

**Wander Limited Vs. Collector of Customs**

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**SooperKanoon Citation :** [sooperkanoon.com/2129](http://sooperkanoon.com/2129)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Apr-01-1985

**Reported in :** (1989)(43)ELT503TriDel

**Appellant :** Wander Limited

**Respondent :** Collector of Customs

**Judgement :**

1. The captioned appeal was originally 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 dispute in the present case is whether a consignment of benzoyl chloride imported by M/s. Wander Ltd., the appellants was eligible for exemption from additional (countervailing) duty of customs as a drug intermediate in terms of Central excise notification No. 55/75. The lower authorities rejected the claim on the ground that the substance was a general purpose chemical used for introduction of the benzoyl group in chemical synthesis of dyes, insecticides etc. and, hence, it could not be considered as a drug intermediate.
3. Shri R.G. Sheth, Advocate, for the appellants, submitted before us that the chemical was used by them in the manufacture of Benzoylpas calcium N.F., an anti-T.B. drug. He cited Hawleys' "Condensed Chemical Dictionary" and a few decisions of this Tribunal on drug intermediates.

4. Opposing the appeal, Smt. Vijay Zutshi, Senior Departmental Representative, contended that the "Condensed Chemical Dictionary" described the chemical as an analytical reagent. In Order No. 482/84-C dated 24.7.1984 on an appeal filed by Fair Deal Corporation, the Bench had held that Lithium Aluminium Hydride, a reducing agent, was not a drug intermediate. Likewise Benzoyl chloride, an analytical reagent was not eligible for the exemption.

5. We have carefully considered the submissions of both sides. In a number of decisions, we have held that a chemical does not cease to be a drug intermediate merely because it is a chemical with diverse uses.

It is the rule rather than the exception that chemicals have multifarious uses. If, however, it finds use as a drug intermediate i.e. as a precursor in one or the other stages of the chemical reactions leading to the drug, it should be extended the duty exemption due to drug intermediates. The Lithium Aluminium Hydride case, cited by Smt. Zutshi, is not relevant here since we are not dealing presently with an aid to chemical reactions such as reducing/oxidising agents, catalysts etc.

From the structural diagram submitted by the appellants Benzoyl chloride designed by the chemical structure - contributes two benzoyl groups to the ultimate product i.e. Benzoylpas calcium - an anti-T.B. drug designated by the Chemical structure - There cannot possibly a clearer example of what is meant by the term "drug intermediate". Benzoyl Chloride is a precursor to the drug and contributes substantially to the chemical structure of the drug.

7. The Reader in Pharmaceutical Technology, Bombay University has certified that benzoyl chloride is a drug intermediate in the synthesis of Benzoyl para amino salicylic acid calcium from sodium para amino salicylate. The same effect is a certificate issued by the Food and Drug Administration, Bombay.

8. We set aside the impugned order and allow the appeal. Consequential relief shall be granted to the appellants within 4 months from the date of communication of this order. The appellants shall satisfy the Assistant Collector that the imported goods had been in fact used in the manufacture of the drug and the relief shall be proportionate to the quantity shown to have been so used.

