Pressure Sensitive Systems (i) Vs. Commissioner of C. Ex.

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SooperKanoon Citation : sooperkanoon.com/35391

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : May-26-2004

Reported in : (2004)(170)ELT445Tri(Mum.)bai

Judge : A Wadhwa, S T C.

Appellant : Pressure Sensitive Systems (i)

Respondent : Commissioner of C. Ex.

Judgement :

1. The miscellaneous application is for rectification of Order No.C-II/185-86/WZB/2003, dated 23-1-2003 [2003 (160) E.L.T. 404 (Tribunal)] passed by the Tribunal vide which personal penalty of Rs. 60,000/- was reduced to Rs. 20,000/- while confirming the reversal of Modvat credit of Additional duty paid under Additional Duties of Excise (Goods of Special Importance) Act, 1957 which was utilised for payment of basic excise duty while clearing the final product.

2. The mistake pointed out is that no order has been passed on the point of interest confirmation, which the appellant have challenged on the ground that the provisions of Section 11AB came into effect from 28-9-1996 and the period covered is August, 1994 to December, 1996.

After perusing the order of the Tribunal, we find that no orders have been passed on the interest part. Accordingly, we allow the application and proceed to decide the said issue, by including Para 6 in the said order.

"(6) As regards interest, the appellant's grievance is that the provisions of Section 11AB will not apply in the instant case as the period involved is from August 1994 to December 1996, whereas the said section came into existence on 28-9-1996. We agree with the appellant that it is now well settled that the said section is not retrospective. As such, the confirmation of interest for the period prior to 28-9-1996 is not called for. Accordingly, we modify the impugned order and set aside that part of the impugned order vide which interest for the period prior to 28-9-1996 has been confirmed.

The original adjudicating authority would recalculate the quantum of interest payable by the appellant accordingly." Para (6) of the order which is to the effect that the appeal is accordingly allowed in part would be re-numbered as Para 7.