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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-26-2007

Judge : J Balasundaram, Vice, A T K.K.

Appellant : innovassynth Technologies (i)

Respondent : Commissioner of Central Excise

Judgement :

1. At the outset we note that the entire service tax amount of Rs. 13,27,784/- confirmed against the applicants herein has been paid together with interest. We, therefore, waive the requirement of pre deposit of penalty of Rs. 14 lakhs and stay recovery there of pending the appeal.

2. At this stage we note that the Commissioner (Appeals) has dismissed the appeal filed before him on ground of non compliance with the requirement of Section 35F of Central Excise Act, 1944. Since no finding has been recorded on the merits of the demand, we set aside the impugned order and remand the case to the appellate authority to pass an order after giving a reasonable opportunity to the appellants of being heard. The appeal is thus allowed by way of remand for discussion on merit without insisting on pre deposit.

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