

GIB/DL/SOUTH EASTERN/22.12.2020/OTHERS-16

Others Category : CESTAT

State : Delhi

Order No.: GIB/DL/SOUTH EASTERN/22.12.2020/OTHERS-16

Name of Entry :

South Eastern Coalfields Ltd. Vs Commissioner of Central Excise and Service Tax

Date : 22-12-2020

Breif Issue :

The appellant is a public sector undertaking and is a subsidiary of Coal India Ltd. It is primarily engaged in the business of mining and selling of coal, which is an excisable good. It operates from 18 different mines/offices. In commercial contracts entered during the course of business, certain clauses providing penalty for non-observance/breach of the terms of contract have been stipulated. According to the appellant, these clauses have been provided to safeguard the interest of the appellant.

Decision of Advance Ruling Authority :

Decision:

It was held that it not possible to sustain the view taken by the Principal Commissioner that penalty amount, forfeiture of earnest money deposit and liquidated damages have been received by the appellant towards “consideration” for “tolerating an act” leviable to service tax under section 66E(e) of the Finance Act.

The impugned order dated December 18, 2018 passed by the Commissioner, therefore, cannot be sustained and is set aside. The appeal is, accordingly, **allowed**.