CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL

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

COURT NO. I

Appeal No. E/476/2008-DB

Date of Hearing/ Decision : 06.03.2018

[Arising out of Order-in-Appeal No. OIA- 365-370/CE/APPL/JAL/2007 dated 22.11.2007 passed by the Commissioner (Appeals) Central Excise & ST, Jammu]

Commissioner of Central Excise & ST, Jammu : **Appellant**

vs.

M/s. Shree Balaji Alloys : **Respondent**

Appearance:

Shri Harvinder Singh. AR for the Appellant-Revenue
None for the Respondent(s)

CORAM:

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

Final Order No. 60773/2018

Per : Justice (Dr.) Satish Chandra

The sole issue in the present appeal is pertaining to the entitlement of assessee for the refund of education cess/ higher education cess paid on goods cleared after availing area based exemption under Notification No. 56/2002-CE dated 14.11.2002.

2. None appeared on behalf of the respondent. Heard Shri Harvinder Singh, AR for the Revenue. After hearing the ld. AR, we find that the issue is

covered by the decision of the Hon'ble Supreme Court in the case of *M/s. SRD Nutrients Pvt. Limited vs. CCE, Guwahati – 2017 –TIOL-416-SC-CX* wherein the apex court allowed the refund of education cess as well as higher education cess holding that excise duty itself was exempted.

3. In view of the above, we find no infirmity in the impugned order. Accordingly the appeal filed by Revenue is dismissed.

(Order dictated and pronounced in the court)

(B. Ravichandran)
Member (Technical)

(Justice Dr. Satish Chandra)
President

KL