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

CENTRAL EXCISE APPEAL NO. 90 OF 2017

The Commissioner of Service Tax-IV,
Mumbai Commissionerate Mumbai .. Appellant

v/s.

M/s. Reliance ADA Group Pvt. Ltd. ..Respondent

Ms. P.S. Cardozo a/w Mr. J.B. Mishra for the appellant
Mr. Chirag Shetty I/b Economic Laws Practice 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 read with Section 35G of the Central Excise Act, 1944 (the Act) challenges the order dated 22nd February, 2016 passed by the Customs, Excise and Service Tax Appellate Tribunal (the Tribunal).

2. The Revenue has urged the following questions of law for our consideration :-

(a) Whether in the facts and circumstances of the case, the Tribunal was right in holding that the services provided by the

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assesee to its Group Companies cannot be classified under the category of "Support Services of Business or Commerce" under Section 65(105)(zzzq) of the Finance Act, 1994 prior to 01.05.2011?

(b) Whether in the facts and circumstances of the case, the Tribunal is right in holding that the assessee is a "Pure Agent" as defined under Rule 5(2) of the Valuation Rules?

(c) Whether in the facts and circumstances of the case, the Tribunal is right in holding that the extended period of limitation is not invokable in the facts and circumstances of the present case?

3. It is an admitted position between the parties that the issues raised herein are in respect of the valuation of the services rendered by the respondent assessee. This is evident from the proposed question (b) which reflects the controversy before the Tribunal leading to the impugned order..

4. In the above view, the appeal against the impugned order of the Tribunal in terms of Section 83 of the Finance Act, 1994 read with Section 35G(1) of the Act would not be maintainable before this Court. The remedy, if any, will be for the appellant to approach the Hon'ble Supreme Court under Section 35L(1)(b) of the Act to challenge the

impugned order.

5. Accordingly, the Appeal is disposed of in the above terms.

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