

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2020

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.61 and 62 of 2010

P.Baskar
Proprietor

M/s.Jayalakshmi Infocom ... Petitioner in W.P.No.61/2010

Sri Sarathi Telelinks
Rep. by its Managing Partner

S.Sridhar ... Petitioner in W.P.No.62/2010

Vs.

1.The Additional Commissioner of Central Excise,
The Office of the Commissioner of Central Excise,
Chennai - III Commissionerate
121 Mahatma Gandhi Road, Nungambakkam,
Chennai - 600 034.

2.Bharat Sanchar Nigam Limited (BSNL)
Rep. by its General Manager,
Cellular Service,
Trichy. Respondents in both the W.Ps.

Common Prayer:

Petitions filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari calling for the records of the 1st respondent dated 30.11.2009 in C.Nos.IV/15/22/BAS/08-STA-III and IV/15/23/BAS/08-STA-III respectively, in Order-in-original Nos.31 and 32/2009 respectively and quash the same.

For Petitioners : Mr.Mahendran
M/s.McGan Law Firm
in W.P.No.61/2010
and W.P.No.62/2010

For Respondents : Mr.S.Rajasekar
Junior Standing Counsel
in both W.Ps.

C O M M O N O R D E R

These writ petitions have been filed seeking issuance of Writ of Certiorari calling for the records of the first respondent dated 30.11.2009 in C.Nos.IV/15/22/BAS/08-STA-III and IV/15/23/BAS/08-STA-III respectively, in Order-in-original Nos.31 and 32/2009 respectively and to quash the same.

2.The petitioners are dealers in SIM card and Recharge Coupon of the Bharat Sanchar Nigam Limited. The impugned show cause notices have been issued to the petitioners demanding to pay a sum of Rs.5,98,132/- and Rs.8,03,354/- respectively, towards service tax. The petitioners have filed these writ petitions on the ground that the Telecom Services being separately classified, even assuming that the petitioners are rendering any service that is related to the specific service, the service of the petitioners cannot be brought under the general classification.

3.When these writ petitions were taken up, the learned Standing Counsel has submitted that the petitioners have to file necessary objections to the impugned show cause notices, 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 petitioners, appropriate orders would be passed in accordance with law.

4.Taking note of the above submission, the writ petitions are disposed of directing the petitioners to file their objections to the impugned show cause notices, 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 petitioners. No costs. Consequently, connected miscellaneous petitions, if any, are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Additional Commissioner of Central Excise,
The Office of the Commissioner of Central Excise,
Chennai - III Commissionerate
121 Mahatma Gandhi Road, Nungambakkam,
Chennai - 600 034.

2.The General Manager,
Bharat Sanchar Nigam Limited (BSNL)
Cellular Service,
Trichy.

+2cc to M/s.Mc Gan Law Firm, Advocate Sr.20004

W.P.Nos.61 and 62 of 2010

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srg 01/06/2020



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