IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH: KOLKATA

Appeal Nos. C/140/2008 & C/237/2009

(Arising out of Order-in-Appeal No. Kol/Cus/CKP/28-29/08 dated 24.01.2008 Order-in-Appeal No. Kol/Cus/CKP/103/09 dated 06.03.2009all passed by Commissioner of Customs (Appeals), Kolkata)

Tanban Commercial Pvt. Ltd.
Commissioner of Customs (Prev.), Kolkata

Applicant (s)/Appellant (s)

Vs.

Commissioner of Customs (Prev.), Kolkata
Tanban Commercial Pvt. Ltd.

Respondent (s)

Appearance:

Shri H.K.Pandey, Advocate& Shri K.P.Dey, Advocate for the Appellant (s)
Shri S.N.Mitra, AC(AR) for the Respondent (s)

CORAM:
Hon'ble SHRI JUSTICE (DR.) SATISH CHANDRA, PRESIDENT
Hon'ble SHRI V.Padmanabhan, Member (Technical)

Date of Hearing/Decision:- 04.05.2018

ORDER NO. FO/75876-877/2018

Per Dr. Satish Chandra

1. First appeal is filed by the appellant against Order-in-Appeal No. Kol/Cus/CKP/28-29/08 dated 24.01.2008; and the second appeal is filed by the department against Order-in-Appeal No. Kol/Cus/CKP/103/09 dated 06.03.2009. In both the appeals, issues is identical pertaining to the same item and same assessee, so both the appeals are disposed of by this consolidated order for the sake of convenience.

2. Heard both sides and perused the appeal record.

3. After hearing both the parties and on perusal of record, it appears that the assessee had imported "Meril Beauty Soap" from Bangladesh. The appellant has classified the same nder CTH 3401.11 which attracts Central Excise duty on the

basis of the valuation. But the department wants to bring the said item under CTH 3401.19 which attracts Central Excise duty on the MRP basis.

4. From the record, it appears that in both the impugned orders, the two Commissioners have taken different views. One is in favour of the assessee and another in against the asseessee. So, both the parties have filed the present appeals.

5. In the instant case it appears that tariff item 3401.11 is pertaining to Soap for toilet use (including medicated products). It means that 340.11 covers all soap for toilet use including the medicated soap. It does not exclude the medicated soap. The toilet soap which is not medicated is also to be covered under the heading 3401.11. Thus, we are of the view that 3401.11 covers all toilet soap whether it is medicated or not.

6. When it is so, we are of the view that imported soap is covered under heading 3401.11.

7. In view of above, the appeal of the appellant is allowed and the appeal filed by the department is dismissed with consequential relief to the party, if any.

(Dictated and pronounced in the Open Court)

S/d.
(Justice Dr. Satish Chandra)
President

S/d.
(V.Padmanabhan)
MEMBER (Technical)

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