In the Customs, Excise & Service Tax Appellate Tribunal
West Block No.2, R.K. Puram, New Delhi-110066

Appeal No.E/50153/2017-SM
(Out of Order-in-Appeal No. BHO-CXCUS-002-App-151-16-17 dated 19.10.2016 passed by Commissioner Central Excise & Customs (Appeals), Raipur)

Century Cement …Appellant

Vs

CCE Raipur …Respondent

Appearance:
Present for the Appellant : Sh Sanjay Grover, Advocate
Present for the Respondent : Sh U. Sangraj, DR

Coram: HON'BLE MR ASHOK JINDAL, MEMBER (JUDICIAL)

Date of hearing/decision: 28.09.2017

Final Order No.56846/2017

Per Ashok Jindal,

The appellant is in appeal against the impugned order where cenvat credit on labour charges for fabrication of structures, namely, windwall, fanbridge, columns, bracings, a frame, fan guard, vertical & horizontal duct, steel duct, structure for FCD and for supply of steel GC sheets and angle shapes and sections were denied on the ground that these items have been used for fabrication of structure which are embedded to earth, therefore these are not capital goods and the appellant is not entitled to avail cenvat credit thereto under Rule 2(k) and 2(a) of Cenvat Credit Rules, 2004 relying on the decision of Vandana Global Ltd, 2010 (253) ELT 440 (Tri.-Del) (LB).

2. Heard both the parties.

3. Considering the fact that the issue was examined by the Hon'ble Madras High Court in the case of Dalmia Cements (Bharat) Ltd-2016(341) ELT 102 (Mad.) wherein it has been held that any item used for fabrication of structure embedded to earth which is the supporting structure for machinery, the assessee is entitled to cenvat credit. It was also brought in my knowledge by Sh Krishnan Mohan Menon, Advocate that Hon'ble Court of Chhatisgargh has set-aside the decision of larger Bench of this Tribunal in the case of Vandana Global Ltd (supra) on 13.09.2017.

4. Therefore, I hold that cenvat credit cannot be denied to the appellant, in question.

5. In view of above, the impugned order is set–aside and the appeal is allowed.

(Pronounced & dictated in the open court)

(Ashok Jindal)
Member (Judicial)

pcs