

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Zonal Bench, Ahmedabad

Appeal No. E/1235-1258/2010-DB

(Arising out of OIA No. 232-255/2010/COMMR-A-/RAJ dated 04/05/2010 passed by Commissioner of Central Excise, Customs and Service Tax-Rajkot)

Anchor Daewoo Industries Ltd. - **Appellant**

Vs.

C.C.E. & S.T., - Rajkot - **Respondent**

Represented by:

For the appellant : Shri Aditya Tripathi (Advocate)
For the respondent : Shri L. Patra, Asst. Commr.(AR)

CORAM:

Hon'ble Mr. Ramesh Nair, Member (Judicial)
Hon'ble Mr. Raju, Member (Technical)

Date of Hearing: 30.11.2018

Date of Decision: 20.12.2018

ORDER NO. A/12868-12891/2018

Per: Ramesh Nair

The issue involved is that whether the appellant availing area based exemption under notification 39/01-CE dated 31/07/2001, is entitled for refund of the amount of Education Cess and Secondary & Higher Education Cess paid from PLA.

2. Shri Aditya Tripathi, Ld. Counsel appearing on behalf of appellant submits that the issue is covered by the Hon'ble Supreme Court Judgement in the case of SRD Nutrients Pvt. Ltd. Vs. CCE 2017 (11) TMI 655 (SC). In the same matter Hon'ble Supreme Court dismissed the Review Petition filed by the Revenue reported at 2018 (7) TMI 1655-(SC).

3. Shri L.Patra, Ld. AR appearing on behalf of the Revenue reiterates the findings of the impugned order.

4. Considering the position of the law as laid down by the Hon'ble Supreme Court in the case of SRD Nutrients (supra), the issue is no longer under dispute. Accordingly, appellant is entitled for the refund of Education Cess and Secondary & Higher Education Cess under notification no. 39/01-CE. Accordingly, the impugned order is set aside. The appeals are allowed.

(Pronounced in the open Court on 20.12.2018)

(Raju)
Member (Technical)

(Ramesh Nair)
Member (Judicial)

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