CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH-COURT NO.I

EXCISE APPEAL No. 2009 of 2012

(Arising out of Order-in-Appeal No. 33 to 38/Comm./MRT-I/ 2011 dated 27.12.2011 passed by Commissioner, Customs & Central Excise Commissionerate, Meerut- I)

Sanjeev Jindal, **.... Appellant**
(Former Director)
M/s. Kotdwar Steels Limited

Versus

Commissioner, Customs & Central Excise, **.... Respondent**
Commissionerate, Meerut- I
Meerut (Uttar Pradesh)

APPEARANCE:

Shri Ajay Kumar, Advocate for the Appellant
Shri Rakesh Agarwal, Authorized Representative for the Department

CORAM:

HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. P V SUBBA RAO, MEMBER (TECHNICAL)

Date of Hearing/ Decision: 08.07.2022

FINAL ORDER NO. 50601 /2022

JUSTICE DILIP GUPTA

This appeal was initially filed by the appellant who is a former Director of M/s. Kotdwar Steals Limited[1] before the Allahabad Bench of the Tribunal to assail the order dated December 27, 2011 passed by the Commissioner, Central Excise, Meerut-I, by which amongst others, a penalty of Rs.5 Lakhs was

---
1. the Company

also imposed upon the appellant under rule 26 of the Central Excise Rules, 2002.

2. It transpires from the record that by an order dated September 13, 2018 the matter was transferred to the Principal Bench at Delhi after obtaining the approval of the President of the Tribunal.

3. The finding recorded in the order is that exemption under a notification that granted area based exemption was wrongly obtained by the Company and its Directors. It is for this reason that apart from denying the exemption claimed by the Company, penalty was also imposed upon the Directors.

4. Learned counsel for the appellant has placed the decision of the Tribunal dated September 27, 2016 by which ten appeals were allowed. The contention of the Department that a Company was not entitled to claim area based exemption was rejected. These appeals are numbered as Excise Appeals nos. 115, 116, 117 of 2007, Excise Appeal nos. 772-773 of 2012 and Excise Appeal nos. 58006-58010 of 2013.

5. Learned counsel for the appellant submitted that since penalty was imposed upon the appellant merely for the reason that the Company was not entitled to claim the area based Exemption, the order deserves to be set aside in view of the earlier decision dated September 27, 2022 of the Tribunal.

6. Learned Authorized Representative appearing for the Department does not dispute this factual position.

7. The submission of learned counsel for the appellant deserves to be accepted.

8. The impugned order dated December 27, 2011 in so far as seeks to impose a penalty of Rs.5 lakhs on the appellant, therefore, deserves to be set aside and is set aside. The appeal is, accordingly, allowed.

(JUSTICE DILIP GUPTA)
PRESIDENT

(P V SUBBA RAO)
MEMBER (TECHNICAL)

Archana