CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT No. I

Service Tax Appeal No.71098 of 2018-Division Bench

(Arising out of Order-in-Original No. LKO/EXCUS/000/COM/ST/002/2018-19 dated 22/05/2018 passed by Commissioner of Central Goods & Service Tax and Central Excise, Lucknow)

M/s Indian Institute of Management .....**Appellant**

(Prabandh Nagar, Sitapur Road, Lucknow-226013)

VERSUS

Commissioner, Central Goods & Services

Tax & Central Excise, Lucknow ....**Respondent**

(7A, Ashok Marg, Lucknow-226001)

APPEARANCE:

Shri Dushyant Kumar, Consultant for the Appellant
Shri Shiv Pratap Singh, Authorised Representative for the Respondent

CORAM:

HON'BLE SMT. ARCHANA WADHWA, MEMBER (JUDICIAL)
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

FINAL ORDER NO. - 71701 / 2019

Date of Hearing : 03 September, 2019
Date of Decision : 03 September, 2019

PER: ARCHANA WADHWA

After hearing both the sides, we find that the dispute arose at the appellant's end as regards the availment of Cenvat credit in respect of common input services used for providing taxable as well as output services. Before the issuance of the show cause notice, appellant reversed the credit to the extent of Rs.67 lakhs approximately.

2. In the above background, proceedings were initiated against them proposing confirmation of demand in terms of the provisions of Rule 6(3) of the Cenvat Credit Rules by applying 10% of the value of the exempted services. However during the adjudication appellant took a stand that they have reversed the Cenvat credit proportionately relatable to the exempted services. However it was the appellant's case that instead of depositing an amount of around Rs.46,67,567/- which is attributable to the providing of exempted service, they have debited an excess amount to the tune of Rs.21.29 lakhs approximately. It was the contention of the appellant that the said reversal was relatable to the credit availed on the input services which were exclusively used for taxable services and was not required to be reversed by them.

3. The Commissioner however vide his impugned order though dropped the demand in terms of Rule 6(3) but confirmed the reversal of the entire input credit, done by the assessee.

4. In the present appeal the grievance of the appellant is only to the extent that amount of Rs.21.29 lakhs reversed by them was relatable to the credit used for providing taxable services and as such was not required to be reversed. They do not have any grievance of confirmation of reversal of Rs.46,67,567/-.

5. Inasmuch as the dispute relates to the factual aspect, we deem it fit to set aside the impugned order and remand the matter to Commissioner to verify the fact as to whether the

amount of Rs.21.29 lakhs is in respect of the credit availed on the input services which were exclusively utilized for providing output taxable services. If that be so, there would not be any requirement for reversal of the said credit. As such, for this very limited purpose, we remand the matter to Commissioner for fresh adjudication.

(Dictated and pronounced in open court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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

Lks