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

CENTRAL EXCISE APPEAL NO. 180 OF 2017

Kingfisher Airlines Limited … Appellant
Versus
The Commissioner of Service Tax, Mumbai – V …Respondent

Mr. Jas Sanghavi, I/b PROMPT Legal for the Appellant.
Mr. Pradeep S. Jetley, with Ms. Ruju Thakker, for the Respondent.

CORAM: M.S.SANKLECHA &
RIYAZ I. CHAGLA, JJ.
DATED: 28TH AUGUST, 2018

PC:-

1. This Appeal under Section 83 of the Finance Act, 1944 read with Section 35G of the Central Excise Act, 1944 challenges the order dated 30th May, 2016 passed by the Customs, Excise and Service Tax Appellate Tribunal (Tribunal)

2. The Appellant in Appeal urges the following questions of law for our consideration:-

> *"(a) Whether in the facts and circumstance of the case, the Appellate Tribunal was right in dismissing the Appeal No. ST/85994/16 – Mumbai for want of pre-deposit of amount prescribed under Section 35F of the Central Excise Act, 1944 read with Section 83Q of the Finance Act, 1994?*

(b) Whether mandatory pre-deposit of service tax demanded or penalty imposed in terms of Section 35F of the Central Excise Act, 1944 w.e.f. 06.08.2014 read with Section 83Q of the Finance Act, 1994 is warranted in cases where the lis arose prior to 06.08.2014"?

3. It is an agreed position between the parties that the questions raised herein stand concluded against the Appellant – Assessee and in favour of the Respondent – Revenue in the case of ***Nimbus Communications Limited Vs. Commissioner of S.T., Mumbai - IV***[1]**.**

4. In the above view, the questions as proposed do not give rise to any substantial questions of law as issue raised stand concluded by the decision of this Court.

5. Accordingly, the Appeal is dismissed. No order as to costs.

(RIYAZ I. CHAGLA J.) **(M.S.SANKLECHA, J.)**

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1 2016 (44) S.T.R. 578 (Bom.)