Commissioner of C. Ex. Vs. Dil Ltd.

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SooperKanoon Citation : sooperkanoon.com/46408

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Nov-07-2007

Reported in : (2008)9STR411

Judge : J Balasundaram, Vice-

Appellant : Commissioner of C. Ex.

Respondent : Dil Ltd.

Judgement :

1. The issue in dispute in this appeal is whether the respondents herein are eligible to avail credit of service tax of Rs. 6,47,567/- paid by their job worker, during the months of December 2004 and January 2005. According to the revenue, the availment of credit was in contravention of the provisions of Rule 3 of the Cenvat Credit Rules, 2004 for the reason that the job worker was not required to pay service tax as it was exempted vide Notification No. 8/2005-S.T., dated 1-3-2005.

2. I have heard both sides. On merits the service tax paid by the job worker and the receipt of service in the factory of the respondents have not been questioned by the revenue. The Commissioner (Appeals) has relied upon the Tribunal's orders in Kerala State Electronic Corporation. v. CCE and CCE v. Trinetra Texturisers Pvt. Ltd. in concluding that the respondents were eligible to avail credit of service tax paid by job worker.

3. Learned SDR has not brought any contrary decision to my notice. He is also not in a position to distinguish the above decisions so as to urge that the Commissioner (Appeals) has wrongly relied upon them.

4. In the light of the earlier orders of the Tribunal cited supra, there is no ground to interfere with the impugned order which I, accordingly, uphold and reject the appeal.