

India Colour Lab. Vs. Cce

India Colour Lab. Vs. Cce

SooperKanoon Citation : sooperkanoon.com/41869

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-20-2006

Judge : N T C.N.B.

Appellant : India Colour Lab.

Respondent : Cce

Judgement :

2. The appeal is directed against the demand of service tax of about Rs. 24,000/- and imposition of equal penalty. The demand was raised by invoking the extended period provided under Section 73 of Finance Act, 1994. The demand is being challenged only on the ground of limitation.

3. The demand relates to service tax payable on the value of service rendered to registered dealers. The submission of the counsel for the appellant is that the facts of the present case do not permit of invocation of extended period under Section 73, since there was no mis-statement. It is being contended that in the present case the appellant was filing returns on a regular basis and returns specifically showed the amounts collected from registered dealer under Col.5 of the return. The Id. Counsel contends that a perusal of the statements would make it clear that no service tax was being paid on the services rendered to registered dealer. It is his submission that since no wilful mis-statement is involved, the demand and penalty are liable to be set aside on the ground of limitation.

4. The Id. SDR would contend that as held by the lower authority, Column 5 is meant for, "amount of service tax adjusted" and the appellant by declaring the receipts from the registered dealer under that Col., made mis-statements to the Revenue.

5. I have perused the records. The return in question has specific headings: Col.3 for value of taxable service rendered, Col.4 for amount of service tax payable and Col.7(2) for service tax paid. Col.5 is for service tax adjusted under Sub-rule (3) of Rule 6. Under Col.5, the appellant stated the value of services rendered to Registered Dealers.

That was after writing "Regd. Dealers" under that heading. No tax was paid on the receipts from the Registered Dealers. The submission is that this was under the impression that registered dealers would be liable to pay tax as on amounts and thus, not a mis-statement. Revenue has treated it as mis-statement because Col.5 is for amount of tax adjustment and according to revenue particulars furnished under wrong heading is mis-statement. Revenue's view does not seem to be correct. A comparison of the particulars furnished by the appellant under Col.5 with the particulars furnished under Col.4 (amount of service tax payable) and Col.7(2) (service tax paid) would have shown that the entries under Col.5 did not relate to adjustment at all, (because the amounts under that heading were always much higher than service tax payable) but to Registered Dealers, as mentioned by the appellant.

Thus, there is merit in the appellant's contention that no mis-statement was being made. There was only a failure to discharge the tax liability correctly because of a misunderstanding that appellant was not to pay tax as receipts for services rendered to Registered Dealers. The finding that extended period is invocable is not sustainable. The appeal is allowed on the ground of limitation, with consequential relief, if any, to the appellants.