IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1172/2012

CHEIF GENERA MANAGER, BSNL **APPELLANT**

VERSUS

COLLECTOR OF CENTRAL EXCISE, BHOPAL **RESPONDENTS**

O R D E R

1. The issues involved in this appeal relates to classification of the product steel tubular transmission poles (Hamilton poles or tubes) manufactured by Bharat Sanchar Nigam Limited (for short “BSNL”) for the purpose of levy of Central Excise Duty, namely, whether the goods are classifiable under heading 7308.90 (structures / parts of structures, eligible for exemption) or under heading 7306.90 (tubes and pipes). Same is no more *res integra* in view of the law laid down by this Court in the matter of *India Metals and Ferro Alloys Ltd., Cuttack Vs. Collector of Central Excise, Bhubaneswar, 1991 Supp (1) SCC 125*.

2. However, the learned counsel appearing for the appellant, by drawing our attention to the circular No.A-28/1990 dated 27.09.1990 at Annexure-A1 would contend that the goods in question was classified under sub-heading 7308.90, which was later changed by circular dated 06.09.2000 vide Circular No.545/41/2000-CX at Annexure-A5. As such, the levy for the month of July and August, 2000 would amount to retrospective application, which is impermissible, and this fact has not been considered by the

authorities as well as by the Appellate Tribunal, namely, CESTAT. Hence, the learned counsel appearing for the appellant has prayed for same being set aside and levy being quashed, at least for the months of July and August, 2000.

3. *Per contra*, Mr. Raghavendra P Shankar, learned Additional Solicitor General of India appearing for the respondent, would support the impugned order and contends that the show cause notice itself is of the year 2001, and by circular dated 06.09.2000, the department has only reiterated the law laid down by this Court in *India Metals and Ferro Alloys Ltd., Cuttack* referred to supra. Hence, the question of retrospectivity would not arise.

4. Having heard the learned advocates appearing for the parties, and on perusal of the records, we are of the considered view that the contention raised by the learned counsel appearing for the appellant does not hold water.

5. A perusal of the show cause notice dated 25.07.2001 would clearly indicate that it is issued subsequent to the circular dated 06.09.2000, and even in the said circular, what has been stated is reiteration of the law laid down by this Court, namely, the goods in question is classifiable under the sub-heading 7306.90 and not under 7308.90. As such, the question of the levy being retrospectively being applied does not arise.

6. Even otherwise also, it can be noticed that this Court in the above-referred judgment has clearly held that the goods in question is classifiable under the sub-heading 7306.90, which judgment came to be rendered on 22.11.1990 and as such, the show cause notice issued on 25.07.2001 relating to levy for the period of July and

August, 2000 cannot be construed or held as being retrospectively. In that view of the matter also, we are of the considered view that there is no merit in this appeal. Accordingly, it stands dismissed.

7. Pending applications, if any, stands disposed of. Costs made easy.

..................J.
(ARAVIND KUMAR)

..................J.
(VIPUL M. PANCHOLI)

NEW DELHI;
JULY 16, 2026.

ITEM NO.110 COURT NO.12 SECTION XVII-A

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

Civil Appeal No(s).1172/2012

CHEIF GENERA MANAGER, BSNL Appellant(s)

VERSUS

COLLECTOR OF CENTRAL EXCISE, BHOPAL . Respondent(s)

IA No. 3/2012 - STAY APPLICATION

Date : 16-07-2026 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ARAVIND KUMAR
HON'BLE MR. JUSTICE VIPUL M. PANCHOLI

For Appellant(s) : Mr. K.C. Kaushik, Adv.
Ms. Shilpi Satyapriya Satyam, Adv.
Ms. Bhuvneshwari Pathak, AOR
Mr. Naman Kamboj, Adv.
Ms. Bhavya Aggarwal, Adv.

For Respondent(s) : Mr. Raghavendra P Shankar, A.S.G.
Mr. Gurmeet Singh Makker, AOR
Mr. Karan Lahiri, Adv.
Mrs. Pallavi Mishra, Adv.
Mrs. Nasandiya Singh, Adv.

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

Civil Appeal is dismissed in terms of the signed order placed on the file.

Pending application(s), if any, shall stand disposed of.

(NEHA GUPTA)
COURT MASTER (SH)

(AVGV RAMU)
COURT MASTER (NSH)