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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. ST/1549/2010 - CU[DB]
ST/COD/463/10, ST/S/3285/10

Date **27/06/2011**

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

To :
M/S HARDEV SINGH,

GOVT. CONTRACTOR HOUSE NO. 67-C, JAWAHAR
MARKET, NANGAL TOWNSHIP DISTT. ROPAR.

M/S HARDEV SINGH, Appellant

Vs

C.C.E. LUDHIANA Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/235/ 2011 CU[DB]** dated 20.06.11 passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**

Alongwith Stay Order No 340/11 & Misc Order No
ST/100/11

Assistant Registrar
(Customs Appeal Branch)

Copy to :

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

2. Adv. / Consult
MR.HARVINDER SINGH,ADV
34/10, RAJ NAGAR, KAPURTHALA ROAD,
SUNNY BISTER BHANDAR, JALANDHAR.

3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New Delhi
6. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
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. Guard file

Assistant Registrar
(Customs Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066

COURT NO. II

ST/COD/463/10 & ST/STAY/3285/10 and
Service Tax Appeal No. 1549 of 2010

[Arising out of Order-in-Appeal No. 38/ST/Chd-II/2010 dated 21.07.2010 passed by the Commissioner of Customs & Central Excise (Appeals), Chandigarh].

Date of Hearing/decision: 6th June, 2011

For approval and signature:

Hon'ble Shri D.N. Panda, Judicial Member;
Hon'ble Shri Mathew John, Technical Member

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?	

Shri Hardev Singh — Appellant

Vs.

CCE, Ludhiana — Respondent

Present for the Appellant : Shri Harvinder Singh, Adv.
Present for the Respondent : Shri K.K. Jaiswal, D.R.

Coram: Hon'ble Shri D.N. Panda, Judicial Member
Hon'ble Shri Mathew John, Technical Member

Misc Order No: ST/100/11
FINAL ORDER NO. ST/235/11 **DATED**
Stay order No: ST/340/11

Per D.N. Panda:

There is only 8 days' delay in filing the appeal. The reason for delay explained appears to be reasonable for which delay so made is condoned and Misc. application for condonation of delay is allowed.

2. The appellant is in appeal against revisionary order passed by the Commissioner on 21.7.2010 giving rise to tax demand of Rs. 77,545/-. He exercised the jurisdiction on 29.4.2010 for issuance of show cause notice after the first appellate authority in respect of same cause of action decided appeal of the assessee on 29.9.2009 which is neither being agitated either by Revenue or by the assessee before the Tribunal. Accordingly the matter in controversy arising out of show cause noticed 9.2.2007 and subject matter of appeal of adjudication ~~by~~ order dated 22.7.2008 ~~being~~ before the first appellate authority reached to its finality by order dated 29.9.2009 of the said authority.

3. When the dispute was concluded as above, the appellant faced revisionary proceedings after 7 months of disposal of appeal by the first appellate authority. Revisional authority taking different view of the matter revised the adjudication order giving rise to aforesaid tax demand. The controversy having reached to finality, a parallel order came from revisionary authority. Law is well settled that there

cannot be two parallel orders in respect of same proceedings. Hon'ble High Court of Rajasthan in the case of UOI vs. Inani Carriers, reported in 2009 (13) STR 230 (Raj.) has held that once the appellate power has been exercised, exercise of revisionary power is not acceptable to law on the same controversy. When we examined the show cause notice issued at the first adjudication stage and revisionary stage, we are satisfied that both disputes relate to same amount of receipt of Rs. 20,09,509/-.

4. Having noticed aforesaid features in the above appeal we dispense with the requirement of pre-deposit and also following ratio laid down by Hon'ble High Court of Rajasthan we allow the appeal holding that the first appellate authority's order having been reached to finality, in absence of appeal by either side against that order, that only shall prevail for which impugned order is set aside.

(Dictated & pronounced in the Open Court.)

(D.N. PANDA)
JUDICIAL MEMBER

(MATHEW JOHN)
TECHNICAL MEMBER

RK