

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

Appeal No. E/1196/2006 - EX[DB]

Date 01/07/2009

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

To :
HERBAL HOUSE
16-B, INDL. AREA, ADHARTAL, JABALPUR

HERBAL HOUSE

Appellant

Vs

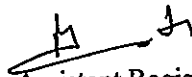
Respondent

C.C.E BHOPAL

2009 EX[DB] 15.5.09

I am directed to transmit herewith a certified copy of Final order No. 437

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 BHOPAL

HOSHANGABAD ROAD, 48, ADMINISTRATIVE AREA, AREA HILLS, BHOPAL (M.P.) 462011

2. Adv. / Consult

MR.BIPIN GARG & CO.

601, VINDHYACHAL, KAUSHAMBI, GHAZIABAD-201012.

3.  C.D.R.

4. J.C.D.R.

5. Bar association, CESTAT, New Delhi

6. Director Publications, Customs, Excise. I.P. Estate, New Delhi

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

8. Commercial Laws of India Pvt Ltd. Post Bag No. 1033, No.2(Old No. 36), Vaithyaram Street, T. Nagar, Chennai -17

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

10. M/s Manupatra Information Solutions Pvt Ltd. Excise & Customs Cases B-37, Sector - 1, Noida - 201301, Gautam Budh Nagar, (UP)

11. M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017

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

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

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

15. LAWCRUX Advisors Pvt Ltd, LAW House, 1-8, Sector - 10, Faridabad 121003 (Haryana)

16. Office Copy

17. Guard file

18. SPS to Hon'ble President


Assistant Registrar
(Excise Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R. K. Puram, New Delhi

COURT-I

Date of hearing/decision: 15.05.2009

Excise Appeal No. 1196 of 2006.

[Arising out of order-in-appeal Nos. 213/CE/BPL/2005 dated 30.12.2005 passed by the Commissioner of Customs & Central Excise (Appeals), Bhopal].

For approval and signature:

Hon'ble Shri Justice R.M.S. Khandeparkar, President
Hon'ble Shri M. Veeraiyan, Member (Technical)



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?	No
3	Whether Their Lordships wish to see the fair copy of the Order?	See
4	Whether Order is to be circulated to the Departmental authorities?	Yes

M/s Herbal House

Appellant

Vs.

CCE, Bhopal

Respondent

Appearance:

Appeared for the Appellant – Sh. Bipin Garg, Advocate

Appeared for the Respondent – Sh. S. N. Srivastava, DR

Coram: Hon'ble Shri Justice R.M.S. Khandeparkar, President
Hon'ble Shri M. Veeraiyan, Member (Technical)

FINAL Oral Order No. 437/09-EX

Per: Justice R.M.S. Khandeparkar:



Heard the learned Advocate for the party and learned DR for the Revenue.

2. In view of the order passed by this Tribunal today in Excise Appeal Nos. 2903-2904 of 2004, the impugned order as well as orders passed by the adjudicating authority cannot be sustained. Unless the issue of classification of the product is decided, neither there can be any demand of duty nor claim in that regard can be sought to be rejected. Being so, the order dated 20.05.2004 passed by the adjudicating authority and order dated 30.12.2005 passed by the Commissioner (Appeals) are liable to be set aside and matter remanded to the adjudicating authority to decide the same either alongwith the matters relating to show cause notices dated 15.05.1997 and 20.06.2001 which were the subject matter in Excise Appeal No. 2903- 2904 of 2004 or subsequent to the decision in relation to the said show cause notices. Till then the proceedings under show cause notice dated 8.01.2003 can remain suspended unless this proceeding is taken up simultaneously with the above referred proceedings in relation to the said show cause notices.

3. The appeal therefore is partly allowed and the impugned order and the order dated 20.05.2004 of the adjudicating authority are set aside and matter remanded to be disposed of in the above stated manner. Appeal stands disposed of in the above terms.

(Justice R.M.S. Khandeparkar)
President

(M. Veeraiyan)
Member (Technical)

/Pant/