Commissioner of Central Excise Vs. on Dot Couriers and Cargo Limited

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-23-2004

Reported in : (2006)STR90

Judge : S Kang

Appellant : Commissioner of Central Excise

Respondent : On Dot Couriers and Cargo Limited

Judgement :

1. When the matter was called none appeared on behalf of the appellants, in spite of notice. Heard the learned JDR.2. The Revenue filed these appeals against the Order-in-Appeal whereby the Commissioner (Appeals) reduced the penalty imposed under Section 76 of the Finance Act, 1994. The contention of the Revenue is that the Commissioner has no power to reduce the penalty prescribed under Section 76 of the Finance Act, 1994.

3. I find that Section 80 of the Finance Act, 1994 provides notwithstanding anything contained in the provisions of Section 76, Section 77, Section 78 or Section 79, no penalty shall be imposable on the assessee for any failure referred to in the said provisions if the assessee proves that there was reasonable cause for the said failure.

In view of these, the Commissioner (Appeals) finds that there was only delay in respect of two months, therefore, he reduced the penalty.

4. Further, the Tribunal in the case of Escorts JCB limited v. CCE, New Delhi - held that in case the maximum penalty provided under the provisions of law, the discretion is with the authority to impose lesser amount of penalty. Therefore, I find no infirmity in the impugned order. The appeals are dismissed.