(2015) 05 SC CK 0054

In the Supreme Court Of India

Case No : Civil Appeal Nos. 1799-1800 of 2005 with C.A. No. 86 of 2007.

P and B Laboratories Ltd. - Petitioner @HASH Commissioner of Central Excise, Mumbai

Date of Decision : 05-05-2015

Acts Referred:

Citation : (2015) 319 ELT 553 : (2015) 14 SCC 753

Hon'ble Judges : A.K. Sikri and Rohinton Fali Nariman, JJ.

Bench : Division Bench

Advocate : S/Shri A.K. Sanghi and Ms. Meenakshi Arora, Sr. Advocates, Vasav Anantharaman, M/s. Ap and J Chambers, Advocates, Ritesh Kumar, Ms. Surender Kumar Gupta, K. Subba Rao, Ms. Disha Singh, B. Krishna Prasad, V. Lakshmikumaran, M.P. Devanath, Vivek Sharma, Ms. L. Charanaya, Aditya Bhattacharya, R. Ramachandran, Anandh K. and Rajesh Kumar, Advocates, for the Appearing Parties

Final Decision : Dismissed

Judgement

1. In these two appeals, though the issue involved is common and relates to the classification of fixed dose combination of Vitamins B-1, B-6 and B-12 injectible as well as tablets form, we find that the two different Benches of Tribunal have given contradictory decisions. Whereas in C.A. Nos. 1799-1800/2005 CESTAT, Delhi has classified the aforesaid goods under Chapter Heading 2936.00, accepting the case of the Revenue, the Mumbai Bench of the Tribunal has classified these very goods under Heading 3003.10 as claimed by the assessee. That is the reason that in one case the appeal was filed by the assessee and in the second case appeal was filed by the Revenue. We find that because of the aforesaid conflict of decisions of the two Benches, matter was referred to the Larger Bench which has settled the issue in case of Micropure Parenterals Pvt. Ltd. v. Commissioner of Central Excise, Mumbai-III - 2005 (190) E.L.T. 23. The respondent has held that the goods in question would be classified under Heading 3003.10 which was claimed by the assessee. It is admitted position that except the aforesaid judgment of the Larger Bench no appeal is preferred by the Revenue. The Revenue has accepted the said view.

2. Accordingly C.A. Nos. 1799-1800/2005 preferred by the assessee are allowed and the other appeal (C.A. No. 86.2007) which is filed by the Revenue, is dismissed.

