

Commissioner of Central Excise Vs. Square Enviro

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-09-2005

Reported in : (2005)(189)ELT87TriDel

Judge : A T V.K.

Appellant : Commissioner of Central Excise

Respondent : Square Enviro

Judgement :

1. The Revenue has come in appeal against Order-in-Appeal No. 89/2004 dated 2-6-2004 by which the Commissioner (Appeals) has set aside the penalty imposed on the respondents M/s. Square Enviro.

2. I Heard Shri P.M. Rao, learned DR and perused the records as no one is present on behalf of the respondents. The Deputy Commissioner had imposed penalty on the respondents who provide the service of interior decorator as they had deposited service tax after delay of several months. The Commissioner (Appeals) has set aside the penalty as he found that the documents furnished by the respondents clearly indicated that the close relative of the appellant was under prolonged treatment of heart problems. Commissioner (Appeals) has found the reasons advanced by the Appellants to be sufficient and reasonable on account of which delay is caused in depositing the service tax. Section 80 of the Finance Act, 1994, provides that no penalty shall be imposable on the assessee for any failure in depositing the tax or in filing the return or in contravention of any provisions of

the Act, if the assessee proves that there was reasonable cause for the said failure.

There is no force in the contentions of the Revenue in the grounds of Appeal that the law nowhere provides any relief for law evaders. The Revenue has not realised that Section 80 of the Finance Act, 1994 clearly provides for non-levy of any penalty if the assessee places sufficient and reasonable cause for any failure. I do not find any reason to interfere with the findings of the Commissioner (Appeals).

Accordingly, the Appeal filed by the Revenue is rejected.

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