R.K. Associates Vs. Cce

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SooperKanoon Citation : sooperkanoon.com/46653

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-14-2007

Reported in : (2008)13STJ150CESTATNew(Delhi)

Judge : P Das

Appellant : R.K. Associates

Respondent : Cce

Judgement :

1. The appellant filed this appeal against imposition of penalty under Section 76, 77 and 78 of the Finance Act, 1994 by revision order dated 28.11.2006. After hearing both the sides and on perusal of the records, I find that the Commissioner while imposing penalty have observed that the appellants had not adduced any reasonable cause for such failure to pay the tax before the adjudicating authority or before him and therefore, benefit of Section 80 cannot be granted. On perusal of the adjudication order, I find that the Assistant Commissioner had not imposed penalty under Section 76, 77 & 78 upon power vested under Section 80 of the Finance Act. It is seen that he has given the reason as under: However, at the earlier stage, the noticee was not aware of the levy of service tax on the consignment agent falling under the category of C&F agent. When they came to know the levy of service tax on them, they got themselves registered with the department and paying service tax thereafter. Thus I find that the failure on the part of noticee was not voluntarily but due to the unawareness of the law.

Thus, I take a lenient view against the noticee in the power vested with me under Section 80 of the Finance Act, 1994.

2. In view of the above finding of the Assistant Commissioner of Central Excise, the finding of the Commissioner of Central Excise in revision application is not sustainable. So, the imposition of penalty in revision order is unwarranted and accordingly it is set-aside. The appeal is allowed with consequential relief.