CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT No. I

Excise Appeal No. 40761 of 2015

(Arising out of Order-in-Original No. 18/2014 dated 31.12.2014 passed by Commissioner of Central Excise, Customs and Service Tax, 6/7, A.T.D. Street, Race Course Road, Coimbatore)

M/s. J.M. Trading Corporation **...... Appellant**
S.F No.429-430, Shakthi Nagar
Sathy Road
Ganapathy, Coimbatore 641 006

VERSUS

Commissioner of GST and Central Excise **...Respondent**
6/7 A.T.D. Street, Race Course Road,
Coimbatore - 641018

APPEARANCE:

Ms. Varshini, Advocate for the Appellant
Ms. Rajini Menon, Authorised Representative for the Respondent

WITH

Excise Appeal No. 40771 of 2015

(Arising out of Order-in-Original No. 18/2014 dated 31.12.2014 passed by Commissioner of Central Excise, Customs and Service Tax, 6/7, A.T.D. Street, Race Course Road, Coimbatore)

M/s. Saravana Metal Corporation **...... Appellant**
P.Box No.51
557, N H Road
Coimbatore 641 001

VERSUS

Commissioner of GST and Central Excise **...Respondent**
6/7 A.T.D. Street, Race Course Road,
Coimbatore - 641018

APPEARANCE:

Ms. Varshini, Advocate for the Appellant
Ms. Rajini Menon, Authorised Representative for the Respondent

WITH

Excise Appeal No. 40880 of 2015

(Arising out of Order-in-Original No. 18/2014 dated 31.12.2014 passed by Commissioner of Central Excise, Customs and Service Tax, 6/7, A.T.D. Street, Race Course Road, Coimbatore)

M/s. S.S.K.Iron & Steels (P) Ltd. **...... Appellant**
147, Vellivayal Village
Vichur Road, Manali
Chennai 600 081

VERSUS

Commissioner of GST and Central Excise **...Respondent**
6/7 A.T.D. Street, Race Course Road,
Coimbatore - 641018

APPEARANCE:

Mr. R. Balagopal, Consultant for the Appellant
Ms. Rajini Menon, Authorised Representative for the Respondent

WITH

Excise Appeal No. 40926 of 2015

(Arising out of Order-in-Original No. 18/2014 dated 31.12.2014 passed by Commissioner of Central Excise, Customs and Service Tax, 6/7, A.T.D. Street, Race Course Road, Coimbatore)

M/s. Magnum Steels **...... Appellant**
No.1-A, Ramanathan Street
Srinivasa Nagar
Kavundampalayam
Coimbatore

VERSUS

Commissioner of GST and Central Excise **.....Respondent**
6/7 A.T.D. Street, Race Course Road,
Coimbatore - 641018

APPEARANCE:

None for the Appellant
Ms. Rajini Menon, Authorised Representative for the Respondent

AND

Excise Appeal No. 40930 of 2015

(Arising out of Order-in-Original No. 18/2014 dated 31.12.2014 passed by Commissioner of Central Excise, Customs and Service Tax, 6/7, A.T.D. Street, Race Course Road, Coimbatore)

M/s. Sri Ambal Steel Traders **...... Appellant**
S F No.367, Karpaga Vinayagar Nagar
Ganapathy, Coimbatore 641 006

VERSUS

Commissioner of GST and Central Excise ...Respondent
6/7 A.T.D. Street, Race Course Road,
Coimbatore - 641018

APPEARANCE:

None for the Appellant
Ms. Rajini Menon, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)

FINAL ORDER Nos.40201-40205/ 2026

DATE OF HEARING : 29.01.2026
DATE OF DECISION : 06.02.2026

Per Mr. AJAYAN T.V.

These appeals, arising out of the same Order in Original Sl.No.18/2014 (Commr) dated 31.12.2014 (impugned order) and involving a common issue of imposition of penalty on the appellants under Rule 26(2) of the Central Excise Rules, 2002, were heard together and are disposed of by this common order.

2. Brief facts are that, in the course of investigation conducted by officers of DGCEI, Chennai, into the clandestine removal of finished goods and alleged evasion of central excise duty as well as alleged misuse of cenvat credit facility by Sri Madurai Meenakshi Amman Steel Rerolling Mill India Pvt Ltd (SMMAS) and their group companies, search operations were conducted at their factories and office premises that resulted in seizure of incriminating documents. Statements were also recorded from various persons. Pursuant to the investigation, from the various records, in so far as the transactions of the appellants are concerned, the Department formed a view that SMMAS had taken ineligible cenvat credit on the basis of cenvat invoices issued by these appellants without delivery of the goods indicated therein. Consequently, in the SCN issued to SMMAS, inter-alia proposing to demand the wrongly availed ineligible cenvat credit; the appellants

were also made co-noticees and it was proposed to impose penalty under Rule 26(2) of the Central Excise Rules, 2002 on these appellants for passing on ineligible cenvat credit to SMMAS without delivery of the goods.

3. Consequent to the replies filed by the appellants, after due process of law, the adjudicating authority held that the appellants have issued cenvat invoices without delivery of the goods indicated therein and imposed penalties under Rule 26(2) ibid on the appellants. Aggrieved, the appellants have preferred these appeals.

4. Ms. Varshini, Ld. Advocate, appeared on behalf of the appellants, J. M. Trading Corporation and Saravana Metal Corporation. Shri. R. Balagopal, Ld. Consultant appeared on behalf of the appellant SSK Iron and Steels Pvt Ltd. None appeared on behalf of Magnum Steels and Sri. Ambal Traders. Ms. Rajani Menon, Ld. Authorised representative appeared on behalf of the Respondent.

5. Ms. Varshini, Ld. Counsel appearing for J.M. Trading Corporation and Saravana Metal Corporation, has drawn attention to the allegations against the appellants, their contentions in reply, and findings of the Ld. Adjudicating Authority and submitted that the appellants are not challenging the findings regarding their role in the alleged violations. Ld. Counsel however prays for leniency submitting that the penalties imposed are harsh and excessive.

6. Shri. R. Balagopal, Ld. Consultant appearing for SSK Iron & Steels P Ltd., submitted that the Appellants had already realized invoice value with duty and debited the duty of Rs.10,13,125/- in their cenvat account. There is no monetary gain for the appellants in abetting the main party – M/s. Sri Madurai Meenakshi Amman Steel Re-rolling Mills and that in the light of the above facts, imposition of a further amount of Rs.5,07,000/- as penalty is not justified. He submitted that in a similar set of facts, the Tribunal, Bangalore Bench in the case of M/s. Sri. Ramajayam Steels, vide Final Order No.21447/2025 dated 20.08.2025 had reduced the penalty. Ld. Counsel submitted that they

are not challenging the findings of the Ld. Adjudicating Authority, but arguing that the penalty imposed was excessive, prayed for leniency.

7. Ms. Rajani Menon, Ld. Authorised Representative, reiterated the findings of the Ld. Adjudicating Authority in the impugned order and opposed the pleas for leniency. Ld. Authorised Representative contended that the Ld. Adjudicating Authority has rightly imposed a penalty of 50% of the credit benefit passed on, rounded off to the next higher thousand, as penalty on these appellants.

8. Having heard the submissions made at the bar by the rival sides and also having carefully perused the appeal records and the case law submitted as relied upon, the only issue that arises for consideration is whether the penalties imposed are tenable in law and commensurate with the role of the appellants in the facts and circumstances of the case.

9. At this juncture, it would be apposite to note Rule 26 of the Central Excise Rules, 2002, which reads as under :-

> "Any person who acquires possession of, or is in any way concerned in transporting, removing, depositing, keeping, concealing, selling, or purchasing or in any other manner deals with, any excisable goods which he knows or has reason to believe are liable to confiscation under the Act or these rules, shall be liable to a penalty not exceeding the duty on such goods or (rupees two thousand) whichever is greater.
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> (2) Any person, who issues -
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> (i) an excise duty invoice without delivery of the goods specified therein or abets in making such invoice; or
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> (ii) any other document or abets in making such document, on the basis of which the user of said invoice or document is likely to take or has taken any ineligible benefit under the Act or the rules made there under like claiming of Cenvat credit under the Cenvat Credit Rules,

2004 or refund, shall be liable to a penalty not exceeding the amount of such benefit or five thousand rupees, whichever is greater."

10. A plain reading of the said sub-rule (2) of Rule 26 ibid makes it clear that if any person issues an invoice without delivery of the goods specified therein, or abets in making such invoice or any other document on the basis of which the user of the said invoice or document is likely to take credit, or has taken cenvat credit, then such a person would be liable to a penalty. The quantum of penalty shall be five thousand rupees or not exceeding the amount of such benefit, whichever is greater. Therefore, the prescription of 'amount of such benefit' in the quantum of penalty to be imposed refers to the amount of cenvat credit shown in such invoice or document. It would suffice that the invoice or document issued without delivery of goods is the basis on which the user is likely to take cenvat credit, to attract the penalty and it is immaterial whether or not the credit has actually been taken, to impose penalty on the person issuing the invoice. Equally, the fact that the person who has issued the invoice without delivery of the goods, has debited the duty shown therein in his cenvat credit also does not offset his liability to penalty. This is for the reason that the benefit is defined not qua the issuer, but as is available for the likely utilization of the user and is determinative of the upper limit of penalty imposable on the issuer. The liability to penalty does not hinge on whether the issuer has debited his cenvat account or not, the quantum of cenvat credit shown in such invoice acquires the character of the 'illegible benefit" that is available to the user and it is such benefit as per Rule 26 (2) (ii) ibid, that determines the outer limit of such penalty imposable on the issuer, irrespective of whether the user has taken, or not taken such cenvat credit.

11. Coming to the facts and circumstances of the case, it is discernible from the impugned order that JM Trading corporation, a registered dealer, is found to have issued invoices without transportation of scrap. The Adjudicating authority has further found that they have admitted to having received 55% of Cenvat and 100% vat from their

customers. The appellant has also conceded to the allegations and have requested leniency in so far as the penalty imposed is concerned.

12. As regards Saravana Metal Corporation (SMC), the allegation is that they had supplied non-cenvat scraps to SMMAS under the guise of imported scrap and had passed on cenvat duty for the same including additional duty as if imported scrap has been supplied. The Adjudicating Authority has found that although the appellant had contested the allegation stating that except for two instances where heavy melting scrap got mixed up with local scrap they have supplied the materials under the disputed invoices, they had not produced any evidence in this regard. It was found that their reply does not in any manner refute the charges made in the notice. The Appellant has also conceded that they are not disputing the findings of the Ld. Adjudicating Authority.

13. It is seen that SSK Iron and Steels has conceded that they have realized the invoice value with duty and has debited only duty of Rs.10,13,125/. The records reveal that some of the vehicles in which they have stated to have transported the goods are unsuitable for the same. The managing director of the said appellant has admitted that they had not supplied sponge iron and had only issued invoices to enable SMMAS to avail credit. The ineligible credit taken on such bogus invoices has been worked out to Rs.10,13,125/-. The appellant has submitted at the bar that the findings of the Ld. Adjudicating Authority as regards their role in the alleged violations is not disputed.

14. In so far as Magnum Steels Coimbatore is concerned, the impugned order holds that they transferred the scrap purchased on the same day of receipt/purchase. The Adjudicating Authority has chosen to impose the penalty on the ground that there is mismatch in the bills of entry number indicated in the cenvat invoices issued while indicating that what has been supplied are goods that have been imported under bills of entry or procured from local traders/suppliers. The contention of the appellant that the payment for the same was received through bank also is not controverted. However, it is also noted by the Adjudicating

Authority that certain quantity of scrap was delivered to SMMAS though the invoice was issued in the name of SSC, Coimbatore.

15. As regards Sri. Ambal Steel Traders, Coimbatore, the adjudicating authority has found that the proprietor in his reply has conceded only to part quantity and has stated that he has not agreed to anything with regard to the other invoices mentioned in the SCN. There is no evidence let in as to the past clearances attributed to the appellant.

16. This Tribunal is of the considered view that viewed cumulatively, from the material placed on record, the finding of the Adjudicating Authority that the appellants have committed the violations attracting the penalty under Rule 26(2) of the Cenvat Credit penalty does not warrant any interference and deserves to be upheld. That said, as regards the penalty imposed, it is the firm opinion of the Tribunal that penalty cannot be imposed across the board at a uniform percentage, without evaluating the facts and circumstances governing the transactions involving the respective appellants and such an imposition has rendered the quantum of penalties determined in the impugned order untenable.

17. J M Trading Corporation, Saravana Metal Corporation and SSK Iron and Steels Pvt Ltd, have submitted that they are not contesting the findings of the Ld. Adjudicating Authority, but have prayed for leniency stating that the penalties are excessive. Though fraud and justice do not go hand in hand, the test of quantity of penalty is the gravity of the violations. This Tribunal cannot lose sight of the fact that the number of instances the violation has occurred, the quantum of benefit sought to be passed on, whether the appellants are repeat violators etc are also germane to the decision on the quantum of penalty. In the given facts and circumstances, taking all the above factors into consideration, this Tribunal is of the view that the penalties imposed on them are excessive and are not in proportion to the gravity of the violations committed by them.

18. In light of the aforesaid discussions and findings, having regard to the submissions advanced at the Bar, considering the totality of the facts

and circumstances of this case, and also keeping in mind the interests of justice, while upholding the finding of the Ld. Adjudicating Authority as far as the role of the appellants in the violations attracting the penalty are concerned, this tribunal modifies the impugned order to the extent of penalties imposed on the aforesaid appellants as stated hereinafter, namely, the penalty imposed on J M Trading Corporation is reduced from Rs.3,16,000/- to Rs.1,00,000/-; the penalty imposed on Saravana Metal Corporation is reduced from Rs.1,76,000/- to Rs.55,000/-; the penalty imposed on SSK Iron and Steels is reduced from Rs.5,07,000/- to Rs.1,80,000/-; the penalty imposed on Magnum Steels is reduced from Rs.1,65,000/- to 40,000/- and the penalty imposed on Sri Ambal Steel Traders is reduced from Rs.2,95,000/- to Rs.70,000/-.

Resultantly, the appeals are partly allowed and stand disposed of in the above terms.

(Order pronounced in open court on 06.02.2026)

(AJAYAN T.V.)
MEMBER (JUDICIAL)

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