CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Central Excise Appeal No. 401 of 2010

(Arising out of Order-in-Appeal No.191/2009-CE dated 30.11.2009 passed by the Commissioner of Central Excise (Appeals), Bangalore.)

M/s. Sutures India Pvt. Ltd.
No.472-D, 13th Cross,
4th Phase,
Peenya Industrial Area
Bangalore – 560 058.

Appellant(s)

Versus

The Commissioner of Central Excise
Bangalore.

Respondent(s)

Appearance:

Mr. B. Venugopal, Advocate — For the Appellant

Mr. K. A. Jathin,
Dy. Commissioner (AR) — For the Respondent

CORAM:

HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 20743 /2023

Date of Hearing: 20.06.2023
Date of Decision: 20.06.2023

Per : R. BHAGYA DEVI

The appellant was classifying the product 'Sterilised Atraumatic Needled Sutures' under Chapter Heading 3006 1010 and subsequently, changed the classification to 9018 9019. Show cause notice dated 3.2.2009 was issued denying classification of the goods under Chapter Heading 9018 9019 and also denying the benefit of the Notification No.10/2006 dated 1.3.2006.

2. The above imported goods were used to stitch the wound or the open part of the body and it is not used for diagnosing purpose. The Commissioner (Appeals) agreeing with the original authority classified the goods under Chapter Heading 3006 1010. The benefit of Notification No.10/2006 was denied on the ground that concessional rate of duty was available only to parts and accessories falling under Chapter Heading 9018, since the goods were classified under a Chapter heading 3006, they were not eligible for the same.

3. The learned counsel on behalf of the appellant claimed that the product was rightly classifiable under Chapter Heading 9018 and not under 3006. It is stated that the Chapter Heading 3006 include sterile Surgical catgut and similar suture materials and sterile tissue adhesives for surgical wound closure. While Chapter Heading 9018 includes instruments and appliances used in medical surgical dental or veterinary sciences. They claim that the product imported is not suture material but a needled suture. It is nothing but a surgical appliance rightly classifiable under Chapter Heading 9018. They also submitted that the Hon'ble Supreme Court in the case of **Johnson & Johnson Limited versus CCE Aurangabad**: **1997 (92) ELT 23 (SC)** held that the product atraumatic was rightly classifiable under Chapter Heading 9018. He also relied upon the judgement in their own case wherein it was held that items Sterilised

Atraumatic Needled Sutures were classifiable under Chapter Heading 9018.

4. Heard both sides.

5. The limited question to be decided is whether the goods are classifiable under Chapter Heading 3006 or 9018.

5.1 The items imported here are 'Sterilised Atraumatic Needled Sutures' exactly the same products wherein classification was under dispute before the apex court in the case of **Johnson & Johnson Limited** cited supra. The Hon'ble Supreme Court has held that the Revenue's contention that *"if the needle by itself falls within 9018 as surgical appliance it is difficult to conclude that if suturing material is affixed thereto, it ceases to be a surgical appliance"* cannot be accepted. It was held that the terminology 'surgical appliances' has a broader compass than the terminology 'suturing appliances' and therefore, the items are rightly classifiable under Chapter Heading 9018.

5.2 The appellant's own case as reported in ***2011 (267) ELT 210 (Tri.-Bang.)***, this Tribunal held that *"a finished needle with a chosen length of thread attached to it would stand on a different footing. We have no doubt in our mind that the fixing of a chosen length of the thread to the wider end of the curved needle result in the emergence of the surgical appliance…………..We hold that the sutures consisting of a curved metallic needed with a piece of thread firmly attached to the* *wider end of surgical needle, is a surgical appliance, would merit classification under Chapter Heading 9018”*.

6. In view of the above decisions, we hold that items imported are rightly classifiable under Chapter Heading 9018, therefore, become eligible for the Notification No.10/2006. Accordingly, the appeals are allowed.

(Order dictated and pronounced in Open Court.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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