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Sentries Vs. Commissioner of Central Excise,

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Calcutta

Decided On : Nov-02-2007

Reported in : (2008)10STR334

Judge : S T Chittaranjan, D Panda

Appellant : Sentries

Respondent : Commissioner of Central Excise,

Judgement :
2. The appeal has been dismissed by the Lower Appellate Authority on the ground of non compliance with the order of pre-deposit without a decision on merit. Shri B.K. Munshi, Ld. Consultant appearing for the appellants states that the appellants are in a bad financial situation.

They are not able to pay the entire amount of service tax and penalty imposed on them which they have not recovered from their customers. He also states that the decision of the Principal Bench in the case of Magnum International v. Commissioner of Central Excise, Bhopal 2006 (4) S.T.R. 299 (Tribunal) is in their favour and if the same is taken into account by the Lower Appellate Authority that service tax liability will be drastically reduced.

3. He also states that they have not recovered the service tax amount from their customers. The amount of service tax if deducted from value of taxable services will again reduce tax liability of the Appellant.

The Appellant therefore offered to pre-deposit an amount of Rs. 1.00 Lakh (Rupees One Lakh) within six weeks from today.

4. Considering the facts and circumstances of the case, offer of the Appellant is accepted and we direct the appellant to pre-deposit an amount of Rs. 1.00 Lakh within six weeks from today and report compliance to the Lower Appellate Authority by 6th of January, 2008.

5. Subject to compliance with the above direction, the impugned order shall stand set aside and the appeal shall stand remanded to the Lower Appellate Authority for fresh decision on merit. In the event of non-compliance with the above direction, the appeal shall stand dismissed.

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