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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. ST/703 & 704 / 2009 -SM[BR] Date 18/11/2009

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

To :
C.C.E BHOPAL
HOSHANGABAD ROAD, 48, ADMINISTRATIVE
AREA, AREA HILLS, BHOPAL (M.P.) 462011
C.C.E BHOPAL Appellant
Vs
M/S HINDUSTAN COCA COLA BEVERAGE PVT. LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 1441 – 1442 / 2009 -SM[BR] dated 12.11.2009 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
1. M/S HINDUSTAN COCA COLA BEVERAGE PVT. LTD.
2. M/S HINDUSTAN COCA COLA BEVERAGE PVT.LTD.
PILLUKHEDI,
DISTT. RAJGARH (M.P.)

2. Adv. / Consult MS. SHIRIN KHAJURIA ADV.
S-336, FF GREATER KAILASH PART II
NEW DELHI -110001.

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 Suncitv. 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)

# CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

**COURT-III**

**Date of hearing/decision:12.11.2009**

**Service Tax Appeals No.703 & 704 of 2009-SM**

Arising out of order in appeal No.238/BPL/2009 and No.237/BPL/2009 both dated 15.6.2009 passed by the Commissioner (Appeals), Customs & Central Excise, Bhopal.

For Approval and Signature:

Hon'ble Shri M. Veeraiyan, Member (Technical)

| | | |
|---|---|---|
| 1 | Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982? | Yes |
| 2 | Whether it should be released under Rule 27 of 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 |

C.C.E., Bhopal ... Appellant

Vs.

M/s Hindustan Coco Cola Beverage Pvt. Ltd. .... Respondent

Appearance:

Shri Sansar Chand, Authorized Departmental Representative (SDR) for the Revenue and Ms. Shirin Khajuria, Advocate for the respondent

Coram: Hon'ble Shri M. Veeraiyan, Member (Technical)

Oral Order No. 1441 - 1442/2009 SM(Br)

Per M. Veeraiyan:

These are two appeals by the Department against the orders No. 238/BPL/2009 and No.237/BPL/2009 both dated 15.6.2009.

2. Heard both sides.

3. The relevant facts, in brief, are that the respondents availed credit on services received by them relating to rent-a-cab, catering service, personal accident insurance and insurance services. The original authority held that these services cannot be considered as input services in relation to the manufacturing activities undertaken by the respondents and accordingly,

confirmed the demand along with interest and imposed penalties. However, the Commissioner (Appeals) relying on the decision of the Larger Bench of the Tribunal in the case of C.C.E., Mumbai -V vs. GTC Industries Ltd. reported 2008 (12) STR 468 (Tri-LB) and the decision of the Tribunal in the case of C.C.E& C., Aurangabad vs. Endurance Systems India Pvt. Ltd. reported in 2009 (237) ELT 204 (Tri-Mumbai) which itself was passed following the decision of M/s GTC Industries Ltd. cited supra allowed the appeals of the respondent.

4. Ld. SDR submits that the Department has filed appeals contending that the decisions in the case of GTC Industries Ltd. and in the case of Endurance Systems India Pvt. Ltd. have been challenged by the Department by filing appeal. It is not disputed that the facts of the present cases are not different from the facts in the case of GTC Industries Ltd. and Endurance Systems India Pvt. Ltd. relied upon by the Commissioner (Appeals) in coming to the conclusion in favour of the respondents. It is not claimed that the orders of the Tribunal have been stayed.

5. Learned Advocate for the respondents relies on the decision of the Tribunal vide Final Order No.1003/09 dated 1.5.2009 in Appeal No.ST/138/2007 passed by South Zonal Bench at Bangalore in their own case wherein services relating to medi-claim policy, security at depots, vehicle insurance, car rental pest control activities have been treated as input services again following the ratio laid down in the decision of the Larger Bench in the case of GTC Industries Ltd.

6. Inasmuch as the facts of the present case are admittedly the same as the cases on which the Commissioner (Appeals) has relied upon, the appeals by the Department do not merit acceptance.

7. Therefore, both the appeals are rejected.

(M. Veeraiyan)
Member (Technical)

scd/