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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-22-2006

Reported in : (2007)7STR171

Judge : P Das

Appellant : indus. Technical and Financial

Respondent : Cce

Judgement :

1. None appeared on behalf of the appellant. By letter dated 2.12.2006, the appellant requested to decide the appeal on merits in their absence on the basis of the available record. Heard the learned D.R.2. The relevant facts of the case, in brief, are that "Scientific & Technical Consultancy services: were made taxable with effect from 16.7.2001. The appellant obtained registration from the department on 10.8.2001 for rendering the said services. On 22.1.2002, they deposited the service tax for the period August, 2001 to November, 2001 and for the month of August, 2002 it was paid on 26.9.2002. Show cause notice dated 29.1.2003 was issued proposing to impose penalty for default payment of tax. The adjudicating authority condoned delay of one day in respect of payment of service tax for the month of August, 2002 but he imposed penalty of Rs. 2,000/- for delayed payment for the period August, 2001 to November, 2001. The Commissioner of Central Excise reviewed the said adjudication order and enhanced penalty from Rs. 2,000/- to Rs. 17,284/-. Hence, the appellant filed the instant appeal against the impugned order.

3. The learned D.R. reiterated the findings of the Commissioner. He submits that in the case of Eta Engineering Ltd. v. CCE, Chennai , the Larger bench of the Tribunal held that penalty of Rs. 100/- per day to be imposed in case of failure to pay tax for everyday after the due date.

4. After hearing the learned D.R. and on perusal of the record, I find that in the instant case service tax on "Scientific & Technical Consultancy" services was introduced on 16.7.2001. The appellant obtained registration on 10.8.2001. Thereafter, they deposited the entire service tax for the period from August, 2001 to November, 2001 on 22.1.2002 before issuance of the show cause notice. I find that the appellant is newly registered firm and the tax was also introduced on 16.7.2001. Therefore, the appellant acted in a bonafide manner. So, the adjudicating authority rightly imposed penalty of Rs. 2,000/- on the appellant and the adjudication order is upheld and. the order of Commissioner of Central Excise is set aside. The appeal is allowed.

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