

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

Appeal No. ST/51 & 139 /2007 - CU[DB]

Date 11/11/2008

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
BHARAT SANCHAR NIGAM LTD
GMTD, BSNL, MNADIA ROAD, MAHAVEER NAGAR,
PALI(RAJ)
BHARAT SANCHAR NIGAM LTD

Appellant

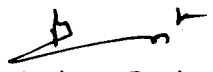
C.C.E.JAIPURII

Vs
Respondent

I am directed to transmit herewith a certified copy of **Final order No. ST/335-36/08**

CU[DB] dated 03.11.08

passed by the Tribunal under Section 129, (B) of the Customs Act, 1962 & Financial Act 1994 relating to Service Tax


Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent

C.C.E.JAIPURII

NCRB, STATUE CIRCLE, C-SCHEME, JAIPUR.

2. Adv. / Consult Sh. Sameer Agarwal, Adv
Chamber No 102, Patiala House Court
New Delhi - 01

3 S.D.R

4 J.C.D.R.

5 Bar association, CESTAT, New Delhi

6 M/s. Deeparchi Publications, M-93, Marg. 46, Saket, New Delhi 110017

7 M/s Centax Publications (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New - 3

8 Excise & Customs cases, B-37, Sector -1, NOIDA - 201301 Gautam Budh Nagar, (U.P.)

9 Raguraman's 44-B, Regal Flat, Shipra Suncity, Indirapuram - 201010, Ghaziabad, DT, U.P.

10 Nidheshak publications, I.P.Estate, new Delhi

11 Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026

12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thvagaraya Road, T. Nagar, Chennai

13 Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant Kuni, New Delhi - 110070

14 Easy Service Tax Online Dot Com Pvt.Ltd.407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-15

15 Office Copy

16 Guard file

17. CCE Meerut - II


Assistant Registrar
(Customs Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-III

Date of hearing/decision: 3.11.2008

S.T. Appeal Nos.51 & 139 of 2007

Arising out of the order in appeal No.435 (HKS) ST/JPR-II/2006 dated 28.7.06 and No.220-CE/MRT-II/2006 dated 30.11.2006 passed by the Commissioner (Appeals II), Central Excise & Customs, Jaipur/ Meerut II.

For Approval and Signature:

Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. P.K.Das, Member (Judicial)

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2	Whether it should be released under Rule 27 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	Yes
3	Whether their Lordships wish to see the fair copy of the Order?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

Appellant

Respondent

Bharat Sanchar Nigam Ltd.

vs.

C.C.E.,
Jaipur II/Meerut II

Appearance:

Shri S. Agarwal, Advocate for the appellant
Shri Sunil Kumar, Authorized Departmental Representative (DR) for the Revenue

Coram: Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. P.K. Das, Member (Judicial)

Order No. 57/335-336/08

Per P.K. Das:

A common issue is involved in both the appeals and therefore, both the appeals are taken up for disposal.

2. The issue involved in these appeals is the leviability of service tax on Inter-connectivity Usage Charges for the period July, 2001 to September 2002 and February 2003 to October 2003.

3. After hearing both sides and on perusal of records, we find that on identical issue on the appellant's own case as reported in 2008 (11) STR 460 (Tri), the Tribunal set aside the demand of tax following the

Board's Circular No.91/2/07-ST dated 12.3.07. It has been clarified that service tax is not applicable to IUC for the period prior to the date when the amended definition of 'telecommunication service' comes with effect vide Finance Bill, 2007.

4. In view of the above, we find that the demand of tax in the present case is prior to Finance Bill, 2007. Accordingly, the demands are not sustainable. The impugned orders are set aside. Both the appeals are allowed with consequential relief.

(Dictated and pronounced in the open Court)

(M. Veeraiyan)
Member (Technical)

(P.K. Das)
Member (Judicial)

scd/