

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH : KOLKATA
REGIONAL BENCH - COURT NO.2**

Excise Appeal No.75984 of 2018

(Arising out of Order-in-Original No.51/CCE/CEX/RKL/2017-18 dated 19.12.2017
passed by Commissioner, GST & Central Excise, Rourkela.)

M/s. Jindal Steel & Power Ltd.

(Barbil - Joda Highway, Post Box No.86, Dist.-Keonjhar, Odisha-758038.)

...Appellant

VERSUS

Commissioner, CGST & CX, Rourkela Commissionerate

.....Respondent

(KK-42, Civil Township, Rourkela-759004.)

APPEARANCE

Shri Deepto Sen, Advocate for the Appellant (s)

Shri B.K.Singh, Authorized Representative for the Revenue

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

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

FINAL ORDER NO. 76166/2026

DATE OF HEARING : 15.09.2026

DATE OF DECISION : 15.09.2026

Per : R. MURALIDHAR :

The Appellant is manufacturer of Iron Ore Pellet falling under Chapter 2601. The finished goods manufactured by them are cleared to their own units situated at Raigad and Angul. These units are using Pellets as their inputs, taking the Cenvat credit on the same and clearing their finished goods on payment of Excise Duty. For clearances made to their own units at Raigad and Angul the Appellant has followed the Rule 8 of Valuation Rules, 2000 and was arriving at the Assessable Value as per the CAS-4. On the ground that the CAS-4 Certificate finally obtained by the Appellant from the Cost Accountant was different from the assessable value adopted by the Appellant from time to time, a Show Cause Notice came to be issued, for the period April, 2010 to July 2011. The Show Cause Notice was issued on 24.12.2014. After due

process, the Adjudicating authority has confirmed the demand. Being aggrieved, the Appellant is before the Tribunal.

2. The Ld.Counsel, appearing on behalf of the Appellant, submits that the Appellant has obtained CAS-4 Certificates. These Certificates show that in a few cases they have adopted even higher price than what was mentioned in the Certificate. He submits that such excess payment has been ignored while issuing the Show Cause Notice. He further submits that the issue is no more *res integra*. Whatever Excise Duty is paid by the Appellant, is taken as Cenvat credit by the receiving unit. The receiving units are their own units and hence this results in a revenue neutral situation. He relies on various case laws on the issue including the one in the case of **Jay Yuhshin v. Commissioner of Central Excise, New Delhi [2000 (119) E.L.T. 718 (Tri.-LB)]**. Accordingly, he prays that the Appeal may be allowed on merits.

3. He further makes a submission that Show Cause Notice issued on 24.12.2014 for the clearances made during April 2011 to July 2011 is time barred. He submits that all the details of values adopted by them for the captive consumption by the other units have been given in the ER-1 Return. Further, since the Excise Duty paid by the Appellant was available as Cenvat credit at the end of the receiving unit, in view of the revenue neutral situation, suppression Clause cannot be invoked against the Appellant. Therefore, he prays that the Appeal may be allowed even on account of limitation.

4. The Ld.AR for the Revenue reiterates the findings of the lower authority. He submits that the Appellant has deliberately adopted the lower assessable value while clearing the goods to their sister concerns. Based on the CAS-4 Certificates issued by the Cost Accountant, it is found that the assessable value adopted by the Appellant is lower. This has resulted in the revenue loss. Therefore, he supports the decision taken by the lower authority.

5. Heard both sides and perused the appeal records.

6. We find that admittedly the finished goods cleared by the Appellant are in the nature of inputs for the receiving units, therefore, Excise Duty paid by the Appellant has been taken as Cenvat credit by the receiving unit. Admittedly, the receiving units are the sister concerns of the same Appellant and they prepare a common Balance Sheet at the end of the year. Therefore, we find force in the Appellant's argument that there arises a revenue neutral situation. This Bench in the case of **M/s. Jindal Steel & Power Limited Versus Commissioner of Central Tax, G.S.T. and C.X., Rourkela [2026 (1) TMI 648-CESTAT KOLKATA]** has held as under :

"11. Admittedly, in this case, the appellant has been clearing the goods to their own units, for further manufacture. In that view, the issue that arises is whether the duty paid by the appellant is available as CENVAT Credit to their own unit which is using these goods for further manufacture and clearing on payment of duty, resulting in a revenue neutral situation, or not.

11.1. We find that the same issue has been examined by this Tribunal in the case of Britco Foods Company Ltd. v. Commissioner of C.Ex., Pune [2001 (127) E.L.T. 73 (Tri. - Mumbai)] wherein it was held that such a situation is revenue neutral. The said decision has been affirmed by the Hon'ble Apex Court as reported in 2007 (213) E.L.T. 490 (S.C.).

11.2. Further, in the case of Steel Authority of India Ltd. v. Commissioner of C.G.S.T. & C.Ex., Ranchi vide Final Order No. 77634 of 2024 dated 17.10.2025 in Excise Appeal No. 78083 of 2018 (CESTAT, Kolkata) [2025 (11) TMI 1191 – CESTAT, Kolkata] again this Tribunal held, under similar circumstances, that it is a revenue neutral situation. The relevant portion of the said order reads as under: -

"12. This Bench in a catena of decisions has held that when the situation is that of revenue neutrality, the differential duty demand is not called for. Some of the decisions on identical issues are given below:

Steel Authority of India Limited v. Commissioner of Central Excise & Service Tax, Ranchi-I, 2025 (3) TMI 565- CESTAT Kolkata

"3. The appellant submits that the entire demand is not sustainable on the ground of revenue neutrality. The final product cleared from the Appellant's factory to their other units are used by the other factories in the manufacture of their dutiable finished products which are cleared by them on payment of applicable excise duty. The other factories of the Appellant are availing the credit of duty paid by the Appellant and utilizing the same for payment of duty on the final product cleared. Thus, the Appellant submits that the differential duty confirmed shall be available as credit to the Appellant's other factories/units. Hence, demand of differential duty is clearly revenue neutral.

....

6.1. We observe that the issue is no longer *res integra*, as this Tribunal has already decided this issue in the Appellant's own case *Steel Authority of India v. Commissioner of Central Excise & Service Tax, Ranchi I*, vide Final Order No. 75435/2025 in Excise Appeal No. 75523 of 2016 pertaining to a different unit of the same assessee and concerning the same issue pertaining to valuation of inter-unit transfer of refractory material had held that no demand is sustainable since the issue is revenue neutral. The relevant paragraph of the said decision is extracted below for ready reference –

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6.3. In view of the above discussions and by relying upon the decisions cited *supra* we hold that the demand confirmed in the impugned order is not sustainable and accordingly, we set aside the same. Since the demand of duty is not sustained, the question of demanding interest and imposition of penalty does not arise."

Shyam Sel & Power Ltd., (Divn.) v. Commissioner of CGST & Central Excise, Durgapur, 2025 (7) TMI 796-CESTAT Kolkata

2.2 Without prejudice to the above submission, it is a settled position of law that in cases wherein goods have been cleared by the appellant to their sister unit, wherein whatever duty is paid by the appellant, the same is entitled as CENVAT Credit, no further duty is payable considering the Revenue Neutral Position Without prejudice to the above submission, it is a settled position of law that in cases wherein goods have been cleared by the appellant to their sister unit, wherein whatever duty is paid by the appellant, the same is entitled as CENVAT Credit, no further duty is payable considering the Revenue Neutral Position

7. Admittedly, there is no dispute that the clearances of the appellant is to their sister units. It is not also disputed by the Revenue that the Excise Duty paid by the appellant accrues as Cenvat Credit to the other units.

.....

12. We have also taken in to account that without dispute the Excise Duty paid by the appellant is eligible as Cenvat Credit at the end of the receiving sister units. There are several decisions holding that when the Excise Duty paid by the unit is available fully as cenvat credit at the end of the receiving unit of the same assessee, the same results in revenue neutrality. Some of the decisions by this Bench are discussed below :

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13. We find that to the facts of the present case, the cited case laws are squarely applicable on account of revenue neutrality. Therefore, we set aside the demand of Rs.85,01,189/- on this ground on merits.

11.3. Therefore, in that view, if duty is paid by the appellant, the same would be available as CENVAT Credit to the appellant in their own unit

and in these circumstances, we hold that it is a revenue neutral situation."

7. We also find that the Appellant has recorded all the transactions in their ER-1 Returns and the Cenvat was available for the Excise Duty paid. In the case of **M/s. Steel Authority of India Limited v. Commissioner of CGST & Central Excise, Ranchi [2025 (11) TMI 1191 – CESTAT KOLKATA]**, the Tribunal has held as under :

"We also find considerable force in the appellant's submission that the appellant has declared the value adopted for the clearances made to their sister unit in their ER-1 Returns. The SCN has been issued on 04.05.2011 for the period 2006-07 to 2008-09 (till March 2009), though the appellant was filing the ER-1 Returns showing all the relevant details. Thus, no suppression can be made out against them. Further, in a situation of revenue neutrality, no additional benefit could have accrued to the appellant. Therefore, we set aside the confirmed demand for the extended period on account of time-bar also."

8. In view of the above discussions, we set aside the impugned order and allow the Appeal both on merits as well as on account of limitation.

9. The Appeal stands allowed. The Appellant would be eligible for consequential benefit, if any, as per law.

(Dictated and pronounced in the open Court.)

Sd/
(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)