

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

Appeal No. E/1860/2007 – SM[BR]

Date 11/02/2009

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

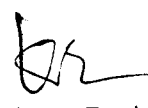
Appellant

Vs
Respondent

M/S DABUR INDIA LTD. (CHY)

I am directed to transmit herewith a certified copy of Final order No. 156 / 2009- SM[BR] dated 6.2.2009

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


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

M/S DABUR INDIA LTD. (CHY)

PLOT NO. 220-221A, H.P.S.I.D.C. INDL. AREA, BADDI, DISTT. SOLAN, H.P.

2. Adv. / Consult SHRI RAVI RAGHVAN ADV.

C/O RESPONDENT;-----

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 Publications (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New - 3

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

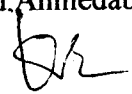
12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thvagaraya Road, T. Nagar, Chennai

13 Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant Kuni, New Delhi - 110070

14 Easy Service Tax Online Dot Com Pvt.Ltd.407A.Iscon Mall.Above Star India Bazar,Satellite Road,Ahmedabad-1

15 Office Copy

16 Guard file


Assistant Registrar
(SM Appeal Branch)

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

PRINCIPAL BENCH – COURT NO. 1

Excise Appeal No. 1860 of 2007-SM

(Arising out of Order-in-Appeal No. 84/CE/CHD/2007 dated 29.03.2007 passed by the Commissioner of Customs & Central Excise (Appeals), Chandigarh).

DATE OF HEARING : 05.02.2009
DATE OF DECISION : 05.02.2009

FOR APPROVAL AND SIGNATURE :

HON'BLE MS. JYOTI BALASUNDARAM, VICE-PRESIDENT

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 ?	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

CCE, Chandigarh

... **Appellant**
(Rep by Sh. S. Gautam, DR)

versus

M/s Dabur India Ltd.

... **Respondent**
(Rep. by Sh. Ravi Raghvan, Adv.)

CORAM : HON'BLE MS. JYOTI BALASUNDARAM, VICE-PRESIDENT

Final ORDER NO. 156/09-sm (1312)

PER JYOTI BALASUNDARAM :

The issue in dispute in the present appeal is, whether supplementary invoice is a valid/prescribed document for the purpose of availment of Cenvat/Modvat Credit. The Revenue is aggrieved by the order of the Commissioner (Appeals) who has accepted the supplementary invoice as a valid document for availing credit.

2. After hearing both sides, I find that the decision of the Hon'ble Apex Court in **Commissioner of Central Excise, Madras vs Home Ashok Leyland Ltd.**, 2007 (210) ELT 178 (SC), holding that amendment to Rule 57A, wherein supplementary invoice was included as one of the valid duty paying documents, is clarificatory and would hence operate retrospectively, squarely covers the issue in this case in favour of the assessee. Following the ratio thereof, I uphold the impugned order and reject the appeal.

(Dictated and pronounced in the open Court on the 5TH day of February, 2009)

(JYOTI BALASUNDARAM)
VICE-PRESIDENT

Golay