

Commissioner of Central Excise Vs. Thio Pharma

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-09-2002

Reported in : (2002)LC704Tri(Delhi)

Judge : S Kang, a T V.K.

Appellant : Commissioner of Central Excise

Respondent : Thio Pharma

Judgement :

1. Revenue filed this appeal against the Order-in-Appeal passed by the Commissioner (Appeals).
2. Brief facts of the case are that the respondents are engaged in the manufacture of P & P Medicaments. A show cause notice was issued to the respondents for denial of SSI exemption on the ground that they were clearing the goods under the brand name of SYNTHIKO. The adjudicating authority denied the benefit of small scale exemption and confirmed the demand. The respondents filed the appeal and the Commissioner (Appeals) allowed the benefit of small-scale exemption in respect of following items on the ground that goods were cleared under the brand name of respondents which is displayed prominently on the wrapper/packing, and name of the marketing was displayed in only small letters and these do not bear any mark of marketing firm.

3. Heard both sides. Revenue filed this appeal challenging the Order-in-Appeal in respect of two items that is Brosmin Forte Tablet and Bestrodyrly Syrup on the ground that the name of marketing company also bears on labels/containers of the goods in question. The respondents relied upon the decision of Tribunal in the case of Chemguard Coatings (P) Ltd. v. CCE, Chennai, [2000 (116) E.L.T. 43 (T) = 1999 (34) RLT 560] and in the case of Nippa Chemical (P) Ltd., Drewtreat Chemicals v. CCE, Madras [1998 (100) E.L.T. 90 (T)] = 1997 (23) RLT 826].

4. In the present case, the applicants were clearing the goods in their own brand name and were simply mentioning the name of the marketing firm. Mere mentioning of their marketing firm does not amount to clearing the goods in the brand name of marketing firm. The Tribunal in the cases relied upon by the respondents also held that mere printing the name of marketing firms do not amount to clearing the goods in the brand name of marketing firm. In view of the above discussion, we do not find any infirmity in the impugned Order. The appeal is rejected.

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