

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

**COURT NO.1**

**Excise Appeal No. 86633 of 2017**

(Arising out of Order-in-Appeal No. NGP/EXCUS/000/APPL/004/17-18 dated 11.04.2017 passed by the Commissioner of Central Excise, Customs & Service Tax, Nagpur)

**Pfizer Healthcare India Pvt. Ltd. (EOU)**

**Appellant**

(Formerly known as Orchid Chemicals & Pharmaceuticals Ltd.),  
Plot No. L-8 (Part), L-9 & Gut No.38 (Part),  
MIDC Industrial Area, Waluj 431 136.

*Versus*

**Commissioner of Central Excise, Nasik**

**Respondent**

Kendriya Rajaswa Bhawan,  
Old Agra Road, Gadkari Chowk,  
Nasik 422 002.

Appearance:

Shri Rajesh Ostwal, Advocate, for the Appellant

Shri A.K. Shrivastava, Authorised Representative, for Respondent

**CORAM:**

**HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)**

**HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)**

Date of Hearing: 12.12.2025

Date of Decision: 12.12.2025

**FINAL ORDER No. 87030/2025**

**PER: S.K. MOHANTY**

Heard both sides and examined the case records.

2. The appellants are engaged, *inter alia*, in the manufacture of bulk drugs, falling under Chapter 29 of the First Schedule to the Central Excise Tariff Act, 1985. The appellants use various solvents like acetone, ethyl acetate, methanol etc., in the manufacture of bulk drugs, which are dutiable in nature. The solvents are used as catalysts along with other raw materials to process chemical reaction and also used to wash the chemicals. These solvents are used over and again in the manufacture of bulk drugs. The impurities arising in the course of manufacture, got deposited in those solvents and after a certain point

of time, the solvents get saddled with impurities and are not fit for further use in the factory for the intended purpose. Therefore, the appellants sold the said recovered mixture of spent solvent, without payment of central excise duty. Non-payment of central excise duty on the mixture of spent solvents was objected to by the department on the ground that emergence of mixture of spent solvents during the process of manufacture of bulk drugs should be considered as a manufacturing activity in terms of Section 2(f) of the Central Excise Act, 1944 read with Chapter Note 1(a) of Chapter 29 of the Act of 1985. On the basis of such understanding, proceedings were initiated by the department, which culminated into the adjudication order dated 08.05.2015, wherein the original authority had confirmed the proposals made in the show cause notice. On appeal against the adjudication order, learned Commissioner (Appeals) vide the impugned order dated 11.04.2017 has upheld the original order and rejected the appeal filed by the appellants. Feeling aggrieved with the impugned order dated 11.04.2017, the appellants have preferred this appeal before the Tribunal.

3. With regard to issue as to whether, sale of recovered mixture of spent solvents, would amount to manufacture or otherwise, has been dealt with by the Tribunal in the case of the appellants for the earlier period, i.e. September 2006 to December 2012 and January 2013 to September 2013. The Tribunal had allowed the appeal in favour of the appellant, holding that the resultant product of recovered mixture of spent solvents should not be considered as excisable commodity and as such, no duty liability can be fastened on removal of such goods from the factory premises. The relevant paragraphs recorded in final order No. A/85674/2024 dated 05.07.2024 is extracted herein below:-

*"3. The period of dispute involved in the present appeal is from January 2013 to September 2013. For the earlier period i.e., September 2006 to December 2012, similar dispute was raised by the department, which was resolved by the Tribunal vide order dated 29.03.2017, holding that the solvents removed from the factory are not excisable goods and as such, no Central Excise duty is required to be recovered from the assessee. In the said order, the Tribunal has referred to the order of the Co-ordinate Bench passed in the case of CCE Hyderabad Vs. Aurobindo Pharma Ltd. [2009 (3) TMI 455-CESTAT-BANGLORE]. The relevant paragraphs in the order dated 29.03.2017 are extracted herein below:*

*"7. The issue needs to be decided in the case in hand is whether the mixture of solvents, which is sold by the appellant, is excisable products or not for the period prior and post 15-6- 2008. It is undisputed that the mixture of solvents, which is cleared by the*

*appellant, is mixture solvents obtained after considerable reuse, which cannot be reused by the appellant in their factory premises and the said solvents are cleared on the invoices from the factory premises of the appellant. It is also undisputed that the appellant was discharging duty liability on this mixture/spent solvents prior to September 2006 but subsequently did not discharge the central excise duty by relying upon the judgment of the Tribunal in the case of Aurobindo Pharma Pvt. Ltd.*

*8. On perusal of the records, we find that the goods which are cleared by the appellant are mixture of solvents which have been reused in the factory premises over a period of time for the manufacturing of final products i.e. bulk drugs. It is also not disputed by the Revenue in the impugned orders that the solvents are repeatedly used after purification within the factory premises and they get mixed up with various impurities and at a stage when they cannot be reused, they are cleared by the assessee for a consideration. In short, clearances of the mixed solvent, which is done from the factory premises, is the residue, which gets retained after the manufacturing of final products by repeated use of the solvents during the course of manufacturing of final products. The appellant's claim that these goods are not excisable is supported by the judgment of the Tribunal in the case of CCE, Hyderabad v. Aurobindo Pharma Ltd. reported in 2010 (249) E.L.T. 415 (wherein I authored the judgment). The relevant paragraphs in the said judgment of Aurobindo Pharma Ltd. need to be reproduced:-*

*"3.2 The assesseees are engaged in the manufacture of Bulk Drugs and Bulk Drugs Intermediates. They use solvents such as Methanol, Toluene etc., in the manufacture of the said products and availing Modvat credit on the above said inputs/solvents. In the manufacturing process of the said finished goods, solvents such as Methanol, Toluene etc., are recovered and the same are re-used in the subsequent batches for four to five times till they become non-usable in the process. Then the assesseees are clearing the recovered/distilled/spent solvents which contain 80 to 90% of Methanol, Toluene etc., by declaring them as "industrial waste solvents".*

*6. We have considered the submissions made at length by both sides and perused the records. We find that in the case of the respondent i.e. Aurobindo Pharma Ltd. (supra), this Bench has held that the issue in favour of respondent and hence the issue is no more res integra. Further, it is also seen that in the case of Sreepathi Pharmaceuticals Ltd. (supra) & Natco Pharma Ltd. (supra), the issue was the very same as is before us i.e., spent solvent and excisability thereof. We find that the learned Commissioner (Appeals) reliance upon the decided case laws of the very same Bench to hold in favour of respondent seems to be correct. We also note that the learned Commissioner (Appeals) has followed the judgment given by the Tribunal."*

*From the above reproduced paragraphs, it can be seen that the issue involved in the case in hand and in the case of Aurobindo Pharma Ltd. is the same. At least up to 10-5-2008, the question of excisability of the mixed solvent that arises during the course of manufacturing of bulk drugs, does not arise as it does not get covered in the provisions of Section 2(f) of the Central Excise Act, 1944. This judgment of the Tribunal having been affirmed by the Hon'ble High Court and maintained by the Hon'ble Supreme Court, the ratio would apply in the case in hand and the demands raised prior to 10-5-2008 needs to be set aside.*

*9. As regards the demands raised by the Revenue post 10-5-2008 for which duty provisions of Section 2(d) has been invoked, needs to be addressed now. The said provisions of Section 2(d)*

*defines excisable goods and states that for the purposes of this subsection, goods includes any article, material or substance which is capable of being bought and sold for a consideration and such goods shall be deemed to be marketable. In the cases in hand, from Appeal Nos. 86521 to 86526/13, 85825/14 and 85851/14, the period involved is post 10-5-2008. Even with the enactment of provisions of Section 2(d) of the Central Excise Act, 1944, the demand raised on the appellant does not get fastened for the simple reason that the show cause notice does not invoke the provisions of Section 2(d) of the Central Excise Act, 1944. All the show cause notices are alleging that the process that is carried out for the purification of the mixed solvents amounts to manufacture as per the provisions of Section 2(f) of the Central Excise Act, 1944. Since the said proposition is already decided by the Tribunal in the case of Aurobindo Pharma Ltd. and followed in the case of Lee Pharma Pvt Ltd. (supra), the question of demanding any duty from the appellant on this invocation of the provisions of Section 2(f) does not arise."*

4. In view of the foregoing discussions, we do not find any merits in the impugned order, insofar as it has upheld confirmation of the adjudged demands on the appellants. Therefore, the impugned order is set aside and the appeal is allowed in favour of the appellants.

(Order dictated in the open court)

**(S.K. Mohanty)**  
**Member (Judicial)**

**(M.M. Parthiban)**  
**Member (Technical)**