

**M/S Kanpur Chemical Agencies Vs. Cce, Kanpur**

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**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Jul-01-2010

**Judge :** The Honourable Dr. Chittaranjan Satapathy, Technical Member & the Honourable Mr. Ashok Jindal, Member (Judicial)

**Appeal No. :** Service Tax Appeal No. 484 of 2006 with Misc. 631 of 2008

**Appellant :** M/S Kanpur Chemical Agencies

**Respondent :** Cce, Kanpur

**Advocate for Pet/Ap. :** Shri R. Santhanam, Advocate. S.R. Meena, DR.

**Judgement :**

Per Dr. Chittaranjan Satapathy :

Heard both sides.

2. Shri R. Santhanam, Id. Counsel appearing for the appellant states that the impugned demand which relates to M/s Birla Corporation Ltd. M/s Kanoria Chemical and Industries Ltd. only for procuring orders on their behalf. He states that the appellant had not rendered any clearing and forwarding agent service in respect of these two clients. As such, the appellants are not liable to pay Service Tax in respect of procuring orders as held by the Larger Bench of the Tribunal in the case of Larsen and Toubro Ltd. Vs. Commissioner of Central Excise, Chennai reported in 2006 (3) STR 321 (Tri.-LB).

3. Heard the Id. DR who states that the appellant had not submitted copy of the agreement to which the Id. Advocate for the appellant submits that there was no written agreement.

4. After hearing both sides and taking into account the cited decision of the Larger Bench, we are of the view that as contended by the appellants, since in respect of M/s Birla Corporation Ltd. and M/s Kanoria Chemical and Industries Ltd. they were only procuring orders, no Service Tax is payable by them in view of cited decision of the Larger Bench. As such, we set aside the impugned order and remand the matter to the original authority for verification of the nature of activity undertaken by the appellants and decide the matter afresh applying the ratio of the cited decision of the Larger Bench. The appeal is allowed by way of remand. The appellants shall be given an adequate opportunity of hearing before passing a fresh order. The Misc. application filed by the appellant stands disposed of.

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