

FAX : 0532-2400149

REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38, MG Marg Civil Lines, Old Red Building, Allahabad-211001
Regional Branch, Allahabad

Dated: 05/12/2017

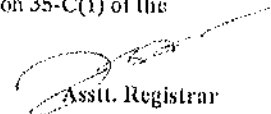
To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71810/2017-EX[DB] dated 01/12/2017

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 35-C(1) of the Central Excise and Salt Act, 1944.


Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	E/1405/2012	Commissioner of Central Excise and Service Tax- Lucknow 7-A...ASHOK MARG, LUCKNOW, UTTAR PRADESH 226001
		Name and Address of Respondent
2		Syntho Pharmaceuticals Pvt Ltd E-6, Talkatora Industrial Estate, Lucknow.,,

Copy To

- 3 Bar Association, CESTAT, Allahabad
- 4 Director Publications, Customs, Excise, I.P. Estate, Delhi
- 5 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamhi Marg, Opp ICICI Bank of Defence Colony New Delhi-5
- 6 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17
- 7 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005
- 8 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)
- 9 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070
- 10 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad - 38
- 11 The ICFAI society, 52, Nagarjuna Hill, Punjagutta Hyderabad.-500082
- 12 M/S Knowledge Processing Pvt. Ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032
- 13 C.D.R.
- 14 Office Copy
- 15 Second Folder Copy
- 16 Guard File


Asstt. Registrar

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I**

APPEAL No. E/1405/2012-EX[DB]

(Arising out of Order-in-Appeal No. 99-CE/LKO/2012 dated 29.02.2012 passed by the Commissioner(Appeals), Customs, Central Excise, & Service Tax, Lucknow)

C.C.E. & S.T.- Lucknow

Appellant (s)

Vs.

Syntho Pharmaceuticals Pvt. Ltd.

Respondent (s)

Appearance:

Shri Gyanendra Kumar Tripathi (AC) AR for Appellant

Absent on call

for Respondent

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)

Hon'ble Shri Anil G. Shakkarwar, Member (Technical)

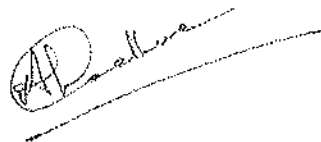
Date of Hearing/Decision :- 01.12.2017

FINAL ORDER NO-...11812/2017.....

Per: Mrs. Archana Wadhwa:

Being aggrieved with the order passed by Commissioner(Appeals), Revenue has filed the present appeal. We have heard learned AR, appearing for the Revenue. Nobody has appeared for the respondent.

2. On going through the impugned order and the Revenue's appeal, we note that the issue related to the processing loss arrived at while manufacturing the ointments by the respondent. Commissioner(Appeals) has observed that the scrutiny of the records show that such processing loss is within the norms laid down by the Drugs and Cosmetics





Rules and as such the allegations of clandestine removal made against respondent cannot be upheld. Revenue has, to the contrary, submitted that such records were not read by the Adjudicating Authority correctly.

3. In any case and in any view of the matter we find, that the Revenue's charges of clandestine removal are dependent upon the percentage of the production loss, without any reference to any other evidence on record. It is well settled that clandestine removal charges cannot be made on the basis of the processing loss which has occurred during the course of manufacture of the final product of an assessee. In the absence of any other evidence, we are of the view that the Commissioner(Appeals) has rightly set aside the order of the Original Adjudicating Authority upholding the clandestine removal. We find no merits in the Revenue's appeal and accordingly, the same is rejected.

(Dictated and pronounced in Court)

Sd/-
Anil G. Shalakarwar
Member(Technical)

Sd/-
(Archana Wadhawa)
Member (Judicial)

(as)

प्रमाणित नकल/Certified True Copy

204/101/18
Anil G. Shalakarwar
Asst. Registrar
(C.E.S.T.A.T.)
SE. CAMP, KANPUR-211001
S.E. CAMP, KANPUR-211001

