Commissioner of Central Excise Vs. Bhavnagar Vegetable Products

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SooperKanoon Citation : sooperkanoon.com/21809

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-27-2001

Appellant : Commissioner of Central Excise

Respondent : Bhavnagar Vegetable Products

Judgement :

1. In its order allowing the appeal filed by the appellant before it, and holding that it was entitled to refund of the excise duty paid by it, the Tribunal had exclusively relied upon the judgement of the Bombay High Court in Solar Pesticides vs. UOI 1992(57)ELT201. That judgment has since been reversed by the Supreme Court reported in 2000 (116) ELT 401. The application by the Commissioner claims that there was therefore a mistake apparent on record in the Tribunal's order.

2. Apart from the judgement of the High Court that the counsel for the appellant points out, the larger bench of the Tribunal in Gujarat State Fertilisers & Chem, Ltd. vs. CCE 2000 (122) ELT 282 has held that a decision of a court or a tribunal passed subsequent to the Tribunal's decision cannot form a basis for seeking correction of that decision on the ground of mistake.