IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi-110066

Date of Hearing/Decision 20.04.2017

Appeal No.E/305/2012

(Arising out of Order-in-Appeal No.178/RPR-I/2011 dated 08.11.2011 passed by Additional Commissioner, Raipur, Chattisgarh)

CCE Raipur Appellant

v/s

Khyati Ispat Pvt Ltd. Respondent

<u>Appearance</u>

Shri K.V. Kumar, DR : from the Appellant

Ms. Priyanka Goel, Advocate : from the Respondent

Coram: Hon'ble Sh Ashok K Arya, Member(Technical)

Final Order No.53071/2017

Per Ashok K Arya:

The Revenue is in appeal against Order-in-Appeal No.178/RPR-I/2011 dated 08.11.2011 whereunder Cenvat Credit on various structural items namely, Angel, Channel, Plate, Rounds/CTD Bar, Slab, HR Coil/Sheet, Rolls etc. falling under chapter 72 of the Central Excise Tariff has been disallowed.

2. The matter represented by the ld Counsels, Ms. Priyanka Goel for the Respondent and Ms. K.V. Kumar for Revenue has been heard.

3. After examining the facts of the case and submission of both sides, it appears that impugned order has rightly allowed availment of Cenvet Credit on the subject inputs namely Angel, Channel, Plate, Rounds/CTD Bar,

Slab, HR Coil/Sheet, Rolls etc. which have been used for manufacture of capital goods and parts and the accessories of capital goods.

3.1 The Tribunal in a number of cases following the 'User Test' laid down in *CCE v/s Jawahar Mills* 2001 (132) ELT 3 (SC) and the ratio of the decision of *CCE v/s Rajasthan Spinning & Weaving Mills Ltd.* 2010 (255) ELT 481(SC) has allowed Cenvat credit for the subject goods which have been used for manufacture of capital goods as the said inputs are covered under the definition of Rule 2(k) of Cenvat Credit Rules, 2004. Therefore, I agree with the findings of the impugned order alongwith the reasons given therein. There is no merit in the appeal filed by the Revenue.

3.2 In the result, the impugned order is sustained and the appeal dismissed as without merits.

(Pronounced in open court on 20.04.2017)

(Ashok K Arya)
Member(Technical)

MT