

Cc Vs. Elder Pharmaceutical

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-04-1998

Reported in : (1998)(76)LC29Tri(Mum.)bai

Judge : R T Lajja, S Kang

Appellant : Cc

Respondent : Elder Pharmaceutical

Judgement :

1. The Revenue filed this appeal against the Order-in-Appeal dated 28.5.1993 passed by the Collector of Customs (Appeals), Bombay.
2. None appeared on behalf of the respondents, M/s Elder Pharmaceutical, Bombay in spite of service of notice dated 2.2.1998 to the respondents. Therefore, we are going to decide the matter in the absence of the respondents.
3. The Collector of Customs (Appeals) in the impugned order held that the "Health Air Concentrator' and Intermittent positive pressure apparatus cannot be treated as "Consumer Goods or Consumer Durables" from Import Licensing angle.
5. The adjudicating authority in the adjudication order held that the goods in question are the consumer items, therefore, require specific licence for clearance.
6. The Health Air Concentrator and Intermittent positive pressure apparatus are used only on medical advice and are not ordinary equipment used for domestic

usage. It is not disputed by the Revenue that these goods are only used on medical advice.

7. The Collector of Customs (Appeals) in the impugned order held as under: Health Oxygen Concentrator and Intermittent positive pressure apparatus are usable in homes. On this account, the lower authority held them as consumer goods as they satisfy human needs directly.

However it is clear that these equipment are used only on medical advice and these are not ordinary equipment used for domestic usage such as food and clothing which satisfy human wants but are sophisticated equipment used to reduce the suffering of an individual and to protect his life. This is clear evidence submitted by the Appellants that these are used in Hospitals. We are living in the age of miniaturisation. As the size of the equipment gets reduced, some may become portable, but are still expensive. A few rich patients who can afford the cost, may like to buy these and keep them readily available at home for emergency or to avoid hospitalisation when they can.

8. In view of the fact that the goods in question are used only on the medical advice, we do not find any infirmity in the order. The appeal filed by the Revenue is dismissed.

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