

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CENTRAL EXCISE APPEAL NO. 182 OF 2015

The Commissioner of Central Excise

Raigad Commissionerate

versus

M/s. L'Oreal India Pvt. Ltd.

..Appellant

..Respondent

Mr. M. Dwivedi - Senior Counsel with Mr. J. B. Mishra for Appellant.

Mr. Jitendra Motwani i/b. Economic Laws Practice for Respondent.

CORAM: S. C. DHARMADHIKARI &
SMT. BHARATI HARISH DANGRE, JJ.

DATE : 17TH JANUARY, 2018

P. C. :

1] The Revenue challenges in this appeal the order of the Customs, Excise & Service Tax Appellate Tribunal (CESTAT). In the order under appeal dated 13th June 2014 covering nine appeals in all the Tribunal considered the legality and the validity of the orders-in-original. The orders-in-original confirm the duty demand and to be precise within the normal and ordinary period of limitation and beyond the same.

2] The aggrieved assessee raises two points and in so far as the duty liability is concerned, the Revenue is not aggrieved by the Tribunal's order as the Tribunal holds that the excise duty payment on imported goods contained in packages of about 10 grams or 10 milliliters is not sustainable in law as the activity of labelling / affixing minimum retail price is a statutory requirement before the goods are allowed to be

cleared for Home consumption. Hence the import is complete only after these activities are undertaken. Further no additional excise duty liability occurs as the additional customs duty has been paid on the MRP affixed and the entire exercise is revenue neutral. Then the Tribunal holds that in so far as packages of 10 grams or 10 milliliters or less, the above activity would amount to manufacture as there is no statutory requirement of undertaking the above activity before their import can be allowed. However the assessee would be eligible to take credit of the Countervailing Duty (CVD) paid on such goods.

3] Finally on limitation, the Tribunal holds that the activity was undertaken with the knowledge and permission of the Customs Authorities and hence the finding of suppression of facts cannot be sustained. The duty demand is sustainable only for the normal period of limitation.

4] As there was a pure question of interpretation of law, the Tribunal deleted the penalty as well.

5] With these directions the matter was sent back only for re-computation or reworking of the duty demand by segregating the same from the normal period of limitation and beyond that period.

6] The entire exercise in the given facts and circumstances and peculiar to the assessee, to our mind does not raise any substantial question of law. We have perused the order with the assistance of Shri Dwivedi and invited his attention to the specific observations on facts in paragraph 8 of the order under appeal. The conclusions are to be found in paragraph 9 of the same. In the backdrop of the factual position as

also the contentions of the parties, we do not think that the Tribunal has laid down any principle of law which could be termed as vitiated by an error apparent nor could its findings and conclusions particularly on the point of limitation can be said to be perverse. The view taken is a possible view. The view taken that there is no suppression of facts by the assessee is based on the disclosures that have been made throughout to the Customs Authorities. For these reasons, we do not feel that the appeal raises any substantial question of law. It is dismissed. No order as to costs.

(SMT. BHARATI H. DANGRE, J.)

(S. C. DHARMADHIKARI, J.)

Chandka