Commissioner of Central Excise Vs. Capital Trust Ltd.

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SooperKanoon Citation : sooperkanoon.com/37071

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-10-2004

Reported in : (2006)2STR69

Judge : A Wadhwa

Appellant : Commissioner of Central Excise

Respondent : Capital Trust Ltd.

Judgement :

1. Revenue is in appeal against that portion of the impugned order of the Commissioner (Appeals) by which he has reduced the penalty from Rs. 3200 to Rs. 500 imposed upon the respondent for late payment of service tax. He has observed that the tax is only to the extent of Rs. 210 and Rs. 490 and as such a lenient view is required to be taken.

2. I do not find any infirmity in the above view of the Commissioner (Appeals). Revenue's contention that mandatory penalty of Rs. 100 under the provisions of Section 76 of the Finance Act, 1994 should have been imposed is not being found favoured with inasmuchas it is settled law that the quantum of penalty under a particular section is only the maximum to be imposed and it is the discretion of the authority, to be exercised judiciously, in the facts and circumstances of the case. In view of the foregoing, I reject the Revenue's appeal.