PravIn Pharma Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jun-06-2006

Judge : S T S.S., K Kumar

Appellant : PravIn Pharma

Respondent : Commissioner of Central Excise

Judgement :

1. When the matter was called no one appeared for the appellants. Heard ld. DR.2. The issue involved is classification declaration for the following products: 3. They were classifying the goods under 3003.10 instead of Heading 2108.99 of CETA, 85. Thus a short paid Central Excise duty amounting to Rs. 8,512.35 for the period November, 2000 to June, 2001 and contravening Rules of Central Excise was alleged and confirmed by the lower authorities. It is found that the said goods were earlier classified by the assessee in Chapter No. 3000.10 vide their classification declaration No. 1/98-99, dated 3-6-98. The then Assistant Commissioner, Central Excise, Mulund Division issued a show cause notice bearing F.No. V/CDPD/MDN/IV-1/98/6348, dated 27-10-1998 as to why the said goods should not be classified under Chapter No.2108.99 of Central Excise Tariff Act, 1985. The said show cause notice was adjudicated by the then Assistant Commissioner, Central Excise, Mulund Division vide his Order-in-Original No. 273/98-99, dated 28-2-99 issued vide F.No. V/CD-PA/MDN/IV-1/98 on 22-3-99 which stated that the said goods are rightly classifiable as food supplements and fortified (miscellaneous edible preparations) under Chapter No. 2108.99 of CETA,

1985. No appeal was filed against the Order and subsequently demand notice was issued which was confirmed and the assessee responded by classifying the said goods under Chapter 2108.99 of CETA, 1985 in their classification declaration No. 10/99-2000, dated 1-3-2000. On inclusion of Chapter 2108.99 for assessment under Section 4A of the Central Excise Act, 1944, it was noticed that the assessee filed a fresh declaration No. 2/2000, dated 1-4-2000 claiming the classification by holding Chapter No. 3003.10 of CETA, 1985. This contradicted the earlier approved classification which was settled and not contested by the assessee. We find that the grounds taken in the present appeal before us is claiming the goods to be similar to Frozen, Maltone, Anemiax-P Syrup, Divtone & Chocopro and Replex and Ampitone. However, no material has been provided to as to why the said goods are comparable. The appellants are claiming that their products are similar to the products available in market. However, no material has been produced to substantiate the said claim. On perusal of the Commissioner (Appeals) order, we find that the Order has detailed reason as to how the classification has to arrived at as determined are to confirmed. We find no merits taken in the appeal filed. The appeal is, therefore, rejected.