

## ***That's the big lesson from the Sunil Mittal case***

Given how, had things gone in the direction the then government and the courts were pushing it, India's telecom czar Sunil Mittal was in danger of being charge-sheeted or even arrested in a corruption case, the special court's dismissal of the case comes as a major relief; not just to Mittal, but to Shyamal Ghosh, the hapless telecom secretary who has been hounded for the better part of four years in the case. But it wasn't just an ordinary dismissal since, while doing so, the court has passed major strictures on the CBI and said 'the charge sheet is a distorted and fabricated document, based on deliberately redacted and garbled facts ... to create an impression of a grave crime, where there is none'. While the court has said the charge sheet 'has been filed for extraneous reasons', finance minister [Arun Jaitley](#) wrote in a blog post that while the CBI officers were guilty of fabricating charges, this was done 'at the behest of Shri Kapil Sibal' who wanted to 'unearth an NDA scam' and included 'the Late Pramod Mahajan ... as a deceased accused'. Indeed, the case will get a true burial only when the CBI officials are charge-sheeted and prosecuted, and the reasons for their behaviour exposed.

The case revolves around [Bharti Airtel](#) and Hutch getting additional spectrum in Delhi and Mumbai respectively in 2002. While both firms had moved from 4.4 MHz to 6.2 MHz around 1997, when the revenue share arrangement came into force and the details were finalised in September 2001, Airtel's SUC was fixed at 3%—this was fixed at 2% for those with 4.4 MHz of spectrum. And when Airtel moved to 8 MHz—based on a decision by the late Pramod Mahajan in February 2002—the SUC rose to 4%. At that point, Mahajan also decided to allow up to 10 MHz, subject to subscriber-linked criterion to be decided later, but at the same 4% SUC. This is what CBI alleged was done to benefit Airtel which had an IPO around that time—CBI says the SUC for 10 MHz should have been raised to 5% as there was a 1% increase with every extra tranche of spectrum.

But as Airtel argued, its IPO had been oversubscribed 2-3 days before Mahajan's decision and, in any case, it had got only 8 MHz under Mahajan and its SUC was raised to 4% when this happened. It was only in 2003 that it got to 10 MHz. Indeed, till the A Raja scam report came out—8 years after the so-called Mittal-Mahajan scam—no minister in the UPA felt the need to raise the SUC for 10 MHz and above; indeed, the regulator had been arguing there was a need to cap SUC since it was too high. As for CBI's charge that SUC was always raised 1% for every spectrum tranche, the 2001 WLL-spectrum policy allowed telcos to move from 2.5 MHz to 3.75 MHz and then to 5 MHz with the SUC flat at 2%. Surely these inconvenient truths needed to have been studied by seniors in the CBI as well as in the telecom ministry before such serious

charges were made? Or was it that, as Jaitley claims, since the idea was to say the NDA also had lots of telecom scams—to counter the UPA's Raja one—such niceties didn't really matter? With such a drubbing from the courts, the good news is, CBI bosses will be a lot more careful about doing political bidding in the future.