CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 1883 of 2012

(Arising out of Order-in-Original No.33 & 34/2012 dated 29.02.2012 passed by the Commissioner of Service Tax (Appeals), Bangalore.)

Vodafone Essar South Ltd.
11/1,12/1, Maruthi Infortech Centre,
Amarjyothi Layout, Domlur,
Bangalore-560 071.

Appellant(s)

VERSUS

Commissioner of Central Excise,
Customs and Service Tax,
1st to 5th Floor,
TTMC Building, above BMTC Bus Stand,
Domlur, Bangalore-560 071.

Respondent(s)

WITH

Service Tax Appeal No. 21229 of 2016

(Arising out of Order-in-Original No.BLR-EXCUS-003-COM-56-15-16 dated 29.03.2016 passed by the Commissioner of Central Excise, Bangalore.)

Vodafone Essar South Ltd.
11/1,12/1, Maruthi Infortech Centre,
Amarjyothi Layout, Domlur,
Bangalore-560 071.

Appellant(s)

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Domlur, Bangalore-560 071.

Respondent(s)

APPEARANCE:

Mr. Syed Peeran, Advocate for the appellant.
Mr. Vikalp Jain, Superintendent (AR) for the Respondent.

**CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)**

FINAL ORDERS NO. 20467 – 20468 / 2026

DATE OF HEARING: 24.02.2026
DATE OF DECISION: 24.02.2026

PER: D.M. MISRA

These two appeals are filed against respective Orders-in-Original passed by the Commissioner of Central Excise and Service Tax, Bangalore.

2. Briefly stated the facts of the case are that the appellants are registered under the category of Telecommunication Service. During the course of audit of their records, it was noticed that they were providing in-roaming services from five circles viz., Chenai, Andhra Pradesh, Punjab, Uttar Pradesh and West Bengal. Alleging that appropriate service tax was not discharged on the gross amount, show-cause notices were issued from time to time demanding service tax. On adjudication, the demands were confirmed with interest and penalty. Hence, the present appeals.

3. At the outset, the learned advocate for the appellant submitted that the basic requirement for the activity of the appellant to qualify as taxable service in terms of definition of 'Telecommunication Service' is the existence of at least 'two persons', namely the service provider and service recipient. However, in the present case, the different offices situated at different circles of the appellant are part of the very same legal entity of the appellant itself and merely operate as cost centres for the purpose of internally assessing the profitability of each centre, therefore, in the absence of distinct service provider and service recipient, no service tax can be levied on the activity of

the appellant. Further, it is submitted that the issue is no more *res integra* and is covered by the judgment of this Tribunal in the case of **General Manager, BSNL Cellular Mobile Services vs. Commissioner of CGST & Central Excise: 2019 (25) GSTL 238 (Tri.-Chennai)** and **Executive Engineer, BSNL vs. CCE & ST, Jaipur: 2019 (25) GSTL 110 (Tri.-Del.)**. Further, he has submitted that all facts are within the knowledge of the department, hence, invoking extended period of limitation alleging suppression cannot be sustained.

4. The learned Authorised Representative (AR) for the Revenue reiterated the findings of the learned Commissioner (A).

5. Heard both sides and perused the records. The short issue involved in the present appeal is whether interconnection usage charges for the services provided at different locations of the appellant is chargeable to service tax under the category of 'Telecommunication Service' during the relevant period. We find that the issue is no more *res integra* and is covered by the judgment of this Tribunal in the case of **General Manager, BSNL Cellular Mobile Services** (supra), wherein it was observed as:

> **"6.1** The services provided by the appellants to their Landline segment, namely, Interconnect Usage Charges and the consequent collection of Interconnect Usage Charges, have been considered as taxable under the category of Telecommunication Charges defined in Section 65(109a) ibid. While the said definition is an expansive and detailed one, there is no definition of what are Interconnect Usage Charges.
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> **6.2** The Telecom Regulatory Authority of India vide their Notification dated 29-10-2003 have issued "The Telecommunication Interconnection Usage Charges Regulations, 2003" (hereinafter referred to as 'The Regulation') which supersedes the earlier Regulations dated 24-1-2003 (1

of 2003) and its amendments dated 27-3-2003 (1st amendment) and 16-6-2003 (2nd amendment). The Regulation is for the purpose of covering arrangements among service providers for the payment of Interconnection Usage Charges for Telecommunication Services, covering Basic Service that includes WLL (M) Services, Cellular Mobile Services and Long Distance Services (STD/ISD) throughout the territory of India. Among the definitions in the Regulation, the following are worth reproducing :

"2(viii) "Interconnection" means the commercial and technical arrangements under which service providers connect their equipment, networks and services to enable their customers to have access to the services and networks of *other service providers.*

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2(x) "Interconnection Usage Charge (IUC)" means the charge payable by one service provider to one or more service providers for usage of the network elements for origination, transit or termination of the calls.

2(xi) "Interconnection Provider" means the service provider to whose network an interconnection is sought for providing Telecommunication Services.

2(xii) "Interconnection Seeker" means the service provider who seeks interconnection to the network of the interconnection provider."

6.3 It is also pertinent to note that in the preamble of the TRAI Telecommunication Interconnection Usage Charges Regulations, 2003, the aforesaid TRAI Notification dated 24-1-2003 clarifies the purpose of the notifications, namely :-

"... to fix the terms and conditions of interconnectivity between Service Providers, to ensure effective interconnection between different Service Providers and to regulate arrangements amongst Service Providers of sharing their revenue derived from providing telecommunication services, the Telecom Regulatory Authority of India hereby makes the following Regulation."

6.4 The Telecommunication Interconnection Usage Charges (Thirteenth Amendment) Regulations, 2017 were issued by TRAI Notification dated

19-9-2017 in the Explanatory Memorandum to these 2017 Regulations. The definitions of "Interconnection" and "Interconnection Charges" were further clarified as under :

"A. Interconnection

1. Interconnection allows subscribers, services and networks of one service provider to be accessed by subscribers, services and networks of the other service providers. If networks are efficiently interconnected, subscribers of one network are able to seamlessly communicate with those of another network or access the services offered by other networks. Without an effective interconnection, the market would develop as discrete islands and economic benefits associated with market expansion and liberalization would be limited. For competition to develop and the market to evolve efficiently, it is essential that subscribers of one network communicate with those of another network.

2. In a broader sense, the term interconnection refers to the technical and commercial arrangement under which service providers connect their equipment, networks and services to enable their subscribers to have access to the subscribers, services and networks of other service providers. Interconnection is the lifeline of telecommunications. It is one of the foundations of viable competition which in turn is the main driver for growth and innovation in telecommunications markets. Good interconnection arrangements promote efficient infrastructure development, providing incentives for operators to build networks and use other networks.

B. Interconnection Usage Charges (IUC)

3. Interconnection Usage Charges (IUC) are wholesale charges payable by a Telecom Service Provider (TSP) to another Telecom Service Provider (TSP), for terminating or transiting/carrying a call from its network to the network of the receiving TSP. The IUC mainly consists of termination charges, origination charges and carriage/transit charges : Briefly these are as follows :"

6.5 It is thus seen that TRAI has again, vide aforesaid 2017 Regulations, continued to reiterate that Interconnection Usage Charges are only payable by the *service provider* to another Telecom Service Provider for terminating or transiting/carrying a call from between the networks of two service providers.

6.6 Even the C.B.E. & C. vide their Circular No. 91/2/2007, dated 12-3-2007 has clarified as under :

> "The interconnection service is provided by one telegraph authority to another to enable the telephone subscribers of these telegraph authorities to connect with each other. Interconnection in technical terms means the commercial and technical arrangements under which service providers connect their equipment, networks and services to enable their customers to have access to the customers, services and networks of other service providers."

6.7 Viewed in this light, Interconnection Usage Charges would only be such charges levied by a service provider on another service provider. This interpretation is further reinforced by the fact that the said Regulations include the definitions of "Interconnection Provider" as a *service provider* to whose network interconnection is sought and "Interconnection Seeker" as a *service provider* who seeks such interconnection.

7. From the facts on record, we find that the disputed services pertain to interconnectivity provided by M/s. BSNL, Cellular Mobile Telephone Services (CMTS) Division and M/s. BSNL, appellants herein to their own landline network. Surely, by no stretch of imagination can these two Divisions of M/s. BSNL be termed as two separate service providers for the purposes of the definitions contained in the aforesaid TRAI Regulations that we have just analyzed, etc.

8.1 In the present scenario, most, if not every, service provider extends a gamut of connectivity services like landline connectivity, connectivity on mobiles through GSM, CDMA connectivity, data and voice through optical fibre and so on. A service provider like M/s. BSNL may be providing one or more of these connectivities as may be subscribed to by their subscribers. But the important point to be noted is that when the CMTS

Division of BSNL is providing interconnectivity to their Landline Division, the service provider BSNL is only providing service to itself. Thus, it becomes a case of service to oneself.

8.2 The Tribunal in the case of *Precot Mills Ltd.* (supra) has held that when one renders service to oneself, there is no question of leviability of Service Tax; that there is no client-principal relationship in transactions and Service Tax is not leviable. The relevant portion of the decision is reproduced as under :

"5. We have gone through the records of the case carefully. While dropping the proceedings against the appellants, the Asstt. Commissioner in his order dated 27-6-2002 has taken into consideration the following facts :-

(i) The service provider and the service receiver belong to the same Corporate entity known as Precot Mills Ltd. with a single certificate of incorporation.

(ii) Share holding is for the Corporate body and balance sheet is prepared for the whole entity and not unit-wise.

(iii) For Service Tax to be leviable, the provider and the client of Management Consultancy Services need to be two separate legal entity as construed from Section 65(72) of the Act which is not the situation in the instant case.

(iv) It is usual practice that for internal accounting purposes and apportioning cost inter unit book adjustment are made in a corporate body. The Commissioner has not accepted the contention of the appellants and held that the internal accounting system of the appellants will not have any bearing on the payment of Service Tax. In our view, for the leviability of Service Tax, there should be a service providers and service receiver. As held by the Original authority (Asstt. Commissioner) in the present case both the service provider and the service receiver are part of the corporate entity which is known as M/s. Precot Mills Ltd. It was emphasised that the debit note was issued only to evaluate the performance of Dyeing Unit as each unit is a separate profit centre. In the case laws cited by the Learned Chartered Accountant, the Hon'ble High Court of Calcutta has held that when the club space is allowed to be occupied by any member or his family members or by his guest for a function by constructing a mandap, the club cannot be called as 'mandap keeper' for the purposes of Service Tax. It was held that principally there should be existence of two sides/entities for having transaction as against consideration. In a member's club, there is no question of two sides. Members and Club both are the same/entity. One may be called as principal when the other may be called as agent, therefore, such transaction in between themselves cannot be recorded as income, sale or service as per applicability of the revenue tax of the country. Hence, members club are not liable to pay Service Tax in allowing its members to use its space as mandap. The ratio of the above case law is clearly applicable to the present case. M/s. Precot Mills Ltd. is a Corporate entity. It has got various units which function as separate profit centres. When service is rendered by one unit to the other, debit note is raised for the value of service in order to evaluate the performance of a particular unit. Ultimately there is only one balance sheet for the legal entity for M/s. Precot Mills Ltd. and not for the separate unit. In other words, the appellants, M/s. Precot Mills Ltd. do not receive any valuable consideration for services rendered by one unit of the appellant to the other unit, in view of the fact that the each unit is part of the same legal entity which is the appellant. To put it differently, when one renders service to oneself, as in the present case, there is no question of leviability of Service Tax. The Asstt. Commissioner's order is correct and legal. Hence we do not find any merit in the impugned orders of the Commissioner which ignore the main point that there is no client relationship in the present transactions. In these circumstances, no penalty is leviable. Thus we allow the appeal with consequential relief."

8.3 The ratio laid down in *Precot Mills Ltd.* (supra) has been followed/relied by the Tribunal in a number of subsequent decisions, for e.g. :

- Followed in 2007 (8) S.T.R. 527 (Tri. - Kolkata);
- Followed in 2010 (19) S.T.R. 424 (Tri. - Chennai);

- Relied on 2010 (20) S.T.R. 847 (Tri. - Kolkata);
- Followed in 2012 (27) S.T.R. 53 (Tri. - Del.);
- Relied on 2012 (27) S.T.R. 145 (Tri. - Del.);
- Relied on 2013 (30) S.T.R. 502 (Tri. - Del.);
- Relied on 2013 (32) S.T.R. 113 (Tri. - Ahmd.);
- Relied on 2014 (35) S.T.R. 374 (Tri. - Kolkata);
- Followed in 2014 (36) S.T.R. 212 (Tri. - Bang.).

9. In view of the discussions hereinabove, we hold that the charges levied by one Division of M/s. BSNL to another and that too by way of debit notes, is only an internal financial adjustment which cannot, by any stretch of imagination, be termed as "Interconnection Usage Charges" or as a taxable service for the purpose of levying Service Tax. This being so, the impugned Orders to the contrary cannot sustain and will require to be set aside *in toto*, which we hereby do."

6. Following the aforesaid precedent, we do not see any merit in the impugned orders and consequently, the same are set aside and appeals are allowed with consequential relief, if any, as per law.

(Operative portion of the order was pronounced
in Open Court on conclusion of hearing.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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