

*JPP*

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

***CENTRAL EXCISE APPEAL NO. 233 OF 2017  
with  
CENTRAL EXCISE APPEAL NO. 232 OF 2017***

Larsen and Toubro Grahak Sahakari  
Sausthan Maryadit

... Appellant

V/s.

The Commissioner of Service Tax, Mumbai.II ... Respondent

Mr. Prakash Shah a/w. Mr. Jas Sanghavi i/b. PDS Legal for the  
Appellant.

Mr. Swapnil Bangur a/w. Mr. Sham Walve for the Respondent

***CORAM : NITIN JAMDAR &  
M.S. KARNIK, JJ.***

***DATE : 26 FEBRUARY 2020.***

**P.C. :-**

Heard learned Counsel for the parties.

2. The learned Counsel for the Respondent takes a preliminary objection that the Appeal would not be maintainable in this Court in view of Section 35G and 35L of the Central Excise Act. These Appeals were adjourned pending reference to the Full Bench

in *Commissioner of Central Excise, Mumbai - V Commissionerate v/s. M/s. Reliance Media Works Ltd. & Ors. (Central Excise Appeal No. 130 of 2017)* dated 6 December 2019. The decision of the Full Bench has been now rendered and the issues have been answered by the Full Bench. Para 9 of the Judgment of the Full Bench reads thus :-

*“9. In view of our above discussion, we now answer the questions posed in the reference for our opinion as under :-*

*Regarding question (a) –Appeals from orders of the Tribunal relating to taxability or excisability passed prior to 6<sup>th</sup> August, 2014 i.e. the date of insertion of sub-section (2) to Section 35L of the Act being a rate of duty issue would be appealable only to the Hon’ble Supreme Court and not the High Court.*

*Regarding question (b) – The amendment made to Section 35L of the Act is clarificatory in nature and, therefore, retrospective in operation.”*

3. The learned Counsel for the Appellant states that in view of the decision of the Full Bench the Appeal will have to be filed in the Apex Court and not in this Court.

4. The Appeals are disposed of as not maintainable.

M.S. KARNIK, J.

NITIN JAMDAR, J.

Jyoti P.  
Pawar

Digitally signed  
by Jyoti P. Pawar  
Date: 2020.02.27  
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