Nyco S.A. Vs. Commissioner of C. Ex.

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SooperKanoon Citation : sooperkanoon.com/44821

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-12-2007

Judge : N T C.N.B., M Ravindran

Appellant : Nyco S.A.

Respondent : Commissioner of C. Ex.

Judgement :
1. Heard both sides and perused the records. The submission of the Sr.

learned Counsel of the applicant is that the revenue authorities had erroneously treated the know-how transfer agreement as a consulting engineering service. It is being pointed out that the impugned findings are contrary to decision of this Tribunal in the case of Pfizer Ltd. .

2. The perusal of the agreement brings out that the agreement is "to pass on the know-how as available with and used by NF in its own commercial production, as per the phased programme, to manufacture the Base Stocks and Finished Products as listed in Annexures I, II & III with the provision for the list to be expanded as mutually agreed from time to time between NF and JVC." 2.1.2 of the collaboration agreement.

3. The finding in the impugned order does not seem to be sustainable.

In view of the above legal position, the stay applications are allowed and recovery stayed till disposal of appeals.