CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL CHENNAI

Regional Bench – Court No. I

Excise Miscellaneous [ROM] Application No. 40259 of 2019
(on behalf of Appellant)
In
Excise Appeal No. 42758 of 2018

(Arising out of Order-in-Appeal No. 521/2018 (CTA-I) dated 28.09.2018 passed by the Commissioner of G.S.T. & Central Excise (Appeals-I), 26/1, Mahatma Gandhi Marg, Nungambakkam, Chennai – 600 034)

M/s. KLM Pack, : **Appellant**
Plot No. B-45, PIPDIC Industrial Estate,
Mettupalayam, Puducherry – 605 009

VERSUS

The Commissioner of G.S.T. & Central Excise, : **Respondent**
Puducherry Commissionerate,
No. 1, Goubert Avenue, Beach Road,
Puducherry – 605 001

APPEARANCE:

Shri. R. Janardhanan Pillai, Consultant for the Appellant

Shri. B. Balamurugan, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)

MISC. ORDER NO. 40339 / 2019

DATE OF HEARING: 24.06.2019

DATE OF DECISION: **04.07.2019**

The assessee has filed the above Miscellaneous Application for rectification of mistake contending that in the Final Order No. 40406/2019 dated 06.03.2019 of this Bench there is either no finding/specific finding or certain grounds have not been considered, and that for the above reasons, has sought for rectifying errors.

2. Shri. R. Janardhanan Pillai, Ld. Consultant, appeared on behalf of the assessee-applicant and Shri. B. Balamurugan, Ld. AR, appeared on behalf of the Revenue.

3. In the application for rectification of mistake, the assessee has tabulated various issues from page number 2 onwards and contended that the non-consideration/no specific finding amounted to error apparent on record.

4. On the other hand, the Ld. AR contended that the order of this Bench does not suffer from any apparent mistake which could be rectified.

5. I have considered the rival contentions and have gone through the order passed by me as also the contentions taken in the application for rectification of mistake.

6.1 I find that with regard to Serial Nos. 1, 2, 3 and 5 in the table, the contentions urged by the assessee have been duly considered and decided vide paragraph numbers 4.1, 4.2 and 4.3 of my order. I also note that the assessee has taken the same arguments in different styles as could be seen from the very application for rectification of mistake at Serial Nos. 2, 3 and 5, which all point to a single issue. Therefore, I do not find any merit in the contention of the assessee that certain grounds were not considered, especially relating to suppression or the issuance of Show Cause Notice.

6.2 Further, I find that the arguments were advanced on the same issue and not on the various grounds taken, but however, the order has been passed on the issue since, as observed *supra*, various grounds are taken in different styles for a common issue.

7. Coming to the merits, I find that there is an error of not passing an order on merits and hence, in the interests of justice, an order is required to be passed on merits. However, since the same cannot be passed without recalling my earlier order, the Final Order is required to be recalled to this extent. The Miscellaneous Application for rectification of mistake to this extent is correct and the Final Order No. 40406/2019 dated 06.03.2019 in the above case is recalled, to be heard afresh on merits. Registry is directed to post the above case for **<u>hearing on 16.08.2019.</u>**

(Order pronounced in the open court on **<u>04.07.2019</u>**)

(P. DINESHA)
MEMBER (JUDICIAL)

Sdd