

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL, AHMEDABAD**

REGIONAL BENCH - COURT NO. II

Excise Appeal No. 12997 of 2018-SM

(Arising out of Order-in-Appeal No. VAD-EXCUS-002-APP-374/2018-19 dated 14.09.2018 passed by the Commissioner of (Appeals), Race Course, Vadodara)

Khedut Sahakari Khand Udyog Mandli Ltd ... Appellant

At Pandavi, Taluka- Hansot,
Bharuch, Gujarat

Versus

C.C.E. & S.T. – Vadodara-II

1st Floor, Room No.101, New Central Excise
Building, Vadodara, Gujarat-390023

.... Respondent**Appearance:**

Ms. Shamita Patel & Shri Rahul Gajera, Advocate for the Appellant
Shri Dinesh Prithiani, Assistant Commissioner (AR) for the Respondent

CORAM:**HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)****FINAL ORDER NO. A/10387 / 2022**

Date of Hearing: 18.11.2021

Date of Decision: 28.04.2022

Per: P. Anjani Kumar

Shree Khedut Sahakari Khand Udyog Mandli Ltd., the appellants are engaged in the manufacture of sugar from sugarcane; during the manufacture press mud is generated as byproduct; it is mixed with spent wash and sold as compost. The Department contended that press mud/compost which emerges as a byproduct is an exempted product; the appellants did not maintain separate records as required under Rule 6 of CENVAT Credit Rules; therefore, the appellant is required to pay 6% of the value of the compost. Two show cause notices covering the period January 2016 to June 2017 were issued, demanding an amount of Rs.2,82,326/- and Rs.4,590/- while

seeking to imposed penalty under Rule 15 of CENVAT Credit Rules, 2004. Order-in-Original dated 01.01.2018 confirmed the duty demand and imposed a penalty of Rs.28,692/- on the appellants. An appeal filed by the appellants was rejected by the Commissioner (Appeals) vide order dated 14.09.2018. Hence, this appeals.

2. Learned Advocate appearing for the appellants submits that it is a settled law that the byproducts/waste like press mud that emerge during the process of manufacture of sugar are not manufactured final products and as such are not covered under Rule 6 of CENVAT Credit Rules, 2004; consequently 6% of the value of the products is not payable under Rule 6(3) of CENVAT Credit Rules, 2004. He submits that the issue is no longer *res integra* being covered by the following case law:-

- i) *M/s Balrampur Chini Mills Ltd-2019 (368) ELT 276 (ALL)*
- ii) *Shree Narmada Khand Udyog, Sahakari Mandli Ltd 2018 (8) TMI 1075- CESTAT Ahmadabad*
- iii) *M/s Triveni Engineering & Industries Ltd. V.C.C. & C.E. 2018 (8) TMI 6- CESTAT Allahabad.*
- iv) *C.C.T. Pune-II Versus Chhatrapati SSK Ltd- 2019 (2) TMI 1301-CESTAT MUMBAI.*

3. Learned Advocate further submits that it has been held in the case of *Balrampur Chini Mills (supra)* that despite the amendment to Rule 6, the facts remains that the byproducts which emerge in the course of manufacture of products are not manufactured products and thus, do not fall under the scope of Rule 6; the explanations under Rule 6(1) will not change the settled principal of the law laid down by the Hon'ble Supreme Court in case of *DSCL Sugar Ltd. -2015 (322) ELT 769 (SC)*.

4. Learned Authorized Representative for the Department reiterates the findings of the Impugned Order.

5. Heard both sides and perused the records of the case.

6. The issue before me for decision is as to whether the appellants are required to reverse 6% of the value of the Bagasse/Press mud generated during the course of manufacture of sugar, for reason that the appellants have used common inputs and input services, under Rule 6 of Cenvat Credit Rule, 2004. On going through records of the case and the ratio of the cases cited by the appellants. I find that the issue is no longer res-integra. I find that, Apex Court in the case of *Balarampur Chini Ltd. (supra) and DSCL Sugar Ltd. (supra)* has enunciated the principal that Bagasse/ Press mud produced during the course of manufacture of sugar cannot be treated as exempted products and the provision of Rule 6 of Central Excise Rule, 2004 cannot be applied. I find that this Tribunal has been consistent in holding this view. I find that the following judgments support my contention.

- i. *Shri Narmada Khand Udyog, Sahakari Mandali Ltd. 2018 (8) TMI 1075-CESTAT, Ahmadabad.*
- ii. *Chhatrapati SSK Ltd. 2019 (2) TMI 1301-CESTAT, Mumbai.*
- iii. *Final Order no. A/12486/2021 dated 09.11.2021, CESTAT, Ahmadabad.*

7. In view of the above, I set aside the impugned order and allow the appeal with consequence relief, if any, as per law.

(Pronounced in open court on 28.04.2022)

(P. Anjani Kumar)
Member (Technical)