

**IN THE CUSTOMS, EXCISE AND SERVICE TAX
APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI**

APPEAL NO: ST/88013/2018

[Arising out of Order-in-Appeal No: NA/GST/A-III/MUM/395/17-18 dated 09.03.2018 passed by the Commissioner of GST and Central Excise (Appeals-III), Mumbai]

Commissioner of C.G.ST, Mumbai
West

Appellant

versus

Elder Pharmaceuticals Limited

Respondent

Appearance:

Shri S.B. Mane, Assistant Commissioner (AR) for appellant

None for respondent

CORAM:

Hon'ble Mr. S.K. Mohanty, Member (Judicial)

Date of hearing: 24/12/2018

Date of decision: 24/12/2018

ORDER NO: A/88179 / 2018

Per: S.K. Mohanty

Heard both sides.

2. This appeal is directed against impugned order dated 09.03.2018 passed by the Commissioner of GST and Central Excise (Appeals-III), Mumbai. Revenue has assailed the impugned order on the ground that setting aside the demand of penalty imposed under Section 76 of the Finance Act, 1994 is not proper and justified. The service tax amount involved in this appeal is Rs.39,47,721/-. Section

76 of the Act prescribes the quantum of penalty to be imposed on the assessee. Considering the demand of service tax involved in this case, I am of the view that the subject matter of appeal i.e. quantum of penalty should not exceed Rs.20,00,000/-.

3. Considering in reduction of Government litigation before various judicial forums, including the Tribunal, the CBEC had issued instruction vide File No. 390/Misc./113/2010-JC(8-2011) dated 17th August 2011 and No. 390/Misc./163/2010-JC dated 17.12.2015, fixing the monetary limit, below which the appeal shall not be filed by Revenue before the judicial forums. As per the instruction dated 17.12.2015, the monetary limit was fixed at Rs.10,00,000/- for filing of appeal before the Tribunal. The said monetary limit was enhanced to Rs.20,00,000/- vide instruction dated 11.07.2018 issued by the CBEC. However, there is a stipulation in the instruction dated 11.07.2018 that issues involving substantial questions of law should be contested, irrespective of the prescribed monetary limit. In the present case, since there is no substantial question of law involved for consideration by the Tribunal and in view of the fact that the amount involved is less than Rs.20,00,000/-, as per the instruction dated 11.07.2018 of the CBEC, the appeal cannot be entertained on merits.

4. Accordingly, the appeal filed by the Revenue is dismissed on monetary limits, as per the instructions referred (supra) issued by the CBEC.

(Pronounced & Dictated in Court)

(S.K. Mohanty)
Member (Judicial)

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