

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

APPEAL Nos.ST/50359 & 50051/2015-CU[DB]

(Arising out of Order-in-Appeal No. 142-ST/LKO/2014 dated 18/09/2014 passed by Commissioner of Central Excise & Customs (Appeals), Lucknow)

[In Appeal No.ST/50359/2015]

Commissioner of Central Excise & S.T., Lucknow	Appellant
Vs.	
M/s Ashlay Infracture P. Ltd.	Respondent

[In Appeal No.ST/50051/2015]

M/s Ashlay Infracture P. Ltd.	Appellant
Vs.	
Commissioner of Central Excise & S.T., Lucknow	Respondent

Appearance:

Shri Gyanendra Kr. Tripathi, Asstt. Commissioner (AR)	for Revenue
Shri Dharmendra Kumar, Chartered Accountant,	for assessee

CORAM:

Hon'ble Smt. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing	:	11/12/2018
Date of Decision	:	11/12/2018

FINAL ORDER NOs-72893-72894 / 2018

Per: Archana Wadhwa

A very short issue involved in the present appeal is that as to whether the wrongly availed Cenvat credit having been reversed prior to its utilization would attract interest liability or not.

2. We find that the issue stands decided by the Hon'ble High Court of Karnataka in the case of Commissioner of Central Excise & S.T., LTU, Bangalore Vs Bill Forge Pvt. Ltd. reported as 2012 (279) ELT 209 (Kar.) as also by the decision of Hon'ble Madras High Court in the case of Collector of Central Excise, Madurai Vs Strategic Engineering Pvt. Ltd. reported as 2014 (45) GST 662 (Madras). It stands held in the said decisions that in case wrongly availed Cenvat credit is reversed prior to its utilization, no interest liability would arise against the assessee. To the same effect is another decision of the Tribunal's Larger Bench in the case of J.K. Tyre and Industries Ltd. Vs Assistant Commissioner of Central Excise, Mysore reported as 2016 (340) ELT 193 (Tri.-LB.). We set aside the impugned order and allow the appeal.

2. Inasmuch as, the assessee's appeal stands allowed, the revenue's appeal against reduction of penalty becomes infructuous and the same is accordingly rejected.

(Dictated in Court)

(Anil G. Shakkarwar)
Member (Technical)

(Archana Wadhwa)
Member (Judicial)

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