

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

Appeal No. : ST/307/2007-CU[DB]

Dated: 21/09/2012

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

**BHARTI TELEVENTURES LIMITED**  
UNITECH WORLD CYBER PARK,  
TOWER A, 4TH FLOOR, SECTOR 39,  
GURGAON-122001

**BHARTI TELEVENTURES LIMITED**

(Appellant)

**VS**

**C.C.E. DELHI I**

(Respondent)

I am directed to transmit herewith a certified copy of Final Order No. ST/A/598/2012-CU[DB] dated 08/12/2009 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. DELHI I**  
C.R. BUILDING, I.P. ESTATE, NEW  
DELHI 110002

**2. Advocate(s) / Consultant(s):**

**V. Laxmikumaran**  
5, Jangpura Extension, Link Road, New  
Delhi-110014

**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

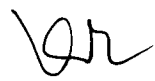
10. LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

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

**CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
Court No. III**

**ST/Appeal No.307/2007**

(Arising out of order in original No.07/RK/2006, dated 28.02.2006  
Commissioner of Customs & Central Excise, Delhi-I.)

Date of Hearing: 29.08.2012

For approval and signature:

Hon'ble Mrs. Archana Wadhwa, Judicial Member

Hon'ble Mr. Mathew John, Technical Member

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

M/s Bharti Televentures Ltd.

Appellant

Vs

CCE, Delhi - I

Respondent

Appeared for the Appellant: Shri, B.L. Narsimhan, Advocate

Appeared for the Respondent: Shri, Govind Dixit, A.R.

**Coram:** Hon'ble Mrs. Archana Wadhwa, Judicial Member  
Hon'ble Shri Mathew John, Technical Member

*Final Order No. ST/A/592/12 - Cus*

Per Mathew John:

The appellant was registered with service tax  
authorities as persons providing "Management  
Consultancy Service" in respect of Telecommunication

services. During the course of audit of their records for the years 2000-01, 2002-03, it was observed that the appellant did not pay service tax on "liaison charges" received by them from their clients. Revenue was of the view that the liaison work done by the appellant was service within the meaning of "Management Consultancy Service" made taxable under section 65(105)(r). "Management Consultancy" was defined under section 65(65) of Finance Act, 1994. These provisions read as under.

***"Section 65(65) "Management Consultant" means any person who is engaged in providing any service either directly or indirectly in connection with the management of any organization in any manner and includes any person who renders any advice, consultancy or technical assistance relating to conceptualizing, devising, development, rectification or up gradation of any working system of any organization."***

***"Section 65(105)(r) "taxable service means any service provided to a client, by a management consultant In connection with the management of any organization, in any manner"***

2. From the Books of Accounts of the appellant it was seen that one of their clients namely M/s Bharti Telesonic Ltd ("BTL" for short) was in the process of negotiating with different telecom operators for entering into interconnect agreements and BTL requested vide letter dated 15.4.2002, to liason with the telecom operators to identify suitable partners and take steps for concluding agreements. The appellant vide their letter dated

01.06.2002 informed BTL that their discussion with Hutchison Essar South Limited concluded and had advised BTL to sign the agreement. Revenue was the review that the above activity done by the appellant was taxable under "Management Consultancy Services" made taxable under section 65(105)(r). Based on such reasoning a show cause notice, dated 13.07.2005, was issued to the appellant demanding service tax amounting to Rs. 75,62,550/- for the period 2000-01 and 2002-03. On adjudication the demand was confirmed along with interest and penalty. Aggrieved by the order of the Commissioner the appellant has filed this appeal.

3. The counsel for the appellant submits "liaison work" is in the nature of a job to be executed by the management and this work is not in the nature of any advice or consultancy for improving the management of the organization. It is his contention that any management has to do many activities in managing an organization. Every work got done by the management can not be considered as "management consultancy". His argument is that only if an agency is hired for improving the management functions and only if the activity is in the nature of advice or consultancy, the activity can be classified under the taxable entry for "Management Consultancy". Every work that is sought to be executed through another person can not be considered as "Management Consultancy". The counsel submits that in

the instant case, the work done by the appellant included meeting prospective agencies and also interacting with government agencies to ensure that the agreements are concluded as per law in force and getting necessary clearances from Govt. to make such contract workable. It is his submission that such work is executory in nature and it can not be considered to be in the nature of advice or consultancy to be taxed under section 65 (105) (r).

4. The counsel relies on the following decisions in support of his argument:

(i) Glaxo Smithkline Pharmaceuticals Ltd. v. CCE,  
Mumbai-IV 2006 (3) STR 711

(ii) Maini Industrial Consultants Vs CCE, 2006(2) STR 358  
(Tri-Bang)

(iii) Telephone Cable Ltd Vs CCE 2007 (7) STR 657 (Tri-Del.)

(iv) Tata Tech Ltd Vs CCE Pune 2007(8) STR 358

(v) CST, Fridabad Vs Goetze (India) Ltd 2008(11) STR  
629

(T-Del)

5. Opposing the prayer of the appellant the Ld. A.R for revenue submits that the definition section at 65(65) is broad enough to cover any services either directly or indirectly connected with the management of an organization. Liaison work is connected with the

management of the organization and hence covered by definition at section 65 (65). He says he needs time to study the facts of the decisions cited by the Ld Advocate for appellant. We found that the main decision relied upon by the appellant is that in case of Glaxo Smithkline Pharmaceuticals (supra) which was pointed before the Commissioner as also in the appeal memorandum and is not a decision quoted to take Revenue by surprise. So the prayer for grant of time was not agreed to. The Ld. A.R. followed up the matter by written submission dated 29.08.2012. In the written submission there is no legal argument to be considered but there is only a grievance that more time to study the decisions quoted by appellant was not granted. We do not find any merit in the submission for the reason already recorded.

6. We have considered argument on both sides. We note that the inclusive portion of a definition can not restrict the meaning of the "means part" of the definition which defines the general meaning. However, the every name of the service indicates that the entry is meant to cover only consultancy service or advisory service and not all activities got done by management through others. This is the core of reasoning that is coming out in the various decisions cited by the appellants.

7. In the present case also we are of the view that liaison work is not in the nature of any consultancy or advice. But only one of the temporary functions that was

required for the functioning of the company. If a person does the activity of collecting of debts of a company that person cannot be considered to be doing management consultancy service though debt collection is a responsibility of the management. Based on such reasoning and in view of the decisions relied upon by the counsel for the appellant, we are of the view that liaison work cannot be considered as "Management or Business Consultancy" and can not be taxed under section 65(105)(r) of Finance Act 1994.

8. So we set aside the impugned order and allow the appeal.

(Order pronounced in the open Court.)

(~~MATHEW~~ JOHN)  
Member (Technical)

(~~ARCHANA~~ WADHWA)  
Member (Judicial)

Neha\*