CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
<u>CHANDIGARH</u>

REGIONAL BENCH - COURT NO. 2

Excise Appeal No. 60494 of 2023

[Arising out of Order-in-Appeal/Original No. LUD-EXCUS-001-APP-48-2023 dated 23.01.2023 passed by the Commissioner (Appeals), CGST, Ludhiana]

M/s Mahaprabhu Steel Pvt Ltd. **......Appellant**
135-5-M,Girish Ghosh Road, Belurmath,
Howrah, West Bengal 711202

VERSUS

Commissioner of Central Exise and ST, Ludhiana **......Respondent**
Central Excise House F Block, Ludhiana
Punjab 141001

WITH

2. Excise Appeal No. 60495 of 2023

[Arising out of Order-in-Appeal/Original No. LUD-EXCUS-001-APP-49-2023 dated 23.01.2023 passed by the Commissioner (Appeals), CGST, Ludhiana]

M/s Mahaprabhu Steel Pvt Ltd. **......Appellant**
135-5-M,Girish Ghosh Road, Belurmath,
Howrah, West Bengal 711202

VERSUS

Commissioner of Central Exise and ST, Ludhiana **......Respondent**
Central Excise House F Block, Ludhiana
Punjab 141001

3. Excise Appeal No. 60496 of 2023

[Arising out of Order-in-Appeal/Original No. LUD-EXCUS-001-APP-68-2023 dated 23.01.2023 passed by the Commissioner (Appeals), CGST, Ludhiana]

M/s Vikas Modi **......Appellant**
135-5-M,Girish Ghosh Road, Belurmath,
Howrah, West Bengal 711202

VERSUS

Commissioner of Central Exise and ST, Ludhiana **......Respondent**

Central Excise House F Block, Ludhiana
Punjab 141001

4. Excise Appeal No. 60497 of 2023

[Arising out of Order-in-Appeal/Original No. LUD-EXCUS-001-APP-76-2023dated 23.01.2023 passed by the Commissioner (Appeals), CGST, Ludhiana]

M/s Mahaprabhu Steel Pvt Ltd. **......Appellant**
135-5-M,Girish Ghosh Road, Belurmath,
Howrah, West Bengal 711202

VERSUS

Commissioner of Central Exise and ST, Ludhiana **......Respondent**
Central Excise House F Block, Ludhiana
Punjab 141001

5. Excise Appeal No. 60498 of 2023

[Arising out of Order-in-Appeal/Original No. LUD-EXCUS-001-APP-65-2023dated 23.01.2023 passed by the Commissioner (Appeals), CGST, Ludhiana]

M/s Vikas Modi **......Appellant**
135-5-M,Girish Ghosh Road, Belurmath,
Howrah, West Bengal 711202

VERSUS

Commissioner of Central Exise and ST, Ludhiana **......Respondent**
Central Excise House F Block, Ludhiana
Punjab 141001

6. Excise Appeal No. 60499 of 2023

[Arising out of Order-in-Appeal/Original No. LUD-EXCUS-001-APP-66-2023dated 23.01.2023 passed by the Commissioner (Appeals), CGST, Ludhiana]

M/s Mahaprabhu Steel Pvt Ltd. **......Appellant**
135-5-M,Girish Ghosh Road, Belurmath,
Howrah, West Bengal 711202

VERSUS

Commissioner of Central Exise and ST, Ludhiana **......Respondent**
Central Excise House F Block, Ludhiana

Punjab 141001

7. Excise Appeal No. 60503 of 2023

[Arising out of Order-in-Appeal/Original No. LUD-EXCUS-001-APP-61-2023dated 23.01.2023 passed by the Commissioner (Appeals), CGST, Ludhiana]

M/s Vikas Modi **......Appellant**
135-5-M,Girish Ghosh Road, Belurmath,
Howrah, West Bengal 711202

VERSUS

Commissioner of Central Exise and ST, Ludhiana **......Respondent**
Central Excise House F Block, Ludhiana
Punjab 141001

8. Excise Appeal No. 60504 of 2023

[Arising out of Order-in-Appeal/Original No. LUD-EXCUS-001-APP-77-2023dated 23.01.2023 passed by the Commissioner (Appeals), CGST, Ludhiana]

M/s Mahaprabhu Steel Pvt Ltd. **......Appellant**
135-5-M,Girish Ghosh Road, Belurmath,
Howrah, West Bengal 711202

VERSUS

Commissioner of Central Exise and ST, Ludhiana **......Respondent**
Central Excise House F Block, Ludhiana
Punjab 141001

9. Excise Appeal No. 60505 of 2023

[Arising out of Order-in-Appeal/Original No. LUD-EXCUS-001-APP-75-2023dated 23.01.2023 passed by the Commissioner (Appeals), CGST, Ludhiana]

M/s Vikas Modi **......Appellant**
135-5-M,Girish Ghosh Road, Belurmath,
Howrah, West Bengal 711202

VERSUS

......Respondent
Commissioner of Central Exise and ST, Ludhiana
Central Excise House F Block, Ludhiana
Punjab 141001

10. Excise Appeal No. 60506 of 2023

[Arising out of Order-in-Appeal/Original No. LUD-EXCUS-001-APP-63-2023dated 23.01.2023 passed by the Commissioner (Appeals), CGST, Ludhiana]

M/s Mahaprabhu Steel Pvt Ltd. **......Appellant**
135-5-M,Girish Ghosh Road, Belurmath,
Howrah, West Bengal 711202

VERSUS

Commissioner of Central Exise and ST, Ludhiana **......Respondent**
Central Excise House F Block, Ludhiana
Punjab 141001

11. Excise Appeal No. 60507 of 2023

[Arising out of Order-in-Appeal/Original No. LUD-EXCUS-001-APP-64-2023dated 23.01.2023 passed by the Commissioner (Appeals), CGST, Ludhiana]

M/s Vikas Modi **......Appellant**
135-5-M,Girish Ghosh Road, Belurmath,
Howrah, West Bengal 711202

VERSUS

Commissioner of Central Exise and ST, Ludhiana **......Respondent**
Central Excise House F Block, Ludhiana
Punjab 141001

12. Excise Appeal No. 60508 of 2023

[Arising out of Order-in-Appeal/Original No. LUD-EXCUS-001-APP-62-2023dated 23.01.2023 passed by the Commissioner (Appeals), CGST, Ludhiana]

M/s Mahaprabhu Steel Pvt Ltd. **......Appellant**
135-5-M,Girish Ghosh Road, Belurmath,
Howrah, West Bengal 711202

VERSUS

Commissioner of Central Exise and ST, Ludhiana **......Respondent**
Central Excise House F Block, Ludhiana
Punjab 141001

13. Excise Appeal No. 60509 of 2023

[Arising out of Order-in-Appeal/Original No. LUD-EXCUS-001-APP-78-2023dated 23.01.2023 passed by the Commissioner (Appeals), CGST, Ludhiana]

M/s Mahaprabhu Steel Pvt Ltd. **......Appellant**
135-5-M,Girish Ghosh Road, Belurmath,
Howrah, West Bengal 711202

VERSUS

Commissioner of Central Exise and ST, Ludhiana **......Respondent**
Central Excise House F Block, Ludhiana
Punjab 141001

14. Excise Appeal No. 60510 of 2023

[Arising out of Order-in-Appeal/Original No. LUD-EXCUS-001-APP-74-2023dated 23.01.2023 passed by the Commissioner (Appeals), CGST, Ludhiana]

M/s Vikas Modi **......Appellant**
135-5-M,Girish Ghosh Road, Belurmath,
Howrah, West Bengal 711202

VERSUS

Commissioner of Central Exise and ST, Ludhiana **......Respondent**
Central Excise House F Block, Ludhiana
Punjab 141001

APPEARANCE:

Shri S.P. Siddhanta, Advocate for the Appellant

Shri Kanish Saini, Authorized Representative for the Respondent

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

FINAL ORDER NO. 60635-60648/2025

DATE OF HEARING: 25.06.2025
DATE OF DECISION: 25.06.2025

ASHOK JINDAL:

The appellants are in appeal against the impugned orders wherein the penalty on the main appellant has been imposed under Rule 25 of Central Excise Rules, 2002 and penalty on co-appellant, Mr. Vikas Modi has been imposed under Rule 26 (2) of the Central Excise Rules, 2002.

2. The facts of the case are that it has been alleged on the basis of investigation that M/s Mahaprabhu Steel Pvt. Ltd has not supplied the goods to M/s Modi Alloys Steel Pvt. Ltd and provided only cenvatable invoices to enabling avail Cenvat credit fraudulently. Being a paper transaction, various show cause notices have been issued to the appellants to impose penalty under Rule 25(1) read with Section 11AC of the Central Excise Act, 1944 on main appellant, namely, Mahaprabhu Steel Pvt. Ltd. and to impose penalty under Rule 26(2) on Shri Vikas Modi, the director of appellant No. 1 to impose penalty under Rule 26(2) of the Central Excise Rule, 2002. The matters were adjudicated, various penalties have been imposed on the appellants. Aggrieved from the said order, the appellants are before me.

3. As all the appeals are cropped up by a common investigation alleging that no goods have been travelled only cenvatable invoices have been issued. Therefore, all the appeals are taken up together for final disposal.

4. The learned Consultant appearing on behalf of the appellants submitted that during the course of investigation made against the appellant all the documents were resumed during investigation has been returned to them and no case has been booked against the

appellant for fraudulent act alleging against the appellant by the jurisdictional authorities in Hawrah. The Cases were booked against M/s Modi Alloys Steel Pvt. Ltd. in Mandi, Gobindgarh and on the basis of those cases appellants were made parties to impose penalties under various provisions of Central Excise Rules as investigation conducted against the appellants. As the charges have been dropped against the appellants therefore, no penalty is imposable on the appellants.

5. It is further submitted that to impose penalty under Rule 25 of Central Excise Rules, 2002 the assessee is required to deal with the goods which is liable for confiscation. It is the case of the revenue is that no goods have been dealt by the appellants, therefore no penalty is imposable on the appellants under Rule 25 of the Central Excise Rules, 2002 read with Section 11AC of the Act.

6. With regard to penalty imposed on Shri Vikas Modi, it is his contention that the appellants asked for cross examination of the witnesses whose statements has been relied to impose penalty and no cross examination was given to the appellants, therefore, the statement based on which penalties have been imposed on the appellants are not admissible, consequently, no penalty is imposable.

7. On the other hand, learned authorized representative for the revenue strongly opposed the contention of the appellants and submitted that it is a fact on record by way of investigation that only invoices have been passed on to avail inadmissible Cenvat credit without accompanying the goods. Therefore, penalties have been rightly imposed on the appellants.

8. Heard the parties and considered the submissions.

9. On going through the arguments advanced both the sides and facts placed before me, the issue arises before me is that in case wherein it has alleged that appellants have issued cenvatable invoices without accompanying goods, can the penalty be imposed under Rule 25 of the Central Excise Rules read with Section 11AC of the Act or not?

10. The said issue has been dealt by this Tribunal in case of Cosmo Films Ltd. Vs. Commissioner of Central Excise, Aurangabad reported in 2010 (251) ELT 130 (Tri.-Mumbai), wherein it has been held that as it is alleged that assessee has not dealt with the goods, therefore, no penalty can be imposed on the appellants without observing that goods in question are liable for confiscation. Therefore, I hold that no penalty can be imposed on main appellant M/s Mahaprabhu Steel Pvt. Ltd., accordingly, all the penalties imposed on them are set aside.

11. The penalties have been imposed on Shri Vikas Modi, Director of M/s Mahaprabhu Steel Pvt. Ltd. alleging that he has issued the invoices without accompanying goods to enabling the receiver of the invoices to take inadmissible Cenvat credit. I find that an investigation was conducted at the end of the appellant in Hawrah wherein the charges have been dropped and no show cause notice has been issued to the appellant. In that circumstances, alleging that the appellant has issued only invoices not accompanying goods, the charge against the appellant is not sustainable.

12. In view of that, no penalty can be imposed on the appellants under Rule 26(2) of the Central Excise Rules, 2002. Accordingly, penalties imposed on Shri Vikas Modi are also set aside.

13. In view of this, all the impugned orders qua imposing penalties on the appellants are set aside.

14. In result, the appeals are allowed with consequential relief, if any as per Rule.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

Kailash