
(1995) 03 SC CK 0155

In the Supreme Court Of India

Case No : Civil Appeals Nos. 3681-3682 Of 1991

Amrutanjan Ltd.

APPELLANT

Vs

Collector of Central Excise

RESPONDENT

Date of Decision : 30-03-1995

Acts Referred:

Citation : (1995) 77 ELT 500 : (1996) 9 SCC 413

Hon'ble Judges : S. P. Bharucha, J;K. S. Paripoornan, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. We are concerned in this appeal against the decision of the Customs, Excise & Gold (Control) Appellate Tribunal only with the appellant's product known as "Amrutanjan Pain Balm Ayurvedic". The appellants sought classification of the same on the basis that it was an ayurvedic medicament under Tariff Heading 3003.30 of the Central Excise Tariff Act, 1985 and attracted nil rate of duty. The authorities below as also the Tribunal did not accept this classification. The Tribunal, in the order under appeal, upheld the contention of the Excise authorities that the balm was not an ayurvedic medicine because its main ingredients were Menthol IP, Camphor IP, Turpentine IP and Methyl Salicylate IP, which were of a synthetic nature. The contention of the appellants that the same ingredients had an ayurvedic nomenclature as could be found in authoritative text books was rejected because, according to the Tribunal, ayurvedic science recognises only the use of natural extracts from medicinal plants and these could not be substituted by modern chemical ingredients. The Tribunal said that the appellant had imported synthetic grade IP chemicals and had, with the intention of evading liability to excise duty, asked the suppliers to change the names upon invoices and labels to ayurvedic nomenclatures. Thus, methyl salicylate was changed to "pudina ka phool", dementholised oil to "pudina ka tel", thymol and turpentine to "ajwan ka phool" and "turpentine ka tel" and methyl salicylate to "winter green tel". The Tribunal would appear to have overlooked the fact that

the same article can have a use both in ayurvedic and in the western sciences and be known by different names. The letters IP after the article concerned only demonstrate that it is of pharmaceutical quality, as it ought to be if it is to be used in a medicinal preparation. The Tribunal was in error in considering that the articles afore-stated were synthetic in nature. Having regard to the evidence, we are inclined to hold that the articles afore-mentioned were articles known both to ayurvedic and western sciences and were refined for use in medicaments. Since they were known to ayurveda, their use in the making of the balm did not, by itself, make the balm a non-ayurvedic product.

Accordingly, the appeals are allowed. The judgment under appeal is set aside. It is held that the appellant's balm is an ayurvedic medicine entitled to be classified as such.