

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.**

PRINCIPAL BENCH - COURT NO. III

Excise Appeal No.55800 of 2023 (SM)

[Arising out of Order-in-Appeal No.221(AK)CE/JDR/2023 dated 26.07.2023 passed by the Commissioner (Appeals), Central Excise and Central Goods and Service Tax, Jodhpur]

M/s. Nuvoco Vistas Corporation Limited

Appellant

Chittor Cement Plant,
Village: Bhawaliya, P.O. Arniya-Joshi,
Tehsil: Nimbahera, Distt.-Chittorgarh
Rajasthan-312 620.

Versus

**Commissioner of Central Excise and
CGST,**

Respondent

G-105, New Industrial Area,
Opp. Diesel Shed, Basni,
Jodhpur (Rajasthan).

APPEARANCE:

Shri Saurabh Suman Sinha and Ms.Chitra Y. Parande, Advocates for the appellant.
Shri Rohit Issar, Autorised Representative for the respondent.

CORAM:

HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)

FINAL ORDER NO.56022/2024

DATE OF HEARING:16.07.2024

DATE OF DECISION:18.07.2024

BINU TAMTA:

1. M/s.Nuvoco Vistas Corporation ¹ is manufacturer of cement and clinker having manufacturing plant and machinery in Chittorgarh. They have received welding electrodes for the repair and maintenance of plant and machinery, which is used for the manufacture of the product i.e. cement and clinker. Show cause notice dated 19.12.2017 was issued that welding electrodes could not be

¹ (The Appellant)

considered as input and therefore, cenvat credit was not available on them. The Asstt. Commissioner vide order-in-original dated 25.08.2022 dropped the demand as proposed in the show cause notice. Being aggrieved, Revenue filed an appeal that the cenvat credit is inadmissible on welding electrodes, which are used for repair and maintenance of plant and machinery and these activities are not related to the manufacture of the final products. The appeal was allowed and the impugned order was passed confirming the demand under the show cause notice. Hence the present appeal is filed before this Tribunal.

2. We have heard Shri Saurabh Suman Sinha and Ms. Chitra Y. Parande, Advocates for the appellant and Shri Rohit Issar, Authorised Representative for the respondent.

3. The issue for consideration in the present appeal relates to the admissibility of cenvat credit on welding electrodes as inputs. The submission of the learned counsel for the appellant is that the issue has been settled by the Apex Court in the case of **M/s.Lafarge India Limited Vs. Commissioner of Central Excise, Raipur** ² and also in the case of **The Kisan Cooperative Sugar Factory Ltd. Vs. Commissioner of Central Excise, Meerut-I** ³, wherein it has been categorically held that the cenvat credit is admissible on welding electrodes used in the repair and maintenance activities. The relevant para of the judgement is quoted below:-

"11. On consideration of sub-rule 4 of Rule 57-A of the Central Excise Rules, 1944, it is noted that the credit of specified duty is allowed in respect of two categories of inputs namely (i) inputs used in the manufacture of final products; and (ii) inputs used in or in relation to the manufacture of final products whether

² Civil Appeal No.1638 of 2006 with 5955-5956 of 2007 dated 6th Dec.,2023

³ Civil Appeal No.3747 of 2007 dated 6th Dec., 2023

directly or indirectly and whether contained in the final product or not. The latter category is quite wide enough to incorporate the use of welding electrodes and gases in the instant case for the purpose of maintenance and up-keep, which is in relation to the manufacture of final products and which is indirect and is not contained in the final product as such. Further, the expression "in relation to" is of a wider import. Hence, the appellant is entitled to the benefit of MODVAT/CENVAT Credit for the period in question."

4. Learned Authorised Representative for the respondent agrees to the submissions that the matter is squarely covered by the latest decision of the Apex Court referred above.

5. Considering the facts of the present case, in the light of decision of the Apex Court referred above, the appellant is entitle to cenvat credit on welding electrodes as inputs used in the manufacture of final products – cement and clinker. The impugned order, therefore, needs to be set aside and the appeal stands allowed.

[Order pronounced on 18th July, 2024]

(Binu Tamta)
Member (Judicial)

Ckp.