CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R.K.Puram, New Delhi

<u>COURT-I</u>

Date of hearing/decision: 05.01.2018

Appeal No. ST/50400/2014- [DB]
[Arising out of the Order-in-Appeal No. 54/COMMISSIONER/2013 Dated 02/09/2013 passed by the Commissioner, Central Excise & Service Tax Commissionerate- New Delhi]

CCE, New Delhi … Appellant

Vs.

Mahanagar Telephone Nigam Ltd. …Respondent

Appearance:
Present Shri A.K. Batra, CA for the appellant
Present Shri Ranjan Khanna, AR for the respondent

Coram: Hon'ble Justice Dr. Satish Chandra, President
Hon'ble Mr. B. Ravichandran, Member (Technical)

<u>FINAL ORDER No. 50054/2018</u>

<u>Per B.Ravichandran</u>

1. The Revenue is in appeal against the order dated 30/08/2013 of Commissioner - LTU, New Delhi. Briefly stated, the dispute is with reference to liability of the respondent to pay Service Tax on the amount received by them as deposit under Own Your Telephone (OYT) Scheme.

2. Both the sides agree that the issue stand settled by the Hon'ble Bombay High Court in the Writ Petition No. 2501 of 1994 in the case of Sanjay R V/s MTNL and others vide their order dated 24/02/2011. The said order has been followed in the impugned order by the Commissioner while dropping the demand against the respondent. It is seen that the Revenue filed SLP against the order of Bombay High Court which stands dismissed on limitation. The order of Bombay High

Court also was accepted by the Board as communicated in their Circular dated 21/12/2010.

3. The facts of the case, admittedly, as recorded above gave no room for further discussion in the appeal by the Revenue which is without merit. Accordingly same is dismissed.

4. Appeal filed by the Revenue is dismissed.

[Order dictated and pronounced in the open court]

(Justice Dr. Satish Chandra)
President

(B. Ravichandran)
Member (Technical)

Rekha