CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI
REGIONAL BENCH – COURT NO.1

Excise Appeal No. 89061 of 2018

[Arising out of Order-in-Appeal No. SM/CGST & CX/Bhiwandi/APP-203 & 204/18-19. Dt. 11.06.2018, passed by the Commissioner (Appeals) CGST & C. Ex. Bhiwandi]

Seya Industries Ltd. **......Appellant**
Plot No. T-13/14, MIDC, Tarapur, Boisar,
Dist. Palghar

VERSUS

Commissioner of Central Excise & GST, Palghar **......Respondent**
5th floor, Utpad Shulk Bhavan, Block E,
Plot No.C-24, Bandra-Kurla Complex, Bandra,
Mumbai 400051.

APPEARANCE:
Shri J.C. Patel, Advocate for the Appellant
Shri N.N. Prabhudesai, Supdt. (AR) for the Respondent

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

FINAL ORDER NO. A/86383/2019

Date of Hearing: 26/07/2019
Date of Decision: 26/07/2019

PER: DR. D.M. MISRA

This is an appeal filed against order-in-appeal No. SM/CGST & CX/Bhiwandi/APP-203 & 204/18-19. Dt. 11.06.2018, passed by the Commissioner (Appeals) CGST & C. Ex. Bhiwandi.

2. Heard both sides and perused the records.

3. The issues involved in the present appeal for determination is whether (i) the appellant are entitled to avail Cenvat Credit of Rs.6,01,248/- on Angles, Channels, Beams etc. which they have availed as capital goods during the relevant period for its use in fabrication of structures for capital goods; secondly, credit of

Rs.27,342/- admissible being 1% of additional duty paid on steam coal.

4. The Learned Advocate for the appellant has submitted that the issue is no more *res integara* and covered by the judgment of this Tribunal in the case of *Singhal Enterprises Pvt. Ltd. Vs. Commr. of Cus. & C.Ex., Raipur* 2016 (341) E.L.T. 372 (Tri.-Del.) later upheld by the *Commr. of Cus.C.Ex. & S.T., Bilaspur Vs. Singhal Enterprises Pvt. Ltd.* 2018 (359) E.L.T. 313 (Chhattisgarh). Further, he has submitted that cement and steel items used for foundation for installation of machinery held to be admissible to credit by the Larger Bench of this Tribunal in the case of *Manglam Cement Ltd. Vs. Commissioner of Central Excise, Jaipur-I* 2018 (360) E.L.T. 737 (Tri.-LB). Learned Advocate has further submitted that the issue of admissibility of credit on 1% CVD paid on steam coal is also decided in their favour in the case of M/s Hindalco Industries Ltd Vs GST, Bhopal – 2018 (363) ELT 1085 (Tri-Del).

5. I find force in the contention of the learned Advocate for the appellant consequently following the aforesaid precedent in the present case also the credit availed on Angles, Beams, Channels etc. used for supporting structure of the capital goods are admissible to cenvat credit. Also, the issue of admissibility of cenvat credit of 1% of the duty payable availing benefit of Notification No. 12/2012-CE dt. 17.3.2012 on 'Steam Coal' is also covered by the judgment of this Tribunal in the aforesaid case. Consequently, the appellant are eligible to Cenvat Credit of 1% Additional Duty (CVD) paid on 'Steam Coal' on its import paid as per Notification No.12/2012-CE dt. 17.3.2012.

6. In the result, the impugned order is set aside. Appeal is allowed with consequential relief, if any, as per law.

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

(Dr. D.M. Misra)
Member (Judicial)

Sm.