THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE MRS JUSTICE ANIS

C.E.A.No.46 of 2016

JUDGMENT: **(Per Hon'ble Sri Justice V. Ramasubramanian)**

The Revenue has come up with the above appeal under

Section 35(G) of the Central Excise Act, 1944 raising the following questions of law, –

1. Whether Tribunal is correct , proper and legal in remanding back the matter to the original adjudicating authority to consider the refund claim merely referring to the interim order of same Tribunal in the case of M/s. Apotex Research Pvt Ltd., & others Vs. CCE in order No.79 to 152/2014, dated 18.09.2014?

2. Whether the Tribunal is correct in remanding the matter in two breaths one observing that for calculation of limitation in respect of claim for refund of tax paid on input service, the relevant date should be the date on which the consideration has been received where the claimant is service provider and consideration paid where the claimant is service receiver and on other that the provisions of Section 11B of Central Excise Act?, 1944 would be applicable for the refunds under Rule 5 of Cenvat Credit Rules and Notification No.05/06-CE(NT), dated 14.03.2006?

3. Whether the Tribunal is correct in remanding the matter when it is the highest fact finding authority?

It is fairly admitted by the learned Standing Counsel that the issues raised in this appeal are squarely covered by a judgment of this Court dated 22.07.2016 in C.E.A.Nos.93, 99, 100 and 105 of 2015. Therefore, following the same, this appeal is also dismissed. There shall be no order as to costs.

JUSTICE V. RAMASUBRAMANIAN

JUSTICE ANIS

9th August, 2016
Js.