

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
MUMBAI**

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 86298 of 2017

(Arising out of Order-in-Appeal No. SK-73-75/TH-II/2017 dated 02.03.2017 passed by the Commissioner of Central Excise (Appeals), Mumbai-I)

M/s Emil Pharmaceuticals Industries Pvt. Ltd. Appellant

Plot No. N-49 and N-50, MIDC, Tarapur,
Boisar, Dist. - Palghar

Versus

Commissioner of Central Excise, Thane-II Respondent

3rd Floor, Navprabhat Chambers, Ranade Road,
Dadar (West), Mumbai - 400 028

WITH

Excise Appeal No. 86321 of 2017

(Arising out of Order-in-Appeal No. SK-73-75/TH-II/2017 dated 02.03.2017 passed by the Commissioner of Central Excise (Appeals), Mumbai-I)

M/s Emil Pharmaceuticals Industries Pvt. Ltd. Appellant

Plot No. N-49 and N-50, MIDC, Tarapur,
Boisar, Dist. - Palghar

Versus

Commissioner of Central Excise, Thane-II Respondent

3rd Floor, Navprabhat Chambers, Ranade Road,
Dadar (West), Mumbai - 400 028

APPEARANCE:

Shri S.S. Gupta, Chartered Accountant for the Appellants
Shri Rajiv Ranjan, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/87010-87011/2025

Date of Hearing: 10.12.2025

Date of Decision: 10.12.2025

PER: S.K. MOHANTY

Classification of "Animal Feed Supplement" is the subject matter of present dispute. The appellants had claimed the classification of the said goods under Chapter heading 2309 of the First Schedule to the Central Excise Tariff Act, 1985. However, the Department had changed the

classification of the said excisable goods to Chapter heading 3003/3004. On earlier occasion for the period from 2008-09 to 2011-12, Change in the classification and resultant confirmation of duty demand on the self-same goods was the subject matter of dispute before the Tribunal. The Tribunal vide Final Order No. 87542 /2024 dated 12.12.2024 has allowed the appeal in favour of the appellant, holding that product in question i.e., "Animal Feed Supplement" should appropriately be classifiable under Chapter heading 2309.

2. Since the present demand has been confirmed for the subsequent period, i.e. July 2013 to September, 2014, on the entirely identical set of facts, we are of the view that different interpretations cannot be placed, in absence of any proper substantiation and that the statutory provisions remaining the same, in order to change the classification of the product as has been done by the Department in the adjudication order.

3. Therefore, in view of the settled issue of classification decided by the Co-ordinate Bench of the Tribunal in the order dated 12.12.2024, the impugned order in this case is set aside and appeals are allowed in favour of the appellants.

(Dictated and pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)