

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

APPEAL NOS: C/326 & 327/2010

[Arising out of Order-in-Original No: 16/2009 and Order-in-Original No: 17/2009 both dated 19th November 2009 passed by the Commissioner of Customs, Marmagaoa.]

For approval and signature:

**Hon'ble Shri C J Mathew, Member (Technical)
Hon'ble Shri Ajay Sharma, Member (Judicial)**

-
-
1. Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982? : Yes
 2. Whether it should be released under Rule 27 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? : Yes
 3. Whether Their Lordships wish to see the fair copy of the Order? : Seen
 4. Whether Order is to be circulated to the Departmental authorities? : Yes
-
-

Metro Industries
Parth International

... Appellants

versus

Commissioner of Customs
Marmagaoa

...Respondent

Appearance:

None for appellants

Shri Bhushan Kamble, Assistant Commissioner (AR) for respondent

CORAM:

Hon'ble Shri C J Mathew, Member (Technical)

Hon'ble Shri Ajay Sharma, Member (Judicial)

Date of hearing: 19/02/2019

Date of decision: 19/02/2019

ORDER NO: A/85462-85463/2019

Per: C J Mathew

These two appeals arise from the order of the original authority confiscating various cosmetics, described as 'shower gel, roll on, shampoo/conditioner shampoo, shaving gel, hair cream, body cream, face cream, body lotion, mouth freshener, soap and scented spray', imported against various bills of entry which were required to obtain 'no objection certificate' from the Assistant Drug Controller, as prescribed in rule 133 of Drugs and Cosmetics Rules, 1945 which restricts imports only to such points of entry as are specified under rule 43A of the said Rules, but were unable to do so. Following the prescription in law, the goods were absolutely confiscated. No other detriments were visited upon the importer.

2. None appeared for appellant. However, as the matter has been pending for a substantially long time and none had been appearing for appellant, we take up the appeals for disposal on the basis of records.

3. Learned Authorised Representative submits that the Drugs and Cosmetics Rules, 1945 are intended for the safety of the residents of this country and that the importer was obliged to comply with the said Rules. It is also pointed out that the importers had been afforded the opportunity to transship the goods to any port that was recognized for the purpose; such an enumeration of ports is not an empty formality but is linked to the existence of sufficient technical expertise to ensure that safety is not compromised.

4. We find that the grounds of appeal challenges the impugned order for having decided the matter *ex-parte* and for travelling beyond the show cause notice as cosmetics, not being prohibited, could not be subjected to absolute confiscation, that cross-examination of the Deputy Drugs Controller was not allowed and that the decision is tantamount to stoppage of imports at Goa without authority of law.

5. We find that these submissions in the grounds of appeal are not in consonance with the facts. That Goa is not an approved place of entry for the import of cosmetics is not in doubt. Notwithstanding the commercial interest and the emotional outburst in the appeal, the law, particularly those prescribed for the protection of its citizenry, has to

be strictly complied with. Failure in compliance renders the goods liable to confiscation.

6. Considering the above, we find no merit in the appeals which are dismissed.

(Pronounced in Court)

(Ajay Sharma)
Member (Judicial)

(C J Mathew)
Member (Technical)

*/as190220021103