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

Appeal No. E/1370/2011-Ex[SM]

[Arising out of Order-in-Appeal No.17/RPR-I/2011 dated25.01.2011, passed by the Commissioner ofCentral Excise, Raipur]

M/sMahendra Sponge & Power Pvt. Ltd. ....Appellant

Vs.

C.C.E., Raipur ....Respondent

Appearance:

Sh. Manish Saharan, Advocatefor theAppellant
Sh. M.R. Sharma, DR for the Respondent

CORAM:

Hon'bleShri V. Padmanabhan, Member (Technical)

Date of Hearing:20.01.2017

FINAL ORDER NO.____50857____/2017-CU[SM]

Per V. Padmanabhan

The present appeal has been filed against the Commissioner (Appeals) order dated 25.01.2011 passed by the Commissioner (Appeals), Raipur. The issue involved in the present case is disallowance of Cenvat credit on structural steel items used for making supporting platform for capital goods as well as oxygen gas, welding electrodes, which were used for repair and maintenance machinery in the factory.

2. Heard Shri Manish Saharan, ld. Advocate for the appellant as well as Shri. M.R. Sharma, ld. AR for the respondent.

3. Ld. Counsel submitted that issue stand decided in their favour in several decisions of the Tribunal:

i. **Hindustan Coca Cola Beverages Pvt. Ltd. V. Commissioner of Central Excise, Nashik 2015 (38) S.T.R. 129 (Tri.-Mumbai)**
ii. **Hindustan Coca Cola Beverages Pvt. Ltd V. Commissioner of Central Excise & Service Tax, Meerut-II.**
iii. **AET laboratories Pvt. Td. V. Commissioner of Central Excise, Customs and Service Tax, Hyderbad-I, 2015-TIOL-2828-CESTAT-BANG**
iv. **Applied Micro Circuits India Pvt. Ltd. V. Commissioner of Central Excise, Pune-III, 2016-TIOL-403-CESTAT-MUM.**
v. **Commissioner of Central Excise, Delhi III V. Ultratech Cement Ltd. 2010 (260) ELT 369 (Bombay).**
vi. **Reliance Industries Ltd. V. Commissioner of Central Excise & Service Tax (LTU), Mumbai, 2015-TIOL-2343-CESTAT-MUM**
vii. **Commissioner of Central Excise, Bangalore-III V. StanzenToyotetsu India (P) Ltd. 2011(23) STR 444 (Kar.)**
viii. **Commissioner of Central Excise, Bangalore V. Brindavan Beverages (P) ltd. 2007 (213) ELT 487 (S.C.).**
ix. **Apex Fluidomatics Ltd. V. Commissioner of Central Excise, Ahmadabad, 2014 (313) ELT 106 (Tri.-Ahmd.)**

4. Accordingly, he prayed that the benefit of Cenvat credit may be extended to the appellant.

5. DR fairly concedes that the issue is decided by the Tribunal decisions.

6. Heard both sides and perused the records.

7. I find that the issue involved is already decided in favour of the appellant's in the decision cited by the Ld. Counsel. Accordingly, I find that the issue is no longer *res integra* and stands decided in favour of appellant following the decision of the Tribunal. I allow the appeal with consequential relief.

[Dictated and Pronounced in the open court]

V. Padmanabhan
(Member Technical)

RS