

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH
CHENNAI**

Appeal No.ST/287/2008

[Arising out of Order-in-Appeal No.46/2008 dt. 31.10.2008 dated passed by the Commissioner of Customs & Central Excise (Appeals), Tiruchirapalli]

Vaigai Canteen

Appellant

Versus

Commissioner of C.Ex & Service Tax, Trichy

Respondent

Appearance:

Shri M. Kannan, Advocate
For the Appellant

Shri K.P.Muralidharan, AC (AR)
For the Respondent

CORAM :

Hon'ble Shri D.N. Panda, Judicial Member

Hon'ble Shri Madhu Mohan Damodhar, Technical Member

Date of hearing / decision : 09.02.2017

FINAL ORDER No. 40247/2017

Per D.N. Panda

There is no dispute that catering service was provided by the appellant ^{and} that was taxable. Appellant says that taxability was in question when value of services was recovered from the employees and when that was not recovered. Ultimately, the matter reached to Hon'ble High Court of Madras and decision thereon has been made in

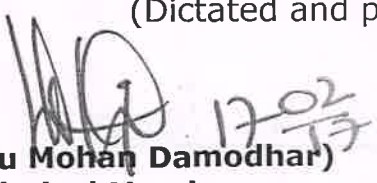


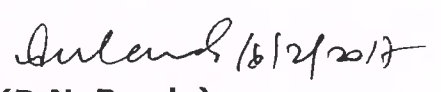
the case of *Tamil Nadu Hotels Association Vs UOI* – 2006 (2) STR 513 (Mad.). However, in view of different opinions of different forums penalty may be waived. We do appreciate that the dispute arose due to interpretation of law at the ^{infancy} stage and also the opinion of different forums was in dispute for ultimate settlement. One such case was before the Hon'ble Allahabad High Court in the case of *Indian Coffee Workers' Co-op. Society Ltd. Vs CCE & ST Allahabad* – 2014 (34) STR 546 (All.). Considering the difficulties, Hon'ble Allahabad High Court waived penalty.

2. We direct that the appellant shall pay tax element and interest, if any, payable for default period. However, for the reasons stated above, there shall be no penalties under various provisions of the Finance Act, 1994 except section 77 penalty.

In the result, appeal is partly allowed to the extent indicated above.

(Dictated and pronounced in open court)


(Madhu Mohan Damodhar)
Technical Member


(D.N. Panda)
Judicial Member

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