IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH: KOLKATA

REGIONAL BENCH – COURT NO. 2

Service Tax Appeal No. 75571 of 2017

(Arising out of Order-in-Original No. 44-45/CCE/CEX/RKL/2016-17 dated 19.12.2016 passed by the Commissioner of Central Excise, Customs & Service Tax Rourkela Commissionerate, KK-42, Civil Township, Rourkela 769004)

M/s. Vedanta Aluminium Limited : Appellant
(Now Vedanta Limited)
Bhurkamunda, Jharsuguda-768201, Odisha

VERSUS

Commissioner of Central Excise, Customs & Service Tax, Rourkela : Respondent
KK-42, Civil Township, Rourkela 769004

APPEARANCE:

Shri Deepro Sen, Advocate
MS. Payal Bharwani, Advocate for the Appellant

Shri P. Das, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI R. MURALIDHAR, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.77811/2025

DATE OF HEARING / DECISION: 28.11.2025

Order: [PER SHRI R. MURALIDHAR]

Heard both sides and perused the appeal records.

2. The facts of the case in brief are that during the period April 2011 to March 2012, the appellant had availed CENVAT Credit amounting to Rs.1,77,70,613/- on various capital goods and input services. Show Cause Notices were issued alleging that the Credit involved in the input services received for use in or in relation to the final Products, cannot be utilized by the appellant for dis-charging

its Service Tax liability on account of the output service rendered by it, inasmuch as the input services for which the Appellant had no nexus or integral connection with the output service rendered by the appellant.

3. The Adjudicating Authority dis-allowed the CENVAT Credit taken and confirmed the demand of Service Tax amounting to Rs.1,77,70,613/- along with appropriate interest and imposed penalty of equal amount under Section 78 of the Finance Act, 1994 read with Rule 15 (3), CCR Rules, 2004.

4. Aggrieved, the appellant is before the Tribunal.

5. The Ld. Counsel appearing on behalf of the appellant submits that the CENVAT Credit has been utilized for dis-charging their tax liabilities as well as Central Excise Duty. It is his submission that whatever credit availed by them on account of input or Capital goods are maintained in the common Cenvat Register utilized towards their Tax liabilities. Furthermore, he submitted that the instant issue regarding utilization of Credit availed as a manufacturer for payment of Service Tax is no longer res integra".

In support of his submission, he relied upon various decisions which are as follows: -

(i) Vedanta Ltd. v. CCE & CGST, Bhubaneswar, 2019 (12) TMI 1496-CESTAT Kolkata.

(ii) Vedanta Aluminium Ltd. V. CCE, Cus. & ST, BBSR,2018(5) TMI 2060-CESTAT Kolkata.

(iii) Larsen & Toubro Ltd. v. CCE & CGST, Bhubaneswar,2023(384) E. L. T. 222(Tri.-Kolkata)

(iv) Corporate Ispat Alloys Ltd. v. Commr. of ST, Bolpur And vice versa, 2024(3) TMI 918-CESTAT Kolkata.

(v) KEI Industries Ltd., Bhiwadi v. Pr. Commr., CGST-Alwar, 2024 (10) TMI 1734-CESTAT New Delhi.

(vi) S.S.Engineers v. CCE, Pune-I, 2015 (38) S. T. R. 614 (Tri.-Mumbai) as affirmed in 2016 (42) STR 3 (Bombay High Court)

(vii) Pipavav Shipyard Ltd. v. CCE & ST, Bhavnagar, 2016 (41) S. T. R. 151(Tri.-Ahmd.) as affirmed in 2023(4) CEN 246(Gujarat High Court).

6. The Ld. Authorized Representative of the Revenue justifies the impugned order.

7. Heard both sides, perused the appeal papers and the submissions made by both the sides.

8. We find that this Bench of the Tribunal, in appeal No. E/79056/2018 vide Final Order No. FO/76992/2019 dt.13/12/2019 had decided in favour of the appellant-assessee. The relevant paragraphs are reproduced below:-

> *6. After hearing both sides and on perusal of record, it appears that the identical issue has come up before the Hon'ble High Court of Bombay in the case CCEx., Pune Vs. S. S. Engineers : 2016 (42) STR 3 (Bom.), where it was observed as under :*

"3. Ordinarily an interpretation of a rule and in the light of a substantive legislation on Central Excise and Service Tax, would have raised a substantial question of law. However, we find that the Tribunal has arrived at a conclusion that the credit is admissible during the course of manufacture of the final product of duty paid on inputs as well as service tax on the input service availed of. While availing of that credit, the cross utilization is not ruled out, leave alone barred or prohibited. That is how Cenvat Credit Rules have been analyzed. Rule 3(1) of the Rules provides that the manufacturer or producer of final products or a provider of output service shall be allowed to take credit on various duties and that is the substantive provision in the rules. That is titled "Cenvat credit". That takes within its fold the duty of excise, other duties and service tax leviable under Section 66 of the Finance Act, 1994 and thereafter with effect from 18 April, 2006, service tax leviable under Section 66A of the said Act. If these are various duties of which credit can be availed of, then, further sub-rules as analyzed by the Tribunal in paragraph 5 do not suffer from any perversity. The only difficulty that may have been presented throughout was of scrutiny and verification of the accounts. The accounts are maintained in relation to payments of both levies. Even that does not present any difficulty once the Revenue has issued a circular to guide the officers. That circular, a copy of which is handed over to us and contained in the compilation at page 36, is dated 30 March, 2010. It is on the subject of cross-utilization of credit on inputs and input service. The Tribunal, therefore, has

rightly come to the conclusion that there are certain restrictions on the utilization of particular type of duty and for that purpose it has relied on Rule 7 of Cenvat Credit Rules. A reference to that also does not vitiate the impugned order inasmuch as Rule 7 states that input service distributor may distribute the Cenvat credit in respect of the service tax paid on the input service to its manufacturing units or units providing output service, subject to the conditions stipulated therein. In such circumstances, the cross utilization of credit on goods and services being not covered by any restrictive provision, leave alone any prohibition or embargo, the Tribunal's order does not call for any interference. The interpretation placed on the Rule is a probable and a possible view. That cannot be termed as perverse. Further, there is no revenue deficit muchless any loss. Hence, we do not think that the appeal deserves to be entertained. It does not raise any substantial question of law. Hence, the appeal is dismissed with no order as to costs."

7. By considering the totality of the facts and circumstances of the case, it appears that the appellants are engaged in the manufacture of excisable goods and also providing various services for which they are also registered with the Service Tax Department. The appellant has availed cenvat credit on inputs, capital goods and also input services and maintained a common account/Register, while discharging excise duty on the clearance of finished goods also service tax on output service, they utilized the cenvat credit from the input common pool account. When the amount was utilized from the common pool account, then

cenvat credit is eligible as per ratio laid down in the above mentioned decision.

8. In view of the above, we set aside the impugned order and allow the appeal.

9. In the result, the appeal filed by the appellant is allowed.

9. By applying the above ratio, the impugned order is set aside and the appeal filed by the appellant is allowed. The appellant shall be eligible for consequential relief, if any, as per law.

(Operative part of Order was pronounced in Open court)

(R. MURALIDHAR)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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