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

Commissioner of Central Excise Vs. Quadricon (P) Ltd.

Commissioner of Central Excise Vs. Quadricon (P) Ltd.

SooperKanoon Citation : sooperkanoon.com/40281

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Sep-16-2005

Judge : S T Chittaranjan

Appellant : Commissioner of Central Excise

Respondent : Quadricon (P) Ltd.

Judgement :

1. Heard both sides. The miscellaneous application has been filed by the applicant Commissioner which he points out that in this appeal an order bearing No. A-428/WZB/2004/C-IV dtd. 10.06.2004 was passed allowing the department's appeal. He further points out that subsequently another order has been issued bearing No.A-705/WZB/2004/C-IV dtd. 07.07.200 rejecting the department appeal. As such, he prays that the second order dtd. 07.07.2004 may be recalled.

The learned advocate for the respondents confirms that two orders have indeed been received by the respondents and he submits copies of both the orders which are placed in the file. On verification of the Tribunal File, it is seen that only copy of the first order dtd.

10.06.2004 is available in the file and no copy of the second order is available. It is indeed strange that the appeal has bee listed by the Registry a second time for hearing by another member and stranger still that there is no record of the second hearing and no copy of the second order in the Tribunal's file which has been issued by the concerned Assistant Registrar. In view of the fact that after passing

the first order, the Tribunal ceased to have any further jurisdiction to re-decide the case, the second order dtd. 07.07.2004 is neither legal nor valid and therefore, the same is recalled.

2. The registrar may cause an enquiry as to how the matter was relisted before another Member without verifying the status of the appeal which was already decided and a second order was issued without retaining a copy of the record of hearing or a copy of such order in the Tribunal's record.

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