**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,**
**EAST REGIONAL BENCH : KOLKATA**

**Ex.Appeal No.77080/17**

(Arising out of Order-in-Appeal No.07/CE/RKL-GST/2017 dated 18.09.2017 passed by the Commissioner (Appeals) GST, Central Excise, Cus., BBSR)

M/s Rexon Strips Ltd.

Applicant (s)/Appellant (s)

**Vs.**

Commissioner of C.Ex., Rourkela

Respondent (s)

Appearance:

Shri Govinda Chandra Sahu, Consultant for the Appellant (s)
Shri D. Halder, Asstt. Commr. (A.R.) for the Respondent (s)

**CORAM:**

SHRI P. K. CHOUDHARY, HON'BLE JUDICIAL MEMBER

Date of Hearing /Date of Pronouncement : 14.02.2018

ORDER NO.F/O/76644/2018

**Per Shri P. K. Choudhary :**

This is an appeal filed by the Appellant against the Order-in-Appeal No. 07/CE/RKL-GST/2017 dated 18.09.2017 passed by the Commissioner (Appeals) GST, Central Excise, Customs., Bhubaneswar.

2. Briefly stated the facts of the case are that the appellants are engaged in the manufacture of Sponge Iron, M.S. Ingot etc. classifiable under Chapter 72 of the CETA, 1985.

3. A Show Cause Notice dated 02.03.2015 was issued alleging that the appellant regularly availed Cenvat Credit amounting to Rs.

77,263.00 on various steel items like HR Plate. HR Steel etc. treating them as input.

4. The Adjudicating authority confirmed the demand of Cenvat Credit of Rs. 77,263.00 along with interest and imposed penalty of equal amount of Cenvat Credit. By the impugned Order the Commissioner (Appeals) upheld the Adjudication Order. Hence, the appellant filed this appeal.

5. Heard both sides and perused the appeal records.

6. I find from the impugned Order that the items in question were used for “Product Storage Hopper”. According to the Revenue, the said goods appear to be used as supporting steel structure. The appellant contended that product storage Hopper is falling under specified capital goods under Rule 2(a)(A) of the Cenvat Credit Rules, 2004. The appellant also submitted the utilisation statement certified by the Chartered Engineer along with photographs before the Commissioner (Appeals). The Commissioner (Appeals) observed that they have not supplied technical explanation. I find that the issue is no more *res intga* in view of the various decisions of the Tribunal. The Tribunal in the case of Subramaniya Siva Co-operative Sugar Mills Limited Vs. Commissioner of Central Excise Salem 2010 (262) ELT 327 (Tri-Chennai) allowed the Cenvat Credit on the H.R. Sheets and Steel used for manufacture of storage tank. The Learned Counsel submitted that subsequently by Order dated 29.11.2017 where the credit was allowed in its own case.

7. In view of the above discussion, the impugned Order is set aside and the appeal filed by the appellant is allowed.

(Operative part of the order was pronounced in the open Court)

Sd/

**(P. K. CHOUDHARY)**
**MEMBER (JUDICIAL)**

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