



• आयुक्तालय (अपील-1) केंद्रीय उत्पादन शुल्क *
सातमाँ तल, केंद्रीय उत्पाद शुल्क भवन,
पोलिटेकनिक के पास, आमबाबाडि,
अहमदाबाद - 380015.

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : V2(32)/42/Ahd-I/2016-17 / 646-650
Stay Appl.No. NA/2016-17

ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-EXCUS-001-APP-066-2016-17
दिनांक 28.02.2017 जारी करने की तारीख Date of Issue 02.03.2017

श्री उमा शंकर आयुक्त (अपील-1) द्वारा पारित
Passed by Shri. Uma Shanker, Commissioner (Appeal-I)

ग Deputy Commissioner, Div-III केंद्रीय उत्पाद शुल्क, Ahmedabad-I द्वारा जारी मूल आदेश सं
MP/03/DC/2016-17 दिनांक: 15/04/2016, से सृजित

Arising out of Order-in-Original No. MP/03/DC/2016-17 दिनांक: 15/04/2016 issued by Deputy
Commissioner, Div-III Central Excise, Ahmedabad-I

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent

M/s. Meghmani Dyes & Intermediates LLP
Ahmedabad

कोई व्यक्ति इस अपील आदेश से असंतोष अनुभव करता है तो वह इस आदेश के प्रति यथास्थिति नीचे बताए गए सक्षम अधिकारी को
अपील या पुनरीक्षण आवेदन प्रस्तुत कर सकता है।

Any person aggrieved by this Order-In-Appeal may file an appeal or revision application, as
the one may be against such order, to the appropriate authority in the following way :

भारत सरकार का पुनरीक्षण आवेदन :
Revision application to Government of India :

(1) केंद्रीय उत्पादन शुल्क अधिनियम, 1994 की धारा अतत नीचे बताए गए मामलों के बारे में पूर्वोक्त धारा को उप-धारा के प्रथम परन्तुक
के अंतर्गत पुनरीक्षण आवेदन अधीन सचिव, भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, चौथी मंजिल, जीवन दीप भवन, संसद मार्ग, नई दिल्ली
: 110001 को की जानी चाहिए।

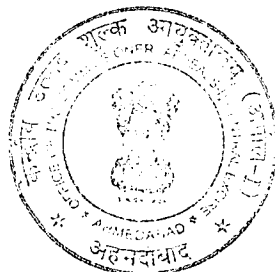
(i) A revision application lies to the Under Secretary, to the Govt. of India, Revision Application Unit
Ministry of Finance, Department of Revenue, 4th Floor, Jeevan Deep Building, Parliament Street, New
Delhi - 110 001 under Section 35EE of the CEA 1944 in respect of the following case, governed by first
proviso to sub-section (1) of Section-35 ibid :

(ii) यदि माल की हानि के मामले में जब ऐसी हानि कारखाने से किसी भण्डागार या अन्य कारखाने में या किसी भण्डागार से दूसरे
भण्डागार में माल ले जाते हुए मार्ग में, या किसी भण्डागार या भण्डार में चाहे वह किसी कारखाने में या किसी भण्डागार में हो माल की प्रक्रिया के
दौरान हुई हो।

(ii) In case of any loss of goods where the loss occur in transit from a factory to a warehouse or to
another factory or from one warehouse to another during the course of processing of the goods in a
warehouse or in storage whether in a factory or in a warehouse.

(b) In case of rebate of duty of excise on goods exported to any country or territory outside India of
on excisable material used in the manufacture of the goods which are exported to any country
or territory outside India.

(ग) यदि शुल्क का भुगतान किए बिना भारत के बाहर (नेपाल या भूटान को) निर्यात किया गया माल हो।



... 2 ...

(ख) भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित माल पर या माल के विनिर्माण में उपयोग शुल्क कच्चे माल पर उत्पादन शुल्क के रिबेट के मामलों में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित है।

(b) In case of rebate of duty of excise on goods exported to any country or territory outside India of on excisable material used in the manufacture of the goods which are exported to any country or territory outside India.

(ग) यदि शुल्क का भुगतान किए बिना भारत के बाहर (नेपाल या भूटान को) निर्यात किया गया माल हो।

(c) In case of goods exported outside India export to Nepal or Bhutan, without payment of duty.

अंतिम उत्पादन की उत्पादन शुल्क के भुगतान के लिए जो ड्यूटी क्रेडिट मान्य की गई है और ऐसे आदेश जो इस धारा एवं नियम के मुताबिक आयुक्त, अपील के द्वारा पारित वो समय पर या बाद में वित्त अधिनियम (नं.2) 1998 धारा 109 द्वारा नियुक्त किए गए हो।

(d) Credit of any duty allowed to be utilized towards payment of excise duty on final products under the provisions of this Act or the Rules made there under and such order is passed by the Commissioner (Appeals) on or after, the date appointed under Sec.109 of the Finance (No.2) Act, 1998.

(1) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 के नियम 9 के अंतर्गत विनिर्दिष्ट प्रपत्र संख्या इए-8 में दो प्रतियों में, प्रेषित आदेश के प्रति आदेश प्रेषित दिनांक से तीन मास के भीतर मूल-आदेश एवं अपील आदेश की दो-दो प्रतियों के साथ उचित आवेदन किया जाना चाहिए। उसके साथ खाता इ. का मुख्यशीर्ष के अंतर्गत धारा 35-इ में निर्धारित फी के भुगतान के सबूत के साथ टीआर-6 चालान की प्रति भी होनी चाहिए।

The above application shall be made in duplicate in Form No. EA-8 as specified under Rule, 9 of Central Excise (Appeals) Rules, 2001 within 3 months from the date on which the order sought to be appealed against is communicated and shall be accompanied by two copies each of the OIO and Order-In-Appeal. It should also be accompanied by a copy of TR-6 Challan evidencing payment of prescribed fee as prescribed under Section 35-EE of CEA, 1944, under Major Head of Account.

(2) शिवाजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रुपये या उससे कम हो तो रुपये 200/- फीस भुगतान की जाए और जहाँ संलग्न रकम एक लाख से ज्यादा हो तो 1000/- की फीस भुगतान की जाए।

The revision application shall be accompanied by a fee of Rs.200/- where the amount involved is Rupees One Lac or less and Rs.1,000/- where the amount involved is more than Rupees One Lac.

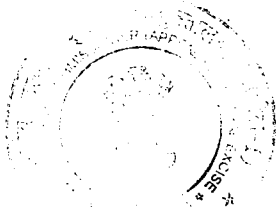
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण के प्रति अपील:-
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35-बी/35-इ के अंतर्गत:-

Under Section 35B/ 35E of CEA, 1944 an appeal lies to :-

(क) वर्गीकरण मूल्यांकन से संबंधित सभी मामले सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण की विशेष पीठिका वेस्ट ब्लॉक नं. 3. आर. के. पुरम, नई दिल्ली को एवं

(a) the special bench of Custom, Excise & Service Tax Appellate Tribunal of West Block No.2, R.K. Puram, New Delhi-1 in all matters relating to classification valuation and.



The appeal to the Appellate Tribunal shall be filed in quadruplicate in form EA-3 as prescribed under Rule 6 of Central Excise(Appeal) Rules, 2001 and shall be accompanied against (one which at least should be accompanied by a fee of Rs.1,000/-, Rs.5,000/- and Rs.10,000/- where amount of duty / penalty / demand / refund is upto 5 Lac, 5 Lac to 50 Lac and above 50 Lac respectively in the form of crossed bank draft in favour of Asstt. Registrar of a branch of any nominate public sector bank of the place where the bench of any nominate public sector bank of the place where the bench of the Tribunal is situated.

- (3) यदि इस आदेश में कई मूल आदेशों का समावेश होता है तो प्रत्येक मूल आदेश के लिए फीस का भुगतान उपर्युक्त ढंग से किया जाना चाहिए इस तथ्य के होते हुए भी कि लिखा पढी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केन्द्रीय सरकार को एक आवेदन किया जाता है।

In case of the order covers a number of order-in-Original, fee for each O.I.O. should be paid in the aforesaid manner notwithstanding the fact that the one appeal to the Appellate Tribunal or the one application to the Central Govt. As the case may be, is filled to avoid scriptoria work if excising Rs. 1 lacs fee of Rs.100/- for each.

- (4) न्यायालय शुल्क अधिनियम 1970 यथा संशोधित की अनुसूची-1 के अंतर्गत निर्धारित किए अनुसार उक्त आवेदन या मूल आदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रति पर रु.6.50 पैसे का न्यायालय शुल्क टिकट लगा होना चाहिए।

One copy of application or O.I.O. as the case may be, and the order of the adjournment authority shall a court fee stamp of Rs.6.50 paise as prescribed under scheduled-I item of the court fee Act, 1975 as amended.

- (5) इन ओर संबंधित मामलों को नियंत्रण करने वाले नियमों की ओर भी ध्यान आकर्षित किया जाता है जो सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (कार्याविधि) नियम, 1982 में निहित है।

Attention is invited to the rules covering these and other related matter contended in the Customs, Excise & Service Tax Appellate Tribunal (Procedure) Rules, 1982.

- (6) सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट), के प्रति अपील के मामले में कर्तव्य मांग (Demand) एवं दंड (Penalty) का 10% पूर्व जमा करना अनिवार्य है। हालांकि, अधिकतम पूर्व जमा 10 करोड़ रुपए है (Section 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

केन्द्रीय उत्पाद शुल्क और सेवा कर के अंतर्गत, शामिल होगा "कर्तव्य की मांग"(Duty Demanded) -

- (i) (Section) खंड 11D के तहत निर्धारित राशि;
- (ii) लिया गलत सेनवैट क्रेडिट की राशि;
- (iii) सेनवैट क्रेडिट नियमों के नियम 6 के तहत देय राशि.

⇒ यह पूर्व जमा 'लंबित अपील' में पहले पूर्व जमा की तुलना में, अपील दाखिल करने के लिए पूर्व शर्त बना दिया गया है।

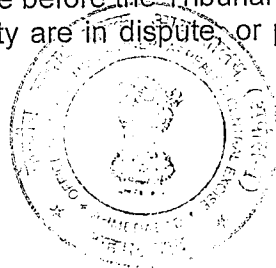
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (Section 35 C (2A) and 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

Under Central Excise and Service Tax, "Duty demanded" shall include:

- (i) amount determined under Section 11 D;
- (ii) amount of erroneous Cenvat Credit taken;
- (iii) amount payable under Rule 6 of the Cenvat Credit Rules.

इस इस आदेश के प्रति अपील प्राधिकरण के समक्ष जहाँ शुल्क अथवा शुल्क या दण्ड विवादित हो तो माँग किए गए शुल्क के 10% भुगतान पर और जहाँ केवल दण्ड विवादित हो तब दण्ड के 10% भुगतान पर की जा सकती है।

In view of above, an appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute or penalty, where penalty alone is in dispute."



ORDER-IN-APPEAL

M/s. Meghmani Dyes and Intermediates Limited (Unit-II), 100% EOU situated at Plot No. 100A, Phase II, GIDC, Vatwa, Ahmedabad [for short - 'appellant'] has filed this appeal against OIO No. MP/03/DC/2016-17 dated 15.04.2016, passed by the Deputy Commissioner, Central Excise, Division-III, Ahmedabad-I Commissionerate [for short - 'adjudicating authority'].

2. Briefly stated, a show cause notice dated 24.4.2007, was issued to the appellant inter alia proposing [a] recovery of CENVAT credit wrongly availed on Service Tax of Rs. 29,900/-; [b] demanding differential Central Excise duty of Rs. 9,145/-; and [c] recovery of CENVAT credit wrongly of Rs. 75522/- wrongly availed on plates of iron and steel, beams, channels, angles, paints, etc.. This notice was adjudicated vide the impugned OIO wherein the adjudicating authority set aside the proposals mentioned at [a] and [b], *supra*. In respect of the proposal mentioned at [c] above, he disallowed CENVAT credit of Rs. 75,522/-; ordered recovery of the credit along with interest and further imposed penalty of Rs. 8000/- on the appellant.

3. The appellant feeling aggrieved, has filed this appeal on the following grounds:

- (a) that the impugned items on which credit is taken were used in carrying pipes and fitting, vessel making and painting, tops of vessels etc which is essential for carrying process of manufacturing without which the usage of other capital goods is impossible hence, it needs to be treated as such or part/components of capital goods eligible for CENVAT credit;
- (b) these items though classified in chapter 72 or 73 but were used in and for capital goods classified in chapter 82, 84, 85 and 90 of CETA, 1985;
- (c) the items have not been used for construction of factory building or laying foundation of building support structure but for making of vessels, roof top for vessel, carrying pipelines and fitting and painting of vessels i.e. for the capital goods used in the manufacturing the final goods;
- (d) 'input' also includes raw materials used in making capital goods used in the factory of manufacture and capital goods also include part/components;
- (e) the law no where specifies that when these item are used for purpose other than specified in exclusion clause, credit would not be available;
- (f) the adjudicating authority distinguished the case law by stating that the same are not applicable in the present case without elaborating facts and circumstance which lead to this conclusion;
- (g) that they would like to rely on the case of Divi Laboratories [2006(196) ELT 285], Hindustan Zinc [2005(188) ELT 313] and [2007(2140) ELT (Raj)], Monnet Ispat Limited [2003(159) ELT 471] and Rajasthan Spinning and Weaving Mills Limited [2010(255) ELT 481], Maruti Suzuki Limited [2009(240) ELT 641] and GNFC [2009(240) ELT 661].

4. Personal hearing in the matter was held on 4.1.2017. Shri Manohar Maheshwari, Sr. General Manager(Commercial), appeared on behalf of the appellant and reiterated the arguments made in the grounds of appeal. Shri Maheshwari, also submitted additional submission in the matter wherein he explained the applicability of various case laws to the present dispute, which were in their favour. Shri Hanuman Ram, Superintendent, AR V, Division III, Central Excise Ahmedabad-I represented the department. During the course of the personal hearing the Superintendent was directed to visit the factory and submit a factual report about the use of the disputed items.



5. Vide letter no. AR.V/MDIL-II/EOU/Audit/SCN/2006-07 dated 30.1.2017, Superintendent, AR V, Division III, submitted his report after visiting the factory of the appellant. The relevant text of the report which also encloses eight photographs, is as under:

Sr. No.	Sr. No. as per Annexure C	Name of item	Usage	Photo annexed as
01	1	Angle	For holding pipes and tubes	Annexure-1
02	2	Beams	For vessel	Annexure-2
03	3 to 7	Channels	For vessel	Annexure-3
04	8	Channels, Angles	For roof for prod. plant	Annexure-4
05	9 to 10	Channels Joists	For vessel	Annexure-5
06	11 to 12	HR Sheets and Joists	For vessel	Annexure-6
07	13 to 14	Paints	For colour vessel	Annexure-7
08	15 to 16	Plates, Sheets	For reaction vessel	Annexure-8

6. I have gone through the facts of the case, the grounds of appeal, the additional submissions, the oral averments raised during the course of personal hearing and the report submitted by the Superintendent, AR-V, Division-III, Ahmedabad-I.

7. The question to be decided is whether the appellant is eligible for CENVAT Credit on capital goods on plates of iron and steel, beams, pipes, angles, welding rods and paints.

8. The definition of capital goods and inputs, as defined in the CENVAT Credit Rules, 2004, has undergone a lot of change. However, since the availment is during the period from April 2006 to December 2006, [refer Annexure C to the show cause notice], the text of the definitions, as was in vogue, is reproduced below for ease of reference:

(a) "capital goods" means:-

(A) the following goods, namely:-

(i) all goods falling under Chapter 82, Chapter 84, Chapter 85, Chapter 90, heading no. 68.02 and sub heading no. 6801.10 of the First Schedule to the Excise Tariff Act;

(ii) pollution control equipment;

(iii) components, spares and accessories of the goods specified at (i) and (ii);

(iv) moulds and dies, jigs and fixtures;

(v) refractories and refractory materials;

(vi) tubes and pipes and fittings thereof; and

(vii) storage tank,

used-

(1) in the factory of the manufacturer of the final products, but does not include any equipment or appliance used in an office; or

(2) for providing output service;

(B) motor vehicle registered in the name of provider of output service for providing taxable service as specified in sub-clauses (f), (n), (o), (zr), (zrp), (zzt) and (zzw) of clause (105) of section 65 of the Finance Act;

k) "input" means-

(i) all goods, except light diesel oil, high speed diesel oil and motor spirit, commonly known as petrol, used in or in relation to the manufacture of final products whether directly or indirectly and whether contained in the final product or not and includes lubricating oils, greases, cutting oils, coolants, accessories of the final products cleared along with the final product, goods used as paint, or as packing material, or as fuel, or for generation of electricity or steam used in or in relation to manufacture of final products or for any other purpose, within the factory of production;

(ii) all goods, except light diesel oil, high speed diesel oil, motor spirit, commonly known as petrol and motor vehicles, used for providing any output service;

Explanation 1.- The light diesel oil, high speed diesel oil or motor spirit, commonly known as petrol, shall not be treated as an input for any purpose whatsoever.



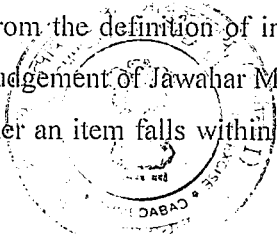
Explanation 2.- Input include goods used in the manufacture of capital goods which are further used in the factory of the manufacturer

9. Now, the adjudicating authority, has disallowed the credit on the grounds that [a] the said materials do not fall within the definition of capital goods as defined under Rule 2(a) (A) of the CCR '04 nor can this be considered as input as per Rule 2(k) of CCR '04, for the goods manufactured by the appellant; [b]the case law of Hindustan Zinc Limited [2005(188) ELT 313], is not applicable in the present case; [c]the goods on which CENVAT credit has been availed and utilized are falling under chapter 72 and 73 of CETA '85 and that these chapter are not specified in the definition of capital goods, input or input service for availing CENVAT credit in the CCR '04.

10. The appellant on the other hand is contending that the impugned items on which credit is taken were used in carrying pipes and fitting, vessel making and painting tops of vessels etc which is essential for carrying process of manufacturing without which the usage of other capital goods is impossible; that though these items are classified in chapter 72 or 73, they were used in and for capital goods classified in chapter 82, 84, 85 and 90 of CETA, 1985; that the items have not been used for construction of factory building or laying foundation of building support structure; that the input also include raw materials used in making capital goods used in the factory of manufacture and that capital goods also include part/components.

11. Capital goods, as per the definition, *supra*, included all goods falling under Chapter 82, Chapter 84, Chapter 85, Chapter 90, heading no. 68.02 and sub heading no. 6801.10 of the First Schedule to the Central Excise Tariff Act, 1985 and their components, spares and accessories used in the factory of the manufacturer of the final products. The capital goods however, excluded any equipment or appliance used in an office. While input, as per explanation 2, to the definition, *supra*, included goods used in the manufacture of capital goods which are further used in the factory of the manufacturer. The adjudicating authority, has disallowed the CENVAT credit primarily because the goods do not fall within the definition of capital goods as defined under Rule 2(a) (A) of the CCR '04 and that these are neither inputs, as defined under Rule 2(k) of the CENVAT Credit Rules, 2004. The allegation in the notice was that these goods appeared to have been used for civil work or making roof for production plant, holding or accessing capital goods.

12. The task before me is to ascertain whether the allegation that the aforementioned goods were used for civil work or making roof for production plant, holding or accessing capital goods, is true. The adjudicating authority has not gone into this matter. The definition of capital goods and inputs, as mentioned above, which was in vogue during the time of dispute, did not specifically debar these items from the definition of inputs. However, I find that the Hon'ble Supreme Court of India, in the judgement of Jawahar Mills [2001(132) ELT 3(SC)], had evolved the user test to determine whether an item falls within the definition of capital goods. I would like to quote the relevant extract:



The main contention of Mr. Rohtagi, however, is that the question whether an item falls within the definition of 'Capital goods' would depend upon the user it is put to. The submission is that parts of the items in respect whereof availing of Modvat credit has been allowed by the Tribunal could not be treated as 'Capital goods' as the manufacturer could not establish that the entire item was used in the manufacture of final product. To illustrate his point, Mr. Rohtagi submitted that part of a cable may go into the machine used by the manufacturer and, thus, may qualify the requirement of clause 1(a) and, at the same time, another part of the cable which is used only for lights and fans would not so qualify. We have no difficulty in accepting the contention of the learned Additional Solicitor General that, under these circumstances, user will determine whether an item qualifies or not the requirement of clause 1(a).

[emphasis supplied]

13. On going through the photographs enclosed along with the report submitted by the Superintendent, I find that in respect of Sr. No. 1 of Annexure C to the show cause notice, the angles are being used as a supporting structure for holding pipes and tubes; in respect of Sr. No. 2, the beams are probably used as a supporting civil structure for the vessel; in respect of Sr. No. 3 to 7, the channels have been used as sort of support structure for vessel ; in respect of Sr. No. 8, the channels and angles have been used purely as a roof for production plant; in respect of Sr. No. 9 to 10 the channels, joists have been used as sort of support structure for vessel; in respect of Sr. No. 11 to 12, the HR sheets and joists have been used for support structure for vessel; in respect of Sr. No. 13 to 14, the photograph is not very clear and in respect of Sr. No. 15 to 16, plates and sheets, again appear to be support structure for reaction vessel. Applying the user test as devised by the Hon'ble Supreme Court of India, supra, I find that in none of the items above, can it be said that the items have gone into the capital goods which have been subsequently used in the manufacture of final products. Infact as is evident from the photographs, in almost all the cases, the goods have been used as a support structure for the vessel, pipes, etc..

14. The appellant has relied upon a catena of case laws. I would now like to discuss the same:

(a) Divi Laboratories [2006(196) ELT 285]

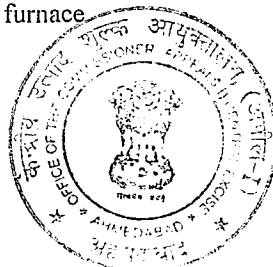
The Hon'ble Tribunal in this case held as follows : "The items like angles, channels, beams, pipes, MS tubes, plane plates, flats, cable trays, SS sheets are used as parts of a Technological structures which support a reaction vessel or used in particular Equipment in the manufacture of Bulk Drugs. From the photographs shown by the learned Advocate during the hearing, we are convinced that the above items are used as parts of Technological structures." Since in this case the items have not been used as parts of technological structures but simply as support structure, I do not find that this case law is applicable to the present dispute.

(b) Hindustan Zinc [2007(2140) ELT (Raj)]

The Hon'ble High Court of Rajasthan held that capital good credit was available in respect of MS/SS plates used in workshop meant for repair and maintenance of machinery. Since in the present dispute, the goods have not been used in respect of repair and maintenance, the reliance on this case law is misplaced. Since facts differ, the citation stands distinguished.

(c) Monnet Ispat Limited [2003(159) ELT 471]

In this case the Hon'ble Tribunal held that CENVAT was available on iron and steel plates, channels, angles and other items used for replacement of damaged worn out parts of rotary kiln; that CENVAT credit was not available on GC sheets being used for roofing the furnace.



(d)Rajasthan Spinning and Weaving Mills Limited [2010(255) ELT 481].

The Hon'ble Supreme Court in this case by relying on the user test evolved in Jawahar Mills judgement held that steel plates and MS channels used in fabrication of chimney for diesel generating set, capital goods credit is eligible. As is evident in para 14 I have undertaken the user test and the results are mentioned therein. The reliance place on the case law therefore appears to be misplaced.

(e)Mundra Port and Special Economic Zone Limited [2015(939) STR 726].

The appellant relying on this judgement of the Hon'ble High Court of Gujarat has emphasized the fact that explanation 2 to Rule 2(k) of the CENVAT Credit Rules, brought into effect from 7.7.2009 was not clarificatory in nature as has been held by the Larger Bench of the Tribunal in the case of Vandana Global Limited [2010 (253) ELT 440]. However, I do not find that the adjudicating authority has anywhere held the said explanation to be clarificatory and therefore to be applicable retrospectively. The explanation is not a part of the dispute and therefore the case law is not applicable to the current dispute.

(f)Metrochem Industries [2013(292) ELT 578].

In this case the Hon'ble Tribunal held that items utilized for fabrication of machinery used for manufacture of final product as certified by Chartered Engineers covered by Rule 2(k) of CCR '04. The present dispute differs from the facts of the case and is therefore not applicable.

(g)Ravasco Transmission and packing Private limited [2013(292) ELT 441].

In this case the Hon'ble Tribunal allowed the CENVAT credit on capital goods on MS Beams and MS channels on the ground that they were used to keep electric motor in elevated position and to move finished goods and not as supporting structure. The facts differ from the present dispute.

(h)Surya Alloys Industries [2014(305) ELT 47].

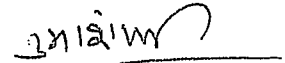
The Calcutta High Court in this case held that the Larger Bench of the Tribunal's judgement in the case of Vandana Global was no longer a goods law. But nowhere has the adjudicating authority relied on this case law to form any opinion.

15. I find that the appellant has not provided any citations wherein CENVAT Credit of capital goods have been allowed in respect of angles, beams, channels, channel joists, plates and HR sheets, wherein they have been used as a support structure for the vessel, pipes, etc..

16. In view of the foregoing, I do not find any infirmity with the impugned order dated 15.4.2016, passed by the adjudicating authority and hence the appeal is rejected.

17. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

17. The appeal filed by the appellant stands disposed of in above terms.




(उमा शंकर)

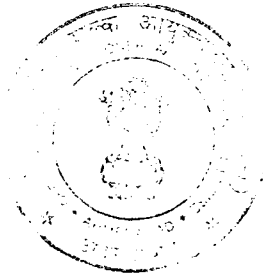
आयुक्त (अपील्स - I)

Date: 28/2/2017

Attested



(Vinod Lukose)
Superintendent (Appeal-I)
Central Excise, Ahmedabad.



BY RPAD.

To,

M/s. Meghmani Dyes and Intermediates Limited (Unit-II),
100% EOU situated at Plot No. 100A,
Phase II, GIDC,
Vatwa, Ahmedabad-382445.

Copy to:-

1. The Chief Commissioner of Central Excise, Ahmedabad.
2. The Principal Commissioner of Central Excise, Ahmedabad-I.
3. The Additional Commissioner (System), Central Excise, Ahmedabad-I.
4. The Deputy/Assistant Commissioner, Division III, Ahmedabad-I.
- ✓ 5. Guard file.
6. P.A



