

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
EXCISE APPEAL BRANCH

Appeal No. E/2701/2004

Date 05/10/2007

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
C.C.E. INDORE
MANIK BAGH PALACE, POST BOX NO. 10, INDORE
452001 (M.P.)

C.C.E. INDORE

M/S ANGLO FRENCH DRUGS & INDUSTRIES LTD.

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 502/07-EX. dated 25-9-07
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent

M/S ANGLO FRENCH DRUGS & INDUSTRIES LTD.
PLOT NO-1101 & 1101 "A" SECTOR-III PITHAMPUR
DISTT DHAR M.P.


2. Adv. / Consult

NONE

3. S.D.R.

~~4. J.C.D.R.~~

5. Bar association, CESTAT, New Delhi
6. M/s. Deeparchi Publications, M-93, marg. 43, saket, New
7. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301
9. R. Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -
10. Nidheshak publications, I.P.Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,
12. Co, Law Institution
13. TAX INDIA, B-XI/8183, Vasant Kunj, New Delhi - 110070
14. Office Copy
15. Guard file


Assistant Registrar
(Excise Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
COURT NO. III

Excise Appeal No. 2701 of 2004

[Arising out of Order-in-Appeal No. IND-I/76/2004 dated 23.2.2004
passed by Commissioner of Customs & Central Excise (Appeals), Indore]

For approval and signature:

Hon'ble Dr. T.V. Sairam, Member (Technical)
Hon'ble Mr. P.K. Das, Member (Judicial)

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- | | |
|--|------|
| 1. Whether Press Reporters may be allowed to see :
the Order for publication as per Rule 27 of the
CESTAT (Procedure) Rules, 1982? | Yes |
| 2. Whether it should be released under Rule 27 :
of the CESTAT (Procedure) Rules, 1982 for
publication in any authoritative report or not? | Yes |
| 3. Whether Their Lordships wish to see the fair :
copy of the Order? | Seen |
| 4. Whether Order is to be circulated to the :
Departmental authorities? | Yes |
-

Commissioner of Central Excise
Indore (MP)

Appellant

Vs.

M/s. Anglo French Drugs & Indus. Ltd.

Respondent

Appearance:

Shri A.N. Sharma, Jt.CDR for the Appellant
None for the Respondent

CORAM: Hon'ble Dr. T.V. Sairam, Member (Technical)
Hon'ble Mr. P.K. Das, Member (Judicial)

2

Date of decision : 25.9.2007

FINAL ORDER NO. 502/2007EX

Dr. T.V. Sairam (for the Bench):

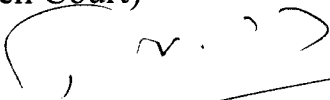
This is an appeal filed by the Revenue challenging the order of Commissioner (Appeals) dated 23.3.04. In the impugned order the Commissioner has himself is convinced that the quantity discount was allowed by the respondents along with the invoice quantity, in the same invoice itself and that this quantity discount did not have connection with the stock lying with the dealers at the time of clearance of goods from the factory. In this context, we come across this Tribunal's order relating to the same party and relating to same set of facts but for the different period. In this order (Anglo French Drugs and Industries Ltd. Vs. Commissioner of Central Excise, Indore, reported in 2005 (192) ELT 850 (Tri), this Tribunal has held as under:-

"6. We have gone through the facts of the case. The duty demand covers the period from April, 1998 to March, 2000- On going through the circular issued, it is very clear that what is given by the appellants to the distributors is only quantity discount. Initially, when the scheme was started the distributors were advised to go with the scheme using the stock which they held. This stock was to be replenished later by the appellants. We do not find anything sinister in this arrangement. There was no allegation by the Revenue that clearance in excess of the allowed quantity in terms of the scheme have been made without payment of duty. This is very clear from the

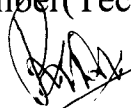
reason to reject the quantity discount offered by the appellants in terms of various circulars. The question of replenishment arose only in the initial stage and it was not a permanent feature. Under these circumstances, the orders of the lower authority have no merits. It is also brought to our notice that for the subsequent period i.e. April, 2000 to September, 2000, the Commissioner (Appeals) has passed a favourable order. Under these circumstances, we allow the appeal with consequential relief. ”

2. In view of the above, we do not find merits in the appeal filed by the Revenue. The same is dismissed.

(Dictated in the open Court)



(Dr. T.V. Sairam)
Member(Technical)


(P.K. Das)
Member(Judicial)