IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA

REGIONAL BENCH – COURT NO.1

1. Excise Appeal Nos.75859 of 2015

(Arising out of Order-in-Original No.CCE/BBSR-II/No.01-02/Commissioner/2014 dated 08.01.2014 passed by Commissioner of CGST & Central Excise, Bhubaneswar)

M/s Mahanadi Coalfields Ltd.
(IB Valley Area, Brajaraj Nagar, Dist.-Jharsuguda, Odisha-768216)

Appellant

VERSUS

Commissioner of CGST & Central Excise, Bhubaneswar
(C.R.Building, Rajaswa Vihar, Bhubaneswar-751007)

Respondent

WITH

2. Excise Appeal Nos.75860 of 2015

(Arising out of Order-in-Original No.CCE/BBSR-II/No.03-04/Commissioner/2014 dated 15.01.2014 passed by Commissioner of CGST & Central Excise, Bhubaneswar)

M/s Mahanadi Coalfields Ltd.
(IB Valley Area, Brajaraj Nagar, Dist.-Jharsuguda, Odisha-768216)

Appellant

VERSUS

Commissioner of CGST & Central Excise, Bhubaneswar
(C.R.Building, Rajaswa Vihar, Bhubaneswar-751007)

Respondent

AND

3. Excise Appeal Nos.75861 of 2015
(M/s Mahanadi Coalfields Ltd.,)

(Arising out of Order-in-Original No.CCE/BBSR-II/No.05-06/Commissioner/2014 dated 15.01.2014 passed by Commissioner of CGST & Central Excise, Bhubaneswar)

4. Excise Appeal Nos.75862 of 2015
(M/s Mahanadi Coalfields Ltd.,)

(Arising out of Order-in-Original No.CCE/BBSR-II/No.07-08/Commissioner/2014 dated 30.01.2014 passed by Commissioner of CGST & Central Excise, Bhubaneswar)

5. Excise Appeal Nos.75863 of 2015
(M/s Mahanadi Coalfields Ltd.,)

(Arising out of Order-in-Original No.CCE/BBSR-I/13/2013 dated 17.12.2013 passed by Commissioner of CGST & Central Excise, Bhubaneswar)

6. Excise Appeal Nos.75864 of 2015
(M/s Mahanadi Coalfields Ltd.,)

(Arising out of Order-in-Original No.CCE/BBSR-I/14/2013 dated 17.12.2013 passed by Commissioner of CGST & Central Excise, Bhubaneswar)

7. Excise Appeal Nos.75865 of 2015
(M/s Mahanadi Coalfields Ltd.,)

(Arising out of Order-in-Original No.CCE/BBSR-I/15/2013 dated 17.12.2013 passed by Commissioner of CGST & Central Excise, Bhubaneswar)

8. Excise Appeal Nos.75866 of 2015
(M/s Mahanadi Coalfields Ltd.,)

(Arising out of Order-in-Original No.CCE/BBSR-I/16/2013 dated 17.12.2013 passed by Commissioner of CGST & Central Excise, Bhubaneswar)

9. Excise Appeal Nos.75867 of 2015
(M/s Mahanadi Coalfields Ltd.,)

(Arising out of Order-in-Original No.CCE/BBSR-I/17/2013 dated 07.01.2014 passed by Commissioner of CGST & Central Excise, Bhubaneswar)

APPERANCE :

S/Shri Rajeev Kumar Agarwal & Aishiki Dutta,both Advocates for the Appellant
Shri A.Mukherjee, Authorized Representative for the Respondent

CORAM:
HON'BLE MR.ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE MR.K.ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.75794-75802/2026

DATE OF HEARING : 23 JUNE 2026

DATE OF DECISION : 23 JUNE 2026

Per Ashok Jindal :

The appellants are in appeals against the impugned orders wherein the demand of duty has been confirmed along with interest and an equivalent amount of penalty has also been imposed on the appellants.

2. The facts of the case in brief are that the appellants are engaged in the production of excisable goods, namely, coal. It was alleged that they have contravened the provisions of Section 4 of the Central Excise Act, 1944 as they have short paid Central Excise duty under "duty

amount" by way of undervaluation of their finished goods and by suppressing the actual transaction value and also by not including the element of "Royalty" and "Stowing Excise Duty" charges collected from their customers into the assessable value of coal cleared during the period March, 2011 to February, 2013 and thus, the appellants did not pay the proper Central Excise duty on the correct assessable value as well as on the element of "Royalty" and "Stowing Excise Duty" charges collected from their customers during clearance by reasons of willful suppression of facts with intent to evade payment of central excise duty, which is recoverable from them.

2.1 Nine Show Cause Notices were issued to eleven separately registered Area/Units of the appellant company for the common period, March 2011 to February 2013, by invoking the extended period of limitation and proposing the demand of excise duty on royalty and SED under proviso to Section 11A(1)/11A(4) along with applicable interest and equivalent penalty under Section 11AC of the Act.

2.2 The Ld. Principal Commissioner, CGST & Central Excise, Ranchi, adjudicated all the nine SCN's along with seven other identical SCN's issued to two sister concerns, namely, M/s Bharat Coking Coal Limited (Five SCN's) and M/s Eastern Coalfields Limited (Two SCN's), by a common order impugned herein dated 18.08.2020 wherein he has confirmed the demand, interest and equivalent penalty on the appellant. The Ld. Commissioner in his adjudication order observed that Royalty and SED are not 'taxes' and therefore. includible in the transaction value. Against the said order, the appellants are before us.

3. The ld.Counsel appearing on behalf of the appellants, submits that on identical facts of the case, where the SCN's were issued by invoking the extended period of limitation, this Tribunal in the case of Bharat Coking Coal Limited v Commissioner of CGST & Central Excise, Final Order No.77849-77854/2025 dated 25th November 2025 has set aside demand confirmed falling outside the normal period of limitation along with penalty.

4. The ld.A.R. for the Revenue has justified the impugned order.

5. Heard both the parties and considered the submissions.

6. On merit, we find that the issue involved in the appeals, is principally with respect of the deduction or otherwise, from the "transaction value" defined under Section 4(3)(d) of the Central Excise Act, 1944, under the exclusion of "other taxes", on the following amounts recovered by the appellant in its sale cum excise invoice:

a. Royalty

b. Stowing Excise Duty (SED)

The appellant had paid the excise duty on Royalty and SED, before issuance of all the show-cause notices, and this fact has been noted and acknowledged in the impugned Order-in-Original.

6.1 That the two issues, involved in these present appeals, on merit, have been decided by this Tribunal in the case of M/s Mahanadi Coalfields Limited v Commr. Of Central Excise, Customs & Service Tax, Rourkela, Excise Appeal No.75808 of 2016, Final Order No.75699/2025 dated 11.03.2025 and in the case of M/s Eastern Coalfields Limited v Commr. Of Central Excise, Bolpur, Excise Appeal No 75694 of 2015, Final Order No.75656-75666/2025, both dated 11.03.2025.

6.2 On merit of the case with respect to "Royalty", this Tribunal, on the issue of whether payment of royalty is in the nature of a "tax" or not has, after taking note of the judgment of the Constitutional Nine Judges Bench of the Hon'ble Supreme Court in Mineral Area Development Authority vs. Steel Authority of India (2024) 21 Centax 378 (SC), pronounced on 25.07.2024, held that Royalty is not in the nature of tax and therefore is not deductible in computing the transaction value under the exclusion of "other taxes" under Section 4(3)(d) of the Act and consequently exigible to excise duty.

6.3 On merits of the case with respect to SED, the Tribunal has held that SED is a duty of excise and deductible under the exclusion of "other taxes" and no excise duty is payable on SED.

6.4 From the above Table, we find that in almost all these cases, the Show Cause Notices were issued after one year from the relevant period. The normal period to issue SCN during that point of time was one year. Since the matter was being litigated upto Supreme Court, it is a case of interpretation. Hence, we do not find that the Revenue has made out any case of suppression on the part of the appellant. Accordingly, we set aside the confirmed demand for the extended period in respect of all the impugned orders and allow the appeals to this extent. The demand for the normal period, if any, would sustain for which the interest at the applicable rate will be payable. However, considering the factual details and the issue of interpretation, the penalties imposed are set aside. This Principal Bench of this Tribunal, New Delhi in the case of South Eastern Coalfields Ltd Vs. Commr CCE &

ST, Raipur (Final Order No.50227-50256/2026 dated 06.02.2026) on identical facts, examined the issue of invocation of extended period of limitation and penalty under Section 11AC and held that extended period of limitation could not have been invoked and penalty under Section 11AC could not have been imposed. Therefore, we hold that except for Appeal No E/75650/2020, where the demand falls outside the normal period of limitation be set aside with consequential relief of interest and penalty to the appellant-assessee.

6.5 In this connection, we relies on the judgment in the case of South Eastern Coalfields Ltd, supra, wherein this Tribunal has taken note of the observations made by the Hon'ble Supreme Court in the case of Mineral Area Development Authority vs. Steel Authority of India (2024) 21 Centax 313 (SC), pronounced on 14.08.2024, and held that demand of interest deserves to be set aside. In this view of this judgment of the Supreme Court in Mineral Area Development Authority, the demand of interest is set aside.

7. We find that as it has been held that the appellants are liable to pay service tax on "Royalty", but demand pertaining to the extended period of limitation is not sustainable and no interest is payable by the appellants.

8. We further hold that no excise duty is payable on the amount of SED as held by this Tribunal

9. In view of this, the following orders are passed :

(a) Demand of duty on "Royalty" is payable by the appellants within a period of limitation and no interest is payable ;

(b) Demand of duty pertaining to the extended period of limitation towards demand of "Royalty", is set aside;

(c) As SED is a part of the duty, therefore, the same has been rightly deducted from the assessable value and hence, no duty is payable by the appellants on the amount of SED ;

(d) In the facts and circumstances of the case, no penalties are imposed on the appellants.

10. In these terms, the appeals are disposed off.

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

(Ashok Jindal)
Member (Judicial)

(K.Anpazhakan)
Member (Technical)

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