

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Civil Appeal No(s). 2837-2839/2005

THE COMMISSIONER OF CUSTOMS, DELHI

Appellant(s)

VERSUS

M/S. BAXTER (I) PVT. LTD.

Respondent(s)

(with appln. (s) for exemption and stay)

Date : 08/05/2015 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Appellant(s)

Mr. A.K.Sanghi, Sr. Adv.
Mr. Rajiv Nanda, Adv.
Mr. T.M.Singh, Adv.
Mr. B. Krishna Prasad, Adv.

For Respondent(s)

Mr. V.Lakshmikumaran, Adv.
Mr. M.P.Devanath, Adv.
Mr. Vivek Sharma, Adv.
Ms. L.Charanaya, Adv.
Mr. S.Vasudevan, Adv.
Mr. Rachit Jain, Adv.
Mr. Aman D., Adv.
Mr. Aditya Bhattacharya, Adv.
Mr. R.Ramachandran, Adv.
Mr. Hemant Bajaj, Adv.
Mr. Anandh K., Adv.
Ms. Disha Jain, Adv.
Mr. Rajesh Kumar, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeals are dismissed in terms of the signed order.

Signature Not Verified

Digitally signed by
Suman Wadhwa
Date: 2015.05.12
11:28:25 IST
Reason:

(SUMAN WADHWA)
AR-cum-PS

(SUMAN JAIN)
COURT MASTER

Signed order is placed on the file.
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 2837-2839 OF 2005

The Commnr. Of Customs, Delhi

Appellant(s)

VERSUS

M/s. Baxter (I) Pvt. Ltd.

Respondent(s)

O R D E R

The question involved in the present appeal is as to whether Continuous Ambulatory Peritoneal Dialysis Fluid (CAPD fluid) is medical equipment which attracts nil rate of custom duty. Not only this position was conceded to by Departmental representative before the Tribunal, even otherwise we find that the aforesaid item is specifically included as medical equipment. Chapter Heading 90 is as follows:

S.No	Chapter or Heading No. or Sub-Heading No.	Description of goods	Standar d rate	Addl. Duty Rate	Condi tion No.
348	90 or any other	The following goods namely (A) Medical Equipment (excluding) Foley Baloon Catheters) and other Goods specified in List 29	Nil		
		(B) Accessories of the Medical Equipment at (A) above.	Nil	Nil	
		(C) Parts required for the maintenance and spare parts required for the maintenance of the medical equipment at (A) above	Nil	Nil	53

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On going through the list 29 we find that in the said list at serial No.46 CAPD fluid is specifically mentioned. It would, thus, clearly fall within the aforesaid nomenclature, namely, medical equipment and that is no duty was to be paid on the import of this equipment.

The appeals are accordingly dismissed as devoid of any merits.

The amount which was deposited by the respondent was not to be refunded.

.....J.

(A.K.SIKRI)

.....J.
(ROHINTON FALI NARIMAN)

New Delhi;
Date: 8.5.2015.