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

**Appeal No. :** E/2975/2011 &2972/2011-EX[DB]

Dated: **09/07/2012**

**Assistant Registrar**
C.E.S.T.A.T. New Delhi
To,
**TRIVENI GLASS LIMITED**
Iradatganj, Allahabad(UP)

**TRIVENI GLASS LIMITED** (Appellant)

**VS**

**C.C.E Allahabad** (Respondent)

I am directed to transmit herewith a certified copy of Final Order No. **A/792-793/2012-EX[DB]** dated **03/07/2012** passed by the Tribunal under section **35-C(1) of the Central Excise and Salt Act, 1944.**

**Assistant Registrar**
**EXCISE Appeal Branch**

**Copy To,**
**1. Respondent**
**C.C.E Allahabad**
38,M.G.Marg, civil Lines, Allahabad

2. **Advocate(s) / Consultant(s):**
**V. Laxmikumaran**
5,Jangpura Extension,Link Road,New Delhi-110014

**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**
**EXCISE Appeal Branch**

**CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,**
West Block No.2, R.K.Puram, New Delhi
**COURT-I**

**Date of hearing/ decision: 03.07.2012**

**Hon'ble Sh. Justice Ajit Bharihoke, President**
**Hon'ble Sh. Rakesh Kumar, Member (Technical)**

| | | |
|---|---|---|
| 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 should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? | |
| 3 | Whether Their Lordships wish to see the fair copy of the Order? | |
| 4 | Whether Order is to be circulated to the Departmental authorities? | |

**Excise Appeal No. 2975 & 2972 of 2011**

(Arising out of order-in-Appeal No. 187-188/CE/ALLD/2011 dated 21.09.2011 passed by the Commissioner of Central Excise (Appeals), Allahabad).

M/s Triveni Glass Ltd. Appellants

Vs.

CCE, Allahabad Respondent

Present Shri B.L. Narasimhan, Advocate for the appellant.
Present Shri Nagesh Pathak, AR for the respondent.

CORAM : **Hon'ble Shri Justice Ajit Bharihoke, President**
**Hon'ble Shri Rakesh Kumar, Member (Technical)**

FINAL Order No. A/792-793/2012-EX(BR)

**Per: Rakesh Kumar (Oral):**

The appellant manufactures glass sheets. The dispute in this case is in respect of their sale to DGS & D during October, 2001 to March, 2006 period. The sales to DGS & D were at the factory gate. However, on the request of the buyers, the transportation and insurance was being arranged by the appellant. Transit insurance policy was in the name of the appellant. The charges for arranging transportation and transit insurance were being recovered as "safe delivery charges" by the appellants. The point of dispute in this case is as to whether "safe delivery charges", which are charges for transportation and transit insurance, are includible in the assessable value of the goods. The Deputy Commissioner vide orders in original dated 08/12/2006 and 26/02/2007 held that these charges are includible in the assessable value and confirmed the duty demands amounting to Rs.7,88,191/- and Rs.42,183/- respectively alongwith interest and imposed penalties of equal amount. These orders of the original authority were upheld by the Commissioner (Appeals) vide order in appeal No.187 & 188/CE/Alld/2011 dt.21.09.2011. Against these orders, the appellants have filed these appeals alongwith stay petitions.

2. Heard both sides on the stay petitions.

3. Shri B.L. Narasimhan, Advocate, ld. Counsel for the appellant in this case, pleaded that sales are at the factory gate, as is clear from the delivery contract, that only on the request of the customers in some cases the transportation and transit insurance was arranged by the appellant, in which case the goods are insured for the transit and insurance policy is in the name of the appellant, that in such cases, it cannot be said that the sales are at the buyers' premises, that in the appellant's own case, the Tribunal vide final order No. 328-329/2012-Ex (Br.) dated 27.02.2012 has decided the matter in their favour wherein the Tribunal relying upon the Apex Court's judgement in the case of **Escorts JCB Ltd. vs. CCE, Delhi-II- 2002 (146) ELT 31 (SC)** held that the transit insurance charges would not be includible in the assessable value of the goods. He, therefore, pleaded that the impugned order is not correct.

4. Shri Nagesh Pathak, ld. AR, defended the impugned order and reiterating the finding of the Commissioner, pleaded that since in this case the goods are insured by the appellant for the transit and the insurance policy is in the name of the appellant; the sale it at the buyers' premises and it is the buyer's premises, which would be the 'place of removal' and accordingly the safe delivery charges would be includible in the assessable value.

5. We have considered the submissions from both the sides and perused the record. Since the issue involved in this case stands decided in favour of the appellant by the Apex Court's judgement in the case of **Escorts JCB Ltd.** (supra) which has been followed by the Tribunal in the appellant own case for the previous period, we hold that the impugned orders are not sustainable. The same are set aside and the appeals are allowed.

(Justice Ajit Bharihoke)
President

(Rakesh Kumar)
Member (Technical)

Pant