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Freburz Pharma Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jul-05-2005

Judge : S T S.S., T Anjaneyulu

Appellant : Freburz Pharma

Respondent : Commissioner of Central Excise

Judgement :
2.(a) Issue is classification of "JABKUSUM AYURVEDIC HAIR PACK". The assessee seeking it under Heading 3003.99 while Revenue placing it under 3305.99 during the period Oct. 1998 to Jan. 1999.

(b) The entity is claimed to cure dandruff, hair fall as shown in the literature and is mentioned in Ayurvedic Text Books and is manufactured as per the procedure prescribed. The Asst. Collector orders are explicit on this aspect.

(c) CCE (A) however following T. No. 333/49/97-CX., dated 10-9-1997 and Chapter note l(d) to Chapter 30 upheld classification under Chapter 33.

(d) The Id. Advocate for the appellants relies on decision in case of CCE v. Arshik Herbal Remedies (India) - & Meghdoot Gramodyog Seva Sansthan - 2004 (174) E.L.T. 14 (S.C.) to submit that the product merits classification as a medicaments under Chapter 30.

(e) A perusal of the Assistant Collector's order and considering the settled law, we cannot find any fault in AC's order & we therefore cannot uphold the CCE (A) order

as we find no reason to set aside the AC's order on facts and or law settled.

3. Consequent to our findings, the order of CCE(A) is set aside, the AC's order is restored and appeal is allowed.

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