CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT AHMEDABAD

REGIONAL BENCH – COURT NO. 03

Excise Appeal No. 526 of 2011

[Arising out of OIA-COMMR-A-/20/VDR-I/2011 passed by Commissioner of Central Excise, Customs and Service Tax-VADODARA-I]

C.C.E. & S.T.-Vadodara-i ....**Appellant**
1st Floor, Central Excise Building,
Race Course Circle, Vadodara,
Gujarat-390007

VERSUS

M/s Ronald Pharmaceuticals Pvt. Ltd ....**Respondent**
B. No. 740-A, Manjusar, Tal-Savli,
Vadodara-Gujarat

APPEARANCE:

Sh. T.K. Sikdar, Authorized Representative for the Appellant
Sh. Dhaval shah, Advocate for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR
HON'BLE MEMBER (TECHNICAL), MR. RAJU

FINAL ORDER NO.A/ 11027 /2019

DATE OF HEARING: 24.06.2019
DATE OF DECISION: 24.06.2019

RAMESH NAIR

The revenue has filed the appeal challenging dropping of demand of extended period. The issue involved is of valuation of free physician samples. The Revenue filed appeal on the ground that the decision of Tribunal in the case of Marsha Pharma Pvt. Ltd vides Final Order No. A/1125/2009-WZB/AHD dated 01.06.2009 has been appealed before against the Hon'ble Gujarat High Court.

2. Sh. T.K. Sikdar Ld. Assistant Commissioner (AR) appearing on behalf of the Revenue reiterates the grounds of appeal.

3. Sh. Dhaval Shah Ld. Counsel for the respondent submits that the Tribunal's order in Marsha Pharma Pvt. Ltd (Supra) has been upheld by the Hon'ble Gujarat High Court reported at CCE-Vaoddara-I Vs. Marsha Pharma Pvt. Ltd 2010 (9) TMI 1125 (guj.), therefore the matter has been decided in favour of the respondent. He also placed reliance on the following judgments:

- Alocon Pharma P. Ltd 2015 (322) ELT 47 (Guj.)
- Tuton Pharmaceuticals 2018 (360) ELT 33 (guj.)
- Ranbaxy Laboratories Ltd 2017 (11) TMI 602- Cestat Mumbai
- Blue Cross Laboratories 2018 (3) TMI 619 - Cestat Mumbai

4. Heard both the sides and perused the records. We find that the Tribunal has set aside the demand on limitation relying the case of Marsha Pharma Pvt. Ltd that has been upheld by Hon'ble Gujarat High Court. We find that even though Revenue also filed appeal only on the ground that the Tribunal decision of Marsha Pharma Pvt. Ltd (Supra) was challenged in Hon'ble Gujarat high Court in case of Marsha Pharma Pvt. Ltd (Supra) but the same has been upheld by the Hon'ble Gujarat High Court, therefore, nothing is survive in the Revenue's appeal. Accordingly, the impugned order is upheld. Revenue's appeal is dismissed.

(Dictated & pronounced in the open court*)*

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

Seema