

(2013) 06 MAD CK 0271

Madras High Court

Case No: Civil Misc. Appeal No. 684 of 2008

Commissioner of Service Tax

APPELLANT

Vs

Ramanasekar Steels Ltd.

RESPONDENT

Date of Decision: June 13, 2013

Citation: (2014) 44 GST 467

Hon'ble Judges: K.B.K. Vasuki, J; Chitra Venkataraman, J

Bench: Division Bench

Judgement

Chitra Venkataraman, J.

The Revenue is on appeal as against the order of the 2008 (9) S.T.R. 132 raising the following questions of law;--

1. Whether the declaration of the first respondent as a sick industry with effect from 31.12.2000 by the B.I.F.R. could be construed as "reasonable cause" for the purposes of invoking section 80 of the Finance Act, 1994?
2. Whether the Tribunal was right in setting aside the penalty in full solely on the ground that the first respondent was declared as a sick industry with effect from 31.12.2000?

It is seen from the order of the C.E.S.T.A.T. that on the non-filing of the return, levy of penalty u/s 77 was confirmed. However, as regards the nonpayment of tax, it pointed out to the sickness of the company, which ultimately, ended up on filing of petition before B.I.F.R. (Board for Industrial and Financial Companies) in the year 2001 declaring as sick company u/s 3(1)(o) of the Sick Industrial Companies (Special Provisions) Act, 1985. Based on these facts, the C.E.S.T.A.T. held that the assessee had shown "reasonable cause" on the failure referred to in section 76, penalty levied could not be sustained. It is no doubt true that the default is with reference to the period from October 1999 to March 2003. It is also a matter of record that the assessee had paid service tax for the period from April 2002 to March 2003.

2. Considering the financial constraint that the assessee had undergone and on satisfaction that sufficient cause shown by the assessee for not having been able to pay service tax in time, the C.E.S.T.A.T. had deleted the penalty. We do not find any justifiable cause to disturb the order of the C.E.S.T.A.T., consequently, the Civil Miscellaneous Appeal is dismissed. No costs.