

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
SCO 147-148, SECTOR 17-C, CHANDIGARH-160017

DIVISION BENCH

Court-I

Appeal No.E/738/2012

(Arising out of OIO No.85/CE/CHD-II/2011 dt.19.12.2011
passed by the CCE, Chandigarh)

Date of hearing/Decision:05.07.2018

**IOL Chemicals And Pharmaceuticals
Limited**

Appellant

Vs.

CCE, Chandigarh

Respondent

Present for the Appellant: Shri T.R.Rustogi, Advocate

Present for the Respondent: Shri Atul Handa, AR

Coram: Hon'ble Mr. Ashok Jindal, Member (Judicial)
Hon'ble Mr.Devender Singh, Member (Technical)

FINAL ORDER NO. 62527/2018

PER: ASHOK JINDAL

The appellant is in appeal against the impugned order wherein Cenvat credit on the steel items, namely, M.S.Plates, MS Sheets/Aluminium Coil, Joist/Square/joist Channel/HR Plates/Shapes & Sections/ MS Channels, Angles, welding electrodes CRSS Patti/HRSS Plates/HR Coil/Sheets etc. were denied on the premise that these items are not capital goods in terms of Rule 2(a) of Cenvat Credit Rules, 2004. The appellant is not entitled to avail Cenvat credit on the said items for the period 15.5.2006 to 31.3.2010.

2. Heard the parties and considered the submissions.

3. Without going into the merit of the case, we find that during the impugned period, there were divergent views by this Tribunal on the issue of availability of Cenvat credit on the items in question. Initially, the said issue has been settled by the larger bench of this Tribunal in the case of Vandana Global Limited vs. CCE, Raipur-2010 (253) ELT 440 (Tri.-LB) on 30.04.2010 wherein it has been held that the Cenvat credit is not available to the appellant. As the said decision of the Larger Bench of this Tribunal in the case of Vandana Global Limited is also set aside by the Hon'ble Chhattisgarh High Court reported in 2011 (274) ELT A-78 (Chhattisgarh), in that circumstance, we hold that as the whole demand has been raised by invoking the extended period of limitation, the demand is not sustainable as barred by limitation. In that circumstance, we set aside the impugned order and allow the appeal with consequential relief, if any.

(dictated and pronounced in the court)

(DEVENDER SINGH)
MEMBER (TECHNICAL)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

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