CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-I

Date of hearing: 01.08.2017

Appeal No. C/257/2011-CU[DB]

[Arising out of the Order-in-Appeal No. CC(A-CUS/I&G/04/2011 dated 28/01/2011, passed by the Commissioner of Central Excise, New Delhi]

M/s. Rapid Diagnostics Pvt. Ltd. … Appellant

Vs.

C.C.E. New Delhi (I&G) ... Respondent

Appearance:
Present Shri Piyush Kumar, Advocate for the appellant
Present Shri Govind Dixit, DR for the respondent

Coram: Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Technical Member

FINAL ORDER No. 55730/2017

Per Justice (Dr.) Satish Chandra:

The present appeal is filed against the Order-in-Appeal No. 04/2011 dated 28/01/2011. The disputed period is 2010.

2. During the period under consideration the appellant has imported the glucose monitoring test strips and under the name of "Nyco Card HBA1c" and claimed the benefit of notification 21/2002-Cus dated 01.05.2002 read with notification no. 06/2006 Central Excise (at sl. No. 65). The benefit was denied by the Department. Aggrieved with the above order appellant has filed the present appeal.

3. With the above background we have heard Shri Piyush Kumar, Advocate for the appellant and Shri Govind Dixit, DR for the respondent.

4. Ld. DR relied on the impugned order specially paragraph 6 of the order.

5. After hearing both the parties and on perusal of the record, it appears that complete glucose monitoring system (glucometer test strips) attract 5% BCD and CVD as 4%. The appellant was denied the benefit of concessional rates and ordered to pay the higher customs duty.

6. By considering the facts of the case, it may be mentioned that HBA1c is the average complete sugar test for three months. In other words, it monitors complete sugar on average basis for three months. At the same time glucometer provides complete reading on daily basis. The purpose of both the strips is same, i.e. monitoring of complete sugar. There is no separate category for HBA1c.

7. We are of the view that the imported goods are covered under glucose complete sugar monitoring strips. Hence the Nyco card is entitled to get the benefit under the above mentioned notifications. In view of the above we set aside the impugned order and allow the appeal filed by the appellant.

[Dictated and Pronounced in the open court]

(V. Padmanabhan)
Technical Member

(Justice Dr. Satish Chandra)
President

Bhanu