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

APPEAL No. E/70946/2018-EX[SM]

(Arising out of Order-in-Appeal No. NOI-EXCUS-001-APP-2049-17-18 dated 28/03/2018 passed by Commissioner of Central Tax (Appeals), Noida)

M/s Chep India Pvt. Ltd. **Appellant**

Vs.

Commissioner of Central Excise, Noida **Respondent**

Appearance:

Shri Pradeep Kumar Mittal (Advocate) for Appellant
Shri Pawan Kumar Singh (Supdt.) AR for Respondent

CORAM:

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

Date of Hearing : 05/04/2019
Date of Decision : 05/04/2019

FINAL ORDER NO. - **70715/2019**

Per: Anil G. Shakkarwar

After hearing both the sides duly represented by Shri Pradeep Kumar Mittal learned advocate on behalf of the appellant and Shri Pawan Kumar Singh learned Superintendent on behalf of the Revenue, I note that the issue is related to admissibility of Cenvat credit of Rs.3,21,932/- which was availed by the appellant. In addition to the said Cenvat credit there are two other amounts of Cenvat credit namely Rs.23,787/- and Rs.9,240/- which were debited by the appellant before issuance of show cause notice and the same is not agitated by the appellant. After going through the record of the case, I note that Cenvat credit of Rs.3,21,932/- was in respect of such invoices where the Revenue alleged the same to be inadmissible invoices whereas the appellant has stated that the said invoices were belonging to the appellant but the address on the invoices was that of their registered office. I note that there are no allegations in the show cause notice that the services stated in the said invoices were not availed by the appellant. Further there are no allegations in the show cause notice that service tax was not paid on the said services availed. It is settled that when the services are received in the factory or in the process of performance of output services and service tax is paid on input services and the same are utilized then the Cenvat credit cannot be denied. I, therefore, set aside the impugned order in so far as it relates to confirmation of demand by denial of Cenvat credit of Rs.3,21,932/- alongwith interest and penalty. Impugned order is modified to that extent. Appeal is allowed.

(Dictated & Pronounced in Court)

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

Lks