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

APPEAL No.E/70873/2016-EX[DB]

(Arising out of Order-in-Original No.03/Commissioner/HPR/2016-2017 dated 23/05/2016 passed by Commissioner, Customs, Central Excise & Service Tax, Meerut)

M/s Yadu Sugar Ltd. **Appellant**

Vs.

Commissioner, Central Excise, Hapur **Respondent**

Appearance:
Request for Adjournment for Appellant
Shri Pawan Kumar Singh, Superintendent, (AR), for Respondent

CORAM:

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

Date of Hearing/ Decision : 14/02/2019

FINAL ORDER NO.**70273 / 2019**

Per: Archana Wadhwa

After rejecting the request for adjournment, we proceed to decide the appeal inasmuch as the disputed issue stands decided. Accordingly, we have heard learned A.R. and have gone through the impugned order.

2. The short issue involved is as to whether the appellant who is engaged in the manufacture of 'Sugar and Molasses' is entitled to avail Cenvat credit of duty paid on various iron & steel articles either used for fabrication of capital goods or as supporting structural for installation of the capital goods. The Commissioner while rejecting the availability of Cenvat credit

has relied upon Tribunal's Larger Bench decision in the case of M/s Vandana Global Limited V/s CCE, Raipur reported at 2010 (253) E.L.T. 440 (Tribunal-LB).

3. We note that said decision of the Larger Bench does not stand approved by the Hon'ble Gujarat High Court in the case of Mundra Ports & Special Economic Zone Ltd. V/s CCE & Customs, reported at 2015 (39) S.T.R. 726 (Gujarat). Further, the said Larger Bench decision stand specifically set aside by the Hon'ble Chhattisgarh High Court in the case of M/s Vandana Global Ltd. V/s Commissioner of Central Excise & Customs, Raipur reported at 2018 (16) G.S.T.L. 462 (Chhattisgarh). As such we note that the issue stands decided in favour of the assessee by the above referred decision by setting aside the Larger Bench Decision.

4. In view of the foregoing, we set aside the impugned order and allow the appeal with consequential relief to the appellants.

(Pronounced & Dictated in Court)

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

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