IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No.E/70623/2018-EX[SM]

(Arising out of Order-in-Appeal No.230-CE/APPL/LKO/2018 dated 26/03/2018 passed by Commissioner (Appeals), Customs, GST & Central Excise, Lucknow)

M/s Mohan Steels Limited **Appellant**

Vs.

Commissioner of Central Excise & S.T., Lucknow **Respondent**

Appearance:

Shri Hrishikesh Jha (Adv.) for Appellant
Shri Gyanendra Kumar Tripathi, Asstt. Commer. (AR), for Respondent

CORAM:

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 13/08/2018
Date of Decision : 13/08/2018

FINAL ORDER NO-71957/2018

Per: Anil G. Shakkarwar

A short issue involve herein is whether the Service Tax paid on services received from Non-Whole Time Director is admissible as Cenvat Credit.

2. Brief facts of the case are that the appellant were engaged in the manufacture of CTD Bars, TMT Bar etc. Under Reverse Charge Mechanism, they paid service tax of Rs.2,76,447/- on remuneration paid to non-whole time director and availed Cenvat credit for the said service tax

so paid. They were issued with a show cause notice dated 16.02.2016 for recovery of the same. The contention of Revenue was that the said services provided by non-whole time director were not admissible as input services. The matter was adjudicated vide Order-in-Original dated 23.01.2017 wherein the Original authority confirmed the demand and imposed equal penalty. Aggrieved by the said order, appellant preferred appeal before Learned Commissioner (Appeals) who dismissed the said appeal through the impugned order. Aggrieved by the said order, appellant is before this Tribunal.

3. Heard Learned Counsel for appellant. He has submitted that under Notification No.30/2012-ST dated 20.06.2012 as amended by Notification No.45/2012-ST dated 07.08.2012 it has been provided that the service receiver has to pay service tax in respect of the services provided by a director of the said company. He has argued that the law has provided for payment of service tax under Reverse Charge Mechanism and therefore, it is deeming provision that the director has provided services to the company. He, therefore, argued that the contention of Revenue that the Director has not provided services and did not treat such service as input service is contrary to the provisions provided through said notification.

4. Heard Learned A.R. for revenue who has supported the impugned Order-In-Appeal.

5. Having considered rival contentions and on perusal of record and the said notifications, I find that it is deemed by law that such Directors have provided services to the company and therefore, it cannot be held that such service is not input service. Therefore, I do not find any merit in the impugned order. Therefore, the same is set aside and the appeal is allowed. The appellant shall be entitled for consequential relief, as per law.

(Pronounced & Dictated in Court)

(Anil G. Shakkarwar)
Member (Technical)

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