

Commissioner of Central Excise Vs. Anto Mal Jain

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-14-2006

Reported in : (2007)14STT104

Judge : M Ravindran

Appellant : Commissioner of Central Excise

Respondent : Anto Mal Jain

Judgement :

1. This appeal is directed against order in appeal dated 31-8-05 which reduced the penalty imposed on the appellants.
2. The relevant facts that arise are consideration the appellant was providing services of consulting engineering and applied for registration on 3-3-02. The appellant discharged the tax liability and the interest thereon between 18-5-02 and 27-1-03. Department issue show cause notice to the appellant on 20th May, 2004 which was adjudicated on 30th June, 2004 and amount paid towards Service Tax and interest was appropriated and equivalent amount of penalty was imposed. On an appeal, Commissioner (Appeals) reduced the penalty imposed on the appellant to Rs. 10,000/- (Rupees Ten Thousand only). Department is in appeal against such reduction of penalty.
3. Learned DR submits that Commissioner (Appeal) could not have reduced the amount of penalty imposed on appellant Under Section 76. It is the submission

that the minimum penalty imposable Under Section 76 is the minimum and there is no discretion for reduction of penalty.

4. None appeared for the respondent despite notice nor there is any request for adjournment.

5. Considered the submissions made by both sides and perused records. I find from the records that the respondents have deposited the entire amount of Service Tax and the interest thereon, before the issuance of show cause notice. The Government of India in September, 2004 came out with the amnesty scheme for waiver of penal proceedings against those assessee who have not got themselves registered with the authorities, provided they got registered within the specific period and discharge the Service Tax liability and interest thereof. I find that, this case is squarely covered in that amnesty scheme. The Tribunal in the case of Commissioner of Custom Excise, Bhopal v. Bharat Security Services and Worker's Cont. had held as under:- I find that the service provider who registered and paid service tax during Extra Ordinary Tax Payer Friendly Scheme up to 30-10-2004, not liable to any penalty. Therefore, I find no infirmity in the finding of the Commissioner (Appeals) that the respondents to pay service tax along with the interest prior to 30-10-2004 are also not liable for penalty.

In view of these circumstances, I find no merit in the appeals.

Therefore all the appeals are dismissed.

6. The ratio laid down by the Tribunal in the case of Bharat Security's case (supra) squarely applies to the issue before me.

7. Following respectfully, the ratio laid down by the Bharat Security Services case, I find that the penalty imposed on the respondents by the Commissioner (Appeal) is in itself is liable to be set aside. I set aside the penalty imposed on the respondents. The appeal of the revenue is dismissed.

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