Commissioner of C. Ex. Vs. Maheshwari Transformers Pvt.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jan-16-2008

Judge : S Kang, Vice-, S T T.V.

Appellant : Commissioner of C. Ex.

Respondent : Maheshwari Transformers Pvt.

Judgement :
2. Revenue wants to charge service tax from the appellants under service maintenance or repair. Prior to 16-6-2005 scope of maintenance or repair relates, service provided by any person under maintenance contract or agreement. Present dispute is for the period prior to 16-6-2005. We have gone through the copy of contract product by the Revenue. Agreement is regarding rate contract for repair of damaged transformer. There is no agreement for maintenance of transformer.

3. Further, we find that the CBEC issued a Circular relied upon by the Commissioner provides that prior to 16-6-2005 maintenance or repair carried out under the maintenance contract was covered under service tax. Repair or servicing carried out under contract other than maintenance was not covered under the purview of service tax. In view of the above circular and in view of the fact that there was no maintenance contract we find no infirmity in the impugned order.