

Guards Security Services (Regd.) Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jan-05-2004

Reported in : (2006)2STR79

Judge : S Kang

Appellant : Guards Security Services (Regd.)

Respondent : Cce

Judgement :

1. Appellants filed this appeal against the order in appeal passed by the Commissioner (Appeals). The adjudicating authority confirming the demand of service tax Rs. 84073.40 and imposed equal amount of penalty under Section 76 and 78.

2. Appellants are not challenging the amount confirmed by the adjudicating authority as arrears of service tax. However, the appellants are only challenging the amount of quantum of penalty.

Appellants relied upon the decision of Tribunal in the case of Aakar Communication & Anr. Vs. CCE, Jaipur-II, reported in 2003-Taxindiaonline-73-CESTAT-Del where by the Tribunal held that penalty under the Finance Act, 1944 is discretionary and not mandatory.

The adjudicating authority has discretion to impugned lesser the amount of penalty.

3. In this case equal amount of penalty was imposed. In view of the above decision of the Tribunal and taking into facts and circumstances of the case, the penalty is reduced to Rs. 10,000/- Rupees Ten thousand only). The appeal is disposed of as indicated above.

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