

Emerson Process Management Power Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-29-2005

Judge : N T C.N.B., M Ravindran

Appellant : Emerson Process Management Power

Respondent : Cce

Judgement :

2. Service Tax demand is in relation to supply of electrical control system for GAIL's UP Petrochemicals Project. The contention of the learned Counsel is that the supply was in terms of a works contract for manufacture, installation and commissioning of the specified equipment and it is well settled (Daelim Industrial Co. Ltd. v. CCE, Vadodara- (T) that a work contract cannot be divided and part of it subjected to service tax. Learned Counsel also points out that the demand has been issued without service of any show cause notice.

3. Prima facie appellant's contract appears to be a works contract not rather than composite contract for supply of goods and services. This Tribunal's decision in the case of Daelim Industrial Co. Ltd. which was confirmed by the Hon'ble Supreme Court, appears to cover the present case in favour of the assessee. In view of this, requirement for pre-deposit is waived and recovery is stated till the disposal of the appeal.