

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
WEST ZONAL BENCH, MUMBAI**

**Appeal Nos. C/326 & 327/2010**

**Arising out of Order-in-Original No: 16/2009 and Order-in-Original No:  
17/2009 both, Dated: 19.11.2009**

**Passed by the Commissioner of Customs, Marmagao.**

**Date of Hearing: 19.02.2019**

**Date of Decision: 19.02.2019**

**METRO INDUSTRIES  
PARTH INTERNATIONAL**

**Vs**

**COMMISSIONER OF CUSTOMS  
MARMAGOA**

**Appellant Rep by: None**

**Respondent Rep by: Shri Bhushan Kamble, Assistant Commissioner AR**

**CORAM: C J Mathew, Member (T)**

**Ajay Sharma, Member (J)**

**Cus - Absolute confiscation of imported cosmetics on the ground that the importer had failed to obtain a NOC from the Assistant Drug Controller which restricts imports only to such points of entry as are specified under rule 43A of the Drugs & Cosmetics Rules, 1945 - appeal on the ground that the matter was decided ex-parte and for travelling beyond SCN as Cosmetics, not being prohibited, could not be subjected to absolute confiscation; that cross-examination of the Deputy Drugs Controller was not allowed and that the decision tantamount to stoppage of imports at Goa without authority of law.**

**Held: Submission in the grounds of appeal are not in consonance with facts - That Goa is not an approved place of entry for the import of Cosmetics is not in doubt - notwithstanding the commercial interest and emotional outburst of the appellant, the law, particularly those prescribed for the protection of its citizenry has to be strictly complied with - failure in compliance renders the goods liable for confiscation - appeals dismissed: CESTAT [para 5, 6]**

**Appeals dismissed**

**FINAL ORDER NOS. A/85462-85463/2019**

**Per: C J Mathew:**

**These two appeals arise from the order of the original authority confiscating various cosmetics, described as 'shower gel, roll on, shampoo/conditioner shampoo, shaving gel, hair cream, body cream, face**

**cream, body lotion, mouth freshener, soap and scented spray', imported against various bills of entry which were required to obtain 'no objection certificate' from the Assistant Drug Controller, as prescribed in rule 133 of Drugs and Cosmetics Rules, 1945 which restricts imports only to such points of entry as are specified under rule 43A of the said Rules, but were unable to do so. Following the prescription in law, the goods were absolutely confiscated. No other detriments were visited upon the importer.**

**2. None appeared for appellant. However, as the matter has been pending for a substantially long time and none had been appearing for appellant, we take up the appeals for disposal on the basis of records.**

**3. Learned Authorised Representative submits that the Drugs and Cosmetics Rules, 1945 are intended for the safety of the residents of this country and that the importer was obliged to comply with the said Rules. It is also pointed out that the importers had been afforded the opportunity to transship the goods to any port that was recognized for the purpose; such an enumeration of ports is not an empty formality but is linked to the existence of sufficient technical expertise to ensure that safety is not compromised.**

**4. We find that the grounds of appeal challenges the impugned order for having decided the matter ex-parte and for travelling beyond the show cause notice as cosmetics, not being prohibited, could not be subjected to absolute confiscation, that cross-examination of the Deputy Drugs Controller was not allowed and that the decision is tantamount to stoppage of imports at Goa without authority of law.**

**5. We find that these submissions in the grounds of appeal are not in consonance with the facts. That Goa is not an approved place of entry for the import of cosmetics is not in doubt. Notwithstanding the commercial interest and the emotional outburst in the appeal, the law, particularly those prescribed for the protection of its citizenry, has to be strictly complied with. Failure in compliance renders the goods liable to confiscation.**

**6. Considering the above, we find no merit in the appeals which are dismissed.**

**(Pronounced in Court)**