

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

Excise Appeal No. 78882 of 2018

(Arising out of the Order-in-Appeal No. 186/KA-I/2018 dated 15.05.2018 passed by Commissioner of CGST & Central Excise, Bolpur.)

M/s Joy Global (India) Limited,
(Erstwhile M/s P&H Joy Mining Equipment India Ltd,)
Mining Centre, 85/1, Topsia Road, (South) Kolkata-700046)

...Appellant (s)

VERSUS

Commissioner of CGST & Central Excise, Kolkata,
GST Bhawan, (1st 6th And 7th Floor,) 180, Rajdanda Main Road, Kolkata-700107

...Respondent(s)

APPEARANCE :

Shri Pratik U. Shah, Chartered Accountant for the Appellant
Shri S. K. Singh, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. RAJEEV TANDON, MEMBER (TECHNICAL)

FINAL ORDER No...77924/2025

DATE OF HEARING : 09.12.2025

DATE OF PRONOUNCEMENT: 16.12.2025

PER RAJEEV TANDON :

The present appeal seeks to challenge the Order-in-Appeal No. 186/KA-I/2018 dated 15.05.2018, passed by the Ld. Commissioner (Appeals), Kolkata, upholding the Order-in-Original No. 07/JC/BOL/16 dated 13.05.2016, whereby a demand for recovery of CENVAT Credit aggregating for an amount of Rs.16,47,748/-, alongwith interest and penalty for contravention of Rule 4 and Rule 9 of the CENVAT Credit Rules, 2004 was ordered. The basis for the demand is that the appellant had taken credit on certain invoices that were issued in the name of P&H Mine Pro Services (a division of the Appellant) and not in the name of the Bolpur factory of the Appellant. The department thus alleged that

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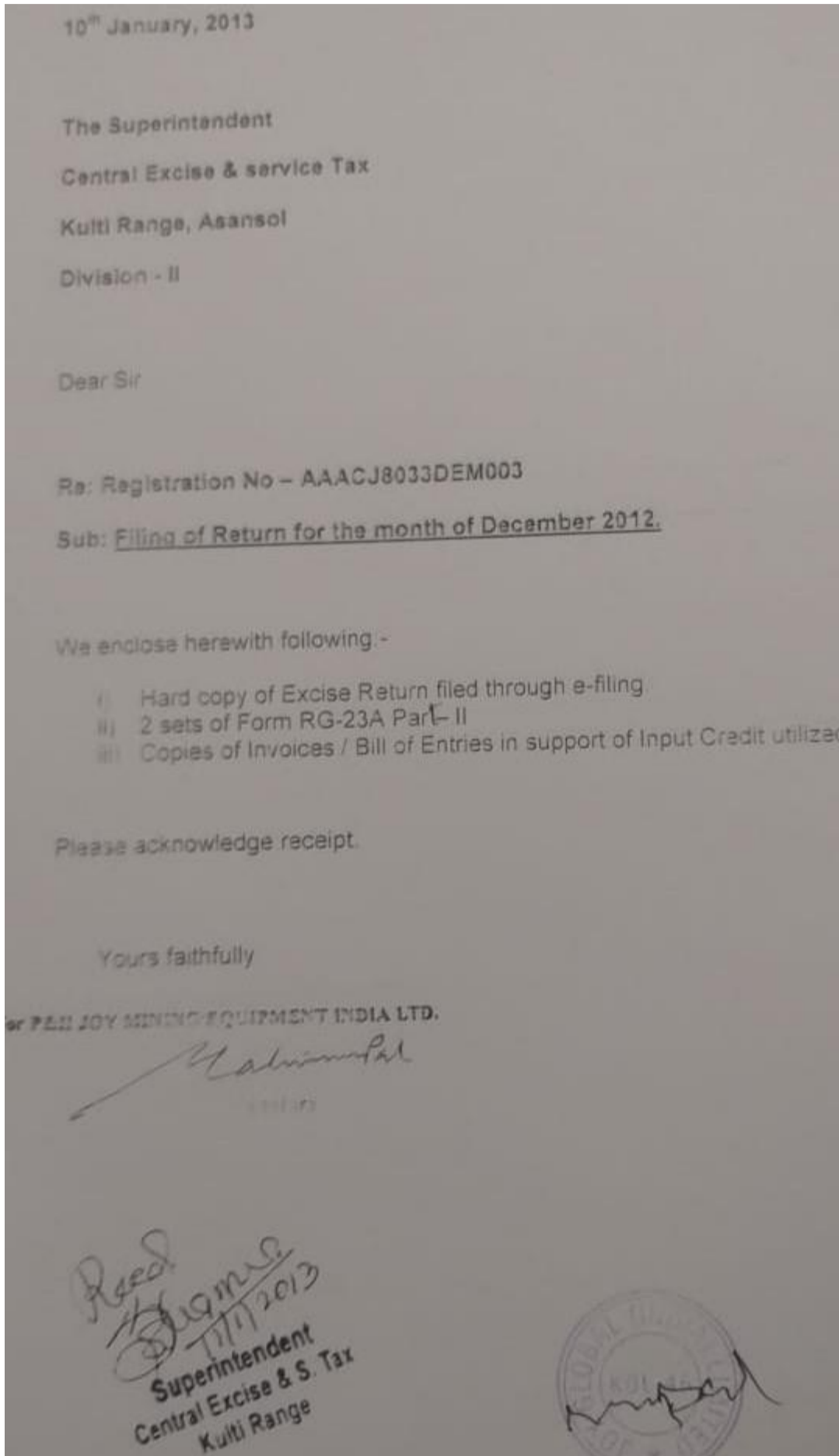
the said credit was taken without satisfying the procedural requirements contemplated under the Cenvat Credit Rules. .

2. The Appellant is a manufacturer of mining equipment and parts thereof and was duly registered with the Central Excise Department. During the financial year 2012-13, the Appellant availed CENVAT Credit of duty/tax paid on inputs services used in or in relation of the manufacture of dutiable final products cleared on payment of Central Excise duty. It is not disputed that the underlying goods or services were not received by them or that they were not used in manufacture of the finished goods or that the final products were exempted. The sole premise of the demand of CENVAT Credit is that certain invoices were addressed to the Appellant's office/division at P-12, Hide Road, Kolkata, and not to the factory that held the registration as a manufacturer, and consequently certain procedural requirements were not complied with.

3. The appellant disputes the confirmation of duty and upholding of the demand, strongly arguing that for mere technical or procedural infarctions, credit admissible to them cannot be objected to, more so when the duty paid nature, receipt and utilization of the said inputs/input services is not put to question. They also oppose the invocation of extended period of limitation, pointing out that the appellant had regularly filed the requisite returns alongwith concerned invoices. In this regard the appellant has also annexed copies of the said covering letters alongwith their enclosures with the appeal paperbook. For sake of records one such copy of the application

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tendered to the jurisdictional authorities is scanned herein below:



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4. It is evident from the aforesaid that alongwith the return filed (in the instant example-December, 2012) the assessee was enclosing regularly all supporting documents including the invoices / Bills of Entry on which basis Cenvat Credit necessarily was availed.

5. The Learned AR however, supports the order of the lower authority as legal and proper and maintains that no credit was admissible as the impugned invoices were not drawn in favour of the Appellant.

6. The question of availment of Cenvat Credit in such situations is a settled position in law and is no more *res-integra*. A series of pronouncement of Courts/Tribunal have held that CENVAT Credit cannot be denied on technical grounds, as in the present matter. CENVAT Credit denial, when substantive compliance is not doubted cannot be legally justified. The Hon'ble Apex Court in the case of **Harichandra Shri Gopal 2010(260)ELT3 (Supreme Court)** has expounded on the doctrine of substantial compliance, meant to avoid hardship and equitable in nature. When the duty paid character of the goods and their use in the manufacture is not disputed, minor infirmities in seeking/availing/eligibility to credit availment on technical grounds can be no basis to disentitle the appellant of the rightful CENVAT Credit. Ratio of the following case laws clearly support the said premise and permit the availment of Cenvat Credit even though the duty paying document, invoices did not carry the appropriate address of the manufacturing unit or were a mere photocopy or such other technical reasons:

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* Delhi-III Vs. Myron Electricals (P) Ltd, [2007(207) E.L.T. 664 (P&H)] as maintained by the apex court (215ELTA76)

* Agarwal Industries Ltd, Vs. CCE, Kanpur [2008 (12) S.T.R. 223 (Tri.-Del.)]

* Commissioner of Central Excise, Ludhiana Vs. Ralson India Limited [2006 (202) ELT759(P&H)]

* ICI India Limited Vs. CCE, Ranchi [2005 (191) ELT 329 (Tri.-Kolkata)]

7. Cenvat scheme as constantly held by judicial bodies is a beneficial piece of legislation and thus is required to be given the widest amplitude possible as long it does not burden and negates the scheme itself. Viewed in the context the credit availed by the appellant cannot be held to be inadmissible as the receipt and utilization of the said duty paid inputs is not open for a contest and not disputed.

8. Further, the Board also vide Circular No. 441/7/99-Cx Dated 23rd February-1999 had forbade the field formations from issuing show cause notices for technical reasons or procedural infirmities. It was clearly pointed out therein that for any show cause notice to be issued the Department was required to conduct inquiries with regard to the duty paid nature of the goods, and its use or intended use in the manufacture of finished goods. I find no such action was carried out in the present matter that would have obviated the need to issue the show notice in the first place.

9. The Courts/Tribunal have consistently held that issuance of invoice in the name of Head Office/ Branch Office is not more than a mere procedural lapse as long as inputs/input services concerned are actually received and duly utilized in the manufacture of finished goods. Procedural lapses without any malafides would be required to be

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condoned. In the case of **Chrome Chemical Industries Vs. Commissioner of Central Excise, Kolkata-IV (2001(135)ELT405 (Kol.)** the Tribunal permitted cenvat credit availment despite the invoice being in the name of the head office of the factory and was also not endorsed by the Head Office. The situation is more or less akin in the present matter. Availment of CENVAT credit in the present case is clearly admissible as it is no more than a procedural lapse. As long as the goods/services were received in the factory of production and utilized the said goods/services in the manufacture of finished products the appellant is entitled to avail the said credit.

9. In view of the foregoing discussions there is no ground to sustain the order of the lower authority which is set aside and the Appeal allowed with consequential relief, if any, as per law.

(Pronounced in the open Court on.....16.12.2025...)

**Sd/-
(Rajeev Tandon)
Member (Technical)**

Tushar Kr.