

Cce Vs. S. Ghosh and Associates

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-28-2005

Judge : S Kang, Vice

Appellant : Cce

Respondent : S. Ghosh and Associates

Judgement :

2. The Revenue filed this appeal against the impugned order whereby the penalty of Rs. 87,760/- is reduced to Rs. 40,000/-. The contention of the Revenue is that the provisions of Section 76 of Finance Act 1994 provides that the amount of penalty which is Rs. 100/- for every day during which such failure is being extended upon 200/- per day.

However, the penalty under this section shall not exceed the amount of Service Tax.

3. In this case, in the impugned order only penalty is reduced from Rs. 87,760/- to Rs. 40,000/-. The Hon'ble Supreme Court in the case of State of Madhya Pradesh v. BHEL held that there is discretion with the authority to impose lesser amount of penalty prescribed under the statute. In these circumstances, I find infirmity in the impugned order. The appeal is dismissed.