

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38, MG Marg Civil Lines, Old Red Building, Allahabad-211001
Regional Branch, Allahabad

Dated: 21/02/2018

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. ST/A/70346-70347/2018-CU[DB] dated 06/02/2018

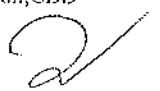
I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 01(5) of the Finance Act, 1994 relating to Service Tax Act, 1994.


 Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	ST/212/2011	Commissioner of CUSTOMS- Kanpur 117/7...SARVODYA NAGAR, KANPUR, UTTAR PRADESH 208005
2	ST/213/2011	Commissioner of CUSTOMS- Kanpur 117/7...SARVODYA NAGAR, KANPUR, UTTAR PRADESH 208005
		Name and Address of Respondent
3		Dharmendra Communications, Near Tahsil, Jalaun (U.P.)
4		B.K. Agrawal, Rathi, Hamirpur (U.P.)

Other Appellants and Respondents as per Annexure
 Copy To

- 5 Bar Association, CESTAT, Allahabad
- 6 Director Publications, Customs, Excise. I.P. Estate, Delhi
- 7 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp ICICI Bank of Defence Colony New Delhi-3
- 8 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaidhyaram Street, T. Nagar, Chennai-17
- 9 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005
- 10 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)
- 11 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070
- 12 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad - 38
- 13 The ICAI society, 52, Nagarjuna Hill, Punjagutta Hyderabad.-500082
- 14 M/S Knowledge Processing Pvt. Ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032
- 15 C.D.R.
- 16 Office Copy
- 17 Second Folder Copy
- 18 Guard File


 Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL Nos.ST/212-213/2011-CU[DB]

(Arising out of Order-in-Appeal No. 16-17-ST/APPL/KNP/2011 dated
24/01/2011 passed by Commissioner of Central Excise & Customs
(Appeals), Kanpur)

Commissioner of Central Excise, Kanpur

Appellant

Vs.

Shri Dharmendra Communications &

Shri B.K. Agarwal

Respondents

Appearance:

Shri Sandeep Kumar Singh, Assistant Commissioner (AR) for Appellant
Absent, for Respondent

CORAM:

Hon'ble Mr. Anil Choudhary, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 08/11/2017
Date of Decision : 08/11/2017

FINAL ORDER NOS:-70346-70347/2018

Per: Anil G. Shakkarwar

The above said two appeals are filed by Revenue against
the Impugned Order-in-Appeal No. 16-17-
ST/APPL/KNP/2011 dated 24/01/2011 passed by
Commissioner of Central Excise & Customs (Appeals),
Kanpur, as the issue involved in these appeals is liability of
service tax on commission received by respondents on sale of
SIM-Cards received from M/s Bharat Sanchar Nigam Ltd.
(BSNL).



2. Heard the Learned A.R. for revenue who has reiterated the grounds of appeal.
3. Respondent is absent on call for the last two dates therefore, the appeal is taken up for ex-parte decision.
4. We find that the issue is no more res-integra, since the same has been decided by this Tribunal through the Final Order No.71172/2016 dated 26.12.2016, in the case of Commissioner of Central Excise, Kanpur Vs ITI Ltd., Kanpur. In the said appeal this Tribunal has found that the sales commission paid to the respondent, is part of the assessable value on which BSNL has already paid service Tax. In view of the same, this Tribunal had held that "The Commission received by the respondent has been already subjected to Service Tax at the hands of BSNL". The fact of the said case is squarely applicable on the present case. Therefore, we dismiss the above stated two appeals filed by the Revenue. Respondent shall be entitled for consequential relief, if any, in accordance with law.

(Dictated in Court)

-Sd/-

(ANIL CHOUDHARY)
Member (JUDICIAL)

akp

-Sd/-

(ANIL G. SHAKKARWAR)
Member (TECHNICAL)

प्रमाणित प्रतिलिपि/Certified True Copy

205703118
सहायक पंजीकार/Asstt. Registrar
सीमा शुल्क, उत्पाद शुल्क एवं सेवा कर
अपील अधिकरण/(C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001

