

Commissioner of Central Excise, Salem Vs. Src Projects Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Chennai

Decided On : Jun-24-2010

Judge : The Honourable Ms. Jyoti Balasundaram, Vice President

Appeal No. : Appeal No.ST/450 of 2009

Appellant : Commissioner of Central Excise, Salem

Respondent : Src Projects Ltd.

Advocate for Pet/Ap. : Shri C.Rangaraju, SDR. Shri G.Natarajan, Advocate.

Judgement :

Adjustment of excess payment of service tax paid for services rendered to SEZ towards subsequent payment of service tax for the period from October 2005 to March 2006 is objected to by the department in this appeal on the ground that adjustment is provided for only under Rule 6 (3) of the Service Tax Rules and the provisions of the above Rule are not applicable in the present case as the assessee had, admittedly, rendered service to the SEZ (adjustment under the rule cited above is permissible only when no service has been rendered either wholly or partially).

2. I have heard both sides. I find that in a series of decisions including two cases relied upon by the lower appellate authority namely Nirma Architects and Valuers Vs CCE Ghaziabad [2006 (1) STR 305] and Prachar Communications Ltd. Vs CCE Mumbai [2006 (2) STR 492], adjustment carried out by the assessee has

been accepted by the Tribunal. Even if the Revenue is correct in their contention that a strict interpretation of the rule would disentitle the assesseees to make any adjustment suo motu, the Tribunal has consistently held that liberal view of the rule or liberal interpretation of the rule has to be taken/made,

3. Following the ratio of the decisions cited supra, I uphold the impugned order and reject the appeal.

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