IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI

APPEAL NOS: E/85328 & 86927/2016

[Arising out of Orders-in-Appeal No: CD/784/M-III/2015 dated 24/11/2015 and CD/381/M-III/2016 dated 18/05/2016 passed by the Commissioner of Central Excise (Appeals), Mumbai Zone – II.]

CEAT Limited …***Appellant***

versus

Commissioner of Central Excise
Mumbai – III …***Respondent***

Appearance:

Shri Mahesh Raichandani, Advocate for appellant

Shri D.S. Chauhan, Superintendent (AR) for respondent

CORAM:

Hon'ble Shri M V Ravindran, Member (Judicial)

Date of hearing: 14/03/2018
Date of decision: 14/03/2018

ORDER NO: A/85660-85661/2018

These two appeals are directed against Orders-in-Appeal Nos: CD/784/M-III/2015 dated 24/11/2015 and CD/381/M-III/2016 dated 18/05/2016 passed by the Commissioner of Central Excise (Appeals), Mumbai Zone – II.

2. Heard both the sides and perused the records.

3. On perusal of records it transpires that the issue is regarding eligibility to avail CENVAT credit on MS plates, MS sheets, MS channels, MS angles, etc. Appellant claimed CENVAT credit of Central Excise duty paid on these MS plates and angles and channels on the ground that they are capital goods and alternatively that they are inputs used within the factory premises wherein manufacturing activity took place. The adjudicating authority held in favour of the appellant herein. Aggrieved by such an order Revenue preferred an appeal before the first appellate authority who by the impugned orders set aside the orders-in-original.

4. On perusal of the impugned orders, I notice that the first appellate authority has not recorded any reasons for coming to a conclusion that the orders-in-original which were contested before him needs to be set aside. The first appellate authority has only recorded that the issue is decided by *Vandana Global Limited v. Commissioner of Central Excise [*2010 (253) ELT 440 (LB)]. As correctly pointed by the Learned Counsel in the written submissions /cross-objection filed by them detailing the reasoning in support of the orders-in-original were not considered. I do find it so, namely, the Larger Bench decision in *Vandana Global Limited (supra)* has been overruled by the Hon’ble High Court of Gujarat and Hon’ble High

Court of Calcutta, an issue which needs to be considered by the first appellate authority and also the various submissions made by the appellant on merits on the issue of availment of CENVAT credit on the MS plates, angles, channels, etc. In order to meet the ends of justice, I am of the view that the impugned orders need to be set aside and the matter needs reconsideration by the first appellate authority. Without expressing any opinion on the merits of the case, leaving all the issues open, the impugned orders are set aside and the matters are remanded back to the first appellate authority to reconsider the issue afresh after following the principles of natural justice. Appellant is at liberty to produce any document which he wishes to rely upon in defending his case.

5. The appeals are disposed off by way of remand to the Commissioner (Appeals.)

(Dictated in Court)

(M V Ravindran)
Member (Judicial)

**/as*