

indus Communications Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-16-2005

Reported in : (2005)(186)ELT336TriDel

Judge : M T K.C.

Appellant : indus Communications

Respondent : Commissioner of Central Excise

Judgement :

1. Appellants are seeking stay of recovery of Rs. 24,337/- on the ground that the amount of service tax has been wrongly calculated by the lower authorities. They are giving advertisements through newspapers or periodicals on which they get 15% commission of the total value of the advertisements and they have paid service tax on 15% of the commission received by them. The case of the department is that the service tax should be paid on the full value of the advertisements.

2. Shri S.P. Aggarwal, C.A., appearing for the applicants produced a circular issued by the Advertising Agencies Association of India to its members whereby it is clarified that "on all bills for advertisements in the print media (newspapers, periodicals, etc.) and the electronic media (Doordarshan, private TV channels, All India Radio, etc.) the service tax at 5% is leviable only on the agency commission component of the bill. In other words, 85% of these bills which constitute payments due on the above-mentioned media, are to be excluded from the levy of Service

Tax." It was pleaded that in view of this circular, they have paid service tax at 5% on the agency commission at 15% of the bill and they are not liable to pay service tax at 100% of the value of the bills as 85% of the bills constitute payments due to media.

4. Considering the submissions made by the appellants, I find that there is prima facie case made out by them for staying recovery of the disputed amount. In view of this, the recovery of the disputed amount is stayed and the appeal is posted for final hearing on 13-7-2005.

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