

**Ruby Woollen (P) Ltd. Vs. Commissioner of Central Excise**

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**SooperKanoon Citation :** [sooperkanoon.com/28069](http://sooperkanoon.com/28069)

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

**Decided On :** Apr-22-2002

**Reported in :** (2002)(81)ECC796

**Judge :** S T G.R., P Bajaj

**Appellant :** Ruby Woollen (P) Ltd.

**Respondent :** Commissioner of Central Excise

**Judgement :**

1. This is an appeal against the order passed on Review by the Commissioner of Central Excise holding, "In view of the above subject order-in-original is revised under Section 84 of Chapter V of Finance Act, 1994 and the party is directed to calculate and supply the gross freight figures for the period 16-11-1997 to 2-6-1998 based on a Chartered Accountant's Certificate and deposit the service tax @ 5% on gross freight paid. Party is further directed to pay interest @ 24% per annum on delayed payment of the amount of service tax till the final deposit." 2. The facts of the case briefly stated are that M/s. Ruby Woollen (P) Ltd., Amritsar availed services of Goods Transport Operators and were accordingly required to pay service tax on goods transport services during the period 16-11-1997 to 2-6-1998 and also to comply with other requirement of the statute. Accordingly a show cause notice was issued to the appellant proposing recovery of service tax not paid. Deputy Commissioner of Central Excise adjudicated the case. The proceedings were dropped in view of Hon'ble Supreme Court judgment in the case of Laghu Udyog Bharati [1999 (112) E.L.T. 365 (S.C.)] and others. With the

amendment retrospectively under the Finance Act, 2000 revision proceedings under Section 84 of Chapter V of the Finance Act, 1994 were initiated and the learned Commissioner after examining the various amendments passed order as indicated above.

3. When the matter was called none appeared for the appellants. However there is a request for considering their case on merits.

4. Shri Hitesh Shah, learned DR appears for the Revenue and submits that retrospective amendment of law under Finance Act, 2000 the learned Commissioner reviewed the order. With the enactment of Sections 116 and 117 of Finance Act 2000 it became clear that service tax was leviable and chargeable from the assessee during the period 16-11-1997 to 2-6-1998 and in accordance with the provisions of Section 117 of Finance Act, 2000 interest at a rate of 24% per annum also became chargeable on late payment of the amount of tax.

5. The main contention of the appellant is that there was denial of natural justice and the appellant was not given an opportunity of presenting their case in defence. It has been contended that the order passed by the learned Commissioner is vague and did not specify clearly the action contemplated; that there was no justification for passing an order imposing service tax; that the order was harsh and illegal; that there was no evidence against the appellant that they have done anything wrong or there was mala fide intention. It has, therefore, been prayed that the impugned order may be set aside and the appeal may be allowed.

6. On careful consideration of the submissions made by the learned DR as also the written submission made by the appellant we note that certain Sections were retrospectively amended under Finance Act, 2000.

With the introduction of Sections 116 and 117 of the Finance Act, 2000 service tax became payable retrospectively. Hence there was nothing wrong in the order of the learned Commissioner reviewing the order passed by the Deputy Commissioner dropping proceedings. In the circumstances we find no legal or factual infirmity in the order passed by the learned Commissioner. In the circumstances, the impugned order is upheld and the appeal is rejected.

