IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI

APPEAL NOS: E/85662/2016 & E/86195/2017

[Arising out of Orders-in-Appeal No: PK/65/M-III/2017 dated 24/02/2017 and CD/893/M-III/2015 dated 09/11/2015 passed by the Commissioner of Central Excise (Appeals), Mumbai Zone – II.]

CEAT Limited …***Appellant***

versus

Commissioner of Central Excise
Mumbai – III ***…Respondent***

Appearance:

Shri Mahesh Raichandani, Advocate for appellant

Shri S J Sahu, Asstt. Commissioner (AR) and Shri A B Kulgod, Asstt. Commissioner (AR) for respondent

CORAM:

Hon'ble Shri M V Ravindran, Member (Judicial)

Date of hearing: 16/03/2018
Date of decision: 16/03/2018

ORDER NO: A/ 85896-85897/2018

These two appeals are directed against Orders-in-Appeal No: PK/65/M-III/2017 dated 24/02/2017 and CD/893/M-III/2015 dated 09/11/2015 passed by the Commissioner of Central Excise (Appeals), Mumbai Zone – II.

2. Heard both the sides and perused the records.

3. The relevant facts in brief are, that during the period 2009-10 to 2013-14 and April 2015 to September 2015 appellant have availed CENVAT credit of Central Excise duty paid on welding electrodes received in the factory, consumed and used for the activity of manufacturing of machinery. Revenue was of the view that welding electrodes are not inputs and therefore credit would not be available.

4. I find that the issue is no more *res integra*. The factual matrix that use of welding electrodes and consumption thereof in the manufacturing is not disputed in both the appeals. This Tribunal in the case of *ACC Ltd v. Commissioner of Central Excise & Service Tax, LTU, Mumbai* [2016-TIOL-113-CESTAT-MUM] and *Pratibha Ispat Pvt Ltd v. Commissioner of Central Excise and Service Tax, Mumbai – II* [2017-TIOL-2806-MUM and *Rajashree Cement v. Commissioner of Central Excise, Belgaum* [2017-TIOL-3629-CESTAT-BANG, after having considered all the arguments made by bot the sides on the issue of CENVAT credit of Central Excise duty paid on welding electrodes it was held that CENVAT credit needs to be allowed. After hearing both the sides and following the view expressed by the Tribunal in the above cited decisions and also considering the definition of inputs under Rule 2(k) of the CENVAT Credit Rules, 2004, I find that welding electrodes consumed in the

factory of the appellant wherein manufacturing activity took place, CENVAT credit cannot be denied.

5. The impugned orders are set aside and the appeals are allowed.

(Pronounced in Court)

(M V Ravindran)
Member (Judicial)

**/as*