IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. IV

Appeal No. E/86/2011 [SM]

[Arising out of Orders in Appeal No. 464 (DKV)CE/JPR-I/210 dated 29.10.2010, passed by the Commissioner (Appeals), Central Excise & ST, Jaipur.]

For approval and signature:

Hon'ble Mr. V. Padmanabhan, Member (Technical)

M/s. Mangalam Cement Limited ....Appellant

Vs.

CCE & ST, Jaipur ....Respondent

Appearance:

Ms. Rinki Arora, Advocate for the Appellants
Shri M.R. Sharma, AR for the Respondent

CORAM:

Hon'ble Mr. V. Padmanabhan, Member (Technical)

Date of Hearing: 03.01.2017

FINAL ORDER NO. 50074/2017-EX [SM]

Per V. Padmanabhan

The appeal is directed against the impugned order dated 29.10.2010 passed by Commissioner (Appeals), Customs and Central Excise, Jaipur. In this case, cenvat credit taken by the appellant on steel items namely, M.S. Channels, M.S. Plates, M.S. Flats etc. has been denied on the ground that the said goods are not inputs used in or in relation to manufacture of the final product. The Cenvat credit on the disputed goods has been denied by the Department, by relying on the Larger Bench decision of this Tribunal in the case of *Vandana Global Global Limited - 2010 (253) ELT 440 (Tri.-LB).*

2. Ms. Rinki Arora, the ld. Advocate appearing for the appellant submits that the period involved is prior to July, 2009, and thus, the embargo created in the definition of 'input' after 07.07.2009 would have no application for denying the Cenvat benefit. She submits that the amendment took place in the definition of input contained in 2(k) of the Cenvat Rules, 2004 will not have any retrospective application, in view of the judgment of Hon'ble Gujarat High Court in the case of *Mundra Ports and Special Economic Zone Limited vs. Commissioner of Central Excise and Customs - 2015 TIOL 1288 (HC) (Ahm.) - 2015 (39) STR 726 (Guj.).* Further, she also relies on the decision in the case of *M/s. Singhal Enterprises Pvt. Limited vs. CC & CE, Raipur - 2016-TIOL-2451-CESTAT-EEL. , M/s. Topworth Steels and Powers Pvt. Ltd. vs. CCE, Raipur - 2016-TIOL-2389-CESTAT-EEL, Monnet Ispat & Energy Ltd. vs. CCE, Raipur - 2015 (230) ELT 771 (Tri.-Del.) , M/s. Petropole India Limited vs. CCE, Raipur decided on 18.05.2016 by CESTAT, New Delhi & CCE, Raipur vs. Monnet Ispat and Energy Limited - 2016-TIOL-1934-CESTAT-DEL)* to state that denial of cenvat credit on the disputed goods are not in conformity with the cenvat statute. She also relies on the decision dated 20.11.2013 of this Tribunal in the case of the appellant itself, wherein the cenvat benefit on the disputed goods have been extended.

3. Shri M.R. Sharma, the ld. DR for the Revenue reiterates the finding recorded in the impugned order.

4. With the above background, I have heard the ld. Counsel for appellant and ld. AR for the Revenue.

5. I find that the issue involved in this case is squarely covered by the decision cited by the ld. Advocate for the appellant. Since the issue involved in this case is prior to 2009, the amended definition of 'input' with effect from 07.07.2009 is not applicable to the facts of this case. Therefore, I do not find any merit in the impugned order and allow the appeal in favour of the appellant with consequential benefit, if any, as per law.

[Dictated and pronounced in the open Court]

(V. Padmanabhan)
Member (Technical)

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