CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Zonal Bench, Ahmedabad

Appeal No. E/1160/2010-DB
(Arising out of OIA no. 121/2010/COMMR-A-/RAJ dated 31/03/2010 passed by Commissioner of Central Excise, Customs and Service Tax-RAJKOT)

Ratnamani Metals & tubes - **Appellant**

Vs.

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

Represented by:
For the appellant : Shri Rahul Gajera, Adv.
For the respondent : Shri Gobind Jha, Supdt.(AR)

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

Date of Hearing/Decision: 01.02.2019

Order No. A/10248/2019

Per: Ramesh Nair

The issue involved is that whether the appellant is entitled for the refund is of Education Cess in terms of notification no. 39/01-CE dated 31/07/2001.

2. Shri Rahul Gajera, Ld. Counsel appearing on behalf of the appellant at the outset submits that the issue is settled by the Hon'ble Supreme Court Judgment in the case of SRD Nutrients Pvt. Ltd. Vs. Commissioner of C. Excise, Guwahati 2017 (355) ELT 481 (S.C.)

3. Shri Gobind Jha, Ld. Supdt. (AR) appearing on behalf of the Revenue reiterates the findings of the impugned order.

4. On careful consideration of submission made by both the sides, we find that the issue that whether the appellant is entitled for the refund of Education Cess in terms of Notification no. 39/01-CE has been settled by the

Hon'ble Supreme Court judgment in the case of SRD Nutrients Pvt. Ltd. (supra). Accordingly, the impugned order is not sustainable and the same is set aside. Appeal is allowed, with consequential relief, if any, in accordance to law.

(Dictated and pronounced in the open Court)

(Ramesh Nair)
Member (Judicial)

(Raju)
Member (Technical)

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