IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

C.E.A.No.132 OF 2015

Between:

The Commissioner Customs & Central Excise, Tirupati.

….Appellant.

And

Sri H.T. Venkata Krishna Reddy, Kurnool.

….Respondent

DATE OF JUDGMENT PRONOUNCED: 25.08.2015.

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE G. CHANDRAIAH

AND

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

1	Whether Reporters of Local newspapers may be allowed to see the Judgments?	Yes/No
2	Whether the copies of judgment may be marked to Law Reporters/Journals?	Yes/No
3	Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment?	Yes/No

HON'BLE SRI JUSTICE G. CHANDRAIAH
AND
HON'BLE SRI JUSTICE CHALLA KODANDA RAM

C.E.A.No.132 OF 2015

JUDGMENT:- (per Hon'ble Sri Justice Challa Kodanda Ram)

This is an appeal filed by the department under Section 35(G) of the Central Excise Act, 1944 (for short, "the Act), challenging the Final

Order dated 19.05.2008, passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench at Bangalore (in short "the Tribunal), in Final Order No.619 of 2008 made in Appeal No.ST/114/2008.

The deceased-respondent who has been represented by the Legal Representatives before this Court is a Chartered Accountant and a proprietary concern. The respondent was sought to be brought under service tax on the ground who was rendering business in 'Auxiliary Service' as defined under the Finance Act, 1994. The Tribunal by following its own order passed in Final Order Nos.479 to 481/2008 dated 25.03.2008 in **M/s. Dataware Computers & two others** held that the service which has been rendered by the respondent does not fall under the 'Business Auxiliary Service' and as the respondent is involved in developing Software for the purpose of generating various MIS reports recorded a finding that the respondent in fact is engaged in the category falling under the Information Technology Service. There is no material brought before this Court to take a different view. Inasmuch as the finding of fact recorded by the last authority i.e., the Tribunal is not being challenged before us by raising a specific question of perversity of finding of fact, we do not see any reason to entertain the present appeal.

Accordingly, the C.E.A. (S.R) is dismissed. No order as to costs.

Miscellaneous petitions, if any pending in this appeal shall stand closed.

G. CHANDRAIAH, J

CHALLA KODANDA RAM, J

Date:25.08.2015.
Gk.

HON'BLE SRI JUSTICE G. CHANDRAIAH
AND
HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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