

Asiya Cell Vs. Commissioner of Central Excise, Salem

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Chennai

Decided On : Jun-11-2010

Judge : The Honourable Ms. Jyoti Balasundaram, Vice President

Appeal No. : Appeal No.ST/177 of 2009

Appellant : Asiya Cell

Respondent : Commissioner of Central Excise, Salem

Advocate for Pet/Ap. : Shri M.N.Bharathi, Advocate. Shri C.Rangaraju, SDR.

Judgement :

Heard both sides on the appeal against imposition of penalty of Rs.61,000/- under the provisions of Section 78 of the Finance Act, 1994 for the belated payment of service tax of Rs.1,20,718/- together with interest.

2. The assesseees plead that levy of service tax on Business Auxiliary Service came into effect only from 1.7.2003 and being a small assesseees, they were not aware of their liability of tax and, on being informed by the department in writing in August 2004 to their liability, they paid the entire tax and interest for the period 2003-04 in Oct-04. The submission of the assesseees is well-founded as I note that the department has not established with any material on record that assesseees had knowledge that they were rendering services liable to tax so as to hold them guilty of suppression.

I, therefore, set aside the penalty and allow the appeal.

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