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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 5544/2002

NEW DELHI TELEVISION LIMITED ..... Petitioner

Through: Mr.Atul Sharma, Mr.Sarojanand Jha and Ms.Naina Dubey, Advocates

versus

COMM. OF SALES TAX & OTHERS ..... Respondents

Through: Mr.Gautam Narayan, ASC with Mr.R.A.Iyer, Advocate with Ms.Anita Sehgal, AVATO, Ward 88

\+ W.P.(C) 5803/2002

PRASAR BHARATI ..... Petitioner

Through: Mr.Rajeev Sharma and Ms.Radhalakshmi R, Advocates

versus

THE COMMISSIONER OF SALES TAX ..... Respondent

Through: Mr.Gautam Narayan, ASC with Mr.R.A.Iyer, Advocate with Ms.Anita Sehgal, AVATO, Ward 88

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE DEEPA SHARMA

O R D E R

% 05.09.2016

The petitioners in these proceedings challenged show cause notice issued by the commissioner of Sales Tax contending that they were merely content providers to the television channels and that such activity did not amount to sale in any dimension, especially of Right to Use or any such activity, but rather was a service. We notice that during the pendency of proceedings the court had directed the respondents not to issue final orders in assessment proceedings during the pendency of these writ petitions. The Supreme Court has rendered decisions in ***Bharat Sanchar Nigam Limited vs. Union of India*** **2006 (3) SCC 1**. Likewise as to whether intellectual property or intellectual property content are goods and if so subject to sales tax regimes had been considered and ruled upon in ***Tata Consultancy Service vs. State of Andhra Pradesh*** **(2005) 1 SCC 308**.

In the circumstances, we are of the opinion that the STO concerned should pass a final order after giving final opportunity to the petitioners to make submissions in the light of the intervening circumstances and the depositions in law. The process shall be completed within four months. Therefore, the orders of the Sales Tax Officer overruling objections of the petitioners are hereby set aside. All questions urged by the petitioners shall be gone into. All rights and contentions of the parties are reserved.

Writ petitions are disposed of in the above terms.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

SEPTEMBER 05, 2016
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