

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

Dated: 15/02/2018

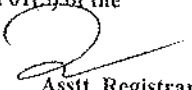
To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. ST/A/70326/2018-CU[DB] dated 15/01/2018

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/1903/2010	BHARAT SANCHAR NIGAM LTD The General Manager, Bharat Sanchar Nigam Ltd, Cellular Mobile Telecom Service, 3rd Floor, MDA Building, Meerut(UP)

Name and Address of Respondent

2	-C.C.E. MEERUT I Excise Chowk, Opposite Choudhary Charan Singh University Mangal Panday Nagar, Meerut - 250005.
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Copy To

3 Advocate(s) / Consultant(s):

Vineet Kumar Singh, Advocate
5 Narain Nagar, Sector 11,
Indira Nagar,
Lucknow,
Uttar Pradesh

4 Bar Association, CESTAT, Allahabad

5 Director Publications, Customs, Excise, I.P. Estate, Delhi

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp ICICI Bank of Defence Colony New Delhi-3

7 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

9 LAWCRUX Advisors Pvt. Ltd., LAW House, I-8, Sector-10, Faridabad 121003 (Haryana)

10 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

11 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad - 38

12 The ICFAI society, 52, Nagarjuna Hill, Punjagutta Hyderabad.-500082

13 M/S Knowledge Processing Pvt. Ltd.(taxmanagementindia.com), FF-19, 1st Floor, Cross River Mall, CBD Ground, Near Karkardooma Court, Delhi-110032

14 C.D.R.

15 Office Copy

16 Second Folder Copy

17 Guard File


 Asstt. Registrar

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

APPEAL No.ST/1903/2010-CU[DB]

(Arising out of Order-in-Original No. 01/Commr/Mrt-I/2010 dated 27/01/2010 passed by Commissioner of Central Excise & Customs, Meerut)

Bharat Sanchar Nigam Ltd.

Appellant

Vs.

Commissioner of Central Excise, Meerut

Respondent

Appearance:

Shri Vineet Kumar Singh (Advocate)
Shri Mohd Altaf (Asstt. Commr.) AR

for Appellant
for Respondent

CORAM:

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

Date of Hearing : 15/01/2018
Date of Decision : 15/01/2018

FINAL ORDER NO:-70326/2018

Per: Ashok Jindal



The short issue involved in the matter that, as to whether the appellant is entitled to avail Cenvat Credit on Tower and shelters used for providing Telecommunication Services or not.

2. Heard the parties, considering the facts that the issue is already decided by the Hon'ble High Court of Bombay in the case of Bharti Airtel Ltd. vs. Commissioner reported at 2014 (35) S.T.R. 865 (Bombay) and the Larger Bench of this

Ashok Jindal

Tribunal in the case of Tower Vision India Pvt. Ltd. vs. Commissioner of Central Excise (ADJ.), reported at 2016 (42) S.T.R. 249 (Tri.- LB), wherein it has been held that the assessee cannot avail the Cenvat Credit Tower and Shelter used for Telecommunication Service, therefore, we hold that the appellants are not entitled to avail Cenvat Credit on inputs used for tower and shelter for providing output telecommunication services. In that circumstances, we are upholding the impugned order and considering the fact that the issue was decided by the larger bench, no mal fides are attributable, no penalty can be fasten on the appellant, therefore, penalty imposed on the appellant is set aside.

3. In the above terms, the appeal is disposed of.

(Dictated and pronounced in Court)

Sd/-

Anil G. SHAKKARWAR

(MEMBER TECHNICAL)

Ankit

Sd/-

ASHOK JINDAL

(MEMBER JUDICIAL)

प्रमाणित प्रती (Certified True Copy)
05/03/18
राजेश्वर रेजीकर/Asstt. Registrar
सीमा शुल्क, उत्पाद शुल्क एवं सेवा कर
अपील अधिकरण (C.E.S.T.A.T.)
38, एन.जी.मार्ग, इलाहाबाद-211001
38, N. G. MARG, ALLAHABAD-211001

