

Prabha Telecommunications Vs. C.C.E.

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SooperKanoon Citation : sooperkanoon.com/44886

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-19-2007

Reported in : (2007)10STJ40CESTATNew(Delhi)

Judge : N T C.N.B., P Das

Appellant : Prabha Telecommunications

Respondent : C.C.E.

Judgement :

1. Heard both sides and perused the record. The service tax demand is in regard to services provided by the appellant to telephone customers.

2. The submission is that the appellant was granted only an EPABX exchange and the call charges collected were passed on to BSNL alongwith service tax. Bills of BSNL have been produced by way of proof. The submission is that BSNL was liable to deposit the service tax and that was being done.

3. A portion of the demand is on installation and maintenance charges.

The submission is that these charges are not telecommunication charges and therefore, no taxes are attracted. It is also pointed out that no tax was collected by the appellant on this count. Prima-facie, there is merit in the appellant's contention.

4. In view of what is noted above, stay application is allowed and recovery stayed till the disposal of the appeal.

