IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10601 of 2015

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Dabur India Limited, a company Incorporated under the Companies Act, 1956 having its registered office at 8/3, Asaf Ali Road, New Delhi-110002 through its authorized representative/signatory Sri Rajinder Kumar Sharma, son of Late O.P. Sharma, resident of D-99, P.O. + P.S.- Vivek Vihar, Delhi.

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Finance, Govt. of India, New Delhi
2. The Commissioner of Customs, C.R. Building, 4th and 5th Floor, Birchand Patel Path, Patna.
3. The Additional Commissioner, Customs, Patna.
4. The Assistant Commissioner of Customs, Land Customs Station, Indian Border Post, Raxaul.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raghavan
Mr. Tanmoy Chakravarty
Mr. Brisketu Sharan Pandey

For the Respondent No.1: Mr. S.D Sanjay (Addl. Soc. Gen.)

For respondent Nos.2 to 4: Mrs. Nivedita Nirvikar, Senior Standing Counsel

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
and
HONOURABLE MR. JUSTICE AMARESH KUMAR LAL

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

2 22-07-2015 Heard learned counsel for the petitioner and learned Additional Solicitor General for the Union of India as also learned counsel for the Customs Department.

The sum and substance of the grievance of the petitioner is that the respondent authorities of the Land Customs Station, Indian Border Post, Raxaul have not been allowing the petitioner to avail of the benefit under notification No.01/2011-CE dated 1.3.2011 and pay duty at the rate of 2% CVD on goods imported through Nepal.

It is submitted by learned counsel for the petitioner that the said issue has already been decided by the Supreme Court in Civil Appeal No.9440 of 2003: M/s. SRF Ltd vs. Commissioner of Customs, Chennai by order dated 26.3.2015.

It is also contended by learned counsel for the petitioner that the petitioner has represented before the Assistant Commissioner of Customs, Raxaul on 22.5.2015 but the same has not yet been disposed of and the petitioner has been compelled to keep on paying CVD at the higher rate of 6 %, though under protest.

It is submitted by learned counsel for the petitioner that after the filing of the said representation a fresh notification has been issued by the Ministry of Finance, by which CVD has been raised to 6%. It is further submitted that at least the petitioner is entitled to avail of the benefit under notification No.01/2011-CE dated 1.3.2011 and pay duty at the rate of 2% CVD on goods imported through Nepal for the period prior to the fresh notification.

Learned Additional Solicitor General as also learned counsel for the Customs Department submit that the direction may be issued to the Assistant Commissioner to dispose of the representation of the petitioner.

In the said circumstances, let a fresh representation be filed by the petitioner along with a copy of the earlier representation dated 22.5.2015 as also a copy of the order of the Supreme Court within a period of two weeks from today so that it may be disposed of expeditiously.

The writ application is, accordingly, disposed of with the direction to respondent No.4, the Assistant Commissioner of Customs, Land Customs Station, Indian Border Post, Raxaul to consider and dispose of the fresh representation to be filed by the petitioner within a period of four weeks from the date of filing of the said representation.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

(Amaresh Kumar Lal, J)

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