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

**Appeal No. :** C/707-709/2007-CU[DB]

Dated: **20/06/2012**

**Assistant Registrar**
C.E.S.T.A.T. New Delhi
To,
**C.C JAIPUR I**
N.C.R.BUILDING, STATUE CIRCLE,
"C" SCHEME, JAIPUR 302005.

**C.C JAIPUR I** (Appellant)

**VS**

**JEWELLERY HOUSE** (Respondent)

I am directed to transmit herewith a certified copy of Final Order No. **C/A/163-165/2012-CU[DB]** dated **12/06/2012** passed by the Tribunal under section

**Assistant Registrar**
**CUSTOMS Appeal Branch**

**Copy To,**
**1. Respondent**
**JEWELLERY HOUSE**
102A, KGB KA RASTA,
JOHRI BAZAR, JAIPUR.
**2. Advocate(s) / Consultant(s):**
**3. C.D.R**
4. Bar Association, CESTAT, New Delhi

5. Director Publications, Customs, Excise. I.P. Estate, New Delhi

6. M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp. ICICI Bank of Defence Colony, New Delhi-3

7. Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

8. Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

9. Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-15

10. LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

11. TaxIndiaOnline.com Pvt. Ltd., Unit No. 1, 2nd Floor, Vasant Arcade, Nelson Mandela Road, Vasant Kunj, New Delhi - 110070

12. Office Copy

13. Gaurd File

**Assistant Registrar**
**CUSTOMS Appeal Branch**

14. **M/S GHATIWALA JEWELLERS**
PARTANIYON KA MANDIR,
PARTANIYON KA RASTA,
JOHRI BAZAR, JAIPUR.

15. **M/S BIRDHI CHAND**
**GANSHYAM DAS**
219, JOHRI BAZAR, JAIPUR.

# IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
# PRINCIPAL BENCH, COURT NO. III

**Customs Appeal No. 707 of 2007**

Date of Hearing/decision : 9.4.2012
Date of Hearing/decision : 12.6.2012

[Arising out of Order-in-Original No. 16 /2007 dated 13.6.2007 passed by the Commissioner of Customs, Jaipur]

Commissioner of Customs
Jaipur                                                  Appellants

Vs.

M/s. Jewellery House                                    Respondent

**Customs Appeal No. 708 of 2007**

[Arising out of Order-in-Original No. 17 /2007 dated 13.6.2007 passed by the Commissioner of Customs, Jaipur]

Commissioner of Customs
Jaipur                                                  Appellants

Vs.

M/s. Ghatiwala Jewellers.                               Respondent

**Customs Appeal No. 709 of 2007**

[Arising out of Order-in-Original No. 18 /2007 dated 13.6.2007 passed by the Commissioner of Customs, Jaipur]

| | |
|---|---|
| Commissioner of Customs<br>Jaipur | Appellants |
| Vs. | |
| M/s. Birdhi Chand Ganshyam Das. | Respondent |

**For approval and signature:**

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Mathew John, Member (Technical)

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| | | |
|---|---|---|
| 1. Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982? | : | No |
| 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? | : | Seen |
| 4. Whether Order is to be circulated to the Departmental authorities? | : | Yes |

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**Appearance:**

Shri R.K. Gupta, AR for the Appellants
None for the Respondent

**CORAM:**

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Mathew John, Member (Technical)

final **ORAL ORDER NO.** C/A/163-165/12

**Per Archana Wadhwa ( for the Bench)**:

Being aggrieved with the order passed by Commissioner of Customs, New Delhi, Revenue has filed the present appeal.

2. We have heard learned DR. Nobody appeared for the respondents. Normally we would have adjourned the matter in the interest of justice but we note that the issue involved in the present appeal of the Revenue already stand dealt with by the Tribunal in another set of appeals filed by the same Commissionerate. As such, we proceed to decide the Revenue's appeal.

3. The issue involved in the present appeal is as to whether the imports made by the respondents, by declaring the same as gold mountings and findings, bangles, necklaces, earrings etc. are entitled to the benefit of Notification No. 62/04 –Cus or same have to be considered as gold jewellery liable to customs duty.

4. An identical issue was considered in the case of CCE, Jaipur vs. V.K. International and others, Final Order No. C/472-477/2011 dated 1.9.2011, the appeals filed by the Revenue were allowed by holding that the gold mountings and findings being items as jewellery are outside the purview of the Notification No. 62/2004 and the Board's circular No. 40/2004-Cus dated 4.6.2004 and 13/06-Cus dated 29.3.06 clarifying that gold and silver mountings and finding are covered by

Notification No. 62/2004-Cus are contrary to the provisions of law and hence have no validity. By following the ratio of the above decision of the Tribunal, in identical set of facts and circumstances, we set aside the present impugned orders and allow the appeals filed by the Revenue.

5. As a consequence, the duty proposed to be raised in the show cause notice along with interest is confirmed.

(Pronounced in the open court on 12/6/12)

( Archana Wadhwa )
Member(Judicial)

( Mathew John )
Member(Technical)

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