Sabharwal Security Consultants Vs. Cce

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SooperKanoon Citation : sooperkanoon.com/43992

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-03-2006

Reported in : (2007)(115)ECC101

Judge : M Ravindran

Appellant : Sabharwal Security Consultants

Respondent : Cce

Judgement :

1. This appeal is directed against the order in appeal dated 27.2.2006 that upheld the penalties imposed on the appellants vide order in original dated 30.11.2004.

2. The relevant facts that arise for consideration are that the appellants are registered and are engaged in the business of providing security service. For the period October, 2001 to March, 2003, the appellant delayed the payment of service tax to the authorities and also did not file return during the period. The authorities issued show cause notice to the appellant for the confirmation of service tax and imposition of penalties under Sections 76 and 77 besides demanding interest under Section 75 of the Finance Act, 1994. The appellant resisted the show cause notice. The adjudicating confirmed the demand appropriating the amount that has been paid by the appellant during the pendency of the case before the lower authorities and also imposed penalties under Section 76 and 77 of the Finance Act, 1994. The appellant made an appeal against the adjudication order and Commissioner (Appeals) concurred with the findings of the

lower authorities and upheld the order in original. Hence this appeal.

3. The learned Advocate appearing for the appellant4] submits that they paid the total amount of service tax on different dates prior to the issue of show cause notice. It is his submission that the delay in payment was due to financial difficulties, which the appellant was going through the relevant period. He submits that he is not contesting the amount of penalty imposed under Section 77 but is only contesting the penalty under Section 76. It his further submission that having deposited the entire amount of service tax before the issue of show cause notice and interest thereon, there should be some leniency in imposition of penalty which was not shown by the lower authorities.

4. The learned DR reiterates the findings of the Commissioner (Appeals).

5. Considered the submissions made by both the sides and perused the record. It is undisputed that the appellant had failed to deposit the tax within the stipulated period. The appellant was registered with the authorities in the year 1999. The appellant during the period 1999-2001 were filing the returns and discharging the service tax liability.

Strangely from the month of October 2001 to March, 2003, they did not pay service tax nor they filed the return despite knowing the provisions of law. The learned Commissioner (Appeals) was correct in coming to the conclusion that the appellant has failed to show any reasonable cause and they are not eligible to get the benefit.

6. Accordingly in view of the facts and circumstances mentioned above, I do Not see any reason to interfere with the impugned order of the learned Commissioner (Appeals). The appeal filed by the appellant is devoid of any merits and the same is dismissed.