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

REGIONAL BENCH - COURT NO.2

Excise Appeal No.75415 of 2016
And

Excise Cross Objection No.75420 of 2016

(Arising out of Order-in-Original No.23-25/COMM/CE/SLG/15-16 dated 8 January 2016 passed by Commissioner of Customs, Central Excise & Service Tax, Siliguri.)

M/s. German Remedies Limited
(Previously known as Zydus Healthcare)
(Bhaghey Khola, N.H. 31 A,
Majhitar, Rangpo, East Sikkim-737132.)

...Appellant

VERSUS

Commissioner of Central Excise, Siliguri

.....Respondent

(C.R. Building, Haren Mukherjee Raod,
Hakim Para, Siliguri-734001.)

WITH

(i) Excise Appeal No.75416 of 2016 & Excise Cross Objection No. 75428 of 2016 (Shri Anil Kumar Gupta, Deputy Manager); (ii) Excise Appeal No.75417 of 2016 & Excise Cross Objection No. 75427 of 2016 (Shri Suman Bag, Plant Manager); (iii) Excise Appeal No.75418 of 2016 & Excise Cross Objection No. 75426 of 2016 (Shri Snehangshu Sen, Deputy Manager);

(Arising out of Order-in-Original No.23-25/COMM/CE/SLG/15-16 dated 8 January 2016 passed by Commissioner of Customs, Central Excise & Service Tax, Siliguri.)

APPEARANCE

Shri H.Shukla, C.A. for the Appellant (s)
Shri S.S.Chattopadhyay, Authorized Representative for the Respondent (s)

CORAM: HON'BLE SHRI P. K.CHOUDHARY, MEMBER(JUDICIAL)
HON'BLE SHRI BIJAY KUMAR, MEMBER(TECHNICAL)

FINAL ORDER NO. 76448-76451/2019

DATE OF HEARING : 24 October 2019
DATE OF DECISION : 24 October 2019

P.K.CHOUDHARY :

The present appeals are filed by the appellants against Order-in-Original No.23-25/COMM/CE/SLG/15-16 dated 8 January 2016 passed by Commissioner of Customs, Central Excise & Service Tax, Siliguri. The sole issue in the present appeals is pertaining to the refund of the Education Cess and Higher Education Cess which was paid alongwith the excise duty. Period of dispute is September 2013 to March 2015.

2. During the course of arguments, both the parties have agreed that the issue is squarely covered by the ratio laid down by the Hon'ble Supreme Court in the case of SRD Nutrients Private Limited vs. CCE [2017 (TIOL) 416 (S.C.)] where it was observed that the appellant were entitled to the refund of the education cess and higher education cess which was paid alongwith the excise duty once the excise duty itself was exempted from levy.

3. By following the ratio (supra), we allow the claim of the appellant pertaining to the refund of education and higher education cess. No other ground has been placed by the Councel during the course of arguments.

4. In the result, the appeals filed by the appellants are allowed to that extent. Cross Objections also disposed off.

(Dictated and pronounced in the open Court.)

SD/
(P.K.CHOUDHARY)
MEMBER (JUDICIAL)

SD/
(BIJAY KUMAR)
MEMBER (TECHNICAL)

sm