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

Date of Hearing/Decision: 16.3.2017

Appeal No. E/903/2010-DB

(Arising out of Order-in-Appeal No. 170-A 170—F-CE/MRT/2009 dated 24.12.2009 passed by the Commissioner of Central Excise (Appeals), Meerut)

M/s Rana Castings Ltd. Appellant

Vs.

CCE, Meerut-I Respondent

Appearance

Shri Hemant Bajaj, Advocate - for the appellant

Shri G.R. Singh, 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. 52549/2017

Per Justice Dr. Satish Chandra:

The present appeal is filed against the Order-in-Appeal No. 170 dated 24.12.2009. The period of dispute is December 2003 and August, 2004 to October, 2004.

2. The brief facts of the case are that during the period under consideration, the appellant was engaged in the manufacture of MS ingots classifiable under Chapter sub-heading 7206.90 of the first schedule to the Central Excise Tariff Act, 1985. The assessee - appellant has claimed the benefit of the duty exemption based on the

area, as per Notification No. 50/2003 dated 10.6.2003. But the same was denied by the Department. So, after issuing two show cause notices, the adjudicating authority has confirmed the demand and penalty. Being aggrieved, the appellant has filed appeal before Commissioner (Appeals) who also denied the benefit of area based exemption, as per Notification No. 50/2003 but allowed the benefit of cum duty and Cenvat credit. Being not satisfied, the appellant has knocked the door of the Tribunal who vide its order dated 8.3.2017 in Appeal No. 3816-3817/2006 has allowed the claim of the appellant by stating that the benefit of Notification No. 50/2003 is available to the appellant. Be that as it may.

3. When the Commissioner (Appeals) has denied the benefit to Notification No. 50/2003 but allowed the benefit of cum duty and Cenvat credit. The matter was referred to the adjudicating authority for quantification. The adjudicating authority has allowed the cum duty benefit. Being aggrieved, the appellant has approached the Commissioner (Appeals) in the second round. The Commissioner (Appeals) has allowed the Cenvat credit and reduced the penalty and also stated that the appellant is not entitled for the benefit of Notification No. 50/2003. In this background, the appellant has filed the present appeal.

4. With this background, we have heard Shri Hemant Bajaj and Shri G.R. Singh, ld. Counsels for the parties.

5. After hearing both the parties, it may mention that when the Tribunal has already granted the area based exemption as per Notification No. 50/2003 dated 10.6.2003 (supra), then the impugned order has become infructuous. In the result, the present appeal is merely an academic exercise.

6. In view of the above, the impugned order is set aside. The appeal is allowed with consequential relief, if any.

(Dictated & pronounced in open Court)

(Ashok K. Arya) (Justice Dr. Satish Chandra)
Member (Technical) President

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