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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

STAY Application No. : ST/Stay/1290/2012
Appeal No. : ST/539/2012-CU[DB]

Dated: **04/09/2012**

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

Bharat Sanchar Nigam Ltd
Account Officer(cash) Telecom Complex,
Raebareli.

Bharat Sanchar Nigam Ltd (Appellant)

VS

C.C.E. & S.T.-Lucknow (Respondent)

I am directed to transmit herewith a certified copy of Final Order No. **ST/A/556/2012-CU[DB]**, Stay/ Order No. **ST/SO/901/2012** and dated **27/08/2012** passed by the Tribunal under section **01(5) of the Finance Act, 1994 relating to Service Tax Act, 1994.**

Assistant Registrar
CUSTOMS Appeal Branch

Copy To,
1. Respondent
C.C.E. & S.T.-Lucknow
7-A...ASHOK MARG,
LUCKNOW,226001

2. Advocate(s) / Consultant(s):
Vineet Kumar Singh,A.C.A
5 Narain Nagar, Sector 11,Indira Nagar,
Lucknow.

3. C.D.R

4. Bar Association, CESTAT, New Delhi

5. Director Publications, Customs, Excise. I.P. Estate, New Delhi

6. M/s Centax Publications 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. Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Ameer Pet, Hyderabad – 500038

13. Office Copy

14. Gaurd File

Assistant Registrar
CUSTOMS Appeal Branch

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing : 27.8.2012

Service Tax Stay No. 1290 of 2012 and Service Tax Appeal No. 539 of 2012

[Arising out of the Order-in-Appeal No. 98-ST/LKO/2012 dated 29.2.2012 passed by the Commissioner (Appeals), Central Excise, Service Tax, Lucknow)

For Approval & signature :

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Shri Mathew John, Member (Technical)

1.	Whether Press Reporter 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

Bharat Sanchar Nigam Limited — Appellant

Vs.

CCE, Lucknow — Respondent

Appearance:

Appeared for Appellant : Shri Vineet Kr. Singh, C.A.
Appeared for Respondent : Shri N. Pathak, A.R.

CORAM: Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Shri Mathew John, Member (Technical)

Final order No. ST/A/556/12-Cus
Stay Order No. ST/S/901/12-Cus dated............

Per Mathew John

In this appeal there is a demand of Rs.17,49,818/- confirmed against the appellant on the ground that there is difference between the amount shown in their trail balance as on 31st March 2008 and the amount of service tax paid by them during the year 2007-08.

2. The counsel for the appellant submits that this difference is due to the fact that there is a difference between the value of services (along with service tax amount) billed to the customers and the values of service (along with tax realized). Service tax is payable only on the value realized and they have paid such service tax liability as and when value was realized in the subsequent year.

3. Opposing the prayer, ld A.R. for Revenue submits that the facts submitted by the appellant is not coming out clearly and it appears that the appellant has not given adequate assistance to the adjudicating authority or appellate authority for verifying this submission. Ld. AR is of the view that the fact can be verified if the matter is remanded to the adjudicating authority. If the adjudicating authority has difficulty in understanding the details of the accounts submitted by the appellant he should take appropriate assistance from a person qualified in accountancy rather than mechanically confirming the demand ~~given~~ giving some flimsy reasons.

4. We have considered submissions on both the sides. We find that this matter requires actual verification. Therefore we waive the

requirement of pre-deposit and take the appeal itself for disposal and remand it to the adjudicating authority for verification of the submission made by the appellant.

5. Accordingly stay petition and appeal are disposed of.

(Dictated & pronounced in open Court)

(Archana Wadhwa)
Member (Judicial)

(Mathew John)
Member (Technical)

RM