

Akar Enterprises Vs. Ccex and Cus.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jan-18-2008

Judge : M Ravindran

Appellant : Akar Enterprises

Respondent : Ccex and Cus.

Judgement :

1. This stay application is filed by the applicant against the Order-in-Revision No. 151/NSK/06/819 dated 29.1.2007. After hearing both sides for some time on the stay application, I find that the appeal itself can be disposed of at this juncture. After granting the waiver of pre-deposit of the amount, I take up the matter for disposal.

2. The issue involved in this case is regarding the enhancement of penalty on the appellant. The adjudicating authority has imposed penalty of Rs. 100/- only upon the appellant under Section 77, while the Commissioner in a show cause notice issued to the appellant seeks to impose penalty under Section 76 of the Finance Act, 1994. After hearing the appellant, the Commissioner has imposed equivalent amount of penalty of Rs. 17,929/-. I find that the issue involved in this case is regarding the discharge of service tax liability in respect of the service provided by the appellant. The entire amount of service tax, which was due, was paid on 12.7.2004. The Amnesty Scheme, which was introduced by the Central Government for non-imposition of penalty, if the Service Tax liability and interest thereof is paid before 30.10.2004, squarely applies in this case. I also find that this

case is identical to the Tribunal's decision in the case of CCE, Bhopal v.R.K. Electronics Cable Network 2006 (2) STR 153 (Tri-Del), wherein the Tribunal has held that when assessee who did not at all comply with service tax law can be given immunity, provided they pay service tax along with appropriate rate of interest, no reason why law abiding assessee who had got himself registered more or less in time and started paying service tax alongwith interest, shall be denied benefit of waiver of penal provisions.

3. As such, I find that penalty imposed on the appellant is liable to be set aside and I do so. The impugned order is set aside and the appeal is allowed.

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