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Cce Vs. Ozone Ayurvedic

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-20-2004

Reported in : (2004)(117)LC456Tri(Delhi)

Judge : A T V.K., P Bajaj

Appellant : Cce

Respondent : Ozone Ayurvedic

Judgement :

1. In these 2 appeals filed by Revenue the issue involved is whether wanish skin cream manufactured by M/s. Ozone Ayurvedics is classifiable under Sub-heading 3003.39 of the Schedule to the Central Excise Tariff Act as confirmed by the Commissioner (Appeals) under the impugned Order or is classifiable under Chapter 33 of the Tariff as cosmetics.

2. We heard Shri O.P. Arora, learned SDR for the Revenue, and Shri J.Bansal, learned Advocate for the Respondents. Both the learned SDR and the learned Advocate mentioned that the issue stands decided by the Tribunal in the case of the Respondents themselves vide Final Order Nos. 534-536/2003-NB(B) dated 23.7.2003 as . In the said decision, the Tribunal has held that the product in question is manufactured out of the ingredient mentioned in text books an is used for treatment of pregnancy stretches and the Revenue has failed to produce any evidence that this product is known in the trade market as cosmetics. The Tribunal, further, relying upon the decision of Delhi High Court in the case of

Manish Pharma Plasto Pvt. Ltd. v. Union of India , has rejected the appeal filed by the Revenue and has upheld of the impugned Order under Chapter 30 of the Central Excise Tariff. In view of this the present appeal is also rejected as it also relates to the classification of the same product which has already been held to be medicament by the Tribunal.

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