

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI**

REGIONAL BENCH - COURT NO. 01

Customs ROM No. 85131 of 2020

(on behalf of Appellant)

in

Customs Appeal No. 85167 of 2013

(Arising out of Order-in-Appeal No.486, 487 & 488 STAY/Mumbai-III dated 27.11.2012 passed by Commissioner of Customs (Appeals), Mumbai-III)

Maneesh Pharmaceuticals Ltd.

.....Appellant

Plot No. 40, Ancillary Industrial Plots,
Govandi, Mumbai-400043.

VERSUS

**Principle Commissioner
of Customs, ACC Mumbai**

.....Respondent

Air Cargo Complex, Sahar, Andheri, Mumbai-
400099.

Appearance:

Shri Anil Balani, Advocate for the Appellant

Shri Bhushan Kamble, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)

MISCELLANEOUS ORDER NO. M/85617/2022

FINAL ORDER NO.A/85910/2022

Date of Hearing:04.01.2022

Date of Decision:04.01.2022

PER : S.K. MOHANTY

The applicants have filed this miscellaneous application, seeking rectification of mistake in the Final Order No. A/86631-86632/2019 dated 10.04.2019, passed by this Tribunal.

2. Heard both sides and perused the records.

3. The applicants have pleaded that in respect of Appeal No. C/85168/2013, though penalty imposed under Section 114A of the

Customs Act, 1962 was quashed, but in respect of Appeal No. C/85167/2013, the facts were not considered by the Tribunal in paragraph-6 (page 3 of the order dated 10.04.2019). Accordingly, the applicants have prayed for rectification of the said order by way of clarification that the fine and penalty in Appeal No. C/85167/2013 are also to be set aside.

4. On examination of the case records, we find that the contentions of the appellants have not been considered in the order dated 10.04.2019 in respect of the Appeal No. C/85167/2013, with regard to imposition of fine and penalty, due to inadvertence. Thus, this is a fit case for consideration of the miscellaneous application and accordingly, the order dated 10.04.2019 is recalled in respect of the Appeal No. C/85167/2013.

5. After recalling the order we find that the issue involved in the above appeal is in a narrow compass already decided by us in appeal no C/85168/2013, with the consent of both sides the said appeal is taken up for hearing and disposal today.

6. Considering the facts of the case involved in this appeal and identical issue in other appeal being number C/85168/2013, wherein vide order dated 10.04.2019 the penalty imposed under Section 114A *ibid*, has already been set aside, this appeal is also been disposed of by setting aside the fine and penalty imposed on the appellant.

7. In the result, the miscellaneous application is allowed and the appeal being number C/85167/2013 is also allowed in above terms.

(Operative part of the order pronounced in the open court)

(S.K.Mohanty)
Member (Judicial)

(Sanjiv Srivastava)
Member (Technical)