

Ex-serviceman Indl. Security Vs. C.C.E.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-26-2006

Judge : M Ravindran

Appellant : Ex-serviceman Indl. Security

Respondent : C.C.E.

Judgement :

1. This appeal is directed against the order in appeal-dated 11-7-2005 whereby it is held that the appellant is liable to pay the service tax and the penalties for non-payment of such tax.

2. The relevant facts that arise for consideration are that the appellant was registered in 1998 as a service provider under the Service Tax provisions as security Agency. They did not pay the service tax due on the payment they collected from one of their customers. The authorities on an investigation found out the short payment of the tax and directed the appellant to make good the short payment by a show cause notice, appellant resisted the show cause notice on the ground of limitation and many other grounds. The adjudicating authority confirmed the demand vide order dated 31-8-2004 and also imposed penalties under various sections. On an appeal the appellate authority upheld the order and dismissed the appeal. Hence this appeal.

3. The appellant has sent a request letter to decide the case on merits.

4. Hear the learned DR and perused the records. I find from the records that the appellants got themselves registered as Service provider of the Security services in the year 1998. They did not divulge the information of receipt of an amount against the services provided by them. The authorities had collected the information and on confronting the appellant about the payment, he agreed the receipt thereof. This is unbecoming of a registered service provider. He should have declared total receipts of the amount to the authorities and discharged the tax liability. Further I find that the appellant in this case has paid only the part amount of the Tax liability confirmed by the adjudicating authority on 18-9-2004 and balance amount on 18-11-2004. If the appellant had deposited the total confirmed demand as soon as the order in original was received, he could have prayed for leniency in imposition of penalty.

5. I find that the appellant has not challenged the imposition of the tax but has tried to seek relief by resorting to the technicality that the show cause notice was not issued in time. I find that the officers of the department had collated the information about non-payment of the service tax by the appellant from the information supplied by the receiver of the services of the appellant. The appellant should have come forward and declared the receipt of the amount and sought to clarify that there are discrepancies which would have definitely invoked some response from the department. Hence I hold that the appellant has not made out a case in his favour on any counts.

6. In view of the facts and circumstances as mentioned above, I do not find any reason to interfere with the order-in-appeal. The appeal is dismissed.

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