

New Industrial Security Force Vs. C.C.E.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-13-2006

Reported in : (2006)(106)ECC408

Judge : S Kang, Vice-, S T T.V.

Appellant : New Industrial Security Force

Respondent : C.C.E.

Judgement :

2. Appellant filed this appeal against the order in appeal passed by the Commissioner (Appeals). The appellant is a Security Agency and liable to pay Service Tax in respect of the services provided by them.

In the impugned order the Service Tax of Rs. 1,12,856/- was confirmed after taking into consideration the gross amount charged by the agency from the clients for services rendered with the security. The contention of the appellant is that they are liable to pay the service tax on the amount received by them as commission for providing security services. The appellant also pleaded that they started their business as security agency on October, 1998 and being new in the field, they are under the impression, that they were to pay only in respect of commission charged by them and they had already paid on the service tax on the account of commission charged by them. Therefore, the penalty is excessive.

3. The contention of the Revenue is that as per the provisions of Section 67 of the Finance Act, the taxable service in relation to the service provided by Security agency to the client is the gross amount charged by such agency from the client. Therefore, appellants are liable to pay service tax on the gross amount on the commission received by them.

4. We find that the provisions of Section 67 of the Finance Act are clear about the value of taxable service in relation to service provided by the security agency. The section provides that gross amount charged by such agency from the client is relevant for calculating the service tax. In these circumstances. We find no infirmity in the impugned order whereby the demand is confirmed. However, taking into consideration the facts and circumstances of the case the consolidated penalty of Rs. 50,000/- (Rupees Fifty thousand only) will meet ends of the justice, otherwise the impugned order is upheld. The appeal is disposed of as indicated above.

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