

ITEM NO.101(PH)

COURT NO.3

SECTION XVII

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). 5059 OF 2007

UNION OF INDIA & ANR.

Appellant (s)

VERSUS

ASSN.OF UNIFIED TELECOM S.P.OF INDIA&ORS

Respondent(s)

(With appln(s) for interim Relief,impleadment and office report)

WITH
 Civil Appeal NO. 179-180 of 2008
 (With appln.s) for stay, permission to file additional documents
 and office report)
 Civil Appeal NO. 363 of 2008
 (With appln.s) for stay, permission to file additional documents
 and office report)
 Civil Appeal NO. 565-568 of 2008
 (With appln.(s) for permission to file additional documnts and
 office report)
 Civil Appeal NO. 1229-1230 of 2008
 Civil Appeal NO. 2065 of 2008
 (With appln.(s) for permission to file additional documnts and
 office report)
 Civil Appeal NO. 2479 of 2008
 (With appln.(s) for stay and office report)
 Civil Appeal NO. 1552 of 2009
 (With office report)
 Civil Appeal NO. 3868 of 2009
 (With appln.(s) for c/delay in filing appeal and office report)
 Civil Appeal NO. 7049 of 2010
 (With office report)
 Civil Appeal NO. 7062 of 2010
 (With office report)
 Civil Appeal NO. 7063-7064 of 2010
 (With office report)
 Civil Appeal NO. 7443 of 2010
 (With office report)
 Civil Appeal NO. 7446 of 2010
 (With office report)
 Civil Appeal NO. 7126 of 2010
 (With office report)
 Civil Appeal NO. 7444 of 2010
 (With office report)
 Civil Appeal NO. 7445 of 2010

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(With office report)
 Civil Appeal NO. 311-318 of 2008
 (With appln.(s) for impleadment and office report)
 SLP(C) NO. 1786-1787 of 2009
 (With office report)
 SLP(C) NO. 6641-6642 of 2010
 (With office report)
 Civil Appeal NO. 9646-9661 of 2010
 Civil Appeal NO. 10675 of 2010
 Civil Appeal NO. 10676 of 2010
 Civil Appeal NO. 2030 of 2011
 Civil Appeal NO. 2031 of 2011
 (With office report)

Civil Appeal NO. 2270 of 2011
(With appln.(s) for stay and with office report)
Civil Appeal NO. 3245 of 2011
(With appln.(s) for stay and office report)
Civil Appeal NO. 4430 of 2011
(With office report)
Civil Appeal Nos.5450-5451/2011
(With appln.(s) for stay and office report)

Date: 11/08/2011 These Appeals/SLPs were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE R.V. RAVEENDRAN
HON'BLE MR. JUSTICE A.K. PATNAIK

For Appellant(s)/
Respondent(s)

Mr. Soli J. Sorabjee, Sr. Adv.
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Ms. Bina Gupta, Adv.
Ms. Monika Singhal, Adv.
Ms. Nupur Pallavi, Adv.

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Mr. Rajan Narain, Adv.

Ms. Meenakshi Arora ,Adv

Mrs Anil Katiyar,Adv.

Mr. Sunil Kumar Jain,Adv.

Mr. Parmatma Singh,Adv.

Mr. Arun Kumar Beriwal,Adv.

Mr. Gaurav Kejriwal,Adv.

Mr. B.V. Balram Das,Adv.

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

Civil Appeal Nos.311-318/2008, 565-568/2008,
4430/2011, 10675/2010 and 10676/2010 are delinked for
being listed separately.

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Mr. Ramji Srinivasan, learned senior counsel resumed his arguments at 10.40 a.m. and concluded at 11.15 a.m. Thereafter Mr. Upamanyu Hazarika and Mr. Shyam Diwan, learned senior counsel, Mr. Gopal Jain, learned counsel and Ms. Meenakshi Arora, learned counsel made their submission. Thereafter Mr. Soli J. Sorabjee, learned senior counsel appearing for Department of Telecommunications (for short 'DoT') started his submissions in rejoinder at 12.20 p.m. and proceeded till the rising of the court.

During the course of hearing Mr. Soli J. Sorabjee, learned senior counsel placed on record the following stand of DoT:

"(1) The department's stand is that revenue from non telecom business which is entirely different from telecom business of the licensee is not included in the definition of GR (this is also the consequence of maintaining separate accounts).

(2) Interest and dividend which were specifically included in the definition of AGR/GR and mentioned in the Appendix-II at Page 349, Vol.II is to be included only to the extent the interest or dividend is attributable to that particular service area (license) at page 343, Vol II. This is a necessary consequence of the licence and Appendix-II being in respect of that

particular service area.

(3) In order to attribute interest to a particular service area the following formula of apportionment is to be applied:-

$$\frac{\text{Interest x Revenue from that licence area}}{\text{Total revenue}}$$

This necessarily follows from the obligation to provide reconciliation statement as stipulated in para 20.7 (pg.247. Vol.II)

It should be noted that the interest earned by the main corporate entity can never be reconciled with the A/cs of each service area unless the interest attributable to each area and other business adds up to the total interest earned by the corporate entity.

(4) At no stage the department seeks to levy the revenue share in respect of various licences held by the company on the same revenue receipt more than once.

(5) All discounts mentioned in the price list filed before TRAI are excluded. However alleged ad hoc discounts which are not reflected in the price list are not excluded."

Matters remained part-heard.

List the matters on

17.8.2011 as part heard.

(O.P. Sharma)

(M.S. Negi)

(Ravi P. Verma)

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Court Master Court Master AR-cum-PS