**SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com**

**J.S.P. Security Vs. Cce**

**J.S.P. Security Vs. Cce**

**SooperKanoon Citation** : sooperkanoon.com/46438

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

**Decided On :** Nov-14-2007

**Reported in** : (2008)14STT316

**Judge** : A Wadhwa

**Appellant** : J.S.P. Security

**Respondent** : Cce

**Judgement** :

1. As per facts on record, the appellant is engaged in providing services as security agency services from Sept 2000 onwards and paying the service tax accordingly. However, as a result of audit carried out by Central Excise Officers, it was found that during the period 2000-01 to 2002-03, the appellant has short paid the service tax of Rs. 1,67,896/-. The said short payment of service tax was detected after checking I.T. returns and bank statements for the relevant period. The total value of the services provided by the appellant was found to be on the lower side than the return filed by them with the Central Excise department. The appellant admitted the above mistake and deposited the amount along with interest. On proceedings being initiated against them, an equal amount of personal penalty was imposed upon them, which is under challenge.

2. It is appellant's contention that there was no intention to evade the payment of tax and the appellant themselves detected the mistake and deposited the short paid tax along with interest. On the other hand, it is the Revenue's contention that

the mistake was pointed out by the audit people and there was clear "mens rea" on the part of the appellant to suppress the correct value of the taxable services and to pay less amount of tax.

3. Admittedly, the appellant have shown different values in their Income Tax return and bank statement as compared to what has been reflected in the return filed with the department. The appellants have contended that on account of new levy, they were not aware of various rules and as such the less value was adopted for the purposes of tax.

By giving the benefit of doubt on the above point and by taking note of the fact that entire amount of duty was immediately deposited by the appellant along with interest amounting to Rs. 43,921/-, I reduce the penalty from Rs. 1,57,896/- to Rs. 50,000/- (Rupees Fifty Thousands) only.

4. But for the above modifications in the quantum of penalty, appeal is otherwise rejected.

**SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com**