

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL  
NEW DELHI**

PRINCIPAL BENCH- COURT NO. I

**SERVICE TAX APPEAL No. 50418 of 2017**

(Arising out of Order-in-Original No. 46/PC/ST/BPL-ST/2016 dated 02.11.2016 passed by the Commissioner of Customs, Central Excise and Service Tax, Bhopal)

**MP Online Ltd.**

Nirupam Shopping Mall, 2<sup>nd</sup> Floor, Ahmedpur,  
Hoshangabad Road, Bhopal, M.P., 462026

**....Appellant**

Versus

**Principal Commissioner of Customs,  
Central Excise and Service Tax- Bhopal**

Bhopal, Madhya Pradesh

**....Respondent**

**WITH**

**SERVICE TAX APPEAL No. 51646 of 2018**

(Arising out of Order-in-Original No. 1/COMMR/ST/BPL-I/2018 dated 31.01.2018 passed by the Principal Commissioner of CGST and Central Excise Tax, Bhopal)

**MP Online Ltd.**

Nirupam Shopping Mall, 2<sup>nd</sup> Floor, Ahmedpur,  
Hoshangabad Road, Bhopal, M.P., 462026

**....Appellant**

Versus

**Principal Commissioner of Customs,  
Central Excise and Service Tax- Bhopal**

Bhopal, Madhya Pradesh

**....Respondent**

**AND**

**SERVICE TAX APPEAL No. 52763 of 2019**

(Arising out of Order-in-Original No. 35/Pr.CommrST/BPL-II/2019 dated 31.07.2019 passed by the Principal Commissioner of CGST and Central Excise Tax, Bhopal)

**MP Online Ltd.**

Nirupam Shopping Mall, 2<sup>nd</sup> Floor, Ahmedpur,  
Hoshangabad Road, Bhopal, M.P., 462026

**....Appellant**

Versus

**Principal Commissioner of Customs,  
Central Excise and Service Tax- Bhopal**

Bhopal, Madhya Pradesh

**....Respondent**

**APPEARANCE:**

Mr. Chirag Shetty, advocate for the appellant

Mr. Mehboob Ur Rehman, authorised representative of the department

**CORAM :**

**HON'BLE DR. RACHNA GUPTA, OFFICIATING PRESIDENT**

**HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)**

Date of Hearing: 25.08.2026

Date of Decision: 06.10.2026 .

**FINAL ORDER NOS. 51565-51567/2026****P.V. SUBBA RAO:**

Service tax appeal 50418 of 2017 assails the order of the Commissioner dated 02.11.2016 covering period October 2009 to September 2014 in which service tax was confirmed along with penalty on the appellant. The other two appeals pertain to the subsequent orders issued by the Commissioner:

| <b>Appeal No.</b> | <b>Period</b>                 | <b>Service Tax</b> | <b>Interest</b> | <b>Penalty</b>                | <b>Show Cause Notice</b> | <b>Impugned Order-in-Original</b> |
|-------------------|-------------------------------|--------------------|-----------------|-------------------------------|--------------------------|-----------------------------------|
| ST/50418/2017     | October 2009 - September 2014 | 19,77,25,602       | Not quantified  | 14,97,58,880 under Section 78 | 16.04.2015               | 02.11.2016                        |
| ST/51646/2018     | October 2014 - March 2016     | 12,73,16,427       | Not quantified  | Section 76                    | 07.03.2017               | 31.01.2018                        |
| ST/52763/2019     | April 2016 - June 2017        | 9,06,56,452        | Not quantified  | Section 76 and Section 77     | 16.04.2019               | 31.07.2019                        |

2. The first appeal covers both the pre-negative list regime, i.e., from October 2009 to 31.06.2012 and also the post negative list regime, i.e., from 01.07.2012 to September 2014. The second and the third appeals pertain entirely to the post negative list regime.

3. We have heard both learned counsel for the appellant and learned authorised representative for the department and perused the records.

The appellant is a public sector company and a joint venture of the Madhya Pradesh State Electronic Department Corporation (MPSCDC) and Tata Consultancy Services (TCS) formed to develop, maintain and manage Madhya Pradesh Government's e-governance portal [www.mponline.gov.in](http://www.mponline.gov.in) to facilitate providing web based services by the State Government to its citizens. It was established through a Government Order of the State Government which seeks e-governance of all government services to citizens by creating and IT infrastructure as

a single window electronic gateway and integrated all government departments. The Government Order contains model service level agreement and defines scope of services to be provided by the appellant, its responsibilities and the consideration received by the appellant. The nature of services to be provided to the government to its citizens through the portal, inter alia, included registration of birth, marriage, issue of departmental certificates such as nativity, caste, death, issue of driver's licenses, providing electricity or water connection, collection of utility bills, redressal of grievances etc. What is in dispute is the exigibility of service tax and the consideration received by the appellant in the following revenue streams:

- a) **Government services:** For the services provided by the government departments to the citizens the appellant was to collect statutory fees from the citizens and transfer it to the government treasury in one day. In the process the appellant had retained the amount for a day and earned interest thereon.
- b) **Educational services:** The appellant provided services to recognised educational institutions for admissions, and conducting examinations for collecting fees, etc. It was required to deposit the fees so collected within a period of five days with the concerned institutions.
- c) **Bill collection services to corporations such as BSNL, Airtel, LIC, SBI Life etc:** The appellant collected outstanding bills/premiums on behalf of these companies and was required to remit the same to the concerned corporations after one day.
- d) **Miscellaneous:** The appellant had entered into service level agreement with the Madhya Pradesh Urban Services Corporation (MPUSD) to provide data digitisation services including development of software to enable payment of statutory dues such as water tax, property tax and for applications for birth or death certificates. These

services were to be provided in the financial year 2009-10 and 2010-11 for which a separate consideration was payable to the appellant. No services were provided to the citizens in this regard and no portal charges were recovered. After the development of this software application, financial services were provided to the citizens by the government, the portal charges became part of the government services enumerated above.

The appellant had established a network of kiosks so as to reach the citizens at their doorsteps as required by the MP government. For appointing the kiosks, the appellant entered into a tri-partite agreement with the kiosk owners and the MP government. The kiosk operators were youth having limited education but who could operate computer systems. The appellant collected an initial registration fee from the kiosk operators and also annual franchise fee. It also received security deposit from the kiosk operator which enabled the kiosk operator to collect government charges, education fee, utility bills etc. to the extent of the security deposit.

e) **Interest on FDs:** The appellant is required to pay to the government departments, educational institutions, utility company etc. the amount collected on the same day or the next day of collection or in some cases within five days. This delay resulted in the appellant having surplus funds which it had deposited in fixed deposits earned interest.

4. The demand of service tax for the pre negative list period (before 01.07.2012) is on the ground that the appellant had provided services under Online Information and Database Access or Retrieval service (OIDAR). For the period of post negative list, the demand is on the ground that services provided were not in the negative list.

5. **Submissions of the appellant:**

a) For the period upto 30.06.2012, the portal charges received by the appellant for providing IT infrastructure to the government and educational institutions was in the nature of business support services and it was not in the nature of OIDAR. However, such service is chargeable to service tax only if support service is provided to business or commerce. In this case, the appellant had provided services to the MP government and to recognised boards and universities which cannot be considered as institutions of business and commerce. Therefore, no service tax was payable on portal charges so received.

b) Data digitisation services provided by the appellant was to enable the government to provide services to the citizens and allow the portal income. This development of IT infrastructure by the appellant does not fall in any category of taxable services because it was not meant to support business or commerce but it was meant to support the sovereign functions of the state government.

c) Commercial income was received from companies such as Airtel, BSNL, LIC and SBI Life which was chargeable to service tax and the appellant had collected service tax on the commission received from these companies and under the category of Business Auxiliary Service (BAS) and paid the same to the exchequer and reported it in ST-3 returns.

d) Franchise fees. Registration charges and franchise fees were received by the appellant on kiosks, the appellant had deposited service tax under the category of franchise services and reported the same in the ST-3 returns.

e) Interest on FDs is a purely financial transaction which is not taxable under any category.

f) For the period after 01.07.2012, the portal income was on account of provision of services to educational institutions and no service tax was

payable as it was covered by Exemption Notification No. 25/2012-ST dated 20.06.2012 (Entry No. 9)

g) The appellant had duly reversed proportionate amount of CENVAT credit under rule 6(3) of the CENVAT Credit Rules, 2004 on the commission income which the appellant had received for collection of utility bills, premia, etc. and reported the same in ST-3 returns.

h) On franchise fee also the appellant paid service tax and reported the same in its returns.

i) Interest on FDs, being in the negative list under section 66D(n)(i) of the Finance Act was exempted and no service tax was paid for the reason.

j) The first show cause notice issued invoking extended period of limitation, the demand was made under the heads OIDAR, data digitisation and interest on fixed deposits.

| Issue                     | Period                        | Demand              | ST Paid                                                             |
|---------------------------|-------------------------------|---------------------|---------------------------------------------------------------------|
| OIDAR                     | October 2009 - September 2014 | 18,27,22,690        | 4,79,66,722<br>Exempt from 01.07.2012 (Non Taxable till 30.06.2012) |
| Data Digitization         | October 2009 - March 2011     | 6,79,158            | Nil (Non taxable)                                                   |
| Interest on fixed deposit | October 2009 - September 2014 | 2,19,71,468         | Nil (Non taxable)                                                   |
| <b>Total</b>              |                               | <b>20,53,73,316</b> | <b>4,79,66,722</b>                                                  |

k) For the second show cause notice the demands were made as follows:

| Issue                                                                  | Period                    | Demand              | ST Paid            |
|------------------------------------------------------------------------|---------------------------|---------------------|--------------------|
| Portal income provided to educational institution                      | October 2014 - March 2016 | 7,07,87,638         | Nil (Exempted)     |
| Portal income provided to private companies and Government Departments | October 2014 - March 2016 | 4,52,39,994         | 4,52,39,994        |
| Interest on fixed deposit                                              | October 2014 - March 2016 | 1,12,88,795         | Nil (Non taxable)  |
| <b>Total</b>                                                           |                           | <b>12,73,16,427</b> | <b>4,52,39,994</b> |

l) For the third show cause notice the demands were made as follows:

| <b>Issue</b>                                      | <b>Period</b>          | <b>Demand</b>      | <b>ST Paid</b>    |
|---------------------------------------------------|------------------------|--------------------|-------------------|
| Portal income provided to educational institution | April 2016 - June 2017 | 8,05,61,546        | Nil (Exempted)    |
| Interest on fixed deposit                         | April 2016 - June 2017 | 1,00,94,906        | Nil (Non taxable) |
| <b>Total</b>                                      |                        | <b>9,06,56,452</b> | <b>NIL</b>        |

m) The disputed services are not covered under OIDAR services because the appellant had not provided any online data to anybody. In fact the data was of the government itself and the government department used their own data. The appellant only created a portal which facilitated the government departments to easily access and use their own data and conduct operations. When the citizens accessed the government data, the data was not owned by the appellant and it only facilitated citizens to collect data from the government portal. No service charges were levied for browsing and collecting the data.

n) The appellant had provided services to facilitate the citizens to interact with the government to pay government fee, etc. it was neither and OIDAR service nor was it a business support service because it was only a service provided to assist the government and its sovereign functions.

o) Similarly, when the services were provided to educational institutions also, it was not a service provided to any business entity.

p) When the services were provided to other organisations such as SBI, Airtel, BSNL etc, these were commercial entities and therefore, the commissioner was chargeable to service tax under the head of business support services or business auxiliary services or services not being in the negative list after 01.07.20012 and appellant had paid service tax on such services.

q) As far as the commission received from the kiosks is concerned, the appellant had paid service tax on the same.

r) The interest on FDs is not consideration for service and, therefore, is not exigible to service tax.

6. In view of the above entire demand in all the three show cause notices should have been dropped but has been wrongly confirmed in the impugned orders. In view of the above, the impugned order may be set aside and appeals may be allowed.

7. Learned authorised representative for the Revenue vehemently supported the impugned order and asserted that the appellant had provided OIDAR services and data digitisation services before 01.07.2012 and, therefore, service tax was payable. After 01.07.2012 these services are chargeable to service tax as they were not in the negative list. He also asserted that extended period of limitation was correctly invoked as the appellant had failed to disclose the correct classification and pay service tax in its ST-3 returns and the department discovered the suppression only during audit. He further asserted that under self-assessment, the assessee is required to make a true and complete disclosure and the appellant had not. He prayed the impugned order be upheld and the appeals may be dismissed.

8. We have considered the submissions advanced by both sides and perused the records. The well settled legal principle is that OIDAR services can be alleged to have been provided only if the data belongs to the service provider. The service provider cannot provide access to data which itself do not possess. In this case, the appellant had provided only a network through which the data of the government of Madhya Pradesh could be accessed by the officers of the government of Madhya Pradesh and by the citizens. Therefore, it cannot be said that the appellant had provided any OIDAR services. This was the decision in **United Telecom**

**Ltd vs Commissioner of Service Tax**<sup>1</sup>. Revenue's appeal against this decision of the Tribunal was rejected by the Karnataka High Court. The Larger Bench of this Tribunal has also followed this decision in **Air India Ltd vs Commissioner of Service Tax, New Delhi**<sup>2</sup>.

9. As far as the service provided to government departments for collection of utility bills etc., and to the universities and educational institutions before 01.07.2012 is concerned, these were support services but they were not for business entities and, therefore, they would not fall under the category of business auxiliary service or business support services. Therefore, no service tax was payable on them.

10. After 01.07.2012, all services became exigible to service tax except those in the negative list. Services provided to universities were covered by Exemption Notification No. 25/2012-ST Entry No. 9(d) and, therefore, no service tax was payable on them even after 01.07.2012. As far as services provided to corporations such as BSNL, Airtel, LIC, SBI Life etc. is concerned, they were chargeable to service tax, both before and after 01.07.2012. The appellant submits that it had paid service tax on the commissions received on those services. As far as the fees charged from kiosk operator is concerned, it was construed as a franchise fee and service tax was paid by the appellant both before and after 01.07.2012.

11. The last item of demand is the interest earned on Fixed Deposits by the appellant. Since the appellant collected utility bills payments etc. and was required to transfer the amount only after one day or five days, the appellant had, at any point of time a lot of money which was in its fixed deposits. It earned interest on the same. The departments seeks to charge service tax from the interest so earned. It must be remembered

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1. 2009 (14) STR 212 (Tri. Bang.)  
2. 2013 (30) STR 458 (Tri-Del)

that the interest is the time value for money. It is the consideration received for the money deposited with the bank and it is not consideration received for any service. Therefore, it is not exigible to service tax either during the pre negative list or post negative list regime.

12. In view of that we find that all the three appeals need to be allowed and the orders impugned need to be set aside. All three appeals are allowed and the impugned orders are set aside.

**(DR. RACHNA GUPTA)**  
**OFFICIATING PRESIDENT**

**(P.V. SUBBA RAO)**  
**MEMBER (TECHNICAL)**

Apoorva