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

CENTRAL EXCISE APPEAL NO. 150 OF 2017

Commissioner of Service Tax-VI,
Mumbai .. Appellant

v/s.

M/s. CLP Power India Pvt. Ltd. ..Respondent

Ms. P.S. Cardozo for the appellant
None for the respondent

CORAM : M.S. SANKLECHA &
RIYAZ I. CHAGLA, J.J.

DATED : 6th SEPTEMBER, 2018.

P.C.

1. This appeal under Section 83 of the Finance Act, 1994 (the Act) read with Section 35G of the Central Excise Act, 1944 challenges the order dated 1st June, 2016 passed by the Customs, Excise and Service Tax Appellate Tribunal (the Tribunal).

2. This appeal by the Revenue urges the following questions of law for our consideration :-

(a) Whether in the facts and circumstances of the case and in law, the Tribunal has erred by not applying the clear and unambiguous statutory provision of Section 67 of the Act

> *whereby the value of any taxable service shall be the gross amount charged by the service provider, for such service to be provided by him; to the present case thereby wrongly allowing the appeals of the respondent herein?*

3. On perusal of the impugned order and the proposed question it is evident that the impugned order is with regard to the valuation of taxable service. Therefore, an appeal against such an order would not be maintainable before this Court under Section 83 of the Act read with Section 35G(1) of the Central Excise Act, 1944.

4. In the above view, this appeal is dismissed as non maintainable before this Court. If so advised, the Revenue is at liberty to approach the Hon'ble Supreme Court under Section 35L(1)(b) of the Central Excise Act, 1944.

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