Rakesh Rao Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Oct-18-2007

Reported in : (2008)9STR478

Judge : M Ravindran

Appellant : Rakesh Rao

Respondent : Commissioner of Central Excise

Judgement :

1. This appeal is directed against the order-in-revision No. 98/NSK/06 dated 31-7-2006.

2. The facts are undisputed as the appellants have failed to pay the service tax and failed to file returns for the period October 99 to September 2002 despite having taken service tax registration from the authorities. On being pointed out, the appellant deposited the entire amount of tax liability and interest leviable thereon by 28-5-2004. The adjudicating authority in its order-in-original appropriated the amount of service tax and interest paid and imposed penalty under Section 76 & 77 of the Finance Act.

3. The appellant has deposited the penalties so imposed. Id.

Commissioner (Appeals), Nasik, under the provisions of Sub-section (1) of Section 84 of the Finance Act, 1994 revised and enhanced the penalty amount on the appellant from lump sum to equivalent amount of service tax, which was not paid.

Hence this appeal filed by the appellant.

4. Considered the submissions made by the Id. DR and perused the records.

5. It is undisputed that the appellant had deposited the entire amount of service tax leviable and interest thereon by 28-5-2004. The Amnesty scheme introduced by the Central Government of India as regards the non imposition of penalty, if the amount of service tax and the interest thereof is discharged by the assessee before 31-10-2004 would apply in the case. It is also seen that in an identical issue the Tribunal in the case of CCE, Bhopal v. Bharnt Security Services & Worker's Cont. as reported at 2006 (3) S.T.R. 703 (Tribunal) took the view that amnesty scheme is applicable even to those assessee, who had taken the registration but failed to comply with the law.

Accordingly, respectfully following the said decision, the impugned order-in-revision is liable to be set aside and I do so. The appeal filed by the appellant is allowed.