Apollo Pharmaceuticals Vs. Commr. of C. Ex.

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SooperKanoon Citation : sooperkanoon.com/16966

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Oct-11-1999

Reported in : (2000)(115)ELT127Tri(Mum.)bai

Appellant : Apollo Pharmaceuticals

Respondent : Commr. of C. Ex.

Judgement :

1. The assessees sought classification of four products manufactured by them under sub-heading 3003.10. The Assistant Commissioner classified three products, namely apofer syrup, apofer capsules and apohos syrup under sub-heading 2936.00 and classified apozyme liquid under sub-heading 3507.00. As a result of this classification he confirmed duty amounting to Rs. 21,197.33. The order of classification was upheld in the impugned order. Hence this appeal.

2. Shri V.S. Sejpal, Chartered Accountant, states that the judgment relied upon by the Commr. (Appeals) in his order does not cover the classification of the disputed products. It is his submission that there is no case law on the differential classification of products similar to those contested in the present proceedings. Shri A. Ashokan, JDR, supports the Commissioner's order.

3. We find that in the stay application it has been claimed that in pursuance of the Commissioner's order, as a pre-condition of hearing their appeal, the assessee had deposited a sum of Rs. 10,600/-. Shri Sejpal submits that the continued deposit of the sum should be sufficient to waive the pre-deposit of the disputed

sum. We find merit in this submission. Subject to this deposit being maintained with the concerned Commissioner's office during the pendency of the appeal proceedings, we waive the condition of pre-deposit of this amount confirmed and stay the recovery thereof.