Commissioner of Central Excise Vs. Handa Disc

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-06-2006

Judge : S Kang, Vice-, N T C.N.B.

Appellant : Commissioner of Central Excise

Respondent : Handa Disc

Judgement :

2. The Revenue filed this appeal against the order-in-appeal passed by the Commissioner (Appeals) whereby the demand of differential amount of Service Tax was dropped.

3. The respondent is a cable operator and liable to pay Service Tax under Section 63 of the Finance Act.

4. The respondent admitted that they were charging Rs. 135/- p.m. per connection from their customers and this amount includes Rs. 10/- per connection with entertainment tax. The respondents were paying Service Tax after taking into consideration the monthly charges collected from their customers.

5. The Revenue raised a demand of differential duty on the ground that some enquiries were conducted which shows that respondent is charging @ Rs. 150/- p.m. from their customers.

6. The Commissioner (Appeals) in the impugned order held that there is no evidence on record produced by the Revenue which shows that respondents were

charging @ Rs. 150/- p.m. from their customers.

7. In the present appeal also Revenue has not produced any evidence that respondents were charging @ Rs. 150/- p.m. Hence we find no merit in the appeal. The respondent admitted the fact that they were paying Service Tax after taking into consideration the monthly charges @ Rs. 135/- p.m., hence it is made clear that if Service Tax is not paid after taking into consideration monthly charges @ 135/- p.m., the Revenue is at liberty to recover the amount. The appeal is disposed of as indicated above.