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

REGIONAL BENCH – COURT NO.1

<u>Excise Appeal No.476 of 2011</u>
(On behalf of Appellant)

(Arising out of Order-in-Original No.CCE/BBSR-I/26/2011 dated 25.02.2011 passed by Commissioner of Central Excise, Customs & Service Tax, Bhubaneswar I)

M/s Maithan Ispat Limited
Kalinganagar Industrial Complex, Jakhapura, Jajpur, Odisha

Appellant

VERSUS

Commissioner of Central Excise, Customs & Service Tax, Bhubaneswar I
C.R.Building, Rajaswa Vihar, Bhubaneswar-751007, Odisha

Respondent

<u>APPERANCE :</u>

Shri K.K.Acharya,Advocate for the Appellant
Shri J.Chattopadhyay, Authorized Representative for the Respondent

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

FINAL ORDER No. 76260/2023

<u>DATE OF HEARING : 26 .07.2023</u>
<u>DATE OF DECISION : 26 .07.2023</u>

<u>Per Ashok Jindal :</u>

The appellant is in appeal against the impugned order denying the cenvat credit on inputs and demanding reversal of the same along with interest and imposition of penalty on the appellant.

2. The facts of the case is that during the period from March, 2005 to June, 2009, the appellant availed cenvat credit on the items, such as, MS.Angles, MS Joist, MS Channels, HR Plates, HR Sheets, HR Coils, Plates, HR Sheets in coil form, CC Steel Angle Shapes, HSM Plates, Beams,CR Coil, MS Flat, BP Sheets, Stake Plates, Chequered Coil and supporting structures, all falling under Chapter 72 of the Central Excise

Tariff Act, 1985 and Welding Electrode falling under Chapter 83 of the Central Excise Tariff Act, 1985 claiming the goods as "Capital Goods".

3. The Revenue is of the view that the said items are neither inputs nor capital goods. Therefore, a show-cause notice dated 20.01.2010 was issued to the appellant for reversal of the cenvat credit along with interest and to impose penalty on the appellant.

4. The matter was adjudicated. The demand of duty along with interest was confirmed and penalty equal to duty was also imposed on the appellant.

5. Against the said order, the appellant is before us.

6. Heard the parties and considered the submissions.

7. We find that the issue has been settled in the case of Vandana Global Limited Vs. Commissioner of Central Excise & Customs,Raipur reported in 2018 (16) GSTL 462 (Chhattisgarh), wherein it has been held that all the above steel items procured by the manufacturer of excisable goods, which has been used for fabrication of plant and machineries or capital goods are entitled for cenvat credit. Admittedly, all the above items have been procured by the appellant for fabrication of structure/capital goods, which were ultimately used for manufacture of final product. Therefore, we hold that the appellants are entitled for cenvat credit. Accordingly, we do not find any merit in the impugned order and allow the appeal with consequential relief, if any.

(Operative part of the order was pronounced in the open court)

Sd/-
(Ashok Jindal)
Member (Judicial)

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

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