

CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL

SCO 147-148, SECTOR 17-C, CHANDIGARH – 160 017

COURT NO. I

Appeal Nos. E/837-840,972-973,1067-1070,1260,1263,1264/2008

E/1318,1321,1322,1330-1332,1335-1337,1580-1582/2008-DB

E/Cross/234/2008 in Appeal No. E/972/2008)

Date of Hearing/ Decision : 06.03.2018

S/No.	Appeal No	OIA/OIO No.	Date of Impugned Order	Passed By	Appellant	Respondent
1	E/837/2008	OIA- 18-21/CE/APPL/JAL/2008	30/01/2008	Commissioner (Appeals) Central Excise-JAMMU & KASHMIR	-C.C.E. JAMMU	INTEX INDUSTRIES
2	E/838/2008	OIA- 18-21/CE/APPL/JAL/2008	30/01/2008	Commissioner (Appeals) Central Excise-JAMMU & KASHMIR	-C.C.E. JAMMU	INTEX INDUSTRIES
3	E/839/2008	OIA- 18-21/CE/APPL/JAL/2008	30/01/2008	Commissioner (Appeals) Central Excise-JAMMU & KASHMIR	-C.C.E. JAMMU	INTEX INDUSTRIES
4	E/840/2008	OIA- 18-21/CE/APPL/JAL/2008	30/01/2008	Commissioner (Appeals) Central Excise-JAMMU & KASHMIR	-C.C.E. JAMMU	INTEX INDUSTRIES
5	E/972/2008	OIA- 23/CE/APPL/JAL/2008	30/01/2008	Commissioner (Appeals) Central Excise-JAMMU & KASHMIR	-C.C.E. JAMMU	NANDA MINT & PINE CHEMICALS LTD.
6	E/973/2008	OIA- 12/CE/APPL/JAL/2008	30/01/2008	Commissioner (Appeals) Central Excise-JAMMU & KASHMIR	-C.C.E. JAMMU	INTEX INDUSTRIES
7	E/1067/2008	OIA- 41-44/CE/APPL/JAL/2008	22/02/2008	Commissioner (Appeals) Central Excise-JAMMU & KASHMIR	-C.C.E. JAMMU	PHAROSE REMEDIES LTD.
8	E/1068/2008	OIA- 41-44/CE/APPL/JAL/2008	22/02/2008	Commissioner (Appeals) Central Excise-JAMMU & KASHMIR	-C.C.E. JAMMU	PHAROSE REMDIES LTD.
9	E/1069/2008	OIA- 41-44/CE/APPL/JAL/2008	22/02/2008	Commissioner (Appeals) Central Excise-JAMMU & KASHMIR	-C.C.E. JAMMU	PHAROSE REMEDIES LTD.
10	E/1070/2008	OIA- 41-44/CE/APPL/JAL/2008	22/02/2008	Commissioner (Appeals) Central Excise-JAMMU & KASHMIR	-C.C.E. JAMMU	PHAROSE REMDIES LTD.
11	E/1260/2008	OIA- 76/CE/APPL/JAL/2008	29/02/2008	Commissioner (Appeals) Central Excise-JAMMU & KASHMIR	-C.C.E. JAMMU	GAURAV AGRO CHEM INDUSTRIES

12	E/1263/2008	OIA-79/CE/APPL/JAL/2008	29/02/2008	Commissioner (Appeals) Central Excise-JAMMU & KASHMIR	-C.C.E. JAMMU	CROP CHEMICALS INDIA LTD. UNIT II
13	E/1264/2008	OIA-79-CE-APPL-JAL-2008	29/02/2008	Commissioner (Appeals) Central Excise-JAMMU & KASHMIR	-C.C.E. JAMMU	Crop Chemicals India Ltd. Unit Ii
14	E/1318/2008	OIA-100/CE/APPL/JAL/2008	20/03/2008	Commissioner (Appeals) Central Excise-JAMMU & KASHMIR	-C.C.E. JAMMU	SHIVA MINT INDUSTRIES
15	E/1321/2008	OIA-88/CE/APPL/JAL/2008	20/03/2008	Commissioner (Appeals) Central Excise-JAMMU & KASHMIR	-C.C.E. JAMMU	SONALAC PAINTS & COATINGS LTD.
16	E/1322/2008	OIA-82/CE/APPL/JAL/2008	20/03/2008	Commissioner (Appeals) Central Excise-JAMMU & KASHMIR	-C.C.E. JAMMU	CROP CHEMICALS INDIA LTD.
17	E/1330/2008	OIA- 105-107/CE/APPL/JAL/2008	20/03/2008	Commissioner (Appeals) Central Excise-JAMMU & KASHMIR	-C.C.E. JAMMU	J & K ALUMINIUM CO.
18	E/1331/200	OIA- 105-107/CE/APPL/JAL/2008	20/03/2008	Commissioner (Appeals) Central Excise-JAMMU & KASHMIR	-C.C.E. JAMMU	J & K ALUMINIUM CO.
19	E/1332/2008	OIA- 105-107/CE/APPL/JAL/2008	20/06/2008	Commissioner (Appeals) Central Excise-JAMMU & KASHMIR	-C.C.E. JAMMU	J & K ALUMINIUM CO.
20	E/1335/2008	OIA- 109-111/CE/APPL/JAL/2008	20/03/2008	-	-C.C.E. JAMMU	J & K PIGMENTS PVT. LTD.
21	E/1336/2008	OIA- 109-111/CE/APPL/JAL/2008	20/03/2008	Commissioner (Appeals) Central Excise-JAMMU & KASHMIR	-C.C.E. JAMMU	J & K PIGMENTS PVT. LTD.
22	E/1337/2008	OIA- 109-111/CE/APPL/JAL/2008	20/03/2008	Commissioner (Appeals) Central Excise-JAMMU & KASHMIR	-C.C.E. JAMMU	J & K PIGMENTS PVT. LTD.
23	E/1580/2008	OIA- 168-170/CE/APPL/JAL/2008	31/03/2008	Commissioner (Appeals) Central Excise-JAMMU & KASHMIR	-C.C.E. JAMMU	PIONEER PESTICIDES PVT. LTD.
24	E/1581/2008	OIA- 168-170/CE/APPL/JAL/2008	31/03/2008	Commissioner (Appeals) Central Excise-JAMMU & KASHMIR	-C.C.E. JAMMU	PIONEER PESTICIDES PVT. LTD.
25	E/1582/2008	OIA- 168-170/CE/APPL/JAL/2008	31/03/2008	Commissioner (Appeals) Central Excise-JAMMU & KASHMIR	-C.C.E. JAMMU	PIONEER PESTICIDES PVT. LTD.

Appearance:

Shri R.K. Hasija, Shri Gautam Chugh, Shri Sudip Singh, Shri AS Gill, Shri A.S. Hasija, Advocates for the Appellant(s)
Shri Harvinder Singh, Shri Tarun Kumar, A.Rs. for the Respondent(s)

CORAM:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. B. Ravichandran, Member (Technical)

Final Order No. 60447-60472/2018

Per : Justice (Dr.) Satish Chandra

All the appeals have been filed by Revenue pertaining to entitlement of refund of Education/Higher Education Cess paid by the respondents-assessee in respect of final products manufactured and cleared by them availing area based exemption under Notification No. **56/2002-CE dated 14.11.2002**. By the impugned orders, the claim of the assesseees were allowed but the Revenue held a view that the assessee-Appellants are not eligible for such refund as exemption is available only to excise duty.

2. Heard both sides and perused the material available on record.
3. Both sides agreed that the issue pertaining to the Education/Higher Education Cess has already been decided by the Hon'ble Supreme Court in the case of **M/s. SRD Nutrients Pvt. Limited vs CCE, Guwahati - 2017 (355) ELT 481 (SC)**, wherein it was observed that the assessee-Appellants are entitled to the refund of Education/Higher Education Cess which was paid along with excise duty, once the excise duty itself is exempted.

4. In view of the above, by following the ratio laid down by the Hon'ble Supreme Court (supra), we find no reason to interfere with impugned orders where the refund claim of the assessee-Appellants pertaining to Education/Higher Education Cess was allowed.

5. In the result, all the appeals filed by the Revenue are dismissed. Cross appeal by assessee-respondent in Appeal No. E/972/2008 (E/Cross234/2008) also get disposed of.

(Order dictated and pronounced in the court)

(B. Ravichandran)
Member (Technical)

(Justice Dr. Satish Chandra)
President

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