IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA

REGIONAL BENCH – COURT NO.2

<u>Excise Appeal No.123 of 2012</u>

(Arising out of Order-in-Original No.84/Commr./Bol/11 dated 13.12.2011 passed by Commissioner of Central Excise & Service Tax, Bolpur)

M/s Maheshwary Ispat Ltd.
Beldanga, Choto Ramchandrapur, P.S.-Kanksa, Durgapur

Appellant

VERSUS

Commissioner of Central Excise, Bolpur
Nanoor Chandidas Road,SIAN,Bolpur, Dist.-Birbhum, Pin-731204

Respondent

<u>APPERANCE :</u>
None for the Appellant
Shri S.Mukhopadhyay, Authorized Representative for the Respondent

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

FINAL ORDER NO……75661/2023

<u>DATE OF HEARING : 12 .06.2023</u>
<u>DATE OF DECISION : 12 .06.2023</u>

<u>Per Ashok Jindal :</u>

Heard the ld.A.R. for the Revenue.

2. The appellant is a manufacturer of sponge iron during the period from October, 2003 to September, 2005. The appellant availed cenvat credit on inputs, namely, M.S.Billets, M.S.Angles,Channel, Joist, Sponge Iron Lumps & Fines etc.

3. The Revenue is of the view that the said items are neither input nor capital goods. Therefore, the appellant is not entitled to take the cenvat credit.

4. In view of the this, a show-cause notice dated 06.04.2011 was issued to the appellant to deny the cenvat credit on the said items.

5. Heard the ld.A.R. for the Revenue and perused the records.

6. We find that the issue involved is to be decided whether the appellant is entitled to take the cenvat credit on the said items or not.

7. The said issue has been settled by the Hon'ble Chhattisgarh High Court in the case of Vandana Global Ltd. Vs.CCEx., Raipur reported in 2018 (16) GSTL 462 (Chhattisgarh), wherein it has been held that any steel item which has been used for fabrication of capital goods or inputs is entitled for cenvat credit in terms of Rule 2(l)/2(k) of the Cenvat Credit Rules, 2004.

8. We further take note of the fact that the show-cause notice has been issued to the appellant by invoking extended period of limitation whereas the issue of availment of cenvat credit on the above said items was in dispute during the impugned order.

9. In that circumstances, we hold that the show-cause notice issued to the appellant is barred by limitation.

10. In view of the above, we set aside the impugned order and allow the appeal with consequential relief to the appellant, if any.

(Dictated and pronounced in the open court)

Sd/-
(Ashok Jindal)
Member (Judicial)

Sd/-
(K.Anpazhakan)
Member (Technical)

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