FAX : 0532-2400149 REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

Dated: 21/02/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70193/2017-EX[DB] dated 20/02/2017

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 35-C(1) of the Central Excise and Salt Act, 1944.

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	E/1753/2006	C.C.E, GHAZIABAD C.G. O. Complex-II, Kamla Nehru Nagar, Ghaziabad 201302
		Name and Address of Respondent
2		DABUR (INDIA) LIMITED PLOT NO -22, SITE-IV, INDUSTRIAL AREA, SHAHIBABAD, GHAZIABAD,,

Copy To

3 Advocate(s) / Consultant(s):

V. Lakshmi Kumaran, ALD
3/1A/3 OPP AUTO SALES,Above the Office Of Blue Dart/DHL Courier, COLVIN ROAD, LOHIA MARG ALLAHABAD-211001

4 Bar Association, CESTAT, Allahabad

5 Director Publications, Customs, Excise, I.P. Estate, Delhi

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

7 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

9 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

10 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

11 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

12 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

13 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

14 C.D.R. 15 Office Copy 16 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD

Appeal No.E/1733/2006-[DB]

Arising out of Order-in-Appeal No.15-CE/GZB/2006 dated 24.02.2006 passed by Commissioner (Appeals) Customs & Central Excise, Ghaziabad.

For approval and signature:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

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1. Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982? : No
2. Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? : Yes
3. Whether His Lordship wishes to see the fair copy of the Order? : Seen
4. Whether Order is to be circulated to the Departmental Authorities? : Yes

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C.C.E., Ghaziabad ...APPELLANT(S)

VERSUS

M/s Dabur (India) Ltd. ...RESPONDENT (S)

APPEARANCE

Shri Chaten Singh, Asstt. Commrr (AR) for the Appellant (s)
Shri Atul Gupta & Shri Vaibhav Dixit, Advocates for the Respondent(s)

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

DATE OF HEARING & PRONOUNCEMENT : 04.07.2016

FINAL ORDER NO. 70193/2017

Per Mr. Anil Choudhary :

The issue in this appeal filed by Revenue is as regards classification of the product manufactured by the respondent-assessee namely Castor/Eranda oil.

2. This issue was litigated previously between the parties, wherein vide Final Order No.476 – 478/2005 – EX dated 16.05.2005 in Appeal No.E/1102 to 1104/2004 – B. This Tribunal was decided in favour of the respondent-assessee upholding the assessee's claim for classification under Chapter Sub Heading No.3003.31 of CETA against the classification claimed by Revenue under Chapter Sub-Heading No.3003.20. Thereafter, Revenue carried the matter before the Apex Court in Civil Appeal No.1832 of 2006 and vide Final Order dated 20.03.2007, the matter was remanded to this Tribunal for passing a fresh decision in accordance with law. Accordingly, this Tribunal vide Final Order No.492 – 494/2007 – EX (PB) dated 30.08.2007 in the case of Dabur India Ltd. Vs. Commissioner of Central Excise, Ghaziabad reported at 2007 (218) E.L.T. 211 (Tri.-Del.), upheld the classification being Ayurvedic medicament under CETH 3003.31. The operative part of the order is reproduced for reference:-

"A plain reading of the tariff structure as above, particularly, in respect of 3003.20 would no doubt seem to place an emphasis on the exclusivity of the system of medicine, as held by the Revenue. However, when sub-heading 3003.20 is read wth the contents of 3003.31 onwards there is a change in complexion. Medicament including those used in Ayurvedic, Unani, Siddha, Homeopathic or Bio-chemic systems have been specific product

under 3003.30 grouping. The Hon'ble Supreme Court in Naturalle Health Products (P) Ltd. (supra) has observed that fact gives an indication whether they are exclusively ! ayurvedic medicines or that they are used in Ayurvedic system of medicine, though a patented medicine. Para 29 & 30 show that as long as a particular product is bought and sold as Ayurvedic medicine and whose composition and method of manufacture follow the prescription under the ancient text and the same is recognized as Ayurvedic medicine by the concerned authorities under law, irrespective of the fact whether such Ayurvedic medicine is capable of being used in system other than Ayurvedic system cannot make such medicine as non Ayurvedic medicine. As the product in question is very much an Ayurvedic medicine, in our opinion, they cannot be excluded out of the sub-heading 3003.31. Boning on the tariff sub-heading, we find that the word "exclusively" used under 30003.20 appears o create a disharmony which leads to paradoxical situation as in the present case. However, examining the rest of the sub-heading under 3003 such situations could be avoided.

3. Accordingly, we dismiss the appeal of Revenue upholding the classification of Castor Oil manufactured by the respondent-assessee under CETH 3003.31. The respondent-assessee will be entitled to consequential benefits, if any, in accordance with law.

(Pronounced in the Court)

-Sd/-
(ANIL CHOUDHARY)
Member(JUDICIAL)

-Sd/-
(ANIL G. SHAKKARWAR)
Member (TECHNICAL)

Mishra

प्रमाणित प्रति / Certified True Copy
22/02/17
सहायक पंजीकार / Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण / (C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001