

Commissioner of Central Excise Vs. Tulip Network

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-14-2006

Judge : M Ravindran

Appellant : Commissioner of Central Excise

Respondent : Tulip Network

Judgement :

1. This appeal is directed against Order-in-Appeal dated 30th August, 2005 wherein the Commissioner (Appeals) has set aside the penalties imposed on the respondents by the adjudicating authority.

2. None appeared for the respondents despite notice. Considered the submissions made by the learned D.R. and perused the record. In this case the Commissioner (Appeals) has set aside the penalties imposed under Sections 75A, 76, & 77 in his Order-in-Appeal in Para 4 which is reproduced below: I have gone through the facts and circumstances of the case, and I have considered appellants submission given in ST-4 application. The main contention of the appellant's is that the service tax levy was a new levy and as soon as they came to know, about this liability they obtained the Registration certificate, discharged the liability and filed the S.T. 3 returns. Further I find that the cable operator is a small firm, run by a handicapped person with a small turnover of Rs. 40,000/- to Rs. 70,000/- per year, which is barely sufficient to sustain his living, therefore, penalties under Section 75, 75A, 76 & 77 are not justifiable in this case.

I find that the Commissioner (Appeals) has come to the conclusion of setting aside the penalty on the fact of the case that the respondent is a handicapped person and is running a very small cable operation which is barely sufficient to sustain his living. To my mind, it is a very considerate order considering the fact of human approach. In view of above I do not find any reason to interfere with the impugned Order.

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