(2014) 04 AHC CK 0090

In the Allahabad High Court

Case No : Central Excise Appeal No. 63 of 2014

Commr. of Central Excise APPELLANT

Vs

Software Technology Park of India RESPONDENT

Date of Decision : 09-04-2014

Acts Referred:

Citation : (2014) 36 STR 1009

Hon'ble Judges : Dr. Dhananjaya Yeshwant Chandrachud, C.J;Dilip Gupta, J

Bench : Division Bench

Advocate : Ashok Singh, Advocate for the Appellant

Judgement

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1. The Commissioner (Appeals), while confirming the demand on account of Service Tax, reduced the quantum of penalty vide order dated 23 October 2008. The Commissioner (Appeals) held as follows:

"However, regarding imposition of penalty by the adjudication authority, I find the matter involves the interpretation of law as demand is related to the initial period when the said services were brought into Service Tax net. In fact, the scope of Service Tax on various services is continuously being widened and during the initial stages of bringing a new service in Service Tax net, several doubts do arise regarding Service Tax applicability on the services provided. Further, the appellants being an autonomous society under the Department of Information Technology under Ministry of Communication & Information Technology, cannot be viewed as having intention to evade the payment of tax by reason of fraud, collusion, willful misstatement, suppression of facts etc. and the adjudicating authority had also not recorded any reason or evidence against the appellants in the subject order. I therefore, reduce the penalty imposed u/s. 75 from Rs. 31,37,505/- to Rs. 2,00,000/- and reduce the penalty of Rs. 200/- per day imposed under Section 76 to Rs. 100/- per day, which adequately meets the ends of justice."

The Customs, Excise & Service Tax Appellate Tribunal has dismissed the appeal filed by the Revenue. The Tribunal, in our view has rightly not interfered with the possible view which was taken by the Commissioner (Appeals). There is no perversity in the approach of the Tribunal or, for that matter, in the order of the Commissioner (Appeals), reducing the penalty in the considered exercise of his jurisdiction. Hence, no substantial question of law would arise.

2. The appeal is, accordingly, dismissed. There shall be no order as to costs.