

Prashanti Agencies Vs. Commissioner (St) Central Excise

Prashanti Agencies Vs. Commissioner (St) Central Excise

SooperKanoon Citation : sooperkanoon.com/44665

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jan-24-2007

Reported in : (2007)9STJ120CESTAT(Mum.)bai

Judge : A Wadhwa, V T M.

Appellant : Prashanti Agencies

Respondent : Commissioner (St) Central Excise

Judgement :

1. Demand of service tax stands confirmed against the appellant as Clearing and Forwarding Agents by holding that they were acting as consignment sales agent of M/s. Reliance Industries Ltd. and were appointed Del Credere Agent of M/s. Reliance Industries.

2. The appellants contention duly represented Shri Rajiv Luthia Advocate for the appellant and Shri P.K. Katiyar Ld. SDR for the respondents in terms of the agreement entered into by the appellant with M/s Reliance Industries Ltd. they are appointed as Del Credere Agent, whose job is to promote the sales of the principals product and to inspire the customers to purchase the product by placing necessary orders. Such orders procured by the firm from their customers were complied with by M/s. Reliance Industries by supplying the product directly to the customers. Delivery challan and invoices and other documents on the customers was being raised by M/s. Reliance Industries and the appellants were entitled to commission only after the sale proceeds were realized by M/s. Reliance

Industries. As such, it is their contention that they never deal with the goods and cannot be held to be clearing and forwarding agents.

3. After appreciating the contentions raised by the Ld. Advocate and after going through the impugned order, we find that the Tribunal in the case of Raja Rajeshwari Intel, Polymers (P) Ltd. v. CCE Bangalore 2005 ISTJ 1025 (CESTAT-Bangalore) has held that Del Credere Agents do not fall under the category of Clearing & Forwarding Agents and as such services rendered by them cannot fall under the said category.

Reference is also made to Larger Bench decision of the Tribunal in the case of Larsen & Toubro Ltd. reported in 2006 (3) STR 321 (Tri.LB) laying down that commission agents booking orders on commission basis and not dealing with the goods cannot be held to fall under the category of Clearing and forwarding agents.

Inasmuch as, the issue stands decided by the above decision of the Tribunal, we set aside the impugned order and allow the appeal with consequential relief to the appellants.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com