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_ HIGH COURT OF CHHATTISGARH, BILASPUR

TAXC No. 171 of 2017

- The Commissioner CGST And Central Excise GST Bhavan, Dhamtari Road, Tikrapara, Raipur, Chhattisgarh.

---- Petitioner

Versus

- M/s Khyati Ispat Pvt. Ltd. (Rolling Mill Divn) Village Jarway, Hirapur, Raipur, Chhattisgarh.

---- Respondent

TAXC No. 177 of 2017

- The Principal Commissioner CCE And ST, Raipur, Central Excise Building, Dhamtari Road, Tikrapara, Raipur, Chhattisgarh.

---- Petitioner

Versus

- M/s Crest Steel And Power Pvt. Ltd. Joratarai, Mangatta, District Rajnandgaon, Chhattisgarh.

---- Respondent

TAXC No. 4 of 2018

- The Principal Commissioner, CGST & Central Excise GST Bhavan, Dhamtari Road, Tikrapara, Raipur C.G.

-- Petitioner

Versus

- M/s Cosmos Castings India Ltd., Jarway Tendua Road, Hirapur, Raipur C.G.

---Respondent

TAXC No.173 of 2017

- The Principal Commissioner CCE, Raipur, Central Excise Building, Dhamtari Road, Tikrapara, Raipur.

-----Petitioner

Versus

- M/s IND Synergy Limited, Village Kotmar, Mohapalli, Raigarh, Chhattisgarh.

----Respondent

For Petitioners	Shri Maneesh Sharma, Advocate.
For respective Respondents	Ms Smiti Sharma, Shri Siddharth Dubey and Shri Ashish Surana, Advocates

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Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

by Hon'ble Prashant Kumar Mishra J.

19/02/2018

1. These four appeals by the revenue would raise common ground on the strength of the order passed by the Coordinate Benches of this Court in **Union of India Vs M/s Harshad Thermic Industries Pvt. Ltd (TAXC No.48 of 2012)** decided on 22.11.2012 and **Commissioner, Central Excise Customs & Service Tax Vs M/s Larfarge India Pvt. Ltd (TAXC No.13 of 2015)** decided on 13.08.2015 that the Tribunal has passed a non speaking order hindering judicial review, therefore, the matters deserve to be remitted back to the Tribunal for decision afresh.

2. At this stage, Shri Maneesh Sharma, learned counsel

for the Revenue, would submit that the question as to whether the subject goods, MS Joists, MS Channels, Angles, MS Beams, HR Coil, MS plates, JC sheets, HR sheets, and other steel products and cement commonly known as structural steel items (henceforth 'structural steel items') would fall within the meaning of capital goods or input is also involved in these appeals.

3. While agreeing with the submission made by Shri Maneesh Sharma, learned counsel for the Revenue, that if an order is non-speaking or unreasoned it hinders judicial review by the Higher Courts, therefore, it is required to be set aside so that a detailed order is passed by the Tribunal or any other Subordinate Adjudicatory Body enabling the Superior Court to examine the correctness of the reasoning assigned by the authority while rendering the judgment. However, the present mattes are bit different in the sense that the issue as to whether the structural steel items are capital goods or input has already been settled by the Coordinate Bench of this Court in bunch of tax appeals. The lead case being (TAXC No. 59 of 2011) **M/s Vandana Global Limited Siltara Industrial Growth Centre Vs Commissioner, Central Excise and**

Customs, Central Excise Building decided on 13.09.2017 holding, while agreeing with the ratio rendered by the Gujrat High Court in the matter of **Mundra Ports & Special Economic Zone Ltd.; 2015 (39) S.T.R. 726 (Guj.)** and one decided by the Madras High Court in the matter of **M/s Thiruarooran Sugars Vs Customs, Excise and Service Tax Appellate Tribunal (CMA 3814/2014 and connections)** that either before 7.7.2009 or in view of the clarificatory amendment made on 07.07.2009 in the CENVAT Credit Rules, 2004, the Structural Steel Items would be inputs and as such liable to avail CENVAT Credit.

4. It is stated at the bar that the revenue is processing the matter for filing an SLP against the judgment in the matter of **Vandana Global** (supra). Admittedly, the legal issues on which all the Four cases would be decided on merits, even after remit, would be the same as has been decided by the Coordinate Bench of this Court in the matter of **Vandana Global** (supra). Therefore, there is no point in remitting the matter back to the Tribunal for decision afresh as all the cases would involve the same structural steel items which were subject matter of decision making by the Division Bench in the matter of

Vandana Global (supra) and other connected matters decided by a common order.

5. In view of the above, even though the impugned order is a non speaking order, the core issue having already been settled by this Court in the matter of **Vandana Global** (supra), we do not consider the present to be a fit case for remitting the matter to the Tribunal.

6. The issue involved in all the appeals being covered by the decision rendered in **Vandana Global** (supra), all the appeals deserve to be and are hereby dismissed in the same terms.

7. Copy of the order passed in **Vandana Global** (supra) be placed on the record of these appeals.

Sd/-	Sd/-
Judge	Judge
Prashant Kumar Mishra	Ram Prasanna Sharma

Akhilesh