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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
SINGLE MEMBER APPEAL BRANCH

Appeal No. E/2648/2008 – SM[BR] E /COD/ 163 /2011 E/ CO /162 /2011-SM[BR] Date **03/08/2011**

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
C.C.E. RAIPUR
CENTRAL EXCISE BUILDING, DHAMTARI ROAD,
TIKRAPARA, RAIPUR 492001.
C.C.E. RAIPUR Appellant

Vs

M/S SELENO STEELS LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No. 453 / 2011 –SM[BR]** dated 28.7.2011 passed by the Tribunal under **Section 35-C(1)of Central Excises Act, 1944**

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
M/S SELENO STEELS LTD.
VILLAGE-TARAIMAL,
GHARGODA ROAD, DISTT.
RAIGARH(C.G.)

2. Adv. / Consult HRI K.KURMY &ASSOCIATES
WWWW/17, 7&8, CIVIL TOWNSHIP,
ROURKELA, ORISSA

3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New
6. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
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 -
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
10. LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
12. Office Copy
13. Guard file

Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.

SINGLE MEMBER BENCH
Court-IV
Excise Appeal No.2648 of 2008-SM
Excise Cross Objection No.162 of 2009-SM with
E/COD/163/2009-SM

Date of Hearing/Decision: 28.07.2010

(Arsing out of Order-in-Appeal No.122/RPR-I/2008 dated 23.09.08 passed by the CCE(A), Raipur)

For approval and signature:

Hon'ble Mr.Sahab Singh, Member (Technical)

1	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	Yes
3	Whether Their Lordships wish to see the fair copy of the Order?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

CCE, Raipur — Appellant

Vs.

M/s.Seleno Steels Ltd. — Respondent

Present for the Appellant: Ms. R.K.Jagdev, SDR
Present for the Respondent: None

Coram: Hon'ble Mr.Sahab Singh, Member (Technical)

Final **ORDER NO.** 453/2011 SM (BR)

PER: SAHAB SINGH

This is an appeal filed by the Revenue against the Order-in-Appeal No.122/RPR-I/2008 dated 23.09.08 passed by the Commissioner of Central Excise, (Appeals), Raipur who has upheld the order in original passed by the original authority.

2. The brief facts of the case are that the respondents are registered with the Central Excise department for manufacture of sponge iron, M.s.Ingot, and TMT Bars falling under Chapter 72 of Central Excise Tariff Act, 1985. They were availing the cenvat credit of duty paid on inputs and capital goods under Cenvat Credit Rules, 2002. They had also availed the credit on various structural steel items viz. M.S.Angles, M.S.Channels, M.S.Joists, Chequered Plates, Gratings etc. which are used in their factory premises for fabrication of supporting structure of various machines like kiln, supporting structures of after burning chamber, supporting structure of electric cables of kiln and supporting structures of conveyor gallery, fabrication of walkways, platforms, stair cases, sheds etc. in the factory of the respondents, during the period from 1.3.2003 to 28.4.2005. The said credit was availed by the assessee on the wrong presumption that these items are used for manufacture of capital goods or its parts, components and accessories of capital goods. Instead they fabricated supporting structures for erecting various equipments in their factory and also used it in the fabrication of walkways and galleries, platforms, sheds, staircases, structure for supporting electric cables of kiln etc. A show cause notice dated 9.3.2006 was issued to the respondents proposing the demand of duty of Central Excise equal to the credit availed and also proposing the penalty on the assessee. The proceedings were initiated against the assessee vide show cause notice which was dropped by the original authority against which the department has filed appeal before the Commissioner (Appeals) who upheld the order of the original authority rejecting the departmental appeal vide impugned

order against which the department is in second appeal before this Tribunal.

3. Heard learned SDR for the Revenue. None appeared on behalf of the respondents, inspite of notice.

4. The issue involved in this case is whether the credit equivalent to duty paid on various structural steel items like M.S.Angles, M.S.Channels, M.S.Joists, Chequered Plates, Gratings etc. which are used in their factory premises for fabrication of supporting structure of various machines is admissible or not?

5. Learned SDR is relying on the decision of the Larger Bench of the Tribunal in the case of Vandana Global Ltd. vs. CCE, Raipur-2010 (253) ELT 440 (Tri.-LB) wherein the Tribunal has held that the cement and steel items used for laying foundation and bulding structural support are not covered under Rule 2(a) of Cenvat Credit Rules, 2004.

5. I find that in the present case, the issue is squarely covered by the decision of the Larger Bench of the Tribunal in the case of Vandana Global Ltd. vs. CCE, Raipur cited supra. I therefore hold that the credit availed on the steel structural items is not admissible to the respondents. Accordingly, the departmental appeal is allowed. and cross objections are also disposed of. SS

(The operative part of this already pronounced in the court)

(SAHAB SINGH)
MEMBER (TECHNICAL)

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