



WP No.7918 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 18.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

WP. No.7918 of 2012

and

MP No.1 of 2012

R.Venkataramanan

... Petitioner

versus

1.The Assistant Commissioner,
Central Excise Division,
Office of the Assistant Commissioner of Central Excise,
No.1 Nool Kadai Street,
Karaikal-609 602

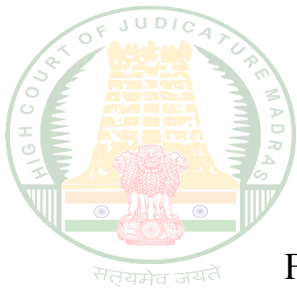
2.Bharat Sanchar Nigam Limited (BSNL)
Represented by its General Manager,
Kumbakonam

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Prohibition, prohibiting the first respondent from proceeding further with his communication dated 22.02.2012 in C.No.V/16/48/2009-S.Tax as it is without jurisdiction and thus render justice.

For the Petitioner

:Mr.L.Mahendran
for M/s.MC GAN LAW Firm



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For the Respondent

:Mr.A.P.Srinivas
for R1
Mr.K.Anbarasan
for R2

ORDER

The Petitioner has filed this writ petition, seeking for issuance of a Writ of Prohibition, to prohibit the first respondent from proceeding further with his communication dated 22.02.2012 in C.No.V/16/48/2009-S.Tax as it is without jurisdiction.

2. In this writ petition the petitioner has challenged the Show Cause Notice issued by the First Respondent under Finance Act, 1994 seeking to recover service Tax on sim cards sold by the Petitioner for BSNL (Bharat Sanchar Nigam Limited).

3. The learned counsel for the Petitioner as well as learned counsel for the respondent submit that the issue stand covered by several decisions of the Tribunal, the appellate commissioners and original authority detailed

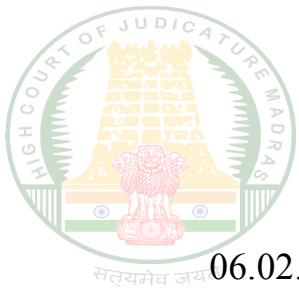


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below:-

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



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06.02.2010.

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4. The learned counsel for the petitioner would place reliance on the judgment of this Court in W.P.Nos.10312 to 10315 of 2010, wherein on identical issue, the following order is passed:

“5. The learned counsel also relies certain other decisions. The learned counsel for the Respondents also submits that there are no other contra decisions of the Tribunal or High Court as of now.

6. Since the Petitioner has cases in their favour, I am of the view that the Petitioner should approach the First Respondent for Adjudication of Show Cause Notice under the Finance Act by citing these decisions.

7. In view of the above decision, the First Respondent is directed to pass appropriate order within a period of three months from the date of receipt of a copy of this order. While passing the order, the Respondents shall keep in mind the above cited orders. It is needless to state that before passing such order, the Petitioner shall be give an opportunity to file reply and also being heard.

8. With the above observation, the Writ Petitions stands disposed. No costs. Consequently, connected miscellaneous petitions are closed.”



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5. The writ petition stands disposed of on the above terms. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Neutral Citation : Yes/No
mrn

To:

1. The Assistant Commissioner,
Central Excise Division,
Office of the Assistant Commissioner of Central Excise,
No.1 Nool Kadai Street,
Karaikal-609 602
2. The General Manager,
Bharat Sanchar Nigam Limited (BSNL)
Kumbakonam



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MOHAMMED SHAFFIQ, J.

(mrn)

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