CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R.K.Puram, New Delhi

COURT-I

Date of hearing/Decision: 06.11.2017

Appeal No. E/52906/2016 [EX] DB
[Arising out of the Order in Appeal No. DDN-EXCUS-000-COM-034-16-17 dated 13/07/2016 Passed by The Commissioner, Central Excise Dehradun (Uttrakhand)]

M/s A.D. Auto Parts Industries. … Appellant

Vs.

CCE Dehradun … Respondent

Appearance:
Present None for the appellant
Present Shri H. Saini, DR for the respondent

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

FINAL ORDER No. 57718/2017

Per: Justice Dr. Satish Chandra

1. The present appeal is filed against Order-in-Appeal No. 34/2016 dated 13/07/2016. The period of dispute is 29/03/2012 to 12/03/2013.

2. The brief facts of the case are that earlier, the factory was known as M/s Creative Engineers which was established in Haridwar, Uttrakhand and was enjoying the area based exemption under Notification No. 50/2003 dated 10/06/2003. The exemption was availed w.e.f 01/04/2008. Later, on 21/02/2012, the said factory was sold to the present appellant M/s K.D. Auto parts Industries along with the plant and machinery fixtures etc. In other words, complete ownership of the erstwhile company was transferred to the present company. The appellant is also enjoying the area based exemption but for the period under consideration the exemption was denied for the reason the appellant has not submitted the declaration. Being aggrieved the appellant has filed the present appeal.

3. With this background we heard Shri Aalok Arora, Ld. Counsel for the appellant and Shri M.R. Sharma, Ld. DR for the department.

4. After hearing both the parties and on perusal of record, it appears that the production is not in dispute soon after purchase, the area based exemption was allowed to the appellant even after the disputed period the area based exemption was allowed. Only for the disputed period the exemption was denied as the declaration was filed belated. This is merely as technical mistake for which the substantial justice cannot be denied. Hence, by following the ratio laid down in *Herbal Concepts Healthcare Pvt. Ltd. V.s CCE, Meerut-I* 2013 (294) ELT 570 (Tri.-Del.) we set aside the impugned order and allow the area based exemption for the period under consideration.

5. In the result, the appeal filed by the appellant is allowed.

[Order Dictated and Pronounced in the open court]

(V.Padmanabhan)
Member (Technical)

(Justice Dr. Satish Chandra)
President

Rekha