

Singh Brothers Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-26-2007

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

Appellant : Singh Brothers

Respondent : Cce

Judgement :

1. The applicant filed this application for waiver of pre-deposit of amount of Service Tax and penalty. The demand was confirmed on the ground that the applicants were providing Cargo Handling Service. The contention of the applicant is that they are not providing Cargo Handling Service but they are handling the movement of coal from railway wagon to the site of Thermal Power Station. The railway wagons are unloaded in the track hopper and from the track hopper the coal was carried through conveyor to the thermal plant. The applicant relied upon the decision of the Hon'ble Rajasthan High Court in the case of S.B. Construction v. UOI reported in 2006 (4) STR 545 where the Hon'ble High Court held that similar service is not covered under the scope of Cargo Handling Service. In view of the above decision, the applicant had a strong case in their favour, therefore, the pre-deposit of amount of Service Tax and penalty is waived. Stay petition is allowed.