

Agarwal Colour Labs Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-07-2007

Judge : R Abichandani, S T T.V.

Appellant : Agarwal Colour Labs

Respondent : Cce

Judgement :

1. The appellant seeks interim stay and waiver of pre-deposit of penalty enhanced under the order dated 27.11.2006, made by the Commissioner in exercise of his revisionary jurisdiction under Section 84 of the Finance Act, 1994.
2. It is pointed out by the learned Counsel, that in the appeal, which has been preferred before the Tribunal (Appeal No. ST/122/05-ST), the appellant has deposited the entire amount of service tax by way of pre-deposit and an application for restoration has been filed, since the deposit though made within the time given, compliance could not be reported. It appears that the question of penalty under Section 76, which was initially Rs. 7,000/- as imposed by the adjudicating authority and which has been raised under the impugned revisionary order to Rs. 100/- per day, is the subject matter of the appeal which has been filed against the order of the Commissioner (Appeals). It is stated that the Commissioner (Appeals) should have dismissed the appeal for non-compliance of the order of pre-deposit and thereafter, the Tribunal directed the amount of Rs. 72,980/- to be deposited and the deposit has been made.

3. Having regard to the facts and circumstances of the case, the enhanced penalty under the impugned order of the revisionary authority is stayed and there shall be waiver of pre-deposit of such enhanced amount of penalty during the pendency of this appeal. This application is accordingly disposed of. The appeal will now come up for final hearing in its due course.

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