IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing/Decision: 26.09.2017

Appeal No. ST/57521/2013-SM

(Arising out of Order-in-Appeal No. 95(VC)ST/JPR-II/2013 dated 08.03.2013 passed by the Commissioner (Appeals), Central Excise, Jaipur-II)

CCE. & ST.-Jaipur-II . Appellant

Vs.

M/s. Shakti Industries. Respondent

Appearance

Ms. R. K. Mishra, DR - for the appellant

None - for the respondent

CORAM: **Hon'ble Mr. Ashok Jindal, Member (Judicial)**

Final Order No. 56859/2017

Per Ashok Jindal :

The Revenue is in appeal against the impugned order wherein penalty under Section 76 has been dropped by the ld. Commissioner Appeal.

2. The facts of the case are that the demand of service tax was confirmed against the respondent along with interest and penalty under Section 78 an 77 of the Finance Act, 1994 were confirmed but penalty under Section 76 of the Finance Act was not imposed on the respondent. For non imposition of penalty on the respondent under Section 76 of the Finance Act, 1994, the Revenue is in appeal.

3. Heard the ld. AR

4. None appeared on behalf of the respondent no request for adjournment has been receive. Appeal is taken up for disposal of its own merits .

5. Considering the facts that the Hon'ble High Court of Punjab & Haryana in the case of Comm. Of Central Excise Vs. Pannu Property Dealers, Ludhiana reported in 2011 (24) STR 173(P &H) has held that if penalty under Section 78 of the Act has been imposed there is no requirement is to imposed under Section 76 of the Act in these circumstances, I do not find any infirmity in the impugned order, the same is upheld and the appeal is filed by the Revenue is dismissed.

(Dictated & pronounced in open Court)

(Ashok Jindal)
Member (Judicial)

Sakshi