M. Tex Processors Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-11-1998

Reported in : (1999)(107)ELT153TriDel

Appellant : M. Tex Processors

Respondent : Collector of Central Excise

Judgement :

1. This is an application for Rectification of Mistake in Tribunal's Final Order No. A/368/97-NB, dated 7-3-1997.

2. Arguing the application for Rectification of Mistake, Shri A.L.

Mathur, the ld. Consultant submitted that the Applicant is a Processor and is liable to pay additional duty on processed fabrics. He submits that payment of additional duty on processed fabrics is governed by the provisions of Additional Duties of Excise (Goods of Special Importance) Act, 1957. He submits that there is no provision in this Act for confiscation of goods and imposition of penalty. He submits that in his application for hearing the Appeal early, he has specifically stated that the goods cannot be confiscated and penalty cannot be imposed. He submits that this was in view of the judgment of the Hon'ble Delhi High Court in the case of Pioneer Silk Mills Ltd. and Ors. v. UOI and Ors.

1991 (2) Delhi Lawyers 75. He, therefore, submits that a mistake apparent has crept in the Final Order of the Tribunal and, therefore, prayed that the Final Order may be recalled and the mistake may be rectified.

3. Shri T.A. Arunachalam, the ld. DR appears for the respondent Commissioner and adopts the arguments as adduced by the ld. DR at the time of hearing the appeal.

4. Heard the submissions of both sides. On careful consideration of the submissions made and the findings in the impugned order, we note that a mistake has crept in the order. In the circumstances, the impugned Order No. A/368/97-NB, dated 7-3-1997 is recalled. The case should be listed for hearing on 10th November, 1998.