

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
REGIONAL BENCH AT HYDERABAD**

Division Bench

Court - I

**Appeal No. E/2484/2011**

(Arising out of Order-in-Appeal No. 57/2011 (H-IV) CE dated 10.06.2011 passed by  
CCCE & ST (Appeals-II), Hyderabad)

**Matrix Laboratories Ltd**

..... **Appellant(s)**

**Vs.**

**CCCE & ST, Hyderabad - IV**

..... **Respondent(s)**

**Appearance**

Shri G. Prahlad, Advocate for the Appellant.

Shri P.S. Reddy, Asst. Commissioner/AR for the Respondent.

**Coram:**

**HON'BLE Mr. M.V.Ravindran, MEMBER (JUDICIAL)**

**HON'BLE Mr. P. Venkata Subba Rao, MEMBER (TECHNICAL)**

**Date of Hearing: 02.01.2019**

**Date of Decision: 02.01.2019**

**FINAL ORDER No. A/30018/2019**

**[Order per: M.V.Ravindran.]**

1. This appeal is directed against Order-in-Appeal No. 57/2011 (H-IV) CE dated 10.06.2011.
2. Heard both sides and perused the records. On perusal of records it transpires that the issue is regarding liability to pay education cess and secondary & higher education cess on the amount of excise duty determined in terms of provisions of Sec.3(1) of Central Excise Act, 1944 to be payable by 100% EOUs on clearances to DTA.
3. Both sides agree that this issue was referred to Larger Bench and the Larger Bench in the case of Kumar Arch Tech Pvt Ltd [2013 (290) ELT 372 (Tri-LB)] and has recorded it which holds that education cess and secondary & higher education cess cannot be levied third time. Since, both sides agree

the issue is covered by the Larger Bench ratio, we hold that impugned order is unsustainable and liable to be set aside and we do so.

4. Appeal stands allowed.

(Dictated and pronounced in the open Court)

(P.VENKATA SUBBA RAO)  
MEMBER (TECHNICAL)  
Veda

(M.V. RAVINDRAN)  
MEMBER (JUDICIAL)