IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. I

Excise Appeal No. 55778/2013
And E/ 50159 & 52865 of 2016

[Arising out of Order-in-Appeal Nos. OIA-217-CE-MRT-II-2012 dated 12.10.2012, OIA-HPU-EXCUS-000-APPEALS-I-313-2015-16 dated 28.10.2015 and OIA-HUP-EXCUS-000-APPEALS-1-307-2015-16 dated 27.10.2015 passed by the Commissioner of Central Excise & Service Tax, Meerut II and Dehradun]

M/s. Saral Wire Craft Pvt.Ltd. **Appellant**

Vs.

Commissioner of Central Excise **Respondent**
Meerut II

Appearance:

Shri R M Saxena, Consultant for the Appellants-assessee
Shri R K Mishra, AR for the Respondent- Revenue

CORAM:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Member (Technical)

Date of Hearing/ Decision: 17.07.2017

FINAL ORDER NO. 55609-55611 /2017

Per: Justice (Dr.) Satish Chandra:

The present appeals are filed against order-in-Appeal Nos. 217/2012 dated 12.10.2012, 313/2013 dated 28.10.2015 and 307/2015 dated 27.10.2015. The appellant was having unit for manufacturing of wire mesh and perforated screens of Chapter 73 at Haldwani, Uttarakhand. The items are subjected to Excise duty. But as per

Notification No. 50/2003-CE dated 10.6.2003, the appellant was enjoying "area based exemption" during the period April, 2010 to June, 2011. The unit was in a plot comprising 8 khasra numbers which are adjacent and in one compound. Somehow one Khasra No. 130M which was having 0.90% of the total area was not mentioned in the notification. So the demand of Rs.1,61,937/- was raised along with penalty and interest by denying the benefit of the Notification. Being aggrieved the appellant has filed the present appeal.

2. With this background, we heard Shri R M Saxena, and Shri R K Mishra, learned Counsels. We have also gone through the material available on record filed by the appellant.

3. It is not a disputed fact that all 8 khasras are adjacent where the unit was established. It is not necessary that every inch of the land will be utilized for installation of machines. There may be some area left free and open. Notification did not cover Khasra No. 130M which is only 0.0030 hectare. It means that this covered only 0.90 percent of the total area of the factory plot which is negligible. When it is so, then the benefit of area based exemption cannot be denied specially when plots are adjacent and not separated. In view of the above, we set aside the impugned and the appeal filed by the appellant is allowed.

(Dictated and pronounced in the open Court)

(V. Padmanabhan)
Member (Technical)

(Justice (Dr.) Satish Chandra)
President

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