

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THURSDAY, THE TWENTY EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO**

CENTRAL EXCISE APPEAL NO: 193 OF 2017

Appeal filed under Section 35G of Central Excise Act, 1944 against the Order dated 10.11.2016 passed in Order No. A/31528-31532/2016 on the file of the Customs, Excise & Service Tax Appellate Tribunal Regional Bench, Hyderabad preferred against the Order dated 16.07.2012 passed in Order – in – Original No. 07/2012-Adjn.(ST)(Commr.) on the file of the Commissioner of Customs, Central Excise and Service Tax, Hyderabad – II Commissionerate, L.B.Stadium Road, Basheerbagh, Hyderabad.

Between:

M/s. Bharat Sanchar Nigam Limited, CELLONE, Secunderabad, Mobile Services CTO Compound Secunderabad 500003 Present Address General Manager (NWP) CM BSNL, TS circle, CTO Compound Paradise Circle Secunderabad 500003

...Appellant

AND

The Commissioner, Customs & Central Excise, Hyderabad II, Kendriya Shulk Bhavan, LB Stadium Road, Basheerbagh, Hyderabad 500004

...Respondent

I.A. NO: 1 OF 2017(CEAMP. NO: 184 OF 2017)

Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay the final order No. A/31528-31532/2016 dated 10/11/2016 in Appeal No. ST/25316/2013 of CESTAT, Hyderabad pending disposal of the Appeal CEA Sr No. 2670 of 2017.

IA NO: 1 OF 2018

Between:

The Commissioner, Customs & Central Excise, Hyderabad II, (presently Commissioner of Central Tax & Central Excise), Secunderabad Commissionerate Road, LB Stadium Road, Basheerbagh, Hyderabad

...Petitioner/Respondent

AND

M/s. Bharat Sanchar Nigam Limited, CELLONE, Secunderabad, Mobile Services CTO Compound Secunderabad 500003 Present Address General Manager (NWP) CM BSNL, TS circle, CTO Compound Paradise Circle Secunderabad 500003

...Respondent/Appellant

Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased vacate the order passed in CEA.MP No. 184 of 2017 in CEA No. 193 of 2017 passed on dated 30-10-2017

IA NO: 1 OF 2019

Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to vacate the stay granted vide order in CEAMP No. 184 of 2017 in CEA No. 193 of 2017

Counsel for the Appellant : Ms. T. Bala Jayasree, SC for BSNL

**Counsel for the Respondent : Sri A. Rama Krishna Reddy,
SC for Central Board of Indirect Taxes and Customs**

The Court delivered the following: JUDGMENT

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

CENTRAL EXCISE APPEAL No.193 of 2017

JUDGMENT: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Ms. T.Bala Jayasree, learned Standing Counsel for the Bharat Sanchar Nigam Limited for the appellant.

Mr. A.Rama Krishna Reddy, learned Standing Counsel for the Central Board of Indirect Taxes and Customs for the respondent.

2. This appeal under Section 35G of the Central Excise Act, 1944, emanates from the order dated 10.11.2016 passed in Appeal No.ST/25316/2013 by the Customs, Excise and Service Tax Appellate Tribunal, Regional Bench at Hyderabad.

3. The issue in this appeal pertains to the assessee claiming CENVAT credit on the tower parts and pre-fabricated buildings.

4. It is a common ground that the aforesaid issue is no longer *res integra* and has been answered by the Supreme Court in **Bharti Airtel Limited v. Commissioner of Central Excise, Pune**¹.

5. In view of the aforesaid enunciation of law by the Supreme Court, the substantial questions of law framed by this Court are answered in favour of the assessee.

6. The impugned order dated 10.11.2016 passed by the Customs, Excise and Service Tax Appellate Tribunal, Regional Bench at Hyderabad is set aside.

7. In the result, the appeal is allowed. There shall be no order as to costs.

¹ 2024 SCC OnLine SC 3374

Miscellaneous applications pending, if any, shall stand closed.

Sd/- K. SRINIVASA RAO
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Customs, Excise & Service Tax Appellate Tribunal Regional Bench, Hyderabad.
2. The Commissioner of Customs, Central Excise and Service Tax, Hyderabad – II Commissionerate, L.B.Stadium Road, Basheerbagh, Hyderabad.
3. One CC to Ms. T. Bala Jayasree, SC for BSNL, Advocate [OPUC]
4. One CC to SRI. A. Rama Krishna Reddy, SC for Central Board of Indirect Taxes and Customs, Advocate [OPUC]
5. Two CD Copies

Njb/gh

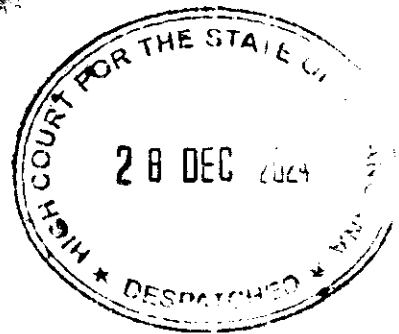
tp

HIGH COURT

DATED:28/11/2024

JUDGMENT

CEA.No.193 of 2017



**ALLOWING THE APPEAL
WITHOUT COSTS**

7 Copies
[Signature]
9/12/24