**(2016) 02 SC CK 0186**

**In the Supreme Court Of India**

**Case No :** Civil Appeal Nos. 5348-5349 of 2005 with C.A. Nos. 2015 of 2010 and 6176 of 2012

V.V.F. Ltd. APPELLANT

Vs

Commissioner of Central Excise, Surat-II RESPONDENT

**Date of Decision :** 25-02-2016

**Acts Referred:**
Constitution of India, 1950 — Article 133

**Citation :** (2016) 334 ELT 579

**Hon'ble Judges :** Madan B. Lokur and N.V. Ramana, JJ.

**Bench :** Division Bench

**Advocate :** M.P. Devanath, L. Charanya, Hemant Bajaj, Anandh K, Aditya Bhattacharya and Abhishek Anand, Advocates, for the Appellant; Mrs. Anil Katiyar, S/Shri Arijit Prasad, Ritesh Kumar and B. Krishna Prasad, Advocates, for the Respondent

**Final Decision :** Allowed

# Judgement

1. We have heard learned counsel for the parties.

2. The only dispute in this case is whether the soap manufactured by the appellant called ?Tetmosol soap? falls within CET Heading 3401.11 as claimed by the assessee or CET Heading 3401.19 as claimed by the Revenue.

3. According to the assessee, the soap is used for medicinal purposes, primarily for the treatment of a skin disease called scabies. It is not a soap that is used ordinarily for toilet purposes but like any other soap it can, of course, be used for toilet purposes.

4. According to the Revenue, the wrapper in which the toilet soap is packed mentions that it can be used as a toilet soap. It is on this basis the Revenue claims that Tetmosol soap manufactured by the appellant falls within CET Heading 3401.19.

5. The Customs, Excise and Service Tax Appellate Tribunal (for short ?the

 

Tribunal?) considered the matter in the impugned order [2005 (188) E.L.T. 519 (Tribunal)] and came to the conclusion that there is no dispute that the soap is a medicated soap and it contains monosulfiran B.P. 5% w/w. It is primarily used for treatment and prevention of scabies which is a contagious skin affliction that is characterised by itching and sores. There is nothing to prevent anybody from using medicated soap for toilet purposes but it is not what the soap is intended for. Clearly, the product in dispute is classifiable under CET Heading 3401.11 which is the more appropriate CET Heading rather than the residuary CET Heading 3401.19.

6. We are of the opinion that the Tribunal was in error in taking the view that the soap would fall in the residuary entry of CET Heading 3401.19.

7. Under the circumstances, we set aside the order passed by the Tribunal.

8. The appeals are allowed with no order as to costs.