

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

Appeal No. E/1890/2007 - SM [BR]

Date 18/03/2009

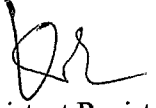
Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
M/S HVR ALLOYS & STEELS LTD.
B.S. ROAD, VILLAGE CHHAPARAULA, GHAZIABAD
M/S HVR ALLOYS & STEELS LTD.

Appellant
Vs
Respondent

C.C.E. GHAZIABAD

I am directed to transmit herewith a certified copy of **Final order No. 215 / 2009 -SM[BR]** dated 11.3.2009
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

C.C.E. GHAZIABAD

C.G. O. COMPLEX-II, KAMLA NEHRU NAGAR, GHAZIABAD 201302

2. Adv. / Consult

MR. RAJESH CHHIBBER

FA/9, NEW KAVI NAGAR, GHAZIABAD

3 S.D.R

4 J.C.D.R.

5 Bar association, CESTAT, New Delhi

6 M/s. Deeparchi Publications, M-93, Marg. 46, Saket, New Delhi 110017

7 M/s Centax Publications (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New - 3

8 Excise & Customs cases, B-37, Sector -1, NOIDA - 201301 Gautam Budh Nagar, (U.P.)

9 Raghuraman's 44-B, Regal Flat, Shipra Suncity, Indirapuram - 201010, Ghaziabad, DT, U.P.

10 Nidheshak publications, I.P. Estate, new Delhi

11 Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026

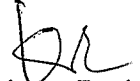
12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagaraya Road, T. Nagar, Chennai

13 Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant Kuni, New Delhi - 110070

14 Easy Service Tax Online Dot Com Pvt.Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-1

15 Office Copy

16 Guard file


Assistant Registrar
(SM Appeal Branch)

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH
NEW DELHI, COURT NO.I**

Excise Appeal No. 1890 of 2007-SM

[Arising out of order-in-appeal No. 26-CE/GZB/2007 dated 23.3.2007 passed by the Commissioner (Appeals), Central Excise, Ghaziabad]

Date of Hearing/Decision : 06.02.2009

For approval and signature:

Hon'ble Ms. Jyoti Balasundaram, Vice-President

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

M/s HVR Alloys & Steels Limited

Appellant
[Rep. by Mr. Rajesh Chhibber, Advocate]

Versus

CCE, Ghaziabad

Respondent
[Rep. by Mr. Sansar Chand, DR]

CORAM: Hon'ble Ms. Jyoti Balasundaram, Vice-President

Final Order No. 215/09-SM (DR)

Per Jyoti Balasundaram:

The ~~case of~~ the Department is that, the assessee herein who are job workers for Steel Authority of India Limited (SAIL) manufactured and cleared 137.800 MT of 'bloom by gas cutting' during April 1994 for other purposes without payment of duty of Rs. 1,72,226/-. It is the contention of the assessee that the above mentioned quantity was not cleared without payment of duty, but was

retained under oral permission granted by SAIL and transferred to raw materials and then captively consumed in the manufacture of billets. For this purpose they rely upon the entry made in the RG-I which shows that the exact quantity was transferred to form-IV register. 137.800 MT was transferred to (RM) raw material and entered in the RG-I register and RT-12 return. However, I note that in the monthly RT-12 returns, this quantity has been entered under the column clearance for other purposes. Further, the assessee has not been able to ^{offer} ~~place~~ any convincing explanation as to how the above quantity ^{was} permitted to be retained by them without any charges being paid to SAIL. In this view of the matter, the claim of the appellant, that the quantity on which the demand has been confirmed was not cleared without payment of duty but retained and captively consumed, remains unsubstantiated. Therefore, the impugned order is upheld and appeal is rejected.

[Dictated and pronounced in the open Court]

[Jyoti Balasundaram]
Vice President

[Pant]