Doon Security Services Vs. Cce

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SooperKanoon Citation : sooperkanoon.com/46407

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-07-2007

Reported in : (2008)12STJ346CESTATNew(Delhi)

Judge : S Kang, Vice, S T T.V.

Appellant : Doon Security Services

Respondent : Cce

Judgement :

1. The applicant filed this application for condonation of delay in filing the appeal. In view of the reasons explained in the application as the applicant received the order on 12.3.2007, the delay in filing the appeal is condoned. COD is allowed.

2. The applicant also filed application for waiver of pre-deposit of amount of Service Tax of Rs. 11,06,333.99 and penalty of Rs. One lakh.

The demand of Service Tax is confirmed on the ground that applicant is provided service of security agency. The contention of the applicant is that they are only receiving 5% supervision charges and they are providing the security to various offices of BSNL so they are liable to pay Service Tax on the commission they have received. The contention of the Revenue is that the applicants are providing security service and as per the definition of security agency any commercial concern engaged in the business of rendering services relating to the security of any property, whether movable or immovable, or of any person, in any manner and includes the service of investigation, detection or verification, of any fact or activity, whether of a personal nature or otherwise, including the services of providing security personnel. The contention of the Revenue is that taxable service means any service provided to a client by a security agency in relation to the security of any property or person, by providing security personnel or otherwise. The value of taxable service for charging service tax in relation to the service provided by security agency to a client shall be the gross amount charged by such agency from the client for service rendered in connection with the security of any property. The contention of the Revenue is that as per the agreement, the applicants are providing security services to the BSNL and are charging gross amount from the BSNL and they are paying to the security guards as per rate prescribed by the Government. The Revenue relied upon the following decisions of the Tribunal.New Industrial Security Force v. CCE The contention of the Revenue is that in the similar situation, the Tribunal held that the provider of service of security agency is liable on the gross amount received from the customer.

3. We find that the issue in this appeal is already covered by the decisions of the Tribunal relied upon by the Revenue. In these circumstances, we find it is not a case for waiver of pre-deposit of amount of Service Tax. However, taking into the financial hardships into account, the pre-deposit of penalty is waived for hearing of the appeal. The applicant is directed to deposit the amount of Service Tax confirmed in the adjudication order within a period of eight weeks. On deposit of the above-mentioned amount, the pre-deposit of penalty is waived. Adjourned to 14.1.2008 for reporting compliance.