

**IN THE CUSTOMS, EXCISE & SERVICE TAX  
APPELLATE TRIBUNAL  
West Block No. 2, R.K. Puram, New Delhi – 110066**

**Date of Hearing: 20/12/2018**

**Appeal No. E/ 51657, 52030, 51003, 52294 /2018-DB**

[Arising out of Order in Original No.12-16-COMMISSIONER-14-15 & 6-11-COMMISSIONER-2014-15 dated 24/07/2014 & 14/07/2014 passed by the Commissioner of Central Excise-LTU DELHI]

**M/s Sun Pharmaceutical Industries Pvt. Ltd.** Appellant

Vs.

**CCE & ST - Indore**

Respondent

Appearance

Shri Kiran Sawle, Advocate

for the appellant

Shri S.H. Saini, DR

for the respondent

CORAM: Hon'ble Mr Anil Choudhar, Member (Judicial)

Hon'ble Mr. Bijay Kumar, Member (Technical)

Final Order No.53496-53499/2018

Per Bijay Kumar

1. The appellant is in appeal against the impugned order, wherein the interest and penalty have been imposed on the appellant under the provisions of the Customs and Central Excise, 1944.
2. The issue involved in this case is that in pursuance of Audit objection, the Department came to know that the assessee is not following the CAS-4 method as contemplated under Rule 8 of Central Excise Valuation Rule, 2000, and thus paying less Central Excise Duty adopting the value as per Section 4 (1)(a) of the Act.

3. In the impugned order Ld. Commissioner (Appeal) has upheld the order passed by the Ld. Adjudicating Authority which demanded interest and penalty on the appellant.
4. Ld. Advocate on behalf of the appellant says that the issue is already decided by this Tribunal vide Final Order No. A/54220/ 2015-SM (BR) dated 20/11/2015, in their own case. This order was passed in favour of **Ranbexy Laboratories Ltd.**, which is now the appellant by name and style of M/s **Sun Pharmaceutical Pvt. Ltd.** After taking over.
5. Ld. DR on behalf of the Revenue supports the impugned order on the ground that the party has not correctly determined the value and it is only after the Audit objection the amount was paid by appellant the demand and hence interest and penalty is justifiable.
6. Having heard the rival contention, we find that issue is no more *res integra*, in view of the Hon'ble Tribunal decision in their own case vide the order themselves. Following the aforesaid precedent judgment we set aside the impugned order and allow the appeal filed by the appellant.

(Dictated and pronounced in open court)

(Anil Choudhary)  
Member(Judicial)

( Bijay Kumar)  
Member(Technical)

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