CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Date of hearing/decision : 26.07.2017

Excise Appeal No. 52027 of 2014

(Arising out of order-in-original No. RPR-EXCIS-000-121-2013 dated 24.12.2013 passed by the Commissioner of Customs & Central Excise, Raipur)

M/s MSP Steel & Power Ltd. Appellant
(Rep. by Sh. K. K. Anand & Ms. Surbhi Sinha, Advocates)

Vs.

CCE, Raipur Respondent
(Rep. by Sh. S. K. Bansal, AR)

CORAM **:**

HON'BLE MR. JUSTICE (DR.) SATISH CHANDRA, PRESIDENT
HON'BLE MR. ASHOK K. ARYA, MEMBER (TECHNICAL)

FINAL ORDER NO. 55602 /2017

PER Justice (Dr.) Satish Chandra:

The present appeal has been filed against the order-in-original No. RPR-EXCIS-000-121-2013 dated 24.12.2013 passed by the Commissioner of Customs & Central Excise, Raipur.

2. Brief facts of the case are that during the period under consideration (September 2010 to February 2012), the appellant was engaged in the manufacture of sponge iron, billets and TMT bars etc. classified under Chapter 72 of the Central Excise Tariff. The appellant availed cenvat credit on various steel items like MS Angles, MS channels, MS Bar etc. and claimed the cenvat

credit, the same being input for fabrication/ manufacture of various capital goods and support structures which were further used in manufacture of finished goods. But, the cenvat credit was denied by the department. Being aggrieved, the present appeal has been filed by the appellant.

3. With this background, we heard Sh. K. K. Anand assisted by Ms. Surbhi Sinha, ld. Advocates for the appellant and Sh. S. K. Bansal, ld. AR for the Revenue.

4. After hearing both parties and on perusal of record, it appears that till the period 07.07.2009 when the amendment came in Rule 2(k) of Cenvat Credit Rules, 2004, the claim was allowable as per ratio laid down in the case of ***Lafarge India Pvt. Ltd. vs. CCE, Raipur – 2016-TIOL-2451-CESTAT-DEK***. However, regarding the post 7.7.2009 period, the matter was remanded to the adjudicating authority by the Tribunal in assessee's own case vide Final Order No. 50653/2017 dated 31.01.2017. The Tribunal has remanded the matter to the adjudicating authority for the post period of 07.07.2009 to verify whether the inputs were used towards the capital goods or not.

5. In the instant case, the period is post of 07.07.2009 i.e. September, 2010 to February, 2012. During the course of arguments, ld. Counsel submits the Chartered Engineer certificate can also be produced before the lower authority, if a chance will be given.

6. In view of above and by following our earlier order (supra), we remand the matter to the adjudicating authority to decide the issue afresh in the light of the

above observation, but by providing an opportunity of hearing to the appellant. Fresh evidence, if necessary, may be admitted as per law.

7. In the result, appeal filed by the appellant is allowed by way of remand.

(Dictated & pronounced in the open court)

(AHSOK K. ARYA)
MEMBER (TECHNICAL)

(JUSTICE Dr. SATISH CHANDRA)
PRESIDENT

Pant