

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

Date of Hearing/Decision: 7.4.2017

Appeal No. E/1708/2009-DB with E/CO/204/2009

(Arising out of Order-in-Appeal No. 137-138/CE/MRT-II/2009 dated 20.3.2009 passed by the Commissioner (Appeals), Customs & Central Excise, Meerut-II)

CCE, Meerut-II

Appellant

Vs.

M/s Multiwal Pulp & Board (P) Ltd.

Respondent

Appearance

Shri H.C. Saini, D.R.

- for the appellant

Shri R.M. Saxena, Advocate

- for the respondent

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

Final Order No. 52901/2017

Per Justice Dr. Satish Chandra:

The present appeal is filed by the Department against the Order-in-Original No. 137-138/2009 dated 20.3.2009.

2. The brief facts of the case are that the appellant during the relevant period (9.10.2003 to 29.5.2004), was engaged in the manufacturing of kraft paper. The appellant was having the factory in Kashipur, Uttarakhand. The appellant claimed the benefit of area based exemption under Notification No. 49/2003 by stating that the production @ 25% has been increased in the factory. But the exemption was denied by the Department. However, by the

impugned order in appeal, the claim of the appellant was allowed. Being aggrieved, the department has filed the present appeal.

3. With this background, we have heard Shri H.C. Saini and Shri R.M. Saxena, Id. Counsels for the parties.

4. After hearing both the sides and on perusal of record, it appears that the Commissioner (Appeals) has already considered the expert opinion provided by the Department of Paper Technology, IIT Roorkee. The Commissioner (Appeals) has already examined all the necessary papers pertaining to boilers and machines etc. Finally, the Commissioner opined that the expansion in their installed capacity is in accordance to the parameters of the notification. It is a question of fact and the same was decided by Commissioner (Appeals) after examining the entire record and the expert opinion. When it is so, then we decline to interfere with the impugned order and the same is hereby sustained along with the reasons mentioned therein.

5. In the result, the appeal filed by the Department is dismissed. Cross-objections are also disposed of.

(Dictated & pronounced in the open court)

(ASHOK K. ARYA)
MEMBER (TECHNICAL)

(JUSTICE Dr. SATISH CHANDRA)
PRESIDENT

RM