Cce Vs. Triveni Undertaking

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-04-2004

Reported in : (2004)(117)LC287Tri(Delhi)

Judge : S Kang, Vice, M T K.C.

Appellant : Cce

Respondent : Triveni Undertaking

Judgement :

1. The Revenue filed this appeal against order-in-appeal passed by the Commissioner (Appeals).

2. The adjudicating authority imposed a penalty of Rs. 20,000/- as the respondents made default in making the fortnightly payment of duty. On appeal filed by the Revenue the Commissioner (Appeals) enhanced the penalty to Rs. 10,50,000/-.

3. The contention of the appellant is that the penalty should be equal to the amount of duty as the duty amount is Rs. 21,87,096/-, therefore, the penalty should be enhanced to the amount of duty.Escorts JCB v. CCE after relying upon the decision of the Hon'ble Supreme Court in the case of MP v. BHEL held that the adjudicating authority has discretion to impose lesser amount of penalty the mandatory penalty. In view of the above decision of the Tribunal, we find no merit in the appeal, the same is dismissed.