

Ashok Agarwal Vs. Cce

Ashok Agarwal Vs. Cce

SooperKanoon Citation : sooperkanoon.com/46682

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-19-2007

Reported in : (2008)12STJ405CESTATNew(Delhi)

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

Appellant : Ashok Agarwal

Respondent : Cce

Judgement :

The applicant filed this application for waiver of pre-deposit of amount of Service Tax of Rs. 2,63,478/- and penalties. The applicants are providing the service of C & F agent to the fertilizer company. The applicant also given on rent godown for warehousing the goods of the same fertilizer company. The Revenue wants to add the rent while arriving at the assessable value of the service provided by C & F agent.

2. The contention of the applicant is that for giving godown on rent there is a separate contract, therefore, it cannot be considered as part of service of C & F agent.

3. The contention of the Revenue is that the goods regarding which the applicant is providing C & F agent are warehoused in the godown, therefore, the hiring of godown is a part of the service provided as C & F agent and the contention is also that as per the contract on hiring godown the applicant has to receive the goods

for safe custody and also to despatch the goods from the godown. The applicant relied upon the decision of the Tribunal in the case of Gujarat State Fertilizers & Chem. Ltd. v. CCEK.D. Associates v.CCE reported in 2007 (7) STR 6. We find that the facts of the above decisions are different from the facts of present case. As in the present case, the godown is used for warehousing the goods regarding which applicant performed the service of C & F agent, therefore, prima facie, we find it is not a fit case for waiver of demand. The applicants are directed to deposit an amount of Rs. 50% of the demand of Service Tax within a period of six weeks. On deposit of the above-mentioned amount, the pre-deposit of remaining amount of Service Tax and penalties are waived. Adjourned to 18.2.2008 for reporting compliance.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com