

Fag Precision Bearings Ltd. Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jan-08-2007

Reported in : (2007)10STJ116CESTAT(Mum.)bai

Judge : K Kumar

Appellant : Fag Precision Bearings Ltd.

Respondent : Commissioner of Central Excise

Judgement :

2. The Id. Counsel for the appellant submitted that the appellant is a service availer and not a service provider. He submitted that as per the show cause notice dated 12.1.99 it would be seen that no service tax was demanded from the appellant. The Id. Counsel interalia contended that the show cause notice has been drawn by the Deputy Commissioner and as such action of dropping show cause notice as validated by the Parliament, by way of amendment to the Finance Act, 2000. Any action taken to revise the Validating Act of the Parliament would amount excessive usage of powers by the Commissioner and would also amount to an Act which is illegal and contrary to the law.

3. The Id. JDR appearing on behalf of the Revenue has reiterated the impugned order.

4. After hearing and perusal of the records, I find that the main ground of the Id. Counsel is that the levy of service tax on the appellant is illegal. This needs to be

looked into by the Commissioner in the light of the decision of Hon'ble Supreme Court in the case of Mafatlal Industries Ltd. thereof. I accordingly remand the matter to the Commissioner for fresh adjudication and to pass a speaking order after taking into consideration para 104 of the above decision.

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