IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing/Decision: 10.3.2017

Appeal No. E/976-977/2008-DB

(Arising out of Order-in-Appeal No.18-19-CE/Meerut-II/08 dated 25.1.2008 passed by the Commissioner (Appeals), Customs & Central Excise, Meerut-II)

M/s J.K. Industries — Appellant

Vs.

CCE, Meerut-II — Respondent

Appearance

Shri Yudish Kr. Gupta, Advocate - for the appellant

Shri H.C. Saini, D.R. - for the respondent

CORAM:**Hon'ble Mr. Justice (Dr.) Satish Chandra, President**
Hon'ble Mr. Ashok K. Arya, Member (Technical)

Final Order No. 52422-52423/2017

Per Justice Dr. Satish Chandra:

Both the appeals have been filed against the Order-in-Appeal dated 25.1.2008.

2. The brief facts of the case are that during the period under consideration (November 2005 to March 2006), the appellant was a manufacturer of fortified rosin and natural rosin falling under Chapter Heading 3806 and have their factory in District Haldwani of Uttranchal. The appellant has availed the Area Based Exemption under Notification Nos. 49 & 50/2003. The submission of the

appellant is that production was started in the year 2005 but the Area Based Exemption was availed on with effect from 1.4.2006. The appellant claimed the SSI exemption for the prior period i.e. November, 2005 to March, 2006. The same was denied by the department. Being aggrieved, the appellant has filed the present appeal.

3. With this background, we have heard Shri Yudish Kr. Gupta and Shri H.C. Saini, ld. Counsels for the parties.

3. From the record, it appears that for the period November, 2005 to March, 2006, the appellant has not availed the exemption either in the SSI exemption or Area Based Exemption. The Area based exemption was allowed with effect from 1.4.2006. It may be mentioned that at one time, only one exemption can be availed by the appellant. The submission of the appellant needs verification, especially, when it is claimed that total turnover is less than the prescribed limit for the SSI unit during the period for which exemption is claimed. The turnover will have to be verified by the lower authorities.

4. Hence, we set aside the impugned order and remand the matter to the adjudicating authority to decide the issue de novo in

the light of above discussions but by providing an opportunity of hearing to the assessees. Additional evidence, if need be, may be admitted as per law.

5. In the result, both the appeals are allowed by way of remand.

(Dictated & pronounced in open Court)

(Ashok K. Arya)
Member (Technical)

(Justice Dr. Satish Chandra)
President

RM