

Mitul Engineering Services and Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-16-2007

Judge : S Kang, Vice, J T T.K.

Appellant : Mitul Engineering Services and

Respondent : Cce

Judgement :

1. Heard both sides. Applicant filed this application for waiver of pre-deposit of service tax and penalties. The contention of applicant is that the demand was confirmed treating the contract entered between the applicants and Electricity Boards as the applicants were providing service for maintenance and repair. The contention of applicant is that they are not providing of any service regarding maintenance. The contracts are only for repair purposes only. Applicants are also relied upon the copy of contract to show that it is only contract for repair.

2. Learned SDR for revenue pointed out that the contract is for routine maintenance of coal handling plant and also necessary repairs. A consolidated amount is to be paid to the appellant in respect of routine maintenance and repairs. The revenue also pointed out that in Annexure to the contract, there was a clause for shift maintenance which is a routine maintenance of coal handling plant.

3. In reply, the contention of applicant is that demand is time bar. No suppression can be alleged against the appellant.

4. We find that the appellants also produce a chart showing the amount of service tax which is within the period of normal limitation. Keeping in view, facts and circumstances of the case, we find as per the agreement as the contracts are for maintenance also, therefore, prima facie, applicant has no case for total waiver of pre-deposit. Keeping in view, the arguments raised on limitation in appeal No. ST/308/07, applicants are directed to deposit Rs. 1,15,553/-, in appeal No. ST/309/07, applicants are directed to deposit Rs. 1,73,184/-, in appeal No. ST/330/07, applicants are directed to deposit Rs. 45,129/- and in appeal No. ST/331/07, applicants are directed to deposit Rs. 60,703/- within a period of six weeks from today. In other two appeals, i.e.

ST/329/07 and ST/332/07 on the ground of limitation, the pre-deposit of amount of service tax is waived. On deposit of above-said amount, the remaining amount of service tax is waived. Adjourned to 3rd September 2007.

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