CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH, COURT NO. 4

Excise Appeal No. 55137 of 2023

(Arising out of Order-in-Appeal No. 19(RLM)/CE/JPR/2023 dated 15.03.2023 passed by the Commissioner (Appeals), Central Excise Commissionerate, Jaipur)

M/s Kandoi Metals Powders Mfg. Co. Pvt. Ltd. Appellant
Unit-II,G-716, Rod No. 9F3, V.K.I. Area,
Jaipur

Vs.

Commissioner, Central Goods and Service Tax, Respondent
& Central Excise, Jaipur-1
NCR Building, Statue Circle,
C-Scheme, Jaipur

Appearance:

Present for the Appellant: Ms. Priyanka Goel, Advocate

Present for the Respondent: Shri Anuj Kumar Neeraj, Authorized Representative

CORAM:

HON'BLE DR. RACHNA GUPTA, MEMBER (JUDICIAL)

Date of Hearing: 19.05.2026
Date of Decision : 31.08.2026

Final Order No. 51413/2026

Dr. Rachna Gupta

Present appeal is filed to assail the Order-in-Appeal No. 19/2023 dated 15.03.2023.

2. The facts in brief, which culminated into the said order are as follows:

M/s Kandoi Metals Powders Mfg. Co. Pvt. Ltd.[1] is engaged in manufacturing of Copper Powder, Copper Wire Rope and Copper Wire etc. Department got an intelligence about M/s Metal Alloy Industries [2] who were also registered with Central Excise department for manufacturing of Copper Rod, Re-melted Copper Ingots etc. However were informed to be fraudulently availing/passing of Cenvat credit without having any facility to manufacture, the said finished goods in the factory premises. During investigation it got revealed that only once Lead Ingots were manufactured in the factory of M/s MAI, during the month of February 2016 and no other goods at any other point of time were manufactured by them. The said MAI was also found to have availed Cenvat credit on paper invoices without actually receiving the goods which they were passing to various other manufacturers/dealers without actual delivery of the goods.

2.1 The statements of the employees (Guard, Accountant, Supervisor etc. the owner of the trucks and the proprietor) of MAI as well as the proprietor thereof also revealed that only once the factory got facility of manufacturing in February 2016 also. The production of products, as given in the show cause notice was also denied with the mention that RG 23A Part-I was not being maintained by MAI. The dealers of MAI viz. M/s Metal Impex, M/s Bhiwadi Cylinders Pvt. Ltd., M/s Metal Alloys and even the present appellant - M/s Kandoi Metals Powders Mfg. Co. Pvt. Ltd. were also found to have no facility of manufacture and supply of the goods in their registered premises.

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1 the appellant herein
2 MAI

2.2 The department alleged that MAI was purchasing Cenvatable invoices without receiving the raw material physically in their factory premises and was passing on Cenvat credit on the purportedly raw material/inputs to various manufacturers/dealers including the appellant. The appellant was alleged to be involved in fraudulent availment of Cenvat credit. Hence vide show cause Notice No. 681/20/1003 dated 03.09.2020 Cenvat credit amounting to Rs. 5,25,245/- as availed by the appellant was proposed to be disallowed to the appellant alleging that the same has been wrongly availed. Interest on the said amount at appropriate rate in terms of Section 11AA of Central Excise Act along with the penalty of the equal amount in terms of Section 11AC (1)(c) of CEA was also proposed to be imposed upon the appellants. The said proposal was initially confirmed vide the Order-in-Original No. 03/2021-22 dated 25.10.2021. Appeal against the said order has been rejected vide the impugned order under challenge. Being aggrieved, the appellant is before this Tribunal.

3. I have heard Ms. Priyanka Goel, learned counsel for the appellant and Shri Anuj Kumar Neeraj, learned Authorized Representative for Revenue.

4. Learned counsel for the appellant has submitted that there was sufficient evidence produced by the appellant to establish that the quantity of inputs supplied i.e. 9772.00 kg. of Copper Ingots by M/s Bhiwadi Cylinders Pvt. Ltd under the cover of invoices had been duly received into the appellant’s factory and were used in the manufacture of final products. Hence the credit of Rs. 5,25,245/- as availed on the basis of those invoices has wrongly been denied

to the appellant. The allegations of the department are only presumptive in nature which stands falsified by the documentary evidence as that of invoices. The copies of Goods Receipt[3] issued by M/s MAA Shakumbari Logistics Pvt. Ltd. where the appellant is shown as the consignor and M/s Bhiwadi Cyclinders Pvt. Ltd. is shown as consignee were also submitted before the authorities below. But those have not been considered. Also the receipt of those goods have been duly accounted for in RG 23A Part-II register copies whereof are mentioned to have been attached on record of the present appeal as well. But none of the evidence has been considered by the original adjudicating authority nor even by the Commissioner (Appeals). The decisions as have been relied upon by the said authorities are not applicable to the facts and circumstances of the present case. With these submissions, and relying upon the following decisions the order under challenge is prayed to be set aside and appeal is prayed to be allowed.

(i) **R.N. Metals Vs. Commissioner of Customs, Excise & CGST, Jaipur[4];**

(ii) **Rotocast Industries Ltd. and Sushil Kumar Malani Vs. CCE & CGST, Raipur (CG)[5];**

(iii) **CCE, CGST & Jaipur Vs. M/s Bonafide Arts Pvt. Ltd.[6].**

5. Learned Departmental Representative, on the other hand, while reiterating the findings arrived at in the order under challenge has prayed for the dismissal of appeal.

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3 **GR**
4 **2025 (6) TMI 438-CESTAT New Delhi**
5 **2024 (5) TMI 5 – CESTAT New Delhi**
6 **2023 (10) TMI 1301 – CESTAT New Delhi**

6. Having heard both the parties perusing the entire record, we observe that the Commissioner (Appeals) in para 6.5 of the impugned order has given the following findings:

> "6.5 From the above findings and discussion, it is clear that M/s Bhiwadi Cylinders Pvt. Ltd., Bhiwadi has issued Invoice No. 61 dated 20.08.2025 involving Cenvat credit of Rs. 5,25,245/- without actual received of goods to the appellant. When the supplier has not received the goods in question from M/s MAI as mentioned in invoice No. 61 dated 20.08.2015, then the said goods could not be supplied to their buyer i.e. to the appellant. And therefore, the appellant could not received such goods from the supplier of invoice No. 61 dated 20.08.2015. Thus, it was only paper transaction without actual receipt of goods and the appellant had availed the Cenvat credit of Rs. 5,25,245/- without actual receipt of the goods. Therefore, the same is liable to be disallowed and Cenvat is liable to be recovered from the appellant along with interest under the provisions of Rule 14 of the CCR, 2004 read with Section 11A and 11AA of the Central Excise Act, 1944. I hold accordingly."

7. I observe it to be an acknowledged fact that no enquiry has been extended to the transporter to the said transporter (MAA Shakumbari Logistics Pvt. Ltd.) to support the alleged non-receipt of the goods by M/s Bhiwadi Cylinders Pvt. Ltd. The appellant rather has placed on record the GR of the said transporter which has also not been denied by the adjudicating authorities. The perusal thereof clearly shows that M/s Bhiwadi Cylinders Pvt. Ltd. the consignor had transported copper ingots weighing 8897 kgs. to be delivered to M/s Kandoi Metals Powders Mfg. Co. Pvt. Ltd. The invoice No. 61 dated 20.08.2025 on the record of appeal memo is as it shows corroborating the ssaid GR that the copper ingots weighing 9772 kg. was being delivered by M/s Bhiwadi Cylinders

Pvt. Ltd. to the appellant - M/s Kandoi Metals Powders Mfg. Co. Pvt. Ltd., the manufacturer whereof was MAI.

7.1 The department has not produced any evidence on record except relying upon oral statements recorded at the stage of investigation. As per the Indian Evidence Act, the documentary evidence has to prevail upon the oral evidence. Otherwise, also for admissibility of the oral evidence, in absence of any corroborative documentary evidence, compliance of Section 9D of Central Excise Act has to be made by the department. Apparently and admittedly, there is no such compliance made. There has been heavy reliance on the fact that no manufacturing facility/activity was found existing at the registered premises of the sellers of raw material from whom the appellant has made the purchases. But there is nothing on record to show that the department ever investigated or ever questioned the officers who issued the registration to such assesses. In such circumstances, the allegations of the department are held to be bald without any cogent proof for the same.

7.2 The burden of proof was of the department only which otherwise stands falsified by the documents, as discussed above, produced by the appellant. Above all, no enquiry was conducted from the appellant neither his statement ever got recorded nor ever his premises were searched. There is no denial to the fact that the appellant was clearing manufactured goods and was paying the Central Excise duty. The denial of Cenvat credit availed by the appellant based on the third party data, the order is not sustainable. We draw our support from the decision in the case of **R.N. Metals** (supra).

8. In the totality of entire above discussion, I hereby set aside the order under challenge. Consequent thereto, the appeal stands allowed.

(Pronounced in open Court on 31.08.2026)

(Dr. Rachna Gupta)
Member (Judicial)

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