# The Commissioner of Central Vs. Vraj Agency

The Commissioner of Central Vs. Vraj Agency

**SooperKanoon Citation** : sooperkanoon.com/45430

**Court** : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

**Decided On :** Apr-30-2007

**Reported in** : (2007)10STJ280CESTAT(Mum.)bai

**Judge** : M Ravindran

**Appellant** : The Commissioner of Central

**Respondent** : Vraj Agency

**Judgement** :

1. This appeal is directed against the order-in-appeal dated 13/10/2006, vide which the Ld. Commissioner (Appeals) set aside the penalty imposed on the respondent by the adjudicating authority.

2. None appeared on behalf of the respondent despite notice. Since the issue involved in this case is in a narrow compass, covered by the decision of the Tribunal, I take up the appeal for final disposal in the absence of the respondent. Ld. DR re-iterates the grounds of appeal filed by the revenue.

3. Considered the submission made in detail by the DR and perused the records. The issue involved in this case regarding the non-payment of Service Tax liability by the respondent for the services rendered of C&F agent services. Subsequently, the respondents discharged the service tax liability, after being pointed out by the authorities. The Ld. Commissioner (Appeals) while setting aside the penalties imposed on the respondent has come to the conclusion as under: In the instant

case, the appellant took registration and paid the service tax along with interest prior to the introduction of Extra ordinary Taxpayer Friendly Scheme which was operative upto 30/10/2004. The appellant claims that the immunity provided therein should also be extended to them. It has been held in the case of CCE, Bhopal v. Bharat Security Services & Workers Cont.

that a service tax provider who registered himself and paid service tax along with interest prior to 30/10/2004, is not liable to any penalty under the said scheme. Hon'ble Tribunal, Mumbai applied the same ratio in many similar cases, one of them being in the case of S.S. Shah v. CCE, Nasik vide Order No. A/1536/C-IV/SMB/WZB/2006 dated 04/09/2006. As a lower appellate authority, I am bound to follow the same in terms of the principle laid down by Hon'ble Supreme Court in the case of UOI v. Kamlakshi Finance Corporation Ltd. .

4. It can be seen from the above reproduced portion of the order, the Ld. Commissioner (Appeals) has correctly applied the ratio of the case law of Bharat Security Services & Workers Cont. .

Since the issue is squarely covered in favour of the respondent, the impugned order as passed by the Ld. Commissioner (Appeals) in setting aside the penalty is correct and legal, does not require any interference. Accordingly, the appeal filed by the revenue is dismissed.