

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 HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SRI JUSTICE J. SREENIVAS RAO

CENTRAL EXCISE APPEALS NO: 192 OF 2017

Between:

M/s Bharath Sanchar Nigam Limited, General Manager Mobiles Services, Cellone,
CTO Compound, Paradise Circle, 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, L.B.Stadium Road, Basheerbagh, Hyderabad – 500004.

...RESPONDENT

Appeal under Section 35 (G) of Central Excise Act, 1944 against the order
of Customs Excise and Service Tax Appellate Tribunal, Regional Bench
Hyderabad in Final Order No.A/31528-32532/2016 dated 10-11-2016 in Appeal
No. ST/26070/2013-DB preferred against the Order in Original No.1 / 2013 –
ADJN dated 21-01-2013 on the file of the Commissioner of Customs, Central
Excise and Service Tax Hyderabad –II Commissionerate, Hyderabad.

I.A. NO: 1 OF 2017(CEAMP. NO: 183 OF 2017)

Petition under Section 151 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, dt: 10.11.2016 in Appeal No.
ST/26070/2013 by the customs, Excise & Services Tax Appellate Tribunal,
Hyderabad pending disposal of the appeal CEA.Sr.No. 2672/201

IA NO: 1 OF 2019

Between:

The Commissioner, Customs & Central Excise, Hyderabad II, (Presently Commissioner of Central tax & Central excise) Secunderabad Commissionerate, Opp: L.B. Stadium Road, Basheerbagh, Hyderabad. ..Petitioner/ Respondent

And

M/s Bharath Sanchar Nigam Limited, General Manager Mobiles Services, Cellone, CTO Compound, Paradise Circle, Secunderabad-500003 Present Address General Manager (NWP) CM BSNL, TS Circle, CTO Compound Paradise Circle, Secunderabad-500003. .. Respondent/Petitioner

Petition under Section 151 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. 183 of 2017 in CEA No. 192 of 2017 and pass

IA NO: 1 OF 2018

Petition under Section 151 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 order passed in CEAMP No. 183 of 2017 in CEA No. 192 of 2017 passed on dated 30-10-2017

Counsel for the Appellant: SRI. T. BALA JAYASREE (SC FOR BSNL)

Counsel for the Respondent: SRI A. RAMA KRISHNA REDDY (SC FOR CBEC)

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.192 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/26070/2013 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/-M. VIJAYA BHASKER
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Customs Excise and Service Tax Appellate Tribunal, Regional Bench at Hyderabad.
2. The Commissioner of Customs, Central Excise and Service Tax Hyderabad -II Commissionerate, 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 CBEC) Advocate [OPUC]
5. Two CD Copies

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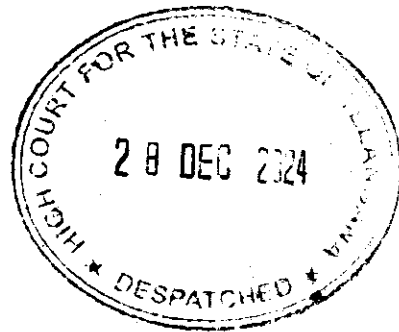
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HIGH COURT

DATED:28/11/2024

JUDGMENT

CEA.No.192 of 2017



ALLOWING THE APPEAL

WITHOUT COSTS

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