

# CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL

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

## COURT NO. I

**Appeal Nos. E/889,2390-2394,2165-2167,2169,2395-2396,2403-2416/2009  
E/2422-2427,2660-2677/2009-DB**

(E/Cross/181/2009 in E/2165/2009)

**Date of Hearing/ Decision : 07.03.2018**

| S/No. | Case No     | Impugned Order Detail's              | Date of Impugned Order | Passed By                                      | Appellant     | Respondent                           |
|-------|-------------|--------------------------------------|------------------------|------------------------------------------------|---------------|--------------------------------------|
| 1.    | E/889/2009  | OIA- 869/CE/APPL/JAL/2008            | 31/12/2008             | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | MODERN ROSIN AND TURPENTINE FACTORY, |
| 2.    | E/2390/2009 | OIA- 459-463/CE/APPL/CHD-II(JK-/2009 | 19/05/2009             | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | NANDA MINT AND PINE CHEMICALS LTD.   |
| 3.    | E/2391/2009 | OIA- 459-463/CE/APPL/CHD-II(JK-/2009 | 19/05/2009             | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | NANDA MINT AND PINE CHEMICALS LTD.   |
| 4.    | E/2392/2009 | OIA- 459-463/CE/APPL/CHD-II(JK-/2009 | 19/05/2009             | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | NANDA MINT AND PINE CHEMICALS LTD.   |
| 5.    | E/2393/2009 | OIA- 459-463/CE/APPL/CHD-II(JK-/2009 | 19/05/2009             | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | NANDA MINT AND PINE CHEMICALS LTD.   |
| 6.    | E/2394/2009 | OIA- 459-463/CE/APPL/CHD-II(JK-/2009 | 19/05/2009             | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | NANDA MINT AND PINE CHEMICALS LTD.   |
| 7.    | E/2165/2009 | OIA- 357/CE/APPL/CHD-11(JK-/2009     | 16/04/2009             | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | PEARL DRINKS LTD                     |
| 8.    | E/2166/2009 | OIA- 412-413/CE/CHD-11(JK-/2009      | 30/04/2009             | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | CHANDERBHAGA PACKERS                 |
| 9.    | E/2167/2009 | OIA- 412-413/CE/CHD-11(JK-/2009      | 30/04/2009             | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | CHANDERBHAGA PACKERS                 |
| 10.   | E/2169/2009 | OIA- 415/CE/APPL/CHD-11(JK-/2009     | 30/04/2009             | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | CORROMANDEL FERTILIZERS LTD          |
| 11.   | E/2395/2009 | OIA- 479/CE/APPL/CHD-II(JK-/2009     | 19/05/2009             | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | IND-SWIFT LIMITED                    |
| 12.   | E/2396/2009 | OIA- 480/CE/APPL/CHD-II(JK-/2009     | 19/05/2009             | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | IND-SWIFT LIMITED                    |
| 13.   | E/2403/2009 | OIA- 433-446/CE/APPL/CHD-II(JK-/2009 | 19/05/2009             | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | KRISHI RASAYAN EXPORTS PVT LTD.      |
| 14.   | E/2404/2009 | OIA- 433-446/CE/APPL/CHD-II(JK-/2009 | 19/05/2009             | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | KRISHI RASAYAN EXPORTS PVT LTD.      |

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|-----|-------------|--------------------------------------|------------|------------------------------------------------|---------------|-----------------------------|
| 15. | E/2405/2009 | OIA- 433-446/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | CADILA PHARMACEUTICALS LTD. |
| 16. | E/2406/2009 | OIA- 433-446/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | CADILA PHARMACEUTICALS LTD. |
| 17. | E/2407/2009 | OIA- 433-446/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | CADILA PHARMACEUTICALS LTD. |
| 18. | E/2408/2009 | OIA- 433-446/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | CADILA PHARMACEUTICALS LTD. |
| 19. | E/2409/2009 | OIA- 433-446/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | CADILA PHARMACEUTICALS LTD. |
| 20. | E/2410/2009 | OIA- 433-446/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | CADILA PHARMACEUTICALS LTD. |
| 21. | E/2411/2009 | OIA- 433-446/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | AAR BEE INDUSTRIES,         |
| 22. | E/2412/2009 | OIA- 433-446/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | AAR BEE INDUSTRIES,         |
| 23. | E/2413/2009 | OIA- 433-446/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | AAR BEE INDUSTRIES,         |
| 24. | E/2414/2009 | OIA- 433-446/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | AAR BEE INDUSTRIES,         |
| 25. | E/2415/2009 | OIA- 433-446/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | AAR BEE INDUSTRIES,         |
| 26. | E/2416/2009 | OIA- 433-446/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | AAR BEE INDUSTRIES,         |
| 27. | E/2422/2009 | OIA- 484-490/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | NATIONAL CABLES (INDIA),    |
| 28. | E/2423/2009 | OIA- 484-490/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | NATIONAL CABLES (INDIA),    |
| 29. | E/2424/2009 | OIA- 484-490/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | NATIONAL CABLES (INDIA),    |
| 30. | E/2425/2009 | OIA- 484-490/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | NATIONAL CABLES (INDIA),    |
| 31. | E/2426/2009 | OIA- 484-490/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | EMCO WIRES AND CABLES,      |
| 32. | E/2427/2009 | OIA- 447-456/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | OM METAL SHAPER INDUSTRIES, |

|     |             |                                      |            |                                                |               |                            |
|-----|-------------|--------------------------------------|------------|------------------------------------------------|---------------|----------------------------|
| 33. | E/2660/2009 | OIA- 512-529/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | BHAGWATI METAL WORKS,      |
| 34. | E/2661/2009 | OIA- 512-529/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | BHAGWATI METAL WORKS,      |
| 35. | E/2662/2009 | OIA- 512-529/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | BHAGWATI METAL WORKS,      |
| 36. | E/2663/2009 | OIA- 512-529/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | BHAGWATI METAL WORKS,      |
| 37. | E/2664/2009 | OIA- 512-529/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | BHAGWATI METAL WORKS,      |
| 38. | E/2665/2009 | OIA- 512-529/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | ARAVALI INFRAPOWER LTD.    |
| 39. | E/2666/2009 | OIA- 512-529/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | ARAVALI INFRAPOWER LTD.    |
| 40. | E/2667/2009 | OIA- 512-529/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | V.M.TIMBER INDUSTRIES.     |
| 41. | E/2668/2009 | OIA- 512-529/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | V.M.TIMBER INDUSTRIES.     |
| 42. | E/2669/2009 | OIA- 512-529/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | V.M.TIMBER INDUSTRIES.     |
| 43. | E/2670/2009 | OIA- 512-529/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | V.M.TIMBER INDUSTRIES.     |
| 44. | E/2671/2009 | OIA- 512-529/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | V.M.TIMBER INDUSTRIES.     |
| 45. | E/2672/2009 | OIA- 512-529/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | J & K CEMENT CORPORATION,  |
| 46. | E/2673/2009 | OIA- 512-529/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | ABROL STEEL ROLLING MILLS, |
| 47. | E/2674/2009 | OIA- 512-529/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | ABROL STEEL ROLLING MILLS, |
| 48. | E/2675/2009 | OIA- 512-529/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | ABROL STEEL ROLLING MILLS, |
| 49. | E/2676/2009 | OIA- 512-529/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | SINGLA CABLES,             |
| 50. | E/2677/2009 | OIA- 512-529/CE/APPL/CHD-II(JK-/2009 | 19/05/2009 | Commissioner of Central Excise-JAMMU & KASHMIR | -C.C.E. JAMMU | SINGLA CABLES,             |

Appearance:

Shri R.K. Hasija, Shri A.S. Gill, Shri V.M. Doiphode, Shir Gautam Chugh, Shri S.K. Malhotra, Shri Naveen Bindal, Shri Veer Singh, Shri Jatin Mahajan Advocates for the Appellant(s)

Shri G.M. Sharma, A.R. for the Respondent(s)

**CORAM:**

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

**Final Order No.**

**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 assesseees 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 assesseees are entitled to the refund of Education/Higher Education Cess which was paid along with excise duty, once the excise duty itself is exempted. It is made clear that except for the

education cess/higher education cess, no other issue/ground is being pressed in these appeals.

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 claims of the assesseees pertaining to Education/Higher Education Cess were allowed.

5. In the result, all the appeals filed by the Revenue are dismissed. Cross appeal filed by assessee-respondent also disposed of.

*(Order dictated and pronounced in the court)*

**(B. Ravichandran)**  
**Member (Technical)**

**(Justice Dr. Satish Chandra)**  
**President**