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Commissioner of C. Ex. Vs. Vishva Vishal Engineering Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-02-2005

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

Appellant : Commissioner of C. Ex.

Respondent : Vishva Vishal Engineering Ltd.

Judgement :
1. The Revenue filed this application for rectification of mistake in the Final Order. The Revenue has not filed a detailed affidavit explaining the delay. The contention is that necessary affidavit filed on 19-4-2005 and the same was not taken into consideration. Now, the Revenue filed copy of that affidavit. We have gone through the affidavit as per the details given in the affidavit, the impugned order received in the office of Commissioner of Central Excise on 21-1-2004 and the same was accepted by the Commissioner on 3-3-2004. Thereafter the Chief Commissioner of Central Excise vide order dated 5-7-04 directed to file the appeal against the impugned order. We find in spite of direction on 5-7-04, the appeal was filed on 7-12-04 further we find that under the provision of Central Excise Act, the Chief Commissioner has no power to issue such direction. In these circumstances, we find that as the delay in filing the appeal was not sufficiently explained by the Revenue, therefore, we find no mistake in the order whereby the appeal was dismissed as time-barred. The ROM application is rejected.

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