

Customs, Excise & Service Tax Appellate Tribunal
SCO 147-148, SECTOR-17-C, CHANDIGARH-160017

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Appeal No. E/50178/2014

[Arising out of OIA-JNK-000-APP-200-123-14 dated 18.06.2013 passed by the Commissioner (Appeals) of Central Excise-JAMMU & KASHMIR]

CCE & ST- Jammu & Kashmir : Appellant (s)

Vs

M/s Ritzy Polymers : Respondent (s)

**Represented by:**

For Appellant (s) : Shri M. S. Dhindsa, AR

For Respondent (s): Shri Amrinder Singh, Advocate

**CORAM :**

**Mr. Ashok Jindal, Hon'ble Member (Judicial)**

**Mr. Bijay Kumar,, Hon'ble Member (Technical)**

Date of Hearing/Decision: 06.12.2018

**ORDER No. A/63575 / 2018**

***Per : Mr. Ashok Jindal***

Revenue is in appeal against the impugned order wherein the benefit of notification No. 01/2010-CE dated 06.02.2010 has been granted to the respondent.

2. The facts of the case are that the respondent are engaged in the manufacture of plasticizers and thinners etc. falling under Chapter Heading No. 38 and 29 respectively of the First Schedule to the Central Excise Tariff Act, 1985. In order to avail the benefit of area based Notification No. 01/2010-CE dated 06.02.2010, the respondent had undertaken substantial expansion which was verified and found in order vide order dated 17.05.2012 and allowed the exemption under the said notification w.e.f. 01.12.2011. Against the said order, Revenue filed appeal before the Ld.

Commissioner (A) on the ground that the respondent is not entitled for the benefit of said exemption notification. The appeal filed by the Revenue was dismissed by the Ld. Commissioner (A) vide order dated 30.08.2013 and holding that the respondent was eligible to avail exemption in terms of para 8 (b) (ii) of the exemption notification. Against the said order, Revenue filed the present appeal on the ground that the Respondent was entitled to avail benefit of Notification No. 56/2002 –CE dated 14.11.2002 for a period of 10 years and allowing the respondent to take the benefit of exemption notification would render the said period redundant. Therefore, Revenue is in appeal.

3. Heard the parties.

4. Considering the fact that the similar issue came up before this Tribunal in the case of ***CCE & ST- Jammu & Kashmir vs. M/s Sud Pines Pvt.***

***Limited vide Final Order No. A/63084/2018 dated 30.08.2018***, this

Tribunal observed as under:-

5. Considering the fact that as per CBEC Circular No. 977/01/2014 dated 03.01.2014, the position has been clarified in Paragraph 3 of the said Circular which is as under:-

“3. It is, therefore, clarified that an existing unit which has availed of excise duty exemption under notification No. 56/2002-CE & 57/2002, both dated 14.11.2002 by way of substantial expansion can avail of excise duty exemption under notification No. 1/2010-CE dated 06.02.2010 again by way of second substantial expansion so long as it satisfies the conditions stipulated under notification No. 1/2010-CE dated 06.02.2010.”

As it has been clarified that the Respondent is entitled to benefit of Notification No. 01/2010-CE dated 06.02.2010, it is immaterial whether they have claimed the benefit of Notification No. 56/2002-CE dated 14.11.2002 or not. Therefore, we hold that the Respondent has correctly availed the benefit of

Notification No. 1/2010-CE dated 06.02.2010 and refund claims sanctioned to the Respondent are in order. Therefore, we do not find any merit in the appeal filed by the Revenue accordingly the same are dismissed.

As the issue has already been decided that although the assessee is entitled to avail benefit of exemption under Notification No. 56/2002-CE dated 14.11.2002. The assessee is also entitled to avail benefit of Notification No. 01/2010-CE dated 06.02.2010. In that circumstances, we hold that the assessee is correctly availed the benefit of Notification No. 01/2010-CE dated 06.02.2010. Therefore, we do not find any infirmity with the impugned order, the same is upheld.

5. In result, the appeal filed by the Revenue is dismissed.

*(Dictated & pronounced in the Court)*

**(Bijay Kumar)**  
Member (Technical)

**(Ashok Jindal)**  
Member (Judicial)

G.Y.