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Videocon Narmada Electronics Vs. Commissioner of C. Ex.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Sep-19-2002

Reported in : (2006)STR124

Judge : J Balasundaram, J T J.H.

Appellant : Videocon Narmada Electronics

Respondent : Commissioner of C. Ex.

Judgement :

1. This is an application for waiver of pre-deposit of Service Tax arising out of the order in revision passed by the Commissioner of Central Excise in terms of Section 84 of the Finance Act, 1994, directing the applicant to work out Service Tax payable during the period from 16-11-1997 to 1-6-1998 and pay the same along with interest until the date of payment of tax at the prescribed rate and directing the applicants to file ST-3 returns for the said period in the prescribed form.

2. On hearing both sides and perusing the Show Cause Notice, we see prima facie force in the plea of the applicants that the Show Cause Notice does not call upon them to show cause against recovery and collection of Service Tax although the notice states that the assessee (who avails Goods Transport Operators service) is required to pay Service Tax in accordance with Section 68 and that they have failed to deposit the Service Tax.

3. The assessee has been called upon to show cause only as to why penalty should not be imposed under the Finance Act, 1994 and for recovery of interest for delayed payment of Service Tax? We also find that in identical situation, pre-deposit of the Service Tax amount has been waived, as seen from order No. CI/2635-2727/WZB/2002, dated 5-9-2002. Following the ratio of the above order, we dispense with pre-deposit of Service Tax together with interest payable thereon and stay recovery thereof, pending this appeal which is now listed for hearing along with connected appeals on 1-11-2002.

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