Matsa Security Services (i) P. Vs. Commissioner of C. Ex.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Nov-25-2005

Judge : J Balasundaram, Vice-, A M Moheb

Appellant : Matsa Security Services (i) P.

Respondent : Commissioner of C. Ex.

Judgement :

1. The application for waiver of pre-deposit of service tax of Rs. 12,00,291/- (Rupees twelve lakhs two hundred ninety-one only) confirmed against the applicants herein for the period 16th October 1998 to September 2002 & October 2002 to March 2003 and penalty of amount equal to service tax imposed under Section 78, penalty of Rs. 500/-(Rupees five hundred only) under Section 75A and penalty of Rs. 100/- (Rupees one hundred only) per day under Section 76 + penalty of Rs. 1,000/- (Rupees one thousand only) under Section 77 of the Finance Act, 1994, arises out of the order of the Commissioner of Central Excise (Appeals), Mumbai, who has dismissed the appeal filed by the applicants against the order of the Assistant Commissioner confirming the service tax demand, on the ground of non-compliance with his direction for pre-deposit of 50% of duty and penalty.

3. The demand of service tax arises on the ground that the applicants had provided security services to various clients and were, therefore, required to pay service tax due on the taxable service.

4. The applicants submit that they have already deposited approximately Rs. 77,000/- (Rupees seventy-seven thousand only) towards the service tax. It is open to them to produce proof of payment of the amount of Rs. 77,000/-(Rupees seventy-seven thousand only) as stated by them and then pay the balance to reach the level of 50% of the service tax due.

No ground for total waiver has been made out by the applicants who should have complied with the order of the Commissioner (Appeals) after their application for modification was dismissed. We, therefore, put them to the same terms by directing pre-deposit of 50% (50 per cent) of the service tax amount within a period of eight weeks from today and on such deposit, pre-deposit of balance tax and the entire penalties shall stand waived and recovery thereof stayed pending this appeal. Failure to comply with this direction shall result in vacation of stay and dismissal of appeal without prior notice.