CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD
Bench – SMB
Court – I

Appeal No. E/31259/2017

(Arising out of Order-in-Appeal No. VIZ-EXCUS-001-APP-076-17-18 dated 31.07.2017 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Visakhapatnam)

Dr. Reddy's Laboratories Limited …..Appellant(s)

Vs.

Commissioner of Central Tax,
Visakhapatnam – G S T …..Respondent(s)

Appearance
Shri B. Seshagiri Rao, Advocate for the Appellant.
Shri Guna Ranjan, Superintendent (AR) for the Respondent.

Coram:
Hon'ble Mr. P. Venkata Subba Rao, Member (Technical)

Date of hearing: 07/05/2018
Date of decision: 07/05/2018

FINAL ORDER No. A/30542/2018

[Order per: P. Venkata Subba Rao]

Heard both sides.

2. When this matter was called out, the Learned Departmental Representative has pointed out that as per the first

proviso to Section 35B (1) CESTAT has no jurisdiction in deciding the matter as it is related to rebate of excise duty of goods exported out of India.

3. The Learned Counsel to the appellant agreed that this matter is covered by the first proviso to Section 35B (supra). However, he said that the preamble to the order of the Commissioner (Appeals) says that “any person aggrieved by this Order-in-Appeal in Form EA-3 to the CESTAT-Hyderabad under Section 35B(1) of the Central Excise Act.” Hence, they filed this appeal. I find that the preamble to the order of the Commissioner (Appeals) does say so. However, any error in the preamble to the order of the Commissioner (Appeals) does overrule the statutory provisions of Section 35B.

4. In conclusion, I find that the matter appealed in this case falls outside the jurisdiction of this Tribunal and therefore the appeal is dismissed.

(Order pronounced and dictated in open court)

(P. VENKATA SUBBA RAO)
MEMBER(TECHNICAL)

Lakshmi….