

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

REGIONAL BENCH - COURT NO. 3

EXCISE Appeal No. 13536 of 2014-DB

[Arising out of Order-in-Original/Appeal No VAP-EXCUS-000-APP-154-14-15 dated 10.07.2014 passed by Commissioner of Central Excise, Customs and Service Tax-VAPI]

Sun Pharmaceuticals Industries Limited

.... Appellant

Survey No. 214, Plot No. 20,
Government Industrial Area, Phase-ii, Piparia,
SILVASSA, U T OF DADRA & NAGAR HAVELI-396230

VERSUS

Commissioner of Central Excise & ST, Vapi

.... Respondent

4th Floor, Adharsh Dham Building,
Opp. Town Police Station, Vapi-Daman Road, Vapi,
Gujarat-396191

APPEARANCE :

Ms. Nidhi Naval, Advocate for the Appellant
Shri Prakash Kumar Singh, Superintendent (AR) for the Respondent

**CORAM: HON'BLE MR. RAMESH NAIR, MEMBER (JUDICIAL)
HON'BLE MR. C.L. MAHAR, MEMBER (TECHNICAL)**

DATE OF HEARING : 08.06.2023

DATE OF DECISION: 19.06.2023

FINAL ORDER NO. 11279/2023

RAMESH NAIR :

The issue involved in the present case is that, in respect of clearance of physician samples whether the value of such physician samples is governed by Section 4 or Section 4A of Central Excise Act, 1944.

2. Ms. Nidhi Naval, learned Counsel appearing on behalf of the appellant at the outset submits that this issue is settled in their own case reported at Sun Pharmaceutical Industries vs. CCE, Surat-II – 2005 (183) ELT 42 (Tri. Mumbai). This Tribunal decision is upheld by Hon'ble Supreme Court reported as CCE & Cus, Surat vs. Sun Pharmaceutical Industries – 2015 (326) ELT 3 (SC). She also placed reliance on the other decisions which are as follows:-

(a) Commissioner vs. Sun pharmaceutical Inds. Limited - 2017 (350) ELT A61 (SC)

(b) Commissioner of Central Excise, Vapi vs. Sun Pharmaceutical Inds. Limited - 2017 (350) ELT 289 (Tri. - Ahmd.)

(c) Commissioner of C. Ex., Thane-i vs. Meghdoot Chemicals Limited 2022 (380) ELT 531 (SC)

3. Shri Prakash Kumar Singh, learned Superintendent (AR) appearing on behalf of the Revenue reiterates the findings of the impugned order.

4. On careful consideration of the submissions made by both the sides and perusal of the record, we find that issue lies in a narrow compass that whether the physician sample cleared by the appellant is liable to be valued under Section 4 or Section 4A, which is MRP based. The physician sample are not for retail sale and the same is distributed free of cost to the doctors and no MRP is printed on the pack of the physician sample. In such case, the value is governed by Section 4 and duty is liable to be paid on transaction value and not an MRP based value under Section 4A. This issue is no more res-integra and stand settled which is maintained upto the Hon'ble Supreme Court in the aforesaid judgment in the appellant's own case. Therefore, the impugned order is not sustainable and the same is set-aside. The appeal is allowed.

(Pronounced in the open court on 19.06.2023)

(Ramesh Nair)
Member (Judicial)

(C L Mahar)
Member (Technical)