IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL SOUTH ZONAL BENCH, CHENNAI

Appeal No. E/40053 /2013

(Arising out of Order-in-Appeal No. 227/2012 dated 25.9.2012 passed by the Commissioner of Central Excise (Appeals), Trichy)

M/s. Ultra Tech Cements Ltd. Appellant

Vs.

CCE, Trichy Respondent

Appearance

Ms. Sweta Giridhar, Advocate for the Appellant
Shri R. Subramaniyam, AC (AR) for the Respondent

CORAM

Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)

Date of Hearing / Decision: **25.10.2017**

Final Order No. 42370/2017

The appellants are manufacturers of cement and clinker and were availing the facility of CENVAT credit on inputs / capital goods and input services. On verification of records, it was noticed that the appellant had availed credit on welding rods / electrodes used for repair and maintenance. The department was of the view that credit availed is not admissible ~~to~~ on duty paid on the welding electrodes and therefore issued a show cause notice proposing to recover irregularly availed credit along with interest and also proposing to impose penalty. After due process of law, the original authority confirmed the demand along with interest and also imposed penalties. In appeal, Commissioner (Appeals) upheld the same. Hence this appeal.

2. On behalf of the appellant, ld. counsel Ms. Sweta Giridhar submitted that the welding electrodes were used for repair and maintenance and that in the appellant's own case reported in 2017-TIOL-224-CESTAT-HYD, the issue has been decided in their favour.

3. The ld. AR Shri R. Subramaniyam reiterated the findings in the impugned order.

4. Heard both sides.

5. The issue is whether credit is admissible to welding electrodes used for repair and maintenance of capital goods. The Hon'ble Apex Court in the case of Ramala Sahkari Chini Mills Ltd. Vs. Commissioner of Central Excise, Meerut – I reported in 2010 (260) ELT 321 (SC) had doubted the decision passed in the case of Maruti Suzuki Ltd. Vs. Commissioner – 2009 (240) ELT 641 (SC) and referred to a Larger Bench. The Larger Bench in the case of Ramala Sahkari Chini Mills Ltd. Vs. Commissioner of Central Excise, Meerut – I reported in 2016 (334) ELT 3 (SC) had observed that the definition of 'inputs' in the CENVAT Credit Rules as it stood prior to 1.4.2011 cannot be given a restrictive meaning. It is to be mentioned that the

Customs, Excise & Service Tax Appellate Tribunal issue for consideration in the case of Ramala Sahkari Chini Mills Ltd. was whether credit is admissible on welding electrodes. This Tribunal in the appellant's own case vide decision cited supra has held the issue in favour of the appellant.

6. Following the same, I hold that the denial of credit is unjustified and the appellants are eligible for credit. In the result, the impugned order is set aside and the appeal is allowed with consequential relief, if any.

(Dictated and pronounced in open court)

Sulekha Beevi

(Sulekha Beevi C.S.)
Member (Judicial)

Rex

Customs, Excise & Service Tax Appellate Tribunal

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चेन्नै/CHENNAI