R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

CENTRAL EXCISE APPEAL NO. 172 OF 2019

IDBI Bank Ltd .. Appellant

Versus

Commissioner, GST & CX, LTU, Mumbai .. Respondent

....

- Mr. V. Sridharan, Senior Counsel i/by Sriram Sridharan for the Appellant
- Mr. Pradeep S. Jetly, Senior Counsel a/w Mr. J.B. Mishra for the Respondent

....

CORAM : UJJAL BHUYAN &
MILIND N. JADHAV, JJ.

DATE : FEBRUARY 12, 2021.

P.C.:

Heard Mr. Sridharan, learned senior counsel for the petitioner and Mr. Jetly, learned senior counsel for the respondents.

2. This appeal under section 35G of the Central Excise Act, 1944 has been preferred against the order dated 12.02.2019 passed by the Customs, Excise and Service Tax Appellate Tribunal, West Zonal Bench, Mumbai (CESTAT) in Appeal No. ST/86297/2015.

3. It is seen that issue involved in this appeal is identical to the one in Central Excise Appeal No. 148 of 2019 and other connected appeals which were disposed off on 22.09.2020.

4. Learned counsel for the appellant submits that the present appeal was inadvertently not listed along with the aforesaid bunch of appeals. He submits that the appeal may be disposed of in terms of the order dated 22.09.2020.

5. Mr. Jetly has no objection.

6. Having heard learned counsel for the parties, we may advert to the order dated 22.09.2020. Relevant portion of the order dated 22.09.2020 is extracted hereunder:-

> "11. We find that a three-member bench of CESTAT, Bangalore had delivered judgment on 20.03.2020. As already noticed above, the service provided by the Deposit Insurance and Credit Guarantee Corporation to the banks for insuring the deposits of the public with the banks has been considered by the banks to be an input service and CENVAT credit for service tax paid by the banks for this service has been availed of by the banks for rendering output service. The issue involved is whether the banks can avail credit of this service tax paid by the banks for the service provided by the Deposit Insurance Corporation.
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> 11.1 It was noted that Division Bench of CESTAT at Delhi in the appeal filed by *State Bank of Bikaner and Jaipur* had held that the banks can avail such credit of service tax.
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> 11.2 On the other hand, it was noted that CESTAT at Mumbai in ICICI Bank Limited had disallowed such credit.
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> 11.3. Since divergent views were expressed by division benches of CESTAT, the matter was referred to the larger bench.

11.4. By the judgment and order dated 20.03.2020, the larger bench held that view taken in *State Bank of Bikaner and Jaipur* is the correct view and the contrary view taken in ICICI Bank Limited is not acceptable. The reference has accordingly been answered in the following terms:-

> "The insurance service provided by the Deposit Insurance Corporation to the banks is an "input service" and CENVAT credit of service tax paid for this service received by the banks from the Deposit Insurance Corporation can be availed by the banks for rendering 'output services'."

12. In view of the decision rendered by the larger Bench of CESTAT, the impugned order dated 12.02.2019 cannot be sustained and the same is accordingly set aside and quashed. All the appeals are remanded back to the CESTAT for fresh decision in conformity with the decision rendered by the larger bench.

13. Appeals are accordingly allowed. However, there shall be no order as to costs."

7. In view of the aforesaid, impugned order dated 12.02.2019 is hereby set and quashed. Appeal is remanded back to the CESTAT for fresh decision in conformity with the decision rendered by the Larger Bench.

8. Appeal is accordingly allowed. However, there shall be no order as to costs.

[MILIND N. JADHAV, J.] **[UJJAL BHUYAN, J.]**

Ravindra M. Amberkar Digitally signed by Ravindra M. Amberkar Date: 2021.02.15 12:24:07 +0530