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HIGH COURT OF CHHATTISGARH, BILASPUR**Tax Case No. 132 of 2017**

(Arising out of order dated 9.2.2017 in Final Order No.A/51843/2017-SM[BR] of the learned Customs, Excise & Service Tax Appellate Tribunal)

The Principal Commissioner CCE & ST Raipur Central Excise Building, Dhamtari Road, Tikrapara, Raipur Chhattisgarh.

---- Appellant

Versus

M/s Agrawal Vidyut Simga Road Village Billari Post Neora District Raipur Chhattisgarh.

---- Respondent

For Appellant : Shri Vinay Pandey, Advocate.

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Sharad Kumar Gupta, Judge.

Order on Board**Per Thottathil B. Radhakrishnan, Chief Justice****30/08/2017**

1. We have heard the learned counsel for the Appellant/Revenue in this appeal under Section 35-G of the Central Excise Act, 1944.
2. The Customs, Excise, Service Tax Appellate Tribunal; for short 'Tribunal'; as is discernible from paragraph-4 of the impugned order, had clearly come to the conclusion on facts that the iron and steel items which were subject matter of the show cause notice issued by the Department were utilized in the manufacture of capital goods. This finding has been rendered by also considering the Chartered Engineer's certificate. The Tribunal relied on the judgment referred to in paragraph-4 of the impugned order to buttress its conclusion that materials which had been utilized in the manufacture of capital goods cannot form the foundation of any demand in the nature that is impugned, before the Tribunal.
3. That position notwithstanding, the learned Tribunal, for reasons stated in paragraph-5 of the impugned order, held that the impugned demand was barred

by limitation. This situation is also covered by the precedents referred to in paragraph-2 of the said order.

4. We agree with the findings of the learned Tribunal. We also do not see any substantial question of law arising for decision in this appeal, to be answered in favour of the Revenue. Hence, this appeal does not merit admission.
5. In the result, the appeal is dismissed in *limine*.

Sd/-

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-

(Sharad Kumar Gupta)
JUDGE

Anu