

Nitin S. Bhalerao Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-20-2007

Reported in : (2007)(120)ECC342

Judge : A Wadhwa

Appellant : Nitin S. Bhalerao

Respondent : Commissioner of Central Excise

Judgement :

1. After dispensing with the condition of pre-deposit of penalty, I take up the appeal itself with the consent of both the sides.
2. The Original adjudicating authority confirmed the Service Tax of Rs. 56,145/- along with interest of Rs. 35,766/- against the appellant, who is an Architect, for the period October 1998 to March 2003. The said tax along with interest stand paid by the appellant. In addition he imposed personal penalty of Rs. 2,000/- under Section 76 of the Finance Act, 1994. The said Order of the Asst. Commissioner was reviewed by the Commissioner, who vide his impugned Order enhanced the penalty of Rs. 2,000/- equivalent to Service Tax amount.
3. The Id. Advocate appearing for the appellant relied upon the Extra Ordinary Tax Payer Friendly Scheme, i.e. if an Architect himself get registered by 31.10.2004 and pay Service Tax with interest, no penalty would be imposed upon him. The said scheme was taken note by the Tribunal in the case of CCE Bhopal v. Bharat

Security Services and Worker Cont. , wherein it was held that payment of Service Tax along with interest before the cut off date would not have any penal action against the assessee. Inasmuch as; the duty and the interest have admittedly been paid before 31st October 2004, the enhancement of penalty by Commissioner was not justified.

4. Accordingly, I set aside the impugned order and allow the appeal by restoring Order-in-Original passed by the Commissioner. Stay petition also gets disposed of.

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