

Caiitjee (Catjee) Vs. Commissioner of C.E.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-17-2007

Reported in : (2008)10STR242

Judge : S Kang, Vice-, A T K.K.

Appellant : Caiitjee (Catjee)

Respondent : Commissioner of C.E.

Judgement :

1. The applicant filed this application for waiver of pre-deposit of amount of service tax of Rs. 4,08,270/- and penalty.
2. The demand is confirmed on the ground that applicant is providing the service of commercial training or coaching centre. The contention of appellant is that service provided by the appellant comes under the purview of service tax under Notification No. 12/2003-S.T. and amount in question was received prior to 1-7-2003. The appellants relied upon the Board Circular dated 5-11-2003 to submit that in case of contract for service is prior to imposition of service tax, service tax is not leviable in respect of such service.
3. The contention of revenue is that Board Circular dated 5-11-2003 is applicable in the case of maintenance and repair service where the amount has been received before imposition of service tax.

4. We find that in the present case, demand in respect of commercial training or coaching centre. We find that the Board Circular dated 5-11-2003 is in respect of maintenance and repair service only and not in respect of commercial training and coaching. Only the amount was received prior to 1-7-2003 but the service is provided after the introduction of tax.

5. We find that it is not a case for total waiver of service tax. The applicants are directed to deposit Rs. 2 lakhs within a period of 8 weeks. On deposit of the above amount, pre-deposit of remaining amount of service tax is waived. To report compliance on 13th March,, 2008.

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