

**Sbec Sugar Ltd. Vs. Cce**

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**SooperKanoon Citation :** [sooperkanoon.com/44923](http://sooperkanoon.com/44923)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Feb-22-2007

**Reported in :** (2007)(119)ECC306

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

**Appellant :** Sbec Sugar Ltd.

**Respondent :** Cce

**Judgement :**

2. The challenge is to levy of service tax on the services rendered by the appellant treating those services as that of a clearing and forwarding agent.

3. In adjudication it was held that the services rendered by the appellant would be in the nature of 'business ancillary services' which came to be taxed from 1.7.03, but the order held "that was only putting under most specific category and remain covered as clearing and forwarding agent services for the previous period." In the first appeal, the Commissioner without going into the finding of the original authority, held that the service rendered fell in the category of clearing and forwarding agent's service.

4. The services rendered by the appellant as noted in the order are the following -  
(a) To liaison with various Sugar Mills in the state of UP to ensure prompt filling of Molasses tankers and to avoid delay and hold up of tankers at filling stations.

(b) To ensure that molasses of right quality and allotted grade is loaded in tankers.

(c) Arrange timely submission of bills and reconciliation of accounts.

(d) Keep proper watch on tanker movement and theft of molasses and mixing of water.

(e) To provide all help/information/support in procurement of molasses from various sugar mills.

The nature of services rendered to other client M/s Chandigarh Distilleries and Bottlers Ltd. was for providing essential and related service and for coordinating the sales effort of Chandigarh Distilleries and Bottlers Ltd. and also in collecting the sale proceeds thereon.

5. The submission of the learned Counsel of the appellant is that none of the services mentioned above would part take of clearing and forwarding and therefore the levy is not attracted. He as also referred to the decision of this Tribunal in the case of L&T Limited v. CCE, Mumbai - I as reported at 2006 (4) S.T.R. 466 (Tri. - Del.) holding that pre-delivery inspection would not fall in the category of clearing and forwarding.

6. Learned Counsel's contention is that the services rendered are to be seen together and appreciated as a whole. According to him, it would be clear that the service of the appellant is not clearing and forwarding service.

7. Learned SDR would point out that the services are akin to those of a clearing and forwarding agent. He relies upon the judgment of the Larger Bench of this Tribunal in the case of Medpro Pharma Pvt. Ltd. v.CCE, Chennai 8. On pursuing the record and considering the contentions raised by both sides, we are of the view that ensuring proper loading, proper filing of bills and following upon tanker movements to prevent theft etc. are not in the nature of clearing and forwarding service. On the face of it, the demand is not justified. Confusion as to identity of the service between the original authority and the first appellate authority is indicative of the same.

9. To the result, stay application is allowed and recovery stayed till disposal of the appeal.

