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CUSTOMS. EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
EXCISE APPEAL BRANCH

Appeal No. E/2694,2844,3034/2000& 251-252/2001 Date 03/07/2008

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
C.C.E. CHANDIGARH
C.R. BUILDING, PLOT NO. 19, SECTOR 17-C,
CHANDIGARH 160017
C.C.E. CHANDIGARH Appellant

Vs

M/S DEWAN MODERN BREWERIES LTD Respondent

I am directed to transmit herewith a certified copy of **Final order** No.406-410/2008 Excise dated 02-7-08

passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar

(Excise Appeal Branch)

Copy to :

1. Respondent
   M/S DEWAN MODERN BREWERIES LTD
   BOHRI,TALAB TII LO, JAMMU
   2. M/S. DOGRA DISTILLERIES (P) LTD., INDUSTRIAL EXTENSION AREA, GANGYAL, JAMMU
   3. M/S. NEW INDIA DISTILLERIES NATI BASTI, SUJWAN, JAMMU
2. Adv. / Consult SH. P.C. JAIN, ADV., 332, ARAVALI APARTMENTS ALAKNANDA, N. DELHI-19
3. S.D.R.
4. ~~JCDR.~~
5. Bar association, CESTAT, New Delhi
6. M/s. Deeparchi Publications, M-93, Marg. 46, Saket, New Delhi 110017
7. M/s Centax Publictions (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301 Gautam Budh Nagar, (U.P.)
9. Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT, U.P.
10. Nidheshak publications, I.P.Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
12. Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagaraya Road, T. Nagar,Chennai 60017
13. Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
14. Office Copy
15. Guard file

Assistant Registrar
(Excise Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R.K.Puram, New Delhi-110066

Court No.III

Date of hearing: 1.7.2008

Central Excise Appeal Nos.2694, 2844, 3034 of 2000 and 251-252 of 2001

Arising out of the Order in appeal No.993/CE/Chd/2k dated 12.5.2000; 1157 & 1158/CE/Chd/2k dated 1.6.2000 ; 974/CE/CHD/2k dated 11.5.2000 passed by the Commissioner of Central Excise (Appeals), Chandigarh.

For Approval and Signature:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. M. Veeraiyan, Member (Technical)

1	Whether Press Reporter 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 CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	No.
3	Whether their Lordships wish to see the fair copy of the Order?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

Appellant | | Respondents
C.C.E., Chandigarh vs. M/s Deewan Modern Breweries Ltd.
M/s Dogra Distillers (P) Ltd.
M/s New India Distilleries

Appearance:

Shri S.M. Tata, Authorized Departmental Representative (SDR) for the Revenue and Shri P.C. Jain, Advocate for the respondents

Coram: Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. M. Veeraiyan, Member (Technical)

FINAL Order No. 406-410/08-EX.

Per Archana Wadhwa:

ELT 744 (SC) for reconsideration of the appeals on the point of limitation and penalty.

2. After hearing both the sides duly represented by Shri S.M. Tata, learned SDR for the Revenue and Shri P.C. Jain, learned Advocate for the respondents, we find that originally, the demand was confirmed by the Deputy Commissioner on merits as well as by invoking the extended period of limitation. The respondents filed appeals before Commissioner (Appeals), who accepted their plea on merits and accordingly allowed all the appeals. The revenue challenged the said order of the Commissioner (Appeals) before the Tribunal who vide its Final Order No. 28-30/2001-D dated 12.1.2001, allowed all the appeals filed by the Revenue on merits as also on limitation. Being aggrieved with the said order of the Tribunal the assessee challenged the same before Hon'ble Supreme Court and the Hon'ble Supreme Court disposed of Civil Appeals by accepting the appellant's plea on the point of limitation and penalty and ~~matters stand~~ remanding the matter to the Tribunal for reconsideration of the said two issues.

3. After hearing both sides, we find that impugned orders of Commissioner (Appeals) only dealt with the merits of the case and inasmuch as the appeals were allowed on merits, his view point on limitation is not available. The contention of the learned SDR is that inasmuch as the first appellate authority has not dealt with the limitation aspect, the

as placed before us by the learned Advocate, which can only be done at the stage of first appellate authority. We, accordingly, set aside the impugned orders and remand the matters back to the Commissioner (Appeals) for reconsideration of the plea of the limitation and penalty raised by the assessee and in the light of the observations made by the Hon'ble Supreme Court in the above referred judgment.

4. All the appeals are disposed of accordingly.

(Dictated and pronounced in the open Court)

(Archana Wadhwa)
Member (Judicial)

(M. Veeraiyan)
Member (Technical)

scd/