

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

REGIONAL BENCH – COURT NO. 1

Excise Appeal No. 78848 of 2018

(Arising out of Order-in-Original No. 16/Commr/Bol/18-19 dated 28.06.2018 passed by the Commissioner of Central Goods & Service Tax Commissionerate Nanoor Chandidas Road, Sian, Bolpur 731204)

Commissioner of CGST & Central Excise, Bolpur : **Appellant**
Commissionerate,
Nanoor Chandidas Road, Sian, Bolpur 731204

VERSUS

M/s. Ankit Metal & Power Ltd, : **Respondent**
Jorehira, Chhantan, Dist-Bankura (W. B.)-722122

APPEARANCE:

Shri A. Mukherjee, Authorized Representative for the Appellant

None for the Respondent

CORAM:

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

FINAL ORDER NO. 77934 / 2025

DATE OF HEARING / DECISION: 09.12.2025

Order: [PER SHRI ASHOK JINDAL]

The Revenue is in appeal against the impugned order.

1.1. The facts of the case are as under: -

2.1 Acting upon intelligence, the officers of Income Tax department conducted a survey U/s 133A of the Income Tax Act, 1961 in the corporate house of M/s Ankit Metal & Power Ltd for investigation regarding generation of some unaccounted fund and later settled in the personal accounts of all family members of the said Corporate House. The Patni family is a HUF and

mainly involved in manufacturing as well as financial sectors of their business. The prime commodity which they manufacture is various items of Iron & Steel falling under CH-72 of the CETA, 1985 including prime construction materials like TMT Bar, Angle, Channel etc. Shri SK Patni is the head of their family having the status of Chairman & Managing Director of the SKP group Shri Rohit Patni & Shri Ankit Patni both are s/o Shri S. K. Patni were Directors of their manufacturing units. Smt. Sarita Patni, Smt. Neha Patni and Smt. Naina Patni are female members of their family and all these six having their PAN issued by the Income Tax Department and filing IT Returns to the department. During the survey, it was noticed that all six members have incurred a tax free Income claimed under Long Term Capital Gains by using scripts of Luminaire Technologies Ltd and on that transaction they all have claimed the exemption of LTCG as provided in Income Tax Law. It was noticed that the family members of Ankit Metal Group have incurred the amount into their accounts as LTCG as shown in table below:

Sl. No.	Name of the party	Amount received	Reflected in Assessment year
1	Shri S K Patni	Rs.80428579/-	2014-15
2	Smt Sarita Patni	Rs.52447020/-	2013-14
3	Shri Rohit Patni	Rs.76803116/-	2013-14 & 2014-15
4	Smt Neha Patni	Rs.26737625/-	2014-15
5	Shri Ankit Patni	Rs.51876233/-	2013-14
6	Smt Naina Patni	Rs.26942186/-	2014-15

	Rs.315234759/-	
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2.2 As per the Background of the case so reported in Assessment Order of Shri S.K. Patni (Head of the family) issued by the Income Tax department vide their letter No. ACIT, CC-4(1)/Kol/Ankit & Rohit/ 2016-17/ 1202 dated 07.02.2017 (ANNEXURE-B to the SCN), a search & seizure action was conducted by the Directorate of Income Tax (Investigation), Kolkata on 02.07.2013 on Anand Sharma and Janardan Chokhani Group and subsequently on the Deepak Patwari's Destiny Security Ltd Group. As a result of the said search and seizure action, it was gathered that certain persons had been involved in manipulation of the market price of share of some companies listed on the BSE namely. Another survey U/S 133A of the Income Tax Act, was conducted on 08.02.2014, in the case of Sikaria Share & Stock Broking Services Pvt Ltd. where not only a money trail from cash deposit to Beneficiary, via Share Broker was established but various entry operators were made to confess their role in the bogus LTCG scam. Another survey U/S 133A of the IT Act was conducted on 07.08.2014, in the case of Quest Financial Services Ltd. and Prakash Jajodia. Here also, not only a money trail from cash deposit to Beneficiaries via share broker was established but also key entry operator/ promoter of listed company was made to confess his role in the bogus LTCG scam. Various enquiries have been conducted by the Directorate of Investigation, Kolkata which had resulted into the unearthing of a huge syndicate of Entry Operators, Share Brokers and Money Launderers, involved in providing bogus accommodation of Long Term Capital Gain, Short

term capital loss. It had come to light that large scale manipulation had been/ was being done in market price of shares of certain companies listed on the Bombay Stock Exchange by certain persons working as a syndicate in order to provide entries of tax exempt bogus LTCG to large number of persons in lieu of unaccounted cash. The basic objective of this racket was to convert black money into white without payment of Income Tax. The unaccounted cash of such persons was utilized to purchase shares of such companies at a very high artificially inflated market price.

2.3 In present case also, the entire Patni family had adopted the same Modus Operandi to settle their unaccounted money through these brokers and financial agencies and called the same as LTCG which was nothing but their pre-arranged bogus LTCG. On that basis, a team of Directorate of Income Tax (Investigation) conducted a survey on date 14.10.2015 in office of Ankit Metal & Power Ltd at SKP House, 132, S. P. Mukherjee Road Kolkata and residence of Patni family at 15, Burdwan Road, Kolkata-27 and statements of all above six members were recorded U/S 131 of the IT Act, 1961 regarding the issue of pre-arranged bogus LTCG. All the family members had accepted that Shri Ankit Patni was the master-mind to arrange these financial manipulations for their unaccounted case. Statements of all six members were marked as ANNEXURE-C1, C2, C3, C4, C5 & C6. The salient part of the statements of Shri Ankit Patni, Director of M/s Ankit Metal & Power Ltd. recorded on the date of survey i.e. 14.10.2015 is furnished as to quote-

"Q. 11- It is seen that your group has made Investment only in the scrip of LUMINAI

TECHNOLOGIES LTD. What was the financial rationale behind it; how did you get the shares for the Individuals of ANKIT METAL Group? Please state in detail. Ans: These shares transaction were done to bring back our group's unaccounted fund in the individual files in form of bogus Long Term Capital Gain. As LTCG Is tax exempt. the same, I consulted Shri Brajesh Kumar Bhagat and Shri Deepak Patwari who is a know market broker for pre-arranged bogus LTCG. On my instruction, they made necessary arrangements to buy the shares in the scrip of Luminaire Technologies Ltd.

Q: No. 13: Please explain the modus operandi for getting pre- arranged bogus Long Term Capital Gain

Ans: I and my family members were in search of generation of capital in an easier manner without paying tax on it. Thereafter, I contacted market broker, Deepak Patwari and Brajesh Bhagat, who gave me the scheme of pre-arranged bogus LTCG where we don't have to pay any tax. I informed the same to my group owners and they gave their acceptance for the same. Thereafter, our group booked the shares of LUMINAIRE TECHNOLOGIES LTD for pre-arranged bogus LTCG. After One Year, our group handed over unaccounted cash funds to the scrip entry operators. By the time, the operators of scrip have rigged the share price of these scrips through manipulating stock exchange mechanism to our desired Level. After handing over the funds to the scrip operators, they Instructed as to pull sell option for these shares and same time they managed the bogus purchasers who purchase the shares on online trading platform. I handed over the unaccounted cash of my family to Shri Deepak Patwari and Shri Brajesh Bhagat, the scrip entry operators of

Luminaire Technologies Ltd. The scrip operators, Shri Deepak Patwari and Shri Brajesh Bhagat in connivance with various market entry operators arranged different paper companies or short Term Loss clients through various market brokers have arranged the whole scheme. As a result, this unaccounted money of our group ploughed back to the file of Individuals without paying any tax on it by the way of accommodation entry of pre-arranged bogus LTCG.

Q. No. 14: Please explain the source of unaccounted money used by you and your group members which was used for pre-arranged bogus Long Term Capital Gain in the file of different Individuals of Ankit Metal Group.

Ans: Such case was generated from some unaccounted trading done by our group. Details of which I am unable to recall right now. I will submit the same in the due course of hearing."

2.4 The similar interrogation was made by the officers of Income Tax department during the survey from all other family members and all of them have categorically accepted the above said Modus Operandi and relied upon the whole statements deposed by Shri Ankit Patni, Director of M/s Ankit Metal & Power Ltd and also the mastermind of Patni family.

2.5 Apart from detailed acceptance, all the family members have commonly admitted the fact and deposed during the survey before the Income Tax Officers. The relevant part of their statements is reproduced below to quote-

"Q. 9: Please explain the modus operandi for getting pre-arranged bogus LTCG

Ans: Shri Ankit Patni has already explained the modus operandi and I confirm the same. Q10: Please explain the source of unaccounted money used by you and your group members which was used for pre-arranged bogus long term capital gain in the file of different individuals of Ankit Metal Group.

Ans: Such cash was generated from some unaccounted trading done by our group Details of which I am unable to recall right now."

2.6 From the Investigation conducted by the Directorate of Income Tax (Investigation). Kolkata in case of the said noticees, it was evident that the Patni family had incurred some cash generated through unaccounted trading during the Financial Year 2012-13 & 2013-14 which had been reflected in their ITR as pre-arranged bogus LTCG for the Assessment Years 2013-14 & 2014-15 respectively.

2.7 On receipt of information from the Directorate of Income Tax (Investigation) Kolkata, the Anti- Evasion (HQ) wing of Central Excise Commissionerate, Durgapur havin the jurisdiction over the manufacturing unit M/s Ankit Metal & Power Ltd (Noticee No. 01 started investigation against such unaccounted trading as stated by all of them that the have incurred a sum of Rs. 31,52,34,759/- against these trading during the F.Y. 2012-13 2013-14. For the purpose, statement of Shri Ankit Patni duly authorized by his all family members on their behalf recorded on 15.03.2017 U/S 14 of the Central Excise Act, 1944 (ANNEXURE-D to the SCN) wherein the case was interrogated in details and he answered accordingly. Relevant part was furnished below as to quote-

Q. No.2: See your earlier statement dated 14.07.2016 recorded U/S 14 of the CEA, 1944 on the issue to recall your say and investigation conducted by the Income Tax department and put your remarks as all the documents and statement dated 28.04.16 & 28.06.16 Shri Rohit Patni were already shown to you.

Ans: Yes I have gone through all the documents and statements deposited earlier a nothing to add further.

Q. No.3: Do you accept that you are stating on behalf of all yourfamily members to whe you have arranged all financial dealings?

Ans: Yes.

Q. No. 4: You being authorised representative of all your family members, state the deta of Directors and other Senior Executives In r/o. M/s Rohit Ferro Tech Ltd) Bishnuds Bankura & M/s Ankit Metal & Power Ltd, Bankura separately for the FY 2012-13 & 2013.

14.

Ans: The following Directors were during the FY 2012-13 & 2013-14:

M/s Rohit Ferro tech Ltd: Shri SK Patni, Shri Rohit Patni, Shri J K Chattarjee, Shri J N Rudra & Shri Vinit Jain.

M/s Ankit Metal & Power Ltd: Shri SK Patni, myself, Shri JN Rudra, Shri JK Chatterjer Shrisanjay Singh.

Q. No.5: You being a member of an HUF where the major earning of your family comes fr the manufacturing units such as M/s Rohit Ferro Tech Ltd BM/s Ankit Metal & Power etc., please state

your source of Income during the FY 2012-13 & 2013-14

Ans: All our Income have been reflected in our ITR and Balance sheets for the FY 2012-1 2013-14 and copies of all those have already been submitted at your office during earlier statements.

Q. No.6: It is noticed from the Assessment Report received from the jurisdictional Income Tax authority for the Assessment Years 2013-14 & 2014-15 that you have arranged bo LTCG against the script of LUMINAIRE TECHNOLOGIES LTD and notices have already been Issued by the IT department demanding due Income Tax. Please see the copies Assessment Reports and quote your remarks.

Ans: Seen the copies of Assessment Reports as shown to me in case of M/s Ankit Metal Power Ltd for AY 2013-14 and Shri SK Patni for the AY 2013-14 & 2014-15 and Smt. N Patni for the AY 2014-15 and gone through in details but I am to say again that allegation charged in above said Assessment Reports are fictitious for which we have filed appeal before competent authorities.

Q. No.7: Assessment reports itself describe the Modus Operandi adopted by you and your family members for taking the benefits of pre-arranged bogus LTCG for the amount Incurred by you all from the UNACCOUNTED TRADING of goods. Offer your comments.

Ans: The entire Modus operandi so alleged was on the basis of fiction without observing facts and documents given by us to the Investigation department of IT. All our fa members are never Involved in trading business in their own name so question of amount Incurred through trading does not exists. The concept of admitting such

unaccounted trading was pressurised on us by survey team of IT department which already have retracted in due time. Copy already submitted by us during earlier statement.

Q. NO.8: It is found in the investigation conducted by the IT department that such LTCG never sustainable and suffice with the market performances of the said company. It arranged by some syndicate for booking such bogus profit to accounts of you and family members. Comment pl.

Ans: These all have been done in proper and monitored way under SSE and everything guided under SESI rules and regulations. So we are not at all involved with any kind of market performances etc. We have received our profits as per the share prices in term. So nothing can be claimed-bogus as everything is under books and documentations which already submitted.

Q. No.9. The amount shown as LTCG for Assessment Year 2013-14 and 2014 15 are nothing but your unaccounted sum received from 'unaccounted trading of goods) as admitted t you all during investigation conducted by the IT department. Retractions have been mac for your own benefits so apart from the retractions how can you establish that the suo unaccounted amount has been incurred other than unaccounted trading of goods.

Ans. During the survey conducted by IT department against Ankit Metal & Power Ltd the statements of mine were recorded where they pressurised on me to say the source of amount from unaccounted trading of goods which I fully deny as all these amount has been Incurred through various valid source which are reflected in our books and return submitted by us.

Q. No. 10: As Shri S. K. Patni, Shri Rohit Patni and yourself were the Directors of M/s Rohit Ferro Tech Ltd & M/s Ankit Metal & Power Ltd during the FY 2012-13 & 2013-14, it is clear that you all have Incurred these amount as shown in information received from department against unaccounted sales of different goods of your factory. Put your remarks:

Ans: Not at all sir. However, the survey was conducted against M/s Ankit Metal & Power Ltd. so any business activities in r/o. M/s Rohit Ferro Tech Ltd was never be a part of the Investigation. So far our family members are alleged for unaccounted trading this is simply to place that any trading business is never possible from all our manufacturing activities personal basis. So story of such unaccounted trading of goods are fully fictitious and I on behalf of all my family members deny all the allegations."

2.8 During the investigation carried out by the Central Excise A/E wing Durgapur, the alleged parties have denied their earlier statements given before the officers of Income Tax department during the survey and further investigations and referred that the statements were not their voluntary statements and thus they have retracted at the each stage of investigation carried out by the Income Tax Department.

2.9 Now the same is in natural conclusion that they may retract from their statement just because their benefits only but not the same has been made on any ground of merit so these claims are afterthoughts. As they have incurred such huge unaccounted cash from trading activity but in the statement dated 15.03.2017, Shri Ankit Patni has stated that they have only manufacturing units and not any trading firms of goods from where any of

family members can make trading of goods and realize any amount. Thus it appears that noticees have incurred the entire amount from sale of their own manufactured products M/s Ankit Metal & Power Ltd., Jorehira, Bankura (WB) and marked as Noticee No: 01 in notice

2.9 M/s Ankit Metal & Power Ltd has manufacturing capacity of various Iron & Steel products like TMT Bar, Angle, Channel, Round etc which are easily consumable in open market. Thus the said noticees have intentionally cleared these goods from the factory premises of M/s Ankit Metal & Power Ltd to open market on receipt of cash on their personal account and reflected the same unaccounted cash in their family members, Individual files for their enrichment.

The entire Modus operandi was created and adopted by the male members of Patni Family i.e. Shri SK Patni, Chairman & Managing Director, Shri Rohit Patni and Shri Ankit Patni, Director of M/s Ankit Metal & Power Ltd. The accounts of female members have been utilized by them to distribute the entire amount in fraction. The same has already been admitted by Smt. Sarita Patni, Smt. Neha Patni & Smt. Naina Patni during their statements before Income Tax officials,

2.10 Not only the above, In line of the further investigation it was found that the said assessee are in practice to book the unaccounted money into their accounts by the way of some other modus operandi. They have incurred a huge amount from the sources declared in their financial accounts as Commission or recovery against Breach of contract etc from those companies who are Real Estate Developers companies but undoubtedly their customers too, who have purchased their manufactured Items without Invoices and payment

of duty etc. It has been found from the records and track of these penny companies that they have purchased goods from the said assessee on cash without maintaining any accounts and these unaccounted cash has been made accounted by the said assessee using different Modus operandi one as explained as pre-arranged bogus LTCG. On these grounds, a statement of Shri Ankit Patni, Director of the said assessee and duly authorized representative of Patni family who had played role of master-mind in the Instant case had been recorded U/S 14 of CEA, 1944 on 28.04.2017 and enclosed as Annexure- E to the SCN.

2.11 As a result and linking up all the points, Investigations and statements recorded so far, it appears that the said Noticee No.1 M/s Ankit-Metal & Power Ltd had cleared their finished goods valued Rs. 31,52,34,759/- during the Financial Years 2012-13 & 2013-14 without observing the Central Excise Law and procedure with clear intention to evade Central Excise duty amounting to Rs. 3,89,63,016/- (incl. cess) and suppressed the material facts.

2. On the basis of the above, a Show Cause Notice was issued to the respondent, to demand duty, along with interest, and to impose penalty thereon.

3. The matter was adjudicated by the Id. adjudicating authority by way of the impugned order wherein the proceedings against the respondent were dropped.

4. Against the said order, the Revenue is before us inter alia on the following grounds: -

(i) The demand is based on receipt of amounts by way of sale of goods, which has been admitted by the respondent and other noticees before the Directorate General of Income Tax (Investigation), Kolkata. If any amount is found over and above the income indicated in the books of accounts and is not justified as earned from other than sale of goods of the manufacturing unit by way of documentary evidence, then the submission of the said respondent and other noticees with regard to retraction are nothing but an afterthought, which is required to be examined by the adjudicating authority.

(ii) Further, the respondent and other noticees have not submitted any documentary evidence which could establish that the income earned by them are from sources of income other than that earned from the manufacturing unit.

(iii) The said respondent is having manufacturing capacity of various iron and steel products which are easily consumable in the open market on receipt of cash in the personal account. The entire modus operandi was created and adopted by the male members of Patni family, i.e., their Chairman & Managing Director and other Directors.

5. Therefore, the Revenue prays that the impugned order be set aside.

6. Heard the Ld. Authorized Representative of the Revenue and considered his submissions.

7. The respondent has also filed cross-objections, which are also taken into consideration.

8. In this case, the whole demand is based on the survey done under Section 133 of the Income Tax Act, 1961, by the Income Tax Department which revealed certain undisclosed income by the respondent. The same has been treated by the Revenue as the income earned from their manufacturing business, but, on the part of the Revenue, no investigation has been made and no evidence has been revealed to show that such income pertains to the manufacturing unit of the respondent only. Duty is cast on the Revenue to prove that this income, which has been found as undisclosed by the Income Tax Department during their Survey, was earned from the manufacturing unit of the respondent. No such investigation has been done by the Revenue. In these circumstances, we do not find any infirmity in the impugned order.

9. Accordingly, we do not find any merit in the appeal and the same is dismissed. The cross objection is also disposed of in the same manner.

(Operative part of Order was pronounced in Open court)

Sd/-
(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/-
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)