Serene Labs Vs. Commissioner of Central Excise

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SooperKanoon Citation : sooperkanoon.com/39507

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jun-28-2005

Reported in : (2005)(188)ELT290Tri(Mum.)bai

Judge : J Balasundaram, Vice-, A M Moheb

Appellant : Serene Labs

Respondent : Commissioner of Central Excise

Judgement :

1. The issue for determination in these appeals is correct classification of medicaments such as Ampicilin Injection BP and Gentamicin Injection BP - whether under CET subheading 3003.20 as generic medicaments as contended by the Revenue and held by the lower appellate authority, or under CET sub-heading 3003.10 as P or P medicaments which is the claim of the assessees.

3. We find that it is not necessary to give a finding on this issue for the purpose of disposal of these appeals. This is for the reason that undisputedly the assessees paid duty on the goods in question and then cleared them either for export or otherwise. Therefore, they had rightly availed Modvat credit of the duty paid by them on the inputs and also taken rebate when the goods were exported. The entire exercise was Revenue neutral. Therefore, without going into the correct classification of the products in dispute, we hold that the appeals are required to succeed.