

Lift and Shift Vs. Commr. of Central Excise,

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Calcutta

Decided On : Oct-23-2007

Judge : S T Chittaranjan, D Panda

Appellant : Lift and Shift

Respondent : Commr. of Central Excise,

Judgement :

1. Heard both sides. Shri Kartik Kurmy, Id. Counsel appearing for the appellants states that under the impugned order, the authorities below have decided that the service rendered by the appellants is classifiable under the Cargo Handling Services. He further states that the appellants have not challenged the decision on the issue of classification on merits, but are merely seeking a direction that while quantifying the demand amount pursuant to the said classification, the extended time period should not be applied. He also states that for quantification of demand, subsequently another show-cause notice dated 10.8.07 has been issued to the appellants by the original authority.

2. After hearing both sides and perusing the case records, we find that the question of applicability of extended period has to be considered by the original authority while quantifying the demand amount. As such, at this stage, it is premature for the Tribunal to give a finding on this issue, which was, as stated by the Id. Counsel, was only raised at the first appeal stage. Hence, we dispose of this appeal with the direction that the plea of limitation raised by the appellants shall be duly considered by the original authority while passing an order on the

demand notice dated 10.8.07. The appellants shall be given an adequate opportunity of hearing before passing the order on the demand notice.

The appeal is disposed of in the above terms.

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