

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

Appeal No. E/2149/2010 – SM[BR] & E/ STAY / 2051 / 2010-SM[BR]

Date 28/11/2011

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

To :
M/S BHARAT SANCHAR NIGAM LTD.
THE GMTD, BSNL, CHURU, RAJASTHAN.
M/S BHARAT SANCHAR NIGAM LTD.

Appellant

Vs
Respondent

C.C.E. JAIPUR I

I am directed to transmit herewith a certified copy of Final order No. 808/2011-SM[BR]&S/803/2011 dated 4.11.2011
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

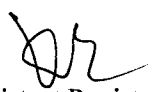

Assistant Registrar
(SM Appeal Branch)

Copy to :

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

2. Adv. / Consult
MR.RAJIV TYAGI & ASSOCIATES
L-29 KAILSAR COLONY, N DELHI-48

3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New
6. M/s Centax Publications 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 (Harvana)
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,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.

SINGLE MEMBER BENCH

Court No.3

E/Stay/2051/10 in Appeal No.E/2149/10-SM

(Arising out of Order-in-Appeal No.67(DK)ST/JPR-I/2010
dt.25.2.2010 passed by the CCE(A), Jaipur-I)

Date of Hearing/Decision: 04.11.2011

For approval and signature:

Hon'ble Mrs.Archana Wadhwa, Member (Judicial)

1	Whether Press Reporters 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 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 Departmental authorities?	Yes

M/s.Bharat Sanchar Nigam Limited

Appellant

Vs.

CCE, Jaipur

Respondent

Present for the Appellant: Shri Chanchal Biswas, Advocate

Present for the Respondent: Shri S.K.Bhaskar, SDR

Coram: Hon'ble Mrs.Archana Wadhwa, Member (Judicial)

final ORDER NO. 808/2011 SM (Br) &
S-803/2011 SM (Br)
PER: ARCHANA WADHWA

After dispensing with the condition of pre-deposit of duty and penalty, I proceed to decide the appeal itself, inasmuch as the issue stands decided in favour of the appellant by the Tribunal in the same appellants' case.

2. The duty of Rs.4,71,054/- stands confirmed against the appellant by denying the benefit of credit availed on the basis of photocopies of the relevant documents forwarded to them by the CAO of BSNL prior to the date of registration of CTSD as input service provider i.e. Advice Transfer Debt. The issue as crystallized by the Commissioner (Appeals) as to whether the said advice transfer ^{debt issued by} ~~date should be~~ central input service distributor of BSNKL before their registration of CTSD are valid documents for the purpose of availing credit.

3. I find that the Tribunal while dealing with the identical issue in the same appellants' case, vide Stay Order No.ST/128/10 and Final Order No.42/10 dt.26.7.10 have remanded the matter to jurisdictional adjudicating authority with direction to grant an opportunity to the appellant for production of original documents before him in respect of the claim made by them. By following the ~~said decision~~, I set aside the impugned order and remand the matter to the adjudicating authority for fresh decision in the light of the above direction contained in the earlier order referred to supra. The stay petition as also appeal gets disposed of in the above manner.

(Pronounced in the open court)

(ARCHANA WADHWA)
MEMBER (JUDICIAL)