IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. I

Service Tax Appeal No. 221- 222 of 2012

[Arising out of Order-in-original No. 434-435/2011 dated 1.12.11. passed by the Commissioner of Central Excise (Appeals) New Delhi]

M/s. Indusind Media & Communications Ltd. **Appellant**

Vs.

Commissioner of Service Tax Delhi **Respondent**

Appearance:

Ms Samriti Amin, Advocate for the Appellants
Shri Sanjay Jain, AR for the Respondent

CORAM:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Member (Technical)

Date of Hearing/ Decision: 17.07.2017

FINAL ORDER NO.55607-55608 /2017

Per: Justice (Dr.) Satish Chandra:

Both the appeals are filed against Order-in-Appeal No. 434-435/2011 dated 11.12.11.

2. Brief facts of the case are that during the period under consideration (October, 2008 to June, 2009), the appellant was engaged

in providing telecommunication services to various subscribers. Department was of the view that such services fall under the category of section 65 (105)(zzzx) of the Finance Act, 1994. Accordingly service tax demand was raised. Being aggrieved, the appellant has filed the present appeals.

3. With this background, we heard Ms Smriti Amin and Shri Sanjay Jain, learned Counsels. On perusal of the record, it appears that in Order-in-Appeal in para 13, Commissioner has observed that appellant has obtained license given under section 4 of the Indian Telegraph Act, 1985 and has been granted registration certificate No.51/2002 dated 19.4.2002 under infrastructure provider category.

4. During the course of arguments, learned Counsel submitted that the certificate was not granted for providing telecom service, but was under infrastructure category.

5. Further, it appears that the issue has came up before the Tribuanl in assessee's own case reported in [***2013 (32) STR 418 (Tri-Del)]*** where matter was remanded back to the original adjudicated authority for denovo determination.

6. Both the parties have agreed that the matter has to be remanded to the adjudicating authority. Hence, we set aside the impugned order and remand the matter to the original adjudicating authority with a direction to decide the issue denovo in the light of above discussion

but by providing opportunity of being heard. Fresh evidence may be admitted, if need be, as per law.

7. In the result, appeal is allowed by way of remand.

(Dictated and pronounced in the open Court)

(V. Padmanabhan)	**(Justice (Dr.) Satish Chandra)**
Member (Technical)	**President**

ss