

Commissioner of Central Excise Vs. Air Express Courier Services

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Sep-24-2004

Reported in : (2005)(182)ELT409Tri(Mum.)bai

Judge : A M Moheb

Appellant : Commissioner of Central Excise

Respondent : Air Express Courier Services

Judgement :

1. This appeal is filed by the Revenue against the order of the Commissioner (Appeals). In the impugned order, the Commissioner (Appeals) relied on the decision in the case of Sajjan Kumar Kariwala v. CCE, Allahabad [2003 (159) E.L.T. 1131 (Tri.) = 1997 (20) RLT 885] and two other decisions reported in 2001 (131) E.L.T. 274 (Tri.) = 2001 (43) RLT 51 (T) and 1999 (105) E.L.T. 434 (T) and held that non-filing of returns in time is only a procedural lapse and, therefore, penalty is not warranted for such a lapse. The case of the department is not that the respondent failed to discharge the service tax liability. The only lapse is delayed filing of return. Following the ratio of the decision in the case of R.B. Bahutule v. CCE, Mumbai [2004 (166) E.L.T.233] the appeal is rejected.