IN THE CUSPTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

Date of Hearing/Decision:29.12.2017

Customs ROA No.50996/2017 in
Appeal No.51765/2015

[Arising out of Final Order No.55727/2017 dated 2.8.2017 passed by the Tribunal]

M/s.Udaipur Surgical Pvt. Ltd. Appellant

Vs.

CCE, Jaipur Respondent

Appearance:
Rep. by Shri V.R. Sethi, Advocate for the appellant.
Rep. by Shri P. Juneja, AR for the respondent.

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

Final Order No.58672/2017

Per B. Ravichandran:

The misc. application is for restoration of appeal, which was dismissed for non-prosecution. Since the issue is in short compass, with the consent of both the sides, we take up the appeal itself for final disposal.

2. Due to some reasons, he could not be present on the date of hearing for which he has filed details. Accordingly, we recall the order dated 2.8.2017 and restore the appeal to its original number.

3. The appellant is aggrieved by the order-in-appeal no.01-02(SLM)CUS/JPR/2015 dated 4.2.2015 passed by the Commissioner of Central Excise (Appeals), Jaipur. The appellant imported "non-woven substrate for skin barrier micropores surgical tape". They claimed exemption under notification no.21/2002-Customs dated 1.3.2002 (Sl.No.363 A). The said exemption is with a

condition that the imported product should be used for manufacture of adhesive tapes, which are claimed to have been used as parts of osotomy and others related equipments in medical treatment. The lower authorities denied exemption only on the ground that the appellant did not produce satisfactory evidence to establish the end use of the product.

4. Heard both the sides and perused the appeal records.

5. Ld. Counsel for the appellant submits that they have all the evidences from the buyers, which are related to the hospitals, which are further used for the intended purposes as per the conditions mentioned in the notification.

6. In view of the above, we note that the matter can go back to the Original Authority to enable him to examine the issue afresh including the documentary evidences, that will be filed by the appellant in support of their claim for concession. Since the dispute pertains to the year 2011, we advice the appellant to present before the Original Authority with all the supporting evidences on **17th January, 2018** for fresh re-adjudication of the matter. The appeal is allowed by way of remand.

[Order dictated & pronounced in open court]

(Justice Dr. Satish Chandra)
President

(B. Ravichandran)
Member (Technical)

Ckp.