

**Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad**

REGIONAL BENCH- COURT NO. 02

Customs Appeal No. 13844 of 2014

[Arising out of OIA-AHM-CUSTOM-000-APP-274-276-14-15 dated 05/09/2014 passed by the Commissioner of CUSTOMS-AHMEDABAD]

Lambda Therapeutic Research Limited

.....Appellant

Plot No. 38, Near Silver Oak Club,
Nr, Gujarat High Court, S G Highway, Gota,
Ahmedabad, Gujarat

VERSUS

C.C.-Ahmedabad

.....Respondent

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

With

Customs Appeal No. 13845 of 2014

[Arising out of OIA-AHM-CUSTOM-000-APP-274-276-14-15 dated 05/09/2014 passed by the Commissioner of CUSTOMS-AHMEDABAD]

Jogesh Mahajan

.....Appellant

General Manager Of M/s, Lambda Therapeutic Research Ltd.
Plot No. 38, Near Silver Oak Club, Nr, Gujarat High Court,
S G Highway, Gota, AHMEDABAD,-GUJARAT

VERSUS

C.C.-Ahmedabad

.....Respondent

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

And

Customs Appeal No. 13846 of 2014

[Arising out of OIA-AHM-CUSTOM-000-APP-274-276-14-15 dated 05/09/2014 passed by the Commissioner of CUSTOMS-AHMEDABAD]

Jagdish Mehta

.....Appellant

Associate Vice President, Lambda Therapeutic Research Ltd,
Plot No. 38. Near Silver Oak Club, Nr, Gujarat High Court, S G Highway,
Gota, AHMEDABAD, GUJARAT

VERSUS

C.C.-Ahmedabad

.....Respondent

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

APPEARANCE:

Shri. Manish Jain & Ms. Surbhi Chandani, Advocates for the Appellant
Shri. Aakash Singh, Superintendent (AR) for the Respondent

CORAM: HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)

Final Order No. 10860-10862/2025

DATE OF HEARING:29.10.2025
DATE OF DECISION:29.10.2025

SOMESH ARORA

In the instant demand for the period 2007-2008 to 2011-2012 of Rs. 6,11,800/- has been raised on the ground that the import of various drugs termed as bioequivalence drugs for clinical trial by the appellants were disentitled as per the department to the concession sought to be availed by the party.

2. Learned Advocate points out that during the course of passing of the order after they had produced various documents from the Drugs Control Authority which had treated the bioequivalence drugs imported by them to be for clinical trials, the Learned Commissioner, inter alia, found that the imports were still not entitled to exemption as the application under the Drug Control Act should have been made in "FORM 44".

3. Learned Advocate points out that this finding is factually incorrect as exhibit page at 100 of the appeal memo clearly indicates that the application dated 11th September, 2009 was made in "FORM 44" and since this evidence was on record, the objection of the Learned Appellate authority was not sustainable and there was a factual error in his findings.

4. Learned AR pleads for the remand to correct the position and for the Commissioner (Appeals) to consider the 'FORM 44" as claimed by the appellant was used and to arrive at his findings.

5. Learned Advocate pleads that the remand should be an open remand and various case law and the support material are also available with them, which shows that the prima facie demand is unsustainable.

6. This Court agrees with the proposition of both sides. Accordingly, matter is remanded to Commissioner (Appeals) to consider the findings afresh and matter to be an open remand by allowing the appellants to furnish any fresh evidence or material or case law, if so desired. The

penalty on the two individuals appellants shall also be considered accordingly by way of remand and in tune with sustainability of demand.

7. Appeals are allowed by way of remand

(Dictated & Pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Prachi