REGISTERED / AD

FAX : 011-26108426

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK NO.2, R.K.PURAM, NEW DELHI-110066
CUSTOMS APPEAL BRANCH

Dated: 22/04/2014

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **ST/A/51649/2014-CU[DB]** dated **03/04/2014**

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(CUSTOMS Appeal Branch)

Application	Appeal	Name and Address of Appellant
1	ST/150/2007	**BHARAT SANCHAR NIGAM LTD. (BSNL)** HOSPITAL ROAD, JHALWAR (RAJ.)
		Name and Address of Respondent
1	ST/150/2007	**C.C.E, JAIPUR-I** N.C.R.BUILDING, STATUE CIRCLE, 'C'SCHEME, JAIPUR-302005

Other Appellants and Respondents as per Annexure

Copy To

3Advocate(s) / Consultant(s):

Bipin Garg
B-1/1289, A - Vasant Kunj,
New Delhi

4 Bar Association, CESTAT, Delhi

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

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, 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 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15

10 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

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

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

13 C.D.R. 14 Office Copy 15 Guard File

Asstt. Registrar(CUSTOMS Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. I

DATE OF HEARING/DECISION : 03/04/2014.

Service Tax Appeal No. 150 of 2007

[Arising out of the Order-in-Appeal No. 82 (GRM) ST/JPR-I/2006 dated 01/11/2006 passed by The Commissioner (Appeals), Customs, Central Excise, Jaipur.]

For Approval and signature :
Hon'ble Shri Justice G. Raghuram, President
Hon'ble Shri Rakesh Kumar, Member (Technical)

1.	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	:
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	:
3.	Whether their Lordships wish to see the fair copy of the order?	:
4.	Whether order is to be circulated to the Department Authorities?	:

M/s Bharat Sanchar Nigam Ltd. Appellant

Versus

CCE, Jaipur Respondent

Appearance

Shri Sanjeev Pandey, Advocate – for the appellant.

Shri Govind Dixit, Authorized Representative (DR) – for the Respondent.

CORAM : **Hon'ble Shri Justice G. Raghuram, President**
Hon'ble Shri Rakesh Kumar, Member (Technical)

Final Order No. 51649/2014 Dated : 03/04/2014

Per. Rakesh Kumar :-

The point of dispute in this case is as to whether the inter-connectivity charges received by the appellant from other telecom service providers during the period of dispute i.e. from December 2003 to March 2005 attracted service tax as service in relation to telephone connection provided by them. The department being of the view that providing inter-connectivity to other telecom service providers is a taxable service under Section 65 (105) (b) of the Finance Act, 1994, issued a show cause notice dated 09/09/05 for demand of short paid service tax amounting to Rs. 1,26,145/- for the period from December 2003 to March 2005 alongwith interest thereon under Section 75 of the Finance Act, 1994 and also for imposition of penalty on them under Section 78. The show cause notice was adjudicated by the Assistant Commissioner vide order-in-original dated 21/02/06 by which the above-mentioned service tax demand was confirmed alongwith interest and penalty of Rs. 2,52,290/- was also imposed. On appeal being filed to Commissioner (Appeals) against this order, the Commissioner (Appeals) vide order-in-appeal dated 01/11/06 dismissed the appeal. Against this order of the Commissioner (Appeals), this appeal has been filed.

2. Heard both the sides.

3. Both the sides agree that in view of the clarification issued by the CBEC vide Circular No. 91/2/2007-Service Tax dated 12th March, 2007 during the period of dispute, the inter-connectivity

charges being charged by one telecom service provider from another telecom service provider were not taxable and that only in the Finance Act, 2007, the inter-connectivity service has been specifically brought within the purview of tele-communication service. We find that the Tribunal in the appellant's own case reported in **2008 (12) S.T.R. 171 (Tri. – Bang.)** has held that during the period prior to the enactment of Finance Act, 2007 inter- connectivity uses/charges were not taxable under Section 65 (105) (b). In view of this, the impugned order is not sustainable. The same is set aside. The appeal is allowed.

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

(Justice G. Raghuram)
President

(Rakesh Kumar)
Member (Technical)

PK