

IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
SOUTH ZONAL BENCH AT CHENNAI

E/409/2010 & E/CO/63/2010

(Arising out of Order-in-Appeal No.41/2010 dated 24.03.2010
passed by the Commissioner of Central Excise (Appeals), Chennai).

CCE & ST, LTU, Chennai

Appellant

Vs.

M/s. Tel Exports

Respondent

Appearance

Shri S. Govindarajan, AC (AR)
for the appellant

Ms. K. Nancy, Advocate
for the Respondents

CORAM :

Hon'ble Smt. ARCHANA WADHWA, JUDICIAL MEMBER
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of Hearing/Decision: **24.10.2017**

FINAL ORDER No. 42425 /2017

Per: Archana Wadhwa,

The issue in the present appeal is as to whether the respondent is required to pay Education Cess and Secondary & Higher Education Cess at the time of DTA sales of the imported goods by 100% EOU, when such cess has already been paid at the time of import of the goods, stands decided by the Larger Bench



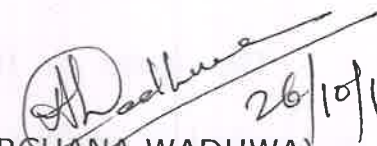

decision of the Tribunal in the case of *M/s. Kumar Arch Tech Pvt. Ltd. Vs. CCE, Jaipur* – 2013 (290) ELT 372 (Tri.-LB). It is seen that the relief has already been granted by the Commissioner (Appeals) by following the decision of the Tribunal in the case of *M/s. Sarla Performance Fibers Ltd. Vs. CCE, Vapi* – 2010-TIOL-408-CESTAT-AH.

2. The Revenue has preferred an appeal by again referring to the provisions of Section 3 of the Excise Act but silent on the applicability on the Tribunal's decision in the case of *Sarla Performance Fibers Ltd.* (supra). However, as the issue stands decided by the Larger Bench of the Tribunal, laying down that there is no requirement to pay Cess for the second time at the time of clearance of goods to DTA, as such, we find no infirmity in the impugned order of the Commissioner (Appeals). Revenue's appeal is accordingly rejected.

3. The Cross-objection filed by the assessee, which are primarily in the nature of written submissions also get disposed of.

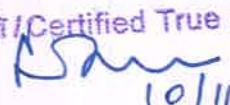
(Order dictated and pronounced in the open Court on)


(MADHUKRISHNAN DAMODHAR)
TECHNICAL MEMBER


(ARCHANA WADHWA)
JUDICIAL MEMBER

BB



प्रमाणित प्रति/Certified True Copy

10/11
सहायक पंजीकार/Asst. Registrar
सीमाशुल्क उत्पादशुल्क एवं सेवा कर
अपील अधिकारी/(CESTAT)
चेन्नई/CHENNAI