IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CENTRAL EXCISE APPEAL NO. 115 OF 2017

The Principal Commissioner of Service. … Appellant.
V/s.
M/s.FIL Capital Advisors (I) Pvt.Ltd. … Respondent.

Mr.Swapnil Bangur with Ms.Shalaka Gujar for the appellant.

Mr.Anupam Dighe i/b. India Law Alliance for the respondent.

CORAM : A.S.OKA AND A.K.MENON, JJ.

DATE : 11th October 2017.

P.C.:

Heard the learned counsel appearing for the appellant and the learned counsel for the respondent. The question of law pressed into service is question (a) which reads thus:

> (a) Whether the CESTAT was right in holding that the assessee has exported the services outside India in terms of provisions under Export of Service Rules, 2005 and thus, entitled for refund of service tax credit paid on input services?

2. The Customs, Excise and Service Tax Appellate Tribunal, West Zonal Bench (for short "the Appellate Tribunal") in paragraph- 5.1 has

held thus:

> "5.1 In terms of Export of Service Rules, 2005 in respect of financial services, if the service recipient is situated outside India and the consideration has been received in convertible foreign exchange, it would satisfy the definition of export and therefore, in the absence of any dispute relating to the situs of the service recipient and the receipt of consideration in convertible foreign exchange, the contention of the respondent that the transaction is one of the exports has to be upheld. Therefore, the lower appellate authority is right in holding that the appellant had, in fact, exported the services and therefore, eligible for the service tax credit paid on the input services. There is also no dispute about the refund being time barred. In the absence of any such reasons, there is no infirmity in the order passed by the lower appellate authority. Accordingly, I find no reason to interfere with the said order. Consequently, the revenue's appeal gets rejected and the respondent will be entitled for the consequential relief, if any, in accordance with law........"

3. The issue is covered by the decision of the Division Bench of this Court in the case of ***Commissioner of Service Tax, Mumbai-II v. SGS India Pvt.Ltd.***[1]. and in particular what is held by the Division Bench in paragraph- 24 thereof.

4. Hence, no substantial question of law arises. There is no merit in the appeal. The appeal is dismissed.

(A.K.MENON, J.) (A.S.OKA, J.)

1 2014 (34) STR 554 (Bom.)