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CESTAT Chennai Upholds Scientific Classification of Levocarnitine Imports



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In a landmark decision, the Customs, Excise & Service Tax Appellate Tribunal (CESTAT), Chennai, has ruled in favor of M/s. Symbio Generics India Private Ltd., upholding the classification of their imported products, "Levocarnitine" and "Levocarnitine L-Tartrate," under Customs Tariff Heading (CTH) 29239000 as "Quaternary Ammonium Salts." This decision, pronounced on September 19, 2025, sets a significant precedent in the realm of customs classification disputes.

Background of the Case

The dispute arose when the Revenue challenged the classification declared by the importer, M/s. Symbio Generics India Private Ltd., and sought to reclassify the products under CTH 21069099 as "food preparations not elsewhere specified or included." The Revenue's contention was based on the assumption that the imported goods were food supplements, despite expert opinions and scientific evidence supporting the original classification.

The products in question, "Levocarnitine" and "Levocarnitine L-Tartrate," are pharmaceutical-grade compounds used as drug intermediates. They are scientifically defined as "Quaternary Ammonium Salts" and have therapeutic value. The Appellant argued that these products are separate chemically defined organic compounds, as per Note 1(a) of Chapter 29 of the Customs Tariff Act, 1975.

Key Arguments and Findings

1. **Scientific Classification:** The Appellant provided detailed chemical compositions and molecular structures of the products, supported by international rulings from U.S. and Canadian Customs authorities. These rulings classified the products under Heading 29239000, confirming their status as "Quaternary Ammonium Salts."
2. **Expert Opinion Ignored:** The Revenue had sought expert opinions from the Central Revenues Control Laboratory (CRCL), which confirmed the products as "salts of Levocarnitine." However, the Revenue disregarded these findings and proceeded with its assumption that the goods were food supplements.
3. **Burden of Proof:** The Tribunal emphasized that the burden of proof lies with the Revenue when disputing an importer's declared classification. The Revenue failed to provide sufficient evidence to justify its proposed reclassification under Heading 21069099.
4. **Specific vs. Residuary Entry:** The Tribunal highlighted that Heading 29239000 is a specific entry for "Quaternary Ammonium Salts," whereas Heading 21069099 is a residuary entry for "food preparations." As per established legal principles, specific entries take precedence over residuary ones.
5. **Reliance on Scientific Evidence:** The Tribunal criticized the Revenue's reliance on web sources like Wikipedia for classification purposes, reiterating that legal disputes should be resolved based on reliable and authentic sources.

Tribunal's Decision

The Tribunal ruled that the products are correctly classifiable under Heading 29239000 as "Quaternary Ammonium Salts." It set aside the impugned order of the Original Authority and allowed the appeal with consequential benefits to the Appellant.

Implications of the Ruling

This decision reinforces the importance of scientific evidence and expert opinions in customs classification disputes. It also underscores the principle that specific tariff entries should prevail over generic or residuary ones. Importers can take solace in the fact that the burden of proof lies with the Revenue when challenging declared classifications.

Conclusion

The CESTAT Chennai's ruling is a victory for M/s. Symbio Generics India Private Ltd. and a significant step toward ensuring fair and transparent customs practices. By upholding the scientific classification of Levocarnitine and Levocarnitine L-Tartrate, the Tribunal has set a precedent that will guide future disputes in similar cases.

Source: CESTAT Chennai

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**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI**

REGIONAL BENCH - COURT No. III

Customs Appeal No. 40707 OF 2024

(Arising out of Order-in-Original No.103306/2023 dated 27.10.2023 passed by Commissioner of Customs, Chennai-II (Import), Custom House, No.60, Rajaji Salai, Chennai 600 001.)

M/s.Symbio Generics India Private Ltd. Appellant

Symbio House,
No.1215, 24th Main, 11th Cross,
HSR layout 1st Sector,
HSR Layout,
Bangalore South,
Bangalore 560 102.

VERSUS

**The Commissioner of Customs
Chennai – II (Imports)**

... Respondent

Custom House,
No.60, Rajaji Salai,
Chennai 600 001.

APPEARANCE :

Shri S. Sankaravadivelu, Advocate for the Appellant
Smt. O.M. Reena, Authorized Representative
for the Respondent

CORAM :

**HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. M. AJIT KUMAR, MEMBER (TECHNICAL)**

FINAL ORDER No.41023/2025

DATE OF HEARING : 05.05.2025

DATE OF DECISION : 19.09.2025

Per: Shri P. Dinesha

The Appellant had imported "L-Carnitine Base U.S.P" and "L-Carnitine, L-Tartrate" which were classified/assessed under Heading 2922 4990 and 2942 0090 respectively, up to 27.08.2020 and later on under Heading 2923 9000 of the First Schedule to the Customs Tariff Act, 1975.

2. Revenue appears to have not accepted the classification declared by the Appellant based on an apparent input from intelligence consequent to which, samples were drawn and forwarded to CRCL for testing. The CRCL vide letter dated 04.10.2021 reported that the samples as "salt of Levocarnitine". In response to Revenue's query as to whether the goods in this form are fit for human consumption or not, CRCL appears to have replied that the product is a '*salt of Levocarnitine, used in small quantity as additive in foods and other applications.*' The Revenue however, appears to have given a go-by to the said expert opinion which was sought by the Revenue and proceeded on the assumption that the impugned goods were "food supplements" classifiable under Tariff item 2106 9099.

3. The above assumption of the Revenue thus resulted in the issuance Show Cause Notice dated 05.01.2023, *inter alia* proposing to reject the declared classification of the impugned goods under Heading 2923 9000 etc., proposing to reclassify under Customs Tariff Heading 2106 9099 and demanding differential duty on account of reclassification. It appears from record that the Appellant did defend its classification vide their reply dated 25.08.2023 but however, not satisfied with the explanation the Original Authority/Adjudicating Authority *vide* impugned Order-In-Original No. 103306/2023 dated 27.10.2023 proceeded to reject the classification declared by the Appellant, reclassified the subject goods as proposed in the Show Cause Notice and also demanded differential duty as proposed. It is against this order that the present appeal has been filed before this forum.

4. Heard Shri S. Sankaravadivelu, learned Advocate, for the Appellant and Smt. O.M. Reena, Id. Addl. Commissioner, for the Revenue.

5. Submissions of Ld. Advocate for the Appellant are that: –

- i) These consignments were imported as per license / permission granted by the Drug Controller General of India / Directorate General of Health Services as Drug intermediates and allowed clearance after the approval of the Assistant Drug Controller. Some of the consignments were examined by Customs before clearance.
- ii) Levocarnitine is an 'amino acid derivative' which belongs to the class of organic compounds (containing amino and carboxyl group bound to the same carbon skeleton). It is a non-aromatic, 'quaternary ammonium salt'/compound that is used as a pharmaceutical intermediate. In trade, the said product is referred to by its Chemical Abstract Service (CAS) Number '541-15-'. It has a definite molecular formula and structure; its molecular formula is $C_7H_{15}NO_3$ and its IUPAC

name is 3-Hydroxy-4-(trimethylazaniumy1) butanoate. It contains one tetravalent nitrogen and is associated with a hydroxide ion to give a quaternary ammonium hydroxide. The imported goods are pharmaceutical grade and has therapeutic value.

- iii) L-Carnitine L-Tartrate is the tartrate salt of L-Carnitine, comprising of two molecules of carnitine and one molecule of tartrate and classified under Heading 2923 9000. It is a 'quaternary ammonium compound' biosynthesized from the amino acids -lysine and methionine. In trade, the said product is referred to by its CAS No.36687-82-8 and its Molecular Formula is $C_{18}H_{36}N_2O_{12}$; it goes by the IUPAC Name: (2R)-salt with (2R, 3R)-2, 3-dihydroxy butanedioate; (3R)-3-hydroxy-4 (trimethylazaniumy1).
- iv) As per the Test Report reproduced in the impugned order CRCL vide letter dated 04.10.2021 confirmed the sent samples as 'salt

of Levocarnitine'. However, it was not answered by CRCL that "*whether the goods in this form are fit for human consumption or not?*"

Another letter was sent to CRCL for clearance of the query to which, CRCL has replied as "the product is a salt Levocarnitine. It is used in small quantity as additive in food and other application".

v) As per the impugned order, there is no dispute about the description and chemical nature of the goods imported.

vi) Heading 2923 of HSN / CTA reads as below:-

2923 QUATERNARY AMMONIUM SALTS
AND HYDROXIDES; LECITHINS AND
OTHER PHOSPHOAMINOLIPIDS,
WHETHER OR NOT CHEMICALLY
DEFINED

2923 10 00 - Choline and its salts

2923 20- Lecithins and other phosphoaminolipids:

2923 20 10 ---Lecithins

2923 20 90 ---Other

2923 3000-Tetraethylammonium
perfluorooctane sulphonate

2923 4000- Didecyldimethylammoniumper
fluorooctane sulphonate

2923 90 00 Other

- vii) The product literature of M/s. Tokyo Chemical Industry lists L-Carnitine and L-Carnitine L-Tartrate under Quarternary Ammonium salts.
- viii) L-Carnitine and Levocarnitine L-Tartrate are assessed by Indian Customs under Heading 2923 9000 as "Quarternary Ammonium Salts" and there is no dispute on the classification of this item because of which, there is no tariff circular/ tariff advice, case laws or classification of these items by the Indian Customs.
- ix) The Appellant submit that the U.S. Customs in their Rulings **(i) NYE88640 dated 08.12.1999;** **(ii) NY80631 dated 11.01.2000;** and **(iii) No.11436 dated 01.06.2007** has held that L-Carnitine is classifiable under Heading 2923 9000, which provides for "Quarternary Ammonium Salts". The above Rulings was confirmed by the US Court of International Trade *vide* their order **Court No.11 - 00093 dated September 03, 2015.**

- x) The Canadian Customs Advance Rulings **TRS Number 286007 dated 18.05.2021** holding that 'L-Carnitine L-Tartrate' satisfies the criteria as a "separate chemically defined organic compound" of Chapter 29, classified specifically under Sub - Heading 2923.90 as an 'other Quarternary Ammonium Salts' and hydroxides; the above ruling was made in terms of GIR 1 and 6.
- xi) Goods are to be assessed on importation 'as such' and not based on post importation end-uses, as held in the case of **M/s. Dunlop India Ltd., & Madras Rubber Factory Ltd., Vs. Union of India & Others** [1983 (13) ELT 1566 (SC)] and **M/s. Commissioner of Customs, New Delhi Vs. M/s. Sony India Ltd.,** [2008 (231) E.L.T.385 (SC)].
- xii) Quarternary Ammonium Compound are specifically covered under Heading 2923 9000 and in terms of Rule 1 of GIR, rightly classified under Heading 2923 9000 rather than under the

residual Heading 21.06-Food Preparations;
Specific entry prevails over residuary entry as
held in the case of **M/s. Mauri Yeast Pvt. Ltd.,
Vs. State of U.P.** [2008 (225) ELT 321 SC] and
**M/s. Dunlop India Ltd., & Madras Rubber
Factory Ltd., Vs. Union Of India & Others**
[1983 (13) ELT 1566 (SC)].

- xiii) The findings in the impugned OIO to the effect
that the LCLT is not a separate chemically defined
compound to rule out Chapter 29 as per note
1(a), is not supported by any expert opinion or
scientific authority.
- xiv) When the Tariff is based on HSN / EN, the same
is relevant for determination of classification, as
held in the cases of **Collector of Central Excise,
Shillong Vs. M/s. Wood Craft Products Ltd.,**
[1995 (77) ELT 23 (S.C)]; **M/s. Holostick Ltd.,
Vs. Commissioner of Central Excise, Noida**
[2015 (318) ELT 529 (S.C)]; **M/s. Heinz India
Ltd., Vs. State of Kerala** [2023 (385) ELT 162
(S.C)]; and **M/s. Thermex Ltd., Vs.**

Commissioner of Central Excise, Pune – I

[2022 (382) ELT 442 (S.C)].

- xv) Common parlance Test is not applicable when goods are scientifically defined and specifically covered in the Tariff, as held in the case of **M/s. Akbar Badruddin Jwani Vs. Collector of Customs** [1990 (47) ELT 161 (SC)].
- xvi) The Revenue has not discharged the burden of justifying the classification confirmed in the order as held in the cases of **M/s. H.P.L. Chemicals Ltd. Vs. Commissioner of Central Excise, Chandigarh** [2006 (197) ELT 324 (SC)]; **M/s. JaiKunkan Foods Vs. Commissioner of Customs, NCH, New Delhi** [2023 (385) ELT 738 (Tri. – Del.)] and **M/s. Wrigley India Pvt. Ltd., Vs. Commissioner of Customs (Import), Chennai** [2024 (389) ELT 194 (Tri. Chennai)].
- xvii) Goods were allowed clearance only on examination and order by the Assistant Drug Controller and 17 consignments were allowed clearance only after examination of a

consignment. Hence, as held in the case of **M/s. New India Shipping Services** [2016 (333) ELT 170 (Tri. – Bang.)], extended period of limitation cannot be invoked.

- xviii) When goods are not available, no order as to confiscation and fine be imposed, as held in the cases of **Commissioner of Customs (Import), Mumbai Vs. M/s. Finesse Creation Inc.** [2009 (248) ELT 122 (Bom)]; **Commissioner Vs. M/s. Finesse Creation Inc.** [2010 (255) ELT A.120 (SC)]; **M/s.UM Cables Ltd., Vs. Commissioner of Customs (Export), Raigad** [2022 (381) ELT 98 (Tri. Mumbai)]; and **Commissioner of Customs (Import), ACC, Mumbai Vs. M/s. Air India Ltd.** [2023 (386) ELT 236 (Bom.)].
- xix) When there is no mis-declaration of description, goods were allowed clearance on examination, penalty cannot be imposed, as held in the case of **M/s. New India Shipping Services Vs. Commissioner of Customs, Bangalore** [2016 (333) ELT 170 (Tri. Bang)].

He would thus pray for setting aside the impugned order and allow the appeal with consequential reliefs.

6. *Per contra*, Smt. O.M. Reena, Id. Addl. Commissioner defended the impugned order; she also filed written submission supporting the order of the Original Authority classifying the goods under Heading 21.06 which covers 'food preparations not elsewhere specified or included'.

Ms. Reena's other submissions, *inter alia*, are:-

i. The products are 'aminoacids based supplements', classifiable under CTH 21069099; and she referred to the relevant tariff heading, viz.,

21.06 – Food preparations not elsewhere specified or included.

2106.10– Protein concentrates and textures protein substances.

2106.09 – Other

ii. CRCL in their report stated that 'salt of Levocarnitine is used as additive in food and other applications'.

iii. Carnitine is derived from amino-acids and is a quaternary ammonium compound involved in

metabolism in most mammals, plants and some bacteria;

iv. L-carnitine and LCLT are taken as food supplements directly;

v. The products are not prescribed drug but readily available in the market as sports supplements/nutritional supplements;

vi. The product LCLT (Levocarnitine L-Tartrate) does not meet the requirement of Note 1(a) of Chapter 29 viz., "Separate chemically defined organic compound, whether or not containing impurities";

vii. The Appellant claimed various tariff headings and they were inconsistent in their claims; and

viii. As per the 'common parlance test' both the products are classifiable as 'food supplements and, in this regard, has relied on the following case law:-

(a) **CCE Vs Shree Baidyanath Ayurveda Bawan Ltd.** [2009 (239) E.L.T 225 (S.C)];

(b) **M/s. United Offset Process Pvt. Ltd., Vs Asst. Collector of Customs** [1989 Supp(1) SCC 132];

(c) **Nagaraju Bros Vs State Of Andhra Pradesh** [1984 95 STC 1 (SC)];

(d) **New Prasanthi Automobiles Company Vs State of Kerala** [1193 (91)STC 565];

(e) **Camlin Ltd.** [(2015)(55 taxman.com 369)];

(f) **Chemical and Fibres of India vs UOI and Others** [1997 (89) E.L.T.633(S.C)]; and

(g) **M/s. Human Health Distribution Vs. Commissioner of Customs, Patparganj** [2024 (4) TMI 697-CESTAT, New Delhi].

ix. Extended period of limitation has therefore been rightly invoked.

7. We have heard the rival contentions, carefully perused the documents placed on record and also various decisions/orders relied upon during the course of arguments before us. The only issue that arises for our consideration is, **whether Levocarnitine and Levocarnitine L-Tartrate are correctly classifiable under CTH 29239000 as**

'Quarternary Ammonium Salt/Compound-an organic compound' or under CTH 21069099 as 'food preparation not elsewhere specified or included'?

8. It is the fundamental principle of law that the burden of proof is on the one who disputes; so, when the Revenue does not accept a classification declared by an Assessee, rather proposes to reclassify under different heading, then it is for the Revenue to not only disprove the classification adopted by the Assessee, but also to prove with evidence as to why and how its proposed reclassification deserves to be sustained. In this context, this Chennai Bench has in the case of **M/s. Wrigley India Pvt. Ltd., Vs Commissioner of Customs, Chennai** [2024 (389) E.L.T 194 (Tri.-Chennai)] held as under :

'We find it was the Revenue which disputed the Classification declared by the appellant and hence, the initial burden is on the revenue to disprove the case of appellant. The burden is also on the Revenue to justify the reclassification made under 21069060 as ruled by the Hon'ble Supreme Court in a catena of decisions including in the following cases..... when the Revenue challenges the classification declared by the importer, the onus is always on the Revenue to establish that item in question falls under the taxing category as claimed by them :

(a) HPL Chemicals Ltd., Vs CCE, Chandigarh

[(2006) 5 SCC 208]

(b) Parle Agro Pvt. Ltd., Vs Commissioner of

Commercial Taxes, Trivandrum- (2017) 7 SCC 5400]

(c) Union of India Vs Garware Nylons Ltd., & Ors

[(1996) 10 SCC 413]

...'

9. In fact, in the reported case of **Hewlett Packard India Sales Pvt. Ltd. & Lenovo (India) Pvt. Ltd. v. Commissioner of Customs (Import), Nhava Sheva** [decided on 17.01.2023], Hon'ble Apex court reiterated the above view in clear terms, to say: "*When the Customs Department seeks to classify a product under a different category than that declared by the importer, the burden of proof lies on the department to justify the reclassification.*"

10. We find that the tariff heading claimed by the Appellant is 29239000 which the Revenue did not accept and wanted the same to be reclassified under Heading 21069099. Note 1(a) to chapter 29 'Organic Chemicals which reads '**separate chemically defined organic compound, whether or not containing impurities**', are covered under the chapter. Tariff heading 2923 covers 'Quarternary Ammonium Salts'. A combined reading of the

Chapter Note and Tariff Heading gives sufficient lead to understand and conclude that to classify these products, two conditions are to be satisfied viz., the products should satisfy the chemical composition of 'quarternary ammonium salt' and should meet the definition of 'separate chemically defined organic compound'. We find from the order and written submissions that there is no dispute regarding treatment of the products as 'quarternary ammonium salts'. Even in the impugned order, it appears that the Original Authority had raised a doubt about accepting Levocarnitine L-Tartrate-LCLT as 'separate chemically defined organic compound' as defined under Note1(a) of chapter 29 but this view of the Original Authority is not backed by any material, much less even an expert's opinion. Strangely, however, the Original Authority has not raised such doubt with respect to 'Levocarnitine'.

11. The Appellant has claimed that there is no dispute about the classification of these items in other ports/airports in the country and, hence, they could not provide any tariff rulings/case laws. This is not controverted by the Revenue.

12. The Appellant has thus referred to **U.S. Customs Rulings** [*Supra*] on Levocarnitine as per which, quarternary

ammonium compound is Classifiable under Heading 29239000. They have also submitted that the above Ruling came to be confirmed by the U.S. Court of International Trade.

13. Similarly, the Appellant has also referred to a Ruling by the **Canadian Customs** [Supra] wherein, it is held that LCLT is a quarternary ammonium salt and meets the requirements of Note 1(a) to chapter 29 viz., 'separate chemically defined organic compound' - a substance which consists of one molecular species whose composition is defined by a constant ratio of elements and can be represented by a definitive structure diagram' and, hence, classifiable under Heading 292390.

14. These rulings confirm that the products under dispute are 'quarternary ammonium salt/compound' and are 'separate chemically defined organic compound'. These are apparently based on scientific facts and determinants in classifying these products under Heading 29239000. The persuasive value of these rulings will prevail over the findings of the Original Authority which, as noted by us, lacks support nor even the least, i.e. an expert's opinion. It

is in this context that we take note of the reports of CRCL which were deliberately ignored by the Adjudicating Authority, which supports the view of the Appellant; the Authority having obtained such an expert opinion ought to have accepted in all fairness and if there was any doubt/s, then there was always scope for second opinion. It is understood neither the Commissioner nor the Department could replace opinion of an expert with his/its own views.

15. Insofar as the Revenue's claim of classifying these products under heading 21069099 as 'food preparations not elsewhere specified or included', we find that it is a residuary entry and not a specific entry. Even the CRCL Report does not confirm as food supplements/preparations, but only says that these products are added as additive in food supplements in small quantities. In terms of Rule 1 of General Interpretative Rules (GIR), '*classification shall be determined according to the terms of the headings and any relevant section or chapter notes*' and in the instant case, this appears to be the most relevant Rule. Even otherwise, in terms of 3(a) of GIR the specific heading would prevail over generic entry. The supreme court in the case of **M/s. Mauri Yeast Pvt. Ltd Vs. state of U.P [2008(225)**

E.L.T.321(S.C)] has held that: '*....if there is a conflict between two entries one leading to an Opinion that it comes within the purview of the tariff entry and another a residuary entry, the former should be preferred....*'

16. Further, if for any reason, an item is classifiable under more than one heading, then the one which appears at the last should be preferred, in terms of Rule 3(c) to GIR. The Supreme Court in the case of **Commissioner of Customs Vs M/s. Sony India Ltd., [2008(231) E.L.T.385 (S.C.)]** has held that '*...it is a settled position that in law that articles to be assessed in the form in which they are imported and presented to the customs...'*. In the case of **M/s. Akbar Badruddin Jwani Vs Collector of customs [1990(47) E.L.T. 161 (S.C)]** has held that '*....when the tariff entry is used in a scientific or technical sense, common parlance test is not applicable...'*

17. Further, we also note that there are a catena of orders based on the decision of the Supreme Court in the case of **Collector of Central Excise, Shillong Vs. M/s. Wood Crafts Products Ltd.,[1995(77)ELT 23 (S.C)]**, holding that when the tariff is based on HSN-EN, the classification

has to be determined as per the provisions of HSN, unless there is an express intention indicated in the tariff. We find from the impugned order that the Revenue has referred to some websites to deal with these goods as 'food preparations' ignoring the provisions of tariff itself. It is useful in this context, to refer to the binding ratio laid down by the Apex court, in **Hewlett Packard India Sales Pvt. Ltd. & Lenovo (India) Pvt. Ltd.** [supra], to the following effect:

\..

14. At the outset, we must note that the adjudicating authorities while coming to their respective conclusions, especially the Commissioner of Customs (Appeal) have extensively referred to online sources such as Wikipedia to support their conclusion. While we expressly acknowledge the utility of these platforms which provide free access to knowledge across the globe, but we must also sound a note of caution against using such sources for legal dispute resolution. We say so for the reason that these sources, despite being a treasure trove of knowledge, are based on a crowd-sourced and user-generated editing model that is not completely dependable in terms of academic veracity and can promote misleading information as has been noted by this court on previous occasions also. [Commissioner of Customs, Bangalore V Acer India (P) Ltd. (2008) 1 SCC 383, para 17.] The courts and adjudicating authorities should rather make an endeavour to persuade the counsels to place reliance on more reliable and authentic sources.

In view of the above, the attempt by the Revenue to rely on the web sources deserves to be discouraged.

18. We thus hold from the foregoing discussion that the Revenue has not been able to establish its case and therefore, the classification under Heading 29239000 as claimed by the Appellant deserves to be upheld since the Revenue has not justified reclassification of the impugned goods under CTH 21069099. Resultantly, we set aside the impugned order and allow the Appeal with consequential benefits if any, as per law.

(Order pronounced in open court on 19.09.2025)

(M. AJIT KUMAR)
Member (Technical)

(P. DINESHA)
Member (Judicial)