Sharayu Khot.

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

NOTICE OF MOTION NO. 2040 OF 2016

IN

CENTRAL EXCISE APPEAL NO. 16 OF 2016

The Commissioner of Service Tax Mumbai VII	**...Applicant/ Appellant**
Versus	
M/s. Reliance Infratel Ltd.	**...Respondent**

Ms. P.S. Cardozo a/w Mr. J.B. Mishra, for the Applicant/Appellant.

Mr. Chirag Shetty, I/b Economic Laws Practice, for the Respondent.

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

DATE : 30 August 2018

ORDER :

1. This Motion has been taken out in an Appeal filed

under Section 130 of the Customs Act, 1962 (for short "***the Act***") challenging the order dated 26th November 2014 passed by Customs, Excise and Service Tax Appellate Tribunal (for short "***the Tribunal***").

2. This accompanying Appeal was admitted on 20th August 2018 on the following re-framed questions of law:-

> "*Whether in the facts and circumstances of the case and in law, the Tribunal is right in allowing the ineligible CENVAT Credit on the goods which are neither "Capital goods" under Rule 2(a) nor "inputs" under Rule 2(k) of the Cenvat Credit Rules, 2004 for providing business support services?*"

3. This Motion has been taken out for early disposal of the Appeal.

4. It is agreed position between the parties that the issue arising herein stands concluded by the decision of this

Court in ***Bharati Airtel Ltd. Vs. Commissioner of Central Excise Pune-III-2014***[1] paragraph 4 in the Affidavit in Support of the Motion.

5. In the above view, the hearing of the Appeal is expedited and as directed at the time of admission is to be heard along with Central Excise Appeal No. 71 of 2015. The Appeal is posted for final disposal on 17th September 2018 at 3.00 p.m.

6. Motion is disposed of in the above terms.

[RIYAZ I. CHAGLA J.] **[M.S. SANKLECHA, J.]**

1 ***(35) STR 865 (Bom.)***