Raman Ispat (P) Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-12-2003

Reported in : (2004)(91)ECC28

Judge : S Kang, a T V.K.

Appellant : Raman Ispat (P) Ltd.

Respondent : Cce

Judgement :

1. This is an application filed by M/s. Raman Ispat (P) Ltd. for rectification of mistake in Tribunal's Final Order No. A/75/2003-NB(C) dated 14.2.2003.

2. Shri Alok Arora, learned Advocate, submitted that the Applicants under their letter dated 15.4.98 had opted to pay the duty on the basis of actual production as it was much lower than annual capacity of production fixed by the Commissioner; that arguing the appeal before the Tribunal the main argument of the applicant was that they had opted to pay the duty on actual production basis as per their letter dated 15.4.98 and as such duty liability had to be fixed on actual production under Section 3A(4) of the Act; that thus the Applicants had not changed the option twice in the same financial year and accordingly their case is fully covered by the Supreme Court judgment in the case of UOI v. Supreme Steel & General Mills, 2001 (78) ECC 225 (SC) : 2001 (133) ELT 513; that the said letter dated 15.4.98 finds no place in the Final Order and has not been considered by the Tribunal. He, therefore, requested that the Final Order may be rectified and the

appeal filed by them may be allowed.

3. Opposing the prayer Shri P.M. Rao, learned DR, submitted that the letter under which the Applicants had opted to pay the duty on actual production basis was dated 15.6 98 and not 15.4.98; that the said letter has been duly considered by the Tribunal while passing the Final Order dated 14.2.2003. In view of this there is no mistake apparent on the face of the record which requires to be rectified.

4.1 We have considered the submissions of both the sides. The learned DR has rightly pointed out that the letter in which the applicants had opted for payment of duty on the basis of actual production was dated 15.6.98 and not 15.4.98 as mentioned in the ROM application. A perusal of the Index filed alongwith the appeal papers clearly mentions as under: "Copy of option letter dated 15.6.98 to pay duty on actual production" 4.2 No letter dated 15.4.98 has been brought on record. Letter dated 15.6.98 has been duly considered by the Tribunal while passing the Final Order. In view of this there is no mistake apparent on the face of the record and the application is rejected.