

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL Diary No(s). 35565/2025

[Arising out of impugned final judgment and order dated 12-02-2025
in EA No. 75523/2016 passed by the Customs Excise and Service Tax
Appellate Tribunal, Kolkata]

COMMISSIONER OF CENTRAL EXCISE AND SERVICE TAX Petitioner(s)

VERSUS

M/S STEEL AUTHORITY OF INDIA LIMITED Respondent(s)

IA No. 164226/2025 - CONDONATION OF DELAY IN FILING

IA No. 164222/2025 - EX-PARTE STAY

With

CIVIL APPEAL Diary No(s). 36580/2025

IA No. 171097/2025 - CONDONATION OF DELAY IN FILING

IA No. 171098/2025 - EX-PARTE STAY

Date : 25-07-2025 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE ATUL S. CHANDURKARFor Petitioner(s) :Mr. N.Venkataraman, A.S.G.
Mr. Rupesh Kumar, Sr. Adv.
Mr. Gurmeet Singh Makker, AOR
Mr. Sarthak Karol, Adv.
Mr. Ishaan Sharma, Adv.
Mr. Vaibhav Mishra, Adv.For Respondent(s) :Ms. Charanya Lakshmikumaran, AOR
Mr. Ayush Agarwal, Adv.
Ms. Nitum Jain, Adv.
Ms. Neha Choudhary, Adv.
Ms. Umang Motiyani, Adv.
Ms. Medha Sinha, Adv.
Mr. Swastik Mishra, Adv.UPON hearing the counsel the Court made the following
O R D E R

Issue notice on the applications seeking condonation of delay

as well as on the Civil Appeals.

Signature Not Verified
Digitally signed by
KAPIL TANDON
Date: 2025.07.25
17:06:01 IST
Reason: []

(KAPIL TANDON)
COURT MASTER (SH)(NIDHI WASON)
COURT MASTER (NSH)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL Diary No(s). 35565/2025

[Arising out of impugned final judgment and order dated 12-02-2025 in EA No. 75523/2016 passed by the Customs Excise and Service Tax Appellate Tribunal, Kolkata]

COMMISSIONER OF CENTRAL EXCISE AND SERVICE TAX Petitioner(s)

VERSUS

M/S STEEL AUTHORITY OF INDIA LIMITED Respondent(s)

IA No. 164226/2025 - CONDONATION OF DELAY IN FILING

IA No. 164222/2025 - EX-PARTE STAY

Date : 17-10-2025 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE ATUL S. CHANDURKARFor Petitioner(s) : Mr. N.venkataraman, A.S.G.
Mr. Gurmeet Singh Makker, AOR
Mr. Sarthak Karol, Adv.
Mr. Ishaan Sharma, Adv.
Mr. Vaibhav Mishra, Adv.For Respondent(s) : Ms. Charanya Lakshmikumar, AOR
Mr. Ayush Agarwal, Adv.
Ms. Nitum Jain, Adv.
Ms. Neha Choudhary, Adv.
Mr. Swastik Mishra, Adv.
Ms. Medha Sinha, Adv.UPON hearing the counsel the Court made the following
O R D E R

1. Delay condoned.
2. Appeal admitted.

Signature of NIDHI WASON
Digitally signed by NIDHI WASON
Date: 2025.10.18
11:53:52 IST
Reason: I

AYANT KUMAR ARORA)
REGISTRAR-cum-PS

(NIDHI WASON)
COURT MASTER

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

BEFORE THE REGISTRAR SH. MASHROOR ALAM KHAN

Civil Appeal No(s). 13061/2025

COMMISSIONER OF CENTRAL EXCISE AND SERVICE TAX

Appellant(s)

VERSUS

M/S STEEL AUTHORITY OF INDIA LIMITED

Respondent(s)

Date : 19-12-2025 This appeal was called on for hearing today.

For Appellant(s) : Mr. Gurmeet Singh Makker, AOR
Mr. Ajay Kumar Prajapati, Adv.
Ms. Rachana Chakrawarti, Adv.

For Respondent(s) :
Ms. Charanya Lakshmikumaran, AOR
Mr. Swastik Mishra, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Sole respondent is duly represented. Counter affidavit on behalf of sole respondent, if any, be filed in the meantime.

Let the matter be processed for listing before the Hon'ble Court, under the rules.

Copy of this Record of Proceedings be furnished to the concerned learned Advocate-on-Record for information and compliance.

Signature Not Verified
Digitally signed by
Madhu Grover
Date: 2025.12.19
16:10:31 IST
Reason: 

MASHROOR ALAM KHAN
Registrar

DM

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

REGIONAL BENCH – COURT NO.1

Excise Appeal No.75523 of 2016

(Arising out of Order-in-Original No.06-07/Central Excise/Commr./2016 dated 14.01.2016 passed by Commissioner of Central Excise & Service Tax, Ranchi I)

M/s Steel Authority of India Limited

(SAIL Refractories Unit,IFICO, Marar, Ramgarh)

Appellant

VERSUS

Commissioner of Central Excise & Service Tax, Ranchi I

(C.R.Building, 5-A, Main Road, Ranch-834001)

Respondent

APPEARANCE :

Shri Deepto Sen & Ms.Taniya Roy, both Advocates for the Appellant
Shri P.K.Ghosh, Authorized Representative for the Respondent

CORAM:

HON'BLE MR.ASHOK JINDAL, MEMBER (JUDICIAL)

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

FINAL ORDER NO.75435/2025

DATE OF HEARING : 12 FEBRUARY 2025

DATE OF DECISION : 12 FEBRUARY 2025

Per Ashok Jindal :

The appellant is in appeal against the impugned order.

2. The facts of the case are that the appellant is engaged in the manufacture of refractory materials like Fire Bricks and Mortar falling under the tariff items 69010090 and 38160000 of the First Schedule to the Central Excise Tariff Act, 1985.

2.1 The Appellant was initially started by a Private Management in 1964 as Firebricks & Insulation Co. Ltd. and on 16.12.1975 was taken over by Govt. of India. Thereafter, in 1978 it was taken over by M/s Bharat Refractories Ltd, initially continuing as a subsidiary and subsequently on 01.10.1997 renamed as IFICO Refractories Plant when it became direct unit of Bharat Refractories Limited and continued till

July 2009. During this period the Appellant was engaged in the manufacture of refractory bricks and other refractory material for sale to various steel companies including SAIL. Sale of final products were based on prices as per agreed purchase orders thereby satisfying all requirements of Section 4(1)(a). During such period, there was no dispute raised by the department regard the method of valuation.

2.2 Thereafter, on 28.07.2009 Bharat Refractories Limited amalgamated with SAIL resulting in the Appellant herein.

During the underlying period, the Appellant upon payment of excise duty supplied refractory fire bricks and mortar to units of SAIL as well as to independent customers. The price charged in both the cases were more or less same.

2.3 The department had initiated investigation against the Appellant in 2011 regarding the manner of valuation of the final products cleared to SAIL.

2.4 A Show Cause Notice dated 04.09.2014 was issued by invoking the extended period of limitation, by alleging that the Appellant while stock transferring the goods to its related units, undervalued the same, thereby contravening Section 4(1)(b) of the Central Excise Act, 1944 read with Rule 8 and Rule 9 of the Valuation Rules. The crux of the allegation in the underlying Show Cause Notice is that the excise duty paid by the Appellant under Section 4(1)(a) of the Excise Act was lower than the amount payable under Rule 8/9 of the Valuation Rules as the Appellant ought to have adopted 110% of cost of production of such goods to be determined as per the CAS-4.

Excise Appeal No.75523 of 2016

2.5 A second SCN dated 01.05.2015 was also issued to the Appellant under similar grounds.

Date of issuance of Show Cause Notice	Period	Proposed demand
04.09.2014	August 2009 to March 2014	10,56,28,379/-
01.05.2015	April 2014 to March 2015	1,22,74,062/-

2.6 The Appellant duly furnished detailed replies and also a written submission dated 12.01.2016 rebutting all the allegations raised therein. Apart from the legal submissions on merits, it was also mentioned that the Appellant has subsequently worked out differential duty based on CAS-4 for the period 2013-2014 and paid the differential duty amounting to Rs.2,03,28,787/- vide Challan dated 27.09.2014 and 29.09.2014 and for the period 2014-15 the Appellant paid the differential duty amounting to Rs.1,11,07,481/- vide challans dated 28.02.2015, 07.03.2015, 10.03.2015 and 04.06.2015.

2.7 However, by a common Order dated 19.01.2016, the Ld. Commissioner confirmed the demand of Rs.11,79,02,441/- for the relevant period along with applicable interest and equivalent penalty. The impugned order further ordered for appropriation of the duty amounting to Rs.3,14,36,268/- which was already paid by the Appellant. The impugned order was passed based on the finding that the Appellant had undervalued the goods during inter-unit transfer for the underlying period.

2.8 Being aggrieved by the impugned order, the appellant is before us.

3. The Id.Counsel for the appellant submits that the entire exercise is revenue neutral as the final products cleared from the appellant's factory to their other sister unit, are used by the other factories in the manufacture of their dutiable finished goods, which is cleared by them on payment of applicable Excise duty. Therefore, whatever duty is payable by the appellant, the same is entitled to take the cenvat credit by the appellant's unit only. Therefore, it is revenue neutral situation. To support his contention, he relies on the decision of this Tribunal in the case of Hindalco Industries Limited Vs. Commissioner of Central Excise, Bhubaneswar II reported in 2023 (5) TMI 720 - CESTAT Kolkata.

4. On the other hand, the Id.A.R. for the Revenue supported the impugned order.

5. Heard both the parties and considered the submissions.

6. We find that in this case, the appellant has cleared the goods to their sister unit on payment of duty under Rule 8 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000, by adopting 110% of the cost of the product determined as per CAS-4. If any excess duty is to be paid by the appellant, the same is entitled to take the cenvat credit by the appellant's unit only.

7. In that circumstances, it is the case of revenue neutrality as held by this Tribunal in the case of M/s Hindalco Industries Limited (supra) wherein this Tribunal has held as under :

"15. The Appellant has argued that the entire exercise is revenue neutral as the duty paid by them will be available as credit for their sister unit. We agree with this view of the Appellant. The duty paid by the Appellant would be available as credit to their

sister unit. This the entire exercise is revenue neutral. In support of their argument the Appellant cited the following decisions:-

a. Commissioner of C.Ex., Pune v. Coca-Cola India Pvt.Ltd. [2007 (213) ELT 490 (S.C.)]

Classification of goods - Revenue neutrality - Classification of non-alcoholic beverage bases/concentrates manufactured by assessee which are supplied to bottlers, who in turn use the same as raw material in manufacture of beverages - Excise duty payable on beverage bases/concentrates and Modvat credit availed under Notification No. 5/94- C.E. (N.T.) is identical hence, consequences of payment of excise duty after availing Modvat credit was revenue neutral - In view of such stand being taken by assessee, appeals dismissed leaving question of law open. [paras 6, 7]

b. Commr. of C.Ex. & Cus., Vadodara-II v. Indeos ABS Limited [2010 (254) ELT 628 (Guj.)]

Demand - Undervaluation - Revenue neutrality - Tribunal disposed of appeal holding that since goods cleared to sister concern, whatever duty payable available as credit to own unit (sister concern) hence entire exercise revenue neutral - Grievance now that undervaluation not considered by Tribunal - HELD : Grievance acceptable if ultimate exercise benefited Revenue by collection of duty - No such benefit accrues to exchequer - Tribunal chosen not to determine academic issue - No legal infirmity in impugned order of Tribunal - Sections 4 and 11A of Central Excise Act, 1944. - If the Tribunal has chosen not to determine an academic issue, it is not possible to state that any legal infirmity exists in the impugned order of the Tribunal. [para 4]".

Therefore, the facts are not in dispute. Accordingly, relying on the decision of this Tribunal in the case of Hindalco Industries (supra), we hold that it is a revenue neutral situation. No demand is sustainable against the appellant.

Excise Appeal No.75523 of 2016

8. Therefore, we set aside the impugned order and allow the appeal with consequential relief, if any.

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

(Ashok Jindal)
Member (Judicial)

mm

(K.Anpazhakan)
Member (Technical)