Gopsons Papers Ltd. Vs. Commissioner of C. Ex.

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SooperKanoon Citation : sooperkanoon.com/44147

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-21-2006

Reported in : (2007)8STT199

Judge : R Abichandani

Appellant : Gopsons Papers Ltd.

Respondent : Commissioner of C. Ex.

Judgement :

1. The appellant challenges the order of the Commissioner (Appeals) upholding the order-in-original, by which the appellant was ordered to pay a penalty of Rs. 51,481/- under section 76 of Chapter V of Finance Act, 1994 and a penally of Rs. 1,000/ under section 77 of the said Act.

2. The learned Counsel for the appellant pointed out from the Government of India, Central Board of Excise & Customs letter dated 17-12-2004 thai in Para 5.6, it was provided that "in case of omission in payment of service tax or procedural lapse by persons liable to pay service tax on the goods transported by road, committed before 31st December, 2005, the consequences should be limited to recovery of tax with interest, payable thereon. No penalty should be imposed on such defaulters unless the default is on account of deliberate fraud, collusion, suppression of facts or wilful mis-statement or contraventions of the provisions of service tax with intent to evade payment of service tax". There is no finding against the applicant that the default was on account of deliberate fraud, collusion, etc.

Therefore, prima facie, imposition of penalty for the period in question, which was from 1-1-05 to 31-3-05 was not justified. It is, therefore, directed that there shall be interim stay of the impugned order and recovery of penalty during the pendency of this appeal without any pre-deposit.

This application is disposed of accordingly. The appeal will now come up for final hearing in its due course.