

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NOS.7357-7372 OF 2001

COMMNR. OF CENTRAL EXCISE, DELHI

Appellant(s)

VERSUS

M/S. ISHAAN RESEARCH LAB (P) LTD. & ORS.

Respondent(s)

[With appln(s) for stay and with office report];
WITH
CIVIL APPEAL NO.2517/2002 [With office report]

Date: 10/04/2008 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN
HON'BLE MR. JUSTICE DALVEER BHANDARI

For Appellant(s) Mr. K. Radhakrishnan, Sr. Adv.
Ms. Alka Sharma, Adv. for
Mr. B.Krishna Prasad, Adv.

For Respondent(s) Mr. V.Lakshmikumaran, Adv.
Mr. Alok Yadav, Adv.for
Mr. V.Balachandran, Adv.
Mr. Rajesh Kumar, Adv.

UPON being mentioned the Court made the following
ORDER

The tribunal, in the impugned judgment, has decided three points, viz., (i) classification; (ii) valuation; and (iii) limitation.

Insofar as the question of classification is concerned, it has been held that the ingredients found in 22 products are described and found in the authoritative Ayurvedic text books. The tribunal arrived at this finding relying on a judgment of this Court in the case of M/s. BPL Pharmaceuticals Ltd. v. Collector of Central Excise, Vadodara 1995(77) ELT 485.

.... /2

C.A.Nos.7357-7372/2001 (contd.)

-2-

On the question of valuation it was held that M/s. Ishaan Research Laboratories Pvt. Ltd. and M/s. Ishaan Marketing Pvt. Ltd. (IMPL) are not related persons and that the price at which the products were sold to the third parties were comparable/lower than the rates at which they were sold to IMPL.

As far as the question of limitation is concerned, following the decision of High Court of Allahabad in the case of Shahnaz Ayurvedics v. Commissioner of Central Excise, NOIDA 2004(173) ELT 337, it was held that the extended period of limitation is not applicable. Against the said decision of the High Court of Allahabad, a petition being S.L.P.(C)No.21585 of 2004 [CC 8996/04] was filed in this Court in the case of Commissioner of Central Excise, NOIDA v. M/s. Shahnaz Ayurvedics & Anr. 2004 (174) ELT A34 which was dismissed on 08th October 2004.

To enable us to compare the similarity between the products in question in the present case and the products which were in question before the High Court of Allahabad in the case of Shahnaz Ayurvedics

(supra), we direct counsel for the respondents to produce the literature of the 22 products in question. We also direct counsel for the appellant to place on record the literature of the products which were in question in the case of Shahnaz Ayurvedics (supra) in the High Court.

Adjourned by six weeks.

Not to be treated as part-heard.

(Subhash Chander)
Court Master

(Kanwal Singh)
Court Master