

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (C) NO(S). 16551-16555 OF 2012

BHARAT SANCHAR NIGAM LTD.
THRU ITS CHIEF GENERAL MANAGER

.....Petitioner(s)

Vs.

THE STATE OF ANDHRA PRADESH REVENUE DEPARTMENT

.....Respondent(s)

WITH

SLP(C) No. 2940/2014, SLP(C) No. 2943/2014, SLP(C) No. 39498/2013,
SLP(C) No. 2481/2014, SLP(C) No. 2479/2014, SLP(C) No. 2942/2014,
SLP(C) No. 25469/2015, SLP(C) No. 2947-2948/2014, SLP(C) No.
39495/2013, SLP(C) No. 39499/2013, SLP(C) No. 2939/2014, SLP(C) No.
2949/2014, SLP(C) No. 6163/2016, SLP(C) No. 24548/2015, SLP(C) No.
25461/2015, SLP(C) No. 39497/2013, SLP(C) No. 2941/2014, SLP(C) No.
2950/2014, SLP(C) No. 26814/2015, SLP(C) No. 16557-16562/2012,
SLP(C) No. 23093/2012, SLP(C) No. 23096/2012, SLP(C) No.
23097/2012, SLP(C) No. 23095/2012, SLP(C) No. 23094/2012, SLP(C)
No. 10543/2013, SLP(C) No. 30985/2012, SLP(C) No. 30984/2012, C.A.
No. 8774/2012, SLP(C) No. 2945/2014, SLP(C) No. 2944/2014, SLP(C)
No. 2946/2014, SLP(C) No. 33099/2012, SLP(C) No. 25462/2015, SLP(C)
No. 33102/2012, SLP(C) No. 39492/2013, SLP(C) No. 39491/2013,
SLP(C) No. 39494/2013, SLP(C) No. 25468/2015, SLP(C) No. 5879/2013,
SLP(C) No. 5880/2013, SLP(C) No. 33108/2013, SLP(C) No. 11718/2013,
SLP(C) No. 13390/2013, SLP(C) No. 39483/2013, SLP(C) No. 40117/
2012, SLP(C) No. 10880/2013, SLP(C) No. 39485/2013, SLP(C) No.
39484/2013, SLP(C) No. 39487/2013, SLP(C) No. 39486/2013, SLP(C)
No. 5244/2013, SLP(C) No. 39490/2013, SLP(C) No. 39489/2013

O R D E R

Delay condoned.

Applications seeking amendment of cause title are

allowed.

It is argued on behalf of the States of Andhra Pradesh and Telangana that the impugned judgment so far as it holds that Sales Tax is not leviable on Value Added Services and SIM Cards cannot be supported. Learned senior counsel has relied upon the judgment of this Court in "*Tata Consultancy Services vs. State of A.P.*" [(2005) 1 SCC 308] where it was held that the medium on which software is embedded (apart from the software) itself are goods and, therefore, subjected to levy of sales tax.

The impugned judgment of the Andhra Pradesh High Court has referred to the judgment of this Court in "*Idea Mobile Communication Ltd. vs. CCE & Customs*" [(2011) 9 SCR 789] which held that services provided by 'Telecom Service Provider' are subjected to levy under the Finance Act, 1994 [Section 65(105) (zzzx)].

In the present case, the High Court held that SIM Cards, Rechargeable Coupons, Fixed Monthly Charges and Value-Added Services (towards SMS, ring tones, download music etc.) are not "goods". It relied upon not only the judgment in "*Idea Mobile Communication*" but also the judgments of this Court in "*Bharat Sanchar Nigam Ltd. vs. Union of India*" [2006(2) SCR 823], "*Associated Cement Companies Ltd. vs. Commissioner of Customs*" [2001 (1) SCR 608] and "*Tata Consultancy Services vs. State of A.P.*" (relied upon by the revenue).

The High Court, however, remitted the matter for

consideration for ascertainment of facts relating to levy of sales tax on non-refundable deposits and refundable deposits. It also held that the transactions relating to telephone sets, modems and caller IDs instruments are subject to sales tax levy.

Having considered submissions of the learned counsel for the parties and also having gone through the impugned judgment, this Court is of the opinion that no interference is called for especially in view of the fact that the High Court has taken note of all the decisions on the point.

Furthermore, in the recent judgment in C.A. NOS.11400-11401/2018 "*Commissioner of Customs, Central Excise & Service Tax Vs. M/S Suzlon Energy Ltd.*" this Court has held in a slightly analogous context I.e. customized engineering drawings, are not "goods" but are essentially services and, therefore, subjected only to levy of service tax under the Finance Act, 1994.

The special leave petitions and C.A. No. 8774 of 2012 are, accordingly, dismissed.

All pending applications are disposed of.

.....J.
(S. RAVINDRA BHAT)

.....J.
(DIPANKAR DATTA)

New Delhi;
April 11, 2023.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 16551-16555/2012

(Arising out of impugned final judgment and order dated 08-09-2011 in TRC No. 53/2007 08-09-2011 in TRC No. 80/2008 08-09-2011 in TRC No. 106/2008 08-09-2011 in TRC No. 181/2008 08-09-2011 in TRC No. 245/2008 passed by the High Court of A.P. at Hyderabad)

BHARAT SANCHAR NIGAM LTD.
THRU ITS CHIEF GENERAL MANAGER

Petitioner(s)

VERSUS

THE STATE OF ANDHRA PRADESH REVENUE DEPARTMENT

Respondent(s)

WITH

SLP(C) No. 2940/2014 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING

IA No. 2/2013 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

IA No. 3/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 2943/2014 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING

IA No. 2/2013 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

IA No. 3/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 39498/2013 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING

IA No. 2/2013 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

IA No. 3/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 2481/2014 (XII-A)

(IA No. 4/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 3/2014 - PERMISSION TO FILE ANNEXURES)

SLP(C) No. 2479/2014 (XII-A)

(FOR [PERMISSION TO FILE ANNEXURES] ON IA 3/2014

FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA 4/2014

IA No. 4/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 3/2014 - PERMISSION TO FILE ANNEXURES)

SLP(C) No. 2942/2014 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING

IA No. 2/2013 - CONDONATION OF DELAY IN REFILING / CURING THE

DEFECTS

IA No. 3/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 25469/2015 (XII-A)

(IA No. 4/2015 - AMENDMENT IN CAUSE TITLE

IA No. 1/2015 - CONDONATION OF DELAY IN FILING

IA No. 2/2015 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

IA No. 3/2015 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 2947-2948/2014 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING

IA No. 3/2013 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

IA No. 5/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 39495/2013 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING

IA No. 2/2013 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

IA No. 3/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 39499/2013 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING

IA No. 2/2013 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

IA No. 3/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 2939/2014 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING

IA No. 2/2013 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

IA No. 3/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 2949/2014 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING

IA No. 2/2013 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

IA No. 3/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 6163/2016 (XII-A)

(IA No. 3/2016 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 24548/2015 (XII-A)

(IA No. 3/2015 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 25461/2015 (XII-A)

(IA No. 3/2015 - AMENDMENT IN CAUSE TITLE

IA No. 1/2015 - CONDONATION OF DELAY IN FILING

IA No. 2/2015 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS)

SLP(C) No. 39497/2013 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING

IA No. 2/2013 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

IA No. 3/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 2941/2014 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING

IA No. 2/2013 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

IA No. 3/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 2950/2014 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING

IA No. 2/2013 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

IA No. 3/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 26814/2015 (XII-A)

(IA No. 3/2015 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 16557-16562/2012 (XII-A)

SLP(C) No. 23093/2012 (XII-A)

SLP(C) No. 23096/2012 (XII-A)

SLP(C) No. 23097/2012 (XII-A)

SLP(C) No. 23095/2012 (XII-A)

SLP(C) No. 23094/2012 (XII-A)

SLP(C) No. 10543/2013 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING

IA No. 2/2013 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

IA No. 3/2013 - PERMISSION TO FILE ANNEXURES)

SLP(C) No. 30985/2012 (XII-A)

(IA No. 3/2012 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 30984/2012 (XII-A)

(IA No. 3/2012 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

C.A. No. 8774/2012 (XII-A)

SLP(C) No. 2945/2014 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING

IA No. 2/2013 - CONDONATION OF DELAY IN REILING / CURING THE DEFECTS

IA No. 3/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 2944/2014 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING

IA No. 2/2013 - CONDONATION OF DELAY IN REILING / CURING THE DEFECTS

IA No. 3/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 2946/2014 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING

IA No. 2/2013 - CONDONATION OF DELAY IN REILING / CURING THE DEFECTS

IA No. 3/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 33099/2012 (XII-A)

(IA No. 1/2012 - CONDONATION OF DELAY IN FILING)

SLP(C) No. 25462/2015 (XII-A)

(IA No. 1/2015 - CONDONATION OF DELAY IN FILING

IA No. 2/2015 - CONDONATION OF DELAY IN REILING / CURING THE DEFECTS

IA No. 3/2015 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 33102/2012 (XII-A)

(IA No. 1/2012 - CONDONATION OF DELAY IN FILING)

SLP(C) No. 39492/2013 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING

IA No. 2/2013 - CONDONATION OF DELAY IN REILING / CURING THE DEFECTS

IA No. 3/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 39491/2013 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING)

SLP(C) No. 39494/2013 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING

IA No. 2/2013 - CONDONATION OF DELAY IN REILING / CURING THE DEFECTS

IA No. 3/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 25468/2015 (XII-A)

(IA No. 4/2015 - AMENDMENT IN CAUSE TITLE

IA No. 1/2015 - CONDONATION OF DELAY IN FILING

IA No. 2/2015 - CONDONATION OF DELAY IN REILING / CURING THE DEFECTS

IA No. 3/2015 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 5879/2013 (XII-A)

SLP(C) No. 5880/2013 (XII-A)

(IA No. 3/2013 - PERMISSION TO FILE ANNEXURES)

SLP(C) No. 33108/2013 (XII-A)

SLP(C) No. 11718/2013 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING
IA No. 2/2013 - CONDONATION OF DELAY IN REFILING / CURING THE
DEFECTS
IA No. 3/2013 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 13390/2013 (XII-A)

(FOR ON IA 3/2013
IA No. 1/2013 - CONDONATION OF DELAY IN FILING
IA No. 2/2013 - CONDONATION OF DELAY IN REFILING / CURING THE
DEFECTS)

SLP(C) No. 39483/2013 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING
IA No. 2/2013 - CONDONATION OF DELAY IN REFILING / CURING THE
DEFECTS
IA No. 3/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 40117/2012 (XII-A)

(IA No. 1/2012 - CONDONATION OF DELAY IN FILING)

SLP(C) No. 10880/2013 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING
IA No. 2/2013 - CONDONATION OF DELAY IN REFILING / CURING THE
DEFECTS
IA No. 3/2013 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 39485/2013 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING
IA No. 2/2013 - CONDONATION OF DELAY IN REFILING / CURING THE
DEFECTS
IA No. 3/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 39484/2013 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING
IA No. 2/2013 - CONDONATION OF DELAY IN REFILING / CURING THE
DEFECTS
IA No. 3/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 39487/2013 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING
IA No. 2/2013 - CONDONATION OF DELAY IN REFILING / CURING THE
DEFECTS
IA No. 3/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 39486/2013 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING
IA No. 2/2013 - CONDONATION OF DELAY IN REFILING / CURING THE
DEFECTS)

IA No. 3/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 5244/2013 (XII-A)

(IA No. 1/2012 - CONDONATION OF DELAY IN FILING

IA No. 2/2013 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 39490/2013 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING

IA No. 2/2013 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

IA No. 3/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 39489/2013 (XII-A)

(IA No. 1/2013 - CONDONATION OF DELAY IN FILING

IA No. 2/2013 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

IA No. 3/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 11-04-2023 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE DIPANKAR DATTA

For Petitioner(s) Mr. S.. Udaya Kumar Sagar, AOR

Mr. Guntur Prabhakar, AOR

Mr. G. N. Reddy, AOR

Mr. Arijit Prasad, Sr. Adv.

Mr. C U Singh, Sr. Adv.

Mr. Mahfooz Ahsan Nazki, AOR

M/S. Venkat Palwai Law Associates, AOR

Mr. Rajiv Tyagi, AOR

Mr. Rajiv Tyagi, Adv.

Mr. Rohit Gupta, Adv.

Mr. Sumanto Ghosh, Adv.

Mr. Rahul Tyagi, Adv.

Ms. Shivani Tyagi, Adv.

Mr. Piyush Jha, Adv.

For Respondent(s) Mr. Arijit Prasad, Sr. Adv.

Mr. Mahfooz Ahsan Nazki, AOR

Mr. K V Girish Chowdary, Adv.

Mr. T Vijaya Bhaskar Reddy, Adv.

Mr. Polanki Gowtham, Adv.

Ms. Rajeswari Mukherjee, Adv.

Ms. Niti Richhariya, Adv.

Mr. Rajiv Tyagi, AOR
Mr. Rahul Tyagi, Adv.
Mr. Sumanto Ghosh, Adv.

Mr. V. Madhukar, Adv.
Mr. Mohit D. Ram, AOR
Ms. Monisha Handa, Adv.
Mr. Rajul Shrivastav, Adv.
Mr. Anubhav Sharma, Adv.

Mr. Punit Dutt Tyagi, AOR
Ms. Nisha Jha, Adv.

Ms. Shally Bhasin, Adv.
Dr. A.m. Singhvi, Sr. Adv.
Mr. Mahesh Agarwal,, Adv.
Mr. Maninder Singh, Adv.
Mr. M.s. Ananth, Adv.
Mr. Chaitanya Safaya, Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Karan Verma, Adv.
Mr. Varshini S, Adv.
Ms. Biswabara Dash,, Adv.
Mr. E. C. Agrawala, AOR
Ms. Biswabara Dash, Adv.
Mrs. Biswabara Dash, Adv.
Mr. Manjul Bajpai, Adv.
Mr. Biswabara Dash, Adv.
Mr. Manu Krishnan, Adv.
Mr. Abhinabh Garg, Adv.
Ms. Anwasha Padhi, Adv.
Mr. Archit Jain, Adv.
Mr. Soorya B, Adv.
Mr. Jafar Alam, Adv.
Ms. Shivani Khandekar, Adv.
Mr. Gokul Holani, Adv.
Ms. Ankita, Adv.

Mr. R. Chandrachud, AOR
Mr. S. S. Shroff, AOR
Mr. Hitendra Nath Rath, AOR

Mr. Rakesh Dwivedi, Sr. Adv.
Mr. Kumar Visalaksh, Adv.
Mr. Udit Jain, Adv.
Mr. Archit Gupta, Adv.
Mr. Praveen Kumar, AOR

Mr. Sriharsha Peechara, Adv.
Mr. Rajiv Kumar Choudhry, AOR
Ms. Pallavi, Adv.
Mr. Duvvuri Subrahmanya Bhanu, Adv.

Mr. Balbir Singh, A.S.G.
Mr. Mukesh Kumar Maroria, AOR
Mr. Rupinder Sinhmar, Adv.
Ms. Ruchi Gour Narula, Adv.
Mr. Aman Sharma, Adv.
Mr. Annirudh Sharma Ii, Adv.

Mr. B. Krishna Prasad, AOR

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

Applications seeking amendment of cause title are
allowed.

The special leave petitions and C.A. No. 8774 of 2012 are
dismissed.

All pending applications are disposed of.

(NEETA SAPRA)
COURT MASTER (SH)

(MATHEW ABRAHAM)
COURT MASTER (NSH)

(Signed order is placed on the file)