

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

Appeal No. E/3413/2006-SM[BR]

Date 23/05/2008

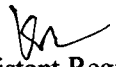
Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
C.C.E.CHANDIGARH
PLOT NO 19, SECTOR 17-C, CHANDIGARH.
C.C.E.CHANDIGARH

M/S SURYA PHARMACEUTICALS LTD

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 808 /2008-SM[BR] dated 27.3.2008
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar

(SM Appeal Branch)

Copy to :

1. Respondent

M/S SURYA PHARMACEUTICALS LTD

85, H.P.S.I.D.C., INDUSTRIAL AREA, BADDI, DISTT-SOLAN(HP)

2. Adv. / Consult SHRI HEMANT BAJAJ ADV.

N /V.;-----

3. S.D.R.

4. ~~L.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 Delhi -

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 60017

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

14. Office Copy

15. Guard file


Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

E/Appeal No.3413/2006-SM

(Arising out of order in appeal No.761/CE/CHD/06 dated 18.8.06 passed by the Commissioner of Central Excise (Appeals), Chandigarh)

For approval and signature:

Hon'ble Mr.P.K. Das, Member(Judicial))

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

CCE, Chandigarh

Appellant
(Rep. by Shri A.K. Rastogi, DR)

Vs

M/s Surya Pharmaceuticals Ltd

Respondent
(Rep. by Shri Hemant Bajaj, Advocate)

Coram: Hon'ble Mr P.K. Das, Member(Judicial)

Date of Hearing: 27.3.2008

Final Order No. 808 /2008-SM(BR)

Per P.K. Das:

The Revenue filed this appeal against the order of the Commissioner (Appeals) whereby penalty imposed under Section 11AC of the Central Excise Act, 1944 was set aside.

2. After hearing both the sides and on perusal of record, I find that the Adjudicating Authority passed the order without giving proper opportunity of hearing. I also notice that the Commissioner (Appeals) set aside the penalty on the ground that the appellants deposited the duty before issue of show cause notice without going into merit of the case. The learned DR submits that the appellants deposited the duty on the shortage of goods and penalty of 25% of the duty amount without any protest.

3. I find that facts are required to be examined by the Adjudicating Authority. Accordingly, the impugned order is set aside and the matter is remanded back to the Adjudicating Authority to decide the issue afresh after giving proper opportunity of hearing. The appeal is allowed by way of remand.

(Order dictated and pronounced in the open Court).

MPS*

(P.K. Das)
Member(Judl)