

Cce Vs. M.P. Electro Craft

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-30-2007

Judge : P Das

Appellant : Cce

Respondent : M.P. Electro Craft

Judgement :

1. The Revenue filed this appeal against the unpuged order. Wherein the Commissioner (Appeals) set aside the penalty under Section 76 and 77 of the Finance Act, 1998. The Id. DR on behalf of the Revenue submits that the Commissioner (Appeals) set aside the penalty on the basis of amendment in the Amnesty Scheme, but the present case is related to March, 2006, He submits that the Amnesty Scheme is not applicable herein.

2. After hearing the Id. DR and on perusal of the records, it is seen that delay in submission of Return was caused due to uncertainty and confusion and the delay was not deliberate but due to prevailing confusion. This finding is not challenged by the Revenue in their grounds of appeal. The Tribunal in the case of Commissioner of Central Excise, Kolkata v. Malancha Photographer 2006 (1) SIR 101 (Tribunal-Calcutta) held that penalty under Section 76 and 77 of the Finance Act, 1994 are not mandatory. Thus, there is no dispute on the delay in filing of return and payment of tax was due to confusion of the respondent.

3. Therefore, I do not find, any merit in the appeal of the Revenue.

Accordingly, the appeal filed by the Revenue is rejected.

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