Commissioner of C. Ex. Vs. R.K. Electronic Cable Network

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jan-18-2006

Reported in : (2006)(105)ECC69

Judge : M Ravindran

Appellant : Commissioner of C. Ex.

Respondent : R.K. Electronic Cable Network

Judgement :

1. The Revenue has filed all these appeals against the orders-in-appeal wherein the penalties on all the respondents were set aside by the Commissioner (Appeals).

2. Heard both sides and perused the record. The Revenue is aggrieved with the orders-in-appeal wherein the Commissioner (Appeals) has set aside the penalty imposed on all the respondents, who had been registered with the De-partment but had failed to discharge their duty liability towards service tax and interest within time. The Department initiated the action for imposition of pen-alty. The Commissioner (Appeals) in his order has relied upon the scheme of Voluntary Disclosure Scheme known as Extra Ordinary Tax Payer Friendly Scheme which was circulated vide letter dated 20th September, 2004 by the Min-istry of Finance, Department of Revenue, which gave immunity from penal ac-tion to those service providers who had not made declaration or not registered, provided they pay the service tax along with interest within the specified period.

3. The Commissioner (Appeals) in all the appeals herein above has come to the following conclusion: As regards other issues framed above, I find that there are a catena of decisions of various appellate for a to the effect that in the initial stages of introduction of this public oriented wide spread new levy, many of new assessees being ignorant, such procedural delays in taking up of registration and consequent filing of the returns etc. a lenient view can be taken. This was precisely the reason as to why many new Voluntary Disclosure Schemes for voluntary compliance like Extra Ordinary Tax Payer Friendly Scheme declared under Board's F.No. 137/39/2004-CX.4, dated 23-9-2004 to be operational upto 30-10-2004 in respect of the assessees who had not at all complied with the provisions of Service Tax Law had been launched waiving the various penalties under the aforesaid Sections 75A, 76 & 77 etc. When the assessees who did not at all comply with the Service Tax Law can be given immunity provided they pay the Service Tax along with appropriate rate of interest, there is no tangible and logical reason as to why the law abiding assessee who had got himself registered more or less in time and had also started paying the Service Tax along with interest, much before the new scheme became operational, shall be denied the benefit of waiver of the penal provisions referred to above for late registration, delay in filing the relevant returns etc. all of which are procedural in nature.

4. I find that an identical issue was also before the Tribunal in the case of CCE, Bhopal v. Bharat Security Services & Workers's Contractor, reported at , wherein the Tribunal had dismissed all the appeals filed by the Department on the very same ground.

5. In view of the above facts and the decided case law, I find no infirmity in the findings of the Commissioner (Appeals) that the respondents are not liable for penalties. In view of these circumstances, there is no merit in the appeals and, therefore, all the appeals are dismissed.