IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing/Order: 19.4.2017

Appeal No. E/1092/2012-SM

(Arising out of Order-in-Original No. Commissioner/RPR/CEX/03/2012 dated 31.1.2012 passed by the Commissioner, Central Excise & Customs, Raipur)

M/s Steel Authority of India Ltd.	Appellant
Vs.	
CCE, Raipur	Respondent

Appearance

Shri Dhruv Tiwari, Advocate	-	for the appellant
Ms. Kanu Verma Kumar, D.R.	-	for the respondent

CORAM: **Hon'ble Mr. Ashok K. Arya, Member (Technical)**

Final Order No. 53114/2017

Per Ashok K. Arya :

The appellant M/s Steel Authority of India (SAIL) is in appeal against the Order-in-Original No. 03/2012 dated 31.1.2012 passed by Commissioner, Central Excise, Raipur whereunder Cenvat credit amounting to Rs.10,75,539/- on account of various inputs goods viz. adhesive tape, welding electrodes, gum boots, concrete sleepers, fish plate, rail and rail crossing, high mast light/HMPV lamp, high pressure sodium vapour, flood , galvanised tower, GI flat, GI rod, lightening pole, ladder, tough tray, cabin fan etc. has been disallowed.

2. Both sides represented by ld. Counsels, Shri Dhruv Tiwari and Ms. Kanu Verma Kumar have been heard.

3. After hearing both the sides and perusal of the facts on record, it appears that for the subject items, the appellant is entitled to take Cenvat credit. In this regard, the appellant in support has cited the following case laws:

(i) *CCE Vs. Madras Cement Ltd.* – 2006 (195) ELT 316 (Tri.-Bang.); affirmed in *CCE Vs. Madras Cement Ltd.* – 2010 (259) ELT 213 (Kar.);

(ii) *SAIL Vs. CCE, Final Order No.* A/52245/2016-SM(BR) dated 28.6.2016;

(iii) *SAIL Vs. CCE* – 2014 (301) ELT 592 (Tri.-Del.); *CCE Vs. Chemplast Sanmar Ltd.* – 2003 (160) ELT 217 (Tri.-Mad.);

(iv) *Jayaswal Neco Ltd. Vs. CCE* – 2015 (319) ELT 247 (SC);

(v) *Maris Spinners Ltd. Vs. CCE* – 2004 (176) ELT 537 (Tri.-Mad); Affirmed in *CCE Vs. Maris Spinners Ltd.* – 208 (223) ELT 163 (Mad.);

(vi) *Sanghi Industries Ltd. Vs. CCE* – 2006 (206) ELT 575 (Tri.-Del.);

(vii) *Tata Steel Ltd. Vs. CCE* – 2012 (282) ELT 459 (Tri.-Kol.); *Hitachi Life & Solution India Ltd. Vs. CCE* – 2015 (325) ELT 148 (Tri.- Ahmd.).

3.1 The ld. Counsel for the Revenue vehemently argues that in case of welding electrodes, the appellant is not entitled to Cenvat credit. However, in appellant's own case in Excise Appeal No. 50486/2016-SM vide Final Order No. 52245/2016 dated 28.6.2016, the Cenvat credit facility benefit in case of welding electrodes also has been allowed. In this regard, the said decision observes as under :

> "2. Contesting the above finding of the original authority the learned counsel for the appellant submitted that the welding electrodes are rightly eligible for credit as inputs in terms of Rule 2(k) of Cenvat Credit Rules, 2004. The "input" as defined now covers goods used in the factory by the manufacturer of the final product. The exclusion under clause (F) is not attracted in this case. The welding electrodes have been used by the appellants both for fabrication of capital goods as well as various repair and maintenance of various capital goods. This has been specifically stated by them in their reply to the notice. The eligibility of welding electrodes for Cenvat credit has been well settled by various decisions. The learned counsel made specific reference to Tribunal decision vide Final Order No. 51979/2016-EX.(DB) dated

> 20.5.2016 in *Lafarge India Pvt. Ltd. Vs. CCE Raipur* and in final order No. 51838/2016 dated 18.5.2016 in *Mangalam Cement Ltd. Vs. CCE, Jaipur-I.* The Tribunal has following the decision of Hon'ble Chhattisgarh High Court in *Ambuja Cements Eastern Ltd. Vs. CCE, Raipur* – 2010 (256) ELT 690 (Chhattisgarh)."

4. Considering the case laws cited by the appellant and the observations made by the Tribunal, quoted above, the appellant is entitled to Cenvat credit for the subject items. Therefore, corresponding penalty imposed by the impugned order in this regard is also dropped. The impugned order is modified to this effect and the appeal allowed with consequential relief, if any, to the appellant.

(Dictated & pronounced in open Court)

(Ashok K. Arya)
Member (Technical)

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