CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 61093 of 2018

[Arising out of Order-in-Appeal No. CHD-EXCUS-001-APP-69-71-18-19 dated 27.04.2018 passed by the Commissioner (Appeals), CGST, Chandigarh]

M/s Dabur India Ltd **......Appellant**
109, HPSIDC, Industrial Area,
Baddi, Dist. Solan, H.P. 173205

VERSUS

Commissioner of Central Excise, Goods & Service Tax, Chandigarh **......Respondent**
Plot No. 19, Central Revenue Building,
Sector 17-C, Chandigarh 160017

APPEARANCE:

Ms. Krati Singh and Ms. Jashanpreet Kaur, Advocates for the Appellant

Mr. Narinder Singh, Authorized Representative for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 60138/2026

DATE OF HEARING: 15.10.2025
DATE OF DECISION: 12.02.2026

S. S. GARG :

The present appeal is directed against impugned order dated 27.04.2018 passed by the Commissioner (Appeals) CGST, whereby the learned Commissioner (Appeals) has confirmed the demand of excise duty amounting to Rs.6,34,589/- under Section 11A of the Central Excise Act, 1944 along with interest under Section 11AB of the Act and also imposed an equal penalty under Rule 25 of the Central Excise Rules, 2002 read with Section 11AC of the Act.

2. Briefly stated facts of the present case are that the Appellant are a multi-product and multi-location company engaged in the manufacture of various products and are registered with the Central Excise department. During the period from January 2007 to September 2008, for the purpose of calculating the assessable value of the goods cleared from their factory, the Appellant claimed deductions on account of post manufacturing expenses ("PME") such as additional sales tax, octroi and cost of transportation on weighted average basis. The department entertained the view that the deductions claimed by the Appellant are not admissible in terms of Section 4 of the Central Excise Act read with Circular No. 354/81/2000-TRU dated 30.06.2000. On these allegation, multiple SCNs were issued to the Appellant.

2.1 In the earlier proceedings, those SCNs were adjudicated vide multiple OIOs wherein the issue was decided against the Appellant; however, on appeal, the Commissioner (Appeals) vide multiple OIAs, allowed the appeals of the Appellant. The said OIAs were challenged by the department before the CESTAT, New Delhi and the CESTAT, New Delhi rejected the appeals of the department and decided the issue in favour of the Appellant.

2.2 In the present proceedings, the impugned SCNs dated 14.01.2008, 23.07.2008 & 10.11.2008, have been issued for the relevant period, vide which the deductions claimed on PME on weighted average basis have also been denied. The Adjudicating Authority, vide OIO dated 09.01.2017 adjudicated the impugned SCNs and confirmed the demand proposed in the said SCNs. Aggrieved by the said OIO, the Appellant filed appeal before the Commissioner (Appeals), who vide the impugned OIA, has rejected the appeal of the Appellant. Hence, the present appeal.

3. Heard both the parties and perused the material on record.

4. The learned Counsel for the Appellant submits that the impugned order is not sustainable as the same has been passed by ignoring the earlier decision of the CESTAT, New Delhi in the Appellant's own case.

4.1 She further submits that the Appellant were issued multiple SCNs wherein it was alleged by the department that the deductions claimed by the Appellant are inadmissible. She further submits that the said SCNs were adjudicated vide multiple OIOs wherein the issue was decided against the Appellant; however, the Commissioner (Appeals) allowed the appeals of the Appellant; further, being aggrieved by the order of Commissioner (Appeals), the department filed appeals before the Tribunal. She further submits that the Tribunal has rejected the appeals of the department and decided the issue in favour of the Appellant vide Final Order dated 30.04.2009, reported as ***CCE, Chandigarh vs. M/s Dabur India Ltd – 2009 (247) ELT 335 (Tri. Del.)***.

4.2 She further submits that said Final Order of the Tribunal, has not been further challenged by the department, hence, the department has accepted the position on merits i.e. deductions on account of PME are admissible to the Appellant on weighted average basis.

4.3 She also submits that admissibility of such deductions was clarified by the Board vide Circular No. 20/90-CX.1 dated 30.08.1990 wherein it was stated that deductions on account of octroi, sale tax, additional sales tax can be made on weighted average/equalised basis.

4.4 She further submits that this issue is no more *res integra* and has been settled by New Delhi bench of the Tribunal in favour of the Appellant vide its Final Order dated 30.04.2009 passed in their own case (cited supra).

4.5 In support of her above submissions, she relies on the following decisions, wherein it has been held that the assessee is entitled to the said deductions:

- ***Fresenius Kabi Oncology Limited vs. Commr of CE, Chandigarh – 2023 (5) TMI 600 - CESTAT Chandigarh***
- ***Becton Dickinson India Pvt Ltd vs. CCE, Delhi-III – 2024 (2) TMI 499 – CESTAT Chandigarh***
- ***Hindustan Unilever Ltd vs. CCE Cochin – 2016 (341) ELT 434 (Tri. Bang.)***
- ***Hindustan Unilever Ltd vs CCE, Pondicherry – 2016 (334) ELT 93 (Tri. Chennai)***

4.6 As regards the interest and penalty, she submits that when the demand itself is not sustainable, the question of interest and penalty does not arise.

5. On the other hand, the learned Authorized Representative for the Revenue reiterates the findings of the impugned order.

6. After considering the submissions made by both the parties and perusal of the material on record, we find that the issue involved in the present case is no more *res integra* and has been settled by the Tribunal in favour of the Appellant in their own case for the earlier period (cited supra), whereby the Tribunal held that deductions on account of PME like octroi, additional sales etc are admissible to the Appellant on weighted average basis. Further, we find that the present proceedings arise on account of subsequent SCNs for subsequent period. We also find that the department has not challenged the Final Order dated 30.04.2009 passed by the Tribunal which means that the department has accepted that order.

7. Besides this, the issue has also been decided by various benches of the Tribunal in the cases cited supra (in *para 4.5* above), wherein it has been held that the assessee is entitled to deductions on account of octroi, sale tax, additional sales tax on weighted average.

8. By following the ratio of the above cited decisions, we are of the considered opinion that the impugned order is not sustainable in

law, therefore, we set aside the same and allow the appeal of the Appellant with consequential relief, if any, as per law.

(Order pronounced in the open court on 12.02.2026)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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