Punjab Small Industries and Vs. Cce

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SooperKanoon Citation : sooperkanoon.com/47014

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-19-2008

Reported in : (2008)10STR478

Judge : S Jha, V T M.

Appellant : Punjab Small Industries and

Respondent : Cce

Judgement :

2. The appellant is rendering service of C&F Agent under a contract entered into with M/s Steel Authority of India Limited (SAIL) and receiving service charges for the same and have paid about Rs. 31.69 lakhs during the disputed period as Service Tax. The appellant has engaged certain parties as sub-contractors who have actually undertaken the main work of receiving the material unloading, weighing, stocking them at the CA yard. The appellant paid the sub-contractors amounts which are less than the amounts received by the appellant from SAIL as contractor. The agreement between the appellant and the sub-contractor has taken into account that the Service Tax payable by the appellant shall be adjustable from the payments made to the sub-contractor for the services rendered by them.

3. From the submissions made by both sides and perusal of the records, we are of the, prima facie, view that the services rendered is only one and it has been rendered mainly through the sub-contractors on payment of an amount to the sub-

contractor by the appellant which is less than what the appellant has received from SAIL. The recovery of a sum of Rs. 23,38,800/- entered in the balance sheets of the appellant as receipt of Service Tax may not be, prima facie, an amount actually representing Service Tax and therefore we hold that applicant has made out a prima facie case in their favour and accordingly grant waiver of pre-deposit of amount of duties and penalties and stay recovery thereof.