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

Date of Hearing/Decision: 5.6.2017

Appeal No. E/430/2012-SM

(Arising out of Order-in-Original No. COMMISSIONER/RPR/CEX/54/2011 dated 22.11.2011 passed by the Commissioner of Customs, Raipur)

M/s Steel Authority of India Ltd. Appellant

Vs.

CCE, Raipur Respondent

Appearance

Shri Shashwat, Advocate - for the appellant

Shri K. Poddar, D.R. - for the respondent

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

Final Order No. 53732/2017

Per Ashok K. Arya :

M/s Steel Authority of India Ltd. is in appeal against the Order-in-Original No. 54/2011 dated 22.11.2011 whereunder the appellant assessee has been denied benefit of Cenvat credit on welding electrodes and wash oil used within the factory.

2. Both sides represented by ld. Counsels, Shri Shashwat and Shri K. Poddar have been heard.

3. After having carefully considered the facts of the case and submissions of both the sides, it appears that the subject items viz. welding electrodes and wash oil have been used in the process of manufacturing iron and steel items by the appellant assessee. In the case of welding electrodes, the benefit of Cenvat credit has been allowed to the appellant in their own case in the Tribunal's decision vide Final Order No. 53114/2017 dated 19.4.2017 in Appeal No. E/1092/2012-SM. In this regard, the Tribunal in the said decision has observed as under :

> "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 :
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> > "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)."

3.1 In the case of input wash oil, the ld. DR for the Revenue pleads that wash oil is used in the Coal Chemical Division which is not subject to levy of duty therefore Cenvat credit is not admissible on wash oil. However, from the facts, it is clear that final products of the manufacturing process of the appellant are iron and steel products and articles thereof falling under Chapters 72 and 73 of Central Excise Tariff. Wash oil is used for removing the impurities of the coal, which is used as fuel during the manufacturing of steel items by the appellant. There is no dispute of the fact that such use of wash oil is within the factory premises and is being used in relation to manufacturing only by the appellant. The Tribunal in the case of *CCE Vs. Andhra Cements Ltd.* - 2009 (247) ELT 651 (Tri.-

Bang.) has held that the manufacturer should be entitled to credit in respect of inputs received in the factory for manufacture of final products used directly or indirectly in relation to manufacture of final products or any other purpose within the factory of production. The Tribunal in the said case observed as under:

> "**5.1** Moreover, 'input', in terms of Rule 2(k) of Cenvat Credit Rules, 2004 means "all goods, except light diesel oil, high speed diesel oil and motor spirit, commonly known as petrol, used in or in relation to the manufacture of final products whether directly or indirectly and whether contained in the final product or not and includes lubricating oils, greases, cutting oils, coolants, accessories of the final products cleared along with the final product, goods used as paint, or as packing material, or as fuel, or for generation of electricity or steam used in or in relation to manufacture of final products or *for any other purpose, within the factory of production*."
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> **5.2** From the above definition, it is very clear that a manufacturer is entitled to Cenvat credit in respect of inputs or capital goods received in the factory of manufacture of final products used directly or indirectly in relation to manufacture of final products or any other purpose within the factory of production. The definition is very wide to cover even maintenance and repair. In view of this and also the various case-laws relied on by the learned Commissioner (Appeals), we do not find any merit in the Revenue's appeal and the same is dismissed."

3.2 Considering observations of the Tribunal given above, the appellant is entitled to Cenvat credit for the inputs viz.

welding electrodes and wash oil used within the factory of the appellant.

4. In the result, the impugned order is set aside and appeal allowed with consequential relief, if any, to the appellant.

(Dictated & pronounced in open Court)

(Ashok K. Arya)
Member (Technical)

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