

Advik Laboratories Ltd. Vs. Cc

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-07-2002

Reported in : (2002)(83)ECC65

Judge : K Usha, S T C.

Appellant : Advik Laboratories Ltd.

Respondent : Cc

Judgement :

1. The issue that arises for consideration in this appeal is whether the appellant is entitled to claim DEPB credit at the rate of 12% FOB value of the goods which came to about 32 paise per tablet. In the impugned order it was held that PMV per tablet can be taken as Re. 0.30 and the DEPB credit is restricted to 50% of PMV i.e. Rs. 0.15 per tablet.

2. It is not disputed before us that for arriving at the DEPB credit for which the appellant is entitled, the guidelines under Circular No.69/97-Cus. dated 8.12.1997 are to be applied. Clause 3(i)(a) provides that as regards manufacturers-exporters who export under AR4 Form where AR4 value is declared as PMV, the same shall be accepted. It has come out in this case that the appellant has not made available the AR4 value. Appellant prays for an opportunity to produce the above before the authorities. Revenue also agrees that such an opportunity can be granted.

3. We, therefore, set aside the impugned order and remand the matter for fresh consideration by the adjudicating authority in the light of Circular No. 69/97 dt. 8.12.97 provided the appellant makes available before the adjudicating authority the AR form. The appeal stands allowed by way of remand. Since we are setting aside the order impugned, the demand of penalty is also vacated.

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