Cce Vs. Shreeji Courier Services

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SooperKanoon Citation : sooperkanoon.com/36603

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Sep-24-2004

Reported in : (2004)(117)LC818Tri(Mum.)bai

Judge : A M Moheb

Appellant : Cce

Respondent : Shreeji Courier Services

Judgement :
1. This appeal is by the Revenue against the order of the Commissioner (Appeals). The issue decided by the Commissioner (Appeals) is whether a penalty can be imposed for the late filing of return when the levy of service tax was at a nascent stage. The respondent is a mandap keeper.

The Commissioner (Appeals) relied on the decision in the case of Sajjan Kumuar Kariawala v. CCE, Allahabad 1997 (20) RLT 434 wherein it was held that the appellant was a new assessee and was not conversant with the filing of tax return and, therefore, no case for imposing a penalty was made out. He also relied on two other decisions reported in 2001 (43) RLT 51 (T) and and held that late filing of return is a procedural lapse and, therefore, set aside the penalty imposed by the lower authority under Section 77 of the Finance Act, 1994.R.B. Bahutule v. CCE, Mumbai , the Tribunal held that delay in filing service tax returns and penalty thereof can be imposed on persons who failed to pay service tax and not on those who pay the tax but file the returns late. Following the ratio of this decision, the appeal of the department is rejected and the order of the Commissioner (Appeals) upheld.