

Cce Vs. Ravi and Co.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-08-2005

Judge : S Kang, Vice-, N T C.N.B.

Appellant : Cce

Respondent : Ravi and Co.

Judgement :

2. Revenue filed this application for rectification of mistake in the Final Order dated 13.8.2004. The contention of the Revenue is that there is a mistake in mentioning the Volume Number of E.L.T. We find that there is a typographic mistake while mentioning citation of the decision of the Tribunal in the case of "Escorts JCB Ltd. v. C.C, reported in 2000 (116) ELT 650", it should be read as "Escorts JCB Ltd. v. Commissioner of Central Excise, New Delhi, reported in 2000 (118) E.L.T. 650 (Tribunal)". Further, where it is mentioned in the Final order that "in view of the above position of the Hon'ble Supreme Court we find no merit in the appeal and are dismissed" it should be read as "in view of the above decision of the Tribunal, we find no merit in the appeal and is dismissed."Escorts JCB Ltd. v. Commissioner of Central Excise, New Delhi, reported in 2000 (118) E.L.T. 650 (Tribunal) passed by the Tribunal has overruled by the Hon'ble Supreme Court. Therefore, in view of this decision of the Tribunal it cannot be said that Adjudicating authority has any discretion to impose lesser amount of penalty when mandatory penalty is remanded. We find that this issue is settled by the Hon'ble Supreme Court with another case i.e. State of Madhya Pradesh v. Bharat Heavy Electricals, reported in

1998(99) E.L.T. 33 (S.C.) where it has been held by the Hon'ble Supreme Court that the penalty stipulated in the is the only maximum amount which could be levied and the assessing authority has the discretion to levy lesser amount, depending upon the facts and circumstances of each case.

4. In these circumstances, we find no merit in the application and the same is dismissed.

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