CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD
REGIONAL BENCH - COURT NO. – I

Excise Appeal No. 30278 of 2016
(Arising out of **Order-in-Original** No. HYD-EXCUS-003-COM-017-15-16 dated 31.12.2015 passed by Commissioner of Customs, Central Excise & Service Tax, Hyderabad-III)

M/s Rain Cements Ltd., .. **APPELLANT**
Ramapuram Village, Mellacheruvu,
Nalgonda, Telangana – 508 246.

VERSUS

Commissioner Of Central Excise and Service Tax Hyderabad - III .. **RESPONDENT**
Kendriya Shulk Bhavan,
L B Stadium Road, Basheerbagh,
Hyderabad, Telangana - 500 004.

APPEARANCE:
Shri Y. Sreenivasa Reddy, Advocate for the Appellant.
Shri K. Raji Reddy, Authorised Representative for the Respondent.

CORAM: HON'BLE Mr. A.K. JYOTISHI, MEMBER (TECHNICAL)
HON'BLE Mr. ANGAD PRASAD, MEMBER (JUDICIAL)

FINAL ORDER No. A/30389/2025

Date of Hearing:17.09.2025
Date of Decision:17.09.2025

[ORDER PER: A.K. JYOTISHI]

M/s Rain Cements Limited (hearinafter referred to as appellant) has come in appeal against the order passed by the Commissioner dated 31.12.2015 denying then Cenvat Credit of Rs. 2,12,06,310/- availed on Clean Energy Cess (CEC) paid on coal by the appellant during the period from August 2014 to February 2015.

2. The issue, in brief, is that the appellant had taken credit of Clean Energy Cess paid by them on coal, which was held not admissible on adjudication, in view of the Statutory provisions regularly taking of credit in terms of Cenvat Credit Rules, 2004 (CCR).

3. The Learned Advocate for the appellant submits that the said credit on CEC is permissible keeping in view of the judgement of The Ramco Cements

Ltd., Vs CST, Bangalore [2018 (10) TMI 10 (Cestat-Bang)] and Divya Jyothi Steels Ltd., Vs CST, Belgaum [2019 (3) TMI 1278 (Cestat-Bang)] as also the decision of Hon'ble Karnataka High Court in the case of CCE, Belgaum Vs Shree Renuka Sugars Ltd., [2014 (302) ELT 33 (Kar)]. His main submission is that the CEC takes the character of Central Excise duty as per Section 83(3) of the Finance Act, 2010, whereas the Hon'ble High Court of Karnataka, while permitting Cenvat Credit on sugar cess held that credit of Cenvat duty can be availed even if duty is not specifically listed under Rule 3 as long as it is treated as duty of excise and not fee.

4. Learned AR are reiterates the findings of the Commissioner.

5. Heard both the sides and perused the records.

6. We find that the short question involved for decision is whether credit can be taken in respect of Cess paid under CEC in terms of provisions under the CCR 2004 or otherwise. We find that the Rule 3 of CCR, interalia, provides for taking of credit in relation to certain specified duties and cesses only and admittedly CEC is not covered in the list of specified taxes and cesses. Therefore, we find on the plain reading of the provision, it would not allow any tax or cess which is not specifically covered within the ambit of Rule 3. We find that the CCR is not a generic rule providing for credit of each and every type of taxes for utilising the same in an unfiltered way towards discharge of any type of duty and under all circumstances. The entire scheme of taking of credit and utilisation thereof is regulated in accordance with the rules framed under CCR, which has been framed by the Government in exercise of powers conferred by Section 37 of Central Excise Act and Section 94 of Finance Act. We also note that in terms of Section 94(2) (eee) of Finance Act, the Government is empowered to make rules in relation to matters dealing with credit of service tax paid on services

consumed or duties paid or deemed to have been paid on goods used for providing a taxable service. Therefore, the eligibility for taking credit in respect of a particular type of tax or cess has to be examined in the context of the provisions of CCR. We also find that when the plain reading itself does not allow taking of any credit in respect of CEC therefore, we cannot, as a creature of Statute, go beyond the scope of the rules which is consistent with present Act. We also find that similar issue was considered by this Bench in the case of Deccan Cements Ltd., and others including the case of the appellant themselves in [2019 (7) TMI 764 – CESTAT, Hyderabad], whereby, the Tribunal after going through the scheme of CCR, Statutory provisions, wherein, interalia, the case of Shree Renuka Sugars [2014 (302) ELT 33 (Kar)] referred by the appellant was also considered and thereafter held that the Rule 3 of CCR does not provide for taking of Cenvat Credit of CEC. Moreover, in the case of Shree Renuka Sugars Ltd., supra, the cess was sugar cess governed by different statute and provisions and hence the facts are also distinguished. Therefore, respectfully following the decision of this Bench in the case of Deccan Cements Ltd., and others, we find that the appeal has no merit and accordingly, the appeal is dismissed.

7. Appeal dismissed.

(Operative part of this order was pronounced
in court on conclusion of the hearing)

(A.K. JYOTISHI)
MEMBER(TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

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