The Financers Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jan-21-2008

Judge : S Jha, J T T.K.

Appellant : The Financers

Respondent : Commissioner of Central Excise

Judgement :

1. In terms of the impugned order the appellant is required to pre-deposit service tax to the tune of Rs. 2,69,852/- and equal penalty under Section 78 of the Finance Act. Further penalty of Rs. 1000/- has been imposed under Section 77 of the Act. The period of dispute is from July, 2003 to February, 2005.

2. Learned advocate stated that the appellants are actually contract selling agents of City Bank. They collected the application forms from various customers and submit to Bank for the purpose of getting loans from the Bank.

3. Revenue proceeded against the appellant on the ground that they were rendering business auxiliary service. Our attention was invited to the Tribunal's Final order Nos. 468-70/07 dated 29.10.07 wherein identical matter was examined by the Bench. In the said order the matter has been remanded to the Commissioner (Appeals) for denovo decision in accordance with law. The learned Advocate pointed out that even assuming that the appellants purported services to the Bank during the material period, landing was not included in Banking and financial services. Only at a later time landing was made serviceable.

4. On a very careful consideration of the issue, we find that the prima facie the appellant does have a strong case. In the Final order cited by the appellant in para 6, there is a detailed discussion on the leviability of the services to service tax. It is very clear from the arguments mentioned that the appellants will be liable to service tax and the fact that landing services was not liable to service tax. In the relied upon case in respect of business auxiliary services, promotion of any service would be covered and it is not necessary that promotion should be of taxable service. Therefore, we are of the view that the appellant should be put to terms. We order pre-deposit of 50% tax within a period of six weeks from today. On such deposit the balance amount of tax and penalties would be waived. Compliance to be reported on 19.3.08.