courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 21/09/2026

(2008) 11 P&H CK 0012

In the Punjab And Haryana At Chandigarh

Commissioner of Central Excise — APPELLANT

Vs

Batala Citi Cable Pvt. Ltd. — RESPONDENT

Date of Decision : 28-11-2008

Acts Referred:

Central Excises and Salt Act, 1944 — Section 35G
Finance Act, 1994 — Section 75A

Citation : (2009) 16 STR 19 : (2010) 24 STT 354

Hon'ble Judges : L.N. Mittal, J;A.K. Goel, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Adarsh Kumar Goel, J.—The Revenue has preferred this appeal u/s 35G of the Central Excise Act, 1944 (for short, the Act), proposing to raise following substantial questions of law:

(i) Whether the Customs Excise & Service Tax Appellate Tribunal (in short CESTAT) is correct in relying upon the Extraordinary Taxpayer Friendly Scheme issued by the Hon''ble Finance Minister, Govt. of India (Central Board of Excise & Customs, New Delhi) in the month of September, 2004 and which remained in operation upto November, 2004 when the respondents were caught evading service tax before announcement of said scheme ?

(ii) Whether the penalties imposed under Sections 75A, 76, 77 & 78 of the Finance Act, 1994 by the Revisionary Authorities in exercise of the powers conferred u/s 84 of the Finance Act, 1994 are correct when the respondent failed to obtain service tax Registration Certificate, failed to file Service Tax-3 Returns and also failed to deposit the due amount of Service with the department?

2. The Assessee is engaged in providing advertisement service falling u/s 65 of the Finance Act, 1944. The Assessee did not pay the service tax for the period from 6-8-1998 to 30-6-2002. Notice for imposition of penalty was issued to the Assessee.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/commissioner-of-central-excise-...

3. In reply, the Assessee deposited the amount and also relied upon Taxpayer Friendly Scheme announced by the Finance Minister in September 2004, which remained operative upto November 2004, providing that if a service provider has failed to register himself due to ignorance, no penalty would be levied, if he made a declaration of his past liability. The Adjudicating Authority accepted the declaration and levied token penalty of Rs. 1,000/- only. The matter was thereafter reviewed by the Commissioner on the ground that conduct of the Assessee was not bona fide. The Tribunal, on appeal of the Assessee, restored the original order by observing that since there was confusion in the field, bona fides of the Assessee could not be doubted.

4. We have heard learned Counsel for the appellant and perused the record.

5. In view of the finding that the Assessee was admittedly covered by the Scheme, we do not find that any substantial question of law arises.

6. The appeal is accordingly dismissed.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/commissioner-of-central-excise-…