

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

REGIONAL BENCH

Excise Appeal No: 86312 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.]

Emil Pharmaceuticals Industries P Ltd

... Appellant

Plot No N49 & N50, MIDC, Tarapur
Boisar, Dist: Palghar - 401506

versus

**Commissioner of Central
Excise (Appeals - I)**

...Respondent

Mumbai Meher Bldg, Dadi Seth Line
Chowpatty, Mumbai – 400007

APPEARANCE:

Shri SS Gupta, Chartered Accountant for the appellant

Shri Rajiv Ranjan, Assistant Commissioner (AR) for the respondent

CORAM:

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

FINAL ORDER NO: 85994/2026

DATE OF HEARING:	31.07.2026
DATE OF DECISION:	31.07.2026

PER: S.K. MOHANTY

Heard both sides and perused the case records.

2. Classification of 'animal feed supplement' is the subject matter of present dispute. The appellant had claimed 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.

3. The classification dispute involved in the present appeal is recurring in nature. For the period March, 2008 to November, 2012, against the adjudication order dated 26.07.2013 passed by the Commissioner of Central Excise, Thane-II, the Tribunal vide Final Order No.87452/2024 dated 12.12.2024 had set aside the said order and allowed the appeal in favour of the appellant. The period of dispute involved in the present appeal are from December, 2012 to June, 2013; July, 2013 to March, 2014 and April, 2014 to September, 2014. The adjudication orders for the said period passed by the lower authorities were appealed against before the learned Commissioner (Appeals). By a common Order-in-Appeal No. SK/73-75/TH-II/2017 dated 02.03.2017 (impugned herein), the learned Commissioner (Appeals) has disposed of the appeals, in confirming the adjudged demands. In the said order, it was held that the earlier order dated 26.07.2013 passed by the Commissioner of Central Excise, Thane-II had not yet been set aside at the appellate stage.

4. We find that the present impugned order passed for the period July, 2013 to September, 2014 was the subject matter of dispute before the Tribunal in respect of the Appeal Nos. E/86298 of 2018 and E/86321 of 2017. The Tribunal vide the Final Order No. A/87010-87011/2025 dated 10.12.2025 has set aside the Order-in-Appeal dated 02.03.2017 and allowed the appeals in favour of the appellants. The left-over period as per the impugned order for a decision, is in context with the confirmed demand from December 2012 to June, 2013.

5. The learned Commissioner (Appeals) in the impugned order at paragraph 5 has held that no decision has been taken by the Tribunal in response to the Order dated 26.07.2013, and as such, he could not take a contrary view than the view expressed by the

Commissioner of Central Excise, Thane-II. However, we are of the view that such stand is not sustainable, inasmuch as the said dated 26.07.2013 was set aside by the Tribunal vide dated 12.12.2024 (supra). Further, the present impugned order dated 02.03.2017 was also set aside by this Bench of the Tribunal in the Order dated 10.12.2025 (supra). Therefore, we are of the view that the self-same order dated 02.03.2017 (impugned herein), passed for the period December 2012 to June, 2013, cannot also be sustained.

6. In view of the above, the demand confirmed against the appellant for the period December 2012 to June, 2013 is set aside and the appeal is allowed in favour of the appellant.

(Dictated and Pronounced in Open Court)

(S.K. MOHANTY)
Member (Judicial)

(M.M. PARTHIBAN)
Member (Technical)

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