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Desert Inn Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jan-18-2008

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

Appellant : Desert Inn Ltd.

Respondent : Cce

Judgement :
2. The applicant filed this application for waiver of pre-deposit of Service Tax of Rs. 7,18,255/- and penalties. The contention of the applicant is that they are providing service of Mandap Keeper and are paying service in that regard. The contention is that adjoining the Mandap there was a parking place they are charging separately for the use of the parking place. The contention is that the Revenue wants to add the amount received in respect of the parking charges for calculating the total assessable value for the purpose of paying Service Tax in respect of Mandap Keeper. The contention is that the parking separately charged in the invoice and this fact has been reflected in their balance sheet. The demand is for the period from 2001 to 2006 and show-cause notice was issued on 26.9.06 hence as the amount is separately reflected in invoice and in their balance sheet, therefore, major portion of the demand is time-barred.

3. We find that applicant providing service as Mandap Keeper and the parking is also in respect of the same service. It is not the case of the applicant that parking is independently used by the other persons who had not booked the Mandap. In these circumstances, prima facie, we find it is not a fit case for total waiver of

amount of Service Tax.

The applicants are directed to deposit an amount of Rs. 2,50,000/- 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 17.3.2008 for reporting compliance.

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