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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. E/146 /2008 – SM[BR] Date 08/01/2010

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

To :
C.C.E. LUDHIANA
CENTRAL EXCISE HOUSE, 'F' BLOCK, RISHI NAGAR,
LUDHIANA 141001 (PUNJAB)

C.C.E. LUDHIANA — Appellant

Vs

M/S HBR STEEL CORPORATION — Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 29 / 2010 –SM[BR] dated 1.1.2010 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
   M/S HBR STEEL CORPORATION
   GALI NO. 2, SUNDER SINGH MARKET, GILL ROAD, LUDHIANA.
2. Adv. / Consult SHRI SUDHIR MALHOTRA ADV.
   N/V;----------------------------------

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)
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Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

COURT NO. II

Excise Appeal No. 146 of 2008-SM

(Arising out of Order-in-Appeal No. 324/CE/Ldh/2006 dated 22.10.2007 passed by the Commissioner (Appeals), Customs & Central Excise, Chandigarh)

CCE, Ludhiana — Appellant

Vs.

M/s HBR Steel Corporation — Respondent

Date of Hearing: 18.12.2009

Appearance :

Appeared for Appellant - Shri Vijay Kumar, DR
Appeared for Respondent - Shri Sudhir Malhotra, Advocate

CORAM: HON'BLE MR. D.N. PANDA, JUDICIAL MEMBER

Final Order No. 29/2010-SM (BR) dated 1.1.2010.

Per D.N. Panda:

The amount involved in this case is very small. But the gravity of the matter does not call for waiver of penalty even though innocence is pleaded by ld. Counsel for Respondent. Both sides agree that penalty was imposed on a second stage dealer who dealt the modvatable goods and issued invoiced to the manufacturer of excisable goods to enable him to claim Cenvat on input supplied by this dealer. Record shows that the said goods have been sold by the dealer were incapable of being transported by auto cycle. Ld. DR Shri Vijay Kumar confirms that beneficiary of the transaction claiming Cenvat credit was denied of the same finding the transaction to be fictitious and mere paper transaction. When the records shows that the Revenue was endangered and the Appellant dealer was instrumental, such agent should visit penalty of Rs.5000/- as a preventive measure as against the penalty of Rs.10,000/- imposed. Consequently, Revenue's Appeal is allowed partly modifying the order of the ld. Commissioner (Appeals) holding that penalty of Rs.5000/- shall be realisable from the Appellant.

(Dictated & pronounced in open Court)

(D.N. PANDA)
JUDICIAL MEMBER

RM