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

Appeal No. C/754 - 763 / 2008 -SM[BR] Date 16/07/2009

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

To :
M/S ACE GLASS CONTAINERS PVT LTD
BAHADURGARH, DISTT- JHAJJAR, HARYANA.

M/S ACE GLASS CONTAINERS PVT LTD Appellant
Vs
C.C.E. DELHI III Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 705 -714 / 2009 -SM[BR] dated 9.7.2009 passed by the Tribunal under Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax

Assistant Registrar
(SM Appeal Branch)

**Copy to :**
1. Respondent
   C.C.E. DELHI III
   UDYOG MINAR, UDYOG VIHAR, VANIJYA NIKUNJ, PHASE V, GURGAON - 122016 (HARYANA)
2. Adv. / Consult
   MR.S.S.ARORA
   B1/71, SAFDARJUNG ENCLAVE, N.DELHI-29
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)

3. M/S ACE GLASS CONTAINERS PVT LTD
   BAHADURGARH, DISTT- JHAJJAR, HARYANA.

3. M/S ACE GLASS CONTAINERS PVT LTD
BAHADURGARH,DISTT- JHAJJAR, HARYANA.

4. M/S ACE GLASS CONTAINER LTD.
BAHADURGARH, DISTT;JHAJJAR [HARYANA]

5. M/S HINDUSTAN NATIONAL GLASS CONTAINERS PVT LTD

BAHADURGARH, DISTT- JHAJJAR, HARYANA.

6. M/S ACE GLASS CONTAINER LTD
BAHADURGARH,DISTT- JHAJJAR, HARYANA.

7. M/S ACE GLASS CONTAINERS PVT LTD
BAHADURGARH, DISTT- JHAJJAR, HARYANA,

8. M/S ACE GLASS CONTAINERS PVT LTD
BAHADURGARH,DISTT- JHAJJAR, HARYANA

9. M/S ACE GLASS CONTAINERS LTD.
BAHADURGARH DISTT-JHAJJAR, [HARYANA]

10. M/S ACE GLASS CONTAINERS PVT.LTD.
BAHADURGARH,DISTT-JHAJJAR, HARYANA

# IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
## WEST BLOCK NO. 2, R.K. PURAM, NEW DELHI

## COURT – III

## C/ APPEAL NO. 754-763 OF 2008-SM

[Arising out of Order-in-Appeal No. 155-164/AND/GGN/2008 dated 29.7.2008 passed by the Commissioner of Central Excise (Appeals), Delhi-III, Gurgaon]

**For approval and signature:**

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

| | | |
|---|---|---|
| 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? | 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 |

M/s. ACE Glass Containers Ltd.,
M/s. Hindustan Glass & Inds. Ltd., Appellants

Vs.

CC , Delhi Respondent

**Appearance:**

Shri Prabjyoti K. Chadha, Advocate for the appellants;
Shri R.K. Verma, D.R. for the Revenue

**Coram:**

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

**Date of hearing/decision: 9th July, 2009**

**FINAL ORDER NO.** 705 TO 714 / 2009 SM (BR) **dated**

**Per P.K. Das:**

All these appeals are arising out of common order and, therefore, all are being taken up together for disposal.

2. After hearing both sides and on perusal of the records, it is seen that refund claims filed by the appellants were rejected on the ground of unjust enrichment. Commissioner (Appeals) observed that the appellants failed to produce any evidence and mere submission of C.A. certificate is not sufficient. The learned Advocate on behalf of the appellants submits that they produced balance sheet in support of C.A. certificate. In this context, he drew the attention of the Bench to the relevant schedule of Balance Sheet.

3. After considering the facts and circumstances of the case, I find that to meet the ends of justice, C.A. certificate along with balance sheet are required to be examined by the original authority. As such the impugned orders are set aside. The matters are remanded back to the original authority to decide afresh on the basis of evidences produced by the appellants. Needless to say that the original authority shall provide proper opportunity of hearing before the decision. All the appeals are allowed by way of remand.

(Dictated & pronounced in the Open Court.)

(P.K. DAS)
MEMBER (JUDICIAL)

RK