(2010) 09 KAR CK 0101

In the Karnataka High Court

Case No : CEA No. 75 of 2009

Commissioner of Service Tax — APPELLANT

Vs

Atria Convergence Technologies Pvt. Ltd. — RESPONDENT

Date of Decision : 09-09-2010

Acts Referred:
Central Excise Act, 1944 — Section 35 G, 35 L (b)

Citation : (2011) 21 STR 209

Hon'ble Judges : N. Kumar, J;H.S. Kempanna, J

Bench : Division Bench

Advocate : Jeevan J. Neeralgi, for the Appellant;

Final Decision : Dismissed

Judgement

N. Kumar, J.—The question that arise for consideration in this appeal is whether the assessee at the relevant point of time was a Cable Operator or Multi System Operator and whether the notification issued exempting Multi System Operators from payment of service tax is applicable to the assessee.

2. The Tribunal has recorded a finding that the assessee is a Multi System Operator and the notification exempts payment of service tax and therefore the assessee is liable to pay nil tax. It is that determination of the question regarding the rate of duty as also the valuation, which are assailed in this appeal.

3. Section 35G of the Excise Act under which the present appeal is filed excludes the jurisdiction of the High Court regarding the orders which involves determination of the question relating to the rate of duty and value of goods and appeal is provided to the Apex Court u/s 35L(b) of the Act.

4. In that view of the matter, the appeal preferred before this Court is not maintainable. Accordingly, the appeal is rejected reserving liberty to the appellant to approach the Apex Court u/s 35L(b) of the Excise Act. Ordered accordingly.