IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing/Decision: 31.8.2017

Appeal No. E/55612 & 55856/2014-SM

(Arising out of Order-in-Original No. BPL-EXCUS-000-APP-106 & 107 dated 21.8.2014 passed by the Commissioner of Customs, Central Excise & Service Tax (Appeals), Bhopal)

M/s Permali Wallace Pvt. Ltd. Appellant

Vs.

CCE & ST, Bhopal Respondent

Appearance

Shri Z.V. Alvi, Advocate - for the appellant

Shri Ubhav Sengraj, A.R. - for the respondent

CORAM: **Hon'ble Mr. Ashok Jindal, Member (Judicial)**

Final Order No. 56760-56761/2017

Per Ashok Jindal :

The appellant is in appeal against the impugned orders wherein Cenvat credit of outward transportation service has been denied to the appellant by way of impugned orders.

2. The brief facts of the case are that the appellant is manufacturer of excisable goods and selling the goods on FOR basis. For export of goods, the appellant is claiming Cenvat credit on outward transportation service as the place of delivery of goods is up to the port of export. The authorities below denied Cenvat credit to

the appellant on the ground that as outward transportation service has been availed beyond the place of removal i.e. their factory gate, therefore, they are not entitled to avail Canvat credit.

3. Heard both sides considered the submissions.

4. On perusal of the record, I find that the purchase orders are placed on record as well as invoices. As per the purchase orders, the goods are required to be delivered at buyer's place and in the invoices nowhere the appellant has charged outward transportation charges from the buyers separately which means that transportation cost has been included in the assessable value of the goods sold by them. In case of export, the port of export is the place of removal. In that circumstances, in the absence of any contrary evidence, the Cenvat credit cannot be denied to the appellant. Therefore, I hold that the appellant is entitled to avail Cenvat credit on outward transportation service in the facts and circumstances of the case. In these terms, the impugned orders are set aside and the appeals are also allowed with consequential relief, if any.

(Dictated & pronounced in open Court)

(Ashok Jindal)
Member (Judicial)

RM