

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

PRINCIPAL BENCH - COURT NO. 1

**E/ROM/51755 of 2016 in
Appeal No. E/192 of 2007**

(Arising out of CESTAT Final Order No. 53556/2016 dated 15.09.2016)

DATE OF HEARING : 03.02.2017

DATE OF DECISION : 03.02.2017

M/s Aksh Optifibre Ltd.

....

Appellants

(Rep by Sh. R. Santhanam, Adv.)

VERSUS

CCE, Jaipur-I

....

Respondent

(Rep. by Sh. R.K. Manjhi, DR)

**CORAM : HON'BLE MR. JUSTICE (DR.) SATISH CHANDRA, PRESIDENT
HON'BLE MR. B. RAVICHANDRAN, MEMBER (TECHNICAL)**

MISC. ORDER NO. 50051/2017

PER JUSTICE (Dr.) SATISH CHANDRA :

We have heard Shri R. Santhanam, learned counsel for the assessee-Appellants and Shri R.K. Manjhi, learned DR for the Department.

2. Shri R. Santhanam, learned counsel for the assessee-Appellants, submits that in the order dated 15.09.2016 passed by this Tribunal there is a mistake apparent on the face of the record. He submits that a sum of Rs. 32,18,660/- was already paid along with interest. Since

this was not a disputed point, the Tribunal has not discussed the same in its order. However, he further submits that no penalty should have been levied. He also submits that as item wise penalty was not discussed, so there is apparent mistake which needs to be rectified. On the other hand, Shri R.K. Manjhi, learned DR for the Department, supports the order passed by the Tribunal and submits that all the submissions made by the assessee-Appellants were duly addressed by the Tribunal while passing the final order.

3. After hearing both sides and on perusal of the record, it appears that the amount of Rs. 32,18,660/- was not agitated by the assessee-Appellants during the course of the arguments. This amount was already paid along with interest and is not a disputed point. From the order, it appears that in para 11 except for a penalty of Rs. 1,00,000/-, no other penalty was sustained under Rules 15 or 25. When it is so, then we find no mistake apparent on the face of the record.

4. In the result, the ROM Application is rejected.

(Dictated & pronounced in the open court)

(B. RAVICHANDRAN)
MEMBER (TECHNICAL)

(JUSTICE Dr. SATISH CHANDRA)
PRESIDENT

Golay