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

Appeal No. C/926 /2005 Date 07/08/2008

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

To :
M/S DABUR INDIA LIMITED
CORPORATE OFFICE, KAUSHAMBI, GHAZIABAD

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of **Final order No.** c/282/08-Custom dated 24.7.08 passed by the Tribunal under Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax

Assistant Registrar
(Customs Appeal Branch)

Copy to :
1. Respondent
   THE COMMISSIONER OF CENTRAL EXCISE, PATNA
   PATNA.
2. Adv. / Consult

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. Office Copy
15. Guard file
16. Easy Service Tax Online Dot Com Pvt. Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad - 15

Assistant Registrar
(Customs Appeal Branch)

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

Custom Appeal No. 926 of 2005

(Arising out of Order-in-Appeal No. 312/PAT/Cus/Appeal/2004 dated 3.11.2007 passed by the Commissioner of Customs & Central Excise (Appeals), Patna)

For approval and signature

HON'BLE MR. S.S. KANG, VICE PRESIDENT
HON'BLE MR. RAKESH KUMAR. MEMBER (TECHNICAL)

1.	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	
3.	Whether their Lordships wish to see the fair copy of the order?	
4.	Whether order is to be circulated to the Departmental authorities.	

M/s Dabur India Ltd. — Appellant

Vs.

CCE, Patna — Respondent

Appearance:
Shri S. Vasudevan, Advocatge - For appellant
Shri A.K. Madan, DR - For respondent

CORAM:
HON'BLE MR. S.S. KANG, VICE PRESIDENT
HON'BLE MR. RAKESH KUMAR, MEMBER (TECHNICAL)

Date of Hearing: 24.7.2008

Final Order No. C/282/08 dated 24/7/08

Per S.S. Kang:

Heard both sides.

2. The appellant filed this appeal against the impugned order. The Commissioner (Appeals) rejected the appeal as time-barred as well as [illegible] the same has not been filed in the name of M/s Dabur (I) Ltd.

3. The brief facts of the case are that the appellant made import of certain goods and paid countervailing duty. The duty was paid during the period 28.3.2002 to 29.10.2002. The appellant filed a refund claim on 14.7.2003 asking for refund of the duty paid. The adjudicating authority rejected the refund claim on the ground of time-bar as the claim was filed after six months from the date of payment of duty.

4. The contention of the appellant is that the Commissioner (Appeals) had wrongly held that the appeal is time-barred and has not considered the reasons for delay. It is also submitted by the appellant that Shri R.K. Sharma,

Sharma, Excise Manager of M/s Dabur India Ltd. filed appeal and as per Commissioner (Appeals) the appeal should be filed in the name of M/s Dabur India Ltd. this is curable defect. In these circumstances, the contention of the appellant is that the matter should be remanded to the Commissioner (Appeals).

5. The contention of the Revenue is that even on merits the appellant has no case as refund claim was filed beyond the period prescribed under the statute. The Revenue relied upon the decision of Hon'ble Supreme Court in the case of **Miles India Ltd. Vs. Assistant Collector of Customs** reported in 1987 (30) ELT 641(SC) and **Collector of Central Excise Vs. Doaba Co-operative Sugar Mills** reported in 1988 (37) ELT 478(SC).

6. We find that as the refund claim filed by the appellant is time-barred and refund filed after six months from the date of payment of duty and this fact is not disputed by the appellant even before Commissioner (Appeals). In these

circumstances, we find no merit in the contention of the appellant, the appeal is dismissed.

(Dictated & pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

RM