

Collector of C. Ex. Vs. Arogya Pharma

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-17-1998

Reported in : (1998)(104)ELT454TriDel

Appellant : Collector of C. Ex.

Respondent : Arogya Pharma

Judgement :

1. In this appeal, the Revenue is aggrieved by the order of Collector of Central Excise (Appeals) extending the benefit of Notification 175/86 to the respondents herein on the ground that the brand name affixed upon the P or P medicines cleared by them belonged to a Unit which was registered as a SSI Unit viz. M/s Mayo Health Care P. Ltd. The ground of grievance is that although the registration of Mayo Health Care was only w.e.f. 7-7-1989 (the date of SSI certificate) the benefit has been extended to the respondents for the period 1988-89 i.e. for the period prior to the date on which the brand name owner became eligible to the benefit of Notification 175/86 by getting registered as an SSI Unit.

2. We have heard Shri H.K. Jain, learned SDR and perused the records.

None appeared for the respondents since the notice issued to them at the address indicated in the papers before us, has been returned undelivered.

3. We find that the Collector (Appeals) while noting the date of registration of M/s. Mayo Health Care correctly as 7-7-1989, has extended the benefit to the

respondents for medicines cleared during the month of December, 1988 to February, 1989, i.e. during the year 1988-89. This was not permissible in view of the fact that during the period in dispute, the respondents were clearing goods bearing brand name of M/s. Mayo Health Care who was not eligible for the grant of exemption under Notification 175/86 - since they were not registered at the material point of time and, therefore, the Collector (Appeals) ought to have held that the embargo contained in paragraph 7 of Notification 175/86 would operate against the respondents herein. In the light of the above, we hold that the respondents were not entitled to the benefit of Notification 175/86 during the period in dispute, set aside the impugned order and allow the appeal of the Revenue.

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