

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

COURT-I

Date of hearing/Decision: 20.11.2017

Appeal No. E/53205/2015 [EX] DB
E/COD/51085/2016 with E/Cross/51083/2016

[Arising out of the Order in Appeal No. DDN-EXCUS-000-APPEAL-I-197/2014-15 dated 20/03/2015 Passed by The Commissioner, Central Excise, Dehradun.]

CCE Dehradun ... Appellant

Vs.

M/s SBL Industries Pvt. Ltd. ... Respondent

Appearance:
Present Shri S.K. Bansal, DR for the appellant
Present Shri Rishi Kumar, Advocate for the respondent

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

FINAL ORDER No. 58014/2017

Per: Justice Dr. Satish Chandra

1. The present appeal is filed against Order-in-Appeal No. 197 dated 20/03/2015. The period of dispute is January, 2012 to July, 2012.
2. The appellant is engaged in Bio-chemic Systems medicines and claim the exemption under Notification No. 3/2005-CE dated 14/02/2005 as well as under Notification No. 12/2012-CE dated 17.03.2012, but the Department has denied the same by mentioning that the appellant has used the brand name and exemption is not for the brand items. Being aggrieved the appellant has filed the preset appeal.
3. With this background heard Shri S.K. Bansal, Ld. DR for the Revenue as well as Shri Rishi Kumar, Ld Counsel for the respondent.
4. After hearing both the parties and on perusal of record, it appears that the appellant has claimed that this is a house name and it is not the

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product name or trade name. In this regard the Adjudicating Authority has mentioned in his order in Para 4.8 of the notice as under:

'Further I gather from the market that the party has removed the display of their 'brand name' as above from the retail packing of their product being manufactured at Hardwar, instead sticking of hologram of SBL-world Class Homeopathy" in the fashion described above, they are sticking the hologram carrying the word "Genuine"...."

5. The appellant was never providing an opportunity to put his defence against above evidences as observed by the Commissioner (Appeals) in his order in para B.3.
6. During the course of arguments, Ld. Counsel submits that if an opportunity will be provided then he will submit the evidence to counter the allegation.
7. When it is so, then we set aside the impugned order and remand the matter to the Adjudicating Authority to decide the issue de novo but by providing an opportunity of hearing. Additional evidence, if need be, may be admitted as per law.
8. In the result, appeal filed by the appellant is allowed by way of remand.
9. COD as well as cross objections are also disposed of.

[Order Dictated and Pronounced in the open court]

(V.Padmanabhan)
Member (Technical)

(Justice Dr. Satish Chandra)
President

Rekha