IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing/Decision: 7.4.2017

Appeal No. E/2789/2012-DB

(Arising out of Order-in-Original No. 46-47/2012/C.Ex/JPR-II-Commr. dated 6.6.2012 passed by the Commissioner, Central Excise, Jaipur)

CCE, Jaipur-II Appellant

Vs.

M/s Shree Cement Ltd. Respondent

Appearance

Shri H.C. Saini, D.R. - for the appellant

Shri Hemant Bajaj, Advocate - for the respondent

CORAM:**Hon'ble Mr. Justice (Dr.) Satish Chandra, President**
Hon'ble Mr. Ashok K. Arya, Member (Technical)

Final Order No. 52850/2017

Per Justice Dr. Satish Chandra:

The present appeal is filed against the Order-in-Original No. 46-47/2012 dated 6.6.2012. The disputed period is March, 2010 to March, 2011.

2. The brief facts of the case are that during the period under consideration, the appellant was engaged in the manufacture of Cement and Clinker falling under Chapter 25 of the First Schedule to the Central Excise Tariff Act, 1985. During the period in dispute, the respondent availed Cenvat credit on MS sheets and MS plates which

were used in the factory for in-house fabrication of components of plant and machinery in the cement factory.

3. By the impugned order, Commissioner (Appeals) has allowed the Cenvat credit of Rs. 36,91,669/- pertaining to MS sheets and plates falling under Chapter Heading 72 of the First Schedule to the Central Excise Tariff Act, 1985, used for fabrication of manufacture of the capital goods and repairs and maintenance. Being aggrieved, the department has filed the present appeal.

4. With this background, we have heard Shri H.C. Saini and Shri Hemant Bajaj, ld. Counsels for the parties.

5. After hearing both the sides, it appears that for the earlier period (September, 2009 to Feb, 2010), the identical issue in the similar set of facts has come up before the Department where the claim of the appellant was also allowed by the Commissioner, by following the decision of the jurisdictional High Court in the case of ***Union of India Vs. Hindustan Zinc Ltd.*** - 2007 (214) ELT 510 (Raj.). Finally, the Commissioner vide his order dated 11.1.2012 has allowed Cenvat credit on the items viz. MS plates and sheets falling under Chapter 72 and 73 of the first schedule to Central Excise Tariff Act, 1985 (copy on record). During the course of argument, the ld.

Counsel for the respondent informed that no further appeal has been filed by the Department and the same has attained the finality.

6. Further, it may mention that this issue has also come up before the Tribunal in the case of ***Singhal Enterprises Pvt. Ltd Vs. CCE*** – 2016-TIOL-2451-CESTAT-DEL., where the Cenvat credit on steel plates and M.S. channels which were used for fabrication was allowed.

7. In the light of above discussions and by following our earlier order (supra), we find no reason to interfere with the impugned order. The same is hereby sustained along with the reasons mentioned therein.

8. In the result, appeal filed by the Department is dismissed.

(Dictated & pronounced in the open court)

(ASHOK K. ARYA)
MEMBER (TECHNICAL)

(JUSTICE Dr. SATISH CHANDRA)
PRESIDENT

RM