**Collector of Central Excise Vs. Samir Pharmaceuticals**

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**SooperKanoon Citation** : sooperkanoon.com/6909

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

**Decided On :** Jan-28-1992

**Reported in** : (1993)(66)ELT220TriDel

**Appellant** : Collector of Central Excise

**Respondent** : Samir Pharmaceuticals

**Judgement** :

1. Aggrieved by the decision of the Collector (Appeals) holding that the demand in question was time-barred, the Revenue has filed the present appeal.

2. Shortly put, the facts of the case are that the respondents, M/s.

Samir Pharmaceuticals are the manufacturers of P or P Medicines. It is the case of the Department that during the course of scrutiny, it was found that the respondents had filed classification list No. 207/81 effective from 2-11-1981 for their product "Ventical Injections" claiming benefit under Notification No. 116/89 enclosing the label. It was approved as filed. It appears that thereafter the Department got it examined subsequently by Deputy Chief Chemist and issued the Show Cause Notice dated 8-10-1984 for the period from 3-11-1981 to 2-1-1982 calling upon them to pay the duty amount of Rs. 10,710.95. The Assistant Collector after usual adjudication proceedings confirmed the demand. On appeal by the respondents, the Collector (Appeals) held that the demand is time-barred observing that the classification list filed by the appellants and approved by the Department clearly shows that the label of the product was attached giving the complete details of the product. The proper officer after verifying, approved the classification list. In these circumstances, the allegation of suppression does not stand. Hence the present appeal by the Revenue as aforesaid.

2A. When the case was called, none appeared on behalf of the respondents. Accordingly, Bench in discretion proceeded to hear the appeal ex parte and heard Shri L.N. Murthy, learned JDR for the appellant. Shri Murthy reiterated the grounds taken up by the Collector (Appeals) in the Memo of Appeals.

3. We have considered submissions. It is not in dispute that the label was attached to the classification list No. 207/81 giving the complete details and the same was approved by the proper officer after verification. If the proper officer was of the view that the said label required further examination by Deputy Chief Chemist, he should have done so at that stage. In these circumstances, subsequent examination by the Deputy Chief Chemist after the approval of the classification list cannot be a ground for invoking the extended period of 5 years under Section 11-A of the Act. Accordingly, we agree with the learned Collector (Appeals) that demand was time-barred.