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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/1099/2011 - CU[DB] Date **23/03/2012**
ST/S/2305/11

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

To :
BHARAT SANCHAR NIGAM LIMITED,
GMTD, NEW MARKET, BHOPAL,

BHARAT SANCHAR NIGAM LIMITED, Appellant

Vs

C.C.E BHOPAL Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/A/252 2012 CU[DB]** dated 28.02.12 passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**

Alongwith Stay Order No ST/S/306/12

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
C.C.E BHOPAL
HOSHANGABAD ROAD, 48,
ADMINISTRATIVE AREA, AREA
HILLS, BHOPAL (M.P.) 462011

2. Adv. / Consult
MR.SANDEEP MUKHERJEE & ASSOCIATES,
CHARTERED ACCOUNTS, B-62, KASTURBA NAGAR,
BHOPAL 462024

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

Date of Hearing:28.02.2012
Date of decision:28.02.2012

For approval and signature:

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

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1. Whether Press Reporters may be allowed to see CESTAT (Procedure) Rules, 1982.

2. Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?

3. Whether Their Lordships wish to see the fair copy of the Order?

4. Whether Order is to be circulated to the Departmental authorities?

Service Tax Stay Application No.2305 of 2011
In Appeal No.1099 of 2911

M/s. BSNL ...Appellant

Vs.

CCE, Bhopal ...Respondent

(Arising out of Order-in-Appeal No.11/COMMR/ST/ADJ/BPL-I/2011 dated 6.4.2011 passed by the Commissioner of Customs & Central Excise, Madhya Pradesh)

Appearance: Rep. by Shri Sandeep Mukharjee, Advocate for the appellant.
Rep. by Shri K.P. Singh, DR for the respondent.

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

Stay order No.ST/S/306/12-Cus.
Final Order No.ST/A/252/12-Cus Dated:28.02.12

Per. D.N. Panda:

Ld. Representative for the assessee says that office of M/s. BSNL, which is procuring capital goods and securing services dispatch the same to various centres of BSNL, was registered with Service Tax Authorities on 24.3.2006 as per Registration No.BPL-I/RST/ISD/02/2006 of the Commissionerate, Bhopal. According to the Policy of BSNL, centralized procurement of goods and availment of services is made and duty and tax paid therein is distributed to the respective centres, which use such goods or avail services. Such distribution in the eye of law is called input service distribution. Tribunal had occasion to deal such a matter in the cases of Bharat Sanchar Nigam Ltd. Vs. CCE, Salem reported in 2009 (14) STR 699 (Tribunal-Chennai) and BSNL Vs. CCE, Salem reported in 2008 (12) STR 139 (Tribunal-Chennai). Therefore, this Public Sector shall suffer if relief granted by the Tribunal in these two cases is denied in the present case. Therefore, he prays that not only stay application may be disposed but also appeal may be disposed.

2. In countenance, Revenue's argument is that when there is prescribed procedure for procurement of goods and distribution of input credit on the services available, every assessee has to go

through that procedure. BSNL is not being an exception, it can not claim any credit without complying to the law.

3. Heard both sides and perused the records.

4. We do not find the present case is anyway different from the citations made by ld. Representative aforesaid. Therefore, dispensing requirement of pre-deposit and also finding that the facts involved in the present case is akin to the decided cases aforesaid, appeal is also allowed.

[order dictated & pronounced in open court]

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

Ckp.