IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2015

CORAM

THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE T.MATHIVANAN

C.M.A.No.1971 of 2015

M/s AIM Associates Pvt.Ltd.,
rep.by its Director D.Muralidharan
No.31A, Narasimhapuram
Mylapore
Chennai 600 004 ..Appellant/Petitioner/Appellant

-vs-

1. The Commissioner
Service Tax
Chennai-1 Commissionerate
Chennai 600 034

2. The Customs, Excise and Service Tax Appellate Tribunal
South Zonal Bench
Chennai ..Respondents/Respondent/Respondent

Memorandum of Grounds of Civil Miscellaneous Appeal under Section 35-G of the Central Excise Act, 1944 read with Section 83 of the Finance Act, against the miscellaneous order No.40649 of 2015 dated 29.04.2015 made in stay petition No.ST/S/42000/2014 in Appeal ST/41715/2014 on the file of the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

For Appellant :: Mr.K.S.Natarajan

For Respondents:: Mr.A.P.Srinivas
Senior Panel Counsel for R1

JUDGMENT
(Judgment of the Court was delivered by V.RAMASUBRAMANIAN, J.)

The assessee has come up with the above appeal challenging a pre-deposit condition imposed by the CESTAT.

2. Heard Mr.K.S.Natarajan, learned counsel for the appellant. Mr.A.P.Srinivas, learned Senior Panel Counsel takes notice for the first respondent.

3. The question that arises for consideration in the appeal filed by the appellant before the CESTAT is as to whether the services rendered by them to the Indian Railways, is amenable to service tax or not. If the nature of services rendered by the appellant falls under the category of business support services, no service tax is payable. But if it falls under the category of business auxiliary services, then it is liable for service tax.

4. According to the appellant, they are facilitating the Indian Railways to procure advertisements for display in the digital boards in railway stations. The case of the appellant is that persons who display their advertisements in the display boards of the railways, pay the charges directly to the railways and the appellant takes a commission.

5. In view of the above said contention, we are of the view that the imposition of a pre-condition deposit of more than 50% of the tax demand is onerous. Therefore the appeal is allowed, the order of the Tribunal is modified directing the appellant to make the pre-deposit of Rs.2,00,000/- (Rupees two lakhs only) within a period of four weeks. Upon such deposit, the Tribunal shall number the appeal and dispose it of in accordance with law. Consequently, M.P.No.1 of 2015 is closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ss
To
1. The Commissioner Service Tax
Chennai-1 Commissionerate Chennai 600 034

2. The Customs, Excise and Service Tax
Appellate Tribunal South Zonal Bench
No.26, Shastri Bhavan Annexe Building
Haddows Road Chennai 600 006

+1cc to Mr.K. S.Natarajan, Advocate, S.R.No.47986
+ 1 cc to Mr.A.P. Srinivas, Advocate Sr.48404

CTK(CO)
EU(23/09/2015)