Man Structural Limited Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-07-2007

Judge : P Das

Appellant : Man Structural Limited

Respondent : Cce

Judgement :

1. The applicant filed this application for waiver of pre-deposit of service tax of Rs. 2,02,729/- and penalty of Rs. 500/-along with Rs. 100/- per day imposed under Section 76 of the Finance Act, 1994.

3. The learned advocate on behalf of the applicant submits that in this case, the service tax was demanded for the period from 16.11.1997 to 2.6.1998 on goods transport operator. He submits that their case is covered under Section 71A of the Finance Act, 1994 and, therefore, show cause notice issued under Section 73 is not sustainable as held by the Hon'ble Supreme Court in the case of CCE, Meerut-II v. L.H. Sugar factories Ltd. 2006 (3) S.T.R. 715 (S.C.).

4. On perusal of the record, I find that it has been alleged in the show cause notice that the applicants are required to pay service tax at the applicable rate of 5% along with interest and also required to file ST-3 return in the manner as prescribed under Section 71 of the Finance Act, 1994. Therefore, the applicant failed to make out a prima-facie case for waiver of pre-deposit of entire amount of service tax. Accordingly, the applicant is directed to pre-deposit Rs. 40,000/- within

8 weeks and to report compliance on 9.7.07. On deposit of the said amount, the requirement of pre-deposit of balance service tax and penalties is waived till the disposal of the appeal.