CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD

REGIONAL BENCH - COURT NO. – I

Excise Appeal No. 30587 of 2021
(Arising out of **Order-in-Appeal** No.HYD-EXCUS-MD-AP2-001 to 015-21-22-CE dated 22.07.2021 passed by Commissioner of Customs & Central Tax (Appeals-I), Hyderabad)

M/s Neuland Laboratories Ltd., .. **APPELLANT**
11th Floor,
Plot No. 573-III,
Phoenix IVY Building,
Road No. 82,
Jubilee Hills,
Hyderabad,
Telangana – 500 033.

VERSUS

Commissioner of Central Tax .. **RESPONDENT**
Medchal – GST
H.No. 11-4-649/B,
Opposite Mehdi Function Palace,
Above SBI Bazarghat Branch,
Lakdikapool,
Hyderabad,
Telangana – 500 004.

APPEARANCE:
Shri Pavan Inani & Ms L. Hasanti, CAs for the Appellant.
Shri K. Srinivasa Reddy, Authorized Representative for the Respondent.

CORAM: HON'BLE Mr. A.K. JYOTISHI, MEMBER (TECHNICAL)
HON'BLE Mr. ANGAD PRASAD, MEMBER (JUDICIAL)

FINAL ORDER No. A/30433/2026

Date of Hearing: 20.07.2026
Date of Decision: 20.07.2026

[ORDER PER: ANGAD PRASAD]

M/s Neuland Laboratories Ltd., (hereinafter referred to as appellant) are in appeal against the Order-in-Appeal dated 22.07.2021, whereby, Commissioner (Appeals) has upheld the order passed by the Original Authority rejecting the claim of refund (impugned order).

2. The issue, in brief, is that the appellant filed refund claim for an amount of Rs. 7,91,405/- being Education Cess (EC) and Secondary Higher Education Cess (SHEC) which transitioned into GST vide TRAN-1 return and also

subsequently reversed through ITC during the September, 2018 vide GSTR-3B. This refund claim was filed by the appellant under the provisions of Section 142(3) of CGST Act, 2017. The original Adjudicating Authority, inter alia, held that this amount in respect of which the refund has been claimed was lying in balance in ER-1 returns as on 30.06.2017. Moreover, in terms of Rule 9(c) of Cenvat Credit Rules, 2004 (CCR) credit of EC on excisable goods/taxable services and the SHEC on excisable goods can be utilised either for payment of EC/SHEC/excisable goods or for payment of EC/SHEC on taxable service. Therefore, EC/SHEC cannot be utilised for payment of duty of excise.

3. On appeal, the Commissioner (Appeals) has examined the submissions in detail and, inter alia, also relied on various judgments to come to the conclusion that the refund claim is not maintainable. After going through various provisions under Section 140 and Section 140(3) of CGST Act, 2017 and Rule 15 of CCR along with Section 174(2)(c) of CGST Act, he observed that Cenvat Credit and EC/SHEC availed under existing law is not saved and that there was no provision under existing law which allows refund of the Cess for the reason that the appellants were not unable to transit the Cess paid under existing law into electronic credit ledger under the GST regime.

4. Learned Advocate for the appellant has mainly contested that there are catena of judgments, wherein, the refunds have been allowed in terms of Section 142 of CGST Act, 2017. He is relying on the judgment of Co-ordinate Bench in the case of Bharat Heavy Electricals Ltd., Vs Commissioner of CGST, Bhopal [2019 (4) TMI 1896-CESTAT, New Delhi], wherein, the Bench had allowed the appeal against the rejection of refund claim. Similarly, in the case of Schlumberger Asia Services Ltd., Vs Commissionr of CE & ST,Gurgaon-I [2021 (5) TMI 954 – CESTAT, Chandigarh],.the similar issue was examined by the Co-ordinate Bench and inter alia, similar view was upheld.

5. On the other hand, Learned AR for the Department invited attention to the order of this Bench in the case of Hexagon Capability Centre India Pvt Ltd., wherein, vide Final Order No. A/30348/2026 dated 08.07.2026 this issue was examined by the Bench after going through various submissions and case laws including the case laws relied upon by the appellant and, inter alia, held that in view of clear judgment of Larger Bench of Hon'ble High Court of Bombay in the case of Gauri Plasticulture Pvt Ltd., Vs Commissioner of Central Excise, Mumbai-I [2019 (6) TMI 820 – Bombay HC], as also the decision of Hon'ble Jharkhand High Court in the case of Rungta Mines Ltd., Vs CCE, Jharkahand [2022 (2) TMI 934 – Jharkhand HC], the appellant would not be entitled for cash refund under Section 142(3) read with Section 174 of the Act. Therefore, the order of rejection of refund as upheld by the Commissioner (Appeals) was further upheld by the Tribunal.

6. Heard both the sides and perused the records.

7. We find that the short question for determination is whether the appellant would have been entitled for refund of credit balance lying in the Cenvat Credit account in respect of EC/SHEC in cash or otherwise. It is to be noted that there was no provision to transition these two cesses into the GST regime as per CGST Act and hence even though they had initially tried to transit but later on they reversed the same on their credit record maintained under erstwhile Act & Rules. In other words, they had claimed refund of the credit balance in respect of EC/SHEC, as was lying in the books of account in terms of ER-1 returns ending 30.06.2017. The Commissioner (Appeals) has essentially held that there is no provision under the CCR 2004, as also, in terms of relevant provisions cited and reliance upon CGST Act by the appellant to get cash refund of said balance. He has also considered the various judgments cited, wherein, the similar refund claims have been allowed on the

essential ground that these were vested interest. Further, we find that based on various case laws cited by the Revenue, the provisions under Section 142 essentially covers the situation where the cash refund is allowed when the same was otherwise admissible or available in terms of the existing provisions under the erstwhile law. In other words, if there was a provision for grant of cash refund in respect of these cesses lying in balance due to its un-utilization under the existing law, then, in such cases, the refund, merely because it was not granted before 30.06.2017, would have become admissible under Section 142(3) of CGST Act, 2017. However, in this case, as held by the Commissioner (Appeals), there was no provision for grant of cash refund of said balance of cesses as on 30.06.2017.

8. Thus, following the ratio of the judgments cited by the Revenue, we are of the view that refund cannot be granted in the facts of the case and therefore the order of the Commissioner (Appeals) is upheld.

9. Appeal dismissed.

(Operative part of this order was pronounced
in court on conclusion of the hearing)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

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