CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Excise Appeal No.53617 of 2015

[Arising out of OIA No.JNK-EXCUS-000-APP-179-187-15-16 dated 29.06.2015 passed by the Principal Commissioner (Appeals), Central Excise, CR Building, Plot No.19, Sector 17C, Chandigarh)

M/s. Jai Shree Rasayan Udyog Ltd. **Appellant**
(Phase-II, SIDCO Industrial Growth Centre, Samba (J&k)

VERSUS

CCE & ST, Jammu & Kashmir **Respondent**
(Block 32, Rail Head Compound, Jammu-180012)

APPEARANCE:
Present for the Appellant: Shri Ajay Jain, Advocate
Present for the Respondent: Shri M.S.Dhindsa, AR

CORAM: HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)

FINAL ORDER NO.60120/2020

DATE OF HEARING/ DECISION: 21.01.2020

PER ASHOK JINDAL

The appeal of the appellant was disposed of vide Final Order No.A/63209/2018-Ex (DB) dated 5.9.2018. Thereafter, the Revenue filed an application for rectification of mistake. The application for rectification of mistake was allowed vide Miscellaneous Order No.60247/2019 dated 5.4.2019 and the order was recalled. Thereafter the matter came up for hearing before this Tribunal.

2. Heard the parties.

3. Considering the fact that the issue of value addition was not required to be considered since this issue was not the subject matter before this Tribunal. The issue was for consideration before the Tribunal as under:-

> "3.Considering the fact that the issue whether the appellant is entitled to refund/ self-credit of education cess/ higher education cess paid by them has been settled by the Hon'ble Apex Court in the case of **M/s. SRD Nutrients Pvt. Limited vs. CCE, Guwahati - 2017 (355) ELT 481 (SC)**, wherein it has been held that education cess/ higher education cess is continuation of duty paid by the assessee. If the assessee is entitled to refund of duty paid through PLA, then for the education cess/ higher education cess also, the assessee is entitled to claim refund/ self-credit. Therefore, we hold that the appellant is entitled to claim refund/ self-credit of education cess/ higher education paid by them through PLA.
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> 4. In view of the above, we hold that the appellant is entitled to claim refund/self credit of duty paid through PLA, in terms of Notification No. **56/2002-CE dated 14.11.2002."**

4. Therefore, following the above decision of this Tribunal, the appeal is disposed of.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)

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