

Nam Engineers and Contractors Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-17-2007

Reported in : (2007)11STJ181CESTATNew(Delhi)

Judge : S T T.V.

Appellant : Nam Engineers and Contractors

Respondent : Cce

Judgement :

1. The appellant is challenging the order of Commissioner (Appeals) made on 11.10.2006. In the impugned order vide para 6, the learned Commissioner discusses as follows: 6. The appellant has cited several Court decisions in their support.

I find that the facts and circumstances of the cited cases are different that of the present case so these are not applicable on the instant case. I find that the appellant has neither taken the service tax registration nor paid service tax in Govt. account even after imposition of service tax on the said services from 10.09.2004. The service tax registration was obtained and service tax was deposited by the appellant only on being asked and persuaded by the department. Therefore, the appellant has fully suppressed the facts about providing the commercial services from the department with intend to evade payment of service tax. Therefore, the appellant has contravened the provisions of Sections 66, 67, 68, 69 and 70 of the Finance Act, 1994 read with Rule 6 and 7 of Service Tax

Rules, 1994 by not getting registered themselves and also willfully not making payment of service tax with an intent to evade service tax suppressing fact from the department. The appellant, therefore, is liable for penalty under Section 78 of the Finance Act, 1994 and penalty on them is rightly imposed by the adjudicating authority. I agree with the findings of the adjudicating authority in this regard.

2. None appeared on behalf of the appellant despite notice. Learned authorized representative (DR) reiterates the ratio of the decision of the lower authorities and states that the appellant has not disputed about the payment of service tax and interest which they have rightly paid. But at the same time they have not taken registration nor paid service tax. They did so only on being persuaded by the department.

Therefore, contravention of the provisions of the Finance Act, 1994 referred to in the show cause notice are proved.

3. Having heard the learned authorized representative (DR) and having perused the record, it is clear that the lower authorities has passed the order and imposed penalty in accordance with law. In view of the above, the appeal filed by the appellant is dismissed and the order of Commissioner (Appeals) is upheld.

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