Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad

REGIONAL BENCH- COURT NO.3

Excise Appeal No.646 of 2012

(Arising out of OIA-224/2012/COMMR-A-/RBT/RAJ dated 02/05/2012 passed by Commissioner of Central Excise, Customs and Service Tax-RAJKOT)

Asr Multimetal Pvt Ltd ....**Appellant**
S.No. 394/2, 398, 399, 400, Nh 8a, Vill-Chhadawada, Tal-Bhachau,
KUTCH, GUJARAT

VERSUS

C.C.E. & S.T.-Rajkot ....**Respondent**
Central Excise Bhavan,
Race Course Ring Road...Income Tax Office,
Rajkot, Gujarat-360001

APPEARANCE:
Shri R. Subramanya, Advocate for the Appellant
Shri Prakash Kumar Singh, Superintendent (AR) for the Respondent

CORAM: **HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR**
HON'BLE MEMBER (TECHNICAL), MR. RAJU

Final Order No. A/ 11776 /2022

DATE OF HEARING: 24.11.2022
DATE OF DECISION: 24.11.2022

RAMESH NAIR

The issue involved as to whether the appellant can utilize the cenvat credit of basic excise duty for payment of education cess and secondly higher education cess.

02. Shri R. Subramanya, learned counsel appearing on behalf of the appellant submits that the issue is settled as per the judgment of this tribunal in the case of MONO STEEL INDIA LTD.- 2022 (8) TMI 411- CESTAT Ahmedabad. He submits that the decision of this tribunal in the appellant's own case has been relied upon in this case therefore, the issue is no longer under in dispute.

03. Shri Prakash Kumar Singh, Learned Superintendent AR appearing on behalf of the revenue reiterates the finding of the impugned order.

04. On careful consideration of the submissions made by both the sides and perusal of records, we find that as per the decision cited by the learned counsel, even in their own case the issue has been settled that the assessee

can utilize the cenvat credit of basic excise duty for payment of education cess and secondary higher education cess while availing the Notification No.39/2001-CE.

05. Following the above cited decision of this tribunal, the impugned order is set aside. Appeal is allowed.

(Dictated & Pronounced in the open court)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

Mehul