

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL WEST ZONAL BENCH AT MUMBAI**

APPEAL NO.ST/88838/2018

(Arising out of Order-in-Original/ Appeal No.NA/GST A-
III/MUM/633/17-18 dated 19.06.2018 passed by the Commissioner
CGST & Central Excise (Appeals), Mumbai)

Mr. Ashok Ganesh Patel : **Appellant**

316, Laxmi Plaza, Lokhandwala Link Road,
Laxmi Industrial Estate, Andheri (W)
Mumbai 400 053

VS

C.C.G.ST. MUMBAI WEST : **Respondent**

Null Mahavir Jain Vidyalyaya,
Juhu Lane, Andheri (W),
Mumbai, Maharashtra – 400 058

Appearance

Shri M. H. Sukheja, Advocate for Appellant

Shri S. K. Hattangadi AC (A.R) for Respondent

CORAM:

Hon'ble Dr. D.M. Misra, Member (Judicial)

Date of hearing : 17.07.2019

Date of decision : 17.07.2019

ORDER NO. A/86288/2019

Per : Dr. D.M. Misra, Member (Judicial)

Heard both the sides.

This appeal is filed against Order-in-Appeal No. NA/GSTS-
III/MUM/633/17-18 dated 19.06.2018 passed by Commissioner
CGST & Central Excise (Appeal) III, Mumbai.

2. The limited issue involved in the present appeal for consideration is imposition of penalty under Section 77 of the Finance Act, 1994.

3. The Learned Advocate has argued that they have paid the entire amount of Service Tax with interest and also discharged 25% of the penalty imposed under Section 78 of the Finance Act, 1994. It is his argument that further penalty under Section 77 is unwarranted.

4. Rebutting the said argument the Learned A.R. for the Revenue has submitted that the Appellant besides not discharging the Service Tax dues, also failed to file periodical ST-3 returns during the period 2010-11 to 2013-14. The penalty under Section 77 has been imposed for non filing of the returns.

5. I find force in the contention of the Learned A.R. for the Revenue. There is no bar in imposing penalty under Section 77 alongwith Section 78 of the Finance Act, 1994. The Penalty under Section 77 has been imposed on the Appellants on the ground that they failed to furnish periodical returns with the department as required under relevant provision of Finance Act, 1994. Thus, I do not find any discrepancy in the Impugned Order in imposing penalty under Section 77 of Finance Act, 1994. Consequently, the Appeal being devoid with merit is accordingly dismissed.

(Dictated & pronounced in open Court)

(D.M. Misra)
Member (Judicial)

