

FAX : 0532-2400149

REGISTERED / AD

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

Dated: 27/12/2017

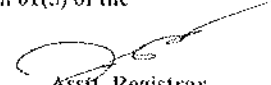
To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. ST/A/71932/2017-CU/DB dated 25/09/2017

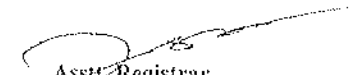
I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 01(5) of the Finance Act, 1994 relating to Service Tax Act, 1994.


Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	ST/1044/2011	Commissioner of Central Excise and Service Tax- Lucknow 7-A...ASHOK MARG, LUCKNOW, UTTAR PRADESH 226001 Name and Address of Respondent
2		Rameshwaram Traders, Mall Road, Palia, Distt- lakhimpur Kheri (u.p.),,

Copy To

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


Asstt. Registrar

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

APPEAL No.ST/1044/2011-CU[DB]

(Arising out of Order-in-Appeal No. 124-ST/LKO/2011 dated 31/03/2011 passed by Commissioner of Central Excise & Service Tax (Appeals), Lucknow)

Commissioner of Central Excise, Lucknow

Appellant

Vs.

M/s Rameshwaram Traders,

Respondent

Appearance:

Shri Pawan Kumar Singh, Supdt, (AR)
Absent,

for Appellant
for Respondent

CORAM:

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

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

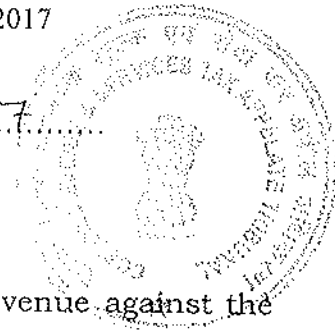


Date of Hearing : 25/09/2017

Date of Decision : 25/09/2017

FINAL ORDER NO. 7132/2017

Per: Anil Choudhary



The present appeal is filed by the Revenue against the Impugned Order-in-Appeal No. 124-ST/LKO/2011 dated 31/03/2011 passed by Commissioner of Central Excise & Service Tax (Appeals), Lucknow, as the issue involved in this appeal 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. Appellant is absent on call for the last two dates therefore, the appeal is taken up for ex-parte decision.

4. Considering the submissions of learned A.R. for revenue and on perusal of records, 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 fact₅ of *the* the said case is squarely applicable on the present case.

5. Therefore, we dismiss the appeal filed by the revenue. Respondent shall be entitled for consequential relief, if any, in accordance with law.

(Dictated in Court)

-Sd/-

(ANIL G. SHAKKARWAR)
Member (TECHNICAL)

akp

-Sd/-

(ANIL CHOUDHARY)
Member(JUDICIAL)

प्रमाणित प्रतिलिपि
29/01/18
सर्वोच्च न्यायालय, दिल्ली
सहायक न्यायाधीश (तकनीकी)
अनिल शक्करवार, सी.एस.आई.
30, एन.एम. रोड, नया दिल्ली-110001
DR. A. G. HANDE, ALLAHABAD

