

**Bhatwadekar and Co. Vs. Commissioner of Central Excise**

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

**Decided On :** Feb-21-2006

**Judge :** J Balasundaram, Vice-, A T K.K.

**Appellant :** Bhatwadekar and Co.

**Respondent :** Commissioner of Central Excise

**Judgement :**

1. The application for waiver of pre-deposit of penalty of Rs. 2,000/- arises out of the order of the Commissioner of Central Excise (Appeals) who has upheld the penalty imposed upon the applicants herein under Sections 76 and 77 on the ground of failure on their part to furnish the prescribed returns and to pay Service Tax as Consulting Engineers.

2. We have heard both sides. We find that the lower Appellate Authority has relied upon the judgment of the Hon'ble Madras High Court in the case of V. Shanmughavel v. CCE Chennai in which the High Court held that valuers of plant & machinery being professionally qualified engineers have to be regarded as Consulting Engineers and services rendered by them to be considered as Taxable service. The applicants herein provided services of surveyor, loss adjusters and valuers and therefore, prima facie the Appellate Authority has correctly relied upon the High Court's decision cited supra to hold that the applicants are liable to pay tax as Consulting Engineers and also are, prima facie, liable to penalty. Having regard to the facts and circumstances of the case, we direct the applicants to deposit a sum of Rs. 500/- (Rupees Five Hundred only) towards penalty within a

period of four weeks from today and on such deposit, pre-deposit of balance penalty shall stand waived and recovery thereof stayed pending the appeal. Failure to comply with this direction shall result in vacation of stay and dismissal of appeal without prior notice.

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