CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD

REGIONAL BENCH - COURT NO. – I

Excise Appeal No. 25173 of 2013
(Arising out of **Order-in-Original** No.33 To 38/2012(C.Ex) dated 28.09.2012 passed by Commissioner of Central Excise, Customs & Service Tax, Tirupati)

The India Cements Ltd., .. **APPELLANT**
Chilamkur, Y.S.R.,
Andhra Pradesh – 516 310.

VERSUS

Commissioner of Central Tax .. **RESPONDENT**
Tirupati
9/86-A,
Behind West Church Compound,
Amaravathi Nagar, Tirupati,
Andhra Pradesh – 517 502.

APPEARANCE:
Shri Kailash Nath P.S.S, Advocate for the Appellant.
Shri K. Sreenivasa Reddy, Authorized Representative for the Respondent.

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

FINAL ORDER No. A/30491/2026

Date of Hearing: 25.08.2026
Date of Decision: 25.08.2026

[ORDER PER: ANGAD PRASAD]

M/s India Cements Ltd., (hereinafter referred to as appellant) are in appeal against the Order-in-Original dated 28.09.2011, whereby, the Adjudicating Authority has confirmed the demand in respect of 6 Show Cause Notices issued during the period April-August 2007 to October 2010. The issue is regarding non-eligibility of input credit in respect of various items like steel rods, TMT bars, plates, sheets, pipes, beams, structural steel etc.

2. The Learned Advocate for the appellant submits that in so far as 4 Show Cause Notices dated 24.04.2008, 23.09.2008, 13.05.2009 and

25.02.2010 are concerned, the appellants are no longer contesting the same as the issue involved therein has already been settled through Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019. Therefore, they are only disputing the confirmation of demand to the extent confirmed by the Adjudicating Authority in respect of Show Cause Notice dated 04.08.2010 and 31.01.2011. He further submits that the issue involved in these two Show Cause Notices is denial of the input credit in respect of certain items. The entire reasons for denial except for one small item of pipe is summarized by the Adjudicating Authority in para 34.8 to para 34.13. He further submits that this issue has now been finally settled whether the items can be considered as capital goods if not as input, by the Hon'ble Supreme Court in the case of Bharti Airtel Ltd., Vs Commissioner of Central Excise, Pune [2024 (11) TMI 1042 – SC] vide order dated 20.11.2024. He has further submitted that these items are essentially capital goods which have been used for either repair or for fabrication of capital goods required within the factory.

3. Learned AR on the other hand reiterates the finding and submits that these are not eligible as they are clearly as they cannot be considered as either inputs or as capital goods as they are mainly used as supporting structure.

4. Heard both the sides and perused the records.

5. We find that the short question for determination whether these items which have been used within the factory in relation to various activities like construction, fabrication of steel structure used for erection of a new coal mill and preheater, fly ash silo, kiln, packing plant and ducting works can be considered as either input or as capital goods. We find that the issue has been extensively examined in the case of Bharti Airtel Ltd., supra by the

Hon’ble Supreme Court where this issue whether certain items like tower and PCB etc., could be considered as eligible input or capital goods etc., has been examined. The relevant observation of Hon’ble Supreme Court is at para 11.10 and 11.11.

6. We also note that issue in the present appeal can be decided applying the ratio of Hon’ble Supreme Court in the case of Bharti Airtel Ltd., supra.

7. We, also find that the Adjudicating Authority had no opportunity to examine this issue in the light of judgment Hon’ble Supreme Court, which came much later and therefore we are inclined to remand this matter back to the original Adjudicating Authority, who shall go through respective disputed items and apply the ratio laid down by the Hon’ble Supreme Court in the case of Bharti Airtel Ltd., supra. The appellant will also free to adduce any other relevant judgments in support thereof.

8. In view of the same, the appeal to the extent contested by the appellant, is allowed by way of remand, whereas, to the extent not contested on account of having availed SVLDRS, is disposed of, as withdrawn.

9. Appeal allowed by way of remand.

(Dictated and pronounced in the open court)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

jaya