Transport Solution Group Vs. Commissioner of C. Ex.

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SooperKanoon Citation : sooperkanoon.com/40893

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Nov-25-2005

Judge : J Balasundaram, Vice-, A M Moheb

Appellant : Transport Solution Group

Respondent : Commissioner of C. Ex.

Judgement :
1. The application for waiver of pre-deposit of service tax of Rs. 17,77,448/- (Rupees Seventeen lakhs seventy-seven thousand four hundred forty-eight only) and penalty of equal to tax under Section 76 + Rs. 2,000/- (Rupees two thousand only) under Section 77 of the Finance Act, 1994, arises out of the order of the Commissioner of Central Excise (Appeals) who has upheld the levy of service tax holding that the applicants are rendering taxable service as 'rent-a-cab' scheme operators.

3. The contention of the applicants is that they do not own the vehicles which are used to pick-up and drop persons at specific points, that they have entered into an agreement both with the rent-a-cab scheme operator and with their customers and they are not liable to pay service tax as they are not rent-a-cab scheme operators within the meaning of this expression for the purpose of levy of service tax. We do not find prima fade force in the submission having regard to the definition of rent-a-cab scheme operator and prima facie there is no requirement that the rent-a-cab operator should himself own the vehicles which are rented out. In these circumstances, we direct pre-deposit of Rs. 4,00,000/-(Rupees four lakhs only)

towards service tax within a period of eight weeks from today and on such deposit, pre-deposit of balance tax and penalty shall stand waived and recovery thereof stayed pending the appeal. Failure to comply with this direction shall result in vacation of stay and dismissal of appeal without prior notice.