

***In The Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad***

Appeal No. E/11612/2018-SM

[Arising out of OIA-VAD-EXCUS-002-APP-543-2017-18 dated 30/10/2017 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-VADODARA-I]

M/s. Gujarat Guardian Ltd

Appellant

Vs

C.C.E & S.T -Vadodara-ii

Respondent

Represented by:

For Appellant: Mr. S.J. Vyas (Advocate)

For Respondent: Mr. A. Mishra (A.R.)

CORAM:

HON'BLE MR. RAMESH NAIR, MEMBER (JUDICIAL)

Date of Hearing/Decision:13/12/2018

Final Order No. A/ 12941 /2018

Per: Ramesh Nair

The issue involved is that whether the appellant is entitled for Cenvat Credit in respect of welding electrodes used for repairs and maintenance of the plant and machinery.

2. Shri. S.J.Vyas, Ld. Counsel appearing on behalf of the appellant submits that on the very same issue various High Courts including the Supreme Court Larger Bench decided the issue in favour of the assessee. He placed reliance on the following judgments:-

- Tamilnadu Newspreints & Papers Ltd-2017 6 TMI 574 HC MAD
- Ambuja Cement Eastern Ltd-2010 4 TMI 429 HC CHH
- Hindustan Zinc Ltd-2006 5 TMI 44 HC RAJ
- Gaurang Products-2018 11 TMI 73 TRI ALL
- The Oudh Sugar Mills Ltd-2018 9 TMI 1349
- The Ramco Cements Ltd-2018 7 TMI 169
- Pushpak Steel Inds.-2017 9 TMI 291

3. Shri. Amit Kumar Mishra, Ld. Deputy Commissioner (AR) appearing on behalf of the Revenue reiterates the finding of the impugned order. He submits that the Hon'ble High Court in the case of Upper Ganges Sugar & Industries Ltd. Vs. Commissioner of Cus. & Customs Excise-2015 (324) ELT 94 (All.) and Commissioner of C. Ex., Lucknow Vs. Nandganj Sihori Sugar Co. Ltd-2017 (357) E.L.T 13(All.) held that the Cenvat Credit on Welding Electrodes used for repairs and maintenance of plant and machinery is not admissible.

4. On careful consideration of the submissions made by both the sides and perusal of the records, I find that the Hon'ble Supreme Court in case of Ramala Sahkari Chini Mills Ltd., Vs. CCE., Meerut-I-2016 (2) TMI 902 held that the welding electrodes used for of repair and maintenance of Plant and Machinery is an input. In view of this Apex Court judgments, the judgments relied upon by the Ld. AR are distinguished.

5. Accordingly the Cenvat Credit is admissible on welding electrodes. The impugned order is set aside and appeal is allowed

(Dictated and pronounced in the open court)

(Ramesh Nair)
Member (Judicial)

Prachi