

Syncom Formulation (i) Ltd. Vs. C. C. E., Indore

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-04-2001

Appellant : Syncom Formulation (i) Ltd.

Respondent : C. C. E., Indore

Judgement :

1. The appellants manufacture pharmaceutical products falling under Chapter 30 of the Schedule to the Central Excise Tariff Act, 1985.

Their factory premises were visited by the Preventive officers of the Central Excise on 11.9.96 and on scrutiny of the record, they found that in respect of the medicines manufactured during the period from 6/95 to 8/95, a total quantity of medicaments valued at Rs. 14,32,633/- involving central excise duty of Rs. 2,14,895.46 was cleared without payment of duty. Accordingly, the proceedings were initiated against them and they were issued a show cause notice dated 9.10.98 calling upon them to show cause why the aforesaid amount of duty should not be recovered from them and a penalty under Section 11AC of the Central Excise Act, 1944 and further a penalty under rule 173-Q of the Central Excise Rules, 1944 should not be imposed on them. The party pleaded before the adjudicating authority that the goods in question were rejected by their Quality Control Department and the same were destroyed by them at Semi-finished stage before entering in RG-1 register. It was contended that the goods had not reached the stage of accountal in RG-1 register and, therefore, the prescribed procedure for destruction of the excisable goods was not required to be followed.

However, the Joint Commissioner of Central Excise, Indore in his order dated 9.7.99 observed that the goods in question were finished, packed and labelled and further in respect of such goods, transfer tickets were also issued. The adjudicating authority in his order has further observed that Indore Commissionerate had issued a Trade Notice No.74/94 dated 24.10.94 wherein stage at which the goods required to be entered in Column 15 of RG-1 register is prescribed in respect of the PP Medicine. For these goods, the RG-1 stage is prescribed, "As soon as packed with proper label and Trade Marks etc. for being sold in the market with or without testing". The adjudicating authority has further referred to the Quality Control reports submitted by the appellants and observed that the entire made therein do not support the contention of the party that the goods were destroyed on account of their not being fit for consumption. Consequently, the Joint Commissioner in his order has confirmed the above said amount of duty on the appellants apart from imposing a penalty of equivalent amount on them under Section 11AC. He further imposed a penalty of Rs. 25,000/- on them under rule 173Q.2. The party filed an appeal but the Commissioner (Appeals), Bhopal vide his order dated 23.8.2000 rejected the appeal of the party on the ground of the appellants not complying with his order of pre-deposit.

3. The present appeal and the stay petition is against the above orders. I have heard Shri Ramesh Nair, Advocate for the appellants and Shri S. Kumar, JDR for the respondent. The learned advocate for the appellants has reiterated the submissions made by the party before the adjudicating authority. I have also considered these submissions. On prima-facie consideration of the findings of the adjudicating authority, there does not appear to be any discrepancy in them. The question basically is as that of the fact whether the impugned goods were destroyed before reaching the RG-1 stage or otherwise which can only be gone into in details at the time of final hearing of the appeal. There is no plea of financial hardship before me. Taking into consideration of these facts, I direct the appellants to make a deposit of Rs. 1,50,000/- as par of the duty confirmed on them on or before 30.6.2001. On making such deposit, the balance of the duty amount and the amounts of penalties imposed on them shall stand waived and their recovery stayed till the disposal of this appeal.

