

**C.C.E. Vs. Herbert Brown Pharma and Research**

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

**Decided On :** Aug-22-2006

**Reported in :** (2008)9STR177

**Judge :** T Anjaneyulu

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

**Respondent :** Herbert Brown Pharma and Research

**Judgement :**

1. Heard both sides. Revenue is in appeal. The respondents are manufactures of bulk drugs, drug intermediates, specially chemicals etc. for the last 15 years and also research and development department which is recognized by the Dept. of Scientific & Industrial Research, Government of India.

2. On 6/7-8-2001 audit was conducted and the officers pressurized to pay service tax on the consultancy services under the head Consulting Engineers Services. On 8-8-2001, the appellants have paid service tax under protest on the amount received as consultancy charges at Rs. 72,784/- being 5% on Rs. 14,34,166/-. With effect from 16-7-2001 service tax introduced on scientific and technical services and the Paper Articles were published.

3. On 24-12-2001, the appellants have filed application for refund of service tax which was paid under protest. The order, on 26-10-2002, was passed by rejecting the refund claim on the ground that consultancy charges falls within the meaning

of consulting engineers services.

4. On 23-10-2002, the appellants filed an application along with all details of qualified research department employees and also submitted that the amount received in foreign currency as the Foreign Exchange is not liable to Service tax. By order dated 31-10-2002, Commissioner (Appeals) set aside the order-in-original as the scientific technical services are covered under the service tax with effect from 16-7-2001.

The tax paid prior to that period is refundable as in the year 1999-2000, no service tax was imposable on scientific and technical services, since they are not consulting engineering services.

5. I have gone through the grounds of appeal. There appears to be no valid ground which requires either to set aside or modify the finding of the Commissioner (Appeals). Thus I am of the view that this appeal lacks merits.

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