CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. III

EXCISE APPEAL No. 53596 OF 2018

(Arising out of Order–in-Appeal No. BHO-EXCUS-002-APP-74-18-19 dated 23.04.2018 passed by COMMISSIONER OF CENTRAL EXCISE-Raipur)

Commissioner of Customs, **.... Respondent**
Central Excise, Raipur
Dhamtari Road,
Tikrapara, Raipur

Versus

M/s. MSP Steel & Power Ltd. **... Appellant**
Village – Jamgaon,
Raigarh

APPEARANCE:
Ms. Priyanka Goel, Advoate for the Appellant
Mr. P. Gupta, Authorised Representative for the Respondent

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

Date of Hearing/ Decision: **31.07.2019**

FINAL ORDER No.: 51062/2019

ASHOK JINDAL

The Revenue is in appeal against the impugned order wherein the learned Commissioner (A) dropped the demand of Rs.22,08,283/- by allowing the cenvat credit on various steel items which have been used by the respondent in fabrication of various machines like kiln, supporting structures of after burning chamber, conveyor gallery platforms, staircases, shed, etc.

2. The case of the Revenue is that the said items are neither inputs nor capital goods in terms of Rule 2(a) and 2(k) of the Cenvat Credit Rules 2004. The learned Commissioner (A) allowed the Cenvat Credit relying on the decision of the Hon'ble High Court of Chhattisgarh in the case of **Vandana Global Ltd. Vs. CCE Raipur in the TAX C no. 59/2011** and the said order has been challenged before the Hon'ble Apex Court again, therefore, Revenue is in appeal.

3. Heard the parties.

4. Considering the fact that the decision of the Hon'ble High Court of Chhattisgarh in the case of **Vandana Global Ltd.** has not been stayed by the Hon'ble Apex Court, in that circumstances, I do not find any infirmity in the impugned order.

5. Therefore, the same is upheld. In that result, the appeal filed by the Revenue is dismissed.

(order dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

Bhanu