CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Excise Appeal No. 52837 of 2016

(Arising out of Order-in-Original No. BSP/EXUSE/COM/000/014/2016 dated 20.07.2016 passed by the Commissioner of Central Excise, Raipur**)**

DATE OF HEARING : 19.09.2017
DATE OF DECISION : 19.09.2017

M/s GKC Projects Ltd. **….** **Appellants**
(Rep by Ms. Kranti Rathi, Adv.)

VERSUS

CCE, Raipur **….** **Respondent**
(Rep. by Sh H.C. Saini, DR)

CORAM : **HON'BLE MR. JUSTICE (DR.) SATISH CHANDRA, PRESIDENT**
HON'BLE MR. V. PADMANABHAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 56756/2017

PER JUSTICE (Dr.) SATISH CHANDRA :

The present appeal is filed by the assessee-Appellants against the Order-in-Original No. BSP/EXUSE/COM/000/014/2016 dated 20.07.2016 passed by the Commissioner of Central Excise, Raipur. The period in dispute is April 2013 to August 2013.

2. The brief facts of the case are that, during the period under consideration, the assessee-Appellant was a sub-contractor of M/s Unitech Machines Ltd. who had received the contract from

M/s Jindal Power Ltd. for construction of the pipes at the site. M/s Jindal Power Ltd. had allotted a space by crossing road for manufacturing the pipes exclusively for M/s Jindal Power Ltd. The Department has considered this as a separate site, so benefit of Exemption Notification No. 41/11 dated 18.11.2011 was denied to the assessee-Appellants. Being aggrieved, the assessee-Appellants have filed the present appeal.

3. With this background, we have heard Ms. Kranti Rathi, learned counsel for the assessee-Appellants and Shri H.C. Saini, learned DR for the Revenue.

4. Ms. Kranti Rathi, learned counsel, submits that except exemption under Notification No. 41/11 dated 18.11.2011, no other ground is taken in the present appeal. Regarding exemption, she submits that the site was allotted by M/s Jindal Power Ltd. and the goods were manufactured exclusively for M/s Jindal Power Ltd. All goods were fabricated at the site of the work for using the same in the construction work at such site. She also submits that for the earlier period from March 2011 to March 2012, the Department vide its dated 31.03.2017 had granted the relief to the assessee-Appellants by extending the exemption as per the Notification No. 41/11 dated 18.11.2011. Lastly, she made a request that the exemption may kindly be extended.

4. On the other hand, the learned DR for the Revenue, justifies the impugned order.

5. After hearing both sides and on perusal of the material available on record, it appears that the Circular No. 456/22/99-CX dated 18.05.1999 issued by the Department prescribes that separate off road site will also be considered as the same included any premises made available to the manufacturer of the goods falling under Heading No. 68.07 and sub-heading 7308.50 of the Schedule to the Central Excise Tariff Act, 1985. When it is so, then we find no justification to sustain the impugned order and the same is hereby set aside.

6. In the result, the appeal filed by the assessee-Appellants is allowed.

(Dictated & pronounced in the open court)

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(V. PADMANABHAN)
MEMBER (TECHNICAL)

(JUSTICE (Dr.) SATISH CHANDRA)
PRESIDENT

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