(2010) 02 P&H CK 0316

In the Punjab And Haryana At Chandigarh

Case No : S.T.A. No. 15 of 2010 (O and M)

Commissioner of C. Ex. APPELLANT

Vs

City Motors RESPONDENT

Date of Decision : 18-02-2010

Acts Referred:
Finance Act, 1994 — Section 76, 78

Citation : (2010) 19 STR 486 : (2011) 30 STT 191

Hon'ble Judges : Mehinder Singh Sullar, J;Ashutosh Mohunta, J

Bench : Division Bench

Advocate : Gurpreet Singh, for the Appellant;

Final Decision : Dismissed

Judgement

Ashutosh Mohunta, J.—CM. No. 1621-C-II of 2010 - There is delay of 85 days in refiling the present appeal.

2. For the reasons mentioned in the application, the delay is condoned. Main Case

3. The Revenue has filed this appeal impugning the orders passed by the Commissioner (Appeals) as well as by the Customs, Excise & Service Tax Appellate Tribunal, New Delhi (for short ''the Tribunal''), vide which it has been held that imposition of penalty u/s 78 of the Finance Act, 1994 (for short ''the Act'') is sufficient to meet the ends of justice.

4. The respondent was levied penalty u/s 76 and Section 78 of the Act for the same cause of action by the adjudicating authority. In appeal, the Commissioner reduced the penalty u/s 78 of the Act and set aside the penalty u/s 76 of the Act. The Revenue challenged the order passed by the Commissioner (Appeals) which has been dismissed.

5. A perusal of the impugned order shows that the penalty imposed u/s 78 of the Act was sufficient to cover the default of service tax. Moreover, two penalties for the same default could not be imposed upon the respondent. Apart from the

above, even the amount involved in the present appeal is very less, i.e. only Rs. 56,024/-.

6. Resultantly, we find no merit in this appeal and the same is accordingly dismissed in limine.

