IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2017

CORAM:

THE HONOURABLE THIRU.JUSTICE RAJIV SHAKDER
AND
THE HONOURABLE THIRU.JUSTICE R. SURESH KUMAR

C.M.A.No.2667 of 2014

Commissioner of Service Tax,
No.2054-I, IInd Avenue, 12th Main Road,
Anna Nagar, Chennai – 600 040. ... Appellant

Vs.

1. M/s. Verizon Data Services India Pvt. Limited,
9th Floor, Alltius Block, Olympia Tech Park,
Plot No.1, SIDCO Industrial Estate,
Guindy, Chennai – 600 032.

2. The Customs, Excise & Service Tax Appellate Tribunal,
South Zonal Bench,
Shasthri Bhawan Annexe, Ist Floor,
No.26, Haddows Road,
Chennai 600 006. ... Respondents

PRAYER: This Civil Miscellaneous Appeal filed under Section 35 G of the Customs and Excise Act, 1944 to set aside the Final Order No.517/2012, dated 14.05.2012 and Final Order No.40327/2014 dated 02.01.2014 and the Order-in-Original No.49/2010 dated 17.03.2010 passed by the Assistant Commissioner of Service tax, Chennai III Division, Chennai may be restored.

For Appellant : Ms. Hema Muralikrishnan for
Mr. Vikram Ramakrishnan
For R1 : Mr.S.Muthu Venkatraman

JUDGEMENT

1. The captioned appeal has been filed by the Revenue assailing the order dated 14.5.2012, passed by the Customs, Excise and Service Tax Appellate Tribunal (in short, 'the Tribunal').

1.1. Furthermore, challenge is also made to the subsequent order, passed by the Tribunal, in an application for rectification preferred by the Revenue.

1.2. The rectification application was dismissed by the Tribunal vide order dated 02.1.2014.

2. Aggrieved by the same, the captioned appeal was preferred by the Revenue.

3. The appeal was admitted on 25.9.2014, when the following question of law was framed for consideration by this Court:

> " Whether the decision of the Tribunal in allowing the refund of CENVAT credit even without registration of the assessee under Section 69 of the Finance Act, 1994, is correct in law?"

4. Both the counsels submit that the question of law framed by the Court stands covered by a Judgement delivered by us, on 10.4.2017 in C.M.A.No.860 of 2017, titled : **Commissioner of Service Tax-III Vs Customs, Excise & Service Tax Appellate Tribunal and another** and another Judgement delivered by us, on 27.04.2017 in C.M.A.No.802 of 2016, titled : **Commissioner of Service Tax-III Vs M/s. Reed Elsevier Private Limited and another.**

5. Accordingly, question of law as framed, will have to be answered in favour of the Assessee and against the Revenue.

5.1. Resultantly, the appeal would have to be dismissed.

6. It is ordered accordingly. However, there shall be no order as to costs.

[R.S.A.J.,] [R.S.K. J.,]
22.06.2017

Speaking Order/Non Speaking Order
Index: Yes/No Internet:Yes/No
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<u>RAJIV SHAKDER,J.</u>
<u>and</u>
<u>R. SURESH KUMAR</u>

kua

To
The Customs, Excise & Service Tax Appellate Tribunal,
South Zonal Bench,
Shasthri Bhawan Annexe, Ist Floor,
No.26, Haddows Road,
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