

**C.C.E. Vs. Lenec Institute of**

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**SooperKanoon Citation :** [sooperkanoon.com/40621](http://sooperkanoon.com/40621)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

**Decided On :** Oct-25-2005

**Judge :** J Balasundaram, Vice-, A M Moheb

**Appellant :** C.C.E.

**Respondent :** Lenec Institute of

**Judgement :**

1. Revenue is aggrieved by the order of Commissioner (Appeals) who had accepted the respondents' claim for classification of product containing predominance of vitamins and iron, under GET sub-heading 3003.10 as P & P medicaments, rejecting the claim of the Revenue for the classification of the product in question viz. 'Sipro Syrup' under CET sub-heading 2936.00.

2. We have heard the Id. Jt. CDR and perused the records; none appears for the respondents in spite of notice. We find that the product 'Sipro Syrup' has the following description :-

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Each	5	ml
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contains

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Gluconate	100 mg	Sodium ascorbale	37.5 mg	Niacinamide	25 mg	Folic acid	0.5 mg
Vit B-1	2.5 mg	Vit B-2	2.5 mg	Vit B-6	0.75 mg	Vit B-12	2.5 mg

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According to the Revenue, the product has no curative effect against any bacterial fungal or viral diseases but only substantiates deficiency in human body and

therefore is not treated as medicaments for purpose of classification under Chapter 3003.10 but will be properly classifiable as mixtures of vitamins under Chapter Heading 2936.00. We find that similar issue on similar product had come up before the Larger Bench of the Tribunal in the case of Micropure Parenterals Pvt. Ltd. v. CCE, Mumbai and vide Order No. A-583/WZB/05/C.II dated 5-10-05, it was held that product having fixed dose combination of vitamin B-1, B-5, B-12 like in the present case falls for classification under Chapter 30.03. In that case also rival entries were 30.03 and 29.36 as in the present case. Larger Bench has endorsed the view of the earlier decision of the Tribunal in the case of E. Merck (India) Ltd. v. CCE, Mumbai .

Following the ratio of the above Larger Bench decision, we hold that there is no ground to interfere with the impugned order of the Commissioner (Appeals) and accordingly uphold the same and reject the appeal.

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