Commissioner of Central Excise Vs. Poonitronics (India) Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Oct-31-2001

Appellant : Commissioner of Central Excise

Respondent : Poonitronics (India) Ltd.

Judgement :

1. The Tribunal in their order No. C-II/3027/WZB/2000 dated 23.10.2000 followed the ratio of the judgment in the case of Rama Cables & Wires Ltd. [1993 (68) ELT 256 (Tribunal)] in holding that where any declaration had been made of more than one final product, the credit obtained on purchase of inputs going into one of them could be used for payment of duty on the other. The Tribunal cited other judgment to the contrary but observed that more than one judgment was in favour of the assessee. The appeal was allowed.

2. Revenue has now filed an application for rectification of a mistake apparent on the fact of the record. It is claimed that the reliance place on the judgment in the case of Rama Cables & Wires Ltd. is incorrect inasmuch as the tape mechanisum is not fit for radio set.

3. I find that the applicant Commissioner has not understood the principle of precedents. It is not the facts in the precedent case that are material but it is the ratio arising therefrom. In therefore even if facts are different in two cases, the ratio of one case is capable of application, to the other case.

4. On perusal of the order and the application I find no mistake in the Tribunal's order. The application is dismissed.