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W.P. Nos.3070 & 3071 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2023

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.3070 & 3071 of 2012 and
MP.Nos.1 & 1 of 2012

M/s.Shri Sarathy Telelinks
Rep. by its Partner
S.Sridhar
No.97, Katpadi Road
Vellore-632 004

... Petitioner in WP.3070 of 2012

P.Baskar
Proprietor
M/s.Jayalakshmi Infocom
No.41, 7th East Main Road
Gandhi Nagar
Vellore-632 004

... Petitioner in WP.3071 of 2012

Vs.

1.The Assistant Commissioner of Central Excise
Office of the Assistant Commissioner of Central Excise
Central Revenue Buildings
Barracks Maidan Road
Vellore-632 001

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

...Respondents in both WPs



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Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to Writ of Prohibition prohibiting the first respondent from proceeding further with his communication dated 21.06.2011 in C.No.IV/16/77/2010-STC and C.No.IV/16/78/2010-STC as it is without jurisdiction.

(In both WPs)

For Petitioner : Mr.N.Muralikumaran, Senior Counsel
for M/s.McGan Law Firm

For Respondents : Mr.V.Sundareswaran (for R1)
Senior Panel Counsel

Mr.S.Udayakumar (for R2)
Senior Central Government Standing Counsel

COMMON ORDER

Heard Mr.N.Muralikumaran, learned Senior Counsel for the learned counsel for the petitioner, Mr.V.Sundareswaran, learned Senior Panel Counsel for Assistant Commissioner of Central Excise/R1 and Mr.Udayakumar, learned Senior Central Government Standing Counsel for Bharat Sanchar Nigam Limited (BSNL)/R2.

2.The petitioner is an agent of BSNL and seeks a prohibition as against R1 from proceeding further with communication dated 21.06.2011 as being sans jurisdiction. The issue relates to levy of service tax on sim card and recharge coupons as BSNL. Writ petitions have been filed by identically placed agents and in



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a series of matters in WP.Nos.10334 of 2010 (order dated 07.01.2010), WP.Nos.10312 to 10315 of 2010 (order dated 07.01.2020), WP.Nos.11353 & 11354 of 2010 (order dated 07.01.2020), WP.Nos.26322 & 26323 of 2010 (order dated 07.01.2020), WP.No.20268 of 2010 (order dated 07.01.2020), WP.Nos.4114 to 4117 of 2010 (order dated 11.03.2020) and WP.No.16289 of 2016 (order dated 25.09.2020) orders have been passed by this Court directing the petitioners to approach R1 for adjudication of show cause notice in light of orders passed by the CESTAT, appellate commissioners and original authorities in favour of the agents.

Such orders are:

- '1. Order in Original No.37/DRC/ST/ASN-I/05/06, dated 09.03.2006.*
- 2. Order in Appeal No.9 of 2006 dated 13.06.2006.*
- 3. Order in Original No.8280 dated 27.06.2006.*
- 4. Order in Original No.8 of 2006-2007 dated 06.11.2006.*
- 5. Final Order No.610 of 2007 dated 25.05.2007.*
- 6. Order in M.P. No.1 of 2008 in W.P(MD). No. 4014 of 2008 dated 29.04.2008.*
- 7. Order in M.P. No.2 to 2 of 2008 in W.P. Nos. 12791 to 12796 of 2008 dated 27.05.2008.*
- 8. Final Order No.977 of 2008 dated 04.09.2008.*
- 9. Final Order No.1484 of 2008 dated 30.12.2008.*
- 10. Order in Appeal No.5/205/2006 dated 01.05.2009.*
- 11. Order in M.P. No.1 of 2009 in W.P. No. 9645 of 2009 dated 24.06.2009.*
- 12. Order in M.P. No. 1 of 2010 in W.P. No. 61 and 62 of 2010 dated 06.01.2010.*



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13. Order in M.P. No. 1 to 1 in W.P. No. 4114 to 4117 of 2010 dated 06.02.2010.'

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3. For consistency in approach the same order as aforesaid is passed in this matter as well. Let orders be passed by R1 within a period of twelve (12) weeks from date of appearance by the petitioner before the authority. This writ petition stands disposed as above. No costs. Connected miscellaneous petitions are closed.

29.03.2023

vs

Index: Yes/No

Speaking order

Neutral citation: Yes

To

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Dr.ANITA SUMANTH, J.

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