CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD
Division Bench
Court – I

Appeal No. ST/509/2009

(Arising out of Order-in-Original No. 05/2009 (PVR) dated 26.02.2009 passed by Commissioner of Customs & Central Excise, Visakhapatnam)

Commissioner of Central Excise, Customs & Service Tax, Visakhapatnam - II …..**Appellant(s)**

Vs.

Unitech Power Transmission Ltd., …..**Respondent(s)**

Appearance
Shri Pawan Kumar, Superintendent (AR) for the Revenue.
Shri G. Prahlad, Advocate for the Assessee.

Coram:
Hon'ble Mr. M.V. RAVINDRAN, MEMBER (JUDICIAL)
Hon'ble Mr. P. VENKATA SUBBA RAO, MEMBER (TECHNICAL)

Date of Hearing: 11/07/2018
Date of Decision: 11/07/2018

FINAL ORDER No. A/30724/2018

[Order per: M.V. Ravindran]

This appeal is filed by the Revenue against Order-in-Original No. 05/2009 (PVR) dated 26.02.2009.

2. Heard both sides and perused the records.

3. On perusal of records, we find that Revenue is aggrieved by the said order on the ground that the Adjudicating Authority has extended the cum tax benefit in respect of demand of service tax liability from the gross amount.

4. Learned Counsel submits that the very same Order-in-Original was contested on merits by the assessee (M/s Unitech Power Transmission Limited) in appeal No. ST/480/2009 and this Bench by Final Order No. A/30548/2018 dated 01.05.2018 relying upon the retrospective amendment by Notification No. 45/2010- ST set aside the Order-in-Original in *toto* and allowed their appeal. He produced the copy of the said order.

5. On perusal of order dated 01.05.2018 in assessee appeal (respondent in this case) we find it so. Since the entire Order-in-Original is set aside on merits, we find that the appeal filed by the Revenue needs to be rejected and we do so. The appeal stands rejected.

(Order pronounced & dictated in open court)

P. VENKATA SUBBA RAO	**M.V. RAVINDRAN**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

Lakshmi….