IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL Nos. E/1439-1451 & 1621-1634/2011-EX[DB]

(Arising out of Orders-in-Appeal No. 46-63-CE/MRT-II/2011 dated 28/02/2011 passed by Commissioner of Central Excise & Customs (Appeals), Meerut)

M/s Dhampur Sugar Mills Ltd. (in Appeal No. E/1439-1451/2011) **&**

Shri. Amit Sharma, DGM (Comml.) (in Appeal No. E/1621-1634/2011)

Appellant(s)

Vs.

Commissioner of Central Excise, Meerut-II **Respondent(s)**

Appearance:

Ms. Pushpila Bisht (Advocate) & Shri Ashish Malhotra (Advocate)
for Appellant(s)
Shri Gyanendra Kumar Tripathi (AC) AR for Respondent(s)

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 22/06/2018
Date of Decision : 22/06/2018

FINAL ORDER NOs **71187-71213 / 2018**

Per: Archana Wadhwa

All the appeals are being disposed of by a common order as the issue involved in all of them is identical. The appellant M/s Dhampur Sugar Mills Ltd., are engaged in the manufacture of sugar and molasses and Shri Amit Sharma is DGM of the said company.

2. Vide impugned orders, Lower Authorities have denied the Cenvat Credit of duty paid on various iron and steel items like sheet, section, angles channels guarder plates etc., on the ground that the same have been used as supporting structurals and in terms of the law declared by the Larger Bench of the Tribunal in the case of Vandana Global vs. Commissioner of Central Excise, Raipur, reported at 2010 (253) ELT 440 (Tri.-LB), the credit would not be admissible in respect of said items. Accordingly, demands stand confirmed by denying the credit and penalties stand imposed upon both the appellants.

3. Learned advocate appearing for the appellants has submitted that the items in question were used for fabrication of capital goods and even as per law appeared by the Larger Bench, such use is cenvatable. She draws our attention to an earlier order of this Bench in their own case being Final Order No. 70735-70743/2018 dated 28.08.2017 wherein the Cenvat Credit in respect of identical items was allowed. She clarifies that the earlier order pertained to the period April, 2008 whereas the period involved in present appeals is May, 2008 onwards.

4. Apart from the fact the issue is decided in the same assessee's case vide above referred order, we note that the Revenue's only reliance is upon the Larger Bench's decision of the Tribunal in the case of Vandana Global (supra), which

does not stand approved by the Hon'ble Gujarat High Court in the case of Mundra Ports & Special Economic Zone Ltd. vs. CCE & Cus., reported at 2015 (39) S.T.R. 726 (Guj.). As such by following the earlier decision (supra) of the Tribunal as also in the light of the Hon'ble Gujarat High Court in the case of Mundra Ports & Special Economic Zone Ltd., (supra), we set aside the impugned orders and allow all the appeals with consequential relief to the appellants.

(Dictated and pronounced in Court)

Sd/-	**Sd/-**
Anil G. Shakkarwar)	**(Archana Wadhwa)**
Member (Technical)	**Member (Judicial)**

Ankit