industrial Security Associates Vs. C.C.E.

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SooperKanoon Citation : sooperkanoon.com/45490

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-14-2007

Reported in : (2007)11STJ171CESTATNew(Delhi)

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

Appellant : industrial Security Associates

Respondent : C.C.E.

Judgement :

2. The facts of the case are that SCN dt. 21.4.05 was issued to the appellant alleging that it had rendered security service during the period Oct'99 to March'04 and that security service was liable to service tax. Demand of Rs. 8 lakhs was based on appellant's bills/invoices to various parties for the service rendered during this period. Another demand of over Rs. 5 lakhs was raised on the ground that the appellant had rendered service, though invoices covering those clients are not available. This finding was because there were gaps in the Bill Nos. issued by the appellant. The finding is that service was rendered under 846 such "unavailable bills". In the absence of bills, the show cause notice assumed an aggregate value of Rs. 2075/- per such unavailable bill. The aggregate value was computed based on such an assumption based on the statements of other security service agencies.

3. Under the impugned order, the demand of over Rs. 8 lakhs in regard to available invoices, remains remanded to the original authority for reconsideration.

The remand order has been passed in the light of the appellant's contention that not all bills related to security service; but to supply of manpower like drivers, technicians etc. The impugned order however, confirmed the demand in relation to unavailable bills.

4. The submission of the Ld. Counsel for the appellant is that the demand in regard to "unavailable bills" also require reconsideration for the same reason as the rest of the demand, as there is no basis to conclude that the "unavailable bills" related exclusively to the supply of security service.

5. We find merit in the above submission. Accordingly, the order in relation to unavailable bills also is set aside and the case is remanded to the original authority for reconsideration.

6. The appeal is, thus, allowed by way of remand. The stay application does not survive in view of the order on the appeal.