

Synthokem Vs. Collector of Customs

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-04-1985

Reported in : (1989)(43)ELT493TriDel

Appellant : Synthokem

Respondent : Collector of Customs

Judgement :

1.The captioned appeal was initially filed as a revision application before the Central Government which, under the provisions of Section 131-B of the Customs Act, 1962, has come as transferred proceedings to this Tribunal for disposal as if it were an appeal filed before it.

2. The appeal is directed against Order-in-Appeal dated 19-8-1980 passed by the Appellate Collector of Customs, Bombay whereby he rejected the appellants' claim for refund of the additional (countervailing) duty of Customs collected by the customs authorities on a consignment of Epichlorohydrine imported by the appellants. The claim for refund was based on Central Excise Notification No. 55/75 which exempted drugs, medicines and drug intermediates from the whole of the excise duty leviable thereon. The Appellate Collector denied the exemption on the basis that the substance was a versatile chemical whose predominant use was not in the manufacture of drugs.

3. We have heard Shri M. Rabindra Nath Tagore, Chartered Accountant, on behalf of the appellants and Shri A.S. Sunder Rajan, on behalf of the Respondents.

4. The appellants are a small scale drug manufacturing unit holding a drug licence issued by the Drugs Controlling Authority, Secunderabad and the licence shows that they are authorised to manufacture, inter alia, Glyceryl Guaicolate. The appellants have produced a certificate from the Drugs Controller and Food (Health) Authority, Government of Andhra Pradesh to the effect that Epichlorohydrine and Guaiacol are used as drug intermediates for the manufacture of a drug Glyceryl Guaicolate. It is also seen from Order No. S/49-651/84CL dated 31-12-1984 passed by the Collector of Customs (Appeals), Bombay that Glyceryl Guaicolate Ether finds mention in the Merck Index as an expectorant. In the circumstances, there appears to be no good reason why the consignment of Epichlorohydrine imported by the appellants should not get exemption from additional duty of Customs in terms of Notification No. 55/75 to the extent the appellants are able to satisfy the concerned Departmental authorities that the imported chemical has been used in the manufacture of the drug. We accordingly, setting aside the impugned order and allowing the appeal.

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