

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

ST/00130/2008

[Arising out of Order-in-Appeal No.4/2008, dated 28.02.2008 passed by the
Commissioner of Central Excise (Appeals), Chennai]

M/s. INDO LLOYD FREIGHT SYSTEMS PVT. LTD.

APPELLANT

Versus

COMMISSIONER OF SERVICE TAX, CHENNAI

RESPONDENT

Appearance:

For the Appellant Shri V.S. Manoj, Adv,
For the Respondent Shri B. Balamurugan, AC (AR)

CORAM:

Hon'ble Shri D.N. Panda, Judicial Member

Hon'be Shri Madhu Mohan Damodhar, Technical Member

Date of hearing/decision **06-03-2017**

FINAL ORDER NO. 40452/2017

Per D.N. Panda:

Learned counsel agrees that taxation of reimbursement of expenses was subject matter of decision in the case of *Sri Bhagavathy Traders Vs Commissioner of Central Excise, Cochin* reported in 2011 (24) S.T.R. 290 (Tri.-LB) before Larger Bench of Tribunal and that was in favour of Revenue. But the decision in the case of *Intercontinental Consultants & Technocrats Pvt. Ltd. Vs Union of India* reported in 2013 (29) S.T.R. 9 (Del.) on the same issue has gone against Revenue. The decision of Hon'ble High Court of Delhi is awaiting decision of the apex court.

2. Learned counsel further submits that learned authority below has not examined the issue of taxation on incentive received



from the shipping companies. Therefore, to do justice to both sides, it is the suggestion of both sides that the matter may go back to the learned Adjudicating authority to grant fair opportunity of hearing to both sides and on the basis of the outcome of the ^{decision of the} apex court on the above said case, shall pass appropriate order recording reason thereof.

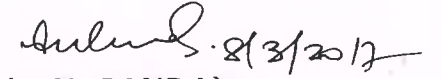
3. Learned counsel prays that there may be direction for threadbare examination of the facts and law relating to the incentive/commission received. There is no difference to this proposition.

4. In view of the above, appeal is remanded to the adjudicating authority to pass appropriate order carrying out the above direction.

(Dictated and pronounced in open court)

 09/03/17

(MADHU MOHAN DAMODHAR)
TECHNICAL MEMBER

 28/3/2017
(D.N. PANDA)
JUDICIAL MEMBER

ksr



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