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international Testing Centre Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-11-2007

Reported in : (2008)12STJ60CESTATNew(Delhi)

Judge : R Abichandani

Appellant : international Testing Centre

Respondent : Cce

Judgement :

1. The appellant challenges the order of the Commissioner (Appeals) holding that, the adjudicating authority had correctly disallowed the Cenvat Credit in respect of the personal phone installed at the residence of the assessee. According to the Revenue, the appellant, M/s International Testing Centre, which appears to be a sole proprietory concern of Mrs. Santosh Gupta, as per the verification in the Memo of Appeal, was engaged in providing technical testing services, which fall under Clause 106 of Section 65 of Chapter V of the Finance Act, 1994.

Prima facie, it cannot be laid down that, as a rule, the telephone service installed at the residence cannot be used for business or professional purposes. The bills were in the name of the sole-proprietor, Mrs. Santosh Gupta, and that, in such matters, the authorities should be open to appreciate the evidence that may be placed before it for showing as to what portion of the amount charged under the telephone bills was attributable to the taxable service provider for which the Cenvat Credit taken in respect of the input service, may be utilized.

2. The applicant has made out a case for waiver of pre-deposit of the amount. There shall be waiver of pre-deposit of the amount payable under the impugned order during the pendency of the appeal. This application stands accordingly allowed. The appeal will come up for final hearing in its due course.

(Dictated and pronounced in the open Court on the 11th day of October, 2007)

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