

Serial No.02
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP (C) No.291/2018

Date of Order: 30.08.2018

Star Cement Ltd. Vs. Union of India & ors

Coram:

Hon'ble Mr. Justice Mohammad Yaqoob Mir, Chief Justice
Hon'ble Mr. Justice S.R. Sen, Judge

Appearance:

For the Petitioner/Appellant(s) : Dr. A Saraf, Sr.Adv with
Mr. Z Islam, Adv

For the Respondent(s) : Mr. N Mozika, Adv

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

ORAL

1. The petitioner, in essence, by medium of this petition has prayed for issue of a direction, in terms of Notification No.20/2007 dated 25.04.2007, to command the respondents to refund the Education Cess as well as Secondary & Higher Education Cess collected from the petitioner on the basis of the excise duty.

2. Learned counsel for the petitioner would submit that a similar issue was pending adjudication before the Hon'ble Apex Court in, Civil Appeal Nos.2781-2790 of 2010 titled "M/s SRD Nutrients Private Limited v. Commissioner of Central Excise Guwahati", the appeals have been allowed and the petitioner therein have been held entitled to refund of Education Cess and Higher Education Cess which was paid along with excise duty on the ground that the excise duty itself was exempted from levy. He further submits that the Review Petition (C) D. No. 6714 of 2018 was filed before the Hon'ble Apex Court same stand dismissed on 10.07.2018.

3. On the aforesaid grounds, this Court has disposed of WP (C) No.98 of 2018 titled “M/s Maithan Alloys Ltd. v. Union of India & ors” on 02.08.2018 directing the respondents to refund the Education Cess as well as Secondary & Higher Education Cess, which was collected from the petitioner along with excise duty, within a period of three months from today.

4. Accordingly for the stated reasons, this petition is also disposed of with a direction to the respondents to refund the Education Cess as well as Secondary & Higher Education Cess, which was collected from the petitioner along with excise duty, within a period of three months from today.

(S.R. Sen)
Judge

(Mohammad Yaqoob Mir)
Chief Justice

Meghalaya
30.08.2018
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