IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-12039-2017 (O&M)
Date of decision:- 30.05.2017

M/s Idea Cellular Ltd.

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Sanjiv Pabbi, Advocate,
for the petitioner.

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S.J. VAZIFDAR, C.J. (ORAL)

The petitioner has challenged the order of the Customs, Excise & Service Tax Appellate Tribunal, Chandigarh remanding the matter to the adjudicating authority for re-quantification of the demand of service tax payable by the petitioner.

2. The issue before the Tribunal was whether the petitioner was liable to pay service tax on the value of SIM cards sold to the subscribers or not. The Tribunal noted that the issue had been settled by the decision of the Supreme Court in the petitioner's case reported in 2011 (23) STR 433 (SC) and, therefore, held that the petitioner was liable to pay service tax. The Tribunal, however, held that the extended period of limitation is not invokable for the reason stated therein and consequently the demand for the extended period of limitation was set aside and the penalties were also set aside. The appeal was disposed of in the following terms:-

"As the respondent has not collected any service tax from the sim card

> *subscribers, in that circumstance, the value of sim cards sold to the subscribers shall be deemed to be cum tax price. In that situation, the matter needs examination for re-quantification of the taxable services provided by the respondent. Therefore, the matter is remanded back to the adjudicating authority for re-quantification of the demand of service tax payable by the respondent alongwith interest in view of the terms."*
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> *(emphasis supplied)*

3. All that the Tribunal has done is to remand the matter for re-quantification of the taxable services provided by the petitioner. It is for the assessing authority to ascertain whether there were any taxable services or not. The order warrants no interference at this stage. Needless to add that all the contentions of the parties are kept open.

4. The petition is accordingly disposed of.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(ANUPINDER SINGH GREWAL)
JUDGE

30.05.2017
Amodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No