IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No.E/54505/2014-EX[DB]

(Arising out of Order-in-Original No.47/Commissioner/Meerut-II/2013-14 dated 17/04/2014 passed by Commissioner, Customs, Central Excise & Service Tax, Meerut-II)

M/s Archidply Industries Ltd. **…Appellant**

Vs.

Commissioner, Customs, Central Excise & Service Tax, Meerut-II
…Respondent

Appearance:

Shri Atul Gupta (Advocate) for Appellant
Shri Mohd. Altaf, Assistant Commissioner (AR), for Respondent

CORAM:

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)
Hon'ble Mr Ajay Sharma, Member (Judicial)

Date of Hearing/ Decision : 26/03/2019

FINAL ORDER NO. **70678 / 2019**

Per: Ajay Sharma,

The instant appeal has been filed against the Order-In-Original No.47/Commissioner/Meerut-II/2013-14 dated 17.04.2014 passed by the Commissioner, Customs, Central Excise & Service Tax, Meerut-II. The issue involved in this Appeal is whether the Resins i.e. Phenol Formaldehyde Resin, Cardanol Formaldehyde Resin, Urea Formaldehyde Resin and Melamine Formaldehyde resin used captively by the appellant are marketable and are classifiable under Chapter Heading No.3909 and consequently eligible to avail area based exemption under Notification No.50/2003-CE dated 10.06.2003. According to the department resins are classifiable under Chapter heading 39 and therefore, the appellant's are not eligible for area based exemption.

2. We have heard learned counsel for the appellant and learned A.R. on behalf of the Revenue and perused the records. During the course of the hearing, learned counsel for the appellant submitted that the period involved in the instant appeal is April, 2012 to December, 2012 whereas for the earlier period i.e. April, 2006 to March, 2012 and for the subsequent period viz. January, 2013 to February, 2013 in Appellant's own case this issue has already been decided by this Tribunal in favour of appellant in Appeal No.E/50054/2015-EX[DB], M/s Archidply Industries Ltd. V/s Commissioner, Customs & Central Excise, Hapur vide Final Order No. 70928/2018 dated 22.01.2018 and also in Appeal No.E/58365/2013-EX[DB] in the matter of M/s Greenply Industries Ltd. (Unit-I) and others V/s Commissioner of Customs & Central Excise, Meerut-II vide Order No.70243-70245 dated 17.01.2018 in which this Tribunal has held that Resins are not classified under Chapter heading 3909 and therefore, denial of exemption is not sustainable. Learned A.R. did not dispute the above mentioned submissions of the learned counsel.

3. With the help of learned counsel, we have gone through the above mentioned decisions of this Tribunal in appellants own case and found that the issue involved in the instant appeal is no longer *res-integra* and has already been decided in favour of appellant by the Tribunal and against the said decisions no appeal is stated to have been filed by Revenue. Therefore, by following the earlier decisions of this Tribunal, we are of the view that the impugned order is not sustainable in the eyes of law and the same is hereby set aside.

4. The appeal filed by the appellant is, therefore, allowed with consequential relief, if any.

(Pronounced & Dictated in Court)

Sd/-
(Ajay Sharma)
Member (Judicial)

Sd/-
(Anil G. Shakkarwar)
Member (Technical)

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