CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST ZONAL BENCH, MUMBAI
COURT I

Appeal No.ST/88275/2018

[Arising out of: OIA No.NA/GST/A-III/MUM/534/17-18, dt.12.03.2018, passed by Commissioner (Appeals-III),GST & CX, Mumbai]

M/s Ugam Solutions Private Limited **... Appellant**

Vs.

CC GST, Mumbai Central **... Respondent**

Appearance:
For Assessee: Shri Mihir Deshmukh, Advocate
For Revenue : Shri S.K. Hattangadi, AC.(AR)

CORAM:
HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)

Date of Hearing: 02.04.2019
Date of Decision: 02.04.2019

Order No. A/85649 / 2019

Per: D.M. Misra

Heard both sides. This is an appeal filed against OIA No.NA/GST/A-III/MUM/534/17-18, dt.12.03.2018, Commissioner (Appeals-III),GST & CX, Mumbai/

2. The short issue involved in the present appeal is whether the Appellant is entitled to cash refund of Rs.15,78,302/- of accumulated CENVAT Credit under Rule 5 of CENVAT Credit Rules, 2004.

3. It is the contention of the Appellant that on the basis of the input invoices and challan produced before the Adjudicating

authority, the refund claim was sanctioned to them. However, on appeal by the Revenue, the learned Commissioner (Appeals) set aside the sanctioned amount of Rs.15,78,302/- on the ground that the details as required under the relevant Rule are not contained in the invoice issued by the overseas service provider and also the service tax amount was not reflected in the said invoice. It is the contention of the learned Advocate that since the service tax was paid on reverse charge basis against the invoices No.815582 dt.31.12.2014 issued by the overseas service provider M/s IBM, they availed CENVAT Credit on the challan evidencing the payment of service tax on 06.03.2015 and 05.03.2015 for Rs.14,53,790/- and Rs.1,25,012/- respectively. It is the contention that refund of accumulated CENVAT Credit is accordingly admissible to them.

4. The learned A.R. for the Revenue reiterates the findings of the learned Commissioner (Appeals).

5. I have carefully considered the submissions advanced by both sides. I find that the learned Commissioner (Appeals) denied the cash refund of accumulated CENVAT Credit solely on the ground that the invoices issued by the service provider do not contain all the particulars including the service tax amount paid against the said invoices. I find that the service tax amount has been paid by the Appellant on reverse charge basis on the value of service mentioned against invoice No.815582 dt.31.12.2014 issued by the service provider IBM USA. It is their contention that the respective challans against which the service

tax amount has been paid are enclosed at Page 71 & 72 of the Appeal Paper Book. On going through the invoice and the challans, I do not find any discrepancy in the same and admissibility of credit. Consequently, the cash refund of the said amount under Rule 5 of CENVAT Credit Rules, 2004 is admissible to the Appellant.

6. In the result, the impugned order is set aside and the appeal is allowed with consequential relief, if any, as per law.

(Dictated in Open Court)

(Dr. D.M. Misra)
Member (Judicial)

cbb