

India Colour Lab Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-19-2005

Reported in : (2006)(104)ECC594

Judge : M T K.C.

Appellant : India Colour Lab

Respondent : Cce

Judgement :

1. The appeal is admitted. The applicants were providing photography services. They were providing the service to the customers and they were also receiving exposed photographic films from other dealers for developing. They have paid the service tax on the charges received from the customers to whom photography service is provided. They have shown the amount of developing of exposed films received from the dealers in the ST-3 returns but they have not paid any tax on this service although the amount was shown in Col.5 of their Return as they were under the impression that the service tax will be paid by the dealers who had sent the exposed films to them. Since the amount which they have collected from the customers is shown in Col.5 of ST-3 Return, therefore, extended period may not be applicable as they have not suppressed the facts. This plea of the applicant was opposed by the Revenue on the ground that Col.5 of the Return is for "amount of service tax adjusted in terms of Sub-rule (3) of Rule 6 of Service Tax Rules 1994". From the figures given in this Col.5. it cannot be made out whether the applicant has paid any service tax or not paid service tax on that amount.

Therefore, the Revenue has correctly applied the extended period.

2. On examination of arguments of both the sides, I find that the matter is arguable. Therefore, the applicants are directed to pre-deposit an amount of Rs. 10,000/- (Rupees Ten Thousand Only) within a period of 4 weeks and report compliance on 27.1.96. On such deposit, recovery of balance amount is waived for hearing the appeal.

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