

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

APPEAL No.E/70628/2018-EX[SM]

(Arising out of Order-in-Appeal No.55/CE/Appeal/Audit/LKO/2018 dated 23/02/2018 passed by Commissioner (Audit), Central Goods & Service Tax and Central Excise, Lucknow)

M/s Lohia Corp Limited.

...Appellants

Vs.

Commissioner (Audit), CGST & Central Excise, Lucknow

...Respondents

Appearance:

Shri Dharmendra Srivastava (CA)

for Appellants

Shri Gyanendra Kumar Tripathi, Assistant Commissioner (AR),

for Respondents

CORAM:

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

Date of Hearing/ Decision : 19/12/2018

FINAL ORDER NO. **72945 / 2018**

Per: Anil G. Shakkarwar,

After hearing both the sides duly represented by Shri Dharmendra Srivastava, learned chartered accountant on behalf of the appellants and Shri Gyanendra Kumar Tripathi, learned Assistant Commissioner on behalf of the Revenue, I note that through the impugned order penalty is imposed on the appellant under Section 11AC of Central Excise Act, 1944 for availing cenvat credit of around Rs.4 lakhs. I note that penalty of around Rs.2 lakhs was imposed as can be seen from the record that cenvat credit so availed wrongly was

reversed along with due interest before issuance of show cause notice. Therefore, I do not find imposition of penalty of around Rs.2 lakh is justifiable in the present case.

2. I, therefore, set aside the penalty of Rs.2,00,733/- and allow the appeal partially.

(Pronounced & Dictated in Court)

Sd/-
(Anil G. Shakkarwar)
Member (Technical)

Nihal