

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

REGIONAL BENCH – COURT NO.1

**Excise Appeal No. 78026 of 2018**

(Arising out of Order-in-Appeal No.193/KA-1/2018 dated 18/05/2018 passed by Commissioner of Central Tax Kolkata Audit-I CGST & CX Commissionerate)

**M/s. Supershakti Metaliks Pvt. Ltd.**

**Formerly known as Super Smelters Ltd.**

(Kanjilal Avenue, Opp. DPL Zone-B Sub-Station, Durgapur-713210, West Bengal)

**Appellant**

*VERSUS*

**Commissioner of CGST & Central Excise, Bolpur**

**Commissionerate**

(Nanoor, Chandidas Road, Bolpur, Birbhum, West Bengal-731204)

**Respondent**

**APPEARANCE :**

None for the Appellant

Mr. S. S. Chattopadhyay, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE MR. R. MURALIDHAR, MEMBER (JUDICIAL)**

**FINAL ORDER NO.75796/2023**

Date of Hearing : 21 June 2023

Date of Decision : 21 June 2023

**PER R. MURALIDHAR**

No one has appeared on behalf of the Appellant. Since the Appellant has not been appearing for hearings since long, the Appeal itself has taken up for hearing.

2. Perused the Appeal papers with the help of Learned AR.

3. It is observed that the Appellant is aggrieved by the denial of Cenvat Credit to the extent of Rs.15,838/- in respect of welding electrodes used in their factory premises towards repairs and maintenance activities.

4. The Appellant in the Grounds of Appeal relies on the case law of Panipat Co-operative Sugar Mills Ltd. Vs Commissioner of Central Excise, Rohtak [2017 (49) S.T.R. 347 (Tri.-Del.)], wherein it is held that the repair and maintenance activity is essential for smooth functioning of

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manufacturing operations. Therefore, when Cenvat Credit is taken for any goods which were used for repairs and maintenance, the same are eligible.

5. The Learned AR reiterates the findings of the Lower Authorities.

6. The Rajasthan High Court in the case of **Hindustan Zinc Ltd. Vs. UOI [2008 (228) ELT 517 (Raj.)** has held as under:-

*11. In our view, the judgment of Hon'ble Supreme Court, in JK Cottons SPG. & WVG Mills Co. Ltd v. Sales Tax Officer, Kanpur, reported in 1997 (91) E.L.T. 34, has a material bearing on the controversy involved in the present case. It may be noticed, that the tribunal in J.P. Rewa case has referred to this judgment of Hon'ble Supreme Court in JK Cotton's case, by reproducing a part of the head note, but then, the very significant continuing next sentence has been omitted from consideration, inasmuch as the sentence following the portion quoted by the tribunal, is as under :*

*"They need not be ingredients or commodities used in the processes, nor must they be directly and actually needed for turning out or the creation of goods".*

*12. In that case the Hon'ble Supreme Court even went to the extent of holding, that use of electrical equipments, like lighting, electrical humidifiers, exhaust fan etc. were also taken to be necessary equipment, to effectively carry on the manufacturing process. Thus, with the above, if the quoted part of the judgment in JK Cotton's case is read, it becomes clear, that the expression "in the manufacture of goods" should normally encompass entire process carried on by the dealer, of converting raw materials into finished goods, where any particular process, or activity, is so integrally connected with the ultimate production of the goods, but for that process, manufacturing, or processing of the goods would be commercially inexpedient, goods required in that process would, fall within expression "in the manufacturing of goods". [Emphasis supplied]*

7. The Chhattisgarh High Court in the case of **CST, Bilaspur Vs. Singhal Enterprises Pvt. Ltd.** Has held as under:-

*2. Insofar as question No. 1 is concerned, the issue stands covered by the findings on facts rendered in paragraph-12 of the impugned decision of CESTAT [ 2016 (341) E.L.T. 372 (Tribunal)] and also the application*

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of the judgments referred to therein whereby Welding Electrodes used in the manufacturing process are considered as inputs. Hence, question No. 1 does not arise for decision. [Emphasis supplied]

8. The Uttarakhand High Court in the case of **CCE Vs Ace Glass Container Ltd.- 2014 (34) STR 805 (Uttarakhand)** has held as under:-

6. Even though one may contend that Welding Electrodes will not come within components, spares and accessories of goods specified in Rule 2(b)(i) of the 2002 Rules and Rule 2(a)(i) of the 2004 Rules, but it is difficult to hold that the same will not come within the meaning of Rule 2(g) of the 2002 Rules and Rule 2(k) of the 2004 Rules for the reason that the said Rules contemplate goods used in or in relation to manufacture of final products, whether directly or indirectly or whether contained in the final product or not excluding light diesel oil, high speed diesel oil and motor spirit, commonly known as petrol. In terms thereof, input includes lubricating oils, greases, cutting oils, coolants, goods used as paint or as packing material or as fuel or for generation of electricity or steam used in or in relation to manufacture of final products or for any other purpose, within the factory of production; and also accessories of the final products cleared along with the final product.

7. We hold that the Legislature, while furnishing the definition of inputs, clearly indicated three types of goods. They are independent of each other. It is impossible to locate one single goods, which has characteristics of all the three ingredients furnished. Taking the same into account, and there being no dispute that Welding Electrodes were used in relation to manufacture of final products, we have no reason to differ from the finding recorded by the Tribunal. [Emphasis supplied]

9. Since the present issue is squarely covered by the above decisions of the Hon'ble High Court, respectfully following them, the present Appeal is allowed.

(Dictated and pronounced in the open court.)

Sd/-

**(R. Muralidhar)**  
**Member (Judicial)**

Pooja