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

REGIONAL BENCH - COURT NO.2

Excise Appeal No.75003 of 2017
And
Excise Cross Objection No.75379 of 2017

(Arising out of Order-in-Appeal No.65-66/SLG-C.Ex/2016 dated 27 September 2016 passed by Commissioner of Central Excise(Appeal-I), Kolkata.)

M/s. Zydus Healthcare
(Bhaghey Khola, N.H.31 A,
Majhitar, Rangpo,
East Sikkim-737132)

...Appellant

VERSUS

Commr. of Customs, Central Excise & Service Tax, Siliguri
.....Respondent
(C.R. Building, Haren Mukherjee Road,
Hakim Para, Siliguri-734001, West Bengal.)

WITH

Excise Appeal No.75004 of 2017
And
Excise Cross Objection No.75377/2017

(Arising out of Order-in-Appeal No.65-66/SLG-C.Ex/2016 dated 27 September 2016 passed by Commissioner of Central Excise(Appeal-I), Kolkata.)

M/s. Zydus Healthcare
(Bhaghey Khola, N.H.31 A,
Majhitar, Rangpo,
East Sikkim-737132)

...Appellant

VERSUS

Commr. of Customs, Central Excise & Service Tax, Siliguri
.....Respondent
(C.R. Building, Haren Mukherjee Road,
Hakim Para, Siliguri-734001, West Bengal.)

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

FINAL ORDER NO. 76452-76453/2019

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-Appeal No.65-66/SLG-C.Ex/2016 dated 27 September 2016 passed by Commissioner of Central Excise(Appeal-I), Kolkata. 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 July 2008 to March 2009 and April 2009 to February 2010 respectively.

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)

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