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

REGIONAL BENCH – COURT NO. 01

CUSTOMS Appeal No. 10813 of 2017-DB

[Arising out of Order-in-Original/Appeal No AHM-CUSTM-000-APP-072-16-17 dated 16.01.2017 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-AHMEDABAD]

Intas Pharmaceuticals Limited **...Appellant**

Plot No. Ni 5,6,7, Pharma Sez,
Village- Matoda, Taluka- Sanand,
Ahmedabad,
Gujarat

VERSUS

C.C.-Ahmedabad **...Respondent**

Custom House,
Near All India Radio Navrangpura,
Ahmedabad,
Gujarat

APPEARANCE:
Shri Amit Laddha, Advocate for the Appellant
Shri. Anand Kumar, Superintendent (Authorized Representative) for the Respondent

CORAM: HON'BLE MEMBER (TECHNICAL),RAJU
HON'BLE MEMBER (JUDICIAL) ,SOMESH ARORA

FINAL ORDER NO.A / 11617 /2023

DATE OF HEARING:25.07.2023
DATE OF DECISION:25.07.2023

RAJU

This appeal has been filed by M/s. Intas Pharmaceuticals Limited. The appellant had imported goods and cleared them under self-assessment. However, they challenged the self-assessment made by them as they had failed to claim benefit of a certain notification. The appellant filed an appeal before Commissioner (Appeals), who dismissed their appeals solely on the ground that self-assessment orders are not appealable order. In this regard Hon'ble Apex Court in the case of M/s. ITC Ltd- 2019 (368) ELT 216 (S.C) in para 47 & 48 as observed as follows:

> *"47. When we consider the overall effect of the provisions prior to amendment and post-amendment under Finance Act, 2011, we are of the opinion that the claim for refund cannot be entertained unless the order of assessment or self-assessment is modified in accordance with law by taking recourse to the appropriate proceedings and it would not be within the ken of Section 27 to set aside the order of self-assessment and reassess the duty for making refund; and in case any person is aggrieved by any order which would include self-assessment, he has to get the order modified under Section 128 or under other relevant provisions of the Act.*
>
> *48. Resultantly, we find that the order (s) passed by Customs, Excise, and Service Tax Appellate Tribunal is to be upheld and that passed by the High Courts of Delhi and Madras to the contrary, deserves to be and are hereby set aside. We order accordingly. We hold that the applications for refund were not maintainable. The appeals are accordingly disposed of. Parties to bear their own costs as incurred."*

In view of the above, we hold that self-assessment order are appealable orders and therefore, the impugned order set aside and matter is remanded to the Commissioner (Appeals) to decide on merit. Since the matter is old the appeal may be decided by Commissioner (Appeals) within a period of 2 months from the date of receipt of this order.

(Dictated & pronounced in the open Court)

(RAJU)
MEMBER (TECHNICAL)

(SOMESH ARORA)
MEMBER (JUDICIAL)

PALAK