IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH: KOLKATA

Appeal No. E/137/2008

(Arising out of Order-in-Appeal No.82/CE(A)/GHY/07 dated 09.10.2007 passed by the Commissioner of Customs & Central Excise (Appeals), Guwahati)

Commissioner of Central Excise, Shillong

Applicant (s)/Appellant (s)

Vs.

Dharampal Satyapal Ltd.

Respondent (s)

Appearance:
Shri B.N.Pal, Advocate for the Appellant (s)
Shri T.R.Rastogi, Advocate for the Respondent (s)

CORAM:
Hon'ble SHRI JUSTICE (DR.) SATISH CHANDRA, PRESIDENT
Hon'ble SHRI V.Padmanabhan, Member (Technical)

Date of Hearing/Decision:- 03.05.2018

ORDER NO. FO/75996/2018

Per Dr. Satish Chandra

1. The present appeal has been filed against the Order-in-Appeal No.82/CE(A)/GHY/07 dated 09.10.2007. The issue in present appeal is regarding the payment of education cess from the credit of central excise duty. The Commissioner (Appeals) has allowed the claim of the appellant. Aggrieved by the same the department has filed the present appeal.

2. With this background we heard both sides and perused the appeal record.

3. After perusal of record it appears that identical issue has come up before the Hon'ble Gauhati High Court in the case of Union of India vs. Kamakhya Cosmetics & Pharmaceutical Pvt. Ltd. [2015(323) ELT 33 (Gau.)]

where the assessee has utilized the cenvat credit for payment of education cess and the same was allowed by the Hon'ble High Court.

4. By following the ratio laid down by the Hon'ble Gauhati High Court we find no reason to interfere with the impugned order and the same is hereby sustained.

5. In the result, the appeal filed by the department is dismissed.

(Dictated and pronounced in the Open Court)

S/d.
(Justice Dr. Satish Chandra)
President

S/d.
(V.Padmanabhan)
MEMBER (Technical)

ss