Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench at Ahmedabad

REGIONAL BENCH- COURT NO. 3

Excise Appeal No. 10478 of 2017- DB

(Arising out of KCH-EXCUS-000-COM-09-16-17 dated 28.11.2016 passed by Commissioner of Central Excise & Service Tax- Kutch (Gandhidham))

M/s Shree Renuka Sugars Limited ....**Appellant**
Bharapur,
Taluka- Gandhidham
Kutch-Gujarat

VERSUS

C.C.E-Kutch (Gandhidham) ......**Respondent**
Central Excise & Service Tax Commissionerate,
Centeral Excise Bhavan Plot No. 82, Sector 8, Gandhidham(Kutch)
Gandhidham(Kutch)-Gujarat

APPEARANCE:
Present for the Appellant : Shri Sunil S. Kadam, Vice President with Shri Rahul Patil, Senior General Manager
Present for the Respondent: Shri R. K. Agarwal, Authorised Representative

CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR
HON'BLE MEMBER (TECHNICAL), MR. RAJU

FINAL ORDER NO. 11062 /2024

DATE OF HEARING: 01.05.2024
DATE OF DECISION:15.05.2024

RAMESH NAIR

The issue involved in the present case is that whether the appellant is entitled for cenvat credit on the capital goods i.e. heat exchanger falling under chapter 84 and Structural Steel Material such as Mill Plates, HR Coil, Plates, Beams, Channels, Angles, MS Joists.

2. Shri Rahul Patil, Senior General Manager with Shri Sunil S. Kadam, Vice President (Legal) of the appellant company appearing for the appellant submits that as regard the heat exchanger, the same falls under the Chapter 84, therefore without specific use of the said item, only on the basis that the heat exchanger has been used in the factory of the appellant, credit is admissible as per the definition of capital goods provided under Cenvat Credit Rules, 2004. As regard, the other

steel material, he submits that all the said goods were used for fabrication of various capital goods namely,

i) Molasses Tanks,
ii) Piping, fittings, tanks, insulation
iii) Fabrication of Boiler and thermal insulation
iv) Raw water storage tank
v) Decolorized liquor tank
vi) Concentration of sugar liquor tank
vii) Bag conveyor

Therefore, in view of the various judgments, the credit on these items are admissible. He submits that the credit was denied on the steel material on the ground that the appellant have not produced any authority from Technical Expert regarding use of the items. He submits that now the appellant have obtained a Chartered Engineer Certificate but after passing of adjudication order according to which the appellant are eligible for cenvat credit on all the items. He placed reliance on the following judgments:

- CCE vs Rajasthan Spinning Weaving Mills 2010 (255) ELT 481 (SC)
- CCE vs Jawahar Mills Ltd. 2001 (132) ELT 3 (SC)
- Sugar Ltd. 2010 (250) ELT 326 (Kar)
- SLR Steels Ltd 2012 (280) ELT 176 (Kar)
- Mundra Port & SEZ Ltd. 2015 (39) STR 726 (Guj.)
- CCE vs Hindalco 2012 (286) ELT 503 (Kar)
- Vandana Global 2018 (16) GSTL 462 (Chattisgarh)
- ThiruArooram Sugars 2017 (355) ELT 373 (Mad)
- Metrochem Industries Ltd. 2013 (22) ELT 578 (Tri. Amd)
- Aarti Industries Ltd. 2016 (335) ELT 775 (Tri. Amd)

3. Shri R. K. Agarwal, Learned (Superintendent) Authorised Representative, appearing on behalf of the revenue reiterates the findings of the impugned order.

4. We have carefully considered the submissions made by both the sides and perused the records. We find that in the present case the cenvat credit was denied on two types of material one heat exchanger

which admittedly falls under Chapter 84. As per the definition of capital goods under Rule 2(a) of Cenvat Credit Rules, 2004 all goods falling under chapter 84 are eligible for cenvat credit under capital goods, therefore, as regard, the heat exchanger, since there is no dispute about receipt and use of the material, irrespective of the purpose of use, but so long it is used in the factory, the cenvat credit is clearly admissible on the goods falling under Chapter 84.

5. As regard, the other steel material such as Mill Plates, HR Coil, Plates, Beams, Channels, Angles, MS Joists, we find that as per the catena of judgments cited by the appellant, the appellant are prima facie entitled for the cenvat creditif the said goods were used in the fabrication of capital goods as claimed by the appellant.The adjudicating authority has denied the credit only on the ground that the appellant could not submit any technical authority, the Chartered Engineer Certificate was submitted post adjudication order. Therefore, matter related to the cenvat credit on the steel materials, needs to be reconsidered in the light of the Chartered Engineer Certificate. Accordingly, we hold that the cenvat credit related to the heat exchanger falling under Chapter 84 is allowed and as regard, the remaining cenvat credit related to steel material, the matter is remanded to the adjudicating authority for passing a fresh order. The appeal is Partly allowed and partly remanded in above terms.

(Order pronounced in the open court on 15.05.2024)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

Neha