

Customs, Excise and Gold Tribunal - Bangalore

Transformers And Electricals ... vs Commr. Of C. Ex. on 12 January, 2007

Bench: S Peeran, J T T.K.

ORDER S.L. Peeran, Member (J)

1. The appellant is required to pre-deposit an amount of Rs. 2,47,671/- towards Service Tax. They were carrying on the activity of commissioning and erecting work involved in manufacture of transformers. The Revenue has proceeded to bring them under the heading of 'Consulting Engineer' services.
2. The Company Representative for the appellant submitted that this issue is decided by the Tribunal and the Tribunal has held that they are to be covered under the Excise Act. He submits that they are not covered under the definition of 'Consulting Engineer'.
3. The learned JDR distinguishes the matter.
4. We agree with the learned Representative. Prima facie, the issue is covered in assessee's favour, as the activity undertaken is an activity of manufacture and not services. Furthermore, the amendment brought under this category of work under Service Tax is being dropped for the period involved herein. On both grounds the appellants have a strong case for success. Therefore, the stay application is allowed unconditionally granting waiver of pre-deposit and staying its recovery. Appeal to come up in its turn.

(Pronounced and dictated in open Court)