FAX : 0532-2400149 REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

Dated: 12/09/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70955-70956/2017-SM[BR] dated 06/09/2017

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 35-C(1) of the Central Excise and Salt Act, 1944.

Asstt. Registrar

	Application	Appeal	Name and Address of Appellant
1		E/106/2012	**BAJAJ HINDUSTHAN LTD.** SUGAR UNIT: BHAISANA, BUDHANA, DISTT. MUZAFFARNAGAR (U.P.)
2	E/CROSS/75/2012	E/133/2012	C.C.E, MEERUT-I Excise Chowk,Opposite Choudhary Charan Singh University Mangal Panday Nagar, Meerut - 250005.
			Name and Address of Respondent
3			BAJAJ HINDUSTAN LTD. SUGAR UNIT BHAISANA, BUDHANA, DISTT. MUZAFFARNAGAR (U.P.),,
4			-C.C.E. MEERUT I Excise Chowk,Opposite Choudhary Charan Singh University Mangal Panday Nagar, Meerut - 250005.

Other Appellants and Respondents as per Annexure

Copy To

5Advocate(s) / Consultant(s):

**PRADEEP K MITTAL AND
PRAVEEN K MITTAL
171-CHITRA VIHAR, DELHI-
110092**

6 Bar Association, CESTAT, Allahabad

7 Director Publications, Customs, Excise. I.P. Estate, Delhi

8 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

9 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

10 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

11 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

12 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

13 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

14 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

15 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

16 C.D.R. 17 Office Copy 18 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
Old Red Building, 38 M.G. Marg, Civil Lines, Allahabad – 211 001

COURT NO. II

DATE OF HEARING/DECISION : 06/09/2017.

Excise Appeal No. 106 of 2012 (SM)

M/s Bajaj Hindustan Ltd. — Appellant

Versus

CCE & ST, Meerut – I — Respondent

Excise Appeal No. 133 of 2012 with Cross Objection No. 75 of 2012 (SM)

CCE & ST, Meerut – I — Appellant

Versus

M/s Bajaj Hindustan Ltd. — Respondent

[Arising out of the Order-in-Original No. 27/CE/MEERUT-I/2011 dated 30/09/2011 passed by The Commissioner, Customs, Central Excise & Service Tax, Meerut.]

Appearance

Shri Pradeep K. Mittal, Advocate – for the appellant/respondent.

Shri Gyanendra Tripathi, Authorized Representative (DR) – for the respondent/appellant.

CORAM: **Hon'ble Shri Ashok Jindal, Member (Judicial)**

70955-70956/17
Final Order No. ______ Dated : 06/09/2017

Per. Ashok Jindal :-

The appellant is in appeal against the impugned order wherein Cenvat credit on Angles, Joists, Plates, Shape & Sections

& M.S. Round, Mill plates and channels, Red Oxide Paints, Aluminium Sheets/Coils and welding electrodes were sought to be denied on the premise that items in question are neither inputs nor capital goods as per Rule 2 (K) and Rule 2 (A) of the Cenvat Credit Rules, 2004. The matter was adjudicated on some part Cenvat credit was allowed and in some part Cenvat credit was disallowed. Aggrieved from the said adjudication order, both sides are in appeal and against the appeal filed by the Revenue, the assessee has also filed Cross Objection.

2. Considering the fact that all these items has been used by the assessee in fabrication of capital goods or support structures which is embedded to earth and the Hon'ble High Court of Madras in the case of **Dalmia Cements (Bharat) Ltd. vs. CCE, Chennai** reported in **2016 (341) E.L.T. 102 (Mad.)**, wherein it has been held that although the support structures are embedded to earth but without the support structures machinery cannot function, therefore, these support structures are directly and indirectly related to the manufacturing activity. Therefore, assessee is entitled to avail Cenvat credit.

3. In the light of the decision of the Hon'ble High Court of Madras in the case of **Dalmia Cements (Bharat) Ltd.** (supra), I hold that assessee is correctly availed Cenvat credit on the items in question. In that circumstances appeal filed by the assessee is allowed and appeal filed by the Revenue is dismissed. Cross

Objection filed by the assessee are also disposed of in the above terms.

(Dictated and pronounced in open court.)

Sd/-

(Ashok Jindal)

Member(Judicial)

PK

प्रमाणित प्रति/Certified True Copy

21/09/17

सहायक पंजीकार/Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण/(C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-