

**Commissioner of Central Excise Vs. H.J.i. Prop. G.M.M. Co. Ltd.**

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**SooperKanoon Citation :** [sooperkanoon.com/39516](http://sooperkanoon.com/39516)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Jun-29-2005

**Judge :** S Kang, Vice-, N T C.N.B.

**Appellant :** Commissioner of Central Excise

**Respondent :** H.J.i. Prop. G.M.M. Co. Ltd.

**Judgement :**

1. When the case was called none appeared on behalf of the respondents in spite of notice. Heard learned D.R., Revenue filed this appeal against Order-in-Appeal whereby the Commissioner (Appeals) held that as the appellants had paid the duty and submitted return within a period of 6 months as provided under Section 71A of Finance Act, 2003, no interest or penalty is imposable on them. Only contention of the Revenue is that as per provisions of Section 71A of the Finance Act, 2003 there is no relaxation in respect of interest or penalty, therefore, the Order passed by the Commissioner (Appeals) is not sustainable.

2. We find that provisions of Service Tax Act were amended with retrospective effect vide Finance Act, 2003 and Section 71A provides that an assessee shall furnish the return to the Central Excise Deptt.

within 6 months from the date on which Finance Act, 2003 got consent of the President and the respondent filed necessary returns along with particulars regarding payment of service tax within six months.

Therefore, we find no infirmity in the impugned Order whereby the interest and penalty is set aside as the respondents filed the return within the prescribed period. The appeal is, therefore, rejected.

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