

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH**

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 54518 of 2015

[Arising out of Order-in-Original No. 11/KKK/Commr./Adjn./FBD-I/2015-16 dated 12.08.2015 passed by the Principal Commissioner, Central Excise & Service Tax, Faridabad]

M/s Kamal Steel Fabricators
33-B, N.I.T., Faridbad, Haryana-121001

.....Appellant

VERSUS

**Commissioner of Central Excise,
Faridabad-I**
Block D, New CGO Complex, NH-IV,
NIT, Faridabad, Haryana-121001

.....Respondent

APPEARANCE:

Ms. Shweta Chauhan, Advocate for the Appellant

Shri Yashpal Singh, Authorized Representative for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)

HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 60428/2026

DATE OF HEARING: 29.05.2026

DATE OF DECISION: 06.07.2026

P. ANJANI KUMAR :

M/s Kamal Steel Fabricators challenged the impugned order dated 13.08.2015 passed by Principal Commissioner, Central Excise & Service Tax, Faridabad-I.

2. Brief facts of the case are that a show cause notice dated 04.06.1998 was issued to the appellants demanding central excise

duty of Rs.55,01,282/- on the allegation that they have collected the same from Indian Railways that is their customers and have not deposited the same to the government exchequer in violation of the provisions of Section 11D of the Central Excise Act, 1944. Learned Commissioner of Central Excise confirmed the demand along with a penalty of Rs. 5 Lakhs under Rule 173Q of Central Excise Rules, 1944. On an appeal filed by the appellants, Tribunal vide Final Order No. A/30/2012-EX (DB) dated 11.01.2012 remanded the matter back to the adjudicating authority for quantification holding that excise duty actually paid by the appellants at the time of clearance of the goods from the factory is not to be included in the total demand. In the remand proceedings, learned Commissioner vide impugned order confirmed the demand of Rs.55,01,282/-.

3. Ms. Shweta Chauhan, learned counsel for the appellants submits that the impugned order is liable to be set aside being barred by limitation; the demand is unsustainable as it pertains to the period from January 29, 1990 to September 19, 1991 and Section 11D was introduced only w.e.f. September 20,1991 and the same cannot be applied retrospectively. She submits that it was held in Mahatma Sugar and Power Limited, Nagpur (Central Excise Appeal No.3/2014 dated December 5, 2025) and Hindalco Industries Ltd. – 2017 (52) STR 2023 (Del.) that Section 11D will only be prospective and cannot be applied retrospectively. She also submits that the demand is otherwise barred by limitation as the same was issued in 1998; it was held in Omid Engineering Pvt. Ltd. – 2024 (7) TMI 61- CESTAT Chandigarh that even if there is no prescribed time

limit under Section 11D, show cause notice has to be issued within a reasonable time. She further submits that this being a pure question of law can be taken at any point of time; the impugned order proceeds to confirm the demand incorrectly stating that the appellant has not submitted any documents to establish the proof of payment of duty; the appellant has furnished RT-12 Returns and financial statements. She relies on the following cases.

4. Shri Yashpal Singh, learned Authorized Representative for the Revenue reiterates the findings of the impugned order.

5. Heard both sides and perused the records of the case. We find that the main argument of the appellant is about the retrospective application of Section 11D. We find that the issue involved in the case pertains to a period prior to September 19, 1991 whereas Section 11D was inserted w.e.f September 20, 1991. We find that any statutory provision unless expressly stated cannot be applied retrospectively. We find that in the instant case, there is nothing on record to show that the amendment is retrospective. We find that Hon'ble High Court of Mumbai in the case of Mahatma Sugar and Power Ltd. (supra) relying on the judgment of Hon'ble Supreme Court in the case of Jalna Sahakari Shakkar Karkhana Ltd. (Appeal No. 646/ 2006 dated 08.09.2017) held as follows: para 7, 8, 9 at page 4 & 5

6. We also find that Hon'ble Delhi High Court in the case of Hindalco Industries (supra) held as under: para 9, 10 at page 5

7. In view of the above, we find that Revenue has not made out any case to recover the duty collected and retained by the

appellants prior to the introduction of Section 11D. Moreover, learned counsel for the appellants has further submitted on limitation. We find that the appellants have also a strong case on limitation in view of the cases cited by her as above. However, as we find that the issue is squarely covered on merits, we do not find it necessary to give findings on the issue of limitation. Therefore, we find that the impugned order is not sustainable. Accordingly, the appeal is allowed.

(Order pronounced in the open court on 06/07/2026)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)