# CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
# CHANDIGARH

REGIONAL BENCH - COURT NO. I

## Service Tax Appeal No. 60126 of 2016

[Arising out of Order-in-Appeal No. 54/ST/DLH/2016 dated 07.04.2016 passed by the Commissioner (Appeals-I), CE & ST, New Delhi]

**Bajrang Traders** **......Appellant**
Sabji Chowk Main Bazar, Buria Jagadhari,
Jagadhari, Haryana 135003

*VERSUS*

**Commissioner of Central Excise and Service Tax, Panchkula** **......Respondent**
SCO 407-408, Sector 8, Panchkula,
Haryana 134119

**APPEARANCE:**

Mr. Aman Garg and Mr. Bharat Jain, Advocates for the Appellant

Mr. Kanish Saini, Authorized Representative for the Respondent

**CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)**
**HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)**

## FINAL ORDER NO. 61636/2025

DATE OF HEARING: 24.10.2025
DATE OF DECISION: 24.10.2025

**S. S. GARG** :

The present appeal is directed against impugned order dated 07.04.2016 passed by the Commissioner (Appeals), whereby the learned Commissioner (Appeals) has rejected the appeal of the appellant and upheld the Order-in-Original.

2. Briefly stated facts of the present case are that the appellants are engaged in selling of recharge coupon, starter user kit, bill collection etc. The department entertained the view that the appellants were engaged in promoting and marketing of services of M/s Bharti Airtel Limited and getting commission which is chargeable to service tax under the category of 'Business Auxiliary Services'. Thereafter, the department sought details of commission received by the appellants from M/s Bharti Airtel Limited for last five years. On this allegation, a show cause notice was issued to the appellants which was adjudicated by the Original Authority vide the Order-in-Original. Aggrieved by the Order-in-Original, the appellants filed appeal before the Commissioner (Appeals) who vide the impugned order, has rejected their appeal. Hence the present appeal.

3. Heard both the parties and perused the material on record.

4. The learned Counsel for the appellants submits that the impugned order is not sustainable and is liable to be set aside on the basis of the decisions passed by the High Courts as well as various benches of the Tribunal.

4.1 He further submits that the issue involved in the present case is no longer *res integra* and has been settled by the High Courts and Tribunal, wherein it has been clarified that buying SIM card/recharge coupon from principal and selling the same to others would not amount to providing business auxiliary service. He further submits that the relation between the appellants and M/s Bharti Airtel

Limited was principal to principal basis and therefore, the finding of the Commissioner (Appeals) that the appellants were engaged in promoting the business of sale and service of M/s Bharti Airtel Limited, is misconceived. In support of his submission, he relies on the following decisions:

- M**/s S.R. Medical Agencies vs. CCE, Chandigarh-II [Final Order No. 60282/2023/ dated 24.08.2023 – CESTAT CHANDIGARH]**
- **M/s Lovely Traders vs. CCE, Rohtak [Final Order No. 60094/2023 dated 18.04.2023 – CESTAT CHANDIGARH]**
- **M/s Devangi Communications & ors vs. CCE – [Final Order No. 21144-21158/2018 dated 16.08.2018 – CESTAT BANGALORE]**
- **CCE, Meerut vs. Moradabad Gas Service [2013 (31) STR 308 (Tri. Delhi)]**
- **J.K. Enterprises vs. CCE, Alwar [2023 (70) GSTL 297 (Tri. Delhi)]**
- **CCE, Lucknow vs. Chotey Lal Radhey Shyam [2018 (8) GSTL 225 (All.)]**
- **Goyal Automobiles vs. CCE, Chandigarh [2016 (43) STR 268 (Tri. Delhi)]**
- **Omer Agencies Hutch vs. CCE, Allahabad [2015 (40) STR 1135 (Tri. Delhi)]**
- **Karkattu Communications vs. CCE, Cochin [2007 (8) STR 164 (Tribunal) affirmed by H.C. Kerala 2016 (45) STR J209 (Kar.)]**
- **Daya Shankar Kailash Chand vs. CCE, Lucknow [2013 (30) STR 428 (Tri. Delhi) affirmed by H.C. Allahabad 2014 (34) J99 (All.)**
- **G.R. Movers vs. CCE, Lucknow [2013 (30) STR 634 (Tri. Delhi)]**
- **M/s South East Corporation vs. CCE & ST, Cochin [2007 (8) STR 405 (Tri. Bang.)]**

4.2 He further submits that demand has been confirmed by invoking the extended period of limitation alleging suppression of material facts by the appellants, whereas the department has not been able to establish as to how the appellants have suppressed the material facts with intent to evade payment of tax. He further submits that the appellants have a *bona fide* belief that they are not liable to pay service tax and have not committed any positive act in suppressing the facts which are required to invoke the extended period of limitation.

4.3 He further submits that when the extended period is not sustainable, the demand for normal period would also be dropped as held by Hon'ble Calcutta High Court in the case of **Infinity Infotech Parks Ltd vs. Union of India - 2014 (36) STR 37 (Cal.)** wherein the Hon'ble Calcutta High Court observed as follows:

> "92. When a notice is issued in support of transactions spread over a period of time and it is found that the extended period of invocation has been invoked, the notice cannot be treated as within limitation for some of the same transaction, once it is found that the extended period of limitation is not invocable. This proposition find support from the judgment of the Supreme Court in **Collector of Central Excise, Jaipur v. Alcobex Metals** reported in **2003 (153) E.L.T. 241 (S.C.)**."

5. On the other hand, the learned Authorized Representative for the Revenue reiterates the findings of the impugned order.

6. We have considered the submissions made by both the parties and perused the material on record. In view of the submissions of the appellants, we are of the considered opinion that the issue is squarely covered by the decisions relied upon by the appellants

(cited supra), hence, by following the ratios of the said decisions, we allow the appeal by setting aside the impugned order.

(Operative part of the order pronounced in the open court)

**(S. S. GARG)**
**MEMBER (JUDICIAL)**

**(P. ANJANI KUMAR)**
**MEMBER (TECHNICAL)**

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