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

APPEAL NO.E/671/2011

(Arising out of Order-in-Original/ Appeal No.SB/64/Th-I/2011 dated 07.02.2011 passed by the Commissioner of Central Excise (Appeals), Mumbai)

M/s. Shriram Coatings, : **Appellant**
E2, Actual Industrial Complex,
Village Vadavali, Taluka Wada,
Dist. Thane

VS

CCE THANE I : **Respondent**
4TH Floor, Navprabhat Chambers,
Ranade Road, Dadar (W),
Mumbai 400 028

<u>Appearance</u>

None for Appellant

Shri Anil Choudhary DC (A.R) for Respondent

CORAM:

Hon'ble Dr. D.M. Misra, Member (Judicial)

Date of hearing : 17.07.2019
Date of decision : 17.07.2019

ORDER NO. A/86272/2019

Per : **Dr. D.M. Misra, Member (Judicial)**

None Present for the Appellant. Heard the Learned AR for the Revenue.

2. This appeal has been filed against Order-in-Appeal No.SB/64/Th.1/2011 dated 07.02.2011 passed by the

Commissioner of Central Excise (Appeals), Mumbai. The Appellants are engaged in the manufacture of paints falling under Chapter 32 and 39 of the Central Excise Tariff Act, 1985. For proper quality control they draw samples of manufacturing goods for inhouse test in their laboratory for quality test purpose and adherence to product specification; this samples are retained for investigation to address future complaints. Periodical Show Cause Notices were issued from time to time demanding duty on the said samples. On adjudication the demand was confirmed with interest and penalty imposed.

3. The short issue involved in the present case is whether the samples drawn for inhouse laboratory test and preservation of the same for future investigation is chargeable to duty or otherwise. I find that this issue is no more rest-integra and covered by all the judgement in the case of CCE, Vs. Malcom Pharmaceuticals 2008(225)ELT428(P&H). Following, the said Judgement, I do not find merit in the impugned order Consequently, the same is set aside and the appeal is allowed.

(Dictated & pronounced in open Court)

(D.M. Misra)
Member (Judicial)

HM