FAX : 0532-2400149

REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

Dated: 30/11/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71714/2017-EX[DB] dated 27/11/2017

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 35-C(1) of the Central Excise and Salt Act, 1944.

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	E/2329/2011	K.M.SUGAR MILLS LTD Motinagar, Faridabad. Haryana
		Name and Address of Respondent
2		-C.C.E Allahabad 38,M.G.Marg, civil Lines, Allahabad

Copy To

3 Advocate(s) / Consultant(s):

Ms. Stuti Saggi (Adv.)(ALLD)
102, MAHALAXMI ENCLAVE (ADJ. INCOME TAX OFFICE), STANLEY ROAD, CIVIL LINES, ALLAHABAD (U.P.)-211001

4 Bar Association, CESTAT, Allahabad

5 Director Publications, Customs, Excise. I.P. Estate, Delhi

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp ICICI Bank of Defence Colony New Delhi-3

7 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

9 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

10 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

11 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

12 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

13 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

14 C.D.R. 15 Office Copy 16 Second Folder Copy 17 Guard File

Asstt. Registrar

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

APPEAL No. E/2329/2011-EX[DB]

(Arising out of Order-in-Original No. MP (Dem-54/2010) 25 of 2011 dated 30.06.2011 passed by the Commissioner of Central Excise, & Service Tax, Allahabad)

K.M. Sugar Mills Ltd.	Appellant (s)
Vs.	
C.C.E.- Allahabad	Respondent (s)

Appearance:

Ms. Stuti Saggi (Adv)	**for Appellant**
Shri Pradeep Kumar Dubey (Supdt.) AR	**for Respondent**

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

Date of Hearing/Decision :- 27.11.2017

FINAL ORDER NO-71714/2017

Per: Mrs. Archana Wadhwa:

After hearing Ms. Stuti Saggi (Adv) appearing for the appellant and Shri Pradeep Kumar Dubey (Supdt.) AR appearing for the Revenue, we find that the dispute relates to availability of Cenvat Credit in respect of various iron and steel articles like M.S. Rods & Bars, M.S. Plates, Angles, Joists, Channels, M.S. Mill Plates, Chequered Plates, H.R. Plates etc. which stands utilized by the respondents either in fabrication of capital goods or as supporting structurals.

2. On going through the impugned orders, we find that the Revenue has relied upon the larger Bench decision of the

Tribunal in the case of Vandana Global Ltd. v. CCE, Raipur [2010 (253) E.L.T. 440], wherein it was held that the explanation added to the definition of capital goods w.e.f. 07.07.2009 has to be held as explanatory and thus retrospective in nature. The said decision of the Tribunal was considered by the Hon'ble Gujarat High Court in the case of Mundra Ports & Special Economic Zone Ltd. v. CCE & Cus [2015 (39) S.T.R. 726 (Guj.)], wherein the said decision was not approved by the Hon'ble High Court. Learned Advocate has also drawn ~~my~~ our attention to a recent decision of the Madras High Court in the case of Commissioner of Central Excise, Salem vs. Madras Aluminium Co. Ltd.: 2017 (349) E.L.T. 133 (Mad.) laying down that MS angles were used as support structure which are cenvatable items. To the similar effect is another decision of the Hon'ble Madras High Court in the case of Commissioner of Central Excise, Tiruchirapalli Vs. India Cements Ltd. : 2012 (285) E.L.T. 341 (Mad). We also note that in ~~addition to~~ a recent decision Tribunal in the case of M/s Singhal Enterprises Pvt. Ltd. Vs. Commissioner of Customs and Central Excise, Raipur reported as 2016-TIOL-2451-CESTAT-DEL, has considered the entire case ~~was~~ law on the subject and has held identical goods used in the fabrication of support structure as cenvatable items.

3. Inasmuch as the matter stands decided, we find no reason to uphold the impugned order of the authorities below denying credit of duty on the said count. Accordingly, the

same are set aside and appeal allowed with consequential relief to the appellant.

(Dictated and pronounced in Court)

Sd/-
Anil.G. Shakkarwar
Member(Technical)

Sd/-
(Archana Wadhawa)
Member (Judicial)

GS

प्रमाणित प्रति/Certified True Copy
03/01/18
Asstt. Registrar
(C.E.S.T.A.T.)
ALLAHABAD-211001