

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD**

REGIONAL BENCH - COURT NO. – I

Customs Appeal No. 27266 of 2013

(Arising out of **Order-in-De Novo** No.06/2013 – Adjn (Cus)(Commr) dated 20.05.2013
passed by Commissioner of Customs, Central Excise & Service Tax, Hyderabad)

**Durgabai Deshmukh Hospital
& Research Centre**

Andhra Mahila Sabha,
University Road,
Hyderabad,
Telangana – 500 004.

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APPELLANT

VERSUS

**Commissioner of Customs
Hyderabad - Customs**

Kendriya Shulk Bhavan,
L.B Stadium Road,
Basheerbagh,
Hyderabad,
Telangana – 500 004.

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RESPONDENT

APPEARANCE:

Shri N.A.J.V. Shyam Babu, Advocate for the Appellant.

Shri K. Sreenivasa Reddy, Authorized Representative for the Respondent.

**CORAM: HON'BLE Mr. A.K. JYOTISHI, MEMBER (TECHNICAL)
HON'BLE Mr. ANGAD PRASAD, MEMBER (JUDICIAL)**

FINAL ORDER No. A/30322/2026

Date of Hearing: 24.02.2026

Date of Decision: 12.06.2026

[ORDER PER: ANGAD PRASAD]

M/s Durgabai Deshmukh Hospital & Research Centre (hereinafter called appellant) has filed this appeal against the Order-in-De Novo No. 6/2012-Adjn (Cus)(Commr) Hyderabad dated 20.05.2013 (impugned order).

2. The fact, in brief, is that the appellant imported various medical equipments during the period 1990 to 1993 without payment of Customs Duty by claiming exemption under Notification No. 65/88-Cus. dated 01.03.1988 on the strength of Customs Duty Exemption Certificates (CDECs)

issued by the Director General of Health Service (DGHS). The Bills of Entry were assessed extending the benefit of the notification subject to fulfillment of the conditions prescribed therein. The exemption under Notification No. 65/88-Cus. was available to hospitals subject to certain post-importation obligations, inter alia, providing free treatment of an average to 40% of outdoor patients and providing free treatment to all indoor patients becoming to weaker sections whose family income was below the prescribed limit, while reserving at least 10% of hospital beds for such patients.

3. Subsequently, the DGHS, vide communication dated 02.02.2001, cancelled the CDECs issued to the appellant on the ground that the appellant had failed to fulfill the mandatory conditions attached to the notification. Pursuant thereto, proceedings were initiated by the Customs Authorities for recovery of Customs Duty foregone and for confiscation of the imported goods.

4. The matter travelled through several rounds of adjudication and appellant proceedings. In an earlier round, the Tribunal remanded the matter for fresh consideration, including examination of the appellant's claim regarding alternative exemption notifications. Thereafter, the Adjudicating Authority again adjudicated the matter and confirmed the demand of Customs Duty, ordered confiscation of the imported goods under Section 111(0) of the Customs Act, 1962 with an option of redemption on payment of fine, and imposed penalties.

5. Aggrieved by the said order, the present appeal has been filed.

6. The Learned Counsel for the appellant submits that the impugned order legally unsustainable as the Adjudicating Authority has proceeded

merely on the basis of cancellation of CDECs without independently establishing valuation of the notification conditions. It is further submitted that the appellant is a reputed hospital serving the public and substantial compliance of the notification conditions stood established. The findings regarding non-fulfillment are based on assumptions and incomplete verification.

7. The Learned Counsel further submits that even assuming without admitting that the benefit of Notification No. 65/88-Cus. is unavailable, the imported goods are independently entitled to exemption under Notification Nos. 65/88-Cus. and 208/81-Cus. The Tribunal, in the earlier round, had specifically remanded the matter for exemption of this issue. However, the Adjudicating Authority has rejected the claim by adopting a hyper-technical interpretation of the exemption notifications. It is contended that the imported components, Accessories and Spare parts are integral and essential parts of the specified medical equipment and, therefore, cannot be denied the benefit merely because they were imported separately.

8. Learned Counsel for the appellant has relied on the following decisions:

- i) Imperial Surgical Co. (P) Ltd., Vs Collector of Customs, Bombay [1998 (100) E.L.T. 428 (Tribunal)]
- ii) Collector of Customs, Madras Vs Dasappa Dharmaspatre [1999 (109) E.L.T. 884 (Tribunal)]
- iii) Ankita Tax-Chem Industries Pvt Ltd., Vs Union of India [2005 (184) E.L.T. 18 (Guj.)]
- iv) Jindal Dye Intermediate Ltd., Vs Collector of Customs, Mumbai [2006 (197) E.L.T. 471 (S.C.)]

9. The Learned Authorized Representative for the revenue reiterates the findings, inter alia, submitted that the very foundation for availing the

exemption under Notification No. 65/88-Cus. stood extinguished upon cancellation of the CDECs by DGHS. It was argued that the cancellation order continues to remind operative and binding and Customs Authorities are not competent to sit in appeal over the decision of DGHS. It was further submitted that the verification conducted by the competent authorities established that the appellant failed to provide free treatment to the prescribed percentage of outdoor patients and also failed to reserve the requisite percentage of beds for economically weaker patients. Therefore, the appellant admittedly failed to satisfy the substantive conditions of the notification.

10. The revenue also contended that the issue is no longer res-integra and stands settled by the judgment of the Hon'ble Supreme Court in Mediwell Hospital and Healthcare Pvt Ltd., Vs Union of India [1997 (89) E.L.T 425 (SC)] wherein, it was held that hospitals obtaining exemption under Notification No.65/88-Cus are under a continuing obligation to comply with the conditions of the notification and that the authorities are entitled to enforce such obligations.

11. The revenue further submitted that the appellant's claim for exemption under Notification Nos. 65/88-Cus. and 208/81-Cus. was duly examined by the Adjudicating Authority and rightly rejected. According to the revenue the imported items such as component parts of the Angioscope and multi-channel Cardioscope Monitors, Spares and Accessories were not specifically covered by the entries relied upon by the appellant. Exemption notifications being in the nature of exceptions must be strictly construed and the benefit thereof cannot be extended by implication.

12. We have carefully considered the submissions of both the parties and perused the records.

13. The undisputed facts reveal that the appellant imported medical equipments availing exemption under Notification No. 65/88-Cus. on the basis of CDECs issued by DGHS. It is equally undisputed that the said certificates were subsequently cancelled by the DGHS on the ground of non-fulfillment of the mandatory conditions prescribed under the notification. Notification No. 65/88-Cus. granted exemption not as an unconditional benefit but subject to strict compliance with specified social obligations. The object of the Notification was to ensure that hospitals importing sophisticated medical equipment at concessional rates extend medical benefits to the economically weaker sections of society. Therefore, fulfillment of the conditions of the notification constituted the very basis for ground of exemption.

14. The records indicate that the competent authorities found that the appellant failed to provide free treatment to the prescribed percentage of outdoor patient and further failed to reserve the required percentage of beds for poor indoor patients. The findings recorded by the authorities have not been effectively rebutted by any convincing evidence demonstrating compliance with the notification conditions. It is settled principle that where an exemption notification prescribes conditions the beneficiary must establish strict compliance with those conditions. Failure to satisfy the prescribe requirements renders the exemption unavailable.

15. The Hon'ble Supreme Court in the case of Mediwell Hospital and Healthcare Pvt Ltd., supra, has category held that hospitals availing the benefit under Notification No. 65/88-Cus. are under a continuing obligation

to comply with the conditions of the notification and that the authorities are duty bound to ensure such compliance. The ratio of said judgment squarely applies to the facts of the present case.

16. Once the DGHS cancelled the CDECs on account of violation of the notification conditions, the appellant ceased to possess the essential qualification for availing the exemption. The Customs Authorities were, therefore, justified in initiating action for recovery of the duty foregone.

17. We also find no merit in the appellant's claim for exemption under Notification No. 65/88-Cus. The Adjudicating Authority has examined the nature of the imported goods and recorded a categorical finding that the imported items was only a component part imported separately and not the equipment specifically enumerated in the notification. In this regard observations made by the Adjudicating Authority are noteworthy and reproduced below:

"13. The importers claimed exemption in respect of Component Part of Angio Scope for Coronary Angio Graphy – Mogalix X-Ray Tube in terms of Sl.No.104 of the Notification No. 64/88-Cus dated 1.3.1988 and submitted that the said Notification provides concessional rate to the medical equipment specified in the table annexed and their Accessories and Spare parts. This contention of the importer is not correct inasmuch as the said notification exempts the medical equipment and their Accessories and Spare parts specified in the table annexed. This means that those Accessories or Spare parts which are not specified in the table are not covered under said notification. A careful study of the Notification No. 65/88-Cus dated 1.3.1988 reveals that the Notification contains list of items divided into three Categories, (A), (B) and (C). in Category (C) containing the list of Other Medical Equipments at Sl.No.104, Angioscope for Coronary Angiography has been mentioned. The goods imported Vide Bill of Entry No. 906 dated 03.03.1993, in the instant case are "Component part of Angioscope for coronary Angiography – Mogalix X-Ray Tube" and not Angioscope for Coronary Angiography as mentioned at Sl.No.104 of the said Notification. As the goods imported are only the component parts, which are imported separately and not along with the main equipment, the same are clearly not covered under the said entry and the benefit of exemption Notification No. 65/88-Cus dated 1.3.1988 is not available to the said goods. In this regard I

rely on the case law of Collector of Customs, Madras Vs Dasappa Dharmaspatre reported in 1999 (109) E.L.T. 884 (Tribunal) wherein, while interpreting the same entry number of the said notification, it has been observed that:

"4. We find that under Notification No. 65/88-Cus., dated 1-3-1988 (as amended) the medical equipment and accessories and spare parts which are specified in the table annexed to that notification, were eligible for the concessional rate of customs duty. The table annexed to the notification referred to the medical equipments under sub heading (C). At S. No. 104 of the said sub-heading angioscope of coronary angiography is mentioned. The goods in dispute are television monitor which had been imported separately. The angioscope was not imported along with the Television monitor. As the exemption notification under S. No. 104 does not refer to the any accessory, we consider that the television monitor imported separately was not eligible to the benefit of exemption under said entry of the notification.

5. We find that wherever the intention was to cover the attachment, they had been separately mentioned in the relevant entries under the said notification. We may refer to S. No. 24, 11, 64 etc. under sub-heading 'C'.

6. The exemption notification had to be constrained strictly and the scope of the exemption is restricted to the goods specifically mentioned in the applicable exemption notification. Even when the TV monitor could be taken as an essential accessory to the angioscope, the benefit of exemption could not be extended to the TV monitor in the absence of the specific mention in the Entry No. 104 referred to above."

14. The other items on which the Importer claimed exemption is Multi Channel Cardio Scope Monitors, Spares and Accessories under Serial number 6(C) of the Notification No. 208/81-Cus dated 22.9.1981. The relevant entry in the notification reads as follows:

"D.C. Defibrillators for internal and external use and Pace Makers and their accessories including patient cable, internal Defibrillators Paddles 45mm and 55 mm sizes but excluding:-

- (a) E.C.G. Recorder
- (b) Cardioscopes
- (c) Cardiac Monitors
- (d) E.C.G. Monitors of any type

and the following components of D.C. Defibrillators namely:-

- (i) Polyester / paper Discharge Capacitor.
- (ii) Discharge / Damp Relay.
- (iii) Connector.
- (iv) High Voltage Retractable, Flexible wire"

15. I find that the imported goods namely Multi Channel Cardio Scope Monitors, Spares and Accessories are not covered in the aforesaid entry and cardiscopes and cardiac monitors are clearly excluded from the benefit of exemption under Notification No. 201/81. The importers claim for exemption citing the same entry which excludes the very items is not only incorrect but misleading. In view of this, I hold that benefit of exemption under Serial number 6(C) of the Notification No. 208/81-Cus dated 22.9.1981 is not applicable to Multi Channel Cardio Scope Monitors, Spares and Accessories, the goods imported by M.s DDHRC. In this regard I rely on the following case laws.

- (i) Micronic Devices Vs Commissioner of Customs, Mumbai reported in 1999 (111) E.L.T. 800 (Tribunal) wherein it has been observed that

"Defibrillator built into it an ECG monitor with alarm, electro- cardiograph with annotating recorder and a tester – ECG monitor contains a video displaying screen – hence the monitor is nothing more than a cardioscope and therefore, the OGL benefit is available – Benefit of Notification No. 208/81-Cus. not available in terms of exclusion clause therein.

It is contended by the appellant that the exclusion clause would apply when the goods specified but are imported separately and would not apply when they are built. It is difficult to accept this proposition. Nobody can dispute that a cable by which the defibrillator is connected to the paddles (by which the electric energy is supplied to the patient's chest in order to defibrillate the heart) are essential components of the defibrillator and it cannot function without them. However, the notification specifically includes paddles and cable. The exclusion clause has to be seen in the light of this notification. It would follow therefore that the intention in the notification was to allow the bare minimum required of the defibrillator plus the patient cable and paddles of specific sizes and no more. The matter is of course not entirely free from doubt but even where there is doubt and exemption notification has to be construed in favour of the revenue. In this view of the matter we have to hold that the benefit of the exemption will not be available to the goods.

- ii) Electro Mexicals Vs Collector of Customs, Bangalore reported in 1999 (108) E.L.T. 128 (Tribunal) wherein it has been held that

".....we find that the view taken by the authorities below holding that Defibrillators capacitors imported by the appellants were excluded from the benefit of duty exemption under Notification No. 208/81-Cus cannot be faulted.

10. Accordingly, we uphold the impugned order and reject this Appeal.

[Order per: S.K. Bhatnagar, Vice President] - I would like to add that while it is true that a notification must not be so interpreted that its very purpose is defeated and in the present case it may be difficult for the

defibrillators to function without capacitors, it is necessary to emphasis the fact that in the present case while defibrillators are covered in the 'life saving equipments' category but the coverage is only partial as certain components/parts and accessories have been deliberately excluded and in so far as the defibrillators are concerned, the polyester/paper discharge capacitors have been specifically excluded. Therefore, irrespective of the fact as to whether they are essential parts or accessories, the benefit cannot be allowed to the capacitors if they are of the type mentioned in the Exclusion Clause. No evidence has been produced before us to show that they are of any other type. In the facts and circumstances of the case, I agree that the Id. Collector is right and, therefore, the order is required to be upheld and the appeal is required to be rejected."

18. Exemption notification is required to be interpreted strictly and the benefit can be extended only when the goods clearly fall within the language of the notification.

19. Similarly, the claim under Notification No. 208/81-Cus. relating to multi-channel Cardio scope Monitors, Spares and Accessories has rightly upon rejected. The notification specifically excludes cardioscope and cardiac monitors from its ambit. The imported goods are clearly covered by the exclusion clause. The Adjudicating Authority has rightly relied upon the decision in Micronic Devices Vs Commissioner of Customs, Mumbai [1999 (111) E.L.T 800 (Tri-Mum)] and Electro Mexicals Vs Collector of Customs, Bangalore [1999 (108) E.L.T 128 (Tri-Bang)] which supports the revenue's interpretation of the notification.

20. The law is well settled that exemption notification must be construed strictly and where any ambiguity exists, the benefit cannot automatically be extended to the claimant. The burden lies upon the assessee to establish eligibility beyond doubt. The appellant has failed to discharge such burden. Consequently, we hold that the appellant was not entitled to the benefit of Notification No. 65/88-Cus. after cancellation of the CDECs and was also not

eligible for the alternative exemptions claimed under Notification Nos. 65/88-Cus. and 208/81-Cus.

21. The imported goods were cleared duty free subject to fulfillment of post imported conditions. Upon failure to satisfy those conditions, the goods became liable for action under Section 111(o) of the Customs Act, 1962. Therefore, the order of confiscation passed by the Adjudicating Authority cannot be faulted. Considering that the exemption was availed subject to specific statutory conditions which were subsequently violated, the demand of Customs Duty foregone is legally sustainable. The redemption fine and penalty imposed are also justified and do not call for any interference.

22. The Decisions of Imperial Surgical Co. (P) Ltd., supra, Dasappa Dharmaspatre, supra, Ankita Tax-Chem Industries Pvt Ltd., supra, and Jindal Dye Intermediate Ltd., supra, are not applicable in the factual matrix of this case

23. In view of the above discussions, we hold that:

- a) The appellant failed to fulfill the mandatory conditions of Notification No. 65/88-Cus;
- b) Cancellation of the CDECs, by DGHS validly disentitled the appellant from availing the exemption;
- c) The appellant is not entitled to the benefit of Notification No. 65/88.Cus. or Notification No. 208/81.Cus. in respect of the imported goods;
- d) The demand of Customs Duty, confiscation of goods under Section 111(o) of the Customs Act, 1962 redemption fine and penalty are legally sustainable.

24. Accordingly, the impugned order is upheld and appeal filed by the appellant is dismissed.

(Pronounced in the open court on 12.06.2026)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

Shirisha