Jak Exim Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jul-31-2006

Judge : S T S.S.

Appellant : Jak Exim

Respondent : Commissioner of Central Excise

Judgement :
1. Appellants are aggrieved by the imposition of penalty of Rs. 10,000/- for having delayed filing of the return ER-3 for the month of Feb. & March 2004 which was required to be filed, every quarter & was to be filed on 20-5-2005 but was filed on 30-6-2004 (sic). The assessee was Registered on 4-2-2004 under Central Excise Act, 1944, & this was the first return. Revenue has failed to show the prejudice or and loss caused by this delay, on the first occasion of filing. Power to impose a Penalty, under the act and the rules, is not a crop in hand to be unleashed on an assessee, especially one who is new to the procedures and compliance required. There has to be a nexus of the delay with certain advantage to the assessee and correspondence disadvantage to the Revenue. None shown. Therefore, the penalty is therefore set aside & appeal allowed as this step, after waiver of pre-deposit.