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

Date of Hearing/Order: 5.2.2018

Appeal No. E/1333-1336/2011- SM with E/CO/21-23/2012 & E/CO/79/2012

(Arising out of Order-in-Original No. Commissioner/RPR/De-Novo/66/2010 dated 30.12.2010 passed by Commissioner (Appeals), Central Excise & Customs, Raipur)

M/s Ashirwad Ispat Udyog — Appellant
Vijay Chand Bothra, Partner
Basant Srivastava, Auth. Signatory
Ashirwad Ispat (RYP) Pvt. Ltd.

Vs.

CCE, Raipur — Respondent

<u>Appearance</u>

Shri A.K. Prasad, Advocate - for the appellant

Shri K. Poddar, D.R. - for the respondent

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

Final Order No. 50536-50539/2018

Per Ashok Jindal:

The appellants are in appeal against the impugned order where the goods has been confiscated in the premises of the appellant on account of excess goods found more than the recorded stocks during the course of investigation. Further, Cenvat credit sought to be denied to M/s Ashirwad Ispat (RYP) Pvt. Ltd. on the ground that the appellant viz. Ashirward Ispat Udyog Ltd. has issued fake invoices to avail inadmissible Cenvat credit.

2. Heard the parties. Considering the fact that on account of excess raw material found in the premises of the appellant viz. Ashirwad Ispat Udyog, the issue has already been dealt by this Tribunal in the case of M/s Ashirwad Ispat (RYP) Pvt. Ltd. vide Final Order No. 57659-57662/2017 dated 1.11.2017 hold that the excess stock found in the premises of Ashirwad Ispat Udyog pertains to M/s Ashirwad Ispat (RYP) Pvt. Ltd., therefore, goods are not liable for confiscation. Accordingly, confiscation of the excess goods has been set aside.

3. Further, I find that the allegation against M/s Ashirwad Ispat (RYP) Pvt. Ltd. is that they have received goods on fake invoice/documents issued by Ashirwad Ispat Udyog. The contention of the appellant is that they have produced documents for verification before the adjudicating authority during the course of investigation itself but the adjudicating authority has not examined those documents in detail. In that circumstances, I hold that the matter need examination at the end of the adjudicating authority to verify the documents produced by the appellant and to give detailed findings on those documents. Therefore, the matter is remanded back to the adjudicating authority for de novo adjudication keeping all issues open. It is pertinent to mention here that the appellant shall appear before adjudicating authority on or before 31.3.2018 to

fix the date to be fixed for final hearing and thereafter the adjudicating authority shall decide the issue within three months.

4. In these terms, the appeals are disposed of by way of remand. Cross objections are also stand disposed of in above terms.

(Dictated & pronounced in open Court)

(Ashok Jindal)
Member (Judicial)

RM