

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD**

1-2) ST/54619/2014-CU[DB] & ST/54383/2014-CU[DB]

(Arising out of Order-in-Original No.26/COMMR./ST/GZB/2013-14 dated 31.03.2014 passed by Commissioner of Central Excise & Service Tax, Ghaziabad.)

- 1) M/s.Bharat Sanchar Nigam Ltd.
- 2) Commissioner of Central Excise & Service Tax, Ghaziabad

...APPELLANT(S)

VERSUS

- 1) Commissioner of Central Excise & Service Tax, Ghaziabad
- 2) M/s.Bharat Sanchar Nigam Ltd.

RESPONDENT (S)

APPEARANCE

Absent on call for the Appellant (s)
Shri Mohd. Altaf (Asstt.Commr.) (A.R.) for the Revenue

CORAM:

MRS. ARCHANA WADHWA, HON'BLE MEMBER(JUDICIAL)
SHRI ANIL G. SHAKKARWAR, HON'BLE MEMBER(TECHNICAL)

DATE OF HEARING/DATE OF DECISION 14.11.2018

FINAL ORDER NO.72588-72589/2018

Per Mrs.Archana Wadhwa :

Appellant as also Revenue is in appeal against the same impugned order passed by Commissioner of Service Tax confirming demand of Service Tax against the assessee, denying Cenvat credit and imposing penalties under Section 78 of the Finance Act. As the Commissioner has not imposed any penalty in terms of section 76 of the Finance Act, Revenue filed appeal thereagainst.

2. As regards assessee's appeal, when matter was called, neither anybody appeared nor is there any adjournment request in spite of notice of hearing having been sent to them well in advance.

3. We also find that the matter has been repeatedly coming up on Board and the appellant was unrepresented on all the dates. It seems that the appellant is not interested in pursuing the appeal. Accordingly, the same is dismissed for non-prosecution with liberty to the appellant to apply for restoration on sufficient cause being shown for non-appearance.

4. As regards Revenue's appeal, admittedly Bharat Sanchar Nigam Ltd. is a Public Sector Undertaking and as per the settled law no *mala fide* intention can be attributed to them. As such we find no justifiable reasons to invoke section 76 penal provision against them. The Revenue's appeal is accordingly rejected.

Both the appeals are disposed of in above manner.

(Dictated and pronounced in the open Court.)

SD/
(ANIL G. SHAKKARWAR)
MEMBER(TECHNICAL)

SD/
(ARCHANA WADHWA)
MEMBER (JUDICIAL)

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