

Fdc Ltd. Vs. Commissioner of Customs

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Feb-13-2006

Judge : S T S.S., K Kumar

Appellant : Fdc Ltd.

Respondent : Commissioner of Customs

Judgement :

1. Certain bulk drugs were imported by the appellants at the port of Mumbai. They were to get these bulk drugs manufactured on loan licence basis at the premises of M/s. Savill Pharma Labs Pvt. Ltd. situated at Goregaon, Mumbai. They also sought the benefit of Customs duty under Notification No. 17/2001-CUS., under Serial No. 81 of the table therein. As per the conditions prescribed and this entry in the table to the Notification, they were required to comply with the provisions of Customs (Import of Goods at Concessional rate of duty for manufacture of Excisable Goods) Rules, 1996. Rule 3 of the Rules specifies that the manufacturer has to give an undertaking that the said goods cleared at the concessional rate would be utilized in the manner prescribed under the Customs. These conditions have been fulfilled under the Rules by M/s. Savill Pharma Labs, Goregaon. The Customs authorities had denied the benefit by taking the view that the manufacturer has to be necessarily by the importer M/s. FDC in this case who have not given the necessary undertaking as provided under the 1996 Rules and thus the benefit was not eligible to the said importers viz. M/s. FDC.2. Prima facie we find that the benefit of Notification is for the goods and not for the importers

manufacturer. Since the goods are being manufactured at the premises of M/s. Savill Pharma Labs and they have followed prescribed procedures and filed declaration under 1996 Rules, we find no reasons to uphold the duty demand or at this prima facie stage denial of the Notification.

3. Consequently full waiver and stay of the amount is ordered pending regular hearing of the appeal. Application disposed in above terms.

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