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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066

SINGLE MEMBER APPEAL BRANCH

Appeal No. ST/85 /2004 – SM[BR] ST / STAY / 1908 /2004-SM[BR] **Date 19/10/2011**

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

To :
GENERAL MANAGER TELECOM
M/S BHARAT SANCHAR NIGAM LTD. SIROHI [RAJ.]

GENERAL MANAGER TELECOM Appellant

Vs

C.C.E. JAIPUR I Respondent

I am directed to transmit herewith a certified copy of **Final order No. 718/2011-SM[BR]&S/629/2011** dated 1.9.2011 passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
C.C.E. JAIPUR I
N.C.R.BUILDING, STATUE
CIRCLE, "C" SCHEME, JAIPUR
302005.

2. Adv. / Consult SHRI SANJEEV PANDEY ADV.
7, GOPAL BARI JAIPUR-302001.

3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New
6. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
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 -
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
10. LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
12. Office Copy
13. Guard file

Assistant Registrar
(SM Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
Court No.II

ST/Stay 1908/04, ST/Appeal No.85/2004-SM

(Arising out of order in appeal No. 261/RM/ST/JPR.II/04 dated 26.3.2004 passed by the Commissioner of Customs & Central Excise, Jaipur)

Date of Hearing: 1.9.2011

For Approval and signature:
Hon'ble Mr.Mathew John, Technical Member

1.	Whether Press Reporters may be allowed to see The order for publication as per Rule 27 of the CESTAT(Procedure) Rules, 1982?	Yes
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) rules, 1982 for publication in any authoritative report or not?	No
3.	Whether their lordships wish to see the fair copy of the order?	Seen
4.	Whether order is to be circulated to the Department Authorities?	No

M/s General Manager, BSNL Ltd — Appellants

Vs

CCE, Jaipur-I — Respondent

Appeared for the Appellant: Shri Sanjeev Pandey, Advocate
Appeared for the Respondent: Shri S.K. Bhaskar, SDR

Coram: **Hon'ble Mr. Mathew John, Member (Technical)**

Final ORDER - 718/2011 SM (BR) &
S-629/2011 SM (BR)

Per Mathew John:

The dispute involved in this case related to interest amounting to Rs. 8,12,307/-, payable under section 75 of the Finance Act 1994 for delayed payment of service tax by Bharat Sanchar Nigam Ltd for the period 1995 to 1999 when the

Appellant was an arm of the Government of India and was not a limited company. A part of the Department of Telecom was reconstituted into a company with effect from 15-09-2000 as Bharat Sanchar Nigam Ltd who is the Appellant before the Tribunal. Since the adjudicating authority and the First Appellate authority has not given relief, the Appellants have filed this Appeal before the Tribunal along with a stay petition requesting for waiver of deposit of the amount for hearing the appeal.

2. The case of the Appellant is that all the collections, including value of services and service tax thereon, received from the customers for service provided was remitted into the consolidated fund of India on a day-to-day basis, as and when collections were received. The only delay is in adjusting the service tax amount from one account of Government of India to another account of Government of India namely that for service tax. The crux of the argument is that since the money was with Government of India only interest for delayed payment may not be demanded under section 75 of the Finance Act.

3. The Ld SDR submits that the law relating to levy and collection of service tax as provided in Finance Act, 1994 should apply in the same manner to any Department of Government of India also and therefore the Appellants should pay the interest involved.

4. It is noticed that identical matter had come up before the Tribunal in the case of the Appellants, operating in other regions in the case of BSNL Ltd. Vs CCE, Bangalore 2005 (186) E.L.T. 340 (Tri. - Bang.) and the Tribunal has given decisions to the effect that interest under section 75 need not be paid in such cases.

5. Since this is a settled matter, I waive the requirement for payment of pre-deposit for admission of the Appeal.

6. Following the decision of the Division Bench of the Tribunal in the case referred to above, I allow the Appeal itself.

7. Thus stay petition and Appeal are disposed of.

(Pronounced in open Court)

(Mathew John)
Member(Technical)