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

Appeal No. C/24 /2011 - CU[DB] Date **12/03/2012**

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

To :
C.C. NEW DELHI (IMPORT & GENERAL)
NEW CUSTOM HOUSE, NEAR I.G.I. AIRPORT, NEW DELHI 110037.

C.C. NEW DELHI (IMPORT & GENERAL) Appellant

Vs

M/S KEVA INDUSTRIES, Respondent

I am directed to transmit herewith a certified copy of **Final order No. C/A/55/ 2012 CU[DB]** dated 10.02.12 passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
M/S KEVA INDUSTRIES,
1, G.T. ROAD, NEAR OCTROI
POST, SHANEWAL, LUDHIANA,
PUNJAB.

2. Adv. / Consult MR. SUDHIR MALHOTRA, ADV
C/O Respondent

3. C.D.R
4. Bar association. CESTAT. New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New Delhi
6. M/s Centax Publictions Pvt Ltd.,1512-B, Bhishm Pitamah marg,Opp. ICICI Bank of Defence Colony, New Delhi-3
7. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
8. Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi - 110005
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
10. LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
12. Office Copy
13. Guard file

Assistant Registrar
(Customs Appeal Branch)

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

Date of hearing/decision 10.02.2012

Custom Appeal No. 24 of 2011

CC, New Delhi — Appellant
Rep. by Sh. B.L. Soni, DR for the appellant.

Vs.

M/s Keva Industries — Respondent
Rep. by Sh. Sudhir Malhotra with Sh. Poojan Malhotra, Advocates for the respondent.

Coram: **Hon'ble Sh. D. N. Panda, Judicial Member**
Hon'ble Sh. Rakesh Kumar, Technical Member

Final ORDER No. C/A/55/12-Cus

Per: Shri D. N. Panda:

Learned DR submits that the first appellate authority held that the goods shall fall under the heading 2501 instead of the same falling under the heading 2106. The goods covered by tariff item 2106 is food preparations not elsewhere specified or included whereas the tariff item 2501 speaks about salt (including table salt and denatured salt) and pure sodium chloride, whether or not in aqucous or containing added anti-caking or free flowing agents; sea water. Once the goods were meant for use for some purpose the classification claimed by the department under tariff item 2501 is correct.

2. Learned Counsel Sh. Sudhir Malhotra submits that the goods brought through bill of entry No. 880111 dated 09.06.2010 is mineral drops 60 ml. each bottle RSP LE (Salinesolution) (30 bottle x 6 ml.). These are liquids and the appellant made an averment that the goods are sea water containing natural mineral. Few drops i.e. 5 to 15 are added to fresh water for human intake twice a day. That curbs deficiency of mineral in the body. The intake of the

impugned goods does not any way has adverse impact on the body. The goods in question is the nature's gift and reduces deficiency of certain mineral in the body. Therefore, his prayer is that ld. Commissioner(Appeals) having examined the goods in terms of the nature thereof has come to appropriate conclusion for classification and that need not be disturbed..

3. Heard both sides and perused the record.

4. Learned DR for the revenue reading para 3 of the grounds of appeal. brings out that in the website of the manufacturer the goods has been described as food supplement. Such ground clearly support the case of the respondent Since the respondent has made an averment that the goods are fit for human consumption to remove certain deficiency. Now the question is to be decided is under which tariff entry the goods fall. We are satisfied that the goods being natural sea water has not gone any preparation to be called as food preparation or any other preparation.. There is no test report brought out by Revenue to discharge burden of proof to claim that the goods in question submit to tariff entry 2106 and also to satisfy that it is a preparation with or without certain composition, and has undergone process. In such circumstances, stand of respondent does not appear to be devoid on merit..

5. We had anxiety in the course of hearing to find out edibility of the goods and whether is fit for human consumption. Revenue's ground does not discard the claim of human consumption and utility of the goods for the said purpose even though such goods are lying in custody of Revenue for long time. .Once we are satisfied that the goods have not undergone any preparation, there is no scope to discard the finding of the first appellate authority made in para 6(d) of the appellate order where he has analyzed the HSN note

ofheading 2501 and there is nothing contradictory evidence brought by revenue to discard his observation.

6. . Revenue's appeal fails. Accordingly, that is dismissed.

(Dictated and pronounced in the open Court)

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

Pant