IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI
COURT NO.

APPEAL No.ST/86869/2018

(Arising out of Order-in-Appeal No.MKK/530/RGD APP/2017-18 dated 13/02/2018 passed by the Commissioner of Central Excise &Service Tax Raigad)

Reliance Infocom Infrastructure Ltd.,	:	**Appellant**
VS		
Commissioner of Central Excise Belapur	:	**Respondent**

<u>Appearance</u>

Ms.Ginita Bodani, Advocate for Appellant
Shri.Onil Shivdikar, Asst. Comm. (A.R) for respondent

CORAM:

Hon'ble Shri S K Mohanty, Member (Judicial)

Date of hearing : 31/08/2018
Date of decision : 31/08/2018

ORDER NO. A/87325 / 2018

1. Brief facts of the case are that the appellant is engaged in providing the taxable services, viz., business support service and renting of immovable property service, defined under the Finance Act, 1994. The appellant is registered with the service tax department for providing such taxable services. Initially, Navi Mumbai office was declared as the place of business in the registration certificate issued by the department. During the disputed period, the service provider M/s.C.B. Ricards Ellis, South Asia had issued invoices in the name of the appellant, mentioning that the taxable services were provided at Chennai office. Since the services were provided at Chennai office, which was not specified as the place of business in the registration

certificate, the department objected availment of Cenvat Credit of service tax paid on the taxable service. Subsequently, the appellant obtained centralized registration, incorporating therein the office at Chennai as the place of business. However at the relevant time, since Chennai office was not registered with the department, show-cause proceedings were initiated, seeking for recovery of irregularly availed Cenvat Credit. The matter was adjudicated against the appellant vide order dated 23/12/2015, wherein the credit amount of Rs.18,25,004/- was disallowed. The appellant also directed to pay interest on the amount of disallowance of Cenvat Credit. Besides, the said order also imposed penalties on the appellant under Section 76, 77 & 78 of the Finance Act, 1994. On appeal, the learned Commissioner (Appeals) vide impugned order dated 13/02/2018 has upheld the adjudged demand confirmed on the appellant.

2. Learned Advocate appearing for the appellant submits that the invoices were never issued by the service provider in the name of Reliance Communication Ltd., and the same were issued in the name of the appellant's Bombay office, which was registered with the department at the relevant point of time. Thus, she submits that since the appellant had received the services at Chennai office, service tax paid by the service provider should be available as Cenvat credit to the appellant. She also submits that since the registration certificate was amended subsequently, by incorporating the address of Chennai office, the requirement of Cenvat Credit Rules have been duly complied with for availing the Cenvat benefit.

3. On the other hand, learned DR appearing for the revenue reiterates the findings recorded in the impugned order.

4. Heard both sides and perused the records.

5. It is an admitted fact on record that the appellant is a Company, duly incorporated under the Companies Act, 1956 and operates its business activities through various premises located in different parts of the country. On perusal of the show-cause notice and the impugned order, I find that there is no specific allegations being made by the department regarding non-payment of service tax, non-receipt of input service by the appellant. Since the address of the Chennai office was subsequently incorporated in the centralized registration certificate, the requirements of Cenvat statute, more particularly Rule 9 of the rules, have been duly complied with for the purpose of availment of the Cenvat benefit. Hence, I am of the considered view that the adjudged demands cannot be confirmed on the appellant.

6. Therefore, I do not find any merit in the impugned order. Accordingly, after setting aside the same, the appeal is allowed in favour of the appellant.

(Pronounced and dictated in court)

(S K Mohanty)
Member (Judicial)

PJ