

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT AHMEDABAD**

REGIONAL BENCH – COURT NO. 03

Excise Appeal No. 10200 of 2014

[Arising Out Of OIA-DMN-EXCUS-000-APP-205-13-14 Dated-30/10/2013 Passed by the
Commissioner of Central Excise, CUSTOMS (Adjudication)-DAMAN]

Essel Mining & Industries Ltd

Plot No. 165 & 166, Gidc, Estate,
Vapi, Gujarat

.....Appellant

VERSUS

C.C.E. & S.T.-Daman

3rd Floor...Adarsh Dham Building, Vapi-Daman Road, Vapi
Opp.Vapi Town Police Station,
Vapi, Gujarat-396191

.....Respondent

APPEARANCE:

None appeared for the Appellant

Shri. Anand Kumar, Superintendent (AR) for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. SOMESH ARORA

FINAL ORDER NO.A / 11364 /2023

DATE OF HEARING:23.06.2023

DATE OF DECISION:23.06.2023

Somesh Arora

The issue in the present case relates to duty on "Effluent Treatment Plant" (ETP) charges which are paid for treatment of the liquid and solid waste, the treatment plant is located outside the factory, where the said treatment of waste takes place. The department has disallowed the same on the ground that being a service provided outside the factory, output the same cannot be said to be resulting in any chargeable good (output) for the purposes of Central Excise and Cenvat credit Rules applicable for it. As against, this the appellants vide their written submission dated 19.06.2023

have sought to rely upon the Order No. A/13754/2017 dated 29.11.2017 in appeal pertaining to M/s. Essel Mining and Industries Ltd Vs. Commissioner of Central Excise and Service Tax , -Valsad of this Tribunal only. The issue in that matter has been dealt with in para 3 and 4 of the order reproduced below:-

"3. The short issue involved in the present case is: whether the appellant are entitled to avail Cenvat credit of service tax paid in various input service used in relation to Effluent Treatment Plant (ETP) situated outside the factory premises.

4. There is no dispute of the fact that the ETP situated outside the factory is meant to be used for disposal of the hazardous waste generated during the course of manufacture. Merely because it is situated outside the factory premises, credit of service tax paid on various services in relation to said ETP cannot be denied in view the principle of law down in Parry Engineering & Electronics Pvt. Ltd. Vs. CCE, Ahmedabad 2015 (40) STR 243(Tri.-LB). In the result, the impugned order is set-aside and the appeal is allowed with consequential relief, if any, as per law."

2. Confronted with the order, the learned AR seeks to rely upon the order of Commissioner (Appeals) to state that such "Effluent Treatment Plant" (ETP) being located outside the factory, the credit was not allowed.
3. Considered, the issue is no more res-integra in view of paras of the decision cited (Supra) in the order, reproduced above.
4. Accordingly, the appeal is allowed with consequential relief as per law.

(Dictated and pronounced in the open Court)

**(SOMESH ARORA)
MEMBER (JUDICIAL)**