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

Excise Appeal No. E/51759/2015-E[SM]
[Arising out of Order-In-Appeal No. 10/RPR/2015/2015 dated 08.01.2015 dated 18.01.2015 passed by CCE-Raipur]

For approval and signature:
Hon'ble Mr. S.K. Mohanty, Member (Judicial)

1	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	
2	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	
3	Whether Their Lordships wish to see the fair copy of the Order?	
4	Whether Order is to be circulated to the Departmental authorities?	

M/s SKS Ispat And Power Ltd. ...Appellant(s)

Vs.

CCE & ST, Raipur …Respondent(s)

Appearance:
Mr. Manish Saharan (Advocate) for the Appellant
Mr. Vaibhav Bhatnagar DR for the Respondent

CORAM:
Hon'ble Mr. S.K. Mohanty, Member (Judicial)

Date of Hearing/ Decision. 21.12.2015

Final Order No. 54327 /2015

Per S. K. Mohanty:

This appeal is directed against the impugned order dated 8.1.2015 passed by the Commissioner (Appeals), Customs, Central Excise and Service Tax, Raipur, upholding denial of cenvat credit on the capital goods namely, Turbine Oil, MS Round in coils and MS Flat in the adjudication order.

2. Sh. Manish Saharan, the Ld. Advocate appearing for the appellant submits that the period involved in this case is from 2007 to 2009 and the SCN issued on 06.08.2012. It is the submission of the Ld. Advocate that since by relying on the decision of this Tribunal in the case of Vandana Global - 2010 (253) ELT 440 (Tri. LB), the cenvat benefit has been denied to the appellant, on limitation ground the same cannot be confirmed inasmuch as there were conflicting decisions on the issue in favour of the assessee as well as against the assessee. To support his submission that extended period of limitation cannot be invoked for confirmation of the cenvat demand, the Ld. Advocate has relied on the decision of this Tribunal in the case of Grasim Industries [Final Order No. A-53106/2014-Ex(DB)] and Indus Smelters Ltd. vs CCE & ST Raipur [Final Order No. E/50271/2014-SM(BR)] dated 27.01.2014.

3. On the other hand, Sh. Vaibhav Bhatnagar, the Ld. DR appearing for the Revenue reiterates the findings recorded in the impugned order.

4. Heard both sides and perused the records.

5. I find that there were conflicting decisions of Tribunal on the issue involved. The matter was ultimately resolved by the Larger bench in the case of Vandana Global (Supra). Since there were conflicting decisions both in favour as well as against the assessee

with regard to taking of cenvat credit on the disputed goods, no melafide can be attributed, justifying invocation of larger period of limitation. I find support from the above decisions cited by the Ld. Advocate for the appellant, wherein this Tribunal has allowed the appeals in favour of the assesees on the ground of limitation. Accordingly, the present appeal of the appellant is allowed on the ground of limitation alone without going into merits of the case.

(Dictated and pronounced in open court)

(S. K. Mohanty)
Member(Judicial)

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