_ELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

**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/2150/2007 – SM[BR] Date 23/06/2009

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

M/S PARABOLIC DRUGS LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 611 / 2009 –SM[BR] dated 9.6.2009

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 PARABOLIC DRUGS LTD.
VILL. SUNDRAN, DERABASSI
2. Adv. / Consult SHRI AJAY JAIN ADV.
1293, SECTOR 18-C, CHANDIGARH

3 S.D.R
~~4 J.C.D.R.~~
5 Bar association. CESTAT. New Delhi
6 Director Publications. Customs. Excise. I.P. Estate. New Delhi
7 M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3
8 Commercial Laws of India Pvt Ltd. Post Bag No. 1033, No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9 Raghuraman's 44-B. Regal Flat.Shipra Suncity. Indirapuram - 201010.Ghaziabad. DT. U.P.
10 M/s Manupatra Information Solutions Pvt Ltd. Excise & Customs Cases B-37, Sector - 1, Noida - 201301, Gautam Budh Nagar, (UP)
11 M/s. Deeparchie Publications. M-93. Marg. 46. Saket. New Delhi 110017
12 Taxindiaonline.com Pvt.Ltd. B-XI/8183.Vasant Kunj. New Delhi - 110070
13 Taxmann Allied Service Pvt Ltd.. 21/35. West Punjabi Bagh. New Delhi - 110026
14 Easy Service Tax Online Dot Com Pvt.Ltd.407A.Iscon Mall.Above Star India Bazar.Satellite Road.Ahmedabad-15
15 LAWCRUX Advisors Pvt Ltd. LAW House.1-8.Sector - 10. Faridabad 121003 (Haryana)
16 Office Copy
17 Guard file

Assistant Registrar
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

Excise Appeal No.2150 of 2007-SM (BR)

[Arising out of Order-in-Appeal No.125-126/CE/CHD/07 dated 30.04.2007 passed by the Commissioner of Central Excise (Appeals), Chandigarh]

**Date of Hearing/ Decision:9.6.2009**

**For approval and signature:**

**Hon'ble Mr. P.K. Das, Member (Judicial)**

1. Whether Press Reporters may be allowed to see CESTAT (Procedure) Rules, 1982.
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? :
4. Whether Order is to be circulated to the Departmental authorities? : Yes

CCE, Chandigarh ...Appellant
[Rep. by Shri R.K. Verma, DR]

Vs.

M/s. Parabolic Drugs Ltd. ...Respondent
[Rep. by Shri Ajay Jain, Advocate]

CORAM: **Hon'ble Mr. P.K. Das, Member (Judicial)**

Final Order No. 611/09-SM(BR)/Dated:09.06.2009

**Per P.K. Das:**

Revenue filed this appeal against the order of the Commissioner (Appeals), whereby refund of Rs.73,440/- sanctioned by the Original Authority was upheld.

2. The relevant facts of the case, in brief, are that the respondents are engaged in the manufacture of bulk drugs. They cleared Amoxycillin Trihydrate B.P. Compacted vide ARE-1 No.114 & 120/2004-2005 dated 4.1.2005 and exported to Special Economic Zone (SEZ) by debiting duty. They filed refund claim as exemption notification No.58/2003-CE dated 22.07.2003 provides for exemption from whole of duty for export to the units located in Special Economic Zone (SEZ). The Original Authority sectioned the refund claim. The Revenue filed appeal before the Commissioner (Appeals), which was rejected. Hence, the Revenue filed this appeal.

3. Ld. DR on behalf of the Revenue reiterates the Grounds of Appeal. The main contention of the DR is that there is discrepancy between the ARE-I and Bill of Export insofar as quantity, advance licence's number ~~is~~ concerned. He also produced photocopy of ARE-I, Invoice and Bill of Export. It is his contention that the goods cleared from the factory were not exported by them.

4. Ld. Advocate on behalf of the respondent reiterates the findings of the Commissioner (Appeals).

5. After hearing both the sides and on perusal of the records, it appears that there is discrepancy in the documents. I find that the Commissioner (Appeals) examined the documents thoroughly. The findings of the Commissioner (Appeals) is reproduced below:-

" I find that the goods have been cleared to SEZ which are considered as exports. The ARE-I also bears a certificate from an Officer of KSEZ that the consignment covered by the said ARE-I has been received and re-warehoused at KSEZ in original condition under Bill of Export No.2856 dated 23.11.2004. There is force in the argument of the respondents that the grounds seeking recovery of claim already sanctioned are in the nature of clerical/procedural for which the refund cannot be denied when no duty is required to be paid on the clearances made to unit located in SEZ vide Notification No.58/2003-CE and that there is no dispute that the consignment has been received in the SEZ. Mere mention of the description as 'Amoxicillin Trihydrate BP Compacted' instead of 'Amoxicillin Trihydrate Compacted BP' or non mention of the Notification No./minor variation in the Advance Licence No. mentioned on the Bill of Export cannot be taken as a basis to deny the claim when the consignment is certified to have been received/re-warehoused in the SEZ., I do not find any substance in the Grounds urged by the revenue in the Appeal. Moreover, the Adjudicating Authority also sanctioned the claim after scrutiny/verification of the related documents and the fact of payment of duty on the clearances made to SEZ, therefore, I do not interfere with the same."

6. On perusal of the findings of the Commissioner (Appeals), it is seen that the certificate issued by the officer of KSEZ certifying that the consignment covered by the ARE-I has been received at KSEZ in original condition. This fact was not disputed by the Revenue in their Ground of Appeal. Therefore, I do not find any force in the submission of the ld. DR.'

7. In view of the above discussions, I do not find any reason to interfere the order of the Commissioner (Appeals). Accordingly, the appeal field by the Revenue is rejected.

Order dictated & pronounced in open court on 9.6.2009.

( P.K. Das )
Member (Judicial)

Ckp.