

2. The factual matrix of the case is that M/s. Bharat Sanchar Nigam Limited (BSNL), Unit-IX, Bhubaneswar, a Govt. of India enterprise is engaged in dealing Telecommunication Network. The dealer-assessee was assessed under Section 7(4) of the OET Act for the year 2004-05. Entry tax has been levied on the scheduled goods like telecommunication materials, D.G. sets, tower materials, cable fiber products, pipes, rubber goods, PVC goods etc. procured from other local areas and outside the State of Odisha amounting to ₹158,93,60,260.00 in assessment culminating to entry tax of ₹1,65,00,121.00. The dealer-assessee is seen to have deposited such amount of entry tax at the time of filing return. Accordingly, the dealer assessee was assessed to NIL in assessment. The Assessing Authority having levied entry tax on the scheduled goods imported from outside the State and those not manufactured in the State, the dealer-assessee preferred first appeal claiming refund of entry tax paid on scheduled goods procured from outside the State of Odisha. Since the first appeal resulted in affirmation of the order of assessment, the dealer-assessee preferred second appeal before this forum holding that the Hon'ble High Court of Odisha vide their order dated 04.03.2014 passed in W.P.(C) No.3985/2014 have directed the dealer-assessee to deposit 1/3rd of the admitted tax in the

monthly returns. Hence, ld. FAA is not right in confirming the order of assessment.

3. However, the matter as regards levy of entry tax on scheduled goods brought in from outside the territory of India and such goods brought from outside the State that not produced in Odisha has been set to rest consequent upon outcome of the verdict of the Hon'ble Apex Court vide order dated 28.03.2017 passed in case of the **State of Orissa Vs. Reliance Industries Ltd. and Others** in SLP (C) No.14454-14778 of 2008. In the aforesaid decision, the Hon'ble Court observes that a tax on entry of goods into local area for use, sale or consumption therein is permissible although similar goods are not produced within the taxing State.

4. In course of hearing, Mr. P. K. Harichandan, ld. Advocate appearing for the dealer-assessee files a memo seeking withdrawal of the appeal. The State raises no objection to this effect. Accordingly, the appeal is dismissed as being withdrawn.

Dictated and corrected by me.

**Sd/-
(Bibekananda Bhoi)
Accounts Member-I**

**Sd/-
(Bibekananda Bhoi)
Accounts Member-I**

I agree,

**Sd/-
(G.C. Behera)
Chairman**

I agree,

**Sd/-
(S.K. Rout)
2nd Judicial Member**