IN THE CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI

APPEAL NO: E/86215/2018

Arising out of:	Order-in-Original No. NSK/EXCUS/000/APPL/ 192/17-18 dated 16/02/2018
Passed by:	Commissioner (Appeals), Central Excise & GST, Nashik.

	Appellants – Represented by:
Sipra Engineers P.Ltd.	Shri M.S.Jagesha, Advocate
versus	
	Respondent – Represented by:
CCE & GST, Nashik	Shri A.B.Kulgod, Assistant Commissioner (AR)

Date of hearing: 03/12/2018
Date of pronouncement: 19/03/2019

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Hon'ble Shri Ajay Sharma, Member (Judicial)

ORDER NO: A/85528 / 2019

The present appeal has been filed from the impugned order dated 16.02.2018 passed by the Commissioner (Appeals), Central Excise & GST, Nashik.

2. In the grounds of appeal, the Appellant has given certain calculations to demonstrate as to how the entire Cenvat credit needs to be allowed. The said ground of Appeal is as under:

"4) The appellants company submits that during the

Financial Year 2012-2013 as per the Notification No. 28/2012,CE(N.T) Dated 20.06.2012 and after considering the ratio to be allowed is as under:-

(a) The appellants company have during the Financial Year have Cenvat Credit Reversed is Rs.4,55,398=00 and the learned appellate authority have allowed to Unit-I Cenvat Credit @89.71% which comes to Rs.46,860=00 is disallowed which is an legally eligible to the other Units of the appellants company below:-

(a) The Cenvat Credit to be allowed to Unit-II @7% which comes to the extent of Rs.31,878=00 and

(b) The Cenvat Credit to be allowed to Unit-III @3.28% which comes to the Extent of Rs.14,982=00.

And further during the Financial Year 2013-2014 Cenvat Credit Reversed is to the extent of Rs.4,35,069=00 and the learned appellate authority have allowed to Unit-I Cenvat credit @78.71% which comes to the extent of Rs.3,42,443=00 therefore Cenvat credit to the extent of Rs.92,626=00 is disallowed.

And as per the turnover worked @87%, it should be allowed to the extent of Rs.3,78,510=00 to Unit-I and not Rs.3,42,443=00. And therefore, the short Cenvat credit allowed as per the Turnover basis to the Unit-I comes to the extent of Rs.36,067=00 i.e. @8.29%.

And further Cenvat credit to the extent of Rs.56,559=00 is disallowed which should be eligible to the other units of the appellants company is as below:-

As such Cenvat credit as per the Turnover basis should be allowed to Unit-II @5% which comes to the extent of Rs.21,753=00 and Cenvat credit to Unit-III @8% which comes to the extent of Rs.34,806=00.

And as such the total Cenvat credit to both the two unit’s have not been allowed which is to be allowed as per the turnover basis.”

The learned Counsel for the Appellant submitted that although the aforesaid contention was raised before the learned Commissioner also but it was not taken into consideration while passing the impugned order nor any findings have been given on this issue. Learned Authorised Representative reiterated the findings recorded in the impugned order.

3. I find force in the aforesaid contention/ ground raised by the learned Counsel for the Appellant. But the documents on the basis of which the Appellant is claiming proportionate Cenvat credit, needs to be verified at some stage. Therefore, without going into the merits of the matter, I am inclined to remand the matter back to the learned Commissioner to decide the Appeal afresh after hearing the Appellant on all the points including the points raised by the Appellant hereinabove.

4. The Appeal is therefore allowed by way of remand.

(Pronounced in Court on 19/03/2019)

(Ajay Sharma)
Member (Judicial)

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