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

CENTRAL EXCISE APPEAL NO. 14 OF 2019

The Principal Commissioner
of Service Tax, Pune .. Appellant

v/s.
M/s. Symbiosis Society .. Respondent.

Mr. J.B. Mishra for the appellant
None for the respondent

CORAM: M.S. SANKLECHA, J.
AND M.S.SONAK, J.

DATE : 18th JUNE 2019.

P.C.:

1. This appeal under Section 83 of the Finance Act, 1994 read with Section 35G of the Central Excise Act, 1944 takes exception to the order dated 18th August 2015 passed by the Customs Excise and Service Tax Appellate Tribunal (Tribunal).

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

"Q.1 Whether the CESTAT was right in holding that Masters and Post-graduate Diploma courses conducted by the eight (8) constituent institutes of the assessee, were "vocational" in nature, and whether those institutes would be "vocational training institutes" within the scope of the 'Explanation' under Notification No. 9/2003-ST, dated 20.06.2003 and Notification No. 24/2004-ST, dated 10.09.2004?

> *Q.2. Whether the CESTAT was right in holding that the courses conducted through constituent institutes of the assessee were eligible for benefit of exemption under Notification No. 9/2003-ST, dated 20.06.2003 and Notification No. 24/2004-ST, dated 10.09.2004, as claimed by the assessee?"*

3. As is evident from the questions proposed by the Revenue the issue involved in this appeal is with regard to the availability of exemption under Notification No. 9/2003-ST, dated 20.06.2003 and Notification No. 24/2004-ST, dated 10.09.2004. Thus, the issue which arises in this appeal is one relating to the rate of duty, as if the above Notification apply then exemption from service tax is available to the respondent.

4. In view of Section 83 of the Finance Act, 1994 read with Section 35G of the Central Excise Act, 1944 an appeal relating to determination of any question having relation to the rate of duty of excise and / or service tax is outside the jurisdiction of this Court. The remedy, if any, under Section 35L of the Central Excise Act would be an appeal to the Hon'ble Supreme Court.

5. In the above view, this appeal is not maintainable before this Court.

6. Accordingly, Appeal is disposed of as not maintainable before this Court.

(M.S. SONAK, J.) **(M.S. SANKLECHA, J.)**