

H.K. Associates Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-03-2007

Reported in : (2007)9STJ141CESTATNew(Delhi)

Judge : S Kang, Vice, N T C.N.B.

Appellant : H.K. Associates

Respondent : Cce

Judgement :

1. Heard both sides. The applicant filed this application for waiver of pre-deposit of service tax of Rs. 60,10,268/- and penalty of equal amount. The contention of appellant is that they are receiving commission of 2% in respect of sale proceeds from M/s Kandhari Beviewrages Pvt Ltd as applicants were collecting the sale proceeds and they are also doing advertisement for the products of Kandhari Beverages. The contention is that the consolidated amount has been shown as advertisement and sales promotion expenses in the account books of Kandhari Beverages and the Revenue is of the view that this amount is in respect of advertisement made by the appellants. The contention is that they are only spending 10% to 20% of the total amount received as commission on advertisement. The contention is that part of the amount which they have received as commission, is not liable for of service tax. Therefore, demand is not sustainable.

2. The Revenue contended that as per the case of applicant, they are spending on advertisement of the products of Kandhari Beverages, hence they are covered under the scope of advertisement agency which means any commercial concern providing any service connected with making, preparation or display of advertisement.

3. We find that as the appellants are receiving the amount in respect of commission also from Kandhari Beverages and part of that amount was spent on advertisement, therefore, it is not a fit case for total waiver. The appellants are directed to deposit an amount of Rs. 12 lakhs within a period of 8 weeks from today. On deposit of this amount, pre-deposit of remaining amount of service tax waived for hearing the appeal. Adjourned to 8th June 2007 for reporting compliance.

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