



CNR: KAHC010612802024

NC: 2026:KHC:51105-DB
CEA No. 34 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 17TH DAY OF SEPTEMBER, 2026
PRESENT
THE HON'BLE MR. JUSTICE S.G.PANDIT
AND
THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA
CENTRAL EXCISE APPEAL NO. 34 OF 2024

BETWEEN:

THE COMMISSIONER OF
CENTRAL EXCISE AND CENTRAL TAX
MANGALORE CGST
COMMISSIONERATE,
7TH FLOOR, TRADE CENTRE,
BUNTS HOSTEL ROAD,
MANGALORE- 575003.

EARLIER KNOWN AS
COMMISSIONER OF CENTRAL
EXCISE AND SERVICE TAX,
MANGALORE, 7TH FLOOR,
TRADE CENTRE, BUNTS HOSTEL ROAD,
MANGALORE – 575003.

Digitally signed by
NANJUNDACHARI
Location: High
Court of Karnataka

(BY SRI. AKASH B SHETTY, ADV.)

...APPELLANT

AND:

M/S. MANGALORE REFINERY AND
PETROCHEMICALS LIMITED
KUTHETHOOR P.O,
VIA KATIPALLA, MANGALORE,
KARNATAKA 575030.

(BY SRI RAVIRAGHAVAN, ADV.)

...RESPONDENT



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THIS APPEAL IS FILED UNDER SEC. 35G OF THE CENTRAL EXCISE ACT 1944, PRAYING TO (I) ADMIT THE APPEAL FOR CONSIDERATION; (II) DECIDE THE QUESTIONS OF LAW AS FRAMED HEREIN ABOVE IN FAVOUR OF THE APPELLANT AND CONSEQUENTLY; (III) SET ASIDE THE IMPUGNED FINAL ORDER NO.20249/2024 DATED 08.04.2024. PASSED BY THE CESTAT, REGIONAL BENCH, BENGALURU IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
AND
HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE S.G.PANDIT)

This Appeal is by the Revenue under section 35G of the Central Excise Act, 1944 against the Order passed by the Customs, Excise and Service Tax Appellate Tribunal, Bangalore (hereinafter referred to as 'CESTAT') in Central Excise Appeal No. 21162/2016 dated 08.04.2024, wherein, the appeal filed by respondent herein was allowed and the Order-in-Original dated 28.10.2016 passed by the appellant herein is set aside.



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2. The brief facts of the case are as under:

The respondent is engaged in the manufacture and clearance of petroleum products and claimed cenvat credit for the capital goods used in the manufacture of final products during the period April 2010 to December 2014. Alleging that the various capital goods used in the manufacture do not satisfy the definition of 'capital goods' and that no cenvat credit can be claimed for the said goods, a show cause notice dated 06.05.2015 was issued to the respondent for recovery of the credit claimed and the interest and penalty thereon. Pursuant to the show cause notice dated 06.05.2015, the Order-in-Original dated 28.10.2016 was passed by the appellant, confirming the demand proposed in the show cause notice. Aggrieved by the Order-in-Original dated 28.10.2016, the respondent was in appeal before the CESTAT. The CESTAT, vide impugned Order dated 08.04.2024 has allowed the appeal filed by the respondent and set aside the Order-in-Original



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dated 28.10.2016. Hence, this appeal is filed by the Revenue.

3. Heard Sri. Akash B Shetty, learned counsel for the Revenue and Sri. Ravi Raghavan, learned counsel for the respondent on admission. Perused the entire appeal papers.

4. Learned counsel Sri. Akash B Shetty for the revenue would submit that the capital goods for which the cenvat credit has been claimed has been utilized in the manufacture of plant and machinery which are embedded to the earth and are not finished goods and hence, not excisable. Thus, it is submitted that respondent/assessee cannot claim cenvat credit on such capital goods used in the manufacture of non-excisable goods. Thus, it is submitted that the appeal filed by the Revenue be admitted.



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5. Per contra, Sri. Ravi Raghavan, learned counsel for the respondent would submit that the issue at hand is no longer *res integra* and is squarely covered by the decision of a Coordinate bench of this Court in ***CCE, MYSORE VS ICL SUGARS LTD.*** reported in ***[2011 (271) ELT 360(Kar)]***. Thus, it is prayed that the appeal filed by the Revenue be dismissed in limine.

6. Having heard the learned counsel for the parties and having perused the entire appeal papers, we are not inclined to interfere with the Order passed by the Tribunal for the following reasons:

A Coordinate Bench of this Court in ***ICL SUGARS LTD.*** (supra) in a similar fact scenario, has examined the questions sought to be urged by the Revenue in this appeal and has held that cenvat credit cannot be denied on capital goods utilized in the manufacture of plant/machinery embedded to earth solely on the ground that the same is immovable property. The aforesaid



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judgment of the Coordinate Bench in ***ICL SUGARS LTD.*** (supra) would squarely cover the case at hand since the facts in the instant case are almost similar to that of ***ICL SUGARS LTD.*** (supra). Thus, we are of the considered opinion that no substantial question of law arises for consideration in the present appeal. Hence, the present appeal stands rejected.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE

NC
CT:bms