

J.S. Metals (P) Ltd. Vs. Commissioner of Customs

J.S. Metals (P) Ltd. Vs. Commissioner of Customs

SooperKanoon Citation : sooperkanoon.com/29491

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-29-2002

Reported in : (2003)(154)ELT249TriDel

Judge : S Kang, a T V.K.

Appellant : J.S. Metals (P) Ltd.

Respondent : Commissioner of Customs

Judgement :

2. Revenue filed this application for rectification of mistake in the Final Order dated 17-01-2002.

3. The contention of the revenue is that the Tribunal remanded the issue to the adjudicating authority on the ground that the technical report, relied upon by the revenue, is not supplied to the applicants and no effective opportunity of hearing was afforded by the revenue authorities. Even the show cause notice was not issued to the applicants. The contention of the revenue in the present application is that opportunity of personal hearing was given to the applicants and there was no necessity to issue the show cause notice while fixing the capacity of furnace under Induction Furnace Annual Capacity Determination Rules, 1997. Therefore, the Tribunal committed error apparent on record while passing the final order.

4. The Tribunal, while passing the final order, came to the conclusion that the impugned order is passed in violation to the principles of natural justice without

providing an effective opportunity of hearing.

The Tribunal only remanded the issue to the adjudicating authority with certain observations and the contention of the revenue is that the observations are wrong. In this situation the opinion of the revenue cannot be considered to be a mistake apparent on record, which requires rectification in the remand order passed by the Tribunal. The application is rejected.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com