**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL**
**SOUTH ZONAL BENCH, CHENNAI**

**ST/00138/2010**

[arising out of Order-in-Appeal No.148/09 (M-ST), dated 30.11.2009 passed by the Commissioner of Central Excise (Appeals), Chennai]

COMMISSIONER OF SERVICE TAX, CHENNAI APPELLANT

Versus

M/s. GALAXY (TUTICORIN) AGENCIES RESPONDENT

Appearance:

For the Appellant Shri K. Veerabhadra Reddy, JC (AR)
For the Respondent Ms. D. Naveena, Adv.

**CORAM:**

**Hon'be Smt. Archana Wadhwa, Member (Judicial)**
**Hon'ble Shri B. Ravichandran, Member (Technical)**

Date of hearing/decision **19-12-2017**

FINAL ORDER NO. 43486 / 2017

**Per Archana Wadhwa:**

The above appeal is filed by the department against the order passed by Commissioner (Appeals), who set aside the demand of service tax on CHA Services, Port Services and Steamer Agency Services.

2. At the time of hearing learned counsel Ms. D. Naveena submitted that the respondent concedes the differential service tax for which the amounts are already paid and is confining the respondents objection in the appeal to the demand on reimbursable expenses on CHA Services and Port Services. The learned Authorised Representative Shri K. Veerabhadra Reddy, JC(AR) for the Revenue submitted that the Commissioner (Appeals) has given the benefit to

the respondent on the ground of limitation, which the department is contesting.

3. We take note of the fact that against the order passed by the Larger Bench of the Tribunal on the issue of taxability of Port Services, the assessee/appellants had approached the Hon'ble High Court of Madras by filing a Writ Petition, which was later converted by the Hon'ble High Court to a Civil Miscellaneous Appeal, which is still pending before the Hon'ble High Court. It is also informed to the Bench by both sides that the Hon'ble High Court has orally directed the Tribunal not to proceed with the matter unless the High Court disposes of the CMA. Learned Authorised Representative for Revenue submitted a communication, dated 25.05.2015, *inter alia,* as follows:-

> "However, when the High Court expressed that till such time cases are taken and orders passed, the regular Bench should not take up the matter and directed the department counsel to instruct the same to that effect that the appeal shall not be taken up for hearing on 28.07.2014 and await the orders of the court."

4. Both sides have not been able to submit as to when the matter is likely to be disposed of by the Hon'ble High Court. The above appeals are pending before the Tribunal for more than a declade. Ahead of the transition of Indirfect Tax to GST, this Tribunal has been given a mandate to dispose of all old cases at least prior to 2007.

5. Viewed in this light, we are of the considered opinion that it would be appropriate and prudent to close the file for the purpose of statistics. We, however, make it clear that the appeals along with stay order/interim orders, if any, will continue before the Tribunal and the appeal is closed only for the purpose of statistics. Both sides are at liberty to file application before the Tribunal to reopen the matter and

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when the case is disposed of by the Hon'ble High Court or in case of any change of circumstance.

6. In the result, the appeal is disposed as filed closed.

(Dictated and pronounced in open court)

29.1.18

(B. RAVICHANDRAN)
MEMBER (TECHNICAL)

(ARCHANA WADHWA)
MEMBER (JUDICIAL)

प्रमाणित प्रति/Certified True Copy
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चेन्नै/CHENNAI

**ksr**
29-01-2018

Customs, Excise & Service Tax Appellate Tribunal