Arham Spinning Mills Vs. Cce

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SooperKanoon Citation : sooperkanoon.com/46495

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-21-2007

Reported in : (2008)12STJ281CESTATNew(Delhi)

Judge : R Abichandani

Appellant : Arham Spinning Mills

Respondent : Cce

Judgement :

1. After hearing both sides and taking note of the fact that, on a similar issue, a Division Bench of this Tribunal has given benefit of the explanation to Rule 2(p) of the Cenvat Credit Rules, 2004 in India Cement Ltd. v. CCE reported in 2007 (80) RLT 719, it would not be possible to take the view that the explanation was applicable in cases where no taxable service is provided nor any manufacturing activity is done, as would appear from the wordings of the explanation, as submitted by the learned authorised representative for the Department.

2. Since the appellant has made out a, prima facie, case, there shall be waiver of pre-deposit of the tax and penalty payable under the impugned order during the hearing of this appeal. The application is accordingly allowed. The appeal will come up for final hearing in its due course.