IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2017

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER
And
THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

C.M.A.No.802 of 2016

Commissioner of Service Tax-III,
"Newry Towers", 12th Main Road,
2nd Avenue, Anna Nagar,
Chennai-600 040. ... Appellant

Vs.

1. M/s.Reed Elsevier Private Limited,
International Tech Park, Crest-12th Floor,
Units 2, 3 & 4, Taramani Road,
Chennai-600 113.

2. The Custom, Excise and Service
Tax Appellate Tribunal,
Haddows Road, Chennai - 600 006. ... Respondents

Prayer : Appeal filed under Section 35G(1) of the Central Excise Act, 1944, praying to set aside the order of CESTAT comprised in Final ORder No.41175 of 2015, dated 24.08.2015.

For Appellant : Ms.Hema Muralikrishnan
Standing Counsel

For Respondent : Mr.Parthasarathy
for M/s.N.Inbarajan for R1

J U D G M E N T

(Judgment of the Court was delivered by RAJIV SHAKDHER,J.)

1. Learned counsel for the parties inform us that the issue raised in the instant appeal and the questions of law framed by this Court are covered by the judgment rendered by us on 10.04.2017 in C.M.A.No.860 of 2017, titled : Commissioner of Service Tax-III, Chennai V. Customs, Excise and Service Tax Appellate Tribunal and another.

2. To be noted, the captioned appeal was admitted on 22.04.2016, when, the following questions of law were framed for consideration by this Court :

(i) Whether the decision of the CESTAT in allowing refund of CENVAT credit even without registration is correct ?

(ii) Whether the CESTAT is correct in not considering the safe guards, conditions and limitations as stipulated in the Appendix to Notification No.05/2006-CE(NT) dated 14.03.2006 ?

(iii) Whether the CESTAT is correct in applying the ration of the judgment of the Karnataka High Court in the case of M/s.mPortal Wireless Solutions Private Limited, when the said judgment was not accepted on merits but due to low revenue effect ? and

(iv) Whether the CESTAT's final order can be sustained in the light of the Division Bench judgment of this Court in the case of M/s.Sutham Nylocots reported in (2014) 306 ELT 255 (Mad.) ?”

3. In view of the submission made by counsel for parties, the questions of law, as framed are answered in favour of the first respondent and against the Appellant/Revenue.

4. Accordingly, the captioned appeal is dismissed. There shall, however, be no order as to costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

The Customs, Excise and Service Tax Appellate Tribunal,
South Zonal Bench Haddows Road, at Chennai.

+1cc to M/s.N.Inbarajan, Advocate, S.R.No.25978
+1cc to Ms.Hema Muralikrishnan, Advocate, S.R.No.36455

C.M.A.No.802 of 2016

GP(CO)
CS/20/06/17