CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Appeal No. E/60626/2018 -[SM]

(Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-37-18 dated 16.01.2018 passed by the Commissioner (Appeals), LUdhiana)

M/s J C T Limited **......Appellant**
(G.T. Road Phagwara)

VERSUS

Commissioner of Central Excise, & S.T. Jala **......Respondent**
(Hqrs. At Ludhiana)

APPEARANCE:

Shri Joy Kumar, Advocate for the Appellant

Shri Bhasha Ram, Authorised Representative for the Respondent

CORAM: **HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)**

FINAL ORDER NO. 60487 of 2019

DATE OF HEARING: 08.05.2019
DATE OF DECISION: 08.05.2019

PER ASHOK JINDAL:

The appellant is in appeal against the impugned order wherein the Cenvat credit on outward service has been denied on the ground that as per Rule 2(l) of the Cenvat Credit Rules, 2004, the outward transportation service is not an input service as goods were cleared by the appellant at factory gate, therefore, Cenvat credit was denied to the appellant.

2. Heard the parties.

3. On perusal of the record, I find that out of total Cenvat credit on outward transportation of Rs. 8,91,705/- Rs. 6,38,087/- pertains to the transportation of goods upto to the port of export. As in the case of export of goods the port of export is the place of removal,

therefore, the Cenvat credit of Rs. 6,38,087/- cannot be denied to the appellant.

4. With regard to remaining amount of Cenvat credit of Rs. 2,53,618/- the appellant has produced invoices which shows that transportation charges has been borne by the appellant and till delivery at the factory gate of the appellant, the appellant is the owner of the goods as the appellant has insured the goods till it reaches to the place of the buyer. In that circumstances, in terms of CBEC circular No. 1065/4/2018-CE dated 8.06.2018, the appellant is entitled to avail Cenvat credit of the transportation charges as appellant was the owner of the goods till it reaches upto the place to buyer, therefore, I hold that the appellant is entitled to avail Cenvat credit.

5. In view of the above observations, I do not find any merit in the impugned order the same is set aside.

6. In result, the appeal is allowed with consequential relief.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMEBR (JUDICIAL)

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