

Cce Vs. B.L. Maratha

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-26-2008

Judge : P Das

Appellant : Cce

Respondent : B.L. Maratha

Judgement :

2. Revenue filed this appeal against the order of the Commissioner (Appeals), whereby penalty imposed by the adjudicating authority was set aside under Section 80 of the Finance Act, 1994. It is seen that the respondents provided rent-a-cab service to BSNL. The respondent paid the tax during the adjudication proceedings. The Commissioner (Appeals) set aside the penalty under Section 80 of the said Act after considering the facts and circumstances of the case in proper manner.

The findings of the Commissioner (Appeals) is reproduced below: 5. I have gone through the case records and submissions made by the appellant. I find that Section 80 of the Finance Act, 1994 provides that notwithstanding any thing contained in the provisions of Section 76, Section 77 or Section 78, no penalty shall be imposable on the assessee for any failure referred to in the said provisions, if assessee proves that there was reasonable cause for the said failure. I find that the appellant is sort of illiterate person and may not have been fully aware of the provisions of service tax law.

The appellant deposited service tax and interest voluntarily during the adjudication proceedings and did not challenge liability of the service on their activity service. Further the appellant did not even charge service tax from their customers. So, it is not a case of the assessee trying to cheat the Government by recovering service tax from the customer and pocketing the same.

6. As is evident, levy and recoverability of the impugned service tax with interest is beyond doubt and the appellant have not contested it. They have in fact already voluntarily paid the liability along with interest although they had not charged service tax from BSNL which clearly shows their bonafides.

Service tax is a relatively new levy and its implementation requires more of sympathy and empathy than an iron hand as has been stressed by the Hon'ble Finance Minister also time and again. Indeed, it is for this reason that Section 80 ibid has been incorporated. As is the situation in this case, the appellant brought to vehicles after being laid off from J.K. Factory in Kota to make both ends meet (as stated during P.H.). Poverty was writ large on the face of the wife of the appellant when she appeared for personal hearing.

3. The aforesaid findings of the Commissioner (Appeals) remind that the law is not only exercise of intellect but also it comes from heart with reasons and the power conferred under Section 80 of Finance Act, 1994 has properly been invoked in favour of the respondent. So, I do not find any reason to interfere the order of the Commissioner (Appeals).

Accordingly, the appeal filed by the Revenue is rejected.

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