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

APPEAL No.E/1019/10

(Arising out of Order-in-Original No.Belapur/15/Bel-III/R-II/Commr/SLM/209-10 dated 09/03/2010 passed by the Commissioner of Central Excise,Belapur)

Coromandel International Ltd., : **Appellant**

VS

Commissioner of Central Excise Belapur : **Respondent**

Appearance

Shri.Rajesh Ostwal, Advocate for Appellant
Shri.A.B. Kulgod, Asst. Comm. (AR) for respondent

CORAM:

Hon'ble Shri C.J. Mathew, Member (Technical)
Hon'ble Shri Ajay Sharma, Member (Judicial)

Date of hearing : 26/07/2018
Date of pronouncement : /2018

ORDER NO.87595/2018

Per : **C.J. Mathew**

1. This appeal has been filed by M/s.Coromandel International Ltd against order-in-original no. Belapur/15/Bel-III/R-II/Commr/SLM/209-10 dated 09/03/2010 of Commissioner of Central Excise, Belapur in which CENVAT credit of Rs.53,86,781/- was disallowed and ordered to be recovered besides imposing penalty of like amount under section 11AC of Central Excise Act, 1944 read with rule 15 of the CENVAT Credit Rules, 2004.

2. Learned Counsel appearing for the appellant contends that they had imported 'CARTAP Hydrochloride Technical' and, admittedly, without going

through the process of manufacture cleared the same, as such, on payment of appropriate duties of central excise. According to him, if such trading render the availment of CENVAT credit of the additional duty of Rs.53,86,781/- discharged on import to be ineligible the subsequent payment of central excise duty on clearance of goods, though not manufactured, is tantamount to *suo moto* reversal of ineligible CENVAT credit with no further proceedings against them. Reliance has been placed on the decision of the Tribunal in *Ajinkya Enterprises v. Commissioner of Central Excise, Pune-II [(2013 (288) ELT 247 (Tri-Mumbai)]* to support this contention.

3. Learned Authorized Representative reiterates the findings of the original authority and urges the acceptance of the impugned order.

4. In *Ajinkya Enterprises,* the Tribunal has examined various judicial rulings to arrive at the conclusion that

> '*Therefore, in view of the above discussion, we find that the duty paid by the appellants has been accepted by the department which is admittedly more than the CENVAT Credit availed by the appellants. Therefore, following the various judicial pronouncements as discussed herein above, we hold that the appellants are not required to reverse the credit. Accordingly, the appeals are allowed with consequential relief'.*

5. Respectfully following the decision of the Tribunal, which has been approved and as approved by the Hon'ble High Court of Bombay, we set aside the impugned order and allow the appeal.

(Pronounced in Court on..........................)

(Ajay Sharma)	**(C.J. Mathew)**
Member (Judicial)	**Member (Technical)**

PJ