Commissioner of Central Excise, Vs. Indus Paper

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Sep-13-2001

Appellant : Commissioner of Central Excise,

Respondent : indus Paper

Judgement :

1. The Tribunal had dismissed the reference application filed by the Commissioner on 30.9.1999 arising out of its order communicated to him on 25.6.98 as being barred by limitation. This application prays for restoring the reference application.

2. The ground in the application appears to be that in a similar mater where the Commissioner filed a combined application for rectification of the Tribunal's order and the reference application, the Tribunal directed filing of the reference application and subsequently allowed.

That is not correct. The Tribunal dismissed what it perceived to be an application for rectification of mistake leaving it to the Commissioner to file if he chose, an application for reference. This is what the Tribunal has done in the present case too. The Tribunal treated the application filed by the department purporting to be for rectification of mistake or a reference application, containing no questions of law for reference as an application for rectification of mistake. The order of the Tribunal dismissing the application on limitation is perfectly correct and does not require modification.