केंद्रीय कर आयुक्त (अपील)

O/O THE COMMISSIONER (APPEALS), CENTRAL TAX,

सत्यमेव जयते

केंद्रीय कर भवन,
सातवीं मंजिल, पोलिटेक्निक के पास,
आम्बावाडी, अहमदाबाद-380015

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रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : V2(ST)09/RA/A-II/2017-18 & V2(ST)33/A-II/2017-18

Stay Appl.No. NA/2017-18 2153 to 2157

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-EXCUS-001-APP-399 to 400-2017-18**
दिनाँक Date : **20-03-2018** जारी करने की तारीख Date of Issue 6/4/2018

श्री उमा शंकर आयुक्त (अपील) द्वारा पारित
Passed by Shri. Uma Shanker, Commissioner (Appeals)

ग Arising out of Order-in-Original No. **SD-02/REF-297/VJP/2016-17** दिनाँक: **28/02/2017** issued by Assistant Commissioner, Div-II, Service Tax.

ध अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent

Bharat Sanchar Nigam Ltd.
Ahmedabad

कोई व्यक्ति इस अपील आदेश से असंतोष अनुभव करता है तो वह इस आदेश के प्रति यथास्थिति नीचे बताए गए सक्षम अधिकारी को अपील या पुनरीक्षण आवेदन प्रस्तुत कर सकता है।

Any person a aggrieved by this Order-In-Appeal may file an appeal or revision application, as the one may be against such order, to the appropriate authority in the following way :

भारत सरकार का पुनरीक्षण आवेदन :

Revision application to Government of India :

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1994 की धारा अतत नीचे बताए गए मामलों के बारे में पूवोक्त धारा को उप–धारा के प्रथम परन्तुक के अंतर्गत पुनरीक्षण आवेदन अधीन सचिव, भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, चौथी मंजिल, जीवन दीप भवन, संसद मार्ग, नई दिल्ली : 110001 को की जानी चाहिए।

(i) A revision application lies to the Under Secretary, to the Govt. of India, Revision Application Unit Ministry of Finance, Department of Revenue, 4th Floor, Jeevan Deep Building, Parliament Street, New Delhi - 110 001 under Section 35EE of the CEA 1944 in respect of the following case, governed by first proviso to sub-section (1) of Section-35 ibid :

(ii) यदि माल की हानि के मामले में जब ऐसी हानि कारखाने से किसी भण्डागार या अन्य कारखाने में या किसी भण्डागार से दूसरे भण्डागार में माल ले जाते हुए मार्ग में, या किसी भण्डागार या भण्डार में चाहे वह किसी कारखाने में या किसी भण्डागार में हो माल की प्रकिया के दौरान हुई हो।

(ii) In case of any loss of goods where the loss occur in transit from a factory to a warehouse or to another factory or from one warehouse to another during the course of processing of the goods in a warehouse or in storage whether in a factory or in a warehouse.

(b) In case of rebate of duty of excise on goods exported to any country or territory outside India of on excisable material used in the manufacture of the goods which are exported to any country or territory outside India.

(ग) यदि शुल्क का भुगतान किए बिना भारत के बाहर (नेपाल या भूटान को) निर्यात किया गया माल हो।

2 ...

(ख) भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित माल पर या माल के विनिर्माण में उपयोग शुल्क कच्चे माल पर उत्पादन शुल्क के रिबेट के मामलें में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित है।

(b) In case of rebate of duty of excise on goods exported to any country or territory outside India of on excisable material used in the manufacture of the goods which are exported to any country or territory outside India.

(ग) यदि शुल्क का भुगतान किए बिना भारत के बाहर (नेपाल या भूटान को) निर्यात किया गया माल हो।

(c) In case of goods exported outside India export to Nepal or Bhutan, without payment of duty.

अंतिम उत्पादन की उत्पादन शुल्क के भुगतान के लिए जो डयूटी केडिट मान्य की गई है और ऐसे आदेश जो इस धारा एवं नियम के मुताबिक आयुक्त, अपील के द्वारा पारित वो समय पर या बाद में वित्त अधिनियम (नं.2) 1998 धारा 109 द्वारा नियुक्त किए गए हो।

(d) Credit of any duty allowed to be utilized towards payment of excise duty on final products under the provisions of this Act or the Rules made there under and such order is passed by the Commissioner (Appeals) on or after, the date appointed under Sec.109 of the Finance (No.2) Act, 1998.

(1) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 के नियम 9 के अंतर्गत विनिर्दिष्ट प्रपत्र संख्या इए–8 में दो प्रतियों में, प्रेषित आदेश के प्रति आदेश प्रेषित दिनाँक से तीन मास के भीतर मूल–आदेश एवं अपील आदेश की दो–दो प्रतियों के साथ उचित आवेदन किया जाना चाहिए। उसके साथ खाता इ. का मुख्यशीर्ष के अंतर्गत धारा 35–इ में निर्धारित फी के भुगतान के सबूत के साथ टीआर–6 चालान की प्रति भी होनी चाहिए।

The above application shall be made in duplicate in Form No. EA-8 as specified under Rule, 9 of Central Excise (Appeals) Rules, 2001 within 3 months from the date on which the order sought to be appealed against is communicated and shall be accompanied by two copies each of the OIO and Order-In-Appeal. It should also be accompanied by a copy of TR-6 Challan evidencing payment of prescribed fee as prescribed under Section 35-EE of CEA, 1944, under Major Head of Account.

(2) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रूपये या उससे कम हो तो रूपये 200/– फीस भुगतान की जाए और जहाँ संलग्न रकम एक लाख से ज्यादा हो तो 1000/– की फीस भुगतान की जाए।

The revision application shall be accompanied by a fee of Rs.200/- where the amount involved is Rupees One Lac or less and Rs.1,000/- where the amount involved is more than Rupees One Lac.

सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण के प्रति अपीलः–
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35–बी/35–इ के अंतर्गतः–

Under Section 35B/ 35E of CEA, 1944 an appeal lies to :-

(क) उक्तलिखित परिच्छेद 2 (1) क में बताए अनुसार के अलावा की अपील, अपीलो के मामले में सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) की पश्चिम क्षेत्रीय पीठिका, अहमदाबाद में ओ–20, न्यू मैन्टल हास्पिटल कम्पाउण्ड, मेघाणी नगर, अहमदाबाद–380016

(a) To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at O-20, New Metal Hospital Compound, Meghani Nagar, Ahmedabad : 380 016. in case of appeals other than as mentioned in para-2(i) (a) above.

केन्द्रीय उत्पाद शुल्क आयुक्तालय (अपील-I) OFFICE OF THE COMMISSIONER (APPEALS) CENTRAL EXCISE AHMEDABAD अहमदाबाद

The appeal to the Appellate Tribunal shall be filed in quadruplicate in form EA-3 as prescribed under Rule 6 of Central Excise(Appeal) Rules, 2001 and shall be accompanied against (one which at least should be accompanied by a fee of Rs.1,000/-, Rs.5,000/- and Rs.10,000/- where amount of duty / penalty / demand / refund is upto 5 Lac, 5 Lac to 50 Lac and above 50 Lac respectively in the form of crossed bank draft in favour of Asstt. Registar of a branch of any nominate public sector bank of the place where the bench of any nominate public sector bank of the place where the bench of the Tribunal is situated.

(3) यदि इस आदेश में कई मूल आदेशों का समावेश होता है तो प्रत्येक मूल ओदश के लिए फीस का भुगतान उपर्युक्त ढंग से किया जाना चाहिए इस तथ्य के होते हुए भी कि लिखा पढी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केन्द्रीय सरकार को एक आवेदन किया जाता हैं।

In case of the order covers a number of order-in-Original, fee for each O.I.O. should be paid in the aforesaid manner not withstanding the fact that the one appeal to the Appellant Tribunal or the one application to the Central Govt. As the case may be, is filled to avoid scriptoria work if excising Rs. 1 lacs fee of Rs.100/- for each.

(4) न्यायालय शुल्क अधिनियम 1970 यथा संशोधित की अनुसूचि–1 के अंतर्गत निर्धारित किए अनुसार उक्त आवेदन या मूल आदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रति पर रू.6.50 पैसे का न्यायालय शुल्क टिकट लगा होना चाहिए।

One copy of application or O.I.O. as the case may be, and the order of the adjournment authority shall a court fee stamp of Rs.6.50 paise as prescribed under scheduled-I item of the court fee Act, 1975 as amended.

(5) इन ओर संबंधित मामलों को नियंत्रण करने वाले नियमों की ओर भी ध्यान आकर्षित किया जाता है जो सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (कार्याविधि) नियम, 1982 में निहित है।

Attention in invited to the rules covering these and other related matter contended in the Customs, Excise & Service Tax Appellate Tribunal (Procedure) Rules, 1982.

(6) सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट), के प्रति अपीलो के मामले में कर्तव्य मांग (Demand) एवं दंड (Penalty) का 10% पूर्व जमा करना अनिवार्य है। हालांकि, अधिकतम पूर्व जमा 10 करोड़ रुपए है ।(Section 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

केन्द्रीय उत्पाद शुल्क और सेवा कर के अंतर्गत, शामिल होगा "कर्तव्य की मांग"(Duty Demanded) -

(i) *(Section)* खंड 11D के तहत निर्धारित राशि;
(ii) लिया गलत सेनवैट क्रेडिट की राशि;
(iii) सेनवैट क्रेडिट नियमों के नियम 6 के तहत देय राशि.

⇨ **यह पूर्व जमा 'लंबित अपील' में पहले पूर्व जमा की तुलना में, अपील' दाखिल करने के लिए पूर्व शर्त बना दिया गया है .**

For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (Section 35 C (2A) and 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

Under Central Excise and Service Tax, "Duty demanded" shall include:

(i) amount determined under Section 11 D;
(ii) amount of erroneous Cenvat Credit taken;
(iii) amount payable under Rule 6 of the Cenvat Credit Rules.

इस **इस आदेश के प्रति अपील प्राधिकरण के समक्ष जहाँ शुल्क अथवा शुल्क या दण्ड विवादित हो तो माँग किए गए शुल्क के 10% भुगतान पर और जहाँ केवल दण्ड विवादित हो तब दण्ड के 10% भुगतान पर की जा सकती है।**

In view of above, an appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute."

ORDER IN APPEAL

M/s. Bharat Sanchar Nigam Ltd., Western Telecom Projects, Gujarat Area, 2nd floor, Microwawe Building, Navrangpura, Ahmedabad – 380006, (*hereinafter referred to as the 'respondent')* had filed a refund claim amounting to Rs.4,85,54,577/-, before the office of the Assistant Commissioner, Service Tax, Division-II, Ahmedabad, on 11.11.2016. The respondent had obtained services from M/s. Larsen & Toubro Ltd., Ahmedabad (herein after referred as 'the service provider') in respect of construction which is covered under original works predominantly for use other than commerce, industry or any other business or profession and had claimed the refund of the Service tax paid by him to the service provider for such service under Section 11B of the Central Excise Act, 1944. In the instant case, the service provider had not been maintaining separate accounts of the Cenvat credit used in exempted services as well as in taxable services under Rule 6(3) of the Cenvat Credit Rules, 2004, and therefore the service provider was required to pay an amount as prescribed under Rule 6(3) of the Cenvat Credit Rules, 2004. A show cause notice was given to the respondent and the service provider for (i) recovery of the applicable amount on the exempted value of service under Rule 6(3) of the Cenvat Credit Rules, 2004; (ii) rejecting the refund claim to the extent of R.4,85,54,577/-, as the same was inadmissible under the prevalent rules. The Adjudicating Authority vide OIO No. SD-02/REF-297/VIP/2016-17 dt.28.02.2017 (herein after referred as the impugned order), sanctioned the refund claim of Rs.4,42,70,015/-, and rejected the refund amount of Rs.42,84,562/-. The Department aggrieved by the said OIO, filed an appeal against the same, before me.

2. The respondent, M/s. Bharat Sanchar Nigam Ltd., also aggrieved by the impugned order, has also filed an appeal before me on the ground that the impugned order is illegal as the sanctioning authority had rejected their refund amount of Rs.42,84,562/-, although they had claimed the refund for supply of material portion of the contract for which Invoices had been raised by the service provider and not for the service portion of the contract for which invoices had not been raised by the service provider and therefore Cenvat credit availed by the service provider on the service portion of the contract, cannot be linked to the refund claim of the respondent for the material portion of the contract.

3. The facts in brief being common for both the appeals, are that the respondent had filed a claim of refund under Section 11B of the Central Excise Act, 1944, before the office of the Assistant Commissioner, Service Tax, Division-II, Ahmedabad, on the ground that the respondent is a Government of India Enterprise and had awarded the contract of setting up of intelligent Fibre Optic technology to connect 219 Army Stations, 33 Naval Stations & 162 Air Force Stations across the country, to the service provider. The respondent had obtained the services from the above body corporate in respect of construction of original works predominantly used for other than commerce, industry or any other business or profession. As per Section 12 (a) of the Mega Exemption Notification No.25/2012-ST dt. 20.06.2012, the below-mentioned taxable services are exempted :

> *"12. Services provided to the Government, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of -*
>
> *(a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession."*

Accordingly, the services similar to the service received by the respondent were exempted from Service tax. The said exemption was withdrawn with effect from 1.04.2015, vide Notification No. 6/2015-ST dt. 1.03.2015. Accordingly, Service tax was leviable on the service received by the respondent from 1.04.2015, and the service provider was paying the service tax during this period. However, vide Section 102 of the Finance Act, 2016, the exemption on the said service was restored as indicated below :

> *"Section 102*
>
> *Section 102(1) provides that no service tax shall be levied or collected during the period commencing from 01.04.2015 and ending with 29.02.2016 (both days inclusive) in respect of taxable services provided to the Government, a local authority, by way of construction, erection, commissioning, installation, completion, filling out, repair, maintenance, renovation or alteration of-*
>
> - *A civil structure or any other original works meant predominantly for use other than for commerce, industry or any other business or profession;*
>
> *under a contract entered into before 01.03.2015 and on which appropriate stamp duty, where applicable, had been paid before that date.*
>
> *Section 102 (2) provides that refund shall be made of all such service tax which has been collected but which would not have been so collected at all material times. Section 102(3) provides that an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2016 receives the assent of the President."*

The respondent filed his refund claim for the service tax borne by them as per Section 102 of the Finance Act, 2016. The respondent alongwith the refund claim also submitted details regarding reimbursement of Service tax amount to the service provider. The respondent also submitted a declaration from the service provider that they will not claim the same amount of refund of service tax in future from the revenue and also a 'No Objection Certificate'.

4. On verification of the respondent's claim and the ST-3 returns of the service provider, it is noticed that the service provider has provided Works Contract Service and the service provider was taking Cenvat credit of input services which were used in both, the taxable as well as the exempted services provided by the service provider. The service provider had taken Cenvat credit of Input services of Rs. 18,24,29,873/-, during the period April-Sept'15 and Rs.29,6831,027/-, during the period Oct'15 to Mar'16. Under Rule 6(3) of the Cenvat Credit Rules, 2004, the manufacturer of goods or Provider of output service who opts to not maintain separate accounts of inputs & input credit for dutiable and exempted goods, had to pay an amount as prescribed under the said R ule 6(3) of the Cenvat Credit Rules, 2004. It was observed that the service provider was not maintaining separate accounts of Cenvat credit used in exempted services as well as in taxable services. The service provider had taken Cenvat credit on the input services used in the service provided to the appellant, as it was taxable at the material time. As the service provider had taken cenvat credit of input services used in the exempted as well as taxable services, the service provider was required to pay an amount as prescribed under Rule 6(3) of the Cenvat Credit Rules, 2004, on the exempted value of services amounting to the tune of Rs. 95,30,20, 871/-. As the appellant had failed to submit any proof of reversal/payment of the amount alongwith the No Objection Certificate furnished by them, and also due to non-availability of certain related documents like Work order, Bank Statement, etc., the appellant was issued a show cause notice seeking (i) to recover the amount on exempted value of service under Rule 6(3) of the Cenvat Credit Rules, 2004; and (ii) to reject the refund claim to the extent of Rs. 4,85,54,577/-.

5. The Adjudicating Authority found that the service provider had paid the Service to Rs.4,85,54,577/-, which was entirely paid by challans, which was also certified by their Chartered Accountant. The service provider

had contended that they had maintained separate records for the appellant's projects and provided their Chartered accountant's certificate in this regard. The Adjudicating Authority, also came to the conclusion that the service provider had maintained separate accounts and therefore, the question of recovery under Rule 6(3) of the Cenvat Credit Rules, 2004, did not arise. However, the Adjudicating Authority observed that the service provider had availed and utilized Cenvat credit of Rs.42,84,562/-, as input services & capital goods, which they had failed to reverse and therefore the appellant was not entitled to a refund of Rs. 42,84,562/-. Accordingly, the Adjudicating Authority vide the impugned order sanctioned the refund claim of Rs. 4,42,70,015/- and rejected the refund claim of Rs. 42,84,562/-.

6. The Department aggrieved by the impugned order, filed an appeal before me on the grounds that (i) the sanctioning authority has not examined various issues, primary being the fact that in absence of service from the appellant to Department of Telecommunications (DOT) or to Project Implementation Care Group (PICG), Ministry of Defence, it appeared that the services provided by the service provider had been consumed by the appellant whose qualification as Government, governmental authority or local authority as required in the exemption notification No. 25/2012-ST has not been examined; (ii) the aspect of unjust enrichment has not been properly examined; (iii) BSNL had not borne the tax and therefore was not eligible for filing the refund claim; (iv) the sanctioning authority had wrongly sanctioned the refund claim when the same claim had been earlier rejected on jurisdiction and merit by the another sanctioning authority; (v) the sanctioning authority had wrongly adjusted the recoverable Cenvat credit amount of Rs. 42,84,562/-, from the refund sanctioned to the appellant; and (vi) the amount of Cenvat credit of Rs. 42,84,562/-, is required to be recovered from the service provider.

7. The respondent aggrieved by the impugned order, filed an appeal before me on the grounds that (i) the adjudicating authority had erred by adjusting the Cenvat credit amount, held to be ineligible, from the refund sanctioned to them, without making any proposal for recovery of the said amount from them; (ii) that the sanctioning authority ought to have known that law does not permit the deduction of the cenvat credit availed by the service provider as the respondent had fully paid the tax involved on the services; it was not open to the sanctioning authority to invoke the

provisions of Rule 6 of the Cenvat Credit Rules, 2004, in retrospect, when such levy has been declared as not authorized by law particularly in the absence of enabling provision being inserted; and (iii) the adjudicating authority had erred in refusing to follow the various judgements quoted by the respondent in their defence.

8. During the personal hearing, the officials of the respondent, appeared before me and explained the case & reiterated their grounds of appeal. They also submitted their reply to the department's appeal dt.17.10.2017, and also submitted a synopsis of the case alongwith additional submission on 13.03.2018.

9. I have carefully gone through the facts of the case on record, grounds of appeal in the Appeal Memorandum filed by the department and the respondent, reply to the appeal filed by the respondent, written submissions, cross-objections and oral submissions made by the respondent.

10. The Department in their grounds of appeal has cited that the sanctioning authority has failed to examine the following aspects of the refund claim :

a) The impugned order does not detail as to whether the respondent has actually paid the service tax to the service provider, which they have claimed as refund.

b) Whether the respondent has provided the services to the government as claimed by them and showed the same in their ST-3 returns.

c) The sanctioning authority had failed to discuss any findings on the challans through which the actual payments of Service tax against work contract services were made by the Service provider.

d) Whether BSNL or Department of Telecommunications or Project Implementation Care Group (PICG), Ministry of Defence is the Service recipient in this case, is not brought out in the impugned order.

e) Whether the service recipient in this case has recovered the service tax from their customer? If yes, then the aspect of unjust enrichment has to be examined.

f) Whether M/s. BSNL Ltd. qualifies as Government, Governmental authority or local authority, as the exemption under Notification No.

25/2012-ST, as amended, is granted to services provided by the above-mentioned authorities only.

g) When there is no contract provided to M/s. BSNL Ltd. to execute the project work by Department of Telecommunications, and M/s. BSNL Ltd. is only paid implementation/supervision charges for executing the project, whether M/s. BSNL Ltd. can considered as a Service Recipient or one who has borne the tax/duty.

h) Can M/s. BSNL Ltd. and Department of Telecommunications be considered as a same entity or both are separate entities.

i) When the end recipient of the works contract services was either Department of Telecommunications or Ministry of Information Technology or Communications or Ministry of Defence and the burden of tax has also been borne by them, M/s. BSNL Ltd. does not appear to be eligible for filing the refund claim in the first place.

j) It also appeared that M/s. BSNL Ltd. had earlier filed a consolidated refund claim for Rs.11,74,55,780/-, on 11.11.2016, which included Rs.4,85,54,577/- (which has been claimed as the refund in the present case), with Service Tax Commissionerate-IV, Mumbai, which was rejected vide OIO No. 502/Refund-II/DK/2016-17 dt.27.02.2017. As per Rule 3 of Central Excise Appeal Rules, 2001, as made applicable to Service tax matters vide Section 83 of the Finance Act, 1994, M/s. BSNL Ltd. should have filed an appeal before the Commissioner (Appeals), instead of filing a simultaneous refund claim with the Assistant Commissioner, Service tax at Ahmedabad, as the sanctioning authority vide OIO dt. 27.02.2017, had rejected the entire claim not just on jurisdiction but also on merit.

k) The reliance of the Adjudicating Authority in this case on a letter to come to the conclusion that the claim filed with him was different from the one filed with the Mumbai Commissionerate, without checking factual position, makes the impugned order bad in law.

l) The adjudicating authority has failed to discuss how the recoverable Cenvat amount from the Service provider was adjusted against the respondent's claim.

On going through the above points, it is amply clear that the Adjudicating Authority has sanctioned the claim without verifying very vital aspects of the matter. The impugned order seems to be an eyewash, without getting in to the crux of the claim. The Department and the respondent, both the

appellants in this case, would not like any irregularities in the processing of the claim. Therefore, I find it proper to set aside the impugned order, which has missed out on various facts related to the refund claim, and remand the refund claim dt.11.11.2016 of M/s. BSNL Ltd. amounting to Rs.4,85,54,577/-, back to the Adjudicating Authority, to decide the matter afresh, considering all the above-mentioned points & any other related facts and also providing opportunity to the respondent to provide any further evidence in this matter.

11. The impugned order dt.28.02.2017, is set aside and the refund claim dt.11.11.2016 of M/s. BSNL Ltd. amounting to Rs.4,85,54,577/-, is remanded back to the Adjudicating Authority to decide afresh.

12. अपीलकर्ता द्वारा दर्ज की गई अपीलो का निपटारा उपरोक्त तरीके से किया जाता है।

12. The appeals filed by both the appellants, stands disposed off on above terms.

(उमा शंकर)
आयुक्त (अपील्स)

ATTESTED

(R.R. NATHAN)
SUPERINTENDENT,
CENTRAL TAX APPEALS, AHMEDABAD.

To,

M/s. Bharat Sanchar Nigam Ltd.,
Western Telecom Projects, Gujarat Area,
2nd floor, Microwave Building,
Navrangpura,
Ahmedabad – 380006.

Copy to:

1) The Chief Commissioner, Central Tax, GST, Ahmedabad Zone.
2) The Commissioner, Central Tax, Ahmedabad-South.
3) The Dy./Asst. Commissioner, Division-VI, Central Tax, GST, Ahmedabad (South), Ahmedabad.
4) The Asst. Commissioner (System), Central Tax, Hqrs., Ahmedabad (South).
5) Guard File.
6) P.A. File.

केन्द्रीय उत्पाद शुल्क आयुक्तालय (अपील-I) OFFICE OF THE COMMISSIONER (APPEALS) CENTRAL EXCISE AHMEDABAD अहमदाबाद