

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).4481/2009

(From the judgment and order dated 16/01/2009 in WA No. 629/2007
of The HIGH COURT OF KARNATAKA AT BANGALORE)

M/S BHARTI AIRTEL LTD.

Petitioner(s)

VERSUS

STATE OF KARNATAKA & ORS.

Respondent(s)

(With appln(s) for permission to file addl. documents and with prayer for interim
relief)

WITH

SLP(C) NO. 5464-5465 of 2009 - With appln. for exemption from filing c/c of the
impugned judgment and with prayer for interim relief and office report

Date: 02/03/2009 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.H. KAPADIA

HON'BLE MR. JUSTICE AFTAB ALAM

For Petitioner(s) Ms. Indu Malhotra, Sr.Adv.

Mr. Gopal Shankarnarayan, Adv.

Mr. N. Hussain, Adv.

Mr. Abhinav Agnihotri, Adv.

Ms. Shashi M. Kapila, Adv.

Mr. Vikas Mehta, Adv.

Mr. V. Sridharan, Adv.

Mr. G. Shiva Dass, Adv.

Mr. Alok Yadav, Adv.

Mr. M.P. Devanath, Adv.

For Respondent(s) Mr. K.G. Raghavan, Sr.Adv.

Mr. Kamath, Adv.

Ms. Anitha Shenoy, Adv.

Ms. Rashmi Nanakumar, Adv.

UPON hearing counsel the Court made the following
ORDER

The Special Leave Petitions are disposed of.

(S. Thapar)

(Madhu Saxena)

PS to Registrar

Court Master

The signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

S.L.P.(CIVIL) NO. 4481 OF 2009

M/S BHARTI AIRTEL LTD.

...APPELLANT (S)

VERSUS

STATE OF KARNATAKA & ORS.

...RESPONDENT(S)

WITH

S.L.P.(C) NO. 5464-5465 OF 2009

ORDER

The short question which arose for determination before the Division Bench of the High Court was whether Broadband connectivity for Data Transmission is exigible to tax under Karnataka Value Added Tax Act, 2003.

In our view the learned Single Judge was right in directing the assessee to exhaust statutory alternate remedy. Looking to the nature of the concept involved in these matters (in which technical evidence needs to be looked into and cross-examination of the experts is warranted) we are of the view that the matters need adjudication.

Accordingly, the impugned judgment is set aside. We direct the assessees herein to file statutory appeals before the First Appellate Authority within four weeks from today. On filing of the appeals the First Appellate Authority will hear and dispose of the appeals as expeditiously as possible, preferably within three months from today.

-2-

In the facts and circumstances of these cases, we direct the First Appellate Authority to hear and dispose of these appeals on merits uninfluenced by the observations of the High Court in the impugned judgment. The First Appellate Authority shall not insist on any further deposit of tax till the hearing and final disposal of the appeals before it and for a period of two weeks thereafter.

We further direct that the assessees before us shall file their returns in accordance with law without prejudice to their rights and contentions in the pending appeals.

The Special Leave Petitions are disposed of accordingly.

.....J.
[S.H. KAPADIA]

New Delhi,
March 02, 2009

.....J
[AFTAB ALAM]