CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH – COURT NO.1

Appeal No.E/87653/2018

[Arising out of Order-in-Appeal No.NSK/EXCUS/000/APPL/364/17-18, dt.19.03.2018, passed by the CCE & GST (Appeals), Nasik]

M/s Bedmutha Industries Ltd ......**Appellant**
Plot No.E-1, MIDC, Nardana Phase-II,
Waghadi Khurd, Tal: Sindkheda, Dist: Dhule

VERSUS

CCE & ST, Nasik ......**Respondent**
Nashik Commissionerate,
Plot No.155, SectorP-34,
NH Jaishta and Vaishaka,
CIDCO, Nasik 422 008

Appearance:
Shri T.C. Nair, Advocate for the Appellant
Shri N.N. Prabhudesai, Supdtt. (A.R.) for the Respondent

CORAM:
HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)

FINAL ORDER NO.A/86052/2019

Date of Hearing: 03.06.2019
Date of Decision: 03.06.2019

PER: D.M. MISRA

Heard both sides. This appeal is filed against Order-in-Appeal No.NSK/EXCUS/000/APPL/364/17-18, dt.19.03.2018, passed by the CCE & GST (Appeals), Nasik.

2. Briefly stated the facts of the case are that during the period April 2013 to November 2014, the Appellant had availed credit of

Central Excise duty amounting to Rs.33,28,931/- paid on MS Bar/Squares/ Brackets, Beam/Channels, Angles, H.R.Coils/Sheet s, M.S. Flat, Resin Cement, Paints etc, used in fabrication/manufacture of machinery or parts of machinery within their factory. Alleging that the credit availed on angles, channels, beams is not admissible, show cause notice was issued to them on 20.09.2016 for recovery of the credit availed during the period April 2013 to November 2014. On adjudication, the demand was confirmed with interest and penalty. Aggrieved by the said order, the Appellant filed appeal before the learned Commissioner (Appeals), who in turn, rejected their appeal, hence the present appeal.

3. At the outset, the learned Advocate Shri T.C. Nair for the Appellant has submitted that the M.S. angles, channels, beams etc have been used for the fabrication of the machines and parts thereof. He submits that even though before the Adjudicating authority as well as the Commissioner (Appeals), they have categorically submitted that all these items have been used in the fabrication of machinery, machinery parts within the factory and hence admissible to credit as an 'input', however, it was not accepted on the ground of lack of evidence of its use and also on merit. He submits that the issue is no more res integra and credit on these input items is admissible in view of the judgment of this Tribunal in the case of Singhal Enterprises Pvt. Ltd Vs CCE & C, Raipur – 2016 (341) ELT 372 (Tri-Del), which has been upheld by Hon'ble Chattisgarh High Court reported at 2018 (359) ELT 313 (Chattisgarh). He has further submitted that on the use of such

items for fabrication of machinery and machinery parts, they have placed on record Chartered Engineer's certificate dt.10.06.2018.

4. Per contra, the learned A.R. for the Revenue has submitted that the Chartered Engineer's certificate dt.10.06.2018 was not placed before the authorities below. He submits that for verification, the matter may be remanded to the Adjudicating authority.

5. I have carefully considered the submissions made by both sides. I find that on the issue of admissibility of CENVAT Credit on the inputs viz. M.S. angles, channels, beams etc used in the fabrication of capital goods within the factory has been settled by the judgment of this Tribunal in the case of M/s Singhal Enterprises Pvt. Ltd's case and later upheld by Hon'ble Chattisgarh High Court (supra). However, for the limited purpose of verification of use of the said items as certified in the Chartered Engineer's certificate dt.10.06.2018, the matter is remanded to the Adjudicating authority.

6. Appeal is allowed by way of remand to the Adjudicating authority.

(Dictated and pronounced in the open court)

(D.M. Misra)
Member (Judicial)

CBBahalkar