

(2007) 07 BOM CK 0009

In the Bombay High Court

Case No : Central Excise Appeal No. 213 of 2006

Commr. of C. Ex. and Customs

APPELLANT

Vs

D.R. Gade

RESPONDENT

Date of Decision : 26-07-2007

Acts Referred:

Citation : (2008) 9 STR 348

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

Bench : Division Bench

Advocate : A.S. Rao and S.V. Bharucha, for the Appellant;

Final Decision : Dismissed

Judgement

1. On the question of law as formulated in para 4(a), we find that on a consideration of Sections 76 and 80, there is discretion in the authority of not imposing penalty. In the instant case, the Tribunal considering the facts on record has recorded a finding that the enhancement of penalty is arbitrary. This was within its discretion.
2. This is purely an exercise in discretion based on a finding of fact which it was empowered. No question of law, therefore, arises.
3. The appeal is dismissed with no order as to costs.