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Niranjan Mills Vs. Commissioner of Cus. and C. Ex.,

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jan-02-2002

Reported in : (2002)(142)ELT675Tri(Mum.)bai

Judge : J Balasundaram

Appellant : Niranjan Mills

Respondent : Commissioner of Cus. and C. Ex.,

Judgement :

1. The application for rectification of mistake stated to have arise in the Tribunal's Final Order No. C-I/4221 /2000/WZB, dated 6-12-2000 has been filed on the ground inter alia that Rule 10 under which the notice in the present case was issued was repealed during the period in dispute without any saving clause and in view of the Apex Court's decision in the case of Kolhapur Canesugar Works Ltd. v. Union of India - 2000 (119) E.L.T. 257 (S.C.) which held that the effect of repeal without a saving clause is that the proceedings pending under that rule lapse.

3. In response to the query from the Bench as to whether this judgment of the Supreme Court cited (supra) which is dated 1st February, 2000 was cited before the Bench which passed the final order after hearing on 21-7-2000, the learned Representative of the applicant fairly states that there is nothing on record to show that the judgment was brought to the notice of the Bench before passing of the final order.

4. Since it is the settled view that non-citing of an existing judgment before passing of the final order would not give rise to any mistake in the order so as to warrant any rectification, I hold that the applicant have not made out that any error has occurred in the Tribunal's final order and hence the application is rejected.

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