

GRAM : CEGCANAL

REGISTERED/A.D

THE CUSTOMS, EXCISE & GOLD (CONTROL) APPELLATE TRIBUNAL,

West Block No. 2, R.K. Puram, New Delhi - 110066.

Appeal No. E/Stay/1600 & 1601/200-NB(SM) BENCH NB(SM)
E/2881-2882/00-NB(SM)

Dated : 29-1-2001

CEGAT
NEW DELHI
To,

M/s Harman Steels Pvt. Ltd.,

SI-K. Sarabha Nagar

Ludhiana (PB)

In the matter of :

M/s Harman Steels Pvt. Ltd.,

Appellant

vs.

CCE Chandigarh

Respondent

Stay order No. S/MS-46/2001-NB(SM)

I am directed to transmit herewith a certified copy of Final Order No. A/129-130/2001-NB(SM)
Dated : passed by the Tribunal under Section 35-C(1) of Central Excise & Salt Act, 1944/Section 129 (B) of the Customs, Act, 1962.

Copy to :

Asstt. Registrar

1. CCE Chandigarh
2. CCE/CC/(Appeal) Chandigarh
3. Chief Commissioner of Central Excise/Customs. New Delhi
4. Adv./Consult. Shri Du Arora, Adv.,
B-XIX-810/A, Civil Lines
Prince Hostel Lane, Ludhiana (PB)
5. S.D.R
6. JCDR
7. Bar Association, CEGAT, New Delhi
8. Library, CEGAT, New Delhi
9. Director (Review), C.B.E.C. North Block, New Delhi
10. Guard File.
11. M/s Deeparchic Publications, M-93, Marg-46, Saket, New Delhi.
12. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah Marg, opp. Sachdeva P.T. College of Defence Colony, New Delhi-110003
13. M/s Lex Site Com. Ltd., Mumbai
14. Office Copy
15. M/s Capital Law House,
16. M/s Cur-ans Publication,

Asstt. Registrar

**In the Custom, Excise & Gold (Control) Appellate Tribunal
New Delhi**

E/S/1600 & 1601/NB/SM and
E/2881-2882/00 NB

APPEAL NO.....OF 19 (.....)

ARISING OUT OF ORDER IN ORIGINAL/APPEAL NO.

388 & 389/CE/Chandi/2k dt. 25-1-2kDATED.....

PASSED BY COMMISSIONER (APPEALS),
CENTRAL EXCISE & CUSTOMS, CHANDIGARH

22-1-2001

Date of decision.....

M/S HARMAN STEELS(P) LTD

.....APPELLANT (S)

Represented by Sh./Smt. HARI OM. ARORA, ADVOCATE

VERSUS

CCE CHANDIGARH

.....RESPONDENT (S)

Represented by Sh./Smt. SWANTANTRA KUMAR, JDR

CORAM:

SHRI V.K.AGRAWAL, MEMBER (TECHNICAL

To be referred to the Reporter or not ?

FINAL ORDER NO. A/129-130/01/NB (S/m)
STAY ORDER NOS/45-46/01/NB (S/m)

Per.....V.K.AGRAWAL:

Both the matter are posted today for hearing the stay application. However, as the issue involved is in very narrow compass, I stay the recovery the penalty of Rs. 20,000/- imposed on M/s Harman Steels (P) Ltd., and take up the appeal for disposal with the consent of both the sides.

2. Shri H.O.Arora, Ld. Advocate, submitted that the Deputy Commissioner had disallowed the Modvat Credit for non filing of Modvat Declaration and had imposed the penalty; that on appeal, the Commissioner (Appeals), under the impugned Order, allowed the Modvat Credit as the declaration was filed by them within 6 months of receipt of inputs in terms of provisions of Rule 57G (10) of the Central Excise Rules; that the Commissioner (Appeals), however, upheld the penalty without assigning any reason; that the question of penalty does not arise as there was no contravention of ^{any} Rules.

3. Shri Swantratra Kumar, Ld. D.R., opposed the prayer by submitting that as the Modvat Credit was availed of before filing the declaration under Rule 57G, penalty is imposable on the Appellants. ~~I have considered the submissions of both the sides.~~

4. I have considered the submissions of both the sides. The penalty was imposed by the Deputy Commissioner ^{as} the Appellants had taken the Modvat Credit before filing the Modvat Declaration. Once the lower Appellate Authority has allowed the Modvat Credit to the Appellants under provisions of Sub-Rule (9) and (10) of Rule 57G, the question of imposition of any penalty does not arise. Accordingly, the penalty imposed is set aside and both the appeals are allowed.

(V.K.AGRAWAL)
MEMBER (TECHNICAL)