

# **ASSESSEE NOT ENTITLED TO CARRY FORWARD AND SET OFF OF UNUTILIZED CESS AGAINST GST OUTPUT LIABILITY: RAJASTHAN HIGH COURT**

## **Fact of the Case**

- The Petitioner, Jay Ushin Limited has filed the petition under Article 226 of the Constitution of India seeking a writ in the nature of mandamus for credit of Cess Rs. 2,78,322.
- Mr. R.D. Rastogi, Additional Solicitor General on the very outset has pointed out that the issue raised in the present writ petition has been adjudicated by Division Bench of Madras High Court vide order passed in the case of Assistant Commissioner of CGST and Central Excise & Ors. vs. Sutherland Global Services Pvt. Ltd.

## **Decision of the Case**

- The division bench of Justices Manoj Kumar Vyas and Sabina in the light of the decision of the Madras High Court in the case of Assistant Commissioner of CGST and Central Excise & Ors. vs. Sutherland Global Services Pvt. Ltd. wherein it was held that the Assessee was not entitled to carry forward and set off of unutilized Education Cess, Secondary and Higher Education Cess and Krishi Kalyan Cess against the GST Output Liability with reference to Section 140 of the CGST Act, 2017.
- The court noted that the plain scheme and object of GST Law cannot be defeated or interjected by allowing such Input Credits in respect of Cess, whether collected as Tax or Duty under the then existing laws, and therefore, such set-off cannot be allowed.

***The Rajasthan High Court held that the assessee is not entitled to carry forward and set off of unutilized Cess against the GST Output Liability.***