

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

REGIONAL BENCH – COURT NO. 2

Excise Appeal No. 77195 of 2018

(Arising out of Order-in-Appeal No. 50/CE/RKL-GST/2018 dated 22.03.2018 passed by the Commissioner (Appeals) GSTS, Central Excise & Customs Central Revenue Buildign, Rajaswa Vihar, Bhubanewar 07)

M/s. Mahanadi Coalfields Ltd., : **Appellant**
IB Valley Area, Area Finance Manager,
GM Complex, Brajrajnagar, Jharsuguda, Odisha-768216

VERSUS

The Commissioner (Appeals), CGST, Central : **Respondent**
Excise & Customs
Central Revenue Buildign, Rajaswa Vihar,
Bhubaneshwar 07

APPEARANCE:

Shri Rajeev Kumar Agarwal, Advocate
MS. Aishiki Dutta, Advocate for the Appellant

Shri S. K. Dikshit, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO. 77812/2025

DATE OF HEARING / DECISION: 28.11.2025

ORDER: [PER SHRI R. MURALIDHAR]

The appellant is a public sector undertaking. During the month of March 2014, anticipating the performance incentive to be received by them, the appellant paid the excise duty. Subsequently, they found that the performance incentive received by them was much lower than what they had anticipated.

2. Because of this, excess payment of excise duty had occurred. Considering the fact that they have paid excise duty during the month of March 2014, the

appellant filed the refund claim in September 2014 that is well within the prescribed limit of one year for such refunds. The refund was sought to be rejected on the ground that the appellant had not provided all the proper documents which require verification before the refund claim is granted.

3. Subsequently, the refund claim was rejected by the adjudicating authority and the appellant filed their appeal before the Commissioner (Appeals). The Commissioner (Appeals) also dismissed their appeal on the grounds that the Chartered Accountant Certificate does not prove that the incidence of duty has not been passed on or that such duty was being reflected as part of receivables by the appellant.

3.1. Being aggrieved, the appellant is before the Tribunal.

4. The Ld. Counsel appearing on behalf of the appellant submits that initially, a Chartered Accountant's Certificate was submitted on 11.07.2016 before the adjudicating authority showing that the incidence of Rs.70,36,628/- was not passed on to any third party and was shown as receivable from the Government of India under the Accounting Code 340610; this CA Certificate was found to be insufficient by the adjudicating authority; subsequently, when they filed their appeal before the Commissioner (Appeals), they submitted one more detailed certificate issued by Chartered Accountant A. K. Gupta on 07.03.2018. It is submitted that this certificate clearly shows the initial amount which was provided for as 'receivable' on account of performance incentive and then the final performance incentive received by them and the excise duty payable thereon; after that, the CA has concluded that the appellant has paid excise duty of Rs.70,36,6,28/-; that this is also backed by the

General Ledger for the period 01.04.2014 to 31.03.2015 wherein the deposit with Government of India is shown as Rs. 70,36,628/-.

4.1. The Ld. Counsel for the appellant submits that when the detailed Chartered Accountant Certificate is read with the ledger copy, it would get clarified that this amount was paid in excess by the appellant to the exchequer and this was always shown as receivable from the Government of India. Considering this documentary evidence, he prays that the appeal may be allowed.

5. The Ld. Authorized Representative appearing on behalf of the respondent submits that the CA certificate initially filed by the appellant did not show the details and the appellant has not properly proved non-passing of the excise duty to the third party. Therefore, he justifies the rejection of refund on account of unjust enrichment.

6. Heard both sides and perused the appeal papers.

7. We find that the issue is in a very short compass. The appellant had just taken a guess as to what would be their performance incentive for the year. Based on that, they have gone ahead and paid the excise duty during the month of March 2014. This excise duty was reflected in their ER-1 return for that month. Subsequently, when they found that the performance incentive amount received by them was much less, they came to know that they have paid excess excise duty for which they have filed their refund claim in September 2014.

8. No doubt when such refund claim is filed, it is for the authorities to first verify as to whether the incidence of the excise duty has been passed on to any third party or not, thereby attracting the unjust

enrichment clause. The Show Cause Notice was issued accordingly, for which the appellant has filed one Chartered Accountant's Certificate dated 11.07.2016 which certifies that this amount has not been passed on to any third party and was also shown as receivable from the Government of India.

8.1. However, after the adjudicating authority rejected their refund claim, the appellant has gone to another Chartered Accountant and has provided one more detailed Chartered Accountant Certificate, which is reproduced below: -



TO WHOMEVER IT MAY CONCERN

1.0 This is to certify that I have examined the Books of Accounts of M/s Mahanadi Coalfields Limited, IB Valley Area, Brajrajnagar, Dist. Jharsuguda, Odisha – 768216 (hereinafter referred to as the 'Company'), Financial Statement of Company's Sambalpur Head Quarters and the relevant records and documents maintained for Central Excise purpose for the period 2013-14 and 2014-15. Based upon the above examination, I hereby certify that:

1. During the Financial year 2013-14, the Company has made Net Coal Sales of Rs. 1173,71,44,206/- on which the company has paid an amount totalling to Rs. 405,65,59,000/- towards statutory levies (the statutory levies include Central Excise Duty of Rs. 79,30,13,446/-, Royalty of Rs. 157,21,66,605/- and Stowing Excise Duty of Rs. 15,50,28,086/- and other taxes). Therefore, the Gross Sales for the Period 2013-14 is Rs. 1579,37,02,940/- and the same is appearing in the Audited Profit & Loss for the Period ended 31st March, 2014 and Note – 20 of the Notes to the said Profit and Loss Account for the Period ended 31st March, 2014 pertaining to the Company.
2. Net Sales for the Financial Year 2013-14 of Rs. 1173,71,44,206/- as above stated does not include any Performance Incentive earned by the Company from the Coal Buyers during the Financial Year 2013-14, however in ER-1 Assessable Value includes for Performance Incentive during 2013-14 tentatively of Rs.18,24,52,566/-.
3. In the monthly ER-1 Excise Returns filed for the FY 2013-14, the Company has disclosed Assessable Value of Rs.1261,65,82,186/- which includes aforesaid Tentative Performance Incentive and has paid Total Excise Duty of Rs.77,97,04,781/- on the same.



8.3. A harmonious reading of the Chartered Accountant's Certificate along with the ledger shows that this amount has always been carried forward in their balance sheet and in the ledger as receivable from Government of India.

9. Since the amount clearly tallies with the amount of refund claim filed by the appellant, we do not see any reason to doubt as to whether this is the same amount which has been claimed as refund by the appellant. Based on this documentary evidence, we hold that the appellant has satisfactorily proved that the incidence of excise duty has not been passed on to any third party, thereby the unjust enrichment clause is not attracted in this case.

10. Accordingly, we set aside the impugned order and allow the appeal filed by the appellant. The appellant would be eligible for consequential relief, if any, as per law.

(Dictated and pronounced in the open court)

(R. MURALIDHAR)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)