(2014) 08 KAR CK 0184

In the Karnataka High Court

Case No : CEA No. 96 of 2008

Commissioner of Service Tax — APPELLANT

Vs

Airtime Enterprises — RESPONDENT

Date of Decision : 21-08-2014

Acts Referred:

Citation : (2015) 49 GST 40

Hon'ble Judges : Rathnakala, J;N. Kumar, J

Bench : Division Bench

Advocate : C. Geetha and N.R. Bhaskar, Advocates for the Appellant; V. Lakshmikumaran, Advocates for the Respondent

Judgement

N. Kumar, J.

1. The appeal is admitted to consider the following substantial questions of law:

"(i) Under the circumstances, whether the order of the CESTAT is legal and correct in setting aside the penalties imposed under Section 76, section 77 of the Act and allowing the benefit under the Amnesty Scheme?

(ii) When the respondent has not filed any declaration under the Amnesty Scheme and failed to pay the interest during the Amnesty Scheme, as stipulated under the said scheme, whether the order of the CESTAT is right in holding that the respondents are entitled for the immunity from penalty?

(iii) Whether the order of the CESTAT is legally sustainable, in view of erroneous findings and misinterpretation of statutory provisions?"

It is not in dispute that the assessee availed the benefit of Amnesty Scheme and paid duty and interest. Therefore, now the question for consideration is, as the duty and interest was not paid within the due date under the Act, the assessee is liable to pay interest under Sections 76 and 77 of the Act. Clarifying the Amnesty scheme, a circular has been issued by the department where it has been made clear that if the assessee availed the benefit of Amnesty scheme and the tax liability is determined, then he is not liable to pay any penalty. In that view of the matter, we do not see any merit in this appeal. The order passed by the Tribunal is in accordance with law. Accordingly, the substantial questions of law framed in this appeal are answered in favour of assessee and against the revenue. The appeal is dismissed.

