

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2020

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.14240 of 2013
and M.P.No.1 of 2013

M/s.P.R.Mani Air Fridge & Electronics
rep.by its Proprietrix
R.Durga
No.32, Sannadhi Street
Tiruvannamalai-606 601.

... Petitioner

Vs

1.The Assistant Commissioner
Villupuram Division
Office of the Assistant Commissioner of Central Excise
No.9-A Solai Nagar, Sudhakar Nagar
Villupuram-607 605.

2.Bharat Sanchar Nigam Limited (BSNL)
rep.by its General Manager
Vellore.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Prohibition prohibiting the first respondent from proceeding further with his show cause notice dated 10.04.2013 in C.No.V/15/CCS/05/2013-ST.ADJ as it is without jurisdiction.

For Petitioner : Mr.K.Mahendran

For Respondents : Mr.V.Sundareswaran for R1
Sr.Panel Counsel for Central
Govt.for R1

Mr.S.Udayakumar, Sr.Standing Counsel
for Central Govt.for R2

ORDER

The petitioner has filed this writ petition for issuance of a Writ of Prohibition prohibiting the first respondent from proceeding further with his show cause notice dated 10.04.2013 in C.No.V/15/CCS/05/2013-ST.ADJ as it is without jurisdiction.

2.The petitioner is a dealer in SIM card and Recharge Coupon of the Bharat Sanchar Nigam Limited. The impugned show cause notice has been issued to the petitioner demanding to pay a sum of Rs.2,12,993/- towards service tax. The petitioner has filed this writ petition on the ground that the Telecom Services being separately classified, even assuming that the petitioner is rendering any service that is related to the specific service, the service of the petitioner cannot be brought under the general classification.

3.When this writ petition was taken up, the learned Standing Counsel for the first respondent has submitted that the petitioner has to file necessary objections to the impugned show cause notice, meeting out all the points raised therein and if that is done, the same will be considered by the first respondent and after affording an opportunity to the petitioner, appropriate orders would be passed in accordance with law.

4.Taking note of the above submission, the writ petition is disposed of directing the petitioner to file his objections to the impugned show cause notice, meeting out all the points raised therein, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the objections, the same shall be considered by the first respondent on merits and in accordance with law, and necessary orders be passed within a period of four weeks therefrom, after affording due opportunity to the petitioner. No costs. Consequently, the connected miscellaneous petition is closed.

सत्यमेव जयते

Sd/-

Asst.Registrar

/true copy/

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Sub Asst. Registrar

KM

To

1.The Assistant Commissioner
Villupuram Division
Office of the Assistant Commissioner of Central Excise
No.9-A Solai Nagar, Sudhakar Nagar
Villupuram-607 605.

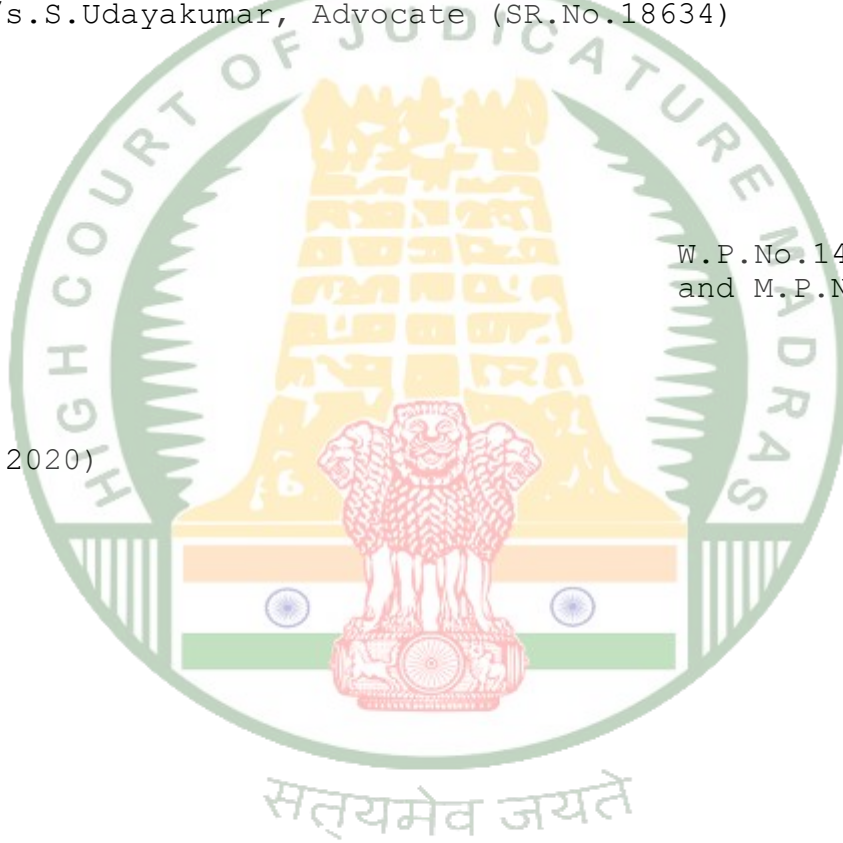
2.The General Manager,
Bharat Sanchar Nigam Limited (BSNL)
Vellore.

+1CC to M/s.McGanLaw Firm, Advocate (SR.No.18986)

+1CC to M/s.S.Udayakumar, Advocate (SR.No.18634)

W.P.No.14240 of 2013
and M.P.No.1 of 2013

CP (CO)
BRI (21.05.2020)



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