

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

Appeal No. E/5408/2004-5409/2004 - EX[DB]

Date 03/02/2009

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

To :
M/S ISHAAN REASEARCH LABS PVT.LTD.
177,UDYOG VIHAR PHASE-IV,GURGOAN
M/S ISHAAN REASEARCH LABS PVT.LTD.

C.C.E.GURGAON

Appellant

Vs
Respondent

EX[DB] dated 22-1-09

I am directed to transmit herewith a certified copy of Final order No. 77-78/2009-
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent

C.C.E.GURGAON

UDYOG MIINAR,UDYOG VIHAR NIKUNJ PHASE-V,GURGAON HARYANA
122016

2. Adv. / Consult

MR.K.K ANAND

A-5,BASEMENT,LAJPAT NAGAR-III NEW DELHI-24

3 S.D.R

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

5 Bar association, CESTAT, New Delhi

6 M/s. Deeparchi Publications, M-93, Marg. 46, Saket, New Delhi 110017

7 M/s Centax Publications (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New - 3

8 Excise & Customs cases, B-37, Sector -1, NOIDA - 201301 Gautam Budh Nagar, (U.P.)

9 Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT, U.P.

10 Nidheshak publications, I.P.Estate, new Delhi

11 Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026

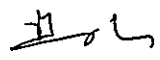
12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagaraya Road, T. Nagar,Chennai

13 Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070

14 Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road,Ahmedabad-15

15 Office Copy

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Assistant Registrar
(Excise Appeal Branch)

M/S ISHAAN RESEARCH LABORATORIES PVT.LTD.
177,UDYOG VIHAR,PHASE-IV,GURGAON HARYANA

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

COURT NO. II

Excise Appeal No. 5408-5409 of 2004-Ex.

(Arising out of Order-in-Appeal No. 144-145/AKG/GGN/2004 dated 8.3.2004 passed by the Commissioner (Appeals), Central Excise, Gurgaon)

M/s Ishaan Research Laboratories (Pvt.) Ltd.

Appellant

Vs.

CCE, Gurgaon

Respondent

Appeared for Appellant : Shri K.K. Anand. Advocate
Appeared for Respondent : Shri Virender Chaudhary, DR

Date of Hearing: 13.1.2009

CORAM: HON'BLE MR. D.N. PANDA, JUDICIAL MEMBER
HON'BLE MR. RAKESH KUMAR, TECHNICAL MEMBER

FINAL Order No. 77-78/2009-Ex dated.....

Per D.N. Panda:

Ld. counsel Shri K.K. Anand submits that when the impugned order was passed on 8.3.04, the ld. appellate authority has no benefit of reading the apex Court's judgment in the case of the same appellant reported in 2008 (230) ELT 7 (SC). He brings ^{to}our notice the ratio of the decision to submit ^{that} when the goods are manufactured under the provisions of Drugs and Cosmetics Act 1956 and having a characteristic of drug, this appellant ^{is} required to be dealt according of the ratio laid down by the apex Court.

Therefore, he prays that if the matter goes back to the Id. adjudicating authority who is at the grass root can better examine all technicalities of the product and also examine the issues involved in the light of the apex Court's judgment.

2. Ld. DR appearing for Revenue does not dispute the law laid down by apex Court in the case of the appellant reported in 2008 (230) ELT 7. He also has no hesitation to put the matter into test by the Id. adjudicating authority. ^{if} the matter goes back to him.

3. We have heard both the sides and have the advantage of going through of the apex Court's decision cited by the Id. counsel. This decision has taken into consideration various previous judgments on the subject. The Hon'ble Court having laid down the law, we also appreciate that the case of the appellant should go back to the Id. adjudicating authority who shall redo the exercise and come to a proper conclusion as well as pass a reasoned and speaking order, granting fair opportunity of hearing to the appellant. In the result both the appeals are disposed of by way of remand.

(Dictated & pronounced in open Court)

(D.N. PANDA)
JUDICIAL MEMBER

(RAKESH KUMAR)
TECHNICAL MEMBER

RM