

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Tax Case No. 27 of 2017**

Commissioner Central Excise Customs and Service Tax Raipur

---- Appellant**Versus**Orissa Ceoncrete and Allied Industries Ltd. Industrial Area Post Birgaon Raipur
Chhattisgarh**---- Respondent**

For Appellant : Shri Vinay Pandey, Advocate.

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri P. Sam Koshy, Judge.**Order on Board****Per Thottathil B. Radhakrishnan, Chief Justice****07/04/2017**

1. We have heard Learned Counsel for the Appellant.
2. The Revenue challenges the order of CESTAT through this appeal under Section 35G of the Central Excise Act, 1944 which provides an appeal on a substantial question of law. The assimilation of the facts and materials, and the findings rendered by the Learned Tribunal are entirely within the realm of findings of fact on the basis of the materials on record which have been considered by the sub-ordinate authorities as well. The Learned Tribunal has, through paragraph-3 of the impugned order, noted that the question is as to whether the inputs have been used for erection or construction of permanent supportive structures in the factory of the assessee. Dilating on the materials and findings available on record, the Tribunal has, through paragraph-5 of the impugned order held that the inputs are essentially those which are capital goods. Those findings are either pure questions of facts or mixed questions of facts and law. They have been answered

on the basis of materials on record. So much so, they cannot be treated as perverse or unavailable on record. The adjudication and the decision making by the Tribunal are on the basis of materials and they cannot be treated as perverse either. In this view of the matter, we are unable to hold that the department has made out any substantial question of law for consideration through this appeal.

3. For the foregoing reasons, this appeal fails. In the result, this appeal is dismissed in limine.

Sd/-

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE

Anu