# CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
# NEW DELHI
# PRINCIPAL BENCH, COURT NO. 3

## SERVICE TAX APPEAL NO. 52972 OF 2016

[Arising out of Order-in-Appeal No. 257(AK) ST/JPR/2016 dated 03 August, 2016 passed by t he Commissioner of Customs & Central Excise, (Appeals), Jaipur]

**M/S BOMBAY STORES** **Appellant**
Toliasar Bhairun Ji ki Gali,
Bikaner, Rajasthan

Vs.

**COMMISSIONER OF CENTRAL EXCISE, COMMISSIONERATE, JAIPUR** **Respondent**
Commissioner of Customs & Central Excise (Appeals)
New Central Revenue Building, Statute Circle,
C-Scheme, Jaipur-302005

**<u>Appearance:</u>**
Present for the Appellant : Shri Tarun Gulati, Senior Advocate and Shri Ankit Sachdeva, Advocate

Present for the Respondent: Shri Rajeev Kapoor and Shri Rohit Issar, Authorized Representatives

**CORAM: HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)**
**HON'BLE MR. P V SUBBA RAO, MEMBER (TECHNICAL)**

**FINAL ORDER NO. 51001 /2023**

**Date of Hearing/Decision : 03/08/2023**

**BINU TAMTA:**

Learned counsel for the appellant has placed a judgment of this Tribunal in the case of **Balaji Enterprises vs. Commissioner of Central Excise and Service Tax, Jaipur I**[1], where the issue involved was whether the subsidy received by the appellant from Tata Tele Services on the sale of mobile handsets purchased by the appellant from independent vendors can be said to be an amount received for providing "business auxiliary services" to Tata Tele Services and, therefore, chargeable to service tax. It is the

---

**1 FINAL ORDER NO. 51611 OF 2019 dated 20.09.2019**

submission of the learned counsel for the appellant that the issue involved in the present appeal is identical and since the same has been decided in favour of the appellant/assessee, the appeal needs to be allowed.

2. Learned authorized representative appearing for the Revenue also agrees that the issue involved in this appeal is identical and is covered by **Balaji Enterprises.** We, accordingly, set aside the impugned order and allow this appeal.

(Dictated and pronounced in open court)

**(BINU TAMTA)**
**MEMBER (JUDICIAL)**

**(P V SUBBA RAO)**
**MEMBER (TECHNICAL)**

Tejo