

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH
BANGALORE**

Appeal(s) Involved:

ST/21529/2018-DB

**M/s. Dell International Services
India Pvt. Ltd.**

Divyasree Greens
Ground Floor, #12/1, 12/2A, 13/1A,
Challaghatta Villlage
Varthur Hobli
Bangalore South – 560 071

Appellant(s)

Versus

Commissioner of Central Tax

GST Commissionerate
Bangalore East
Bangalore

Respondent(s)

Appearance:

Mr. G. Shivadass, Advocate
No. 404-406, 4th Floor, South Wing,
Brigade Gateway Campus, No. 26/1,
Dr. Rajkumar Road, Malleswaram
West, Bangalore – 560 055

For the Appellant

Mr. Madhup Sharan, Assistant
Commissioner (AR)

For the Respondent

Date of Hearing: 13/12/2018

Date of Decision: 13/12/2018

CORAM:

HON'BLE MR. S.S GARG, JUDICIAL MEMBER

HON'BLE MR. P. ANJANI KUMAR, TECHNICAL MEMBER

Interim Order No.: 105 / 2018

Per: S.S GARG

The Registry has raised the objection that the appellant is required to pay 7.5%/10% of the duty/tax and file proof of the same. In reply to the

defect raised by the Registry, the appellant vide their letter dated 15.11.2018 addressed to Assistant Registrar submitted that the appellant has already reversed 7.5% of the duty demanded (i.e 7.5% of Rs. 47,74,29,969=Rs. 3,58,07,247) through Central Goods and Service Tax Credit and have indicated the same in Column 4B(2) of GSTR-3B filed for the month of August 2018. The appellant has also filed a letter dated 03.10.2018 addressed to Assistant Commissioner informing the fact of payment of such pre-deposit through CGST Credit and indicating the same in their GSTR-3B for the month of August 2018. The applicant has also enclosed letter dated 03.10.2018 along with GSTR-3B filed for the month of August and also submitted the Circular No. 58/32/2018-GST dated 04.09.2018 and also Circular No. 42/16/2018-GST dated 13.04.2018 and submitted that the Circular very clearly states that the arrears of Central Excise duty, Service Tax or wrongly availed cenvat credit under the existing law is permissible to be paid through the utilization of amounts available in the electronic credit ledger. Learned counsel further submitted that they have paid 7.5% and the objection raised by the Registry is not tenable.

2. After considering the submission of the learned counsel, we find that the appellants have reversed 7.5% of the duty demand through the CGST Credit and the same is indicated in the Column 4B(2) of the GSTR-3B filed for the month of August 2018. The learned AR also accepted the legal position that mandatory pre-deposit can be made through the CGST Credit. In view of this fact, we are of the opinion that the objection raised by the Registry is not tenable and therefore, we set aside the objection and direct

the Registry to take the appeal on record and list the same for final disposal in due course.

(Operative portion of the Order was pronounced
in Open Court on **13/12/2018**)

(P. ANJANI KUMAR)
TECHNICAL MEMBER

(S.S GARG)
JUDICIAL MEMBER

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