

Narayan Builders Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jan-03-2008

Judge : S Kang, Vice-

Appellant : Narayan Builders

Respondent : Commissioner of Central Excise

Judgement :

The applicants filed this application for condoning the delay in filing the appeal. The appeal was filed within the normal period of limitation. However, the Registry of the Tribunal returned the appeal papers to remove the defects, and therefore, after removing the defects appeal was again filed. In these circumstances delay in filing the appeal is condoned.

2. The applicants have filed stay application for waiver of pre-deposit of service tax of Rs. 7,55,357/- and penalty. The applicants had already deposited Rs. 1 lakh at the time of hearing before the Commissioner (Appeals). In this case demand is confirmed by considering the applicants as provider of cargo handling service. The applicants, under contract, are undertaking the job of coal handling system. The applicants were unloading the coal wagons, crushing and conveying and feeding of coal to stock pile or bunkers through conveyer belts. I find that the Hon'ble High Court of Rajasthan in the case of S.B.Construction Co. v. U.O.I. reported in 2006 (4) S.T.R. 545 (Raj.) has held that similar service is not covered under the scope of cargo handling system. In view of the above position the pre-deposit of service tax and penalty is waived. Stay petition is allowed.

