

Cce Vs. Moser Baer India Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-31-2005

Judge : S Kang, Vice, M T K.C.

Appellant : Cce

Respondent : Moser Baer India Ltd.

Judgement :

2. The Revenue filed this appeal against the order-in-appeal passed by the Commissioner (Appeals). In the impugned order, the Commissioner (Appeals) while confirming the demand of Service Tax proportionate amount into two parts i.e. 50% towards installation, commissioning and final acceptance test and 50% towards technical assistance. The Revenue filed this appeal against this finding. The contention of the Revenue is that this proportionate against the evidence on record and that the respondents are liable to pay Service Tax in respect of the entire amount.

3. The Revenue also made a prayer in the appeal for enhancement of penalty.

4. The respondent brought to our notice that the Tribunal in the appeal filed by the appellant against the same impugned order set aside the demand on the ground that prior to 16.8.02 the appellants are not liable to pay any Service Tax and set aside the demand of Service Tax, the decision of the Tribunal reported as 2005 TIOL 786.

5. As the demand has already been set aside by the Tribunal on appeal filed by the appellants, therefore, the Revenue against the same impugned order challenging the proportionment amount and for enhancement of penalty is dismissed as infructuous.

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