**IN THE CUSTOMS, EXCISE AND SERVECE TAX APPELLATE TRIBUNAL, WEST ZONAL BENCH AT MUMBAI**
**COURT NO. II**

**APPEAL NO. E/6/10**

(Arising out of Order-in-Original No. Belapur/05/Taloja/R-VI/COMMR/WLH/2009-10 dated 26.10.2009 passed by the Commissioner of Central Excise & Customs, Belapur Commissionerate.)

**CCE, Belapur** Appellant

Vs.

**M/s CHT (India) Pvt. Ltd.** Respondent

Appearance:

Shri N.N. Prabhudesai, Superintendent (A.R.) for Appellant
Shri Stebin Mathew, Advocate for Respondent

CORAM:

**HON'BLE MRS. ARCHANA WADHWA, MEMBER (JUDICIAL)**
**HON'BLE SHRI RAJU, MEMBER (TECHNICAL)**

Date of Hearing: 09.03.2018
Date of Decision: 09.03.2018

ORDER NO. A/86230/2018

***Per: Archana Wadhwa***

Being aggrieved with the order passed by the Commissioner, Revenue has filed the present appeal.

2. After hearing both sides, we find that the very short issue is involved. The respondent was availing the credit and was paying duty on their final product by utilising the said credit. Revenue interpreted that the process does not amount to manufacture and should not

have to pay duty, in which case the credit would not be available to them. The Commissioner, while adjudicating the show-cause notice dropped the demand on merit as well as on limitation, hence the present appeal.

3. We note that the issue is no more *res integra*. The majority decision of the Tribunal in the case of *Asian Colour Coated Ispat Ltd. Vs. Commissioner of Central Excise, Delhi-III* reported at *2015 (317) ELT 538 (Tri.-Del.)* has held that even if the activity carried by assessee does not amount to manufacture, credit cannot be denied as long as the final product stand cleared on payment of duty. However the Hon'ble High Court of Bombay in the case of *Commissioner of Central Excise, Pune-III Vs. Ajinkya Enterprises* reported at *2013 (294) ELT 203 (Bom.)* and the Hon'ble High Court of Karnataka in the case of *CCE, Bangalore-V Vs. Vishal Precision Steel Tubes & Strips Pvt. Ltd.* reported at *2017 (349) ELT 686 (Kar.)* have again held that final product treated as dutiable and duty paid by assessee, the question of reversing of credit does not arise.

4. By following the above decisions, we hold that the Revenue's appeal does not sustain on merit. The same is rejected.

(Dictated and pronounced in Court)

**(Raju)**
**Member (Technical)**

**(Archana Wadhwa)**
**Member (Judicial)**

*Sp*