Kamdhenu Ispat Ltd. Vs. Cce

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SooperKanoon Citation : sooperkanoon.com/44676

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jan-25-2007

Reported in : (2007)9STJ72CESTATNew(Delhi)

Judge : S T T.V.

Appellant : Kamdhenu Ispat Ltd.

Respondent : Cce

Judgement :

1. In these stay applications, it is found that demand has been raised by the Department against the applicant for a sum of approximately Rs. 4.75 lakhs out of which the applicant has already pre-deposited Rs. 2 lakhs for the purpose of hearing the appeal before the lower authorities. It is has been argued by the learned Counsel that the Department has interpreted the activities of manufacturing and selling Kamdhenu CID Bars as "non-taxable service". It was stressed by the learned Counsel that there is no service element involved in the manufacturing and selling of such goods which, according to him, was a purely commercial activity of production of goods. According to him, the learned Commissioner (Appeals) has erred in his conclusion of treating the activities of manufacturing and selling as "service", though not taxable.

3. Heard both sides and perused the records. As the applicant has already deposited Rs. 2 lakhs against the demand of approximately Rs. 475 lakhs as pre-deposit, no further pre-deposit is required for the purpose of hearing. The stay

application is, therefore, allowed.