

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

SERVICE TAX APPEAL NO. 51743 OF 2018

[Arising out of Order-in-Appeal No. 46 (SM) ST/JPR/2018 dated 18 January, 2018 passed by the Commissioner of (Appeals), Central Excise and Central Goods and Service Tax, Jaipur]

M/S BALAJI TRADING CO.,

Appellant

3, Data Nagar Road,
Opposite Ram Bhawan,
Logagal Road, Ajmer

Vs.

**COMMISSIONER OF CENTRAL EXCISE,
COMMISSIONERATE, JAIPUR**

Respondent

Commissioner (Appeals), Central Excise and
Central Goods and Service Tax, Jaipur
NCRB, Statute Circle, Jaipur-302005

Appearance:

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. 51012 /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 I¹**, 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"

1 FINAL ORDER NO. 51611 OF 2019 dated 20.09.2019

to Tata Tele Services and, therefore, chargeable to service tax. It is the 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)