CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH – COURT NO.I

Excise Appeal No.70221 of 2019

(Arising out of Order-in-Appeal No.GZB/EXCUS/000/APPL-MRT/473/2018-19 dated 25/01/2019 passed by Commissioner (Appeals), Central Goods & Service Tax, Meerut)

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

21/2, Site-II, Loni Road,

Mohan Nagar,

Ghaziabad, (U.P.)

VERSUS

Commissioner of Central Goods & Service Tax,

.....Respondent

C.G.O. Complex-1,

Kamla Nehru Nagar

Ghaziabad, (U.P.)

APPEARANCE:

Shri R.K. Philips, Advocate for Appellant
Shri P.K. Dubey, Authorized Representative for Respondent

CORAM :
Hon'ble Mr. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

DATE OF HEARING :30 May, 2019
DATE OF DECISION :30 May, 2019

FINAL ORDER NO._**71077 / 2019**

ANIL G. SHAKKARWAR

After hearing both the sides duly represented by learned advocate Shri R.K. Philips on behalf of the appellant and learned AR, Shri P.K. Dubey on behalf of the Revenue, I note that the appellant is agitating that part of impugned Order-In-Appeal through which Cenvat Credit of Rs.3,11,188/- which was availed on the basis of education cess paid on excisable goods and on taxable services lying in balance on 28 February, 2015 was disallowed and a penalty of Rs.5,000/- imposed on the appellant.

2. After hearing both the sides and on perusal of record I note that as per the provisions of Sub-Rule (7) of Rule 3 of Cenvat Credit Rules w.e.f. 12 May, 2007 cenvat credit availed on education cess was to be utilized for payment of education cess. Further w.e.f. 01 March, 2015 payment of education cess was abolished and appellant were having above stated cenvat credit availed on education cess balance in their cenvat credit account. Since there were provisions for utilization of cenvat credit availed on education cess in respect of inputs and capital goods received in the factory after 01 March, 2015 onwards payment of central excise duty the appellant were not admissible to utilize cenvat credit on education cess available in balance as on 28 February, 2015. Commissioner (Appeals) has denied the same credit and I, therefore, do not find infirmity in the said order. I, therefore, do not interfere in the impugned Order-In-Appeal.

3. Accordingly, appeal is rejected.

(Dictated and Pronounced in open Court)

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

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