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

REGIONAL BENCH – COURT NO. 1

Excise Appeal No. 79643 of 2018

(Arising out of Order-in-Original No. 08/M.P/Ayukt/Denovo/2018 dated 06.04.2018 passed by the Commissioner of G.S.T. and Central Excise, Patna-I Commissionerate)

M/s.Simran Metals Limited **: Appellant**
Phase-II, Fatuha Industrial Area,
Patna – 803 201

VERSUS

Commissioner of G.S.T. and Central Excise **: Respondent**
Patna-I Commissionerate,
3rd Floor, C.R. Building (Annexe), Bir Chand Patel Path,
Patna – 800 001

APPEARANCE:

Shri Tarun Chatterjee and Shri Raju Mondal, both Advocates,
For the Appellant

Shri S.K. Jha, Authorized Representative,
For the Respondent

CORAM:

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

FINAL ORDER NO. 75635 / 2026

DATE OF HEARING: 19.05.2026

DATE OF DECISION: 22.05.2026

ORDER: [PER SHRI K. ANPAZHAKAN]

The present appeal has been filed against the Order-in-Original No. 08/M.P/Ayukt/Denovo/2018 dated 06.04.2018 [hereinafter referred to as the "impugned order"] passed by the Ld. Commissioner of G.S.T. and Central Excise, Patna-I Commissionerate.

2. M/s. Simran Metals Limited, Phase-II, Fatuha Industrial Area, Patna – 803 201 [hereinafter referred to as the "appellant"] is a manufacturer of M.S. Ingots of Non-Alloy Steel falling under Chapter 72 of the Central Excise Tariff Act, 1985. With the introduction of Section 3A of the Central Excise Act, 1944 w.e.f. 01.09.1997, the appellant was liable to pay central excise duty for the goods manufactured through induction furnace under Section 3A of the Central Excise Act, 1944.

2.1. Initially, the appellant had opted to pay duty under Rule 96ZO (3) of the Central Excise Rules,1944. The appellant vide letter dated 23.02.1998 addressed to the Commissioner, withdrew the option and sought permission to discharge duty liability under Rule 96ZO (1) of the Central Excise Rules,1944 w.e.f. 01.04.1998 on actual production and clearance instead of Annual Capacity of Production (ACP). The application for switch over was rejected by the Commissioner of Central Excise, Patna by order, dated 01.04.1998.

3. Thereafter, the Commissioner of Central Excise, Patna vide his orders dated 25.03.1998 and 30.03.1999 determined the ACP. Thereafter, four Show Cause Notices were issued for non-compliance of the orders dated 25.03.1998 and 30.03.1999.

3.1. The appellant challenged the above orders by way of Appeal before this Tribunal and the Tribunal vide Order No. A-1413-CAL/2000 dated 31.08.2000 had set aside the impugned order and remanded the matter for fresh adjudication.

4. Thereafter the Ld. Commissioner of Central Excise, Patna passed Order-in-Original No. 219-224/MP/Ayukt/Denovo/2001 dated 03.12.2001, confirming the demand of central excise duty of Rs.73,10,427/- under the provisions of Rule 96ZO of the Rules read with Section 3A and Section 11A of the Act after off-setting Central Excise duty already paid along with admissible abatement on account of closure of factory of the appellant during the financial years 1998-99 and 1999-2000, along with interest at the applicable rate under the said provisions. In addition, the Ld. Commissioner also imposed penalty under the provisions of Rule 96ZO of the Rules equal to the amount of duty confirmed.

4.1. The appellant preferred Appeal challenging the Order-in-Original No. 219-224/MP/Ayukt/ Denovo/2001 dated 03.12.2001 before the Tribunal. Thereafter, vide its Final Order No. 387/2002-B dated 05.08.2002, the Tribunal remanded the matter to the Commissioner, Central Excise, Patna for determining the actual production under Section 3A (4) of the Act and directed to consider the applications for abatement of duty during the period 02.12.1997 to 09.12.1997 and from 09.01.1998 to 31.01.1998.

5. The Ld. Commissioner has passed the impugned order dated 06.04.2018 wherein it has been recorded that the admissibility of determination of actual production is not in question; that the appellant had furnished details of production, clearances, raw materials purchased, electricity consumed etc but in support could not submit copy of RT-12 Returns and RG-1 register. Accordingly, the claim of the appellant to determine their Central excise duty liability in terms of Section 3A (4) of the Act was not considered.

Thereafter, the Ld. Commissioner has confirmed the demand of central excise duty of Rs.68,10,427/-.

6. Aggrieved by the confirmation of the above demand of duty, the appellant has filed the instant appeal.

7. The Ld. Counsel appearing on behalf of the appellant submitted that the impugned order has been passed after a period of 18 years without any communication to them. Further, it was submitted that the duty has been confirmed against the appellant on the ground that the appellant could not produce RT-12 Returns and RG-1 Register, although the appellant was regular in the filing of their RT-12 Returns and had also submitted information as regards RG-1 register at the time of adjudication. It is the appellant’s contention that calling for such records and returns after two decades is impermissible in the eyes of law.

7.1. It has also been submitted by the Ld. Counsel for the appellant that the issue involved is squarely covered in their favour by way of the following judgements: -

(a) *Union of India Versus Ata Freight Line (I) Pvt. Ltd. [2023 (73) G.S.T.L. 581 (S.C.) / (2023) 6 Centax 153 (S.C.)]*

(b) *Commissioner, GST and Central Excise VersusShree Baba Exports [2023 (384) E.L.T. 246 (S.C.) / (2023) 3 Centax 279 (S.C.)]*

7.2. In view of the above submissions, the Ld. Counsel for the appellant have prayed for setting aside the demand of central excise duty as confirmed vide the impugned order.

8. On the other hand, the Ld. Authorized Representative of the Revenue appearing before us has reiterated the findings in the impugned order.

9. Heard both sides and perused the records of the case.

10. We find that the appellant has placed on record the 'Statement of Production, Clearance & Duty Paid' for the period from 01.04.1998 to 31.03.2000. For the sake of ready reference, the extract of the said information furnished by the appellant is reproduced below: -

Annex. 24

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STATEMENT OF PRODUCTION, CLEARANCE & DUTY PAID FOR THE PERIOD 1/4/98 TO 31/3/2000

PERIOD 01/04/98 TO 31/3/1999

Month	Actual Production (in MT)	Clearance (in MT)	Duty debited in PLA
April 98	151.551	126.200	94,652.00
May 98	264.867	267.500	2,00,629.00
June 98	314.395	312.540	2,34,408.00
July 98	320.105	223.990	1,67,996.00
Aug 98	344.467	406.540	3,04,911.00
Sep 98	277.454	342.930	2,57,207.00
Oct 98	372.071	285.580	2,14,191.00
Nov 98	317.156	272.000	2,04,005.00
Dec 98	326.449	284.320	2,13,246.00
Jan 99	368.955	364.920	2,73,698.00
Feb 99	394.875	541.500	4,06,139.00
March 99	397.600	427.740	3,20,813.00
	3849.945	3855.760	28,91,895.00

PERIOD 1/4/1999 TO 31/3/2000

Month	Actual Production (in MT)	Clearance (in MT)	Duty debited in PLA
April 99	372.111	227.470	1,70,609.00
May 99	466.606	467.600	3,50,708.00
June 99	337.723	420.115	3,15,091.00
July 99	475.928	337.230	2,52,928.00
Aug 99	536.570	264.840	1,98,637.00
Sep 99	395.728	Nil	Nil
Oct 99	443.367	1054.010	7,87,528.00
Nov 99	458.079	679.700	5,09,831.00
Dec 99	537.572	486.135	3,64,607.00
Jan 2000	345.211	194.420	1,45,819.00
Feb 2000	448.927	594.700	4,46,035.00
March 2000	486.987	587.100	4,40,332.00
	5304.809	5313.320	39,82,125.00

Simran Metals Ltd.

11. The ld. adjudicating authority, in the impugned order, has not given any finding with regard to the aspect of correctness of the actual production of the appellant, as submitted by them. There is no contrary findings given by the adjudicating authority to establish that the information furnished by the appellant regarding their actual production was false. It is on record that during the period from 01.04.1998 to 31.03.2000, the appellant had opted to pay duty on the actual production and effected clearances on that basis. The details of the actual production and clearances effect by them during the period from 01.04.1998 to 31.03.2000 have been reflected in the Statement marked as 'Annex. 24' (reproduced supra) and the same has not been disputed by the ld. adjudicating authority. These figures could have been easily verified from the statutory records, RT-12 Returns and Challans for payment of duty through PLA, of the appellant, for the relevant period. These are statutory documents available with the department. Thus, we do not find any justification on the part of the adjudicating authority insisting on submission of these statutory documents by the appellant.

12. Therefore, we find merit in the submission of the appellant that the details of actual production and clearances effected during the period under dispute, as submitted by the appellant should be accepted by the lower authority. As the evidence available on record indicates that the appellant has already paid duty on the actual production and clearance of the goods, we hold that there is no further duty liability to be borne by the appellant for the period from 01.04.1998 to 31.03.2000.

13. In the result, we set aside the demand of central excise duty confirmed vide the impugned order and allow the appeal filed by the appellant, with consequential relief, if any, as per law.

(Order pronounced in the open court on **22.05.2026**)

Sd/-
(ASHOK JINDAL)
MEMBER (JUDICIAL)

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

Sdd