.Ltd. [Ajay Trading for short] was a duly registered Dealer with Registration No.AAEFA5369AED005 as is already mentioned in the Show Cause Notice itself. The Appellants were procuring coal from M/s. Ajay Trading Company as well as from other vendors like ECL, CCL, Rungta Mines etc.. The Appellants have procured the goods from M/s. Ajay Trading under proper invoices issued by the Vendor in

terms of Rule 9 of the Cenvat Credit Rules, 2004, wherein the details of Excise Duty are clearly mentioned. All the payments have been made to M/s.Ajay Trading through banking channels and is reflected in the bank statements as well as in the ledger of M/s. Ajay Trading. Further, the coal received mostly through Railway for which proper Railway Receipts are available. The coal received in the factory is properly accounted for in Form-IVwhich is the account of raw materials showing date-wise details of opening stock, purchase, consumption and closing stock. All these factual details prove that the coal in question have been properly received by the appellants in their factory premises and were properly accounted for in the Books of Account and payments were made through banking channel. There is no allegation in the SCN to the effect that the goods in question were not received or consumed by the Appellant within the factory premises or the same were diverted by them to any other third party without payment of any Excise Duty. All the documentary evidence were placed before the Adjudicating authority. He has not considered these properly and has taken the stand that the registration of M/s. Ajay Trading was suspended on 05.09.2014. The Ld Counsel submits that the Appellant has carried out the transactions with M/s. Ajay Trading during the period July 2011 to June 2012 wherein they were very much a regular assessee with the Central Excise Department. All these factual details prove that the Department has proceeded on erroneous assumptions and presumptions to deny the Cenvat credit availed by the Appellant. The invoices issued by M/s. Ajay Trading is a proper invoice in terms of the

Rule 9 of the Cenvat Credit Rules, 2004. In view of these submissions, the Ld.Counsel submits that on merits the Appeal should be allowed.

3. He further submits that the Show Cause Notice issued on 20.06.2015, for the Cenvat Credit taken by the Appellant during the period July, 2011 to June 2012 is hit by time bar. He submits that the above factual details show that the transactions have been reflected in the Books of Accounts of the Appellant. They have shown the details of Cenvat credit taken in the monthly ER-1 Returns. During the period under consideration, the vendor M/s. Ajay Trading was holding proper registration with the Central Excise Department. Therefore, taking of Cenvat credit for the coal received under proper invoices issued by the Dealer and consumed by the Appellant cannot be termed as any act of suppression with intent to evade payment of Central Excise duty. Therefore, he submits that the Department is in error in invoking the extended period provisions to confirm the demand. He prays that the demand may be set aside on account of limitation also.

4. The Ld.AR for the Department reiterates the findings of the lower authorities. He submits that when enquiry was carried out against M/s. Ajay Trading Corporation Pvt.Ltd., it was found that they were not existing in the premises and their Registration was suspended on 05.09.2014. It was also observed by the Adjudicating authority that M/s. Ajay Trading has not received the goods and stocked the same in their premises, but was directly diverting the goods to the Appellant

from their vendors which is not permitted in case of Dealer's transactions. Therefore, he justifies the confirmed demand.

5. Heard both sides and perused the appeal records and other documentary evidence placed before us.

6. We find that there is no denial that the vendor M/s. Ajay Trading was registered with Central Excise Department as a dealer holding Registration No.AAEFA5369AED005, till his registration was suspended in 2014. Admittedly, the transactions between the appellant and the vendor took place during the period July 2011 to June 2012.

7. We have gone through the copies of the invoices raised by the vendor. A sample copy is reproduced below :

(Duplicate for Transporter)

TAX CUM EXCISE INVOICE

(ISSUE OF INVOICE UNDER RULE 11 OF CENTRAL EXCISE RULES 2002)

First Stage Dealer

AJAY TRADING CO.

DELHI ROAD, DANKUNI,, HOOGHLY, WEST BENGAL

Phone : 22435285 / E-mail : ajaytradingco@hotmail.com

001

: 19452201036

Regn No.: AAEFA5369AED005

Range : III OF DANKUNI DVN

Division : DANKUNI

Commissionerate : KOLKATA-IV

PER SMELTERS LTD.
AMURIA INDUSTRIAL AREA,
RAJARAM DANGA, Aam Bagan,
P.O.- IKRA, Jamuria - 713362,
Dist. Burdwan. (W.B.)

VAT TIN : 19801502013

Excise Regn No.: AAFCS1116FXM003

Range : JAMURIA/03/SENRAILEGH ROAD, KUMARPUR, ASANSOL-4

Division : ASANSOL-1/12/SENRAILEGH ROAD, KUMARPUR, ASANSOL-4

Commissionerate : BOLPUR/33/NANOOR-CHANDIDAS ROAD, SIAN, BOLPUR,DIST-

Invoice No. 16	Dated 15-Jun-2012
Buyer's Order No.	Dated
Delivery Note	Dated 2-Jun-2012
Supplier's Ref. ATC/EX/17/16	Despatch Document No. R.R. NO.411000283
Despatched through RAIL	Destination EX BANKOLA AREA
Date & Time of issue of Invoice 15-Jun-2012 at 17:03	Motor Vehicle No.
Date & Time of Removal of Goods 15-Jun-2012 at 17:03	Authenticated By for AJAY TRADING CO.
Mode/Terms of Payment Railway freight has not included into bill	Authorised Signatory

Sl No	Description of Goods	Tariff / HSN Classification	Quantity	Rate	per	Amount
1	COAL (EXCISE GOODS)	COAL	63.60 MT	5,172.00	MT	3,28,938.95
	BASIC EXCISE DUTY@ 6%			6	%	15,611.26
	EDUCATIONAL CESS @ 2%			2	%	312.23
	S.H. EDUCATION CESS @ 1%			1	%	156.11
	OUTPUT VAT @ 4% (3,45,018.55)			4	%	13,800.74
	Total		63.60 MT			₹ 3,58,819.29

CENVAT
Cenvat Cred
Cenvat Cred
Excise Du
478
15.6.12
17

Amount Chargeable (in words) : Indian Rupees Three Lakh Fifty Eight Thousand Eight Hundred Nineteen and Twenty Nine paise Only

Description of Goods	Rate of BED	BED Amount	Rate of Ed Cess	Ed Cess Amount	Rate of Sec Ed Cess	Sec Ed Cess Amount
COAL (EXCISE GOODS)	6 %	15,611.26	2 %	312.23	1 %	156.11
Total		15,611.26		312.23		156.11

Amount of Duty (in words) : Indian Rupees Fifteen Thousand Six Hundred Eleven and Twenty Six paise Only

Amount of Cess (in words) : Indian Rupees Four Hundred Sixty Eight and Thirty Four paise Only

Declaration : We declare that this invoice shows the actual price of the goods described and that all particulars are true and correct.

for AJAY TRADING CO.

Authorised Signatory

This is a Computer Generated Invoice

E. & O.E

CERTIFIED TO BE TRUE COPY

8. The above invoice is a proper invoice issued under Rule 11 as a Registered Dealer. All requisite details have been given. The appellant has given the details of the cenvat credit taken.

9. We have also gone through the Ledger Account of M/s. Ajay Trading in the Books of Accounts of the Appellant. A sample Ledger Copy is reproduced below :

Super Smelters Limited (Unit-3) 12-13
39,Shakes Peare Sarani
Premlata Building 3rd Floor
Kolkta-700017

Ajay Trading Co.
Ledger Account
24, Hemant Basu Sarani
Mangalam , 4th Floor
Room No. 408
Kolkata -700001

1-Apr-2012 to 31-Mar-2013

Page 1

Date		Particulars	Vch Type	Vch No.	Debit	Credit
1-4-2012	By	**Opening Balance**				1,17,823.36
20-4-2012	To	**SBI - Commercial (CC A/c) - 30803838083** *Ch.No. 089211 dt. 20.04.12 issued against purchase of coal as per bills.*	Bank Payment	SSL/JAM/BP/197/12-13	1,17,823.36	
30-4-2012	To	**Bank of Baroda (CC A/c) - 00290500000110** *Being paid through RTGS by Letter as advance against EMD for coal*	Bank Payment	SSL/JAM/BP/307/12-13	19,47,000.00	
	To	**SBI - Commercial (CC A/c) - 30803838083** *Being the RTGS Issued .*	Bank Payment	SSL/JAM/BP/317/12-13	19,47,000.00	
	By	**FA & CAO S.E.C. Railway, Bilaspur** *Railway freight piad to Ajay Trading on our Behalf.*	Journal	SSL/JAM/JV/489/12-13		2,00,000.00
3-5-2012	By	**SBI - Commercial (CC A/c) - 30803838083** *Being the RTGS received.*	Bank Receipt	SSL/JAM/BR/068/12-13		19,47,000.00
10-5-2012	To	**SBI - Commercial (CC A/c) - 30803838083** *Being paid through RTGS by Letter as advance Coal EMD*	Bank Payment	SSL/JAM/BP/460/12-13	2,00,000.00	
22-5-2012	To	**State Bank of Hyderabad (CC A/c) - 62155283150** *Ch.No. 030216 dt. 22.05.12 issued as advance against supply of Coal*	Bank Payment	SSL/JAM/BP/581/12-13	2,07,99,454.00	
25-5-2012	To	**State Bank of Hyderabad (CC A/c) - 62155283150** *Ch.no. 030225 dt. 25.05.12 issued as advance against supply of Coal*	Bank Payment	SSL/JAM/BP/611/12-13	52,00,000.00	
	By	**State Bank of Hyderabad (CC A/c) - 62155283150** *Ch.no. 030225 dt. 25.05.12 Issued as advance against supply of Coal now stand reversed.*	Bank Receipt	SSL/JAM/BR/158/12-13		52,00,000.00
26-5-2012	To	**State Bank of Hyderabad (CC A/c) - 62155283150** *RTGS made*	Bank Payment	SSL/JAM/BP/678/12-13	52,00,000.00	
2-6-2012	By	**Purchase - Coal** *Rec. Qt.3665.210 MT Ch.Qt.3735.200 MT GRN No. YC12602-002 dt.02.06.12 P.O.No. YC12601-002 dt.02.06.2012 RR No. 411000278-286 dt.02.06.12 from Bankola Colliary.*	Purchase	01279/12-13		
15-6-2012	By	**Purchase - Coal** *132.400 MT purchase of coal @ 5216/- as per Bill No. 23 dt.15.06.2012 R.R.No. 411000285 from Bankola Area.*	Purchase	01699/12-13		7,53,409.18
	By	**Purchase - Coal** *189.400 MT purchase of coal @ 5216/- as per Bill No. 22 dt.15.06.2012 R.R.No. 411000278 from Bankola Area.*	Purchase	01700/12-13		10,77,762.07
		Carried Over			3,54,11,277.36	92,95,994.61

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continued

SMELTERS LTD. JAMURIA

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10. The details of purchases and payments made have been recorded in the Ledger.

11. We have gone through the Bank Statement. Sample copy of the bank statement is reproduced below:

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भारतीय स्टेट बैंक
State Bank of India
The Banker to Every Indian

Date : 19 Feb 2015
Account Number : 00000030803838083
Description : CC Stocks (C and I)
Name : SUPER SMELTERS LIMITED
Currency : INR
Corporate Address : 39, SHAKESPEARE SARANI, PREMLATA, 3RD FLOOR,

KOLKATA
WEST BENGAL-700017

Branch : COMMERCIAL BRANCH, KOLKATTA(07502)
Rate of Interest (% p.a.) : 12.0%
IFS Code : SBIN0007502
Book Balance : -9.632984556E7
Available Balance : 55761111.44
Hold Value : 47909043.00
Uncleared Amount : 0.00
Drawing Power : 200000000.00
Limit Sanctioned : 200000000.00
Balance as on 4 Jul 2011 : -9,56,33,640.04

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Account Statement from 4 Jul 2011 to 31 Jul 2011

The number of transactions in this statement exceeds 150 entries. You can view the remaining transactions in the Pending Statement link using this Request ID : 521994903733413

Txn Date	Value Date	Description	Ref No./Cheque No.	Branch Code	Debit	Credit	Balance
04/07/2011	04/07/2011	TO TRANSFER-RTGS SBINH11185307581 INDRANI PATTNAIK-	TRANSFER TO 99827044308 /	7502	50,00,050.00		-10,06,33,690.04
04/07/2011	04/07/2011	TO CLEARING-PSB CHQ NO:645591 INST TYPE:13-645591	/ 645591	7502	2,23,184.00		-10,08,56,874.04
04/07/2011	04/07/2011	TO CLEARING-CHB CHQ NO:6455951NST TYPE:13-645595	/ 645595	7502	5,00,000.00		-10,13,56,874.04
04/07/2011	04/07/2011	TO CLEARING-BOB CHQ NO:645587 INST TYPE:13-645587	/ 645587	7502	10,00,000.00		-10,23,56,874.04
04/07/2011	04/07/2011	CREDIT- TR FRM 30327746137-	/	7502		50,00,000.00	-9,73,56,874.04
04/07/2011	04/07/2011	TO DEBIT THROUGH CHEQUE-BY CLG-645568	/ 645568	74	79,663.00		-9,74,36,537.04
04/07/2011	04/07/2011	CREDIT- TR FR 11051172082-	/	7502		5,21,711.00	-9,69,14,826.04
04/07/2011	04/07/2011	TO TRANSFER-RTGS SBINH11185334943 AJAY TRADING CO-	TRANSFER TO 99827044308 /	7502	20,00,050.00		-9,89,14,876.04
04/07/2011	04/07/2011	CHEQUE DEPOSIT- DD CANCEL-2261	/ 2261	7502		20,73,000.00	-9,68,41,876.04
04/07/2011	04/07/2011	DEBIT- IOI PAYMENT CHARGES-	/	7502	100.00		-9,68,41,976.04
04/07/2011	04/07/2011	CHEQUE DEPOSIT- DD CANCEL-2259	/ 2259	7502		17,23,500.00	-9,51,18,476.04
04/07/2011	04/07/2011	DEBIT- IOI PAYMENT CHARGES-	/	7502	100.00		-9,51,18,576.04

15/4/15
अधीक्षक (अपवंचन निरोध) Supdt.(A.E.)
केन्द्रीय उत्पाद शुल्क आयुक्तालय, बोलपुर
...missionerate, Bolpur

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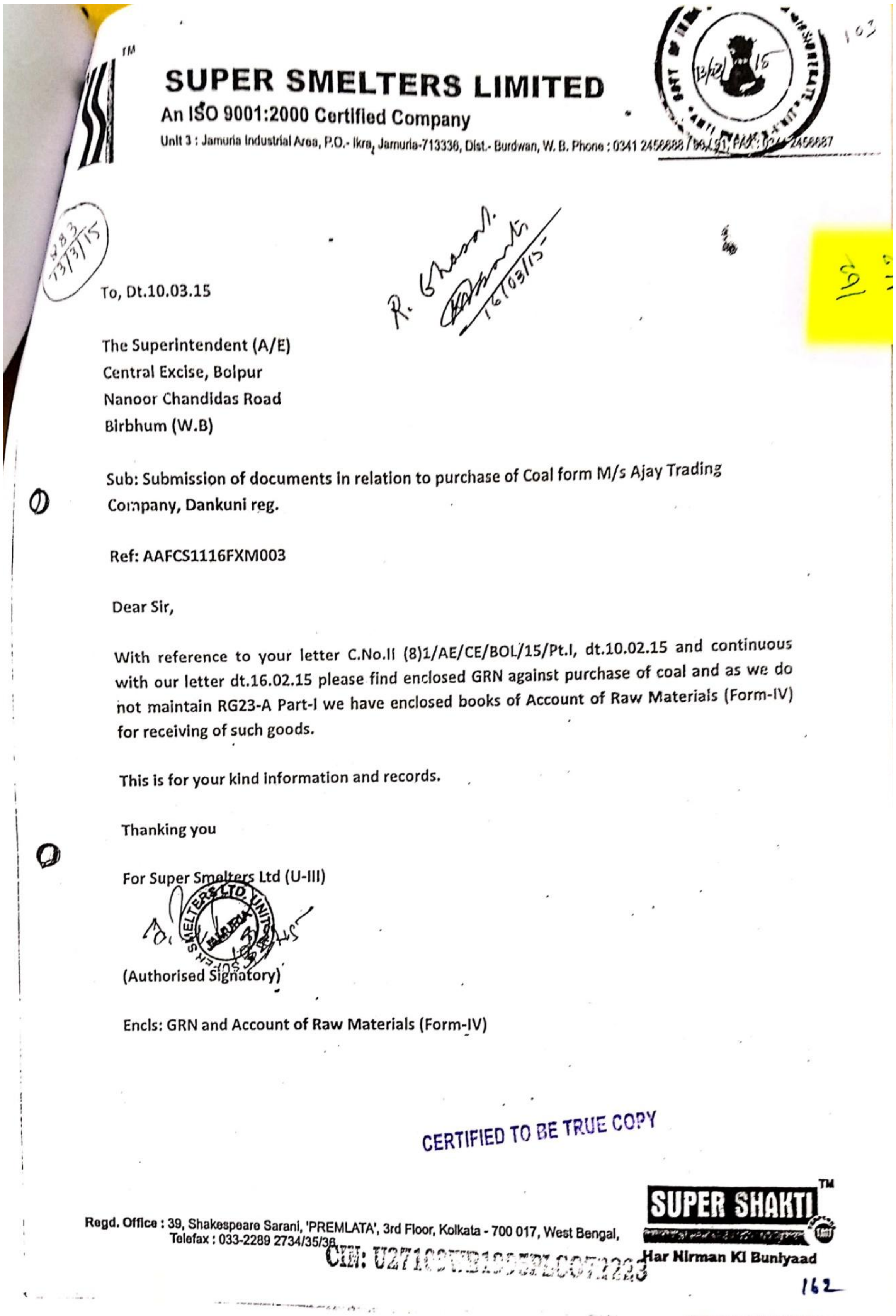
12. The payment made to Ajay Trading is reflected in the statement.

13. We also find that the Appellants were maintaining the account of raw materials in Form-IV. They have submitted copy of the same to the

Anti-Evasion people along with the Coal Stock Register. Their letter along with sample copy of the stock statement are reproduced below :



SUPER SMELTERS LIMITED
An ISO 9001:2000 Certified Company
Unit 3 : Jamuria Industrial Area, P.O.- Ikra, Jamuria-713336, Dist.- Burdwan, W. B. Phone : 0341 2456888 / 86 / 91, FAX : 0341 2456887

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13/3/15

R. Ghosal
16/03/15

To, Dt.10.03.15

The Superintendent (A/E)
Central Excise, Bolpur
Nanoor Chandidas Road
Birbhum (W.B)

Sub: Submission of documents in relation to purchase of Coal form M/s Ajay Trading Company, Dankuni reg.

Ref: AAFCS1116FXM003

Dear Sir,

With reference to your letter C.No.II (8)1/AE/CE/BOL/15/Pt.I, dt.10.02.15 and continuous with our letter dt.16.02.15 please find enclosed GRN against purchase of coal and as we do not maintain RG23-A Part-I we have enclosed books of Account of Raw Materials (Form-IV) for receiving of such goods.

This is for your kind information and records.

Thanking you

For Super Smelters Ltd (U-III)

(Authorised Signatory)

Encls: GRN and Account of Raw Materials (Form-IV)

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Regd. Office : 39, Shakespeare Sarani, 'PREMLATA', 3rd Floor, Kolkata - 700 017, West Bengal,
Telefax : 033-2289 2734/35/36
CIN: U27106WB1985PLC072223

SUPER SHAKTI
Har Nirman Ki Buniyaad

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Super Smelters Limited
Rajaram Danga, Ikra, Jamuria Industrial Area, Jamuria

COAL STOCK REGISTER for the month of JULY ' 2011
SUB HEADING NO. 27011200

Date	Particulars	Bill No.	Date	Op. Stock in MT	Purchase in MT	Consumed in MT	Cl. Stock in MT
01.07.11				59923.460	661.900	63.320	60522.040
02.07.11				60522.040	517.950	92.540	60947.450
03.07.11				60947.450		119.440	60828.010
04.07.11				60828.010		124.810	60703.200
05.07.11				60703.200	19.760	129.010	60593.950
06.07.11				60593.950	725.550	131.730	61187.770
07.07.11				61187.770	242.770	131.380	61299.160
08.07.11				61299.160	547.340	136.160	61710.340
09.07.11				61710.340	523.900	137.930	62096.310
10.07.11				62096.310	245.290	135.350	62206.250
11.07.11				62206.250	1509.490	131.780	63583.960
12.07.11				63583.960	3429.850	129.460	66884.350
13.07.11				66884.350	511.640	128.310	67267.680
14.07.11				67267.680	598.800	127.230	67739.250
15.07.11				67739.250	292.010	129.520	67901.740
16.07.11				67901.740	102.650	129.010	67875.380
17.07.11				67875.380	261.110	129.510	68006.980

16/6/15
अधीक्षक (अपवंचन निरोध) Supdt.(A.E.)
केन्द्रीय उत्पाद शुल्क आयुक्तालय, बोलपुर
C.Ex. Commissionerate, Bolpur

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UNIT - III

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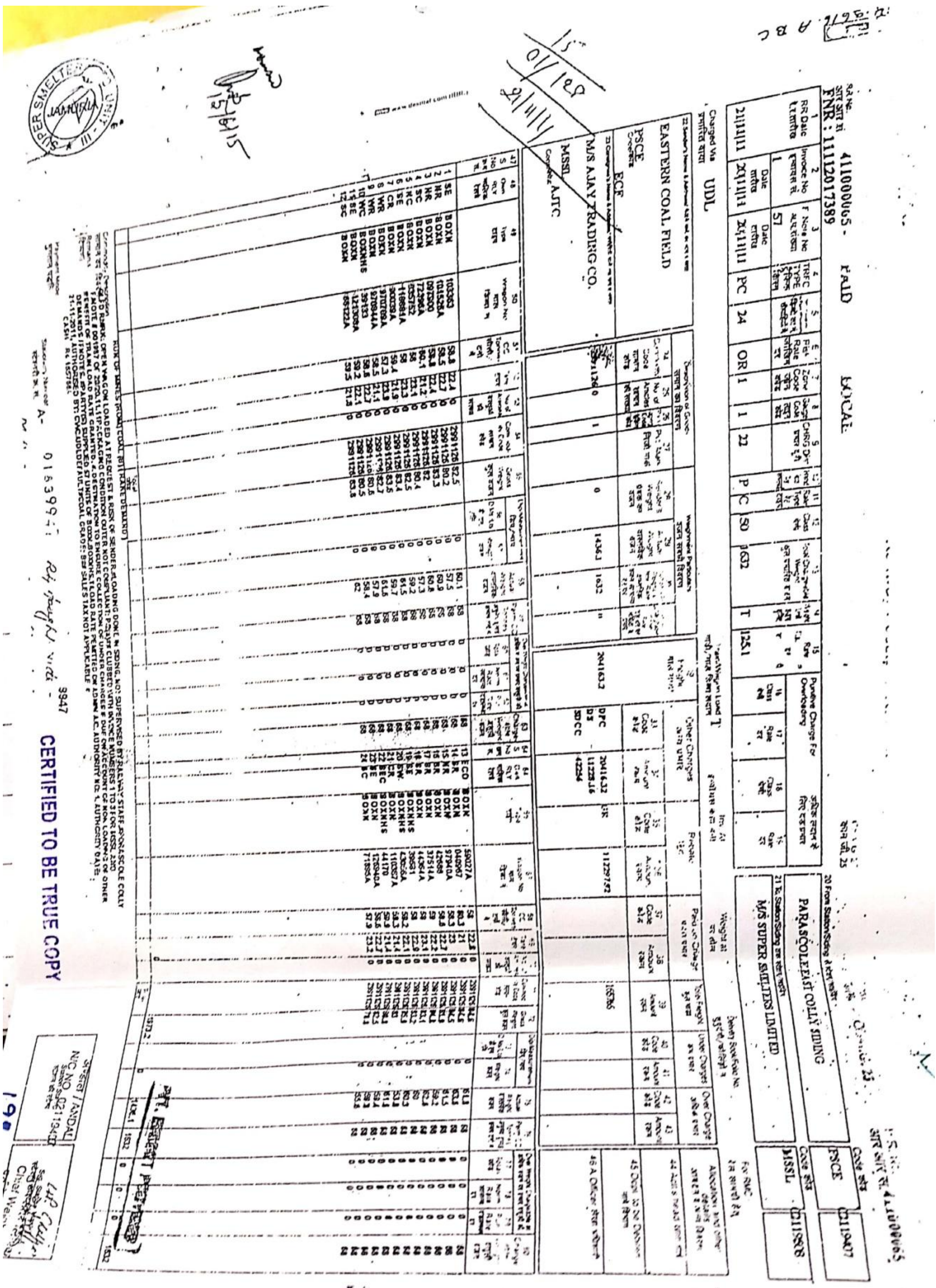
14. We have also gone through the sample Railway Receipt, which is reproduced below :


FNR : 11112017389
PAID
LOCAL
EASTERN COAL FIELD
ECF
M/S AJAY TRADING CO.
MSSL
AJTC
UDL
PARASCOLE EAST COLLY SIDING
M/S SUPER SMELTERS LIMITED
PSCE
MSSL
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15. From the Railway Receipt, it is seen that the appellant's name is recorded.

16. The above documentary evidence, taken together, prove beyond doubt that the Appellant was having proper trade dealings with the vendor M/s. Ajay Trading. All the transactions have been properly accounted for. The Cenvat credit taken by them were also recorded in ER-1 Returns.

17. So far as the point made by the Adjudicating authority about non-issue of the goods from the premises of the vendor, we find that in case of such bulk clearances, it is common for the dealer to directly clear the goods from the premises of the manufacturer. The CBEC has issued Circular No.1003/10/2015-CX dated 05.05.2015 clarifying that in case of bulk supplies, the dealer can clear the goods directly from the premises of the manufacturer to the consignee.

18. Considering the above factual details and documentary evidence we set aside the impugned order and allow the Appeals on merits.

19. Coming to the argument of the Appellants on account of time bar, we find considerable force in the same. The factual details show that the Appellants have maintained proper records towards receipt and consumption of the coal. The Cenvat credit has been taken based on the invoices issued by M/s. Ajay Trading. The Cenvat credit taken is reflected in the ER-1 Return. Therefore, the Revenue has not made out any case of suppression on the part of the appellant, when the factual matrix is considered.Hence, the confirmed demand for the extended

period is legally not sustainable. Accordingly, we set aside the impugned order even on account of time bar.

20. Since, we have allowed the Appeal of Appellant No.1, the penalty imposed on the Appellant No.2 does not sustain. We set aside the same.

21. Thus, the Appeals stand allowed. The Appellants would be eligible for consequential relief, if any, as per law.

(Operative part of the order was pronounced in the open Court.)

Sd/
(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

sm