

Customs, Excise and Gold Tribunal - Mumbai

Ar. Sandeep C. Sikchi vs Commissioner Of Central Excise on 4 September, 2006

Bench: A Wadhwa

ORDER Archana Wadhwa, Member (J)

1. After admitting the appeal and allowing the stay petition, I proceed to decide the appeal itself, inasmuch as the issue lies in a narrow compass.
2. The Assistant Commissioner, vide his impugned order confirmed the amount of Service Tax of Rs. 66,057/- against the appellants for the period October 1998 to March 2003, which already stood paid by them on 26-7-2003. However, he did not impose any penalty for which show cause notice dated 6-12-2004 was issued. Being aggrieved with the dropping of the notice issued for imposition of penalty, revenue filed an appeal before the Commissioner (Appeals), who enhanced the penalty to amount of Service Tax i.e. to Rs. 65,057/-. Hence, the present appeal.
3. After hearing the Ld. Advocate appearing for the appellants and the Ld. DR for the revenue, I find that the appellants have undisputedly paid the amount in question along with interest amount. They have also got themselves registered with the authorities. Tribunal in the case of CCE, Bhopal v. Bharat Security Services & Worker's Contractor vide its order No. A/1087-1092/2005-IV (PB) 2006 (3) S.T.R. 703 (Tribunal) : 2005 (188) E.L.T. 454 (T) has held that where Service tax provider has registered himself and paid Service Tax along with interest prior to 30-10-2004, he is not liable to any penalty under the Extra Ordinary Tax Payer Friendly Scheme. Inasmuch as the appellants have admittedly paid the tax made and have themselves got registered prior to 31-10-2004, I find no justification for enhancement of penalty imposed upon them. Accordingly, the impugned order is set aside, Order-in-Original is restored and appeal allowed with consequential relief to the appellants. Stay petition also gets disposed of.

(Dictated in Court)