**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Tax Case No.32 of 2015**

Commissioner, Central Excise and Customs, Raipur, Chhattisgarh

**---- Appellant**

**versus**

The General Manager Telecom District M/s Bharat Sanchar Nigam Ltd.
GMTD, Telephone Bhavan, District Durg (Chhattisgarh)

---- **Respondent**

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| For Appellant | : | Shri Maneesh Sharma, Advocate |
| For Respondent | : | Ms. Sharmila Singhai, Advocate |

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**Hon'ble Shri Navin Sinha, Chief Justice**
**Hon'ble Shri Justice P. Sam Koshy**

**Judgment on Board**

**Per Navin Sinha, Chief Justice**

**14/9/2015**

**1**. The present appeal arises from final order dated 9.1.2015 passed by the Customs, Excise and Service Tax Appellate Tribunal, New Delhi (hereinafter referred to as "the Tribunal") in Appeals No.ST/152 and 189/2012-CU(DB).

**2**. Since we are satisfied that the matter is required to be remanded to the Tribunal, it is not considered necessary to notice all facts of the case except to notice the limited facts for the purposes of remand only.

**3**. Learned Counsel for the Appellant submits that Appeal No.152 of 2012 had been preferred by the Respondent and Appeal No.189 of 2012 had been preferred by the Appellant. Both the appeals had been preferred against the order of the Commissioner dated 23.11.2011. The Tribunal has only considered and discussed the contentions of the Respondent in Appeal No.ST/152 of 2012. There is no consideration or discussion whatsoever of the appeal filed by the Appellant bearing No.ST/189 of 2012.

**4**. We have heard Learned Counsel for the Respondent also.

**5**. Evidently, from the face of the order dated 9.1.2015 it disposes two appeals preferred by the Appellant and Respondent both. The former's appeal has been allowed. There is no discussion in the body of the order with regard to the appeal preferred by the Appellant while allowing the appeal of the Respondent.

**6**. We consider the same as sufficient ground not to sustain the order dated 9.1.2015 in its present form. The order dated 9.1.2015 is therefore set aside. The Tribunal shall pass a fresh reasoned and speaking order after hearing both the parties, without taking into consideration or referring to its earlier order dated 9.1.2015, but discussing both the appeals and the reasons for acceptance of one and the rejection of the other, as the case may be.

**7**. Since the order is being passed in presence of the Counsel for the parties, it is directed that the parties shall appear through their respective representatives along with the present order before the Registrar of the Tribunal on the 6th of October, 2015. The Registrar of the Tribunal shall then give necessary directions to the parties with regard to date/dates that may be fixed in the matter for regular hearing.

**8**. The Tax Appeal is allowed.

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| Sd/- | Sd/- |
| (**Navin Sinha**) | (**P. Sam Koshy**) |
| **CHIEF JUSTICE** | **JUDGE** |

Gopal