

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

CIVIL APPEAL NO.1459 OF 2003

COMMISSIONER OF CENTRAL EXCISE, MEERUT-I  
(s)

Appellant

VERSUS

M/S. DABUR INDIA LTD.

Respondent(s)

[With appln. for early hearing and with office report]

Date: 25/09/2008 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN  
HON'BLE MR. JUSTICE V.S. SIRPURKAR

For Appellant (s)                    Mr. P.V. Shetty, Sr. Adv.  
   Ms. Shweta Garg, Adv. for  
   Mr. P. Parmeswaran, Adv.

For Respondent (s)                    Mr. Alok Yadav, Adv. for  
   Mr. M.P. Devanath, Adv.

UPON hearing counsel the Court made the following  
ORDER

The appeal is dismissed in terms of the signed order.

(Subhash Chander)  
Court Master

(Savita Sainani)  
Court Master

[Signed order is placed on the file]  
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1459 OF 2003

Commissioner of Central Excise, Meerut-I .....Appellant

Versus

M/s. Dabur India Ltd.

.....Respondent

ORDER

The respondent-company was engaged in the manufacture of the product, viz., 'Dabur Lal Tail' and claimed classification of the said product under Chapter Heading 30.03 of the Schedule to the Central Excise Tariff Act. A show cause notice dated 05th July 2000 was issued to the respondent demanding duty on the ground that the said item was

classifiable under Chapter Heading 33.04. The duty demanded was for the period between June 1995 and July 1998. The adjudicating authority confirmed the demand.

In the appeal filed before the Customs, Excise & Gold (Control) Appellate Tribunal, New Delhi [for short, 'the Tribunal'] the ground taken by the assessee was that the demand was time barred. It was also contended before the Tribunal that the assessee was filing classification list right from 1977 claiming classification of the product in question under Chapter Heading 30.03 and the same were approved. The Tribunal held that the demand was time-barred.

A three-Judge Bench of this Court in the assessee's own C.A.No.1459/03 .... (contd.)

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case, viz., Commissioner of Central Excise, Jamshedpur v. Dabur (India) Ltd. 2005(182) ELT 308 (SC) observed as under :

"This Court in the case of O.K. Play (India) Ltd. v. CCE, Delhi-III, (Gurgaon) reported in 2005(66) RLT 657 (S.C.) held that in cases where classification list filed by the assessee have been duly approved then the extended period of limitation would not be available to the Department. We are in agreement with this view. We, therefore, see no infirmity in the impugned Judgment. We see no reason to interfere."

The impugned order passed by the Tribunal is in consonance with the decision of this Court in the case of Dabur (India) Ltd. (supra).

The appeal is accordingly dismissed.

Sd/-  
.....J.  
[ASHOK BHAN]

Sd/-  
.....J.  
[V.S. SIRPURKAR]

New Delhi.  
September 25, 2008.