CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
SCO 147-148, SECTOR 17-C, CHANDIGARH-160017

DIVISION BENCH
Court-I
Appeal No.E/1120/2012,E/51443-51444/2014 and E/54378/2014

(Arising out of OIA No.35/CE/Appeal/CHD-II(JK)/2012 dt.14.2.2012, OIA No.72-73/CE/Appeal/CHD-II(JK)/2013 dt.27.2.2013 and OIA No.JNK-EXCUS-000-APP-110-14-15 dt.30.4.2014 passed by the CCE (Appeals), Chandigarh-II)

Date of hearing/Decision:24.10.2018

Bharat Box Factory Limited **Appellant**
BBF Industries Limited
Vs.
CCE & ST Jammu & Kashmir **Respondent**

Present for the Appellant: Ms.Krati Somani, Advocate
Shri Amarinder Singh, Advocate
Present for the Respondent: Shri M.S.Dhindsa, AR

Coram: Hon'ble Mr. Ashok Jindal, Member (Judicial)
Hon'ble Mr.Anil G.Shakkarwar, Member (Technical)

FINAL ORDER NO. 63354-63357/2018

PER: ASHOK JINDAL

The appellants are in appeal against the impugned orders wherein it has been held that refund on education cess and higher education cess by utilising basic excise duty cannot be allowed to the appellants.

2. Heard the parties.

3. Considering the fact that the issue has been decided by Hon'ble Guwahati High Court in the case of Kamakhya Cosmetics & Pharmaceutical Pvt.Ltd-2015 (323) ELT 33 (Gau.) which has been followed by this Tribunal in their own case vide Final Order No.63168-63172/2018 dt.31.8.2018 held that the payment of

education cess/higher education cess by utilizing basic excise duty, cannot be the reason to deny the refund claim.

4. Therefore, we set aside the impugned orders and allow appeals with consequential relief.

(dictated and pronounced in the court)

(ANIL G.SHAKKARWAR)
MEMBER (TECHNICAL)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

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