CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Central Excise Appeal No. 20466 of 2014

(Arising out of Order-in-Appeal No. 609-614/2013 CE dated 18.11.2013 passed by the Commissioner of Central Excise (Appeals-I), Bangalore.)

M/s. Bal Pharma Ltd.,
No. 21/22 Bommasandra Industrial Area,
Hosur Road,
Bangalore – 560 099.

Appellant(s)

VERSUS

Commissioner of Central Excise, Bangalore – I,
C.R. Buildings,
Queen's Road,
Bangalore.

Respondent(s)

With

(i). Central Excise Appeal No. 23550 of 2014 (M/s. Bal Pharma Ltd.)
(ii). Central Excise Appeal No. 23551 of 2014 (M/s. Bal Pharma Ltd.)
(iii). Central Excise Appeal No. 23552 of 2014 (M/s. Bal Pharma Ltd.)
(iv). Central Excise Appeal No. 23554 of 2014 (M/s. Bal Pharma Ltd.)
(v). Central Excise Appeal No. 23557 of 2014 (M/s. Bal Pharma Ltd.)

(Arising out of Order-in-Appeal No. 609-614/2013 CE dated 18.11.2013 passed by the Commissioner of Central Excise (Appeals-I), Bangalore.)

APPEARANCE:

None for the Appellant

Mr. Sanjay Venkat, Superintendent (AR) for the Respondent

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

Final Order No. 21052 - 21057 /2024

DATE OF HEARING: 28.10.2024
DATE OF DECISION: 28.10.2024

PER : DR. D.M. MISRA

These appeals are filed against Orders-in-Appeal No.609-614/2013-CE dated 18.11.2013 passed by Commissioner of Central Excise (Appeals-I), Bangalore.

2. Briefly stated the facts of the case are that the appellants are manufacturer of P or P medicaments falling under Chapter 29 & 30 of the Central Excise Tariff Act, 1985 and clearing the samples free of cost to physicians and discharging duty adopting cost construction method during the period April 2005 to December 2009. Periodical show-cause notices were issued to enhance the value of the goods, which were finalised confirming differential duty with interest penalty. The appellant had paid differential duty along with interest but contested the imposition of penalty. Aggrieved by the imposition of penalty by the adjudicating authority, they filed appeals before the learned Commissioner(Appeals), who in turn rejected their appeals. Hence, these appeals.

3. On going through the records, it is seen that the appellants had challenged only the imposition of penalty without disputing the method of valuation adopted by the Revenue in accordance with the Board's Circulars issued from time to time and following the judgment of the Hon'ble High Court in the case of ***Indian Drug Manufacturers Association Vs. UOI*** [2008(222) ELT 22 (Bom.)]. Learned AR for the Revenue brought to our notice that this Tribunal has consistently decided the issue on merit against the assessee in the following judgments:

i. ***Elvina Pharmaceuticals Ltd. Vs. CCE,C&ST, Belgaum*** [Final Order NO.21191/2023 dated 30.08.2023 – CESTAT, Bangalore]
ii. ***Elvina Pharmaceuticals Ltd. Vs. CCE,C&ST, Belgaum*** [Final Order NO.21164/2023 dated 31.10.2023 – CESTAT, Bangalore]

iii. ***Wallace Laboratories P. Ltd. Vs. CCE, Belgaum*** [Final Order No.20136 – 20138/2024 dated 14.03.2024 – CESTAT, Bangalore]

iv. ***Wintac Limited Vs. CCE, Bangalore*** [Final Order No.20458/2024 dated 15.04.2024 – CESTAT, Bangalore]

4. On going through these orders, we find that this Tribunal, though on merit held that the differential duty is payable with interest, but considering that the issue is relating to interpretation of law, dropped extended period of limitation as well as set aside the imposition of penalty. Following the above precedents, imposition of penalty in these appeals also cannot be sustained. Consequently, the impugned orders are set aside to the extent of confirmation of penalty imposed on the appellant. Appeals are disposed of accordingly.

(Order pronounced dictated in Open Court)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R BHAGYA DEVI)
MEMBER (TECHNICAL)

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