(2007) 10 BOM CK 0013

In the Bombay High Court

Case No : Central Excise Appeal No. 4 of 2007

Commissioner of Central Excise and Customs — APPELLANT

Vs

Ashish Vasantrao Patil — RESPONDENT

Date of Decision : 18-10-2007

Acts Referred:
Finance Act, 1994 — Section 76, 80

Citation : (2008) 10 STR 5

Hon'ble Judges : J.P. Devadhar, J;F.I. Rebello, J

Bench : Division Bench

Advocate : S.V. Bharucha, N.D. Sharma, H.P. Chaturvedi and S.D. Bhosale, for the Appellant;

Final Decision : Dismissed

Judgement

1. Revenue is in appeal against the order of CESTAT dated 15-2-2006 2006 (3) S.T.R. 184 . By that order, for the reasons set out in para 4, the Learned Tribunal considered the power conferred on it u/s 80 of the Finance Act, 1994 exercised its discretion and reduced penalty to the sum of Rs. 4,000/-

2. We have taken a view that considering Section 76 and 80, it is open to the Tribunal to exercise such discretion. Once the discretion is exercised and we find that there are germane reasons recorded, the question of law as framed would not arise. Consequently the appeal is dismissed.