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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/4320/2004 Date 08/08/2008

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

To :
C.C.E. CHANDIGARH
PLOT NO 19, SEC 17-C, CHANDIGARH

C.C.E. CHANDIGARH Appellant

Vs

M/S DABUR INDIA LTD. Respondent,

I am directed to transmit herewith a certified copy of **Final order No**. 559/08- **Excise** dated 30-7-08

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 DABUR INDIA LTD.
   220-221, INDL. AREA, BADDI, DISTT. SOLAN, (H.P.)
2. Adv. / Consult
   MR.B.L.NARSIMHAN
   B-6/10, SAFDARJUNG ENCLAVE, NEW DELHI-110029
3. S.D.R.
4. ~~J.C.D.R.~~
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. Easy Service Tax Online Dot Com Pvt. Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad - 15
15. Office Copy
16. Guard file

Assistant Registrar
(Excise Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. III

Excise Appeal No. 4320 of 2004

[Arising out of Order-in-Appeal No. 401/CE/CHD/2004 dated 31.5.2004 passed by Commissioner (Appeals) Central Excise, Chandigarh.]

For approval and signature:

Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. P.K. Das, Member (Judicial)

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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 Their Lordships wish to see the fair copy of the Order? : NO
4. Whether Order is to be circulated to the Departmental authorities? : yes

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Commissioner of Central Excise Chandigarh — Appellant

Vs.

M/s. Dabur India Ltd. — Respondent

Appearance:

Mr. Sanjay Kumar, DR for the Appellant
Mr. A.R.Madhav Rao, Advocate for the Respondent

CORAM: Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. P.K.Das, Member (Judicial)

Date of decision : 30.7.2008

Final ORDER NO. 559/08-EX

Per P.K. Das (for the Bench):

The Revenue filed this appeal against Order-in-Appeal No. 401/CE/CHD/04 dated 31.5.04 passed by the Commissioner of Central Excise (Appeals), Chandigarh whereby "Pushpadi tail" was classified under sub-heading No. 3003.39 of the schedule to the Central Excise Tariff Act, 1985 and set aside the adjudication order for classification of same goods under sub-heading No. 3304.00 of the schedule as claimed by the Revenue.

2. After hearing both the sides and on perusal of the records, it is seen that the Revenue contended in their appeal that "Pushpadi tail" is the main ingredient being 96% of "Lal tail". It is contended that "Lal tail" is infact massage oil, "Pushpadi tail", which is main ingredient of "Lal tail" is also to be massage oil. It is further contended that the Tribunal in the respondents own case vide Final order No. A/692/Kol/2002 dated 26.6.2002 held that "Lal tail" is not classifiable under sub heading 3003.39 as ayurvedic medicament. So the "Pushpadi tail" the main ingredient of "Lal tail" thus is also not classifiable under 3003.39.

3. Learned advocate on behalf of the respondents submits that the respondent filed appeal against the order of the Tribunal before the Hon'ble Supreme Court. He further submits that Hon'ble Supreme Court set aside the Tribunal's order as reported in 2005 (182) ELT 290 (SC). It has been held that 'Lal tail" is medicament and is classifiable under Chapter 30. We find that the main contention of the Revenue that "Lal tail" is a message oil, "Pushpadi tail" which is main ingredient of "Lal tail" has to be message oil only and not ayurvedic medicine. We find that the Hon'ble Supreme Court held that "Lal tail" is medicament and therefore, the grounds taken by the

Revenue in their appeal are not sustainable. In view of that, the appeal filed by the Revenue is rejected.

(Operative part of the order pronounced in the open Court)

(M. Veeraiyan)
Member(Technical)

(P.K.Das)
Member(Judicial)

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