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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **SERTA 10/2017 & CM APPL. Nos. 40916-17/2017**

\+ **SERTA 11/2017 & CM APPL. Nos. 40918-20/2017**

THE PRINCIPAL COMMISSIONER OF GOODS AND SERVICE TAX, DELHI-SOUTH COMMISSIONERATE ..... Appellant

Through : Mr. Harpreet Singh, Senior Standing Counsel.

versus

CAREER LAUNCHER INDIA LTD. ..... Respondent

Through : Mr. Yogendra Adlak, Advocate.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MS. JUSTICE PRATHIBA M. SINGH

ORDER

% **13.11.2017**

1. The question raised in the present appeal by the Revenue is whether the value of study material is to be added or included in `taxable services' for the purpose of clause (zzc) to Section 105 of the Finance Act, 1994 which defines `taxable services' to mean `services provided or to be provided to any person by a commercial training or coaching centre in relation to commercial training or coaching'. The expression "Coaching Centre" has been defined in clause (27) to Section 65 of the Finance Act, 1994 to mean an Institute or establishment that would be providing commercial training or coaching for imparting skill or knowledge or lessons on any subject or field other than sports with or without issuance of a certificate. It specifically includes coaching or tutorial classes.

2. The respondent possibly relies upon Notification No. 12/03-ST dated 20th June, 2003 which grants exemption in case of goods/materials sold by the Service Provider to the recipient of services subject to the condition that

there is documentary proof specifically indicating the value of the said goods and materials.

3. As per Section 35G of the Central Excise Act, 1944 which is made applicable to Service Tax Appeals, an appeal shall lie before the High Court from an order passed by the Appellate Tribunal `except when the order relates to, amongst other things, determination of any question having relation to rate of duty of excise or the value of goods for the purpose of assessment'.

4. The question raised in the present appeal is with relation to value of services for the purpose of assessment - in other words, whether the value of the study material would be included in the value of taxable services or not. This being the position, we do not think the High Court would have jurisdiction to entertain the present appeal.

5. The appeal is accordingly held to be non maintainable under Section 35G of the Central Excise Act read with Section 83 of the Finance Act, 1994.

6. With the aforesaid observations, we decline to entertain the present appeal without expressing any opinion on merits of the appeal and leaving it open to the appellant to invoke the jurisdiction of the Supreme Court under Section 35L of the Central Excise Act read with Section 83 of the Finance Act, 1994.

SANJIV KHANNA, J

Prathiba..

PRATHIBA M. SINGH, J

NOVEMBER 13, 2017

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