IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I
E/CROSS/33/2012
APPEAL No.E/2447/2011-EX[DB]

(Arising out of Order-in-Appeal No.109/CE/APPL/ALLD/2011 dated 26/07/2011 passed by Commissioner of Central Excise (Appeals), Allahabad)

Commissioner of Central Excise, Allahabad **Appellant**

Vs.

M/s Basti Sugar Mill Co. Ltd. **Respondent**

Appearance:

Shri Mohammad Altaf, Assistant Commissioner (AR) for Appellant
Absent, for Respondent

CORAM:

Hon'ble Smt. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 22/05/2018
Date of Decision : 22/05/2018

FINAL ORDER NO-**70947 / 2018**

Per: Archana Wadhwa

The short issue involved is as to whether the sugar cess should be included while calculating the quantum of Education Cess & Secondary Higher Education Cess or not.

2. We find that the issue stands decided by the decision of Hon'ble Gujarat High Court in the case of Commissioner Vs Sahakari Khand Udyog Mandli Ltd. reported at 2011 (263) ELT 34 (Guj.) wherein the Hon'ble High Court have held that

Sugar Cess cannot be equated with duty and not treatable as part and parcel of amount on which Education cess to be calculated.

3. Inasmuch as the issue stands decided by the earlier order of Hon'ble Gujarat High Court, we reject the present appeal of Revenue.

(Dictated in Court)

(Anil G. Shakkarwar)
Member (Technical)

(Archana Wadhwa)
Member (Judicial)

akp