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

Appeal No. ST/1294/2011 - CU[DB] WITH ST/S/2723/2011 Date **07/03/2012**

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

To : M/S BHARTI AIRTEL LTD
(FLORMERLY M/S BHARATI TELE VENTURES LTD)
85, DURAND ROAD, AMBALA CANTT,
HARYANA.

M/S BHARTI AIRTEL LTD Appellant

Vs

C.C.E. PANCHKULA **STAY ORDER NO.ST/S/168/2012** Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/A/138/ 2012 CU|DB|** dated 27.02.2012 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. PANCHKULA
SCO NO. 407 AND 408, SECTOR 8,
PANCHKULA (HARYANA) 134119.

2. Adv. / Consult
MR.V. LAXMIKUMARAN
B-6/10, SAFDARJUNG ENCLAVE,
NEW DELHI-110029

3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New Delhi
6. M/s Centax Publictions Pvt Ltd.,1512-B, Bhishm Pitamah marg,Opp. ICICI Bank of Defence Colony, New Delhi-3
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 - 110005
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
(Customs Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

Service Tax Stay Application No.2723 of 2011
in Service Tax Appeal No.1294 of 2011

M/s. Bharti Airtel Ltd. Appellant

Versus

CCE, Panchkula Respondent

Appearance: Rep.by Shri B.L. Narsimhan, Advocate for the appellant.
Rep. by Shri B.L. Soni, SDR for the respondent.

CORAM : Hon'ble Shri D.N. Panda, Judicial Member
Hon'bleShri Rakesh Kumar, Technical Member

Final Order No.ST/A/1738/12-Cus. Dated:9.2.2012
Stay order No ST/S/168/12-Cus.

Per. D.N. Panda

Ld. Counsel says that against the allegation of denial of cenvat credit in respect of various services availed, a detailed reply to the show cause notice dated 5.2.2010 was filed before the Appellate Authority. Producing a copy thereof, which is appearing on the paper book at pages from 32 to 39, ld. Counsel says that if the authority below considers the document appropriately on each and every item, the assessee may not have grievance.

2. We find that Appellate Authority's order is cryptic and there is abrupt conclusion without appraisal and evaluation of evidence. So also there is no whisper about application of law to the facts if any settled by him. Such appellate order does not get sanction under law. Therefore, without keeping the appeal pending, we waive the requirement of pre-deposit and send the matter back to the appellate authority for fresh hearing. We may remind to the appellate authority that his powers are co-extensive and co-terminus and there is a prescription by the law how the appellate authority shall act. It is specific mandate under Section 35 A(4) of Central Excise Act, 1944, which is adopted by the Finance Act, 1994 that the order of the appellate authority shall undergo the process to indicate the points for determination, decision thereon, and the reasoning of the decision. When Appellate Authority's order fails to follow such mandate, that does not stand to face

scrutiny. Therefore, to do justice, the matter is remanded to the Appellate Authority to carry out his duties in accordance with Section 35 A(4) of the Central Excise Act, 1944.

3. In the result, the stay application as well as appeal stands disposed of.

[Dictated and pronounced in the open court]

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

Ckp.