Agarwal Catering Caterers Vs. Cce

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SooperKanoon Citation : sooperkanoon.com/46971

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-07-2008

Reported in : (2008)10STR479

Judge : S Jha, S T a.K.

Appellant : Agarwal Catering Caterers

Respondent : Cce

Judgement :

1. In terms of the impugned order, the appellant has been directed to pay Service Tax of Rs. 56,281/- besides penalties. By this stay application, the appellant seeks exemption from deposit of Service Tax etc., which is a condition precedent for maintaining the appeal.

2. The dispute relates to Service Tax and the case of the appellant is that as the services rendered by it do not come within the purview of 'outdoor catering services', it is not liable to pay Service Tax. The subject matter of dispute is catering service provided by the appellant at Bhilai Hotel. The premises in question admittedly does not belong to the appellant. In terms of the definition of the term 'outdoor caterer' in Section 65(25) of the Finance Act, 1994, "a caterer engaged in providing the services in connection with catering at a place other than his own" comes within the definition of 'outdoor caterer'. That being so, we are, prima facie, of the view that the appellant has correctly been saddled with the liability to pay Service Tax for the impugned services and it is not, therefore,

entitled to waiver. We accordingly direct the appellant to deposit a sum of Rs. 56,281/- within four weeks from today. On such deposit, the recovery of the balance amount of penalty etc. shall remain stayed.

(Dictated and pronounced in the open Court on the 7^th day of February, 2008)